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TARIFF AUTHORITY FOR MAJOR PORTS

G. No: 118

New Delhi, 9 July 2004

NOTIFICATION

In exercise of the powers conferred by Section 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the Mumbai Port Trust for revision of composite Berth Hire charges and Pier Dues as in the order appended hereto.

**(A.L. Bongirwar)
Chairman**

Tariff Authority for Major Ports

Case No. TAMP/62/2003-MBPT

The Mumbai Port Trust

Applicant

ORDER

(Passed on this 22 day of June 2004)

This case relates to a proposal received from the Mumbai Port Trust (MBPT) for revision of composite berth hire charges and pier dues.

2.1 The MBPT has made the following points in its proposal:

(A) Composite Berth Hire Charges

- (i) The composite berth hire charges were last revised upward by only 25% with effect from 1 November 1997 though the then deficit was around 43%. The upward revision was restricted to 25% to have rates comparable with the Jawaharlal Nehru Port Trust (JNPT).
- (ii) These charges were subsequently prescribed on 8 hourly basis w.e.f. 26 May 1999 and no increase has been effected for more than 5 years.
- (iii) The composite berthing activity shows a deficit of 168% as per cost statements of 2001-02. This service could not be made remunerative despite implementation of various cost reduction measures. The revenue from composite berth hire charges has declined to Rs.38.63 crores in 2002-03 from Rs.43.42 Crores in 01-02. The effort now is to revise the composite berth hire charges to maintain revenue of 2002-03.

(B) Pier Dues

The existing Pier dues leviable on the vessels calling at MOT and Pir Pau came into effect from 8 August 2001 and, therefore, review of Pier dues is due in August 2003. The deficit in the service during 2001-02 was 186%. The revenue from the service in 2001-02 was Rs. 21.81 Crores and Rs. 28.65 Crores in 2002-03. Now the effort is to revise the rates to maintain income realized in 2002-03.

(C) Additional Expenditure on account of Inflation

Review of charges need to be done once in two years considering the average inflation rate published by the Ministry of Finance as per TAMP letter dated 15 February 2000. The additional expenditure on account of inflation proposed to be recovered partially by increasing the rates at the inflation rate of 6.94% prevailed in 2001-02.

(D) Rates for Coastal Vessels

The rates for Coastal vessels are not proposed to be revised to 70% of the foreign-going vessels but retained at about 1/3 of the rate for foreign going vessels.

(E) Financial impact of levy of berth hire charges and pier dues on hourly basis.

In terms of TAMP order the composite berth hire charges and pier dues are required to be prescribed on hourly basis with effect from 1 June 2003. By prescribing the charges on hourly basis the vessel may not be required to pay as much charges as they are required to pay earlier. It is anticipated that the GRT and period of stay of the vessels remaining the same, the change over will lead to reduction in income by about 3.81 crores per annum. Revision of berth hire charges and pier dues has been proposed to cover this deficit and to some extent future escalation.

(F) Dockwise rate

TAMP by its order dated 16 May 2001 had directed MBPT to prescribe berth hire charges at different berths depending on the different services provided thereat. The services rendered at MBPT at almost all the berths are common, with the exception of provision of wharf cranes and covered accommodation in few berths. It is, therefore, berth hire charges have been prescribed dockwise separately for Indira Dock and Princes & Victoria Dock as against the existing uniform berth hire charges.

2.2. The MBPT has proposed increase in rate in composite berth hire charges by 18% for coastal vessels and 17% for foreign-going vessels. In case of pier dues, the proposed increase is 27% in respect of coastal vessels and 25% in respect of foreign-going vessels. The overall increase in revenue is expected to be Rs. 4.35 crores per annum.

2.3. The Board of Trustees of the MBPT has approved the proposal in its meeting held on 27 May 2003.

3.1 In accordance with the consultative procedure prescribed, the proposal of the MBPT was forwarded to the concerned port users / representative bodies of port users for their comments.

3.2. The comments received from the concerned user organizations were forwarded to the MBPT as feed-back information. The MBPT has responded on the comments furnished by the user organizations

4. The MBPT has subsequently made a submission vide its letter dated 25 November 2003 to further revise upward the rates of berth hire charges and the rates of pier dues denominated in dollar terms by 3% due to loss of income on account of US \$ depreciation against Indian Rupee. In this connection the MBPT has made the following points:

- (i) The US \$ is depreciating against Indian Rupee from the date of proposal. Till date dollar has depreciated approximately by 3%. This has resulted in MBPT receiving less income by rendering services to foreign going vessels and this will result in increase in deficit in services by 7%.
- (ii) Due to Rupee appreciating against US \$, anticipated income to MBPT from rendering services to foreign going vessels at piers will be reduced approximately by 3%. This will increase the deficit in the services to 107%. With a view to making good the additional loss of revenue due to Indian rupee appreciating against us \$, it is also necessary to revise further the Pier dues prescribed in US \$ in respect of foreign going vessels upward by 3%.

5. Based on a preliminary scrutiny of the proposal, MBPT was requested to furnish additional information / clarification on various points vide our letter dated 9 February 2004. The MBPT was requested to furnish certain information / clarification as decided at the joint hearing vide our letter dated 16 February 2004.

6. In response, the MBPT vide its letter dated 6 March 2004 has made the following points:

- (i). Due to decline in traffic and possible diversion of traffic, the MBPT did not propose any revision of Berth hire charges in its last proposal for revision of vessel related charges and the charges for supply of chipping and painting labour. Prescription of berth hire charges and pier dues on hourly basis will result in reduction in income to the port. Both the services are rendered in deficit. Revising the charges marginally to retain the income prevailed in the year 2002-03 and to cover the escalation in expenditure may not affect the vessels adversely and traffic may not be diverted.

- (ii). MBPT expects to handle 6 % more of POL in 2003-04 and 9 % more in 2004-05 as compared to 2002-03 and 2003-04 respectively. Therefore, estimation of income of pier dues surpasses the income generated in 2002-03.

Since there is declining trend in container traffic in the last couple of years, marginal reduction in revenue in respect of berth hire has been estimated for the year 2003-04 and 2004-05.

- (iii). The financial impact of revising berth hire charges levyable for off-shore supply vessels and vessel which are not engaged in conveyance of the cargo may result in additional income of Rs. 8.5 lakhs for 2003-04 (for one month) and Rs. 1.02 crores for 2004-05.
- (iv). Since estimation of income for the purpose of budget is done in rupee terms based on factors like anticipated revision of charges, trend of income generated in the preceding 5 months, on preparation of budget, etc., MBPT has not made any detailed analysis to find out the impact of fluctuation in the exchange rate while framing the estimates.
- (v). Actual vessel traffic in GRT terms is as follows:

(In million Tonnes)

| | Docks | Piers | Total |
|----------|-------|-------|-------|
| 2001-02 | 12.69 | 15.29 | 27.98 |
| 2002-03 | 12.79 | 15.46 | 28.25 |
| 2003-04@ | 14.65 | 17.60 | 32.25 |
| 2004-05@ | 13.38 | 16.12 | 29.50 |
| 2005-06@ | 13.61 | 16.40 | 30.01 |

@ Projections.

