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Tariff Authority for Major Ports

G.No. 141

New Delhi,

07 April 2017

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the V.O. Chidambaranar Port Trust for fixation of Reference Tariff for Grant of license for Supply, Installation, Commissioning, Operation and Maintenance of one number Harbour Mobile Crane of capacity not less than 124 Tonnes at 9th berth in VOCPT on license basis for a period of 7 years and extendable by 3 more years at the VOCPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/94/2016-VOCPT

V.O. Chidambaranar Port Trust

Applicant

QUORUM

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

O R D E R

(Passed on this 2nd day of January 2017)

This case relates to the proposal dated 14 December 2016 received from the V.O. Chidambaranar Port Trust (VOCPT) for fixation of Reference tariff for Grant of license for Supply, Installation, Commissioning, Operation and Maintenance of one number Harbour Mobile Crane of capacity not less than 124 Tonnes at 9th berth in VOCPT on license basis for a period of 7 years and extendable by 3 more years.

2.1. The Ministry of Shipping (MOS) under cover of its letter No.PR-14019/16/2012-PG dated 9 September 2013 and 12 September 2013 has issued revised 'Guidelines for Determination of Tariff for Projects at Major Ports, 2013' under Section 111 of the Major Port Trusts Act, 1963 . In compliance of the policy directives issued by the (MOS) under Section 111 of the MPT Act, 1963, the said Guidelines were notified vide Notification No.TAMP/18/2013-Misc. in the Gazette of India on 30 September 2013, vide Gazette no.254. The said Guidelines were made effective from 9 September 2013.

2.2. Clause 2.2 of the said Tariff Guidelines of 2013, which is relevant, is reproduced below:

“The Reference Tariff (“the Reference Tariff”) for each commodity/ category of commodities and each service/ category of service or combination of service or services, as the case may be, shall be determined by TAMP for each Port based on a proposal from the concerned major Port. Such proposal shall contain the proposed Reference Tariff and “Performance Standards”. The Reference Tariff will be the highest tariff fixed for that commodity in the concerned major Port Trust under the 2008 Tariff Guidelines. While adopting the highest tariff, the base rate set under the Tariff Guidelines, 2008 shall be escalated to the extent of 60% of WPI per annum, as provided in the said guidelines for the period between 1st January of the year in which the said tariff was originally notified and 1st January of the subsequent relevant year when the Reference Tariff for the particular project in question is being notified. On receipt of the proposal, TAMP shall notify the Reference Tariff and Performance Standards within 15 days of receipt.”

2.3. Before bringing out the submissions made by the VOCPT in its current proposal dated 14 December 2016, it is relevant here to mention that this Authority had passed an Order no.TAMP/16/2010-TPT dated 23 July 2010 for setting upfront tariff for the upgradation of the mechanical handling infrastructure through Public Partnership on Build, Own and Operate (BOO) basis following the principles of upfront tariff guidelines of 2008 in line with clause 2.4 of the tariff guidelines of 2013 and based on the proposal filed by the VOCPT.

3.1. The main submissions made by the VOCPT in its proposal dated 14 December 2016 are summarised below:

- (i). The VOCPT Board, during the meeting held on 11 November 2016 accorded approval vide Resolution No. 241 (Agenda Item No. 34) to deploy one number HMC at 9th berth through open tender process under license basis on the revenue share model / or by hiring with O&M for three years and extendable by two years under section 42 of MPT Act, 1963 in order to fulfil the recommendations of M/s. BCG

Consultant. Hence, it is proposed to deploy one number of Harbour Mobile Crane (HMC) at 9th berth in order to handle various cargoes like dry bulk and break bulk.

- (ii). In this background, a proposal for fixation of Reference tariff for Grant of license for Supply, Installation, Commissioning, Operation and Maintenance of one number HMC of capacity not less than 124 Tones at 9th berth in VOCPT on license basis for a period of 7 years and extendable by 3 more years on revenue share mode is submitted to the Authority for approval.
- (iii). (a). The provisions of the TAMP Order No.TAMP/50/2011-VOCPT, dated 19 January 2012 vide clause No. 9.4 was gone through, in which it is stated that, the Authority has determined upfront tariff considering a standard capacity of HMC of 100T and linked the tariff to the performance of the crane so that it can fit for capacity range of HMC providing identical handling of commodity / service in the port in the next five years. Linking of tariff with performance will take care of the interest of users to a great extent and also the service provider even if the actual capacity of the crane deployed varies within a range from the standard HMC considered in this exercise.
- (b). In the proposed project, it is proposed to deploy one number HMC of not less than 124 Tonnes capacity. Hence, the facility envisaged in this project is representative enough as that of the facility provided in the earlier project i.e. Upgradation of mechanical handling infrastructure at VOCPT.
- (c). Hence, the tariff notified vide Order No. TAMP/16/2010-TPT, dated 23 July 2010 and Order No. TAMP/50/2011-VOCPT, dated 19 January 2012 is considered by applying applicable WPI alongwith terms and conditions for adoption in the present proposal.

