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Tariff Authority for Major Ports

G No.180 New Delhi, 20 July 2010

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Visakhapatnam Port Trust for fixation of tariff for the use of Harbour Mobile Cranes as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports

Case No. TAMP/56/2008 - VPT

Visakhapatnam Port Trust --- **Applicant**

O R D E R

(Passed on this 16th day of June 2010)

This case relates to the proposal dated 5 December 2008 received from Visakhapatnam Port Trust (VPT) for fixation of hire charges of 100 Tonnes capacity Harbour Mobile Cranes at West Quay Berths and other VPT Berths.

2.1. The salient points contained in the proposal are summarized below:

(i). The Board of Trustees of the VPT in its meeting held on 7 April 2007 approved the proposal for hire of 2 numbers of 100 Tonnes capacity Harbour Mobile Cranes including operation and maintenance staff for 24 hours for a period of 5 years. Accordingly, after evaluation of tenders received, the VPT has placed a Work Order dated 23 July 2008 on M/s.ABG Infralogistics Limited accepting their offer for hire of 2 numbers of 100 Tonnes capacity Harbour Mobile Cranes including operation and maintenance staff for 24 hours for 5 years period.

(ii). Salient features of the Work Order placed by the port on M/s.ABG Infralogistics are given below:

(a). The hire charges will be paid for a minimum traffic of 1 Million Tonnes per crane per annum, provided the crane is made available as stipulated in the scope of work of the contract. However, the minimum guarantee traffic will be reduced on pro-rata basis, if the crane is not made available as stipulated.

(b). The hire charges for 2 Harbour Mobile Cranes will be Rs.29.75 per tonne for initial period of 3 years and will be renewed for balance 2 years at Rs.30.75 per tonne for the 4th year and Rs.31.75 per tonne for the 5th year. Taxes will be payable extra.

(c). The bidder should assure a throughput of 10,000 Tonnes per day per crane during its working.

(d). If the bidder handles less than the assured throughput, penalty will be levied @ 25% of the wharfage rate of coking coal for the shortfall in the throughput.

(e). If the bidder handles more than the assured throughput, incentive @ 10% of the wharfage rate of coking coal for the excess quantity in the throughput shall be paid.

(iii). The port has to provide facilities to M/s.ABG Infralogistics Limited, for handling of dry bulk cargoes and general cargoes and these cargo handling operations are required to be monitored round the clock and throughout the year. For this purpose, port has to deploy supervisory staff as well as officers in all the three shifts to monitor the performance of the Harbour Mobile Cranes as well as liaison with the Stevedores/Port Users, beside applicable Engineering and Management overheads exclusively allowable to Harbour Mobile Cranes operations. Cost thereof is considered while arriving at the rates proposed.

(iv). A summary of the cost calculation furnished to justify the proposed rate is given below:

Sl. No.	Description	Cost for 2 Million Tonnes of Minimum Guaranteed Throughput (in Rs.)	Cost per tonne (in Rs.)
(a).	Capital cost	Not considered as mobile cranes are taken on hire	
(b).	Fixed cost (ROCE and Depreciation)	Nil	Nil
(c).	Variable costs		
(i).	Hire charges for 2 million tonnes of cargo handled	59500000	29.75
(ii).	Risk factor to cover the drop in cargo handled over the assured cargo of 2 Million tonnes @ 10% on (i) above		2.98
(iii).	Staff cost of TM Department to monitor the deployment and collection	5031479	2.52
(iv).	MGA cost @ 31.82% on (iii) above		0.80
(v).	Engineering overheads on general facilities for facilitating Harbour Mobile Crane operations	4150200	2.10
Total (c)			**38.14**
(vi).	Property tax @ 4% on Rs.39.75		1.59
(vii).	Cost per tonne per crane		**39.73**
(d).	**Proposed Rate (after rounding off)**		**39.75**

(v). After consultation with the Trade in the meetings held on 27 October 2008 and 21 November 2008, the VPT has proposed adhoc rate of Rs.39.75 per tonne for hire of Harbour Mobile Cranes. The port stated that adhoc rate proposed will be implemented with retrospective effect on notification of final rate by Tariff Authority for Major Ports. The trade representatives agreed for the same. A copy each of the minutes of the meeting with the trade date 27 October 2008 is submitted by the port.

(vi). The rate proposed is initially for 2 years and it shall be reviewed thereafter based on the performance of the crane.

2.2. In this backdrop, the VPT has proposed hire charge for supply of 100 Tonnes capacity Harbour Mobile Cranes for discharge/shipment of bulk cargo at Rs.39.75 per tonne.

3.1. As per Clause 2.17.3. of the Tariff Guidelines of 2005, the adhoc rate to be operated in the interim period must be based on existing notified rates for comparable services / cargo and it must be mutually agreed upon by the port and the concerned users.

3.2. The rate proposed by the VPT was not found to be on existing notified rates for comparable services / cargo. Though the port has stated that the proposed rate has been arrived after deliberation with the trade and that the trade has agreed to the same, it is understood from the Minutes of the meeting dated 21 November 2008 attached by the VPT with the proposal, that the representatives of Visakhapatnam Stevedores Association and Visakhapatnam Customs Clearing Agents Association have requested the port to fix the rate not exceeding Rs.35/- MT as against Rs.45.50 per tonne earlier suggested by the VPT earlier.

3.3. The above position was brought out to the VPT vide our letter dated 1 January 2009 while acknowledging the proposal. The VPT was also advised to furnish concurrence of the concerned users for levy of the proposed tariff on adhoc basis for interim period till fixation of final rates by the Authority. In response, the VPT vide its letter dated 12 February 2009 stated the following:

(i). TAMP has notified a rate of Rs.64 per tonne for handling bulk cargo with MHC at VSPL, whereas the proposed rate for comparable services / cargo with MHC is only Rs.39.75 per tonne.

(ii). VPT had proposed a rate of Rs.45.50 per tonne which the Trade did not agree and requested VPT to fix the rate at a reasonable level not exceeding Rs.35 per tonne. VPT deliberated the issue with the Trade in the meeting held on 21 November 2008 and proposed to fix the adhoc rate at Rs.39.75 per tonne and the rate which will be finally approved and notified by the TAMP will be implemented with retrospective effect, for which the Trade representatives have agreed. Accordingly, a Trade Circular was issued on 6 December 2008 and the rate is being implemented.

(iii). It has requested this Authority to approve and notify the rate of Rs.39.75 per tonne duly informing the Trade also.

4.1. In accordance with the consultation process prescribed, the proposal received from the VPT was forwarded to the concerned users / organisation bodies including those suggested by the port, for seeking their comments.

4.2. The comments received from the concerned user organizations were forwarded to VPT as feed back information. The VPT has responded to the comments furnished by the users.

5.1. A joint hearing in this case was held on 22 October 2009 at the VPT premises. At the joint hearing, VPT and the concerned users / organisation bodies have made their submissions.