- (vi). The MBPT has forwarded cost statements for Berth hire and Pier dues and a consolidated cost statement for port and dock facilities for the year 2004-05 and 2005-06.
- (vii). The additional income on account of restatement of coastal vessel rates for Berth hire and pier dues is as under:-

(Rs. in Crores)

| Year | Berth hire | Pier Dues |
|---------|------------|-----------|
| 2004-05 | 1.33 | 4.42 |
| 2005-06 | 1.33 | 4.75 |

- (viii). MBPT has furnished details of income generated from Berth hire and Pier dues for the period June 2003 to January 2004.
- (ix). With regard to the substantial increase of Rs. 8 crores in Finance and Miscellaneous expenses in each of the years 2003-04 and 2004-05, the MBPT has admitted that inadvertently there was a mistake in appropriation and furnished revised cost statement.
- (x). The pension fund of MBPT needs to be augmented to Rs. 2070 Crores. Out of Rs. 2070 Crores, Rs. 1,359 crore is pension liability of the existing 26,845 pensioners, Rs. 569 crores and Rs. 142 crores are towards pension and gratuity liability of 17,341 MBPT employees. Further contribution required for augmenting the pension fund to the required level is Rs.1054 Crores. Keeping in view the income tax exemptions, Rs. 1054 Crores can be contributed in 5 equal instalments in the first 5 years. Accordingly, it has been proposed to make an initial contribution of Rs. 210 Crores towards pension fund in the RE 2003-04.

- (xi). The Availability and utilization of wharf cranes and expenditure on operation and maintenance is as follows:

Details of Availability and Utilization of Wharf Cranes

| | 2001-02 | 2002-03 | 2003-04 @ | 2004-05 @ | 2005-06 @ |
|---------------------------------------------|---------|---------|-----------|-----------|-----------|
| Net Total No. of Hrs available | 332769 | 310041 | 360372 | 338517 | 335425 |
| Utilization in Hours | 70219 | 58666 | 61949 | 66915 | 64437 |
| Percentage | 21.10% | 18.92% | 17.19% | 19.77% | 19.21% |
| Expenditure on Wharf Cranes (Rs. in Crores) | 5.60 | 5.39 | 6.39 | 6.02 | 6.04 |

The Committee constituted to study and assess the requirement of wharf cranes in Indira dock has recommended to refurbish the existing 4 nos 13 tonnes cranes and 2 nos 6 tonnes cranes of BPX and to install 20 new 6 tonne cranes in 2 phases. The procurement processes is in the initial state and it may take some more time till actual procurement.

- (xii). The services / facilities provided against levy of composite berth hire charges are as under:-
- (a). Berth Hire
 - (b). Wharf crane
 - (c). Night, Sunday overtime working.
 - (d). Supply of local telephone.
 - (e). Removal of rubbish.
 - (f). Bunkering.
 - (g). Covering, Culverts, Manholes at berths while discharging bulk cargo.
 - (h). Special equipment and fire watch.

7.1 A joint hearing in this case was held on 11 February 2004 at the office of this Authority. At the joint hearing, the MBPT and the concerned users have made their submissions. MANSA requested for an opportunity to comment on the analysis of reduction in revenue due to introduction of hourly berth hire rates. Accordingly, the MANSA was furnished with a copy of MBPT letter dated 6 March 2004. In response, the MANSA has made the following main points:

- (i). If the proposed revision is granted, trade will actually incur 10% to 15% higher cost in berth hire and Pier dues.
- (ii). MBPT has not furnished a comprehensive statement of the difference in revenue of ALL the vessels that have called Mumbai.
- (iii). Due to poor infrastructure and low productivity container traffic and bulk cargo have been falling consistently over the last few years. Liquid cargo like edible oil and breakbulk cargo like steel are only cargo that have shown an increase in traffic. These cargoes, by their nature, are fast moving and vessels carrying them are self reliant. MBPT is offering little or no service to these vessels other than providing berth. These vessels will take the brunt of the alleged deficit due to the falling traffic in other categories of cargo. It is ironic that MBPT is claiming quick turnarounds and better productivity due to nature of these cargoes with little or no service to the trade.
- (iv). As per TAMP's order dated 16 May 2001, MBPT has to prescribe berth hire charges at different berths depending on the different services provided thereat. MBPT has offered reduction in berth hire charges of P & V docks, where handling of cargo vessels is negligible, to cloud the issue. Several berths at Indira Dock do not have cranes or sheds and no concession is offered. The shore cranes are inadequate to handle steel cargo.

7.2 A copy of letter dated 1 April 2004 received from the MANSA furnishing its comments on the additional details furnished by MBPT particularly with reference to the details of reduction in revenue due to introduction of hourly berth hire rates was forwarded to MBPT for its comments. Certain additional information / clarifications were also required from the MBPT. The MBPT vide its letter dated 28 May 2004 has furnished additional information / clarifications on points raised by us. The MBPT also furnished comments on the comments of the MANSA. The main points made by the MBPT are as follows:-

- (a). MBPT furnished cost statements for the year 2005-06 based on estimated vessel traffic and the coastal vessel rate re-statement (without change) for berth hire and power dues.
- (b). The MBPT did not furnish cost statements for the years 2004-05 and 2005-06 for all vessel related activities separately stating that the cost statement furnished by it earlier for port and dock facilities included vessel related charges.
- (c). MBPT has furnished the following comparative position of the income earned on Berth hire, pier dues from June 2003 to March 2004 on hourly basis and on 8 hours shift basis according to which the loss due to change in unit of charging in berth hire is Rs. 95.54 lakhs and that in pier dues is Rs. 274.42 lakhs.
- (d). The additional income due to revision of Berth hire charges levyable for Offshore Supply Vessels may be Rs. 1.02 Crores for the year 2005-06.
- (e). By introduction of hourly rate vessel owners have gained some benefit by way of lesser payment of Berth hire and Pier dues to the port. Due to continuous efforts of the port, duration of stay of vessels at the berth has also come down resulting in owners of the vessels gaining by way of lesser payment of Berth hire charges and saving on account of reduction in ships' idle time. Efforts of MBPT are to restrict the gap between income and expenditure to the level of the year 2002-03. Thus, marginal increase in rates is justified. With regard to the point made by the MANSA on declining container traffic, it is stated that MBPT has to compete with the neighbouring port. Despite the inherent physical constraints, MBPT is making all efforts to arrest declining trend of traffic. As one of the steps towards this effort and to reduce the cost of handling of containers at MBPT, the port has already taken over transportation of containers from ship side to container yard and vice versa with effect from 15 May 2004. MBPT is also in the process of prescribing composite box rate for containers.

Regarding the submission of MANSA about bulk cargo, cargo at Kandla port is being handled by private labour and at MBPT the cargo is handled by the port labour. MBPT also renders the services of stevedoring for the bulk and steel cargo wherein even the direct cost incurred by the port is not being recovered by the charges prescribed for rendering stevedoring services. Insisting MBPT to forego its revenue and render the services continuously in deficit even without recovering direct cost will lead to financial instability of the port. As such marginal increase of approximate 18% in Berth hire charges is justified.

With respect to the contention of the MANSA that MBPT is not rendering any service for liquid bulk cargo it is stated that MBPT provide ultra modern facilities by investing large amount to handle liquid bulk like POL products and liquid chemicals. Facilities offered by MBPT are not available in nearby ports.

Whenever the vessels of edible oil are berthed at the docks, shed and open wharfs of that particular berth remain totally unutilized while the edible oil is discharged by vessels.

7.3 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 at the joint hearings will be sent separately to the relevant parties. These details are also available at our website www.tariffauthority.org.

