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Tariff Authority for Major Ports

G.No.520

New Delhi,

28 October 2021

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves Performance Norms based Incentive and Penalty Scheme under the Berthing Policy 2016 at the Cochin Port Trust as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/41/2021-COPT

Cochin Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Sunil Kumar Singh, Member (Economic)

O R D E R

(Passed on this 1st day of October 2021)

This case relates to the proposal received from the Cochin Port Trust (COPT) seeking approval for the Performance Norms based Incentive and Penalty Scheme under the Berthing Policy 2016.

2.1. This Authority vide its Order No.TAMP/48/2018-COPT dated 18 January 2019 has last approved the revised Performance norm based Incentive / Penalty Scheme at COPT. This Order was notified in the Gazette of India on 12 February 2019 vide Gazette No.60. The notified provision of performance and penalty/ incentive norms came into effect after expiry of 30 days from date of notification of the Order in the Gazette of India and was valid for two years.

2.2. The relevant extract of the said Order relating to revised productivity norms and incentive / penalty prescribed in the said Order is given below:

1. **Performance Norms:**

Sr. No.	Cargo Particulars	Productivity Norms
1.	POL products except Furnace oil, handled at COT, NTB & STB	
	(i). HSD	1050 Tonnes / Hour
	(ii). MS	600 Tonnes / Hour
	(iii). Naphtha	750 Tonnes / House
2	Cement handled through Pipelines	210 Tonnes / House / Point

2. **Incentive / Penalty:**

For failure or success in achieving the stipulated time at berth, penalty / incentive will be applicable as tabulated below:

Sr. No.	Penalty for actual berth hours exceeding the normative hours		Incentive (for Berth Hours saved)	
	Actual working period of the ship (time between berthing at the working berth till completion of vessel's operation)	Penalty	Actual working period of the ship (time between berthing at the working berth till completion of vessel's operation)	Incentive
1	Within 5% of the stipulated time	Nil	Within 5% of the stipulated time	Nil
2	More than 5% to 15% of the stipulated time	1.0 x Berth Hire	Lower beyond 5% to 15% of the stipulated time	0.5 x Berth Hire
3		2.0 x Berth Hire	Lower beyond 15% of the stipulated time	1.0 x Berth Hire

3. The main points made by COPT in its proposal dated 19 July 2021 are summarised below:

- (i). In accordance with the Berthing Policy issued by Ministry of Shipping, Government of India in June 2016, the Performance Norms based Incentive and Penalty Scheme was implemented in Cochin Port with effect from 04 June 2017 after approval and notification by Tariff Authority for Major Ports (TAMP) vide Gazette No.189 dated 05 May 2017. The said Scheme for cargo operations at COPT was instituted for POL

Products except Furnace Oil, handled at COT, NTB & STB, and Cement handled through Pipelines, and the norms fixed during last 4 years as given below:

Sl. No.	Cargo	Norms in TPH	Applicability of the rates	Basis for revision
1	POL	650	04.06.2017	TAMP's Notification G No. 189 dated 05.05.2017 in accordance with the GOI Berthing Policy
	Cement	190		
2	POL	800	12.02.2018	Based on Clause 7.2 of 7 of Berthing Policy
	Cement	210		
3	POL	1000	15.06.2018	Based on Clause 7.2 of 7 of Berthing Policy
	Cement	210		
4	HSD	1050	14.03.2019	TAMP's Notification G No.60 dated 12 February 2019 – Due to Significant variation in productivity across POL products commodity-wise norms for HSD, MS and Naphtha was suggested by port instead of the common norms for POL Products.
	MS	600		
	Naphtha	750		
	Cement	210		

