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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 106 **New Delhi, 13 July 2006**

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 approves the proposal of the Cochin Port Trust (COPT) for introduction of container storing and cargo supervision charges at Ernakulam Wharf, Mattancherry Wharf and Container Freight Station (CFS) of Cochin Port as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

TARIFF AUTHORITY FOR MAJOR PORTS

Case No. TAMP/59/2005 – COPT

Cochin Port Trust (COPT) **- - - - -** **Applicant**

O R D E R

(Passed on this 26th day of June 2006)

This case relates to a proposal received from the Cochin Port Trust (COPT) for introduction of container storing and cargo supervision charges at Ernakulam Wharf, Mattancherry Wharf and Container Freight Station (CFS) of Cochin Port.

2.1. This proposal arises in the backdrop of a reference received earlier from the Cochin Custom House Agents' Association (CCHAA) complaining that the COPT has introduced additional charge of Rs.200/- per 20' container towards storing and supervision charge at CFS without approval of TAMP.

2.2. The COPT was advised that the ad-hoc tariff introduced was not in line with the revised tariff guidelines and hence no additional wharfage should be levied till it was approved by this Authority. The COPT was also advised to file a separate proposal for the relevant tariff item along with the cost details to justify the tariff proposed.

3.1. In this background, the COPT has filed this proposal. The main points made by the COPT in its proposal are as follows:

(i). The Rajiv Gandhi Container Terminal (RGCT) was handed over to M/s. India Gateway Terminal Private Limited (IGTPL) on 1 April 2005 as per the License Agreement (L.A) entered between both the parties.

(ii). Before handing over the RGCT to IGTPL, the port provided the facilities for stuffing/de-stuffing of containers to and from RGCT at its CFS and wharves. Since the port itself was operating both the facilities the facility of CFS and wharves were complementing the RGCT operations. The tariff levied as per the Scale of Rates (SOR) when the COPT operated the terminal is given below.

(a). Composite rate of Rs.800/- and Rs.1200/- for 20' and 40' respectively was levied towards wharfage for house stuffed/destuffed FCL containers. In order to avoid dual port charges, no ground rent on container or wharfage on cargo was levied by port on such boxes or cargo destuffed at port wharves or CFS.

(b). On LCL cargo destuffed from containers, wharfage was collected for the cargo destuffed at CFS. In case of stuffing of LCL cargo in the container, only box rate of wharfage was collected as per the SOR. In addition to the above charges, the stuffing/de-stuffing charges @ Rs.2300/- and Rs.3750/- for 20' and 40' container respectively was collected.

(iii). After the IGTPL took over the operations, the wharfage at container terminal was collected by the operator and the port only levied stuffing/de-stuffing charges. Though, the port initially collected wharfage at CFS the same was discontinued in view of the complaints made by the users about dual collection.

(iv). The break-up of cost for stuffing and de-stuffing for a shift of 8 hours is as follows:

FLT charges	Rs.4800
Labour	Rs.4710
Cost of Office and Supervisory Staff	Rs.9485
Overheads	Rs.7097
Interest on investment	Rs.583
Depreciation	Rs.1388
Return on investment	Rs.6250
Total cost per shift on 8 hours	**Rs.34313**

(v). The cost of providing stuffing/de-stuffing services works out to Rs.5719/- per TEU based on gang output of 6 TEUs per eight hours shift in CFS. As against this, the tariff prescribed in its SOR is at the level of Rs.2300/- per TEU only.

(vi) In order to compensate the above loss of revenue, and also to avoid offering the service free of cost in respect of container / cargo handling at the port wharves and CFS, it has proposed to collect storage and supervision charges on cargo from FCL containers and consolidated LCL cargo to be stuffed @ Rs.200/- for 20' and Rs.400/- for 40' container. The said rate is already being collected from 18 August 2005.

(vii). The COPT has also justified the proposed tariff with reference to the cost for the space occupied. A 20' container occupies about 30 sq. mtr of covered space. An average 9½ days free period is to be given for cargo (i.e. 7 days for import + 12 days for export = 19 days ÷ 2 =9½ days). Considering the rental for covered space prescribed at Rs.40/- per sq. mtr per month, the rental per day is Rs.1.33 per day. The rental for 30 sq. mtr space for 9.5 days is Rs.380/-. Other CFS' are giving 3 to 5 days free period. Therefore, the COPT intends to charge for only 5 days i.e. 1.33 x 30 x 5 = i.e. Rs.200/-.

3.2. The COPT has furnished the following grounds for introducing the proposed tariff:

(i). A container on payment of wharfage to IGTPL would come into the port premises and will stay at the port CFS or wharf area till such time it is destuffed and the empty container is removed by the concerned Line/Agent. Towards this, the container storage charge has to be recovered by the Port.

(ii). The cargo after de-stuffing will enjoy a free period of 7 days and similarly a cargo which is consolidated in the CFS of wharves for stuffing will also enjoy a free period of 12 days. This free period is like the cargo enjoying the free period in the container terminal. In other words, in addition to the operation of stuffing/de-stuffing to and from the container, the cargo will also enjoy a free period and for the free period, the storage charges are to be recovered. As the cargo does not use the wharves in this case, no wharfage can be levied.

