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Tariff Authority for Major Ports

G. No.129 **New Delhi,** **07 April 2016**

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 the V.O. Chidambaranar Port Trust for fixation of reference tariff for Construction of Shallow Draught Berth for handling Cement and Related Raw Materials through Public Private Partnership (PPP) mode on DBFOT basis at VOCPT, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/16/2016-VOCPT

V. O. Chidambaranar Port Trust - - - - - Applicant

QUORUM

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

O R D E R

(Passed on this 27th day of February 2016)

This case relates to the proposal dated 17 February 2016 and subsequent letter dated 20 February 2016 received from VOCPT for fixation of reference tariff for Construction of Shallow Draught Berth (SDB) for handling Cement and Related Raw Materials through Public Private Partnership (PPP) mode on DBFOT basis at VOCPT.

2.1. 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 were made effective from 31 July 2013.

2.2. Clause 2.2 of the said Tariff Guidelines of 2013, which is relevant, in this case 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 1stJanuary 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.***"**

3. In this backdrop, the VOCPT under cover of its letter No.E(C)/F79/SDB-C/QS/2016D615 dated 17 February 2016 has filed a proposal for fixation of reference tariff for Construction of SDB for handling Cement and Related Raw Materials through PPP mode on DBFOT basis at VOCPT.

4. The main submissions made by the VOCPT in its proposal dated 17 February 2016 and subsequent letter dated 20 February 2016 are summarized below:

(i). The project of construction of SDB for handling cement and related raw materials on DBFOT basis is to be awarded during the year 2015-16 as instructed by the MOS.

(ii). With a view to comply with the time schedule the project cost computed during 2011 in the TAMP Order no.TAMP/44/2011-VOCPT dated 18 June 2012 fixing upfront tariff for cement and related raw materials is escalated by applying Wholesale Price Index (WPI) of 1.27 and the project cost was revised from ₹84.02 crores to ₹106.78 crores.

(iii). The operating cost is revised following the same methodology as done in the TAMP Order no.TAMP/44/2011-VOCPT dated 18 June 2012.

(iv). (a). Optimal Capacity of the terminal is assessed at 2.66 Million tonnes per annum considering handling rate as given below and based on the formula prescribed in the 2008 guidelines:

Commodity	Percentage share of cargo	Handling rate (tonnes/ day)
(i). Bagged cargo	2%	4,000
(ii). Dry bulk cargo	20%	10,000
(iii). Bulk cement (export)	52%	13,338
(iv). Bulk cement (import)	26%	5,355

(b). Capital cost:

Sr. No.		Particulars			Estimated Capital cost in lakhs
A.		**Cargo handling activity**			
	(i).	Civil structure			
		(a). Civil construction cost		2247.90	
		(b). Supervision charges @ 7% of base cost		157.35	
		(c). Contingencies @ 3% of the base cost		67.44	
		(d). Works contract tax @ 4% on 65% of the base cost		58.45	
		TOTAL			**2531.14**
	(ii).	**Cargo Handling Equipments**			
		(a). Mechanical works			
		(i). Rail Mounted Cement Loader - 1	1524.00		
		(ii). Conveyor System	508.00		
		(iii). Mobile Cement Unloader - 1	889.00		
		(iv). Bagging plant - 8	76.20		
		(v). Pay loader - 2	127.00		
		(vi). FLT - 2	25.40		
		Total		3149.60	
		(b). Supervision charges @ 7% of base cost		220.47	
		(c). Contingencies @ 3% of the base cost		94.49	
		(d). Works contract tax @ 4% on 65% of the base cost		81.89	
		TOTAL			**3546.45**
	(iii)	Miscellaneous cost (5% of i & ii above excluding works contract tax)			**296.86**
		TOTAL (i + ii +iii)			**6374.45**
B.		**Berthing activity**			
		(a). Cost of the berth		3822.70	
		(b). Supervision charges @ 7% of base cost		267.59	
		(c). Contingencies @ 3% of the base cost		114.68	
		(d). Works contract tax @ 4% on 65% of the base cost		99.39	
		TOTAL			**4304.36**
		TOTAL CAPITAL COST			**10,678.81**

(c). Operating cost:

(₹ in lakhs)

