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Tariff Authority for Major Ports

G.No. 450 **New Delhi,** **29 November 2017**

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 fixation of tariff for handling of edible oil from vessels berthed at 3rd oil jetty to Finger Jetty of Haldia Dock Complex through 16" dia Pipeline on a common user basis, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/58/2017-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 14th day of November 2017)

This case relates to the proposal received from Kolkata Port Trust (KOPT) for fixation of tariff for handling of edible oil from vessels berthed at 3rd oil jetty to Finger Jetty of Haldia Dock Complex (HDC) through 16" dia Pipeline on a common user basis.

2.1. The main points made by KOPT in its proposal dated 10 July 2017 are summarised below:

(i). The Land Policy Guidelines issued by the Ministry of Shipping (MOS) provides that the common user pipeline laid by one party shall be used by other parties on such terms and conditions as agreed between the parties and the Port Trust Board.

(ii). M/s Emami Agrotech Ltd (EAL) have laid one 16' dia Edible oil pipeline from Haldia Oil Jetty (HOJ) - III to finger jetty of HDC, KOPT, as approved by the Board of KOPT. [The copy of the Board Resolution approving way leave permission for laying of one no. 16' dia pipeline from HOJ-III to finger jetty is furnished by KOPT.]

(iii). In pursuance of the provision of the Land Policy Guidelines, most of the importers and storage operators of edible oil have agreed to use the 16' dia edible oil pipeline laid by M/s EAL at 3rd oil jetty. They have also agreed to the terms and conditions for using the said pipeline at the payment of ₹. 40/- per ton to M/s EAL.

(iv). The Board of Trustees vide Resolution No. R/39/HDC/ADMN/1/07/ 2016 dated 1 July 2016 has approved the terms and conditions in this regard. [The copy of the Board Resolution approving terms and conditions is furnished by KOPT.]

(v). Further, the Land Policy Guidelines provides the scope for deciding the terms and conditions towards usage of a pipeline laid by one party by other with the consent of Board. The rate and other conditions of usage of such pipeline facilities should be approved by TAMP as the pipeline facilities from the jetties are used for cargo handling purpose and the same is approved by the Board vide its Resolution no. R/283/HDC/ADMN/3/5/2017 dated 31.05.2017. [The copy of the Board Resolution approved on 31 May 2017 is furnished by KOPT.]

2.2. The highlights of the proposal are as follows:

(i). The KOPT handles different types of liquid cargo inside the impounded dock of HDC. In the year 2016-17, the KOPT has handled 3.96 million tonnes of liquid cargo inside the impounded dock of HDC by 486 vessels.

(ii). There has been an increase in the capacity for handling dry bulk cargo inside the impounded dock of HDC by 6 million tonnes in the recent past with deployment of Mobile Harbour Cranes at berth no. 2, 8 and 13. In order to utilize the added capacity of 6 million tonnes of dry bulk cargo, there is a need to increase handling of dry bulk cargo vessels inside the impounded dock which is restricted now due to the constraints of the lock gate. Therefore, the KOPT decided to handle edible oil vessels outside the impounded dock to make room for handling additional dry bulk cargo vessels inside the impounded dock.

(iii). In view of the above, permission was granted to M/s EAL to lay one common user 16" dia edible oil pipeline from 3rd oil jetty upto finger jetty. M/s EAL have already laid the pipeline upto finger jetty. M/s EAL as well as the other importers of edible oil have connected their individual edible oil pipelines with the said 16" dia common user edible oil pipelines at finger jetty through flexible hoses. The Land Policy Guidelines stipulates that the rate and other conditions of usage of such pipeline facilities should be approved by TAMP as the pipeline facilities from the jetties are used for cargo handling purpose.

(iv). In absence of any other Reference tariff for the instant case, the proposal is filed under 2008 guidelines which is the only guideline available for assessment of tariff.

(v). As per the guidelines, the optimal capacity is to be assessed on the basis of actual operation for 255 days in a year. However, the 3rd oil jetty handles different types of liquid cargo viz. Crude, Naptha, POL Products and Edible Oil. In future, LPG is also going to be handled at this jetty. As the common user pipeline laid by M/s EAL will be utilized only for transportation of edible oil, as no other commodity other than edible oil can be transmitted through this pipelines, it is presumed that jetty will be occupied by edible oil vessels on an average of 9 days a month. Thus, assessment of the optimal capacity has been carried out based on 108 days in a year, as per the parameters given below:

No of days the pipelines will be used for handling edible oil at 3rd oil jetty	108 days
Discharge rate is as per TAMP Guidelines.	300 tonnes per hour
Optimal Capacity assessed = 108 days * 300 tonnes per hour* 24 hour	777600 tonnes

(vi). The number of vessel estimated on the basis of average parcel load of edible oil vessels handled at HDC during 2016-17 i.e. 8700 tonnes and optimal pipelines capacity of 777600 tonnes.

Optimal Capacity assessed	777600 tonnes
Average parcel load of edible oil vessels handled at HDC during 2016-17	8700 tonnes
Edible oil vessels (777600/8700)	89

(vii). Capital Cost Estimation:

The cost break up sent by M/s EAL duly certified by Chartered Engineer on 30 May 2017 is as follows:

Sr. no.	**Description**	**Amount (in ₹.)**
1.	16 inch API 5L Pipe	22213170
2.	20 inch ERW C class Pipe for casing	556920
3.	24 inch ERW C class Pipe for casing	485100
4.	16 inch Seamless Long Bend	308700
5.	16 inch Seamless Short Bend	81900
6.	16 inch Gate Value, Class 150,Flange End	204750
7.	12 inch Gate Value, Class 150,Flange End	173250
8.	8 inch Gate Value, Class 150,Flange End	29400
9.	16 inch MS flange, Class 150, SORE	7560
10.	12 inch MS flange, Class 150, SORE	8508

11.	8 inch MS flange, Class 150, SORE	2310
12.	Wrapping Coating Bitumin Tape	1965600
	Total Material Cost (A)	**26037168**
1	Earth excavation	1791400
2	Earth excavation (Hard Stand by manual cutting)	416000
3	Earth filing	411750
4	Road crossing by horizontal boring (below 20 meter)	550000
	20 meter to 30 meter	780000
	above 30 meter	1500000
5	Pipe erection	10752000
6	Pipe joint	1570400
7	Online item i.e. Values	17600
8	Wrapping Coating	1936000
9	Materail Unloading	174000
10	Survey Cost	250000
11	Cathodic Protection	2500000
	Total Service Cost before Service Tax	22649150
	Add Service Tax @ 15%	3397373
	Total Service Cost after Service Tax (B)	**26046523**
	Total Cost for pipe laying (A)+(B) = (C)	**52083691**
	One time Supervision Cost @ 15% of (C)	7812554
	Total Project cost	**59896245**

(viii). Estimation of Operating Cost is as per norms prescribed in 2008 Guidelines

Item of cost	**Basis adopted**	**Amount in ₹.**
Repairs & Maintenance of Pipelines	2% of capital cost as per TAMP guidelines (59896245*2%)	1197924.90
Insurance	1% of capital cost as per TAMP guidelines (59896245*1%)	598962.45
Depreciation	3.17% of capital cost as per TAMP guidelines (59896245*3.17%)	1898710.97
Other Expenses	1% of capital cost as per TAMP	598962.45
Way leave fees	As per the current SOR and the land for which way leave permission granted	704718.00
Fuel cost per vessel (for operating pig launcher)	120 liters per vessel as per estimation given by M/s Emami (120 ltrs*89 vessels@57.23 per ltr. estimated by Emami)	611216.40
	Total O&M cost	5610495.17

