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Tariff Authority for Major Ports

G.No.358 **New Delhi,** **28 September 2016**

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 (VOCPT) for fixation of Reference Tariff for Development of North Cargo Berth-III for handling Thermal Coal under PPP mode on DBFOT basis at VOCPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/37/2016-VOCPT

V.O. Chidambaranar Port Trust - - - - - **Applicant**

O R D E R
(Passed on this 2nd day of September 2016)

This case relates to the proposal dated 30 June 2016 received from the V.O. Chidambaranar Port Trust (VOCPT) for fixation of Reference Tariff for Development of North Cargo Berth-III for handling Thermal Coal under PPP mode on DBFOT basis at VOCPT following the Tariff Guidelines of 2013.

1.2. It is relevant here to state that though the original proposal of VOCPT mentioned about handling Thermal coal at NCB-III, it can be seen from the subsequent paragraphs, that VOCPT has envisaged to handle Thermal Coal and Coal other than thermal coal at the proposed facility.

2.1. The main submissions made by the VOCPT in the original proposal dated 30 June 2016 are summarized below:

(i). The North Cargo Berth-III with the estimated traffic of 9.15 MTPA to handle Thermal Coal of 7.00 MTPA and Rock phosphate of 2.15 MTPA has been tendered and awarded to M/s. Transstroy Private Ltd. Due to issue relating to Concession Agreement and since the Concessionaire did not comply with condition precedent, the award has been cancelled with the approval of Competent Authority.

(ii). A fresh study has been undertaken through M/s. WAPCOS (A Govt. of India undertaking), Gurgaon who have prepared the feasibility report suggesting the NCB-III as Coal Thermal with capacity of 10.22 MTPA and draft of 12.80m. The process of obtaining the SFC clearance is initiated for submission to Ministry shortly. Ministry has fixed timeline for completion of the project in the Review meeting by Hon'ble Minister of Shipping, R&H on 04 June 2016.

(iii). In this background, a proposal is submitted for fixation of reference tariff for the above berth to handle Thermal Coal.

(iv). The port has reckoned the Optimal Capacity of the Terminal at 10.37 Million Tonne per Annum (MTPA) as given below:

(i). **Quay Capacity:** The annual quay capacity is determined as 12.01 MTPA. [This is not supported with calculation]

(ii). **Stack Yard Capacity**: The stack yard capacity is determined as 10.37 MTPA.

(iii). **The optimal capacity for the terminal is considered as lower of the two capacities i.e. 10.37 MTPA.**
[The port has subsequently furnished detailed working for optimal capacity which is brought out in the subsequent paragraphs.]

(v). The unloading of coal and conveying of coal is proposed to be fully mechanized. The equipment include ship to shore unloader, conveyor transfer system etc. The total capital cost of the project is estimated at ₹586.89 crores of which ₹59.18 crores is for berthing services and ₹527.71 crores is towards Cargo handling.

(vi). The provisions of the reference Tariff Guidelines, 2013 have been examined and it is found that the Coal Thermal at Paradip Port Trust (PPT) for which upfront tariff has been fixed by this Authority vide Order No. TAMP/18/2008-PPT dated 14 July, 2008 notified vide Gazette No.133 dated 16 August 2008 is found suitable. Accordingly, the proposal is filed adopting the upfront tariff fixed in the above said Order with applicable escalation for period from 01 April 2016 i.e.35.08% for cargo handling charges and storage charges. The draft proposed SOR is furnished.

(vii). The berth length envisaged for the project is 306 mtrs. As far as Berth hire charges is concerned, the capital cost considered in the Paradip Port proposal includes berth side dredging cost of ₹42.24 crores and the vessels arrival was proposed with respect to 14.00 mtr draft level and both the capesize and panamax size vessels were considered at 80% and 20%. Hence, considering the capital cost of the NCB-III and vessels arrival pattern with a GRT of 45,750 size of 60000T parcel size, a fresh berth hire tariff is proposed for consideration of this Authority.

2.2. The port has requested to consider the above proposal to fix the upfront tariff for operation of NCB-III as Coal Thermal at the stated above along with terms & conditions.

2.3. The capital cost, operating cost and Annual Revenue Requirement (ARR) estimated for berthing service by VOCPT is given below:

Sl. No	Particulars	Estimate
(i)	**Capital Cost for Calculation of Berth Hire**	**₹ in crores**
	Cost for construction of berth	52.56
	3% Contingencies and 7% Supervision charges on Base cost	**5.26**
	Work contract tax (4% on 65% of civil cost on Base cost	**1.37**
	Total Capital Cost for Calculation of Berth Hire	**59.18**
(ii)	**Operating Cost for Calculation of Berth Hire**	
	a) Repairs & Maintenance Cost (1% of Construction of Berth ₹5,918 Lakhs)	59.18
	b) Depreciation (3.34% of ₹5918 lakhs)	197.66
	c) Insurance (1% of ₹5918 Lakhs)	59.18
	Total Operating cost for Calculation of Berth Hire	**316.02**
(iii)	**Revenue Requirement for calculation of Berth hire**	**₹ in lakhs**
	a) Total operating cost	316.02
	(b) Return on Capital Employed @ 16% on gross fixed assets – ₹5918 lakhs))	946.88
	Total Annual Revenue Requirement for Berth hire Charges	**1262.90**

2.4. The VOCPT has furnished detailed working of berth hire charges to meet the estimated ARR from berthing services. The berth hire rate proposed by VOCPT is given below:

Berth Hire Charges:

Sl. No.	Vessels	Rate Per GRT/hr or part thereof (In ₹)
1.	Foreign	0.45
2.	Coastal	0.27

2.5. The performance standards proposed by the VOCPT is as given below:

The PPP Operator shall handle Coal at the rate of 40,000 MT per day.

