

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)  
**TARIFF AUTHORITY FOR MAJOR PORTS**

**G.No.314**

**New Delhi,**

**20 August 2018**

**NOTIFICATION**

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Deendayal Port Trust (DPT) for fixation of Hire Charges of DPT owned Harbour Mobile Cranes of 120T capacity as in the Order appended hereto.

**(T.S. Balasubramanian)**  
Member (Finance)

**Tariff Authority for Major Ports**  
**Case No.TAMP/29/2018-DPT**

Deendayal Port Trust

- - -  
**QUORUM**

Applicant

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

**ORDER**

(Passed on this 31<sup>st</sup> day of July 2018)

This case relates to the proposal received from Deendayal Port Trust (DPT) for fixation of Hire Charges of 2 nos. of DPT owned Harbour Mobile Cranes (MHC) of 120T capacity at Dry Cargo Berths.

2. Before bringing out the submissions made by the DPT in its current proposal of March 2018, it is relevant here to mention that this Authority had passed an Order No.TAMP/32/2016-KPT dated 17 September 2016 fixing ceiling tariff under Tariff Policy, 2015 following normative approach for grant of license by DPT to service provider for Supply, Installation, Commissioning, Operation, and Maintenance of 6 nos. of 100 T or above capacity, owned / hired MHC at Berth Nos.7 to 9 inside port for a period of 10 years for handling dry cargo on common user basis based on the proposal filed by the DPT. In the said Order, this Authority has approved rate based on cost calculation for 124 T MHC. The SOR also provides rate for 100 T MHC by way of note no.(i) prescribed under the schedule of rates. The Order dated 17 September 2016 was notified in the Gazette of India on 28 September 2016 vide Gazette No.357. The validity on the rate prescribed is for period of 10 years subject to indexation in rate with base year January 2016 as stipulated in clause (ix) of the notes.

3.1. Now, the DPT vide its letter dated 27 March 2018 has submitted its proposal for fixation of Hire Charges for DPT owned MHC of 2 nos. of 120T capacity at Dry Cargo Berths including Comprehensive AMC with Operation for 5 years. The DPT has proposed to adopt the rate prescribed in the Order dated 17 September 2016 which is also for the capacity closer to 120 T.

3.2. The main points made by DPT in its letter dated 27 March 2018 are summarized below:

- (i). Considering the recommendation of Boston Consultancy Group (BCG), initially, the tender was invited for Grant of License for Supply, Installation, Commissioning, Operation and Maintenance of 4 Nos. of 100 MT or above owned / hired Mobile Harbour Cranes at Berth Nos.7 to 9 inside DPT for a period of 10 years for handling the cargo on common user basis.

But, due to non-response from any bidder for about a year, the tender was discharged and it was decided to go ahead with procurement of two numbers of MHC of 100 Ton or above capacity by DPT for which the capital estimate of ₹94.06 crores was approved by the Board of Trustees of the Port at its meeting held on 11 November 2016 for procurement of 02 nos. of MHCs. Accordingly, as approved by the Board at its meeting held on 12 May 2017, the letter of Intent for procurement of 02 nos. of MHC has been placed on M/s. Italgro. Srl., Italy on 22 May 2017. The cranes are expected to be delivered in the last week of March 2018 or first week of April 2018.

- (ii). Earlier, the TAMP, vide letter No.TAMP/32/2016-KPT dated 04 October 2016 had communicated the approval to the proposal of DPT for fixation of tariff for grant of license to service provider for Supply, Installation, Commissioning, Operation and maintenance of 06 Nos. of 100T or above MHC at Berth No.7 to 9 inside DPT of a period of 10 years for handling the cargo on common user basis. However, the tender for grant of license to service provider for 100T or above MHCs has been discharged.

- (iii). Since DPT has already placed an order for procurement of 02 nos. of 120T capacity of new MHC alongwith 06 nos. of grabs, approval of tariff for the new cranes is required. TAMP is empowered to approve the rates for MHCs as per para 9.2 of the notification No.TAMP/21/2009-WS dated 21 January 2015.
- (iv). Hence, approval is sought for fixation of the tariff for 120 T capacity of MHC of DPT, as already approved and applicable for 124 T capacity of MHC, vide notification on 357 dated 28 September 2016, as per para No.9.2 of the TAMP notification dated 21 January 2015. The schedule for the proposed rates with conditionalities as per the Order dated 28 September 2016 is attached. The above proposal has approved by the Chairman, DPT, subject to ratification by the Board.
- (v). In view of the above, the DPT has requested to consider and approve the rates proposed for DPT's 120T capacity of MHCs as proposed at Annexure – III, as per para 9.2 of the Order no.TAMP/21/2009-WS dated 21 January 2015.

3.3. The DPT has furnished the proposed draft SOR along with conditionalities as approved for 124T HMC vide Order No.TAMP/32/2016-KPT dated 17 September 2016 along with the proposal.

