

(To be Published in Part - III Section 4 of the Gazette of India, Extraordinary)
Tariff Authority for Major Ports

No. TAMP/90/2016-PPT

Mumbai, September 2017

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Paradip Port Trust for general revision of its Scale of Rates, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/90/2016-PPT

Paradip Port Trust

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QUORUM

Applicant

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 15th day of September 2017)

This case relates to the proposal received from Paradip Port Trust (PPT) for general revision of its Scale of Rates (SOR).

2.1. The existing SOR of the PPT was last approved by this Authority vide Order no. TAMP/62/2009-PPT dated 25 March 2011. This Order was notified in the Gazette of India on 23 May 2011 vide Gazette no. 111 prescribing the validity of the SOR till 31 March 2013.

2.2. Vide the said Order, an across the board reduction of 32% was effected on all cargo handling charges (except for the cargo related charges prescribed for the cargo of Paradeep Phosphates Limited handled at Fertilizer Berth No.1 and for the cargo of the Indian Farmers Fertilizers Co-operative (IFFCO) handled at Fertilizer Berth No.2, since the cargo related charges at these berths are governed by the separate bilateral agreements between the PPT and the concerned parties) and status quo was maintained in respect of all other charges.

3.1. The PPT had filed its proposal for revision of the SOR on 27 August 2012. The proposal was taken up on consultation and a joint hearing was also held on 25 February 2013. When the case was being firmed up for final consideration of this Authority, the PPT vide its communication dated 30 October 2013 submitted that as the financial year 2012- 13 is already over, it desires to consider the same. Also, the cargo mix estimated to be handled had undergone change. Moreover, due to severe cyclone on 12 October 2013, port had suffered damages to its properties to the tune of ₹ 82.71 crores and that if the damages are not met by the Government of India, the PPT will have to meet the restoration cost from its internal resources which will affect its internal resources. In view of the above position, the PPT sought time to submit a revised proposal for general revision of its SOR and requested for continuation of levy of tariff as per existing SOR.

3.2. Based on the request made by PPT, this Authority extended the validity of SOR of PPT upto 31 March 2014 vide its Order no. TAMP/62/2009 dated 10 January 2014. The PPT was also directed to file its revised proposal by 31 January 2014.

3.3. In the absence of receipt of a proposal from the Port, the PPT was reminded to file a proposal. Simultaneously, to avoid a vacuum in the Scale of Rates, this Authority, at periodic intervals, has extended the validity of the SOR vide its Orders dated 4 April 2014, 4 July 2014, 30 September 2014 and 2 January 2015.

3.4. In the meanwhile, the Tariff Policy, 2015, applicable for Major Port Trusts came into effect from 13 January 2015. Consequently, as stipulated in Clause 1.5 of the Tariff Policy, this Authority in June 2015 issued the Working Guidelines to operationalize the said Tariff Policy, 2015. Accordingly, the PPT was advised to file a revised proposal in accordance with the new Tariff policy of 2015.

3.5. Given that this Authority is yet to receive the revised proposal from PPT and also since the new Tariff Policy, 2015 has come into effect, the PPT

would have to formulate its revised proposal in accordance with the new Tariff Policy of 2015 announced by the MOS. The proposal of PPT as and when received would have to be processed following the new Tariff Policy, 2015. In view of the above position, this Authority vide its Order no. TAMP/55/2012-PPT dated 13 February 2015 closed the proposal of PPT and decided to treat the revised proposal to be filed by PPT afresh.

3.6. Thereafter, this Authority at periodic intervals has extended the validity of the SOR vide its Orders dated 28 April 2015, 10 November 2015, 6 May 2016 and 7 October 2016 to avoid a vacuum in tariff and for the reasons cited in the said Order. While extending the validity at each occasion, the PPT was advised by this Authority to file the general revision proposal immediately.

4.1. In this backdrop, the PPT has filed its proposal for general revision of its SOR following Tariff Policy, 2015 vide its letter No. FA/RE/802/Pt.I/2015/1599 dated 6 December 2016.

4.2. The submissions made by the PPT in its proposal dated 6 December 2016 are as follows:

- (i). Penalty for non-achievement of performance of vessel at Mechanised Coal Handling Berths as per the recommendation of BCG has already been implemented from 1 November 2015 with the consent of port users.
- (ii). As per the directive of Government of India, the PPT has spent ₹. 4.85 crores during the 2016-17 towards insurance premium of port properties that will be continued in future years also which could not be considered while preparing the cost data i.e. Annual Revenue Requirement in the absence of the appropriate provision in the formats.
- (iii). As per the directive of Government of India, the PPT will take up the following projects during the next 2-3 years which require huge outgo of fund that can be generated through Internal Resources.

- (a). Smart City
 - (b). Outer Harbour
 - (c). Solar Power Plant
 - (d). Railway connectivity through Indian Port Rail Company Ltd
 - (e). Inland Waterway Terminal
 - (f). Upgradation of IOHP etc.
- (iv). The Government of India has fixed stiff RFD targets towards operating ratio and cost per tonne. In order to generate required fund for the projects and to achieve RFD targets the PPT decided not to revise the existing tariff and the same rates should be continued. This has been discussed in the several review meeting chaired by higher authorities of Ministry of Shipping.
- (v). Thus, no revision has been proposed by PPT and the existing rates are proposed to continue.
- (vi). The performance parameters are taken as average of last two years from 31.03.2013 to 31.03.2015 (Form-6).

4.3. The PPT has furnished detailed computation of Annual Revenue Requirement (ARR) under Form 1 and Revenue estimation at the proposed SOR in Form 3, as reproduced below:

(₹ in crores)				
Sl. No.	Description	Y1 (2011-12)	Y2 (2012-13)	Y3 (2013-14)
(1)	Total Expenditure (As per Audited Annual Accounts)			
(i)	Operating expenses(including depreciation)	290.17	291.87	382.98
(ii)	Management & General Overheads	94.73	107.72	125.42
(iii)	Finance and Miscellaneous expenses(FME)	59.13	87.75	178.42
	Subtotal1=(i)+(ii)+(iii)	444.03	487.34	686.82
(2)	Less Adjustments:			
(i)	Estate related expenses			
	(a)Operating expenses(including depreciation)	49.63	40.82	48.51
	(b) Allocated Management & Administrative Overheads	4.10	4.52	5.21
	(c) Allocated FME	2.56	3.68	7.41
	Subtotal 2(i)=[(a)+(b)+(c)]	56.29	49.03	61.12

(ii)	Interest on loans	0.21	0.21	0.21
(iii)	4/5 th of One time expenses, if any like arrears of wages, arrears of pension/ gratuity, arrears of exgratia payment, etc.(list out each of the items)			
	(a)Wage arrears			
	(b)			
	(c)			
	Subtotal 2(iii)=[(a)+(b)+(c)]	0	0	0
(iv)	4/5 th of the Contribution to Pension Fund	32.00	61.95	92.16
(v)	Management & General Overheads over & above 25% of the aggregate of the operating expenditure and depreciation	1.36	6.20	0.00
(vi)	Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10 of the Tariff Policy,2015			
	(a) Operating expenses			
	(b) Depreciation			
	(c) Allocated Management & Administrative Overheads			
	(d) Allocated FME			
	Subtotal 2(vi)=[(a)+(b)+(c)+(d)]	0.00	0.00	0.00
	Total of 2=2(i)+2(ii)+2(iii)+2(iv)+2(v)+2(vi)	89.86	117.39	153.49
(3)	Total Expenditure after Total Adjustments (3=1-2)	354.17	369.95	533.33
(4)	Average Expenses of Sl. No.3= [Y1+Y2+Y3]/3			419.15
(5)	Capital Employed			
	(i) Net Fixed Assets as on 31.03.2014(As per Audited Annual Accounts)	1317.07		
	(ii) Add: Work in Progress as on 31.03.2014 (As per Audited Annual Accounts)	129.07		
	(iii) Less: Net value of Fixed assets related to Estate activity as on 31.03.2014 as per Audited Annual Accounts.	65.91		
	(iv)Less: Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2014 as per Audited Accounts	0		
	(v)Less: Net value of fixed assets as on 31 March 2014 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10 of the Tariff Policy, 2015.	0		
	(vi)Add: Working Capital as per norms prescribed in clause2.5 of the Working Guidelines			
	(a) Inventory(One year average consumption)	15.25		
	(b) Sundry Debtor(2month estate income & terminal charges payable by Railway)	17.82		

	(c) Cash(one month cash expenses)	40.81
	(d) Sum of (a)+(b) +(c)	73.87
	(vii).Total Capital Employed[(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]	1454.10
(6)	Return on Capital Employed 16% on Sl.No.5(vii)	232.66
(7)	Annual Revenue Requirement (ARR) as on 31 March 2014 [(4)+(6)]	651.81
(8)	Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15 i.e. @6%(7*1.06)	690.91
(9)	Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16 i.e. @3.82%(7*1.0382)	717.31
(10)	Ceiling Indexed Annual Revenue Requirement (ARR)	717.31
(11)	Revenue Estimation at the proposed indexed SOR within the ceiling indexed ARR estimated at SI No.10 above	706.01

(ii). The PPT has furnished working of revenue estimation in Form 3 considering the proposed tariff based on the actual traffic of 2014-15. As per the said form, the total revenue estimated is ₹. 706.01 crores at the proposed tariff.

(iii). The Performance Standards proposed by PPT in Form-6, based on the average of last three years viz., 2012-13 to 2014-15, are as follows:

Sl. No.	Performance parameters	Proposed Performance standards
(1)	Cargo Related Services	
(a)	Average Ship Berth day Output (in tonnes) in respect of Major Cargo Groups	
(i)	Geared vessel	10,000
(ii)	Gearless vessel	11,500
(iii)	Thermal Coal export (MCHP)	45,000
(iv)	Iron Ore/ Iron ore pallet (IOHP)	15,000
(v)	Thermal Coal in IOHP	12,000
(vi)	Crude Oil	1,00,000
(b)	Average moves per hour (in TEUs) in respect of Containers	NA
(2)	Vessel Related Services	
(a)	Average Turnaround Time of Vessels (in days) port a/c	3
(b)	Average Pre-Berthing Time of Vessels (in days) port a/c	1
(3)	Any other parameters found relevant by the Port	---

5.1. The documents received from the PPT are as per the checklist of documents indicated in the Tariff Policy 2015, for filing the proposal. However, the PPT did not furnish the minutes of the Board meeting. Therefore, the PPT vide its email dated 5 August 2017 has furnished the copy of the Board resolution approving the revised Scale of Rates, at our request.

5.2 Further, Clauses 3.2 and 3.3. of the Tariff Policy, 2015, stipulate that Major Port Trusts shall host the draft SOR along with the proposed Performance Standards on its website, giving the designated email address of Port as well as of TAMP for comments of relevant users / User Organisations, within 15 days' time. The Major Port Trust is to submit its replies on the comments to be received from Port Users to TAMP not later than 15 days from the last date of receipt of comments from the port user. In this regard, the PPT in its proposal had not made any mention about hosting of draft SOR and Performance Standards in the website of the PPT. When this was pointed out to PPT, the PPT vide its email dated 22 December 2016 and subsequent email dated 11 January 2017 has confirmed that the proposed SOR has been hosted on the web site and that the port users have been intimated to furnish their comments. Further, the PPT also informed that the PPT has not received any comments from the users even after the expiry of the prescribed period of 15 days.

5.3. Neither the PPT nor this Authority have received any comments from any of the users/ user organizations, till the case was finalised.

6.1. A joint hearing on the case in reference was held on 27 February 2017 at the PPT premises in Bhubaneshwar. At the joint hearing, the PPT and the users/ user organisations have made their submissions.

6.2. As decided in the joint hearing, the users/ user organisations were requested vide our letter dated 03 March 2017 to furnish their specific comments on the changes proposed by PPT in its Scale of Rate of PPT with supporting analysis to the PPT. Simultaneously, the PPT was also requested vide our letter dated 03 March 2017 to revise its proposal, if required, based on the information to be furnished by the users / user organizations.

7.1. After reminder dated 10 April 2017, the PPT vide its letter dated 03 May 2017 has furnished the revised SOR. Though status quo was maintained in the rates, the PPT was seen to have made substantial changes in the notes/conditionalities governing the levy of the rates.

7.2. In view of the substantial changes, a copy of the revised Scale of Rates of PPT was forwarded to the concerned users/ user organizations for their comments. None of the users/ user organisations have furnished their comments on the revised Scale of Rates, till the case was finalised.

