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Tariff Authority for Major Ports

G No. 119 **New Delhi,** **26 April 2013**

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the V.O. Chidambaranar Port Trust for revision of Berth Hire Charges for sailing vessels at Zone-B approved vide Order No.TAMP/9/2010-TPT dated 11 October 2011 as in the Order appended hereto.

(**T.S. Balasubramanian**)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/45/2012-VOCPT

V.O. Chidambaranar Port Trust … Applicant

QUORUM:

(i). Smt. Rani Jadhav, Chairperson
(ii). Shri. T.S. Balasubramanian, Member (Finance)
(iii). Shri. C.B. Singh, Member (Economic)

O R D E R
(Passed on this 1st day of April 2013)

The case relates to a proposal filed by the V.O. Chidambaranar Port Trust (VOCPT) vide its letter No.A-1/49-2011-COST dated 26 June 2012 for revision of Berth hire charges for sailing vessels at Zone-B approved vide the general revision Order dated 11 October 2011.

2. The proposal of the VOCPT for revision of berth hire charges for sailing vessels at Zone-B is based on a representation from Coastal Mechanized Sail Vessel Owners' Association (CMSVOA) to shelve the revised berth hire charges for sailing vessels at Zone-B approved in the Order dated 11 October 2011. In this regard, it is pertinent to note that:

(i). This Authority vide tariff Order No.TAMP/9/2010-TPT dated 11 October 2011 had disposed of the general revision proposal filed by VOCPT. The Order was notified in the Gazette of India on 11 November 2011 vide Gazette No.222.

(ii). In the pre-revised SoR, the berthing fees for sailing vessels other than lighters alongside the wharf at Zone B was prescribed at US$ 0.0323 per GRT per trip for foreign going vessels. During the proceedings of the general revision case, the VOCPT proposed to modify the unit of levy from 'per trip' basis to 'per GRT per hour' basis based on the provisions contained in clause 6.5.3 of the 2005 tariff guidelines. Accordingly, the port proposed a revised rate of US$0.0040 per GRT per hour for foreign going vessels. When sought to furnish the revenue implications of the proposed revised tariff, the VOCPT had submitted that the sailing vessels which are berthed at Zone B are of very low GRT and the revenue implications are very less.

(iii). The para 17 (xxxiv) of the Order dated 11 October 2011 dealing with the proposal of VOCPT for modification of unit of levy in respect of berthing fees for sailing vessels other than lighters alongside the wharf at Zone B reads as follows:

"In the existing SOR, the unit of levy of berthing fees for sailing vessels other than lighters alongside the wharf at Zone B is prescribed on per GRT per trip basis at US$0.0323 for foreign going vessel. The VOCPT has proposed to modify the unit of levy to per GRT per hour basis and the rate proposed is US$0.0040 for foreign going vessel. The port has clarified that for arriving at the proposed rate, the existing rate prescribed per trip is rationalized on per hour based on average 8 hours per trip. Clause 6.5.3 of the guidelines of 2005 states that prescription of the berth hire should be related to stay of vessel and it should be on hourly basis. Since the proposed modification complies with the guideline provision and relying on the basis explained by the VOCPT, the proposed modification in the unit of levy and the rate has been accepted. None of the users have made any voiced objection on the modification proposed by the VOCPT."

(iv). Subsequently, the CMSVOA vide its letters dated 27 December 2011 and 7 February 2012 made a representation to shelve the berth hire charges approved vide Order dated 11 October 2011. The CMSVOA mainly raised two issues, viz. (i) the berth hire charges for sailing vessel has been increased in the Scale of

Rates approved vide Order dated 11 October 2011 and (ii) CMSVOA has not been consulted in the joint hearing held in connection with the general revision of Scale of Rates at VOCPT.

(v). Since this Authority had only modified the unit of levy from 'per trip' basis to 'per hour' basis, at the request of the port, and relying on the position reported by the port, no increase was approved in the berthing fees for sailing vessels, as contended by CMSVOA, the representation received from CMSVOA was forwarded to VOCPT for appropriate action at their end vide our letter dated 14 March 2012.

3. In this backdrop, the VOCPT vide its letter dated 25/26 June 2012 has submitted a proposal for revision of Berth Hire Charges for sailing vessels at Zone-B based on the representation of CMSVOA. The main points made by VOCPT are summarized below:

(i). Prior to the revision to Port's Scale of Rates in November 2011, the berthing fees on sailing vessels coming alongside the wharves at Zone-B of the Port was collected at the rate of per GRT per trip of ₹0.85 for coastal vessels and $ 0.0323 in respect of foreign vessels irrespective of number of hours of stay.

(ii). As per the Order of 11 November 2011, the rates relating to berth hire charges for sailing vessels handled at Zone-B have been revised on hourly basis from the 'per trip' basis to conform to TAMP guidelines.