Sr. No.	Operating cost	Cement export	Cement import	Bulk and Bagged Cargo
1.	Fuel Cost	-	-	23.46
2.	Power cost – Conveyor and bagging plant	16.15	19.28	-
	Power cost – Loader and unloader	89.49	17.96	-
3.	Repairs & Maintenance			
	Civil assets	15.80	7.9	2.87
	Mechanical asset	110.11	67.07	9.01
4.	Insurance	37.78	21.29	4.67
5.	Depreciation			
	Civil assets	50.09	25.05	9.11
	Mechanical asset	100.03	50.01	18.19
6.	License fee			
	Water front	16.09	8.04	6.81

	Stackyard	35.57	53.35	35.57
7.	Other expenses	188.91	106.46	23.35
Total operating cost		**660.02**	**376.41**	**133.04**

(d). The Return on Capital Employed is considered at 16%.

(e). Annual Revenue Requirement:
The Annual revenue requirement from both the activities is estimated at as given below:

(₹ in lakhs)

Sr. No.	Particulars	Cargo handling activity			Berthing activity
		Cement exports	Cement imports	Bulk and Bagged Cargo	
1.	Total annual operating cost	660.02	376.41	133.04	222.54
2.	Return on capital employed	604.52	340.66	74.73	688.70
ANNUAL REVENUE REQUIREMENT		**1264.55**	**717.07**	**207.77**	**911.23**

(v). The RFQ application for the project has been invited from the private firms. The RFQ application was opened on 29 January 2016. Only one application received from the consortium member of M/s.Chettinad Builders Pvt. Ltd., Chennai and M/s.Chettinad International Coal terminal Pvt. Ltd.

(vi). The Authority vide its Order No.TAMP/44/2011-VOCPT dated 18 June 2012 notified on 30 July 2012 with notification No.167 and subsequent Order No.TAMP/70/2012-VOCPT dated 11 December 2012 notified on 1 January 2013 with notification No.5 has fixed tariff for handling of cement and related raw materials at the proposed SDB to be developed on PPP mode.

(vii). The port has furnished Feasibility Report, detailed Cost calculation for arriving the proposed reference tariff along with draft proposed Scale of Rates (SOR) and Performance Standards. The rate proposed by VOCPT is given below:

(a). Berth Hire Charges:

Sl. No.	Vessels	Rate per GRT per Hr. or part thereof
1.	Vessels (foreign)	1.15
2.	Vessels (Coastal)	0.69

(b). Cargo Handling Charges:

Sl. No.	Commodity	Unit	Rate (in ₹) (Foreign)	Rate (in ₹) (coastal)
1.	Bulk Cement (Export)	Per Metric Tonne	68.50	41.10
2.	Bulk Cement (Import)	Per Metric Tonne	193.51	116.11
3	Raw materials like lime stone, gypsum etc.- Dry Bulk cargo	Per Metric Tonne	35.49	21.29
4	Raw materials - Bagged cargoes	Per Metric Tonne	88.71	53.23

(c). Storage Charges:

Sl. No	Description	First six days	Next six days	Thereafter
1.	Bulk cement export	2.00	3.24	6.32
2.	Bulk cement Import	7.00	11.34	22.11
3.	Raw Materials (Import)	1.00	1.62	3.16

(d). Miscellaneous Charges:

1	Bulk cement export	₹1.43 /Tonne
2	Bulk cement Import	₹4.03 / Tonne
3	Raw Materials (Import)	₹0.78 / Tonne

(e). Performance Standards:

The licensee shall meet both the following Performance standards:
The PPP operator shall guarantee to handle a minimum volume of Cement and Related Raw Materials as 0.75Million Tonnes in the 1st Year and 1.50 Million Tonne in the 2nd Year through the Shallow Draught Berth from the date of commissioning of Terminal.

5.1. Subsequently, VOCPT vide its letter dated 23 February 2016 has revised its proposal adopting the upfront tariff approved by this Authority in its Order dated 18 June 2012 and 1 January 2013 for the same project as port wants to rebid the project. The main points made by VOCPT are given below:

(i). As per the Clause 2.8. of the Guidelines for upfront tariff setting for PPP projects at Major Port Trust, 2008 the indexation of tariff caps fixed in the upfront tariffs is to be with reference to the year of Capital Cost considered in the original proposal.

