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Tariff Authority for Major Ports

G.No.319 **New Delhi,** **10 August 2016**

NOTIFICATION

In exercise of the powers conferred by Sections 48 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 Kandla Port Trust for revision of its Scale of Rates as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/18/2016-KPT

Kandla Port Trust - - - **Applicant**

QUORUM:

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Rajat Sachar, Member (Economic)

O R D E R
(Passed on this 21st day of June 2016)

This case relates to the proposal dated 22 February 2016 received from Kandla Port Trust (KPT) for general revision of its Scale of Rates (SOR) under Tariff Policy, 2015.

2. The existing SOR of KPT was last approved by this Authority vide Order No.TAMP/61/2009-KPT dated 18 January 2011. The validity of the SOR of the KPT prescribed in the said Order was till 31 March 2013. The validity of the existing SOR of KPT has been extended from time to time and the last extension has been granted till 30 June 2016 or till the effective date of implementation of the revised Scale of Rates, whichever is earlier, vide Order No.TAMP/61/2009-KPT dated 30 March 2016.

3. The KPT in its proposal dated 22 February 2016 has given the following background for filing its general revision proposal:

(i). The KPT, vide letter No.FA/COST/1021-R(2012-13)/509 dated 02.09.2014, had sent the Tariff Revision proposal, duly approved by the Board at its meeting held on 12.08.2014, for approval of the TAMP and followed by letter dated 20.01.2015, 17.03.2015 & 27.03.2015.

(ii). Meanwhile, the TAMP vide its letter No.TAMP/21/2009 –WS dated 21.01.2015, forwarded the new tariff policy for Major Port Trusts.

(iii). Further, the TAMP vide e-mail dated 30.01.2015 forwarded the draft working guidelines to operationalize the "Policy for determination for tariff for Major Port Trusts, 2015".

(iv). The TAMP, vide its Order No.TAMP/45/2014-KPT dated 13.02.2015, advised the Kandla Port Trust to file revised proposal for General Revision of Scale of Rates in accordance with the New Tariff Policy of 2015. The Kandla Port Trust vide letter dated 31.3.2015, had requested the TAMP to grant interim relief to mitigate the loss being suffered by the Port as Revision of Scale of Rates was due since 01.04.2013. However, TAMP vide its letter dated 06.05.2015, had advised to file fresh proposal for general Revision of tariff following the Tariff Policy, 2015.

(v). Thereafter, the notified "Working Guidelines to operationalise the Tariff Policy for Major Port Trust, 2015" has been issued by TAMP vide G. No. 207 dated 2.06.2015, communicated vide letter No. TAMP/21/2009/WS dated 08.06.2015.

(vi). In this backdrop, the KPT has filed its proposal vide its letter no.FA/COST/1170/133 dated 22 February 2016 for general revision of its Scale of Rates following Tariff Policy 2015.

4. The background given by KPT for filing its proposal dated 22 February 2016 does not give the complete picture. It is relevant to state that the KPT had earlier filed a proposal for revision of its SOR vide its letter dated 3 January 2013 which was registered as tariff case and taken on consultation with relevant stakeholders. The sequence of events from January 2013 till the KPT filed the current proposal is summarised below:

(i). On preliminary scrutiny of the KPT proposal dated 03 January 2013, the KPT was requested to furnish additional information/ clarifications vide our letter dated 17 April 2013. The KPT did not furnish the relevant information / clarifications despite several reminders. A joint hearing on its proposal was being set up.

(ii). The KPT, however, stated that it will file a revised proposal updating estimates of 2012-13 with actuals vide its letter dated 11 June 2013 and requested to hold joint hearing on the updated proposal to be filed by the port.

(iii). Since the updated proposal from KPT was not forthcoming despite regular follow up and the proposal was pending for disposal, the KPT was, vide our letter dated 11 November 2013, advised to file its updated proposal along with the information/clarification sought by us vide our letter dated 17 April 2013 by 30 November 2013. The port was also conveyed the decision of this Authority that if the updated proposal along with the information/clarification sought is not received by 30 November 2013, this Authority will be constrained to close the case as withdrawn and the revised updated proposal when received from the port will be processed afresh following the consultation process prescribed.

(iv) (a). The KPT, vide its letter dated 26 November 2013 submitted that it has formulated its revised proposal after updating financial results of 2012-13 and circulated it to the users for consultation. The revised final general revision proposal will be placed before its Board and after obtaining approval of the Board, the revised proposal will be submitted to the Authority for consideration and approval.

(b). Along with its letter dated 26 November 2013, the KPT had also forwarded a copy of the Office Memorandum no. PD-24018/31/2013-PD-III dated 26 September 2013 of the Ministry of Shipping (MOS) regarding minutes of the meeting held on 15 April 2013 of the Consultative Committee of the Members of Parliament attached to the Ministry of Shipping (MOS).

(c). The Minutes of the Meeting of the Consultative Committee of the Members of Parliament forwarded by the KPT showed an issue raised by one Hon'ble Member of Lok Sabha relating to the proposal of KPT for revision in its Scale of Rates. The minutes of the said meeting recorded the direction of Secretary (Shipping) to Chairman, KPT to modify the proposal for increasing the SOR and send a fresh proposal to TAMP in consultation with Joint Secretary (Ports).

(d). The KPT had concluded in its letter dated 26 November 2013 that the revised general revision proposal will be filed by the port after seeking approval from its Board in the ensuing meeting. In view of the above position, the KPT had requested not to close the case as withdrawn at that juncture.

(v). In view of the above request, the KPT was, vide our letter dated 20 January 2014, advised to file its revised general revision proposal latest by 15 February 2014. While filing its revised proposal, the KPT was advised to confirm that the revised proposal is filed in consultation with the Joint Secretary (Ports) as per direction of the Secretary (Shipping) recorded in the minutes of the Meeting of the Consultative Committee of the Members of Parliament held on 15 April 2013, forwarded by the KPT along with its letter dated 11 November 2013.

(vi). Subsequently, the KPT vide its letter no. FA/COST/1021/2012-13/324 dated 16 May 2014 has stated that looking to the present economic condition, the KPT Board in its meeting held on 24 March 2014 has decided to defer the proposal for general revision of SOR based on the decision of the Board to keep the proposal in abeyance till the traffic situation improves.

(vii). Thus, the KPT did not file the proposal, but requested to keep its proposal in abeyance without indicating any specific time frame to file its proposal. Since the proposal was registered as a "tariff case" and it was not appropriate to keep the proposal pending indefinitely, this Authority vide its Order No.TAMP/73/2012-KPT dated 4 July 2014 decided to close the case for want of revised proposal from KPT. This Authority also advised the KPT to file its fresh proposal for general revision of its SOR based on 2013-14 actuals latest by 31 August 2014 for fresh treatment.

(viii). In this backdrop, the KPT filed its revised proposal dated 2 September 2014 for revision of its SOR which was taken on consultation with relevant stakeholders for their comments. Joint hearing as part of the consultation process was to be set up.

(ix). In the meantime, the Ministry of Shipping (MOS), vide its letter No.8(1)/2014-TAMP dated 13 January 2015 has issued the new "Policy for determination of Tariff for Major Port Trusts, 2015 which is notified in the Gazette of India vide Gazette No.30 dated 27 January 2015 by this Authority. The new "Policy for determination of Tariff for Major Port Trusts, 2015" has come into effect from 13 January 2015.

(x). The tariff fixation process envisaged in the new Tariff Policy of 2015 for Major Port Trust by MOS, is significantly different from the tariff fixation method stipulated in the Tariff Guidelines of 2005. This Authority, therefore, passed an Order no.TAMP/45/2014-KPT dated 13 February 2015 closing general revision proposal of KPT dated 2 September 2014 and advised to file a revised proposal in accordance with the new Tariff policy of 2015 announced by the MOS.

(xi). As per Clause 1.5. of the Tariff Policy 2015, draft Working Guidelines to operationalize the Tariff Policy 2015 was issued to all Major Port Trust including KPT on 30 January 2015. A meeting was held on the said draft Working Guidelines with all Major Port Trusts on 18 April 2015. Subsequently, Working Guidelines to operationalize the Tariff Policy 2015 finalized in consultation with all Major Port Trusts was notified in the Gazette of India on 4 June 2015.

(xii). In the meantime, the KPT vide its letter dated 31 March 2015 requested this Authority to reconsider its proposal and grant interim SOR. In this regard, a letter was addressed to KPT vide our letter no. TAMP/45/2014-KPT dated 6 May 2015 bringing out the factual position that in view of the new Tariff Policy 2015 issued by MOS which is effective from 13 January 2015, its proposal dated 2 September 2014 was closed by this Authority. Since new Tariff Policy 2015 is effective from 13 January 2015 a fresh proposal has to be filed by the KPT under ibid policy and taking into consideration the draft working guidelines forwarded vide our letter dated 30 January 2015 and subsequent discussion held on the same on 18 April 2015 with all the Major Port Trusts including KPT.

(xiii). The KPT, however, did not file its proposal under Tariff Policy 2015. But, KPT regularly sought extension of its SOR. At the request of KPT, this Authority extended the validity of SOR from time to time vide its Order dated 2 January 2015, and subsequent Orders dated 28 April 2015, 10 November 2015 and 30 March 2016 as valid SOR is required for the port to apply the rates. In the Order dated 10 November 2015, while extending the validity of SOR till 31 March 2016, the KPT was again directed to file its proposal by 31 December 2015.

(xiv). Finally, the KPT after regular follow up has filed the proposal under Tariff Policy 2015 vide its letter dated 22 February 2016 almost after a year after the advice rendered by this Authority vide Order dated 12 February 2015 to file its proposal under Tariff Policy 2015.

5. The KPT in its proposal dated 22 February 2016 for general revision of its Scale of Rates under Tariff Policy 2015 has furnished cost statement in the format prescribed alongwith proposed SOR and Performance Standards. The highlights of the proposal submitted by the KPT are as follows:

(i). The KPT has furnished detailed computation of Annual Revenue Requirement (ARR) as per Form 1. The ARR computation furnished by KPT is tabulated below:

(₹ in lakhs)

Sl. No.	**Description**	**Y1 (2011-12)**	**Y2 (2012-13)**	**Y3 (2013-14)**
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses	37799.49	37357.81	45160.30
(ii).	Depreciation	4579.31	4622.43	4918.18
(iii).	Management & general Overheads	8219.00	9516.48	9943.95
(iv).	Finance and Miscellaneous expenses (FME)	8888.88	7830.35	27467.23
	Subtotal 1=(i)+(ii)+(iii)+(iv)	**59486.68**	**59327.07**	**87489.66**

(2).	**Less Adjustments:**			
(i).	Estate related expenses			
	(a). Operating expenses	640.42	862.37	1192.08
	(b). Depreciation	22.00	23.00	23.63
	(c). Management & Administrative Overheads	355.17	432.66	580.59
	(d). Allocated FME	342.82	337.87	479.59
	Subtotal 4(a)(i)=[(a)+(b)+(c)+(d)]	**1360.41**	**1655.9**	**2275.89**
(ii).	**Interest on loans**	15.00	15.00	15.00
(iii).	**4/5th of One time expenses, if any like arrears of wages, arrears of pension / gratuity, arrears of exgratia payment, etc. (list out each of the items)**			
	(a). Wage Revision arrears	0.00	0.00	0.00
	(b).	0.00	0.00	0.00
	(c).	0.00	0.00	0.00
	Subtotal 2(a)(iii) = [(a)+(b)+(c)]	0.00	0.00	0.00
(iv).	**4/5th of the Contribution to the Pension Fund**	4351.20	4480.00	16276.00
(v).	**Management and General overheads over & above 25% of the aggregate of the operating expenditure and depreciation**	0.00	0.00	0.00
(vi).	**Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10. of the Tariff Policy, 2015.**			
	(a). Operating Expenses	0.00	0.00	0.00
	(b). Depreciation	0.00	0.00	0.00
	(c). Allocated Management and Administrative Overheads	0.00	0.00	0.00
	(d). Allocated FME	0.00	0.00	0.00
	Subtotal 2(a)(vi) = [(a)+(b)+(c)+(d)]	**0.00**	**0.00**	**0.00**
	Total of 2(a) = 2(a)(i) + 2(a)(ii) + 2(a)(iii) + 2(a)(iv) + 2(a)(v) + 2(a)(vi)	**5726.61**	**6150.90**	**18566.89**
(3).	**Total Expenditure after Total Adjustments (3=1-2)**	**53760.07**	**53176.17**	**68922.77**
(4).	Average Expenses of Sl. No. 3 = [Y1 + Y2 + Y3] / 3	58619.67		
(5).	**Capital Employed**			
	(i). Net Fixed Assets as on 31.03.2014 (As per Audited Annual Accounts)	82882.71		
	(ii). Add: Work in Progress as on 31.03.2014 (As per Audited Annual Accounts)	31882.98		
	(iii). Less: Net value of Fixed assets related to Estate activity as on 31.03.2014 as per Audited Annual Accounts.	367.32		
	(iv). Less : Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2014 as per Audited Accounts.	0.00		
	(v). Less : Net value of fixed assets as on 31 March 2014 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10. of the Tariff Policy, 2015.	0.00		
	(vi). Add : Working Capital as per norms prescribed in clause 2.5. of the Working Guidelines			
	(a). Inventory	68.97		
	(b). Sundry Debtors	1855.33		
	(c). Cash	31.54		
	(d). Sum of (a)+(b)+(c)	1955.84		
	(vii). Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]	116354.21		
(6).	**Return on Capital Employed 16% on Sl. No. 5(vii)**	18616.67		
(7).	**Annual Revenue Requirement (ARR) as on 31 March 2014 [(4)+ (6)]**	77236.34		
(8).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15 I.E. @6% (7*1.06)**	**81870.52**		
(9).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16 I.E. @ 3.82% (8*1.0382)**	**84995.46**		
(10).	**Ceiling Indexed Annual Revenue Requirement (ARR)**	**84995.46**		
(11).	**Revenue Estimation at the Proposed SOR within the Ceiling Indexed ARR estimated at Sr. No.10 above.**	**85011.92**		

(ii). (a). Average increase proposed in existing Tariff is 37.36%. The hike proposed by KPT in various activities of Kandla and Vadinar are as follows:

SR. NO.	ACTIVITY	PROPOSED HIKE IN %
I	KANDLA	

A.	VESSEL RELATED CHARGES	
1.	PORT DUES	25%
2.	PILOTAGE ETC.	25%
3.	BERTH HIRE(CRANE BERTH)	100%
4.	BERTH HIRE(NON-CRANE BERTH)	50%
5.	LIQUID BERTH/STREAM DUES/ANCHORAGE	40%
6.	DRY DOCKING CHARGES	100%
B.	CARGO RELATED CHARGES	
(I)	WHARFAGE CHARGES	
1.	COAL & FERTILIZER	40%
2.	FOODGRAIN (BULK)	67%
3.	OIL CAKES & FODDER	67%
4.	SALT	400%
5.	POL PRODUCTS	90%
6.	EDIBLE OIL & NON-HAZARDOUS CHEMICALS	67%
7.	TIMBER	25%
8.	OTHER COMMODITIES	25%
9.	BAGGED SUGAR & FOODGRAINS	NIL
10.	CONTAINERISED CARGO	NIL
(II)	LICENSE FEES (OPEN SPACE)	100%
	(COVERED)	55%
(III)	DEMURRAGE CHARGES	25%
(IV)	CONTAINER STORAGE CHARGES	NIL
(VII)	ON BOARD LABOUR CHARGES	NIL
(VIII)	MISC. CHARGES	25%
II	VADINAR	
1.	PORT DUES	150%
2.	PILOTAGE ETC	109.70%
3.	BERTH HIRE, ANCHORAGE ETC	40%
4.	WHARFAGE- CRUDE OIL	50%

Note: Kandla rates shall be applicable to Tuna port.

(b). The KPT has forwarded draft proposed Scale of rates.

(c). Activity wise Annual Revenue Requirement (ARR) for 2015-16 and revenue after proposed hike is enumerated as below:

(₹ in crores)

SR. NO.	ACTIVITY	ARR FOR 2015-16	REVENUE ESTIMATES AT HIKE PROPOSED	DIFF.
1	CARGO & MISC.INCOME	298.23	235.47	62.76
2	VESSEL RELATED INCOME	485.84	376.89	108.94
3	VADINAR	65.88	235.66	-171.86
	TOTAL	849.95	850.11	-16.46

(iii). The KPT has furnished detailed revenue estimation in Form 3 at the proposed tariff and at the actual traffic exclusively handled by the port during the year 2014-15.

(iv). The annual revenue realization estimated by KPT is ₹850.11 crores, against the Annual Revenue requirement of ₹849.95 crores. The additional revenue realization works out to a marginal amount of ₹16.00 lakhs.

(v). The Performance Standards proposed by KPT in Form-5 are as follows:

Sl. No.	Performance Parameters	Proposed Performance Standards
(1)	**Cargo Related Services**	
(a)	Average Ship Berth day Output (in tonnes) in respect of Major Cargo groups	
	(i) Break Bulk	3755
	(ii) Dry Bulk	13516
	(iii) Containers	3545

	(iv) Liquids	25175
	(v) Overall	15850
(b)	Average Moves per hour (in TEUs) in respect of Containers	18
(2)	**Vessel Related Services**	
(a)	Average Turnaround Time of Vessels (in days)	5.00
(b)	Average Pre-Berthing Time of Vessels (in days)	2.30
(3)	**Any other parameters found relevant by the Port**	---

(vi). The Board in its meeting held on 11 December 2015 has approved the Revision proposal of Scale of Rates as above. The minutes of the Board Meeting will be sent after the approval of the same.

6.1. On a preliminary scrutiny of the proposal, a few gaps in information were observed. The KPT was therefore, vide our letter dated 2 March 2016 requested to take action on the following points:

(i). As per clause 5.2 of Tariff policy guidelines 2015, the Major Port Trusts shall host the draft SOR along with the proposed Performance Standards in its website and giving the designated email address of Port as well as TAMP for comments of relevant stakeholder / users within 15 days' time. However, the KPT has not furnished any information with respect to hosting of its proposal along with draft SOR and proposed Performance Standards in its website. Confirm hosting of draft SOR along with the proposed Performance standards in its website duly providing the designated email address of Port as well as TAMP for comments of relevant stakeholder / users within 15 days' time and also communicate about the same to all the relevant stakeholder / users as per the list enclosed and also intimate TAMP when action is completed.

(ii). As per clause 5.3 of Tariff policy guidelines 2015, the Major Port Trusts shall submit its replies on the comments received from Port Users to TAMP not later than 15 days from the last date of receipt of comments from the port users. The KPT to submit its replies on the comments received from Port Users to TAMP not later than 15 days from the last date of receipt of comments from the port users.

(iii). As per clauses 2.1. and 2.6. of the Tariff Policy 2015 and clause 2.1 and 2.9 of Working Guidelines, notified by the Authority to operationalize the Tariff Policy 2015, the Computation of Annual Revenue Requirement(ARR) in Form 1 and the Revenue Estimation at the proposed Scale of Rates in Form 3 has to be certified by a practicing Chartered Accountant/ Cost Accountant. However, Form – 3 Revenue Estimation furnished by KPT is not duly certified by practicing Chartered Accountant/ Cost Accountant. The KPT to furnish Revenue estimation duly certified by practicing Chartered Accountant/ Cost Accountant as required in the Tariff Policy 2015.

(iv). Furnish a copy of the Annual Administration Report and Audited Annual Accounts for each of the years 2011-12, 2012-13, 2013-14. Also furnish Audited Accounts for the year 2014-15 along with Administration report.

(v). Furnish copy of the minutes of the Board Meeting approving the subject proposal as agreed by the port.

6.2. The KPT vide its email dated 16 March 2016 and 19 March 2016 has responded as follows:

(i). The KPT has confirmed that it has hosted the proposed Scale of Rates and Performance Standards on its website on 20 February 2016 and communicated the same through email to the concerned stakeholders / users (list furnished).

(ii). Forwarded Form-3 duly certified by the practicing Charted Accountant as required as per Tariff Policy, 2015.

(iii). Furnished copy each of Annual Administration Reports with Audited Annual Accounts for the years 2011-12, 2012-13, 2013-14 and 2014-15.

(iv). Forwarded a copy of the Board Resolution no.130 passed by KPT's Board of Trustees in the 8^{th} Ordinary Meeting held on 11 December 2015 and 12 December 2015 approving the general revision proposal.

6.3. The KPT in its letter dated 19 March 2016 while furnishing copy of the Board Resolution of 8^{th} Ordinary Meeting held on 11 December 2015 and 12 December 2015 approving the proposal for revision of Scale of Rates to TAMP for approval and notification has made the following submissions:

(i). (a). The Board in its meeting held on 12 February 2015, has, after deliberations decided to increase the transit period from 60 days to 90 days which was inadvertently omitted from the proposed SOR as well as comparison of existing and proposed conditionality.

(b). Hence, it is requested to add following conditionality at Sr. No.8 under Chapter III Cargo related charges, para 2.5 License (Storage) fees on General Cargo as follows:

"If any cargo remains uncleared for 90 days under rental terms, the same will be deemed to be on transit terms immediately after expiry of 90 days"

(ii). (a). In addition to the above, since the shift timing has been changed from 1 January 2016, the Board decided that day shift is from 0600 hours to 1400 hours instead of 0800 hours to 1600 hours.

(b). Hence, it is requested to kindly amend the foot note No.2 of para No. 7 i.e. Schedule of charges for Steel Floating Dry dock under the Miscellaneous Service head of Chapter IV as follows:

1. Chapter IV, Miscellaneous Service, Para No.7 i.e. Schedule of charges for Steel Floating Dry dock, Notes No.2.

*"Facilities available at dry dock viz. staging, sea water, toilet-bathrooms, etc. will be provided free of charges only during the vessels stay inside the dry dock subject to availability of the same. The Dry Dock cranes will be charged on hourly basis subject to their availability. For provision of dry dock cranes during the day shift, a hire charge @ ₹2540 per hour or part thereof shall be levied. If used beyond day shift, i.e. after **1400 hours**, then the charges shall be double the day shift charges including Sunday and holidays. The minimum hire period beyond day shift / Sundays and Holidays shall be four hours."*

(c). The port has also requested to amend the note no.2 under Schedule 3 - Schedules for hire charges for Mobile cranes, Forklifts, etc. for Cargo Handling purpose under Chapter IV, Miscellaneous Service as follows:

*"The parties are required to submit requisition for specified shifts / period for cranes and other cargo handling equipment by **1230 hours** on working days for the 3^{rd} shift of the day and 1^{st} and 2^{nd} shift of the following day. The equipment will be provided subject to availability of staff and equipment."*

7.1. It is seen from the KPT email dated 16 March 2016 that the list of users / user association given by the KPT intimating about the general revision proposal hoisted on its website did not include the following users/ user associations:

(i) Containers Shipping Lines Associations (India)
(ii) IFFCO
(iii) Kutch Small Scale Salt Manufactures Associations
(iv) All India Shippers Council
(v) All India Grain Exporters Associations

(vi) Saurashtra Steamship Agents & Suppliers Association.

7.2. Hence, the KPT was requested vide our letter dated 22 March 2016 to immediately intimate these six user / user associations also about the hosting of its proposal for general revision of Scale of Rates in its website duly giving them the designated email id of TAMP and KPT for comments within 15 days.

8. The comments received from the concerned users / user organisations on the subject proposal were forwarded to KPT as feedback information. The KPT vide its letters dated 22 March 2016, 11 April 2016 and 22 April 2016 has furnished its reply.

9.1. The Kandla Port Stevedores Association (KPSA) vide its email dated 06 April 2016 has informed that they did not receive the complete proposal and hence, could not offer comments. The Kandla Port Steamship Agents Association (KPSAA) vide its email dated 06 April 2016 has also requested to send the proposal from the KPT for general revision of its Scale of Rates at the earliest so that they can discuss the same with the trade for the hearing. The KPT was, therefore, vide our letter dated 07 April 2016 requested to share proposal with KPSA, KPSAA and other users / user associations and also intimate us about the same.

9.2. In response KPT vide its email dated 11 April 2016 has stated that as per Para 5.4 of the Policy for Determination of Tariff for Major Port Trusts, 2015, circulated by TAMP vide letter No.TAMP/21/2009-WS dated 28.01.2015, the Major Port Trusts shall host the draft SOR along with the proposed Performance standards in its website and giving the designated email address of Port as well as TAMP for comments of relevant stakeholder/users within 15 days' time. This has been adhered to by KPT by hosting the proposed SOR along with Performance Standards on KPT website on 20.02.2016. All the users/user associations have been informed of hosting of proposed SoR on KPT website and offering comments, if any, within 15 days. However, it requested us to review and advise in the matter.

10.1. In the meanwhile M/s.Kandla Stevedores Association Ltd (KSAL) vide its email dated 12 April 2016 has stated that the Association has not received the said proposal of KPT. In the absence of having received any Proposal, KSAL have not studied / analyzed the same and under the circumstances, it would be unable to offer any meaningful comments on the same.

10.2. The KSAL has stated that the KPT has only hosted the proposed Scale of Rates and Performance Standards on its website without any explanatory notes, revenue requirements etc. As per existing practice it expects to receive the detailed proposal of the KPT, which has not been received so far. KSAL has, therefore, requested TAMP to send the entire proposal of KPT for general revision of its Scale of Rates for KSAL to review and analyze the same in detail, enabling KSAL to offer our comments on the same.

10.3. KSAL has also requested that the joint hearing pertaining to this particular subject may be rescheduled and re-fixed after providing sufficient time from receipt of the proposal of KPT from TAMP.

11.1. In view of the above position, the KPT was, vide our letter dated 15 April 2016 once again requested to share complete proposal to KPSA, KPSAA, KSAL and other concerned users / user associations and also intimate us about the same.

11.2. In response, the KPT vide its letter of May 2016 has informed that as requested by KSAL and KPSAA, the details of work in progress and breakup of expenditure considered in General revision of Scale of Rates of Kandla Port Trust has been provided to all the users/ user associations through email and same has been hosted on KPT website too.

12. Based on the preliminary scrutiny of the proposal it was observed that there are certain information gaps / deficiency in the proposal of KPT. The KPT was, therefore, vide our letter dated 18 April 2016 requested to respond to comply with the provisions of Tariff Policy, 2015 by 25 April 2016. This was followed up by reminder dated 09 May 2016. The KPT has subsequent to the joint hearing furnished additional information / clarification vide its letter dated 27 May 2016 which is brought out in subsequent paragraph.

13.1. A joint hearing in this case was held on 20 April 2016 at the KPT premises. The KPT made a brief Power Point presentation of its proposal. At the joint hearing, the KPT and the concerned users/ user organizations have made their submissions.

13.2. As agreed at the joint hearing, the KPT was requested vide our letter dated 26 April 2016 with subsequent reminders dated 09 May 2016 and 10 May 2016 [D.O. letter] to take action on the following points arising out of joint hearing proceedings:

(i). At the joint hearing, Indian Oil Corporation Ltd. (IOCL) vide its 2 letters i.e. one from pipelines division of Vadinar and another from marketing division of Kandla and Gandhidham Chamber of Commerce and Industry (GCCI) have furnished their written submissions. A copy of each of the written submissions was forwarded to KPT for their comments. The KPT to furnish its comments on the points made by these users / user organisations immediately.

(ii). The other users are requested to furnish their comments to KPT and to us simultaneously latest by 27 April 2016. The KPT to respond to the comments to be given by users / user organisations within 3 days thereafter.

(iii). Additional information / clarification sought by us vide our letter of even number dated 18 April 2016 to be furnished by 25 April 2016 not received. The KPT to furnish its response immediately.

13.3. With reference to the first and second point of action referred above, the KPT has subsequent to our reminder dated 09 May 2016 furnished its comments vide its letters dated 26 May 2016, 27 May 2016 and 01 June 2016.

13.4. As regards to request made by the IOCL and VOTL seeking for a separate meeting giving an opportunity to oil handling agencies at Vadinar, it is dealt with in subsequent paragraph.

