

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 91

New Delhi, 30 May 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 India Gateway Terminal Private Limited (IGTPL) for levy of charges for stowage planning, lashing / unlashings of containers and supervision services for its operations at the Rajiv Gandhi Container Terminal (RGCT) of Cochin Port Trust (COPT) as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

TARIFF AUTHORITY FOR MAJOR PORTS
Case No. TAMP/68/2005 – IGTP

India Gateway Terminal Private Limited - - - - -

Applicant

ORDER

(Passed on this 11th day of May 2006)

This case relates to a proposal received from the India Gateway Terminal Private Limited (IGTPL) for levy of charges for stowage planning, lashing / unlashing of containers and supervision services for its operations at Cochin Port Trust (COPT).

2.1. The IGTPL in its initial proposal filed for fixation of tariff for container related services offered at the Rajiv Gandhi Container Terminal (RGCT) at Cochin Port Trust had not included the tariff item relating to on board stevedoring charges in the proposed Scale of Rates (SOR). As per the terms of Licence Agreement, Stevedoring License was granted by the COPT to the IGTPL and this fact was not denied by the IGTPL too. The IGTPL offered on-board stevedoring services and also levied tariff that was not included in the interim tariff arrangement approved by this Authority.

2.2. The on-board stevedoring activity is one of the services identified under Section 42 of the MPT Act and hence the rate has to be approved by this Authority. This Authority, therefore, while passing the Order on 6 October 2005 fixing the tariff for container handling operations by the IGTPL at the RGCT has brought out this legal position with a direction to the IGTPL to file a proposal for fixing charges for on board stevedoring, lashing / unlashing, stowage planning etc., with retrospective effect from 1 April 2005 i.e. from the date of commencement of its operation. The said Order also directed that if no such proposal is received within the stipulated date, it will be deemed that the cost of providing such services is covered by the different rates prescribed in the revised Scale of Rates and hence IGTPL cannot levy any charges separately for providing on board stevedoring services, lashing / unlashing, etc. at the RGCT.

3.1. In this backdrop, the IGTPL has filed the instant proposal and has proposed the following rates for stowage planning, lashing / unlashing of containers and supervision services with retrospective effect from 1 April 2005:

	Foreign	Coastal
Per Container	US\$8.00	Rs.350/-

Note: These charges would also apply on containers shifted onboard vessels.

3.2. The breakup of the proposed tariff is as follows:

(i).	Lashing / unlashing,	Rs.225/-
(ii).	Stowage planning	Rs.50/-
(iii).	Supervision charges	Rs.75/-
	Total	<u>Rs.350/-</u>

3.3. The IGTPL has clarified that this service is proposed to be offered by Lines / Agents by appointing their own contractors. It has also stated that the COPT has given concurrence to its proposal.

4. In accordance with the consultation procedure prescribed, a copy of the proposal was circulated to COPT and various users organisations seeking their comments. The comments received from COPT and various users organisations was forwarded to the

IGTPL for their comments. We have not received any comments from the IGTPPL in this regard.

5.1. The IGTPPL was requested to furnish the copies of the agreements entered with the contractors to provide the service at its terminal to justify the proposed rates and to furnish the details of the charges collected by the IGTPPL. It was also clarified that IGTPPL may continue to levy the prevailing practice of levying for on board stevedoring service subject to adjustment based on the final decision of this Authority in this regard.

5.2. The IGTPPL has furnished the requisite information. Some of the main points made by the IGTPPL are summarised below:

- (i). After taking over the on-board lashing and unlashng, it has reduced the rate from about Rs.250/- per move to Rs.225/- per move. It is not levying any charges for hatch cover moves which were billed at Rs.250/- per move earlier.
- (ii). It has received quotations from two parties for providing on-board lashing / unlashng services. Both the parties have quoted the same amount of Rs.250/- per move. It has furnished copies of the quotations received from these parties.
- (iii). The Cochin Steamer Agents Association (CSAA) had also offered to undertake the on-board lashing / unlashng but had subsequently decided not to undertake as they found the charges of IGTPPL to be reasonable.
- (iv). It has also furnished the bills raised on Lines before it took over the operations which are at Rs.250/- per move and the bills raised subsequent to its taking over the operations are at Rs.225/- per move.
- (v). The proposed associated yard charges of Rs.125/- per move (i.e. Rs.50/- for stowage planning and Rs.75/- for supervision) will reduce the costs incurred presently by the lines at Rs.200/- for 20' and Rs.225/- for 40' container as per THC.

