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Tariff Authority for Major Ports

G.No. 189

New Delhi,

5 May 2017

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 for cargo operations at the Cochin Port Trust as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/75/2016-COPT

Cochin Port Trust

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Applicant

QUORUM

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

ORDER

(Passed on this 29th day of March 2017)

This case relates to the proposal received from Cochin Port Trust (COPT) for approving the Performance Norms based Incentive and Penalty scheme for two of the cargo items viz. POL Products except Furnace Oil and Cement handled through pipelines.

2.1. The Ministry of Shipping (MOS) under cover of its letter dated 16 June 2016 has forwarded the Berthing Policy for Dry Bulk Cargo for Major Ports, 2016 and has requested all the Major Port Trusts to take action.

2.2. In this backdrop, the COPT has filed its proposal for approving the Performance Norms based Incentive and Penalty scheme for cargo operations at COPT

3.1. The main points made by COPT in its proposal dated 15 November 2016 are summarised below:

- (i). The Ministry of Shipping, Government of India had directed all Major Ports to implement the 'Berthing Policy', and institute incentives and penalties based on performance norms for cargo operations.
- (ii). The Boston Consulting Group (BCG), under Project Unnati, has presented a 'Policy Paper on Performance Norms for Dry Bulk Cargo for Major Ports', which lays down standardized guidelines for Major Ports to compute performance norms for Dry Bulk cargo, taking into account the infrastructure available at ports. The Policy Paper recommends a penalty and incentive structure to be instituted by all Major Ports based on the performance norms.
- (iii). As per clause 10.7 of the 'Working Guidelines to Operationalize the Policy for Determination of Tariff for Major Port Trusts, 2015', notified by the TAMP vide G.No.207 dated 04.06.2015 in compliance of Clause 1.5 of the 'Policy for Determination of Tariff for Major Port Trusts, 2015', issued under the policy direction of the Government of India under Section 111 of the Major Port Trusts Act, 1963, "Objective criteria or loading/ unloading norms to be achieved shall be specified failing which penal hire charges will become payable. The norms will have to take into account cargo type, handling equipment and other facilities at the berth."
- (iv). Cochin Port's cargo profile is dominated by Liquid Bulk, mostly POL, and Containers accounting for 67% and 26% of the throughput respectively in 2015-16. The Port handles only about 1.5 MMT of Dry Cargo in a year, which is predominantly Cement and Fertilizer Raw Materials in bulk, handled through automated systems of pipelines/ conveyors. Negligible quantity of Dry Bulk is only handled in the conventional manner.
- (v). In the light of the above, a new scheme for incentivising higher productivity and penalising poor productivity is proposed to be introduced. Considering the cargo profile of the Port, the scheme is proposed for POL Products except Furnace Oil (FO) at berth and Cement handled through pipelines. The Crude Oil handled at the

SBM and the Containers handled at the ICTT are not brought under the scheme as they are PPP projects governed by separate agreements.

- (vi). The Scheme intends to prescribe normative berth hours for POL Products except Furnace Oil and Cement handled through pipelines based on normative productivity. The normative berth hours will be used to incentivise ships which have completed their operations earlier due to higher productivity and penalise ships which have delayed their operations due to poor productivity. Normative Berth hours will not include:
- (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.
 - (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.
- (vii). The following Incentive and Penalty Scheme based on normative berth hours is, therefore, proposed. Considering the relatively low throughput of the port with respect to the capacity, penalty for poor productivity is proposed uniformly at double the rate of incentive for higher productivity, and not at triple and quadruple the rate proposed in the 'Policy Paper on Performance Norms for Dry Bulk Cargo for Major Ports', presented by the BCG.

Normative Berth Hours

The normative productivity for computing the normative berth hours for POL products (except Furnace Oil) and Cement handled through pipelines is fixed on the basis of past performance. Considering the berth facilities available in terms of Loading/Unloading arms, the Productivity norms for POL Products (except Furnace Oil) are proposed only at the berths, viz., COT, NTB&STB. Accordingly, the Productivity norms are given under.

(a). Cement - 190 MT per Hour per Point

Performance Norms for Cargo Operations-Proposal for Cement											
Sl. No.	Berth	Operator	FY 2015-16 (Actuals)							Proposed	
			Total No. of vessels handled	Total Qty (MT) handled	Total Work hours	No. of discharge points	Average discharge rate per point	No. of ships achieved the average discharge rate	% Achievement of average discharge rate	Proposed discharge rate (MT/ Hour/ Point)	% Achievement of proposed discharge rate
1	BT P	Ultratech Cement Limited	33	473208	1280	2	185	21	64%	190	55%
2	Q1	Ambuja Cements Limited	26	334105	2083	1	160	12	46%		12%
3	Q5	Zuari Cement Limited	2	16682	181	1	92	1	50%		0%

(b). POL other than FO - 650 MT per Hour

Performance Norms for Cargo Operations-Proposal for POL other than FO										
Sl. No.	Berth	Operator	FY 2015-16						Proposed discharge rate (MT/ Hour)	% Achievement of proposed discharge rate
			Total No. of vessels handled	Total Qty (MT) handled	Total Work hours	Average discharge rate	No. of ships achieved the average discharge rate	% Achievement of average discharge rate		
1	COT, NTB and STB	BPCL/ IOCL/ HPCL	115	1793301	3428	523	73	63%	650	40%

The normative berth hours are computed as the berth hours required for handling a specified quantity as per the productivity norms which is added by the time required for pre commencement and post completion formalities for the ship. The time required for pre commencement and post completion formalities for ships of POL other than FO and Cement handled through pipelines is proposed at 6 hours.

The Incentive and Penalty Scheme is proposed as under:

Incentive and Penalty Scheme based on Normative Berth Hours for POL Products except FO at COT, NTB & STB and Cement handled through pipelines.

No.	Productivity Norms (TPH)		Time required for pre commencement and post completion formalities (Hours)	Normative Berth Hours Slab	Incentive (for Berth Hours saved)	Penalty (for Additional Berth Hours)
	POL except FO	Cement				
1	650	190	6	Norms +/- 5%	Nil	Nil
2				Norms +/- >5% to 15%	Berth Hire x 0.5 x (Normative Berth Hrs – Actual Berth Hrs)	Berth Hire x 1.0 x (Actual Berth Hrs – Normative Berth Hrs)
3				Norm +/- >15%	Berth Hire x 1.0 x (Normative Berth Hrs – Actual Berth Hrs)	Berth Hire x 2.0 x (Actual Berth Hrs – Normative Berth Hrs)

3.2. The proposal for performance norms based incentive and penalty scheme for cargo operations has been approved by the Board vide Resolution No.82 dated 8 August 2016 subject to approval from TAMP.