13.5. With reference to the third point of action referred above, the KPT has subsequent to our reminder dated 09 May 2016 furnished its reply to additional information / clarification sought by us vide its letter dated 27 May 2016 and email dated 17 June 2016. A summary of additional information / clarification sought by us and reply furnished by KPT thereon is tabulated below:

Sr. No.	Information / clarification sought by us	Reply from KPT
1.	**General:**	
(i).	The KPT was requested vide our letter dated TAMP/18/2016-KPT dated 22 March 2016 to intimate the six users/ user associations that the port has hosted the draft SOR along with the proposed Performance Standards on their website with a request to furnish their comments within 15 days time on the designated email id of KPT and TAMP. However, we have not received any response from KPT in this regard. The KPT to confirm the action taken in this regard and intimate us with a copy of the said communication for our records.	As requested out of 6 users, 5 have been intimated of hosting of the draft SOR on KPT website through email on 06.04.2016 and copy of the same is furnished.
(ii). (a).	The Customs Brokers Association (CBA) (formerly known as Kandla Port Custom House Agents Association) has stated that a PIL No.276/2013 is pending before Hon'ble Gujarat High Court and hence, when the matter is sub-judice revision in SOR sought by KPT is to be examined. The KPT to examine the point raised by the CBA and confirm that there is no restriction on the Authority in considering the proposal of KPT for revision of SOR.	The PIL No.276/2013 has been disposed off by the Hon'ble High Court of Gujarat vide its Oral Order dated 04.12.2015.
(b).	The Kandla Port Dock Stevedores Association (KPDSA) while furnishing the comments has stated that since labour are not used at anchorage, port cannot charge for the same which is the violation of	As a matter of fact, the gang, including winch operators, signalman and leader is booked by all the stevedores and their attendance is also acknowledged and

	Govt. guidelines, violation of the orders of Hon'ble Supreme court and also violation of the Tribunal award. The KPT to furnish specific comments on the point raised by the KPDSA and also to furnish the gist of the Order of the Hon'ble Supreme Court referred by the KPDSA.	reported by the stevedores on shift to shift basis. Based on the daily returns, these cargo handling workers are given piece-rate for their better productivity over and above the datums fixed. Further, it is the stevedores who has to arrange for transportation of the labour on vessels in mid-stream.
(iii).	The approval given by the Board of KPT to the proposal for general revision of Scale of Rates is subject to suitable reduction in the handling rates for major items like Steel, Coal etc., deletion of Schedule of Charges for Private Handling Equipment as well as review of rates of major commodities. The KPT to confirm whether it has given effect to the conditions imposed by its Board in its proposal for general revision of the Scale of Rates filed before the Authority vide its letter dated 22 February 2016 and 19 March 2016.	The issue regarding reduction in rates of steel, coal, etc. has been considered and it is to state that a scheme for Productivity linked incentive is being formulated and will be placed before the competent authority for approval.
(iv).	It may be recalled that in view of the point recorded in the Minutes of the Meeting of the Consultative Committee of the Members of Parliament held on 15 April 2013, Secretary (Shipping) had directed KPT to modify the proposal for increasing the SOR and send afresh proposal to TAMP in consultation with Joint Secretary (Ports). In this context, the KPT had in its general revision proposal dated 2 September 2014 stated that the Traffic Manager and Dy. CAO had discussions with the then Jt. Secretary (Ports) and Director (PD) on the subject matter on 19 February 2014. After detailed deliberations, the KPT was advised that since it is experiencing decline in traffic, cautious approach are to be taken for revising the rates. The KPT letter states that the KPT was also advised to mitigate the impact of rise in cost in Kandla division and to propose a suitable hike in Vadinar operations. While revising, KPT was advised to ensure the revision is within 50% hike. In view of the new Tariff Policy 2015 issued by the MOS, the proposal of KPT dated 2 September 2014 was closed with an advice to file fresh proposal under Tariff Policy, 2015. In the current proposal filed under Tariff Policy 2015, it is seen that the increase proposed in few items is more than 50%. The KPT to examine whether the direction of JS (Ports) to KPT as brought out in the preceding paragraph is to be considered in the current tariff revision proposal. Please clarify. If so, the KPT may consider to make suitable modification in its proposal.	As stated above, as per the advise of Jt. Secretary (Ports and Director (PD), KPT had filed its general revision proposal vide letter dated 02.09.2014, wherein suitable hike was also proposed in Vadinar division and it was ensured that hike in all the activities was within 50%. However, above proposal was returned by TAMP stating that KPT may file a fresh proposal as per "Policy for Determination of Tariff for Major Port Trusts, 2015", issued by Ministry vide letter no. 8(1)2014-TAMP dt. 13.01.2015. Accordingly, as per Tariff guidelines 2015, Annual Revenue Requirement has been worked out and rates have been proposed taking into consideration the principle of "what traffic can bear" and present market trends etc.
2.	**Form No.1**	
(i).	Clause 2.2 (iii) of the Tariff Policy, 2015 stipulates that all expenses relating to Estate related activity to be excluded for the computation of ARR. It is, however, seen from Form 1 that the KPT has excluded an amount of ₹640.12 lakhs, ₹862.37 lakhs and ₹1192.08 lakhs towards of Operating Expenses and ₹22.00 lakhs, ₹23.00 lakhs and ₹23.63 lakhs towards depreciation for the years 2011-12, 2012-13 and 2013-14 as against actual Operating Expenses for estate activity reported in Annual Accounts at ₹2613.76 lakhs, ₹3267.83 lakhs and ₹3755.32 lakhs and depreciation of ₹274.63 lakhs, ₹283.99 lakhs and ₹326.40 lakhs for the years 2011-12, 2012-13 and 2013-14. The reasons for mismatch in these figures is not explained. The KPT	The operating expenditure of Estate Activity as per Annual Accounts is also inclusive of expense incurred on maintenance of Gopalpuri and Kandla colony, hence same has been excluded from the Estate activity. The details of expenditure as per annual accounts & expenditure considered in proposal is furnished at Annexure - B.

	to consider the operating expenses and depreciation of Estate activity as reported in its Audited Annual Accounts for the years 2011-12 to 2013-14 for exclusion.	
(ii).	While arriving at the Capital Employed as on 31.03.2014, the KPT has excluded an amount of ₹367.32 lakhs towards the net fixed assets related to Estate activity. It is seen from the Annual Accounts 2013-14, that the net fixed assets related to Land itself is ₹3,470.24 lakhs. The KPT is, therefore, requested to re-examine the net fixed assets of Estate activity considered for exclusion and furnish workings in support therefor.	The Net Fixed Asets of land of ₹3470.24 lacs is inclusive of capital investment made for the development of land inside the cargo jetty area. As the above capital expenditure has been incurred for cargo handling activity of the port and not pertains to estate activity, and same has been excluded for arriving at the Capital employed on 31.03.2014. The details of Net Fixed Assets of land as per Annual Accounts and as considered in proposal is furnished as Annexure – C.
3.	**Form - 3**	
(i). (b)	As per Clause 2.5. of the Tariff Policy 2015, for drawing the SOR, the traffic to be considered should be the overall traffic exclusively of the port in the year 2014-15. The actual traffic handled by the KPT as recorded in the Administration report of 2014-15 is 92.50 Million Metric Tonnes (MMT). However, as per Annexure A of Form 3, the total cargo traffic considered by KPT for revenue estimation of wharfage charge is only 65.82 MMT. The KPT to reconcile the mismatch in the cargo traffic considered in the revenue estimation vis-à-vis the actual cargo traffic reported for the year 2014-15. The KPT to confirm that the revenue estimates from cargo handling service is the actual cargo handled exclusively by the KPT in the year 2014-15.	The traffic figures have been reconciled and updated in the revenue estimation sheet i.e. FORM-3. Further, it is to confirm that the revenue estimates from cargo handling service is the actual cargo handled exclusively by the KPT in the year 2014-15 and PPP traffic has been excluded for the same.
(b).	The KPT has considered total GRT of vessels at 3,51,24,298 (GRT of Foreign vessels – 3,29,98,866 and GRT of Coastal vessels – 21,25,432) for estimation of revenue from vessel related services. Please confirm that the total GRT of vessel considered in this Form matches with the actual total GRT of the vessel handled by the port in the year 2014-15. Also, confirm that the GRT considered for estimating the vessel related income includes vessels handled for the BOT operators (other than vessels handled for AKBTPL for which separate marine related tariff has been approved as explained in the subsequent point).	It is to confirm that total GRT of the vessels handled by the port in the year 2014-15 has been considered in Form 3 for estimating vessel related income, except for Berth hire income wherein GRT of the PPP vessels handled during the year has been excluded. It is to further confirm that GRT of the vessels handled for AKBTPL has not been considered for estimating vessel related income in view of separate tariff approved for the same.
(ii).	The Authority vide Order No.TAMP/42/2014-KPT dated 15 January 2016 has approved the port dues and pilotage fee for marine services provided by the KPT at Dry Bulk Terminal commissioned by the Adani Kandla Bulk Terminal Private Limited (AKBTPL) at Tuna/Tekra at KPT based on the proposal filed by the KPT. The validity of the rates approved in the said Order is made co-terminus with the validity of the scale of rates to be revised by this Authority so that this tariff can be reviewed in future alongwith the next general revision of the SOR of the KPT. The treatment given by the port in respect of expenses incurred for marine related services provided by the KPT to AKBTPL by outsourcing the marine services in the general revision proposal is not clear, which may please explained. The KPT to confirm and show that the actual marine related expenses incurred by the port for providing the services to AKBTPL at Tuna/Tekra by outsourced services are excluded from the ARR as marine related tariff for	It is to clarify and confirm that expenses incurred for marine related services provided by the KPT to AKBTPL by outsourcing the same, has not been included in the present proposal. Moreover, operation of Dry bulk Terminal at Tuna tekra has been commenced from 10.02.2015 and hiring of marine services has been commenced from Jan,2015, and for working of Annual revenue requirement, average expenses of 2011-12, 2012-12 and 2013-14 has been considered and therefore same is not inclusive of expenditure incurred on providing Marine related services for AKBTPL.

	AKBTPL are approved separately and are not included by the KPT in the revenue estimates.	
(iii).	It is seen from the workings that while estimating vessel related income at proposed tariff, the KPT has considered the foreign exchange rate of 1US $ = ₹60.73 stating that it is based on the average foreign exchange rate for the year 2014-15. The prevailing foreign exchange rate is 1US $ = ₹66.39. The KPT to consider the prevailing foreign exchange rate while estimating the revenue from the foreign going vessels and coastal vessels after applying applicable concession of 40%. In this context, it is to state that in the recently concluded general revision proposal of NMPT, the port had considered exchange rate of 1US $ = ₹66 for estimating revenue from vessel related charges.	Proposal has been modified considering the prevailing exchange rate of 1US $ = ₹66.00.
(iv).	As per Clause 2.9. of the Working Guidelines, Major Port Trusts have to furnish a detailed working of income estimation indicating each of the tariff items in the proposed SOR for the actual traffic reported for the year 2014-15 and establish itself that the sum of the revenue so determined from all the tariff items in the SOR is within the ceiling of the indexed ARR determined. On perusing Form-3, a few discrepancies are observed in the revenue estimation by the KPT, which are briefly highlighted below:	
(a).	For estimating all vessel related charges, the port has not considered the proposed rate for coastal vessel indicated in column no. 5 of Form – 3. The KPT to examine and reassess the revenue estimates.	Vessel related charges have now been modified considering the proposed rate for coastal vessels indicated in column No. 5 of Form-3.
(b).	As regards pilotage fee, the unit rate for the Second Slab i.e., 30,001 – 60,000 GRT considered by KPT for revenue estimation is not with reference to proposed rates for foreign going vessels and coastal vessels. The KPT to examine and reassess the revenue estimates.	Second slab of Pilotage fee has been modified considering the proposed rates for foreign going and coastal vessels.
(c).	For estimating berth hire, it is seen that the KPT has applied a factor of 0.5. The reasons for applying 0.5 factor in revenue estimation of berth hire is not explained. Please explain and reassess the revenue if KPT notices error, if any.	For estimating berth hire income 4 berths have been considered as crane berths and 6 berths as Non-crane berths. Further 50% discount has been considered for non-crane berth. Hence same is in order.
(d).	For estimating revenue from a few items like mooring charges, anchorage charges, etc., the KPT has estimated the revenue considering the actual income earned in 2014-15 with the increase proposed for foreign going vessels. The approach adopted by KPT does not capture the impact of the increase proposed for coastal vessels which is higher than the increase proposed for foreign going vessels. The KPT to examine and reassess the revenue estimates.	In view of Ministry's direction, to keep the coastal rates calculation as above in abeyance, corresponding hike in coastal rates has been made as per hike proposed in foreign rates.

(e).	For estimating wharfage income from crude oil at Vadinar, the KPT has not indicated the traffic handled in the year 2014-15. The revenue is estimated by the KPT by increasing the actual wharfage revenue from crude oil for the year 2014-15 with the proposed increase of 50%. The KPT to indicate the crude oil traffic figures considered for the revenue estimation and confirm that the estimates are arithmetically correct.	Crude oil traffic handled at OOT Vadinar now indicated in revenue estimation and accordingly revenue estimates have been modified.
(f).	In Form 3, the KPT has estimated revenue at the proposed tariff from Cargo handling & Misc. activity at ₹25175.92 lakhs i.e., ₹23704.18 lakhs from foreign cargo and ₹1471.74 lakhs from Coastal Cargo. However, from the said estimated income the KPT has shown deduction of ₹6552.98 lakhs and ₹108.08 lakhs from foreign & coastal cargo respectively relating to CHD and then added actual revenue from CHD of ₹4528.70 lakhs and ₹503.19 lakhs from foreign and coastal cargo respectively and finally considered the revised income from Cargo handling & Misc. at ₹23546.75 lakhs at the proposed tariff. The reasons for such adjustments made by the KPT needs to be explained along with workings for the figures adjusted by the KPT.	No hike has been proposed in On board labour charges. Hence, this adjustment has been made in CHD income, considering the actual revenue income for the year 2014-15 as per Accounts, as there were many instances where refunds had to be processed, as actual revenue per gang was more than the average revenue requirement per gang on account of increased productivity. Hence actual income of 2014-15 has been considered in ARR.
(g).	(i). It is seen that Form – 3 does not include revenue estimate for many of the tariff items / new tariff items proposed in the SOR. For example, Chapter – II Schedule No.3.1.B Item Nos.1 to 4, Chapter – III Schedule No.2.6.(a), Chapter – II Schedule No.2.2 Item Nos.2 to 8 and Chapter – II Schedule No.3.3 Item Nos.1 to 3, etc.	Schedule 3.1 B under Chapter II has been deleted now. As regards to Schedule 2.6 (A) under Chapter – III, Revenue estimation for proposed service is insignificant, hence same not considered in Form 3. Similarly as regards to Schedule 2.2 item no. 2 to 8 under Chapter 3, revenue estimation for all the items at sr. no. 1 to 8 has been shown against item no. 1.
	(ii). This apart, for many of the tariff items proposed in the draft Scale of Rates, the revenue in Form 3 is not indicated.	Except Miscellaneous Petty items, wherein it is difficult to quantify revenue estimates, all the tariff items as proposed in draft Scale of rates has been considered in revenue estimation in Form 3.
	(iii). The KPT has not captured revenue estimates for modification / insertion of new conditions proposed by the port.	Most of the conditions modified/inserted are for smooth operational requirement and to achieve better performance. However, it is difficult to quantify each of the revenue estimates for modification/insertion of new conditions proposed by KPT.
	(iv). It is relevant here to state that the revenue estimated by KPT in Form-3 (which does not cover revenue from the above few items) is ₹850.11 crores as against estimated ARR of ₹849.95 crores/annum. The revenue likely to accrue to KPT from the tariff items not covered by KPT in the revenue estimation in Form – 3 will thus be over and above the estimated ARR of ₹849.95 crores which is a ceiling ARR. The KPT to capture the revenue estimates from the tariff items not included by it and effect appropriate reduction in the relevant tariff items or alternatively leave some revenue of the estimated ARR uncovered so that the total revenue likely to be collected from all tariff items does not cross the ceiling ARR to meet the said stipulation in the Tariff Policy 2015.	The Annual Revenue requirement has been revised to ₹841.81 crores and Revenue estimation has been pitched at ₹838.97 crores.
5.	**Past Period Surplus:**	

<table>
<tr><td></td><td>As per clause 4.1 of the Tariff Policy, 2015, (a), additional surplus assessed by TAMP in earlier tariff Orders which remain unadjusted has to be transferred by Major Port Trusts to any fund as desired by the Port Trust. (b). Additional surplus, if any, accruing to the Major Port Trusts during the period of application of existing Scale of Rates till the effective date of implementation of the new Scale of Rates fixed under this policy should be assessed and transferred to the General Reserve and use the funds for the purpose of development, creation and/ or modernization of the port infrastructure facilities. For this purpose, the KPT to assess the additional surplus for (b) above, if any, as required under clause 4.1 of the said Tariff Policy and furnish the same for information.</td><td>As per statement placed as Annexure - D, showing, details of operating surplus for each of the years from 2011-12 to 2015-16, it is observed that there is deficit in each of the 5 years except 2015-16, where there is marginal surplus of ₹10.89 crores, which is offset by deficit of ₹318.79 crores for the balance 4 years.</td></tr>
<tr><td>6.</td><td><u>Scale of Rates:</u></td><td></td></tr>
<tr><td>(i).</td><td>It is relevant to state here that the MOS vide its letter No.8/(15)2015-TAMP dated 17 September 2015 issued a direction to the Authority to partially modify the coastal concession policy issued by the (then) Ministry of Shipping, Road Transport & Highways (MSRTH) in January 2005. As per the said direction of the MOS, vessel related charges for coastal vessel should take into account the exchange rate fluctuation of the Indian Rupee vs the US$ so that vessel related charges for all coastal vessels do not exceed 60% of the corresponding charges for other vessels and these charges will be collected in Indian Rupees at the applicable exchange rate. Also, as regards container related charges denominated in US$ for foreign containers, the tariff for coastal container shall not exceed 60% of the corresponding charges applicable for other foreign containers and these charges will be collected in Indian Rupees at the applicable exchange rate.
Based on the direction of the MOS for immediate prescription of rates for coastal vessel and coastal container, the Authority has passed an Order No. TAMP/4/2004-Genl dated 5 October 2015 and communicated to all the Major Port Trusts including KPT. As per the said Order the following note is to be prescribed in place of vessel related charges for coastal vessel:
“Rate for coastal vessel is upto 60% (of the rate for foreign going vessel juxtaposed) calculated by taking into account the exchange rate fluctuation.”
The proposed SOR does not incorporate the said note. The KPT to incorporate the note approved in the said Order in place of the rates proposed for coastal vessels and container related charges whose foreign counterpart is prescribed in dollar denomination. An example is given below highlighting the modifications required to be done by strikethrough/bold:
SCHEDULE OF PORT DUES
<table>
<tr><th colspan="4">Rate per GRT</th><th rowspan="3">Frequency of payment in respect of the same vessel</th></tr>
<tr><th colspan="2">Kandla</th><th colspan="2">Vadinar</th></tr>
<tr><th>Coastal vessel (in ₹)</th><th>Foreign-going vessel (in US $)</th><th>Coastal vessel (in ₹)</th><th>Foreign-going vessel (in US $)</th></tr>
<tr><td><s>15.50</s> Rate for coastal vessel is upto 60% (of the rate for foreign going vessel juxtaposed) calculated by taking into</td><td>0.4255</td><td><s>4.0655</s> Rate for coastal vessel is upto 60% (of the rate for foreign going vessel juxtaposed) calculated by taking into</td><td>0.1645</td><td>The due is payable on each entry into the port</td></tr>
</table></td><td>The above has not been incorporated in proposed SoR, instead similar hike has been given in coastal rates as given in foreign rates in view of recent MOS direction based on which TAMP has passed an Order dated 26 May 2016.</td></tr>
</table>

<table>
<tr><td></td><td><table><tr><td>account the exchange rate fluctuation</td><td></td><td>account the exchange rate fluctuation</td><td></td><td></td></tr></table></td><td></td></tr>
<tr><td>(ii).</td><td>The Authority has passed the following common adoption order for all Major Port Trusts. The Major Port Trusts including KPT were requested to include suitable notes in the SOR vide our letters brought out at Sl. No. (a) and (e) :</td><td></td></tr>
<tr><td>(a).</td><td>Order No.TAMP/52/2014-Genl. dated 28 November 2014 relating to the guidelines on priority berthing of coastal vessels at Major Port</td><td rowspan="6">Provisions stipulated in the above common adoption orders/letters have been incorporated in proposed SOR as detailed below:

(a) Chapter I, 1.1(i)
(b) Chapter I 1.2(i) A, B & C
(c) Chapter – I 1.2 (xv)
(d) Chapter – III, 1. Schedule of wharfage charges, Notes (13)
(e) Chapter – III, Schedule of wharfage charges, Notes (14).

Further as regards to (a) above, a circular has been issued regarding Guidelines on priority berthing of coastal vessels vide TF/SH/Coastal/1210 dt. 20.102014, copy of the same is furnished.</td></tr>
<tr><td>(b).</td><td>Order No.TAMP/53/2015-VOCPT dated 26 November 2015 relating to provision prescribed for System of classification of vessel for levy of Vessel Related Charges (VRC) and Criteria for levy of Vessel Related Charges and Concessional Coastal rate.</td></tr>
<tr><td>(c).</td><td>Order No.TAMP/14/2016-Misc dated 9 February 2016 relating to prescription of lower charges for cargo & vessels related services as well as special discount in port charges for the services rendered after regular hours by the Major Port Trusts and BOT Operators operating thereat in pursuance of MOS letter No.PD/14033/101/2015-PD.V dated 3 February 2016</td></tr>
<tr><td>(d).</td><td>Letter No.TAMP/35/2013-Misc. dated 7 August 2014 directing all Major Port Trusts to prescribe a suitable note in their respective SOR regarding applicability of wharfage rates for Defence Stores in such a way that there is no ambiguity in the mind of users on the application of the prescribed rates.</td></tr>
<tr><td>(e).</td><td>Letter No. PD-25021/7/2015-PD.1. dated 16 April 2015 of MOS directing to all Major Port Trusts to follow the TAMP letter No.TAMP/53/2002-Misc dated 25 March 2015 regarding wharfage charges on vessel manifested as cargo in the Import General Manifest (IGM) or Export General Manifest (EGM).</td></tr>
<tr><td></td><td>It is, however, seen that the port has not included the provisions stipulated in the above common adoption order/ letters in the proposed SOR. The KPT to incorporate the same in the SOR and to consider the impact, if any, in the revenue estimates.</td></tr>
<tr><td>(iii).</td><td>The KPT has proposed to increase the wharfage charges for Salt by 400% as against the increase in wharfage proposed in other cargos items in the range of 40% to 67%. The KPT to justify steep hike of 400% proposed in wharfage charges of Salt at Kandla division and 500% increase proposed in wharfage charges of Salt at Tuna port.</td><td>The present wharfage charges for salt is only Rs.3/- per MT and the same has been proposed to be increased to Rs.15/- per MT. The minimum direct cost incurred by the Port Trust was proposed for all the commodities where the present charges were below that rate.</td></tr>
<tr><td>(iv).</td><td>The KPT in its letter dated 19 March 2016 while furnishing copy of the Board Resolution has requested the Authority to include the following modifications in the proposed draft Scale of Rates:</td><td></td></tr>
<tr><td>(a).</td><td>Sr. No.8 under Chapter III Cargo related charges, para 2.5 License (Storage) fees on General Cargo to be replaced as follows:
“If any cargo remains uncleared for 90 days under rental terms, the same will be deemed to be on transit terms immediately after expiry of 90 days”</td><td>It has been observed that the cargoes are overstaying in the port area leaving no space for fresh cargo to land. As such, in order to restrict the stay of the cargo inside the port, 90 days limit has been prescribed which, in fact, is more than the period of two months provided under MPT</td></tr>
</table>

		Act, 1963.
(b).	Chapter IV, Miscellaneous Service, Schedule 7 - Schedule of charges for Steel Floating Dry dock, Note No.2 to be replaced as follows: *"Facilities available at dry dock viz. staging, sea water, toilet-bathrooms, etc. will be provided free of charges only during the vessels stay inside the dry dock subject to availability of the same. The Dry Dock cranes will be charged on hourly basis subject to their availability. For provision of dry dock cranes during the day shift, a hire charge @ ₹2540 per hour or part thereof shall be levied. If used beyond day shift, i.e. after **1400 hours**, then the charges shall be double the day shift charges including Sunday and holidays. The minimum hire period beyond day shift / Sundays and Holidays shall be four hours."*	It is to state that above amendments have been proposed to incorporate the change in shift timings of KPT and there is no revenue impact on account of these amendments.
(c).	Note no.2 under Schedule - 3 under Chapter IV, Miscellaneous Service, Schedule - 3 - Schedules for hire charges for Mobile cranes, Forklifts, etc. for Cargo Handling purpose to be replaced as follows: *"The parties are required to submit requisition for specified shifts / period for cranes and other cargo handling equipment by **1230 hours** on working days for the 3rd shift of the day and 1st and 2nd shift of the following day. The equipment will be provided subject to availability of staff and equipment."*	
	In this regard, the KPT to confirm that the above proposed amendments are hoisted in its website and also confirm that the KPT has intimated about the same to all the users/ user associations as per list communicated by us earlier. The KPT to capture revenue impact, if any, on account of the proposed amendments in Form 3.	
(v).	**Schedule 2.6 (a). Charges for Parking of Cargo Handling Equipment like HMC's Cranes, Grabs, Forklifts, Payloaders, Trailors, Loose Gear, HMC's Cranes Grans, Cranes etc. under Chapter III**: The KPT has proposed a new tariff item in this schedule at ₹81 per sq. mtr. per month for covered area and ₹32.40 per sq. mtr. per month for open area. The basis and reasons for proposing a new tariff item may be explained. Clause 5.7.1. of the Working Guidelines prescribes the various methods that can be adopted by the port while proposing tariff for a new cargo/ service. Please clarify which option has been adopted by the KPT from the methods stipulated in the said clause. Also, capture the revenue impact which may arise on account of this new tariff item in Form 3.	The various equipments deployed by the shore handling and stevedores are parked in the Port area for which a minimum licence fee is proposed to be recovered. In fact, Port had proposed monthly charges towards parking, which the Board had turned down. As such, there is no other charge which is paid to the Port for deploying the equipments. It is a fact that these charges are much more than the charges for storage of cargo, as the cargo is even allotted free storage, which cannot be compared with the licence fee collected for the equipments. Revenue estimation is very insignificant, hence same has not been captured in Form – 3.
(vi).	Clause 2.12. of the revised Working Guidelines issued by TAMP stipulates that if new condition is introduced or if existing condition is modified due to operational reason or contingency, the port may prescribe such modification with reasons therefor and capture the financial / revenue impact in the ARR. KPT has, however, neither furnished any reasons for the modifications proposed nor captured its impact in the revenue estimation. The KPT to furnish reasons for	

the modifications/ insertions / deletions in the proposed SOR in light of the observation made in the remarks column given below:

(a). New conditions proposed:

Schedule & Note No.	Remarks	Remarks
Chapter – I		
1.2. (xiii).	The reasons for the proposed new note may be explained.	So far as Crafts are concerned, the rates are for per hour upto 2000 BHP. However, for Crafts having capacity of above 2000 BHP, the minimum charges is for 3 hours.
1.2.(xiv).	(a) The proposed note states that Kandla rates shall be applicable to Tuna Port. In this context, it is to state that the existing SOR prescribes a separate schedule of rates for Tuna port at Chapter V. The reasons for proposing the rates applicable for Kandla port to Tuna port may be explained with justification. (b) The impact of the proposed note will lead to steep hike for Tuna port in the range of 380% to 845% in vessel related charges, 50% to 500% in cargo related charges as against 25% increase proposed in port dues, 100% increase proposed in berth hire and around 25% to 90% increase proposed in wharfage charges except salt for which 400% increase is proposed for Kandla division. The reasons for seeking such steep hike for Tuna port may be justified. Also, confirm that the services, infrastructure, equipment and facilities provided at Tuna are comparable to those rendered at Kandla division in view of its proposal to have the same rates. (c). The KPT to establish and exhibit that the revenue impact of the proposed increase for Tuna port is captured in Form 3 by distinctly indicating the traffic of Tuna port.	(a). Services provided at Tuna port are at par with Kandla. Tuna port has been provided with all the infrastructural facilities like road and rail connectivity, etc. (b) It is to confirm that the services, infrastructure, equipment and facilities provided at Tuna are comparable to those rendered at Kandla division. It is to confirm that the revenue impact of the proposed increase for Tuna port is captured in Form-3 and traffic indicated is inclusive traffic of Tuna port.
Chapter – II		
2.2.(4).	(a). The reasons for introduction of the proposed note may be explained. The existing tariff levied for shifting of vessel at Off shore Oil Terminal, Vadinar from Essar Jetty to Essar Jetty to be indicated. (b). The additional revenue on account of the proposed note to be captured in the Form 3	The proposed note has been introduced to discourage such type of shiftings and to act as a deterrent for vessels opting for such shiftings and hence no revenue impact envisaged.
2.2.(7).	(a). Explain the reasons for introduction of the proposed note. The existing tariff levied towards shifting of vessel to Vadinar road outer anchorage at Offshore Oil Terminal Vadinar to be explained. (b). The additional revenue on account of the proposed note to be captured in the Form 3	Same comments as offered for para 2.2(4) above.
2.2.(19)	The port has proposed new notes 19 to	This point is proposed to be

	to (22)	22. The reasons for introduction of the proposed note to be explained for each of the notes. The revenue impact on account of the proposed notes to be captured in the Form 3.	incorporated because, at times, the Master of the vessel refuses to sign the Pilot Certificate in case of pilot detention on board. Hence to bring more clarity in the matter, proposed conditionality has been incorporated in proposed SOR. All vessels calling at this Port are liable to pay for any additional services rendered by the Port such as usage of addl. Tugs, Damage to Port property etc. Hence, the actual services rendered to the vessels will be chargeable. It has been observed many times in the past that the vessel being shifted some times develop some engine problem or due to some grounding etc. of the vessel being shifted. As a result additional services are required for the vessel being shifted. In such cases, as per the existing clauses, the incoming vessel has to bear the cost of all such resultant charges on account of the deficiency of the vessel being shifted, for no fault of the incoming vessel. In order to prevent such types of unreasonable charges to the incoming vessel, this clause is required to be incorporated. Any extra services rendered by the Port, such as, additional Tugs provided as per the request of the Master of the vessel is chargeable in addition to the Pilotage charges. Revenue impact of introducing all the above new conditions has been captured in income for Misc. Pilotage services.
	3.1.(B)(8)	The port has proposed a new note that the Vessel berthed at a shore crane berth and not allowed to use the shore cranes by the port due to commodity restrictions, such vessels will be charged berth hire at the rate of a non shore crane berth. The reasons for introduction of the proposed note may be explained. The revenue impact on account of the proposed note to be captured in the Form 3	There has been constant demand from Port Users that even though Port is not allowing them to use wharf cranes and charging crane berth charges. As such, the above conditions have been proposed if Port is not providing cranes. However, there will hardly be any financial implication as Port will ensure that where cranes are supplied, vessels will be berthed in crane berths.
	3.1.(B)(9)	(a). The port has proposed a new note that the if any shifting of a vessel from Berth is ordered by the port but due to vessels fault is not able to shift will be charged US $ 4000 per day or part thereof, unless the shifting order is cancelled by the port and for mooring, 50% of said amount shall be chargeable. The reasons for introduction of the proposed note may be explained.	It has been observed that whenever vessels are required to be shifted for Port convenience, some of the vessels are reluctant to accept the request of the Port for such shifting in their interest. However, Port loses revenue in case the said vessel is not shifted at Port convenience. For e.g., a lower draft vessel at deep draft berth is required to be shifted to shallow draft

	(b). Explain the basis for proposing US$ 4000 per day. Indicate the existing tariff leviable for such shifting of vessel and also the impact of increase in the tariff (in terms of percentage) at the proposed rate. (c). The revenue impact needs to be captured in the Form 3	berth at Port convenience, so as to accommodate deep draft vessel at her place. In case, the vessel is not ready to shift, it would result in one shallow berth remaining vacant and one deep-draft vessel waiting for berth. In fact, the above clause is to discourage the vessels in honouring the requirements of the Port and the penalty of US $ 4000 per day is proposed as a deterrent for declining to shift. However, there is also a revenue loss to the Port for one berth remaining idle. The Port does not expect any revenue impact on the above.
3.1.(B)(10)	(a). The port has proposed a new note that the GRT rate applicable for vessels will be applicable to barges also. The existing unit of levy for barges may be indicated along with % increase over the existing tariff. (b). If the unit of levy is proposed to be changed from "per hour basis" to "per GRT/hour basis", the port may ensure that corresponding adjustment is done in the unit rate while arriving at the proposed tariff. The KPT may examine in the light of the above observation and furnish the workings for arriving at the proposed rate.	The existing unit of levy of barges per GRT per 1 hour or part thereof is ₹0.0292 (subject to a minimum of ₹83.4152) and US $0.0012 (subject to a minimum of US $ 3.3744) for coastal and foreign vessel respectively. Hence as such there is no change in unit of levy of berth hire charges for barges. Further, in working of berth hire income, based on GRT of the vessels, it is to state that same is inclusive of GRT of barges too. Also, one of the user i.e. M/s.Rishi Shipping vide its letter dt. 17.12.2015 has agreed to the same. Further service at Para 3.1(B) Schedule of Berth hire charges for sailing vessels, launches, tugs, small crafts, barges etc. at Kandla division has been deleted from proposed SOR now.
Chapter – III		
2.5 (8)	The port has vide its letter 19 March 2016 proposed a new note that if any cargo remains uncleared for 90 days under rental terms, the same will be deemed to be on transit terms immediately after expiry of 90 days. The reasons for introduction of the proposed note may be explained. (b). The revenue impact on account of the proposed note to be captured in the Form 3.	As per the MPT Act, for the cargo remaining in the Port for more than 60 days, the Port may auction the cargo. At the same time, in the Customs Act, the cargo has to be auctioned if it remains for more than 30 days. As a matter of fact, there is sufficient land available for storage of cargo inside the Port. As such, till date, the cargo was allowed to be stored in the Port even for more than 90 days. As the EXIM dry cargo is increasing at this Port and keeping in view the available storage space, the rebate of 90 days as against 60 and 30 days in the MPT and Customs Act has been proposed, so that cargo is cleared in a reasonable time and the cargo area can serve the other cargoes. With the above deterrent, no additional revenue would be generated.
Chapter- IV		
7 (16)	The port has proposed a new note no. 16 under dry docking charges stating that the agencies/ users who need extension of	The condition of penalty towards overstay of crafts on dry dock beyond the allowed days is proposed to

docking period shall have to submit an application before 48 hrs. of the scheduled completion period and extra charges (slab wise) are proposed to be levied for the extended period. The reasons and basis for introduction of the proposed note may be explained. Also, capture the revenue impact on account of the proposed note in Form 3.	discourage the user for idling their crafts on dry dock. This will also compel them to properly plan the requirement of dry dock for carrying out repair and maintenance of their crafts and will help KPT in accommodating more private vessels for dry dock. In past there are incidences where the crafts used to remain idle on dry dock for one or another reason. However when the penalty for overstay will be introduced, it will discipline the user and the cases of overstay of crafts on dry dock beyond approved period may be reduced by atleast 50%. As regards to revenue impact for imposing proposed penalty, same cannot be quantified separately, hence not considered in Form 3, as this will discourage the user for idling their crafts at dry dock.

