

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 170

New Delhi, 13 October 2004

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 the proposal received from the South West Port Limited for fixation of rates for its multipurpose bulk cargo terminal at the Mormugao Port as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/22/2004-MOPT

The South West Port Limited (SWPL)

- - - -

Applicant

ORDER

(Passed on this 30th day of September 2004)

This case relates to a proposal received from the South West Port Limited (SWPL) for fixation of rates for its multipurpose bulk cargo terminal at berth Nos.5A and 6A at the Mormugao Port Trust (MOPT).

2.1. The SWPL has made the following submissions:

- (i). SWPL formerly known as ABG Goa Port Ltd. is a Special Purpose Vehicle (SPV) company promoted by ABG Heavy Industries Ltd. The port company has entered into a License Agreement (LA) with the Mormugao Port Trust (MOPT) on 11 April 1999 for development, construction, operation and maintenance of two dedicated multipurpose berths 5A and 6A on Built, Own, Operate and Transfer (BOOT) basis for 30 years.
- (ii). The proposed 5A and 6A berths have a total length of 450 M and have been designed and constructed for bringing in cape size vessel upto 150,000 DWT. It is proposed to handle dry bulk cargo like Coal, Coke, Limestone, Iron Ore, Steel products, Cement and Cement products etc., on these berths.
- (iii). The license agreement stipulates a minimum guarantee throughput of 5 million MT per annum from this terminal.
- (iv). Commercial operations would commence around end of May 2004 and from January 2005 onwards all cargo handling operations are proposed to be fully mechanized.
- (v). As per clause 7.3. of the LA, the Licensor (MOPT) is entitled to collect port dues, pilotage, anchorage charges and any other vessel related charges except berth hire charges as per the rates prescribed in its SOR. The Licensee (SWPL) shall collect berth hire and all cargo handling charges.

2.2. In this backdrop, the SWPL has submitted this proposal for fixation of berth hire charge for berths 5A and 6A, wharfage, cargo handling charge, charges for dust suppression and miscellaneous services leviable for services rendered at its terminal.

2.3. The salient points revealed by cost/financial statements submitted with the proposal are as follows:

- (a). Annual escalation @ 5.5% is considered on the expenses from second year onwards. The estimation of revenue is at the anticipated tariff level.
- (b). Licence fee payable to the MOPT is considered as per the terms of the L.A.
- (c). Royalty payment @ 18% on the income estimated from cargo handling charges is included in computation. It has requested to admit this as an item of cost since royalty was quoted and accepted by the port much before the policy of not considering such payment as admissible cost was taken by the Government / TAMP.
- (d). The cost statement after following cost plus ROE @ 20% linked to capacity utilisation discloses deficit of Rs.5.83 crores, Rs.10.48 crores and Rs.6.06 crores for the years 2004-05, 2005-06 and 2006-07 respectively.

- (e). The tariff is initially proposed for two years and shall be revised after second year's financial results are known.

3.1. In accordance with the consultative procedure prescribed, the proposal of the SWPL was forwarded to the MOPT and the concerned port users / representative bodies of port users for their comments.

3.2. A copy each of the comments received from the MOPT and the users were forwarded to the SWPL as feed back information / comments. The SWPL has not furnished its specific response on the comments of the user organisations.

4. Subsequently, the SWPL vide letter dated 24 May 2004 has forwarded a revised SOR. Some of the main modifications done by the SWPL in its revised SOR are as follows:

- (i). Definitions and some of the general terms and conditions not included in the earlier proposed draft SOR has been incorporated.
- (ii). The scope of services covered by berth hire charge is modified to include unloading/loading of inward/outward cargo from/to ship. It has explained that the definition of berth hire inadvertently did not include these services in the earlier proposed SOR. In view of the above modification, these services earlier included in the cargo handling has also been modified.
- (iii). It has also proposed charges for miscellaneous services like visitor entry pass, vehicle entry pass, etc.

5.1. The SWPL has requested this Authority to approve the proposed tariff as a provisional arrangement for period of three months since it proposes to commence the commercial operations by end of May 2004. In this regard, the SWPL has also forwarded the consent of one of the main users i.e. Jindal Vijayanagar Steel Limited, who has agreed to make provisional payment subject to adjustment for excess/short recovery based on final tariff approved by the TAMP.

5.2. Since completion of the consultation process and scrutiny of the proposal would take time and the Terminal Operator proposed to commence commercial operations by end of May 2004, this Authority vide Order dated 4 May 2004 accorded adhoc approval to the following as interim tariff for period of three months or notification of final SOR whichever is earlier:

- (i). Berth Hire, Wharfage, Ground rent / storage charges and dust suppression charges shall be levied as per the applicable rates and conditionalities in the Scale of Rates of MOPT.
- (ii). Cargo handling charges shall be levied as proposed by the SWPL.

6.1. With reference to this Order, the SWPL has submitted that the interim tariff arrangement does not mention which berth hire rate of the MOPT Scale of Rates are to be adopted for vessels berthing at its terminal. It has requested that the berth hire charges prescribed in the MOPT Scale of Rates for berth No.9 (MOHP) is more comparable to its berth as compared to the other berths and hence the same may be considered applicable in its case as an interim tariff arrangement. Secondly, it has stated that the interim tariff fixed by this Authority does not reckon with the charges for crane and other equipment since this component was included by it in the proposed berth hire charge whereas the berth hire as per MOPT Scale of Rates has been approved.

6.2. In view of the above position, the SWPL has requested that the interim tariff arrangements may be made purely provisional for recovery of advance payment to be adjusted against the amount payable at the tariff that may be finally approved. The final tariff may be made applicable retrospectively from the date when the interim arrangements became effective.

6.3. On scrutiny it was found that point made by the SWPL about non-inclusion of crane related charges in the provision tariff arrangement was correct and hence the request of the SWPL to implement interim tariff on provisional basis was found to be reasonable. Accordingly, this Authority

passed an Order on 28 May 2004 clarifying that interim tariff would be implemented on provisional basis subject to adjustment of bills based on final tariff to be notified.

7. Subsequently, the SWPL has made its submission for considering royalty payment to the MOPT as admissible item of cost for fixation of tariff. It has made the following main arguments in support of its claim:

- (i). The decision about not considering royalty/revenue share as admissible item of cost for tariff fixation was first decided in the CCTL case in the year 2002. Subsequently, the Govt. issued a policy direction confirming the decision of the TAMP in July 2003. Any policy which came into effect seven years after it had submitted the bid and four years after it had entered into an agreement should not be applied retrospectively.
- (ii). In its case, the commitment about royalty payment to the MOPT was made in the LA much before the Authority took a policy decision of not considering royalty/revenue share as item of cost of tariff fixation.
- (iii). If this request is not accepted by the Authority, the return may get depleted by almost 6% and the project would become unviable.
- (iv). The main grounds for a direction by the Govt. in the CCTL case was that the policy about not considering royalty payment as cost was not cleared by the Govt. till 29 July 2003. It has requested that the grounds on which the Govt. issued direction in the CCTL case directing the Authority to consider part of the royalty payment as cost for tariff fixation may be made applicable in its case also.

8. Based on a preliminary scrutiny of the proposal, the SWPL was requested to furnish additional information on various points. In response the SWPL has furnished the requisite information and the revised Scale of Rates. Some of the main queries raised by us and the information furnished by the SWPL has been summarised and tabulated below:

Sl. No.	Queries raised by us	Summary of the reply furnished by the SWPL
1.	SWPL was advised to furnish separate cost statements for berth hire, crange and cargo handling/storage. It was also requested to furnish the basis of apportionment of all the expenses and also to estimate berth hire income reckoning exchange rate at 1 US\$=Rs.44/- in the line with exchange rate considered by other private terminal like CCTL recently in their tariff revision case.	(i). Separate cost statements relating to the berth hire, crane and other equipment and handling and storage activities have been furnished. (ii). Basis of apportionment of operating expenses has been furnished. (This, however, does not include computation of return to arrive at the net surplus/ deficit after return). (iii). Berth hire income is revised reckoning exchange rate at Rs.44. (iv). The entire project outlay is expected to be incurred during the first year of operation namely before the end of 2004-05.
2.	(i). The reasons for projecting coal and coke traffic lower than the projections as reported by it to be handled by the MOPT in the light of the specific provision in the LA granting exclusive rights to the licensee to handle coke and coal and also in the light of the MOPT observation to reckon traffic movement by road.	(i). Traffic projections are made considering the present capacity of the Indian Railways to move three numbers of trains per day in this ghat section. The traffic movement by road is not considered since such traffic will slow down the evacuations at its Terminal drastically. (ii). It has further clarified that Article 9.5 of the LA contemplates the Licensor to handle coal / coke at their berths - (a). If the terminal or any part thereof is operated as dedicated users facility and thus not available to other consignees for similar cargoes; and, (b) by mutual agreement in exceptional circumstances and at offshore terminals or floating terminal. (iii). No firm indication/ commitment in respect of other commodities is available hence no income has been estimated for other commodities.

Sl. No.	Queries raised by us	Summary of the reply furnished by the SWPL
3.	<p>(i). To review/ revise the estimate of storage income after prescribing specific number of free days beyond which storage charge can be levied.</p> <p>(ii). To clarify how 5 MMT will be evacuated within normal proposed storage period in view of the constraints of limited storage space and availability of only three trains per day reported by SWPL.</p> <p>(iii). To explain reason for not estimating storage income for the period of stay of manifested cargo beyond the normal storage period.</p>	<p>(i). In the revised SOR the provision has been modified stipulating 3 days as free period from the day following the day the vessel commences discharge for import and 8 days free period for export beyond the normal storage period. This is exclusive of Sundays, Customs notified holidays and port/ Terminal non- operating days. The estimate of storage income has also been revised accordingly.</p> <p>(ii). In order to handle 5 MMT of cargo as per the LA, the cargo turnover has to be 48 times in view of limited storage space of 0.105 MMT. Against this cargo turnover at other ports are at the level of 10 to 12 times. It proposes to evacuate the projected traffic within the normal storage period by persuading the Railways to supply more empty wagons which would go loaded and thereby increase the revenue of Railways too.</p> <p>(iii). Since it does not expect any cargo to remain beyond the normal allotted storage period, no income is estimated on this account.</p>
4.	<p>(i). To furnish detailed working of cost estimates.</p> <p>(ii). To furnish extracts of agreement to validate the estimates of on-board stevedoring, survey expense etc.,</p> <p>(iii). Break up of preliminary expense and other initial cost actually incurred. The expenditure relating to license fee, license premium, upfront fee, etc., may be shown separately and spread over the project period.</p>	<p>(i). Details for estimation of power, fuel and other operating cost has been furnished. Terminal Maintenance expenditure is estimated at 2% of civil works and on equipment / electric installation at 5% (earlier estimation was at 6%). It has justified the estimates stating that though the equipment will be covered by guarantee in the first years, due to extensive use of mechanical cargo handling system, the repairs and maintenance cost would be much higher than 5% in the later years and hence average of 5% for the entire life is provided.</p> <p>(ii). Extract of contract entered into with contractors for offering on-board service, cargo handling service and cargo survey expense (total Rs.50/- PMT) has been furnished to validate its estimates.</p> <p>(iii). Earlier pre-operative expenditures were apportioned to capital cost of civil works and spread over on the entire project period. Subsequently, in the revised cost statement this item has been shown separately. It has, however, not furnished details of preliminary expense actually incurred and agreed to furnish the same after finalization of accounts for the year 2003-04.</p> <p>(iv). Operating expenses has been escalated by 5.5% per annum for the years 2005-06 and 2006-07 over the previous year estimates.</p>
5.	<p>Details of final actual capital cost of civil structure, plant and machinery deployed/ proposed to be deployed as against the estimated Project cost.</p>	<p>Since the project is still under execution the final capital cost is not available. It has agreed to furnish the actual capital expenditure incurred till 31 March 2004 shortly after finalisation of accounts. Nothing has been received so far in this regard.</p>
6.	<p>To justify the estimates of Working Capital which consist only of cash balance and deposits forming almost four months total operating expense. Cash balance found to be not applied in the business will not be allowed any return.</p>	<p>(i). Though admitted that cash balances and deposits are about four months the operating expenses, it has stated that working capital and also the reserves have not been considered while computing return on equity. The cash balance arises mainly from depreciation and write off of the preliminary expenses.</p> <p>(ii). Out of the total Equity and debt of Rs.190 crores, Rs.184 crores is fully applied for business capital Assets and balance towards security deposits and DSCR.</p>

