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

Tariff Authority for Major Ports

G.No. 59 **New Delhi** **12 February 2019**

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 Kolkata Port Trust for introducing Benchmark Pumping rate for simultaneous discharge of Butane and Propane and introducing incentive norms and revision of penalty norms against Benchmark Pumping rate for all Liquid Cargoes handled at Haldia Oil Jetties (except Edible Oil), as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/67/2018-KOPT

Kolkata 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 18th day of January 2019)

This case relates to a proposal received from Kolkata Port Trust (KOPT) for introducing Benchmark Pumping rate for simultaneous discharge of Butane and Propane and for introducing incentive norms and revision of penalty norms against Benchmark Pumping rate for all Liquid Cargoes handled at Haldia Oil Jetties (except Edible Oil).

2.1. Earlier in the month of November 2016, based on the proposal filed by the KOPT in May 2016 for general revision of the Scale of Rates (SOR), this Authority vide its Order no. TAMP/23/2016-KOPT dated 17 November 2016 has revised the Scale of Rates (SOR) of KOPT. The said Order was notified in the Gazette of India on12 January 2017 vide Gazette No. 14, and is valid till 31 March 2019.

2.2. Vide the said Order, this Authority has notified the Benchmark Pumping Rate for each of the following liquid cargoes including Butane and Propane individually under Section 21.5 of the SOR is as follows:

Sl No	Cargo	Benchmark Pumping Rate [KL/Hr]
1	Ammonia Anhydrous	500
2	Aviation Turbine Fuel	450
3	**Butane**	**800**
4	Furnace Oil	750
5	High Speed Diesel	750
6	Naphtha	900
7	**Propane**	**650**
8	Paraxylene	500
9	Py Gas	500
10	Superior Kerosene Oil	550
11	Motor Spirit	550
12	Crude Oil (Petroleum)	2700
13	Bitumen	300

3.1. In this backdrop, the KOPT vide its letter No. GM(T)/74/GMT-478 dated 31 August 2018 has made the following submission:

(i). At Haldia, there are three oil jetties on the river for handling various commodities like Crude, POL, LPG, Naphtha, Ammonia and other chemicals through pipeline. In order to ensure the maximum utilization of the jetties and also to reduce the Turn Round Time (TRT) of the vessels, Benchmark Pumping Rate as well as Penal Berth Hire charge for non-achievement of Bench Mark Pumping Rate for various POL products and chemicals was fixed and notified by the Authority and made effective from 12.01.2017.

(ii). According to said notification, Benchmark Pumping Rate of Butane was fixed at 800 KL per hour and of Propane was fixed at 650 KL per hour. Butane and Propane are separate constituents of LPG and they are discharged one after another and thereby the Authority had fixed separate Pumping rate for Butane and Propane.

(iii). However, one of the Terminal Operators i.e. Hindustan Aegis LPG Ltd (HALL) had initiated simultaneous discharge of Butane and Propane. But due to non-availability

of specific Benchmark Pumping Rate for simultaneous discharge of Butane and Propane, it is difficult to assess the performance of the vessels.

(iv). Therefore, fixing up of the Benchmark Pumping Rate for simultaneous discharge of Butane and Propane was discussed with HALL and it was decided that instead of fixing the Benchmark Pumping Rate as sum of the individual rate of Butane and Propane, 40% higher rate compared to the average rate may be fixed. Thus, for simultaneous discharge of Butane and Propane, Benchmark Productivity Rate will be fixed at (800KL + 650KL) / 2 = 725 KL per hr x 1.4 = 1015 KL per hr. [The copy of the Minutes of the Meeting held by KOPT with HALL had been furnished by the KOPT.]

(v). Further, in respect of failure or success in achieving the stipulated discharge rate, the following clauses are proposed to be introduced:

(a). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours or less, then no penalty will be levied.

(b). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours, then penalty will be levied @ 2 times of the normal berth hire charge for every additional hours or part thereof taken to complete the cargo operation of the vessel.

(c). Further, if the vessels pumping rate exceeds the Benchmark Pumping Rate, then incentives will be provided as per the following:

If the working time of the vessel (considering hauled in time till completions of cargo work) is lower than the stipulated time by more than 2 hours, then incentives will be paid @ 5% of the applicable berth hire charges for every additional hour saved. However, there will be no incentive for saving of time up to 2 hours.

(vi). The Board of Trustees of KOPT have approved to introduce above clauses for levy of penalty or incentives for failure or success in achieving the stipulated discharge rate.

(vii). The said penalty / incentives norms will be applicable for all Liquid Cargoes handled at Haldia Oil Jetties (excepting Edible oil) including for simultaneous discharge of Butane and Propane.

(viii). For calculation of the stipulated working period in hours the cargo tonnage will be divided by the Pumping Rate Norms and the same will be compared with the actual working period of the ship to be ascertained from the operational records.

(ix). For non-achievement of the performance, the penalty will be imposed on the ship's owner / agent. Similarly, for achieving higher performance, the incentive will be paid at the proposed rate to the ship owner / Agent.

(x). The introduction of Benchmark Productivity norms for simultaneous discharge of Butane and Propane as well as performance norm based incentive/ penalty, is expected to bring an improvement in the performance of LPG tankers as well as other POL and chemical vessels, which in turn, will increase the capacity of the Haldia Oil Jetties.

3.2. Based on the above submission and since there is no performance norms for simultaneous discharge of Butane and Propane in the existing SOR nor are there any incentive norms, the KOPT has come up with proposal for inclusion of the same under Section 21.5 of the existing Scale of Rates of KOPT.

3.3. The KOPT has furnished the copy of the Board Resolution approving the proposal in reference vide its resolution no. R/85/HDC/SH&CH/3/06/2018 dated 28.06.2018.

