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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.465

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 (NMPT) for revision of tariff for use of 63T capacity Harbour Mobile Crane owned by the port for handling dry bulk, break bulk cargo and containers at NMPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/51/2019-NMPT

New Mangalore Port Trust

- - -

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 proposal dated 25 September 2019 received from the New Mangalore Port Trust (NMPT) for revision of tariff for use of 63T Harbour Mobile Crane (HMC) owned by the port for handling dry bulk, break bulk cargo and containers at NMPT.

2.1. This Authority has vide separate Order No.TAMP/41/2014-NMPT dated 21 March 2015 approved hire charge for 63T HMC installed by the port following norm based model and the said Order was notified in the Gazette of India on 13 April 2015. Further, this Authority vide Order dated 15 January 2016 has notified the conditionalities to govern the rates prescribed in the Order dated 21 March 2015. The validity of the rate was prescribed for a period of 3 years i.e. till 28 April 2018.

2.2. Since the validity of the rate for HMC installed by the port vide Order dated 21 March 2015 is already over, this Authority while disposing of the general revision proposal of the NMPT vide Order No.TAMP/78/2018-NMPT dated 24 July 2019 has extended the validity of rates from the date of expiry till the revised rate for the HMC based on the proposal to be filed by the NMPT comes into effect. In the said detailed speaking Order at para no.13 (xxvii), the NMPT was requested to file a proposal within 3 months' time for the port owned HMC following normative model.

3.1. In this regard, the NMPT had earlier vide its letter dated 09 August 2019 submitted a combined proposal for revision of rate for 63T port owned HMC as well as for 100T HMC operated by private crane service provider.

3.2. The NMPT vide our letter dated 26 August 2019 was requested to delink its proposal for revision of rate for 63T port owned HMC from 100T HMC and file a separate proposal for the same. The NMPT was also requested to propose the conditionalities governing the proposed rates while filing its separate delinked proposal.

4.1. In response, the NMPT vide letter dated 25 September 2019 has filed a separate proposal for fixation of tariff for use of 63T HMC owned by the port for handling dry bulk, break bulk cargo and containers.

4.2. The main points made by NMPT in the current proposal are summarized below:

- (i). The Port with the approval of Board had proposed rates for 63T port owned HMC and 100T HMC to be operated by private operators on normative basis vide proposal dated 9 September 2019. Vide letter dated 26 August 2019, TAMP has advised to delink 100T HMC proposal from the port owned HMC proposal and requested to file a separate proposal.
- (ii). In the existing SOR, the charges for break bulk has been specified on per tonne basis. However, it is observed that Port User request is for use of ODC cargo and other non-standard type of cargo for which handling time will be more. Therefore, it is now proposed to charge these cargoes on hourly basis. Accordingly, it is proposed to fix charges for steel and bagged cargo and other break bulk cargo i.e. others (ODC and Non Standard type) under break bulk cargo computed on normative basis. The working furnished by NMPT is given below:

Cost calculation for fixation of rate for use of 63T HMC:

(A) Capital Cost:	
Cost of HMC (₹) (approx.)	238,978,881
(Actual cost of Acquisition)	
(B) Operating Cost:	
Fuel	
Per hour consumption (diesel in litres)	33.33
Annual consumption	133,320.00
Rate per litre	60.83
Amount of annual consumption (₹)	8,109,855.60
Other expenses (% of capital cost)	5%
Amount of other expenses (₹)	11,948,944.05
Repairs & maintenance	5%
Amount of Repairs & Maintenance (₹)	11,948,944.05
Insurance	0.01
Amount of Insurance (₹)	2,389,788.81
Depreciation	10%
Amount of Depreciation (₹)	23,897,888.10
Total Operating cost (₹)	58,295,420.61
(C) Return on investment	
	16%
Return on investment (₹)	38,236,620.96
(D) Total Annual Revenue Requirement (₹)	
	96,532,041.57

