(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G No. 221 **New Delhi, 11 November 2011**

NOTIFICATION

In exercise of the powers conferred by Section 48 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 charges for supply of labour from the TPT Cargo Handling Labour Pool as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports

Case No. TAMP/30/2009 - TPT

V.O. Chidambaranar Port Trust - - - Applicant

O R D E R

(Passed on this 11th day of October 2011)

The V.O. Chidambaranar Port Trust (VOCPT) has filed proposal in August 2009 for revision of charges for supply of labour from the TPT Cargo Handling Labour Pool (TPTCHLP) for cargo handling operations.

2. This Authority had earlier approved the charges for supply of labour from the TPTCHLP vide Order No.TAMP/17/2006-TPT dated 14 July 2008 relying on the estimates of 2008-09 and 2009-10. The validity of the charges was prescribed till 31 March 2010.

3.1. The VOCPT has submitted that the financial position of the TPTCHLP has been reviewed with reference to the rates approved by the TAMP. The summary of the cost position furnished by VOCPT for the period 2006-07 to 2011-12 is tabulated below:

(**₹ in lakhs**)

Description	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Average for the years 2009-10 to 2011-12
Cargo volume (in lakh tonnes)	100.10	116.23	117.50	117.50	123.38	129.54	123.47
Operating expenditure	2770.00	3191.76	3473.22	3674.67	3887.80	4113.29	3891.92
F&M exp	729.34	719.17	885.45	936.81	991.14	1048.63	992.19
Impact of wage revision		267.99	310.36	328.36	347.40	367.55	347.77
ROCE	16.96	19.22	19.22	19.22	19.22	19.22	19.22
Estimated expenditure	3516.30	4324.66	4814.77	5085.57	5372.08	5675.21	5377.62
Less: Wages recovered/ Income	1539.34	1728.17	1707.18	1806.2	1910.96	2021.79	1912.98
Deficit/ balance to be recovered	1976.96	2596.49	3107.59	3279.38	3461.13	3653.42	3464.64

3.2. In view of the financial position of the CHLP, the port has submitted that there is a need to revise the rate considering the expected volume of traffic.

The average expenditure of ₹3464.64 lakhs for the years 2009-10 to 2011-12 is apportioned over the three cargo items based on the average hooks shifts. The per tonne rate is then arrived so as to recover the estimated expenditure for three cargo items.

3.3. As regard the Pension Fund, the port has furnished the following position based on the actuarial valuation of Pension Fund as on 31 March 2009:

(**₹ in lakhs**)

1.	Actuarial valuation as of 31.3.2009		10,540.97
2.	Total amount invested in pension fund account	6,100.00	
3.	Add Balance Amount to be received from RPFC	846.34	6,946.34
4.	Shortfall		3,594.63
5.	This amount is to be spreading over to 5 years	3594.63/ 5	718.93
6.	Pension fund levy per tonne	718.93/ 123.47	5.82
7.	Say in Rupees		6.00

Based on the above table, it has proposed to increase the pension fund levy from existing ₹4.30 per tonne to ₹6 per tonne.

3.4. To summarise, the existing levy for TPTCHLP vis-à-vis the levy proposed by VOCPT is tabulated below:

Sl. No.	Description	Rate per Metric Tonne (MT)	
		Approved by Order dated 14 July 2008	Proposed in the subject proposal
1.	All Cargoes other than Coal and Salt	₹23	₹31
2.	Coal at Jetty II	₹9.20	₹17
3.	Salt	₹18	₹18
4.	For Container stuffing and destuffing operations	@ 200% of Time Rate wages	@ 200% of Time Rate wages
5.	C&F Operations at transit shed and ware house etc. levy	₹10 per MT	₹10 per MT
6.	For Zone B	₹10 per MT	₹10 per MT
7.	Pension fund levy	@ ₹4.30 per MT	@ ₹6 per MT

4. While acknowledging the proposal, the VOCPT was requested vide our letter dated 19 October 2009 to furnish information on a few points. The VOCPT vide its letter dated 16 December 2009 has furnished its response. The information sought by us and the response of the VOCPT is tabulated below:

Sr. No.	Information sought from VOCPT	Information furnished by VOCPT
(i).	Furnish Annual Accounts of the TPTCHLP for the year 2008-09, Revised Estimates/ Budget Estimates for the years 2009-10 and 2010-11.	Annual Accounts for the year 2008-09 is furnished. No separate detailed Revised Estimate/ Budget Estimates for the years 2009-10 and 2010-11 is prepared as the same is not applicable in TPTCHLP where there is only one activity viz., deployment of labour for cargo handling. It is submitted that the projections furnished in the proposal may be taken as Revised Estimate/ Budget Estimates for the years 2009-10 and 2010-11.
(ii).	Actuarial Valuation Report of Pension Fund Liability as on 31 March 2009.	Action is being taken to obtain Actuarial Valuation Report. It will be submitted to the Authority in due course.
(iii).	The cost statement furnished by the VOCPT does not factor adjustments done by the Authority in the tariff Order dated 14 July 2008 as regards pension payment of existing pensioners, etc. The VOCPT is advised to update the cost statement taking into consideration the various adjustments done by the Authority in the Order of 14 July 2008 for a like-to-like position.	In respect of TPTCHLP, the pension fund is not fully constituted. But the liability of pension payments is to be met along with the strengthening of the Pension Fund to make it sufficient as required with respect to the obligation as per Memorandum of Settlement. It is also pertinent to mention that an amount of ₹61.00 crores is built up so far in pension fund, tentative calculation shows the requirement at ₹105.00 crores. But, the amount due from RPFC in respect prior 2000 period, is ₹8.46 crores (principal portion). Hence, it may not be possible to meet the pension payment from pension fund at this stage. Therefore, the treatment of pension payments as expenditure may please be allowed.
(iv).	With reference to the figures reported for the year 2008-09, the VOCPT is requested to furnish the reasons for variation from the estimates considered in the last tariff Order explaining the reasons therefor.	The projections in last tariff Order for the year 2008-09 is based on the actual of 2006-07. Increase in actual of 2008-09 is due to increase of DA merger of 50% DA in the basic pay and amount incurred due to VRS by ₹126.52 lakhs.

(v).	Furnish the breakup of operating expenses, the Finance & Miscellaneous (F&M) expenses considered for the years 2009-10 to 2011-12 and reconcile it with the respective Annual Accounts/ Revised Estimates/ Budget Estimates.	Breakup of operating expenses for 2008-09 reconciling with respective Annual Accounts is furnished.

5.1. In accordance with the consultation process prescribed, the proposal of the VOCPT was circulated to the concerned users / user organisations seeking their comments. The comments received from the concerned users / user organisations have been forwarded to the VOCPT as feedback information. The VOCPT has vide its letter dated 30 March 2011 while furnishing its reply to the queries raised by us, furnished its response on the comments of the users/user associations.

5.2. While furnishing remarks on the comments of users/ user associations, the VOCPT has made the following general submissions:

(i). Consequent on the introduction of VRS Scheme, increase of pension liability and decrease in the levy rate the proposal for raising the levy was put forth in the TPTCHLP Finance Committee meeting held on 18 November 2009. The port users have also agreed in principle to raise the levy to the extent of about ₹10/- per MT.

(ii). The following position of year-wise volume of traffic handled using the TPTCHLP labour and pension fund levy amount collected from 2004-05.

Sl. No.	**Period**	**Tonnage handled M. Tonnes**	**Pension Fund Levy rate/ charges per tonne basis ₹/ per tonne**	**Pension Fund Levy Amount in ₹**
1.	2004-2005	84,24,980		
	2005-2006	95,70,375		
		1,79,95,355	3.00	5,39,86,065
2.	2006-2007	1,07,23,754	10.00	10,72,37,540
3.	2007-2008	1,16,67,032	6.70	7,81,02,114
4.	2008-2009	1,15,71,225	4.30	4,95,65,007
5.	2009-2010	84,79,205	4.30	3,64,60,582
	Upto November 2009 from December 2009 to March 2010 (approx. based on November – 1185521 x 4)	47,42,084	4.30	2,03,90,962 Total – 2009-2010 (approx.) ₹5,68,51,545

(iii). From the above position, it could be observed that there was no increase in volume of cargo handled over a period but the levy rate has reduced.

(iv). The wage revision arrears are due from 1 January 2007. Though the services of the labour were availed by the users so far from 1 January 2007, TPTCHLP will not be on a position to claim the increased wages respectively in view of the fact that the users would not have made any provision for the belated claim.

(v). In the light of the present financial position of TPTCHLP and in view of the immediate liability on account of wage revision arrears, payment of retirement benefit due to Special Voluntary Retirement Scheme introduced in 2007 etc. there is an imminent need to increase the levy on cargo handled in the port atleast by about ₹10/- per tonne subject to revision after two years.

(vi). Since the TPTCHLP is a self sustaining scheme and fund for Management of the Labour Pool is to be generated internally, Finance Department may take up the proposal with TAMP for early approval and communicate the orders of TAMP for further action at this end.

6.1. In the meanwhile the VOCPT vide its letter dated 21 November 2009 has stated, the description at Sl. No.1 may be read as "All cargoes other than coal at Coal Jetty II and Salt" instead of "All cargoes other than Coal and Salt".

6.2. While forwarding the comment furnished by the TNEB vide letter dated 29 December 2009, the VOCPT was vide our letter dated 30 December 2009 specifically requested to examine the points made by TNEB and furnish its comments particularly with reference to the point about the VOCPT levying proposed increased rates unilaterally w.e.f. 1 December 2009. Despite several reminders the VOCPT did not furnish its views on this matter.

6.3. In the meanwhile, the TNEB vide its letter dated 8 March 2010 sought confirmation from TAMP whether the proposal of VOCPT for revision in the rates of TPTCHLP has been approved by the Authority. In this regard, the TNEB was vide our letter dated 30 March 2010 informed that subject proposal was not disposed of by the Authority as on that date.

6.4. In response the TNEB again vide letter dated 21 May 2010 has informed that the VOCPT confirms to levy the proposed hike unilaterally from 1 February 2010. The port has not accepted its request to withdraw the enhanced hike. In view of that, the TNEB is left with no other option but to pay the increased levy "under protest".

6.5. Since the VOCPT had not furnished any clarification on its action of levy of the proposed rates without approval of TAMP despite several reminders, and in view of submission made by TNEB, the VOCPT was vide our letter dated 9 June 2010 alerted that levy of proposed charges without approval of TAMP can only be at the risk and attendant consequences to the port.

6.6. The VOCPT vide its letter dated 25 June 2010 and 3 January 2011 has mainly clarified the following:

(i). The TPTCHLP is a self financing scheme formed as per Memorandum of Settlement before Regional Labour Commissioner (Centre) dated 23 December 1999 under Section 12(3) of the Industrial Disputes Act, 1947 with the sole purpose of deploying labour from the pool for cargo handling in the port by collecting the levy per tonne and wages for labour actually deployed to meet the expenditure.

(ii). In view of revision of wages, the CHLP has to incur additional expenditure. Therefore, the Levy Finance Committee reviewed the financial position. Since, the deficit position is to continue at the existing rates, the Committee decided to adopt the rate proposed to TAMP for approval from 1 December 2009.

