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

Tariff Authority for Major Ports

G. No.349 **New Delhi,** **16 September 2016**

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Kolkata Port Trust for fixation of reference tariff for the project of “Setting up of Outer Terminal-I alongwith all required associated facilities on Design, Build, Finance, Operate, Transfer (“DBFOT”) basis” at Haldia Dock Complex for a concession period of thirty years, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/45/2016-KOPT

Kolkata Port Trust **…** **Applicant**

QUORUM

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

ORDER

(Passed on this 16th day of August 2016)

This case relates to a proposal dated 18 July 2016 received from Kolkata Port Trust (KOPT) for fixation of reference tariff for the project of "Setting up of Outer Terminal-I alongwith all required associated facilities on Design, Build, Finance, Operate, Transfer ("DBFOT") basis" at Haldia Dock Complex for a concession period of thirty years

2.1. This Authority had passed an Order no. TAMP/57/2011-KOPT dated 18 June 2012 fixing upfront tariff for a Mechanised berth to handle coal and a Multipurpose berth to handle coal, iron ore and other bulk cargo to be set up at Haldia Dock-II (North) & Haldia Dock-II (South) at Shalukkhali alongwith all required back-up facilities on Design, Build, Finance, Operate & Transfer (DBFOT) basis in pursuance of the guidelines for upfront tariff setting for PPP projects at Major Ports vide Notification No. TAMP/52/2007-Misc.dated 26 February 2008. This Order was notified in the Gazette of India on 30 July 2012 vide Gazette no. 168.

2.2. The Ministry of Shipping (MOS) under cover of its letter No.PR-14019/16/2012-PG dated 31 July 2013 has issued 'Guidelines for Determination of Tariff for Projects at Major Ports, 2013' under Section 111 of the Major Port Trusts Act, 1963 on 31 July 2013. In compliance of the policy directives issued by the (MOS) under Section 111 of the MPT Act, 1963, the said Guidelines were notified vide Notification No.TAMP/18/2013-Misc. in the Gazette of India on 8 August 2013, vide Gazette no. 214. The said Guidelines came into effect from 31 July 2013.

2.3. Subsequently, the MOS issued revised Guidelines for Determination of Tariff for Projects at Major Ports, 2013 under Section 111 of the Major Port Trusts Act and made it effective from 9 September 2013. The said revised guidelines were notified in the Gazette of India on 30 September 2013 vide Gazette No.254.

3.1. In this backdrop, the Kolkata Port Trust (KOPT) under cover of its letter No. Ad/0038/PPP/OT-I/2914 dated 18 July 2016 has submitted a proposal for fixation of reference tariff for the project of "Setting up of Outer Terminal-I along with all required associated facilities on Design, Build, Finance, Operate, Transfer ("DBFOT") basis" at Haldia Dock Complex for a concession period of thirty years under, under the guidelines of Tariff for Projects at Major Ports, 2013. For the purpose, the KOPT has chosen to adopt the upfront tariff fixed for the Mechanised berth vide the Order dated 18 June 2012, as brought out at para 2.1 above.

3.2 The main points about the proposal as submitted by KOPT are summarized below:

(i). The Haldia Dock Complex (HDC) handled 31 million tonnes of cargo during the financial year 2014-15 against its assessed capacity of 38 million tonnes. The reason for decline in traffic is due to reduction in handling of iron ore and POL coupled with the reduction of draft in the river resulting in smaller vessels/ vessel with smaller parcel size calling at Port. The reduction of traffic is also attributable to two competitive ports Paradip and Dhamra taking away HDC traffic as these two ports are having deeper drafts.

(ii). At Haldia II, earlier, two terminals have been proposed –Haldia Dock-II (South) is a mechanized coal terminal and Haldia Dock-II (North) a multi-purpose berth to handle coal, iron ore and other dry bulk. The capacity has been assessed as 6.59 MTPA for mechanized coal berth and 5.11 MTPA for the multi-purpose berth. However, only one terminal i.e., Haldia Dock-II (North) (Multipurpose berth) - has been awarded on DBFOT. The condition precedent period has been extended till July 2016. Meanwhile, however, due to inability of the concessionaire to continue with the project, the awarded project stands terminated.

(iii). To handle the incremental volume of dry bulk cargo at HDC, the port decided to construct a riverine multi-purpose jetty downstream of the 3rd Oil Jetty along with all required back- up facilities through PPP on DBFOT basis. The HDC authorities invited RFQ during February, 2010 for the project. However, the project was withheld due to other developments in the Port.

