

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

TARIFF AUTHORITY FOR MAJOR PORTS

GNo.213

New Delhi,

30 December, 2008

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Cochin Port Trust for fixation of vessel related charges and wharfage for the operations at the Single Point Mooring at the Cochin Port as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/32/2007-COPT

Cochin Port Trust

Applicant

ORDER

(Passed on this 17th day of December 2008)

This case relates to the proposal received from the Cochin Port Trust (COPT) for fixation of vessel related charges and wharfage for Single Point Mooring (SPM) operations at the Cochin Port.

2.1. The COPT has mentioned in the proposal that the Kochi Refinery of the Bharat Petroleum Corporation Limited (BPCL-KRL) had decided in 2003 to install a Single Point Mooring (SPM) in the COPT. It has, accordingly, entered into Memorandum of Understanding (MOU) with COPT on 11 June 2003.

2.2. Some of the relevant terms and conditions of the MOU entered between the COPT and the BPCL-KRL are highlighted below:

- (i). Unloading of the crude oil from the SPM to the refinery through the Shore Tank Farm (STF) will attract wharfage payable to COPT at the rate of Rs.25/- (Rupees Twenty Five only) per metric tonne of crude oil pumped based on the actual receipt quantity at the Refinery tanks as per the prevailing wharfage assessment practice in vogue. COPT shall consider a downward revision in the rate of Rs.25/- per metric tonne upon the annual throughput through SPM exceeding 9.0 MMT.
- (ii). Way leave charges for drawing cross country pipelines from the Shore Tank Farm (STF) and running through the Port limits shall be payable every year as per the Scale of Rates approved by the Tariff Authority for Major Ports / empowered authorities which shall not exceed Rs.7 lakhs per annum.
- (iii). The pull back operation of the tankers at SPM will be carried out using tugs supplied by COPT and the charges for which is payable by the tankers.
- (iv). Vessel related charges like pilotage fees, port dues, towage and other miscellaneous charges for handling the tankers at SPM shall be levied by COPT based on the prevailing principle of tariff fixation and as approved by the Tariff Authority for Major Ports or such empowered authorities and or revised from time to time.

2.3. The port has submitted that the SPM operations are taking place for the first time in its port and hence data for calculation of the rates are gathered based on the actual cost, data given by the BPCL-KRL and information collected from the other SPM operators in the country.

2.4. The highlights of the proposal are given below:

- (i). (a). The SPM site at Cochin Port is situated 19 kms away from the coastline where wave action and high swell makes ship handling very difficult. Unlike approaching a rigid berth inside the harbour, the vessel has to approach the SPM, which rotates with the tide, encountering drift and set due to wind and current. Aligning of the vessel is difficult and risky.
- (b). As per the general practice at all the SPMS, two highly skilled and experienced pilots are required for berthing/un-berthing because of the size of the vessels. Even after berthing, one pilot has to stay on board the ship throughout the operations for safety reasons.

- (c). During the monsoon, the swell rises upto 4 metres when SPM operations becomes highly risky. Further, the pilot has to travel a very long distance beyond fairway buoy in the open Arabian Sea to the board the vessel in open sea which is also highly risky and requires extra skill and experience.
- (ii). The existing tugs are not suitable and sufficient to cater to the requirements for handling vessels at the SPM. The port has, therefore, hired two tugs of 50 Tons Bollard Pull each at Rs.1,36,000/- per day excluding fuel, lubricating oil and fresh water. Accordingly, the port has considered the hire charges of tugs, fuel cost, overheads and other related costs are considered for arriving at the proposed tariff for pilotage charge and pull back charges for the operations at the SPM.
- (iii). A total of Rs.12 crores is estimated for installation of Vessel Traffic Management System (VTMS) while revising the Scale of Rates of COPT. Of this Rs.4 crores i.e. one-third is considered for SPM operations. Accordingly, it has considered one-third of total depreciation and interest cost thereon on VTMS while arriving at the rate for pilotage fee.
- (iv). The port has furnished calculation for arriving at the proposed rate for pilotage and pull back operation.

2.5. To summarise, the COPT has sought approval for the following charges for operations at the SPM:

(i). **Vessel Related Charges:**

(a). Port Dues for vessels calling at SPM:

Proposed at the existing tariff level applicable to crude oil tanker:

No.	Type of vessel	Rate per GRT	
		Coastal (in Rs.)	Foreign (in US \$)
1.	Crude Oil Tanker	7.20	0.269
	Frequency of payment in respect of same vessel	Once in 30 days	Every entry

(b). Pilotage fee for vessels handled at SPM:

Particulars	Rate per GRT	
	Coastal (in Rs.)	Foreign (in US\$)
Berthing / Un-berthing - Per GRT	18	0.7498

(c). Pull back Charges:

Particulars	Per Tug hour	
	Coastal (in Rs.)	Foreign (in US \$)
Pull back charges - Per tug hour (rounded off)	41000	1708.33

(ii). **Wharfage Rate:**

As per mutual agreement between BPCL-KRL and the COPT, the wharfage rate is proposed at Rs.25 per ton.