(iii). It has also forwarded a copy of minutes of meeting of TPTCHLP Levy Finance Committee held on 18 November 2009 which was attended by representatives, various users / user associations such as TSA, TSAA, AICC, TCLAA, Tuticorin Thermal Power Station etc. and stated that the rates proposed in its proposal dated 10 August 2009 is proposed to be collected from 1 December 2009.

6.7. The VOCPT has also forwarded a copy of the d.o. letter dated 13 April 2010 addressed by VOCPT (Chairman) to TNEB (Chairman) furnishing their comments on the TNEB's letter to the port on the proposed hike. The d.o. letter of Chairman (VOCPT) states that TPTCHLP being a self financing scheme does not have required surplus to meet the huge financial commitment of wage revision. It is, therefore, imperative that the proposed rates are essentially to be honoured by the stevedores and major users like TNEB to comply the statutory requirements as per the Memorandum of Settlement dated 12 December 1999 to pay the salaries and wages on par with employees of VOCPT. Hence the levy has been proposed to be revised w.e.f. 1 February 2010 including coal at coal jetty-II.

7. Based on the preliminary scrutiny of the proposal, the VOCPT vide our letter dated 1 February 2011 was requested to furnish information / clarification on a few points. The VOCPT vide its letter dated 30 March 2011 has furnished their response subsequent to the joint hearing. The query raised by us and reply of VOCPT is brought out in the subsequent part of the note.

8.1. A joint hearing in this case was held on 29 March 2011 at the V.O. Chidambaranar Port Trust (VOCPT) premises. The VOCPT made a power point presentation of its proposal. At the joint hearing, VOCPT and the concerned users/ organisation bodies have made their submissions.

8.2. As decided at the joint hearing, the VOCPT was advised to furnish information on the following points by 15 April 2011:

(i). Reply to the query raised vide our letter dated 1 February 2011 and also furnish its response to the written comments of the users.

(ii). Explain why rates for salt, C&F activity and container stuffing / de-stuffing are not proposed for revision, while steep increase is proposed for other items.

(iii). With reference to the CHLP levy collected by the VOCPT on containers of PSA SICAL handled at berth no.8 since November 2010 (based on consent of the relevant agents) as a stop gap arrangement, furnish the container traffic handled and the income so generated till 31 March 2011 and the estimates for the future till the arrangement is proposed to continue. The cost statement should capture effect of the revenue collected/ to be collected from such levy.

(iv). Explain the reasons for not linking the proposed rates to productivity levels.

9.1. With reference to the points discussed at the joint hearing, the VOCPT has vide its letter dated 30 March 2011 furnished its response to the queries raised by us vide our letter dated 1 February 2011. A summary of the queries raised by us to VOCPT and the corresponding replies furnished by the VOCPT is tabulated below:

Sl. No.	Queries raised by us	Reply furnished by VOCPT
(i).	(a). Since the year 2009-10 is over, please furnish the actuals for the year 2009-10 along with a copy of the audited Annual Accounts of TPT Cargo Handling Labour Pool for the year 2009-10. The cost statements may be updated with actuals of 2009-10 and 2010-11 actuals upto December 2010 alongwith estimates for the remaining period January 2011 to 31 March 2011. The VOCPT may also consider to modify the estimates for the year 2011-12 based on the actuals of the previous year. Also, furnish statement reconciling the figures reported in the Annual Accounts 2009-10 with the cost statements.	Statement of Affairs and Income and Expenditure of 2008-09 and 2009-10 audited by Chartered Accountant alongwith Income Tax Return filed by the TPTCHLP is furnished. For the year 2010-11 actuals upto January 2011 is furnished. Figures for balance period alongwith actual upto January 2011 is incorporated in the revised calculation furnished with its reply.
	(b). Since the tariff validity period is for three years, the VOCPT may consider to furnish estimates for the years 2012-13 and 2013-14 as well.	Estimate for the years 2012-13 and 2013-14 is also furnished in the revised calculation.
(ii).	The National Tribunal Award of 2006 on manning scales has already been notified. The VOCPT is, therefore, requested to confirm whether the revised manning scales as per the National Tribunal Award is implemented with reference to the deployment of labour from CHLP. In this regard, the VOCPT is requested to furnish the following:	TPTCHLP is a separate scheme administered by Traffic Manager of VOCPT and not part of VOCPT. Based on the resistance of Union, the National Tribunal Award of 2006 was not implemented in TPTCHLP pending merger with VOCPT. It will be implemented based on the guidelines of the Government on the issue of merger of TPTCHLP with VOCPT.
	(a). A statement showing a comparative position of the manning scale for various	Does not arise

<table>
<tr><td></td><td>commodities handled by TPTCHLP prior to and after implementation of the revised Manning scale.</td><td></td></tr>
<tr><td></td><td>(b). Please indicate the average days of employment of the cargo handling workers from TPTCHLP prior to implementation of National Tribunal Award and post implementation of the award.</td><td>No National Tribunal Award is implemented, therefore, the question does not arise.</td></tr>
<tr><td></td><td>(c). Please confirm there is no notional booking of labour from the TPTCHLP.</td><td>There is notional booking of gangs in respect of Thermal Coal at Coal Jetty and in case of Mechanical Handling in VOC I to IV.</td></tr>
<tr><td>(iii).</td><td>While updating the cost statements with revised estimates for 2010-11 to 2012-13, confirm whether the estimation of piece rate payments takes into consideration the revised datum for this purpose.</td><td>No for the reasons at (ii) above.</td></tr>
<tr><td>(iv).</td><td>In terms of Clause 4.7.2. of the tariff guidelines, the Authority in the last Order of July 2008 had advised the port to prescribe productivity linked tariff for providing stevedoring services. In response the VOCPT had agreed to analyse the sliding rates linked with productivity, as in Mormugao Port Trust and formulate its proposal. The current proposal of the VOCPT is, however, not in line with the position agreed by the VOCPT in this regard in last Order.</td><td>It will be considered in next version after merger.</td></tr>
<tr><td>(v).</td><td><u>Traffic</u></td><td></td></tr>
<tr><td></td><td>(a). The basis of traffic projection for coal at Coal Jetty II, Salt and Cargo other than coal and salt for the years 2010-11 to 2012-13 may be furnished.</td><td>5% annual increase in traffic is considered.</td></tr>
<tr><td></td><td>(b). Confirm the traffic projections for the TPTCHLP is in line with the Business Plan of the Port and the traffic projected in the general revision proposal. Please furnish the detailed calculations of revenue from time rate, piece rate and levy.</td><td>In respect of PPP operators deployment of labour does not arise. Hence, Traffic Projection of TPT-CHLP covers Business Plan subject to limitation of non-deployment of Gang for PPP berth.</td></tr>
<tr><td></td><td>(c). Traffic projection for salt may be indicated in absolute figures instead of indicating it in lakhs.</td><td><table>
<tr><th>Year</th><th>Tonnes</th></tr>
<tr><td>2010-2011</td><td>31412</td></tr>
<tr><td>2011-2012</td><td>85483</td></tr>
<tr><td>2012-2013</td><td>89757</td></tr>
<tr><td>2013-2014</td><td>94245</td></tr>
</table></td></tr>
<tr><td>(vi).</td><td><u>Operating Income</u></td><td></td></tr>
<tr><td></td><td>(a). The income from recovery of wages for deployment of workers from TPTCHLP and levy income are clubbed together in the Annual Accounts. Please furnish break up of these two items for the years 2006-07 to 2009-10 and 2010-11 actuals upto December 2010 and estimated position for the 3 months of 2011-12 and for the years 2011-12 to 2013-14.</td><td rowspan="2">(₹ in lakhs)<table>
<tr><th rowspan="2">Year</th><th colspan="3">Operating Income</th></tr>
<tr><th>Wages</th><th>Levy (excluding Pension Fund Levy)</th><th>Total</th></tr>
<tr><td>2006-07</td><td>1539.34</td><td>1678.46</td><td>3217.80</td></tr>
<tr><td>2007-08</td><td>1728.17</td><td>2081.26</td><td>3809.43</td></tr>
<tr><td>2008-09</td><td>1707.18</td><td>2456.89</td><td>4164.07</td></tr>
<tr><td>2009-10</td><td>1844.05</td><td>2772.43</td><td>4616.48</td></tr>
<tr><td>2010-11</td><td>2639.60</td><td>3008.47</td><td>5648.08</td></tr>
<tr><td>2011-12</td><td>2792.70</td><td>3158.90</td><td>5951.60</td></tr>
<tr><td>2012-13</td><td>2954.68</td><td>3316.84</td><td>6271.52</td></tr>
<tr><td>2013-14</td><td>3126.05</td><td>3482.68</td><td>6608.73</td></tr>
</table></td></tr>
<tr><td></td><td>(b). Please furnish detailed working of the estimation of income from wages recovered for deployment of labour from TPTCHLP and levy for the years 2010-11 to 2013-14.</td></tr>
</table>

