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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 46

New Delhi, 6 April 2005

NOTIFICATION

In exercise of the powers conferred by Section 48 and 49 approved of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal received from the Kandla Port Trust (KPT) for revision of Scale of Rates (SOR) for Tuna Port as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/64/2004 - KPT

Kandla Port Trust (KPT)

- - - -

Applicant

ORDER

(Passed on this 15th day March 2005)

This case relates to a proposal received from the Kandla Port Trust (KPT) for revision of Scale of Rates (SOR) of Tuna Port.

2.1. The Scale of Rates of Kandla Port Trust was last revised in April 2002 and it did not include revision of rates for Tuna Port.

2.2. When KPT sent a proposal in its letter dated 13 December 2004 ranging from amendment of some conditionalities in the SOR to revision of rates at Tuna port, the KPT was advised to file a separate proposal for comprehensive review/ revision recognising that the existing SOR of the KPT is already due for review.

3.1. In this backdrop, the KPT has filed a separate proposal for upward revision of the rates for Tuna Port. It has requested this Authority to consider its proposal for revision of rates for Tuna port without linking it to the general revision of KPT's Scale of Rates, as it would take some time for the port to finalise the proposal for comprehensive review / revision.

3.2. The KPT has made the following main points in its proposal:

- (i). The Tuna Port is a part and parcel of the Kandla Port and the rates for Tuna Port are historically separate from Kandla Port.
- (ii). The rates prescribed for Tuna Port are always lower in comparison to the rates prescribed for Kandla Port due to lower investment and less utilisation of the available land/ facilities at Tuna Port.
- (iii). The rates of Tuna were last revised in the year 1994. Since the traffic at Tuna is very meager (1200 MT) compared to the traffic handled at Kandla port, it was not considered fit to revise the rates of Tuna port at the time of last general revision.
- (iv). There is considerable increase in the operating cost of Tuna Port in last ten years in wages, repairs and maintenance, etc., and hence a need is felt to revise the rates of Tuna Port.

3.3. The KPT has proposed an increase of 50% in the rates fixed in 1994. It has stated that the financial implication on account of the proposed increase is not substantial. In fact, the additional revenue to accrue if the proposal is approved in toto will be around Rs.2 lakhs per annum.

3.4. The KPT has sought approval of its proposal with retrospective effect from 2 May 2002. The proposal has been approved by the Board of Trustees of the KPT in its meeting held on 7 August 2004.

4. The KPT subsequently on our request has furnished the cost statements for the year 2003-04. The cost statement shows a deficit of 479%.

5.1. In accordance with the consultative procedure prescribed, the proposal received from the KPT was forwarded to the concerned user organisations seeking their comments.

5.2. The comments received from the concerned user organisations were forwarded to KPT as feed back information. We have not received any response from the KPT so far in this regard.

6.1. Based on a preliminary scrutiny of the proposal, the KPT was requested to furnish additional information/ clarifications on the various points. The KPT has responded to our queries and has also furnished revised cost statement for Tuna Port, incorporating Revised Estimates for 2004-05, Budget Estimates for 2005-06 and Projections for 2006-07. The cost statement reflects an average deficit of around 588% for the years 2004-05, 2005-06 and 2006-07.

6.2. A summary of the queries raised by us and the replies furnished by the KPT is tabulated below:

Sl.No.	Queries raised	Replies furnished by Kandla Port
(i)	To indicate the basis of estimating the operating income, operating costs, interest cost and depreciation.	Operating income, operating cost and depreciation is considered as per actuals, and interest cost is calculated on capital employed. A separate Budget Centre is maintained for Tuna Port.
(ii).	To indicate the traffic projections and the designed capacity of Tuna Port.	Traffic forecast is 1050 MT, 1788 MT and 1788 MT for the years 2004-05, 2005-06 and 2006-07 respectively. As no infrastructure like berths, wharf, etc., are available at Tuna Port, the designed capacity of Tuna port cannot be furnished.
(iii).	To furnish details of capital employed.	The details of Capital employed at Tuna port are furnished. It has also been confirmed that the assets which are decommissioned/ obsolete are not included in the capital employed.
(iv).	To rationalise the unit of charges prescribed for berth hire and beaching charges.	Only country craft are being berthed at Tuna having registered tonnage. Hence the unit of charges for the purpose of Beaching charges and the Berth Hire charges may be read as GRT.
(v).	The General note (1) to the SOR states that whenever no specific rates are quoted, the rates prescribed for corresponding items at Kandla will apply, whereas the list specifically has a rate for "Others". This inconsistency in the Wharfage Schedule may be reviewed.	The General Note (1) is to be deleted.
(vi).	With reference to proposed provision about applying the terms and conditions prescribed in the SOR of the KPT for Tuna Port it was requested to confirm that the services provided at Kandla and Tuna Ports are comparable.	The services provided at Kandla and at Tuna are not comparable.
(vii).	The rate and unit of charges proposed for other cargo not specified in the schedule are not clear and hence may be modified, if necessary.	The unit charge under item 25 is "M.T. or part thereof". Through oversight it has been shown as advalorem.

