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

TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 313 **New Delhi,** **20 August 2018**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Mormugao Port Trust (MOPT) for Revision of Wharfage Charges on POL and POL Products as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/39/2018-MOPT

Mormugao Port Trust - - - **Applicant**

QUORUM

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

O R D E R
(Passed on this 31st day of July 2018)

This case relates to the proposal received from Mormugao Port Trust (MOPT) vide its letter no. FA/Cost/125/2018/41 dated 14 May 2018 for revision of Wharfage Charges on POL and POL Products.

2.1. This Authority had vide Order No.TAMP/38/2016-MOPT dated 17 November 2016 passed an Order disposing of the proposal of MOPT for general revision of port's Scale of Rates (SOR). The revised SOR and Performance Standards approved by this Authority vide Order No.TAMP/38/2016-MOPT dated 17 November 2016, was notified vide Gazette No.434 dated 30 November 2016. Subsequently, a speaking order was notified vide Gazette No.15 dated 12 January 2017. The SOR came into force after expiry of 30 days from the date of notification of the SOR and Performance Standards in the Gazette of India i.e. 30 December 2016. The validity of SOR is prescribed till 31 March 2019.

2.2. As stated in the said Order, the MOPT estimated annual revenue at ₹199.80 crores as against the estimated Annual Revenue Requirement (ARR) of ₹433.37 crores which left revenue requirement of ₹233.57 crores uncovered. The port had not proposed to fully cover the ARR. The revenue gap of ₹233.57 crores and the concession in tariff which the port has agreed to give for iron ore cargo was to be recovered from the revenue on account of increased volume of iron ore traffic. The tariff as proposed by MOPT was approved by this Authority in the Order dated 17 November 2016.

3.1. The port has now filed the proposal for revision in the wharfage rate of POL and POL Products. The main points made by the MOPT in its proposal dated 14 May 2018 are summarised below:

(i). The Port vide its letter No:FA/Cost/125/2016/89 dated 30.06.2016 sent a proposal to TAMP for general revision of its SOR. As per the Tariff Policy, 2015, ARR was worked out to ₹433.36 crores and accordingly the SOR was drawn based on the overall traffic of 14.71 million tonnes for the year 2014-15.

(ii). As per the working, an increase of 240% and 106% in the (then) existing SOR would have been required for Cargo Related Services (CRS) and Vessel Related Services (VRS) respectively to meet the ARR. However, such a huge increase in tariff would have affected the trade and hence the VRS charges were proposed to be increased by 35%, CRS charges and storage charges by 25%. The increase in charges was inclusive of 9% Special rate and hence the net increase was only 26% and 16% respectively for Vessel related charges and Cargo related charges.

(iii). The TAMP vide Order No.TAMP/38/2016-MOPT dated 06 February 2017 approved the proposed SOR and same was notified in the Gazette of India Extraordinary on 12 January 2017 vide Gazette No.15. The revised SOR came into effect from 30 December 2016 and is in force till 31 March 2019.

(iv). **Details of the Current Proposal**:

The Port is handling approximately 6 lakh tonnes of POL every year and the existing wharfage is ₹193/- per tonne. POL has been identified as a captive cargo whose rates can be increased without affecting the throughput. Therefore, it is proposed to increase the Wharfage rate on POL cargo to ₹1250/- per tonne.

(v). **Justification**:

(a). The Port is facing severe financial crisis due to stoppage of iron ore and coal handling. Increase in the above rates would increase the Port's revenues to some extent. Port's present financial position warrants increase in wharfage rates of POL.

(b). The deficit with respect to ARR as per the MOPT's proposal already approved by the Authority is ₹233.57 crores. The proposed increase in wharfage rate of POL would generate an additional revenue of only ₹62.16 crores, still having a deficit of ₹171.41 crores.

(c). Increase in POL rates may not affect the cargo throughput.

(d). The per litre cost would be around 1.25, which is affordable to users considering the taxes and duties levied on POL.

