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Tariff Authority for Major Ports

G.No. 157 **New Delhi** **28 April 2016**

NOTIFICATION

In exercise of the powers conferred by Sections 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 Kandla Port Trust for fixation of ceiling tariff with respect to grant of license to service provider for supply, installation, commissioning, operation, and maintenance of 6 nos. of 100T or above Mobile Harbour Cranes at Berth No. 7 to 9 inside Kandla Port for a period of 10 years for handling the cargo on common user basis as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/11/2016-KPT

Kandla 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 30 day of March 2016)

This case relates to the proposal dated 4 January 2016 received from the Kandla Port Trust (KPT) vide its letter no. FA/COST/1021/5 for fixation of reference tariff with respect to grant of License for Supply, Installation, Commissioning, Operation, and Maintenance of 6 nos. of 100T or above, owned / hired Mobile Harbour Cranes at Berth No. 7 to 9 inside Kandla Port for a period of 10 years for handling the cargo on common user basis.

2.1. The main points made by the KPT in its proposal dated 4 January 2016 are summarized below:

(i). (a). The Agenda note considered by the Board of Trustees of the KPT relating to the Draft Final Report of the Boston Consulting Group (BCG) recommends KPT to shift the ELL crane to CJ10 and add 100T HMC to CJ6 to CJ9. BCG has recommended to deploy 4 additional HMC of 100T capacity and has suggested to follow the Visakhapatnam Port Trust model enforcing mandatory use of HMC for berths they are allocated.

(b). In this context, the Board of Trustees of KPT in its meeting held on 11.12.2015 has resolved to invite tender for 6 nos of HMC of 100T capacity and above.

(ii). The Ministry of Shipping (MOS) has already been requested for sanction of the proposal u/s. 42(3) of the MPT Act, 1963. The sanction of the MOS is awaited

(iii). The relevant details of scope of work are given below:

(a). Licensee shall supply, install, commission, operate and maintain the cranes for handling only the cargo loaded / unloaded on the vessels berthed on berth no. 7 to 9 (panel no. 46-75) as a common User Facility.

(b). The successful bidder can bring duo crane i.e. diesel driven and electrical driven cranes. In order to operate crane on electricity, the successful bidders are required to make all necessary arrangement such as laying of cable, installation of transformation, sub-station etc. for tapping of the power from 66kv substation on chargeable basis. The fuel for diesel operated crane will be supplied by the licensee at his cost.

(c). All the accessories, lifting appliances, tools, tackles required for operation inclusive of man power for satisfactory operation of the cranes are covered under the scope of the Licensee.

(iv). In this context, KPT has also referred to Clauses 9.1 and 9.2 of the Tariff Policy for 2015 and reproduced those two provisions.

(v). Stating that there is no celling tariff prescribed at KPT for such arrangement, the port has referred to the following notifications of the Authority:

(a). Notification G.No. 344 dated 24 November 2014 for charges for Deployment of Harbor Mobile Cranes at berth nos. 6,7 and 14 through Public Private Participation (PPP) mode on Build, Own and Operate (BOO) basis for a period of 5 years at Visakhapatnam Port Trust (VPT).

(b). Notification G.no. 7 dated 5 January 2015 for charges for use of 100 tonne Harbour Mobile Cranes installed by the private operators at the Paradip Port Trust (PPT).

(c). Notification G.No.196 dated 28 May 2015 for charges for use of 100T Harbour Mobile Cranes to be installed at the East Quay and West Quay berth of VPT.

(vi). The KPT has cited the following reasons for not adopting the HMC rate prescribed in Other Major Port Trusts:

(a). The rates approved in the aforementioned notifications are fixed considering HMC of maximum capacity 100T, whereas the two existing cranes in operation at KPT are of maximum capacity 124T.

(b). The capacity of the said crane varies with the outreach and the type of cargo handled, the operational efficiency of the crane envisaged in the instant proposal is much better than the cranes of capacity 100T as considered in the aforementioned notification.

(c). The cost of supply and installation of 124T HMC is significantly different from the cost of 100T HMC.

(d). The rates prescribed in the aforementioned notification are not representative of the facility envisaged in the subject proposal of KPT.

(e). Hence, KPT submits its proposal for fixation of upfront tariff following the principles of 2008 guidelines based on rated capacity and the technical specification of equipment.

(vii). The working for arriving at the rate of HMC of 100T above as given by KPT is as under:

(a). **Optimal Capacity**:
The Optimal capacity is computed adopting principles and norm of tariff guidelines of 2008 considering only one HMC of capacity 100 tonnes and above (Maximum of 124 tonnes). The % share of cargo is based on the actual dry cargo handled at KPT during last year i.e.2014-15. Accordingly, Optimal Capacity assessed per HMC is as follows:

Cargo Type	Cargo Share	Handling Rate	Cargo to be Handled
Dry Bulk	73.39%	12500	2343745.12
Break Bulk	12.23%	6000	187535.75
Other Cargo	14.38%	3750	137791.62
Optimal Capacity in tonnes			2669072.49
14.38pacity in MMTPA			**2.67**

(b). Total Capital Cost of HMC is estimated at ₹ 44.81 crores as given below:

Items	In Euro	In ₹
HMC_Basic Machine	3808000	277717440
Additional Grabs		
(i) CBM	158799	11581211.07
(ii) 30-34CBM grab of low density cargo	140000	10210200
Power Booster	500520	36502923.6
Supply & Erection of one Set of HMC		336011774.7

Customs duty @ 27% on HMC Cost		90723179.16
Total Cost for one set of HMC		426734953.8
Miscellaneous Cost @ 5% of the Capital Cost		21336747.69
Total Capital Cost		448071701.52
Total Capital Cost in Rs Crore		**44.81**

*1 Euro = ₹ 72.93 as on 2.1.2016

(c). Operating Cost:

OPEX	Rate	Working	Amt in ₹ Crores
Fuel Cost – 70 Liters x 6132 Hours	54	6132*70litres * ₹54/litre	2.32
R&M Cost @ 5% of the CAPEX	5%	5%*₹ 44.81 crores	2.24
Insurance @ 1% of the CAPEX	1%	1%*₹ 44.81 crores	0.45
Depreciation @ 10% of the CAPEX	10%	10%* ₹ 44.81 crores	4.48
License Fee ₹/sqm pa	388.8	₹388 * 600 sq.mtrs.	0.02
Other Expenses @ 5% of the CAPEX	5%	5% * ₹44.81 crores	2.24
Total Operating Cost			**11.75**

(d). Revenue Requirement for Cargo Handling:

Annual Revenue Requirement	In ₹ Crores
Total Operating Cost	11.75
16% of ROCE	7.17
Total ARR	**18.92**

(e). Tariff Calculation for handling of multipurpose cargo:

Cargo Handling Charges	Revenue Allocation	Cargo to be Handled in MT		Tariff in ₹ /MT	
	In ₹ Crores	Foreign	Costal	Foreign	Costal
Dry Bulk	13.88	2247885.94	95859.18	60.23	36.14
Break Bulk Cargo	2.31	179865.53	7670.21	125.47	75.28
Other Cargo	2.72	132144.95	5635.68	200.75	120.45
Total	**18.91**	**2559896.42**	**109165.07**		**618.32**

Note: 95.91% foreign cargo and 4.09% coastal cargo has been used to arrive at the calculation which is based on actual dry handled at KPT during last three years. Also, concessional rates have been considered for coastal cargo which is 60% of the rates for foreign cargo.

(viii). As an incentive for achievement of performance standards, 5% increase of ceiling tariff is proposed for every 1000 tonnes achieved by the licensee over and above the specified performance standards in line with methodology adopted in the cases of NMPT, PPT and VPT. Accordingly, the rates and conditionalities proposed by KPT are as follows:

(a). For Dry Bulk Cargo:

Average daily crane performance (in Metric Tonne)	Ceiling rate (in ₹ tonne)	
	Foreign	Coastal

12,500	60.23	36.14
12,501-13,500	63.24	37.94
13,501-14,500	66.25	39.75

Note:
To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2nd thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 14,500 tonnes.

