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TARIFF AUTHORITY FOR MAJOR PORTS

GNo.187

New Delhi

07 November, 2008

NOTIFICATION

In exercise of the powers conferred under Sections 48, 49 and 50 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposals received from Mumbai Port Trust for (i) revising the wharfage charges for coal handled at bunders, (ii) for providing a wharfage rate for the cargo handled overside and (iii) for recovery of the embarkation and disembarkation charges with retrospective effect as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/51/2007-MBPT

Mumbai Port Trust

...

Applicant

ORDER

(Passed on this 30th day of September, 2008)

This case relates to the proposals received from Mumbai Port Trust (MBPT) for (i) revising the wharfage charges for coal handled at bunders, (ii) for providing a wharfage rate for the cargo handled overside and (iii) for recovery of the embarkation and disembarkation charges with retrospective effect.

2. The background and salient points of the proposal are explained hereinunder:

A. WHARFAGE CHARGES FOR COAL HANDLED AT BUNDER:

While disposing of the comprehensive general rate revision of MBPT vide Order dated 28 September 2006, this Authority had, inter alia, approved a rate of Rs.25 per tonne for the commodity coal handled at bunders as against the rate of Rs.35 per tonne proposed by MBPT as the proposed rate was not substantiated with cost details. Stating that it has made considerable investment and handling of coal needs additional care and the cost of handling it is almost on par with hazardous cargo, MBPT in its letter dated 31 August 2007 has proposed to increase the existing wharfage rate to Rs.35 per tonne. MBPT has also stated that the wharfage rate for coal at the Ports of Gujarat Maritime Board and Maharashtra Maritime Board are Rs.40 per ton and Rs.45 per ton respectively. The MBPT has also furnished a cost statement showing the cost of handling of coal at Rs.36.38 per tonne.

B. WHARFAGE FOR CARGO HANDLED OVERSIDE:

In the letter dated 31 August 2007 MBPT has stated that no wharfage is being levied on the cargo handled overside. According to the port, overside discharge was charged at 50% of wharfage prior to 1991 which was discontinued from 1 July 1991 as no labour was supplied by MBPT. The port has further stated that since its taking over the stevedoring activities w.e.f. December 2002, labour gang is deployed for overside discharge. According to MBPT, in recent times, project cargo has increased and it is necessary to reintroduce the overside discharge charges. It has proposed 50% of wharfage as overside discharge charges stating that in the SORs of some of the Major Ports, rates for this service have been prescribed at 50% to 75% of wharfage

C. RETROSPECTIVE EFFECT TO THE EMBARKATION AND DISEMBARKATION CHARGES.

In the letter dated 31 August 2007 MBPT has requested this Authority to regularise the recovery of the embarkation/disembarkation charges from 2 October 2005 to 30 November 2006 for which no approval exists. The embarkation/disembarkation charges were introduced by the Mumbai Port w.e.f. 2 October 2005 on an ad-hoc basis. In November 2005, the port had sought approval of this Authority for an ad-hoc levy of Rs.150 each towards embarkation/disembarkation charges per passenger with effect from 28 November 2005. MBPT was requested to furnish the basis of arriving at the ad hoc rate and proof in support of the consent of the users for the proposed rates. Port replied that the regular cruise service commenced from 2 October 2005 and the levy of embarkation and disembarkation charges on ad-hoc basis continued from that date. According to MBPT, since users of the service are the passengers embarking and disembarking from the cruise ships and not the cruise liner or the agents, obtaining consent from individual user is not feasible. While according approval to the general rate revision of the Mumbai Port Trust vide Order dated 28 September 2006, this

Authority considered that there exists a case to levy the charges and approved a levy of Rs.150 per passenger per embarkation/disembarkation. The port has now stated that the facilities created at the cruise terminal are at the behest of cruise lines and these lines have benefited from the cruise terminal facilities. As during 28.11.2005 to 30 November 2006 the cruise lines have recovered the embarkation/disembarkation charges from the passengers and remitted the amount to MBPT for which no approval existed, the port has requested to regularise the recovery.