(b). **Modifications / deletions proposed to the existing conditionalities:**

Clause in the existing SOR	**Clause in the proposed SOR**	**Remarks**	**Remarks**
Chapter - II			
2.2.(2)	2.2.(2)	The existing note 2 under Schedule 2.1 & 2.2 stipulates that Pilotage-cum-towage fees shall include one inward and one outward movement with required number of tugs/launches of adequate capacity and shifting of vessels for 'Port convenience'. This is in line with the clause 10.4 of the Working guidelines issued by the Authority to operationalise the Tariff Policy 2015. The KPT has now proposed to modify the existing note stating that the Pilotage charges should be bifurcated separately for inward/outward at 50% of prescribed rate is not in line with the provisions stipulated in the working guidelines which is uniformly prescribed in the SOR of the all the Major Ports. The KPT to consider retaining the existing note.	The existing Pilotage fees consist of one inward and one outward movement. Bifurcation of inward/outward pilotage charges will help in levying the correct pilotage charges during conversion of vessels from foreign run to coastal run etc. Overall, the charges of Pilotage will remain the same, but bifurcation will facilitate the levy of charges in the above mentioned circumstances.
2.2.(3)	2.2.(3)	Reasons for modifying shifting charges from existing 25% to 50% of pilotage fees for shifting of vessels within the harbour may be explained. Also, capture the revenue impact on account of the proposed note in Form 3.	The ambiguity in this clause will be cleared if the clause is clearly specified as "Shifting within the harbor at the request of the vessel shall be charged at 50% of one side Pilotage". Hence, there is no increase in shifting charges as compared to the existing

			SOR and it will be the same i.e. 25% of the entire Pilotage fee
2.2 (13)	2.2.(16)	The port in place of existing note 13 has proposed a modified note no.16 which states that the Agent will file the inward / outward / shifting pilot memo with a notice of 4 hours. Amendment of the pilot memo within three hours is allowed if the changes are made for the same tide. However, if changes required for next tide, cancellation memo would be required to be filed with a notice of 3 hours. The reasons for the modifications in the existing note may be explained. Moreover, it appears to be a note relating to procedural / administrative matter and not tariff related and hence, the reasons for incorporating in the SOR may be justified.	This clause is essential as the Agents make changes even at the last minute. Re-planning and re-posting of the movement not only takes considerable time but the movements of all the subsequent vessels are affected due to the last minute changes of one vessel. Further, in the case of postponement / pre-ponement of a movement of one vessel fresh pilot has to be posted for which the pilot has to be called at short notice and vehicle has to be deployed for this purpose. All these activities take considerable time and hence the time limit of 3 hours for cancelling the pilot memo is ideal.
3.1.(B)(2)	3.1.(B)(2)	The KPT to confirm that the impact of reduction proposed in berth hire charges from 80% to 50% for non crane berths is captured in the revenue estimates.	It is to confirm that impact of reduction in proposed berth hire charges from 80% to 50% for non-crane berths has been captured in revenue estimates.
3.1.(B)(6)	3.1.(B) (6)(i) & (ii)	The existing note at 3.1. (B) (6) prescribes 5 times the berth hire charges if the vessel do not call for the pilot for sailing within four hours of completion of discharge. As against that the KPT has proposed US$ 150 per hour or part thereof and after expiry of every 48 hours, the KPT proposes levy of one full additional pilotage and port dues in addition to the normal berth hire charges as opportunity loss. A Similar note is proposed at 3.1. (B)(6) (ii) for vessel at mooring, In this regard, the following points may be clarified: (a) Explain the reasons for modification in the existing note. (b). Furnish the basis for arriving US $ 150 per hour or part thereof and US $ 50 per hour or part thereof. (c). Furnish the impact of the proposed note for a vessel of 30000 GRT along with the workings. (d). The revenue impact on account of the proposed notes to be captured in the Form 3	The existing charges of five-times berth hire charges are applicable if the vessel do not call for Pilot within four hours of completion of discharge. It has been observed that, at times, these five-times berth hire charges are affordable for the vessel to overstay at berth, whereas Port has to sustain losses and also it leads to increase in pre-berthing delay for the vessels waiting for berth. As such, the proposed charge of US $ 150 per ton per hour is to act as a deterrent for vessels overstaying at berth and facilitate availability of berth for vessels waiting to berth. There is no impact envisaged, because the penalty proposed is a deterrent for vessels overstaying at berth and it is presumed that the vessels would not overstay at berth.
Chapter – IV			
(7)	(7)	The KPT to furnish reasons for	It is stated that as per Clause No. 10 of

<table>
<tr><td></td><td>(10)</td><td>(10)</td><td>the increase in the charges for cancellation of requisition of docking/undocking operations from existing 50% to 100%. Revenue impact in this regard to be captured.</td><td>item No 7 i.e. Schedule charges for Steel Floating Dry Dock in Chapter – IV of SOR 2011, the cancellation of requisition of docking/undocking operation is already mentioned as 100% since 24th March’ 2011, hence there is no change in existing conditionality.</td></tr>
<tr><td></td><td>General note to Schedule 3.1-3.5, Note (6) (ii)</td><td>-</td><td>The existing notes (6) (i), (ii) and (iii) under schedule 3.1 to 3.5 is in line with the Clause 10.6.1 to 10.6.3 of Working Guidelines and also prevalent in the Tariff Guidelines of 2005. The deletion of one of the notes i.e., note no. ii is not in line with the Clause 10.6.1 to 10.6.3 of Working Guidelines. The KPT to reinstate the existing note in the proposed SOR.</td><td>This item has been re-instated as per TAMP’s request.</td></tr>
<tr><td>(vii).</td><td colspan="3">As stated earlier, the Authority vide Order No.TAMP/42/2014-KPT dated 15 January 2016 has approved the port dues and pilotage fee for marine services provided by the KPT at AKBTPL at Tuna / Tekra at KPT based on the proposal filed by the KPT. The validity of the rates approved in the said Order is made co-terminus with the validity of the scale of rates to be approved in the current exercise. The draft SOR proposed by the KPT, however, does not include the tariff for marine service approved in the said Order. Though the impact of the marine services for which a separate tariff is approved recently need not be captured in the revenue estimates in Form 3 as rightly done be the KPT, the KPT may consider to incorporate the rates approved in the said Order in the proposed SOR so that the tariff is available in the schedule at one place.</td><td>Rates for Marine Services provided by KPT for AKBTPL at Tuna / Tekra has now been incorporated in the proposed SOR under Chapter V.</td></tr>
<tr><td>(viii).</td><td colspan="3">Section 3. Charges for Composite rate for on board Labour of Cargo Handling Division (CHD)
The rate for Cargo Handling division was last approved by the Authority vide Order No TAMP/41/2012-KPT dated 13 August 2013. During the proceeding relating to the said Order, the KPT had furnished cost statement for CHD based on separate accounts maintained by KPT for CHD. The KPT has not furnished any separate workings in the current proposal for CHD though the proposed SOR and the revenue estimates in Form 3 includes revenue from CHD maintaining the status quo in the existing CHD Levy. In this regard, the port is to clarify the following points:</td><td></td></tr>
<tr><td>(a).</td><td colspan="3">Confirm the figures reported in the Annual Accounts of the KPT for the years 2011-12 to 2013-14 is inclusive of the CHD.</td><td>It is to confirm that figures reported in Annual Accounts for the years 2011-12 to 2013-14 is inclusive of the CHD.</td></tr>
<tr><td>(b)</td><td colspan="3">Clarify whether the ARR considered by the KPT includes the ARR for the CHD also.</td><td>It is to confirm that ARR considered is inclusive of ARR for CHD also.</td></tr>
<tr><td>(c).</td><td colspan="3">In case the Accounts of the CHD continues to be maintained separately and is not covered in the Annual Accounts of the KPT and the ARR furnished by the port does not include ARR for CHD, the port may furnish separate working for CHD under the Tariff Policy 2015 in the prescribed format.</td><td>No comments, in view of reply furnished for para (a) and (b) above.</td></tr>
</table>

(ix).	The Authority vide Order No.TAMP/41/2012-KPT dated 13 August 2013 while approving the per tonne rate for deployment of Labour from Cargo Handling Division (CHD) had also approved a note which was subsequently amended vide Order dated 4 September 2015 at the request of KPT. The amended note is as follows: *"The revenue for actual quantity handled by a stevedore is to be divided by the actual numbers of gangs supplied to arrive at the per gang cost and compare the same with the revenue requirement per gang. If the actual revenue per gang is more than the maximum average revenue requirement per gang i.e. ₹25,578/- for handling foreign cargo or ₹15,347/- for handling coastal cargo (other than thermal coal and POL including crude oil, iron ore and iron ore pellets) and ₹24,555/- per gang for both foreign and coastal cargo from thermal coal, POL including crude oil, iron ore and iron ore pellets, the surplus will be refunded to the stevedore while in case of shortfall the same shall be recovered from the stevedore."* The said note was proposed by KPT citing that it will take care of the requirement of having productivity linked tariff. It is, however, seen that Schedule 3 under Chapter III relating to composite rate for CHD does not incorporate the above mentioned existing note. The reasons for deleting the existing note may be explained and justified. In para 10 (xx) of the Order dated 13 August 2013, the KPT was advised to file a well analysed proposal taking into consideration the various factors mentioned in the said para of the Order and propose productivity linked rates to act as an incentive to the stevedores to achieve better productivity and reduce the overall cost of operation at the time of next revision of rates for CHD. The KPT to adhere to the suggestion of the Authority while proposing the rates for CHD.	As far as composite rate for onboard labour is concerned, in the earlier proposal, Board intended to recover the actual cost for deployment of labour. As such, after completion of vessel, the actual gangs utilized were taken into account. As a matter of fact, the charges have been considered in the annual revenue requirement, irrespective of utilization of gangs, performance, etc. However, all the workers are on regular establishment and expenditure towards the same affects the revenue requirement and then in SOR.

14.1. Based on communication no.PD/14033/51/2015-PD-V dated 15 July 2015 and SW-15011/20/2014-FI/CS dated 14 December 2015 received by us from Ministry of Shipping (MOS) regarding transportation of automobile cargo through Ro-Ro vessels and levy of wharfage charges on ad valorem basis, we have vide our letter dated 01 January 2015 requested the KPT among other 4 ports to formulate a well analyzed proposal for prescription of wharfage charges on per unit basis.

14.2. In this regard, KPT vide its letter No.FA/COST/1170/310 dated 02 May 2016 has made following submissions:

(i). As per Clause 5.7.1 of Working Guidelines to operationalise the Tariff policy for Major Port Trust, 2015, circulated by TAMP vide Notification No.TAMP/21/2009-WS May, 2015 "Port can approach TAMP for notification of Tariff for the new cargo / equipment / service adopting the tariff if any fixed for comparable cargo / equipment / service in any other Major Port Trust".

(ii). Accordingly, it is proposed to adopt the tariff prescribed at Chennai Port Trust for handling and storage of Motor vehicles by RORO system, as RORO service on Coastal run will be mainly between Chennai to Kandla and vice-versa. Following tariff items of Chennai Port trust are proposed to be adopted:

(a). Sr. No.10. c (i) of Chapter III Cargo Related Charges, SCALE 1 Schedule of Wharfage Charges i.e. Wharfage charges for Motor Cars, Jeeps, Van and Tourist Caravans loaded or unloaded by the RORO system.

Sr. No.	Item	Unit	Rates for Foreign vessels (in ₹)	Rates for Coastal vessels (in ₹)
1.	Motor cars, Jeeps, Van and Tourist Caravans loaded or unloaded by the RORO system	Ad valorem	47%	29%

(b). SCALE 6 Demurrage Charges under Chapter IV.

Sr. No.	When Recoverable	Charge payable per tonne per or part thereof (in ₹)
(i).	Import goods left lying in the Transit area - beyond the expiry of the free days	--
(a).	For the first 7 days after the expiry of the free days	18.46
(b).	For the next 10 days	36.92
(c).	For the next 30 days	55.38
(d).	Thereafter	92.30
(ii).	Export goods and transship goods left lying in the Transit Area beyond the expiry of the free days	5.68

In addition to above, the Vessel related charges as per proposed SOR shall be recovered for such vessels, based on GRT and status of foreign and coastal vessels.

Addendum to the Proposed Revised Scale of rates is furnished.

(iii). KPT has requested to consider and approve Addendum to the Proposed Revised Scale of Rates and include the same in the proposed Scale of Rates.

14.3. With regard to the above submissions made by KPT, KPT vide our letter dated 11 May 2016 was requested to consider proposing wharfage charges for Motor Cars, Jeeps, Van and Tourist Caravans loaded or unloaded by the RORO system on per unit basis instead of ad valorem in line with the suggestion of the MOS and following the Tariff Policy, 2015 and Working Guidelines issued by TAMP to operationalize the Tariff Policy, 2015. As regards demurrage charges, the unit of levy prescribed in the existing SOR of the CHPT is "**per wharfage unit per day or part thereof**". The KPT while adopting the existing demurrage charges of CHPT has proposed the unit of levy as "**per tonne or part thereof, per day or part thereof**" which is not in line with the unit of levy prescribed in the existing SOR of the CHPT. The KPT was also requested to examine and correct the unit of levy as prescribed in the SOR of CHPT adopted by the KPT. Since the proposed tariff items is likely to have impact on revenue estimation, the KPT was requested to capture the revenue impact of these tariff items in Form 3 while furnishing its response in the general revision proposal.

14.4. With reference to our letter dated 11 May 2016, the KPT vide its letter dated 09 June 2016 has furnished its response, which is summarised below:

(i). As per Clause 5.7.1. of Working Guidelines to operationalize the Tariff Policy for Major Port Trust, 2015 circulated by TAMP vide Notification No.TAMP/21/2009-WS May, 2015 "Port can approach TAMP for notification of Tariff for the new cargo/ equipment/ service adopting the tariff if any fixed for comparable cargo/ equipment/ service in any other Major Port Trust".

(ii). Accordingly, it is proposed to adopt the proposed SOR of Chennai Port Trust for handling and storage of Motor vehicles by RORO system, as RORO service on Coastal run will be mainly between Chennai to Kandla and vice -versa. Following tariff items of Chennai Port Trust are proposed to be adopted:

(a). Sr. No.31 of Scale – 1 – Schedule of Wharfage Charges of Chapter III – Cargo Related Charges.

Wharfage charges on Motor vehicles or any other equipments passing through the Port.

Sr. No.	Description of Cargo	Unit	Rate (in ₹)	
			Foreign	Coastal
31				
I	Equipments:-			
1.	Aircrafts	Each	75,000	45,000
2.	Boats & Launches	Each	15,000	9,000
3.	Excavator, Motor Grader, Dumper Trucks, Wheel Loaders, Bull Dozers, Pavers, Power Transformers as assembled units			
(a).	Equipment weighing upto 15 M.T.	Each	30,000	18,000
(b).	Equipment weighing above 15 M.T. and upto 30 M.T.	Each	45,000	27,000
(c).	Equipment weighing above 30 M.T.	Each	1,00,000	60,000
4.	Railway wagons & coaches	Each	22,300	13,380
5.	Locomotives	Each	33,500	20,100
6.	Equipments in loose condition, Electrical & Electronic Goods including spare parts, tools & accessories	MT	1,100	660
II.	Motor Vehicles for carrying Passengers/ Cargo:-			
(i).	Two wheelers	Each	500	300
(ii).	Three wheelers	Each	1,500	900
(iii).	Four wheelers of upto 1400 cc			
	(a). Import	Each	4,200	2,520
	(b). Export	Each	2,200	1,320
(iv).	Four wheelers of above 1400 cc -Import & Export	Each	8,400	5,040
(v).	Six wheelers and above			
	(a). Vehicle weighing upto 7.5 M.T.	Each	10,000	6,000
	(b). Vehicle weighing above 7.5 M.T.	Each	29,000	17,400

Notes:-

(a). Cargo/ MAFI not meant for Kandla Port landed and reshipped/ transshipped shall be assessed for each handling @ 75% of the wharfage applicable to that cargo/ MAFI. Steamer Agent shall arrange for movement of Cargo/ Container/ MAFI from one berth to another, if required.

(b). Cargo/ MAFI transshipped from vessel to vessel directly, shall be assessed for each handling @ 50% of the wharfage applicable to that cargo/ MAFI.

(c). Cargo/ MAFI manifested for Kandla and subsequently amended for 'transshipment' shall be assessed for each handling @ 100% of the wharfage applicable to that cargo/ MAFI.

(d). Wharfage on spares & accessories which are manifested with the units classified under Sl. No.I(3) above will be levied separately under Sl. No.I(6) above.

(b). Schedule of Demurrage Charges on Motor vehicles or any other equipments passing through the port (after free period)

Sr. No.	Description	Demurrage per wharfage unit per day or part thereof (in ₹)
1.	Import Cargo	
	(i). For the first 7 days	18.50
	(ii). For the next 10 days	37.00
	(iii). For the next 13 days	55.50
	(iv). Thereafter	112.50
2.	Export cargo and Transhipment cargo	
	(i). For the first 7 days	18.50
	(ii). For the next 3 days	37.00
	(iii). Thereafter	112.50

In addition to above, the Vessel related charges as per proposed SOR shall be recovered for such vessels, based on GRT and status of foreign and coastal vessels.

(iii). Addendum to the Proposed Revised Scale of Rates is furnished.

15.1. As brought out earlier, while furnishing comments, Vadinar Oil Terminal Limited (VOTL) and Indian Oil Corporation Limited (IOCL) vide their letters dated 5 May 2016 and 11 May 2016 respectively have requested for a meeting for Vadinar port users.

15.2. In response, we have vide our letter dated 23 May 2016 intimated that the Joint Hearing on the subject proposal was held on 20 April 2016 giving an opportunity of hearing to all the concerned user / user associations. Amongst other users / user associations, users of Vadinar Division viz., IOCL and VOTL also attended the joint hearing and made their submissions. Therefore, IOCL and VOTL were requested to approach the KPT to make their submission, if any, on the subject proposal.

16. It is relevant to state that the KPT in the proposal dated 22 February 2016 has based on the earlier direction of the MOS dated 17 September 2015 which was approved by this Authority vide Order No.TAMP/4/2004-Genl dated 5 October 2015 prescribed a note for coastal tariff stating that the rate for coastal vessel will be collected in Indian rupees upto 60% (of the rate juxtaposed) for foreign going vessel calculated by taking into account the exchange rate fluctuation. In the meanwhile, MOS vide its letter dated 11 May 2016 has directed this Authority to keep its earlier direction dated 17 September 2015 in abeyance. Therefore, this Authority has passed an Order dated 19 May 2016 to keep its Order dated 5 October 2015 also in abeyance. This Authority has forwarded the copy of the Order dated 19 May 2016 to all the Major Ports including KPT, BOT operators and major users/ user organisations. Accordingly, while furnishing the additional information / clarification, the KPT vide its letter dated 27 May 2016 has modified the proposed SOR in line with the Order dated 19 May 2016 and has also captured its impact in the revenue estimates.

17. As stated above, while furnishing additional information/ clarification, the KPT vide its letter dated 27 May 2016 has also slightly revised ARR, draft SOR and has revised estimation of revenue at the proposed rate in Form - 3. The main modifications made by the KPT in the revised proposal dated 27 May 2016 and the submissions made by the KPT are given below:

(i). The KPT has modified the indexed ceiling ARR at ₹841.81 crores as against ₹849.95 crores arrived in its original proposal (however, KPT has not furnished revised Form-1).

(ii). As per the revised Form - 3, the revenue estimation at the proposed SOR is ₹838.97 crores for the year 2015-16 as against ₹850.12 crores arrived by KPT in its February 2016 proposal.

18.1. Subsequently, the KPT vide its letter dated 13 June 2016 and emails dated 15 June 2016 has further slightly revised draft ARR, draft SOR and revised estimation of revenue at the proposed rate in Form - 3. The main modifications made by the KPT in the revised proposal dated 27 May 2016 and the submissions made by the KPT are given below:

(i). The KPT has modified the indexed ceiling ARR at ₹835.52 crores as against ₹841.81 crores arrived in its proposal dated 27 May 2016.

(ii). As per the revised Form - 3, the revenue estimation at the proposed SOR is ₹835.52 crores as against ₹838.97 crores arrived by KPT in its May 2016 proposal.

(iii). The KPT has proposed to increase 25% and 22% in port dues and pilotage activity respectively of Vadinar division instead of 150% and 109.70% proposed by the port earlier.

18.2. The KPT vide its letter dated 13 June 2016 has furnished the following revised documents:

(i). Revised Form-1 i.e. Annual Revenue Requirement (ARR) certified by practicing Chartered Accountant. The revised ARR computation furnished by KPT is tabulated below:

(₹ in lakhs)

Sl. No.	Description	Y1 (2011-12)	Y2 (2012-13)	Y3 (2013-14)
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses	37799.49	37357.81	45160.30
(ii).	Depreciation	4579.31	4622.43	4918.18
(iii).	Management & general Overheads	8219.00	9516.48	9943.95
(iv).	Finance and Miscellaneous expenses (FME)	8888.88	7830.35	27467.23
	Subtotal 1=(i)+(ii)+(iii)+(iv)	**59486.68**	**59327.07**	**87489.66**
(2).	**Less Adjustments:**			
(i).	Estate related expenses			
	(a). Operating expenses	640.42	862.37	1192.08
	(b). Depreciation	22.00	23.00	23.63
	(c). Management & Administrative Overheads	355.17	432.66	580.59
	(d). Allocated FME	342.82	337.87	479.59
	Subtotal 4(a)(i)=[(a)+(b)+(c)+(d)]	**1360.41**	**1655.9**	**2275.89**
(ii).	**Interest on loans**	15.00	15.00	15.00
(iii).	**4/5th of One time expenses, if any like arrears of wages, arrears of pension / gratuity, arrears of exgratia payment, etc. (list out each of the items)**			
	(a). Wage Revision arrears	0.00	0.00	0.00
	(b).	0.00	0.00	0.00
	(c).	0.00	0.00	0.00
	Subtotal 2(a)(iii) = [(a)+(b)+(c)]	0.00	0.00	0.00
(iv).	**4/5th of the Contribution to the Pension Fund**	4351.20	4480.00	16276.00
(v).	**Management and General overheads over & above 25% of the aggregate of the operating expenditure and depreciation**	0.00	0.00	0.00
(vi).	**Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10. of the Tariff Policy, 2015.**			
	(a). Operating Expenses	0.00	0.00	0.00
	(b). Depreciation	0.00	0.00	0.00
	(c). Allocated Management and Administrative Overheads	0.00	0.00	0.00
	(d). Allocated FME	0.00	0.00	0.00
	Subtotal 2(a)(vi) = [(a)+(b)+(c)+(d)]	**0.00**	**0.00**	**0.00**
	Total of 2(a) = 2(a)(i)+2(a)(ii)+2(a)(iii)+2(a)(iv)+2(a)(v)+2(a)(vi)	**5726.61**	**6150.90**	**18566.89**
(3).	**Total Expenditure after Total Adjustments (3=1-2)**	**53760.07**	**53176.17**	**68922.77**
(4).	Average Expenses of Sl. No. 3 = [Y1 + Y2 + Y3] / 3	58619.67		
(5).	**Capital Employed**			
	(i). Net Fixed Assets as on 31.03.2014	78211.79		

	(As per Audited Annual Accounts)	
	(ii). Add: Work in Progress as on 31.03.2014 (As per Audited Annual Accounts)	28355.51
	(iii). Less: Net value of Fixed assets related to Estate activity as on 31.03.2014 as per Audited Annual Accounts.	367.32
	(iv). Less : Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2014 as per Audited Accounts.	0.00
	(v). Less : Net value of fixed assets as on 31 March 2014 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10. of the Tariff Policy, 2015.	0.00
	(vi). Add : Working Capital as per norms prescribed in clause 2.5. of the Working Guidelines	
	(a). Inventory	68.97
	(b). Sundry Debtors	1855.33
	(c). Cash	31.54
	(d). Sum of (a)+(b)+(c)	1955.84
	(vii). Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]	108155.82
(6).	**Return on Capital Employed 16% on Sl. No.5(vii)**	17304.93
(7).	**Annual Revenue Requirement (ARR) as on 31 March 2014 [(4)+ (6)]**	75924.60
(8).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15 I.E. @6% (7*1.06)**	**80480.08**
(9).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16 I.E. @ 3.82% (8*1.0382)**	**83551.90**
(10).	**Ceiling Indexed Annual Revenue Requirement (ARR)**	**83551.90**
(11).	**Revenue Estimation at the Proposed SOR within the Ceiling Indexed ARR estimated at Sr. No.10 above.**	**83551.58**

(ii). Revised Form-3 i.e. Revenue Estimation duly certified by practicing Chartered Accountant.

(iii). Reconciliation Statement of figures as per Annual Accounts and as considered in Form-1.

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

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

(i). The Scale of Rates (SOR) of Kandla Port Trust (KPT) was last revised by this Authority in January 2011. The validity of the SOR of KPT approved by this Authority vide its Order dated 18 January 2011 is till 31 March 2013. In the said Order, based on the estimated cost position, a tariff increase of 20% was allowed in the cargo handling activity (except POL) in Kandla Division. As regards vessel related charges, tariff increase of 48% was allowed including for dry docking at the Kandla division.

(ii). The KPT has stated on couple of occasion during the consultation proceedings that port had submitted its proposal twice and due to some or other reasons, it was not approved by this Authority. The submission made by the KPT does not reflect the complete factual position. It is admitted that the KPT had filed a proposal for general revision of its SOR in January 2013 which was taken on consultation with stakeholders. The chronology of events since its filing of the proposal in January 2013 and till the KPT filed the current proposal in February 2016 has been elaborately brought out in para 4 of this Order is reiterated. The same is not repeated here for sake of brevity.

(iii). (a). After protracted follow up, the KPT has filed its proposal for general revision of its SOR under the Tariff Policy, 2015 on 22 February 2016. In the said proposal, the KPT had estimated ceiling indexed Annual Revenue Requirement (ARR) of ₹84995.46 lakhs and the revenue estimated at the proposed SOR by the KPT was ₹85011.92 lakhs.

Information / clarification was sought vide our letter dated 18 April 2016 with reference to its proposal giving time upto 25 April 2016. A joint hearing in this case was held on 20 April 2016. After regular follow up, the port has furnished the requisite information / clarification along with revised draft SOR and modified estimates of revenue vide its letter dated 27 May 2016. Subsequently vide its letter of June 2016 (received on 13 June 2016), the KPT has furnished further modified revenue estimates certified by the practicing Chartered Accountant.

(b). It is relevant here to state that the draft proposed SOR filed by KPT vide its letter dated 22 February 2016 took into consideration the earlier direction of the MOS dated 17 September 2015 based on which this Authority had passed Order No.TAMP/4/2004-Genl dated 5 October 2015. Following the said Order, the KPT had, proposed to collect coastal rates for coastal vessels upto 60% of foreign going vessel calculated by taking into account the exchange rate fluctuation. In the meanwhile, MOS vide its letter dated 11 May 2016, directed this Authority to keep its earlier direction dated 17 September 2015 in abeyance and reinstated the MOS direction of 1st/ 3rd January 2005 and 9 March 2005. Therefore, this Authority has passed an Order dated 19 May 2016 to keep its Order dated 5 October 2015 also in abeyance. Consequently, the KPT was requested to propose specific rates for coastal vessel in the proposed SOR in line with the recent Order dated 19 May 2016 and also capture its effect in the revenue estimates. The KPT has, accordingly, vide its letter dated 13 June 2016 furnished final revised proposed SOR proposing specific rate for coastal vessel in line with the Order dated 19 May 2016 and has also captured its impact in the revenue estimates. Apart from that, the KPT has also modified the estimates of ARR duly certified by a practicing Chartered Accountant. In final revised proposal filed by KPT dated nil June 2016 (received on 13 June 2016), the ceiling indexed ARR is revised to ₹83,551.90 lakhs and the Revenue estimates at the modified proposed SOR is pegged at ₹83,551.58 lakhs.

The information / clarification furnished by KPT vide its letter dated 27 May 2016 and the final revised proposal furnished by KPT dated nil June 2016 along with submissions made by the port during the processing of the case are considered in this analysis.

(iv). Before we proceed to analyse the case, it is relevant to state that the Customs Brokers Association (CBA) (formerly known as Kandla Port Custom House Agents Association) has stated that a PIL No.276/2013 is pending before Hon'ble Gujarat High Court and hence, when the matter is sub-judice revision in SOR sought by KPT is to be examined. When sought to clarify, the KPT has clarified that the said PIL has been disposed off by the Hon'ble High Court of Gujarat vide its Oral Order dated 04.12.2015. Hence, there is nothing on record which restrains this Authority from considering the proposal of the KPT.

(v). (a). Clause 2.1 of the Tariff Policy 2015 requires each Major Port Trust to assess the Annual Revenue Requirement (ARR) which is the average of the sum of Actual Expenditure as per the final Audited Accounts of the three years 2011-12 (Y1), 2012-13 (Y2) and 2013-14 (Y3) subject to certain exclusions as prescribed the Clause 2.2. of the Tariff Policy 2015 and the Working Guidelines issued by this Authority plus Return at

16% on Capital Employed including capital work-in-progress obtaining as on 31st March 2014, duly certified by a practicing Chartered Accountant/ Cost and Management Accountant.

(b). The KPT has assessed the Annual Revenue Requirement (ARR) based on Audited Annual Accounts for three years i.e., 2011-12 (Y1), 2012-13 (Y2) and 2013-14 (Y3) duly certified by a practicing Chartered Accountant. The KPT has excluded the expenses not admissible in ARR computation for arriving at the Average annual expenses for the year 2011-12, 2012-13 and 2013-14. The following adjustment done by KPT in line with provisions prescribed in Clause 2.2. of Tariff Policy 2015 and Clause 2.2. of Working Guidelines are brought out below:

(i). The KPT has excluded an amount of ₹640.12 lakhs, ₹862.37 lakhs and ₹1192.08 lakhs towards of Operating Expenses and ₹22.00 lakhs, ₹23.00 lakhs and ₹23.63 lakhs pertaining to depreciation for the years 2011-12, 2012-13 and 2013-14 pertaining to Estate activity as against actual Operating Expenses for estate activity reported in Annual Accounts at ₹2613.76 lakhs, ₹3267.83 lakhs and ₹3755.32 lakhs and depreciation of ₹274.63 lakhs, ₹283.99 lakhs and ₹326.40 lakhs for the years 2011-12, 2012-13 and 2013-14 respectively as per Clause 2.2. (i) of the Tariff Policy, 2015 and Working Guidelines notified by this Authority. When sought clarification for mismatch in the figures considered for exclusion, the port has clarified that the operating expenditure of Estate Activity reported in the Annual Accounts for each of the years 2011-12 to 2013-14 is also inclusive of expenses incurred by the port towards maintenance of Gopalpuri and Kandla colony. From the clarification furnished by the KPT, it is inferred that the expenses incurred by the port towards maintenance of the two colonies, which are for port employees are captured for general revision of SOR. The KPT has also furnished the details of operating expenditure pertaining to Gopalpuri, Kandla and Vadinar Colony captured which the port has considered as part of expenses for general revision of its SOR. It is relevant here to state that rate/ license fee of quarters for port employees is not fixed under the Land Policy Guidelines. It is fixed by the respective port following the relevant rules. On this premise and based on the clarification furnished by the port, and recognizing that the ARR computation is certified by Chartered Accountant, the above adjustment done by the KPT is relied upon and is accepted. The allocated FME and allocated Management and General Overheads relevant for estate activity excluded by KPT is relied upon.

(ii). The KPT has also excluded the interest on loan as per Clause 2.2. (ii) of the Tariff Policy, 2015 and Working Guidelines notified by this Authority.

(iii). As per Clause 2.2(iii) of Tariff Policy 2015 and the Working Guidelines, 1/5 of one-time expenses like arrears of wages, pension/ gratuity, ex-gratia payments arising out of wage revision etc. are to be included in the Annual Revenue Requirement (ARR). Likewise, 1/5th of the Contribution to Pension Fund are to be included for the calculation of ARR. This means 4/5th of the above mentioned expenses are to be excluded in the ARR computation.

The KPT has excluded ₹4,351.20 lakhs, ₹4,480.00 lakhs and ₹16,276.00 lakhs in the years 2011-12, 2012-13 and 2013-14 respectively being 4/5th of the contribution to the pension fund reported in the Annual Accounts of the corresponding years. The above adjustment done by KPT is in line with Tariff Policy, 2015 and is supported with working and hence considered.

(c). As per Clause 2.2. (iv) of Tariff Policy 2015 and Clause 2.2. (iv) of the Working Guidelines, Management and General Administration Overheads subject to a cap of 25% of aggregate of the operating expenditure and depreciation is only to be considered in the ARR calculation.

The Management and General Administration Overheads (MGAO) reported in the Audited Annual Accounts is ₹8,467.95 lakhs, ₹9,757.16 lakhs and ₹10,200.83 lakhs for years 2011-12, 2012-13 and 2013-14 respectively.

Thereafter, the KPT has assessed 25% of the Operating Expenses as per Audited Annual Accounts at ₹12,649.45 lakhs, ₹12,874.18 lakhs and ₹15,005.61 lakhs for the 2011-12, 2012-13 and 2013-14 respectively. Since MGA reported as per Audited Annual Accounts is within the cap of 25% of aggregate of operating expenses and depreciation, no adjustment is made by KPT in ARR in the years 2011-12, 2012-13 and 2013-14 respectively complying with the provisions of Tariff Policy, 2015.

As per the working furnished by the KPT in Form-2, the KPT has not excluded the operating expenditure on Estate Activity. On excluding the operating expenses on Estate Activity from the Operating Expenses, the 25% of the Operating Expenses works out to ₹9,965.57 lakhs, ₹10,092.94 lakhs and ₹11,947.41 lakhs for the years 2011-12, 2012-13 and 2013-14 respectively. The above modification, however, does not have any impact on the estimate of ARR since the Management and General Administration overheads reported in the Audited Accounts is within the cap prescribed in the Tariff Policy, 2015.