- (ii). The present productivity norms were effective from 14.03.2019 with a validity of two years, upto 13.03.2021
- (iii). However, due to oversight and the COVID-19 Pandemic disrupting normal life, the proposal for renewal of the Scheme could not be submitted within the stipulated time. The delay in submitting the proposal may kindly be condoned.
- (iv). The implementation of the 'Performance Norms based Incentive and Penalty Scheme' under the Berthing Policy has contributed to improvement in productivity for the cargo under the scheme.
- (v). As per Clause 7.2 of the Berthing Policy, the port should increase the norms if more than 60-70% of the ships are achieving the set norms. Accordingly, the following revised 'Performance Norms based Incentive and Penalty Scheme for POL Products – HSD, MS and Naphtha handled at COT, NTB & STB; and Cement handled through pipelines is proposed for renewal of the Scheme.
- (vi). **POL Products – HSD, MS and Naphta – handled at COT, NT & STB**
- (a). COPT analyzed the performance of ships those handled HSD, MS and Naphtha at COT, NTB & STB for the period from 14.03.2019 to 15.03.2021. Out of the 318 ships that handled these products, 70 ships had handled two products; HSD and MS simultaneously; 143 ships had handled HSD alone; 53 ships had handled MS alone and 52 ships had handled Naphtha alone. While BPCL handled all the three Products, IOCL and HPCL handled import of HSD & MS.
- (b). The average productivity in the above period was found to be 955 TPH for HSD, 543 TPH for MS and 774 TPH for Naphtha. The norms were achieved by 38% of ships carrying HSD, 51% of ships carrying MS and 69% (inadvertently mentioned by port as 88% and subsequently corrected) of ships carrying Naphtha. As per Clause No. 7.3 of the Berthing Policy, exception is that if more than 70% of ships cannot meet norms, the Chairman, in consultation with Board can relax the norm. However, it is proposed to retain the norms for POL Products – HSD, MS and Naphtha handled at COT, NTB & STB at the existing level.
- (vii). **Cement handled through Pipelines:**

While analyzing the productivity of Cement vessels, the average productivity was found to be 220TPH (the figure of 295TPH was communicated wrong inadvertently by COPT) for the 168 ships that were handled in the two year period from 14.03.2019 to 15.03.2021. Out of the four cement companies operating at the port, three companies are bringing self-unloading ships, and the average productivity of Cement for these companies was found to be 230 TPH (inadvertently mentioned as 318TPH). The fourth

operator, Zuari Cements, brings normal ships that have to be unloaded using a shore based un-loader with distinctly lower productivity, and the decline of the average productivity to 220 TPH is because of this. None of the Zuari Cements 19 ships could achieve the prescribed norm. The operator has, however, indicated to the port that they plan to shift to self-unloading ships as in the case of the other operators.

- (viii). On analysis, it is seen that 64% of the ships achieved the norm of 210 TPH per point; and if the ships of Zuari Cements are excluded, 73% of the ships achieved the norm. Clause 7.2 of the Policy stipulates that if more than 60%-70% of ships are achieving the set norms, then, the port should increase the norms. Therefore, the norm for Cement handled through Pipelines is proposed to be revised to 230 TPH per point, which was achieved by 55% of the total ships.
- (ix). Accordingly, the revised 'Performance Norms based Incentive and Penalty Scheme' for POL Products – HSD, MS and Naphtha handled at COT, NTB & STB; and Cement handled through Pipelines is proposed for examination and approval by this Authority, as under:

(a). **Incentive & Penalty Scheme based Performance Norms:**

1. Performance Norms

Sr. no.	Cargo	Performance norms
1.	POL Products – HSD, MS and Naphtha – handled at COT, NTB & STB	
	(i). HSD	1050 Tonnes/Hour
	(ii). MS	600 Tonnes/Hour
	(iii). Naphtha	750 Tonnes/Hour
2.	Cement handled through Pipelines	230 Tonnes/Hour/Point

(b). **Incentive & Penalty:**

- (i). The stipulated time for a vessel's stay at berth will be calculated based on the performance norms prescribed above.
- (ii). Time required for pre-commencement and post-completion formalities shall be considered as 6 hours.
- (iii). For failure or success in achieving the stipulated time at berth, penalty / incentive will be applicable as tabulated below:

Sr. no.	Incentive (For Berth Hours less than Normative Hours)		Penalty (For Berth Hours exceeding Normative Hours)	
	Actual Berth Hours	Incentive	Actual Berth Hours	Penalty
1.	Within 5% of Normative Berth Hours	Nil	Within 5% of Normative Berth Hours	Nil
2.	Lower beyond 5% to 15% of Normative Berth Hours	0.5 X Berth Hire	More than 5% to 15% of Normative Berth Hours	1.0 X Berth Hire
3.	Lower beyond 15% of Normative Berth Hours	1.0 X Berth Hire	More than 15% of Normative Berth Hours	2.0 X Berth Hire

- (iv). Penalty prescribed in the above table will be levied for additional hours (i.e., Actual Hours – Normative Hours) taken to complete the ship's cargo operation. Incentive will be payable for every additional hour saved, i.e. Normative Hour-Actual Hour.
- (v). In computing actual performance achieved by each ship for the purpose of calculating penalty / incentive, stoppage of operation on account of the following are to be excluded.
- (a). Any stay of ships waiting for tide, draft, etc. for safe sailing as certified by the Deputy Conservator.
- (b). Any delay in sailing of the ship due to the port including late supply of pilot and unavailability of tug.