3. The proposal was registered as a tariff case and in accordance with the consultative procedure prescribed, a copy of the proposal was forwarded to the concerned user organisations for their comments. The comments, as and when, received from the user organisations were forwarded to MBPT as feedback information. The MBPT has responded to the comments furnished by the users on its proposal.

4. Based on the preliminary scrutiny of the proposal, MBPT was requested to furnish additional information / clarifications vide our letter dated 21 November 2007. MBPT furnished its reply under letter dated 2 August 2008. The clarifications sought and the replies received from MBPT are as under:

SI.No.	Queries raised by TAMP	Reply furnished by MBPT																																																																																				
(A)	Wharfage charges for coal at Bunders																																																																																					
(i).	The proposal to levy Rs. 35 per ton for handling coal at the Bunders is based on its statement that heavy investment has been made in the form of better housekeeping, frequent asphaltting and concretization of roads, strengthening of the jetty, erection of tall boundary walls, additional expenditure on fire and safety issues and investment in preventive measures including fire monitoring equipments, vacuum cleaning systems etc. Kindly furnish the investments made individually on these items. MBPT is also requested to clarify whether these investments have been made at the Bunder exclusively for handling of coal or the benefit of the investments would be available for handling of other cargoes as well. If other cargoes also avail the benefits of the investments made, it will only be proper to consider in the cost statement the pro-rata investment made for handling of coal.	<p>Statement showing details of investments made for handling coal at bunder is as under:</p> <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Description</th> <th>Expenditure incurred (Rs.)</th> <th>20% of total expenditure (Rs) Of I.No.7 to 19</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Construction of compound wall at Haji Bunder, Hazardous</td> <td>12,87,000</td> <td>12,87,000</td> </tr> <tr> <td>2</td> <td>Providing and laying asphaltic materials at approach road Haji Bunder, Hazardous</td> <td>6,00,000</td> <td>6,00,000</td> </tr> <tr> <td>3</td> <td>De-silting of storm water drains at Haji Bunder Hazardous</td> <td>2,00,000</td> <td>2,00,000</td> </tr> <tr> <td>4</td> <td>Approach road to S plot</td> <td>2,00,000</td> <td>2,00,000</td> </tr> <tr> <td>5</td> <td>Repairs to damaged coping stones and wharf at Coal Jetty</td> <td>2,78,000</td> <td>2,78,000</td> </tr> <tr> <td>6</td> <td>Repairs to damaged coping stones and wharf at Haji Bunder</td> <td>2,49,000</td> <td>2,49,000</td> </tr> <tr> <td>7</td> <td>Concretisation of MSR Road</td> <td>6,20,00,000</td> <td>1,24,00,000</td> </tr> <tr> <td>8</td> <td>Repairs to MSR road under annual contract</td> <td>15,00,000</td> <td>3,00,000</td> </tr> <tr> <td>9</td> <td>Providing and laying with asphaltic material at single avenue hill road</td> <td>19,00,000</td> <td>3,80,000</td> </tr> <tr> <td>10</td> <td>Repairs to Gadi Adda junction</td> <td>10,00,000</td> <td>2,00,000</td> </tr> <tr> <td>11</td> <td>Repairs to Sewree Bunder Road</td> <td>7,00,000</td> <td>1,40,000</td> </tr> <tr> <td>12</td> <td>Repairs to Sewree Fort Road</td> <td>30,00,000</td> <td>6,00,000</td> </tr> <tr> <td>13</td> <td>Repairs to oil depot road</td> <td>15,00,000</td> <td>3,00,000</td> </tr> <tr> <td>14</td> <td>Levelling of plots by providing good quality debris</td> <td>5,00,000</td> <td>1,00,000</td> </tr> <tr> <td>15</td> <td>Repairs to roads between veg oil junction and barrier gate No.1 Wadala Mahul Road</td> <td>10,00,000</td> <td>2,00,000</td> </tr> <tr> <td>16</td> <td>Repairs to roads between barrier gate No.1 and barrier gate No.2 at Mahul</td> <td>90,00,000</td> <td>18,00,000</td> </tr> <tr> <td>17</td> <td>Concretisation of Messent Road</td> <td>6,60,54,207</td> <td>1,32,10,841</td> </tr> <tr> <td>18</td> <td>Repairs to compound wall at TPS plot</td> <td>1,00,000</td> <td>20,000</td> </tr> <tr> <td>19</td> <td>Concretisation of jetty</td> <td>1,00,000</td> <td>20,000</td> </tr> <tr> <td></td> <td>TOTAL</td> <td>15,11,68,207</td> <td>3,24,84,841</td> </tr> </tbody> </table> <p>The expenditure indicated against SI.No.7 to Sr. No.19 is incurred on common user infrastructures. Hence only 20% of the total expenditure incurred towards common user infrastructures is considered.