3.3. In view of the above, the COPT has requested this Authority to consider the subject proposal and issue necessary Orders at the earliest.

4. In accordance with the consultative procedure prescribed, a copy of the COPT proposal dated 15 November 2016 was circulated to the concerned users/ user organisations seeking their comments, including 8 additional user organisations suggested by COPT.

5. The comments received from the Indian Oil Corporation Limited (IOCL) and Bharat Petroleum Corporation Limited (BPCL) and Zuari Cement Limited (ZCL) on the subject proposal was forwarded to COPT as feedback information.

6. A joint hearing in this case was held on 14 December 2016 at the COPT premises. The COPT made a brief Power Point presentation of its proposal. The COPT and the concerned users/ user organizations have made their submissions at the joint hearing.

7.1. At the joint hearing, the BPCL pointed out that the time taken for bunkering is always in addition to the time for cargo loading/unloading and hence is excluded from the proposed scheme. The COPT agreed to examine this point. The Berthing Policy issued by the MOS allows exclusion of few items for calculation of Penalty/incentive scheme. Hence, as decided at the joint hearing, the COPT was requested that if port desires to consider the request made by the BPCL, it may submit modification, if any, in this regard along with approval of its Board as required in the Berthing Policy. The COPT has stated that the comments of the BPCL has already considered in the proposal.

7.2. As decided at the joint hearing, the IOCL has forwarded a copy of its comments dated 28 December 2016 addressed to COPT. The comments of IOCL was forwarded to COPT as a feedback information. The COPT has furnished its response on the comments/ views of IOCL.

7.3. With reference to fixing norms for cement, the COPT has stated that the port has deviated from the performance norms for Dry Bulk cargo, while fixing the norms for Cement. The Cement is handled through pipe line using pneumatic pumping and no other equipments and manpower are required at the berth for the operation. Hence, the port has fixed the norms based on the past performance.

7.4. With reference to fixing norms for liquid cargo, the COPT has furnished following clarifications:

- (i). As clarified in the proposal, the 'Berthing Policy' as laid down by the GOI is for Dry Bulk cargo. Cochin Port proposed to apply the policy for Liquid Cargo (POL Products except Furnace Oil) and Cement handled through pipelines (Dry Bulk) since Dry Bulk (conventional) is negligible at the Port for applying the norms under 'Berthing Policy'.
- (ii). Crude Oil is not brought under the scheme as the same is handled at the SBM, a captive facility of the BPCL, which is governed by separate agreement.
- (iii). Furnace Oil is excluded due to its high viscosity vs. other POL Products, and hence the distinctly lower productivity. The same principle is applied for Vacuum Residue, which is rarely handled; Benzene is a Petrochemical and hence excluded.
- (iv). Normative Berth Hours are computed as the berth hours required for handling a specified quantity as per the productivity norms which is added by the time required for pre commencement and post completion formalities for the ship. The time proposed of 6 hrs. is the modal time taken by the concerned ships, presently. The time involved in pre commencement and post completion formalities is proposed separately towards easier computation of normative berth hours.
- (v). The 'Berthing Policy', at Annexure-2, factors in time for pre commencement and post completion formalities and other Non Working Time in the computation of productivity.

8. 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>.

9. With reference to the totality of the information collected during the processing of the 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 Policy also lays down penalties and incentive structures to be instituted by all major ports based on the performance norms calculated. The Policy requires all major ports to adopt these guidelines for their own specific ports and institute penalties and incentives tied to the performance norms as part of the overall Berthing Policy. The Policy also describes a method for re-rating capacity of berths as well as guidelines for levying anchorage charges to reduce turn-around time.
- (ii). In this backdrop, the Cochin Port Trust (COPT) has come up with a proposal in November 2016 for approving the Performance Norms based Incentive and Penalty

scheme for two of the cargo items viz. POL Products (except Furnace Oil) and Cement handled through pipelines.

- (iii). The COPT has reported that 67% of the cargo handled by the port is liquid mostly POL and 26% is container and balance 7% is dry bulk and break bulk cargo. The Berthing Policy is for Dry Bulk Cargo. The port has stated that negligible quantity of dry bulk is handled by conventional means. Therefore, the COPT has proposed to apply the Policy for Liquid Cargo (POL Product except furnace oil) and cement (Dry Bulk) handled through pipelines. Considering the cargo profile of the port, the port has proposed incentive and penalty under the Berthing Policy only for cement and POL (excluding furnace oil) handled at berth. Crude Oil handled at SBM which is a captive facility and containers handled at the International Container Transshipment Terminal (ICTT) are governed by separate agreements, and hence, not brought under the berthing policy scheme by the port. Furnace oil is excluded due to its high viscosity as compared to other POL products. High viscosity translates to lower productivity. Vacuum residue, which is rarely handled, is also excluded due to high viscosity. Benzene is excluded since it is a petrochemical.

The proposal of COPT is to introduce penalty/ incentive linked to normative productivity in respect of one of the dry bulk commodities viz., Cement handling through pipelines and for POL products (except Furnace Oil). It is relevant here to mention that the Berthing Policy issued by the MOS is for Dry Bulk Cargo. The Berthing Policy does not cover Liquid cargo like POL Products. Citing that normative berth hours will be used to incentivise ships which have completed their operations earlier due to higher productivity and penalise ships which have delayed their operations due to poor productivity the port has proposed productivity norms for POL products and proposed penalty/ incentive scheme taking cue from the Berthing Policy. The Oil Company, Indian Oil Corporation has welcomed the proposal of the COPT. In view of the submissions by the port and recognizing that the proposal mainly aims at improving 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, the proposal of the port for prescribing penalty/incentive linked to the productivity levels is considered by this Authority.

The cement handling for which the port has proposed incentive/ penalty linked to productivity levels proposed is for handling by pipelines. This is discussed in the subsequent paragraphs.

