

(Published in Part – III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No. 59

New Delhi, 19 April, 2003

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal from the Tuticorin Port Trust (TPT) for levy of package marine charges to mainline container vessels as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/87/2002-TPT

The Tuticorin Port Trust

Applicant

ORDER

(Passed on this 17th day of March 2003)

This case relates to a proposal received from the Tuticorin Port Trust (TPT) for levy of package marine charges to mainline container vessel.

1.2. This Authority had earlier passed an Order on 30 August 2001 approving levy of a package marine charges of US \$ 15000 per call of mainline container vessels alongwith the associated conditionalities as proposed by the TPT. The scheme was approved for a period of six months; and those mainline vessels availing this benefit within this period were to be charged package rate as per the scheme for a period of one year from the date of availing this facility.

1.3. The conditions relating to furnishing of Bank guarantee as envisaged in the TPT's proposal and, approved by this Authority in the said Order are as follows:

- (i). The vessel operator shall deposit an unconditional irrevocable Bank Guarantee from a scheduled bank, before commencement of operations, for the amount of concession to be availed by making 50 calls. If the vessel discontinues the call, the concession availed of by the operator by making calls till discontinuance shall be paid by the operator to the port trust within 30 days of receiving the demand, failing which the Bank Guarantee will be encashed and the demand will be adjusted out of the proceeds of the bank guarantee and only the balance, if any, shall be refunded to the Operator.
- (ii). If the vessel does not call continuously for 15 days, it shall be considered as stoppage/discontinuance of operation.
- (iii). Should the vessel operate for 365 days and fail to make 50 calls, the package of marine charges for the calls not made shall be paid by the operator within 30 days after the end of 365 days, failing which the Bank Guarantee will be encashed and adjusted towards the package marine charges of the calls not made.

2. While considering the general revision proposal of the TPT, to a query raised by this Authority about continuance of the scheme of package marine charges, the port clarified that there were no takers for the scheme; no one had availed of the benefit envisaged by the scheme within the validity period stipulated. In this backdrop, this Authority in the Order passed on 20 September 2002 in the general revision proposal the TPT deleted this provision as redundant.

3.1 The TPT has now proposed to reintroduce its earlier scheme for collection of package marine charges of US \$ 15000 on container mainline vessels; the terms and conditions of the original proposal are proposed to continue subject to a modification in the condition relating to submission of Bank Guarantee.

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

- (i). The earlier scheme was discontinued from 6 March 2002 on expiry of six months from the date of notification of the Order since the port did not receive any registration for availing of the concession package marine charges.
- (ii). In view of the suggestion received from various concerned users, it is proposed to collect full marine charges including special rate for dredging as per the rates prescribed in the Scale of Rates as against submission of Bank Guarantee; and,

refund the balance amount to the Lines by reworking the rates as per package marine charges in the event of a Line crossing 50 calls per annum as against the earlier condition stated in para 1.2.(i) above.

- (iii). The TPT has proposed to reintroduce the scheme in order to attract mainline vessels of higher GRT. The scheme will operate as follows :
- (a). Main line container vessels should operate in an established sea route with at least one port of call beyond Singapore in the east and another beyond Salalah in the west in one voyage.
 - (b). If the said operator/line crosses 50 vessel calls in a year, then the vessels charges will be reworked at the package marine charge of US \$ 15,000 per call for a stay at berth (for eight hours) and the balance amount collected will be refunded to the operator / line on completion of the said 50 vessel calls.
 - (c). If the vessel remains at the terminal for more than one shift of eight hours, the additional berth hire charges as per scale of rates shall be charged.
 - (d). The amount of US \$ 15,000 to increase suitably based on the revision of rates approved by the TAMP.

3.3. The proposal has been approved by the Board of Trustees of the TPT in their meeting held on 17 August 2002. The TPT has further clarified that the instant proposal was discussed with the Tuticorin Steamer Agents Association (TSAA) and they have no objection in this regard.

4.1. In accordance with the consultation procedure prescribed by the Authority, the proposal of the TPT was forwarded to the concerned port users/representative body of port users for their comments. The comments received from them are forwarded to the TPT as feedback information. In response to this, the TPT has also forwarded its comments.