</p>	Sl. 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	at the Bunder and the quantum of coal included therein since the handling of coal commenced may please be furnished.	<table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th colspan="5">(in tonnes)</th> </tr> <tr> <th>COMMODITIES</th> <th>2004-05</th> <th>2005-06</th> <th>2006-07</th> <th>2007-08</th> </tr> </thead> <tbody> <tr> <td>Hazardous cargo</td> <td>35500</td> <td>9300</td> <td>5235</td> <td>2658</td> </tr> <tr> <td>Other bulk/general cargo</td> <td>57270</td> <td>32290</td> <td>5841</td> <td>1694</td> </tr> <tr> <td>Coal</td> <td>83000</td> <td>1843215</td> <td>2786628</td> <td>2950895</td> </tr> <tr> <td>Total Metric Tonnes</td> <td>175770</td> <td>1884805</td> <td>2797704</td> <td>2955247</td> </tr> </tbody> </table>	(in tonnes)					COMMODITIES	2004-05	2005-06	2006-07	2007-08	Hazardous cargo	35500	9300	5235	2658	Other bulk/general cargo	57270	32290	5841	1694	Coal	83000	1843215	2786628	2950895	Total Metric Tonnes	175770	1884805	2797704	2955247
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(iii).	As per the cost statement for 2006-07 received along with the proposal, the total cost amounted to Rs.10.13 crores consisting of the operating cost, general facilities, depreciation, finance and miscellaneous expenditure, allocated management general overheads and return on capital employed calculated at 15%. Kindly furnish the basis on which these expenses have been arrived at. Also please state whether the port has captured the expenditure exclusively pertaining to handling of coal. In case the expenditure shown in the cost statement is 'derived' and not exclusively captured, the basis of apportionment of this expenditure may please be furnished.	The actual expenditure incurred on handling of coal at Haji Bunder is taken as operating cost. It is included in the service "General Cargo handled at Bunders". Overheads are apportioned on the basis of direct cost and depreciation is on assets at Haji Bunder. A cost statement showing the break-up is submitted.																														
(iv).	In the cost statement referred to above, the capital employed has not been shown. Since return on capital employed at 15% has been shown as Rs.11, 47,622/-, it is presumed that the capital employed is Rs.76,50,813/-. Kindly confirm.	Confirmed																														
(v).	As per the cost statement, the depreciation for 2006-07 amounts to Rs.3,20,631. The details of asset-wise depreciation arrived at may please be furnished.	Details of asset-wise depreciation are furnished.																														
(vi).	The additional revenue generation for the next three years on account of the proposed rate may be furnished.	<p>The additional revenue generation for the next three years on account of the proposed rate is as under :</p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th>Year</th> <th>Traffic – Coal (Million Ton)</th> <th>Additional revenue (Rs. in lakhs)</th> </tr> </thead> <tbody> <tr> <td>2008-09</td> <td>2.25</td> <td>225</td> </tr> <tr> <td>2009-10</td> <td>2.50</td> <td>250</td> </tr> <tr> <td>2010-11</td> <td>4.00</td> <td>400</td> </tr> </tbody> </table>	Year	Traffic – Coal (Million Ton)	Additional revenue (Rs. in lakhs)	2008-09	2.25	225	2009-10	2.50	250	2010-11	4.00	400																		
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(B) Wharfage for cargo handled overside																																
(i).	MBPT has stated that presently no wharfage is levied on overside discharge of cargo as no rates are prescribed in the SOR. The same para concludes with the statement that the cargo discharged overside is charged on an advalorem basis and it is presently not feasible to give cost details. These statements appear to be contradictory. Kindly clarify.	Presently no wharfage is levied in respect of cargo discharged over-side and directly cleared by waterways. Similarly no Wharfage is charged in respect of cargo directly loaded from overside on to the ship. Any cargo cleared from the Port either by road or rail is subjected to the wharfage as per SOR. The present proposal envisages levy of wharfage on cargo cleared by sea where nothing is recovered at present. Generally the cargo discharged overside is project cargo for which no separate rate is available in SOR. Thus, the wharfage leviable on the same would be advalorem.																														
(ii).	The quantum of project cargo handled in	The quantum of machinery/project cargo handled in																														