Sl. No.	Queries raised by us	Summary of the reply furnished by the SWPL
7.	To spread over the benefit of Security Deposit refundable at the end of the project over the entire project period by discounting at the prevailing PLR/Cost of debt.	Security deposit (Rs.1.53 crores) refundable at the end of the Project period has been spread equally over the remaining period of the project at Rs.0.06 crores per annum.
8.	<p>(i). To review the proposed berth hire in view of the fact that the cost of providing cranes for loading/unloading bulk cargo are not generally included in the 'berth hire'. It was reiterated that the crantage component cannot be included in the berth hire.</p> <p>(ii). To justify the proposed berth hire charge with reference to the berth hire charge prescribed in the MOPT Scale of Rates, to furnish detailed computation of the proposed berth hire indicating the break-up of berth hire, crantage component, etc.,</p> <p>(iii). To prescribe separate berth hire for coastal vessel in accordance with Govt. guidelines prescribing 30% concession for coastal vessel against the tariff prescribed for foreign going vessel.</p> <p>(iv). To explain reasons why proposed berth hire for the third slab is lower than the second slab.</p> <p>(v).To explain whether the size of the vessel to be handled at its berth and the deballast condition are comparable to the vessels calling at berth no.9. If so, a comparative analysis may be furnished</p>	<p>(i). The cost statement relating to berth hire activity even without considering the cost related to the crane and equipment shows deficit position. (Rs.0.24 crores, Rs.0.40 crores and Rs.4.01 crores for the years 2004-05, 2005-06 and 2006-07 respectively). This means that the proposed berth hire is not on the higher side.</p> <p>In the revised SOR filed subsequently, the service offered by cranes i.e. loading / unloading of inward /outward cargo from ship to berth has been deleted from the definition of berth hire and added in the definition of cargo handling charge. The proposed rate has, however, not been modified in view of this modification.</p> <p>(ii).Capital cost of the new berths and the equipment provided by it is obviously much higher than the historical cost of berths and equipment provided at the berth no.9 of the MOPT. Further, the vessel related activities of MOPT are in deficit and being subsidised from surpluses of cargo handling activities which indicates that vessel related rates at MOPT are on the lower side and, therefore, percentage increase compared to those rate appear higher when compared to the proposed rate at its berth.</p> <p>(iii). Separate tariff for coastal vessel has been proposed.</p> <p>(iv). Unit rate for the third slab is proposed lower to reduce the burden on higher capacity vessels. The berth hire income has been computed reckoning the rate proposed for the second slab Rs.15001 to 50,000 GRT (highest rate) since maximum vessel of this size are expected to call at its berth.</p> <p>(v). It has confirmed that the deballast condition of vessels to be handled at berths 5A and 6A are comparable to vessels calling at berth 9. The free time will be allowed for deballasting only to vessel which comes in ballast for loading export cargo. It has proposed to delete the terms 'supplementary charge' and 'rebate' from the proposed provision</p>
9.	As regards the proposed provision of vessels not performing performance parameters to be adhered to by vessels should be specified which can be taken as making full use of shore crane facilities.	It has proposed to modify the provision to state that general ousting priority will be accorded only when discharge / load rate of 15,000 / 20,000 / 25,000 MT of cargo per weather working day cannot be achieved due to restrictions placed by the vessels.
10	Detailed computation of the proposed cargo handling charge for each of the commodities may be furnished with reference to cost of providing the composite service.	Detailed costing for handling and storage of each commodity is not possible at this stage since it does not have proper data in this regard. The basic rate is proposed in the range of Rs.95 to Rs.100 PMT considering the relative densities and nature of cargo.

9. In response to a reference made by us, the MOPT has also furnished the requisite information. Some of the main information / clarifications furnished by the MOPT are as follows:

- (i). The designed capacity of Berth Nos. 5A and 6A after the full deployment of equipment is 5 million tonnes.
- (ii). As per provision stipulated in 9.5. of the LA, upon commissioning of the Terminal, the handling of Coal/Coke at any of the existing berths within the port, shall be discontinued till the throughput of coal/coke exceed 4 million MT per annum. The Licensor shall be entitled to handle coal / coke cargo at any of the berths within the port in exceptional circumstances as mutually agreed in writing within the parties. However, the present handling of coal/coke in midstream will continue by certain importers even after the terminal becomes operational.
- (iii). It has reiterated its earlier observation that the licensee cannot handle Iron Ore and iron ore pellets at Berth No. 5A and 6A unless otherwise permitted by port. Other general cargo may not be permitted to handle if it affects the handling of 4 million tonnes of coal/coke due to the reasons such as pre-berthing detention of coal/coke vessels, blockage of storage space by such general cargo constraining berthing of coal/coke vessels or for any other reasons the port may consider appropriate.
- (iv). It has no comments to offer on the reasonableness of average discharge rate and average ship size considered by ABG for estimation of berth hire income.
- (v). The license fees payable by M/s. ABG Goa Port Ltd., to the port for the years 2004-05, 2005-06 and 2006-07 are Rs.196.67 lakhs, Rs.206.50 lakhs and Rs.216.83 lakhs respectively. No premium, upfront fee is payable by the Licensee during this period.
- (vi). It is not aware of the quantum of investment made by M/s. ABG and hence has no comments to offer.
- (vii). The licence to ABG Port Ltd., was granted with the previous approval of Central Government and the company can be deemed as an authorised service provider u/s 42(3), subject to terms and conditions prescribed in the LA.
- (viii). The change of name of Licensee as South West Port Ltd. is under examination from the legal point of view.

10. A joint hearing in this case was held on 24 June 2004 at Mormugao Port Trust. At the joint hearing, the SWPL, MOPT and the concerned users have made their submissions.

11.1. At the joint hearing it was decided that the SWPL would sit with the MOPT and analyse the demand of users for allowing road delivery and file a joint report conveying an alternate operational plan and the consequent tariff arrangement to accommodate this demand. The SWPL was also advised to sort out the matter relating to change of the name of the Company with the MOPT and clarify the position. The SWPL was also required to file a revised proposed SOR to include differential berth hire charges for vessels with smaller parcel size and storage charges with suitable free days. The MOPT was requested to furnish additional information about the basis of the minimum guaranteed throughput and some statistical information.

11.2. The MOPT has furnished the requisite information and also filed a report of the joint meeting held with the SWPL. The MOPT has stated that it held a joint meeting with M/s. ABG Goa Port Ltd., (ABG) on 8 July 2004 to analyse the demand of the users for allowing road delivery of coal/coke and the following points have been mutually agreed upon in principle:

- (i). M/s. ABG will handle the entire bulk coal / coke as stipulated in the LA.
- (ii). The port will consider to provide about 10,000 sq. mtrs. of space behind berth no.7 for storage of cargo handled at 5A and 6A on request of the ABG. For this service the

Port Trust will collect the storage charges for cargo stocked in the proposed additional stacking area directly from the users.

- (iii). The MOPT will file a separate proposal to fix storage rent on incremental basis in order to discourage over stayal and to encourage faster evacuation of cargo due to space constraints.
- (iv). ABG will submit an operational plan and plan for handling, storage and discharge of all coal and coke as common users Terminal.
- (v). ABG would be the custodian of the cargo lying inside their premises since the cargo discharge operation will be carried out in Custom notified area for ABG.

11.3. In addition, the MOPT has furnished the following requisite information:

- (i). Minimum Guaranteed Throughput of 5 million tones has been fixed by ABG based on the feasibility report prepared by M/s. Scott Wilson, Kirkpatrick in 1994.
- (ii). The importer / exporter- wise coal, coke, etc., handled for the last 5 years and statistics about dispatch of the cargo by rail/ road during the last 3 years has also been furnished. From the statistics furnished by the MOPT, the following position is derived:
 - (a). The JVSL has handled on an average 90% of coal traffic out of the total coal traffic handled at the MOPT for the year 2001-02, 2002-03 and 2003-04.
 - (b). Limestone appears to have been handled almost 100% by JVSL at the MOPT for the last three years.
 - (c). Coke has been handled by various users and in different ratios for the same period. The main users have been Goa Carbon Limited, M/s. Kalyani Steel Limited and M/s. Kirloskar Ferrous India Limited.
 - (d). Coal/ coke traffic dispatched by road vis-a-vis rail at the MOPT for the last three years is as follows:

(in lakh tonnes)

Year	Despatched by Rail	Despatched by Road	Total
2001-02	20.16	5.17	25.33
2002-03	15.09	7.38	22.48
2003-04	16.15	7.97	24.12

12.1. The SWPL has subsequently filed a revised proposal to accommodate road delivery of cargo. The revised proposal of the SWPL was forwarded to the port and the concerned users seeking their comments.

12.2. With reference to the revised proposal, this Authority has raised some specific queries about reasons for reduction in traffic projections, designed capacity after reckoning additional storage space and additional equipment proposed to be deployed etc.

13. In response, the SWPL has again filed a recast proposal on 2 August 2004. Some of the main modification done in the recast proposal and reasons therefor furnished by SWPL are summarised below:

- (i). Separate (lower) berth hire charge are proposed for vessels upto 170 mtrs LOA to be berthed at 5A. Slabs for levy of berth hire charge at berth number 6A are modified.
- (ii). It has incorporated a conditionality about not levying berth hire for the period when operations cannot be carried out due to non-availability/ breakdown of shore cranes or due to any other reason attributable to SWPL.

- (iii). Handling charges of coke and iron ore has been increased whereas the rate for limestone has been reduced. Separate (lower) handling charge is proposed for coal and coke handled at berth 5A.
- (iv). Storage charge is proposed to be levied after allowing free period.
- (v). Differential rates are proposed for dust suppression of coal and coke cargo at Rs.2.25 PMT and Rs.2.75 PMT at berth 6A as against uniform rate proposed earlier at Rs.2.50 PMT. It has clarified that differential rate is proposed since volume of coke for same tonnage is more in comparison to coal.

