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**Tariff Authority for Major Ports**

G No. 287

New Delhi,

7 November 2013

**NOTIFICATION**

In exercise of the powers conferred by Section 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Cochin Port Trust for notification of Reference tariff for Modernization of Coal handling in Cochin Port under Revised Guidelines for Determination of Tariff for Port Projects at Major Ports, 2013, which were notified vide Notification No.TAMP/18/2013-Misc. dated 30 September 2013, as in the Order appended hereto.

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

**Tariff Authority for Major Ports**  
**Case No. TAMP/42/2013-COPT**

**Cochin Port Trust**

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**Applicant**

**QUORUM:**

- (i). T. S. Balasubramanian, Member (Finance)
- (ii). C. B. Singh, Member (Economic)

**ORDER**

(Passed on 21<sup>st</sup> day of October 2013)

The Ministry of Shipping (MOS) under cover of its letter No.PR-14019/16/2012-PG dated 31 July 2013 has issued 'Guidelines for Determination of Tariff for Projects at Major Ports, 2013' under Section 111 of the Major Port Trusts (MPT) Act, 1963 on 31 July 2013. In compliance of the policy directives issued by the (MOS) under Section 111 of the MPT Act, 1963, the said Guidelines were notified vide Notification No.TAMP/18/2013-Misc. in the Gazette of India on 8 August 2013, vide Gazette no.214. The said Guidelines are effective from 31 July 2013. Subsequently, the MOS has issued revised Guidelines for Determination of Tariff for Projects at Major Ports, 2013 under Section 111 of the Major Port Trusts Act and made effective from 9 September 2013.

2.1. The Cochin Port Trust (COPT) under cover of its letter dated 29 August 2013 has submitted a proposal for notification of Reference tariff for Modernization of Coal handling in Cochin Port under Guidelines for Determination of Tariff for Port Projects at Major Ports, 2013 following the then applicable guidelines of 2013 issued by the MOS on 31 July 2013.

2.2. The main points made by the COPT, in its proposal are summarized below:

- (i). The proposed project under guidelines of 2013 is for development of coal handling terminal at Cochin Port Trust for which the demand is most likely to be generated from the cement plants, hinterlands and also from steel, paper and sugar industries. Hence, the coal traffic is expected to be Industrial coal traffic and handling of Thermal coal is not envisaged by the port.
- (ii). The COPT had undertaken a project – “Development of General Cargo Terminal at Q8-Q9 berths of Cochin Port”, for which TAMP has passed tariff Order No.TAMP/74/2012-COPT dated 15 February 2013 under upfront tariff guidelines of 2008 fixing upfront tariff for commodities viz. Coal and finished fertilizer.
- (iii). The General Cargo Terminal project was bid out with the RFP in the month of March 2013 but no bids were received for the project. To study the reasons, a consultation was done by the port with the shortlisted Bidders and many Bidders represented that one of the reasons for not submitting bids was lower tariff charges approved under the TAMP proposal.
- (iv). Subsequently, COPT has decided to review the feasibility report and change the technical and other aspects of the project.
- (v). In the present bid process, only coal handling is envisaged by the port under the project. The COPT intends not to adopt the upfront tariff rates approved by TAMP for its port vide Order No.TAMP/74/2012-COPT dated 15 February 2013 for General Cargo Terminal, as the earlier project was tested in the market and had failed to receive any bids from the developers. Apart from this, the technical

parameters are different in the present case as compared to the earlier bid process. Some of these parameters are highlighted in the table below:

| Sr. No. | Parameters                 | General Cargo Terminal (earlier bid)                                                 | Coal handling project (present bid)                    |
|---------|----------------------------|--------------------------------------------------------------------------------------|--------------------------------------------------------|
| 1       | Commodities to be handled  | Coal and finished fertilizer                                                         | Coal<br>(Only industry coal envisaged)                 |
| 2       | Backup Area                | 19.38 hectares<br>(17.0 hectares for coal and 2.38 hectares for finished fertilizer) | 14.4 Hectares                                          |
| 3       | Estimated Project Cost     | ₹221.3 Crores                                                                        | ₹198.2 Crores                                          |
| 4       | Estimated Optimal Capacity | 9 MTPA<br>(8.5 MTPA and 0.5 MTPA as per Tariff Proposal)                             | 4.23 MTPA<br>(as estimated in the Feasibility Report.) |

- (vi). Based on the above factors, COPT has opined that the upfront tariff rates approved for the earlier project under different technical parameters need not be taken for the present project. Also, the project had failed to attract any developers in the earlier bid process. Hence, the proposal of COPT is to adopt upfront tariff prescribed by TAMP at other Major Port Trust.
- (vii). (a). New Mangalore Port could be considered as nearest to COPT. New Mangalore Port has not undertaken any project for coal handling under PPP. Hence, no tariff rates are available for reference. Apart from New Mangalore Port, V.O. Chidambaranar Port Trust and Mormugao Port Trust are the two ports that could be considered nearest to Cochin Port.
- (b). The port has furnished the summary position of upfront tariff Orders passed by the Authority based on the tariff guidelines of 2008 for these two ports for coal handling along with the relevance of the same with respect to the present project as given below:

| Sr. No.                              | Commodity                       | Project Details                                                                                                                                                                                    | Date of Tariff Order | Remarks                                                                                                                                                                                                                                                                               |
|--------------------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Mormugao Port Trust</b>           |                                 |                                                                                                                                                                                                    |                      |                                                                                                                                                                                                                                                                                       |
| 1                                    | Thermal coal and other coal     | <b>Berth:</b> Berth 7 of MOPT<br><b>Capacity:</b> 4.61 MTPA<br><b>Capital Cost:</b> ₹252.4 Crores<br><b>Coal Handling Rate:</b> ₹183/MT (for foreign cargo)                                        | 20 August, 2008      | The rate applicable for "other coal" could be considered relevant.                                                                                                                                                                                                                    |
| 2                                    | Thermal coal and other coal     | <b>Berth:</b> Berth 11 of MOPT<br><b>Capacity:</b> 4.91 MTPA<br><b>Capital Cost:</b> ₹441.7 Crores<br><b>Coal Handling Rate:</b> ₹249.03/MT (for foreign cargo)                                    | 27 April, 2011       | A separate order was passed for coal as the capital cost was high, mainly because of proposed storage in covered domes and handling in conveyor system. TAMP has subsequently canceled this order vide another order dated 5 July 2012, as MOPT had revised the technical parameters. |
| <b>V.O. Chidambaranar Port Trust</b> |                                 |                                                                                                                                                                                                    |                      |                                                                                                                                                                                                                                                                                       |
| 3                                    | Thermal coal and Rock phosphate | <b>Berth:</b> North Cargo Berth-III<br><b>Capacity:</b> 9.15 MTPA (7.36 MTPA for Coal)<br><b>Capital Cost:</b> ₹419.81 Crores<br><b>Thermal Coal Handling Rate:</b> ₹134.32/MT (for foreign cargo) | 1 March 2012         | As the project is about handling thermal coal, the said tariff order is not relevant.                                                                                                                                                                                                 |

