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Tariff Authority for Major Ports

G.No. 447

New Delhi,

29 November 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 disposes of the proposal received from Kolkata Port Trust seeking approval for the Performance Norm based Incentive/ Penalty for handling Edible Oil through pipeline at Haldia Dock Complex, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/59/2017-KOPT

Kolkata Port Trust

Applicant

QUORUM:

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

O R D E R

(Passed on this 14th day of November 2017)

This case relates to the proposal received from Kolkata Port Trust (KOPT) seeking approval for the Performance Norm based Incentive/ Penalty for handling Edible Oil through pipeline at Haldia Dock Complex (HDC).

2.1. The main points made by KOPT in its proposal dated 12 July 2017 are summarised below:

- (i). A substantial quantity of edible oil including Crude & RBD Palm Oil, Crude & Refined soya Bean Oil as well as Sunflower Oil is handled through HDC, primarily on account of five edible oil refineries located at Haldia. Apart from the said refineries, small parcel loads of edible oil are also imported on regular basis by various importers located in and around Kolkata.
- (ii). The edible oil handled in the past few years is as follows:

Sr. no.	Financial year	Quantity (Million MT)
1.	2014-15	1.95
2.	2015-16	2.40
3.	2016-17	2.20

The edible oil traffic through HDC is likely to increase further in the coming years.

- (iii). At present, the average productivity of Crude Palm Oil / Refined, Bleached and Deodorized (RBD) Palm Oil and Soya Bean Oil / Sunflower Oil is only 150 MT and 350 MT per hour respectively. In view of such poor output and in the absence of performance norms for handling Edible oil through pipeline at HDC in the existing Scale of Rates of KOPT, the Turnaround Time (TRT) of the edible oil vessel is high which is affecting the overall TRT of vessel at HDC. Further, poor pumping rate of such vessel has reduced the capacity utilization of the berth.
- (iv). In order to increase the pumping rate and reduce the TRT of edible oil vessel, the concerned major edible oil importers were advised in the meeting on 4 May 2017 to upgrade the necessary infrastructure through various measures to increase the pumping rate for discharging the cargo. Accordingly, it was decided that w.e.f. 1 August 2017, all stakeholders will have to ensure cargo discharge from the vessel at a Minimum Pumping rate of 250 MT per hour for vessels carrying Crude Palm Oil / RBD Palm Oil and 450 MT per hour for vessel carrying Soya Bean Oil / Sunflower Oil, failing which penal Berth hire charges will be levied on such vessels. [The copy of the Minutes of the Meeting held with the major edible oil importers on 4 May 2017 is furnished by KOPT.]
- (v). The matter of stipulating Minimum pumping rates was placed for consideration and approval of the Board of Trustees and it was sanctioned by the Board vide its Resolution no. R/279/HDC/ADMN/3/5/2017 dated 31 May 2017. [The copy of the Board Resolution dated 31 May 2017 is furnished by KOPT.]
- (vi). The norms for penalty/ incentive for failure or success in achieving the stipulated discharge rate was considered and approved by Board of Trustees.

- (vii). The proposed performance as well as penalty/ incentive norms will be effective from 1 August 2017 for 1 year from its introduction and will be reviewed thereafter.
- (viii). If any ship is performing poorly and failing to achieve the Benchmark productivity in two consecutive voyages due to reasons attributable to the ships then the said ship will not be accepted by the KOPT and the same will be informed to the Trade.

2.2. Accordingly, the KOPT has sought approval for insertion of the following provision in the existing SOR (notified vide Order no. TAMP/23/2016-KOPT dated 12 January 2017) under Section 21.6 with the title "Performance as well as Productivity / Incentive Norms for handling Edible oil through pipeline at HDC"

"

(i). Performance Norms

The ships carrying Crude Palm Oil / RBD Palm Oil shall have to achieve cargo discharge at a Minimum Pumping Rate of 250 MT per hour and the ship carrying Crude Degummed Soya Bean / Sunflower Oil shall have to achieve cargo discharge at a Minimum Pumping rate of 450 MT per hour, failing which penal Berth hire charges will be levied on such vessels.

(ii). Penalty / Incentive Norms

For the purpose of calculation of the productivity, the working time of the vessel will be calculated from haul in time till completion of cargo work. For failure or success in achieving the stipulated discharge rate, penalty/ incentive will be applicable as follows:

- (a). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours or less, then no penalty will be levied.
- (b). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours, then penalty will be levied @ 2 times of the normal berth hire charge for every additional hours or part thereof taken to complete the cargo operations of the vessel.
- (c). In case the average pumping rate of the ship exceed the bench mark level and working time of the vessel (considering hauled in time till completion of cargo work) is lower than the stipulated time by more than 2 hours, then incentive will be paid @ 5% of the applicable berth hire charges for every additional hour saved. However, there will be no incentive for saving of time up to 2 hours.

Note to provisions regarding Penalty/ Incentive Norms:

- (i). For calculation of the stipulated working period in hours the cargo tonnage will be divided by the Pumping Rate Norms and the same will be compared with the actual working period of the ship to be ascertained from the operational records.
- (ii). For non-achievement of the performance as stated at (i) above, the penalty will be imposed on the ship's owner / agent. Similarly, for achieving higher performance, the incentive will be paid at the proposed rate to the ship owner/ agent.
- (iii). The Performance and Penalty / Incentive Norms as specified above will be effective from 1 August 2017.

