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Tariff Authority for Major Ports

G No. 131 **New Delhi, 18 May 2012**

NOTIFICATION

In exercise of the powers conferred by Section 49A 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 revision of Pilotage charges as in the Order appended hereto.

(T. S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/60/2011-KPT

Kandla Port Trust **- - -** **Applicant**

O R D E R

(Passed on this 2nd day of May 2012)

This case relates to a proposal dated 11 November 2011 received from the Kandla Port Trust (KPT) for revision of Pilotage Charges.

2. This Authority had vide Order No.TAMP/61/2009-KPT dated 18 January 2011 passed an Order relating to general revision proposal of KPT along with the revised Scale of Rates.

3. The KPT has now proposed to revise the pilotage charges to recover the additional cost likely to be incurred due to procurement of additional 4 tugs (2 each at Kandla and Vadinar) based on the recommendation made by the Committee constituted by the Ministry of Shipping, Road Transport and Highways (MSRTH). The main submissions made by the KPT in support of its proposal are as follows:

(i). Presently, the following tugs are available at Kandla and Vadinar which were considered in the recent General Revision of the port SOR.

(a). **At Kandla**
3 Tugs of 35 Ton BP
2 Tugs of 19 Ton BP
1 Tug of 19 Ton BP (surveyed off)

(b). **At Vadinar**
2 tugs of 35 Ton BP
1 Tug of 50 Ton BP
1 Tug of 50 Ton BP (on hire)

(ii). Only limited night navigation is possible with the present number of tugs available causing immense difficulties to the port users frequently delaying the shipping movements. There have been number of complaints and representations from port users in this regard during the port users meeting. This not only affects the vessels and port users financially but also compromises with the safety of the vessels.

(iii). The vessels calling at the port require safe berthing / unberthing and Shipping Agents are required to pay for the same. The safety of the vessels cannot be compromised by reducing the number of tugs for reasons of low utilization etc. In order to provide safe marine operations, it is essential to have tug power commensurate with the size of vessels and the increased number of movements. For all this the tug hiring seems to be the only alternative as the procurement of additional flotilla require additional manpower and also the procurement generally takes much longer time.

(iv). The Department of Shipping under the MSRTH had also constituted a Technical Committee vide Secretary (Shipping)'s Order No.C-30019/8/2007-Vig dated 4 August 2008 to investigate the requirement of total bollard pull and total number of tugs for manoeurvering vessels within the Port limit of Kandla.

The Committee recommended induction of 2 Nos. of 50 ton BP tugs urgently at Kandla for container handling requirements and 3 Nos. of 50 ton BP tugs for Vadinar for the requirements of SBMs and Product Jetty. Also, the Committee has given recommendations for one additional 50 ton BP Tug after commissioning 2nd product Jetty of ESSAR (The 2nd product Jetty is in operation since December 2009). It has furnished copy of the Report of the Technical Committee constituted by MSRTH.

(v). Based upon the said Report, the Board of Trustees of Kandla Port Trust vide Resolution no. 261 in its meeting held on 28 September 2011 have approved the proposal of hiring of 4 nos. of 50 ton Bollard pull tugs, 2 each for Kandla and Vadinar, for assisting the Shipping Operations. The hire cost of tugs approved by the KPT Board is as follows:

2 Tugs for Vadinar	**Hire charges per day**
Tug Ocean - Emerald	₹1,66,750.00
Tug Lilac	₹1,59,900.00
Total	₹3,26,650.00

2 Tugs for Kandla	**Hire charges per day**
Tug - Shweta	₹1,66,900.00
Tug - Laxmi	₹1,66,900.00
Total	₹3,33,800.00

(vi). Considering average consumption of fuel for the tugs at 160 liters per tug per/ hour and the average number of hours of operation at Kandla at 12 hours and at Vadinar it is 8 hours with provision of 10% addition towards operational exigencies, the total consumption of fuel works out as under:-

For Kandla	
160 liters X 12 hours + 10%	2112 liters per day / tug
For Vadinar	
160 liters X 8 hours + 10%	1408 liters per day / tug

Present bulk rate of fuel (diesel) is ₹44.475.

(vii). Accordingly, the total daily expenditure is estimated as follows:

(in ₹)

Particulars	**2 Tugs for Kandla**	**2 Tugs for Vadinar**
Hire charges	3,33,800.00	3,26,650.00
Fuel cost		
(a) For Kandla (2191 x 44.475 x 2)	1,87,862.00	
(b) For Vadianr (1408 x 44.475 x 2)		1,25,242.00
Total per day charges	5,21,662.00	4,51,892.00
Total expenditure per year	19,04,06,630.00	16,49,40,580.00

(viii). The KPT has submitted that the above expenditure towards marine dues has not been included in the Scale of Rates revised by the TAMP in March 2011, as this was not considered while sending the proposal to TAMP at that time. Thus, the annual expenditure of ₹35.55 crores will be an additional expenditure.

(ix). In order to recover the said additional expenditure, the KPT proposes to revise the pilotage fee. A meeting was held with Port Users on 18 October 2011 in this regard and the trade has consented to the same. KPT has furnished a copy of note of discussion.

(x). Considering the total GRT handled at Kandla for the last year 2010-11 is 3,50,92,286 tonnes and at Vadinar 2,98,32,596 tonnes, it has arrived at a minimum additional recovery of ₹5.43 per GRT for Kandla and ₹5.53 per GRT for Vadinar to recover the additional cost.

Recognising that as per TAMP Guidelines three tier slab-wise sliding rates are to be proposed with a reduction of 20% on the unit rate of the first slab for the second slab and 30% reduction on the first slab to arrive at the rate for the third slab on the incremental GRT of a vessel and also taking into consideration the vessel traffic, their GRT, share of foreign-going and coastal vessels under each slabs based on the 2010-11 data, it has arrived at the revised pilotage fee (slab-wise).

