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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 80

New Delhi, 29 May, 2003

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the Mumbai Port Trust for fixing charges relating to licensing of plots for ship breaking facilities as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/16/2002 - MBPT

The Mumbai Port Trust

Applicant

ORDER

(Passed on this 6th day of May 2003)

This case relates to a proposal received from the Mumbai Port Trust (MBPT) for fixing charges relating to licensing of plots for ship breaking facilities at Lakri Bunder (South) and Powder Works Bunder.

2.1. The MBPT had initially submitted a proposal which consisted of two components – (i) proposal to change the unit of levy of ship breaking charges under a 'Common User' facility from the GRT to LDT basis; and, (ii) proposal to fix charges for licensing of the ship breaking plots.

2.2. This Authority approved Part-I of the proposal about change in the unit of levying ship breaking charges vide its Order passed on 12 August 2002 and ordered that Part-II of the proposal would be taken up when the MBPT submits a comprehensive proposal after obtaining the approval of the Government to the licencing Scheme which must, *inter alia*, include the conditionalities governing application of the relevant tariff.

3.1. In response to the Order, the MBPT has submitted the proposal as sanctioned by their Board of Trustees for the scheme with certain modifications based on the Government's observation alongwith conditionalities governing the scheme and the statistical information in the prescribed formats.

3.2. The salient features of the proposed scheme for licensing plots for ship breaking are summarised as follows:

- (i). The allotment of 19 plots for ship-breaking activities will be done in two categories:
 - (a). Category 'A' for the regular / existing ship-breakers of Mumbai Port; and,
 - (b). Category 'B' which shall be open for all ship breakers subject to fulfillment of the criteria prescribed.
- (ii).
 - (a). The 12 plots at Lakri Bunder (South) will be reserved for Category 'A'. The competitive bidding in this category shall be invited only from regular / existing ship-breakers who have broken minimum 10,000 GRT during last three financial years (1999-2002) at the Mumbai Port.
 - (b). The criteria proposed for the Category 'B' is that the applicant must have 3 years of experience in ship-breaking industry; and, should have broken minimum of 10,000 GRT or should enter into a management contract with another ship-breaker who meets the minimum prescribed experience criteria subject to their forming registered firm or company on allotment of the plot within a period of six weeks.
- (iii). The basis for allotment of plot has been proposed as follows:
 - (a). In case, some plots from Category 'A' remain unallotted, the same will be included in the Category 'B' for allotment.
 - (b). The basis of allotment of plot in both categories will be in terms of the highest upfront fee offered.

- (c). The parties can bid for more than one plot. A maximum of two plots shall be allotted to one ship-breaker under Category 'A'.
- (d). All the other conditions shall remain the same for both categories.
- (iv). Non-refundable upfront fee of minimum Rs. 50 lakhs is proposed to be collected from a licensee for allotment of the plot. The basis of acceptance of offer will be the upfront fee quoted over and above the minimum prescribed amount.
- (v). It is proposed to grant the license for a period of 10 years subject to a condition that it shall automatically come to an end without any further action by the MBPT, unless the licence is renewed within three months prior to the date of expiry of the licence period.
- (vi). A minimum committed throughput of 10,000 GRT per year is to be achieved. In case of shortfall if any, the committed throughput of 10,000 GRT per year shall be made up during the following years subject to achieving 30,000 GRT in a block of three years. In case of failure to achieve this target in a block of three years, the licensee shall pay ship breaking charges for the shortfall, failing which the licence shall be liable for termination.

3.3. The MBPT has sought approval of this Authority to the following rates leviable under the licensing scheme with associated conditionalities:

- (i). A license fee of Rs.20 per sq. mtr. per month for the entire area of the licensed plot which is payable quarterly in advance.
- (ii). Ship-breaking charge at the rate of Rs. 325/- per LDT of the ship which is payable before beaching of the ship.
- (iii). For others vessels broken by the Licensee at the licensed plots, an additional fee of Rs. 80/- per LDT will be levied before beaching of the ship.
- (iv). A discount of 20% will be offered to the Licensee in the ship-breaking charges payable as at (ii) above, for the excess tonnage broken above 10,000 LDT per year.