- (iv). (a). Clause 4.1.2. of the Berthing Policy prescribes the methodology for calculation of normative productivity of dry bulk cargo. The model requires port to calculate the normative productivity level for each dry bulk commodity by taking into the variables viz. Density of commodity, Size of grab available, Picking factor for the particular commodity, Number of cycles per hour, Non-working time per shift, % of total cargo that is covered by full-load or partial-load operation and Vessel profile. The Annex - I attached to the Berthing Policy relevant for clause 4.1.2 prescribes unloading performance norms in respect of viz. Coal, Fertilizer, salt, Food Grains & Kaolin, iron Ore, & Mill Scale, Other Minerals and Dolomite. The performance norms prescribed in the Berthing Policy for these commodities are with reference to 100T HMC, 60T/80T HMC and with Ship gears. Clause 7.1. of the Berthing Policy stipulates that all major ports will have to use the approach detailed in the Policy adapting it based on their existing infrastructure to calculate performance norms for different dry bulk cargo commodities.

The cement handled by the port is through pipelines. The berthing policy does not prescribe norms or methodology for arriving at the performance norms for handling of dry bulk cargo through pipelines. The port has stated that they have 3 cement companies. As per the existing infrastructure at the

port for handling cement, the ship is connected to silos through pipelines for transfer of this cargo from the ship. The cement handling at the port is through pipe line using pneumatic pumping. No other equipments and manpower are required at the berth for operation.

In view of the above position, and in the absence of any specific methodology prescribed in the Berthing Policy for prescription in respect of pipe line operation, the port has proposed the performance norms for cement handled through pipelines on the basis of actual performance achieved in the year 2015-16. The actual performance achieved in the year 2015-16 as reported by the COPT and the proposed performance norms as already brought out in the earlier paragraphs are given below for ease of reference with only insertion of share of cement cargo at each berth to total cement handled and computation of weighted average discharge rate of cement handled at the three berths:

Sl. No	Berths	Operator	FY 2015-16 (Actuals)									Proposed discharge rate (MT/ Hour/ Point) Productivity norm per handling point (8x11)	
			Total No. of vessels handled	Total Qty (MT) handled	Total Work hours	No. of discharge points per hour	Average discharge rate per point per hour	ships which achieved the average discharge rate	% Achievement of average discharge rate by ships	Share of cargo to the total cement handled	Weighted Average discharge rate Tonnes/ hour/ point		
1	2	3	4	5	6	7	8	9	10	11	12 (8 x 11)	13	
1	BTP	Ultratech Cement Limited	33	473208	1280	2	185	21	64%	57.43%	106.24	190	
2	Q1	Ambuja Cements Limited	26	334105	2083	1	160	12	46%	40.55%	64.88		
3	Q5	Zuari Cement Limited	2	16682	181	1	92	1	50%	2.02%	1.86		
Total			823995						100		172.98		

From the above table it can be seen that as against average discharge rate of 185T/ hour at BTP, 160T/ hour at Q1 and 92T/ hour at Q5 which gives weighted average of discharge rate per hour works out to 172.98T/ hour. This implies that the proposed productivity norm for cement handling through pipe line at 190 tonnes is around 10% more than the weighted average.

Zuari Cement Limited (ZCL), while welcoming the proposal of the COPT for incentive/ disincentive, has submitted that they use mechanical unloader, which uses pneumatic pumps and hence this proposal will not be applicable to them as it is not an apple to apple comparison. The ZCL desired that productivity norm should be based on the mode of their operation. According to the COPT, ZCL has an intermediary system where the cement from the vessel is sucked into silos using booster pumps. The COPT has not accepted the claim made by the ZCL and has stated that ZCL should improve and match the productivity by improving the facilities. The main objective of the performance norms based incentive and penalty scheme is to achieve higher productivity and achieving near-design capacity of the available equipments / infrastructure in order to reduce berthing time and overall turn-around time of ships, drive higher cargo throughput using the available infrastructure in the Major Ports. Also, performance norms based incentive and penalty scheme is introduced to achieve higher productivity to improve utilisation of port assets and to create additional capacity without any significant capital investment. Therefore, the view of the COPT that ZCL is also bound to achieve the norms prescribed as applicable to other cement terminals at Cochin Port is accepted. The port has categorically stated that the proposed norm for cement is applicable uniformly to all users

handling cement including ZCL. Recognizing that the proposal of the port intends to improve the performance of the port and to improve turnaround time of vessel and the proposal filed by the port is to compliance with the direction of Berthing Policy issued by the MOS, this Authority goes with the proposal of the port.

The productivity arrived at by the COPT in the table above is seen to be around 10% higher than the weighted average productivity achieved for handling this cargo. The Policy at Clause 4.1.3 (v) directs the ports to ensure that the berth productivity is not reduced because of inefficiency of the ships discharging with ship cranes. However, at the same time, Clause 7.2 of the Policy regarding rolling out of Performance Norms encourages to roll out performance norms in a phased manner during the first year to reach the target levels. Here the target level is 190 tonnes per point per hour. The ports are required to review the performance norms every quarter in the first year until target norms are achieved. That being so, the performance levels proposed by the Port for incentive/ penalty is approved for the first year only.

Thus, the performance level proposed by the COPT for Cement handling through pipe lines at 190T / hour/ point is made applicable for determination of penalty/ incentive for the 1st year.

- (b). For POL products (except Furnace oil, Benzene and Vacuum Residue), the port has proposed performance norms reportedly considering the berth facilities available in terms of Loading/Unloading arms at the berths, viz., Cochin Oil Terminal, (COT), North Tank Berth (NTB) and South Tank Berth (STB) based on the actual performance achieved in the year 2015-16. The actual performance achieved in the year 2015-16 as reported by the COPT and the proposed performance norms as already brought out in the earlier paragraphs is given below for ease of reference:

Sl. No.	Berth	Operator	FY 2015-16 (Actuals)					No. of ships achieved the average discharge rate	Percentage of vessels which achieved average discharge rate	Proposed discharge rate (MT/ Hour)
			Total No. of vessels handled	Total Qty (MT) handled	Total Work hours	Average discharge rate				
1	2	3	4	5	6	7 (5/6)	8	9 (8/4)	10	
1	COT, NTB and STB	BPCL/ IOCL/ HPCL	115	1793301	3428	523	73	63%	650	

The port has proposed performance norms for POL products at 650 T/ hour as against average discharge rate achieved at 523T/ hour. It is seen that the proposed performance rate is 24% higher than the average discharge rate achieved by the port in the year 2015-16.