Further, for coal / coke handled at berth 5A it has proposed lower rate at Re.1 PMT and Rs.1.25 PMT for providing dust suppression service while the cargo is unloaded, lying at berth 5A and also during the transit to nominated stockyard of MOPT.

- (vi). Traffic projection for the years 2004-05 has been reduced from 2.7 MMT projected earlier to 2.11 MMT despite the fact that the revised proposal reckons cargo movement by road also as per the revised operational plan on account of delay in dredging, reclamation work not progressed as expected, etc.
- (vii). Additional investment of Rs.17.50 crores is proposed to provide two additional cranes with mobile hoppers at berth 5A for ship to shore operation. Additional debt of Rs.12 crores and additional equity of Rs.5.50 crores is proposed to be injected to meet the proposed additional investment.
- (viii). It has reiterated that designed capacity of its terminal continues to be 5 MMT in view of constraints of storage space. 5 Lakhs MT is expected to move by road out of total traffic of 5 MMT and the additional area of 10,000 sq.mtr. nominated by the MOPT is expected to provide storage capacity for 20,000 MT of coal.
- (ix). The estimate of depreciation has been modified taking into consideration the expected time of commissioning of equipment.
- (x). With reference to our query to forward copies of contract of agreement entered by it for offering on-board stevedoring services and cargo handling expense it has clarified that offer in respect of coke and other cargo items are yet to be received. The proposed rate is calculated based on differential in the density.
- (xi). The terminal maintenance expenditure of Rs.22.02 per tonne for berth 5A and Rs.10.87 per tonne for berth 6A is arrived at by dividing the projected expenditure by projected traffic of the respective berth.

14.1. In the meanwhile, the Mormugao Stevedores Association has stated that the Association was not consulted in this case though it is one of the major users of the port. Based on the information furnished by the SWPL, it appeared that on-board stevedoring services are proposed to be offered by the SWPL and private stevedores will not have any role to play in its terminal. In view of this position, the MSA was not consulted in this case nor invited for the joint hearing. The SWPL and the MOPT both were requested to inform us whether this Association is a relevant user organisation to be consulted.

14.2. The SWPL has clarified that since it proposes to render on-board stevedoring services using special mobile harbour cranes, it does not envisage to outsource this service. Hence it has opined that MSA is not a relevant user with reference to its proposal. The MOPT has opined that the MSA is a relevant user on the instant proposal and hence may be consulted. Accordingly, the revised proposal of the SWPL was also forwarded to the MSA for their comments and their comments were taken on record.

15.1. The comments received from the MOPT and the concerned users on the revised proposal of the SWPL were forwarded to the SWPL seeking their comments if any. We have not received any specific response from the SWPL in this regard.

16. 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 at the joint hearing will be sent separately to the relevant parties. These details are also available at our website www.tariffauthority.org.

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

- (i). The South West Port Limited (SWPL) has filed this proposal for fixation of tariff for its two multipurpose berths 5A and 6A at the Mormugao port. The license for developing, constructing, operating and maintaining two dedicated multipurpose berths 5A and 6A on Built, Own, Operate and Transfer (BOOT) was awarded to ABG Goa Port Private Limited (ABGGPPL) on 11 April 1999 by the Mormugao Port Trust (MOPT). Subsequently, the name of the SPV was changed to South West Port Limited as reported by the SWPL.

The Mormugao Port Trust (MOPT) has initially stated that the License Agreement was signed with the ABG Goa Port Private Limited and requested Scale of Rates in the name of ABG Goa Port Private Limited as change of name is not yet settled.

It may be relevant here to mention that the jurisdiction of this Authority is restricted to tariff issues involved in the case of major port trust and private terminal operators. The MOPT has certified that the License Agreement relating to berths 5A and 6A has been entered following the provisions of Section 42 of the MPT Act. The concessionaire has already built the Terminal and operating it in the name of SWPL. The issue of change of name needs to be sorted out between the MOPT and the BOOT operator at their end. Since the proposal for fixation of tariff has been filed by the SWPL it is not found appropriate for this Authority to prescribe SOR in some other name of the company as suggested by the MOPT.

The MOPT and the SWPL have reported that the matter relating to change of name of the company is already being examined from legal point of view. The SWPL has subsequently produced copies of correspondence to show that the MOPT has agreed 'in principle' to the change of name of the BOOT company and the only issue to be resolved is choosing the correct name.

In view of the position explained, we proceed with fixation of tariff for the two new berths developed by the operator assuming that the issue of change of name of the Licensee Company will be finalised soon. The Scale of Rates approved for operations of SWPL at the berths 5A and 6A will automatically apply to the operations of the re-named company also, when such change of name officially takes place.

- (ii). The traffic forecast made by SWPL in its original proposal was 2.7 MMT (for 10 months) for the years 2004-05, 4.25 MMT for 2005-06 and 5 MMT for the year 2006-07 as against the capacity of the terminal at 5 MMT. The major component of traffic is projected to be coal and coke. The earlier traffic projection included only the cargo movement by rail and movement of cargo by road was not accounted for.

Subsequently, on our advice, the SWPL and the MOPT have considered the demand of the users particularly of those who import small quantities at a time and not exceeding approximately 2.00 to 3.00 lakhs tonnes annually and devised an alternate operational plan for including road delivery cases since these importers reportedly do not get allotment of railway wagons and some of them are not connected by rail. The SWPL has accordingly filed a revised proposal. In the revised proposal, the traffic projection for the year 2004-05 is scaled down to 2.11 MMT and a marginal reduction is noticed in the traffic forecast for 2005-06 in comparison to the earlier estimates.

The traffic projection progressively increases to 4.98 million tonnes in the third year of operation as against the designed capacity of the terminal reported at 5 MMT. The SWPL has clarified that the reduction in the traffic estimates for 2004-05 is on account of delay in dredging, reclamation work not progressing as per its plan, etc. Neither the MOPT nor any of the users consulted in this case have made any specific comment on the reduced traffic estimates. For the purpose of this analysis, the traffic and income estimates, as furnished by SWPL are relied upon. At the time of the next general review of tariff to be undertaken after the initial validity period is over, if any undue advantage is found to have accrued to the Terminal Operator due to wrong estimation, a suitable adjustment will be made in the tariff to be fixed then.

- (iii). The SWPL initially had applied an exchange rate of US\$1= Rs.43 to estimate the income from berth hire. Subsequently, on being pointed out by us, it has revised the estimate of berth hire income by applying exchange rate of US\$1= Rs.44 as against current exchange rate which is above Rs.45. In this context it is relevant to note that operating cost for the year 2005-06 in respect of on-board stevedoring, cargo handling, power, fuel cost, etc., is estimated considering an annual escalation of 5.5% over the previous year's estimate whereas the current inflation rate is more than such level. Berth hire income as estimated by the SWPL is considered in this analysis without any modification on the assumption that the income underestimated by not considering the impact of increase in the foreign exchange rate may be offset by the increase in the operating cost which is likely on account of higher inflation rate.

The income from storage charge has been estimated at the proposed tariff level assuming that the average dwell time will be 4 days for import cargo. From the statistical data furnished by the MOPT for the past years the average dwell time of most the cargo has been more than 10 days in case of import. The storage income estimated by the SWPL is, therefore, not fully realistic. The SWPL has clarified that it does not expect any cargo to remain beyond the normal storage period and proposes to have discussion with the Railway to promote various user friendly schemes and to supply more empty wagons etc., to enable it to evacuate the cargo. Further, the MOPT has also agreed to provide additional storage space on request of the SWPL in which case the port proposes to levy rentals as per its SOR. Storage income as estimated by the SWPL is considered for the purpose of analysis. As mentioned earlier, at the time of next review, if it is found that the actual storage income varies widely from the estimates furnished, such variation will be set off against future tariff revision.

The SWPL has not estimated income for other commodities like metal products, etc., since there is no firm indication/ commitment of traffic for these commodities. The explanation furnished by the SWPL is found to be reasonable and hence is accepted.

- (iv). One of the cost elements considered by the SWPL is revenue share payable to the MOPT @ 18% on the income estimated from cargo handling charges. This works out to Rs.5.31 crores and Rs.11.38 crores for the years 2004-05 and 2005-06 respectively at the proposed income levels. It has requested to consider this item of cost for tariff fixation on the ground that commitment about royalty payment to the MOPT was made in the LA much before this Authority / the Government took a policy decision of not considering royalty/revenue share as item of cost for tariff fixation. It has also requested that the precedence available in the CCTL case to consider part of the revenue share as item of cost for tariff fixation may be made applicable in its case also.

It is relevant to mention that the policy of this Authority about not considering royalty/revenue share as item of cost is already made known through various orders passed by this Authority in the case of tariff fixation of private terminal operators like the Chennai Container Terminal Limited, PSA SICAL Terminal Limited and the Visakha Container Terminal Private Limited. Ministry of Shipping also issued orders in July 2003 stating that royalty / revenue share will not be treated as item of cost.

The subsequent policy direction issued by the Government to consider part of revenue share for tariff fixation is restricted only to the CCTL and hence, it is not open for this Authority to extend the Government directive to all private terminal operators in the name of precedence. That being so, the cost item relating to revenue share is excluded for the purpose of this analysis.

It is also understood that the SWPL has approached the Government to get relief on this account. This Authority would, therefore, be in a position to take action only if and when government directive is received.

- (v). The services relating to on-board stevedoring and cargo handling are proposed to be outsourced as reported by the SWPL. The SWPL has furnished documentary evidence to justify its cost estimates @ Rs.50 PMT under this head in respect of coal handled at berth 6A. In the revised proposal, estimate of on-board stevedoring and cargo handling in respect of HR coils, coke, etc., are found to be much higher than the estimate for coal. The SWPL could not furnish any documentary evidence in support of the revised estimates as its outsourcing contracts are not yet finalised. The revised estimate has been done based on the difference in density of cargo as reported by the SWPL. In the absence of any basis to verify these estimates, the clarification furnished by the SWPL is accepted for the purpose of the analysis.

The SWPL has also furnished detailed computation of estimation of fuel, power and water cost. The basis of estimation are found to be in line with the estimates made by other private terminal operators and hence are accepted.

The estimate of license fee for leased lands payable by the SWPL to the MOPT as per the terms of the LA has been confirmed by the MOPT.

- (vi). The maintenance expenditure is estimated at 2% on the civil works and 5% on equipment and also includes maintenance dredging cost of Rs.1.71 crores and Rs.3.42 crores for the years 2004-05 and 2005-06 respectively. The MOPT has stated that the maintenance dredging alongside the berths and approaches thereto is its obligation, as per the LA. The SWPL has clarified that additional maintenance dredging is required to be done twice in a year for the first three years apart from the routine annual maintenance dredging done by the MOPT. That being so, estimate of maintenance dredging cost is accepted.

The estimates of repairs and maintenance of equipment are attempted to be justified on the ground that the repairs and maintenance cost would be much higher than 5% in the later years and hence average repairs and maintenance cost is considered at 5% for the entire life.

The contention of the SWPL cannot be accepted since it may not be appropriate to burden the existing users in anticipation of increase in cost in future.

