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Tariff Authority for Major Ports

G No. 21 **New Delhi,** **20 January 2014**

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Mumbai Port Trust (MBPT) for the proposed Harbour Wall Berth at Mumbai Port Trust under the revised guidelines for Determination of Tariff for Projects at Major Ports, 2013, which were notified vide Notification No.TAMP/18/2013-Misc. dated 30 September 2013 vide Gazette No. 254 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/48/2013-MBPT

Mumbai Port Trust - - - - - **Applicant**

QUORUM:

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri C.B. Singh, Member (Economic)

O R D E R
(Passed on this 19th day of December 2013)

This case relates to the proposal received from the Mumbai Port Trust (MBPT) for fixation of reference tariff for the proposed Harbour Wall Berth at MBPT.

2.1. The MBPT vide its letters dated 23 September 2013 has filed a proposal for fixation of Reference tariff for proposed Harbour Wall Berth.

2.2. The highlights of the project as furnished by the MBPT are summarized below:

(i). The proposed Project at Harbour Wall Berth at Mumbai Port includes strengthening existing berths (18-22 ID) at Indira Dock by constructing 10 m wide and 883 m long pile supported platform with a depth of 14.6 MCD to cater to 40000 DWT vessels.

(ii). The license is for a period of 30 years on DBFOT basis.

(iii). The total cost of the project is ₹ 643.51 crores.

2.3. The main submissions made by the MBPT in its proposal dated 23 September 2013 are summarised below:

(i). The cargo proposed to be handled at the facility are Iron & Steel Products, Break Bulk cargo, Bagged Cargo & Containerised Cargo.

(ii). The Optimal Terminal Capacity calculation is as follows:

Sl. No.	Type of Cargo	% Share of Capacity	Handling Rate		Optimal Berth Capacity		
					1 Berth	***4 Berths***	***Units***
(i).	Iron & Steel	78%	7500	TPD	1.49	5.95	MTPA
(ii).	Break Bulk cargo	15%	2500	TPD	0.10	0.38	MTPA
(iii).	Bagged Cargo	7%	2500	TPD	0.05	0.19	MTPA
(iv).	Containerized cargo	As and when basis			-	-	-
	TOTAL					6.52	**MTPA**

Share of Cargo (78%, 15% & 7%) has been taken based on the Detailed Feasibility Report (DFR).

(iii). The capital cost of the project is estimated as ₹ 643.51 crores as per TAMP Guidelines. The item wise quantities are as per updated/ reviewed DFR. The capital cost comprising of civil works cost, mechanical works cost and berth cost are as follows:

Sl. No.	Item Description	Quantity	Unit	Unit Cost (₹)	Total Amount (₹ in Crs)
A	**Cargo Handling**				
	Civil Works				
1	Dredging Requirement in Channel				207.00
2	Add for (a) Detailed Engineering, soil investigation and Project Supervision @7%				14.49
	(b) Contingencies @3%				6.21
	(c) Works Contract tax @2.8%				5.80
	(d) Environmental mitigation cost @0.5%				1.04
	Sub Total (A)				**234.54**
B	Miscellaneous				
	Add 5% towards interest during construction				11.73
	Sub Total (B)				**11.73**
C	**Mechanical & Electrical Works**				
1	Level luffing cranes	6	Nos.	83900000	110.34
2	Mobile Harbour Cranes	1	Nos.	45200000	24.52
3	Mobile Hoppers	6	Nos.	3500000	2.10
4	Mobile bagging machine	3	Nos.	7000000	2.10
5	Portable conveyors (11m length)	5	Nos.	2000000	1.00
6	Payloaders	4	Nos.	1000000	0.40
7	FLT 20T and 10T (2 nos. each)	4	Nos.	5000000	2.00
8	Elevated conveyors (Length: 15m)		LS		0.25
9	Lighting Buoys	75	Nos.	100000	0.75
10	Beacon Lights	16	Nos.	100000	0.16
11	Power distribution and area lighting				4.07
12	Add for				
	(a) Detailed Engineering, soil investigation and Project Supervision @ 7%				10.34
	(b) Contingencies @ 3%				4.43
	(c) Works Contract tax @ 2.8%				4.14
	(d) Environmental mitigation cost @ 0.5%				0.74
	Sub Total (C)				**167.33**
D	**Miscellaneous**				
	Add 5% for towards interest during construction				8.37
	Sub Total (D)				**8.37**
	Total Cost for Cargo Handling Activity (A+B+C+D)				**421.96**
	Berth Activity				
E	Civil Works				
1	Enabling works for strengthening of Harbour Wall Berths				0.20
2	Civil works for strengthening of Harbour Wall Berths				5.86
3	Pre stressed rock anchors for strengthening of Harbour Wall Berths				6.73
4	Piling for Berth platform – Mobilisation and Demobilisation				4.00
5	Pile Foundation for Berth Platform				18.09
6	Dock for Berth Platform				22.17
7	Deck fittings and Miscellaneous for Berth				9.67

Sl. No.	Item Description	Quantity	Unit	Unit Cost (₹)	Total Amount (₹ in Crs)
	Platform				
8	Pre stressed rock anchors for Berth Platform Piles				0.39
9	Dredging Requirement for Harbour Wall Berths				119.12
10	Add for				
	(a) Detailed Engineering, soil investigations and Project Supervision @ 7%				13.04
	(b) Contigencies @ 3%				5.59
	(c) Works Contract tax @ 2.8%				5.21
	(d) Environmental mitigation cost @ 0.5%				0.93
	Sub Total (E)				**211.00**
F	**Miscellaneous**				
	Add 5% towards interest during construction				10.55
	Sub Total (F)				**10.55**
	Total Cost of Berthing Activity				**221.55**
	Total Capital Cost (A+B+C+D+E+F)				**643.51**

(iv). The details of the Annual Operation & Maintenance Cost estimates as per TAMP guidelines is given below:

Sl. No.	Item Description	Capital Cost (₹ in Crs.)	Norms	Cost (Crs.)
A	**Cargo Handling**	421.96		
	Operation & Maintenance costs			
1	Power		100 Units/Hour/Crane	1.90
2	Fuel Cost (TAMP Guidelines)			4.91
3	Repairs and Maintenance Cost			
	(A) Civil Works	246.26	1% of capital cost	2.46
	(B) Mechanical & Electrical Works	175.70	5% of capital cost	8.78
4	Insurance	175.70	1% of gross block assets	1.76
5	Depreciation			
	(A) Civil Works	0.00	3.34% of Civil Assets	0.00
	(B) Mechanical & Electrical Works	175.70	10.34% of Civil Assets	18.17
6	**License Fee**		50 ₹ /Sqm/Month	2.40
7	Other Expense on Civil & Mech	175.70	5% of capital cost	8.78
	Total Operation & Maintenance Costs			**49.16**
B	**Berth Activity**	**221.55**		
	Operation & Maintenance Costs			
1	Repairs and Maintenance Costs	221.55	1% of civil cost	2.22
2	Insurance	79.83	1% of gross block assets	0.80
3	Depreciation	79.83	3.34% of Civil Assets	2.67
4	Other Expenses on Civil & Mech	79.83	5% of capital cost	3.99
	Total Operation & Maintenance Costs			**9.67**

(v). The Annual Revenue Requirement has been estimated as follows:

Sl. No.	Item Description	Total Amount (Crs.)
1	Return on Capital Employed (16% of Capital Cost)	102.96
2	Operation & Maintenance Cost	58.83
	Total Revenue Requirement	**161.79**
Allocation of Revenue Requirement		
	Wharfage Charges (Composite of all Cargo Handling Charges)	105.00
	Berth Hire Charges	45.12
	Storage Charges	5.83
	Miscellaneous Charges	5.83
	Total Revenue Requirement (Cargo Handling)	**161.79**

(vi). The rates proposed by the MBPT are as follows:

Proposed Charges	Break Bulk Cargo	Bagged cargo	Unitized & Containerized cargo	Units
WHARFAGE CHARGES				
Foreign	55.1	55.1	191.7	Per MT
Coastal	33.1	33.1	115.0	Per MT
BERTH HIRE CHARGES	**Foreign**	**Coastal**		
	0.035$	**1.29 ₹**		₹ per GRT/ Hr
STORAGE CHARGES				
		For first to 20th day	**For 21st to 40th day**	**41st onwards**
Break Bulk Cargo	Per tonne per day	2.97	4.45	5.93
Bagged Cargo	Per tonne per day	2.97	4.45	5.93
Unitized & Containerized cargo	Per tonne per day	2.97	4.45	5.93

(vii). The Performance Standards in the form of indicative norms for Gross Berth Output for different categories of cargo are as follows:

Cargo category	Indicative Norms
Break Bulk Cargo	4000 T/ Day
Bagged Cargo	4000 T/ Day
Unitized & Containerized cargo	2500 T/ Day
Iron & Steel	4000 T/ Day

3. In accordance with the consultative procedure prescribed, the proposal dated 23 September 2013 was circulated to the concerned users / user organisations and shortlisted bidders (as forwarded by the MBPT) for seeking their comments. The comments received from the concerned users/ user organisations and shortlisted bidders were forwarded to the MBPT as feedback information. The MBPT, under coever of its letter dated 13 November 2013 has, interalia, responded to the comments of the users / user organisations and shortlisted bidders

4. Based on a preliminary scrutiny of the proposal, the MBPT was requested vide our letter dated 7 October 2013 to furnish additional information/ clarifications. The MBPT vide its letter dated 14 October 2013 has responded to our queries. A summary of the queries raised by us and the response of MBPT thereon are tabulated here below:

Sl. No.	Queries raised by us	Reply received from MBPT
I.	**<u>General:</u>**	
(i).	MBPT to list down the names of the cargo items covered under each of the cargo items 'Break Bulk Cargo', 'Bagged Cargo' and 'Unitized & Containerised Cargo including Iron & Steel Products', proposed to be handled at the facility.	Break Bulk cargo includes Rock Phosphate, Sulphur, Fertiliser and other Misc. dry bulk cargo. Bagged cargo includes Agricultural product such as Sugar, Rice, and other such cargo, which comes in bagged form. Under Unitised and Containerised Cargo Category, only Iron and Steel products such as HR coils, etc. which are unit in nature are proposed to be handled at the facility.
(ii).	MBPT to certify that the operator of the facility would not be allowed to handle any other cargo other than break bulk cargo, bagged cargo and unitized & containerised cargo including iron & steel products (as mentioned in the list to be furnished by MBPT with reference to above query).	Handling of Coal, Cruises are not allowed. Handling of containers is allowed after 2nd December, 2017. All other general cargoes can be handled. MBPT has no specific objections for handling any other type cargo. Cargo-mix has been identified at Page No.14 of RDPR.
(iii).	The MBPT to furnish the details of the quantum of the total area proposed to be allotted for the facility, its allocation for the various ancillary purposes and the actual area that would be available for stacking. It is noteworthy that the Reviewed Detailed Project Report (RDPR) recommends to allot 10 to 15 acres of land for storage of cargo. RDPR also suggests that some area of Indira Dock can be covered for this purpose.	An area of 40000 sq.mtr. (approx.) is proposed to be allotted to the operator for the facility. The area of wharfs and sheds along the harbour wall can be used as Back up area.
(iv).	The MBPT to also confirm that the proposed allotment is in line with the Land use plan of the Port.	MBPT has confirmed that the proposed allotment is in line with the Land use plan of the port.
(v).	The proposal of the port envisages strengthening the existing berths (18-22 ID) at Indira Dock by constructing 10m wide and 883m long pile supported platform with a depth of 14.6m CD to cater to 40000 DWT vessels. Para 3.4 of the RDPR states that the handling of up to 40000 DWT vessels requiring a draft of 11m to 11.3m near HWB is envisaged and it has further proposed to dredge to -12.50m CD to allow a safe stay of the ships at all tides. A harmonious reading of this para of RDPR shows that a vessel of 40000 DWT could be easily handled in a draft of 11m to 12.5m CD. As the HWBs are envisaged to handle vessels upto 14m draft considering future dredging to a depth of 14.6m CD for its HWB project, the berths would be in a position to cater to the vessels of more than 40000 DWT. Further, it is noteworthy that the MBPT, in its another proposal for fixation of upfront tariff under 2008 guidelines for Multipurpose Offshore Cargo Berth project forwarded to us vide its letter dated 18 September 2013 has considered a depth of 13.5m CD to cater 60000 DWT vessels.	Berth Pockets are planne to be dredged to a depth of 14.6m below CD as per GOI guidelines for future development. However, there is a restriction in approach channel as they would be kept at 9.3m below CD therefore ships with draft up to 11.3m will be handled. Hence there will be a restriction of ship sizes that can be handled and hence no rework is necessary.