(vi). The revised wharfage rate for POL and POL products proposed in existing SOR by MOPT is as follows:

2.1.3. Liquid Bulk Cargo

Sr. No.	Particulars of Commodities	Rate per Tonne (₹.)	
		Foreign Cargo	**Coastal Cargo**
1.	Petroleum, Oil & Lubricants and POL Products	1250.00	1250.00
2.	Caustic Soda	86.00	51.60
3.	Liquid Ammonia	188.00	112.80
4.	Acids of all types	128.00	76.80
5.	LPG / LNG	350.00	210.00
6.	Edible Oil	86.00	51.60
7.	Molasses	57.00	34.20
8.	Any other liquid bulk cargo not specified above	126.00	75.60

[The increase is proposed only in respect of POL and POL products at Sl. No.1 from existing ₹193/ tonne to ₹1250/- per tonne for Sr. No. 2 to 8, no charge proposed by MOPT]

3.2. The proposal has been put up to the Board for Approval and the Board Resolution shall be submitted shortly. The Authority is requested to approve the revision in the wharfage of POL and POL Products to ₹1250/- per Tonne as shown in the table above. The effect of proposed revision in wharfage rate of POL and POL Products as furnished by MOPT is tabulated below:

Sr. No.	Particulars		Remarks
1.	ARR as per MOPT Proposal (₹ in Lakhs)	43336.61	As per Form I submitted to TAMP
2.	Revenue Estimation at approved SOR (₹ in Lakhs)	19979.63	As per Form III submitted to TAMP
3.	**Deficit w.r.t. ARR (₹. in Lakhs) (1-2)**	23356.98	
4.	POL Quantity Handled in 2014-15 (Tonnes)	588074	As per Form III submitted to TAMP
5.	Rate per Tonne approved by TAMP (₹)	193.00	As per Form III submitted to TAMP
6.	**Estimated Wharfage at TAMP approved SOR (₹. in Lakhs) (4X5)**	1134.98	As per Form III submitted to TAMP
	Revised Rates Proposed (Coastal) (₹)		
7.	Revised Wharfage per Tonne proposed for POL and POL products.	1250.00	
	Increase	₹	%
8.	Wharfage per Tonne (7-5) (Differential increase)	1057.00	547.67
	Additional Revenue from Proposed Revision		
9.	Incremental Wharfage (₹ in Lakhs) (₹1057/ tonne X 5.88 tonne)	6215.94	
10.	Deficit w.r.t. ARR after proposed Revision (₹ in Lakhs) (3-9)	17141.04	

4. The details of Wharfage at Berth for Liquid Bulk Cargo approved by the Authority in the schedule 2.1.3 of Order No.TAMP/38/2016-MOPT dated 17 November 2016 and the proposed amendment in the wharfage rate of POL and POL products sought by the MOPT is tabulated below:

Sr. No	Liquid Bulk Cargo Tariff approved by the Authority vide Order no.TAMP/38/2016-MOPT dated 17.11.2016.				Proposed amendment in rates proposed by MOPT vide its email dated 14.05.2018.			
	Sr. No.	**Particulars of Commodities**	**Rate per Tonne (₹.)**		**Sr. No.**	**Particulars of Commodities**	**Rate per Tonne (₹.)**	
			Foreign Cargo	**Coastal Cargo**			**Foreign Cargo**	**Coastal Cargo**
1.	1.	**Petroleum, Oil & Lubricants and POL Products**	**193.00**	**193.00**	1.	**Petroleum, Oil & Lubricants and POL Products**	**1250.00**	**1250.00**
	2.	Caustic Soda	86.00	51.60	2.	Caustic Soda	86.00	51.60
	3.	Liquid Ammonia	188.00	112.80	3.	Liquid Ammonia	188.00	112.80
	4.	Acids of all types	128.00	76.80	4.	Acids of all types	128.00	76.80
	5.	LPG / LNG	350.00	210.00	5.	LPG / LNG	350.00	210.00
	6.	Edible Oil	86.00	51.60	6.	Edible Oil	86.00	51.60
	7.	Molasses	57.00	34.20	7.	Molasses	57.00	34.20
	8.	Any other liquid bulk cargo not specified above	126.00	75.60	8.	Any other liquid bulk cargo not specified above	126.00	75.60

5.1. While acknowledging the proposal, the MOPT was vide our letter dated 17 May 2018 requested to forward a copy of the Board approval. The Port has not furnished copy of the Board approval.

5.2. In accordance with the consultative procedure prescribed, a copy of the proposal of MOPT dated 14 May 2018 was forwarded vide our letter dated 17 May 2018 to the concerned users/ user organisations seeking their comments. We received comments from Hindustan Petroleum Corporation Limited (HPCL) vide its email dated 22 May 2018 and Indian Oil Corporation Limited (IOCL) vide its letter dated 23 May 2018 and also letter dated 25 May 2018. The comments received from the HPCL and IOCL were forwarded to the MOPT as feedback information. The MOPT has not furnished its comments.