(ii). In the Order approving the upfront tariff for the project of construction of SDB for handling cement and related raw materials on DBFOT basis vide Order dated 18 June 2012 and followed by 11 December 2012, the capital cost considered in the proposal was based on the cost pertaining to May 2011. The General note to Schedule (2) to (5) states that the tariff caps will be indexed to inflation on 1st January of relevant year. Hence, the applicable Escalation factor is considered for the year starting 1 January 2011 viz., 18.21%.

(iii). Accordingly, applying the escalation factor of 18.21% on upfront tariffs fixed by this Authority vide Orders dated 18 June 2012 and 11 December 2012 for the subject project, the revised proposal is prepared and enclosed alongwith Performance Standards to be complied with.

(iv). The port has furnished revised draft proposed SOR and proposed Performance Standards.

(v). The upfront tariff approved by this Authority vide Order No.TAMP/44/2011-VOCPT dated 18 June 2012 and berth hire approved in the said Order revised vide Order No.TAMP/70/2012-VOCPT dated 11 December 2012 vis-à-vis the indexed rates proposed by VOCPT applying 18.21% indexation to the upfront tariff is tabulated below:

(a). Schedule of Berth Hire:

Revised upfront tariff approved vide Order dated 11.12.2012				**Proposed rate applying 18.21% indexation on the upfront tariff Order adopted by VOCPT**	
Sl. No.	**Vessels**	**Rate per GRT per hour or part thereof**		**Rate per GRT per hour or part thereof**	
		Foreign Going Vessel	**Coastal Vessel**	**Foreign Going Vessel**	**Coastal Vessel**
		(in ₹)	**(in ₹)**	**(in ₹)**	**(in ₹)**
(i)	Vessels (upto 13000 GRT)	1.68	1.01	1.10*	0.66*
(ii)	Vessels (above 13000 GRT)	0.93	0.56		

Note: * Uniform rate proposed irrespective of vessel size.

(b). Cargo Handling Charges:

(₹/tonne)

Upfront tariff approved vide Order dated 18.06.2012					Proposed rate applying 18.21% indexation on the upfront tariff Order adopted by VOCPT	
Sl. No.	Commodity	Unit	Rate in Rupees		Rate in Rupees	
			Foreign	Coastal	Foreign	Coastal
(i).	Bulk Cement (Export)	Per Metric Tonne	63.68	38.21	75.28	45.17
(ii).	Bulk Cement (Import)	Per Metric Tonne	124.6	74.76	147.29	88.37
(iii).	Related raw materials - dry bulk cargo like limestone, gypsum, etc.	Per Metric Tonne	39.28	23.57	46.43	27.86
(iv).	Related raw materials - bagged cargo	Per Metric Tonne	98.2	58.92	116.08	69.65

(c). Storage Charges:

(₹ / tonne / day)

Upfront tariff approved vide Order dated 18.06.2012					Proposed rate applying 18.21% indexation on the upfront tariff Order adopted by VOCPT		
Sl. No.	Description	First six days	Next six days	Thereafter	First six days	Next six days	Thereafter
(i).	Bulk Cement (Export)	2.21	3.58	6.99	2.61	4.23	8.26
(ii).	Bulk Cement (Import)	4.33	7.01	13.67	5.12	8.29	16.16
(iii).	Raw materials (Import)	1.44	2.34	4.56	1.70	2.77	5.39

(d). Miscellaneous Charges:

(₹/tonne)

Upfront tariff approved vide Order dated 18.06.2012					Proposed rate applying 18.21% indexation on the upfront tariff Order adopted by VOCPT		
Sl. No.	Particulars	Bulk cement export	Bulk cement import	Raw materials import	Bulk cement export	Bulk cement import	Raw materials import
(i).	Charges for all miscellaneous services such as environment and management, sweeping of cargo on the wharf, safety measures, etc.	1.33	2.6	0.87	1.57	3.07	1.03

(vi). The performance standards proposed by the VOCPT in its proposal are as follows:

(a). The licensee shall meet both the following Performance standards:

(i). The PPP operator shall guarantee to handle a minimum volume of Cement and Related Raw Materials as 0.75Million Tonnes in the 1st Year and 1.50 Million Tonne in the 2nd Year onwards through the SDB from the date of commissioning of Terminal.