	In view of above position, the port to review/ rework the parcel sizes of cargo, handling rate of the vessel, optimal capacity of the terminal and berth hire charges calculation based on modified ship size DWT (to be considered by the MBPT).	
II.	**<u>Optimal capacity:</u>**	
(i).	The MBPT in its proposal has stated that vessels carrying break bulk cargo, bagged cargo and unitised & containerised cargo would be handled at the facility. However, the optimal capacity calculation takes into account the cargo share of iron & steel products, break bulk cargo and bagged cargo. MBPT to review the optimal capacity calculation by considering the share of break bulk cargo, bagged cargo and unitised & containerised cargo.	Iron & Steel Cargo is Unitized & Containerized Cargo. Hence no rework seems to be necessary.
(ii).	MBPT to furnish the basis for considering the share of iron & steel products, break bulk cargo and bagged cargo at 78%, 15% and 7% respectively, with analysis.	Kindly refer Pg. 14 of the revised DPR wherein total traffic has been considered at 6.7 MTPA. Considering the individual traffic of Iron & steel product at 5.2 MTPA with total traffic of 6.7 MTPA, share of Iron & Steel products works out to 78%. Similarly, considering the individual proposed traffic of Break Bulk & Bagged Cargo at 1.0 MTPA & 0.5 MTPA respectively with total projected traffic, share of Break Bulk & Bagged cargo works out to 15% & 7% respectively.
(iii).	In its capacity calculation, though the MBPT has indicated that containerised cargo would be handled on ‘as and when basis’, it has not prescribed any share for the containerised cargo in the capacity calculation. When the MBPT anticipates handling of containerised cargo and the rates for handling and storage are proposed in the draft Scale of rates, the share for the containerised cargo may also be captured by the MBPT in the capacity calculation. It is noteworthy that berth no. 22 is also proposed to be allocated for handling containerised cargo as mentioned in the RDPR at page no. 14.	MBPT is under a license agreement with operator of Offshore Container Terminal at Mumbai Port, which has an exclusivity clause and hence no other bidder will be allowed to handle containers for a certain period of time. Therefore the capacity calculation for Containerized cargo is shown as “as and when basis” and no rework seems necessary.
(iv).	MBPT has captured the handling of containerised cargo at the proposed facility. MBPT to furnish the basis for the percentage share of the containerised cargo and justify the handling rate for the containerised cargo so considered.	In view of 2(iii) above 2(iv) is not applicable.
(v).	MBPT has considered 78% share of Iron & Steel products while working out optimal capacity of the terminal. MBPT has also forwarded a proposal for fixation of upfront tariff under 2008 guidelines for its proposed Multipurpose Offshore Cargo Berth (MOCB) in which it has considered 87% share of Iron & Steel in optimal capacity of MOCB terminal. That being so, MBPT to confirm the share of Iron & Steel products considered in the HWB proposal.	The total traffic considered for Harbour Wall project is proposed at 6.7 MTPA. Out of this, proposed traffic for Iron & Steel products as worked out in DPR is 5.2 MTPA. Hence the share of Iron & Steel products works out to 78%. The traffic projected are based on the DPR.
(vi).	The 2008 upfront guidelines prescribe a norm	The handling rates are calculated based on

<table>
<tr><td></td><td>of 4000 tonnes per day for break bulk (bagged cargo). The port has also proposed performance standard for both break bulk cargo and bagged cargo at 4000 tonne per day. That being so, consideration of handling rate of both viz., break bulk cargo and bagged cargo at 2500 tonnes per day to be justified. The basis for the handling rate of Iron and Steel products at 7500 tonnes per day at one berth to be furnished.</td><td>traffic projections, ship sizes, berth occupancy etc. as given in Fig 4.7 of the DPR. However, Performance standards have been taken from Model Concession Agreement approved by Ministry of Shipping.</td></tr>
<tr><td>(vii).</td><td>MBPT to furnish the actual handling rate in respect of break bulk cargo, bagged cargo and iron & steel products achieved at MBPT in a berth during the last three years viz., 2010-11 to 2012-13, for each cargo for each of the above mentioned years.</td><td>Average handling rates for Iron & Steel, Break Bulk and General Cargo (Including Bagged Cargo) in Tonnes are as follows :
<table>
<tr><th>Sl. No.</th><th>Commodity</th><th>2010-11</th><th>2011-12</th><th>2012-13</th></tr>
<tr><td>1.</td><td>Iron & Steel</td><td>5423</td><td>5770</td><td>5492</td></tr>
<tr><td>2.</td><td>Break Bulk</td><td>2612</td><td>2508</td><td>2755</td></tr>
<tr><td>3</td><td>General Cargo (Including Bagged Cargo)</td><td>1843</td><td>1962</td><td>1884</td></tr>
</table></td></tr>
<tr><td>(viii).</td><td>Considering that the MBPT has taken into account the handling rate in respect of break bulk cargo, bagged cargo and Iron and Steel products, based on the deployment of 6 nos. of 20 tonne ELL cranes in the capacity calculation, consideration of one additional Mobile Harbour Crane (MHC) at the facility, is justified. It is understood that the purpose of deployment of ELL cranes and HMC are for ship shore transfer of cargo. It is noted that 2008 guidelines do not permit simultaneous deployment of wharf cranes and HMCs for ship shore transfer of cargo, in a multipurpose berth.</td><td>Project envisages one mobile harbour crane as an essential equipment. Assumption that the whole of 78% of Iron & Steel cargo throughput will be handled by MHC is not correct. In the Tariff Proposal the equipment deployment is taken as per the DPR.</td></tr>
<tr><td>(ix).</td><td>With reference to berth No. 18 to 22 considered in the proposal, the MBPT to clarify/ furnish/ justify the following:

(a). The configuration of each berth in terms of its length and breadth.

(b). The rationale behind considering berth No. 19 to 22 (Four berths) equivalent to three berths as mentioned at page no. 14 of the RDPR.

(c). As mentioned below para no. 3.8 at page no. 14 of the RDPR, berth no. 18 is considered as one berth and berth no. 19 to 22 are treated as equivalent to three berths with larger ships aggregating to 4 berths. The 2008 guidelines prescribe a norm of 3 no. of ELL cranes of 20 tonne capacity for a multipurpose berth. The MBPT has considered deployment of only 6 nos. of ELL cranes of 20 tonne capacity for 4 berths. That being so, consideration of 4 berths instead of 2 berths for the project to be justified.</td><td>

The dimensions of the total berth is 883m x 10m

The Berth Numbers were initially given for smaller ship sizes, however since larger ship sizes are proposed to be handled, the Berth Numbers 19 to 22 is considered equivalent to 3 berths

For the proposed handling rate, the number of equipments proposed are sufficient as per DPR and RDPR.</td></tr>
</table>

III.	**Capital costs:**	
(i).	The MBPT has given reference of various sections of RDPR in the civil capital cost estimate for both cargo handling activity and berth hire activity. The MBPT to furnish the basis for the quantum of each item of civil work considered in RDPR/ Capital Cost Estimates to arrive at the estimated civil capital costs under cargo handling activity and berthing activity.	Quantities have been based on DPR and no change in the same was proposed.
(ii).	Though the MBPT has furnished RDPR indicating details of the capital civil cost estimates, it has not furnished the copy of the document substantiating the base rate considered in the calculation of civil costs. The MBPT to furnish the same highlighting the rate so considered under both viz., cargo handling activity and berthing activity.	Cost as proposed in RDPR and accepted by Board has been taken as base for calculating Capital Cost. At the time of preparation of RDPR, all unit rates have been taken based on the current market rates (2013 level) for various items of works prevailing in the region and based on the rate available for similar nature of work executed recently. Dredging rates have been taken based on the recent works awarded by Mumbai Port Trust. Equipment's costs have been considered based on unit rates provided in DPR of Offshore Multipurpose Cargo Berth wherever applicable
(iii).	The estimated total capital dredging cost indicated in RDPR at ₹ 326.12 crores is seen to be apportioned between Cargo Handling Activity at ₹ 207 crores and Berthing activity at ₹ 119.12 crores. In this regard, MBPT to furnish the following: (a). The guidelines of 2008 envisage only cost of dredging alongside the berth in the estimation of capital cost for calculation of berth hire charges. Therefore, consideration of cost of channel dredging to be justified. (b). The cost relating to Dredging in the Channel has been considered under the cargo handling activity. In this regard, the port to confirm that the benefit of the additional draft that will be available in the Channel due to the proposed dredging will only be availed by the vessels using the proposed HWB facility. If not, then to clarify why the users of HWB should be burdened with the cost of channel dredging, the benefit of which may be shared by other vessels. (c). MBPT to also furnish the basis of apportionment of dredging cost considered in capital cost estimates for cargo handling activity and berth hire activity.	Cost of dredging alongside the berth is only considered in Berth Hire activity. The cost of channel dredging is a major part of the project cost and therefore has been considered in the Tariff Proposal. Also, it has, been considered in Cargo Handling activity else the rates derived for cargo handling activity would be abnormally low and Berth Hire charges would be abnormally high affecting the viability of the project. MBPT has confirmed that the proposed dredging in channel considered in the project will only be available to the vessels using the proposed HWB facility. Dredging in berth pockets has been considered in Berth Hire activity and Dredging in channel has been considered in Cargo Handling activity.
(iv).	The unit cost of dredging indicated in RDPR at ₹ 150/- per cubic metre, ₹ 4000/- per cubic metre and ₹ 2000/- per cubic metre for soil	The estimated rate/ M^3 for capital dredging for soil is ₹ 150/- per cu. mtr. and for rock it is ₹ 3800/- per cu.mtr. based on recent rates of

	dredging & dumping, rock dredging and removal of cofferdam respectively in the estimated capital dredging cost of ₹ 326.12 crores to be validated with documentary proof.	dredging excluding mobilization cost. Considering the difficulties of working near the existing harbour wall berth the unit rate of rock dredging is kept at ₹ 4000/- per cu.mtr.
(v).	Except for considering the cost relating to Dredging in the Channel in the estimation of civil costs under the cargo handling activity, the cost of no other civil works have been considered. The MBPT to explain the reason for not considering the cost of any other ancillary civil works under the cargo handling activity.	All other civil works involve strengthening of Harbour Wall/Berths and hence have been considered in Berth Hire Activity only.
(vi).	MBPT to furnish the basis for the lumpsum considered in the estimation of cost of some of the items considered under civil capital costs and dredging costs in RDPR justifying the cost considered in the estimates.	The lumpsum considered in the estimation of cost of some of the items considered under civil capital costs and dredging costs in RDPR is mainly for the mobilization and demobilization for the civil and dredging equipments which are generally considered on lumpsum basis. At the time of preparation of RDPR, all lumpsum rates have been taken based on the market survey done by the consultant.
(vii).	The equipping plan proposed for the facility is not seen to be in line with the equipping plan for the multipurpose terminal as prescribed in the Upfront Guidelines. Further, as noted from Section 6 of the RDPR, it appears that the number of handling equipment has been decided keeping in view future requirement also. Therefore, the MBPT to furnish an analysis supported with workings to justify the number of each type of equipment envisaged to be used at the facility to handle iron & steel products, break bulk cargo and bagged cargo, to show that given the productivity of each type of the equipment, the quantity of different equipment commensurate with the quantity of each cargo estimated to be handled. While doing so, the MBPT to take into account the revision in the optimal capacity of the facility to be made by MBPT for the reasons brought out earlier.	The equipment plan proposed is as per DPR which was accepted by Board.
(viii).	MBPT to furnish documentary evidence in support of the cost of each type of equipment. Also, furnish workings to determine the cost of each type of equipment as considered by MBPT in its calculations.	The cost as proposed in RDPR and accepted by Board has been taken as base for cost of equipment. At the time of preparation of RDPR, it was based on market survey done and as per the cost taken in Offshore Multipurpose Cargo Berth for similar equipment. For other equipment, the cost as per DPR is taken.
(ix).	MBPT to justify consideration of cost towards Detailed Engineering soil investigations and Project Supervision @ 7%, Contingencies @ 3%, Works Contract tax @ 2.8% and Environmental mitigation cost @ 5% each under civil costs and mechanical costs.	Provisions towards contingencies, tendering, detailed engineering, project management have been included separately as per standard norms.
(x).	The MBPT has considered interest during construction (IDC) separately in the estimation of capital cost. This is not seen to be in line with the Upfront tariff guidelines of 2008.	5% considered towards interest during construction under the Miscellaneous cost is for upfront payments, working capital margin and IDC are as per guidelines.

IV.	**<u>Operating Costs:</u>**	
(i).	Power cost: (a). The MBPT to furnish the workings with regard to estimation of power cost at ₹ 1.90 crores. (b). MBPT to furnish documentary evidence in support of per unit cost of electricity considered in the workings to be furnished with regard to the above mentioned query.	Power costs: 6 Level Luffing Cranes * 100 units/hr *4000 hrs *7.9 ₹ /Unit = 1.9 Crores. Average cost of power consumption works out to apprx. ₹ 6.86 per unit. Further considering transmission and distribution losses of 15%, the cost per unit works out to ₹ 7.90 per unit. Photocopies of few bills are attached for ready reference. (MBPT has not furnished the copy of the electricity bills)
(ii).	Fuel expenses: (a). The MBPT to furnish the workings with regard to the fuel expenses estimated at `4.91 crores. (b). As seen at page no. 24 of the RDPR, the MBPT appears to have considered the consumption of 15 litres per hour for MHC, 12 litres per hour each for bagging machine and portable conveyor, 20 litres per hour for FLT of 20 tonne capacity and 10 litres per hour for FLT of 10 tonne capacity. The MBPT to justify the consumption of fuel considered for the above said equipment with documentary proof.	Fuel expenses: (1 Mobile Harbour Crane *15 ltrs/hr + 3 Mobile Bagging Machine * 12 ltrs/hr + 5 Portable Conveyors * 12 ltrs/hr + 4 Payloaders * 12 ltrs/hr + 2 FLT 20T * 20 ltrs/hr + 2 FLT 10T * 10 ltrs/hr) * 4000hrs * 56₹ /ltr=₹ 4.91 crores. Consumption of Fuel for FLT 10T and payloaders has been taken as per TAMP guidelines. For rest of the equipment the consumption of fuel is as per industry standards.
(iii).	Licence fees: (a). The MBPT has indicated the licence fee as ₹ 50/- per sq.m per month. It has, however, not indicated the quantum of area considered for calculation of licence fees. Further, in the absence of requisite details/ workings, it is not found possible to check the correctness of the licence fee amount of ₹ 2.40 crores. The MBPT to, therefore, furnish the basis for considering the said rate by giving reference to its Scale of Rates and supported by necessary workings. (b). It appears from page no. 14 of RDPR that existing warehouse 18 is envisaged to be used for storage. MBPT to furnish the treatment for the licence fee leviable for use of warehouse 18 given in the operating cost estimates.	MBPT has given reference of section 3.3 (A) (**I**) of MBPT Scale of Rates which provides for the rate of ₹ 50/- per sq.mtr. per month for open area. Detailed working are as below : 50 ₹ /Month (as per SOR) * 40000 sq.mtr. X 12 months= ₹ 2.40 Crores. Existing warehouse No.18 has been proposed for using for emergency storage only.
(iv).	Other Expenses: The upfront guidelines prescribe a norm of 5% of the gross fixed assets for estimation of 'Other Expenses'. However, the MBPT is seen to have estimated 'Other Expenses' at 5% of the cost of Mechanical works. The reason for excluding the cost of civil works	Civil Works in the proposed projects includes only dredging and since dredging does not form part of Fixed Assets, the same has been excluded.