5.3. The HPCL and IOCL vide their email dated 22 May 2018 and 23 May 2018 requested for a meeting to discuss the subject proposal along with Industry Members, preferably during the first week of June 2018. In this regard, we have vide our letter dated 24 May 2018 communicated to HPCL and IOCL that as per the consultation process followed by the TAMP, an opportunity of hearing will be afforded during the Joint hearing to each of the users / user associations. The HPCL and IOCL were, therefore, requested to attend the Joint hearing and give observations / comments on the proposal at the joint hearing.

6. A joint hearing in this case was held on 14 June 2018 at the MOPT premises. The MOPT made a brief power point presentation of its proposal. At the joint hearing, the MOPT and the concerned users/ user organizations including IOCL, HPCL and BPCL have made their submissions:

7.1. As agreed at the joint hearing, the MOPT was requested vide our letter dated 20 June 2018 to sit together with the HPCL, IOCL and BPCL and attempt to arrive at a consensus in the quantum of hike in wharfage rate of POL cargo and to respond in a week's time i.e. by 22 June 2018. This was followed by a reminder dated 27 June 2018.

7.2. Further, in the letter dated 27 June 2018, MOPT was requested to furnish the cost statement in support of proposed wharfage rate of ₹1250/- per tonne for Petroleum Oil and Lubricants and POL products. While furnishing the cost calculation, the general principle for apportionment of common expenses as in Form – 5 of the earlier tariff filing proposal is to be adopted by MOPT. For Case of reference, a copy of Form – 5 duly modified removing irrelevant items was also sent to MOPT. The MOPT was also requested to indicate the actual quantity of POL and POL products handled by MOPT in the year 2017-18 and projections for the year 2018-19. The MOPT was requested to furnish the requisite information positively by 1 July 2018.

8.1. With reference to the point of action decided at the joint hearing brought out at para 7.1 above, the MOPT vide its email dated 4 July 2018 has intimated that a Meeting with Oil PSUs was held on 3 July 2018 to arrive at a consensus of quantum of hike in wharfage rate of POL Cargo. A copy of the Minutes of the Meeting held on 03 July 2018 for revision of Wharfage Charges on POL Cargo at MOPT is furnished. The highlights of the said meeting are as under:

(i). IOC stated that the increase in the proposed wharfage charges on POL cargo is not justifiable. Representatives of all the three companies requested to continue with current rate of wharfage (₹193/- per MT) which is valid till 31.03.2019. Thereafter, hike of 5-10 % could be recommended for approval.

(ii). Representative of oil companies also stated that if such a steep increase in wharfage charges on POL cargo is imposed then they will have to look for other alternate means of transportation and diversion of the cargo from the Port.

(iii). Port has conveyed to the representatives of the Oil Companies that this increase in wharfage charges is temporary till the financial condition of the Port improves. It was further informed that the rate proposed is a ceiling rate which can be reduced depending upon the change in the market conditions. The Port does not want any cargo to be diverted, however, the precarious financial condition has compelled the Port to look for such measures that will help in sustaining the Port, even if marginally.

(iv). The Port also offered not to revise the existing wharfage but levy an additional cess / charge which would be of a fixed tenure till the condition of the Port improves.

(v). Representatives of Oil Companies informed that the oil companies would not be able to sustain this steep hike. They were requested to convey to their respective Head Offices that this increase wharfage charges on POL cargo is temporary till the financial condition of the Port improves and sought the support of the sister oil PSUs in this hours of financial crisis.

8.2. With reference to the point of action intimated vide our letter dated 27 June 2018 brought out in para 7.2. above, the MOPT vide its letter dated 30 June 2018 has submitted that the proposed Wharfage Rate of POL Cargo of ₹1250/- per MT is not justifiable on cost calculation. However, the rate is justifiable on the following grounds:

(i). A Consultant appointed by Ministry of Shipping for suggesting measures for improvement of Port's profitability has suggested increase in POL charges.

(ii). The proposed wharfage rate of ₹1250/- per MT is within the ARR of ₹433.36 crores worked out as per tariff revision guidelines, 2015.

(iii). Port is in financial stress and unable to generate revenue due to ban on Iron ore mining and coal handling at berth no.6.

(iv). Port has accumulated losses of ₹563 crores and has to pay salary to 1700 employees and pension to 430 pensioners.

(v). POL is a clean cargo and the Port's handling cost per litre is ₹1.30/- (approx.)

(vi). Presently, the taxes and duties levied on POL is 100% of the production cost and dealers margin is around ₹3/- per litre.