The Bharat Petroleum Corporation Limited (BPCL) has submitted that it is not justified to apply a uniform performance norm of 650 MT/hour at all the three berths (COT/NTB/STB) as each berth has limitations. Bigger vessels cannot be deployed at STB and NTB. Further, the nature of the products also has an impact on the loading / discharge rate. The BPCL has argued that out of 63% of the vessels which have achieved the average loading rate of 523 MT/hour, only 40% of the vessels will meet the proposed norm of 650 MT/hour. To meet the norm of 650 MT/hour, the existing infrastructure facilities such as pipelines, storage facilities and pumping facilities have to be augmented. Considering that the berths are located in the city area, enhancing the size of the existing pipelines is not feasible and hence, the norm of 650 MT/hour is too stringent and is to be revised downwards, according to BPCL.

The COPT has countered the arguments of BPCL stating that in the year 2015-16, 43 ships berthed at COT and 72 ships at NTB for handling POL (except FO), the proposed discharge rate was achieved by 51% and 33% at COT & NTB respectively. The port has emphatically stated that the proposed performance rate is achievable with the type of vessels presently engaged. As stated earlier, the Berthing Policy does not cover the POL products. However, recognising that the proposal of the port is to improve the performance of the port and to reduce the turnaround time of vessels this Authority is inclined to approve the performance standards as proposed by the COPT for POL products (excluding Furnace oil, Benzene and Vacuum Residue).

During the processing of the case, the BPCL has pointed out that it is in the process of laying a new heat traced pipeline for loading / discharge of VR, which is much more viscous and has higher pour point than Furnace oil. Hence Benzene, LDO and VR should be exempted from the proposed scheme (in addition to the exemption envisaged for Furnace Oil). The port has clarified that scheme is proposed for POL products except FO, Benzene and VR; however, LDO will come under the scheme as the productivity is achievable. Based on the clarification furnished by the COPT, apart from Furnace Oil, the proposed performance and the incentive / penalty will not apply to Benzene and Vacuum Residue.

As stated earlier, the Berthing Policy requires the ports to review the performance norms every quarter in the first year until target norms are achieved. Since the proposal filed by the COPT for POL products is stated to be in view of the Berthing Policy issued by the MOS and adopting the principles of incentive/ penalty prescribed in the *ibid* policy, the performance standards proposed by the Port for incentive/ penalty linked to performance standards is approved for the first year only.

- (v). (a). The port has stated that the time required for pre-commencement and post completion formalities for ships of POL (other than FO) and Cement handled through pipelines is proposed to be considered at 6 hours.
- (b). Clause 4.2.3 of the Berthing Policy factors in the time for pre commencement and post completion formalities and other non working time in the computations of productivity. The total actual work hours of 3428 in the year 2015-16 captures the time for pre commencement and post completion formalities.
- (c). The Indian Oil Corporation Limited (IOCL) has requested to consider stripping time in addition to the cargo pumping time stating as per internationally accepted charter party agreements, stripping time is 3 hours for one grade and 2 hrs per grade in case of multi grade discharge which has been agreed by chartered parties. The BPCL has stated that some tankers have many cargo tanks on board due to which time taken for gauging of all tanks and drawing of samples is high. Based on past experience, the time taken for pre-commencement and post completion activities is about 8 hours and hence BPCL has requested to retain at that level under the proposed scheme. In view of the points made by the oil companies, the port has agreed to consider two hours additionally for each cargo over and above the six hours proposed by the port for pre commencement and post completion formalities for vessels carrying multiple cargo. The modification proposed by the port flowing from the request of BPCL and IOCL is accepted. In the schedule to be approved by this Authority, the proposed conditions relating to pre-commencement and post commencement operations as proposed by the port is incorporated.

- (vi). Clause 8.4. of the Berthing Policy issued by the MOS prescribes exclusion of few items for computing actual performance achieved by each ship for the purpose of calculating penalty/incentive. The said clause stipulates that any stoppages because of reasons other than those prescribed in the Berthing Policy are not to be excluded for calculation of performance norms, unless specifically approved by Board of the Port. As against that, the port has proposed to exclude the following while computing the actual Berth hours:
- (i). Any stay of ships waiting for tide, draft, etc. for safe sailing as certified by the Deputy Conservator.
 - (ii). Any delay in sailing of the ship due to the Port including late supply of pilot.
 - (iii). Weather related stoppages and delays.
 - (iv). Stoppages and delays due to shifting of vessels
 - (v). Any extended stay of the ship for bunkers, repair, etc. authorized by the Port.

The items prescribed in (i), (iii) to (iv) cover the exclusions prescribed in the Berthing Policy. As regards (ii), the port has not mentioned tug unavailability which is incorporated by us.

The three exclusions prescribed in the Berthing Policy but not proposed by the port are (a). Foreign material in manual shifting of cargo to MCHP for Paradip Port Trust (b). Break-down/ non-availability of port provided equipment at berth (c). Time consumed for draft surveys upto maximum period of 30 minutes per party.

The port has not specified any reasons for not incorporating the two exclusions (b) and (c) in computation of actual berthing time of vessels. In the absence of any reasons furnished by the port, the exclusion relating Break-down/ non-availability of port provided equipment at berth and time consumed for draft surveys upto maximum period of 30 minutes per party are proposed to be incorporated in the conditions governing the penalty/ incentive.

The BPCL has pointed out that time taken for bunkering is always in addition to the time for cargo loading/unloading and hence is excluded from the proposed scheme. The port has stated that such operational requirements are already considered and exempted. It is seen that the port has proposed to exclude any extended stay of the ship for bunkers, repair, etc. authorized by the Port from computation of actual stay of vessel.

It is relevant here to state that the proposal filed has the approval of the Board of Trustees. That being so, the provision stipulated in the Berthing Policy requiring approval of the Board for any exclusions beyond that prescribed in the Policy is complied with and hence the proposal of the port in this regard is accepted.

Whilst the COPT has proposed the exclusions in its proposal, it has not proposed it under the schedule of incentive/ disincentive scheme. In the schedule to be approved by this Authority, the proposed exclusions are incorporated subject to modification as explained above.

- (vii). Thus to summarise, the performance standards proposed by the port for approval of this Authority are (a). 650 MT/ hour/point for handling of cement through pipelines and (b). 190 T/ hour for POL products (excluding Furnace Oil, Benzene and Vacuum Residue) and these performance standards are approved for a period of first year. The COPT has proposed incentives and penalties with regard to the aforesaid performance norms as discussed in the subsequent paragraph.

- (viii). (a). Clause 8.2 of the Berthing Policy stipulates that in case if a ship stays within 5% (higher or lower) of the stipulated time for that commodity, then no penalty/incentive will be levied / paid. In cases where actual berth stay is more than 5% higher than the stipulated time, number of additional hours spent at berth, the Berthing Policy prescribes penalty at 3X of the berth hire.

