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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.94

New Delhi, 5th May 2011

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes the proposal of the Kandla Port Trust for fixation of composite rate for on-board labour in lieu of levy and other charges of its cargo handling division as in the Order appended hereto.

(Rani Jadhav)
Chairperson

TARIFF AUTHORITY FOR MAJOR PORTS

Case No. No. TAMP/37/2007-KPT

Kandla Port Trust

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Applicant

ORDER

(Passed on 25th day of March 2011)

This case relates to a proposal from Kandla Port Trust for fixation of composite rate for on-board labour in lieu of levy and other charges of its cargo handling division.

2.1. KPT under letter dated 18 June 2007 had submitted its proposal for fixation of composite rate for on-board labour in lieu of levy and other charges of its Cargo Handling Division.

2.2. The main points made by KPT are summarized below:

- (i) The Central Government has merged Kandla Dock Labour Board (KDLB) with Kandla Port Trust vide Notification dated 24 January 2007.
- (ii) Due to the merger it is necessary to fix rates for stevedoring activity done by dock workers on-board.
- (iii) The erstwhile KDLB used to earn revenue by charging various levies in the form of general levy, welfare levy, piece rate etc., which are based on actual cost. On the basis of various levies recovered from the users during a period of nine months from 1 April 2006 to 31 December 2006, a composite rate at ` 850/- per worker per shift without piece rate and ` 1084/- per worker per shift when piece rate is involved in the shift has been arrived at.
- (iv) Whenever a specific tariff for a service is not available in the notified Scale of Rates, as per clauses 2.17.1 to 2.17.3 of the tariff guidelines, the Port can levy an adhoc rate if mutually agreed upon by the Port and the concerned users and simultaneously submit a suitable proposal for consideration of this Authority. In the light of above guidelines a meeting was held with the Port Users in March 2007 where they consented the methodology adopted by KPT in working out the rates.
- (v) The Board of KPT has accorded sanction to the provisional levy of ` 850/- per worker per shift without piece rate and ` 1084/- per worker per shift with piece rate.

3. By letter dated 23 July 2007 KPT was informed that the ad-hoc arrangement made by the port has been taken note of and the rate is subject to the final approval of this Authority.

4. In accordance with the consultative procedure prescribed, the proposal of KPT was forwarded to the concerned user organizations for comments. Their comments, as and when received, were forwarded to KPT for remarks. The KPT has responded to the comments of the user organizations.

5. On 14 November 2007 KPT submitted a statement showing the cost per worker per shift at ` 1195 without piece rate and ` 1440 with piece rate. While preparing the statement following points have been considered by the Port:-

- (i) The actual cost for the year 2006 – 2007.

- (ii) 15% increase in salaries and wages towards impending wage revision from 1 January 2007.
- (iii) 10 % increase per annum in salary and wages towards increment, increase in D.A etc.

KPT has also suggested an escalation of 10% per annum on the rates of ` 1195 without piece rate and ` 1440 with piece rate.

6. Based on the preliminary scrutiny of the proposal, KPT was requested to furnish the following information/clarification on various points vide our letter dated 22 November 2007. The details called for in our letter and the replies received from KPT under letter dated 6 June 2008 are juxtaposed below:-

Sr. No.	Queries raised by TAMP	Reply furnished by KPT
1	It has already been recognized that recovery of the charges for supply of labour on a per ton basis would make accounting easier and would provide better transparency in recovery of the cost. Adoption of this method would be easier to the importers/exporters for assessing the overall costing of moving their cargoes. This would also avoid cross subsidization of handling cost of one commodity by another commodity. The KPT is, therefore, advised to explore the possibilities of proposing a cargo-wise incentive to the stevedores to achieve better productivity and reduce the overall cost of operation. For a clear understanding a cargo-wise per ton rate linked to productivity levels, KPT is requested to refer to the Order No. TAMP/36/2001-MOPT dated: 13 July 2001 and the Annex thereto issued by this Authority on the rationalization of levy of the erstwhile Mormugao Dock Labour Board into per ton commodity-wise rates.	The commodity wise rate per tonne has been worked out and submitted.
2	Kindly state whether any conditionality has been spelt out in the scheme for merger of KDLB with KPT regarding (i) manning scales for different commodities and operations and (ii) introduction of a consolidated per ton rate in place of the existing system of levy of per worker per shift.	Specific conditionality has been spelt out in the scheme for merger of KDLB with KPT regarding manning scales. The existing system of KDLB Registered Pool Workers and Shore Workers of KPT will continue as at present. However, the composite deployment procedure shall be worked out at a later stage in accordance with the provisions of the existing scheme and outcome of the award of National Tribunal. As per the terms of settlement, to ensure flexibility and financial adjustment in place of the existing rates of levy, a new consolidated rate per tonne for salt and other commodities will be fixed and notified by the competent authority.
3	Kindly ascertain and inform to this Authority whether at Kandla the shipping lines pay to the stevedores engaged by them for on-board work on unit rate basis depending on the	The data is not available with KPT.