5.2. As decided at the joint hearing, the VPT was advised to take action on some points. The VPT has responded vide its letter dated 21 November 2009 and 11 December 2009. A comparative position of the action points decided at the joint hearing and the response of the VPT is tabulated below:

Sl. No.	Action points decided at the joint hearing	Response of the VPT
(i).	The proposal of the VPT to introduce a minimum handling condition to avoid underutilisation of the crane due to any reasons attributable to users does not form a part of its original proposal. The VPT is, therefore, advised to file a formal supplementary proposal in this regard, fully justifying the proposed arrangement. Simultaneously, with the submission of supplementary proposal to the Authority, the proposal may be circulated to all the concerned users allowing them 7 days time therefrom to furnish their comments to TAMP and VPT.	(a). As per Clause-9 (II) (i) and (ii) of the Contract under reference, the Supplier should assure a throughput of 10,000 tonnes per day per crane during its working, and if the handling is less than the assured throughput, penalty will be levied @ 25% of the wharfage rate of coking coal per tonne for the shortfall in the throughput. Clauses 9(III) and 9(IV) of the referred contract envisage the extent of the break-downs and the related penalty for which the supplier is liable to pay to the port trust. (b). Of late, on reviewing the performance of the vessels that used the HMCs, it is noticed that the performance of the HMC had come down due to various reasons attributable to the hirer of the crane and as on date there is no liability or responsibility on the part of the hirer for poor performance, since the rate being paid by the hirer is on per tonne basis without taking into account time factor. There is no other legitimate tool to control the activities of the hirer, which directly bear negative impact on the performance of the HMC. In this regard, the port has furnished reasons which affect performance of the HMC and lead to underutilisation of HMC besides impacting of the vessels turnaround time. (c). For the purpose of filing a formal supplementary proposal for fixation of handling minimum tonnage, a meeting was held with the trade on 5 November 2009. The port proposed a minimum handling rate of 500 tonnes per hour for bulk cargo and 200 tonnes per hour for break bulk cargo on average basis from the time of

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<td>supply to its cancellation for a vessel. The trade, however, suggested a minimum handling rate of 350 tonnes per hour for bulk cargo and since the productivity of general / bulk cargo varied depending on the nature of cargo, no minimum handling rate be fixed.

(d). Keeping in view the suggestions expressed by the trade members present and in order to make best utilisation of the HMCs by the users, it is proposed to prescribe minimum tonnage to be handled as mentioned below:

(i). Bulk cargoes = Average 500 tonnes per hour

(ii). Break bulk cargoes = Average 200 tonnes per hour</td>
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<td>(ii).</td>
<td>Different overhead elements considered in the calculation should be justified in the light of actuals for the last 3 years. It should also be established that these overheads are incremental costs incidental to the operation of Mobile Harbour Crane.</td>
<td>(a). It is stated that, for calculation of MGA last 3 years actuals were considered and on an average the MGA expenses works out to 31.04%. While calculating MGA overhead cost, the store keeping, medical expenses, labour welfare and Management and Secretarial expenditure were excluded, as the said cranes are operated and maintained by the supplier. Therefore the percentage of MGA overhead apportioned in this proposal is different from that of other tariff proposal. As per the cost statement furnished in this regard, MGA to operating expenditure during 2007-08 to 2008-09 works to 24.26%, 32.49% and 36.39% respectively. In view of that the average 31.04% is considered for calculation of MGA.

(b). With regard to incremental cost incidental to the operation of Mobile Harbour Cranes, it has mentioned the port has incurred expenditure on resurfacing of concrete portion and repairs to kerb walls. These expenses are considered to be made for every 3 years as the movement of Harbour Mobile Cranes cause more wear and tear of the berth.

The estimated expenditure on these items is mentioned below:
Rs.
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<tr><td>Resurfacing the concrete portion and repairs to Kerb wall: Estimated cost / 3 years life i.e. (1,33,11,068/3)</td><td>=</td><td>44,37,022</td></tr>
<tr><td>Plus: Electrical maintenance</td><td>=</td><td>24,000
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<tr><td>Total expenditure per annum</td><td>=</td><td>Rs.44,61,022
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Therefore, engineering overheads on general facilities per tonne is considered at Rs.2.23 per tonne for minimum tonnage of 20,00,000 tonnes per annum to be handled.</td>
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<td>(iii).</td>
<td>The issues raised by Vizag Seaport Private Limited (VSPL) about predatory pricing should be frontally addressed.</td>
<td>The VPT has not furnished its comments.</td>
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5.3. Accordingly, the port furnished the revised cost sheet. The main modifications made by the VPT in the revised cost statement vis-à-vis the earlier cost statement is tabulated below:

(i). The MGA cost is considered at 31.04% as against 31.82% of staff cost.

(ii). The engineering overheads is considered at Rs.44,61,022 as against Rs.41,50,200.

(iii). The port had earlier considered property tax @ 4% of the proposed rate. The port has now modified and considered the property tax @ 4% on the total variable cost at Rs.1.53 per tonne.

5.4. A comparative position of the cost statement filed earlier by the VPT alongwith its proposal dated 15 December 2008 and the revised cost statement filed after the joint hearing is shown below:

Sl. No.	**Description**		**Cost position as per cost statement**			
			Dated 15.12.2008		**Dated 11.12.2009**	
			Cost for 2 Million Tonnes of Minimum Guaranteed Throughput (in Rs.)	**Cost per tonne (in Rs.)**	**Cost for 2 Million Tonnes of Minimum Guaranteed Throughput (in Rs.)**	**Cost per tonne (in Rs.)**
(a).	**Capital cost**		Not considered as the mobile cranes are taken on hire.			
(b).	**Fixed cost** (ROCE and Depreciation)			Nil		Nil
(c).	**Variable costs**					
	(i).	Hire charges for 2 million tonnes of cargo handled	59500000	29.75	59500000	29.75
	(ii).	Risk factor to cover the drop in cargo handled over the assured cargo of 2 Million tonnes @ 10% on (i) above		2.98		2.98
	(iii).	Staff cost of TM Department to monitor the deployment and collection	5031479	2.52	5031479	2.52
	(iv).	MGA cost @ **31.82%** / **31.04%** on (iii) above		0.80		0.78
	(v).	Engineering overheads on general facilities for facilitating Harbour Mobile Crane operations	4150200	2.10	4461023	2.23
		Total (c)		**38.14**		**38.25**
	(vi).	Property tax @ 4%		1.59		1.53
	(vii).	Cost per tonne per crane		**39.73**		**39.78**
(d).	**Proposed Rate (after rounding off)**			**39.75**		**39.75**

As can be seen from the above comparative position, there is no change in the cost per tonne proposed by VPT.

6. 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

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

(i). The Visakhapatnam Port Trust (VPT) has hired from a private operator reportedly based on a competitive tender basis two Mobile Harbour Cranes (MHC) of 100 tonne capacity each for a period of 5 years to handle dry bulk and break bulk cargo at Rs.29.75 per tonne. An amount of Rs.39.75 per tonne is proposed to be collected from the users of the crane and the tender rate of Rs.29.75 will be paid for the hire of crane and the VPT will retain the balance amount of Rs.10.00 per tonne being recovery of its overheads. The VPT has started to levy the rate of Rs.39.75 vide its Trade Circular dated 6 December 2008 on adhoc basis.

(ii). The arrangement envisaged by VPT in this case is not granting direct authorisation to a private operator to operate the cranes. The port has hired the crane and it will remain responsible to the users for provision of services and accordingly will levy charges from them for the services availed. Strictly speaking, the exercise in hand is for fixing tariff for the services provided by the port and not for any authorised service providers under clause 7 of the Tariff Guidelines of 2005.

(iii). Tariff is proposed by the port by considering the hire charges payable by it as an element of cost. Besides, the port has sought to add various cost items in the nature of overheads and tax to arrive at the proposed rate, while port has taken care to include a provision to cover the risk of not achieving the minimum throughput it has assured to the crane supplier. But, the port has not assured to the users the minimum productivity levels to be maintained, though it has secured such an assurance from the crane supplier.

As brought out in the factual position narrated in the initial part of this Order, the proposed hire charge is based on an offer received following the tender route. If the tender rate is considered for determination of hire charges for the MHCs, it might amount to fixing a rate in respect of a particular crane. At a later stage, if the commercial judgment of the port demands deployment of some more additional cranes to cope up with the anticipated traffic the same will warrant fixation of separate tariff for such cranes again. This would result in an anomalous position of the users paying different rates for the same facility just because the cranes are inducted at different point of time under different conditions. It is, therefore, not advisable to prescribe rate solely based on the tender rate offered by a particular supplier as the revenue model so derived may not necessarily fit in case of another crane to be inducted for the same services. It is, therefore, found appropriate to arrive at the ceiling rate based on standard capacity and normative cost of operating the MHC.