(b). For Break Bulk Cargo:

Average daily crane performance (in Metric Tonne)	Ceiling rate (in ₹/ tonne)	
	Foreign	Coastal
6,000	125.47	75.28
6,001-7000	131.74	79.05

Note:
To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2nd thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 7,000 tonnes.

(c). For Other Cargo:

Average daily crane performance (in Metric Tonne)	Ceiling rate (in ₹ / tonne)	
	Foreign	Coastal
3,750	200.75	120.45
3,751-4750	210.79	126.47

Note:
To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105%.

(ix). Performance Standards proposed by KPT for Multipurpose Cargo (Excluding Containers) is as follows:

Sr. no.	Description	Performance Standard
1	Dry Bulk Cargo	12500 Tones/day
2	Break Bulk Cargo	6000 Tones/day
3	Other Cargo	3750 Tones/day

(viii). The KPT has also furnished detailed Scale of Rates along with conditionalities governing the rates proposed.

3.1. In accordance with the consultation process prescribed, a copy of the KPT proposal dated 4 January 2016 was circulated vide our letter dated 2 February 2016 to the relevant users/ user organisations as per the approved list seeking their comments. However, we have not yet received any comments from any users/ user organisations.

3.2. On initial perusal of the proposal, it is seen that the KPT has not furnished the list of users/prospective bidders, who are to be taken on consultation with their contact details. Hence, while acknowledging the proposal, the KPT was requested to forward its proposal dated 4 January 2016 to the prospective bidders who are to be consulted on the subject proposal under intimation to the office of the Authority.

3.3. The KPT has vide its letter dated 5 February 2016 informed that the proposal under reference was forwarded by the port to six prospective bidders and has also furnished the list of those prospective bidders along with their contact details.

4. Based on the preliminary scrutiny of the proposal, the KPT was requested to furnish additional information/clarifications on various points vide our letter dated 15 February 2016 with a

request to furnish its response by 24 February 2016. The KPT vide its letter dated 24 February 2016 has responded. A summary of the information / clarification by us and the response of KPT are juxtaposed below:

Sl. No.	Information / Clarification sought by us	Response of the KPT
(a).	**General:**	
(i).	The subject proposal states that it is for fixation of upfront tariff for grant of license for commissioning of the 6 Nos of 100T HMCs or above - owned / hired for a period of 10 years. Even the draft Board resolution shows Board has recommended to invite tender for 6 nos. of HMC of 100 T or above. The port has in the proposal made a mention about 124T HMC i.e., higher than 100T HMC. In this regard the port to explicitly furnish the number of 100T HMCs and more than 100T i.e., 124T HMC proposed for deployment. Tariff for 124T HMC and 100T HMC may be proposed separately as the tariff for 124T HMC will not work out the same as 100T HMC for the reasons cited by the KPT i.e. difference in capital cost and capacity. If all the HMCs are of 124 Tonne capacity, the KPT may state explicitly so.	It is to mention that as per the tender document, the requirement is for 6 nos. of 100T or above capacity of cranes. Accordingly, the offered cranes can be of 100 T capacity or above 100 T capacity or mixture of 100 and above capacity. The bidder can also bring new/old or hired cranes. Therefore, it is not practically feasible to prepare different tariffs for new/old/hired/different capacity of cranes. Moreover, it is understood that 100 MT cranes are in phasing out stage from the market and there is no material difference in cost and capacity between 100 T and 124T cranes. Two of the 3 manufacturer's viz. Italgru and Liebherr do not have a 100t HMC while they manufacture 124t crane only. Therefore, the cost of 124 T Crane is considered in the tariff proposal.
(ii).	(a).The reasons for reference drawn by the KPT to clause 9.1. and 9.2. of the Tariff Policy 2015 for fixation of upfront tariff for HMC is not clear. Clause 9.1. and 9.2. of the Tariff Policy deals with fixation of ceiling tariff for license granted by the port under 42(3) of the Major Port Trusts Act,1963 other than BOT a arrangement. The KPT to clarify explicitly whether its proposal is a BOT arrangement or other than a BOT arrangement. If it is a BOT arrangement under Section 42(3), tariff fixation will be governed under the reference tariff guidelines of 2013 wherein the port has the option to follow the principles of 2008 guidelines. If license is to be granted under Section 42(3) of the MPT Act, other than a BOT arrangement, then tariff fixation will be governed by Clause 9.1. and 9.2. of the Tariff Policy 2015. The port to clarify the position.	(a).The tender is floated for granting license for a maximum period of 10 years after completion of the license period, the bidders are required to take back the cranes out of port area and there is no transfer of ownership at the end of license period. Therefore, it is not a BOT project and is on license to operate basis.
	(b).The KPT has mentioned that it has sought approval of the Ministry of Shipping for grant of license under 42(3) of the Major Port Trusts Act,1963 and the approval is awaited. The KPT to furnish the approval of the MOS at the earliest.	(b). The sanction of the Ministry as per section 42 (3) of MPT Act, 1963 is still awaited from the ministry. It is to mention that license will be granted only after receipt of the sanction from the ministry.

(iii).	The KPT has forwarded a copy of draft Board resolution. The KPT to forward a copy of the approved Minutes of the Board Meeting approving the subject proposal as agreed by the port in the proposal.	Copy of the minutes of the Board meeting as well as resolution are enclosed by KPT as Annexure-A.
(b).	**<u>Optimal Capacity:</u>**	
(i).	The Authority has fixed hire charge for HMC in most of the Major Port Trusts for 100T capacity. The proposal of the KPT, however, states that it is for fixation of hire charge for 100T and above. In the tariff computation, whilst the KPT has considered the capital cost for 124T HMC, the handling rate norms considered by the port for assessing the optimal capacity is based on the handling rate norms for a 100T HMC. So there is a mismatch in the capital cost and the optimal capacity. The KPT has itself in the proposal stated the capacity of 124T HMC is much better than 100T HMC. Moreover, the KPT has also proposed to have a Power Booster at Euro 5,00,520 which is expected to increase the cranes efficiency by 30%. The KPT has, however, not proposed increase in handling rate on this account. In view of that above observation, the KPT to modify the optimal capacity based on the higher productivity rate that can be achieved by124T HMC and taking into consideration efficiency improvement available due to Power Booster proposed to be deployed.	In this regard, it is to mention that it may not be correct to conclude that the handling rate of a crane increases in proportion to the increase in the capacity of the cranes. The handling rates do not solely depend on the capacity of the crane. It has a direct relationship with the evacuation rate of the cargo as well as the capacity of the grab. The grab which will be used in the 100 T will also be used in 124 T of cranes. Hence, there will not be any remarkable increase in the handling rates. Further, so far as the evacuation of the cargo is concerned, it is still labour intensive activities. Therefore, even if it is said that 124 T of crane will handle more cargo compared to 100 T crane, practically it will not translate into increase in the higher handling rates as evacuation rate of the cargo will largely remain the same. Further, the power booster plays the vital role in decreasing the load on the engine during the loading and unloading operation which actually increases the life and stability of the generator engine of the cranes. Hence, it may not be proper to conclude that the Power Booster will increase the handling rates. Hence, the optimal capacity considered by KPT in the proposed tariff is in order.
(ii).	In case, the KPT proposes deployment of 100T HMC (which option is not ruled out) it is to state that the Authority has approved various Order relating to hire charge for 100T HMC in other Major Port Trusts. To quote, the ceiling tariff approved for 100T HMC by the Authority for Visakhapatnam Port Trust (VPT) vide Order No. TAMP/21/2015 - VPT dated 15 May 2015 is ₹ 55.18/ tonne for foreign dry bulk cargo under Tariff Policy 2015 for award of license by the Port under section 42(3) other than by way of a BOT arrangement. The KPT may examine the possibility to adopt the rate prescribed in the VPT or in any other Major Port Trust if the HMC of 100T capacity is also proposed. In case the rate prescribed in the VPT or any other Major Port Trust cannot be adopted, the KPT may after giving sufficient justification and reasons file its proposal for fixation of rate for 100T HMC adopting the principle of 2008 Guidelines.	As mentioned in the aforesaid para, as per the tender document, the requirement is for 6 nos. of 100 T or above capacity of cranes. Accordingly, the offered cranes can be of 100 T capacity or above 100 T capacity or mixture of 100 and above capacity. The bidder can also bring new/old or hired cranes. Therefore, it is not practically feasible to prepare different tariffs for new/old/hired/different capacity of cranes. Moreover, it is understood that 100 MT cranes are in phasingout stage from the market and there is no material difference in cost and capacity between 100 T and 124T cranes. Further, as per the tender documents, the other bidders are required to match with the H1 bidder so far as revenue sharing is concerned. The offering of revenue share will depend on the tariff which the operator can charge from the users. Therefore, if different tariffs will be kept in the tender based on the capacity of the crane, the