- (c). Weather related stoppages and delays.
 - (d). Stoppages and delays due to shifting of vessels.
 - (e). Any extended stay of the ship for bunkers, repair etc., authorized by the port.
 - (f). Time consumed for draft surveys upto maximum period of 30 minutes.
 - (g). Break-down/ non availability of Port provided equipment at berth.
- (x). It is also requested to kindly extend the validity of the prevailing scheme until the revised scheme is approved and notified by this Authority.
- (xi). Approval of the Board of Trustees of the COPT as required will be obtained and intimated to this Authority.

4. On perusing the proposal of COPT, it is seen that the COPT has proposed to revise the Performance norms for Cement only. For other cargo items viz. HSD, MS and Naptha, the port for the reasons stated has proposed to retain the existing norms prescribed in the Order dated 18 January 2019.

5. Subsequently, the COPT vide its email dated 26 July 2021 has forwarded the revised conditionalities w.r.t Para 9 (2) of its earlier proposal dated 19 July 2021 citing that a few existing conditionalities prescribed in the Order dated 18 January 2019 were found omitted in its proposal dated 19 July 2021. A comparative statement showing proposed conditionalities at Para 9 (2) in its earlier proposal dated 19 July 2021 and incorporated in its communication dated 26 July 2021 (omitted conditionalities are highlighted in Bold) is given below:

Proposed conditionalities at Para 9 (2) proposed in the earlier proposal dated 19 July 2021					Proposed conditionalities at Para 9 (2) in the revised proposal dated 26 July 2021						
(i).	The stipulated time for a vessel's stay at berth will be calculated based on the stipulated performance norms as mentioned above.				(i).	The stipulated time for a vessel's stay at berth will be calculated based on the stipulated performance norms as mentioned above.					
(ii).	Time required for pre-commencement and post completion formalities shall be considered as 6 hours.				(ii).	(a). Time required for pre-commencement and post completion formalities shall be considered as 6 hours.					
	--					(b). For vessels carrying multiple POL products, additional two hours for each grade of cargo shall be considered for pre-commencement and post completion formalities.					
	--				(iii).	For ships handling multiple commodities, the Normative Berth Hours will be computed as under					
	--					(a). For the time of single commodity handling – Performance norm applicable for the commodity.					
	--					(b). For the time of concurrent handling of multiple commodities – Sum of the Performance norms applicable for the commodities handled simultaneously.					
(iii).	For failure or success in achieving the stipulated time at berth, penalty / incentive will be applicable as tabulated below:				(iv).	For failure or success in achieving the stipulated time at berth, penalty / incentive will be applicable as tabulated below:					
	S. No.	Incentive (for Berth Hours less than Normative Hours)		Penalty (for Berth Hours exceeding Normative Hours)			S. No.	Incentive (for Berth Hours less than Normative Hours)		Penalty (for Berth Hours exceeding Normative Hours)	
	1.	Within 5% of Normative Berth Hours	Nil	Within 5% of Normative Berth Hours	Nil	1.	Within 5% of Normative Berth Hours	Nil	Within 5% of Normative Berth Hours	Nil	
	2.	Lower beyond 5% to 15%	0.5 x Berth Hire	More than 5% to 15% of	1.0 x Berth Hire	2.	Lower beyond 5% to	0.5 x Berth Hire	More than 5% to 15% of	1.0 x Berth Hire	