- (iv). The proposed Performance as well as Penalty / Incentive Norms will be valid for 1 year from its introduction and will be reviewed thereafter.”

3. In accordance with the consultative procedure prescribed, a copy of the KOPT proposal dated 12 July 2017 was forwarded to the concerned users/ user organisations vide our letter dated 20 July 2017, seeking their comments. Some of the users/ user organisations have furnished their comments after the joint hearing. The said comments were forwarded to the KOPT as feedback information. The KOPT has responded vide its letter dated 14 September 2017.

4. Based on a preliminary scrutiny of the proposal, the KOPT was requested vide our letter dated 7 August 2017 to furnish additional information/ clarifications on few points. The KOPT has responded vide its letter dated 30 August 2017. The information/ clarification sought by us and the response of KOPT thereon are tabulated below:

Sl. No.	Clarification sought by us	Reply of KOPT
(i).	As against the present productivity of 150 MT per hour in respect of Crude Palm Oil/ RBD Palm Oil and 350 MT per hour in respect of Soya Bean Oil/ Sunflower Oil, the KOPT has proposed a productivity norm of 250 MT per hour in respect of Crude Palm Oil/ RBD Palm Oil and 450 MT per hour in respect of Soya Bean Oil/ Sunflower Oil, failing which levy of penal berth hire charges on vessels has been proposed by the Port. In this connection, the basis to arrive at the proposed productivity norm of 250 MT per hour in respect of Crude Palm Oil/ RBD Palm Oil and 450 MT per hour in respect of Soya Bean Oil/ Sunflower Oil to be explained.	<p>It is found on record that productivity for as many as 13 CPO/RBD Palm oil ships and 4 soyabean oil ships yielded was more than the proposed norms of 250 MT and 450 MT per hour respectively in the F.Y. 2016-17. Besides, 9 CPO/ RBD palm oil ships almost achieved the proposed productivity norms in the same year.</p> <p>Similarly, during the period F.Y. 2017-18 till July 2017, 5 CPO / RBD palm Oil ships and 2 soyabean oil ships have achieved productivity more that the proposed norm; whereas, 8 CPO/ RBD palm oil ships and 1 soyabean oil ship had almost reached the proposed productivity norms.</p> <p>[The ship wise productivity as explained above has been furnished by KOPT.]</p> <p>In case of handling of edible oil vessels at HDC, Port has virtually no role in operations and the entire operational arrangement are made and executed by the importers / exporters and the vessels. During the discharge operation, several deficiencies on the part of the concerned stakeholders are regularly being noticed, which are adversely affecting the productivity. It is felt that if necessary actions are taken by the importers/ exporters and or the vessel in close co-ordination with each other, then the proposed productivity level can be easily achieved.</p> <p>To address various issues involved during handling of edible oil vessels, a meeting was held on 4.05.2017 between port and all the major stakeholders of edible oil trade where the deficiencies affecting the productivity and the remedial actions were discussed at length. After detailed deliberations, the productivity norms of 250 MT per hour for CPO/ RBD palm oil ships and 450 MT per hour for soyabean / sunflower oil ships were decided, which were agreed by all the stakeholders. Further, all the stakeholders agreed to take the following actions for achieving the proposed productivity norms:</p> <p>(a). Reduction of the time for initial, interim and final ullage survey of the vessel.</p> <p>(b). Installation of booster pumps during the discharge operation to increase the pumping rate.</p> <p>(c). To import cargo in separate tanks of the vessel on account of different receivers.</p> <p>(d). Utilisation of multiple manifolds and pipelines for simultaneous discharge account multiple receivers.</p> <p>(e). To reduce the pigging time to less than two hours per Imports / Receivers by installing high capacity compressors.</p> <p>(f). To maintain adequate temperature of the vessels tanks throughout the entire voyage of the vessel carrying CPO/ RBD palm oil.</p>