(ix). Total Revenue Requirement and apportionment of total Revenue Requirement

Item	**Amount in ₹.**
Total O&M Cost	5610495.17
ROCE (16% of Capital Cost)	9583399.20
Total Revenue Requirement	15193894.37
Cargo Handling Charges through pipeline (95%)	14434199.65
Miscellaneous charges (5%)	759694.72

(x). Based on the above working, the KOPT has arrived at the proposed rates as follows:

Items	Basis of Assessment	Amount
Cargo Handling Charges through pipeline (95%)	₹.14434199.65/777600 tons	₹.18.56 per ton
Miscellaneous charges (5%)	₹. 759694.72/89 vessels	₹.8536/- per vessel

2.3. As the proposed rate of ₹. 18.56/- per ton has been assessed for an edible oil pipeline of length of 5682.15 meters in the instant case, the rate which other users may charge for similar pipeline at other berths is proposed at ₹. 3.26/- per ton per km (₹ 18.56 / 5.682 kms) towards Cargo Handling Charges. The miscellaneous charges per vessel will remain same at ₹. 8536/- per vessel.

2.4. It is seen that the KOPT Board has approved the charges for handling of Edible oil through common user pipeline from 3rd oil jetty to finger jetty at ₹. 18.52 per Metric Tonne and the Miscellaneous charges at ₹. 8519 per vessel and charges for handling edible oil through common users from different berth at ₹ 3.25 per metric Tonne per kilometer. In this context, the KOPT has stated that to arrive at the proposed rates for handling of edible oil, the revised rates of fuel and way leave permission fees have been considered and that the revised proposed rates will be placed before the Board in the next Board meeting for information.

2.5. Thus, the proposal of KOPT seeks approval for the following:

"(i). The definition of "Edible oil". "Edible oil" means PLMOC, SBO, SOYA OIL etc. (both crude and refined).

(ii). Charges for handling of edible oil through common user 16' dia edible oil pipelines from 3rd oil jetty to finger jetty:

Sr.no.	Commodity	Unit	Rate in ₹.
1.	Handling charges for Edible oil pipelines usage	Per Metric Tonne	18.56
2.	Miscellaneous charges (pigging etc.)	Per vessel	8536

(iii). Charges for handling of edible oils through common user edible oil pipelines from the different berths at HDC (other than through 16' dia edible oil pipelines from 3rd oil jetty to finger jetty):

Sr.no.	Commodity	Unit	Rate in ₹.
1.	Handling charges for Edible oil pipelines usage	Per Metric Tonne per kilometer	3.26
2.	Miscellaneous charges (pigging etc.)	Per vessel	8536

General Note:
The tariff will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 April 2014 and 1 January of every succeeding year. Such automatic adjustment of Tariff will be made every year and the adjusted tariff cap will come into force from 1 April of the relevant year to 31 March of the following year.**"**

3. In accordance with the consultative procedure prescribed, a copy of the KOPT proposal dated 10 July 2017 was forwarded to the concerned users/ user organisations (as per the list forwarded by KOPT) vide our letter dated 13 July 2017, seeking their comments. Only one of the users viz., EAL has furnished its comments vide its e-mail dated 25 July 2017 stating that the EAL does not agree to the proposal as the proposed tariff is not viable to them. Similar comments have

been furnished by the EAL subsequent to the joint hearing. The KOPT has responded to the said comments of EAL.

4.1. A joint hearing on the case in reference was held on 31 August 2017 at the KOPT premises in Kolkata. At the joint hearing, the KOPT made a brief power point presentation of its proposal. The KOPT and the users/ user organisations have made their submissions.

4.2. As decided at the joint hearing, some of the users/ user organisations have furnished their comments. The said comments were forwarded to the KOPT as feedback information. The KOPT has responded vide its letter dated 8 September 2017.

5. Based on a scrutiny of the KOPT proposal, additional information/ clarification were sought from KOPT vide our letter dated 4 August 2017. The KOPT has responded vide its letter dated 8 September 2017. The information/ clarification sought by us and the response of KOPT thereon are tabulated below:

Sl. No.	Information/ clarification sought by us	KOPT's Reply
A.	**General**	
(i).	The KOPT has stated that the revised proposed rates will be placed before the next Board meeting. As already requested vide our letter of even number dated 13 July 2017, the KOPT to furnish a copy of the Board resolution approving the rates as proposed by KOPT.	Copy of Board Reso. No. R/331/HDC/ADMN/3/8/2017 dated 17 August 2017 is furnished by KOPT.
(ii).	We have under cover of our letter of even number dated 26 July 2017 forwarded the copy of the comments received from Emami Agrotech Limited (EAL) and requested KOPT to furnish its comments on the submissions made by EAL. The KOPT to furnish its comments.	The KOPT submitted during the hearing that it would be possible to handle 0.78 million tonnes of edible oil per annum going by the present utilization pattern of the 3rd oil jetty as a while. For this, the rate for the pipeline utilization charge should be reasonable. The users have been finding the current of ₹. 40/- per ton is not encouraging for greater utilization of 3rd oil jetty for handling edible oil. Therefore, the proposed charge of ₹. 18.56 may encourage the users to use the 3rd oil jetty more. KOPT also mentioned that the proposed rate may be introduced for 1 year subject to the condition that the same may be reviewed by TAMP within this period based on the actual utilization of the 3rd oil jetty by the different users for handling edible oil.
(iii).	The KOPT in its proposal has stated that the importers and the storage operators of edible oil have agreed to use the 16" dia edible oil pipeline laid by EAL by making a payment of ₹.40/- per tonne to EAL for utilization of the pipeline. In this connection, the proposal of the port now seeking approval for a rate of ₹.18.56 per tonne towards cargo handling charges for Edible oil pipeline usage, is not clear. KOPT to clarify the nature of both the levies referred above.	M/s EAL have laid one 16'dia edible oil pipeline from HOJ-III to Finger jetty of HDC. The Land Policy Guidelines issued by the MOS provides that as far as possible, the pipelines may be laid on common user basis. If any other party wants to use the pipelines, they may be given permission in such terms as agreed to between the parties and the Port Trust Board. In keeping with the above provision of LP Guidelines, KOPT had a meeting with all the prospective users and EAL on 1406.2016 and 15.06.2016 where it was agreed that all the users would pay ₹. 40/- per ton to EAL for using their edible oil at 3rd oil jetty. This was also agreed to by KOPT Board and the same was introduced for a period upto June 2018.