3.4. The proposed conditionalities governing the tariff for the scheme for licensing of plots are given below:

- (i). Tenure: License for ship breaking shall be granted for a period of 10 years from the date of issue of the license subject to the condition that upon expiry of the aforesaid period, the license shall automatically come to an end without any further action by the MBPT, unless the license is renewed within three months prior to the date of expiry of the license period. The ownership of the plot shall throughout remain the MBPT.
- (ii). Licensee shall pay one time non refundable upfront fee. The base price has been fixed as Rs.50 lakhs.
- (iii). Transfer of plot to third party for the purpose of ship breaking activity shall be considered after a period of three years from the date of license on payment of prescribed transfer fee of Rupees one lakh per year or part thereof for the balance license period.
- (iv). Normally a licensee will break his own ships. However, in case he desires to undertake breaking of ships not owned by him additional charge will be levied @ Rs.80 per LDT.
- (v). The Shipbreakers shall be required to pay license fees referred above quarterly in advance and the ship breaking charges, before beaching of ship. Failure to pay will attract interest applicable from time to time.

- (vi). In addition to the above, the licensee shall pay service tax, octroi and any other statutory levies payable to the statutory authorities.
- (vii). Licensee shall achieve a minimum committed throughput of 10,000 LDT per year. In case of shortfall, if any, the same shall be made up during the following years subject to achieving 30,000 LDT in a block of first three years. In case of failure to achieve this target the licensee shall pay ship breaking charges for the shortfall in committed throughput within one month of expiry of the three years block, failing which the licensee shall stand terminated.
- (viii). Discount of 20% in ship breaking charges will be given to induce higher productivity if a ship breaker achieves throughput above the minimum committed level of 10,000 LDT per year. Discount will be available for the tonnage over and above the minimum prescribed throughput.

3.5. The proposal of the MBPT was initially approved by its Board of Trustees on 11 December 2001; the proposal was again approved on 11 September 2002 to include with certain modifications based on the Government's observations. The modifications, subsequently effected, pertain to the relevant period for experience criteria and compensation for shortfall in the committed throughput. These modifications have been incorporated in the salient features of the scheme at paragraph 3.2.(ii) (a) and 3.2.(vi) respectively.

3.6. It is relevant to mention here that the MBPT has proposed the rates for the licensing of plots with a view to match the revenue of Rs.8.11 crore earned during the financial year 2000-01. For the purpose of fixing charges to be levied on the plots under the scheme the revenue earned on all the 19 ship breaking plots in 2000-01 has been considered and the MBPT proposed to retain the level of revenue at Rs.8.11 crore per annum. Accordingly, the ship breaking charges at Rs.325/- per LDT and licence fee at Rs.20/- per sq. mtr. per month have been proposed by the MBPT.

4.1. On a preliminary scrutiny of the proposal, the MBPT was requested to furnish additional information / clarifications on the following points:

- (i). The minimum upfront fee of Rs.50 lakhs per plot proposed is non-refundable one. While the revenue / cost statement reckons with interest on the upfront payment, the treatment given to the principal amount is not clear;
- (ii). The licence fee of Rs.20/- per sq. mtr. per month is proposed based on the rate prescribed in the Docks Scale of Rates for storage of cargo. The rationale behind adopting the rate applicable for storage of cargo as licence fee for plots in the waterfront needs clarification.
- (iii). It is presumed that a licensee will carry out ship breaking activity by arranging his own labour and equipment; and, the MBPT will not render any service required for breaking of ships in these plots other than licensing its waterfront and back-up land required for this activity. In this backdrop, the proposal to charge a separate fee for ship breaking, in addition to levy of licence fee for the area leased needs justification
- (iv). There appears to be certain calculation errors in estimation of minimum annual earning on account of upfront fee and discrepancy in computation of capital employed and consequently the return on capital employed.
- (v). The MBPT to confirm whether the approval of the Central Government for the Scheme of Licensing for ship breaking plots and, if so, forward a copy of the approval for reference.

4.2. The MBPT has furnished additional information / clarifications sought by us in response to our queries. The additional information/clarifications are summarised below.

- (i). The MBPT has assumed that the upfront fees will be spread over a period of ten years. The yearly present value of the amount of Rs.50 lakh at 8% p.a. spread over

a period of 10 years comes to Rs.7,45,147.50. On this basis, the upfront fees for 19 plots at 8% p.a. for 10 years works out to Rs.1.42 crore. .