4.2. A joint hearing in this case was held on 5 February 2003 at the TPT premises. At the joint hearing, the TPT and the concerned users have made their submissions.

5.1. As agreed at the joint hearing, the TPT has subsequently forwarded its revised proposal. The revised rates and conditionalities proposed by the TPT are as follows:

- (i). The package marine charges are proposed for two categories of mainline container vessels as given below:

Vessels above 16000 GRT and upto 21000 GRT

- (a). US\$10,250/- or actual charges whichever is less covering port dues and pilotage fees alongwith dredging levy thereon (but excluding berth hire and dredging levy thereon).
- (b). This package will be admissible to services to new international destinations beyond Salalah on the West or Singapore on the East to which services are not available from the Tuticorin port at present.

Vessels above 21000 GRT

- (a). US\$13,750/- comprising of port dues and pilotage fees alongwith dredging levy thereon (but excluding berth hire and dredging levy thereon).

- (b). This package will be admissible for voyages beyond Singapore in the East and Salalah in the West and to an international port other than Colombo.
- (ii). The minimum number of calls to be performed by a line or a consortium of lines will be 36 per annum
- (iii). The scheme will be applicable to individual lines or consortium subject to the condition that consortium shall be a registered body having a standing of atleast 5 years and the consortium should specify the number of calls to be performed by its members individually.
- (iv). The terms of payment of the charges shall be as follows:
- (a). Port dues, pilotage and berth hire with the special rate for dredging applicable thereon shall be payable as per the rates prescribed in the existing Scale of Rates.
- (b). When the mainline vessel operator or the consortium cross the limit of 36 calls per annum, the differential between the amount collected from the party and the package marine charges will be refunded to said party.
- (c). No interest will be payable by the port on the amount locked up under this scheme as the refund would becomes due only on achieving the targeted calls.
- (v). It has reiterated its earlier views that the port charges levied at the Tuticorin Port cannot be compared to that of Colombo Container Terminal charges due to various factors already stated.
- (vi). Package marine charges will be adjusted in case of any change in the existing vessel related charges.

5.2. Subsequently, the TPT has proposed an alternative option to the terms of payment proposed at para 5.1. (iv) above in line with the suggestions received from some of the users. It has proposed to incorporate a condition allowing the users to submit an irrevocable Bank Guarantee before commencement of operations, for the amount of concession to be availed by making 36 calls as was considered in the scheme approved in August 2001.

6. To summarise, the TPT has sought the approval of this Authority to the following proposal:

- (i). The proposed package rate for mainline container vessel is given below:

Sl. No.	Size of mainline container vessel	Proposed rate	Voyages admissible
1.	Above 16000 GRT and upto 21000 GRT.	US\$10,250/- or actual charges, whichever is less, covering port dues and pilotage fees alongwith dredging levy thereon (but excluding berth hire and dredging levy thereon).	Services to new international destinations, beyond Salalah on the West or Singapore on the East to which services are not available from Tuticorin at present.
2.	Above 21000 GRT	US\$13,750/- comprising of port dues and pilotage fees alongwith dredging levy thereon (but excluding berth hire and dredging levy thereon).	Voyages beyond Singapore in the East and Salalah in the West and to an international port other than Colombo.

- (ii). The minimum number of voyages to be performed will be 36 calls per annum.

(iii). The terms of payment will have the following two options:

Option I – As per Scale of Rates	Option II- Bank Guarantee
(a). The vessel operator shall pay the charges as per the rates prescribed in the existing Scale of Rates for port dues, pilotage and berth hire with the special rate for dredging applicable thereon.	(a).The vessel operator shall deposit an unconditional irrevocable Bank Guarantee before commencement of the operations, for the amount of concession to be availed by making 36 calls.
(b). When the mainline vessel operator or the consortium crosses the limit of 36 calls per annum, the differential between the amount collected from the party and the package marine charges will be refunded to said party.	(b).If the vessel discontinues the call, the concession availed by the operator by making calls till discontinuance shall be paid by the operator to the Port Trust within 30 days of receiving the demand.
(c).No interest will be payable by the port on the amount locked up under this scheme as the refund will become due only on achieving the targeted calls	(c).If the condition prescribed in (b) above is not complied with, the bank guarantee will be encashed and the demand will be adjusted out of the proceeds of the Bank Guarantee. The balance, if any, shall be refunded to the operator.