(iii). The containers and cargo will enjoy the free period under IGTPL for having paid wharfage and cannot expect to enjoy further free period at free of cost at the port premises. Further, the import LCL cargo is delivered to a number of consignees and hence the port cannot reimburse proportionate amount totaling to a box from all of them.

(iv). The container whether it is 20' or 40', is normally required to stay in the area for stuffing/de-stuffing only for 3 days. It has proposed to levy ground rent charge on containers at port wharves and CFS for their stay beyond 3 days.

3.3. To summarise, the tariff arrangement proposed by the COPT is as follows:

(i). Storage charges on containers (FCL/LCL loaded or empty) at Port wharves and CFS.

Sl. No.	**Period of occupation**	**Rate per container per day or part thereof**	
		20' in US$	**40' in US$**
1.	First three days *	Free	Free
2.	4^{th} day to 15^{th} day	3.00	6.00
3.	16^{th} day to 30^{th} day	6.00	12.00
4.	Thereafter	12.00	24.00

(Note: * Three days free period is exclusive of any delay on the part of the Port to stuff or destuff the container, which will be certified by Traffic Manager /Additional Traffic Manager).

(ii). Storage and supervision charges on cargo from FCL containers and consolidated LCL cargo to be stuffed is as follows:

For 20’ container	:	Rs.200/-
For 40’ container	:	Rs.400/-

(iii). In case of LCL cargo, the COPT shall collect the wharfage as per the rates prescribed in its Scale of Rates from the consignee and reimburse the box rate wharfage to IGTPL.

(iv). The demurrage for overstay of cargo beyond the free period shall be as per clause 3.2.2. of Schedule of demurrage charges of the prevailing Scale of rates.

3.4. The COPT has requested to approve the proposed tariff arrangement from 18 August 2005 as it is already collecting the provisional charges from this date.

4.1. In accordance with the consultation procedure prescribed, a copy of the proposal was circulated to India Gateway Terminal Private Limited (IGTPL) and various users / representative bodies of users for their comments.

4.2. Copy of the comments received from the IGTPL and user organisations were forwarded to the COPT as feedback information / comments. The COPT has furnished its comments on the observations of the IGTPL and other user organisations.

5.1. Based on a preliminary scrutiny of the proposal, the COPT was requested to furnish additional information / clarification on various points**.** The COPT has furnished the requisite information. The summary of queries raised by us and the information furnished by COPT are tabulated below:

Sl.No.	Queries raised by us	Reply of COPT
(i).	The breakup of stuffing / de-stuffing cost furnished by the port already includes the cost of office and supervisory staff and overheads apart from other cost elements. Furnish details of cost of the service provided to justify the proposed rate of Rs.200/- per TEU towards storage and supervision charges.	(a). It has furnished the cost details for stuffing / de-stuffing as given in its proposal. It has subsequently clarified that the cost details only highlight the cost incurred by the port for providing stuffing and de-stuffing services to the containers at the CFS. (b). The proposed rate of Rs.200/- per TEU is only to recover the ground rentals for storage of cargo before and after stuffing of containers for which cargo free days are provided. (c). The proportionate lease rent payable by the cargo on availing the free days is explained in the proposal to justify the proposed rate.
(ii).	Explain the reasons for not including the proposed supervision charges by reviewing the existing stuffing/ de-stuffing charge.	The revision of its Scale of Rates is due from 1 January 2006. In the current revision, the charges for supervision would be included in the stuffing / de-stuffing charges and a composite rate would be proposed.
(iii).	The existing Scale of Rates (SOR) of the COPT do not make any distinction between an FCL and LCL container for the purpose of levy of tariff. Indicate the exact tariff collected under each head for an FCL and LCL container as per the SOR approved by this Authority vis-à-vis the tariff envisaged to be collected as per this proposal to understand the financial impact on the users.	(a). The LCL cargo is brought into the port in small quantities by various Custom House Agents (CHA) for export and the charges towards port demurrage etc., are levied based on quantity and date of carting. Similarly, the LCL import cargo from a container is cleared by various CHA’s on different days by filing bills of entry at their convenience. The port charges payable would be different for each commodity as per the Scale of Rates. (b). For the purpose of collecting wharfage and handling charges, the LCL and FCL status of a container does not matter to a container