- (ii). The license fees at Rs.20 per sq. mt. per month is proposed in accordance with Docks Scale of Rates providing for License Storage fees for use of open yard adjacent to the Boat Hards on which ships will be broken. The rate is very nominal as compared to the market rate for Bunders area based on land value and renting out the open space.
- (iii). Ship breaking charges are levied for using Boat Hard. The license fee of Rs.20/- is for letting out the open land adjacent to the basin and the Boat Hard. These are two different rates for two different areas. During high tide ships are beached on the Boat hards and the ship breaking activity starts thereafter. Ship breaking charge is for using Boat Hard whereas license fee is for using open space adjacent to the basin and the Boat Hard.
- (iv). MBPT has spent significant amount for the construction and maintenance of Boat Hard. Therefore, the scheme proposes to charge ship breaking charges and also for license fee for the open area adjacent to the basin.
- (v). The estimates were re-verified and there is no discrepancy in computation of capital employed.
- (vi). The sanction of the Government to the scheme for licensing of ship breaking plots is not yet received.

5.1. In accordance with the consultative procedure prescribed, a copy of the original as well as the subsequent proposal of the MBPT was circulated to the concerned port users / representative bodies of port users for their comments.

5.2. The comments received from the ISSAI was forwarded to the MBPT as feed back information.

6.1. A joint hearing in this case was held on 31 March 2003 at the office of the Authority. At the joint hearing, the MBPT and the ISSAI have made their submissions.

6.2. At the joint hearing the ISSAI submitted a list containing various suggestions and a statement showing defaulters at Alang Ship breaking yard. The list containing various suggestions are reiteration of the points made by it earlier.

6.3. As decided at the joint hearing, the ISSAI was advised to carry out a revenue analysis based on its suggested rates in consultation with the MBPT to show that its proposed rates will enable a revenue rental position or indicate revised rates, if necessary, to achieve a revenue neutral position.

6.4. The MBPT was advised to furnish the performance details of ship breaking for the last five years to justify the proposed cut-off limit of 10,000 LDT per annum.

7.1. The revenue analysis submitted by the ISSAI was sent to the MBPT as feed back information and for verification of the revenue figures furnished by the ISSAI.

7.2. The revenue analysis of the ISSAI and the comments of the MBPT on the revenue analysis of the ISSAI are furnished below:

Revenue analysis of the ISSAI

The ISSAI, has reiterated their submission made earlier and also made certain fresh submission. It has not proposed any revised rates. The fresh submissions made by them are as follows:

- (i). There is no alternative for better utilisation of these plots.
- (ii). Only 3 – 4 units are breaking ships at the rate of about 7000 to 10,000 tonnes annually.
- (iii). The earnings have been steadily declining over the years as shown below:

1999-2000	-	Rs.11.00 crore
2000-2001	-	Rs.8.11 crore
2001-2002	-	Rs.6.88 crore
2002-2003	-	Rs. 6.00 crore

In 2003-04 the earnings will further fall to Rs.4.00 crore.

- (iv). There is a reduction of about 26% in the revenue of the MBPT from the year 2000-01 (Rs.8.11 crore) to about Rs.6.00 crore in the year 2002-03. Thus, the ISSAI has sought a reduction of about 23% (from Rs.325 per tonnes to Rs.250 per tonne) considering the prospect of further fall in earnings to around Rs.4 crore annually in future.
- (v). The ISSAI has strongly argued the case of reducing the minimum committed throughput to the level of 21,000 tonnes for a block of three years due to fluctuating levels of availability of ships for scrapping.

7.3. The MBPT's comments on the submission of the ISSAI are furnished below:

- (i). The revenue earned in the previous years are as follows:

2000-2001	-	Rs.8.11 crore
2001-2002	-	Rs.6.88 crore
2002-2003	-	Rs.9.24 crore
2003-2004	-	Rs.9.00 crore (estimated)

The average revenue earned works out to Rs.8.07 crore per annum. The proposed ship breaking charges have been worked out to generate a total revenue of Rs.8.16 crore. Thus the rate of Rs.325 per LDT worked out by the MBPT based on a revenue of Rs.8.16 crore is realistic and the Association's suggestion to reduce the proposed ship breaking charges from Rs.325 per LDT to Rs.250 per LDT is not acceptable.

- (ii).
 - (a). The last three years performance of the ship breakers shows that throughput of 30,000 LDT in a block of three years is mostly achievable with a little more effort. The committed throughput has to be realistic as this is one of the elements to optimise the total revenue. It is also expected of the ship breakers to use their expertise and bring in more ships or bigger ships to be broken at the ship breaking yard. Moreover the earnings of ship breaking charges have been worked out considering the total throughput of 1.90 lakhs LDT in a year (19 plots @ 10,000 LDT each). In case the Association's request to reduce the minimum guaranteed throughput is accepted MBPT may not get the estimated income from this service. The request of the Association is, therefore, not justifiable and may not be accepted.
 - (b). The Ministry of Shipping has directed to incorporate an automatic termination clause if the minimum throughput of 10000 LDT is not achieved. Accordingly, the minimum committed throughput of 10000 LDT was proposed.