		bidder will have to be allowed to quote different revenue share for different capacity of the cranes and it will be illogical to ask the H2 bidder to match the revenue share of H1 bidder who might be offering different capacity of crane and will be charging different tariff compared to H2 bidder. In this tender, there is no minimum guarantee of cargo either from port side or from operators' side. Moreover, having different tariff for different capacity of cranes in a tender, it may happen that the bidder offering 124 T of crane having higher handling charges may be quoting less revenue share compared to the bidder offering 100 T of crane having comparatively lower handling charges. Hence, in such a situation the selection process will become more vulnerable and difficult and Port may end up receiving less revenue share during post audit. Therefore, it is prudent to have a single tariff for different type of cranes which will be either old/new/hired.
(c).	**<u>Capital Cost:</u>**	
(i).	The reasons for considering additional grabs of 55 CBM and 30-34 CBM in the capital cost of HMC inspite of having a 45 CBM grab may be explained. The KPT to confirm whether all these three grabs are relevant for all the cargo groups. If not, the Capital Cost of the grab relevant for cargo group may be considered while arriving at the proposed tariff.	It is very common to have different capacities of grab for any crane to handle cargoes having different bulk density. Therefore 55 cbm grab is proposed for light density like food grain, extractions etc. whereas 45 cbm and 30-34 cbm grab is proposed for medium density and heavier cargo. It is pertinent to mention here that in the reference tariff of Paradip Port Trust/Visakhapatnam Port Trust) cost of two additional grabs was considered.
(ii).	It is seen from the proposal that, the KPT has considered the cost of HMC as per the offer letter furnished by M/s. Liebherr. However, there is no reference in the offer letter regarding the capital cost for 30-34 CBM grab at 140000 EURO. The KPT to furnish the basis for considering the capital cost for 30-34 CBM grab at 1,40,000 EURO with some documentary evidence.	The documentary evidence towards capital cost of 30-34 cbm grab is enclosed as Annexure-B by KPT.
(iii).	The KPT has considered the customs duty @ 27% of the cost of HMC and accordingly, the same is included in the Capital Cost of HMC. The KPT toclarify whether Customs Duty exemption will be available on the capex of HMC, grab etc., under EPGC or any other scheme. If so, the KPT may suitably modify (reduce) the estimate of Capital Cost.	At present, KPT is not having any exemption towards custom duty. Moreover, it is not relevant here because custom duty exemption is applicable only in cases where procurement is directly made by KPT.
(d).	**<u>Operating Cost</u>**	
(i).	The KPT has estimated fuel cost considering 70 litres / hour which is in line	It is to mention that the average fuel consumption for 124 T of crane will be

	with fuel consumption of 70 liters / hour considered in fixation of hire charges at Paradeep Port Trust (PPT), V. O. Chidambaram Port Trust (VOCPT), New Mangalore Port Trust (NMPT), Visakhapatnam Port Trust (VPT) etc. for a 100 T HMC. The reduction, if any, in fuel consumption due to Power Booster proposed to be deployed may be captured in the Cost Statement.	around 70 liters per hour. It is ascertained from Liebherr that the power plant (DG Set) of a particular model of crane and its next lower capacity model remain same. For instance, LHM 550 and LHM425 have the same capacity of DG set i.e. 750 KW. It is to confirm that there will be no reduction in fuel consumption due to Power Booster. Therefore, a conservative average consumption of 70 LPH is in order.
(ii).	The KPT to confirm whether for 124T HMC, the fuel consumption is likely to be same. If not, basis of fuel consumption (if revised) for 124T HMC may be furnished.	
(iii).	The KPT has estimated fuel consumption for 6132 hours as against 4000 hours considered by the Authority in other HMC Cases as per working hour norms prescribed for multipurpose cargo terminal in 2008 Guidelines. Taking into consideration the fact that the HMC rate to be fixed is not for a full fledged dedicated terminal, the KPT may consider to review the number of working hours at 4000 as done in other HMC cases which are not for full-fledged terminal.	It is to mention that the proposed licensed cranes will have exclusivity to operate on berth no. 7 to 9. Therefore the working hours of 6132 hours considered by KPT are in order.
(iv).	The KPT to confirm that the unit rate of licence fee considered in the calculation, is as per the prevailing license fee prescribed in Scale of Rates of KPT after applying the applicable escalation factor. The KPT to give the reference of the relevant Licence Fees adopted by KPT for estimation of licence fee.	The unit rate of license fee is considered as per the proposed revision of General Scale of Rates which is attached as Annexure C by KPT.

5. A joint hearing on this case in reference was held on 17 February 2016 at KPT premises. The KPT made a power point presentation of its proposal. At the joint hearing, the KPT and the concerned users/ user organisations bodies/ prospective bidders have made their submissions.

6. The proceedings relating to consultation in this case are available on records at the office of this Authority. 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.

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

(i). The proposal from Kandla Port Trust (KPT) is for fixation of tariff for grant of License for Supply, Installation, Commissioning, Operation, and Maintenance of 6 nos. of 100T or above, owned / hired Mobile Harbour Cranes at Berth No. 7 to 9 inside Kandla Port for a period of 10 years for handling cargo on common user basis. The licensing arrangement is proposed to be governed under Section 42(3) of the Major Port Trusts Act 1963.

(ii). Providing cranes for cargo handling services is covered under list of services stipulated under Section 48 of the Major Port Trusts Act, 1963 and, therefore, the tariff for the same needs to be regulated by this Authority. Section 42(4) of the MPT Act read with Section 48 requires this Authority to notify the rates in case the identified services listed in Section 48 of the Act is to be provided by services authorized by Major Port Trusts under Section 42(3) of the MPT Act.

To a specific query whether its proposal is a BOT arrangement or other than a BOT arrangement, the KPT has confirmed that the project is not contemplated on a BOT mode. The KPT envisages to grant this project on license basis to service provider to operate for a period of 10 years under Section 42(3) of the MPT Act. The port has confirmed that it has submitted the proposal to the Ministry of Shipping (MOS) seeking approval of for granting license under Section 42(3) which is awaited and the port has confirmed that the license will be granted after obtaining approval of the MOS.

(iii). The MOS issued Policy for Determination of Tariff for Major Port Trusts, 2015 which was notified by this Authority in the Gazette of India on 27 January 2015 vide G.No. 30. The said Tariff Policy has come into effect from 13 January 2015. Clause 9.1, 9.2 and 9.3. of the said Tariff Policy, 2015 for determination of tariff for Major Ports effective from 13 January 2015 prescribe the tariff setting method for such services where authorization arrangement under section 42(3) is other than by way of a BOT concession agreement. The KPT has referred to clause 9.1. and 9.2. of the Tariff Policy 2015 while filing its proposal.

As per Clause 9.1 of the Tariff Policy 2015 in cases where authorisation arrangement u/s 42(3) is other than by way of a BOT concession agreement, ceiling rates will be prescribed for such services. For this purpose, proposal for the charges should be initiated by the concerned Major Port Trust after identifying such authorised services coming under the ambit of tariff regulation and forward to this Authority and the proposal shall contain the Performance Standards to be achieved by the service provider and tariff linked to Performance Standards should be proposed.