(xi). The revised Pilotage charges proposed by the KPT vis-à-vis the existing rates prescribed in the SOR approved vide Order No.TAMP/61/2009-KPT dated 18 January 2011 is as follow:

(a). For Kandla:

Sr. No.	Slabs of GRT	Rater per GRT			
		Existing Rates		Revised Rates Proposed	
		Foreign (in US $)	Coastal (in ₹)	Foreign (in US $)	Coastal (in ₹)
1.	Upto 30,000 GRT	0.5742	14.1947	0.7120	17.6014
2.	30,001-60,000 GRT	U.S.$17,226 + U.S.$ 0.4588 per GRT over 30000 GRT	₹4,25,840 + ₹11.341 per GRT over 30000 GRT	U.S.$21360 + U.S.$ 0.5696 per GRT over 30000 GRT	₹5,28,042 + ₹14.08 per GRT over 30000 GRT
3.	Above 60,000 GRT	U.S.$30,990 + U.S.$ 0.401 per GRT over 60000 GRT	₹7,66,070 + ₹ 9.9145 per GRT over 60000 GRT	U.S.$38,448+ U.S.$ 0.4984 per GRT over 60000 GRT	₹9,50,442 + ₹12.3209 per GRT over 60000 GRT

(b). For Vadinar:

Sr. No.	Slabs of GRT	Rater per GRT			
		Existing Rates		Revised Rates Proposed	
		Foreign (in US $)	Coastal (in ₹)	Foreign (in US $)	Coastal (in ₹)
1.	Upto 30,000 GRT	0.282	6.971	0.4540	11.2233
2.	30,001-60,000 GRT	U.S.$8460 + U.S.$0.225 per GRT over 30000 GRT	₹2,09,130 + ₹5.562 per GRT over 30000 GRT	U.S.$13620 + U.S.$0.3632 per GRT over 30000 GRT	₹3,36,699 + ₹8.9786 per GRT over 30000 GRT
3.	Above 60,000 GRT	U.S.$15,210 + U.S.$0.198 per GRT over 60000 GRT	₹3,75,990 + ₹4.894 per GRT over 60000 GRT	U.S.$24516 + U.S.$0.3178 per GRT over 60000 GRT	₹6,06,057 + ₹7.8563 per GRT over 60000 GRT

4. In accordance with the consultation process prescribed, the proposal of the KPT dated 11 November 2011 was circulated to the concerned users/ user organisations seeking their comments. The comments received from the users/ user organisations were forwarded to the KPT as feedback information. The KPT has furnished its remarks on the comments of Kandla Port Steamship Agents Association.

5. Based on the preliminary scrutiny of the proposal, the KPT was requested to furnish additional information/clarifications on a few points vide our letter dated 3 January 2012 which was furnished by the KPT vide its letters dated 18 February 2012 and dated 7 April 2012. A summary of the queries raised by us and the clarifications furnished by the KPT are tabulated below:

Sl. No.	Queries raised by us	Reply furnished by KPT
(i).	The KPT along with the proposal has forwarded a circular dated 24 October 2011 issued to the trade (reportedly based on outcome of the meeting the port had with the concerned user associations) which states that the proposed rate will be implemented after	KPT has not furnished comments.

	one month from the date of the circular. In this context it may be clarified that as per the clause 2.17.1 to 2.17.3 tariff guidelines whenever a specific tariff for services/ cargo is not available in the notified Scale of Rates, the port can submit the proposal and levy the rate on an adhoc basis till the rate is finally notified. In the instant case, the rate proposed is for revision of existing service and it is not for any new service. In case port has implemented the proposed rate based on the circular issued by it to the trade it may be noted that it is not in line with clause 2.17.1 to 2.17.3 of the tariff guidelines of March 2005 and the port may refrain from doing so.	
(ii).	The Technical Committee reportedly constituted by the Department of Shipping under MSRTH in August 2008 has recommended induction of 2 nos. of 50 ton BP tugs at Kandla and 3 nos. of 50 ton BP tugs at Vadinar. The KPT has proposed to hire 2 nos. of 50 ton BP tugs each at Kandla and Vadinar Division. In this context, the guidelines issued by the MSRTH dated 26 May 2006 (attached as Annex VI) of the reports states that each port should carry out a detailed cost benefit analysis between port owned tug vis-à-vis hired tug considering available man power, interest rates, fuel cost, number of years for which tug are to be hired etc., before the Board of Trustees of the port to enable to take a decision. The KPT to furnish detailed analysis done by the port in this regard in compliance with the guidelines issued by the MSRTH for hire of tugs. Also, confirm that the other guidelines issued by the Government for hire/ privatization of tug services are also complied with.	A copy of the cost benefit analysis is furnished. [As per the cost benefit analysis for port owned tug and hiring of tug in net present value system, the Net Present Value (NPV) of cash outflow on account of purchase cost, interest on capital, R & M cost, and S & W of port owned tug and the NPV of cash outflow on account of hire charges along with service tax for hire of tug over a period of 20 years is shown as follows: NPV of port owned tug ₹162.49 crores NPV of hire of tug ₹124.06 crores
(iii).	The KPT has stated that the last general revision of the SOR of the port did not consider the estimates of the additional tugs as it was not envisaged at that time. However, it cannot be denied that the cost of operating the existing tugs are captured in the estimates considered for finalizing the tariff of the KPT. In the current proposal, the KPT has stated that one of the 19 tonnes tugs at Kandla is surveyed off. The report of the Committee (prepared in 2008) at page 11 states that the 3 nos. of 19 ton capacity tugs at Kandla division will outlive their economic life in space of 1 to 3 years. If the 19 Ton BP tugs have outlived their lives then the cost of operating these tugs and ROCE (captured in the estimates considered in the last tariff revision Order dated 18	The tug Mekan and Jumbo have been surveyed off with effect from 19 March 2010 and 18 March 2010 respectively and the third 19 tonnes tug is likely to be surveyed off within 1-2 year. It may be added that the hired tugs are not in replacement of these tugs. In replacement of these tugs, work order dated 31 March 2011 for procurement of 2 nos. 50 tonne bollard pull tugs has been placed on M/s.Hindustan Shipyard Ltd., Visakhapatnam. The first tug will be delivered within 24 months from the date of issuance of work order and 2nd tug will be delivered within 27 months from the date of issuance of work order. The surveyed off tug Jumbo is being used as there is still shortage of tugs even though two tugs have been hired and put to use at Kandla from the month of December 2011 and regarding ROCE of above two tugs, it is submitted that