6.3. The replies furnished by KPT were examined and it was observed that there is certain gap in the information furnished. Accordingly, KPT was requested to furnish additional

information on certain points like designed capacity, to prescribe specific terms and conditions applicable to Tuna port, to modify the levy of berth hire on “per hour basis” etc.

7.1. A joint hearing in this case was held on 22 February 2005 at the KPT premises. None of the users consulted in this case attended the joint hearing. As decided at the joint hearing, the KPT was requested to moderate the proposed increase in wharfage rates to the level of the prevailing rates of Kandla, wherever the proposed rates are found to be more than the existing rate at Kandla and to incorporate a specific provision to allow concessions to coastal cargo / vessels as per the recent policy announcement of the Government.

7.2. The KPT in response has forwarded revised draft Scale of Rates. Some of the main modifications made by the KPT in the revised Scale of Rates are as follows:

- (i). Wharfage charges have been moderated to the level of prevailing rates of Kandla wherever, earlier proposed wharfage rates were higher than the existing rates of Kandla.
- (ii). Concessions to coastal cargo/coastal vessel have been incorporated in the revised Scale of Rates in accordance with the recent policy direction of the Government.
- (iii). The unit of levy of berth hire charges has been reduced to per hour basis as against eight hours basis as proposed earlier.
- (iv). Port dues has also been proposed to be revised 50% above the existing rates at Tuna Port.
- (v). Definition of the terms like coasting vessel, sea going vessel and some of the terms and conditions applicable for Tuna Port is proposed to be included in the Scale of Rates.

8. 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 are also available at our website www.tariffauthority.org.

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

- (i). The last revision of Scale of Rates of Tuna Port was made in the year 1994. The proposal of the KPT is for upward revision of rates for Tuna Port by 50% after a gap of 10 years.
- (ii). None of the users have raised any pointed objections on the proposal except the Kandla Port Stevedores Association (KPSA). The KPSA has argued that since rates for Tuna port are always lower in comparison to the tariff of Kandla Port, there should not be any upward revision in the tariff of Tuna Port. The tariff of Tuna port was not revised at the time of last general revision of rates of the KPT. The existing rates were fixed nearly a decade ago and they need to be reviewed to adjust for increase in operating cost since the volumes do not have undergone any significant change. If such adjustments are not made, the Tuna operation may have to be cross subsidised at a larger level, which is not desirable given the fact that Kandla and Tuna cater to different set of clientele.
- (iii). The main reason for proposing upward revision in the rates is considerable increase in the operating cost of Tuna Port in the last 10 years. The cost statement for Tuna Port furnished by KPT brings out this position clearly. It is noteworthy that the port has certified that the operating income, operating costs are as per the figures captured in separate budget center maintained for Tuna Port.

The cost statement for Tuna Port furnished by the KPT reflect average revenue deficit of 474% for the years 2005-06 and 2006-07. The operating cost is estimated at Rs.19.39 lakhs and Rs.13.68 lakhs as against the income estimation of Rs.4.95 lakhs for each of these years. It is thus evident that even the operating cost is not recovered fully at the existing level of tariff.

Additional income on account of the proposed upward revision estimated by the KPT is Rs.2 lakhs p.a. only which will still not be sufficient to cover the entire operating cost. In view of the huge operating deficit position, there is a case for accepting the upward revision of rates proposed by KPT.

