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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 238

New Delhi,

7 December, 2011

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Paradip Port Trust for fixation of tariff for cargo handling by Paradeep Phosphates Limited at Fertilizer Berth No.1 as in the Order appended hereto.

(Rani Jadhav)
Chairman

TARIFF AUTHORITY FOR MAJOR PORTS
Case No. TAMP/36/2011-PPT

Paradip Port trust

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Applicant

ORDER

(Passed on this 22nd day of November 2011)

The Paradip Port Trust (PPT) filed a proposal for fixation of tariff for cargo handling by (PPL) in its captive berth (Fertiliser Berth No.1) in August 2009. This Authority vide order No.TAMP/28A/2009-PPT dated 29 November 2010 disposed of the above proposal of PPT with an advice to PPT to rework the expenses allocable to the Fertiliser Berth No.1 (FB-1) following the methodology set out in the said Order and file its revised proposal for fixation of fixed berth hire charge and wharfage charge for handling cargo at berth operated by PPL from the years 1999-2000 to 2009-10 based on the actuals and following the methodology explained in the ibid Order. Before forwarding its proposal to this Authority, the PPT was advised to get the figures verified by PPL within a stipulated time.

2.1. In compliance of the Order dated 29 November 2010, the PPT vide its letter dated 28 February 2011 forwarded its revised proposal to PPL with a copy endorsed to us.

2.2. In response, the PPL vide its letter dated 5 March 2011 requested PPT to furnish certain documents and workings in order to have a correct understanding on the figures and a fair idea on the basis adopted by PPT for allocating or apportioning various expenses to FB-1. The PPT, vide its letter dated 21 March 2011 furnished the information / documents requested by PPL vide its letter dated 5 March 2011.

2.3. The PPL vide its letter dated 12 April 2011 furnished its comments and sought additional information / clarification on certain issues from PPT. The PPT vide its letter dated 10 May 2011 furnished the information / clarification sought by the PPL and revised the cost statements based on the observations of PPL.

2.4. The PPL vide its letter dated 24 May 2011 again raised certain queries. The PPT vide its letter dated 18 June 2011 has responded to the PPL stating that the cost statements furnished by PPT under cover of its letter dated 10 May 2011 may be treated as final, as there is no significant change in the rates on account of the observations of PPL in its letter dated 24 May 2011. The details of these exchanges are not elaborated here as the port and PPL have subsequently sat together to reduce the difference between them.

3.1. The PPT under cover of its letter dated 18 June 2011 has filed its revised proposal for revision of tariff for cargo handling by PPL in its captive berth (FB-1). The PPT has stated that the proposal forwarded by PPT under cover of its letter dated 10 May 2011 may be treated as final since the queries raised by PPL thereafter vide its letter dated 24 May 2011 has no impact on the rates worked out in the proposal.

3.2. The PPL vide its letter dated 11 July 2011 has stated that the observations raised by them vide their letter dated 24 May 2011 relate to certain issues on principle which are not only decisive on the previous charges of port, but will also decide the future charges which will have a long term significant financial impact on PPL. The PPL has, therefore, requested this Authority to advise PPT to discuss the matter with PPL directly or in presence of this Authority before taking a final decision on this matter.

3.3. Subsequently, the PPT vide its letter dated 2 September 2011 has stated that it convened a meeting with PPL officials to sort out the issues raised by them and based on the issues mutually agreed, it has revised the cost statements. The PPT under cover of its letter dated 2 September 2011 cited above has furnished revised cost statements along with a copy of the minutes of the meeting held with PPL officials on 15 July 2011.

4.1. The salient features of the proposal dated 2 September 2011 of PPT are as under:

- (i). Tariff for FB-1 is proposed to be revised from 1 April 1999 to 31 March 2010, i.e. for 11 financial years from 1999-2000 to 2009-10.
- (ii). The PPT has worked out the wharfage charges and fixed monthly berth hire charges for each of the eleven years based on the actual figures of the relevant year.
- (iii). The PPT has generally adopted the methodology prescribed by this Authority in its Order dated 29 November 2010 for arriving at the wharfage charges and berth hire charges for FB-1, except deviations in respect of few items which are brought out in the subsequent paragraphs of this Order.

4.2 The tonnage based wharfage rate and fixed monthly berth hire charges proposed by the PPT are furnished in the table below:

Year	Wharfage Rate (₹ per tonne)	Fixed Berth hire charges (₹ in lakhs per month)
1999-00	19.29	66.89
2000-01	13.70	66.13
2001-02	20.99	51.29
2002-03	18.86	49.55
2003-04	15.86	52.88
2004-05	31.40	58.32
2005-06	25.37	59.44
2006-07	19.21	53.51
2007-08	15.49	51.73
2008-09	16.26	57.85
2009-10	18.84	69.12

4.3 As per the revised cost statements, the total wharfage charges and berth hire charges for all the eleven years, as per the proposed rates, works out to ₹32.98 crores and ₹76.40 crores respectively, aggregating to ₹109.39 crores. As reported by PPT, the wharfage charges and berth hire charges already collected by it for all the said years is ₹115.21 crores, which shows that PPT has already made an excess recovery of ₹ 5.82 crores.

4.4 The PPT vide its letter dated 2 September 2011 has forwarded the minutes of the meeting held with PPL officials to sort out the issues across the table for perusal of this Authority. The issues flagged and discussed and decision taken by them in the meeting are as follows:

- (i). Capital Dredging

PPL informed that as per TAMP guidelines cost of capital dredging is to be apportioned on quantity of silt dredged. In response, PPT clarified that, it has considered the capital cost of the PPL berth as on 31.3.1986 as reflected in the audited annual accounts and allowed depreciation as per Ministry guidelines for subsequent years. The dredging cost of the port is apportioned on the basis of no. of berths since records of silt dredged from alongside the berths are neither separately accounted for nor available with the Port.