		of Normative Berth Hours		Normative Berth Hours				15% of Normative Berth Hours		Normative Berth Hours	
	3.	Lower Beyond 15% of Normative Berth Hours	1.0 x Berth Hire	More than 15% of Normative Berth Hours	2.0 x Berth Hire		3.	Lower Beyond 15% of Normative Berth Hours	1.0 x Berth Hire	More than 15% of Normative Berth Hours	2.0 x Berth Hire
(iv).	Penalty prescribed in the above table will be levied for additional hours (i.e., Actual Hours – Normative Hours) taken to complete the ship's cargo operation. Incentive will be payable for every additional hour saved, i.e. Normative Hour – Actual Hour.					(v).	Penalty prescribed in the above table will be levied for additional hours (i.e., Actual Hours – Normative Hours) taken to complete the ship's cargo operation. Incentive will be payable for every additional hour saved, i.e. Normative Hour – Actual Hour.				
(v).	In computing actual performance achieved by each ship for the purpose of calculating penalty / incentive, stoppage of operation on account of the following are to be excluded. (a). Any stay of ships waiting for tide, draft etc. for safe sailing as certified by the Deputy Conservator. (b). Any delay in sailing of the ship due to the Port including late supply of pilot and unavailability of tug. (c). Weather related stoppages and delays. (d). Stoppages and delays due to shifting of vessels. (e). Any extended stay of the ship for bunkers, repair etc. authorized by the Port. (f). Time consumed for draft surveys upto maximum period of 30 minutes. (g). Break-down/ non-availability of Port provided equipment of berth.					(vi).	In computing actual performance achieved by each ship for the purpose of calculating penalty / incentive, stoppage of operation on account of the following are to be excluded. (a). Any stay of ships waiting for tide, draft etc. for safe sailing as certified by the Deputy Conservator. (b). Any delay in sailing of the ship due to the Port including late supply of pilot and unavailability of tug. (c). Weather related stoppages and delays. (d). Stoppages and delays due to shifting of vessels. (e). Any extended stay of the ship for bunkers, repair etc. authorized by the Port. (f). Time consumed for draft surveys upto maximum period of 30 minutes. (g). Break-down/ non-availability of Port provided equipment of berth.				

6. In accordance with the consultation process prescribed, a copy each of the COPT proposal received vide email dated 19 July 2021 and subsequent email dated 26 July 2021 was circulated vide our letter dated 26 July 2021 and 27 July 2021 respectively to the users/ user organisations seeking their comments. A copy each of the comments received from the users/ user organisations was forwarded to the COPT as feedback information. The COPT has furnished its comments on the comments of users/ user organisations vide its email dated 06 September 2021.

7. Further, the COPT vide its email dated 06 September 2021 has also made following submissions:

- (i). In the proposal sent to TAMP on 26 July 2021 at Para 6, norms achieved for ships carrying Naphtha were inadvertently mentioned as 88% which may please be read as 69%.
- (ii). Further, at Para 7 of their proposal the average productivity of cement vessels which were mentioned as 295 TPH may also be read as 220 TPH.
- (iii). It may kindly be noted that the aforesaid revisions do not warrant any change in the norms proposed.
- (iv). The proposal was placed in the meeting of the Board of Trustees of COPT held on 12 August 2021 vide Agenda Item No.D-5 and Board vide Resolution No.65 resolved to approve the proposal. A copy of Board Agenda and Resolution is also furnished.
- (v). TAMP may kindly approve the revised scheme and extend the validity of the prevailing scheme until the revised scheme is approved and notified by this Authority.

8. A joint hearing in this case was held on 27 August 2021 through Video Conferencing. The COPT made a power point presentation and has also furnished a copy of the presentation vide its

email dated 27 August 2021. The COPT and the concerned users / user organizations have made their submissions at the joint hearing.

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 will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). The Ministry of Shipping (MOS) in June 2016 has issued the Berthing Policy for Dry Bulk Cargo for Major Ports, and directed all the Major Port Trusts to implement the norms with incentives and penalties. The policy lays down standardized guidelines for all major ports to compute performance norms for different dry bulk commodities, taking into account the infrastructure available at ports. The Berthing Policy does not cover Liquid cargo like POL Products (except Furnace Oil, Benzene and Vacuum Residue) and cement handling through pipe line. The Cochin Port Trust (COPT), however, with an aim to improve the productivity at the port at the benchmark level and incentivize the vessel for improved performance and penalize if performance is below the proposed performance level, had sought approval of performance standards for the above two predominant cargo handled at the port along with penalty / incentive linked to the productivity levels which was approved by this Authority vide Order dated 29 March 2017.
- (ii). Subsequently, in accordance with the Berthing Policy, the port reviewed the actual Performance for these commodities and proposed commodity wise performance norms for POL Products viz., High Speed Diesel (HSD), Motor Spirit (MS) and Naphtha instead of common performance for POL products then prevailing along with revised performance norms for Cement handled through pipelines. This Authority vide Order No.TAMP/48/2018-COPT dated 18 January 2019 has approved the revised performance norms and Incentive/ Penalty linked to performance norms for HSD, MS and Naphtha and for Cement handled through pipelines for cargo operations at COPT as proposed by the COPT. The said Order came into effect from 14 March 2019 and was valid upto for two years, i.e. 13 March 2021.
- (iii). Clause 7.2 of the Berthing Policy stipulates that if more than 60%-70% of ships are achieving the set-norms, then the port should increase the norms. The Berthing Policy requires the ports to review the performance norms every quarter in the first year until target norms are achieved.