(vii). Despite all such cost POL prices in Goa are least in the country. Hence, ₹1.30/- per litre is a small price to pay for clean Goa and it won't affect the demand.

9. Subsequently, the MOPT vide its letter dated 24 July 2018 has revised downwards the proposed wharfage rate from ₹1250/- per tonne to ₹500- per tonne. The details of revised proposal are as under:

(i). The port had submitted the proposal to TAMP for increasing the POL wharfage rate to ₹1250/- per tonne. Accordingly, TAMP conducted a joint hearing with all the stakeholders including the Oil Marketing Companies (OMCs). As there was no agreement between the Port and the OMCs TAMP advised to hold another meeting between MOPT and OMCs to arrive at a consensus on the quantum of increase, which again proved inconclusive.

(ii). This issue was discussed with the Consultant and as per their report, a wharfage rate of ₹500/- per tonne could be levied on the POL cargo. Therefore, the Port wishes to revise the earlier proposal and decrease the proposed Wharfage on POL products from ₹1250/- per tonne to ₹500/- per tonne.

(iii). POL has been identified as a captive cargo and it is not easy for the Oil companies to switch to other means for providing POL to the State of Goa. Therefore, the wharfage rates on the POL cargo can be increased without affecting the cargo throughput. Therefore, it is proposed to increase Wharfage on POL cargo from ₹193/- per tonne to ₹500/- per tonne. The Port is handling approximately 6 lakh tonnes of POL every year.

(iv). (a). The Port is facing severe financial crises due to stoppage of iron ore and coal handling. Increase in the above rates would increase the Port's revenues to some extent.

(b). The Port cannot lay off its employees unlike other stakeholders of the iron ore and coal trade, to reduce costs and has to maintain a large workforce which is a fixed cost.

(c). The Port's outgo on pensioners is about ₹100.00 crores per annum on which it has absolutely no control.

(d). The Port's outgo on the medical facilities provided to its employees, pensioners and their dependents is to the tune of ₹18.00 crores per annum.

(e). The deficit with respect to ARR as per the MOPT's proposal already approved by TAMP is ₹233.57 crores whereas the proposed increase would generate an additional revenue of only ₹18.05 crores still having a deficit of ₹215.52 crores.

(f). Increase in POL rates may not affect the cargo throughput.

(g). Port's present financial position warrants increase in wharfage rates of POL.

(h). The per litre wharfage would be ₹0.50 paise, which is affordable to users considering the taxes and duties levied on POL.

(i). POL is a clean cargo and the POL prices in Goa are amongst the least in the country. Hence, ₹0.50 paise per litre is a small price to pay for a cleaner Goa.

(j). The proposed rate will be the ceiling rate and concessions can be given depending on the changes in the business scenario.

The revised SOR is as under:

2.1.3. Liquid Bulk Cargo:

Sr. No.	Particulars of Commodities	Rate per Tonne (₹)	
		Foreign Cargo	Coastal Cargo
1.	Petroleum, Oil & Lubricants and POL Products	500.00	500.00
2.	Caustic Soda	86.00	51.60
3.	Liquid Ammonia	188.00	112.80
4.	Acids of all types	128.00	76.80
5.	LPG / LNG	350.00	210.00
6.	Edible Oil	86.00	51.60
7.	Molasses	57.00	34.20
8.	Any other liquid bulk cargo not specified above	126.00	75.60

[The increase proposed by MOPT is only in respect of Sr. No.1] (v). The statement showing effect of proposed rate revision in POL Charges is given as below:

Sr. No.	Particulars		Remarks
1.	ARR as per MOPT Proposal (₹ in Lakhs)	43336.61	As per Form I submitted to TAMP
2.	Revenue Estimation at approved SOR (₹ in Lakhs)	19979.63	As per Form III submitted to TAMP
3.	**Deficit w.r.t. ARR (₹. in Lakhs) (1-2)**	**23356.98**	
4.	POL Quantity Handled in 2014-15 (Tonnes)	588074	As per Form III submitted to TAMP
5.	Rate per Tonne approved by TAMP (₹)	193.00	As per Form III submitted to TAMP
6.	**Estimated Wharfage at TAMP approved SOR (₹. in Lakhs) (4X5)**	1134.98	As per Form III submitted to TAMP
	Revised Rates Proposed (Coastal) (₹)		
7.	Revised Wharfage per Tonne proposed for POL and POL products.	500.00	
	Increase	₹	%
8.	Wharfage per Tonne (7-5) (Differential increase)	307.00	159.07
	Additional Revenue from Proposed Revision		
9.	Incremental Wharfage (₹ in Lakhs) (₹307/ tonne X (4))	1805.39	
10.	Deficit w.r.t. ARR after proposed Revision (₹ in Lakhs) (3-9)	21551.59	

10. Subsequently, the MOPT vide its email dated 31 July 2018 has forwarded a copy of its Board Resolution vide Resolution No.18 dated 26 July 2018 approving revised proposal to TAMP for upward revision in wharfage rate of POL and POL Products at ₹500/- per tonne.