	January 2011) will have to be reduced from the incremental cost estimated by the KPT for additional tugs while proposing revision in the pilotage fee. If revision is warranted on cost it can only be with reference to incremental cost incurred by port due to induction of new equipment from the incremental cost of hire of new tugs.	above two tugs have outlived their life since the year 2008, hence their written down value is Nil and hence do not form part of Capital Employed. Hence the cost considered by the KPT is the only incremental cost of hiring of new tugs.
(iv).	For arriving at the revision in the pilotage fee on account of additional tugs proposed to be inducted, the KPT has considered the vessel traffic, average GRT of vessels based on the actuals for year 2010-11. From the report of the Committee it appears that the recommendation for additional 3 tugs of 50 Ton BP at Vadinar and 2 tugs of 50 Ton BP at Kandla is based on the vessel traffic projections of the KPT in the year 2013-14 and also taking into consideration the future expansion of construction of berth nos.13th to 16th on BOT basis and other PPP projects. It may not, therefore, be relevant to arrive at the revision in the pilotage fee based only on the 2010-11 vessel traffic. The KPT may modify its proposal to consider the relevant additional vessel traffic as well. It may be mentioned here that the last tariff revision Order considered the estimates upto the year 2012-13. 2013-14 did not form part of the last tariff revision. Revision if any of the existing tariff to meet the incremental cost may be restricted to the validity period prescribed in the said Order.	The Committee appointed by MOSRTH had recommended the deployment of additional tugs considering the expansion of the port upto Cargo Berths No.11 and 12 (Container Terminal). The further expansion of Berth No. 13 to 16 was not considered at the time of giving the recommendations. As such, the recommendation made on the basis of traffic of 2010-11 is in order. Further expansions like Berths No. 13 to 16, Tuna Tekra, etc. will entail the requirement of further deployment of more infrastructure including tugs which will be assessed in due course of time for the purpose.
(v).	Page 18 of the Report of the Committee recommends that before adding 2 nos. of 50 Ton tugs at KPT, the old existing tugs may be tested for Bollard and accordingly the capacity may be adopted for old tugs. Explain whether the KPT has undertaken this exercise and, if so, outcome thereof.	The capacity of the existing tugs has not been tested for the reasons that the tugs could not be spared and also because Kandla, being a tidal Port, the tugs will have to be sent to a different place for the bollard pull tests. The possibility is being explored and will be carried out as soon as the existing tugs can be spared for the purpose. However, whatever the result of the test, the existing power will always be less than the rated power as the tugs are old and the machinery worn out to some extent. In any case, the Committee had not made recommendation conditional. While calculating the existing tugs, the power of the existing tugs has been taken at the rated power. Reduction in the power of the existing tugs actually means requirement of additional tug power.
(vi).	(a). The report of the Committee shows that the utilisation of port owned tugs is 40% at both Kandla and Vadinar Division and 20% in case of the hired tugs (Vadinar Division). Justify the need for the additional tugs at this stage considering the existing tugs are found to be underutilised. KPT to furnish details of	There is no 50 tonne BP tug available at Kandla except the two 50 tonne BP tugs hired and deployed at Kandla from December 2011. However, two number of 50 tonne BP tugs, one owned by KPT and the other hired from private party are deployed at Vadinar. The statement showing the particulars of vessels called at Vadinar for the year 2008 to 2011 is

	number of ships handled, shipping movements involved, hours of deployment of tugs (for similar capacity of tugs) for the last three years 2008-09 to 2010-11 for the Kandla and Vadinar Division separately.	furnished. [The statement furnished by KPT does not give details regarding shipping movements involved, and hours of deployment of tugs.]
	(b). Please show the proposed deployment of tugs to cater to the vessel traffic estimated for the next two years to justify the need for the additional tugs proposed by the KPT.	The utilisation of the tugs does not necessarily reflect the actual requirement for ship maneuvers. Tugs are required for the safety of the ships and certain amount of tug power is required for ship maneuver irrespective of overall utilization of the tug. Under utilization does not mean that the tugs are not required at all as in that case the ship maneuvers would not be possible at all. In Vadinar, where there are three SBMs and two product jetties, the requirement of tugs increases not because of the number of ship maneuvers or the percentage of utilization of the tugs but because of the size of the vessels and the tug power required for each maneuver. Also, it has been clarified earlier that the justification of deployment of these tugs is for the present traffic and not for the future as the future increase in traffic will necessitate additional infrastructure.
(vii).	Page 11 of the Report summarizes requirement of 3 additional tugs of 50 Ton BP tugs at SBM and one additional tug when the second product jetty of Essar (which reportedly commenced operation since December 2009). It also recommends that the existing two tugs of 35 Ton BP at the Vadinar may be replaced by 50 Ton tugs and 35 Ton BP tugs may be sent to Kandla for handling cargo vessels of small size. In view of the above position recommended in the report, it is not clear whether the 2 nos. of 50 Ton tugs proposed to be inducted at Kandla division is exclusively for Kandla or for Vadinar. Please clarify.	Total 4 numbers 50 bollard pull tugs have been hired out of which two have been deployed at Kandla and two at Vadinar. The Port's own tugs existing at either places have been retained and no tugs have been interchanged.
(viii).	Furnish the actual cost of operation of 35 Ton BP tugs at Kandla Division and Vadinar Division along with details of GRT of vessels handled, number of hours of utilisation, etc., separately for the last three years 2008-09 to 2010-11.	The statement showing the utilization of tugs at Kandla for the year 2008-09 and the statement showing the utilization of tugs at Vadinar for the period from 2008-2011 are enclosed. [(i). The statements pertaining to Kandla are the performance report of various floating crafts of Kandla division for the year 2008-09. The statements do not show the Bollard Power of the floating crafts. (ii). The statement of Vadinar division shows only month-wise utilisation of two nos. 50 ton B.P. Pull Back Tugs for the years 2008-09 to 2010-11.]
(ix).	(a). KPT to explain the basis of assuming the power consumption of 160 litres per hour per tug for 50T BP.	The fuel consumption of 160 litres per hour is a conservative estimate as the rated consumption for the engines is higher. Actual consumption is calculated.
	(b). KPT to explain the basis of assuming that the said tugs will be utilised for all the 12 hours at Kandla and 10 hours a day at	The utilization has already been explained and it is not the percentage of utilization but the safety of the vessel and the minimum tug