	<p>Mumbai Port Trust during the last 3 years and the quantum of overside discharge thereof may please be furnished. Revenue earned from this operation may also be furnished.</p>	<p>Mumbai Port Trust and revenue earned from this operation during the last 3 years is as follows :</p> <table border="1" data-bbox="873 283 1528 457"> <thead> <tr> <th>Year</th> <th>Machinery/Project cargo handled (MT)</th> <th>Revenue earned (Rs. In lakhs)</th> </tr> </thead> <tbody> <tr> <td>2004-05</td> <td>171494.30</td> <td>231.64</td> </tr> <tr> <td>2005-06</td> <td>244791.62</td> <td>340.14</td> </tr> <tr> <td>2006-07</td> <td>329781.00</td> <td>476.91</td> </tr> <tr> <td>Total</td> <td>746066.92</td> <td>1048.69</td> </tr> </tbody> </table> <p>However exclusive record in respect of cargo discharged/loaded to and from overside without getting cleared from the wharf is not readily available.</p>	Year	Machinery/Project cargo handled (MT)	Revenue earned (Rs. In lakhs)	2004-05	171494.30	231.64	2005-06	244791.62	340.14	2006-07	329781.00	476.91	Total	746066.92	1048.69
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(iii).	<p>(a). Kindly state whether any additional supervisory staff and labour gang are deployed on board the vessel for handling overside discharge. If the answer is yes, kindly elucidate the necessity therefor.</p> <p>(b). It may be confirmed that the on-board stevedoring charges recovered do not factor such deployment. If that be so, it may be explained why on-board stevedoring rate should not be reviewed instead of prescription of wharfage.</p>	<p>(a). Supervisory staff and labour deployed on board are engaged in normal operations as well as overside discharge. The quantum of machinery/project cargo traffic is increasing day by day which forms a major portion of overside discharge. Therefore, additional supervisory staff and gangs are deployed to supervise and handle the overside operations.</p> <p>(b). Even though the cost of supervisory staff may have been included in the stevedoring tariff, the same does not cover cost + ROCE allowed. Moreover, stevedoring charge is flat rate. Ideally such tariff of Heavy Lift cargo has to be on progressive gradation basis.</p> <p>The extraordinary operations involved in navigation of such vessels also put some onus on the cargo interests who are engaging such vessels. Moreover, it is for the convenience of the consignee who insists or is required to resort to overside operations that such charges are required to be levied. Delivery of heavy packages by waterways is necessary and therefore consignees have to bear the wharfage charges.</p> <p>The present stevedoring tariff is based on per tonne basis. It would however, be seen that handling charges in respect of heavy packages normally keep on increasing progressively as the weight of packages increases. This is similar to the tariff for handling heavy lift cargo by ports floating crane. The present proposal is restricted to "wharfage" on the cargo which is payable by the consignees/shippers whereas on board stevedoring charges are generally payable by vessel agents.</p> <p>The point here is the consignee clears the cargo from the port with NIL wharfage. Similar principle is adopted at other ports which levy wharfage irrespective of the mode of entry/exit of cargo. Mumbai Port therefore may be allowed to have separate rates for overside discharge.</p>															
(iv).	<p>(a). The link between levying tariff at advalorem and not furnishing cost of operation is not clear.</p> <p>(b). The additional expenditure that</p>	<p>Since the wharfage would have been calculated on advalorem basis (if approved), the record for tonnage handled is not maintained. Also up till now the charges were not levied. Therefore the cost of operation is also not maintained separately.</p>															