3.1. Clause 2.2 of the Tariff Guidelines of 2013, which is relevant, in this case is reproduced below:

"The Reference Tariff ("the Reference Tariff") for each commodity/ category of commodities and each service/ category of service or combination of service or services, as the case may be, shall be determined by TAMP for each Port based on a proposal from the concerned major Port. Such proposal shall contain the proposed Reference Tariff and "Performance Standards". The Reference Tariff will be the highest tariff fixed for that commodity in the concerned major Port Trust under the 2008 Tariff Guidelines. While adopting the highest tariff, the base rate set under the Tariff Guidelines, 2008 shall be escalated to the extent of 60% of WPI per annum, as provided in the said guidelines for the period between 1st January of the year in which the said tariff was originally notified and 1st January of the subsequent relevant year when the Reference Tariff for the particular project in question is being notified. On receipt of the proposal, TAMP shall notify the Reference Tariff and Performance Standards within 15 days of receipt."

3.2. In the current proposal in respect of cargo handling charges and storages charge, the VOCPT has proposed to adopt the upfront tariff fixed for construction of a deep draught coal berth at the Paradip Port Trust approved by this Authority vide Order No.TAMP/18/2008-PPT dated 14 July, 2008 after applying applicable indexation of 35.08%. With regard to berth hire charges, the VOCPT has proposed separate tariff based on capital cost of construction of berth no.NCB-III and considering the vessel parameters of the proposed berth.

4.1. Based on the scrutiny of the proposal, the VOCPT was requested vide our letter dated 18 July 2016 to furnish information / clarifications on a few points. The VOCPT has, vide its email dated 04 August 2016, responded with revised berth hire calculation. The VOCPT has furnished further clarification vide its letter dated 17 August 2016. A summary of the information / clarification sought by us and response of VOCPT thereon is tabulated below:

Sl. No.	Information / Clarification sought by TAMP	Information / clarification furnished by VOCPT
(i).	Thermal coal handling charges	
(a).	As per note under Schedule 1 – The Cargo Handling Charges for coal terminal at PPT approved by this Authority vide Order No.TAMP/18/2008-PPT dated 14 July 2008, the handling charge of ₹130 per tonne includes services relating to reclaiming of cargo from stackyard and loading onto the railway wagon, amongst other services Whereas, as per para 3.12 of the proposal of VOCPT, though the evacuation of stack coal at VOCPT will be also by wagons, a separate and different agency for evacuation of the cargo by rail is contemplated by the VOCPT. Hence, the VOCPT has stated that the cost of reclaiming and wagon loading system is not stated to have been considered in the present proposal. Since the adopted rate includes evacuation of cargo by rail, but, the present proposal of the VOCPT states a separate arrangement for this service is contemplated by the port, the user will have to pay twice for the same service, one to the BOT operator who will operate the NCB-III and another to the separate evacuating Agency. In light of the above observation, the VOCPT is requested to examine and suitably modify its proposal.	 The project cost of ₹586.89 crores is inclusive of mechanical handling equipments at berth, transportation of cargo from the berth to stack yard through conveyor, stacked at yard by stacker and reclaimed and Rail wagon / Truck loaders etc. There is no separate operator for loading on to the railway wagon.
(b).	In the proposed Scale of Rates, the port has not proposed the note below the Schedule of Cargo Handling Charges prescribing the services covered in the proposed rate. The VOCPT is requested to propose a suitable note in this regard.	The following note is included : The rate is the composite rate for unloading the coal from the ship, conveying to stack yard, storage at the stack yard upto a free period of 10 days after the time of completion of the ship, reclaiming from the stack yard and loading on to the railway wagon all other miscellaneous services provided.
(ii).	Berth Hire Charges:	
(a).	Para 3.14 of the proposal states that the optimal capacity is 10.37 MTPA whereas in the berth hire calculation at Sl.No.6 the optimal capacity (not traffic under the 2008 guidelines) considered is 10.22 MTPA. This inconsistency needs correction. The VOCPT	The optimal capacity of the terminal is 10.22 MTPA. The detailed working is as follows : (i) Quay capacity Optimal quay capacity = ((0.70 x S1 x P1) / 100) x 365

	to also furnish detailed working for optimal capacity of 10.37 MTPA.	= ((0.70 x 100 x 40,000) / 100) x 365 = 1,02,20,000 (or) = 10.22 MTPA (ii) Stack Yard Capacity Stack yard capacity = 0.70 x A x U x Q x T = 0.70 x (180 x 700)m2 0.70 x 6t/m2 x 28 = 1,03,72,320 (or) = 10.37 MTPA The optimal capacity of the terminal is the lower value of the optimum quay capacity and optimal yard capacity. Hence, the optimal capacity of the terminal is 10.22 MTPA. Subsequently, the VOCPT vide its email dated 17 August 2016 has clarified that in the proposed NCB-III, handling of capesize vessels is not envisaged. The port has clarified that the handling rate of 40,000 tonnes per day considered by VOCPT as Performance Standards is based on the Feasibility Report for the relevant project wherein it is confirmed that 100% of vessels handled will be panamax size and 40,000 tonnes could be handled in the said project.
(b).	There appears to be error in the unit rate arrived for berth hire charges at Sl.No.12 for foreign going vessel. The unit rate works out to ₹4.50 per GRT per hour (i.e. ₹1,26,29,00,000 / 280,539,000 GRT hour) proposed by the port. This error needs correction.	Yes. It is a typographical error. The revised Berth Hire calculation sheet considering share of Coastal vessels is furnished.
(c).	While arriving at the berth hire for coastal vessel, it is seen that the port has not considered the impact of coastal concessional rate in arriving at the foreign rate. That being so, the BOT operator will not be in a position to achieve the estimated Annual Revenue Requirement (ARR) from Berth Services. Therefore, the port may take into account the share of foreign vessel and coastal vessel and consider the impact of coastal concessional rate for coastal vessel while arriving at the proposed berth hire charges for foreign going vessels.	The percentage of Coastal vessel and Foreign vessel is 40% and 60% respectively. Accordingly the Berth Hire calculation is furnished.
(iii).	Indexation of tariff:	
	The general note proposed by the VOCPT for indexation in tariff prescribes the base year for indexation as 1 January 2008. Since the VOCPT has already indexed the handling and storage charges and the reference tariff is to be approved in the year 2016, the base year for the indexation may be corrected as 1 January 2016. This is in line with the approach followed in the other upfront/ reference tariff Orders including that of the VOCPT.	The said note is suitably modified linking the base year for indexation as 1 January 2016.