	tonnage of cargo loaded/unloaded or on the basis of worker per shift.	
4	An analysis indicating the rates existed prior to the merger of KDLB and the rates being proposed with revenue implication may please be submitted.	The rates existed prior to the merger and the rates being proposed are submitted. The analysis shows that the provisional rates proposed are much less than the pre merger rates and hence a revision is warranted.
5	The composition of on board workers presently deployed per hook/per gang may please be indicated.	The composition of on board workers presently deployed per hook/per Gang is as under:- "one gang per one hook, irrespective of the type of cargo handled and each gang consists 12 persons/workers except for salt bulk (export) only. Four workers per hook along with a RP Tindal or a RP Signaler are deployed in salt bulk (export).
6	The Annual accounts pertaining to the Cargo Handling Division for the last two financial years may be furnished.	The Annual Accounts for the last two financial years are submitted. (Although KPT informed so, in fact the Annual Accounts were not received.)
7	The balance in General Reserve Fund of the erstwhile KDLB on the date of merger may be furnished. Also inform as to how this balance is proposed to be utilized	The balance in the General levy Reserve Fund of KDLB on the date of Merger is ₹ 1,46,18,766/-. The balance is transferred to General Reserves of Kandla Port Trust and to be utilized as per procedure/practice followed by KPT. Such reserve is being utilized under section 88 of Major Port Trust Act, 1963
8	The award of the National Tribunal on manning norms has already been published. KPT is requested to state the action taken thereon and the improvements, if any, in productivity achieved therefrom	The composition and strength of Gang is fixed only as per Govt's approval. The manning norms as per award of the National Tribunal have not been implemented till now.
9	Since the rate to be approved will have a validity of 3 years it is advised that KPT propose a cargo-wise rate per ton for the next 3 years based on the quantum of cargo throughput projected for those years adhering to the revised guidelines for tariff fixation	The average output per gang shift varies in different commodities and hence to break even the cost it is essential to keep minimum tonnage for each commodity separately for import and export. Commodities not specifically identified had been categorized as "others". A statement on the above lines is submitted.
10	Based on the details for the period 1 April 2006 to 31 December 2006, KPT under its letter dated: 18 June 2007 had submitted two statements, one showing the cost per worker per shift without piece rate and another showing the cost per worker per shift towards piece rate. The former statement consisted the payment towards time rate, general levy, welfare levy, incentives, HRA, PLR and safety equipments. The later statement consisted the total piece rate payment made during 1 April 2006 to 31 December 2006 and the man-shifts deployed with piece rate. From the circular bearing No. FA/COST/1021/497 dated 20 June 2007 issued by FA & CAO, KPT, it appears that the adhoc rates of ₹ 850/- and ₹ 1084/- are being levied w.e.f 23 May 2007. The	In the earlier statement submitted in June 2007 only the recoveries being made from the stevedores are taken whereas in the statement submitted under letter dated 14 November 2007 all the expenses have been taken into account.

	statement accompanying the KPT's letter dated: 14 November 2007 reveals how the cost per worker per shift has been arrived at based on the details for the year 2006-07. The elements of expenditure included in this statement are welfare expenses, housing expenses, FSS, Gratuity, pension and general. Since the components of expenditure considered in the statement submitted in June 2007 varies with reference to the statement presently furnished, KPT is requested to elucidate the reasons therefor.	
11	As per the statement submitted in June 2007, the expenditure for 9 months aggregated to ₹ 18.94 crores. The total expenditure for the full year of 2006-07 as per the latest statement amounts to ₹ 30.81 crores. The wide upward variation in the per month expenditure subsequent to December 2006 may kindly be clarified.	In the proposal of June' 2007, expenditure was based on recoveries made from stevedores whereas the proposal submitted to TAMP in November' 2007 is cost based. The former proposal does not include the expenditure like Pension and Gratuity which have been considered in the revised proposal.
12	Similar details pertaining to the period April 2007 to October 2007 may please be furnished.	The information sought is submitted.
13	KPT has envisaged an escalation of 10% per annum in the rates proposed towards salary and wages of the employees due to increment, increase in the D.A etc. Reference in this connection is invited to clause 2.5.1 of the revised tariff guidelines wherein it has been specified that the expenditure projections should be in line with the traffic adjusted for price fluctuation with reference to the current movement of WBI. The rate of escalation applicable for the year 2007-08 is 5.4% per annum.	The tariff guidelines states to adjust total expenditure of the port which includes various elements of cost along with salary. These elements subsidize amongst themselves (higher in one may get subsidize with lower in other). However, since the present proposal considers only salary & wages as the element of cost and gratuity, pension etc. which are based on salary, 10% annual increase is justifiable. To substantiate the fact, it is stated that escalation in salary during last three years shows approximately 9 % increase
14	Although an increase of 15% in salaries and wages towards wage revision with effect from 1 January 2007 can be understood, it is not clear why the 15% increase has to be allowed on all the elements of cost such as welfare, FSS, gratuity, pension and general.	Gratuity, pension etc. are calculated on salary and wages, hence average increase of 15% is considered.
15	Kindly certify that the expenses such as welfare, FSS, gratuity, pension and general are the actual cost incurred and not based on notional cost. If these expenses are "derived" for the purpose of preparation of the cost statement, kindly explain the basis on which they have been apportioned.	The expenses of welfare, FSS, gratuity pension and general are the actual expenses and are not notional expenses and are as per the Audited Accounts.
16	Kindly state whether in the existing set up any surplus labour exists and whether the expenditure attributable to the idealness, if any, of the excess labour has been included in the cost	At present no surplus labour exists and demand is higher than supply.

