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Tariff Authority for Major Ports

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Tuticorin Port Trust for allowing concession in vessel-related charges for mainline container vessels as in the Order appended hereto.

(**S. Sathyam**)

Chairman

Case No.TAMP/55/2001-TPT

Tuticorin Port Trust (TPT) - - - Applicant

O R D E R

(Passed on this 30th day of August 2001)

This case relates to a proposal received from the Tuticorin Port Trust (TPT) for allowing concession in the vessel-related charges for mainline container vessels.

2.1. The TPT has made the following points its proposal:

(i). One of the objectives of deepening the Tuticorin harbour and privatising the container handling was to improve the container handling productivity and to enable main line vessels to call at the Tuticorin port to save the transhipment cost to the shippers and also to remove the uncertainties in delivering of the cargo within the time schedule.

(ii). Since, no mainline vessel calls at the Tuticorin port at present, approximately 80% of the containers are transhipped through Colombo; and, the remaining 20% through Singapore. The cost of transhipment at Colombo (about US$ 71 for 20 ft. container and US$ 109 for 40 ft. container) and Singapore (US$ 115 for 20 ft. container and US$ 175 for 40 ft. container) as well as freight can be avoided if mainline vessels call at the Tuticorin port. This will make export/import competitive through the Tuticorin port.

(iii). The marine charges levied by the TPT, especially after imposing the dredging levy are high as compared to Colombo and other transhipment ports. The detail of the marine charges of the TPT vis-à-vis other ports for a vessel size of 30,000 GRT is given below:

Sl. No.	**Name of the port**	**Rate per day US$**
1.	Colombo	5450
2.	Singapore	10780
3.	Dubai	3450
4.	Tuticorin (includes berth hire charges for one shift only)	21462

(iv). The TPT has received several requests from mainline container operators to reduce the overall vessel-related charges for large vessels to facilitate direct voyage to Singapore,Red Sea ports, Far-East and Gulf countries.

(v). In the interest of overall benefit to the port and the trade, it is considered necessary to extend a concessional marine charges package to all main line vessels calling at the Tuticorin port; and, connecting it to Far-east, Europe and the U.S. This will eliminate foreign exchange drain from the country in form of additional freight payable on account of transhipment at Colombo / Singapore.

2.2. In this backdrop, the TPT has proposed to levy a marine charges package of US$ 15000 towards port dues, pilotage and berth hire charges for one shift of 8 hours; provided,the operator guarantees a minimum of 50 calls per annum with the following stipulations:

(i). The proposed concessional marine package will be extended to vessels carrying containers only.

(ii). If the ship stays at the terminal for more than one shift of 8 hours, then the additional berth hire charges as per the Scale of Rates shall be levied.

2.3. The financial implications of the proposal as stated by the TPT are as below:

(i). The proposed concessional marine package will cause a loss of US$ 6462 per voyage. This loss is only theoretical since ships of 30,000 GRT and above are not calling the port at present.

(ii). An additional revenue of US$ 7.50 lakhs (Rs.3.50 crores approximately) per annum for the guaranteed 50 calls may be generated if any of the large mainline vessel accepts the proposed package and call at the Tuticorin port.

2.4. The proposal was approved by the Board of Trustees of the TPT in its meeting held on 21 June 2001.

3. In accordance with the procedure prescribed, the proposal was circulated to all the concerned port users, representative bodies of port users and the PSA SICAL for comments. The comments received are summarised below:-

PSA SICAL Terminals Limited

(i). The proposal of the TPT to reduce the marine charges to attract larger vessels to call at Tuticorin port is a positive step forward and the spirit behind the proposal has our support, subject to the reservations/concerns with regard to the mechanics of the proposal:

(a). A limit of US$ 15,000 per call per shift is still very high as compared to the alternative ports such as Colombo; and, is around 3 times the equivalent cost at Colombo and requires further reduction.

The scheme can be reviewed after 3 months of its implementation; and, if there are no takers, the TPT can consider lowering the marine charges further to US$ 10,000 per call per day. At this level, TPT will still stand to gain US$ 500,000 (or Rs.2.4 crores) of additional revenue if one new weekly service calls at Tuticorin port.