(iv).	Performance Standards:	
	The fulcrum of the Reference Tariff Guidelines is to reward the BOT operator for achievement of predetermined Performance Standards. The provision regarding Performance Linked Tariff as regulated under the tariff guidelines of 2013 has not been proposed by the VOCPT.	General Notes relating to performance linked tariff are incorporated in the revised proposed SOR.

4.2. As stated above, the VOCPT vide its email dated 04 August 2016 has furnished revised berth hire calculation. The revised berth hire charge proposed by the VOCPT is as given below:

Revised Berth Hire proposed by VOCPT is as follows:

Particulars	Rate per GRT per hour or part thereof (In ₹)
Foreign	0.54
Coastal	0.32

5.1. It is relevant to state here that in the adopted upfront tariff of PPT for coal terminal, the cargo handling charges is prescribed for (a). Thermal Coal and (b). For other than Thermal Coal and storage Charge is prescribed for Coal (all types).

In the original proposal dated 30 June 2016, the VOCPT proposed reference tariff for Thermal Coal only as against two categories of coal in PPT. Subsequently, while furnishing information / clarification vide its letter dated 4 August 2016, the port modified the nomenclature as "All types of Coal" instead of "Thermal Coal". The port also introduced a new note under Cargo handling charge in the proposed SOR to state that coal meant for power plant is exempted from concession extended for coastal cargoes. This is not in line with the adopted SOR of PPT.

5.2. Subsequently, the VOCPT vide its email dated 09 August 2016 has furnished further revised proposed SOR wherein nomenclature of cargo in the Schedule of Cargo Handling Charges is proposed for (a). Thermal Coal and (b). Other than Thermal Coal. The Storage charge is proposed for "All types of coal". The proposed reference tariff is after applying the escalation factor of 35.08% over the adopted tariff prescribed in the SOR of the PPT. The nomenclature of cargo in the revised proposed SOR is in line with the prescription available in the adopted SOR of the PPT.

5.3. Subsequently, the VOCPT vide its email dated 19 August 2016 has requested that the unit rate proposed for Storage charges in the draft SoR already proposed on the subject proposal may be read as "Rate per Tonne" instead of "Rate per Tonne per day" [given in the heading]. With regard to stacking per square meter area considered at 6.00 M.T in the optimal yard capacity for NCB-III, the VOCPT has clarified that already in the upfront tariff fixed for projects earlier for North Cargo Berth-II and North Cargo Berth-III approved by this Authority vide Order dated 23.02.2010 and 19.01.2012 respectively, the stacking per square meter area is considered at the rate of 6.6 M.T for Thermal Coal. Also, in the Feasibility Report for the current Project of North Cargo Berth-III, it is considered at 6.00 M.T per square meter for arriving Yard capacity. Further, the Plot Turnover Ratio @ 28 considered in the optimal yard capacity is based on the Feasibility Report for the said project. The extract of the Feasibility report considering 6.00 MT per square meter as stacking parameter and handling rate of 40,000 M.T. per day is furnished by the port.

6. It is seen that the VOCPT has proposed several modifications in the proposed SOR. To summarize, the final tariff proposed by the VOCPT is given below:

(i). Berth Hire charges:

Sl. No.	Vessels	Rate per GRT per Hr. or Part thereof (in Rupees)
1.	Foreign	0.54
2.	Coastal	0.32

(ii). Cargo Handling charges:

Sl. No.	Commodity	Unit	Rate (in ₹)	
			Foreign	Coastal
1	Coal handling charges			

(a)	Thermal Coal	Per Metric Tonne	175.60	175.60
(b)	Other than Thermal Coal	Per Metric Tonne	175.60	105.36

The above rate is the composite rate for unloading the coal from the ship, conveying to stackyard, storage at the stackyard upto a free period of 10 days after the time of completion of the ship, reclaiming from the stackyard and loading on to the railway wagon all other miscellaneous services provided.

(iii). Storage Charges:
The storage charges to the cargo stored in the stack yard beyond the free period allowed shall be as below:

(A) Free Period : 10 days

(B) Storage charges after free period

(Rate in ₹ Per Tonne)

Sl. No.	Commodity	Rate for five days for the balance cargo remaining after the free period	Rate for sixth day to tenth day for the balance cargo	Rate for Eleventh day onwards for the balance cargo
1.	All types of Coal	16.21	32.42	64.84

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

(i). This Authority had passed an Order No.TAMP/33/2011-VOCPT dated 19 January 2012 fixing upfront tariff for handling bulk cargo viz. Thermal Coal and Rock Phosphate at North Cargo Berth-III (NCB-III) of the V.O. Chidambaranar Port Trust (VOCPT) based on the guidelines for upfront tariff setting for PPP Projects at Major Port Trust, 2008.