4. In accordance with the consultative procedure prescribed, a copy of the KOPT proposal dated 31 August 2018 was forwarded to the concerned users/ user organizations as suggested by KOPT, vide our letters dated 12 September 2018 and 14 September 2018, seeking their comments. Some of the user organization have furnished their comments. The said comments were forwarded to KOPT as feedback information. The KOPT has responded vide its letter dated 21 December 2018.

5. Based on the preliminary scrutiny of the proposal, some clarification was sought from KOPT vide our letter dated 15 October 2018**.** The KOPT has responded vide its letter dated 21 December 2018. The information/ clarification sought by us and the response of KOPT thereon is tabulated below:

<table>
<tr><th>Sr. no.</th><th>Information/ clarification sought by us</th><th>Response of KOPT</th></tr>
<tr><td>(i).</td><td>The reason to propose calculation of Benchmark Productivity Rate for simultaneous discharge of Propane and Butane at 1.4 times of average of individual Benchmark Productivity Rate of Propane and Butane instead of considering the sum of individual Benchmark Productivity rates of Propane and Butane, to be explained.</td><td rowspan="2">The Benchmark Productivity Norms for simultaneous discharge of Butane and Propane should be ideally the sum of the two Performance Norms as they are discharged through separate Marine Unloading Arms and Pipelines. However, during the discussion with the stakeholders, they have requested initially to fix lower Benchmark Pumping Rate to start with and accordingly as discussed with them, the Benchmark Pumping Rate for simultaneous discharge of Butane and Propane has been fixed as 1.4 times the average of the two individual pumping rate.</td></tr>
<tr><td>(ii).</td><td>Furnish rationale for considering 1.4 times of average of individual Benchmark Productivity Rate of Propane and Butane.</td></tr>
<tr><td>(iii).</td><td>The actual productivity / pumping rate achieved at HDC of KOPT in case of simultaneous discharge of Butane and Propane for the past year to be furnished.</td><td>The details of the pumping rate achieved during simultaneous discharge of 16 vessels, which have worked during the period from December 2017 to November 2018 are given below.
<table>
<tr><th>Sl. No.</th><th>Vessel Name</th><th>Cargo</th><th>Quantity (In MT)</th><th>Quantity (In KL)</th><th>Quantity (In KL)</th></tr>
<tr><td></td><td colspan="5">Date Dec. 17 to Nov.18)</td></tr>
<tr><td rowspan="2">1</td><td rowspan="2">M T SCORPIO</td><td>Butane</td><td>9020</td><td>15153</td><td rowspan="2">30783</td></tr>
<tr><td>Propane</td><td>9016</td><td>15629</td></tr>
<tr><td rowspan="2">2</td><td rowspan="2">MT KOBAI</td><td>Butane</td><td>6483</td><td>10916</td><td rowspan="2">23064</td></tr>
<tr><td>Propane</td><td>6996</td><td>12148</td></tr>
<tr><td rowspan="2">3</td><td rowspan="2">MT TIRUMALA GAS</td><td>Butane</td><td>2073</td><td>3478</td><td rowspan="2">7771</td></tr>
<tr><td>Propane</td><td>2484</td><td>4293</td></tr>
<tr><td rowspan="2">4</td><td rowspan="2">MT FUJI GAS</td><td>Butane</td><td>4250</td><td>7137</td><td rowspan="2">14506</td></tr>
<tr><td>Propane</td><td>4244</td><td>7369</td></tr>
<tr><td rowspan="2">5</td><td rowspan="2">MT GAS COMMERCE</td><td>Butane</td><td>9500</td><td>16001</td><td rowspan="2">30773</td></tr>
<tr><td>Propane</td><td>8500</td><td>14771</td></tr>
<tr><td rowspan="2">6</td><td rowspan="2">MT SERJEANT</td><td>Butane</td><td>7506</td><td>12522</td><td rowspan="2">25451</td></tr>
<tr><td>Propane</td><td>7493</td><td>12929</td></tr>
<tr><td rowspan="2">7</td><td rowspan="2">M T SIROCCO</td><td>Butane</td><td>5504</td><td>8738</td><td rowspan="2">17069</td></tr>
<tr><td>Propane</td><td>4501</td><td>8331</td></tr>
<tr><td rowspan="2">8</td><td rowspan="2">M T KOBAI</td><td>Butane</td><td>8999</td><td>15054</td><td rowspan="2">30575</td></tr>
<tr><td>Propane</td><td>8980</td><td>15521</td></tr>
<tr><td rowspan="2">9</td><td rowspan="2">M T JAG VISHNU</td><td>Butane</td><td>11671</td><td>19534</td><td rowspan="2">38449</td></tr>
<tr><td>Propane</td><td>10944</td><td>18916</td></tr>
<tr><td rowspan="2">10</td><td rowspan="2">M T NOVA SCOTIA</td><td>Butane</td><td>1717</td><td>2972</td><td rowspan="2">11288</td></tr>
<tr><td>Propane</td><td>4216</td><td>8316</td></tr>
<tr><td rowspan="2">11</td><td rowspan="2">M T GAS TAURUS</td><td>Butane</td><td>9200</td><td>16008</td><td rowspan="2">36767</td></tr>
<tr><td>Propane</td><td>10500</td><td>20759</td></tr>
<tr><td rowspan="2">12</td><td rowspan="2">M T BW ENERGY</td><td>Butane</td><td>10000</td><td>16858</td><td rowspan="2">34111</td></tr>
<tr><td>Propane</td><td>10000</td><td>17358</td></tr>
<tr><td rowspan="2">13</td><td rowspan="2">M T GAS TAURUS</td><td>Butane</td><td>8400</td><td>14613.84</td><td rowspan="2">31228</td></tr>
<tr><td>Propane</td><td>8400</td><td>16613.69</td></tr>
<tr><td rowspan="2">14</td><td rowspan="2">M T KOBAI</td><td>Butane</td><td>9514</td><td>16443</td><td rowspan="2">35136</td></tr>
<tr><td>Propane</td><td>9498</td><td>18693</td></tr>
<tr><td rowspan="2">15</td><td rowspan="2">M T SERJEANT</td><td>Butane</td><td>8505</td><td>16443</td><td rowspan="2">33259</td></tr>
<tr><td>Propane</td><td>8522</td><td>16816</td></tr>
</table></td></tr>
</table>