(The wharfage rate prescribed in the existing SOR for crude oil / POL is Rs.65 PMT.)

3.1. Subsequently, the COPT has submitted that the vessels berthed at SPM are frequently moved to outer anchorage and back due to various reasons and some of them are also moved to the berths of COPT for cargo back loading operations. Prior to commissioning of SPM, such movements of vessels were not taking place in the port and hence no rate was proposed in the earlier proposal submitted to TAMP.

3.2. It has, therefore, proposed to incorporate the following tariff provisions for the various movements of vessels.

- (i). If a vessel is shifted at SPM, after its initial berthing at SPM, 25% of the SPM pilotage may be charged for each shifting.
- (ii). In case a vessel is moved to Cochin Oil Terminal (COT) or any other berths of the port and from there it is sailed out, it should be treated as a fresh entry / exit and the pilotage as per the existing Scale of Rates of port will be charged.

3.3. The COPT has also sought permission to levy the proposed shifting charge on adhoc basis till fixation of final rates. The COPT has stated that the proposed provisions may be approved till the revision of the existing Scale of Rates which is due to expire on 31 March 2009. It has agreed to proposed separate rates for these movements of vessels while formulating the general revision proposal of the port.

4. In accordance with the consultative procedure prescribed, the COPT proposal was forwarded to the BPCL-KRL seeking their comments as it is reportedly the only concerned user in this case. The comments received from the BPCL-KRL were forwarded to COPT as feedback information. The COPT has furnished its remarks on the comments of BPCL-KRL.

5. While acknowledging the proposal, the COPT was requested to furnish information/clarifications on various points. The COPT has furnished the required information. Since there was few gaps in the information furnished, the COPT was requested to furnish additional information. The COPT has furnished the additional information. A summary of the queries raised by us and the replies furnished by the COPT is tabulated below:

Sl. No.	Queries raised by us	Reply furnished by COPT
(i).	(a). A copy of the agreement entered by the COPT for hiring of two tugs of 50 tons Bollard Pull may be furnished to substantiate estimates of hire charges of tugs.	It had invited tenders for hire of 2 tugs for use at SPM project, the lowest rate quoted by the two parties were Rs.135000/- and Rs.136080/- excluding taxes and duties, fuel charges etc. Subsequently on negotiation, both the rates were fixed at Rs.135000 excluding taxes and duties, fuel charges etc. The port has subsequently forwarded a copy of a Letter of Acceptance (LOA) issued by the COPT to the concerned contractor dated 7 July 2007 to substantiate its claim. Since the proposal was formulated in May 2007, the hire charges of tug for the purpose of calculations were taken as Rs.136000 per day.
	(b). Since no clause for escalation in hire charges of tugs is mentioned in the documentary support furnished namely Letter of Acceptance to the contractors, the port was requested to modify the expenditure based on the likely expenditure to be incurred.	Since there is no provision for escalation in the tug hire charges during the hire period, no modification is required in the proposal.
(ii).	Explain the basis of arriving at the fuel consumption of 150 litres per hour per tug and justify the same with the actual consumption of fuel by similar capacity	It has been verbally verified with sources where similar tugs are deployed for SPM operations like Reliance, Jamnagar etc. and it has been given to understand that the average fuel consumption varies

	tug deployed at other ports for SPM operations.	from 120 to 150 litres per hour. Hence, the fuel consumption for calculation purpose is taken as 150 litres per hour.
(iii).	(a). Explain the basis of estimating overheads at 10% of tug hire charges. Also, explain why estimation of overhead should be linked to tug hire charges. Furnish detailed break up of this cost estimate.	(a). An estimate of 10% overheads on tug hire charges are taken to cater to the elements of cost such as establishment / supervision / communication relating to the contract management. Since the elements of cost listed above are directly associated with the hire of tugs, it is considered reasonable to take the overhead cost as a percentage of tug hire charges.
	(b). Prior to the proposed arrangement of handling crude through SPM operations, the crude of Kochi Refineries Limited was being handled at the berth of Cochin port. Hence, it may not be unreasonable to presume that the general overheads towards establishment / supervision, etc. would have been factored in the estimations last considered in the general revision proposal of the port. Justify the estimation of overheads in addition to the cost factored in the general revision proposal and confirm that there is no double counting of the same cost element.	(b). In the last general tariff revision, only the overhead expenditure incurred for the existing activities have been considered. Additional overheads are considered for the calculation of the proposed rates, as SPM is a new facility provided to the user.
	(c). If a separate contract has been entered with any of the outsourcing agencies to provide services relating to establishment / supervision, etc., the same may be substantiated with documentary support.	No separate contract has been entered into by the port with any of the outsourcing agencies for providing any services related to SPM operation.
(iv).	Based on the average parcel size and discharge rate of vessels indicated in the proposal, the tug hours for the pull back operations works out to 13 hours for LR1 vessel, 33 hours for VLCC vessels and 19 hours for Suez Max vessels. Please explain the basis of estimating the tug hours involved for pull back operations at 19 hours for LR1 vessel, 39 hours for VLCC vessels and 25 hours for Suez Max vessels.	Discharge rate of 13 hrs, 19 hrs and 33 hrs for LR 1, Suez Max & VLCC are based on their pumping rate. An additional time of 6 hours each is considered per vessel to account of certain activities like Joint Survey, Stripping and Disconnection.
(v).	The proposed pilotage charges should be in line with the revised tariff guidelines, 2005.	The pilotage fee has been arrived at based on the estimated cost of working of the tugs and use of two pilots instead of only one for normal pilotage. The nature of operation warrants rendering of identical services to all the vessels irrespective of the size or dimension. Hence, providing concession to higher capacity vessels is not considered feasible from the financial point of view.
(vi).	(a). Explain the services offered under the head 'Vessel Traffic Management System' (VTMS).	One of the main functions of the VTMS will be to conduct surveillance of vessels berthed at SPM. The operations of the vessels such as berthing/un-berthing will be monitored at VTMS control station. Therefore, VTMS is a very vital and essential requirement for SPM project to guide very large tankers handled there.
	(b). Explain the basis of estimating	During the year 2005-06, the GRT of the crude oil