(iv). The objection of VSPL essentially stems from its apprehension of traffic diversion from its terminal to VPT owing to lower charges for the crane. This Authority does not have any reasons to believe that the VPT engages in predatory pricing to oust competition. The method adopted by the VPT to induct MHCs in operations is transparent and its proposal, though this Authority prefers a normative approach, seeks to cover its costs and overheads. It is noteworthy that the existing tariff for MHC at VSPL was not fixed on stand alone basis but based on the overall revenue requirement for the terminal. It is open for VSPL, if it so desires, to propose necessary adjustments in the existing tariff items based on activity-wise costing.

(v). In Paradip Port Trust (PPT), even though MHC with different capacities are deployed by various crane service providers authorised by the port, for the purpose of fixation of hire charge of MHC, the PPT had formulated its proposal based on certain assumed norms and parameters for MHC of 100 tonnes capacity and hire charge was fixed by this Authority on normative basis vide Order dated 30 December 2009. At the Tuticorin Port Trust (TPT) also hire charge was prescribed on normative basis for 100 tonne capacity of MHC vide Order dated 30 December 2009.

(vi). Since the objective is to prescribe ceiling rates for operating a MHC, the tariff fixation must be based on certain norms and parameters. Clause 2.4.1. of the tariff guidelines of March 2005 also calls for attempts to evolve normative cost of each component of port operations. Since separate set of norms under Clause 2.4.1. of

2005 tariff guidelines are not evolved, it is found appropriate to adopt the norms prescribed in the tariff guidelines of 2008 for determining tariff based on standard cost of operating a harbour mobile crane at the VPT. Incidentally, this approach was followed by this Authority for setting tariff for use of the MHC at the PPT and TPT.

(vii). The guidelines of 2008 for upfront tariff fixation prescribe the handling norms/ guidelines for dedicated facilities such as coal, iron ore and container handling. Apart from that, guidelines / handling norms are prescribed for multipurpose cargo terminal covering dry bulk cargo and break bulk cargo which are found relevant in this case based on the submission of the port that cranes to be deployed will handle bulk and break bulk cargo.

In the absence of availability of information on the share of capacity allocable to different cargo, the standard capacity of crane is arrived separately for cargo groups i.e. dry bulk cargo and the break bulk cargo with reference to the handling norms prescribed for respective cargo groups in the guidelines of 2008 as per the approach followed in the case of the TPT and PPT. For this purpose, number of working hours per annum is considered at 4000 based on normative level of working hours prescribed in the 2008 guidelines for estimating the power / fuel cost for loading / unloading equipment deployed at multipurpose cargo berth.

The tariff guidelines of 2008 prescribe a norm for cargo handling at multipurpose berth at a rate of 10,000 tonnes per day for dry bulk cargo comprising food grains & fertilizer and coal, limestone, minerals etc., The output norm of 10000 tonnes per day prescribed in the tariff guidelines of 2008 is with reference to operation of 3 numbers of wharf cranes of 20 tonne capacity each. Since the exercise is to prescribe hire charges for the HMC of 100 tonne capacity, the norm prescribed in the 2008 guidelines for the per day handling rate is adjusted suitably. Considering the higher handling capacity of HMC as compared to the aggregate capacity of the wharf cranes prescribed in the 2008 guidelines and in the absence of any other norms available, it is reasonable to reckon a 25% increase over the handling rate of 10,000 tonnes per day prescribed for operation of 3 numbers of 20 Tonne ELL cranes. Similar approach was followed in the case relating to fixation of hire charge of MHC at PPT and TPT.

(viii). In the proceeding relating to fixation of hire charge for the 100 tonne MHC at the PPT which was recently concluded by the Authority in December 2009, the capital cost of the 100 tonnes MHC with two grabs estimated by the PPT and considered by this Authority was Rs.3007.74 lakhs including freight and duties. The estimated capital cost was substantiated with the Budgetary quotation obtained by the PPT. Incidentally, the capital cost as estimated by the PPT was relied upon by this Authority for fixation of hire charge of MHC at the TPT subject to updating the exchange rate with the then prevailing rate vide Order dated 30 December 2009. Capital cost as estimated in the PPT case is relied upon and considered for the purpose of this analysis subject to updating the exchange rate with the prevailing rate. The exchange rate applied for conversion of the Budgetary quotation in Euro is updated to Rs.58.2600 to reflect the exchange rate prevailing at the time of analysis of this case. The capital cost of the MHC accordingly works out to Rs.2585.28 lakhs.

(ix). (a). No explicit fuel consumption norms for a MHC are prescribed in the tariff guidelines of 2008. Fuel consumption estimated by the PPT for a 100 tonne MHC is 70 litres per hour. The fuel consumption by a 104 tonnes MHC operated by the Vizag Seaport Private Limited, a private bulk terminal operator at the Visakhapatnam Port Trust (VPT), is indicated at 60 litres per hour.

Since no separate norms for consumption of fuel by MHC is available, fuel consumption at 70 litres per hour as considered in the cases of PPT and TPT for a 100 tonne MHC is considered in this analysis also. The unit cost of fuel is considered at Rs.38.90 per litre prevailing at the time of this analysis.

(b). The repairs and maintenance cost and insurance are estimated at 5% and 1% respectively of capital cost of crane as per the norms prescribed in the guidelines of 2008.

(c). The guidelines of 2008 stipulate estimation of license fee based on the rates prescribed in the Scale of Rates of the respective Major Ports. In the existing Scale of Rates of VPT approved in May 2006 vide Order dated 11 May 2006 license fee for open space is prescribed at Rs.90.55 per week or part thereof for an area of 100 sq. mtr. from second week onwards. Since the crane will be operating for 4000 hours in a year, license fee for the idling period of the year is considered at Rs.90.55 per 100 sq.mtr. per week.

(d). Depreciation is estimated at 10.34% on the capital cost of the crane as per the rate prescribed under the Companies Act 1956.

(e). Other expenses are estimated at 5% of the capital cost of crane as per the norms prescribed in the guidelines of 2008.

(x). This Authority has adopted the ROCE at 16% for the tariff cases to be decided during the year 2010-11 which is considered for arriving at the hire charges for MHC. Return is allowed on the average Written Down Value of the MHC for the three years period for which tariff is to be fixed, which works out to Rs.328.10 lakhs.

(xi). The total estimated annual revenue requirement of operating HMC is Rs.988.74 lakhs which is aggregate of operating cost of crane Rs.660.64 lakhs plus 16% return of Rs.328.10 lakhs. As stated earlier, hire charge for HMC is arrived for broad cargo groups with reference to their respective standard capacity.

(xii). The tariff guidelines of 2008 prescribe norms also for fixation of rate for break-bulk cargo like steel & bagged cargo and other cargo. It prescribes handling rate of 4000 tonnes per day for steel & bagged cargo and 2500 tonnes per day for others with the deployment of 3 numbers of 20 tonne ELL cranes. As stated earlier, the output norms prescribed in the guidelines are with reference to operation of 3 numbers of wharf cranes of 20 tonne capacity each whereas the exercise is to prescribe hire charge for a 100 tonne HMC. Further, it may be relevant to mention that MHC may handle other cargo without grabs not being fitted to the crane. Hence, the handling rate prescribed in the guidelines need to be updated to recognise the above elements.