Particulars	Container	Dry Bulk	Break Bulk	Other Cargo (Per Hour)
Container Handling per Hour	15.00	595	238	1
Working hours per annum (for fuel cost)	4,000.00	4000	4000	4000
Annual Capacity	60,000.00	2380000	952000	4000
Handling rate Per TEU/ Per ton/ Per Hour	1,608.87	40.56	101.40	24,133.01
Foreign	2,031.00	42.00	110.00	26,232.00
Coastal	1,219.00	25.00	66.00	15,739.00

Particulars	Foreign	Coastal
<u>Normal</u>		
20 Feet Container	2,031.00	1,219
20 to 40 Feet Container	3,046.5	1,829
<u>Hazardous</u>		
20 Feet Container	2,437	1,463
20 to 40 Feet Container	3,656	2,195

Share of foreign and coastal Particulars	Ratio			
	Container	Dry Bulk	Break Bulk	Other Cargo (Per Hour)
Foreign Cargo	0.48	0.9	0.8	0.8
Coastal Cargo	0.52	0.1	0.2	0.2
Factor taking 60% concession to Coastal	0.31	0.06	0.12	0.12
Numerator for Calculation	0.79	0.96	0.92	0.92

- (iii). The draft SOR specifying the rates and conditionalities as proposed by the NMPT is given below:

6.8. Charges for use of Harbour Mobile Crane installed by the port (63T HMC):

- (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
10000	42.00	25.00
10001-11000	44.10	26.25
11001-12000	46.20	27.50

Notes:

- (a). For Thermal Coal, Iron Ore and Iron pallets 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 12000 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
4000	110.00	66.00
4001-5000	115.50	69.30
5001-6000	121.00	72.60

Note:

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 6000 tonnes.

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

	Ceiling rate per Hour (in ₹)	
	Foreign	Coastal
Other than Steel and Bagged Cargo	26,232.00	15,739.00

(iii). For Containers

	Particulars	Foreign (in ₹)	Coastal (in ₹)
Normal	Upto 20 Feet Container	2,031.00	1,219.00
	20 to 40 Feet Container	3,047.00	1,829.00
Hazardous	Upto 20 Feet Container	2,437.00	1,463.00
	20 to 40 Feet Container	3,656.00	2,195.00

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 MHC are required to be certified by the Stevedore of the vessel in the Daily Vessel Performance Report.
 - (vi). No shifting charges shall be levied by the port in case shifting of a vessel from berth to another berth/ anchorage becomes necessary due to breakdown/ non- performance of MHC.
 - (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.
- (iv). The existing SOR do not provide for change in price levels i.e. inflation. Therefore, it is proposed to index the SOR annually at the rate 100% of the WPI notified by TAMP without linking to the performance of the HMC.
 - (v). The proposed rates fixed shall be valid for a period of 5 years effective from the date of notification of Gazette of India with WPI indexation.
 - (vi). The NMPT has, therefore, requested to consider the above proposal and fix the charges at the earliest.

5. In accordance with the consultative procedure prescribed, a copy of the proposal of NMPT dated 25 September 2019 was forwarded to the concerned users/ user organisations vide our letter dated 1 October 2019 and to the additional users (as informed by the NMPT) vide our letter dated 11 October 2019 seeking their comments. The Association of New Mangalore Port Stevedores (ANMPS) vide its letter dated 23 October 2019 and Indian National Shipowners' Association (INSA) vide its letter dated 23 October 2019 have furnished their written submissions. A copy each of the written submissions were forwarded to NMPT as feedback information. The NMPT vide its e-mail dated 12 November 2019 has furnished its reply on written submissions made by ANMPS. The NMPT has not furnished comments on the comments of INSA.