(ii).	<p>Increase in the productivity will reduce the turnaround time (TRT) of the vessels and in turn, will enable the KOPT to handle more cargo in future. The additional revenue that would be generated from handling of more cargo in future to be quantified.</p>	<p>It may be pertinent to mention that as against the projection of 2.35 MMT of edible oil at HDC for the F.Y. 2017-18, 0.9 MMT cargo has already been handled from April 17 to July 17 thus indicating an annual throughput of 2.7 MMT for the F.Y. 2017-18. The market condition, and the volume of edible oil cargo will increase gradually during subsequent years. The only way to accommodate the incremental volume of cargo and ships can be through productivity enhancement by removing the deficiencies which are unnecessarily wasting working time as well as by improving pumping rates. Accordingly, the aforesaid action plan has been taken with the consent of the users.</p> <p>The estimated additional cargo and number of ships which may be handled after implementation of the proposed productivity norms is summarised below (considering the edible oil cargo volume and its trend at HDC< KOPT during the first four months of the current fiscal (2017-18).</p> <table border="1" data-bbox="595 680 1380 981"> <thead> <tr> <th>Cargo</th> <th colspan="4">Ships worked at HDC during April 17 to July 17</th> <th colspan="2">Estimates considered proposed productivity norms</th> <th>Differential time available in 4 months (in Hr.)</th> <th>Differential time available in 12 months (in Hr.)</th> <th>Additional quantity cargo that can be handled during twelve months period (in MT)</th> <th>Average parcel size of ship during April 17 to July 17 (in MT)</th> <th>Assessed incremental no. of ships in twelve months period (in MT)</th> </tr> <tr> <th>(A)</th> <th>(B)</th> <th>(C)</th> <th>(D)</th> <th>(E)</th> <th>(F)=(C)/(E)</th> <th>(G)=(D) - (F)</th> <th>(H) = (G)*3</th> <th>(I) = (H)*(E)</th> <th>(J)=(C)/(B)</th> <th>(K)=(I)/(J)</th> </tr> </thead> <tbody> <tr> <td>CPO/RBD Palm Oil</td> <td>74</td> <td>523247</td> <td>3241</td> <td>250</td> <td>2092.9</td> <td>1147</td> <td>3441</td> <td>860250</td> <td>7071</td> <td>122</td> </tr> <tr> <td>Soyabean Oil/ Veg. Oil</td> <td>25</td> <td>368821</td> <td>125</td> <td>450</td> <td>816.6</td> <td>435.6</td> <td>1306.8</td> <td>588060</td> <td>14753</td> <td>40</td> </tr> </tbody> </table> <p>Thus, it is seen from the above that if the proposed performance norms is implemented, handling of 162 additional vessels of edible oil cargo can be possible annually. However, due to lock as well as tidal constraint handling of the said additional vessels may not be practicable and therefore, handling of 50% of the above additional vessels i.e. 81 vessels (61 CPO/RBD) and 20 soyabean/ sunflower) can be achieved through productivity enhancement.</p> <p>[The particulars of edible oil ships handled during 2016-17 and from April 2017 to July 2017 is furnished by KOPT.]</p> <p>The calculation in respect of incremental revenue as furnished by KOPT is as follows:</p> <p>Calculation of annual additional income from additional handling of Vegetable oil:</p> <table border="1" data-bbox="595 1406 1380 2040"> <thead> <tr> <th>Edible oil</th> <th>CPO</th> <th>Soyabean Oil</th> </tr> </thead> <tbody> <tr> <td>Incremental cargo (in MMT) (assuming to be foreign)</td> <td>0.43</td> <td>0.29</td> </tr> <tr> <td>No. of Vessels to handle (assuming in foreign run)</td> <td>61</td> <td>20</td> </tr> <tr> <td>Average GRT of Vessels</td> <td>10000</td> <td>25000</td> </tr> <tr> <td>Average dollar rate</td> <td>65</td> <td>65</td> </tr> <tr> <td>Average stayal (in hours)</td> <td>30</td> <td>34</td> </tr> <tr> <td>Income from handling of cargo (₹ in lakhs)</td> <td>268.27</td> <td>183.39</td> </tr> <tr> <td>Income from Marine related charges (₹ in lakhs)</td> <td></td> <td></td> </tr> <tr> <td>Pilotage</td> <td>338.90</td> <td>277.79</td> </tr> <tr> <td>Berth hire</td> <td>47.34</td> <td>43.98</td> </tr> <tr> <td>Port Dues</td> <td>189.59</td> <td>155.41</td> </tr> <tr> <td></td> <td>575.84</td> <td>477.17</td> </tr> <tr> <td>Total handling & Marine Income (₹ in lakhs)</td> <td>844.11</td> <td>660.56</td> </tr> </tbody> </table>	Cargo	Ships worked at HDC during April 17 to July 17				Estimates considered proposed productivity norms		Differential time available in 4 months (in Hr.)	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		Total income from additional handling of CPO and Soyabean Oil (₹ in lakhs)	1505
(iii).	In this connection, it may be recalled that during the general revision of tariff of KOPT in the year 2016, a revenue gap between the Ceiling indexed annual Revenue Requirement (ARR) and the Estimated Revenue at Proposed level of Tariff was at ₹ 386.33 crores. The KOPT to confirm that the additional revenue to be earned by the Port due to increased traffic would be within the revenue gap so emerged.	Considering the current wharfage rate of ₹. 62.37 per MT and Marine charges, the estimated cargo and marine income from handling of the said additional 4.30 lac MT of CPO / RBD Palm Oil (61 vessels) and 2.94 lakhs MT of Soyabean Oil / Veg. Oil (20 vessels) comes to ₹. 15.05 Crore (approx.), which is far lower than the revenue gap of ₹. 386.33 crore. In view of the above, it is confirmed that the additional revenue that may be earned by KOPT due to estimated increase in traffic due to expected increase in productivity will still be substantially lower than the revenue gap of ₹. 386.33 crore. Further it may be stated that the proposed performance norms will reduce the average TRT of vessels which is one of the primary objections of the Ministry as well as NITI Aayog.	

5. A joint hearing on the case in reference was held on 31 August 2017 at the KOPT premises in Kolkata. At the joint hearing, the KOPT made a brief power point presentation of its proposal. The KOPT and the users/ user organisations have made their submissions, at the joint hearing.