3.4. The rates and conditionalities proposed by DPT as prescribed in September 2016 Order are as follows:

Charges for use of Harbour Mobile Crane (HMC) of 124T capacity to be installed and operated by the private operators:

- (i). For Shredded Scrap

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 7996	91.35	54.82
<b>7997</b>	<b>96.16</b>	<b>57.70</b>
7998-8997	100.97	60.59
8998-9997	105.78	63.47

- (ii). For Project cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 4199	181.37	108.82
<b>4200</b>	<b>190.92</b>	<b>114.55</b>
4201-5200	200.47	120.28
5201-6200	210.01	126.01

- (iii). For Other bulk cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 13506	56.40	33.84
<b>13507</b>	<b>59.37</b>	<b>35.62</b>
13508-14507	62.34	37.40
14508-15507	65.31	39.18

- (iv). For Other break bulk cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 6400	119.02	71.41
<b>6401</b>	<b>125.28</b>	<b>75.17</b>
6402-7401	131.54	78.93
7402-8402	137.81	82.69

- (v). For Heavy Melting Scrap (HMS)

Average daily crane performance	Ceiling rate per tonne (in ₹)
---------------------------------	-------------------------------

(in Metric Tonne)	Foreign	Coastal
Upto 4031	181.18	108.71
<b>4032</b>	<b>190.72</b>	<b>114.43</b>
4033-5032	200.26	120.15
5033-6032	209.79	125.87

(vi). For Thermal Coal

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 14497	51.68	51.68
<b>14498</b>	<b>54.40</b>	<b>54.40</b>
14499-15498	57.12	57.12
15499-16498	59.84	59.84

(vii). (a). For Salt

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 15505	49.12	29.48
<b>15506</b>	<b>51.71</b>	<b>31.03</b>
15507-16506	54.30	32.58
16507-17506	56.88	34.13

(b). For Iron Ore

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 15505	48.33	48.33
<b>15506</b>	<b>50.87</b>	<b>50.87</b>
15507-16506	53.41	53.41
16507-17506	55.96	55.96

(viii). For Food grains, pet coke, met coke

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 9004	84.60	50.76
<b>9005</b>	<b>89.05</b>	<b>53.43</b>
9006-10005	93.50	56.10
10006-11005	97.96	58.77

(ix). For Steel coils

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 10314	73.85	44.31
<b>10315</b>	<b>77.74</b>	<b>46.64</b>
10316-11315	81.63	48.97
11316-12315	85.51	51.30

(x). For Gypsum, MOP, Fertilizer (DAP+ urea)

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 12498	60.94	36.57
<b>12499</b>	<b>64.15</b>	<b>38.49</b>
12500-13499	67.36	40.41
13500-14599	70.57	42.34

(xi). For Timber logs

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 3174	238.00	142.80

<b>3175</b>	<b>250.53</b>	<b>150.32</b>
3176-4175	263.06	157.84
4176-5175	275.58	165.35

**Notes:**

- (i). Prescription of rate for 124T HMC does not prohibit the Kandla Port Trust to permit deployment of 100T HMC. If a 100T HMC is permitted, the base rate for 100T HMC is the rate indicated in the first slab for each cargo group.
- (ii). The formula for calculation of average berth-day output is as follows:-  

$$\frac{\text{Total Quantity loaded / unloaded by HMC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hrs.}$$
- (iii). According to the average berth-day output for the vessel from commencement to completion of loading / discharge of cargo, the appropriate rate of crane hire charge will be chosen for recovery from Port users for the full quantity of cargo loaded / discharged.
- (iv). If one HMC works with another HMC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC's load meter.
- (v). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by HMC will be determined taking into account cargo loaded/ discharged prior to break-down divided by crane working hours and multiplied by 24.
- (vi). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading / unloading operations during working of HMC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.
- (vii). In case shifting of a vessel becomes necessary due to breakdown / non-performance of HMC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of ₹1,00,000/- (Rupees one lakh ) only . The shifting charges so recovered will be refunded to the vessel's agent while the penalty will be retained by the Port.
- (viii). In case of dispute on the average output, the decision of the Port Trust will be final and binding.
- (ix). The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2016 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.
- (x). The rates approved shall remain in force till approval of next general revision of scale of rates for tariff of DPT.

[The DPT proposal dated 27.03.2018 made a mention of the project for five years.]

4. Before acknowledging the DPT proposal dated 27 March 2018, the DPT vide our letter dated 17 April 2018 was requested to furnish documents/ clarifications on a few points by 23 April 2018. In response, the DPT vide its email dated 23 April 2018 has furnished its reply. A summary of documents/ clarifications sought by us and reply furnished by DPT are tabulated below:

Sl. No.	Information/ clarification sought by us	Reply furnished by DPT
(i).	<p>The subject proposal of DPT seeks approval for Hire Charges with respect to grant of License for Design, Manufacture, Supply, Erection, Testing, Commissioning and Operation of 2 nos. of 120T capacity of MHC at Dry Cargo, Berths including Comprehensive AMC with Operation for a period of 5 years.</p> <p>As brought out by DPT, the Authority has passed an Order No.TAMP/32/2016-KPT dated 17.09.2016 fixing ceiling tariff under Tariff Policy, 2015 following normative approach for grant of license to service provider for Supply, Installation, Commissioning, Operation, and Maintenance for 124 MT MHC at Berth Nos.7 to 9 inside Kandla Port for a period of 10 years for handling dry bulk and break bulk cargo items on common user basis based on the proposal filed by the DPT. The SOR approved also provides rate for 100T MHC in the first slab by way of note (i) in the SOR. The validity on the rate is prescribed for period of 10 years subject to indexation in rate as stipulated in clause (ix) of the notes.</p> <p>The port has, now, filed the subject proposal seeking rate for 120 T MHC adopting the same rates as already approved in Order dated 17 September 2016 for 124T MHC.</p> <p>In this regard, information / clarification to be furnished on the following points:</p>	<p>--</p>
(a).	<p>(i). With reference to the said proposal reference is drawn to clause 5.7.1 of the Working guidelines. As per clause 5.7.1 of the Working guidelines, for regulation of charges by service providers authorised by ports, the ports need to file a proposal under various methods mentioned therein, in case there is no ceiling tariff prescribed in the concerned Port for a particular service / facility.</p> <p>(ii). Further, as per para no.9.3 of Order No.TAMP/32/2016-KPT dated 17.09.2016, the rate approved by the Authority for 124T MHC is a ceiling rate and will apply commonly at the port for identical facility/ service offered at the port without reference to any particular service provider.</p> <p>(iii). As stated in above para, hire charge for 124T HMC approved by the Authority on common user basis, vide Order No.TAMP/32/2016-KPT dated</p>	<p>The rates approved by the Authority vide Order dated 17.09.2016, notified vide G.N. No. 357 dated 28.09.2016, were for 124 MT HMC to be granted on License basis for handling of bulk &amp; break bulk cargo items on common user basis. Whereas the present proposal of the DPT is to adopt the rates already approved by TAMP vide Order dt. 17.09.2016 for Port owned 120T MHC as per Para 9.2 of the TAMP notification dt. 21.01.2015.</p>

	17.09.2016 is valid for period of 10 years subject to indexation in rate. The proposal of DPT is to adopt the same rate for 120T HMC for a period of 5 years. When valid HMC rate for 124 Tonne capacity HMC is available, the reasons for filing a separate proposal seeking approval of the same rate for 120T HMC is not clear.	
(b).	The DPT may, therefore, clarify as to whether the productivity, capital cost, operating cost and ARR for the proposed 120T MHC are dis-similar to the productivity, capital cost, operating cost and ARR considered Order No.TAMP/32/2016-KPT dated 17.09.2016 in the tariff fixation for 124T MHC. If so, DPT may file the proposal with relevant cost statement and draft SOR.	It is to clarify that Productivity, capital cost, operating cost & ARR for the proposed 120T HMC are almost similar to the productivity, capital cost, operating cost and ARR considered vide Order No. TAMP/32/2015-KPT dt. 17.09.2016 in the tariff fixation for 124 MT MHC.
(c).	The proposal of DPT will be taken up for further processing only after the receipt of requisite clarification from the port.	It is requested that proposed rates may be approved for a period till next General revision of Scale of rates of DPT, instead of for 5 years as proposed vide letter dt. 27.03.2018 as proposed cranes being DPT owned cranes, same shall be considered for review in the next General Revision of Scale of rates of DPT, which is due from 01.04.2019.

5. In accordance with the consultative procedure prescribed, a copy of the proposal of DPT dated 27 March 2018 was forwarded vide our letter dated 27 April 2018 to the concerned users/ user organisations seeking their comments. We have not received any comments except from Kandla Stevedores Association Limited (KSAL) vide its email dated 11 May 2018. The comments received from the KSAL were forwarded to the DPT as feedback information. The DPT has responded to comments of KSAL vide its email dated 27 June 2018.

6. A joint hearing on this case in reference was held on 11 June 2018 at DPT premises. The DPT made a power point presentation of its proposal. At the joint hearing, the DPT and the concerned users/ user organizations have made their submissions.

7.1. Subsequent to the joint hearing, the DPT vide its email dated 27 June 2018 has proposed a few modifications in the conditionalities proposed by it earlier. The modification done by the DPT are as follows:

- (i). Note (vi) relates to how stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC is to be considered for calculation of crane operating hours. The said note stipulates that all stoppages in loading / unloading operations during working of HMC are required to be certified by Stevedore of the vessel. The DPT has replaced the word "stevedore of the vessel" with the word "DPT officers".
- (ii). The proposed note no.(vii) stated that in case shifting of a vessel becomes necessary due to breakdown / non-performance of HMC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of ₹1,00,000/- (Rupees one lakh) only. The shifting charges so recovered is refunded to the vessel's agent while the penalty will be retained by the Port.

The DPT has now proposed to modify the said note stating that no shifting charges shall be levied by the Port in case shifting of a vessel from berth to another berth/ anchorage become necessary due to break down/ non-performance of HMC. The proposed modification is because MHC is owned by DPT and operated by DPT.

7.2. Subsequently, DPT vide its email dated 28 June 2018 has furnished revised proposed rates updating the rates approved in September 2016 with 1.20% indexation i.e. 60% of 2% WPI indexation announced by the Authority for the year 2017-18 in line with note no.(ix) of the adopted SOR schedule of hire charges for MHC.