The incentive prescribed is 1X of the berth hire in cases where actual berth stay is more than 5% lower than the stipulated time. The Policy further prescribes that as a guideline, ports should maintain penalty of at least 5% of the total cost per metric tonne to ensure adherence to norms. It can be thus seen that the Berthing Policy does not prescribe penalty at 4 times the berth hire charge as stated by the COPT.

- (b). The COPT has proposed no penalty/ incentive if the variation in the actual stay of vessel is within 5% (higher or lower) taking into consideration the proposed performance standards. This is as per the prescription in the Berthing Policy and hence is accepted.
- (c). As regards the incentive, the Berthing Policy prescribes incentive at one time the berth hire if the actual stay of vessel is lower more than 5% than the allowable berthing time. As against that the port has proposed incentives also in two slabs in graded manner. viz., incentive at 0.5 time the berth hire if the actual stay of vessel is more than 5% to 15% lower than allowable time as per the performance standards and 1time the berth hire if the actual stay of vessel is lower than the allowable berthing time beyond 15%. The reason for proposing the incentive in two slabs remains unexplained. It however, appears that graded incentive levels are proposed by the port to be uniform with two slabs proposed by the port in the penalty scheme. On that premise the two level graded incentive proposed by the port is approved.
- (d). The Indian Oil Corporation Limited (IOCL) has pointed out that there should be common rate for the Incentive as well as Penalty. In this regard it has to be kept in view that the Berthing Policy itself prescribes higher rate for penalty and lower rate for incentive. The request made by the IOCL is, therefore, not in line with the prescription in the Berthing Policy and hence could not be accepted. In any case, as stated above, the COPT has moderated the penalty and proposed on graded basis and the maximum penalty proposed is 2 times as against 3 times/ 5 times stipulated in the Berthing Policy.
- (ix). As stated earlier, Clause 7.2 of the Berthing Policy encourages the Ports to roll out performance norms in a phased manner during the first year to reach the target levels achievable for each commodity given the infrastructure available at the berths. As also brought out earlier, the port has proposed the productivity norms based on the performance recorded in 2015-16. The COPT is advised to review the performance norms set by itself on quarterly basis in the first year until target norms are reached. In the event of upgradation of infrastructure at the facilities, leading to an improvement in the performance norms approved, the port is advised to come up with a proposal to give effect to the improved performance norms.
- (x). As stated earlier, the Berthing Policy prescribes guidelines for rolling performance standards for different dry bulk cargo. The current proposal of the port is only for one of the dry bulk cargoes. Citing that the dry bulk cargo handled at the port by conventional means is negligible, the port has not proposed performance standards for the different dry bulk cargo. The port may, while reviewing the performance norms after first year in respect of the two cargo items covered in this proposal, examine to propose performance standards for other dry bulk cargo as well following the methodology prescribed in the Berthing Policy.

- (xi). The Berthing Policy also prescribes guidelines for prescription of anchorage charges to be levied across all major ports for the purpose of reducing pre-berthing delay and hence the overall turn-around time for vessels. This is to help streamline vessel scheduling for customers and lead to efficient usage of port anchorage. The proposal of the port does not prescribe anchorage charge as required under the para 6 of the Berthing Policy. The port is, therefore, advised to file a proposal for prescription of anchorage charges in line with the Berthing Policy issued by the MOS within two months from the date of notification of the Order in the Gazette of India.
- (xii). The COPT has proposed the Performance standards, time for pre-commencement and post completion and penalty and incentive altogether in one table. The proposed table are split along with some language corrections for ease of understanding and to avoid any ambiguity. This is done adopting the prescription in the Penalty/ incentive proposal disposed of by this Authority on the proposal filed by the Kolkata Port Trust under the Berthing Policy.

10.1. In the result, and for the reasons given above, and based on a collective application of mind the following is approved:

“Incentive and Penalty Scheme based on Performance Norms

1. Performance Norms:

Sr. No	Berths	Cargo Particulars	Productivity Norms
1	COT, NTB and STB	POL except Furnace Oil, Benzene and Vaccum Residue	650 Tonnes/Hour
2	BTP,Q1 and Q5	Cement handled through pipelines	190 Tonnes/ hour/point

2. Incentive/ Penalty

- (i). The stipulated time for a vessel’s stayal 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 grade of cargo shall be considered for pre commencement and post completion formalities.
- (iii). 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

- (iv). 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.
- (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.

10.2. The above provisions shall come into effect after expiry of 30 days from the date of notification of the Order passed in the Gazette of India and will remain valid for one year.

(T.S. Balasubramanian)
Member (Finance)

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

TAMP/75/2016-COPT	:	Proposal received from Cochin Port Trust (COPT) for determination of Upfront tariff for Stevedoring and Shore Handling operations at COPT under the new Stevedoring and Shore handling Policy, 2016.
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The summary of comments received from the Cochin Port Trust (COPT) and the users / user associations are tabulated below:

Sl. No.	Comments of the users / user organisations	Reply furnished by COPT
1.	Indian Oil Corporation Limited (IOCL)	
	IOCL appreciate COPT efforts in incentivising the cargo operations, based on the Tanker performance, which would lead to better efficiency and mutual gain. However, the following points, based on our operating experience, may also be taken into consideration:-	
(i).	For normative berth hire calculation, gangway down time to be considered instead of All fast timing.	The normative berth hours will be accounted as applicable for berth hire calculation.
(ii).	In case of foreign vessels, additional one hour to be considered, for completion of customs & immigration, Pratique formalities, after which only our officer can board the vessel.	The above aspects are covered under 'Time required for pre commencement and post completion formalities of six hours'.
(iii).	Considering the nature of complexities involved in White Oil pumping and receipt at the shore end/vessel tanks, Govt policy restriction on oil companies in hiring coastal vessels without age restrictions, the discharge rate to be considered as 400 MTs/hr.	The statistics reveals that the productivity of white oil also achieved the target for 40% of the ships handled.
(iv).	Stripping time of 3 hours for one grade and 2 hrs per grade in case of multigrade discharge, may be considered, in addition to the cargo pumping time.	The above aspects also covered under 'Time required for pre commencement and post completion formalities of six hours'.
(v).	Since Oil Company laboratories are situated 15 Kms from oil jetties, additional time of 1 hour for transportation of samples for testing, to be considered.	
(vi).	Due to non availability of night pilots between 00.00 hrs to 06.00 hrs, and/or non availability of tide, the corresponding time to be discounted in respect to that particular vessel's normative operation timings, for penalty calculations.	Normative Berth Hours will not include: (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.'

