

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

G.No. 150

New Delhi,

11 April 2018

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from V.O. Chidambaranar Port Trust (VOCPT) for amendments in the Scale of Rates (SOR) approved by the Authority in the Order No.TAMP/29/2016-VOCPT dated 17 September 2016 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/29/2016-VOCPT

V.O. Chidambaranar Port Trust

Applicant

QUORUM

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

ORDER

(Passed on this 19th day of March 2018)

This case relates to a proposal dated 27 February 2018 received from the V.O.Chidambaranar Port Trust (VOCPT) for amendments in the existing Scale of Rates (SOR) approved by this Authority in the Order No.TAMP/29/2016-VOCPT dated 17 September 2016 based on the proposal received from the VOCPT for general revision of its SOR.

2. This Authority had passed an Order No.TAMP/29/2016-VOCPT dated 17 September 2016 on the subject proposal. The Scale of Rates (SOR) alongwith Performance Standards has been notified in the Gazette of India on 10 October 2016 vide Gazette No. 370. The same has been communicated to VOCPT and concerned users vide our letter dated 14 October 2016. Speaking Order has been notified by this Authority in the Gazette of India on 28 November 2016 vide Gazette No.427.

3.1. Now, with reference to the said Order dated 17 September 2016, the VOCPT vide its letter No. FIN-OFFCT-ADT-RAO R-VI-14/D 2094 dated 27 February 2018 has sought amendment in its SOR and has made the following submissions:

- (i). At present, the port collects all dollar denominated vessel related charges in respect of foreign vessels into its equivalent Indian Rupees at the market buying exchange rate notified by State Bank of India (SBI) on daily basis as per (v) a & b of 1.2 of General terms and conditions of Chapter I of prevailing SoR.
- (ii). The Resident Audit Unit reiterated to adopt Reserve Bank of India (RBI) reference rate in the place of SBI buying rate as the RBI rates are beneficial to the port and Chennai Port has also migrated over to RBI rates with effect from June 2016.
- (iii). Considering the above RAO remarks, a proposal has been submitted before the Board in the Board meeting dated 9 February 2018 for deliberations of the above issue for the decision for dollar denominated tariff to be recovered in Indian Rupees after conversion of charges in dollar terms into its equivalent Indian Rupees at the reference rate of RBI as specified from time to time, instead of SBI market buying exchange rate notified by SBI.
- (iv). The Board after deliberations, resolved that (i) All dollar denominated tariff will be recovered in Indian Rupees after conversion of charges in dollar terms into its equivalent Indian Rupees at the Reference rate of Reserve Bank of India as specified from time to time after TAMP notifications. During non availability of RBI reference rates for any day, the latest available RBI Reference Rate prior to that day shall apply and (ii). To send a proposal to TAMP for amendment of SoR clause (v) (a) (b) of 1.2 of Terms and conditions of chapter I of SoR.
- (v). The Board of Trustees of VOCPT, in its meeting held on 9 February 2018, has resolved vide resolution no.90 to approve the above proposal. A copy of Board resolution dated 9 February 2018 is furnished.
- (vi). The port has, therefore, requested for amendment in clause (v) (a) (b) of 1.2 of Terms and conditions of Chapter I of revised SOR and notify the amended note as under:

Amendment in clause (v) (a) (b) under 1.2 General Terms and conditions under Chapter I of the SoR as follows:

All dollar denominated tariff will be recovered in Indian Rupees after conversion of charges in dollar terms into its equivalent Indian Rupees at the Reference rates of Reserve Bank of India as specified from time to time after TAMP notification. During non availability of RBI reference rates for any day the latest available, RBI Reference Rate prior to that day shall apply.

3.2. Subsequently, the VOCPT vide its letter No. FIN-OFFCT-ADT-RAO R-VI-14/D 2093 dated 27 February 2018 has sought one more amendment to its SoR and has made the following submissions in that regard:

- (i). In the recent past some of the vessels carrying cargo like wheat, rock phosphate, copper concentrate at the berths could not work due to cloudy weather / drizzling / light rain. Whereas vessels carrying cargo like timber, granite, coal, limestone etc. could work during cloudy weather / drizzling / light rain.

It was noticed that coal vessels that could work during such weather conditions that but, arrived subsequent to the vessels at berth were waiting in the queue at the anchorage while the vessels carrying wheat, copper concentrate and rock phosphate were idling at the berth.

- (ii). To utilize the situation of adverse weather condition for the operational benefit of the port by shifting of wheat vessel from the particular Berth to anchorage and berthing the other waiting vessels carrying coal, the shifting of such vessel to anchorage and bringing it back need to be treated as shifting for port convenience. The present Scale of Rates do not cover this scope.