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. As decided at the joint hearing, the NMPT vide our letter dated 1 November 2019 was requested to take action on the few points. The NMPT vide its e-mail dated 12 November 2019 has furnished its reply. A summary of the points of action to be taken by NMPT and reply furnished by NMPT is tabulated below:

Sl. No.	Points of action to be taken by NMPT	Reply furnished by NMPT
(i).	The existing schedule of rate of port owned 63T HMC prescribes separate rate for laden container and lower rate for empty container. The port has now proposed uniform rate for laden and empty containers. Most of the users objected the steep hike proposed for empty container. As agreed by the port, the NMPT was requested to examine the matter and come up with the revised proposal quickly.	Separate rate for laden and empty container has been proposed in revised SOR.
(ii).	For the 100T HMC to be provided by private service provider, the port has, in a separate proposal, proposed the rate taking the rate as approved by the Authority in the year 2015 as the base and after applying indexation. Whereas, for port owned HMC, the port has proposed rate considering new acquisition cost and arrived at rate on normative basis following ARR model for an existing HMC. The port to consider uniform approach as done for 100T HMC to be provided by service provider to have parity. At the joint hearing, the port agreed to do so. Therefore, the NMPT was requested to respond quickly in this regard to TAMP.	Port has now revised charges considering WPI indexation @ 110.01 (i.e. 10.01%) as done in the case of 100 Tonne HMC.

8. The NMPT vide its e-mail dated 7 November 2019 has furnished its revised proposal after taking into consideration discussions held during the joint hearing with port users. The following changes are proposed by the NMPT in its revised proposal considering the views of port users:

- (i). The tariff for handling HMC is proposed to be revised by indexing the tariff fixed by the Authority in 2015 by applying 100% of the WPI indexation. The rate of 63 tonne HMC was notified in April 2015. The indexation will be applicable from the years 2016-17 to 2019-20. As per the TAMP letter dated 29 March 2019, the rate of indexation applicable for ARR under Tariff Policy, 2018 considering 100% of WPI 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%

Considering the above WPI indexation rates, the factor for the above period has been worked out at 110.01 (i.e. 10.01% increase). After discussion, it is proposed to index @ 110.01 (i.e. 10.01% increase) of the present SOR rate.

- (ii). The port users argued that stevedores, who deploy equipment/ vehicles at the wharf are clearing the cargo and facilitating performance of the crane and hence the benefit of higher performance to be passed on to them.

Considering the above, it is proposed to fix an uniform single rate without linking to the crane performance. Accordingly, it is proposed to fix the rate proposed for first slab.

- (iii). The computation of revised proposed rate taking Indexation Factor as notified by TAMP is given below:

Calculation of Indexation w.e.f. 2016 to 2020		(Rounded off)
Indexation Factor (2016-17 to 2019-20)	110.014109	110.01 (i.e. 10.01% increase)
(100*1.02*1.0345*1.0426)		

- (iv). The revised single slab rate proposed without linkage to performance standards is given below:

- (a). Dry Bulk Cargo

Dry Bulk Cargo	Ceiling rate per tonne (in ₹)			
	Existing SOR		Proposed SOR after indexation	
	Foreign	Coastal	Foreign	Coastal
	37.22	22.33	40.95	24.57

- (b). Break Bulk Cargo

(A). Steel and Bagged Cargo	Ceiling rate per tonne (in ₹)			
	Existing SOR		Proposed SOR after indexation	
	Foreign	Coastal	Foreign	Coastal
	90.65	54.39	99.72	59.83

(B). ODC & Non standard type cargo	Ceiling rate per hour (in ₹)			
	Worked out as per ARR		Proposed SOR after indexation	
	Foreign	Coastal	Foreign	Coastal
	26232.00	15739.00	28858	17314

- (c). For Containers

	Foreign (in ₹)		Coastal (in ₹)	
	Loaded	Empty	Loaded	Empty
Normal Containers				
Upto 20'	1723	821	1034	493
20' to 40'	2585	1232	1551	739
Hazardous Containers				
Upto 20'	2068	985	1241	591
20' to 40'	3102	1478	1861	887

- (iv). The revised proposed rates are given below:

6.8 Charges for use of Harbour Mobile Crane installed by the Port:

- (i). For Dry Bulk Cargo:

Dry Bulk Cargo	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal cargo other than thermal coal and iron ore/ pallets
	40.95	24.57

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

- (ii). For Break Bulk Cargo:

(A). Steel & Bagged Cargo	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
	99.72	59.83