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

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

(i). The existing Scale of Rates (SOR) of the Mormugao Port Trust (MOPT) following the Tariff Policy, 2015 was last approved by this Authority vide Order No.TAMP/38/2016-MOPT dated 17 November 2016 and is valid till 31 March 2019. The current proposal of the MOPT is for upward revision in the wharfage rate for one item i.e. Petroleum Oil and Lubricants (POL) and POL products.

(ii). As stated in the earlier paragraphs, the Annual Revenue Requirement (ARR) estimated by the MOPT during the last tariff revision was to the tune of ₹433.37 crores. The revenue estimated by the MOPT at the proposed rates in the SOR was ₹199.80 crores. An estimated ARR of ₹233.57 crores was left uncovered in the tariff Order of November 2016 as proposed by the port.

In view of severe financial crisis faced by the port due to stoppage of iron ore and coal handling at its port, the MOPT has, based on the report of the Consultant, identified POL and POL products as a captive cargo whose rates can be increased without affecting the throughput. In the initial proposal dated 14 May 2018, the MOPT had proposed to increase the wharfage rate of POL and POL products from the existing ₹193/- per tonne to ₹1250/- per tonne. The increase in terms of percentage worked out to 548%.

The MOPT has forwarded the revised schedule 2.1.3. – Liquid Cargo of the existing SOR. It is seen from the revised schedule that the revision sought by the MOPT is in the wharfage rate for the first cargo item i.e. Petroleum, Oil & Lubricants and POL Products. The wharfage rate for other liquid cargo in the said schedule are maintained at status quo.

(iii). The proposed increase in the wharfage rate for POL and POL products at ₹1250/- per tonne was vehemently objected by the oil companies viz. the Hindustan Petroleum Corporation Limited (HPCL) and Indian Oil Corporation Limited (IOCL) as brought out earlier.

(iv). As per Clause 2.6. of Tariff Policy 2015, the Major Port Trusts have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the SOR within the ceiling of indexed ARR. Though this flexibility is available to Major Port Trusts in the Tariff Policy 2015, in view of strong objections made by oil companies, the MOPT was requested to furnish the cost statement in support of proposed wharfage rate of ₹1250/- per tonne for Petroleum Oil and Lubricants and POL products. The MOPT has, stated that the proposed rate is not justifiable based on cost. The port has, however, furnished its justification for the proposed increase in the wharfage rate which is brought out in the subsequent paragraphs.

(v). In view of the objection raised by the oil companies, the port was requested to sit together with the HPCL, IOCL and BPCL and attempt to arrive at a consensus in the quantum of hike in wharfage rate of POL cargo. In the said meeting convened by the port with the oil companies on 3 July 2018, the port has reported that oil companies requested to continue with current rate of wharfage which is valid till 31.03.2019 and thereafter consider hike of 5% to 10 %. As there was no agreement between the Port and the Oil Companies to arrive at a consensus on the quantum of increase and the attempt proved inconclusive, the port has reviewed the original proposed rate of ₹1250/- per tonne and reduced it to ₹500/- per tonne in its revised proposal dated 25 July 2018. At the revised proposed rate, the increase works out to 159% as against 548% increase sought in the original proposal. The Port has forwarded a copy of the approval of its Board of Trustees approving the revised proposed wharfage rate of ₹500/- per tonne. The port has furnished the following justification for the proposed increase in the wharfage rate:

(a). Iron ore mining is banned and Coal handling at port as well as by SWPL has been stopped in view of suspension of operations by Goa Pollution Control Board. The port has not handled coal cargo for the last five months since February 2018. Port is in financial stress and unable to generate revenue to meet the expenditure and even salary of port employees. Accumulated losses of port is to the tune of ₹563 crores.

(b). Port has to pay salary to 1700 employees and pension to 4300 pensioners. The Port cannot lay off its employees unlike other stakeholders of the iron ore and coal trade, to reduce costs and has to maintain a large workforce which is a fixed cost.

