

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
TARIFF AUTHORITY FOR MAJOR PORTS

G.No.466

New Delhi,

17 December 2019

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the New Mangalore Port Trust for fixation of tariff for use of 100T Harbour Mobile Crane for handling all cargoes including containers by private service provider authorised by the port as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/41/2019-NMPT

New Mangalore Port Trust

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Applicant

QUORUM

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

ORDER

(Passed on this 29th day of November 2019)

This case relates to the proposal dated 23 September 2019 received from the New Mangalore Port Trust (NMPT) for fixation of tariff for use of 100T Harbour Mobile Crane (HMC) for handling all cargoes including containers by private service provider to be authorised by the port.

2. Before proceeding to the proposal of NMPT, it is relevant here to state that this Authority vide Order No.TAMP/24/2013-NMPT dated 13 February 2015 has approved hire charges for 100T HMC linked to achievement of Performance Standards installed by the private operators authorized by the port. The rates approved in the said Order were with a validity for a period of 3 years initially. Subsequently, validity was extended at the request of port till 24 February 2020 vide Order No.TAMP/78/2018-NMPT dated 24 July 2019.

3. The NMPT has filed a proposal for fixation of tariff for use of 100T HMC for handling all cargoes including containers by private service provider to be authorised by the port and to be made effective from 25 February 2020 for a period of five years. The submissions made by NMPT in the proposal are summarized below:

- (i). The Port has licensed private operator to operate 2 nos. of 100T HMC. The contract was entered in February 2015 for a period of 2 years and was extended upto 24 February 2020. The contract is expiring on 24 February 2020 and port is in the process of tendering for the operation of one HMC on revenue share basis. The lead time for supply of crane is around 6 months.
- (ii). As the proposed contract of hire of one number of 100T HMC on revenue share basis is for a period of 5 years, the charges are to be specified upfront in the tender. Therefore, it is proposed to fix charges effective from 25 February 2020. As per the existing SOR, there are no charges specified for container handling. Since containers are handled through HMC, charges for container handling are also to be fixed.
- (iii). The charges for 100T HMC on normative basis as per clause 9.1 to 9.3 of Tariff Policy, 2015 was notified by TAMP on 19 March 2015 which was valid for a period of 3 years. The same was extended by TAMP upto 24 February 2020 at the request of the port.
- (iv). Port is planning to hire a 100T HMC and it is proposed to revise charges based on the existing SOR applying the WPI indexation on the existing SOR. With the approval of the Board of Trustees of NMPT, the port has proposed rates for 100 Ton HMC on normative basis to be operated by private operators.
- (v). The existing SOR for 100T HMC does not have charges for container handling. Therefore, it is proposed to fix charges for container handling based on the ARR assessed by the Authority vide Order dated 13 February 2015 as base and applying WPI indexation to take care of the inflation over the period of time.
- (vi). In the existing SOR, the charges for break bulk-others has been specified on per tonne basis. However, it is observed that this rate is used by Over Dimensional Cargo (ODC) and other non-standard type of cargo where handling time taken is

more. Therefore, it is now proposed to charge these cargoes on hourly basis. Accordingly, it is proposed to fix charges of Other break bulk cargo based on the ARR assessed by the Authority vide Order dated 13 February 2015 as base and after applying WPI indexation to take care of the inflation over the period of time.

(vii). The Authority has fixed charges for 100T HMC operated by private operator in February 2015. Therefore, the WPI indexations for 2016-17 to 2019-20 are considered for calculation of new rates.

(viii). As per the TAMP letter dated 29 March 2019, the rate of indexation applicable for ARR under Tariff Policy, 2018 considering 100% indexation are as under:

	<u>Year</u>	<u>Rate of Indexation</u>
(a).	2016-17	Nil
(b).	2017-18	2.00%
(c).	2018-19	3.45%
(d).	2019-20	4.26%

(ix). Considering the above WPI indexation rates, the factor for the above period has been worked out at 110.01%.

(x). The rate for other break bulk cargo on hourly basis and the rates for containers has been worked out based on ARR arrived by the Authority. The cost calculation furnished by NMPT for fixation of rate for use of 100T HMC is given below:

Sr. No.	Particulars	Basis	Calculations
A.	For Dry Bulk Cargo		
(i).	Cost of the MHC		305,600,000.00
(ii).	Capacity:		
	Handling rate per hours (in tons)	(a). Food grain, fertilizer = 10000 tonnes/ days (for vessels more than 30000 parcel size) (b). Coal, Limestone, minerals, etc. = 10000 tonnes/ days)	744 tons
	Working hours p.a.	A norm of 4000 hours of working in a year is prescribed for estimating power/ fuel cost	4000 hours
	Annual Capacity (744*4000)		29,76,000 Tonnes
(iii).	Operating Cost:		
(a).	Fuel		
	Per hr consumption (Diesel in litres)	70	15,366,400.00
	Annual consumption	4000	
	Rate per litre	54.88	
(b).	Repairs & Maintenance (5% of capital cost)	5% on cost of equipment	15,280,000.00
(c).	Insurance (1% of capital cost)	1% on cost of Capital equipment	3,056,000.00
(d).	Depreciation	10% of Cost of Capital equipment	30,560,000.00
(e).	Rent	As per TAMP Order	37,000.00
(f).	Other expenses (5% of capital cost)	5% of Gross Fixed Asset Value	15,280,000.00
	Total Cost		79,579,400.00
(iv).	ROCE (16%)	16%*₹3056 lakhs	48,896,000.00
(v).	Revenue Requirement		128,475,400.00
	Revenue Requirement rounded off as per TAMP in Order No.TAMP/24/2013-NMPT dated 13 February 2015		128,468,000.00
	Hire charge per ton (Foreign) (in ₹) (128468000/ 2976000)		43.17
(vi).	Hire charge per ton (Foreign) (in ₹)	(43.17*.99)	43.52
(vii).	Hire charge per ton (Coastal) (in ₹)	(60% of 43.17)	26.11

Sr. No.	Particulars	Basis	Calculations
B	For Break Bulk Cargo		Steel & Bagged Cargo
(i)	Cargo handling rate at 50% above the norms prescribed in upfront tariff guidelines 2008 for multipurpose cargo terminal (in tonnes/ day)		6000
(ii)	Cargo handling rate in tonnes/ hour	Sr. no. I/ (24 hours * 70% utilisation norm)	357
(iii)	Working hours (per annum)		4000
(iv)	Capacity (tonnes/ annum)	Sr.No. (ii)*(iii)	1428000
(v)	Total cost plus return as estimated in Sr. No.V in the first table (₹ in lakhs)		128,468,000.00
(vi)	Hire charge per tonne (Foreign going) in ₹ / tonne		90.32
(vii)	Hire charge per tonne (Coastal) in ₹ / tonne		54.19
C.	For Container		Container Cargo
(i)	Container Handling per Hour		16
(ii)	Working hours per annum		4000
(iii)	Annual Capacity		64000
(iv)	Revenue Requirement		128,468,000.00
(v)	Handling rate per TEU		2,007.31
(vi)	Foreign (₹ per TEU) after considering share of foreign and coastal container as 48:52		2,534
(vii)	Coastal (₹ per TEU)		1,521
D.	For Other Cargo i.e. ODC & Non-standard type cargo (Hourly Basis)		Cargo
(i)	Cargo Handling per hour		1
(ii)	Working hours per annum		4000
(iii)	Annual Capacity		4000
(iv)	Revenue Requirement		128,468,000.00
(v)	Handling rate per hour (Nos.)		32,117.00
(vi)	Foreign cargo (in ₹/ hour) after considering foreign and coastal cargo as 50:50		40,146
(vii)	Coastal cargo (in ₹/ hour)		24,088

Share of Foreign and Coastal Cargo/ Container.