PPL suggested that in absence of records, at least the cost should be divided on the basis of length of the berth and PPT should maintain records for future expenditure. PPT expressed that as there is no clear cut demarcation between the berths it is not possible to divide the cost on the basis of the length of the berth. PPT also stated that it is difficult to maintain the records in future also and suggested to leave the decision to TAMP.

(ii). Maintenance Dredging

PPL officials informed that as per TAMP guidelines maintenance dredging cost is to be apportioned based on the quantity of silt dredged. It was clarified that the port has apportioned the maintenance dredging cost on the basis of no. of berths since records of silt dredged from alongside the berths are not separately accounted for nor available with the port.

PPL suggested that in absence of records, at least the cost should be decided on the basis of length of berth and PPT should maintain records for future expenses. PPT expressed its difficulty in maintaining records and suggested for leaving the decision to TAMP.

(iii). Land cost

PPL official raised an objection that since it is not using Paradip Port railway facilities, the cost of land used for railway operations should not be allocated to them. PPT officials clarified that the land available at the port are meant for all activity, such as cargo handling, vessel related, railway & estate. Records are not available with the port regarding the extent of land used for railway facilities. PPL did not agree to it. PPT suggested for leaving the decision to TAMP.

(iv). Bifurcation of assets

A query was raised by PPL officials that methodology adopted by PPT for treating all assets as business assets is not appropriate and is not agreeable to PPL. According to PPL, the cost of land used for social related activities should not be apportioned to them. PPT informed that business and other activities are interwoven and integrated and they cannot be separated. The port being a Government agency has social responsibilities both to its employees as well as the public and cost of assets maintained for the purpose has to be borne by all profit centres. PPL did not agree to it and left the decision to TAMP.

(v). Apportionment of common assets

PPL officials pointed out that the common assets should first be divided between the principal activities of the port and thereafter, the allocable assets under vessel related activity to be apportioned on the basis of GRT ratio. The port officials agreed to the same and the figures already submitted to TAMP will undergo revision as per the details furnished. [PPT has furnished a statement in this regard].

(vi). Capital employed

PPL officials informed that the port instead of taking closing net block at the end of the financial year has taken opening net block in the beginning of the financial year for calculation of ROCE, which is not as per TAMP guidelines. The port officials agreed to the same and the figures already submitted to TAMP will undergo revision as per the details. [PPT has furnished a statement in this regard].

4.5. The PPT has endorsed a copy of its letter dated 2 September 2011 as well as a copy of the minutes of the meeting it had with the officials of PPL on 15 July 2011 in this regard to the PPL.

5. The final proposal dated 2 September 2011 filed by the PPT before this Authority is found to be based on the position emerged in the meeting held on 15 July 2011 between PPT & PPL. It is noteworthy that the Order dated 29 November 2010 passed by this Authority disposing of the earlier proposal of PPT for fixation of tariff for berth FB-1 also stipulates that the PPT should file its proposal in consultation with PPL. Since both the parties have undergone the process of

mutual consultation between them and the minutes of the meeting reflects the views of both the parties, setting up of personal hearing in this case was not considered necessary.

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

- (i). As brought out earlier, the PPT and PPL have exchanged between themselves the documents and information with regard to the fixation of tariff for FB-1. After verification of such documents and information received from the PPT, the PPL has offered its comments on the proposal of PPT. It is also seen that based on the comments made by PPL, the PPT has modified its proposal for fixation of tariff for FB-1. This process has culminated into the proposal dated 10 May 2011 which was again shared by PPT with PPL. After scrutinizing the comments made PPL on the proposal dated 10 May 2011, the PPT has contended that the comments made by the PPL on the port's proposal of 10 May 2011 has no significant impact on the tariff contained in the proposal dated 10 May 2011. Accordingly, the PPT has initially filed its proposal of 10 May 2011 with this Authority in July 2011. In the meantime, at our advice, both the parties had a joint meeting between them and narrowed down the differences with respect to the proposal in reference, which is reflected in the minutes of the above meeting they had on 15 July 2011. Based on the issues mutually agreed, the PPT revised the cost statements and forwarded to this Authority under cover of its letter dated 2 September 2011. The proposal dated 10 May 2011 along with the revised cost statements furnished by PPT under cover of its letter dated 2 September 2011 is analysed herein under.
- (ii). With reference to the PPT's proposal dated 10 May 2011, it is seen that the PPL has verified the base figures in the cost statements. The changes made by the PPT to the cost statements furnished vide its letter dated 2 September 2011 are only with reference to the basis of apportionment of expenses to the FB-1 and there is no change in the base figures considered by PPT in the cost statements contained in the proposal of 10 May 2011 to arrive at the proposed rates. Recognising that the communication dated 2 September 2011 has emanated based on the issues mutually agreed and considering that the PPL has verified the figures contained in the proposal of 10 May 2011, the base figures such as capital cost of FB-1 and WDV of capital dredging as at 31 March 1986, figures reported by the PPT in Form-5 for the vessel related activity and cargo related activity, actual traffic for the port and FB-1 and GRT of vessels for the port and FB-1 for all the relevant years were relied upon. Therefore, the exercise on hand is limited to examine the compliance of principles and methodology laid down in the tariff Order dated 29 November 2010 and to address the issues brought before this Authority by PPT and PPL for decision.
- (iii). The compliance by PPT of the principles laid down in the tariff Order dated 29 November 2010 is discussed below:
 - (a). In line with the observations made in Order dated 29 November 2010, the proposal of the PPT is seen to be based on the actual traffic handled at FB-1 during the years 1999-2000 to 2009-10.
 - (b). The PPT has not allocated part of the revenue deficit from Estate activity to FB-1, in compliance of the observations made in the Order dated 29 November 2010.