(ii). The handling rate shall be 4,000 tonnes/day and 10,000 tonnes/day adopted for bagged cargoes & dry bulk cargoes respectively as per TAMP guidelines 2008.

The loading and unloading parameter for bulk exports shall be 13388 MT & for bulk Imports shall be 5355 MT per day.

5.2. In view of the above, the VOCPT has requested to consider its revised proposal dated 23 February 2016.

5.3. Subsequently, VOCPT vide its fax dated 25 February 2016 has stated that the Work Order for the work of construction of SDB was issued to M/s. Transstroy-OJSC Consortium, Hyderabad on 31 December 2012 and the Concession Agreement was signed on 17 April 2013. The Concessionaire has failed to fulfil the conditions in the contract agreement and hence the agreement was terminated on 31 August 2015. The port intends to go for rebidding process and hence has requested to approve its proposal for reference tariff fixation.

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

(i). As stated earlier, Clause 2.2. of the Reference Tariff Guidelines, 2013 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 this regard, it is relevant here to mention that this Authority had passed an Order No.TAMP/44/2011-VOCPT dated 18 June 2012 fixing upfront tariff for handling of cement and related raw materials at the SDB on PPP mode based on the proposal then filed by VOCPT following the upfront tariff guidelines of 2008. Subsequent to that, this Authority in its Order No.TAMP/70/2012-VOCPT dated 11 December 2012 has reviewed and revised the upfront berth hire charges approved in the Order dated 18 June 2012.

(ii). The VOCPT issued Work Order for the said project and Concession Agreement was signed on 17 April 2013 with the successful bidder. However, due to failure on the part of the Concessionaire to fulfil the conditions stipulated in the concession agreement, the port has reported that the agreement was terminated on 31 August 2015. The port, therefore, intends to rebid the project and hence has sought reference tariff for the same project. As brought out in the earlier paragraph, the VOCPT has requested to consider its final proposal dated 23 February 2016. Hence, the said proposal is taken up for consideration.

(iii). The VOCPT has in its final revised proposal dated 23 February 2016 proposed the Reference Tariff for the proposed SDB project for handling cement and related raw materials by adopting the upfront tariff already approved by this Authority vide Order dated 18 June 2012 and 11 December 2012 for the same project after applying indexation factor of 18.21%.

The General note to Schedule (2) to (5) of the upfront tariff schedule approved by this Authority in the Order dated 18 June 2012 stipulates that 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 2012 and 1 January of the relevant year. The WPI indexation applicable with reference to the base year of 1 January 2012 vis-à-vis January 2015 announced by this Authority is 11.21%.

The VOCPT has, however, referred to para 10.1 of the said Order which states that the estimation of capital cost and related operating cost considered in the upfront tariff calculation in the Order dated June 2012 reflects the market rate prevailing as of May 2011 as then reported by the VOCPT. Citing this the port has applied indexation factor taking the base year as 1 January 2011 and indexed the upfront tariff applying 18.21% indexation. In view of the submissions made by the VOCPT that the estimation of capital cost and related operating cost considered in the upfront tariff calculation in the Order dated June 2012 reflects the market rate prevailing as of May 2011, the approach adopted by the VOCPT of indexing the upfront tariff with reference to the base year of 1 January 2011 is found to be appropriate. The indexation factor of 18.21% is seen to be in line with the indexation factor communicated by us to all the Major Port Trusts vide our letter No.TAMP/12/2009-Misc dated 8 April 2015, to be applicable for tariff with base WPI as on 1 January 2011.

(iv). The berth hire charges approved by this Authority in the review Order dated 11 December 2012 are for two categories of vessels is ₹1.68 / GRT / hour for vessels upto 13000 GRT and ₹0.93 / GRT / hour for vessels above 13000 GRT for foreign going vessel. The VOCPT has, however, proposed a single rate of ₹1.10 / GRT / hour for foreign going vessel and ₹0.66 per GRT / hour for coastal vessel applying 18.21% escalation on the rate for the second slab. (i.e.0.93 * 1.1821). The berth hire charges as proposed by VOCPT is approved.