- (iv). The KPT had proposed to increase the existing berth hire charge by 50% in its initial proposal. In the revised proposed SOR, the KPT on our suggestion has modified the unit of levy from 8 hourly basis to per hour basis. This in line with the general prescription made by this Authority. While carrying out this modification in the unit of levy, berth hire charge is proposed to be increased by 75% for foreign-going vessel as against 50% upward revision proposed earlier. The KPT has not explained any reasons for this variation. Since, the revision proposed for all the other items of tariff is 50% from the existing level, the increase in the berth hire is also allowed at the same level from the existing tariff. The proposed berth hire rates are modified accordingly.
- (v). The Government of India in the Ministry of Shipping has recently issued a policy direction on 1 January 2005 directing this Authority that the vessels related charges for coastal vessels should not exceed 60% of the charges for foreign-going vessels. It has also decided that cargo / containers related charges other than thermal coal, POL including crude oil should also not exceed 60% of normal cargo/ container related charges for coastal container / cargo. The policy direction issued by the Government specifically states that the tariff for coastal vessel need not be adjusted for exchange rate fluctuation at the time of each general revision of Scale of Rates.

The KPT in the revised Scale of Rates has proposed concessional tariff for coastal vessels in respect of port dues and beaching charge in line with the Govt. directions and hence the same is accepted. Berth hire for coastal vessel is, however, arrived at by updating the foreign-going rate with reference to the current exchange rate while allowing the concession at the stated level. Since the Govt. direction specifically states not to adjust the coastal vessel tariff for the exchange rate variation, berth hire for coastal vessel is prescribed at 50% above the existing berth hire for such vessels.

- (vi). Port dues is proposed to be increased by 50% in its revised Scale of Rates in line with the revision proposed for other tariff items. Port dues for coastal vessels of 10 GRT and above is proposed to be increased by 115%. In line with the general decision of allowing 50% increase over the existing rates, the increase proposed in port dues on coastal vessels is moderated.
- (vii). The KPT has proposed to levy port dues at the higher applicable rate in case a vessel changes its status from coastal vessel to foreign going vessel in course of its voyage. This proposed provision is not found to be in line with levy of port dues at the other major ports. The port due is a fee for entry of the vessel into the port and hence, must levied based on the status of the vessel at the time of entry into the port. The proposed provision is modified accordingly.
- (viii). The unit of levy for beaching charge is on NRT basis as per the existing arrangement. Subsequently, the port has proposed to modify the unit of levy from NRT to GRT basis. It has, however, not made any corresponding adjustment in the rates. If the unit of levy is changed, it is appropriate to make adjustments in the rates also. Since the KPT has not made the necessary

adjustment in the rate, the existing unit of levy on NRT basis is allowed to continue. The proposed upward revision of 50% in the existing beaching charges is, however, approved for the reasons explained in preceding paragraphs.

- (ix). The wharfage rates proposed for most of the items were found to be lower than the rates prevailing in Kandla Port except for a few commodities. Since KPT itself has conceded that historically the rates for Tuna Port are lower than the rates levied at Kandla, there is no justification in prescribing the rates for some of the cargo higher in comparison to the rates prevailing at Kandla. On our advice, the KPT has moderated the wharfage rates of such commodities wherever the rates proposed are higher than those prescribed in the KPT's SOR to the level of prevailing rates in Kandla Port. Separate tariff for coastal cargo has also been prescribed at 60% the tariff of other normal cargo in compliance with recent direction from the Government in this regard.

The KPT is advised to rationalise the wharfage schedule with reference to the cargo actually handled at Tuna port at the time of formulating its next proposal for review of rates.

It has proposed to charge Rs.15/- per M.T. for supply of port labour, in case of break bulk cargo in addition to the proposed wharfage rate at Tuna Port. This provision is in line with the provision prescribed in the existing Scale of Rates of the KPT and hence, is accepted.

- (x). The KPT has proposed to round off the grand total of each bill to the nearest of Rs.10/-. The existing Scale of Rates of KPT and also some of the other major ports provide for rounding off the grand total of each bill to the next higher rupee. The proposed provision is, therefore, modified in line with the prescription prevailing in the existing Scale of Rates of the KPT.
- (xi). The KPT has defined the term coasting vessel with reference to levy of port dues. The term used at all the other major ports is coastal vessel and not coasting vessel. Definition of the term proposed by the KPT is not found to be in line with the definition prescribed uniformly at the other major ports. The SOR of KPT already contains definitions of the terms coastal vessels, foreign going vessels, etc., and the same will be applicable for Tuna Port also. It is, therefore, not found necessary to define these terms either separately or differently for Tuna Port.
- (xii). The services for which the rates are not included in the SOR of the Tuna port and all the other terms and conditions are proposed to be levied as per the provisions prescribed in the SOR of the Kandla port. Since the services provided at Tuna port are not comparable to the services offered at the Kandla Port, it is not found appropriate to apply all the terms and conditions of Kandla Port for Tuna Port. The proposed provision is, therefore, amended to state that other terms and conditions prescribed in the KPT shall apply provided the services offered/facilities provided at Tuna Port are at par with those at the Kandla Port.
- (xiii). The KPT has sought retrospective revision of rates with effect from 2 May 2002. This Authority does not approve retrospective revision of rates unless extraordinary circumstances emerge warranting any exceptional treatment. The KPT has come up with a proposal for revision of rates after a gap of 10 years. Even at the time of last general revision of SOR of the KPT in the year 2002, it had not proposed revision of rates for Tuna Port. That the port did not come up with a proposal in time cannot be a valid reason for allowing retrospective revision. That being so, the revised rates approved for Tuna port will have prospective effect.

