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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.575

New Delhi,

17 November 2021

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 the New Mangalore Port Trust (NMPT) for extension of existing performance norms, reduction proposed in Performance Norms for rock phosphate prescribed vide order No.TAMP/73/2018-NMPT dated 10 October 2019 and extended vide Order No.TAMP/73/2018-NMPT dated 28 October 2020 and for incorporation of performance norms for new cargo viz. industrial salt. Considering the time involved for notifying (Speaking) Order along with the rates, approved by this Authority, this Authority decided to notify only the Performance Norms immediately. Accordingly, the Performance Norms approved by this Authority on 26 October 2021 was notified in the Gazette of India on 01 November 2021 vide Gazette No.537 It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order connected with disposal of the proposal of the NMPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/48/2021-NMPT

New Mangalore Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Sunil Kumar Singh, Member (Economic)

ORDER

(Passed on this 26th day of October 2021)

This case relates to the proposal dated 01 September 2021 alongwith email dated 08 September 2021 received from New Mangalore Port Trust (NMPT) for extension of existing performance norms (except for reduction proposed for rock phosphate) prescribed vide order No.TAMP/73/2018-NMPT dated 10 October 2019 and extended vide Order No.TAMP/73/2018-NMPT dated 28 October 2020 and for incorporation of performance norms for new cargo viz. industrial salt.

2.1. The Authority vide its Order No.TAMP/73/2018-NMPT dated 10 October 2019 has, based on the proposal of NMPT and after following due consultation process with stakeholders and after holding joint hearing, approved the proposal received from NMPT for revision of Performance norms and incentives/ penalties required under Berthing Policy for Major Port Trusts, 2016 for Dry Bulk Cargo. This Order was notified in the Gazette of India on 30 October 2019 vide Gazette No.380. The notified Order came into effect from 29 November 2019 and validity is prescribed for a period of 1 year i.e. 28 November 2020.

2.2. Subsequently, the Authority vide its Order No.TAMP/73/2018-NMPT dated 28 October 2020 extended the validity of the existing Performance Standards for dry bulk cargo and incentives and penalties linked to Performance Standards. This Order was notified in the Gazette of India on 19 November 2020 vide Gazette No.504. The said Order is valid till 28 November 2021.

3.1. In this backdrop, the NMPT has filed the current proposal for extension of validity of existing Performance norms for all cargo except Rock Phosphate for which the Port has proposed reduction in the performance norms. The Port has also proposed performance norms for new cargo viz. Industrial Salt.

3.2. The main points made by NMPT in its proposal dated 01 September 2021 are summarised below:

- (i). The TAMP vide Order No.TAMP/73/2018-NMPT dated 28 October 2020, extended the validity of the performance norms penalty and incentive for dry bulk cargo vessel at NMPT for one more year.
- (ii). As the validity of the Order will be expiring on 28 November 2021, review of performance of dry bulk vessels was undertaken.
- (iii). For the period from 01 November 2020 till 30 June 2021, 53 bulk cargo vessels were handled at Port operated berths by the stevedores. Of that, 37 vessels i.e. 70% of vessels have achieved about 5% of the performance norms and have been awarded incentives. 5 vessels i.e. 9% of the vessels have not incurred either penalty nor incentive and their performance are at par within the limits of (+/-) 5% of the norms. 11 vessels i.e. 21% of the vessels have incurred penalty. The performance achieved by 53 dry bulk vessels for the period 01 November 2020 to 30 June 2021 is furnished in Annexure-1. These are the overall performance norms achieved vessel wise where the stevedores have used a combination of ship crane, 64 Tons HMC and 100 Ton HMC to various extend.
- (iv). (a). In this regard Port held a meeting on 19 July 2021 with the registered stevedores of NMPT to review the performance norms. In the meeting,

Association of New Mangalore Port Stevedores (ANMPS) and the other stevedoring agents unanimously urged the Port not to increase the performance norms for dry bulk. The Stevedores opined that the effects of pandemic and lockdowns are adversely affecting mobilization of shore equipment and workforce.