(d). As per Clause 2.2(v) of the Working Guidelines notified by this Authority, all expenses relevant for captive berths are to be excluded from the computation of ARR.

The KPT has shown Nil exclusion towards expenses relevant for tariff fixation of captive berth. This information furnished by KPT in ARR Computation is relied upon.

(vi). As per clause 2.1. of the Tariff Policy 2015, ARR will be the average of the sum of Actual Expenditure as per the final Audited Accounts of the three years 2011-12 (Y1), 2012-13 (Y2) and 2013-14 (Y3) plus Return at 16% on Capital Employed including capital work-in-progress obtaining as on 31st March 2014. The average of expenses estimated by the KPT comes to ₹58,619.67 lakhs (₹53,760.07 lakhs + ₹53,176.17 lakhs + ₹68,922.77 lakhs/3).

(vii). (a). In the original proposal dated 22 February 2016 the KPT had arrived the capital employed figure based on the Audited Annual Accounts as on 31 March 2014 at ₹1,16,354.21 lakhs, which comprised of ₹82,882.71 lakhs towards Net fixed assets + ₹31,882.98 lakhs towards value of work-in-progress + ₹1,955.84 lakhs towards working capital - ₹367.32 lakhs towards net fixed assets related to Estate Activity in line with provision prescribed in Clause 2.4. of the Working Guidelines.

Based on the request made by few users/ user associations like the Kandla Stevedores Association Limited (KSAL) and Kandla Port Steamship Agents Association (KSAA) seeking the details of capital work in progress considered by the port in the ARR calculation, the port has provided the requisite details to the users/ user associations. Based on the details provided by the KPT, the KSAL and the KPSAA have listed a few such items and requested for exclusion from Work-in-progress figures while calculating the ARR. Based on their request,, the KPT has reviewed and reduced the Captial Work in progress considered in the capital employed from ₹31,882.98 to ₹28355.51. Apart from that the KPT has also reduced net fixed Assets considered by it originally at ₹82,882.71 to ₹782,11.79 lakhs in the final revised proposal. Thus, in short, the KPT has, in view of the objections of users/ user associations, reduced the capital employed by ₹ 8198.39 lakhs (₹4,670.93 lakhs in net fixed assets and ₹3,527.47 lakhs towards work-in-progress of relating to PPP projects). The port has not made any change in the other adjustments done for arriving at the capital employed.

With regard to the plea of the KSAL regarding excluding the expenditure made towards Bunder Basin, the KPT has categorically stated that the contention cannot be accepted, as the Bunder Basin facility is part of the facilities in the Kandla Port and hence cannot be excluded. It is relevant to state that as per clause 2.4. of the Working Guidelines the net fixed assets related to estate, Net fixed assets transferred to the BOT operator, if any, but reflecting in the Books of Port Trusts and net fixed assets, if any, relevant to be considered for tariff fixation of captive berths need to be excluded. The Tariff Policy does not require ports to eliminate the net fixed assets of the port.

Hence, this Authority may like to go with the proposal of the port in this regard. The KPT has clarified that the costs of value of work in progress and net fixed assets in respect of PPP projects have been excluded in the revised working. The KPT has also confirmed that no expenditure made on PPP projects has been included in the Annual Revenue Requirement.

(b). Working capital comprises of Inventory, Sundry debtors and Cash balances. The Sundry Debtors are seen to be computed as per norms prescribed in clause 2.5. of Working Guidelines. As per the said clause, the limit on inventory for capital spares is to be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. The Inventory balance considered by KPT could not be co-related with the operating stores expenses as per the Audited Annual Accounts for the year 2013-14. Noting that the ARR computation is certified by Chartered Accountant, the inventory balance considered by the KPT is relied upon.

The norm for estimating cash balance for working capital is one month's cash expenses. The cash balance considered by KPT could not be co-related with the operating cash expenses as per the Audited Annual Accounts for the year 2013-14. The cash balance is reworked to consider one month cash expenses excluding the expenses related to the Estate activity from the expenses reported in the Audited Annual Accounts for the year 2013-14. Based on this modification, the cash balance in the working capital works out to ₹4,006.73 lakhs instead of ₹31.54 lakhs estimated by the KPT.

(c). Subject to above analysis, the modified capital employed works out to ₹1,12,131.01 lakhs as against ₹1,08,155.82 lakhs estimated by the KPT.

(viii). Return on Capital Employed at 16% is worked out on the revised Capital Employed at ₹17,940.96 lakhs which is considered in the ARR computation.

Indian Farmers and Fertilizer Co-operative Limited (IFFCO) has stated that while allowing 16 % ROCE, distinction should be made between assets in productive use and unproductive assets. According to IFFCO, return can only be on assets put on productive use. Assets not in productive use should not be considered for return propose, as argued by it. In this regard, it is to state that as per Clause 2.1 of Tariff Policy, 2015 announced by the MOS, the Major Port Trust is entitled for 16% return on the Capital Employed including capital work in progress as on 31 March 2014. There is no requirement of segregation of assets under Tariff Policy, 2015 for the purpose of allowing 16% ROCE. It has to be kept in view that under the forward looking model of 2005 Guidelines, Major Port Trusts were entitled for return purely on estimate basis, that too on gross value of assets, even if the proposed investment is in the third year of the Tariff cycle whereas, the ARR model under 2015 guidelines considers return on actual investment in WIP to enable the port to earn return. The argument of the IFFCO that allowing return on WIP may not incentivise the ports to complete the project may not hold good since the ports are geared up to commission the projects in time. The proposal of KPT is in line with the Tariff Policy, 2015.

(ix). The ARR is the average of the actual audited expenditure for the three financial years 2011-12 to 2013-14 at ₹58,619.67 lakhs as estimated by KPT plus 16% ROCE at ₹17,304.93 lakhs aggregating to ₹75,924.60 lakhs as on 31 March 2014. Further, the KPT as per Clause 2.7. of Working Guidelines has indexed the said ARR @ 100% of the WPI applicable for the year 2014-15 and 2015-16 at 6% and 3.82% respectively and arrived at ceiling indexed ARR forwarding SOR at ₹83,551.90 lakhs for the year 2015-16. Clause 2.1 of the Tariff Policy requires each Major Port Trust to assess the Annual Revenue Requirement (ARR) which is the average of the sum of actual expenditure for the three years, 2011-12(Y1), 2012-13(Y2) and 2013-14(Y3) plus return on 16% of Capital Employed. In this regard, we have already requested the Ministry of Shipping to amend the said clause in the policy by prescribing the (Y1), (Y2) and (Y3) instead of indicating the specific years 2011-12(Y1), 2012-13(Y2) and 2013-14(Y3) so that the ARR captures the average of the actual expenditure relating to the immediately preceding three years period. Response of the MOS is awaited in this regard. In the meantime, since the years 2014-15 and 2015-16 are already over, the approach adopted by the port to arrive at the ceiling indexed ARR applying 100% of the WPI applicable for the year 2014-15 and 2015-16 at 6% and 3.82% respectively is accepted so that the port is not at a loss in the estimate of ARR to meet its expenditure.

The port has confirmed that figures reported in the Annual Accounts of KPT for the years 2011-12 to 2013-14 are inclusive of CHD and the ARR considered by KPT includes the ARR for CHD also. The position reported by the KPT is relied upon.

The modified ARR calculation furnished by the KPT vide its revised proposal dated 13 June 2016, which is duly certified by Chartered Accountant is relied upon in this analysis. A summary of the ceiling indexation ARR furnished by the KPT in the original proposal dated 22 February 2016, revised proposal dated 13 June 2016 and as considered by this Authority subject to modification in the capital employed is given below:

(Amount ₹ in lakhs)

Sr. No.	Particulars	As per Original proposal dated 22 February 2016	As per Revised proposal dated 13 June 2016	As considered by the Authority
1	Average Expenses for the years 2011-12, 2012-13 and 2013-14	58,619.67	58,619.67	58,619.67
2	Capital employed including net fixed asset, capital work-in-progress as on 31.03.2014 and working capital as per norms	1,16,354.21	1,08,155.82	1,12,131.01*
3	Return on capital employed @ 16%	18,616.67	17,304.93	17,940.96
4	ARR as on 31 March 2014 (4=1+3)	77,236.34	75,924.60	76,560.63
5	Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15 (6%)	81,870.52	80,480.08	81,154.27
6	Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16 (3.82%)	84,995.46	83,551.90	84,251.84
7	Ceiling Indexed Annual Revenue Requirement (ARR)	84,995.46	83,551.90	84,251.84

* The increase in capital employed considered by this Authority is on account of modification in the cash balance in the working capital computation which is discussed in earlier paragraph.

(x). As per Clause 2.6. of Tariff Policy 2015, the Major Port Trusts have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant. The Port has given detailed working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding traffic handled in 2014-15 as required as per Clause 2.9. of the Working Guidelines. As per Clause 2.5. of Tariff Policy 2015, for drawing the SOR, the KPT has reportedly considered the actual cargo traffic in tonnes exclusively handled by the KPT and GRT of vessels handled by the port during the year 2014-15, to draw the proposed SOR within the ceiling indexed ARR. The actual cargo traffic handled by KPT in the year 2014-15 is reported to be 92.50 Million Tonnes Per Annum. The KPT has confirmed that the revenue estimated from cargo handling service is the actual cargo exclusively handled by the KPT in the year 2014-15 excluding the cargo traffic of PPP Operators.

As regards revenue from vessel related charges, the KPT has confirmed that it has considered GRT of vessels handled in the year 2014-15 except for berth hire income wherein GRT of PPP vessels have been excluded. It is appropriate that vessel related income arising from the vessels handled by KPT at the Adani Kandla Bulk Terminal Private Limited (AKBTPL) operated terminal is not considered in the revenue estimates because the marine services at Tuna / Tekra for AKBTPL is done by outsourcing for which tariff is fixed separately. Further, the KPT has confirmed that ARR does not include the outsourcing expenses relating to marine services offered to AKBTPL since they commenced the operation only in January 2015. Based on the above clarification, the traffic figures of cargo and GRT of vessels considered by KPT which is duly certified by the practicing Chartered Accountant in the revenue estimation at the proposal tariff is relied upon.

(xi). (a). As stated earlier, as per Clause 2.6. of Tariff Policy 2015, the Major Port Trusts have the flexibility to determine the rates to respond to the market forces based on its commercial judgment and draw the SOR within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant.

(b) The KPT in its proposal has proposed increase in all the existing tariff items except for a few items of tariffs in Cargo related and Vessel related charges. The revision proposed by the KPT in its revised proposal is given below:

Sr. no.	**Activity**	**Proposed hike in %**
I	**Kandla**	
a.	**Vessel Related Charges**	
1.	Port Dues	25%
2.	Pilotage etc.	25%
3.	Berth hire (crane berth)	100%
4.	Berth hire (non-crane berth)	50%
5.	Liquid berth / stream dues / anchorage	40%
6.	Dry docking charges	100%
7.	Mooring Charges	41%
8.	Anchorage Charges	40% to 300%
9.	Transhipment / Lightereage fees	40%
10.	Beaching Charges	25%
b.	**Cargo Related Charges**	
(i)	Wharfage Charges	
1.	Coal & Fertilizer	40%
2.	Foodgrain (bulk)	67%
3.	Oil Cakes & Fodder	67%
4.	Salt	400%
5.	Pol Products	90%
6.	Edible Oil & Non-hazardous Chemicals	67%

7.	Timber	25%
8.	Other commodities	25%
9.	Bagged Sugar & Foodgrains	nil
10.	Containerised Cargo	nil
(ii)	License Fees (open space)	100%
	(covered)	55%
(iii)	Demurrage Charges	25%
(iv)	Container Storage Charges	nil
(vii)	On Board Labour Charges	nil
(viii)	Miscellaneous Charges	25%
II	**Vadinar**	
1.	Port Dues (Original proposal – 150.00%)	25%
2.	Pilotage etc. (Original proposal - 109.70%)	22% to 25%
3.	Berth hire, anchorage etc.	40%
4.	Wharfage- Crude Oil	50%

(c). It is relevant to state that the increase proposed in few items is more than 50%. Hence, reference was drawn to the KPT to the direction of Secretary (Shipping) given to KPT with reference to its earlier proposal to consult Jt. Secretary (Ports) and Director (PD) on its general revision proposal and the letter of KPT wherein the port had stated that MOS has advised the port to mitigate the impact of rise in cost in Kandla division and to propose a suitable hike in Vadinar operations and ensure the revision is within 50% hike.

The KPT was, therefore, requested to examine whether the direction of JS (Ports) to KPT as brought out above is to be considered in the current tariff revision proposal. If so, the KPT was requested to consider suitable modification in its proposal. In this context, the KPT has stated that as per Tariff guidelines 2015, Annual Revenue Requirement has been worked out and rates have been proposed taking into consideration the principle of "what traffic can bear" and present market trends etc.

The KPT has stated that revision proposed now may appear high but it has to be recognized that for period 2013 to 2016, there was no revision in rates. So, it may appear that proposed hike in tariff is high but the revision sought is not unreasonable, as argued by KPT. The reasons for non-revision of tariff since April 2013 have already been brought out elaborately in the earlier part of this order relating to chronology of events.

(d). As brought out earlier, Indian Oil Corporation Limited (IOCL) and Vadinar Oil Terminal Limited (VOTL) have strongly objected to the steep increase proposed in the vessel related charges for Vadinar Division.

It is noteworthy that the KPT in its final proposed SOR of June 2016 perhaps based on the strong objection raised by IOCL and VOTL against steep increase in the vessel related charges for Vadinar division, has proposed to reduce the hike of 150% in port dues proposed in its original proposal to 25% and 107.9% proposed in pilotage fee to 22%. The impact of the revised proposed rate in respect of the above items are also captured by the KPT in the revised revenue estimates. The tariff proposed by the KPT in the final revised proposal is approved.

(e). The KPT during the processing of the case has made a statement that this Authority in the earlier tariff revision Orders did not grant increase in the charges at Vadinar stating that the Vadinar Division was in a surplus division and this has resulted steep increase in the vessel related in Vadinar Division. The point made by KPT that no increase was granted in the vessel related charges for Vadinar division is not correct. It is relevant to state that this Authority vide Order No.TAMP/60/2011-KPT dated 2 may 2012 had granted 46.29% increase in the pilotage fees for Vadinar division in view of hire of additional tugs based on the proposal of the port.

Further, this Authority would like to draw reference to clause 2.11.3 of the Tariff Guidelines of 2005 which governed the tariff fixation at all the Major Ports prior to announcement of new Tariff Policy 2015. As per the said clause increase for any activity or sub activity showing surplus could not be granted. For Vadinar division, separate cost statements filed by KPT during the earlier tariff revision proposals reflected surplus position after admissible cost plus 16% return. That being so, this Authority for the reasons stated in the relevant tariff Orders did not grant increase in the vessel related charges for Vadinar division in line with the clause 2.11.3 of Tariff Guidelines of 2005 which is binding both on this Authority and KPT.

(f). The Gandhidham Chamber of Commerce and Industry (GCCI) has objected to the steep increase of 400% proposed by KPT in the wharfage rate of Salt. On the justification sought for the hike of 400% proposed in wharfage for Salt at Kandla division and 500% increase proposed in wharfage of Salt at Tuna port, the KPT has sought to justify that the present wharfage rates for salt is ₹3 per MT and the same has been proposed to be increased to ₹15/- per MT. The KPT has proposed to recover the minimum direct cost for all commodities where the present charges are below that cost. It is not unreasonable to permit the KPT to recover the minimum direct cost. Based on the justification furnished by the KPT, the proposed rate is approved. In any case, the rates approved by this Authority are ceiling rates and the KPT may exercise the flexibility available to the port and allow rebates/discounts on the approved rates.

(g). Considering the position that the increase in the cargo related charges, the vessel related charges and miscellaneous charge as sought by the KPT is well within the ceiling indexed Annual Revenue Requirement and based on the judgment of the Port, this Authority approves increase in cargo and vessel related charges as proposed by the KPT.

(h). As regard license (storage) fee for Open Space and covered space, the KPT has proposed 100% & 55% hike respectively over the existing tariff in the current general revision proposal under ARR model instead of following the Land Policy Guidelines 2014. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in 2014 which has come into effect from 2 January 2014. Subsequently, the MOS has issued amended Land Policy Guidelines in July 2015. As a result, the fixation of License (Storage) Fees and Warehousing Charges is to be governed by the provisions of the revised Land Policy Guidelines of 2014. Para 13(a) of the revised Land Policy Guidelines for Major Ports, 2014, provides for five factors for determination of Market value of port land. The 2014 guidelines clearly recommends consideration of the highest of the five factors for determination of the latest market valuation of land, in the normal course. Clause 13(b) of the said guidelines also stipulates that annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. The KPT has not determined the License (Storage) Fees for the above two items based on the stipulation contained in the Land Policy Guidelines of 2014. For a similar tariff item, the Mumbai Port Trust (MBPT) and Visakhapatnam Port Trust (VPT) in their respective General Revision proposals, which are approved by this Authority simultaneously with the KPT general revision proposal, has sought 70% and 300% respectively increase on the existing License (Storage) Fees. Following the approach adopted in the MBPT and VPT cases to approve the proposal, the proposed hike of 100% & 55% for open space and covered space in the said two items in KPT case is approved subject to the condition that the KPT to formulate a well analysed proposal to prescribe License (Storage) Fees for the above two items in line with the stipulations contained in the Land Policy Guidelines of 2014, within three months of date of notification of the Order, as stipulated in MBPT and VPT tariff Orders.

(xii). The KPT has proposed to introduce few new conditions, modified few existing conditions and deleted some of the conditions and tariff items. They are discussed as follows:

(a). The port has proposed a new note (under 1.2. general terms and conditions) stating that all the services/ equipment/craft provided by the Board should be on hourly basis and that minimum charges shall be for 2 hours for all equipments and crafts. Subsequently, the KPT has clarified that the minimum charges shall be for 2 hours applicable only for crafts upto 2000 BHP and for water barge Bhimsen. The KPT has also requested to move the proposed new note from (1.2. general terms and conditions) to Schedule 6 under Chapter IV. There is no pointed observation from users, the proposed new note is inserted under schedule 6 under Chapter IV.

(b). KPSAA has stated that for craft above 2000 BHP, the proposed minimum charges is for 3 hours which may be pegged to one hour. In this context, it is relevant to state that the existing SOR also prescribes the minimum charges for craft above 2000 BHP for 3 hours which is proposed to be continued in the proposed SOR. The port has not proposed any modification in this regard. It has rejected the request of KPSAA.

(c). The existing SOR of KPT prescribes separate schedule of rates in respect of vessel related charges and wharfage related charges for Tuna port. In the current proposal, the KPT has done away with a separate schedule of rates for Tuna port. Instead, the port has proposed to insert a note stating that the tariff applicable for Kandla port is applicable for Tuna Port also as against separate schedule of rates for Tuna port in the approved SOR. To a specific query in this regard, the port has sought to justify that Services provided at Tuna port are at par with Kandla. Tuna port has been provided with all the infrastructural facilities like road and rail connectivity, etc. and has confirmed that the services, infrastructure, equipment and facilities provided at Tuna are comparable to those rendered at Kandla division. Subsequently, the KPT has also stated that the revenue impact of the proposed applicability of Kandla port rates to Tuna port has been captured in the revenue estimates. Based on the justification and clarification furnished by the port, the proposed note with respect to applicability of Kandla rates to Tuna port is approved.

(d). The existing note 2 under Schedule 2.1 & 2.2 stipulates that Pilotage-cum-towage fees shall include one inward and one outward movement with required number of tugs/launches of adequate capacity and shifting of vessels for ‘Port convenience’. The KPT has now proposed to replace the existing note stating that the Pilotage charges should be bifurcated separately for inward / outward at 50% of prescribed rate. The port has clarified that the existing Pilotage fees consist of one inward and one outward movement. Bifurcation of inward/outward pilotage charges will help in levying the correct pilotage charges during conversion of vessels from foreign run to coastal run etc. Overall, the charges of Pilotage will remain the same. The note proposed by the KPT is of clarificatory nature to avoid ambiguity in the levy of rate in case of conversion of vessels from foreign run to coastal run. Hence, based on the clarification furnished by the KPT, the proposed note is included in the SOR slightly modifying the language to state that Pilotage charges shall be levied at 50% of the prescribed rate for inward movement and 50% of the prescribed rate for outward movement.

The existing note stating that Pilotage-cum-towage fees shall include one inward and one outward movement with required number of tugs/launches of adequate capacity and shifting of vessels for ‘Port convenience’ is, however, continued to be retained as this note is uniformly prescribed in the SOR of Rates of all Major Port Trusts and is in line with clause 10.4 of the Working Guidelines issued by this Authority to operationalize the Tariff Policy 2015.

(e). The existing note (3) (under Schedule 2.1 & 2.2) states that shifting within the harbour at the request of the vessel will be charged at 25% of the pilotage cum towage fee. In the proposed SOR the KPT has proposed to charge 50% of the one sided pilotage fee. The port has clarified that there is no increase in percentage as compared to the existing SOR. The existing SOR prescribes levy of shifting charges at 25% for the pilotage fee. Pilotage fee covers both inward and outward movement. In the proposed SOR, the KPT has prescribed 50%of the one sided Pilotage fee. Based on the clarification furnished by the KPT the proposed note is approved subject to slight modification to state that the levy shall be 50% of the applicable one sided pilotage. The word “applicable” is inserted in the proposed note.

(f). KPSAA has requested the port that when a vessel is shifted from berth to berth and has to be dropped at anchorage during pilotage due to non-availability of tide, other berth being occupied etc., then the same is to be considered as shifting for Port Convenience. In this context, KPT has agreed with the point made by KPSAA that such movement is to be treated as shifting for port convenience. Accordingly, a suitable condition is included in the proposed SOR.

(g). (i). The port has proposed two new notes. At note (4) under Schedule 2.1 & 2.2 the port has proposed that in case of shifting of vessel at off shore Oil Terminal, Vadinar from Essar jetty to Essar jetty, 25% of pilotage-cum-towage fee shall be charged. The port has also proposed to introduce another new note no (7) under schedule 2.1and 2.2 stating that additional pilotage fee shall be levied in case vessel needs shifting to Vadinar road outer anchorage at Offshore Terminal, Vadinar.

When requested the port to explain the reasons for introduction of the proposed notes and clarify the existing tariff levied towards such shifting, the port has clarified that the proposed note has been introduced to discourage such type of shifting and to act as a deterrent for vessels opting for such shifting. The port has confirmed that the proposed note has no revenue impact. Based on the clarification furnished by the port and recognising that none of the users have raised any objection to the proposed note, both the proposed notes are approved.

(ii). The port has also proposed a new note (no. 13 under Schedule 2.1 & 2.2) stating that whenever vessels from the SBMs/ Jetties are shifted to Vadinar road outer anchorage within the port limits at Vadinar during exigencies of cyclone, natural calamities, no pilotage fees will be recovered for such shifts. The proposed note is approved.

(h). The existing note (no. (12) under Schedule 2.1 & 2.2) prescribes US$ 66.85 per hour or part thereof for Kandla division and US$45.17 for Vadinar Division towards attendance of vessels which are grounded / drifted. In the proposed SOR the port has proposed a uniform tariff for both the divisions at US$83.5645 per hour resulting in 25% increase for Kandla Division and 85% increase for Vadinar Division. Recognising that this is not for a regular service, the prescription of uniform rates for both the division is approved as proposed by the port.

(i). The port, in place of existing note 13 has proposed a modified note no.16 which states that the Agent will file the inward / outward / shifting pilot memo with a notice of 4 hours. Amendment of the pilot memo within three hours is allowed if the changes are made for the same tide. However, if changes required for next tide, cancellation memo would be required to be filed with a notice of 3 hours. The GCCI has made a general remark that the proposed note should not be there. The port has sought to justify that the said note is proposed because the Agents make changes even at the last minute. Re-planning and re-posting of the movement not only takes considerable time but the movements of all the subsequent vessels are affected due to the last minute changes of one vessel. Further, in the case of postponement / pre-ponement of a movement of one vessel fresh pilot has to be posted for which the pilot has to called at short notice and vehicle has to be deployed for this purpose. All these activities take considerable time and hence the time limit of 3 hours for cancelling the pilot memo is ideal. Considering the reasons furnished by the port, the note proposed by the KPT is approved.

(j). The port has proposed a note (no. 19 under Schedule 2.1 & 2.2) stating that in case of pilot detention on board, the pilot will obtain an endorsement from master of the vessel. In case the master of the vessel refuses the endorsement, the pilot may put a remark in the pilot certificate and the Pilot detention charges are leviable. The port has clarified that the proposed note is incorporated because, at times, the Master of the vessel refuses to sign the Pilot Certificate in case of pilot detention on board. Hence to bring more clarity in the matter, proposed conditionality has been incorporated in proposed SOR. The proposed note is accepted.

(k). Another note no.(20) inserted by the KPT is that in case a vessel in a normal course when gets grounded with pilot on board or any eventualities, the actual services rendered to the vessels as applicable will be chargeable. When the proposed note is read with note no.(15), it appears it will lead to ambiguity in application of rates proposed at note no.15. Hence, the new note no.(20) proposed by the KPT is not approved at this juncture. The KPT may, if required, come up with a separate proposal in this regard with clarity.

(l). The port has proposed a note no.(21) that when a vessel at berth is required to be shifted to another by an incoming vessel agency's request for a specific berth, such requesting agent will pay only shifting charges for berth to berth. However, during the course of shifting if any additional services are rendered due to the deficiency of the vessel, all such services shall be charged at the applicable rates on the vessel which is actually deficient.

The port has clarified that many times in the past the vessel being shifted some times develop some engine problem or due to some grounding etc. of the vessel being shifted. As a result, additional services are required for the vessel being shifted. In such cases, as per the existing clauses, the incoming vessel has to bear the cost of all such resultant charges on account of the deficiency of the vessel being shifted, for no fault of the incoming vessel. In order to prevent such types of unreasonable charges to the incoming vessel, this clause is required to be incorporated. Based on the clarification furnished by the KPT, the proposed note is approved.

(m). The port has proposed a note no.(22) that charges of tugs and other equipments used during piloting is covered under the pilotage charges for any number of equipments / crafts used as decided by Port. However, any special request from the vessel would be chargeable. The existing definition of pilotage fee is proposed to be retained which clearly defines the components covered under the pilotage fee. It appears that port wants to insert a supporting provision in the SOR to levy charges for any items not included in the pilotage fee, if requested by vessel. The proposed note in this regard is approved subject to deletion of the words "as decided by port".

(n). The port has proposed to modify the existing note no. (2) under Berth hire charges stating that the berth hire charges for non-crane general cargo berths shall be levied at 50% of the rates prescribed instead of 80% prescribed in the existing SOR. The KPT has confirmed that impact of reduction in proposed berth hire has been captured in revenue estimates. The proposed modified note is approved.

(o). The existing note (at 3.1. (B) (6)) prescribes 5 times the berth hire charges if the vessel do not call for the pilot for sailing within four hours of completion of discharge. As against that the KPT has proposed US$ 150 per hour or part thereof and after expiry of every 48 hours, the KPT proposes levy of one full additional pilotage and port dues in addition to the normal berth hire charges as opportunity loss. The KPT has also proposed a note to levy US$ 50 per hour or part thereof after expiry of every 96 hours at mooring.

The port has clarified that at the existing prescription of five-times berth hire charges, the Port has to sustain losses due to over stay of vessels. It also increases pre-berthing delay for the vessels waiting for berth. As such, the proposed charge of US $ 150 per hour is to act as a deterrent for vessels overstaying at berth and facilitate availability of berth for vessels waiting to berth. There is no impact envisaged, because the proposed notes are to act as a deterrent for vessels overstaying at berth. In view of the above clarification furnished by the port, the proposed notes for levy for both berth and mooring are approved. The note proposed by the KPT that the above charges for both berth and mooring will not be applicable in case of tidal reasons is also approved.

(p). The port has proposed a new note no. (8) under berth hire charges stating that the vessel berthed at a shore crane berth and not allowed to use the shore cranes by the port due to commodity restrictions, such vessels will be charged berth hire at the rate of a non- shore crane berth. The port has stated that there has been constant demand from Port Users that even though Port is not allowing them to use wharf cranes and charging crane berth charges. Hence the above conditions is proposed by the KPT. The proposed note appears to be rationale and hence is approved.

(q). The port has proposed a new note no. (9) under berth hire schedule stating that if any shifting of a vessel from Berth is ordered by the port but due to vessel's fault, vessel is not able to shift will be charged US $ 4000 per day or part thereof, unless the shifting order is cancelled by the port. For mooring, the port has proposed to collect 50% of said amount.

The port has clarified that it has been observed that whenever vessels are required to be shifted for Port convenience, some of the vessels are reluctant to accept the request of the Port for such shifting in their interest. In case, the vessel is not ready to shift, it would result in one shallow berth remaining vacant and one deep-draft vessel waiting for berth and Port, therefore, loses revenue. The Port has also stated that port does not expect any revenue impact on the above. Since the proposed note is reportedly to discourage the vessels in honouring the requirements of the Port the proposed the penalty of US $ 4000 per day for declining to shift at the berth and 50% thereof at the mooring is approved as proposed by the KPT subject to minor modification in the note to state that the reasons for cancellation of shifting order should be recorded in writing.

(r). As stated earlier, the tariff for Marine related services provided by Kandla Port Trust (KPT) at Dry bulk terminal commissioned by AKBTPL at Tuna / Tekra was approved by this Authority separately vide Order No.TAMP/42/2014-KPT dated 15 January 2016. With respect to the tariff for coastal vessels, this Authority has approved the note in line with the Order No.TAMP/4/2004-Genl dated 5 October 2015. In the said Order, the

KPT was directed to insert relevant schedules in the existing Scale of Rates of the KPT appropriately. Accordingly, in the Proposed SOR, the schedule relating to tariff for Marine related services provided by Kandla Port Trust (KPT) at Dry bulk terminal commissioned by AKBTPL at Tuna / Tekra approved by this Authority vide Order No TAMP/42/2014-KPT dated 15 January 2016 is inserted at Chapter V. While approving the said Order as per the then direction of the MOS, as against the rate for coastal vessel a note was inserted to state that Rate for coastal vessel will be collected in Indian rupees upto 60% (of the rate juxtaposed) for foreign going vessel calculated by taking into account the exchange rate fluctuation. In the proposed SOR, it is seen that the port has shown the tariff for coastal vessel as nil. As stated earlier, in pursuance of the MOS letter dated 11 May 2016, this Authority has passed an Order on 19 May 2016. In pursuance of the said Order, based on the directions of MOS, the tariff for coastal vessels need to be prescribed. For this purpose the exchange rate at 1 US $ = ₹66.11 considered while approving the tariff for marine services at Tuna / Tekra is taken and the rate for coastal vessel is prescribed at 60% thereof.

As stated earlier, rightly the port has neither included the expenses related to this outsourced service nor captured its revenue estimates. The insertion of this Chapter is done only with the intention to have the rates at one consolidated place and hence the same is included in the SOR as proposed by the port.

(s). The existing SOR contains a separate Schedule 3.1.B prescribing Berth hire Charges for sailing vessels, launches, tugs, small crafts, barges etc. As per the said schedule in existing SOR, the existing unit of levy of **barges** on per GRT per 1 hour or part thereof is ₹0.0292 (subject to a minimum of ₹83.4152) and US $0.0012 (subject to a minimum of US $ 3.3744) for coastal and foreign vessel respectively. The existing berth hire charges for Sailing vessels, launches, tugs, small crafts, is US$ 0.4406 per hour, the existing berth hire and mooring fees for LASH barges is US$ 0.5503 per hour and for, fishing trawlers is US$ 0.0777 per hour. The port has now proposed to delete the entire schedule. The port has instead proposed a new note no 10 under the Berth hire schedule stating that the GRT rate applicable for vessels will be applicable to barges also. The impact of the proposed modification will lead to steep hike of 666% in the berth hire charges for barges. For Sailing vessels, launches, tugs, small crafts, LASH barges, fishing trawlers the impact of proposed modification cannot be assessed as unit of levy is proposed to be changed from “ per hour” basis in the existing SOR to “ per GRT per hour basis”. The port was specifically requested that if the unit of levy is proposed to be changed, the port may ensure that corresponding adjustment is done in the unit rate while arriving at the proposed tariff. The port has not adequately addressed this point nor justified steep increase of 666% in the berth hire charges for barges except stating that one of the users i.e., the Rishi Shipping has agreed to the same. In the absence of sufficient justification for steep increase of 666% as against 100% increase proposed in the berth hire charges for normal vessels and also in the absence of understanding the impact of the proposed modification on the other categories of vessels which are presently covered under Schedule 3.1.B, the existing Schedule 3.1.B in the SOR is retained and the existing tariff prescribed in the said Schedule is increased by 100% for all the items in line with increase proposed by the port in the berth hire charges.

