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Tariff Authority for Major Ports

G.No. 13 **New Delhi** **12 January 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 the V.O. Chidambaranar Port Trust for fixation of reference tariff for Design, Supply, Installation, Testing, Commissioning and Maintenance of mobile rubber tyred electrically operated hopper for a period of 10 years on Revenue Share basis at VOCPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/60/2016-VOCPT

V. O. Chidambaranar 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 16th day of December 2016)

This case relates to a proposal dated 26 September 2016 received from V.O. Chidambaranar Port Trust (VOCPT) for fixation of reference tariff for Design, Supply, Installation, Testing, Commissioning and Maintenance of mobile rubber tyred electrically operated hopper for a period of 10 years on Revenue Share basis at VOCPT.

2. The Ministry of Shipping (MOS) under cover of its letter No.PR-14019/16/2012-PG dated 9 September 2013 has issued Revised 'Guidelines for Determination of Tariff for Projects at Major Ports, 2013' under Section 111 of the Major Port Trusts Act, 1963 on 9 September 2013. In compliance of the policy directives issued by the (MOS) under Section 111 of the MPT Act, 1963, the said Guidelines were notified in the Gazette of India. The said Guidelines were made effective 9 September 2013.

3. The main submissions made by the VOCPT in the proposal are summarized below:

(i). The bulk cargo like coal, urea, MOP, DAP, Rock Phosphate, Sulphur, Gypsum, Oil Cake, IImenite / Garnet sand are being handled in the berths of VOCPT. During the handling of the above cargos the cargos get spilled in the berths and these dust are being carried away by the wind and are polluting the atmosphere. In order to avoid the dust cargo polluting the environment and wastage of cargo, it is proposed to provide hoppers in the VOC berths 3 & 4th of VOCPT on Revenue Share Basis.

(ii). (a). Providing 8 Nos. of Mobile Rubber tyred electrically operated hopper in Berth No. III and IV with handling capacity of 120 MT per hopper. The cargo from hoppers will be directly discharged to Trucks avoiding dumping of cargo and spillage of cargo at the berth. The hopper top opening size shall be designed suitably for HMC / Wharf crane capacity of 120 Tone & ship cranes. Hopper designed shall be capable of handling the cargos like copper, coal, sulphur, rock phosphate, lime stone, Gypsum, Urea, MOP, DAP fertilizer raw materials, Limonite Garnet sand etc.

(b). Dust suppression system to be provided in each hopper will suppress the nuisance of cargo (dry bulk) and check the wastage of cargo (dry bulk) in the form of airborne particles. The hopper shall have four rubberized wheels and Hopper movement shall be by means of suitable motor and gear box. The capacity of the hoppers with vibrators shall be so designed that there is unrestricted flow of wet cargo. The hopper shall be self container, motorized for open and close, complete with feeder gate with rack and pinion arrangement. The hopper shall be provided with storm anchor mechanism and also mechanical clamps to keep them stationary and rigid during the discharge of cargo.

(iii). **Optimal Capacity**:

(a). The import of cargo (Type of cargo which can be discharged using hoppers) for the berths III & IV based on the cargo handled in the Financial Year 2015-16 is as below:

Cargo	Import (MT)
Clinkers	30,964
CU Concentrate	6,47,680

Gypsum in Bulk	35,000
Iron Ore	57,741
Lime Stones	3,58,851
Peas (Yellow)	6,800
Petrolium Coke	1,72,832
Potassium Sulphate (MOP, SOP)	2,42,615
Rock Phosphate	3,96,268
Salt in Bulk	3,089
Steaming (Non-Coking) Coal (I.Coal)	11,75,581
Sulphur	1,02,699
T.Coal	9,68,306
Urea	3,019
Grand Total	**42,01,445**

However, based on the capacity of one HMC (upfront tariff order for HMC dated 23.07.2010), i.e. 29.76 lakh tonnes per annum plus the capacity of 3 ship gears i.e., 25,75,440 tonnes aggregating to 55.51 tonnes per annum is taken as the annual optimal capacity of cargo discharged in one berth using 4 Nos. of Hopper for fixing upfront Tariff in one berth for this Project.

(Note: The Order dated 23 July 2010 is for formulation of Upfront Tariff for the proposed up gradation of Mechanical Handling Infrastructure at Berths I to VI & IX of VOCPT (Tuticorin Port) through PPP Scheme on BOO basis and the optimal capacity fixed for 100T HMC)

(b). The calculation of the Optimal capacity is as given below:

Particulars	Workings	Estimates
Optimal Capacity of the 4 nos. of hoppers in one berth (in Million Tonnes Per Annum)	Per annum 29,76,000 MT capacity handled per 120MT – 1 nos. plus capacity of 3 ship gears per annum (20 cycles/ hr x 10T x 24 hrs x 0.7 x 0.7 x 3 x 365 days) (TAMP Order for Mechanisation of evacuation of cargo from Berth No.9 to coal yard to license basis for 10 years period under revenue share)	55.51

(iv). **Capital Cost:**

(a). The estimate for the Design, Supply, Installation, testing, commissioning maintenance and operation of mobile rubber tyred electrically operated hopper with dust suppression system for a period of ten years was prepared based on the budgetary offer from the firm Unique Hydraulics & Industrial Products, Chennai and the rate offered is as below:

Description of works	Rate per unit (₹)
Electrically operated hopper complete structure sets	3,96,00,000.00

The capital cost of the project is taken as ₹19.04 Crores for 4 Nos. of hoppers in one berth for fixing upfront Tariff for this Project.

(b). The VOCPT has stated that the cost of Civil Works, Equipments & Machinery Cost and Mechanical and Electrical Works is not applicable.

(c). The calculation of the Total Capital Cost is as given below:

Workings	Estimates (₹ in lakhs)
[(4 Nos. of hopper X ₹ 3,96,000) + VAT 14.5%] + Miscellaneous cost @ 5%	1,904.00

(v). **Operating Cost:**

(a). Power Requirement:

Sl. No.	Particulars		Units
(a).	Total Electrical Load of one hopper	175	KW
(b).	Electricity units consumed per hour by one hopper	175	Units
(c).	Total electricity consumed by 4 hoppers per annum (4Nos. of hopper X 175 KWX 24 Hours X 365 days)	61,32,000	Units
(d).	Current consumption of VOCPT during month of May 2016	9,09,771	Units
(e).	Current consumption charges paid to Tamil Nadu Electricity during month of May 2016	93,56,224	Rupees
(f).	Per unit cost ₹ (Total units consumed/Electricity charges paid) plus overhead charges (levy ₹1.15/- per unit and pension levy 6.5% on levy) i.e 10.28+1.15+0.07=11.50	11.50	Rupees
(g).	Tonnage handled per annum in one berth [Capacity of tonnage handled per 120MT HMC crane is 29,76,000MT and the Capacity of 3 ship gears per annum (20 cycles/hr X 10T X 24 hrs X 0.7 X 3 X 365 days X 0.7)]	55,51,440	Ton
(h).	Electricity Unit per ton	1.1	Units/ton
(i).	Power cost (Tonnage handled per annum X unit per ton X per unit cost)	7,02,25,716	Rupees

(b). **<u>Lease rent</u>** :-

The area comes under commercial category. Hence ₹362.76 per Sq.mtr per annum as per Estate rental of VOCPT for the year 2015-16 is taken for calculating the lease rent for the hopper occupied area for one berth.

Sl. No.	Name of the equipment	Qty Nos.	Dimension of each equipment		Total Area in Sq. Mtr [C*D*E]	Lease rent @ ₹362.76 per Sq.mtr per annum
			Length In Meters	Width In Meters		
A	B	C	D	E	F	G
1	Hopper	4	11	7	308	1,11,730 i.e. 1.12 lakhs

(c). The calculation of the Operating Cost is as given below:

Sl. No.	Particulars	Workings	Estimates (₹ in lakhs)
1.	Power Cost	55,51,440*1.1*11.5	702.26
2.	Repairs & Maintenance Cost	19,04,36,400*7% on total cost of capital cost	133.31
3.	Insurance	19,04,36,400*1% on capital cost	19.04
4.	License Fee		1.11
5.	Depreciation 6.33% on total cost of Mech & Elect works (₹ Lakhs)	As per norms prescribed in Companies Act (19,04,36,400*6.33%)	120.55
6.	Other Expense	5% of Gross Fixed Asset Value (₹ 19,04,36,400/-)	95.22
	Total operating cost		**1071.49**

(vi). The return on capital employed is estimated at 16% on the Capital Cost.