8. Based on a preliminary scrutiny of the revised Scale of Rates, the PPT was requested vide our letter dated 31 May 2017 to furnish information/clarification on some points. After reminder dated 13 June 2017, the PPT has responded vide its letter dated 5 August 2017. The information/ clarification sought by us and the response of PPT thereon are tabulated below:

Sl. no.	Information sought by us	Reply of PPT
1.	<u>Cargo of Paradeep Phosphates Limited (PPL) and Indian Farmers Fertilisers Co-operative (IFFCO):</u>	
(i).	Charges for Cargo of Paradeep Phosphates Limited (PPL) handled at Fertiliser Berth (i) and Indian Farmers Fertilisers Co-operative (IFFCO) handled at Fertiliser Berth (II), which are existing at clause 2.7 and 2.8 respectively in the present SOR has not been proposed in the proposed SOR. The reasons for not proposing the said clauses may be spelt out and also state how the charges are recovered from the PPL and IFFCO for cargo handled at Fertiliser Berth (i) and Fertiliser Berth (ii) respectively in the absence of the above clauses in the proposed SOR.	The charges of PPL (Paradip Phosphates Limited) and IFFCO (Indian Farmers Fertilizers Co-operative) has not been included in General SoR due to following reasons; (a) PPL and IFFCO are governed under 2 different agreements with PPT. The charges are levied as per the terms and conditions of the agreements. (b) The validity of the agreement is different than that of the validity of General SoR.
(ii).	Harmonious reading of clause 2.10 of the Tariff Policy, 2015 and Section 48 of the Major Port Trusts Act, 1963 would reveal that tariff for captive berth has to be notified by the Authority.	No comments furnished by PPT.

Sl. no.	Information sought by us	Reply of PPT
2.	<p><u>Hire Charges for cargo handling equipment / Charges for use of HMC</u></p> <p>Clause 2.15 A of the existing SOR prescribed Hire Charges for Cargo handling equipment. In the proposed draft SOR, the clause 2.15A has been proposed to be deleted. PPT to explain how the revenue will be collected in case the users avail the services of the cargo handling equipment provided by the PPT in the absence of the said clause in the proposed SOR.</p> <p>With regard to charges for use of Harbour Mobile cranes installed by the private operators, the Authority vide Order No. TAMP/54/2007-PPT dated 2 July 2015 has approved following charges to be inserted as item at 2.15 (B) of the SOR.</p> <p>Charges for use of Harbour Mobile Cranes (HMCs) installed by the private operators. (Rate per MT)</p> <p>(a) HMC installed by Jindal Steel Limited ₹.65.88</p> <p>(b) HMC installed by Chennai Radha Engineering Works ₹.73.54</p> <p>However, the charges for use of Harbour Mobile Cranes (HMCs) installed by the private operators have not been included in the proposed SOR. PPT is requested to clarify the reason for not including the said charges in the proposed SOR.</p>	<p>At PPT, nearly 13 numbers of Harbour Mobile Cranes (HMCs) were inducted under license through various tendering process either on revenue sharing basis or on upfront premium payment basis. Till the time of filing the present SoR proposal 3 (three) numbers of HMC have already been phased out and another 2 (two) are likely to be phased out during in September, 2017.</p> <p>Further the validity of these rates are not same as that of SoR, the same has not been included in SoR proposal.</p>
3.	<p><u>Free Storage period of levy of demurrage in transit accommodation</u></p> <p>In the present SOR, for unclaimed/ un-cleared goods sold by auction, free period of 3 days shall count from day of auction (Note 5 of clause 2.10). The free period of 3 days has been proposed to increase to 90 days (Note v of clause 2.9). As such PPT may furnish the rationale for increasing the free time from 3 days to 90 days. As the PPT is aware, cargo lying in the port premises beyond a reasonable and justifiable free dwell time may hamper port operations, apart from loss of revenue to the Port.</p>	<p>Paradip Port Trust primarily deals with bulk cargo. While the liquid bulk and other dry bulk cargo imported are directly taken into the premises of the importer through pipelines and conveyors. Dry bulk cargo handled conventionally are stored in the port premises. The unclaimed/ un-cleared dry bulk cargo left over inside the Port storage areas when proposed for clearance through auction as per the provisions of MPT Act,1963, PPT has witnessed poor bidding response for following reasons :</p> <p>(i). It is not possible to clear the entire quantity sold in auction with 3 free days being voluminous in nature and demurrage thus can accrue in telescopic rate as per the extant SoR. Demurrage in such cases to be paid will far exceed than the prices of the material sold in auction, thus the 3 days free</p>

Sl. no.	Information sought by us	Reply of PPT
		<p>time is unattractive to prospective bidders. (ii). Apart from the time required for processing and obtaining customs cleared documents, the buyer is required to obtain permission for clearance of such bulk cargo (minerals) from Mining Department, Govt. Of Orissa for transportation of such materials as per the Orissa Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2007. Further for the new importers, it takes at least 3 weeks to obtain such mining permission from Government of Orissa.</p> <p>As a result of this, it is difficult to get successful bidders for selling of unclaimed / uncleared goods through auction and the space occupied within the port premises with unclaimed / uncleared goods cannot be utilized for productive purpose.</p> <p>In order to tackle the above problem 90 days free period has been proposed.</p>
4.	<p><u>Vessel Related Charges</u> The clauses related to collection of vessel related charges viz. Berth hire, Port Dues and Pilotage & Towage charges for the Lash Barges prescribed in the existing SOR have not been proposed in the proposed SOR. PPT is requested to furnish the reasons for not proposing the said clauses in the proposed SOR.</p>	<p>Lash ships generally over the years in the world have been phased out. Incidentally, LASH ships have not called at Paradip Port over last 15 years. In view of the above, it has been proposed to delete the clause.</p>
5.	<p><u>Additional Tariff items under Miscellaneous charges</u></p> <p>As seen from the revised proposed SOR submitted by PPT, the following additional tariff items have been proposed:</p> <ul style="list-style-type: none"> ○ Automobiles to be landed and shipped through Ro-Ro operations. ○ Wharfage for any cargo/ containers operations, if a vessel has to unload/reload any hatch cover/ pontoon ○ Siding charges - (a) for warehousing zone (b) for other siding charges. <p>The reasons for prescribing the above tariff items and the basis for arriving the proposed tariff may please be explained. Further, income from these additional tariff items has not been captured in the revenue estimation for arriving ARR at the proposed tariff. The PPT is requested capture the additional revenue arising from the above tariff items for arriving ARR.</p>	<p>In the year 2016, PPT received interest from a shipping liner to bring Pure Car Carriers (PCC) which may require port facility for loading/unloading of car/automobile etc .through Ro-Ro operation for which the existing tariff does not provide any specific rate for which, PPT has now proposed the tariff for such operations.</p> <p>The revenue to be generated being negligible may not have a direct impact on the overall tariff structure of the port.</p> <p>In recent past, PPT witnessed that occasionally, some container feeder ships and project cargo ships at the port have to unload and reload hatch covers/pontoons for which not only the operational time of the berth by the ship is being used but also the same involves use of port workers and</p>

Sl. no.	Information sought by us	Reply of PPT
		<p>infrastructure. In absence of any rate in the past, the proposed rate has been made for such facilities.</p> <p>The revenue to be generated being negligible may not have a direct impact on the overall tariff structure of the port.</p> <p>Siding charges for Warehousing zone and for other siding charges were mentioned in the Scale of Rates (SoR) of PPT published in May, 2005 and SoR of December, 2007. It is submitted that while the Railway Board approves the charges like Haulage, Free Time and Demurrage on wagons as well as Wharfage for loading/Unloading of cargo onto/from wagons, Terminal Charges etc, the Siding Charges are not approved or revised by the Railway Board.</p> <p>Levy of Siding Charge is approved by the PPT Board and was published in Orissa Gazette on 24.06.1993. This was inadvertently omitted in the SoR of 2011 probably due to TAMP order on 27.03.2009. Therefore, it is not a new tariff and hence proposed to be incorporated in the proposed SoR to be approved by the TAMP.</p> <p>The revenue generated on account of the Siding Charges has been included in the Railway earnings of the ARR submitted to TAMP.</p>
6.	<p><u>Wharfage Charges :</u></p> <p>(i). PPT in the proposed draft SOR has proposed wharfage for new Cargo Items viz. Bunker supply to various vessels, Edible Oil, Gypsum, Oilflux, Pyroxenite, Bentonite and FRM under Wharfage Charges. However, the PPT has not captured the revenue effect of the above new cargo items in the ARR statement. As such, PPT is requested to furnish the basis for arriving the rate and also capture the revenue arising from the above cargo items for arriving ARR.</p>	<p>It is submitted that over last few years, PPT has been handling Cargo such as "Bunker" Supply to various Ships, Edible Oil, Gypsum, Oilflux, Pyroxenite, Bentonite etc. as they come in specific nomenclature.</p> <p>As observed Edible Oil is not a new cargo and specific rate exists under tariff head under item 2.1.1.</p> <p>"Bunker" supplied to ships is a phenomenon which was seen in 2014 and the Board of Trustees of PPT vide Resolution No. 122/2013-14 in their meeting held on 08.01.2014 have approved that the bunker supply to the ships will be treated as cargo and accordingly wharfage as per the existing SoR rate for "POL" will be charged for "Bunker". In view of the above, the rate applicable for POL having flash point of 23 degree Celsius and above has been</p>

Sl. no.	Information sought by us	Reply of PPT
		considered as the wharfage for the bunker and accordingly, the same has been proposed for approval in the SoR as it has been done with agreement of the users.
(ii).	<p>The new cargo items namely Gypsum, Oliflux, Pyroxenite and Bentonite have been included in the existing category of cargo namely "Cement, Clinker, Limestone, Dolomite and other fluxing materials. Further, the existing wharfage rate of ₹. 54.40 per tonne for foreign cargo and ₹. 32.65 per tonne for costal cargo in respect of the existing category of cargo are proposed to be made applicable to the new cargo items. In this regard, the PPT is requested to clarify / confirm the following:</p> <p>(a). The rationale for classifying "Gypsum, Oliflux, Pyroxenite and Bentonite" under the existing group of cargo namely "Cement, Clinker, Limestone, Dolomite and other fluxing materials."</p> <p>(b). Whether the new cargo items and the existing cargo items are similar in terms of the cargo profile. If they are similar it may be explained as to how they are similar.</p> <p>(c). If guidance on the classification of Dry Bulk commodities given in Annex – I to the Stevedoring and Shore handling Guidelines issued by MOS in October 2016 is taken as a reference, the existing cargo category falls under the commodity group 10. The new cargo item Gypsum falls under commodity group 9; the new cargo item Bentonite falls under commodity group 6. The other two new cargo items viz. Oliflux and Pyroxenite do not appear to have been classified under any of the commodity groups. In short, the commodity group of the existing four cargoes and commodity group of the proposed cargo are different. Therefore, the PPT is requested to closely and carefully examine its proposal to classify the new cargo under the existing cargo group and review the classification.</p> <p>(d). The PPT's proposal to apply the wharfage rates applicable for the existing four cargo to the proposed four cargo may be justified.</p>	<p>As stated earlier, Gypsum, Oliflux, Pyroxenite and Bentonite are imported items and they come in specific nomenclature and no tariff in specific names in SoR exists for which the same have been included in the proposed to have more clarity. It is correctly pointed out that as approved by the authority, Cement, Clinker, Lime Stone, Dolomite and other fluxing materials are included in the Item 2.1.8 and the existing wharfage rate of ₹.54.40 per tonne for foreign cargo and ₹.32.65 per tonne for costal cargo is being charged.</p> <p>It is submitted that while Clinker and Gypsum are used as inputs/raw materials for manufacturing of Cement. Olyflux, Pyroxenite and Bentonite coming in specific names are used along with Lime Stone and Dolomite used as fluxes in the sintering and manufacturing process of steel by the major steel producers like Tata Steel Ltd., Bhusan Steel Ltd., Steel Authority of India Ltd. etc.</p> <p>Incidentally, as per the existing clause, Notes to Section 2.1 & 2.2 in item 3 "I" of the approved SoR, it has been mentioned before classifying any cargo under "unspecified" category, the relevant customs classification should be referred to find out whether the cargo could be classified under any of the existing categories in the wharfage schedule. In this regard, it may be mentioned that Gypsum and Bentonite have been categorized under Chapter-25 of the customs classification as items under which Cement and Bentonite is being charged under the same tariff rate of Clinker and Limestone under Item 2.1.8. Accordingly, the same have been brought in the existing SoR as a specific commodity.</p> <p>Similarly, Oliflux & Pyroxenite are being used as fluxes and similar productivity has been prescribed at PPT in consultation with users at Paradip with that of Lime Stone and Dolomite. Wharfage in respect of Oliflux, Pyroxenite and Bentonite are being charged treating them as other fluxing material as under item 2.1.8 of the existing SoR, much before the stated guidance on the classification of Dry Bulk commodities</p>