	statement.																																														
17	In respect of the piece rate, please indicate when the datum was last revised. Measures, if any, taken by KPT to rationalize the piece rate scheme may please be informed.	The datum was not revised since the date of implementation of the scheme i.e with effect from 1 September 1979. The implementation of the National Tribunal's award is awaited from Government.																																													
18	The piece rate payable per worker per shift has been arrived at by KPT after consolidating the piece rate paid during 2006-07 and dividing it by the piece rate shifts deployed. Since the payment of piece rate is co-related to the cargo-wise datum prescribed, it will not be correct to prescribe a single rate per worker per shift with piece rate. If a single rate as proposed by KPT is prescribed at a constant figure, there should be a mechanism to provide rebate or discount when the performance exceeds the datum.	The rates now proposed are commodity wise per tonne basis which takes care of above query as two rates viz. with & without piece rate are proposed separately for import and export cargo with minimum output per gang shift.																																													
19	Kindly state whether the merger of KDLB with KPT and the supply of the on-board labour for stevedoring activity by the port would result in any cross-subsidizing by other activities of the port	There will not be any cross-subsidization by other activities of the Port.																																													
20	The improvement in productivity (reduction in cost of handling), if any, achieved subsequent to the merger of KDLB with KPT may please be spelt out.	Improvement in productivity noticed after merger and the cargo handled during last three years with average gang output and cost of handling is as under:- <table><tr><th rowspan="2">Years</th><th colspan="3">Cargo Handled (In Lakh Tonnes)</th><th rowspan="2">I Aver age Gang outp ut</th><th rowspan="2">Vessels Handled</th><th rowspan="2">Cost of handli ng per tonne</th></tr><tr><th>Export</th><th>Import</th><th>Tot al</th></tr><tr><td>2003-04</td><td>88.35</td><td>37.88</td><td>126 .23</td><td>600</td><td>1253</td><td>15.41</td></tr><tr><td>2004-05</td><td>78.43</td><td>46.89</td><td>125 .32</td><td>581</td><td>1149</td><td>16.39</td></tr><tr><td>2005-06</td><td>86.82</td><td>65.40</td><td>152 .22</td><td>641</td><td>1271</td><td>19.35</td></tr><tr><td>2006-07 (upto 23.01.07)</td><td>70.19</td><td>67.00</td><td>137 .19</td><td>675</td><td>1087</td><td>20.15</td></tr><tr><td>(24.1.2007 to Aug'2007)</td><td>60.58</td><td>52.50</td><td>113 .08</td><td>763</td><td>926</td><td>19.75</td></tr></table>	Years	Cargo Handled (In Lakh Tonnes)			I Aver age Gang outp ut	Vessels Handled	Cost of handli ng per tonne	Export	Import	Tot al	2003-04	88.35	37.88	126 .23	600	1253	15.41	2004-05	78.43	46.89	125 .32	581	1149	16.39	2005-06	86.82	65.40	152 .22	641	1271	19.35	2006-07 (upto 23.01.07)	70.19	67.00	137 .19	675	1087	20.15	(24.1.2007 to Aug'2007)	60.58	52.50	113 .08	763	926	19.75
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21	As per clause 4.3 of the revised tariff guidelines, concessional tariff has to be provided for coastal/cargo containers	This is a labour supply activity for stevedoring work with no concessional tariff for coastal cargo/container																																													

7. As the proposal dated 6 June 2008 of KPT substantially differed from its earlier proposal dated 18 June 2007 (from recovery per worker per shift basis to recovery per ton basis) the revised proposal of KPT was circulated amongst the user organizations on 11 August 2008 for comments. Only the Indian Farmers Fertiliser Co-operative Limited and Kandla Port Trust Stevedores' Association responded. Their comments were forwarded to KPT and the Port has offered its remarks thereon.

8. By letter dated 29 July 2008, KPT was requested to furnish additional information / clarification. KPT furnished its reply vide letter dated 24 September 2008. The details sought and obtained are tabulated below.

Sr. No.	Queries raised by TAMP	Reply furnished by KPT
1	To the request to ascertain and inform this Authority whether at Kandla the shipping lines pay to the stevedores engaged by them for on-board work on unit rate basis depending on the tonnage of cargo loaded/unloaded or on the basis of worker per shift, KPT has replied that the details/data is not available with it, it is not clear whether KPT has made an attempt to ascertain the details from the shipping lines. Kindly clarify.	It is ascertained from the shipping lines that the stevedores are engaged for on board work on a unit rate basis.
2	Though KPT has stated that the Annual accounts pertaining to the Cargo Handling Division for the last two financial years have been enclosed, we have not received those documents. Kindly ensure submission of those documents.	The Annual Accounts for the last two Financial Years are enclosed. (Though stated so, the Annual Accounts were still not received.)
3	KPT has stated that the manning norms as per the award of the National Tribunal have not been implemented up till now. Kindly communicate the present status on this matter.	The instructions/communication for award of National Tribunal on manning norms have not been received from Ministry of Shipping.
4	KPT has stated that since the average output per gang shift varies in different commodities, to break even the cost it is essential to keep minimum tonnage for each commodity separately for import and export. The basis of determining the minimum tonnage to be handled, separately for import and export, may please be explained. While disposing of the general rate revision proposal of KPT, this Authority in its Order dated 8 April 2002 has prescribed a 'rate of wharfage' for each cargo without distinguishing between import and export. KPT is requested to examine the feasibility of having a single rate per tonne per commodity rather than having multiplicity of rates and a minimum tonnage to be handled.	The minimum tonnage to be handled separately for import and export is determined on the basis of average output per gang/shift of earlier period. (Actuals based on 2006-07) It is not feasible to have a single rate per tonne for all commodities as the average output per equipment of handling, piece rate payments and deployment of labour varies from commodity to commodity
5	Based on the average output per gang, KPT has indicated for each commodity the minimum output while proposing the rate per ton, with or without piece rate. Based on the past experience, KPT is requested to indicate on how many occasion/cases it will be necessary to bill the users on the basis of the minimum output.	There were no occasions/cases to bill the users on the basis of minimum output. In future, if occasion arises, the bills would be raised on the basis of minimum output.
6	The elements of expenditure included in the cost statement are welfare expenses, housing expenses, Family Security Fund, Gratuity, pension and general. KPT is requested to confirm that these expenditure are at actual	It is confirmed that expenditures included in the cost statement i.e. welfare expenditure, housing expenditure, gratuity, pension and general are actually audited expenses directly related to on-board workers and not derived by way of any apportionment.

	directly relating to the on-board workers and not derived by way of any apportionment.	
7	It is reiterated that it is necessary to provide coastal concession to the supply of on-board labour. Such a concession has been extended in the SOR's of MBPT and Vizag Seaport Limited.	Concessional tariff has been provided for coastal cargo.
8	KPT was requested to submit a draft SOR for the proposed rate for on-board labour. The proposed draft SOR has not been furnished by KPT. Kindly comply.	Proposed draft SOR is furnished.