Particulars	Dry Bulk Cargo considered in February 2015 Order	Steel & Bagged Cargo as considered in February 2015 Order	Container (new item)	Other i.e. ODC & Non-standard cargo (new item)
Foreign Cargo	0.98	0.99	0.48	0.5
Coastal cargo	0.02	0.01	0.52	0.5
Factor taking 60% concession to Coastal	0.01	0.006	0.312	0.3
Numerator for Calculation	0.99	1.00	0.79	0.80

- (xi). The rates prescribed in February 2015 Order and proposed rates for 100T HMC after applying the annual indexation factor as explained above in respect of dry bulk cargo and steel and bagged cargo and the proposed rate for ODC and non-standard type cargo and container as per working given above based on ARR considered in

2015 Order and after indexing the tariff so arrived applying indexation factor are given below:

(a). Dry Bulk Cargo

Average daily Crane performance (in Metric Tonne)	Ceiling rate Per tonne (in ₹)			
	Existing SOR		Proposed SOR after Indexation of 10.01%	
	Foreign	Coastal	Foreign	Coastal
12500	43.52	26.12	47.88	28.73
12501-13500	45.70	27.43	50.27	30.18
13501-14500	47.87	28.73	52.66	31.61
14501-15500	50.05	30.04	55.06	33.05

(b). Break Bulk Cargo

(i). Steel & Bagged Cargo:

Average daily Crane performance (in Metric Tonne)	Ceiling rate Per tonne (in ₹)			
	Existing SOR		Proposed SOR after Indexation of 10.01%	
	Foreign	Coastal	Foreign	Coastal
6000	90.33	54.20	99.37	59.63
6001-7000	94.85	56.91	104.34	62.61

(ii). Other Cargo i.e. ODC & Non-standard type cargo:

	Ceiling rate Per Hour (in ₹)			
	Worked out as per ARR estimated in February 2015 Order		Proposed SOR after Indexation of 10.01%	
	Foreign	Coastal	Foreign	Coastal
ODC & Non-standard type cargo	40146.00	24088.00	44165	26499

(c). Containers

	Particulars	Worked out as per ARR estimated in February 2015 Order		Proposed SOR after Indexation of 10.01%	
		Foreign (in ₹)	Coastal (in ₹)	Foreign (in ₹)	Coastal (in ₹)
		Normal	Upto 20 Feet Container	2,534	1,521
	20 to 40 Feet Container	3801	2282	4,181	2,510
Hazardous	Upto 20 Feet Container	3041	1825	3,345	2,008
	20 to 40 Feet Container	4561	2738	5,018	3,012

(xii). The draft schedule of rates along with conditionalities are given below:

6.7 Charges for use of Harbour Mobile Crane installed by the Private Operator:

(i). For Dry Bulk Cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal cargo other than thermal coal and iron ore/ pellets
12500	47.88	28.73
12501-13500	50.27	30.18
13501-14500	52.66	31.61
14501-15500	55.06	33.05

Notes:

- (a). For Thermal Coal, Iron Ore and Iron pellets cargos, the rate specified under foreign categories will apply to coastal cargo.
- (b). To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2nd thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 14500 tonnes.
- (ii). For Break Bulk Cargo

(A). Steel and Bagged Cargo:

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
6000	99.37	59.63
6001-7000	104.34	62.61

Note:

To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 7000 tonnes.

(B). Others (ODC & Non Standard type) Cargo:

	Ceiling rate per Hour (in ₹)	
	Foreign	Coastal
Other than Steel and Bagged Cargo	44165	26499

(iii). For Containers

	Particulars	Foreign (in ₹)	Coastal (in ₹)
Normal	Upto 20 Feet Container	2,788.00	1,673.00
	20 to 40 Feet Container	4,181.00	2,510.00
Hazardous	Upto 20 Feet Container	3,345.00	2,008.00
	20 to 40 Feet Container	5,018.00	3,012.00

Notes:

- (i). The formula for calculation of average berth-day output is as follows:
- $$\frac{\text{Total Quantity loaded / unloaded by the HMC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hrs}$$
- (ii). According to the average berth-day output for the vessel from commencement to completion of loading/ discharge of cargo, the appropriate rate of crane hire charge will be chosen for recovery from port users for the full quantity of cargo loaded/ discharged.
- (iii). If one MHC works with another MHC or ELL crane/s, the berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the MHC's load meter.
- (iv). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by MHC will be determined taking into account cargo loaded/ discharged prior to breakdown divided by crane working hours and multiplied by 24.
- (v). In case of stoppage of operation of MHC for more than two hours at a stretch for reasons not attributable to the MHC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of MHC for less than two hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the MHC. All stoppages in loading/ unloading

operation during working of HMC are required to be certified by the Stevedore of the vessel in the Daily Vessel Performance Report.

- (vi). In case shifting of a vessel becomes necessary due to breakdown / non performance of HMC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator. The shifting charges so recovered will be refunded to the vessel's agents.
- (vii). In case of dispute on the average output, the decision of the Port Trust will be final and binding.
- (viii). The rate shall come in to effect from the date of notification of order and shall remain valid for a period of One Year. Thereafter, on completion of each anniversary thereafter, the rate of HMC as prevailing during the immediate previous year shall be automatically indexed at the rate of 100% WPI published by TAMP from time to time.
- (xiii). The existing SOR does not provide for change in price levels i.e. inflation. Therefore, it is proposed to index the SOR annually based on 100% of the WPI without linking to the performance of the HMC.
- (xiv). As the proposed contract is for a period of 5 years, the proposed rates fixed shall be valid for a period of 5 years effective from February 2020.
- (xv). The NMPT has requested to consider the above proposal and fix the charges at the earliest so as to complete the tender process.

4. In accordance with the consultation process prescribed, a copy of the NMPT proposal dated 23 September 2019 was circulated to the concerned users/ user organisations. Comments received from Mangalore Steamer Agents Association (MSAA) vide its e-mail dated 13 October 2019 and Indian National Shipowners Association (INSA) vide its e-mail dated 20 October 2019 and vide its letter dated 23 October 2019, the Association of New Mangalore Port Stevedores (ANMPS) vide its letter dated 3 October 2019 and ALBA Asia Pvt. Ltd. (AAPL) vide its e-mail dated 11 November 2019 were forwarded to NMPT from time to time as feedback information. The NMPT vide its letters dated 12 November 2019 e-mail dated 22 November 2019 has responded on the comments of users / user organisations.

5. With reference to the productivity of HMC to handle containers at 16 moves per hour, the NMPT vide e-mail dated 1 October 2019 has clarified that at present, 63T HMC is being used for handling containers and Port is able to achieve on an average 14 moves per hour. In NMPT, the container vessels are feeder vessels and no main line vessels are expected. It is also understood from Mormugao Port that the average number of containers handled by 120T HMC is 16 Nos./hr. Therefore, considering 16 moves per hr. for tariff calculations is reasonable.

6. A joint hearing in this case was held on 23 October 2019 at the NMPT premises. The NMPT made a brief Power Point presentation of its proposal. At the joint hearing, the NMPT and the concerned users/ user organizations have made their submissions.

7.1. At the joint hearing, most of the users/ user associations have objected on the original proposal of the port. The main ground for the objection raised by the users/ user associations was that the rate should reduce with increase in productivity of the crane whereas the port has proposed increase in the slab wise rate with increase in the productivity of the HMC. NMPT has to decide whether it wants a single rate linked to the Benchmark Productivity or multiple rates for different levels of productivity of the HMC. As agreed by the Port, the NMPT vide our letter dated 1 November 2019 was requested to discuss with trade and prospective bidders on this point and other points raised by the trade in consultation with Chairman and furnish its response on the comments of users/ user associations by 07 November 2019.

7.2. In response, the NMPT vide its e-mail dated 07 November 2019 has submitted revised proposal after considering the views of Port users/ prospective bidders. The following changes are proposed by the NMPT:

- (i). Since the crane operators as well as the stevedores are contributing for the performance of crane, it is proposed to fix an uniform single rate for dry bulk and break bulk cargo without linking to the crane performance. Accordingly, it is proposed to fix the rate proposed for first slab for dry bulk and break bulk cargo.
- (ii). In the original proposal, port had not proposed separate tariff for empty container. The port user argued that 40% of the total export and import container moving from and to NMPT are empty containers. Hence considering the port users views, it is proposed to fix separate tariff for handling of empty and loaded container. As there is no tariff in the existing SOR for container handled through 100 tonne HMC, the proportion of tariff for 63 tonne HMC in the existing SOR is proposed for the empty container rate.

The existing tariff for empty container handled through 63 tonne HMC is 47% of charges of loaded container. Therefore, it is proposed to charge empty containers at a rate of 47% of applicable loaded container charges for 100 tonne HMC also. Accordingly, tariff for handling of loaded and empty container is proposed now.