	depreciation and interest cost on investment level of Rs.1200 lakhs and apportioning one third of the cost to SPM operations in light of the fact that no capital investment seems to have been made by the COPT for operations at SPM.	vessels berthed in COPT contributed to 32% of the total GRT, accordingly 1/3 rd of the cost of the VTMS project is considered for SPM project and the balance is estimated to be borne by other development projects like LNG and port operations. COPT neither taxed the SPM project for the extra services rendered for the SPM operations nor has it considered any Return on Investment made towards the installation of VTMS so as to make SPM project more competitive financially.																																		
(vii).	The proposed capital expenditure of Rs.6 crores towards Vessel Traffic Management System (VTMS) estimated by the COPT was considered during the last general revision proposal of the port for computation of ROCE and depreciation. Please clarify whether Rs.12 crores proposed in the proposal under consideration towards VTMS is in addition to what was considered in the last tariff revision proposal.	The total capital expenditure proposed for the installation of the VTMS is Rs.12 crores, out of which Rs.6 crores have already been considered in the general tariff revision proposal. Only Rs.4 crores (i.e. one third of Rs.12 crores) has been considered for SPM operations.																																		
(viii).	Additional income likely to accrue at the proposed tariff from operations at SPM for the next three years may be indicated as against the income likely to accrue at prevailing tariff level from such vessels.	It has furnished the statement showing additional income likely to be generated from pilotage / pull back charges for the SPM operations which is summarised below: (Rs. in crores) <table><tr><th rowspan="2">Particulars</th><th colspan="3">At the existing tariff</th><th colspan="3">At the proposed tariff</th></tr><tr><th>2007-08 (8 months)</th><th>2008-09</th><th>2009-10</th><th>2007-08 (8 months)</th><th>2008-09</th><th>2009-10</th></tr><tr><td>(i). Pilotage</td><td>4.44</td><td>6.66</td><td>6.66</td><td>6.47</td><td>9.70</td><td>9.70</td></tr><tr><td>(ii). Pull back operation</td><td>--</td><td>--</td><td>--</td><td>5.82</td><td>8.73</td><td>8.73</td></tr><tr><td>Total</td><td>4.44</td><td>6.66</td><td>6.66</td><td>12.29</td><td>18.44</td><td>18.44</td></tr></table>	Particulars	At the existing tariff			At the proposed tariff			2007-08 (8 months)	2008-09	2009-10	2007-08 (8 months)	2008-09	2009-10	(i). Pilotage	4.44	6.66	6.66	6.47	9.70	9.70	(ii). Pull back operation	--	--	--	5.82	8.73	8.73	Total	4.44	6.66	6.66	12.29	18.44	18.44
Particulars	At the existing tariff			At the proposed tariff																																
	2007-08 (8 months)	2008-09	2009-10	2007-08 (8 months)	2008-09	2009-10																														
(i). Pilotage	4.44	6.66	6.66	6.47	9.70	9.70																														
(ii). Pull back operation	--	--	--	5.82	8.73	8.73																														
Total	4.44	6.66	6.66	12.29	18.44	18.44																														

6. The BPCL-KRL, vide its letter dated 11 January 2008 has informed that the operations at SPM commenced from 3 December 2007. As the final rate has not been approved by this Authority it has stated that the COPT is levying the rate at the proposed tariff level without any discussion with them.

7. A joint hearing in this case was held on 30 September 2008 at Delhi. At the joint hearing, the COPT explained the salient points of the proposal. The BPCL-KRL made a power point presentation of its submissions. At the joint hearing, the COPT and the BPCL-KRL have made their submissions.