		The copy of the minutes of the Board Resolution dated 01.07.2016 is furnished by the Port. Subsequently, the users of the pipelines facilities of EAL at HOJ-III started requesting for lowering the rate of ₹. 40/- per tone agreed upon by them earlier. KOPT also noted that although Land Policy provided for deciding on the terms and conditions of usage of a pipelines laid by one party by other with the consent of Board, however, as the pipelines facilities from the jetties are for cargo handling purpose and as such, the rate and other conditions for usage of such cargo handling facilities should be approved by TAMP. In keeping with the above KOPT has internally calculated the tariff / charges leviable for common use of the edible oil pipeline laid from HOJ-III to finger jetty of HDC on the basis of relevant guidelines of TAMP. This rate has been calculated as 18.56 per ton and same has been approved by the Board.
(iv).	The KOPT to certify that no further improvement due to technical reasons would be possible in the dimensions of the pipeline considered, which may have an impact on pumping rate/ capacity/ handling rate.	Confirmed as the concerned 16" dia (underground) edible oil pipelines has already been laid in June 2016 and is operational since then. The proposed rates are for handling edible oils through these 16" dia pipelines.
(v).	The KOPT to confirm whether the number of vessels calculated at 89 per annum in the proposal is inclusive of vessels destined to EAL also.	Confirmed.
(vi).	The KOPT has allowed EAL to lay pipelines other than 16" dia pipeline also. The KOPT to intimate tariff arrangement in respect of cargo handled through those pipelines of other users, apart from EAL.	Other pipelines for which way leave permission have been granted to EAL are of diameter 10" and 12". All these pipelines have been laid from different berths inside the impounded dock where other users are also having their own edible oil pipeline. Therefore, no requirement for common use of those 10" / 12" pipelines of EAL inside the impounded dock has been faced / proposed till now. As there is only one edible oil pipeline from 3rd oil jetty laid by EAL, tariff arrangement has been proposed for common usage of the same by other users. However, in the tariff proposal under consideration, KOPT has also proposed for a single rate on per km per ton basis which may be used for other edible oil pipelines laid by different parties depending upon the length of common usage.
B.	**Optimal Capacity:** The optimal capacity of the pipeline has been worked out by KOPT by considering 108 days of utilization in a year. This is reportedly based on the present trend of arrival of edible oil vessels. If the trend of arrival of vessel	It is agreed that in the event of handling higher volume of other liquid cargo at 3rd oil jelly which are having higher priority than edible oil vessels, the extent of handling of edible oil at 3rd oil jelly may come down in future. In keeping with the above, KOPT suggested during the hearing that the tariff may be fixed

	changes, the tariff may have to be reviewed.	for one year at the present on the basis of 0.78 Million tonnes of annual cargo proposed by KOPT in the tariff proposal. According to KOPT, it is possible to handle 0.78 million tonnes of edible oil in a year on the basis of the current trend of cargo handling at 3rd oil jetty provided the utilization charges of the pipelines laid by EAL is attractive to the trade. The tariff as proposed may be reviewed on the basis of the trend of edible oil handling during the period of one year and if required, TAMP may consider to re-fix the tariff subsequently taking into account the surplus / deficit of the previous period.
C.	**Capital cost:**	
(i).	The documentary evidence furnished by KOPT in support of the capital cost is of May 2017. The KOPT to examine whether the capital cost will remain the same in the GST regime also.	The pipelines concerned has been laid by EAL prior to commencement of the GST regime. Service Tax element at the rate of 15% has been included under capital cost calculations as submitted by EAL certified by Chartered Accountant Firm in 2017.
(ii).	The total project cost of laying pipelines of ₹. 598.96 lakhs includes one-time supervision cost at 15% of the total cost of ₹. 520.83 lakhs. Presumably, this one time supervision cost is payable by the EAL to KOPT as per the Land Policy Guidelines. The KOPT to examine whether inclusion of one time supervision charge in capital cost for the purpose of allowing return is in order.	The one time supervision charge is paid for supervising the pipeline laying activities as per the Land Policy Guidelines. As such, KOPT has considered the same within the project cost.
(iii).	The KOPT to note that though fuel cost for operation of Pig launcher has been taken into account, the capital cost of Pig Launcher does not appear to have been included in the Project Cost.	Considering pigging to be done by the respective users of the pipelines as indicated by the users during hearing, the tariff for utilization charge has been re-assessed by excluding the fuel cost for pigging and loading 100% cost for pipelines utilization charge without keeping any provision for miscellaneous charge in absence of pigging etc. The re-assessed tariff comes to ₹. 18.75/- per ton. The KOPT has furnished the calculation. The element of "miscellaneous charges" of ₹. 8536/- per vessel earlier proposed towards pigging arrangement is now proposed to be withdrawn.
D.	**Operating cost:**	
(i).	The KOPT to confirm whether the depreciation of 3.17% considered on the cost of pipelines is based on the provisions of the Companies Act, 2013.	Confirmed.
(ii).	KOPT to furnish detailed working in respect of calculation of license fee for way leave permission by indicating the area as well as the way leave fees. Reference to the Rent Schedule considered also to be indicated.	The calculations are furnished by KOPT.
(iii).	a) The KOPT to clarify how the cost of operating the pig launcher would	Element of pigging cost has been removed and the tariff has been proposed afresh. The

	be relevant in the estimation of operating cost. b) The basis for considering the fuel consumption towards operating of pig launcher at 120 litres per vessel to be supported by documentary evidence. c) Furnish documentary evidence in support of cost of the fuel considered in the calculation.	same has come to be ₹. 18.75 per ton. The calculation sheet is furnished by KOPT.
E.	**Calculation of Handling charge/ Miscellaneous charge:**	
	The reason for prescribing the Miscellaneous Charges on 'per vessel' basis instead of 'per tonne' basis to be justified.	Same as above.
F.	**Scale of Rates:**	
(i).	The proposal of the KOPT is to enable levy charges for the use of 16" dia edible oil pipeline laid by EAL. The same handling charge has been taken as base and a rate has been prescribed for handling of edible oils other than through 16" dia pipeline. The KOPT to clarify whether the proposed rate of ₹.3.26 per MT will hold good if the diameter of pipeline is different than 16" dia pipeline.	The proposed tariff for the 16" dia edible oil common user pipelines laid from HOJ-III to finger jetty has been considered to be taken as the basis for arriving at the rate for common use of edible oil pipelines laid by various users at the other different jetties of HDC. In case of pipeline of diameter lower than 16", the capital cost is expected to come down. At the same time, the flow rate considered of 16" pipelines is also expected to come down and thereby the cost per ton per km is expected to remain same. On this assumption, the rate of ₹. 3.26/- per ton per km (reworked to ₹. 3.30 per ton per km) has been proposed commonly for common usage of all edible oil pipelines irrespective of diameter.
(ii).	The services envisaged to be rendered under the 'Handling charges' and the 'Miscellaneous charges' to be listed out and indicated separately under each head of charges.	Considering that pigging, etc. are done by the respective users, the SOR is reworked. It is now proposed to fix tariff as "Pipeline Usage Charge" instead of "Handling Charge". No "Miscellaneous Charge" is proposed on the basis of the submission given by the users during the hearing. Accordingly, the provision proposed to be incorporated under Part-IX (charges for authorized service providers) in the KOPT Scale of rates notified vide Gazette no. 457 dated 13.12.2016 is also revised as follows: "Section 4: Tariff for handling edible oils through common user pipelines from different berths/ jetties of HDC. (i). The definition of 'Edible Oil', "Edible Oil" means PLMOC, SBO,SOYA OIL etc.(both crude and refined. (ii). Pipelines usage charge for handling of Edible oils through common user 16" dia edible oil pipeline from 3'oil jetty to finger jetty ₹. 18.75/- per Metric Tonne. (iii). Pipelines Usage Charges for handling Edible Oils through common users edible oil

		pipelines from different berths at HDC (other than through 16"dia edible oil pipelines from 3rd oil jetty to finger jetty): ₹. 3.30/- per Metric Tonne per Kilometre or part thereof.
(iii).	In the General Note proposed by the Port, the reason for considering the year 2014 as base for application of 60% indexation to be clarified, considering that the capital cost and operating cost estimates have been considered based on the rates prevailing in the year 2017.	The year 2014 was mentioned inadvertently. The indexation clause may be modified as below: "The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2017 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year."
(iv).	For the purpose of indexation, the KOPT to propose Performance Standards.	Since the tariff is being proposed for common usage of the pipelines which is independent of the pumping rates etc. no Performance Standard has been proposed. The WPI based indexation has been proposed to take care of the fluctuation in the various costs to be incurred in maintenance etc.

