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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 38  
New Delhi, 9 February, 2007

NOTIFICATION

In exercise of the powers conferred under Sections 48, 49 and 50 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Cochin Port Trust for general revision of its Scale of Rates as in the Order appended hereto.

(A.L. Bongirwar)
Chairman
This case relates to a proposal received from the Cochin Port Trust (COPT) for general revision of its Scale of Rates (SOR).

2.1. The Scale of Rates of COPT was last revised by this Authority in December 2003 and the Order along with the Scale of Rates was notified in the Gazette of India on 14 January 2004. The validity of the Scale of Rates was prescribed for two years from the date of notification of the Order and accordingly, the SOR fell due for revision in January 2006.

2.2. The COPT had earlier in October 2005 filed a proposal for general revision of its Scale of Rates. However, it was not accompanied with the proposed Scale of Rates and hence the COPT was advised to file a comprehensive proposal alongwith the draft proposed SOR.

3.1. In this backdrop, the COPT has filed the instant proposal for general revision of its Scale of Rates alongwith the cost statements in the revised formats and draft proposed SOR.

3.2. The COPT has submitted that the proposal has been filed strictly adhering to the tariff guidelines except on the following three issues:

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>TAMP Guidelines</th>
<th>Nature of Deviation</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Revenue / royalty share receivable by the major ports should be used to meet the cost of surplus labour and not to be included as income for tariff</td>
<td>The full amount of royalty receivable from M/s. India Gateway Terminal Private Limited (IGTPL) has been taken</td>
<td>This income is received from handing over of an existing facility.</td>
</tr>
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</tr>
<tr>
<td>2.</td>
<td>Depreciation to be provided as per life norms adopted by the Companies Act. (Clause 2.7.1)</td>
<td>Depreciation has been computed as per the life norms prescribed by the Government.</td>
<td>To reduce the implication of higher depreciation cost</td>
</tr>
<tr>
<td>3.</td>
<td>Dredging and Maintenance cost must be allocated to (i) Port Conservancy and (ii) Berthing and Mooring at the docks and bunder in proportion to the number of days the dredger worked for each service or on the basis of quantum of silt dredged for each service.</td>
<td>2/3rd of the maintenance dredging cost is allocated to POL cargo handling charges.</td>
<td>The increased draft is specifically required for crude oil vessels.</td>
</tr>
</tbody>
</table>

3.3. The high lights of the proposal are as follows:

A. Cost statement.

(i). The cost statement for the port as a whole and for the main activities after allowing return on capital employed reflects the following position for the years 2006-07 to 2008-09.
<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Particulars</th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>Total Surplus / Deficit for the three years</th>
<th>Average Surplus / Deficit as % of operating income</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Rs. in lakhs</td>
<td>Surplus / Deficit as % on income</td>
<td>Rs. in lakhs</td>
<td>Surplus / Deficit as % on income</td>
<td>Rs. in lakhs</td>
</tr>
<tr>
<td>1.</td>
<td>Port as a whole</td>
<td>(-) 2829</td>
<td>(-) 16%</td>
<td>(-) 3478</td>
<td>(-) 19%</td>
<td>(-) 3725</td>
</tr>
<tr>
<td>2.</td>
<td>Vessel related activity</td>
<td>(-) 2628</td>
<td>(-) 43.69%</td>
<td>(-) 3237</td>
<td>(-) 50.87%</td>
<td>(-) 3647</td>
</tr>
<tr>
<td>a).</td>
<td>Port dues</td>
<td>(-) 791</td>
<td>(-) 72.26%</td>
<td>(-) 1199</td>
<td>(-) 103.42%</td>
<td>(-) 1311</td>
</tr>
<tr>
<td>b).</td>
<td>Pilotage</td>
<td>(-) 634</td>
<td>(-) 19%</td>
<td>(-) 1036</td>
<td>(-) 29%</td>
<td>(-) 854</td>
</tr>
<tr>
<td>c).</td>
<td>Berth hire</td>
<td>(-) 114</td>
<td>(-) 8.34%</td>
<td>(-) 124</td>
<td>(-) 8.6%</td>
<td>(-) 319</td>
</tr>
<tr>
<td>3.</td>
<td>Cargo related activity</td>
<td>(-) 870</td>
<td>(-) 9%</td>
<td>(-) 828</td>
<td>(-) 8%</td>
<td>(-) 721</td>
</tr>
<tr>
<td>a).</td>
<td>Fertiliser</td>
<td>168</td>
<td>48%</td>
<td>159</td>
<td>45%</td>
<td>168</td>
</tr>
<tr>
<td>b).</td>
<td>Coal and others</td>
<td>(-) 4906</td>
<td>(-) 405%</td>
<td>(-) 4943</td>
<td>(-) 383%</td>
<td>(-) 5100</td>
</tr>
<tr>
<td>c).</td>
<td>Crude and POL</td>
<td>952</td>
<td>15%</td>
<td>968</td>
<td>16%</td>
<td>883</td>
</tr>
<tr>
<td>4.</td>
<td>Estate</td>
<td>1003</td>
<td>53%</td>
<td>933</td>
<td>51%</td>
<td>993</td>
</tr>
</tbody>
</table>

(ii). The sub-activities like crude oil, fertilisers, pilotage and estate rentals are stated to be making surplus whereas general cargo, port dues, berth hire show substantial losses. (As per the cost statement furnished by COPT pilotage activities also reflects a deficit position).

(iii). No increase has been proposed for the sub-activities depicting surplus position in line with clause 2.11.3 of the revised tariff guidelines.

(iv). Activity based increase is not found to be feasible from the marketing point of view, as the loss making activities would have to be increased at an exorbitant rate of 400% to 500% of the existing rates to earn the required rate of return of 15%. Hence, the increase is restricted to 40% in deficit activities i.e. general cargo, port dues and berth hire such that they earn a reasonable return of 6.30%.

B. Modification / Tariff Revision in the proposed Scale of Rates:

(i). Vessel related charges:

A general hike of 40% is proposed in vessel related charges except pilotage fee along with rationalised tariff structure in line with the revised tariff guidelines.

(a). In case of pilotage fees, the existing five tier slabs are reduced to three tier sliding rates as per the revised tariff guidelines. The existing highest rate (US$ 0.55) for the slab 15001 to 30000 GRT is taken as the base and then sliding rates are proposed in three tier in line with the revised tariff guidelines. In case of container vessels, the concessional tariff of US $ 0.33 per GRT levied by the COPT is taken as the base rate and then sliding rates are proposed.

(b). Likewise, in compliance with the revised tariff guidelines, a single tier berth hire charge is proposed for each group of berths instead of
existing six tier rate. It has proposed 40% increase on the weighted average income during the last two years. In case of container vessels 40% increase is proposed on concessional berth hire allowed by the COPT.

(ii).  

(a). 40% increase is proposed in the existing wharfage for bulk and break-bulk cargo / container except fertiliser handled at Q10 and crude oil.

(b). Proposed to introduce wharfage on new cargo like soda ash.

(c). Proposed 50% increase in wharfage of Oleoresins of all types and sandal oil.
(d). Unit of levy of timber proposed to be modified from port MT to Indian cubic metre.

(e). Introduced a provision to levy only 50% of the applicable wharfage charge for cargo towed in/out of the RO-RO vessels.

(iii). The floating craft charges are proposed to be increased in the rate of 40% to 100%. Similarly, the existing toll charges are proposed to be increased by 25% to 60%.

(iv). A new condition is proposed to be introduced to facilitate the movement of cargo from the Wharf Premises to Custom Bonded Area outside the Wharf before payment of wharfage on the same. Higher lease rentals have been proposed for utilising such Custom Bonded Areas for storing bulk cargo.

(v). Uniform increase of 40% is proposed in demurrage charge, hire charges for use of wharf electric crane and other equipment, licence fee for use of port’s bunks and other miscellaneous charges.

(vi). The rates for temporary leasing of Covered and Open Space is proposed to be rationalised and simplified.

3.4. The COPT in its letter has stated that as per the land policy guidelines issued by the Government in March 2004, a Committee has been constituted for fixing the reserve price of port lands. The COPT has agreed to file a separate proposal for revision of estate rentals as and when finalised.

4. In accordance with consultation procedure prescribed, a copy of the COPT proposal was circulated to the India Gateway Terminal Private Limited (IGTPL) and various users/user organisations seeking their comments. The comments received from the IGTPL and various user organisations were forwarded to the COPT as feedback information/comments. The COPT has responded on the comments of the users/user organisations.

5. On preliminary scrutiny of the proposal additional information/clarifications were sought from the COPT. A summary of queries raised by us and the reply furnished by COPT is tabulated below:

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Queries raised by TAMP</th>
<th>Reply furnished by COPT</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1).</td>
<td>(i). The operating income, operating expenditure, including management and general</td>
<td>(i). The total operating income of the port includes the income from the sale of</td>
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<tr>
<td></td>
<td>overheads for the years 2003-04 to 2004-05 do not match with the respective heads in</td>
<td>electricity to the customers within the port area and rent from port staff quarters.</td>
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<tr>
<td></td>
<td>the Annual Accounts. Like wise, the estimates for 2005-06, and 2006-07 do not match</td>
<td>These incomes being not directly related to the port operations are excluded from the</td>
</tr>
<tr>
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<td>with Revised Estimates 2005-06 and Budget Estimates 2006-07. Please update the cost</td>
<td>operating income. Further, the fixation of electricity tariff is monitored by the Kerala</td>
</tr>
<tr>
<td></td>
<td>statements duly tallying all</td>
<td>State Electricity Regulatory Commission taking into consideration the revenue and cost</td>
</tr>
<tr>
<td></td>
<td></td>
<td>elements involved. Hence, both the revenue earned and expenditure incurred towards that</td>
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<td></td>
<td></td>
<td>portion of electricity which is supplied to outsiders has been excluded while preparing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>the cost statements. It has furnished the updated statements along with reconciliation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>statements for the years 2003-04 and 2004-05.</td>
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</tbody>
</table>
the figures with the Annual Accounts / R.E. / B.E. and furnish a reconciliation statement for all the years duly reconciling the figures with the figure reported in the respective financial documents.

(ii). With reference to the reply, the COPT was further requested to:

(a). Clarify whether the COPT has sought approval of Kerala State Electricity Regulatory Commission (KSERC) on the overhead charges levied over and above notified electricity tariff.
(b). Confirm whether all the electricity overhead charges levied by the COPT and the electricity overhead expenditure are excluded from the cost statement for tariff review / revision. Also, confirm that the net block relating to electricity installations, cables are also excluded from the capital employed.
(c). Furnish a statement duly reconciling the estimation of operating income, expenditure, FMI, FME and net surplus / deficit as furnished in Form 3 with the actuals for 2005-06 and Budget Estimates for the year 2006-07 also.

(a). Approval of the KSERC has been obtained for ARR and ERC (Aggregate Revenue Requirement and Expected Revenue from Charges) for the years 2004-05, 2005-06 and 2006-07. The ARR and ERC submitted to KSERC for regulation of Electricity tariff is inclusive of the Overhead Charges incurred for the distribution of electricity by COPT.
(b). It is confirmed that all the overhead charges, overhead expenditure and Net block are excluded from the cost statement for tariff review / revision.
(c). The reconciliation statement for the year 2005-06 is also furnished. It has furnished revised cost statements updating actuals for the year 2005-06.

(i). The traffic projections for major items of cargo like Coal, POL, Fertiliser and also the total traffic do not match with the Revised Estimates 2005-06 and B.E. 2006-07. R.E. 2005-06 projects the traffic for the years 2005-06 and 2006-07 at 14.0 MT and 14.67 MT. As against this, the traffic projection in Form 2A is at the level of 11.50 MT and 11.60 MT for the corresponding years. Explain the reasons for such variation in the traffic projections in comparison to the estimation in its financial documents. Update the traffic, income and all the expenditure for the years 2005-06

(i). (a). The traffic projections given in the statements refer to the traffic handled by the Cochin Port Trust. It has clarified that the actual traffic handled by the COPT during 2005-06 was 11.40 MMT. The traffic projections were modified in the cost statement in order to depict a realistic scenario. The traffic of IGTPL is shown separately. The Income and Expenditure are based on the Budget Estimates hence any deviation in the traffic projections will adversely affect the accuracy of the figures submitted.
(b). It has subsequently clarified that the traffic as per the B.E. 2006-07 is 11.32 MMT and as per R.E. it is 11.64 MMT. It has, however, not revised the cost statements based on the R.E. 2006-07.
and 2006-07 with reference with actuals for 2005-06, if available, and B.E. 2006-07. Consequently, the projections for the succeeding years 2007-08 and 2008-09 may also be reviewed and modified, if necessary.

(ii). Confirm whether the traffic forecast for the current financial years 2005-06 and the projections for the succeeding years are in accordance with the five years / Annual plan and current expected growth.

The traffic forecasts are in accordance with the five year plan projections.

(3). Explain why the designed capacity of the port assessed at 15.50 MMT for the years 2003-04 and 2004-05 is expected to reduce to the level of 13.50 MMT from the year 2005-06 onwards. Furnish computation of designed capacity of the port for the years 2006-07 to 2008-09 considering the capital investment proposed to be made during these years and productivity improvements expected to be achieved.

The designed capacity undergoes a change because of the handing over of Container terminal to the BOT operator. All the capital investments are made to replace the existing assets which have outlived its economical life period. Hence, no increase in designed capacity is estimated.

(4). (i). Furnish analysis of average dwell time of cargo for the past two years. Average dwell time considered for estimating the demurrage and storage income for the years 2005-06 to 2007-08 may also be indicated.

The storage income for the years 2006-07 to 2008-09 is based on Budget Figures and not on the actual dwell time of the cargo. The average dwell time of cargo for the past two years 2003-04 and 2004-05 is as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>CFS</th>
<th>CT</th>
<th>Wharf</th>
</tr>
</thead>
<tbody>
<tr>
<td>Import</td>
<td>12 days</td>
<td>10 days</td>
<td>Nil</td>
</tr>
<tr>
<td>Export</td>
<td>5 days</td>
<td>7 days</td>
<td>3 days</td>
</tr>
</tbody>
</table>

(ii). Explain the reasons for estimation 7.3% reduction in the vessel related income in the year 2008-09 despite projecting 3.6% increase in the traffic.

(ii). Mainline vessels are expected to call at COPT from the year 2008-09 onwards. As per the direction of the MOS lower vessel related tariff should be collected from these Mainline vessels. Hence, even though there is a hike in traffic, the vessel related income for the year 2008-09 is estimated to reduce on this account.

(iii). Indicate the foreign exchange rate considered for computation of dollar denominated tariff. The additional income, if any, on account of fluctuation in foreign

(iii). The US dollar exchange rate considered is US$ 1 = Rs.44.89. Since the foreign exchange market is very much volatile, no additional income on account of exchange rate variations is considered while forecasting the income. On further advice by us to consider the additional income at the
exchange rate may also be computed and shown separately. prevailing exchange rate, it has clarified that the revision proposal is based on the income earned by the port during the years 2004-05 and 2005-06 when the foreign exchange rates were very much fluctuating due to various factors. The rates during that period even touched Rs.46 per US$. This is the reason for not considering any additional income due to foreign exchange rate fluctuation.

(iv). Explain the reasons for estimating the cargo handling income for the years 2005-06 to 2008-09 to scale down from the estimates furnished in the initial proposal in the light of the fact that there is no significant changes in the traffic projections. (iv). This is due to the exclusion of revenue share earned from M/s. India Gateway Terminal Private limited (IGTPL) from the cargo related income which was shown as a part of cargo related income in the pre-revised statement submitted along with original proposal. It has subsequently proposed to transfer the entire revenue share receivable from the IGTPL to Escrow account.

(v). Clarify where is the income from stuffing / de-stuffing and ground rent on containers at CFS included in the cost statement. (v). The income likely to accrue from these tariff items are included under the head 'others' in cargo handling activity. The detailed proposal on CFS will be submitted shortly.

(5). As agreed, please expedite filing the proposal for revision of estate rentals in line with the Government guidelines issued on 8 March 2004. The process of preparing a revision proposal for the Land Lease Rent is in the advanced stages of its completion. Once the Committee constituted to propose the revision in lease rental finalises its report, the same will be forwarded to TAMP for scrutiny.

(6). Please furnish the recommendations of the Committee constituted to suggest reduction in the overall handling cost. Since reply furnished forwarded by COPT was not found relevant, our query was reiterated. It has furnished a copy of the press release wherein the port has announced cost reduction to the extent of Rs.2900/- on a 20 ft. reefer container and Rs.3800/- in case of a 40 ft. container and Rs.150/- to Rs.300/- for other containers in various tariff items.

(7). (i). Revenue share receivable from India Gateway Terminal Private Limited is considered at Rs.14.80 crores and Rs.16.96 crores for the years 2005-06 and 2006-07 as against Rs.20.73 crores and Rs.24.00 crores estimated for the corresponding years in R.E. 2005-06 and B.E. 2006-07. The reasons for such variation may be explained. (i). The actual Revenue share earned from IGTPL is Rs.16.15 crores for the year 2005-06. The projections made for the latter years were based on figures given in the Project Report submitted to the Ministry.