	the port incurs for providing the service of overside discharge may please be quantified and furnished to this office.																
(v).	Kindly state whether at the time of overside discharge, for docking and undocking the barges, any specific service is provided by the port.	<p>The following additional services are provided by the port for docking and undocking the barges at the time of overside discharge :</p> <ul style="list-style-type: none"> • Specific berths such as corner berths for ensuring smooth operations. • Double banking of barges along side the vessel. • If required, keeping the opposite side berth vacant for convenience of operations. • Suitable shifting of vessels, if necessary, to ensure availability of such berths. • Movement of barges preferably during day time in view of the nature of operations. • Turning of vessels or shifting of vessels if required. • Allotment of specific berths at Harbour Wall is also sometimes considered <p>While berth hire charges are recovered in respect of all crafts, shifting of vessels or turning around are not charged as per the scale of rates. Thus, it would be seen that specific services are provided by the Port to ensure smooth handling of over-side packages.</p>															
(vi).	It has been stated that for safe handling of the cargo while discharging overside, at times, additional movement of the vessels and barges are required to be carried out. Kindly furnish the number of occasions such additional movements of the vessels and barges had to be carried out during the last 3 years. Also state whether for such additional movements of the vessels and barges the port has recovered any shifting charges from the agents concerned.	Record regarding occasions of additional movement of vessels and barges required to carry out safe handling of the cargo while discharging overside is not available as no separate records are or can be maintained practically.															
(vii).	The expenditure incurred during the last 3 years towards maintenance and conservancy of the dock basin may kindly be furnished. Also furnish the proportionate maintenance and conservancy expenditure allocable to the service of overside discharge.	<p>The total expenditure towards maintenance and conservancy especially for dredging and marine survey during the last 3 years is as under :</p> <p style="text-align: right;">(Rs. in crore)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Year</th> <th style="text-align: center;">Total expenditure</th> <th style="text-align: center;">Apportioned to Docks</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">2004-05</td> <td style="text-align: center;">43.11</td> <td style="text-align: center;">15.58</td> </tr> <tr> <td style="text-align: center;">2005-06</td> <td style="text-align: center;">27.95</td> <td style="text-align: center;">17.37</td> </tr> <tr> <td style="text-align: center;">2006-07</td> <td style="text-align: center;">29.68</td> <td style="text-align: center;">19.23</td> </tr> <tr> <td style="text-align: center;">Total expenditure incurred during last 3 years</td> <td style="text-align: center;">100.74</td> <td style="text-align: center;">52.18</td> </tr> </tbody> </table> <p>Separate figures for maintenance and conservancy of dock basin incurred towards overside discharge are not available.</p>	Year	Total expenditure	Apportioned to Docks	2004-05	43.11	15.58	2005-06	27.95	17.37	2006-07	29.68	19.23	Total expenditure incurred during last 3 years	100.74	52.18
Year	Total expenditure	Apportioned to Docks															
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Total expenditure incurred during last 3 years	100.74	52.18															
(viii).	For the service of cargo handled overside, the usual cost statement including income estimated to be collected and the	The approximate expenditure incurred by the Port for deployment of on board supervisory staff and labour at one working point per shift is as follow :															

