

No. PD-14024/5/2020-PD-I (e343443)
Government of India
Ministry of Ports, Shipping & Waterways

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Transport Bhawan
1, Parliament Street, New Delhi-110001

Dated 03 November 2021

To

Chairpersons
All Major Ports
(SMPT, PPT, VPT, ChPT, VOCPT, CoPT, NMPT, MoPT, JNPT, MbPT, DPT)

Subject:- Tariff Policy for Major Port Authorities 2021 (after the MPA Act 2021 comes into force).

Madam/ Sir,

The Government had, under section 111 of the Major Port Trusts Act 1963, issued Policy for Determination of Tariff for Major Port Trusts, 2018 vide communication No.IWT- 11/28/2018-IWT dated 26 December 2018 and subsequent e-mail dated 31 December 2018. The validity of the said Tariff Policy is prescribed till 1 April 2022.

II. The Ministry of Law and Justice has now notified the Major Port Authorities Act, 2021 (01 of 2021) in the Gazette of India dated 18 February 2021. Subsection (1) of Section 27 of the said Act stipulates that the Board of each Major Port Authority or the committee or committees constituted in this behalf by the Board of Major Port Authority may frame scale of rates and a statement of conditions under which, any services shall be performed or for access to and usage of the port assets be allowed by Major Port Authorities. Further, clause (f) of subsection (2) of Section 71 of the ibid Act, empowers the Central Government to make rules providing for the norms for fixation and implementation of scales, fees, rates and conditions under subsection (1) of Section 27.

III. In this back drop, as per the directions of the Ministry of Ports, Shipping and Waterways to frame a comprehensive tariff Policy to be followed by Major Port Authorities post MPA Act 2021 comes into effect, the Indian Ports Association (IPA) formulated a draft Tariff Policy and the Working Guidelines for tariff fixation by Major Ports and also constituted a Committee comprising of Senior Port Officers and experts to review and finalise the Tariff Policy and the Working Guidelines for fixation by Major Port Authorities.

IV. The Committee constituted by the IPA circulated the draft Tariff Policy 2021 and the Working Guidelines 2021 to the Major Ports for their comments. Taking into

consideration the comments of the Major Ports, the said Committee constituted by the IPA has finalised the Tariff Policy, 2021 and the Working Guidelines, 2021.

V. Based on the report of the Committee constituted by the IPA and in pursuance of the Section 53 of Major Port Authorities Act, 2021, the Government hereby issues the following Tariff Policy:

1. PRELIMINARY

1.1 This Policy is issued to the Major Port Authorities as a policy direction under Section 53 of Major Port Authority Act, 2021 for fixation of scale of rates for assets and services available at Major Ports.

1.2 The direction may be called 'Tariff Policy for Major Port Authorities, 2021 (the "Tariff Policy")'.

1.3 This Policy shall come into effect from the date of issue, and would be applicable for determination of tariff in major ports for services and facilities operated by the ports. It shall remain in force until it is reviewed or revoked by the Government.

1.4. This Policy is not applicable to BOT/ BOOT/ PPP operators or any other arrangement for private sector participation.

1.5 This is a broad policy framework. Working Guidelines (Annex-B) to operationalize this Tariff Policy is being issued separately along with the "Tariff Policy".

1.6 The Board of the Major Port Authorities shall constitute a committee, as per the provision of Section 14 of the Major Port Authority Act, 2021 and the rules made thereafter by the Government, for the purpose of fixation and implementation of Scale of Rates, Fees and Conditions.

1.7 The SOR so recommended by the committee as per the Tariff Policy then must be approved by the Board of the Major Port Authority before publishing.

1.8 Ministry of Ports, Shipping and Waterways (MoPSW), may relax application of any of the provisions of the Tariff Policy to a port or a group of ports, on its own or on an application made before it by the Major Port Authority concerned.

2. DETERMINATION OF SCALE OF RATES

2.1 Each Major Port Authority will assess the Annual Revenue Requirement (ARR) which is the average of the sum of Actual Expenditure as per the final Audited

Accounts of the immediate preceding three years (Y1), (Y2) and (Y3) at the time of preparing the proposal, plus Return on Capital Employed (ROCE) comprising of Net Fixed Assets plus Working Capital plus capital work-in-progress obtained as on 31st March Y3, as per the final audited accounts. Rate of Return on Capital Employed shall be 16% or at such rate or return as may be prescribed by the Ministry of Ports, Shipping and Waterways from time to time. The ARR to be duly certified by a practicing Chartered Accountant/ Cost and Management Accountant.

2.2 Actual Expenditure will be the total expenditure as reflected in the Audited Annual Accounts of the Major Port Authorities, subject to following adjustments:

- (i) All expenses relating to Estate related activity are to be excluded.
- (ii) Interest on loans is to be excluded.
- (iii) Only 1/3rd of onetime expenses like arrears of wages, arrears of pension/ gratuity, arrears of ex-gratia payments arising out of wage revision etc. and 1/3rd of the contribution to Superannuation Funds are to be included in the calculation of ARR.
- (iv) Management and General Administration Overheads subject to a cap of 25% of aggregate of the operating expenditure and depreciation is only to be considered.
- (v) Expenses relating to Railway Activity.

[If the Railway income is in excess of the operating Railway expense, then the entire Railway expense is excluded in the ARR computation on the premise that the Railway income is adequate to meet the Railway expenses. If there is deficit in the Railway activity i.e. Railway Income less operating railway expenses, to the extent of the deficit is to be captured in the ARR computation.]

2.3 The ARR so assessed as on 31st March Y3 should be indexed by 100% of the Wholesale Price Index (WPI) for all commodities applicable for the year Y4.

2.4 The indexed ARR determined by the Major Port Authorities as per clause 2.3 is the ceiling Annual Revenue Requirement based on which the Major Port Authorities will draw the Scale of Rates (SOR).

2.5 For drawing the SOR, the traffic to be considered would be the overall actual traffic exclusively for the port for Y3.

2.6 Based on the Annual Revenue Requirement as assessed as per Clause 2.4 above and taking into account the traffic as per Clause 2.5, the Major Port Authorities will have the flexibility to determine the rates to respond to the market forces based on its commercial judgment and draw the SOR within the ceiling of indexed Annual Revenue Requirement, duly certified by a practicing Chartered Accountant/ Cost Accountant.

2.7 While going for a change in SOR, the Major Port Authorities have to ensure that as a result of the changes in SOR, there will not be a loss of traffic.

2.8.1 The SOR will be automatically indexed annually to inflation to the extent of 60% of the variation in the Whole Sale Price Index (WPI) as communicated by Indian Ports Association (IPA) or any other Competent Authority decided by the Government based on the average of monthly Whole Sale Price Index (WPI) for all commodities from January to December announced by the Ministry of Commerce and Industry under the Government of India

2.8.2 The Major Port Authority would, however, be entitled to indexation in tariff at 100% of variation in WPI communicated by the Indian Ports Association (IPA) or any other Competent Authority decided by the Government instead of 60% variation in WPI prescribed in clause 2.8.1 above, from the second year of tariff fixation on achievement of performance standards committed by the Major Port Authority. An illustration showing determination of indexed Tariff and Performance Linked Tariff is at Annexure A.