(ii). As brought out in the earlier paragraphs, the project for NCB III was tendered and awarded to M/s.Transstroy Private Ltd. However, due to issue relating to Concession Agreement and as the party did not comply with conditions precedent the award, the VOCPT has reported that the Concession Agreement has been terminated with the approval of Competent Authority. Based on fresh study undertaken by the port and based on the feasibility report, the NCB-III is now proposed to be earmarked for handling of all types of Coal instead of Thermal Coal and Rock phosphate. In this context, the port has filed the proposal seeking reference tariff under the tariff guidelines of 2013.

It can be seen from the factual position brought out in the initial part of this Order, that the original proposal filed by the VOCPT dated 30 June 2016 was not in line with the provisions prescribed in the reference tariff guidelines. The gaps in their proposal were pointed out vide our letter dated 18 July 2016. The port has responded vide its email dated 04 August 2016 along with revised berth hire calculation and furnished further clarification. Subsequently, the VOCPT proposed a few modification in its proposal vide its emails dated 09 August 2016, 17 August 2016 and the last one dated 18 August 2016. This case could be finalised only after the receipt of the complete information/ clarification and revised proposed berth hire supported with revised calculation.

(iii). Clause 2.2. of the Revised Tariff Guidelines of 2013, *inter alia*, stipulates that the Reference Tariff to be proposed by the port will be the highest tariff fixed for that commodity in the concerned Major Port Trust under the 2008 Tariff Guidelines. If the highest tariff fixed for a particular commodity in the concerned Major Port Trust does not represent the project proposed to be developed, then concerned Port Trust can propose any other tariff fixed under 2008 guidelines in any other Port Trust which is representative enough for that commodity giving detailed and sufficient justification.

(iv). The berth length of NCB- III envisaged by the port is 306 mtrs. For coal handling charges, the port has proposed to adopt the upfront tariff fixed for a deep draught coal berth at the Paradip Port approved vide Order No.TAMP/18/2008-PPT dated 14 July, 2008 after applying applicable indexation of 35.08%.

As far as the berth hire charge is concerned, the VOCPT has stated that the capital cost considered in the Paradip Port includes berth side dredging cost of ₹42.24 crores and the vessel arrival was proposed with respect to 14.00 mtr. At PPT, both the capesize and panamax size vessels were considered at 80% and 20% respectively. The port has clarified that at NCB-III, 100% panamax vessels is envisaged. Port does not envisage capesize vessel. Therefore, considering the estimated capital cost of constructing the NCB-III and vessel arrival pattern of 45,750 GRT size with 60,000 T parcel size, the VOCPT has arrived at a fresh berth hire tariff separately.

The proposal of the port is not a pure adoption case as stipulated in the clause 2.2. of the Reference Tariff Guidelines. As far as cargo handling charges and storage charges are concerned, the proposal of the port is based on the upfront tariff approved for construction of a deep draught coal berth at the Paradip Port Trust approved vide Order No.TAMP/18/2008-PPT dated 14 July, 2008 at PPT applying applicable indexation factor of 35.08%. For berth hire, the port has furnished working following the principles and the general practice followed for arriving at the berth charges and the port has followed the norms prescribed in the 2008 guidelines. The vessel parameters furnished by the port are relied upon for determination of berth hire. The tariff guidelines of 2008 requires this Authority to rely on the capital cost estimates as furnished by the port. In view of the above position, and since the core item i.e. cargo handling charge is based on adopted upfront tariff and the proposed berth hire is following the norms prescribed in the 2008 guidelines and the vessel parameters considered by the port are generally relied upon by this Authority, the usual consultation process was not initiated as it is not required to be done in the adoption cases.

(v). The upfront tariff approved by this Authority in Order No. TAMP/18/2008-PPT dated 14 July, 2008 at PPT is for (a). construction of a deep draught iron ore berth, and (b). for construction of a deep draught coal berth. This Authority has approved two separate upfront tariff i.e. one for deep draught iron ore berth and the other for deep draught coal berth. As brought out in the earlier paragraphs, in respect of coal handling charges and storages charge, the VOCPT has proposed to adopt the upfront tariff fixed for a deep draught coal berth at the Paradip Port Trust in the said Order dated 14 July, 2008 after applying applicable indexation factor of 35.08%.

It is relevant here to state that the said Order of the PPT prescribes berth hire charges for deep draught coal berth. The VOCPT has, however, arrived at separate berth hire for the proposed NCB-III based on the estimated capital cost of construction of berth no. NCB-III and vessel parameters envisaged for the proposed berth for the following reasons:

(i). Upfront berth hire approved for coal berth at the PPT includes berth side dredging cost of ₹42.24 crores (ii). The vessels arrival was proposed with respect to 14.00 mtr draft level and both the capesize and panamax size vessels were considered in the ratio of 80%:20% respectively as envisaged by the PPT. (iii). The Feasibility Report for the project of VOCPT envisages panamax vessel at berth NCB- III and capesize vessel at NCB-III are not envisaged.

In view of the above position, the tariff for berth hire charges is worked out by the port separately by the VOCPT based on the total revenue requirement in respect of berthing activity.