It has employed shipside supervisors and officers, security advisor and staffs for round the clock supervision and have also engaged the services of the surveyors for the planning related activities. These costs were not included in the costing submitted for approval of its initial tariff fixation. It has forwarded copies of the contract entered with M/s. J.B. Boda for outsourcing the planning related support services. As per this contract, Rs.16.20 per container move is payable to the contractor towards shipside tally, gate in / out tally and Rs.20/- per container per shift for reefer container tally.

- (vi). The Lines used to engage 'Terminal Operator' for shore supervision. After its implementation of Navis software for automated yard and stowage planning activities, the 'Terminal Operator' have become redundant and most of the Lines have withdrawn them from the Terminal and a few others are expected to be withdrawn by 15 January 2006.
- (vii). As per the minutes of the meeting with the CSAA, the lines are willing to pay Rs.105/- towards these associated yard charges.
- (viii). It has, therefore, requested to approve Rs.350/- towards the on-board lashing / unlashng and associated yard charges.

6.1. A joint hearing in this case was held on 31 January 2006. At the joint hearing, IGTPPL, COPT and the concerned users made their submissions which were taken on record.

6.2. The IGTPPL was advised to furnish a detailed cost analysis with documentary evidences to the COPT to show that costs relating to lashing / unlashng, supervision and stowage planning were not included in the cost statement considered in the tariff fixation exercise concluded in November 2005 and copies of relevant bills evidencing that it incurs an outsourcing cost of Rs.250/- per box for on-board stevedoring activities.

6.3. The IGTPPL has furnished the cost break up received from its contractor for lashing / unlashng and stated that though the rate quoted by the contractor is Rs.236.50 per box, it has restricted the charges to Rs.225/- per move in its proposed tariff.

6.4. At the joint hearing, the COPT was also requested to verify the details (to be furnished) by IGTPPL and to clarify whether different cost elements considered in the proposed rates overlap with any of the cost elements considered in the tariff fixation exercise of the IGTPPL and forward its report.

6.5. The COPT in response has stated that it had held detailed discussion with the IGTPPL on the proposal and has verified the necessary documents and obtained required clarifications. The COPT on verification of this information furnished by the IGTPPL has certified that the tariff proposal of the IGTPPL is in order and that the cost elements considered in the instant proposal were not included in its initial proposal for tariff fixation.

7. 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>

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

- (i). When the Cochin Port Trust handled containers at the Rajiv Gandhi Terminal prior to handing over the operations to the IGTPPL, it was not providing the services relating to stowage planning and lashing / unlashng. The private stevedores appointed by the Steamers Agents / Shipping Lines were providing this service by deploying the general purpose mazadoor and supervisors from the United Stevedores Association (USA) pool as reported by the COPT.
- (ii). As per the License Agreement entered by the IGTPPL with the COPT, the Stevedoring license has been granted to the IGTPPL and it has the exclusive right to offer this service. In this backdrop, the statement made by IGTPPL that this service is provided by Lines through their contractors is not clear. Provision of these services by any third party appointed by IGTPPL will not materially alter the requirements of Section 42 of the MPT Act. The Cochin Steamer Agents Association countered the assertion of IGTPPL and pointed out that the IGTPPL was recovering the rates for on-board stevedoring charges since taking over of the RGCT with effect from 1 April 2005. As a matter of fact, this position emerged very clearly in the earlier proceeding which prompted this Authority to issue to necessary direction in this regard to IGTPPL.
- (iii). As stated by the Container Shipping Lines Association, at most of the other container terminals like the Chennai Container Terminal Limited, Nhava Sheva International Container Terminal Limited, Visakha Container Terminal Private Limited, etc., stowage planning and lashing unlashng form an integral part of container handling operations and the tariff for service is generally included in the composite box rate. In the instant case, however, the charges for on-board stevedoring were not included in the initial tariff approved by this Authority. The COPT on the verification of the details furnished by the IGTPPL has also confirmed that the cost elements relating to on-board stevedoring were not included in its initial tariff fixation proposal. Onboard stevedoring is