Clause 9.2. of the Tariff Policy 2015 prescribes the various options available with Major Port Trust for proposing the tariff under clause 9.1. of the ibid Tariff Policy 2015. The KPT has filed the proposal for fixation of performance linked ceiling rate following the provisions prescribed in clause 9.1. and 9.2 of the said Tariff Policy, 2015 and hence this Authority proceeds to take up the proposal of the port for consideration.

(iv). As per clause 9.2 of Tariff Policy, 2015 in case there is no ceiling tariff prescribed in the concerned Major Port for a particular service / facility under such arrangement, the port shall adopt the tariff prescribed for the similar service/ facility prescribed in any other Major Port Trust.

If there is no tariff prescribed in any Major Port Trust or the rate prescribed is not representative for the cargo/ service/ facility envisaged, the Port Trust may file a proposal with reference to optimal capacity following the principles of 2008 guidelines or based on rated capacity. The proposal of Port Trust shall contain the Performance Standards to be achieved by the service provider and tariff linked to Performance Standards should be proposed.

The KPT has referred to the tariff approved by this Authority for 100T HMC at Visakhapatnam Port Trust. The gazette No of the VPT referred by the VPT as G.No. 344 dated 24 November 2014 is not found to be correct. At VPT, this Authority vide Order No TAMP/21/2015 - VPT dated 15 May 2015 has approved rate for 100T HMC which was notified in the Gazette of India on 28 May 2015 vide Gazette No 196. The rate approved in the said Order was adoption of the ceiling rate approved at Paradip Port Trust vide Order No TAMP/30/2014-PPT dated 28 November for 100T HMC which is also referred by the KPT.

The KPT has cited the following reasons for not adopting the HMC rate prescribed in Other Major Port Trusts:

(a). The two existing cranes in operation at KPT are of maximum capacity 124T.

(b). The capacity of the said crane varies with the outreach and the type of cargo handled; the operational efficiency of the crane envisaged in the instant proposal is much better than the cranes of capacity 100T.

(c). The cost of supply and installation of 124T HMC is significantly different from the cost of 100T HMC.

(d). The rates prescribed in the aforementioned notification are not representative of the facility envisaged in the subject proposal of KPT.

Citing the above reasons, the KPT has stated that it has proposed ceiling tariff following the principles of 2008 guidelines which is one of the options available under clause 9.2. of the Tariff Policy 2015.
Relying on the reasons cited by KPT the proposal filed by the port under the principles of 2008 guidelines is taken up for consideration.

(v). Optimal Capacity of the MHC:

(a). The KPT envisages to handle three cargo categories viz., dry bulk cargo, break bulk cargo, other cargo. By considering the percentage share of each type of cargo viz., Dry bulk & Fertiliser, Iron & Steel and Other Bulk Cargo at 73.39%, 12.23% and 14.38% based on the actuals for the year 2014-15 at KPT and the handling rate of each of the above mentioned cargo at 12500 tonnes per day for dry bulk cargo, 6000 tonnes per day in respect of break bulk cargo and 3750 tonnes per day in respect of other cargo respectively and considering 6132 hours, the KPT has determined the optimal capacity of each of the cargo at 23.44 lakhs tonnes, 1.88 lakhs tonnes and 1.38 lakh tonnes respectively aggregating to 26.7 lakhs tonnes (i.e. 2.67 million tonnes).

(b). It is relevant here to state that, whilst in the tariff computation the KPT has considered the capital cost for 124 Tonne HMC, the handling rate norms considered by the port for assessing the optimal capacity is based on the handling rate norms for a 100 Tonne HMC. So, there is a mismatch in the capital cost and the optimal capacity. The KPT has itself in the proposal stated that the capacity of 124 Tonne HMC is much better that 100 Tonne HMC.

The KPT was, therefore, requested to modify the optimal capacity based on the higher productivity rate that can be achieved by124 Tonne HMC and taking into consideration efficiency improvement available due to Power Booster proposed to be deployed. The port was also requested to indicate the number of 100T HMCs and more than 100T i.e., 124T HMC proposed for deployment and to also consider proposing rate for 124T HMC proposed and 100T HMC separately because of difference in capital cost and capacity for these two HMCs as cited by the KPT.

(c). The port has, however, proposed to retain the optimal capacity as in its original proposal without any modification. Some of the main arguments put forth by the KPT in support of its proposal and our analysis thereon are given below:

(i). Submission made by KPT

(a). The handling rates do not solely depend on the capacity of the crane. It has a direct relationship with the evacuation rate of the cargo as well as the capacity of the grab. The grab which will be used in the 100 Tonne will also be used in 124 Tonne of cranes. Even if it is said that 124 T of crane will handle more cargo compared to 100 T crane, practically it will not translate into increase in the higher handling rates as evacuation rate of the cargo will largely remain the same. Hence, there will not be any remarkable increase in the handling rates.

(b). Analysis:

The HMC is for ship to shore transfer of cargo. The optimal capacity is determined based on the handling rate of HMC. This approach is followed uniformly at all the Major Ports for determining the tariff of HMC. In case the evacuation of cargo is poor, it has to be improved to match the optimal capacity of the HMC. Else investing on higher capacity HMC will not serve the desired purpose of achieving the improved productivity.

As regard the point made by the KPT about the grab, the grab is an attachment to the HMC to hold or carry the cargo. Thus, even if the grab used for 100T HMC and 124T HMC is the same, because the higher capacity of the 124 HMC than its counterpart, it will be in position to transfer cargo at a faster rate and the productivity of 124T HMC will undoubtedly be higher than 100T HMC.

(ii). Submission by the KPT:

(a). As per Tender document, the requirement is for 6 nos. of 100 Tonne or above capacity of cranes. Therefore, it is not practically feasible to prepare different tariffs for new/old/hired/different capacity of cranes. Further, as per the tender documents, the other bidders are required to match with the H1 bidder so far as revenue sharing is concerned. The offering of revenue share will depend on the tariff which the operator can charge from the users. Therefore, if different tariffs will be kept in the tender based on the capacity of the crane, the bidder will have to be allowed to quote different revenue share for different capacity of the cranes and it will be illogical to ask the H2 bidder to match the revenue share of H1 bidder who might be offering different capacity of crane and will be charging different tariff compared to H2 bidder.

Moreover, having different tariff for different capacity of cranes in a tender, it may happen that the bidder offering 124 T of crane having higher handling charges may be quoting less revenue share compared to the bidder offering 100 T of crane having comparatively lower handling charges. Hence, in such a situation the selection process will become more vulnerable and difficult and Port may end up receiving less revenue share during post audit.

(b). Analysis:

The point made by the KPT is relating to the tender conditions in the tender document. In this context, it is to state that the mandate of this Authority is to determine the tariff based on tariff policy guidelines issued by the Government from time to time. The rate is not determined to suit individual tender conditions.

The aspects relating to tender conditions and revenue share referred by the KPT fall under the domain of the Major Port Trusts. As stated earlier, the tariff need to be fixed by this Authority following the applicable tariff guidelines which are followed uniformly across all the Major Port Trusts.

(iii). One of the points made by the KPT is that two of the 3 manufacturer's viz. Italgru and Liebherr do not have a 100t HMC while they manufacture 124T crane only and therefore, the cost of 124 T Crane is considered in the tariff proposal.

It this context, it is to state that this Authority has approved rate for 100T HMC till recently based on the proposal received from other Major Port Trusts. It is seen from the proposal of the KPT that even the Boston Consulting Group in their report has recommended KPT to replace with 100T HMC. Even the KPT itself has not ruled out the possibility of deploying 124T HMC.

(iii). Submission by the KPT:

(a). There is no material difference in cost and capacity between 100T and 124T cranes. Therefore, the cost of 124T Crane is considered in the tariff proposal.