16	M T BW TOKYO	Butane	9980	17363	38143
		Propane	10500	20780	

Sl. No	Actual Working Hrs. (H/in to F/W)	Benchmark Pumping Hour	Actual Pumping (KL/Hr.)	Benchmark Pumping Rate (KL/Hr)
1	30.80	30.33	999	1015
2	24.90	22.72	926	1015
3	8.90	7.66	873	1015
4	16.70	14.29	869	1015
5	35.60	30.32	864	1015
6	25.10	25.07	1014	1015
7	20.80	16.82	821	1015
8	28.90	30.12	1058	1015
9	42.80	37.88	898	1015
10	13.50	11.12	836	1015
11	33.10	36.22	1111	1015
12	38.80	33.61	879	1015
13	30.00	30.77	1041	1015
14	32.60	34.62	1078	1015
15	30.40	32.77	1094	1015
16	42.40	37.58	900	1015

During 2017-18, 2.49 MMT of LPG was handled and it is expected that around 3 MMT of LPG will be handled in the current fiscal. In order to accommodate this increase in throughout as well as to cater to the increased number of vessels, it is imperative to increase the productivity and reduce the TRT of the vessels for optimal utilization of the jetties.

(iv). To quantify the additional revenue per annum to be earned by the Port on account of proposal in reference.

The increased handling of 0.51 MMT of LPG during the current fiscal is expected to generate additional wharfage of around ₹.5.5 Crores @ ₹.107.73 per MT and ₹.12.57 crores in terms of Vessel Related Charges @ ₹. 41.90 lakhs per vessel on an average. Incidentally, the average parcel load of LPG vessels is around 16,940 MT and for mobilizing 0.51 MMT of additional LPG, 30 additional vessels are likely to be handled.

(v). Furnish draft Scale of Rates, incorporating the proposed benchmark pumping rate and incentive and penalty scheme.

The Draft Scale of Rate incorporating the proposed Benchmark Pumping Rate an incentive & Penalty Scheme is as follows:

"S.21.5.1 a) In case any liquid bulk cargo vessels working at Haldia Oil jetties fails to achieve the benchmark Pumping Rate indicated below, Penal Berth Hire Charges shall be levied extra.

Sl No	Cargo	Benchmark Pumping Rate [KL/Hr]
1	Ammonia Anhydrous	500
2	Aviation Turbine Fuel	450
3	Butane	800
4	Furnace Oil	750
5	High Speed Diesel	750
6	Naphtha	900
7	Propane	650
8	Paraxylene	500
9	Py Gas	500
10	Superior Kerosene Oil	550
11	Motor Spirit	550
12	Crude Oil (Petroleum)	2700
13	Bitumen	300
14	Simultaneous discharge of Butane & Propane	1015

b). **Penalty / Incentive Norms**

(i). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time

		based on the above productivity norms by 2 hours or less, then no penalty will be levied. (ii). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours, then penalty will be levied @ 2 times of the normal berth hire charge for every additional hour or part thereof taken to complete the cargo operation of the vessel. (iii). Further, if the vessel's pumping rate exceeds the Benchmark Pumping Rate, then incentives will be provided as per the following: If the working time of the vessel (considering hauled in time till completions of cargo work) is lower than the stipulated time by more than 2 hours, then incentives will be paid @ 5% of the applicable berth hire charges for every additional hour saved. However, there will be no incentive for saving of time up to 2 hours. (c). The above penalty/ Incentive Norms will be applicable for all the Liquid Cargoes handled at Haldia Oil Jetties (except Edible Oil) including for simultaneous discharge of Butane and Propane. (d). For calculation of the stipulated working period in hours the cargo tonnage will be divided by the Pumping Rate Norms and the same will be compared with the actual working period of the ship to be ascertained from the operational records. (e). For non-achievement of the performance as stated above, the penalty will be imposed on the ship's owner / agent. Similarly, for achieving higher performance, the incentive will be paid at the proposed rate to the ship owner/ agent.**"**

6.1. A joint hearing on the case in reference was held on 01 November 2018 at the KOPT premises. At the joint hearing, the KOPT made a brief Power Point presentation of the proposal. The KOPT and the users/ user organisations have made their submissions at the joint hearing.

6.2. Based on the request made by one of the stakeholders viz., Indian Oil Petronas Pvt Ltd (IOPPL), at the joint hearing, the KOPT agreed to examine whether two different Benchmark Pumping Rates can be fixed for two different types of Vessels i.e. Very Large Gas Carrier (VLGC) and Mini Gas Carrier (MGC). Accordingly, the KOPT was requested vide our letter dated 12 November 2018 to examine the proposal whether it can propose two different Benchmark Pumping Rates for above said two different types of vessels namely higher Benchmark pumping rate for VLGCs and lower Benchmark pumping rate for MGCs and accordingly modify the proposal and submit the revised proposal.