8. At the joint hearing, the COPT was advised to file an updated proposal based on the actual working (both physical and financial) for the period from December 2007 to September 2008 by 8 October 2008 and simultaneously forward the updated proposal to the BPCL-KRL for their comments.

9.1. As decided in the joint hearing, the COPT has vide its letter dated 13 October 2008 filed a revised proposal along with detailed cost workings. The main submissions made by the COPT and the modification done by the COPT in the revised proposal are as follows:-

- (i). The rates for SPM operations has been reworked based on the actual performance from date on commencement of operations i.e. 3 December 2007 to 30th September 2008.
- (ii). Even though the SPM operation was commissioned only from 3 December 2007, the two tugs hired exclusively for SPM operation were positioned on 15 September 2007 based on the discussions with M/s.BPCL-KRL. Hence for the workings, the hire charges have been taken from 15 September 2007 itself.

- (iii). A 6% profit margin on the total cost has been considered for arriving at the revised rates.
- (iv). Depreciation and interest computed on the VTMS cost was allocated to the SPM in the initial proposal while arriving at the rate for pilotage fee. This has been excluded in the revised calculation.
- (v). Tug charge for pull back operations is proposed at Rs.29200 per tug hour after rounding off Rs.29163 per tug hour for convenience of calculation (as against US \$ 1708.33 for foreign and Rs.41000 for coastal proposed earlier).
- (vi). The proposal for the levy of charge for additional movements of vessels calling at SPM submitted has also been incorporated in the revised proposal.
- (vii). The port has now proposed to charge the pilotage fees as per the existing Scale of Rates approved by TAMP. It has reiterated that pilotage for SPM operations is a specialised activity unlike normal handling of vessels with in the inner harbour. In this case, the port is providing 2 pilots and 2 tugs for each operation. Since there is specific clauses in MOU for compensating M/s.BPCL-KRL for not positioning the tugs for handling vessels at SPM, the risk taken by the Port for ensuring this service is tremendous and not easy to put into monetary terms. However in view of the difficulty in putting the unforeseen perils / risks in this activity into monetary terms, the port proposes to levy the pilotage fees as per rate prescribed in existing Scale of Rates.
- (viii). The Wharfage rate of Rs.25 per tonne (as per the MOU entered into between COPT & KRL) and the Port Dues per GRT (as per the existing Scale of Rates) has already been agreed by M/s.BPCL-KRL during the joint hearing held on 30 September 2008.
- (ix). The SPM operation is a new activity for both COPT and M/s.BPCL-KRL and the fixation of rates are largely dependent on parameters like no. of vessels, type of vessels, GRT of the vessels etc. Considering the uncertainty of the decision parameters, it is requested that TAMP may consider COPT's revised proposal for approval effective from 1 November 2008.

9.2. To summarise, the rates proposed by the COPT in the revised proposal are as under:

A. Vessel Related Charges:

(i). Port Dues for vessels calling at SPM:

No.	Type of vessel	Rate per GRT	
		Coastal (Rs.)	Foreign (US \$)
1.	Crude Oil Tanker	7.20	0.269
	Frequency of payment in respect of same vessel	Once in 30 days	Every Entry

As per the existing Scale of Rates of Cochin Port Trust.

(ii). Pilotage Fee for vessels handled at SPM:

No.	Size of vessel	Rate per GRT	
		Coastal (Rs.)	Foreign (US \$)
(i).	Upto 30000 GRT	15.35	0.5738
(ii).	30001 to 60000 GRT	Rs.460647 + Rs.12.28 per GRT over 30,000 GRT	US \$ 17214 + US \$ 0.4590 per GRT over 30,000 GRT

(iii).	60001 and above	Rs.829132 + Rs.10.75 per GRT over 60,000 GRT	US \$ 30984 + US\$ 0.4016 per GRT over 60,000 GRT
--------	-----------------	--	---

As per the existing Scale of Rates of Cochin Port Trust.

(iii). Rates for the additional movements of vessels calling at SPM:

1.	If a vessel is shifted at SPM, after its initial berthing at SPM, 25% of the SPM pilotage shall be charged for each shifting.
2.	In case the vessel is moved to COT or any other berth of the Port and from there it is sailed out, it should be treated as a fresh entry / exit and the Pilotage as per the existing TAMP approved Scale of Rates shall be charged.

(iv). Tug Charges for pull back operation at SPM:

No.	Particulars	Rs.
1.	Tug Charges - Per tug hour or part thereof	29200

B. **Cargo Related Charges:**

No.	Particulars	Rs.
1.	Wharfage - per tonne	25.00

9.3. The revised proposal filed by the COPT was forwarded to the BPCL-KRL as BPCL-KRL has mentioned in their letter that the port had not forwarded full text of their revised proposal. The BPCL-KRL has furnished its comments on the revised proposal of COPT. The COPT has also furnished its views on the comments of BPCL-KRL.