(t). The port has proposed a new note no (11) under berth hire schedule, to state that in case vessels are not performing as per Performance standards, penal berth hire charges shall be collected in consultation with port users. Under Section 48 of the Major Port Trusts Act, the Major Port Trust can levy charges for cargo, vessel and miscellaneous services listed therein subject to approval of this Authority. The proposed note does not prescribe the penal berth hire charges leviable by the port and hence is not approved. The port may, if it so desires, file a separate proposal in consultation with port users in this regard.

(u). The existing and the proposed SOR prescribes wharfage rate for arms, ammunition, explosives and defence stores. The port has proposed a note stating that goods imported by DRDO will also be classified as defence stores for the purpose of wharfage collection. Based on a communication from the Ministry of Shipping (MOS), the all Major Port Trusts vide letter No. TAMP/35/2013-Misc. dated 7 August 2014 including KPT were requested to prescribe a suitable note in their respective SOR regarding applicability of wharfage rates for Defence Stores in such a way that there is no ambiguity in mind of users on the application of the prescribed rates. Since the proposed note is clarificatory note relating to levy of wharfage rate for defence stores the same is approved. It is seen, however, that the port has not defined Defence Stores so as to avoid ambiguity in mind of users on the application of the prescribed rates. The Mumbai Port Trust (MBPT) has proposed in its general revision proposal which is also being disposed off simultaneously along with this case, to the effect that "Defence stores" would include 'Bombs, grenades, torpedoes, mines, missiles, and similar munitions of war and parts thereof: cartridges and other ammunition and projectiles and parts thereof, including shot and cartridges wads' coming under Arms, Ammunition, parts and accessories thereof but the reference to "parts thereof does not include radio or radar apparatus as per note no. 2 of Chapter no. 93 of Customs Tariff of India. The said note is being approved by this Authority in the SOR of the MBPT. Hence, proposed said note is also incorporated in the SOR of the KPT so as to avoid ambiguity in the mind of users on the application of the prescribed rates.

(v). (i). The existing SOR prescribes the wharfage rate for machinery including motor vehicles, and auto components and electrical on ad valorem basis. Based on communication no. PD/14033/51/2015-PD-V dated 15 July 2015 and SW-15011/20/2014-FI/CS dated 14 December 2015 of Ministry of Shipping (MOS) regarding transportation of automobile cargo through Ro-Ro vessels and levy of wharfage charges on ad valorem basis, Kandla Port Trust (KPT) along with other few Major Port Trusts were requested to formulate a well analyzed proposal for prescription of wharfage charges on per unit basis. The KPT, however, continued to propose the rates on advalorem basis Wharfage charges for Motor Cars, Jeeps, Van and Tourist Caravans loaded or unloaded by the RORO system in the current proposal stating that it is based on the rate adopted from the Chennai Port Trust. In this context, the KPT was again requested to consider proposing wharfage charges for Motor Cars, Jeeps, Van and Tourist Caravans loaded or unloaded by the RORO system on per unit basis instead of ad valorem in line with the suggestion of the MOS and following the Tariff Policy, 2015 and Working Guidelines issued by TAMP to operationalize the Tariff Policy, 2015.

The KPT has subsequently, vide its letter dated 11 May 2016, proposed to adopt the following schedules towards Wharfage and Demurrage from the proposed SOR of Chennai Port Trust as wharfage rate handling of Motor vehicles by RORO system, Equipments, Railway wagons & coaches, Locomotives Equipments in loose condition, Electrical & Electronic Goods including spare parts, tools & accessories and Schedule of Demurrage Charges on Motor vehicles or any other equipments passing through the port:

Sr. No.31 of Scale – 1 – Schedule of Wharfage Charges of Chapter III – Cargo Related Charges is proposed to be replaced as follows:

Sr. No.	Description of Cargo	Unit	Rate (in ₹)	
			Foreign	**Coastal**
31				
I	Equipments:-			
1.	Aircrafts	Each	75,000	45,000
2.	Boats & Launches	Each	15,000	9,000
3.	Excavator, Motor Grader, Dumper Trucks, Wheel Loaders, Bull Dozers, Pavers, Power Transformers as assembled units			
(a).	Equipment weighing upto 15 M.T.	Each	30,000	18,000
(b).	Equipment weighing above 15 M.T. and upto 30 M.T.	Each	45,000	27,000
(c).	Equipment weighing above 30 M.T.	Each	1,00,000	60,000
4.	Railway wagons & coaches	Each	22,300	13,380
5.	Locomotives	Each	33,500	20,100
6.	Equipments in loose condition, Electrical & Electronic Goods including spare parts, tools & accessories	MT	1,100	660
II.	Motor Vehicles for carrying Passengers/ Cargo:-			
(i).	Two wheelers	Each	500	300
(ii).	Three wheelers	Each	1,500	900
(iii).	Four wheelers of upto 1400 cc			
	(a). Import	Each	4,200	2,520
	(b). Export	Each	2,200	1,320
(iv).	Four wheelers of above 1400 cc -Import & Export	Each	8,400	5,040
(v).	Six wheelers and above			
	(a). Vehicle weighing upto 7.5 M.T.	Each	10,000	6,000
	(b). Vehicle weighing above 7.5 M.T.	Each	29,000	17,400

Schedule of Demurrage Charges on Motor vehicles or any other equipments passing through the port (after free period)

Sr. No.	Description	Demurrage per wharfage unit per day or part thereof (in ₹)
1.	Import Cargo	
	(i). For the first 7 days	18.50
	(ii). For the next 10 days	37.00
	(iii). For the next 13 days	55.50
	(iv). Thereafter	112.50
2.	Export cargo and Transhipment cargo	
	(i). For the first 7 days	18.50
	(ii). For the next 3 days	37.00
	(iii). Thereafter	112.50

Since the KPT has proposed to move from advalorem basis to specific wharfage rate adopting the wharfage rate proposed by the CHPT to comply with the direction of the MOS, the proposed wharfage rates along the conditions governing the wharfage rates is approved as proposed by the KPT. The Demurrage Charges on Motor vehicles or any other equipments proposed by the KPT adopting the rate proposed by the CHPT is also approved.

(ii). Apart from the above items, under the Wharfage Schedule, the Wharfage in respect of Project materials, Machinery, Fruits, nuts, tapioca, coconut, Copra, tamarind seeds, etc. is continued to be proposed on advalorem basis. Clause 2.10 of the Working Guidelines requires the Port Trust to do away with advalorem wharfage rate in the existing SOR and determine specific wharfage rate taking into consideration special case to be taken for handling such cargo or a market determined tariff.

In the absence of any proposal to prescribe wharfage on per unit basis at present, this Authority allows the existing mechanism of advalorem rates to continue. The KPT is directed to formulate a well analysed proposal to prescribe the Wharfage in respect of the above items on per unit basis, and file it within a period of three months from the date of notification of the Order in the Gazette of India.

(iii). The port has proposed a few conditions stating Cargo/ MAFI (MAFI is world-wide the synonym of roll trailers used in modern RoRo Port) not meant for Kandla Port landed and reshipped/ transshipped shall be assessed for each handling @ 75% of the wharfage applicable, Cargo/ MAFI transshipped from vessel to vessel directly, shall be assessed for each handling @ 50% of the wharfage applicable, and Cargo/ MAFI manifested for Kandla and subsequently amended for 'transshipment' shall be assessed for each handling @ 100% of the wharfage. The port has also proposed a note that with reference to Sl. No.31 (I) (3) if received in form of spares & accessories, wharfage rate will be levied as per the rates proposed under Sl. No.31 (I)(6) above The proposed notes are approved.

(w). The KPT has, in the proposed SOR, inserted a note that Vessels which call at Ports, for which IGMs and/or EGMs are filed for the purposes of Customs Act, 1962, cannot be treated as 'cargo', and they are conveyance only, and, the Ports should not charge wharfage on such vessels. This prescription is based on our letter No. TAMP/53/2002-Misc dated 25 March 2015 to all the Major Port Trusts including VPT in pursuance of the MOS letter No. PD-25021/7/2015-PD.1 dated 16 April 2015 of MOS directing to all Major Port Trusts to follow regarding wharfage charges on vessel manifested as cargo in the Import General Manifest (IGM) or Export General Manifest (EGM). The proposed note is, therefore, accepted.

(x). It is relevant to state that the Charges for composite rate for deployment of on board labour of Cargo Handlling Division (CHD) was last approved by this Authority vide Order No.TAMP/41/2012-KPT dated 13 August 2013 based on a separate proposal filed by the KPT and based on separate cost statement filed by the KPT for the CHD. In the current exercise, the KPT has not filed any separate cost statement for CHD. However, figures reported in Annual Accounts for the years 2011-12 to 2013-14 are inclusive of the CHD and the estimated ARR is inclusive of CHD also. Whilst the port has proposed increase in the tariff for most of the times, it has proposed status quo in the CHD levy.

It is relevant to state here that when this case was in advanced stage of finalisation the Ministry of Shipping (MOS) has recently vide its letter No PD/11033/73/2013/PT(pt) dated 14 June 2016 issued Stevedoring and Shore Handling Policy for Major Ports, 2016 which is effective from 1 August 2016. Under the said Policy the normative tariff for Stevedoring and Shore Handling activity on normative basis has to be fixed within the prescribed time for all the Major ports on normative basis based on the guidelines to be issued by the MOS. A separate communication is being addressed to the KPT to file its proposal under the new guidelines issued by the MOS for Stevedoring and Shore Handling operations. Till such time the tariff is fixed under the said new guidelines, the proposal of the KPT to maintain status quo in the CHD levy is approved as proposed by the port.

(y). The Kandla Stevedores Association Limited (KSAL) has stated that the National Labour Tribunal award in respect of manning scales has not yet been implemented at Kandla Port, due to which the trade is bearing the extra burden on this count for no fault of the trade. National Labour Tribunal award must be considered whilst working out the revenue requirement of the Cargo Handling Division of KPT and the per ton rates be reworked on these basis.

As regards implementation of National Tribunal Award, the KPT has stated that each Port has to implement the same considering the local conditions. The KPT has also stated that it has partially implemented the National Tribunal Award. During the last fixation of rate for CHD, the KPT had stated that full implementation of the manning scale will result in majority of the workers being surplus. Without a proper planning for their redeployment or retrenchment via Special Voluntary Retirement Schemes or their retraining, 100% implementation of the manning scales will create chaos in the port and may lead to huge industrial unrest in the port sector. The KPT had then stated that it cannot be expected to pay the salaries, wages, allowances and retirement benefits as per wage board settlement without recovering the same from the port users. As regards booking of gangs in mechanical handling of cargo using grabs, loaders, excavators, the port has clarified that in such operations, the requirement of labour is less, however, the National Tribunal Award on manning scales has fixed the number of labour / winchman, etc. required to be booked for different types of cargo and method of handling. In any case, as stated above under the new guidelines issued by the MOS recently, all concerned ports including KPT will have to approach this Authority seeking norm based tariff for the Stevedoring and shore handling operations.

(z). The Kandla Port Dock Stevedores Association (KPDSA), Kandla Stevedores Association Limited (KSAL), Rishi Shipping have vehemently objected to notional booking of gang at the port. In many previous tariff Orders also, this Authority ordered KPT that booking of notional gangs should be done away with. But, still KPT is continuing to impose the practise of notional booking of gangs on the trade and extracting the charges illegally. The KDSA has stated that while discharging dry bulk cargo using Mobile Harbour cranes, cargo is discharged using grabs attached with Mobile cranes and Loaders / excavators used in the holds for moving cargo in the centre of holds to facilitate grabs lifting. No labour is used in the holds as labours cannot work while discharging mechanically as per Dock Safety rules.

Further, the Rishi Shipping, KSAL and KDSA have raised specific point on midstream operations. They have pointrf out that at anchorage, cargo is loaded /discharged mechanically using grabs. Labour has no practical/physical work in cargo handling operation at anchorage. Machines are used for dragging cargo from wings in the hold and also for cleaning the hatch on completion. Labour is booked notionally only on record for forcible recovery of charges and not for any job, handling is totally mechanical at outer anchorage.

The KPT has clarified that there is no notional booking of labour at Kandla Port. Under the Kandla Dock Workers (Regulation of Employment Scheme) 1969, the respective stevedore has to draw the required labour from the Cargo Handling Division (erstwhile Dock Labour Board) and as per clause 11 (Licensing of Stevedoring) Amendment Regulations, 2010, it is clarified that in case the Port is unable to supply the workers against the requisition placed by the Stevedores, the port allows the stevedores to make their own arrangement for this purpose. As regards the labourers or the Winch operators and Signalman working in mid-stream is concerned, the KPT has stated that it is the Stevedore who has to arrange for transportation of the labour on vessels in mid-stream.

It is relevant to state here that as per Clause 8.4. of the Tariff Policy 2015, Major Ports shall charge only for services provided for them. No notional booking of labour and other similar notional charges is permitted. There is claim and counter claim on notional booking of labour. The KPT is advised to examine the real reasons for grievance of the users and address to comply with the said provision of the Tariff Policy, 2015 issued by the Government of India.

(aa). This Authority vide Order No.TAMP/41/2012-KPT dated 13 August 2013 while approving the per tonne rate for deployment of Labour from Cargo Handling Division (CHD) had also approved a note which was subsequently amended vide Order dated 4 September 2015 at the request of KPT. The note was proposed by KPT citing that it will take care of the requirement of having productivity linked tariff. The originally proposed SOR does not incorporate the existing note approved by this Authority under the schedule of CHD levy. Even the KSAL has pointed out that non-inclusion of the existing foot note will negate the operationalising a productivity linked mechanism as was done in the prevailing SOR with the inclusion of the foot note providing for maximum revenue requirement per gang. On seeking clarification for deletion the existing note, the KPT has stated that in the earlier proposal, Board intended to recover the actual cost for deployment of labour. As such, after completion of vessel, the actual gangs utilized were taken into account. The KPT has stated that as a matter of fact, the charges have been considered in the annual revenue requirement, irrespective of utilization of gangs, performance, etc. Since the ports have flexibility in the Tariff Policy 2015 to draw their own SOR based on their commercial judgement, this Authority approves the proposal of the KPT to withdraw the existing note. In any case, as stated earlier, the tariff will have to be determined under the new Stevedoring and Shore handling Policy based on the proposal to be filed by the KPT.

(ab). The port has vide its letter dated 19 March 2016 proposed a new note under schedule 2.5 License (Storage) fees on general cargo under Chapter III stating that if any cargo remains uncleared for 90 days under rental terms, the same will be deemed to be on transit terms immediately after expiry of 90 days. It is relevant to state that though the KPT has vide its letter dated 19 March 2016 requested this Authority to insert the proposed note in the SOR, the KPT has not incorporated in the proposed SOR.

To a specific query for insertion of the proposed note, the port has stated that as per the Major Port Trusts Act, for the cargo remaining in the Port for more than 60 days, the Port may auction the cargo. At the same time, in the Customs Act, the cargo has to be auctioned if it remains for more than 30 days. As a matter of fact, there is sufficient land available for storage of cargo inside the Port. As such, till date, the cargo is allowed to be stored in the Port even for more than 90 days. As the EXIM dry cargo is increasing at the Port and keeping in view the available storage space, the port proposes to allow 90 days as against 60 and 30 days in the MPT and Customs Act, so that cargo is cleared in a reasonable time and the cargo area can serve the other cargoes. The port further stated that with the above deterrent, no additional revenue would be generated. With reference to the said proposal of KPT, it is relevant to state that the existing and proposed schedule 2.5., permits users to keep cargo in the storage area beyond 90 days at the rates prescribed therein. That being so, approval of the proposed note will lead to confusion unless the existing schedule 2.5. is suitably modified. The KPT has not proposed any modification in the existing schedule. Therefore, this Authority is not in a position to approve the proposed note.

(ac). The port has proposed a new note under dry docking charges stating that the agencies/ users who need extension of docking period shall have to submit an application before 48 hrs. of the scheduled completion period and extra charges (slab wise) are proposed to be levied for the extended period on the grounds to discourage the users for handling there crafts and dry dock. GCCI has objected the proposed note.

The KPT has clarified that in past there are incidences where the crafts used to remain idle on dry dock for one or another reason. However, when the penalty for overstay will be introduced, it will discipline the user and the cases of overstay of crafts on dry dock beyond approved period is reduced by atleast 50%. The proposed note is with the intention that the users properly plan the requirement of dry dock for carrying out repair and maintenance of their crafts and it will help KPT in accommodating more private vessels for dry dock. Based on the reasoning given by the port, the proposed new note is approved. The KPT has stated that the revenue impact for imposing proposed penalty cannot be quantified separately.

(ad). The port has proposed the penal interest rate on delayed payments / refunds @ 14.75%. The proposed penal interest rate is not in line with the Clause 5.5.1 of the Working Guidelines for determination of tariff under Tariff Policy 2015. Hence, the conditionality with respect to penal interest is suitably modified by prescribing 15% penal interest rate in line with the Working Guidelines.

(xiii). The comutation of ARR as furnished by KPT is attached as **Annex-I**. Subject to above analysis, the ceiling indexed ARR estimated by KPT is modified with reference to the cash component of working capital. The modified ceiling indexed ARR comes to ₹84251.84 lakhs as against ₹83551.90 lakhs estimated by the KPT. The computation of modified ARR is attached as **Annex- II**.

The modified ARR is estimated at ₹84,251.84 lakhs. The revenue estimated by the KPT at the proposed SOR is ₹83,551.58 lakhs. The KPT has stated that for a few tariff items / conditionalities, the revenue cannot be quantified. The differential of ₹700.26 lakhs (₹84,251.84 lakhs less₹83,551.58 lakhs) can be taken care by the port from the tariff items and conditionalities for which the KPT could not capture the revenue impact.

(xiv). As per clause 4.1. of the Tariff Policy, 2015, (i). the additional surplus assessed by TAMP in earlier tariff Orders which remains unadjusted has to be transferred by Major Port Trusts to any fund as desired by the Port Trust, and, further (ii). additional surplus, if any, accruing to the Major Port Trusts during the period of application of existing Scale of Rates till the effective date of implementation of the new Scale of Rates fixed under this policy should be assessed and transferred to the General Reserve and use the funds for the purpose of development, creation and / or modernization of the port infrastructure facilities.

In this context, for the years 2011-12 to 2014-15, the port has assessed the actual net deficit after admissible cost and 16% return at ₹137.03 crores, ₹3.53 crores, ₹105.35 crores and ₹72.88 crores respectively aggregating to ₹318.79 crores. The port has also assessed a net surplus ₹10.89 crores for the year 2015-16. The surplus assessed by the KPT for the year 2015-16 seems to be based on unaudited accounts. The deficit of ₹318.79 crores is partly offset by the surplus of ₹10.89 crores. Hence, question of treatment of transfer of surplus as per clause 4.1. of the Tariff Policy 2015 does not arise.

After finalising the accounts for the financial year 2015-16 and for the period till the Order passed in the current exercise comes into effect, the KPT should assess the actual surplus/ deficit and in case of surplus comply with provision prescribed in Clause 4.1. of the Tariff Policy 2015 and also report the position to this Authority within two months from the date the Order comes into effect.

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

(ii). This Authority has vide Order No.TAMP/52/2014-Genl. dated 28 November 2014 notified the Guidelines issued by the MOS on priority berthing of coastal vessel for common adoption by all Major Port Trusts and has advised the port to suitably amend their existing SOR. Since the proposed SOR did not incorporate the guidelines on priority berthing of coastal vessels at Major Port., the KPT was requested to incorporate the same. The port has not incorporated the same despite request. The guidelines issued by the MOS and notified by this Authority in the said Order are incorporated in the revised SOR.

(iii). It is relevant to state that in pursuance of Ministry of Shipping (MOS) communication vide letter No. PD/14033/101/2015-PD.V dated 3 February 2016 this Authority has passed a common adoption Order No. TAMP/14/2016-Misc dated 9 February 2016 relating to prescription of lower charges for cargo & vessels related services as well as special discount in port charges for the services rendered after regular hours by the Major Port Trusts and BOT Operators operating. The KPT has not proposed lower charges for cargo & vessels related services as well as special discount in port charges for the services rendered after regular hours. The KPT was, therefore, requested to incorporate the same in the proposed SOR. The KPT has prescribed a general conditionality in this regard as approved in the Order dated 9 February 2016, so that the option is available to KPT and it complies with Government instruction.

(xvi). As per Clause 3.1. of the Tariff Policy 2015, the Major Port Trusts shall also commit Performance Standards for cargo related services in terms of average ship berth day output, average moves per hour in case of container handling. For vessel side services, the port shall prescribe Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels and any other parameter which is found relevant by the Port. The KPT has committed Performance Standards for cargo related services in terms of average ship berth day output in tonnes / day including container handling and for vessel side services, port has proposed Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels.

Kandla Stevedores Association Limited has stated that there appears to be typographical error in the performance standards proposed for liquid cargo at 25,175 tonnes / day. The port has stated that the proposed performance standards is for Vadinar division. Accordingly, the performance standard for liquid cargo is modified suitably to state that it is for Vadinar Division. The Tariff Policy 2015, does not prescribe any method or basis for proposing performance standards. The performance standard as proposed by the KPT is prescribed along with SOR.

(xvii). As per Clause 2.8. of the Tariff Policy, 2015, SOR will be indexed annually to the inflation to the extent of 100% variation in Wholesale Price Indexed (WPI) announced by the Government of India occurring between 1 January 2014 and 1 January of the relevant year and the adjusted indexed SOR will come into force from 1 April of the relevant year to 31 March of the following year. Further, as per clause 3.2 of the Tariff Policy 2015 to be read with clause 2.8 of the Tariff Policy 2015, annual indexation in SOR at 100% of the WPI is applicable subject to achievement of Performance Standards committed by Major Port Trusts. If a particular port does not fulfil the Performance Standard, no indexation would be allowed during the next year. It is relevant to state that in the instant case indexation for the year 2015-16 is already considered in the ARR and for the purpose of drawing the SOR. The next annual indexation in SOR will be applicable from 1 April 2017 subject to achievement of Performance Standards in the year 2016-17. That being so, a note is inserted in the SOR to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 100% of the WPI to be announced by this Authority. The annual indexation will be from 1 April 2017 subject to the KPT achieving the Performance Standards notified alongwith the SOR. If Performance Standards prescribed in the SOR are not achieved, there will be no indexation in SOR for that particular year. The Tariff Policy, 2015, stipulates that annual indexation in the SOR will be automatic subject to achievement of Performance Standards. It does not require the Major Port Trusts to approach this Authority for the same. In Order to have transparency, the port is advised to declare the Performance Standards achieved for the period 1 January to 31 December vis-à-vis the Performance Standards notified by this Authority at the level committed by the port within one month of end of the calendar year to the concerned users as well as to this Authority. If the Performance Standards as notified by this Authority are achieved by the port, then the port can automatically index the rates prescribed in this SOR at 100% of WPI announced by this Authority and apply the indexed SOR KPT to be intimated by the port to the concerned users and to this Authority.

(xviii). The validity of the existing SOR of the KPT was last extended till 30 June 2016 or till the effective date of implementation of the revised Scale of Rates, whichever is earlier. By the time the revised Scale of Rates approved by this Authority which is notified separately comes into effect, it may be around July 2016. That being so, the existing Scale of Rates is deemed to have been extended from the date of expiry till the revised SOR comes into effect.

(xix). As per Clause 3.8. of Working Guidelines, the SOR notified shall remain valid for 3 years after expiry of 30 days from the date of notification of the Order in the Gazette of India. Therefore, and since the Tariff Policy, 2015 requires computation of tariff based on ARR on the actuals reported in the Audited Accounts for three years, the validity of the revised SOR is prescribed till 31 March 2019.

(xx) **(i). As per clause 8.1. of the Tariff Policy 2015, the rates prescribed in the Scale of Rates are ceiling levels; rebates and discounts are floor levels. The KPT may exercise the flexibility to charge lower rates and/or allow higher rebates and discounts.**

(ii). As stated earlier, as per Clause 2.7. the Tariff Policy 2015, it is for the KPT to ensure that as a result of revision in the SOR there will not be loss of traffic to the port. The KPT has voluntarily stated that it will

use the rates as leverage tool to attract cargo or stop diversion of cargo.

(iii). The modification proposal by KPT in the conditionality governing the Scale of Rates are considered for approval based on justification / clarification furnished by KPT. For reasons stated, a few modification in conditionality proposed by KPT have not been approved. If any error apparent on the face of record or for any other justifiable reasons, the KPT, port users / user association may approach this Authority for review giving adequate justification / reasoning within 30 days of notification of the Order in the Gazette.

21.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approve the revised SOR and the Performance Standards of the KPT which has already been notified in the Gazette of India separately.

21.2. As stated in the said notification, the revised SOR shall come into effect after expiry of 30 days from the date of notification of the revised SOR in the Gazette of India and shall be in force till 31 March 2019. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

21.3. The KPT has committed Performance Standard for cargo related services in terms of average ship berth day output, average moves per hour in case of container handling. For vessel side services, the port has committed Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels.

21.4. The indexation of SOR as provided in Clause 2.8 of the Tariff Policy, 2015 is to be read with Clause 3.2. of Tariff Policy, 2015. If KPT does not fulfil the Performance Standard, the KPT is not eligible for indexation during the next year.

21.5. As per Clause 7.1. of the Tariff Policy 2015, Major Port Trust shall furnish to this Authority annual 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 of its berth. The annual reports shall be submitted by the Ports within 60 days following the end of each of the year. Any other information which is required by this Authority shall also be furnished to them from time to time.

21.6. As per Clause 4 of the Working Guidelines this Authority shall publish all the information received by it from Major Port Trusts under clause 7.1. of the Tariff Policy, 2015 on its website.

(T.S. Balasubramanian)
Member (Finance)

					Annex - I
Computation of Annual Revenue Requirement under Policy for Determination of Tariff for Major Port Trusts, 2015 furnished by KPT.					
					Rs. in lakhs
Sl. No.	**Description**		**Y1 (2011-12)**	**Y2 (2012-2013)**	**Y3 (2013-2014)**
(1).	**Total Expenditure (As per Audited Annual Accounts)**	**Note 1**			
(i).	Operating expenses		37799.49	37357.81	45160.30
(ii).	Depreciation		4579.31	4622.43	4918.18
(iii).	Management & general Overheads		8219.00	9516.48	9943.95
(iv).	Finance and Miscellanous expenses (FME)		8888.88	7830.35	27467.23
	Subtotal 1=(i)+(ii)+(iii)+(iv)		**59486.68**	**59327.07**	**87489.66**
(2).	**Less Adjustments:**				
(i).	Estate related expenses				
	(a). Operating expenses		640.42	862.37	1192.08
	(b). Depreciation		22.00	23.00	23.63
	(c). Management & Administrative Overheads		355.17	432.66	580.59
	(d). Allocated FME		342.82	337.87	479.59
	Subtotal 2(a)(i)=[(a)+(b)+(c)+(d)]		**1360.41**	**1655.9**	**2275.89**
(ii).	**Interest on loans**		15.00	15.00	15.00
(iii).	**4/5th of One time expenses, if any like arrears of wages, arrears of pension / gratuity, arrears of exgratia payment, etc. (list out each of the items)**	**Note 2**			
	(a). Wage Revision arrears		0.00	0.00	0.00
	(b).		0.00	0.00	0.00
	(c).		0.00	0.00	0.00
	Subtotal 2(a)(iii) = [(a)+(b)+(c)]		0.00	0.00	0.00
(iv).	**4/5th of the Contribution to the Pension Fund**	**Note 3**	4351.20	4480.00	16276.00
(v).	**Management and General overheads over & above 25% of the aggregate of the operating expenditure and depreciation**	**As per Form 2**	0.00	0.00	0.00
					....
(vi).	**Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10. of the Tariff Policy, 2015.**				
	(a). Operating Expenses		0.00	0.00	0.00
	(b). Depreciation		0.00	0.00	0.00
	(c). Allocated Management and Administrative Overheads		0.00	0.00	0.00
	(d). Allocated FME		0.00	0.00	....
	Subtotal 2(a)(vi) = [(a)+(b)+(c)+(d)]		**0.00**	**0.00**	**0.00**
	Total of 2(a) = 2(a)(i)+2(a)(ii)+2(a)(iii)+2(a)(iv)+2(a)(v)+2(a)(vi)		**5726.61**	**6150.90**	**18566.89**
(3).	**Total Expenditure after Total Adjustments (3=1-2)**		**53760.07**	**53176.17**	**68922.77**
(4).	Average Expenses of SI. No. 3 = [Y1 + Y2 + Y3] / 3			**58619.67**	
(5).	**Capital Employed**				
	(i). Net Fixed Assets as on 31.03.2014 (As per Audited Annual Accounts)			78211.79	
	(ii). Add:Work in Progress as on 31.03.2014 (As per Audited Annual Accounts)			28355.51	
	(iii). Less: Net value of Fixed assets related to Estate activity as on 31.03.2014 as per Audited Annual Accounts.			367.32	
	(iv). Less : Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2014 as per Audited Accounts.			0.00	
	(v). Less : Net value of fixed assets as on 31 March 2014 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10. of the Tariff Policy, 2015.			0.00	
	(vi). Add : Working Capital as per norms prescribed in clause 2.5. of the Working Guidelines	**As per Form 4 & Note 4**			
	(a). Inventory			68.97	
	(b). Sundry Debtors			1855.33	
	(c). Cash			31.54	
	(d). Sum of (a)+(b)+(c)			1955.84	
	(vii). Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]			108155.82	
(6).	**Return on Capital Employed 16% on SI. No. 5(vii)**			17304.93	
(7).	**Annual Revenue Requirement (ARR) as on 31 March 2014 [(4)+ (6)]**			75924.60	
(8).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15 I.E. @6% (7*1.06)**			**80480.08**	
(9).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16 I.E. @ 3.82% (8*1.0382)**			**83551.90**	
(10).	**Ceiling Indexed Annual Revenue Requirement (ARR)**			**83551.90**	
(11).	**Revenue Estimation at the Proposed SOR within the Ceiling Indexed ARR estimated at Sr. No. 10 above.**	**As per Form 3 & Note 5**		**83551.58**	

Annex - II

Computation of Annual Revenue Requirement under Policy for Determination of Tariff for Major Port Trusts, 2015 as modified by TAMP.