		operator. Since it is exclusively dealing with the CFS activity, it is necessary to take into account the volume and nature of cargo and provisions of Scale of Rates applicable to general cargo handling activities. (c). It has furnished the details of the stuffing/de-stuffing charges levied by the port as per the rates prescribed in its SOR prior to the IGTPL taking over the operations and subsequent to 1 April 2005. It has confirmed that the financial implication after introduction of proposed cargo storage charges would be Rs.200/- for a 20' and Rs.400/- for a 40' container.
(iv).	Clarify whether the proposed provision to collect wharfage on the LCL cargo, and reimbursing the box rate of wharfage to the IGTPL is with the consensus of IGTPL. If so, furnish a copy of the consent letter given by the IGTPL in this regard. Also, clarify whether the L.A. allows for such tariff arrangement between the port and the private operator. It may be noted that levy of wharfage is not relevant for CFS operations	(a). The collection of wharfage on the LCL cargo and reimbursing the box rate of wharfage to IGTPL has been discussed in the port users meeting held on 7 November 2005 when IGTPL participated and agreed. The port has furnished the relevant extract of the minutes of the meeting dated 7 November 2005. (b). There is no provision in the LA for such a tariff arrangement. However, the IGTPL delivers the container to port CFS for de-stuffing in case of import LCL, therefore, the port can pay their legitimate wharfage from its collection from different importers of LCL box cargo. (c). It is true that wharfage is not relevant to CFS. The COPT CFS operation had began as an alternative to transit shed operation where stuffing and de-stuffing of break bulk cargo was being carried out prior to CFS commissioning and with commissioning of CFS all general cargo stuffing and de-stuffing of sheds was discontinued except for personal baggage.
(v).	The free period beyond which storage rate is proposed to be levied on containers at port wharves/ CFS should exclude Sundays, Custom's holidays and port's non-operating days in line with the revised tariff guidelines.	It agrees to provide 3 days free period excluding Sunday's, Custom's holidays and Port's non-operating days.
(vi).	Furnish a dwell time analysis for cargo / container at the CFS for the last three years. The rate calculated based on 5 days storage time and proposed free time of 3 days appear to be contradictory. Please explain.	This information relating to dwell time of cargo / container is not readily available. Dwell time of cargo stacked before stuffing and free period allowed in other CFS have been considered while providing 3 days free period for cargo. The storage charge is proposed based on the actual rental for the volume of cargo for free period of 3 days.

5.2. It is relevant here to mention that the COPT has also forwarded a circular issued to the Trade on 29 September 2005 furnishing an undertaking to refund the charges collected provisionally from the users from 18 August 2005 in the event the TAMP does not approve the proposed tariff arrangement.

6.1 The IGTPL was specifically requested to comment on the special services it was rendering to the house stuffed / destuffed containers to justify higher rate of wharfage on such containers during the period when the IGTPL operated the interim arrangement by adopting the existing SOR of the COPT.

6.2. The IGTPL has not forwarded any specific comments on the points raised by us despite a reminder. It has made a general remark that it agrees with the proposal and that the wharfage on the FCL and LCL containers handled at the RGCT will be collected by them.

7.1 A joint hearing in this case was held on 31 January 2006. At the joint hearing, COPT, IGTPL and the concerned user organisations made their submissions.

7.2. At the joint hearing, the COPT was requested to furnish a detailed statement indicating the flow of operations at both the Terminal and CFS and the relevant tariff levied at the respective places. This statement should cover both the periods prior to and after the IGTPL taking over the operations of the Terminal. The COPT was also advised to firm up the billing arrangement in case of the LCL containers in consultation with the IGTPL and furnish a report on the same.

7.3. The COPT has furnished the requisite information. The salient points made by COPT are given hereinunder:

(i). Before handing over of the RGCT to IGTPL, the entire charges except wharfage were being recovered by the port from the Shipping lines while the wharfage on containers was recovered from the Custom House Agents.

(ii). (a). During the Joint Hearing, the issue about double collection of wharfage on LCL import cargo both by the IGTPL and by the port at CFS/baggage shed was discussed. In this regard it was submitted by the port, that a proposal was earlier made by the port to the IGTPL that the Port could continue to recover the wharfage in respect of LCL cargo and remit the corresponding box rate wharfage as per the SOR to the IGTPL.

(b). The IGTPL, however, explained that it was very difficult for them to identify the LCL/FCL status of the containers and exclude the collection of wharfage on LCL containers from the system. Therefore, IGTPL wanted that they be permitted to collect wharfage on all boxes irrespective of their LCL/FCL status.

(c) The Port Trust at this stage submitted that from the very beginning of RGCT operation, the wharfage on imported LCL cargo was being collected at the CFS/baggage shed and such wharfage collected was far more than the wharfage collected per box. This is because each LCL box contained cargo meant for multiple importers and their wharfage on advalorem basis was far in excess of the box rates. It had, therefore, requested this Authority to allow the collection of wharfage on LCL cargo separately at the CFS/baggage shed.

(iii). In view of the above submissions, Chairman (TAMP) suggested that the Port Trust may consider offering a concession on the present wharfage being collected on LCL import cargo to offset the wharfage already being charged on the container at IGTPL.

(iv). Accordingly, it has compiled the details of wharfage collected on LCL cargo at CFS in respect of 23 TEUs on a random basis and furnished statement prepared in this regard. The statement reveals that the wharfage collected based on the volume as well as advalorem basis as per the Scale of Rates varies from Rs.1,600/- to Rs.18000/- per TEU and the average amount so collected per TEU works out to Rs.5777/-. It was calculated that if a concession of 10% were offered on the wharfage on LCL cargo being handled at CFS/baggage shed, such concession would amount to an average of Rs.570/- per TEU, which would offset the wharfage of Rs.500/- already being paid to IGTPL by the Lines on behalf of the importers.