The estimate of the repairs and maintenance cost particularly with reference to equipment appears to be higher than those allowed at other private terminals like the Visakha Container Terminal Private Limited (VCTPL), Nhava Sheva International Container Terminal Limited (NSICT) and the Chennai Container Terminal Limited (CCTL). The NSICT had estimated repairs and maintenance cost of equipment at 1.15% on the opening block and 0.5% on the assets newly added during the year. The repairs and maintenance cost of equipment estimates by the CCTL in their recent proposal for revision of tariff is at 2% of the equipment cost. At the VCTPL, this Authority has allowed repairs and maintenance cost on equipment at 3% the cost of the asset in line with the provision of the LA.

Based on the position obtaining at the other private terminals the estimate of repairs and maintenance cost of equipment furnished by the SWPL requires to be moderated. Accordingly, the repairs and maintenance cost of equipment are

considered at 3% the asset cost of equipment and 1.5% of asset value for civil works. The estimate of terminal maintenance expenditure is modified accordingly.

- (vii). The preliminary expense was earlier proposed to be written off alongwith depreciation. Subsequently, the SWPL in the revised cost statement has shown this item separately and confirmed that the preliminary expenses have been spread over the remaining project period. The SWPL has not indicated the actual preliminary expense incurred by it.

In this context, it is relevant to mention that the tenure of the licence arrangement is quoted differently by SWPL and MOPT. The dispute between them on the effective date of handing over of the premises is not for this Authority to adjudicate.

- (viii). The insurance cost has been estimated at 1% of the net block of assets at Rs.1.97 crores for 2004-05 which also includes preliminary expense. The SWPL has included estimated preliminary expense of Rs.35.92 crores in the gross block of assets and consequently in the net block also while computing the insurance cost. Insurance cover is not relevant for the preliminary expenses and hence to that extent the insurance cost estimate is scaled down.
- (ix). With reference to the estimates of depreciation, the SWPL has certified that the depreciation rate is considered as per the norms prescribed in the Companies Act. This Authority has already taken a decision that the depreciation norms given in the Companies Act or the life of the assets prescribed in the Concession Agreement, whichever is less shall be allowed in the case of private terminals. That being so, for the purpose of this analysis, the estimates of depreciation given by the SWPL are taken into account without any modification.
- (x). As per the term of the LA, Security Deposit of Rs.1.53 crores paid by the SWPL to the MOPT is refundable at the end of the project. The SWPL has spread the benefit of this refund available at the end of the project period equally over the remaining period of the license. The SWPL in its computation has, however, not discounted the annualized value to arrive at the present value of future receipt. The computation is partially modified considering the annualised present value by applying a discount factor of 12% in line with the approach followed in case of tariff fixation / revision of other private terminal operators.
- (xi). The SWPL has projected gross block of Rs.201.97 crores for the year 2004-05 which include Rs.65.7 crores for civil works, Rs.98.05 crores for plant and equipment and Rs.35.92 crores toward pre-operative expense, projections for contingency, License fee for earlier period, Security Deposit, etc. The actual capital cost of civil structures, preliminary expenses, equipment cost, etc has not been furnished on the ground that the project is still in the execution stage and it has not firmed up the actual figures even for the first phase. It is relevant to mention that the project cost also includes provision for contingency to the extent of Rs.4.63 crores. Strictly speaking, contingency provision should not be included in the total capital employed for claiming return since these estimates are relevant only at planning stage and not when the project has already taken a shape and the operation has commenced. The SWPL has clarified that part of the contingency have been utilised for certain capital items not specifically provided in the project cost. In the absence of any firm figures relating to the actual capital cost even for the first phase as reported by the SWPL, this Authority is left with no other option but to consider the capital cost estimates furnished by the SWPL. Nevertheless, the contingency provision shown against preliminary expenses has been excluded but it has been retained in the total capital employed.
- (xii). The working capital requirement is estimated at Rs.8.17 crores for the year 2004-05 and Rs.18.13 crores for the year 2005-06. The working capital estimate made by the SWPL includes only cash balance and deposits which almost forms three to four month's cash expenses. The SWPL has clarified that this cash balance is mainly on

account of depreciation provision and preliminary expenses written off. There is no justification for providing four months expenditures as working capital in the light of the fact that most of the charges are collected in advance. Incidentally, even Crisil Advisory Services (CAS) commissioned by this Authority to study Allowable Return on Investment of the major ports and private terminals in its report, inter alia, has recommended to allow cash balance maximum to the extent of 30 days of operating expenses. In view of the above position, it is necessary to restrict cash balance estimated as working capital to the extent of one month's expenses. Accordingly, the revised working capital estimates are considered in the cost statement at Rs.2.62 crores and Rs.5.00 crores for the years 2004-05 and 2005-06 respectively.

- (xiii). Capacity of the terminal is relevant for determining Return on Equity. The designed capacity of the terminal is 5 MMT as confirmed by the MOPT also. With reference to the estimates for the years 2004-05 and 2005-06 considered in this analysis, the capacity utilization comes to 42.2% and 84.2% respectively. The SWPL has adjusted ROE with reference to capacity utilisation.

The estimates of Investment, however, requires to be adjusted in view of the moderation done in the estimates of working capital for reasons explained in the preceding para. Accordingly, the adjusted capital employed works out to Rs.199.64 crores for the year 2004-05 and Rs.189.69 crores in 2005-06. The SWPL has proposed to borrow Rs.127 crores from financial institutions and inject equity of Rs.80.55 crores during the first year of operation. No additional funds are proposed to be deployed in the year 2005-06 as the SWPL does not propose any additional capital investment in this year. On comparison of the (adjusted) capital employed vis-à-vis the funds deployed, approximately Rs.7.90 crores and Rs.12.87 crores are found to be not applied in the business assets during the year 2004-05. Cash balance not applied in the business does not qualify for return, as already decided in the case of other private terminal operators like NSICT and PSA SICAL. Since the cost of debt is allowed as projected by the SWPL, the equity should be adjusted to exclude the funds not found to be applied in business. Accordingly, the equity for the years 2004-05 and 2005-06 has been moderated for the purpose of computation of return on equity linked to capacity utilisation.

- (xiv). The SWPL in its revised proposal has furnished separate cost statements for the berth numbers 5A and 6A. Allocation of the some of the common expenses has been done on a broad basis. As such, they are relied upon in this analysis only for indicative purposes.

It is found that the sum of insurance cost, on-board stevedoring, preliminary expense, etc., allocated to the sub-activities do not tally with the corresponding estimates in the consolidated cost statement.

Further, Return on Equity has been allocated to the activities based on debt component. It will be appropriate to allocate this item based on the proportionate gross block or depreciation. Accordingly, the Return on equity computed on moderated equity is allocated to berth hire and cargo handling activity in the ratio of depreciation.

- (xv). Subject to the discussion above, the cost statements have been modified. The modified cost statement is attached as **Annex - I(a)** and **I(b)**. The results disclosed by these statements are summarised as shown in the table given hereinafter:

Sr. No.	Activity	Surplus (+) / Deficit (-) 2004-05		Surplus (+)/Deficit (-) 2005-06		Average Surplus (+) / Deficit (-) as a % of operating income
		(Rs. in crores)	As % of operating income	(Rs. in crores)	As % of operating income	
(i).	Consolidated cost statement for the terminal as a whole	(-) 1.82	(-) 4.5%	(+) 3.11	(+)3.6%	(+) 1.0 %

Sr. No.	Activity	Surplus (+) / Deficit (-) 2004-05		Surplus (+)/Deficit (-) 2005-06		Average Surplus (+) / Deficit (-) as a % of operating income
(ii).	Berth hire Activity	(-) 3.06	(-) 27.5%	(-) 2.61	(-) 11.2%	(-) 16.5%
(iii).	Cargo Handling activity	(+) 1.24	(+) 4.2%	(+) 5.71	(+) 9.0%	(+) 7.5%

- (xvi). It can be seen from the table above that the consolidated cost statement of the SWPL for its terminal shows a marginal surplus of 1% of the operating income estimated at the proposed rates for the years 2004-05 and 2005-06. The cargo related activity shows an average surplus of 7.5% for the years 2004-05 and 2005-06 which offsets the deficit in the berth hire activity.

The wharfage charges proposed by the SWPL is same as the tariff level prescribed in the MOPT SOR which has also been confirmed by the MOPT. The wharfage charges as proposed by the SWPL are, therefore, allowed.

The users have demanded handling charge, storage charge, etc., may be prescribed at the same level as existing in the MOPT. The services proposed to be offered by the SWPL is mechanised one and the users are likely to reap the benefit of the mechanised operations over a period of time. Further, the investment level of SWPL is much higher compared to the depreciated value of assets deployed in operations earlier by MOPT. Hence, it is not found appropriate to fully compare the tariff of SWPL with that of the MOPT. It would be more logical to go by the terminal operator's cost themselves and fix the tariff with reference to admissible and reasonable cost.

The Mormugao Ship Agent's Association have suggested that the Cargo Handling Levy (CHL) charges prescribed in the MOPT SOR may be taken as a benchmark to fix cargo handling charges. It is noteworthy that the CHL levy is only for supply of cargo handling labour but against the levy of handling charges, the SWPL will provide a comprehensive mechanized handling from receipt to ship loading or ship unloading to dispatch by road/rail. Seen in its entirety, the proposed handling charges are approved.

SWPL has subsequently revised its earlier proposal for storage charges by including free periods. Recognising the yard constraints faced by SWPL and keeping in mind the basic concern that transit storage yard in ports should not be used for long term storage purposes, the proposed rates and free days are also be approved.

- (xvii). In line with the general principle adopted the SWPL had included the crantage component under cargo handling charge which was earlier wrongly shown under Berth hire. The description of the respective services is modified accordingly.
- (xviii). The proposed level of berth hire has been seriously objected by users and even the MOPT. The SWPL claims that even at the proposed tariff level the users will ultimately be benefited due to resultant savings expected in sea freight by bringing in bigger vessels. It is relevant to mention that the main user i.e. Jindal Vijayanagar Steel Limited (JVSL) has entered into long term contract with the SWPL to handle 3 MMT per annum and has fully endorsed the views of the SWPL. It is further relevant to mention here that statistical information furnished by the MOPT about the importer/exporter-wise actual cargo handled indicates that JVSL has handled almost 90% of coal, almost 100% of the limestone for the last three years 2001-02, 2002-03 and 2003-04. Iron ore/ pellets handled by the JVSL as per this statement is 70% during 2002-03 and 100% during 2003-04. The main user JVSL and some of the users associated with the JVSL have no objection to pay the proposed berth hire in

view of advantage available in the sea freight by handling panamax vessels. It is true that the proposed berth hire rates are a manifold increase over the rates levied at the (conventional) berths of MOPT earlier. It has to be recognized that berths 5A and 6A are new investment and, therefore, the capital cost to be compensated is higher in relation to the partly depreciated old berths of MOPT. Further, it is a well known fact that the vessel related charges at MOPT are cross-subsidised and such a maneuverability is restricted in the case of the private terminals limited operations. The major users who are likely to get freight advantage of the new handling facility have, however, endorsed the proposed rates.

In the revised proposal the SWPL has modified the slab for levy of berth hire and rates have also been modified accordingly. Since the revised schedule is found to be beneficial to the users the same is accepted.