6. While furnishing the additional information/ clarification vide its letter dated 8 September 2017, the KOPT is seen to have reviewed its proposal. The revision is to the limited extent of excluding the operating cost towards Fuel cost per vessel (for operating pig launcher), which was considered by the KOPT in its initial proposal. Further, as against the segregation of the annual revenue requirement (ARR) into handling (95%) and miscellaneous (5%) as proposed by the KOPT in its initial proposal, the KOPT has now proposed to recover 100% ARR from handling charges, without keeping any provision for miscellaneous charge in the absence of pigging etc. In view of the said review, the tariff initially proposed by the KOPT at ₹ 18.56 per MT has now been reworked by the port at ₹ 18.75 per MT.

7.1. On scrutiny of the response of the KOPT furnished vide its letter dated 8 September 2017 and the comments of KOPT on the submissions made by EAL, some gaps were observed in the information furnished by KOPT. Accordingly, we have vide our letter dated 28 September 2017 sought some information/ clarification from KOPT. The KOPT has responded vide its letter dated 27 October 2017. The information/ clarification sought by us and the response of KOPT thereon are tabulated below:

Sl. No.	Clarification sought by us	KOPT Reply
(i).	The copy of the Board resolution approving the rates proposed by KOPT, reported to have been attached by KOPT, is not found attached alongwith the KOPT letter. The same to be furnished.	Copy of the Board approval No. R/33/HDC/ADMN/3/8/2017 dated 17.08.2017 is furnished by KOPT for continuing the handling rate of ₹. 40 per MT till new rate is approved and notified by TAMP.
(ii).	With regard to the rate of ₹. 40/- per MT, the KOPT has stated that in a meeting held by KOPT with prospective users and Emami Agrotech Limited (EAL) on 14 and 15 June 2016, it was agreed that all users would pay ₹.40/- per MT to EAL for using their pipeline for handling edible oil. The KOPT has also stated that the same was agreed by the KOPT Board	

	and the same was introduced for a period upto June 2018. In this connection, the following information is required from KOPT:	
(a).	Basis/ Cost details/ Workings to arrive at the rate of ₹.40/- per MT.	It may be seen from the minutes for the meeting amongst the users, Emami Agrotech Ltd. (Service Provider) & KOPT held on 14.06.2016 & 15.06.2017 that the rate of ₹.40 per ton arrived after detailed discussions. Incidentally, the said rate of ₹. 40/- per ton was suggested by M/s Emami Agrotech Ltd. & was accepted by the different users after detailed discussions.
(b).	Considering that the users of the facility had agreed initially in June 2016 to pay an amount of ₹.40/- per MT to EAL for handling of Edible oil, as per the Minutes of the meeting furnished by KOPT, the reason for them to now oppose the said levy of ₹.40/- per MT during the joint hearing is not clear. The reason for their request to lower the rate may be intimated.	The users of the said common user pipelines have indicated during the hearing taken by TAMP that at the relevant point in time in 2015, they had agreed to the said rate of ₹.40/- per MT, although the same was higher side, to tide over the high incidents of demurrage arising out of significant pre berthing detention periods (PBD) at HDC and that the said rate is for a temporary period of only 2 years within which the same would be reviewed. The premier users has also expressed about the high cost of handling edible oil at 3rd Oil jetty.
(c).	Based on the approval of the KOPT Board, the KOPT has already introduced the rate of ₹.40/- per MT for a period of 2 years from June 2016 upto June 2018. In the event, if the rate of ₹ 18.75 per MT as proposed by the port is approved, the validity period for the proposed rate of ₹18.75 per MT may be intimated.	The tariff for pipeline usage has been proposed to be incorporated in the existing Scale of Rates under Section 4 of Part IX (Charges for authorized service providers (in KOPT's Scale of Rates notified vide Gazette no. 457 dated 13.12.2016. As such, the proposed rates of pipelines usage will be valid till validity of KOPT existing Scale of Rates.
(d).	The KOPT has not proposed Performance Standards on the ground that the tariff is being proposed for common usage of the pipelines which is independent of the pumping rates etc. and that the WPI based indexation has been proposed to take care of the fluctuation in the various costs to be incurred in maintenance etc. In this connection, reference is drawn to Clause 9.1 and 9.3 of the Tariff Policy, 2015, which requires the port to propose performance standards to be achieved by the service provider and that the indexation in tariff is subject to achievement of Performance Standards committed by Major Port Trusts and if a particular port does not fulfil the Performance Standard, no indexation would be allowed during the next year. Thus, the KOPT is requested to note that in the event of non-prescription of Performance Standards, the tariff will not undergo any change, and would remain static, till it is completely reviewed on the next occasion. In such a scenario, the	The performance standard for edible oil averaging over CPO/RDB Palm Oil/ CDSO/ Sunflower Oil may be kept at 300 MT per hour. This is in line with performance standard prescribed in the Tariff Guidelines.

<table>
<tr><td></td><td>general note on WPI indexation, as proposed by the Port in its draft Scale of Rates may also not be relevant.</td><td></td></tr>
<tr><td>(e).</td><td>The detailed working in respect of calculation of license fee for way leave permission by indicating the area as well as the way leave fees and the Reference to the Rent Schedule, reported to have been enclosed by the Port is not found along with the KOPT letter. The same may be furnished.</td><td>The statement showing the calculation of way-leave permission fees in respect of 16' dia edible oil pipeline laid from 3rd Oil jetty to Finger Jetty is furnished by KOPT.</td></tr>
<tr><td>(iii).</td><td>Further, the comments furnished by EAL vide its letter dated 04 September 2017 was forwarded to KOPT for its comments vide our letter of even number dated 06 September 2017. The KOPT is not seen to have furnished its comments on the submissions made by EAL more particularly with regard to submissions made by EAL on the maximum quantity of edible oil to be handled at HOJ-III at 4 lakh tonnes per annum and the rate of ₹39.64 per MT as suggested by EAL, which is supported by workings given by EAL.</td><td>The letter dated 04.09.2017 of EAL has been examined. They have specifically mentioned that the maximum edible oil capacity at HOJ-III, may be at best utilized for 6 days for handling edible oil in a month considering the projected increase in POL traffic and commencement of LPG handling from middle of 2018. In that scenario, the optimum capacity of 3rd oil jetty for handling edible oil will be 0.5184 million tones (72 days in a year x 300 MT per tons x 24 hours). In that scenario, the tariff will become ₹ 28.13 per ton, as shown below:
<table>
<tr><th>Sl. no.</th><th>Particulars</th><th>Amount in ₹</th></tr>
<tr><td>1</td><td>Optimal Cargo traffic per annum in MT through this pipeline (6 days x 300 tonnes x 24 hours x 12 months)</td><td>518400</td></tr>
<tr><td>2.</td><td>Capital Cost of 5.7 km pipeline laying as given by EAL</td><td>5,98,96,245.00</td></tr>
<tr><td>3.</td><td>Average parcel size of Edible oil Vessel in MT (2016-17 edible oil parcel size at HDC)</td><td>8700</td></tr>
<tr><td></td><td>Total no. of Edible oil Vessel per annum
(777600 / 8700=89.38 i.e. 89)</td><td>89</td></tr>
<tr><td>4.</td><td>Operating Cost</td><td></td></tr>
<tr><td>a</td><td>Repairs & Maintenance of Pipelines @ 2% of capital cost</td><td>1197924.90</td></tr>
<tr><td>b</td><td>Insurance@ 1% of capital cost</td><td>598962.45</td></tr>
<tr><td>c</td><td>Depreciation @ 3.17% of capital cost</td><td>1898710.97</td></tr>
<tr><td>d</td><td>Licence Fees for way leave permission per annum (for the calender year 2016 as per revised Rent Schedule)</td><td>704718.00</td></tr>
<tr><td>e</td><td>Other Expenses @ 1% of capital cost</td><td>598962.45</td></tr>
<tr><td></td><td>Total cost</td><td>4999278.77</td></tr>
<tr><td>5.</td><td>ROCE @ 16% of capital cost</td><td>9583399.20</td></tr>
<tr><td>6.</td><td>Total Revenue Requirement in ₹</td><td>14582677.97</td></tr>
<tr><td>7.</td><td>Pipeline usage charge per MT in ₹</td><td>28.13</td></tr>
<tr><td>8.</td><td>Pipeline usage charge for other edible oil pipelines laid at HDC per MT in ₹</td><td>4.95</td></tr>
</table></td></tr>
</table>