(v). The VOCPT has proposed a general condition relating to priority / ousting priority stating that the rates and conditions for granting ousting priority berthing/ priority berthing are governed by the Government guidelines in this regard and provisions in the SOR of VOCPT. The Scale of Rates of VOCPT prescribes specific conditions relating to charges for priority berthing and ousting priority. The proposed note is, therefore, replaced with the conditionalities relating to ousting priority and priority berth hire charges in line with the prescription in the Scale of Rates of VOCPT.

(vi). The port has proposed a General note stating that 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 1st January 2010 to 1st 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 1st April of the relevant year to 31st March of the following year. Since the reference tariff approved is after indexing it to the base year of 1 January 2015, the proposed note is corrected to reflect the base year for indexation as 1 January 2015 instead of 1 January 2010 proposed by the port.

(vii). The VOCPT has retained the conditionalities as prescribed in the adopted SOR of the Order dated 18 June 2012. It is seen that the VOCPT has, in the proposed SOR, incorporated the amended conditions approved by this Authority vide Order No.TAMP/53/2015-VOCPT dated 26 November 2015 relating to classification of vessel and levy of Vessel Related Charges (VRC) and Concessional Coastal rate and foreign rate.

(viii). As per Clause 2.9. of Tariff Guidelines 2013, 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.

The port has proposed that the licensee shall meet the two Performance standards viz., (a). The PPP operator shall guarantee to handle a minimum volume of Cement and Related Raw Materials as 0.75Million Tonnes in the 1st Year and 1.50 Million Tonne in the 2nd Year onwards through the SDB from the date of commissioning of Terminal; and; (b). The handling rate shall be 4,000 tonnes/day and 10,000 tonnes/day adopted for bagged cargoes & dry bulk cargoes respectively in the "related raw materials" category, the loading and unloading parameter for bulk exports shall be 13388 tonnes / day & for bulk Imports it shall be 5355 tonne / day.
It is seen that the Performance Standards proposed by the port for handling cargo items are line with the handling rate considered in the June 2012 Order. The Performance Standard as proposed by the Port are prescribed.

7.1. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the Reference Tariff Schedule along with performance standards attached as **Annex - I** and **Annex- II** for Construction of SDB for handling Cement and Related Raw Materials through PPP mode on DBFOT basis at VOCPT.

7.2. 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 VOCPT is advised to incorporate the Reference Tariff and Performance Standards, in the bid document and subsequently in the Licence Agreement in respect of PPP Project.

7.3. 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 licence period.

However, the Licensee 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.

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

7.5. On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within
7 days of receipt.

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

7.7. After considering the views of the Major Port Trust, if TAMP is satisfied that the Performance Standards as incorporated in the Licence 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.

7.8. While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP 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 Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013

7.9. From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, 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 TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

7.10. As stipulated in Clause 6.2 of the revised 2013 guidelines, in the event any user has any grievance regarding non-achievement by the Licensee 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 to the VOCPT. The VOCPT will be bound to take necessary action on the findings as per the provisions of the respective Licence Agreement.

7.11. As stipulated in Clause 6.3.1 of the revised 2013 guidelines, within 15 (fifteen) days of the signing of the Licence Agreement, the concerned operator will forward the Licence Agreement to this Authority which will host it on its website.

7.12. As stipulated in clause 6.3.2 of the revised 2013 guidelines, the Licensee shall furnish to this Authority quarterly reports on cargo traffic, ship berth day output 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.

7.13. As stipulated in clause 6.3.3 of the revised 2013 guidelines, this Authority shall publish on its website all such information received from PPP operator. However, this Authority shall consider a request from the Licensee 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.

7.14. As per clause 3.8.5 of the guidelines, if any question arises requiring clarifications or interpretation of the Scale of Rates and the statement of conditionalities, the matter shall be referred to this Authority and its decision in this regard will be binding on the operator.

7.15. The performance norms for the project should be clearly brought out in the bid documents. The Licensee is expected to perform at least at the performance norms brought out in the bid document/ Licence agreement.

7.16. The actual performance of the Licensee will be monitored by this Authority. If any complaint regarding quality of service is received, this Authority will enquire into such allegation and forward its findings to the VOCPT. If any action is to be taken against the operator, the VOCPT shall initiate appropriate action in accordance with the provisions of the relevant Licence Agreement.