6. 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>

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

- (i). The present productivity of Edible oil vessels at Haldia Dock Complex (HDC) of Kolkata Port Trust (KOPT) is reported to be poor, which is resulting in higher Turnaround Time (TRT) of the edible oil vessels, which in turn is reducing the capacity utilization of the berth. Therefore, with a view to improve the TRT of the Edible Oil Vessels and thereby increase the utilization of the berth, the KOPT has come up with a proposal seeking approval for the Performance Norm based Incentive/ Penalty for handling Edible Oil through pipeline at HDC. The proposal of KOPT has the approval of its Board of Trustees.

In this connection, reference is drawn to the Berthing Policy for Dry Bulk Cargo for Major Ports issued by the Ministry of Shipping (MOS) in June 2016, which 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 and institute penalties and incentives linked to the performance norms. Though the said Policy is applicable only for the dry bulk commodities, the KOPT, flowing from the said Policy, has taken initiative to prescribe Performance Norm based Incentive/ Penalty for handling of Liquid cargo viz., Edible Oil at HDC. The HDC deserves to be complemented in this regard.

- (ii). The submissions made by KOPT in its proposal of July 2017 alongwith the information/ clarification furnished by KOPT during the processing of the case in reference, are considered in this analysis.
- (iii).
 - (a). The present productivity in respect of Crude Palm Oil/ RBD Palm Oil at HDC is reported by KOPT to be 150 MT per hour and that of Soya Bean Oil/ Sunflower Oil is reported to be 350 MT per hour. In this backdrop, the proposal of the port is to prescribe a Minimum Pumping Rate of 250 MT per hour for the ships carrying Crude Palm Oil/ RBD Palm Oil and a Minimum Pumping rate of 450 MT per hour for the ships carrying Crude Soya Bean/ Sunflower Oil, at the time of cargo discharge. The proposed Minimum Pumping Rate is based on the productivity achieved/ almost achieved by certain number of vessels in the recent past at HDC.
 - (b). With regard to the proposed productivity levels, it is to state that prior to the submission of the proposal, the KOPT, at the port level had held a meeting with the relevant stakeholders, apprising them regarding the proposal. As per the Minutes of the Meeting furnished by KOPT alongwith its proposal, it is seen that the users during the said meeting held by KOPT have agreed on the Minimum Pumping Rate as proposed by KOPT. However, in the joint hearing held by this Authority as part of the consultative process, all the users have objected to the proposed pumping rates mainly on the ground that it is difficult to achieve the proposed pumping rates due to the small size of the Vessels visiting Haldia having less Booster pump capacity.
 - (c). In this regard, it is relevant here to mention that from the statistics furnished by the KOPT for the period from April 2016 to July 2017, it can be seen that there are occasions when the vessels have surpassed the productivity norms proposed by KOPT in respect of Crude Palm Oil/ RBD Palm Oil and Soya Bean Oil/ Sunflower Oil vessels. There are also instances when the vessels have almost achieved the proposed productivity norms. Further, according to KOPT, if the existing operational deficiencies/ constraints being faced during the discharge operation on the part of the importers/ exporters and of the vessel are fixed, then the proposed productivity levels can be easily achieved.
- (iv). In the current scenario, where there are general talks about the Indian ports taking a good long time to turnaround the Vessels and the initiative of the Government to reduce the turnaround time of the vessel at the Indian ports, the proposal of the KOPT, to prescribe higher productivity norms, resulting in faster turnaround of the Vessels and optimum utilisation of the berths, is seen to be in the right direction. As confirmed by KOPT, with the fixing of the operational glitches, the proposed productivity levels can be easily achieved. Infact, some of the vessels have achieved/ nearly achieved the proposed productivity norms. Considering the submissions made by KOPT and the proposal is having the approval of the Board of Trustees of KOPT, this Authority is inclined to approve the proposal of the port.
- (v). Alongwith the productivity norms, the KOPT has also proposed incentive/ penal provisions in the event of achievement/ non-achievement of the productivity norms. In this connection, the port has proposed notes to the effect of non-levy of penalty in the event if the working time of the vessel exceeds the stipulated time based on the above referred productivity norms by 2 hours or less, levy of penalty @ 2 times of the normal berth hire charge for every additional hour if the working time of the vessel exceeds the stipulated time based on the above productivity norms by 2 hours and also grant of incentive @ 5% of the applicable berth hire charges for every additional hour saved in the event the average pumping rate of the ship exceeds the bench mark level and working time of the vessel is lower than the stipulated time by more than 2 hour. Considering that the Board of Trustees has approved the penal/ incentive provisions and since none of the users have objected to the penal/ incentive provisions proposed by the Port, this Authority is inclined to approve the proposed notes.

- (vi). The KOPT has also proposed notes to the effect that for calculation of the stipulated working period in hours the cargo tonnage will be divided by the Pumping Rate Norms and the same will be compared with the actual working period of the ship to be ascertained from the operational records and that for non-achievement of the performance, the penalty will be imposed on the ship's owner / agent and that for achieving higher performance, the incentive will be paid at the proposed rate to the ship owner/ agent. Since the proposed notes give clarity on the implementation aspects relating to the levy of penalty/ grant of incentive, the proposed notes are also approved.
- (vii). Increase in the productivity will reduce the turnaround time of the vessels and in turn, will enable the KOPT to handle more cargo in future, thereby resulting in additional revenue to the port, which may not have been anticipated during the general revision of tariff of KOPT in November 2016. Since the additional income estimated to be earned by KOPT has not been anticipated and factored while deciding the general revision proposal of KOPT disposed in 2016, there may be a view that some other rate should be adjusted to maintain revenue neutral position.