|   |                                                                   |                                                                                                                                                                                                                                                                                          |                 |                                                                                       |
|---|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------------------------------------------------------------------------------|
| 4 | Thermal coal and copper concentrate                               | <b>Berth:</b> North Cargo Berth-IV<br><b>Capacity:</b> 9.15 MTPA (7.36 MTPA for Coal)<br><b>Capital Cost:</b> ₹354.3 Crores<br><b>Thermal Coal Handling Rate:</b> ₹113.72/MT (for foreign cargo)                                                                                         | 1 March 2012    | As the project is about handling thermal coal, the said tariff order is not relevant. |
| 5 | Thermal coal, Industrial coal, Rock phosphate, Copper concentrate | <b>Berth:</b> North Cargo Berth-IV<br><b>Capacity:</b> 8.53 MTPA (5 MTPA for Thermal Coal & 0.3 MTPA for Industrial Coal)<br><b>Capital Cost:</b> ₹332.1 Crores<br><b>Thermal Coal Handling Rate:</b> ₹121.11/MT<br><b>Industrial Coal Handling Rate:</b> ₹193.78/MT (for foreign cargo) | 30 August, 2010 | The rates for industrial coal could be considered relevant.                           |

- (viii). (a). As seen in the above table, tariff Order for MOPT passed on 20 August 2008 and for VOCPT on 30 August 2010 prescribe upfront tariff for thermal coal and other (industrial) coal. While both these tariff Orders of VOCPT and MOPT are relevant, the capacity and capital cost for MOPT Project is closer to the proposed project. Hence, the tariff rates for 'Other than Thermal Coal' approved by TAMP vide Order No.TAMP/23/2008-MOPT dated 7 August 2008 notified on 20 August 2008 for coal handling facilities at MOPT has been considered for the proposed project.
- (b). The calculation of tariff rates for the year 2013-14 indexed on WPI based escalation as per TAMP letter No.TAMP/12/2009-Misc dated 2 April 2013 are tabulated below:

| Particulars   | Coal Handling Rates     |                                                                        |                                                                          |
|---------------|-------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------|
|               | Base Tariff<br>(₹ / MT) | Escalation to be applied<br>based on TAMP letter<br>dated 2 April 2013 | Proposed Handling Tariff<br>after applying indexation<br>factor (₹ / MT) |
| Foreign Cargo | 183.0                   | 26.15%                                                                 | 230.9                                                                    |
| Coastal Cargo | 110.0                   | 26.15%                                                                 | 138.8                                                                    |

Similarly, the port has escalated other tariff rates applying 26.15% WPI indexation. These tariff rates would be the "Reference Tariff" for industrial coal handling in the COPT.

2.3. The COPT has attached Reference Tariff Schedule for handling coal and Performance Standards alongwith its proposal and has requested us to approve the Reference Tariff proposal for its coal handling project.

3.1. The COPT, in its proposal, has proposed Reference tariff adopting the upfront tariff for coal terminal notified in MOPT though upfront tariff for coal terminal is notified in its own port.

3.2. The tariff guidelines of 2013 announced by the Ministry of Shipping (MOS) on 31 July 2013 does not envisage a situation where inspite of having an upfront tariff for the cargo, the port is free to adopt the upfront tariff prescribed for a similar cargo at any other port. Hence, the MOS was vide our letter dated 2 September 2013 requested to examine the matter with a request to issue necessary amendments to the guidelines of 2013 to enable us to proceed further.

3.3. The Ministry of Shipping (MOS) has under Section 111 of the Major Port Trusts Act vide its letter No.PR-14019/16/2012-PG dated 9 September 2013 and 12 September 2013 issued Revised Guidelines for Determination of Tariff for Port Projects at Major Ports, 2013 which are effective from 9 September 2013. The said revised guidelines issued by MOS as a policy direction under Section 111 of the Major Port Trusts Act, 1963 was notified in the Gazette of India vide Gazette No.254 dated 30 September 2013.

4.1. The clause 2.2. of the revised guidelines which is relevant in this case is reproduced below:

*“2.2. The Reference Tariff (“the Reference Tariff”) for each commodity/category of commodities and each service/category of service or combination of service or services, as the case may be, shall be determined by TAMP for each Port based on a proposal from the concerned major Port. Such proposal shall contain the proposed Reference Tariff and “Performance Standards”. The Reference Tariff will be the highest tariff fixed for that commodity in the concerned Major Port Trust under the 2008 Tariff Guidelines. In case no tariff has been fixed for that commodity at that Major Port Trust or if the highest tariff fixed for a particular commodity in the concerned major Port Trust does not represent the project proposed to be developed, then concerned Major Port Trust can propose to TAMP any other tariff fixed under 2008 Tariff guidelines in any other major Port Trust which is representative enough for that commodity giving detailed and sufficient justification. While adopting the Reference tariff, the tariff set under the Tariff Guidelines, 2008 shall be escalated to the extent of 60% of WPI per annum, as provided in the said guidelines for the period between 1<sup>st</sup> January of the year as prescribed in the relevant tariff order of TAMP under 2008 guidelines and 1<sup>st</sup> January of the subsequent relevant year when the Reference Tariff for the particular project in question is being notified. On receipt of the proposal, TAMP shall notify the Reference Tariff and Performance Standards within 15 days of receipt.”*

4.2. The original proposal of COPT dated 29 August 2013 could not be taken up earlier as it did not comply with 2013 guidelines issued in July 2013. Clause 2.2. of the revised guidelines issued by the MOS addresses the point referred to the MOS relating to the proposal of the COPT. That being so, the proposal of COPT dated 29 August 2013 was taken up and examined with reference to the Revised Guidelines of 2013 issued in September 2013.

5.1. Based on preliminary scrutiny of the COPT proposal dated 29 August 2013, it was observed that there are few gaps observed in the proposal of COPT. Hence the COPT proposal dated 29 August 2013 could not be taken up for further processing and was returned to the port vide our letter dated 23 September 2013 with a request to the port to address the points raised by us and file a revised proposal.