(vii). Accordingly, the annual revenue requirement estimated by VOCPT is as follows:

(**₹ in lakhs**)

Sl. No.	**Particulars**	**Amount**
(i).	ROCE @ 16%	304.70
(ii).	Operating cost	1071.49
(iii).	Total Revenue Requirement	**1376.19**

(viii). **Annual Revenue Requirement:**

The relevant total Revenue Requirement of handling activity is apportioned to the Dry Bulk cargoes as per TAMP Guidelines 2008. The apportionment of revenue requirements for the remaining activities of Storage and Miscellaneous items does not arise. The proposed upfront tariff Scale of Rates along with required definitions and conditionalities are suitably incorporated.

(ix). Proposed tariff collection for discharge of cargo through Electrically operated Hopper (per ton per hopper)

Sl. No	**Commodity**	**Rate per ton per hopper (in ₹)**	
		Foreign	**Coastal**
1	Dry Bulk Cargo	24.79	14.87

(x). **Performance Standards:**

The licensee shall meet both the following Performance standards:

(a). The Minimum guaranteed availability is 90% per mobile rubber tyred electrically operated hopper per month.

(b). The licensee shall fill one truck of 40 Tonnes capacity in twelve minutes using one hopper, if the truck are available for unloading.

4. The VOCPT has submitted the proposed Scale of Rates (SOR) and Performance standards along with its proposal.

5. In accordance with the consultative procedure prescribed, a copy of the VOCPT proposal dated 26 September 2016 was forwarded to the concerned users and prospective applicant (as suggested by VOCPT) for their comments. None of the users have furnished their comments till finalisation of this case. Maschinen Fabrik (India) Pvt. Ltd has vide its email dated 18 October 2016 has expressed its regret.

6. Based on the preliminary scrutiny of the proposal, it was observed that there are certain information gaps / deficiency in the proposal of VOCPT. The VOCPT was, therefore, vide our letter dated 31 October 2016 requested to furnish requisite information / clarification by 7 November 2016. The VOCPT has, subsequent to the joint hearing, furnished additional information / clarification vide its letter dated 16 November 2016 which is brought out in subsequent paragraph.

7. A joint hearing in this case was held on 1 November 2016 at the VOCPT premises. The VOCPT made a brief power point presentation of its proposal At the joint hearing, the VOCPT and the concerned users/ organisation bodies / prospective bidders have made their submissions.

8.1. As agreed at the joint hearing, the VOCPT was requested vide our letter dated 8 November 2016 to take action on the few points:

(i). Furnish a Brief note regarding the main point raised by Sterlite Industries and Tuticorin Ship Agents Associations at the joint hearing about what happens to the existing hoppers of the Sterlite Industries and some of the existing users who have put in investment at the port for handling cargo.

(ii). Port desired to Review and revise the Performance Standards. The VOPCT is requested to furnish the revised Performance Standards as agreed at the joint hearing.

(iii). Examine the points raised by users at the joint hearing, as agreed by the port.

8.2. With reference to the point of action referred above, the VOCPT has vide its email dated 2 December 2016 furnished its written comments. A summary of the above action points and comments furnished by VOCPT thereon is tabulated below:

Sl. No.	Information / Clarification sought by us	Reply furnished by VPT
(i).	Furnish a Brief note regarding the main point raised by Sterlite Industries and Tuticorin Ship Agents Associations about what happens to the existing hoppers of the Sterlite Industries and some of the existing users who have put in investment at the port for handling cargo.	It is informed that Sterlite Industries and other ship agents are using their hoppers for discharging cargo. As discussed in the TAMP joint hearing meeting held on 1 November 2016, they might use their hoppers in other berths except VOC 3rd and 4th Berth.
(ii).	Port desired to Review and revise the Performance Standards. The VOPCT is requested to furnish the revised Performance Standards as agreed at the joint hearing.	The performance Standard is taken based on the technical specification of hopper and the performance standard of 12 minutes to fill the 40 Ton Truck is proposed.
(iii)	Examine the points raised by users at the joint hearing, as agreed by the port.	The issues raised by the users are that the size of the hopper design varies depending on the cargo. As replied in the joint hearing the bidder should ensure the hopper design capable for handling bulk cargos.

9.1. The VOCPT vide its letters dated 16 November 2016 and 2 December 2016 has furnished its response to the additional information / clarification sought by us vide our letter dated 31 October 2016. The summary of the additional information / clarification sought by us and reply furnished by the port is tabulated below:

Sl. No.	Additional information / clarification sought by us	Reply furnished by VOCPT
1.	**General**	
(i).	The VOCPT has in its proposal stated that the Board of Trustees of VOCPT accorded approval for the project in reference in the Board Meeting held on 31 May 2016. The VOCPT, therefore, to forward a copy of Board approval approving the subject proposal.	Copy of Minutes of the Board approval is furnished herewith.
(ii).	Furnish a copy of Feasibility Report.	No feasibility study was carried out by the port for this subject.
(iii).	The VOCPT has estimated 4 nos. of hoppers in one berth for cargo discharging operations. The VOCPT to justify the deployment of 4 nos. of hoppers in one berth.	Considering the number of hatches in the ship and no. of hooks for operation, 4 Nos. of hoppers are considered for one Berth to feed from 3 Nos. of Ship Gears and one No. of HMC.
(iv).	The VOCPT has considered the capital cost as per the budgetary offer of Unique Hydraulics and Industrial products (UHIP). The budgetary offer also contains the offer for operation and maintenance of the said equipment amounting to ₹31.97 crores for a period of 10 years i.e., ₹3.197 crores per year. As per the cost statement furnished by the VOCPT, the operational and maintenance cost excluding depreciation works out to ₹9.47 crores per year which is more than 3 times of the offer of UHIP. It is presumed that the port would have kept in view the above.	(a). In the TAMP application submitted for computing operating cost the power cost, repairs & maintenance cost, Insurance, rent (license fee) and other expenses are considered as per the TAMP guidelines 2008. (b). As mentioned in the TAMP Joint Hearing held on 01 November 2016 for the fixation of upfront tariff of Hoppers, in the calculation of power cost 0.70 factor is included, since hoppers will not be utilized continuously for 365 days and based on the availability of ships (c). Hence the revised power cost is as below:

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<table>
<tr><th>Sl. No.</th><th></th><th></th><th>Units</th></tr>
<tr><td>(a).</td><td>Total Electrical Load of one hopper</td><td>175</td><td>KW</td></tr>
<tr><td>(b).</td><td>Total electricity consumed by 4 hoppers per annum