	from the estimation of other expenses to be explained.	
V.	**<u>Apportionment of Annual Revenue Requirement:</u>**	
	(a). Though the MBPT has apportioned the Annual Revenue Requirement (ARR) relating to the Cargo handling activity among handling charges, storage charges and miscellaneous charges in the ratio of 90:5:5, the MBPT has not furnished workings, showing the further apportionment of the ARR to determine the handling charges, storage charges and miscellaneous charges for each of the cargo item. The MBPT to, therefore, furnish detailed workings in this regard. (b). Similarly, MBPT to furnish workings done to arrive at the proposed berth hire charges from the ARR relating to the berthing activity.	MBPT has furnished Workings in this regard. MBPT has furnished Workings in this regard.
VI.	**<u>Scale of Rates:</u>**	
(i).	In the proposed tariff Schedule furnished by MBPT, the following deficiencies are noticed: (a). Though the cargo item of Iron & Steel products constitutes 78% share of the optimal capacity of the terminal, the port has not proposed a separate tariff for 'Iron & Steel Products' and has included it in the proposed tariff for Unitized & Containerized cargo. Please propose a specific rate for the Iron and Steel products. (b). If the share of containerized cargo is not captured in the optimal capacity calculation, there does not appear to be any reason to prescribe a rate for handling the containerized cargo in the tariff schedule. (c). No definitions for the terms used in the Scale of Rates have been proposed. (d). It has already been decided by this Authority in other upfront tariff cases that prescribing dollar denominated upfront tariff would not be appropriate which will have a validity of 30 years. Firstly, applying a WPI based escalation on a foreign currency is not correct. Secondly, the foreign exchange variation over the next 30 years cannot be predicted. In case of any abnormal variations, either the users or the operator will have to bear the incidence, depending on which side the appreciation takes place. This Authority has, therefore, prescribed the upfront berth hire which is normally prescribed in dollar terms in rupee denomination, in all upfront tariff cases. The MBPT to, therefore, propose	 Unitized Cargo includes Iron & Steel products hence the same rates are proposed. MBPT is under a license agreement with operator of Offshore Container Terminal at Mumbai Port, which has an exclusivity clause and hence no other will be able to handle containers for a certain period of time. Therefore the capacity calculation for Containerized cargo is shown as "as and when basis". MBPT has furnished Proposed scale of rates including definitions. MBPT has considered ₹ 60 per dollar as the basis for calculation. The Berth Hire charges may be computed in ₹ using this rate.

	rupee denominated tariff for the proposed berth hire charges. (e). No conditionalities with reference to levy of berth hire have been proposed. (f). A note listing down the services that would be covered under the proposed handling charges to be proposed. (g). Under the storage charges schedule, a note to the effect that no storage charge shall accrue for the period during which the terminal operator is not in a position to deliver cargo when requested by the user for reasons attributable to the terminal operator, as prescribed in the Scale of rates relating to upfront tariff fixed at other major port trusts, to be incorporated. (h). The rate towards 'Miscellaneous charges' have not been proposed. (i). The list of services covered by the levy of miscellaneous charges to be prescribed. (j). A general note prescribed in the tariff schedule with regard to indexation of the tariff caps to inflation has not been proposed by the Port. A general note in this regard to be proposed keeping in view the year to which the capital costs and the operating costs belong. The MBPT to take note of the above said deficiencies and propose a complete tariff Schedule.	 MBPT has included Conditionalities in the proposed scale of rates for levy of Berth Hire charges. Wharfage cover services such as labour, management and supervision of labour, control & supervision of cargo, operation & maintenance of cargo handling equipment etc. Berth Hire charges covers operation & maintenance of berth, Marine structures & dredging etc. A note to the effect that no storage charge shall accrue for the period during which the terminal operator is not in a position to deliver cargo when requested by the user for reasons attributable to the terminal operator is incorporated in proposed scale of rates. Miscellaneous Charges of ₹ 8.95 per tonne for all cargo is proposed. The same has been included in the proposed scale of rate and calculation thereof is furnished. The miscellaneous charges prescribed above is a composite charge for provision of all miscellaneous services such as sweeping of cargo on the wharf, weighment of cargo, dust suppression etc. A general note prescribed in the tariff schedule with regard to indexation of the tariff caps to inflation has been proposed in the proposed scale of rates.
(ii).	In the proposed tariff Schedule, the MBPT has proposed a free period of 3 days for the import cargo and 7 days for the export cargo. This is not seen to be in line with the free period prescribed in the upfront guidelines. The MBPT is requested to propose the free days, as stipulated in the guidelines.	Tariff Schedule alongwith the conditionalities as stated at 6(ii) is revised and included in the Proposed Scale of Rates.
VII.	**<u>Performance Standards</u>:**	
	(a). The MBPT has furnished the Performance Standards. The indicative norm proposed by the port for Iron & Steel products at 4000 TPD is seen to be on a lower side when compared to the per day output of 7500	Norms used for calculation of optimal capacity is as per DPR based on Parcel size, Ship size etc. However, the norms proposed for performance standards are minimum of what the concessionaire is required to maintain and is

	TPD considered by the port in optimal capacity calculation. The MBPT to, therefore, review the performance standards. The conditionalities governing the performance standards for the various cargoes also to be proposed. (b). If the share of the containerized cargo is not to be considered in the capacity calculation, the performance standard proposed for containerized cargo to be deleted from the Performance standard Schedule.	taken from Appendix-15 of Model Concession Agreement provided by Ministry of Shipping. [The MBPT has furnished the Performance Standards. The indicative norms proposed by the port for Iron & Steel products at 4000 TPD is seen to be on a lower side when compared to the per day output of 7500 TPD considered by the port in optimal capacity calculation.] MBPT is under a license agreement with operator of Offshore Container Terminal at Mumbai Port, which has an exclusivity clause and hence no other operator will be able to handle containers for a certain period of time. Therefore the capacity calculation for Containerized cargo is shown as "as and when basis" and therefore the Performance Standards are proposed.

5.1. A joint hearing in this case was held on 18 October 2013 at the Office of this Authority. The MBPT made a power point presentation of its proposal. At the joint hearing, the MBPT and the concerned users and user organisation bodies have made their submissions.

5.2. During the joint hearing, it was brought to the notice of MBPT that some information gaps has been found in the reply furnished by the Port under cover of its letter dated 14 October 2013 in response to the information sought by us vide our letter of even number dated 07 October 2013. The MBPT, during the hearing, agreed to furnish the requisite information/ clarification immediately. Accordingly, we have vide our letter dated 22 October 2013 sought some information/ clarification from MBPT. The MBPT vide its letter dated 13 November 2013 has responded. The information sought by us and the response of MBPT thereon are tabulated below:

Sl. no.	Information sought by us	Response of MBPT
(i).	MBPT to respond to the comments of the users/ prospective bidders, forwarded by us from time to time to MBPT.	The MBPT has furnished its comments on the points raised by the Indian Merchants Chamber, which has been incorporated in the earlier part.
(ii).	When asked to certify that the operator of the facility would not be allowed to handle any other cargo other than break bulk cargo, bagged cargo and unitized & containerised cargo including iron & steel products, the MBPT has stated that it has no specific objection for handling any other type of cargo. In this regard, the MBPT to confirm whether 'any type of cargo' would fall under the broad type of category considered by it in the capacity calculation.	MBPT has confirmed that "any other type of cargo" as stated by TAMP at 2 (ii) would broadly fall under the broad type of category of cargo considered by the Mumbai Port Trust in the capacity calculation. Handling of coal and cruises are not allowed in the proposed Harbour Wall berth.
(iii).	MBPT to furnish the details of the allocation of the total area proposed to be allotted for the facility in terms of stacking area and the area required for the various ancillary purposes.	An area of 40000 sq.mtrs approx. is proposed to be allotted to the operator for the facility. The area of wharf and sheds along the proposed harbour wall berth can be used as backup area. All the area will be allotted to prospective bidder and prospective bidder will segregate the area of storage into ancillary purpose as per actual requirement. It is felt appropriate to give the flexibility to the BOT operator.
(iv).	MBPT to furnish a copy of GOI guidelines which states that Berth pockets are to be dredged upto 14.6 m, for our perusal.	A copy of letter dated 7th July, 2005 received from ministry of shipping requesting ports to prepare detailed

		proposal for deepening the approach channels, entrance channels, turning basin & deepening near berths to cater deep draught vessels of 14 mtrs is furnished.
(v).	The reply of MBPT does not furnish the basis for considering the share of iron & steel products, break bulk cargo and bagged cargo at 78%, 15% and 7% respectively. The basis for the types of cargo proposed to be handled at the facility to be furnished.	Commodity wise traffic handled at Mumbai Port Trust, their comprehensive average growth rate, share of various commodities in total traffic at Mumbai Port, composition of Import and Export of total traffic at Mumbai Port, Industrial trend has been considered for arriving at basis for considering share of iron and steel products, break bulk cargo, bagged cargo etc. Chapter 4.6 of DPR (HOWE) and chapter 4 of RDPR (RITES) deals with the basis for the types of cargo proposed to be handled at the proposed facility.
(vi).	If Iron & Steel Cargo itself is Unitized & Containerized Cargo, then it is felt appropriate to use the term 'Iron & Steel cargo' in the proposed tariff schedule. The nomenclature of 'Unitized & Containerized Cargo' can be done away with. A clarification in this regard to be furnished.	In the proposed tariff schedule, iron and steel cargo and containerised cargo has been separated. The proposed tariff schedule with necessary changes is furnished.
(vii).	Since the successful bidder of the project in reference will be allowed to handle containers from some point of time, it is not clear why handling of containerized cargo has not been anticipated in the proposed facility at HWB. The position is clarified. If rates for containerised cargo and the performance standard are to be prescribed, then the capacity calculation for the project should necessarily capture the share of containerised cargo. If the MBPT is not in a position to capture the share of containerised cargo in the capacity calculation, the proposed rate for containerised cargo and the proposed performance standard to be deleted from the proposal.	As stated at (vi) above, containerised cargo is separated from iron & steel cargo. Handling of containerised cargo has not been anticipated in the proposed facility because same has been considered in DPR on "as and when basis". However, considering the containerised cargo at 1%, necessary changes at capacity calculation, proposed tariff schedule and the workings is furnished.
(viii).	It is not clear how the traffic projections, ship sizes, berth occupy are relevant for considering handling rate of both break bulk cargo and bagged cargo at 2500 tonnes per day is relevant. Also, the MBPT has not justified the deviation from the 2008 guidelines, which prescribes a norm of 4000 tonnes per day for break bulk (bagged cargo). When the MBPT expects that the successful BOT operator should perform at 4000 tonnes per day for both break bulk cargo and bagged cargo, it is appropriate that a handling rate of 4000 tonnes for break bulk and bagged cargo be considered in the capacity calculation.	Handling rate of 2500 T/Day for both break bulk and bagged cargo, are based on productivity level given in DPR. However, the performance standard prescribed by Ministry of Shipping in Model Concession Agreement prescribes the same to be 4000 T/day. Hence, a norm of 4000 T/day for break bulk and bagged cargo was considered in performance standards. Performance standards are however revised based on the projections made in the DPR.
(ix).	The equipment requirement for the activity of ship to shore transfer and vice versa is discussed in the succeeding paragraphs. As far as the MHC is concerned, whose function	Mobile harbour crane is an essential requirement in the proposed facility. Mobile harbour cranes provides better flexibility on operations as they are mobile

	also may be similar to wharf crane, except for stating that deployment of MHC is an essential requirement, the MBPT has not justified the deployment of one MHC. The MBPT to justify deployment of MHC bringing out the functions of the MHC at the proposed facility.	and can move around from one berth to another when compared to wharf cranes which moves along a dedicated railway track fixed on berth. MHC can be provided on any berth as per requirement.
(x).	The project envisages handling over of existing four Harbour Wall Berths (HWB) having a total length of around 880 metres to the BOT operator, for strengthening and operation. The 2008 tariff guidelines prescribe a norm of 3 no. of ELL cranes for one multipurpose berth. The proposal of the port envisages deployment of only 6 nos. of ELL cranes. In that case, a project of two berth configuration with a total length of 440 metres may be appropriate. However, the proposal envisages a 4 berths configuration. If 4 berths configuration with around 880 metres length is essential, then the estimated optimal capacity of 6.52 MMTPA needs an upward revision with deployment of additional 6 no. of ELL cranes, which may justify handing over of all the four berths to the successful BOT operator. The MBPT to examine this position and enhance the optimal capacity of the project.	The proposal of port envisages deployment of 6 no of ELL cranes of 30 Tonnes each & 01 MHC of 40 tonnes. Same has been stated in page 15 of RDPR. Tariff guidelines prescribes a norm of 3 no. of ELL cranes of 20 tonnes each for 1 berth. As such it works out to 12 ELL cranes of aggregate capacity of 240 Tonnes for four berths. In the instant case 6 ELL crane of 30 Tonnes each & 01 MHC of 40 Tonnes aggregating to 220 Tonnes have been proposed for four Berths. MHC in the instant case has been proposed to bring flexibility in operation. As such considering the aggregate capacity & total no of berths, enhancement of optimal capacity of project seems not necessary.
(xi).	The MBPT has not furnished any analysis supported with workings to justify the number of each type of equipment envisaged to be used at the facility to handle iron & steel products, break bulk cargo and bagged cargo, to show that given the productivity of each type of the equipment, the quantity of different equipment commensurate with the quantity of each cargo estimated to be handled. The MBPT to furnish the requisite information.	Chapter 4.6.6 (Productivity), Chapter 4.6.10 (Alternative IV) & 4.6.11 (Conclusion) of DPR deals in detail with analysis supported with working to justify the no of each type of equipment envisaged to be used at the facility to handle proposed cargo, the no. of different equipment commensurate with the quantity of each cargo estimated to be handled. MBPT has furnished soft copy of DPR of HOWE (I) Pvt. Ltd.
(xii).	MBPT to furnish the copy of the electricity bill.	MBPT has furnished photocopies of few electricity bills.
(xiii).	If the existing warehouse no. 18 is proposed to be used only for emergency storage, then the tariff arrangement for levy of storage charges on the warehouse on such occasions is explained. When the warehouse is proposed to be utilised only for emergencies, it is not clear how the licence fee on the said warehouse payable by the BOT operator to the port trust has been captured in the upfront tariff calculation. MBPT to explain the position.	An area of 40000 sq.mtrs is proposed to be allotted to the proposed BOT operator. DPR states Ware House No. 18 to be proposed to be used for emergency storage. However it is indicative only. It is felt appropriate to give flexibility to BOT operator. Hence, the same has been considered in the proposal in 40000 sq.mtrs as open area.
(xiv).	The MBPT has prescribed a general note in the tariff schedule with regard to indexation of the tariff caps to inflation to the effect that the tariff caps would be indexed to the extent of 60% of the variation in WPI occurring between 1 January 2011 and 1 January of the relevant year. When the capital cost estimates are based on the current market	The general note in tariff schedule with regards to indexation of tariff caps are revised in the proposed tariff schedule.