Sl. no.	Information sought by us	Reply of PPT
		<p>given in Annex – I to the Stevedoring and Shore handling Guidelines issued by MOS in October 2016. Accordingly, it has been now included as specific commodity as the service charges are levied under the said category for a long time at PPT.</p> <p>Incidentally, under the 12 categories of cargo in the Annexure-1 it is referred MOP only as a Finished Fertilizer under Category-1. In the Category-2, Sulphur and Rock Phosphate are taken as FRM for production of Finished Fertilizer. As we know MOP grouped under Category-1 of the classification being a Finished Fertilizer also is used for manufacturing complex fertilizer as a raw material like that of MAP as stated above. In view of above, it has been combined the categories of dry bulk cargo under the group Finished Fertilizer and FRM (both category-1 and Category-2 as per the relevant guideline) into 1 category of cargo.</p> <p>In the same line, Bentonite and Gypsum appearing in Category-9 of the guideline at PPT has been clubbed together in Item-10 of the guideline including Pyroxenite/Oliflux (as other fluxing materials) as explained above in view of the fact that the users have already accepted the same long before the present guideline came into force.</p>
	(e). The wharfage, if any, being collected for the new four cargo items may be intimated and reference to the approval accorded by the Competent Authority for the levy of the wharfage rates, may also be intimated.	The revenue generated towards wharfage on these cargo has been included in the ARR for Cargo Related Charges.
(iii)	The PPT has also included a new cargo item viz. FRM under the existing category of finished fertiliser / Ammonium Nitrate and has proposed to apply the existing wharfage rate of finished fertiliser / Ammonium Nitrate to FRM also. However, FRM and finished fertiliser / Ammonium Nitrate fall under different commodity group given in Annex-I to the Stevedoring and Shore handling Guidelines, 2016. Therefore, the PPT is requested to closely and carefully examine the grouping of FRM cargo with the existing cargo keeping in view of our observations made in respect of classification of four new cargo group under the existing four cargo items as brought out in the previous paragraph.	“FRM” in short stands for “Fertilizer Raw Material” and comprise of dry commodities like Rock Phosphate, Sulphur as well as liquids like Phosphoric Acid, Ammonia and Sulphuric Acid etc. Incidentally, MAP i.e. Mono Ammonium Phosphate and MOP i.e. Muriate of Potash though are Finished Fertilisers, still they are also used as Raw Materials for manufacturing complex fertilizers such as DAP and NPK. Similarly, Ammonium Nitrate (Fertilizer Grade) though primarily used as an input for manufacturing explosives, but it is also used as a fertilizer in agricultural purposes. In view of above, all types dry bulk cargo which are required in Fertiliser manufacturing and are not currently handled at PPT in the conventional berths, have been included as “FRM” and same has been grouped under

Sl. no.	Information sought by us	Reply of PPT
		the Tariff applicable for Fertilizer and Ammonium Nitrate.
	The wharfage, if any, being collected for the FRM cargo may be intimated and reference to the approval accorded by the Competent Authority for levy of the wharfage rate for FRM cargo may also be intimated.	No such cargo has been handled in the recent years at conventional berths and therefore no wharfage has been realized by PPT.
(iv)	<p>The PPT has proposed shipment charges of ₹. 49.50 per tonne and Tippling charges of ₹. 20.40 per tonne for handling thermal coal in the IOHP. In this connection, the PPT is requested to clarify / furnish the following:</p> <p>The Authority has accorded approval for introduction of labour cess of ₹. 120 per tonne for handling Thermal coal at IOHP vide Tariff Order no. TAMP/31/2016-PPT dated 8 February 2017. The rate of ₹. 120 includes shipment charges of ₹. 49 per tonne and Tippling charges of ₹. 20.40 per tonne for handling of Thermal coal at IOHP. Further, the PPT has also proposed the labour cess of ₹. 120 per tonne for handling of Thermal coal at IOHP in the proposed SOR. The PPT is requested to confirm that the prescription of labour cess of ₹. 120 per tonne and prescription of Shipment charges ₹. 49.50 per tonne and Tippling charges of ₹. 20.40 per tonne for handling thermal coal at IOHP are not duplication.</p>	<p>Due to the restrictions in mining activities of Iron Ore in the State of Odisha and in other states elsewhere as well as restriction on exports of Iron Ore fines from the country, the mechanized Iron Ore Handling Plant (IOHP) including the Tippler thereof was idling since 2014. Power sectors in the Govt. like TANGEDCO and NTECL approached PPT to use the said mechanized loading facility of IOHP for export of Thermal Coal arriving in BOXN wagons to avoid delays to their ships at PPT. In response to their requests, the Board approved use of IOHP in the meeting held on 29.05.2015 with shipment charges at ₹.49.50 per tonne and Tippling charges at ₹.20.40 per tonne for handling thermal coal in the IOHP.</p> <p>The above rates are not included in the labour cess of ₹.120/- per Ton which is incidentally only for consideration to compensate the grant so extended by PPT to the Management Committee to replace the job of unloading of such Thermal Coal which was being earlier done by a large number of workers under the Management Committee. Incidentally, the rate is basically as a labour cess for compensating the idle labour due to unloading the wagons in the tippling process. The ₹.120/- of labour cess being levied will be phased out once the grant extended by PPT for Special Severance Package (SSP).</p>
(v)	The reason for prescription of Note that "The shipment charges of MCHP and IOHP ore inclusive of Wharfage" may be brought out.	The wharfage is the basic dues of the Port on cargo for use of wharf and support infrastructure so created and maintenance thereof. In case of mechanized plants like MCHP and IOHP, the Ship Loaders are installed in the wharf and used for shipment of cargo on the ship. In view of above, for easy understanding of all concerned, the said clause has been included now.
(vi)	The PPT is also requested to clarify the existing position for levy of wharfage charges for cargo handled at MCHP and IOHP.	There is no separate wharfage on cargo which is mechanically shipped on the ship using the Ship Loaders of MCHP or IOHP.
7.	Notes to Wharfage charges and	

Sl. no.	Information sought by us	Reply of PPT
	<p><u>Wharfage on Containers and Containerised cargo :</u></p> <p>It has been observed that some of the clauses relating to wharfage and Intra-Port transportation, which are existing in the existing SOR have been omitted in the proposed draft SOR. PPT may clarify the reasons for omitting each of the clause.</p>	<p>As regard to Intra-Port transportation, the same is being done by the Shore-Handling Agents including the storage yard, delivery / receipt operations. Since PPT has a limited role now to play in such operations, the said earlier clauses related to port doing the intraport transportation work has been proposed for omission.</p>
8.	<p><u>Charges, if stuffing/ destuffing of cargo containers is under taken by the Port :</u></p> <p>Clause 2.3 of the existing SOR prescribes charges, if stuffing/ destuffing of cargo containers is under taken by the Port (Charges exclude lashing and dunnage) whereas, the same have been omitted in the proposed SOR. PPT to clarify, how the revenue will be realised in the event of stuffing/ destuffing of cargo containers services are provided by the Port, in the absence of the said clause.</p>	<p>Stuffing/ de-stuffing of cargo containers is being undertaken by the container operators by their own arrangement. Since the containers are generally shifted to the factory of the consignees for stuffing and de-stuffing purpose, PPT does not undertake stuffing/de-stuffing of cargo containers currently.</p> <p>Moreso, such operations in future if at all is required at PPT, the same will have to be undertaken in a new Multipurpose BOT Terminal i.e., Paradip International Cargo Terminal Pvt. Ltd. Likely to be commissioned by March, 2018 as per License Agreement for which the required Tariff has already been approved by TAMP vide G No78 dtd.4.03.2014 and hence proposed to be omitted.</p>
9.	<p><u>Deletion/ Omission of standard Clauses/Notes:</u></p> <p>As observed from the proposed SOR, the following Definitions/ Clauses/ Notes have been deleted:</p>	
	i) Definition of Hazardous Containers.	The same may be retained as per earlier SoR.
	ii) General terms and conditions - The user shall not be required to pay charges for delays beyond reasonable level attributable to PPT.	The same may be retained as per earlier SoR.
	iii) General terms and conditions: Interest on delayed payments/ refunds - The rate of interest will be 2% above the prime lending rate of the State Bank of India. The Penal interest will apply to both the PPT and port users equally.	Already covered in clause xii of General Terms and conditions, hence deleted.
	iv) Notes to Free storage period for levy of demurrage in transit accommodation - In case of excess landed cargo, demurrage will be charged after expiry of 3 days of notification of excess landing to the consignee”	To be deleted as the same is not practically possible complying statutory provisions.

Sl. no.	Information sought by us	Reply of PPT						
	v) License fee: Notes "General conditions for allotment of covered and open spaces" - The locking of shed partially or wholly rented to the parties shall not be regarded as making the Port a bailee of the goods unless the Port has issued a special receipt for the same.	There are no more such facilities available in PPT. Hence it has been deleted.						
	vi) Weighment charges for the use of weigh bridges/ weigh scales – ₹. 2.00 per ton subject to a minimum of ₹. 10 per consignment towards charges for weighment in the warehouses/ transit shed. The reasons for omitting the above definitions/ clauses/ notes may be explained by PPT.	As there is no weigh bridge in the Warehouse / Transit sheds at PPT for which it has been deleted.						
10.	<p>Modifications proposed by PPT to the Definitions/Clauses/Notes are given below:</p> <table border="1" data-bbox="300 909 820 1234"> <thead> <tr> <th data-bbox="300 909 387 981">Sl. No.</th> <th data-bbox="387 909 608 981">Existing Clause as per existing SOR (May 2011)</th> <th data-bbox="608 909 820 981">Clause in the proposed Draft SOR</th> </tr> </thead> <tbody> <tr> <td data-bbox="300 981 387 1234">1</td> <td data-bbox="387 981 608 1234">Goods shall not be delivered/ allowed to be shipped until all the admissible charges under the rules have been paid and the receipt in support of the same is produced.</td> <td data-bbox="608 981 820 1234">Cargo shall not be delivered/ allowed to be shipped until all the admissible charges under the rules have been paid.</td> </tr> </tbody> </table>	Sl. No.	Existing Clause as per existing SOR (May 2011)	Clause in the proposed Draft SOR	1	Goods shall not be delivered/ allowed to be shipped until all the admissible charges under the rules have been paid and the receipt in support of the same is produced.	Cargo shall not be delivered/ allowed to be shipped until all the admissible charges under the rules have been paid.	Payment is being made by the users through EDI. Upon deduction of the required amount from the users, receipt in support of the same is automatically generated by the system. If any shortage of fund is found in the user's account in that case the receipt in support of payment is not generated and port would not allow to deliver/ shipment the cargo.
Sl. No.	Existing Clause as per existing SOR (May 2011)	Clause in the proposed Draft SOR						
1	Goods shall not be delivered/ allowed to be shipped until all the admissible charges under the rules have been paid and the receipt in support of the same is produced.	Cargo shall not be delivered/ allowed to be shipped until all the admissible charges under the rules have been paid.						
	<table border="1" data-bbox="300 1234 820 2038"> <tbody> <tr> <td data-bbox="300 1234 387 2038">2</td> <td data-bbox="387 1234 608 2038">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 cases where payment is to be made before availing of the services/use of port properties as stipulated in the MPT Act, 1963 and/or prescribed as conditions in the tariff.</td> <td data-bbox="608 1234 820 2038">The delay in payments by user will be counted beyond 24 hours from the time of the sailing of the vessel or next banking date/ due date as applicable. In case the user fails to deposit on next banking date interest will be charged from the date of sailing of the vessel/completion of the work. This provision will not apply to cases where payment is to be made before availing of the services/use of port properties as stipulated in the MPT Act, 1963 and/or prescribed as conditions in the tariff. Interest is payable for all kinds of delayed</td> </tr> </tbody> </table>	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 cases where payment is to be made before availing of the services/use of port properties as stipulated in the MPT Act, 1963 and/or prescribed as conditions in the tariff.	The delay in payments by user will be counted beyond 24 hours from the time of the sailing of the vessel or next banking date/ due date as applicable. In case the user fails to deposit on next banking date interest will be charged from the date of sailing of the vessel/completion of the work. This provision will not apply to cases where payment is to be made before availing of the services/use of port properties as stipulated in the MPT Act, 1963 and/or prescribed as conditions in the tariff. Interest is payable for all kinds of delayed	The modification for this item has been made for greater clarity and to avoid ambiguity. The users shall be asked to deposit the vessel related/cargo related charges on provisional assessment made by PPT. Since the final assessment will be made after sailing of the vessel, the users shall be allowed 24 hours' time (up to next banking hours in case the day is a holiday) to pay the differential amount. Interest to be charged if the amount is not cleared on the next banking date on the date of sailing of the vessel/completion of the work.			
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 cases where payment is to be made before availing of the services/use of port properties as stipulated in the MPT Act, 1963 and/or prescribed as conditions in the tariff.	The delay in payments by user will be counted beyond 24 hours from the time of the sailing of the vessel or next banking date/ due date as applicable. In case the user fails to deposit on next banking date interest will be charged from the date of sailing of the vessel/completion of the work. This provision will not apply to cases where payment is to be made before availing of the services/use of port properties as stipulated in the MPT Act, 1963 and/or prescribed as conditions in the tariff. Interest is payable for all kinds of delayed						