Such adjustment of SOR will be made every year and the adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year.

2.9 The SOR will come in to effect after expiry of 30 days from the date of publication by the Major Port Authority and shall remain valid for 3 years subject to annual indexation as mentioned in clause 2.8.

2.10. Tariff arrangement for captive berths/ facilities where a separate tariff arrangement is prescribed in the mutual agreement entered into by the port and the concerned user, will continue to be governed by the respective agreement. In the event a captive berth is awarded in future by Major Port Authority following the tendering process, it shall be governed by the proviso prescribed under sub clause (1) of Section 27 of the Major Port Authorities Act 2021.

3. PERFORMANCE STANDARDS OF MAJOR PORT AUTHORITIES

3.1 The Major Port Authorities shall also commit the desired Performance Standards for cargo related services to their customers in terms of average shipberth day output, and average moves per hour in case of container handling exclusively done by the port. For vessel side services, the port shall prescribe Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels on port Account.

3.2 Suitable benchmarking may be adopted to establish the desired performance standards and ports must endeavour to perform and improve the services to the best of their ability.

4. PROCEDURE FOR FIXING THE SOR

- 4.1 The draft SOR, along-with conditionalities governing them, for services rendered or facilities provided or for access to and usage of the port assets and Performance Standards shall be formulated by the Board of Major Port Authority or by Committee(s)so constituted by the Board of the Major Port Authority, in accordance with this Policy as amended from time to time.
- 4.2 The Board of Major Port Authority or the Committee(s) so constituted by the Board while drawing the SOR may draw a comparison of the major tariff items for their ports and ascertain itself that the proposed tariff is comparable and competitive with neighboring and competing ports.
- 4.3 After obtaining approval of its Board, the Major Port Authority shall host the proposal, draft SOR along with the proposed Performance Standards and the cost formats in its website and invite comments of relevant stakeholders/ users to be submitted within 15 days time.
- 4.4 The Major Port Authority will also circulate the tariff proposal to the relevant stakeholders/ users/ user associations for their comments within 15 days.
- 4.5 In case of receipt of objections from the users, Port Authority shall give an opportunity of hearing to the relevant stakeholders/ users/ user associations of the port. Hearing/s on the matter or proposal shall be organised at the Office of the concerned Major Port Authority. In case no objections are raised by users on the proposal, the port authority may not organize any hearing of users.
- 4.6 The Committee so constituted shall finalise the draft SOR hosted on the website with or without any modification. In both the cases, the Scale of Rates and/ or tariff finalized by the Committee shall be placed for seeking approval of the Board of the Major Port Authority.
- 4.7 Port Authority shall notify the SOR along with Performance Standards proposed by the Major Port Authority within 75 days from the date of hosting the proposed SOR in its website. The revised Scale of Rates, amendments, corrigendum, new tariff item etc., approved by the Board of the Major Port Authority, shall be notified by the Major Port Authority in the State Gazette and the same shall also be hosted on the web site of the port and intimated to the concerned stake holders in writing/ or by electronic mode.
- 4.8 SOR shall come into effect after expiry of 30 days from the date of notification in the State Gazette by the Major Port Authority.

5. GRIEVANCE REDRESSAL

5.1 In the event any user has any grievance regarding fixation / revision of SOR or tariff or conditionalities governing the tariff determined by the Major Port Authority following this Tariff Policy or Working Guidelines notified separately, the concerned user shall file its representation/ grievance before the Adjudicatory Board, constituted under section 54 of the MPA Act, 2021.

6. MANDATORY DISCLOSURES BY MAJOR PORT AUTHORITIES

6.1 All the Major Port Authorities shall furnish to MoPSW annual reports on cargo traffic, ship berth-day output, operating cost per tonne, average turnaround time of ships and average pre-berthing waiting time. In addition, for the container berths, annual reports shall also be provided on average moves per crane hour and average dwell time for containers. The annual reports shall be submitted by the Ports within 45 days following the end of each of the financial year. Any other information which may be required by the Ministry shall also be furnished to them from time to time.

7. OTHER ASPECTS

7.1 The fixation and implementation of such scales, fees, rates and conditions shall be in consonance with the norms as may be prescribed and shall-

- (i) not be with retrospective effect;
- (ii) not be in derogation with rules made by or directives of the central Government in this behalf;
- (iii) not be inconsistent with the provisions of the Competition Act, 2002; and
- (iv) not be inconsistent with the provisions of any other law for the time being in force

7.2 The rates prescribed in the Scale of Rates (SOR), as determined under clause 2.1 to 2.9 above, are ceiling levels rates fixed, subject to indexation, for three years. The ports may, if they so desire, charge lower rates than the notified rates and/or allow higher rebates and discounts or increase the prescribed free period. The port may also, if they so desire, rationalise the prescribed conditionalities in the Scale of Rates if such rationalisation gives relief to the users. Further, to respond effectively to the dynamic market forces, the ports may periodically review and host the Applicable Tariffs, within the ceiling tariff prescribed in the SOR on the web site and issue trade notices.

7.3 The duration for such review shall be as per the discretion of the Port Authorities necessitated from the need to respond to the market competition or to increase asset utilisation.

- 7.4 In cases where the Port Authorities enter in to a long term agreement/ contract with trade/ customers, the tariff so fixed in such arrangements shall also be within the ceiling of ARR determined as per this "Tariff Policy". Such agreements should include commitments from both parties i.e. the Port Authority in terms of performance standards, as per clause 3 above, and the Customer in terms of minimum cargo guarantee.
- 7.5 As regards Scale of Rates for Land and Buildings, the provisions prescribed for fixation of Scale of Rates under the Land Policy Guidelines issued by the Government from time to time shall apply.
- 7.6 Subsequent to the notification of SOR, the ports may also, if they so desire, rationalize the conditionalities prescribed in the SOR.
- 7.7 The ports should notify the port users lower rates and/ or rationalisation of the conditionalities governing the application of such rates and continue to notify the port users any further changes in such lower rates and/ or in the conditionalities governing the application of such rates by hosting it on the website and issue of trade notice.
- 7.8 Major Ports shall charge only for services provided by them. No notional booking of labour and other similar notional charges would be permitted.
- 7.9 Concessional tariff will be prescribed for coastal cargoes/ containers/ RoRo/ RoPax vessels, etc., as per the policy directions of the Government issued from time to time.
- 7.10.1 Whenever a specific tariff for a new service/ cargo/ equipment/ facility is not available in the SOR, of that particular port, and it is required to handle such cargo/provide such service at short notice, the concerned Major Port Authority can adopt the tariff and performance standards if any fixed for comparable cargo/ equipment/ service in any Major Port or an Ad hoc tariff/rate may be applied by the Major Port Authority in consultation with the concerned user till the final rate is notified by the Major Port Authority in the State Gazette. However, for determination of tariff for new cargo/ new service, in normal course, Port Authority shall follow normal consultation process as prescribed in clause 4.3, 4.4 and 4.5 above.
- 7.10.2 Whenever a specific tariff for a new service/ cargo/ equipment/ facility is not available in the SOR, and it is required to notify the rates in normal course, the concerned Major Port Authority can adopt the tariff and performance standards if any fixed for comparable cargo/ equipment/ service in any Major Port. If there is no rate available in any other Major Port Authority or if the rate available is not representative enough of the proposed new cargo/ service/ facility/ equipment then