As per the above said tariff Order, the expenditure on staff quarters should generally form part of the management and general overheads. In case, the expenditure on staff quarters do not form part of the management and general overheads, the port was to quantify the net expenditure on staff quarters and include it under management and general expenses. The share to be allocated to the FB-1 will follow the basis prescribed for other management and general overheads. The PPT

has not separately reported the expenditure on staff quarters in this proposal. Therefore, it is taken that the port has considered this expenditure under management and general overheads.

- (c). As recorded in the Order dated 29 November 2010, the expenses connected with the railway activity cannot be treated as overhead allocable to FB-1. Following this position, the PPT has not considered the expenses connected with the railway activity in the management and general expenses allocable to FB-1.
 - (d). The Order dated 29 November 2010 calls for identification of common assets such as administrative office, building, etc. the depreciation in respect of which is included under management and general overheads. It also prescribes a methodology to apportion the Written Down Value (WDV) of such common assets to various activities and thereafter to FB-1. The PPL has objected to the value of common assets considered by the PPT and the methodology adopted by the port in the apportionment of such common assets to FB-1. The methodology adopted by the PPT in this regard and objections of PPL thereupon are discussed in a subsequent paragraph.
- (iv). The methodology prescribed by this Authority for allocation / apportionment of cost items vis-à-vis the methodology adopted by the PPT are discussed below:

A. Computation of Berth Hire:

(i) Capital cost of FB-1 and capital dredging cost alongside FB-1:

With regard to the capital cost of FB-1, the port has considered the WDV of the berth as at the end of the respective financial years for the purpose of computing return on capital employed, which is found to be in order.

With regard to cost of capital dredging, Order dated 29 November 2010 stipulates that only expenditure incurred towards dredging alongside berth FB-1 should be considered and such expenditure should be apportioned between the berths based on the quantum of silt dredged at each of the berths.

The PPT has considered the cost of capital dredging as at 31 March 1986 for apportionment to FB-1. The apportionment is done based on the number of berths existing at the relevant point of time. The capital dredging cost so apportioned to FB-1 is added to the capital cost of the berth as at 31 March 1986 and considered for the purpose of calculation of depreciation and return from the year 1999-2000 onwards, after duly factoring depreciation for 14 years from 1986-87 to 1999-2000. The plea made by PPL to divide the capital dredging cost on the basis of length of berths, in the absence of records, and to maintain the details of silt dredged at the berths in future is rejected by PPT. Both PPT and PPL have left the matter for a decision by this Authority.

While offering remarks to the comments of PPL, the PPT in its letter dated 10 May 2011 has stated that the capital dredging expenditure was incurred for channel, which is common for all berths and hence apportioned to FB-1 accordingly. It is understood from the port that capital cost of alongside dredging in respect of FB-1 is already included in the capital cost of FB-1.

This Authority has already clarified that cost of channel dredging is recovered by way of port dues and pilotage and the expenditure incurred towards alongside berth only should be considered for the purpose of

berth hire charges. Thus, the capital dredging expenses pertaining to channel dredging apportioned by PPT to FB-1 is not found to be in line with the methodology prescribed in the Order of November 2010. Therefore, the aggregate capital cost of FB-1 considered by PPT is modified to exclude the capital dredging expenses reportedly incurred by PPT for channel dredging.

- (ii). (a). As brought out earlier, the tariff Order dated 29 November 2010 calls for the PPT to identify common assets and apportion it to the FB-1 for allowing return. With regard to apportionment of common assets for arriving at the berth hire charges, the above Order prescribes a three stage apportionment as given below:
 - (i). The WDV of common assets of the port should be allocated first to the vessel related activity on the ratio of gross value of assets under the vessel related activity to the total gross value of assets of the port.
 - (ii). The WDV of common assets so apportioned to vessel related activity should be re-apportioned to general berthing activity in the ratio of gross value of assets under berthing activity to the gross value of assets under vessel related activity.
 - (iii). The WDV of common assets apportioned to general berthing activity to be apportioned again to berth FB-1 on the basis of GRT ratio, i.e. ratio of GRT of vessels handled at FB-1 to the total GRT of vessels handled at the port as a whole.
- (b). The PPT has furnished separate statements giving details of gross value of assets of the port as a whole, for cargo handling activity, vessel related activity and common assets. The port has not furnished the statements of gross value of assets for Railway activity and Estate activity. On scrutiny of the statements furnished by the Port, it is seen that the difference between the gross value of the assets of the port as a whole and the sum of gross value of assets considered under cargo related activity, vessel related activity and common assets, represents assets relating to railway activity. This shows that the port has not identified any asset with the Estate activity. In other words, the total gross value of assets of the port is allocated among cargo, vessel and railway activities and the balance is considered as common assets. It appears that the PPT has considered the value of assets under estate activity as 'common assets' for the purpose of this proposal. The port should have identified the assets directly borne by all the main activities including estate activity and thereafter determined the assets which are common to all the activities, whose depreciation is considered under management and general overheads. In the absence of details regarding assets for which depreciation is included under management and general overheads, this Authority has not gone into the issues relating to identification of common assets. Therefore, and in the absence of details, the common assets identified by the port is relied upon in this analysis, in view of the position that the present proposal of PPT is for fixation of tariff for the past 11 years from 1999-2000, which is pending for a long time. However, the PPT is advised to identify the common assets, the depreciation for which is considered in the

management and general overheads, in the formulation of proposal for fixation tariff at FB-1 for the future years.