3.2. The main highlights of the proposal are as follows:

- (i). M/s. Boston Consulting Group, Constituted by Ministry of Shipping, recommends to issue tender for installation of Harbour Mobile cranes at berth No. III & IV, to increase the productivity of the berth. Accordingly, one number of HMC, among two numbers, deployed at 9th berth in the existing project "Up gradation of mechanical handling infrastructure at VOCPT berths I to VI and berth No- IX" will be shifted to berth III/IV to comply with BCG Recommendations.

Further, considering the future traffic projection of various cargoes, and in order to create provision for handling such cargo, it is proposed to deploy one number HMC of more than 124 Tonnes capacity at 9th berth.

- (ii). (a). **Optimal capacity of Harbour Mobile Crane:**

Based on the norms prescribed in the TAMP order No. TAMP/16/2010-TPT dt.23.7.2010 & TAMP/50/2011- VOCPT, dated 19.01.2012 for up-gradation of Mechanical Handling Infrastructure, the optimal capacity is calculated as given here under:-

Assumptions:

On stream days considered in a year	330 days
Equipment availability per day	21 hours
No. of cycles per crane per hour	20
Material handling equipment efficiency	85%

Norms:

Details	Specifications
Capacity	Not less than 124 Tonnes HMC
Maximum Reach Required	34 Meter
Grab Weight	20T

Load/ Move at 11 to 19 meter	75T
Load/ Move at 34 Meter	39T
Average load/ move (Excluding the grab weight)	(55+19)/2 = 37 T/ Grab
Handling rate/ Hour	37*20 = 740 T/ Hr
Equipment Efficiency	85%
Handling capacity/ Hour	740*0.85 = 629 T/ Hr
Handling capacity/ Day	629*21 = 13209 T/ Day
Annual Handling capacity	13209*330 = 4,358,970, i.e., 4.36 MT

[Port has furnished the Annual Handling Capacity. The port has, however, not considered it for arriving at the proposed tariff. The proposal of VOCPT is for adoption of the upfront tariff.]

- (b). The Successful Licensee shall deploy the HMC of not less than 124 Tonnes capacity with two nos. of Grabs in the existing 9th berth.
- (c). The cost of one Harbour Mobile Crane & two grabs considered in the TAMP order No. TAMP/16/2010-TPT dated 23.07.2010 & TAMP/50/2011-VOCPT, dated.19.01.2012 was ₹24.6 Crores for up-gradation of Mechanical Handling Infrastructure project. The present estimate cost of ₹29.38 Crores for one number HMC and two numbers of Grabs is arrived after adopting the WPI Index between June' 2011 (153.10) and Oct' 2016 (182.9) as given below:

$$\frac{182.9 \times 24.6}{153.1} = ₹29.38 \text{ Crores}$$

- (d). With respect to tariff for handling of cargoes, the order for the Project Upgradation of Mechanical Handling Infrastructure through PPP mode on BOO basis passed by TAMP vide No. TAMP/16/2010-TPT dated 23 July 2010 Gazette No.201 dated 12 August 2010 is adopted with applicable escalation of 25.67% for the year 2015-16 and NIL % for 2016-17 is considered for handling charges for Break bulk cargo & other cargo.

3.3. The Tariff proposed by applying escalation at 25.67% is as given below:

(a). **Dry bulk cargo**

Average daily crane performance in Metric Tonne)	Rate per tonne as per order dated 23.7.2010 (in ₹)		Proposed Rate per tonne applying escalation at 25.67% for 2015-16 and NIL % for 2016-17 (in ₹)	
	Foreign	Coastal	Foreign	Coastal
9500-10499	25.24	15.14	31.72	19.03
10500-11499	26.72	16.03	33.58	20.15
11500-12499	28.21	16.93	35.45	21.27
12500	29.69	17.81	37.31	22.39
12501-13500	31.17	18.70	39.17	23.50
13501-14500	32.65	19.59	41.03	24.62
14501-15500	34.13	20.48	42.89	25.73

(b). **For Break Bulk Cargo**

Average daily crane performance (in Metric tonne)	Ceiling rate per tonne as per order dated 23.07.2010 (in ₹)	Proposed Rate per tonne applying escalation at 25.67%
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			for 2015-16 and NIL % for 2016-17 (in ₹)	
	Foreign	Coastal	Foreign	Coastal
5000-5999	55.29	33.17	69.48	41.69
6000	58.20	34.92	73.14	43.88
6001-7000	61.11	36.67	76.80	46.08