7.2. As brought out above, while furnishing the above said additional information/ clarification vide its letter dated 27 October 2017, the KOPT is seen to have again reviewed its proposal. The review is to the extent of reducing the edible oil vessel occupancy by KOPT from 108 days to 72 days in a year (i.e. 6 days x 12 months), taking into account the projected increase in POL traffic and commencement of LPG handling from middle of the year 2018, which is reported to have an impact on the edible oil traffic. In view of the said review, the tariff proposed by the KOPT at ₹ 18.75 per MT in September 2017 has now been reworked by the port at ₹ 28.13 per MT.

8. 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.

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

(i). Deployment of Mobile Harbour Cranes at berth no. 2, 8 and 13 of Haldia Dock Complex (HDC) at the Kolkata Port Trust (KOPT) is reported to have led to an increase in the capacity for handling dry bulk cargo inside the impounded dock of HDC. In order to handle more of dry bulk cargo inside the impounded dock, the KOPT is reported to have decided to handle edible oil vessels outside the impounded dock to make room for handling additional dry bulk cargo vessels inside the impounded dock. In this connection, the KOPT has entrusted the responsibility of laying a 16" dia pipeline from Haldia Oil Jetty (HOJ) - III to finger jetty of HDC, to one of the edible oil user viz., M/s. Emami Agrotech Limited (EAL), to be used on a common user basis.

(ii). The KOPT has stated that the rate and other conditions of usage of such pipeline facilities should be approved by this Authority as per Land Policy Guidelines as the pipeline facilities from the jetties are used for cargo handling purpose. In this regard, it is to state that the amended Land Policy Guidelines of 2014, does not appear to have any such provision requiring this Authority to fix the rate for usage of pipelines. However, in this regard, it is to state that the KOPT envisages movement of edible oil from the HOJ to the Finger Jetty. In other words, movement of edible oil from the HOJ to the Finger Jetty is akin to landing of cargo from vessel to any wharf, quay, jetty etc. or any place within the limits of the port or port approaches. Since the operation pertains to movement of cargo from vessel at HOJ to finger jetty, it is one of the services listed under Section 42 of the Major Port Trusts (MPT) Act. In this connection, Section 42(4) of the MPT Act, 1963, read with Section 48 requires this Authority to notify the rates in respect of identified services provided by persons authorised under Section 42(3) of the MPT Act.

In cases where authorisation arrangement u/s 42(3) is other than by way of a BOT concession agreement, Clause 9 of the Tariff Policy, 2015, requires this Authority to fix ceiling rates for such services to be applied commonly at the concerned ports without reference to individual service provider. For this purpose, proposal for regulating these charges should be initiated by the concerned Major Port Trust and the tariff so fixed, will not undergo a change whether the port itself provides this service or has permitted a private operator to render the services.

The KOPT has filed its proposal for prescription of tariff under 2008 upfront tariff fixation guidelines. The application of 2008 Guidelines is with regard to fixation of upfront tariff where authorization is by way of a BOT arrangement. In the case in reference, the KOPT has granted permissions to EAL to lay one common user pipeline. The proposal of KOPT does not state that this arrangement between KOPT and EAL is a BOT arrangement. The EAL has already laid the pipeline. Further, the KOPT has proposed for prescription of tariff in its existing Scale of Rates. Tariff can be prescribed in the existing Scale of Rates of the port only when it is fixed based on the Tariff Policy, 2015. The tariff can be fixed based on the Tariff Policy, 2015, by following two approaches as mentioned therein viz., the Annual Revenue Requirement (ARR) model by taking into account the past actuals or as per the methodology prescribed in Clause 9 of the Tariff Policy. Since the proposal of the KOPT is not based on ARR model, it can be considered under Clause 9 of the Tariff Policy, 2015.

Incidentally, while dealing with the general revision proposal of KOPT in 2010, based on the proposal filed by KOPT, charges for use of Mobile Harbour Crane (MHC) at berth No. 2 and 8 of HDC was introduced in the Scale of Rates of KOPT, though KOPT had engaged contractors to provide these services on its behalf. Further, the existing Scale of Rates of KOPT revised later on after the year 2010, prescribes charges to be levied by the authorized service providers in respect of the floating pipeline handling facilities for unloading edible oil from vessels berthed at berth No.5/ off 5/ 6/ off 6, transloading facility for handling of dry bulk cargo at HDC, Cargo Transfer Charge by Floating Crane.

This case is, thus, taken up for prescription of ceiling rates for handling of edible oil through a 16” dia pipeline, following the stipulation contained in Clause 9 of the Tariff Policy, 2015. The operationalization of the tariff fixed in its Scale of Rates is in the domain of KOPT. The proposal of the Port has the approval of its Board of Trustees.

(iii). The KOPT had filed its proposal in July 2017. Subsequently, while responding to the additional information / clarification sought by us and based on the submissions made by the users during the joint hearing, the KOPT, in its proposal of October 2017, has made some modifications in its proposal. The said modified proposal of October 2017, along with the information/ clarification furnished by the port during the processing of the case in reference, has been considered in this analysis.

(iv). Clause 9.2 of the Tariff Policy, 2015, under which the proposal of KOPT is being considered, allows a port to adopt the tariff prescribed for the similar service/ facility prescribed in any other Major Port Trust and in its absence or if such a rate is not representative for the cargo/ service/ facility envisaged, allows the Port Trust to file a proposal with reference to optimal capacity following the principles of 2008 guidelines or based on rated capacity (with reference to the technical specification of the service/ facility/ equipment). Thus, the KOPT is generally seen to have adopted the norms from the upfront tariff guidelines of 2008, relating to the liquid bulk terminal.