5.2. In response, the COPT vide its letter dated 23 September 2013 has furnished clarification on the points raised by us and has also filed a revised proposal. The queries raised in our letter dated 23 September 2013 and the reply furnished by the COPT is tabulated below:

| Sr. No. | Queries of TAMP                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Reply furnished by COPT                                                                                                                                                                                                                                                                                            |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.      | The port has proposed to adopt the upfront tariff for cargo category “Other than thermal coal” prescribed in the upfront tariff Order No.TAMP/23/2008-MOPT dated 7 August 2008 at Mormugao Port Trust in its subject proposal. In this context, the COPT to confirm that industrial coal envisaged to be handled at the proposed terminal will fall under the category of “ other than thermal coal” and also that the cargo “Other than thermal coal” prescribed at the MOPT represents industrial coal envisaged to be handled by the port. | The port has confirmed that industrial coal envisaged to be handled at the proposed terminal falls under the category of “other than Thermal coal”. The port has also clarified that the cargo “other than Thermal coal” prescribed at the MOPT represents industrial coal envisaged to be handled by Cochin Port. |

| 2.      | <p>Para 2.1 of the proposal categorically states that the COPT expects all the coal traffic to be Industrial coal traffic and handling of thermal coal is not envisaged by the port. Further, the table under para 3.4 of the proposal also emphasizes that the current proposal envisages handling of industrial coal only. However, it is seen that in proposed Reference Tariff SOR forwarded by the COPT, the Cargo Handling Charges under Schedule 3 proposes tariff for 'Coal handling charges' and does not explicitly specify the coal category as "industrial coal" as envisaged in its proposal.</p> | <p>The port has proposed to handle industrial coal predominantly, but handling of thermal coal cannot be ruled out during the project period of 30 years. Since thermal coal is exempted from coastal concession, the port has prescribed separate tariff schedule for thermal coal and other than thermal coal in the revised proposal. The port has suitably amended Para 2.1 and table under Para 3.4 of the proposal. The amended table under para 3.4 of its revised proposal is given below:</p> <table><tr><th>Sr. No.</th><th>Parameters</th><th>General Cargo Terminal (earlier bid)</th><th>Coal handling project (present bid)</th></tr><tr><td>1</td><td>Commodities to be handled</td><td>Coal and finished fertilizer</td><td>Coal</td></tr><tr><td>2</td><td>Backup Area</td><td>19.38 hectares (17.0 hectares for coal and 2.38 hectares for finished fertilizer)</td><td>14.4 Hectares</td></tr><tr><td>3</td><td>Estimated Project Cost</td><td>₹221.3 Crores</td><td>₹198.2 Crores</td></tr><tr><td>4</td><td>Estimated Optimal Capacity</td><td>9 MTPA (8.5 MTPA and 0.5 MTPA as per Tariff Proposal)</td><td>4.23 MTPA (as estimated in the Feasibility Report.)</td></tr></table> | Sr. No.                                             | Parameters | General Cargo Terminal (earlier bid) | Coal handling project (present bid) | 1 | Commodities to be handled | Coal and finished fertilizer | Coal | 2 | Backup Area | 19.38 hectares (17.0 hectares for coal and 2.38 hectares for finished fertilizer) | 14.4 Hectares | 3 | Estimated Project Cost | ₹221.3 Crores | ₹198.2 Crores | 4 | Estimated Optimal Capacity | 9 MTPA (8.5 MTPA and 0.5 MTPA as per Tariff Proposal) | 4.23 MTPA (as estimated in the Feasibility Report.) |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|------------|--------------------------------------|-------------------------------------|---|---------------------------|------------------------------|------|---|-------------|-----------------------------------------------------------------------------------|---------------|---|------------------------|---------------|---------------|---|----------------------------|-------------------------------------------------------|-----------------------------------------------------|
| Sr. No. | Parameters                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | General Cargo Terminal (earlier bid)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Coal handling project (present bid)                 |            |                                      |                                     |   |                           |                              |      |   |             |                                                                                   |               |   |                        |               |               |   |                            |                                                       |                                                     |
| 1       | Commodities to be handled                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Coal and finished fertilizer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Coal                                                |            |                                      |                                     |   |                           |                              |      |   |             |                                                                                   |               |   |                        |               |               |   |                            |                                                       |                                                     |
| 2       | Backup Area                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 19.38 hectares (17.0 hectares for coal and 2.38 hectares for finished fertilizer)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 14.4 Hectares                                       |            |                                      |                                     |   |                           |                              |      |   |             |                                                                                   |               |   |                        |               |               |   |                            |                                                       |                                                     |
| 3       | Estimated Project Cost                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | ₹221.3 Crores                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | ₹198.2 Crores                                       |            |                                      |                                     |   |                           |                              |      |   |             |                                                                                   |               |   |                        |               |               |   |                            |                                                       |                                                     |
| 4       | Estimated Optimal Capacity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 9 MTPA (8.5 MTPA and 0.5 MTPA as per Tariff Proposal)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 4.23 MTPA (as estimated in the Feasibility Report.) |            |                                      |                                     |   |                           |                              |      |   |             |                                                                                   |               |   |                        |               |               |   |                            |                                                       |                                                     |
| 3.      | <p>The Performance Standards proposed by the port are the Performance Standards of Gross Berth Output for different various categories of coal viz. Coking Coal, Thermal Coal, Non Coking Coal and Coke which was not found in line with the proposal of the port seeking approval of Reference tariff for industrial coal. Further, Performance standard of industrial coal envisaged for the proposed project was not proposed by the port.</p>                                                                                                                                                              | <p>The COPT has specified performance standards for thermal coal and for other types of coal. The COPT has also stated that the types of coal specified in the performance standards other than thermal coal are generally referred to as industrial coal.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                     |            |                                      |                                     |   |                           |                              |      |   |             |                                                                                   |               |   |                        |               |               |   |                            |                                                       |                                                     |

6.1. On scrutiny of the revised proposal filed by the COPT dated 23 September 2013, it was observed that there were still certain gaps in the revised proposal filed by the COPT. The port was, therefore, again vide our letter dated 30 September 2013 requested to address the gaps observed in proposal and modify its revised proposal.

6.2. The COPT has vide its letter dated 3 October 2013 furnished clarification on the points made by us. A summary of gaps observed in our letter dated 30 September 2013 and the reply furnished by COPT vide its letter dated 3 October 2013 is tabulated below:

| Sr. No. | Queries of TAMP                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Reply furnished by COPT                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i).    | <p>The Reference Tariff proposed by the port in the revised proposal dated 23 September 2013 covered two cargo categories viz. "Thermal coal" and "Other than thermal coal". Whereas, the Performance Standards proposed by the port was for four categories of coal viz. coking coal, thermal coal, non-coking coal and coke. The cargo terminology for which the port has proposed Reference Tariff does not exactly match with the four coal cargo items for which Performance Standards are proposed. The port is requested to modify the</p> | <p>Coal other than thermal coal includes the various categories of coal listed in the performance Standards, viz., coking coal, non-coking coal and coke. These types of coal have varying density which is the reason for their varying Performing Standards. Cochin Port has adopted the Performance Standards from the MCA after modifying them according to the project specific parameters. In line with the Performance Standards specified,</p> |