(4 Nos. of hopper x 175 KS x 24 Hours x 365 days x 0.7)</td><td>42,92,400</td><td>Units</td></tr>
<tr><td>(c)</td><td>Current consumption of VOCPT during month of May 2016</td><td>9,09,771</td><td>Units</td></tr>
<tr><td>(d).</td><td>Current consumption charges paid to Tamil Nadu Electricity during month of May 2016.</td><td>93,56,224</td><td>Rupees</td></tr>
<tr><td>(e).</td><td>Per unit cost ₹
(Total Electricity charges paid / units consumed (d/c) plus overhead charges (levy ₹1.15 per unit and pension levy 6.5% on levy) i.e. 10.28+1.15+0.07-11.50</td><td>11.50</td><td>Rupees</td></tr>
<tr><td>(f).</td><td>Tonnage handled per annum in one berth
[Capacity of tonnage handled per 120T HMC is 29,76,000 T and the capacity of 3 ship gears per annum (20 cycles/hr X 10T X 24 hrs X 0.7 X 3 X 365 days X 0.7)]</td><td>55,51,440</td><td>Ton</td></tr>
<tr><td>(g).</td><td>Electricity Unit per ton (b/f)</td><td>0.77</td><td>Units / ton</td></tr>
<tr><td>(h).</td><td>Power Cost
(Tonnage handled per annum X unit per ton X per unit cost) (e*f*g)</td><td>4,91,58,001</td><td>Rupees</td></tr>
</table>
(d). In view of the above power cost, the proposed tariff collection for discharge of cargo through Electrically operated Hopper (per ton per hopper) is as below:
<table>
<tr><th>Sl. No.</th><th>Commodity</th><th colspan="2">Rate per ton per hopper (In Indian ₹)</th></tr>
<tr><td>1</td><td>Dry Bulk Cargo</td><td>20.99</td><td>12.60</td></tr>
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Calculation sheet enclosed.
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<tr>
<td>2.</td>
<td><u>Optimal capacity:</u></td>
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<td>(i).</td>
<td> The VOCPT has stated under the para relating to Optimal capacity (page no.9 of proposal) that it has considered the optimal capacity of HMC at 29.76 lakh tonnes per annum as approved by the Authority vide Order dated 23.07.2010 and the optimal capacity of 3 ship gears has been assessed at 25.75 lakh tonnes per annum aggregating to 55.51 lakh tonnes per annum. In this regard, the VOCPT to clarify the following:
The VOCPT has, while assessing the Optimal capacity for 120T HMC, stated that the optimal capacity of 29.76 lakh tonnes per annum arrived by TAMP while approving the Upfront Tariff for the proposed upgradation of Mechanical Handling Infrastructure at Berths I to VI & IX of VOCPT vide Order dated 23 July 2010 has considered along with the capacity of 3 ship gears. In this regard, it is to inform that the handling rate of </td>
<td> Optimal capacity ₹29.76 lakhs Tonnes is considered for calculation as per the tariff order approved by the authority vide Order dated 23 July 2010, since the Authority vide order dated 19 January 2012 specified that the upfront tariff prescribed in 23 July 2010 will hold good for induction of HMC 120 T subject to annual indexation hence it means it does not require any modification in the optimal capacity of 100T VIZ a VIZ 120T HMC.
Subsequently, the VOCPT has modified the optimal capacity considered by it for HMC 15,000 MT in line with the output per day considered by the Authority in the project evacuation of cargo in IX Berth vide order dated 18 October 2015 and furnished the revised calculation of the proposed tariff. </td>
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	12500 Tonnes/day considered in the tariff Order dated 23 July 2010 is for the 100T HMC. However, the HMC considered in the current proposal is 120T HMC. The VOCPT to consider the handling rate for 120T HMC as considered by the Authority in the Order no. TAMP/40/2015-VOCPT dated 18 August 2015 and modify the capacity.	
(ii).	As per the tariff policy guidelines 2008, the handling norms for handling of Food grains and Fertilisers is 10000 tonnes/day for vessels of more than 30000 Tons parcel size and 7500 tons/day for lower parcel size; and, for Coal, Lime, stone, minerals etc., the handling rate is 10000 Tons/day. In this regard, the VOCPT to	Vessels arrived in the 3rd & 4th Berth are of more than 30,000 Tons parcel size.
(a).	Confirm that the vessel proposed to be handled are of more than 30000 Tons parcel size.	
(b).	Confirm that the vessels berthing at 3rd and 4th berth will be 3 ship gear vessels and will utilise the proposed Hopper facility of 4 nos.	
(c).	Clarify whether the handling rate in respect of Fertilisers, Coal, lime stone, minerals etc. and other cargos like Iron Order, Peas (yellow) and Salt is same.	
3.	**Capital Cost:**	
(i).	The VOCPT has considered the capital cost of each hopper at ₹396.00 lakhs plus 14.5% VAT. As per the documentary evidence (Budget Offer) dated 21 May 2016 furnished by the VOCPT, the validity of the Budget Officer is 120 days. However, as per the Sl. No. v(b)(ii) of Checklist of documents, the period to which the unit rate of and equipment cost pertains is mentioned as "February 2016". The VOCPT, therefore, to confirm that the capital cost estimated by the VOCPT reflects current market position.	The period to which the unit rate of and equipment cost pertains is for "May 2016" and the capital cost reflects current market position.
(ii).	The VOCPT has considered the VAT @ 14.5% of the cost of Hopper and accordingly, the same is included in the Capital Cost of Hopper. The VOCPT to clarify whether VAT exemption will be available on the CENVAT scheme. If so, the VOCPT may suitably modify (reduce) the estimate of Capital Cost.	Regarding the availing of VAT exemption on CENVAT scheme, the same depends on the eligibility and choice of successful bidder in implementation of the project. The same could not be foreseen now by port. Hence, the VAT 14.5% included in capital cost may be considered by the authority.
(iii).	The VOCPT had earlier considered ₹173.00 lakhs towards cost of one hopper in its proposal dated 30 January 2016 filed for fixation of Reference tariff for mechanised evacuation system from coal yard to marshalling yard through conveyor and wagon loading system at the marshalling yard on license basis for 10 years period which culminated into Order No. TAMP/13/2016-VOCPT dated	The hopper considered in this proposal is rubber tyred mobile electrically operated with dust suppression system, whereas in the project of mechanised evacuation system from coal yard to marshalling yard through conveyor and wagon loading system at the marshalling yard, there are 1 No. of fixed ground hopper. Hence, the two types of hoppers are different.

	30 March 2016. However, in the current proposal the VOCPT has estimated the cost of one Hopper at ₹396 lakhs. The VOCPT, therefore to justify the wide variation in the estimate of the capital cost of the Hopper.	
4.	**<u>Operating Cost</u>**	
	The VOCPT has considered the unit power cost at ₹11.50 for estimation of power cost. VOCPT to furnish the copy of electricity bill of latest three months in support of the unit rate adopted by VOCPT.	The copy of the latest three months electricity bills are enclosed herewith.
5.	**<u>Proposed SOR</u>**:	
(i).	The Authority has passed common adoption Orders, vide Order No.TAMP/53/2015-VOCPT dated 26 November 2015 and 10 June 2016 relating to provision prescribed for System of classification of vessel for levy of Vessel Related Charges (VRC) and Criteria for levy of Vessel Related Charges and Concessional Coastal rate for coastal cargo for all Major Port Trusts and BOT operators thereat. It is, however, seen that the VOCPT has not correctly included the provisions stipulated in the proposed SOR. The VOCPT to incorporate the same in the SOR and to consider the impact, if any, in the revenue estimates.	The authority may kindly include following: **<u>System of classification of vessel for levy of Vessel Related Charges (VRC)</u>** (a). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast. (b). A Foreign going vessel of foreign flag can covert to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping and a custom conversion order." **<u>Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate</u>** (a). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods. (b). In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of India Port; immediately thereafter, foreign going rates shall be chargeable by the discharge port. (c). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates. **<u>Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate</u>** (a). Foreign going Indian Vessel having General Trading License issued for 'worldwide Handling Charges (HC) i.e.

		ship to shore transfer and transfer from/to quay to / from storage yard including wharfage in the following scenario: (i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port. (ii). Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port. * The Central Board of Excise and Customs Circular no. 15/2002-Cus. Dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion. (b). In case of a Foreign flag vessel converted to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo / container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo / container".
(ii).	A general note governing application of Wholesale Price Index (WPI) based indexation factor is also to be prescribed in the proposed draft Scale of Rates.	The authority may kindly include the general note:- **GENERAL NOTE** : 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.
	The concession proposed for coastal cargo is not captured in the unit rate for foreign cargo, which may be captured so that the operator will be able to realize the estimated ARR.	As the cargo proposed to be handled by hopper is foreign cargo and also coastal cargo to be handled in coastal rate, the coastal cargo not captured in the unit rate proposed.
(iv).	The ratio of foreign cargo and coastal cargo may also be furnished.	The entire cargo handled is foreign cargo.
6.	<u>Performance Standards</u>:	
	The proposal in reference does not involve trucks. However, one of the Performance Standards proposed by the VOCPT is that the Licensee shall fill 1 truck of 40 T capacity in 12 minutes using 1 hopper, if the truck is available for unloading. The VOCPT to explain the relevance of inclusion of 40T truck in the performance standard.	Normally 40 Ton, 20 Ton, 25 Ton trucks are available for transporting cargo. In order to design a hopper by the licensee the parameter to fill a 40 ton truck in 12 minutes is included.