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

- (i). This is yet another piecemeal revision proposal from Mumbai Port Trust (MBPT). The need for a comprehensive review of tariff at MBPT has been highlighted by this Authority many times including in its last Order dated 9 January 2004. As this proposal has been filed by MBPT before disposal of its earlier proposal for revision of vessel-related charges and charges for supply of chipping and painting labour, this proposal has been taken up for consideration. The basic thrust given by MBPT in this proposal is to revise the rates of berth hire charges and pier dues to such a level at which the future revenue from these activities would be maintained at the level of 2002-03. The overall increase in revenue anticipated to be generated due to the proposed revision is Rs 4.35 crores per annum. Subsequent to its initial proposal the MBPT has also sought an additional increase of 3% in dollar denominated tariff items to offset the expected revenue loss on account of foreign exchange variation.
- (ii). In its earlier proposal for revision of vessel-related charges, which was already approved by this Authority vide its Order dated 9 January 2004, the MBPT did not propose any increase in the berth hire charges apprehending diversion of traffic. Now it has changed its earlier stand and proposed upward revision of berth hire rates and pier dues. The MANSA and Oil Companies have categorically brought out the adverse effect on the traffic if the proposed rates are implemented. The views of these organizations have been made available to MBPT and still the port wants to pursue its proposal. It has to be recognized that the proposal of the MBPT does not seek increase in rates to the levels warranted by the cost deficit in the respective activities. The MBPT has repeatedly emphasized in this proceedings that its objective is to maintain the future income from these activities at least at the level that was reached in the year 2002-03.
- (iii). Introduction of hourly berth hire charges by this Authority with effect from 1 June 2003 has been quoted as one of the reasons for the anticipated loss in revenue. It has to be recognized that the relevant revenue accrual, prior to the introduction of hourly rate, is not due to a not so reasonable tariff arrangement. While introducing such a change in the unit of berth hire, this Authority has observed that ahead-of-schedule revision of rates will be taken up if an internal review as carried out by the port discloses any serious financial implication. In the case of MBPT, the anticipated reduction in future revenue does not appear to have been solely contributed by the change effected in the unit of charging. The other factors like appreciation of Indian Rupee vis-à-vis US\$ and the reported improvement in productivity are also found to be the reasons therefor.
- (iv). The proposal of MBPT for prescription of dock-wise berth hire charges has already been approved by this Authority vide its earlier Order dated 9 January 2004. The MANSA has suggested further refinement in the berth hire charges for some of berths at Indira Docks which are more or less similar to the berths at P & V Docks. The port had already been advised to consider prescription of separate berth hire charges for those berths where crantage is levied separately or as a part of handling charges. When the cost position improves, the port can also attempt to prescribe differential berth hire for crane and non-crane berths also within the same dock system. At the request of MANSA, the MBPT has also listed out the various services included in the composite berth hire and indicated that it had not on its own withdrawn any such services. Unbundling of composite berth hire charges is a decision to be taken commonly for all the major ports. Till such time, the existing arrangement will continue.
- (v). The MANSA has made some suggestions about reviewing the existing tariff arrangement in the case of conversion of status of vessels and levy of penal berth hire. The observations made by MANSA in this regard have been elaborately discussed in this Authority's Order dated 9 Jan 2004 and, hence, they are not discussed again in this analysis.

- (vi). As per the general approach adopted by this Authority, the coastal vessel rates are restated at the time of the regulatory review of tariff at different ports so that such rates are maintained at 70% of those of foreign-going vessels with reference to the prevailing foreign exchange rate. Such a restatement was ordered by this Authority in its recent order dated 9 January 2004 in respect of the vessel related charges of MBPT.

In the instant proposal, the MBPT has not proposed restatement of coastal vessel rates with reference to the foreign-going vessel rates. The policy of the Government is for encouraging coastal shipping. Recently, the Government of India has also consulted this Authority on introducing concessional tariff for coastal vessels/cargo. A view was also expressed that the coastal rates should not be linked with foreign-going vessel rates. Recognizing the recent thinking of the Government in this regard and in view of the fact that the MBPT has not specifically asked for such restatement of coastal vessel rates, this Authority does not like to insist upon restatement of coastal vessel charges in this case.

- (vii). At the proposal stage, the MBPT projected income on account of berth hire charges at Rs 38 crores each for the years 2003-04 and 2004-05. Subsequently, the MBPT clarified that its estimate should be scaled down on the basis of annualised income considering the actuals for 10 months of the year 2003-04. Accordingly, it has furnished revised income estimates for the years 2003-04, 2004-05 and 2005-06. With regard to pier dues, the port has revised the income estimates for the years 2003-04, 2004-05 and 2005-06 as it expects increase in POL traffic. The revised income estimates furnished by the port are relied upon in this analysis.
- (viii). As has been mentioned earlier, it is a piecemeal revision proposal. Such proposals always cause problems in analyzing the reasonableness and eliminating overlapping of cost allocation across different activities. Further, the proposal of the MBPT does not seek increase in the rates as warranted by the cost deficit of the activities. That being so, an indepth of the analysis of the cost position has not been made and generally the position reported by the MBPT is relied upon.
- (ix). Notwithstanding this position, some adjustments have been made in the cost estimates with reference to the annual escalation. The MBPT has assumed an annual inflation at 6.94% per annum to project its future cost estimates. This Authority has been allowing an annual escalation of 6% for the tariff revision proposal of other ports which are decided recently. The projection of expenditure has been moderated accordingly in this case also.
- (x). In its earlier Order dated 9 January 2004 this Authority observed that given the technological changes in shipping the port should review the need to maintain high fleet strength of wharf cranes of lower capacity with a view to curtail the cost incurred on them. The port was advised that reduction in overheads needs to be achieved to provide cost efficient operation. On a query made in this regard, the port has stated that it has started the process of replacement of old cranes and has projected marginal reduction in expenditure on wharf cranes for the year 2004-05 and 2005-06 as compared to the year 2003-04.
- (xi). There was a substantial increase of Rs 8 crores in finance and misc. expenditure projected in each of the years 2003-04 and 2004-05. When pointed out, the port has admitted a mistake in apportionment of retirement benefits and bonus and modified its earlier cost statement to rectify the error.

The detailed break up of finance and misc. expenditure is not available. Nevertheless, it appears that a substantial expenditure on reinforcing its pension fund has been apportioned to the activities under consideration. While this Authority endorses the approach of the Port to build up its pension fund, it is not inclined to admit contributions to the fund for past liability as admissible cost while determining the basic tariff. It is

noteworthy that such a position was maintained by this Authority in the case of Mormugoa Port Trust when a similar proposal was raised by that port. If it is found that the accumulated surpluses/reserves or provisions made cannot adequately cover such liabilities or for any other justifiable reasons, a special rate for a limited period may be prescribed to meet such liabilities. In the absence of break up available, the expenditure projections given by the MBPT for finance and misc. expenses have been included in the cost statement without any modification which should not be taken as an endorsement of the approach of recognizing additional contribution to pension fund in the computation of tariff.

- (xii). The port has included accrued interest, HBA and advances to BDLB as part of current assets while estimating working capital. Interest income on investments and HBA are not relevant in the tariff revision exercise. Advances to BDLB are from the balance of revenue reserve. These items are not, therefore, form a part of current assets for arriving at the working capital. If these items are excluded working capital estimate will be a negative figure. It has, therefore, been taken as "NIL" for the purpose of this analysis.
- (xiii). The maximum permissible return on capital employed allowed in the case of Major Port Trusts at present comprises of the interest rate at which Govt. of India loans are available to the port trusts plus 3% to each of the two mandatory funds. The lending rate of the Government loans available to the Major Port Trusts was 11.50% for the financial year 2003-04 which is not yet revised for the current year.

Accordingly, the maximum permissible return on capital employed is 17.5% as against 18.5% considered by the Port in the cost statement. Necessary corrections have been made in the cost statement accordingly.