- (c). The common assets considered by the port comprises of 100% of value of land, 10% of the WDV of Buildings, Sheds & other structures and 100% of WDV of Furniture & Equipment.

The PPL has objected to the consideration of entire value of land as common asset. The contention of PPL is that cost of land used for railway operations should not be apportioned to FB-1 whereas the PPT has stated that it has no records regarding the extent of land used exclusively for individual activity including railway activity. The issue is left to this Authority for decision.

The defence of PPT is that land available at the port is used for all activities. However, the port has not furnished details regarding land directly identifiable with the main activities. In a port most of the land may be directly related to cargo handling activity and to some extent to other activities like vessel, railways and estate activity. Therefore, consideration of the entire value of land as common asset is not a fair approach.

Considering the objection raised by the PPL for inclusion of land relating to railway activity also in the list of common assets, there is a need to exclude the land relating to railway activity. Since the port has not furnished the extent and value of land used for railway activity, this Authority is constrained to estimate the value of land used for railway activity by approximation. The ratio of the gross value of assets relating to railway activity to the gross value of assets of the port as a whole is taken as the basis to estimate the value of land used for railway activity, in the absence of details regarding extent of land used for different activities. Based on the gross value of assets furnished by the port, ratio of gross value of railway assets to gross value of total assets is worked out for all the years under consideration, which is in the range of 7.75% to 9.47% for the years 1999-2000 to 2009-10. The ratio for the relevant year is applied on the total value of land to arrive at the value of land relating to railway activity for each year and the same is excluded from the total value of land considered by the port. However, the port is advised that the land which is occupied by common facilities like Administrative Office building, Hospital, Staff quarters, common roads, etc. whose depreciation is accounted under management and general overheads should only be classified as common asset in the proposals to be filed by it for fixation of tariff at FB-1 for future years.

- (d). Arguing that treatment of all assets as business assets by the PPT is not appropriate, the PPL has pointed out that cost of land used for social related activities should not be apportioned to FB-1. It is the case of the PPT that the port being a government agency, it has social responsibilities and the burden of which should be borne by all the concerned.

However, the position in this regard reported by the PPT during the proceedings relating to the general revision of tariff at PPT which culminated into the tariff Order dated 25 March 2011, reveals that the PPT did not classify any of its assets as social obligation assets. Recognising this position, the necessity of classifying a portion of land as social obligation asset and excluding it from the common assets does not arise.

The value of land considered by the port under common assets is modified on the lines discussed above. The value of other common assets reported by the port is considered without change.

The PPT has furnished the ratios of gross block of assets directly borne by cargo and vessel related activities to the gross block of assets of the port as a whole separately. In view of the position that the port has not properly identified the common assets, as explained in the earlier paragraphs, the gross value of assets reported by the port under cargo and vessel related activities may also warrant modification; which in turn, may have an impact in the ratios of gross block of assets for the cargo handling and vessel related activities to the gross block of assets of the port as a whole, furnished by the port.

Considering that the impact on this account may be only marginal, the ratios as furnished by the port are relied upon. The modified value of common assets is apportioned to cargo and vessel related activities based on the ratios furnished by the port, as a first stage of apportionment.

- (e). The PPT has not followed the methodology prescribed by this Authority for second stage of apportionment. Instead, the port has apportioned the common assets under vessel related activity directly to FB-1 on the basis of GRT ratio, skipping the intermediate step of apportionment of common assets to general berthing activity. This is a significant deviation from the methodology prescribed in the Order of November 2010. The methodology adopted by the port means the entire common assets relevant of vessel related activity is to be borne only by berthing activity without apportioning the due share to the other sub-activities under vessel related activity, viz. Port dues, Pilotage & Towage, etc. Since the port collects port dues and pilotage & towage charges from the operator of FB-1 separately for the vessels visiting FB-1, accounting of all common assets relating to vessel related activity under berthing activity (and thereafter to FB-1) has the effect of double counting of common assets and return thereon, which is not correct. Therefore, it is necessary to apportion the common assets of vessel activity first to the berthing sub-activity before apportioning to FB-1.

As prescribed in the Order of November 2010, the WDV of common assets apportioned to the vessel related activity is to be apportioned to general berthing activity in the ratio of gross asset value of berthing activity to the gross value of the assets of vessel related activity. Though the gross value of assets of the vessel related activity is made available, the gross value of assets under berthing sub-activity is not furnished by the port. Hence, it is not found possible to apportion the WDV of common assets to berthing sub-activity following the methodology prescribed in the Order of November 2010.

In view of the above position, the WDV of common assets under the vessel related activity is apportioned equally to the three major sub-activities under vessel related activity, viz. Port dues, Pilotage & Towage and Berth Hire, on an adhoc basis. Accordingly, 1/3rd of the WDV of common assets under vessel related activity is apportioned to berthing activity. It has to be recognised that this

approach is adopted on an adhoc basis to settle this long pending case and should not be construed as a considered decision to override the method of allocation prescribed in the Order of November 2010. The port should follow the prescribed method for the future period.

The WDV of common assets so apportioned to berthing activity is again apportioned to FB-1 on the basis of GRT ratio, as prescribed in the Order of November 2010.