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<tr><td></td><td>(c). Confirm that the estimate of levy is based on the existing rates. The estimation of levy income may be indicated for each cargo category prescribed in the SOR.</td><td>Yes, it is confirmed the estimates are based on existing rates upto 31.01.2010. From 01.02.2010 the rates has been revised with the consent of users to meet the enhanced financial liabilities of CHLP.</td></tr>
<tr><td>(vii).</td><td><u>Operating Expense</u></td><td></td></tr>
<tr><td></td><td>(a). Please furnish actual strength of TPTCHLP in 2009-10 and estimated strength for the years 2011-12 to 2013-14.</td><td>The VOCPT has furnished the statement showing details of employees staff strength which is given below:
<table>
<tr><th>PERIOD</th><th>CHW</th><th>STAFF</th><th>TOTAL</th></tr>
<tr><td>31.03.2010</td><td>980</td><td>49</td><td>1029</td></tr>
<tr><td>31.03.2011</td><td>969</td><td>48</td><td>1017</td></tr>
<tr><td>31.03.2012</td><td>885</td><td>48</td><td>933</td></tr>
<tr><td>31.03.2013</td><td>827</td><td>48</td><td>875</td></tr>
<tr><td>31.03.2014</td><td>753</td><td>48</td><td>801</td></tr>
</table></td></tr>
<tr><td></td><td>(b). Confirm that the estimate of salaries and wages is after taking into consideration the impact of wage revision and also confirm that it does not include any arrears relating to the past period.</td><td>Yes , it is confirmed</td></tr>
<tr><td></td><td>(c). The operating expenses considered by VOCPT includes Fringe Benefit Tax (FBT). Tax element is not admitted as a cost as per note 7 in Form 3A of Format prescribed by the Authority and hence may be excluded.</td><td>FBT is not included during 2009-10</td></tr>
<tr><td></td><td>(d). The account head “Payment to Employees” under operating expenses includes VRS compensation. The port has also considered this item separately in the cost statement. This amounts to double counting. Secondly, the VRS payment being one time expense is not admissible as cost item as per clause 2.5.2 of the guidelines and the format prescribed by the Authority for filing tariff proposal. The cost statement may be modified in the light of the above observation.</td><td>Yes, it is corrected and one fifth of expenditure of ₹633.00 lakhs is only adjusted from the year 2007-08 to 2011-12. The double counting is rectified in the revised calculation.</td></tr>
<tr><td></td><td>(e). The nature of expenses reported under the head “Rebate on levy” in the annual accounts (2008-09) may please be explained.</td><td>It is only incentive paid to M/s. Seaport Logistics for the Year 2007-08 amounted to ₹96.01 Lakhs.</td></tr>
<tr><td>(viii).</td><td><u>Finance and Miscellaneous Expenses:</u></td><td></td></tr>
<tr><td></td><td>(a). The Finance and Miscellaneous Expenses of ₹885.45 lakhs considered in the year 2008-09 (which form the basis for future estimates) includes ₹256.40 lakhs as provision for Pension, ₹142.39 lakhs as provision for Gratuity, and ₹76.19 lakhs towards dues to retirees. Please indicate under which accounting head these expenditure are reflected in the Annual Accounts of 2008-09. Also, clarify the purpose for which these provisions are made.</td><td>The figure indicated of ₹256.40 lakhs and ₹142.39 lakhs represent the contribution to Pension Fund and Gratuity Fund for the current year liability of ₹76.19 lakhs due to retirees for PLR and element of merger of DHO. The same is non recurring and is not included in 2009-10.</td></tr>
<tr><td></td><td>(b). Gratuity payment of ₹20.14 lakhs in the year 2008-09 is considered as part of “Payment to Employees” and also under the head FME in cost statement. Double counting of this expense may please be eliminated.</td><td>Gratuity payment of ₹20.14 lakhs as per Schedule-B-Payment to Employees is derived from F & M Expenditure and hence there is no double counting.</td></tr>
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<tr><td></td><td>(c). As stated by the Authority in its last Order of July 2008, the pension payment of the existing pensioners has to be met from the Pension Fund. Whereas the VOCPT has considered pension payments as well as provision for Pension Fund as an expense while determining the levy. The cost statement may be modified in the light of the decision taken in the last tariff Order.</td><td>The Pension Fund available in THT CHLP is still less than the requirement as per Actuarial valuation. Hence, pension payments are exhibited as expenditure from General Revenue as in VOCPT.</td></tr>
<tr><td>(ix).</td><td>With reference to the proposal of VOCPT to continue with existing TPTCHLP levy for container stuffing and destuffing operations, C&F operation at transit shed and for Zone B, the following points may be clarified:</td><td></td></tr>
<tr><td></td><td>(a). Please furnish calculation as done for coal, salt and other cargo other than coal and salt to justify continuing with the existing rates for these items.</td><td rowspan="3">Container Stuffing is miscellaneous activity. Hence the cost could not be worked out uniformly.</td></tr>
<tr><td></td><td>(b). Please clarify as to why the entire expense estimated for TPTCHLP has been apportioned to coal at Coal Jetty II, Salt and cargo other than coal and salt for arriving at the levy on per tonne basis without apportioning any expenses of CHLP for container stuffing / destuffing operations, C&F operations and for Zone 'B'.</td></tr>
<tr><td></td><td>(c). The VOCPT may explain the possibility of arriving at the container stuffing/ destuffing on per box basis instead of the existing unit of levy as percentage of time rate wages.</td></tr>
<tr><td></td><td>(d). The income from levy for these three items may please be furnished for the last three years as well as projecting for the years 2011-12 to 2013-14 at the existing rates.</td><td>It is not furnished due to uncertain nature of the activity.</td></tr>
<tr><td>(x).</td><td>Please furnish detailed working of capital employed considered for the next three years.</td><td>The port has furnished detailed computation of working of capital employed for the years 2008-09 to 2013-14.</td></tr>
<tr><td>(xi).</td><td>Clause 2.13. of the tariff guidelines requires comparison of actual physical and financial parameters with the estimates at the time of review of rates. In this context, furnish the actuals vis-à-vis the estimates considered in the last tariff Order giving reasons for variation from the estimated level.</td><td>The statement showing comparison of Financial Parameters is given below:
(₹ in lakhs)
<table>
<tr><th>Description</th><th>2007-08 (Estimate)</th><th>2007-08 (Actual)</th><th>Variance ₹ in Lakhs & in (%)</th><th>2008-09 (Estimate)</th><th>2008-09 (Actual)</th><th>Variance ₹ in Lakhs & in (%)</th></tr>
<tr><td>Operating Expenditure</td><td>2919.58</td><td>3191.76</td><td>272.18
9.32%</td><td>3077.24</td><td>3470.66</td><td>393.42
12.78%</td></tr>
<tr><td>F & M Expenditure</td><td>768.29</td><td>719.17</td><td>(-)49.12
(-) 6.39%</td><td>809.74</td><td>885.45</td><td>75.71
9.35%</td></tr>
<tr><td>Salary/ Wages Reserve 15%</td><td>446.64</td><td>267.99</td><td>(-)178.65
(-) 40.00%</td><td>669.97</td><td>310.36</td><td>(-)359.61
(-) 53.68%</td></tr>
<tr><td>Returns on Capital Employed</td><td>19.22</td><td>19.22</td><td>0.00</td><td>19.22</td><td>38.15</td><td>18.93
98.49%</td></tr>
<tr><td>Total Expenditure</td><td>4153.73</td><td>4198.14</td><td>44.41
1.07%</td><td>4576.17</td><td>4704.62</td><td>128.45
2.81%</td></tr>
<tr><td>Less: Wages Recovered</td><td>1630.06</td><td>1728.17</td><td>98.11
6.02%</td><td>1692.03</td><td>1707.18</td><td>15.15
0.90%</td></tr>
<tr><td>Balance Expenditure to be recovered</td><td>2523.67</td><td>2469.97</td><td>(-)53.70
(-) 2.13%</td><td>2884.14</td><td>2997.44</td><td>113.30
3.93%</td></tr>
</table></td></tr>
<tr><td>(xii).</td><td>Pension levy:</td><td></td></tr>
<tr><td></td><td>(a). While approving pension levy in the last tariff Order, the VOCPT was specifically advised to maintain separate account and submit it for scrutiny at the</td><td>The Pension Fund is separately accounted with the element of Pension Fund Levy and interest earned thereon.</td></tr>
</table>

<table>
<tr><td></td><td>time of next tariff review. The VOCPT is advised to furnish the separate account maintained by VOCPT in this regard.</td><td></td></tr>
<tr><td></td><td>(b). Para 11 (viii) (a) of the Order tabulated the Pension and Gratuity Fund position based on actuarial valuation as of 31 March 2007. Please furnish the actual position as on 31 March 2007 in the same format.</td><td>Requisite information is not furnished. Enclosure attached by the VOCPT while replying this point only indicates the actuarial valuation of pension fund as on 31 March 2007 is ₹78.34 crores.</td></tr>
<tr><td></td><td>I. The Pension and Gratuity Fund levy proposed by VOCPT is based on actuarial valuation as on 31 March 2009. The VOCPT may consider to update the statement based on actuarial valuation as on 31 March 2010. A copy of the actuarial valuation report may please be furnished.</td><td>The actuarial valuation estimates as on 31 March 2010 is ₹123.13 crores. The details relating to pension fund furnished by VOCPT is given below:
(₹ in lakhs)
<table>
<tr><td>1.</td><td>Actuarial valuation as of 31.03.2010</td><td></td><td>12,313.20</td></tr>
<tr><td>2.</td><td>31.10.2010 invested in pension fund account</td><td>6,742.00</td><td></td></tr>
<tr><td>3.</td><td>Add Balance Amount to be received from RPFC</td><td>754.83</td><td></td></tr>
<tr><td></td><td>Bank</td><td>104.60</td><td></td></tr>
<tr><td></td><td>TDS on Interest</td><td>22.72</td><td>7,624.15</td></tr>
<tr><td>4.</td><td>Short fall</td><td></td><td>4,689.05</td></tr>
<tr><td>5.</td><td>This amount is to be spreading over to 5 years</td><td>4724.86/5</td><td>937.81</td></tr>
<tr><td>6.</td><td>Pension fund levy per Tonne</td><td>944.97/141.89</td><td>6.61</td></tr>
<tr><td>7.</td><td>Say in Rupees</td><td></td><td>7.00</td></tr>
</table>
The VOCPT has, however, not furnished a copy of the actuarial valuation report as on 31 March 2010 sought by us.</td></tr>
<tr><td></td><td>(d). The balance in the pension fund and gratuity fund balance as on 31 March 2010 may be indicated. Also, clarify where the said fund balance is reported in the respective Annual Accounts.</td><td>TPTCHLP Pension Fund is ₹72.10 crores.</td></tr>
<tr><td></td><td>(e). Please clarify why the traffic of container stuffing/ destuffing, CFS operations and Zone B are not considered for determining the levy to meet the shortfall in the pension fund.</td><td>Since no container operation at Zone-B.</td></tr>
<tr><td>(xiii).</td><td>The port has vide letter No.A-1/36/2010-Cost dated 8 December 2010 filed a separate proposal for fixation of levy for deployment of labour from TPTCHLP for containers proposed to be handled by the port at berth no.VIII as stop gap arrangement. The container traffic and revenue therefrom expected from the proposed levy may be indicated.</td><td>It is not furnished due to uncertain nature of activity.</td></tr>
</table>

9.2. The VOCPT has furnished revised calculation updating the proposal with 2010-11 actuals (upto January 2011) and projections for the remaining period and has also modified the estimates for 2011-12. The VOCPT has also furnished estimates for the years 2012-13 and

2013-14. The summary of cost position furnished by VOCPT as per the revised calculation for the past period 2008-09 to 2010-11 (Actuals plus projections) and estimates for 2011-12 to 2013-14 is tabulated below:

Description	2008-09 (actuals)	2009-10 (actuals)	2010-11 (actuals upto January 2011 and estimates for two months)	2011-12 (estimates)	2012-13 (estimates)	2013-14 (estimates)	Average for the years 2011-12 to 2013-14
Cargo volume (in lakh tonnes)	117.50	122.47	128.59	135.02	141.77	148.86	141.89
Operating expenditure	3470.66	3677.45	4411.91	4667.8	4938.53	5224.97	4943.77
F&M exp	885.45	1110.13	1174.52	1242.64	1314.71	1390.97	1316.11
Impact of wage revision	310.36	328.36	426.31	0	0	0	0
Returns on Capital Employed (ROCE)	38.15	117.05	128.48	141.1	155.01	155.01	150.37
Estimated expenditure	4704.62	5232.99	6141.22	6051.54	6408.25	6770.94	6410.24
Less: Wages recovered/ Income	1707.18	1844.05	2639.60	2792.7	2954.68	3126.05	2957.81
Deficit/ balance to be recovered	2997.44	3388.94	3501.62	3258.84	3453.58	3644.89	3452.44

9.3. The computation furnished by VOCPT for arriving at the revised proposed levy based on average hook shifts considering the average position estimated for the period 2011-12 to 2013-14 is given below:

Description	Average Hooks	Average estimated Expenditure to be recovered (₹ in lakhs)	Average Tonnage handled (Lakh Tonnes)	Rate per Tonne (in ₹)	Pension Fund Levy (in ₹)
Main Pool – Others	19101	2978.68	110.76	26.89	7.00
T / Coal at Coal Jetty II	2782	433.84	30.23	14.35	7.00
Salt	256	39.92	0.90	44.18	7.00
Total	22139	3452.44	141.89		

9.4. The VOCPT has responded to the other points decided at the joint hearing vide its letter dated 27 April 2011. The points clarified by the VOCPT are summarised below:

(i). Cost based rate for salt is very high and the cargo cannot absorb such huge cost, the existing rate is proposed for adoption.