8. If the VOCPT finds any error apparent on the face of the record, it may file an application for review of the Order within 3 weeks from the date of notification of the Order in the Gazette giving sufficient reasons and detailed justification.

(T.S. Balasubramanian)
Member (Finance)

Annex – I

V. O. CHIDAMBARANAR PORT TRUST

REFERENCE TARIFF SCHEDULE FOR HANDLING CEMENT AND RELATED RAW MATERIALS AT SHALLOW DRAUGHT BERTH

CHAPTER 1 – DEFINITIONS & GENERAL TERMS & CONDITIONS

1.1. Definitions – General

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 A.M of a day and ending at 6 A.M on the following day**.**

1.2. General Terms & Conditions

(i). The status of a vessel as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as '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). System of classification of vessel for levy of Vessel Related Charges (VRC)

(a). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a Specified Period Licence issued by the Director General of Shipping and a custom conversion order.

(iii). Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate

(a). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(b). In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(c). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(iv). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate

(a). Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

(i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(ii). Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

* The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.

(b). In case of a Foreign flag vessel converted to coastal run on the basis of a Specified Period License issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

(v) The charges for coastal vessels shall be denominated in Indian Rupees

(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 and POL including crude oil, iron ore and iron ore pellets 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 transhipment 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.

(e). The charges for coastal vessels shall be denominated in Indian Rupees.

(vi). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.50 shall be taken as 0.50 unit and fractions of 0.50 and above shall be treated as one unit, except where otherwise specified.

(vii). 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 in refunds will be counted only 20 days from the date 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 / use of Port Trust’s properties as stipulated in the Major Port Trust Act and / or where payment of charges in advance is prescribed as a condition in this Scale of Rates.

(viii). All charges worked out shall be rounded off to the next higher rupee on the grand total of the bill.

(ix). No claims for refund shall be entertained unless the amount refundable is Rs.100/-or more. Likewise, terminal operator shall not raise any supplementary or under charge bills, if the amount due to concessionaire is less than Rs.100/.

(x). (a). The rates prescribed in the Scale of Rates are ceiling levels likewise rebates and discounts are floor levels. The Terminal Operator may if so desire, charge lower rates and / or allow higher rebates and discounts.

(b) The Terminal Operator may also, if so desires, rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalization 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 rationalization of the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.

(xi). Users will not be required to pay charges for delays beyond reasonable level attributable to terminal operator.

2. BERTH HIRE CHARGES

2.1. Schedule of Berth Hire

Sl. No.	Vessels	Rate per GRT per Hr. or Part thereof	
		Foreign Going Vessel (in ₹)	Coastal Vessel (in ₹)
(i).	Vessels	1.10	0.66

Notes:

(i). The Period of berth hire shall be calculated from the time the vessel occupies berth till she vacates the berth.

(ii). (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 cessation of berth hire shall exclude the ship's waiting time for want of favourable 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 favourable tidal and weather conditions.

(iii). The Penal berth hire shall be equal to one-day's (24 hours) in berth hire charges for a 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 attributed to the vessels. The excludes signaling readiness when a vessel is not able to sail due to unfavorable tide, lack of night navigation or adverse weather conditions.

(iv). Ousting Priority / Priority Berth Hire Charges:

(a). For providing the priority berthing to any vessel, a fee equivalent to berth hire charges for 24 hours or 75% of the berth hire charges calculated for the total period of actual stay at the berth, whichever is higher shall be levied.

(b). For providing the ousting priority to any vessel, a fee equivalent to berth hire charges for 24 hours or 100% of the berth hire charges calculated for the total period of actual stay at the berth whichever is higher, shall be levied.

(v). No berth hire shall be levied for the period when the vessels idle at its berth due to break down of Terminal Operator's equipment or power failure or any other reasons attributable to the Terminal Operator.