- (iii). The revised rates along with conditionalities proposed by NMPT are given below:

6.7 Charges for use of Harbour Mobile Crane installed by the Private Operator:

- (i). For Dry Bulk Cargo

	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal cargo other than thermal coal and iron ore/ pellets
Dry Bulk Cargo	47.88	28.73

Notes:

- (a). For Thermal Coal, Iron Ore and Iron pellets cargos, the rate specified under foreign categories will apply to coastal cargo.

- (ii). For Break Bulk Cargo

	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
(A). Steel and Bagged Cargo	99.37	59.63

	Ceiling rate per Hour (in ₹)	
	Foreign	Coastal
(B). Other than Steel and Bagged Cargo	44165	26499

- (iii). For Containers

	Foreign (in ₹)		Coastal (in ₹)	
	Loaded	Empty	Loaded	Empty
Normal containers				
Upto 20'	2,788	1,328	1,673	797
20' to 40'	4,181	1,992	2,510	1,196
Hazardous containers				
Upto 20'	3,345	1,593	2,008	957
20' to 40'	5,018	2,390	3,012	1,435

- (iv). The port has retained the notes as proposed in the original proposal.

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 them. These details will also be made 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 tariff for 100T HMC installed by the private operators authorized by the New Mangalore Port Trust (NMPT) was last approved by this Authority vide Order No.TAMP/24/2013-NMPT dated 13 February 2015. The rates approved in the said Order was valid for a period of 3 years initially. Subsequently, validity was extended at the request of port till 24 February 2020. The rates approved in the said Order are linked to Performance Standard implying that higher rates for productivity better than benchmark level and lower rate for productivity less than benchmark level.

The current proposal is mooted by the NMPT well before the expiry of the validity of the approved rate on the ground that the port is in the process of inviting tender for the operation of one 100T HMC on revenue share basis and seeks approval of the tariff for specifying it upfront in the tender. The port has stated that the lead time for installation of 100T HMC is 6 months.

Since existing rate for 100T HMC is valid till 24 February 2020, the NMPT has sought the revised rate for 100 T HMC from 25 February 2020 for a period of five years. That being so, this Authority considers the proposal of the NMPT for revision of hire charge for HMC for 100T to be installed by the private operators authorized by the port.

The original proposal filed by the NMPT vide its letter dated 23 September 2019 has been subsequently revised by the port vide its letter dated 7 November 2019 addressing some concerns of the users/ user associations during the consultation proceedings. The revised proposal filed by the NMPT along with the information furnished during the processing of the case is considered in this analysis.

- (ii). (a). The rate for 100T port owned HMC approved by this Authority in the Order dated 21 March 2015 is for (a) dry bulk cargo and (b) break bulk cargo with two sub categories under break bulk viz. Steel and Bagged Cargo and Others.

In the current proposal, for Dry Bulk Cargo and Break Bulk Cargo (Steel and Bagged Cargo), the port has proposed the revised rate after applying the 100% of WPI indexation factor for the years 2016-17 to 2019-20 announced by this Authority which comes to 10.01% over the rates already approved by this Authority in the Order No.TAMP/24/2013-NMPT dated 13 February 2015.

- (b). As regards 'Others' tariff items under break bulk cargo, the existing rate approved for 100T HMC is on per tonne basis. The port has proposed the rate for other break bulk cargo i.e. ODC and non-standard cargo on hourly basis. The port has clarified that many a times Over Dimensional Cargo (ODC) comes at the port under this category. Time taken for ODC cargo and other non-standard cargo is more. Therefore, port has proposed to have rate on hourly basis for other break bulk cargo viz. ODC and non standardized cargo.

The proposed rate is arrived at taking the base ARR at ₹1284.68 lakhs as estimated in the Order dated 13 February 2015. Considering the working hours of crane at 4,000 per annum as per normative working hours prescribed in the Upfront Tariff Guidelines of 2008 for multipurpose berth and share of foreign and coastal cargo at 50:50, the handling rate is arrived at ₹40,146 per hour for foreign cargo. This is indexed by 10.01% and the revised proposed rate is ₹44,165/- per hour for foreign cargo and ₹26,499/-

per hour for coastal cargo. Since the rate proposed by the port is based on the estimated ARR on normative basis in the Order dated 13 February 2015 approved by this Authority and only updated with the WPI indexation, the same is approved as proposed by the port with minor correction in the unit of levy. Instead of unit of levy of "per hour" it is prescribed as "per hour or part thereof" basis in line with the general prescription followed for tariff on hourly basis. The same approach has been followed by the port in respect of the port owned HMC for 63T which is approved by this Authority by a separate Order.

- (c). The tariff approved in the Order dated 13 February 2015 does not prescribe rate for container handling. The rate for container handling is arrived by the port taking the base ARR at ₹1284.68 lakhs as estimated in the Order dated 13 February 2015. Considering the working hours of crane at 4,000 per annum as per normative working hours prescribed in the Upfront Tariff Guidelines of 2008 for multipurpose berth and productivity of 16 moves per hour, the port has assessed at the optimal annual capacity of 64000 TEUs. Further, the port has captured the share of foreign and coastal container at 48:52. Based on the above methodology, the proposed handling rate is arrived by the port at ₹2,534/- per hour for normal 20 ft foreign container and ₹1,521/- for normal 20 ft coastal container. The working given by the port is forming part of the earlier paragraphs and hence not reiterated here for the sake of brevity. The rate for 40' container is proposed at 1.5 times the normal container in line with the Working Guidelines and the rate for hazardous container is proposed at 20% premium over the normal container which is well within the premium of 50% prescribed in the Working Guidelines, 2019.

With reference to the productivity of HMC to handle containers at 18 moves per hour suggested by INSA, the NMPT vide e-mail dated 1 October 2019 has clarified that at present, 63T HMC is being used for handling containers and Port is able to achieve on an average 14 moves per hour. In NMPT, the container vessels are feeder vessels and no main line vessels are expected. Further, it is also understood from Mormugao Port that the average number of containers handled by 120T HMC is 16 Nos./hr. Therefore, the port has categorically stated that considering 16 moves per hr. for tariff calculations is reasonable. This Authority, therefore, decides to go with the proposal of the port.

In the original proposal, port had not proposed separate tariff for empty container. The port users have argued that 40% of the total export and import container moving from and to NMPT are empty containers. Hence, considering the port users views, the port in the revised proposal has proposed separate tariff for handling of empty and laden container. As the tariff Order of 2015 does not prescribe tariff for empty containers handled through 100 tonne HMC, the proportion of normal vis-à-vis empty tariff for 63 tonne port owned HMC in the existing SOR is adopted. The existing tariff for empty container handled through 63 tonne HMC is around 47.64% of charges of laden container handled through 63T HMC. Adopting this, the port has proposed rate for empty containers at 47.64% of rate proposed for laden container. The approach adopted by the port seems reasonable and hence is considered.

To summarise, the rate proposed by the port is based on the estimated ARR on normative basis in the Order dated 13 February 2015 and only updated with the WPI indexation. The rate is approved as proposed by the port.

- (iii). It is relevant here to state that the prevailing rate for 100 T HMC as approved by this Authority in the Order dated 13 February 2015 is performance linked tariff. To

arrive at the performance linked tariff structure, a reward of 5% by way of increment in the base rate if performance achieved is 1000 tonnes higher than the benchmark level is prescribed. This is in line with the approach followed for fixation of tariff for HMC at other Major Port Trusts like the Paradip Port Trust, Deendayal Port Trust, etc. This was fixed in order to encourage the port to maintain higher efficiency level to enhance the port's returns due to higher rates and also to benefit the users due to faster turnaround of vessel. The port, in the original proposal, had followed the same approach.

However, during the processing of the case, most of the users/ user association like Mangalore Steamer Agents Association (MSAA), the Delta Infralogistics (Worldwide) Ltd (DIL) and Association of New Mangalore Port Stevedores (ANMPS) have pointed out that the rate for HMC should reduce with increase in productivity of the crane whereas, the port has proposed increase in the slab wise rate with increase in the productivity of the HMC. The contention of the users association was that any increase in productivity over and above the base rate is an indication of the efficiency of the user and hence on achieving higher productivity, user should be suitably rewarded by way of reduced tariff. The NMPT was, therefore, requested to examine the point made by users and users association decide whether it wants a single rate linked to the Benchmark Productivity or multiple rates for different levels of productivity of the HMC.