- (b). They also highlighted that the Port infrastructure has not seen any upgradation and the existing 2 nos. of 64 ton capacity Harbour Mobile Cranes (HMC) owned by port are aging. As such, meeting productivity in norms is getting harder.
 - (c). The 100 tonne private harbour mobile crane that is made available is also older. But, the norms stipulated for this crane is considerably higher leading to penalty.
 - (d). In view of the above, the stevedores have requested the Port to minimise the penalty burden on the stevedores and not to increase the performance norms.
 - (e). The minutes of the meeting held on 19 July 2021 is attached as Annexure-2.
- (v). Further the ANMPS vide letter no.07/2021-22 dated 23 July 2021 (Annexure-3) has elaborated on various issues faced by them and have requested to consider their views at the time of finalization of the policy. The main points made by ANMPS in their letter dated 23 July 2021 addressed to NMPT are summarized below:
- (a). During the Meeting ANMPS has requested vehemently not to increase in performance norms for following reasons:-
 - (i). There are no changes in working environment nor any improvement in infrastructure. Vessels being received at the Port are old & slow. The Port Cranes are old. The Private HMC being made available for Cargo operations is also old.
 - (ii). The condition of the Vessels calling at the Port – either the Cranes / derricks of Vessels are not in a position to work full time / lift sufficient quantity of Cargo from the hatches, or the generators of the Vessels are not in a position at a time to provide / supply sufficient power to all the 4 Cranes / derricks of the Vessel, the scooping – gathering capacity of the Grabs are poor etc.
 - (iii). At the Port there are 2 Cranes of 64 MT capacity. Most of the times one remains under repairs. Also, if Container Vessels are at Port or are likely to be received, NMPT gives / allots services of these Cranes for Container Loading / unloading work.
 - (b). Throughout the period during last 17 months, except for 2 months there were restrictions in movement of men & material due to Covid-19 1st & 2nd wave related problems.
 - (c). At times the vessel will have to load / discharge with two / more types / grade of cargo consigned to different consignees. Hence, the draft survey will be carried out by the appointed surveyors after completion of each parcel to ascertain the quantity loaded / discharged at Port. Here the performance norms are to be considered separately.
 - (d). Food Grade cargoes are to be loaded only during the sunny / bright weather conditions. This cargo cannot be loaded during the cloudy/bad weather. Hence, pro-rata performance norms shall be applicable.

- (e). During the year, with hard efforts / heavy expense, we had mobilized the work force, Heavy Vehicle Drivers/Operators, Supervisors etc. though there was Pandemic-19 – 2nd wave related issues. We had attended to Cargo Handling & Transportation work amidst all odds. As such, it shall not be construed that in case of particular Cargo there appears a scope for upward revision in performance norms. ANMPS submits, that in no case the performance norms are to be increased.
- (f). In case of Cargo like Bentonite, Fertilizers / Rock phosphate, Stone / Dolomite etc. the constraints are explained. Considering that and the inherent nature of Cargo, ANMPS have requested to decrease the performance norms of certain commodities. This may be considered.
- (g). Further there is only one Private MHC of 100 MT capacity that too very old attending to Cargo Handling operations. As such in the chart, this time for different Cargo, the performance norms for 1 MHC only be mentioned present Chart it is for 2 MHCs.
- (vi). Based on the meeting the port had with stevedores, and considering the facts and as approved by Chairman, NMPT, TAMP is requested to grant approval for the following in the upcoming review of the NMPT Berthing Policy.
- (a). The performance norms, penalty, incentive and Anchorage charges for dry bulk cargo vessels (except Rock Phosphate vessels) may be continued for another year, i.e. 29 November 2021 to 28 November 2022.
- (b). A comparison of the current stipulated performance norms and actual performance achieved for Rock phosphate is tabulated below:

| Commodity | 4 Ship Crane (Tons/Day) | | 2 Nos. 64 T HMC (Tons/Day) | | 2 Nos. 100 T HMC (Tons/Day) | |
|----------------|----------------------------|----------|-------------------------------|----------|--------------------------------|----------|
| | Existing Norms | Achieved | Existing Norms | Achieved | Existing Norms | Achieved |
| Rock Phosphate | 8200 | 3412 | 8000 | 4192 | 10000 | 5571 |