- (iv). The scheme will be applicable to individual lines or consortium subject to the condition that consortium shall be a registered body having a standing of atleast 5 years and the consortium should specify the number of calls to be performed by its members individually.
- (v). The existing condition relating to levy of penal interest on amount due will apply as per the provision prescribed in the Scale of Rates.

7. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpts of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be available in our website (www.tariffauthority.org).

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

- (i). The concept of introducing ceiling rates for main line container vessels to boost container traffic has already been admitted by this Authority while passing its order on 30 August 2001 approving the package marine charges for main line container vessels calling at the TPT. This proposal of the TPT is only an attempt to revive the package marine charges already approved with certain modifications based on the feedback received by it from the users. That being so, this Authority has no reservation to approve the proposal of the TPT.
- (ii). The TPT has made certain changes in its original proposal based on the suggestions made by the users. The package marine charges approved earlier by this Authority include berth hire charges for occupation of a berth for a shift of 8 hours. In the instant proposal, the TPT has proposed to exclude berth hire charges from the package marine charges in view of the fact that the hourly berth hire charges will be introduced shortly which will benefit the users. The TPT has made suitable adjustment in the package marine charges to take care of the exclusion of the berth hire charges.
- (iii). Even though TPT has pointed out that the earlier scheme could not take off because of a conditionality imposed which required submission of bank guarantee to ensure certain number of minimum calls to qualify for the package marine charges. In order to make the scheme more attractive, the TPT has initially proposed a refund arrangement. Subsequently, after discussion with the users the port has proposed to keep the option of allowing the package charges in the first instant itself by accepting the suitable bank guarantee to ensure the prescribed number of calls in an year. In the final arrangement

proposed by the TPT, a user will have the option of availing refund on completion of the prescribed number of calls in an year or to avail the package marine charges on individual voyages subject to furnishing a bank guarantee. This is found to be a reasonable arrangement since a user will now have a choice to select a particular term of payment depending on his convenience.

In this context, there is a demand from some of the users that the Port Trust should refund the difference between the rates collected and the package marine charges with interest for the period when the funds are locked up. As has been correctly argued by the TPT, penal interest is payable by a Port Trust only for the delay caused by it in refunding. In the arrangement proposed now, the refund is conditional upon a Line or a consortium of lines achieving the prescribed number of calls. If the port trust effects refund immediately upon fulfilling the condition, the question of paying interest does not arise. Strictly speaking, the refund allowed on completion of the prescribed number of calls is of the nature of a rebate.

- (iv). It may be recalled that this Authority has introduced a special rate at the TPT to cover the debt servicing obligation to the port on a foreign currency loan raised by it to meet the huge expenditure incurred on capital dredging. This special rate is levied as a percentage of the vessel-related charges from all the vessels calling at the TPT. In order to ensure that the concessions given to container vessels do not adversely affect other cargo vessels' interest, in its earlier order this Authority had ordered that out of the package rates realised an amount equivalent to the special rate of capital dredging which would have been realised on the main line vessel as per normal tariff in the Scale of Rates should be transferred to the capital dredging account and only the balance should be taken in the port's General Account. Since this position holds good even now, this Authority wishes to reiterate the stipulation made in this regard on the earlier occasion.
- (v). There is a demand from the users' side that a similar arrangement should also be made for the feeder vessels. The port trusts argument that it wants to give concession to attract new business and not to the existing one appears to have a force. The TPT has, however, assured that it would examine the matter relating to prescribing package charges for container vessels having lesser GRT. Depending on the success of the scheme now introduced for the main line container vessels, the TPT may review the position with reference to feeder vessels also.
- (vi). Ordinarily, an amendment in vessel related charges comes into effect 30 days after their notification in the Gazette of India. Bearing in mind the fact that this case is only for prescribing a ceiling rate for vessel related charges of main line vessels and not alteration of the tariffs prescribed in the Scale of Rates, the approved provision is allowed to be enforced w.e.f. 1 April 2003. Incidentally, hourly berth hire charges at the TPT is also approved to be implemented w.e.f. 1 April 2003, in a separate Order passed today.

9. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the rates and conditionalities governing levy of package marine charges on main line container vessel as proposed by the TPT as mentioned in paragraph 6 above.