(ii). Since December 1999, when PSA SICAL Limited commenced its operations, the deployment of CHLP Labour for containers ceased. Hence, the rate of levy was not relevant. However, as stop gap arrangement in order to handle container of non window vessel VII berth i.e. PSA SICAL terminals, the rate of levy at pre-terminal operation level is proposed to be retained on mutual consent with port user. The details of container traffic handled by VOCPT and income already collected for the period from 29 September 2010 to 30 March 2011 under the present stop gap arrangement is furnished below:

No. of vessels	Total Boxes handled	Revenue earned (₹ in lakhs)
34	16,201	₹36.88

As far as the estimated position for the future period is concerned, it is expected that the same trend will continue for the future period also.

(iii). As indicated in the joint hearing, the datum as per the Tribunal Award will be implemented after the modality of merger are envisaged and implemented in full.

10.1. The VOCPT has subsequently, vide its fax dated 9 September 2011 furnished further revised calculation for TPTCHLP updating it with 2010-11 actuals for the full year and modified estimates for the years 2011-12 and 2012-13. It has stated that its earlier proposal covered estimates for three years i.e. 2011-12 to 2013-14. However, in the revised calculation now furnished, the estimates for the year 2011-12 and 2012-13 are furnished to coincide with the estimates of two years furnished in the general revision proposal. The VOCPT has also made further submissions/ clarifications on few points alongwith revised calculation which is brought out hereunder:

(i). The Annual Accounts 2010-11 in respect of Tuticorin Port Trust Cargo Handling Labour Pool (now Cargo Handling Division of V.O. Chidambaranar Port Trust) has been prepared and is yet to be subjected to Tax Audit prior to filing the Return of Income. Therefore, the unaudited Annual Accounts 2010-11 containing the Balance Sheet as on 31.3.2011 and Income and Expenditure Account for the year 2010-11are furnished.

(ii). The information relating to Pension Fund Levy is shown under Pension Fund which is maintained separately and not included in the Revenue Account and Balance Sheet of TPTCHLP.

(iii). The TPTCHLP Revenue Account show a cumulative deficit of ₹158.36 lakhs as on 31.3.2011 as against ₹48.47 lakhs as 31.3.2010 due to payment of arrears of wages successively from 2009-10 to 2010-11 and corresponding enhanced requirement for 2011-12 and 2012-13. Hence, the TPTCHLP is meeting Pension payment from Pension fund. This is suitably adopted in the cost statement under General Revenue.

(iv). The Net Fixed Assets furnished in the Annual Accounts of 2010-11 are based on the provisions of Depreciation as per Income Tax Act, 1961. For the purpose of tariff computation the fixed assets with depreciation computation as per Companies Act 1956 and Return on Capital Employed are furnished for the period from 2007-08 to 2012-13. The same is adopted in the revised cost statement.

(v). The income from levy do not include the Pension Fund Levy. The income from Pension Fund Levy is duly accounted under Pension Fund for the years concerned.

(vi). It has confirmed that the estimates for the years 2011-12 and 2012-13 do not include any arrears on account of revision of salaries for previous years

(vii). The provision made for pension and gratuity under finance and miscellaneous expenditure constitute a contribution required at 15% on Basic Pay plus Dearness Allowance as well as 8.33% on Basic Pay plus Dearness Allowance towards Pension and Gratuity Fund requirement for each year. Due to the non availability of funds in General Revenue, these amounts will be transferred to Pension Fund in future with respect to availability of surplus for the years 2011-12 and 2012-13. The figures do not include provision for pension payments (i.e. arrears) and represent liability towards the Pension Fund for concerned year only.

(viii). Regarding the pension fund, it is submitted that the pension fund as on 31.3.2008 representing investment was ₹5694.63 lakhs. Based on the calculation of Pension Fund levy and considering the interest on investment, other receipts and after accommodating expenditure on pension payment, the balance of Pension Fund as on 31.3.2011 stood at ₹8060.66 lakhs. The actuarial valuation as on 31.3.2011 was ₹143.42 crores. There is a short fall in Pension Fund of ₹6281.76 lakhs. If this shortfall is distributed over five years, the average deficit of ₹1256.35 lakhs per annum may be recovered at ₹9.47 per MT as Pension Fund Levy.

The position relating to the pension fund and the calculation for pension fund levy furnished by the VOCPT is tabulated below:

(**₹ in lakhs**)

Sl. No.	**Description**	**2010-11**
1.	Opening Balance in Pension Fund	6742.00
2.	Add : Income from Pension Fund Levy	761.93
3.	Interest on Investments	543.78
4.	Receipt from RPFC, Tirunelveli	
(a)	Principal	754.83
(b)	Interest	294.82
5.	Total (1 to 4)	9097.36
6.	Pension Payments	1036.70
7.	Balance Fund as on 31 March 2011	8060.66
8.	Actuarial Valuation as on 31.03.2011	14342.42
9.	Shortfall in Pension Fund	6281.76
10.	Spread over for five years – ₹ in lakhs per annum	1256.35
11.	Average tonnage for 2011-12 and 2012-13 in lakh tonnes	132.66
12.	Pension Fund Levy (₹ per tonne)	9.47

(ix). It may be noted that steep increase in finance and miscellaneous expenditure in 2010-11 in respect of provision for pension/ gratuity over 2009-10 actuals is due to the impact of wage revision.

(x). It is submitted for kind information of the Authority that the TPTCHLP has been merged with TPT vide Memorandum of Settlement dated 27.7.2011. Based on the Memorandum of Settlement, the Cargo Handling Division is to function as a division of Traffic Department and that the merger will not involve any additional financial liability for TPT. It is also submitted that the process of merger in all respects will take some time considering the modalities of merger required, the current proposal for TPTCHLP levy as well as Pension Fund Levy may please be considered for approval covering 2011-12 and 2012-13.

(xi). The port vide its earlier letter dated 3 January 2011 had intimated the Authority about the proposed enhancement in the levy and Pension Fund Levy implemented by VOCPT with effect from 1.12.2009 with the consent of the Port users and users associations in order to meet the enhancement of salaries and wages for the employees of TPTCHLP on par with VOCPT employees.

It has furnished the additional income collected by implementing the proposed levy/ pension fund since 1 December 2009.

Cargo	**Levy / MT appd by TAMP**	**Enhanced levy 1.12. 2009**	**Difference**	**1.12.2009 to 31.3.2010 MT/ ₹ lakhs**	**1.4.2010 to 31.3.2011 MT/ ₹ lakhs**	**1.4.2011 to 31.8.2011 MT/ ₹ lakhs**
Main Pool other than coal and salt	23.00	31.00	8.00	29.72/237.76	94.97/759.76	44.74/357.92
T. Coal at jetty	9.20	17.00	7.80	9.15/ 71.37	25.39/198.04	11.03/ 86.03
Salt	18.00	18.00	0	0..09/ 0	2.69/0	0.88/ 0
Total				38.96/309.13	123.05/957.80	56.65/443.95
Pension fund levy	4.30	6.00	1.70	38.96/ 66.23	123.05/209.18	56.65/ 96.31

It may be noted that cumulative deficit of ₹158.36 lakhs arising as on 31 March 2011 is after taking into account the income collected from levy at the proposed rates.

(xii). The Port has given a loan of ₹2000.00 lakhs during 2009-10 and 2010-11. The loan is fully liquidated in August 2011. The TPTCHLP paid interest of ₹69.73 lakhs and ₹14.83 lakhs during 2010-11 and 2011-12 (upto August 2011).

(xiii). The deficit in General Revenue Account as depicted by the Annual Accounts for 2010-11(unaudited) is ₹732.75 lakhs and the cumulative deficit in the TPTCHLP is ₹158.36 lakhs. This is arising on account of increased commitment of revision of salaries and wages of TPTCHLP employees. The TPTCHLP was a self financing scheme and VOCPT will not have any financial liability in respect of the newly created Cargo Handling Division of VOCPT as per directions of Government and vide Memorandum of Settlement dated 27.7.2011. Considering the above facts, the Authority is requested to approve the enhanced rate with the consent of users with effect from 1.12.2009 upto the date of implementation of the rates to be approved by the Authority now.

10.2. The summary of the revised cost position furnished by the VOCPT as per the revised calculation for the past period 2008-09 to 2010-11 and estimates for the year 2011-12 and 2012-13 as well as the pension fund position furnished by the VOCPT as on 31 March 2011 is given below:

Description	2008-09	2009-10	2010-11	2011-12	2012-13	Average for the years 2011-12 and 2012-13
Cargo volume (in lakh tonnes)	117.50	122.47	123.26	129.42	135.89	132.66
Operating expenditure	3452.77	3676.56	4815.18	4912.12	5009.11	4960.62
F&M exp (including commuted pension payments)	865.57	473.76	733.47	981.70	913.78	947.74
Impact of wage revision	388.76	1013.84	915.05	-	-	-
Returns on Capital Employed (ROCE)	38.15	0	67.45	70.43	75.11	72.77
Estimated expenditure	4745.25	5164.16	6531.16	5964.25	5998.00	5981.13
Less: Wages recovered/ Income	1707.18	1806.20	2642.87	2907.00	3198.00	3052.50
Deficit/ balance to be recovered	3038.07	3357.96	3888.29	3057.25	2800.00	2928.63

10.3. The revised levy arrived by the VOCPT based on the revised calculation and considering the average hook shift is given below:

Description	Average Hooks	Average estimated Expenditure to be recovered (₹ in lakhs)	Average Tonnage handled (Lakh Tonnes)	Proposed Rate per Tonne (in ₹)	Pension Fund Levy (in ₹)
Main Pool – Others	17684	2401.35	102.43	23.44	9.47
T / Coal at Coal Jetty II	2862	388.64	27.34	14.22	9.47
Salt	1021	138.64	2.90	47.89	9.47
Total	21567	2928.63	132.66		

The levy for other items viz. C&F operation at transit shed and warehouse, levy for containers stuffing operations and for Zone 'B' is proposed to continue at the existing level as in the original proposal.

11. 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.

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

(i). The proposal of the V.O. Chidambaranar Port Trust (VOCPT) seeks upward revision in the existing levy as well as pension fund levy for deployment of labour from TPT Cargo Handling Labour Pool (TPTCHLP). The financial impact of the revision of the salaries and wages of the labour of TPTCHLP with effect from 2007 is cited as one of the main reasons warranting upward revision in the existing levy and pension fund levy for deployment of labour gang from TPTCHLP.