- (xix). The SWPL in its initial proposal had only considered tariff arrangement for rail delivery of cargo and no provision for road delivery of cargo was envisaged. Some of users like Aprant Iron & Steel Limited, Goa Carbon Limited, etc., have strongly opined that road delivery of cargo should also be reckoned with. The SWPL has considered the plea of small users and has worked out an operation plan for allowing road delivery of cargo in consultation with the MOPT. For this purpose, it proposes to invest on two additional cranes.

The SWPL in the revised proposal has proposed a separate tariff for this group of users at US\$ 0.0125 per hour of part thereof for vessels having LOA upto 170 mtrs and such vessels are proposed to be handled at berth number 5A.

Some of the users have requested to prescribe the berth hire for berth 5A at the MOPT rate. The users demand to maintain the existing berth hire rate at MOPT cannot be agreed to in view of the overall cost position. The berth hire proposed for berth number 5A is 45% less than the rate proposed for the first slab at berth number 6A. This will provide some relief to the users and hence the proposed rate for berth number 5A is accepted.

The exchange rate to be adopted for conversion of dollar denominated berth hire into rupee terms at the time of billing is proposed to be the rate prevailing at the time of berthing of vessels. This is not in accordance with the general prescription at other major ports / private terminals where the exchange rate prevailing on the day of entry of the vessel into the port is reckoned for conversion of dollar denominated terms. As rightly pointed out by the Mormugao Ship Agent's Association (MSAA), to maintain uniformity, this provision should be similar to the provision prescribed in the MOPT. Accordingly, the proposed provision is modified in line with the prescription at the MOPT and other major ports/ private terminal operator.

- (xx). The MSAA has made a valid demand that berth hire should not be levied for such period when operations cannot take place due to failure of shore cranes of SWPL. This is a reasonable demand and deserves to be admitted. The SWPL has also admitted the request of the MSAA and has proposed to incorporate a condition that no berth hire would accrue for the period when loading / unloading operations cannot be carried out due to non-availability of shore cranes or due to break down. The proposed provision is accepted.
- (xxi). The SWPL has proposed the provision for deballasting conditions almost similar to the provision prescribed in the MOPT SOR except for the provision about supplementary charge and rebate, which are in any case not applicable to its operation. It has confirmed that the deballast condition of vessels to be handled at berths 5A and 6A are comparable to vessels calling at berth 9. Since the proposed provision is same as the existing arrangement at the MOPT the same is approved.
- (xxii). The proposed SOR prescribes levy of additional berth hire charge for priority berthing and the same is governed by the provisions of the LA. The LA categorically mentions

that licensee may enter into any agreement for priority berthing schemes with prior written approval of the licensor.

Some objections are raised about the priority berthing arrangement envisaged by SWPL. It is not for this Authority to decide on the berthing priorities to be given which is an operational matter. In the case of SWPL, the concession Agreement requires them to take clearance from the Port Trust. The limited issue before us is to prescribe a charge for according priority / ousting priority berthing, if such a service is permitted and provided. The proposed rates are, therefore, approved.

The SWPL has proposed that the ousting priority will be accorded only when vessel at berth is not making full use of shore crane facilities. This formulation was ambiguous as it did not prescribe performance parameters to be adhered to by vessels to be taken as making full use of shore crane facilities. The SWPL has subsequently modified the provision to state that general ousting priority will be accorded only when discharge / load rate of 15,000 / 20,000 / 25,000 MT of cargo per weather working day cannot be achieved due to restrictions placed by the vessels.

Goa Carbon Limited (GCL) has stated that the conditionality about according ousting for non performance of vessels should not be made applicable to small size vessels handled at berth 5A since the prescribed output norms cannot be achieved at this berth on account of shortage of storage space, etc. The point made by the GCL merits consideration since even the SWPL in its estimation has considered discharge/ load rate of vessels at berth 5A in the range of 5000 to 8000 MT per day for different cargo. Separate discharge / load rate of 7500 MT of coal and 5000 MT of other cargo per weather working day are, therefore, prescribed at berth number 5A based on the information available.

- (xxiii). The SWPL has subsequently modified the proposed provision in respect of the time limit prescribed for cessation of berth hire in line with the modification effected by this Authority in the Scale of Rates of the MOPT to exclude the ship's waiting time for want of favorable tidal condition, inclement weather and due to lack of night navigation. The modified provision prescribed in the SOR of the MOPT is accordingly incorporated in the Scale of Rates of the SWPL.
- (xxiv). The MOPT has pointed out that handling of iron ore and iron ore pellets is covered under Port Regulation – Mormugao Port (Shipment of Ores and Pellets from MOHP Berth No.9 and related matters) Regulations, 1979 and hence, the licensee cannot handle iron ore or pellets at its berths without its permission. The SWPL has not furnished any specific comments in this regard. The issue appears to be relating to interpretation of the Regulation and the LA and it is not a tariff related issue.
- The SWPL has also proposed wharfage rate for any other dry bulk and general cargo for which specific rate is not prescribed. In this regard the MOPT has pointed out that the licensee can only handle only bulk cargo and not any other cargo which are in break bulk form and/or containerised cargo and hence has requested to modify the term to state any other bulk cargo only. The SWPL in its revised proposal has modified the nomenclature as suggested by the MOPT.
- (xxv). The Indian National Shipowner's Association (INSA) has pointed out that the MOPT Scale of Rates prescribed only handling charge which is inclusive of wharfage; there is no additional wharfage levied separately. In this context, it is stated that even at the MOPT, in addition to wharfage, labour charge is levied. This is confirmed even by the MOPT. The contention of the INSA is, therefore, not correct.
- (xxvi). The charges proposed by the SWPL for cargo handling includes cost of loading/ unloading cargo from ship/ to berth, movement of cargo from berth to SWPL stockyard/ MOPT nominated plot and vice versa, movement within stock yard and loading/ unloading cargo on railway wagons/ loading on trucks for road delivery

whereas the existing SOR of the MOPT does not prescribe consolidated charges for cargo handling.

The SWPL has clarified that the cargo handling charge is proposed in the range of Rs.95 to Rs.100 PMT and adjusted considering the relative densities and nature of cargo. The clarification furnished by the SWPL is found to be reasonable and is accepted.

The cargo handling charge for berth number 5A in respect of coal and coke is proposed Rs.5 and Rs.10 lesser than the rate proposed for cargo handled at berth 6A. In respect of iron ore, metal products, etc., there is no differentiation in the rate for both these berths. The proposed rate is accepted.

The SWPL has, however, not explained any reason for proposing handling charge for limestone at berth number 5A higher than the rate at berth at 6A. Following the principle followed by the SWPL for other cargo, this Authority find it appropriate to prescribe the handling charge for limestone at the same level as prescribed for berth number 6A.

Though the composite rate proposed by the SWPL includes handling of cargo stored at the MOPT stock yard for road delivery, it is, however, found appropriate to allow suitable rebate in the composite rate if the SWPL does not handle its cargo at MOPT yard at the time of either delivery or receipt for loading / unloading the trucks. In the absence of any details furnished, such rebate is fixed on an adhoc basis at 20% of the composite rate which can be reviewed subsequently if SWPL submits a suitable proposal.

- (xxvii). The SWPL in its revised proposal has proposed differential tariff for dust suppression of coal and coke cargo at Rs.2.25 PMT and Rs.2.75 PMT at berth 6A as against uniform rate proposed earlier at Rs.2.50 PMT. The SWPL has justified that the differential in the rate is due to difference in the density of cargo.

It is relevant to mention that this Authority has recently approved the tariff for this item at the MOPT at Rs.2.15 PMT taking into consideration the cost applicable at the MOPT. At the MOPT, no distinction is made between coal and coke while prescribing tariff for dust suppression. Following the precedence already available, it is found reasonable to prescribe a uniform rate for both these cargo. The proposed rate furnished by SWPL shows that royalty payable to the MOPT is also considered in the costing. As stated earlier, royalty/ revenue share is not allowed as cost in the tariff fixation process and hence this element needs to be excluded from the proposed tariff. Average of the proposed rate after eliminating the royalty component works out to Rs.2.12 per tonne which is rounded off to Rs.2.15 per tonne. This incidentally matches with the existing rate prescribed at the MOPT.

Further, for coal/coke berthed at berth 5A, the SWPL has proposed lower rate at Re.1 PMT and Rs. 1.25 PMT for providing dust suppression service while the cargo is unloaded, lying at berth 5A and also during the transit to nominated stockyard of MOPT. It is proposed that for the cargo stacked in the MOPT stackyard, the MOPT will collect dust suppression charge at the rate prescribed in its SOR.

As rightly pointed out by the Goa Carbon Limited (GCL), there will be duplication in levy of this charges once by the SWPL at the proposed rate and second set by MOPT for the cargo stacked in its nominated yard. It is appropriate that only one set of levy is collected from the users by the SWPL. The SWPL and the MOPT may agree to share the revenue from this levy on appropriate basis. The suggestion of the GCL to exclude levy of dust suppression by the MOPT for SWPL cargo stacked in its nominated plot will be considered by this Authority in the general revision proposal of the MOPT. Till then the proposed arrangement of levy of tariff is allowed.

In respect of berth number 5A also a uniform rate for coal and coke cargo is prescribed at Re.1 PMT for the reasons cited earlier.

- (xxviii). The initial proposal of SWPL did not prescribe specific number of free days beyond which ground rent/storage fee can be levied. The SWPL was requested to review the proposed provision in the light of the fact that at all the other major ports/ private terminals specific number of free days has been prescribed. Subsequently, in the revised proposed Scale of Rates the SWPL has proposed three days as free period in case of import cargo from the day following the day of commencement of discharge. The free period is reckoned after complete discharge of vessel's cargo or when the last package is discharged at the MOPT. Accordingly, the proposed provision is modified.

In case of export cargo it has proposed seven days of free period from the time of arrival/ receipt of first rake and storage charge is leviable after the prescribed free period. This provision could be applied only in case of cargo received through rakes and not for other cargo received by road. The proposed provision is, therefore, modified in line with the prescription at the MOPT to state that the free period shall be reckoned from the day the cargo has been received.

- (xxix). In the revised Scale of Rates proposed by the SWPL, it has clarified that free period will exclude Sundays, Custom's notified holidays and port/ terminal non-working day. This is in accordance with the prescription at other major ports/ private terminals and hence is accepted.
- (xxx). The ground rent proposed by the SWPL is on PMT basis for different commodities as against the existing rate levied at the MOPT as rentals for the storage space occupied by the cargo. Some of the users have pointed out that the proposed rate is very high compared to the storage rental levied by the MOPT. The SWPL has clarified that storage rate has been proposed high to act as a deterrent from longer stay of cargo at its terminal in view of limited storage space available at its terminal. As already mentioned, the point made by the SWPL is justified and deserves to be admitted.
- (xxxii). The MOPT has pointed out that there is no logic in the proposed entry fee for vehicles particularly in respect of vehicles arriving or leaving M/s ABG Goa Port Ltd. for delivery/ dispatch. It apprehends that the proposed charge is to discourage the dispatch of cargo by road. The contention of the MOPT merits consideration. It is, therefore, appropriate to prescribe a note that the vehicle entry fee will not be applicable to vehicles entering / leaving the SWPL for delivery / dispatch of cargo.