10. This Order will come into effect from 1 April 2003.

(A.L. Bongirwar)
Chairman

**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/87/2002 - Proposal from the Tuticorin Port Trust (TPT) for levy of package marine charges to mainline container vessel.

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

The Shipping Corporation of India (SCI)

- (i). The package marine scheme should cover services comprising of various vessels operated by various lines to enable the members to get benefit of reduced port charges by making the number of calls as prescribed.
- (ii). The proposal to make minimum 50 calls to avail the benefit of the package marine scheme may be reduced to 44 calls per annum since many a times long haul vessels are required to skip a port to catch up with their schedule.
- (iii). The proposed scheme is available only for mainline vessels of capacity greater than 21000 GRT, which needs to be lowered to 15000 GRT in the light of the fact that there were no takers for this scheme on the earlier occasion. Since the port charges for a 15000 GRT vessel will be lower than the proposed package of US\$ 15000 (for 21000 GRT vessel), the package marine charges needs to be recalculated and reduced for 15000 GRT vessels.

PSA SICAL Terminals Limited (PSA SICAL)

- (i). The proposal is a positive step towards encouraging direct call of vessels to the Tuticorin port.
- (ii). The condition of making full payment initially and then rebate after the Main Line Operator (MLO) attains 50 call is still very stringent one, especially in the present economic scenario faced by the Shipping Industry.
- (iii). The MLOs deploy smaller size vessels having GRT of 12000 MT to 24000 MT for direct call to regional ports due to limited draft, etc. Such vessels will not benefit from the proposed package marine charges.
- (iv). The marine charges should be prescribed in descending order for bigger vessels rather than rates prescribed in an ascending order in the existing Scale of Rates.

All India Chamber of Commerce and Industries (AICCI)

- (i). The instant proposal offering concessions in marine charges to container vessels is an appropriate action at this juncture.
- (ii). The proposal is, however, not attractive in comparison with the marine charges offered by other container terminals like Colombo, Dubai and Singapore.
- (iii). Levy of additional charge for the vessels stay beyond one shift is not consistent with spirit of the proposal; instead it may be made on per day basis.
- (iv). Since the concession is restricted to main line vessels only, the feeding operators and the users will surely be affected. The port may, therefore, withdraw the dredging levy imposed on the feeder vessels.
- (v). The package marine charges of US \$ 15000 may be reduced to US \$ 11000.

The Container Shipping Lines Association (India) (CSLA)

- (i). While welcoming the port's initiative to promote mainline container vessel, it has mentioned that unless the proposed package marine charges is made more competitive than that of the regional hub of Colombo, the vessel diversion cost will not get covered. In view of this position the tariff should be pegged at least 10 % less than that of the Colombo rate.
- (ii). The proposed rate of US\$ 15000 for an 8 hour call is higher than the normal charges applicable as per the Scale of Rates for vessels upto 21000 GRT. Such vessels will be grossly at a disadvantage over much larger vessels.
- (iii). With the draft restricted to 10.7 M, mostly mainliner vessels with a GRT of 16,000 to 36,000 will call the Tuticorin port. The port should, therefore, propose a cut off rate for 16,000 GRT vessels in order to be assured of decent minimum revenue.
- (iv). The proposed scheme may also be available to the consortiums operating mainline services.
- (v). With the draft restricted to 10.7 mtrs., vessels can seldom ply on extensive coverage to one port call beyond Singapore in the east and another beyond Salalah in the west to avail the benefit of the scheme. The condition should, therefore, be modified to state that vessels in service should call at least two international ports other than Tuticorin in a pre-advised route by the line or the consortium.

- (vi). The condition prescribing a minimum of 50 calls in a year may be reduced to 36 calls to enable vessels up to a 10 day frequency to be accommodated.
- (vii). The refund of excess collection should be made alongwith interest at prevailing bank rate.
- (viii). The draft should be improved to at least 13 mtrs. from long term point of view.

Tuticorin Steamer Agent's Association (TSAA)

It has reiterated the views of the other user organisation that the proposed rate would be higher than the actual vessel related charges applicable as per the rates prescribed in the Scale of Rates for a vessel of 21050 GRT. The proposed charges required to be modified by prescribing lower rates with a view to attract more main line vessels to the Tuticorin Port.