(ii). Since the project report submitted to the Ministry may require updation, the COPT was advised to estimate the revenue share receivable from the IGTPL on the basis of the traffic estimate certified by the COPT while fixing the initial tariff of the IGTPL. (ii). In the revised cost statement submitted on 25 August 2006, it has updated the estimation of revenue share for the years 2006-07 to 2008-09 at Rs.27.46 crores, Rs.36.10 crores and Rs.44.64 crores respectively. Subsequently, vide letter dated 4 January 2007, the estimation of revenue share is updated at Rs.19.68 crores, Rs.21.36 crores and Rs.23.49 crores for the years 2006-07 to 2008-09 based on the traffic projections made by the IGTPL as considered in the TAMP Order.

(iii). (a) The COPT was also (iii). (a) It has clarified that the License Agreement entered into
advised to clarify whether it would earn any revenue share from the on-board stevedoring charges to be levied by the IGTPL. If so, to indicate the estimated revenue and include it in the estimated revenue share of the IGTPL.

(iii). (b). With reference to the reply furnished by COPT, it was clarified to the port that the IGP vide letter No.IG/L-UL/quote 06 dated 10 August 2006 has agreed to continue to offer lashing / unlashing services at its terminal. The COPT was therefore, again advised to include the revenue share receivable from IGP from the on-board stevedoring charges in its cost statement.

(iv). Clarify the treatment given to the license fee receivable from the IGTPL in the cost statement.

(i). The details furnished in Form 9 shows that clause 2.8.3. of the tariff guidelines has not been complied with as regards the revenue share receivable from IGP. The COPT is advised to comply with the revised tariff guidelines in respect of revenue share receivable from the IGP.

(ii). Indicate the investment in creation / modernisation of port infrastructure, which is proposed to be funded from the Escrow Account in Form 4. It may be noted that the entire accrual in the Escrow Account would be taken as revenue of the port for tariff fixation purpose, if the funds in the Escrow Account are found to have been not utilised within five years as stipulated in the agreement between COPT and IGTPL.

(i). The modifications as suggested by TAMP have been made and updated in the revised cost statement. It has proposed to transfer the entire revenue share received / receivable from the IGP to the Escrow Account and hence this revenue is excluded from the cargo handling income. The balance in the Escrow account is estimated at Rs.27.46 crores, Rs.65.20 crores and Rs.113.76 crores for the years 2006-07, 2007-08 and 2008-09 respectively. (The additions proposed to the gross block, however, does not show any deployment from Escrow Account to fund the proposed capital expenditure for creation / modernisation of port infrastructure facilities).

(ii). As per the Annual Accounts, no investment is proposed to be funded from the Escrow Account.
(9). Clause 2.11.4 of revised tariff guidelines stipulates that cross-subsidisation shall be restricted with the objective of ultimately phasing it out. Confirm that the flow of cross-subsidisation from surplus generating activities to the activities which are in deficit are restricted at the level obtained at the time of last general revision of its Scale of Rates in December 2003.

The cost statement reveals that POL handling, fertiliser, pilotage services and lease rentals are surplus making activities. No increase in the rates for these services are proposed in order to restrict the level of cross-subsidisation obtained in the last general revision. Efforts are on to make every activity self-sustainable by reducing the cost of operation which will facilitate phasing out the cross-subsidisation.

(10). (i). The operating cost for cargo handling and storage (excluding depreciation) for the year 2004-05 is reported at Rs.3355.61 lakhs and the estimates for 2005-06 and 2006-07 are at Rs.2589 lakhs and Rs.2802 lakhs as per the R.E. 2005-06 and B.E. 2006-07. As against this, the figures considered in consolidated cost statement are at the level of Rs.5728 lakhs, Rs.4973 lakhs and Rs.5075 lakhs. Similar variations are observation in the operating cost pertaining to port and dock facility and estate activity and management and general overheads. The reasons for such variations may be explained. The COPT may modify the actuals / estimates for the years 2003-04 to 2008-09 so as to tally with the figures reflected in the respective Annual R.E. / B.E.

(ii). The increase in operating expenditure in 2006-07 is mainly due to the increase in maintenance dredging cost which was necessitated due to the increase in capital dredging to the tune of Rs.21 crores.

(iii). The handing over of Container Terminal to IGTPL has favourable

<table>
<thead>
<tr>
<th>(10).</th>
<th>Clause 2.8.3 of the tariff guidelines.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(9).</td>
<td>The operating cost for cargo handling and storage (excluding depreciation) for the year 2004-05 is reported at Rs.3355.61 lakhs and the estimates for 2005-06 and 2006-07 are at Rs.2589 lakhs and Rs.2802 lakhs as per the R.E. 2005-06 and B.E. 2006-07. As against this, the figures considered in consolidated cost statement are at the level of Rs.5728 lakhs, Rs.4973 lakhs and Rs.5075 lakhs. Similar variations are observation in the operating cost pertaining to port and dock facility and estate activity and management and general overheads. The reasons for such variations may be explained. The COPT may modify the actuals / estimates for the years 2003-04 to 2008-09 so as to tally with the figures reflected in the respective Annual R.E. / B.E.</td>
</tr>
<tr>
<td>(10).</td>
<td>Though certain elements of cost such as Electricity Charges pertains to cargo handling and storage, they are classified under estate rentals in the Annual Accounts, while preparing the cost statements these items were included under cargo handling and storage rather than considering them under estate rentals. This process was carried out in all the activities and sub-activities hence there can be variations from the figures shown in Budget. However, it is ensured that all the cost elements are correctly identified and allocated correctly. Reconciliation statement is also furnished in this regard for the years 2003-04, 2004-05 and 2005-06.</td>
</tr>
<tr>
<td>(ii).</td>
<td>The increase in operating expenditure in 2006-07 is mainly due to the increase in maintenance dredging cost which was necessitated due to the increase in capital dredging to the tune of Rs.21 crores.</td>
</tr>
<tr>
<td>(iii).</td>
<td>The handing over of Container Terminal to IGTPL has favourable</td>
</tr>
</tbody>
</table>
pertaining to the cargo handling activity should in fact reduce from the year 2005-06 in view of the IGTPL taking over almost 350 employees of the COPT and handing over old equipment to IGTPL. Please furnish the impact of reduction in the operating expenditure on account of handing over the container handling operations to the IGTPL and where is it reflected in the cost statement.

(iv). Clarify under which sub activity the operating cost relating to Nehru Shatabdi dredger is considered in the cost statement.

(v). (a). The Form 3B does not show any reduction in the consumption of power and fuel and the cost thereon for the year 2005-06 on account of handing over its Container terminal to the IGTPL as stated by COPT may be explain.

(b). Clarify why the per unit consumption of power and fuel by various equipment should increase in the range of 8% to 20% in the year 2005-06 and by 5% per annum for each of the years 2006-07, 2007-08 and 2008-09.

(c). With reference to its reply, the COPT was further requested to clarify where the increase in the level of activity is reflected in traffic growth to justify the estimated increase of 5% to 20% in the per unit consumption of power and fuel.

(i). Explain the reasons for estimating steep hike of 35% in the average cost of employee during the year 2007-08 over the estimates of previous year along with detailed computation.

(ii). With reference to the reply furnished by COPT, it was

impact on salaries and wages, power / fuel cost, repairs and maintenance cost, insurance cost and lease charges as shown in Form 3B pertaining to expenditure details.

(iv). The operating cost relating to Nehru Shatabdi is included under the head port and dock charges.

(v). (a). Since port is a Licensee of the Kerala State Electricity Board (KSEB), the power distribution in the port area is carried out by COPT. Hence, even though the total cost of power remains more or less the same, the categorisation will undergo a change. The reduction in the cost of fuel due to handing over of Container Terminal is correctly accounted in the statements.

(b). The percentage of increase in per unit consumption of power and fuel is on account of increased level of activity coupled with steep increase in the per unit cost of fuel.

(c). In this regard it has clarified that the increase in per unit consumption of power and fuel only caters to the normal increase in traffic. The additional increase in cost is on account of the estimated steep hike in per unit cost of fuel.

(i). This has been done to accommodate the wage revisions to the employees due once in ten years. A hike of 30% in salaries and wages on account of wage revision is estimated along with 5% normal increase.

(ii). It has accordingly agreed to modify the wage revision estimation considering a hike of 15% as suggested by TAMP.
requested to explain the basis of considering the impact of wage revision at 30%. Indicate the total salaries and wages without the wage revision and the impact of wage revision considered during the year 2007-08.

The COPT was also informed that the Authority in the recent orders relating to the general revision of the Scale of Rates of New Mangalore Port Trust and Visakhapatnam Port Trust had allowed the impact of wage revision at 15% of their total wage bill. In view of this, justify the impact of wage revision estimated by COPT double the level allowed in the two other major ports.


(b). Clarify why should this expenditure be allocated two third to POL cargo handling charges, when this expenditure relates to port and Dock facilities. The basis of allocation recommended in the revised cost format may be considered.

(c). The income from crude oil being more than the cost of handling this cargo cannot be the reasons for allocating sizeable portion of the dredging cost under this activity. The clarification given by the COPT contradicts its submission made at point (10), that the cross-subsidisation between the activities is maintained at the level obtained in the last general revision with the ultimate aim of phasing it out and

(i). (a). The cost of dredging given in the cost statement is the sum of both Contract Dredging and the cost of Port’s own dredger ‘Nehru Shatabdi’.

(b). It is estimated that 2/3rd of the total cost of dredging is incurred exclusively for the maintenance of required deep draft for the Oil Tanker Vessels. It can be seen from the cost statements that the income from crude oil handling is disproportionate to cost of handling. Hence in order to bridge this gap in income and expenditure, it is considered prudent to include a sizeable portion of Maintenance Dredging cost along with cost of handling crude oil. COPT has not proposed any increase in rates for crude oil handling on account of inclusion of such an element of cost. Further, it will also enable COPT to restrict the level of increase proposed in the rates for rendering vessel related services.

(c) In this regard, it has clarified that if maintenance dredging cost is shown in the vessel related activity, the required level of hike in each of the vessel related activity will be exorbitant. As mentioned earlier, the surplus over and above the normal rate of return in the Oil Handling activity is passed on to other activities so as to restrict the hike to a bearable level 40%.
| 13 | Depreciation has been computed on straight line method following the life norms adopted prescribed by the Government and not as per the Companies Act in order to reduce the implication of higher depreciation cost by following the later method. Please furnish a working to indicate that depreciation computed as per the life norms prescribed by the Government will be lower than that of the life norms adopted as per the Companies Act. | The opening net block of depreciable assets for the year 2005-06 is Rs.195 crores. Applying an average 10% depreciation on the opening balance, the amount will come to Rs.19.50 crores whereas the depreciation as per Government Guidelines comes to Rs.8.68 crores only. |
| 14 | (i). Confirm whether the addition proposed to assets are those which are likely to be completed and commissioned during the respective years. | (i). Only those assets which are completed and commissioned during a particular financial year are considered as additions during that particular year. The additions are mainly of replacement nature. |
|     | (ii). The proposed addition to the gross block includes Rs.33 crores towards capital dredging. Please clarify where this capital dredging expenditure is proposed to be incurred by the COPT. | (ii). The cost of capital dredging is met out of the funds provided by the Government of India as budgetary support carrying an interest of 11.50 % per annum. The draft increase due to the execution of capital dredging project is envisaged for the container terminal now being a part of Ernakulam Wharf to accommodate deep drafted container vessels. |
|     | (iii). The proposed addition to the gross block in Form 4 B includes the expenditure for Special Economic Zone. Please clarify, why should the cargo / vessel users be burdened by including this expenditure in the capital employed. | (iii). Necessary changes have been made in the capital employed estimations considering the observations made by TAMP. |
|     | (iv). Indicate reduction in unit operating costs, if any, additional traffic / business projection, improvement in operational efficiency on account of each of the proposed additions to the gross block. | (iv). The proposed investments are mainly of a replacement nature hence any significant reduction in operating costs is not expected. However, with the replacement of existing facilities the port is expected to achieve better performance efficiency. |
|     | (v). With reference to its reply COPT, was advised to quantify the reduction in the unit cost of repairs and maintenance, power, fuel etc., likely to be achieved due to better performance efficiency. | (v). Additional assets proposed to be added / replaced do not involve any such cost elements as repairs and maintenance, power and fuel. Hence, improvement in the efficiency in terms of reduction in the unit cost cannot be quantified. |
(vi). Indicate the basis of apportionment of capital employed between various activities and sub-activities.

The total capital employed is classified considering the level of investment in each activity / sub-activity.

(15). (i). (a). Make necessary correction and ensure that sum of each component of the sub-activity tallies with the figures shown in the main activity-wise statement and the sum of the main activity-wise statement matches with the consolidated cost statement.

(b). In view of the reply, the COPT was again advised to merge the minor activity with the relevant sub activity-wise cost statement to ensure that the sum of each component of sub activity-wise matches with the main activity statement and the sum of the main activity statement matches with the consolidated cost statement.

The sub-activity wise statements were prepared only for those categories, which contribute a sizeable proportion to the total activity. Hence, the total of the sub-activities may not tally with the total revenue / cost of the activity due to the existence of minor activities for which sub-activity statements were not prepared.

(b). The COPT has stated that necessary modifications have been made in the revised cost statements filed on 25 September 2006.

(16). (i). Furnish the basis of estimating the pension liability along with the detailed computation for the years 2005-06 to 2008-09. It may be noted that pension payments to the extent not drawn from the pension fund and contribution made to the pension fund for the relevant years towards pension liability of existing employees based on actuarial valuation will be allowed in tariff fixation process.

The average expenditure on Pension Payment is Rs.42 crores per annum. The port has not build up adequate reserves to meet the huge cost of pension payments hence the payments are made from the operating income of the port. The estimated figures are based on the actual amount of pension payments due to the pensioners plus the yearly contribution to the pension fund minus the interest earned on pension fund investments.

(ii). Furnish the break up of this estimation clearly indicating the expected annual pension payment, balance in the pension fund and the annual contribution to the Pension fund for each of the years 2005-06 to 2008-09. The COPT was requested to note that both the pension payments and contribution made to the pension fund will not be allowed in tariff fixation process.

It has subsequently clarified that the expenditure towards pension payments shown in revised Form No.3 A represents the actual payments towards pension only. It has furnished the requisite details as tabulated below:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>2005-06</th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expected annual pension payment</td>
<td>39.29</td>
<td>39.90</td>
<td>41.61</td>
<td>42.18</td>
</tr>
<tr>
<td>Balance in Pension Fund</td>
<td>162.00</td>
<td>170.00</td>
<td>180.00</td>
<td>190.00</td>
</tr>
<tr>
<td>Annual contribution to Pension Fund</td>
<td>36.00</td>
<td>42.00</td>
<td>48.00</td>
<td>54.00</td>
</tr>
</tbody>
</table>
(iii). Confirm that the one time expenses like arrears in wages / pension, VRS compensation, etc., are not included in the cost statement for tariff revision as per clause 2.5.2 of Revised Tariff Guidelines.

(iii). It is confirmed that one time expenses such as VRS compensation, arrears of wages / pension are not included in the cost statements.

| (17). | Indicate the additional income expected on account of rationalisation proposed in the vessel related charges. | Since the vessel related charges are proposed to be rationalised based on the average revenue earned in the base years, no additional income is expected by way of rationalisation. |
(18). (i). Furnish revised Form–7 with reference to the comparison of actuals vis-à-vis the estimates. While doing so the estimates during the year 2003-04 and 2004-05 need to be as per the estimates considered while approving the last general revision Order.

(ii). The revised form 7 filed by the COPT on 29 May 2006 still contained certain gaps and some arithmetical errors. The COPT was, therefore, again advised to revise this statement and ensure that the estimates are as per our Order passed in the December 2003 and actuals tally with the figures reported in the respective Annual Accounts.

It was also pointed out that for a like to like comparison, the income and expenditure from electricity distribution might be included in the actuals for the years 2003-04 and 2004-05 since the estimates considered during the last tariff revision also included these items.

It has furnished the revised Form 7, but has not considered our suggestions. The estimates indicated are not as per the estimates considered in our last tariff Order. Secondly, it has excluded the income and expenditure relating to electricity distribution from the actuals whereas the estimates considered during the last tariff Order did not exclude these items. However, a summary of the position as reflected by the statement furnished by the COPT is tabulated below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Estimates (Rs. in lakhs)</th>
<th>Actuals (Rs. in lakhs)</th>
<th>Diff</th>
<th>Diff in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>-3195</td>
<td>182</td>
<td>3377</td>
<td>106</td>
</tr>
<tr>
<td>2004-05</td>
<td>-2616</td>
<td>1082</td>
<td>3698</td>
<td>141</td>
</tr>
</tbody>
</table>

(19). (i). Reduction, if any, effected by the COPT may be listed out and the consequential effect of such concessions granted on growth of traffic and impact on reduction of revenue may be analysed item-wise and furnished.

With regard to the periodicity of collection of lease rentals, explain how the reduction in the periodicity of levy of lease rentals will lead to cost reduction to users. In fact it will penalise the users.

(i). (a). An overall reduction of 30% in pilotage and berth hire for foreign container vessels was effected and implemented w.e.f 1 April 2004 mainly to maintain the same level of container traffic. The container traffic for the years 2004-05 and 2005-06 were 185175 TEU's and 200965 TEU's respectively.