Apart from this, the SWPL has also proposed charges for other services like, visitor's entry pass, photography, crane hire charge etc. Since these tariff items are for optional service this Authority has no reservation to approve the proposed tariff.

- (xxxiii). The SWPL had reported that the operations would commence by end of May 2004. Since the completion of consultation process and scrutiny of the proposal would involve some time, this Authority at the request of the SWPL had accorded an interim tariff arrangement in May 2004 for period of three months or finalisation of tariff whichever is earlier. This Authority in its Order dated 28 May 2004 has also clarified that the interim tariff approved by this Authority is on provisional basis subject to final settlement of bills based on fixation of final rates. Accordingly, the rates approved by this Authority will be applicable retrospectively from 28 May 2004.
- (xxxiiii). In the terms of the tariff setting arrangement in the Statute, the rates prescribed by this Authority are only ceiling levels in case of Private terminals and they have discretion to levy charges at a level lower than the prescribed rates. While this discretion may be exercised, it may be reasonable to prescribe a specific volume discount scheme in the Scale of Rates so that a minimum level of discount will be available uniformly to all users who fulfill the stipulated conditions. It is noteworthy

that such discounts are prescribed in the Scale of Rates of the JNPT, NSICT and the PSA SICAL.

One of the objectives of privatisation is efficiency in operations and cost reduction to users. The SWPL was advised to formulate an Efficiency Linked Tariff Scheme, like the one in operation at MOHP of MOPT. The SWPL agrees with the suggestion but wants to formulate such a scheme after gaining experience in operations. This SWPL is advised to consider such a scheme while formulating its proposal for the next general review of tariff.

(xxxiv). Some of proposed provisions not in line with the common prescription at other major ports/ private terminals have been modified to maintain uniformity and consistency at all the major ports/ private terminals.

(xxxv). This Authority generally prescribes tariff validity cycle of two years. It is, therefore, be reasonable to allow the tariff fixed now to continue for period of two years. Nevertheless, for good and valid reasons, this Authority is willing to entertain a proposal for revision (even) ahead of this schedule.

18.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Scale of Rates of the SWPL attached as **Annex - II**.

18.2. This Scale of Rates will come into effect retrospectively from 28 May 2004.

18.3 The Scale of Rates shall be in force for 2 years from the effective date of its implementation after which the approval accorded to it will automatically lapse unless specifically extended by this Authority.

(A.L. Bongirwar)
Chairman

Annex-I (a)

Consolidated cost statement of South West Port Limited

		(Rs. in crores)			
		As furnished by the SWPL	Modified Estimates		
Items (Units)	2004-05	2005-06	2004-05	2005-06	
Traffic (in MMT)	2.11	4.21	2.11	4.21	
I. OPERATING REVENUE					
Berth Hire Charges	11.11	23.28	11.11	23.28	
Handling Charges	29.52	63.25	29.52	63.25	
Total Operating Revenue	40.63	86.53	40.63	86.53	
II. OPERATING EXPENSES					
Onboard stevedoring expenses	4.03	8.48	4.03	8.48	
Cargo handling expenses at stock yard	6.84	14.49	6.84	14.49	
License fee to MPT	1.96	2.06	1.96	2.06	
Royalty payment to MPT	5.31	11.38	0.00	0.00	
Survey Expenses	0.42	0.89	0.42	0.89	
Terminal Maintenance Expenditure	4.17	9.03	3.31	6.63	
Water, Power, Fuel	4.39	9.09	4.39	9.09	
Insurance	1.97	1.95	1.62	1.51	
General Administration Expenses	2.06	4.33	2.06	4.33	
Depreciation	4.23	10.89	4.23	10.89	
Preliminary Exp written off	0.72	1.44	0.58	1.16	
Total Operating Expenses	36.11	74.03	29.44	59.53	
III. NET OPERATING INCOME = I-II	4.52	12.50	11.19	27.00	
IV. Interest expense on Debts	6.88	12.50	6.88	12.50	
V. Credit back of Security Deposit returnable at the end of the License period	0.06	0.06	0.002	0.002	
VI. Net Surplus/ deficit after interest and credit back of Security Deposit returnable at the end of the License period.	-2.30	0.06	4.31	14.51	
VII. Equity	80.55	80.55	80.55	80.55	
Equity adjusted for excess funds not deployed in business assets.			72.65	67.68	
VIII. Capacity utilisation %	42.3%	84.5%	42.2%	84.2%	
IX. Return On Equity @ 20% linked to capacity utilisation	6.82	13.61	6.13	11.40	

X. Net Surplus/ deficit (before Tax)but after Return on equity	-9.12	-13.55	-1.82	3.11
XI. Net Surplus/deficit as a % of operating income	-22.4%	-15.7%	-4.5%	3.6%
XII. Average Net Surplus/deficit as a % of operating income	-17.8%		1.0%	

Annex-I (b)									
Cost Statement of South West Port Limited for the berth hire and cargo handling activity									
(Rs. in crores)									
	As furnished by the SWPL				Modified Estimates				
	Berth hire activity		Cargo handling activity		Berth hire activity		Cargo handling activity		
Items (Units)	2004-05	2005-06	2004-05	2005-06	2004-05	2005-06	2004-05	2005-06	
I. OPERATING REVENUE									
Income	11.11	23.28	29.52	63.25	11.11	23.28	29.52	63.25	
Total Operating revenue	11.11	23.28	29.52	63.25	11.11	23.28	29.52	63.25	
II. OPERATING EXPENSES									
Onboard stevedoring expenses	4.03	8.48	0.00	0.00	4.03	8.48	0.00	0.00	
Cargo handling expenses at stock yard	0.00	0.00	6.84	14.49	0.00	0.00	6.84	14.49	
License fee to MPT	0.23	0.24	1.74	1.82	0.23	0.24	1.74	1.82	
Royalty payment to MPT	0.00	0.00	5.31	11.38	0.00	0.00	0.00	0.00	
Survey Expenses	0.00	0.00	0.42	0.89	0.00	0.00	0.42	0.89	
Terminal Maintenance Expenditure	1.95	4.35	2.34	4.72	1.45	3.16	1.86	3.47	
Water, Power, Fuel	0.61	1.27	3.78	7.82	0.61	1.27	3.78	7.82	
Insurance	0.76	0.76	1.14	1.17	0.67	0.61	0.94	0.91	
General Administration Expenses	1.03	2.17	1.03	2.17	1.03	2.16	1.03	2.17	
Depreciation	1.20	2.05	3.01	8.85	1.22	2.04	3.01	8.85	
Preliminary Exp written off	0.38	1.12	0.16	0.32	0.45	0.90	0.13	0.26	
Total Operating Expenses	10.19	20.43	25.77	53.62	9.70	18.86	19.74	40.67	
III. NET OPERATING INCOME = I-II	0.92	2.85	3.75	9.63	1.41	4.42	9.78	22.58	
IV. Interest expense on Debts	2.69	4.9	4.18	7.61	2.70	4.89	4.18	7.61	
V. Credit back of Security Deposit returnable at the end of the License period	0.00	0.00	0.06	0.06	0.001	0.001	0.001	0.001	
VI. Net Surplus/ deficit after interest and credit back of Security Deposit returnable at the end of the License period.	-1.77	-2.05	-0.38	2.07	-1.29	-0.47	5.60	14.97	
VII Equity adjusted for excess funds not deployed in business assets.					20.95	12.68	51.69	55.00	
VIII Capacity utilisation %					42.2%	84.2%	42.2	84.2%	

								%	
IX. Return On Equity @ 20% linked to capacity utilisation	2.67	5.34	4.14	8.28	1.77	2.13	4.36	9.26	
X. Net Surplus/ deficit after Return on equity	-4.45	-7.38	-4.52	-6.21	-3.06	-2.61	1.24	5.71	
XI. Net Surplus/deficit as a % of operating income	-40.1%	-31.7%	-15.3%	-9.8%	-27.5%	-11.2%	4.2%	9.0%	
XII. Average Net Surplus/deficit as a % of operating income	-34.4%		-11.6%		-16.5%		7.5%		

**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/22/2004 - MOPT - Proposal from the South West Port Limited for fixation of rates for its multipurpose bulk cargo terminal at berth Nos. 5A and 6A at the MOPT.

1. The comments received from the port users / representative bodies of port users are summarised below:

Mormugao Ships' Agent's Association (MSAA)

- (i). Comparison of berth hire payable at the existing rate at berth number 10 and 11 of the MOPT vis-à-vis the berth hire payable at the rate proposed by the SWPL shows that the charges proposed are abnormally high around 3.5 times to 7 times higher than the existing rates. Assuming, a 36000 GRT vessel takes 5 days to discharge cargo at existing berth numbers 10 and 11 of the MOPT, the berth hire charge payable at the rate prescribed in the MOPT Scale of Rates will work out to USD 20822.50 as against USD 70200 payable at the rate proposed by SWPL reckoning vessel stay on berth for 2.5 days. However, during the first six months atleast, the average discharge rate is expected to be only 10,000 to 15,000 MT per day as against 25000 MT assumed by the SWPL. This will mean the vessel will have to stay at the berth for 5 days, and if that is so, the berth hire charge payable to the SWPL will rise upto a level of USD 140400.
- (ii). The charges payable at the proposed rate will still be more than 2 times even in comparison to the rate prescribed in the MOPT Scale of Rates for berth 9 i.e. Mechanical Ore Handling Plant (MOHP).
- (iii). The berth hire and discharge rate at some of the other private ports like Ennore and Mundra port are also furnished for sake of comparison.
- (iv). While appreciating that the private operator should earn reasonable profit on the investment, the amortisation cost should be spread over the entire lease period of 30 years and rates should be fixed accordingly.
- (v). As regards the appeal of the SWPL to consider royalty payment for tariff fixation, the policy decision of the TAMP in this regard should be considered.

Mormugao Port Trust (MOPT)

- (i). The Licence Agreement was entered into with M/s. ABG Goa Port Ltd. and as such, the change of name as South West Port Ltd. is yet under examination from legal point of view.
- (ii). The licenced premises were handed over to ABG on 9 June 1999. The ABG's statement that the premises were handed over on 3 March 2001 is not correct. The licence period shall end on 8 June 2029.
- (iii). As per Clause No.2.1 of the LA, the licensee has to handle only bulk cargo and not any other cargo which are in break bulk form and/or containerised cargo. In view of this position, the proposed wharfage and handling charges proposed at Sl.no.6 for "Any other dry bulk and General cargo not specified above" may be restricted to handling bulk cargo only.
- (iv). As per Clause No.9.5 of the LA, till the throughput of coal/coke handled at the terminal exceed 4 million MT per annum, the handling of coal/coke at any of the existing berths within the Port shall have to be discontinued. The terminals are, therefore, reserved for receipt/dispatch of coal/coke by road and rail mode and not only by rail mode as stated in the proposal.
- (v). The vessel related charges for coastal vessel should be fixed in Indian rupee instead proposing it in dollar terms.
- (vi). The berth hire charges proposed by ABG are exorbitantly high as compared to the rates prescribed in its Scale of Rates of the MOPT which will adversely affect the trade at this port.
- (vii). The proposed provision in the berth hire schedule are to be modified suitably in pursuance of TAMP's Order no. TAMP/64/2003-MOPT dated 1 April 2004 in respect of levy of penal berth hire when a ship is not able to sail due to unfavorable tide, lack of night navigation or adverse weather conditions.
- (viii). The priority berthing should be 'cargo specific' and not 'line or consignee/consignor specific' as per the Government guidelines. It is also stated that the terminal is proposed to be used as a common user facility.
- (ix). As per the guidelines issued by the MOS in July 2003, the royalty payment should not be considered as element of cost for the purpose of tariff fixation for the private terminal operators. The TAMP has also time and again mentioned this point. Royalty/ Revenue share payable to the Port has to be shared out of the profit and cannot be passed on to the users.
- (x). With reference to the proposed handling charges for iron ore / iron ore pellets it has clarified that handling of iron ore and iron ore pellets is covered under Mormugao Port (Shipment of Ores and Pellets from

MOHP Berth No.9 and related matters) Regulations, 1979. Hence, the licensee cannot handle iron ore or pellets at these berths.