(iv) During March 2015, PPP process was initiated for Transloading operations at HDC and was decided that the daughter vessels related to transloading operations would be handled exclusively at the Dock Basin berths 2 and 8.

(v). Due to growing need for handling dry bulk cargo and other developments in hinter land, HDC has decided to review the proposal afresh with reference to the traffic demands and to excute it by the port. Accordingly, the Feasibility study for setting up of Riverine Jetty at Outer Terminal-I has been under taken.

(vi). Thus, the port has decided to set up a Riverine Jetty at Outer Terminal-I, with integrated Mechanised system alongwith required back up facilities through PPP on DBFOT basis, mainly to handle all types of coal/coke. The port has already invited the RFQ on 28 July 2016. The berth will be located 30 m from the mooring dolphin MD 4 of the 3rd Oil Jetty, the length of berth will be 270 m and the width of the berth will be 25 m. This will facilitate operation of the Harbour Mobile Cranes with hopper and conveyors.

(vii). The location of the stackyard at the open yard west of existing Tata yard beyond Navy Land, has been explored based on the availability of various yard spaces, relative location, road and rail connectivity etc. The unloaded coal is transferred to a stacking area. The advantage of this is that the stockyard can be expanded in a linear fashion and the railway yard will be close to the stockyard. The stockyard layout will be rectangular of overall size 600 m x 200 m. There will be 3 rows of stockpiles each of size 100 m x 50 m. There will be two tracks for stackers & reclaimers each of 16 m width running in between the rows of stacks. There will be a 5 m service road running all around the yard for maintenance as well as to enable truck movement of coal, if required. The entire stockyard will be surrounded by a high compound wall for dust control.

(viii). The berth is reported to have optimal capacity of 5.46 MTPA. The capital cost of the project is indicated by the port at ₹. 412.97 crores. The port has furnished the details of the equipment envisaged to be deployed at the proposed facility.

(ix). As per Clause 2.2 of the revised 2013 Guidelines, in case no upfront tariff has been fixed for a commodity at that Major Port Trust or if the highest tariff fixed for a particular commodity in the concerned major Port Trust does not represent the project proposed to be developed, then the concerned Major Port Trust can propose to TAMP any other tariff fixed under 2008 Tariff guidelines in any other major Port Trust which is representative enough for that commodity giving detailed and sufficient justification.

(x). The project of KOPT's Mechanised Berth at Haldia Dock-II (North) & Haldia Dock-II (South) at Shalukkhali along with all required back-up facilities on DBFOT basis for which TAMP vide Order no. TAMP 57/2011-KOPT dated 18 June 2012 has fixed Upfront Tariff, is representative enough for the commodities envisaged.

Further, the operations and services to be rendered by the PPP operator are also identical to that of the proposed project. The Performance standards as stipulated by the Authority for Mechanized berths at Haldia Dock-II (North) &Haldia Dock-II (South) at Shalukkhali are going to be similar to this proposed project.

(xi). In line with the 2013 Reference tariff Guidelines, the upfront tariff notified by TAMP for Mechanised Berths for its project at Haldia Dock - II (North) and Haldia Dock-II (South) at shalukkali vide TAMP Order No. TAMP/57/2011-KOPT dated 18 June 2012, is proposed to be adopted to the present project i.e. "Setting up of Outer terminal-I alongwith all required associated facilities on Design, Build, Finance, Operate, Transfer (DBFOT) basis at HDC.

(xii). The tariff proposed by the KOPT is as follows:

(a). Cargo Handling Charges:

Sl. No.	**Commodity**	**As per TAMP Order dated. 18.06.2012**		**Proposed Tariff with applicable indexation @ 11.21%**	
		Unit Rate in ₹. per Metric Tonne			
		Foreign	Coastal	Foreign	Coastal
1.	All types of Coal and Coke	244.16	185.16	**271.53**	**205.92**

(b). Storage Charges:

The Storage charges for cargo stored in the stack yard beyond the free period allowed shall be as follows:

Description	**As per TAMP Order dt 18.06.2012**	**Proposed Tariff with applicable indexation @ 11.21%**
	Rate in ₹. per MT per Day or part thereof	
Free period	6 days	**6 days**
First five days after expiry of free period	0.98	**1.09**
6th day to 10th day after expiry of free period	1.47	**1.63**
From 11th day onwards	1.96	**2.18**