(v). Capacity:
The upfront tariff guidelines of 2008 stipulate an optimum utilization of the facility at 256 days in a year i.e. 365 days per annum @ 70% utilization. However, the port has stated that though the 3rd oil jetty handles different types of liquid cargo, the common user pipeline can be utilized only for transportation of edible oil. Thus, in its initial proposal of July 2017, the port had presumed that jetty will be occupied by edible oil vessels on an average of 9 days a month based on the current trend of cargo handling at 3rd oil jetty, resulting in an utilisation of 108 days in a year (i.e. 9 days x 12 months). Subsequently, in its revised proposal of October 2017, the KOPT has considered the edible oil vessel occupancy at 72 days in a year (i.e. 6 days x 12 months), due to the projected increase in POL traffic and commencement of LPG handling from middle of the year 2018, which would have an impact on the edible oil traffic. Thus, considering the utilization of the pipeline for a period of 72 days in a year and taking into account the handling rate of 300 tonnes per hour, the port has determined the capacity of the pipeline at 518400 tonnes per annum (6 days x 300 tonnes per hour x 24 hours x 12 months). Based on the judgment of the port regarding the utilization of the pipeline and considering that the handling rate of 300 tonnes per hour, is the handling rate as prescribed in the Upfront guidelines for the Other Liquids, the capacity of the pipeline as assessed by the port at 518400 tonnes per annum is relied upon in the analysis.

(vi). Capital Cost:
The Capital cost for laying the pipeline as considered by KOPT is at ₹598.96 lakhs. The capital cost comprises of cost of pipeline, casing, Earth excavation, Earth filing, Pipe erection, other material costs, incidental capital costs. The capital cost as considered by the KOPT is supported by documentary evidence and is considered in the analysis.

(vii). Operating Cost:

(a). The estimation of repairs and maintenance cost at 2% of the capital cost, Insurance cost at 1% of the capital cost and other expenses at 1% of the capital cost, is seen to be as per the norms prescribed in the upfront guidelines for liquid bulk terminal.

(b). As per the norms prescribed in the upfront guidelines for liquid bulk terminal, depreciation is to be, interalia, calculated as per the norms prescribed in the Companies Act. Depreciation has been estimated by the port @ 3.17% on capital cost. The KOPT has confirmed that the said depreciation is based on the provisions of the Companies Act, 2013.

(c). The guidelines for upfront tariff stipulate that lease rent for port land is to be estimated based on the rates prescribed in the Scale of Rates of the respective Major Port Trusts. The KOPT in its proposal has considered way leave charges for the area occupied by the pipeline to the tune of 2306.95 Sq. mtrs. The licence fee considered by the KOPT is in respect of the areas covered by the Dock Interior (inside Custom bounded area) (Bare Land), Dock Zone (Bare Land) and Residential Zone.

From the calculation furnished by the port, it is seen that the KOPT has considered the two different rates for each of the zone i.e. one set of rate for the period of 3 months from 01 Januray 2016 to 06 April 2016 and the second set of rate for the period from 07 April 2016 to 31 December 2016, presumably on the ground that the licence fee in respect of lands at HDC have been revised and that the revised rates have come into effect from 06 April 2016. Considering that the revised licence fee has already come into effect from 06 April 2016 onwards, the question of considering the pre-revised rates does not arise. Further, considering that the revised licence fee has already come into effect from 06 April 2016, the licence fee would have got escalated by 2% per annum since April 2017 onwards. Therefore, the escalated licence fee as of the year 2017 for the Dock Interior Zone, Dock Zone and Residential Zone at HDC is considered in the analysis. However, the component of service tax, which has been considered by the port in the estimation of licence fee has not been considered in our analysis, since the tariff computation does not take into taxes and cess.

(f) Thus, the total operating expenditure based on the above analysis works out to ₹. 49.35 lakhs as against ₹. 49.99 lakhs, as estimated by KOPT.

(viii). The cost statement for calculation of handling charge as furnished by KOPT is modified in line with the above analysis. A copy of the modified Cost statement is attached as **Annex.**

(ix). The total Annual Revenue Requirement (ARR) works out to ₹. 145.18 lakhs which is an aggregate of operating cost (₹. 49.35 lakhs) and 16% return on capital cost (₹. 95.83 lakhs), as against the Annual Revenue Requirement estimated by the port at ₹. 145.83 lakhs as estimated by KOPT.

(x). The KOPT has envisaged recovery of the entire assessed ARR from the optimal capacity of edible oil using the pipeline. Accordingly, considering the modified ARR at ₹.145.18 lakhs and the optimal capacity of the facility at 5.18 lakh tonnes, the rate works out to ₹.28.00 per tonne, instead of ₹ 28.13 per tonne as proposed by the KOPT.

(xi). Considering that the rate of ₹ 28.00 per tonne as proposed by the KOPT is for a 16" dia edible oil pipeline measuring 5.70 kms., the KOPT in its proposal has also proposed a pipeline usage charge of ₹ 4.95 per MT (₹ 28.00 per tonne / 5.70 kms.) for handling of edible oils on common usage basis, other than through 16" dia pipeline. The port is of the view that in case of pipeline of dia which is lower than

16", the capital cost is also expected to come down and that at the same time, the flow rate is also expected to come down, wherein the cost per ton per km is expected to remain same.

The submissions made by KOPT are not substantiated with any calculations. The quantum of change in the dia of the pipeline need not be directly proportional to the quantum of change in the capital cost and the flow rate. Hence, this Authority is not in a position to approve the said charge as proposed by the Port. However, the KOPT is advised to come up with a suitable proposal for fixation of charges for use of other than 16" dia pipelines, well in advance before commissioning the facility.

(xii). By formulating the proposal under the tariff guidelines of 2008, the KOPT has proposed indexation of base tariff to the extent of 60% of WPI to cover inflation. The entire Scale of Rates (SOR) of KOPT including the rate approved now will be due for review after one year say 31 March 2019. It is noteworthy that the KOPT has also proposed approval of tariff for a period of one year say 31 March 2019. Therefore, the aspect of indexation can be reviewed at that point of time depending on the situation prevailing then. The performance standard as proposed by the KOPT at 300 tonnes per hour is prescribed.

(xiii). Orders passed by this Authority generally come into effect prospectively after expiry of 30 days from the date of Gazette Notification. Since a tariff arrangement already prevails, a lead period of 15 days is found sufficient. Accordingly, the pipeline usage charges shall come into effect after expiry of 15 days from the date of notification of the Order in the Gazette of India. Further, the tariff for pipeline usage has been proposed to be incorporated by KOPT in the existing Scale of Rates of KOPT under Section 4 of Part IX - Charges for authorized service providers. As such, the validity of the pipeline usage charges approved now shall be co terminus to the validity of existing Scale of Rates of KOPT, as proposed by the Port.

10.1 In the result, and for the reasons given above, and based on collective application of mind, incorporation of the following provision as Section – 4 under Part – IX – Charges for Authorised Service Providers, in the existing Scale of Rates of KOPT, is approved:

"Section – 4: Usage charges for 16" dia Pipeline between Haldia Oil Jetty (HOJ) – III to Finger Jetty at Haldia Dock complex (HDC) of KOPT:

.

(i). The definition of "Edible oil". "Edible oil" means PLMOC, SBO, SOYA OIL etc. (both crude and refined).

(ii). Charges for handling of edible oil through common user 16" dia edible oil pipelines from 3rd oil jetty to finger jetty:

Sr. no.	**Commodity**	**Rate in ₹. per MT**
1.	Pipeline usage charges	28.00

(iii). The Performance Standard for handling the edible oil is 300 tonnes per hour.