6.3. In response, the KOPT vide its letter dated 21 December 2018 has stated that the suggestion of IOPPL was examined and no merit has been found for introduction of different pumping rates. The KOPT has stated that the pumping rates does not depend upon the size of the vessel but depends on capacity of pumps, availability of ullage, etc. By increasing the capacity of the pumps and making adequate availability of ullage, higher pumping rate can be achieving even for Mini Gas Carriers. Further, the same unloading arms and pipelines are used for discharging LPG against both the above category of vessels. It may not be out of context to mention that the current SOR approved by the Authority does not stipulate separate Benchmark Pumping Rate for either Propane or Butane, based on type of vessel. In view of the above, it has proposed to introduce Single Benchmark Pumping Rate of 1,015 KL per hour for simultaneous discharge of Butane and Propane irrespective of the type of size of vessels.

7. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned

parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

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

(i). In the general revision proposal filed by the KOPT in May 2016, the Kolkata Port Trust (KOPT) had proposed benchmark pumping rates for various types of liquid bulk cargo viz., Ammonia Anhydrous, Aviation Turbine Fuel, Butane, Furnace Oil, High Speed Diesel, Naphtha, Propane, Paraxylene, Py Gas, Superior Kerosene Oil, Motor Spirit, Crude Oil (Petroleum) and Bitumen. Since the introduction of benchmark pumping rate would bring in discipline in the handling of cargo and vessels and would lead to faster turnaround of the vessels, this Authority vide its Order dated 17 November 2016 has approved the benchmark pumping rates as proposed by the port for various liquid cargo.

(ii). There are reported to be instances, where Butane and Propane are discharged simultaneously, and in the absence of specific benchmark pumping rate for simultaneous discharge of Butane and Propane, the KOPT is not in a position to assess the performance of vessels discharging Butane and Propane simultaneously. Accordingly, the KOPT has come up with the proposal under reference seeking approval for the prescription of Benchmark pumping rate for simultaneous discharge of Butane and Propane, as a separate entry, in its Scale of Rates. The proposal of KOPT has the approval of its Board of Trustees.

(iii). The submissions made by KOPT in its proposal dated 31 August 2018 alongwith the information/ clarification furnished by KOPT during the processing of the case in reference, are considered in this analysis.

(iv). (a). The separate Benchmark pumping rates as prevailing in the existing Scale of Rates of KOPT is 800 KL per hour in respect of Butane and 650 KL per hour in respect of Propane. In the proposal under reference, for simultaneous discharge of Butane and Propane, the KOPT has proposed Benchmark Pumping rate at 1015 KL per hour. The proposed Benchmark Pumping rate of 1015 KL per hour is calculated considering 40% higher of the average rate of the benchmark pumping rates fixed for the individual discharge of Butane and Propane i.e. [(800 KL per hour for Butane + 650 KL per hour for Propane) / 2) x 1.4 times].

(b). Considering that simultaneous discharge of Butane and Propane will be undertaken by using separate Marine Unloading Arms and pipelines, the Benchmark Pumping rate for simultaneous discharge should ideally be the sum of the two Performance Norms i.e. 1450 KL per hour. However, in consultation with the relevant stakeholders, the port has decided to initially fix the Benchmark Pumping Rate at 1.4 times the average of the two individual pumping rates i.e. 1015 KL per hour.

(c). Though the port has stated that the Benchmark Pumping Rate of 1015 KL per hour is based on the consultation with the relevant stakeholders, some of the stakeholder viz., Hindustan Aegis LPG Limited (HALL) and Atlantic Shipping Private Limited (ASPL) have reported that the said Benchmark Pumping Rate of 1015 KL per hour has been fixed arbitrarily by the KOPT.

(d). It is, however, to be noted that good number of vessels which have discharged Butane and Propone simultaneously at HDC have already achieved the proposed benchmark pumping rate of 1015 KL per hour. The KOPT has substantiated this position by furnishing details for a period of one year from December 2017 to November 2018. Further, the KOPT is of the view that the proposed benchmark pumping rate can also be achieved by other vessels, if the shippers upgrade their pumping capacity and make availability of ullage.

(v). From the statistics furnished by the KOPT for a period of one year from December 2017 to November 2018, it is seen that of the vessels which have achieved the benchmark pumping rate of 1015 KL per hour as reported by KOPT, none of the vessel is closer to the benchmark pumping rate if considered as the sum of the two Performance Norms i.e. 1450 KL per hour (800 KL per hour for Butane + 650 KL per hour for Propane). In such a scenario, it is not felt appropriate to theoretically fix the benchmark pumping rate for simultaneous discharge of Butane and Propane at 1450 KL per hour, when it is known from the data that the same has not been achieved. Considering that this is the first occasion, wherein benchmark pumping rate for simultaneous discharge of Butane and Propane is being fixed and taking into account the approval of the Board of Trustees, this Authority is inclined to prescribe benchmark pumping rate for simultaneous discharge of Butane and Propane at 1015 KL per hour, for the time being, as proposed by the Port. The Port is advised to move towards fixing the benchmark pumping rate for simultaneous discharge of Butane and Propane at 1450 KL per hour, during the next review of the benchmark pumping rates.

(vi). In the existing Scale of Rates of KOPT, it is prescribed that in case any liquid bulk cargo vessels working at Haldia Oil jetties fail to achieve the indicated benchmark Pumping Rate, then Penal Berth Hire Charge equivalent to the Berth Hire charge payable by the vessel shall be levied extra. The KOPT has now proposed to revise the penal provision to the effect that:

(a). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours or less, then no penalty will be levied.

(b). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours, then penalty will be levied @ 2 times of the normal berth hire charge for every additional hours or part thereof taken to complete the cargo operation of the vessel.

Given that the proposed penal provisions are seen to be in line with the penal provisions approved by this Authority vide its Order no. TAMP/59/2017-KOPT dated 14 November 2017, while prescribing Performance Norm based Incentive/ Penalty for handling Edible Oil through pipeline at HDC and considering that the Board of Trustees have approved the penal provisions, the proposed penal provisions is approved.