(vi). (a). As stated earlier, for proposing the tariff for coal handling, the port has adopted the upfront tariff caps approved at PPT. It is relevant here to state that the upfront tariff fixed for coal berth of PPT is 10 MTPA. The optimal capacity of the coal terminal of NCB-III at VOCPT is 10.22 MTPA. Optimal capacity of NCB-III is found comparable with that of the coal berth of PPT. The indexation factor of 35.08% applied by VOCPT to arrive at the proposed reference tariff for cargo handling charges is seen to be the indexation factor communicated by us to all the Major Port Trusts to be applicable for reference tariff to be fixed in the year 2016 with base WPI as on 1 January 2008. The indexed Reference tariff proposed by the VOCPT is found to be in order.

The nomenclature of coal cargo for which reference tariff is proposed by VOCPT is in line with the adopted upfront tariff of PPT for coal berth. In view of the above position, the rate proposed by the VOCPT for cargo handling and storage charge adopting the upfront tariff of deep draft berth of coal terminal of PPT is accepted.

(b). For berth hire, the port has furnished working following the principles and the general practice followed for arriving at the berth charges which is discussed in the subsequent paragraphs.

(vii). Berthing activity:

(a). Optimal capacity:

(i). The port has stated that at NCB-III, 100% panamax vessels of 45,750 GRT are envisaged which is based on the feasibility report. The port has clarified that it does not envisage to handle capesize vessel at NCB-III. This position is relied upon.

It is relevant here to state that the unloading norm for coal berth prescribed in upfront tariff guidelines of 2008 is 35,000 T/day for panamax vessels. As against, that the VOCPT has considered handling rate of 40,000 T/day for handling coal by panamax vessel. The VOCPT has stated that the handling rate of 40,000 T/day is based on the feasibility report wherein it is confirmed that 100% vessel will be panamax vessel and 40,000 T/day can be handled at the said berth.

In view of the above position brought out by the VOCPT empathetically stating that handling rate 40,000 T/day can be achieved, this Authority decides to go by the proposal of the VOCPT of improved handling rate. Clause 3.2. of the upfront tariff guidelines allows this Authority to consider adjustment in the prescribed norms based on justification furnished by the VOCPT.

Based on the ship day output of 40,000 MT per day and following the formula prescribed in the 2008 guidelines, the optimal capacity assessed by the VOCPT for berth hire calculation the port is 1,02,20,000 tonnes per annum i.e. 40,000 ship day output * 365 days * 100% share of capacity * 70%.

(ii). The port has assessed optimal yard capacity for 1.26 lakh sq. mtr. For arriving at the optimal yard capacity, the VOCPT has considered stacking parameter of coal at of 6 tonnes/ sq mtr and turn over of 28 as against the norm prescribed in 2008 guidelines at 3 tonnes / sq. mtr and turnover of 12. The VOCPT has clarified that already in the upfront tariff fixed for projects earlier for North Cargo Berth-II and North Cargo Berth-III approved by this Authority vide Order dated 23.02.2010 and 19.01.2012 respectively, the stacking per square meter area is considered at the rate of 6.6 M.T for Thermal Coal. The port has stated that in the Feasibility Report for the current Project of North Cargo Berth-III, stacking parameter is considered at 6.00 M.T per square meter and the Plot Turnover Ratio of 28 considered in the optimal yard capacity is also based on the Feasibility Report for the said project. In view of the above submissions made by the VOCPT, the stacking parameter and the turnover parameter as considered by the VOCPT is taken into consideration.

Based on the above parameters and following the formula prescribed in the 2008 guidelines, the optimal stack yard capacity as assessed by the VOCPT at 1,03,72,320 tonnes per annum (10.37 MTPA) i.e. 70% * (1.26 lakh sq. mtr. * 70% area * 6 tonnes / sq. mtrs. Stacking quantity * 28 annual turnover ratio) is considered.

(iii). The optimal capacity for berth hire calculation is considered at 10.22MTPA being lower of the two capacities.

(b). Capital cost of berth:

The total capital cost for berth estimated by the VOCPT is ₹59.18 crores which includes 3% towards contingency and 7% supervision charges on base cost and works contract tax at 4%.

There is no specific provision in the 2008 guidelines for considering miscellaneous cost under berthing service and the port has not estimated miscellaneous cost under berthing service for this project.

In this context, it is relevant here to mention that though the upfront tariff guidelines of 2008 stipulate estimating miscellaneous capital cost @ 5% of the total of the estimated civil and equipment cost in case of handling activity, the guidelines do not specifically provide for estimation of miscellaneous capital cost under berthing service. It is noteworthy that in case of the upfront tariff determined for various projects of Visakhapatnam Port Trust (VPT), Coal terminal at V.O. Chidambaranar Port Trust (VOCPT), Mormugoa Port Trust (MOPT), multipurpose and mechanized berths at Kolkata Port Trust (KOPT), this Authority has considered the miscellaneous capital cost at 5% under the berthing service. Keeping in view the position maintained in the above mentioned cases, the miscellaneous capital cost under the berthing activity at 5% of the civil cost of berth is taken into account in the current exercise to have uniformity in the approach followed by this Authority.

Except for the above modification, the capital cost of berth as estimated by the VOCPT is relied upon. Subject to above modification, the capital cost of the berth comes to ₹62.15 crores.

(c). Annual Revenue requirement from Berthing activity:

(i). The guidelines require the operating cost for berthing service to be estimated at 1% of the berth cost. In addition to maintenance cost, the VOCPT has considered insurance and depreciation while estimating the operating cost of berthing service.

Although the guidelines restrict the operating cost at 1% of the berth cost, the asset requires adequate insurance coverage and the fact that the value of the asset will depreciate due to wear and tear can also not be denied. While fixing upfront berth hire at the other Major Port Trusts, this position was recognised and the cost of insurance and depreciation was considered to assess the annual revenue requirement from berthing service.