7.3. The DPT vide its email dated 02 July 2018 has further stated that the 2 nos. of MHCs have been commissioned with effect from 07 May 2018. Hence, DPT has requested to approve tariff with effect from 07 May 2018.

7.4. The DPT vide its email dated 04 July 2018 has further stated that the Board of Trustees of DPT, in meeting held on 28 March 2018 vide resolution no.138, has ratified the action taken for submission of tariff proposal to TAMP for adoption of the tariff already approved by the Authority vide Order dated 17 September 2016 and applicable for 124 T MHC, for 2 nos. of 120T MHC of DPT and also approved to adopt the rates already notified by TAMP provisionally, as mentioned above, till the approval of TAMP is received for fixation of tariff. A copy of relevant extract of Board resolution no.138 is furnished by DPT.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to them. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). The proposal of the Deendayal Port Trust (DPT) is for fixation of Hire Charges of DPT owned 2 nos. of Harbour Mobile Cranes (MHC) of 120T capacity at Dry Cargo Berths adopting the tariff approved by this Authority vide Order No.TAMP/32/2016-KPT dated 17 September 2016.

As already brought out in the factual position, the DPT had earlier filed the proposal following the principles of tariff guidelines of 2008 under Tariff Policy, 2015 following normative approach for grant of license by DPT to service provider for Supply, Installation, Commissioning, Operation, and Maintenance of 6 nos. of 100 MT or above, owned / hired MHC at Berth Nos.7 to 9 inside Kandla Port for a period of 10 years for handling dry cargo on common user basis. Based on the proposal filed by the DPT, this Authority had passed an Order No.TAMP/32/2016-KPT dated 17 September 2016 fixing ceiling tariff for Supply, Installation, Commissioning, Operation, and Maintenance of 124 T MHC. The validity of the rates approved in the said Order is for ten years upto October 2026 subject to indexation of the prescribed rate at 60% of WPI with base year 01 January 2016.

The port invited tenders based on the approved rate. However, due to non-response from any bidder for about a year, the DPT has discharged the tender. The port, with the approval of its Board of Trustees, had procured two numbers of MHC of 120 tonne capacity by DPT. The said cranes are already in operation from 07 May 2018 and DPT has sought the approval of proposed rate from 07 May 2018.

The DPT has, therefore, filed a proposal seeking approval of tariff for 120 T HMC owned by DPT adopting ceiling tariff fixed by this Authority vide Order No.TAMP/32/2016-KPT dated 17 September 2016 for 124 T MHC.

- (ii). (a). As per clause 5.7.1. of Working Guidelines notified by this Authority to operationalize the Tariff Policy, 2015, for new cargo / services, the concerned Major Port Trust shall adopt the tariff prescribed for the similar service/ facility prescribed in any other Major Port Trust. If that option is not feasible, the Port Trust may propose tariff based on optimal capacity following the principles of 2008 guidelines or based on rated capacity or alternatively port can file the proposal based on cost plus 16% ROCE.



- (b). In DPT SOR, MHC rate for 60 T is prescribed for port owned MHC. No rate is prescribed in SOR of DPT for port owned MHC of 120T. The hire charges for 124T HMC approved in September 2016 Order was for service provider to be authorized by the port for deploying the MHC. Since that did not materialize, port has itself procured 2 nos. of own HMC of 120T. The port has sought approval of tariff adopting the rate already approved in September 2016 Order which was normative based and following principles of Tariff Guidelines 2008. Clause 5.7.1. of the Working Guidelines requires port to prescribe performance standards also while tariff for new cargo / service is proposed. In this regard, it is to state that the DPT has proposed performance linked tariff structure adopting the Schedule prescribed in the Order No.TAMP/32/2016-KPT dated 17 September 2016. The proposal of DPT fits in the options prescribed in clause 5.7.1. of Working Guidelines for new facility / services. Hence, this Authority is inclined to consider the proposal of DPT. Incidentally, none of the users / user organizations have commented adversely on the approach adopted by DPT of proposing to adopt the tariff fixed vide Order No.TAMP/32/2016-KPT dated 17 September 2016. The Kandla Stevedores Association Limited (KSAL) has made certain observations regarding penal clause which are discussed in the subsequent paragraphs.
- (iii). The DPT in the original proposal dated 27 March 2018 had proposed identical rates and conditionalities as prescribed in the tariff Order dated 17 September 2016. Subsequently, during the processing of this case the DPT has made a few modifications as discussed below:
- (a). In the tariff schedule for 124T MHC approved by this Authority vide Order No.TAMP/32/2016-KPT dated 17 September 2016, note no.(vii) prescribed that indexation in the prescribed rate shall be at 60% of WPI with base year as 01 January 2016. Since the base year of WPI for indexation in the said Order is prescribed as 1 January 2016, the DPT has vide its email dated 28 June 2018 proposed indexed rate after applying 1.20% escalation i.e. 60% of 2% of the annual escalation announced by this Authority for Major Ports under Tariff Policy, 2015 for the year 2017-18. It is relevant here to state that recently this Authority has announced indexation factor at 3.45% for Major Ports with effect from 01 August 2018 for the year 2018-19.
- Thus, the indexed SOR arrived by DPT need to be further indexed at 60% of 3.45% i.e. 2.07% for the year 2018-19 effective from 01 August 2018.
- Therefore, the indexed SOR proposed by DPT is further indexed for the year 2018-19 applying applicable indexation factor of 2.07% i.e. 60% of 3.45% for the year 2018-19 effective from 01 August 2018. Since the DPT has sought approval of the rate from 7 May 2018, the indexed SOR as proposed by DPT by its letter dated 28 June 2018 will be effective from 7 May 2018 to 31 July 2018.
- (b). The note no.(vi) prescribed by this Authority in September 2016 Order, relates to how stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC is to be considered for calculation of crane operating hours. The said note stipulates that all stoppages in loading / unloading operations during working of HMC are required to be certified by Stevedore of the vessel. The word "Stevedore of the vessel" is replaced with the word "DPT officers" as the DPT is going to operate MHC on its own through outsourcing contract. The said modification is apt and hence is approved as proposed by the DPT.
- (c). The note no.(vii) prescribed in September 2016 Order stipulates that in case shifting of a vessel becomes necessary due to breakdown / non-performance of HMC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of ₹1,00,000/- (Rupees one lakh) only . The shifting charges so recovered