The port has, after examining the point made by users and recognising that since the crane operators as well as the stevedores are contributing towards the performance of crane, it has, in the revised proposal, proposed to fix a uniform single rate for each cargo group without linking to the crane performance.

It is relevant here to state that in VPT with reference to slab wise prescription of a higher rate for HMC (when compared with the base rate) approved by this Authority fixed in the year June 2010, the port had, based on the request made by the users, filed a proposal for review of tariff of the HMC since VPT contended that the performance linked tariff for the use of the HMC operated by the VPT was proving to be disincentive. This Authority has approved a single rate for 100T HMC at VPT for handling dry bulk, break bulk and other cargo irrespective of rate of discharge/ loading of cargo vide Order No.TAMP/16/2012-VPT dated 28 September 2012. For port owned 63T HMC as well, the NMPT has proposed single rate without linkage to the performance of the HMC which is approved by this Authority in a separate Order.

On the same analogy as followed at the VPT and in view of the position brought out by the NMPT, this Authority is inclined to consider the revised proposal of the NMPT for prescription of single rate for each of the cargo group viz. irrespective of rate of discharge/ loading of cargo i.e. (a). dry bulk, (b). break bulk (i). Steel & Bagged Cargo and (ii). Other than Steel & Bagged Cargo and (c). containers.

- (iv). The main objection raised by few users/ user association with reference to the proposal of the NMPT are given below:
- (a). As stated earlier, Delta Infralogistics (Worldwide) Ltd. (DIL) and Association of New Mangalore Port Stevedores (ANMPS) viewed that the rate for HMC should reduce with increase in productivity of the crane whereas the port has proposed increase in the slab wise rate with increase in the productivity of the HMC. The NMPT has addressed this point raised by users/ user associations in the final revised proposal and has proposed single irrespective of rate of discharge/ loading of cargo. Thus, the NMPT has addressed the concern of the trade.
 - (b). As regards the point raised by DIL as to why the rate for handling hazardous containers should be more than normal containers, the port has clarified

that for hazardous containers, extra care is to be taken considering the nature of cargo. Precautionary measures are required to handle hazardous containers. ALBA Asia, one of the prospective bidders has clarified that for handling normal container quick swing is possible hence handling can be done fast. But, for hazardous container, operator needs to handle it slowly. Consequently, moves per hour will reduce. Hence, the rate for handling hazardous container should be higher than a normal container. Moreover, the Working Guidelines allows Major Port Trust to prescribe 50% premium for handling hazardous container. The premium proposed by the port for hazardous container is 20% of normal container which is well within the Guideline provision.

- (c). The MSAA has pointed out that there was regular break down of the present 100T crane operated by the private service provider during cargo operation which severely affected the productivity and the charterers had to incur huge demurrage for all resultant delays. The MSAA has pointed out that the port is levying penalty on users under Berthing Policy for poor performance and refusing to exclude these HMC related stoppages while calculating penalty/ incentives as per Berthing Policy for Dry Bulk Cargoes.

The port has clarified that Penalty is not charged on users for reasons attributable to Port. The contention of the port is that HMC is being deployed from the private service provider authorised by the port at the request of Port Users and hence no allowance for stoppages can be considered. In this regard, it is relevant to state that the performance norms and penalty/ incentive approved by this Authority vide Order No.TAMP/73/2018-NMPT dated 10 October 2019 under the Berthing Policy 2016, at note no.(i) read with (a) stipulate that in computing actual performance achieved by each ship for the purpose of calculating penalty/ incentive, any stoppage of operations on account of port-related or weather-related issues will be discounted. The first exclusions therein is for Break-down/ non-availability of port provided equipment at berth. It also provides in the end that any stoppages because of other reasons are not to be excluded for calculation of performance norms, unless specifically approved by Board.

In the instant case, the stoppage of HMC relates to HMC provided by the service provider authorised by the port. Just because the HMC is not provided by the port but by a service provider authorised by the port, may not be a justifiable reason for not excluding the stoppage time for calculating the performance of HMC and applying the penalty for lower productivity at berth. The notes prescribed in the said Order give flexibility to the port to consider this stoppages for calculation of performance norm with the approval of the Board of Trustees of the NMPT. The NMPT may, therefore, examine this point made by the users/ user associations in this regard and take approval of its Board for appropriate action.

- (d). ANMPS and some of the users/ user associations have raised the issue relating to the capital cost of the crane considered by the port and requested to consider depreciated cost of HMC. The users have pointed out that tariff derived is based on cost of the crane at ₹30.56 crores appears to be on the higher side for a 5 year old crane. The port has stated that the HMC to be hired shall not be more than 5 years old. Further, they have justified the proposed rate stating that the 2015 rate is taken as the base which means cost taken is for old HMC.
- (e). As regard the point made by ALBA that handling rates should be lower as per 2008 norms for fixation of tariff for multipurpose berth since parcel size of the vessels will be lower than 30,000 MT which is not followed by the port, the NMPT is of the view that vessels upto 35,000 MT can be directly handled at berth No.6 and 7 and upto 75,000 MT parcel size vessels can

be handled at berth No.14 till handing over it to JSW. That being so, there is no need to consider the productivity level lower than the level prescribed in 2008 Guidelines.

- (f). As regards, the request made by INSA for two sets of rate one for old HMC and one for new HMC, the port has clarified that it has invited tender to hire one number of 100 tonne capacity HMC on revenue sharing basis with not more than 5 years old crane. The port has also clarified that procuring new crane is not viable as there is no guaranteed cargo and, therefore, Port has planned to hire crane not more than 5 years old. The port has stated that two set of rates are not required. In none of the other Major Port Trusts, two sets of rates are prescribed as sought by INSA.
- (g). As regard, the point made by the ANMPS that port may ensure that the age of the crane is strictly adhered to, as per the terms and conditions of Tender, it is to state that this falls under the domain of the NMPT. The port may take due care to address the point raised by users/ user associations.
- (v).
 - (a). Under the schedule of rate for dry bulk cargo, the port has proposed a note to state that for Thermal Coal, Iron Ore and Iron pellets cargoes, the rate specified under foreign categories will apply to coastal cargo. This is in line with the coastal concession policy issued by the Government as these cargoes are not eligible for coastal concession and hence is prescribed as proposed by the port.
 - (b). The NMPT has proposed to continue with the existing notes governing levy of the rate of HMC. In the revised proposal, the port has proposed single rate without linkage to berth day output. That being so, existing note nos.(i) to (v) and (vii) proposed by the port which relate to computation of berth day output are not found relevant and hence are deleted. The subsequent note nos. are accordingly renumbered.
 - (c). The existing note no.(vi) stipulates that in case shifting of a vessel becomes necessary due to breakdown/ non performance of MHC, the shifting charges shall be recovered from crane operator in addition to penalty of ₹1 lakh. The shifting charges so collected is to be refunded to vessel agents while penalty to be retained by the port.

In the current proposal, the port has modified the existing note to state that in case shifting of a vessel becomes necessary due to breakdown/ nonperformance of MHC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator. The shifting charges so recovered will be refunded to the vessel's agents. The port has removed the levy of additional penalty of 1 lakh. Recovery of shifting charges from operator appears to be in nature of penalty and hence the proposed modified note is approved.
 - (d). Apart from the above, the port has retained the existing notes and hence the same is approved.
- (vi). The port has proposed a note that the rate shall come into effect from the date of notification of Order and shall remain valid for a period of one year. Thereafter, on completion of each anniversary thereafter, the rate of HMC as prevailing during the immediate previous year shall be automatically indexed at the rate of 100% WPI published by TAMP from time to time.

It is relevant here to state that the NMPT in the proposal has sought validity of rates for 100T HMC for a period of 5 years effective from 25 February 2020 i.e. after expiry of validity of the existing rate for 100T HMC which is valid till 24 February 2020. However, in the note, this is not explicitly brought out.

In the PPT, for HMC operated by private service provider, this Authority has, based on the proposal of PPT, prescribed the validity of HMC for its remaining life subject to automatic annual indexation at 100% of the WPI. The proposal of the NMPT seeks validity for 5 years as it proposes to invite tender for 100T HMC for a period of 5 years. This Authority, therefore, goes with the proposal of the port at this juncture. The slightly modified note is prescribed to state that the rates prescribed shall remain valid for a period of 5 years effective from the date rate comes into effect subject to automatic annual indexation at 100% of the WPI from the second year onwards. From second year onwards, on completion of each anniversary thereafter, the rate of HMC as prevailing during the immediate previous year shall be automatically indexed at the rate of 100% WPI published by this Authority from time to time.