(b). The proposal is limited to vessel call "per shift"; and, additional charges will be levied if the stay at the port is beyond one shift. This is not consistent with the spirit behind the proposal.

(ii). Since the major shipping lines require competitive pricing and certainty of charges in order to calculate their costing accurately, this "per shift" mechanism may discourage them further and the marginal gain that may accrue to the TPT can have a disproportionate negative impact in tilting a decision to use TCT.

Tuticorin Steamer Agents' Association (TSAA)

(i). The proposal to allow the concession is welcome but the TPT can not discriminate between the port users. The TPT has become one of the biggest container port in India only because of the feeder operators' involvement and continued contribution.

(ii). Feeder vessels are already compelled to pay the additional dredging levy even though they are coming with less the 8.23 meters; and now, the port has proposed concessions to vessels coming with more than 8.23 meters draught, which is not fair.

(iii). The continuous commitment of the feeder vessels can be judged from the fact that in spite of a lot of draw backs, the frequency of the feeders to Colombo is increasing steadily. For the period of January-June this year, the sailing has reached to 131 as against 113 during the same period last year.

The marine charges at the TPT, compared to the other ports like Cochin, Chennai and Colombo, are much higher; and, if the port extends the proposed concessions only to main line vessels, this may give wrong signals to feeder vessel service providers and, hamper the growth of container traffic at the TPT as the neighbouring ports are also in the process of privatising their container terminals.

(iv). In view of the above it is requested that –

(a) while considering the concession to main line vessels, the port shall also withdraw the dredging levy imposed on the feeder vessels calling the Tuticorin port with less than 8.23 meters draught; and,

(b) the concession shall also be extended to vessels berthing in VOC berth number 3 and 4 because of the nature of the cargo although the vessel draught is less than 8.23 meters there.

4.1. A joint hearing in this case was held on 16 July 2001 at the TPT. At the joint hearing, the following submissions were made:

Tuticorin Port Trust (TPT)

(i). (a). We want to attract main line vessels from a futuristic point of view by reducing costs.

(b). Some major Lines have informally indicated a positive response.

(ii). Initially, there may be a drop in feeders; but, in the long run, there will be no reduction.

(iii). For enforcing the stipulated minimum number of 'calls', some bank guarantee arrangement may be necessary.

(iv). The 'Dredging levy' will not be affected. The rate proposed is inclusive of the dredging levy.

(v). Main line vessels of 30,000 GRT are expected. Some of the major lines have assured us. Also there will be no problem of draught for 30000 GRT vessels.

(vi). Out of the composite rate, the first charge will be for the dredging levy.

(vii). (a). There will be a 21,000 GRT cut-off limit.

(b). Only container vessels will be entitled.

(c). Containers have always enjoyed a special treatment; therefore, there should be no objection to the selective attention proposed.

PSA SICAL Terminals Limited

(i). This is a positive step and it must be encouraged.

(ii). In the package, we cannot have some 'day rates' and some 'shift rates' (eg. berth hire). Let all be 'day rates'.

(iii). The US $ 15,000 cap is still far more than Colombo or Singapore. It may therefore, be reduced further.

(iv). Our assessment is that there will be no reduction in feeder vessel calls. At least, coastal feeders will increase.

(v). Main line operators usually operate not less than 25,000 to 30,000 GRT vessels. Such vessels cannot easily enter with 10.7 mtrs. draft in fully laden conditions.

(vi). The definition like MLO / Direct Call / Long Haul is not an elegant classification. Why not just say 'container vessels' or, classify with respect to size, i.e. GRT or (even) DWT.

Indian National Shipowners' Association (INSA)

(i). Technically there is no difference between feeder vessels and main line operators.

(ii). Please see our written submissions. The TPT is making an unfair distinction in favour of main line container operators.

Container Shipping Lines Association (CSLA)

(i). This is a good initiative.

(ii). Colombo may be cheaper, still vessels find it attractive to come here. With this package, that trend will be reinforced.

(iii). US$15000 cap is a safe limit. This is an innovative pricing and must be approved.

(iv). Feeders will not go down; but, coastal feeders may actually go up. This may happen in two years.

