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No.

CHAIRMAN MPTGOA

Revision of guidelines and reconstitution of CSC for settling contractual disputes under the contract/agreement with the contractors/concessionaires/consultants at major ports

From : IPA <ipa@nic.in>

Mon, Mar 21, 2022 04:23 PM

Subject : Revision of guidelines and reconstitution of CSC for settling contractual disputes under the contract/agreement with the contractors/concessionaires/consultants at major ports

2 attachments

To : Chairman MbPT <chairman@mumbaiport.gov.in>, chairman@vocport.gov.in, Shri P.L. Haranadh <chmppt@paradiport.gov.in>, Sunil Paliwal <chairman@chptmail.chennaiport.gov.in>, chairman@chennaiport.gov.in, Vinit Kumar <chairman@kolkataporttrust.gov.in>, DrBeena M <chairman@cochinport.gov.in>, CHAIRMAN MPTGOA <chairman@mptgoa.gov.in>, CHAIRMAN JNPT <chairman@jnport.gov.in>, chairman@deendayalport.gov.in, mychacko@gmail.com, Venkata Ramana Akkaraju <chairman@nmpt.gov.in>, chairmannmpt@gmail.com, Chairman KPL <chairman@kplmail.in>, vpt chairman <vpt.chairman@gmail.com>, Chairman Visakhapatnam Port <chairman.vpt@gov.in>

Cc : Office of Secretary Ports Shipping and Waterways <secyship@nic.in>, Vikram Singh <js-ports@nic.in>, samarajit kr <samarajit.kr@nic.in>, Chairman MbPT <chairman@mumbaiport.gov.in>, Rajeev Puri <cao.ipa@nic.in>, Rajeev Puri <cao.ipa@nic.in>, Dr MK Sharma <mk.sharma@nic.in>, Vinod Singh <psmd.ipa@nic.in>

Sir,

PFA the letter on the above subject.

Regards

Indian Ports Association (IPA)

1st Floor, South Tower, NBCC Place,

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New Delhi-110 003

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Handwritten notes and signatures:
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Indian Ports Association

File No. IPA/Legal/Con. Committee/2020

dated- 21.03.2022

The Chairmen,
All Major Port Authorities,
The CMD, KPL

Subject: Revision of Guidelines and reconstitution of Conciliation and Settlement Committee for settling contractual disputes under the contract / agreement with the contractors / concessionaires / consultants at the major ports

Madam/ Sir,

Kind attention is invited to IPA's letter of even number dated 05-10-2021 forwarding therewith revised guidelines for constitution of conciliation and settlement committee (CSC) together with the revised composition.

2. These guidelines were discussed in the 189th meeting of Governing Body of IPA held in New Delhi on 11-3-2022 (additional item number 3). After deliberations, the following decisions were taken:-

- (i). To revise the guidelines to provide for the travel of the Conciliators/Independent Experts by Executive Class only when the settlement is reached and the Conciliators travel to visit the port for signing the settlement.
- (ii). To revise the Guidelines to provide for constitution of CSC consisting of only two members/ conciliators instead of minimum three in those cases where the amount in dispute is less than ₹ 1 crore.

3. It is, therefore, requested that the aforesaid changes/ amendment may please be included in the CSC guidelines to be issued by the major ports. It is also requested that the major ports which are yet to constitute the CSC may formally constitute the same on priority under intimation to IPA.

4. As CSC has become fully functional and has since decided/settled some cases, it is requested that the ports may please start referring the cases of dispute to the CSC for settlement on priority under intimation to IPA.

Yours faithfully,

(Rajiv Puri)

Chief Administrative Officer

MORMUGAO PORT AUTHORITY

ITEM

5 of the 3rd meeting
convened on 27th May, 2022

Sub : Revision of guidelines and reconstitution of Conciliation and Settlement Committee for settlement contractual disputes under the contracts/ agreements with the Contractors/ Concessionaires/ Consultants at Major Ports.