Rock phosphate is a highly dusty cargo. To minimise dust emanating during handling, the cargo operations are staggered and slowed down. It is to be noted that the discharge of the cargo to trucks is done through hoppers. The vessels importing Rock phosphate are not regular callers to the port. Hence, mobilization of adequate number of hoppers for discharge takes additional time. Therefore, norms for Rock phosphate and other FRM have to be reduced.

- (c). In financial year 2020-21 the Port handled new cargo viz., industrial salt. The actual performance achieved for this cargo is given below:

| Commodity | 4 Ship Crane (Tons/Day) | | 2 Nos. 64 T HMC (Tons/Day) | | 2 Nos. 100 T HMC (Tons/Day) | |
|-----------------|----------------------------|----------|-------------------------------|----------|--------------------------------|----------|
| | Norms | Achieved | Norms | Achieved | Norms | Achieved |
| Industrial Salt | -- | -- | -- | 13502 | -- | 14528 |

The norms for industrial salt is proposed to be newly incorporated considering the actual performance of the vessel.

- (d). The proposed norms for these two commodities are given below and may have the same validity period i.e. 28 November 2022.

| Commodity | 4 Ship Crane (Tons/Day) | | 2 Nos. 64 T HMC (Tons/Day) | | 2 Nos. 100 T HMC (Tons/Day) | |
|-----------------|----------------------------|----------------|-------------------------------|----------------|--------------------------------|----------------|
| | Existing Norms | Proposed Norms | Existing Norms | Proposed Norms | Existing Norms | Proposed Norms |
| Rock Phosphate | 8200 | 3500 | 8000 | 3500 | 10000 | 4000 |
| Industrial Salt | -- | 12000 | -- | 13500 | -- | 14500 |

3.3. In view of the above, the NMPT has requested the Authority to consider the subject proposal and issue necessary orders.

4. The approval of the Board of Trustees of the NMPT for subject proposal was not accompanied with the proposal. In this regard, we have, vide our letter dated 09 September 2021 requested the NMPT to furnish a copy of the approval of Board of Trustees of NMPT for the subject proposal at the earliest. The NMPT vide its email dated 25 October 2021 has furnished a copy of the approval of Board of Trustees of NMPT for the subject proposal.

5. In accordance with the consultative procedure prescribed, a copy of the NMPT proposal dated 01 September 2021 and 08 September 2021 was circulated vide our letter dated 09 September 2021 to the concerned users/ user organisations seeking their comments. No user / user organisation furnished their comments.

6. A joint hearing on the case in reference was held on 06 October 2021 through Video Conferencing. The NMPT made a brief power point presentation of its proposal. At the joint hearing, the NMPT and the concerned users/ organisation bodies have made their submissions.

7. 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 the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). The proposal filed by the NMPT is for extension of Performance Norms and incentive / penalty under the Berthing Policy, 2016 issued by the Ministry of Port, Shipping and Waterways (MOPSW) after review of actual performance undertaken by the port. The validity of performance norms and incentive / penalty under the Berthing Policy, 2016 was first approved by Authority vide its Order No.TAMP/73/2018-NMPT dated 10 October 2019 in respect of Dry Bulk Cargo handled at NMPT for period of one year from 29 November 2019 to 28 November 2020. This was further extended vide Order dated 28 October 2020 from the date of its expiry till 28 November 2021 at the request of the port.
- (ii).
 - (a). Clause 7.2 of the Berthing Policy, 2016 issued by the MOPSW requires the Major Port Trusts to review the norms and increase the norms if more than 60%-70% of ships are achieving the set-norms until target norms are reached. Further, Clause 8.5 of the Berthing Policy stipulate that performance norms will be revised every quarter during the first year until target norms for commodity are reached. Subsequent revisions will be done yearly or upon upgradation of berth infrastructure.
 - (b). As per the Berthing Policy 2016, the port has reviewed the performance norms for the period November 2020 till 30 June 2021.