(c). **Others**

Average daily crane performance	Ceiling rate per tonne as per order dated 23.07.2010 (in ₹)		Proposed Rate per tonne applying escalation at 25.67% for 2015-16 and NIL % for 2016-17 (in ₹)	
(in Metric tonne)	Foreign	Coastal	Foreign	Coastal
2750-3749	88.51	53.11	111.23	66.74
3750	93.17	55.90	117.09	70.25
3751-4750	97.83	58.70	122.94	73.77

3.4. The port has confirmed that the highest upfront tariff approved by TAMP vide Order No.TAMP/16/2010-TPT dated 23.07.2010 and TAMP/50/2011-VOCPT, dated 19.01.2012 which is representative enough for the proposed project are adopted by applying escalation @ 25.67 % for the year 2015-16 & NIL % for 2016-17 for fixation of Reference Tariff of the proposed project requiring deployment of one number Harbour Mobile Crane of capacity not less than 124 Tonnes at 9th berth in V.O.Chidambaranar Port on license basis for a period of 7 years and extendable by 3 more years on revenue share Mode.

3.5. The VOCPT has proposed the following Performance Standards:

- (a). The licensee shall unconditionally guarantee the licensing authority the Minimum Guarantee availability of 90% per crane per month. The availability shall be calculated for every month.
- (b). The licensee shall handle minimum cargo as detailed below per day (24 Hrs of actual working) or tonnage of proportionate hours of actual working.

Cargo	Performance Standards
For Dry Bulk Cargo	12500 Metric tonnes (average)/per day
For Break Bulk Cargo Steel and Bagged Cargo	6000 Metric tonnes (average)/per day
Others	3750 Metric tonnes (average)/per day

4.1. Flowing from the above approach, the VOCPT has proposed to adopt the upfront tariff fixed for upgradation of mechanical handling infrastructure at Berth No. I to VI and IX of VOCPT through PPP and BOO basis approved vide Order No. TAMP/16/2010-TPT dated 23 July 2010 at VOCPT applying applicable indexation of 25.67%.

4.2. The VOCPT in its letter dated 15 December 2016 has stated that at present 2 nos. of 124 Tonnes Harbour Mobile Cranes have been deployed by M/s. IMCOLA Crane Company Pvt. Ltd. (ICCPL) under the project Up-gradation of Mechanical handling infrastructure in berth I to VI and IX berth in VOCPT, for which tariff has been fixed by TAMP vide Order No. TAMP/50/2011-VOCPT dated 19 January 2012 and TAMP/16/2010-VOCPT dated 23 July 2010. In view of above, it has proposed to fix the existing tariff for the proposed 124 Ton capacity HMC as reference tariff by applying escalation @ 25.67% in the proposed project for deployment of one number HMC at 9th berth. If different tariff is fixed for the present proposal, there will be a disparity in the tariff for the same 124 Ton capacity of HMCs operating in the Port which also will affect the viability of this project.

5.1. Since the proposal of VOCPT is an adoption case adopting, the upfront tariff approved vide Order dated 23 July 2010 which was based on consultation with stakeholders and also recognising that the Tariff Guidelines of 2013 require the reference tariff to be fixed within 15

days, the said proposal is not taken up for consultation in line with the approach followed in the other reference tariff cases on adoption basis.

5.2. In the meanwhile, we have, however, received comments from M/s. Seapol Port Pvt. Ltd (SPPL) vide its letter dated NIL with reference to the Tender No.MEE/SE2P1/MEC/HMC/2016 dated 30 November 2016 issued by the VOCPT. This was forwarded to VOCPT for necessary action. The port was also requested to furnish comments if it relates to the subject proposal.

5.3. In this context, the VOCPT vide its email dated 22 December 2016 has responded on our comments forwarding letter of Seapol Port Pvt. Ltd dated 20 December 2016.

5.4. The VOCPT vide its email dated 22 December 2016 submitted that the category of cargo considered in the TAMP Order No.TAMP/16/2010-TPT dated 23 July 2010 may be considered for fixation of reference tariff for the proposed project and further stated that the approval of its Board of Trustees will be obtained by ratification in the ensuing meeting to be held on 20 January 2016 for filing the proposal to TAMP.

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

7. With reference to the said proposal of the VOCPT, the following position emerges:

- (i). The proposal of VOCPT seeks notification of reference tariff for grant of license for supply, installation, commissioning, operation and maintenance of one number Harbour Mobile Crane of capacity not less than 124 Tonnes at 9th berth in VOCPT. The VOCPT has filed the proposal under the Tariff Guidelines of 2013.
- (ii). Before proceeding ahead with the analysis of this case it is to state that this Authority has already approved upfront tariff for 100T HMC for deployment at berth no. IX apart from berth No.I to VI vide Order no.TAMP/16/2010-TPT dated 23 July 2010. The port has forwarded a copy of the Concession Agreement dated 24 May 2013 entered by the VOCPT with Imcola Crane Company Private Limited (ICCPL). From the said Concession Agreement entered by the port with ICCPL, it is seen that the port has awarded the project for deployment of HMC at Berth Nos I to VI and IX to ICCPL.