(b). Analysis:

The above submission made by the KPT contradicts its own submission in the proposal where the port has stated that the capital cost and the capacity of of124T HMC is higher than 100T HMC which has been cited as reasons by the port for not adopting the rate for 100T HMC approved by this Authority at other Major Ports viz. VPT and PPT. The capital cost and operating cost considered by the KPT for arriving at the tariff is for 124T capacity. That being so, there appears to be mismatch in approach adopted by the KPT to arrive at the proposed tariff considering the optimal capacity of a 100T HMC whereas the capital cost and operating cost is for 124T HMC. Incidentally, the optimal capacity for 124T HMC assessed by the KPT is modified which is brought in the subsequent paragraph.

(c). It is relevant here to state that the output norm of 10000 tonnes per day prescribed in the tariff guidelines of 2008 for dry bulk cargo is with reference to operation of 3 numbers of wharf cranes of 20 tonne capacity each aggregating to 60T each. When this Authority first approved the tariff for 100T HMC based on normative method on the optimal capacity of the HMC, this Authority had in Order No TAMP/54/2007-PPT dated 30 December 2009 decided to consider 25% higher handling rate for dry bulk cargo and 50% higher handling rate for break bulk and other cargo over the handling rate prescribed in the 2008 guidelines for aggregate capacity of the 60T for three wharf cranes in the absence of any other norms available. The improved handling rate considered by this Authority are uniformly followed for determining the handling rate for 100T HMC at all the Major Port Trusts.

In the instant case, refusing the KPT to consider improved handling rate for 124T HMC despite specific request and at the same time recognising that the handling rate for a 124T HMC should ideally be higher than that of 100T HMC and in the absence of productivity figures of 124T HMC at Major Port Trusts, this Authority decides that to consider 10% uniform increase over the percentage increase considered while arriving at the handling rate for the base 100T HMC for each cargo group. This means for 124T HMC, 35% higher handling for dry bulk cargo and 60% higher handling rate for break bulk and other cargo over the handling rate prescribed in the 2008 guidelines for aggregate capacity of the 60T for three wharf cranes is considered in the absence of any other norms available.

The handling rate considered by this Authority for 60T HMC and 100T HMC in other Major Port Trusts for determining normative based tariff and the improved handling rate considered for 124T HMC in the instant case is tabulated below:

Tonnes/ day

Particulars	**Handling Rates**		
	Dry Bulk Cargo	**Break Bulk Cargo**	**Other Cargo**
For 60T HMC As considered for 60T HMC in KPT etc	10,000	4000	2500
For 100T HMC As considered in the Orders passed for 100T HMC in other Major PortTrusts like PPT, VPT, VOCPT, NMPT, etc)	12500 (25% scaled up)	6000 (50% scaled up)	3750 (50% scaled up)
For 124 HMC The KPT has considered handling rate for 124T HMc at par with 100T HMC. [The percentage increase considered for arriving at handling rate for 100T HMC over 60T HMC is scaled up uniformly by 10% for arriving at the handling rate for 124T HMC]	13500 (35% scaled up)	6400 (60% scaled up)	4000 (60% scaled up)

It is relevant here to state that the Paradip Port Trust (PPT) while approving the rate of HMC in Order No TAMP/54/2007-PPT dated 2 July 2015 has furnished the actual average handling rate by various operators wherein it is reported that Jindal Steel & Power Ltd. (JSPL) (who is operating 120T HMC) has achieved 13232 T/day in the year 2011-12. For the other years, the handling rate achieved by JSPL is in the range of 10102 to 11554 T/day. That being so, considering handing rate of 13500T/day is not found off the mark as it has been achieved by JSPL at PPT.

(d). The KPT has assessed optimal capacity of HMC considering 6132 working hours. Even fuel cost is estimated by the KPT at 6132 working hours. The tariff guidelines of 2008 prescribe 4000 working hours for estimating fuel cost for multipurpose cargo terminal. Hence, for fixation of rate for HMC which is an isolated service and nor for a full-fledged terminal operation, this Authority has uniformly considered 4000 hours for estimating the optimal capacity of HMC and for fuel estimation as well at the other Major Port Trust. In this context, it was pointed out to the KPT that rate to be fixed for is not for a full-fledged dedicated terminal and hence port was requested to consider to review the number of working hours at 4000 as done in other HMC cases which are not for full-fledged terminal. The port has retained 6132 hours citing that the cranes will have exclusivity to operate on berth no. 7 to 9. However, the number of working hours is modified and considered at 4000 hours in line with the approach followed at the other Major Port Trusts recognising that the HMC to be licensed by the KPT is not for a full-fledged terminal.

(e). Thus, to summarize in view of the above analysis, the optimal capacity considered by the KPT is modified considering improved handling norms for 124 Tonne HMC and for 4000 working hours. The cargo share considered by the KPT is fully relied upon, recognizing that the cargo share is based on the actuals for the year 2014-15.

(f). Based on the above, the optimal capacity of one 124T HMC works out to 2,360,222 tonnes (23.60 lakh tonnes), 1,86,385 (1.86 lakh tonnes) tonnes and 1,36,898 tonnes(1.37 lakhs tonnes) in respect of Dry bulk & Fertiliser, Iron & Steel and Other Bulk Cargo respectively, which aggregates to 26.83 lakh tonnes i.e. 2.68 million tonnes tonnes of cargo per annum as against optimal capacity of each of the cargo assessed by KPT at 23.44 lakhs tonnes, 1.88 lakhs tonnes and 1.38 lakh tonne respectively aggregating to 26.7 lakhs tonnes (i.e. 2.67 million tonnes).

(vi). Capital Cost:

(a). The KPT has estimated total capital cost at ₹ 45.81 crores. This comprises of the cost of 1 HMC of 124 T with 1 no of 45 CBM Grab, additional 2 grabs of 55 CBM and 30-34 CBM and power booster.

The KPT has stated that it is very common to have different capacities of grab for any crane to handle cargoes having different bulk density and therefore 55 cbm grab is proposed for light density like food grain, extractions etc. whereas 45 cbm and 30-34 cbm grab are proposed for medium density and heavier cargo. The KPT has cited that in the reference tariff of Paradip Port Trust/Visakhapatnam Port Trust) cost of two additional grabs was considered. The port has justified that power booster is proposed as it plays a vital role in decreasing the load on the engine during the loading and unloading operation which actually increases the life and stability of the generator engine of the cranes. Relying on the clarification furnished by the KPT, the items considered by the KPT are accepted.

(b). The KPT has furnished detailed working for each of the items and has furnished documentary evidence reflecting the capital cost in Euros. The KPT has also considered 27% of the capital cost towards customs duty. To our specific query as to whether Customs Duty exemption will be available on the capex of HMC, grab etc., under EPGC or any other scheme, the KPT has clarified that custom duty exemption is not available at KPT. The clarification furnished by the KPT is relied upon. The KPT has arrived at the capital cost for each of the items considering exchange rate of 1 Euro= ₹ 72.93 which is updated based on the exchange rate prevailing at the time of finalization of this case i.e. 1 Euro= ₹ 75.68.

(c). The KPT has considered @ 5% of the cost of HMC towards miscellaneous capital cost. Miscellaneous capital cost at 5% is as per the norms prescribed in 2008 guidelines and has been considered while fixing the upfront tariff in respect of other cases, hence is allowed in this case also.

(d). Thus, in short, the Capital cost considered by the KPT is relied upon subject to updation of the exchange rate of Euro as stated above. Accordingly, the total modified capital cost of the 124 Tonne HMC along with the other accessory equipment proposed by the KPT is considered at ₹46.50 crores as against ₹44.81 crores estimated by the KPT.

(vii). Operating Cost.