In this regard, it is relevant here to mention that the question of ensuring a revenue neutral position arises when a port has already been given tariff whatever is due to it, based on the estimated cost position and thereafter it is to be again granted a new tariff. However, in the case of KOPT, it may be recalled that in the general revision Order of KOPT passed by this Authority in November 2016, a revenue gap to the tune of about ₹ 383 crores, has been left uncovered by the Port. The additional revenue that would be generated from handling of more cargo in future as estimated by KOPT at ₹ 15.05 crores, would get subsumed in the revenue gap and would not lead to any undue advantage to KOPT.

- (viii). As brought out earlier, the KOPT proposal under reference has been received in July 2017. In the said proposal, the KOPT has proposed that Performance norms and Penalty/ Incentive Norms will be effective from 1 August 2017. As per Clause 5.7.1 of the Working Guidelines issued to operationalise the Tariff Policy, 2015, whenever a specific tariff for a service/ cargo is not available in the Scale of Rates of the particular port or any other major port, then the port may file the proposal for notification of tariff for the said new cargo/ service. Further, as per Clause 5.7.3 and 5.7.4 of the Working Guidelines, with the submission of proposal, the port can simultaneously levy the proposed rate on an ad hoc basis in consultation with the concerned users, till the rate is finally notified. In this regard, as already stated earlier, prior to the submission of the proposal, the KOPT, at the port level had held a meeting with the relevant stakeholders, apprising them regarding the proposal. As per the Minutes of the Meeting furnished by KOPT along with its proposal, it is seen that the users during the said meeting held by KOPT have, inter alia, agreed for the implementation of the proposed Minimum Pumping Rate along with the provisions of the incentives/ penalties with effect from 01 August 2017, pending approval of this Authority. Considering that the proposal of the port for implementation of the Minimum Pumping Rate along with the provisions of the incentives/ penalties with effect from 01 August 2017 is in consultation with the users, this Authority is inclined to approve the performance norms along with the provisions of the incentives/ penalties with effect from 01 August 2017.

In this connection, reference is drawn to the submissions made by one of the users viz., Seaport Service Private Limited (SSPL), during the proceedings of the case in reference. The SSPL is of the view that since this Authority has not approved the performance norms and the incentive/ penalty, the KOPT cannot implement these provisions without TAMP approval and has, therefore, requested for refund of the amount collected by KOPT from them since 01 August 2017. In this regard, it is to state that implementation of the provisions by KOPT with effect from 01 August 2017 is in line with the stipulations contained in the Working Guidelines. Infact, SSPL was also part of the meeting held by KOPT with the stakeholders, as

discussed earlier. Considering that this Authority is inclined to recognise the implementation of the Minimum Pumping Rates along with the provisions of the incentives/ penalties with effect from 01 August 2017, as proposed by the KOPT, the question of any refund by KOPT to any of the parties does not arise.

- (ix). The KOPT has sought approval for implementation of the Minimum Pumping Rate along with the provisions of the incentives/ penalties for a period of one year from 01 August 2017. The KOPT has expressed its desire to review the performance norms thereafter. Based on the request made by the Port, this Authority is inclined to grant approval for implementation of the Minimum Pumping Rate along with the provisions of the incentives/ penalties for a period of one year i.e. upto 31 July 2018.
- (x). One of the stakeholders viz., Association of Shipping Interest in Calcutta (ASIC) is of the view that since the Receivers and the Handling Agents are responsible for the speedy discharge of all cargo coming to the Port, the Penal Berth Hire charge is directed to the Receivers of the cargo and not on the Vessel or its Agents. The KOPT has not commented on the submissions made by ASIC in the proceedings under reference. However, it is observed during the proceedings of the case that the productivity of edible oil would depend on the size of the vessels calling HDC as well as pumping capacity of the booster pumps. Therefore, it is reasonable that the vessel is rewarded for efficiency or penalized for inefficiency.

8.1. In the result, and for the reasons given above, and based on collective application of mind, incorporation of following new Section 21.6 under Part – VI - Vessel related Charges for Vessel engaged in Foreign Trade & Vessel Engaged In Coastal Trade, in the existing Scale of Rates of KOPT, is approved:

“

S.21.6 Performance as well as Productivity / Incentive Norms for handling Edible oil through pipeline at HDC.”

(i). Performance Norms

The ships carrying Crude Palm Oil / RBD Palm Oil shall have to achieve cargo discharge at a Minimum Pumping Rate of 250 MT per hour and the ship carrying Crude Degummed Soya Bean / Sunflower Oil shall have to achieve cargo discharge at a Minimum Pumping rate of 450 MT per hour, failing which penal Berth hire charges will be levied on such vessels.

(ii). Penalty / Incentive Norms

For the purpose of calculation of the productivity, the working time of the vessel will be calculated from haul in time till completion of cargo work. For failure or success in achieving the stipulated discharge rate, penalty/ incentive will be applicable as follows:

- (a). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms by 2 hours or less, then no penalty will be levied.
- (b). If the working time of the vessel (considering hauled in time till completion of cargo work) exceeds the stipulated time based on the above productivity norms beyond 2 hours, then penalty will be levied @ 2 times of the normal berth hire charge for every additional hours or part thereof taken to complete the cargo operations of the vessel.
- (c). In case the average pumping rate of the ship exceeds the bench mark level and working time of the vessel (considering hauled in time till completion of cargo work) is lower than the stipulated time by more than 2 hours, then incentive will be paid @ 5% of the

applicable berth hire charges for every additional hour saved. However, there will be no incentive for saving of time up to 2 hours.