Sl. no.	Information sought by us		Reply of PPT	
			payment including shortfall on MGT and on imposition of double rent for any default.	
3	Wharfage shall not be payable on the following specified goods at normal rates. (f). On surplus quantity due to moisture at the time of evacuation/dispatch.	Wharfage shall also be payable on the following specified goods at normal rates: (k). On surplus quantity due to moisture at the time of evacuation/dispatch.		It is difficult to find out whether the surplus quantity is due to moisture or for any other reason. Since Customs duty is also collected on the surplus quantity even if the same is due to moisture, PPT has proposed to collect wharfage on the same.
4.	The weight shown in the Bill of Lading or original invoice upon which freight has been paid shall be deemed to be the correct tonnage. However, in cases where the Port makes a check weightment, the tonnage recorded by the Port shall be deemed to be the correct tonnage.	Draught Survey done by independent surveyor is the final quantity for collection of port charges. However, in case where the Port makes a check weightment, the tonnage recorded by the Port shall be deemed to be the correct tonnage.		On completion of vessel discharge, importers/agents of the vessel undertake draught survey by the independent surveyor. Accordingly, the importer amends the IGM/cargo declaration and file Bill of Entry. If there is any excess/ less cargo found in course of draft survey, the same is regularized by the importer.
5.	<u>2.10 Free Storage period for levy of demurrage in transit accommodation. - Notes</u> (4). For dangerous goods, free period is 24 hours.	<u>2.9 Free Storage period for levy of demurrage in transit accommodation. - Notes</u> (iv). For hazardous goods, free period is 24 hours from the time of landing. After the expiry of 24 hours the demurrage charges will be levied at 200% of the highest rate of demurrage charges.		Paradip Port handles largest volume of Coal and many bulk Hazardous Chemicals like Ammonia, Naphtha, Crude Oil as well as Class A Petroleum Products. All the Hazardous Chemicals are directly received through pipelines by the receivers or loaded on the ship by pumping through pipelines the products from their installations outside the Port. While handling facilities for other Hazardous cargo in break bulk or container are limited, but no Transit facilities are considered for any such cargo and the cargo has to be delivered directly from the port premises upon landing from the ship on the day of landing to avoid any untoward incident emanating out of such transit storage that may effect port operation. It has been only considered that free period for such cargo will be maximum of 24 hours from the time of landing and the proposed demurrage clause thereafter @ 200% of highest rate of demurrage which will act as a deterrent for such cargo if not delivered from the port within 24 hours of landing.
6.	<u>2.12 Demurrage on containerised cargo</u> (2). On other hazardous goods demurrage shall be	<u>2.11 Demurrage on containerised cargo</u> (2). On hazardous goods, demurrage shall be levied at		This is as above.

Sl. no.	Information sought by us	Reply of PPT																				
	<p>levied from the date of landing at double the rates specified in section 2.11. if not cleared in the next working day from the date of landing.</p> <p>200% after 24 hours from the date of the receipt of the goods.</p>																					
7.	<p>Penal License fee:</p> <table border="1" data-bbox="400 465 603 748"> <thead> <tr> <th>Sr. No.</th> <th>Duration</th> <th>Rate</th> <th>Unit of levy</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Upto 90 days</td> <td>Normal plot rent</td> <td>On area occupied</td> </tr> <tr> <td>2.</td> <td>Beyond 90 days</td> <td>Double the normal plot rent</td> <td>On area occupied</td> </tr> </tbody> </table> <p>(1) Wherever actual measurement is not possible for some reason or other, the area under occupation will be determined at the rate of 4 Metric Tonnes per square meter for dry bulk cargo other than coke and at the rate of 2 Metric Tonnes per square meter for all types of coke</p> <p>Penal License fee:</p> <table border="1" data-bbox="608 465 826 678"> <thead> <tr> <th>Sr. No.</th> <th>Duration</th> <th>Rate</th> <th>Unit of levy</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Beyond 90 days</td> <td>Double the normal license fee</td> <td>On area occupied</td> </tr> </tbody> </table> <p>Notes (1) Wherever actual measurement is not possible for some reason or other, the area under occupation will be determined at the rate of 4 Metric Tonnes per square meter for dry bulk cargo other than coke and at the rate of 2 Metric Tonnes per square meter for all types of coke. In case cargo of different vessels are stored in one plot where exact area cannot be ascertained the above provision for calculation of area will apply.</p> <p>(2) In case of duration beyond</p> <p>(3) The calculation will be made from the date of 1st landing of the cargo.</p> <p>The reasons for modification for each of the above conditionalities in the proposed draft SOR may please be explained, with justification, wherever required.</p>	Sr. No.	Duration	Rate	Unit of levy	1.	Upto 90 days	Normal plot rent	On area occupied	2.	Beyond 90 days	Double the normal plot rent	On area occupied	Sr. No.	Duration	Rate	Unit of levy	1.	Beyond 90 days	Double the normal license fee	On area occupied	The existing clause has been proposed for modification to have in better clarity.
Sr. No.	Duration	Rate	Unit of levy																			
1.	Upto 90 days	Normal plot rent	On area occupied																			
2.	Beyond 90 days	Double the normal plot rent	On area occupied																			
Sr. No.	Duration	Rate	Unit of levy																			
1.	Beyond 90 days	Double the normal license fee	On area occupied																			
11.	<p>New Definitions/ Clauses/ Notes included by PPT in the proposed SOR, are given below:</p> <p>(i). The PPT has proposed a new note stating that prescribed slab wise (GRT range) rates shall be levied on incremental basis on the capacity of the vessel under "Pilotage". In this regard, it is suggested that, instead of incorporating the said note, the following rate structure may be specified taking into consideration of the incremental GRT in each of the slabs to have a better clarity and avoid any ambiguity.</p> <table border="1" data-bbox="300 1765 820 2018"> <thead> <tr> <th rowspan="2">Sl. No.</th> <th rowspan="2">Slabs</th> <th colspan="2">Rate per GRT</th> </tr> <tr> <th>Foreign</th> <th>Coastal</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Upto to 30,000 GRT</td> <td>US \$ 0.509 per GRT</td> <td>₹. 12.52 per GRT</td> </tr> <tr> <td>2</td> <td>30,001 to 60,000 GRT</td> <td>US \$ 15270 + US \$ 0.407 Per GRT</td> <td>₹. 375600 + ₹. 10.01</td> </tr> </tbody> </table>	Sl. No.	Slabs	Rate per GRT		Foreign	Coastal	1	Upto to 30,000 GRT	US \$ 0.509 per GRT	₹. 12.52 per GRT	2	30,001 to 60,000 GRT	US \$ 15270 + US \$ 0.407 Per GRT	₹. 375600 + ₹. 10.01	The suggested wording for Pilotage may be considered as the amended proposal of PPT to avoid ambiguity.						
Sl. No.	Slabs			Rate per GRT																		
		Foreign	Coastal																			
1	Upto to 30,000 GRT	US \$ 0.509 per GRT	₹. 12.52 per GRT																			
2	30,001 to 60,000 GRT	US \$ 15270 + US \$ 0.407 Per GRT	₹. 375600 + ₹. 10.01																			

Sl. no.	Information sought by us				Reply of PPT
	3	Above 60,000 GRT	US \$ 27480 + US \$ 0.356 Per GRT	per GRT ₹. 675900 + ₹. 8.76 per GRT	
	(ii). The above rate structure may be examined by the PPT for its correctness.				The same has been examined and found to be correct.
	(iii). The proposed definition of Stevedoring and Shore handling may be aligned with the definition given in the Stevedoring and Shore Handling Policy for Major Ports of June 2016 announced by the MOS.				<p>As suggested the definition of Stevedoring and Shore Handling has been aligned as per the policy guideline on the matter for Major Ports in June, 2016 issued by MoS and the same is proposed to be worded as follows.</p> <p>“Stevedoring and Shore Handling shall mean a combined activity on board the ship that includes loading and unloading and stowage of cargo in any form on board the vessels in the port as well as on-shore handling of cargo which would include arranging and receiving of cargo to /from the hook point , inter modal transportation from wharf to stack yard and vice-versa as well as receiving and delivery of cargo from/to wagons/ trucks”. However, the details scope of meaning of Stevedoring and Shore Handling activities at PPT would be as per the Paradip Port (Licensing of Stevedoring and Shore Handling) Regulation, 2016 as to be gazette notified for PPT separately.</p>
	<p>(iv). The PPT has proposed definition for “Reserve Price of the plots for iron ore / iron ore Pellets / concentrates.” In this regard, the PPT is requested to clarify the following:</p> <p>(a). The reason for restricting the definition to a particular group of cargo.</p> <p>(b). Whether the definition is in the line with the description given for Reserve Price in the Amended Land Policy Guidelines issued by the MOS in July 2015. If not, the definition for Reserve Price may be aligned with the description given in the Amended Land Policy Guidelines of July 2015.</p>				<p>The same has been considered by the Board based on the Land Policy guidelines for Major Ports, 2014 considering the fact that allotment of storage plots in PPT had led in the past to litigations and in a series of Court case in the High Court of Orissa it was pronounced by the Court that all plots may be allotted through tender –cum-e-auction only.</p> <p>While analyzing the said order and the Land Policy guidelines of 2014, it was considered by the Board that tendering procedure cannot be instantly completed for import cargo as the importer bringing import cargo to the country cannot detain his ship for lack of storage space in the port awaiting finalization of a tender leading to huge outgo in Foreign Exchange from the country in vessel demurrage.</p> <p>Upon reading of the amended Land Policy Guideline, 2014 issued by MoS in July, 2015 at Clause-13 (a) & (b) transpires that the reserve price should be fixed at the highest transacted rate so derived in the tender-cum-auction process.</p>

Sl. no.	Information sought by us	Reply of PPT
		The above clause when used by PPT earlier and in recent times, it has been observed that when such auctioning process of the scarce land of the port was done upon availability of plots from time to time, say within 1 or 2 months of the last auction-cum-tender, the reserve price has to be accordingly taken as the last auction price and the same had to be continued from time to time otherwise, it would be construed as a substantial loss of the port revenue and also the same can be simultaneously seen as a deviation from the aforesaid Land Policy Guideline.
	(v). Further, the Note (ix) proposed under Schedule 2.12 "Licence fee" may be modified in line with amended Land Policy Guidelines issued in July 2015.	The earlier proposed Note (ix) under schedule 2.2 may be worded as follows: "Based on amended Land Policy Guideline issued for Major Ports by the Ministry in July, 2015 where storage space inside the custom bond area will be allotted on tender-cum-auction basis, the reserve price of license fee will be fixed as per the definition approved by the authority.
12.	The PPT has, in its proposal, incorporated the provisions relating to conversion of foreign going vessels of foreign flag to coastal run, In this regard, the PPT is requested to refer to the Order no. TAMP/53/2015-VOCPT dated 10 June 2016 passed by the Authority and incorporate the provisions contained in the said order in the proposal SOR.	The provisions as prescribed in TAMP Order no. TAMP/53/2015-VOCPT dated 10 th June 2016 may please be treated as part and parcel of PPT's proposal for general revision of SOR as suggested.

9. In the meanwhile, based on the request made by the PPT, the Authority vide its Order dated 4 January 2017 and 21 July 2017 has extended the validity of the existing SOR of PPT upto 31 March 2017 and upto 30 September 2017 respectively.

10. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

11. With reference to the totality of information collected during the processing of this case, the following points emerges:

- (i). The existing Scale of Rates of the Paradip Port Trust (PPT) was last approved vide tariff Order No. TAMP/62/2009-PPT dated 25 March 2011. This Order prescribed a tariff validity period till 31 March 2013. Vide the said Order, an across the board reduction of 32% was effected on all cargo handling (except for the cargo related charges prescribed for the cargo of Paradeep Phosphates Limited and Indian Farmers Fertilizers Co-operative (IFFCO)) and status quo was maintained in respect of all other charges.