(iii). In this connection, on the ground that the revised rate is very high with respect to pre revised rate, the Sailing Vessels Owners Association submitted a representation to the Authority vide their letter dated 27 December 2011 endorsing a copy to the Port, with a request to collect berth hire charges for sailing vessels at Zone-B in the pre revised rate (at the unit rate of per trip basis) instead of per hour basis. The matter was placed before the Board in its meeting held on 12 January 2012 and the Board authorised the Chairman to have a sitting with Sailing Vessel Owners Association to come out with a realistic rate for sending the same to the TAMP. (The VOCPT has furnished a copy of the extract of minutes of proceedings of the Board Meeting held on 12 January 2012 and agenda note placed before the Board).

(iv). As decided by the Board, a meeting was convened on 15 March 2012 by Chairman of VOCPT with representatives of the Sailing Vessels Owners Association to arrive at a mutually agreeable rate, considering the ground reality of the issue and the clause No.6.5.3 of the TAMP Guidelines wherein it is mentioned that berth hire charges should be linked to the duration of stay of a vessel on hourly basis.

(v). After continuous deliberations, it was mutually agreed to bifurcate the existing single rate into two as given below:

Sr. No.	Description	Unit of levy	Rate
1	**During Operation Period (November to April)** Foreign	Per day	₹400/-
2	**During Lean Period (May to October)** Foreign	-do-	₹ 75/-
3	For the period of anchoring the vessel during the repairing period at laybuoy (North Pier)	-do-	₹200/-

The above rate is suitably to be converted into the unit rate of per GRT per hour.

(The VOCPT has furnished copy of Minutes of the meeting held on 15 March 2012).

(vi). The matter was placed before the Board in the meeting held on 30 March 2012. The Board, has resolved to (i) send the proposal to TAMP for sanction under Section 48 & 49 of MPT Act, 1963 to collect berth hire charges for sailing vessels at Zone-B at the rate indicated at Col. 4 of the table given below, with a concession to collect the charges meant for lean period during idle stay of vessels during operational period and (ii) to collect the reduced rates till the approval of Authority.

Description	**Unit**	**Rate proposed**	
		Regular Rate	**Lower Rate**
(1)	(2)	(3)	(4)
During Operation Period (November to April)			
Foreign ($) Coastal (₹)	Per GRT per hour	0.004 0.10	0.0011 0.0333
During Lean Period (May to October)			
Foreign ($) Coastal (₹)	Per GRT per hour	0.004 0.10	0.0002 0.0062

Note: (1). If voyage takes place during the lean period, the rate pertaining to operational period will be adopted.

(2). 50% of operational rates is applicable for the period of repairing at laybuoy (North Pier) of Zone-B.

(3). To collect charges for lean period during idle stay of vessels on operational period.

(vii). Accordingly, the VOCPT has sought the approval of this Authority, for its proposal to collect berth hire charges of sailing vessels at Zone-B at the rates indicated at Coloumn-4 of the above table and also to collect the reduced rates till the approval of this Authority.

4. In accordance with the consultation process prescribed, the proposal was circulated to the users/ user organisations for seeking their comments. The comments received from the users/ user organisations were forwarded to the VOCPT as feedback information. The VOCPT has furnished its comments on the points made by the users/ user organisations.

5. Based on a preliminary scrutiny of the proposal, the VOCPT was requested to furnish additional information/ clarifications vide our letter dated 16 October 2012. The VOCPT vide its letter dated 2 November 2012 has furnished its response. A summary of the queries raised by us and reply furnished by VOCPT thereon are tabulated below:

Sl. No.	**Queries raised by us**	**Reply furnished by VOCPT**
1.	It appears that as against the existing single rate structure of $0.004 per GRT per hour for foreign going vessels and ₹0.10 per GRT per hour for coastal vessels, the VOCPT has now bifurcated and proposed to levy $0.0011 per GRT per hour for foreign going vessels and ₹0.0333 per GRT per hour for coastal vessels during the operational period from November to April and a levy of $0.0002 per GRT per hour for foreign going vessels and ₹0.0062 per GRT per hour for coastal vessels during the lean period from May to October. In this regard, the VOCPT to clarify/ furnish the following:	
(i).	The reasons to bifurcate the existing single rate structure and proposed two different rates (for foreign going vessels and coastal vessels) for operational period and lean period may be explained, with basis therefor.	The Representatives of Sailing Vessels Owners Association have requested the Chairman to retain the pre-revised unit rate of per GRT per trip instead of revised unit rate of per GRT per hour on the ground that during the lean period i.e., May to October of every