(B). Other than Steel & Bagged Cargo	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
	28,858.00	17,314.00

(iii). **For Containers:**

	Foreign (in ₹)		Coastal (in ₹)	
	Loaded	Empty	Loaded	Empty
Normal Containers				
Upto 20'	1723	821	1034	493
20' to 40'	2585	1232	1551	739
Hazardous Containers				
Upto 20'	2068	985	1241	591
20' to 40'	3102	1478	1861	887

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

9.1. The port has subsequently vide its e-mail dated 14 November 2019 clarified that tariff for reefer container charges is not proposed, as separate electricity charges is charged for the same. Hence, rate proposed for normal container shall be levied for reefer container.

9.2. The port has also furnished further revised rate for ODC and Non-standard type of cargo and has supported with detailed cost calculation. In the calculation, the port has considered the ARR of ₹859.51 lakhs as estimated in the Order dated 21 March 2015 in Annex-II while fixing the rate for 63T port owned HMCT for break bulk cargo. The workings and rate proposed for ODC and Non-standard type of cargo as furnished by the NMPT are summarised below:

Total Annual Revenue Requirement as considered in Order dated 21 March 2015 for break bulk cargo handling through 63T HMC (₹ in crores)	859.51
Working hours per annum (hours)	4000
Handling rate per hour (859.51 crores/ 4000 hours)	21,487.81
Foreign rate per hour (21,487/ 0.92) [impact of foreign/ coastal cargo share 80:20]	23,356.00
Coastal rate per hour (23,356 * 60%)	14,014.00
Indexed rate proposed by NMPT	
- Foreign (23,356 * 1.1001) ₹ per hour	25,694.00
- Coastal (14,014 * 1.1001) ₹ per hour	15,417.00

10. 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>.

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

(i). The tariff for port owned 63T HMC was last approved by this Authority vide Order No.TAMP/41/2014-NMPT dated 21 March 2015 following normative approach. The rates approved in the said Order was valid for a period of 3 years i.e. till 28 April 2018.

During the general revision of the SOR of the NMPT, the port sought revision of rate for the port owned 63T HMC. The proposal of the port was, however, not on norm based model. Hence, this Authority while disposing of the general revision proposal of the NMPT vide Order No.TAMP/78/2018-NMPT dated 24 July 2019 has extended the validity of rates for port owned 63T HMC from the date of expiry till the revised rate for the HMC based on the proposal to be filed by the NMPT comes into effect and also advised the port to file a proposal within 3 months' time for the port owned HMC following normative approach.

(ii). In this back drop, the port has filed the current proposal for revision for rate for port owned 63 T HMC. In the original proposal, the port had considered capital cost of a 63 T HMC at ₹23.89 crores as against capital cost of the port owned HMC considered at ₹21.72 crores while arriving at the tariff approved in the Order dated 21 March 2015.

(iii). The main objection raised by few users/ user association with reference to the proposal of the NMPT are given below:

- (a). With reference to the capital cost of ₹23.89 crores considered in arriving at the proposed rate by the port, the Association of New Mangalore Port Stevedores (ANMPS) has objected stating that the 63 tonne Port owned HMC is 5 years old purchased by the port in the year 2014. They contended that while taking the cost of crane, depreciation should have been considered and the cost should have been reduced proportionally. Further, other operating cost linked to the capex should also be reduced. Users and user associations have also requested the port to encourage the container traffic to come to the port and not to increase the tariff. ANMPS has suggested that flat 5% increase may be considered.

In view of the objection raised by the users/ user associations, it was pointed out to the port that for the 100T HMC to be provided by private service provider, the port has, in a separate proposal, proposed the rate taking the rate as approved by this Authority in the year 2015 as the base and after applying indexation. Whereas, for port owned HMC, the port has proposed rate considering new acquisition cost and arrived at rate on normative basis following ARR model for an existing HMC. The port was requested to consider uniform approach for 100T HMC to be provided by service provider and for port owned 63 T HMC to have parity.