- (c). The port has on such review reported that out of 53 vessels handled during this period, 70% of vessels achieved above 5% norms and were awarded incentive, 21% of vessels performed below the norms and penalty was collected, 9% of vessels performed within the prescribed norms and neither incentive nor penalty collected.
 - (d). The Port also held a meeting with the registered stevedores of NMPT to review the performance norms on 19 July 2021. In the said meeting, Association of New Mangalore Port Stevedores (ANMPS) and the other stevedoring agents unanimously urged the Port not to increase the performance norms for dry bulk.
- (iii). The main reasons given by the ANMPS / Trade to the port to retain the existing Performance Norms are:
- (a). The Stevedores opined that the effects of pandemic and lockdowns are adversely affecting mobilization of shore equipment and workforce.
 - (b). The Port infrastructure has not seen any upgradation and the existing 2 nos. of 64 ton capacity Harbour Mobile Cranes (HMC) owned by port are aging. As such, meeting productivity the prescribed norms is getting harder.
 - (c). The 100 tonne private HMC that is made available is also older. But, the norms stipulated for this crane is considerably higher leading to penalty.

In view of the above, the stevedores have requested the Port to minimise the penalty burden on the stevedores and not to increase the existing performance norms.

Based on the outcome of the meeting with the ANMPS / Trade, the NMPT has filed the current proposal for extension of validity of existing Performance norms for all cargo by retaining existing norms except for Rock Phosphate for which the Port has proposed reduction in the performance norms. The Port has also proposed performance norms for new cargo viz. Industrial Salt. The said proposal of the port has been approved by the Chairman of the NMPT.

Along with the said proposal the NMPT has also forwarded a statement showing comparison of the existing Performance Standards as approved vide Order No.TAMP/73/2018-NMPT dated 10 October 2019 read with Order dated 28 October 2020 vis-à-vis actual productivity achieved for Rock phosphate along with justification for proposed reduction in Performance Norms.

- (iv). Clause 7.2 of the Berthing Policy stipulates that if more than 60%-70% of ships are achieving the set-norms, then the port should increase the norms.

The port has reported that 70% of vessels have achieved the prescribed norms. However, based on the request made by the ANMPS and the other stevedoring agents to NMPT not to increase the existing performance norms for dry bulk in a meeting held on 19 July 2021, the NMPT has proposed to retain existing Performance norms for all cargo except Rock Phosphate for which the Port has proposed reduction in the performance norms which is dealt with subsequent paragraph.

In view of the above position, and recognising that the proposal to retain the existing productivity norms emanates from the request made by the trade, the Authority approves the proposal of the port.

- (v). As regards Rock Phosphate, the existing performance norms prescribed in the Order No.TAMP/73/2018-NMPT dated 10 October 2019 read with Order dated 28 October 2020 and the actual performance achieved by the port for the period from

01 November 2020 till 30 June 2021 brought out in the preceding paragraphs is reproduced below for ease of reference:

| Commodity | 4 Ship Crane (Tons/Day) | | 2 Nos. 64 T HMC (Tons/Day) | | 2 Nos. 100 T HMC (Tons/Day) | |
|----------------|----------------------------|----------|-------------------------------|----------|--------------------------------|----------|
| | Existing Norms | Achieved | Existing Norms | Achieved | Existing Norms | Achieved |
| Rock Phosphate | 8200 | 3412 | 8000 | 4192 | 10000 | 5571 |

The port has stated that Rock phosphate is a highly dusty cargo. To minimise dust emanating during handling, the cargo operations are staggered and slowed down. Further, the discharge of the cargo to trucks is done through hoppers. Since vessels importing Rock phosphate are not regular, mobilization of adequate number of hoppers for discharge takes additional time.

