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TARIFF AUTHORITY FOR MAJOR PORTS

G No. 351 **New Delhi,** **4 December 2014**

NOTIFICATION

In exercise of the powers conferred under Section 48 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby notifies the guidelines on priority berthing of coastal vessel at Major Ports issued by the Ministry of Shipping under the Government of India, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/52/2014-Genl.

QUORUM:

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri C.B. Singh, Member (Economic)

O R D E R

(Passed on this 28th day of November 2014)

The Government of India in the Ministry of Shipping (MOS) undercover of its letter No. PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No.PT-11033/51/2014-PT dated 4 September 2014 to this Authority. The MOS has clarified that the said guidelines shall come into effect from the date of issue i.e. 4 September 2014.

2.1. The preamble to the said guidelines states that a Committee was set up in the Ministry to review the extant guidelines on priority berthing of coastal vessels. Based on the recommendations of the said Committee the guidelines on priority berthing of coastal vessels at Major Ports is issued. These guidelines are issued in supersession of all other guidelines issued by the Ministry of Shipping (MOS) earlier on the subject and that shall be complied with by all the Major Ports.

2.2. It is noteworthy that Para X of the guidelines issued by the MOS explicitly states that the Major Ports should incorporate and modify the provisions of the priority berthing issued in these guidelines in their respective Scale of Rates (SOR). The mandate to notify the SOR and the conditionalities governing the SOR for the services rendered by the Major Port Trusts is bestowed on this Authority under Sections 48, 49 and 50 of the Major Port Trusts Act 1963. Presently, the statute does not empower the Major Port Trusts to modify or notify their respective SOR on their own. In view of the above position in the statute and in order to enable the Major Port Trusts to give effect to the guidelines issued by the MOS, this Authority notifies the guidelines on priority berthing of coastal vessel issued by the MOS as a common adoption order.

2.3. The guidelines include definition of the term “coastal vessel” and provisions relating to classification of vessels as foreign-going vessel to coastal vessel referring to the Gazette Notification No.35 of 1 July 1998 of the Authority. It is relevant here to state that Scale of Rates of all Major Port Trusts approved by the Authority already include the definition of term “coastal vessel” and also prescribe provisions relating classification of vessel as foreign-going vessel / coastal vessel uniformly. On examination of these two terms in the guidelines issued by the MOS the following points emerge:

(i). (a). The term ‘coastal vessel’ defined in the Scale of Rates (SOR) of all the Major Port Trusts approved by this Authority is as follows:

> “**Coastal vessel”** shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the competent authority**.”**

(b). The term coastal vessel defined in the guidelines issued by the MOS at para I. A. is found to be in line with the definition uniformly prescribed by this Authority in the existing Scale of Rates of all Major Port Trusts except addition of the words “Director General of Shipping”.

The definition in the existing Scale of Rates of Major Ports approved by this Authority states valid coastal license is issued by the Competent Authority. Whereas, the guideline now issued by the MOS states the valid coastal license issued by the Director General of Shipping / competent authority.

(c). It can thus be seen that there is a minor modification in the definition of the coastal vessel in the guidelines issued by the MOS relating to Competent Authority to issue of license. Since the guidelines issued by the MOS are in supersession to all other guidelines issued earlier on the subject, the definition of the term "coastal vessel" in the existing Scale of Rates of all the Major Port Trusts is issued by the MOS.

(ii). The common adoption Order No. TAMP/2/97-MPT dated 2 June 1998 passed by the Authority which is notified in the Gazette of India on 1 July 1998 vide Gazette No.35 prescribes five conditions for classifying vessels as 'coastal' or 'foreign-going'. This Order was passed after obtaining the views of Director General of Shipping. Referring to the said Notification of July 1998, Para I .B of the guidelines has prescribed four out of the five conditions for classification of vessel as foreign-going vessel or coastal vessel. The following fifth condition prescribed in the Notification of the Authority is not included in Para I.B. of the guideline issued by the MOS:

> "For dedicated Indian coastal vessels having a Coastal Licence from the Director General of Shipping, no other document will be required to be entitled to Coastal rates."