- (iii). The PPT has calculated the return on capital cost of FB-1 including common assets apportioned to FB-1 for the relevant years, at the ROCE rates prescribed in the Order of November 2010. The ROCE calculated by the port is modified in line with the modified capital cost of FB-1.
- (iv). The PPT has considered the rate of depreciation on capital cost of berth No.FB-1 and cost of capital dredging as adopted by the port in its books of accounts, which is in conformity with the methodology prescribed in the tariff Order dated 29 November 2010. However, the annual depreciation considered by the port is modified in line with the modified capital cost of FB-1, which excludes capital dredging cost, as already discussed in an earlier paragraph.
- (v). The methodology prescribed in the Order of November 2010 for apportioning annual maintenance dredging expenses to FB-1 follows the same principles prescribed for apportioning capital dredging cost. The maintenance dredging cost pertaining to dredging alongside the berths should be apportioned between berths based on the quantum of silt dredged alongside the respective berths.

The PPT has apportioned maintenance dredging cost also based on the number of berths existing at the port during the relevant years. It has stated that the expenses incurred is for both channel as well as berths and the quantity of silt dredged, berth-wise, is not available. The PPL has objected to the methodology adopted by PPT to apportion maintenance dredging cost based on number of berths. The suggestion of PPL to apportion the maintenance dredging cost atleast based on the length of the berths is rejected by PPT citing that clear demarcation between berths does not exist. Both the parties have finally left the issue for a decision by this Authority.

Since the Order of November 2010 stipulates that maintenance dredging expenses incurred for dredging alongside the berth only should be considered, there is a necessity to exclude the expenses incurred for dredging the channel. Since the PPT has not furnished the break-up for the cost of maintenance dredging incurred for channel and berths separately, the Annual Administration Report of PPT is referred. Based on the length of the channel and the length of the berths furnished in the administration report, the maintenance dredging cost pertaining to channel is calculated on pro-rata basis and excluded from the total annual maintenance dredging cost.

As brought out earlier, the PPT has apportioned the maintenance dredging cost based on the number of berths. The PPL, on the other hand, has made a plea to atleast consider the length of the berths for the apportionment of cost in the absence of quantity of silt dredged. Since the case in reference pertains to the earlier years as back as from 1999-2000, the position of PPT that records for silt dredged berth-wise are not available cannot be brushed aside. At the same time, the suggestion of PPL to consider the length of berths as a parameter for apportionment

appears to be more appropriate than the number of berths adopted by the PPT, in a situation where the length of all the berths at the PPT are not equal, as seen from its Administration report. In the absence of details of quantity of berth-wise silt dredged, the maintenance dredging cost relevant for FB-1 is calculated by considering the annual maintenance dredging cost incurred for all berths and length of all the berths at PPT, as explained below:

- (a). The total maintenance dredging cost of the port is first segregated between channel and berths based on the length of channel and total length of all berths, as mentioned earlier.
- (b). The portion of maintenance dredging cost relating to berths is re-apportioned to FB-1 based on the ratio of length of berth FB-1 to the total length of all berths at the port.

With regard to the request of PPL to maintain the quantity of silt dredged, berth-wise, in future, the PPT has expressed its difficulty in maintaining such records in future also and both parties have left the issue for a decision by this Authority.

As per the tariff Order dated 29 November 2010, the PPT is required to file the proposal annually for fixation of rates at the end of each financial year based on the actual figures pertaining to the PPL activity and following the guidelines prescribed above. The methodology prescribed by this Authority clearly mentions that the maintenance dredging cost should be apportioned between the berths based on the quantity of silt dredged alongside the respective berths. Therefore, the PPT is advised to apportion the maintenance dredging cost to FB-1 only on the basis of silt dredged, in its proposals to be filed for fixation of tariff at FB-1 for future years.

- (vi). With regard to apportionment of Management and general expenses, the Order of November 2010 stipulates that the common management and general expenses of the port should be first apportioned to the vessel related activity following the basis prescribed in Form-5 of the formats prescribed by this Authority for filing tariff revision proposals by the Major Port Trusts. The common expenses so apportioned to vessel related activity should be re-apportioned to general berthing activity again following the basis prescribed in Form-5 of the formats. The common expenses pertaining to general berthing activity should be apportioned to berth FB-1 on the basis of GRT ratio.

The PPT has furnished Form-5 for the vessel related activity and cargo related activity for all the years supported with working sheets containing the basis of apportionment of common expenses of the port to the main activities of the port. The PPT has confirmed that the common management and general expenses have been apportioned to the main activities based on the ratio derived as per the instructions contained in Form-5. Relying on the position reported by PPT, the management and general expenses furnished by PPT in the Form-5 are considered in this analysis, except for rectification of a minor error pointed out by PPL in respect of the year 2008-09.

With respect to the second stage of apportionment, the PPT has not followed the methodology prescribed in the Order of November 2010 for apportioning the management and general expenses pertaining to vessel related activity to the general berthing activity as per Form-5, which is a deviation from the methodology prescribed by this Authority. Instead, the port has reapportioned the expenses relating to vessel related activity

directly to FB-1 on the basis of GRT ratio, skipping the second stage of apportionment. This is a significant deviation from the methodology prescribed by this Authority in its Order of November 2010. The methodology adopted by the port passes on the burden of the entire management and general expenses relevant for vessel related activity only to berthing sub-activity without apportioning the due share to the other sub-activities under vessel related activity, viz. Port dues, Pilotage & Towage, etc. Since the port collects port dues and pilotage & towage charges from the operator of FB-1 separately for the vessels visiting FB-1, accounting of all management and general expenses relating to vessel related activity under berthing activity (and thereafter to FB-1) has the effect of double counting of a portion of such expenses, which is not correct. Therefore, it is necessary to apportion the management and general expenses of vessel activity first to the berthing sub-activity before apportioning to FB-1.