	rates of 2013, the reason for considering the year 2011 for the purpose of indexation is not clear. MBPT to clarify the position.	
(xv).	From the workings furnished by the port for calculation of Storage Charges, it is seen that the traffic of Break Bulk Cargo and Bagged Cargo has not been considered to arrive at the storage charges. In other words, from the workings, it appears that the traffic of Break Bulk Cargo and Bagged Cargo would not attract any storage charges. In view of this position, the MBPT to not prescribe any storage charges for the said cargo. Alternatively, if the MBPT wishes to propose storage charges in the proposed scale of rates for Break Bulk Cargo and Bagged Cargo, then requisite percentage share of cargo may have to be shown attracting storage charges. MBPT to clarify the position and furnish workings in this regard.	The MBPT have made due changes in storage charges in proposed tariff schedule. The proposed tariff schedule alongwith workings is furnished.

5.3. While furnishing the above information, the MBPT has revised its proposal to the extent of considering 'containerised cargo' to the tune of 1% of the total optimal capacity. Further, the MBPT has updated its proposal with regard to the power and the fuel costs forming part of the Operating Costs. This has led to change in the Annual Revenue Requirement and the corresponding change in the per tonne handling and storage rates. A comparative position between the parameters contained in the initial (September 2013) proposal of MBPT vis-à-vis parameters in the November 2013 proposal is given below:

Sl. No.	**Estimates contained in the MBPT proposal of September 2013**		**Revised Estimates furnished by MBPT under cover of its letter dated 13 November 2013**	
	Particulars	₹ in crores	**Particulars**	₹ in crores
OPERATION & MAINTENANCE COST RELATING TO CARGO HANDLING ACTIVITY				
1	Power	1.90	Power	2.84
2	Fuel Cost	4.91	Fuel Cost	7.36
3	Repairs and Maintenance Cost		Repairs and Maintenance Cost	
	(a) Civil Works	2.46	(a) Civil Works	2.46
	(b) Mechanical & Electrical Works	8.78	(b) Mechanical & Electrical Works	8.78
4	Insurance	1.76	Insurance	1.76
5	Depreciation		Depreciation	
	(a) Civil Works	0.00	(A) Civil Works	0.00
	(b) Mechanical & Electrical Works	18.17	(B) Mechanical & Electrical Works	18.17
6	License Fee	2.40	License Fee	2.40
7	Other Expenses on Civil & Mech	8.78	Other Expenses on Civil & Mech	8.78
	Total Operating & Maintenance Costs (Cargo Handling)	**49.16**	**Total Operating & Maintenance Costs (Cargo Handling)**	**52.56**
ANNUAL REVENUE REQUIREMENT RELATING TO CARGO HANDLING ACTIVITY				
1	Return on Capital Employed (16% of Capital Cost)	67.51	Return on Capital Employed (16% of Capital Cost)	67.51
2	Operation & Maintenance Cost	49.16	Operation & Maintenance Cost	52.56
	Total Revenue Requirement	**116.67**	**Total Revenue Requirement**	**120.07**
ALLOCATION OF REVENUE REQUIREMENT				
	Cargo Handling Charges (90%)	105.01	Cargo Handling Charges (90%)	108.07
	Storage Charges (5%)	5.83	Storage Charges (5%)	6.00
	Miscellaneous Charges (5%)	5.83	Miscellaneous Charges (5%)	6.00
	Total Revenue Requirement (Cargo Handling)		**Total Revenue Requirement (Cargo Handling)**	

5.4. A comparative position of the per tonne handling rates proposed in the initial (September 2013) proposal of MBPT vis-à-vis parameters in the November 2013 proposal is given below:

		September 2013 proposal			November 2013 proposal			
Proposed Charges	**Unit of levy**	**Break Bulk Cargo**	**Bagged cargo**	**Unitized & Containerized cargo**	**Break Bulk Cargo**	**Bagged cargo**	**Iron & Steel**	**Containerized cargo**
WHARFAGE CHARGES								
Foreign	Per MT	55.1	55.1	191.7	57.8	57.8	201.0	201.0
Coastal	Per MT	33.1	33.1	115.0	34.7	34.7	120.6	120.6
STORAGE CHARGES								
For first to 20th day	Per MT per day	2.97	2.97	2.97	3.04	3.04	3.04	3.04
For 21st to 40th day	Per MT per day	4.45	4.45	4.45	4.56	4.56	4.56	4.56
41st onwards	Per MT per day	5.93	5.93	5.93	6.08	6.08	6.08	6.08

6. Subsequently, MBPT vide its e-mail dated 4 December 2013 has stated that the unit of containerized cargo be read as Million Tonnes Per Annum (MTPA) instead of Million Twenty Equivalent Units (MTEU). Thereafter, the MBPT vide its email dated 10 December 2013 has furnished the individual capacity of iron and steel, Bagged cargo, Break bulk and Containerized cargo at 5.88 MMTPA, 0.18 MMTPA, 0.38 MMTPA and 0.08 MMTPA, thereby aggregating to optimal capacity of 6.52 MMTPA.

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

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

(i). The proposal is to fix reference tariff for handling Iron & Steel products, Break Bulk cargo, Bagged cargo and Containerised Cargo envisaged to be handled at the proposed Harbour Wall Berth to be developed at the Mumbai Port Trust (MBPT) under Public Private Partnership (PPP) mode on Design, Build, Finance, Operate and Transfer (DBFOT) basis.

The proposal is based on the Revised Guidelines for Determination of Tariff for Projects at Major Ports, 2013, effective from 9 September 2013, issued by the Ministry of Shipping. Clause 2.4 of the said guidelines 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 re-fix Reference Tariff under 2008 guidelines for the project giving detailed and sufficient justification.

Since the upfront tariff for the proposed combination of the multi cargo is not available neither in MBPT nor in any other major port, the MBPT has come up with a proposal for fixation of Reference tariff for the proposed combination of the multi cargo, generally following the principles of 2008 Guidelines.

(ii). The MBPT has filed its proposal in September 2013. Subsequently, based on the information/ clarifications sought by us during the processing of the case and based on the decisions taken during the joint hearing held on 18 October 2013, the MBPT under cover of its letter dated 13 November 2013 has revised its proposal. The revision is to the extent of considering handling of 'containerised cargo' at the facility to the tune of 1% of total optimal capacity. To accommodate handling containerized cargo to the tune of 1%, the percentage share of Iron and Steel products envisaged in the September 2013 proposal has been reduced by 1%, thereby maintaining the total optimal capacity in the revised proposal at the level envisaged in the September 2013 proposal. In the revised proposal, the port has also updated the power and fuel cost forming part of operating cost. There is no change in capital cost estimation by the port. The revised proposal of the MBPT dated 13 November 2013 along with the information/ clarification furnished by MBPT during the processing of the case in reference is considered in this analysis.

(iii). The MBPT envisages allotment of an approximate area of 40000 sq.mtrs to the operator for the facility. The upfront guidelines of 2008 do not envisage calculation of optimal yard capacity incase of the multipurpose cargo terminal. However, to a query posed to the MBPT to furnish details of the allotment of land for various purposes, the port has stated that it has not earmarked the area for the various purposes and that flexibility is being given to the operator to earmark the area for storage and other ancillary purpose as per the operator's actual requirement. Therefore, in the absence of details, the adequacy or the inadequacy of the proposed allotment of 40000 sq. mtrs. of land could not be verified. The consideration of allotment of 40000 sq. mtrs of land is relied upon. Incidentally, the MBPT has confirmed that the proposed allotment is in line with the Land use plan of the port.

(iv). The proposal of the port envisages handing over of the existing berth nos. 18 to 22 at Indira Docks having a depth of 14.6m, which would enable catering to 40000 DWT vessels. However, the Feasibility Report gives an indication that a vessel of 40000 DWT could be easily handled in a draft of 11m to 12.5m. That being so, the berths having a depth of 14.6m would be in a position to cater to the vessels of more than 40000 DWT. But the ships with draft upto 11.3m only will be handled at the facility due to the restriction in approach channel, as clarified by the MBPT.

(v). <u>Optimal Terminal Capacity:</u>

(a). By considering the percentage share of each type of cargo viz., Iron & Steel products, Break Bulk cargo, Bagged cargo and Containerised Cargo and the handling rate of each of the above mentioned cargo, the MBPT has determined the optimal capacity of each of the cargo proposed to be handled at one berth. Based on the capacity of one berth, the MBPT has derived the capacity of four berths, by applying the multiplication factor of 4. Thus, the MBPT has calculated the optimal capacity of the facility at 5.83 MMTPA in respect of iron & steel products, 0.38 MMTPA in respect of Break Bulk cargo, 0.19 MMTPA in respect of Bagged cargo and 0.11 MMTPA in respect of Containerised cargo, thus aggregating to 6.52 MMTPA for four berths at 70% utilization.

(b). Though the MBPT has envisaged handing over of berth no. 18 to 22 at Indira Docks, which works out to 5 number of berths, the proposal of MBPT is based on a 4 berth configuration. In this regard, berth no. 18 is considered as one berth and berth no. 19 to 22 are treated as equivalent to three berths, thereby aggregating to 4 number of berths. According to MBPT, the numbers for the Berths were initially given based on smaller ship sizes and since the proposed facility envisages handling of larger ships, the Berth Numbers 19 to 22 has been considered equivalent to 3 berths.

In this regard, it is relevant to mention here that the aggregate length of all berths put together (berth no.18 to 22) has been reported to be 883 metres. In such a scenario, even if a 4 berth configuration is taken into account, the length of each of the four berth would work out to about 221 metres, which is seen to be comparable when compared with the length of berths, reported by the various major ports at the time of fixation of upfront tariff for their respective projects. Therefore, this analysis proceeds based on a four berth configuration, as considered by the MBPT.

(c). The MBPT has considered the share of Iron & Steel products, Break Bulk cargo, Bagged cargo and Containerised Cargo at 77%, 15%, 7% and 1% respectively, reportedly based on the commodity wise traffic handled at the MBPT in the past, their comprehensive average growth rate, import export ratio, industrial trend, etc. Based on the reasoning furnished by the MBPT and given that none of the users/ prospective bidders have objected to the proposed cargo mix, the share of each cargo in the total cargo capacity is relied upon in the analysis.

(d). The 2008 upfront Guidelines for a multipurpose berth envisages deployment of 3 nos. of 20 tonne wharf cranes. Considering a four berth configuration, theoretically, the facility should take into account deployment of 12 nos. of 20 tonne wharf cranes. However, the equipping plan considered by the MBPT for the proposed facility of a 4 berth configuration (883 metres) is deployment of 6 numbers of 30 tonne capacity Wharf Cranes and one number of 40 tonne Mobile Harbour Crane (MHC).

In this regard, if 3 nos. of 20 tonne cranes are required in a multipurpose berth, then technically, 12 nos. of 20 tonne cranes would be required for four berths, thereby leading to an aggregate hoisting capacity of wharf cranes of about 240 tonnes for four number of berths put together. By proposing 6 numbers of 30 tonne capacity Wharf Cranes and one number of 40 tonne Mobile Harbour Crane, an aggregate hoisting capacity of about 220 tonnes would be available for the four number of berths at the proposed facility, which is seen to be closer to 240 tonnes of hoisting capacity, based on the norm prescribed in the guidelines.

(e). Clause 3.2. of the guidelines for upfront tariff setting gives flexibility to this Authority to make necessary adjustment in the norms based on the justification furnished by the port in view of the port's specific conditions having impact on the norms prescribed in the guidelines. Recognising that deployment of MHC is essential as it provides a better flexibility in operations and can move around from one berth to another at the proposed facility, as clarified by the MBPT and since, none of the users/ prospective bidders have objected to the equipping plan envisaged by the MBPT, this Authority is inclined to consider the deployment of wharf crane and MHC, as proposed by the MBPT at the proposed facility. Incidentally, the equipping plan proposed by the MBPT does not in any way exceed the equipping plan prescribed in the Guidelines for calculation of optimum capacity of the facility.

(f). As brought out earlier, instead of the 3 nos. of 20 tonne ELL cranes for each berth as prescribed in the 2008 guidelines, the MBPT has proposed deployment of 6 nos. of 30 tonne wharf cranes and 1 no. of 40 tonne HMC aggregating to 220 tonnes capacity for four berths at the proposed facility. In this backdrop, the MBPT has considered a handling rate of 7500 tonnes per day each in respect of Iron & Steel Products and

Containerized cargo and 2500 tonnes per day each in respect of Break Bulk cargo and Bagged cargo.