		<p>(c). Weather related stoppages and delays.</p> <p>(d). Stoppages and delays due to shifting of vessels.</p> <p>(e). Any extended stay of the ship for bunkers, repair, etc. authorised by the Port.</p>
(vii).	Common rate for the Incentive as well as Penalty may be adopted.	The higher rate for penalty and lower rate for incentive are proposed as per the recommendations of BCG. Considering the relatively low throughput of the COPT w.r.t the capacity, penalty for poor productivity is proposed uniformly at double the rate of incentive for higher productivity as against the recommendation of triple and quadruple the rate proposed in the policy paper on performance norms.
2.	Bharat Petroleum Corporation Limited (BPCL)	
(i).	Applying a uniform performance norm of 650 MT/hour at all the three berths (COT/NTB/STB) is not justified as each berth has limitations of displacements, LOA and parallel body length, due to which bigger vessels cannot be employed to operate at STB and NTB.	As per the records available for the year 2015-16, 43 ships have been berthed at COT and 72 ships at NTB for handling POL except FO, out of which the proposed discharge rate achievement was 51 % and 33% respectively at COT & NTB. The percentage figure indicates that the target is achievable with the type of vessels presently engaged.
(ii).	The nature of the products also has an impact on the loading / discharge rate. The following are examples:	The scheme is proposed for POL products except FO and therefore, not applicable to Benzene and VR. However, LDO will come under the scheme as the productivity is achievable.
(a).	Based on past performance, actual loading rate of benzene at North Tanker Berth is found to be 195 MT/hour only. Similarly, loading rate of Light Diesel oil (LDO) at North Tanker Berth is found to be 540 MT/hour only.	
(b).	BPCL Kochi Refinery is in the process of laying a new heat traced pipeline for loading / discharge of Vacuum Residue (VR), which is much more viscous and has higher pour point than Furnace oil. Hence Benzene, LDO and VR shall be exempted from the proposed scheme (in addition to the exemption envisaged for Furnace Oil).	
(iii).	A higher rate for penalty, and a lower rate for incentive goes against the norms of fairness.	The same is proposed as per the recommendations of BCG. Considering the relatively low throughput of the COPT w.r.t the capacity, penalty for poor productivity is proposed uniformly at double the rate of incentive for higher productivity as against the recommendation of triple and quadruple the rate proposed in the policy paper on performance norms.
(iv).	Bunker supply to ships (either through barge or pipeline) will always be pumped	Such operational requirements are already considered and exempted.

	<p>at a very low rate, in the range of 65MT/hour to 95 MT/hour due to ship limitations. Cochin Port does not permit bunkering in parallel with loading/unloading of cargo. So time spent in bunkering is always in addition to the time for cargo loading / discharge, and shall be excluded from the proposed scheme (without needing any special, case-by-case authorization from the Port). Time taken for slop discharge from tanker shall not be considered for productivity measurement, since slop discharge is possible only at a slow rate due to ship's limitations.</p>	
(v).	<p>Vessels waiting for fresh water supply from Port shall be exempted from the proposed scheme.</p>	<p>Such operational requirements are already considered and exempted.</p>
(vi).	<p>It is not possible to predict in advance the breakdowns of machinery / equipment, leakage of pipelines etc. Hence, the time spent on berth due to such breakdowns/ pipeline leakages shall not be counted towards the proposed productivity scheme irrespective of whether the equipment belongs to :</p> <p>(a). Ship (b). Port (c). Oil companies</p>	<p>Covered in the exempted category.</p>
(vii).	<p>As a safety requirement, petroleum pipelines have to be thoroughly water flushed before undertaking any repair or replacement. Similarly, the pipelines have to be flushed for hydrotesting for meeting statutory requirements (PESO, OISD etc). Such flushing is normally done by the ship drawing sea water from the sea. Time spent on such operations shall not be counted towards the proposed performance scheme.</p>	<p>Preparatory work on pipeline by ship to facilitate discharge/loading could not be considered for exemption as there are other options for the purpose. If ship has to be engaged, the applicable norms to be followed.</p>
(viii)	<p>The data contained in the proposal shows that:</p>	<p>The norms are fixed as per the Guidelines and the percentage figure indicates that the target is achievable.</p>
(a).	<p>Only 63% of the vessels have achieved the average loading rate of 523 MT/hour.</p>	
(b).	<p>Only 40% of the vessels will meet the proposed norm of 650 MT/hour.</p>	
	<p>To meet the norm of 650 MT/hour, the existing infrastructure facilities such as pipelines, storage facilities and pumping facilities have to be augmented. Considering that the berths are located in the city area, enhancing the size of the existing pipelines is not feasible. Hence the norm of 650 MT/hour is too stringent and is to be revised downwards.</p>	

(ix).	Time spent at berth on customs formalities (before commencing loading /discharge) is beyond the control of the ship or oil companies. Hence this time interval should not be considered for performance evaluation.	Such delays are already accounted.
(x).	Some tankers have many cargo tanks on board due to which time taken for gauging of all tanks and drawing of samples is high. Based on past experience the time taken for pre-commencement and post completion activities is about 8 hours and the same may please be retained under the proposed scheme.	The request can be considered for vessels carrying multiple import cargo.
3.	Zuari Cement Limited (ZCL)	
(i).	Zuari cement Ltd., Cochin, is India's only cement operator using a unique Siwertell based discharging system, which is very different from other operators.	The objective of the performance norms based incentive and penalty scheme is to re-assess the capacity of the berths based on the expected performance of the berth equipments and vessels derived from the performance norms. The uniqueness of the equipment shall not compromise the productivity
(ii).	While other operators use Pneumatic self discharge vessels, Zuari operates normal bulk vessels, which have to be mechanically unloaded.	
(iii).	The discharge of cement at Zuari Cement terminal is not through pipelines. The Siwertall machine sucks the cement from the vessel from jetty side and pumps it into silos using an intermediate booster pump. Hence this scheme, which is applicable to cement discharge through pipelines will not be applicable for Zuari Cement Ltd., Cochin.	Like in all other installations of cement terminals in Cochin, the silos are connected through pipelines from berth side and the mode of discharge from the vessel only differs.
(iv).	The rated discharge capacity of Siwertell Machine is 150 TPH at Cochin Terminal. Hence a discharge rate of 190 TPH, as proposed by the scheme will be unachievable technically.	The introduction of the performance norms based incentive and penalty scheme is aimed at bringing in more capacity utilisation. Mere achievement of MGT is not sufficient to increase the capacity utilisation. Therefore, minimum productivity of 190 MT has been fixed for the cement handling. Further, the maximum lifting capacity of the unloader is 300 TPH, as per the technical specification submitted by Zuari Cement Ltd.
(v).	Siwertell Machine is a high cost investment made by Zuari Cements Ltd, with a goal of operating the machine for 25 years or more. The proposed scheme will render the brand new machine (less than 1 year old) obsolete causing enormous losses to Zuari Cements Ltd. and its business model in Cochin Terminal. Hence, this incentive/scheme is very detrimental to our continued operations in Cochin Terminal and based on the above, should not be applied to Zuari Cement Ltd, due to unique nature of our operations.	The main objective of the performance norms based incentive and penalty scheme is to achieve higher productivity and achieving near-design capacity of the available equipments / infrastructure in order to reduce berthing time and overall turn-around time of ships, drive higher cargo throughput using the available infrastructure in the Major Ports. Also, performance norms based incentive and penalty scheme is introduced to achieve higher productivity to improve utilisation of port assets and to create additional capacity without any significant capital investment.