(v). The higher wharfage arising on certain LCL cargo import is due to import of trading commodities by the traders in LCL containers. These commodities being high value cargo, can afford to pay such wharfage on ad-valorem basis.

(vi). The port may be permitted to collect the wharfage on LCL import/export cargo in the name of LCL Cargo Management Charges at CFS/baggage shed as provided Chapter III- Cargo Related Charges in the Cochin Port Trust Scale of Rates (Schedule of wharfage for bulk and break bulk cargo) allowing a concession of 10% on the rates specified. It may be relevant to mention here that the LCL Cargo Management Charges on each box will be shared by several importers, the actual in absolute terms per importer being proportionately distributed.

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 the relevant parties. These details are also available at our website http://tariffauthority.gov.in

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

(i). The existing Scale of Rates of the COPT does not prescribe any separate tariff for the services offered at the CFS except stuffing and destuffing charges.

The COPT has reported that prior to handing over its Rajiv Gandhi Container Terminal (RGCT) to India Gateway Terminal Private Limited (IGTPL) from April 2005 onwards, various container related services offered by the port at the Ernakulam wharf, Mattancherry wharf and its CFS were complementing the container handling operations at the RGCT. It is noteworthy that the existing Scale of Rates of COPT for container operations were fixed relying on the financial position of the container handling activity in totality including CFS operation and no separate analysis of CFS activity was made.

With the IGPTL taking over the RGCT, all the container handling charges are levied by the IGTPL except stuffing and destuffing charges which is continued to be levied by the port. With the more profitable terminal operations privatised, the port finds that the CFS activity is in deficit.

It has also argued that the cost of stuffing/destuffing works out to Rs.6594/- per TEU based on the productivity level reported by the port against which charges levied by the port is at the level of Rs.2300/- per TEU only.

(ii). In order to compensate the loss of revenue and to make the CFS activity self reliant, the COPT has proposed to introduce cargo supervision charge at its wharves and the CFS. This Authority fully shares the concern of the COPT to make the CFS activity self-reliant. However, it has to be recognised that review of a singly activity in isolation ignoring the effect of cross-subsidisation will only lead to a distorted position. It is an admitted position that the CFS activity was cross-subsidised by the surplus available from the terminal operation.

It is not found appropriate to review only this one activity which is in deficit in isolation without analysing the effect of cross-subsidisation between the various activities of the port.

The port has not furnished the revenue and cost involved in the CFS operation and more particularly with respect to offering supervision services at the CFS. The argument of the Cochin Custom House Agents Association that the cost of supervision is included in the stuffing/ destuffing cost furnished by the port deserves to be admitted. The COPT has not furnished any analysis to conclusively establish that the supervision cost included in the stuffing / destuffing charges is exclusively for stuffing / destuffing services and not for other general activities at the CFS.

(iii). Even though the direct flow of cross-subsidies from terminal operation to CFS activity may have dried up with the privatisation of RGCT, the BOT income to the port is available for such purposes. The port’s interpretation that the revised tariff guidelines do not permit reckoning of revenue share income in tariff computation is totally misplaced and the relevant guideline is applicable only to the BOT operators.

(iv). Most of the users have strongly objected to the proposed supervision charge. It is relevant to mention the Scale of Rates approved by this Authority for the CFS operations by the Chennai Container Terminal Limited at Chennai Port, the Central Warehousing Corporation at the Kandla Port and the Jawaharlal Port Trust do not contain any separate tariff for this service.

As the port has not furnished any justifiable analysis to support the proposed rate for supervision charges, there is no case for introducing the proposed supervision charges at CFS. The COPT is, however, advised to review the present tariff arrangement at the CFS and file a separate proposal for levy of tariff for various services offered thereat duly justified by the cost of providing such services.

(v). The port was advised not to introduce any adhoc tariff arrangement in this regard. Nevertheless, it is understood that the port has gone ahead with levy of provisional charges at the proposed rate. Since the proposed supervision charge is not approved, this Authority directs the port to refund the provisional charges levied so far.

It is always the concern of this Authority that the tariff benefits given should reach the actual importers and exporters. In this case also, the port must ensure that the details of refund reach the concerned importer/exporter so that they can take up with their agents for billing adjustment.