In view of the position explained above, the element of insurance cost @ 1% and depreciation are considered in this case also on the modified capital cost. The depreciation rate is considered at 3.17% instead of 3.34% considered by the VOCPT for the reasons explained below.

The rate of depreciation computed by VOCPT is @ 3.34% on berth cost. It is relevant here to state that 3.34% depreciation rate was being considered under the Companies Act, 1956. In the reference tariff approved following the principles prescribed in 2008 guidelines at the VOCPT in its earlier three proposals, the VOCPT has considered the depreciation rate at 3.17% on civil works based on the depreciation rates applicable under the Companies Act, 2013 and the same was considered by this Authority. That being so, the rate of depreciation in the instant case is also modified and considered at 3.17% instead of 3.34% considered by the port.

(ii). The total operating cost estimated by the port is ₹316.03 lakhs which stands modified to ₹321.32 lakhs.

(iii). Return on capital employed is calculated at 16% of the estimated capital cost of berth as per the norms prescribed in the guidelines.

(iv). The revenue requirement from berthing service works out to ₹1315.72 lakhs as against ₹1262.96 lakhs estimated by the VOCPT.

(d). The port has furnished detailed working for berth hire calculation. The port has stated that it has considered the vessel parameters based on actual vessel parameters, which are relied upon.

As per the norms prescribed for berth hire calculation under 2008 guidelines, the number of days at 70% utilisation works out to 255.5 days (i.e. 365 * 70%). However, it is seen that the port has, in the berth hire calculation, shown number of berth days as 256 which is corrected as 255.5 days. The number of berth hours considered by VOCPT is 6132, which is in order.

The methodology followed by the VOCPT for arriving at the berth hire charge is found to be in line with the general approach followed by this Authority in other reference tariff cases. The calculation of berth hire charge is done following the approach followed by the VOCPT except for modified revenue requirement.

As per policy direction of the Government, concessional tariff are to be prescribed for coastal cargo (other than thermal coal and POL including crude oil, iron ore and iron ore pellets) not exceeding 60% of the rate arrived for the foreign category. Accordingly, the VOCPT has proposed concessional rates for coastal vessels in line with the Government policy. For the purpose of arriving at berth hire rate, the VOCPT has considered the ratio of foreign vessel and coastal vessel at 60% and 40% respectively, which is relied upon.

Subject to the above modification, the tariff cap for Berth hire charge works out to ₹0.56 per GRT per hour for foreign going vessel and ₹0.33 per GRT per hour for coastal vessel, which is prescribed in the SOR as against ₹0.54 GRT per hour for foreign going vessel and ₹0.32 per GRT per hour for coastal vessel proposed by VOCPT.

It has already been decided by this Authority while finalising the upfront berth hire at the other Major Port Trusts to approve the upfront berth hire charge in Rupee term only. The proposal of the VOCPT for rupee denominated berth hire is in line with the decision taken by this Authority in the other upfront tariff cases

(viii). The statement for fixing upfront berth hire charges submitted by the VOCPT has been modified in line with the above analysis. A copy of the modified statement is attached as **Annex – I**.

(ix). It is relevant to state that the upfront tariff SOR approved for coal terminal at PPT berth do not prescribe general terms and conditions, definition of few relevant terms and general notes relating to storage charge. The VOCPT has proposed definition of Coastal vessel, Day, Foreign-going vessel and free period. The definition of these terms are as approved in Order no.TAMP/33/2011-VOCPT dated 19 January 2012 for fixation of upfront tariff for handling bulk cargo viz. Thermal Coal and Rock Phosphate at North Cargo Berth-III (NCB-III), which is proposed to be developed on PPP mode.

(x). In the Berth hire Schedule, the common conditionalities like the period of berth hire to be calculated from the time vessel occupies the berth till she vacates the berth, no berth hire to be levied for the period when the vessel idles at the berth for continuous one hour or more due to breakdown of terminal operator's equipment or power failure or for any other reasons attributable to the terminal operator, penal berth hire for false signal which are seen to be in line with the conditionalities prescribed at the Scale of

Rates of the port and also in other upfront tariff Schedule and hence is incorporated in the Scale of Rates.

For ousting priority/ priority berth hire charges, the VOCPT has proposed a general condition relating to priority / ousting priority stating that the rates and conditions for granting ousting priority berthing/ priority berthing are governed by the Government guidelines in this regard and provisions in the SOR of VOCPT. The Scale of Rates of VOCPT prescribes specific conditions relating to charges for priority berthing and ousting priority. The proposed note is, therefore, replaced with the conditionalities relating to ousting priority and priority berth hire charges in line with the prescription in the Scale of Rates of VOCPT.

(xi). The Government of India in the Ministry of Shipping (MOS) undercover of its letter No. PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No.PT-11033/51/2014-PT dated 4 September 2014 to this Authority. Accordingly, this Authority vide its Order no. TAMP/52/2014-Genl. dated 28 November 2014 has, interalia, approved the replacement of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts as follows:

'"*Coastal vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority.*'

Therefore, the definition of Coastal Vessel proposed by the VOCPT has been modified in line with the above mentioned definition of 'Coastal Vessel'.

(xii). The port has, in the general terms and conditions, incorporated the provision prescribed for System of classification of vessel for levy of Vessel Related Charges (VRC) and Criteria for levy of Vessel Related Charges and Cargo Related Charges (CRC) and Concessional Coastal rate approved by this Authority vide Order No.TAMP/53/2015-VOCPT dated 26 November 2015. The subsequent amendment to the said Order in pursuance of the direction of the Directorate General Shipping approved by this Authority vide Order dated 10 June 2016 has not been incorporated by the port. The amendment in the said Order is incorporated.