Ordinarily, the rates approved by this Authority come into effect after expiry of 30 days from the date of notification of the Order in the Gazette. The port has sought the rate to be made effective after expiry of validity of the existing rate for 100T HMC to be provided by the private service provider authorised by the port. Hence, the revised rate for the 100 T HMC to be provided by the private service provider authorised by the NMPT is made effective from 25 February 2020. However, the NMPT is permitted to adopt this revised rate for inviting tender for 100 T HMC from the date of notification of the Order in the Gazette of India.

- (vii). The port has not furnished the Board approval for the revised proposed rate for the 100T port owned HMC. Hence, approval of the proposal of the Port is subject to approval of the Board of Trustees of the NMPT.

10.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority replaces the existing Section 6.7. - Charges for use of Harbour Mobile Cranes installed by the private operators with the following from the date it comes into effect in the existing Scale of Rates of NMPT approved by this Authority vide Order No.TAMP/78/2018-NMPT dated 24 July 2019 under the Chapter-VI - Other Charges:

6.7 Charges for use of Harbour Mobile Crane installed by the Private Operator:

- (i). For Dry Bulk Cargo

	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal cargo other than thermal coal and iron ore/ pellets
Dry Bulk Cargo	47.88	28.73

Note:

For Thermal Coal, Iron Ore and Iron pellets cargos, the rate specified under foreign categories will apply to coastal cargo.

- (ii). For Break Bulk Cargo

	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
(A). Steel and Bagged Cargo	99.37	59.63

	Ceiling rate per hour or part thereof (in ₹)	
	Foreign	Coastal
(B). Other than Steel and Bagged Cargo	44165	26499

- (iii). For Containers

	Foreign (in ₹)		Coastal (in ₹)	
	Loaded	Empty	Loaded	Empty
Normal containers				
Upto 20'	2,788	1,328	1,673	797

20' to 40'	4,181	1,992	2,510	1,196
Hazardous containers				
Upto 20'	3,345	1,593	2,008	957
20' to 40'	5,018	2,390	3,012	1,435

Notes:

- (i). In case shifting of a vessel becomes necessary due to breakdown/ non performance of MHC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator. The shifting charges so recovered will be refunded to the vessel's agents.
- (ii). The rates prescribed shall remain valid for a period of 5 years effective from the date it comes into effect i.e. from 25 February 2020 and shall be subject to automatic annual indexation at 100% of the WPI from the second year onwards. That is to say, from second year onwards till the validity period, on completion of each anniversary thereafter, the rate of HMC as prevailing during the immediate previous year shall be automatically indexed at the rate of 100% WPI published by TAMP from time to time for a period of upto 24 February 2025.

10.2. The rate approved will come into effect from 25 February 2020 and will remain valid for a period of five years subject to automatic annual indexation at 100% of the WPI from the second year onwards.

10.3. The NMPT is, however, allowed to adopt the revised rate for 100 T HMC to be provided by private service provider for tendering purpose from the date of notification of the Order in the Gazette of India.

(T.S. Balasubramanian)
Member (Finance)

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

F.No. TAMP/41/2019-NMPT - Proposal from the New Mangalore Port Trust for fixation of tariff for use of 100T Harbour Mobile Crane for handling all cargoes including containers by private service provider authorised by the port.

A summary of comments received from users/ user organisations and reply furnished by New Mangalore Port Trust (NMPT) thereon is tabulated below:

Sl. No.	Comments received from users/ user organisations	Reply furnished by NMPT
1.	Mangalore Steamer Agents Association (MSAA)	
(i).	<p><u>Age of the Harbour Mobile Crane (HMC):</u></p> <p>The port is in the process of tendering on operation of one 100 tonne Harbour Mobile Crane (HMC) on revenue sharing basis for a period of 5 years and the charges for same is required to be specified upfront in the tender. There is no mention of age of the HMC in this letter and as per the cost calculation, the cost of HMC is taken as ₹305,600,000.00. MSAA presume the cost considered for calculation is of a new HMC.</p> <p>However, as per the tender document No.CME-06/2019-20 dated 21.08.2019 of NMPT, the age of the Crane is stated as 'not more than 5 (five) years old as on the date of submission of technical bid/ tender'.</p> <p>It reminds of all the correspondence exchanged by MSAA between NMPT and TAMP during the year 2015 on similar circumstances. MSAA highlight here below the gist of this classic case:</p> <p><u>Quote:</u> As per the revised tariff rates for MHC fixed by TAMP vide Gazette Notification No.832 dated 19.03.2015, the capital cost of MHC was increased from ₹2585.28 lakhs to ₹3563.00 lakhs based on the request of NMPT (refer para 7.1 of the TAMP Order). Further, NMPT categorically stated vide their letter dated 18.10.2014 that the proposal of tariff revision is for deployment of a <u>Brand New Crane</u> and hence it is necessary to consider capital cost for a new MHC to be incurred for a new model. (ref. para 10 VII(b) of TAMP Order).</p> <p>Relying on the undertaking furnished by NMPT, the TAMP re-worked the calculation and fixed the revised tariff w.e.f. 04.04.2015. However, the MHC operators continued their</p>	<p>Port has revised the proposal and only WPI indexation is applied to the rates notified in 2014.</p>

	<p>operation using old cranes and NMPT did not instruct these operators to install new cranes in order to fulfill the commitment given to the TAMP.</p> <p><u>Unquote:</u></p> <p>MCAA immediately brought this issue to the notice of TAMP but to no avail. In hindsight, it would have been better to consider our factual statement on this issue as these old cranes created numerous stoppages due to break down and obstructed normal port operation due to fire incident etc.</p> <p>In all these incidents, the port authority failed to gauge the losses/delays incurred by the trade and the user was left in the lurch. It is to be noted that the port authority could not understand the losses incurred by the trade during this period since port is not availing the services nor are they paying for the services availed from the MHC vendor. Any breach of conditions by the vendor has direct implications on the party who is availing the services.</p>	<p>As per the tender document No.CME-06/2019-20 dated 21.08.2019 of NMPT, the age of the Crane is stated as 'not more than 5 (five) years old as on the date of submission of technical bid/tender'. Insisting on Deployment of only brand new crane may not be feasible as cargo is not guaranteed.</p>
(ii).	<p><u>Poor performance of the HMC:</u></p> <p>The regular break down of the present old cranes during cargo operation is severely affecting the productivity and the charterers are incurring huge demurrage for all resultant delays. In addition to this, the port is levying penalty on users under Berthing Policy for poor performance. In all fairness, the port should have given the allowance on account of all HMC stoppages to the users.</p> <p>However, the port authority is refusing to exclude these HMC related stoppages while calculating penalty/ incentives as per Berthing Policy for Dry Bulk Cargoes.</p>	<p>Penalty is not charged on users for reasons attributable to Port.</p> <p>HMCs are being deployed at the request of Port Users. No allowance for stoppages can be considered.</p>
(iii).	<p><u>Capital cost of the HMC:</u></p> <p>As stated above, the capital cost of the crane is a vital factor while calculating the rate for use of HMC based on the expenditure items such as Repair & Maintenance, depreciation. Other expenses, ROCE are calculated at a certain percentage of the cost of the Crane.</p> <p>The cost of the crane considered is ₹30.56 crores, which appears to be on the higher side for a 5 year old Crane. Even the maintenance cost considered is equivalent to that of a new crane. The rationale behind the costing needs to be looked into and explained threadbare before considering the subject proposal.</p>	<p>Procuring new crane is not viable as there is no Guaranteed cargo and therefore Port has planned to hire crane not more than 5 years old.</p>