<table>
<tr><td></td><td></td><td>year there is no voyage and hence the sailing vessels are tied up idle. To address this problem it was decided to propose to bifurcate the existing single rate into two, distinctly viz., one for operational period and another for lean period which is at lower rate.</td></tr>
<tr><td>(ii).</td><td>The basis for the proposed rate of $0.0011 per GRT per hour for foreign going vessels and ₹0.0333 per GRT per hour for coastal vessels during the operational period from November to April and a levy of $0.0002 per GRT per hour for foreign going vessels and ₹0.0062 per GRT per hour for coastal vessels during the lean period from May to October may be furnished with workings.</td><td>As mutually agreed upon in the meeting dated 15 March 2012 with Representatives of Sailing Vessels Owners Association the rate per day of ₹400/- per day for operational period and ₹75/- per day for lean period for an average of 300 GRT, the rate is converted into per hour per GRT rate. The relevant workings is furnished below:
<table>
<tr><th>Description</th><th>Foreign (in $)</th><th>Coastal (in ₹)</th></tr>
<tr><td>During Operation:</td><td></td><td></td></tr>
<tr><td>Rate per day (in ₹)</td><td>400</td><td>240</td></tr>
<tr><td>Rate per day converted into $</td><td>8.055</td><td></td></tr>
<tr><td>Rate per hour</td><td>0.336</td><td>10.000</td></tr>
<tr><td>Rate per GRT per hour</td><td>0.0011</td><td>0.0333</td></tr>
<tr><td>During Lean Period:</td><td></td><td></td></tr>
<tr><td>Rate per day (in ₹)</td><td>75</td><td>45</td></tr>
<tr><td>Rate per day converted into $</td><td>1.510</td><td></td></tr>
<tr><td>Rate per hour</td><td>0.063</td><td>1.88</td></tr>
<tr><td>Rate per GRT per hour</td><td>0.0002</td><td>0.0062</td></tr>
</table>
Note:
(1) $ Rate of ₹ 49.66 as on 15.3.2012 is considered for calculation.
(2) 300 GRT per sailing vessel is considered.</td></tr>
<tr><td>(iii).</td><td>(a). As can be seen from the proposal, the rates proposed by VOCPT are lower than the existing rates for the sailing vessels. In view of this position, the VOCPT to quantify and furnish the revenue implication on account of the proposed reduced berth hire charges for sailing vessels in the remaining period of current tariff cycle.</td><td>It is assumed that during the lean period i.e., May to October only lesser number of sailing vessels 2 or 3 vessels per month are normally handled and during the operation period i.e., November to April in an average 15 number of vessels per month are handled and an average revenue loss per month during the operation period will be ₹5.00 lakhs and ₹1.00 lakhs per month during lean period. In total (36.00 lakhs) it is assumed that the revenue implication on account of the proposed reduction in berth hire charges in the remaining period of current tariff cycle may be around ₹36.00 lakhs.</td></tr>
<tr><td></td><td>(b). The VOCPT to explain how it is going to meet the shortfall in revenue, if any, on account of the proposed reduction in the existing berth hire charges for sailing vessels to maintain the revenue neutral position of VOCPT.</td><td>As the shortfall in revenue due to proposed reduction of berth hire charges for sailing vessels (₹36.00 lakhs) is meager it may be absorbed from the income of other activities.</td></tr>
<tr><td>(iv).</td><td>The rationale behind proposing to levy rate pertaining to operational period when voyage takes place during lean period, when a specific rate for levy during the lean period is also proposed, may be explained, with justification.</td><td>The rate meant for lean period is only for the stay of vessels at berth without operation as the handling of vessels is not feasible due to rough weather condition during May to October. Hence, if vessels are handled during that period, the rate pertaining to operational period is applicable when voyage takes place during lean period.</td></tr>
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(v).	The rationale behind proposing to levy rate pertaining to lean period when vessel idles during operational period, when a specific rate for levy during the operation period is also proposed, may be explained.	In some cases, even though the period lies between November to April i.e., Operation period, there may be a situation of vessels lying idle. In such cases to avoid collection of berth hire charges applicable to operational period this method is proposed.
(vi).	The basis for levy of 50% of the proposed operational rates for the period of repairing at lay buoy (North Pier) of Zone-B may be explained.	The vessel is occupying the area nearer to berth for repairing purpose and there is no cargo handled in that area. Hence a charge of 50% of the operation rates is proposed for that area.
2.	In connection with the copy of the Minutes of the meeting held on 15 March 2012 by Chairman of VOCPT with the stakeholders, as furnished by the VOCPT under cover of its letter dated 26 June 2012, the VOCPT to clarify/ furnish the following:	
(i).	The basis for ₹2250/- and the workings converting the mutually agreed rate of ₹2250/- per month (₹75/- per day) during lean period into the proposed rate of $0.0002 per GRT per hour for foreign going vessels and ₹0.0062 per GRT per hour for coastal vessels.	In the discussions had with the representatives of Sailing Vessel Owners Association by CPT, the per day rate of ₹75/- is finalised and the same is converted into monthly rate which is ₹2,250/-. Also, per hour per GRT rate furnished as per workings vide Point No.I(ii) above.
(ii).	The basis for ₹12,000/- and the workings converting the mutually agreed rate of ₹12000/- per month (₹400/- per day) during operational period into the proposed rate of $0.0011 per GRT per hour for foreign going vessels and ₹0.0333 per GRT per hour for coastal vessels.	The rate of ₹400/- per day was mutually agreed for operational period as against the rate of ₹1,430/- with respect to the average GRT of 300 at the revised rates.
(iii).	Though the mutually agreed rate is for an average 300 GRT vessel, the proposal of VOCPT does not indicate this position. Please clarify the position and modify the draft Scale of Rates suitably. If the word “average” is used before the words “300 GRT”, it may pose problems for the port in operationalising the rates, which may be kept in view.	To arrive a realistic and mutually agreeable rate based on the agreed per day rate, the average GRT of the sailing vessel is taken as 300 GRT and based on that per hour rate is worked out with the consent of the representatives of Sailing Vessel Owners Association. Hence, the possibility of any problem does not arise for implementation. The GRT of sailing vessels range from 230 to 362 GRT. Hence, average GRT is considered for calculation purposes. This is in order and may be accepted.
(iv).	It has been reportedly mutually agreed in the meeting that vessels berthed adjacent to finger jetty (RC jetty) for repairing is to be exempted from berth hire charges. However, the VOCPT has not included the said conditionality in its proposal to TAMP. The VOCPT to clarify the position.	It is inadvertently omitted to include the conditionality of the exemption of berth hire charges for the vessels berthed adjacent to finger jetty (RC jetty) for repairing purpose. This was placed before the Board in the meeting held on 19.10.2012 and decision will be communicated to the Authority for consideration.
(v).	The proposal of the port to levy the rate pertaining to lean period when vessel idles during operational period, does not appear to have consent of the users. The reason for proposing such a conditionality in its proposal may be explained.	In the meeting held on 15 March 2012 with the Representatives of Sailing Vessels Owners Association, the said issue had been discussed and also agreed by the representatives.