9.2. As stated earlier, the VOCPT has, vide its email dated 2 December 2016, while furnishing its comments on the points of action decided at the joint hearing, furnished the revised cost statement duly modifying the optimal capacity to 6.41 MMTPA as against 5.55 MMTPA and per unit consumption of power at 0.67 per unit/ tonne as against 0.77 per unit/ tonne in the revised proposal dated 16 November 2016.

9.3. A summary of the cost position and proposed tariff as per the revised cost statement for discharge of cargo through electrically operated 120T Hopper (per ton per hopper) is as follows:

Summary of cost statement:

Sl. No.	Particulars	Amount
1.	Optimal Capacity in tonnes	67,04,940
2.	Operating Cost	873,69,594
3.	Return on Capital Cost @ 16%	304,69,824
4.	Total Annual Revenue Requirement	1178,39,418

Proposed tariff:

Sl. No.	Commodity	Rate per tonne per hopper (in ₹)	
		Foreign	Coastal
1.	Dry Bulk Cargo	18.39	11.03

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

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

(i). The proposal is to fix reference tariff for “Design, Supply, Installation, Testing, Commissioning and Maintenance of mobile rubber tyred electrically operated hopper for a period of 10 years on Revenue Share basis at VOCPT. To avoid dust emanation from cargo handling operation of dusty cargo and to arrest spillage of dusty cargo on wharf and contain environmental pollution, 8 number of 120 Tonnes electrically operated rubber tyred mobile eco Hoppers are proposed to be deployed for berth nos.III and IV on revenue share basis. The hopper top opening size shall be designed by the operator suitably for HMC/Wharf crane of 120T & ship gears. The Hoppers shall be capable of handling the cargos like copper concentrate, coal, sulphur, rock phosphate, lime stone, gypsum, Urea, MOP, DAP fertiliser raw material, Limonite Garnet sand etc. Dust suppression system to be provided in each hopper will supress the nuisance of dry bulk cargo and check he wastage of dry bulk cargo in the form of airborne particles. The capacity of the hoppers with vibrators shall be so designed that there is unrestricted flow of wet cargo. The hopper shall be self-container, motorized for open and close, complete with feeder gate with rack and pinion arrangement. The hopper shall be provided with storm anchor mechanism and also mechanical clamps to keep them stationary and rigid during the discharge of cargo.

(ii). The revised cost calculation filed by VOCPT dated 2 December 2016 along with the information / clarification furnished by VOCPT during the processing of the case in reference are considered in this analysis.

(iii). Clause 2.4 of the tariff guidelines of 2013 stipulates that if in the view of the Major Port Trust, the tariff determined for a particular commodity under 2008 guidelines at that Major Port Trust or any other Major Port Trust is not a representative Reference Tariff for that commodity, then the Major Port is free to approach this Authority with a proposal to fix Reference Tariff under 2008 guidelines for the project giving detailed and sufficient justification.

The proposal in reference is for fixation of reference tariff to implement the project of “Design, Supply, Installation, Testing, Commissioning and Maintenance of mobile rubber tyred electrically operated hopper for a period of 10 years on Revenue Share basis. Upfront tariff approved by this Authority is available for handling of coal terminal/ dry bulk terminal for the entire movement of cargo i.e. from ship to shore,

shore to yard and yard to truck/ wagon. No upfront tariff is, however, available for only one leg of operation i.e. transfer of cargo from ship to berth through hoppers envisaged in this project. That being so, the proposal is seen to have been filed by the VOCPT under 2013 guidelines by following the principles of 2008 guidelines. Since no feasibility study was carried out by the port as reported by the port, feasibility report has not been prepared for this subject. The proposal of the VOCPT has the approval of its Board of Trustees.

(iv). Before proceeding ahead with analysis of this case, it is relevant here to state that the tariff guidelines of 2008 for upfront tariff fixation prescribe norms/ guidelines for dedicated facilities such as coal, iron ore, container, liquid handling terminal and multipurpose cargo terminal. The guidelines of 2008 for upfront tariff fixation do not prescribe any exclusive norms / guidelines for one leg of operation i.e., mechanization of evacuation of cargo from Ship to wharf through hoppers envisaged in this project.

It is, however, seen that norms considered by the port for estimating the operating cost is based on the norms prescribed in the 2008 upfront tariff guidelines for the Multipurpose cargo terminal as the proposed facility is seen to be for handling of various dry bulk cargos at berth nos.III and IV. The VOCPT anticipates that other dry bulk cargo like copper concentrate, coal, sulphur, rock phosphate , lime stone, gypsum, Urea, MOP, DAP fertiliser raw material, Limonite Garnet sand etc. may be handled. However, the VOCPT has considered the norm prescribed for estimation of Repairs & Maintenance Cost at 7% on capital cost prescribed for coal terminal. Since various dry bulk cargos envisaged to be handled through the proposed facility, adoption of norms prescribed in the guidelines for multipurpose terminal for the purpose of estimation of operating is considered. In the absence of any specific norms prescribed in the 2008 guidelines for hoppers and in view of urgency expressed by the VOCPT for seeking reference tariff for this project, the approach adopted by VOCPT of adopting the norms prescribed in the 2008 upfront tariff guidelines for a multipurpose terminal to the extent relevant to arrive at the reference tariff for this project is relied upon.

(v). Optimal Capacity:

As brought out in the previous paragraphs relating to the factual position, the optimal capacity assessed by the VOCPT for this project in the original proposal dated 26 September 2016 is 5.55 MTPA based on the optimal capacities assessed for one 120T HMC plus three shipgears. For assessing the optimal capacity of 5.55 MTPA for one 120T HMC plus three shipgears, the VOCPT has stated to have considered the optimal capacity assessed in the Tariff Order dated 23 July 2010 for one HMC at 29.76 lakh tonnes and the optimal capacity assessed for three Ship gears at 25.75 lakh tonnes.

In the final revised proposal, the VOCPT has increased the optimal capacity from 5.55 MTPA to 6.41 MTPA based on the modification in the computation of the optimal capacity of one HMC, which is discussed in the following paragraphs.

(a). Handling rate (per day) by HMC:

This Authority vide Order No. TAMP/40/2015-VOCPT dated 18 August 2015 has approved reference tariff for mechanisation of cargo evacuation from Berth No.IX to interim stock yard at VOCPT for standard HMC of 120 Tonnes considering handling rate for dry bulk cargo at 15000 T / day. The adopted productivity of 120T HMC is based on the productivity norms proposed by it and approved by this Authority in the Order No.TAMP/40/2015-VOCPT dated 18 August 2015.

That being so, the optimal capacity of 1 HMC of 120T assessed at 38,32,500 (i.e. 15,000T/day x 365 x 70%) by the VOCPT is considered.

(b). Handling rate (per day) by Ship gear:

In addition to one HMC, in order to achieve improved productivity, three ship gears are also envisaged at berth no. III and IV for transfer of cargo from ship to shore through hoppers. The VOCPT has considered the capacity of a ship gear at 3360 Tonnes /day considering 20 cycles/ hr / ship gear, with handling rate of 10 tonnes per cycle (i.e. 20 cycles/hr x 10T x 24 hours x 70%) = 3360 tonnes/ day/ ship gear. The productivity of shipgears is based on the productivity norms proposed by it and approved by this Authority in the Order No.TAMP/40/2015-VOCPT dated 18 August 2015 disposing of the proposal filed by the VOCPT for fixation of reference tariff for mechanisation of cargo evacuation from Berth No.IX to interim stock yard at VOCPT. In the absence of any specific norms available for ship gears, the handling rate considered by the port which was approved by this Authority is relied upon and considered. That being so, for three ship gears, the port has assessed the handling rate of 10080 tonnes / day (i.e. 3360 T/ day/ ship gear * 3 ship gears), which works out to 25,75,440 tonnes per annum. The said optimal capacity furnished by the VOCPT is considered.