9. By letter dated 28 November 2008, KPT was requested to furnish some more details / clarification. On 6 March 2009 KPT furnished its reply. The details sought and the replies received are as under:

Sr. No.	Queries raised by TAMP	Reply furnished by KPT
1	A copy of the Settlement which is stated to have been enclosed to KPT's letter dated 24 October 2008 has not been received. Kindly arrange to furnish a copy.	Copy of settlement is furnished
2	Copies of the Annual Accounts for the last two financial years have not been received by us till date. Kindly arrange to forward the copies	Copies of Annual Accounts for the last two financial years are furnished.
3	KPT was requested to explain the basis of determining the minimum tonnage to be handled, separately for import and export vide our letter dated 29 July 2008. In reply, KPT has stated that the minimum tonnage to be handled, separately for import and export, is determined based on the average output per gang/shift of 2006-2007. It is still not clear, how KPT has arrived at the minimum output to be handled in respect of the listed 57 items. KPT is requested to furnish the working sheets which would reveal the basis on which the minimum output has been arrived at in respect of all the listed commodities.	Working sheet showing the calculation of minimum output is submitted.
4	The Composite rates proposed for onboard labour by KPT in October 2008 slightly differs from the rates proposed earlier in June 2008. For example, the rates per ton with piece rate and without piece rate for commodity "Fertilizer" – Import Bulk" are ` 28.83 and ` 21.07 as per the proposal of October 2008 whereas the corresponding rates earlier proposed are ` 27.68 and ` 20.23.	The composite rates proposed in 2008 slightly differ from the earlier rates because the coastal rates were not proposed initially. Since now coastal rates have been proposed, to recover the cost thereof, rates have been recalculated and hence they differ marginally.

	KPT is requested to clarify why the rates in respect of all the 57 items listed differ although marginally.	
5	The average output per gang shift has been arrived at by dividing the tonnage of the identified commodities handled (separately for import and export) with the corresponding gangs supplied during 2006-2007. Although the minimum output to be handled has been proposed by "rounding off" the average output per gang, there appears to be some deviation while proposing the minimum output in respect of Heavy Lift M/C (Import Packed). KPT may explain the reasons therefor.	There is 'rounding off' mistake in calculating the minimum output in respect of heavy lift M/c (Import packed). The same may be considered at Rs. 190.00 instead of Rs. 200.00

10.1. A joint hearing was held in this case on 8 April 2010 at Kandla Port. The KPT and the concerned users made their submissions.

10.2. Since the relevant user associations demanded that the KPT should have discussed with them its proposal particularly in respect of the per tonne rates proposed and the productivity conditions to be prescribed as a part of tariff the Port was advised to revise its proposal based on the then existing level of cost and the estimated position in the next three years. The Port was advised to take into account the productivity level already achieved and expected to be achieved while revising its proposal. Alongwith its revised proposal KPT was also advised to furnish a detailed cost statement in the prescribed proforma clearly bringing out the actual cost position since 24 January 2007 (the date of merger of KDLB with KPT) and the estimates for the next three years. The port was further advised to discuss its revised proposal with the relevant user Associations and preferably file a mutually agreed proposal.

11.1. After several reminders, KPT on 11 October 2010 submitted the cost details of its cargo handling division for the years 2007 – 08 to 2012 – 13, based on actuals upto 2009-10 and estimates for 2010-11 onwards. Alongwith these details KPT also submitted the working sheets showing per tonne rates for different cargoes and the gist of two meetings it had held with the user organizations on 7 July 2010 and 30 September 2010.

11.2. By letter dated 25 February 2011 KPT was requested to furnish clarification on the cost elements considered, the details of capital assets of the cargo handling division etc. By letter dated 28 February 2011 KPT furnished its reply. The details sought and the replies received are summarized below:

Sr. No	Queries raised by TAMP	Reply from KPT
1	It is understood that subsequent to the merger of the KDLB with KPT, no separate annual accounts are prepared for the KDLB. To verify the cost details of the cargo handling division, KPT is requested to furnish the Annual Accounts pertaining to the Kandla Dock Labour Board till the time of merger and the Revised Budget estimates / Budget estimates of the Port for the years 2007-08 onwards. While arriving at the cost of the handling division the port has considered the gratuity, commutation, pension and management and	The Budget Estimate for 2008-09 to 2011-12 containing the accounting detail pertaining to the cargo handling division is furnished. Regarding basis of cost of gratuity, commutation and pension it has stated that it is the actual cost for the year 2007-08 to 2009-10. Separate Registers are being maintained for actual payment of gratuity, commutation and pension of the employees / workers of Cargo Handling Division. The management and general expenses is apportioned on the basis of operating cost of the Cargo Handling Division. The details of capital employed are also furnished.