The initial proposal filed by the VOCPT in August 2009 was based on the average financial position for the years 2009-10 to 2011-12. While furnishing its reply to the queries raised, the VOCPT had furnished estimates for three years 2011-12 to 2013-14. The VOCPT has subsequently vide its letter dated 9 September 2011 filed revised calculation updating the proposal with 2010-11 actuals and revised projections for the years 2011-12 and 2012-13 based on the actual position for the year 2010-11 and has also furnished updated pension fund position as on 31 March 2011. The VOCPT has, however, requested to consider estimates for two years viz. 2011-12 and 2012-13 to coincide with the two years estimates furnished by the port in the general revision proposal. In the general revision proposal the VOCPT has stated that few of the PPP projects are expected to commence beyond 2012-13 and hence has furnished estimates for the two year 2011-12 and 2012-13. It is also be brought out here that when the current case was in advanced stage of consideration, the VOCPT has informed that the TPTCHLP has been merged with the VOCPT. In view of the merger of the TPTCHLP with the port in August 2011, it is found appropriate to determine the levy based on the estimates for two year 2011-12 and 2012-13 as furnished by the port in the revised calculation so that it can be made co-terminus with the validity of the general scale of rates and reviewed in future alongwith the general revision of the SOR of the VOCPT, which will provide an opportunity to ensure correct allocation of cost elements.

The revised calculation furnished by the VOCPT vide its letter dated 9 September 2011 along with the information/ clarification furnished by the port during the processing of the case is considered for determining the levy.

(ii). The tariff guidelines require the port to regularly review the manning scale in view of technological changes. The port is also required to revise the datum and rates of piece-rate scheme from time to time in terms of the National Level Wage Settlements. The VOCPT has clarified that the National Tribunal Award of 2006 is not implemented as some issues are reportedly to be resolved with the trade union. It has further stated that the unions have demanded rationalization of manning scale as per the National Industrial Tribunal Award at the time of merger of the labour pool with the VOCPT. The port has assured that the revised manning scales will be implemented once the issues concerning workers are settled and it will be done based on the guidelines of the Government on the issue of merger of TPTCHLP with VOCPT. As regards datum also the port has clarified that it is under review and has agreed to enforce the revised datum along with the merger settlement.

As stated earlier, when the case was in the advanced stage of finalization the VOCPT has informed that the TPTCHLP has been merged with VOCPT vide Memorandum of Settlement dated 27 July 2011. It has stated that based on the Memorandum of Settlement, the Cargo Handling Division is to function as a division of Traffic Department (VOCPT). The VOCPT claims that the merger of TPTCHLP with the port will not have financial impact on the port. It has submitted that the modalities of merger will take some time and hence has requested this Authority that the current revised proposal for TPTCHLP levy as well as Pension Fund Levy may be considered for approval.

In view of the assurance given by the port that the revised manning scale and datum will be implemented with the merger of the TPTCHLP with the port after consultation with the labour unions which will involve some time, this case is analysed to fix the levy based on the existing manning scale considering the estimates for two years i.e. 2011-12 and 2012-13, as requested by the port. The port has also disclosed that there are notional booking of gangs in respect of handling Thermal Coal at Coal Jetty and in case of mechanised handling of cargo in VOC I to IV berths. The VOCPT is advised to frontally address this issue and attempt to eliminate notional booking of gangs before the next tariff revision. The proposal for next review/ revision should capture the effect of the revised manning scale and datum and the effect of merger of TPTCHLP with the port.

(iii). The existing levy for TPTCHLP approved in July 2008 relied on the estimated position for the years 2008-09 and 2009-10. Clause 2.1.3 of the tariff guidelines mandates review of the actual physical and financial performance of the port at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. The approach followed to analyse the estimated position in the last tariff Order is adopted to assess the actual cost position of TPTCHLP for the years 2008-09 to 2009-10. Since the year 2010-11 is already over the actuals for the year is also analysed as part of the past period. The position relating to the past period along with modifications done in the cost statement filed by the VOCPT is explained below:

(a). In the last tariff Order, the average of total expenditure of the TPTCHLP plus the return on capital employed for the years 2008-09 and 2009-10 was assessed at ₹3822.69 lakhs. Out of this, on an average ₹1722.56 lakhs was to be recovered towards wages for deployment of labour from the pool. The cargo-wise levy was determined so as to meet the balance uncovered estimated expenditure of 2100.13 lakhs per annum.

(b). The VOCPT has furnished actuals for the years 2008-09 and 2009-10 as per the Income and the Expenditure Account and the Statement of Affairs of the TPTCHLP audited by Chartered Accountant for the respective financial years. For the year 2010-11, the VOCPT has furnished unaudited Annual Accounts. The actuals for the year 2010-11 based on unaudited accounts are relied upon subject to the condition that at the time of next review, the actuals for the year 2010-11 considered in this analysis will be verified with the audited figures and if any unintended financial gain is found to have accrued to VOCPT, such additional accrual will be fully set off against future tariff.

(c). The actual traffic handled by TPTCHLP is 117.5 lakhs tonnes and 122.47 lakh tonnes during the years 2008-09 and 2009-10 respectively, as against the estimated volume of 110 lakh tonnes and 114 lakhs tonnes respectively for the corresponding period. The variation in the physical performance is found to be 7.1% which is less than 20%.

(d). Actuals for the year 2008-09 include a rebate on levy to the tune of ₹96.01 lakhs allowed by the VOCPT. The port has clarified that it pertains to the incentive paid to M/s.Seaport Logistics for the year 2007-08. One time rebate reportedly allowed by the VOCPT and shown as an expenditure in the annual accounts of the year 2008-09 is not recognised.

(e). The VOCPT has made provision towards contribution to Pension Fund and Gratuity Fund in each of the years 2008-09, 2009-10 and 2010-11. It may be relevant to state here that the Annual Accounts of the TPTCHLP do not report any expense towards contribution to the Pension/ Gratuity Fund. The port has clarified that information relating to Pension Fund Levy is shown under Pension Fund and is maintained separately and not included in the Revenue Account and Balance Sheet of TPTCHLP. Contribution has not been actually effected due to the non availability of funds and the relevant amount will be transferred to Pension Fund/ Gratuity Fund in future. In the last tariff Order, contribution to Pension/ Gratuity Fund was allowed as an expense. The Major Port Trusts are entitled to claim the contribution to the Pension Fund/ Gratuity Fund based on the actuarial valuation. Hence the provision towards contribution to the Pension/ Gratuity Fund given by the VOCPT for the years 2008-09, 2009-10 and 2010-11 are considered. Apart from claiming the provision towards contribution to the Pension Fund, the VOCPT has separately considered actual commuted pension payments as an item of expense in the years 2008-09 and 2010-11. Pension payment of the existing pensioners are to be met from the Pension Fund and, therefore, this element is excluded from the expenditure.

(f). The Port has informed that loan of ₹2000.00 lakhs was advanced to TPTCHLP during 2009-10 to meet the impact of wage revision, which has been repaid in August 2011. The VOCPT has considered interest on loan to the tune of ₹69.73 lakhs and ₹14.83 lakhs for the years 2010-11 and 2011-12 respectively in the cost statement. Interest on loan is not admissible in tariff fixation and hence excluded.

(iv). The operating expenditure reported by VOCPT include VRS payment of ₹126.52 lakhs for the years 2008-09 to 2010-11 as well as in the estimate of 2011-12. The port has stated that VRS of ₹633.00 lakhs is spread over five years period from the year 2007-08 to 2011-12. As per clause 2.5.2, one time expense such as VRS is not admissible as an item of cost in the tariff fixation as per the tariff guidelines. This item is, therefore, not considered in the cost statement for past period in line with the approach followed in the last Order.

(v). The working capital calculated by VOCPT is not as per clause 2.9.9 of the tariff guidelines. The current assets in terms of debtors, inventory and cash balances are worked out by us as per the norms stipulated in the guidelines. The items of current liabilities corresponding to the current assets are considered as reflected in the Annual Accounts. The figures of working capital so derived turns out to be negative. As a result, the working capital is considered as nil. The capital employed is considered at the level of net block of assets furnished by the VOCPT.

The VOCPT has clarified that the net fixed assets furnished in the Annual Accounts are based on the provision of Depreciation as per Income Tax Act, 1961. For the purpose of tariff fixation to comply with the guideline provision, the depreciation is computed adopting the rate prescribed in the Companies Act. Thus as stated by the VOCPT, the value of net fixed assets reported in the Annual Accounts for the years 2008-09 to 2010-11 would differ from the net fixed assets considered in the computation of capital employed because of different method of computation of the depreciation. The net fixed assets furnished by the VOCPT adopting the depreciation rate as per the Companies Act is as per the tariff guidelines is relied upon and accepted.

In the last tariff Order of July 2009, Return on capital employed was allowed at 16%. The same position is maintained while analyzing the actuals for the past period 2008-09 to 2010-11.

(vi). A summary of the analysis of the actual performance of TPTCHLP for the years 2008-09 to 2009-10 vis-à-vis the estimates considered in the last tariff Order and the actual position for the year 2010-11 is tabulated below:

(₹ in lakhs)

Sl. No.	Particulars	As considered while preparing the last Order			Actuals			Variation in %	2010-11 Actuals
		2008-09 (Estimates)	2009-10 (Estimates)	Total for the years 2008-09 & 2009-10	2008-09	2009-10	Total		
(i).	Traffic (in lakh tonnes)	110	114	**224**	117.5	122.47	**239.97**	7.1%	123.26
(ii).	Total Exps (incl. Depn)	3733.53	3910.08	**7643.61**	4094.27	5037.64	**9131.91**	19.5%	6158.96
(iii).	ROCE	1.10	0.66	**1.76**	2.31	2.08	**4.39**	149.0%	2.51
(iv).	Total Expense plus ROCE (ii + iii)	3734.63	3910.74	**7645.37**	4096.58	5039.72	**9136.30**	19.5%	6161.47
(v).	Less : Wages recovered	1692.03	1753.08	**3445.11**	1707.18	1844.05	**3551.23**	3.1%	2642.87
(vi).	Balance expenditure (recoverable) [iv – v]	2042.60	2157.66	**4200.26**	2389.40	3195.67	**5585.07**	-	3518.63
(vii).	Levy determined to meet the balance expenditure actually recovered			**4200.26**			**5229.33**		3043.23
(viii).	Shortfall/ Excess recovery (vi – vii)			**0**			**-355.74**		-475.37

From the above table, it is observed that variation in the physical performance i.e. the traffic handled by TPTCHLP is less than 20%. The variation in the operating expense is also found to be less than 20%.

It may be stated here that the cargo-wise levy determined in the last Order was to recover shortfall of ₹4200.26 lakhs (average ₹2100.13 lakhs per annum) estimated for the years 2008-09 and 2009-10. As against that, the actual income reportedly earned by the VOCPT from the levy is ₹5229.33 lakhs for the said two years. The port has stated that the proposed enhanced rates were implemented by the port with effect from 1 December 2009 to meet the impact of wage revision after discussion and obtaining the consent of the trade. It is notable that despite the port implementing the proposed rates, the TPTCHLP activity reflects aggregate deficit of ₹831.10 lakhs for the years 2008-09 to 2010-11. The VOCPT has, however, not claimed nor made any adjustment to recover the shortfall/ deficit in the past period arising in this activity from the future tariff.