The 2008 upfront guidelines for a multipurpose berth prescribe a handling rate of 4000 tonnes per day in respect of break bulk cargo like Steel and bagged cargo and 2500 tonnes per day in case of Other Break bulk cargo, based on the deployment of 3 nos. of 20 tonne ELL cranes.

The 2008 upfront Guidelines are silent about the handling rate of Iron & Steel Products and Containerized cargo based on the use of 20 tonne ELL cranes. The handling rate of 7500 tonnes per day considered by the MBPT in respect of Iron & Steel products and Containerised cargo is reported to be based on traffic projections, ship sizes, berth occupancy etc. Hence, the same is considered in the analysis, relying upon the position considered by the MBPT.

However, as stated earlier, the port has considered the handling rate of 2500 tonnes per day for handling of the break bulk cargo (Rock Phosphate, Sulphur, Fertiliser and other Miscellaneous dry bulk cargo) and bagged cargo (Sugar, Rice, and other such cargo) to be handled by 30 tonne ELL cranes and 40 tonne MHCs. Inspite of a specific request, the port has not justified the handling rate, except for merely stating that it is based on traffic projections, ship sizes, berth occupancy etc.

When a handling rate of 4000 tonnes per day is prescribed in the 2008 guidelines for handling bagged cargo by deployment of 20 tonne ELL cranes, it may not be unreasonable to consider the handling rate of 4000 tonnes per day, as prescribed in the guidelines for the bagged cargo to be handled at MBPT. However, there may be a view that given that the MBPT envisages deployment of slightly higher capacity cranes, a productivity of more than 4000 tonnes be considered in respect of the Bagged cargo. In this regard, it is relevant to mention here that MBPT envisages use of the fleet of equipment among all the four berths. This would involve regular movement of cranes in between the berths. Thus, even though slightly higher capacity cranes have been envisaged at the facility of MBPT, it may not be in a position to handle more than 4000 tonnes per day. Hence, the handling rate in respect of Bagged cargo is considered at 4000 tonnes per day per berth, instead of 2500 tonnes per day per berth considered by the MBPT.

The upfront guidelines do not specifically prescribe the handling rates in respect of handling of Break bulk cargo like Rock Phosphate, Sulphur, Fertiliser and other Miscellaneous dry bulk cargo, which is envisaged to be handled at the MBPT facility. However, there can be an argument that these cargo would form part of the ‘Others’ prescribed in the guidelines and therefore, a handling rate of 2500 tonnes per day prescribed in the guidelines for Other Break Bulk cargo, is considered in respect of the MBPT facility.

(g). Based on the percentage share of traffic and the handling rates in respect of Iron & steel products, Break bulk cargo, Bagged cargo and Containerised cargo, as discussed in the preceding paragraphs, the optimal capacity of the facility at 70% utilization works out to 5.90 MMTPA in respect of iron & steel products, 0.38 MMTPA in respect of Break bulk cargo, 0.29 MMTPA in respect of Bagged cargo and 0.08 MMTPA in respect of Containerised cargo, thus aggregating to 6.65 MMTPA instead of 6.52 MMTPA estimated by the MBPT. The change in the optimal capacity is only on account of considering a higher handling rate in respect of the Bagged cargo, as per the guideline position.

(vi). Capital costs:

(a). The capital cost as estimated by the MBPT in its proposal is ₹ 643.51 crores of which ₹ 221.55 crores is for berthing activity and ₹ 421.96 crores is estimated for cargo handling services. Further, out of ₹ 421.96 crores estimated for the cargo handling activity, ₹ 234.53 crores is towards civil works, ₹ 167.33 crores towards Equipment cost and ₹20.09 crores is towards Miscellaneous capital costs.

(b). Civil Cost:

(i). Berth Activity:

(a). As per 2008 upfront tariff guidelines, the capital cost for berth services includes cost of construction of berth and cost of dredging, if any, carried out alongside the berth. The guidelines require to consider the cost as estimated by the port.

(b). The capital cost under the berthing activity amounting to ₹186.23 crores is towards cost of strengthening of existing HW berths and cost of dredging. The items of civil works estimated by MBPT broadly adhere to list of civil works items stipulated in the guidelines. Further, the MBPT has taken into account the estimated cost towards Detailed engineering, Soil Investigation and Project supervision @ 7%, Contingencies @ 3%, Works Contract Tax @ 2.8% and Environmental Mitigation cost @ 0.5%.

(c). The MBPT has stated that the unit rates considered by it for estimating the cost of the civil works under berthing activity is based on the market rates prevailing during the year 2013 for the items of works and based on the recent rate considered at the time of execution of a similar nature of work. This position is relied upon.

(d). Out of the total estimated capital dredging cost of ₹ 326.12 crores, the cost towards dredging in the channel to the tune of ₹ 207 crores is seen to be apportioned to the Cargo Handling Activity and the cost of dredging in the berth pockets to the tune of ₹ 119.12 crores is considered under the Berthing activity.

In this regard, it is relevant to mention here that the upfront guidelines of 2008 envisage only cost of dredging alongside the berth in the estimation of capital cost for calculation of berth hire charges. However, the MBPT has stated that the cost of channel dredging is a major part of the project cost and therefore has been considered in the Tariff Proposal. Further, the MBPT has considered the channel dredging cost in the cost for Civil works under Cargo Handling activity on the ground that if this cost is not considered in cargo handling activity, the rates derived for Cargo handling activity would be abnormally low and Berth Hire charges would be abnormally high, thereby affecting the viability of the project.

In this regard, it is relevant to mention here that except for considering the cost relating to Dredging in the Channel in the estimation of civil costs under the cargo handling activity, no other civil works have been envisaged under the cargo handling activity. This position is discussed in the subsequent paragraph. In such a scenario, if the cost relating to Dredging in the Channel is considered under berthing activity, then as rightly pointed out by MBPT, it may lead to higher berth hire charges and lower handling rates.

Clause 3.2. of the guidelines for upfront tariff setting gives flexibility to this Authority to make necessary adjustment in the norms based on the justification furnished by the port in view of the port's specific conditions having impact on the norms prescribed in the guidelines.

In this regard, it is relevant to mention here that while fixing vessel related charges of the major port trusts following the 2005 tariff guidelines, maintenance dredging cost incurred for channel dredging is apportioned between the port dues and pilotage activity. The exercise of fixation of reference tariff does not include fixation of reference rates for either port dues or pilotage. At the same time, it may not be relevant to consider the cost of channel deepening under berthing activity, as deepening of channel is not related to berthing activity. Therefore, based on the said position and also the submission of the MBPT that the cost of dredging the channel is integral to the project and that considering the cost relating to Dredging in the Channel under berthing activity may make the project unviable as argued by the MBPT, this Authority is inclined to consider the cost relating to channel deepening under the cargo related activity.

It is noteworthy that the benefit of the proposed dredging in channel considered in the project will only be availed by the vessels using the proposed HWB facility.

As far as the estimated dredging cost is concerned, the MBPT has considered a unit rate of ₹ 150/- per cu. mtr. towards soil dredging and considering the difficulties of working near the existing harbour wall berth, the port has considered the unit rate of ₹ 4000/- per cu.mtr. towards rock dredging. Since the MBPT has stated that the said rates are as per the prevailing market rates and also since the Feasibility Report takes into account the said rates, the same are considered as estimated by the port.

(e). Provisions have been made by the MBPT in the capital cost estimates towards Detailed engineering, Soil Investigation and Project supervision, Contingencies, Works Contract Tax and Environmental Mitigation cost. Similar cost components have been considered while fixing the upfront tariff in respect of multipurpose berth of KOPT and also in the proposal relating to Offshore multipurpose cargo berth at MBPT, concluded recently. Hence, the said cost elements are considered.

(f). The port has also estimated miscellaneous capital cost at 5% of the total berth construction cost plus dredging cost including the various other provisions as listed above, towards upfront payment, working capital margin and Interest during construction. The 2008 upfront tariff guidelines do not specifically provide for estimation of miscellaneous capital cost under berthing service. It is noteworthy that in case of the upfront tariff proposals determined for various projects of VPT, Coal terminal at VOCPT, multipurpose berths at KOPT, MOPT and MBPT, the miscellaneous capital cost at 5% has been considered to meet contingencies under the Berthing Service. Keeping in view the decision taken by this Authority in the above mentioned cases, it may not be unreasonable to allow 5% miscellaneous capital cost, in this case also.

(ii). Cargo handling activity:

(a). The upfront tariff guidelines broadly indicate the civil works involved for the multipurpose berth and require the port to estimate civil cost. However, in the case in reference, except for considering the cost relating to Dredging in the Channel in the estimation of civil costs under the cargo handling activity, as discussed earlier, no other civil works are envisaged under the cargo handling activity. In this regard, the MBPT is of the view that since the nature of the civil works relate to strengthening of Harbour Wall/ Berths, the said costs have been considered under the Berthing activity only. The position reported by MBPT is relied upon.

(b). For the reasons brought out earlier, provisions made by the MBPT in the civil capital cost estimates towards Detailed engineering, Soil Investigation and Project supervision, Contingencies, Works Contract Tax and Environmental Mitigation cost, are also considered.

(c). Equipment Cost:

(i). The position regarding deployment of 6 number of 30 tonne Wharf cranes and one no. of MHC has already been dealt in the earlier paragraphs.

(ii). Further, the MBPT has envisaged deployment of 6 nos. of hoppers, 3 nos. of bagging machines, 5 nos. of portable conveyors, 4 nos. of payloaders, 2 nos. of 20 tonne Forklift and 2 nos. of 10 tonne Forklift. The said fleet of equipment proposed to be deployed at the facility is not seen to be in line with fleet of equipment prescribed in the 2008 upfront guidelines for the multipurpose berth.

(iii). Inspite of repeated request to furnish an analysis to justify the number of each type of equipment envisaged to be deployed at the facility to show that given the productivity of each type of the equipment, the quantity of different equipment commensurate with the quantity of cargo estimated to be handled, the MBPT has not furnished such an analysis except for mentioning that it is as per the Feasibility Report. The Feasibility Report does not throw light on the adequacy or inadequacy of the fleet of equipment proposed to be used at the facility. Further, no justification has been furnished with reference to deployment of the above said equipment and the respective numbers.

Since the deployment of the above mentioned equipment is reported to be as per the Feasibility Report and also since, none of the users/ prospective bidders have objected to the equipping plan envisaged by the MBPT, this Authority is inclined to consider the equipping plan as envisaged by the MBPT, keeping in view clause 3.2 of the 2008 guidelines.

(iv). The cost of each of the equipment is reported to be based on the Feasibility Report. The unit rates considered by it are reported to be based on the market survey done at the time of preparation of Feasibility report (i.e. the year 2013) and based on the cost considered in Offshore Multipurpose Cargo Berth proposal for the similar equipment. Since the cost of each of the equipment is reported to be based on the Feasibility Report related to the year 2013, it is presumed that they reflect the current market rates and hence relied upon in the analysis.

(c). The miscellaneous capital cost is estimated at 5% on the entire civil and equipment cost towards upfront payment, working capital margin and Interest during construction, which is as per the norms prescribed in the guidelines for multipurpose cargo terminal as well as other cargo terminals.

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

(viii). Operating Cost:

(a). The MBPT in its revised proposal of November 2013 has stated to have considered 6132 working hours while calculating power and fuel cost. However, the working hours is seen to be considered at 6000 hours only for calculating power and fuel cost. The reason for this position remains unexplained. The power and fuel consumption for 6132 working hours per annum, which is at 70% utilization (i.e. 24 hours x 365 days x 70% utilization), as has been considered while estimating the power and fuel cost in respect of other upfront tariff cases is considered in this case also.

(b). Power cost:

The power cost has been estimated by the MBPT based on the power consumption of 100 units per hour per crane for 6 ELL cranes for operation of 6000 hours and at the cost of electricity at ₹ 7.90 per unit.

The 2008 upfront guidelines for the multipurpose berth prescribe the norm for calculating the power cost at 100 units per hour for a 20 tonne ELL crane. However, the MBPT has envisaged the same quantum of power consumption for use of higher capacity wharf crane of 30 tonne capacity. It may be recalled that for the reasons recorded in the analysis relating to fixation of Reference tariff for the Offshore multipurpose berth at MBPT and based on the estimation made by MBPT, a power consumption of 100 units per hour for a 30 tonne ELL crane was relied upon. The same position is being considered in this case also, as proposed by the port.

As discussed in the preceding paragraph, the calculation of power cost is based on 6132 working hours per crane.

The unit cost of electricity is considered at ₹ 7.52 per unit, as has been considered while fixing reference tariff for the Offshore Multipurpose Cargo Berth at MBPT, based on the documentary evidence then furnished by the MBPT.

(c). Fuel costs:

(i). The MBPT has stated that the fuel costs have been calculated for the MHC, bagging machines, portable conveyors, payloaders, 10 tonne Forklift and 20 tonne Forklift based on the TAMP Guidelines. In this regard, it is relevant to mention here that out of the list of equipment as given above, the upfront guidelines for the multipurpose berth prescribe fuel consumption only in respect of the 10 tonne Forklifts at 10 litres per hour and 10 tonne payloader at 12 litres per hour which has been correctly adopted by the MBPT. However, the MBPT has not explained the basis for consideration of the fuel consumption of 15 litres per hour in respect of MHC, 12 litres per hour in respect of bagging machines, 12 litres per hour in respect of portable conveyors and

20 litres per hour in respect of 20 tonne Forklifts. In the absence of fuel consumption norms for the list of equipment given above, the position as reported by MBPT is relied upon, in this analysis.

As discussed in the preceding paragraph, the calculation of fuel cost for each of the above mentioned equipment is considered for 6132 working hours.