(a). Fuel:

The KPT has considered the fuel consumption cost at the estimated level of rate of consumption of fuel at 70 litres per hour by considering the unit price of the diesel at ₹54 per litre for 6132 hours per annum.
When pointed out that fuel consumption of 70 liters per hour is considered by this Authority for fixation of 100T HMC in other Major Ports, the port has, after ascertaining it from the manufacturer of HMCi.e. Liebherr, confirmed the average fuel consumption for 124 T of crane will be around 70 liters per hour. The port has also confirmed that there will be no reduction in fuel consumption due to Power Booster and has confirmed that a conservative average consumption of 70 LPH is in order. Hence, consumption of fuel as considered by KPT is relied upon.

While disposing of the proposal received from the Paradip Port Trust (PPT) and New Mangalore Port Trust (NMPT) for fixing the tariff for the HMC, this Authority has decided to consider the price of the premium diesel for estimating the operating cost based on the position emerged during the relevant tariff proceedings. The unit rate of fuel cost is, therefore, modified and considered at ₹55.10 per litre being the unit rate of premium diesel prevailing at the time of finalization of this case in line with the decision taken in the other recent HMC cases. For reasons stated earlier, fuel cost is estimated for 4000 hours done in tariff fixation of HMC at other Major Port Trusts.

(b). Repairs and Maintenance cost, Insurance cost and Other Expenses are estimated at 5%, 1% and 5% of the capital cost of the HMC by KPT. This is found to be in line with the percentages considered for estimating the above said expenses at other Major Port Trusts. These cost items are considered as estimated following the approach adopted by KPT subject to applying the above mentioned percentage on the modified capital cost.

(c). Depreciation:
Depreciation is computed by KPT @ 10% on the cost of equipment as per the rates prescribed in the Companies Act, 2013 and is in line with the guidelines for upfront tariff fixation. The depreciation rate is considered as estimated by KPT except for applying the 10% on the modified capital cost.

(d). License fee:
The guidelines for upfront tariff stipulate that licence fee for port land is to be estimated based on the rates prescribed in the Scale of Rates of the respective Major Port Trusts. When sought clarification on this point, the KPT has stated that it has considered the license fee of ₹ 32.40 per sq. meter per month amounting to ₹ 0.02 crores per year based on the tariff item proposed by the KPT in the proposal filed by the KPT for general revision of Scale of Rates under Tariff Policy of 2015.

This Authority in the HMC case of the Paradip Port Trust (PPT), Chennai Port Trust and New Mangalore Port Trust (NMPT) has allowed license fee estimated by the concerned port for the entire year. Hence estimation of license fee for 12 months period as considered by the KPT is accepted.

Under the Tariff Policy, 2015 the Major Port Trusts have the flexibility to draw their own Scale of Rates within the ceiling ARR. The unit rate of license fee as estimated by the KPT is considered for the purpose of fixing rate for HMC in this case. By way of abundant caution, it is clarified that this should not be construed as incidental approval accorded by this Authority to the rate for license fee proposed by the port as the general revision proposal is being dealt with separately and yet to be dispose of.

(viii). This Authority has decided to allow Return on Capital Employed in the cases decided during the year 2015-16 at 16%. Accordingly, the return at 16% on the capital employed as considered by the KPT is allowed.

(ix). Based on the above position, the Cost statement furnished by the KPT has been modified. The modified Cost statement is attached as **Annex-I** As per the modified cost statement, the annual revenue requirement, which is the sum total of the annual operating cost of ₹11.34 crores and the return on the capital employed of ₹ 7.44 crores, works out to ₹ 18.78 crores, as against the annual revenue requirement of ₹18.92 crores, estimated by the KPT.

(x). The port has spread over the total revenue requirement amongst the three cargo groups in the percentage share of cargo and arrived at the tariff considering the normative capacity of the MHC at 23.44 lakh tonnes for dry bulk cargo, 1.88 lakh tonnes of break bulk cargo and 1.38 lakh tonnes of other cargo and based on the Annual revenue requirement of ₹18.92 crores and arrived at the proposed rate. The port has considered share of foreign cargo and coastal cargo at 95.91% and 4.09% reportedly based on actual dry bulk handled at KPT during last three year and the impact of allowing concession to coastal cargo is captured while arriving at the proposed rate. Based on the methodology adopted by the KPT, the tariff for HMC is arrived for the modified ARR of ₹ 18.78 crores and for the modified optimal capacity.

Accordingly, the tariff for foreign cargo works out to ₹ 59.36 per MT for dry bulk cargo, ₹ 125.45 per MT for break bulk cargo and ₹ 200.51 per MT in respect of Other break bulk cargo, as against the rate of ₹60.23 per MT for dry bulk cargo, ₹125.47 per MT for break bulk cargo and ₹200.75 per MT for other break bulk cargo proposed by the port.

The tariff for coastal cargo works out to ₹ 35.62 per MT for dry bulk cargo, ₹ 75.27 per MT for break bulk cargo and ₹120.31 per MT in respect of Other break bulk cargo, as against the rate of ₹ 36.14 per MT for dry bulk cargo, ₹75.28 per MT for break bulk cargo and ₹ 120.45 per MT for other break bulk cargo proposed by the port.

(xi). One of the users, Arvind V. Joshi & Co. (AJC) has stated out that the KPT has not considered the royalty payable as a cost while determining the tariff. In this context, it is to state that as per the clause 3.5.5. of the 2008 guidelines, the royalty /revenue share is not an admissible item of cost in tariff fixation.

(xii). Some of the users have pointed out that there is no potential to handle the optimal capacity assessed by the KPT. Clause 3.3.2. of the tariff guidelines of 2008 stipulates that tariff is to be fixed with reference to the optimal capacity irrespective of the traffic forecast. The proposal filed by the KPT based on the optimal capacity is found to be in line with the tariff guidelines of 2008 guidelines.

Aditya Marine Limited (AML) has requested this Authority to direct KPT to assure minimum cargo to be handled by HMC. The KPT has clarified that there is no assurance for the cargo. With reference to the point raised by the user, it is to state that the mandate of this Authority is to determine the tariff following the applicable tariff guidelines issued by the Government. The request of the user falls beyond the mandate given to this Authority.

(xiii). Clause 9.2. of the Tariff Policy stipulates that the tariff to be fixed for service provider authorized under section 42(3) other than by way of a BOT concession agreement should be performance linked tariff.

The KPT has filed the proposed performance linked tariff for the HMC linking it to benchmark level of performance. The KPT has adopted the handling rate considered by it for each cargo group in the optimal capacity calculation as the benchmark level of performance. As brought out in the first part of the order, the KPT has proposed tariff for bench mark level of performance and performance linked tariff by way of reward of 5% increase in the base rate if the performance achieved is 1000 tonnes higher than the bench mark level.

The performance linked tariff proposed by the KPT with benchmark level of performance is 12500 tonnes per day for dry bulk cargo, 6000 tonnes per day in respect of break bulk cargo and 3750 tonnes per day in respect of other cargo respectively. In view of modified improved handling rate considered in the optimal capacity calculation for 124T HMC for the reasons explained in earlier paragraphs, the productivity level assumed for arriving at the tariff viz. 13500 tonnes per day for dry bulk cargo, 6400 tonnes per day in respect of break bulk cargo and 4000 tonnes per day in respect of other cargo is treated as the benchmark level of productivity and the tariff for the corresponding slab is prescribed which is the base rate.

As stated earlier, the KPT has stated that , it is not practically feasible to prepare different tariffs for new/old/hired/different capacity of crane. This indirectly means it has sought a common tariff schedule for 100T HMC and 124T HMC. Since the KPT, despite specific advice, has not proposed different rates for different capacity of HMC of 100T and above 100T i.e. 124 T, in the Performance linked tariff approved by this Authority tariff for 100 T HMC is also made available in the first slab by prescribing a rate 5% lower than the base rate if the productivity is lower than the benchmark level of productivity relevant for 124 Tonne capacity HMC. Further, a suitable note is also inserted in the tariff schedule to state that prescription of rate for 124T HMC does not prohibit the Kandla Port Trust to permit deployment of 100T HMC. If a 100T HMC is permitted, the base rate for 100T HMC is the rate indicated in the first slab for each cargo group. It is noteworthy that the rate so prescribed for the first slab is found comparable to the rate for 100 T HMC prescribed at VPT and the PPT.