The current proposal has been moved by the VOCPT on account of the recommendation of M/s. Boston Consulting Group constituted by the MOS to issue tender for installation of HMC at berth nos. III and IV. One number of HMC, among the two numbers already deployed at 9th berth in the existing project relating to up gradation of mechanical handling infrastructure at VOCPT berths I to VI and berth No- IX, is proposed to be shifted to berth III/IV to comply with BCG Recommendations. This would need to replenish to berth no.9 with one HMC. Replenishment berth no.9 with one HMC is necessitated by, as reported by the VOCPT, future traffic projections.

The matter relating to shifting of the HMC deployed from one berth to another or one project to another is between the port and the concerned operator to decide. Further, any matter arising from the Concession Agreement already entered by the port with ICCPL on account of this new project will have to be sorted out between the port and the operator. This Authority does not like to go into these matters as it is beyond the present jurisdiction of this Authority.

The port has sought reference tariff for HMC capacity of not less than 124T and the role of this Authority is limited to approval of reference tariff for the HMC with minimum capacity of 124 tonne. The upfront tariff available at berth no.9 is the tariff approved on upfront basis under a different set of Guidelines of 2008. That tariff cannot be applied automatically by the port unless it is approved by this Authority

as a reference tariff. Hence, this exercise is to fix reference tariff for HMC for berth no. IX.

- (iii). (a). Clause 2.2 of the Revised Guidelines of 2013 stipulates that the Reference Tariff will be the highest tariff fixed for that commodity in the concerned Major Port Trust under the 2008 Tariff Guidelines.

As stated earlier, this Authority has approved upfront tariff vide Order No.TAMP/16/2010-TPT dated 23 July 2010 for upgradation of the mechanical handling infrastructure at berth Nos. I to VI and IX of the VOCPT. In the said proposal, the port had proposed to deploy 1 No. of 140 tonne HMC and 1 No. of 100 tonne. The VOCPT had then proposed differential upfront tariff for a 100 Tonne and 140 Tonne HMC based on the capital cost, operating cost and optimum capacity assessed separately for each of the cranes. This Authority at para 8(iii) in the said Order has held that it is found more appropriate to fix upfront tariff considering a standard capacity of HMC so that it can cover different capacity range of HMCs which may provide identical handling of commodity/ service in the port in the next five years. Seen from this perspective, this Authority decided to set upfront tariff assuming a standard HMC of 100 tonne capacity and linked the tariff to the slab wise performance of the crane. This Authority viewed that linking of tariff with performance will, to a great extent, take care of the interest of users and also the service provider even if the actual capacity of the crane deployed varies within a range from the standard HMC considered in this exercise.

The proposal of the port in the current exercise envisages deployment of one HMC of not less than 124T. The port has, citing the decision recorded in para 8(iii) of the upfront tariff Order of July 2010 of the VOCPT, proposed to adopt the slab wise performance linked tariff approved in the said Order after applying applicable indexation factor for the HMC of not less than 124T proposed to be deployed.

The port has further justified that at present 2 nos. of 124 Tonnes Harbour Mobile Cranes have been deployed by M/s. IMCOLA Crane Company Pvt. Ltd. (ICCPL) in berth I to VI and IX berth in VOCPT based on the upfront tariff fixed by this Authority vide Order No. TAMP/50/2011-VOCPT dated 19 January 2012 and TAMP/16/2010-VOCPT dated 23 July 2010. In view of above, the port proposes to fix the reference tariff adopting the tariff approved in the said Order for the current project for HMC of not less than 124 Ton capacity after applying the applicable escalation @ 25.67%. As argued by the port if different tariff is fixed for the present proposal, there will be a disparity in the tariff for the same 124 Ton capacity of HMCs operating at the berth No.9 and will affect the viability of operation of the HMC.

The port has confirmed that the highest upfront tariff approved by this Authority vide Order No.TAMP/16/2010-TPT dated 23.07.2010 and TAMP/50/2011-VOCPT, dated 19.01.2012 are representative enough for the proposed HMC.

As regards the reference to Order No. TAMP/50/2011-VOCPT dated 19 January 2012 for adoption of the rate it is to state that in the January 2012 Order, this Authority for the reasons cited, had rejected the proposal of VOCPT for fixation of rate for 120T HMC stating that the rate for 100T HMC approved in July 2010 Order will hold good for induction of HMC during the specified five period subject to annual indexation.