(c). Miscellaneous Charges:

Composite charge for all the miscellaneous services such as sweeping, weighment of wagons, trucks, receiving/ delivery of cargo etc., shall be levied as follows :-

Type of Cargo	**As per TAMP Order dated. 18.06.2012**	**Proposed Tariff with applicable indexation @ 11.21%**
Miscellaneous Charges.	₹.2.39 per tonne	**₹. 2.66 per tonne**

(d). Berth Hire:
The berth hire charge shall be payable by masters/ owners/ agents of the vessels, barges and other floating craft approaching or lying alongside the berth at the following rates:

Sl. No.	**Description of vessel**	**As per TAMP Order dated. 18.06.2012**	**Proposed Tariff with applicable indexation @ 11.21%**
		Rate in ₹. per hour per GRT	
1.	Foreign going vessel	0.55	**0.62**

2.	Coastal vessels	0.33	**0.37**

(xiii). The performance Standards as proposed by the port are as follows:

(i). Gross Berth Output for paramax vessels – 28000/day/Berth
(ii). Gross Berth Output forHandymax vessels – 20700/day/Berth

3.3. The KOPT in its letter has stated that the Reference tariff proposal has been approved by Chairman and will be placed in the next meeting of Board for ratification.

4. Further, the KOPT vide its email dated 5 August 2016 has stated that the project does not envisage handling of export Thermal Coal traffic through the terminal. Accordingly, the Port has requested to make the following modification in its Tariff Proposal:

(i). (a). Clause 9.3 of the Tariff Proposal and Clause 4.1 of Annex-I of the Tariff Proposal to be read as:
"All types of coal (other than Thermal Coal) / Coke."

(b). Clause 9.3 of Tariff Proposal and Note under Clause 1.4 of Annex-I of Tariff Proposal to be modified as follows:

"Note:
The Cargo handling charges prescribed above is a composite charges for unloading of the coal (other than thermal coal) / coke and other dry bulk cargo from the vessel and transfer of the same up to the point of storage, storage at stack yard upto a free period of 6 days after completion of unloading, reclaiming from stack yard and loading on the wagons. This composite charges include wharfage and supply of labour and / or equipment wherever necessary and all other charges not specifically prescribed in the Scale of Rates."

5. With reference to the totality of information furnished by the KOPT the following position emerges:

(i). In view of growing need for handling dry bulk cargo and other developments in the hinterland, the KOPT proposes to set up a facility with integrated mechanized system and backup facilities to handle coal (other than Thermal coal)/ coke, through PPP on DBFOT basis. Accordingly, in pursuance of the revised Reference Tariff Guidelines 2013 , the KOPT has filed a proposal for fixation of Reference Tariff for a setting up Riverine jetty at Outer Terminal-I.

(ii). Clause 2.2. of the Revised Tariff Guidelines of 2013, interalia, stipulates that the Reference Tariff for a commodity will be the highest tariff fixed for that commodity in the concerned Major Port Trust under the 2008 Tariff Guidelines provided it is representative of the project proposed to be developed.

(iii). Based on the stipulation contained in Clause 2.2. of the Reference Tariff Guidelines, as brought out above, the KOPT has proposed adoption of its own upfront tariff fixed in respect of the Mechanised berth at Shalukkhali of KOPT, under the 2008 Upfront Tariff Guidelines, vide Order no TAMP/57/2011-KOPT dated 18 June 2012, as the Reference tariff for the proposed facility of setting up of Riverine jetty at Outer Terminal-I. The KOPT has confirmed that the commodities, operations and services to be rendered by the PPP operator at the proposed Riverine jetty at Outer Terminal-I is representative enough to the project of setting up of Mechanised Berth for which upfront tariff has already been fixed in June 2012. The judgment of the port to adopt its own upfront tariff fixed for the Mechanised berth to determine the Reference tariff for the proposed facility is relied upon.

(iv). With regard to the Upfront Tariff Order of June 2012, which has been taken as base by KOPT, it is relevant to mention here that based on a proposal then filed by KOPT, this Authority vide its above referred Order, has approved upfront tariff for a Multipurpose berth [to handle iron ore, Coal (other than thermal coal) and other dry bulk cargo] as well as a Mechanised berth [to handle coal (other than thermal coal)]. It is the upfront tariff fixed for the mechanized berth that the KOPT has now chosen to adopt for the project of setting up of Riverine jetty at Outer Terminal –I.

