

DATED: 27TH MARCH 2000

GUIDELINES FOR CHARTERING OF FOREIGN FLAG VESSELS

INTRODUCTORY:

1.1 In Part XIV - of the Merchant Shipping Act, 1958 - entitled 'Control of Indian Ships and Ships engaged in Coasting Trade', the provisions of Section 406 deal with Indian ships and chartered ships to be licensed and provisions of Section 407 deal with licensing of ships for coastal trade. As laid down in these sections, the licence has to be granted by the Director General of Shipping (hereinafter D.G.) for chartering of Indian or other ship by a citizen of India or a company or a co-operative society under Section 406, and for ship other than Indian ship or a ship chartered by a citizen of India or a company or a co-operative society for engaging in the coasting trade of India under Section 407.

1.2 Sub-Section (3) of 406 and sub-section (2) of Section 407 empower the D.G.Shipping to give the licence subject to such conditions as may be specified by the D.G. Shipping.

1.3 In the public interest, and in order to ensure transparency and equitable consideration for Indian Shipowners, Shippers, project Authorities, other public and private parties (citizens/companies/societies and PSUs and joint ventures), and above all, the Indian consumers, the Director General of Shipping is hereby pleased to lay down the following guidelines, which amongst other things, shall govern the issue of licence for chartering of Indian and Foreign Flag Vessels for export, import, coastal trade, project-based and/or offshore activities, etc. in supersession of all guidelines issued by this Directorate previously including those vide letter No. SD-9/CHRT(82)/97 dated 09.08.1999 enclosing the minutes of the meeting held on 22.07.1999 and vide letter No. SD-9/CHRT(82)/97-II dated 15.12.1999 enclosing the minutes of the meeting held on 25.10.1999.

1.4 These guidelines are also applicable to dredgers, offshore supply vessels etc. and, in short, all sea-going vessels fitted with mechanical means of propulsion (except sailing vessels) to whom Part XIV of the M.S. Act, 1958 is applicable.

1.5 The following guidelines shall come into operation with immediate effect.

Charter of foreign flag vessels for export:

2.1 The applicant should submit their application in the prescribed format as at Annex “A” or “B” with necessary fees at least three working days prior to commencement of the laycan except Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels.

2.2 Prior to above, the applicant should submit their enquiry consisting of details regarding specification of the requirement of vessel, quantity of cargo, nature of cargo, laycan, port of loading and discharge etc. to Indian National Shipowners' Association (hereinafter INSA) and D.G. Shipping at least seven working days prior to laycan. However, in respect of requirement of following vessels the time shall be 2 day-

“Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels”.

2.3 On receipt of the enquiry from the applicant, INSA shall circulate the same to its concerned Member Shipping Companies who in response thereof shall forward to the Applicant the offers they wish to make giving details of a suitable Indian flag vessel, Charter hire etc., endorsing copies of the offers made to INSA as well as to the Director General of Shipping. The offers should be made by the INSA Members within not more than 3 working days after receipt of the enquiry in respect of all vessels except Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels. In respect of these latter vessels, INSA Member Companies shall make their offers to the Applicant within one working day after receipt of the enquiry. INSA shall in response to the enquiry of the applicant inform the DGS the offers made by its Member companies and endorse a copy of the same to the applicant company within at least 3

days in respect of all vessels except Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels.

Charter of foreign flag vessels for import :

3.1 The applicant should submit their application in the prescribed format as at Annex “C” or “D” with necessary fees at least three working days prior to commencement of the laycan except in the case of Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels.

3.2 Prior to above, the applicant should submit their enquiry consisting of details regarding specification of the requirement of vessel, quantity of cargo, nature of cargo, laycan, port of loading and discharge, etc. to INSA and D.G. Shipping at least seven working days prior to laycan. However, in respect of requirement of following vessels the time limit shall be 2 days :-

“Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels”.