the port may notify the tariff for the said new cargo/ equipment/ service/ facility with reference to optimal capacity assessed or based on rated capacity or technical specification of service/ facility/ equipment. If determination of tariff based on the above prescribed options is not possible, then the Major Port Authorities after giving sufficient reasons may notify rates based on Cost plus 16% return formula or such rate of return as may be prescribed by MoPSW or determined tariff based on its commercial judgment.

Such rate for use of a new cargo/ equipment/ facility or a new service may be fixed by the Major Port Authority at least 60 days prior to the expected date of commissioning of the new cargo/ facility or a new service.

7.10.3. An Ad-hoc tariff/rate may be applied by the Major Port Authority in the interim period for a maximum of three months based on approach outlined in clause 7.10.1 above and in consultation with the concerned user till the final rate is notified by the Major Port Authority in the State Gazette.

7.11 In an extra-ordinary circumstance, if Major Port incurs major capital expenditure like major capital dredging, etc., that cannot be met from the balance in the Escrow Account, royalty/ revenue share earnings, surplus from the estate activity and capital asset replacement reserve, if any, it may fix a special levy to meet such capital expenditure for a limited period provided such a levy was envisaged at the time of appraisal of the project and considered in the calculation of Financial Internal Rate of Return (FIRR).

8. REGULATION OF CHARGES LEVIED BY OTHER AUTHORISED SERVICE PROVIDERS

8.1 In cases where authorization arrangement is other than by way of a BOT concession agreement, ceiling rates shall be prescribed for such services after identifying such authorized services. Such tariff should be linked to the Performance Standard of the proposed services.

8.2 In case there is no ceiling tariff prescribed in the concerned Major Port for a particular service/ facility under such arrangement, the port shall adopt the tariff prescribed for the similar service/ facility prescribed in any other Major Port Authority. If there is no tariff prescribed in any Major Port Authority or the rate prescribed is not representative for the cargo/ service/ facility envisaged, the Port Authority may fix tariff on cost plus 16% return formula or at such rate of return or return as prescribed by the Ministry of Ports, Shipping and Waterways or determined tariff based on its commercial judgment. The Performance Standards to be achieved by the service provider must be fixed and tariff must be linked to Performance Standards.

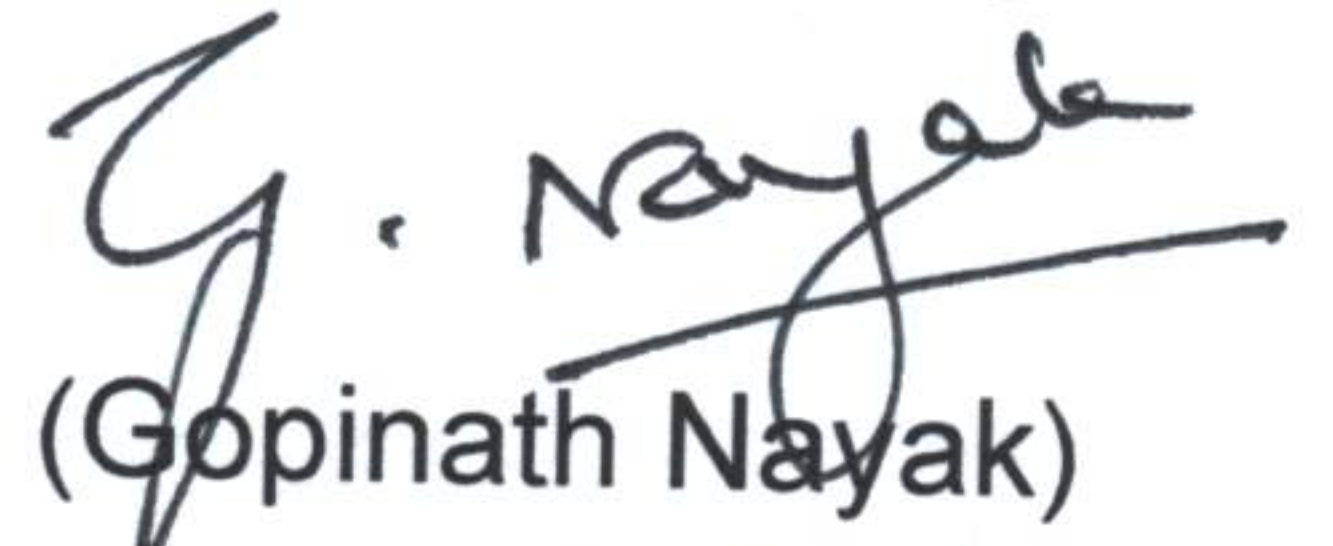
8.3 The duration for such tariff determined at 8.1. and 8.2. above shall be as per the discretion of the Port Authorities depending on the period of the contractual arrangement or such other relevant conditions.

8.4 The tariff as per clauses 8.1 and 8.2 shall be subjected to automatic indexation as prescribed in clause 2.8 of these guidelines from the second year onwards.

The policy has the approval of Hon'ble Minister of Ports, Shipping & Waterways.

Encl: as above

Yours faithfully,



(Gopinath Nayak)