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

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

- (i). The proposal is for fixation of tariff for operations at the Single Point Mooring (SPM) commissioned by the Bharat Petroleum Corporation Limited - Kochi Refineries Limited (BPCL-KRL) at Cochin Port Trust as per the Memorandum of Understanding (MOU) signed between both the parties in June 2003. The operations have reportedly commenced on 3 December 2007. By and large, the new facility mainly caters to handling of crude oil which was earlier unloaded at the oil jetties and also facilitates additional volumes and large size ships. The investment on SPM is reportedly made by BPCL-KRL while vessel operations are continued to be arranged by COPT.
- (ii). The initial proposal filed by the COPT in May 2007 relied upon estimation and information obtained by the port for operation elsewhere. Subsequently on our advice, the COPT has filed a revised proposal based on actual operations at SPM by BPCL-KRL for the period upto September 2008. Based on the observations of BPCL-KRL, the effect of the investment made by the COPT on Vessel Traffic Management System which was allocated to this activity in the initial proposal, has been deleted in the revised calculation. The revised proposal filed by the COPT is considered while fixing the rates for SPM operations by the BPCL-KRL at the Cochin Port Trust.

- (iii). The four main tariff items proposed by the COPT for SPM operations are (a). Port Dues, (b). Pilotage charge, (c). Tug charge for pull back operations and (d). Wharfage rate.
- (iv). The COPT has proposed to levy the existing port dues prescribed in its Scale of Rates for vessels arriving at the SPM also. The BPCL-KRL has argued that the port dues applicable at the port cannot be applied for SPM since it is 19.5 kms. away from shore and normal cost element applicable to port location are not valid for SPM location. Referring to the differential rate prescribed in the Kandla Port Trust for SPM operations at Vadinar, it has requested to review and revise the port dues proposed by COPT for its operations at Cochin Port.

Historically, differential rates are prescribed for SPM operations at Vadinar and for port operations at the Kandla Port Trust perhaps recognising the separate channels and locations of operations at Vadinar and Kandla. At the Kolkata Port Trust, same rate of port dues is levied for operations at Haldia and Kolkata. Likewise, the same rate of port dues is applicable at Mumbai Port Trust for operations at its Docks and the Jawahardeep where marine oil terminal is located.

The COPT has clarified that port dues have been fixed based on cost incurred for providing various services like marine survey, port conservancy, pollution control, harbour patrol as a safety & security measure, fire fighting, etc. The benefit of these services are reportedly enjoyed by SPM also. Further, the COPT has stated that surveillance and other safety measures are more applicable to SPM, since it is located at a remote place very near to the outer boundary of the Port limit. Most importantly, the financial model considered for COPT at the last general revision will be affected if reduced port dues are prescribed for crude oil vessels, as the financial model considers handling of crude at the oil jetty.

In view of the clarification furnished by the COPT and also recognising that port dues is a fee for entry of a vessel, it is not found necessary to prescribe differential port dues for vessels arriving at the SPM and at the berths of the port. That being so, the proposal of the port to levy port dues prescribed in the existing Scale of Rates of the COPT is accepted.

- (v). Two tugs are hired by the COPT exclusively for the operations at SPM. These tugs are being utilised both for pilotage and pull back operations. In the initial proposal, pilotage fee for vessels to be handled at SPM was proposed by the COPT based on estimated cost of working of the tugs. Subsequently, in the revised proposal the pilotage fee is proposed to be levied at the rate prescribed in the existing Scale of Rates of the Cochin Port Trust. The pilotage fee prescribed in the existing Scale of Rates of COPT for the first slab i.e. vessels upto 30,000 GRT is US \$ 0.5738. For the subsequent slabs, sliding rates are prescribed with increased size of the vessel, which is in line with the Tariff Guidelines of 2005. The pilotage fee proposed by the COPT in the revised proposal is lower than the rates proposed in the initial proposal.

The BPCL-KRL has submitted that the pilotage charge for SPM may be calculated based on vessel data and actual expense by the port during the first ten months. The BPCL-KRL has furnished a calculation considering estimated revenue at the pilotage fee as proposed by the COPT as against the total expense of Rs.5.48 crores per tug. The calculation furnished by the BPCL-KRL is deficient since it does not take into consideration cost of providing required number of pilots and other components involved in pilotage services.

It has to be recognised that tugs taken on hire by the COPT exclusively for SPM operations are high powered tugs as reported by the COPT as compared to the existing tugs deployed by port for its normal pilotage operations. Further, the existing pilotage fee prescribed in the Scale of Rates would be based on depreciated value of the existing tugs of COPT. The operation of tugs for SPM operations reportedly require highly skilled and experienced pilots for berthing and

unberthing of tankers because of the size of the vessel and even after berthing, one pilot has to stay on board the ship throughout the operations for safety reasons. Taking all these points into consideration, the pilotage fee for SPM operations needs to be fixed based on the cost involved for offering the pilotage services to vessels at the SPM.