- (b). The another main objection raised by most of the users/ user associations is regarding the rate proposed for empty container. The existing schedule of rate of port owned 63T HMC prescribe separate rate for laden container and lower rate for empty container. The port proposed uniform rate for laden and empty containers in its original proposal. As pointed out by ANMPS, this has resulted in 29.6% increase for laden container whereas for empty container increase works out to 172%. Most of the user association like the INSA, M/s.Amogha Logistics and ANMPS have objected the rate proposed for empty container.

The NMPT was, therefore, requested to examine the matter and come up with the revised proposal.

- (iv). (a). In view of the points brought out in (a) and (b) above, port has examined its original proposal and has filed a revised proposal dated 7 November 2019 and subsequent e-mail dated 14 November 2019. In the revised proposal, the port has taken the rate as approved by this Authority for port owned 63T HMC which was norm based in the Tariff Order No.TAMP/41/2014-NMPT dated 21 March 2015 as the base and has applied 100% WPI indexation from the years 2016-17 to 2019-20 announced by this Authority which aggregates to 10.01% to arrive at the revised proposed rate. In the revised proposal, the port has proposed separate rate for empty and laden container applying 10.01% increase on the existing rate applying the indexation factor.

The rate for 63T port owned HMC approved by this Authority in the Order dated 21 March 2015 is for (a) dry bulk cargo, (b) break bulk cargo and (c) containers. The port has, in the current proposal, proposed the rate for dry bulk cargo, container and break bulk cargo is now proposed in two sub categories viz. (i) Steel & Bagged Cargo and (ii), Over Dimensional Cargo (ODC) and non-standard type cargo. The rate proposed by the NMPT for dry bulk cargo, break bulk - Steel & Bagged Cargo and container are arrived by applying 10.01% indexation at 100% of the WPI for the years 2016-17 to 2019-20 communicated by this Authority to all the Major Port Trusts. The rate proposed by the NMPT in its revised proposal are found to be lower than the rates proposed by the NMPT in the original proposal. This also addresses the some of concerns raised by many users/ user associations about steep hike proposed by the port in the

original proposal. Since the revised rate proposed by the NMPT is only indexation in the norm based rate approved in the Order dated 21 March 2015, this Authority is inclined to approve the proposed rate.

For containers, after applying 10.01% indexation, the NMPT has rounded off the rate to the next rupee which is approved.

- (b). As regards Over Dimensional Cargo (ODC) and non-standard type cargo under the category break bulk cargo, the port has proposed rate on per hour basis. The port has stated that existing rate for HMC prescribe per tonne rate for other break bulk cargo. The trade has requirement for handling of Over Dimensional Cargo (ODC) which are non-standard type and involve more time. Hence, rate for ODC cargo is proposed on hourly basis.

The proposed rate is arrived at taking the base ARR at ₹859.51 lakhs as estimated in the Order dated 21 March 2015 for break bulk cargo for port owned 63T HMC as the base. 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 80:20, the handling rate is arrived at ₹21,487.81 per hour for foreign cargo. This is indexed at 10.01% and the revised proposed rate is ₹25,694 per hour for foreign cargo and ₹15,417 per hour for coastal cargo. The rate proposed for this cargo is also found to be lower than the rate proposed in the original proposal. The proposed rate for this new category of cargo group arrived on per hour basis based on the ARR of 2015 Order and after applying the WPI indexation of 10.01% is approved subject to minor correction in the unit of levy. It is prescribed as per hour or part thereof in line with the general prescription followed for tariff on hour basis.

- (v). It is relevant here to state that the prevailing rate for 63 T port owned HMC as approved by this Authority in the Order dated 21 March 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, the port has stated that the users have contended that it is the stevedores who deploy equipment/ vehicles at the wharf, do clearing of cargo and facilitate performance of the crane and hence the benefit of higher performance needs to be passed on to them. In short, the contention of stevedores is that they should not be penalized by higher tariff for better performance of the HMC as they facilitate increase in the productivity of HMC by faster evacuation of cargo from wharf by deploying other equipments/ vehicles etc. Hence, based on the views of the users, the port in the final revised proposal dated 7 November 2019 has done away with the slab wise increase in the rate with increase in the productivity of the HMC. The port has, in the final revised proposal, proposed single rate without linkage to the performance standards.