5.2. Based on the feed back received from the users, the port has proposed the following modifications in its proposal:

- (i). One more slab of package marine charge of US\$ 11000 is proposed for vessels having 16000 to 21000 GRT.
- (ii). Reduction of the minimum number of calls per annum from 50 to 44.

5.3. In response to the comments received from various user organisations, the TPT has offered the following comments:

I. On the comments of the Shipping Coporation of India

- (i). If a consortium is formed, the status of the consortium has to be a registered entity; otherwise, the port may not be able to ensure the achievement of the targeted vessel calls in total. It has, however, agreed to identify vessel calls within a consortium subject to the following conditions:
 - (a). The consortium should be internationally or nationally registered association with atleast 5 years of standing with specified number of members of the consortium.
 - (b). The consortium members should also indicate their individual share in the consortium.

II. On the comments of the PSA SICAL Terminal Limited

The issue about fixing the vessel charges in a descending order will be dealt separately along with general tariff revision proposal of the port.

III. On the comments of the All India Chamber of Commerce & Industry

- (i). This type of package marine charges should have a limit in respect of variable viz., berth occupancy; otherwise there would be dilution of the due to inefficiency, increase in berthing time, etc.; and, hence, the suggestion for per day rate cannot be agreed to.
- (ii). As already perceived at the time of the earlier scheme, for every mainline call of 21,000 GRT, two feeder vessel calls will be lost. It is for the feeder vessels to formulate the strategy to use the port to their advantage. Withdrawal of special rate for dredging on feeder vessels is not possible as this issue is to be examined for all vessels calling at the port.
- (iii). As regards the request to match the vessel related charges to that of Colombo Container Terminal charges, it is stated that the issue is linked to the resources available, volume of traffic and the revenue generated, which are not equal in the said two ports.

6. A joint hearing in this case was held on 5 February 2003 at the TPT premises. At the joint hearing, the following submissions were made:

Tuticorin Port Trust

- (i). In 2000, we introduced a package rate with the approval of TAMP. The clause about 'Bank Guarantee' was found to be a deterrent. Unfortunately, there were no takers to that scheme.
- (ii). The modification now is to refund the charges collected (based on normal tariffs) in excess of \$ 15000 per call at the end of the year. If actual rates are lower, then package rate will not be levied.
- (iii). We agree with users and have reduced the minimum call limit to 44 per annum.
- (iv). Call can be by an individual line or by a consortium.
- (v). For vessels in the range of 16000 to 21000 GRT, we want to introduce a separate rate of \$ 11000.
- (vi). There is no need to match our rates with Colombo since our market does not overlap with Colombo. Further, Colombo volumes are far too high than ours.
- (vii). We agree with CSLA about definition of voyage route.
- (viii). We can't agree to the request of CSLA for paying interest on refund. The package rate offered is a concession given.

- (ix) On a further consideration, we would like to modify our proposal as follows :
 - (a). Vessels above 21000 GRT – the package rate will be \$ 13750 + actual berth hire charges.
 - (b). Vessels between 16000 GRT and 21000 GRT which sail to West Coast of US, Europe and Africa – package rate will be US\$ 10250 + actual berth hire charges.
 - (c). The number of calls in a year to qualify for rebate can be reduced from 44 to 36.
- (x). As long as a consortium limits the number of its members, we don't mind to changes in them. But, we will face billing problems, if the number of members is suddenly increased.

The Container Shipping Lines Association (India)

- (i). We appreciate the initiative of the Port.
- (ii). If the rates are not matched with those of Colombo, there will be no incentive for a vessel to choose Tuticorin.
- (iii). If there is an updation or change in the members of a consortium during a year, the actual position should be recognised.
- (iv). Refund should not be given to consortium but to individual member.

Tuticorin Steamer Agents' Association

Subject to draft restrictions, the rates for similar vessels should be competitive with Colombo.

The PSA SICAL Terminals Limited

Vessels in the range of 16000 – 21000 GRT will generally call at the TPT. Please concentrate on this range. These vessels sailing to South East Asia and beyond should also get concession.

Indian Chamber of Commerce and Industry

Please introduce a package rate for vessels in the range of 9000-16000 GRT also (The TPT says, it will examine this aspect separately).