	<p>MSAA reiterate that, if they calculate depreciation at 10% in case of a 3 year old Crane, taking the original cost of the Crane from the proposal submitted earlier of ₹35.03 crores, depreciation at 10% for 3 years, the cost of the Crane comes to around ₹24.53 crores. However, the cost of the crane has been taken for calculation at ₹30.56 crores.</p> <p>In order to maintain transparency and accountability, MSAA opine that Port procures a new crane rather than go ahead with the tendering process which will give rise to issues affecting the users.</p>	
(iv).	<p><u>Proposed Tariff for HMC:</u></p> <p>Due to anomalies in the tariff fixation process followed by TAMP for prevailing tariff for HMC, the port has lost sizeable cargoes to its neighbouring ports. In order to gain confidence of the EXIM trade, MSAA urge the TAMP to consider realistic costs while calculating the proposed tariff.</p> <p>As there is ambiguity in the age of the HMC being deployed, MSAA suggest TAMP to finalise two sets of tariffs for HMC viz. one for a brand new crane and another for a five year old crane. This will bring in transparency and the TAMP/ Port will have the option to fix applicable tariff based on the type of HMC being deployed by the vendor.</p>	<p>Port has tendered to hire one number of 100 tonne capacity HMC on revenue sharing basis with not more than 5 year old crane and hence two set of rates not required.</p>
(v).	<p><u>Reduction in tariff for higher productivity:</u></p> <p>The present proposal is to have incremental increase in the rates depending on the cargo discharge rate achieved over and above the base rate. With this logic, the port is trying to penalise the user who achieves better productivity by deploying additional resources. Any increase in productivity over and above the base rate is an indication of the efficiency of the user and this enhances the image of the port as well. Hence, user achieving higher productivity should be suitably rewarded by way of reduced tariff. This will certainly motivate the user to go the extra mile to achieve the higher discharge rate.</p>	<p>The proposal has been revised and uniform single rate in 1st slab only for dry bulk & break bulk cargo without linking to crane performance has been proposed to TAMP.</p>
2.	Indian National Shipowners Association (INSA)	
(i).	<p>The quantum of charges/ tariff rate proposed is one part but whatever tariff is approved subject to important parameter of prescribed productivity should be considered relevant for every recovery. The recovery can be justified provided the crane productivity is achieved. So there should be provisions of how productivity if not achieved will be dealt with.</p>	<p>The proposal has been revised and a uniform single rate in 1st slab for dry bulk & break bulk cargo without linking to crane performance has been proposed to TAMP.</p>

(ii).	INSA recommends that the minimum productivity should be attained of 18 moves per hour for containers.	Considering the average No. of containers handled at this Port and other neighboring Ports, 16 moves/ hr. are considered. 18 moves per hour is not possible with HMC.
(iii).	In relation to above point 1 for any reference number of hours for a crane used should be calculated on the basis of this guaranteed productivity only. E.g. In arriving expenditure of operations if only 50% productivity was achieved the expenditure provided for an hour should be treated at 50% of the presumed estimate shown in the calculations. This will ensure fair apportionment towards calculations of cost and expenditure and revenue requirements for crane operations.	The proposal has been revised and a uniform single rate in 1 st slab for dry bulk & break bulk cargo without linking to crane performance has been proposed to TAMP.
(iv).	If a crane doesn't perform to its parameters, a vessel should not get penalized by incurring vessel related charges for delayed operations.	As per SOR, Clause No.2.2 (Notes Sl.No.6) No Berth hire shall levied for the period when vessels idle at its berths due to break down of Port equipments. Accordingly, Port users are not penalized for delayed operations.
(v).	Since, the port is recognized for container operations as one without Gantry, there should not be any restrictions to use ships own gear for operations for container vessels.	Port users shall use shore equipment for better productivity.
Additional Written submissions made by INSA		
(i).	Container volume at New Mangalore Port has major share of the Coastal traffic as per the port's own submission in its proposal. The statistics for the current year period also proves the contribution of coastal trade volume.	
(ii).	Coastal container traffic and especially the domestic goods movement by sea has been achieved mainly due to cheaper and cost effective alternative as compared to road or rail. Government of India and the Hon'ble Minister himself has been stressing every day on exploring more avenues to increase use of coastal shipping and also reduce costs of transportation by water mode.	
(iii).	Therefore, the port should proactively look for incentivizing users of coastal services and reduce the existing cost for coastal services by reducing vessel and container handling charges. And if it is not possible to provide incentive the least it can do is to ensure that tariff rates proposed for coastal trade cannot increase the cost of transportation for domestic goods as it will make the shipping cost using coastal container service costlier than road or rail which is the readily available alternate mode.	
(iv).	As per earlier tariff, there were separate rates for both laden and empty, whereas proposal now the rates are same for both laden and empty which would hit the overall cost effectiveness of the domestic transportation by sea. Although concessional rate is considered for coastal trade when compared to earlier tariff, it is almost 50% higher in case for laden containers and 300% in case of empty containers. [Existing tariff for the operator approved vide Order dated 13 February 20152015, do not prescribe rate for handling container.]	
(v).	For container handling, INSA recommends that the minimum productivity should be attained of 18 moves per hour.	
(vi).	If a crane doesn't perform to its parameters, a vessel should not get penalized by incurring vessel related charges for delayed operations.	
(vii).	It is necessary to clarify and include in SOR that since the port is recognized for container operations as a port without terminal or Gantry, there should not be any restrictions to use ships own gear for operations for container vessels.	

(viii).	<p>Coastal container services operated by Indian ships have contributed handsomely to development of container trade at New Mangalore Port which is one of the Government Major Port. Incentivizing foreign ships by some ports have not yielded any results to increase number of calls to the port or the volume handled by the port. Kandla, Chennai and Cochin Ports are examples of same.</p> <p>It may also be borne in mind that New Mangalore and also other ports depending on feeder vessels have seen increase of services mainly due to coastal movement. Therefore, there is need to recognize and proactively take supportive measures when revisions are made.</p>
(ix).	<p>Most of the major ports are having container terminal and feeder vessels are gearless which are cost affective. New Mangalore Port does not have a Gantry Terminal so increase in Mobile crane charges is not advisable since port is already in the process of having its container terminal. So the need of the time may be is to protect the port's volume with judicious measures.</p>
3.	Association of New Mangalore Port Stevedores (ANMPS)
(i).	<p>The ANMPS has been, at every renewal of rates, raised issues which the NMPT has not addressed even in the present proposal. The requirement of the MHC is necessitated by the fact that cargo such as Iron Ore, Fertilizers, etc. will be required to be handled by the Stevedores. KIOCL has confirmed that it would be handling close to 2.5 MMT of raw materials, etc. in the near future and accordingly has requested for an additional deep draft berth.</p>
(ii).	<p>Age of the Crane</p> <p>In NMPT proposal, the NMPT has mentioned that it is in the process of tendering on operation of one Mobile Harbour Crane and that the contract period will be for 5 years. It has also mentioned that the charges are to be specified upfront in the tender.</p> <p>As with the previous proposal, the contention of Stevedores regarding the capital cost of the crane has not been addressed correctly. The Port has decided that MHC not more than 5 years old is required to be deployed as per the terms and conditions of the Tender. In the proposal sent to TAMP in 2014, and the subsequent rates notified, the capital cost of the crane considered was that of a new crane whereas the cranes deployed were more than 10 years old. ANMPS faced many issues regarding the availability of the cranes, breakdown, etc. In the comments section of the previous Order, to the queries raised by TAMP regarding the age and cost of crane, the reasons given by NMPT were far from satisfactory. While retaining the capital cost of a new crane, old cranes were deployed even as NMPT assured that the proposal is based on quotation received for new cranes. The situation was worsened when MHC operator was unable to arrange a replacement crane for more than 8 months when one of its old cranes burnt down. The ANMPS strongly recommends that this time</p> <p>As per tender document Port is hiring one number of 100 tonne capacity HMC on revenue sharing basis and the age of the crane specified in the tender is not more than 5 years old.</p>