|                                                                    | <p>proposed Reference Tariff Schedule to cover all the cargo items for which the port intends this Authority to notify the Performance Standards.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>the COPT has modified the Reference Tariff Schedule. The cargo handling charge proposed in the revised Reference Tariff Schedule is as under:</p> <table><tr><th colspan="3">Cargo Handling Charges</th></tr><tr><th rowspan="2">Particulars</th><th colspan="2">Rate in ₹ per MT</th></tr><tr><th>Foreign</th><th>Coastal</th></tr><tr><td>Other than Thermal Coal (Coking Coal, non-Coking Coal, Coke, etc.)</td><td>230.90</td><td>138.80</td></tr><tr><td>Thermal Coal</td><td>230.90</td><td>230.90</td></tr></table> <p>The corresponding Performance Standards are also specified below:</p> <table><tr><th>Cargo Category</th><th>Norms</th></tr><tr><td>Other than Thermal Coal</td><td></td></tr><tr><td>Coking Coal</td><td>17,000 TPD</td></tr><tr><td>Non-Coking Coal</td><td>14,000 TPD</td></tr><tr><td>Coke</td><td>6,000 TPD</td></tr><tr><td>Thermal Coal</td><td>17,000 TPD</td></tr></table> | Cargo Handling Charges                                                   |                                                                                |           | Particulars   | Rate in ₹ per MT |         | Foreign       | Coastal       | Other than Thermal Coal (Coking Coal, non-Coking Coal, Coke, etc.) | 230.90        | 138.80        | Thermal Coal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 230.90 | 230.90 | Cargo Category | Norms | Other than Thermal Coal |  | Coking Coal | 17,000 TPD | Non-Coking Coal | 14,000 TPD | Coke | 6,000 TPD | Thermal Coal | 17,000 TPD |
|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------------------|-----------|---------------|------------------|---------|---------------|---------------|--------------------------------------------------------------------|---------------|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------|----------------|-------|-------------------------|--|-------------|------------|-----------------|------------|------|-----------|--------------|------------|
| Cargo Handling Charges                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Particulars                                                        | Rate in ₹ per MT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
|                                                                    | Foreign                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Coastal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Other than Thermal Coal (Coking Coal, non-Coking Coal, Coke, etc.) | 230.90                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 138.80                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Thermal Coal                                                       | 230.90                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 230.90                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Cargo Category                                                     | Norms                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Other than Thermal Coal                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Coking Coal                                                        | 17,000 TPD                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Non-Coking Coal                                                    | 14,000 TPD                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Coke                                                               | 6,000 TPD                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Thermal Coal                                                       | 17,000 TPD                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| (ii).                                                              | <p>Confirm that the cargo items which COPT proposes to include in the Reference Tariff Schedule are covered under the cargo category adopted by the port from the upfront tariff approved by the TAMP (in this case Order No.TAMP/23/2008-MOPT dated 7 August 2008) and are representative of coal cargo envisaged to be handled under this Project.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>The COPT has confirmed that the cargo items proposed to be included in the Reference Tariff Schedule by Cochin Port Trust are covered under the cargo category adopted by Mormugao Port Trust in the upfront tariff Order No.TAMP/23/2008-MOPT dated 7 August 2008.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| (iii).                                                             | <p>Clause 2.2. of the Revised tariff guidelines issued by the Ministry of Shipping on 9 September 2013 requires TAMP to notify the Reference Tariff and the Performance Standards. It is seen that the COPT has adopted upfront tariff approved by the TAMP vide Order No.TAMP/23/2008-MOPT dated 7 August 2008 for coal handling terminal at the MOPT. Though the revised guidelines of 2013 do not require TAMP to go into the Performance Standards proposed by the port it is not found unreasonable to assume that the ports while proposing the Performance Standard will consider reasonable and achievable Performance Standard. In the instant case, as tabulated below, it is seen that the performance standards adopted by the COPT are significantly lower than the ship day output norms prescribed for Coal unloading terminal in the upfront tariff guidelines of 2008 and same which are considered in the MOPT upfront tariff case.</p> <p>A. Ship day out put norms</p> <p>(In Tonnes / day)</p> <table><tr><th>Type of ship</th><th>Ship day output Norms for unloading coal terminal as per 2008 guidelines</th><th>Ship day out put Norms in the MOPT Order No.TAMP/23/2008-MOPT dated 07.08.2008</th></tr><tr><td>Cape size</td><td>50,000 T/ day</td><td>50,000 T/ day</td></tr><tr><td>Panamax</td><td>35,000 T/ day</td><td>35,000 T/ day</td></tr><tr><td>Handy size &amp; Handy max</td><td>15,000 T/ day</td><td>15,000 T/ day</td></tr></table> | Type of ship                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Ship day output Norms for unloading coal terminal as per 2008 guidelines | Ship day out put Norms in the MOPT Order No.TAMP/23/2008-MOPT dated 07.08.2008 | Cape size | 50,000 T/ day | 50,000 T/ day    | Panamax | 35,000 T/ day | 35,000 T/ day | Handy size & Handy max                                             | 15,000 T/ day | 15,000 T/ day | <p>The COPT has adopted the Performance Standards from the MCA after suitably modifying them with respect to the project parameters. In this regard the COPT has stated that the vessel profile for the project at Cochin Port is 90% handymax and 10% panamax whereas in the case of MOPT the vessel profile is 10% cape size, 80% panamax and 10% handymax. The Performance norms for these types of vessels vary a lot and the weighted average productivity of the respective profiles will give the value of 17,000 Tonnes Per Day (TPD) for Cochin Port and 34,500 TPD for MOPT. The COPT has also submitted that the daily productivity of 17,000 TPD at the Cochin Port project is also as per the Feasibility Report for the “Modernization of Coal Handling in Cochin Port”. The daily productivity of the proposed coal terminal had to be modified due to the draft constraints and the consequent limitations in bringing bigger parcels of Coal where achieving higher productivity is not possible. Furthermore, the profile of the users of the terminal is small and varied without any dedicated significant demand from any single user which also is a reason for lower parcel sizes.</p> |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Type of ship                                                       | Ship day output Norms for unloading coal terminal as per 2008 guidelines                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Ship day out put Norms in the MOPT Order No.TAMP/23/2008-MOPT dated 07.08.2008                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Cape size                                                          | 50,000 T/ day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 50,000 T/ day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Panamax                                                            | 35,000 T/ day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 35,000 T/ day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |
| Handy size & Handy max                                             | 15,000 T/ day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 15,000 T/ day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                          |                                                                                |           |               |                  |         |               |               |                                                                    |               |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |        |        |                |       |                         |  |             |            |                 |            |      |           |              |            |

| <p>B. Performance Standards proposed by the COPT in the current proposal:</p> <table border="1"> <thead> <tr> <th>Cargo Category</th><th>Norms</th></tr> </thead> <tbody> <tr> <td>Coking coal</td><td>17,000 T/ day</td></tr> <tr> <td>Thermal coal</td><td>17,000 T/ day</td></tr> <tr> <td>Non coking coal</td><td>14,000 T/ day</td></tr> <tr> <td>Coke</td><td>6,000 T/ day</td></tr> </tbody> </table> <p>Keeping in view the position that as per clause 2.9. of the revised guidelines of 2013, the BOT operator has the option to seek 15% hike in the tariff linked to achievement of Performance, the COPT to examine whether the performance Standards proposed by the port need to be relooked and improved upon.</p> |               | Cargo Category | Norms | Coking coal | 17,000 T/ day | Thermal coal | 17,000 T/ day | Non coking coal | 14,000 T/ day | Coke | 6,000 T/ day |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------|-------|-------------|---------------|--------------|---------------|-----------------|---------------|------|--------------|
| Cargo Category                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Norms         |                |       |             |               |              |               |                 |               |      |              |
| Coking coal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 17,000 T/ day |                |       |             |               |              |               |                 |               |      |              |
| Thermal coal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 17,000 T/ day |                |       |             |               |              |               |                 |               |      |              |
| Non coking coal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 14,000 T/ day |                |       |             |               |              |               |                 |               |      |              |
| Coke                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 6,000 T/ day  |                |       |             |               |              |               |                 |               |      |              |

6.3. The COPT, in its letter dated 3 October 2013 has proposed modification in the Reference Tariff Schedule and Performance Standards based on the clarification furnished by the port in its letter dated 3 October 2013.