	general expenses. The basis on which these costs have been arrived at may please be clarified with documentary evidence. While arriving at the aggregate revenue to be recovered, KPT has also considered ROCE @ 16% on the capital employed. The details of capital employed in this respect may please be furnished.	
2	As per the working sheets, the cost per gang has been arrived at ` 14704/-, ` 19305/-, ` 19117/-, ` 20360/-, ` 21520/- & ` 22747/- respectively for the years 2007-08 to 2012-13. In the working sheets, the rate per MT has been shown against different items of commodities ranging from ` 5/- and ` 439/-. How these rates for different commodities has been arrived at and whether the rates so arrived at would meet the revenue requirement have not been explained in the working sheets. KPT is requested to furnish the full details in this regard.	Cost per gang has been arrived at by dividing the total revenue required to be recovered by the total gangs supplied during year.
3	The commodities earlier considered vide KPT's letter dated 24 October 2008 differ from the commodities considered vide KPT's letter dated 11 October 2010. KPT is requested to review and submit a correct statement.	It is true that the commodities earlier considered differ from the commodities considered vide letter dated 11 October 2010. This change has been done to match the commodities as considered in the scale of rates of Kandla Port for the purpose of wharfage. The statement submitted vide letter dated 11 October 2010 may be considered as correct.
4	It is seen 50% rebate is considered for handling bulk salt. The details of the decision taken to grant 50% rebate on salt may please be furnished.	The decision of allowing 50% rebate for handling of bulk salt is taken in the meeting held on 07/09/2010 and 30/09/2010 with the representation of Kandla Stevedores Association Ltd and Kandla Port Dock Stevedores' Association regarding fixation of per tonne rate for supply of on-board labour. The Minutes of above meeting has already been sent vide letter dated 11/10/2010.
5	The draft SOR furnished by KPT under letter dated 11 October 2010 does not provide for coastal rebate. KPT is requested to redraft the SOR.	Revised draft SOR considering Foreign and Coastal rate is submitted. Foreign /Coastal rate has been worked out considering 90% cargo as Foreign and 10% cargo as coastal cargo.
7	KPT has forwarded copies of the minutes of the meetings held on 7 July 2010 and 30 September 2010 with the representatives of the user organizations. It is seen from the minutes of the meeting held on 30 September 2010 that the Kandla Stevedores' Association and the Kandla Port Dock Stevedores' Association have agreed to the port's	It is confirmed that the statements have been circulated amongst the user organizations. In the first para of Minutes of meeting held on 30/08/2010 it is mentioned that "the per tonne charge for salt was reduced by 50% and accordingly the revised statement were circulated for acceptance of the Stevedores' Association so that the same could be sent to the TAMP".

	proposal subject to implementation of the manning scale, stoppage of overtime and exclusion of ROCE while arriving at the composite rate. In this connection KPT is requested to confirm that the statements submitted to this Authority vide letter dated 11 October 2010 were the statements circulated amongst the user organizations.	
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12. The proceedings relating to consultation in this case are available on records at the office of the Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details are also available at our website <http://tariffauthority.gov.in>

13. Based on the information collected during the proceedings of this case, the comments received from the users and the deliberations at the joint hearing, following position emerge:

- (i). The Central Government by Gazette notification dated 24 January 2007 merged the Kandla Dock Labour Board with Kandla Port Trust. KPT on 3 March 2007 held a meeting with the registered employers who unanimously consented to the recovery of ₹ 850/- per worker per shift without piece rate and ₹ 1084/- per worker per shift with piece rate for deployment of on-board labour for stevedoring activity by the workers of the port's cargo handling division.
- (ii). Since the adhoc arrangement of recovery at ₹ 850/- and ₹ 1084/- per worker per shift referred to at sub-para (i) above is subject to the final approval of this Authority, the Port was advised vide letter dated 23 July 2007 to submit its proposal for fixation of the final rates. Accordingly, KPT on 14 November 2007 submitted a statement showing the cost per worker per shift with piece rate and without piece rate at ₹ 1440 and at ₹ 1195 respectively. While arriving at these rates, according to the port, it had considered the actual cost incurred during the year 2006-07 and had added thereto 15% towards expected wage revision with retrospective effect from 1st January 2007.
- (iii). It was observed that adhering to the conventional system followed by DLBs, KPT's proposal dated 14 November 2007 was to recover the actual wages paid to the workers along with other overheads such as towards welfare, housing, gratuity, pension etc. and the actual piece rate earning, wherever applicable, from the stevedores who book the laborers for on board stevedoring works on a per worker per shift basis. However, recovery of the charges for supply of labour on a per ton basis had already been recognized as this method would make accounting easier and provide better transparency in recovery of the cost. Further, adoption of this method would be easier to the importers/exporters for assessing the overall costing of moving their cargoes and as far as the port is concerned it would avoid cross subsidization of handling cost of one commodity by another commodity. KPT was, therefore, advised to explore the possibilities of proposing a per tonne basis vide letter dated 22 November 2007. It is noteworthy that subsequently the Shipping Ministry vide letter No. LB-13018/4/05-L-II dated 24 June 2009 has advised all the Major Ports to adopt tonnage based charges for stevedoring operations.
- (iv). KPT on 6 June 2008 submitted its revised proposal where commodity wise rates per tonne were proposed for supply of on-board labour. Based on the average commodity-wise output per gang shift obtained in 2006-07, KPT proposed for approval per tonne rates for 57 commodity groups which consisted of with piece rate and without piece rate. While proposing the commodity-wise rates per tonne, the port had also proposed the minimum output per gang shift to be achieved under four different groups viz. per import bulk, per import packed, per export bulk and per export packed. The minimum output per gang shift was proposed by the Port as according to it the average output

per gang shift varies from commodities to commodities and to break even the cost it is essential to keep commodity-wise minimum tonnage to be achieved separately for import and export.