	<p>around, the age of the crane should be strictly adhered to, as per the terms and conditions of Tender.</p>	
(iii).	<p>Capital cost of the crane</p> <p>The capital cost of the crane is a vital factor while calculating the rate for use of Mobile Harbour Crane based on the expenditure items such as Repair and Maintenance, depreciation, Other expenses, ROCE are calculated at a certain percentage of the cost of the Crane.</p> <p>The tariff derived for the present proposal from the costing appears to be flawed. The cost of the crane considered at ₹30.56 crores, which figure appears to be on the higher side for a 5 year old crane. Even the maintenance cost considered is equivalent to that of a new crane. The rationale behind the costing needs to be looked into and explained threadbare before considering the subject proposal.</p> <p>If ANMPS calculate depreciation at 10% in case of a 3 year old crane, taking the original cost of the crane from the proposal submitted earlier of ₹35.03 crores, depreciation at 10% for 3 years, the cost of the crane comes to approx. ₹24.53 crores. However, the cost of the crane has been taken at ₹30.56 crores. Stevedores requested to look into these aspects and rework the calculations.</p> <p>Stevedores is of the opinion and strongly recommends that NMPT procures a new crane rather than go ahead with the tendering process which will lead to the same issues. The port should procure the crane and allow private players to handle the same.</p>	<p>Procuring new crane is not economically viable as there is no guaranteed cargo and therefore, Port has planned to hire a crane not more than 5 years old.</p>
(iv).	<p>Reduction in proposed increase</p> <p>The users of the mobile harbor cranes are now the victims of privatization in the name of development of the Port. The highest occupancy and most productive berth at which the users of MHC have been operating is now being handed over to a private player in the guise of Port development. As such the business of the Port users, who have been earning a livelihood at the Port will be affected severely. The ANMPS anticipates the business of the members of its association will be reduced by as much as 80%. In such a scenarios, the proposal of the Port to hike the rates by 10% will be a severe dent on the prospects of the members staying in business. The present proposal to increase the tariff for use of Mobile Harbor Crane is 10%. ANMPS requested to consider the revision to 5%.</p>	<p>Port has proposed the revised rate considering WPI indexation @ 110.01% for the period 2016-17 to 2019-20 on the SOR notified by TAMP in May 2015.</p>

(v).	<p>Reduction in cost on incremental cargo handled</p> <p>The present proposal is to have incremental increase in the rates depending on the cargo discharge rate achieved over and above the base rate.</p> <p>The ANMPS recommends that for any higher throughput obtained on the crane above the base rate should be charged on a reduced tariff rate and not an incremental one. The justification being that any increase in the cargo handled on the crane over and above the base discharge rate would be solely due to the efficient handling and evacuation of cargo handled by the users. This would motivate the Stevedores/ users to strive to achieve a higher discharge rate that what is set by the Port.</p>	<p>The proposal has been revised and uniform single rate in 1st slab only for dry bulk and break bulk cargo without linking to crane performance has been proposed to TAMP.</p>
4.	ALBA Asia Pvt. Ltd. (AAPL)	
(i).	<p>Basis of Port proposal – NMPT in its letter dated 23 September 2019 proposed Schedule of Rate (SOR) for 100 T MHC on the basis of Tariff notified by TAMP on 19 March 2015. Subsequently, NMPT has applied WPI indexation as prescribed by TAMP on the tariff notified by TAMP on 19 March 2015 to arrive at proposed SOR. In AAPL view this methodology is incorrect due to following critical points ignored by NMPT:</p>	<p>Vessel upto 35000 MT parcel size can be directly handled at Berth No.6 and 7 and upto 75000 MT parcel size vessels can be handled at Berth No.14 till handing over of the Berth to JSW. The rates were worked out on normative basis in 2015. Port has now proposed only indexation on the existing tariff. Though Port has proposed separate rates earlier, considering Port users views, revised the proposal and indexation is proposed.</p>
	<p>(a). Proposal from NMPT does not consider the basic change in project parameters – It is clear from NMPT letter dated 23 September 2019 that proposal is specifically for fixation of tariff for 100 T MHC for a period of 5 years commencing 25 February 2020. The tender allows MHC to operate on berth no.5,6,7 and 14 as per Scope of Work Cl.3(iv). As per the tender floated by NMPT following points are significantly important:</p>	
	<p>(i). Point 11 of Replies to Pre-bid queries – Berth No.14, which has draft of 14m is handed over to BOT operator. Draft at Berth no.5,6 and 7 is 9.5m. Any entity associated with ports sector involved in handling of cargo knows the importance of draft. From the replies, it is clear that once berth no.14, which is the only deep water berth for this tender will be handed over to BOT operator (effective 2021 considering construction and installation time) the tenderer will have to handle cargo at lower draft berths for four years out of five year tender term. Lower draft berths will require either smaller size vessels i.e. handysize (20000 – 40000 DWT) or partly loaded gearless panamax. Handysize vessels are mostly equipped with their own cranes and hence handling on such vessels reduces MHC speed due to onboard restriction and has adverse impact on MHC</p>	

	<p>capacity. Similarly, gearless panamax which will be partly loaded implies vessel berthing will contain only bottom cargo which also reduces MHC speed and adversely effects MHC capacity.</p>													
	<p>(ii). Ignorance of prevalent practice – Presently there is hardly any dry bulk vessel which directly berthing on berth no.6 and 7 (please note berth no.5 is ignored as it handles either cement using cement carriers or edible oil mostly). Deep draft vessel presently berth on arrival at berth no.14, having draft of 14m berth and on being lightened to 9.5m draft the vessels are shifted to berth no.6 and 7. It is clarified above by port in their replies to pre-bid queries that berth no.14 will not be available once taken over by BOT operator. NMPT needs to give a deeper thought on how it is going to handle vessels directly at berth no.6 and 7. The mechanism envisaged by port authority should be captured in tariff fixation as per TAMP norms. The 2015 Order was based on practice of handling vessels at berth no.14 having draft of 14m. However, same is not available in this tender. Hence, this basis for tariff fixation should not be used.</p>													
	<p>(iii). The above basic criteria are significantly different compared to 2015 Order where berth no.14, deep water berth, was available to bidder for handling fully loaded vessels and hence achieving higher handling rates and consequently capacity.</p>													
<p>(ii).</p>	<p>Handling Rate considered in proposal is very high – NMPT has based its proposal on 15 March 2015 proposal which clearly highlights that parcel size of vessels considered are for 30000 MT or more. However, as clarified above since handling will be carried out for almost four years out of five at berth no.6 and 7 which have draft of 9.5m, this parcel size assumption of 30000 MT and above is incorrect. Parcel sizes for 9.5m draft in AAPL opinion will be smaller and hence the handling rates should be lower. AAPL has also highlighted that in present proposal 2008 norms for fixation of tariff for multipurpose berth are not followed. 2008 guideline clearly specified handling rate norms as follows:</p> <table border="1" data-bbox="363 1724 893 1982"> <thead> <tr> <th>Cargo</th> <th>Norm</th> </tr> </thead> <tbody> <tr> <td>Dry Bulk</td> <td></td> </tr> <tr> <td>(a). Foodgrain and Fertilizer</td> <td>10000 TPD for vessels more than 30000 MT parcel size</td> </tr> <tr> <td>(b). Coal, limestone and minerals, etc.</td> <td>7500 TPD for smaller parcel size vessels</td> </tr> <tr> <td>(c). Break Bulk (Steel and Bagged Cargo)</td> <td>4000 TPD</td> </tr> <tr> <td>(d). Others</td> <td>2500 TPD</td> </tr> </tbody> </table>	Cargo	Norm	Dry Bulk		(a). Foodgrain and Fertilizer	10000 TPD for vessels more than 30000 MT parcel size	(b). Coal, limestone and minerals, etc.	7500 TPD for smaller parcel size vessels	(c). Break Bulk (Steel and Bagged Cargo)	4000 TPD	(d). Others	2500 TPD	<p>The handling rate of cargo is considered on normative basis as per TAMP guidelines while fixing the tariff during 2015. Port has not made any changes to the cargo handling rates.</p>
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	From above, it is amply clear that TAMP in its 2008 guideline has duly considered the effect of parcel size on handling rate while present proposal of NMPT does not consider this aspect at all, being well aware that 9.5m draft will allow only vessels of parcel size less than 30000 MT. Hence 744 TPH handling rate assessment should be revised downward.	
(iii).	Capacity estimation for dry bulk cargo to be reduced – At this point of time, it is also important to highlight that tender terms envisage handling of containerised, break bulk and ODC cargo. NMPT by its own submission agrees that handling rate for the same will be lower. Since the proposal is based on 15 March 2015 Order which is primarily based on dry bulk cargo and not other cargoes such as container, break bulk and ODC time required for handling such cargo should be considered by NMPT while arriving at capacity. Please note that 15 March 2015 Order is based on 4000 hours of working. Since bidder is required to handle various kind of cargo, 4000 hours needs to be split amongst the category of cargo to ascertain the normative capacity of MHC. Again AAPL has highlighted that NMPT has not given consideration to TAMP 2008 guideline for tariff fixation which specifies optimal capacity assessment should duly consider type of cargo to be handled, cargo mix ratio and size of vessels to be handled. NMPT has completely ignored this basic principle in their present proposal. AAPL requested reassessment of capacity based on 2008 guideline as specified for multipurpose berth.	The handling rate of cargo is fixed on normative basis as per TAMP guidelines. For cargoes like ODC, port has proposed hourly rate instead of per tonne rate.
(iv).	Fuel Cost – Fuel price considered by NMPT is ₹54.88/ litre is as per 2015 proposal. However, actual present fuel price presently is about ₹70 per litre.	The WPI indexation @ 110.01% taken for fixation of rate for 100 tonne HMC as notified by TAMP for the period 2016-17 to 2019-20 to take care of increase in operational and maintenance cost.
(v).	Rent – This needs to be revised as per prevailing tariff and not as per 2015 guidelines. NMPT also to indicate the area which it has considered while arriving at this rent estimate.	As indexation @ 110.01% considered for computation as notified by TAMP, there is no need of revision of rent again.
(vi).	Cost of Manual Spreader – Since tender envisage handling of containers, proposal should include cost of manual spreader delivered at NMPT.	The cost of manual spreader is negligible and hence not considered.