6.1. A joint hearing on the case in reference was held on 29 November 2012 at the VOCPT premises. The VOCPT made a power point presentation of its proposal and also furnished the hard copy of the presentation. At the joint hearing, the VOCPT and the concerned users/ user organisations have made their submissions.

6.2. As agreed at the joint hearing, the VOCPT was requested to take action on the following points, which were communicated vide our letter dated 13 December 2012 followed by reminders dated 28 December 2012 and 5 February 2013. The VOCPT vide its letter dated 20 March 2013 has furnished its reply. A summary of the information sought at the joint hearing and the response of VOCPT is tabulated below:

Sl. No.	Information sought at the joint hearing	Response of VOCPT
(i).	Convey the decision of the Board of Trustees of VOCPT regarding prescription of a conditionality to exempt the Vessels berthed adjacent to finger jetty for repairing purposes from levy of berth hire charges.	The said issue is placed before the Board Meeting vide Agenda No.121 in the Board Meeting dated 19.10.2012 requesting the approval of the Board to incorporate the exemption for collection of berth hire charges for the period of berthing vessels adjacent to Finger Jetty for repairing citing the same reflected in the Record Note of Discussions held with Sailing Vessel Owners Association on 15.3.2012. But on the request of Shri Joe Villavarayar as Trustee of the Board to defer this Agenda stating this agenda which had been received very late for proper consideration. In the meantime the Authority have fixed hearing on the subject initially on 02.11.2012 and then postponed to 29.11.2012 and the subject was heard by the Authority. Hence, the authority may take a decision on the issue.
(ii).	While responding to one of the queries raised by us, the VOCPT had stated that the levy of rate pertaining to lean period when vessels idle during operational period was discussed in the Meeting held on 15 March 2012 with the representatives of the Sailing Vessel Owners Association and agreed by them. This position, however, was not reflected in the Record Note of discussions held on 15 March 2012. Therefore, the VOCPT was requested to confirm its statement made in its response.	In the record Note of discussion at the meeting with representatives of Sailing Vessel Owners Association held on 15.3.2012, it was agreed to adopt the operational period rate if any voyage/operation took place during the lean period. In the same scenario, it was proposed to the Authority to levy the rate pertaining to lean period when the vessels idle during the operational period (intermittent idle time during the course of operation of a vessel is not to be considered as idle period). Hence, the Authority may consider this rate for approval.