In view of the above, the COPT has reviewed the productivity actually achieved at the port in the two years period from 14.03.2019 to 15.03.2021 vis-à-vis the prescribed Performance Norms.

The Performance norms prescribed in the last Order dated 18 January 2019 is 1050 tonnes / hour for HSD, 600T / hour for Motor Spirit and 750 T / hour for Naphtha. The port has reported that the average productivity achieved during the period of two years from 14.03.2019 till 15.03.2021 is 955 T/hour for HSD, 543 T/hour for Motor Spirit and 774 T/hour for Naphtha. The port has further reported that the prescribed norms were achieved by 38% of ships carrying HSD, 51% of ships carrying MS and 69% of ships carrying Naphtha. The port has cited clause 7.3 of the Berthing Policy, which states that if more than 70% of ships cannot meet the norms, the Chairman in consultation with the Board can relax the norm. The port has, however, proposed to retain the prevailing norms for POL products viz., HSD, MS and Naphtha handled at COT, NTB and STB.

In view of the above position, and recognising the COPT has proposed to retain the existing norms for POL products viz., HSD, MS and Naphtha handled at COT, NTB and STB on the basis of actual performance achieved at the port from 14.03.2019 to 15.03.2021 and the same is approved by the Board of Trustees of COPT, this Authority

is inclined to approve the same as proposed by the port for the said cargo items of POL products viz., HSD, MS and Naphtha handled at COT, NTB and STB.

- (iv). As regards cement handled through pipeline, the Performance norms prescribed in the last Order dated 18 January 2019 is 210 TPH. The port has reported that the average productivity achieved during the period of two years from 14.03.2019 till 15.03.2021 at 220 TPH for the 168 ships.

Out of the four cement companies operating at the port, three companies are bringing self-unloading ships, and the average productivity of Cement by these companies is reported to be 230 TPH. The fourth operator, Zuari Cements, brings normal conventional ships that have to be unloaded using a shore based un-loader which decline the average productivity to 220 TPH. The operator has, however, indicated to the port that they plan to shift to self-unloading ships as in the case of the other operators.

The COPT has further confirmed that 64% of the ships achieved the norm of 210 TPH per point; and if the ships of Zuari Cements are excluded, 73% of the ships have achieved the prescribed norm. Clause 7.2 of the Policy stipulates that if more than 60%-70% of ships are achieving the set norms, then, the port should increase the norms. Therefore, the norm for Cement handled through Pipelines is proposed to be revised to 230 TPH per point, which was achieved by 55% of the total ships.

The Ultra Tech Cement Limited (UCL) has requested to retain the performance standard at the existing level of 210 TPH on the grounds that average productivity achieved is not consistent; it varies from ship to ship based on its evacuation. In response, the COPT has categorically stated that from the analysis done by the port, out of the 77 ships of Ultra Tech Cements, the average productivity of the ships is found to be 218 TPH. Further, 45 out of 77 ships (58.44%) have achieved the norm of 210 TPH and above. Hence, the COPT has viewed that the marginal increase in the norm from 210 TPH to 230 TPH is not expected to impact the customer adversely. Further, the Penna Cement Industries Limited (PCIL) has requested that the cement performance parameters for cement handled through pipelines be grouped into categories on the basis of distance of the silo from the vessel.

The port while admitting that distance between the ship and the silo impacts productivity, has justified its proposal stating that when cement as a commodity across different terminals is analyzed, the average productivity is found to be of 220 TPH. The proposal to increase the norm marginally from 210 to 230 TPH was in consideration of the differences among the terminals.

Clause 7.2 of the Berthing Policy, 2016 issued by the MOS requires the Major Port Trusts to review the norms and increase the norms if more than 60%-70% of ships are achieving the set-norms until target norms are reached. The proposal of the COPT complies with the said clause of the Berthing Policy. The request made by the UCL to maintain status quo in the performance norms is not found to be in line with the Berthing Policy.

In view of the justification furnished by the port and recognizing that the proposal of the port intends to improve the performance of the port and to improve turnaround time of vessel and is also approved by the Board of Trustees of COPT and also since the proposal filed by the port is in compliance with the direction of Berthing Policy issued by the MOPSW, this Authority approves the revised performance norms proposed by the port for cement handled through pipeline

- (v). The port has proposed to retain the existing incentive and penalty scheme and the conditionalities prescribed in the January 2019 Order except the note (3) regarding validity period of the proposed Performance Norms. That being so, the existing incentive and penalty scheme and the conditionalities prescribed in the January 2019 are continued to be prescribed. The validity of the Performance Norms is dealt with in the subsequent paragraph.