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. The grounds for review was that users are maintaining the productivity at the base level to avoid payment

of higher rates. Since the performance linked tariff for the use of the HMC operated by the VPT was proving to be disincentive, a single rate for handling dry bulk, break bulk and other cargo irrespective of rate of discharge/ loading of cargo was approved by this Authority vide Order No.TAMP/16/2012-VPT dated 28 September 2012. On the same analogy as followed at the VPT and in view of the position brought out by the NMPT, this Authority considers 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.

The port has not proposed separate rate for handling reefer container through 63T HMC which is prevailing as per the existing SOR. The port has clarified that separate electricity charges for reefer container are being levied as per the general SOR approved by this Authority and hence rate proposed for normal container is proposed to be applied for reefer container. Based on the clarification furnished by the NMPT, the said proposal of the NMPT is accepted. Nomenclature of "Normal" container is slightly modified to state "Normal including reefer" to avoid any ambiguity.

- (vi). M/s.Bengal Tiger Line (India) Pvt. Ltd. (BTL) has pointed out that their vessels are geared but, if they use port HMC, due to break down of vessels gear, the cost comes to vessel operator. M/s.BTL has contended that the rate should go to box operator. The port has agreed to examine the matter. Since this matter is not related to tariff fixation, but relates to from whom the tariff is to be collected, it is well within the domain of the port. The NMPT is requested to examine and deal this matter at its level.
- (vii). (a). The NMPT has proposed to continue with the existing notes governing levy of the rate of HMC. Since the existing note nos.(i) to (v) and (vii) proposed by the port relating to berth day output are not relevant in view of the revised proposal of NMPT for single rate without linkage to performance norms, note nos.(i) to (v) and (vii) are not prescribed. The subsequent notes are accordingly renumbered.

(b). Under the schedule or 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.
- (viii). 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 has sought validity of rates for 63T HMC for a period of 5 years effective from the date of notification of the Order in the Gazette of India with WPI indexation from the second year onwards. However, in the notes, 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. 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 will remain valid for a period of 5 years effective from the date of 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 will be automatically indexed at the rate of 100% WPI published by this Authority from time to time.

- (ix). 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. As stated earlier, this Authority while disposing of the general revision proposal of the NMPT vide Order No.TAMP/78/2018-NMPT dated 24 July 2019 had extended the validity of rates from the date of expiry till the revised rate for the HMC based on the proposal to be filed by the NMPT comes into effect. The rate for the 63 T port owned HMC was not revised for the reasons recorded in the said Order. That being so, and also recognising the minimum lead time required for implementation of the approved rate once the Order is notified in the Gazette of India, the approved rate will come into effect after expiry of 15 days from the date of notification of the Order in the Gazette.
- (x). The port has not furnished the Board approval for the revised proposed rate for the 63T port owned HMC. Hence, approval of the proposal of the Port is subject to approval of the Board of Trustees of the NMPT.

12.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority replaces the following Section 6.8. - Charges for use of Harbour Mobile Crane installed by the port with the existing provision at Section 6.8 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:

6.8 Charges for use of Harbour Mobile Crane installed by the Port:

(i). **For Dry Bulk Cargo:**

Dry Bulk Cargo	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal cargo other than thermal coal and iron ore/ pallets
	40.95	24.57

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:**

(A). Steel & Bagged Cargo	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
	99.72	59.83

(B). Other than Steel & Bagged Cargo	Ceiling rate per Hour or part thereof (in ₹)	
	Foreign	Coastal
	25,694.00	15,417.00

(iii). **For Containers:**

	Foreign (in ₹)		Coastal (in ₹)	
	Loaded	Empty	Loaded	Empty
Normal Containers including reefer containers				
Upto 20'	1723	821	1034	493
20' to 40'	2585	1232	1551	739
Hazardous Containers				
Upto 20'	2068	986	1241	591
20' to 40'	3102	1478	1861	887

Notes:

- (i). No shifting charges shall be levied by the port in case shifting of a vessel from berth to another berth/ anchorage becomes necessary due to breakdown/ non- performance of MHC.
- (ii). The rates prescribed shall remain valid for a period of 5 years effective from the date it comes into effect 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.