6.4. The main modification carried out by COPT in the revised Reference Tariff Schedule and Performance Standards filed by the port vide its letter dated 3 October 2013 are highlighted below:

- (i). The port in the final revised proposal dated 3 October 2013 has proposed Reference Tariff for Cargo Handling Charges under two cargo categories viz., 'Thermal Coal' and 'Other than Thermal Coal (Coking Coal, non-Coking Coal, Coke, etc.)'. The port has listed the coal cargoes covered under 'other than Thermal Coal' in the Reference Tariff Schedule duly matching the cargo items for which port has proposed Performance Standards.
- (ii). The port has proposed Performance Standards also for the two cargo categories viz., 'Thermal Coal' and 'Other than Thermal Coal'. Under the cargo category 'Other than Thermal Coal', the port has proposed Performance Standards for each cargo viz. Coking Coal, Non-Coking Coal and Coke. The port has also explained the basis adopted for the proposed Performance Standards in its letter dated 3 October 2013 while addressing the queries raised.

7.1. Subsequently, the COPT vide its letter dated 7 October 2013 has requested to approve the Reference Tariff proposal proposed by the port based on the clarifications furnished vide its letter dated 3 October 2013. It has also clarified that the project envisages to give the existing berth to the BOT operator to handle the cargo and hence, berth hire will continue to accrue to the Port.

7.2. The COPT has subsequently vide its letter dated 14 October 2013 stated that note under Schedule 3 - Cargo handling charges may be replaced with note prescribed in the upfront tariff Order of Mormugao Port Trust except for modification in free period proposed by COPT as 25 days instead of 15 days in the MOPT Order. The COPT has justified that a free period of 25 days of storage is proposed by the port considering slower evacuation of coal from COPT for the following reasons as against 15 days free period prescribed in the MOPT upfront tariff Order:

- (i). The landward destinations of imported coal are at a greater distance varying between 200 Kms to 300 Kms compelling longer turnarounds of evacuating vehicles/ rakes.
- (ii). The rail transit time is enhanced due to a change over from diesel loco to electric traction necessitated since the final rail stretch of 8 Kms from Ernakulam Jn to port is not electrified and there is no feasibility of electrification in future due to the proximity of the rail line with the Naval air station runway. Further the 100 Kms



Northward stretch of rail line between Ernakulam Jn and Shornur is one of the most saturated in the Southern railway compelling slower movement of rakes.

- (iii). The consumption pattern of the customer segment indicates movement in comparatively lower quantities.

In view of the facts mentioned above, COPT has proposed 25 days as free period as against 15 days free period prescribed in the Mormugao Port Trust tariff order.

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

- (i). This Authority has passed an Order No.TAMP/74/2012-COPT dated 15 February 2013 fixing upfront tariff for commodities coal and finished fertilizer for the General Cargo Terminal Project to be developed at COPT on PPP model, based on 2008 guidelines for upfront tariff setting for PPP Projects at Major Port Trusts. This Order has been notified in the Gazette of India vide Notification No.105 dated 9 April 2013.
- (ii). As already brought out in the earlier paragraphs, there were few gaps and inconsistency observed in the COPT proposal dated 29 August 2013 as well as in the subsequent revised proposal dated 23 September 2013. The cargo items mentioned by the port in the covering note of both these proposals did not match with the cargo items for which port had proposed Reference Tariff. Moreover, the cargo items proposed in the Reference Tariff schedule also did not match the cargo items for which port had proposed Performance Standards. In view of the gaps observed, these proposals filed by the port could not be taken up for processing and hence were returned to the port with an advice to file revised proposal. The COPT has promptly filed the revised proposal dated 3 October 2013 furnishing clarification on the points raised by us and has requested us to consider the modified Reference Tariff rates and modified Performance Standards for notification of Reference tariff for its Coal Terminal project. The COPT has also subsequently vide its letter dated 14 October 2013 proposed to modify a note under Schedule 3 – Cargo Handling Charges. Accordingly, the revised Reference tariff and Performance Standards proposed by COPT vide its letter dated 3 October 2013 along with other information furnished during the processing of this case is taken up for consideration in this analysis.
- (iii). It is relevant here to mention that despite having an upfront tariff fixed for coal handling for its own port, the COPT has proposed to adopt the upfront tariff notified by this Authority for Mormugao Port Trust (MOPT) after applying the applicable indexation factor as the Reference Tariff for its proposed Coal Terminal project at COPT. The upfront tariff of MOPT for coal terminal proposed to be adopted by COPT was notified by this Authority vide Order dated 20 August 2008.
- (iv). Clause 2.2. of the Revised Tariff Guidelines of 2013 provides for, *inter alia*, that in case no tariff has been fixed for a commodity at a Major Port Trust or if the highest tariff fixed for a particular commodity in the concerned Major Port Trust does not represent the project proposed to be developed, then concerned Major Port Trust can propose to this Authority any other tariff fixed under 2008 tariff guidelines in any other Major Port Trust, which is representative enough for that commodity giving detailed and sufficient justification.
- (v). (a). As brought out earlier, upfront tariff has been fixed vide Order No.TAMP/74/2012-COPT dated 15 February 2013 for handling coal handling at General Cargo Terminal at COPT under 2008 guidelines for fixation of upfront tariff. However, the COPT has chosen to adopt the upfront tariff fixed for a facility at another port i.e., the coal terminal at MOPT.

- (b). The port has furnished the following three main reasons for the COPT's decision to adopt the upfront tariff fixed for the facility at MOPT though the upfront tariff for coal handling is fixed for its own port:
- (i). The port has tested the earlier project in the market and invited bids in March 2013 based on the upfront tariff approved by this Authority in February 2013, but, did not receive any bids for the General Cargo Terminal project. After study and consultation with the shortlisted Bidders, the port has understood that one of the reasons for not receiving any bids was lower upfront tariff approved for coal handling in the tariff Order No.TAMP/74/2012-COPT dated 15 February 2013.
  - (ii). The feasibility report for the General Cargo Terminal Project has thereafter been reviewed and the technical and other parameters have also been modified. The technical parameters adopted for the project now envisaged are different as compared to the earlier project of general cargo terminal.
  - (iii). The present proposal envisages only 'Coal handling' instead of coal and fertilizer envisaged in the earlier project for which upfront tariff is determined.
- (c). Citing the above reasons, the COPT has submitted that the upfront tariff fixed at its port in February 2013 for the General Cargo Terminal does not represent the project now proposed to be developed at the COPT. Moreover, the cargo categories have also undergone change. In the reformulated project now proposed, the port envisages the operator to handle only coal as against the earlier project which included coal and fertilizer.