<table>
<tr><td></td><td>Vadinar and that too for 100 days when the past trend shows that the utilisation of tugs on hire at Vadinar is only 20%.</td><td>power required which is the criteria. For example, even if there is only one single ship maneuver a day at the Product Jetty, Vadinar which takes only 2 to 3 hours, a minimum number of tug power is still required irrespective of the low utility. As for low utility is considered for the tugs no maneuver including the single maneuver can take place.</td></tr>
<tr><td></td><td>(c). KPT to confirm that the hire cost of tugs does not include the cost of fuel and substantiate with copy of the contract if any entered by the port.</td><td>The hire cost does not include the fuel and fuel has to be supplied by the Port as per the tender conditions. Copies of the contract entered into with the private parties by the KPT for the work of hiring of 4 nos. 50 tonne bollard pull tugs are furnished.</td></tr>
<tr><td></td><td>(d). KPT to confirm the fuel rate adopted is based on the prevailing rate of fuel.</td><td>Fuel rate considered was the prevailing rate of fuel at the time of submission of proposal.</td></tr>
<tr><td>(x).</td><td>KPT to clarify whether the additional tugs proposed to be deployed will also be utilised for pull back operation at the SPM. In that case, it may not be appropriate to recover the entire incremental cost from the revision in the pilotage fee. The KPT may look into this aspect and clarify the position.</td><td>All the tugs are used for all operations including pull back operations on rotation basis and also as per the requirement considering the size of the vessels.</td></tr>
<tr><td>(xi).</td><td>In the subject proposal, the KPT has proposed increase in the pilotage charge for Vadinar Division without considering the fact that this activity reflected overall surplus during the last tariff revision of KPT SOR, cost statement which cross-subsidised the deficit in the Kandla Division. No increase was allowed for any of the services at Vadinar Division in view of surplus and tariff increase of 20% in the cargo handling (except POL) in Kandla Division and a 48% increase was granted in the vessel related activity in Kandla Division. The proposal of the port to recover the entire incremental cost from both Vadinar and Kandla division by way of revision in pilotage fee does not recognise the approach followed in the last tariff Order while determining the tariff hike granted for Kandla Division and status quo maintained in Vadinar division.</td><td>Cost Statement for Pilotage activity of Vadinar for the year 2012-13 considering the expenditure figures of BE 2012-13, and income of at the existing rate shows the deficit of 64.41%. Hence to make the activity self sustained revision for Pilotage activity for Vadinar also has been proposed.</td></tr>
<tr><td>(xii).</td><td>(a). The number of vessels, GRT of vessel considered in the last tariff Order for estimation of vessel related income do not match with the vessel traffic now considered for arriving at the revised pilotage fee.</td><td>The number of vessels, GRT of vessels considered in the last tariff order is the estimated figure, whereas vessel traffic now considered is of actual figures for the year 2010-11, hence, it is not matching.</td></tr>
<tr><td></td><td>(b). KPT to furnish details of income from pilotage fee at the existing tariff and the income estimated at the proposed tariff for the years 2012-13 for Kandla and Vadinar Division separately.</td><td>Considering the figures of BE 2012-13, the income from Pilotage fees at the existing tariff and at the proposed tariff for the year 2012-13 is as below:
(₹ in lakhs)
<table>
<tr><th></th><th>Kandla</th><th>Vadinar</th><th>Total</th></tr>
<tr><td>Pilotage Income at the existing rate (BE 2012-13 figure)</td><td>9408.04</td><td>3601.00</td><td>13009.04</td></tr>
<tr><td>Pilotage Income at Proposed rate</td><td>11666.42</td><td>5797.61</td><td>17464.03</td></tr>
</table></td></tr>
</table>

(xiii).	(a). The actual improvement in vessel movements achieved both at Kandla and Vadinar after the induction of the tugs in reference may be brought out.	The following achievements have been made since the induction of 2 nos. of 50 tonne bollard pull tugs at Kandla: ➢ Pilots are able to bring inwards from OTB without speed restrictions, or slowing down. ➢ Pilots do not have to drop anchor waiting for tugs to be available. ➢ Pilot's confidence level is enhanced with additional tugs readily available thus improving safety of navigation. ➢ Since arrival of new tugs there is no delay for unberthing of the vessels. ➢ Maintenance of buoys etc is taking place in time without any delays. ➢ No movements have been dropped on account of tugs ➢ New tugs have facility of PUSH PULL on account of forward towing rope thereby increasing safety of Piloting. ➢ There is no idle time for vessels at berth with pilot on board waiting for tugs.
	(b). The estimated fuel consumption and working hours of the tugs considered for arriving at the proposed rates may be substantiated by the actuals achieved so far.	The estimated and actual fuel consumption and total working hours of following two tugs deployed at Kandla is as under: 1) Tug Shweta — 02.12.2011 to 31.12.2011 — ME 608 hours, AE 744 hours — 48.297 KL 2) Tug Tag Laxmi — 14.12.2011 to 31.12.2011 — ME 353.4 hours, AE 415.0 hours — 22.462 KL

6.1. A joint hearing in this case was held on 5 January 2012 at the Kandla Port Trust (KPT) premises. The KPT made a power point presentation of its proposal. At the joint hearing, the KPT and the concerned users/ organisation bodies have made their submissions.

6.2. As agreed at the joint hearing, the KPT was requested to furnish:

(i). a detailed note showing the towage requirement of the port is fully met after the induction of the hired tugs and highlighting the performance improvement achieved after such induction. KPT was also required to highlight whether the induction of hired tugs has resulted in any additional movement of vessels compared to estimates furnished at the time of the last general revision and if so, the additional revenue accruals.

(ii). cost statement in the prescribed format for the vessel related activity as well as pilotage and towage sub-activity for the years 2011-12 and 2012-13 duly capturing the effects of the hired tugs on the income and expenditure sides.

6.3. The KPT vide its letter dated 18 February 2012 has furnished the cost statement in the prescribed format for the vessel related activity as well as Pilotage and towage sub-activity separately for Kandla and Vadinar and KPT as a whole considering RE 2011-12 figures and BE 2012-13 figures. As regards point no.(i) above, the KPT has highlighted the performance improvement achieved on account of hire of tugs at Kandla, which are brought out earlier. However, the KPT has not stated anything about additional movement of vessels compared to estimates furnished at the time of last general revision and the additional revenue accruals.