(vii). The KOPT has introduced a provision for incentive to the effect that if the working time of the vessel (considering hauled in time till completions of cargo work) is lower than the stipulated time by more than 2 hours, then incentives will be paid @ 5% of the applicable berth hire charges for every additional hour saved and that there will be no incentive for saving of time up to 2 hours. Since the said incentive provision is also seen to be in line with the incentive provision approved by this Authority vide its Order no. TAMP/59/2017-KOPT dated 14 November 2017, while prescribing Performance Norm based Incentive/ Penalty for handling Edible Oil through pipeline at HDC and considering that the Board of Trustees have approved the incentive provision, the proposed incentive provision is approved.

(viii). The KOPT has also proposed notes to the effect that for calculation of the stipulated working period in hours the cargo tonnage will be divided by the Pumping Rate Norms and the same will be compared with the actual working period of the ship to be ascertained from the operational records and that for non-achievement of the performance, the penalty will be imposed on the ship's owner / agent and that for achieving higher performance, the incentive will be paid at the proposed rate to the ship owner/ agent. These provisions are also seen to be in line with the provisions approved by this Authority vide its Order no. TAMP/59/2017-KOPT dated 14 November 2017, while prescribing Performance Norm based Incentive/ Penalty for handling Edible Oil through pipeline at HDC and approved by the Board of Trustees of KOPT, and hence is approved.

(ix). As stated by KOPT, introduction of Benchmark Productivity norms for simultaneous discharge of Butane and Propane as well as performance norm based incentive/ penalty, is expected to bring an improvement in the performance of LPG tankers as well as other POL and chemical vessels, which in turn, is reported to increase the capacity of the Haldia Oil Jetties. The KOPT has quantified an additional revenue to the tune of about ₹ 18.07 crores, on account of expected increase in productivity on account of implementation of proposed benchmark pumping rate. It may be recalled that in the general revision Order of KOPT passed by this Authority in November 2016, a revenue gap to the tune of about ₹ 383 crores, has been left uncovered by the Port. The additional revenue that would be generated from handling of more cargo in future as estimated by KOPT at ₹ 18.07 crores, would get subsumed in the revenue gap and would not lead to any undue advantage to KOPT.

(x). Generally, the approval accorded by this Authority for any change in the existing Scale of Rates has a prospective effect. From the copy of Board Agenda Note of the meeting of Board of Trustees of KOPT held on 28 June 2018 attached to the subject proposal in reference, it is seen that the KOPT has proposed before its Board of Trustees that if the proposal is approved by the Board of Trustees, the same will be implemented pending approval of the TAMP. In other words, the KOPT appears to have already implemented the proposed provisions though the specific date of implementation is not made known. As per Clause 5.7.1 of the Working Guidelines issued to operationalise the Tariff Policy, 2015, whenever a specific tariff for a service/ cargo is not available in the Scale of Rates of the particular port or any other major port, then the port may file the proposal for notification of tariff for the said new cargo/ service. Further, as per Clause 5.7.3 and 5.7.4 of the Working Guidelines, with the submission of proposal, the port can simultaneously levy the proposed rate on an ad hoc basis in consultation with the concerned users, till the rate is finally notified. In the instant case, the KOPT, at the port level had held a meeting with the relevant stakeholders in May 2018, apprising them regarding the proposal. The port has submitted its proposal on 31 August 2018, presenting a fait accompli situation to this Authority. It is not unreasonable to expect a port to take immediate timely action for modification of tariff or modification to the conditionalities to the Scale of Rates. Nevertheless, this Authority is inclined to accord approval to the proposed provisions with effect from date of implementation, based on the approval accorded by the Board of Trustees of KOPT.

8.1. In the result, and for the reasons given above, and based on collective application of mind, the existing Section 21.5.1 of the KOPT Scale of Rates is revised and replaced with the following provisions:

"(a). In case any liquid bulk cargo vessels working at Haldia Oil jetties fails to achieve the benchmark Pumping Rate indicated below, Penal Berth Hire Charges shall be levied extra.

Sl No	**Cargo**	**Benchmark Pumping Rate [KL/Hr]**
1	Ammonia Anhydrous	500
2	Aviation Turbine Fuel	450
3	Butane	800
4	Furnace Oil	750
5	High Speed Diesel	750
6	Naphtha	900
7	Propane	650
8	Paraxylene	500
9	Py Gas	500
10	Superior Kerosene Oil	550
11	Motor Spirit	550
12	Crude Oil (Petroleum)	2700
13	Bitumen	300
14	Simultaneous discharge of Butane & Propane	1015

(b). **Penalty / Incentive Norms**

(i). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours or less, then no penalty will be levied.

(ii). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours, then penalty will be levied @ 2 times of the normal berth hire charge for every additional hour or part thereof taken to complete the cargo operation of the vessel.

(iii). Further, if the vessel's pumping rate exceeds the Benchmark Pumping Rate, then incentives will be provided as per the following:
If the working time of the vessel (considering hauled in time till completions of cargo work) is lower than the stipulated time by more than 2 hours, then incentives will be paid @ 5% of the applicable berth hire charges for every additional hour saved. However, there will be no incentive for saving of time up to 2 hours.

(c). The above penalty/ Incentive Norms will be applicable for all the Liquid Cargoes handled at Haldia Oil Jetties (except Edible Oil) including for simultaneous discharge of Butane and Propane.

(d). For calculation of the stipulated working period in hours the cargo tonnage will be divided by the Pumping Rate Norms and the same will be compared with the actual working period of the ship to be ascertained from the operational records.

(e). For non-achievement of the performance as stated above, the penalty will be imposed on the ship's owner / agent. Similarly, for achieving higher performance, the incentive will be paid at the proposed rate to the ship owner/ agent.