7. The VOCPT vide its letter dated 11 December 2012 has stated that during the hearing held on 29 November 2012, the representative of Coastal Sailing Vessel Owners' Association has requested to propose to charge the rate applicable to lean period for the period of anchoring the vessel during the repairing period at laybuoy (North pier) also. Considering the request and the rate already proposed for the repairing period is higher, it has agreed to adopt the rates as applicable to the lean period as indicated below:

Description	Unit	Rate proposed
During lean period (May to October)		
Foreign ($)	Per GRT per hour	0.0002
Coastal (Re.)	-do-	0.0062

8.1. The CMSVOA vide its letter dated 10 December 2012 addressed to the VOCPT has submitted the following:

(i). CMSVOA agree for the payment of ₹75/- per day for foreign going sailing vessels and ₹45/- per day for coastal going sailing vessels and ₹400/- per day as berth hire charges at the time of loading during the operational period between November to April. The sailing Vessel Industry is in vogue for more than a century and the crew and labour belong to the weaker section of the society. Due to the fair weather and foul weather period which is insisted by the Director General of Shipping, Mumbai the sailing vessels are unable to do business for 6 months in a year. In view of the above, CMSVOA has requested not to collect the charges meant for lean period from May to October. Because sailing vessels do not generate any income during the lean period (6 months).

(ii). The sailing vessels are anchored at the laybuoy (North pier) of Zone 'B' Harbour for maintenance work and it has been the practice for the past few decades. CMSVOA has therefore requested not to charge 50% of the rate of operational period of anchoring the vessels during the repairing period at laybuoy (North pier) and has also requested to include that the vessels berthed adjacent to finger jetty (RC Jetty) for repairing is exempted from berth hire charges.

(iii). CMSVOA has requested to shelve the enhanced port dues/ berth hire charges and to refund the excess amount paid by the owners.

8.2. We have not received the comments of the VOCPT on the request made by the CMSVOA till finalization of this case.

9. 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.

10. With reference to the totality of the information collected during the processing of the case, the following position emerges:

(i). While disposing the general revision proposal of VOCPT in October 2011, the proposal of the port to modify the unit of levy of berthing fees for sailing vessels other than lighters alongside the wharf at Zone B from 'per GRT per trip basis' to 'per GRT per hour basis' was approved on the ground that prescription of berth hire related to stay of vessel and on hourly basis was as per the stipulation contained in the tariff guidelines of 2005 and also since there was no objection from the users on the modification then proposed by the VOCPT. As reported by the port then, this had resulted in the pre-revised rate of foreign going vessel at US$0.0323 per GRT per trip being modified to US$0.0040 per GRT per hour.

With reference to the said modification in the levy of berthing fees for sailing vessels other than lighters alongside the wharf at Zone B, the Coastal Mechanized Sail Vessel Owners' Association (CMSVOA) made a representation to us to shelve the berth hire charges on the ground that the berth hire charges for sailing vessel has been increased without consulting the CMSVOA during the proceedings relating to the general revision proposal of VOCPT. The representation received from CMSVOA was forwarded to VOCPT for appropriate action at their end. With reference to the said representation received from CMSVOA, the VOCPT, in a meeting held at its level with representatives of the Sailing Vessels Owners Association have reported to have arrived at a mutually agreeable Berth Hire Charges for sailing vessels at Zone-B and has filed a proposal in this regard. This proposal is taken up for analysis.

(ii). Before we proceed further on the case in reference, it is relevant here to mention that the proposal filed by VOCPT for general revision of its Scale of Rates at the relevant point of time was taken up on consultation with the relevant users/ user organizations as per the list of organizations for VOCPT maintained by us and as prescribed in the tariff guidelines of 2005. Since the name of CMSVOA is not found in the list and also since the name of CMSVOA was also not suggested by the VOCPT then, despite a request made to the port to suggest the name of any other major users/ organisations who may be consulted in the case in addition to the list of users/ user associations consulted by us, the CMSVOA was not suggested by the port and hence the CMSVOA was not consulted in the proceedings, which culminated in the Order of October 2011 disposing the general revision proposal filed by the VOCPT.

(iii). As brought out in the factual position of the note, the VOCPT and the representatives of the Sailing Vessels Owners Association have mutually agreed to bifurcate the existing single rate into two i.e. one a higher levy to be applied during the operational period from November to April and the other a lower levy to be applied during the lean period from May to October. The lower levy to be applied during the lean period is reported to be on the ground that every year during the lean period, there is no voyage and hence the sailing vessels are idly tied up. Accordingly, it has been mutually agreed by the port and CMSVOA to levy a rate of ₹400/- per GRT per hour during the operational period and ₹75/- per GRT per hour during the lean period. Subsequently, the port has converted the said agreed levies into dollar denominated berth hire charges. The VOCPT has furnished workings in this regard. Since the rate of ₹400/- per GRT per hour during the operational period and ₹75/- per GRT per hour during the lean period are mutually agreed rate, this Authority is inclined to consider the so agreed rates as base for determining the dollar denominated berth hire charges for the sailing vessels.

(iv). As can be seen from the workings furnished by the port, the mutually agreed rate of ₹400/- per GRT per hour during the operational period and ₹75/- per GRT per hour during the lean period has been converted to $0.0011 per GRT per hour and $0.0002 per GRT per hour respectively by VOCPT by considering the average GRT of the sailing vessels at 300 GRT and by considering an exchange rate of ₹49.66 per dollar.