(vii). The cargo volume expected to be handled by the main pool of TPTCHLP is estimated to increase by 5% per annum over the actuals/ estimates of the respective previous year. The traffic growth estimated by the VOCPT in the general revision proposal is also 5%. The traffic estimated by the VOCPT in this case is relied upon for fixation of levy. If any financial advantage is found to have accrued to the VOCPT due to wrong estimation, adjustment will be made in the tariff at the time of next review of tariff in line with the tariff guidelines.

(viii). (a). The expense relating to payment to employees for the year 2011-12 is estimated to increase by 3.12% over the actuals reported in the year 2010-11 and by 2.15% for the subsequent years. This Authority has decided to allow maximum escalation factor of 6% for the expenditure projections in all the tariff cases to be decided in the financial year 2011-12.

The VOCPT has estimated the workers and staff of TPTCHLP to drop from 1017 in 2010-11 to 933 and 875 in the years 2011-12 and 2012-13 respectively. The VOCPT has considered annual escalation of 5% in all the cost items including employee related cost but, it has not given the effect of reduction estimated in the number of TPTCHLP. If the estimates are adjusted to give effect of reduction in the staff strength assuming employees will retire in the middle of the year, and annual escalation of 6% is applied as against 5% assumed by VOCPT, the total estimated employees related expense work out to be ₹4515.83 lakhs and ₹4785.40 lakhs for the years 2011-12 and 2012-13 as against ₹4664.59 lakhs as ₹4764.98 lakhs estimated by VOCPT. The modified estimates are considered in the calculation.

(b). As stated earlier, the interest on loan (from VOCPT to the CHLP) estimated by the port under the administrative expenses as well as VRS payment estimated in the operating expense has been excluded from the estimates of the year 2011-12. The estimates of administrative expenses for the years 2011-12 and 2012-13 is modified allowing annual escalation of 6% per annum over the actual/ estimates of the respective previous years.

(c). As already stated earlier in respect of the past period, the estimates of Finance and Miscellaneous Expenses include provision towards pension/ gratuity payments as well commuted pension payments. For fixation of levy, the contribution proposed to be made to the Pension fund and gratuity fund is considered as estimated by the VOCPT as done while analysing the past period. The pension payment (commuted) claimed as an expense is excluded.

(ix). The net fixed assets furnished by the VOCPT adopting the depreciation rate as per the Companies Act is as per the tariff guidelines. The value of net fixed assets furnished by the VOCPT is relied upon and accepted.

(x). The VOCPT has computed the working capital for the year 2010-11 and applied 5% to 7% increase for estimation of working capital for the years 2011-12 and 2012-13 over the actuals/ estimates of the respective previous year. Cash balance considered by the VOCPT for the year 2010-11 includes advance and other items which are not as per the norms of one month cash expense prescribed in the tariff guidelines. The sundry debtor considered by VOCPT is not as per the norms prescribed in the guidelines. Considering the current assets following the norms prescribed in the tariff guidelines of 2005 and taking into account the actual current liability reported in the year 2010-11, the working capital of VOCPT becomes negative. Hence the estimate of working capital for the years 2011-12 and 2012-13 are considered as nil.

The value of net fixed assets furnished by the VOCPT for the years 2011-12 and 2012-13 are considered as the capital employed for computation of return on capital employed. 16% return is allowed on modified capital employed.

(xi). The estimated recovery of wages for deployment of workers from the TPTCHLP shows an increase of 10% in each of the years 2011-12 and 2012-13. The recovery of wages from the stevedores will be on account of labour gang deployed for cargo handling operations. The increase in this item will be on account of traffic growth and annual escalation allowed in the wage cost. Traffic growth assumed for the TPTCHLP activity is 5% and annual escalation allowed in the wage cost is 6% as explained earlier. Thus, the estimate of the wage recovery for the years 2011-12 and 2012-13 are modified considering 11% annual escalation over the actuals/ estimates of the respective previous year as against 10% increase assumed by the VOCPT.

(xii). The port has vide its letter dated 8 December 2010 filed a separate proposal for fixation of levy for deployment of labour from TPTCHLP for containers proposed to be handled by the port at berth no.VIII which is being processed along with its proposal for fixation of tariff for container handling at its berth no.VIII as a stop gap arrangement. When sought details of the container traffic and revenue therefrom earned and expected from the proposed levy, the port has clarified that in the year 2010-11 (i.e. from 30 September to 30 March), it has handled 16201 containers of non window vessel pertaining to berth no.VII operated by PSA SICAL Terminals Limited and the revenue earned is reported ₹36.88 lakhs under the present stop gap arrangement. This Authority has not approved any rate/ levy for deployment of labour from TPTCHLP for handling containers at its berth. The rate of levy collected by the port is reportedly based on mutual consent of port users. The proposal filed by the port with reference to tariff fixation for handling containers along with its proposal for fixation of levy for deployment of labour for container handling from TPTCHLP is yet to be disposed of by this Authority as the matter has been referred to the Government and the response of the Government is still awaited. It has to be recognised that the port has earned a revenue of ₹36.88 lakhs for deployment of labour from the TPTCHLP, this service and the same is captured in the actual income reported by the port for the year 2010-11. The port expects the same trend will continue in future though it is stated to be a stop gap arrangement. Based on the position reported by the port, the income for this item is also adjusted from the total expenditure before determining the cargo-wise levy. For this purpose, the actual income of ₹36.88 lakhs reported for six months in the year 2010-11 is prorated at ₹73.76 lakhs for each of the years 2011-12 and 2012-13 and adjusted from the total expenses while determining the levy. By way of abundant caution, it is stated that this should not be construed in any way as an incidental approval of the rates proposed by the VOCPT in the another proposal which is being processed separately.

(xiii). (a). The VOCPT has arrived at per tonne levy with reference to the average expenditure estimated for the years 2011-12 and 2012-13 at ₹2928.63 lakhs. The hook shift and tonnage are also considered by the VOCPT based on the average position estimated for the years 2011-12 and 2012-13. It has to be recognised that the half of 2011-12 year is already over.

The estimated expenditure is to be recovered over one year and six months. Hence for determining the levy the position for one and half year i.e. 2011-12 (from October 2011 onwards) and for the full year of 2012-13 is considered.

The total expenditure of the TPTCHLP plus the return on capital employed after carrying out the aforesaid modifications works out to be ₹11154.32 lakhs for the years 2011-12 and 2012-13. Out of this, ₹6189.87 lakhs per annum is estimated to be recovered by way of direct wages for deployment of labour from TPTCHLP.

The port has implemented the enhanced levy proposed by it reportedly based on consent of users, hence the income earned therefrom furnished by the VOCPT for the year 2011-12 need to be reduced from the total expenditure estimated for this year. After adjusting the income earned from levy for six months upto September 2011 on pro-rata basis at ₹1560.82 lakhs and ₹147.52 lakhs expected from containers handled by the port for the two years as explained above, the balance expenditure of ₹3256.12 lakhs is to be met by the levy.

The modified balance expenditure of ₹3256.12 lakhs is to be met over the tariff validity period of one year and six months. That being so, the cargo-wise hook shifts and tonnage furnished by the VOCPT for the year 2011-12 is prorated for six months of 2011-12 and estimates for 2012-13 as furnished by the VOCPT are considered. The estimated expenditure is allocated cargo items in the ratio of hook shifts (cargo-wise) in and the levy per tonne of cargo is computed for the volume of cargo expected to be handled. The computation of levy in general is in line with the method followed by the VOCPT. The statement showing calculation of levy for TPTCHLP is attached as **Annex - I**.

The modified calculation indicates the levy for all cargo (other than coal at coal jetty II and salt) can be ₹17.25 per tonne, ₹10.45 per tonne for coal at coal jetty-II and ₹35.23 per tonne for salt as against the existing rate for the corresponding cargo at ₹23 per tonne, ₹9.20 per tonne and ₹18 per tonne.

(b). Based on the rate obtained as per the calculation, the levy on all cargo (other than coal at coal jetty II and salt) is approved at ₹17.25 per tonne as against the existing rate of ₹23 per tonne. There seems to be reduction in the rate for this cargo from the existing levy/ proposed levy collected by the port. It has to be recognised that this reduction in the levy is arising partly because this cargo has contributed towards the expenditure of the TPTCHLP at the enhanced proposed rate implemented by the VOCPT which is captured in the calculation. Else the required rate would have been higher.

The levy on coal handled at coal jetty II is revised to ₹10.45 per tonne as per the calculation as against the existing rate of ₹9.20 per tonne. The TNEB has objected the levy proposed by the VOCPT and has requested to maintain status quo in the levy or allow 5 to 10% increase in the existing levy. Based on the cost position, the increase in the levy works out to 14%. The levy on coal at coal jetty II is, therefore, prescribed at ₹10.45 per tonne based on the cost calculation. As brought out earlier, the VOCPT is advised to eliminate notional booking of gang, if any, for handling of coal.

Based on the rate obtained as per the revised calculation, the levy for salt is ₹35.23 per tonne as against the existing rate of ₹18 per tonne. 96% increase in the levy for low cargo value like is found to be steep. The VOCPT has stated that salt being a low value cargo cannot absorb steep hike in the levy. It has, therefore, proposed to continue with the existing levy to continue. The traffic of salt is found to be negligible at 2% of the total cargo estimated to be handled by the TPTCHLP. As the volume of salt expected to be handled is not very significant the request of the VOCPT to maintain the levy on salt at the existing level is accepted. This may not significantly affect its revenue position as its contribution to meet the expenditure is less than 5% which may be made good from the income from other miscellaneous services which are not captured in the calculation.

(c). The VOCPT has proposed to continue with the existing levy of ₹10 per metric tonne for C&F Operations in transit shed and ware house and for Zone B. The existing levy for container stuffing and destuffing at 200% of the time rate wages is proposed to continue. The VOCPT was requested to examine the possibility of arriving at the container stuffing/ destuffing on per box basis instead of the existing unit of levy as percentage of time rate wages. The VOCPT has, however, not made any attempt in line with our advice on the grounds that container stuffing is a miscellaneous activity.

It has expressed inability to work out cost calculation for these items due to uncertain nature of these activities. There has been no pointed objection from the users. In the absence of any cost details furnished by the port for these miscellaneous activities, the proposal of the VOCPT to continue to collect the existing rate for services rendered to these categories is accepted for the time being. The port is advised to derive the rate for these services also on a scientific manner allocating the income, expenses for manpower deployment for these services at the time of filing its proposal for next review of the levy.

(xiv). (a). This Authority in the last tariff Order had approved pension fund levy @ ₹4.30 per metric tonne to meet the short fall in the pension fund based on the actuarial valuation estimated as on 31 March 2007 for period of five years subject to review in the next tariff cycle. The port has revised its proposal to increase the pension levy rate from ₹7 per tonne proposed originally to ₹9.47 per tonne as per the revised calculation furnished based on the actuarial valuation of the Pension Fund position as on 31 March 2011.

