

F. No. PD-13/28/2015-PPP Cell
Government of India
Ministry of Shipping
(Ports Wing)

Transport Bhawan,
1, Parliament Street,
New Delhi-110001

Dated the 18th November, 2015

To

The Chairmen
All Major Port Trust and CMD, KPL

Subject: - Amendments to Model Concession Agreement - Tariff

Sir,

I am directed to refer to Article – 8 of the present Model Concession Agreement for Private Sector Projects in Major Ports (MCA) and to say that the enabling provisions therein for collection of User Charges allow a Concessionaire to collect tariffs under the Tariff Guidelines as are in vogue at the time of signing of the Concession Agreement. In case the existing tariff guidelines are later amended, revised or replaced by a fresh set tariff of guidelines, it is not applicable to a subsisting Concessionaire.

2. The MCA is currently under review. Based on the outcome of the review, the MCA will be amended/revised after obtaining the approval of the competent authority. In the meantime, the following amendments may be incorporated in the project specific Draft Concession Agreements for all future projects whenever they are put out for bidding and/or submitted for appraisal after the date of this order:

- i) Existing Article 8 on 'Tariff' and Appendix – 12 may be replaced with the revised Article 8 and Appendix-12 as in the Annexure.
- ii) The following new definition may be incorporated below the definition of 'Applicable Permits' in Article 1 of MCA on 'Definitions and Interpretations:

“ Applicable Tariff Guidelines shall have the same meaning ascribed to it in Article 8.1.”

iii) The existing definition of 'Tariff Notification' in Article 1 of MCA may be replaced by the following definition.

"Tariff Notification" means the notifications no. [] setting out inter alia the Tariff and shall include any amendments, revisions or replacements thereof carried out in accordance with the Applicable Tariff Guidelines.

3. This issues with the approval of the Hon'ble Minister of Shipping and Road Transport & Highways.

Yours faithfully,



(A.K. Saran)

Deputy Secretary to the Government of India

Tel: 23714714

Copy to:-

- 1) Chairman, TAMP
- 2) MD, IPA

Copy also to:-

- i) JS(Shipping)
- ii) JS(Ports)
- iii) JS(Sagarmala)
- iv) Development Adviser (Ports)
- v) All Directors/DSs/USs/ in Ports Wing
- vi) Asst. Director (TAMP)
- vii) PPS to Secretary(Shipping)
- viii) PPS to AS&FA
- ix) PS to Additional Secretary

NIC – with the request to upload the above order in the website of Ministry of Shipping under 'Ports'.

ARTICLE 8 (Revised)

TARIFF

8.1 Applicable Tariff Guidelines

Applicable Tariff Guidelines means the guidelines for determination of tariff for projects at Major Ports in vogue on the date the Concession Agreement is signed. However, in the event the said tariff guidelines are either amended, revised or replaced by a fresh set of tariff guidelines at any time during the Concession Period, such amended, revised or fresh set of tariff guidelines, as the case may be, shall be the Applicable Tariff Guidelines, provided the Concessionaire exercises an option to recover Tariff under such amended, revised or fresh set of tariff guidelines within a period of 30 days from the date of its publication in the Official Gazette.

8.2 Levy and Recovery of the Tariff

The Concessionaire shall be entitled to recover Tariff from the users of the Project Facilities and Services as per the Tariff Notification, an extract of which is set out in Appendix 12. The Tariffs shall be revised in the manner set out in the Applicable Tariff Guidelines and duly notified by the TAMP under Sections 48, 49 and 50 of the MPT Act or such other competent authority under the Applicable Laws. The Tariff Notification prescribes the maximum Tariff that can be levied by the Concessionaire and the Concessionaire may charge lower than the rates prescribed. The Concessionaire shall, subject to Article 8.3 hereunder, deposit all Tariff and other receipts in relation to the Project Facilities and Services in the Escrow Account and shall not make any such deposits to any other account either of the Concessionaire or of any other person.

8.3 Collection of Cesses and Charges

The Concessionaire shall collect all cesses and charges including infrastructure cess, if any levied on the users as may be requested by the Concessioneing Authority, on behalf of the Concessioneing Authority and remit the same to the Concessioneing Authority. Provided, the Concessionaire shall be duly authorized by the Concessioneing Authority or such other authority as may be competent in this regard, for the purpose of such collection.

APPENDIX 12 (Revised)

TARIFFS

“The Concessionaire may charge fees for the Project Facilities and Services provided in accordance with the Tariff Notification no. [] published by TAMP or such other competent authority under the Applicable Laws. As a ready reference, the relevant extract of the Tariff Notification is as under:

(Tariff notification for the Project to be reproduced)”