- (iii). Performance details of the last five years extracted from the statements furnished by the MBPT are given below:

Year	Total ship breakers	Total LDT broken	Number of ship breakers who achieved 10000 LDT and more per annum.	Number of ship breakers who achieved 8,000 to 10,000 LDT per annum
1998-1999	22	1,89,371.81	8	1
1999-2000	19	1,67,010.14	7	5
2000-2001	25	1,92,563.10	9	2
2001-2002	25	1,97,016.66	8	2
2002-2003	35	1,72,805.74	3	3

- (iv). As per the terms and conditions of bid documents, facilities need to be provided by the licensees. The MBPT may not have to play any administrative role in ship breaking activities during the licensing period. The Association may arrange to collect money from the licensees from their earnings and form a fund for maintenance of ship breaking plots and providing common facilities within the specified time frame.

7.4. The ISSSAI again checked up with the MBPT and confirmed that the actual earnings for the financial year 2002-03 was Rs.9.24 crore. Subsequently, the ISSSAI has informed that the income figure of Rs.9.24 crores for 2002-03 is misleading and requested this Authority to obtain confirmation from the MBPT. On being asked to confirm, the MBPT has stated that the figures furnished by it for 1998-99 to 2001-02 are as per the Audited Accounts and the income figure for 2002-03 is the actual revenue booked in its accounts till 31 March 2003. The port has also explained the reasons for variations between the income and the quantity of ships broken mainly as a result of the existing system of charging which depends upon the time taken for breaking and period of overstay beyond the regulated period.

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

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

- (i). Ship-breaking activity at the MBPT is presently being carried out at the designated plots on a common user basis. The MBPT proposes to introduce licensing of ship-breaking plots to individual ship breakers primarily to induce investment in concerned facilities. The policy of changing over from the common user facility to the proposed licensing scheme concerns the MBPT and an endorsement to that policy from this Authority is not necessary since it is an operational matter. The issue before this Authority is to fix tariff under which the proposed scheme will operate. The MBPT has informed that the scheme is not yet approved by the Government; and, in this context it may be relevant here to point out that approval to the rates accorded by this Authority cannot be taken to mean an approval to the scheme itself. In other words, the rates approved by this Authority will operate only if the proposed scheme is implemented with the approval of the Competent Authority / Ministry of Shipping.
- (ii). The ISSSAI has raised certain objections relating to the allotment conditions envisaged in the proposed scheme. As has been explained earlier, the issue relating to allotment of plot and awarding of licence is to be decided by the Port Trust. These issues are not relevant for fixing tariffs relating to the proposed scheme.
- (iii). The MBPT has done well to accept some of the suggestions made by the ISSSAI and modified its original proposal. In its revised proposal the MBPT has proposed to reckon with a block of 3 years for realising minimum committed throughput and also provided for transfer of plots subject to fulfilment of certain conditions. These modifications are also welcomed by the ISSSAI and hence this Authority has no reservation in approving them.