The proposal for revision of the SOR filed by PPT in August 2012 for the tariff period 2013-14 to 2015-16 was withdrawn by the Port for the reasons as brought out in the initial portion of the Order. Based on an assurance given by the Port to file a revised proposal and in order to avoid a vacuum in the Scale of Rates, the validity of the Scale of Rates approved in March 2011 has been extended from time to time. On the last occasion, the validity of the Scale of Rates has been extended upto 30 September 2017.

- (ii). The general revision proposal has been filed by the PPT in December 2016. Subsequently, based on the request made by the users as well as PPT at the joint hearing held on 27 February 2017, the PPT vide its letter dated 3 May 2017 submitted revised Scale of Rates. The revision in the Scale of Rates was to the extent of making modifications to the notes/ conditionalities. There was significant modification in the notes/ conditionalities and since the PPT had not furnished the reasons for making the said modifications, additional information/ clarification on the proposed modifications was sought from PPT in May 2017. After reminders, the PPT has responded in August 2017. Thus, the proposal filed by PPT in December 2016 along with submissions made by the port during the processing of the case is considered in this analysis.

- (iii). (a). Clause 2.1 of the Tariff Policy 2015 requires each Major Port Trust to assess the Annual Revenue Requirement (ARR) which is the average of the sum of Actual Expenditure as per the final Audited Accounts of the three years 2011-12 (Y1), 2012-13 (Y2) and 2013-14 (Y3) subject to certain exclusions as prescribed the Clause 2.2. of the Tariff Policy 2015 and the Working Guidelines issued by this Authority plus Return at 16% on Capital Employed including capital work-in-progress obtaining as on 31st March 2014, duly certified by a practicing Chartered Accountant/ Cost and Management Accountant.
- (b). The PPT has assessed the Annual Revenue Requirement (ARR) based on Audited Annual Accounts for three years i.e. 2011-12 (Y1), 2012-13 (Y2) and 2013-14 (Y3) duly certified by a practicing Chartered Accountant. The PPT has excluded the expenses not admissible in ARR computation for arriving at the Average annual expenses for the year 2011-12, 2012-13 and 2013-14. The following adjustment done by PPT in line with provisions prescribed in Clause 2.2. of Tariff Policy 2015 and Clause 2.2. of Working Guidelines are brought out for specific mention:
- (i). The PPT has excluded expenses (i.e. operating expenses, allocated Management & Administrative overheads and allocated Finance and Miscellaneous Expenses) related to estate activity. Interest on loans to the tune of ₹ 21 Lakhs each during the years 2011-12, 2012-13 and 2013-14 respectively are also excluded.
- (ii). As per Clause 2.2(iii) of Tariff Policy 2015 and the Working Guidelines, 1/5 of one-time expenses like arrears of wages, pension/ gratuity, ex-gratia payments arising out of wage revision etc. are to be included in the Annual Revenue Requirement (ARR). Likewise,

1/5th of the Contribution to Pension Fund are to be included for the calculation of ARR. This means 4/5th of the above mentioned expenses are to be excluded in the ARR computation.

PPT has excluded ₹ 32 crores, ₹ 61.95 crores and ₹92.16 crores in the years 2011-12, 2012-13 and 2013-14 respectively being 4/5th of the contribution to the pension fund reported in the Annual Accounts of the Port. The above adjustment done by PPT is in line with Tariff Policy, 2015.

- (iii). As per Clause 2.2. (iv) of Tariff Policy 2015 and Clause 2.2. (iv) of the Working Guidelines, Management and General Administration Overheads subject to a cap of 25% of aggregate of the operating expenditure and depreciation is only to be considered in the ARR calculation.

The Management and General Administration Overheads reported in the Audited Annual Accounts is ₹ 94.73 crores, ₹ 107.72 crores and ₹ 125.42 crores for years 2011-12, 2012-13 and 2013-14 respectively. Thereafter, the PPT has assessed 25% of the Operating Expenses (including depreciation but excluding operating expenses relating to Estate) as per Audited Annual Accounts at ₹ 93.38 crores, ₹ 101.52 crores and ₹ 125.42 crores. As per the working furnished by the PPT in Form-2, the PPT has identified an amount of ₹1.36 crores, ₹ 6.20 crores and NIL amount of Management and General Administration Overheads as excess of 25% of aggregate of operating expenses and depreciation and hence excluded the same from ARR in the years 2011-12,

2012-13 and 2013-14 respectively complying with the provisions of Tariff Policy, 2015.

- (iv). As per Clause 2.2(v) of the Working Guidelines notified by this Authority all expenses relevant for captive berths are to be excluded from the computation of ARR. The PPT has not indicated any expenses relating to Captive berths and has, therefore, not estimated any expenditure under this head.
- (iv). Following the provisions prescribed at Clause 2.3. of the Tariff Policy, 2015 and Clause 2.3. of the Working Guidelines, the PPT has arrived at average expenses for the years 2011-12, 2012-13 and 2013-14 at ₹ 419.15 crores.
- (v). (a). The PPT has arrived at capital employed in line with provision prescribed in Clause 2.4. of the Working Guidelines. The PPT has considered the net fixed assets plus capital work-in-progress as on 31 March 2014 reported in the Audited Annual Accounts and has excluded the value of the assets related to the Estate activity. As stated earlier, the PPT has stated that there are no expenditure incurred by port relating to captive berth.
- (b). Working capital comprises of Inventory, Sundry debtors and Cash balances. The Inventory and Sundry Debtors are seen to be computed as per norms prescribed in clause 2.5. of Working Guidelines. The cash balance is seen to have been calculated by PPT by taking into account the monthly cash expenses, excluding depreciation, but including the cash expenses of the Estate activity. Since the Estate activity has been excluded from the purview of the Tariff Policy, 2015, the cash balance is reworked by us to consider one month cash expenses excluding the expenses related to the Estate activity.

- (c). The total capital employed including the revised working capital works out to ₹ 1450.57 crores as against ₹ 1454.10 crores arrived by PPT.
- (d). Return on Capital Employed at 16% is worked out on the revised Capital Employed at ₹ 232.09 crores which is considered in the ARR computation.
- (vi). The ARR is the average of the expenditure for the three financial years 2011-12 to 2013-14 at ₹ 419.15 crores plus 16% Return on Capital Employed at ₹ 232.09 crores aggregating to ₹ 651.24 crores as on 31 March 2014. Further, as per Clause 2.7. of Working Guidelines, the said ARR has been indexed by PPT @ 100% of the Wholesale Price Index (WPI) applicable for the year 2014-15 and 2015-16 at 6% and 3.82% respectively. Since the year 2016-17 is already over and since the WPI as applicable for the year 2016-17 is available, one more indexation to the tune of 2% (being 100% of the WPI applicable for the year 2016-17) is effected by us on the ARR arrived at for the year 2015-16. Thus, the ceiling indexed ARR works out to ₹ 731.02 crores for the year 2016-17, as against the ceiling indexed ARR worked out by PPT at ₹ 717.31 crores for the year 2015-16.

The detailed working of ARR calculation given by the port duly certified by Chartered Accountant is relied upon subject to the modification effected to the cash balance under the head of Working Capital and an additional indexation pertaining to the year 2016-17, as discussed above. A summary of certified ceiling indexation ARR is given below:

(₹ in crores)

Sr. No	Particulars	2011-12	2012-13	2013-14
1	Total Expenditure after all Adjustments	354.17	369.95	533.33
2	Average Expenses [Y1 + Y2 + Y3] / 3	419.15		
3	Capital employed as on 31.03.2014 including capital work in progress as on 31.03.2014 and	1450.57		

	working capital as per norms	
4	Return on capital employed @ 16%	232.09
5	ARR as on 31 March 2014 (5=2+4)	651.24
6	Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15 (6%)	690.32
7	Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16 (3.82%)	716.69
8	Indexation in the ARR @ 100% of the WPI applicable for the year 2016-17 (2%)	731.02
9	Ceiling Indexed Annual Revenue Requirement (ARR)	731.02

- (vii). (a). As per Clause 2.6. of Tariff Policy 2015, the Major Port Trusts have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant. The Port has given working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding traffic handled in 2014-15 as required under Clause 2.9. of the Working Guidelines. As per Clause 2.5. of Tariff Policy 2015, for drawing the SOR, the PPT has considered the actual cargo traffic in tonnes and GRT of vessel handled by the port during the year 2014-15, to draw the proposed SOR within the ceiling indexed ARR.
- (b). The actual cargo traffic reported to have been handled by PPT in the year 2014-15 is 710.11 lakh tonnes. While drawing up the proposed SOR, the PPT has proposed to maintain *status quo* in tariff in respect of all tariff items. Based on the above position, the Revenue Estimation at the proposed level of tariff has been worked out by PPT at ₹ 706.01 crores. As can be seen, the Revenue Estimation at the proposed level of tariff at ₹ 706.01 crores is lower than the Ceiling Indexed Annual Revenue Requirement (ARR) of ₹ 731.02 crores, as calculated earlier, thereby leaving a revenue gap of ₹ 25.01 crores, which has been left uncovered by the Port. (last line Deleted)

- (c). Subject to above analysis, the computation of ARR, furnished by the PPT has been modified.
- (d). Considering the position that the port has sought to maintain status quo in the existing level of tariff and also since the users have welcomed the proposal of the port, this Authority is inclined to accede to the proposal of the Port to maintain status quo in the existing level of tariff, as proposed by the port.
- (e). **As per clause 8.1. of the Tariff Policy 2015, the rates prescribed in the Scale of Rates are ceiling levels; rebates and discounts are floor levels. The PPT may exercise the flexibility to charge lower rates and/ or allow higher rebates and discounts. Further, as per Clause 2.7. of the Tariff Policy 2015, the PPT is requested to ensure that there will not be loss of traffic to the port. The PPT has also requested for the continued support and co-operation of the users to rank the PPT the no. 1 port of the Country and has, therefore, expressed its willingness to examine specific cases involving diversion of vessels/ traffic due to the tariff, if such cases are brought to its notice.**
- (viii). The Government of India in the Ministry of Shipping (MOS) under cover 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. Accordingly, this Authority vide its Order no. TAMP/52/2014-Genl. dated 28 November 2014 has, inter alia, approved the replacement

of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts 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.’

Therefore, the definition of Coastal Vessel as proposed by the PPT in line with the above mentioned definition of 'Coastal Vessel', is approved.

- (ix). The definitions viz. “Board with reference to vessels” to mean On Board the Vessel and “General shift” to mean the period of 8 hours from 7 am to 12 noon and from 2 pm to 5 pm, under Section 1.1 of the existing Scale of Rates have been proposed to be deleted by the Port in the proposed SOR. No reason for the proposed deletions has been furnished by PPT. However, it appears that the PPT has deleted above definitions as a part of the rationalizing the existing Scale of rates by doing away with unnecessary notes and conditions, as they have no relevance as on date. (line deleted Since ... Major port trust) The proposal of PPT for deletion of definitions of the terms viz. “Board with reference to vessels” and “General shift”, is approved.
- (x). The existing definition of “Demurrage” has been proposed to be modified by PPT. In addition to the existing definition of Demurrage to mean charges payable for storage of cargo within Port Transit Area beyond free period as specified in the Scale of Rates, the PPT has proposed to further add to the definition that the demurrage on cargo shall not include the cargo stored at the area allotted to a port user on license/ lease basis for which the user is required to pay license fees as per the SOR and /or as per allotment conditions thereof. Since the proposed definition is comparable with the definition of Demurrage prescribed in Scale of Rates of some other

Major Ports Trusts and brings clarity and avoids ambiguity, the proposed modification in the existing definition is approved.

- (xi). The PPT has introduced the definition of “Hazardous Cargo” to mean any cargo as is defined in the International Maritime Dangerous Goods (IMDG) Code/ International Maritime Organization (IMO). Since the said definition is seen to be comparable with the definition of Hazardous cargo prevailing in the Scale of Rates of some other Major Port Trusts, the proposed definition is approved.
- (xii). Though the PPT had initially proposed to delete the existing definition of ‘Hazardous container’, it has requested to retain the definition as per its existing Scale of Rates. Therefore, the said definition is retained.
- (xiii) The port stated that the definition of “Reserve Price of the Plots for Iron Ore/ Iron Ore pellets/ Concentrates” was included in the proposed SOR by the Board based on the Land Policy guidelines for Major Ports, 2014 considering the fact that allotment of storage plots in PPT had led in the past to litigations and in a series of Court case in the High Court of Orissa it was pronounced by the Court that all plots may be allotted through tender –cum-e-auction only. Further, PPT stated that while analyzing the said order and the Land Policy guidelines of 2014, it was considered by the Board that tendering procedure cannot be instantly completed for import cargo as the importer bringing import cargo to the country cannot detain his ship for lack of storage space in the port awaiting finalization of a tender leading to huge outgo in Foreign Exchange from the country in vessel demurrage and upon reading of the amended Land Policy Guideline, 2014 issued by MoS in July, 2015 at Clause-13 (a) & (b) transpires that the reserve price should be fixed at the highest transacted rate so derived in the tender-cum-auction process. As per PPT, it has been observed that when such auctioning process of the

scarce land of the port was done upon availability of plots from time to time, say within 1 or 2 months of the last auction-cum-tender, the reserve price has to be accordingly taken as the last auction price and the same had to be continued from time to time otherwise, it would be construed as a substantial loss of the port revenue and also the same can be simultaneously seen as a deviation from the aforesaid Land Policy Guidelines. Since the proposed note is reported to avoid loss of port revenue and is also reported to be in spirit of the Land Policy Guidelines, the definition as proposed by the Port is approved.