(f) The Performance and Penalty / Incentive Norms as specified above will be effective from 26 June 2018 and its validity will remain co-terminus with the validity of the existing scale of rates of KOPT. **"**

8.2. The KOPT is advised to suitably incorporate the above provisions in its Scale of Rates.

8.3. The revised Section 21.5.1 is deemed to have come into effect from the date of implementation and its validity shall remain co-terminus with the validity of the existing Scale of Rates of KOPT till 31 March 2019. The approval accorded shall automatically lapse unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

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

F. No. TAMP/67/2018-KOPT		**Proposal received from Kolkata Port Trust for introducing Benchmark Pumping rate for simultaneous discharge of Butane and Propane and for introducing incentive norms and revision of penalty norms against Benchmark Pumping rate for all Liquid Cargoes handled at Haldia Oil Jetties (except Edible Oil).**

A summary of the comments received from users / user organizations and response of KOPT thereon is tabulated below:

Sr. no.	Comments of Users / user organizations	Reply of KOPT
1.	**Atlantic Shipping Pvt. Ltd.**	
(i).	TAMP notification no. TAMP/23/2016-KOPT dated 2 December 2016, Section S21.5 has the provision for Penal Charges for non-achievement of benchmark pumping rate / delayed sailing due to reasons attributable to vessel as laid down in scale of rates, Gazette no. 457 dated 13.12.2016. This penal charge for the non-achievement of Bench Mark Pumping Rate was proposed by KOPT vide para 12.2 G.No. 14 dated 12 January 2017 and TAMP/23/2016-KOPT Order passed on 17.11.2016 and was included in the SOR Gazette no. 457 dated 13.12.2016.	The Benchmark Pumping Rate for discharge of only Butane already fixed by TAMP is 800 KL per Hour and to adopt similar rate for simultaneous discharge is not practicable. Further, the request of making the rate effective retrospectively from December 2017 is not admissible as the Board of Trustees of KOPT has approved the proposed rate in its meeting held on 28.06.2018. Ideally, for simultaneous discharge, the effective pumping rate should be sum of the performance rate fixed for Propane and Butane as discharge of Propane and Butane from the vessels is independent for each other and separate Marine Unloading Arms / pipelines are used for discharging of the two commodities. However, instead of fixing Performance Norms of simultaneous discharge as sum of individual Performance Norms, 1.4 times the average of the two individual Performance Norms [i.e.1.4 x (800 +650}] / 2}] has been fixed as the Performance Norms for simultaneous discharge, which is very low. The said norms has been fixed only after discussion with the service providers/users. Atlantic Shipping Pvt. Ltd. could not justify why 1.4 times the sum of the independent Performance Norms should not be fixed. In fact, this can be easily achieved by upgrading the pumping capacity of the vessels. Incidentally, Atlantic Shipping Pvt. Ltd. did not participate in the Joint Hearing held on 01.11.2018.
(ii).	LPG comprises of approximately 50% Butane and 50% Propane. These are transported separately in pressurized and refrigerated tanks on board LPG carriers at temperatures below -5 deg Celsius for Butane and below -42 Celsius for Propane. These are then pumped from the ship's tanks using the ship's pumps via the shore based Marine Loading Arm/s and associated pipelines to the shore storage tanks.	
(iii).	The rate of discharge depends upon the following parameters: 1. Pumping capacity and head (pressure) of the ships pump/s. 2. The size of the Marine Loading Arm connected to the ship's cargo discharge manifold. 3. Size of the pipe leading from the Marine Loading Arm to the shore tanks in the tank farm. 4. The total length of the pipeline from the Marine Loading Arm to the shore tanks and the layout. 5. The manifold pressure prescribed by the receiving terminal.	
(iv).	Bench mark for Butane at 800KL/HR and Propane at 650KL/Hr was based on the performance of the 1 no. 16" Marine Loading Arm (MLA) installed by M/s. Indian Oil Petronas Pvt Ltd., Haldia and which was commissioned in the year 2007 on Haldia Oil Jetty (HOJ II) with 16" pipelines leading to the storage tanks situated 6.5-7 kms away.	

(v). The LPG Carriers berthing at HOJ II (IOPPL), with a cargo of Butane and Propane, would discharge the cargo one grade at a time and thus achieve a pumping rate over and above the laid down Bench Mark for individual grades.

(vi). M/s. Hindustan Aegis LPG Ltd, have in December 2017, installed 2 nos, 10" MLA which are smaller in capacity (and feeding 12" shore pipe-lines). With these MLAs both grades of cargo (Butane and Propane) can be discharged simultaneously.

(vii). The rates of discharge achieved at HDC is given below:

Date	Name of Vessel	Size of MLA	Discharge Rate of Propane	Discharge rate of Butane	Discharge both Grades/ individual grade
	LPG/C		KL/Hr	KL/Hr	
29.12.17	Gas Commerce	10"	539.63	520.09	Both
07.01.18	Gas Taurus	16"	1398.504	1517.991	Individual
08.01.18	Gas Taurus	10"	573.667	503.838	Both
05.0218	Scorpio	10"	628.898	585.239	Both

The rates of discharge at Kamarajar (Ex-Ennore) Port:

Date	Name of Vessel	Size of MLA	Discharge Rate of Propane	Discharge rate of Butane	Discharge both Grades/ individual grade
	LPG/C		KL/Hr	KL/Hr	
17.10.17	Gas Beryl	10"	1032.44	921.58	Both
27.10.17	Jag Vishnu	10"	1002.30	832.99	Both

Comparison between Aegis at Haldia and IOPPL at Kamarajar:

1. Both have the 10" MLA's at the Jetty.
2. Haldia the tanks are 6.5-7.0 kms away whereas at Kamarajar the tanks are 12.8 km away.
3. The pipe line connecting the MLAs to the tanks at Haldia it is 12" diameter and at Kamarajar it is 18".
4. The pipeline at Kamarajar has been laid out with very few bends whereas the Aegis pipeline at Haldia has many bends. These bends cause a back pressure and inhibit the flow of gas.