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

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

(i). In view of the operational difficulties faced by KPT and based on the recommendations made by the Committee constituted by the Government to assess the requirement of tugs for maneuvering vessels within the port limits of Kandla, the Board of Trustees of KPT have approved the deployment of 4 nos. of 50 ton Bollard pull tugs, 2 each for Kandla and Vadinar, for assisting the shipping operations.

The guidelines issued by the Government require the major port trusts to carry out a detailed cost benefit analysis before they take a decision to hire tugs or to own tugs. The KPT has reportedly carried out such an analysis before deciding to hire 2 tugs each for Kandla and Vadinar divisions.

As the hire of tugs would involve additional costs, the KPT has come up with a proposal for revision of its pilotage charges so as to recover the additional costs involved in the hire and operation of the tugs.

(ii). The KPT is seen to have entered into contracts with private parties for supply of tugs on hire basis by inviting tenders. In addition to the hire charges towards the tugs, the KPT is also required to supply fuel required for the operation of the tugs. The hire charges payable and the condition of supply of fuel for operation of tugs are supported by contract copies, which are valid for a period of five years, furnished by the port. As such, the KPT has proposed to recover the said hire charges and fuel charges by way of revision in the existing pilotage charges.

(iii). The existing Pilotage charges of Kandla and Vadinar division have been reviewed by this Authority vide tariff Order no.TAMP/61/2009-KPT dated 18 January 2011 while disposing of the general revision proposal of KPT. It is noteworthy that the KPT has confirmed that the said additional costs have not been considered in the expenditure estimates then relied upon in the general revision Order of KPT disposed by this Authority in January 2011.

(iv). The additional expenditure involved in the operation of hired tugs is discussed below:

(a). Hire charges:

Based on the four contract copies furnished by KPT for hire of 4 tugs, it is seen that the following hire charges are payable by KPT:

(**Amount in ₹**)

Hire charges per day	**Vadinar**	**Kandla**
- Tug 1	166750	166900
- Tug 2	159900	166900
Total hire charges per day	**326650**	**333800**

(b). Fuel charges:

(i). Based on the consumption of 160 litres per hour per tug for 12 hours in a day and considering an additional 10% towards exigencies, the KPT has calculated the fuel cost for 2112 hours per tug in Kandla. Similarly, based on the consumption of 160 litres per hour per tug for 8 hours in a day and considering an additional 10% towards exigencies, the KPT has calculated the fuel cost for 1408 hours per tug in Vadinar.

(ii). Inspite of a specific query to explain the basis for the consumption of 160 litres per hour per tug, the KPT has not furnished a categoric reply. However, the consumption of 160 litres per hour per tug is stated to be a conservative estimate and it is asserted by the port that the rated consumption for the engines is higher. It is understood from KPT that the consumption of 160 litres per hour per tug is based on the actual position at KPT. Therefore, the consumption of 160 litres per hour per tug is relied upon.

(iii). The tug operating hours of 12 hours at Kandla and 8 hours at Vadinar are also claimed to be based on the average actual operations at Kandla and Vadinar respectively. The consideration of additional 10% towards exigency is to meet any contingencies. Since, there is no night navigation at Vadinar, the operating hours is considered at a lower level at Vadinar as compared to Kandla.

(iv). The position reported by KPT on the fuel consumption and the number of working hours of tugs at Kandla and Vadinar are relied upon. The actual position in this regard for the year 2012-13 will be reviewed during the next general revision of tariff of KPT and undue benefit, if any, accrued to KPT in this regard will be set off fully during the next review.

(v). The prevailing rate of diesel at ₹46.25 per litre is considered in the analysis, instead of ₹44.475 considered by KPT in its workings.

(c). The expenditure relating to the 2 new tugs at Vadinar and Kandla for the year 2012-13 is worked out as follows:

At Vadinar:

Particulars	**Workings**	**₹ in crores**
Hire expenses	₹3.2665 lakhs per day * 365 days	11.92
Fuel expenses	(160 litres per hour * 8 hours + 10%) * ₹46.25 per litre * 2 tugs * 365 days	4.75
Total expenditure for 2 tugs at Vadinar		16.67

At Kandla:

	Workings	**₹ in crores**
Hire expenses	₹3.338 lakhs per day * 365 days	12.18
Fuel expenses	(160 litres per hour * 12 hours + 10%) * ₹46.25 per litre * 2 tugs * 365 days	7.13
Total expenditure for 2 tugs at Kandla		19.31

(v). The proposal is not for fixing hire charges of individual tugs. As per clause 6.4 of the tariff guidelines, port trusts are to provide adequate tugs/ launches against levy of pilotage-cum-towage fees. In view of the induction of the new tugs engaged on hire which are claimed to be additional and not replacement, the expenditure under pilotage activity has increased and, therefore, the proposal is to review the existing pilotage fees levied both at Kandla and Vadinar.

It is noteworthy that the tugs at Vadinar division are used for pull back operations also. Hence, portion of the estimated operating expenditure on the hired tugs may have to be apportioned to the cost of pull back operation and the tariff fixed for pull back operation may have to be adjusted suitably. Mentioning that all the tugs are used for all operations including pull back operations on rotation basis and as per the requirement considering the size of the vessels, the KPT has stated that the entire additional expenditure has to be recovered from the revision in the pilotage fee alone.

It is relevant to mention here that loading of the entire expenditure relating to hire of tugs at Vadinar will have impact on the users of tugs at Vadinar alone and it will not burden the users of tugs at Kandla. Though the loading of the expenditure relating to Vadinar in the pilotage fee alone will create an imbalance between the rates prescribed for pilotage and for pull back operation, the users of the hired tugs at Vadinar may not be unduly burdened with additional charges as all the vessels will avail pilotage services as well as pull back services at SPMs. Nevertheless, the KPT is advised to address this issue of imbalance by suitably modifying the pilotage charges and the charges prescribed for pull back operation in the next review of its tariff.

Relying on the position brought out by KPT above and keeping in view the position that the additional expenditure incurred by the port on the hired tugs is to be recovered from the users by way of levy of pilotage charges, this analysis proceeds further to determine the revised pilotage fees at Kandla and Vadinar divisions, as proposed by the port.