	<p>expenditure estimated to be incurred on deployment of supervisory staff, operational staff and labour handling the movements of barges in and out of dock basin and maintenance and conservancy of dock basin may please be furnished.</p>	<p>Cost of labour and staff of on board labourRs.7848.41</p> <p>The estimated income and expenditure to be incurred on deployment of supervisory staff, operational staff and labour handling the movements of barges in and out of dock basin can not be furnished as no separate record is maintained for this activity.</p> <p>Not withstanding the above, it is to be stated that prior to rationalization of Scale of Rates, there was a provision for recovery of 50% wharfage in respect of cargo handled over-side. This provision was deleted from the Docks scale of rates. In the comprehensive tariff revision, there is a need to re-look into this provision especially in view of more and more project consignments being handled at the Port to and from over-side. Further the berths are kept vacant for movements of vessels discharging overside resulting in loss of wharfage to the Port. Moreover such a provision also exists in the tariff applied by other ports which in principle recovers wharfage in respect of cargo entering and exiting the Port by any mode viz., rail, road or waterways.</p>
(C)	Embarkation/disembarkation charges	
(i).	<p>MBPT has stated that embarkation/disembarkation charges were levied at Mumbai Port w.e.f. 28.11.2005 on ad hoc basis `availing' TAMP's sanction thereto. It is presumed that MBPT intended the word `awaiting' instead of `availing'. Kindly confirm, as the Authority has not accorded any approval to the levy of the charges on ad hoc basis w.e.f. 28.11.2005.</p>	<p>Typographical error.</p>
(ii).	<p>As far as the MBPT's request to extend retrospective effect to the recovery of the embarkation/disembarkation charges we have informed the port in the past on several occasions that its action of levying the charges on ad hoc basis w.e.f. 28 November 2005 does not fall in line with clauses 2.17.1. to 2.17.4. of the revised guidelines.</p>	<p>It is to state that certain facilities have been created at the behest of cruise lines and these lines have benefited from such modern cruise terminal facilities. Cruise lines have recovered the embarkation/disembarkation charges from the actual users i.e. passengers from 25.11.2005 and remitted the same to MBPT. At this stage if the recovery is not approved with retrospective effect, then neither the user of the services i.e. passengers nor the providers of services i.e. MBPT would benefit, but the advantage of refund will go to the cruise lines. In view of the above, you are once again requested to sanction the embarkation/disembarkation charges retrospectively w.e.f. 25.11.2005.</p>
(D)	<p>The MBPT has concluded by an emphatic assertion that `minute cost data for every proposal cannot be furnished'. It may be noted that this Authority is guided by revised tariff guidelines issued by the Government which requires tariff to be fixed on a portwise cost plus approach. It is, therefore, essential to scrutinise cost</p>	<p>No answer furnished.</p>

	details before fixing tariff instead of solely relying upon only such statements about 'rates prevailing at selective ports', 'additional investments made', 'additional expenditure incurred', etc.	
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5. A joint hearing was held on 30 June 2008 in the office of this Authority. The MBPT and the concerned users present made their submissions.

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 are also available at our website <http://tariffauthority.gov.in>

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

(A). Wharfage charges for coal at Bunders:

- (i). The proposal of MBPT to levy Rs.35 per ton for handling coal at the bunders is based on the investment stated to have been made in the form of better housekeeping, frequent asphaltting and concretisation of roads, strengthening of the jetty, erection of tall boundary walls, additional expenditure on fire and safety issues and investment in preventive measures including fire monitoring equipments, vacuum cleaning systems, etc. The port has stated that the actual expenditure incurred on handling of coal at Haji Bunder is taken as the operating cost. It also submitted a statement showing a capital expenditure of Rs.324.84 lakhs as having incurred during 2006-07 in this respect. The statement, however, reveals that only Rs.28.14 lakhs have been incurred for providing specific facilities for handling coal. The balance Rs.296.70 lakhs pertains to the expenditure incurred for concretisation and repairs of several adjacent roads which have been considered as common user infrastructure expenditure towards creation of the coal handling facility at the Bunders. In fact the entire capital expenditure incurred at Bunders during 2006-07 including Rs.324.84 lakhs was included by MBPT in the cost statement for cargo handling activity at the time of last general revision. Considering the overall deficit, an across the board increase of 25% in the wharfage rates (except under warehousing and POL) was approved under this Authority's Order dated 28 September 2006. If a self sustaining rate for coal is now to be prescribed, based on the cost details as furnished by MBPT without recognising the flow of cross-subsidisation between activities (which MBPT has not considered while proposing a rate of Rs.35 per tonne), then corresponding reduction should be effected in some other activities. The rate per tonne for coal handling if arrived at after excluding the capital expenditure of Rs.296.70 lakhs, which is not exclusively related for providing specific facilities for coal handling, would not be significantly different from the existing rate of Rs.25 per tonne. Further, the quantum of coal handled at bunders shows a steady increase as it was 2786628 tonnes during 2006-07 and 2950895 tonnes during 2007-08. The port has not furnished estimates for the future period which are necessary as the tariff to be fixed now will operate prospectively. It will, therefore, not be in order to fix a rate as proposed by the port only based on the quantum of coal handled during 2006-07.
- (ii). According to the Association of Multimodal Transport Operators of India the existing wharfage itself is on the higher side and it should not be revised. Coastal Energy Private Limited (CEPL) has contended that all development including dredging, repairs to sea wall, anti pollution measures, railway siding etc. have all

been undertaken by the port users. Indian National Shipowners' Association (INSA) objected the proposal on the ground that MBPT has not substantiated the increase proposed with reason. Since the Port has not provided any additional facilities both Mumbai and Nhava-Sheva Ship-Agents Association (MANSA) and Bombay Chamber of Commerce and Industry, strongly oppose the proposal. Indian Merchants' Chamber (IMC) is of the view that coal is essential for power generation and any increase in port cost will drive away cargo from Mumbai. In short, the trade in unison has expressed that the services provided by MBPT at the coal handling bunders are inadequate to seek for any wharfage increase.

- (iii). Considering the factors mentioned above, this Authority does not find any merits in the port's proposal to increase the existing wharfage rate for handling coal at MBPT bunders.

(B) Wharfage for cargo handled overside:

- (i). In April 2006, MBPT proposed for an adhoc levy of Rs.130/- per tonne for cargo discharged overside at berth from vessel/barge to another vessel/barge and vice versa. The proposal did not contain any other relevant performance and financial details to justify the proposed rate. The port also did not bring up the issue at the joint hearing relating to its general rate revision proposal held on 29 June 2006. As this Authority was unable then to approve the proposal, the port was advised to come out with a separate proposal, if found necessary, with relevant cost details and justification.
- (ii). Although the port repeatedly states that overside discharge is on the increase, it could not furnish the quantum of cargo discharged overside during the last 3 years stating that such records are not readily available.
- (iii). The port has confirmed that the additional supervisory staff and labour gang are deployed on board the vessel for handling overside discharge. It has also confirmed that the cost thereof has been included in the stevedoring tariff. The port, however, argues that the proposed rate should be approved since the stevedoring tariff does not cover the cost incurred plus the permissible ROCE.
- (iv). Although the port claims that it provides the various additional docking and undocking services for overside operations, it has not quantified the additional expenditure being incurred for extending such services. The port also could not make available records showing the number of occasions where additional movement of vessels and barges were required to be carried out for overside discharge operations. This Authority is of the view that non levy of separate charges for the individual items in the bundled services offered to vessels cannot be a ground for seeking a levy from the cargo interests.
- (v). The port has claimed that during the last 3 years it incurred a total expenditure of Rs.100.74 crores towards maintenance and conservancy, especially for dredging and marine survey, and the expenditure allocable for Docks maintenance and conservancy amounted to Rs.52.18 crores. It has, however, stated that details of expenditure incurred exclusively for maintenance and conservancy of dock basin towards overside discharge is not available.
- (vi). As per MBPT, the approximate expenditure incurred by it for deployment of on board supervisory staff and labour at one working point per shift is Rs.7848.41. It has further stated that the estimated income and expenditure to be incurred on deployment of supervisory staff, operational staff and labour handling the

movements of barges in and out of dock basin cannot be furnished as no separate record is maintained for this activity.