As decided in the case relating to the fixation of hire charge of MHC at Paradip Port Trust and Tuticorin Port Trust, 50% increase over the handling rate prescribed in the guidelines for steel and bagged cargo and other bulk cargo is reckoned with.

Accordingly, updated normative handling rate of 6,000 tonnes per day for steel and bagged cargo, and 3750 tonnes per day for other cargo are considered in this analysis.

Following these adjusted norms and 4000 hours of working of the crane in a year, as prescribed in the tariff guidelines of 2008 and keeping in view 70% utilization factor, the rate per tonne for use of the HMC works out to Rs.33.23 per tonne for dry bulk cargo, Rs.69.24 per tonne for handling steel & bagged cargo and Rs.110.85 per tonne for other cargo to achieve the estimated annual revenue requirement of Rs.988.78 lakhs for the respective cargo group.

(xiii). The statement submitted by the VPT for use of HMC has been modified in line with the above analysis. A copy of the modified statement is attached as **Annex**.

(xiv). Clause 4.3. of the tariff guidelines of March 2005 stipulates prescription of concessional tariff for coastal cargo. The said clause further stipulates that the cargo related charges for all coastal cargo, other than thermal coal and POL including crude oil, iron ore and iron ore pellets should not exceed 60% of the normal cargo related charges.

The VPT has not proposed concessional tariff for coastal cargo for ship to shore transfer of cargo or vice versa using the HMC on the grounds that the crane will be deployed to predominantly handle overseas cargo and thermal coal and iron ore cargo to which the 60% coastal concession will not apply. The port has also categorically declared that no other coastal cargo will be handled. In view of that the port has argued that incase the crane is required to handle coastal cargo the basic cost payable to the supplier i.e. Rs.29.75 per tonne will be levied.

Prescription of concessional tariff on coastal cargo / container / vessels in cargo related charge and vessel related charge is a policy direction issued by the (then) Ministry of Shipping, Road Transport and Highways (MSRTH) in the Central Government to this Authority which is also incorporated in the tariff guidelines of 2005. The rates prescribed by this Authority are, therefore, bound to reflect the policy decision irrespective of the person who is going to charge such rate. The objective is the concerned section of trade should get the stated benefit.
The estimated annual revenue requirement of Rs.988.74 lakhs will have to be realized from foreign and coastal cargo handled. That being so, the concessional rate requires to be determined taking into consideration the share of the estimated capacity of the HMC for handling coastal cargo and suitable adjustment in the rate for handling foreign cargo.

In the absence of information relating to the share of the capacity of the HMC to handle coastal cargo and to comply with Clause 4.3. of the tariff guidelines of March 2005, coastal rate is prescribed at 60% of the rate prescribed for normal cargo. It is, however, open for VPT to come up with a suitable proposal for adjustment in rates if concessional tariff prescribed for coastal cargo is likely have significant impact on the estimated revenue model considered in this analysis.

(xv). The hire charge for 100 tonne HMC crane arrived in this analysis is with reference to the performance for handling different cargo groups adopting the handling norms prescribed in the guidelines of 2008. As it is possible to have actual performance varying from the standards assumed in this calculation, it is necessary to prescribe tariff linked to performance levels. Incidentally, Clause 5.9. of the tariff guidelines of 2005 also recommends linking tariff to the benchmark levels of productivity, providing incentive for better performance and disincentive for performance below the benchmark levels. The performance linked tariff will provide for incentive to the service provider for high performance and disincentive for underperformance.

An incentive / disincentive scheme based on the model followed in the case relating to the PPT and TPT is adopted in this case also. The standard productivity level assumed for arriving at the tariff is treated as the base level. Accordingly, the performance linked tariff structure is prescribed providing for a reward of 5% by way of increment in the base rate if the performance achieved is 1000 tonnes higher than the benchmark level and a disincentive by way of reduction in the base rate by 5% if performance achieved is 1000 tonnes lower than the benchmark.

The performance linked tariff will encourage private service providers to maintain higher efficiency level in order to enhance his returns due to higher rates prescribed. Such efficiency improvement will also benefit users due to faster turn around of vessel. As stated earlier, the slabs for performance linked tariff introduced are not based on any well analysed data. The VPT is, therefore, advised to formulate a more scientific incentive / disincentive scheme at the time of the next tariff review of this item.

(xvi). The tariff guidelines of 2005 stipulate a tariff validity cycle of 3 years. Accordingly, the hire charge for crane fixed by this Authority will be valid for three years from the date of implementation of the Order.

(xvii). Since the tariff fixed is linked to productivity level, it is necessary to define the conditions in order to avoid ambiguity. The PPT had in its proposal for fixation of hire charge of MHC proposed formula for arriving at the average berth day output of MHC. It had also proposed provisions to measure performance in case of breakdown of MHC for more than an hour, stoppage of operations of MHC, penalty in case of shifting of vessel on account of breakdown / non-performance of vessel, etc., which are relevant in the case of VPT. It is noteworthy that the conditionalities prescribed in the PPT case were incorporated in the TPT case also and proposed to be prescribed in NMPT case. Therefore, the conditionalities prescribed in the PPT and TPT cases are incorporated in the VPT case also. The VPT may come up with a suitable proposal if it finds any other conditions are relevant to the operations of MHC in its port or finds the conditions prescribed by this Authority are not relevant in its case.

8. In the result, and for the reasons given above and based on a collective application of mind, this Authority approves the following to be inserted in Schedule 5.1.3. – Charges for hire of Harbour Mobile Crane under Section 5 Charges for Hire of Craft/Equipment in the existing Scale of Rates of the Visakhapatnam Port Trust:

"5.1.3. Charges for use of Harbour Mobile Cranes installed by the private operators:

(I). For Dry Bulk Cargo

Average daily crane performance (in Metric Tonne)	**Ceiling rate per tonne (in Rs.)**	
	Foreign	**Coastal**
9500-10499	28.25	16.95
10500-11499	29.91	17.95
11500-12499	31.57	18.94
12500	33.23	19.94
12501-13500	34.89	20.94
13501-14500	36.55	21.93
14501 – 15500	38.21	22.93

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2nd thousand tonnes the rate was enhanced to 110% of the base rate. The rate for third thousand tonnes was arrived by enhancing the base rate by 115%. The same methodology shall also be adopted to calculate the rate beyond 15500 tonnes. Likewise, ceiling rates for performance below 9500 tonnes shall be calculated by reducing the base rate accordingly.

(II). For Break-bulk cargo:

(A). Steel and Bagged Cargo

Average daily crane performance (in Metric tonne)	**Ceiling rate per tonne (in Rs)**	
	Foreign	**Coastal**
5000-5999	65.78	39.47
6000	69.24	41.55
6001-7000	72.70	43.63

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 7000 tonnes. Likewise, ceiling rates for performance below 5000 tonnes shall be calculated by reducing the base rate accordingly.

(B). Others

Average daily crane performance (in Metric tonne)	Ceiling rate per tonne (in Rs)	
	Foreign	Coastal
2750-3749	105.31	63.18
3750	110.85	66.51
3751-4750	116.39	69.84

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 4750 tonnes. Likewise, ceiling rates for performance below 2750 tonnes shall be calculated by reducing the base rate accordingly.

Notes:

(i). The formula for calculation of average berth-day out put is as follows:

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

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

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

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

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

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

(vii). In case of dispute on the average output, the decision of the port trust will be final and binding. "

9. The ceiling rates fixed now will come into effect after expiry of 15 days from the date of its notification in the Gazette of India and shall remain valid for 3 years.