(c). The Port's outgo on pensioners is about ₹100.00 crores per annum on which it has absolutely no control. The Port's outgo on the medical facilities provided to its employees, pensioners and their dependents is to the tune of ₹18.00 crores per annum.

(d). Port is facing severe financial crisis due to stoppage of iron ore and coal handling. In this scenario, port is left with no other alternative but to increase the rate for POL cargo. If port increases rate for any other cargo, cargo will be diverted from our port.

(e). Increase in POL rates may not affect the cargo throughput. Port's present financial position warrants increase in wharfage rates of POL.

(f). Proposed increase in the wharfage rate of POL and POL products would increase the Port's revenues to some extent.

(g). The per litre wharfage would be 0.50 paise per litre at the revised proposed rate of ₹500/- per tonne, which is affordable to users considering the taxes and duties levied on POL.

(h). POL is a clean cargo and the POL prices in Goa are amongst the least in the country. Hence, ₹0.50 paise per litre is a small price to pay for a cleaner Goa.

(i). The ARR uncovered as per the MOPT's proposal already approved by this Authority in the last tariff Order is to the tune of ₹233.57 crores. At the revised proposed rate of ₹500/- per tonne, the port would generate an additional revenue of only ₹18.05 crores. Still, there will have a deficit of ₹215.52 crores.

(j). The proposed rate will be the ceiling rate and concessions can be given depending on the changes in the business scenario.

(vi). (a). Thus, in short the revision in the wharfage rate proposed by the MOPT is due to severe financial crisis faced by the port on account of ban in handling of iron ore and coal in Goa by the Goa Pollution Control Board. The Tariff Policy, 2015 issued by the MOS gives flexibility to the Port to propose rates within the ARR. The additional revenue estimated at the proposed rate is well within the ARR. The Tariff Policy, 2015 issued by the MOS under Section 111 of the Major Port Trust (MPT) Act is binding on this Authority. It is noteworthy that in view of the efforts taken by this Authority during the consultation proceedings of the case, the MOPT has brought down the increase from ₹1250/- to ₹500/- per tonne. Recognising the position reported by the port that they do not have funds even to pay the salaries and pension payment and also recognising that the proposed increase is a stop gap arrangement for sustainability of the port and not with the intention for generating profitability, and also recognising that the Board of Trustees have also approved the revised proposed rate of ₹500/- per tonne, this Authority approves the revised wharfage rate for POL and POL products proposed by the port at ₹500/- per tonne from the existing wharfage rate of ₹193/- per tonne as a stop gap arrangement. <u>The rate approved by this Authority are ceiling rate and the port has the flexibility to charge lower rate. Referring to this provision, the port has also stated that concessions can be given depending on the changes in the business scenario</u>.

The oil companies while objecting on the original proposed rate of ₹1250/- per tonne have made a mention that they may have to look at the other alternatives. The Port is of the view that the increase in POL rates may not affect the cargo throughput. As per clause 2.7 of the Tariff Policy 2015, it is for the port to ensure that as a result of any change in SOR, there will not be loss of traffic to the Port. The Port has already agreed to give concession in rate based on changes in the business scenario.

The next revision of the SOR of the MOPT is due from 1 April 2019. In view of the objection made by the oil companies during the current proceedings at steep increase proposed by the port and stating that it may have to look for alternative mode of transport by pipeline/ road, the port is advised that while revising the SOR due from 1 April 2019, the port may like to review the increased wharfage rates for POL and POL products as this exercise is only a stop gap arrangement to tide over the severe financial crisis reported by the port.

(b). The port has estimated additional revenue of ₹18.05 crores per annum (i.e. ₹307/- per tonne incremental wharfage rate x 588074 tonnes). It is relevant to state that by the time this Order comes into effect, it will be around September 2018. So, if the prorated traffic is considered for seven months for the year 2018-19, the additional revenue will be ₹10.53 crores (i.e. ₹307/- per tonne incremental wharfage rate x 340343 tonnes). As stated by the port, the additional revenue is well within ARR of ₹233.57 crores which was left uncovered in the last tariff revision Order. Even after granting the proposed increase, ₹223.04 crores of the ARR estimated in the November 2016 Order is expected to remain uncovered.

(vii). Ordinarily the rate approved by this Authority shall come into force after expiry of 30 days from the date of notification of the SOR in the Gazette of India. However, since MOPT is facing financial crisis, the revised rate approved is made effective from the date of notification of the Order in the Gazette. The validity of the revised rate is prescribed co-terminus with the validity of the existing SOR of MOPT which is till 31 March 2019.