(c). Thus, the total optimal capacity of 1 HMC plus 3 ship gears assessed by the VOCPT is 64,07,940 tonnes (i.e. 38,32,500 tonnes + 25,75,440 tonnes).

(vi). Capital Cost:

(a). The capital cost of each hopper estimated by the VOCPT is ₹453.42 lakhs. The estimate of capital cost is inclusive of VAT estimated at ₹57.42 lakhs. Miscellaneous capital cost at 5% of the capital cost i.e., ₹90.68 lakhs is also estimated as per norms prescribed in the 2008 guidelines.

(b). Equipments:

In the mechanised evacuation system envisaged in this project, dry bulk cargo handled by the HMC / ship gears will be dumped into hoppers and then directly discharged to trucks. The port has proposed 4 Nos. of hoppers of 120 T per berth reported to be electrically operated, dust suppression system and safety system as part of the equipment cost. As stated earlier, there are no norms prescribed in the guidelines for one single leg of operation for cargo transfer from ship to direct discharge to trucks through hoppers. In the absence of any norms for this kind of project, the list of items included in the equipment cost may have to be relied upon and considered as estimated by the VOCPT.

To a specific query regarding inclusion of VAT in the Capital Cost of Hopper inspite of option available for claiming relief under CENVAT scheme, the VOCPT has stated that the availment of VAT under CENVAT scheme depends on the eligibility and choice of successful bidder in implementation of the project and the same could not be foreseen now by port. Since the availment of VAT paid under CENVAT scheme is available for all the bidders, the VAT portion estimated by the VOCPT is excluded.

The capital cost for equipment is substantiated with budgetary offer. Hence, the total equipment cost as estimated by the VOCPT subject to exclusion of taxes (VAT) considered by the VOCPT is relied upon in the analysis.

(d). The tariff guidelines of 2008, prescribe a norm for estimating miscellaneous capital cost at 5% of the capital cost and accordingly, miscellaneous capital cost of ₹79.20 lakhs on the total capital cost of ₹1584 lakhs based on the norms prescribed in the 2008 tariff guidelines is considered in estimation of capital cost.

(e). Based on the above, the total capital cost of ₹1663.20 lakhs is considered as against ₹1904.36 lakhs estimated by the VOCPT is considered.

(vii). The VOCPT has calculated the return on capital employed at 16% of the estimated capital cost, as prescribed in the guidelines.

(viii). Operating cost:

The operating cost estimated by the VOCPT is discussed hereunder:

(a). Power cost:

The VOCPT had earlier estimated power consumption at 1.10 units per tonne based on the power consumption of 175 kw for each Hopper for 365 days at 24 hours working [175 kwX24 hrX365X4 Hopper = 61,32,000 units. 61,32,000 / 55,51,440 = 1.10] in the original proposal. In the final revised proposal, the consumption of power is reduced to 0.67 unit/ tonne by spreading 64,07,940 units being the revised optimal capacity. The port has stated it has considered a factor of 70% while arriving the power consumption per unit stating the hoppers will not be utilized continuously for 365 days and based on the availability of ships. The power consumption per tonne at 0.67 units per tonnes considered by the VOCPT is relied upon. [61,32,000 / 64,07,940 X0.70=0.67]

The VOCPT has considered the unit rate of power at ₹11.50 per unit based on the consumption charges of May 2016 comprising of actual power chages @ ₹10.28 per unit and overhead charges at ₹1.15 per unit and ₹0.07 towards pension levy at 6.5%.[₹10.28+1.15+0.07=11.50]

At our request, the VOCPT has furnished the copies of electricity bills with respect to August 2016 to October 2016 as documentary evidence and according to October 2016 bill, the per unit rate is ₹9.78/ unit. Further, this Authority has approved the proposal of VOCPT for Overhead charges @ ₹1.47 per unit for supply of electricity and dispensed off the pension fund levy while disposing of the proposal filed by the VOCPT for general revision of Scale of Rates.

As regards to pension fund levy estimated on the power consumption by the VOCPT in the unit power cost, it is relevant here to mention here that the pension fund levy approved by this Authority vide Order No.TAMP/47/2012-VOCPT in the general revision of the Scale of Rates of VOCPT was for limited purpose to enable the VOCPT meet the shortfall in Pension fund liability. However, the VOCPT has proposed to dispense with the Pension fund levy as per 2015 Guidelines and the same was approved by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016. That being so, the component of Pension fund levy considered by VOCPT in the estimation of power consumption is excluded in the revised cost statement prepared by us. Subject to above, the revised power cost per unit comes to ₹11.25 (₹9.78+8+₹1.47=11.25) as against ₹11.50 as estimated by VOCPT.

In the light of the above analysis, the total power cost comes to ₹483.00 lakhs as against ₹504.47 lakhs estimated by the VOCPT.

(b). Repairs and maintenance cost is estimated by VOCPT at 7% on mechanical equipment cost, which appears to have been adopted from the norm prescribed in the guidelines for coal terminal. As stated earlier, there are no norms prescribed in 2008 guidelines for the facility proposed by the VOCPT. Recognising that the proposed facility for transfer of cargo from ship to direct discharge to trucks through hoppers, the estimates of Repairs and maintenance cost adopting the norms prescribed for multipurpose cargo terminal is considered in the absence of any specific norms for the facility proposed as against norms considered for coal terminal by the VOCPT. Accordingly, Repairs and maintenance cost is considered at 5% on mechanical equipment cost, as prescribed for the multipurpose berth.

(c). Insurance cost is estimated at 1% of the gross fixed assets and other expenses are estimated at 5% of the gross value of fixed assets by VOCPT, which are in line with the norms prescribed in the guidelines for a multipurpose berth.

(d). Depreciation, as per the guidelines, should be calculated following the depreciation rates as per Straight Line Method (SLM) prescribed in the Companies Act. The VOCPT has calculated depreciation @ 6.33% on the equipment cost in the cost statement filed by it along with its proposal, which are in line with the norms prescribed in the guidelines and hence considered as estimated by the VOCPT.

(e). (i). The guidelines for upfront tariff fixation stipulate that licence fee for port land is to be estimated based on the rates prescribed in the Scale of Rates of the respective Major Port Trusts.

(ii). Licence fee has been estimated by the port in respect of 77 sq. mtr. for each Hopper proposed to be allotted under this project. The VOCPT has adopted the rate of licence fee at ₹362.76 per sq. mtr. as per the rates applicable as per the prevailing Scale of Rates.

(f). The total operating cost based on the above analysis works out to ₹772.35 lakhs as against ₹873.70 lakhs estimated by the VOCPT. The change in the operating cost is due to the exclusion of the pension levy fund in the estimation of the power consumption cost and difference in repairs & maintenance cost and exclusion of VAT in the capital cost for reasons stated in the preceding paragraphs.

(ix). The cost statement for fixing Reference tariff submitted by VOCPT is modified in line with the above analysis. A copy of the statement is attached as **Annex - I**.

(x). (a). The total Annual Revenue Requirement (ARR) works out to ₹1038.46 lakhs, which is an aggregate of operating cost (₹772.35 lakhs) and 16% return on capital cost (₹266.11 lakhs), as against the Annual Revenue Requirement estimated by the port at ₹1178.39 lakhs.

(b). The VOCPT has stated that the scope of work is limited to transfer of cargo from ship to direct discharge to trucks through hoppers on berth no. III and IV. Hence, the cargo handled through the above operation does not attract storage activity. Therefore, the port has envisaged recovery of the entire assessed ARR from the optimal capacity of the facility by way of one tariff item only i.e. handling charge.