The port has clarified that New Mangalore Port (NMPT) could be considered as nearest to COPT but no upfront tariff rates are prescribed for coal handling at NMPT. The port has furnished the summary position of upfront tariff Orders approved by this Authority for coal terminals at the two ports viz. V.O. Chidambaranar Port Trust and Mormugao Port Trust which is brought out in the para 2.2.(vii)(b) giving details of the tariff approved for cargo, capital cost, optimal capacity, and relevance with reference to the proposed project. Based on the comparative position, the port has stated that the Orders for MOPT passed on 20 August 2008 and for VOCPT on 30 August 2010 both prescribe upfront tariff for thermal coal and other (industrial) coal. The COPT has stated that while both these tariff Orders of VOCPT and MOPT are relevant, the capacity and capital cost for MOPT Project is closer to the proposed project. Hence, the COPT has adopted upfront tariff rates for 'Other than Thermal Coal' approved by this Authority vide Order No.TAMP/23/2008-MOPT dated 7 August 2008 and notified on 20 August 2008 for coal handling facilities at MOPT for the proposed project.

As per Clause 2.2 of the revised tariff guidelines, if the highest tariff fixed for a particular commodity in the concerned Major Port Trust does not represent the project proposed to be developed, then concerned Major Port Trust can propose to TAMP any other tariff fixed under 2008 Tariff guidelines in any other Major Port Trust which is representative enough for that commodity giving detailed and sufficient justification. The COPT has furnished the detailed justification for adopting the upfront tariff approved in August 2008 for coal terminal at MOPT. Relying on the detailed justification furnished by the COPT, this Authority is inclined to consider the proposal of COPT for adopting upfront tariff notified for coal handling at MOPT.

- (vi). (a). The Revised Guidelines of 2013 stipulate that while adopting the Reference tariff, the tariff set under the Tariff Guidelines, 2008 shall be escalated to the extent of 60% of WPI per annum, as provided in the said guidelines for the period between 1<sup>st</sup> January of the year as prescribed in the relevant tariff order of this Authority under 2008 guidelines and 1<sup>st</sup> January of the subsequent relevant year when the Reference Tariff for the particular project in question is being notified.
- (b). The upfront tariff for the MOPT coal terminal, which forms the basis for Reference tariff of coal terminal at COPT, was notified in August 2008. In the upfront tariff schedule for coal terminal approved for MOPT Order vide dated 7 August 2008, Schedule 5 - General note to Schedule (2) to (4) states that the base year of Wholesale Price Index (WPI) for indexation in the upfront tariff rates approved in the said Order will be 1 January 2008. Therefore, in the instant case of COPT, the upfront tariff fixed for MOPT coal terminal has been indexed with reference to the indexation factor occurring between the year 2008 and the year 2013.
- (vii). The COPT has applied the indexation factor of 26.15% on the tariff caps approved for the coal terminal at MOPT vide Order dated 7 August 2008. This indexation factor is seen to be in line with the indexation factor communicated by us to all the Major Port Trusts vide our letter No.TAMP/12/2009-Misc dated 2 April 2013, to be applicable for tariff with base WPI as on 1 January 2008. The indexed Reference tariff determined by COPT, is found to be in order subject to minor corrections arising on account of rounding off of the rates. Such corrections are carried out.
- (viii). The upfront tariff approved for coal terminal at MOPT prescribes handling rate for two cargo items viz. "Thermal coal" and "other than thermal coal". It is relevant here to state that in the original proposal dated 29 August 2013, the COPT had proposed Reference Tariff for coal handling adopting upfront tariff for the "other than thermal coal" approved in MOPT upfront tariff Order of August 2008, stating that the project envisages to handle only industrial coal and that thermal coal is not likely to be handled. Subsequently, considering the long horizon of 30 years project period, the COPT has proposed to include Reference Tariff for thermal coal also adopting the upfront tariff for thermal coal approved for coal terminal at MOPT. The COPT, however, envisages the terminal to predominantly handle industrial coal.

The port has clarified that the various categories of coal viz., coking coal, non-coking coal and coke for which port has proposed Performance Standards are generally referred as industrial coal. In the revised proposal dated 3 October 2013, the port has listed the cargo items covered under the category "other than thermal coal" viz. coking coal, non-coking coal and coke. It is relevant to state here that the upfront tariff Order approved for MOPT coal terminal only prescribes the cargo description as "other than thermal coal" as proposed by the MOPT. It does not list the cargo items covered therein. The COPT has confirmed that the cargo items listed in its revised proposal dated 3 October 2013 under "other than thermal coal" are covered under the cargo category "other than thermal coal" in the MOPT Order No.TAMP/23/2008-MOPT dated 7 August 2008 which has been adopted by the COPT in the instant case.

In view of the above clarification furnished by the COPT and also recognizing that the proposal of the COPT to list cargo items under "other than thermal coal" viz. coking coal, non-coking coal and coke is to bring in more clarity and brings uniformity in the cargo description in the Reference Tariff schedule and the performance standards, the proposal of the COPT to list cargo items in the Reference Tariff Schedule under "other than thermal coal" is approved.

- (ix). The COPT has proposed to include definition of “Day” in Schedule 1 for Definitions – General, in Reference Tariff Schedule. In the upfront tariff schedule of MOPT the term “per day” is defined as calendar day unless otherwise stated. The COPT has proposed to define “Day” as ‘the period of 24 hours starting from 06.00 hrs. of a day and ending at 06.00 hrs. on the following day.’ Recognizing that the definition of “day” proposed by the COPT is in line with the definition of “day” prescribed in the Scale of Rates of COPT and was also prescribed in the case of Upfront tariff Order relating to the COPT General Cargo Terminal to handle coal and finished fertilizer, the proposed definition is approved and included in the Reference Tariff Schedule.
- (x). (a). The COPT has also proposed to introduce two conditionalities each under Schedule 2 - General Terms and Conditions at Sr. No.(D.) and (E). The conditionalities relate to minimum recovery of ₹100 in any one application/ bill and the other relates to no claim or refund to be entertained unless the amount refundable or the additional claim is less than ₹100/-. Recognizing that these conditionalities are in line with the conditionalities prescribed in the Scale of Rates of COPT and were also prescribed in the earlier Upfront tariff Order relating to the COPT General Cargo Terminal to handle coal and finished fertilizer, the proposed conditions are approved and included in the Reference Tariff Schedule.
- (b). The port has under Schedule 4 - Storage charge proposed to include general conditionalities stating that for the purpose of the calculation of free period, Customs notified holidays and terminal’s non-working days shall be excluded. The other conditionality states that free period for import cargo shall be reckoned from the day following the day of completion of final discharge from the vessel. Recognizing that these conditionalities are general conditions governing storage charge and are in line with the conditionalities already prescribed in the Scale of Rates of COPT and also prescribed in the Upfront tariff Order of February 2013 relating to the COPT General Cargo Terminal to handle coal and finished fertilizer, the proposed conditions is approved and included in the Reference Tariff Schedule.
- (xi). The upfront tariff Order relating to coal terminal at MOPT prescribes berth hire charge because the said project envisaged the PPP operator to construct the berth as well. In the instant proposal the COPT has also clarified that the project envisages the port to give the existing berth to the BOT operator to handle the cargo and hence, berth hire will accrue to the Port. Hence the COPT has rightly not included the berth hire charge in the Reference tariff Schedule. The definitions of “foreign vessel” and ‘coastal vessel’ and the general conditions relating to determination of status of vessel for levy of berth hire, concession to coastal vessel in the vessel related charges prescribed in the upfront tariff schedule of the MOPT are also rightly not included in the proposed Reference Tariff schedule.
- (xii). Clause 2.15. stipulated in the tariff guidelines of 2005 states that users should not be required to pay charges for delays beyond reasonable level attributable to the operator. This condition is uniformly prescribed in the Scale of Rates of all Major Port Trusts under 2005 guidelines, 2008 guidelines as well as 2013 guidelines. Flowing from the principle prescribed in the above clause a general condition is also prescribed in the Scale of Rates of Private Terminal operators where berth hire is not collected by the operator stating that in case a vessel idles due to breakdown or non-availability of the shore based facilities of Terminal Operator or any other reasons attributable to Terminal Operator, rebate equivalent to berth hire charges payable to the concerned Major Port Trust accrued during the period of idling of vessel shall be allowed by Terminal Operator. This general condition is prescribed in the upfront tariff Order of New Mangalore Port Trust for iron ore handling, Mumbai Port Trust for handling conventional cargo and V.O. Chidambarnar Port Trust for container terminal. Since this is general condition