(v) In this connection, it is relevant here to state that as brought out above, the Mechanised berth envisaged at Shalukkhali is for handling of coal (other than thermal coal). In the project now under reference also, handling of all types of coal (other than thermal Coal) and coke is envisaged. Based on the confirmation given by the port that the commodities, operations and services to be rendered by the PPP operator at the Riverine jetty at Outer Terminal – I is representative enough to the project of Mechanised berth at Shalukkhali, the proposal of KOPT to adopt the upfront tariff of Mechanized Berth at the Shalukkhali fixed vide the earlier referred Order of KOPT, is approved.

(vi). The Revised Guidelines of 2013 stipulate that while adopting the Reference tariff, the tariff set under the Tariff Guidelines of 2008 shall be escalated to the extent of 60% of WPI per annum, as provided in the said guidelines for the period between 1st January of the year as prescribed in the relevant tariff order of the Authority under 2008 guidelines and 1st January of the subsequent relevant year when the Reference Tariff for the particular project in question is being notified.

The upfront tariff for the Mechanised berth at the KOPT was notified in July 2012. The Upfront Tariff Schedule of KOPT specifically states that the base year of Wholesale Price Index (WPI) for indexation in the reference tariff rates approved in the said Order will be 1 January 2012. Accordingly, the KOPT has applied the indexation factor of 11.21% on the tariff caps approved at KOPT vide Order of July 2012. This indexation factor is seen to be the indexation factor communicated by us to all the Major Port Trusts to be applicable for reference tariff fixed in the year 2016 with base WPI as on 1 January 2012.

Thus, the indexed reference tariff for the proposed facility as derived by the KOPT based on the indexation factor as applicable for the year 2016, is found to be in order.

(vii). The Government of India in the Ministry of Shipping (MOS) undercover of its letter No. PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No.PT-11033/51/2014-PT dated 4 September 2014 to this Authority. Accordingly, this Authority vide its Order no. TAMP/52/2014-Genl. dated 28 November 2014 has, interalia, approved the replacement of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts as follows:

'Coastal vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority.'

Therefore, the definition of Coastal Vessel as proposed by the KOPT is modified with the above mentioned definition of 'Coastal Vessel'.

(viii). The KOPT has proposed the definitions for Foreign Going vessel, Day, Free period and Per Day. The definitions proposed by KOPT are seen to be in line with the definition as prescribed in the Upfront Tariff Schedule of the Mechanized Terminal for handling Coal, and hence is approved.

(ix). The KOPT has proposed conditionalities relating to the Vessel Related Charges and the Cargo Related Charges and the Coastal Concessional Policy as per the latest policy of the Government. The same is approved.

(x). The KOPT has proposed other general conditionalities like conditionalities relating to Interest on delayed payments/refunds, no claim for refund to be entertained unless the amount refundable is ₹.100/- or more, users not required to pay charges for delays beyond a reasonable level attributable to the terminal operator, gross weight above 0.5 to be treated as one unit, etc. which are found to be in line with the general notes prescribed in the Upfront tariff schedule of the Mechanized Terminal for handling Coal, and hence is approved.

(xi). The Notes proposed by KOPT under Berth Hire schedule are also found to be in line with the notes prescribed in the berth hire schedule of the upfront tariff schedule of Mechanized berth for handling Coal, and hence is approved.

(xii). Under the schedule of cargo handling charges, the KOPT has proposed a note to the effect that the Cargo handling charges is a composite charge for unloading of the coal (other than thermal coal) / coke and other dry bulk cargo from the vessel and transfer of the same up to the point of storage, storage at stack yard upto a free period of 6 days after completion of unloading, reclaiming from stack yard and loading on the wagons. The note also states that the composite charge includes wharfage and supply of labour and / or equipment wherever necessary and all other charges not specifically prescribed in the Scale of Rates.

The said note is found similar to the note prescribed in the Upfront tariff schedule of Mechanised berth for handling coal. However, given that the proposed facility is envisaged to handle all types of coal (other than thermal coal) / coke, reference to the dry bulk cargo in the above mentioned note proposed by the port is not relevant and hence deleted.