Rs. in lakhs

Sl. No.	Description		Y1 (2011-12)	Y2 (2012-2013)	Y3 (2013-2014)
(1).	**Total Expenditure (As per Audited Annual Accounts)**	**Note 1**			
(i).	Operating expenses		37799.49	37357.81	45160.30
(ii).	Depreciation		4579.31	4622.43	4918.18
(iii).	Management & general Overheads		8219.00	9516.48	9943.95
(iv).	Finance and Miscellanous expenses (FME)		8888.88	7830.35	27467.23
	Subtotal 1=(i)+(ii)+(iii)+(iv)		**59486.68**	**59327.07**	**87489.66**
(2).	**Less Adjustments:**				
(i).	Estate related expenses				
	(a). Operating expenses		640.42	862.37	1192.08
	(b). Depreciation		22.00	23.00	23.63
	(c). Management & Administrative Overheads		355.17	432.66	580.59
	(d). Allocated FME		342.82	337.87	479.59
	Subtotal 2(a)(i)=[(a)+(b)+(c)+(d)]		**1360.41**	**1655.9**	**2275.89**
(ii).	**Interest on loans**		15.00	15.00	15.00
(iii).	**4/5th of One time expenses, if any like arrears of wages, arrears of pension / gratuity, arrears of exgratia payment, etc. (list out each of the items)**	**Note 2**			
	(a). Wage Revision arrears		0.00	0.00	0.00
	(b).		0.00	0.00	0.00
	(c).		0.00	0.00	0.00
	Subtotal 2(a)(iii) = [(a)+(b)+(c)]		0.00	0.00	0.00
(iv).	**4/5th of the Contribution to the Pension Fund**	**Note 3**	4351.20	4480.00	16276.00
(v).	**Management and General overheads over & above 25% of the aggregate of the operating expenditure and depreciation**	**As per Form 2**	0.00	0.00	0.00
					....
(vi).	**Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10. of the Tariff Policy, 2015.**				
	(a). Operating Expenses		0.00	0.00	0.00
	(b). Depreciation		0.00	0.00	0.00
	(c). Allocated Management and Administrative Overheads		0.00	0.00	0.00
	(d). Allocated FME		0.00	0.00	....
	Subtotal 2(a)(vi) = [(a)+(b)+(c)+(d)]		**0.00**	**0.00**	**0.00**
	Total of 2(a) = 2(a)(i)+2(a)(ii)+2(a)(iii)+2(a)(iv)+2(a)(v)+2(a)(vi)		**5726.61**	**6150.90**	**18566.89**
(3).	**Total Expenditure after Total Adjustments (3=1-2)**		**53760.07**	**53176.17**	**68922.77**
(4).	Average Expenses of SI. No. 3 = [Y1 + Y2 + Y3] / 3			58619.67	
(5).	**Capital Employed**				
	(i). Net Fixed Assets as on 31.03.2014 (As per Audited Annual Accounts)			78211.79	
	(ii). Add:Work in Progress as on 31.03.2014 (As per Audited Annual Accounts)			28355.51	
	(iii). Less: Net value of Fixed assets related to Estate activity as on 31.03.2014 as per Audited Annual Accounts.			367.32	
	(iv). Less : Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2014 as per Audited Accounts.			0.00	
	(v). Less : Net value of fixed assets as on 31 March 2014 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10. of the Tariff Policy, 2015.			0.00	
	(vi). Add : Working Capital as per norms prescribed in clause 2.5. of the Working Guidelines	**As per Form 4 & Note 4**			
	(a). Inventory			68.97	
	(b). Sundry Debtors			1855.33	
	(c). Cash			4006.73	
	(d). Sum of (a)+(b)+(c)			5931.03	
	(vii). Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]			112131.01	
(6).	**Return on Capital Employed 16% on SI. No. 5(vii)**			17940.96	
(7).	**Annual Revenue Requirement (ARR) as on 31 March 2014 [(4)+ (6)]**			76560.63	
(8).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15 I.E. @6% (7*1.06)**			**81154.27**	
(9).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16 I.E. @ 3.82% (8*1.0382)**			**84251.84**	
(10).	**Ceiling Indexed Annual Revenue Requirement (ARR)**			**84251.84**	
(11).	**Revenue Estimation at the Proposed SOR within the Ceiling Indexed ARR estimated at Sr. No. 10 above.**	**As per Form 3 & Note 5**		**83551.58**	

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

TAMP/18/2016-KPT	**:**	**Proposal received from Kandla Port Trust (KPT) for general revision of its Scale of Rates (SOR).**

The summary of the comments received from the users/ user organizations and reply furnished by KPT thereon are summarised below:

Sl. No.	Comments of the users / user organisations	Reply furnished by KPT
1.	**Rishi Shipping**	
(i).	Rishi shipping strongly protest the proposal of Kandla port in Chapter III at Para No 3.0, Under the head: Charges for composite rate for On board labour of CHD, imposing a composite rate for On Board Labour for cargo handled on berth and at mid- stream in barges at outer anchorage of Kandla port for the following reasons.	--
(a).	On board labour are not permitted to work at outer anchorage nor porthas ever made any arrangement for supply of the labour on board the vessel discharging at outer anchorage. The port labourers don't have expertise in swimming nor the port labour have ever climbed the pilot ladder for going on board of the vessel in mid-stream at anchorage. Port management has never taken insurance cover for labour, for working in the mid-stream. Port has not made any agreement with unions to send the labourers on board in mid sea nor labour ever consented to go to outer anchorage. The voyage period is 16.00 hours for going to outer anchorage and returning back to the shore. Whereas their shift working time remain as 8.00 hours. So they can't be deployed on duty for 24 hours, even if they have go to the outer anchorage, as if going on picnic in the name of cargo handling.	It is clarified that there is no notional booking of labour at KPT. However, under the Kandla Dock Workers (Resolution of Employment Scheme) 1969, the respective stevedore has to draw the required labour from the Cargo Handling Division (erstwhile Dock Labour Board) and as per clause 11 Licensing of Stevedoring) Amendment Regulations, 2010, it is clarified that in case the port is unable to supply the workers against the requisition placed by the Stevedores, the port may allow the stevedores to make their own arrangement for this purpose. As regards the labourers, operators and Signalman working in mid-stream is concerned, it is stated that it is the Stevedore who has to arrange for transportation of the labour on vessels in mid-stream. Further, as regards booking of gangs in mechanical handling of cargo using grabs, loaders, excavators, it is stated that in such operations, the requirement is less, however, the National Tribunal Award on manning scales has fixed the number of labour / winchman, etc. required to be booked for different types of cargo and method of handling. KPT has already taken action to implement the National Tribunal Award in a phased manner. Accordingly, the strength of new gangs formed after April 2012 was taken as 5 per gang as
(b).	Cargo is loaded /discharged mechanically using grabs at anchorage and hence the labour has no practical/physical work in cargo handling operation. Machines are used for dragging cargo from wings in the hold and also for cleaning the hatch on completion. So no labour is required, besides labour can never even enter in to the holds of the vessels, while loading / discharging by grabs due to possibility of fatal accident and as well as suffocation due to cargo dust and fumes of chemical contents of fertilizer cargo. The National Labour Tribunal after carefully considering all these aspects has clearly awarded the need based labour deployment for any cargo handling activity in the ports. Winch man are not required on the gearless vessels for on board operation at OTB, because cargo loaded/ discharged by high tech floating cranes, which need experienced trained driver. Further no signal man is required on the vessels as the drivers of the crane operate with the support of CCTV camera fixed to the boom of the	

	crane and the monitoring screen on the panel in front of the operators seat. Hence labour if booked will be notionally supplied only on record for forcible recovery of charges and not for any job, as they don't have any work while cargo handling is totally mechanical at outer anchorage.	compared to the strength of 10 per gang prevailing hitherto. Even including the gangs existing prior to 2013, the average strength of each gang is less than 6 workers. KPT is making all efforts to reduce and implement the manning scales as per Tribunal order while ensuring that the port's labour is not rendered idle and also industrial peace is maintained.
(c).	Hon'ble Supreme Court ordered in one of the petition against a service provider, for charging a client without practically providing any service, that " No Govt, semi Govt or private entity can charge for the services not rendered and if charged same will be treated as offence committed"	
(d).	Vide notification No G.N 30 dated 27th Jan 2015 on Policy determination of Tariff for Major port Trust as per Govt. guidelines para no. 8.4 clarifies that Major Ports shall charge only for services provided. No notional booking of Labour and other similar notional charges would be permitted. Further, in many previous tariff notifications also, the TAMP has ordered KPT that booking of notional gangs be done away with. But still KPT did not comply with the orders of the competent authority and is continuing to impose the practise of notional booking of gangs on the trade and extracting the charges illegally. This time the charges are proposed on per ton basis to camouflage the gang charges and circumvent the Govt / TAMP orders against notional booking of gangs. While cargo handling on berths, only winch man and signal man are required in geared vessels and no worker is required in mechanised handling. Whereas for handling of cargo at anchorage by floating cranes, the stevedore don't need winch man, signal man nor workers.	
(e).	Therefore the proposed charges in Para No. 3.0 of Chapter III, the composite Rate for on Board Labour for cargo handling charge, shall not be made applicable to at least cargo handling at anchorage and we request competent authority to examine the violation of the Govt. guidelines and as well as directions given by the Hon'ble Supreme Court of India and set-a-side the Board resolution of charging composite charges for labour supplied notionally without any requirement of stevedores and also without any need of labour in mechanised handling at outer anchorage where labour are not even allowed to work.	
2.	**Customs Brokers Association (CBA) (formerly known as Kandla Port Custom House Agents Association)**	
(i).	The PIL before Hon'ble Gujarat High Court No.276/2013 is pending and in the meantime taking initiative for revision, may lead to action of sub-judice of the matter, may kindly be considered.	The PIL before the Hon'ble Gujarat High Court No. 276/2013 has been disposed off.
(ii).	CBA are presently passing through a recession period on international and national level, in which nearby port have started offering various concessions to the	The SOR is based on the revenue requirement and to meet the same, the increase in rates is proposed keeping in

	trade and if they opt for 100% to 200% upward tariff, may become dis-advantageous thoughts / actions which needs to be considered. KPT will compare the berthing list with past years and consider the present scenario of traffic. Incidentally, CBA also urge that approach adopted by VPT (No. VPT / TM / DCH / AC / LEVY / 2016 dated 18 February 2016), may also be considered, in the interest of traffic at KPT.	view of the prevailing conditions in and around the port and also the additional cost that cargo / activity can bear.
(iii).	It is seen that incomplete revision proposal is placed at site (i.e. only SOR with proposed increase is shown instead complete proposal with justification from KPT) for proposed increase is given, it will afford transparent actions and users will be kept apprised the compelling circumstances, under which revision has become necessary. [As regard, this a letter is addressed to KPT dated 6 April 2006 to send complete proposal which is brought out in subsequent paragraphs.]	Complete proposed SOR has been hoisted on KPT website, as per Tariff Guidelines, 2015.
(iv).	The proposal for SOR revision was dropped in 2012 may kindly be considered. Idea floated / guidelines by the Ministry honored that Users will be burdened only when services are offered to them, i.e. expenditure to be incurred from Cargo Jetty No.01 to 10 and oil jetty will be given cognizable while effecting revision. The expenditure for deep-dredging, rail connectivity and other facilities required by Container Terminal and PPP berths will not be taken into consideration for increase in SOR.	It is to confirm that expenditure incurred for Cargo Jetty No. 1 to 10 and oil jetty have been only considered in proposed revision of SOR. No any expenditure incurred towards facilities to be provided to PPP projects have been taken into consideration.
(v).	The charges effected in present berthing policy by circulars and approval of board may be given place in the SOR, such avoiding filing of Pilot Memo and its relaxations allowed needs to be incorporated by removing from item No.2.2 Miscellaneous Pilotage Fees Note No.5 (08) and 16 etc. The policy finalized through circulars and found suitable by the trade may be given place in SOR at its appropriate stages.	The rates for berthing related charges can only be included in the SOR not the present berthing policy. As this is a policy matter and can be changed / updated time to time, it can't be part of the SOR.
		Further, regarding Pilot Memo and its relaxations, it is proposed to replace the conditionality No. 16 under Clause No.2.2 of Misc. Pilotage fees, under Chapter I as under: "The agents will file the inward / outward / shifting pilot memo without mentioning the timings. However, for inward / outward / shifting timing will be indicated by the Agents during the course of berthing meeting and the same will be communicated to the Harbour Master by Traffic Manager in the Shipping Programme. Any changes in the timings will be communicated to the Harbour Master by the Traffic Manager giving reasonable notice and Harbour Master will plan the shipping movement

		accordingly.
		Further, the services at sr. no. 1 and 4 under Clause No. 2.2 of Miscellaneous Pilotage fees may be deleted and accordingly all the remaining services may be renumbered.
3.	**All India Grain Exporters Association (AIGEA)**	
(i).	AIGEA has been using both Capesize & Panamax vessels which require to be offloaded at anchorage point. Offloading of cargo needs no services or labour from the Kandla Port and the entire operations are being handled by our Stevedores. Cargo is discharged by the floating cranes of the stevedores and need no services of operators, crane driver or signalman of the Port Authorities. Machines working in holds of the ship; no labour is required for this operation from the Holds of Vessel. All the above and other activities take place at anchorage which is at a distance of 18-20 miles from port. Therefore, it is not possible for port labour to reach there as it will take approx. six hours to arrive at the anchorage. Ships do not encourage labour to board the vessel which can only be approached through pilot ladder. Therefore it is recommended that only trained Seamen to do any job at Anchorage.	It is clarified that there is no notional booking of labour at Kandla Port. However, under the Kandla Dock Workers (Regulation of Employment Scheme) 1969, the respective stevedore has to draw the required labour from the Cargo Handling Division (erstwhile Dock Labour Board) and as per clause 11 (Licensing of Stevedoring) Amendment Regulations, 2010, it is clarified that in case the Port is unable to supply the workers against the requisition placed by the Stevedores, the port may allow the stevedores to make their own arrangement for this purpose.
(ii).	As the above activities have no relevance to Port and therefore there is no justification in charging any composite charges to cover these activities. It would not be out of place to indicate that in a competitive world AIGEA live in, each and every additional levy increases the cost for Port users. Kandla, in any case, is an expensive port and any further unreasonable charges would make it extremely difficult for the port users and for the industrial belt in and around Kandla. In fact, Kandla Port Authorities should try to reduce the costs through efficient mechanism rather than asking for any unjustifiable increase.	As regards the labourers or the Winch operators and Signalman working in mid-stream is concerned, it is stated that it is the Stevedore who has to arrange for transportation of the labour on vessels in mid-stream
(iii).	AIGEA hope that TAMP will take their points into consideration and ensure that no additional charges are paid for these activities which are neither in the ambit of the port nor is provided by them.	
4.	**Kandla Port Dock Stevedores Association**	
(i)	KPDSA strongly protests for fixing charges for composite rate for on Board labour of CHD while discharging dry bulk cargo from holds of the vessel on berth by using Mobile Harbour Cranes and charging for discharge of dry bulk cargo at outer anchorage by discharging using ship cranes and/or Floating Cranes on following grounds:-	
(a).	While discharging dry bulk cargo using Mobile Harbour cranes cargo discharged using grabs attached with Mobile cranes and Loaders / excavators	Further, as regards booking of gangs in mechanical handling of cargo using grabs, loaders, excavators, it is stated

	used in the holds for moving cargo in the centre of holds to facilitate grabs lifting. No labour is used in the holds as labours can not work while discharging mechanically as per Dock Safety rules. Kandla port is collecting Royalty of about ₹20-00 per mt for using Mobile Harbour crane and mobile harbour crane is only source of discharging cargo without employing any labour so fixing composite charges for labour on Board is not justified and port authorities be asked to withdraw the same while discharging using mobile harbour cranes for which already port is collecting Royalty.	that in such operations, the requirement is less, however, the National Tribunal Award on manning scales has fixed the number of labour / winchman, etc. required to be booked for different types of cargo and method of handling.
(b).	While discharging dry bulk cargo from ship in to barges at outer anchorage no labour is required nor any port labour can go to anchorage as the same is not in the scope of their operation. Further, Kandla port is collecting ₹22-00 per mt as Royalty for using floating crane in stevedoring so port can not justify charging composite rate for On Board Labour of CHD while discharging in stream. Without prejudice to above said it is submitted that TAMP had advised Kandla port while fixing Tariff for previous years not to charge for notional gangs while handling ships at anchorage. But port has not obeyed the instructions and continued mandatory booking of notional labour gangs and charging for it. Now Kandla port has stopped booking gangs and charging for notional gangs and against this brought new name of "composite charges for On board labour". Since labour are not used at anchorage so port can not charge for the same which is the violation of Govt guide line and also violation of the orders of Hon'ble Supreme Court and also violation of the Tribunal award.	Action has already been taken to implement the National Tribunal Award in a phased manner. Accordingly, the strength of new gangs formed after April, 2012 was taken as 5 per gang as compared to the strength of 10 per gang prevailing hitherto. Even including the gangs existing prior to 2013, the average strength of each gang is less than 6 workers. All efforts are being made to reduce and implement the manning scales as per Tribunal's order while ensuring that the port's labour is not rendered idle and also industrial peace is maintained.
(ii).	KPDSA has therefore requested TAMP to have a serious thought on issue of imposing charges for composite rate on Board labour for vessels discharging on Berths by using Mobile Harbour cranes and for the cargo discharge in stream. KPDSA has also requested to refer this matter for legal opinion as charging for notional activities of port are the violation of the orders of Supreme court and as well as Tribunal award.	
5.	**Gandhidham Chamber of Commerce & Industry (GCCI)**	
(i).	The international trade is highly passing through the economic crisis for the couple of years. The global recession has shook almost all fronts of the economy. The Exim trade is greatly affected amongst all. The Port of Kandla, nation's economy nerve of present is also not escaped. Under such a warm air of recession all around, the proposed SOR by the KPT, merely for the sake of increase, certainly needs to be reviewed before implementing.	In this regard, it is submitted that the revision of SOR of KPT was due from 1.4.2013. The proposal was twice submitted to the TAMP and due to some or the other reason, it was not approved by the Authority. It is also further pertinent to mention here that KPT, especially the general cargo Division of Kandla, is in deficit for the last three years. To offset such a deficit, efforts have been made to step up the

		surpluses earned from Vadinar as well as charges on the liquid handling. In fact, all-out efforts have been made to ensure minimum rise in the general cargo rates. The parawise comments are offered as under:-
(ii).	(a). The port administration has not paid practical attention to the views of stake-holders / port-users. The administration has not taken in to confidence the various Associations of shipping interest before proposal made and recommended to TAMP.	Efforts have been made by KPT to address the grievance made by the stakeholders, port users, etc. In fact, the Port has to take concerns of all the stakeholders including the Users who handle liquid cargo also.
	(b). As a matter of fact, ground realities are not looked in to from the competition point of view. The neighboring private ports have comparatively drawn chunk of Kandla Ports traffic in their lap. The proposed SOR by the KPT vis-à-vis charges being levied by such private ports needs comparative study to arrive at the ground realities.	There has been no cargo diversion from Kandla Port; contrary to this, cargo has been attracted to Kandla Port from neighbouring ports.
	(c). The justification for revision of SOR is not determined since cost factors in calculation are seemingly incomplete.	SOR has been determined as per latest guidelines called "Policy for Determination of Tariff for Major Port Trusts, 2015", issued by Ministry vide letter no. 8(1)2014-TAMP dt. 13.01.2015.
	(d). The exchange rate for US $ and Indian worked out for the proposed SOR is also not duly clarified by the KPT.	The exchange rate of 1US $ = Rs. 66/- has been considered.
	(e). The vessel calling Kandla Port if, finally loads coastal cargo, the entire charges ought to be at coastal rates. Similarly, additional shifting chargers to safe position for grounding of vessel also not to be levied.	The conversion of coastal into foreign and vice versa is being done as per the guidelines issued by DG (Shipping) and endorsed by TAMP.
	(f). The new inserted proposal for SOR under schedule of charges for Steel Floating Dry Dock will rather heavily come upon the trade. May we state that the crafts calling Dry Dock are duly calculated the mobilization, de-mobilization cost including the cost of workshop, spares, support services and working hours. By working out all these factors comparatively then only the crafts are calling Kandla Dry Dock. The present rate structure being economical, there is first choice of Kandla Dry Dock for the craft owners. Since now the Dry Dock charges are subjected to hike under proposed SOR, we apprehend the owners will opt to divert their crafts at other private repairing facilities around west coast. Resultantly the Kandla Dry Dock working successfully for last few decades will come to diminishing mode and would have obviously affected badly on business connected with the agents, workshops, laborers, hoteliers, transporters, paint suppliers, technicians, etc. Since the cost factor is very high in terms of percentage, it is imperative that only the operational expenses are charged to trade in the interest of west coast Indian owners for coastal crafts.	Lot of expenditure is being made from time to time on dry dock and some dredging expenditure is also incurred. Even now, the dry dock is not fully recovering the cost incurred on it. Further, it is also to state that the main purpose of the dry dock is to cater to the needs of the crafts of the Port. Further, the occupancy of the dry dock is almost 100% and lot of crafts are waiting for docking.
(iii).	In view of fact narrated, port administration may rationalize the conditionalities prescribed in SOR.	In view of the above position, it is once again submitted that since the revised

	GCCI emphasis upon no diversion of port's traffic to neighboring ports and for change in SOR it has to be precisely seen that as a result of change there may not be loss of traffic at the Kandla Port, touching the heights of smart port.	rates are due from 1.4.2013, the proposal may be taken up on priority basis. It is also further submitted that the rates proposed are ceiling rates. Whenever any need is felt to use the rates as leverage tool to attract/non-diversion of cargo, the same would be done by the KPT Board.
(iv).	Mean time GCCI earnestly request that present revision of SOR be withheld and status quo maintained till the economic scenario is strengthened and Exim Trade get sigh of relief from worldwide recession. With above suggestion, let us hope the traffic at Kandla Port may continue to be attracted for the present economical rates available to trade.	

2. A joint hearing in this case was held on 20 April 2016 at the KPT premises. The KPT made a brief Power Point presentation of its proposal. At the joint hearing, the KPT and the concerned users/ user organizations have made the following submissions:

Kandla Port Trust (KPT)
(FA & CAO)

(i). The proposal is filed under Tariff Policy 2015. Average of admissible expenses of 2011-12, 2012-13 and 2013-14 plus 16% Return on Capital Employed (ROCE) comes to ₹772.36 crores. This has been indexed by 6% for 2014-15, 3.82% for 2015-16 and the indexed Annual Revenue Requirement (ARR) is estimated at ₹849.95 crores.

(ii). Actual Traffic for the year 2014-15 is considered for drawing the proposed Scale of Rates (SOR) to meet the estimated ARR. Revenue estimated at proposed tariff is ₹850.02 crores.

(iii). No increase is proposed for deployment of labour from cargo handling division, container handling and storage charges.

[KPT - Dy. Chairman: The SOR of KPT was due for revision in April 2013. The revision now may appear high but it has to be recognized that for period 2013 to 2016, there was no revision in rates. So it may appear proposed hike in tariff is high but the revision sought is not unreasonable.]

Rishi Shipping

(i). KPT is surrounded with competitive ports. Neighbouring port Mundra is offering discount to attract traffic. Can port sustain traffic at the proposed rate?

(ii). As per Tariff Policy 2015, notional gang should not be deployed by the port. No labour is involved for operations hence the question for deployment of labour gang does not arise. We are booking gang because it is made mandatory by the port to book gangs.

(iii). Floating Crane at mid-stream has sophisticated equipment. There is no labour involved. But, KPT insists for deployment of labour at mid-stream.

(iv). As per National Tribunal Award (NTA), deployment of labour has to be need based. There is also a Supreme Court Order which says no notional booking of labour.

[KPT - Dy. Chairman: The issue of notional gang booking has been there for a long time. We have labour at CHD. We are bound by NTA. We are duty bound by NTA to offer labour from CHD. So please use it. We are not violating any policy of the Government.]

[KPT - Traffic Manager: For floating crane, labour cost is captured in costing by operator. Based on that, the revenue share is quoted by the operator.]

Kandla Stevedores Association (KSAL):

(i). No notional booking of labour should be there whether cargo is handled at midstream or using HMC.

(ii). We do not have details of work in progress considered in the proposal. For example 40 crores was spent by KPT on barge jetty. This should not be burdened on cargo of KPT not likely to avail the benefit of this. Without numbers we cannot comment on the proposal.

(iii). Utilisation of port tugs is limited. But, staff is paid overtime for tugs.

(iv). Vessel related charges at neighbouring port are at par or closer to existing rate of KPT. Increase proposed in marine related services is huge.

(v). Any increase in tariff whether it is in marine services, cargo related or storage charge will add to the cost of cargo.

(vi). KPT proposal may fit into Tariff Policy 2015 in terms of numbers. But, from commercial angle it is not known whether KPT has compared the proposed tariff with tariff being levied by neighboring ports?

(vii). For Cargo Handling Labour Division (CHLD), independent proposal used to be filed by KPT and a separate Order was passed by TAMP. CHLD is an independent division. KPT has merged CHD with general revision. No working or calculation for CHLD is furnished.

(viii). NTA is not implemented. There is reduction in work force due to retirement or death of labour. There is 70 to 80% reduction in overtime paid to winch operator. If reduction on these accounts are considered, there is no reason why existing CHLD rates should continue. In fact CHD rates need reduction. It is not a favour that no increase in rate is proposed.

(ix). There is error in note (ii) under wharfage schedule which may be corrected.

(x). There appears to be typographical error in the performance standards proposed for liquid cargo at 25,175 tonnes / day.

[KPT: The proposed performance standards is for Vadinar division. We will segregate performance standards for liquid cargo for Vadinar and Kandla division.]

<u>Kandla Port Steamship Agent's Association (KPSAA):</u>

(i). Sea Freight has come down. Commercial angle should be taken into consideration. The rate should not be hiked.

(ii). Previous SOR under CHD there was a note that rewarding better productivity achieved by stevedores. The existing note is deleted from proposed SOR. The note should be retained as it is linked to productivity achievement.

(iii). Proposal states Tuna rate will be at par with KPT.

(iv). KPT to consider exchange rate prevailing for estimating revenue at the proposed rate.

(v). Increase proposed in dry dock charges is 100% for foreign vessel and 200% for coastal vessel. For coastal vessel, in fact tariff should be lower to encourage coastal vessel.

(vi). Note 3 under miscellaneous pilotage the word "said pilotage charges" should be reviewed and corrected as "on movement of pilotage charge".

(vii). KPT levies penal berth hire charges though, it is not included in the existing SOR. KPT may consider to include it in the proposed SOR.

[KPT – We are in trial and error stage on levy of penal berth hire charges based on views of Boston Consulting Group (BCG). We do not intend to raise revenue by this levy. Its only to improve productivity. We introduced it for the first time, six months back, It is being reviewed periodically and is being tweaked regularly to improve productivity. It is already being hosted on website of the port to have transparency. This item cannot be built in the tariff.]

(viii). For craft above 2000 BHP at page 19 of proposed SOR, the proposed minimum charges is for 3 hours. Minimum charges may be pegged for one hour.

Kandla Custom House Agents Association (KCHAA):

(i). If port ventures increase in tariff at the proposed level, traffic will drift away from the port.

(ii). Increased traffic achieved by KPT at 100 MMTPA in the year 2015-16, should in fact lead to reduction in tariff. Neighboring ports are offering discount to attract cargo. The proposed steep hike will impact the trade.

(iii). No details are made available by KPT of ₹318.83 crores considered by KPT as capital work in progress for assessing 16% ROCE.

Adani Kandla Bulk Terminal Private Limited:

(i). For the past 10 years, Kandla division was always in deficit and Vadinar division was in surplus cross subsidizing the Kandla division.

(ii). For our bulk terminal at Tuna, the marine services are outsourced by KPT. We are paying for all marine service. Outsourced marine services is also used by KPT at Kandla. But, revenue earned by port not adjusted while arriving at marine tariff for services rendered to our terminal.

(iii). All the vessel related charges should be at par whether at Kandla or Vadinar or Tuna so that there is a level playing field.

Gandhidham Chamber of Commerce and Industry (GCCI)

(i). There should not be hike in present tariff.

(ii). New note no.16 proposed at page 21 of the SOR should not be there.

Vadinar Oil Terminal Limited:

(i). Out of 100 MMTPA achieved by KPT in the year 2015-16 our share is major at 30 MMTPA.

(ii). In the proposal KPT says average increase required is 37% to meet estimated ARR. But for Vadinar division, the increase proposed is steep. Vadinar operations are efficient. But, it is being loaded with steep hike in tariff.

(iii). The facility at Vadinar is built by us and by IOCL. The proposed increase is steep. Our outgo on account of vessel related charges will be around ₹90 crores per annum. We request KPT and TAMP to retain the existing rate. Increase, if any, should be reasonable.

[KPT - Dy. Chairman: As regard Vadinar division, we have not increased the rates since 1989. Rates are getting double after around twenty five years.]

(iv). KPT proposed to apply the proposed revised rates from the year 2015.

[TAMP - Member (Finance): The rate will have prospective effect after expiry of 30 days from date of notification of the revised SOR in the Gazette.]

Indian Oil Corporation Limited:

(i). We are handling crude oil at Vadinar. We have contributed 25 MMTA to the throughput of 100 MMTPA achieved by KPT in 2015-16.

(ii). For public sector also, 16% ROCE is not allowed.

(iii). Wharfage proposed for crude oil is ₹18 per tonne. The existing rate of ₹12 per tonne itself is high. It is already double the rate of Paradip. There should not be any increase in the port charges.

[TAMP - Member (Finance): 16% ROCE is on net fixed assets plus working capital plus capital work in progress as on 31 March 2014 as per the Tariff Policy, 2015]

Indian Farmers Fertilizer Co-operative Limited (IFFCO):

While allowing 16 % ROCE, distinction should be made between assets in productive use and unproductive assets. Return can only be on assets put on productive. Assets not in productive use should not be considered for return propose.

[TAMP - Member (Finance): In earlier Tariff Guidelines 2005, port was entitled to 16 % ROCE on estimated additions to gross block by the port in next three years. As per the new Tariff Policy, 2015 port is entitled for 16% return on the actual expenditure incurred on capex which are reported as capital work in progress as on 31 March 2014.]

Kandla Stevedores Association Limited:

Almost 50% of Dry bulk cargo avail priority berthing facility. Hope KPT has captured revenue impact from priority berthing charges.

[KPT - Sr. Dy. FA & CAO: The revenue from priority berthing charges are captured in revenue estimation]

Kandla Port Trust:

The rates approved by TAMP are ceiling rates. We can internally consider moderation for which we need not go to TAMP.