one of the major services involved in container handling; and, the IGPTL also incurs cost to provide the service that is not included in its initial tariff fixation. It is, therefore, necessary to allow recovery of such cost incurred by the operator. Even clause 5.1.2. of the revised tariff guidelines states that ports can levy charges for stowage and lashing / unlashings of containers if they provide these services. Merger of this element with other handling charges will be taken up for consideration at the time of the next review of the Scale of Rates of IGPTL.

- (iv). The main issue in this proposal is to ensure that there is no over lapping of any of the cost elements which have already been considered while fixing the initial tariff of the IGPTL. In this regard, the IGPTL on our advice has furnished the requisite details along with the details of number of personnel deployed for stowage planning and supervision services, their cost thereof etc., to the Cochin Port Trust. The COPT has also verified these the details and confirmed that cost elements considered in the instant proposal were not included in its initial proposal for tariff fixation.
- (v). The proposed on-board stevedoring charges of Rs.350/- per box consists of three elements viz. Rs.225/- for lashing/ unlashings, Rs.50/- for stowage planning and Rs.75/- for supervision charges.

The Cochin Steamer Agents Association has argued that the lashing / unlashings rate prior to take over was Rs.150/- per box as against Rs.225/- per box considered by the IGPTL; but, their argument is not supported by any documentary evidence. The IGPTL has, however, furnished copies of the bills raised earlier by the Shipping Lines which reveal that prior to the IGPTL taking over the RGCT, the users were levied Rs.250/- per box for on-board stevedoring plus Rs.250/- per box for hatch top opening or closing. The IGPTL has clarified that it does not levy any separate charge for hatch opening / closing and the bills raised by them also confirm this position.

The IGPTL has also furnished documentary evidence of the rate quoted by some of the contractors for providing on board lashing/unlashings (on outsourced basis) which is around Rs.250/- per container. As against this, the IGPTL has considered Rs.225/- per box as presently being levied by them for lashing/ unlashings which is also lower than the rate levied by the private stevedores when the COPT operated the terminal.

- (vi). Some of the users have also objected to inclusion of stowage charge and supervision charge in the proposed on-board stevedoring charge. The IGPTL has, however, clarified that the Lines were earlier individually engaging the services of terminal operators, tally clerks, ship side supervisors, and surveyors and the terminal handling charges included Rs.200/- towards supervision charges. With the IGPTL taking over the stevedoring operations and offering this composite services as per the terms of the LA, the lines have discontinued these services.

The IGPTL has submitted that automation of the yard planning, stowage planning and container movement and tracking activities has benefited the users in the terms of improvement in the vessel turn around time. It has also furnished documentary support as regards the rate charged by the various agencies to whom the planning related activities and container tally activities have been outsourced. It has stated that the proposed associated yard charges of Rs.125/- per move (i.e. Rs.50/- for stowage planning and Rs.75/- for supervision) will reduce the costs incurred presently by the lines at Rs.200/- for 20' and Rs.225/- for 40' container as per Terminal Handling Charge.

Further, it has furnished the cost details for supervision and stowage planning services indicating the total number of personnel presently employed, the number of persons considered in the initial tariff fixation and the new recruits for supervision and planning activities to the COPT. The COPT on verification of these cost details has confirmed that there is no overlapping of any of the cost elements included in the earlier proposal.