(b). In the current exercise, the VOCPT has furnished the position relating to the Pension Fund but the position relating to the gratuity fund is not provided. It is not clear from the audited accounts provided by the port for the year 2009-10 whether a separate gratuity fund for TPTCHLP is maintained. The VOCPT is advised to initiate necessary action and incorporate the gratuity fund position also while filing its proposal for next review of the Pension levy at the end of this tariff cycle.

(c). While approving the special rate towards pension fund levy during the last revision, the port was advised to maintain a separate account in this regard and furnish the audited details for scrutiny at the time of the next review. The port has stated that revenue from Pension Fund Levy is shown under Pension Fund account which is maintained separately and it is not included in the Revenue Account and Balance Sheet of the TPTCHLP. Since audited Pension Fund position is not made available, the pension fund balance and the income from pension fund levy as furnished by the VOCPT is relied upon in this analysis for arriving at the Pension Fund Levy subject to the condition that the levy determined will be valid only for the current tariff cycle and automatically cease from 1 April 2013. The VOCPT should file audited Pension and Gratuity Fund position at the end of this tariff cycle along with the actuarial valuation and based on review of the actual Pension/ Gratuity fund position, the quantum of pension fund levy will be determined for the period beyond 31 March 2013.

(d). After considering the income from the Pension Fund levy reportedly earned in the year 2010-11, interest on investment and the receipts from the Regional Pension Fund Commission Trinelveli including the interest component of (₹2.94 crores), and the contribution to the Pension Fund (provided) in the year 2010-11, the total balance that should have been available in the Pension Fund as on 31 March 2011 is ₹9499.19 lakhs as against ₹9097.36 lakhs considered by VOCPT. The VOCPT has not reckoned with the contribution to Pension Fund during the year 2010-11 which is considered in our calculation. Further, VOCPT has not considered commuted pension payments made in the year 2010-11. Since commuted pension payments are not allowed as revenue expenditure as they are to be met from the pension fund, this item is considered in deriving the shortfall in the Pension Fund. Considering the Pension payments including the commuted pension payments, the balance in the Pension Fund works out to ₹8354 lakhs as against ₹8060 lakhs estimated by VOCPT. Relying on the actuarial valuation of the Pension Fund furnished by the VOCPT at ₹14342 lakhs as on 31 March 2011, the shortfall in the Pension Fund is estimated to be ₹5988.42 lakhs which can be augmented by a separate levy over five years as proposed by the VOCPT.

A summary of the Pension fund liability position as furnished by the VOCPT and modified by us is given below:

(**₹ in lakhs**)

Sl. No.	**Particulars**	**Estimates furnished by VOCPT**	**Estimates of VOCPT modified by TAMP**
		2010-11	**2010-11**
1.	Pension Fund Opening Balance	6742.00	6742.00
2.	Add: Income from Pension Fund Levy	761.93	761.93
3.	Interest on investments	543.78	543.78
4.	Receipts from RPFC Tirunelveli including interest component ₹294.82 lakhs	1049.65	1049.65
5.	Provision made towards contribution to the Pension Fund for the year 2010-11	(not considered)	401.83
6	Total (1 to 5)	9097.36	9499.19
7.	Less: Pension payments	1036.70	1036.70
8.	Less: Commuted pension payments	0.00	108.49
9.	Balance in the Pension Fund	8060.66	8354.00
10.	Actuarial valuation as on March end of the financial year 2010-11	**14342.42**	**14342.42**
11.	Shortfall in the Pension Fund	6281.76	5988.42
12.	Pension Fund shortfall spread over five years	1256.35	1197.68
13.	Average tonnage expected to be handled (lakh tonnes)	132.66	132.66
14.	Pension Fund levy	**9.47**	**9.03**

(e). In view of the short fall in the pension fund position explained by the port and based on the above analysis, the existing Pension Fund levy of ₹4.30 per tonne is increased to ₹9.00 per tonne.

(f). It may be relevant to state here that there appears to be mismatch between the contribution made towards the pension fund and the pension payments. This may be because the contribution towards pension fund/ gratuity fund estimated by the VOCPT is reportedly at 15% / 8.33% of the basic wages plus DA and it does not seem to be estimated based on the actuarial valuation. Since the same set of users will pay the basic levy and the pension fund levy this may not have any material effect. At the time of next review, the VOCPT is advised to assess the contribution towards the Pension/ Gratuity based on the actuarial valuation.

(g). The VOCPT proposed to apply the pension fund levy for three cargo items viz. coal at coal jetty II, salt and cargo other than salt and coal. It is clarified that the pension fund levy will apply to all the cargo items handled by the TPTCHLP.

(h). The port is advised to maintain a separate account with reference to the pension fund levy and should furnish the audited accounts of Pension Fund for the years 2010-11 onwards for scrutiny at the time of the next review. As stated earlier, pension fund levy approved will be valid for this tariff cycle and automatically cease from 1 April 2013. The quantum of pension fund levy for the period beyond 31 March 2013 will be determined by this Authority based on the audited Pension/ Gratuity fund to be furnished by the VOCPT along with the actuarial valuation at the end of this tariff cycle.

(xv). During the processing of this case, it emerged from the comments received from the Tamil Nadu Electricity Board that the VOCPT had implemented the proposed levy from 1 December 2009 including Pension Fund levy.

The port has clarified that the proposed enhancement in levy and pension fund levy were implemented with effect from 1 December 2009 with the consent of the Port users and users associations held on 18 November 2009 in order to meet the enhancement of salaries and wages of the employees of TPTCHLP. It has stated that the said meeting was attended by representatives, various users / user associations such as TSA, TSAA, AICC, TCLAA including Tuticorin Thermal Power Station (handling agent of the TNEB) etc.

The Memorandum of Settlement of December 2009 requires the TPTCHLP to be self-financing. The increase proposed in the basic levy as well as pension fund levy is only to make this activity self reliant.

It has to be recognised that even after the port implementing the enhanced levy since 1 December 2009, the revenue effect of which is considered in the cost statement for the past period, the TPTCHLP activity reflected a deficit position. The aggregate deficit (i.e. shortfall in the income against the expenditure) for the years 2008-09 to 2010-11 is ₹831.10 lakhs. The port has not claimed to set off this shortfall in the future tariff. The effect of levy collected at the proposed rate for the year 2011-12 for the six months till September 2011 is captured in the cost calculation. Since no undue advantage is found to have been accrued to the port by collecting the proposed rates, and recognising that the proposed rate was implemented after consulting the users/ user association the levy implemented by the port on adhoc basis from 1 December 2009 till the implementation of the revised rate approved is recognised by this Authority.

Clause 2.17.1 to 2.17.3 of the tariff guidelines stipulate that 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. The instant case is not found for a new service/ cargo. The port is, therefore, advised to refrain from levying any tariff item in future which does not have concurrence of this Authority and which is not in compliance with the provisions in the guidelines.

(xvi). Clause 4.7.2. of the revised tariff guidelines recommends the port to prescribe productivity linked tariff for providing stevedoring services. The port has agreed to consider productivity linked tariff after the merger of TPTCHLP with the port. As agreed, the port is advised to propose sliding rates linked with productivity while reviewing the levy during the next tariff cycle.

(xvii). The revised tariff guidelines stipulate a tariff validity cycle of 3 years. Since the cost position considered for fixation of levy is for two years i.e. 2011-12 and 2012-13, the tariff prescribed will be for a truncated validity period. The financial position considered for the purpose of this analysis is only till 31 March 2013, hence the validity of the revised Scale of Rates will also expire on 31 March 2013.

(xviii). The rates approved by this Authority are to be implemented after 30 days from the date of notification of the Order in the Gazette of India. Since this case has been finalised simultaneously with the general revision of the port, it is found appropriate to implement the Order from the date of implementation of the revised Scale of Rates of the VOCPT approved in the general revision case. The revised levy for deployment of labour from the TPTCHLP approved is accordingly incorporated in the revised Scale of Rates of the VOCPT under Chapter - VI.

13. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves insertion of the following Chapter - VI in the Scale of Rates of the VOCPT for supply of cargo handling workers from the Tuticorin Port Trust Cargo Handling Labour Pool (TPTCHLP) for cargo handing operations:

"Chapter VI

6.1. Levy for supply of labour from Tuticorin Port Trust Cargo Handling Labour Pool (TPTCHLP) for cargo handing operations

Sl. No.	Description	₹ Per Metric Tonne (MT)
1.	All cargoes other than Coal at Coal Jetty II and Salt	17.25
2.	Coal at coal jetty II	10.45
3.	Salt	18.00
4.	For container stuffing and destuffing operations	@ 200% of Time Rate wages
5.	C&F Operation at Transit Shed and Ware house etc. levy	₹10/- Per M.T.
6.	For Zone 'B'	₹10.00 Per M.T.

6.2. Pension fund levy

Pension fund levy @ ₹9.00 per M.T. will be collected by the VOCPT to meet the shortfall in the Pension fund liability. The levy will automatically cease from 1 April 2013. The quantum of levy for the subsequent period will be determined on review at the end of this tariff cycle."

(Rani Jadhav)
Chairperson

Calculation sheet of Tuticorin Port Trust Cargo Handling Labour Pool Levy

Sl. No.	Description	Actuals furnished by VOCPT		Tonnage and hook shift estimates furnished by the VOCPT					
		2010-11		2011-12		2012-13		Average 2011-12 to 2012-13	
		Tonnage (in lakh tonnes)	Hook shifts	Tonnage (in lakh tonnes)	Hook shifts	Tonnage (in lakh tonnes)	Hook shifts	Tonnage (in lakh tonnes)	Hook shifts
1	Main Pool	95.17	16430	99.93	17252	104.92	18115	102.43	17684
2	Coal at Jetty II	25.4	2659	26.67	2792	28.00	2932	27.34	2862
3	Salt	2.69	949	2.82	996	2.97	1046	2.89	1021
	Total	123.26	20038	129.42	21040	135.89	22093	132.66	21567