In its earlier proposal for revision of rates for vessel related charges and charges for supply of chipping and painting labour, the port had indicated that against the assessed capacity of 30.5 MT, the cargo traffic estimated to be handled is 29.5 MT for the year 2004-05. The capacity utilization accordingly works out to 96.72% for the year 2004-05. The port has reportedly not estimated the cargo traffic for the year 2005-06. In the absence of any other information available to the contrary, the capacity utilization of 96.72% applicable for the year 2004-05 is considered for the year 2005-06 also in the analysis. The maximum permissible return of 17.5% on capital has been moderated with reference to the capacity utilization factor as has been generally done in the other tariff cases.

- (xiv). Subject to the analysis given above, the financial / cost statements have been modified. The modified cost statements are attached as **Annex I (a) to (c)**.

The summarized position of the results disclosed by the financial / cost statements for the years 2004-05 and 2005-06 is presented in the table given below:

| Sr. No. | Activities | Surplus / deficit for the year 2004-05 (Rs. in Crores) } | Surplus /deficit as percentage on operating income | Surplus / deficit for 2005-06 (Rs. in Crores)} | Surplus / deficit as percentage of operating income |
|---------|-------------------------|----------------------------------------------------------|----------------------------------------------------|------------------------------------------------|-----------------------------------------------------|
| 1. | Vessel related activity | (-) 57.43 | (-) 30.42 | (-) 56.68 | (-) 28.57 |
| 2. | Berth hire | (-) 68.27 | (-) 208.87 | (-) 71.78 | (-) 219.60 |
| 3. | Pier Dues | (-) 12.53 | (-) 41.88 | (-) 11.72 | (-) 36.45 |

Since a cost based rate revision is not proposed by the MBPT, much of an emphasis is not placed on the cost deficit position indicated above. Nevertheless, it gives an indication that the overall activity is in deficit.

- (xv). Since the main objective of the proposal, as reiterated by the MBPT, is to maintain the future revenue at the level of 2002-03, the estimated income position in respect of berth hire and pier dues for the years 2004-05 and 2005-06 as compared to the year 2002-03 is given below:

(Rs. in Lakhs)

| Activity | Income | | | | |
|------------|---------|---------|-----------------------------------------------------------|---------|-----------------------------------------------------------|
| | 2002-03 | 2004-05 | Percentage decrease(-) / increase (+) compared to 2002-03 | 2005-06 | Percentage decrease(-) / increase (+) compared to 2002-03 |
| Berth Hire | 3863 | 3148 | (-) 22.70% | 3148 | (-) 22.70% |
| Pier Dues | 2865 | 2978 | (+) 3.94% | 3201.51 | (+) 11.75% |

In respect of berth hire, the estimated drop in revenue for the years 2004-05 and 2005-06 as compared to the year 2002-03 is 22.70%. Since the Port has proposed to increase the composite berth hire charges by 18% for coastal vessels and 20% for foreign-going vessels which is well within the average drop in revenue, the proposal of the port in this regard is approved.

In respect of the pier dues, the estimated income for the years 2004-05 and 2005-06 is, in fact, higher by 3.94% and 11.75% respectively as compared to the revenue for the year 2002-03. Since the port has proposed revision to maintain the future revenue at the level of that achieved in the year 2002-03 and in the case of pier dues more than such a level is found to be achieved even at the existing rates, revision of pier dues does not appear to be necessary. Further, additional income on account of revision of berth hire charges and without any revision of pier dues is expected to be around Rs 6.30 crores which also surpasses the estimates of MBPT which anticipates an additional income of Rs 4.35 crores per annum from the proposed rates.

- (xvi) A separate berth hire charges for off-shore supply vessels was approved by this Authority vide its earlier Order dated 9 January 2004. The increase in berth hire charges now will apply on existing rates prescribed for the off-shore supply vessels also.
- (xvii). As already stated, upward revision of pier dues is not necessary keeping in view the objective with which the proposal was formulated by MBPT. The MBPT has confirmed implementation of hourly charges. Since the existing Scale of Rates prescribes pier dues on 8 hourly basis, these are converted to hourly rates in the revised prescription.
- (xviii). In line with the direction issued by the Government under Section 111 of the Major Port trusts Act, 1963, the rates approved will be ceiling level and the rebates / discounts will be at floor level. MBPT will have the flexibility to charge lower rates if it so desires.
- (xix). The revised rates approved will remain valid for a period of 2 years from the date of notification of the order. The validity of the rates will expire automatically on expiry of two years from the date of notification of the order unless specifically extended by this Authority.

9. In the result, and for the reason given above, and based collective application of mind, this Authority approves the following amendments to the Scale of Rates of MBPT:

- (i). To delete the existing Schedule of Rates of sub-section (A) of Section – IV, composite Berth Hire charges and substitute the following revised Schedule:

“ Berth hire charges on vessel, boats and barges berthed at Indira Dock and its harbour wall, including Ballard Pier and Billard Pier Extension, Prince’s & Victoria Docks and its harbour walls shall be payable by Masters or

Owners or Agents or Charterers of such vessels, boats and barges at the following rates:

| Sl. No: | Vessels berthed at | Ceiling rate per GRT for per hour or part thereof. | |
|---------|--------------------------------------------------------------------------|----------------------------------------------------|-----------------------------------|
| | | Coastal vessel (in Rs.) | Foreign-going vessel (in US \$) |
| 1. | Indira Dock & its harbour walls, Ballard Pier and Ballard Pier Extension | 0.111 | 0.007 |
| 2. | Prince's & Victoria Docks and its harbour walls | 0.086 | 0.0055 |

- (ii). To delete the existing Note 5 under sub-section (A) of Section – IV, composite Berth Hire charges and substitute the following revised Note 5:

“ 5. Every Boat and Country Craft of less than 1000 GRT and pleasure yacht and a lash barge entering the Docks shall be levied berth hire charges at Rs. 5.016 / US \$ 0.4050 per hour or part thereof for the first 200 GRT or part thereof and Rs. 2.507 / US \$ 0.2025 per hour or part thereof for every additional 100 GRT or part thereof in respect of coastal / foreign going vessels respectively. This concessional rate will be admissible to local craft, boats and barges except off shore supply vessels whether self propelled or not and plying in foreign and coastal trade. The concessional rate shall also be admissible to lash barges and pleasure yacht irrespective of their tonnage. Each barge will be separately charged berth hire charges treating each as a distinct vessel. However, when the barges make use of wharf crane, the composite berth hire charges as prescribed at (1) above shall be levied.”

- (iii). To delete the existing Note 6 under Sub-section (A) of Section – IV, Composite Berth Hire charges and substitute the following revised Note 6.

“6. Offshore supply vessels falling in the category of coastal vessels berthed at any berth in Docks or Harbour wall shall be levied with Rs. 0.264 per GRT per Hour or part thereof. All the offshore supply vessels will be subjected to this rate irrespective of the GRT of the vessels and will not be entitled for concessional levy as at (5) above.