In view of the submissions made by the IGTPL along with the documentary support and also based on the verification of costs made by the COPT, this Authority approves the proposed rate of Rs.350/- per box for lashing / unlashings, stowage planning and supervision services. This approval is, however, subject to verification of actuals at the time of the next general review of the Scale of Rates of IGTPL and undue advantage, if any, is found to have accrued to IGTPL, it will be adjusted as per the provisions of the revised tariff guidelines.

- (vii). The CSLA has objected to levy of this charge in dollar terms. In this context, it is relevant to mention that composite box rate for container handling which includes on-stevedoring are prescribed in dollar denomination at many of the other private terminals like the CCTL and in fact on-board stevedoring is prescribed in dollar terms at the PSA SICAL Terminals Limited. That being so, the objection raised by the CSLA is not found to be relevant.
- (viii). The IGTPL appears to have considered the exchange rate of Rs.43.75 for re-conversion of the proposed rupee rate of Rs. 350 to dollar terms. It is relevant to mention that the current foreign exchange rate is at around Rs.44.55 (at the time of finalising this analysis). That being so, the onboard stevedoring charges for foreign-going vessels is prescribed at US\$ 7.86 based on the prevailing exchange rate.
- (ix). The IGTPL has not proposed concessional tariff for coastal containers. As per the revised tariff guidelines, in case of itemised tariff concessional rate is applicable for coastal container on all the relevant handling charges for ship to shore transfer and transfer from / to quay to / from storage yard as well as wharfage. That being so, the tariff for coastal container is prescribed in rupee terms at 60% of the tariff applicable for a normal container in line with the directions of the Government of India in this regard.
- (x). The IGTPL has been offering this service as per the terms of the LA from the commencement of its operations, however, its initial tariff fixation did not include tariff for this item. This Authority while fixing the initial tariff had allowed the IGTPL to file its proposal for on-board stevedoring with retrospective effect from 1 April 2005 i.e. from the date of commencement of its operations provided the tariff proposal for on-board stevedoring is filed by 15 November 2005. The IGTPL has accordingly filed the proposal within the stipulated date. Since there is no approved tariff for this service offered by the operator from the date of the commencement of its operations, the rate will come into effect retrospectively from 1 April 2005 i.e. from the date of commencement of operations of IGTPL.
- (xi). The revised tariff guidelines stipulate a tariff validity cycle of 3 years. Since this is one of the main item of container handling tariff, it is found appropriate to review this tariff item along with the review of other tariff items prescribed in its Scale of Rates. That being so, the on-board stevedoring approved vide this Order will remain valid till 31 March 2008 to make it co-terminus with that of the SOR approved vide our earlier Order dated 6 October 2005.
- (xii). The reasonableness of THC levied by Shipping Lines is always a bone of contention between the Shippers and the Lines. This issue again is raised by the Cochin Customs House Agents Association. The Indian Chamber of

Commerce and Industry has also pointed out the inclusion of stevedoring charges in ocean freight. It is noteworthy that this Authority way back in 2001 examined these issues closely in the context of Mumbai Port Trust and found that on-board stevedoring charges form part of ocean freight levied under Liner terms and, therefore, it could not be levied again as a component of THC. Some parties aggrieved at this Order had approached the Hon'ble Bombay High Court and the matter is under active consideration of the Court. Strictly speaking, the relevant Order relates to Mumbai Port Trust and the principle set in the Order is not extended to other ports by way of common adoption. This issue will be taken up for consideration after final disposal of the relevant case by the Hon'ble Bombay High Court.

9.1 In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves insertion of the following Schedule 3.7 – On-board Stevedoring Charges in the Scale of Rates of the IGTPPL:

Schedule 3.7 – On-board Stevedoring Charges

Particulars	Rate per container	
	Foreign (in US\$)	Coastal (in Rs.)
Lashing unlashng/ stowage planning and supervision charges	7.86	210/-

Note: These charges would also apply on containers shifted onboard vessels.

9.2. This amendment to the Scale of Rates is deemed to have been come into effect retrospectively with effect from 1 April 2005 i.e. from the date of the commencement of operations of IGTPPL and will remain valid till 31 March 2008.

