

No.4

New Delhi, the 6th January, 2000

## TARIFF AUTHORITY FOR MAJOR PORTS

### NOTIFICATION

No.Tariff/35/98-TAMP - In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby passes an order on the proposal of the Hydrographic Survey of India to levy of a hydrographic fee as in the Order appended hereto.

### Case No.Tariff/35/98-TAMP

**The Hydrographic Survey of India**

...

**Applicant**

### ORDER

( Passed on this 3rd day of December 1999 )

This case relates to a request received from the Chief Hydrographer to the Government of India for recovery of operating expenditure connected with essential navigation safety surveys by the Chief Hydrographer to the Government of India under the IMO/IHO Regulation.

2. The Ministry of Defence have suggested the following options for recovery of the expenditure:

- (i). Under the Navigation Rules promulgated by the Ministry of Surface Transport under the Merchant Shipping Act, where the Navigation Charts and Publications forms part of the equipment required to be carried by a ship.
- (ii). Under the provision of Safety of the Life at Sea (SALOS) Convention 84 which forms part of the Merchant Shipping Regulations, India being a signatory to the IMO Convention.
- (iii). By construing the Navigational Chart as an 'apparatus' under the provision of Lighthouse Act 1927 (as a Navigational aid).
- (iv). By increasing the Port Dues progressively under the Indian Ports Act construing the Hydrographic Service as a part of the 'Marine conservancy and marine pollution' which has integral component in revising port dues under Indian Ports Act 1908.

3. The proposal of the Applicant is to levy fees by the respective Port Trusts on the merchant marine on a tonnage basis similar to the 'Port Dues' and the 'Light Dues'. The amount so collected by the Major Ports can then be transferred to the Chief Hydrographer through a suitable mechanism.

4. The fleet of survey ships and hydrographic equipment are required to be modernised constantly to keep pace with the fast advancing technology. However, due to resource constraints, this is becoming increasingly difficult to meet the requirement of funds to the extent of Rs.120 crores per annum. They have, therefore, requested to generate funds to make the department self-sustaining by levying a Hydrographic fee from merchant marine. "Light dues" and "port dues" are already being levied under the Indian Light House Act, 1927 and the MPT Act, 1963 respectively. The Hydrographic Survey Committee of the MOST at its annual meetings in 1995,1996 and 1997 has reiterated the need and requested the MOST to levy a Hydrographic fee through a suitable mechanism. This fee can be realised by the Major Ports based on the tonnage of cargo handled by them. The amount so recovered can be credited to the Chief Hydrographer for utilization by them.

5. The proposal was circulated to the Major Port Trusts including users of the facility, the comments received are summarised below :-

**INSA :**

- (i). TAMP is not authorised to deal with the matter.
- (ii). Ports shall first accept NHS's work to be within their purview and then only include cost on their account if not already being done.
- (iii). Cost for NHS must continue to be under general revenue viz. the budget of the Defence Ministry which is the principal user of their services.
- (iv). If they insist to be predominantly a "National Facility" other than for defence, then, they must so obtain a clearance from the Parliament for incorporating it statutorily.

**CSLA :**

- (i). They are firmly opposed to the proposal. Moreover, the Shipping Industry is not in a position to absorb such charges.
- (ii). They have learned that the Dutch Government was providing aid to India for improving hydrographic survey systems. As such, it would

not be appropriate for the Government to propose a new charge to the merchant marine.

**DG (Shipping) :**

The National Hydrographic office may initiate dialogue with the Directorate General of Lighthouse and Lightships to explore possibilities of sharing light dues which is collected by them on a regular basis for providing and upkeep of navigational aids.

6. The Port Trusts have made the following comments :

**Paradip Port Trust :**

The proposal will increase the ocean freight which may result in reduced competitiveness of Indian goods in World market and affect the price of consumer products in India. It is also necessary to ascertain whether any other Maritime Nation is charging dues for such services.

**New Mangalore Port Trust :**

Since the issue is common to all Major Ports, they have referred the matter to the Indian Ports Association to evolve a consensus policy.

**Cochin Port Trust :**

Charts prepared by the Hydrographic Survey are priced documents. Such charts prepared by British Admiralty are not charged. Moreover, there is no rationale in linking this to the GRT of the vessel as there is no relevance with the survey of publication charges vis-à-vis GRT of the vessels. There is also no provision in the MPT Act and Indian Ports Act for collection of such a levy. The proposed if applied may affect port traffic.

**Visakhapatnam Port Trust :**

They have requested for furnishing procedure being followed by the Maritime Nations.

**Mormugao Port Trust :**

Such move will adversely affect export of iron ore from the Port, it being a mono-commodity port.

**Jawaharlal Nehru Port Trust :**

The proposal is not acceptable to JNPT. The MPT Act does not approve of levying of any financing by Government Departments. The issue may be discussed between Ministries of Defence, Surface Transport and Finance. The scheme will be detrimental to the Major Ports, as the fee is not proposed to be levied from the Minor Ports or new private ports that are coming up.

### **Mumbai Port Trust :**

Service rendered by the NHSI are not availed of by the MBPT. In view of this the vessel calling at the MBPT should not be subjected any specific levying in this connection as (a). such a charge is not levied anywhere in the World; (b). general cost of shipping and freight rates would go up; and, (c). it would have adverse impact on ships calling at Indian Ports.

7. This subject was also discussed in the Maritime State Development Council (MSDC) meeting held on 23 June 99. It was recommended to amend Sections 33 and 36 of the MPT Act 1908 to levy and collect such a fee. The Authority, therefore, sent a communication on 30 August 99 requesting the MOST to apprise us about the development/present position as the Government has been in the process of taking a policy decision on this subject.

8. In reply, the MOST has requested us to consider the feasibility of inclusion of the Hydrographic dues either as a separate levy or as a part of port dues in the Indian Ports Act. The Ministry has forwarded letter written by the Chief Hydrographer to the Government of India to the Secretary, MOST requesting the Ministry to include the levying of hydrographic fees in the proposed new Indian Ports Act 1999.

9. The matter relating to levy of Hydrographic fee / navigation safety fee was raised during the presentation made by the ADB Consultants in the Authority's meeting held on 10 November 99. Shri Pamy Arora, the Principal ADB Consultant informed the Authority that none of the World ports levy Hydrographic fee as a part of the tariff. However, in the case of Russian Sea Port Authority, the Ministry of Transport also looks into licence / navigation safety.

10. With reference to the totality of information collected in the processing of this case, and based on a collective application of mind, the case was discussed in detail and it was decided to reiterate the stand taken by the Authority that it was for the Government to take a policy decision about whether Hydrographic Surveys should be funded by the Government from out of its resources or through a special cess (to be collected by the ports). It was held that this item could not be a charge on tariffs.

11. In the result, and for the reasons given above, the application is rejected and the case is closed.

**S.SATHYAM, Chairman**

[ Advt./III/IV/Exty./143/99 ]

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[ [List of Ports](#) | [List of Orders](#) ]