(b). The periodicity for collection of lease rentals for covered storage area was reduced from monthly basis to fortnightly basis in case of renewals. As per the prevailing Scale of Rates, the user has to pay the full monthly rentals if he occupies an area for a day. Whereas at proposed lease rentals, it will be collected on a fortnightly basis.

(c). The handling and storage charges for timber have also been reduced. This has led to 100% increase in this cargo since the timber last handled by port during 1980.

(d). Concessional berth hire charges was extended to a cable repair ship named 'Asean Explorer' w.e.f. 30 April 2004. Consequently, port was able earn Rs.30 lakhs per annum approximately by way of vessel related charges.

(20). Explain the actions taken by COPT with reference to Chapter 7

It is not applicable in their case.
of the revised tariff guidelines.

(21). (i). The revised tariff guidelines stipulate the tariff should be linked to benchmark levels of productivity. COPT has not indicated anything about productivity levels to be maintained for various operations / services. These may be included in the Scale of Rates and the levels so adopted may be explained.

(ii) The reply furnished was not found to be relevant with reference to the query raised by us. The COPT was therefore requested to clarify how the cost control measures to be suggested by the Committee are relevant for determining the productivity level.

(ii). The port shall endeavour to follow the productivity levels for various operations / services.

### Scale of Rates

(22). Schedule 1.2. General Terms and Conditions:

(i). Update the proposed penal rate of interest for delayed payment by users / delayed refund by port at @ 2% above the prevailing Prime Lending Rate of the State Bank of India as per clause 2.18.2 of the revised tariff guidelines.

(ii). Insert a clause stating that even the COPT will not raise supplementary or under charge bills, if the amount due to port is Rs.50/- or less.

(iii). The proposed note number (ix) clarifying that the vessel related charges will be collected on GRT basis may not be relevant since each schedule prescribes the unit of levy of tariff. The said note may therefore be deleted.

(iv). (a). Please clarify whether port equipment / properties are insured. If so, the insurance cost can be an element of cost for tariff fixing and the actual cost of damage, if any, to the equipment should be recovered

(i). Benchmarks will be fixed based on the report of the Committee constituted for overall cost control / reduction in various activities. The cost control measures will be determined by the Committee based on standards to be attained in each activity, which will be helpful in the fixation of new productivity levels. Once this is established the tariff can be formulated accordingly based on productivity levels.
from the insurance company. The proposed note number (xiv) (a) may, therefore, be modified in line with clause 2.14 of the revised tariff guidelines.

(b). With reference to its reply COPT was requested to clarify why the equipment is not insured and why the cost of damage is proposed to be recovered from the users in the light the fact that Secretary (Shipping) in an Indian Ports Association (IPA) meeting held on 15 October 2005 had advised all major ports to adequately cover the port assets.

(b). In this regard, it has furnished a summary of assets insured which show that the insurance premium incurred during last year was Rs.11.86 lakhs per annum.

(v). The following general conditionality should be included in the proposed SOR as per Clause 2.15 of the tariff guidelines. “Users will not be required to pay charges for delays beyond a reasonable level attributable to the port”.

(v). This has been included in the modified proposed Scale of Rates.

(23). Schedule 2.2. - Pilotage fees:

(i). Explain the reasons for considering the highest rate applicable for 15001 to 30,000 GRT as the basis for proposing the rate for the first slab i.e. vessels upto 30,000 GRT. The proposed pilotage fee will lead to 66% increase from the present tariff level in respect of vessels upto 3000 GRT and around 17% increase in respect of vessels between 3001 to 10,000 GRT. The COPT may consider to propose the rate for the first slab based on the weighted average income earned for the past two years for the relevant existing slabs.

(ii). The existing rates are telescopic rates i.e. higher rates for higher GRT vessels. Since the revised guidelines issued by TAMP suggests lower rates for higher GRT vessels, to maintain the same revenue earning COPT was compelled to fix higher rates for the first slab.

(ii). An overall concession of 30% has been extended to the container vessels in case of pilotage fees.

(iii). Furnish the number of vessels

(iii). The summarised details has been tabulated below:
handled, average GRT of vessels and the income thereof for last two years under each slab of GRT prescribed in the prevailing SOR vis-à-vis the anticipated income at the proposed tariff structure.

An illustrated table was also given for this purpose.

### Coastal Vessels

<table>
<thead>
<tr>
<th>Existing slabs</th>
<th>No. of vessels coastal</th>
<th>AVG GRT</th>
<th>Existing Rate Rs.</th>
<th>Income In lakhs</th>
<th>No. of vessels coastal</th>
<th>AVG GRT</th>
<th>Income In lakhs</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-3000</td>
<td>282</td>
<td>1136</td>
<td>10.275</td>
<td>19.49</td>
<td>290</td>
<td>1081</td>
<td>32.64</td>
</tr>
<tr>
<td>3001-10000</td>
<td>147</td>
<td>4354</td>
<td>14.600</td>
<td>50.97</td>
<td>136</td>
<td>4098</td>
<td>83.84</td>
</tr>
<tr>
<td>10,000-15000</td>
<td>25</td>
<td>1259</td>
<td>15.875</td>
<td>26.37</td>
<td>13</td>
<td>1268</td>
<td>26.21</td>
</tr>
<tr>
<td>15,001-30,000</td>
<td>75</td>
<td>2108</td>
<td>17.000</td>
<td>147.41</td>
<td>82</td>
<td>1963</td>
<td>276.63</td>
</tr>
<tr>
<td>30,001-60,000</td>
<td>35</td>
<td>3982</td>
<td>15.875</td>
<td>151.97</td>
<td>42</td>
<td>4002</td>
<td>308.69</td>
</tr>
<tr>
<td>Above 60,000</td>
<td>1</td>
<td>6664</td>
<td>15.875</td>
<td>4.90</td>
<td>1</td>
<td>6197</td>
<td>12.11</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>565</td>
<td></td>
<td></td>
<td>740.13</td>
</tr>
</tbody>
</table>

### Foreign-going vessels

<table>
<thead>
<tr>
<th>Existing slabs</th>
<th>No. of vessels foreign</th>
<th>AVG GRT</th>
<th>Existing Rate Rs.</th>
<th>Income In lakhs</th>
<th>No. of vessels foreign</th>
<th>AVG GRT</th>
<th>Income In lakhs</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-3000</td>
<td>33</td>
<td>1334</td>
<td>14.679</td>
<td>9.95</td>
<td>32</td>
<td>1250</td>
<td>9.33</td>
</tr>
<tr>
<td>3001-10,000</td>
<td>250</td>
<td>5872</td>
<td>20.857</td>
<td>309.09</td>
<td>202</td>
<td>6118</td>
<td>214.96</td>
</tr>
<tr>
<td>10,001-15000</td>
<td>132</td>
<td>1321</td>
<td>22.679</td>
<td>455.14</td>
<td>150</td>
<td>1272</td>
<td>323.17</td>
</tr>
<tr>
<td>15,001-30,000</td>
<td>113</td>
<td>2318</td>
<td>24.286</td>
<td>657.53</td>
<td>131</td>
<td>2011</td>
<td>153.17</td>
</tr>
<tr>
<td>30,001-60,000</td>
<td>87</td>
<td>4146</td>
<td>22.679</td>
<td>828.87</td>
<td>98</td>
<td>4685</td>
<td>1034.15</td>
</tr>
<tr>
<td>Above 60,000</td>
<td>31</td>
<td>6417</td>
<td>22.679</td>
<td>462.58</td>
<td>19</td>
<td>6285</td>
<td>271.97</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>632</td>
<td></td>
<td></td>
<td>2006.75</td>
</tr>
</tbody>
</table>

(iv). As per the Government directions, the sliding rates for pilotage fees is to be effected on the incremental GRT. In view of this the COPT may consider to propose a minimum pilotage fee.

(iv). The minimum rates have been incorporated in the revised proposed Scale of Rates.

(v). (a). Justify the proposed increase of 40% in pilotage fees for dredgers other than port dredging with reference to the increase in the cost of services provided and the additional services provided to such dredgers.

(b). Indicate for how long the pilots are normally required to stay in case of a normal vessel and in case of a dredger (other than for port

(v). (a). The proposed increase of 40% for this tariff item is on account of long stay of pilots on-board in case of dredgers which are using port channels for passage in and out for disposal of silt.

(b). For a normal vessel, the stay of pilot is for 4 hours in each movement and 2 movements in a shift. In case of dredger, the stay of pilot is for 8 hours in a shift.
dredging) to justify the proposed rate.

<table>
<thead>
<tr>
<th>Schedule 2.3. Berth Hire Charges:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i). Explain the basis of arriving at single berth hire rate for the various berths as against the existing six tier slab.</td>
</tr>
<tr>
<td>(ii). A tabular statement showing number of vessels, average GRT of vessels for the past two years and income earned for each of the existing slabs vis-à-vis the income anticipated at the single berth hire rate proposed for handling similar GRT may be furnished for each of the berths. Also, furnish an impact analysis statement indicating the financial impact of rationalisation on different categories of vessel in different GRT slabs.</td>
</tr>
<tr>
<td>(iii). A comparison of the existing six</td>
</tr>
</tbody>
</table>

(vi). (a). As per clause 6.4. of the revised tariff guidelines, pilotage fee shall include one inward and one outward movement with required number of tugs / launches of adequate capacity and shifting of vessels for ‘Port convenience’. In this context, modify the proposed note number (1).

(b). In the last tariff revision Order, shifting element was included in the composite fee for shifting done at the request of the users. This may be separated and the unit rate of the composite pilotage fee may be reduced correspondingly.

(c). Explain the basis of the proposed shifting charge on GRT basis.

(b). The note No.1 is modified as per the revised tariff guidelines. The relevant condition that ‘one shifting at the user’s request will be carried out freely’, though not specifically mentioned was a concession offered by the port to users. In the proposed Scale of Rates, port would like to do away with such a concession and it is proposed to levy shifting charges even for the first shifting done at the request of the user. Specific rates are proposed for collection of shifting charges which will remove any ambiguity in the minds of users who avail such a service. Since the first shifting was a free service offered at port’s cost no reduction in unit rate of composite pilotage fee is required.

(c). The slabs for shifting charges were fixed in synonym with the slabs for collection of pilotage fees. The rates presently being collected for shifting of vessels was taken as the basis for arriving at the rates for the first slab. Clause No.6.10 of the revised tariff guidelines is applied for arriving at subsequent slab rates.

(i). The berth hire charges have been arrived at based on the actual weighted average income earned for the last two years.

(ii). The COPT has furnished the details pertaining to average GRT of the vessel, number of vessels and berth hire income for the past years 2003-04 and 2004-05. It has, however, not furnished the requisite details for each of the group of the berths separately.

(iii). Even though berth hire activity shows a deficit of 17% only, an
The single berth hire charges will lead to an increase in the existing berth hire charge in the range of 30% to 72% for vessels of 10001 GRT to 15000, 15001 GRT to 30000, 30001 GRT to 60000 and 60001 GRT and above at general cargo berths, oil berths and coal berths. For vessels at container berths, the proposed berth hire will result in a 40% increase for lower GRT vessels up to 15,000 GRT, 72% increase for vessels in the range of 15001 GRT to 60000 GRT and increase of 40% for vessels above 60000 GRT.

Explain the reasons for proposing such an exorbitant hike in berth hire charges in the light of the fact that the berth hire activity shows a deficit of 13% only. Explain the basis of the proposed berth hire charges along with detailed computation for group of similar berths.

(iv). Since the impact of the proposed berth hire charges is found to be substantial for certain categories of vessels, the COPT may consider to propose suitable slab structure to smoothen the impact.

(v). (a). Explain the reasons for introducing a penalty of Rs.6000/- per hour particularly on tanker vessels for overstayal at the port tanker berths. Also, explain the basis for arriving at the proposed penalty.

(b). With reference to its reply, the COPT was requested to clarify about the date of introduction of ‘Operation Decongestion’ programme by the Ministry of Surface Transport. Also, clarify whether conditions then prevailing which led to berthing delay still overall increase of 40% is proposed to cover the deficit and to ensure a minimum return of 6.3%.

(iv). Single slab of berth hire is proposed in line with the revised tariff guidelines as against the existing six tier slab.

(v). (a). The penalty of Rs.6000/- per hour for tanker vessel for overstay at port tanker berths is charged as per “Operation Decongestion” programme of the Ministry of Surface Transport with a view to reduce berthing delay.

(b). The “Operation De-congestion” programme of the Ministry of Surface Transport was adopted by COPT vide Board Resolution no.141 dated 28.11.1997 with a view to reduce berthing delay. Since the oil pumping operation is regulated by M/s. Kochi Refineries Limited, it is very much essential to continue with such a penal provision. The details of average pre-berthing time of vessels for past two years is given below:

<table>
<thead>
<tr>
<th>(Time in Hours)</th>
<th>22</th>
</tr>
</thead>
</table>
continue at the port. Indicate the average pre-berthing delay for different categories of vessels at the port for the past two years.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Type of vessels</th>
<th>2005-06</th>
<th>2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Container Ships</td>
<td>8.48</td>
<td>8.01</td>
</tr>
<tr>
<td>2.</td>
<td>Break Bulk Ships</td>
<td>5.59</td>
<td>3.49</td>
</tr>
<tr>
<td>3.</td>
<td>Dry-Bulk – Mechanical Operation</td>
<td>24.00</td>
<td>15.87</td>
</tr>
<tr>
<td>4.</td>
<td>Dry Bulk- Non Mechanical Operation</td>
<td>9.72</td>
<td>10.74</td>
</tr>
<tr>
<td>5.</td>
<td>Liquid Bulk</td>
<td>24.97</td>
<td>19.20</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td></td>
<td><strong>13.25</strong></td>
<td><strong>11.02</strong></td>
</tr>
</tbody>
</table>

(vi). Justify the proposed increase of 40% in berth hire charges of fertiliser berth and 13% to 48% increase in oil berths in the light of the fact that the cargo handling activity of these particular cargo items show an average revenue surplus of 47% and 15% respectively for the three years under projections.

(vi). The vessel related activity and cargo related activity have been analysed separately. Hence the surplus on handling of fertilisers or POL has not been passed on to the vessel related charges.

(vii). Incorporate the following conditionality which has been deleted in the proposed SOR. “No berth hire shall be levied for the period when the vessel idles at its berth for continuous one hour or more due to breakdown of port equipment or power failure or for any other reasons attributable to the port.”

(vii). The proposed provision is incorporated in the Scale of Rates. However, since the container terminal has been handed over to M/s. IGTPL, non-recovery of berth hire charges on account of breakdown of equipment at IGTPL shall be made good by the terminal operator, who is responsible for the upkeep of the equipment.

(25). Schedule 3.1. Wharfage for bulk and break bulk cargo:

(i). (a). Wharfage charge may be proposed based on the cost of handling and special care required to be taken while handling and storage of cargo as prescribed in Clause 4.2.2. of the revised tariff guidelines.

(b). With reference to the reply, the COPT was requested to furnish the terms of the reference to this Committee and explain how the recommendations of this Committee will have an effect on wharfage rationalisation and fixation of productivity level.

(i). (a). The existing wharfage rates were fixed based on the cost and special care taken for handling each type of cargo. Hence an increase is proposed based on the overall increase in the cost. However, based on the report of the Committee on Cost Control, necessary initiatives will be taken to modify the wharfage rates, if required.

(b). It has subsequently confirmed that the recommendations of the Committee for reducing container transportation charges will not have any effect on wharfage rationalisation.
(ii). Justify the proposed hike of 40% in wharfage rate in the light of the fact that the cost statement for cargo handling activity shows an average deficit of 8% for the years 2006-07 to 2008-09. Also, justify the proposed increase of 40% for fertiliser and crude oil since these two activities are in surplus.

(ii). The deficit of cargo handling activity is marginal at 8% only due to the inclusion of crude oil, which is making enough surplus to set off the huge loss incurred by other sub-activities in that category. If the rates proposed is based on the sub-activity-wise revenue / cost, an increase of more than 40% would have been necessary to earn the return on capital employed prescribed in the revised tariff guidelines. The 40% hike is proposed in wharfage for fertiliser handled at any berth other than Fertiliser Berth. No increase is made in case of crude oil.

(iii). Separate wharfage rates are proposed to be introduced for fertilisers handled at berths other than Q-10 berth. Justify the higher wharfage rate proposed for handling this cargo at berth other than Q-10 with reference to the additional cost involved for handling this cargo at Q-10 berth. Justify the proposed rate with reference to the additional cost for the services provided.

(iii). The facility for discharge of fertilisers at the Fertiliser Berth (Q 10) is provided by the user i.e. FACT. If the fertiliser is handled at berths other than Q10 berth, the handling facilities need to be provided by the port. This includes shore handling, security storage lighting facilities, etc. To cover up the additional cost of handling, a separate rate is proposed for handling fertiliser in berths other than Q 10 berth. It has not furnished any specific cost details to justify the differential rate.

(iv). The COPT has proposed 40% increase in wharfage rate of POL products, whereas for crude oil, the existing tariff is continued in view of surplus position in this activity. Explain the reasons for treating Crude and POL separately in light of fact that the general classification elsewhere POL includes Crude Oil.