- (xiv). It is not found necessary to maintain a separate Scale of Rates for Tuna Port. The schedule of charges leviable at Tuna port is included as a separate chapter in the Scale of Rates of KPT itself. This will also enable this Authority to review the tariff for Tuna port along with comprehensive review of rates for Kandla port.
- (xv). Since general review of the Scale of Rates of the KPT is already overdue, the port is advised to file its comprehensive proposal for review/revision of rates by June 2005.

The validity of the rates approved for Tuna port will remain for a period of two years in line the tariff validity cycle prescribed by this Authority in other cases. The next review of rates for Tuna Port will be considered along with next review/ revision of Scale of Rates of the Kandla port to assess the financial position of the port as a whole.

- (xvi). The rates approved by this Authority will be at ceiling level and the rebate/discount will be at floor level in line with the stated policy of this Authority. The KPT will have flexibility to charge at lower rate, if it so desires based on the commercial judgement of the Port.

10.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the rates for Tuna Port as attached as **Annex-I** which are inserted as Chapter V in the existing Scale of Rates of the KPT.

10.2. The revised rates and conditionalities relating to the vessels related charges will come into affect after expiry of 30 days from the date of notification of this Order in the Gazette of India.

10.3. The Scale of Rates and conditionalities relating to cargo related charges and other miscellaneous charges will become effective after expiry of 15 days from the date of notification of this Order in the Gazette of India.

(A.L. Bongirwar)
Chairman

ANNEX - I

To be inserted in the existing Scale of Rates of the Kandla Port Trust

CHAPTER - V

RATES FOR TUNA PORT**SCHEDULE I – PORT DUES**

Sr. No.	Particulars	Rate per GRT or part thereof		Frequency of levy
		Foreign going vessel (in US\$)	Coastal Vessel (in Rs.)	
1.	Vessels of 10 GRT & upwards (except fishing boats)	0.075	1.05	} Payable on each entry
2	Sailing vessels of 10 GRT & upwards (except fishing boats)	0.045	0.90	

Notes:

- (i) Port Dues will be charged based on the status of the vessel at the time of its entry into the port limits.

SCHEDULE II – BERTH HIRE CHARGES

Sr. No.	Particulars	Rate per GRT per hour or part thereof	
		Foreign going vessel (in US \$)	Coastal Vessel (in Rs.)
1.	Vessel upto 10 GRT	Free	Free
2.	Vessels above 10 GRT	0.0019	0.03

SCHEDULE III – BEACHING CHARGES

Sr. No.	Particulars	Rate per NRT per month or part thereof	
		Foreign going vessel (in US \$)	Coastal Vessel (in Rs.)
1.	Beaching charges	0.015	0.30