The last condition which is prescribed in the SOR of all the Major Port is more of a clarificatory in nature. The MOS has not given any reasons for non-inclusion of this condition. As all the five conditions mentioned in the Notification dated July 1998 are already included in the existing SOR of all the Major Ports by way of common adoption order the same can continue. Hence, Para I.B. of the guidelines issued by the MOS are not being again notified in the existing SOR of Major Ports to avoid duplication.

(iii). Para X of the guidelines mentions about incorporation and notification of the provisions of these guidelines in the SOR of the Major Ports. Since it is only an enabling provision to implement the provisions of the guidelines it need form part of the guideline provisions to be notified by this Authority.

3. The matter relating to applicability of these guidelines to the private terminal operators operating at the Major Port Trusts is being referred to the MOS.

4.1. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the following:

(i). The definition of the term 'coastal vessel' prescribed in the existing SOR of all the Major Port Trusts is replaced as follows:

> "**Coastal vessel"** shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping / competent authority**."**

(ii). The following guidelines on priority berthing issued by the Ministry of Shipping is incorporated in the schedule of Berth Hire in the existing SOR of all the Major Port Trusts by way of common adoption:

"**Guidelines on priority berthing of coastal vessels at Major Ports issued by the Ministry of Shipping vide letter No.PT-11033/51/2014-PT dated 4 September 2014:**

(i). "Coastal vessels" is defined as any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the Director General of Shipping / competent authority.

(ii). Major ports shall accord priority berthing, at least on one berth, to dry bulk/ general cargo coastal vessels to enable shippers to transport goods from one port in India to another port in India irrespective of origin and final destination of the cargo. This would be in addition to dedicated berth, for handling of Coastal Thermal Coal already existing in Major Ports, if any.

(iii). All Major Ports shall accord priority berthing through specific window to coastal container vessels keeping in view the concession agreements and existing allotment of window berthing at the private terminals and availability of container berths operated by the ports.

(iv). In respect of POL / Liquid cargo tankers, existing practices regarding such priorities as prevalent in various ports may continue.

(v). Coastal vessels which are be accorded priority berthing shall not be liable to pay priority berthing charges.

(vi). There will be no restrictions on berthing of coastal vessel, in addition to the coastal vessel berthed on priority as above, if the same is eligible under normal berthing policy of the port.

(vii). A coastal vessel shall be liable to pay port charges on coastal rates notwithstanding whether it was berthed on priority or otherwise.

(viii). Ports should explore the possibilities of earmarking exclusive berth, storage areas and gates for coastal cargo outside the custom bonded area of the Ports to further facilitate movement of coastal cargoes.

(ix). Major Ports shall clearly work out the time limit within which a coastal vessel would be berthed in a particular port. This time limit may differ depending on the cargo and berth. Each Major Port should carry out a detailed exercise and issue a trade notice clearly indicating the upper time limit within which a coastal vessel would be given a berth in the port. As regards priority berthing through a specific window to coastal container vessels, Major Ports should have a detailed discussion with the PPP operator and publish the specific window for coastal container vessels. The above mentioned exercise and publication should be completed within 30 days from the date of issue of these guidelines.

(x). The MIS in the Port should capture data for coastal and foreign vessels cargoes separately. The data so captured shall be monitored and reported internally in the port as well as to IPA and Ministry in separate formal for coastal and foreign vessels."

4.2. The MOS has already issued these guidelines to all the Major Ports vide its letter dated 4 September 2014 for its compliance. These guidelines are, therefore, made effective from the date of issue of the said guidelines i.e. from 4 September 2014 as clarified by the MOS vide its letter no. PT-11033/51/2014-PT dated 11 November 2014.

4.3. The Major Port Trusts are advised to suitably amend their existing Scale of Rates.

4.4. As stated by the MOS the above guidelines are in supersession of all the other guidelines issued by the MOS on the subject.

(T.S. Balasubramanian)
Member (Finance)