- (vi). The January 2019 Order at note no. (3) prescribes validity of Performance Norms for a period of two years from the date it comes into effect as then proposed by the Port. Clause 8.5 of the Berthing Policy stipulate that performance norms will be revised every quarter during the first year until target norms for commodity are reached. Subsequent revisions will be done yearly or upon upgradation of berth infrastructure. The first year of implementation of the penalty/ incentive linked to performance norms is already over and the port has during the first year revised the norms twice based on quarterly review of the actual performance. That being so, in the absence of COPT proposing the note as regards validity of the performance norms, the validity of the revised norms approved is prescribed for a period of one year from the date it comes into effect in line with the Berthing Policy, 2016.
- (vii). Ordinarily, the rates approved by this Authority have prospective effect after expiry of 30 days from the date of notification of the Order in the Gazette of India. Therefore, the revised productivity norms approved by this Authority comes into force after expiry of 30 days from the date of notification of the Order in the Gazette in line with the approval generally accorded by this Authority.
- (viii). As stated earlier, the Performance Norms approved in the last Order is valid upto 14 March 2021. The COPT has requested that the validity of the prevailing Performance Norms which expired on 14 March 2021 to be extended until the revised Performance norms come into effect. In view of the request made by the port, the existing Performance norms is deemed to have been extended from the date of expiry till the revised Performance Norms comes into effect.

11.1. In the result, and for the reasons given above and based on a collective application of mind, this Authority approves the following revised Performance norms and inter linked incentive and penalty scheme:

“Incentive and Penalty Scheme based on Performance Norms

1. Performance Norms:

Sr. No	Cargo Particulars	Productivity Norms
1.	POL Products – HSD, MS and Naphtha – handled at COT, NTB & STB:	
	(i). HSD	1050 Tonnes / Hour
	(ii). MS	600 Tonnes / Hour
	(iii). Naphtha	750 Tonnes / Hour
2.	Cement handled through Pipelines	230 Tonnes / Hour / Point

2. Incentive/ Penalty

- (i). The stipulated time for a vessel’s stay at berth will be calculated based on the stipulated performance norms as mentioned above.
- (ii) (a). Time required for pre-commencement and post completion formalities shall be considered as 6 hours.
- (b). For vessels carrying multiple POL products, additional two hours for each additional grade of cargo shall be considered for pre commencement and post completion formalities.
- (iii). For ships handling multiple commodities, the ‘Normative Berth Hours will be computed as under:
- (a). For the time of single commodity handling- Performance norm applicable for the commodity.
- (b). For the time of concurrent handling of multiple commodities - Sum of the Performance norms applicable for the commodities handled simultaneously.

- (iv). For failure or success in achieving the stipulated time at berth, penalty / incentive will be applicable as tabulated below:

Sr. No.	Penalty for actual berth hours exceeding the normative hours		Incentive (for Berth Hours saved)	
	Actual working period of the ship (time between berthing at the working berth till completion of vessel's operation)	Penalty	Actual working period of the ship (time between berthing at the working berth till completion of vessel's operation)	Incentive
1	Within 5% of the stipulated time	Nil	Within 5% of the stipulated time	Nil
2	More than 5% to 15% of the stipulated time	1.0 x Berth Hire	Lower beyond 5% to 15% of the stipulated time	0.5 x Berth Hire
3	More than 15% of the stipulated time	2.0 x Berth Hire	Lower Beyond 15% of the stipulated time	1.0 x Berth Hire

- (v). Penalty prescribed in the above table will be levied for additional hour (i.e., Actual hours – Normative Hours) taken to complete the ship's cargo operation. Incentive will be payable for every additional hour saved i.e. Normative Hour – Actual hour.
- (vi). In computing actual performance achieved by each ship for the purpose of calculating penalty / incentive, stoppage of operation on account of the following are to be excluded:
- Any stay of ships waiting for tide, draft, etc. for safe sailing as certified by the Deputy Conservator.
 - Any delay in sailing of the ship due to the Port including late supply of pilot and unavailability of tug.
 - Weather related stoppages and delays.
 - Stoppages and delays due to shifting of vessels
 - Any extended stay of the ship for bunkers, repair, etc. authorized by the Port.
 - Time consumed for draft surveys upto maximum period of 30 minutes
 - Break-down / non-availability of port provided equipment at berth.