2. A joint hearing in this case was held on 23 October 2019 at the NMPT premises. The NMPT made a brief Power Point presentation of its proposal. At the joint hearing, the NMPT and the concerned users/ user organizations have made the following submissions:

New Mangalore Port Trust (NMPT)

- (i). Makes power point presentation of the proposal. Hard copy is given.

- (ii). We have licensed to Operate two 100 tonne HMCs. The contract is expiring on 24th February 2020. Existing rate for 100T HMC operated by private service provider was approved by TAMP in February 2015 and the rate is valid upto 24th February 2020.
- (iii). The Port is in the process of tendering one HMC on revenue share basis. Charges effective from 25th February 2020, need to be fixed.
- (iv). The port has proposed the revised rate taking the rate of HMC as per February 2015 Order and after applying 10.07% indexation at 100% of the WPI for the years 2016-17 to 2019-20 for Dry bulk cargo and steel and bagged break bulk cargo.
- (v). The existing SOR does not prescribe rates for container handling through 100T HMC.
- (vi). We propose to fix rate for container handling by 100T HMC. We have taken the Annual Revenue Requirement (ARR) of 100T HMC at the same level as considered in original tariff Order of February 2015 for HMC and taking productivity of 16 moves/hour. The rate so derived is indexed to WPI to arrive at the revised proposed rate.
- (vii). In the existing SOR, the rate prescribed for other break bulk cargo is on per tonne basis. Many a times Over Dimensional Cargo (ODC) comes at the port under this category. Time taken for ODC cargo and other non standard cargo is more. Therefore, we propose to have rate on hourly basis for other break bulk cargo viz. ODC and non standardized.
- (viii). We have arrived at the rate for other break bulk cargo taking the ARR considered in the February 2015 Order as the base and 4000 normative working hours. The rate so arrived is then indexed by 10.01% to arrive at the proposed rate.
- (ix). The proposed rate shall be indexed automatically @ 100% of WPI without linkage to performance of HMC.

Delta Infralogistics (Worldwide) Ltd.

- (i). Why rate for handling hazardous containers should be more than normal containers? What extra services are provided by the port for handling hazardous container through HMC?
(NMPT FA & CAO: For hazardous containers, extra care is to be taken considering the nature of cargo.)
(TM, NMPT: Precautionary measures are required to handle hazardous containers.)

ALBA Asia

- (i). Presently the system of handling hazardous container is different.
- (ii). For handling normal container quick swing is possible. Handling can be done fast. For hazardous container, Operator needs to handle it slowly. Consequently, moves per hour will reduce. Hence, the rate for handling hazardous container should be higher than a normal container to compensate.

Star Lift Services

- (i). The Operator is responsible if the operation is slowed down.

The Association of New Mangalore Port Stevedores

- (i). Risk in handling hazardous container is taken care by the Stevedores. Please reduce the premium from the proposed 20% premium for handling hazardous containers.

New Mangalore Port Trust

- (i). Since the handling rate for hazardous container is low, the operator has to recover the cost and hence higher rate is proposed for hazardous container.
- (ii). For port owned HMC also higher rate for hazardous container is prescribed.
- (iii). Guidelines allow port to propose premium upto 50% for hazardous container. We have proposed only 20% premium for hazardous cargo.

The Association of New Mangalore Port Stevedores

- (i). Presently, we are paying for container handling on shift basis and per container rate works out to around ₹900.
[NMPT: The rate is not approved by TAMP. It was an internal arrangement between the Stevedore and the operator.]

Delta Infralogistics (Worldwide) Ltd.

- (i). Do not prescribe rate on per TEU basis. Prescribe rate for container handling on shift basis.

ALBA Asia

- (i). For Over Dimensional Cargo (ODC), we do not know the dimension of cargo. We have to deploy slings. We do not know how many slings will be required.
[Delta : Slings are provided by Stevedores]

New Mangalore Port Trust

- (i). When we give concession for handling coastal container, the rate for foreign container goes up. We have taken share of foreign and coastal container at the prevailing level.

Mangalore Steamer Agents Association

- (i). Efforts involved for handling foreign and coastal container are the same.
- (ii). Government is not compensating for Coastal Concession. It is taken from foreign trade and given to coastal.
- (iii). There is no mention of age of HMC in the proposal. It is presumed to be a new HMC. However, as per the tender document invited by the port, HMC to be deployed shall be an old HMC not more than 5 years old.
- (iv). Frequent break down of old HMC during cargo operation affects the productivity.

ALBA Asia

- (i). We are rendering same service for foreign / coastal cargo. So concession rate for coastal cargo impacts us.

Delta Infralogistics (Worldwide) Ltd. / Association of New Mangalore Port Stevedores

- (i). In Goa port, the container handling rates by HMC do not increase with increase in the performance. Handling rate should in fact reduce when productivity by HMC is more. But, in NMPT it is reverse. Restrict to Benchmark rate. No higher rate for better performance.
[TM, NMPT: Rate should come down for higher performance]

[FA & CAO, NMPT: Rate was fixed for normative capacity. If operator handles more cargo, he will realize more revenue. If he handles less cargo, less revenue.]

Association of New Mangalore Port Stevedores

- (i). The stevedores provide for the evacuation of cargo and container from the wharf which is a contributory factor for increase in the output by HMC. Better performance should be rewarded with reduced rate instead of increase proposed in the rate with increase in the productivity of HMC.
- (ii). Rate proposed by the port is for an old HMC. Depreciation in HMC value is not considered by the port.
[FA & CAO, NMPT: Crane shall not be more than 5 years old. We have taken 2015 HMC cost as the base. This means cost taken is for an old HMC.]
- (iii). New HMC is available for lower than ₹30.56 crores considered by the port.

ALBA Asia

- (i). We are the operator in Goa port also. Our contract at Goa port has stopped due to lack of cargo handling through HMC.
- (ii). Rate and agreement has to be mutually beneficial to port, trade and user.
- (iii). The rate fixed for HMC is in the year 2015. The rate is still valid.
- (iv). 3 Million Tonne traffic formed the basis for the HMC rate arrived in February 2015. The rate approved in the year 2015 is proposed to be indexed by the port to arrive at the proposed rate. Let's consider cargo profile, capacities and potential that is available.
- (v). There is one terminal already ready for handling coal at NMPT. 70% to 80% of cargo handled by HMC is Coal Cargo as of 2018-19. This will go to the new terminal once it comes up.
- (vi). In the year 2021, Berth No.14 with container handling facility will be coming up at the port with higher draft at berth. So container handling shall shift to the new berth.
- (vii). Once we exclude coal and container, we are left with other negligible cargo. Business is not viable.

Mangalore Steamer Agents Association

- (i). During the earlier cycle, the TAMP has approved rate for 100 T HMC considering capital cost for new crane. But, NMPT has put old crane.

Starlift Services Pvt. Ltd.

- (i). The current capital cost of HMC is lower than that considered by port.

Amogha Logistics

- (i). Maintain status quo in rates.