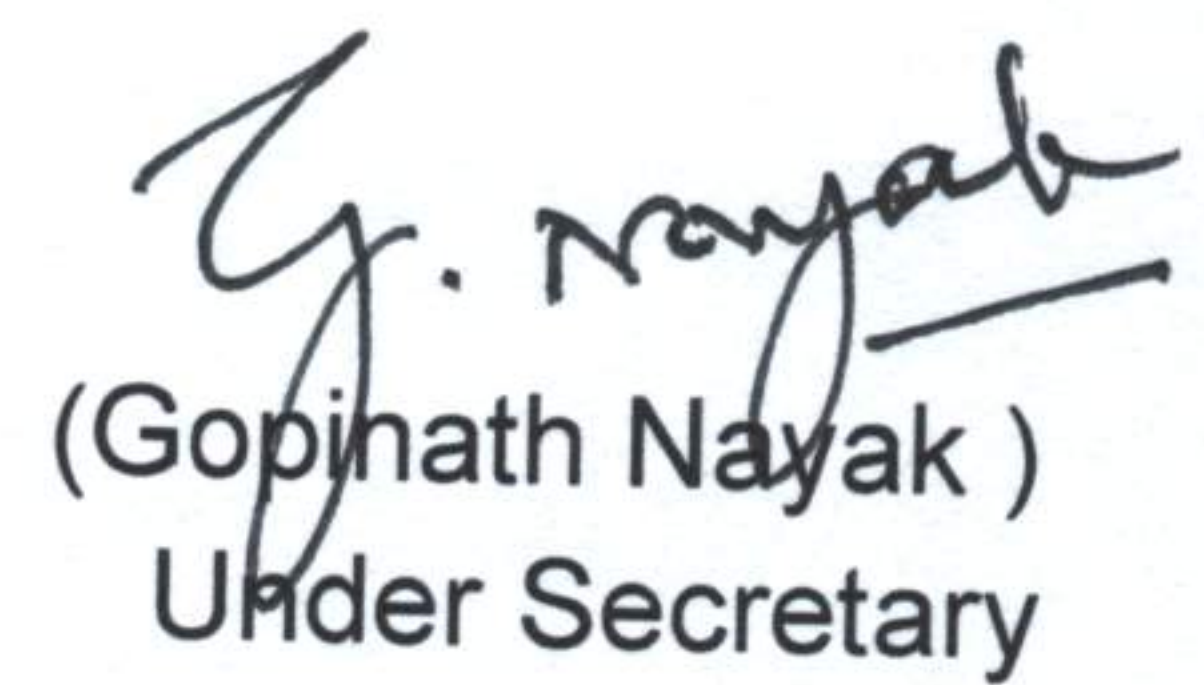
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(Gopinath Nayak)
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Illustration of Performance Linked Tariff

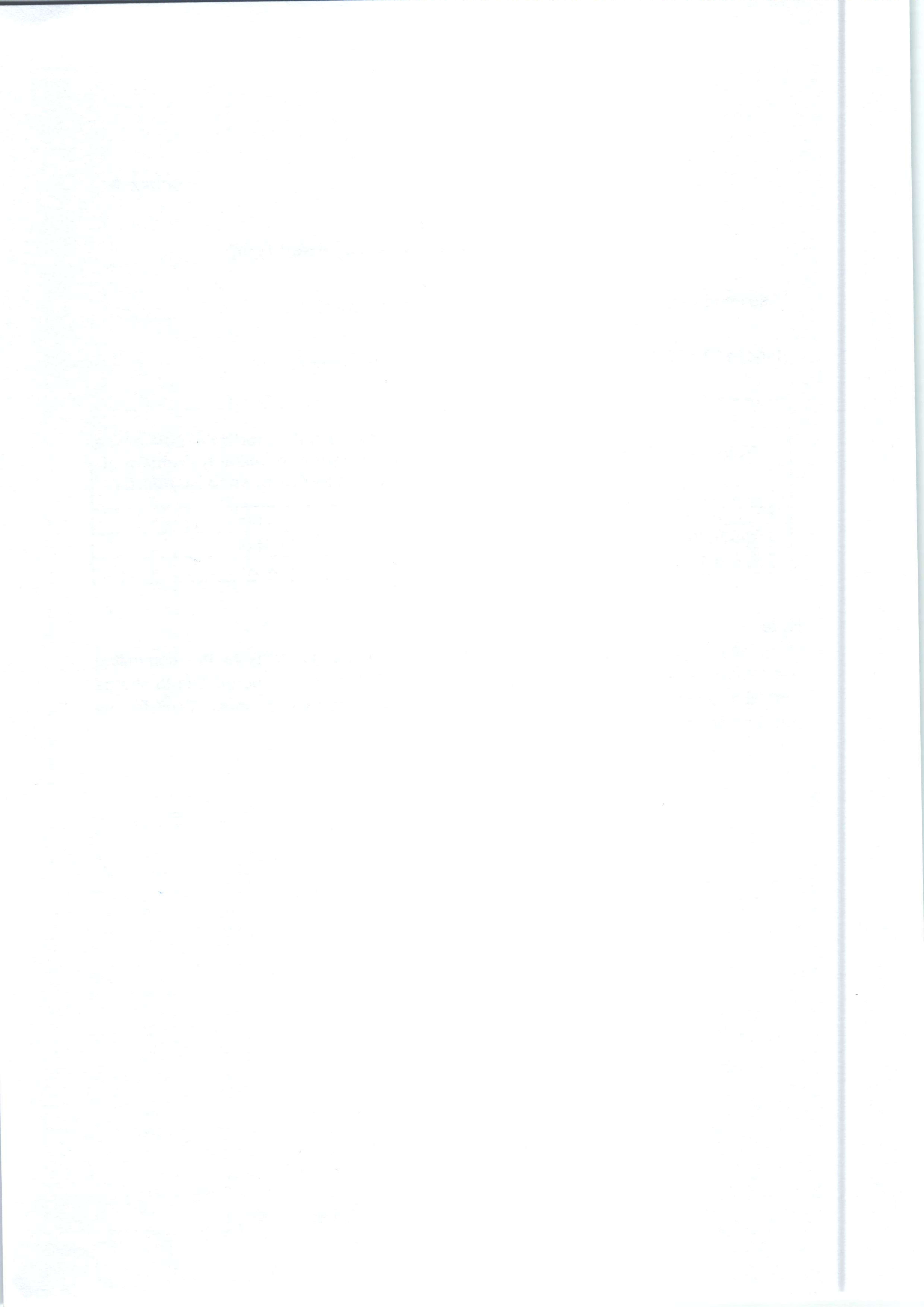
Assumed Tariff (2022-23): ₹100 / tonne

Indexed Tariff (Assumed inflation of WPI @ 10% per annum)

Year	Indexed Tariff @ 60% of WPI	Performance linked tariff at 100% of the WPI indexation on the achievement of committed Performance Standards
2023- 2024	106.00	110.00
2024-2025	112.36	121.00
2025-2026	119.10	133.10

Note:

If in any financial year the Major Port Authority does not achieve the committed Performance Standards notified along with the SOR, the port will be entitled to charge only the indexed tariff and not eligible to apply for Performance Linked Tariff for the ensuing financial year.



Working Guidelines to operationalize the Tariff Policy for Major Port Authorities, 2021.

PREAMBLE

In compliance of the policy direction issued by Government of India in the Ministry of Ports, Shipping and Waterways (MoPSW) under Section 53 of the of Major Port Authorities Act, 2021, as conveyed by MoPSW vide its communication No PD-14024/5/2020-PD-I (e343443) dated 03 November 2021, the MoPSW has notified the Policy for Tariff Fixation by Major Port Authorities, 2021 herein after named as "Tariff Policy, 2021 for Major Ports".

1.2. Clause 1.5 of the Tariff Policy for Major Ports, 2021 requires, to issue Working Guidelines to operationalise the policy frame work in consultation with all the Major Port Trusts.

1.3. The working guidelines to operationalize the Policy for tariff fixation by Major Port Authorities, 2021 is finalised after consultation process carried out by the Committee constituted by the Indian Port Association and after taking into consideration the comments and suggestions made by the Major Ports during the Consultation process.