The port, however, in view of difficulty in quantifying the cost and risk in the operation into monetary terms has requested to approve the pilotage fee as per the rate prescribed in the existing Scale of Rates for SPM operations.

In the absence of availability of various cost elements involved in pilotage services for SPM operations, it may not be possible to fix the pilotage fee for SPM operations based on the cost involved for offering the services. Hence, for the time being the proposal of the port to continue with the levy of existing pilotage fee for vessels handled at SPM is accepted subject to the condition that COPT will formulate a well analysed proposal based on the actual cost incurred for offering the pilotage services alongwith general revision proposal which is due for revision in March 2009. The suggestion made by the BPCL-KRL about the utilisation of tug partly for other purposes of the port when they are not in use for SPM operations may also be considered by the port.

- (vi). Wharfage rate is proposed at Rs.25 per metric tonne based on Memorandum of Understanding signed between the BPCL-KRL and COPT on 11 June 2003. The BPCL-KRL has no dispute on the wharfage rate proposed by the COPT as agreed in the MOU. Since it is mutually agreed rate between both the parties as per the MOU, this Authority is inclined to approve the wharfage rate as proposed by the port.

The MOU also requires the port to consider downward revision in the wharfage rate of Rs.25 per metric tonne when the throughput through the SPM exceeds 9 Million Tonnes Per Annum. Both the port and the BPCL-KRL have agreed to abide by the terms of the MOU.

- (vii). The hire charge for tug for pull back operation is proposed at Rs.29,200/- per tug per hour or part thereof. The BPCL-KRL has agreed in general with the computation furnished by the COPT except for one item i.e. hire charge of the tug. The various cost component considered in arriving at the hire charge of tug is discussed hereunder:

- (a). As already mentioned earlier, the COPT has hired two tugs of 50 tonnes bollard pull. The hire charge of a tug considered at Rs.1,35,000/- per day (excluding fuel, lubricating oil and fresh water) is supported by the Letter of Acceptance issued by the COPT in July 2007.
- (b). The COPT has reportedly positioned the tug for SPM operations on 15 September 2007. The BPCL-KRL commenced the operations at SPM from 3 December 2007.
- (c). While arriving at the proposed hire charge of a tug, the COPT has considered hire charge of tug @ Rs.1,35,000/- per day for 381 days i.e. from the date of the port positioning the tug 15 September 2007 upto 30 September 2008. The BPCL-KRL has argued that the SPM operations commenced only on 3 December 2007 and hence it has recalculated after modifying the hire charge of tug for 302 days i.e. from 3 December 2007 to 30 September 2008. The COPT has stated that its claim to recover hire charge of the tug for the period from 15 September 2007 to 2 December 2008 is justified as the BPCL-KRL has not responded to its demand to pay tug hire charge for the said period when it had not commenced the operations at the SPM.

Since the port had exclusively taken the tugs on hire for SPM operation and positioned it on 15 September based on the terms of the MOU and indications given by the BPCL-KRL, the port is justified in its claim to recover the tug hire charge for the said period. The COPT cannot be made to bear the cost of idling of the tugs. At the same time, fixing the hire charge of tug for pull back operations based on the method followed by the COPT will perpetuate the cost of idling of tugs in the tariff. That being so, two set of rates - one for the period from 15 September 2007 to 30 September 2008 which will recognise the tug hire charge for the period from 15 September 2007 to 2 December 2007 and - second for the period from 1 October 2008 onwards is prescribed.

- (d). The tariff guidelines of 2005, require the expenditure to be estimated recognising annual escalation in the cost with reference to the current movement of Whole Sale Price Index (WPI) announced by the Government of India and adjust it for traffic fluctuation. The annual escalation factor adopted by this Authority for the dealing with the tariff cases in 2008-09 is 4.6% based on the WPI reported by the Government of India for the year 2007-08. The documents furnished by the COPT show that the contract for hire of two tugs is for period of five years from 2007 and the rate of Rs.135000 per tug per day is not subject to any variation on any account during the contract period. Hence, no annual escalation is considered in the hire charge of tug.

Average actual cost of fuel and water reported by the COPT for the period December 2007 to 30 September 2008 is escalated at the stated level of 4.6% while arriving at the hire charge of tug for the period after October 2008.