(vi). When RGCT was being operated by the COPT, dwell time for the containers placed at the RGCT and CFS was considered at a single stretch of stay and ground rent was collected beyond the prescribed free period on their overall stay at CFS and RGCT. With the IGTPL taking over the RGCT, the containers can avail free period at the IGTPL separately and then enter the port CFS or wharf area and stay there till they are stuffed/ destuffed. There is no separate storage charge on containers at port wharves and CFS. As rightly stated by the port, storage charge is required to be recovered for the overstayal of containers at the port CFS. It has, therefore, proposed to levy storage charge on containers arriving at its CFS after allowing three days free period. The storage charge is proposed in dollar terms at the level charged by the port prior to the privatisation. Recognising the fact that even prior to the privatisation, port recovered storage charge beyond the free period on the overall stay of the container at the RGCT and the CFS, this Authority is inclined to approve the proposed storage charge at the port CFS. It has to be recognised that it is not a new tariff item introduced but, only an explicit authorisation given to COPT to levy the existing storage charges after allowing free period.

The port has not proposed storage charge separately for coastal containers in rupee terms. Storage charge for coastal containers at port CFS is prescribed in rupee terms applying the current exchange rate for conversion purpose in line with the prescription at other major ports/ private terminals.

(vii). The proposed free period of three days is based on the normal time a container is required to stay for stuffing / destuffing. Some of the user organisations have argued that the free period allowed at the other private CFS is more than the level proposed by the port. In this context, it may be relevant to mention that the users after availing the free period at the IGTPL are getting the benefit of second set of free days at the port CFS which was not available earlier and hence the proposed arrangement will provide relief to users.

The port has clarified that the proposed three days free period will exclude any delay on the part of the port to stuff or destuff the container. This is in line with the principle set out in the revised tariff guidelines that users should not be penalised for delays attributable to port. Hence the proposed conditionality is accepted.

The computation of free period should exclude Customs holidays and Port non-operating days as per the terms of the revised tariff guidelines. Though it has reported to have issued a circular in this regard, the proposal does not contain such a provision. That being so, a suitable conditionality is prescribed in line with the revised tariff guidelines and similar prescription at other major ports/ private terminals.

(viii). The third part of the proposal relates to levy of wharfage charge by the COPT on LCL cargo as per the wharfage schedule prescribed in its Scale of Rates. It is noteworthy that levy of wharfage on LCL cargo is not a new tariff item in Cochin Port Trust. The Scale of Rates of the COPT prescribes levy of wharfage on containerised cargo at the rates prescribed for individual cargo items in the wharfage schedule as well as wharfage on container in case cargo is stuffed / destuffed within the wharf premises or CFS. The COPT has also submitted that right from the commissioning of the RGCT, wharfage on LCL cargo was collected at the CFS and this amount far exceeded the box rate of wharfage.

The COPT has, therefore, requested to allow the port to collect the wharfage on LCL cargo and has agreed to reimburse the box rate to the IGTPL in case of such LCL containers so that the user will not be burdened twice.

As rightly stated by some of the users and also admitted by the COPT, there cannot be any levy of wharfage at the CFS. The port has therefore subsequently modified this term as ‘LCL cargo management charges’ though the rate will be equivalent to the wharfage rate prescribed in its schedule. Maintaining revenue from LCL cargo operation at CFS at the same level as that achieved prior to privatisation of the terminal is the main logic behind the proposal.

Though the IGTPL in principle has no objection on this proposal, it has expressed its inability to accept reimbursement of box rate of wharfage on containers from the COPT. The COPT, based on the suggestion of this Authority, has subsequently proposed to offer a concession of 10% on the wharfage rates specified in its Schedule on the LCL import / export cargo to offset the box rate wharfage charged at the IGTPL @ Rs.500/- and Rs.750/- for 20’ and 40’ container respectively.

In this regard it is significant to note that the box rate of wharfage prescribed in the SOR of IGTPL is Rs.550/- per 20’ container, Rs.825/- for a 40’ container and Rs.1100/- for container exceeding 40’ container and not at the level indicated by the COPT.

The proposed 10% concession is arrived at based on compilation of details wharfage collected on LCL cargo at the CFS in respect of some sample containers, which may not in all the cases offset the box rate of wharfage paid at the IGTPL. That being so, the proposed conditionality is partially modified to state that 10% concession in the LCL cargo management charges on LCL import/ export cargo will be allowed subject to a minimum of Rs.550/- for a 20’ container, Rs.825/- for a 40’ container, and Rs.1100/- for container exceeding 40’.

Since there can be multiple consignees for a particular LCL container, the concession in the LCL management charges must be distributed proportionately in the ratio of this charge leviable on the respective consignees as agreed by the COPT.

As has been mentioned earlier, this is not a regular tariff item but is approved as an interim arrangement till the next revision of the COPT Scale of Rates. The COPT is advised to review the tariff arrangement and propose a suitable tariff structure as is approved in case of other CFS operators at major ports.

(ix). In case of cargo destuffed or waiting to be stuffed at the CFS, demurrage charges after the prescribed free period was being levied in terms of the general provision for levy of demurrage prescribed under schedule 3.2.2. The COPT proposes to continue with the same arrangement but for the purpose of clarity desires that such prescription be made explicit for the purpose of levying demurrage on cargo storage at the CFS. The proposal of COPT is approved.