(xiii). As per clause 2.8 of the Guidelines, the tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year. In the instant case, since the reference tariff calculation is as of the year 2016, it is found appropriate and relevant to prescribe the base WPI to be considered for automatic adjustment every year as 1 January 2016, as proposed by KOPT.

(xiv). The other General notes (ii) to (viii) as proposed by KOPT for the proposed facility viz. automatic indexation on achievement of performance standards, submission of proposal to TAMP indicating the achievement of performance standards, TAMP to seek the views of the major port trust on the achievement of performance standards, TAMP not to consider the proposal for notifying the performance linked tariff in the event of licensee not achieving the performance standards, notification of the performance linked tariff, TAMP to look into the performance standards and its adherence by the licensee, submission of the performance linked tariff proposal from the third year of operation, are found be in line with the notes prescribed in Reference Tariff Schedule of the Other projects also.

(xv). Clause 2.2 of the revised tariff guidelines of 2013 requires this Authority to prescribe the Reference Tariff along with the Performance Standards. Though the revised guidelines of 2013 do not require this Authority to go into the Performance Standards proposed by the port it may not be unreasonable to assume that the ports would propose reasonable and achievable Performance Standard.
With regard to the performance standards, the KOPT has proposed the Gross Berth Output for the Panamax Vessels at 28000 tonnes per day per berth and Gross Berth Output for the Handymax Vessels at 20,700 tonnes per day per berth. This performance standards as proposed by the port are seen to be in line with the handling rate of Panamax vessels and Handymax vessels as considered in the calculation of optimal quay capacity of the mechanized berth in the Order of June 2012.

The KOPT has prescribed the conditionalities governing the performance standards. Recognizing that Clause 2.2. of the revised guidelines of 2013 requires this Authority to notify the Performance Standards, the Performance Standards as proposed by the port may be notified along with the Reference Tariff Schedule.

6.1. The Reference Tariff Schedule is attached as **Annex – I** and the Performance Standards for "Setting up of Reverine Jetty for handling all types of Coal (other than Thermal Coal) /Coke at Outer Terminal-1 as proposed by the port, is attached as **Annex – II.**

6.2. In the result, and for the reasons given above and based on a collective application of mind the Reference Tariff Schedule for Setting up of Riverine Jetty for handling all types of Coal (other than Thermal Coal)/ Coke at Outer Terminal-1 at KOPT is approved and notified along with the Performance Standards.

6.3. In the event of any error apparent on the face of record or for any other justifiable reasons, the KOPT if it so desires may approach this Authority for review of the reference tariff fixed giving adequate justification / reasoning within 30 days from the date of notification of the Order in the Gazette of India.

6.4. As per clause 2.5 of the Revised Tariff Guidelines 2013, the Reference Tariff and Performance Standards notified by this Authority shall be mentioned in the bid document and subsequently in the Concession Agreement in respect of PPP Projects. Accordingly, the KOPT is advised to incorporate the Reference Tariff and Performance Standards, in the bid document and subsequently in the Concession Agreement in respect of PPP Projects.

7.1. From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire concession period.

However, the PPP operator would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

7.2. The proposal shall be submitted to this Authority along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Concession Agreement or for the actual number of months of operation in the first year of operation, as the case may be.

7.3. On receipt of the proposal, this Authority will seek the views of the KOPT on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

7.4. In the event of licensee not achieving the Performance Standards as incorporated in the license Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

7.5. After considering the views of the KOPT, if this Authority is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.

7.6. While considering the proposal for Performance Linked Tariff, this Authority will look into the Performance Standards and its adherence by the Operator. This Authority will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the operator. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.

7.7. From the third year of operation, the Performance Linked Tariff proposal from the PPP operator shall be automatically notified by this Authority subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The PPP operator, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and the Authority shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

7.8. In the event any user has any grievance regarding non-achievement by the PPP operator of the Performance Standards as notified by this Authority, he may prefer a representation to the Authority which, thereafter, shall conduct an inquiry into the representation and give its finding KOPT. The KOPT will be bound to take necessary action on the findings as per the provisions of the respective Concession Agreement.

7.9. Within 15 (fifteen) days of the signing of the Concession Agreement, the concerned operator will forward the Concession Agreement to this Authority which will host it on its website.

7.10. The PPP operator shall furnish to this Authority quarterly reports on cargo traffic, ship berth day output, average turnaround time of ships, average pre-berthing waiting time as well as the tariff realized for each berth. The quarterly reports shall be submitted by the PPP operator within a month following the end of each quarter. Any other information which may be required by TAMP shall also be furnished to them from time to time.