- (e). 10% of the other hire charges has been estimated as overhead cost. When asked to confirm whether the general overheads considered in the last general revision of the port, do not take care of the overhead cost for the services offered at SPM, the COPT has clarified that the overhead estimation is towards establishment, supervision, communication and other cost elements relating to the contract management. Since these cost elements are directly associated with the hire of tug, the port has estimated the overhead cost as a percentage of tug hire charge. Based on the clarification furnished by the COPT, the overhead cost estimated by the port is accepted subject to applying annual escalation in the cost for the period from 1 October 2008 in line with the tariff guidelines of 2005.
- (f). In the usual cost plus approach, 16% return on investment is allowed while fixing the tariff of Major Ports / Private Terminals. In the instant case, since the tugs deployed by the COPT are on hire basis, it is not entitled for return on investment. The COPT has considered 6% of the total cost as margin while arriving at the proposed tariff. The BPCL-KRL has accepted this approach followed by the COPT. The same approach is considered while arriving at the hire charge of tug. The cost of hire charge of tug and corresponding overhead for the idling period of tug is, however, excluded while computing the margin on the total cost in our calculation.
- (g). The actual pull back hours reported by the COPT for the period from 3 December 2007 to 30 September 2008 is 2302 hours.
- (h). Subject to the above discussion, hire charge of tug for pull back operation for the period from 1 October 2008 is calculated based on the actual tug hours reported upto 30 September 2008 which is prorated for full year.
- (viii). Subject to the above modifications, the total cost plus margin for operating a tug for pull back operation for the period from 15 September 2007 to 30 September

2008 works out to Rs.664.30 lakhs. For the subsequent period of one year, the total cost plus profit works out to Rs.667.47 lakhs.

- (ix). As per Clause 6.1.2. of the tariff guidelines of 2005, concessional tariff is to be prescribed for coastal vessels not exceeding 60% of the rate prescribed for the foreign-going vessel in the vessel related charges. The COPT in its proposal has not maintained the rate differential between foreign-going and coastal vessel in line with the 2005 tariff guidelines. The actual vessels handled at SPM reported by the COPT show that the GRT of coastal vessel is 28.5% and foreign-going vessel is 71.5%. Since the hire charge of tug is fixed for tug hour deployed by the vessel, the actual pull back hours for coastal vessel and foreign-going vessel may be more relevant. Of the total tug hours of 2302 for pull back operation reported by the COPT, the tug hours deployed for coastal vessel is 667 (28.9%) and for foreign-going vessel at 1635 (71.1%). Thus, the hire charge of tug is arrived at by spreading the total cost to be recovered by the port based on the tug hours deployed for coastal and foreign-going vessel and also bearing in mind the rate differential of 40% to be maintained between these two categories of vessels.
- (x). The COPT has not proposed dollar denominated tariff for foreign-going vessel. Clause 6.1.1. of the tariff guidelines of the 2005 stipulate that all the vessel related charges for foreign-going vessel need to be prescribed in dollar term. The tug hire charge for foreign-going vessel is prescribed in dollar terms in line with the 2005 tariff guidelines. For this purpose the exchange rate prevailing at the time of December 2007 i.e. 1 US \$ = Rs.39.56 is considered for arriving at the rate for the period upto 30 September 2008. For the period thereafter, the exchange rate prevailing in October 2008 i.e. 1 US \$ = Rs.48.43 is considered.

The revised calculation sheet is attached as **Annex-I**.

- (xi). As per the revised calculation, the hire charge of tug for pull back operation is as follows:

(Rate per tug per hour or part thereof)			
For the period from 3 December 2007 upto 30 September 2008		For the period after 30 September 2008	
Foreign-going (in US \$)	Coastal (in Rs.)	Foreign-going (in US \$)	Coastal (in Rs.)
825.18	19586	560.25	16280

- (xii). Shifting charge at 25% of the pilotage fee applicable for SPM operations is proposed in case a vessel is shifted at SPM after its initial berthing at the SPM. The BPCL-KRL has no objection if the port collects proposed shifting charges for each additional berthing at SPM, if the shifting is on account of operational requirement of BPCL-KRL, as is prevailing in other major ports where similar facilities are available. However, if the shifting is necessitated by the force majeure conditions like unfavourable weather, etc., the BPCL-KRL opines that port should not charge any such shifting charge.

Clause 6.4. of 2005 tariff guidelines stipulates that only shifting of vessel at request of the user will attract shifting charge. Hence, the proposal of the port to levy shifting charge is accepted. The COPT is advised to prescribe the shifting charge based on the cost of the services provided atleast at the next revision of this tariff item.

The Scale of Rates of other Major Ports exempt levy of shifting charge in case a vessel is required to be shifted for convenience of the port. The term 'shifting of vessel for port convenience' has been defined in the Scale of Rates of other Major Ports including that of COPT which is also made applicable for vessels moving from / to SPM. A suitable note stating that the existing definition of port

convenience will apply for vessels movement SPM is prescribed in the Schedule of rates for SPM operations.