Note to provisions regarding Penalty/ Incentive Norms:

- (i). For calculation of the stipulated working period in hours the cargo tonnage will be divided by the Pumping Rate Norms and the same will be compared with the actual working period of the ship to be ascertained from the operational records.
- (ii). For non-achievement of the performance as stated at (i) above, the penalty will be imposed on the ship's owner / agent. Similarly, for achieving higher performance, the incentive will be paid at the proposed rate to the ship owner/ agent.
- (iii). The Performance and Penalty / Incentive Norms as specified above will be effective from 1 August 2017 and will be valid for 1 year upto 31 July 2018 and will be reviewed thereafter.”

8.2. The KOPT is advised to suitably incorporate the above provisions in its Scale of Rates.

8.3. The said provisions are made effective for a period of one year from 01 August 2017 upto 31 July 2018. The approval accorded shall automatically lapse unless, specifically extended by this Authority.

8.4. As agreed by the Port, the Minimum Pumping Rate of 250 MT per hour for ships carrying Crude Palm Oil / RBD Palm Oil and 450 MT per hour for ships carrying Crude Soya Bean / Sunflower Oil, shall be reviewed by the Port and therefore, the KOPT is advised to file a suitable proposal for the period beyond 31 July 2018, atleast 2 months prior to the expiry of validity of these provisions.

(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.

F. No. TAMP/59/2017-KOPT	Proposal from Kolkata Port Trust for approving the Norms of Performance as well as Productivity / Incentive for handling Edible Oil through pipeline at HDC.
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A summary of comments received from the users and the response of KOPT thereon is tabulated below:

Sr no.	Comments of users / user organization	Reply of KOPT
1. 2. 3. 4.	<p>Adani Wilmar Ltd., Gokul Refoils Solvents Ltd., Ruchi Soya Industries Ltd. and Ruchi Infrastructure Ltd</p>	
	<p>At present the discharge rate of approx. 150.00 to 175.00 MT/ Hour for CPO and 250.00 MT/ Hour of CDSBO from various types of vessels is being carried out at Haldia port. The nomination of vessels by suppliers totally depends on the availability of limited low draft for Haldia port being a riverine port and also HDC lock gates restrictions for CPO vessels in particular, we are not able to achieve more than the above discharge rate. However, we ensure that we will try to increase the productivity.</p> <p>Since the edible oil being an essential commodity is used for common man purpose, Government of India wants to control price on the same. As such, any extra charges imposition on cost will increase the inflation which will hamper common man's daily life.</p>	<p>The main objective of fixation of the Performance as well as penalty / incentive norms is to reduce the TRT of the edible oil vessels, which is very high at Haldia, at the moment, primarily due to the poor quality of the vessels, poor pumping rate, non-availability of ullage as well as poor infrastructure of the receivers like pipelines, compressor etc.</p> <p>Due to the increased TRT, the edible oil Importers are required to pay huge demurrage in foreign currency, which is ultimately increasing the price of the edible oil for the end consumers.</p> <p>Since the edible oil is an essential commodity, effort should be made at all levels for maintaining its price for the end users at the lowest level possible.</p>
5.	<p>Association of shipping Interest in Calcutta (ASIC)</p>	
	<p>As conveyed in the above joint hearing with regard to Penal Berth Hire charge, ASIC wants to lay emphasis that all cargoes coming to the Port of Haldia are on Free Out Terms and the Receivers and their Handling Agents are responsible for the speedy discharge, as per the terms and conditions set out in the respective Charter Parties.</p> <p>As the Port is setting up their own bench marks for the rate of discharge, ASIC presumes that the same is in concurrence with the Trade and the necessary infrastructure set up at the Port.</p> <p>The Vessel / their Agents are not a party to the same.</p> <p>Therefore, it is requested that the Penal Berth Hire charge may be directed to the</p>	<p>It has been discussed at various forums as well as at various levels that in India, the logistics cost for import/ export is very high compared to International standard, which is ultimately increasing the price of end products.</p> <p>Therefore, it is essential to reduce the logistic costs for handling of edible oil, which is possible through reducing TRT. Incidentally, at Haldia, which is a riverine port, the TRT of the vessels is already significantly high compared to the Sea Ports due to the natural constraints like long navigational channel as well as arrival/ sailing of vessels during tide only.</p> <p>To overcome these natural constraints, the operational efficiency at the port is</p>