- (iv). To delete the existing schedule of rates at Section II - Pier Dues and substitute the following schedule:

| Sl. No: | Vessels Chargeable | Rate per GRT for per hour or part thereof | |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------|
| | | Coastal vessel (in Rs) (Ceiling Rate) | Foreign-going vessel (in US \$) (Ceiling Rate) |
| (i). | On every steam and other mechanically propelled and square rigged vessels berthed at or using the bulk oil piers at Jawahar Deep and Pir Pau | Rs. 0.408 subject to a minimum charge of Rs. 408.275 | US \$ 0.0125 subject to a minimum charge of US \$ 12.5 |
| (ii) | On every boat, barge or country craft (not square rigged). | Rs. 7.937 | US \$ 0.25 |

- (v). To delete the existing Note 3 at Section II – Pier Dues and substitute the following revised Note 3:

“3. No Pier Dues shall be levied on vessels after expiry of 4 hours from the time of signaling its readiness to sail. Penal Pier Dues equal to one day's Pier Dues (i.e. 24 hours) shall be levied for false signal. The Master/Agents of the vessel shall signal readiness to sail only in accordance with favourable tidal and weather conditions. The time limit of 4 hours prescribed for cessation of Pier Dues shall exclude the ship's waiting period for want of favourable conditions.

10. These amendments shall come into effect after expiry of 30 days from the date of publication of this order in the Gazette of India.

(A.L. Bongirwar)

Chairman

| | | | | | | Annex-I-a |
|-------------------------------------------------------------------|-----------------------------------------------------------|--------------|--------------|--------------|-----------|----------------|
| Cost Statement for Port & Dock Facilities for Shipping | | | | | | |
| | | | | | | (in lakhs Rs.) |
| Sr. No: | Particulars | 2001-02 | 2002-2003 | 2003-2004 | 2004-2005 | 2005-2006 |
| I | Operating Income | 14956.7 6 | 16336.1 7 | 16005.4 3 | 18876.00 | 19836.87 |
| | Total (I) | 14956.7 6 | 16336.1 7 | 16005.4 3 | 18876.00 | 19836.87 |
| II | Operating Cost | | | | | |
| i) | Operating Cost | 9983.61 | 9288.38 | 9866.12 | 10458.09 | 11085.57 |
| ii) | General Facilities | 1.87 | 0.95 | 0.95 | 1.01 | 1.07 |
| iii) | Depreciation | 1832.19 | 1851.01 | 1851.01 | 2380.81 | 2380.81 |
| iv) | Finance & Misc. Exp. | 6958.66 | 3908.44 | 6179.94 | 6179.94 | 6179.94 |
| | Total (II) | 18776.3 3 | 15048.7 8 | 17898.0 2 | 19019.85 | 19647.39 |
| III | Surplus (I - II) | -3819.57 | 1287.39 | -1892.59 | -143.85 | 189.48 |
| IV | Allocated Management & General Overheads | 3949.17 | 3827.18 | 4065.23 | 4309.14 | 4567.69 |
| V | Net Surplus (III - IV) | -7768.74 | -2539.79 | -5957.82 | -4452.99 | -4378.21 |
| VI | Interest on Loans | 869.45 | 0.00 | 0.00 | 0.00 | 0.00 |
| VII | Net surplus after interest | -8638.19 | -2539.79 | -5957.82 | -4452.99 | -4378.21 |
| VIII | Capital Employed | | | | 7619.00 | 7619.00 |
| IX | Return at 17.5% for 2004-05, 2005-06 | | | | 1333.33 | 1333.33 |
| X | Capacity utilisation | | | | 96.72% | 96.72% |
| XI | Return on Capital employed linked to Capacity Utilisation | | | | 1289.59 | 1289.59 |
| XII | Net Surplus / Deficit after returns | | | | -5742.58 | -5667.80 |
| XIII | Surplus /Deficit as percentage of (I) | | | | -30.42% | -28.57% |
| XIV | Average Surplus/Shortfall | | | | | (-)29.50% |

| | | | | | Annex-I-b | |
|-----------------------------------------------------------------|---------------------------------------------------------------------------|----------|-----------|-----------|-----------------|-----------|
| Cost Statement for service Berthing and Mooring at Docks | | | | | | |
| | | | | | (in lakhs Rs.) | |
| | | | | | Without Changes | |
| Sr. No: | Particulars | 2001-02 | 2002-2003 | 2003-2004 | 2004-2005 | 2005-2006 |
| I | Operating Income | | | | | |
| i) | Berth Hire charges | 4273.24 | 3862.69 | 3280.87 | 3280.87 | 3280.87 |
| ii) | Other Income | 68.16 | 120.88 | 120.88 | 120.88 | 120.88 |
| | Total | 4341.40 | 3983.57 | 3401.75 | 3401.75 | 3401.75 |
| | Less additional Income on account of restatement of coastal vessel rates. | 0.00 | 0.00 | 0.00 | 133.00 | 133.00 |
| | Total (I) | 4341.40 | 3983.57 | 3401.75 | 3268.75 | 3268.75 |
| II | Operating Cost | | | | | |
| i) | Operating Cost | 3848.96 | 3559.79 | 3781.21 | 4008.08 | 4248.57 |
| ii) | General Facilities | 1.55 | 0.00 | 0.00 | 0.00 | 0.00 |
| iii) | Depreciation | 341.08 | 347.67 | 347.67 | 347.67 | 347.67 |
| iv) | Finance & Misc. Exp. | 3414.23 | 1994.65 | 3154.32 | 3154.32 | 3154.32 |
| | Total (II) | 7605.82 | 5902.11 | 7283.20 | 7510.07 | 7750.56 |
| III | Surplus (I - II) | -3264.42 | -1918.54 | -3881.45 | -4241.32 | -4481.81 |
| IV | Allocated Management & General Overheads | 1712.09 | 1633.93 | 1735.56 | 1839.69 | 1950.07 |
| V | Net Surplus (III - IV) | -4976.51 | -3552.47 | -5617.01 | -6081.01 | -6431.88 |
| VI | Interest on Loans | 48.55 | 0.00 | 0.00 | 0.00 | 0.00 |
| VII | Net surplus after interest | -5025.06 | -3552.47 | -5617.01 | -6081.01 | -6431.88 |
| VIII | Capital Employed | | | | 4409.00 | 4409.00 |
| IX | Return at 17.5% for 2004-05, 2005-06 | | | | 771.58 | 771.58 |
| X | Capacity utilisation | | | | 96.72% | 96.72% |
| XI | Return on Capital employed linked to Capacity Utilisation | | | | 746.27 | 746.27 |
| XII | Net Surplus / Deficit after returns | | | | -6827.28 | -7178.15 |

| | | | | | | |
|------|--------------------------------------------|--|--|--|----------|------------|
| | | | | | | |
| XIII | Surplus /Deficit as percent- age of (I) | | | | -208.87% | -219.60% |
| | | | | | | |
| XIV | Average Surplus/Shortfall | | | | | (-)214.24% |
| | | | | | | |