(iv). This has been corrected and wharfage for POL is proposed to continue at the existing level in the revised Scale of Rates.

(v). Explain the basis of proposed wharfage rate for soda ash along with detailed computation since it is a new entry. Indicate the existing tariff applied for handling this cargo and justify the proposed rate with reference to the cost of handling soda ash. Also, indicate what will be the per tonne rate by applying the existing advalorem amount collected by the port for the past two years for this particular cargo.

(v). Soda ash is a relatively new cargo for Cochin Port, which has started coming regularly, of late. Therefore, there is a need to list this cargo in the schedule of wharfage charges. The parcel size of the soda ash vessels is very low in the range of 3000T. The cargo is coming in 50Kg bags and the port has to deploy a strength of 16 mazdoors per gang for handling the same. The productivity realised for the cargo is very low since the bags are coming in loose form and are not pre-slung. The average productivity per gang per shift is observed to be 100 tonnes. 20% advalorem rate presently levied for this cargo is not sufficient to meet the expenses incurred by the port in handling this cargo. Therefore, it has proposed to levy wharfage @ Rs.25/- per MT for cargo manifested as foreign and Rs.15/- per MT for cargo manifested as coastal. The revenue per tonne of soda ash for the last 2 years is as follows:
(vi). (a). Explain the basis of conversion factor applied for converting the existing per metric tonne rate for timber to per cubic metre basis. Also, clarify why the unit of levy for timber is proposed as Indian cubic metre and not cubic metre as proposed at some of the other major ports. It is not clear why different conversion factors for Timber needs to be prescribed for different countries. In the light of these observations, explain the reasons for introducing the proposed note no. 2(c).

(b). With reference to its reply it was pointed that the Scale of Rates of the Chennai Port Trust and the Kandla Port Trust which are the two major timber handling ports prescribe wharfage on timber on per cubic metre basis. In case of Chennai Port Trust, the wharfage for Timber other than logs but including plywood, wood pulp and boards are prescribed on per tonne basis. The COPT was, therefore, advised that unit of levy of this tariff item may be prescribed in cubic metre basis instead of proposing it on Indian cubic metre basis in line with the prescription in the SOR of CHPT and KPT.

Further, there is no provision of applying different conversion factors for handling timber from different countries in the Scale of Rates of the two major ports – CHPT and the KPT. The COPT may therefore delete the proposed note 2(c).

(b). The port had not handled Timber for the last 30 years. The concessional rates for timber handling were offered based on customer requests. The unit of wharfage was fixed taking into consideration the opinion of the users. The collection of wharfage on this basis has since been going on smoothly. Hence, COPT may be allowed to continue with the same.

(vii). The wharfage for Sl. No. 22 to
26 may be proposed based on rate or volume of cargo with reference to cost of handling the relevant cargo instead of proposing advalorem rate.

(viii). The proposed note no.3 requires wharfage of goods to be paid before the goods are delivered / shipped. Explain the reasons for exempting the application of this conditionality in case of FCL containers.

<table>
<thead>
<tr>
<th>(ix). (a). Explain the circumstances requiring the COPT to introduce various conditionalities under note no. 5 extending storage facility outside the wharf alongwith the consequential legal implications. Also, explain the legal validity of the undertaking given by the Stevedores / Steamer Agents / Custom House Agents / consignee / import agents at note no. 5(v). It may be specifically explained whether such undertaking will release COPT from its statutory liability as custodian.</th>
<th>(ix). (a). The port introduced the facility of providing storage for cargo outside the wharf in view of the congestion at the wharf and also to attract more cargo to the port. As a result of this initiative, new cargo have started coming to the port. The initiative was introduced since port lost many cargo items due to want of storage space. Wharfage for cargo is recovered before delivery from the storage areas and there is no legal implication on the port due to this arrangement.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b). Since the reply furnished does not explain the legal validity of the undertaking given by the Stevedores / Steamer Agents / Custom House Agents / Consignee</td>
<td>(b). It has clarified that even though the said undertaking has been obtained from Stevedores / Steamer Agents / Custom House Agents, etc., the statutory liability of port as the custodian of cargo do not cease until it is cleared out of port.</td>
</tr>
</tbody>
</table>

(viii). As per the existing Scale of Rates, even for FCL containers wharfage had to be paid before the goods were delivered / shipped. The port wants to merge this wharfage and the lift on and lift off charges collected in the import / export application with the handling charges. Since, handling charges are collected only after the service is rendered i.e. after loading the containers, if this clause is incorporated in the Scale of Rates, it is not possible to implement the collection of wharfage along with the handling charges.

At COPT, the consignee engages a CHA for exporting cargo through him. On this basis, the respective CHA in advance make payment of charges to the port. When another CHA approaches the consignee with a lower rate the consignee again assure him the work. On that basis, CHA again files the export application. Thus, two Export Applications are filed by two CHAs and in effect the port has to refund the export application filed by one of the CHA. The process of refund takes quite a long time. In order to avoid this refund of charges, it is decided to collect IA/EA with handling charges bill. Hence, the clause requiring the wharfage of goods to be paid before the goods are delivered / shipped in case of FCL container is deleted from the proposed Scale of Rates. In fact, since the container terminal is handed over to M/s. IGTPL, no containers are handled by COPT.
(x). Explain the reasons for introducing the proposed note no. 8 (xii) for levy of half of the wharfage in respect of some of the cargo items which are at present exempted from levy of wharfage.

(x). The port has not proposed any change in the list of items that are classified as cargo free of wharfage. The proposed wharfage at 50% for goods free of wharfage comes into force only when these goods are landed or shipped at the wharf using port labour and equipment. The note is intended to cover the expenses incurred by the port in handling such goods.

(xi). Explain the basis of proposing wharfage on vehicles towed into and out of the RO-RO vessels at 50% of the applicable advalorem wharfage.

(xi). Wharfage at 50% of the existing rate for vehicles handled by RORO vessels are proposed in view of the non-involvement of port labour and equipment in such handling. A specific rate reflecting the cost of operations will be introduced during the next revision of Scale of Rates.

(26). 3.3.2. Schedule of Demurrage charges:

(i). In case of cargo brought into the port for shipment and subsequently amended to another vessel and shipped, the proposed note no. 3 (i) prescribes levy of demurrage from the date of carting of the cargo till the date of amendment of the vessel's name on which the cargo is alternatively shipped out. The proposed condition does not explicitly mention about the free period applicable for this category of cargo. Demurrage can be levied only beyond the prescribed free period. Please prescribe an explicit provision in this regard.

(ii). The Authority in its last general revision Order had categorically mentioned that the guidelines for remission of demurrage are issued by the Government to regulate exercise of powers given under Section 53 of the Major Port Trusts Act. It is, therefore, not necessary to include such guidelines in the Scale of Rates framed by this Authority. These conditionalities may, therefore, be deleted from the Scale of Rates.

(iii). Incorporate a suitable condition to exempt payment of demurrage of cargo / containers for such period when clearance could not be

(ii). The requisite provision is included in the proposed Scale of Rates.
| (27). Schedule 3.4, 3.5 and 3.6: | It has reiterated its earlier submissions that there is a huge deficit in cargo handling activity (other than crude oil) but, the hike has been limited to 40% with a view not to overburden the customers. |
| schedule 3.4, 3.5 and 3.6: Justify the proposed increase of 40% in the hire charges of the various equipment under these schedules and charges for requisition cancellation in the light of the average deficit of 8% reflected in the cost statement for cargo handling activity. | |
| (28). Schedule 4.1. Wharfage for containers: Confirm whether the COPT can handle containers in the port in view of a separate License Agreement entered by it with India Gateway Terminal Private Limited. | As per item No. 7.2(d) of the License Agreement, the Licensor can handle defence cargo vessels and combi-vessels. The Licensor can also handle coastal vessels under conditions mutually agreed upon between the Licensee and Licensor. The rates have been proposed if Cochin Port is required to handle containers as per the above terms. |
| (29). | Schedule 4.3. Stuffing / Destuffing charges at CFS and Wharfs: |
|       | (i). Justify the proposed stuffing / destuffing charges at CFS with reference to the cost of services provided. |
|       | (ii). The Authority has passed an Order on another proposal of the COPT relating to levy of storage and supervision charge at its CFS. This Order is approved for an interim period and is valid till the implementation of the general revision proposal, which is under consideration. The COPT is, therefore, advised to file a separate proposal for the CFS activity immediately or include them in the general revision proposal. |
|       | (iii). The COPT vide letter No.A-1/F-13/2005/T-1 dated 12 December 2005 with reference to its proposal for introduction of container storage and cargo supervision charges at its CFS had agreed to prescribe a composite rate for stuffing / destuffing charges including the supervision charges while filing its comprehensive proposal. In this regard, please confirm that the proposed stuffing / destuffing charges at CFS are inclusive of the supervision charges. The COPT may consider to prescribe a conditionality explicitly specifying the services provided for levy of this tariff item. |
|       | (iv). Review and modify the proposed note no.2 stating that the port shall collect wharfage on LCL cargo and reimburse box wharfage rate to IGTPL in view of the categorical comment made by the IGTPL (vide letter No. IGTPL/TAMP/ 05 dated 1 December 2005) denying this tariff arrangement. The IGTPL has stated that it shall collect wharfage |
|       | It has agreed to file a separate proposal for storage and supervision charges at its CFS. (We have, however, not received any such proposal so far.). |
|       | (iii). It has confirmed that the proposed stuffing / destuffing charges at CFS are inclusive of the supervision charges. |
|       | (iv). The IGTPL has cited an inadequacy in their information system to accommodate the mechanism of identifying an LCL container and collect wharfage on the basis of the cargo that is stuffed / de-stuffed. The IGTPL is recovering only box rate wharfage for containers whether FCL or LCL. It was in this backdrop that COPT decided to recover wharfage on LCL containers that is stuffed / destuffed at its CFS on the basis of the constituent cargo and refund the box rate wharfage to IGTPL. In the event of recovery of only box rate wharfage for LCL containers, COPT has to part with sizeable revenue on account of wharfage on cargo passing through its CFS for destuffing and stuffing, which is legitimately the income due to the |
on FCL and LCL containers handled by it at the RGCT.

(v). Please clarify shifting of containers for house keeping. The reasons for introducing the proposed note no.5 about the tariff to be paid to the IGTPL for such shifting may be explained. If necessary, such a condition should be prescribed in the Scale of Rates of IGTPL.

(v). The shipping lines after de-stuffing the container keep the container in the area especially adjacent to Q6 baggage where personal baggages are de-stuffed. Once these containers are removed, then only further containers can be stacked for de-stuffing. When there is delay on the part of the steamer agent to remove the containers, space is created by keeping the empty containers to a separate location at two or three highs. Such shifting and stacking of containers is called house keeping. It has however, agreed to communicate to IGTPL to propose a tariff for this item in its Scale of Rates.

(30). Schedule 5.1. Floating Crane Charges:
(i). The rates for floating crane may be proposed on the capacity range of the equipment instead of prescribing the rates with reference to the names of the floating cranes as advised during the last tariff revision.

(i). The COPT owns only one floating crane by the name F.C. Periyar. This floating crane is mainly used for port operations like lifting of items fallen into the water. It also serves as a repair platform for port’s tugs and launches.

(ii). Justify the proposed increase of 40% for mooring tugs, fire float with reference to the cost of services provided.

(ii). This has been proposed based on the overall cost increase in the vessel related services.

(iii). Justify the proposed increase of 100% for lifting charges by floating cranes and charges for pilot and other launches with the cost for services provided.

(iii). The increase proposed is based on the increase in the cost of these activities and to discourage hiring of these assets. The increase in lifting charges is necessitated due to the steep increase in fuel cost and the repairs and maintenance cost.

(iv). Concessional tariff for coastal cargo / containers may be prescribed in case of floating cranes and other equipment which involves ship-shore transfer of cargo / container and transfer from quay to storage yard.

(iv). None of the items for which rates are given in this schedule involve ship to shore or transfer of cargo / container from quay to storage yard.

(31). 40% increase proposed in Schedule Nos. 5.2, 5.3, 5.5, 5.6, 5.8 and 5.13 may be justified with reference to the deficit reflected in the cost statement and with reference to the additional cost involved for the services provided.

The proposed hike in tariff is based on the overall increase in the cost.

(32). Schedule 5.4. – License Fee for use of Port’s Bunk and Schedule 5.7. - Licence Fee for Jetties, Piers, etc.
| (i). | Explain the reasons for proposing another 40% increase for this tariff item in addition to applying 5% annual escalation in this tariff for the last two years. |
| (ii). | Clarify whether the License Fee for use of port’s Bunks and licence fee for jetties, piers will be governed by the new land policy issued by the Government in March 2004. If so, the tariff proposed for these items may be included in your proposal for revision of lease rentals which is proposed to be filed shortly. |
| (iii). | The Authority in its last general revision Order had observed that the Licence Fee for use of port’s old Bunk (measuring 3.0 M X 2.5 M) is under litigation in the Hon’ble High Court of Kerala. Intimate us the current status of the Court case filed in this regard. Since the matter is sub-judice the COPT was advised to maintain status quo for this particular tariff item. |

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| (iii). | The case is still pending in the court. It has noted the advise given by the TAMP. But has not made necessary modification in its proposed Scale of Rates. |

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| (33). | Schedule 5.9. - Charges for use of Port’s Dry Dock and Schedule 5.10. Charges for use of Port’s Plants and appliances: |
| (i). | Justify reasons for proposing 40% increase in the tariff with reference to increase in the cost for services provided. |

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| (i). | It is based on the overall cost increase. |

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| (ii). | Also, justify the reasons for proposing a substantial hike of 1100% for fire tender / fire pump (Sl.No.4 under Schedule 5.10.) from existing tariff of Rs.250/- per hour or part thereof to Rs.3000/- per hour or part thereof with reference to increase in the cost of services provided. |

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| (ii). | Under the strict safety norms prescribed as a part of implementation of ISPS Standards, the port has upgraded its fire fighting system. Capital investments towards acquisition of new fire tenders were made during the year 2004-05 and overall up gradation of operating facilities are made in line with the safety requirements. The increase in the tariff has been proposed to cover the additional capital investment made in fire fighting facilities and the increased operational cost. |

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| (34). | Schedule 5.12. - Weighing Charges: |
| The existing per tonne rate for use of weigh scale and a fixed rate for |

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| A new weigh bridge has been installed and the rates proposed are taking into consideration the investment made and rates prevailing in |
issue of weigh certificate is proposed to be merged and a single rate on per tonne basis is proposed which results to almost 400% increase on an average per vehicle. Explain the reasons for proposing such an exorbitant increase in this tariff item as against 40% increase proposed for other tariff items.

(35). Schedule 5.14. Toll Charges: Justify the proposed increase in the range of 25% to 60% in respect of Toll charges.

The proposed increase is to cover the additional capital investment made and the increase in operational cost.

6. Since the existing SOR of the COPT was valid for two years i.e. up to January 2006, this Authority at the request of the COPT passed an Order on 27 December 2005 extending the validity of the existing SOR of COPT up to 30 June 2006. Since the case had not matured for final consideration in view of the gaps in the information furnished, the prevailing Scale of Rates were further extended two time and is presently valid till 31 March 2007 or till the implementation of final rates whichever is earlier.

7. A joint hearing in this case was held on 18 July 2006 at the COPT premises. At the joint hearing COPT and the concerned users made their submissions. At the joint hearing, the Cochin Steamer Agents’ Association (CSAA) has submitted an unsigned comparative statement of vessel related charges in the neighbouring ports. The COPT made a slide presentation of its proposal at the joint hearing.