In view of the above position and the submissions made by the port, the proposal of the port to adopt the upfront tariff approved in its port for 100T HMC at VOCPT in the Order dated 23 July 2010 which also provides

performance linked slab-wise rate for deployment of HMC beyond 100T HMC i.e. 124T HMC is approved by this Authority.

The performance linked tariff proposed by the VOCPT for adoption is benchmarked with the handling rate / day for a 100T HMC which forms the base rate. The proposal of the port is, however, for deployment of HMC not less than 124T capacity. That being so, a note is prescribed in the tariff schedule to state that prescription of rate benchmarked with the handling rate for 100T MHC does not prohibit the VOCPT to permit deployment of HMC not less than 124 T MHC. Cargo-wise, Slab wise rate are prescribed in the schedule linked to the improved performance level achievable by 124T HMC / HMC not less than 124 T.

- (b). It is seen that though port in its proposal has indicated the annual handling capacity of the proposed 124T HMC and the capital cost applying WPI index on the capital cost of the 100T HMC considered in the earlier Orders of the VOCPT, the port has not considered these parameters in the current proposal as the proposal of the port is for pure adoption of the upfront tariff approved in the Order dated 23 July 2010.
- (iv). The revised Guidelines of 2013 stipulate that while adopting the highest tariff, the base rate set under the Tariff Guidelines, 2008 shall be escalated to the extent of 60% of WPI per annum, as provided in the said guidelines for the period between 1st January of the year in which the said tariff was originally notified and 1st January of the subsequent relevant year when the Reference Tariff for the particular project in question is being notified.

The upfront tariff schedule approved for the up gradation of the mechanical handling infrastructure at berth Nos. I to VI and IX at the VOCPT approved in July 2010, specifically states that the base year of Wholesale Price Index (WPI) for indexation in the tariff rates approved in the said Order will be 1 January 2010. On a scrutiny of the proposal in reference submitted by the VOPT now, it is seen that the VOPT has applied the indexation factor of 25.67% and the indexed Reference tariff determined by it, is found to be in order.

- (v). The upfront tariff approved in 23 July 2010 is for (a) Dry Bulk Cargo, (b) (i). Break Bulk Cargo (Steel and Bagged Cargo) (ii). others. As against that, the cargo description given by the VOCPT in its original proposal dated 16 December 2016 is (i) Dry Bulk Cargo, (ii). Break Bulk Cargo (iii). Others. The VOCPT has subsequently vide its letter dated 22 December 2016 requested to consider the description of cargo as per the tariff Order approved by this Authority vide Order dated 23 July 2010. Accordingly, the description of cargo in the SOR is maintained as in the adopted Order. Performance Standard is also proposed for the same nomenclature.

Further, the VOCPT is advised to ensure that before processing of the tender it may acquire the necessary approval of its Board of Trustees.

- (vi). All the other conditionalities governing the application of the rates as approved in the Scale of Rates of the Order dated 23 July 2010 proposed for incorporation by the VOCPT are incorporated subject to the following minor modifications:
 - (a). The Government of India in the Ministry of Shipping (MOS) undercover of its letter No.PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No.PT-11033/51/2014-PT dated 4 September 2014 to this Authority. Accordingly, this Authority vide its Order No.TAMP/52/2014-Genl. dated 28 November 2014 has, *inter alia*, approved the replacement of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts as follows:

“Coastal vessel” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority.

Therefore, the definition of Coastal Vessel proposed by the VOCPT has been modified in line with the above mentioned definition of 'Coastal Vessel'.

- (b). The SOR notified in the July 2010 Order defines "Day" as period starting from 6 a.m. of a day and ending at 6 a.m. on the following day. In place of definition of "Day", the port has proposed to define "Per day" as a calendar day or part thereof. The proposed SOR does not mention "Per day" or "Day". Hence defining the terms "Day" / "Per Day" both are not found necessary and hence not included in the SOR.
- (c). Apart from the above, the VOCPT has proposed to introduce following definition of "Port", "Tonne" and "Shift" in the proposed SOR. Definition of port and tonne are incorporated as proposed by the port. The term "Shift" is not used in the SOR.

The definition of this term is not found relevant for prescription in the SOR and hence not included.