Annex-I-c

Cost Statement for service Berthing and Mooring at Bunders

| Sr. No: | Particulars | 2001-02 | 2002-2003 | 2003-2004 | (in lakhs Rs.) | |
|---------|---------------------------------------------------------------------------|---------|-----------|-----------|-----------------|-----------|
| | | | | | Without Changes | |
| | | 2001-02 | 2002-2003 | 2003-2004 | 2004-2005 | 2005-2006 |
| I | Operating Income | | | | | |
| i) | Pier Dues | 2170.40 | 2864.90 | 3137.62 | 3420.01 | 3676.51 |
| ii) | Misc. Income | 11.16 | 11.25 | 11.93 | 13.00 | 13.00 |
| | Total | 2181.56 | 2876.15 | 3149.55 | 3433.01 | 3689.51 |
| | Less additional Income on account of restatement of coastal vessel rates. | 0.00 | 0.00 | 0.00 | 442.00 | 475.00 |
| | Total (I) | 2181.56 | 2876.15 | 3149.55 | 2991.01 | 3214.51 |
| II | Operating Cost | | | | | |
| i) | Operating Cost | 1364.99 | 1558.91 | 1655.87 | 1755.22 | 1860.53 |
| ii) | General Facilities | 0.32 | 0.26 | 0.28 | 0.29 | 0.31 |
| iii) | Depreciation | 471.87 | 487.36 | 487.36 | 1017.16 | 1017.16 |
| iv) | Finance & Misc. Exp. | 864.33 | 516.42 | 816.43 | 816.43 | 816.43 |
| | Total (II) | 2701.51 | 2562.95 | 2959.94 | 3589.10 | 3694.43 |
| III | Surplus (I - II) | -519.95 | 313.20 | 189.61 | -598.09 | -479.92 |
| IV | Allocated Management & General Overheads | 474.49 | 551.99 | 586.32 | 621.50 | 658.79 |
| V | Net Surplus (III - IV) | -994.44 | -238.79 | -396.71 | 1219.59 | 1138.71 |
| VI | Interest on Loans | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| VII | Net surplus after interest | -994.44 | -238.79 | -396.71 | 1219.59 | 1138.71 |
| VIII | Capital Employed | | | | 195.16 | 195.16 |
| IX | Return at 17.5% for 2004-05, 2005-06 | | | | 34.15 | 34.15 |
| X | Capacity utilisation | | | | 96.72% | 96.72% |
| XI | Return on Capital employed linked to Capacity Utilisation | | | | 33.03 | 33.03 |

| | | | | | | |
|------|---------------------------------------|--|--|--|--------------|--------------|
| XII | Net Surplus / Deficit after returns | | | | - 1252.62 | - 1171.74 |
| | | | | | | |
| XIII | Surplus /Deficit as percentage of (I) | | | | -41.88% | -36.45% |
| | | | | | | |
| XIV | Average Surplus/Shortfall | | | | | (-)39.17% |
| | | | | | | |

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/62 /2003-MBPT - Proposal from the Mumbai Port Trust for revision of composite berth hire charges and pier dues.

1. The comments received from the port users / representative bodies of port users are summarised below:

Hindustan Petroleum Corporation Limited (HPCL)

- (i) Even without the proposed revision of composite berth hire charges and pier dues, MBPT is the most expensive port and with any further increase, MBPT becomes most uneconomical port for the Oil industry. The statement furnished below, shows comparison of total port charges for LR – II vessels.

Total Port charges for 2 days stay at berth

(Rs. in Lakhs)

| | MBPT | | JNPT | NMPT | COPT |
|---------|----------|----------|-------|-------|-------|
| | Existing | Proposed | | | |
| Coastal | 13.90 | 18.44 | 14.96 | 9.71 | 6.93 |
| Foreign | 29.03 | 30.89 | 20.89 | 13.73 | 20.22 |

| | MBPT | | CHPT | VPT | PPT | Haldia (KoPT) |
|---------|----------|----------|-------|-------|-------|---------------|
| | Existing | Proposed | | | | |
| Coastal | 13.90 | 18.44 | 14.79 | 13.16 | 12.88 | 10.53 |
| Foreign | 29.03 | 30.89 | 20.23 | 18.63 | 19.54 | 22.18 |

- (ii) In case MBPT proceeds with the revision in charges unilaterally and unjustifiably Oil industry may be forced to look into other avenues of crude and petroleum products transportation into Mumbai in order to optimize the freight / landed cost to be competitive in the global scenario.

Mumbai and Nhava-Sheva Ship-Agents' Association (MANSA)

- (i) The MBPT in its earlier proposal dated 12 December 2002 felt that considering the declining traffic at MBPT and such charges at JNPT have remained unchanged, it felt not advisable to revise the berth hire charges at that stage. It felt that any revision might result in further diversion of traffic. Further, the MBPT at that time had proposed a reduction of berth hire charges for Princes & Victoria Docks (P&V Docks). Hence there is no substantive change in the circumstance to make MBPT to change its stand now.
- (ii) With JNPT is nearly saturated, the present proposal is more out of MBPT's confidence that traffic will not be shifted, than the justifiable need for an increase.

- (iii) The reduction in receipt on account of berth hire charges from Rs. 43.42 crores in 2001-02 to Rs.38.63 crores in 2002-03 is comparable with reduction in number of vessels called at MBPT as tabulated below.

| | 2001-02 Rs. Cr | 2002-03 Rs. Cr | Variation Rs. Cr | % |
|-----------------------------------------|-------------------|-------------------|---------------------|---------------|
| Total Receipt a/c berth hire | 43.42 | 38.63 | -4.79 | -11.03 |
| No. of Ships called | 1047 | 911 | -136 | -13 |

MBPT likes to penalize those vessels calling at its docks for its own structural deficiencies.

- (iv) The present proposal of the MBPT to increase the charges obviously is to make good the anticipated loss of extra revenue due to reduction in unit of berth hire charges from 8 hours to proportionate per hour basis. In fact, JNPT which charges the same rate as MBPT, offers far superior quay line and other facilities. As stated by the MBPT itself in its previous proposal, its berth hire charges are the highest in comparison with those levied at Kandla, Kolkata, Visakhapatnam, Chennai and Mormugao.
- (v) TAMP has directed major ports to prescribe composite berth hire rates on the basis of different types of services rendered at each berth. In accordance with this directive, the MBPT has prescribed a lower berth hire rate for P & V Docks. There are, however, several berths at the Indira Dock where services rendered / facilities available (no sheds or cranes), are the same or less than at the tariffs at P & V Docks. Obviously, concessional berth hire needs to be proposed for these berths.
- (vi) At the time of consolidating vessel related charges and cargo related charges in 1992 into composite berth hire charges, the following ancillary services were included:-
- Night, Sunday and over time charges.
 - Charges for supply of telephone
 - Charges for removal of rubbish
 - Wharfage charges on 'Same Bottom Cargo'
 - Double Hook allowance payable to labour
 - Bunkering
 - Night allowance for labour
 - Charges for covering of culverts, manholes at berth while discharging bulk cargoes
 - Wharf Crane charges
 - Charges for special equipment and fire watch

Hardly any of the above services are now being rendered to vessels in MBPT, yet no proportionate deduction has been offered to the port users. MBPT may be called upon to explain the details of the above services being rendered

(vii). The differences in berth hire / pier dues of vessels that actually call at MBPT based on 8 hours slab period, per hour slab period and proposed per hour slab period is as follows:

| Vessel Name | Date & time of Berthing | Date & time of Unberthing | Actual Berth Hire paid basis 8 Hrs US\$ | Actual Berth Hire paid Basis per Hr US\$ | Percentage difference B/w. present 8 Hrs / Per Hr Basis | Berth Hire payable as per New Proposal | % difference B/w. 8 hrs basis / proposed per Hour basis |
|-------------------------------|-------------------------|---------------------------|-----------------------------------------|------------------------------------------|---------------------------------------------------------|----------------------------------------|---------------------------------------------------------|
| Steel Over 10000 tons | | | | | | | |
| Energy Ranger | 08.09.03 2245 Hrs | 13.09.03 0606 hrs | 16088 | 16088 | 0 | 18840 | 17 |
| Axon | 17.09.03 1400 Hrs | 24.09.03 1142 Hrs | 13611 | 13460 | -1.11 | 15749 | 16 |
| Andriane Samos Dream | 30.07.03 1210 Hrs | 03.08.03 0905 Hrs | 13228 | 12826 | -3.04 | 15007 | 13 |
| Import / Export VSLs | | | | | | | |
| Pacific Express | 12.09.03 1310 Hrs | 18.09.03 1300 Hrs | 155596 | 14788 | -5.18 | 17303 | 10.95 |
| Le Yi | 07.07.03 0540 Hrs | 17.07.03 0615 Hrs | 29074 | 28278 | -2.74 | 33087 | 13.8 |
| Le Cong | 26.06.03 0740 Hrs | 03.07.03 1730 Hrs | 21571 | 20886 | -3.18 | 24438 | 13.29 |
| VEG Oil over 5000 tons | | | | | | | |
| Chemstar Venus | 10.04.03 1445 Hrs | 13.04.03 0515 Hrs | 4494 | 4426 | -1.58 | 5180 | 15 |
| Oriental PO | 06.10.03 2306 Hrs | 08.10.03 2137 Hrs | 1768 | 1696 | -4.07 | 1984 | 12 |
| Pir Pau Approx 48 Hrs | | | | | | | |
| Chembulk Casablanca | 28.04.03 1135 Hrs | 29.04.03 1555 Hrs | 4780 | 4332 | -9.37 | 23175 | 13 |
| Ginga Hawk | 10.07.02 1345 Hrs | 12.07.02 1720 Hrs | 8341 | 7829 | -7.14 | 9776 | 16 |
| Jawhar Dweep | | | | | | | |
| Cinta Trader | 16.08.03 1800 Hrs | 18.08.03 0624 Hrs | 20062 | 18558 | -7.5 | 23175 | 16 |
| Simba | 08.02.02 2140 Hrs | 07.02.02 1305 Hrs | 38496 | 38496 | 0 | 48074 | 25 |
| PAX VESSELS | | | | | | | |
| Herbridean Spirit | 28.12.01 8.30 Hrs | 30.12.01 1800 hrs | 1579 | 1432 | -9.31 | 1676 | 6 |
| Minerva | 27.12.02 1750 Hrs | 28.12.02 1750 Hrs | 1739 | 1739 | 0 | 2036 | 17 |
| MIXED GEN CARGO VSLs | | | | | | | |
| MV MERCS MIRISSA | 08.06.03 1530 hrs | 23.06.03 0240 hrs | 22686 | 22447 | -1.05 | 26265 | 15.78 |
| MV Bechar | 09.07.03 1345 hrs | 26.07.03 1850 hrs | 20977 | 20894 | -0.40 | 24447 | 16.54 |
| MV Global Progress | 13.09.03 1535 hrs | 23.09.03 0615 hrs | 26722 | 26629 | -0.35 | 31158 | 16.60 |
| MV Mercs Mirissa | 06.08.03 1548 hrs | 18.08.03 1300 hrs | 18561 | 18448 | -0.61 | 21585 | 16.29 |
| MV Global Prosperity | 03.10.03 1915 hrs | 08.10.03 1750 hrs | 13822 | 13718 | -0.75 | 16051 | 16.13 |
| CONTAINER VSLs | | | | | | | |

| | | | | | | | |
|-----------------------------------|----------------------|----------------------|-------|-------|-------|-------|-------|
| Achiever | 16.09.03 1455 hrs | 18.09.03 0530 Hrs | 2555 | 2493 | -2.43 | 2917 | 14.17 |
| Helene Rickmers | 27.09.03 1445 Hrs | 29.09.03 1120 Hrs | 4738 | 4643 | -2.01 | 5433 | 14.67 |
| Chick Peas VLSL | | | | | | | |
| Tenora | 22.09.03 1150 Hrs | 04.10.03 1545 Hrs | 23318 | 23023 | -1.27 | 26938 | 15.52 |
| Kuanyin | 27.07.03 0045 Hrs | 12.08.02 0500 Hrs | 25112 | 25005 | -0.43 | 29258 | 16.51 |
| Iran Meezan | 03.10.03 1115 Hrs | 11.10.03 2310 Hrs | 12083 | 11861 | -1.84 | 13878 | 14.86 |
| COMB / Container-Breakbulk | | | | | | | |
| Delmas Sycamore | 25.09.03 1400 Hrs | 30.09.03 0905 Hrs | 12088 | 11695 | -3.25 | 13684 | 13.20 |
| Delmas Surcouf | 10.09.03 2335 Hrs | 13.09.03 0630 Hrs | 5865 | 5588 | -1.71 | 6523 | 15.02 |

There is no justification for MBPT to ask for the increase of 17% in the commercial docks and approximate 25% at Pir Pau / Jawhar Dweep.

- (viii) Penal berth hire was introduced by TAMP as a deterrent for vessels overstaying at the berth thereby causing delay to other vessels waiting for berth. In the port of Mumbai this situation is nonexistent as several berths lie vacant and with the complication in discharge operation and port taking over the stevedoring, it is not possible to pin down the exact time of completion of the vessel.

In Mumbai Port, sailing time of a vessel can only be taken during the day from 09.00 hrs to 18.00 hrs, as there is no competent officer posted round the clock to program vessels sailing immediately on completion. Therefore, this clause turns the deterrence into a revenue earning proposal. On the other hand, the advantage to the vessel of cessation of berth hire 4 hours after vessels signaling readiness to sail is non-existent as the clause goes on to say that it excludes the ships waiting time for want of favourable tidal conditions. In Mumbai the navigation / movement of vessels transiting through the locks and sailing is very complicated and rife with restrictions. Several vessels have to wait for over 8 to 12 hours after completion of cargo operations to be able to sail. Therefore, due to these anomalies, the "Penal berth hire and cessation of berth hire" for MBPT may be withdrawn.

- (ix) MBPT has proposed a complicated system for charging coastal vessels vis-à-vis foreign going rates. We propose as follows:
- a) If a vessel arrives in ballast for loading coastal cargo, irrespective whether she is arriving as a foreign going vessel or a coastal vessel, by virtue of the vessel handling only coastal cargo in port, the vessel should be charged coastal rates.
 - b) If vessel arrives with foreign cargo and on completion of foreign cargo she is converted to coastal on her outward journey without

loading any coastal cargo the foreign rates to apply till she leaves the port.

- c) If a vessel arrives with coastal cargo for discharge and leaves the port without loading any foreign cargo she should be charged coastal rates irrespective of whether she is converted to foreign trade after completion of coastal cargo i.e., no foreign cargo loaded in the port.
 - d) If a vessel arrives with foreign cargo for discharge and on completion of discharge is converted to coastal trade and loads coastal cargo foreign rates should apply till such time she is converted to a coastal vessel.
 - e) If a vessel arrives with coastal cargo for discharge and after discharge loads foreign cargo after being converted to foreign trade, foreign rates to apply after conversion.
- (x). The proposal of the MBPT not to be considered in their own interest and in the interest of the few customers who patronize them. Instead, MBPT mobilize all its internal strength to improve the physical service level at the Docks in order to increase the traffic volume. With such steps, once the volume increases, the revision of rates can be reviewed, may be a year later.

M/s. Shahi Shipping Limited (SSL)

- a. Composite Berth Hire (GRT 1559.30 tonnes, Coastal Vessel)

| Prior to 01/06/2003 | With effect from 01/06/03 | Proposed |
|--------------------------------------------------------------|-----------------------------------------------------|-----------------------------------------------------|
| @ Rs. 0.75 per GRT per 8 hrs aggregating Rs.1170/- per 8 hrs | 0.094 per GRT per hour aggregating Rs. 147 per hour | 0.086 per GRT per hour aggregating Rs. 134 per hour |

We have no objection for MBPT levying the proposed tariff at Rs. 0.086 for coastal vessels.