- (xiv). In the proposed SOR, the definition of “Shut Out Cargo”, has been introduced by the PPT to mean export cargo left in the Port having not been shipped on board the vessel for which it was received in the Port. Since the said definition is seen to be comparable with the definition of shut out cargo prevailing in the Scale of Rates of some other Major Port Trusts, the proposed definition is approved.

- (xv) The definition of “Stevedoring and Shore Handling”, has been included in the proposed SOR by PPT to mean charges on Cargo/ Commodity/ Article/ Package/ Container for rendering handling of such cargo/containers on board ships plus shore services at the port in the form of supply of equipment with/ without labour for transportation of cargo from wharf to stacking point including loading at wharf, unloading of the same at the stacking point and subsequent loading for delivery, or vice-versa. In case of mechanical receiving of cargo, it shall also include charges for tipping of wagon by Wagon Tippler/ RRS stacking and reclaiming as well as loading on the ship. Since the proposed definition is in line with the definition given in the Stevedoring and Shore Handling Policy for Major Ports of June 2016, the proposed introduction of definition is approved. The PPT is advised to ensure that the scope and meaning of Stevedoring and Shore handling, to be notified as part of its

Regulation are in consonance with the definition given in the Stevedoring and Shore handling Policy issued by the Government.

- (xvi). The existing definition of “Shift” has been slightly modified by deleting the words “recess of 30 minutes after the fifth hour”. Since the proposed modification is in line with the definition of Shift prevailing in the Scale of Rates of some other Major Port Trusts, the proposed modification is approved.
- (xvii). In the proposed SOR, the definition of “Wharfage”, has been introduced by the PPT to mean the basic dues recoverable on all Cargo/ Container landed or shipped or transhipped within the port limit and approaches or passing through the wharf/ jetty/ anchorage/ transloading point jetty. Since the said definition is seen to be comparable with the definition of Wharfage prevailing in the Scale of Rates of some other Major Port Trusts, the proposed definition is approved.
- (xviii). In view of the direction of the MOS dated 11 May 2016 and consequent Order no. TAMP/4/2004-Genl dated 19 May 2016, with regard to the non-restatement of the coastal rates with reference to the fluctuation in exchange rate, the Ceiling Coastal Rates are prescribed by PPT upfront in the Scale of Rates without taking into account the exchange rate fluctuation of Indian Rupee vis-a-vis the USD (\$).
- (xix). This Authority, in view of the clarification sought by the V.O. Chidambaranar Port Trust regarding levy of concessional charges for coastal cargo / container has passed an Order No.TAMP/53/2015-VOCPT dated 29 September 2015 based on the recommendations of Directorate General (DG) Shipping. The provisions approved in the said Order were further amended vide Order No.TAMP/53/2015-VOCPT dated 26 November 2015. The said Order passed is for common adoption by all the Major Port

Trusts. Subsequent to the said Order, the DG Shipping vide its letter no.SD-9 CHART(309)/2016 dated 20 May 2016 has issued further clarification on the provision approved in the 26 November 2015 Order. This Authority has accordingly passed a clarificatory Order slightly amending the provision prescribed in para 9A (ii) and 10(ii) of the Order dated 26 November 2015. The amended provisions approved by this Authority in the said Order has been updated accordingly, in the Scale of Rates of PPT as note no. (ii) and (iii) in place of note no. (i) under General terms and conditions. The subsequent note nos. are consequently renumbered.

- (xx). The existing note prescribing that the users shall not be required to pay charges for delays beyond reasonable level attributable to PPT as per the existing SOR had been omitted in the proposed SOR. **The said note is retained as subsequently requested by the PPT.**
- (xxi) The note relating to conversion of US dollar denominated tariff to Indian Rupees (INR) has been restricted to market buying rate notified by RBI in the proposed Scale of Rates, whereas, the Working Guidelines issued to operationalise the Tariff Policy, 2015, prescribes that the conversion of US dollar to INR will be based on the reference rate notified by Reserve Bank of India or the market buying rate notified by State Bank of India. As such, the proposed note is suitably modified to reflect the Working Guidelines position.
- (xxii). The existing Scale of Rates of PPT prescribes a note to the effect that Goods shall not be delivered/ allowed to be shipped until all the admissible charges under the rules have been paid and the receipt in support of the same is produced. The said note has been proposed to be modified by the PPT by deleting the concluding part of the note 'and the receipt in support of the same is produced'. The PPT has clarified that since payment is made by users through EDI, the receipt in support of payment is automatically generated in the system and if the receipt is not generated due to shortage of funds,

the port would not allow the delivery/ shipment of cargo. In view of the above clarification, the said phrase appears to be redundant, and as such, based on the clarification furnished by PPT, the proposed modification in the proposed SOR is approved.

- (xxiii). The working guidelines for Tariff Policy 2015 prescribes the rate of Interest to be 15% for delayed payments/ refunds. However, the port has proposed the interest rate of 14.75%. The rate of interest on delayed payments/ refunds is modified in line with the Working Guidelines issued to operationalize the Tariff Policy 2015.
- (xxiv). The existing note in the PPT SOR to the effect that 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 cases where payment is to be made before availing of the services/use of port properties as stipulated in the MPT Act, 1963 and/or prescribed as conditions in the tariff has been proposed to be modified by the Port. The Port has now proposed that the delay in payments by user will be counted beyond 24 hours from the time of the sailing of the vessel or next banking date/due date as applicable. In case the user fails to deposit on next banking date interest will be charged from the date of sailing of the vessel/completion of the work. This provision will not apply to cases where payment is to be made before availing of the services/use of port properties as stipulated in the MPT Act, 1963 and/or prescribed as conditions in the tariff. Interest is payable for all kinds of delayed payment including shortfall on MGT and on imposition of double rent for any default.

The PPT has **submitted** that the proposed modification has been made for greater clarity and to avoid ambiguity. In this regard, it is to state that the existing note has been uniformly prescribed in the Scale of Rates of all Major **Port Trusts**, based on consultation with all Major Port Trusts earlier. Any modification to the said note would require wider consultation with all Major Port Trusts. In view of this

position, the existing note is retained. In any case, in view of the general note no. (ix) and (x) under Section 1.2 of the Scale of Rates, non-prescription of the note proposed by PPT, will not put the PPT in a disadvantageous position, as its financial position is protected.

(xxv). This Authority has passed a common Order No. TAMP/14/2016-Misc. dated 9 February 2016 relating to prescription of lower charges for cargo & vessels related services as well as special discount in port charges for the services rendered after regular hours by the Major Port Trusts and BOT Operators operating thereat in pursuance of MOS letter No. PD/14033/101/2015-PD.V dated 3 February 2016. The PPT is not seen to have prescribed any note to this effect. The Ports operate 24/7 for 365 days. Introduction of prescription of lower charges for cargo and vessels related services as well as special discount in port charges for the services rendered after regular hours, is with the objective of encouraging the users to make use of the port facilities even after regular hours. In view of the position, a provision is included in the Scale of Rates of PPT under Section 1.2 - General Terms and Conditions at Sr. No. (xvii) to the effect that in order to decongest the ports and encourage exporters / importers to utilize the port services beyond regular hours, lower charges will be levied for cargo and vessels related services as well as special discount will be offered in port charges for the services rendered after regular hours, in line with a similar provision incorporated in the Scale of Rates of CHPT.

(xxvi). This Authority has passed a common Order No. TAMP/4/2004-Genl. dated 16 December 2016 relating to prescription of the Standard Operating Procedure (SOP) while levying port dues and other charges for entry of vessels of the Republic of Bangladesh into India under the Coastal Shipping Agreement between the two countries. Accordingly, the provisions of the said Order have been incorporated by the PPT in its proposed Scale of Rates.

(xxvii).The PPT has introduced wharfage charges for 'Bunker Supply to various Vessels' in line with the existing wharfage rate prescribed for POL having a flash points of 23°C and above'. The said introduction is reported to be based on the agreement with the users and with the approval of Board of Trustees of PPT in the year 2014, when supply of Bunker to ships gained momentum at PPT. As per Section 48 of the Major Port Trusts (MPT) Act, 1963, this Authority is mandated to frame the scale of rates at which, and a statement of conditions under which, any of the services listed under Section 48 is performed by a Port Trust. Therefore, any charges to be levied by the PPT should have the approval of this Authority. Though the wharfage charges for 'Bunker Supply to various Vessels' is being levied by PPT since 2014, by adopting the existing wharfage rates of POL, the charges do not have the specific approval of this Authority. Nevertheless, considering that the wharfage rate has been derived from the existing rate, is in agreement with users and has the approval of the Board of Trustees of PPT, this Authority is inclined to approve the said levy. The PPT is advised to refrain from levy of any charges which do not have the specific approval of this Authority.

(xxviii).Under the Wharfage Schedule, the PPT has introduced wharfage rate for new cargo Items viz. Gypsum, Oilflux, Pyroxenite and Bentonite, by categorizing the said cargo under the existing category of cargo namely 'Cement, Clinker, Limestone, Dolomite and other fluxing materials'. Also, the existing wharfage rate in respect of the existing category of cargo are proposed to be made applicable to the new cargo items. The rationale to classify the Gypsum and Bentonite along with the existing group is reported to be based on customs classification. PPT has reported that Gypsum and Bentonite have been categorized under Chapter- 25 of the customs classification under which cement is being charged. The other two cargo items, Oilflux and Pyroxenite are reported to be used as Fluxes and hence has been reported to have been classified with the existing items of fluxing materials. **Based on the reasons**

furnished by PPT and relying on its judgement on the classification of the cargo, and given that none of the users objected to the proposal of PPT, the wharfage charges for new cargo items viz. Gypsum, Oilflux, Pyroxenite and Bentonite, in line with the wharfage rate prescribed for 'Cement, Clinker, Limestone, Dolomite and other fluxing materials' is approved. In any case, classification of commodities for fixation of tariff under 2015 Tariff Policy is in the domain of the Port Trusts, including PPT.

(xxix). Under the Wharfage Schedule, the PPT has also introduced wharfage rate for Fertiliser Raw Materials (FRM) under the existing category of 'Finished fertiliser/ Ammonium Nitrate and has proposed to apply the existing wharfage rate of Finished fertiliser / Ammonium Nitrate to Fertiliser Raw Materials. FRM is not being presently handled by PPT. The PPT has stated that since in some occasions, Finished Fertilisers are used as Raw Materials for manufacturing complex fertilizers, such as DAP & NPK, all types dry bulk cargo which are required in manufacturing Fertilisers have been included as FRM and grouped under the Tariff applicable for 'Finished fertiliser/ Ammonium Nitrate. Based on the reasons furnished by the Port, and relying on the judgement of the PPT for classification of cargo, and considering that none of the users objected to the proposal of PPT, the proposal of PPT to categorise 'Fertiliser Raw Materials (FRM) under the existing category of 'Finished fertiliser/ Ammonium Nitrate' and apply the same wharfage rate is approved. In any case, classification of commodities for the purpose of fixation of tariff under Tariff Policy, 2015 falls under the domain of Port Trusts, including the PPT.

(xxx). With regard to introduction of wharfage charges on some of the cargo items as discussed in the preceding paragraphs, no income has been estimated by PPT at the proposed level of tariff in respect of some of these cargo items. However, considering the revenue gap between the ceiling ARR and the revenue estimation to the tune

of ₹ 25.01 crores, the revenue, if any, to be earned by PPT on account of levy of these wharfage charges on the new cargo items, is expected to get subsumed in the revenue gap. (last line deleted)

(xxxii). The PPT has also introduced wharfage charges to cater to residual category of cargo viz., 'Any other Liquid cargo not specified', 'Any dry bulk cargo not specified', 'Any break bulk cargo not specified' and 'Any other cargo not specified' in the Wharfage Schedule, uniformly at ₹ 68/- for foreign cargo and ₹ 40.80 for coastal cargo. The prescription of a residual category of cargo will enable the port to charge wharfage on cargo items which have specifically not been listed in the wharfage schedule. Notwithstanding this position, the PPT is advised to refer the relevant customs classification to find out whether the cargo could be classified under any of the specific categories mentioned in the wharfage schedule before classifying any cargo under unspecified category as required under clause 8.2.2 of the working Guidelines. Though no income has been estimated by PPT at the proposed level of tariff in respect of these cargo items, considering the revenue gap between the ceiling ARR and the revenue estimation to the tune of ₹ 25.01 crores, the revenue, if any, to be earned by PPT on account of levy of these wharfage charges, is expected to get subsumed in the revenue gap. Subject to compliance of clause 8.2.2 of the Working Guidelines by the PPT, the proposed rates in respect of the above listed cargo items are approved.