(Rani Jadhav)
Chairperson

ANNEX

Cost calculation for fixation of rate for use of 100 tonne Harbour Mobile Crane provided by authorised service provider at the Visakhapatnam Port Trust

A. For Dry bulk cargo

Rs. in Lakhs

Sr. No.	Particulars	As furnished by Visakhapatnam port Trust		Norms if any prescribed in 2008 tariff guidelines (for multipurpose cargo berth)	Modified Calculation	
		Workings			**Workings**	**For Dry bulk - (a) food grains & fertiliser (b). Coal, lime stone, minerals. etc.**
I	Cost of Mobile Harbour Crane (Rs. Lakhs)		0			2585.28
II	A . Capacity (in terms of shifts / hours per annum) computed by VPT					
	Available working shifts per annum		0			
	Norms of availability as per Government guidelines		0			
	Capacity in shifts per annum		0			
	Capacity in terms of hours / annum		**0**			
	B. Capacity in tonnes/ annum computed by TAMP			Dry bulk		
	Handling rate per hour (in tonnes)			a) Food grain, fertiliser = 10000 tonnes / days (for vessels more than 30000 tonnes parcel size) b) Coal, Lime stone, minerals , etc. = 10000 tonnes / days	25% above the handling norms prescribed in the guidelines i.e.12500/ (24 hours * 70%	744
	Working hours per annum			A norm of 4000 hours of working in a year is prescribed for estimating power / fuel cost		4000
	Annual Capacity (in tonnes)					**2976000**
	Annual Capacity (in Million tonnes)					**2.976**
III	Variable cost as estimated by the port		**Rs. in lakhs**			**Rs. in lakhs**
	(i). Hire charges of 2MT of cargo handled @ Rs.29.75 per tonne	2000000 * 29.75	**29.75**			**NIL**
	(ii). Risk factor to cover drop in cargo handled over the assured cargo@10% of (i) above	10% * 29.75	**2.98**			**NIL**
	(iii). Staff cost of the TM Dept	5031479	**2.52**			**NIL**
	(iv). MGA cost @31.04% on (iii)above	31.04% * 5031479	**0.78**			**NIL**
	(v). Engineering overheads	4461023	**2.23**			**NIL**
	total variable cost		**38.25**			**NIL**
	(vi). Property tax @ 4% on total variable cost		1.53			**NIL**
	(vii) Cost per tonne per crane		**39.78**			**NIL**
	Rate per tonne proposed		**39.75**			
IV	Operating cost					
	(a). Fuel cost	Not furnished by the port	0		70 ltrs per hour * Rs. 38.90 per litre * 4000 hours	108.92
	(b). Repairs & Maintenance cost	Not furnished by the port	0	5% on cost of mechanical equipment	5% * Rs.2585.29 lakhs	129.26
	(c). Insurance	Not furnished by the port	0	1% on cost of mechanical equipment	1% * Rs.2585.29 lakhs	25.85
	(d). Depreciation	Not furnished by the port	0	As per norms prescribed in Companies Act	10.34% * Rs.2585.29 lakhs	267.32
	(e). Rent (License Fee)	Not furnished by the port	0	As per Scale of Rates of concerned port	Rs.90.55 per 100 sq.mtrs. per week	0.03
	(f). Other Expense	Not furnished by the port	0	5% of Gross fixed Asset Value	5% * Rs.2585.29 lakhs	129.26
	- Security Charges					
	- Salaries & Others					
	- Dock Safety and other Exp					
	Total (a) to (f)					**660.64**
IV	ROCE			16% on capital employed	16% * Rs.2050.65 lakhs	**328.10**
V	**Total Cost plus Return on investment**					**988.74**
VI	**Hire Charge per shift**					
VII	**Hire Charge per tonne (Foreign) in Rs.**				Rs.988.74 lakhs /2.976 million tonnes	**33.23**
VIII	**Hire Charge per tonne (Coastal)**				60% * Rs. 33.23	**19.94**

B. For break bulk cargo

Sr. No.	Particulars	Working	Steel & bagged cargo	Others
I	Cargo Handling rate at 50% above the norms precribed in upfront tariff guidelines 2008 for multipurpose cargo terminal (in tonnes / day)		**6000**	**3750**
II	Cargo Handling rate in tonnes / hour	Sr. no I / (24 hours * 70% utilisation norm)	**357.00**	**223**
III	Working hours (per annum)		4000	4000
IV	Capacity (tonnes / annum)	Sr. No II * III	1428000	892000
V	Total cost plus return as estimated in Sr. No V in the first table (Rs. in lakhs)		988.74	988.74
V I	**Hire Charge per tonne (Foreign going) in Rs. / tonne**	Sr. No V / IV	**69.24**	**110.84**
VII	**Hire Charge per tonne (Coastal) in Rs. / tonne**	60% of Sr. No VI	**41.54**	**66.51**

@ Note : Workings for capital employed

Gross value of HMC — **Rs. 2585.29 lakhs**

Rate of Depreciation as per provisions of Companies Act — **10.34%**

	Year 1	Year 2	Year 3
Value of HMC at the beginning of the year	2585.28	2317.96	2050.64
Depreciation	267.32	267.32	267.32
Written dopwn value at the end of the year	2317.96	2050.64	1783.32
Average written down value		2050.64	

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/4/2009-VPT - Proposal from the Visakhapatnam Port Trust for Dry docking charges at the Dry dock owned by the port.

A summary of comments received from the users / user organisations and comments of Visakhapatnam Port Trust (VPT) thereon are given below:

Sl. No.	Comments of users / user organisations	Comments of VPT
1.	**Indian Coast Guard Overseeing Team (V)**	
(i).	Dock block preparation charges for different length of ships considered are reasonable. However the charges should include supply of all the material required for preparation of dry-dock blocks.	For dock block preparation during dry docking of the vessels, wood is required for keel blocks/wood wedges as well as bilge blocks. The charges for dock block preparation are inclusive of material cost and labour cost for preparation of keel blocks/wood wedges only. It does not include bilge blocks, since the material required for bilge blocks differs from vessel to vessel and hence vessel owner / contract firm has to supply the wood at their cost.
(ii).	The proposed rental charges of Rs.53,350/- from 1st day to 14th day, Rs.80,000/- from 15th day to 30th day and Rs.1,06,700/- from 31st day onwards are exorbitant. Dry-dock rental charges may be limited to two slabs instead of three as suggested by VPT. The initial slab i.e. 1st to 14th day @ Rs.53,350/- and the second slab may be charged Rs.80,000/- from 15th onwards.	Dry-Dock rental charges are proposed for 3 spells to discourage prolonged usage of dry dock by a single user. It was experienced that the vessel management had come up with additional work, after docking the private vessel, which led to delay for docking and repair schedules of port craft. Hence, it is proposed to keep 3 slabs and for genuine planned shipper the 3rd slab would not effect.
(iii).	Critical services such as continuous fire man at 5 kg/cm^2 pressure, electric power supply, provision of emergency D/A power supply, compressed air supply, refit office, toilet/bathroom facilities are provided by dry-dock authority as a standard practice. Hence all these facilities may be catered by the port religiously for safety/habitability and speedy completion of ships jobs.	At present, port is providing the following amenities at ORS dry dock: (a). Fire main, Electric power supply on chargeable basis. (b). Toilet/Bathroom facilities already exists. Due to shortage of staff, the port is not in a position to extend the compressed air supply services to commercial vessels / private vessels and there is no provision in VPT for emergency D/A power supply.
2.	**Vizag Ship Repairer's Association (VSRA)**	
(i).	The existing charges as on date are not too low. The revision and thereby hike may be calculated on the tariff fixed during the year 2001 and not as per on the cost calculation for ORS dry dock rental charges furnished by VPT. As per the cost sheet, we assume the estimate has been worked out during peak inflation period and the estimation need to be reviewed and the hike may be restricted to maximum of 20% on the existing tariff.	The existing Scale of Rates of VPT expired on 31 March 2009 and the new tariff to be implemented w.e.f. 1 April 2009.
(ii).	(a). There are no dock block preparation charges in the existing Scale of Rates. The tariff for the dry dock is normally fixed for a single party and hence option to be given to	(a). Number of blocks to be used will differ depending upon the size of the vessel and shape of the underwater hull of the vessel. So the dock block preparation for shaped