1.0 BACKGROUND :

1.1 Vide letter No. IPA/Legal/Con.Committee/2020 dated 21.03.2022 (**ANNEXURE-I**), Shri Rajiv Puri, Chief Administrative Officer, Indian Ports Association while referring to IPA's earlier letter of even number dated 05.10.2021 wherein revised guidelines for constitution of Conciliation and Settlement Committee (CSC) together with the revised composition of the Committee were forwarded to all Ports, has informed that the guidelines dated 05.10.2021 were discussed in the 189th meeting of the Governing Body of IPA held in New Delhi on 11.03.2022 (as additional item number 3) and after deliberations, the following decisions were taken :

- (i) To revise the guidelines to provide for the travel of the Conciliators/Independent Experts by Executive Class only when the settlement is reached and the Conciliators travel to visit the port for signing the settlement.
- (ii) To revise the Guidelines to provide for constitution of CSC consisting of only two members/conciliators instead of minimum three in those cases where the amount in dispute is less than Rs. 1 crore.

1.2 The subject proposal is for seeking approval to the changes/amendments to the Guidelines circulated by IPA on 05.10.2021.

2.0 DETAILS OF THE PROPOSAL :

- 2.1 Vide Letter No. IPA/Legal/Con.Committee/2020 dated 21.01.2021 (**ANNEXURE-II**), the Indian Ports Association had circulated draft guidelines in January, 2021 relating to establishment of a Conciliation & Settlement Mechanism for Contractual Disputes under the contracts/agreements with the Contractors/Concessionaires/Consultants at Major Ports to be formally adopted by the Major Ports after seeking approval of their respective Boards and the composition of a Conciliation and Settlement Committee (CSC), formation was conveyed to all the Major Ports.
- 2.1 Accordingly, the proposal containing the Guidelines circulated by IPA on 21.01.2021 and the Composition of the CSC constituted by IPA was placed before the Board and the Board vide Resolution No. 120 dated 16.07.2021 (**ANNEXURE-III**) approved the same. Thereafter, formal orders were issued to the CSC vide No. GAD/Legal/52/875 dated 31.07.2021 (**ANNEXURE-IV**), and also a Contract Management Division (CMD) was constituted vide order No. GAD/Legal/52/2021/890 dated 02.08.2021 (**ANNEXURE - V**).
- 2.2 Vide letter no. IPA/Legal/Con.Committee/2020 dated 24.09.2021 (**ANNEXURE - VI**), IPA forwarded the revised guidelines and informed that the Guidelines dated 21.01.2021 have been reviewed and revised. Some changes/additions have been made for making them more clear and simplified. Further, it was requested to issue the Guidelines formally in supersession of the earlier Guidelines.
- 2.3 In continuation to its Order of even number dated 04.05.2021, IPA vide Order dated 04.10.2021 (**ANNEXURE-VII**) has reconstituted the Conciliation and Settlement Committee by nominating two additional members to be co-opted for smooth working of the committee. It is further stated that the CSC shall be chaired by the senior most member of the Committee i.e. either depending upon their date of appointment in civil services or as deemed appropriate in mutual agreement amongst the members.
- 2.4 Vide email dated 05.10.2021 (**ANNEXURE - VIII**), enclosing therewith IPA's letter Ref. No. IPA/Legal/Con. Committee/2020 dated 5th October' 2021 (**ANNEXURE - IX**), alongwith revised guidelines (**ANNEXURE - X**) and Committee re-constitution Order

dated 04.10.2021, IPA had informed that the revised guidelines have been discussed and approved with some modifications in IPA General Body meeting held on 28.09.2021. Further, it is requested that the revised guidelines may be issued formally in supersession of the earlier Guidelines by the Major Port Trusts and KPL after seeking approval from their respective Boards. Further, the re-composition of the committee dated 04.10.2021 constituted by IPA was also forwarded.