3. CARGO HANDLING CHARGES

Sl. No.	Commodity	Unit	Rate in ₹	
			Foreign	Coastal
(a)	Bulk Cement (Export)	Per Metric Tonne	75.28	45.17
(b)	Bulk Cement (Import)	Per Metric Tonne	147.29	88.37
(c)	Related Raw materials – Dry Bulk cargo like lime stone , gypsum etc.-	Per Metric Tonne	46.43	27.86
(d)	Related Raw materials - Bagged cargoes	Per Metric Tonne	116.08	69.65

Note :

(i). The handling charges prescribed at (a) above is a composite charge for unloading of the cargo at the stack-yard, storage at the stack-yard up to a period of 15 days, including use of silo bins, transfer the cargo to the loading point and loading onto the ship including stevedoring.

(ii). The handling charges prescribed at (b) above is a composite charge for unloading of the cargo from the vessel including stevedoring and transfer of the same up to the point of storage, storage at the stack-yard up to a free period of 5 days, including use of silo bins and bagging plant and loading for delivery in respect of import cargo.

(iii). The handling charges prescribed at (c) and (d) above is a composite charge for unloading of the cargo from the vessel using ship's gear including stevedoring and transfer of the same up to the point of storage, storage at the stack-yard up to a free period of 5 days and loading for delivery in respect of import cargo. These charges do not include provision of handling equipment for ship-shore transfer. If harbour mobile crane is deployed for shipshore transfer, the performance based ceiling rates, already approved by the Authority for deployment of HMC at VOCPT in PSTS & Sons Pvt. Ltd. case vide Order No.TAMP/22/2007-TPT dated 30 December 2009 and notified on 12 January 2010, as may be revised from time to time, would apply. In case any other methodology / equipment is deployed for ship-shore handling of raw materials, necessary approval of the Authority for the ceiling rate leviable should be obtained by the V. O. C. Port Trust.

(iv). The composite charges prescribed at 3 (a) to (d) above includes wharfage and supply of labour, wherever necessary and all other miscellaneous charges not specifically prescribed in the Scale of Rates.

4. STORAGE CHARGES (Per tonne per day)

The storage charges to the cargo stored in the stack yard beyond the free period allowed shall be as below:

(A) Free Period : 5 days for import cargo and 15 days for export cargo

(B) Storage charges after free period (Per tonne / day) :

₹/tonne/day

Sl. No	Description	First six days	Next six days	Thereafter
1.	Bulk cement export	2.61	4.23	8.26
2.	Bulk cement Import	5.12	8.29	16.16
3.	Raw Materials (Import)	1.70	2.77	5.39

Notes:

(i) For the purpose of calculation of free period Customs notified holidays and Terminals non-working days shall be excluded.

(ii) Free period for export cargo shall commence from the actual date of the receipt of goods in the operator's premises.

(iii) Free period for import cargo shall be reckoned from the day following the day of completion of final discharge from the vessel.

(iv) 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. MISCELLANEOUS CHARGES:

Sl. No.	Particulars	Bulk cement export	Bulk cement import	Raw materials import
(i)	Charges for all miscellaneous services such as environment and management, sweeping of cargo on the wharf, safety measures, etc.	₹1.57 per tonne	₹3.07 per tonne	₹1.03 per tonne

6. GENERAL NOTE TO SCHEDULE (2) to (5) ABOVE:

(i). 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 1st January 2015 and 1st 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 1st April of the relevant year to 31st March of the following year.

(ii). 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 licence period.

However, the Licensee 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.

(iii). The proposal shall be submitted to TAMP 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 Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.

(iv). On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

(v). In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

(vi). After considering the views of the Major Port Trust, if TAMP 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.

(vii). While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP 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 Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013

(viii). From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, 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 TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

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Annex – II

PERFORMANCE STANDARDS:

REFERENCE TARIFF SCHEDULE FOR HANDLING CEMENT AND RELATED RAW MATERIALS AT SHALLOW DRAUGHT BERTH

The licensee shall meet both the following Performance standards:

(i). The PPP operator shall guarantee to handle a minimum volume of Cement and Related Raw Materials as 0.75Million Tonnes in the 1st Year and 1.50 Million Tonne in the 2nd Year onwards through the Shallow Draught Berth from the date of commissioning of Terminal.

(ii). (a). The handling rate shall be 4,000 tonnes/day for bagged cargoes and 10,000 tonnes/day for dry bulk cargoes.

(b). The loading and unloading parameter for bulk cement exports shall be 13,388 tonnes/day and for bulk cement Imports it shall be 5355 tonnes per day.

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