		Therefore, Zuari Cement also bound to achieve the norms prescribed as applicable to other cement terminals at Cochin Port.
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2.1. A joint hearing in this case was held on 07 June 2016 at the COPT premises. The IGTPL made a power point presentation of its proposal. At the joint hearing, the IGTPL, COPT and the concerned users / user associations have made their submissions:

Cochin Port Trust (COPT)

- (i). Ministry of Shipping (MOS) has issued directions to all ports to implement Berthing Policy direction which intends to incentivize vessels which has faster turnaround time and penalise for delays in turnaround of vessel.
- (ii). At our port, 67% of the cargo is liquid mostly POL and 26% is container and balance 7% is dry bulk and break bulk cargo. Port handles only about 1.5MTPA of dry bulk cargo which is predominantly cement and fertilisers handled through automated systems of pipelines/ conveyor. Negligible quantity of dry bulk is handled by conventional means.
- (iii). We don't have dry bulk cargo for applying the Berthing Policy. Considering the cargo profile of the port, the Berthing Policy is proposed only for cement and POL handled at berth. Under POL also, Furnace Oil is excluded. The crude oil handled at SPM and the container handled at ICTT are not brought under these scheme as they are governed by separate agreements.
- (iv). While formulating the proposal, we have taken care that delays on accounts of port is not passed on to users. We have proposed exclusion of (a). Stay of ships waiting for tide, draft, etc. for safe sailing as certified by the Deputy Conservator. (b). Delay in sailing of the ship due to the port including late supply of pilot. (c). Weather

related stoppages and delays. (d). Stoppages and delays due to shifting of vessels. (e). Extended stay of the ship for bunkers, repair, etc. authorised by the port while computing berthing hours of vessel.

- (v). Berthing Policy of Government prescribes penalty at 3 times/ 4 times the berth hire charge if actual stay is more than the allowable berthing time. However, considering low throughput with respect to capacity, we are proposing maximum penalty at 2 times the berth hire charge.
- (vi). We have moderated the penalty scheme prescribed in the Government guidelines. Further, reduction is not possible. Ultimate objective of the Berthing Policy is to optimize the berth utilization and improve the turnaround time of vessels.
- (vii). We have added 6 hours time towards pre commencement and post completion formalities of a ship to the normative berth hours.
- (viii). COPT is a superior facility with 12.5 mtrs. draft. NTB/ STB are having similar berthing facility. As per our statistics, productivity of POL products at 650 T/ hour has been achieved at berths. Only in few cases 650 T/ hour could not be achieved. In those cases also, productivity was closer to this level.
- (ix). We have taken into consideration the differential cargo category while considering 650T/ hour as the productivity level. In 2008 guidelines, productivity norms prescribed for POL products is 1000 T/ hour. As against, that port has considered 650 T/ hour only. The services offered are similar to PPP projects under 2008 guidelines. We feel productivity of 650T/ hour for POL products is achievable.
- (x). Benzene is petro chemicals. We have excluded petro chemicals. So the point made by BPCL gets addressed.

- (xi). Ship should not take more than 4 to 6 hours for bunkering. There has been instances where vessel waited for 24 hours. We cannot tolerate such delay. With proper co-ordination vessel can arrange for bunkers.
- (xii). Port is committed. We will take care of the safety issue.

Bharat Petroleum Corporation Limited (BPCL)

- (i). Hydro testing of pipeline is mandatory. It is a statutory requirement. We will have to go for big pipelines. Ship has to draw water and clean pipelines and flush it out. It is an annual exercise.

[COPT (Deputy Chairman): Annual exercise of cleaning of pipelines is being carried out by oil companies even now. This will not have impact on the subject proposal.]

- (ii). Time taken for bunkering is always in addition to the time for cargo loading/unloading and may be excluded from the proposed scheme.

[COPT (Traffic Manager I/c): Such operational requirements are considered and exempted. We will, however, examine this point.]

Cochin Port Trust (COPT)

- (i) We have proposed productivity slightly higher than the actuals achieved. We reiterate in 2008 guidelines, the productivity norms prescribed for POL products is 1000 T/ hour.
- (ii) It is not the pumping rate which affects productivity. It is pre and post berthing operations which impacts the overall productivity.

Bharat Petroleum Corporation Limited (BPCL)

- (i). We already have charter agreements. We will have to revise it. The proposal will lead to more penalisation.
- (ii). For berthing hours, what should be considered is the time from start of loading to end of loading. There are few factors like custom clearance etc. which are beyond our control. 6 hours provided by the port for pre and post berthing operations is low. It should be increased to 8 hours.

[COPT (Traffic Manager I/c): For arriving at 6 hours, we have gone on mode basis i.e. maximum number of vessels have taken this time for pre and post berthing activities. It is not an average.

43% of vessels has achieved productivity of 650 T/ hour for POL products. The remaining vessels are in brink. They will not be penalised because 5% variation is allowed which will not attract penalty.]

[Member (Finance), TAMP: Both Port and Trade have to move towards productivity improvement as envisaged in the Berthing Policy issued by the MOS.]