(xiii). 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 VOCPT has proposed the Performance Standards of 40,000 MT per day as considered by it in the berth hire calculation as well. The port has stated that the proposed handling rate can be achieved. Performance Standards is approved as proposed by the port.

8.1. Subject to above, the Reference Tariff Schedule along with conditionalities governing the Reference Tariff has been modified.

8.2. (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, giving adequate justification/ reasoning within 30 days from the date of notification of the Order in the Gazette of India.

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

8.3. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approved Reference Tariff Schedule for the development of North Cargo Berth-III for handling Coal as well as Performance Standards attached as **Annex-II** and **Annex-III** respectively.

8.4. 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 in respect of PPP Projects. Accordingly, the VOCPT is advised to incorporate the Reference Tariff and Performance Standards, in the bid document and subsequently in the Concession Agreement in respect of PPP Projects as agreed by the port.

9.1. 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 concession period.

However, the PPP operator 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.

9.2. The proposal shall be submitted to this Authority 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 Concession Agreement or for the actual number of months of operation in the first year of operation as the case may be.

9.3. On receipt of the proposal, this Authority 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.

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

9.5. After considering the views of the Major Port Trust, if this Authority 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.

9.6. While considering the proposal for Performance Linked Tariff, this Authority will look into the Performance Standards and its adherence by the Operator. This Authority 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 operator. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.

9.7. From the third year of operation, the Performance Linked Tariff proposal from the PPP operator shall be automatically notified by this Authority subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The PPP operator, 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 this Authority shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

9.8. In the event any user has any grievance regarding non-achievement by the PPP operator 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 concerned Major Port Trust. The Major Port Trust will be bound to take necessary action on the findings as per the provisions of the respective Concession Agreement.

9.9. Within 15 (fifteen) days of the signing of the Concession Agreement, the concerned operator will forward the Concession Agreement to this Authority which will host it on its website.

9.10. The PPP operator shall furnish to this Authority quarterly reports on cargo traffic, ship berth day output, average turnaround time of ships, average pre-berthing waiting time 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.

9.11. This Authority shall publish on its website all such information received from PPP operator. However, this Authority shall consider a request from any PPP operator about not publishing certain data/ information furnished which is 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.

(T.S. Balasubramanian)
Member (Finance)

Annex-I

FORMULATION OF REFERENCE TARIFF FOR BERTH HIRE FOR DEVELOPMENT OF NORTH CARGO BERTH-III FOR HANDLING COAL AT V.O.CHIDAMBARANAR PORT ON DBFOT BASIS

Sr. No.	Particulars	As estimated by VOCPT	As considered by TAMP
I.	**Optimal capacity**		
(i).	**Optimal Capacity**		
(a).	Percentage share of capacity of Panamax vessels	100%	100
(b).	Ship day output of vessels (as stated by VOCPT) (Norm-35000 T/day for Panamax vessels)	40000	40000
(c).	Number of days	365	365
(d).	Optimal Capacity ratio	70%	70%
(e).	**Optimal Quay Capacity**	**10220000**	**10220000**
(ii).	**Optimal Yard Capacity**		
(a).	Area allotted (sq.mtrs)	126000	126000
(b).	Area available for stacking	70%	70%
(c).	Stacking quantity per sq.mtrs.(tons) (Norm-3 T/ sq.mtrs.)	6	6
(d).	Annual turnover ratio (Norm -12)	28	28
(e).	Optimal Capacity ratio	70%	70%
(f).	**Optimal Yard Capacity**	**10372320**	**10372320**
(ii).	**Optimal capacity considered**	**10220000**	**10220000**
(iii).	**Optimal capacity considered (in MTPA)**	**10.22**	**10.22**
II.	**Capital Cost of Berth**	**Rs. in crores**	
(i)	Cost for construction of berth	52.56	52.56
(ii)	3% Contingencies and 7% Supervision charges on Base cost	5.26	5.26
(iii)	Work contract tax (4% on 65% of civil cost on Base cost)	1.37	1.37
	Sub total	**59.18**	**59.19**
(iv).	Miscelleneuos cost (TAMP-5% of Capital cost)	0.00	2.96
	Total	**59.18**	**62.15**
III.	**Operating Cost of Berth**	**Rs. in lakhs**	
(i)	Repairs and Maintenance (1% of capital cost)	59.18	62.15
(ii)	Depreciation (VOCPT- 3.34%, TAMP-3.17%)	197.67	197.02
(iii)	Insurance (1% of capital cost)	59.18	62.15
	Sub total	**316.03**	**321.32**
IV.	**Revenue Requirement for berth operation**	**(Rs. in Lakhs)**	
(i)	Operating Cost	316.03	321.32
(ii)	ROCE @ 16% on capital cost	946.92	994.40
	Total Revenue Requirement for Berth hire charges	**1,262.96**	**1,315.72**
V.	Tariff (Re)		
	Berth Hire Charges		
	(a) Foreign Going Vessels	0.54	0.56
	(b) Coastal Vessels	0.32	0.33

Annex-II

V.O. CHIDAMBARANAR PORT TRUST
REFERENCE TARIFF SCHEDULE FOR HANDLING COAL ON DBFOT BASIS AT NORTH CARGO BERTH-III

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 port or place in India to any other port or place in India having a valid coastal licence issued by the Directorate General of Shipping / Competent Authority.