- (iv). Under the proposed scheme, a licensee has to pay ship-breaking charge on LDT basis and monthly licence fee for the area allotted apart from the one time upfront fee. The MBPT does not render any direct service for breaking of ships in the licensed plots other than letting out its water front and back-up land for this activity. The MBPT has, however, clarified that ship breaking charge is for Boat Hards whereas monthly licence fee is for using backup area. Since the financial implication to the user is more relevant and a more or less similar rate structure is maintained at Alang which is one of the leading ship breaking yards, this Authority is inclined to allow the rate structure proposed by the MBPT. Significantly, the ISSSAI has also not objected to the rate structure proposed by the MBPT; it has only demanded moderation in the proposed rates.
- (v). The reserve price of Rs.50 lakhs for upfront fee proposed by the MBPT is not objected to by the ISSSAI. The main area of dispute relates to the proposed rates for ship-breaking, licence fee and the minimum committed throughput.
- (vi). The MBPT has not furnished any separate cost analysis to justify the individual components for the rates proposed. The MBPT has worked out the proposed rates to maintain a revenue neutral position with reference to the revenue generated presently when the facility is operated under common user basis. The ISSSAI has, however, argued for moderation of the proposed rates by citing the decreasing trend of revenue from ship-breaking activity in the past 4 years. The annual revenue figures furnished by the MBPT, however, do not support the claim of the ISSSAI. Significantly, the MBPT even on the second occasion has confirmed the revenue figures furnished by it. In this backdrop, there is no strong reason for not accepting the figures certified by the MBPT as its actual collection. Based on the figures made available by the MBPT the average annual revenue for the MBPT works out to Rs.8.07 crores. Against this, the MBPT has targeted a revenue of Rs.8.16 crores per annum. The proposed rates have been worked out to achieve this revenue target and, therefore, they cannot be said to be unreasonable. More importantly, the rates fixed now are proposed to continue unaltered during the tenure of licence which is 10 years. Viewed from this perspective also, the proposed rates are found to be reasonable and deservedly approved. While the rate structure at Alang can be adopted at the MBPT, it has to be recognised that the rates per se cannot be adopted in view of the significant variation in the scale of operation at these two places.
- (vii). The model proposed to be adopted by the MBPT for licensing of ship-breaking plot is slightly different from the guideline issued by the Government for leasing of port lands. The MBPT has sought to explain that the guidelines issued by the Govt. are not fully relevant in the context of licensing its ship-breaking yard for a period of 10 years. Since the proposed rates are being considered for approval to maintain a revenue neutral position this issue does not perhaps require to be scrutinised any further. In any case, the scheme will be finally approved by the Govt. and if there are any modifications relating to land allotment suggested by the Govt., then the MBPT can approach this Authority for modification of the rates fixed.
- (viii). The minimum committed throughput level of 10000 LDT per annum prescribed by the MBPT is vehemently opposed by the ISSSAI. In fact, the performance details furnished by the MBPT show that the individual ship-breakers who have broken more than 10000 LDT per annum are in minority. Even if it is admitted that the details furnished by the MBPT do not reveal plotwise turnover, the need to prescribe minimum guaranteed throughput at a realistically achievable level cannot be ignored. The statistical details relating to defaulters at Alang furnished by the ISSSAI are revealing. It is noteworthy that such a turnover could not be achieved by many ship-breakers even at a place where the business volumes are at a considerably higher level. While it could be possible that all licensees achieve more than 10000 LDT, prescription of such a high limit as minimum commitment may act as a deterrent to attract investment.

The ISSSAI has proposed a level of 7000 LDT per annum (or, 21000 LDT in a block of 3 years) as minimum guarantee. It can be reasonably expected that better facilities available will induce business growth. It will, therefore, be logical to prescribe

minimum guarantee throughput levels for three different phases during the licence tenure of 10 years as follows:

1 st year - 3 rd year	–	7000 LDT per annum or 21000 LDT in this block of 3 years.
4 th year - 6 th year	–	8000 LDT per annum or 24000 LDT in that block.
7 th year – 10 th year	–	10000 LDT per annum or 40000 LDT in that block.

The argument of MBPT that alteration in the minimum guarantee throughput level will affect the revenue model considered to arrive at the rates goes with the assumption that all licensees will break ships only upto the minimum guaranteed level. The revenue model reckons with a volume of 1.9 lakh LDT. The volume of ship-breaking at the MBPT has been around this level in the past; and, in its own admission, the MBPT expects growth in volume in future 'with a little more effort'. That being so, lowering of minimum guarantee throughput level may not have any impact on the revenue model considered since the revenue model is seen to rely on traffic projections. On the contrary, those who are developing the business will be saved of penalty which they will have to otherwise pay if minimum guarantee throughput is fixed at very high level. In fact there are not many who are achieving today a throughput of 10000 LDT per annum.