1.4 In compliance with stipulation contained in clause 1.5 of the Tariff Policy for Major Ports 2021, the Ministry of Ports, Shipping and Waterways hereby issues the following Working Guidelines to operationalize the said Tariff Policy for Major Ports, 2021. Major Port Authorities shall comply with the Tariff Policy for Major Ports, 2021 and the Working Guidelines for fixation and revision of tariff.

Working Guidelines to operationalize the Tariff Policy for Major Port Authorities, 2021

I. GENERAL

1. PRELIMINARY

1.1 These Working Guidelines shall apply to all the Major Port Authorities who are governed by the Tariff Policy, 2021.

1.2 The Working Guidelines shall come into effect from the date of implementation of the Tariff Policy, 2021. The validity of the Working Guidelines shall be co-terminus with the validity of Tariff Policy, 2021.

1.3 The Working Guidelines will generally apply, inter-alia, in respect of the following:

(i) frame scale of rates at which, and a statement of conditions under which, any services shall be performed or made available under Section 27(1) (a) of the MPA Act, 2021

(ii) frame scale of rates at which, and a statement of conditions under which, the access to and usage of the port assets may be allowed by the Board as per Section 27(1) (b) of the MPA Act, 2021

(iii) frame consolidated scale of rates for any combination of services specified in clause(i) or for any combination of such service or services with any user or permission to use or access to any port assets as specified in clause (ii) above as per Section 27(1) (c) of the MPA Act, 2021

(iv) frame different scales, fees, rates and conditions for different classes of goods and vessels

(v) prescription of the conditionalities governing application of the tariff/ charges/ fees/ dues

(vi) fixation and implementation of such scales, fees, rates and conditions shall be in consonance with the norms as may be prescribed and shall-

(a) not be with retrospective effect

(b) not be in derogation with rules made by or directives of the Central Government in this behalf

(c) not be inconsistent with the provisions of the Competition Act,2002;
and

(d) not be inconsistent with the provisions of any other law for the time being in force

1.4 Unless the context otherwise requires, various terms used herein will have the same definition as in the MPA Act, 2021, and the Indian Ports Act, 1908, as amended from time to time.

1.5 If any difficulty arises in giving effect to the Working Guidelines, Ministry of Ports, Shipping and Waterways (MoPSW), in consultation with the Major Port Authorities will issue amendment to this Working Guidelines, not inconsistent with the basic features of the Tariff Policy, 2021, as may be necessary for removing such difficulty.

1.6 MoPSW, for reasons to be recorded in writing, may relax application of any of the provisions of these Working Guidelines to a port or group of ports, on its own or on

an application made before it by the concerned Major Port Authority.

2. WORKING GUIDELINES TO MAJOR PORT AUTHORITIES FOR DETERMINATION OF SCALE OF RATES

2.1 As stipulated in Clause 2.1 of the Tariff Policy, 2021, each Major Port Authority will assess the Annual Revenue Requirement (ARR) which is the average of the sum of Actual Expenditure as per the final Audited Accounts of the immediate preceding three years (Y1), (Y2) and (Y3) at the time of preparation of the proposal plus Return on Capital Employed (ROCE) comprising of Net Fixed Assets plus Working Capital plus capital work-in-progress obtained as on 31st March Y3, as per the final audited accounts. Rate of Return on Capital Employed shall be 16% or at such rate or return as may be prescribed by the Ministry of Ports, Shipping and Waterways from time to time. The ARR shall be duly certified by a practicing Chartered Accountant/ Cost and Management Accountant.

2.2 Actual Expenditure will be the total expenditure as reflected in the Audited Annual Accounts of the Major Port Authorities, subject to the following adjustments:

- (i) All expenses relating to Estate related activity to be excluded.
- (ii) Interest on loans is to be excluded.
- (iii) Only 1/3rd of onetime expenses like arrears of wages, arrears of pension/ gratuity, arrears of ex-gratia payments arising out of wage revision, etc. are to be included. Similarly, 1/3rd of the contribution to Superannuation Funds are to be included in the calculation of ARR.
- (iv) Management and General Administration Overheads subject to a cap of 25% of aggregate of the operating expenditure and depreciation is only to be considered.
- (v) All expenses (viz. operating expenses + depreciation + allocated management and general overheads + allocated Finance and Miscellaneous Expenses) and all such expenses which are relevant for captive berths irrespective of whether there is a mutually agreed tariff arrangement between the port and the concerned user or not, are to be excluded.
- (vi) Expenses relating to Railway Activity.

[If the Railway income is in excess of the operating Railway expense, then the entire Railway expense is excluded in the ARR computation on the premise that the Railway income is adequate to meet the Railway expenses. If the railway activity is in deficit i.e. railway income is less than the railway expenses then Railway Income less operating

railway expenses, to the extent of the deficit is to be captured in the ARR computation.]

2.3 Expenditure for each of the three years (Y1), (Y2) and (Y3) to be determined in the above manner. Thereafter, simple average of the expenditure shall be worked out, as indicated herewith $[(Y1 + Y2 + Y3) / 3]$.

2.4 Capital Employed will comprise of Net Fixed assets plus capital work in progress as on 31st March of Y3 reported in the Audited Annual Accounts and working capital as per norms prescribed in clause 2.5. of this Working Guidelines. The net fixed assets as on 31st March of Y3 created from Escrow account will also form part of the capital employed. Net fixed assets related to estate activity as on 31st March of Y3 are to be excluded. Net fixed assets transferred to the BOT operator, if any, but reflecting in the Books of Port Authorities as on 31st March of Y3 should be excluded. Further, book value of net fixed assets, if any, relevant to be considered for tariff fixation of captive berths should also be excluded.

2.5 Norms for Working capital will comprise of inventory, sundry debtors and cash balances. Limit on inventory for capital spares will be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. This, however, will not be applicable for customized spares. Insurance on spares shall be part of the equipment procurement cost. Limit on sundry debtors balances will be two months' Estate income & Railway Terminal charges payable by Indian Railways and the limit on cash balances will be one month's cash expenses.

2.6 Return on Capital Employed including capital work-in-progress as on 31st March of Y3 is at 16% or at such rate as may be prescribed by the Ministry of Ports, Shipping and Waterways from time to time.

2.7 As stipulated in clause 2.3 of the Tariff Policy, 2021, the ARR so assessed as on 31st March of Y3 will be indexed by 100% of the Wholesale Price Index (WPI) applicable for the year. The indexed ARR determined by the Major Port Authorities as stated above is the ceiling level based on which the Major Port Authorities will draw the Scale of Rates (SOR).

2.8 For drawing the SOR, the traffic to be considered would be the overall actual traffic exclusively for the port for Y3.