8.1. Subsequent to the joint hearing, the COPT has filed revised cost statements with some modification in its proposed Scale of Rates. The revised cost statements updated with 2005-06 actuals reflects the following cost position:
<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Particulars</th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>Total</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Rs. in</td>
<td>Surplus /</td>
<td>Rs. in</td>
<td>Surplus /</td>
<td>Rs. in</td>
</tr>
<tr>
<td></td>
<td></td>
<td>lakhs</td>
<td>Deficit as % on income</td>
<td>lakhs</td>
<td>Deficit as % on income</td>
<td>lakhs</td>
</tr>
<tr>
<td>1.</td>
<td>Port as a whole</td>
<td>(-) 3115</td>
<td>(-) 18%</td>
<td>(-) 3187</td>
<td>(-) 18%</td>
<td>(-) 3822</td>
</tr>
<tr>
<td>2.</td>
<td>Vessel related activity</td>
<td>(-) 1998</td>
<td>(-) 32.08%</td>
<td>(-) 2370</td>
<td>(-) 35.9%</td>
<td>(-) 3149</td>
</tr>
<tr>
<td>a). Port dues</td>
<td>(-) 981</td>
<td>(-) 86.3%</td>
<td>(-) 1342</td>
<td>(-) 111.7%</td>
<td>(-) 1514</td>
<td>(-) 137.0%</td>
</tr>
<tr>
<td>b). Pilotage</td>
<td>(-) 887</td>
<td>(-) 26%</td>
<td>(-) 882</td>
<td>(-) 24%</td>
<td>(-) 1317</td>
<td>(-) 40%</td>
</tr>
<tr>
<td>c). Berth hire</td>
<td>(-) 418</td>
<td>(-) 29.9%</td>
<td>(-) 456</td>
<td>(-) 31.1%</td>
<td>(-) 653</td>
<td>(-) 48.3%</td>
</tr>
<tr>
<td>3.</td>
<td>Cargo related activity</td>
<td>(-) 1993</td>
<td>(-) 23%</td>
<td>(-) 1774</td>
<td>(-) 20%</td>
<td>(-) 1645</td>
</tr>
<tr>
<td>a). Fertiliser</td>
<td>152</td>
<td>35%</td>
<td>178</td>
<td>39%</td>
<td>207</td>
<td>43%</td>
</tr>
<tr>
<td>b). Coal and others</td>
<td>(-) 4066</td>
<td>(-) 242%</td>
<td>(-) 4014</td>
<td>(-) 218%</td>
<td>(-) 4067</td>
<td>(-) 201%</td>
</tr>
<tr>
<td>c). Crude and POL</td>
<td>1920</td>
<td>30%</td>
<td>2061</td>
<td>31%</td>
<td>2216</td>
<td>32%</td>
</tr>
<tr>
<td>4.</td>
<td>Estate Activity</td>
<td>876</td>
<td>41%</td>
<td>957</td>
<td>43%</td>
<td>972</td>
</tr>
</tbody>
</table>

### 8.2.

The modifications proposed by the COPT in its proposed SOR are as follows:

(i). Wharfage:

(a). Wharfage rate on certain commodities like Animals, Asbestos, Tamarind, Seeds, Tapioca, Coconut, Sand, Stones, Granite marbles, Paper, Sugar, Synthetic Resin are proposed to continue at the existing tariff level as against 40% increase proposed in its initial proposed.

(b). Wharfage rate for timber is proposed to be maintained at the existing tariff level i.e. Rs.56/- PMT as against Rs.34/- per Indian cubic meter proposed in the initial proposal.

(ii). The COPT has clarified that it had offered concessional rate in respect of pilotage fee for container vessels approved by this Authority in December 2003. This reduced pilotage charge was inadvertently considered in its proposed Scale of Rates filed in November 2005 instead of the proposed modified rates. The COPT has therefore, requested to read the Schedule of pilotage fee in respect of container vessels as follows:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Size of Container</th>
<th>Rate per GRT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Container Vessel</td>
<td>Coastal (Rs.)</td>
</tr>
<tr>
<td>1.</td>
<td>Up to 30000 GRT</td>
<td>14.1372</td>
</tr>
<tr>
<td>2.</td>
<td>30001 to 60000 GRT</td>
<td>11.3098</td>
</tr>
<tr>
<td></td>
<td>Minimum Charge</td>
<td>424116</td>
</tr>
<tr>
<td>3.</td>
<td>60001 and above</td>
<td>9.8960</td>
</tr>
<tr>
<td></td>
<td>Minimum Charge</td>
<td>678588</td>
</tr>
</tbody>
</table>
(iii). Subsequently, the COPT has proposed 40% increase in the pilotage fee for both container vessels and other vessels over the earlier proposed rates tabulated above in view of the deficit position reflected in this activity cost statement which was inadvertently assumed to be in surplus by the port.

8.3. The COPT’s letter proposing certain modification in its Scale of Rates proposed earlier was circulated to the concerned user / users organisations. The Cochin Steamer Agents’ Association (CSAA), the Shipping Corporation of India (SCI) and the Cochin Custom House Agents Association (CCHAA) have furnished their comments. The SCI has reiterated the points made by CSAA. The CCHAA has reiterated its earlier submission that the proposed rates are higher in comparison to the rates levied at the neighbouring ports. These comments were forwarded to the COPT. The COPT has furnished it comments thereon.

9. 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 are also available at our website http://tariffauthority.gov.in

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

   (i). The actual traffic handled exclusively by the COPT during the year 2005-06 is reported at 11.40 Million Metric Tonne (MMT). As against this, the traffic for the years 2006-07 is projected at 11.32 MMT as per the Budget Estimates. The COPT has subsequently stated that as per the Revised Estimates, the traffic for the year 2006-07 is 11.62 MMT.

   The port has not furnished updated cost statement as per the RE. As the difference is not significant, this analysis is based on the figures projected in the Budget Estimates for the year 2006-07. This will not have any impact on the outcome since the cost position for the years 2007-08 and 2008-09 are relied upon deciding on the tariff revision applicable for this cycle.

   The traffic for the years 2007-08 and 2008-09 is projected at 11.75 MMT and 12.17 MMT respectively. It has confirmed that the traffic forecasts are in accordance with the five year plan projections. The growth in the traffic is estimated at 3.8% and 3.6% for the years 2007-08 and 2008-09 respectively over the estimates of the respective previous years.

   In the revised cost statement submitted subsequently, the container traffic likely to be handled by the BOOT operator, India Gateway Terminal Private Limited (IGTPL) is considered at 2.65 lakhs TEUs and 2.92 lakhs TEUs for the years 2007-08 and 2008-09 respectively which is same as those considered in the initial tariff fixation of the IGTPL.

   In the absence of any other reliable data and also recognising that IGTPL and none of the users organisations have raised any pointed objections on the traffic
estimations made by the COPT, this Authority may rely on the traffic projections made by the COPT for the years 2007-08 and 2008-09 for the purpose of this analysis.

However, if any undue advantage is found to have accrued to the COPT due to wrong estimation, adjustment will be made in the tariff at the time of next review of tariff in line with the revised tariff guidelines.

(ii). (a). The income likely to accrue from the sale of electricity to the lessees / licencees within the port area is excluded from the operating income on the grounds that it does not relate to the port operations. The port has submitted that the port is a licensee of the Kerala State Electricity Board and hence the distribution of power in the port area is carried out by the COPT. It has reported that the Kerala State Electricity Regulatory Commission (KSERC) monitors electricity tariff taking into consideration the relevant revenue and cost elements. Hence, the revenue earned, expenditure / overhead charges and the relevant net block pertaining to the electricity supplied to outsiders has been excluded while preparing the cost statements.

It is relevant here to recall that in the last tariff revision of the January 2004, the port did not factor any such adjustment for electricity distribution to outsiders. The review of the performance of the past period is to be done with reference to the position considered during the last tariff revision without any change in the approach followed. Accordingly, for the purpose of the analysis of the surplus / deficit for the past period, the figures reported in the Annual Accounts for the years 2003-04 to 2005-06 and Revised Estimates 2006-07 are considered maintaining the position considered in the last tariff Order.

However, for the future period, the estimates furnished by the port which exclude the income, expenditure and net block pertaining to the electricity supplied to outsiders are considered.

(b). The port has also excluded the income pertaining to staff quarters from the estate income. The expenditure relating to staff quarters is, however, not excluded.

Both rent from staff quarters and the relevant expenditure are considered in this analysis. In the absence of availability of income estimation from staff quarters separately for the years 2007-08 and 2008-09, it is considered at the level estimated in B.E. for the year 2006-07 and escalated by 2% per annum.

Be that as it may, the argument of the port that the income / expenditure on staff quarters is not related to the port operations may not be correct. Though it may not be directly related to the port operations, the quarters provided to staff is for employees who are involved in the operations of the port. It would have been more appropriate to apportion the expenditure relating to staff quarters to all the activities based on the number of employees deployed in
the relevant activity. The COPT is advised to follow this approach while filing
the proposal for the next tariff review.

(c). The COPT has estimated the income applying an exchange rate of Rs.44.89
per US dollar. Stating that fluctuation of exchange rate is volatile, the port
has not kept provision for exchange rate fluctuation in income projections.
The conversion of dollar denominated tariff in Indian Rupees for the purpose
of estimation of operating income depends on the prevailing exchange rate at
the time of finalisation of the tariff case.

This Authority follows a uniform method of considering the exchange rate
prevailing at the time of finalisation of tariff cases for conversion of dollar
denominated rates in Indian Rupee for estimation purpose. Accordingly,
estimated income from dollar denominated vessel related charges has been
updated considering the prevailing exchange rate of Rs.44.60 per US dollar.

(d). The estimated vessel related income for the year 2008-09 is scaled down by
7.3% despite projecting 3.6% growth in the traffic. This is because the port
expects the main line vessels with higher GRT to call the port during the year
2008-09. The vessel related income in the year 2008-09 is estimated to
reduce since concessional tariff are to be offered in respect of mainline
container vessels as per the directions issued by the Ministry of Shipping vide

The COPT has not proposed any specific concessional tariff arrangement for
mainline container vessels in its proposed Scale of Rates. In any case,
reduction anticipated in the income due to concessional tariff proposed to be
offered for a particular category of vessel need not be compensated by
allowing tariff hike for some other categories of vessels.

The current exercise is for tariff revision based on assessment of the surplus
/ deficit at the prevailing level of tariff. That being so, the vessel related
income for the year 2008-09 is estimated to increase to the extent of the
growth in the traffic anticipated during this year over the respective previous
year.

(e). The aggregate of the operating income of individual vessel related sub-
activities does not match with operating income estimated in the relevant
activity-wise cost since the operating income from Dredger Nehru Shatabdi
and others is not included in the sub-activities on the grounds that they are
miscellaneous service.

Since the estimation of expenditure includes the cost of offering services
relating to Nehru Shatabdi dredger and other miscellaneous services, similar
position should be reflected in the income estimation also.

The operating income relating to Nehru Shatabdi dredger and other income
as reflected in the reconciliation statement furnished by the port are
accordingly included under the head port and dock facility where the port has accounted the operating cost relating to these services.

(f). Subject to the above modification, the income estimations furnished by the COPT are relied upon in this analysis. If, however, it is observed at the time of the next review that the actual income varies substantially from the estimations considered herein, the advantage accrued on account of such wrong estimation will be set off in future tariff revision / review as per the revised tariff guidelines.

(iii). (a). The COPT receives revenue share from the private operator, India Gateway Terminal Private Limited (IGTPL). The actual revenue share received from IGTPL for the year 2005-06 is reported at Rs.16.15 crores. The projections made for the subsequent years were earlier based on figures given in the Project Report submitted to the Ministry. Subsequently, in the revised cost statement the port has estimated the revenue share for the years 2006-07 to 2008-09 at Rs.19.68 crores, Rs.21.36 crores and Rs.23.49 crores respectively based on the traffic estimation of the IGTPL certified by the Cochin Port while fixing the initial tariff of the private operator. The COPT has not furnished any detailed computation of the revenue share receivable from the COPT.

It has clarified that the revenue share is estimated proportionately on the actual revenue share earned during the year 2005-06 over the traffic projection of the IGTPL for each of the years 2006-07 to 2008-09. Based on the clarification furnished by the COPT, the revenue share estimated by the COPT for years 2006-07 to 2008-09 is relied in this analysis subject to inclusion of revenue share receivable on the on-board stevedoring charges as explained subsequently.

(b). The COPT has not considered the revenue share likely to accrue on account of on-board stevedoring charges collected by the IGTPL. The initial tariff of the IGTPL approved by this Authority did not include the tariff for on-board stevedoring charges. The tariff for this service was approved by this Authority separately in May 2006 based on the proposal received from the operator. To a specific query with reference to revenue share likely to accrue from the on-board stevedoring charges, the COPT has clarified that the IGTPL has not agreed to remit the revenue share on this tariff item and discussions are being carried out to settle the issue. Since the matter is pending, the revenue share on this tariff item has not been considered by the COPT in the cost statement.

It is relevant here to note that the License Agreement entered into between COPT and IGTPL specifically requires the Licensee to pay revenue share on any income which accrues from the rates notified in the Scale of Rates. Accordingly, the COPT is entitled to collect revenue share on the income from this tariff item since the rate forms part of the Scale of Rates approved by this Authority.
Revenue share receivable from the IGTPL on account of on-board stevedoring charges is, therefore, considered in the modified cost statement prepared by this Authority. In the absence of any estimates from the COPT, the revenue share is estimated based on the tariff approved by this Authority for the container traffic projections.

(c). The entire revenue share receivable from the IGTPL was earlier accounted as income under the cargo handling activity.

Creation and maintenance of a separate escrow account for revenue share / royalty receipts is mandated by the Government policy as contained in clause 2.8.3. of the revised tariff guidelines from the year 2005-06. On being pointed out about the government policy guidelines in this regard, the COPT in the revised cost statement has decided to create and maintain a separate Escrow account from the year 2006-07 onwards. The COPT has not reported cost of surplus labour and, therefore, no provision to meet the concerned expenditure from the royalty receipts is made. The entire revenue share receivable from the IGTPL from the year 2006-07 onwards is proposed to be transferred to an Escrow Account created for this purpose. Though the COPT has stated that the Escrow Account is proposed to be created from the year 2006-07, in the cost statement, it has transferred the revenue share receivable in the year 2005-06 also to the Escrow Account.

The entire revenue share received / receivable from the IGTPL for the years 2005-06 to 2008-09 to the tune of Rs.90 crores is lying unutilised in the Escrow account in the absence of any plan of the port to deploy these funds to meet the infrastructure development of the port. It is admitted that the COPT have time limit upto five years to utilise the balance in the Escrow Account for infrastructure development / modernisation of the port.

Though the treatment of revenue share given by the COPT is as per the revised tariff guidelines, it is significant to note that during the last tariff revision the sub-activity relating to container handling reflected a net surplus position and partly cross-subsidised the deficit arising in the general cargo activity. The treatment given by the COPT in the current tariff revision exercise by transferring the entire revenue share receivable from the IGTPL to the escrow account is likely to have significant impact on the general cargo activity and also on the overall cost position of the port. As admitted by COPT, it may not be possible to phase out the cross-subsidisation at one go. Even the revised tariff guidelines, recommends to phase out the cross-subsidisation in a gradual manner.

In view of above position, and also recognising the substantial deficit in the general cargo activity, part of the revenue share i.e. 44% based on the position obtained during the last tariff revision is accounted in current revenue for the purpose of cross-subsidisation of the general cargo activity.
Accordingly, revenue share to the extent of Rs.7.17 crores, Rs.10.58 crores, Rs.10.78 crores and Rs.11.85 crores for the years 2005-06 to 2008-09 respectively are considered for cross-subsidising the deficit in the general cargo activity. The balance revenue share is to be maintained in the Escrow Account.

(iv). The revised tariff guidelines require computation of depreciation on straight line method following the life norms adopted as per the Companies Act in case of major ports. The COPT has computed the depreciation on assets based on straight-line method following the life norms prescribed by the Ministry of Shipping.

The COPT has submitted that impact of the depreciation computed as per the Companies Act at an average rate of 10% will be higher than the depreciation on straight line method based on life norms prescribed by the Ministry of Shipping. This argument of the port may not be correct since the Companies Act prescribes different range of depreciation rates for various group of assets and not a uniform rate of 10%.

Nevertheless, since this is the first exercise of the port filing a proposal as per the revised tariff guidelines, this Authority accepts the computation of depreciation as furnished by the port for this tariff validity period. The COPT is advised to comply with the revised tariff guidelines for computing the depreciation while formulating its next tariff review / revision proposal.

(v). (a). The operating expenditure including management and general overheads for the years 2006-07 is estimated to increase by 9.1%, 6.4% for 2007-08 and 4.3% for the year 2008-09 over the estimates of corresponding previous years.

In terms of the revised guidelines for tariff fixation, expenditure projection should be in line with traffic adjusted for price fluctuation with respect to the current movement of Wholesale Price Index (WPI) for all commodities announced by the Government of India. The WPI for the financial year 2005-06 has been reported at 4.5%. Increase in the traffic projections is found to be insignificant and recognising that most of the cost elements are fixed in nature, it is not found necessary to adjust the estimate for growth in the traffic growth.

The estimated total operating cost for the year 2006-07 exceeds the stated level of annual escalation of 4.5% in view of increased dredging cost estimated in this year. The actual dredging cost for the year 2005-06 is reported to be Rs.29.27 crores which is estimated to increase by Rs.2.5 crores i.e. at Rs.31.77 crores in the year 2006-07 as per the Budget Estimates. The Annual Accounts for the past period also report dredging cost to the tune of Rs.31.40 crores in the year 2003-04 and Rs.37.64 crores in the year 2002-03. In view of the submissions made by the COPT and the position obtaining for the past period, the dredging cost as estimated in the
Budget Estimates is considered in the cost statement for the year 2006-07. Except for this cost element, annual escalation in the overall operating cost and the management and general overheads is restricted to 4.5% over the actuals reported for the previous year 2005-06.

(b). The operating expenditure (including management and general overheads) for the year 2007-08 is estimated to increase by 6.4% over the actuals of the previous year. The COPT has clarified that the escalation estimated beyond the permissible level in this year is on account of the provision made for the expected wage revision. Though it had initially considered the impact of wage revision at 30% of the salaries and the wage cost, the port has confirmed that in the revised cost statements furnished the impact of wage revision is considered at 15% only. It has, however, not furnished any detailed computation in support of this estimation. The salaries and the wage cost as per B.E. 2006-07 is estimated at Rs.53 crores. The escalation in operating expenditure excluding the impact of wage revision at 15% on the salaries and wage cost estimated for the year 2006-07 is found to be within the admissible limit of 4.5% per annum. That being so, the expenditure as estimated by COPT for the year 2007-08 is considered in the cost statement.