(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/68/2005 – IGTPPL - Proposal received from the India Gateway Terminal Private Limited (IGTPL) for levy of charges for stowage planning, lashing / unlashing of containers and supervision services for its operations at Cochin Port Trust (COPT).

1. THE COMMENTS RECEIVED FROM THE PORT USERS / REPRESENTATIVE BODIES OF PORT USERS ARE SUMMARISED BELOW:

Cochin Port Trust (COPT)

- (i). The services for charges for stowage planning, lashing / unlashing of containers at RGCT was not rendered by us. The Stevedores appointed by the Steamers Agents offered this service by deploying the general purpose mazadoor and supervisors from the United Stevedores Association (USA) pool.
- (ii). The IGTPPL officials held detailed discussions with the Port officials before submission of the proposal to TAMP. Necessary clarifications on costing were obtained from the IGTPPL and were found to be in order.

Cochin Steamer Agents Association (CSAA)

- (i). On-board lashing / unlashing work is not performed by the line nor their agent through their contractor, as stated by the IGTPPL. This work is performed by a contractor appointed by the IGTPPL and the payment is made direct to IGTPPL by the lines.
- (ii). Prior to IGTPPL taking over the RGCT, the lines were carrying out the work of lashing / unlashing through their own contractors at the rate of Rs.150/- per box. However, after taking over the RGCT the IGTPPL carried the work through their contractors by charging Rs.225/- per box though they were aware of the rate prior to take over.
- (iii). Though the rate prior to take over was Rs.150/- per box, the actual cost for carrying lashing / unlashing on-board with the labour from the USA pool worked out to Rs.74/- considering minimum productivity level of 25 moves per hour for each berth. Hence by charging Rs.225/- per box, the IGTPPL is earning substantial margin.
- (iv). Stowage planning is part of function of any terminal. It is a vessel related feature and in the past none of the lines have even charged for providing this service. This expense can easily be absorbed by the IGTPPL through other charges.

- (v). **It is not clear which supervision charges the IGTPPL is referring to. On-board supervision is amply covered by lashing / unlashng charges and shore supervision including shipping bill collection is undertaken by Lines / Agents supervisor and Terminal operator respectively. Therefore, supervision charges are not warranted.**
- (vi). **It is also not understood why the charges are proposed in dollar terms. Similar to other charges like transportation, etc., these charges should be in terms of Indian Rupees only.**

Indian Chamber of Commerce and Industry (ICCI)

- (i). The charges are on the higher side and should be brought down to a reasonable level.
- (ii). **Though, this is a direct payment by the Lines to the Stevedores it reflects on the ocean freight.**
2. **A joint hearing in this case was held on 31 January 2006 at the COPT premises. At the joint hearing, the following submissions were made:**

Cochin Custom House Agents Association (CCHAA)

- (i). The shipping lines in the guise of unregulated THC, charge more than prescribed.

Container Shipping Lines Association (CSLA)

- (i). **Stowage planning and lashing / unlashng is an integral part of container terminal operation. It is so at Nhava Sheva International Container Terminal (NSICT), Chennai Container Terminal Limited (CCTL) and PSASICAL Terminal Limited (PSA SICAL). Levying separate charge at IGTPPL is unwarranted.**
- (ii). **Cost of lashing / unlashng cannot be more than Rs.50/- to Rs.60/- per box. This also should come down as volume builds up.**

Shipping Corporation of India Limited (SCI)

- (i). The practice at JNPT / NSICT should be followed.

Cochin Steamer Agents Association (CSAA)

- (i). We endorse the views of CSLA.
- (ii). **Reefer monitoring charge of Rs.1500/- included in THC levied by the Lines will vanish when IGTPPL provides complete services to Reefer containers.**

- (iii). The levy of Rs.250/- per box made earlier by stevedores include charges for various other services and not just for lashing / unlashng.**
- (iv). The incremental supervision effort involved should be brought out clearly to justify supervision charges.**

Cochin Port Trust

- (i). We endorse the proposal.
- (ii). We will verify the cost details once again and report to TAMP about duplication, if any.