2.9 Based on the Annual Revenue Requirement as assessed as per Clause 2.7 above and taking into account the traffic as per Clause 2.8 above, the Major Port Authorities should flexibly determine the rates to respond to the market forces based on its commercial judgment and draw the SOR within the ceiling of indexed Annual

Revenue Requirement, calculated as per clause 2.1 to 2.8 above duly certified by a practicing Chartered Accountant/ Cost Accountant. In this regard, Major Port Authorities will make a detailed working of income estimation indicating each of the tariff items in the proposed SOR for corresponding traffic as in clause 2.8 above and establish itself that the sum of the revenue so estimated from all the tariff items in the SOR is within the ceiling of the indexed ARR determined in clause 2.7 above and duly certified by a practicing Chartered Accountant/ Cost Accountant.

2.10 While drawing up the SOR, Major Port Authorities shall as far as possible do away with advalorem wharfage rate, if any, in the existing SOR of the concerned Major Port and determine specific wharfage rate in these cases taking into consideration special care to be taken for handling this cargo or a market determined tariff.

2.11 While framing the SOR, the Pension Fund Levy approved, if any, in the (then) existing Scale of Rates of Major Port Authorities which was with the intention of meeting one time liability will be done away with. The Major Port Authorities have flexibility to utilize the balance in the Escrow Account maintained by the Major Port Authorities to augment the pension fund, to meet the cost of surplus labour or any other purposes as deemed fit by the port. Further, the surplus in the estate activity can also be utilized for the same purposes.

2.12 Except for the modification prescribed at clauses 2.10 and 2.11 above, status quo shall be maintained in the existing conditionalities prescribed in the SOR of the respective major ports. If the port is of the view that any of the existing conditionalities need to be modified/ deleted or new condition to be added due to operational or any other contingency, the port may prescribe such modification for reasons to be recorded and capture the financial/ revenue impact, if any, in the indexed ARR.

2.13 As per clause 2.10 of the Tariff Policy, 2021 in case where there is a separate tariff arrangement for captive berths/ facilities by way of mutual agreement entered into by the port and the concerned user, it will continue to be governed by the respective agreement. In the event a captive berth is awarded in future by Major Port Authority following the PPP tendering process, it shall be governed by the proviso prescribed under sub clause(1) of Section 27 of the Major Port Authorities Act, 2021.

3. PROCEDURE FOR PROCESSING THE SOR

3.1 The draft SOR, along-with conditionalities governing them, for services rendered or facilities provided or for access to and usage of the port assets and Performance Standards shall be formulated by the Board of the Major Port Authority or by Committee(s) so constituted by the Board of the Major Port Authority, in accordance with the Tariff Policy, 2021 and as per the Checklist of documents and the formats

attached as Forms 1 to 6 of this Working Guidelines as amended from time to time.

3.2 The Board of Major Port Authority or the Committee so constituted by the Board while drawing the SOR may draw a comparison of the major tariff items for their ports and ascertain itself that the proposed tariff is comparable and competitive with neighboring and competing ports.

3.3 The Major Port Authorities shall host the proposal, draft SOR along with the proposed Performance Standards and the cost formats in its website and give the designated email address of Port for comments of relevant stakeholder / users within 15 days' time. This will also be intimated by the Major Port Authority to the concerned users/ user organizations.

3.4 After seeking approval of its Board, the Major Port Authority will also circulate the tariff proposal, draft SOR along with the proposed Performance Standards and the cost formats to the relevant stakeholders/ users/ user associations for their comments within 15 days.

3.5 The consultative process shall not be followed in a tariff matter which is specifically required to be reviewed by the Major Port Authority to implement the Central Government policy directive issued under section 53 of the MPA Act, 2021. This would be limited to such items/ part of tariff to which the directive applies.

3.6 In case of objections raised by the users, Port Authority shall give an opportunity of hearing to the concerned parties and users of the port. Hearing/s of a case or proposal shall be organised at the Office of the concerned Major Port Authority. In case no objections are raised by users on the proposal, the port authority may not organize any hearing of users.

3.7 The Committee so constituted shall finalise the draft SOR hosted on the website with or without any modification. In both the cases, the Scale of Rates and/ or tariff finalized by the Committee for any of the services performed by the port or for access or usage of the port assets within the limits of the port shall be placed for seeking approval of the Board of the Major Port Authority.

3.8 Port Authority shall notify the SOR along with Performance Standards proposed by the Major Port Authority within 75 days from the date of hosting the proposed SOR in its website. The revised Scale of Rates, amendments, corrigendum, new tariff item etc., approved by the Board of the Major Port Authority, shall be notified by the Major Port Authority in the State Gazette and the same shall also be hosted on the web site of the port and intimated to all the concerned stake holders.

3.9 SOR shall come into effect after expiry of 30 days from the date of notification in

the State Gazette by the Major Port Authority.

3.10 The SOR so notified shall remain valid for 3 years subject to annual indexation as mentioned in clause 2.8 of the Tariff Policy, 2021.

3.11 The Scale of Rates (SOR), are ceiling levels rates fixed, subject to indexation, for three years. The ports may, if they so desire, charge lower rates than the notified rates and/or allow higher rebates and discounts or increase the prescribed free period. The port may also, if they so desire, rationalise the prescribed conditionalities in the Scale of Rates if such rationalisation gives relief to the users. Further, to respond effectively to the dynamic market forces, the ports may periodically review and host the Applicable Tariffs, within the ceiling tariff prescribed in the SOR on the web site and issue trade notices.

3.12 The duration for such review shall be as per the discretion of the Port Authorities necessitated from the need to respond to the market competition or to increase asset utilisation.

3.13 In cases where the Port Authorities enter in to a long term agreement/ contract with trade/ customers, the tariff so fixed in such arrangements shall also be within the ceiling of ARR determined as per this "Tariff Policy". Such agreements should include commitments from both parties i.e. the Port Authority in terms of performance standards, as per clause 3 of the Tariff Policy, and the Customer in terms of minimum cargo guarantee.

4. PUBLISHING OF MANDATORY DISCLOSURES BY PORT AUTHORITIES

4.1 Major Port Authorities shall publish all the information under clause 6 of the Tariff Policy, 2021 on its website except the information which may be commercially sensitive. Approval for such exception should be obtained from the Ministry of Ports, Shipping and Waterways (MoPSW) by giving detailed justification regarding the commercial sensitiveness of the data/ information in question and the likely adverse impact on their revenue/ operation upon such publication. MoPSW's decision in this regard would be final.

5. OTHER ASPECTS

5.1 Users shall not be required to pay charges for delays beyond a reasonable level attributable to the port.

5.2 Users shall pay interest on delayed payments and the port shall pay interest on delayed refunds at the same rate.

5.3.1 The rate of interest will be 15% p.a.

5.3.2 The delay in payments by user will be counted beyond 10 days after the date of raising the bills. This provision will not apply to the case where payment is to be made before availing of the services/ use of port properties or prescribed as a condition in the tariff.

5.3.3 The delay in refunds by the port will be counted beyond 20 days from the date of completion of services or on production of all documents required from the user, whichever is later.