(x). The COPT has introduced the proposed rates provisionally from 18 August 2005. It has, therefore, requested this Authority for according retrospective approval of its proposal w.e.f. 18 August 2005. This Authority does not approve retrospective revision of rates unless extraordinary circumstances emerge warranting any exceptional treatment. The revised tariff guidelines also recommend prospective implementation of the rates.

In the instant case, the storage charge on CFS and the LCL cargo management charge levied by the port are based on the existing notified rates for similar services offered by the port prior to the privatisation of its terminal. This Authority considers the request of the port and accords retrospective approval from 18 August 2005.

As agreed by the COPT, the charges collected by the port in excess of the tariff approved by this Authority is to be refunded to the relevant users / consignees.

(xi). The tariff approved by this Authority is generally valid for a period of three years from the date of notification of the Order as per the revised tariff guidelines. However, in the instant case, the COPT should file a separate proposal for the CFS activity immediately or include them in the general revision proposal to be taken up for consideration shortly. The approval accorded now will be in force till the effective date of implementation of the revised Scale of Rates to be framed based on the general revision proposal filed by the port trust.

10. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves insertion of following notes under Schedule No 4.7. - Stuffing and destuffing charges of the existing Scale of Rates of the COPT:

(i). **Delete the existing note no. 2 under Schedule 4.7. and replace it with the following:**

"In case of LCL import/ export cargo, the COPT shall collect the LCL cargo management charges at the wharfage rates prescribed in Schedule 3.1. of its existing Scale of Rates. Concession of 10% on the rates specified in the wharfage schedule will be allowed subject to a minimum of Rs.550/- for a 20' container, Rs.825/- for a 40' container and Rs.1100/- for a container above 40'."

(ii). **Insert note no. 3 under Schedule 4.7. as follows:**

*"**Storage charges on containers (FCL/LCL loaded or empty) at Port wharves and CFS.***

Sl. No.	**Period of occupation**	**Rate per container per day or part thereof**			
		20' container		***40' container***	
		Foreign-going (in US$)	***Coastal (in Rs)***	***Foreign-going (in US$)***	***Coastal (in Rs)***
1.	*First three days*	*Free*	*Free*	*Free*	*Free*
2.	*4^{th} day to 15^{th} day*	*3.00*	*138*	*6.00*	*276*
3.	*16^{th} day to 30^{th} day*	*6.00*	*276*	*12.00*	*552*
4.	*Thereafter*	*12.00*	*552*	*24.00*	*1104*

(a). Free period will exclude any delay on the part of the port to stuff or destuff the container, as certified by the concerned officer authorised by the COPT.

(b). Free period shall exclude Customs Holidays and port's non-operating days.

(iii). Insert note no.4 under schedule 4.7. as follows :

"Free period and levy of demurrage charges on cargo shall be governed by the provisions prescribed in Schedule 3.2. of the Scale of Rates."

(A.L. Bongirwar)
Chairman

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THE JOINT HEARING BEFORE THE AUTHORITY

F. No. TAMP/59/2005 – COPT - Proposal received from the Cochin Port Trust (COPT) for introduction of container storing and cargo supervision charges at Ernakulam Wharf, Mattancherry Wharf and Container Freight Station (CFS) of Cochin Port.

1. The comments received from IGTPL and various users / representative bodies are summarised below:

India Gateway Terminal Pvt. Ltd. (IGTPL):

(i). It has no objection to the proposal of COPT.

(ii). It shall collect wharfage on the FCL and LCL containers handled by it at the RGCT.

Cochin Steamer Agents' Association (CSAA):

(i). Prior to the IGTPL taking over the operations of RGCT from the port, the COPT was undertaking the entire activity, and such charges were not levied by them. The COPT states that since the wharfage of Rs.800/- per TEU and Rs.1200/- per TEU is collected by IGTPL, the port is required to collect the proposed charges towards storage and supervision. Such matter should be resolved between COPT and IGTPL instead of putting additional burden on the trade.

(ii). The stuffing/de-stuffing cost computed at Rs.5719 per TEU by the COPT seems to be very high. From the break-up of cost of stuffing/de-stuffing furnished by the COPT, it is not clear what the overheads of Rs.7097 per 8 hour shift pertain to. Interest on investments at Rs.583/- and depreciation of Rs.1388/- should not be considered in the stuffing/de-stuffing activity, as these cost elements are met from other profits.

(iii). The productivity of 6 TEUs per shift considered for arriving at the cost of stuffing/de-stuffing is low.

(iv). It should be ensured that there is no duplication in payment of stuffing charges to both COPT as well as to IGTPL.

Indian Chamber of Commerce & Industry (ICCI):

(i). If it is not possible to fix lower rates, the charges for various services collected from the users of COPT should not exceed the rates for similar services offered at the neighbouring ports of Tamil Nadu and Mangalore.

(ii). The charges should be so fixed so as to help the sustained growth of COPT vis-à-vis Exim cargo traffic through the port. For the Exim trade, cost effectiveness is essential particularly in view of the increase in competition in the world market brought about by globalisation.