(c). The annual escalation in the operating expenditure (including management and general overheads) for the year 2008-09 is 4.3% which is within the admissible limit of 4.5% and hence is accepted.

(vi). As per the revised format for submission of tariff proposals, the cost of dredging is required to be allocated between the port dues and the berth hire based on the quantity of the silt dredged. As against this, the COPT has allocated 2/3rd of the total cost of dredging to the POL handling sub-activity on the ground that this dredging is incurred exclusively for the maintenance of required deep draft for the Oil Tanker Vessels. It has clarified that if maintenance dredging cost is shown in the vessel related activity, it will show a substantial deficit calling for further steep hike in the proposed vessel related tariff. The Container Shipping Lines Association has endorsed the treatment given by the port.

The basis of allocation of dredging cost by the COPT may not be in line with the basis prescribed in the revised cost format. However, if this cost is entirely considered under the vessel related activity, all those vessels, which may not derive any benefit of increased draft may have to bear the burden of the hike in tariff. As far as POL vessels are concerned, the approach adopted by the COPT enable them to enjoy the benefit of cross-subsidisation flowing from surplus making POL cargo handling activity.

It is relevant here to mention that while fixing the wharfage rate for crude and iron ore handled by the two major users at the New Mangalore Port, all the vessel related cost including the relevant portion of the dredging cost and the handling cost are considered together for arriving at the per tonne wharfage rate so that the cost of maintaining deeper draft for the larger size oil and ore vessels will not be passed on to the small vessels which may not require such depth.
In view of the above position, the treatment given by the COPT is considered in this analysis. This apportionment is allowed only for the purpose of analysis of the net surplus / deficit position in view of the submissions made by the port and it does not result in any increase in the existing charges of crude and POL.

The COPT is advised to file a separate cost statement for crude oil for cargo and vessel related activity together at the time of the next tariff revision as done by some other major port like the Visakhapatnam Port Trust and New Mangalore Port Trust in respect of the major commodities handled by the port.

(vii). The estimated pension amount of Rs.41.61 crores and Rs.42.18 crores payable by the COPT during each of the years 2007-08 and 2008-09 respectively is considered under the head Finance and Miscellaneous Expenditure (FME).

The contribution to the Pension Fund is estimated at Rs.48 crores and Rs.54 crores during the corresponding years which is not considered in the estimates. It has confirmed that one time expenses such as VRS compensation, arrears of wages / pension are not included under this head.

(viii). (a). The port has projected addition to the gross block to the extent of Rs.43.00 crores in 2006-07, Rs.4.00 crores in 2007-08 and Rs.5.00 crores in 2008-09.

The balance in the Escrow Account created out of the revenue share receivable from the IGTPL is Rs.22.23 crores, Rs.37.52 crores and Rs.54.30 crores at the end of each of the financial years 2006-07 to 2008-09 after providing for cross-subsidisation of the general cargo activity as already explained. The COPT has not furnished any plan for deploying the funds from the Escrow Account for the infrastructure development / modernisation of the port.

The addition of Rs.33 crores proposed to the gross block towards capital dredging in the year 2006-07 is envisaged for container vessels. This project is, however, proposed to be financed out of the Government of India loan.

As per the tariff guidelines, the port is allowed to utilise the balance in the Escrow account within five years period for the purpose of creation and / or modernisation of the port infrastructure facilities. No further adjustment in the Escrow Account balance is, therefore, done in this analysis. The balance in the Escrow account will, however, be added back to revenue of the port trust for the next review of tariff if the funds in the Escrow Account are found to have been not utilised for the stated purpose within the time limit specified in the revised tariff guidelines.

The COPT should furnish the accounts of Escrow Account at the end of this validity cycle to enable this Authority to review the position of the receipts and utilisation made from this Escrow Account.
(b). The COPT has not furnished any assessment of the additional capacity to be created or increase in the traffic on account of the proposed additions to the gross block. It does not anticipate any significant reduction in unit operating cost on account of the proposed additions to the gross block since most of the assets are of replacement nature. The COPT, however, expects some improvement in operational efficiency due to replacement of the existing assets, but the same has not been quantified.

(c). The COPT has confirmed that only those assets which have been fully commissioned and in use have been included in the net-block. The assets, which have been disposed off or decommissioned, have been excluded from the net block. The COPT has confirmed that the assets relating the electricity distribution to the customers are excluded from the net block. The Annual Accounts for the year 2005-06 also confirms that the assets transferred to the IGTPL are excluded from the net block and suitable accounting treatment is given for the differential in the transfer price of such assets.

(d). The working capital is reported to be negative. The COPT has considered the negative working capital in computation of the capital employed. Generally, in case working capital shows a negative balance it is taken as nil for the purpose of computation of return on capital employed. The same approach is adopted in this case also.

(e). The assets are classified into business assets and business related assets. In the absence of anything contradictory available on record the classification of assets by the COPT as business assets and business related assets is relied upon for the purpose of this analysis. Though the COPT has done this classification, in the consolidated cost statement it has not included the business related assets under the capital employed. Likewise, Return of Capital Employed (ROCE) on such business related assets is also not factored in the cost statement. The cost statement filed by the COPT is revised to incorporate the business related assets for the computation of capital employed as well as ROCE.

Since the breakup of the business related assets is not furnished activity-wise, the written down value of the assets is apportioned to all the activities based on the ratio of management and general overheads assuming that these are management and general administration assets.

(f). The revised tariff guidelines stipulate that return on capital employed allowed should be linked to the utilisation factor of the capacity of the port. The COPT has assessed the capacity of the port at 13.5 million tonnes for the years 2005-06 to 2008-09 excluding cargo / container likely to be handled by the BOOT operator.

The capacity utilisation for the traffic projected works out to be more than 60% for the years 2005-06 to 2009-10. As per the revised tariff guidelines, the COPT is entitled to full return on capital employed since the capacity...
utilisation is more than 60%. Accordingly, return on capital employed is
computed by the COPT at 15% on the business assets and at 6.34% on the
business related assets. As per the review done in May 2006, return on the
business related assets is allowed at the prevailing risk free rate of 7.4%
instead of 6.35% considered by the COPT and included in the consolidated
cost statement as well as activity-wise cost statements.

(ix). The Scale of Rates of COPT was last reviewed in January 2004 relying on the
estimated cost position for the years 2003-04 and 2004-05. The cost statement as
per the last tariff Order reflected a marginal surplus of Rs.160.09 lakhs and Rs.776.49
lakhs for the years 2003-04 and 2004-05 respectively. This worked out to 2%
average net surplus after admissible cost and return. No upward revision was
approved in the last tariff Order.

Clause 2.13 of the tariff guidelines mandates this Authority to review the actual
physical and financial performance of the major ports at the end of the prescribed
tariff validity period with reference to the projections relied upon at the time of fixing
the prevailing tariff. The COPT has furnished an analysis of the actuals for the past
period 2004-05 and 2005-06 with reference to the estimates considered in our tariff
Order. The analysis for the past period furnished by the COPT is modified with
reference to the following:

(a). The estimation of vessel related income, depreciation, capital employed and
return on capital employed considered in the past period analysis by the
COPT is not as per the estimates considered in last tariff Order which has
been corrected.

(b). The actuals relating to operating income, operating cost, allocated
management and general overheads and depreciation have been considered
as reflected in the respective Annual Accounts.

(c). As already mentioned earlier, the income and expenditure on electricity
distribution are considered for assessment of actual performance.

(d). In case of finance and miscellaneous income, the interest on investments
and items relating to previous year are excluded for all the years under
consideration. In respect of finance and miscellaneous expenditure, interest
on loans, items relating to previous year, ex-gratia VRS, fringe benefit tax
and various provisions as per the breakup furnished by the COPT have been
excluded. As regards the Pension Fund, the COPT has reported the actual
pension payments during each of the years 2003-04 and 2004-05 at Rs.3600
lakhs and Rs.4200 lakhs as against the contribution to the Pension funds
reported at Rs.4086.90 lakhs and Rs.5200 lakhs in the respective Annual
Accounts. The actual pension payment reported by the COPT in its cost
statement is considered for the analysis of past period cost position.

(e). The value of net block of fixed assets as contained in the Annual Accounts
has been considered.
During the last tariff revision, since the working capital was found to be negative, it was considered as nil and return was allowed on the net fixed assets. This position is maintained with reference to the actuals reported by the COPT.

The port has continued to levy the tariff approved in last Order for the period subsequent to 2004-05 also. Since no estimates for the years 2005-06 are available for the purpose of comparison, the actuals reported in the Annual Account for the year 2005-06 are considered to assess the net surplus / deficit.

It is relevant to mention that by the time this Order is implementable only about a month is left in the year 2006-07. Hence, it is appropriate to consider this year also as part of the past period. The cost position as assessed by the COPT subject to the modification done for reasons explained in the above analysis is considered.

Since this analysis is done based on the estimates for the year 2006-07, the actual position shall be subject to review during the next tariff revision exercise. If the variation is found to be more than the level prescribed in the revised tariff guidelines, it shall be adjusted in the next tariff validity cycle.

The general approach followed during the last tariff Order is considered for the purpose of assessing the net surplus / deficit for the years 2005-06 and 2006-07 also. The treatment of revenue share receivable from IGTPL for the years 2005-06 and 2006-07 is already explained in this analysis earlier. The Return on capital employed is allowed as per the revised tariff guidelines introduced from 31 March 2005.

The net fixed assets as indicated by the COPT in the Form 4A is considered as capital employed for the year 2005-06 and 2006-07 in view of some adjustment done by the COPT in the cost statement which is not factored in its Annual Accounts for the year 2005-06.

A summary of net surplus / deficit after allowable return on capital employed for the past period subject to the above discussions is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Net Surplus / Deficit (Rs. in lakhs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>(-) 342.14</td>
</tr>
<tr>
<td>2004-05</td>
<td>(-) 761.83</td>
</tr>
<tr>
<td>2005-06</td>
<td>(-) 959.98</td>
</tr>
<tr>
<td>2006-07</td>
<td>(-) 2259.56</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>(-) 4323.51</strong></td>
</tr>
</tbody>
</table>

The net deficit of Rs.342.14 lakhs in the year 2003-04 and Rs.761.83 lakhs deficit in 2004-05 is mainly due to reduction in the actual vessel related income vis-à-vis the estimates considered in the last tariff Order. This
Authority in the last tariff Order had anticipated the revenue from the vessel related tariff to reduce in view of change in the unit of levy of berth hire from 8 hour basis on one hour basis and hence the surplus reflected in the last tariff Order was left unadjusted.

For the years 2005-06 and 2006-07, the deficit of Rs.32.19 crores is mainly due to the handing over the container handling activity to the private operator resulting in reduction in its container handling income. The port is expected to earn a revenue share of Rs.40 crores from the IGTPL for these two years together out of which Rs.17.75 crores is reckoned as a revenue and Rs.22.25 crores has been transferred to the escrow account.

The deficit is mainly notional due to segregation of revenue share income received from the private operator. It may not be necessary to adjust this loss in the future tariff.

The consolidated cost statement and main activity-wise cost statements for the years 2007-08 to 2008-09 have been modified in line with the above analysis. The modified cost statements are attached as Annex-1 (a) to (d). The summarised position of the results disclosed by the financial / cost statements are tabulated below:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Particulars</th>
<th>Operating Income (Rs. in lakhs)</th>
<th>Net Surplus (+) / Deficit (-) (Rs. in lakhs)</th>
<th>Net Surplus (+) / Deficit (-) as a % of operating Income</th>
<th>Avg. surplus / deficit %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Port as a whole</td>
<td>18902 19784 38686</td>
<td>(-)2725 (-)2471 (-)5196</td>
<td>(-)14% (-)12% (-)13%</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Port and Dock facility</td>
<td>6555 6805 13361</td>
<td>(-)2608 (-)2633 (-)5240</td>
<td>(-)40% (-)39% (-)39%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a). Port Dues</td>
<td>1502 1570 3072</td>
<td>(-)1111 (-)1112 (-)2223</td>
<td>(-)74% (-)71% (-)72%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b). Pilotage</td>
<td>3596 3725 7321</td>
<td>(-)983 (-)985 (-)1968</td>
<td>(-)27% (-)26% (-)27%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c). Berth Hire</td>
<td>1458 1510 2968</td>
<td>(-)514 (-)536 (-)1050</td>
<td>(-)35% (-)36% (-)35%</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Cargo handling activity</td>
<td>10086 10607 20693</td>
<td>(-)1004 (-)738 (-)1742</td>
<td>(-)10% (-)7% (-)8%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a). Fertiliser</td>
<td>451 481 932</td>
<td>146 178 324</td>
<td>32% 37% 35%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b). Coal and others</td>
<td>2917 3210 6127</td>
<td>(-)3096 (-)3025 (-)6121</td>
<td>(-)168% (-)149% (-)159%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c). Crude</td>
<td>6718 6916 13634</td>
<td>1946 2109 4055</td>
<td>29% 30% 30%</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Estate</td>
<td>2260 2372 4632</td>
<td>888 899 1787</td>
<td>39% 38% 39%</td>
<td></td>
</tr>
</tbody>
</table>

It is evident from the table above that the port as a whole shows an average deficit of 13% for the two years under review.

The port and dock activity reflects an average deficit of 39% and the cargo handling activity is in deficit to the tune of 8%. In view of the overall deficit position, there is a case for upward revision in the tariff as discussed hereinunder:
(a). The sub-activities fertiliser and crude under the cargo handling activity are in surplus to the extent of 35% and 30% respectively. The surplus of Rs.43.79 crores in these two activities cross-subsides the deficit activity of coal and the general cargo leaving an uncovered deficit of Rs.17.42 crores.

The port has rightly not proposed any increase in the crude including POL and fertilisers handled at Q10 berth in view of the surplus position reflected in these activities.

A detailed analysis will reveal that the deficit in the cargo handling activity is because of allocation of two third of dredging cost mainly attributable to POL vessels. As a result, the cross-subsidy available from crude activity to general cargo during the last tariff revision is reduced to that extent. As rightly stated by the COPT, if this adjustment was not done, there would have been substantial deficit in the vessel related activity and all the categories of the vessels may have to bear the burden of dredging which is mainly for the benefit of the crude vessels.

The port has proposed 40% increase in the wharfage rate of coal, general cargo, storage charge, container wharfage rate and other miscellaneous activities to bridge the deficit in the cargo handling activity. Though the cargo handling activity as a whole reflects a deficit of 8% only, the deficit of Rs.17.42 crores is to be bridged by increasing the rates for general cargo, coal and other miscellaneous activities which calls for an upward revision in the rates for these items.

In view of the above position, the proposed increase of 40% in the wharfage rate of coal and general cargo, storage charge and other miscellaneous activities is approved. Significantly, the share of traffic of the commodities which will bear the increase in rates is less than 20% of the total traffic of the port.

(b). The vessel related activity shows a deficit of 39% i.e. Rs.52.40 crores for the two years under consideration. All the sub-activities within the vessel related activities are in deficit. The estate activity shows a net surplus of Rs.17.87 crores for both the years under consideration. As per Clause 2.11.5. of the revised tariff guidelines, estate activity can contribute to meet the deficit in the port operation. Even during the last tariff revision, the estate activity cross-subsidised the vessel related activity. In view of the huge deficit in the vessel related activity, if the entire surplus in the estate activity is taken to cross-subsidise the deficit in the vessel related activity, then the balance deficit remaining in the vessel related activity will be to the tune of Rs.34.54 crores for both the years under consideration. This means effectively, the vessel related activity would have to be increased by around 26% to bridge this deficit. Recognising the fact that the estate rentals of the Cochin Port Trust is already overdue for revision, the increase in revenue in the vessel related activity is required to the extent of 23% of the operating revenue. In view of
the sliding structure of rates, this revenue gap can be bridged by increasing the existing rates by 28% with rationalised tariff structure as per the revised guidelines except in case of berth hire which is discussed subsequently in this analysis.

(c). The port has proposed to rationalise berth hire with single rate for each group of five berths instead of existing six tier structure. A comparison of the existing six tier berth hire charges vis-à-vis the single berth hire charges shows an increase in the range of 30% to 72% for vessels of 10001 GRT to 15000, 15001 GRT to 30000, 30001 GRT to 60000 and 60001 GRT and above at general cargo berths, oil berths and coal berths. For vessels at container berths, the proposed berth hire will result in 40% increase for lower GRT vessels upto 15000 GRT, 72% increase for vessels in the range of 15001 GRT to 60000 GRT and increase of 40% for vessels above 60000 GRT. Since the impact of the proposed berth hire charges was found to be substantial for certain categories of vessels, the COPT was requested to propose suitable slab structure to smoothen the impact. The COPT has, however, not made any attempt to smoothen the impact by proposing the rationalisation in a gradual manner. Despite reminder it has also not furnished the requisite statistical details sought for each of the existing berths to enable us to prescribe a suitable rationalised tariff structure to smoothen the impact as has been done in the case of the Visakhapatnam Port Trust, Mormugao Port Trust, etc. Since the requisite details is not furnished, the exact impact of the proposed rationalisation on its revenue stream cannot be determined. It is not found appropriate to approve the tariff structure proposed by the COPT without understanding the impact of the rationalisation in the tariff structure.