- b. Pier Dues (Vessel GRT 423 tonnes, Coastal Vessel)

| Prior to 01/06/2003 | Proposed |
|------------------------------------------------------------------|---------------------------------------------------------|
| Rs. 3.27 per GRT per 8 hrs, minimum charge Rs. 3266.20 per 8 hrs | 0.520 per GRT per hour, minimum charge per hour Rs. 520 |

In view of our vessels being small and having less GRT, the minimum charge proposed will be double the present per hourly rate i.e., Rs. 220

per hour vis-à-vis Rs. 520 per hour. We suggest that the minimum charge to be fixed at Rs. 0.45 per GRT per hour i.e., the minimum charge of Rs. 200 per hour.

M/s. J.M. Baxi & Co.

- (i) There is an extensive thrust by all concerned to increase the cargo throughput in the port. Raising port charges is going to be counter productive.
- (ii) The cost of handling cargo for a vessel loading 12000 tonnes of SBM in bulk in Mumbai (US\$ 9.70 per tonne) is already twice the cost of handling cargo in Kandla (US\$ 4.46 per tonne). As a result, freight rates quoted by vessel owners for cargo carriage to and from Mumbai is much higher than for the same cargo to and from Kandla. Any increase in port charges will make the operation unviable.

Dolphin Offshore Enterprises (India) Ltd (DOEIL)

Tariff rates for local coastal trade ships be retained. Increase, if any, should be very minimal.

Bharat Petroleum Corporation Limited (BPCL)

It has reiterated the comments furnished by the HPCL

The Shipping Corporation of India Ltd., (SCI)

- (i). The MBPT had in its earlier proposal for revision of port dues and pilotage services indicated that berth hire charges would not be increased. It had also not proposed any increase in the pier dues. MBPT has now proposed an upward revision of berth hire and pier dues.
- (ii). The proposal was discussed with oil industry. The views of SCI on the MBPT proposal are in line with the comments furnished by the oil industry in this regard.

2. The MBPT has responded on the comments furnished by the user organizations, which are summarised below:

On the Comments of the HPCL

- (i). MBPT has invested a large amount for modernization of its Marine Oil Terminal at Jawhar Dweep and for replacing all submarine pipelines and the present proposal is to increase the charges marginally and not to cover the full cost of rendering the services.

- (ii). As per the accounts 2002-03, the berthing activity is in deficit by 140% considering the total cost and ROCE. As against this, the proposal of 17% increase is negligible.

On the Comments of the MANSA

- (i) The decline in berth hire revenue was not altogether due to decline in traffic. In fact, the total GRT subjected to berth hire charges was more in the year 2002-03 than in the year 2001-02. This clearly indicates that though the number of vessels has come down, parcel size of the vessel has increased. The reason for decrease of berth hire charges, therefore, appears to be lesser time of stay of vessel alongside the berth in 2002-03 as compared to 2001-02. In 2001-02 the average stay of vessel at berth was 4.13 days and it was 3.66 days in 2002-03. This could be achieved only by better out put by the port.
- (ii) Services rendered at all the berths are common except at a few berths. The exceptions are only in respect of capacity of cranes and covered sheds. If different rates for different berths are prescribed vessel agents may opt for allotment of berth of lower rates and berths having higher rates may remain under-utilised. It will also add to documentation and other work for the purposes of billing. Further, vessels are shifted many times from one berth to another berth for various reasons and in such cases prescribing berthwise rates may complicate the billing system.
- (iii) All the services and facilities included in the composite berth hire charges referred by MANSA are still rendered when intended by vessel agents / vessel owners.
- (iv) The penal berth hire charges despite the inherent restrictions in berthing operation in the port was inserted in the Scale of Rates as recommended by TAMP. If the port is not able to take a vessel out within 4 hours of completion of operation or within 4 hours following availability of suitable tide, no berth hire charges are leviable on the vessel after the stipulated 4 hours. Similarly, if a vessel declares its readiness to sail and accordingly, it is given slot for sailing and if the vessel does not sail by the allotted time and no cancellation of the allotted time is received within 4 hours of the allotted sailing time, vessel is charged one day's extra berth hire charges. Thus, the responsibility cast equally both on the port as well as vessels' agents / vessel owners to sail vessel out promptly.
- (v) At MBPT vessel programming in respect of docks is decided in the meeting held with the port users daily. In respect of the vessel programming at MOT, it is decided in the meeting with the terminal users in port well in advance, some times even a month before arrival of the vessel at berth. As such MANSA's submission is not understood.

- (vi) The definition of coastal vessels and foreign going vessel was incorporated in the Scale of Rates issued by the TAMP under its order No: TAMP/2/97-MPT, dated 2/6/1998.

On the comments of Shahi Shipping Ltd., (SSL):

The service at Piers was in deficit by 103% in the year 2002-03 whereas the increase proposed is only 25%. The expenditure at Piers is much more than the minimum charge of Pier dues. There is, therefore, no need to consider the suggestion made by the SSL to fix the minimum charge of Rs. 200 per hour.

On the comments of M/s. J.M. Baxi & Co. (JMBC):

- (i) Comparison of vessel related charges at Kandla and Mumbai reveal that only the berth hire at Mumbai is higher than at Kandla. Port dues and Composite Towage and Pilotage fees at MBPT are less than Kandla.
- (ii). Work at Kandla is mostly carried out by unorganized private labour whereas labour in MBPT is highly organized and unionized. Vessel's stay at berth at Kandla is, therefore, less.

On the comments made by SCI:

Prescription of berth hire charges and pier dues on hourly basis will result in reduction in income to the port. Both the services are rendered in deficit. Port should make efforts to retain the revenue prevailed in 2002-03. Revising the charges marginally to retain the income prevailed in 2002-03 and to cover the escalation in expenditure may not affect the vessels adversely and traffic may not be diverted.

3. A joint hearing in this case was held on 11 February 2004 at the office of this Authority. At the joint hearing, the MBPT and the port users have made their submission.

MBPT:

- (i). Our proposal for increase is mainly to offset loss on account of introduction of hourly berth hire rates. The loss is about Rs. 3.8 Crores.
- (ii). We will furnish our reply to TAMP's letter dated 9 February 2003 seeking additional information.
- (iii). In our December 2002 proposal we did not propose any increase in berth hire for fear of diversion of traffic to JNPT. But, we are compelled to revise our stand in view of loss due to hourly rate. Even if diversion of traffic takes place, we would like to increase the rates now so that our financial loss is reduced.

- (iv). Hourly berth hire may induce vessels to quickly vacate berths and thereby make available the berth for further operation. But in MBPT, it is not so because berths wait for vessel.

MANSA

- (i). Hourly berth hire is to remove unjustified charging resorted to earlier by ports. This cannot be a tenable reason for rate increase.
- (ii). The problem in MBPT is declining traffic. In rate increase, existing traffic will be burdened.
- (iii). When rupee was depreciating, MBPT retained the benefit. When the trend is reversed they want to pass the burden on users.
- (iv). Let MBPT give the comparative revenue analysis of 8 hour rate vis-à-vis hourly rate. We will give specific comments.
- (v). Let the services included in composite berth hire may be defined. (FA & CAO, MBPT says, they provide all services as in 1991. But some services may have become irrelevant due to technological changes. But they have not withdrawn any of the services on their own).

SCI

Not all berths at MBPT idle. The BPX berths are always in demand and hourly rate would have benefited these berths.

BCCI

- (i). We endorse the views of MANSA.
- (ii). The benefit to trade given by TAMP through hourly rate is being taken away by the proposal of MBPT to increase the rates. This cannot be allowed.

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