- (d). The VOCPT has incorporated the provisions approved by this Authority in common adoption Order No.TAMP/53/2015-VOCPT dated 26 November 2015 regarding criteria for conversion of foreign going vessel to coastal vessel and levy of applicable charges for vessel/ cargo/ container passed by this Authority based on the recommendations of Directorate General (DG) Shipping. Subsequent to the said Order, the DG Shipping vide its letter no.SD-9 CHART(309)/2016 dated 20 May 2016 has issued further clarification. Based on the clarification issued by DG) Shipping, this Authority has passed a clarificatory Order dated 10 June 2016. The slight modifications approved in the July 2016 Order are not found to have been incorporated by the VOCPT. The SOR is updated with the modifications approved in said Order dated 10 June 2016.
- (vii). The VOCPT has proposed a general note relating to indexation factor for automatic adjustment every year giving the base WPI occurring between January 2015 and relevant year to be considered for such indexation. Since the indexation factor applied to arrive at the indexed reference tariff is as of January 2016, it is found appropriate and relevant to prescribe the base WPI to be considered for automatic adjustment every year as 1 January 2016 as followed in other Reference Tariff adoption cases instead of 1 January 2015 proposed by the port. Thus, the note in this regard proposed by the Port is suitably modified and incorporated in the reference tariff schedule.
- (viii). Clause 2.2 of the revised tariff guidelines of 2013 requires this Authority to prescribe the Reference Tariff along with the Performance Standards. Though the revised guidelines of 2013 do not require this Authority to go into the Performance Standards proposed by the port it is not unreasonable to assume that the ports would propose reasonable and achievable Performance Standard. As brought out earlier, the port has proposed two Performance Standards. One is the Minimum guaranteed availability of 90% per crane per month. The proposed Performance Standards is approved as proposed by the port.

The other Performance Standard proposed by the port is that the licensee shall handle minimum cargo at 12500 metric tonnes/per day (average) for dry bulk cargo, 6000 metric tonnes/per day (average) for break bulk cargo, steel and bagged cargo and 3750 metric tonnes/ per day (average) for bagged cargo.

It is seen that the performance standards proposed by the VOCPT are the performance standards of the 100T capacity HMC approved for various projects based on the proposal of the ports. The proposal of the VOCPT, however, is for fixation of hire charge for HMC not less than 124 T and above.

As regards tariff, the proposal of the VOCPT for adopting the upfront tariff of 100T HMC is accepted based on the argument of the port that the adopted tariff provides higher tariff for higher level of productivity achievable by an 124T HMC. However, when it comes to performance standards to be prescribed, the proposal of the port to prescribe performance standards of an 100T HMC for a higher capacity HMC of 124T KPT will be a mismatch.

In this regard, it is relevant here to state that at KPT, the port had proposed tariff for deployment of 124T HMC following the principles of 2008 guidelines. This Authority vide Order No TAMP/11/2016-KPT dated 30 March 2016 while approving tariff for 124T HMC at KPT following the principles of 2008 guidelines for 124T HMC for reasons cited in detail in the said Order has considered the handling rate for 124T HMC at 13500 T/day for dry bulk cargo, 6400T/ day for break bulk cargo and 4000T/ day for other cargo for assessing the optimal capacity. The said Order also states that the Paradip Port Trust (PPT) while approving the rate of HMC in Order No. TAMP/54/2007-PPT dated 2 July 2015 has furnished the actual average handling rate by various operators wherein it is reported that Jindal Steel & Power Ltd. (JSPL) (who is operating 120T HMC) has achieved 13232 T/day in the year 2011-12. For the other years, the handling rate achieved by JSPL is in the range of 10102 to 11554 T/day. That being so, this Authority had found that considering handling rate of 13500T/day is not off the mark at KPT as it has been achieved by JSPL at PPT.

The said Order of KPT was not for reference tariff fixation. It was under the Tariff Policy, 2015 for giving license to a private service provider. The tariff was, however, fixed following the principles of 2008 guidelines. In the absence of improved performance standards for 124T HMC in other ports under reference tariff cases, it is appropriate to prescribe the improved handling rate considered for 124T HMC at KPT as the performance standards in the current case of VOCPT. Accordingly, the Performance Standards proposed by the VOCPT are modified and considered at the handling rate for 124T HMC considered in the tariff fixation of the KPT i.e. at 13500 T/day for dry bulk cargo, 6400T/ day for break bulk cargo, (steel and bagged cargo) and 4000T/ day for other cargo.

8.1. In the result, and for the reasons given above, and based on a collective application of mind, the Reference Tariff Schedule alongwith conditionalities governing the Reference Tariff and the modified Performance Standards for the grant of license for Supply, Installation, Commissioning, Operation and Maintenance of one number Harbour Mobile Crane of capacity not less than 124 Tones at 9th berth in VOCPT as proposed by the port is approved.

8.2. The Reference Tariff Schedule alongwith conditionalities governing the Reference Tariff is attached as **Annex - I** and the modified Performance Standards for the Supply, Installation, Commissioning, Operation and Maintenance of one number Harbour Mobile Crane of capacity not less than 124 Tones at 9th berth in VOCPT is attached as **Annex - II**.