The VOCPT is of the view that GRT of the sailing vessels is in the range of 230 GRT to 362 GRT and therefore, considering the average GRT of the sailing vessels at 300 GRT for calculation purpose is in order. This position is relied upon in this analysis.

With regard to the exchange rate, it is relevant to mention here that generally, the exchange rate prevailing at the time of finalization of the tariff case is considered. Thus, the workings furnished by the VOCPT is revisited and updated to reflect the prevailing exchange rate of ₹53.55 per dollar. Accordingly, the rate works out to $0.0010 per GRT per hour during the operational period as against $0.0011 per GRT per hour worked out by the port for foreign going vessels. The rate for the lean period works out to $0.0002 per GRT per hour for foreign going vessels, as proposed by the port. A statement showing the above calculation is attached as **Annex**.

(v). As can be seen from the proposal filed by the VOCPT, the rates proposed by VOCPT are lower than the existing rates for the sailing vessels. Approval of rates lower than the existing rates would result in a reduction in the existing level of revenue earned by the VOCPT. Given that the existing tariff of VOCPT has been fixed in October 2011 based on the then estimated cost position, it may be necessary to effect changes in some other tariff items so that it results in revenue neutral position of VOCPT. The VOCPT was, therefore, requested to furnish the revenue implication and also to explain how it is going to meet the shortfall in revenue to maintain the revenue neutral position.

By assuming handling of 2 or 3 sailing vessels per month during the lean period i.e., May to October and around 15 sailing vessels during the operation period i.e., November to April, the VOCPT has determined the monthly revenue loss during the operation period at ₹5 lakhs and ₹1 lakh during lean period, which has been worked out to an revenue loss of ₹36 lakhs in the remaining period of current tariff cycle. The VOCPT is of the view that the said loss is meagre and would be absorbed from the income of other activities. This position is relied upon and no other existing rates prescribed in the Scale of Rates of VOCPT is tinkered with, at present. It is noteworthy that the VOCPT has already filed a proposal for general revision of its Scale of Rates which has been taken up on consultation with the relevant stakeholders. The financial impact of the rates approved now for the sailing vessels at Zone-B can be analysed further at the time of disposal of the general revision proposal of the port, when the overall cost position of the port will be available.

(vi). The VOCPT has proposed a note that if voyage takes place during the lean period, the rate pertaining to operational period will be adopted. Since the rate meant for lean period is only for the stay of vessels at berth without operation, it appears logical that when voyage takes place during lean period, the rate pertaining to operational period be made applicable.

With reference to the proposed note that when vessel idles during operational period, the rate pertaining to lean period will be adopted, when the vessels do not operate during operational period and only lie idle, the proposal of the port to levy a lower rate as applicable for lean period when the vessels idle during operational period is found reasonable.

Since, the above said proposed conditionalities are mutually agreed upon by the VOCPT and the users, as reported by the port, the said conditionalities are approved.

(vii). The VOCPT has initially proposed a note that 50% of operational rates is applicable for the period of repairing at laybuoy (North Pier) of Zone-B. However, based on the request made by the CMSVOA during the joint hearing, the VOCPT during the joint hearing has agreed to apply the rates applicable during lean period for repairing the vessels at North Pier which was subsequently confirmed by the VOCPT vide its letter dated 11 December 2012. Accordingly, the conditionality proposed by the port initially is modified to reflect the position as agreed upon by the VOCPT and the users during the hearing.

(viii). From the copy of the Minutes of the meeting held on 15 March 2012 by Chairman of VOCPT with the stakeholders, as furnished by the VOCPT under cover of its letter dated 26 June 2012, it was seen that in the said meeting, it has been mutually agreed that the vessels berthed adjacent to finger jetty (RC jetty) for repairing is to be exempted from berth hire charges. However, the VOCPT had not included the said conditionality in its proposal. The VOCPT was, therefore, requested to clarify the position.

In this regard, the VOCPT had stated that it had inadvertently omitted to include the conditionality of the exemption of berth hire charges for the vessels berthed adjacent to finger jetty (RC jetty) for repairing purpose and that it would place the matter before its Board in the meeting and communicate the decision. The VOCPT has not communicated the approval of its Board in this regard till the finalization of the case. Therefore, this Authority is not in a position to accord approval for exempting the vessels berthed adjacent to finger jetty (RC jetty) for repairing from the levy of berth hire charges, when there is no specific proposal from the port in this regard.

(ix). As per Clause 2.17.1 to 2.17.3 of the tariff guidelines of March 2005, whenever a specific tariff for services / cargo is not available in the notified Scale of Rates, the port can submit the proposal and levy the rate on an adhoc basis till the rate is finally notified. For this purpose, the adhoc rate must be derived based on the existing notified tariffs for comparable services/ cargo and it must be mutually agreed upon by the port and the concerned users.