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

10.3. The said charges shall be effective after expiry of 15 days from the date of notification of the Order in the Gazette of India and its validity shall remain co-terminus to the validity of the existing Scale of Rates of KOPT i.e. upto 31 March 2019. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

Annex

CALCULATION OF TARIFF FOR HANDLING EDIBILE OIL THROUGH 16" DIA COMMON USER PIPELINE LAID FROM HOJ-III UPTO FINGER JETTY OF HALDIA DOCK COMPLEX, KOLKATA PORT TRUST

Sl. No.	Particulars	As per KOPT initial Proposal of July 2017	As per KOPT revised Proposal of September 2017	As per KOPT revised Proposal of October 2017	As Per TAMP Modifications
		₹.	₹.	₹.	₹.
1	**Optimal capacity per Annum (In MT)**	777600	777600	518400	518400
2	**Capital Cost**	59896245.00	59896245.00	59896245.00	59896245.00
3	Average Parcel Size. Of Edible Oil Vessels	8700	8700	8700	8700
4	Estimated No. of Edible Oil Vessels per annum	89	89	60	60
5	**Operating Cost**				
	a) Repairs and Maintenance of Pipelines (2% of the Capital Cost)	1197924.90	1197924.90	1197924.90	1197924.90
	b) Insurance (1% of the Capital Cost)	598962.45	598962.45	598962.45	598962.45
	c) Depreciation (3.17% of Capital Cost)	1898710.97	1898710.97	1898710.967	1898710.967
	d) Way leave permission charges (Note 1)	704718.00	704718.00	704718	640389
	e) Other Expenses (1% of Capital Cost)	598962.45	598962.45	598962.45	598962.45
	f) Fuel cost (120 ltrs per vessel x 57.23 per ltr.)	611216.40	-	-	-
	Total (5)	5610495.17	4999278.77	4999278.77	4934949.97
6	**Return on Capital Employed (ROCE) (16% of Capital Cost)**	9583399.20	9583399.20	9583399.20	9583399.20
7	**Annual Revenue Requirment [5 + 6]**	**15193894.37**	**14582677.97**	**14582677.97**	**14518349.17**
	a) Cargo Handling Charges through Pipeline (95%)	14434199.65	-	-	-
	b) Miscellaneous Charges (5%)	759694.72	-	-	-
8	**Pipe Line Charges per Metric Tonne**	**18.56**	**18.75**	**28.13**	**28.00**
9	Pipe Line Chages for other Edibile Oil Pipelines laid at HDC per Metric Tonne	-	**3.30**	**4.95**	**-**
10	Misc. Charges (Pigging per vessel)	**8535.90**	-	-	-

Note 1:

Zone	Area of Pipeline coverage in respective zone (Sq. Mtrs)	Rate applicable as in 2017 as per KOPT Rent Schedule (Rs. Per 100 Sq. Mtrs per month)	Way-Leave Permission Fees (₹.)
Dock Interior Zone	1548.93	2680.56	498240
Dock Zone	375.96	1488.18	67140
Residential Zone	382.06	1636.08	75010
			640389

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/58/2017-KOPT		**Proposal from Kolkata Port Trust (KOPT) for fixation of tariff for handling edible oils through common user 16' dia edible oil pipeline laid from 3rd oil jetty to finger jetty of Haldia Dock Complex (HDC).**

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

Sr no.	Comments of users / user organization	Reply of KOPT
1.	**Emami Agrotech Ltd (EAL)**	
	Haldia port has facilities at Berth no. 3,4,5,6 and 7 inside the dock for handling edible oil, as well as through floating pipelines. Even after development of above facilities, the Edible oil Vessels having low calling priority had to wait for average 10 to 12 days during the period 2015-16 for limited lock windows. In order to avoid the restriction of lock gate, Haldia Port proposed for additional facilities for handling Edible oil at HOJ-III (having 30% occupancy at that time). The proposal to lay the pipeline from HOJ-III to finger jetty was offered to all the stakeholders / Edible oil companies. However, nobody responded. On request from Haldia port. EAL agreed and laid common user pipelines with an investment of ₹. 6.25 Crores. EAL was assured that at least 50% of the edible oil will be discharged from HOJ-III and some of the edible oil jetties inside would be dedicated for containers only. Accordingly, after considering investment as well as the potential volume of using the said pipeline and after unanimous consent of all the users, the current rate of ₹. 40/MT was fixed by KOPT Board, valid for period of two years from 30.06.2016 to 30.06.2018. The berthing of Edible oil vessels commenced from August 2016 and till 25th August 2017, only 44 vessels of 4 lakh MT Edible oil could be handled. At HOJ-III apart from Edible oil, Naphtha, Crude and other petroleum products which are having higher calling priority are also handled. Since handling of these products are gradually increasing at HOJ-III, chances of handling Edible oil at the said jetty is getting further reduced. During the period April 2017 to August 2017 only 19 vessels carrying around 175000 MT of Edible oil was handled. Moreover, port has recently granted permission to HPL for creation of handling facility for MTBE and other	The KOPT submitted during the hearing that it would be possible to handle 0.78 million tonnes of edible oil per annum going by the present utilization pattern of the 3rd oil jetty as a while. For this, the rate for the pipeline utilization charge should be reasonable. The users have been finding the current of ₹. 40/- per ton is not encouraging for greater utilization of 3rd oil jetty for handling edible oil. Therefore, the proposed charge of ₹. 18.56 may encourage the users to use the 3rd oil jetty more. The proposed rate may be introduced for 1 year subject to the condition that the same may be reviewed by TAMP within this period based on the actual utilization of the 3rd oil jetty by the different users for handling edible oil.

chemicals which will further reduce the handling of Edible oil vessels at HOJ-III.

Night berting of vessels at HOJ-III has also not been implemented so fas as per commitment of the port which has also further reduced the probablility of berthing of edible oil vessels at HOJ-III.

Further, various intiatives taken by Port like deployment of additiona utgs, extra movement of lock gates, steamline calling of vessels, the waiting period of edible oil vessels have come down in spite of increase in volume by 21% in the first five months, compared to corresponding period of the last year. Now most of the edible oil vessels are accommodated at the berths inside impounded dock system resuling into idiling of our pipeline capacity at HOJ-III.

In view of the above, HOJ-III can only handle maximum quantity of Edible oil 4 lakhs (MT). It is requested to continue the rate of ₹. 40/MT as unanimously agreed by all the Edible oil usrs and letter no. Ad/E/1189/Emami/3014 dated 22.07.2016.

Based on the edible oil handled during the last 1 year (August 2016 to August 2017) and subsequent reduced chances of edble oil (low calling priority) at HOJ-III, it can be observed that max 4 lakhs MT P.A. is only possible to handle per year.

It is requested to consider the maximum edible oil handling capacity at HOJ-III at 4 lakhs MT p.a. The same can be reviewed every year. Any variation of volume with respect to volume handled during any previous year, the rate can be adjusted to the extent of revenue loss/ income in the subsequent financial year.

As per TAMP's formula considering the return of 16% on invenstment of ₹. 6.25 crores and annual operating cost, the rate of handling is worked out at ₹. 39.64 per MT, as given below:

Particulars	**Amount in ₹**	**Basis**
Capital cost	**6,25,00,000**	
Operating Cost -		
- Repair & Maintenance	12,50,000	2% of Capital cost
- Insurance	6,25,000	1% of Capital cost
- Depreciation	25,00,000	4% of Capital cost
- Way Leave Licence	6,66,448	Actuals
- Bank Guarantee Commission	13,800	Commission @ 0.75% p.a. on ₹ 18.40 lakhs

	<table><tr><td>Total Cost</td><td>**50,55,248**</td><td></td></tr><tr><td>Return on Capital Employed</td><td>**1,00,00,000**</td><td>16% of Capital cost</td></tr><tr><td>**Total ARR**</td><td>**1,50,55,248**</td><td></td></tr><tr><td>Volume p.a. (MT)</td><td>4,00,000</td><td></td></tr><tr><td>Fixed cost per MT</td><td>37.64</td><td></td></tr><tr><td>Wages per MT</td><td>2.00</td><td></td></tr><tr><td>Total cost per MT</td><td>**39.64**</td><td></td></tr></table>	
2. 3. 4. 5.	**Adani Wilmar Ltd.,** **Gokul Refoils Solvents Ltd.,** **Ruchi Soya Industires Ltd. and** **Ruchi Infrastructure Ltd**	
	We accept the proposal of KOPT and accept the rate of ₹ 18.56 per MT proposed by the Port.	No specific comments furnished by the Port.