	them for docking either one or two vessels which can fit into the dock. However, the dock block preparation charges proposed is very much on the higher side and need to be reviewed and reduced according to the manpower and material required. The pending wage revision calculated in the estimate maybe waived off.	vessels involve more quantum of work with more days in preparation. Hence, the different charges are proposed based on the cost of materials and time taken in this preparation. The request for waiving of the wage revision implication is also not reasonable as the salaries and wages payable to staff has direct impact on the variable expenditure of the activity.
	(b). A vessel having length of 102 Meter has been docked in the recent past. For the said vessel 30 metallic stands were fabricated and wooden planks for the required blocks were supplied by the party as it was not available at dry dock. The total cost of wood was Rs.30,000/- and the same is projected by VPT in Annex-4. It has stated that the said cost is on the higher side.	(b). The cost of Rs.30000/- stated to have been incurred for wood supplied by the firm is for preparation of Bilge blocks and not for keel blocks. As already explained, the bilge blocks differ from vessel to vessel, the owner of the vessel has to supply the material for bilge blocks as the same were not considered in the charges proposed for Dock Block preparation.
(iii).	(a). The dock block preparation for the vessels having flat bottoms may be brought under one category and a fixed charge may be prescribed irrespective of the size of the vessel. The same may be followed for the shaped vessel too. The material such as cement blocks or wood can be recycled and the investment for the material shall not be booked in every dock block preparation charges.	Most of the wood lose its shape or get crushed, hence the same cannot be recycled/ reused and hence not considered in cost statements. In view of the above, the dock block preparation charge proposed is reasonable.
	(b). The dock block preparation charges may be fixed between Rs.50,000/- and Rs.70,000/- irrespective of type and length of the vessel.	
(iv).	In the past as there was no specific charges for dock block preparation, all materials were being provided by the owners of the vessel. By imposing this dock block preparation charges, Visakhapatnam Port Trust shall be committed to provide everything that is required for the docking of any type of vessel.	The dock block preparation charges were fixed duly considering all cost involved including materials for preparation of Keel Blocks and VPT is committed to provide the same. However, the above charges do not include preparation of Bilge Blocks for which the materials required are to be supplied by the vessel owner if required.
(v).	Docking charges of the vessel should be part of the 1st day of dock hire or otherwise there should be no charges on the 1st day, as no other job can be attended on the day of docking. Similarly, for undocking no charges may be claimed separately as owners pay for the charges for the dry dock on the undocking day too.	The time for calculating docking charges is reckoned from the moment vessel enters Dry dock till the vessel clears out of the Dry dock. Day means a period of 24 hours or part thereof calculated from the time fixed as stated above. The Dry dock hire charges are based on the time period of occupancy, as the Dry dock could not be used for any other purpose after its occupancy by a vessel, the request for no charges for Docking and Un-docking charges is not reasonable. The composite rate of Rs.64,000/- for docking and undocking of a vessel is meant for costs involved in the Docking / undocking operations.
(vi).	Crane charges need to be reviewed at a competitive rate. The crane available at ORS can handle a maximum of 10 tonne capacity whereas a crane having 16 tonne capacity is available @ Rs.450/hr subject to a minimum of 2 hour rental.	No revision is proposed in the charge for utilizing the crane. It is as per the rate prescribed in the existing Scale of Rates.
(vii).	Block shifting, overtime to the staff as on date are being charged with additional	Block shifting, if any, will be charged at actuals. Overtime will be booked after normal

	charges as Management, Administration charges etc., as detailed hereunder: (a). Overheads on Labour Charges @ 150% on Labour (b). Incidental Charges @ 23% on Labour + Overheads on Labour (c). Departmental Charges @ 20% on all the above. The same need to be cancelled as new proposal for each service relating to Dry-dock operations are cost based.	working hours at the request of the vessel owner and will be charged. There will be no other overhead charges over these rates.
(viii).	The second version of docking charges may be restricted to flooding and de-flooding charges according to the pumping hours only. For the second version block arrangements, the wages to the staff, block shifting charges etc., are covered under page 3 and 4 of the VPT proposal.	The second version of docking also involves costs which cannot be ignored. However, the same may be charged @ 50% of the charges for 1st version of docking as labour and material required would be less compared to the 1st version of docking.

2. A joint hearing in this case was held on 22 October 2009 at the VPT premises. At the joint hearing, VPT and the concerned users / organisation bodies have made the following submissions:

Visakhapatnam Port Trust

(i). We have some surplus capacity in our dry docks after our use. We have, therefore, started allowing mainly Navy and Coast guard vessels to use our dry dock. This costs us. Hence the proposal.

(ii). The existing charges were not fixed bearing in mind regular use of dry docks by outsiders on commercial terms. These charges do not cover our cost.

(iii). We have modified our proposal by revising down crane hire charges to Rs.414 / per hour as per the existing Scale of Rates.

(iv). The proposed rates are far less than the charges levied by Hindustan Shipyard for providing similar facility to commercial vessels.

Everson

(i). The proposed rates are very high.

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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/56/2008-VPT - Proposal from the Visakhapatnam Port Trust for fixation of hire charges of 100 Tonnes capacity Harbour Mobile Cranes at West Quay Berths and other VPT Berths.

A summary of comments received from users / organisation bodies and the comments of Visakhapatnam Port Trust (VPT) thereon are tabulated below:

Sl. No.	Comments of users / organisation bodies	Comments of VPT
1.	**Visakhapatnam Stevedores Association (VSA)**	
(i).	Cost of cover for guarantee given by VPT to crane provider is considered at Rs.2.98 per tonne. Trade interests were not consulted while giving such guarantees.	Risk factor is taken at 10% of 2.00 Million Tonnes of minimum guaranteed throughput payable to the cranes supplier by VPT. The minimum guaranteed throughput for the cranes is fixed as per the estimate made by VPT based on the likely throughput to be handled by the said cranes. While making the estimate, there is no practice of consulting the Trade since the usage will depend upon the charges fixed and capacity of the cranes.
(ii).	Staff costs for taking care of the cranes is reckoned at Rs.3.32 per tonne. Only the existing manpower is being utilized for this purpose. There is no new recruitment. The cost of the existing manpower was fully covered during the revision in the last Scale of Rates. Hence, there is no justification for this cost element.	Certain supervisory staff as well as Officers in all the three shifts are proposed to be deployed exclusively to monitor the deployment and performance of the Harbour Mobile Cranes as well as for liaisoning with the Stevedores / Port Users. It has furnished details of staff cost. Hence staff and Management General Administration cost of Rs.3.32 per tonne has been considered.
(iii).	Rs.2.10 per tonne is taken towards Engineering overheads for general facilities. The Association strongly objects to this element also as there is no justification at all.	For the operation of the Harbour Mobile Crane on berth, new roads and sufficient illumination are required to be provided additionally. The relevant sanctions issued for the works are submitted.
(iv).	The rate should include on Hire charges, guarantee cover and property tax, if payable. In any case it should not exceed Rs.34/-per tonne as anything more is not justified.	The proposed rate of Rs.39.75 per tonne is reasonable; hence approval of the same may be communicated. The said cranes are in operation since 12.1.2009 and billing is being done at the rate of Rs.39.75 per tonne on provisional basis.
2.	**M/s.Tamil Nadu Electricity Board (TNEB)**	
(i).	In the calculation furnished by VPT, property tax computed at 4% of total of (A) (Rs.38.74) is Rs.1.53 only as against Rs.1.59 considered by VPT. Hence, the total cost per tonne will be Rs.39.67 only.	Property tax, @ 4% is calculated on total proposed cost per tonne i.e. 4% on Rs.39.75 which work out to Rs.1.59 only.
(ii).	The port has given an allowance of 10% towards risk factor to cover the drop in cargo. In this regard, it is stated that VPT handles not less than 55 million tonnes of cargo every year and the Port Trust might have proposed the hiring of two mobile cranes taking into account the traffic growth and VPT will be benefited by way of increased throughput.	(a).The total traffic of VPT of 55 million tonnes is inclusive of liquid cargo, break bulk cargo like machinery, ISM, granite blocks etc. The usage of cranes is not mandatory even for bulk cargo. Only the trade who opts for handling of cargo with the use of subject cranes may engage the cranes. Hence, there is every possibility that cranes may not handle the minimum assured traffic of 2 million tonnes per annum. Incidentally, the Minimum Guaranteed Traffic (MGT) of 2 Million tonnes per annum has not been achieved during the first 3 months of their operation.