5.4 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. The Major Port Authorities may collect dollar denominated tariff in foreign currency in consultation with the Ministry of Ports, Shipping and Waterways and subject to obtaining permission of RBI under the Foreign Exchange Management Act, 1999 and ensuring compliance of any other statutory rules/ regulations which are laid down for the same.

5.5.1 The day of entry of the vessel into port limits shall be reckoned as the day for such conversion. In respect of charges on containers, the day of entry of the vessel in the case of import containers and the day of arrival of containers into the port in the case of export containers shall be reckoned as the day for such conversion.

5.5.2 A regular review of exchange rate shall be made once in 30 days from the date of arrival in the cases of vessels staying in the port for longer period. The basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of review.

5.6.1 Whenever a specific tariff for a new service/ cargo/ equipment/ facility is not available in the SOR, of that particular port, the concerned Major Port Authority, in accordance with the clause 7.10.1 of the Tariff Policy 2021 can notify the tariff for the said new cargo/ equipment/ service/ facility adopting the tariff and performance standards, if any, fixed for comparable cargo/ equipment/ service/ facility in any other Major Port Authority. If there is no rate available in any other Major Port Authority or if the rate available is not representative enough of the proposed new cargo/ service/ facility / equipment then the port may notify the tariff for the said new cargo/ equipment/ service /facility with reference to optimal capacity assessed based on rated capacity or technical specification of service/ facility/ equipment. If determination of tariff based on the above prescribed options is not possible, then the Major Port Authorities after giving sufficient reasons may notify rates based on Cost plus 16% return formula or such rate of return as may be prescribed by MoPSW or determined tariff based on its commercial

judgment. For determination of tariff for new cargo/ new service, Port Authority shall follow normal consultation process as prescribed.

5.6.2 As per clause 7.10.3 of the Tariff Policy 2021, the rate for use of a new cargo/ equipment/ facility or a new service may be fixed by the Major Port Authority atleast 60 days prior to the expected date of commissioning of the new cargo/ facility or a new service. For determination of tariff for new cargo/ new service, Major Port Authority shall follow normal consultation process as prescribed in clause 3.2, 3.3 and 3.4 above.

5.6.3 Ad-hoc rate may be applied by the Major Port Authority in the interim period for a maximum of three months based on approach outlined in clause 7.10.1 and 7.10.3 of the Tariff Policy 2021 read with clause 5.6.1 above and in consultation with the concerned user till the final rate is notified by the Major Port Authority in the State Gazette.

6. REGULATION OF CHARGES LEVIED BY OTHER AUTHORISED SERVICE PROVIDERS

6.1 Tariff for services rendered by OTHER AUTHORISED SERVICE PROVIDERS where authorization arrangement is other than by way of a BOT concession agreement, shall be governed by provisions stipulated in clauses 8.1 to 8.3 of the Tariff Policy, 2021. In such cases, the Port Authority concerned will ensure, by suitably including necessary condition in the authorization arrangement that the authorized service providers do not charge more than the prescribed ceiling rates.

7. REVIEW OF ORDERS

7.1 Application for review of any tariff notified by the Major Port Authority received from stakeholders shall be entertained by the ports to the limited extent of errors apparent on the face of records considered in the relevant proceedings, or for any other justifiable reasons, provided such an application is filed within 30 days of the notification of the SOR in the State Gazette.

II. TECHNICAL

1. CARGO RELATED CHARGES

8.1 Cargo-related charges shall continue to be denominated in Indian Rupee terms.

8.2.1 Wharfage rates shall be on per unit of either weight or volume of cargo handled.

8.2.2 Before classifying any cargo under "unspecified" category under the wharfage schedule, the relevant customs classification should be referred to find out whether the

cargo could be classified under any of the specific categories mentioned in the wharfage schedule.

8.3 Concessional tariff will be prescribed for coastal cargoes/ containers, as per the policy directions of the Government. It is prescribed that the cargo/ container related charges for all coastal cargo/ containers, other than thermal coal and POL including crude oil, iron ore and iron ore pellets should not exceed 60% of the normal cargo/ container related charges. In case of cargo related charges, the concession should be allowed on all the relevant cargo handling charges for ship-shore transfer and transfer from/to quay to/from storage yard including wharfage.”

8.4 The Major Port Authorities shall prescribe in their SOR, the guidelines on priority berthing to coastal vessel issued by the Ministry of Shipping on 4th September 2014 or any other directions issued by the Government of India in this regard.

8.5 Major ports should endeavour to adopt sliding scale of rates to motivate greater performance by bulk/ captive facility operators with a view to attract additional cargo. Within the overall ceiling rates prescribed, ports can decide such tariff scheme on nondiscriminatory and objective basis.

8.6 For Demurrage/ storage charges, free days allowed shall be exclusive of customs notified holidays and port non-working days. The number of free days may, however, be decided by individual ports. Once demurrage/ storage charge starts accruing no allowance will be made for the customs notified holidays and port non-working days.

8.7 If operational area is leased/ licensed on rental basis to users, storage charges on containers/ demurrage on cargo stored therein shall not be levied again.

8.8.1 Charges for stevedoring activity, if undertaken by the Major Port Authority, or for supply of on-board labour by ports may be included in the Scale of Rates of the port/ shown separately wherever required.

8.8.2 The rates for stevedoring, wherever undertaken by the port as a separate activity, shall be prescribed on per tonne basis. Where only on-board labour is supplied, actual wages plus percentage levy shall be prescribed. In either case, tariff may be linked to productivity.

8.8.3 In the wages plus percentage levy system, piece-rate payments shall also be recovered in addition to actual wages plus percentage levy. Ports should revise the datum and rates of piece-rate scheme from time to time in terms of the National Wage

Settlements and Manning Scale based on National Tribunal Award.

9. CONTAINER RELATED CHARGES

9.1 Generally, a composite box-rate, at the option of the port, shall be encouraged for basic container handling services such as Ship-Shore transfer, movement between berth and the yard and lift off/ lift on at the yard, with rebate to be allowed when any of these services are not provided. Similar approach shall be extended in the case of ICD containers.

9.2 Performance of stowage and lashing/ unlashings of containers shall be treated as essential part of operations in the interest of efficiency/safety. Charges therefore can be levied by ports, if they provide the service.

9.3 Subject to segregation of cargo-related charges (which have to be rupee-denominated) from the composite box rate, container-related charges shall continue to be US dollar-denominated in the case of foreign-going vessels and rupee denominated in the case of coastal vessels.

9.4 Charges for ship-shore handling and storage of loaded and empty containers shall continue to be the same and not different. However, higher charges should be allowed for containers having hazardous goods, reefer and for any special services.

9.5 While prescribing charges for different sizes of containers, the following ratio shall be maintained:

Charge	Containers of length up to 20'	Containers of length above 20' but up to 40'	Containers of length above 40'
Handling Charges	X	1.5X	2X
Storage Charges	Y	2Y	3Y

9.6 The handling charges for transshipment containers shall be concessional. Such charges shall not exceed 1.5 times the handling charges for the normal handling operation in loading or unloading cycle. In case of transshipment of coastal containers, the concession in handling charges prescribed above shall be calculated with reference to the applicable handling charges (which are subject to the concessions specified in clause 8.3 above) for coastal containers for the normal handling operation in loading or unloading cycle.