(v). Promoting container traffic is of topical interest to all ports; therefore, there is no harm in selectively identifying the 'beneficiary vessels'.

Tuticorin Steamer Agents' Association (TSAA)

(i). There shall be no discrimination between 'users'. Please give uniform treatment.

(ii). The proposal will affect the present feeder services; they may be forced to go to neighbouring ports affecting TPT's container traffic.

(iii). Feeders shall not be made to wait in queue because of main line operators.

(iv). If the TPT assumptions do not materialise, feeders shall not be required to pay higher dredging levy.

Indian Chamber of Commerce and Industry (ICCI)

(i). We welcome this initiative.

(ii). The main line operators getting the concession shall be required to touch at least one or two ports other than Colombo or Singapore; otherwise, they will only eat into existing feeder traffic.

4.2. At the joint hearing, the Indian National Shipowners' Association (INSA) submitted its written comments on the proposal, which are summarised below:

(i). (a). The concession shall not be restricted to ships of a particular size and operating in a particular region. Technically, there is no distinction between a feeder vessel and a main line vessel. Today there are ships of 1000 + TEUs which are operated by exclusive feeder service providers as well as by main lines.

(b). There are ships calling at other Indian ports, which are operated by main lines or a consortium of main lines which are actually feeder service carried out by the main lines or a group of main lines for its own boxes.

(ii). There are other criteria also on the basis of which a line chooses a particular port, besides concessions. If at all grant of concessions is felt necessary, the general practice all over the world is to give discount on container related charges on the basis of minimum volumes. The same can be applied by the TPT also. Since no other port/terminal has been seen to give concessions in vessel-related charges to its own lines, the step initiated by the TPT is not correct.

(iii). It is not justified to first impose of a capital dredging levy to meet the expenses relating to the development for accommodating ships exceeding certain draft; and, then to grant a concession to probably same size of vessels and that too at a cost of revenue that will be generated out of ships to whom the same concession is denied.

(iv). The assumptions and projections made by port in favour of its claim is a mathematical jugglery designed to arrive at a pre-conceived desired results; and, would not prove correct.

By reducing the cost to US$ 15000/shift for vessels with 30,000 GRT, the port will loose US$ 6442/call or US$ 3,22,100 per annum assuming 50 calls/year of a vessel;whereas, the port will earn US$1.50 million on account of (minimum 5-6 calls per week or about 300 plus calls per annum) the feeder operators on TUT/CBO route only. There may be other routes that exist or will be developed where the ships will go in future.

While the port will earn US$ 7,50,000 through weekly calls of a main line, the number of feeder vessel calls will be reduced correspondingly; and therefore, the port would not benefit overall.

(v). It is requested that grant of the concession if considered favourably shall not be restricted to a particular size / type of vessel which will serve purpose of only few users.

4.3. At the joint hearing, it was decided that the TPT would submit a calculation sheet to explain its estimates, which would be forwarded to the Indian National Shipowners'Association, the Container Shipping Lines Association, the Tuticorin Steamer Agents' Association and the PSA SICAL Terminals Limited users for comments to be submitted with in a week time.

5.1. Immediately before the joint hearing, a list of points which required further clarifications and/or additional information was referred to the TPT. The main points on which additional information was called for are summarised below:

(i). The estimated loss in VRC taking into account the loss in feeder calls.

(ii). Whether the burden of capital dredging expenditure (unamortised) will be passed on to vessels carrying cargo other than containers in the context of levy of special rate for capital dredging?

(iii). Before allowing the proposed concession to main line operators, how the port will ensure that the guaranteed calls of 50 in a year will be adhered to by the Lines; and, if this stipulation is not met, what are the penal (tariff) provision to be enforced?

(iv). A clear definition of 'main line vessel' and an explanation of the reasons for fixing 30,000 GRT as the qualifying criteria.