Accordingly, considering the modified ARR at ₹1038.46 lakhs and the optimal capacity of 64,07,940 tonnes, the rate works out to ₹16.21 per tonne (₹1038.46 lakhs/64,07,940 tonnes).

(c). The VOCPT has stated that the entire optimal capacity of dry bulk cargo viz., copper concentrate, coal, sulphur, rock phosphate , lime stone, gypsum, Urea, MOP, DAP fertiliser raw material, Limonite Garnet sand etc. envisaged for this project are foreign cargo. If any of the vessel carrying coastal cargo is forthcoming and berthed, the coastal rate is required and hence the rate is proposed for coastal cargo. In view of submissions made by the port, coastal rate is prescribed at 60% of the foreign rate, as proposed by the port for dry bulk cargo other than thermal cargo complying with the Government policy of coastal concession. The VOCPT is of the view that if there is coastal cargo in future, one berth will be dedicated to handle coastal cargo.

(xi). It is relevant to state here that this Authority in view of the clarification sought by the VOCPT regarding levy of concessional charges for coastal cargo/ container has passed an Order No.TAMP/53/2015-VOCPT dated 29 September 2015 based on the recommendations of Directorate General (DG) Shipping. The provisions approved in the said Order were further amended vide Order No.TAMP/53/2015-VOCPT dated 26 November 2015. The said Order passed is for common adoption by all the Major Port Trusts. However, subsequent to the said Order, the DG Shipping vide its letter no.SD-9CHART(309)/2016 dated 20 May 2016 has issued further clarification on the provision approved in the 26 November 2015 Order. This Authority has accordingly passed a clarificatory Order slightly amending the provision prescribed in para 9A(ii) and 10(ii) of the Order dated 26 November 2015. To a specific query in this regard, the VOCPT has requested to include the provisions prescribed in the Order dated 26 November 2015. Accordingly, as requested by the VOCPT, the provisions prescribed in the Order dated 26 November 2015 are incorporated.

(xii). The VOCPT has not incorporated a general condition that users will not be required to pay charges for delays beyond reasonable level attributable to BOT operator in line with similar prescription in the upfront/ reference tariff schedule in other Major Port Trusts including VOCPT. The said condition is a general condition to protect the interest of users for delays beyond reasonable level attributable to BOT operator irrespective of the unit of levy. That being so, the said condition is prescribed in the reference tariff schedule in the instant case and is in line with the prescription in the upfront/ reference tariff schedule in other Major Port Trusts including VOCPT.

(xiii). The VOCPT has not proposed a general note relating to indexation factor for automatic adjustment every year giving the base WPI occurring between January and relevant year to be considered for such indexation. Since the cost estimates considered in the reference tariff calculation are based on the market rate pertaining to the year 2016, it is found appropriate and relevant to prescribe the base WPI to be considered for automatic adjustment every year as 1 January 2016. Thus, accordingly, the note in this regard is incorporated in the reference tariff schedule.

(xiv). Clause 2.2 of the revised tariff guidelines of 2013 requires this Authority to prescribe the Reference Tariff along with the Performance Standards. Though the revised guidelines of 2013 do not require this Authority to go into the Performance Standards proposed by the port it is not unreasonable to assume that the ports would propose reasonable and achievable Performance Standards. The port has proposed Performance Standards in terms of (a). Minimum guaranteed availability is 90% per mobile rubber tyred electrically operated hopper per month; and, (b). The Licensee shall fill one truck of 40T capacity in twelve minutes using one hopper, if the truck are available for unloading.

To a specific query with regard to relevance of inclusion of 40T truck in the performance standard, the VOCPT has stated that normally 40 Ton, 20 Ton and 25 Ton trucks are available for transporting cargo. In order to design a hopper by the licensee the parameter to fill a 40Ton truck in 12 minutes is included. However, the VOCPT has not proposed to ignore this parameter.

It is also relevant here to mention that the Sterlite Industries (SI) has also opined that the performance standard of loading 40T truck in twelve minutes cannot be achieved and the performance standard needs to be reviewed. However, the VOCPT has not furnished its comments on the comments of SI. The Performance Standards as proposed by the Port are prescribed.

(xv). The Tuticorin Ship Agents Association (TSAA) has sought clarification on whether the hopper of users will be allowed stating that huge investment has already been made by them. In this regard, the VOCPT has clarified that no private hopper operators will be allowed to deploy their hoppers at berth nos.III and IV. The VOCPT has also stated that there is no restriction to the hoppers owned by the existing users at the berths i.e., V, VI and IX.

(xvi). The Sterlite Industries (SI) has also sought clarification on the investment made by them on hoppers. The SI has also stated various cargos have different density and moisture level and port should take care. In this regard, the VOCPT has stated that the SI can use the hoppers owned by it on the other berths of the Port.

(xvii). (a). If there is any error apparent on the face of record considered, the VOCPT may approach this Authority for review of the reference tariff fixed, prior to completion for bidding process of the project giving adequate justification / reasoning within 30 days from the date of notification of the Order in the Gazette of India.

(b). The VOCPT may also, for any other justifiable reasons, approach this Authority for review of the reference tariff fixed prior to completion of bidding process of the project giving adequate justification / reasoning within 30 days from the date of notification of the Order in the Gazette of India.

12.1. Subject to above analysis, the Reference Tariff Schedule and the Performance Standards as proposed by the port are attached as **Annex - II** and **Annex - III** respectively.

12.2. In the result, and for the reasons given above, and based on application of mind, this Authority approves the Reference Tariff Schedule to implement the project Design, Supply, Installation, Testing, Commissioning and Maintenance of mobile rubber tyred electrically operated hopper for a period of 10 years on Revenue Share basis at VOCPT and notifies it along with the Performance Standards.

13.1. As per clause 2.5 of the Revised Tariff Guidelines 2013, the Reference Tariff and Performance Standards notified by this Authority shall be mentioned in the bid document and subsequently in the Concession Agreement. Accordingly, the VOCPT is advised to incorporate the Reference Tariff and Performance Standards, in the bid document and subsequently in the Licence Agreement.

13.2. From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire licence period.

However, the Licensee would be free to propose a tariff along with Performance Standards (the “Performance Linked Tariff”) from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

13.3. The proposal shall be submitted to TAMP along with a certificate from the independent engineer appointed under the Licence Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.

13.4. On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

13.5. In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

13.6. After considering the views of the Major Port Trust, if TAMP is satisfied that the Performance Standards as incorporated in the Licence Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.

13.7. While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the Licensee. Determination of indexed Reference Tariff and

Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.

13.8. From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

13.9. As stipulated in Clause 6.2 of the revised 2013 guidelines, in the event any user has any grievance regarding non-achievement by the Licensee of the Performance Standards as notified by this Authority, he may prefer a representation to this Authority which, thereafter, shall conduct an inquiry into the representation and give its finding to the VOCPT. The VOCPT will be bound to take necessary action on the findings as per the provisions of the respective Licence Agreement.

13.10. As stipulated in Clause 6.3.1 of the revised 2013 guidelines, within 15 (fifteen) days of the signing of the Licence Agreement, the concerned operator will forward the Licence Agreement to this Authority which will host it on its website.

13.11. As stipulated in clause 6.3.2 of the revised 2013 guidelines, the Licensee shall furnish to this Authority quarterly reports on cargo traffic, ship berth day output as well as the tariff realized for each berth. The quarterly reports shall be submitted by the PPP operator within a month following the end of each quarter. Any other information which is required by this Authority shall also be furnished to them from time to time.

13.12. As stipulated in clause 6.3.3 of the revised 2013 guidelines, this Authority shall publish on its website all such information received from PPP operator. However, this Authority shall consider a request from the Licensee about not publishing certain data / information furnished which may be commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/ information in question and the likely adverse impact on their revenue/ operation of upon publication. This Authority's decision in this regard would be final.

13.13. As per clause 3.8.5 of the guidelines, if any question arises requiring clarifications or interpretation of the Scale of Rates and the statement of conditionalities, the matter shall be referred to this Authority and its decision in this regard will be binding on the operator.