(vi). Clause 6.10 of the tariff guidelines of 2005 requires pilotage to be prescribed in a slab-wise structure. Even the existing Scale of Rates of KPT prescribes tariff for pilotage in a slab-wise structure for both Kandla and Vadinar. As such, inorder to build the additional expenditure of the tugs across all slabs of pilotage at Kandla and Vadinar, the KPT has proposed to spread over the additional expenditure across all slabs by taking the actual GRT of the vessels in each slab relevant for the year 2010-11. The current exercise is only to give effect to the estimated additional expenditure on the 4 nos. of hired tugs, which have been pressed into service at Kandla and Vadinar in November 2011 as seen from the trade notice. Therefore, it may not be appropriate to base the calculations on the basis of the GRT of traffic relating to the year 2010-11, as done by KPT.

It may be recalled that during the disposal of the general revision proposal of KPT in January 2011, the cost position relating to the Kandla and Vadinar divisions have been analysed. In order to avoid overlapping of estimates of cost considered at that point of time and that now considered by KPT in their cost statement furnished now, it would be appropriate that the Cost statement pertaining to the Pilotage activity relied upon during the disposal of the general revision proposal of KPT in January 2011 is taken as base and the effect of the additional expenditure estimated to be incurred on the new tugs is considered alongwith the increased level of income due to the increase granted in the pilotage fees in the General revision tariff Order of KPT of January 2011, to now arrive at the revised pilotage charges. However, in the last general revision of tariff of KPT in January 2011, while the Cost statement for the Pilotage activity at Kandla was made available by KPT, no such cost statement for Pilotage activity for Vadinar division was furnished. The cost position of the Vadinar division was considered as a whole. In view of the difficulty expressed above, we are not in a position to revise the Pilotage charges for Kandla and Vadinar based on the above mentioned approach.

(vii). It may be recalled that during the general revision of tariff at KPT, the pilotage activity of Kandla division reflected a deficit position. No additional income is anticipated by the port due to deployment of additional tugs at Kandla. As stated earlier, the additional estimated expenditure on the hired tugs at Kandla would be ₹19.31 crores for the year 2012-13. In that event, the deficit of pilotage activity of Kandla division assessed earlier in the general revision tariff Order would only further increase by ₹19.31 crores.

The KPT has furnished separate Cost statement for the pilotage activity of Kandla division based on the Budget estimates of 2012-13 at the existing level of pilotage fees. However, the estimated pilotage income of ₹109.08 crores pertaining to Kandla division shown in the Cost statement was not found matching with the corresponding figure of ₹94.08 crores furnished in its forwarding letter dated 18 February 2012. It is understood from KPT that the figure shown in the cost statement of Kandla division inadvertently reflects the operating income at the proposed level of pilotage fee. It has confirmed that the amount of ₹94.08 crores is the income from pilotage at Kandla at the existing level of tariff. The income estimates furnished by the port is relied upon. Thus, the additional expenditure for Kandla division as a percentage of the estimated pilotage income of the said division works out to 20.52%.

(viii). It may be recalled that during the general revision of tariff at KPT, the Vadinar division as a whole reflected a surplus position. No additional income is anticipated now at Vadinar also due to deployment of additional tugs. As stated earlier, the additional estimated expenditure on the hired tugs at Vadinar would be ₹16.67 crores for the year 2012-13. In that event, the surplus of the Vadinar division, which was applied to partially off set the deficit at Kandla division, assessed earlier in the general revision tariff Order would reduce by ₹16.67 crores.

The KPT has furnished separate Cost statement for the pilotage activity of Vadinar based on the Budget estimates of 2012-13 at the existing level of pilotage fees. The Pilotage income estimated for the Vadinar division is ₹36.01 crores for the year 2012-13. The income estimates furnished by the port is relied upon. Thus, the additional expenditure for Vadinar division as a percentage of the estimated pilotage income of the said division works out to 46.29%.

(ix). The calculation sheet in this regard is attached as **Annex**. Based on the revenue deficit position, the existing pilotage charges approved vide Order of January 2011 for Kandla division and Vadinar division are increased by 20.52% and 46.29% respectively, as against the percentage increase of 24% and 61% sought by KPT for Kandla division and Vadinar division respectively. Incidentally, the Pilotage fee adopted by KPT in the interim period is seen to be on the higher side as compared to the rate warranted by the cost position.

(x). Clause 2.17.1 to 2.17.3 of the tariff guidelines of March 2005 stipulate that whenever a specific tariff for services/ cargo is not available in the notified Scale of Rates, the port can submit the proposal and levy the rate on an adhoc basis till the rate is finally notified. In the instant case, the rate proposed by the port is for revision of rate for existing service and not for any new service. The KPT has not produced any documentary evidence to reflect the consent of the users for levy of the revised pilotage rates. Infact, the Kandla Port Steamship agents association (KPSAA) during the joint hearing proceedings has stated that no consent was given by the trade as a whole. Further, the interim rate adopted in an adhoc manner cannot be recognized as such, if it is found to be excessive requiring some moderation retrospectively, as required by Clause 2.17.4 of the tariff guidelines of March 2005. Therefore, this Authority is not in a position to ratify the interim rates levied by the port on adhoc basis. However, since the KPT has already commissioned the tugs and started incurring the operational expenses, it may not be unreasonable to approve the levy of the revised pilotage charges retrospectively from the date of implementation of the rates proposed by KPT.

(xi). The KPT while responding to the comments of one of the users has stated that the purpose of deployment of tugs is for berthing and un-berthing of vessels in Port and on pullback duties, movement of vessels within the harbour and other operations like cold movement and rescue operations etc. Hence, deployment of additional tugs is not expected to increase the number of vessels that can be handled by KPT. Therefore, no additional income is anticipated by the port due to deployment of additional tugs at Kandla and Vadinar.