(xxxiii). The PPT has proposed shipment charges of ₹. 49.50 per tonne and Tippling charges of ₹. 20.40 per tonne for handling thermal coal in the Iron Ore Handling Plant (IOHP). In this connection, it may be recalled that this Authority has accorded approval for introduction of labour cess of ₹. 120 per tonne for handling Thermal coal at IOHP vide Order no. TAMP/31/2016-PPT dated 8 February 2017. The various cost components, which formed part of the said levy of ₹

120/- per tonne as discussed in the above referred Order is as follows:

Port Charge	Amt in ₹ per rake
Siding charges [3700 tonnes per rake X ₹ 4/- per tonne]	14,800
Haulage [58 wagons per rake X ₹ 1950/- per wagon]	113,100
Terminal Charges [3700 tonnes X ₹ 22.97 per tonne]	84,989
Tippling Charges [3700 tonnes X ₹ 20.4 per tonne]	75,480
IOHP charges [3700 tonnes X ₹ 49 per tonne] (Shipping Charges)	1,81,300
Total cost per rake	4,69,669
Tonnes of cargo in one rake	3700
Cost per tonne	127/-

From the above, it can be seen that the rate of ₹. 120/- is inclusive of shipment charges of ₹ 49/- per tonne and Tippling charges of ₹ 20.40 per tonne for handling of Thermal coal at IOHP. The said rate of labour cess forms part of the proposed Scale of Rates of the PPT. When the PPT was requested to confirm that the prescription of labour cess of ₹120/- per tonne alongwith the prescription of Shipment charges ₹ 49.50 per tonne and Tippling charges of ₹ 20.40 per tonne for handling thermal coal at IOHP will not amount to duplication, **the PPT has stated that** the shipment and tippling charges are not included in the labour cess of ₹. 120/- per MT and that the labour cess of ₹. 120/- per tonne is to enable the port to recover the amount of ₹ 176 crores paid by it to the Management Committee to meet the liability of Special Severance package (SSP) of Clearing, Forwarding & Handling (CF&H) workers and that the levy would be discontinued once the amount is recovered. **In view of the said submission** made by PPT, shipment charges and tippling charges for handling of Thermal coal at IOHP is prescribed as proposed by the PPT. **The labour cess of ₹. 120/- per MT is retained for the present.** However, considering that the cost component of labour cess of ₹. 120/- per MT is inclusive of shipment and tippling charges, it appears that there is duplication on prescription of separate rates for shipment and tipping charges. The PPT is, therefore, advised to review the labour cess of ₹. 120/- per MT so **as**

to remove any duplication of cost components considered in the rate of ₹. 120/- per MT.

(xxxiii).The PPT has proposed a Note below the wharfage schedule to the effect that “Shipment charges of MCHP and IOHP are inclusive of Wharfage”. The PPT is of the view that the wharfage is the basic dues of the Port on cargo for use of wharf and support infrastructure so created and maintenance thereof. In the event of mechanized plants like MCHP and IOHP, the Ship Loaders are installed in the wharf and used for shipment of cargo on the ship. Relying on the view of the PPT and since the proposed note would bring clarify and avoid ambiguity, the proposed note is approved.

(xxxiv). In the existing Scale of Rates, wharfage was not payable on surplus quantity due to moisture at the time of evacuation/ dispatch. However, the port has now proposed to levy wharfage charges on such cargo, on the ground that it is difficult to find out whether the surplus quantity is due to moisture or for any other reason and that Customs duty is also collected on the surplus quantity even if the same is due to moisture. In view of the clarification furnished by the port, and considering that none of the users consulted in this case objected to the proposal of PPT, the proposal of the port to levy wharfage on surplus quantity due to moisture at the time of evacuation/ dispatch, is approved.

(xxxv).The existing Scale of Rates of PPT prescribes various notes relating to ‘Wharfage and Intra-port transportation’. The PPT has proposed to delete few notes on the ground that Intra-Port transportation including the storage yard, delivery / receipt operations, is being done by the Shore-Handling Agents and the port has a limited role to play in such operations. Given that none of the users have objected to the deletion of the said notes, the judgment of the port to delete the said notes is relied upon and the proposal of PPT to delete few notes is approved.

(xxxvi). As against the existing provision that the weight shown in the Bill of Lading or original invoice upon which freight has been paid shall be deemed to be the correct tonnage, the port has proposed to modify the note by stating that Draught Survey done by independent surveyor is the final quantity for collection of port charges, on the ground that the IGM/cargo declaration and Bill of Entry **are** regularized by the importer based on the draught survey by the independent surveyor.

However, the port has not established as to how the report of the independent draft surveyor on the weight / quantity of the cargo is better **than** the Bill of Lading / Invoice in terms of authenticity of weight / quantity of cargo. Further, no other Major Port Trust **has** proposed a note to go by the draft surveyor report. Therefore, this Authority is not in a position to approve the proposed modification. The existing provision is retained.

(xxxvii).The existing Scale of Rates of PPT prescribes charges (excluding lashing and dunnage) in the event the stuffing/ destufing of cargo containers is undertaken by the port. The port has proposed deletion of the said charges on the ground that currently PPT does not undertake stuffing/ de-stuffing of cargo containers and that it is carried out by consignees in their premises. Considering that the port does not render this service, the proposal of the port to delete the prescription of said charges is approved.

(xxxviii).The existing Scale of Rates of PPT prescribes separate charges to be levied on the Cargo of Paradeep Phosphates Limited (PPL) and Indian Farmers Fertilisers Co-operative (IFFCO). The PPT has proposed to delete the mention of charges to be levied on PPL and IFFCO on the ground that the charges levied on PPL and IFFCO are governed as per the terms and conditions of 2 different agreements with PPT and also that the validity of the agreement is different from the validity of General Scale of Rates of PPT. In this regard,

reference is drawn to Clause 2.10 of Tariff Policy, 2015, and Clause 2.13 of the Working Guidelines issued to operationalize the Tariff Policy, wherein Clause 2.13 of the Working Guidelines stipulates that as per clause 2.10 of the Tariff Policy, 2015 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 and that the concerned Major Port shall approach TAMP for notification of such mutually agreed rate. In other words, though the charges to be levied to PPL and IFFCO are governed by separate Agreements, this Authority is bound to notify such rates. In view of this provision, the existing charges levied on the Cargo of PPL and IFFCO, as prescribed in the existing Scale of Rates of PPT is retained in the Scale of Rates approved now, as Section 2.16 and Section 2.17 respectively. However, in the event of changes in the respective Agreements, the same is intimated to this Authority for suitably notifying it in the Gazette of India.

- (xxxix).(a). In the existing Scale of Rates of PPT, in the Section prescribing free storage period for levy of demurrage in transit accommodation, a note prescribes a free period of 24 hours for hazardous goods. The PPT has now proposed to modify the said note by stating that the free period of 24 hours will be counted from the time of landing. In this regard, the port is of the view that in case of the Hazardous cargo in break bulk or container, no Transit facilities are considered and the said cargo has to be delivered directly from the port premises upon landing from the ship to avoid any untoward incident emanating out of such transit storage, thereby affecting the port operations. In view of this position, the PPT is seen to have modified the note by specifically stating that the free period of 24 hours will be counted from the time of landing and after expiry of 24 hours demurrage charges will be levied at 200% of the highest rate of demurrage charges to act as a

deterrent for such cargo if not delivered from the port within 24 hours of landing. The proposed note is approved.

- (b). On the same lines, under the Section in the existing Scale of rates relating to Demurrage on containerized cargo, the port has proposed 200% premium for storage of hazardous goods. Clause 9.8.3. of the Working Guidelines stipulates a premium upto 50% on handling and storage of hazardous containers. Thus, the premium of 100% proposed by port is moderated in line with the guideline provision.
- (xL). As against the free period of 3 days prescribed in the existing Scale of Rates for unclaimed/ uncleared goods sold by auction, the port has now proposed a free period of 90 days. The PPT has stated that the response for the auction process initiated for clearance of unclaimed/ uncleared dry bulk cargo is very poor, as the existing 3 free days is not found sufficient by the bidders to clear the entire quantity sold in auction and the Demurrage charges to be paid by the bidders far exceeds the prices of the auctioned material. Further, the various clearances to be obtained by the bidder takes at least 3 weeks. Therefore, the port has proposed to offer a free period of 90 days in order to attract bidders to buy the unclaimed / uncleared goods through auction. Based on the reasoning furnished by the Port and given that Clause 8.6 of the Working Guidelines gives flexibility to the Port to propose the number of free days, a free period of 90 days is prescribed for unclaimed/ uncleared goods sold by auction, as proposed by the PPT.
- (xLi). The PPT has proposed to delete the existing note which states that in case of excess landed cargo, demurrage will be charged after expiry of 3 days of notification of excess landing to the consignee, on the ground that it is not practically possible to comply with the provision. Based on the submission made by the port and considering that since a similar note is not prescribed in the Scale of

Rates of any of the Major Port Trusts, the deletion of the clause is approved.

(xLii). Under the Section of License fee, one of the notes under General conditions for allotment of covered and open spaces, states that the locking of shed partially or wholly rented to the parties shall not be regarded as making the Port a bailee of the goods unless the Port has issued a special receipt for the same, has been proposed to be deleted by the Port on the ground that such facilities are not available in PPT. Based on the clarification furnished by the Port, the deletion of the note as proposed by the Port is approved.

(xLiii). Under the Section of License fee, the PPT has proposed a note that at the discretion of PPT, the storage space inside custom bond area can be put to tender cum auction. In this connection, reference is drawn to Clause 10.1(a) of the Land Policy Guidelines, 2014, which interalia, stipulates that the land inside custom bond area shall be given on licence basis only upto a maximum period of 11 months and that the licence shall be at the bid value discovered through the tender-cum-auction issued only by inviting competitive tenders. The said Clause also stipulates that in cases, where the tender- cum-auction is not possible, land can be allocated on licence basis at the latest Scale of Rates. However, allotment of land by not resorting to tender-cum-auction methodology should be exercised as an exception. The note proposed by the Port is seen to be in line with the stipulation in the Land Policy Guidelines, 2014, and hence is approved. However, the PPT is requested to note that the discretion as proposed by PPT will be subject to instances where allotment of land is not possible through tender-cum-auction, as stipulated in the Land Policy Guidelines of 2014.

(xLiv). (a). Under the Section relating to levy of Penal Licence Fee, the PPT has introduced a new note to the effect that the calculation will be made from the date of 1st landing of the

cargo, so as to have clarity. Since the proposed note gives clarity as to from when the penal levy would be levied, the proposed note is approved. However, to avoid ambiguity, it is proposed to modify the note so as to state that the calculation of days will be made from the date of 1st landing of the cargo.

- (b). Under the same Section, the PPT has introduced another note to the effect that in case of duration beyond 90 days, the fees are to be collected on 30 days basis and in case of less than 30 days of stay, the dues are to be calculated on actual day of occupation.

In spite of specific request made to the Port, the PPT has not furnished the reason for proposing the said Note. From the reading of the note, it appears that for the 1st slab of 30 days (beyond 90 days), the penal license fee is leviable on actual no. of days of stay of cargo instead of levying for entire 30 days. In case the cargo stays for less than 30 days, beyond 120 days, the port appears to have proposed to levy penal license fee for the entire 30 days irrespective of number of days of stay of cargo. This will act as a deterrent as well as send a signal to the users that the relief available for 1st slab of 30 days (beyond 90 days) will not be available for subsequent slabs of 30 days.

(xLv). The existing Scale of Rates prescribes hire charges for various cargo handling equipment viz., Locomotives, Mobile cranes of various sizes, Wharf cranes of different sizes, Forklift trucks, Pay-loaders, Bulldozers, Grab attachment for wharf crane etc. In spite of a specific request, the PPT has not explained the reason for the proposed deletion. It is presumed that the said equipment are no longer in use at PPT and that therefore, the PPT has proposed for deletion of the hire charges for the said equipment. Considering that the users have not objected to the proposed deletion of the hire

charges for the various equipment, the proposal of PPT for deletion of the hire charges for the above listed equipment, is approved.