		(b). The pro-rata traffic as per MGT would have been 5 lakh tonnes, whereas the actual quantity handled is approximately 1.8 lakh tonnes during the first 3 months of their operation. In view of this, the risk factor of 10% considered in the calculation is very reasonable. (c). There is also likelihood of fall in cargo like coking coal due to shifting of cargo to neighboring ports. In the event that the total cargo handled through these cranes exceeds the minimum assured cargo for two consecutive years, VPT may withdraw the element of cost in future.
(iii).	The staff cost of Traffic Department to monitor the deployment and collection is estimated at Rs.2.52 per tonne. The Management of General Administration cost is estimated @ 31.82% in the staff cost. Apart from this, allowance is also given to cover engineering overheads at Rs.2.10 per tonne. VPT in its proposal to TAMP has stated that the offer given by the supplier is inclusive of operation and maintenance staff for 24 hours. Hence, it is clear that all the manpower is to be supplied by M/s.AGB Infralogistics only. Further, the cost towards the staff to be engaged in case of mobile cranes, apart from the staff engaged by the crane supplier will be compensated by handling increased cargo. Hence the staff cost and Engineering overheads can be taken as nil.	(a). It is true that the offer given by the supplier is inclusive of operation and maintenance of staff for the cranes supplied. However, the VPT has to exclusively deploy certain supervisory staff to monitor the deployment, recording and supervising the performance of harbour mobile cranes billing in all the three shifts to determine which jobs the cranes supplier will not undertake etc. The staff cost component for the same with full details has already been furnished. As such the costs of this additional function need to be considered. (b). For the mobility of the cranes and for smooth handling operations, VPT had to pave the operational areas/lay new roads and provide sufficient illumination additionally exclusively for this facility. The same was already intimated, duly enclosing the copies of work orders vide its office letter dated 25.2.2009. Hence, this element of engineering and workshop overhead considered in fixing the said rate is reasonable.
(iv).	Based on the above, TNEB has worked out hire charges at Rs.30.94 taking into consideration two cost elements viz. Hire charge at Rs.29.75 per tonne and 4% property tax thereof i.e. Rs.1.19 per tonne. It has thus requested that VPT may be allowed to charge Rs.30.94 per tonne as hire charges instead of the proposed rate of Rs.39.75 per tonne.	In view of the above submissions, the rate proposed at Rs.39.75 per tonne by the port is reasonable.
3.	**M/s.Rashtriya Ispat Nigam Limited (RINL)**	
(i).	RINL has furnished the following comparative position of cost as furnished by the VPT for fixing hire charges for Harbour mobile cranes vis-à-vis its calculations:	(i). (a). The rate proposed for subject crane was cost based and the full details for the same were made available to TAMP. The VPT had not included any profit element. (b). The rates proposed by Rashtriya Ispat Nigam Limited are not supported with any basis in connection with risk factor, engineering overheads and staff cost.

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<tr><th>Sl. No.</th><th>Description</th><th>Calculation by VPT (Rs. per tonne)</th><th>As per VSP (Rs. per tonne)</th></tr>
<tr><td>(i).</td><td>Hire charges for 2 million tonnes of cargo handled</td><td>29.75</td><td>29.75</td></tr>
<tr><td>(ii).</td><td>Risk factor to cover the drop in cargo handled over the assured cargo of 2 million tonnes @ 10% on (i) above</td><td>2.98</td><td>0.50</td></tr>
<tr><td>(iii).</td><td>Staff cost of TM Department to monitor the deployment and collection</td><td>2.52</td><td>0.40</td></tr>
<tr><td>(iv).</td><td>MGA cost @ 31.82% on (iii) above</td><td>0.80</td><td>0.13</td></tr>
<tr><td>(v).</td><td>Engineering overheads on general facilities for facilitating harbour mobile crane operations.</td><td>2.10</td><td>1.0</td></tr>
<tr><td></td><td>Total (C)</td><td>38.14</td><td>31.78</td></tr>
<tr><td>(vi).</td><td>Property tax @ 4% on Rs.39.75</td><td>1.59</td><td>1.27</td></tr>
<tr><td>(viii).</td><td>Cost per tonne per crane</td><td>39.73</td><td>33.05</td></tr>
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As per the above calculation, the maximum hire charges can be Rs.33.05 per ton as against Rs.39.75 per tonnes proposed by the port.
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<td>(c). Regarding risk factor, the VPT has reiterated its comments furnished in response to TNEB comments in this regard. It has further submitted that the total traffic of VPT for April and May of 2008-09 is 114.34 lakh tonnes, whereas the actual traffic handled using these cranes for same period during current year 2009-10 is only 110.86 lakh tonnes thus resulting in 3.48 lakhs tonnes drop in cargo traffic due to global recession, which also has impact on the minimum guaranteed traffic.</td>
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<td>(ii).</td>
<td>The hire charges for these cranes indicated at Rs.29.75 per tonne are quite high. If the hire charges are agreed by any agency, it would have included their profit margins. If such cranes are procured by VPT, the rates fixed by port can be agreed as we expect that port would fix a reasonable profit margin for themselves. TAMP may examine the same and fix hire charges for harbour mobile cranes suitably.</td>
<td>(ii). M/s.Vizag Sea Port Private Limited, a private operator of berths EQ8 and 9 at Visakhapatnam Port Trust equipped with 104 tonne Harbour Mobile cranes had proposed the rate at Rs.64/- per tonne for the cargo handled at these berths. Hence the rate Rs.39.75 tonne proposed by VPT is felt very much reasonable.</td>
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2. The Vizag Seaport Private Limited (VSPL) has vide letter dated 15 July 2009 objected to the rate proposed by the port. The comments received from VSPL were forwarded to VPT. No comments are received from the VPT on thereof. The main points made by VSPL are given below:

(i). TAMP recognises capital and operating costs based on the norms set out in the guidelines which allow a return of 16% on capital employed. To cover time gap from the date of submission of tariff proposal to TAMP and date of approval of tariff by TAMP, adhoc rates are fixed by major ports which are commercially unviable and without any transparency or rationality.

(ii). VPT has deployed two harbour mobile cranes in its West Quay berths and submitted proposal to TAMP for tariff fixation which are not yet approved by TAMP. Pending approval of TAMP, VPT has fixed an adhoc rate of Rs.39.75 per tonne based on the tender rate of Rs.29.75 floated for this purpose. Any port operator in the industry will accept the fact that the crane hire rate of Rs.29.75 is an unworkable rate as the 16% Return alone on a crane investment of about Rs.20.00 crores will require recovery of Rs.23 /Tonne on a committed volume of 1.5 million tonnes per annum.