- (v) (a). Prior to the merger of KDLB with KPT the recovery for supply of onboard labour was on a category-wise, per worker basis (₹ 560 for Tindal, ₹ 474 for Signaler and ₹ 220 for Casual Worker) plus 60% of the base rate as general levy and 20% of the base rate as welfare levy. In addition, piece rates, if any, were also charged at actuals.
 - (b). The composition of on board workers deployed per gang per hook, irrespective of the type of cargo handled, consists of 12 persons except for export of salt in bulk where four workers per hook along with an RP Tindal or an RP Signaler are deployed.
 - (c). As already stated earlier, the provisional rates being charged from 22 May 2007 are ₹ 850/- per worker per shift without piece rate and ₹ 1084/- per worker per shift with piece rate.
 - (d). According to KPT the provisional rates of ₹ 850 and ₹ 1084 without and with piece rate respectively are much less than the pre merger rates and hence a revision is warranted.
- (vi). Subsequent to the merger of the dock labour board with KPT on 24 January 2007 no separate accounts have been maintained by the Port exclusively revealing the income, cost and surplus or deficit of its cargo handling division. KPT is, therefore, not in a position to categorically state whether any accumulated surplus or deficit is available for adjustment while fixing the rate for onboard labour. Hence, in this rate analysis no adjustment towards past performance could be carried out.
- (vii) (a). KPT was specifically requested to confirm whether any conditionality has been spelt out in the scheme for merger of KDLB with KPT regarding manning scales for different commodities and operations. KPT replied that though the existing system of KDLB registered pool workers and shore workers of KPT will continue to function as it existed prior to the merger, the composite deployment procedure will be worked out at a later stage in accordance with the provisions of the existing scheme and outcome of the award of National Tribunal. The port further informed that the composition and strength of gang is fixed as per Govt's approval and the manning norms as per the award of the National Tribunal have not been implemented till now.
 - (b). To a specific query as to when the datum, which relates to payment of piece rate, was last revised KPT informed that the datum has not been revised since 1 September 1979 i.e. since the date of implementation of the payment of piece rate scheme. KPT also added that the implementation of the National Tribunal Award is awaited from the Government. The reasons advanced for not revising datum for more than 30 years and non implementation of the Tribunal award on manning scales are not convincing. The port should take immediate steps in this regard.
- (viii) (a). Subsequent to the joint hearing, KPT has furnished the cost details pertaining to 2007-08 to 2009-10 based on actuals and from 2010-11 to 2012-13 based on estimates, vide its letter dated 28 February 2011. But, the proposed composite rate for on-board labour based solely on the actuals for the year 2009-10. Further, at this time KPT has neither proposed any commodity wise minimum tonnage to be achieved per gang shift nor the recovery of piece rate separately. In this context KPT has clarified that at the meeting held on 30 September 2010 with the representatives of Kandla Stevedores Association and Kandla Port Dock Stevedores Association the cost statement, the working sheets detailing the yearly revenue requirement, the quantity of cargo handled

and expected to be handled during 2007-08 to 2012-13, total number of gangs deployed, the commodity wise gangshift output, number of gangs deployed for salt handling, the rebate of 50% extended in handling salt in bulk etc were circulated amongst the participants and it was decided at the meeting that based on the actuals of 2009-10, the approval of TAMP will be obtained to fix the composite rate on a commodity wise per tonne basis without the conditionalities of achievement of minimum tonnage per gang shift and without the additional recovery towards piece rate. Since the matter has been extensively discussed by the Port with the user Associations and they have arrived at a mutually agreed rate and the total revenue requirement includes the payment of piece rate as confirmed by the Port, this Authority is inclined to accord approval to the rates proposed by KPT based on the actuals pertaining to the year 2009-10, with adjustments wherever necessary.

- (b). While estimating for the years 2010-11 to 2012 – 13, KPT has escalated the expenditure by 5.8%, as against the permissible annual escalation level of 3.48 %, over that of the previous years. KPT has proposed a mutually agreed rate based on the actuals of 2009-10 as a sequel to the meeting it held on 30 September 2010 with the user organizations as detailed in sub-para (a) above. Further, this Authority is inclined to accord the rates for a limited period of one year i.e. upto 31 March 2012 for the reasons elaborated in sub-para (xvii) that follows. For these reasons, the details furnished and the methodology adopted by the Port as regards the yearly revenue requirement, the quantity of cargo to be handled, the number of gangs to be deployed, the commodity-wise gang shifts output, etc for the years 2010-11, 2011-12 and 2012-13 have not been gone into detail.
- (ix). While arriving at the revenue requirement, a rebate of 50% in handling salt in bulk has been considered by the Port. At an officer level meeting held on 1 March 2011, it was given to understand that this rebate is being extended as prescribed in the payment by result scheme approved by the Ministry of Shipping. KPT also holds the view that since the gang composition for handling salt in bulk is limited to four workers and one Tindal or one Signaler, the rebate of 50% being granted is in order. However, in conformity with the cost plus return on capital employed approach being adopted, this Authority accords approval to fix the rates for handling salt in bulk also on par with all other commodities. Since the rates prescribed are the ceiling levels, KPT may if it so desires, charge lower rates for salt. The per tonne rates have, therefore, been arrived at based on the aggregate revenue requirement and aggregate deployment of gangs which includes the details for handling of salt.
- (x). KPT has considered the gratuity, commutation and pension payment to the workers of cargo handling division at ₹ 4.61 crores for the year 2009-10. The details of these payments are not available separately in the Annual accounts submitted by the Port. At the officer level meeting held on 1 March 2011, it was explained that prior to the merger, pension, commutation and gratuity accounts of KDLB were part of the Labour Board's general accounts and after the merger, these payments to the workers of the Cargo Handling division are being met from the recognized Pension and Gratuity Trust Funds of KPT. Though no gratuity, pension and commutation payment details of the cargo handling division have been incorporated separately in the Annual Accounts of KPT, the Port has confirmed that such details have been maintained separately and those figures have been correctly considered in the cost statement. The rate revision analysis has been carried out relying on the statement made by the Port.
- (xi). In the cost statement KPT has considered the management and general administration expenses pertaining to the CHD division at ₹ 3.40 crores for the year 2009-10. At the officer level meeting, KPT explained that the management and general expenses of the Port consist of the Kandla division, Vadinar Division and Cargo Handling Division and this overhead has been apportioned as a ratio of the operating cost of the CHD and the total operating cost of the port. However, it is observed that while according approval to the general rate revision of KPT vide this Authority's Order in Case No. TAMP/61/2009-

KPT dated 18 January 2011 the entire management and general administration expenses of the port have been considered for deciding the rates in respect of the cargo related and vessel related services of the port. In view thereof, the management and general administration expenses considered by the port for arriving at the rate for on-board labour are not considered.