is to be refunded to the vessel's agent while the penalty to be retained by the Port. The DPT has now proposed to modify the said note no.(vii) in view of the objections raised by KSAL on said note. The DPT has proposed to modify the said note stating that no shifting charges shall be levied by the Port in case shifting of a vessel from berth to another berth/ anchorage become necessary due to break down/ non-performance of HMC. The proposed modification is because MHC is owned by DPT and operated by DPT. Therefore, the said modification is approved as proposed by the DPT.

- (d). The note (x) of the September 2016 Order approving reference tariff for 124T HMC stipulates that rate approved shall be in force for ten years subject to the indexation. The DPT while adopting the rate from the said Order has proposed to modify the note no.(x), prescribed in September 2016 Order. The modified note proposed by the DPT is that the rates approved shall remain in force till approval of next general revision of scale of rates for tariff of DPT instead of 5 years earlier proposed by DPT in subject itself.

The existing general Scale of Rates of DPT for the port as a whole is valid till 31 March 2019. Citing that the port owned MHC will form part of the general SOR of DPT which falls due for revision from 01 April 2019, the port has proposed modified note prescribing validity of the rate for 124 T HMC till next revision of SOR so that they can review the item along with the SOR.

Generally, the rates approved by this Authority have validity for three years period. In the instant case the DPT has given the HMC for operation and Comprehensive Maintenance on contract for a period of five years.

It is relevant to state that the KOPT in its proposal seeking tariff for Floating Crane facilities on licence basis for a period of 15 years had proposed validity of the tariff for a period of 15 years subject to the indexation to ensure that there is stability in the rate. Likewise, at NMPT, this Authority had approved hire charge for 100T HMC to be provided by authorised service provider. The NMPT citing that the validity of the approved rate for HMC has expired has sought extension of the approved rate till the contract is over. The proposal of NMPT in this regard has been approved by this Authority. Based on the above position and also recognising that the DPT proposes to operate this HMC by giving it on contract for period of five years for maintenance and operation of HMC, it is appropriate that the validity of the HMC is approved coterminous with the contract period of five years subject to annual indexation as given in the subsequent paragraphs so that there is stability in the HMC rate.

- (e). Note no.(ix) in September 2016 Order stipulates provision for indexation in the prescribed rate at 60% of the WPI with base year January 2016. The DPT has proposed to delete the said note, in view of the modified note no (x) stated above, since DPT has proposed the validity of the proposed rates till next general revision of SOR i.e. till 31 March 2019. For the reasons cited in the previous paragraphs, the validity of the approved rate is being prescribed for period of five years. That being so, the note in the September 2016 Order relating to indexation in the prescribed rate at 60% of the WPI is prescribed in the SOR with base year as January 2018. The base year for indexation is prescribed as January 2018 as the rates approved in September 2016 Order has been indexed and brought to the base year of January 2018 applying the applicable indexation.

- (iv). (a). The KSAL has pointed out that no penal provision is prescribed for the time lost by vessel and in berth hire charges for underperformance / breakdown of HMC.

The DPT has stated that the contract between DPT and crane operator already contains provisions for penalty in case of non-availability of crane and for not achieving the specified performance standards. The provisions in the contract between DPT and outsourcing party is between two of them and this Authority is not privy to the terms of the contract. More pertinent point made by DPT is that to protect the vessel / vessel agent towards vessel's delay and berth hire incurred, note no. 5 under clause 3.1 B of Chapter-II is already prescribed in the SOR of the DPT. The said note states that no berth hire charges shall be levied for the period when the vessels idle at berths due to break down of port equipment or power failure or any other reasons attributable to the port. Thus, this addresses the point made by KSAL.