13.14. The performance norms for the project should be clearly brought out in the bid documents. The Licensee is expected to perform at least at the performance norms brought out in the bid document/ Licence agreement.

13.15. The actual performance of the Licensee will be monitored by this Authority. If any complaint regarding quality of service is received, this Authority will enquire into such allegation and forward its findings to the VOCPT. If any action is to be taken against the operator, the VOCPT shall initiate appropriate action in accordance with the provisions of the relevant Licence Agreement.

(T.S. Balasubramanian)
Member (Finance)

Annex-I

COST STATEMENT FOR FIXATION OF REFERENCE TARIFF TO IMPLEMENT DESIGN, SUPPLY, INSTALLATION, TESTING, COMMISSIONING AND MAINTENANCE OF MOBILE RUBBER TYRED ELECTRICALLY OPERATED HOPPER FOR A PERIOD OF 10 YEARS ON REVENUE SHARE BASIS AT V. O. CHIDAMBARANAR PORT TRUST

(Rs. In Lakhs)

Sr. No.	Particulars	Estimates by VOCPT in its proposal dated 26.09.2016	Estimates by VOCPT in its proposal dated 16.11.2016	Estimates by VOCPT in its revised proposal dated 02.12.2016	As considered by TAMP
I	**Optimal capacity**				
	Handling rate of HMC and Ship Gears:				
(a).	**Handling rate of HMC**				
(i).	Handling rate of HMC as per Standard Norms for 100Tonne HMC **(Tonnes/day)**	12,500	12,500	12,500	12,500
(ii).	Handling rate for 120-T HMC	12,500	12,500	15,000	15,000
	(Tonnes/day)				(12500/100) x 120
(iii).	Optimal capacity - 1 HMC **(Tonnes/annum)**	29,76,000	29,76,000	38,32,500	38,32,500
		(12500 tonnes/day /(24hrs*70%)*4000 hrs)	(12500 tonnes/day /(24hrs*70%)*4000 hrs)	(12500 tonnes/day /(24hrs*70%)*4000 hrs)	(15000 tonnes/day*365 days*70%)
(b)	**Handling rate of Ship Gears:**				
(i).	Handling rate of Ship Gears **(Tonnes/day)**	3,360	3,360	3,360	3,360
		(20 cycles/hr x 10T x 24 x 70%)	(20 cycles/hr x 10T x 24 x 70%)	(20 cycles/hr x 10T x 24 x 70%)	(20 cycles/hr x 10T x 24 x 70%)
(ii).	Handling rate for 3 Ship Gears	10,080	10,080	10,080	10,080
(iii).	Optimal capacity - 3 Ship Gears **(Tonnes/annum)**	25,75,440	25,75,440	25,75,440	25,75,440
(c).	Total Optimal Capacity of 1 HMCs and 3 Ship Gears (Tonnes/annum)	**55,51,440**	**55,51,440**	**64,07,940**	**64,07,940**
(d).	**Optimal Capacity [in Million Tonnes per Annum(MTPA)]**	**5.55**	**5.55**	**6.41**	**6.41**
II	**Capital Cost of Hopers**	Rs. In Lakhs	Rs. In Lakhs	Rs. In Lakhs	Rs. In Lakhs
(a).	[(4 Nos. of hopper X Rs 3,96,00,000) + VAT 14.5%]	1,813.68	1,813.68	1,813.68	1,584.00
(b).	Miscellaneous cost @ 5%	90.68	90.68	90.68	79.20
		(5% * Rs.1813.68 lakhs)	(5% * Rs.1813.68 lakhs)	(5% * Rs.1813.68 lakhs)	(5% * Rs.1584 lakhs)
(c).	**Total Capital Cost (a+b)**	**1,904.36**	**1,904.36**	**1,904.36**	**1,663.20**
III	**Operating Cost**	Rs. In Lakhs	Rs. In Lakhs	Rs. In Lakhs	Rs. In Lakhs
(a).	Power Cost	702.26	491.58	504.47	483.00
		(55,51,440 tonnes * 1.1 unit/tonne * Rs.11.5/unit)	(55,51,440 tonnes * 0.77 unit/tonne * Rs.11.5/unit)	(55,51,440 tonnes * 0.67 unit/tonne * Rs.11.5/unit)	(64,07,940 tonnes *0.67 unit/tonne * Rs.11.25/unit)
(b).	Repair & Maintenance				
(i).	Mechanical Assets	133.31	133.31	133.31	83.16
		(7% * Rs 1904.36 lakhs)	(7% * Rs 1904.36 lakhs)	(7% * Rs 1904.36 lakhs)	(5% * Rs 1663.20 lakhs)
(c).	Insurance	19.04	19.04	19.04	16.63
		(1% * Rs 1904.36 lakhs)	(1% * Rs 1904.36 lakhs)	(1% * Rs 1904.36 lakhs)	(1% * Rs 1663.20 lakhs)
(d).	Depreciation:				
(i).	Mechanical & equipment cost	120.55	120.55	120.55	105.28
		(6.33% * Rs.1904.36 lakhs)	(6.33% * Rs.1904.36 lakhs)	(6.33% * Rs.1904.36 lakhs)	(6.33% * Rs 1663.20 lakhs)
(e).	Rent (lease rent)	1.12	1.12	1.12	1.12
		(11M* 7M*4Hopper* Rs.362.76/sq.mtr)	(11M*7M*4Hopper* Rs.362.76/sq.mtr)	(11M*7M*4Hopper* Rs.362.76/sq.mtr)	(11M*7M*4Hopper* *Rs.362.76/sq.mtr)
(f).	Other expenses	95.22	95.22	95.22	83.16
		(5% * Rs. 1904.36 lakhs)	(5% * Rs. 1904.36 lakhs)	(5% * Rs. 1904.36 lakhs)	(5% * Rs. 1633.20 lakhs)
(g).	**Total Operating Cost**	**1071.49**	**860.82**	**873.70**	**772.35**
IV	**Annual Revenue Requirement and Proposed Handling Rate**	Rs. In Lakhs	Rs. In Lakhs	Rs. In Lakhs	Rs. In Lakhs
(a).	**Annual Revenue Requirement (ARR)**				
	(i). Total Operating Cost	1071.49	860.82	873.70	772.35
	(ii). Return on Capital Employed @16%	304.70	304.70	304.70	266.11
	(iii).Total Revenue requirement	**1,376.19**	**1,165.52**	**1,178.39**	**1,038.46**
(b).	Optimal Capacity **(Tonnes/ Annum)**	55,51,440	55,51,440	64,07,940	64,07,940
(c).	Per tonne handling rate **(in Rs./Tonne)**				
	(i). For Foreign cargo	**24.79**	**20.99**	**18.39**	**16.21**
	(ii). For Coastal cargo	**14.87**	**12.59**	**11.03**	**9.73**

Annex - II

V. O. CHIDAMBARANAR PORT TRUST

Reference tariff for transfer of cargo from ship to direct discharge to trucks through mobile rubber tyred electrically operated hoppers on Berth No. III and IV.

CHAPTER 1 – DEFINITIONS & GENERAL TERMS & CONDITIONS

1.1. DEFINITIONS – GENERAL

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

(i). **"Coastal Vessel"** shall mean any vessel exclusively employed in trading between any Terminal or place in India to any other Terminal or place in India having a valid coastal license issued by the Competent Authority / Director General of Shipping.

(ii). "**Foreign-going Vessel**" shall mean any vessel other than a coastal vessel.

(iii) **"Port"** shall mean V.O. Chidambarabar Port Trust.

(iv). **"Shift"** shall mean shift of eight hours as applicable to Port employees.

(v). **"Per day**" shall mean a calendar day or part thereof.

(vi). **"TAMP"** shall mean the Tariff Authority for Major Ports constituted under Section 47A of the Major Port Trusts Act, 1963.

(vii) **"Tonne"** shall mean one Metric Tonne or 1000 Kilograms.