5.2. The TPT has responded to the queries raised by us. The replies given by the TPT are summarised below:

(i). 'Main Line Container Vessel' shall carry containers, to/from the direct-call-ports and transhipment-ports, which could have been carried by feeder vessels; and, on account of operation of one main line vessel, 2 feeder vessel calls may be lost. The average parcel size of container vessels (based on the feeder vessels operated during the year 2000-01) shall be around 8500 GRT, which shall pay a marine charge of US$ 4650 and a dredging levy of US$ 712 as per the current rate in force. The total loss of marine charges including dredging levy of 2 feeder vessels may be US$ 10735 against the package marine charge of US $ 15000 for the main line vessels. Hence, there will not be any financial loss to the port trust revenue and dredging levy revenue due to loss of business upto 2 feeder vessels.

(ii). The special rate for capital dredging that would have been collected from 2 feeder vessels (estimated to be lost out of business) may be credited to the capital dredging account from out of the package marine charges received from the main line vessels and only the balance can be credited to the Port's General Account. Hence, the burden of dredging levy relating to container vessels will not be passed on to vessels carrying cargo other than containers.

(iii). The procedure and terms for allowing the proposed concession as envisaged are stated below:

(a). The operators of the main line vessel shall intimate to the port trust in advance clearly indicating the GRT of the vessel and their commitment to make a call per week and 50 calls per annum to avail the package marine charge.

(b). The marine charges and special rate for capital dredging based on the Scale of Rates in force shall be calculated based on the GRT of the vessel to arrive at the concession to be availed per call.

(c). The vessel operator shall deposit an unconditional irrevocable bank guarantee from a scheduled bank, before commencement of operations, for the amount of concession to be availed by making 50 calls. If the vessel discontinues the call, the concession availed of by the operator by making calls till discontinuance shall be paid by the Operator to the port trust within 30 days of receiving the demand, failing which the Bank Guarantee will be encashed and the demand will be adjusted out of the proceeds of the bank guarantee and only the balance, if any, shall be refunded to the Operator.

(d). If the vessel does not call continuously for 15 days, it shall be considered as stoppage/discontinuance of operation.

(e). Should the vessel operate for 365 days and fail to make 50 calls, the package of marine charges for the calls not made shall be paid by the operator within 30 days after the end of 365 days, failing which the Bank Guarantee will be encashed and adjusted towards the package marine charges of the calls not made.

(iv). A vessel shall be considered as a main line vessel if its capacity is higher than 21000 GRT and it operates in an established sea route with at least one port of call beyond Singapore in the east and another beyond Salalah in the west in one voyage.

6.1. A copy of the above letter of the TPT was forwarded to all the users who were present in the Joint hearing for comments within ten days.

6.2. None of the user organisations except the PSA SICAL have responded so far. The PSA SICAL has offered the following comments:

(i). It is wrong to consider each MLO vessel's direct call will replace two feeder vessel calls. In the past, the PSA SICAL has attracted new services operated by MLOs without affecting feeder service.

(ii). Revenue earned from main line vessels is strictly incremental and will not result in any loss of feeder vessels

(iii). An analysis of revenue earned from container vessels vis-à-vis other ships calling at the TPT will provide a better understanding of contribution made by container vessels to the TPT revenue.

(iv). The requirement to provide Bank Guarantee and the penalty applied are prohibitive. This additional requirement may not yield desired result as MLOs have indicated their reservations.

7. With reference to the totality of information collected during the processing of this case, and based on a collective application of mind, the following position emerges:

(i). In recognition of the huge expenditure incurred by the TPT, a 'special rate' was approved to be levied alongwith VRCs from vessels calling at the TPT. Subsequently, based on a request from the TPT a reduction in the 'special rate' for capital dredging in respect of vessels calling at the container berth was allowed for a specific period upto 26 August 2001. The validity of the reduction has been extended recently for a further period of three months.

It is to be recognised that the reduction in the special rate was allowed earlier based on a commercial judgement of the TPT. This proposal is seen to be a continuation of the efforts of the Port to promote container traffic through it.

(ii). The proposal is not for any direct concession in tariff but, to prescribe a ceiling in the total charges realisable from main line vessels. As pointed out by the TPT, mainline vessel calls will definitely benefit the shippers, as they will get freight advantage as well as savings in transhipment costs. Since no mainline vessel is calling at the TPT now, the ceiling proposed will not adversely affect the Port financially.