- (b). As regards the point made by KSAL for prescription for penalties on outsourced contractor, the DPT has clarified that, the crane is owned and operated by DPT. The contract given to crane operator prescribes provision for penalty for under performance and incentives for better performance. Therefore, the DPT does not find it necessary to prescribe any provision in the SOR.
- (c). The KSAL has pointed out that DPT charges penalty for non-achievement of norms based on circular of September 2015 issued to the trade which does not have approval of this Authority. The DPT may examine and, if necessary, file appropriate proposal seeking approval of this Authority if it falls under section 48 of the Major Port Trusts Act, 1963 in the light of points made by KSAL.
- (v). Ordinarily the rate approved by this Authority shall come into force after expiry of 30 days from the date of notification of the Scale of Rates in the Gazette of India. In the instant case, the DPT has stated that the MHCs have been commissioned with effect from 07 May 2018 and hence DPT has sought approval from 07 May 2018. In view of the submissions made by DPT, the approved rates is made effective from 07 May 2018 as proposed by DPT. The validity of the rates is prescribed for period of 5 years for reasons stated in the earlier paragraphs.

10.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the indexed Ceiling Tariff Schedule of Hire Charges of DPT owned 2 nos. MHC of 120T capacity at Dry Cargo berths which is attached as **Annex - (a)** for the period 07 May 2018 to 31 July 2018 and **Annex - (b)** effective from 01 August 2018.

10.2. The rates approved may be deemed to have come into effect from 07 May 2018 and the validity shall remain valid for a period of 5 years.

**(T.S. Balasubramanian)**  
Member (Finance)

[Effective from 07 May 2018 and valid till 31 July 2018]

**Deendayal Port Trust  
Scale of Rates**

Charges for use of Harbour Mobile Crane (HMC) of 120T capacity to be installed and operated by the private operators:

(i). For Shredded Scrap

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 7996	92.45	55.48
<b>7997</b>	<b>97.31</b>	<b>58.39</b>
7998-8997	102.18	61.32
8998-9997	107.05	64.23

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 9997 tonnes.

(ii). For Project cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 4199	183.55	110.13
<b>4200</b>	<b>193.21</b>	<b>115.92</b>
4201-5200	202.88	121.72
5201-6200	212.53	127.52

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 6200 tonnes.

(iii). For Other bulk cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 13506	57.08	34.25
<b>13507</b>	<b>60.08</b>	<b>36.05</b>
13508-14507	63.09	37.85
14508-15507	66.09	39.65

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 15507 tonnes.

(iv). For Other break bulk cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 6400	120.45	72.27
<b>6401</b>	<b>126.78</b>	<b>76.07</b>
6402-7401	133.12	79.88

7402-8402	139.46	83.68
-----------	--------	-------

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 8402 tonnes.

(v). For Heavy Melting Scrap (HMS)

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 4031	183.35	110.01
<b>4032</b>	<b>193.01</b>	<b>115.80</b>
4033-5032	202.66	121.59
5033-6032	212.31	127.38

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 6032 tonnes.

(vi). For Thermal Coal

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 14497	52.30	52.30
<b>14498</b>	<b>55.05</b>	<b>55.05</b>
14499-15498	57.81	57.81
15499-16498	60.56	60.56

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 16498 tonnes.

(vii). (a). For Salt

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 15505	49.71	29.83
<b>15506</b>	<b>52.33</b>	<b>31.40</b>
15507-16506	54.95	32.97
16507-17506	57.56	34.54

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 17506 tonnes.

(b). For Iron Ore

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 15505	48.91	48.91
<b>15506</b>	<b>51.48</b>	<b>51.48</b>
15507-16506	54.05	54.05
16507-17506	56.63	56.63

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 17506 tonnes.

(viii). For Food grains, pet coke, met coke

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 9004	85.62	51.37
<b>9005</b>	<b>90.12</b>	<b>54.07</b>
9006-10005	94.62	56.77
10006-11005	99.14	59.48

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 11005 tonnes.

(ix). For Steel coils

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 10314	74.74	44.84
<b>10315</b>	<b>78.67</b>	<b>47.20</b>
10316-11315	82.61	49.56
11316-12315	86.54	51.92

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 12315 tonnes.

(x). For Gypsum, MOP, Fertilizer (DAP+ urea)

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 12498	61.67	37.01
<b>12499</b>	<b>64.92</b>	<b>38.95</b>
12500-13499	68.17	40.89
13500-14599	71.42	42.85

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 14599 tonnes.

(xi). For Timber logs

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 3174	240.86	144.51
<b>3175</b>	<b>253.54</b>	<b>152.12</b>
3176-4175	266.22	159.73
4176-5175	278.89	167.33

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 5175 tonnes.

**Notes:**

- (i). Prescription of rate for 120T HMC does not prohibit the Deendayal Port Trust to permit deployment of 100T HMC. If a 100T HMC is permitted, the base rate for 100T HMC is the rate indicated in the first slab for each cargo group.
- (ii). The formula for calculation of average berth-day output is as follows:-  
$$\frac{\text{Total Quantity loaded / unloaded by HMC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hrs.}$$
- (iii). According to the average berth-day output for the vessel from commencement to completion of loading / discharge of cargo, the appropriate rate of crane hire charge will be chosen for recovery from Port users for the full quantity of cargo loaded / discharged.
- (iv). If one HMC works with another HMC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC's load meter.
- (v). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by HMC will be determined taking into account cargo loaded/ discharged prior to break-down divided by crane working hours and multiplied by 24.
- (vi). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading / unloading operations during working of HMC are required to be certified by the DPT officers in the daily vessel performance report.
- (vii). No shifting charges shall be levied by the Port in case shifting of a vessel from berth to another berth/ anchorage becomes necessary due to break down/ non-performance of HMC.
- (viii). In case of dispute on the average output, the decision of the Port Trust will be final and binding.
- (ix). The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2018 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.