Illustration

Let X be the handling charges for normal import or export containers and Y be rate for

similar operations in respect of coastal containers (where Y is arrived at based on X after giving the concessions specified in clause 8.3 above).

Handling charges for transshipment containers will not exceed 1.5X in case of exim containers and 1.5 Y in case of coastal containers.

9.7.1 Wharfage on the containerized cargo should be a fixed lump-sum amount per TEU without reference to individual classification in the wharfage schedule.

9.7.2 Demurrage can be charged separately on containerised cargo in addition to ground rent (storage charges) on loaded container, only if additional services to such cargo are required to be provided.

9.8.1 Charges for power supply and monitoring of reefer containers will continue to be US dollar denominated and levied on 4-hourly unit.

9.8.2 Charges for other services to reefer containers shall be levied if the port has rendered the service at the request of users.

9.8.3 Premium up to the extent of 50% on handling and storage charges can be levied in case of hazardous containers. Premium up to extent of 50% on handling charges can be levied on over-dimensional containers. Alternatively, for over dimensional container, the storage charge can be based on the actual number of ground slots the respective container occupies or as per the existing practice.

9.9.1 Free dwell-time (storage) allowed shall be exclusive of Customs notified holidays and port non-working days. The number of free days may, however, be proposed by individual port.

9.9.2 Free dwell-time (storage) period for import containers shall commence from the day after the day of landing of the container and for export containers the free period shall commence from the time the container enters the terminal.

9.9.3 The storage charges on abandoned FCL containers/ shipper owned containers shall be levied upto the date of receipt of intimation of abandonment in writing or 75 days from the day of landing of the container, whichever is earlier subject to the following conditions:

- (i) The consignee can issue a letter of abandonment at any time
- (ii) If the consignee chooses not to issue such letter of abandonment, the container Agent/ MLO can also issue abandonment letter subject to the condition that,
 - (a) the Line shall resume custody of container along with cargo and either

take back it or remove it from the port premises; and
(b) the line shall pay all port charges accrued on the cargo and container before resuming custody of the container.

(iii) The container Agent/ MLO shall observe the necessary formalities and bear the cost of transportation and destuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall be continued to be levied till such time all necessary actions are taken by the shipping lines for destuffing the cargo.

(iv) Where the container is seized/ confiscated by the Custom Authorities and the same cannot be de-stuffed within the prescribed time limit of 75 days, the storage charges will cease to apply from the day the Custom order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and de-stuffing. Otherwise, seized/ confiscated containers should be removed by the line/ consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.

10. VESSEL RELATED CHARGES

10.1.1 Vessel-related charges for foreign-going vessels shall continue to be denominated in US dollars and recovered in Indian rupees.

10.1.2 However, in case of coastal vessels the vessel related charges should not exceed 60% of the corresponding charges for other vessels. Further, these charges should be denominated and collected in Indian Rupees only and restatement of coastal rates with reference to prevailing exchange rate at the time of each general revision (once in three years) of Scale of Rates shall not be resorted to as per the prevailing coastal concession policy of the MoPSW. Any change in the Coastal Concession Policy in this regard shall apply as and when amended by the MoPSW.

10.2 Status of a vessel as borne out by its certification is the relevant factor to decide whether vessel is 'foreign-going' or 'coastal'.

10.3 Reduced Gross Tonnage as per the International Tonnage Certificate shall be reckoned with for levy of port dues in case of oil tankers with segregated ballast tank.

10.4 Pilotage-cum-towage fee will continue to be composite and shall include one inward and one outward movement with required number of tugs/launches of adequate capacity and shifting/s of vessels for 'Port convenience.' Only shifting at the request of vessels will attract separate shifting charges.

10.5.1 Berth hire charges shall be prescribed by grouping berths having comparable services/ facilities with rebate for major components of services/ facilities not provided.

10.5.2 Composite berth hire charges for general cargo or multi-purpose berths shall continue to include charges for use of wharf cranes (other than special purpose cranes/ handling systems) during the course of import/export operations with a provision for grant of rebate if on any occasion no wharf crane could be made available due to breakdown, planned maintenance, or any other reason.

10.5.3 Unit for levy of berth hire charges as well as anchorage fee, mooring fee, roadstead charges, etc. which are linked to the duration of stay of a vessel shall be hourly.

10.6.1 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.

10.6.2 There shall be a penal berth hire equal to one day's berth hire charge for a false signal.

10.6.3 The Master/ Agents of the vessel shall signal readiness to sail only in accordance with favourable weather conditions and tidal movements as decided by the Ports.

10.7 Objective criteria or loading/ unloading norms to be achieved shall be specified failing which penal berth hire charges will become payable. The norms will have to take into account cargo type, handling equipment and other facilities at the berth.

10.8 Hire charges of equipment/ craft need not be specified individually for the concerned equipment/ craft; they should be prescribed for a group of craft/ equipment based on different capacity ranges.

10.9 The unit for levying vessel related charges shall be Gross Registered Tonnage (GRT) of the concerned vessel. In case of port dues and berth hire, there shall be a single slab of GRT. Pilotage and shifting charges shall be prescribed in slabs as felt appropriate by the Major Port Authority based on the type/size of ships handled by the port authority, subject to a maximum of four slabs.

10.10 A reduction of 20% on the unit rate of the first slab will be effected for the second slab and a reduction of 30% on the unit rate of the first slab will be effected for the third slab on the incremental GRT as illustrated below.

Illustration

Let the pilotage charge for the first slab i.e. upto 30,000 GRT be US\$ 1 per GRT for a foreign going vessel and ₹36 per GRT for a coastal vessel. Then the tariff for the three slabs shall be prescribed as follows:-

Vessel Size	Rate for foreign-going vessel (in US\$)	Rate for coastal vessel (in Rs.)
Up to 30,000 GRT	1.00\$ per GRT	Rs.36.00 per GRT
30,001 to 60,000 GRT	US\$ 30,000 + US\$ 0.80 for vessels above 30,000 GRT and upto 60,000 GRT	Rs.10,80,000 + Rs.28.80 for vessels above 30,000 GRT and upto 60,000 GRT
Above 60,000 GRT	US\$ 54000 + 0.70 US\$ for vessels above 60,000 GRT	Rs.19,44,000 + Rs.25.20 For vessels above 60,000 GRT

Pilotage fee for the fourth slab (if introduced by Port Authority) shall have a reduction of 40% on the unit rate of the first slab.

11. MoPSW will continue to furnish clarification on matter involving fixation of tariff/ Scale of Rates of Major Port Authorities.

12. LEASE OF PROPERTY

Guidelines issued by Government in these matters from time to time shall be followed by the Major Port Authorities.