1.2. General Terms & Conditions

(i). System of classification of vessel for levy of Vessel Related Charges (VRC)

(a). A foreign going vessel of Indian flag can convert to coastal run on the basis of a Specified Period Licence issued by the Director General of Shipping and Custom Conversion order.

(b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping and a custom conversion order.

(ii). Criteria for levy of vessel related charges (VRC) at Concessional Coastal rate and foreign rate

(a) In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(b) In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(c) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(iii). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate

(a) Foreign going Indian vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:-

(i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(ii). Not Converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

*The Central Board of Excise & Customs - Circular No 15/2002-Cus dated 25th February 2002 allows carriage of coastal cargo from one Indian Port to another Indian Port in India, in Indian flag foreign going vessels without any Custom Conversion.

(b). In case of a Foreign flag vessel converted to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

(iv). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as 'coastal' or 'foreign-going' for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

(v). Interest on delayed payments/refunds.

(a). The user shall pay penal interest on delayed payments of any charge under this Scale of Rates. The rate of interest will be (prescribed at 2% above the Prime Lending Rate of State Bank of India)

(b). Like wise, the Terminal shall pay penal interest on delayed refunds. The rate of interest will be (prescribed at 2% above the Prime Lending Rate of State Bank of India)

(c). The delay in refunds will be counted beyond 20 days from the date of completion of services or on production of the documents required from the users, whichever is later. (The Terminal must specify specific documents to be submitted for claiming refund).

(d). The delay in payments by the users will be counted beyond 10 days after the date of raising the bills by the Terminal. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act, 1963 and/or where payment of charges in advance is prescribed in this Scale of Rates.

(vi). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.

(vii). No claims for refund shall be entertained unless the amount refundable is ₹100/- or more. Likewise, operator shall not raise any supplementary or under charge bills, if the amount due to operator is ₹100/- or less.

(viii). (a). The rates prescribed in this Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The operator may, if it so desires, charge lower rates and/ or allow higher rebates and discounts.

(b). The operator may also, if it so desires, rationalize the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalization gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels. Provided that the operator should notify the public such lower rates and /or rationalization of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/ or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.

(ix). User will not be required to pay charges for delays beyond a reasonable level attributable to operator.

2. <u>CARGO HANDLING CHARGES FOR EVACUATION OF CARGO THROUGH MOBILE RUBBER TYRED ELECTRICALLY OPERATED 120T HOPPER AT BERTH NO. III and IV:</u>

Sl. No.	Commodity	Rate per in MT (in ₹)	
		Foreign	Coastal
1	**Dry Bulk Cargo**	16.21	9.73

<u>Notes</u> :-

Rate prescribed above is for transfer of cargo from ship to direct discharge to trucks through mobile rubber tyred electrically operated hoppers on Berth No. III and IV.

3. <u>GENERAL NOTES:</u>

(i). 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 2016 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.

(ii). From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire licence period.

However, the Licensee would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

(iii). The proposal shall be submitted to TAMP along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.

(iv). On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

(v). In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

(vi). After considering the views of the Major Port Trust, if TAMP is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.

(vii). While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013

(viii). From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

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<u>Annex - III</u>

PERFORMANCE STANDARDS

(For the facility of transfer of cargo from ship to direct discharge to trucks through mobile rubber tyred electrically operated hoppers on Berth No. III and IV.)

The Licensee shall meet both the following Performance Standards:

(a). The Minimum guaranteed availability is 90% per mobile rubber tyred electrically operated hopper per month,

(b). The Licensee shall fill one truck of 40T capacity in twelve minutes using one hopper, if the trucks are available for unloading.

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SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F.No. TAMP/60/2016-VOCPT - Proposal received from the V.O. Chidambaranar Port Trust (VOCPT) for fixation of reference tariff for Design, Supply, Installation, Testing, Commissioning and Maintenance of mobile rubber tyred electrically operated hopper for a period of 10 years on Revenue Share basis at VOCPT.

At the joint hearing, the VOCPT and the concerned users/ organisation bodies / prospective bidders have made the following submissions:

V.O. Chidambaranar Port Trust (VOCPT)

(i). We propose deployment of hopper to avoid dust emanation from cargo handling operation of dusty cargo. This is to arrest spillage of dusty cargo on wharf and contain environmental pollution. Providing hopper is one of the measures to control pollution.

(ii). We propose deployment of 8 nos. of 120 T electrically operated rubber tyred mobile Eco hoppers. Hoppers are proposed for deployment only for berth nos.3 and 4. Hoppers will have suitable motors and gear assembly for movement.

(iii). Hoppers proposed are capable to handle cargoes like copper concentrate, coal, sulphur, rock phosphate, lime stone, Gypsum, Urea, MOP, DAP fertiliser raw materials, Limonite, Garnet sand etc.

(iv). Hoppers will be designed such that there is unrestricted flow of wet cargo.

(v). Optimal capacity is assessed at 55.51 MTPA based on capacity of 3 nos. of ship crane plus 120T HMC.

(vi). Estimation of power cost may undergo a change. We will make necessary correction for 70% utilisation.

(vii). We have assumed all cargo as foreign.

(viii). Performance Standards are proposed at 90% minimum guaranteed availability of mobile hopper. Another Performance Standards proposed is that licensee to fill one truck of 40T capacity in 12 minutes using one hopper.

[Deputy Chairman: We want to modify it linking it to berth occupancy.]

(ix). The proposal is approved by the Board.

Tuticorin Ship Agents Association (TSAA)

(i). Some of the existing users already have hoppers. Huge investment is done by us. Port to clarify whether the hoppers of users will be allowed.

[VOCPT (CME):No private hoppers are deployed at berth nos.3 and 4 except by Sterlite Industries. All cargo is dumped at berth nos.3 and 4 causing lot of pollution and environmental issues. We have to remove the cargo using Dumpers. The proposal is initiated to arrest dust pollution and to see that cargo is not dumped on the wharf at berth nos.3 and 4. This proposal is for benefit of users only. The facility is created for all users at berth nos.3 and 4. There is no restriction to use the hoppers owned by existing users at berths other than 3 and 4 i.e. 5, 6 and 9. If port does not take measure to control pollution, it may land in trouble.

Sterlite Industries

(i). What happens to the investment done by us on hoppers to handle cargo?

[VOCPT: The proposed deployment of hoppers is only at berth nos.3 and 4. Sterlite can use the hoppers owned by them at other berths of the port. Alternatively, Sterlite can dispose it of. Sterlite have bought hoppers on their own. Port has not given any assurance. Presently, hoppers of Sterlite are used only for handling copper concentrate. For Gypsum, Rock Phosphate and other dusty cargo of about 4 to 5 MTPA, hoppers are not being used. These dusty cargo is dumped onto the wharf causing lot of pollution and environmental issues. ₹10 crores has to be spent by VOCPT for leveling berth nos.3 and 4.]

(ii). If two vessels are handled, more hoppers may be required.

[VOCPT: We have proposed 8 hoppers for two berths. Operator has to ensure 90% availability of hoppers.]

(iii). Various cargo have different density, moisture level. This should be taken care.
[VOCPT: Port will give necessary instruction to the operators.]

(iv). If berths 3 and 4 are idle, in case need be at other berths, whether these hoppers will be allowed to be deployed at other berths.

[VOCPT: We will examine this point.]

(v). The calculation of productivity of hopper may be relooked. Handling rate of HMC is high. Hopper capacity will not match.

[VOCPT: 4 hoppers of 120 T are proposed for each of the berth nos.3 and 4 to transfer cargo through one HMC and 3 ship cranes. One hopper will be attached to HMC. 3 hoppers at one berth which will transfer cargo through Ship crane. Handling capacity of ship crane is lower than HMC.]

(vi). Performance Standards of loading 40T truck in twelve minutes cannot be achieved. It may have to be reviewed.

[TAMP: Port may examine.]

M/s. Seaport Logistics Pvt. Ltd.

(i). VOCPT has envisaged 100% foreign cargo. In future there can be coastal cargo.

[VOCPT: As per Government guidelines, one berth will be dedicated for handling coastal cargo.]

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