As prescribed in the Order of November 2010, the allocable management and general expenses pertaining to the vessel related activity should be reapportioned to the general berthing activity following the methodology prescribed in Form-5. Since the details required for apportionment of expenses to the sub-activities as per Form-5 are not made available by the port, it is not found possible to apportion such expenses to the berthing sub-activity following the methodology prescribed in the Form-5. In view of the above position, the management and general expenses of the vessel related activity is apportioned to the berthing sub-activity in the ratio of operating expenses of berthing activity, including the maintenance dredging cost apportioned to berthing sub-activity, to the total operating expenses of vessel related activity excluding Administration expenses, as reported in Form-5. It has to be recognised that this approach is adopted on an adhoc basis to settle this long pending case and should not be construed as a considered decision to override the method of allocation prescribed in the Order of November 2010. The port should follow the prescribed method for the future period.

The management and general expenses so apportioned to berthing sub-activity is again apportioned to FB-1 on the basis of GRT ratio, as prescribed in the Order of November 2010.

- (vii). The methodology for apportionment of Finance & Miscellaneous expenses excluding interest on loan, onetime expenses, VRS compensation, etc. prescribed in the Order of November 2010 is the same as that prescribed for apportionment of management and general expenses.

The Finance & Miscellaneous expenses reported by PPT in Form-5 comprises of Retirement benefits, Ex-gratia and Performance Reward. The PPT has apportioned the Finance & Miscellaneous expenses first to the vessel related activity as per Form-5 and the expenses so apportioned to vessel related activity is directly apportioned to berth FB-1 based on the GRT ratio, skipping the second stage of apportionment to general berthing activity, as has been done by the port in respect of Management and general expenses. The PPT has confirmed that ratio of apportionment of Finance & Miscellaneous expenses to main activities have been derived as per instructions contained in Form-5.

As can be seen from the above paragraph, the PPT has adopted same approach followed by it for apportionment of management and general expenses in the case of finance and miscellaneous expenses also. For the reasons stated in the discussion on the apportionment of management and general expenses, the methodology adopted by PPT for

apportionment of Finance & miscellaneous expenses to FB-1 needs modification.

As done in the case of management and general expenses, the finance & miscellaneous expenses apportioned to vessel related activity is re-apportioned to berthing sub-activity in the ratio of operating expenses of berthing sub-activity to the operating expenses of vessel related activity as reported in Form-5.

The finance and miscellaneous expenses so apportioned to berthing sub-activity is again apportioned to FB-1 on the basis of GRT ratio, as prescribed in the Order of November 2010.

- (viii). Subject to the above discussions, the cost statement furnished by PPT for fixation of berth hire charges payable by PPL to PPT for berth FB-1 for the years 1999-2000 to 2009-10 is modified and attached as **Annex-I**.

B. Computation of Wharfage charges for handling cargo:

- (i). As per the methodology prescribed in the Order of November 2010 for fixation of handling charges, management and general expenses as well as finance & miscellaneous expenses should be apportioned to cargo related activity as per Form-5 of the cost statement formats prescribed for general revision of tariff at Major Ports. The expenses so apportioned to cargo related activity should be apportioned again to the cargo handled at berth FB-1 on tonnage ratio, viz. the proportion of traffic handled at berth FB-1 by PPL to the total traffic handled at the port.

The PPT has adopted the methodology prescribed in the Order of November 2010 for apportionment of management & general expenses and finance & miscellaneous expenses to FB-1. The PPT has also confirmed that these expenses have been apportioned (to the main activities) based on the ratio derived as per instructions contained in Form-5. Therefore, the management & general expenses as well as finance & miscellaneous expenses apportioned to FB-1, as furnished by PPT are considered.

- (ii). The apportionment of common assets to cargo related activity and vessel related activity is already discussed elaborately in the earlier paragraphs. For the reasons stated thereat, the modified WDV of common assets is considered for apportionment to cargo related activity as per the methodology prescribed in the Order of November 2010. A calculation error pointed out by PPL in the value of common assets apportioned to cargo handling activity in the year 2000-01 and subsequently accepted by PPT, but not rectified in the cost statement of PPT, is also rectified by us.

The WDV of common assets apportioned to cargo related activity is reapportioned to cargo handled at FB-1 on the basis of tonnage ratio, in line with the methodology prescribed in the Order of November 2010 and adopted by the port as well.

The PPT has calculated the return on common assets apportioned to cargo handling activity at berth FB-1 at the ROCE rates prescribed in the Order of November 2010. The ROCE furnished by the port is modified in line with the modified WDV of common assets apportioned to FB-1.

- (iii). Subject to the above discussions, the cost statement for fixation of wharfage payable by PPL to PPT for cargo handled at berth FB-1 for the years 1999-2000 to 2009-10 furnished by PPT is modified and attached as **Annex-II**.