9. In the result, and for the reasons given above, and based on the collective application of mind, this Authority approves the following revised Schedule of Pilotage charges for inclusion in the existing Scale of Rates at Section – 2.1 under Chapter II with retrospective effect from the date of implementation of these charges on adhoc basis by KPT vide its trade circular dated 24 October 2011:

" Section – 2.1 – Schedule of Pilotage charges:

Sr. No.	Slabs of GRT	Rater per GRT			
		Kandla		Vadinar	
		Foreign (in US $)	Coastal (in ₹)	Foreign (in US $)	Coastal (in ₹)
1.	Upto 30,000 GRT	0.6920	17.1075	0.4125	10.1979
2.	30,001-60,000 GRT	U.S.$ 20760 + U.S.$ 0.5529 per GRT over 30000 GRT	₹513225 + ₹13.668 per GRT over 30000 GRT	U.S.$ 12375 + U.S.$ 0.329 per GRT over 30000 GRT	₹305937 + ₹8.1366 per GRT over 30000 GRT
3.	Above 60,000 GRT	U.S.$ 37347 + U.S.$ 0.4833 per GRT over 60000 GRT	₹923265 + ₹10.1643 per GRT over 60000 GRT	U.S.$ 22245 + U.S.$ 0.2896 per GRT over 60000 GRT	₹550035 + ₹7.159 per GRT over 60000 GRT

"

(T. S. Balasubramanian)
Member (Finance)

Annex

CALCULATION SHEET

Particulars	As given by KPT		As modified by us	
	2 Tugs for Vadinar	*2 Tugs for Kandla*	*2 Tugs for Vadinar*	*2 Tugs for Kandla*
Hire charges per day				
- Tug 1	166750	166900	166750	166900
- Tug 2	159900	166900	159900	166900
Total hire charges	326650	333800	326650	333800
Fuel cost				
(a) For Kandla	0	187862	0	195360
(b) For Vadinar	125242	0	130240	0
Total per day charges	451892	521662	456890	529160
Total expenditure per year	**164940434**	**190406776**	**166764850**	**193143400**
GRT handled during the year 2010-11	29832596	35092286	-	-
Total Expenditure in Rupees per GRT	5.53	5.43	-	-
Pilotage income for the year 2012-13 as estimated by KPT at the existing level of tariff	-	-	360100000	940804000
Total expenditure as a percentage of estimated pilotage income	-	-	46.29%	20.52%
Percentage increase in the existing Pilotage charges	**61.00%**	**24.00%**	**46.29%**	**20.52%**

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

F. No.TAMP/60/2011 - KPT - **Proposal from the Kandla Port Trust for revision of Pilotage Charges.**

A summary of comments received from the users/ user organisations and reply furnished by Kandla Port Trust (KPT) thereon are tabulated below:

Sl. No.	Comments of users / user organizations	Reply furnished by KPT
1.	**Shipping Corporation of India (SCI)**	
(i).	KPT was not having sufficient number as well as capacity tugs for handling of vessels at Kandla Port.	KPT has not furnished comments.
(ii).	Shipping movements were suffering due to above reason and the trade was demanding KPT to upgrade their infrastructure.	
(iii).	It is a welcome sign that KPT is upgrading their infrastructure and bringing in additional tugs on hire.	
(iv).	Since there is additional costs involved, KPT is requesting for additional cost to be borne by the trade.	
(v).	On the other hand: a) KPT is supposed to provide proper infrastructure for uninterrupted usage of the port for the trade. b) Very recently KPT/ TAMP have approved a rate revision wherein the SOR of KPT is revised upwards to the tune of 49% over the previous SOR. c) With the deployment of these additional tugs, the usages of the existing tugs will definitely come down, bringing down the overall cost of tugs and maintenance. d) Slowly over a period of time the older tugs shall be replaced by these hired tugs, giving a huge saving to KPT. In the light of above, we do not agree to any increase in existing rates.	
2.	**Kandla Port Steamship Agents' Association (KPSAA)**	
(i).	At page 1 of KPT proposal they have confirmed that since time the proposal for general revision in SOR was submitted to TAMP 2 tugs of 19 BP have been surveyed off. Based on this contention of KPT the costs towards these 2 surveyed off tugs should stand reduced to the extent of revision in pilotage charges.	

(ii).	There is a miss match in the additional resource sought to be collected with the increased pilotage charges vs the out go towards hiring of 2 tugs at Kandla and Vadinar respectively.	No detailed figures explaining the mismatch of revenue requirement vis-à-vis outgo on hire charges has been provided and in the absence of which it is not possible to comment on this general statement.
(iii).	In view of addition of 2 tugs at Kandla specially there is additional movements of vessels undertaken. Hence the additional number of vessels handled in a year and consequently the additional revenue earned by port for the incremental vessels handled has not been accounted for and hence not apportioned in the calculation of increase in pilotage charges.	The number and size of vessels that can be handled depends primarily upon the number of berths available with the port, the speed of cargo handling and draft available. The purpose of deployment of tugs is for Berthing and un-berthing of vessels in Port and on pullback duties, movement of vessels within the harbour and other operations like cold movement and rescue operations etc. Hence, it may not be correct to conclude that merely by deploying two tugs there will be increase in the number of vessels that can be handled.
(iv).	Since the time general revision in KPT SOR has taken place, the berthing policy of the port has undergone certain changes due to which compared to earlier, at any given time, at least one additional vessel is berthed under priority thereby 75% additional berth hire is being generated by the Port. This additional recourse mobilization may also correspondingly be apportioned towards the pilotage charges.	The revised berthing policy has only recently been implemented w.e.f. 4 October 2011 and is still being fine tuned taking into consideration the feedback being received from the trade. As such it may be too premature to conclude at this stage the extent of additional berth hire charges that will accrue as a result of tweaking the berthing policy.
(v).	Additional revenue towards vessel related charges is being now generated with general cargo vessels berthing at ABGKCTL berth no. 12, which at a conservative average is a minimum of 4-6 vessels per month and would continue through the entire duration of the current SOR. It is imperative to highlight here that at the time the proposal for general revision of SOR was filed by KPT and considered by TAMP there was NIL revenue generation estimated either of vessel related charges or of cargo related charges of ABGKCTL berth no. 12. Now with vessel related revenue generation having commenced this additional being generated with the existing infrastructure itself may be fully apportioned against the increase sought in the pilotage charges by KPT as at this stage perhaps TAMP cannot re-visit the entire structure of vessel related charges.	The utilization of berth No.12 of M/s.ABG is only to tide over the present emergency situation which may or may not be prevalent after six months / one year and is not a permanent source of revenue and as such it may not be correct to conclude that the scenario will continue all throughout the year. The utilization of idle slot at ABG berth No. 12 is also restricted to only vessels carrying clean cargoes. Again the utilization of ABG berths has only been recently started in the month of November 2011 and it may be too premature to factor in additional revenue warranting revision in the overall tariff. In fact the vessel related charges in respect of ABG vessels berthed at Berth No.11 and 12 are already being collected by KPT and the additional revenue that can be expected is only in respect of additional vessels that can be accommodated whenever the berth no. 12 is idle. With increase in ABG traffic and commissioning of additional berths by KPT the situation will ease and ABG may not be able to spare their berth No.12 and there may also not be any need for the same owing to commissioning of additional berths. Further more, the work of strengthening of berth No. 1 to 6 will commence soon whereupon one berth at a time will have to be decommissioned. During the repair period less vessels will be handled.