3. The performance and penalty/ incentive norms as specified above will be effective after expiry of 30 days from date of notification of the Order in the Gazette of India and will remain valid for one year.”

11.2. The validity of existing performance norms approved by this Authority vide Order No.TAMP/48/2018-COPT dated 18 January 2019, is deemed to have been extended from the date of its expiry till the revised performance norms in this Order approved comes into effect.

(T.S. Balasubramanian)
Member (Finance)

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

F.No. TAMP/41/2021-COPT- Proposal received from the Cochin Port Trust (COPT) seeking approval for the Performance Norms based Incentive and Penalty Scheme under the Berthing Policy 2016.

A summary of the comments received from the users/ user organizations and reply furnished by COPT thereon is tabulated below:

Sl. No.	Comments of the users/ user organisations	Reply furnished by COPT
1.	Penna Cement Industries Ltd. (PCIL)	
(i).	<p>With regard to the proposed increase in performance norms for cement handled through pipelines as at para 7 & 8 with reference to COPT proposal dated 19 July 2021, the following is submitted:</p> <p>The discharge performance of the cement handled through pipelines is related to the distance of the discharge silo from the berth of the vessel. In this regard, it is submitted that the distance of the silo in the case of PCIL from the discharge berth Q6 is 374 Mtrs, whereas that of Ultra Tech and Ambuja is at 280 Mtrs. and 60 Mtrs. respectively.</p>	<p>It is true that distance between the ship and the silo impacts productivity, with the closest terminal, Ambuja Cements achieving the maximum productivity. However, between Penna Cements and Ultra Tech Cements, there is very little variation in average productivity, respectively at 209 TPH and 218 TPH. Ambuja Cements on the other hand has the average productivity of 295 TPH. Zuari Cements is presently having conventional ships with lesser productivity.</p>
(ii).	<p>It is proposed that the cement performance parameters for cement handled through pipelines be grouped into categories as below on the basis of distance of the silo from the vessel:</p> <ol style="list-style-type: none"> 1. 0 to 250 Mtrs. 2. 251 to 350 Mtrs. 3. 351 to 450 Mtrs. 4. 451 to 550 Mtrs. <p>It is proposed that the efficient norms that is worked out with the group one is the reference and 5% discount on the performance norms be provided from each of the groups after group one for every increase in 100 Mtrs. distance.</p>	<p>Further, when cement as a commodity across different terminals is analyzed, the average productivity is found to be of 220 TPH (the figure of 295 TPH was communicated wrong inadvertently). Also, 64% of the ships have achieved the norm of 210 TPH. The proposal to increase the norm marginally from 210 to 230 TPH was after consideration of the differences among the terminals.</p>
(iii).	<p>This will ensure that the performance norms and the incentives are factoring the site conditions and will facilitate level playing field and avoid unnecessary financial burdens on the companies with the silos located further away from the berth.</p>	
2.	Cochin Steamer Agents Association (CSAA)	
(i).	<p>Since the cargo is loaded by BPCL /IOCL /HPCL, the incentive and penalty should be invoiced to BPCL /IOCL /HPCL. It should not be on vessel account.</p>	<p>No comments furnished by the port.</p>
3.	Ultratech Cement Ltd.(UCL)	
(i).	<p>The present cement evacuation TPH from ship to silo is maximum, and the same has also been increased from the earlier 190 TPH. This may please also be noted that the average achieved TPH is not consistent in</p>	<p>From the analysis of the 77 ships of UltraTech Cements, the average productivity of the ships is found to be 218 TPH. Further, 45 out of 77 ships (58.44%) have achieved the norm of 210 TPH and above.</p>