7.11. This Authority shall publish on its website all such information received from PPP operator. However, this Authority shall consider a request from any PPP operator about not publishing certain data/ information furnished which may be commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/information in question and the likely adverse impact on their revenue/ operation of upon publication. The decision of this Authority in this regard would be final.

T.S. Balasubramanian)
Member (Finance)

Annex - I

KOLKATA PORT TRUST

<u>REFERENCE TARIFF SCHEDULE FOR SETTING UP OF RIVERINE JETTY FOR HANDLING ALL TYPES OF COAL (OTHER THAN THERMAL COAL) /COKE AT OUTER TERMINAL- I, HALDIA DOCK COMPLEX, KOLKATA PORT TRUST.</u>

1.1 Definitions:

In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply:

(i). 'Coastal Vessel' shall mean any vessel exclusively employed in trading between any Port or place in India to any other Port or place in India having a valid coastal license issued by the Director General of Shipping/ Competent authority.

(ii). 'Foreign Going Vessel' shall mean any vessel other than coastal vessel.

(iii). 'Day' shall mean the period starting from 6 am of a day and ending at 6 am on the next day.

(iv). 'Free period' shall mean the period during which cargo is allowed storage free of demurrage and this period shall exclude Customs notified holidays and Terminal's non-operating days.

(v). 'Per Day' shall mean a calendar day or part thereof.

1.2 General Principles of Assessment:

(i). **<u>Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate</u>**

(a). Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

(i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(ii). Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

* The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.

(b). In case of a Foreign flag vessel converted to coastal run on the basis of a license for specified period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

The charges for coastal cargo/containers/vessels shall be denominated and collected in Indian Rupee.

(ii). **<u>System of classification of vessel for levy of Vessel Related Charges (VRC)</u>**

(a). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a license for specified period or voyage issued by the Director General of Shipping and a custom conversion order.

(c). **Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate**

(a). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(b). In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(c). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(iii). **Interest on delayed payments / refunds:**

(a). The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the Terminal Operator shall pay penal interest on delayed refunds.

(b). The rate of penal interest will be 2 % above the Base Rate declared by the State Bank of India. The penal interest rate will apply to both the Terminal Operator and the user equally.

(c). The delay in refunds will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.

(d). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the Terminal Operator. The provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act, 1963 and/or where payment of charges in advance is prescribed in this Scale of Rates.

All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.

(iv). No claims for refund shall be entertained unless the amount refundable is ₹ 100/- or more. Likewise, terminal operator shall not raise any supplementary or undercharge bills, if the amount due to the terminal is ₹ 100/- or less.

(v). Users will not be required to pay charges for delays beyond a reasonable level attributable to the Terminal Operator.

(vi). The berth hire charges for all Coastal vessels should not exceed 60% of the corresponding charges for other vessels.

(vii). (a). The reference rates prescribed in this Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The Terminal Operator may, if it so desires, charge lower rates and/ or allow higher rebates and discounts.

(b). The Terminal Operator may also, if he so desires, rationalize the prescribed conditionality governing the application of rates prescribed in the Scale of Rates, if such rationalization gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels.

(c). Provided that the Terminal Operator should notify the public such lower rates and / or rationalization of the conditionality governing the application of such rates and continue to notify the public any further changes in such lower rates and / or in the conditionality governing the application of such rates, provided the new rates fixed shall not exceed the rates notified by the TAMP.

(viii). In calculating the gross weight/ measurement by volume or capacity of any individual item, fractions upto and inclusive 0.5 shall be taken as 0.5, unit fractions of above 0.5 shall be treated as one unit, except where otherwise specified.

1.3 Berth Hire

The berth hire charge shall be payable by masters/ owners/ agents of the vessels and other floating craft approaching or lying alongside the berth at the following rates:

Sl. No.	Description of vessel	Rate per hour per GRT or part thereof (in ₹)
1	Foreign going vessel	**₹ 0.612**
2	Coastal vessels	**₹ 0.37**

Notes to.1.3:

(i). The time for the purpose of levy of the berth hire shall be reckoned from the time the vessel occupies the berth till she vacates the berth.

(ii). Berth hire includes charges for services rendered at the berth, such as occupation of berth, rubbish removal, cleaning of berths, fire watch, etc.