2. A joint hearing on the case in reference was held on 31 August 2017 at the KOPT premises in Kolkata. At the joint hearing, the KOPT made a brief power point presentation of its proposal. The KOPT and the users/ user organisations have made the following submissions at the joint hearing:

Kolkata Port Trust

(i). In order to increase handling of dry bulk cargo vessels also inside the impounded dock which is now restricted due to the constraints of the lock gate, KOPT decided to handle maximum edible oil vessels outside the impounded dock to make room for handling additional dry bulk cargo vessels inside the impounded dock.

(ii). Permission was, therefore, granted to Emami Agrotech Ltd (EAL) to lay one common user 16’ diameter edible oil pipeline from 3rd oil jetty upto finger jetty covering about 5.5 kilometers. EAL laid the pipeline in 2016 and thereafter EAL as well as the other importers of edible oil have connected their individual edible oil pipelines with the said 16’dia common user edible oil pipelines at finger jetty through flexible hoses. There is no revenue share and the port gets wharfage on Edible oil.

(iii). The importers and the storage operators of edible oil agreed to use the pipeline laid by EAL by making a payment of ₹ 40/- per tonne to EAL for utilization of the pipeline. This rate is subject to review as per TAMP Guidelines. The charge is for utilization of the pipe line.

(iv). Based on the stipulations of the Land Policy Guidelines, TAMP has been approached to fix the charges for handling the edible oil through the common user pipeline.

(v). For the purpose, the capacity of the pipeline to handle edible oil has been considered at about 0.8 million tonnes per annum, considering that other liquid cargo will also be handled through the said pipeline. This is based on the position that edible oil would be handled for about 9 days in a month at a discharge rate of 300 tonnes/ hour.

(vi). The actual capital cost incurred by EAL to lay the pipeline at about ₹ 6 crores has been considered. Operating cost at ₹ 56.10 lakhs has been estimated based on TAMP Guidelines. Thus, the annual revenue requirement works out to ₹ 1.52 crores, which is apportioned between handling and storage in the ratio of 95:5. Accordingly, the handling rate works out to ₹ 18.56 per MT and Miscellaneous charges at ₹ 8536/- per vessel. The handling charge of ₹. 18.56 per MT is payable to the Emami for using the pipeline on common user basis.

(vii). Considering that it will be difficult to approach TAMP always for a rate, in the event such pipelines are laid in different berths in future, it has been decided to have the rate of ₹ 18.56 per MT pertaining to 5.5 km as base and have handling rates prescribed at ₹ 3.26 per MT for a pipeline of 1 km. It is a reference tariff for future.

(viii). The investment already made by EAL is a sunk cost. The pipeline was laid by EAL for its own utilization. However, if the pipeline is not used by others, the EAL will not be in a position to recover the costs. The pipeline will be used in the future also.

(ix). The capacity of the pipeline has been worked out at 9 days, which reflects the actual pumping period and not the stayal of the vessel, which may be higher.

(x). Let us not go now into the aspects like why the pipeline was laid by EAL. It is to be seen that the pipeline has been laid on a common user basis.

(xi). The tariff has been derived based on the volume of edible oil and capital cost. There is no dispute on capital cost. Let us now agree to go ahead with the rate proposed by KOPT to be valid for a year. The rate can be reviewed next year. TAMP may take into account any shortfall/ excess while reviewing the rate next year.

Emami Agrotech Limited (EAL)

(i). In 2015, due to heavy congestion, long waiting time and huge demurrage costs, KOPT requested EAL to put up pipeline from 3rd oil jetty upto finger jetty. We agreed and laid a pipeline in 2016 at a cost of ₹ 6 crores since nobody responded to the offer of HDC. At that time, the users also agreed to pay an amount of ₹ 40/- per tonne for utilization of the pipeline. This rate was fixed by the KOPT Board for two years from 30.06.2016 to 30.06.2018. Low rate is not acceptable to us.

(ii). During the period from August 2016 to August 2017, only 4 lakh MT of edible oil has been handled. Further, due to gradual increase of handling of Naptha, Crude oil, POL, chances of handling edible oil is being reduced. Also, night berthing of vessels at Oil Jetty is not available.

(iii). In such a scenario, handling of 0.8 million tonnes of edible oil as calculated by KOPT is not at all possible. Only about 0.4 miilion tonnes is possible, as was handled from August 2016 to August 2017.

(iv). Based on the capital cost of ₹ 6 crores and the operating cost as determined based on TAMP Guidelines, and with the capacity of 0.4 Million tonnes, the rate works out to ₹ 39.64, which is closer to the rate of ₹ 40/- as has already been agreed by other users in the past. We therefore, request to fix the rate at ₹ 40/- per MT. The rate may be fixed based on traffic.

(v). We also request that the rate should be reviewed every year based on the last year's traffic, so that we are able to get the 16% return. Rate can be adjusted in the subsequent year based on the loss or gain in the previous year.

(vi). The port is changing its stand now. The pipeline was laid by EAL on a common user basis only.

(vii). We again request that the rate should be reviewed every year based on the last year's traffic, so that we are able to get the 16% return. The rate can be increased or decreased on a yearly basis, adjusting the gain / loss.

(viii). We do not agree to the rate of ₹ 18.56 proposed by the port.

Ruchi Soya

(i). We have also in the past laid pipelines from oil jetty III and have also handled other's cargo.

(ii). EAL should not see the pipeline as a money making investment. The pipeline was laid since EML wanted it and simultaneously, it was decided that other users can also use the facility. The cost of ₹ 6 crores was invested by EAL for themselves, for their purpose. We have laid the pipeline in 2002. No major repairs so far. In 6 to 7 years, Emami can recover the investment.

(iii). The rate of ₹ 40/- per MT is too high. The rate of ₹ 18.56 as proposed by KOPT is acceptable to us as well as other users also.

(iv). It has to be seen that finally the tariff will get built in the final cost to the end user, who is already reeling under increase in prices due to increase in various other duties, taxes. Burden should be less on the industry.

(v). It is agreed that the EAL has made the initial investment. But thereafter, the cost is negligible. The time for which the pipeline would be used should be taken into account.

EML

(i). The pipeline was laid at the instance of the Port.

(ii). We are not here to do charity. At the same time we do not want more. Please give us our justifiable return.

Adani Wilmar

(i). The rate of ₹ 40/- per MT is too high. The rate as proposed by KOPT is acceptable to us.

Gokul Refoils

(i). As per our existing arrangement with Ruchi, we are paying a fixed cost per vessel for utilising their facility. A per tonne rate works out to be costlier. It is requested that a fixed levy per vessel be fixed irrespective of the tonnage, at either ₹. 40000/- or ₹. 50000/- per vessel.