- (iii). Considering the above, a proposal has been submitted before the Board in the Board Meeting dated 9 February 2018 to forward a proposal to TAMP to incorporate a condition of treating shifting of vessel during adverse weather condition to anchorage and bringing it back to berth also under the definition of port convenience in the Scale of Rates under the general notes as Sl. No. 3(i)(g) for shifting of vessel. A copy of the relevant Agenda placed before the Board Meeting and Resolution passed in the Board Meeting of VOCPT dated 9 February 2018 is furnished.

- (iv). The port has thus, requested to incorporate the following additional general notes to Schedule 2.2.1, 2.2.2 and 2.2.3 as Sl. No.3(i) (g) after SL.NO.3 (i) (f) for shifting of such vessel as port convenience and the issue an amendment in the existing SoR.

(g). Shifting of vessel during adverse weather condition to anchorage and bring it back to berth.

4. Thus, in short VOCPT has proposed two amendments in the existing SoR. The first amendment relates to adoption of Reference Rate as notified by Reserve Bank of India in place of existing provision of adopting market buying rate of SBI for conversion of dollar denominated vessel related tariff and container related tariff into Indian Rupees. The other amendment relates to insertion of an additional note to treat Shifting of vessel during adverse weather condition to anchorage and bring it back to berth as shifting for port convenience for operational benefits of port and also to reduce idling at berth due to weather condition like cloudy weather, drizzling light rain. Since the proposal filed by VOCPT is with the approval of the Board of Trustees of VOCPT and first one is based on Clause 5.6.1 of Working Guidelines and the other one is to optimise berth utilisation and to reduce idling of vessels at berth during odd weather condition, the consultation process and joint hearing on the amendments proposed by VOPT was not found necessary.

5.1. As regards the first amendment proposed by VOCPT, a comparison of the relevant note (v) (a) (b) under Schedule 1.2 - General Terms and conditions as per existing SoR approved by this Authority based on the SoR proposed by the VOCPT and the amendment proposed by VOCPT are tabulated below:

Sl. No.	Note (v) (a) (b) under Schedule 1.2 – General Terms and Conditions as proposed by VOCPT in its Original	As proposed by VOCPT in the current proposal dated 27 February 2018
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	Proposal dated 7 May 2016 and as in the SOR approved by this Authority vide Order dated 17 September 2016	
I.	<p>1.2. General Terms and Conditions:</p> <p>(v). (a). Vessel related charges shall be levied on shipowners / steamer agents. Wherever rates have been denominated in US dollar terms the charges shall be recovered in Indian Rupees after conversion of US currency to its equivalent Indian Rupees at the Market Buying Rate notified by the Reserve Bank of India, State Bank of India or its Associates or any other Public Sector Banks as may be specified from time to time. The date of entry of the vessel into the port limit shall be reckoned with as the day for such conversion.</p> <p>(b). Container related charges denominated in US dollar terms shall be collected in equivalent Indian Rupees based on the Market Buying Rate prevalent on the date of entry of the vessel in case of import containers; and on the date of arrival of the containers into the port in case of export containers.</p>	<p>1.2. General Terms and Conditions:</p> <p>(v). All dollar denominated tariff will be recovered in Indian Rupees after conversion of charges in dollar terms into its equivalent Indian Rupees at the Reference rates of Reserve Bank of India as specified from time to time after TAMP notification. During non availability of RBI reference rates for any day, the latest available RBI Reference Rate prior to that day shall apply.</p>

5.2. The analysis with reference to first amendment proposed by VOCPT is given below:

- (i). The note proposed in the existing SoR of VOCPT is as per note proposed by VOCPT in the SoR.
- (ii). It is relevant to state here that, Clause 5.6.1 of Working Guidelines notified by this Authority to operationalize the Policy for Determination of Tariff for Major Port Trusts 2015 stipulates the following:

“All US dollar denominated tariff will be recovered in Indian Rupees after conversion of charges in US dollar terms into its equivalent Indian Rupees at the Reference rate notified by the Reserve Bank of India or the market buying rate notified by State Bank of India as may be specified from time to time.”

- (iii). Since the amendment proposal of VOCPT is in line with the clause 5.6.1 of Working Guidelines and recognising that the Board of Trustees of VOCPT has approved the proposal for amendment, the proposed amendment is approved subject to slight modification as explained in subsequent point.
- (iv). (a). It is seen that as against two clauses (a) and (b) prescribed in the existing SoR, the VOCPT has proposed a common note. The VOCPT has not included the first and last sentence of existing note (a). in the proposed note. As regard note (b), the port has not included the exchange rate to be adopted will be pertaining which date in case of import and export container which has been prescribed in the existing note (b). The existing provision at (a) and (b) in this regard are as per clause 5.6.2 of the working guidelines.
- (b). As regards the proposal of VOCPT that during non availability of RBI reference rates for any day, the latest available RBI Reference Rate prior to that day shall apply, it is to state that such a prescription is not in line with the clause 5.6.1 of the working guidelines. Such a condition is not prescribed in the SOR of any other Major Port Trusts. The guideline gives another option of market buying rate notified by SBI for conversion of dollar rate into equivalent Indian Rupees.