- (iii). Special dredging levy of ₹38/ tonne was approved by TAMP when the turnover was less than ₹65/ tonne. Under the new Tariff Policy, 2015, the dredging levy is merged with dredging levy. We request to prescribe wharfage at ₹65/ tonne as we have reached the said milestone of 4 MTPA.

[Member (Finance), TAMP: The existing SOR of COPT approved under the Tariff Policy 2015. Tariff Policy 2015, gives flexibility to the Major Port Trust to propose their own SOR within the Annual Revenue Requirement. Further, wharfage rate of ₹103 per tonne is the ceiling rate. COPT has the flexibility to levy lower rate for BPCL.]

Indian Oil Corporation Ltd. (IOCL)

- (i). We already have contracts with Indian ships. Imposition of penalty will be a new item. This will have significant impact.
- (ii). Encourage us to improve. Have only incentive scheme. We suggest not to have penalty.
- (iii) If there is no ship waiting at berth then the penalty may not be imposed.

[COPT, (Tariff Manager I/c): When Berthing Policy was announced, it was directed that all ports have to assess the berthing capacity following the Policy. Policy prescribes incentive/disincentive scheme.]

- (iv). If pilot is not provided, there will be delay on the other port of call. We request port to consider this aspect.

[COPT: There may be some delay in providing pilots during odd time. We will consider this point. Trade should give advance notice.]

Cochin Port Trust (COPT)

- (i). Levy of Penal berth hire for extended stay of vessels at berth is not a new concept. TAMP has already prescribed penal berth hire charges at COT in COPT, Chennai Port Trust, etc., for extended stay of vessel at the berth. Now, the scheme is different and requires uniform application across the ports.
- (ii). There is only one system of calculating berth occupancy which is followed. The point made by IOCL to consider gangway down time cannot be accepted.

- (iii). Any delay on the side of port to provide pilot will not be captured for computing the berth hours.

Zuari Cement Ltd.

- (i). We welcome the incentive/ disincentive scheme.
- (ii). We use mechanical unloader, which uses pneumatic pumps. So this proposal will not be applicable to us. It is not an apple to apple comparison.

[COPT (Traffic Manager I/c): We have 3 cement companies. The ship is connected to silos through pipelines. Zuari Cement Ltd. has an intermediary system where the cement from the vessel is sucked into silos using booster pumps. The proposed norm for cement is applicable uniformly to all.]

[COPT (Dy. Chairman): The norms prescribed is for cement as a cargo. Zuari Cement Ltd. should improve and match this productivity by improving the facilities.]

- (iii). We are willing to improve productivity. Atleast, productivity norm should be based on the mode of our operation.

Cochin Port Trust (COPT)

- (i). Intention is to improve the overall economy development of the country. If vessel spends more time at the berth, some agency is responsible. Government at macro level wants to improve the performance. Unless there are some check, this will not improve. To improve turnaround time of vessel and in compliance of direction of Berthing Policy issued by the MOS, we have filed this proposal.
- (ii). Turnaround Time (TRT) is set for ports. We have to minimize it.

- (iii). In case of highly exceptional circumstance which is beyond the control of port/ trade, we will look into it.

2.2. As decided at the joint hearing, the IOCL has forwarded a copy of its comments dated 28 December 2016 addressed to COPT. The comments of IOCL was forwarded to COPT as a feedback information. The COPT has furnished its response on the comments/ views of IOCL. A summary of the comments received from the IOCL and reply furnished by the COPT are summarized below:

Sl. No.	Comments of the users / user organisations	Reply furnished by COPT
1.	Indian Oil Corporation Limited (IOCL)	
(i).	Existing DG Shipping policy on hiring coastal vessel restricts oil companies in hiring vessels with performance orientation. It is evident from your vessel performance data that only 43% of the vessels have achieved the performance mark. Port facility may be adequate to achieve the performance norms. Vessel should also be capable of achieving the desired discharge rate. Hence we should consider discharge rate 400 MTs/hr.	The central objective of the berthing policy is to increase the capacity of the Port infrastructure. The proposed productivity norm is already achieved by 43% of the vessels. It is also noticed that non achievement is mainly on account of delays in cargo clearance and not due to vessel restrictions. Therefore, the productivity norm of 650 TPH is proposed reasonably.
(ii).	Oil companies are hiring vessels as per internationally accepted chartered party agreements. As per the agreement clause, stripping time is 3 hours for on grade and 2 hrs per grade in case of multigrade discharge which has been agreed by chartered parties. Hence we request you to consider the stripping time in addition to the cargo pumping time.	The request can be considered for vessels carrying multiple cargo. Two hours can be allowed additionally for each cargo over the total of six hours allowed for pre commencement and post completion formalities.
(iii)	Night pilots between 00.00 hrs to 06.00 hrs to be provided. As a vessel charterer we are losing considerable time on waiting for pilot at outer anchorage/inner berth. In case of non availability of pilots, the corresponding waiting time for pilot at outer ports/inner berth to be discounted in respect to that particular vessel's normative operation timings, for penalty calculations.	The waiting of vessels at outer anchorage will not impact the computation of normative berth hours. Also, Normative Berth Hours will not include: <ul style="list-style-type: none"> (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. (c). Weather related stoppages and delays.

		<p>(d). Stoppages and delays due to shifting of vessels.</p> <p>(e). Any extended stay of the ship for bunkers, repair, etc., authorized by the Port.</p>
(iv)	No penalty shall be posed even if there is poor performance of a vessel when no other tanker/vessel is waiting for berthing since it does not affect any other company or the revenues of the port.	As stated in answer to Q.1, the central objective of the berthing policy is to increase the capacity of the Port infrastructure. Hence, incentivisation of good performance and penalisation of poor performance cannot be avoided.
(v)	Additional time consideration in case of foreign vessel due to government restriction on boarding the vessel immediately on berthing to be taken into account.	The above aspects are covered under the duration of six hours allowed for pre commencement and post completion formalities, which is the modal time taken by foreign and coastal ships.
(vi)	As a PSU and considering business requirement, we have already hired vessels for certain time period without TAMP performance clause which will results loss to exchequer. Hence implementation of this proposal should be considered from a future date with sufficient notice period to oil companies, to incorporate necessary modification in charter party agreements.	As stated in answer to Q.1, normative productivity is already achieved by 43% of the ships. It has also been observed that non achievement is mainly on account of delays in cargo clearance and not due to vessel restrictions. Considering the initiatives in faster documentation and cargo testing by the oil companies, there shouldn't be any reason why the productivity norm of 650 TPH is not achieved by majority of the vessels.