The unit rate of fuel at ₹ 56/- per litre considered by MBPT has been updated with the prevailing rate of diesel at ₹ 60.70 per litre, which has been considered in the estimation of fuel cost of all the equipment in the analysis.

(d). Repairs and maintenance cost on civil work is estimated by MBPT at 1% on the civil cost and 5% on mechanical equipment cost, which is in line with the norms prescribed in the guidelines.

(e). The upfront guidelines prescribe a norm of 1% of the gross fixed assets for estimation of 'Insurance' and 5% of the gross fixed assets for estimation of 'Other Expenses'. However, the MBPT is seen to have estimated Insurance and Other Expenses at 1% and 5% of the cost of Mechanical works including the mechanical work component forming part of miscellaneous assets. In other words, the MBPT has excluded the cost of civil works from the estimation of Insurance cost and other expenses on the ground that the civil works comprise of cost of dredging only and that dredging does not form part of fixed assets. This position is considered in the analysis

(f). In line with the 2008 guidelines for upfront tariff fixation, Depreciation is computed at 10% on equipment cost as per the rates prescribed in the Companies Act, 2013 for the relevant group of assets, instead of the rate of 10.34% adopted by the MBPT based on the provisions of Companies Act, 1956.

The MBPT is not seen to have calculated depreciation on the Civil works forming part of the handling activity as well as on the civil cost component forming part of the Miscellaneous assets, based on the position that civil works comprise of cost of dredging only and that dredging does not form part of fixed assets. This position is considered in the analysis.

(g). The 2008 guidelines for upfront tariff 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. Licence fee has been estimated by the MBPT for 40000 sq. metres of land area at the rate of ₹ 50/- per sq.m per month. The rate of ₹ 50/- per sq.m./month is seen to be the rate of licence fee for open area prescribed in Section 3.3 of the Scale of Rates of MBPT relating to Licence Fees for storage/ cargo operation with or without installation of facilities, cargo handling equipment by the users for offshore activities. This position is considered in the analysis.

(ix). The guidelines require the operating cost for berthing service to be estimated at 1% of the berth cost.

The MBPT has considered insurance @ 1%, depreciation @ 3.34% and other expenses @ 5% on the capital cost relating berthing activity excluding dredging cost while estimating the annual revenue requirement of berthing service, apart from the prescribed norm of 1% towards maintenance.

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 were considered to assess the annual revenue requirement from berthing service.

In view of the position explained above, the element of insurance cost and depreciation cost are considered in this case also while estimating the operating cost for assessment of the revenue requirement from berth hire service. As has been done by the MBPT, the component of dredging cost is excluded while calculating the element of insurance cost and depreciation cost.

However, in no upfront tariff case of other major port trusts, other expenses to the tune of 5% of the berth cost is considered while determining the operating expenses relating to the berthing activity. Hence, the same is not considered in this case also.

(x). The statement for fixing upfront tariff submitted by the MBPT has been modified in line with the above analysis. A copy of the modified statement is attached as **Annex - I**.

(a). The annual revenue requirement for the Cargo handling activity which is the sum of the operating cost and return on capital employed is estimated at ₹ 120.19 crores as against ₹ 120.07 crores estimated by the port.

(b). As stipulated in the upfront guidelines for multipurpose cargo terminal, MBPT has apportioned 90% of the total revenue requirement towards handling charges and 5% each towards storage charges and miscellaneous charges.

(c). In the calculation of optimal capacity of the terminal, MBPT has considered the percentage share of four cargo items viz., Iron & steel products, Break bulk cargo, Bagged cargo and Containerised cargo. However, the per tonne cargo handling charges and storage charges have been determined for three cargo categories viz., Break bulk cargo, Bagged cargo and Unitized & containerised cargo. The category of Unitized and containerized cargo is seen to take into account the aggregate cargo share of Iron and steel products and containerized cargo. In other words, the MBPT has arrived at a uniform handling rate and uniform storage rate for both Iron and steel products and containerized cargo. In this regard, it is relevant to mention here that a uniform handling rate of 7500 tonnes per day as proposed by the port has been considered in respect of Iron and Steel products and Containerised cargo, while determining the optimal capacity for both the categories. Given that the handling rate is uniform, it may not be unreasonable to consider uniform charge for handling and uniform storage rate for both Iron and steel products and containerized cargo. Therefore, the per tonne handling charge and storage charge worked out for Unitised & Containerised cargo is considered as applicable for each of the cargo categories viz., Iron & steel products and Containerised cargo.

(d). With regard to calculation of per tonne handling charges, the MBPT, by taking into account its existing wharfage rates in respect of Unitised & Containerised cargo, Break bulk cargo and Bagged cargo and based on the position that the existing wharfage rate is not in a position to meet the estimated revenue requirement, the MBPT has determined the percentage of shortfall in the estimated revenue requirement based on the existing rates and sought the said percentage of increase over the existing rates. In this regard, it is relevant to mention here that consideration of existing rate of wharfage prevailing at MBPT as a base to determine the reference tariff for the operator may not be correct as the existing rates at MBPT are not based on the activity/ cargo based costing. Therefore, flow of cross subsidization from tariff of one cargo item to tariff of another cargo item cannot be ruled out. The legacy cost may also form part of the existing rates at MBPT, whereas legacy cost does not form part of costing of the new operator. Therefore, it is felt appropriate that the per tonne handling rates in respect of Iron & Steel products, Bagged cargo, Break bulk cargo and Containerised cargo is arrived based on the handling rates for each cargo category and the ratio of foreign and coastal cargo at 74 : 26 to meet the estimated revenue requirement, as has been considered while arriving at the per tonne handling rates in respect of various other multipurpose cargo berths including the Offshore multipurpose berth at MBPT, the reference tariff for which was recently determined. While doing so, the change in the capacity of the bagged cargo and the slight variation in the annual revenue requirement, as explained in the earlier paragraphs, have been taken into account.

(e). 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) and coastal vessels not exceeding 60% of the normal cargo/ vessel related charges. Accordingly, the MBPT has proposed concessional rates for handling Iron & Steel products, Break bulk cargo, Bagged Cargo and Containerised cargo in line with the Government policy.

(f). The MBPT has stated that the Wharfage charges cover services such as Labour, management and supervision of labour, control and supervision of cargo, operation and maintenance of cargo handling equipment etc. This provision is inserted as a Note in the Scale of Rates below the Wharfage Schedule.

(g). In the proposed Scale of Rates, the MBPT has proposed a free period of 5 days for all the import cargo and 15 days in respect of export cargo. Prescription of free period of 5 days in respect of import cargo and 15 days in respect of export cargo is as per the norms prescribed for the import and export cargo in the multipurpose berth.

The port has considered 30.70% of the cargo share capacity of Unitised and Containerised cargo (i.e. Iron & Steel products and Containerised cargo) and 3% of the cargo share capacity of each of Break bulk cargo and Bagged cargo to attract storage charge beyond the prescribed free period. The MBPT in its calculations has shown that the Break bulk cargo, Bagged cargo and Unitised and Containerised cargo would earn storage revenue for a period of 15.46 days.

With regard to calculation of storage charges also, the MBPT had based its calculation based on the existing storage charges in respect of Unitised & Containerised cargo, Break bulk cargo and Bagged cargo. For the reasons explained in the earlier paragraph, it may not be correct to consider the existing storage charges prevailing at MBPT as a base to determine the reference tariff for the operator. Based on the information relating to dwell time, percentage of cargo to attract storage charges as furnished by the MBPT, the storage charges in respect of Unitised & Containerised cargo, Break bulk cargo and Bagged cargo have been reworked. Based on the above position and in view of modification in the estimated annual revenue requirement, the rate for the first slab of 20 days after the expiry of free days is calculated at ₹ 2.10 per tonne per day in respect of all cargo proposed to be handled at the facility. The rate for the subsequent slabs is prescribed at 1.5 times and 2 times the rate of the first slab, as proposed by MBPT.

(h). The revenue requirement from berthing service is estimated at ₹ 45.12 crores by the port. The MBPT has proposed berth hire in dollar terms for foreign going vessel at $0.035 per GRT per hour or part thereof and in rupee terms for the coastal vessel at ₹ 1.29 per GRT per hour or part thereof.

The approach adopted by the MBPT to determine the berth hire is also based on the approach adopted by it to determine the handling and storage charges i.e. based on the percentage of increase required over the existing rates. In the case of berth hire charges, the charge is leviable on the vessel irrespective of its contents. Hence, the berth hire charges are calculated in the case in reference based on the normative approach adopted by this Authority in other upfront tariff cases.

Based on the ratio of foreign vessels and coastal vessels at 74 : 26 and taking into account the revised revenue requirement from berthing service and considering the ratio of the GRT hours of the coastal vessels and GRT hours of foreign going vessels as per the details furnished by the MBPT, the upfront berth hire rate works out to ₹ 5.271 per GRT per hour or part thereof for foreign going vessels and ₹ 3.162 per GRT per hour or part thereof for the coastal vessels. In this connection, it is relevant to mention here that the capital cost and operating costs under the berthing activity have all been considered with reference to four berths. Therefore, the berth hire derived as above is applicable for four berths. In case of occupation of only one berth by a vessel, the rate relevant for one berth should only be applied. Thus, in case of occupation of only one berth by a vessel, the upfront berth hire rate of ₹ 1.3178 per GRT per hour or part thereof on foreign vessels and ₹ 0.7906 per GRT per hour or part thereof on coastal vessels will be applicable. A suitable note in this regard has been prescribed in the Reference tariff Schedule under the Berth hire charges. Such an approach has been adopted while fixing the upfront tariff for development of West Quay-North berth (WQ-7 and WQ-8) in the inner harbour of Visakhapatnam Port Trust for handling dry bulk cargo.

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. Therefore, the berth hire charges for the foreign going vessel in MBPT is denominated in rupee, in line with the decision taken by this Authority in the other upfront tariff cases.

(xi). In the proposed reference tariff schedule, the MBPT has proposed definitions for the terms like ‘Coastal vessel’, ‘Foreign vessel’ and ‘Per day’. The said definitions are found to be in line with the definition prescribed for the said terms in the Scale of Rates of MBPT.

(xii). In the proposed reference tariff schedule, the MBPT has proposed some conditionalities like conditionalities prescribing criteria for categorizing of a vessel as a foreign going vessel or coastal vessel, non levy of charges for delay beyond a reasonable level attributable to the terminal, conditionalities governing levy of interest on delayed payments/ refunds, rounding off the bills/ gross weight etc., which are found to be in line with the general conditionalities prescribed in the Scale of Rates.

(xiii). Since no dollar denominated tariff is being prescribed, the conditionalities governing recovery of dollar denominated charges in Indian Rupees, as proposed by the MBPT are not approved.

(xiv). The conditionalities governing the flexibility provided to the terminal operator to levy charges lower than ceiling rates as has been incorporated in other Scale of rates, have been included in the reference tariff schedule of MBPT.

(xv). Under the Berth hire schedule, the MBPT has proposed conditionalities like calculation of period of berth hire from the time vessel occupies the berth, berth hire includes charges for services rendered at the berth, such as occupation of berth, rubbish removal, cleaning of berths, fire watch etc., non-levy of berth hire for the period when the vessel idles at its berth for continuous one hour or more due to breakdown of terminal operator's equipment or power or for any other reasons attributable to the terminal operator, Berth hire to stop 4 hours after the time of vessel signaling its readiness to sail, Exclusion of the ship's waiting time for want of favorable tide conditions, inclement weather, and due to lack of night navigation in the time limit of 4 hours prescribed for the cessation of berth hire, Penal Berth hire to be equal to one-day's (24 hours) berth hire charge for a false signal, definition for "False signal". These conditionalities are in line with the provisions prescribed in other upfront tariff schedules and hence prescribed in the reference tariff schedule of MBPT.

(xvi). Under the storage charges schedule, the MBPT has proposed conditionalities like exclusion of Sundays, customs notified holidays and port non workings days for the calculation of free period, storage charges to not accrue for period when the operator is not in a position to deliver the cargo due to reasons attributable to the operator, rounding off of demurrage charges, which are found to be in line with similar conditionalities prescribed in the other upfront tariff schedules..

(xvii). Under the storage charges schedule, the MBPT has prescribed a note to the effect that no charge will be levied on shut out cargo and that the Demurrage shall be levied on Shut out cargo from the date of admission of cargo into Terminal till and including the date of removal. The note also states that Shut out cargo must be removed by shippers on receipt of three days' notice from the Terminal Operator and that in the case of non-compliance, the Terminal Operator would remove such goods to a place at expenses of shippers. In this regard, it is relevant to mention here that a similar conditionality exists in the Scale of Rates of MBPT. Hence, the prescription of the note in the reference tariff schedule is approved. With reference to the comments of Indian Merchants Chamber (IMC) that charges for shifting, movement and storage of shut out cargo till it is shipped on the next vessel should be borne by shipping lines/ agents, it is relevant to mention that the conditionality deals with removal of shut out cargo and does not cover the scenario brought out by the IMC. For the scenario brought out by the IMC, the BOT operator may follow the procedure that is being followed by the MBPT.

(xviii). 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 may not be unreasonable to assume that the ports would propose reasonable and achievable Performance Standard.

The MBPT has proposed the Performance Standards in respect of Break bulk cargo, Bagged cargo, Containerised cargo and Iron & Steel products. The cargo items for which Performance Standards are proposed match with the cargo items for which tariff has been proposed in the Reference tariff schedule. The MBPT has proposed the Performance Standards by prescribing the indicative norms at 4000 tonnes per day in case of Iron & Steel and 2500 tonnes per day in respect of each of Break bulk cargo, Bagged cargo and Containerised cargo. Since these indicative norms were seen to be on a lower side when compared to the output of one berth at 7500 tonnes per day in case of each of Iron & Steel and Containerised cargo and 4000 tonnes per day in case of each of Break bulk and Bagged cargo considered in the optimal capacity calculation, the MBPT was requested to review the performance standards. In this regard, the MBPT has stated that review of performance standards is not necessary as the norms proposed for Performance Standards are minimum of what the Concessionaire is required to maintain and is based on the Model Concession Agreement and that it would be more appropriate.