- (xiii). The COPT has proposed to prescribe a condition stating that in case a vessel is moved to Cochin Oil Terminal (COT) or any other berths of the port and from there it sails out, it should be treated as a fresh entry / exit and the pilotage as per the existing Scale of Rates of port will be charged. The COPT has confirmed that no additional port dues will be charged from those tankers other than the one collected during the initial entry of the tanker on the same vessel call number. Based on the clarification furnished by the COPT, and also recognising that the BPCL-KRL has not objected to the proposed condition, the condition proposed by the COPT is accepted.
- (xiv). The term 'pilotage fee' has been defined in Clause 6.4. of the tariff guidelines as a composite fee for providing one inward, one outward movement with required number of tugs / launches of adequate capacity and shifting/(s) of vessels for 'port convenience'. The definition of pilotage fee has also been incorporated in the Scale of Rates of the COPT in line with tariff guidelines. The same condition is also prescribed under the schedule of pilotage fee for SPM operations.
- (xv). The port does not propose to levy any berth hire charges for the vessels calling at SPM, as it is not covered by the MOU. However, as rightly stated by the COPT, in case BPCL-KRL plans to collect berth hire from third parties or any other charge called in any name for using the facility at the SPM, it has to obtain prior approval of this Authority.
- (xvi). The entire analysis has been done relying on the actual cost of operation furnished by the COPT for a period of around ten months during the past 2007-08. As rightly stated by the COPT, tariff for the services offered at the SPM largely depend on various parameters like number of vessels, GRT of vessel, cost of operations, etc. It is, therefore, found appropriate to review the tariff for services offered at the SPM at the time of the general revision of the Scale of Rates of the port which is due on 31 March 2009.
- (xvii). As already mentioned earlier, operations at SPM has commenced from 3 December 2007. There are no rates approved in the existing Scale of Rates for the operations at SPM since it is a new service introduced at the Cochin Port Trust. Therefore, the rates are approved retrospectively from the date of commencement of operation at SPM i.e. from 3 December 2007. The tariff for the services offered at SPM will be reviewed alongwith the general revision of the Scale of Rates of the COPT.

12. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the rates for SPM operations by BPCL-KRL at Cochin Port Trust as per **Annex-II**. The approved rates is incorporated as 2.5.-Schedule of Rates for SPM operations under Chapter-II Vessel Related Charges in the existing Scale of Rates of COPT.

(Brahm Dutt)
Chairman

Insert the following Schedule under Chapter II – Vessel Related Charges of the existing Scale of Rates of the Cochin Port Trust

2.5. Schedule of Rates for operations at Single Point Mooring at Cochin Port Trust

A. Vessel Related Charges:

(i). Port Dues for vessels calling at SPM:

No.	Type of vessel	Rate per GRT	
		Coastal (Rs.)	Foreign (US \$)
1.	Crude Oil Tanker	7.20	0.269
	Frequency of payment in respect of same vessel	Once in 30 days	Every Entry

Note:

For oil tankers with segregated ballast, the reduced gross tonnage that is indicated in the "Remarks" column of its International Tonnage Certificate will be taken to be its gross tonnage for the purpose of levying Port Dues.

(ii). Pilotage Fee for vessels handled at SPM:

No.	Size of vessel	Rate per GRT	
		Coastal (Rs.)	Foreign (US \$)
(i).	Upto 30000 GRT	15.35	0.5738
(ii).	30001 to 60000 GRT	Rs. 460647 + Rs.12.28 per GRT over 30,000 GRT	US \$ 17214+ US \$ 0.4590 per GRT over 30,000 GRT
(iii).	60001 and above	Rs. 829132 + Rs.10.75 per GRT over 60,000 GRT	US \$ 30984 + US\$ 0.4016 per GRT over 60,000 GRT

Note:

Pilotage fee is a composite fee and shall include one inward and one outward movement with services of port's pilot, with required number of tugs / launches of adequate capacity and shifting(s) of vessels for 'port convenience'.

(iii). Shifting charges for movement of vessels calling at SPM:

1. If a vessel is shifted at SPM, after its initial berthing at SPM, shifting charges @ 25% of the pilotage fee applicable for SPM operations shall be levied.
2. No shifting charge shall be levied for shifting of a vessel for port convenience. Port convenience as defined in Note 4 under Schedule 2.2.3 of the Scale of Rates of the COPT shall be applicable for this purpose.
3. In case the vessel is moved to Cochin Oil Terminal (COT) or any other berth of the Port and from there it sails out, it should be treated as a fresh entry / exit and the Pilotage as per the existing Scale of Rates of the COPT shall be charged.

(iv). **Tug Charges for pull back operation at SPM:**

(Rate per tug per hour or part thereof)			
For the period from 3 December 2007 upto 30 September 2008		For the period after 30 September 2008	
Foreign-going (in US \$)	Coastal (in Rs.)	Foreign-going (in US \$)	Coastal (in Rs.)
825.18	19586	560.25	16280

B. **Cargo Related Charges:**

No.	Particulars	Rate in Rs. per tonne
1.	Wharfage	25.00

C. **General Note to Schedule 2.5.:**

Definitions, General Terms and Conditions prescribed in Schedule 1.1. and 1.2. respectively and any other relevant conditions prescribed in the Scale of Rates of the Cochin Port Trust shall be applicable.