SCHEDULE IV - WHARFAGE CHARGES

Sr. No.	Particulars of commodity	Unit	Other than Coastal Cargo (in Rs.)	Coastal Cargo (in Rs.)
A	LIQUID CARGO			
1	POL products in bulk other than crude oil	M.T. or part thereof	15.00	9.00
2	Other liquid cargo including bunkers	M.T. or part thereof	15.00	9.00
B	DRY CARGO			
3	Fertilizer and raw material including sulphur	M.T. or part thereof	15.00	9.00
4	Food grains, cereals, pulses & oil seeds	M.T. or part thereof	7.50	4.50
5	Cement & clinker	M.T. or part thereof	12.00	7.20
6	Ores & minerals in all forms	M.T. or part thereof	11.25	6.75
7	Granites and marbles	M.T. or part thereof	15.00	9.00
8	Metals (Ferrous/ nonferrous & metals scrap including pipes, plates, pig iron, coil sheets and cokes)	M.T. or part thereof	15.00	9.00
9	Animals including chicken, sheep and goats	each	5.00	3.00
10	Animals (other than above)	each	12.00	7.20
11	Animal product, bone meal, hides and stems	M.T. or part thereof	7.50	4.50
12	Oil cakes fodder	M.T. or part thereof	7.50	4.50
13	Waste paper and newsprint	M.T. or part thereof	13.50	8.10
14	Construction material and sand	M.T. or part thereof	11.25	6.75
15	Coal and Coke (including firewood)	M.T. or part thereof	12.00	7.20
16	Wood timber and bamboo	M.T. or part thereof	10.50	6.30
17	Jute and Jute products and coir products	M.T. or part thereof	10.50	6.30
18	Cotton including cotton waste	M.T. or part thereof	9.00	5.40
19	Salt	M.T. or part thereof	2.50	1.50
20	Sugar	M.T. or part thereof	7.50	4.50
21	Asbestos	M.T. or part thereof	9.00	5.40
22	Synthetic resin and wood pulp	M.T. or part thereof	15.00	9.00
23	Arms, ammunition, explosive and defence stores	M.T. or part thereof	18.00	10.80
24	Dry chemicals including soda ash, HDPE etc.	M.T. or part thereof	10.50	6.30

	25	Other unspecified goods	M.T. or part thereof	15.00	9.00
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Notes

- (i) Break bulk cargo shall be charged Rs. 15/- per MT for supply of port labour in addition to the above rates.
- (ii) Wharfage charges shall be levied on the goods actually exported.
- (iii) Before classifying any cargo under 'unspecified category' in the wharfage /on-board and wharfage schedule, the relevant Customs classification shall be referred to find out whether the cargo can be classified under any of the specific categories mentioned in those schedules.

SCHEDULE V - RENTAL FEES

Sr. No.	Particulars	Rate per 10 sq. mtr. or part thereof per month or part thereof (in Rs.)
1.	For open space	7.50
2.	For covered space	48.00
3.	Storage of timber on bard	Rate per 10 sq. mtr. or part thereof per day or part thereof (in Rs.)
		1.50

SCHEDULE VI - TROLLEY HIRE CHARGES

Sr. No.	Particulars of commodity	Rate per day or part thereof (in Rs.)
1.	Trolley hire charges	15.00

General Notes

- (i) Whenever no specific rate is available, the rate prescribed for the corresponding items at Kandla will apply provided the relevant services offered/facilities provided at Tuna Port are at par with those at Kandla Port.
- (ii) The terms and conditions of rendering the services at Tuna will be same as prescribed for corresponding services at Kandla provided for comparable services offered/facilities provided.
- (iii) The aggregate amount of bill shall be rounded off to the next higher rupee.

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

F. No. TAMP/64/2004 - - **PROPOSAL FROM THE KANDLA PORT
TRUST FOR REVISION OF SCALE OF
RATES FOR TUNA PORT.**

**1. THE COMMENTS RECEIVED FROM THE PORT USERS /
REPRESENTATIVE BODIES OF PORT USERS ARE SUMMARISED BELOW:**

The Kandla Port Stevedores' Association (KPSA)

- (i) As confirmed by KPT itself, the rates prescribed for Tuna Port are always lower compared to the tariff of Kandla Port due to lower port investment and less utilisation of the available land/ facilities at Tuna. Hence, no upward revision is necessary at present.
- (ii) The revision proposed is only to reduce traffic at Tuna Port or to give an example to other ports for their comparison to prove that they are cheaper than Tuna, where no facilities are available. In this context, it has cited the wharfage rate for one of the dry cargo i.e. salt prescribed at Rs.2.50 per tonne in Kandla Port as against the existing wharfage rate of Rs.4.00 per tonne in Tuna Port. The action of KPT is only to attract the traffic of near by ports.
- (iii) The port may in the interest of traffic and development of Tuna Port consider reduction in the rates.

The Indian Farmers Fertiliser Cooperative Ltd. (IFFCO)

- (i) As Tuna Port does not have any infrastructure for handling fertiliser or its raw material, it does not presently handle any cargo at Tuna Port. It has, therefore, no comments to offer on the upward revision proposed in the rates of Tuna Port.

2. A joint hearing in this case was held on 22 February 2005 at the KPT premises. None of the users consulted in this case attended the joint hearing.