While approving the proposal of Cochin Port Trust for fixation of Reference tariff for Coal Handling Terminal and the proposal of Mumbai Port Trust (MBPT) for fixation of Reference Tariff for multipurpose off shore cargo terminal, it has come to the notice of this Authority that the Performance Standards proposed by the concerned Major Port Trusts in these two recent cases are significantly lower.

Clause 2.5 of the 2013 revised tariff guidelines stipulates that the Reference Tariff and Performance Standards notified by TAMP would be mentioned in the bid document and subsequently in the Concession Agreement in respect of PPP Projects. As per the said guidelines, on the achievement of the Performance Standards at the level incorporated in the Concession Agreement, the operator is eligible to seek upward revision upto 15% over the indexed reference tariff. Thus, achievement of Performance Standards to claim tariff hike is the fulcrum of the 2013 guidelines. The Performance Standard to be notified by this Authority based on the proposal of the Major Port Trusts appears to have a significant impact on the tariff to be levied by the Operator during the entire period of Concession Agreement. In view of this provision of performance linked tariff envisaged in the 2013 guidelines, it may be appropriate that the Major Port Trust carryout due diligence and take sufficient care while proposing Performance Standards at a reasonable level instead of solely adopting the indicative norms appended at Appendix-15 – Performance Standards to the Model Concession Agreement issued by the Ministry of Shipping. As suggested in the Appendix-15, the norms are only indicative relating to gross berth day output for major cargo items and other parameters as well. Even if the Performance Standards proposed by port trust are lower than the handling rate considered in the calculation of optimal quay capacity, then as per the 2013 guidelines, the BOT operator will have the option of seeking tariff revision upto 15% over the indexed Reference Tariff on achieving the lower Performance Standards prescribed in the Concession Agreement without achieving any improvement in the performance. This perhaps may not serve the intended purpose for which the revised guidelines of 2013 are issued by the MOS linking achievement of performance while seeking tariff hike.

In view of the above position, the MOS has been requested to advise all the Major Port Trusts to propose reasonable and achievable Performance Standards which should not be lower than the output (handling) rate considered in the optimal quay capacity calculation of the PPP project.

Accordingly, in the present case of MBPT also, Performance Standards is prescribed based on output (handling) rate considered in the optimal quay capacity calculation. Thus, the Performance Standards are prescribed at 4000 tonnes per day at one berth in case of Bagged cargo, 2500 tonnes per day at one berth in case of Break bulk cargo and 7500 tonnes per day at one berth in case of Iron & Steel products and Containerised cargo.

Inspite of a specific request to prescribe the conditionalities governing the performance standards for the various cargoes, the MBPT has not prescribed the same. Recognizing that clause 2.2. of the revised guidelines of 2013 requires this Authority to notify the Performance Standards, the Performance Standards as modified by us is notified along with the Reference Tariff Schedule.

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

9.2. The modified Reference Tariff Schedule is attached as **Annex - II** and the Performance Standards for the Harbour Wall Berth at MBPT as modified by us is attached as **Annex - III**.

9.3. In the result, and for the reasons given above, the modified Reference Tariff Schedule for the Harbour Wall berth at MBPT is approved and notified alongwith the modified Performance Standards.

9.4. 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 MBPT 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.

10.1. 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.

10.2. 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 Concession Agreement or for the actual number of months of operation in the first year of operation as the case may be.

10.3. 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.

10.4. In the event of Operator not achieving the Performance Standards as incorporated in the Concession Agreement in previous 12 months, TAMP 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.

10.5. 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.

10.6. While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Operator. 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 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.

10.7. From the third year of operation, the Performance Linked Tariff proposal from the PPP operator 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 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 TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

10.8. In the event any user has any grievance regarding non-achievement by the PPP operator of the Performance Standards as notified by the TAMP, he may prefer a representation to TAMP 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.

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

10.10. The PPP operator shall furnish to TAMP 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 TAMP shall also be furnished to them from time to time.

10.11. TAMP shall publish on its website all such information received from PPP operator. However, TAMP shall consider a request from any PPP operator 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. TAMP's decision in this regard would be final.

(T.S. Balasubramanian)
Member (Finance)

ANNEX - I

REFERENCE TARIFF CALCULATION FOR THE HARBOUR WALL BERTH AT MUMBAI PORT TRUST.

₹ in crores

Sr. No.	Particulars	Revised estimates furnished by MBPT in November 2013	Estimates modified by TAMP
I	**Optimal capacity**		
	Optimal Quay Capacity		
(a)	Share of capacity of different cargo items		
	Percentage share of capacity of Iron & Steel Products (S1)	77%	77%
	Percentage share of capacity of Break Bulk Cargo (S2)	15%	15%
	Percentage share of capacity of Bagged Cargo (S3)	7%	7%
	Percentage share of capacity of Containerised Cargo (S4)	1%	1%
(b)	Handling rate of Vessels (4 Berths)		
	- Handling rate of vessels carrying Iron & Steel Products (P1)	30000	30000
	- Handling rate of vessels carrying Break Bulk Cargo (P2)	10000	10000
	- Handling rate of vessels carrying Bagged Cargo (P3)	10000	16000
	- Handling rate of vessels carrying Containerised Cargo (P4)	30000	30000
(c)	Optimal Capacity of the Terminal		
	Iron & Steel Products 0.7 * S1 * P1 * 365 tonnes per annum	5902050	5902050
	Break Bulk Cargo 0.7 * S1 * P1 * 365 tonnes per annum	383250	383250
	Bagged Cargo 0.7 * S1 * P1 * 365 tonnes per annum	178850	286160
	Containerised Cargo 0.7 * S1 * P1 * 365 tonnes per annum	76650	76650
	Optimal Capacity of 4 berths in metric tonnes / annum	**6520000**	**6648110**
	Optimal Capacity of 4 berths in million metric tonnes / annum	**6.52**	**6.65**
II	**Capital Cost**		
A.	**Cargo Handling Activity**	**₹ in crores**	
	(i). Civil Cost		
	- Dredging in Channel	207.00	207.00
	- Detailed Engineering, soil investigations & project supervision @7%	14.49	14.49
	- Contingencies @ 3%	6.21	6.21
	- Works contract tax @ 2.8%	5.80	5.80
	- Environment mitigation cost @ 0.5%	1.04	1.04
		234.53	**234.53**
	(ii). Equipment Cost		
	- 40 tonne Mobile Harbour Crane (1 no.)	24.52	24.52
	- 30 tonne ELL Cranes (6 nos.)	110.34	110.34
	- Mobile Hoppers (6 nos.)	2.10	2.10
	- Mobile bagging machine (3 nos.)	2.10	2.10
	- Portable conveyors (11m length) (5 nos.)	1.00	1.00
	- Pay Loaders (4 Nos.)	0.40	0.40
	- FLT 20T and 10T (2 nos. each) (4 nos.)	2.00	2.00
	- Elevated conveyors (Length 15m) (LS)	0.25	0.25
	- Lighting Buoys (75 nos.)	0.75	0.75
	- Beacon Lights (16 nos.)	0.16	0.16
	- Power distribution and area lighting (LS)	4.07	4.07
	- Detailed Engineering, soil investigations & project supervision @7%	10.34	10.34
	- Contingencies @ 3%	4.43	4.43
	- Works contract tax @ 2.8%	4.14	4.14
	- Environment mitigation cost @ 0.5%	0.74	0.74
		167.33	**167.33**
	(iii). Miscellaneous		
	- 5% on Civil Cost and Equipment Cost towards interest during construction	**20.09**	**20.09**
	Total Capital Cost for Handling Activity (i + ii + iii + iv)	**421.96**	**421.96**
B.	**Berth Hire Activity**		
	- Construction of berth	67.11	67.11
	- Cost of dredging	119.12	119.12
	- Detailed Engineering, soil investigations & project supervision @7%	13.04	13.04
	- Contingencies @ 3%	5.59	5.59
	- Works contract tax @ 2.8%	5.21	5.21
	- Environment mitigation cost @ 0.5%	0.93	0.93
	- Miscellaneous @ 5%	10.55	10.55
	Total capital cost for Berth hire Activity	**221.55**	**221.55**
	Total Project Cost (A + B)	**643.51**	**643.51**

Sr. No.	Particulars	Revised estimates furnished by MBPT in November 2013	Estimates modified by TAMP
III	**Operating Cost for Cargo Handling Activity**	₹ in crores	
	(a) Power (6 ELL cranes)	2.84	2.77
	(MBPT- 100 units/ hour/ crane * Rs. 7.90 per unit * 6000 hours pa for 6 cranes) (TAMP - 100 units/ hour/ crane* Rs. 7.52 per unit * 6132 hours pa for 6 cranes)		
	(b). Fuel Cost		
	- Harbour Mobile Crane (1 no.)	0.50	0.56
	(MBPT - 15 ltrs/ hour/ crane* Rs.56 per litre * 6000 hours pa for 1 HMC) (TAMP - 15 ltrs/ hour/ crane * Rs.60.70 per litre * 6132 hours pa for 1 HMC)		
	- Mobile bagging machine (3 nos.)	1.21	1.34
	(MBPT - 12 ltrs/ hour/ machine* Rs.56 per litre * 6000 hours pa for 3 machines) (TAMP - 12 ltrs/ hour/ machine * Rs.60.70 per litre * 6132 hours pa for 3 machines)		
	- Portable conveyors (11m length) (5 nos.)	2.02	2.23
	(MBPT - 12 ltrs/ hour/ conveyor* Rs.56 per litre * 6000 hours pa for 5 conveyors) (TAMP - 12 ltrs/ hour/ conveyor * Rs.60.70 per litre * 6132 hours pa for 5 conveyors)		
	- Pay Loaders (4 Nos.)	1.61	1.79
	(MBPT - 12 ltrs/ hour/ payloader* Rs.56 per litre * 6000 hours pa for 4 payloaders) (TAMP - 12 ltrs/ hour/ payloader * Rs.60.70 per litre * 6132 hours pa for 4 payloaders)		
	- FLT 20T (2 nos.)	1.34	1.49
	(MBPT - 20 ltrs/ hour/ forklift* Rs.56 per litre * 6000 hours pa for 2 FLT 20T) (TAMP - 20 ltrs/ hour/ forklift * Rs.60.70 per litre * 6132 hours pa for 2 FLT 20T)		
	- FLT 10T (2 nos.)	0.67	0.74
	(MBPT - 10 ltrs/ hour/ forklift* Rs.56 per litre * 6000 hours pa for 2 FLT 10T) (TAMP - 10 ltrs/ hour/ forklift * Rs.60.70 per litre * 6132 hours pa for 2 FLT 10T)		
	(c). Repair & Maintenance		
	- Civil Assets (1% on civil work)	2.35	2.35
	- Mechanical Equipment (5% on equipment cost)	8.37	8.37
	- Miscellaneous Assets (1% on civil work component & 5% of Equipment cost component)	0.54	0.54
	(d). Insurance (1% on Gross fixed assets)	1.76	1.76
	(e). Depreciation		
	- Civil Work @ 3.34%	0.00	0.00
	- Mechanical Works	17.30	16.73
	(MBPT - 10.34% on equipment cost) (TAMP - 10% on equipment cost)		
	- Miscellaneous Assets	0.87	0.84
	(MBPT - 10.34% on equipment component forming part of miscellaneous asset) (TAMP - 10% on equipment component forming part of miscellaneous asset)		
	(f). License Fee (Rs.50 per sqm per month)	2.40	2.40
	(g). Other Expenses (5% on cost of mechanical works and on the component of mechanical works forming part of Miscellaneous assets)	8.78	8.78
	Total Operating Cost	**52.56**	**52.68**
IV	**Estimated Revenue Requirement & upfront tariff for Cargo Handling Activity**		
A.			
(i).	**Estimated Revenue Requirement**		
	(a). Total Operating Cost	52.56	52.68
	(b). Return on capital Employed @ 16%	67.51	67.51
	(c). Total Revenue requirement from cargo handling activity	**120.07**	**120.19**
(ii).	**Apportionment of Revenue Requirement**		
	(a). Cargo Handling Charges (90% of ARR)	108.07	108.17
	(b). Storage Charges (5% of ARR)	6.00	6.01
	(c). Miscelleneous Charge (5% of ARR)	6.00	6.01
	(d).Total Revenue requirement from cargo handling activity	**120.07**	**120.19**
(iii).	**Cargo Handling charge**		
	(a). Cargo Handling Charge		
	- Revenue Requirement (Amount in ₹)	1080651084	1081716971
	- Optimal Capacity of Iron & Steel Products	5902050	5902050
	- Optimal Capacity of Break bulk cargo	383250	383250
	- Optimal Capacity of Bagged cargo	178850	286160
	- Optimal Capacity of Containerised cargo	76650	76650
	- Per Tonne rate for handling of Iron & Steel Products	**201.00**	**157.50**
	- Per Tonne rate for handling of Break bulk cargo	**57.80**	**472.51**
	- Per Tonne rate for handling of Bagged cargo	**57.80**	**295.32**
	- Per Tonne rate for handling of Containerised cargo	**201.00**	**157.50**
	(b). Storage Charge		
	- Revenue Requirement (₹ in crores)	60036171	60095387
	- % of Cargo to attract storage charge		
	- Iron & Steel Products and Containerised cargo)	30.60%	30.60%
	- Break Bulk cargo and Bagged cargo	3.00%	3.00%
	- Capacity of cargo to attract storage charge (million tonnes)		
	- Iron & Steel Products and Containerised cargo)	1829482	1829482
	- Break Bulk cargo	11498	11498
	- Bagged cargo	5366	8585
	Storage Charge (beyond the free period) for Break Bulk Cargo, Bagged Cargo and Iron & Steel products and containerised cargo	**Rate Per tonne per day or part thereof**	**Rate Per tonne per day or part thereof**
	-First to 20th day	**2.97**	**2.10**
	-21st day to 40th day	**4.45**	**3.15**
	-41st day onwards	**5.93**	**4.20**
	(c). Miscelleneous Charge		
	- Revenue Requirement (₹ in crores)	60036171	60095387
	- Capacity (million Tonnes per annum)	6520000	6648110
	- Miscellenous Charge (₹ per tonne)	**9.21**	**9.04**