Moreover, most of the users have also objected to the single berth hire proposed by the COPT. In fact the Container Shipping Lines Association India (CSLA) has specifically mentioned that the proposed berth hire will lead to 68% increase in berth hire charges for the slabs 15001 to 30,000 GRT which constitute predominant category in case of container vessels calling at the Cochin Port.

Recognising that the impact is significant on some of the vessels and in view of the objections raised by the user associations, the existing six tier structure in the berth hire is allowed to continue.

Since rationalisation in tariff structure may lead to some additional revenue based on the analysis done at other major ports, the increase in the existing berth hire is restricted to 20% instead of 28% approved for other vessel related charges. The COPT is advised to file a separate proposal to rationalise this tariff item as per the revised tariff guidelines with the impact evenly distributed. While formulating such a proposal, the port must ensure that the total impact on the revenue stream does not exceed 28% at the tariff level prescribed in 2004 Order.
The remaining deficit of around Rs.5 crores may get set off when the estate rentals are revised as and when the COPT files a proposal in this regard.

(xi). The existing Scale of Rates prescribes single slab rate for different categories of vessels on per GRT basis. This is in line with the revised tariff guidelines. The port has proposed to increase the existing port dues by 40%. In view of the analysis already explained, the increase in the port dues is allowed to the extent of 28%.

(xii). The COPT has proposed a rationalised pilotage fee structure on three tier with sliding rates in line with the revised tariff guidelines. In the initial proposal, the COPT had not proposed any increase in the pilotage fee assuming that it is a surplus activity though the cost statement reflected a deficit position. Subsequently, in the revised proposal, it has proposed 40% tariff increase in this item also in view of the deficit position under this activity.

The port has clarified that in case of the container vessels it had inadvertently applied the rationalised tariff on the concessional tariff allowed by the port. In the revised proposed SOR, 40% hike is proposed on the rate prescribed by this Authority in the last tariff revision.

The COPT has considered the existing rate applicable for 15001 to 30,000 GRT as the base and then proposed 40% increase thereof with sliding rates for the subsequent slabs in line with the revised tariff guidelines.

At the proposed tariff level, there will be 130% increase in case of vessels below 3000 GRT, 62% and 49% increase in case of vessels between 3000 to 10000 GRT and 10001 to 15000 GRT respectively, 40% impact on the vessels in the range of 15001 to 30000 GRT and 19% on the next slab and so on over the existing rates for container vessels. The impact for other vessel is also in the similar range.

Since the impact was found to be significant on account of rationalisation, an analysis was done to smoothen the impact. Based on the statistical information furnished by the COPT, weighted average rate per GRT at the existing tariff level is derived at and 28% increase thereof is considered to arrive at the base rate for the first slab.

It is relevant to mention that as per the revised tariff guidelines, the pilotage fee need to be prescribed in three tier slabs with sliding rates for incremental GRT. Accordingly, for the subsequent slabs, sliding rates are proposed for incremental GRT in line with the revised tariff guidelines as has been done in the case of the Visakhapatnam Port Trust, New Mangalore Port Trust, etc.

As per the existing rates, the bigger size vessels pay more pilotage fee as compared to the smaller size vessels because the unit rate of pilotage fee increases with the increase in GRT of the vessels. The rationalisation envisaged in the revised tariff guidelines, however, requires the larger size vessels to bear a lesser unit rate.

At the tariff level approved, the increase will be 40% in case of vessels in the range of 3001 to 10000 GRT, 29% and 19% increase in case of vessels between 10001 to
15000 GRT and 15001 to 30000 GRT respectively, 3% impact on the vessels in the range of 30001 to 60000 GRT and a reduction of 10% for vessels above 60000 GRT over the existing tariff prescribed by this Authority in case of container vessels. The pilotage fee for vessels other than container vessels are also allowed to increase only to this extent for the various slabs.

The COPT has proposed to introduce minimum pilotage on the grounds that sliding rates are proposed in its SOR. It has not applied the sliding rates on the incremental GRT. As already mentioned earlier, in the revised SOR to be approved, the sliding pilotage fee is prescribed only on the incremental GRT. In view of this, it is not found necessary to separately prescribe the minimum pilotage fee.

(xiii). The penal interest on delayed payments by users and refunds by major ports has been proposed at 12.5% in the revised proposed Scale of Rates. The prevailing PLR of the State Bank of India (SBI) is reported at 11.5%. Accordingly, the proposed provision relating to penal interest rate for delayed payment by users and refund by the major ports is updated at 2% above the prevailing PLR as per clause 2.18.2 of the revised tariff guidelines.

(xiv). The port has proposed to introduce a provision prescribing a time limit of six months for submitting the refund claim by the port users with all the documentary support. It has also incorporated a provision to state that port shall itself consider to refund dues collected in excess or in case of error in the bill. Such a provision is not prescribed in the SOR of any other major ports. Since the proposed provision is more of clarificatory nature with an intention to avoid any ambiguity and also recognising that none of the users have raised any objection, the introduction of the proposed provisions is allowed to be incorporated in its SOR provided it does not contradict the relevant provisions prescribed in the Major Port Trusts Act, 1963.

(xv). Users should not be required to pay charges for delays beyond a reasonable level attributable to the port as stipulated in Clause 2.15 of the revised guidelines. As agreed by the COPT, a suitable note in this regard is incorporated in the revised Scale of Rates.

(xvi). The COPT has incorporated general conditions relating to the concessional tariff applicable for coastal vessels / cargo / container. It has, however, not incorporated the condition that in case cargo from foreign port lands at COPT for subsequent transhipment to an Indian Port on coastal voyages, 50% of the transhipment rate prescribed for foreign going and 50% of that prescribed for coastal leg shall be levied. The relevant provision is incorporated in the general terms and conditions in its Scale of Rates.

(xvii). Clause 2.14 of the revised tariff guidelines recommends that the port equipment should be insured and the cost of insurance premium is included as a cost in the tariff fixation exercise. In the event of damage, the extent to which the insurance claim admitted by the insurance company should not be recovered as item of cost in the tariff computation.
While dealing the tariff revision proposal of one of the other major ports, it is understood that the Secretary (Shipping) in an Indian Ports Association (IPA) meeting held on 15 October 2005 has advised all major ports to adequately cover the port assets.

On a specific query in this regard, the COPT has clarified that all its equipment are not insured. The insurance premium paid during the last year is reported to be Rs.11.86 lakhs and the estimates for the year 2006-07 is also of similar level. Since the port equipment are not fully insured, it has requested to continue with the existing provision of recovering the cost of damage caused to the equipment from the users. In view of the submissions made by the port, the existing relevant provision is allowed to continue. The COPT is, however, advised to take adequate insurance cover and include the insurance cost in the tariff fixation in line with the revised tariff guidelines at the time of the next tariff revision along with suitable modification in the relevant provision.

(xviii). The COPT has proposed concessional tariff for coastal vessels / cargo not exceeding 60% of the tariff prescribed for normal cargo / container / foreign-going vessels in line with the revised tariff guidelines. While prescribing the concessional tariff in respect of vessel related charges, the COPT has considered the exchange rate of Rs.44.89 for the purpose of conversion of dollar denominated rate into rupee terms. It is admitted that such restatement of rates is not in line with the tariff guidelines. It has to be, however, recognised that the objective of the relevant guidelines is to ensure that the coastal vessels are not burdened periodically on account of the accumulated effect of fluctuation in the exchange rate.

It is relevant to mention that the exchange rate considered at the time of last general revision of Scale of Rates of COPT was higher than the prevailing exchange rate. Hence, if the coastal vessel rates are not restated with reference to the current level of exchange rate, it will not comply with the Government guideline requiring such tariff to be prescribed at the concessional level at 60% of the tariff applicable for the foreign-going vessels. Therefore, the rates of coastal vessels / containers are prescribed at 60% of dollar denominated rates applying the current exchange rate of Rs.44.60, wherever the present tariff is found to be not in line with the coastal concession policy.

(xix). (a). The existing Scale of Rates prescribes the charges for detention of pilot beyond half an hour at US$ 58.30 for the first one hour and US$ 25.35 for every subsequent hour or part thereof. The COPT has proposed to increase the tariff for this item to US$ 100 per hour or part thereof. Like wise, the cancellation charges for canceling the requisition of service of a pilot is proposed to be increased by 50%. Some of the users like the Cochin Steamer Agents Association and the India Gateway Terminal Private Limited have raised objection on the steep hike proposed for these items.

The COPT has clarified that the cancellation charges is a penalty for canceling the request made for availing the pilotage services and it is not a source to earn revenue. The hike is proposed to discourage this practice
since the cancellation of pilotage results in additional cost in terms of mobilisation of craft and staff. The charges for detention charges is also a type of penal rate detention of pilot beyond the prescribed time limit. In any case, it does not propose to levy these charges if cancellation of the services of the pilot is due to power failure or due to break down of ports equipment or detention of a pilot is for reasons directly attributable to the port. Since the increase proposed in these tariff items is to act as a deterrent, the proposed hike in cancellation charges and detention charges is approved as proposed by the COPT.

(b). The existing note of not levying the cancellation charges and detention charges for reasons attributable to the port is subsequently proposed to be deleted by the COPT on the grounds that it does not operate the RGCT and hence should not be made to compensate for the deficiencies at the RGCT operated by the private terminal. In this regard it is clarified that, this conditionality will be applicable not only for the operations at the RGCT but for also for operations carried out by the port. Even for the vessels calling at the RGCT, the pilot services are offered by the port and, therefore, in case the delay is for reasons attributable to the port, the said tariff items should not levied. That being so, the suggestion made by the port to delete this existing condition is not accepted.

(c). The pilotage fees for dredgers other than port dredging has been proposed to be increased by 40%. Despite specific request the port has not furnished any cost details to justify the proposed increase of 40% for this tariff item. It has clarified that the proposed increase is based on the overall deficit position of the port and to take into account of long stay of pilots on-board in case of dredgers which are using port channels for passage in and out for disposal of silt. For a normal vessel, the stay of pilot is reported to be 4 hours in each movement in a shift whereas in case of dredger, the stay of pilot is double. In the absence of any cost details to justify the proposed increase, the tariff increase is allowed at 28% based on the analysis done for vessel related tariff.

(xx). The existing pilotage fee is a composite charge levied for services of port’s pilot, with required number of tug / tugs, pilot launch / launches and mooring boat charges and one act of shifting operation at the request of the ship. The revised tariff guidelines defines pilotage fee as a composite fee for providing one inward, one outward movement with required number of tugs / launches of adequate capacity and shifting/(s) of vessels for ‘port convenience’. The port has accordingly proposed to modify the existing definition of pilotage fee in terms with the revised tariff guidelines. However, it has not made corresponding adjustment in the existing unit rate of pilotage fee on account of excluding one shifting element. To a specific query in this regard, the COPT has clarified that presently one shifting at the user’s request was carried out freely though not specifically mentioned in the existing Scale of Rates. In the proposed Scale of Rates, it has proposed to do away with such a concession and has proposed to levy shifting charges even for the first shifting done at the request of the user. Shifting of a vessel involves cost to the port and this cost is included in the
tariff under the cost plus regime. Just because a specific charge is not levied, the service cannot be taken to have been rendered free of cost. The relevant cost is bundled with some other tariff item, which, in the absence of anything shown to the contrary, should be the composite pilotage fee.

The COPT has not furnished the break up of the existing composite pilotage fee to justify its claim that the composite rate does not include one shifting component which is done free of cost at the user’s request. In the absence of any cost details furnished by the COPT, it is found not reasonable to accept the general remark made by the COPT that the first shifting was a free service and not included in the composite fee.

The existing pilotage fee is, therefore, reduced by 10% on account of exclusion of the shifting element following the same approach adopted in the recent cases of New Mangalore Port Trust Visakhapatnam Port Trust, Mormugao Port Trust, Chennai Port Trust and Jawaharlal Nehru Port Trust. The reduction in income on account of this modification may get offset against separate shifting charges to be levied by the COPT for shifting of vessels at the request of users.

Shifting charges is proposed in three tier slabs on GRT basis at par with the slabs proposed for pilotage fee as per the revised tariff guidelines. The tariff for shifting of vessels from one berth of the port to another is proposed at 25% of the applicable pilotage fee at par with the existing levy. In case of shifting of vessel from port’s berth to any other point, it has proposed to introduce shifting charge at 50% of the applicable pilotage fee in three tier slabs similar to the slabs proposed for pilotage fee.

It has not furnished any cost details to justify the proposed rate at 50% of the pilotage fee newly proposed for shifting of vessel from port’s berth to any other point. Even during the last tariff revision the COPT had proposed shifting charge at similar level. This Authority in the absence of any cost details furnished by the port to justify the proposed rate had prescribed a uniform shifting charge at 25% of the pilotage fee based on the position obtaining for similar service at other major ports. Despite specific advice rendered during the last tariff revision, the COPT has not proposed shifting charge on the cost based position but has continued to link it to the pilotage fee.

In the absence of any cost details furnished by the port for introduction of the rate for shifting of vessel from port’s berth to any other point, and also recognising that shifting charge at such a level is not prescribed in case of any other major ports, only one set of shifting charge on GRT basis is prescribed at 25% of the revised pilotage fee in the three tier slabs. Though the COPT has proposed upward revision in the pilotage fee in the revised proposal, it has not considered the corresponding adjustment in the shifting charge. The proposed shifting charge is therefore, modified and prescribed at 25% of the revised Pilotage fee.

The COPT is advised to prescribe the shifting charge for shifting from one berth to another or from berth to any other point based on the cost of the service at least at the time of formulating the next tariff revision proposal.
(xxii). Shifting of vessels for the ‘port convenience’ is not chargeable separately. The definition of the term ‘port convenience’ is expanded to include few other movements of vessels as shifting for port convenience. Container vessels working at container berths and vessels working at Q3 and Q4 berths shifted to accommodate classified defence cargo vessels and bulk / break bulk cargo vessel shifted due break down of equipment, space constraints, etc., are also proposed to be treated as shifting for port convenience. Since the proposed modification will benefit the users, this Authority is inclined to approve the same.

(xxiii). The COPT has proposed to introduce a penalty at the rate of Rs.6000/- per hour for tanker vessel for overstay at tanker berths with a view to reduce berthing delay based on the “Operation De-congestion” programme of the then Ministry of Surface Transport (MOST) adopted by the port in November 1997. With reference to our specific query whether conditions then prevailing which led to berthing delay still continue at the port, it has clarified that the oil pumping operation is regulated by M/s. Kochi Refineries Limited and hence it is essential to have such a penal provision. It has furnished statistical information which show that the average pre-berthing time for the last two years in case of liquid vessels is at 24.97 hours and 19.20 hours as against the average pre-berthing detention time of all vessels at 13.20 hours and 11.02 hours. None of the users have raised any pointed objection on the proposed penal rate.

Even though such a penal provision is not prescribed in the Scale of Rates of any other major ports, in view of the submissions made by the port the proposed provision is approved.

(xxiv). The revised tariff guidelines specifies that the users will not pay for delays beyond the reasonable level attributable to port. The COPT has accordingly, incorporated a provision not to levy berth hire for the period when a vessel idles at container berths due to break down of port equipment or power failure or any other reasons attributable to the port. There is no reason why the proposed provision should apply only in case of vessels idling at container berths. In fact, since the container terminal has been handed over to the IGTPL, non-recovery of berth hire charges on account of breakdown of equipment at the berths operated by the IGTPL should be made good by the terminal operator who is responsible for maintaining the equipment. The port should not be made to compensate for the same. The proposed note is, therefore, partially modified to apply the condition in case any vessel idles at any of the berths (other than the berths operated by the IGTPL) and jetties for the reasons prescribed therein. A suitable provision about the IGTPL requiring to give rebate equivalent to berth hire charges prescribed in the Scale of Rates of the COPT in case vessel idles for any reasons attributable to the IGTPL is already prescribed in the Scale of Rates of the IGTPL.

(xxv). (a). The COPT has subsequently based on the discussion with the trade proposed the wharfage rate for some of the commodities like Animals, Asbestos, Tamarind seeds, Tapioca, Coconut, Sand, Stones, Granite marbles, Paper, Sugar, Synthetic Resin to continue at the existing tariff level
as against 40% increase proposed in its initial proposal. The revised wharfage rate proposed by the COPT for these commodities is accepted.

(b).

The existing Scale of Rates prescribes a uniform wharfage rate for fertiliser irrespective of the berth where it is handled. This cargo is proposed to be classified under two categories i.e. fertiliser handled at Q10 berth and fertiliser handled at berths other than Q10 berth. Wharfage rate of fertiliser handled at Q10 berth is proposed to continue at the existing level. In case of fertilisers handled at berths other than Q-10 berth, separate wharfage rate is proposed at 40% above the existing rate applicable for handling fertiliser at Q10 berth. With reference to our query to justify the differential rate with reference to the additional cost involved for handling this cargo at berths other than Q10 berth, it has clarified that the facility for discharge of fertilisers at the Q10 berth is provided by the user Fertilisers and Chemicals Travancore Limited (FACT). If the fertiliser is handled at berths other than Q10 berth, the handling facilities is to be provided by the port. To cover up the additional cost of handling such as shore handling, security storage lighting facilities, etc., a separate higher rate is proposed for handling fertiliser in berths other than Q10 berth.