13.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following revised wharfage rate for Petroleum, Oil & Lubricants and POL Products in the existing SOR of the MOPT:

(i). Wharfage rate for Petroleum, Oil & Lubricants and POL Products at berth at Sr. No 1, under Schedule 2.1.3 - Liquid Bulk Cargo prescribed under 2 – Cargo related charges in the existing SOR of MOPT is revised as follows:

2.1.3 SCHEDULE OF LIQUID BULK CARGO:

Sr. No.	Particulars of commodities	Unit	Foreign rates (in ₹)	Coastal rates (in ₹)
1.	**Petroleum, Oil & Lubricants and POL Products**	Per Tonne	500.00	500.00

13.2. The rate approved by this Authority shall come into effect immediately from the date of notification of the Order in the Gazette of India. The approved rate will be valid till the validity of the existing SOR of the MOPT i.e. till 31 March 2019.

13.3. The MOPT is directed to amend the existing SOR accordingly.

(T.S. Balasubramanian)
Member (Finance)

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

F.No. TAMP/39/2018-MOPT - Proposal received from Mormugao Port Trust (MOPT) for Revision of Wharfage Charges on POL Cargo

1.1. A summary of comments received from the users/ user organisations are tabulated below:

Sr. No.	Comments received from the users/ user organisations
I.	**Hindustan Petroleum Corporation Limited (HPCL)**
(i).	The proposed increase of ₹1250/- per Tonne in the wharfage rate on POL cargo, as against an existing wharfage rate of ₹193/- per Tonne is very exorbitant (648% of the existing Tariff). [The current percentage of increase in 548%]
(ii).	Hence, we prefer to have a discussion with TAMP, along with industry members, preferably during the first week of June 2018.
II.	**Indian Oil Corporation Limited (IOCL) letter dated 23.05.2018 and subsequent letter dated 25.05.2018**
(i).	We refer to letter No.TAMP/39/2018-MOPT dated 17 May 2018 on the subject matter vide which increase of ₹1250/- per Tonne in the wharfage rate on POL cargo has been proposed as against an existing wharfage rate of ₹193/- per ton. We feel that the increase proposed is very high.
(ii).	The wharfage charges prior to 30.12.2016 was ₹99/- per MT which were revised to existing charges of ₹193/- per MT effective 30.12.2016 for a period up to 31.03.2019 and therefore increasing the charges before the expiry of current validity period (that too with retrospective effect) is not justified.
(iii).	Hence, we request to have a discussion with TAMP, along with industry members, preferably during the first week of June 2018. Kindly give us a hearing in the matter and request you to continue the present rate till its validity.
(iv).	The proposed hike from ₹193/- per MT to ₹1250/- per MT works out to 548% of the existing tariff which is not only exorbitant but also beyond anybody's imagination. It is highly unfair to propose such steep hike which is not in line with general principles followed for tariff increase of any type of commodities.
(v).	In justification to proposed hike, it is stated that Port is facing severe financial crisis due to stoppage of tariff of other products hike iron ore & coal. However stoppage of other commodity tariff is in no way connected with Oil industry and losses of such nature should not be passed on to us. Coal & Iron ore tariff was being handled for pass so many years and MOPT might have made significant earning. Every organisation has the mechanism and financial provision to absorb losses on account of drop in volumes which is inherent risk in each and every business. Customers should not be made scapegoat for such losses and it is against fair business practices.
(vi).	Such a huge increase will result in additional burden on the end user i.e. general public which will be unjustified.
(vii).	We therefore request you not to consider very steep hike in tariff as proposed, and that also with retrospective effect. We have no objection to periodical increase, but the same should be reasonable, in line with the general principles of increase in land rental by Revenue department of State of Goa and the increase should only be effective the date after expiry of the existing validity period i.e. effective 01.04.2019. Trust your good offices will look in the matter and consider workable wharfage charges in line with general principles of land valuation effect 01.04.2019 only.

1.2. The MOPT has not furnished comments on the objections of oil companies. The port has, however, furnished justification for the proposed increase sought by it which is brought out in the speaking Order.

2. A joint hearing in this case was held on 14 June 2018 at the MOPT premises. The MOPT made a brief power point presentation of its proposal. At the joint hearing, the MOPT and

the concerned users/ user organizations including IOCL, HPCL and BPCL have made the following submissions:

Mormugao Port Trust (MOPT)

(i). Consultant, has been appointed by MOS, to suggest measures to improve Port's profitability. The Consultant has suggested to increase POL charges.