3.3 On receipt of enquiry from the applicant, INSA shall circulate the same to its concerned Member Shipping Companies who in response thereof shall forward to the Applicant the offers they wish to make giving details of a suitable Indian flag vessel, Charter hire etc., endorsing copies of the offers made to INSA as well as to the Director General of Shipping. The offers should be made by the INSA Members within not more than 3 working days after receipt of the enquiry in respect of all vessels except Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels. In respect of these latter vessels, INSA Member Companies shall make their offers to the Applicant within one working day after receipt of the enquiry. INSA shall in

response to the enquiry of the applicant inform DGS the offers made by its Member Companies and endorse a copy of the same to the applicant company within at least 3 days in respect of all vessels except Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels.

Chartering permission for coastal trade/off-shore operations:

4.1 These guidelines apply to all applications for charter permission for time or voyage charter of foreign flag vessels for offshore activities/movement of petroleum products/cement/bulk cargo/dredging/off-shore construction and repair/lighterage operation etc. from any port or place in India to any other port or place on the continent of India.

4.2 The applicant when it is a spot charter without any tender process having been followed, should submit their application in the prescribed format as at annex C or D with necessary fees at least three working days prior to the commencement of laycan except in the case of Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels the time limit shall be two days.

4.3 Prior to above, the applicant should submit enquiry consisting of details regarding specification of the requirement of vessel, quantity of cargo, nature of cargo, laycan, port of loading and discharge etc. to INSA, ICC and D.G. Shipping at least seven working days prior to laycan. However, in respect of requirement of following vessels the time limit shall be 2 days :-

“Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels”.

4.4 On receipt of the enquiry from the applicant, INSA/ICC shall circulate the same to its concerned Member Shipping Companies who in response thereof shall forward to the Applicant the offers they wish to make giving details of a suitable Indian flag vessel, Charter hire etc., endorsing copies of the offers made to INSA/ICC as well as to the Director General of Shipping. The offers should be made by the INSA/ICC Members within not more than 3 working days after receipt of the enquiry in respect of all vessels except Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels. In respect of these latter vessels, INSA/ICC Member Companies shall make their offers to the Applicant within one working day after receipt of the enquiry. INSA/ICC shall in response to the enquiry of the applicant inform the DGS the offers made by its Member Companies and endorse a copy of the same to the applicant company within at least 3 days in respect of all vessels except Crude Carriers, Chemical Carriers, Gas Carriers, Product Tankers, Feeder and Container vessels.

LIBERALISED MEASURES:

5.1 Enquiry with, or No-Objection Certificate from, Indian National Shipowners' Association/Indian Coastal Conference (ICC) is not necessary wherever open or global tender, incorporating the provisions of these guidelines has been floated. That process would have provided scope for Indian citizens/companies/societies having Indian flag vessels to participate in the said tender. In the said tender process, the right of first refusal will remain with the Indian vessel owner on his showing readiness to take up the job at the lowest price indicated by the foreign flag vessel. Where the said Indian citizens/companies/societies have failed either to participate or obtain the order, they cannot be allowed to obtain the same or part of the same work at any cost merely through the cabotage provisions found in Section 407 read with Section 406, of the M.S. Act, 1958.

5.2 Unless the Indian vessel becomes successful in the evaluation of the technical bid, it will not be eligible for any further consideration, and support under the provisions of Section 407 of the MS Act, 1958.

5.3 The party, which offers the Indian flag vessel, should meet the commercial requirement by matching the lowest bid and there shall be no price preference in favour of the Indian flag vessels. If any expenditure incurred by the Indian vessel-owner is being borne by the charterer for the foreign flag vessel, that shall be suitably added to the price while comparing the costs. On such calculation if the Indian vessel is offered at the same price as the foreign vessel, the licence under Section 407 will NOT be granted for the foreign-flag vessel, and for this purpose a foreign vessel would include a vessel held on BBCE by Indian citizen/company/society. If, however, more than one Indian tenderer is involved, then the first offer will be made to the lowest among the Indian tenderers, and on his failure to match the lowest foreign tender, the next higher Indian tenderer will be given the offer to match the lowest foreign tender and so on.