(viii). It is clear that Benchmark Productivity Rate has been fixed arbitrarily without any justification.

(ix). For a 16" MLA feeding a 16" pipe line with tanks at a distance of 6.5-7 kms that can easily achieve over 1000 kl/hr for Propane and now for a 10" MLA feeding a 12" pipe line with tanks at a distance of 6.5-7 kms the proposed Benchmark Productivity Rate is being fixed at 1015 Kl/hr.

(x). The Very Large Gas Carriers (VLGCs) which are now regularly calling Haldia have a high manifold distance above the waterline. The Indian Oil Petronas Pvt Ltd. Marine Loading Arms (MLA) has an acceptable height of discharge manifold above the water line distance of maximum 16.5 meters and whereas the Aegis MLAs have 18 meters. Thus the receivers prefer the Aegis MLAs for the simple reason that the acceptable height of discharge

	manifold above the water line is higher and also both grades can be discharged simultaneously. But the flip side is that the rate of discharge for individual grades is below the laid down bench mark and the vessels are getting penalized for no fault of theirs.	
(xi).	It is requested that the Bench Marks for the discharge of Butane and Propane be re-examined in the light of the smaller MLAs installed and rationalized so that vessels are not penalized for no fault of theirs. A figure of 800 kl/hr is proposed for Butane and Propone discharged simultaneously, to be the Benchmark Productivity Rate with associated penalties / incentives.	
(xii).	It is requested that the revised and rationalised discharge rates for Butane and Propane be with retrospective effect from the date in December 2017 when the Aegis MLAs were commissioned.	
(xiii).	Further the wordings of S21.5.12 may please be modified to read "Discharging by the ships own Pumps" in lieu of "working at". This as when a vessel is loading liquid cargo and the shore pumping rate is low, the vessel is being penalized unjustifiably.	
2.	**Hindustan Aegis LPG Limited (HALL)**	
(i).	Background a. HALL is a large storage and terminalling company operating in many Ports in the country and have expertise and experience of doing so. b. HALL acquired the land for cryogenic LPG terminal at Haldia from HDC, KOPT through a fair ender process. c. After obtaining all the statutory approval including the necessary approval from HDC, HALL started construction of this LPG terminal about 3 years back and commissioned in October 2017. d. The full commercial usage of this terminal started with effect from 1 January 2018 and this terminal has been operating effectively with all safety precautions to serve the interest of National Oil Companies and the people of the eastern region at large.	No specific comments furnished by the Port.
(ii).	Technical Design:	
	a. While making the design of aforesaid terminal, HALL were guided by duly published SOR of KOPT (Gazette no. 457 dated 13.12.2016) specially the clause no. S.21.5.1, which effectively gives minimum benchmark pumping rate for both Butane and Propane @ 800 KL/hr and 650KL/hr respectively. b. Butane and Propane are two key constituents of LPG and almost all cryogenic cargoes of LPG, which are imported in various Ports in the country, are unloaded as Butane and Propane into LPG tanks and are later mixed approximately in the ratio of 50:50 to form LPG for commercial use. c. HALL had a choice of laying one large pipeline for discharge of propane and butane one after the other or go for 2 smaller pipelines for	The rate of 1015 KL per hour for simultaneous discharge of Butane and Propane has been fixed only after discussion with HALL representatives. It is that during simultaneous discharge, separate Marine Unloading Arms and pipelines are used, thus the effective discharge rate should be sum of the two individual pumping rate but instead of the same, the Benchmark Pumping Rate for the simultaneous discharge has been fixed on the lower side, which is only 1.4 times the average of the individual pumping rates. Further, the performance of 16 vessels which have simultaneously discharged Propane and Butane have been analyzed and it has been found that

	simultaneous discharge of these 2 components. HALL opted to lay two separate pipelines of smaller diameter. d. Both these pipelines can be used for discharge of propane (which is -42 Degree Celsius) followed by discharge of butane (which is -6 Degree Celsius). e. In the method of doing the discharge of butane and propane one after the other, there is an extra requirement of approximately 2 hours for temperature to stabilize from -42 Degree to -6 Degree Celsius, which can easily be avoided by using one pipeline for propane and other for butane, which is currently practiced at Haldia. f. The Port had given the specific approval for laying of these two pipelines and design of the terminal was based on the same. g. The flow rate inside the pipelines typically depends on many factors as follows: - Pumping capacity of the ship - Diameter of the pipeline - Distance and bends in the pipeline - Density of the cargo Temperature and pressure of the receipt tank	a good number of vessels have already achieved the Performance Norms of 1015 KL per hour and the balance vessels, which could not achieve, can easily achieve the said Benchmark Pumping Rate, if they upgrade their pumping capacity and make availability of adequate ullage.
(iii).	Case at Hand:	
	a. HDC started levying unjust detention or delay charges based on very arbitrary way of calculations and therefore a meeting was convened in the Chamber of Dy. Chairman, HDC on 24.05.2018 and minutes of this meeting are enclosed by HALL. b. An arbitrary norm was fixed for HALL only. This norms increased obligation for minimum discharge rate by a whopping 40% in most arbitrary fashion. c. One of the key parameters for the flow rate inside the pipeline is cross section of the pipeline, which as compared to other terminal at Haldia (which operates with 1 x 16" pipeline) is as follows: - Two pipelines together have cross section area of 226 Sq. Inch while that of other terminal is 201 sq. inch, which is about 12% higher. - While this 12% also gets significantly reduced due to coefficient friction in smaller pipeline and also no. of bends, which HALL was forced to make in pipelines due to the difficulty arising out of the way-leave permission given by the Port. d. By no stretch of imagination, an arbitrary increase of 40% stands to any logic. e. In the Board Resolution no. R/85/HDC/SH&CH/3/06/2018, which was based on the proposal no. A/20/HDC/SH&CH/3/06/2018 (Part-I), it has been stated that the issue of fixing of this benchmark pumping rate for simultaneous discharge of propane and butane has been discussed with HALL and it alleges that it has been agreed that higher rate will be fixed.	