	Receivers of the cargo, as they are also stakeholders of the port.	required to be increased for which the importers are required to upgrade their infrastructure facilities and insist on the suppliers for providing good quality of ships having better pumping rate.																				
6.	Emami Agrotech Ltd																					
	<p>As already discussed in the meeting, the maximum possible discharge rate of CPO may range between 160 MT to 180 per hour depending on the quality of vessel and weather conditions at Haldia Port.</p> <p>As the larger size vessel with full load cannot be accommodated at Haldia Port due to Draft limitation at Haldia and pumping rate of vessel depends on foreign suppliers based on their convenience and availability of vessel suitable for haldia port.</p> <p>Hence, the discharge rate per hour is beyond control inspite of we putting the boosting pumps for discharge of oil and larger capacity compressors for pigging.</p> <p>Similarly, the applicable discharge rate per hour for CDSBO and 200 MT/Hr to 250 MT per hour in case of discharge from single vessel however in case of common cargo discharge facility may range between 350 to 400 MT per hour taking into consideration all relevant factors and based on past experience of years.</p>	<p>Incidentally, at present, the suppliers are not interested to provide good quality ships, as the TRT of the vessel is very high. If the productivity is increased and thereby, TRT is reduced, then suppliers will also be interested in providing good quality of vessels.</p> <p>In view of the above, it is felt that the proposal of KOPT for fixing performance as well as penalty/ incentive norms for edible oil vessels is justified and TAMP may kindly consider the same for approval.</p> <p>In this regard, it is further submitted that with the approval of the Board, KOPT has already introduced the proposed performance as well as penalty / incentive norms W.E.F. 1 August 2017 which may also be allowed to continue.</p>																				
7.	Seaport Service Pvt Ltd (SSPL) (page no. 187-188/C)																					
	<p>SSPL requested to consider the following</p> <p>COMPARATIVE SCENARIO – East Coast India Major Ports</p> <table border="1"> <thead> <tr> <th>Port</th> <th>Distance of Terminal from Jetty</th> <th>Draft availability</th> <th>Performance Norm</th> </tr> </thead> <tbody> <tr> <td>Vizag</td> <td>0.5 – 1 KM</td> <td>10 M</td> <td>5489 MT per day (228.71 per hour)</td> </tr> <tr> <td>Chennai</td> <td>0.8 – 1.5 KM</td> <td>8.5 – 16.5 M</td> <td>4000 MT per day (166.67 per hour)</td> </tr> <tr> <td>Tuticorin</td> <td>Tank Lorry Discharge</td> <td>9.3 – 10.7 M</td> <td>4000 MT per day (166.67 per hour)</td> </tr> <tr> <td>Haldia</td> <td>4.5 – 9 KM</td> <td>Fresh Water Draft Monsoon : 7.3 – 8.6 M Winter : 6.5 – 8.1 M</td> <td></td> </tr> </tbody> </table> <p>AVERAGE DISCHARGE RATE ACHIEVED – Haldia – July 2017</p> <p>Palm Oil : 186.15 MT per hour Max as observed from vessels during July 2017</p>	Port	Distance of Terminal from Jetty	Draft availability	Performance Norm	Vizag	0.5 – 1 KM	10 M	5489 MT per day (228.71 per hour)	Chennai	0.8 – 1.5 KM	8.5 – 16.5 M	4000 MT per day (166.67 per hour)	Tuticorin	Tank Lorry Discharge	9.3 – 10.7 M	4000 MT per day (166.67 per hour)	Haldia	4.5 – 9 KM	Fresh Water Draft Monsoon : 7.3 – 8.6 M Winter : 6.5 – 8.1 M		
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<p>Soyabean Oil : 304.38 MT per hour max as observed during January – July 2017 The calculation is based only basis discharge time, excluding pre and post discharge Procedure / documentation, shore line pigging etc.</p> <p>View above, Performance Norm may please be considered as follows, which is in line with the suggestions from Importers M/s Adani, M/s Emami and M/s Ruchi : Palm Oil : 150 MT per hour Max Soyabean Oil : 250 MT per hour max</p> <p>PENAL BERTH CHARGED FOR OUR VESSELS CALLED AT HALDIA – during August 2017 For our Following vessels called at Haldia during August 2017, to discharge Palm Oil / Soyabean Oil, Penal berth Hire has been charged in the Port Bill :</p> <ol style="list-style-type: none"> 1. MT Armonia V.1709; VCN NO. : HAL11700881 2. MT Da Young V.DY1712A; VCN NO. : HAL11700836 3. MT Delta Sea V.1711; VCN NO. : HAL11700825 4. MT Gandawati V.1711; VCN NO. : HAL11700819 5. MT Kappa Sea V.1709; VCN NO. : HAL11700831 6. MT Miss Marina V.1705; VCN NO. : HAL11700821 7. MT Theresa Aries V.09/17; VCN NO. : HAL11700854 <p><u>SSPL requested to consider to reverse such Penal Berth Hire Charges,</u> view pending Final Decision on Performance Norm.</p>	
<p>Subsequently, the SSPL vide its e-mail dated 26 September 2017 addressed to KOPT with a copy endorsed to us has made the following submissions to KOPT:</p> <p>(i). HDC is charging vessel Agents on penal berth charges for the vessels called at Haldia during the month of August to till date i.e. 25th September 2017 without the approval of TAMP .</p> <p>(ii). We have represented before TAMP & HDC- KOPT on the joint hearing held on 31st August at KOPT, where TAMP has given us time to respond.</p> <p>(iii). We have submitted our views on.04.09.2017 and further on 07.09.2017</p>	