		Therefore, additional vessels handled at idle slots of Berth No.12 may also not fully offset the reduction in number of vessels that will occur during de-commissioning period. Hence, there may not be any additional vessel related revenue as is being made by the KPSAA.
(vi).	The Indian rupee has depreciated considerably especially in the past about 2 months and indications from all quarters are that the Indian rupee would continue to be under stress and stay depressed against the US dollar for long period of time. Regardless it is now reality that the rupee would be unable to reach levels against the US dollar which hereto prevalent till about the last quarter. Needless to mention that pilotage charges are US dollar denominated while the out flow towards hiring of the tugs is in Indian rupees. In addition vessel related charges are US dollar denominated. As such collection by KPT towards these charges have increased by a minimum of 10-11% if not more. The element of additional collection due depreciation of rupee against US dollar may be suitably taken into account prior to fixation of revised pilotage charges as currently proposed by KPT. When the SOR of KPT was revised vide TAMP order passed on 18 Jan 2011 at the point E (INCOME) on the queries raised by TAMP. Sr.No.9 KPT has clarified that exchange rate of 1 USD = to ₹48/- was considered. The KPT has now for the estimation of income for the year 2011-2012 and 2012-2013 considered exchange rate of 1 US dollar = ₹ 46.13.	The surplus / deficit owing to exchange rate fluctuations are accounted for at the time of general revision of scale of rates and not during the validity period of tariff cycle. Had the rupee strengthened against the dollar, the vessel related income of KPT would have suffered as has happened so many times in the past and KPT did not resort to rate increase. Fluctuations in Exchange rate variations are in both ways. It is not desirable to factor this into account and increase / shortfall in revenue will be taken care off when the next revision takes. The TAMP's Guidelines also do not prescribe for resorting to rate revision on account of Foreign Exchange Fluctuations. In addition to the above, if the contention of the KPSAA for factoring rupee depreciation during the last six months in the tariff is to be considered then there has to be a corresponding factoring of increase in Wholesale Price Index during the last 12 months in the expenditure projection in terms of paragraph 2.5.1 of the TAMP guidelines. Similarly, there has been a huge rise in the All India Consumer Price Index on the basis of which the Variable Dearness Allowance is being paid to employees and workers of Kandla Port Trust and which has a direct bearing on the operational cost of the port. The AICPI has increased by a hefty 5.85% during the period from January 2011 to November 2011.
(vii).	In case proposed increase in pilotage charges is approved by TAMP the total vessel related charges applicable at Kandla would be higher by 0.75 USD per Dead Weight Ton as compared to our neighboring port i.e. Mundra port wherein the facilities available are far superior and seamless in comparison to Kandla.	No detailed calculations showing how the vessel related charges at KPT will be higher by 0.75 USD as compared to Mundra Port have been provided in support of the contention, in the absence of which it is not possible to comments on the same.

2. A joint hearing in this case was held on 5 January 2012 at the Kandla Port Trust (KPT) premises. The KPT made a power point presentation of its proposal. At the joint hearing, the KPT and the concerned users/ organisation bodies have made the following submissions:

<u>Kandla Port Trust</u>

(i). For the size of vessels we receive now and in future, 50 T BP tugs are adequate.

(ii). With more projects and facilities being added, we may need more tugs, which we are examining separately.

(iii). Our calculations are based on 2010-11 data.

(iv). The new tugs inducted will not increase the movement of ships. It will reduce waiting time and cancellation.

(v). Number of inner anchorages made by pilots due to lack of tugs has come down drastically.

(vi). In the last revision of SOR, we have not considered the cost of hiring 4 tugs.

(vii). We have disposed two 19 T tugs. The sale value will be adjusted with the capital cost of two new tugs being inducted by us. We have already placed orders with Hindustan Shipyard for construction of two 50 T tugs.

(viii). TAMP guidelines say no adjustment in tariff for foreign exchange variation. Therefore, KPSAA claim cannot be accepted.

Kandla Port Steamship Agent's Association

(i). KPT has informed TAMP that the proposed rates have already been introduced with the consent of Trade. No such consent was given by Trade as a whole, only a few companies in their individual capacity have attended the meeting convened by the port in this regard.

(ii). Pilotage includes towage with required no. of tugs. Therefore, it is presumed that the existing rates include an element for providing tugs.

(iii). Tariff increase, if any, due to hiring of new tugs should be limited to incremental cost of hiring. The element of tariff for the existing tugs should be eliminated first.

(iv). Since last revision of SOR, KPT has raised berthing policy and in one berth, the port always levies 75% extra for priority berthing.

(v). Likewise, since last revision of SOR, berth no. 12 with ABG, which was underutilised grossly earlier, has been put into better utilisation.

(vi). The performance of tugs has improved which must have given additional movements and, therefore, revenue to KPT.

(vii). Trade is not benefited. The deficiencies in operation at KPT are only partly removed by inducting additional tugs.

(viii). The US $ disparity has undergone a significant charge since last SOR. Please account for the revenue earned due to foreign exchange appreciation. After all, KPT pays hire charges only in Indian Rupee.

(ix). We don't say rate increase is not necessary. Analysis should be done in a holistic manner considering additional accruals of revenue to KPT and the proposed tariff increase should be moderated.

<u>Gandhidham Chamber of Commerce and Industry</u>

(i). No comments.

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