\*\*\*\*\*

[Effective from 1 August 2018 ]

**Deendayal Port Trust  
Scale of Rates**

Charges for use of Harbour Mobile Crane (HMC) of 120T capacity to be installed and operated by the private operators:

(i). For Shredded Scrap

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 7996	94.36	56.63
<b>7997</b>	<b>99.33</b>	<b>59.60</b>
7998-8997	104.30	62.59
8998-9997	109.27	65.56

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 9997 tonnes.

(ii). For Project cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 4199	187.35	112.41
<b>4200</b>	<b>197.21</b>	<b>118.32</b>
4201-5200	207.08	124.24
5201-6200	216.93	130.16

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 6200 tonnes.

(iii). For Other bulk cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 13506	58.26	34.95
<b>13507</b>	<b>61.33</b>	<b>36.79</b>
13508-14507	64.39	38.63
14508-15507	67.46	40.47

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 15507 tonnes.

(iv). For Other break bulk cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 6400	122.94	73.76
<b>6401</b>	<b>129.41</b>	<b>77.65</b>
6402-7401	135.87	81.53



7402-8402	142.35	85.41
-----------	--------	-------

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 8402 tonnes.

(v). For Heavy Melting Scrap (HMS)

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 4031	187.15	112.29
<b>4032</b>	<b>197.00</b>	<b>118.20</b>
4033-5032	206.86	124.11
5033-6032	216.70	130.02

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 6032 tonnes.

(vi). For Thermal Coal

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 14497	53.38	53.38
<b>14498</b>	<b>56.19</b>	<b>56.19</b>
14499-15498	59.00	59.00
15499-16498	61.81	61.81

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 16498 tonnes.

(vii). (a). For Salt

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 15505	50.74	30.45
<b>15506</b>	<b>53.41</b>	<b>32.05</b>
15507-16506	56.09	33.65
16507-17506	58.75	35.25

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 17506 tonnes.

(b). For Iron Ore

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 15505	49.92	49.92
<b>15506</b>	<b>52.55</b>	<b>52.55</b>
15507-16506	55.17	55.17
16507-17506	57.80	57.80

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 17506 tonnes.

(viii). For Food grains, pet coke, met coke

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 9004	87.39	52.43
<b>9005</b>	<b>91.98</b>	<b>55.19</b>
9006-10005	96.58	57.95
10006-11005	101.19	60.71

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 11005 tonnes.

(ix). For Steel coils

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 10314	76.28	45.77
<b>10315</b>	<b>80.30</b>	<b>48.18</b>
10316-11315	84.32	50.58
11316-12315	88.33	52.99

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 12315 tonnes.

(x). For Gypsum, MOP, Fertilizer (DAP+ urea)

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 12498	62.95	37.77
<b>12499</b>	<b>66.26</b>	<b>39.76</b>
12500-13499	69.58	41.74
13500-14599	72.90	43.74

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 14599 tonnes.

(xi). For Timber logs

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
Upto 3174	245.84	147.51
<b>3175</b>	<b>258.78</b>	<b>155.27</b>
3176-4175	271.73	163.04
4176-5175	284.66	170.80

**Note:** To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2<sup>nd</sup> thousand

tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 5175 tonnes.

**Notes:**

- (i). Prescription of rate for 120T HMC does not prohibit the Deendayal Port Trust to permit deployment of 100T HMC. If a 100T HMC is permitted, the base rate for 100T HMC is the rate indicated in the first slab for each cargo group.
- (ii). The formula for calculation of average berth-day output is as follows:-  
$$\frac{\text{Total Quantity loaded / unloaded by HMC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hrs.}$$
- (iii). According to the average berth-day output for the vessel from commencement to completion of loading / discharge of cargo, the appropriate rate of crane hire charge will be chosen for recovery from Port users for the full quantity of cargo loaded / discharged.
- (iv). If one HMC works with another HMC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC's load meter.
- (v). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by HMC will be determined taking into account cargo loaded/ discharged prior to break-down divided by crane working hours and multiplied by 24.
- (vi). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading / unloading operations during working of HMC are required to be certified by the DPT officers in the daily vessel performance report.
- (vii). No shifting charges shall be levied by the Port in case shifting of a vessel from berth to another berth/ anchorage becomes necessary due to break down/ non-performance of HMC.
- (viii). In case of dispute on the average output, the decision of the Port Trust will be final and binding.
- (ix). The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2018 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.
- (x). The rates approved shall remain in force for a period of five years, subject to indexation from the date the Order comes into effect.