The KPT has proposed performance linked tariff structure proposing a reward by way of 5% increment in the base rate if the performance achieved is 1000 tonnes higher than the bench mark level for each cargo groups. This is in line with the prescription for HMC in the other Major Ports like the VPT, PPT and the NMPT and hence is approved except that the slabs have been suitably modified in view of the modified handling rate considered by this Authority as benchmark level of performance.

(xiv). The KPT has proposed a full-fledged Scale of Rates with definitions relating to foreign going vessel, coastal vessel, per day, etc., and a few general conditions. The terms defined by the KPT are not used in the schedule of rates for HMC. It is further relevant to state that while prescribing the rate for HMC for authorised service providers other than a BOT arrangement in other Major Port Trusts like NMPT, PPT, etc. including the rate approved by this Authority for transloading operation on license basis for 10 years only the terms and conditions governing the rates are prescribed. The same approach is followed in the instant case also.

The notes governing the schedule of rates for HMC proposed by the KPT are same as prescribed for HMC at the NMPT as well as for similar case at other Major Port Trusts, and hence are prescribed as proposed by the KPT.

(xv). As per clause 9.3. of the said Tariff Policy the tariff approved by this Authority for those services shall be subject to automatic indexation as prescribed in clause 2.8 of these guidelines from the second year onwards. The KPT has proposed a note that after completion of one year, the tariff caps will be indexed to meet the cost of inflation to an extent of 100% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2015 and 1 January of the relevant year as per clause 2.8. of the Tariff Policy 2015 subject to achievement of benchmark level of productivity. The note also states that the benchmark level of productivity is to be calculated taking into account the total cargo wise tonnage handled in a year divided by the total time taken cargo wise for respective cargo group Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year. The said note proposed by KPT is from the note approved for HMC at the NMPT.

As regard the said proposed note linking indexation in rate to achievement of productivity it is relevant to state that such a prescription was approved in the NMPT

Order No TAMP/24/2013-NMPT dated 13 February 2015 wherein no rate for productivity below the benchmark level was prescribed. In the instant case, if productivity below the benchmark is achieved a lower level of tariff prescribed for the first slab will automatically become applicable. That being so, again linking indexation in tariff to achievement of productivity will dis-incentivise the operator twice for non-achievement of the benchmark level of productivity. The proposed note is, therefore, suitably modified to that extent.

It is also relevant to state that as per clause 9.2. read with 9.3. of the Tariff Policy 2015, the performance linked tariff to be approved by this Authority to authorize service provider other than by way of BOT arrangement is subject to automatic indexation as prescribed in clause 2.8. of the Tariff Policy 2015. As per clause 2.8. of the Tariff Policy 2015, the indexation factor application is 60% of the WPI and not 100% of the WPI as proposed by the KPT. Hence the indexation factor is modified in line with the stipulation in the Tariff Policy, 2015. Secondly, the tariff prescribed in the instant case is already linked to performance.

To summarise, in view of the above position, the proposed note by KPT is modified to state 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 2016 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year. The above prescription is in line with the provision prescribed in Order No TAMP/63/2014-KOPT dated 8 January 2015 relating to proposal from Kolkata Port Trust (KOPT) for fixation of tariff for the transloading facility to be set up for handling of dry bulk cargo at Haldia Dock Complex (HDC) of KOPT on license basis for 10 years period.

(xvi). Clause 3.8 of the Working Guidelines issued by this Authority to operationalize the Tariff guidelines of 2005 stipulate fixation of tariff for the period of 3 years. Generally, the validity of the SOR to be approved by this Authority has three years validity so that the port, after the end of the validity period gets an opportunity to submit a fresh proposal by factoring into the parameters prevailing then.

In the instant case, it is relevant to state the KPT envisages to authorize service provider by way of issue of a licence for a period of 10 years. It is also relevant here to state that for transloading facility to be set up for handling of dry bulk cargo at Haldia Dock Complex (HDC) of KOPT on license basis for 10 years period, this Authority based on the proposal of the KOPT has approved the rate for 10 years period with a clause for annual indexation in the rate from second year onwards.
Since the KPT also envisages to issue a license for a period of 10 years and to have a stability in tariff for a period of 10 years, this Authority finds it appropriate to prescribe validity for 10 years in line the prescription in the case of KOPT. However, in order to capture impact of price fluctuation on the tariff, a provision is prescribed that the rates approved will come into effect after expiry of 30 days from the date of notification of this Order passed in the Gazette of India and shall remain in force for a period of ten years, subject to indexation, as explained above.

9.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the ceiling tariff for 124 tonne HMC which also provides tariff for 100T HMC in the first slab by way of note (i) in the Scale of Rates attached as in **Annex-II**

9.2. The rates approved will 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 in force for a period of ten years, subject to indexation, as explained earlier.

9.3. The rate approved by this Authority for Mobile Harbour Crane is a ceiling rate and will apply commonly at the port for identical facility/ service offered at the port without reference to any particular service provider. The Port Trust should ensure by suitably including a necessary condition in the authorization arrangement that the authorized service providers do not charge more than the prescribed ceiling rate for the respective cargo group.

(T.S. Balasubramanian)
Member (Finance)

Annex-I

Fixation of Hire charges for 124T MOBILE HARBOUR CRANE (HMC) AT BERTH NO. 7 TO 9 AT KANDLA PORT FOR A PERIOD OF 10 YEARS FOR HANDLING CARGO ON COMMON USER BASIS.

Sl. No.	Description	Estimates furnished in the Proposal of KPT dated 04.01.2016			Estimates as moderated by TAMP		
I	**Optimal capacity**						
		Dry Bulk Cargo	**Break Bulk Cargo**	**Other Cargo**	**Dry Bulk Cargo**	**Break Bulk Cargo**	**Other Cargo**
(i)	Cargo Share	73.39%	12.23%	14.38%	73.39%	12.23%	14.38%
(ii)	Cargo Handling rate in tonnes per day	12500	6000	3750	13500	6400	4000
(ii)	Cargo Handling rate in tonnes per hour				804	381	238
(iv)	Total Working Hours in a year	6132	6132	6132	4000	4000	4000
(vi)	Individual cargo capacity (i*ii*iv*v)	2343745	187536	137791	2360222	186385	136898
(vii)	**Annual Handling capacity (in lakh Tonnes)**	**23.44**	**1.88**	**1.38**	**23.60**	**1.86**	**1.37**
(viii)	**Annual Handling capacity (in Million tonnes)**	**2.67**			**2.68**		
II	**CAPITAL COST**						
(i)	Cost of 124T Mobile Harbour Cranes with 1 no. of 45 CBM Grab KPT- [€ 3808000* Rs 72.93] TAMP-[€ 3808000* Rs 75.68]	27,77,17,440.00			28,81,89,440.00		
(ii)	Cost of additional 2 nos. of Grabs of 55 CBM & 30-34 CBM KPT- [(€ 158799+140000)* Rs 72.93] TAMP-[(€ 158799+140000)* Rs 75.68]	2,17,91,411.07			2,26,13,108.32		
(iii)	Cost of Power Booster KPT - (€ 500520* Rs.72.93) TAMP - (€ 500520* Rs.75.68)	3,65,02,923.60			3,78,79,353.60		
(iv)	Custom Duty @ 27% of cost of HMC [27% on item II(i) to II(iii)]	90723179.16			94144113.52		
(v)	Miscellaneous Capital Cost @ 5% in item no. II(i) to II(iv)	2,13,36,747.69			2,21,41,300.77		
	TOTAL CAPITAL COST [II(i) to II(v)]	**44,80,71,701.52**			**46,49,67,316.21**		
	TOTAL CAPITAL COST (in ₹ Crores)	**44.81**			**46.50**		
III	**OPERATING COST PER ANNUM**						
		(Rupees in Crores)			(Rupees in Crores)		
(i)	Fuel Cost :						
	(KPT - 70 Ltrs per hour * 6132 hrs * ₹54 per ltr) (TAMP - 70 Ltr per hour * 4000 hrs * ₹55.10 per ltr)	2.32			1.54		
(ii)	Maintenance & Repair @ 5% on Capital Cost	2.24			2.33		
(iii)	Insurance @ 1% on Capital cost	0.45			0.47		
(iv)	Depreciation: (KPT & TAMP - 10% of Capital cost)	4.48			4.65		
(v).	License fee (KPT - Rs.32.40 per sq.mtr per month * 600 sq.mtr*12mth) (TAMP - Rs.32.40 per sq.mtr per month * 600 sq.mtr*12mth)	0.02			0.02		
(vi)	Other expenses @ 5% of Capital cost	2.24			2.33		
	Total Operating Cost [Sum III(i) to III(vi)]	**11.75**			**11.34**		
IV	**Return on Capital Employed @ 16%**	7.17			7.44		
V	**Estimated Annual Revenue Requirement:**						
	(a). Total Operating Cost	11.75			11.34		
	(b). Return on Capital Employed	7.17			7.44		
	(c). Total Revenue Requirement	**18.92**			**18.78**		
VI	Cost per MT	**Dry Bulk Cargo**	**Break Bulk Cargo**	**Other Cargo**	**Dry Bulk Cargo**	**Break Bulk Cargo**	**Other Cargo**
	(a). Total Annual Requirement (₹ in crores)	**18.92**			**13.78**	**2.30**	**2.70**
	(b). Capacity in tonnes	**2343745**	**187536**	**137791**	**2360222**	**186385**	**136898**
	(c). Cost Per MT						
	(i) Foreign	**60.23**	**125.47**	**200.75**	**59.36**	**125.45**	**200.51**
	(ii) Coastal	**36.14**	**75.28**	**120.45**	**35.62**	**75.27**	**120.31**