	f. The truth is that HALL never agreed and HALL had vehemently protested this arbitrary increase in the norms, which has been duly recorded in the MOM dated 24.05.2018. - It is also preposterous that in case of a single product discharge i.e propane and butane one after the other, the existing norm of 650 KL/hr for propane and 800KL/ hr for butane will apply, which implies that HALL are being forced to use both the pipelines for propone first and then use both for butane afterwards, which as stated above technically causes wastage of 1 or 2 hours during the operations.	
(iv).	We do not request for any amendment to existing norms of 800 KL/hour for Butane and 650 KL/hour for Propane. We propose correct interpretation and implementations as follows: a. Aegis brings LPG cargo in the form of separate parcels of Butane and Propane in the same ship. b. The free time (without any penal charges) will be allowed to them exactly in line with the existing norms as stated above for the quantity of Butane and Propane unloaded. c. The penal charges will become applicable if the time taken by Aegis is more that the time permissible by the aforesaid norms. To illustrate, an actual case is considered: 1) Cargo discharged by LPG/C KOBAI into Aegis Terminal: Butane = 6483MT Propane = 6996MT Converting to = Butane = 6483 / 0.58 = 11177KL Propane = 6996 / 1.52 = 13453KL 2) Actual time taken for discharging Butane 11177 KL + Propane 13453 KL = 22.9 hours (as per Port record) 3) Free time allowed as per EXISTING PORT NORMS as per Clause S.21.5.1 = Butane 11177 / 800 + Propane 13453 / 650 = 13.97 hours + 20.69 hours = 34.66 hours **<u>Since the actual time is lesser that the "allowed" time as per the existing norms time (clause S.21.5.1) hence no penal charge is leviable.</u>**	
(v).	g. Prayer:	
	Keeping all the aforesaid in mind and also keeping in the mind the fact that HALL designed its terminal on the basis of the existing SOR of the Port, the said proposal of HDC, KOPT may please by quashed and the existing norms as per clause S.21.5.1 of SOR may please be applied correctly and the port	

	may please be advised to follow their own SOR i.e. discharge rate from the ship and not to the no of pipelines and their diameter used.	
3.	**Indian Oil Petronas Pvt Ltd (IOPPL)**	
(i).	The revised pumping rate of average into 1.4 =1015KL per hour for simultaneous discharge is acceptable to us for VLGCs. Most of the vessels brought by oil companies are VLGCs.	No specific comments furnished by the Port.
(ii).	For MGCs the revised pumping rate of average into 1.2 =870KL per hour for simultaneous discharge and has to complete her cargo in one jetty day.	
(iii).	It is submitted that for MGCs or VLGCs the preparation for start of discharge/completion of discharge /mooring etc is same but MGCs have lesser pumping capacity. It will be ensured by the Oil companies and the terminal that MGCs also complete the cargo in one jetty day. Hence there is no financial loss to the port.	

2. A joint hearing on the case in reference was held on 01 November 2018 at the KOPT premises. At the joint hearing, the KOPT made a brief Power Point presentation of the proposal. The KOPT and other users/ user organizations have made the following submissions during the joint hearing:

Kolkata Port Trust (KOPT)

(i). The Authority has approved separate Benchmark Pumping Rate for some liquid cargoes including Butane and Propane. Benchmark Pumping Rate of Butane was fixed at 800 KL per hour and of Propane was fixed at 650 KL per hour.

(ii). Butane and Propane are separate constituents of LPG. Hindustan Aegis LPG Ltd (HALL) has initiated simultaneous discharge of Butane and Propane, to reduce TRT of vessels. However, due to non-availability of specific Benchmark Pumping Rate for simultaneous discharge of Butane and Propane, the port finds it difficult to assess the performance of the vessels. Incentive norms have also not been fixed.

(iii). Mere summing up of two benchmark productivity will not be reasonable. We have averaged out and added 40% in consultation with HALL. The Board of KOPT has approved the said benchmark pumping rate. The benchmark pumping rate at 1015 KL per hour may be approved by TAMP.

Indian Oil Petronas

(i). Separate Benchmark Pumping Rate of Butane at 800 KL per hour and of Propane at 650 KL per hour is being achieved by us. Infact, we are achieving more. Hence, the revised pumping rate of 1015 KL per hour for simultaneous discharge is acceptable to us for VLGCs.

(ii). But, it is in respect of MGCs only that we do simultaneous discharge, wherein it is not possible to achieve pumping rate of 1015 KL per hour, as the MGCs have lesser pumping capacity.

(HDC: We will examine whether we can have two different Benchmark Pumping Rates for two different types of Vessels.)

HALL

(i). In the year 2016, when we were designing the terminal, we were guided by SOR of KOPT, which indicates the minimum benchmark pumping rate for both Butane and Propane @ 800 KL/hr and 650KL/hr respectively. It was based on these pumping rates that we went for simultaneous discharge.

(ii). Now the port has proposed to increase the benchmark pumping rate to 1015 KL/hr. The port has considered the average of both benchmark pumping rate for both Butane and Propane and further increased it by 40%. We want to know the basis for considering 40%. Why not any other factor?

(HDC: It was in discussion with the senior officials of HALL. We are ready to fix it at a higher level also, if HALL so desires. The proposed benchmark pumping rate is for a period of one year. We will review it thereafter.)