Cochin Chamber of Commerce and Industry (CCCI)

(i). It has reiterated the comments made by the CSAA.

Cochin Custom House Agents' Association (CCHAA)

(i). It does not agree to the clarification given by COPT that with the handing over of the RGCT operations to the IGTPL from 1 April 2005, it has become necessary to collect additional charges. If the port CFS was making profit before IGTPL took over the RGCT operations, then how could the port CFS become uneconomical for COPT from August 2005 onwards.

(ii). The stuffing/de-stuffing cost worked out by the COPT at Rs.34,313 per shift is inflated. The Fork Lift Truck charges of Rs.4800/-, labour charges at Rs.4710/- and the cost of office and supervisory charges at Rs.9485/- considered in the costing of stuffing/de-stuffing activity are on the higher side. The cost of other work not directly attributed to the stuffing/de-stuffing activity should not be included.

(iii). The claim of COPT that the gang output is only 6 TEUs at port CFS per shift of 8 hours needs to be examined when the private CFS at Cochin are able to handle stuffing/de-stuffing of more than 6 TEUs with less number of workers per shift. There is every scope of improvement of the productivity of the workers. If the productivity is improved the cost will definitely come down.

(iv). The number of workers actually employed in the stuffing/de-stuffing work and the proportion of their wages directly related to the said work should only be taken into account.

(v). The port CFS was commissioned in 1995. No substantial investments on equipment has been made by COPT after the commissioning of Port CFS. Hence, there is no justification in considering huge amount as return on investment.

(vi). The port is offering only 7 days free period at its CFS whereas the other private CFS at Cochin are allowing a minimum free period of 14 days. Further, their charges are still lower in comparison to the tariff levied by the port.

(vii). TAMP has given approval to IGTPL to increase the charge of container related charges at the container terminal at Cochin Port. This is burden on the Exim trade. The additional increase of Rs.200/- and Rs.400/- per container would be an additional burden on port users.

(viii) There are no separate charges collected at private CFS for unloading and equipment charges and ground rent charges whereas the port is collecting separate charges for the above items. In addition to this, COPT is collecting Rs.200/- for a 20’ container and Rs.400/- for a 40’ container at port CFS inspite of TAMPs direction not to collect the same and based on the understanding that the said amount will be refunded to the trade, if the above charges are not finally approved by TAMP. COPT is also collecting penal interest @ 15% against ground rent when the said issue is pending before TAMP. In view of the above submission it is requested not to approve the proposed storage and supervision charge. In any case, even if it is accepted it should not be implemented with retrospective effect.

(ix). As per the Licensing Agreement (L.A.), the COPT is getting a share of 33% from the profits of IGTPL every year. This income factor is not reflected in the cost details submitted by port.

(x). The COPT has raised bills for additional ground rent charges consequent on reduction of free days from 5 days to 3 days. The reduction of free days is without approval of TAMP. Hence TAMP is requested to intervene in this issue.

(xi). It should not be directed to pay the detention charges for the reasons beyond its control.

2. Copy of the comments received from the IGTPL and user organisations were forwarded to the COPT as feedback information / comments. The COPT has furnished its comments on the observations of the IGTPL and other user organisations. Some of the main points made by the COPT are summarised below:

<u>On the comments of the India Gateway Terminal Private Limited (IGTPL)</u>

(i). The LCL cargo when destuffed from a container needs to be segregated based on the marks and numbers and stored separately for delivering it to different parties. This cargo is mostly personal effects and needs to be handled carefully. A separate shed is designated for Customs examination and therefore the overheads for managing this cargo is always more than the cargo of FCL container.

(ii). This proposal was filed as the IGTPL had initially agreed to accept the remittance of wharfage on the LCL containers from the port. The IGTPL cannot be insisted to accept the remittance of the wharfage on LCL containers, though they had initially agreed to accept, as this arrangement is not provided in the License Agreement.

(iii). In view of the above, it will evolve and propose a separate tariff for LCL cargo management in the sheds in addition to stuffing and de-stuffing charges.

On the comments of the Cochin Steamer Agents' Association (CSAA)

(i). For computation of overheads, 50% of per shift employees cost is considered.

(ii). The interest on investment is calculated @ 10.50% per annum on capital investment of Rs. 4 crores at CFS.

(iii). Similarly depreciation is calculated on the said capital investment of Rs. 4 crores considering life of CFS as 40 years.

On the comments of the Indian Chamber of Commerce & Industry (ICCI)

(i). It agrees with the views of the ICCI and has no further comments to offer.

On the comments of the Cochin Chamber of Commerce and Industry (CCCI)

(i). Rs.7097/- pertains to cost of staff deployed at CFS per shift. When proposal is sent each entity is considered as a separate head. Therefore, interest on investment and depreciation is considered for costing of CFS.

(ii). It will be ensured that there is no duplication in collection of charges by COPT and IGTPL.

On the comments of the Cochin Custom House Agents' Association (CCHAA)

(i). The interest on investment is erroneously shown as Rs.583/- in the break up of stuffing / de-stuffing cost as against Rs.5833 per shift. Thus, the total cost will be Rs.39,563/- per shift.