8.3. As per clause 2.5 of the Tariff Guidelines 2013, the Reference Tariff and Performance Standards notified by TAMP shall be mentioned in the bid document and subsequently in the Concession Agreement in respect of PPP Projects. Accordingly, the VOCPT is advised to incorporate the Reference Tariff and Performance Standards notified by this Authority, in the bid document and subsequently in the Concession Agreement in respect of PPP Projects.

9.1. From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire concession period.

However, the Licensee would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

9.2. The proposal shall be submitted to this Authority along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Concession Agreement or for the actual number of months of operation in the first year of operation as the case may be.

9.3. On receipt of the proposal, this Authority will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

9.4. In the event of Operator not achieving the Performance Standards as incorporated in the Concession Agreement in previous 12 months, this Authority will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Operator shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

9.5. After considering the views of the Major Port Trust, if this Authority is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.

9.6. While considering the proposal for Performance Linked Tariff, this Authority will look into the Performance Standards and its adherence by the Operator. This Authority will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the operator. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.

9.7. From the third year of operation, the Performance Linked Tariff proposal from the operator shall be automatically notified by this Authority subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The operator, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and this Authority shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

9.8. In the event any user has any grievance regarding non-achievement by the operator of the Performance Standards as notified by this Authority, he may prefer a representation to this Authority which, thereafter, shall conduct an inquiry into the representation and give its finding to the concerned Major Port Trust. The Major Port Trust will be bound to take necessary action on the findings as per the provisions of the respective Concession Agreement.

9.9. Within 15 (fifteen) days of the signing of the Concession Agreement, the concerned operator will forward the Concession Agreement to this Authority which will host it on its website.

9.10. The operator shall furnish to this Authority quarterly reports on cargo traffic, ship berth day output, average turnaround time of ships, average pre-berthing waiting time as well as the tariff realized for each berth. The quarterly reports shall be submitted by the operator within a month following the end of each quarter. Any other information which is required by this Authority shall also be furnished to them from time to time.

9.11. This Authority shall publish on its website all such information received from operator. However, this Authority shall consider a request from the operator about not publishing certain data/ information furnished which is commercially sensitive. Such requests should be

accompanied by detailed justification regarding the commercial sensitiveness of the data/information in question and the likely adverse impact on their revenue/ operation of upon publication. This Authority's decision in this regard would be final.

(T.S. Balasubramanian)
Member (Finance)

V.O. CHIDAMBARANAR PORT TRUST

REFERENCE TARIFF FOR GRANT OF LICENSE FOR SUPPLY, INSTALLATION, COMMISSIONING, OPERATION AND MAINTENANCE OF ONE NUMBER HARBOUR MOBILE CRANE OF CAPACITY NOT LESS THAN 124 TONES AT 9TH BERTH ON LICENSE BASIS FOR A PERIOD OF 7 YEARS AND EXTENDABLE BY 3 MORE YEARS ON REVENUE SHARE MODE.

1.1. Definitions :

In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply:

- (i). "Coastal Vessel" shall mean any vessel exclusively employed in trading between any Terminal or place in India to any other Terminal or place in India having a valid coastal license issued by the Competent Authority/ Director General of Shipping.
- (ii). "Foreign-going Vessel" shall mean any vessel other than a coastal vessel.
- (iii). "Port" shall mean V.O.Chidambaranar Port Trust.
- (iv). "Tonne" shall mean one Metric Tonne or 1000 Kilograms or one cubic meter.

1.2. General Terms & Conditions:

- (i). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as 'coastal' or 'foreign-going' for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.
- (ii). System of classification of vessel for levy of Vessel Related Charges (VRC)
 - (a). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.
 - (b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a Licence for Specified Period or Voyage issued by the Director General of Shipping and a custom conversion order.
- (iii). Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate
 - (a). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
 - (b). In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
 - (c). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.
- (iv). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate
 - (a). Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and

transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

- (i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.
 - (ii). Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.
- * The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.
- (b). In case of a Foreign flag vessel converted to coastal run on the basis of a License for Specified Period or Voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.
- (v). Interest on delayed payments/refunds.
 - (a). The user shall pay penal interest on delayed payments of any charge under this Scale of Rates. The rate of interest will be (prescribed at 2% above the Prime Lending Rate of State Bank of India).
 - (b). Likewise, the Terminal shall pay penal interest on delayed refunds. The rate of interest will be (prescribed at 2% above the Prime Lending Rate of State Bank of India).
 - (c). The delay in refunds will be counted beyond 20 days from the date of completion of services or on production of the documents required from the users, whichever is later. (The Terminal must specify specific documents to be submitted for claiming refund).
 - (d). The delay in payments by the users will be counted beyond 10 days after the date of raising the bills by the Terminal. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act, 1963 and/or where payment of charges in advance is prescribed in this Scale of Rates.
 - (vi). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.
 - (vii). No claims for refund shall be entertained unless the amount refundable is Rs.100/- or more. Likewise, the license shall not raise any supplementary or under charge bills, if the amount due to Concessionaire is Rs.100/- or less.
 - (viii). (a). The rates prescribed in this Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The license may, if it so desires, charge lower rates and/ or allow higher rebates and discounts.
 - (b). The license may also, if it so desires, rationalize the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalization gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels. Provided that the license should notify the public such lower rates and / or rationalization of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and / or in the conditionalities governing the application of such rates

provided the new rates fixed shall not exceed the rates notified by the TAMP.