Sr. No.	Particulars	Revised estimates furnished by MBPT in November 2013	Estimates modified by TAMP
B.	BERTH HIRE CHARGES		
(i).	Revenue Requirement	₹ in crores	
	(a). Repairs & Maintenance Charge (1% on captial cost for berth)	2.22	2.22
	(b). Depreciation (3.34% of gross block excl. dredging cost)	2.67	2.67
	(c). Insurance (1% of gross block excl. dredging cost)	0.80	0.80
	(d). Other expenses on civil & mech (5% of gross block excl. dredging cost)	3.99	0.00
	Subtotal (i)	**9.67**	**5.68**
(ii).	Return on capital Employed @ 16%	**35.45**	**35.45**
	Total Revenue requirement from Berthing services (i + ii)	**45.12**	**41.13**
	Berth hire Charge		
	Foreign going vessel (Rate per GRT per hour)	**$0.035**	**5.271**
	Coastal vessel (Rate per GRT per hour) in ₹	**1.29**	**3.162**

Berth Hire Calculation as furnished by MBPT

Sr. No.	Particulars	Unit	Break Bulk Cargo	Bagged Cargo	Unitised & Containerised cargo
i	Parcel Size	Tonnes or PCU	30000	25000	20000
ii.	Vessel Size	DWT	40000	40000	40000
iv.	Average GRT	GRT hours	19500	16250	13000
v.	Expected traffic	Million tonnes	0.38	0.19	5.83
vi.	Daily throughput of Berth	TPD or PCU	2500	2500	7500
vii	No. of Berth days	Berth Days	9	9	1.7
viii.	No. of Berth hours	Hours	216	216	40.8
ix.	No. of Vessels	Nos.	13	8	292
xii.	Total GRT hours { iv * ix}	GRT hours	247783	123937	3792459
xiii.	Revenue Requirement				**45.12**
	Berth hire - foreign going vessel (in US$)				**0.035**
	Berth hire - (in Rupees)($0.03576*Rs.60)				**2.15**
	Berth hire - coastal vessel				**1.29**

Berth Hire Calculation as per TAMP Estimates

Sr. No.	Particulars	Unit	Break Bulk Cargo	Bagged Cargo	Unitised & Containerised cargo	Total
i	Ship day output	Tonnes/day	10000	16000	30000	
ii.	Average GRT	Tonnes	19500	16250	13000	
iii.	Average parcel size	Tonnes	30000	25000	20000	
iv.	Tonnage expected to be handled	Tonnes	383250	286160	5978700	6648110
v.	Average no. of berth days (iv / i)	Days	38	18	199	256
vi.	No. of berth hours {24 x (v)}	Hours	920	429	4783	6132
vii	Expected number of vessels (iv / iii)	Nos.	13	11	299	
xi.	Total GRT hours (ii x vi)	GRT hours	17936100	6975150	62178480	87089730
xii.	Revenue Requirement	Rupees				411281920
	Working for foreign vessel 74% and coastal vessel 26%)					
	87089730 * 74% * x + 87089730 * 26% * 0.6x =					411281920
	64446400.2 x + 13585997.88 x =					411281920
	x = Foreign going vessel rate					**5.271**
	Coastal vessel Rate = 0.6 x foreign going vessel rate					**3.162**

Annex – II

MUMBAI PORT TRUST

Reference Tariff Schedule for the Multipurpose Harbour Wall Berths.

DEFINITIONS

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

(i). “Coastal Vessel” means 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 license issued by the competent authority.

(ii). “Foreign Vessel” means any vessel other than a coastal vessel.

(iii). “Per day” means per calendar day unless otherwise stated.

GENERAL TERMS & CONDITIONS

(i). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, or Mercantile Marine Department or Registrar of Indian Ships or Maharashtra Maritime Board or issued under Coastal vessels Act, Inland vessels Act 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.

(ii) (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 or on filing of Coastal International General Manifest in Coastal Establishment Section of Customs Department.

(b). A foreign going vessel of Foreign Flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping.

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

(d). In cases of such conversion, coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign-going rates shall be chargeable by the discharge ports.

(e). 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.

(f). For vessels visiting the port other than for cargo operations the conditions referred in (c) and (d) above shall not apply.

(iii). Users will not be required to pay charges for delays beyond a reasonable level attributable to the Terminal operator.

(iv). Interest on delayed payments / refunds:

(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. The penal interest rate will apply to both the Terminal Operator and the user equally.

(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 will not apply to the case where payment is to be made before availing of the services / use of port properties as stipulated in the MPT Act, 1963 and / or prescribed as a condition in the tariff.

(e). Interest will be calculated for the actual no. of days from the date of raising the bills till the date of payment.

(v). The minimum charges recovered in any bill shall be Rupees Hundred (₹100/-) only.

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

(vii). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.5 shall be taken as 0.5 unit and fractions of 0.5 and above shall be treated as one unit, except where otherwise specified.

(viii). No claims for refund shall be entertained unless the amount refundable is ₹100/- or more likewise Terminal shall not raise any upplementary / under charge bills & interest bills if the amount due to port is less than ₹100/-.

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

(b). The Terminal Operator may also, if he so desires, rationalize the prescribed conditionality 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.

(c). Provided that the Terminal Operator should notify the public such lower rates and / or rationalization of the conditionality governing the application of such rates and continue to notify the public any further changes in such lower rates and / or in the conditionality governing the application of such rates, provided the new rates fixed shall not exceed the rates notified by the TAMP.

WHARFAGE CHARGES:

(₹ per MT)

	Break Bulk Cargo	**Bagged Cargo**	**Iron & Steel**	**Containerised Cargo**
Foreign	472.51	295.32	157.50	157.50
Coastal	283.51	177.19	94.50	94.50

Note:
The Wharfage charge covers services such as labour, management and supervision of labour, control & supervision of cargo, operation & maintenance of cargo handling equipment etc.

BERTH HIRE CHARGES:

	₹ Per GRT per hour or Part thereof

Type of Vessel	Foreign	Coastal
All Vessels	5.271	3.162

Notes:

(i). Incase of occupation of only one berth by a vessel, 25% of the respective berth hire charges as mentioned above are leviable for the foreign going vessels and coastal vessels.

(ii). The period of berth hire shall be calculated from the time vessel occupies the berth.

(iii). Berth hire includes charges for services rendered at the berth, such as occupation of berth, rubbish removal, cleaning of berths, fire watch etc. Berth Hire charges covers operation & maintenance of berth, Marine structures & dredging etc.

(iv). No berth hire shall be levied for the period when the vessel idles at its berth for continuous one hour or more due to breakdown of terminal operator's equipment or power or for any other reasons attributable to the terminal operator.

(v). (a). Berth hire shall stop 4 hours after the time of vessel signaling its readiness to sail.

(b). The time limit of 4 hours prescribed for the cessation of berth hire shall exclude the ship's waiting time for want of favorable tide conditions, inclement weather, and due to lack of night navigation.

(c). The master/ agent of the vessel shall signal readiness to sail only in accordance with favorable tidal and weather conditions.

(vi). The Penal Berth hire shall be equal to one-day's (24 hours) berth hire charge for a false signal.

"False signal" would be when the vessel signals readiness and asks for a pilot in anticipation even when she is not ready for un-berthing due to engine not being ready or cargo operation not completed or such other reasons attributable to the vessels. This excludes the signaling readiness when a vessel is not able to sail due to unfavorable tide, lack of night navigation or adverse weather conditions.

MISCELLANEOUS CHARGES

Type of Cargo	₹ Per Metric Tonne
All Cargo	9.04

Note:
Miscellaneous charges prescribed above is a composite charge for provision of all miscellaneous services such as sweeping of cargo on the wharf, weighment of cargo, dust suppression etc.

STORAGE CHARGES:

Amount in ₹ Per tonne per day

Commodities	**For 1st to 20th day**	**For 21st to 40th day**	**From 41st day onwards**
All types of cargo	2.10	3.15	4.20

Notes:

(i). No storage charge shall accrue for the period during which the terminal operator is not in a position to deliver cargo when requested by the user for reasons attributable to the terminal operator.

(ii). All import goods will be allowed storage in the docks free of demurrage for five days from the date following the day of complete discharge of vessel's cargo. All export goods will be allowed storage in the docks free of demurrage for fifteen days commencing from the date of admission of cargo into the port.

(iii). The purpose of calculation of free days Sunday's, Customs notified holidays and port non-operating days will be excluded.

(iv). Demurrage charges will be assessed on the gross weight of the goods. Gross weight if not in exact multiples of 100 Kgs. will be rounded off to the next higher multiple of 100 Kgs. for levy of charges.

(v). No charge will be charged on shut out cargo. Demurrage shall be levied on Shut out cargo from the date of admission of cargo into Terminal till and including the date of removal. Shut out cargo must be removed by shippers on receipt of three days' notice from the Terminal Operator. In case of non-compliance, the Terminal Operator may remove such goods to a place at expenses of shippers.

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, 2013 and 1^{st} 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^{st} April of the relevant year to 31^{st} March of the following year.

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Annex - III

PERFORMANCE STANDARDS

Development of Harbour Wall Berths at Mumbai Port on Design, Build, Finance, Operate & Transfer (DBFOT) Basis

Sl. No.	Cargo Category	Performance Indicator
1.	Break Bulk	2500 T/Day
2.	Bagged Cargo	4000 T/Day
3.	Containerized cargo	7500 T/Day
4.	Iron and Steel	7500 T/Day

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

F. No.TAMP/48/2013 -MBPT	**-**	**Proposal from the Mumbai Port Trust (MBPT) for fixation of upfront tariff for proposed Harbour Wall Berth at MBPT**

A summary of comments received from users / user organisations and shortlisted bidders and the comments of MBPT thereon are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Comments of concerned users/ user organisations and Shortlisted Bidders</th><th>Reply of MBPT</th></tr>
<tr><td>1.</td><td>Indian Merchants' Chamber</td><td></td></tr>
<tr><td>(i).</td><td>The proposed hike in the existing Scale of Rates is based, due to the high cost to be incurred towards dredging and creation of a Channel to allow ships to come alongside the Harbour Wall. The cost of creation of 10 meter wide and 883 meter long pile supported platform with a depth of 14.6 MCD to cater the vessels upto 40000 DWT is the reason for the said proposal.</td><td></td></tr>
<tr><td>(ii).</td><td>We find the rates quoted for Unitized Containerized Cargo at 191.7 per M.T for Foreign and 115.0 per M.T for Coastal Cargo, is exorbitantly high.</td><td rowspan="2">Reference tariff proposed for unitized and containerized cargo are calculated as per the tariff guidelines for the upfront tariff fixation. Further, reference tariff approved by TAMP is ceiling rate & BOT operator may reduce it.</td></tr>
<tr><td>(iii).</td><td>In our view, the said rates should be reduced by a minimum 50 to 60% of the proposal and should be not more than ₹85 per M.Ton.</td></tr>
<tr><td>(iv).</td><td>With regard to the General Notes on the Demurrages, and the accountability by the Service Providers, we refer to particularly Serial No.4 of the said General Notes to Demurrages.
= Sr. No.4 "No Charge will be charged on shut out cargo. Demurrage shall be levied on Shut out cargo from the date of admission of cargo into Terminal till and including the date of removal. Shut out cargo must be removed by shippers on receipt of three days' notice from the Terminal Operator. In case of non-compliance, the Terminal Operator may remove such goods to a place at expenses of shippers".

With reference to the above note, we would like to make it emphatically clear, that any cargo, that has been Shut Out at the Cargo Terminal, all Charges and all costs incurred for shifting, movement and storage till the cargo is shipped on the next vessel, must be borne and</td><td>Conditions proposed are as per approved existing Scale of Rates of Mumbai Port. TAMP may take a view.</td></tr>
</table>

	recovered solely from the Shipping Lines/Agents, to whom the cargo was delivered and handed over. The shippers and the Trade, which is also a Customer of the Port, should not be wrongly penalized due to the inefficiency and irresponsible action of the shipping Lines/Agents or Multimodal Operators/Forwarders to whom the cargo has been handed over and who have failed to ensure, that the cargo is loaded on the very same vessel, for which it was originally carted.	
(v).	It is requested that the said provisions be amended suitably.	
2.	**Indian National Shipowners Association**	
	No comments to offer.	---

2. A joint hearing in this case was held on 18 October 2013 at the Office of this authority. At the joint hearing, the MBPT and the concerned users and user organisation bodies have made the following submissions:

<u>Mumbai Port Trust</u>

(i). There are four berths measuring 880 metres.
(ii). The project cost is abnormal, in the sense that 60% of the project cost is towards dredging. Cost of Dredging in the berth pocket has been considered under berth hire. Cost of Dredging in the channel has been considered in the cargo handling.
(iii). Around 40000 sq.m of backup facility is envisaged.
(iv). Proposed rates may be granted to take up the project.
(v). If the response to the project is not encouraging, we may have to restructure the project. But, the project stands as of now.

<u>ICC Shipping Association</u>

(i). There should be some reservation in the form of Priority berthing for Coastal vessels.
(ii). Some concession in tariff is also required for Coastal vessels.

(**MBPT**: At present there is no Government policy for reservation of space on priority basis for coastal vessels. But we provide concession in tariff as per the Government policy. The users can have MOU with the successful BOT operator.)

<u>Association of Multimodal Transport Operators of India</u>

No comments to offer.