prescribed from the principle prescribed in the 2005 guidelines and is prescribed in the above upfront tariff Orders, this Authority is inclined to include it in the Reference Tariff Schedule for coal terminal at COPT as well.

- (xiii). The note under Schedule 3 Cargo handling Charge lists out the service included in the composite handling rate. The note proposed by COPT under this schedule in its earlier proposal was not in line with the prescription in the MOPT upfront tariff Order. The COPT has subsequently vide its letter dated 14 October 2013 proposed to retain the note under Schedule 3 Cargo handling charge as prescribed in the upfront tariff schedule of MOPT Order dated 7 August 2008 except for modification in the number of free days. The port has proposed the free period of 25 days as against free period of 15 days prescribed in the MOPT Order in the said note.

It is relevant here to mention that the Kolkata Port Trust (KOPT) in its proposal for fixation of Reference Tariff for container terminal had proposed to reduce the free period of the transshipment containers from 30 days prescribed in upfront tariff Order for Visakhapatnam Port Trust (VPT) Container Terminal to 10 days. Since the proposal of KOPT was not supported with any justification, this Authority was not inclined to approve the reduction in the free period proposed by the KOPT vis-à-vis the prescription in the upfront tariff Order of Visakhapatnam Port Trust adopted by the KOPT.

In the instant case, the COPT has proposed to increase the free period of 15 days included in the composite rate of the MOPT upfront tariff Order adopted by the port to 25 days. The port has explained that the evacuation of cargo at its port is expected to be slow in comparison to MOPT on account of reasons cited by the port viz., greater land distance, limitation in the railway side facility and lower consumption pattern of consumer. It has, therefore, proposed to increase the free period from 15 days to 25 days. In view of the justification furnished by the COPT for deviating from the MOPT upfront tariff Order on this point and recognizing that it is the users who will get benefit of increased storage period, the modification proposed in the said note is accepted.

- (xiv). The COPT, in its modified proposal, has proposed Performance Standards for 'Thermal Coal' at 17000 tonnes / day and for three cargo-categories viz., Coking Coal, Non-Coking Coal and Coke under 'Other than Thermal Coal' at 17000 tonnes / day, 14000 tonnes / day and 6000 tonnes / day respectively. The cargo items for which Performance Standards are proposed match with the cargo description proposed in the Reference tariff schedule.

Clause 2.2. of the Revised tariff guidelines issued by the Ministry of Shipping on 9 September 2013 requires this Authority to notify the Reference Tariff and the Performance Standards. Though the revised guidelines of 2013 do not require this Authority to go into the Performance Standards proposed by the port it is not found unreasonable to assume that the ports while proposing the Performance Standard will consider reasonable and achievable Performance Standard. In the instant case, it was seen that the performance standards adopted by the COPT are significantly lower than the ship day output norms of 50,000 tonnes/ day for cape size vessel, 35,000 tonnes/ day for panamax and 15,000 tonnes/ day for handy max vessel prescribed for Coal unloading terminal in the upfront tariff guidelines of 2008 which were also considered for arriving at the optimal quay capacity in the upfront tariff Order of the MOPT. In fact, the ship output norms proposed by COPT for coal handling in its upfront tariff proposal was 38,143 tonnes/ day which was updated to 39,233 tonnes/ day by this Authority for reasons stated in the upfront tariff Order earlier approved in February 2013. Keeping in view the position that as per clause 2.9. of the revised guidelines of 2013, the BOT operator has the option to seek 15% hike in the tariff linked to achievement of Performance, the COPT was requested to examine whether the performance Standards proposed by the port need to be relooked and improved

upon. In this regard, the COPT has clarified that it has adopted the Performance Standards from the Model Concession Agreement (MCA) after suitably modifying them with respect to the project parameters. The COPT has stated that the vessel profile for the project at Cochin Port is 90% handymax and 10% panamax whereas in the case of MOPT the vessel profile is 10% cape size, 80% panamax and 10% handymax. The Performance norms for these types of vessels vary a lot and the weighted average productivity of the respective profiles will give the value of 17,000 Tonnes Per Day (TPD) for Cochin Port and 34,500 TPD for MOPT. The COPT has also submitted that the daily productivity of 17,000 TPD at the Cochin Port project is also as per the Feasibility Report for the "Modernization of Coal Handling in Cochin Port". The port has further submitted that due to the draft constraints and the consequent limitations in bringing bigger parcels of Coal it is not possible to achieve higher productivity at its port. Furthermore, the profile of the users of the terminal is small and varied without any dedicated significant demand from any single user which also is a reason for lower parcel sizes.

It is observed that the Performance Standards proposed by COPT in the current proposal is significantly lower than its earlier proposal for coal terminal for which upfront tariff was determined under 2008 guidelines and is also lower than the ship day output norms considered at MOPT based on the output norms prescribed in 2008 guidelines. However, relying on the justification furnished by COPT for adopting scaled down Performance parameters in its proposal which is reportedly stated to be based on the norms indicated in the MCA with suitable adjustment for the proposed project and which is stated also to be based on the feasibility report conducted by the port and also recognizing that clause 2.2. of the revised guidelines of 2013 requires this Authority to notify the Performance Standards based on the proposal of the port, the Performance Standards as proposed by the port is notified along with the Reference Tariff Schedule.

9.1. Subject to above, the Reference Tariff Schedule along with conditionalities governing the Reference Tariff has been modified.

9.2. The modified Reference Tariff Schedule is attached as **Annex - I** and the Performance Standards for the coal terminal at COPT as proposed by the COPT is attached as **Annex - II**.