5.4 In respect of turn-key projects such as construction of or repairs to port, terminal, berth, jetty, offshore platform etc, including dredging operations, if the formal Agreement or Understanding lays down that the successful bidder should have his own group of vessels which are complementary to each other for the performance of the contract, then the licence under Section 407 will be given for the foreign flag vessel in accordance with the said contract.

5.5 If there is a dispute relating to technical specifications of the vessel given in the tender advertisement, the matter may be referred to the Directorate-General for decision

as to whether the Indian vessel with a slight difference in specifications should be chartered, and not the foreign flag vessel. As far as practicable, this decision will be taken after discussion with the concerned parties.

Non-INSA members :

6.1 For non-INSA members, a copy of the enquiry shall, as has been the prevailing practice, be displayed on the notice board of the office of the Director-General Shipping within the time stipulated above.

Crisis or emergency :

7.1 In the event of an emergency or crisis, however, the Director-General of Shipping retains the right to take action as deemed fit, overriding any of the guidelines laid down hereinabove.

ANNEXURE - 'A'

Proforma to be filled in for the purpose of Chartering of foreign flag vessel by EXPORTERS on voyage charter basis.

1. Name and address of the applicant :
2. Date of inquiry submitted to INSA :
3. Date of inquiry circulated to Indian :
shipping companies
4. Whether any response received from :
Indian shipping companies ?
- (i) If so details thereof :

(ii) Reason for rejection of Indian flag :
vessel, if offered.

5. (i) Name of the vessel to be chartered :

(ii) Name and address of the owner :

(iii) Flag :

(iv) Year of built :

(v) D.W.T. :

(vi) G.R.T. :

(vii) Draft :

6. (i) Port of loading and likely date of :
readiness.

(ii) Port of discharge and likely date of :
becoming free.

(iii) Laycan :

7. (i) Name and Nature of cargo :

(ii) Quantity of cargo to be carried :

8. Name of the vessels taken on voyage :
charter during the last year with
indication of D.G. Shipping letter and
date of approval.

ANNEXURE - 'B'

Proforma to be filled in for the purpose of Chartering of a foreign flag vessel on Time Charter by Indian Shipping Company/Exporters.

- 1. Name and address of the applicant :**
- 2. Date of inquiry submitted to INSA :**
- 3. Date of inquiry circulated to Indian :**
shipping companies
- 4. Whether any response received from :**
Indian shipping companies ?
 - (i) If so details thereof :**
 - (ii) Reason for rejection of Indian flag :**
vessel, if offered.
- 5. (i) Name of the vessel to be chartered :**
 - (ii) Name and address of the owner :**
 - (iii) Flag :**
 - (iv) Year of built :**
 - (v) D.W.T. :**
 - (vi) G.R.T. :**
 - (vii) Draft :**
- 6. (i) Port and date of delivery/ :**
re-delivery.
(Port of loading & Port of discharge)
 - (ii) Nature and quantity of Cargo :**
proposed to be carried.

(iii) Laycan :

7. Name of the vessels taken on voyage :

charter during the last year with

indication of D.G. Shipping letter and

date of approval.

Authorised Signatory

ANNEXURE - 'C'

Proforma to be filled in for the purpose of Chartering of a foreign

flag vessel by Exporter / Importer on voyage charter basis.

1. Name and address of the applicant :

2. Date of inquiry submitted to INSA :

3. Date of inquiry circulated to Indian :

shipping companies

4. Whether any response received from :

Indian shipping companies ?

(i) If so details thereof :

(ii) Reason for rejection of Indian flag :

vessel, if offered.