- (ix). The MBPT has proposed to allow discount on ship-breaking charges payable on the quantity in excess of 10000 LDT per annum. The cut-off limit of 10000 LDT is proposed in line with the proposed minimum guaranteed throughput level of 10000 LDT. There can be a demand that the cut-off level should also be lowered with the modifications effected in the minimum guaranteed throughput levels. If such a demand is accepted, then the revenue model considered will undergo a change and consequently, the base rates for ship-breaking and licence fee are to be revised upward to achieve a revenue neutral position. Such a change will not be necessary. The cut off level for discount is retained at 10000 LDT irrespective of the minimum guaranteed throughput level fixed.
- (x). The MBPT has proposed to levy an additional charge for breaking of ships which does not belong to the licensee of the concerned plot. This proposal of the MBPT is found to be reasonable and approved. Likewise, the fees proposed for transfer of plot during the currency of the license is also approved.
- (xi). The ISSAI has demanded that 20% of the upfront money collected by the MBPT should be earmarked for developing certain infrastructure facilities for the ship-breaking yard for common use by the licensees. Besides the fact that the entire upfront money at its base value is apportioned to arrive at the proposed rates, such an action appears to be not in consonance with the objective of the proposed scheme which is designed to induce private investment in the ship-breaking facilities. Since a revenue neutral model is adopted in this case, it is expected that the MBPT will continue to provide common infrastructure facilities like road, water, lighting etc., which are stated to have been provided by it even now.
- (xii). This Authority has already approved ship-breaking charges at the Bunders of the MBPT. The rates approved now should not be taken to have superseded the rates earlier fixed; the rates earlier fixed will continue to apply as long as the plots are operated on common user basis and rates being fixed now will apply only when ship-breaking plots are licensed to ship-breakers for a period of 10 years.

10. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the amendments to the Scale of Rates of Mumbai Port Trust as shown in **Annex - I**.

(A.L. Bongirwar)
Chairman

Annex - I

AMENDMENT TO THE MBPT SCALE OF RATES AT THE BUNDERS

The following provisions are inserted in Item No.I of Section-III – Charges for ship-breaking, Construction and Repair of the vessels in the port trust Bunders:

- (B). In respect of vessels being broken up on the Port Trust Hards / plots by the licensees, the charges will be recovered as under:
- (1). License fees at the rate of Rs.20 per sq. mtr. per month for the entire area of the licensed plot payable quarterly in advance.
 - (2). Ship-breaking charges at the rate of Rs.325 per LDT of the ship payable before beaching of the ship.
 - (3). For others' vessels broken by the licensee, at the licensed plots, in addition to the charges payable as at (2) above an additional fee of Rs.80 per LDT is payable before of the ship.
 - (4). Discount of 20% shall be available to the licensee in the ship breaking charges payable as at (2) above for the excess tonnage broken above 10,000 LDT per year per plot.
 - (5). Licensee shall pay one time non refundable upfront fees. The reserve price will be Rs.50 lakhs per plot.

Notes:

- (i). *Tenure: License for ship breaking shall be granted for a period of 10 years from the date of issue of the license subject to the condition that upon expiry of the aforesaid period, the license shall automatically come to an end without any further action by the MBPT, unless the license is renewed within three months prior to the date of expiry of the license period. The ownership of the plot shall throughout remain the MBPT.*
- (ii). *Transfer of plot to third party for the purpose of ship breaking activity shall be considered after a period of three years from the date of license on payment of prescribed transfer fee of Rupees one lakh per year or part thereof for the balance license period.*
- (iii). *Normally licensee will break his own ship. However, in case he desires to undertake breaking of ships not owned by him additional charges will be levied @ Rs.80 per LDT.*
- (iv). *The Shipbreakers shall be required to pay license fees referred above quarterly in advance and the ship breaking charges, before beaching of ship. Failure to pay will attract interest applicable from time to time.*
- (v). *In addition to the above, the licensee shall pay service tax, octroi and any other statutory levies payable to the statutory authorities.*
- (vi). *Licensee shall achieve a minimum committed throughput as indicated below:*

<i>1st year – 3rd year Licence</i>	<i>–</i>	<i>7000 LDT per annum per plot or 21000 LDT per plot in this block of 3 years.</i>
<i>4th year – 6th year Licence</i>	<i>–</i>	<i>8000 LDT per annum per plot or 24000 LDT per plot within this block of 3 years.</i>
<i>7th year – 10th year Licence</i>	<i>–</i>	<i>10000 LDT per annum or 40000 LDT in this block of 4 years.</i>

In case of failure to achieve this guaranteed level the licensee shall pay ship breaking charges for the shortfall in committed throughput within one month of expiry of the block year, failing which the licence shall be terminated.