- (xi). The proposed dust suppression charges are also to be considered for computation of royalty payment to the MOPT.

Indian National Shipowners' Association (INSA)

- (i). The pricing strategy adopted by the SWPL is for receipt of cargo in panamax and bigger ships. The pricing strategy should be made considering delivery of Coal/Coke through road mode also and not restricted to delivery by rail mode only.
- (ii). The proposal about levy of Port Dues, Pilotage fee and charges for supply of water to be paid directly to the MOPT at the existing rates is acceptable.
- (iii). Likewise, the proposed conditions, about levy of penal interest on delayed payments/refunds @ 18% is as applicable at the MOPT and hence can be considered.
- (iv). The steep increase proposed in Berth Hire Charges is not acceptable. It should be same as applicable to the existing berth as both the berths are mechanized.
- (v). Fees proposed for priority berthing and ousting priority are same as existing in the Scale of Rates of the MOPT and can be accepted. However, the exemptions prescribed in the existing Scale of Rates of the MOPT in case of Defence vessels, Antartica Expedition, etc., should be made applicable at SWPL berth also so as to accommodate such vessels, at the time of emergency, war and to reduce the pressure at the MOPT berths.
- (vi). Wharfage charges are for utilisation of wharf and as far as possible it should be uniform at all the berths. At the MOPT berths there is only handling charge (which is inclusive of wharfage); there is no separate wharfage charge. Whereas, the SWPL proposes to recover wharfage charges and simultaneously cargo handling charges at high rates. The SWPL should only recover handling charges.
- (vii). The proposed rates for cargo handling are exorbitantly high as compared to present handling cost at other berths of the MOPT. It has forwarded a comparison of the rates existing at the MOPT vis-à-vis the proposed rates and stated that even if the transportation cost by tippers from wharf to railway sidings and loading of wagons by wheel/loaders are added, the cargo handling charge cannot be increased by three times. The proposed charge must, therefore, be reduced.
- (viii). The storage charge proposed by the SWPL on per tonne basis is higher than the existing rate applicable on per 10 square metre basis at

the MOPT and, hence, is not acceptable. Further, the formula prescribed to arrive at normal storage period may not be easily achievable. It may not be always possible to get three full rakes per day from Railways to dispatch 10500 MT per day as proposed by the SWPL. To elucidate, it has furnished an example of comparative charge applicable to store 15000 MT of coal to show that the proposed charge are 80% higher than the rate applicable as per the SOR of the MOPT.

- (ix). There is no ground to charge higher rate within the same port for dust suppression (i.e. Rs.2.50 PMT) as against Rs.2.15 PMT prescribed at the MOPT. The rate should be brought down, as the area of coverage is less in comparison with the Port.

Usha Ispat Private Limited (UIPL)

- (i). It may not be in a position to move cargo out of the plot at the MOPT at such high rate since there is no rail connectivity from its plant. At best, it can bring 400 MT per day by road only.
- (ii). The proposed tariff for all purposes should be commensurate with the current tariff level.

Kirloskar Ferrous Industries Limited (KFIL)

- (i). The proposed SOR is framed taking into consideration receipt of cargo in panamax and bigger ships whereas the imports made by it are less than 0.5 million MT per annum. It cannot, therefore, receive cargo in panamax or cape size vessel which is a major constraint. The SWPL must accommodate handymax vessels also.
- (ii). Despite a fully mechanised terminal to achieve high discharge rate, the SWPL is severely constrained by storage space. This will result in operational problems like cargo getting piled up at wharf, which will affect on discharge performance at the vessel at the berth which in turn may result into heavy demurrage. The storage space may, therefore, be increased to 0.3 million MT from the existing level of 0.12 million MT.
- (iii). The SWPL evacuation facilities are fully dependent on rail infrastructure. In the past, acute shortage of supply of empty wagons by the Railways has been observed. Hence, it is essential to have an option of movement of cargo by road also.
- (iv). It has reiterated the views made by the other users about exorbitant berth hire charges proposed by the SWPL.
- (v). The proposed priority berthing policy is against the common interest of all users. Hence it is not acceptable.

- (vi). It may be ensured that SWPL will provide all facilities at par with prevailing facilities provided by the MOPT at berth number 10 and 11.
- (vii). Differential rate may be prescribed for imports less than 0.5 million MT p.a. and more than 0.5 million MT per annum. For the first category, the existing rate of the MOPT may be prescribed in the interest of small users and no change may be considered for at least next five years.
- (viii). The normal storage period may be prescribed at 30 days and plot rent may be charged at the prevailing rates of the MOPT. There should be 8 days free time from the date of completion of discharge.

Menezes & Sons (M&S)

- (i). Berthing facility on first come basis, lease rent and other facilities being offered at present by MOPT may be continued as it will not be possible to pay the huge charges proposed by SWPL.

Kalyani Steels Ltd., (KSL)

- (i). The rates proposed towards port dues and handling are exorbitant in comparison to the existing tariff of MOPT. Hence they are not affordable.
- (ii). The cargo lam coke imported by it has to be transported by road only whereas at the proposed berths there is no provision for road transportation.
- (iii). Due to limited capacity of berth nos. 5A and 6A to handle only one vessel at a time, it is not possible to accommodate priority berthing for anyone.

Aparant Iron and Steel Private Limited (AISL)

- (i). It has reiterated the views of the other users about exorbitant charges proposed for cargo handling and storage.
- (ii). Presently, it transports cargo to the MOPT through road. The proposed handling arrangement by the SWPL at berth nos. 5A and 6A is, however, suitable only for railway handling and hence the facility cannot be utilized by it. It has already explored the possibility to transporting cargo by rail which was not found economical due to multiple handling involved at Mormugao port and at railway yard.
- (iii). Since it totally depends on road transport, it will take 30 to 40 days to shift cargo of shipment size 30,000 MT. In view of this fact, the plot rent proposed by the SWPL will be a substantial amount resulting into a huge burden.

- (iv). A separate fee structure in line with the MOPT tariff for small importers may be considered.

Jindal Vijayanagar Steel Limited (JVSL)

- (i). It has entered into a long term agreement with the SWPL for providing minimum take off guarantee of 3 million MT of traffic based on various discussions held with the SWPL, availability of higher draft in front of new berths, assurance of higher handling rate, etc. It fully supports and accepts the SOR proposed by SWPL.

South West Mining Limited (SWML)

- (i). With the availability of mechanized handling systems and possibility of handling of panamax size ships from berth No. 5A and 6A, it expects that operating from Goa would be advantageous since there will be reduction in sea freight due to bigger ships size calling these berths, lower railways freight in comparison to Chennai and savings in administrative heads. It agrees with the proposal of SWPL.

2. Some of the users like Euro Coke & Energy Private Ltd. and Keshav Casting Pvt. Ltd. who propose to tie up with the JVSL have reiterated the views of SWML and fully endorsed the SWPL proposal. M/s Mukand Limited has reiterated the views expressed by the Kalayani Steel Limited.

3. A joint hearing in this case was held on 24 June 2004 at Mormugao Port Trust. At the joint hearing, the following submissions were made:

South West Port Limited (SWPL)

- (i). Our proposal is based on our cost and investment.
- (ii). Presently, we are doing conventional handling with two mobile harbour cranes. By January/February 2005, we hope to achieve full mechanization.
- (iii). Our capacity of 5 million tonnes depends on yard turnaround. We have to achieve 40 to 50 turnaround in a year. Handling system available at the terminal will be sufficient to turnaround a panamax vessel in 2 ½ days on an average. This reduces port cost to users.
- (iv). We have applied for change of name. The Port Trust is processing it. They have not yet approved it.
- (v). Coal, coke, iron pellets and limestones are the traffic we anticipate now. We have no objection if TAMP restricts approval of rates only to these commodities.
- (vi). We have to pay royalty to port on all items of charge except berth hire.

- (vii). As advised, we have removed crange from berth hire.
- (viii). We will review storage charges to include free periods.
- (ix). The BOT agreement provides that MOPT can handle cargo which we could not handle. So, they can handle coal/coke moving by road. We hereby give our consent to this arrangement.
- (x). Since we have to achieve MGT of 5 million tonnes, priority berthing as envisaged in the BOT agreement is essential.

Mormugao Port Trust (MOPT)

- (i). Our license is with ABG. Please issue SOR only in their name. Legal issue of change of name is yet to be sorted out. Thereafter, we will sign a supplementary agreement.
- (ii). The premises were given in 1999 not in 2001 as claimed by SWPL. They have earlier accepted this position.
- (iii). The berth should be a multi user facility. Priority cannot be accorded only to vessels of one particular user.
- (iv). SWPL cannot restrict to coal/coke moving by rail alone. It should be open to road movement also.
- (v). Government policy is to reduce marine charges at Indian Ports. The proposed berth hire rates are 15-17 times more than our rates.
- (vi). Handling coke/coal at other berths is not practical. Intermittent traffic will spoil our berths. Pollution problems are to be addressed.

Jindal Vijayanagar Steels Limited (JVSL)

- (i). We have committed 3 million tonnes of import to SWPL. We are happy that they can handle a panamax vessel which gives us freight advantage. We, therefore, do not mind higher berth hire charges.

Indian National Shipowners' Association (INSA)

- (i). The rate of berth hire is very high. Even compared with the bundled rate levied at MOPT's MOHP, the proposed rates are very high.

Goa Chamber of Commerce and Industry (GCCCI)

- (i). The handling charges are very high which will affect the Trade.

Mormugao Ship Agents Association (MSAA)

- (i). Berth hire even in absolute term for total stay of vessel is very high.
- (ii). Cargo-related elements like crange should not be included in berth hire.
- (iii). There should be a benchmark level of crane productivity. In case cranes fail or breakdown, rebate should be allowed.
- (iv). Provisional rates with retrospective effect give us billing problem. Please fix the rate prospectively.
- (v). The ousting priority berth charges should be clarified. The ousting vessel should pay the charges.