In the instant case, the rate proposed by the port is a mutually agreed rate and the VOCPT has furnished workings to determine the proposed rate. Notably, there has been no objection from any users/ user associations about the proposed rate reportedly being levied by the port on adhoc basis till the rates are approved by this Authority. Clause 2.17.4. of the tariff guidelines of 2005 enables this Authority to recognize the interim rate adopted in an ad-hoc manner retrospectively. Therefore, the action taken by the port to levy the proposed charges on adhoc basis is ratified as such.

11.1. In the result, and for the reasons given above, and based on a collective application of mind, the following provision is replaced with the existing provision at Sl. no. 6 of sub-section 2.4.2 under Chapter II – Vessel related charges in the existing Scale of Rates of VOCPT as follows:

“

6.	Berthing fees on sailing vessels and sea-going steam vessels coming alongside the wharves at Zone ‘B’ of the V.O. Chidambaranar Port.			
	(i). During operation period (November to April)	Per GRT per hour	0.0333	0.0010
	(ii). During lean period (May to October)	Per GRT per hour	0.0062	0.0002
	Notes for Sl. No.6: (i). If voyage takes place during the lean period, the rate pertaining to woperational period will be levied. (ii). When vessel idles during operational period, the rate pertaining to lean period will be levied. (iii). The lean period rates are applicable for the period of repairing at laybuoy (North Pier) of Zone-B.			

”

11.2. The proposal of the port to levy the proposed rates on adhoc basis from the date of levy till the rates approved by this Authority is notified, is approved.

11.3. The rates approved now as given at para 11.1 above will come into effect from the date of notification of the Order passed in this regard and their validity would remain co-terminus with the validity of the existing Scale of Rates of the VOCPT.

(**T.S. Balasubramanian**)
Member (Finance)

Annex

STATEMENT SHOWING CALCULATION OF BERTH HIRE CHARGES FOR SAILING VESSELS.

Description	As given by VOCPT		As modified by TAMP	
	Foreign (in $)	Coastal (in ₹)	Foreign (in $)	Coastal (in ₹)
During Operation Period:				
Rate per day (in ₹)	400	240	400	240
Rate per day converted into $	8.0548	-	7.4697	-
Rate per hour	0.3356	10	0.3112	10
Rate per GRT per hour	0.0011	0.0333	0.0010	0.0333
During Lean Period:				
Rate per day (in ₹)	75	45	75	45
Rate per day converted into $	1.5103	-	1.4006	-
Rate per hour	0.0629	1.88	0.0584	1.88
Rate per GRT per hour	0.0002	0.0062	0.0002	0.0062

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/45/2012 - VOCPT - **Proposal from the V.O. Chidambaranar Port Trust relating to revision of Berth Hire Charges for sailing vessels at Zone-B approved vide Order No.TAMP/9/2010-TPT dated 11 October 2011.**

A summary of comments received from users/ user organisations and reply of V.O. Chidambaranar Port Trust (VOCPT) thereon are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Comments of users / user organisations</th><th>Reply of VOCPT</th></tr>
<tr><td>1.</td><td>Tuticorin Chamber of Commerce & Industry (TCCI)</td><td></td></tr>
<tr><td></td><td>The cost of operation of the entire B-Zone and how much of it is subsidized from the income of A – zone or whether B – Zone earns its own operational expenses is not mentioned. A cost calculation may be provided as a breakup figure to find out whether the tariff is high or low.</td><td>The share of deficit considering direct income and direct expenditure of Zone-B towards sailing vessels which is subsidised from Zone-A Income during the last 5 years are furnished below:
(₹ in lakhs)
<table>
<tr><th>Description</th><th>2007-08</th><th>2008-09</th><th>2009-10</th><th>2010-11</th><th>2011-12</th></tr>
<tr><td>Share of deficit towards sailing vessels which is subsidised from Zone-A income</td><td>-51.56</td><td>-118.95</td><td>-135.70</td><td>-133.15</td><td>-109.54</td></tr>
</table>
The working sheet furnished by VOCPT is reproduced below:
(₹ in lakhs)
<table>
<tr><th>Sl. No.</th><th>Descri-ption</th><th>2007-08</th><th>2008-09</th><th>2009-10</th><th>2010-11</th><th>2011-12</th></tr>
<tr><td>1.</td><td>Operating Income</td><td>72.67</td><td>148.60</td><td>87.87</td><td>82.96</td><td>95.05</td></tr>
<tr><td>2.</td><td>Operating Expenditure</td><td>149.26</td><td>353.05</td><td>347.83</td><td>398.31</td><td>359.11</td></tr>
<tr><td>3.</td><td>Operating Surplus/ Deficit</td><td>-76.59</td><td>-204.45</td><td>-259.96</td><td>-315.35</td><td>-264.06</td></tr>
<tr><td>4.</td><td>Total vessels handled</td><td>205</td><td>220</td><td>159</td><td>180</td><td>229</td></tr>
<tr><td>5.</td><td>No. of sailing vessels handled</td><td>138</td><td>128</td><td>83</td><td>76</td><td>95</td></tr>
<tr><td>6.</td><td>Share of deficit towards Sailing vessels which is subsidised from Zone-A Income</td><td>-51.56</td><td>-118.95</td><td>-135.70</td><td>-133.15</td><td>-109.54</td></tr>
</table>
The share of sailing vessels on total number of vessels in Zone-B is reducing
- 67.32% in 2007-08 to 41.48% in 2011-12.</td></tr>
<tr><td>2.</td><td>The Tuticorin Sailing Vessel Owners' Association (TSVOA)</td><td></td></tr>
<tr><td>(i).</td><td>Sailing vessels are "Primitive in Construction" made out of wood classed vessels under MSV Act (Mechanized sailing Vessel Act 1956) and it does not come under Motor vessel Act. It is a poor seamen's industry where thousands of seamen and their downtrodden families</td><td>Comments pertain to the Internal issues of the Industry. Port has no comments to offer.</td></tr>
</table>