	<p>and now we are eagerly waiting for the TAMP's decision regarding the penal berth charges.</p> <p>(iv). We the vessel agents and importers once again request KOPT not to charge the penal berth hire charges unless TAMP approves.</p> <p>(vi). It may be noted that neither Importers nor Agents have agreed to the discharge rate set for Edible oil vessels calling at Haldia, but ensured to achieve maximum discharge rate through pipelines by the importers.</p>	
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2. A joint hearing on the case in reference was held on 31 August 2017 at the KOPT premises in Kolkata. At the joint hearing, the KOPT made a brief power point presentation of its proposal. The KOPT and the users/ user organisations have made the following submissions at the joint hearing:

Kolkata Port Trust

- (i). Since five edible oil refineries are located at Haldia, a substantial quantity of edible oil is handled through HDC. It is a major cargo at HDC.
- (ii). The current average productivity of Palm Oil is only 150 MT and that of Soya Bean Oil/ Sunflower Oil is only 350 MT per hour. Due to this poor output, the Turnaround Time (TRT) of the edible oil vessel is high. Also, the pumping rate of such vessel is poor. This is affecting the overall TRT of vessel at HDC. Ministry of Shipping (MOS) and NITI Aayog emphasize reduction in TRT.
- (iii). We have handled more than 2 million tonnes of Edible oil in the past three years and in the next two years we anticipate to handle about 3 million tonnes of edible oil.
- (iv). We held discussions with our major edible oil importers and it was decided that a Minimum Pumping rate of 250 MT per hour for vessels carrying Crude Palm Oil / RBD Palm Oil and 450 MT per hour for vessel carrying Soya Bean Oil / Sunflower Oil will have to be ensured, failing which penal Berth hire charges will be levied on such vessels.
- (v). Further, it was also discussed that in the event if the working time of the vessel exceeds by 2 hours or more, then penalty will be levied @ 2 times of the normal berth hire charge for every additional hour taken and in the event the working time of the vessel is lower by 2 hours or more, incentive will be paid @ 5% of the applicable berth hire charges for every additional hour saved. However, there is no incentive for saving of time up to 2 hours and likewise no penalty if the working time of the vessel exceeds upto 2 hours.

- (vi). We have implemented the proposed performance as well as penalty/ incentive norms with effect from 1 August 2017.
- (vii). The implementation of the above provisions will reduce in the TRT of the vessels, handling of additional cargo at berths and in turn additional revenue to the tune of about ₹ 15 crores per annum.
- (viii). By taking some of the remedial actions, most of the Palm oil vessels have achieved an output of 200 MT/ hour and the Soya Oil vessels have achieved an output of 400 MT/ hour.
- (ix). However, in some of the cases, the pumps and heaters are not working. These issues will have to be sorted out and suitable remedial actions will have to be taken by the receiver of the cargo. They should take up the issues with the vessels. Demurrage of vessels can be avoided.
- (x). Since 80% of the productivity has been achieved and with other remedial actions, the proposed output norm is definitely achievable.
- (xi). The Edible oil Vessels visiting Haldia are old. Though they have to be condemned, we are still accommodating those vessels.
- (xii). Based on the request made by the users in May 2017 they have been given 3 months time to change the vessel pattern.
- (xiii). We have also taken steps to reduce the waiting time of the Vessels.
- (xiv). Though the TRT has reduced, it has to be further reduced as advised by the Ministry.
- (xv). I request the Trade to support the proposal in a positive way. Both Trade and Port can benefit.

Emami Agrotech Limited (EAL)

- (i). The output of 250 MT per hour for vessels carrying Palm Oil and 450 MT per hour for vessels carrying Soya Oil is difficult.
- (ii). In the small vessels of 5000 / 6000 Tonne visiting Haldia the Booster Pump capacity is less.
- (iii). According to us, 175 MT per hour for Palm Oil and around 350-375 MT per hour for Soya Oil is achievable.

Adani Wilmar Limited (AWL)

- (i). We agree with the submissions made by EAL.

Ruchi Soya

- (i). Haldia is the last port of call. Hence, the edible oil in the Vessel would have already been in the Vessel for about 45 days. The constant temperature maintenance of edible oil in the vessel, affects the quality of edible oil coming to Haldia. Also, soyabean vessels visiting Haldia are of maximum 20000 tonnes, which do not have a high pumping rate. We get 200 to 250 tonne per hour pumping rate. Maximum is 300. CPO vessels hired by shippers are small vessels. We get 150 tonne pumping rate.
- (ii). With the above factors, it is difficult to achieve the output as proposed by the KOPT.

Seaport Services Pvt Ltd

- (i). We agree with the views of Emami and others. For Palm Oil, achieving a discharge rate of 150-175 MT per hour is itself very difficult. Even for Soya Oil, achieving of 300 MT per hour is doubtful.
- (ii). In Chennai Port, the discharge rate of Palm oil is 125 MT per hour.
- (iii). Though TAMP has not approved the performance norms and the incentive/ penalty, the KOPT has already implemented it. KOPT cannot implement without TAMP approval. We request for refund of the amount collected from us based on the above provisions.

Gokul Refoils

- (i). The edible oil coming to Haldia is solidified. It takes about 4-6 hours for de-solidification of edible oil. The output proposed by the port, is therefore, difficult to achieve.

ASIC

- (i). The cargo interest should bear the brunt of the lower output; penalty to be imposed on the vessels is unfair.