- (ix). Users will not be required to pay charges for delays beyond a reasonable level attributable to the operator.

2. **Charges for handling of Break bulk & Other Cargo by using HMC:-**

(A). **Dry bulk cargo**

Average Daily Crane Performance (In Metric Tonnes)	Ceiling Rate Per Tonne (In ₹)	
	Foreign	Coastal
9500-10499	31.72	19.03
10500-11499	33.58	20.15
11500-12499	35.45	21.27
12500*	37.31	22.39
12501-13500	39.17	23.50
13501-14500	41.03	24.62
14501-15500	42.89	25.73

Note :- To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2nd thousand tonnes the rate was enhanced to 110% of the base rate. The rate for third thousand tonnes was arrived by enhancing the base rate by 115%. The same methodology shall also be adopted to calculate the rate beyond 15500 tonnes. Likewise, ceiling rates for performance below 9500 tonnes shall be calculated by reducing the base rate accordingly.

(B). **Break Bulk cargo:-**

(i). **Steel and Bagged Cargo:-**

Average Daily Crane Performance (in Metric Tonnes)	Ceiling Rate Per Tonne (In ₹)	
	Foreign	Coastal
5000-5999	69.48	41.69
6000*	73.14	43.88
6001-7000	76.80	46.08

Note :-To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 7000 tonnes. Likewise, ceiling rates for performance below 5000 tonnes shall be calculated by reducing the base rate accordingly.

(ii). **Others:-**

Average Daily Crane Performance (in Metric Tonnes)	Ceiling Rate Per Tonne (In ₹.)	
	Foreign	Coastal
2750 – 3749	111.23	66.74
3750*	117.09	70.25
3751-4750	122.94	73.77

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 4750 tonnes.

Likewise, ceiling rates for performance below 2750 tonnes shall be calculated by reducing the base rate accordingly.

Notes:

(i). Prescription of rate for (i) Dry Bulk Cargo, (ii) Break Bulk Cargo (a) Steel and Bagged Cargo and (b) others in the above schedule is benchmarked with the handling rate for 100T MHC. This does not prohibit the VOCPT to permit deployment of HMC not less than 124 T MHC. If a 124T MHC/ MHC not less than 124 T is permitted, the slab wise rate is prescribed in the schedule which is linked to the improved performance level achievable by HMC not less than 124 T for each cargo items.

(ii). The formula for calculation of average berth-day output is as follows:

$$\frac{\text{Total Quantity loaded / unloaded by the HMC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hours}$$

(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 VOCPT Officers or any other agency nominated by the VOCPT 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 Rs.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.

3. GENERAL NOTE TO SCHEDULE (2) ABOVE:

(i). 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 1st January 2016 and 1st 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 1st April of the relevant year to 31st March of the following year.

- (ii). From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire licence period.

However, the Licensee would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

- (iii). The proposal shall be submitted to TAMP along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.
- (iv). On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.
- (v). In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.
- (vi). After considering the views of the Major Port Trust, if TAMP is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.
- (vii). While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.
- (viii). From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

PERFORMANCE STANDARDS FOR REFERENCE TARIFF FOR GRANT OF LICENSE FOR SUPPLY, INSTALLATION, COMMISSIONING, OPERATION AND MAINTENANCE OF ONE NUMBER HARBOUR MOBILE CRANE OF CAPACITY NOT LESS THAN 124 TONES AT 9TH BERTH ON LICENSE BASIS FOR A PERIOD OF 7 YEARS AND EXTENDABLE BY 3 MORE YEARS ON REVENUE SHARE MODE.

- (i). The licensee shall unconditionally guarantee the licensing authority the Minimum Guarantee availability of 90% per crane per month. The availability shall be calculated for every month.
- (ii). The licensee shall handle minimum cargo as detailed below per day (24 Hrs of actual working) or tonnage of proportionate hours of actual working.

Sl. No.	Cargo	Performance Standards
I	For Dry Bulk Cargo	13500 Metric tonnes (average) / per day
II	For Break Bulk Cargo	
	a. Steel and Bagged Cargo	6400 Metric tonnes (average) / per day
	b. Others	4000 Metric tonnes (average) / per day