(xLvi). It may be recalled that this Authority vide its Order no. TAMP/30/2014-PPT dated 28 November 2014 has fixed ceiling tariff for the use of Harbour Mobile Crane (HMC) at the PPT, for common application, without reference to any particular service provider. This Order was notified in the Gazette of India on 5 January 2015 and had come into effect after expiry of 30 days from the date of notification of the Order i.e. 4 February 2015 and is valid for a period of three years i.e. upto 3 February 2018. The PPT has not incorporated the HMC tariff in its proposed Scale of Rates on the ground that many HMCs have been phased out and that the validity of these rates are not same as that of Scale of Rates approved now in the general revision case of PPT. Considering that the rates for the HMC has been incorporated in the existing Scale of Rates, the proposed Scale of Rates is also incorporate the said charges. Further, a note is prescribed in the Scale of Rates approved that the prescribed HMC rates would remain valid till 3 February 2018. The PPT is advised to file a proposal well in advance for review of the rates for HMC.

(xLvii). The existing notes relating to levy of various vessel related charges viz. Berth hire, Port Dues and Pilotage & Towage charges on the Lash Barges/ Vessel in the existing SOR has been proposed to be deleted by the PPT on the ground that the Lash ships have been phased out and has not called at PPT over last 15 years. In view of the clarification furnished by the PPT, the deletion of the existing notes as proposed by the Port is approved.

(xLviii). The existing Weighment charges for the use of weigh bridges/ weigh scales in the warehouses/ transit shed **have** been proposed to be deleted by the PPT in the proposed SOR on the ground that there is no weigh bridge in the Warehouse/ Transit sheds. Based on

the clarification furnished by the Port, the proposed deletion is approved.

- (xLix). This Authority has passed a common Order No. TAMP/4/2004-Genl. dated 25 October 2016 relating to grant of 80% discount on vessels related charges and Cargo related charges for coastal transportation of vehicles through Ro-Ro ship for a period of two years with effect from 20 September 2016. The said note has been incorporated by the PPT in its proposed Scale of Rates.
- (L). This Authority vide its Order no. TAMP/55/2016-PPT dated 08 February 2017 has approved levy of Labour Cess of ₹ 70/- per tonne for Iron Ore Pellets handled at Iron Ore Handling Plant (IOHP) and vide Order no. TAMP/31/2016-PPT dated 08 February 2017 has approved levy of Labour Cess of ₹. 120/- per tonne for thermal coal handled at IOHP. It may be recalled that the said levy has been approved to enable the port to recoup the amount of ₹.176 crores incurred towards SSP of the CF&H workers. In view of this position, as already advised by this Authority in the above referred Orders, the PPT is advised to maintain a separate account in this regard and stop the levy at once the entire amount is recovered by the PPT. Further, the PPT is advised to produce an audited account in this regard at the time of next review of tariff of PPT.
- (Li). Based on a policy direction issued by the Ministry of Shipping under Section 111 of the Major Port Trusts, 1963, this Authority vide its Order no. TAMP/33/2014-Genl dated 17 July 2014 has prescribed provisions relating to the cargo transloaded at the Transloading point. The said provisions have been incorporated by the PPT in its proposed Scale of Rates.
- (Lii). The PPT has proposed a rate of ₹.1000/- per unit to be levied incase of Automobiles to be landed or shipped through Ro-Ro operation. The PPT has stated that it envisages some loading/ unloading of

car/ automobile etc. through Ro-Ro operation and in the absence of any rate, it would not be in a position to levy rates. The PPT has also stated that the revenue to be generated from such operation would be negligible. In spite of a specific request, the PPT has not furnished any basis to arrive at the said proposed rate. Considering that the PPT anticipates handling of cars/ automobiles through Ro-Ro operations in future and keeping in view of the flexibility available to the port to prescribe charges in the Tariff Policy, 2015, the proposed rate is approved, relying on the judgment of the port on the viability of the rate proposed by it.

- (Lii). The PPT has proposed a wharfage rate of ₹.200/- per unit to be levied for any cargo/ container operation, if a vessel has to unload/ reload any hatch cover/ pontoon. The PPT has stated that occasionally, some container feeder ships and project cargo ships at the port unload and reload hatch covers/ pontoons, thereby involving time, manpower and infrastructure. Since the existing Scale of rates does not prescribe any rate for this aspect, the PPT has proposed the above said rate. The PPT has also stated that the revenue to be generated from such operation would be negligible. In spite of a specific request, the PPT has not furnished any basis to arrive at the said proposed rate. Considering that the operation is reported to be undertaken only seldom and keeping in view of the flexibility available in the Tariff Policy, 2015, to prescribe charges by the port the proposed rate is approved, relying on the judgment of the port on the viability of the rate proposed by it.

- (Liv). The PPT has proposed Siding Charges for Warehousing Zone at ₹ 4.25 per MT and for other siding ₹ 4.00 per MT on the ground that the Siding Charges are not approved/ revised by the Railway Board. The proposed provision also states that the siding charges include the additional shunting charges for shifting of the rakes to a maximum of two parts and that an amount of ₹ 2,000/- will be charged for each additional placement. The PPT has stated that

Levy of Siding Charge formed part of the 1993 Scale of Rates of PPT but was inadvertently omitted by this Authority in the Scale of Rates of 2011 due to Order passed by this Authority on 27 March 2009. In this connection, reference is drawn to tariff Order no. TAMP/60/2005-PPT dated 27 March 2009, wherein after obtaining views of PPT, this Authority had de-notified the then Chapter V - Railway charges from the Scale of Rates of the PPT which was initially approved vide Order of October 2007 on the ground that the railway charges sanctioned by Railway Board cannot be approved by this Authority. The position prevailing now is not different from the position that prevailed in March 2009. The proposal of the port, is therefore, not approved.

- (Lv). Based on a communication from the Ministry of Shipping (MOS), the Major Port Trusts including PPT were requested to prescribe a suitable note in their respective SOR regarding applicability of wharfage rates for Defence Stores in such a way that there is no ambiguity in mind of users on the application of the prescribed rates. The PPT has not prescribed wharfage rate for 'Defence Stores' in its Scale of Rates. The Port is advised to come up with a proposal for prescription of a note in this regard, within 3 months from the date of notification of the Order passed in the Gazette of India.
- (Lvi). The MOS vide its Letter No. PD-25021/7/2015-PD.1. dated 16 April 2015 has directed all Major Port Trusts to follow the TAMP letter No. TAMP/53/2002-Misc dated 25 March 2015 regarding wharfage charges on vessel manifested as cargo in the Import General Manifest (IGM) or Export General Manifest (EGM). Since the PPT has not incorporated the relevant note, a note to the effect that Vessels calling the Port on her first voyage, which are declared as cargo in the Import General Manifest or Export General Manifest for the purposes of Customs Act, 1962, shall not be treated as cargo and no wharfage shall be levied on such vessels, if the vessels come into the port on their own steam and sail out of the port limits

on their own steam. However, when loading or unloading of vessels takes place within the Port limits, wharfage shall be payable on such vessels is incorporated in the Scale of Rates of PPT, as has been prescribed in Scale of Rates of other Major Port Trusts.

- (Lvii). As per clause 4.1. of the Tariff Policy, 2015, (i). the additional surplus assessed by TAMP in earlier tariff Orders which remain unadjusted has to be transferred by Major Port Trusts to any fund as desired by the Port Trust, and, further (ii). additional surplus, if any, accruing to the Major Port Trusts during the period of application of existing Scale of Rates till the effective date of implementation of the new Scale of Rates fixed under this policy should be assessed and transferred to the General Reserve and use the funds for the purpose of development, creation and / or modernization of the port infrastructure facilities.

In the last general revision Order of PPT in the year 2011, a reduction was effected on all cargo handling charges and status quo was maintained in other charges. Thus, there is no unadjusted additional surplus of earlier tariff Orders.

For the years, 2011-12 to 2016-17, the PPT is required to, after finalizing the accounts for the financial year 2016-17, assess the actual aggregate surplus/ deficit and in case of surplus, if any, comply with provision prescribed in Clause 4.1. of the Tariff Policy 2015 and also report the position to this Authority.

- (Lvii). As per Clause 3.1. of the Tariff Policy 2015, the Major Port Trusts shall also commit Performance Standards for cargo related services in terms of average ship berth day output, average moves per hour in case of container handling. 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 and any other parameter which is found relevant by the Port. The PPT has

committed Performance Standards for cargo related services in terms of average ship berth day output in tonnes / day in respect of major cargo/ vessel groups. The PPT has also proposed Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels. The Tariff Policy 2015 does not prescribe any method or basis for proposing performance standards. The performance standards as proposed by the PPT is prescribed along with SOR.

- (Lx). As per Clause 2.8. of the Tariff Policy, 2015, SOR will be indexed annually to the inflation to the extent of 100% variation in Wholesale Price Indexed (WPI) announced by the Government of India occurring between 1 January 2014 and 1 January of the relevant year and the adjusted indexed SOR will come into force from 1 April of the relevant year to 31 March of the following year. Further, as per clause 3.2 of the Tariff Policy 2015 to be read with clause 2.8 of the Tariff Policy 2015, annual indexation in SOR at 100% of the WPI is applicable subject to achievement of Performance Standards committed by Major Port Trusts. If a particular port does not fulfil the Performance Standard, no indexation would be allowed during the next year. It is relevant to state that in the instant case indexation for the year 2016-17 is already considered in the ARR computation and for drawing the SOR. The next annual indexation in SOR will thus be applicable from 1 April 2018 subject to increase in inflation index and achievement of Performance Standards in the year 2017-18. That being so, a note is inserted in the SOR to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 100% of the WPI to be announced by this Authority. The annual indexation will be from 1 April 2018 subject to increase in inflation index announced by us and the PPT achieving the Performance Standards notified alongwith the SOR. If Performance Standards prescribed in the SOR are not achieved, there will be no indexation in SOR for that particular year. The Tariff Policy 2015 stipulates that annual indexation in the SOR will be automatic subject to

achievement of Performance Standards. It does not require the Major Port Trusts to approach this Authority for the same. In Order to have transparency, the port is advised to declare the Performance Standards achieved for the period 1 January to 31 December vis-à-vis the Performance Standards notified by this Authority at the level committed by the port within one month of end of the calendar year to the concerned users as well as to this Authority. If the Performance Standards as notified by this Authority are achieved by the port, then the port can automatically index the rates prescribed in this SOR at 100% of WPI announced by this Authority and apply the indexed SOR w.e.f. 1 April of the relevant year. The indexed SOR by the PPT **may** be intimated by the port to the concerned users and to this Authority.

12.1. In the result, and for the reasons give above, and based on collective application of mind, the revised Scale of Rates of the PPT incorporating the Performance Standards, attached as **Annex** is approved.

12.2. The validity of the existing Scale of Rates has been extended upto 30 September 2017. Since status quo **in tariff** has been maintained in the existing Scale of Rates of PPT, the revised SOR shall come into effect from 01 October 2017 and shall be in force till 31 March 2019. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

12.3. The PPT has committed Performance Standards for cargo related services in terms of average ship berth day output in tonnes / day for major cargo groups. The PPT has also proposed Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels.

12.4. The indexation of SOR as provided in Clause 2.8 of the Tariff Policy, 2015 is to be read with Clause 3.2. of Tariff Policy 2015. If PPT does not fulfil the Performance Standard, no indexation is eligible for the next year.

12.5. As per Clause 7.1. of the Tariff Policy 2015, the PPT shall furnish to this Authority annual reports on cargo traffic, ship berth day output, average

turnaround time of ships, average pre-berthing waiting time as well as the tariff realized for each of its berth. The annual reports shall be submitted by the Port within 60 days following the end of each of the year. Any other information which is required by this Authority shall also be furnished to this Authority from time to time.

12.6. As per Clause 4 of the Working Guidelines, this Authority shall publish all the information received by it from PPT under clause 7.1. of the Tariff Policy, 2015 on its website. However, this Authority shall consider a request from PPT about not publishing certain data/information furnished which is commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/ information in question and the likely adverse impact on their revenue/ operation upon such publication. Authority's decision in this regard would be final.

- 12.7. (a). If there is any error apparent on the face of record, the PPT may approach this Authority for review of the tariff fixed, giving adequate justification/ reasoning within 30 days from the date of notification of the Order passed in the Gazette of India.
- (b). Further, the PPT may also, for any other justifiable reasons, approach this Authority for review of the tariff fixed giving adequate justification/ reasoning within 30 days from the date of notification of the Order passed in the Gazette of India.

(T.S. Balasubramanian)
Member (Finance)