- (xii). Port has confirmed that the wage arrears paid with retrospective effect from 1 January 2007 have not been included in the cost statement related to on-board labour.
- (xiii). KPT has considered ₹ 45.64 lakhs as ROCE for the year 2009-10. On request a list of assets pertaining to CHD has been furnished by KPT. The assets consist of land, office building, residential quarters and vehicles. The ROI has been arrived at at 16% on the net fixed assets (gross asset of CHD less accumulated depreciation).
- (xiv). The commodities considered by KPT in its letter dated 11 October 2010 differ from the commodities earlier considered vide KPT's letter dated 24 October 2008. When requested to elucidate the Port has informed that the commodities have now been regrouped and rearranged in tandem with the commodities prescribed in its SOR for levy of wharfage charges. The regrouping of the commodities for recovery of the composite rate for on-board labour in tandem with the commodities prescribed for levy of wharfage is a positive step taken by the Port.
- (xv) (a). As per the cost details furnished by KPT, the expenditure towards salaries and wages, stores, office administration expenses, operation and maintenance expenses, medical expenses, depreciation, payments towards gratuity, commutation and pension and management and general administration expenses of the cargo handling division for 2009-10 aggregates to ₹ 43,77,75,950. Excluding the management and general administration expenses amounting to ₹ 3,40,00,000 referred to at sub-para (xi) above, the aggregate expenditure works out to ₹ 40,37,75,950. The ROCE at 16% on the net fixed assets of ₹ 2,85,90,658 works out to ₹ 45,74,505. Thus, the revenue requirement for 2009-10 aggregates to ₹ 40,83,50,455 (₹ 40,37,75,950 plus ₹ 45,74,505). During 2009-10 the total gangs supplied was 23843. The aggregate revenue requirement per gang thus works out to ₹ 17127 (₹ 40,83,50,455 divided by 23,843). A cost sheet detailing the workings has been attached as **Annex – I**.
- (b). The per tonne rate per commodity has been arrived at by the Port by dividing the revenue requirement per gang by the commodity wise average gang shift output. The aggregate revenue requirement per gang works out to ₹ 17127. While fixing the per tonne commodity wise rate for supply of on-board labour, an adhoc reduction of 5 % is effected as KPT is yet to revise the datum and introduce manning scales. Further, the Port should also initiate steps to improve efficiency and reduce costs. In addition, the approved rates which will apply to future period is computed based on the past actuals and not based on realistic estimates duly capturing future growth. For arriving at the per tonne commodity wise rate, the revenue requirement per gang has hence been reckoned at ₹ 16271.
- (c). Working sheet showing the commodity wise per tonne rate for handling bulk cargo has been attached as **Annex – II**. Similar working sheet in respect of handling break bulk cargo has been attached as **Annex – III**. These working sheets have been prepared considering 90% cargo as foreign and 10% cargo as coastal as confirmed by KPT.
- (xvi). KPT in its revised draft SOR has extended coastal concession to the commodities iron ore and thermal coal. As per clause 4.3 of the tariff guidelines of 2005 it is not necessary to extend the coastal concession for thermal coal and iron ore. Accordingly in the SOR of KPT no coastal concession has been provided for these commodities.

- (xvii). The mutually agreed rate per tonne per commodity has been proposed by KPT solely based on the traffic handled, the gang deployed and the gang shift output obtained during 2009-10. The Kandla Stevedores Association at the meeting held on 30 September 2010 has requested the Port to review the rate for on-board labour in every six months and KPT has agreed to the demand stating that in case the cost decreases, the rates will be lowered suitably since the rates to be approved by TAMP would be the upper ceiling rates. Though normally approval is accorded to the rates with a validity period of three years, for the above stated reasons, this Authority approves the rates for on-board labour for a period of one year i.e. for the year 2011-12. KPT is advised to submit a well analyzed proposal by 31 December 2011 for the rates to be applied with effect from 1 April 2012.
- (xviii). KPT was advised vide letter dated 22 November 2007 to propose cargo wise per tonne rates linked to productivity levels which would also act as an incentive to the stevedores to achieve better productivity and reduce the over all cost of operation. Though the Port submitted its proposal with cargo wise per tonne rates, it has not made any attempt to propose the rate linked to productivity. As is well known, the productivity depends upon several factors like availability of grabs with the vessels, the lifting capacity of the grabs, failure of the grabs, failure of other equipment like crane, unfavourable climatic condition, insufficient cargo, appropriate yard and hatch planning etc. KPT is advised to consider these factors and submit its next proposal to be forwarded by 31 December 2011 linked to productivity levels.