Goa Carbon Ltd. and Aprant Iron & Steel Limited (GCL & AISL)

- (i). Our cargo volumes do not justify Panamax vessels always. Small and medium importers will be put to disadvantage due to the steep hike proposed in berth hire charges.
- (ii). Today, we incur Rs 110/- PMT for handling pet coke and Rs 145/- PMT for Lam coke. The proposed rates will push our cost to Rs 300/- PMT.
- (iii). Reasonableness of cost needs to be borne in mind, as even small vessels will henceforth use SWPL.
- (iv). Please consider separate storage rates for small importer moving by road.

Usha Ispat Limited (USL)

- (i). Road movement should be allowed.

M/s. Kirloskar Ferrous Industries Limited (KFIL)

- (i). Our requirement is 2.3 lakh tonnes per annum. Mechanical handling is not necessary for this volume. But, we have to bear additional cost of mechanized terminal.
- (ii). Road movement should be allowed. Further, storage charges should be on par with the existing rates of MOPT.

Asphalt India

- (i). Our raw material cost is going up. Further, we already pay demurrage on vessels. Priority berthing should be given on first come first basis.

- (ii). Road movement is essential and rail network in this part is not fully developed. Further, some of the importers are not served by rail network.

Euro Coke & Energy Private Limited

- (i). We welcome the mechanized berths at 5A and 6A which will be a boost to our import/export.

Special Plastics

- (i). We welcome this project as it gives us benefit of rail freight and ocean freight reductions.

SICAL

- (i). Road movement cannot be done away with. This means cargo may require longer storage at Port. Please consider this aspect while prescribing storage charges.

4. At the joint hearing, the Goa Chamber of Commerce and Industry has filed its written submission. In addition to reiterating the points made by the other users about the proposed berth hire charge, cargo handling charge and charges for dust suppression system being very high than the existing tariff applicable at the MOPT, it has made the following main points:

- (i). The berth hire charge may be maintained same as applicable to the mechanised berth of the MOPT.
- (ii). The ground rent may be considered on the basis of space occupied as applicable at the MOPT as against PMT rate proposed by the SWPL.
- (iii). The logic of proposing ground rent for entire cargo when the part of the cargo may not occupy any storage space since they would be evacuated on the same day of discharge need to be explained.

5. Subsequent to the joint hearing, the Goa Carbon Limited (GCL) has filed its written submission. Some of the main points made by the GCL are as follows:

- (i). If, the SWPL deviates from the berthing schedules followed by the MOPT at berths 5A and 6A and gives priorities to vessels of few users, it will be difficult for the users to estimate the waiting period. This will lead to heavy demurrage cost to the vessels and indirectly adding up to the cost of the raw material.
- (ii). The MOPT charges Rs.24/- per ton as wharfage charges for raw petroleum coke whereas the SWPL have clubbed all coal/coke together and proposed rate of Rs.45/- per ton for the same. The

wharfage charges for berths 5A and 6A should be same as applicable at the MOPT.

- (iii). Ground rent is not applicable in the MOPT for bulk cargoes and hence should not be made applicable at Berths 5A and 6A as proposed by SWPL.
- (iv). The lease rent on open plots for storage of bulk cargoes prescribed at Rs.84/- per 10 sq. mtr. or part thereof for a period of 10 days or part thereof at the MOPT works out to about Rs.5/- per ton for average storage period of 23 days. Whereas at the rates proposed by the SWPL on daily basis, the cost works out to Rs.241.33 per ton for average of 20 days. This is not affordable. It is, therefore, suggested that SWPL should adopt the existing MOPT rental charges for raw petroleum coke.
- (v). The proposed cargo handling charges of Rs.130 per tonne for any type of coal/coke is almost 75% more than the existing cost of Rs.75 per tonne (i.e. Rs. 40 per tonne towards cargo handling as prescribed in the SOR plus Rs.25 to 30 per tonne for hiring shore handling equipment) at berth no 10 and 11 at the MOPT. It is beyond its capacity to absorb this additional increase in the cost of raw petroleum coke.
- (vi). It has also reiterated that the charges for dust suppression should be similar to the MOPT rate.

6. The comments of the MOPT and the users on the revised proposal of the SWPL are summarised below:

Jindal Vijayanagar Steel Limited (JVSL)

- (i). It accepts the revised proposed Scale of Rates of the SWPL.

Aparant Iron and Steel Private Limited (AISPL)

- (i). The rate structure proposed by SWPL for road delivery is also very much higher. It should be as per the rate charged by the MOPT.

Goa Carbon Limited (GCL)

- (i). Definition of "Per Day" proposed by SWPL differs from the definition prescribed in the Scale of Rates of the MOPT. This may be modified in line with the prescription in the MOPT Scale of Rates for simplification and proper co-ordination.
- (ii). The proposed slab for levy of berth hire may be broken into three slabs i.e. vessels upto 10000 GRT, vessels upto 20000 GRT and vessels

upto 30000 GRT and the per hour rates may also be reduced according to slabs.

- (iii). The proposed conditionality about Priority Berthing and Ousting Priority Berthing does not clarify whether in normal circumstances the vessels will be berthed in order of arrival i.e. first-come-first-serve basis. Secondly, the proposed conditionality about according ousting priority for vessels not performing at the prescribed out put level should not be made applicable to small size parcels / vessels handled at berth 5A since it may not be possible to achieve said output norms on account of shortage of storage space.
- (iv). Wharfage for raw petroleum coke is clubbed with other coke and proposed at Rs.45/- PMT as against Rs.24/- PMT prescribed in the MOPT Scale of Rate. A separate entry for raw petroleum coke may be inserted and the existing rate may be prescribed.
- (v). Likewise, in respect of cargo handling charge also separate entry for raw petroleum coke may be inserted and the rate may be reduced to Rs.75/- per tonne instead of proposed rate at Rs.140/- per tonne.
- (vi). There will be duplication in levy of the dust suppression charges, for cargo handled at berth number 5A one by SWPL in their area at this berth and another by MOPT for the cargo stacked in its nominated yard. It has, therefore, suggested that cargo proposed to be stacked in the MOPT stack yard / plot must be excluded from levy of dust suppression charges at the MOPT end and a separate proportionately reduced charge may be considered for this service.
- (vii). The charges proposed for entry pass for visitor / vehicles are quite high compared to the existing charges of MOPT and hence may be reduced.
- (viii). The proposed crane hire charges appear to be high and may be made reasonable and affordable.

Mormugao Ships' Agent's Association (MSAA)

- (i). Apart from reiterating its earlier comments it has stated that the berth hire rate proposed for vessel above 60,001 GRT at US\$ 0.0325 per GRT per hour is very much higher than the earlier proposed rate which itself was not acceptable to the trade.
- (ii). The rates proposed for berth 5A is ten times higher than the existing rate of MOPT and should be broken into more slabs in line with the Scale of Rates of the MOPT.
- (iii). Cranage which is a cargo related charge should not be included in berth hire charge. Rebate should be given in berth hire in case vessel is idling for shore reasons.

- (iv). Priority Berthing and Ousting Priority Berthing will create problems and confusions for receivers as well as shippers since the discharge operators will be controlled entirely by the SWPL. There must be strong justification if the proposed conditionality is to be applied. It has, therefore, requested not to consider these provisions in the proposal.
- (v). If the SWPL is not able to supply water through its shore pipeline then it is not justified to supply fresh water by tanker trucks and charge the vessel at the same MOPT rate meant for supplying through shore pipeline. In such cases, the ships agent should have the liberty of supplying the same through tanker trucks as is permitted by the MOPT.
- (vi). The SWPL has proposed to adopt exchange rate on the date the vessel berths alongside. In order to maintain uniformity, the exchange rate to be adopted must be similar to the provisions applied at the MOPT i.e. on the date of arrival of vessel since Pilotage and Port Dues are required to be paid to MOPT whereas Berth Hire is to be paid to SWPL and if different exchange rates are adopted then it will create complication.
- (vii). Wharfage rates at berths 5A / 6A should be the same as charged by MOPT.
- (viii). The proposed cargo handling charges are much higher than the stevedoring rates presently levied for handling various cargoes at berth numbers 10 and 11 of the MOPT. The CHLD charges prescribed in the MOPT Scale of Rate may be taken as a bench-mark to arrive at rates for stevedoring service.
- (ix). Ground rent / Storage charges are much higher than the existing MOPT rates and would not be affordable to the importers / exporters.
- (x). The charges for visitor entry pass should be at the most in line with MOPT rates since the port users would also be having MOPT entry passes with them. There should be different categories for port users / terminal users and the visiting guests.
- (xi). Proposed fee for vehicle entry pass is higher compared to the MOPT rate. The MOPT does not charge any entry fee for passenger vehicles / cars or two wheelers used by port users in order to attend to the day to day duties in the port, except Rs.1/- being the cost of the form. Hence, there should be no charges for passenger vehicles / cars.
- (xii). There should be no photography charges for photos when taken in connection with cargo operations and any type of surveys.
- (xiii). The berth hire charges should be introduced with prospective effect only as otherwise it will create immense hardship to the agents who will

not be able to recover them from their principals for the vessels which have already sailed.

The Mormugao Stevedores' Association (MSA)

- (i). The proposed berth hire charge are more than 10 times higher than the existing rates at the MOPT.
- (ii). The proposal of "Priority Berthing" and "Ousting Priority Berthing" should be laid down on first-come-first-service basis, as is existing in Mormugao port.
- (iii). Some of the cargoes have been clubbed under one category in the proposed wharfage schedule which may affect some of the importers / exporters. It is suggested that cargo-wise wharfage charges may be maintained as existing in the Scale of Rates of the MOPT.
- (iv). Cargo handling charges proposed by SWPL are considerably higher than the charges incurred by various Stevedores for handling general cargoes at Berth numbers 10 or 11 of the MOPT. These charges may be finalized at reasonable and affordable rates.
- (v). The proposed ground rent / storage charges appear to be 40 to 50 times higher than the existing storage charges in MOPT. This needs to be reduced to a reasonable level.
- (vi). Different rate are proposed for dust suppression of coal and coke which are slightly higher than the existing tariff. This may be finalized with some changes.
- (vii). The proposed charges for photo dock entry should be within the range of Rs.100 for 1 to 3 years.
- (viii). Vehicle entry pass should be less than Rs.35/-.
- (ix). The proposed crane hire charge are also very high as compared to the rate levied by the MOPT for hire of mobile crane. This may be brought down to the reasonable and affordable range.

Mormugao Port Trust (MOPT)

- (i). At the joint meeting it was agreed to provide about 10,000 sq.mtrs. of storage space on the request of M/s. ABG Goa Port Ltd. on vessel to vessel basis considering the growth of traffic by road and space constraint at terminal and not for storage of cargo handled with despatch exclusively by road as proposed by ABG.

M/s. ABG has requested for two more rail tracks which will further reduce open storage space by 44%. Without linking this issue it is stated that as per the terms of the Agreement M/s. ABG Goa Port Ltd.

will have to make an arrangement in the terminal for discharge of all coke & coal vessels and arrangement for evacuation of cargo by Rail and Road mode.

- (ii). Reasons for the proposed entry charge for vehicles which will be reporting for despatch from M/s. ABG Goa Port Ltd. is not understood. With the proposed additional charge M/s. ABG Goa Port Ltd. is trying to discourage the despatch of cargo by road mode even with known facts that at many locations no rail facility exists.