- (vii). All the user organisations have argued that when the overside discharge cargoes get transhipped to the dock wharves / bunders / jetties, wharfage is recovered on such cargoes and, therefore, the question of recovery of one more wharfage on the same cargo should not arise. MANSa has argued that for deployment of supervisory staff and labour gang for carrying out the overside discharge, MBPT recovers stevedoring charge separately. According to the trade, for maintaining dock basins port dues are collected from vessels and cargo interest should not be saddled with any further levy towards dock maintenance.
- (viii). Since this Authority is guided by revised tariff guidelines issued by the Government which requires tariff to be fixed on a port wise cost plus approach, it is essential to scrutinise cost details before fixing tariff. No cost statement for the service of cargo handled overside has not been furnished by MBPT stating that minute cost data for every proposal cannot be furnished. In the absence of cost details, this Authority is not in a position to arrive at a reasonable rate for the overside discharge of cargo. Since the tariff guidelines of 2005 call for phasing out of advalorem rates in 5 year period, there does not appear to be any justification for even approving the proposed rate on an adhoc basis at this juncture. As per this Authority's Order dated 28 September 2006, the existing schedule of rates of MBPT will remain in force only till 31 March 2009 and MBPT is expected to file its proposal for review atleast 3 months prior to that date. MBPT is therefore, advised to propose appropriate charges for overside discharge of cargo with supporting cost details in its impending general rate revision proposal so that overlapping of common cost can be meaningfully analysed across different tariff items.

(C) Embarkation/disembarkation charges:

- (i). The port has been informed on several occasions in the past that its action of levying the charges on ad hoc basis with effect from 28 November 2005 did not fall in line with clauses 2.17.1. to 2.17.4. of the revised guidelines. The MBPT has, however requested to review and sanction the rates on embarkation/disembarkation charges retrospectively.
- (ii). MBPT has reiterated that certain cruise terminal facilities were created at the behest of cruise lines and the lines have benefited there from. Cruise lines have recovered the embarkation/disembarkation charges from the passengers from 25 November 2005 and remitted the same to the port. MBPT has pleaded that if the recovery is not approved with retrospective effect, neither the user of the services (i.e. passengers) nor the provider of the services (i.e. MBPT) would benefit, but the advantage of refund will go to the intermediaries.
- (iii). The Bombay Chamber of Commerce and Industry and MANSa have stated that the embarkation/disembarkation charges were introduced by MBPT without any prior notice. Indian Merchant Chamber of Commerce is of the view that the facilities provided to cruise vessels are extremely poor and hence the proposal should not be considered without improvements carried out.
- (iv). This Authority has already approved the levy of embarkation / disembarkation charges with prospective effect. MBPT has, however, collected the charges from the tourist passengers through cruise lines, from 28 November 2005 and no approval is accorded for such levy made till 30 November 2006. The port is repeatedly pleading that since users of the above service are the passengers

embarking and disembarking from the cruise ships and not the cruise lines or agents, obtaining consent from individual users is not possible. There is no point in directing the port to return the collection already made to the concerned passengers as it will be practically not possible for the port to return the amount to the individual tourists who visited the country during 28 November 2005 to 30 November 2006. On balance of consideration, this Authority as a special case, accords approval to the levy of embarkation / disembarkation charges with effect from 28 November 2005, the day the cruise lines operations commenced. The MBPT is, however, cautioned to refrain from introducing any port charges on its own without following the provisions of the tariff guidelines.

8. In the result, and for the reasons given above and based on a collective application of mind, this Authority

- (i) does not find any merit in the MBPT's proposal to increase the existing wharfage rate for handling coal at its bunders;
- (ii) advises the Port to suggest appropriate charges for overside discharge of cargo with supporting cost details in its impending general rate revision proposal and;
- (iii) accords approval, as a special case, to the levy of embarkation/ disembarkation charges with effect from 28 November 2005, the day the cruise lines operations commenced.

(Brahm Dutt)
Chairman