(ii). With reference to the objection made by the Association about low productivity of stuffing, it has clarified that at COPT generally heavy cargo is stuffed since it has grounding facility. While other CFS's have facility only for chassis stuffing / de-stuffing and hence mostly light cargo is stuffed / destuffed by head load workers. Further, stuffing/de-stuffing of heavy items like coffee, machinery etc., require longer time and for this purpose the port deploys forklifts and mobile cranes. In view of this position, productivity of only 6 TEU's is achieved even when attractive incentive scheme is offered.

(iii). The wages of labourers booked at CFS is only taken for costing purpose.

(iv). The port CFS provides 7 free days for import cargo and 12 days for export cargo exclusive of Sundays and Holidays. The free days offered in the vicinity is as follows:

(a) CFS Petta (KSWHC) --- 15 days

(b) Asian Terminal --- Import-7 days, export-3 to 7 days.

(c) Pace CFS --- Normal free days is 3. They may give more free days according to customers.

(v). As per the tariff guidelines, revenue share receivable from the IGTPL is not considered in the costing. Each operating center is considered a separate cost center and the proposal is made in accordance with the tariff guidelines.

(vi). The request of the CCHAA for considering the intervening Sundays, Customs Holidays and Port non-working days as free period in addition to the proposed 3 days free period for the purpose of collection of container detention charges has been considered and circular to this effect has been issued.

(vii). The three days free period is proposed with a view not to collect the ground rent charges on containers which overstay in port premises due to failure of the port to stuff or de-stuff the containers.

(viii). The contention of the CCHAA that the decision to reduce the free period from 5 days is not approved by the TAMP is not correct. There is already a rate for ground rent charges on the container approved by the TAMP which is in existence. When the COPT operated the RGCT, container detention period for the container placed at the RGCT and CFS was considered at a single stretch of stay and ground rent was collected on the overstayed containers on their over all stay at CFS and RGCT. Moreover, there were no two sets of free days like the one being enjoyed by the containers now. Hence the collection of containers detention charges after 3 days is justified.

3.1. A joint hearing in this case was held on 31 January 2006. At the joint hearing, the following submissions were made:

Cochin Port Trust

(i). First part of our proposal relates to introduction of supervision charges and the second part is for storage charges.

(ii). Our proposal is to make the CFS activity self reliant without depending on cross-subsidisation.

(iii). In case of LCL containers – wharfage as per Scale of Rates of general cargo is collected. For FCL, box wharfage rate is collected.

(iv). Earlier CFS operation was cross-subsidised by Terminal operation. Now Terminal has been handed over to IGTPL.

(v). Supervision charges are proposed based on rentals for port godowns and the average free time allowed.

(vi). We have introduced these charges from August 2005 subject to refund if this Authority does not approve.

(vii). Earlier, no separate free period was provided for storage at CFS. Now the situation is different after the IGTPL has taken over RGCT. A separate ground rent schedule is needed for containers handled at CFS.

(viii). In the general revision proposal, we have merged the proposed supervision charges with stuffing / de-stuffing charges. Till such time please approve the proposed rates as surcharge.

(ix). Differential wharfage on FCL and LCL are not specifically prescribed in the Scale of Rates. The practice is more of customary.

(x). We will reconsider the billing arrangement and suggest revised procedure in consultation with IGTPL.

Container Shipping Lines Association (CSLA)

(i). Levying second wharfage is making us to duplicate the tariff.

Cochin Steamer Agents Association (CSAA)

(i). There should be an arrangement between COPT and IGTPL to levy wharfage at one point which they can share on agreed basis.

India Gateway Terminal Private Limited (IGTPL)

(i). From April 2005 to November 2005, we levied wharfage at Rs.800/- on all house stuffed containers.

(ii). We have problem in accepting wharfage on LCL from COPT. Our software does not support this.

Cochin Custom House Agents Association (CCHAA)

(i). The supervision charges are included in the stuffing / de-stuffing charges. This was agreed with our Association by COPT when CFS was commenced in 1993. We, however, don't have any record of this discussion.

(ii). The COPT rates are already on the higher side and there is no justification to load additional burden on users.

3.2. At the joint hearing, Indian Chamber of Commerce and Industry has filed further written submissions reiterating the points made by them earlier. Some of the additional points made by ICCI are as follows:

(i). It was reported in the press that the Cochin Port had constituted a Committee to study areas where costs are higher compared to neighbouring Ports such as Chennai and Tuticorin and suggest measures to bring them down. The port is trying to woo more cargo through cost reduction.

(ii). Reasonable and comparable rates would help to substantially increase the volume of cargo traffic through Cochin Port thereby not only offsetting the impact of the reduction of rates but also generating more revenue than that generated in a situation of higher rates.

(iii). Even though it is a direct payment by the Lines to the Stevedores, such charges will reflect on the ocean freight. The proposed charges seem to be on higher side. Hence they have to be brought down to a reasonable level.

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