12.2. The rate approved will come into effect after expiry of 15 days from the date of notification of the Order passed in the Gazette of India 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. 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 will be automatically indexed at the rate of 100% WPI published by TAMP from time to time.

(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/51/2019-NMPT - Proposal from the New Mangalore Port Trust for fixation of tariff for use of 63 tonne capacity Harbour Mobile Crane owned by the port for handling dry bulk, break bulk cargo and containers at New Mangalore Port.

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

Sl. No.	Written submissions received from the users/ user organisations	Reply furnished by NMPT
1.	Association of New Mangalore Port Stevedores (ANMPS)	
(i).	In NMPT proposal dated 25 September 2019, paragraph 2, it has been mentioned that the Port Authorities at the request of the users want to change over to fix rates on hourly basis as against per tonne basis as is being charged at present. In this connection, the Port Authorities while fixing the charges have computed the same on normative basis as per details formulated in Annexure 2 furnished with the letter dated 25 September 2019 addressed to TAMP. The proposal mentions that the Port Users are requesting for fixing the hire charges on hourly basis w.r.t. ODC cargo and other non-standard type of cargo as the handling time will be more	No comments furnished by the port.
(ii).	Cost of Mobile crane has been taken at ₹23.90 crores. As per the information available, the crane was purchased in August 2014. While taking the cost of crane, depreciation at 15% should have been considered and the cost reduced proportionally. However, the actual cost of the crane has been taken at purchase value for total revenue earnings. (a). Other Expenses have been taken at 5% of the capital cost of the crane. (b). Repairs have been considered at 5% & Insurance 0.01% of the capital cost of the crane. (c). Depreciation at 10% of the capital cost. (d). Return on Investment at 16% of capital cost of the crane. Had the depreciated value been taken, the cost would have been much less. This is an important aspect that should have been taken in consideration while calculating revenue requirement. NMPT cranes should be treated as Port facility, hence they should not look for Profit in this.	Port has now revised the charges considering WPI indexation @ 110.01 (10.01% increase) for the period 2016-17 to 2019-20 on the SOR notified by TAMP in April 2015.
(iv).	The Scooping Capacity of the 63 tonne Port Crane is very low, making the use of the same uneconomical at the present rates. Any change in existing rates will only make the use of the 63 tonne Port Owned crane highly uneconomical.	
(v).	The 63 tonne Port owned Crane is already 5 years old, so the capacity is already getting weaker. But NMPT is looking to increase the rates.	
(vi).	For container handling, rates has been increased for by 29.6% for loaded and 72% (it is 172%) for empty container. This is extremely high. This needs to be discussed. Charge flat 5% more than the previous rates.	The container handling rate has been revised and proposed @ 110.01 (i.e. 10.01%) of the present SOR