5. (i) Name of the vessel to be chartered :

(ii) Name and address of the owners :

(iii) Flag :

(iv) Year of built :

- (v) D.W.T. :
- (vi) G.R.T. :
- (vii) Draft :
- (viii) Speed :
- (ix) Fuel consumption :
- 6. (i) Port of loading and date of readiness :
- (ii) Port of discharge and date of becoming free :
- (iii) Laycan :
- 7. (i) Name and nature of cargo :
- (ii) Quantity of cargo :
- (iii) Loading rate :
- (iv) Discharging rate :
- (v) Demurrage :
- (vi) Despatch :
- 8. (i) Freight rate per M.T. Payable :
- (ii) Currency in which payable :
- (iii) Quantity of cargo to be carried :
- (iv) Total freight payable in foreign exchange :
- (v) Brokerage, if payable and how to be paid. :
- 9. (I) Brief details of various foreign flag vessels offered including the rates :

at which offered.

(ii) Reason for selecting the present :
vessel.

(iii) How does the proposed charter :
hire compare with the prevailing
market rate.

8. Total foreign exchange earnings/ :
Savings on the shipments:-

(i) C& F Price of the cargo to be :
realised

(ii) F.O.B. Price of the cargo :

(iii) Freight in foreign exchange :

(iv) Demurrage/Despatch Money :

(v) Net foreign exchange earnings :

(vi) Documents such as copy of the :
contract/L.C. etc. to be furnished.

11. MARKET POSITION :

(i) Market in the current freight market :
trend for this cargo and with
reference to the trade route ?

(ii) Please quote a few freight rates at :
which this cargo was fixed in
comparable international trade
during the last 2 months naming
specific vessels.

- (iii) What freight rates have been :
reported by reputed publications/
brokers during the last 2 months
for identical size of ships.
12. (i) Name of the vessels taken on :
voyage charter during last one year
with indication of D.G. Shipping
letter and date of approval.
- (ii) Exact amount of freight paid in :
respect of each vessel.

(AUTHORISED SIGNATORY)

ANNEXURE - 'D'

**Proforma to be filled in for the purpose of Chartering of a foreign
flag vessel on Time Charter by Indian Shipping Company.**

1. Name and address of the applicant :
2. Date of inquiry submitted to INSA :
3. Date of inquiry circulated to Indian :
shipping companies
4. Whether any response received from :
Indian shipping companies ?
- (i) If so details thereof :
- (ii) Reason for rejection of Indian flag :
vessel, if offered.
5. (i) Name of the ship to be chartered :

- (ii) Name and address of the owners :
- (iii) Flag :
- (iv) Year of built :
- (v) D.W.T. :
- (vi) G.R.T. :
- (vii) Draft :
- (viii) Speed :
- (ix) Fuel consumption :
- 6. (i) Port and date of delivery :
- (ii) Port and date of re-delivery :
- (iii) Port of loading :
- (iv) Port of discharge :
- (v) Radius of trading of the ship :
- (vi) Nature and quantity of cargo :
- you propose to carry.
- (vii) Laycan :
- 7. (i) Charter hire rate agreed :
- (ii) Currency in which payable :
- (iii) Period of charter :
- (iv) Do you expect of charter period to exceed the stated duration ? If yes, please give details on expected additional duration and contingent reasons thereof. :
- (v) Total amount of charter hire :

payable for the whole transaction

including O.T.

(vi) Brokerage/Commission and how it :

is to be paid. Please give for

exceeding the industry norm.

9. Brief details of other foreign flag
vessels offered to you including
the charter rates at which offered.

(a)

(b)

(c)

10. Net foreign exchange savings/ :

earnings estimated alongwith

detailed calculations.

10. Market situation :

(a) Please give trend of the time charter :

rate in International market for this

type of ship and relevant international

trade.

(b) Name specific ships & charter rates :

at which they were fixed in similar or

comparable position during the last

two months as reported by reputed

shipping journals/brokers.

(i)

(ii)

(iii)

(iv)

(v)

(vi)

11. (a) Name of ships (with charter hire rate) :

**fixed by you earlier during last one
year with D.G. Shipping approval.**

(b) Whether copies of charter parties :

**have been furnished in respect of
these charters to D.G. Shipping.**

(AUTHORISED SIGNATORY)