(ii). Wharfage rates on POL cargo is proposed to be increased to ₹1,250/- per tonne from existing 193/- tonne.

(iii). In last revision though increase required was high as per estimated ARR, we did not seek that level of increase in tariff.

(iv). In 2014-15, POL handled 5,58,074 tonnes.

(v). Justification for the proposal is that proposed increase is within the ARR. Iron ore mining is banned and Coal handling at port as well as by SWPL has been stopped in view of suspension of operations by Goa Pollution Control Board. We have not handled coal cargo for the last five months since February 2018. Port is in financial stress and unable to generate revenue to meet the expenditure and even salary of port employees. Accumulated losses of port is to the tune of ₹563 crores. Port has to pay salary to 1700 employees and pension to 4300 pensioners. One of the reasons for increase in POL is that it is a clean cargo.

(vi). Presently, taxes and duties levied on POL products is 100% of the production cost. At the proposed increase, the impact will be around ₹1.30/ litre which is marginal. End user will be general public of Goa. Diesel and petrol prices in Goa are the lowest.

(vii). Coal ban is due to objection of general public on handling of coal. ₹1.30 per litre of fuel is a small price to pay for clean Goa.

(viii). Increase in charges will not affect the demand.

(ix). Proposed rate will be the ceiling rate.

(x). Though MOS projected 20 MTPA for MOPT, we are subject to Consent to Operate (CTO) issued by Goa State Pollution Control Board (GSPCB).

(xi). As per CTO, we can handle only total 6.3 MTPA of coal at port including berths operated by terminal operators.

(xii). It would have been better if GSPCB gives guidelines to contain control pollution instead of banning cargo.

(xiii). We have not handled coal for last 5 months. GSPCB is not giving clearance.

(xiv). In this scenario, we are left with no other alternative but to increase the rate for POL cargo. If we increase rate for any other cargo, cargo will be diverted from our port.

(xv). It is not for profitability. It is a stop gap arrangement. It is the only way for sustainability.

(xvi). We cannot afford any diversion of cargo from MOPT. Once cargo goes out of port, it is difficult to bring it back.

(xvii). We have given lot of concession to cargo by extending free days and reduction in rate. We will look into it once the situation improves.

Bharat Petroleum Corporation Ltd. (BPCL)

(i). We understand the financial crisis of port.

(ii). The increase of ₹1.30/ litre cannot be passed to users straight away as stated by the port. The pricing is decided by the Company for the country as a whole.

(iii). If rate increase is reasonable, we can go with it. Else, we will have to look for different modes for sourcing. We may have to look for bringing POL from other private ports and move by lorry or by pipeline. The next nearest port from MOPT is 130 kms away. The impact of bringing from that port is expected to be around 0.30 paise per litre.

(iv). If the proposed hike impacts profitability of oil industry, we shall be constrained to look for other alternative mode.

Indian Oil Corporation Limited (IOCL)

(i). Increase proposed is very steep and unprecedented.

(ii). Our margin in POL is not steep.

(iii). We are handling 4 lakh tonnes. BPCL is also handling similar traffic.

(iv). If tariff is increased, we have to work out how we can move this cargo by pipeline or tanker. Pipeline would be the cheapest.

(v). Justified increase is acceptable

(vi). POL cannot bear the entire financial burden of the port.

Hindustan Petroleum Corporation Limited (HPCL)

(i). We have compared the rate with few other ports. The existing wharfage rate for POL ₹193/ tonne at MOPT is the highest amongst all the major ports. At Mumbai, and Kolkata Ports, the wharfage rate is ₹43/- per tonne and ₹100/- per tonne respectively and at Chennai it is ₹81/- per tonne. The proposed rate is 12 times the wharfage rate of Kolkata Port Trust.

(ii). Pricing mechanism is decided across the country. It is not correct to say that ₹1.30/ litre can be passed to customers.

(iii). Chennai lost huge volume due to Ennore Port coming up. But, Chennai has not increased the POL rate.

Indian Oil Corporation Limited (IOCL)

(i). POL price is very price centric.

(ii). We have to work out what best increase we can bear. We cannot increase the rate.

(iii). Oil companies shall work out what best increase can be absorbed.

(iv). Ministry of Petroleum is insisting to move to natural gas in Goa. Kerosene is completely not allowed at Goa.

Bharat Petroleum Corporation Ltd. (BPCL)

(i). Though present rate is higher, we have no objection for a reasonable increase.

****