13. In the result, and for the reasons given above, and based on a collective application of mind, this Authority accords approval to the proposal of KPT to fix the composite rate for on-board labour in lieu of levy of other charges of its cargo handling division on a commodity wise per tonne basis and incorporate it as clause 3 in Chapter III of the KPT's Scale of Rates as under:-

CHARGES FOR COMPOSITE RATE FOR ON-BOARD LABOUR OF CARGO HANDLING DIVISION

Sr. No	Cargo Items	Rate in ₹ Per MT			
		Bulk		Break Bulk	
		Foreign Rs	Coastal Rs	Foreign Rs	Coastal Rs
1	Fertiliser/ Fertiliser Raw Material	13.96	8.37	42.92	25.75
2	Rice and other foodgrains	21.62	12.97	27.23	16.34
3	Cement	-	-	21.05	12.63
4	Steel Coils and Steel pipes	-	-	17.55	10.53
5	Timber and other logs	-	-	38.64	23.18
6	Soda Ash	-	-	60.89	36.54
7	Machinery Packages and other packages	-	-	72.84	43.71
8	Iron ore	11.14	11.14	-	-
9	Ores other than iron ore	12.20	7.32	-	-
10	Scraps	20.45	12.27	-	-
11	Oil Extractions	18.95	11.37	-	-
12	Thermal Coal	10.39	10.39	-	-
13	Other Coal	9.11	5.46	-	-
14	Salt	11.12	6.67	32.59	19.55
15	Sugar	17.42	10.45	25.80	15.48
16	All other unspecified goods	10.85	6.51	36.26	21.75

14. This Authority also accords ex-post facto approval to the provisional rates being charged by KPT from 22 May 2007 at ₹ 850 per worker per shift without piece rate and at

₹ 1084 per worker per shift with piece rate for supply of on-board labour till the new rates come into effect.

15. The revised rates will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India and shall be in force till 31 March 2012. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

(Rani Jadhav)
Chairperson

ANNEX - I**Cost details for Cargo Handling Division**

(Amt. in Rupees)

Sl. No.	Particulars	Figures as given by Kandla	Figures as moderated by TAMP
1	TOTAL EXPENSES		
	Salary & Wages	353124503	353124503
	Stores	2441	2441
	Office & Administration Expenses	128310	128310
	Operation & Maintenance Expenses	96737	96737
	Medical Expenses	3325314	3325314
	Depreciation	988412	988412
	Gratuity	5310715	5310715
	Commutation of Pension	1506465	1506465
	Pension	39293053	39293053
	Management & General Overheads	34000000	0
	TOTAL	437775950	403775950
2	CAPITAL EMPLOYED	28529875	28590658
3	RETURN ON CAPITAL EMPLOYED	4564780	4574505
4	REVENUE REQUIREMENT (1 + 3)	442340730	408350455
5	Total Gangs Supplied	23843	23843
6	Revenue expected per Gang (4 /5)	18552	17127
7	5% towards cost reduction / productivity improvements / labour rationalization etc (5% of 6)	Nil	856
8	Revenue expected per gang to fix per commodity per tonne rate (6 - 7)	Nil	16271

COMMODITY WISE PER TONNE RATE FOR BULK CARGO FOR ON-BOARD LABOUR OF CARGO HANDLING DIVISION

ANNEX-II

Particulars	No. of gangs	Revenue Requirement per gang (Rs.)	Quantity handled (MT)	Gang Shift Output (MT)	Rate per MT (Rs.)	Foreign Traffic (90%)	Coastal Traffic (10%)	Revenue Requirement (Rs.)	Proportionate Foreign Traffic	Rate for Foreign cargo (Rs.)	Rate for Coastal cargo (Rs.)
Fertiliser/ Fertiliser Raw Material	4675	16271	5676978	1214	13.40	5109280	567698	76066925	5449899	13.96	8.37
Rice and other foodgrains	34	16271	26652	784	20.75	23987	2665	553214	25586	21.62	12.97
Iron ore	581	16271	849101	1461	11.14					11.14	11.14
Ores other than iron ore	299	16271	415454	1389	11.71	373909	41545	4865029	398836	12.20	7.32
Scraps	609	16271	504784	829	19.63	454306	50478	9909039	484593	20.45	12.27
Oil Extractions	2019	16271	1805659	894	18.20	1625093	180566	32851149	1733433	18.95	11.37
Thermal Coal	1466	16271	2295596	1566	10.39					10.39	10.39
Other Coal	499	16271	928651	1861	8.74	835786	92865	8119229	891505	9.11	5.46
Salt	1350	16271	2056938	1524	10.68	1851244	205694	21965850	1974660	11.12	6.67
Sugar	1390	16271	1352120	973	16.72	1216908	135212	22616690	1298035	17.42	10.45
All other unspecified goods	312	16271	487449	1562	10.42	438704	48745	5076552	467951	10.85	6.51

COMMODITY WISE PER TONNE RATE FOR BREAK BULK CARGO FOR ON-BOARD LABOUR OF CARGO HANDLING DIVISION

ANNEX-III

Particulars	No. of gangs	Revenue Requirement per gang (Rs.)	Quantity handled (MT)	Gang Shift Output (MT)	Rate per MT	Foreign Traffic (90%)	Coastal Traffic (10%)	Revenue Requirement (Rs.)	Proportionate Foreign Traffic	Rate for Foreign cargo (Rs.)	Rate for Coastal cargo (Rs.)
Fertiliser/ Fertiliser Raw Material	131	16271	51736	395	41.19	46562	5174	2131501	49666.56	42.92	25.75
Rice and other foodgrains	972	16271	604953	622	26.16	544458	60495	15815412	580754.88	27.23	16.34
Cement	240	16271	193257	805	20.21	173931	19326	3905040	185526.72	21.05	12.63
Steel Coils and Steel pipes	1434	16271	1385076	966	16.84	1246568	138508	23332614	1329672.96	17.55	10.53
Timber and other logs	6629	16271	2907962	439	37.06	2617166	290796	107860459	2791643.52	38.64	23.18
Salt	43	16271	22363	520	31.29	20127	2236	699653	21468.48	32.59	19.55
Sugar	333	16271	218740	657	24.77	196866	21874	5418243	209990.4	25.80	15.48
Soda Ash	54	16271	15030	278	58.53	13527	1503	878634	14428.8	60.89	36.54
Machinery Packages and other packages	260	16271	60495	233	69.83	54446	6050	4230460	58075.2	72.84	43.71
All other unspecified goods.	513	16271	239816	467	34.84	215834	23982	8347023	230223.36	36.26	21.75