3. The summary of the comments made by user / user organizations in response to the action point taken at the joint hearing and the comments furnished by KPT thereon is tabulated below:

<table>
<tr><th>Sl. No.</th><th>Written submissions</th><th>Reply furnished by KPT</th></tr>
<tr><td>1.</td><td>Vadinar Oil Terminal Limited (VOTL) (also known as Essar Ports)</td><td></td></tr>
<tr><td>(i).</td><td>It is observed that the proposed hike in SOR of various activities at Vadinar is considerably higher than the existing rates.</td><td rowspan="2">It is stated that the rates of Vadinar Division i.e., cargo related as well as vessel related charges (except pilotage) have not been increased for the last more than two decades. In fact, many times in the past, the proposal has been submitted to TAMP for increase in the rates at Vadinar. However, TAMP has not agreed for any increase in the charges at Vadinar stating that the Vadinar Division is a surplus division; as such, it entails no upward revision of tariff. This has resulted in the present proposal of increase in port dues, berth hire, pilotage, etc. Due care has also been taken on the principle “what traffic can</td></tr>
<tr><td>(ii).</td><td>The increase in various rates as proposed for Vadinar by KPT is detailed hereunder:
<table>
<tr><th>Sr. No.</th><th>Activity</th><th>Proposed hike in %</th></tr>
<tr><td>1.</td><td>Port Dues</td><td>150%</td></tr>
<tr><td>2.</td><td>Pilotage etc.</td><td>110%</td></tr>
<tr><td>3.</td><td>Berth hire, Anchorage etc.</td><td>40%</td></tr>
<tr><td>4.</td><td>Mooring charges</td><td>43%</td></tr>
<tr><td>5.</td><td>Pull back charges</td><td>25%</td></tr>
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<tr><td></td><td><table><tr><td>6.</td><td>Wharfage – Crude oil</td><td>50%</td></tr><tr><td>7.</td><td>Wharfage - POL</td><td>90%</td></tr></table></td><td rowspan="3">bear”. Accordingly, the Vadinar vessel related charges have been proposed. However, the plea of Essar has been carefully considered and revision of port dues and pilotage has been proposed now.</td></tr>
<tr><td>(iii).</td><td>The proposed rise in SOR will lead to an additional expenditure of approximately ₹90 crores per annum based on the quantities handled during FY 2015-16 which is 77% more than the current expenditure. Essar Oil Refinery is totally dependent upon the marine facilities installed by them in KPT OOT Vadinar and this increase will adversely impact the Refinery Margin. It may kindly be noted that as per the calculation for the rate revision submitted by KPT to TAMP, Vadinar requires reduction in rate. Whereas a substantial increase has been proposed at Vadinar.</td></tr>
<tr><td>(iv).</td><td>Further, 100% indexation has been proposed on the SOR whereas the expenditure may not entirely correspond to WPI inflation.</td></tr>
<tr><td>(v).</td><td>Essar would like to bring to kind notice that close to 30MMTPA cargo is being handled which is around 30% of the total cargo of KPT as of now. Further, as TAMP is aware, Essar has also signed a Concession Agreement for development of an additional SPM and two product Jetties which will further add to KPT cargo volume, but this steep increase of rates will have adverse effect on the viability of the project.</td><td>Regarding cargo related charges at Vadinar, the rates have been adopted from nearby ports i.e. Sikka Port of GMB, which is handling crude and products of Reliance Refineries.</td></tr>
<tr><td>(vi).</td><td>It may also be considered that the port charges are a part of the assessable value for calculation of Customs· Duty; therefore, such steep increase in port charges shall be additional burden to us in the form of higher Customs Duty; if payable in future, on imported Crude.</td><td>No comments furnished by KPT.</td></tr>
<tr><td>(vii).</td><td>Further it has been observed that Clause 2.10 of the Tariff Policy, 2015 has not been addressed in the SOR which may kindly be suitably incorporated.</td><td>No comments furnished by KPT.</td></tr>
<tr><td>2.</td><td>Indian Oil Corporation Limited pipelines division of Vadinar</td><td></td></tr>
<tr><td>(i).</td><td>It is observed that the hike proposed in rates of various activities at Vadinar is substantially higher than the existing rates. The increase in various rates as proposed by KPT for Vadinar are detailed here under:
<table><tr><th>Sr. No.</th><th>Activity</th><th>Proposed hike in %</th></tr><tr><td>1.</td><td>Port Dues</td><td>150%</td></tr><tr><td>2.</td><td>Pilotage</td><td>109.70%</td></tr><tr><td>3.</td><td>Berth hire, anchorage, etc.</td><td>40%</td></tr><tr><td>4.</td><td>Wharfage – crude oil</td><td>50%</td></tr></table></td><td>No comments furnished by KPT.</td></tr>
<tr><td>(ii).</td><td>From the above, it may kindly be noted that a steep increase of 40% to 150% has been</td><td></td></tr>
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	proposed which shall be detrimental to the business operations interest of the Oil Handling Agencies (OHAs) like IOCL and others at Vadinar Port. In this regard IOCL would like to submit the following for kind consideration:	
(a).	IOCL is a major importer of crude oil at Vadinar and is handling nearly 25 MMT (likely to be further increased in future) of crude oil annually, which is being transported through Salaya-Mathura Pipeline (SMPL) to 3 major IOCL Refineries at Vadodara, Mathura & Panipat. After due processing, the above 3 Refineries are catering to the demand for petroleum products like Diesel, Petrol, Aviation Fuel, Kerosene, LPG etc. to Central, Western & Northern parts of India including Defence Forces viz. Army, Air force & Navy	It is stated that the rates of Vadinar Division i.e., cargo related as well as vessel related charges (except pilotage) have not been increased for the last more than two decades. In fact, many times in the past, the proposal has been submitted to TAMP for increase in the rates at Vadinar. However, TAMP has not agreed for any increase in the charges at Vadinar stating that the Vadinar Division is a surplus division; as such, it entails no upward revision of tariff. This has resulted in the present proposal of increase in port dues, berth hire, pilotage, etc. Due care has also been taken on the principle "what traffic can bear". Accordingly, the Vadinar vessel related charges have been proposed.
(b).	IOCL is engaged in crude import activities at Vadinar since 1978 along with KPT and in addition to the port charges is also contributing on cost sharing basis for other common facilities at KPT Colony, Vadinar e.g. Water charges; Hospital expenses; School expenses; etc.	Regarding cargo related charges at Vadinar, the rates have been adopted from nearby ports i.e. Sikka Port of GMB, which is handling crude and products of Reliance Refineries.
(iii).	Such steep hike in the port charges shall make the oil handling activities very expensive and shall dent the margins of IOCL which are already under pressure due to lower crude prices, inventory losses due to volatile crude prices etc.	However, the plea of IOCL has been carefully considered and hike of port dues and pilotage has been reduced now.
(iv).	It may also be considered that the port charges are a part of the assessable value for calculation of Customs Duty; therefore, such steep increase in port charges shall put in additional burden on IOCL in the form of higher Customs Duty payable on imported crude as levied by the Govt. of India.	
(v).	It is also submitted that higher port charges will lead to increased cost of production of the Petroleum products. This increased cost shall result in increase in the selling prices of the Petroleum products and shall have a cascading effect leading to general inflationary trend in the economy.	
(vi).	It may also be kindly considered that higher prices of petroleum products shall result into higher transportation cost as well as cost of production for other industrial activities for which fuel is a major cost of production	

<table>
<tr><td>(vii).</td><td>In view of the above increased costs, it is going to have an effect on the POL selling price in the Market and will be ultimately passed on to the end customers i.e. General Public, Industrial Customers, Defence Forces etc.</td><td rowspan="2"></td></tr>
<tr><td>(viii).</td><td>In view of the aforesaid, it is requested to kindly disallow the hike in the Port Tariff proposed by KPT. Maintain status quo so that handling crude oil at Vadinar Port remains a cost efficient and financially viable activity for Oil Handling Agencies like Indian Oil Corporation and others at Vadinar Port.</td></tr>
<tr><td>3.</td><td>Indian Oil Corporation Limited marketing division of Kandla</td><td></td></tr>
<tr><td>(i).</td><td>As a Corporation engaged in the activities of Petroleum refining and marketing and under the direct administrative control of the Central Govt., following proposed SOR would adversely affect the financial strength of our Corporation significantly because our pricing of SKO and LPG is controlled by the Central Govt., and that products such as petrol, High Speed Diesel Oil are controlled by international pricing. Hence, to cope up with the increase in rates by the port authorities such exorbitant additional burden cannot be borne by IOCL by means of fixing / levying higher prices from the consuming public. In other words, our Corporation is strictly precluded by the Central Govt, / International pricing from acting on our own in product pricing in respect of the above mentioned products.

<table>
<tr><th>Sr. No.</th><th>Description</th><th>Unit</th><th>Existing tariff</th><th>Proposed tariff</th></tr>
<tr><td>1</td><td>Port Dues</td><td>Per Reduce GRT</td><td>8.41</td><td>15.5</td></tr>
<tr><td>2</td><td>Pilotage Charges</td><td>Per GRT</td><td>17.11</td><td>31.52</td></tr>
<tr><td>3</td><td>Berth Hire Charges</td><td>Per Hour per GRT</td><td>0.11</td><td>0.23</td></tr>
<tr><td>4</td><td>Anchorage charges</td><td>Per Hour</td><td>17.97</td><td>37.09</td></tr>
<tr><td>5</td><td>Misc. Pilotage Charges Shiftinq of Vessel</td><td>Per hour or part thereof</td><td>1652.57</td><td>3044.92</td></tr>
<tr><td>6</td><td>Wharfage
1) POL Product</td><td>Per MTS</td><td>26.25</td><td>50.00</td></tr>
<tr><td></td><td>2) Hazardous Chemical</td><td></td><td>40.00</td><td>50.00</td></tr>
</table></td><td>In this regard, it is submitted that due to continuous maintenance dredging at a cost of ₹125 crores per year puts lot of strain on KPT revenue and there is dire need to increase vessel related charges. It is also submitted that more number of high-powered tugs have been deployed as per the requirement of the Port Users. This would lead to considerable vessel related expenditure.

Regarding increase in the wharfage, consideration has been given to the rates being charged at GMB Ports. Accordingly, the rates for POL products as well as crude has been arrived at.</td></tr>
<tr><td>(ii).</td><td>They further would like to add that above proposed hike in SOR without much increasing in port facilities is not justified. They, therefore, request to kindly re-consider their case for appropriate SOR for their business viability</td><td>In view of the above position, it is once again submitted that since the revised rates are due from 1.4.2013, the proposal may be taken up on priority basis. It is also further submitted that the rates proposed are ceiling rates. Whenever any need is felt to use the rates as leverage tool to attract/non-diversion of cargo, the same would be done by the KPT Board.</td></tr>
<tr><td>4.</td><td>Adani Kandla Bulk Terminal Pvt. Ltd.</td><td></td></tr>
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<tr><td>(i).</td><td>It would be pertinent to mention here that AKBTPL are one of the Concessionaire of KPT and have built Tuna Dry Bulk Terminal on BOT basis under PPP policy of the Ministry of Shipping. They have invested over ₹1000 crores in developing a fully mechanized facility for handling of dry bulk cargoes as per the Concession Agreement signed with KPT on 27.06.2012.</td><td rowspan="5">With reference to above it is stated that the work of “Providing Marine Services at Tuna Tekra Dry Bulk Terminal for a period of ten years extendable by further two years” has been outsourced exclusively for M/s.AKBTPL by awarding the work to M/s.Polestar Maritime Ltd. Hence, the entire expenses of marine services at Tuna Tekra are attributable to the tariffs of Tuna Tekra. Kandla has no requirement of such marine services and this service has been acquired just to cater with the needs of Tuna Tekra.

With regard to utilization of services at Kandla, it is mentioned that existing berths at Kandla Port are being handled with own infrastructure and no any additional facility is required at Kandla. Additional infrastructure was required only for Tuna Tekra Bulk Terminal. M/s.AKBTPL has not provided any mooring facilities for the marine crafts at Tuna Tekra. Due to absence of these facilities the crafts are being moored at Kandla Port at Kandla. Hence the presence of crafts at Kandla berth is on account of inability of M/s AKBTPL to provide a shelter berth at Tuna Tekra.

It is also pertinent to mention here that costly infrastructure is lying idle at Kandla. It is against the interest of the nation to keep such costly infrastructure idle and at the same time KPT incurring huge expenditure. Hence, the same is occasionally being used at Kandla just to avoid idling so that there is no loss to the nation as a whole.

In view of above, the cost of marine services at Tuna Tekra has been rightly loaded on tariff of M/s.AKBTPL Terminal.</td></tr>
<tr><td>(ii).</td><td>The said terminal is in operation since 10.02.2015 and in the first year of operation they have handled over 3.5 MMT of dry bulk cargo of mainly coal, fertilizer and agri products.</td></tr>
<tr><td>(iii).</td><td>All the facilities which are created under the umbrella of KPT under various models, should be treated at par with respect to the common services which are provided by the Port, so as to avoid discrimination on charges and thereby denial of level playing field. With regard to the specific charges applicable unique to each facility based on relevant guidelines of TAMP may remain different and for which each user/ participant will compete on the basis of efficiency/ productivity/ investment and so on.</td></tr>
<tr><td>(iv).</td><td>AKBTPL would like to submit in respect of tariff in respect of Marine Services being provided by Kandla Port Trust at Kandla / Vadinar / Tuna / other PPP berths; this service is common and is invariably being provided by Kandla Port Trust, Marine Department, using the resources available at their disposal. Although for providing marine services at Tuna, KPT is maintaining a dedicated infrastructure and loading entire expense for that service on Tuna marine tariff, for which a separate notification dated 15.01.2016 Case No.TAMP/42/2014-KPT is issued by TAMP. However, the marine services infrastructure is being used for providing services to other vessels calling at Kandla and other PPP berths as well. While, AKBTPL appreciate the best utilisation of infrastructure available at disposal of KPT, the present tariffs do not provide for the principle of "user bears the cost" and instead all the cost is loaded on marine tariff of Tuna and cross utilization is done elsewhere, without appropriate internal adjustment of allocation of costs on the basis of utilization.</td></tr>
<tr><td>(v).</td><td>The KPT has followed the ring fencing approach in case of proposing the tariff for the marine services at Tuna with the principle that all costs incurred by KPT for providing marine services to vessels calling at Tuna DBT should be recovered from the charges levied on vessels. In</td></tr>
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	case of tariff proposal for KPT Scale of rates, which also includes the marine services provided to the vessels calling at Cargo jetties 1 to 10, Oil jetties 1 to 6, and Vadinar OOT, KPT follows the overall ARR approach wherein the surplus of Vadinar division is used for making good the deficit of the Kandla division. This denies level playing field to us as the operators of the Tuna dry bulk terminal. They request the TAMP to use the general revision in SOR for KPT as an instrument to correct this anomaly by either following ring fencing approach for all divisions of KPT, or covering Tuna dry bulk terminal also in the ambit of ARR based tariff determination, which will lead to same rates for same services offered by KPT, thus creating a level playing field as mentioned earlier in this letter. They would also like to put on record that the tariff fixation of the marine charges for the Tuna dry bulk terminal was carried out after AKBTPL had signed the Concession Agreement for Tuna DBT, and hence is a post bid event. AKBTPL as the bidders had no avenue to incorporate the effect of the differential marine tariffs between Kandla cargo jetties 1 to 10 and Tuna dry bulk terminal in their commercial bid when we submitted our RFP for this project.	
(vi).	Hence, it is their request that the Kandla Port SOR should adequately provide for pilotage tariff on the basis of utilization of infrastructure by Kandla / Vadinar /Tuna/ other PPP berths and accordingly a uniform tariff for all marine services be applicable, so as in order to maintain parity for vessel owners.	
5.	**Kandla Port Dock Stevedores Association**	
(i).	That Traffic department of Kandla port adopted procedure of mandatory booking of the Notional gang of 12 workers against operation of each crane in all three shifts even when dry bulk discharged mechanically by using Mobile Harbour cranes on shore and floating cranes in stream at outer anchorage. While discharging dry bulk cargo by using mobile harbour crane on shore attached with grab of 30/35 CBM, no labour is permitted to remain inside holds due to threat of fatal accident and as well as suffoacation of the flying residues of the dry bulk cargo is not good for any body's health. Besides no operation carried out where labour are required in cargo dragging or riging etc.. Grabs attached with mobile Harbour crane on shore and floating crane in stream pick up the dry bulk cargo. Stevedores use one excavator in each hold for dragging cargo in the centre of holds. Stevedores don't use winch drivers of kandla port since Mobile harbour	As regards booking of gangs in mechanical handling of cargo using grabs, loaders, excavators, it is stated that in such operations, the requirement is less, however, the National Tribunal Award on manning scales has fixed the number of labour / winchman, etc. required to be booked for different types of cargo and method of handling. Kandla Port has already taken action to implement the National Tribunal Award in a phased manner. Accordingly, the strength of new gangs formed after April, 2012 was taken as 5 per gang as compared to the strength of 10 per gang prevailing hitherto. Even including the gangs existing prior to 2013, the average strength of each gang is less then 6 workers. As regards implementation of National Tribunal Award, it is stated that each Port has to implement the same considering the local

	cranes and floating cranes are operated by the trained engineers of Liebher machines. Since labour has no use in cargo handling on board so not used but yet Kandla port insist for booking one gang per hook which is violation of the orders of the Hon'ble Supreme Court and as well as Govt guide line conveyed through TAMP only.	conditions. KPT has also partially implemented the National Tribunal Award. However, as stated above, all the workers are on regular establishment and expenditure towards the same affects the revenue requirement and then in SOR. Kandla Port is making all efforts to reduce and implement the manning scales as per Tribunal's order while ensuring that the port's labour is not rendered idle and also industrial peace is maintained.
(ii).	That while discharging dry bulk cargo from ship to barges stevedores use ship cranes if vessel is geared and use floating cranes if vessel is gearless. The port labourers as per agreement with unions are not to go at anchorage but yet notionally booked. The voyage period from port to vessel is 6 hours and again 6 hours lost in return. KPDSA trained staff are going on Board of vessel using pilot ladder for which trained persons only can go. Port labourers are not qualified to go at anchorage nor they have any use in cargo handling but yet port is mandatory booking one gang per hook.	
(iii).	As per National Labour Tribunal Award, port to allot need based labour and not the full gang where ever required. While Kandla port without requirement of labour, forcefully pressurises stevedore to mandatory use one gang per hook which is violation of the Supreme Court and Tribunal award. In one of the petition the Hon'ble Supreme Court said "No Govt, Semi Govt or private entity can charge for the services not rendered and if charged the same will be treated as offence committed".	
(iv).	Vide TAMP notification no. G.N 30 dated 27th January 2015 on policy determination of Tariff of Major port Trust as per Govt guide line in para no. 8.4 clarified "Major Ports shall charge only for services provided. No notional booking of labour and other similar notional charges would be permitted".	
(v).	The Traffic Manager present in the pre-bid meeting of Tender for use of six floating cranes port was sought to clarify in one of the query from bidder whether port will insist to book one gang per hook even in floating cranes where labour not going on vessel in mid sea and port is collecting Royalty for the use of the floating crane. Traffic Manager said that they will collect as already port is mandatorily booking notional gang and same system will be continued. TM said that since the bidders were knowing well about mandatory booking of notional gangs and knowing all this they made up the mind so they are under obligation to pay for one gang per hook along with Royalty of ₹22/- per mt for use of the floating crane. This reply of Traffic manager is contrary to law as port can not ask for illegal payment as they were knowing about	

	this illegal payment.	
(vi).	KPDSA request to take appropriate decision and restrict port authorities for mandatory booking of notional gangs without requirement which is violation of the Govt. orders and Supreme court guide line.	
6.	**All India Grain Exporters Association**	
(i).	AIGEA were surprised to note that KPT is contemplating to increase port charges, specially when the world prices of all commodities are falling down! In this competitive environment, at the very low end of prices, there should be no justification on any increase in the services provided by KPT.	It is submitted that the revision of SOR of KPT was due from 1.4.2013. The proposal was twice submitted to the TAMP and due to some or the other reason, it was not approved by the Authority. It is also further pertinent to mention here that KPT, especially the general cargo Division of Kandla, is in deficit for the last three years. To offset such a deficit, efforts have been made to step up the surpluses earned from Vadinar as well as charges on the liquid handling. In fact, all-out efforts have been made to ensure minimum rise in the general cargo rates. As far as composite rate for onboard labour is concerned, in the earlier proposal, Board intended to recover the actual cost for deployment of labour. As such, after completion of vessel, the actual gangs utilized were taken into account. As a matter of fact, the charges have been considered in the annual revenue requirement, irrespective of utilization of gangs, performance, etc. However, all the workers are on regular establishment and expenditure towards the same affects the revenue requirement and then in SOR.
(ii).	AIGEA, as an Association of Importers & Exporters of Food grains and fertilizers, another raw material, were surprised to note that KPT is contemplating to impose Notional gang charges even for mid stream vessels where no labour of any kind is provided by the Port Trust. It would mean that Kandla Port is clearly trying to use its monopolistic power to impose service charges which they do not provide. Such charges besides being illogical will also be illegal and ultra-virulent.	
(iii).	AIGEAs members would be greatly hurt if any increase is made for any services provided by the Kandla Port. It will make their both imports and exports business very difficult and there could possibly be a flow of business out of Kandla.	
(iv).	AIGEA, therefore, greatly appreciate if TAMP could re-look at KPT proposal and ensure that KPT does not impose any charges on the port users for the services which they do not provide.	
7.	**Kandla Port Steamship Agents Association**	
(i).	Since last few years the global economy is passing through a great recession which has affected the global trade and the overall shipping industry also is going through a depressed phase. The Baltic Index which is the prime indicator of shipping freights is around 400 points which was hitherto 12000 points few years ago. You would appreciate that when shipping freights are less than 10% of its normal rates, increasing the port related charges at this juncture can be a catastrophic blow on the shipping community. The whole of Gandhidharn township is dependent on Kandla Port and its shipping industry. If the Export-import trade drops in Kandla the whole of Gandhidharn township will be drastically effected	In this regard, it is submitted that the revision of SOR of KPT was due from 1.4.2013. The proposal was twice submitted to the TAMP and due to some or the other reason, it was not approved by the Authority. It is also further pertinent to mention here that KPT, especially the general cargo Division of kandla, is in deficit for the last three years. To offset such a deficit, efforts have been made to step up the surpluses earned from Vadinar as well as charges on the liquid handling. In fact, all-out efforts have been made to ensure minimum rise in the general cargo rates.
(ii).	Competition from neighboring ports and a comparison of the proposed SOR vis-à-vis the charges at these ports would would show that	Regarding competition from neighboring ports, it is stated that the present proposal is as per the revenue requirements of the port. It is also

	they are much lower in comparison to the proposed SOR at Kandla which would lead to diversion of Traffic away from Kandla Port. Once cargo moves to other ports it is very difficult to bring it back to Kandla.	further submitted that the rates proposed are ceiling rates. However, if there is any indication of diversion of traffic from Kandla, the required lowering of the scales shall be considered at that point of time by KPT Board.
(iii).	As we are not provided with the full proposal of all the costs and audited balance sheet of KPT we are unable to comment on whether the value of Fixed Assets and value or Work-in-progress is taken only for the common user facilities of the port jetties. We request that no expenses incurred on any infrastructure like Roads and Rail connectivity for private berths, Bunder Basin etc. and which are not related to Dry Cargo berth No.1 to 10 and Oil Jetties 1 to 6 should be apportioned on this SOR.	It is confirmed that the costs of value of work in progress and fixed assets in respect of PPP projects have been excluded now.
(iv).	Further US $ to INR exchange rate considered for this proposal has also not been uploaded on website. As all the vessel related charges for foreign going vessels are collected in US dollars, we request you to consider present day exchange rate for evaluation of tariff and not lite historical rates which were significantly lower.	As per TAMP guidelines 2015, exchange rates need not be uploaded on website. However, exchange rate of Rs.66/- has been considered.
(v).	Page 16 - Point 3 - Charges for Composite Rate for on Board Labour of Cargo Handling Division -In prevailing SOR a note was included by the TAMP to operationalize the scheme to act as an incentive to the stevedores to achieve better productivity. Removal of this negates the clause No.8.8.2 of Working Guidelines issued by TAMP which clearly states that "Tariff may be linked to Productivity"	As far as composite rate for onboard labour is concerned, in the earlier proposal, Board intended to recover the actual cost for deployment of labour. As such, after completion of vessel, the actual gangs utilized were taken into account. As a matter of fact, the charges have been considered in the annual revenue requirement, irrespective of utilization of gangs, performance, etc. However, all the workers are on regular establishment and expenditure towards the same affects the revenue requirement and then in SOR.
(vi).	The proposal states that kandla rates shall be applicable to Tuna Port. However SOR Chapter-V gives different set of rates for Tuna Port, there seems to be an anomaly in this, which requires correction	There is no any anamoly. Chapter V containing separate rates of Tuna port is no more available in Proposed SOR as Kandla rates are applicable to Tuna port.
(vii).	Page 19 - Point 6(A) for crafts above 2000 BHP the minimum charges is specified which should be removed as it is quite steep and should be in line with all other crafts which are per hour rates	The minimum charges are in line with the existing SOR for crafts above 2000 BHP in which minimum 3 hours rate is applicable. No increase has been suggested in the proposed SOR. Hence, the demand cannot be considered.
(viii).	Page 20 Steel floating dry dock: The dry dock charges specially for coastal vessels has been increased by 200% vis-à-vis 100% for foreign vessels. Even increase of 100% is exorbitant and no coastal craft can absorb such a big hike. Further the dry dock is about 30 years old and the port must have also recovered its full cost. Hence only the operational expenses should be charged to the trade as this is a great facility in the west coast of India and specially used by Indian owners for Coastal Crafts	No specific comments furnished on this point. The KPT has, however, furnished its comments on the similar issue raised by user earlier.

(ix).	Coastal Trade: When the vessel is solely intended to carry coastal cargo all the charges incurred at the port from OTB to OTB should be levied at coastal rates irrespective of its status or conversion at a different point of time in the port	The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for classifying into ‘coastal’ or ‘foreign-going’ category 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.
(x).	Page.3 - Point No.xiii - Minimum charges for all equipment's is for 2 hours, it should be based on per hour only as is presently.	So far as crafts are concerned, the rates are for per hour upto 2000 BHP. However, for crafts having capacity of above 2000 BHP, the minimum is for 3 hours.
(xi).	Page 5 - Note No.3 - instead of "said Pilotage charges" it should be clearly specified as "50% of one side pilotage"	It has been now clearly specified in the proposed SOR as “50% of one side pilotage.
(xii).	Page 6 - Point No.8 - when the vessel is shifted/ removed to OTB for the convenience / ousting priority of another vessel. The word "convenience" is to be deleted	As the shifting/ removal of the vessel will not be always for ousting priority of another vessel, but it will also be for convenience of another vessel, hence,; will not be appropriate to delete the word “convenience” and hence the suggestion cannot be considered.
(xiii).	Page 7 - Point No.16 - to be replaced as "The Agents will file the inward/outward/shifting pilot memo without mentioning the timings. However, inward / outward / shifting timings will be indicated by the agents during the course of the berthing meeting and the same will be communicated to the Harbor Master by Traffic Manager in the Shipping programme. Any changes in the timings will be communicated to the Harbor Master by the Traffic Manager giving reasonable notice and Harbor Master will plan the shipping movement accordingly. This point was already agreed by the port administration and KPT confirmed during the Joint Hearing that the corrected version for inclusion prevailing practice	The proposed conditionality vide item No.2.2 Note No. (16) “The Agent will file the inward / outward / shifting Pilot memo with a notice of 4 hours. Amendment of the pilot memo within three hours is allowed if the changes are made for the same tide. However, if changes required for next tide, cancellation memo would be required to be filed with a notice of 3 hours”, is in order.
(xiv).	Page 7 - Point No.20 – following additional clause to be added. Additional shifting charges due to such grounding will not be levied when the vessel is floated to safe position.	The proposed SOR clause says that “A vessel in a normal course when gets grounded with pilot on board or any eventualities, the actual services rendered to the vessels as applicable will be chargeable”, is in order.
(xv).	Now that we have a schedule for internal harbor shifting, it is imperative to clarify that when a vessel is shifted from berth to berth and has to be dropped at anchorage during pilotage due to non-availability of tide, other berth being occupied etc. then the same has to be considered for Port Convenience.	As requested, when a vessel is shifted from berth to berth and has to be dropped at anchorage during pilotage due to non-availability of tide, other berth being occupied etc. then the same has to be considered for port convenience, is agreeable.
(xvi).	We once again request you to postpone the proposal of revision in the SOR till the economic scenario in India improves and trade flourishes in kandla so as to absorb all the increases in cost. We also thank you for considering the above issues prior to finalizing the SOR proposal	No comments furnished by KPT.
8.	**Kandla Stevedores Association Limited**	

(i).	Important details such as work in progress, and expenditure break-ups considered in the said proposal have not been provided to them, in absence of which KSAL unable to offer their comments on specifics (in absence of these details being made available) and are thus constrained in offering only partial comments, without knowing the basis on which Port has arrived at their ARR. Notwithstanding the reluctance of KPT in sharing these details, which have always been provided right since the inception of TAMP whenever proposals for general revision in SOR have been filed, as informed during the joint hearing the following may be perused by TAMP prior finalizing the revision in SOR.	Comments not furnished by port. [KPT in its letter of May 2016 has informed that as requested by KSAL, the details of WIP and the break-up of expenditure considered in the proposal has been provided to all the users / user associations through e-mail and hosted in the website also.]
(a).	No expenditure towards Work in Progress which does not strictly pertain to Dry Cargo Berths 1 to 10 and Oil Jetty 1 to 6 should be apportioned towards ARR for the subject proposal. Whilst what has been included under this head of work in progress is not known, such works as new or upgradation of Road / Rail connectivity, sports complex at Gopalpuri etc. which are not connected to these Berths should be allowed to be included in the work in progress. Similarly, approx. ₹40-42 crores has been spent by the KPT on developing barge handling facilities at the Bunder Basin. It may be ensured that no part of this cost is apportioned onto either the Vessel related or Cargo related charges in the SOR as this facility is solely developed to handle cargoes at mid stream / anchorage and not for Vessels discharging / loading cargoes alongside Berths.	It is hereby confirmed that the expenditure pertaining to Kandla Division, except the expenditure made towards PPP projects, have been considered while arriving at the Annual Revenue Requirement of Kandla Division. No expenditure made on PPP projects has been included in the Annual Revenue Requirement. The plea of M/s. KSAL regarding excluding the expenditure made towards Bunder Basin cannot be accepted, as this is also part of the facilities in the Kandla Port.
(b).	Expenditure (after adjustment) has risen by ₹157.46 crores in 2013-14 over 2012-13 which translates at 29.61% increase in expenditure on a YOY basis. As no break-up of expenditure under various heads has been provided, we are unable to offer our comments on specifics. KSAL however wish to state that such an increase is not sustainable and simply burdening the Cargo with such an increase in expenditure would negatively impact the overall cargo throughput of the Port, further increasing the ARR in the next round of revision.	Since the proposal has been worked out based on the Revised Tariff Guidelines, 2015. No cost calculations have been made except the cost required for working out Annual Revenue Requirements.
(c).	The trade / cargo is bearing the brunt of wasteful expenditure viz. limited or almost negligible utilization of KPT tugs, however staff on these tugs is booked on overtime. There may be many such instances which can and need to be controlled, however in absence of expenditure details (break-up of overtime incurred by various departments of KPT) KSAL cannot comment specifically on such expenses being incurred by KPT.	Kandla Port is taking extreme care while making any expenditure towards repairs and maintenance as well as booking of staff on overtime. This expenditure is being reviewed from time to time so as to reduce wasteful expenditure to the extent possible.

<table>
<tr><td>(d).</td><td>Chapter III Page 16 (S. No.3) of proposed SOR – CHARGES FOR COMPOSITE RATE FOR ON BOARD LABOUR OF CARGO HANDLING DIVISION :</td><td rowspan="3">As per the reviewed guidelines-2015, only the revenue requirement has to be assessed and the rates can be fixed based on the requirement and market scenario and it needs to be ensured that the Revenue from the revised rates should not exceed the Annual Revenue Requirement. As such, justification for separate rate cannot be made.

As far as composite rate for onboard labour is concerned, in the earlier proposal, Board intended to recover the actual cost for deployment of labour. As such, after completion of vessel, the actual gangs utilized were taken into account. As a matter of fact, the charges have been considered in the annual revenue requirement, irrespective of utilization of gangs, performance, etc.

As regards implementation of National Tribunal Award, it is stated that each Port has to implement the same considering the local conditions. KPT has also partially implemented the National Tribunal Award. However, as stated above, all the workers are on regular establishment and expenditure towards the same affects the revenue requirement and then in SOR.</td></tr>
<tr><td>(i).</td><td>Fixation of Rates for On Board Labour has always been an independent proposal and has never formed a part of the proposal for General Revision in SOR of KPT.

As a consequence, the entire financial numbers of the Cargo Handling Division were provided and revenue requirement was worked out, based on which the Per Ton and per Gang revenue requirement rates were fixed.

Whilst KPT has decided to depart from the prevailing practice by including the fixation of On Board Labour Rates alongwith its current proposal for general revision in SOR, unfortunately no calculations of any nature with regard to the ARR of CHD division have been provided and the existing per ton rates have simply been super imposed onto the current proposal, albeit excluding the foot note on revenue requirement per Gang. Non-inclusion of the existing foot note in the said proposal would negate the effect of either proposing productivity linked rates or operationalising a productivity linked mechanism as was done in the prevailing SOR with the inclusion of the foot note providing for maximum revenue requirement per gang.</td></tr>
<tr><td>(ii).</td><td>By simply proposing the existing per ton rates, without providing any calculations, the KPT has erred in not capturing the following in the extant proposal when compared to the basis on which the prevailing rates were fixed.

The National Labour Tribunal award in respect of manning scales has not yet been implemented at Kandla Port, due to which the trade is bearing the extra burden on this count for no fault of the trade.

(a). KSAL wish to state that the manning scales for On Board labour as recommended in the said National Labour Tribunal award must be considered whilst working out the revenue requirement of the Cargo Handling Division of KPT and the per ton rates be reworked on these basis.