	and the related craftsmen of small scale Industries like, small work shops, carpenters, caulkers, sail makers, painters, Electricians, etc., depend. Sailing vessels are mainly plying and operating in the entire coast of India mainly based at minor Ports interlinking all the minor Ports of India where the draft (depth) is around 12 feet and they are not operating from major ports as these wooden sailing vessels are not allowed to operate from major ports (Zone 'A') because they are not steel ships. Hence they are not allowed to operate side by side motor vessels.	
(ii).	These wooden sailing vessels carry light cargoes in small consignments from shallow water minor ports to minor ports and Tuticorin Zone 'B' is practically a minor port traditionally used by the sailing vessels for the past 100 years as the draft is less than 12 feet and is exclusively catering to sailing vessels. Under such circumstances MSV Act was exclusively formulated for the development of this indigenous wooden industry by the Ministry of Shipping under the guidance of Directorate General of Shipping, Mumbai.	Internal issue of the Industry. Port has already offered the concession.
(iii).	This poor man's industry should not be crushed as thousands of poor seamen's families who are dependent on this industry would be thrown to the streets without their daily bread if huge Berth Hire charges are imposed on this industry which rates are applicable only to Motor Ships.	
(iv).	We request you to allow the status quo of old berth hire rates which were applicable to Zone 'B' for the sailing vessels. Please look into this matter from the point of view of generating employment and not revenue as the revenue to be earned from sailing vessels would be small and insignificant compared to their volume. Please do not crush this nascent industry.	
3.	**Coastal Mechanised Sail Vessel Owners' Association (CMSVOA)**	
(i).	Prior to the revision to ports Scale of Rates vide Gazette of India Extraordinary (Part III Section) on 11.11.2011 vide Gazette No.222, the berthing fees on sailing vessels coming along side the wharves at Zone-B of this port was collected at the rate of per GRT per trip of ₹0.85 for coastal vessel and $0.0323 in respect of foreign vessels irrespective of number of hour of stay may please be continued. The sailing vessel industry is a traditional industry and is in vogue for	Internal issue of the Industry. Port has already offered the concession.

	more than a century. The crew and their family is able to make their livelihood only during the season (which is only 6 months) and the next 6 months the vessels are idling without any business.	
(ii).	The CMSVOA representatives who attended the meeting with the port authority on 15.03.2012 did not have an intention to go for any revised rates because of the present business situation, but we were forced to accept due to the heavy burden of paying port berth hire charges fixed by TAMP as per Order No.TAMP/9/2010-TPT dated 11.10.2011. The sailing vessels were running under loss because of the above mentioned revised rates fixed by TAMP.	

2. A joint hearing on the case in reference was held on 29 November 2012 at the VOCPT premises. The VOCPT made a power point presentation of its proposal and also furnished the hard copy of the proposal. At the joint hearing, the VOCPT and the concerned users/ user organisations have made the following submissions:

V.O. Chidambaranar Port Trust (VOCPT)

(i). We have proposed very reasonable rates. This has been discussed with the users and agreed by them.

(ii). Shortfall in revenue estimated to the extent of ₹36 lakhs due to proposed reduction is meager and will be absorbed by the income generated by other activities of the port.

Coastal Mechanical Sailing Vessels Owners Association (CMSVOA)

(i). We have business for six months. Next six months our vessels idle without any business. We need not pay when the vessel idle.

(ii) We request rates applicable during lean period may be charged to vessels getting repaired at North Pier.

VOCPT

We agree to apply the rates applicable during lean period for repairing the vessels at North Pier.

Tuticorin Sailing Vessel Owners Association (TSVOA)

In other minor ports, we need not pay when vessels idle. Port is suddenly charging. But, we agree in principle to pay.

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