Annex - II

Kandla Port Trust
Scale of Rates

Charges for use of Harbour Mobile Crane (HMC) of 124T capacity to be installed and operated by the private operators:

(i). For Dry Bulk Cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	**Coastal**
Upto 13499	56.39	33.84
13500	59.36	35.62
13501-14500	62.33	37.40
14501-15500	65.30	39.18

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2^{nd} thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 15500 tonnes.

(ii). For Break Bulk Cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	**Coastal**
Upto 6399	119.18	71.51
6400	125.45	75.27
6401-7400	131.72	79.03

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 7400 tonnes.

(iii). For Other cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	**Coastal**
Upto 3999	190.48	114.29
4000	200.51	120.31
4001-5000	210.54	126.32

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 5000 tonnes.

Notes:

(i). Prescription of rate for 124T HMC does not prohibit the Kandla Port Trust to permit deployment of 100T HMC. If a 100T HMC is permitted, the base rate for 100T HMC is the rate indicated in the first slab for each cargo group.

(ii). The formula for calculation of average berth-day output is as follows:-

$$\frac{\text{Total Quantity loaded / unloaded by HMC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hrs.}$$

(iii). According to the average berth-day output for the vessel from commencement to completion of loading / discharge of cargo, the appropriate rate of crane hire charge will be chosen for recovery from Port users for the full quantity of cargo loaded / discharged.

(iv). If one HMC works with another HMC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC's load meter.

(v). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by HMC will be determined taking into account cargo loaded/ discharged prior to break-down divided by crane working hours and multiplied by 24.

(vi). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading / unloading operations during working of HMC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.

(vii). In case shifting of a vessel becomes necessary due to breakdown / non-performance of HMC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of ₹1,00,000/- (Rupees one lakh) only . The shifting charges so recovered will be refunded to the vessel's agent while the penalty will be retained by the Port.

(viii). In case of dispute on the average output, the decision of the Port Trust will be final and binding.

(ix). 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 2016 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.

(x). The rates approved will come into effect after expiry of 30 days from the date of notification of the Order (to be) passed in the Gazette of India and shall remain in force for a period of ten years, subject to indexation, as explained above.

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SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/11/2016 - KPT - **Proposal received from the Kandla Port Trust for fixation of reference tariff with respect to grant of License for Supply, Installation, Commissioning, Operation, and Maintenance of 6 nos. of 100T or above, owned / hired Mobile Harbour Cranes at Berth No. 7 to 9 inside Kandla Port for a period of 10 years for handling the cargo on common user basis**

1. A joint hearing on this case in reference was held on 17 February 2016 at KPT premises. The KPT made a power point presentation of its proposal. At the joint hearing, the KPT and the concerned users/ user organisations bodies/ prospective bidders have made the following submissions:

Bhalaji Heavy Lifter Pvt. Limited (BHLPL)

(i). The grabs considered in the proposal is not suitable for all types of cargos viz., Timber Logs, Slag etc., and hence, the capital cost considered by the KPT is not correct.

(ii). The upfront tariff of ₹ 60.23 per MT arrived by the KPT is based on the optimal capacity of 2.67 MMTPA. However, there is no assurance for cargo throughput.
[Dy. Chairman: Optimum capacity calculation is a method given in the guidelines. It is normative method. It is not a dynamic policy. It is a theoretical capacity]

Arvind V. Joshi & Co. (AJC)

(i). There is no potential of the cargo handling for 6 No.s of HMC with Optimal capacity of 2.67 MMPTA for each HMC proposed to be deployed by the KPT and hence, the project is not viable.

(ii). Further, there is no opportunity for cargo handling with HMCs for geared vessels and in KPT maximum number vessels handled is geared vessels only.

(iii). The total operating cost estimated by the COPT is in fixed nature except fuel cost.

(iv). The operating cost estimated by the KPT does not include royalty payable @ 32% and the royalty payable works out to around ₹20/-. When the Adani Port is charging ₹20/- per tonne for cargo handling through harbour mobile cranes, we will not get business.

Aditya Marine Limited (AML)

(i). There is no potential to handle the cargo at KPT for 6 HMC at an optimal capacity of 2.67 MMTPA per HMC.

(ii). The KPT is allowing the gearless vessels for lighterage operations which will result in reduction in cargo handling by HMCs

(iii). No geared vessels will use the HMC facility at KPT.

(iv). The upfront tariff is proposed based on the optimal capacity of the 100T HMC at 2.67 MMTPA. However, currently we are handling only 15% to 16% of cargo estimated. Therefore, the optimal capacity assessed by the KPT in its proposal should be reduced.

(v). We are already facing competition and working at competitive rates.

(vi). We have to pay an amount ₹19.20 per tonne towards royalty.

(vii). The TAMP is requested to direct the KPT to assure minimum traffic.

Gautham Freight Pvt. Limited

(i). The discharge rate considered at 12500 tonnes per day by the KPT is not achievable.

(ii). The KPT has already deployed 2 HMCs and these 2 HMC will be allocated first for handling and thereafter only it allows to deploy the hired HMC. This will reduce the opportunity for cargo handling and hence, the service providers may not have the option to handling cargos at full capacity.

(iii). There is no difference in the rate when the cargo of a geared or gearless vessel is handled.
[Dy. Chiarman: Close to 60% is a variable cost. If you handle less than optimum capacity, your variable cost is going to come down.]

KPT

(i). The Optimal capacity was calculated as per the upfront tariff guidelines issued by the TAMP. The cranes are for usage at berth no. 7 to 9 on a common user basis.

(ii). The upfront tariff arrived for 100T HMC or above is based on the norms prescribed in the tariff guidelines, which is being followed in other Major Ports like VPT, PPT etc. and not on dynamic workings.

(iii). 2/3 of the Operating cost considered in arriving the ARR is variable in nature and the variable cost will be incurred based on the operation of the respective HMC.

(iv). We are allowing the vessels for lighterage operations due to restrictions in the draft. Further, the lighterage will lead to increase in the cargo handling otherwise the deep draft vessels will go to the neighboring ports.

(v). There is no assurance of cargo.