9.3. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the modified Reference Tariff Schedule and the Performance Standards for the coal terminal at COPT.

9.4. As per clause 2.5 of the Revised Tariff Guidelines 2013, the Reference Tariff and Performance Standards notified by this Authority shall be mentioned in the bid document and subsequently in the Concession Agreement in respect of PPP Projects. Accordingly, the COPT is advised to incorporate the Reference Tariff and Performance Standards approved by this Authority, in the bid document and subsequently in the Concession Agreement in respect of PPP Projects as agreed by the port.

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

**COCHIN PORT TRUST**

**REFERENCE TARIFF SCHEDULE FOR COAL HANDLING**

**1. Definitions – General**

In this Scale of Rates, unless context otherwise requires, the following definitions shall apply:

- (i). “**Day**” shall mean the period of 24 hours starting from 06.00 hrs. of a day and ending at 06.00 hrs. on the following day.

**2. General Terms and Conditions:**

- (i). Interest on delayed payments / refunds.
  - (a). The User shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the terminal operator shall pay penal interest on delayed refunds.
  - (b). The rate of penal interest will be 2% above the Prime Lending Rate of the State Bank of India.
  - (c). The delay in refunds will be counted only 20 days from the date of completion of services or on production of all the documents required from the Users, whichever is later.
  - (d). The delay in payment by the users will be counted only 10 days after the date of raising the bills by the Terminal Operator. This provision shall, however, not apply to the cases where payment is to be made before availing the services where payment of charges in advance is prescribed as a condition in this Scale of Rates.
- (ii). All charges worked out shall be rounded off to the next higher rupee on the grand total of the bill.
- (iii).
  - (a). The rates prescribed in the Scale of Rates are ceiling levels, likewise, rebates and discounts are floor levels. The operator may, if they so desire, charge lower rates and/or allow higher rebates and discounts.
  - (b). The operator may also, if he so desire, rationalize the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalization gives relief to the users in the rate per unit and the unit rates prescribed in the Scale of Rates does not exceed the ceiling level.
  - (c). The operator should notify the public such lower rates and/ or rationalization of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rate notified by the TAMP.
- (iv). Users will not be required to pay charges for delays beyond reasonable level attributable to the operator.

- (v). In case a vessel idles due to breakdown or non-availability of the shore based facilities of the operator or any other reasons attributable to operator, rebate equivalent to berth hire charges payable to the Cochin Port Trust accrued during the period of idling of vessel shall be allowed by the operator.
- (vi). The minimum charge recovered in any one application / bill shall be rupees hundred only (₹100).
- (vii). No claim for refund shall be entertained unless the amount refundable is ₹100/- or more. Likewise, terminal operator shall not raise any supplementary or under charge bills, if the amount due to the operator is less than ₹100/-.

### 3. Cargo Handling Charges

| Particulars             | Rate in ₹ per metric tonne |         |
|-------------------------|----------------------------|---------|
|                         | Foreign                    | Coastal |
| Other than Thermal coal | 230.85                     | 138.77  |
| Thermal coal            | 230.85                     | 230.85  |

The handling charges prescribed above is a composite charge for unloading of the cargo from the vessel and transfer of the same up to the point of storage, storage at the stack yard up to a free period of 25 days reclaiming from stack yard and loading on to trucks/ railway wagon, sweeping of cargo on the wharf, dust suppression services and all other miscellaneous services provided.

### 4. Storage Charges

The storage charge for the coal stored in the yard beyond a free period of 25 days, applicable from the day following the date of completion of unloading, shall be as below:

| Description                                     | Rate in ₹ per MT per Day or part thereof |
|-------------------------------------------------|------------------------------------------|
| Free period                                     | 25 days                                  |
| First five days after expiry of free period     | 15.14                                    |
| 6th day to 10th day after expiry of free period | 30.28                                    |
| From 11 <sup>th</sup> day onwards               | 60.55                                    |

#### Notes:

- (i). For the purpose of calculation of free period, Customs notified holidays and Terminal's non-working days shall be excluded.
- (ii). Free period for import cargo shall be reckoned from the day following the day of completion of final discharge from the vessel.
- (iii). Storage charges on cargo shall not accrue for the period when the Terminal Operator is not in a position to deliver the cargo when requested by the User due to reasons attributable to the Terminal operator.
- (iv). Storage charges shall be payable for all days including Terminal's non- working days and Customs notified holidays for stay of cargo beyond the prescribed free days.

### 5. General Note To Schedule (3) & (4) above:

The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2013 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.

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## Performance Standards

## 1. Gross Berth Output

The parameter deals with the productivity of the terminal (Gross Berth Output) for Coal. In case of dry and break-bulk cargo, the capability of the terminal (mechanization, method of handling) and parcel size will determine the Gross Berth Output. Higher terminal capability and greater parcel size will lead to high productivity.

The Gross Berth Output shall be calculated as the total cargo handled from the ship during a month divided by the time spent by the ship at the terminal expressed in number of working days of ships in that month at that terminal. While determining the number of working days from the ship hours, the berth allowance of 5 (five) hours shall be subtracted from the total hours.

The norms for Gross Berth Output for different categories of cargo are as follows:

| Cargo Category          | Norms        |
|-------------------------|--------------|
| Other than Thermal Coal |              |
| Coking Coal             | 17,000 T/day |
| Non Coking Coal         | 14,000 T/day |
| Coke                    | 6,000 T/day  |
| Thermal Coal            | 17,000 T/day |

## 2. Transit Storage Dwell Time:

## (i) Bulk Cargo

The Transit Storage Dwell Time for coal/coke shall be calculated, as half of average parcel size of above cargo vessels in a month divided by average disposal of cargo from the port per day as per the following methodology:

$$\text{Average disposal of Cargo per day (A)} = \frac{\text{OB} + \text{Received/Despatched} - \text{CB}}{\text{No. of days}}$$

OB = Opening Balance, CB = Closing Balance.

$$\text{Average Parcel Sizes (B)} = \frac{P_1 + P_2 + \dots + P_n}{n(\text{no. of parcels})}$$

P<sub>1</sub>, P<sub>2</sub> ..... P<sub>n</sub> are parcel size of each vessel in a month.

$$\text{Transit Storage Time for Bulk Cargo} = 0.5(B/A)$$

**Transit Storage Dwell Time- Import**

(i) Coal/Coke (at stackyard) 30 days on completion of vessel

## 3. Turn around Time for receipt/delivery operation:

The Turn around Time for receipt/delivery operation shall be the sum of time taken for loading/unloading of cargo divided by the number of trucks/trailers/rakes deployed, as the case may be, in a month. Further, in case the truck/trailer/rake does both unloading and loading operations on a single entry into the terminal, the time allocated shall be doubled for those trucks/trailers/rakes.

- |                                  |         |
|----------------------------------|---------|
| a. (i). Truck (Single operation) | 4 Hours |
| (ii). Truck (Double operation)   | 8 Hours |
| b. (i). Rake (single operation)  | 10 hrs  |
| (ii). Rake (double operation)    | 18 hrs  |

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