Based on the actual performance achieved by the port in handling rock phosphate and for the above stated reasons, the port has proposed to reduce performance to 3,500 tonnes / day for 4 nos. of ship cranes, 3,500 tonnes / day for 2 nos. of 64 tonnes HMC and 4,000 tonnes / day for 2 nos. of 100 tonnes HMC. The port has adequately justified the reasons for proposing revised reduced productivity norms. The ANMPS have also endorsed the reduced performance norms proposed by the Port for Rock Phosphate.

That being so, the proposal of NMPT in respect of reduced performance norms proposed for Rock Phosphate is approved.

(vi). The port has also proposed the performance norms for a new commodity "Industrial Salt" based on the actual productivity achieved by the port. In financial year 2020-21, the Port handled only one vessel of this new cargo. Since, the performance norms proposed for Industrial Salt is reportedly based on actual productivity achieved by the port and recognising that it is agreed by users, the proposal of the port in this regard is also approved.

(vii). During the processing of the case, the ANMPS and other users have mentioned about old HMCs of the port, old vessels with old ship cranes calling at the port and about poor infrastructures at the port which adversely affects the productivity.

In this regard, the NMPT has clarified that out of 53 vessels handled during this period, 70% of vessels have achieved above 5% of the prescribed norms and were awarded incentive. This Performance level would not have been possible if infrastructure facility / cranes at the port were poor. The port has, however, in view of the points made by the users / trade agreed that it will take a call to improve the infrastructure at the port.

(viii). The port has not proposed any change / modification in the existing incentive and penalty scheme and the conditionalities prescribed in the Order No.TAMP/73/2018-NMPT dated 10 October 2019 read with Order dated 28 October 2020. Therefore, the existing incentive and penalty scheme and the conditionalities prescribed in the Order No.TAMP/73/2018-NMPT dated 10 October 2019 read with Order dated 28 October 2020 is continued to be prescribed.

(ix). The port has stated that the proposed performance norms, penalty, incentive and Anchorage charges for dry bulk cargo vessels is continued for another year, i.e. 29 November 2021 to 28 November 2022. The port has, however, not proposed the entire schedule along the incentive/ penalty and the existing conditionalities. It is seen that the proposal of the port is not for pure extension of the existing performance norms. For rock phosphate the port has proposed reduction and the port has also proposed performance norms for new cargo viz. industrial salt. In view of the above, it is felt appropriate that the existing performance norms along with

the reduced performance norms for rock phosphate and new performance norms for industrial salt proposed by the port along with existing incentive and penalty scheme and existing conditionalities prescribed in the Order No TAMP /73/2018-NMPT dated 10 October 2019 are notified to have a consolidated position and for ease of implementation. That being so, the entire schedule is notified by the Authority.

- (x). The Berthing Policy, 2016 requires the port to undertake annual review of performance norms. The port has proposed to retain the existing performance norms alongwith revised Performance norms for Rock Phosphate and Performance Norms for new cargo viz., Industrial Salt from 29 November 2021 for a period of one year i.e. till 28 November 2022. The validity of Performance Norms proposed by the port for one year is as per Berthing Policy 2016. Hence, the proposal of the Port is approved.
- (xi). **The port had not furnished a copy of Board of Trustees of NMPT on subject proposal despite request till finalization of case. Later on 25 October 2021, NMPT has forwarded a copy of Board approval of NMPT for the subject proposal. On perusing the Board approval, it is seen that there is mismatch in the Performance Standards of Industrial Salt in the Board approval vis-à-vis proposal sent to TAMP on which consultation with stakeholders was done. The Performance Standards for Industrial Salt proposed by NMPT to TAMP is 13500 tonnes / day and 14500 tonnes / day as against actual performance achieved at 13502 tonnes / day and 14528 tonnes / day for 2 nos. of 64 T HMC and 2 nos. of 100 T HMC respectively. The Board of Trustees of the NMPT has ratified the proposal submitted to TAMP in this regard. However, in the note submitted by the Port to the Board of Trustees of the NMPT, the proposed Performance Standards for Industrial Salt is shown as 13000 tonnes / day and 16000 tonnes / day for 2 nos. of 64 T HMC and 2 nos. of 100 T HMC respectively which does not match with the Performance Standards proposed by NMPT in its proposal sent to TAMP on which consultation with stakeholders was done. In view of the above, NMPT may get the correct Performance Standards for Industrial Salt ratified by its Board. That being so, the approval accorded by this Authority in this Order is subject to Board of Trustees of NMPT approving the Performance Standards proposed by the NMPT to TAMP. The NMPT is requested to furnish a copy of the relevant Board resolution approving the proposal of the port for our records.**

9. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the proposal of NMPT for extension of existing Performance norms along with revised reduced Performance Norms for Rock Phosphate and Performance Norms proposed for a new cargo viz., Industrial Salt and accordingly the amended Performance Norms which has already been notified separately in the Gazette of India on 01 November 2021 vide Gazette No.537.

(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/48/2021-NMPT

Proposal received from the New Mangalore Port Trust (NMPT) for extension of existing performance norms, reduction proposed in Performance Norms for rock phosphate prescribed vide order No.TAMP/73/2018-NMPT dated 10 October 2019 and extended vide Order No.TAMP/73/2018-NMPT dated 28 October 2020 and for incorporation of performance norms for new cargo viz. industrial salt.

A joint hearing on the case in reference was held on 06 October 2021 through Video Conferencing. The NMPT made a brief power point presentation of its proposal. At the joint hearing, the NMPT and the concerned users/ organisation bodies have made the following submissions:

New Mangalore Port Trust (NMPT)

- (i). Makes a power point presentation of its proposal.
- (ii). Performance norms was last approved by TAMP in October 2020. These are expiring on 28 November 2021.
- (iii). As per Berthing Policy, performance norms have been reviewed based on actual performance for the period from November 2020 to 30 June 2021.
- (iv). Out of 53 vessels handled during this period, 70% of vessels achieved above 5% norms and were awarded incentive, 21% of vessels performed below the norms and penalty was collected, 9% of vessels performed within the prescribed norms and neither incentive nor penalty collected.
- (v). Port had meeting with registered Stevedores on 19 July 2021.
- (vi). Stevedoring agents have during the meeting unanimously urged port not to increase the existing performance norms for dry bulk for various reasons brought out in the proposal.
- (vii). Considering this position, port has proposed to retain the existing norms with effect from 29 November 2021 till 28 November 2022.
- (viii). Rock phosphate is dusty cargo. Operation is slow. Hence, it is proposed to reduce norm for this cargo.
- (ix). We handled new cargo industrial salt. Only one vessel was handled. We have proposed norm for this cargo as well.

The Association of New Mangalore Port Stevedores (ANMPS)

- (i). Port infrastructure for handling crane is minimal.
- (ii). Crane and infrastructure facilities need to be improved.
- (iii). Rock phosphate norm needs to be reduced. Proposal of port may be approved by TAMP.
- (iv). All Stevedores want to achieve higher norms. Due to poor infrastructure, we are not able to achieve so.

M/s. JM Baxi & Co.

- (i). We agree with view of ANMPS.

The Kanara Chamber of Commerce and Industry (KCCI)

(Mr. Ameen Mohammed)

- (i). We agree with views of ANMPS.
- (ii). Vessel crane performance also affects productivity. That should also be considered while arriving at performance norms.

The Association of New Mangalore Port Stevedores (ANMPS)

- (i). We get old vessels at port. Cranes are slow in such old vessels. This affects productivity. Port should consider this aspect.
- (ii). Port should acquire higher capacity cranes.

New Mangalore Port Trust (NMPT)

(Traffic Manager)

- (i). 60-70% of vessel have achieved norms. If infrastructure or cranes are not there, how trade could have achieved the performance norms.

New Mangalore Port Trust (NMPT)

(FA&CAO)

- (i). Port proposal is to retain the existing norms except for Rock phosphate where reduction is proposed and norm proposed for one new cargo.
- (ii). Regarding requirement of cranes, Port will take a call.