(b). In addition to the above there has been a reduction in the numbers of work force due retirements and demise in the intervening period since the time the existing rates were fixed, which needs to be taken into account.</td></tr>
</table>

	(c). In the intervening period Overtime paid to the labour has been completely eliminated resulting in a 100% reduction in cost on this account. (d). In the intervening period overtime payable to the Winch Operators has been eliminated to the extent of 70% or more resulting in a reduction of cost on this account. It is therefore imperative that the resultant reduction in manning scales and the other costs (four factors as above) are duly captured by the KPT and the rates proposed by the KPT for On Board Labour are revised downwards after the reduced costs as above are duly captured in the calculations. In addition, once the downward revision in the proposed per ton rates is carried out, either the per Gang revenue requirement is to be added as a foot NOTE in the proposed SOR for On Board Labour or the Kandla Port may propose productivity linked rates, whereby higher the output achieved, lower would be the applicable per ton rate. Inclusion of either maximum per gang revenue requirement or productivity linked per ton rates would be in conformity with Para (xx) at Page 30 of the existing TAMP Order No.TAMP/41/2012-KPT dated 13th August, 2013 as also clause 8.8.2 of the Working Guidelines to Operationalise the Tariff Policy of Major Ports Trust 2015. KSAL wish to emphasize that whenever there is a reduction in costs / expenditure as explained above, this reduction needs to be reflected in rates proposed and the principle of increased cost applied for justifying an increase in Rates is also to be applied conversely when there has been a reduction in cost of the CHD division as above.	
(e).	On Board Labour – Notional Gangs. During the course of the joint hearing there was a discussion on Notional gangs and KSAL wish to reiterate our submission on this as under : Should TAMP / KPT decide that whichever Cargoes that are handled mechanically with Grabs and Equipments (without any labour involvement in cargo handling On Board) the gangs so deployed are to be considered 'notional' the same is to be on the principle of applicability of 'methodology of handling' and NOT on 'either location of handling' of any	As regards booking of gangs in mechanical handling of cargo using grabs, loaders, excavators, it is stated that in such operations, the requirement is less, however, the National Tribunal Award on manning scales has fixed the number of labour/winchman, etc. required to be booked for different types of cargo and method of handling. Kandla Port has already taken action to implement the National Tribunal Award in a phased manner. Accordingly, the strength of new gangs formed after April, 2012 was taken as 5 per gang as compared to the strength of

	cargo/es or whether cargo is handled with Vessel cranes or Mobile Harbour Cranes or Floating Cranes and irrespective of whether on Berth or in stream. The sole guiding principle here would be the method of handling of cargo/es to qualify for the Gangs to be considered as 'notional'. Needless to state, in case of usage of Vessel Cranes, irrespective of the Gang being considered notional, winch operators would be booked. KSAL are highlighting the above comments and submissions made by them during the joint hearing as the initial discussion on the subject was limited to gangs being deployed on Vessels being handled only by Mobile Harbour Cranes and Floating Cranes to be considered as notional, whereas KSAL have highlighted that the sole principle in deciding a notional gang is to be the method of handling and neither the location of handling and / or the type of Cranes used for handling of Cargo/es.	10 per gang prevailing hitherto. Even including the gangs existing prior to 2013, the average strength of each gang is less then 6 workers. Kandla Port is making all efforts to reduce and implement the manning scales as per Tribunal's order while ensuring that the port's labour is not rendered idle and also industrial peace is maintained.
(f).	Chapter III - S. No. 1 Schedule of Wharfage Charges - Notes - S.No. 1 at Page 11 of Proposed SOR. (i). A typographical error was highlighted wherein the words foreign and coastal cargo have got interchanged against the PMT rates - this requires correction. (ii). Once again the PMT rates prescribed in the proposed SOR are similar to the existing rates, as per the current SOR in force. (iii). Here too, during the intervening period between the existing SOR and the current proposal the number of shore labours has decreased considerably due retirements and demise. This reduction in the labour force and thus the cost / expenditure has not been captured whilst proposing the per MT rate for supply of Port labour in the current proposal. (iv). Here again the same analogy as above at S. No. 4 should be adopted and the reduced cost / expenditure be reflected by proposing a reduced rate instead of proposing the existing rate.	The typographical error has now been corrected.
(g).	The hike proposed in the Vessel related charges viz. Pilotage and Berth Hire is extremely steep and when seen in the context of the fact that more than 50% of the dry cargo Vessels berth under a priority group, this increase is further accentuated by another 75% or 100% of Berth Hire Charges depending under which particular	It is stated that due to continuous maintenance dredging at a cost of Rs. 125 crores per year puts lot of strain on KPT revenue and there is dire need to increase vessel related charges. It is also submitted that more number of high-powered tugs have been deployed as per the requirement of the Port Users. This would

	priority (24 Hours or otherwise) the Vessel has berthed. Hence, in effect the actual increase in the proposed Berth Hire Charges would work out to between 175% to 200% for Vessels berthing under priority. Notwithstanding the above impact on Vessels berthed under the priority group, increase proposed in the Pilotage and Berth Hire Charges of 25% and 100% respectively in itself would place these charges much higher in comparison to the neighbouring Ports.	lead to considerable vessel related expenditure. As regards priority berth hire charges, it is to stated that this is levied as per the TAMP guidelines.
(h).	The impact of the hike proposed in the Vessel related charges and cargo related charges needs to be viewed in totality as the twin burden of both these hikes falls squarely onto the cargo to be handled through Kandla Port and a conscious assessment, whilst proposing such steep hikes is required to be undertaken to ascertain 'what the traffic can bear '. Non comparison of tariffs prevailing at neighbouring Ports and non assessment of 'what the traffic can bear' would only result in flight of Traffic away from Kandla Port.	It is once again reiterated that the general revision of rates of KPT is due from 1.4.2013 onwards. There is lot of increase in the expenditure side especially on dredging and tug-hire charges, increase in salary and wages of Class-III & IV employees consequent to the wage revision w.e.f. 1.1.2012. Conscious efforts have been taken to apply the principle of "what the traffic can bear" wherever necessitated.
(i).	Whilst the proposal filed by KPT could possibly be technically in conformity with the revised TAMP guidelines of 2015, it is apparent that the extent of hike in tariff proposed when viewed in totality, has not taken into account the prevailing commercially competitive environment in terms of cost competitiveness and thus to prevent diversion of Traffic away from Kandla Port as a consequence of the steep hikes proposed, the extent of hikes proposed may be revisited and reassessed.	The rates proposed are ceiling rates. Whenever any need is felt to use the rates as leverage tool to attract/non-diversion of cargo, the same would be done by the KPT Board.
9.	**Indian Farmers Fertilizer Cooperative Limited**	
(i).	In the proposed KPT's Scale of Rates, IFFCO understand that wharfage rate for import of phosphoric acid and ammonia is proposed to be increased from ₹40/- to ₹50/- per MT and that for MOP is proposed to be increased from ₹4/- to ₹33.60 per MT.	Wharfage charges in respect of import of phosphoric acid and ammonia is proposed for increase of 25% only and that of fertilizers is proposed for 40% after considering the market scenario, revenue requirements and what trade can bear.
(ii).	In this regard, it is submitted that increase in wharfage charges puts additional strain on the finances of the organization which is already experiencing stress on account of increase in foreign exchange rates, reduced subsidy on our products with effect from 1.4.2016, overall glut in the market due to situation of drought prevailing in many parts of the country, etc.	
(iii).	In addition to above, as pointed out during the referred discussions, the parameters used for justifying the rate increase also may kindly be reviewed e.g. the net fixed assets base adopted	The Net fixed assets for working of 16% ROCE is as per Tariff Guidelines, 2015 issued by TAMP. Further, Capital work in progress considered for calculation of 16% ROCE is

	for working out 16% Return on Capital Employed (ROCE) includes all port assets whether the same is in active commercial use or not. It is humbly submitted that for ROCE purpose TAMP may consider only those assets which are in operation and in gainful usage by the Port. Those assets which are either unserviceable or not capable of use for whatever reasons may not be included for ROCE calculation as factually also, they would not be yielding required service to the Port. IFFCO understands that such assets which are not rendering any service to the Port should not be taken for calculation of 16% ROCE. Suitable mechanism can be developed to identify such assets once our submission is considered and agreed in principle by the authorities.	also as per Tariff Guidelines, 2015.
(iv).	Similarly, the authorities may appreciate that assets which are still under construction, also should not be included in the total capital employed since these values have still to be converted into assets and it is a common understanding that any earning on assets starts only after it is pressed into service. In case of CWIP, it is uncertain when they will be pressed into service and therefore, charging port users for even such assets by way of including 16% ROCE on these assets which are still not in existence, appears to be unjustified from all angles. If such CWIP values are excluded for ROCE calculation, the Port i.e. the agency for implementing these projects would also be incentivised to complete these projects on time so that they start earning ROCE for the Port at the earliest.	
(v).	Consider the submissions in the right perspective and maintain wharfage rates for the cargo items imported by us and also reconsider the parameters for ROCE as requested by them above.	
10.	**Kandla Port Steamship Agents Association**	
(i).	Point No. 5 on Page 2 of our previous letter may kindly be read as follows: Page 16 – Point 3 – Charges for Composite Rate for on Board Labour of Cargo Handling Division – In prevailing SOR a note was included by the TAMP to operationalize the scheme to act as an incentive to the stevedores to achieve better productivity (Kindly refer Para (XX) at page 30 and 31 of TAMP order No. TAMP/41/2012-KPT dated 13/08/2013. Further, removal of this note negates the essence of clause No. 8.8.2 of Working Guidelines issued by TAMP which clearly states that "Tariff may be linked to Productivity". The Kandla Port may either include the note regarding per Gang revenue requirement or include a productivity linked	As far as composite rate for onboard labour is concerned, in the earlier proposal, Board intended to recover the actual cost for deployment of labour. As such, after completion of vessel, the actual gangs utilized were taken into account. As a matter of fact, the charges have been considered in the Annual Revenue Requirement, irrespective of utilization of gangs, performance, etc. However, all the workers are on regular establishment and expenditure towards the same affects the revenue requirement and then in SOR.

	mechanism whereby the higher productivity achieved results in a lower per ton tariff rate	
(ii).	The maximum Draught of Vessels that can berth alongside at Kandla Port Dry and Liquid Cargo Berths is 12.0 Meters and taking into account an under keel clearance of 0.50 Meters, the maximum Draught required in the Channel for accommodating Vessels at Kandla Port Berths is 12.50 meters. As such, expenditure being incurred by the KPT towards capital and maintenance dredging beyond 12.50 Meters in the Channel should not be apportioned to Kandla Port Dry Cargo Berths 1 to 10 and Liquid Cargo Berths 1 to 6 and as such should not be considered in this SOR	The under keel clearance (UKC) of minimum 10% is required hence bringing vessel of 12 m, the channel will be maintained at 13m.
(iii).	As discussed during the joint hearing, Kandla Port is collecting penal berth hire charges (in case of performance levels falling below norms) which are not notified by the TAMP and Vessel Owners/Operators are stating that payment of Penal Berth Hire charges are not legally enforceable in absence of the same not being notified by TAMP and are refusing to pay the same to our members. TAMP is requested to notify the conditionalities and quantum of Penal Berth Hire Charges so as to bring it within the legal framework of the MPT Act, enabling collection of the same.	The performance norms for various categories, as suggested by M/s. BCG and in consultation with Port Users, were fixed. In case of non-performing vessels, it is the option of vessel either to shift out from berth or to pay penal berth hire charges. These penal berth hire charges and the performance norms have been reviewed every month. The Port has not yet freezed the norms and penalties. However, Port has proposed conditionalities to enable it to ensure performance standards.
(iv).	During the course of the joint hearing it was mentioned by both the TAMP and KPT alike that the rates notified are only ceiling rates and KPT can provide discounts on any of the rates notified by TAMP. This is to place on record that KPT has never ever extended any discounts whatsoever on any of the tariff items, till date and KPSAA would like to reiterate that if Port Tariffs are increased drastically it would lead to diversion of Traffic to nearby ports. KPSAA are attaching herewith a comparison of the Vessel related charges at neighboring Port vis-à-vis present and proposed Tariff at Kandla for ready reference. Apart from the above, KPSAA has reiterated the comments furnished by it earlier regarding proposal of KPT to delete the existing note under CHD levy.	It is stated that due to continuous maintenance dredging at a cost of Rs. 125 crores per year puts lot of strain on KPT revenue and there is dire need to increase vessel related charges. It is also submitted that more number of high-powered tugs have been deployed as per the requirement of the Port Users. This would lead to considerable vessel related expenditure. Due care has also been taken on the principle "what traffic can bear", wherever necessitated. It is also further submitted that the rates proposed are ceiling rates. Whenever any need is felt to use the rates as leverage tool to attract/non-diversion of cargo, the same would be done by the KPT Board.
11.	**The Gandhidham Chamber of Commerce and Industry**	
(i).	International trade is highly passing through economic crisis and the EXIM trade is greatly affected amongst all due to global recession which has shaken all fronts of the economy. This very basic aspect has not been considered while initiating whole exercise and the same is	Rates have been prescribed based on guidelines issued by TAMP and considering the revenue requirements of port to meet the recurring expenses.

	ignored all to gather.	
(ii).	Surprisingly, ground realities of competition of neighbouring private ports are totally ignored and that too without comparative study SOR is determined, proposed and fixed.	
(iii).	The whole exercise should have been initiated with ascertaining "Activity Costing" followed by "Cost-Benefit Analysis" taking into consideration the interest of all stake holders.	
(iv).	The salt production and export is a life - line activities in and around Kandla. 400%+ increase on such a low value cargo is totally unjustifiable and will lead to death-knell to salt export activity from Kandla Port.	The present rates for salt is Rs.3 PMT & same is proposed to Rs.15 PMT. The minimum direct cost incurred by port was proposed for all commodities where the present charges were below that cost.
(v).	Kandla Port is in reprocess of starting containerized operation after lapse of 4-5 years with long term planning as a regular activity in highly competitive environment. Such a hike in SOR will certainly impact negatively at take-off stage of start of container operation.	No changes have been proposed in respect of container charges.
(vi).	Ship repair and building activity development is very well targeted by KPT under their long term planning. However, SOR hike will negatively impact its development and this will remain a mere dream of KPT.	No comments furnished by KPT on these points.
(vii).	In light of the above, GCCI requests to withhold present revision of SOR for at least two years and status-quo maintained till the economic scenario is strengthened.	
(viii).	We hope due consideration from TAMP so that the traffic at Kandla Port may continue to be attracted for the present economical rates available to trade fraternity.	
(ix).	GCCI strongly objects proposed hike of 400% in the SOR for salt. Salt being a low value cargo cannot absorb such a hike in SOR. This will certainly result in to closure of salt export activities from KPT.	The present rates for salt is Rs.3 PMT & same is proposed to Rs.15 PMT. The minimum direct cost incurred by port was proposed for all commodities where the present charges were below that cost.
(x).	KPT has reflected 37.36% average hike over the existing tariff which seem to be quite misleading. As a matter of the fact, average hike works out to 200%.	The contention of average hike of 200% is not acceptable. The over all average hike required is 37.36% as compared to existing tariff, which has been worked out as per Tariff Guidelines, 2015 issued by TAMP.
(xi).	GCCI has expressed the possibility of negative impact on handling of traffic/ volume in coming days if hike in SOR implemented. There will be downward fall from KPT's glorious achievements as present trend of business scenario makes strong case of the postponement of the proposed hike in SOR.	The revision of SOR of KPT was due from 1.4.2013. The proposal was twice submitted to the TAMP and due to some or the other reason, it was not approved by the Authority. It is also further pertinent to mention here that KPT, especially the general cargo Division of Kandla, is in deficit for the last three years. To offset such a deficit, efforts have been made to step up the surpluses earned from Vadinar as well as charges on the liquid handling. In fact, all-out efforts have been made to ensure minimum rise in the general cargo rates. There has been no cargo diversion from Kandla Port; contrary to this, cargo has been attracted to Kandla Port from neighbouring ports.

(xii).	Extra charges proposed for extended docking period for steel floating dry-dock should not be implemented at all as ascertaining extending period depends upon various technical aspects which cannot be decided firmly in advance nor there will be any exact control on completion of required work in expected time. Hence, if at all it is to be levied then a token amount should be levied.	The condition of penalty towards overstay of crafts on dry dock beyond the allowed days is proposed to discourage the user for idling their crafts on dry dock. It will also compel the users to properly plan the requirement of drydock for carrying out repair and maintenance of their crafts. This will also help KPT in accommodating more private vessels for dry dock. Even in the SOR of Mumbai Port trust as per Para 2.18(II)(v), in case the vessel occupies the dry dock beyond the period or overstayal shall be charged at the double the rate prescribed in the SOR. In order to make it more logical, instead of proposing 200% penalty from the day one, slabwise penalty has been proposed Further, it is also to state that the main purpose of the dry dock is to cater to the needs of the crafts of the Port. Further, the occupancy of the dry dock is almost 100% and lot of crafts are waiting for docking.
(xiii).	There is no clarity about consideration of income and expenses of financial year 2014-2015 while fixation of proposed SOR. However, clarity and confirmation is expected in this regard.	Income and expenditure for the financial year 2014-15 has not been considered as per Tariff Guidelines, 2015. Instead indexation in ARR @ 100% of WPI for the year 2014-15 as well as 2015-16 has been considered.
(xiv).	The GCCI has requested to take appropriate decision and restrict KPT for mandatory booking of notional gang without requirement which is violation of the Government orders and Supreme Court guidelines.	--
12.	**Vadinar Oil Terminal Limited**	
(i).	The SOR was last revised / updated with effect from 24 March 2011, further the Pilotage rate was increased vide KPT circular no. FA/COST/1021- Pilotage/1802 dated 02 June 2012. Steep increase in the rate within a span of 4-5 years is not reasonable	It is stated that the rates of Vadinar Division i.e., cargo related as well as vessel related (Except pilotage) have not been increased for the last more than two decades. In fact many times in the past, the proposal has been submitted to TAMP for increase in the rates at vadinar. However, TAMP has not agreed for any increase in the charges at Vadinar stating that the vadinar Division is a surplus division: as such, it entails no upward revision of tariff. This has resulted in the present proposal of increase in port dues, berth hire, pilotage, etc. Due care has also been taken on the principle “what traffic can bear” wherever necessitated. Accordingly, the Vadinar vessel related charges have been proposed. Regarding cargo related charges at Vadinar, the rates have been adopted from nearby ports i.e. Sikka port of GMB, which is handling crude and products of Reliance Refineries.
(ii).	It may kindly be noted that present users of facilities at OOT Vadinar are purely captive and they do not have alternative facility for handling their cargo. Thereby any increase in SOR has a direct hit to their operating expenses	
(iii).	The calculations, based on which the hike is being proposed indicates that "Average% of increase that may arise over prevailing tariff is (-)57%" whereas increase in Tariff for Vadinar	Due consideration has been given to all such factors and accordingly 25% hike in port dues and pilotage charges at Vadinar has been

<table>
<tr><td></td><td>has been proposed up to 150%, which does not correlate to the calculations and expenditure & investment being done by KPT in Vadinar. Further it is not fair for OOT Vadinar users, who contribute to major share towards overall cargo throughput and revenue of KPT. It may kindly be noted in this regard that there has not been any major investment by KPT during these years in Vadinar and the operating cost is also low at Vadinar. There has never been any capital dredging, undertaken by KPT at OOT Vadinar, which has a natural depths and does not require any maintenance dredging, thereby there is no capital or operating expenses towards dredging in OOT Vadinar</td><td rowspan="2">proposed now.</td></tr>
<tr><td>(iv).</td><td>Basis of revision as per the "Policy for Determination of Tariff for Major Port Trusts, 2015" guideline is average expenditure for three years and return on capital investment. The investment and operating expenditure is more at Kandla than that of Vadinar whereas the increase proposed in Kandla is less than that of Vadinar, which does not commensurate with the expenditure and investment, thereby is not in line with guidelines and unfair to users at OOT Vadinar.</td></tr>
<tr><td>(v).</td><td>VOTL requests TAMP to fairly consider above points while approving the rate for OOT Vadinar and also to give users of OOT, Vadinar, an opportunity of a meeting for discussion and submission of their points before taking decision on the proposed SOR.</td><td></td></tr>
<tr><td>13.</td><td>Kandla Port Steamship Agents Association</td><td></td></tr>
<tr><td>(i).</td><td>This is in continuation of our letters dated 27th April 2016 and 3rd May 2016. KPSAA have since downloaded details of Work in Progress from KPT's website and following are the comments.</td><td rowspan="2">Work in progress in respect of expenditure incurred on PPP Project has been deleted and accordingly revised annual Revenue Requirement has been worked out.

Based on the observation of KPSAA, the KPT has excluded the items of work-in-progress for the purpose of ROCE as given below. The port has also excluded WIP on its own. Further the KPT has excluded certain items of net fixed assets on its own as given below:
<table>
<tr><td>Based on observation of KPSAA, the work-in-progress excluded by KPT:</td><td></td></tr>
<tr><td>Capital Dredging of proposed T shape jetty- turning circle and its approach channel of tekra near track of KPT</td><td>101893600.00</td></tr>
<tr><td>Soil investigation for proposed cargo berth at Tekra</td><td>4238507.00</td></tr>
<tr><td>Appointment of Independent Engineer for work of Dev. Of 13th to 16th C.B</td><td>9580838.00</td></tr>
<tr><td>Construction of 13th to 16th Multipurpose Berth at Kandla</td><td>13710000.00</td></tr>
<tr><td>Study & investigation of Feasibility report for setting up container terminal at Tuna Tekra</td><td>420000.00</td></tr>
<tr><td>Cons of 13th cargo berth</td><td>10911561.00</td></tr>
<tr><td>CONST OF 13 TO 16 CB AT KANDLA MEASURES FOR ENVIRONMENTAL IMPROVEMENT OF POLLUTION</td><td>9547220.00</td></tr>
</table></td></tr>
<tr><td>(ii).</td><td>It is observed that the statement of Work-in-progress as on 31.3.2014 provided by KPT consists of items which are not related to work of Cargo Jetty 1 to 10 or Oil Jetties 1 to 6. Further some of the items are to be apportioned from either CSR related funds or from Gandhidham township related incomes like Ground Rent, Transfer fees etc. They have highlighted few such items which is summarised below stating that it needs to be reduced from Work-in-progress figures used for calculation in revenue requirements of proposal.
<table>
<tr><td>Capital dredging for deepening and widening of the area between Buoy No.4 to 6</td><td>271421939.00</td></tr>
<tr><td>Capital dredging of proposed T shape jetty – turning circle and its approach channel of tekra near track of KPT</td><td>101893600.00</td></tr>
<tr><td>Capital dredging a/s cargo berth no.11 to 12 – cons.</td><td>640606.00</td></tr>
</table></td></tr>
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Const of park at Sapananagar	429975.20
Construction of Golden Jubilee Park at H.4 – 4 -10-B, Shaktinagar, H.4-4 Sapnanagar (providing playing equipments)	1471135.00
Construction of Golden Jubilee Park at NU10-B, Shaktinagar, and NU-4 Sapnanagar	405040.00
Consultancy service of setting up of Sports Complex	1620000.00
Const. of sports complex at Gopalpuri	27798093.00
Soil investigation for proposed cargo berth at Tekra	4238507.000
Upgradation of barge handling facilities at Bunder Basin	120543820.00
Appointment of Independent Engineer for work of dev. Of 13th to 16th C.B	9580838.00
Construction of 13th to 16th Multipurpose Berth	13710000.00
Study & Investigation of Feasibility Report for setting up container terminal at Tuna Tekra	420000.00
Replacement of south wharf at Bunder Basin at New Kandla	2401064.12
Cons of 13th cargo berth	10911561.00
Cons of 13 to 16 CB at Kandla-Measures for Environmental improvement of pollution control (mangrove plantation along Nakti Creek)	9547220.00
S&I of empouded dock og tekra-numerical mode	3438127.43
S&I for soil investigation of 11th & 12th C.B	1840928
Demarkation of Boundary from Veera to Jangi	907640.00
Const. of rail overbridge at Tuna renamed as const. of rail overbridge at NH-8, near Nakti	5488416.00
Exten. OD Road & Rly Network from 13th to 16th C.B	164998.00
Appointment of advisor for providing technical support services for upgradation & development of railway network at Kandla-remaining work	16728000.00
Railway connectivity from LC 236 to Kutch Salt Junction for Berth No.14 to 16	200000000.00
Providing railway connectivity to exists tuna port-Deposit work to be taken by western railway	321750.00
Modification of bunder basin for B/H	2855734.00

CONTROL (MANGROVE PLANTATION ALONG NAKTI CREEK AT KANDLA)	
S&I for soil investigation of 11th & 12th C.B	1840928
Exten. OD Road & Rly Networks on Rear of Back up area from 11th to 16th – Rly Network from 13th to 16th C.B	164998.00
Railway connectivity from LC 236 to Kutch Salt Junction for Berth No. 14 to 16	200000000.00
Providing railway connectivity to exists tuna port – Deposit work to be taken by western railway	321750.00
Sub-total	352629402
Apart from above, the KPT has excluded the following items from work-in-progress:	
Development of OSG / backup area incl. instrumentation etc. of 12th (10th) cargo berth at Kandla (Stage - 1) murrum filing	77598.00
DEV. OF OSG/BACK UP AREA INCLUDING INSTRUMENTATION ETC. OF 12TH (10TH) C.B ENHANCEMENT INSTRUMENTATION	354030.00
Capital Dredging of 13th to 16th Cargo Berth	0.00
Soil investigation for 11 &12th berth	18951.00
Providing temporary fencing wall at the end of 11th & 12th berth	-306729.00
Prov. High mat on 11th cargo berth	-26615.10
Sub-total	117234
TOTAL	352746637
Apart from above, the KPT has excluded the following items from net fixed assets in respect of PPP project:	
Dev. of OSG/Back up area-including 11th Cargo berth	42857614
Devl of OSG/back up area including instrument etc. of 12th (10th CB at Kandla)	93973731
Capital dredging at proposed cargo berth no. 13 to 16 at kandla	248401897
Ext. or road & railway network in the back up area from 11 to 16 berth at Kandla	22767350
Extension of road and railway network in the Rear of backup area from berth no. 11 to 16 at kandla-part-II	46872922
Development of common corridor in the backup of 11th & 12th cargo berth	5125105
Extension of Road and Railway network in the rear of back area from berth no.11 to 16 RLY network from berth no.13 to 16.	31671839
Sub-total	471179458
Less: Total depreciation	24577771
Total	467092687
TOTAL	819839324

(iii).	It is reiterated that expenditure being incurred by the KPT towards capital and maintenance dredging beyond 12.50 Meters in the Channel should not be apportioned to Kandla Port Dry Cargo Berths 1 to 10 and Liquid Cargo Berths 1 to 6 and as such should not be considered in this SOR.	The under keel clearance (UKC) of minimum 10% is required hence bringing vessels of 12 m, the chancel will be maintained at 13m.
(iv).	Our comments are limited to the work-in-progress details as GCCI are still not being provided with details of expenditure and fixed	

	assets used in calculation of revenue proposal	
14.	**Kandla Stevedores Association Limited (KSAL)**	
(i).	KSAL has subsequently vide letter dated 6 May 2016 stated that it has downloaded the details of the WIP considered for the above proposal from the web-site of KPT.	Work in progress: The Work in Progress in respect of expenditure incurred on PPP projects has been deleted and accordingly revised Annual Revenue Requirement Has been worked out.
(ii).	WIP with certain works duly highlighted is attached which in view of KSAL just cannot be apportioned to the SOR for the Dry Cargo Berths 1-10 and Liquid Cargo Berths 1-6 of the Kandla Port. The highlighted works in the attached WIP may hence not be considered / deducted from the WIP whilst considering the revision in the SOR.	
(iii).	Once again, their above comments are restricted to the WIP and are not in TOTO in absence of expenditure details being provided to us.	
(iv).	In addition, as the maximum permissible Draught alongside Jetties of KPT is 12.50m (after considering height of tide / under keel clearance), it may be ensured that cost been incurred towards capital and maintenance dredging beyond 12.50m are not apportioned to the above revision in the SOR.	The under keel clearance(UKC) of minimum 10% is required hence bringing vessels of 12 m, the chancel will be maintained at 13m.
15.	**Indian Oil Corporation Ltd. (IOCL) (pipelines division of Vadinar)**	
(i).	Indian Oil has already registered its views during joint hearing at KPT, Gandhidham on 20.04.2016 for reconsideration of revision of general revision of its Scale of Rates (Copy of Letters dtd. 16.04.2016 & 19.04.2016 submitted earlier in this regard are attached herewith for ready reference)	It is stated that the rates of Vadinar Division i.e., cargo related as well as vessel related charges (except pilotage) have not been increased for the last more than two decades. In fact, many times in the past, the proposal has been submitted to TAMP for increase in the rates at Vadinar. However, TAMP has not agreed for any increase in the charges at Vadinar stating that the Vadinar Division is a surplus division; as such, it entails no upward revision of tariff. This has resulted in the present proposal of increase in port dues, berth hire, pilotage, etc. Due care has also been taken on the principle "what traffic can bear" wherever necessitated. Regarding cargo related charges at Vadinar, the rates have been adopted from nearby ports i.e. Sikka Port of GMB, which is handling crude and products of Reliance Refineries.
(ii).	The increase in rates for various activities at Vadinar is quite substantial whereas KPT has not done any major investment at Vadinar is recent years. It is also to be mentioned here that Sea Waters at Vadinar have natural depth and does not require any maintenance dredging, thereby there is not capital or operating expenses towards dredging at Vadinar.	
(iii).	Indian Oil is a major importer of crude oil at Vadinar and is handing nearly 25 MMT (Likely to be further increased in future) of crude oil annually. Such substantial steep hike for port SOR charges shall make the oil handling activities very expensive and shall have a cascading effect on the Indian Economic Scenario leading to upward inflation.	
(iv).	Indian Oil is engaged in crude import activities at Vadinar since 1978 alongwith KPT and in addition to the port charges, Indian Oil is also contributing for other common facilities at KPT Colony, Vadinar e.g. Water charges, Hospital expenses, School expenses etc.	

(v).	The proposed hike in charges by Kandla Port Trust as hoisted on the website for various activities at Vadinar are tabulated below alongwith % increase for ready reference: **Existing and proposed Charges for Foreign Vessel at Vadinar Port**	Due consideration has been given to all such factors and accordingly 25% hike in port dues and pilotage charges at Vadinar has been proposed now. Also coastal rates have been revised too for all the services being provided at Vadinar.

Sr. No.	Nature of Activity	Existing charges	Proposed charges by KPT	Rates increased in %
1	Port Dues	US$ 0.07	US$ 0.1645	135%
2	Pilotage Fees	US$0.2896	US$ 0.6041	109%
3	Pilot Attendance Fees	US$ 45.17	US$ 83.5645	85%
4	Mooring Charges	US$ 0.00042	US$ 0.00060	43%
5	Anchorage Charges	US$ 0.2375	US$ 0.3325	40%
6	Wharfage Charges	INR 12	INR 18	50%
7	Floating Craft Hire Charges	INR 39.767	INR 49.710	25%

Existing and proposed Charges for Coastal Vessels at Vadinar Port

Sr. No.	Nature of Activity	Existing charges	Proposed charges by KPT	Rates increased in %
1	Port Dues	INR 1.73	INR 4.0655	135%
2	Pilotage Fees	INR 10.1979	INR 31.5189	210%
3	Pilot Attendance Fees	INR 1116.60	INR 3044.92	173%
4	Mooring Charge	INR 0.0103	INR 0.0200	94%
5	Anchorage Charges	INR 5.58710	INR 12.1200	106%
6	Wharfage Charges	INR 12.00	INR 18.00	50%
7	Floating Craft Hire Charges	INR 983.04	INR 1811.29	84%

(vi).	The existing charges of Kandla Port Trust at Vadinar OOT are already higher than the other ports like Paradip, under Paradip Port Trust (PPT) for the similar type of activities. Further hike in these rates will enormously increase the port charges for Vadinar OOT which will make Vadinar OOT an uneconomical operation for users of Vadinar Port. This may have further repercussion on the business being handled at Kandla Port Trust Vadinar.	
(vii).	For ready reference a comparison chart for KPT Rates (existing & proposed) vis-à-vis existing PPT Rates is given below: **Comparison of existing & proposed Charges by KPT vs. PPT for Foreign Vessels**	

Sr. N	Nature of Activity	Existing Rates at KPT	Existing rates at PPT	Proposed Rates at KPT	% increase proposed by KPT in

o.		Vadinar	Paradip	Vadinar	comparison to existing PPT Paradip Rates
1	Wharfage Charges	INR 12	INR 5.45	INR 18	230%
2	Pilotage Fees	US$ 0.2896	US$ 0.26	US$ 0.6041	132%
3	Pilot Attendance Fees	US$ 45.17	US$ 40	US$ 83.5645	109%
4	Floating Craft Charges	US$ 39.767	US$ 17.85	US$ 49.710	178%

(Pl. Note: Mooring & Anchorage Charges not applicable at Paradip)

Comparison of existing & proposed Charges by KPT vs. PPT for Coastal Vessels

Sr. No.	Nature of Activity	Existing Rates at KPT Vadinar	Existing rates at PPT Paradip	Proposed Rates at KPT Vadinar	% increase proposed by KPT in comparison to existing PPT Paradip Rates
1	Wharfage Charges	INR 12	INR 5.45	INR 18	230%
2	Pilotage Fees	INR 10.1979	INR 8	INR 31.5189	294%
3	Pilot Attendance Fees	INR 1116.60	INR 1350	INR 3044.92	126%
4	Floating Craft Charges	983.04	INR 438.90	INR 1811.29	313%

(Pl. Note: Mooring & Anchorage Charges not applicable at Paradip)

As seen from the comparison Chart, the existing rates of KPT Vadinar is already very high and the proposed SOR rates by KPT at Vadinar in comparison to existing rates at PPT is as high as 294% for Pilotage Fees, 230% for Wharfage Charges, 313% for Floating Craft Charges, etc.

(viii). In view of above, we once again request TAMP to consider the above points while approving the SOR Rates for Oil Terminal at Vadinar and maintain status quo so that handling crude oil at Vadinar Port remains cost effective and financially viable for Oil Handling Agencies like Indian Oil Corporation Limited accordingly please.

(ix). In this regard, it is also requested that a separate meeting may be convened exclusively for Vadinar Port Users for giving an opportunity to Oil Handling Agencies (OHAs) operating at Vadinar Port, who are contributing to nearly more than 50% of total KPT Cargo Handlig, for discussions and submissions of their Points before any final decision in this regard please.

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