- (v). The wharfage charges for cargo handling proposed by PPT and modified rates are comparable. In respect of berth hire charges, the modified rates for all the years under consideration are lower than the rates proposed by PPT. In this regard, it should be noted that the PPT considered the entire maintenance dredging expenses of the vessel related activity including maintenance dredging for channel for apportioning to FB-1 instead of considering the dredging cost relevant for berthing sub-activity. Similarly, the port has considered the management and general expenses, finance and miscellaneous expenses and common assets pertaining to vessel related activity directly to FB-1 instead of considering the said items of cost relating to the sub-activity of berthing only. Further, the PPT has apportioned the capital dredging cost of channel to FB-1 for ascertaining the capital cost of FB-1. For the reasons stated earlier, the capital dredging cost of channel could not be considered in the capital cost of FB-1. In view of the above deviations contained in the proposal of PPT from the principles/methodology prescribed by the Authority in its Order dated 29 November 2010, the berth hire charges as arrived at by us are lower than the berth hire charges proposed by the port.

7. In the result, and for the reasons stated above, and based on a collective application of mind, this Authority approves the following wharfage charges for cargo handled at FB-1 and the monthly fixed berth hire charges for the vessels berthed at FB-1 during the years 1999-2000 to 2009-10.

Year	Wharfage charges (₹ per tonne)	Fixed Berth hire charges (₹ in lakhs per month)
1999-00	19.25	58.60
2000-01	13.58	59.58
2001-02	20.96	47.63
2002-03	18.82	45.59
2003-04	15.83	47.92
2004-05	31.38	52.49
2005-06	25.35	52.85
2006-07	19.19	47.84
2007-08	15.48	47.32
2008-09	16.51	52.54
2009-10	18.82	61.20

(Rani Jadhav)
Chairman

Annex-I

Computation of Berth Hire Charges payable by Paradip Phosphates Limited to Paradip Port Trust for Berth No.FB-1

(₹ in lakhs)

Sl. No.	Particulars	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
I	Operating cost											
(a).	Depreciation of Berth FB-1 (Note 2)	30.54	30.54	30.54	30.54	30.54	30.54	30.54	30.54	30.54	30.54	30.54
(b).	Maintenance Dredging Cost (Note 3)	150.55	258.03	149.87	127.40	130.06	183.53	220.64	200.28	189.98	262.48	293.01
(c).	Apportioned Management & Administration Expenses (Note 4)	108.36	47.29	26.65	48.92	74.82	46.73	58.06	47.54	66.11	62.59	129.63
(d).	Apportioned Finance & Miscellaneous Expenses (Note 5)	38.03	19.75	11.70	10.63	15.19	67.59	70.89	46.44	20.18	18.95	30.14
	Sub total (a) to (d)	327.48	355.61	218.76	217.50	250.61	328.39	380.13	324.80	306.82	374.57	483.31
II	Return on Capital Employed											
(a).	Capital cost of FB-1 - WDV (Note 1)	1868.79	1838.24	1807.70	1777.16	1746.62	1716.08	1685.54	1654.99	1624.45	1593.91	1563.37
(b).	WDV of common assets apportioned to FB-1 (Note 6)	9.98	4.73	1.81	4.23	6.87	6.92	8.30	7.16	6.65	5.36	5.88
(c).	Total capital cost (a) + (b)	1878.77	1842.97	1809.51	1781.39	1753.49	1723.00	1693.84	1662.15	1631.10	1599.27	1569.25
(d).	Applicable rate of return on capital employed	20%	19.5%	19.5%	18.5%	18.5%	17.5%	15.0%	15.0%	16.0%	16.0%	16.0%
(e).	Return on capital employed	375.75	359.38	352.85	329.56	324.40	301.52	254.08	249.32	260.98	255.88	251.08
III	Total annual cost plus return (I) + (II)	703.23	714.99	571.61	547.06	575.00	629.91	634.20	574.13	567.79	630.45	734.39
IV	Monthly Fixed Berth Hire charges (Sl. No.III/12)	58.60	59.58	47.63	45.59	47.92	52.49	52.85	47.84	47.32	52.54	61.20

Notes:

(₹ in lakhs)

(1).	Capital cost:	PPT	TAMP	Difference
	Capital cost of the berth as on 31.3.86	2296.37	2296.37	0.00
	Capital dredging cost apportioned to FB-1	107.27	0.00	107.27
		2403.64	2296.37	107.27
(2).	Depreciation			
	Annual depreciation @ 1.33% of berth cost	30.54	30.54	0.00
	Annual depreciation @ 1% of dredging cost	1.07	0.00	1.07
	Total Annual depreciation	31.61	30.54	1.07
	WDV as at 31.3.2000 (14 years)	1961.04	1868.79	

(₹ in lakhs)

(3).	Maintenance Dredging	As per PPT calculation			As per TAMP calculation						Difference	
	Year	Total Mtce dredging cost of the port	No. of berths	Apportioned to FB-1 (on no. of berths)	Total Mtce dredging cost of the port	Length of channel (metres)	Total Length of all berths (metres)	Total length of channel & berths (metres)	Apportioned to Berths (excludg. channel)	Length of FB-1 (metres)	Apportioned to FB-1	
	1999-00	1561.62	9	173.51	1561.62	500	2114	2614	1262.92	252	150.55	22.97
	2000-01	2676.50	9	297.39	2676.50	500	2114	2614	2164.55	252	258.03	39.36
	2001-02	2149.31	13	165.33	2149.31	500	3114	3614	1851.95	252	149.87	15.46
	2002-03	1973.74	14	140.98	1973.74	500	3404	3904	1720.96	252	127.40	13.58
	2003-04	2014.94	14	143.92	2014.94	500	3404	3904	1756.88	252	130.06	13.86
	2004-05	2843.29	14	203.09	2843.29	500	3404	3904	2479.14	252	183.53	19.56
	2005-06	3418.23	14	244.16	3418.23	500	3404	3904	2980.44	252	220.64	23.52
	2006-07	3102.79	14	221.63	3102.79	500	3404	3904	2705.40	252	200.28	21.35
	2007-08	2943.24	14	210.23	2943.24	500	3404	3904	2566.29	252	189.98	20.25
	2008-09	4066.40	14	290.46	4066.40	500	3404	3904	3545.60	252	262.48	27.97
	2009-10	4539.28	14	324.23	4539.28	500	3404	3904	3957.92	252	293.01	31.23