(iii). No berth hire shall be levied for the period when the vessel idles at its berth for continuous one hour or more due to breakdown of terminal operator's equipment or power or for any other reasons attributable to the terminal operator,

(iv) (a). Berth hire shall stop 4 hours after the time of the vessel signaling its readiness to sail. The time limit prescribed for cessation of berth hire shall exclude the ship's waiting time for want of favorable tidal conditions or on account of inclement weather or due to absence of night navigation facilities.

(b). The master/ agent of the vessel shall signal readiness to sail only in accordance with favorable tidal and weather conditions.

(v). The penal berth hire shall be equal to one day's (24 hours) berth hire charge for a false signal.
'False signal' would be when the vessel signals readiness even when she is not ready for un-berthing due to engine not being ready or cargo operation not being completed or such other reasons attributable to the vessel.

(vi). In case a vessel idles due to non-availability or breakdown of the equipment of Terminal Operator or power failure at the Jetty or any other reasons attributable to the Terminal Operator, rebate equivalent to berth hire charges accrued during the period of idling of vessel shall be allowed.

(vii). Ousting priority / Priority berth Hire:

The rate and conditions for granting ousting priority berthing / priority berthing will be governed by extant Government guidelines/ orders in the matter and the provisions prescribed in the Scale of Rates of Kolkata Port Trust.

1.4 Cargo Handling Charges:

Sl. No.	Commodity	Unit Rate in ₹. per Metric Tonne	
		Foreign	Coastal
1.	All Types of Coal (Other than Thermal coal) & Coke	₹ 271.53	₹ 205.92

Note:

The Cargo handling charges prescribed above is a composite charge for unloading of the all types of coal (other than thermal coal) / coke from the vessel and transfer of the same up to the point of storage, storage at stack yard upto a free period of 6 days after completion of unloading, reclaiming from stack yard and loading on the wagons. This composite charge includes wharfage and supply of labour and / or equipment wherever necessary and all other charges not specifically prescribed in the Scale of Rates."

1.5 Storage Charges

The Storage charges for the cargo stored in the stack yard beyond the free period allowed shall be as follows:

Description	Rate in ₹ per MT per Day or part thereof
Free period	6 days
First five days after expiry of free period	1.09
6th day to 10th day after expiry of free period	1.63
From 11th day onwards	2.18

Notes to 1.5:

(i). Free period shall commence from the day following the day of complete discharge of cargo.

(ii). For the purpose of free time, terminal's non-working days and Custom's notified holidays shall be excluded.

(iii). Storage charge shall be payable for all days including terminal's non-working days and Custom's notified holidays for stay of cargo beyond the prescribed free days.

(iv). Storage charge on cargo shall not accrue for the period when the terminal operator is not in a position to deliver/ ship the cargo when requested by the user due to reasons attributable to the operator.

1.6. Miscellaneous Charges:

Composite charge for all the miscellaneous services such as sweeping, weighment of wagons, trucks, receiving/ delivery of cargo etc., shall be levied at ₹. 2.66 per metric tonne.

1.7. General Note to Section-1.3 to Section-1.6 Above:

(i). The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2016 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.

(ii). From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire licence period. However, the Licensee would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

(iii). The proposal shall be submitted to TAMP along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.

(iv). On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

(v). In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

(vi). After considering the views of the Major Port Trust, if TAMP is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.

(vii). While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.

(viii). From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

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Annex - II

PERFORMANCE STANDARDS

Schedule of Performance Standards "Setting up of Riverine Jetty for handling Coal/Coke at Outer Terminal-1, Haldia Dock Complex, Kolkata Port Trust"

Gross Berth Output:

The parameter deals with the productivity of the terminal (Gross Berth Output) for different types of cargo. In case of coal/coke the capability of the terminal (mechanization, method of handling) and parcel size will determine the Gross Berth Output. Higher terminal capability and greater parcel size will lead to high productivity. The Gross Berth Output shall be calculated as the total cargo handled from the ship during a month divided by the time spent by the ship at the terminal multiplied by number of working days of ships in that month at that terminal. While determining the number of working days from the ship hours, the berth allowance of 4 hours shall be subtracted from the total hours.

The norms of Gross Berth Output for Coal/ Coke are as follows:

- Gross Berth Output for the Panamax Vessels – 28,000/ Day /Berth.
- Gross Berth Output for the Handimax Vessels – 20,700/ Day /Berth.

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