In view of the submissions made by the COPT and recognising the deficit in the general cargo activity, the wharfage rate for fertiliser handled at berths other than Q10 berth is approved as proposed by the port.

(c).

The unit of levy of wharfage on timber was initially proposed to be modified from per MT basis to per Indian Cubic Metre basis with adjustment in the unit and the wharfage rate. Subsequently, the port has proposed to continue with the existing tariff arrangement.

It has, however, proposed to introduce various conversion factors for timber arriving from different countries on the grounds that the volume of timber adopted by different areas in globe are different. In this context, it is relevant to mention that wharfage on timber at the Chennai Port Trust and the Kandla Port Trust which are the two major timber handling ports is prescribed on per cubic metre basis. The SOR of these two ports or for that matter any other major ports does not prescribe such conversion factors for timber arriving from different countries. In any case, the conversion factors will be uniform across the globe and hence need not be specifically incorporated in the SOR. It is, therefore, not found necessary to prescribe such a condition exclusively in the SOR of the COPT.

(d).

A separate wharfage rate is proposed for soda ash which is relatively a new cargo and coming regularly at the Cochin Port. No cost details are furnished to justify the proposed rate. It has explained that the parcel size of the soda ash vessels is very low and the productivity realised for the cargo is also very low since the bags are coming in loose form and are not pre-slung. The present wharfage levied at 20% advalorem which works out to be around
Rs.10/- per MT based on the tonnage handled in the past two years is not found to be sufficient to meet the expenses incurred by the port for handling this cargo. It has, therefore, proposed to levy wharfage for soda ash at Rs.25/- per MT for cargo manifested as foreign and Rs.15/- per MT for cargo manifested as coastal. The wharfage rate for soda ash proposed by the COPT is approved.

(e). Wharfage for vehicles handled by RORO vessels are proposed at 50% of the applicable advalorem rate. Since no wharf crane operations or labour are involved in case of RORO vessels, the proposal to levy 50% of the applicable wharfage rate for this category of vessels will undoubtedly benefit the users and hence this Authority is inclined to approve the same.

(f). It has proposed to continue with advalorem wharfage rate for a few commodities. The revised tariff guidelines recommends to phase out advalorem rates and to prescribe wharfage based on cost of handling and special care required to be taken while handling and storage of such cargo. The port has agreed to identify such cargo and change the advalorem rates to tonnage / volume based rates in a phased manner. Till such time, the proposed advalorem tariff structure for a few commodities is allowed to continue.

(g). The existing Scale of Rates specifies list of items that are classified as cargo free of wharfage. It has proposed to levy 50% of the wharfage in case these goods are landed or shipped at the wharf using port labour and equipment. Since the proposed note is intended to cover the expenses incurred by the port in handling such goods at the wharf and also recognising that none of the users have raised any objection on the said condition, the introduction of the proposed provision is accepted.

(xxvi). The port has proposed to introduce a condition giving an option to the stevedore, steamer agents, custom house agents, consignee, importers agents to stack cargo in an area outside the wharf under the customs bond in the port custody when there is no space available inside the wharf to keep the import cargo. Apart from other conditions proposed in this regard, Stevedores / Steamer Agents / Custom House Agents / consignee / import agents are required to give an undertaking that they would be responsible for any legal complication or claim arising out of such cargo stacked outside the wharf area.

This additional storage facility for stacking cargo outside the wharf is proposed to be introduced in view of the congestion at the wharf and also to attract more cargo to the port. As a result of this initiative, new cargo is expected to come to the port.

The port has confirmed that it shall remain the custodian of the cargo till they are cleared from the port. There has been no pointed objection from any user association in this regard. In view of the above position, and also since it is intended to improve the utilisation of storage space and to bring in new cargo, the proposed provisions are accepted without making any in-depth analysis of the same.
The port has proposed to introduce a note stating wharfage of goods have to be paid before the goods are delivered / shipped except in case of FCL container. To our specific query about proposing this note, it has explained that in order to ease the administrative work, it plans to collect wharfage charge on the import / export application along with the handling charges. At present, wharfage for FCL container is collected before the goods are delivered / shipped. Its proposal to collect wharfage along with handling charges cannot be applied in case of the FCL containers since handling charges for FCL container are collected only after loading the containers. It has, therefore, proposed to introduce the said note.

In this context, it is clarified that Major Port Trust (MPT) Act, 1963 stipulates the time for payment of rates on goods. Hence, it is not found necessary to introduce the proposed provision in the Scale of Rates of the COPT.

The existing free period structure is proposed to continue with 40% hike proposed in demurrage charge. The COPT has reported about the congestion in the stack yard. It is recognised that the storage space of the port need to be used more effectively for storing goods in transit and not for occupying the sheds for long duration of time. The users must clear the cargo expeditiously for effective utilisation of the storage space. Viewed from this perspective, and also recognising the deficit in the cargo handling activity and the port as a whole, proposed hike of 40% in the demurrage charge of cargo is accepted in line with the decision taken for other cargo related charges.

This Authority during the last tariff revision had allowed to retain the then prevailing conditions governing free period in special cases with a specific advise to the port to rationalise these conditions during the next tariff revision. In the proposed Scale of Rates, it has proposed to delete all the existing conditions allowing additional free period in special cases.

To our query in this regard, the COPT has clarified that free period in special cases is in vogue in its Scale of Rates since 1992 based on the guidelines issued by the Ministry uniformly applicable to all the major ports. Hence, the existing SOR prescribes two sets of free period one in special cases as framed by COPT and another as per the guidelines issued by the Ministry. Since the Ministry has directed the major ports to have only one set of guidelines for waiver of demurrage charges, earlier provisions of 1992 are proposed to be deleted. The COPT has not furnished copy of any such direction from the Ministry.

The provisions in the existing Scale of Rates does not explicitly mention about the free period in special cases which are based on the Government guidelines and those which are introduced by the COPT.

There is no uniformity in the prescription of free period in special cases at the various ports. The Scale of Rates of the New Mangalore Port Trust, Chennai Port Trust prescribes free period under special cases where the goods are
detained by Customs (other than ordinary process of appraisal), or Health Officer, etc., in a rationalised manner Whereas there is no such provision allowing free period under special cases in the Scale of Rates of the Mormugao Port Trust, Visakhapatnam Port Trust, Kolkata Port Trust, etc. In view of this position, this Authority relies on the submissions made by the Cochin Port Trust and also recognising that none of the users have raised any objection, the proposal to delete the conditionalities governing free period in special cases is accepted.

(c). The guidelines for remission of demurrage charges are again proposed for inclusion in SOR on the grounds that they have been issued by the Government. During the last tariff revision, this Authority had categorically pointed out that these guidelines are issued by the Government to regulate exercise of powers given under Section 53 of the MPT Act by the Board of Trustees of a Major Port Trust. It is not necessary to include such guidelines in the SOR framed by this Authority under Section 48, 49 and 50 ibid Scale of Rates of other major ports do not include these guidelines. That being so, the clauses relating to remission of demurrage are deleted from the proposed SOR.

(d). Revised tariff guidelines require that the users should not be penalised for delays attributable to port. Accordingly, the port has accepted our suggestion and incorporated a suitable condition in its Scale of Rates to exempt levy of demurrage charge on cargo for such period when clearance could not be effected for reasons attributable to the port. It has, however, not proposed such a condition in case of ground rent on containers. Suitable note is prescribed in case of ground rent on containers in the revised Scale of Rates.

(xxix). The hire charges of various cargo handling equipment, removal charges, requisition cancellation charges, etc., are proposed to be increased by 40%. The increase proposed in these tariff items is accepted in view of the overall deficit position of the port and cargo handling activity and in line with the general decision on upward revision of rates.

(xxx). As already mentioned earlier, the container handling activity has been handed over to a private terminal operator i.e. IGTPL on BOT basis. The COPT has, however, proposed to retain the schedule relating to wharfage and ground rent on container in its SOR. It has clarified that as per the terms of the License Agreement, port can handle defence cargo vessels, combi-vessels and even coastal vessels with conditions mutually agreed upon between the Licensee. It has proposed 40% increase in the wharfage rate on container. The proposed increase is allowed in line with the decision taken in case of the other cargo related activities. In any case it will not have any significant impact on any users since port no longer handles container.

Ground rent on containers is proposed to continue at the existing level with some increase proposed in the free days for laden container and hazardous containers. The proposed modification in the free days is accepted.
The existing Scale of Rates of the COPT Trust does not prescribe any separate tariff for the services offered at the CFS except for stuffing and destuffing charges. In the proposed SOR it has proposed 40% increase in the stuffing / destuffing charges along with other tariff items proposed for the services rendered by the port at its CFS.

It is relevant to mention that the port had filed a separate proposal in this regard wherein it had mentioned that prior to handing over its Rajiv Gandhi Container Terminal (RGCT) to IGTPL in April 2005, various services offered by the port at the wharf and its CFS were complementing the container handling operations. With the IGTPL taking over the operations at RGCT, all the container handling charges are levied by the IGTPL except stuffing and destuffing charges. As a result, the CFS activity is found to be in deficit. In order to compensate this loss it had filed a separate proposal for introduction of container storage charge, cargo supervision charge, etc., at its Wharf / CFS. This Authority has already passed an Order approving interim tariff arrangement for services provided by the port at its CFS with a specific advice to the port to review the present tariff arrangement at the CFS and file a separate proposal for levy of tariff for various services offered thereat duly justifying by the cost of the service provided.

Since the COPT has agreed to file a revised proposal for the CFS activity, it is not found appropriate to consider the various tariff items proposed in the instant proposal under the CFS activity including the increase proposed in stuffing / destuffing charges. The port is advised file a separate proposal for levy of tariff for various services offered at the CFS within three months from the date of notification of this Order in the Gazette of India. The revised proposal shall be disposed off separately as and when received from the port.

Till such time, the interim tariff arrangement approved vide Order No TAMP/59/2005-COPT dated 26 June 2006 and the existing charges for stuffing / destuffing are allowed to continue.

Various miscellaneous services like, floating craft charges, fumigation charges, charges for issue of entry and clearance certificate, charges for use of barge jetties, oil pumping charges, charges for use of port’s dry dock, etc. are proposed to be increased by 40%. The lifting charge in respect of floating crane, charges for pilot and other launch, etc., are proposed to be increased by 100%. The COPT has not furnished any cost details to justify the proposed tariff hike except a general statement that hike is proposed based on the overall cost position of the port. Nevertheless, in view of the overall deficit position of the port and the deficit position in the general cargo activity, increase in the miscellaneous charges is allowed to the extent of 40% in line with the general decision for upward revision in the rates.

As regards license fee for port jetties and piers, the COPT has confirmed that these tariff items will be not be governed by the new land policy issued by the Government in March 2004. It is relevant to mention that during the last tariff revision, this position was not made clear by the port and hence the then prevailing provision of annual escalation in the license fee was allowed to continue.
In view of the automatic annual escalation provision in the SOR, no hike is proposed for these items. The proposed rates are based on the cumulative hike on account of annual escalation factor prescribed in its SOR and are being collected presently. Relying on the submissions made by the port, and recognising that this is the tariff level presently being collected, the proposed tariff is accepted.

Since the port has now submitted that the license fee for jetties and piers are not governed by the land policy guidelines issued by the Government, it is not understood as to why the annual escalation in this license fee should continue to be prescribed in the SOR. This annual escalation clause in the license fee is relevant only in case of license fee / lease rentals are governed by the land policy guidelines issued by the Government. In view of the above position, the existing clause about annual escalation in license fee is deleted from its Scale of Rates.

(xxiv). The existing SOR prescribes different rates for different sizes of the bunks. One of the allottees has challenged in the Hon'ble High Court of Kerala, the license fee of Rs.827/- per month for the old bunk of size 3.5M X 2M allotted to him. The Hon'ble High Court of Kerala in this regard has ordered the port to levy the rate applicable for another old bunk i.e. Rs.375/- per month prospectively. The COPT has reported that the case is still pending in the High Court of Kerala. Since the matter is sub-judice, license fee for all the old bunks is left unaltered.

The license fee for new bunks, however, are not affected by this Order of the Hon'ble High Court. Hence, the proposed hike of 40% in case of new bunks, is approved in line with the decision for other tariff items.

(xxv). A steep hike of 1100% is proposed for user of fire tender / fire pump to cover the additional capital investment made in fire fighting facilities and due to increased operational cost. In the absence of any specific details about increase in the operational cost furnished by the port to justify the proposed hike and also recognising that cost of the such facilities are already included in the general facilities, the tariff hike is restricted to 40%.

(xxvi). The existing weighing charge consist of a variable charge on per tonne of cargo weighed and a fixed charge for issue of a certificate on per vehicle basis. The COPT has merged these two components and applied 40% hike thereof while proposing a single rate on per tonne basis is proposed.

The rate proposed by the COPT is likely to have a significant impact. The charge which is presently being levied per vehicle will have to be paid on per tonne basis in view of merging of two tariff items. Since the port has not applied any scientific approach while proposing the modification in this tariff item, the existing structure is allowed to continue. A hike of 40% in the present tariff level is, however, approved.

(xxvii). Though the toll charges are also proposed to be increased by 40%, the increase in per day toll charges is found to be higher than 40% in some cases mainly because of rounding off the rate to nearest rupee / five rupee. Wherever the impact of proposed tariff is less than 40% the same is approved. If the proposed tariff is more than 40%,
it is restricted to 40% only and allowed to be rounded off to next rupee if the decimal is more than 0.50 paise.

(xxxviii). During the last tariff revision, in 2004, the COPT was specifically advised to come up with a separate proposal for revision of lease rentals after following the procedure prescribed in the government guidelines after taking into consideration the various points observed by this Authority. The COPT has even after lapse of almost three years not yet submitted the proposal for revision in the lease rentals.

The COPT has stated that it is in advanced stage of formulating the proposal for revision of lease rentals and will forward the same once the Committee constituted for the purpose finalises its report.

In view of the above position, some rationalisation proposed in the lease rentals is not considered along with this general revision. The existing schedule is continued to be included in the revised Scale of Rates subject to including a general note stating that the existing conditionalities governing the estate related charges shall apply to the extent they are not inconsistent with the conditions prescribed in the Land Policy guidelines announced by the Government in February – March 2004. Similar general note was incorporated in the Scale of Rates of Chennai Port Trust, Mormugao Port Trust, Jawaharlal Nehru Port Trust and in the schedule of rent for land and buildings of Kolkata Port Trust at Haldia.

The COPT is directed to file its proposal in line with the Government guidelines and after taking into consideration the various points observed by this Authority within 3 months from the date of notification of this Order.

(xxxix). The revised tariff guidelines specify that the ports / private operators should propose incentive for better performance of the terminal and disincentive for performance below the benchmark level. The COPT may analyse this issue further and propose suitable tariff arrangement.

(L). The COPT has stated that it has no authorised service providers at present. The COPT is, however, advised to comply with Clause 7 of the revised tariff guidelines as and when the port authorises anybody to provide service under Section 42 (3) of the MPT Act, 1963.

Even though the port has confirmed that no activity qualifying under Section 42 (3) of the MPT Act is being carried out in the port limits, it is worthwhile for the port to examine further to see whether private equipment deployed for port activity, stevedoring, lashing / unlashing service, etc., fall under the identified activities under Section 42. If found so, the port should initiate action in terms of revised tariff guidelines to regulate such tariff items.

(Li). Some of proposed provisions which are not in line with the common prescription at other major ports / private terminals and the revised tariff guidelines have been modified.
In line with the direction issued by the Government under Section 111 of the Major Port Trusts Act, 1963 the rates approved by this Authority will be ceiling level and the rebates / discounts will be at the floor level. The COPT will have the flexibility to charge lower rate if it is so desires based on the commercial judgment of the port.

The revised tariff guidelines prescribe tariff validity cycle of three years. Since the financial position considered for the purpose of this analysis is only till 31 March 2009, the validity of the revised Scale of Rates will also expire on 31 March 2009. This Authority, however, entertains general revision proposal from the COPT ahead of schedule for good and valid reasons.

In the result, and for the reasons given above, the revised Scale of Rates of the COPT is attached as Annex-II.

The revised Scale of Rates and conditionalities of the COPT will become effective after expiry of 30 days from the date of notification of the Order in the Gazette of India and shall be in force till 31 March 2009. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

The tariff of the COPT has been fixed relying on the information furnished by the port and based on assumptions made as explained in the analysis. If this Authority, at any time, during the prescribed tariff validity period, finds that the actual position varies substantially from the estimations considered or there is deviation from the assumptions accepted herein, this Authority may require the COPT to file a proposal ahead of the schedule to review its tariff and to setoff fully the advantage accrued on account of such variations in the revised tariff.

In this regard, the COPT is directed to furnish to this Authority the actual financial / performance details in the format prescribed for filing tariff proposal, alongwith its Annual Accounts and performance report within 60 days of closing of the respective accounting year. If COPT fails to provide such information within the stipulated time limit, this Authority may proceed suo motu to review the tariff of COPT. This apart, analysis of variations will also be made at the time of the next general review at the end of the usual tariff validity period and full adjustment of additional surplus will be made in the tariff to be fixed for the next cycle.

(A.L. Bongirwar)
Chairman