5.3. In view of the above analysis, existing notes (v) (a) and (b) under schedule 1.2 General Terms and Conditions are amended (modification highlighted as Bold) as follows in line with the provision in the working guidelines. This is also in line with provision prescribed in other Major Port Trusts.

- (a). Vessel related charges shall be levied on shipowners / steamer agents. Wherever rates have been denominated in US dollar terms the charges shall be recovered in Indian Rupees after conversion of US currency to its equivalent Indian Rupees at the **Reference Rate** notified by the Reserve Bank of India or the **market buying rate notified by State Bank of India** from time to time. The date of entry of the vessel into the port limit shall be reckoned with as the day for such conversion.
- (b). Container related charges denominated in US dollar terms shall be collected in equivalent Indian Rupees based on the **Reference Rate** notified by the Reserve Bank of India or the Market Buying Rate **notified by State Bank of India** prevalent on the date of entry of the vessel in case of import containers; and on the date of arrival of the containers into the port in case of export containers.

6.1. The second note proposed by VOCPT is for insertion of a note (g) under note 3 to General notes relating to Schedule 2.2.1, 2.2.2 and 2.2.3 to treat Shifting of vessel during adverse weather condition to anchorage and bring it back to berths as shifting for Port Convenience.

6.2. It is relevant to state that the existing note 1 under schedule 2.2.1. lists the services covered under pilotage fee which includes amongst others, shifting of vessels for port convenience. Further, note 3 to General notes relating to Schedule 2.2.1, 2.2.2 and 2.2.3 states that no charges shall be levied for shifting of a vessel for port convenience and prescribes various movements of vessels under (i) (a) to (f) therein which will be treated as shifting for port convenience. The port has now proposed to add one more note as (g) as stated earlier. The amendment proposed by VOCPT is reportedly based on position obtained by the port when during the cloudy weather, drizzling / light rain, vessels carrying wheat, rock phosphate, Copper Concentrate at berths could not work and are idling. Whereas, vessels at anchorage carrying coal, limestone, granite, timber which could work during such weather are waiting at anchorage in queue. The VOCPT proposes to utilise the berth by shifting vessels at berth which can not work due to weather condition to anchorage and berth other waiting vessels to berth for operational reasons. In this context, the port proposes to insert a note that Shifting of vessel during adverse weather condition to anchorage and bringing it back to berths as shifting for Port Convenience. Since the proposed amendment is to utilise the berth optimally and also since the amendment proposed by VOCPT is approved by the Board of Trustees of VOCPT, this Authority approves the amendment as proposed by the port.

7. Ordinarily the Orders approved by this Authority have prospective effect after expiry of 30 days from the date of notification of the Order in the Gazette of India. Accordingly, the amendments to the existing SOR notified by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016, are made effective after expiry of 30 days from the date of notification of this Order in the Gazette of India.

8.1. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the following amendments to the existing SOR of the VOCPT approved by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016:

- (i). **Replace the existing notes (v) (a) and (b) under 1.2 General Terms and Conditions under the Chapter-I in the SoR approved by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016 with the following:**

- “(v). (a). Vessel related charges shall be levied on shipowners / steamer agents. Wherever rates have been denominated in US dollar terms the charges shall be recovered in Indian Rupees after conversion of US currency to its equivalent Indian Rupees at the **Reference Rate** notified by the Reserve Bank of India or the **market buying rate notified by State Bank of India** from time to time. The date of entry of the vessel into the port limit shall be reckoned with as the day for such conversion.
- (b). Container related charges denominated in US dollar terms shall be collected in equivalent Indian Rupees based on the **Reference Rate** notified by the Reserve Bank of India or the Market Buying

Rate notified by State Bank of India from time to time prevalent on the date of entry of the vessel in case of import containers; and on the date of arrival of the containers into the port in case of export containers.”

- (ii). **Insert the following entry as Sl. No.(g) after Sl. No.3(i) (f) under General Notes relating to Schedule 2.2.1., 2.2.2. and 2.2.3 under Chapter–II Vessel Related Charges approved by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016:**

“(g). Shifting of vessel during adverse weather condition to anchorage and bring it back to berth.”

8.2. The amendments approved will come into effect after expiry of 30 days from the date of notification of this order in the Gazette of India.

8.3. The VOCPT is directed to suitably amend the existing SOR.

(T.S. Balasubramanian)
Member (Finance)