(iii). For the purpose of estimation, the TPT has considered that one mainline vessel call will result in loss of two feeder vessel calls. Still, the resultant position with the proposed'cap' in revenue per mainline vessel is financially advantageous to the Port. The estimation of the Port has, however, been challenged by the PSA SICAL, which has stated that there will not be any loss in feeder calls. In any case, mainline vessel calls will provide an advantage to the shippers in terms of maritime transportation cost and to the Port in terms of additional revenue even with the proposed revenue ceiling.

(iv). While the proposal provides advantages to the MLOs, Port and shippers, it is essential to see that it does not adversely affect other cargo interests. Since the Port has proposed that out of the total revenue of US $ 15000 from mainline vessels the first charge will be made towards the special rate for capital dredging, the apprehension expressed by the TSAA about other vessels paying for this burden gets adequately allayed.

It is relevant to mention here that the special rate for capital dredging levy to be set aside as a first charge shall be calculated with reference to the applicable rates in force and the GRT of the mainline vessel; and, not on the 'notional' two feeder vessels' cost.

(v). As has been mentioned earlier, and also as explained by the TPT and PSA SICAL, a special position to container traffic through TPT has already been recognised. This proposal is for attracting new lines of container traffic. That being so, the question of discriminating between the port users as alleged by the TSAA, does not arise. In long run,if the new opportunities of business envisaged now fully fructify, the revenue from that will partly go to meet the Port's standing fixed overheads which means a reduction in cost allocation to other activities.

Further, the revenue cap of US$15000 will never be reached by the feeder vessels because of their lower GRT. That being so, there is no meaning in prescribing the cap for all container vessels without classifying them into mainline vessels and feeders. Prescription of a separate 'cap' for feeder does not appear necessary as feeder operations will not allow any freight advantage to shippers.

(vi). The issues raised by the TSAA about vessels with less than 8.24 meter draught, etc., are not relevant to the case in reference. It is noteworthy that the case in hand is not about a review of the special rate for capital dredging. In any case, all these objections are adequately disposed of in the relevant earlier Orders of this Authority.

(vii). The package rate offered for mainline vessels includes berth hire charges for only one shift of 8 hours. The PSA SICAL wants this should be enhanced to cover the charges for the entire stay of the mainline vessels. It will not be appropriate to keep such an openended provision. Further, the TPT has worked out the revenue cap of US$ 15000 by considering berth hire for one shift. If this position is altered, then the package rate of US$ 15000 will also be required to be revised.

(viii). The TPT has proposed a minimum of 50 calls a year for a mainline vessel to qualify for this package charge. A Bank Guarantee and penalty arrangements are also proposed. The INSA, CSLA and TSAA have not given any comments on this. The PSA SICAL has, however, objected to this. There appears nothing wrong in seeking certain counter-guarantee in lieu of some benefits extended.

(ix). Since this is an experimental scheme, the efficacy of it needs to be reviewed based on experience to be gained. It will be appropriate to prescribe the validity of the Scheme for a period of six months. The Lines, which accept the Scheme within this validity period, will be allowed to enjoy the benefits offered for a period of one year.

(x). Ordinarily, any amendment in vessel-related charges come into effect 30 days after their notification in the Gazette of India. Bearing in mind the fact that this case is only for prescribing a ceiling rate for vessel-related charges on main line vessels and not alteration of the tariffs prescribed in the Scale of Rates of the TPT, the approved provisions are allowed to be enforced with effect from the date of notification of this Order in the Gazette of India.

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

(i). The proposal of the TPT for levying a package marine charges of US $ 15000 per call of main line container vessels alongwith the associated conditionalities as proposed by the TPT.

(ii). The Scheme shall be kept valid initially for a period of six months; and, those mainline vessels availing of it within this period shall be charged the package rate as per the Scheme for a period of one year from the date of availing of this facility.

(iii). Out of the package rate realised, an amount equivalent to the special rate for capital dredging which would have been realised on the mainline vessels as per normal tariff in the Scale of Rates, shall be transferred to the capital dredging account and only the balance shall be taken in the Port General Account.

9. The TPT is directed to amend its Scale of Rates appropriately to incorporate these provisions.

(**S. Sathyam**)

Chairman