- 2.5 Based on the aforesaid directions of the IPA, the guidelines dated 05.10.2021 and re-composition of the CSC Committee dated 04.10.2021 was placed before the Board and Board vide resolution No. 151 dated 18.10.2021 (**ANNEXURE – XI**) approved the re-composition of the Conciliation and Settlement Committee (CSC) constituted by Indian Ports Association and also the Revised Guidelines circulated by IPA on 05.10.2021.
- 2.6 Thereafter, orders were issued to the CSC vide No. GAD/Legal/52/1582 dated 26.10.2021 (**ANNEXURE – XII**), and also to the Contract Management Division (CMD) vide order No. GAD/Legal/52/2021/1583 dated 26.10.2022 (**ANNEXURE – XIII**).
- 2.7 Now, vide letter dated 21.03.2022, IPA has informed that the guidelines dated 05.10.2021 were discussed in the 189th meeting of the Governing Body of IPA held in New Delhi on 11.03.2022 (as additional item number 3) and after deliberations, the following decisions were taken :
- (i) To revise the guidelines to provide for the travel of the Conciliators/Independent Experts by Executive Class only when the settlement is reached and the Conciliators travel to visit the port for signing the settlement.
 - (ii) To revise the Guidelines to provide for constitution of CSC consisting of only two members/conciliators instead of minimum three in those cases where the amount in dispute is less than Rs. 1 crore.
- 2.8 It was also requested that the aforesaid changes/amendments may please be included in the CSC guidelines to be issued by the Major Ports and the Major Ports which are yet to constitute the CSC may formally constitute the same on priority under intimation to IPA. Further, it is informed that as CSC has become fully functional and has since decided/settled some cases, it is

requested that the Ports may please start referring the cases of dispute to the CSC for settlement on priority under intimation to IPA.

3.0 JUSTIFICATION :

3.1 The present proposal is on the basis of recommendations and instructions issued by Indian Ports Association after detailed discussions in the 189th meeting of its governing body at New Delhi on 11.03.2022 in the complete interest of all Major Ports.

3.2 As such, the subject proposal is placed before the Board to obtain its approval to the changes/amendments to the guidelines dated 05.10.2021 as recommended by IPA in the 189th meeting of Governing Body of IPA held in New Delhi on 11.03.2022 (as additional item no. 3).

4.0 FINANCIAL CONCURRENCE :

4.1 Finance Department concurs with the proposal.

5.0 DECISION REQUIRED

5.1 Board may kindly approve to revise/change/amend the existing guidelines:

- (i) To add a new sub-clause 24.7 below Clause 24.0 under the heading "Fees", with the following text **"Travel to be provided to the Conciliators/Independent Experts by Executive Class only when the settlement is reached and the Conciliators travel to visit the port for signing the settlement"**.
- (ii) To add a new provisio after sub clause 5.1 at Clause 5.0 under the heading "Appointment of Conciliators", with the following text **"Provided the constitution of CSC consisting of only two members/conciliators instead of minimum three in those cases where the amount in dispute is less than Rs. 1 crore"**.

Sd/-
FA&CAO

Sd/-
SECRETARY

DRAFT RESOLUTION NO. OF .

RESOLVED THAT to revise/change/amend the existing guidelines:

- (i) To add a new sub-clause 24.7 below Clause 24.0 under the heading "Fees", with the following text **"Travel to be provided to the Conciliators/Independent Experts by Executive Class only when the settlement is reached and the Conciliators travel to visit the Port for signing the settlement"**.

- (ii) To add a new provisio after sub clause 5.1 at Clause 5.0 under the heading "Appointment of Conciliators", with the following text **"Provided the constitution of CSC consisting of only two members/conciliators instead of minimum three in those cases where the amount in dispute is less than Rs. 1 crore"**,

be and is hereby approved.

Note of discussions at the meeting.

5.1 It was submitted that the proposal is regarding the revision of guidelines and reconstitution of Conciliation and Settlement Committee for settlement contractual disputes under the contracts/ agreements with the Contractors/ Concessionaires/ Consultants at Major Ports. He further stated that the changes/amendments are being done as recommended by IPA.

The Hon'ble Members approved the proposal.

RESOLUTION NO. 49 OF 27.05.2022

5.2 RESOLVED THAT to revise/change/amend the existing guidelines:

- (i) To add a new sub-clause 24.7 below Clause 24.0 under the heading "Fee", with the following text **"Travel to be provided to the Conciliators/Independent Experts by Executive Class only when the settlement is reached and the Conciliators travel to visit the port for signing the settlement"**.
- (ii) To add a new provision after sub clause 5.1 at Clause 5.0 under the heading "Appointment of Committee", with the following text **"Provided the constitution of CSC consisting of only two members/conciliators instead of minimum three in those cases where the amount in dispute is less than Rs. 1 crore",**

be and is hereby approved.

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