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

F. No. TAMP/16/2002-MBPT - Proposal from the Mumbai Port Trust for licensing of plots for ship-breaking.

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

Iron Steel Scrap & Shipbreakers Association of India (ISSAI)

A. Comments received on the original proposal of the MBPT

- (i). It is necessary to take a long term perspective and viability of the industry and not short term present scenario. If the proposal is not realistic and reasonable, it will not encourage the entrepreneurs to procure plots.
- (ii). The ship breakers prefer to continue with existing policy of casual allotment of plots with the only change in the mode of charging from the existing GRT basis to LDT basis.
- (iii). The entire proposal is based on the model followed at the Alang ship-breaking yard. Based on a comparison of the ship-breaking operations at Mumbai with that at Alang, the following facts have been presented:
 - (a). The ship-breaking capacity in India at Alang, Mumbai, Kolkata, Sachana, etc. is far in excess. Out of the 165 ship-breaking plots at Alang only 65 plots are operative.
 - (b). The Mumbai ship-breakers have to compete with Alang ship breakers to get ships apart from competition at international levels with ship-breakers from Bangladesh, Pakistan and China.
 - (c). Back-up area (40 to 200 mtr.) and infrastructure at Alang are much better than those available in Mumbai.
 - (d). Minimum committed throughput of 10,000 LDT per year is allowed to be clubbed with 60,000 tonnes for a block period of 6 years at Alang which is not the case in the instant proposal.
 - (e). The ship-breaking charges proposed by the MBPT are higher as compared to Alang. The ship-breaking charges at Alang are Rs.96 per LDT (for wharfage and beaching) and Rs. 60 per 10 sq.mtr. as rent plus Rs. 12 per LDT.

- (f). Transfer of plot is permitted at Alang by payment of transfer fee which is not allowed at the Mumbai Port.
- (g). There is no need to pay Octroi duty at Alang ship-breaking yard whereas, ship-breakers have to pay 2.25% Octroi in Mumbai.
- (iv). The proposal for minimum committed throughput of 10,000 LDT per year appears to be very high. In spite of putting best efforts it is possible that a licensee may fail to meet the target due to unforeseen circumstances. Further, there is no specific provision in the existing Scale of Rates for penalty by way of confiscation of plots. The proposed provision may lead to substantial loss of revenue to the MBPT by non-utilisation of plots.
- (v). In this backdrop, it has also proposed an alternate scheme which will be fair to the existing ship-breakers and other; and, also fetch better revenue in competitive bids to the port.
- (vi). The entrepreneur has to recover his investment in upfront premium and infrastructure within the span of lease period. A lower rate will lead to better and higher utility resulting in better revenue. Therefore, the ship breaking charges for the licensees should not be more than Rs.250/- per LDT in place of Rs.325/- per LDT. Even Rs.250/- is considerably higher than the charges levied by GMB at Alang. The LDT to be charged should be excluding the weight of the ballast.
- (vii). There is no justification for charging a hefty rent of Rs.20/- per sq. mtr. per month. Even if the Rent is to be collected it should be not more than Rs.10/- per sq. mtr. per month.

B. Comments received on the modified proposal of the MBPT

- (i). They are happy that their two suggestions regarding making up of committed throughput in a block of three years and consideration of transfer of plot to third party after a period of three years from the date of licence on payment of the prescribed transfer fee of Rs.1,00,000/- per year or part thereof for the balance licence period have been considered.
- (ii). They are disappointed that many other equally important suggestions have been ignored by the MBPT.
- (iii). They have repeated most of their views contained in their earlier submission which are summarised at sub para (A) above.
- (iv). What is most important for ship breaking is the availability of sea front and not the length of the back up area. The plots have to be demarcated in such a way that no plots should be of less than 28 mtrs. in breadth (sea front) and the same breadth should be maintained from the sea front to the road. This calls for re-survey of all the plots and

demarcation with minimum three poles erected on each side from the sea front to the road end.

- (v). Maximum 2 plots being allotted to one ship breaker. If the allotment of second plot to the same ship breaker is not adjacent to the first plot allotted to him it will not be possible to beach larger vessel.
- (vi). Ships permitted to be beached should be restricted to minimum 5 mtr. less than the breadth of the plot to have adequate manoeuvrability at the sea front. Ships of bigger size may be permitted only if NOC is obtained from the neighbouring plot holder.
- (vii). It should be specifically clarified that beaching of second vessel in the same plot be allowed on the availability of sea front in the plot or beaching behind the first vessel be allowed only if the left over piece from the first vessel is not more than 100 ft. in length.
- (viii). Infrastructure and common facilities to be provided should be clearly defined. 20% of the upfront fee received by the MBPT on auctioning of the plots should be earmarked for providing infrastructure and common facilities and the balance to be provided by the licensees.
- (ix). Proposed ship breaking charges are on the higher side and should be reduced to Rs.250/- per LDT.
- (x). Once the plots are allotted under the new licensing scheme the charges and liabilities prefixed should not be changed till the completion of the licensing period since the bidders will bid for the plots on the basis of their liability for breaking 30,000 LDT in a block of three years period.