Total Expenditure to be met from levy			Estimates furnished by the VOCPT			Considered by TAMP	Modified Estimates by TAMP		
Sl. No.	Description	2010-11 Actuals furnished by VOCPT	2011-12	2012-13	Average for the years 2011-12 to 2012-13	2010-11 Actuals	2011-12	2012-13	Total expenditure recoverable for the years 2011-12 (five months) and 2012-13
1	Operating cost								
(i)	Total Payment to employees and employee related exp	4523.48	4664.59	4764.98	4714.785	**4396.96**	4515.93	4785.40	9301.34
(ii)	Administrative Exp	289.71	245.81	242.52	244.165	219.98	233.18	247.17	480.35
	Total Operating Expenditure	**4813.19**	**4910.4**	**5007.50**	**4958.95**	**4616.94**	**4749.11**	**5032.57**	**9781.68**
2	Commuted Pension payments	108.49	325.47	224.73	275.1	0	0.00	0.00	0.00
3	Depreciation	1.99	1.72	1.61	1.665	1.99	1.83	1.91	3.74
4	Wage Revision Arrears	915.05	0.00	0.00	0	915.05	0.00	0.00	0.00
5	Total Operating Expenditure	**5838.72**	**5237.59**	**5233.84**	**5235.72**	**5533.98**	**4750.94**	**5034.48**	**4892.71**
6	F&M Expenditure	624.98	656.23	689.05	672.64	624.98	662.48	702.23	1364.71
7	Total Expenditure	**6463.7**	**5893.82**	**5922.89**	**5908.355**	**6158.96**	**5413.42**	**5736.71**	**11150.13**
8	ROCE	67.45	70.43	75.11	72.77	2.51	2.23	1.97	4.20
9	**Total Expenditure Plus ROCE**	**6531.15**	**5964.25**	**5998.00**	**5981.115**	**6161.47**	**5415.64**	**5738.68**	**11154.32**
10	Less Wages recovered	2642.87	2907.00	3198.00	3052.5	2642.87	2933.59	3256.28	6189.87
11	Levy collected by VOCPT (excluding pension fund levy) 2011-12 enchanced levy collected for six months till September 2011 is considered	3043.23	To be detemined now			3043.23	1560.82	To be determined from Oct 2011 to March 2013	1560.82
12	Less: Income expected by deployment of labour for handling containers based on the actual reported	0.00	0.00	0.00	0	included in the levy collected by port in this year	73.76	73.76	147.52
13	Balance Expenditure to be recovered by way of levy	**845.05**	**3057.25**	**2800.00**	**2928.62**	**475.37**	**847.48**	**2408.64**	**3256.12**

Apportionment of Expenditure to recover the levy

Sl. No.	Description	Furnished by the VOCPT				Modified by TAMP			
		Average Hooks	Average Expenditure to be recovered for the years 2011-12 to 2012-13	Averge Tonnage for the years 2011-12 to 2012-13 (in lakh tonnes)	Rate per tonne	Total Hooks for the year 2011-12 (six months) and for the year 2012-13	Expenditure to be recovered for the years 2011-12 and 2012-13	Tonnage for the year 2011-12 (six months) and for the year 2012-13 (in lakh tonnes)	Rate per tonne
1	Main Pool	17684	2401.34	102.43	23.44	26741	2669.86	154.89	17.25
2	Coal at Jetty II	2862	388.64	27.34	14.22	4328	432.11	41.34	10.45
3	Salt	1021	138.64	2.89	47.88	1544	154.15	4.38	35.23
	Total	21567	2928.62	132.66		32613	3256.12	200.60	

	Existing Rate	Revised proposed rate	Rate to be approved	Revenue at the levy (to be approved)
All Cargoes including salt (other than coal at coal jetty II)	23	23.44	17.25	2672
Coal at Jetty II	9.2	14.22	10.45	432
Salt	18	18	18.00	79
For container stuffing and destuffing operations	@ 200% of Time Rate wages	@ 200% of Time Rate wages	@ 200% of Time Rate wages	
C&F Operation at Transit Shed and Ware house etc levy	10	10	10	
For Zone 'B'	10	10	10	
Total				3183
Pension fund levy	4.3	9.47	9.00	

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/30/2009 -TPT - **Proposal from V.O. Chidambaranar Port Trust for revision of charges for supply of labour from the TPT Cargo Handling Labour Pool.**

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

Sl. No.	Comments of users / user organisations	Comments of VOCPT
1.	**Tuticorin Custom House Agents' Association (TCHAA), Tuticorin Ship Agents' Association (TSAA), Indian Chamber of Commerce & Industry (ICCI) and Tuticorin Port Handling Agents Association (TPHAA)**	
(i).	No comments to offer on the rate proposed for Coal Jetty II.	No comments furnished by VOCPT.
(ii).	In the advent of three thermal projects, the port is sure to get more cargo traffic. In other words these projects should be the main subscribing factors for increasing the volume. It is but a fact that when volume increases, the revenue by way of levy, is also bound to increase heavily. Resultantly, the pension fund will also get a boost, increasing its position to an appreciable level, even at the current rates. In the circumstances, we are of the view that the present rate of levy itself is sufficient and no increase is warranted.	The increase in traffic, and the Pension Levy amount collection is not commensurate with the expenditure on account of statutory commitment. Moreover there has been reduction in Pension Levy in the past 3 years and the traffic volume has been more or less static as shown below :- 2006-07 | ₹10.00 (1,07,23,754 Mts.) 2007-08 | ₹6.70 (1,16,67,032 Mts.) 2008-09 | ₹4.30 (1,15,71,225 Mts.) Hence, the proposal to increase the levy may be considered.
2.	**Tamil Nadu Electricity Board (TNEB)**	
(i).	At Tuticorin Port, Coal Jetty-II is exclusively utilised by TNEB and there is an annual discharge of minimum 29 lakh tonnes of coal, carried out by TNEB through the said berth, which accounts for substantial revenue for the port.	No comments furnished by VOCPT.
(ii).	VOCPT has proposed to increase the TPT Cargo Handling Labour Pool levy for coal jetty-II from ₹9.20 per MT to ₹17.00 per MT and the pension fund from ₹4.30 per MT to ₹6.00 per MT. The proposed hike in labour levy is around 84.8% and in respect of pension fund it is 39.5% which is considered to be very high. TNEB is already under severe financial crunch, and if the proposal of VOCPT is approved by TAMP, then TNEB will incur an extra expenditure of around ₹3.04 crores every year due to the above hike.	The proposal for increasing the Levy per tonne of cargo is self contained with the justification for the increase. TNEB as a major user of the port has to accept the reality. Wage arrears due from 1.12007 and the current retirement benefits including the future pension liabilities is to be taken into account. If any consideration is shown in favour of Tamil Nadu Electricity Board in fixing the rate, the same amount may have to be increased in the general cargo levy which the users other than Tamil Nadu Electricity Board should agree. The wage Revision came into force w.e.f.1.1.2007, 30 to 40% salary hike is expected in TPT-CHLP.

		Due to increased salary, pension and other expenditure, the proposal to increase the levy is inevitable considering the current financial position of TPTCHLP. Any delay will only result in much higher hike in levy at a later date. Therefore, considering the deficit, TPTCHLP has no other option except to increase the levy if the levy will be more at the time of implementation of Wage Revision Committee.
(iii).	It is seen from the proposal that VOCPT is passing on the entire expenditure incurred in the cargo handling to the port user. It is considered that a portion of the expenditure could be met from the profit earned by the port by increased throughput.	No comments furnished by VOCPT.
(iv).	TNEB is a service organisation, which supplies power to the weaker sections of society in subsidized rates. Any hike in the procurement and handling cost of coal cannot be simply passed on to consumer as it will affect the common man and there is a state regulatory commission for the purpose.	
(v).	Hence, it is requested not to accept the proposal of VOCPT to increase the above rates in respect of labour levy for CJ-II and Pension Fund and the existing rates may be continued at Tuticorin Port.	
(vi).	If the hike could not be avoided, it is requested that the labour levy in respect of Coal Jetty II and the Pension Fund may be moderately increased by 5% to 10% at the maximum. The hike, if any, may be implemented by VOCPT only after the notification of the same by TAMP. Further, it has pointed out that limiting the hike in levy for CJ-II will not have any impact to the port revenue from other port users as the said berth is used by TNEB alone.	No comments furnished by VOCPT.
(vii).	TNEB has vide letter dated 29.12.2009 further stated that without conducting a joint hearing by TAMP, VOCPT in its meeting held on 18.11.2009, has unilaterally decided to increase the pension fund levy from ₹4.30 to ₹6.00 per tonne and labour levy from ₹9.20 to ₹17.00 per tonne with effect from 01.12.2009, even though the hike was not accepted by the port users including TNEB who have attended the said meeting.	
3.	**All India Chamber of Commerce & Industries (AICCI)**	
(i).	The levy is charged on percentage basis of the wage at all other ports whereas in Tuticorin it is on tonnage basis, which for certain commodity is even 500/ 800% of wages.	Right from the beginning with effect from 1983 the erstwhile Tuticorin Stevedores Association Labour Pool – Administrative Body had been collecting the levy on the basis of the tonnage handled, and the same procedure is still continued. Since the levy collected is to meet administrative expenses

		including the leave, wages, medical benefits and retirement benefits of labour, there will be no difference in whatsoever basis is adopted. Hence the procedure does not required to be changed.
(ii).	Tuticorin Port needs to rationalize the work force and adopt measures to contain the levy at the present level rather than even thinking of increasing.	Rationalization of manning scale as per the National Industrial Tribunal Award in TPTCHLP is discussed with the Unions and they insisted on merger of labour pool with the Port Trust before the implementation and the same is under consideration by the Government.
4.	**Tuticorin Stevedores' Association (TSA)**	
(i).	In order to offset the tonnage lost, the Tuticorin Port has come forward to offer concessions to the users with a view to attract increased throughput. At this time, if the levy or wages is increased, it will become costlier than other ports.	No comments furnished by VOCPT.
(ii).	Private and Minor Ports are coming up and they are competing with our port. For example, Karaikal Port has already attracted a considerable quantum of cargo bound for Chennai and Tuticorin Ports. Unless present rates are maintained, we will not be able to receive more cargo.	
(iii).	It is stated that National Industrial Tribunal Award has not been implemented in Tuticorin Port whereas, other East Coast Ports have already implemented the same.	
5.	**Tuticorin Sailing Vessel Owners Association (TSVOA)**	
	It has requested that not to raise the TPTCHLP levy as several private ports are coming up in the vicinity of Tuticorin Port and Tuticorin Port does not carry any special advantage. Hence, the cost of handling has to be kept down to attract the cargo and also in order to achieve the existing quantum.	No comments furnished by VOCPT.
6.	**Shipping Corporation of India Limited (SCI)**	
(i).	<u>Coal at jetty II</u> No comments.	Factual
(ii).	<u>All Cargoes other than coal and salt</u> (a). In view of increasing growth, the percentage in volume has also increased the pace. Adding to that, three thermal power projects are in the offing – very soon. In the advent of these projects, the port is sure to get more cargo traffic. In other words these projects should be the main subscribing factors for increasing the volume. (b). It is but a fact that when volume increases, the revenue by way of levy, is also bound to increase heavily. Resultantly, the pension fund will also get a boost, increasing its position to an appreciable level, even at the current rates.	No comments

	(c). In the circumstances, we are of the view that the present rate of levy itself is adequate and no increase is warranted.	

2. A joint hearing in this case was held on 29 March 2011 at the V.O. Chidambaranar Port Trust (VOCPT) premises. The VOCPT made a power point presentation of its proposal. At the joint hearing, VOCPT and the concerned users/ organisation bodies have made the following submissions:

V.O. Chidambaranar Port Trust

(i). Cargo handling Worker Pool is a self financing body. The recent wage revision has caused lot of financial burden warranting revision of rates.

(ii). Tribunal award on manning scale is not implemented in cargo handling pool, as the issue of permanent employee status is yet to be resolved fully. We will implement manning scales fully, upon reaching a settlement on other issues concerning the workers.

(iii). Datum is under review. New datum will be enforced alongwith merger settlement on which negotiations are going on.

Tuticorin Custom House Agents Association

(i). We want merger to happen in a time bound manner so that we can get relief early.

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