	<p>their case as it is varied from ship to ship evacuation because they are evacuating Pozzolana Portland Cement (PPC) and Ordinary Portland Cement (OPC) simultaneously from most of the shipments. It is imperative to mention that for discharging OPC it takes more time than PPC which will definitely bring down their TPH.</p>	<p>In this regard, it is submitted that the marginal increase in the norm from 210 TPH to 230 TPH is not expected to impact the customer adversely.</p>
(ii).	<p>Considering the above genuine reason, UCL requests TAMP to kindly keep the incentive / penalty scheme with 210 TPH per point.</p>	
4.	<p>Bharat Petroleum Corporation Limited (BPCL)</p>	
(i).	<p>The TAMP vide Gazette No.189 dated 05 May 2017 notified the "Performance Norms based incentive and Penalty Scheme for cargo operated at Indian Ports for POL products except Furnace Oil through pipelines, in accordance with the berthing policy issued by the Ministry of Shipping, Government of India in June 2016. Based on the above, Cochin Port Trust (COPT) has introduced the Performance Norms based incentive and Penalty Scheme for cargo operations from 04 June 2017 onwards.</p>	<p>No comments furnished by the port.</p>
(ii).	<p>While releasing the order, TAMP has clearly mentioned vide clause no. 3.1 (iii) that, the norms will have to take into account cargo type, handling equipment / pipelines and other facilities at the berth. Based on TAMP guidelines, this was discussed and deliberated among port authorities, BPCL-KR and other OMC's and finalised the cargo operation rate as 650 MT/hr.</p>	
(iii).	<p>As per the guidelines for Rolling out Performance Norms of the Berthing Policy, COPT has revised the norms with effect from 12 February 2018 from 650 MT to 800 MT / hr for POL products other than Furnace Oil. This performance norms were subsequently changed to 600 MT / hr for MS, 750 MT / hr for LAN and 1050 MT/hr for HSD from 14 March 2019 and is in effective now.</p>	
(iv).	<p>Please note that BPCL always strive to load all products at maximum flow rate for faster turnaround of Vessels, optimum utilization of tanker berths and also to avoid demurrage of tankers. The reduction in product loading rate happens when there is infrastructure limitation, safety reason or unforeseen circumstance like stoppage of pumping due to any reason beyond the control of BPCL. Also, since the loading pipelines are passing through the heart of Kochi city, augmentation of loading capacity of pipelines is practically difficult.</p>	
(v).	<p>The BPCL has requested TAMP to consider the following which are to be excluded while computing actual performance achieved by each ship for the purpose of calculating penalty / incentive.</p>	<p>The Berthing Policy does not provide for excluding the time on account of breakdown / failure of equipment / pipeline of the user and the related delays while computing the performance of ships. The Berthing Policy</p>

(a).	Reduction in loading rate due to break down of equipment / pipelines at refinery.	provides allowance only for breakdown / non-availability of port provided equipment at berth and delays due to weather tide draft, pilotage, draft survey, shifting of vessels, and for extended stay for bunkers, repairs etc. in computing the performance of ships.
(b).	Power failure leading to stoppage of product loading pump.	
(c).	Leakage in the pipeline due to unforeseen circumstances.	
(d).	Time consumed for sampling upto maximum of one hour.	
(e).	Extra time taken on account of reduced flow rate due to tanker restrictions.	

2. A joint hearing in this case was held on 27 August 2021 through Video Conferencing. The COPT made a power point presentation and has also furnished a copy of the presentation vide its email dated 27 August 2021. The COPT and the concerned users / user organizations have made the following submissions at the joint hearing:

Cochin Port Trust (COPT)

- (i). Berthing Norms along with incentive and penalty are implemented in the Cochin port since the year 2017.
- (ii). Productivity Norms for the port was last revised by TAMP vide Order of January 2019 which came into effect from 14.03.2019. Validity of the same was for two years i.e. up to 13.3.2021.
- (iii). As per the Berthing Policy, port should increase the norms if more than 60% to 70% ships achieve the prescribed norms.
- (iv). Port has reviewed actual performance for the period from 14.03.2019 for 2 years upto 13.03.2021.
- (v). Norm prescribed for HSD has been achieved by 38% of ships. 52% of ships handling MS has achieved the norms and for Naphtha 69% of ships have achieved it.
- (vi). Since norm achieved is within the range, Port proposes to retain the existing productivity norms for HSD, MS and Naphtha.
- (vii). As regards cement, 73% of self-loading ships has achieved the prescribed norm of 210 T per hour. Hence, it is proposed to increase marginally from 210 to 230 T per hour.
- (viii). In short, the proposal is to retain existing productivity norms for Naphtha, MS and HSD and to increase it for cement from 210 T per hour to 230 T per hour.
- (ix). The incentive/ penalty scheme and other conditionalities are retained as prescribed in January 2019 Order.

Indian Oil Corporation Ltd.

- (i). For HSD productivity norms prescribed is 1050 T/ hour. We are only getting 850 T/ hour. Our submission is to reduce it as IOCL is able to achieve only 850 T/ hour.

[Member (F), TAMP: Does increased productivity achieved help vessel in terms of reduction in vessel related cost]

Cochin Port Trust

- (i). Vessel stay is reduced due to better productivity. Hence, overall vessel related cost gets reduced for vessel.

GAC India

- (i). We are happy with current scheme.