\*\*\*\*\*

**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**

**No.TAMP/29/2018-DPT : Proposal received from Deendayal Port Trust (DPT) for fixation of Hire Charges of DPT owned Harbour Mobile Crane of 2 nos. of 120T capacity at Dry Cargo Berths including Comprehensive AMC with Operation for a period of 5 years.**

The summary of comments received from Kandla Stevedores Association Limited (KSAL) and comments of Deendayal Port Trust (DPT) thereon is furnished below:

<b>Sr. No.</b>	<b>Comments of Kandla Stevedores Association Limited (KSAL)</b>	<b>Comments of DPT</b>
(i).	While the first slab of Average daily crane performance (in MT) for each cargo group is "upto (a particular tonnage)" there are no minimum thresholds of performance for the cranes prescribed.	The slabs are as per the notified tariff of TAMP vide notification dated 28.9.2016. There is no minimum threshold performance specified in any such tariff for MHCs. Moreover, in the contract between DPT and Crane Operator (Italgru) deterrent provisions by way of penalty is specified for not achieving the specified performance standards.
(ii).	<p>Under the General Notes at (vi) it is stated that 'no allowance will be allowed for stoppages attributable to the HMC'. However, there is no penal provision / penalty prescribed for the time lost by the Vessel and the Berth Hire incurred due to under-performance / non-performance / break down which are attributable to the HMC.</p> <p>Inclusion of such a provision is required to protect the Vessel / Vessel Agent / Stevedore towards Vessel delay and Berth Hire incurred due under performance / non-performance / breakdown attributable to the HMC.</p>	The contract between DPT and crane operator contains provisions for penalty in case of non-availability of crane and for not achieving the specified performance standards. Hence, the conditionality. Further, to protect the vessel / vessel agent towards vessel's delay and berth hire incurred, note no. 5 under clause 3.1 B of Chapter-II has already been prescribed. "No berth hire charges shall be levied for the period when the vessels idle at berths due to break down of port equipment or power failure or any other reasons attributable to the port."
(iii).	<p>Under General Notes at (vii) only an eventuality of a Vessel being shifted out of a Berth due breakdown / non-performance of HMC has been considered whereby a penalty of ₹1,00,000/- and Vessel shifting charges are to be recovered from the Crane Operator.</p> <p>It is to highlight that the DPT charges heavy penalty for non-achievement of norms for various cargo groups which is FIVE TIMES the normal Berth Hire Charges.</p> <p>While neither these norms nor the corresponding penalty being charged by the DPT since 21<sup>st</sup> September, 2015 has been sent to TAMP as a proposal for approval till date, though the KPT Circular dated 14<sup>th</sup> September, 2015 imposing Penalty states "this will be subject to approval of TAMP".</p> <p>The penalty so payable to the DPT for non-achievement of norms due under performance /</p>	<p>Conditionality (vii) is not applicable in the present case, as the cranes are owned by DPT and operated through contractor and the conditionality (vii) was for grant of license to parties to operate their cranes in DPT. Hence, conditionality (vii) has been modified accordingly.</p> <p>This comment is not relevant to the present proposal.</p> <p>The contract between DPT and Crane Operator specifies penalty for under</p>

<p>non-performance / break down or any other stoppages attributable to the HMC are also to be recovered from the outsourced Crane Vendor of DPT.</p> <p>This provision needs to be included both at (vi) and (vii) of the General Notes to the said SOR.</p> <p>The additions as above in the General Notes of subject SOR further assume significance in light of the fact that incase the said HMC's are available for deployment the Stevedores are to first deploy these HMC's to operate on the Vessel, prior deploying other available HMC's. In light of the above, it is necessary that the General Notes or Conditionalities governing the subject SOR for the HMC provide for penalties on the outsourced Crane Vendor of DPT towards (a) Vessel time lost (b) Berth hire incurred during idling of Vessel and (c) Penalty payable to DPT for non-achievement of DPT norms, due under performance / non-performance attributable to HMC and / or due break-down of HMC.</p>	<p>performance and incentive for better performance than the specified norm in the tender document. Hence, the concern of the KSAL is addressed already. The cranes are owned and operated by DPT. In view of the above, there is no need to modify or include the suggestion of KSAL in conditionality (vi) or (vii).</p>
---	--

2. A joint hearing on this case in reference was held on 11 June 2018 at DPT premises. The DPT made a power point presentation of its proposal. At the joint hearing, the DPT and the concerned users/ user organisations bodies have made the following submissions:

**Deendayal Port Trust (DPT)**

- (i). With regard to reference tariff approved by the Authority in September 2016, the tender was invited. Response was poor. Tender was, therefore, discharged.
- (ii). Port has procured 2 number of 120 T HMC. Proposal is for approval of reference tariff approved in 2016 with some minor modification in conditions which are not relevant.

**Gandhidham Chamber of Commerce and Industry (GCC)**

- (i). There was anomaly in previous rate.
- (ii). As productivity increases, the rate should come down. When Port is operating, the matter should be reverse.

**Deendayal Port Trust (DPT)**

- (i). Port has procured the crane and given it on operation and maintenance contract. Contract provides for penalty clause and incentive clause linked to performance.

\*\*\*\*\*