(iii). Paradip Port has also deployed three HMCs and has fixed adhoc rates at Rs.48/Tonne pending approval of rates by TAMP. This may be just sufficient to justify the arbitrary fixing of adhoc rates by VPT. Rate obtained in the tender alone should not be the criteria for fixing adhoc rates.

(iv). The hiring rate for a Harbour Mobile Crane of 104 tonne capacity if calculated as per the normative costs based approach specified in TAMP guidelines, shall work out to Rs.55.50 per tonne.

(v). TAMP has fixed the Scale of Rates of VSPL which interalia contain the rates for Harbour Mobile Cranes. The adhoc rates of VPT should have been fixed taking cognizance of the same and the tariff guidelines of TAMP. Fixing an unreasonable rate disregarding TAMP guidelines and all norms of trade has been seriously affecting the business interest of VSPL.

(vi). The VSPL is yet to make a turnaround even after five years of operation and for this reason TAMP has approved enhanced Scale of Rates for VSPL recently to cover past deficits. At this condition, unhealthy competition based on unviable rates for HMC charged by VPT will make the turnaround of our business even more difficult.

3. A joint hearing in this case was held on 22 October 2009 at the VPT premises. At the joint hearing, VPT and the concerned users / organisation bodies have made the following submissions:

Visakhapatnam Port Trust

(i). Two 100T HMC are hired from a private supplier by following tender route. We will pay the supplier and in turn collect charges from the users.

(ii). We are levying adhoc rate which is adjustable as per TAMP's approval.

(iii). We find many users underutilise the crane. We, therefore, want to prescribe a minimum handling of 4000T / shift by the crane. Even if the minimum is not achieved, users should pay for this.

Visakhapatnam Stevedores Association

(i). Port seeks pass through of certain overheads and cost items which it does not incur.

(ii). Guarantee assurance was not discussed with Trade earlier.

(iii). Minimum limit should be prorated, if MHC is out of order or the work commences in the middle of a shift.

M/s. Tamil Nadu Electricity Board

(i). There is sufficient volume from Tamil Nadu Electricity Board alone. Therefore, there is no need for providing cushion of guarantee money in the cost calculation.

(ii). The crane suppliers undertake maintenance also under the contract. The port's claim of repair cost and overhead again in its costing is a double counting.

(iii). 4000T / shift is very high. If performance of 10000T per day is required, it is better to set MGT on a day basis.

Vizag Seaport Private Limited

(i). The rate fixed for us is Rs.64 / Tonne. But, now rate proposed by VPT is very low due to VPT cross-subsidising this operation.

(ii). Service is the same. Therefore, TAMP should not permit predatory pricing by VPT. TAMP should follow the normative method to fix MHC rates at all ports and terminals.

Visakhapatnam Customs Clearing Agents' Association

(i). The VPT should consider norms for handling of general cargo handling also by this crane.

4.1. The Vizag Seaport Private Limited (VSPL) vide letters dated 19 October 2009 and 28 October 2009 furnished detailed submissions. The main submissions made in both the letters are summarised below:

VSPL Letter dated 19 October 2009

(i). Tariffs fixed under both the guidelines, for similar services should be in consonance whether they are fixed under guidelines of 2004 or under guidelines of 2008.

(ii). The port has not incurred any capital cost directly for the crane. The service provider is, however, utilizing the infrastructure of the port. The expenditure incurred by the port for maintenance of the berth is not considered by the port in the pricing of the crane. Further, the service provider should pay royalty to port for use of its infrastructure and share the revenue with the port. These are not provided in the proposal.

(iii). The Visakhapatnam Container Terminal in VPT has deployed shore cranes for handling and their tariffs are fixed by the Authority as per the guidelines laid down.

(iv). Proposed rate is a predatory or penetrating price normally adopted for short term gain. This has disastrous consequences on all the PPP projects existing as well as upcoming in the port since the PPP projects have to struggle for survival after investing substantial funds.

VSPL letter dated 28 October 2009

(i). Tariff fixation by TAMP shall fulfill the objectives as set out in TAMP's guidelines for Tariff fixation of Major Ports, 2004 as well as Upfront Tariff guidelines for PPP Projects issued on 28.2.2008.

(ii). The proposed upfront tariff considers cost without any profit element which is not all acceptable as the same is blatant violation of TAMP regulations.

(iii). It is not rational under the present scenario where the same facility with same capital investment is operated by VSPL under a Tariff already fixed by TAMP.

(iv). Tariff fixation can only be on Cost Plus basis. In view of that TAMP should carefully examine the following facts:

(a). The users and the VPT have overlooked the fact that they are not only using the Harbour Mobile Cranes but are also using the Port facilities (berths) causing the berths to deteriorate and depreciate at a faster rate by movement and parking of the crane throughout the year in 3 shifts.

(b). Port has not fixed any Royalty for this facility.

(c). The impact of this pricing on general Tariff structure of VPT (Scale of Rates) which is now under consideration of TAMP has to be seen as there is Revenue deficit in the Scale of Rates proposal of VPT.

(d). Tariff fixed shall be consistent with the Tariff already fixed for the same facility with similar investment in other berths of the same Port like VSPL.

(e). If the proposed rate of Rs.39.75 of VPT is approved, VSPL shall be forced to reduce its rate fixed by TAMP for this same service to insulate from the unhealthy competition generated by the wide inconsistency of rates between VSPL rate and the VPT rate. As a result, the objective of rate fixed by TAMP for VSPL to cover its revenue deficit will get defeated.

4.2. The VPT has vide letter dated 6 January 2010 has furnished its comments on the submissions of the VSPL, which are summarised below:

(i). Keeping in view the requirement of port users, it had hired two 100 Ton Harbour Mobile Cranes for a period of 5 years from a supplier at the rates mentioned in the proposal. These rates are inclusive of operational and maintenance staff of the cranes for 24 hours.

(ii). The question of fair returns arise when there is an investment. VPT had not incurred any capital cost as the said cranes were hired from a private part and hence depreciation and ROCE were not considered while fixing the hire charges for the users. Hence recovery of hire charges payable to the supplier of the cranes and other incremental costs are only considered in this case.

(iii). Referring to its cost statement, the port has submitted that it has considered all relevant costs like risk factor, Management and General Administration cost and Engineering overheads (resurfacing of concrete portions of berths) and also the property tax component, while proposing the hire rate for the users @ Rs.39.75 ps. per tonne for a period of 2 years. It has also mentioned that the said rate is arrived at considering that the cranes will be deployed predominantly for overseas cargo and Thermal Coal and Iron ore Cargo to which 60% of coastal concessions will not apply and no other coastal cargoes will be handled. Also, as per actual cargo profile for 2008-09, 97% of Dry Bulk and Break Bulk cargoes of VPT constitute overseas cargoes only. In the event, the crane is required to be deployed for handling coastal cargoes, the basic cost of hire charges payable to supplier i.e., Rs.29.75 ps. per tonne will be charged and no further concession could be extended, since it is not appropriate to charge lower rate than it's variable cost per tonne.

(iv). With regard to fair price mechanism, it has submitted that the cranes mentioned by VSPL are their own cranes whereas the VPT has hired the cranes. Further, the life of the berths of VSPL is very less compared to berths of the VPT. Hence there is no similarity for comparing the price. Even TAMP also clearly stated that tariff for similar services / cargo may differ even in the same port based on the infrastructure facilities provided.

(v). Keeping in view of the above facts, it has once again requested to approve the hire rate of HMC @ Rs.39.75 ps. per tonne for overseas cargo and Rs.29.75 ps. per tonne for coastal cargo at the earliest.

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