2. The comments received from the MBPT on the submission of the ISSAI are summarised below:

- (i). The last three years performance of the ship breakers showed that throughput of 30,000 LDT in a block of three years is mostly achievable with a little more effort and, therefore, the request of the Association for reduced throughput of 24,000 LDT is not justifiable. The committed throughput has to be realistic as this is one of the elements to optimise total revenue.
- (ii). Plots of Lakri Bunder have been surveyed. The water front of each plot has been restored to a minimum of 27.5 mtrs.
- (iii). The ship breakers have been with the MBPT for all the times even when the ship breaking activity was at the leanest period. They have necessary paraphernalia. The existing ship breakers were given priority at the time of licensing at Alang (Gujarat) also.
- (iv). The point made by the ISSAI regarding beaching of second vessel in the same plot is acceptable.

- (v). Infrastructure and common facilities to be provided are clearly defined in the terms and conditions of the bid documents.
- (vi). The plots are to be licensed for a period of ten years and as such the request of the ISSAI to reduce the ship breaking charges to Rs.250/- is not acceptable and the rates fixed are correct and reasonable.
- (vii). The charges and liabilities prescribed will be for the entire licensing period as per the licence agreement.
- (viii). The Ministry of Shipping (MOS) has informed that the scheme of licensing of ship breaking plots pertains to allotment lands / waterfront for non-port related activity and prior approval of the Ministry is necessary. The MBPT has been asked to await the formal approval of the Government before considering the tenders. As such, the MBPT may have to revise any of the conditions of the scheme in case Ministry directs to do so.

3. A joint hearing in this case was held on 31 March 2003 at the office of this Authority. At the Joint hearing, the following submissions were made:

The Mumbai Port Trust (MBPT)

- (i). By earmarking specified plots to identified users, we can pin point responsibility for utilisation; and, the users are benefited because they can plan investment.
- (ii). Rate structure is explained in our proposal.
- (iii). We have proposed the rate structure based on the BOT guidelines of the MOS; only deviation is the LDT charge instead of revenue sharing.
- (iv). MOS has not yet approved the scheme. They have advised us to await approval to the scheme since this allotment is classified as 'for non-port activity'.
- (v). We provide access road, general lighting and water supply lines (but, not water)
- (vi). We will give details as to how the cut off limit of 10000 LDT is fixed.

Iron Steel Scrap & Shipbreakers Association of India (ISSAI)

- (i). Ship-breaking infrastructure in the country requires improvement. Towards this end, a 10-year licence tenure proposed by the MBPT is absolutely necessary.
- (ii). Lot of spare ship-breaking capacity is available. The ship owners, therefore, demand higher price. The industry is in distress now.

- (iii). 5 million tonnes of scrap steel produced in fact would have required about 20 million tonnes of natural resources (like, ore, coal, etc). Besides for ship breaking investment needed is only 200 crores and for same quantity to be produced through steel mill investment needed is 700-800 crores. Besides it creates pollution.
- (iv). In Alang, there are 29 plot holders who have defaulted payment after one or two instalments. The business is simply not there.
- (v). At Alang, premium is Rs 270 per sqmt (for 10 years). Rs 108/- per LDT (wharfage and beaching charges) and Rs 5/- per sqmt rent are levied. MBPT rates are very high in comparison.
- (vi). Sub-letting is allowed in Alang against payment of Rs 10 lakhs. MBPT should adopt similar approach.
(MBPT says, we have proposed to levy an extra Rs 80/- per LDT for breaking others ship)
- (vii). (a). Minimum performance should be reduced to 21000 LDT for a block of 3 years.

(b). Please fix per LDT rate at Rs 250/- instead of Rs 325/-. This compares with the existing rate levied by MBPT on common user facility.
- (viii). Persons breaking 50% more than the cut-off limit should be given a discount of 50% in LDT rate for the quantity above the cut-off limit. For 0-50% above the cut off limit, the discount should be 25% on the excess quantity.
- (ix). We will give calculations showing revenue position within one week. Our proposed rates considering revenue neutral position will also be given.
- (x). MBPT should earmark at least 20% of the upfront money to develop common facilities like fire fighting, first-aid, etc.
- (xi). MBPT revenue from ship breaking gradually falls. Because, ship-breaking in MBPT is not financially viable. If the rates in MBPT go down, more volumes will come and thereby increased revenue can be achieved.

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