(ii). **"Day"** shall mean the period starting from 6 a.m. of a day and ending at 6 a.m. on the following day.

(iii). **"Foreign-going vessel"** shall mean any vessel other than coastal vessel.

(iv). **"Week"** shall mean a continuous period of 7 days.

(v). "**Free period"** shall mean the period during which cargo shall be allowed storage free of demurrage charges/ ground rent and this period shall exclude Customs notified holidays and Terminal's non-operating days.

(vi). **"Port"** shall mean V.O.Chidambaranar Port Trust.

(vii). **"Per day"** shall mean per calendar day unless otherwise stated.

1.2. General Terms & Conditions:

(i). The status of a 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 levy of vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

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

(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 convert to coastal run on the basis of a Licence for Specified Period or Voyage issued by the Director General of Shipping and a custom conversion order.

(iii). 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.

(iv). <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 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 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 Licence 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.

(v) (a). The berth hire charges for all coastal vessels should not exceed 60% of the corresponding charges for other vessels.

(b). The cargo related charges for all coastal cargo other than thermal coal and POL including crude oil, iron ore and iron ore pellets should not exceed 60% of the normal cargo related charges.

(c). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship shore transfer and transfer from/to quay to/from storage yard including wharfage.

(d). Cargo from a foreign port which reaches an Indian Port "A" for subsequent transhipment to Indian Port "B" will be levied the concession charges relevant for its coastal voyage. In other words, cargo from/to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession.

(e). The charges for coastal vessels shall be denominated in Indian Rupees.

(vi). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.50 shall be taken as 0.50 unit and fractions of 0.50 and above shall be treated as one unit, except where otherwise specified.

(vii). <u>Interest on delayed payments / refunds</u>:

(a). The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the Terminal Operator shall pay penal interest on delayed refunds.

(b). The rate of penal interest will be 2% above the prime lending rate of the State Bank of India.

(c). The delay in refunds will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.

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

(viii) The rates prescribed in the Scale of Rates are ceiling vessels likewise rebates and discounts are floor levels. The Terminal Operator may if so desire, charge lower rates and / or allow higher rebates and discounts.

The Terminal Operator may also, if so desires, rationalise 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. The Terminal Operator should however, 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) All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill

(x) No claim for refund shall be entertained unless the amount refundable is Rs. 100/- or more. Likewise terminal shall not raise any supplement any if the amount due to terminal is ₹100 /- or less.

(xi). Users will not be required to pay charges for delays beyond reasonable level attributable to the terminal operator.

2. BERTH HIRE CHARGES

2.1. Schedule of Berth Hire

Sl. No.	Vessels	Rate per GRT per Hr. or Part thereof (in ₹)
1.	Foreign going vessel	0.56
2.	Coastal vessel	0.33

General notes relating to Berth Hire:

(i). The Period to be calculated from time the vessel occupies berth till she vacates the berth.

(ii). Berth hire shall stop 4 hours after the time of the vessel signaling its readiness to sail. The time limit prescribed for cessation of berth hire shall exclude the ship's waiting time for want of favorable tidal conditions. There shall be a penal berth hire equal to berth hire charges of one day berth hire charge for a false signal.

(iii). Ousting Priority / Priority Berth Hire Charges:

(a). For providing the priority berthing to any vessel, a fee equivalent to berth hire charges for 24 hours or 75% of the berth hire charges calculated for the total period of actual stay at the berth, whichever is higher shall be levied.

(b). For providing the ousting priority to any vessel, a fee equivalent to berth hire charges for 24 hours or 100% of the berth hire charges calculated for the total period of actual stay at the berth whichever is higher, shall be levied.

(iv). No berth hire shall be levied for the period when the vessels idle at its berths due to break down of Terminal Operator's equipment or power failure or any other reasons attributable to the Terminal Operator.

3. CARGO HANDLING CHARGES

Sl. No.	Commodity	Unit	Rate (in ₹)	
			Foreign	Coastal
1	Coal handling charges			
(a)	Thermal Coal	Per Metric Tonne	175.60	175.60
(b)	Other than Thermal Coal	Per Metric Tonne	175.60	105.36

The above rate is the composite rate for unloading the coal from the ship, conveying to stackyard, storage at the stackyard upto a free period of 10 days after the time of completion of the ship, reclaiming from the stackyard and loading on to the railway wagon and all other miscellaneous services provided.

4. STORAGE CHARGES

The storage charges to the cargo stored in the stack yard beyond the free period allowed shall be as below:

(A) Free Period : 10 days

(B) Storage charges after free period

(Rate in ₹ per tonne)

Sl. No.	Commodity	Rate for five days for the balance cargo remaining after the free period	Rate for sixth day to tenth day for the balance cargo	Rate for Eleventh day onwards for the balance cargo
1.	All types of Coal	16.21	32.42	64.84

Notes:

(i) For the purpose of calculation of free period Customs notified holidays and Terminals non-working days shall be excluded.

(ii) Free period for import cargo shall be reckoned from the day following the day of completion of final discharge from the vessel.

(iii) Storage charges on cargo shall not accrue for the period when the Terminal Operator is not in a position to deliver / ship the cargo when requested by the User due to reasons attributable to the Terminal Operator.

General Note to Schedule 2 to 4 above

(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 1st January 2016 and 1st 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 1st April of the relevant year to 31st 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 license 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 License 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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Annex - III

PERFORMANCE STANDARDS FOR HANDLING COAL ON DBFOT BASIS AT NORTH CARGO BERTH-III

The PPP Operator shall handle Coal at the rate of 40,000 MT per day.

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