		rate considering WPI indexation.									
(vii).	For cargo handling, we need high capacity crane for better vessel turnaround time.	Procuring high capacity crane is not viable as there is no guaranteed cargo.									
2. Indian National Shipowners' Association (INSA)											
(i).	<p>Container volume at New Mangalore Port has major share of the Coastal traffic as per the port's own submission in its proposal. The enclosed statistics for the current year period also proves the contribution of coastal trade volume. The INSA has furnished cargo wise Containerised traffic handled during April 2018 to September 2018 vis a vis April 2019 to September 2019 which is summarised below:</p> <table border="1"> <thead> <tr> <th></th> <th>Teus</th> <th>Tonnage</th> </tr> </thead> <tbody> <tr> <td>April 2018 to September 2018</td> <td>67,957</td> <td>10,12,945</td> </tr> <tr> <td>April 2019 to September 2019</td> <td>77,731</td> <td>11,19,897</td> </tr> </tbody> </table>			Teus	Tonnage	April 2018 to September 2018	67,957	10,12,945	April 2019 to September 2019	77,731	11,19,897
	Teus	Tonnage									
April 2018 to September 2018	67,957	10,12,945									
April 2019 to September 2019	77,731	11,19,897									
(ii).	<p>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.</p>										
(iii).	<p>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 does not 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.</p> <p>INSA noticed that as per earlier tariff there were separate rates for both laden and empty. Whereas in proposal now, the rates are same for both laden and empty which would hit the overall cost effectiveness of the domestic transportation by sea.</p> <p>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.</p>										
(iv).	<p>Also, though fixing rate is one part, whatever tariff is approved subject to important parameter of prescribed productivity should be considered relevant for every recovery i.e. 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>										
(v).	<p>For container handling, INSA recommends that the minimum productivity to be attained should be 18 moves per hour.</p>										
(vi).	<p>For calculation of number of hours for a crane used, it 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.</p>										
(vii).	<p>If a crane doesn't perform to its parameters a vessel should not get penalized by incurring vessel related charges for delayed operations.</p>										
(viii).	<p>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 of container vessels.</p>										
(ix).	<p>INSA would like to take the opportunity to draw attention that 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>										

(x).	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.
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A copy of INSA letter dated 23 October 2019 was forwarded to NMPT for its comments. The NMPT has not furnished its comments on the comments of INSA.

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). Port has two 63 tonne port owned HMC. The rate approved by TAMP in March 2015 for 63 tonne port owned HMCs was valid upto 27 April 2018.
- (iii). In the recent general revision of the SOR, the TAMP has extended the validity of the existing rates till revised rates are fixed.
- (iv). The Board has approved norm based rates in August 2019 for 63 T port owned HMC.
- (v). The proposed rates are worked out on normative basis for dry bulk cargo, container and break bulk cargo-steel and bagged and others to meet the estimated annual revenue requirement of ₹9.65 crores.
- (vi). The existing rate of HMC prescribe per tonne rate for other break bulk cargo. Trade requires handling of Over Dimensional Cargo (ODC) which are non-standard type and involve more time. Hence rate for ODC cargo is proposed on hourly basis.
- (vii). Proposed rate shall be indexed annually on 100% of WPI without linking to performance of HMC.
- (viii). Port seeks approval of rate for a period of 5 years.

The Association of New Mangalore Port Stevedores (ANMPS)

- (i). The port has proposed 27% increase for normal laden container. But, for empty container, the increase proposed is 270%.
- (ii). For 63T HMC the rate difference works out to ₹5/tonne lower than the rate proposed for 100T HMC.

M/s. Amogha Logistics

- (i). Port has to encourage the traffic to come to the port.
- (ii). Containerization needs to be attracted. Port should not keep on increasing the tariff.
- (iii). There is lack of speedy road and railway facility to move cargo from Mangalore to Bangalore.
- (iv). Most of vessels calling port are gearless. We use shore cranes.
- (v). If HMC rates are increased, the trade will move to other neighbouring ports.

- (vi). Separate lower rate may be considered for empty containers.
- (vii). Please maintain Status quo in rates.

M/s. Bengal Tiger Line (India) Pvt. Ltd. (BTL)

- (i). Our vessels are geared. If we use port HMC, due to break down of vessels gear, the cost comes to vessel operator. It should go to box operator.
[TM, NMPT: We will examine.]

INSA represented by M/s. Amogha Logistics

- (i). More numbers of Empty containers come to the port. 40% of IMPEX coming to port is empty. Empties are used for export of Cashew and Coffee from the port. Port takes advantage of more empty containers and fixes higher rates.
- (ii). The port has proposed an exorbitant increase of 270% in the rate for empty containers. Empty containers will go away from port in this scenario.
- (iii). We will have shortfall of empty containers for export.
[NMPT: We will examine the rate for empty container]
- (iv). Maintain the existing rate of HMC.

Mangalore Steamer Agents Association

- (i). Krishnapatnam port is prepared to match with NMPT rate. In such a situation, NMPT should increase only nominally. Not 27%.