(4).	Apportioned Management & General Expenses	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
(i).	Administration & General Expenses under vessel related activity (direct) (as per Form-5)	139.13	155.77	202.53	250.73	243.31	235.46	331.07	301.25	525.02	651.72	2219.09
(ii).	Common Management & General Expenses apportioned to vessel related activity (as per Form-5)	1435.65	1344.97	1624.32	1461.74	1441.87	797.01	790.55	756.78	936.00	1141.59	1265.00
(iii).	Total Management & general expenses for vessel related activity (i) + (ii)	1574.78	1500.74	1826.85	1712.47	1685.18	1032.47	1121.62	1058.03	1461.02	1793.31	3484.09
(iv).	Apportioned to berthing activity (Note 7)	1158.25	1177.33	1479.38	1372.20	1311.74	809.25	861.07	798.18	1232.52	1450.43	2683.79
(v).	Apportioned to FB-1 on GRT Ratio	108.36	47.29	26.65	48.92	74.82	46.73	58.06	47.54	66.11	62.59	129.63

(5).	Apportioned Finance & Misc. Expenses	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
(i).	Finance & Misc. Expenses apportioned to vessel related activity (as per Form-5)	552.71	626.81	802.39	372.21	342.03	1493.22	1369.5	1033.42	446.00	543.00	810.00
(ii).	Apportioned to berthing activity (Note 7)	406.52	491.73	649.78	298.25	266.24	1170.39	1051.37	779.61	376.25	439.18	623.94
(iii).	Re-apportioned to FB-1 on GRT Ratio	38.03	19.75	11.70	10.63	15.19	67.59	70.89	46.44	20.18	18.95	30.14

(6).	Common assets											
(i).	Share of common assets for vessel related activity (Note 8)	319.90	352.91	301.27	355.52	361.24	359.41	369.53	360.81	372.06	372.87	365.14
(ii).	Apportioned common assets for berthing activity (Note 7)	106.63	117.64	100.42	118.51	120.41	119.80	123.18	120.27	124.02	124.29	121.71
(iii).	Common assets apportioned to FB-1 on GRT Ratio	9.98	4.73	1.81	4.23	6.87	6.92	8.3	7.16	6.65	5.36	5.88

(7). **Basis of apportionment to berthing activity from vessel related activity (not considered by the PPT in its proposal)**

	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Direct operating expenditure of Berthing sub-activity (as per Form 5)	389.54	418.38	542.98	433.83	463.12	559.06	604.36	691.57	1834.05	1828.15	2198.90
Share of dredging expenses (as per Form 5) to berthing activity (apportioned based on length of channel and length of berths as given in Note 3 above)	1262.92	2164.55	1851.95	1720.96	1756.88	2479.14	2980.44	2705.40	2566.29	3545.60	3957.92
Total direct expenses of berthing sub-activity	1652.46	2582.93	2394.93	2154.79	2220.00	3038.20	3584.80	3396.97	4400.34	5373.75	6156.82
Total direct expenses of vessel related activity (excluding Administration and general expenses, as per Form 5)	2246.60	3292.54	2957.36	2689.22	2852.03	3876.29	4669.46	4503.11	5216.16	6643.95	7992.48
Ratio of berthing expenses to total expenses of vessel related activity	73.55%	78.45%	80.98%	80.13%	77.84%	78.38%	76.77%	75.44%	84.36%	80.88%	77.03%

GRT Ratio	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Total GRT of the port	14364622	20732258	20798989	22554325	23525352	26712556	30932403	34916692	37674512	38566237	39125628
GRT of FB-1	1343836	832748	374615	804127	1341810	1542544	2085563	2079794	2020769	1664335	1889774
Ratio	0.0935518	0.0401668	0.0180112	0.0356529	0.0570368	0.057746	0.0674232	0.0595645	0.0536376	0.0431552	0.0483002

Annex-II

Computation of wharfage payable by Paradip Phosphates Limited to Paradip Port Trust for cargo handled at Berth No.FB-1

(₹ in lakhs)

Sl. No.	Particulars	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
I	Share of Indirect Expenses allocated to cargo handling activity apportioned to Berth FB-1											
(a).	Apportioned Management & Administration Expenses (Note 1)	124.75	68.90	35.77	141.50	129.13	202.02	230.95	219.47	232.24	225.36	257.55
(b).	Apportioned Finance & Miscellaneous Expenses (Note 2)	59.11	26.03	23.42	79.13	73.35	287.67	292.24	202.50	98.01	75.99	113.66
	Sub total (a) to (d)	183.87	94.93	59.19	220.63	202.48	489.69	523.18	421.97	330.24	301.35	371.21
II	Return on Capital Employed											
(a).	WDV of common assets apportioned to FB-1 (Note 3)	49.84	26.39	14.69	62.99	66.38	64.99	76.84	69.66	60.05	49.02	47.85
(b).	Applicable rate of return on capital employed	20%	19.5%	19.5%	18.5%	18.5%	17.5%	15.0%	15.0%	16.0%	16.0%	16.0%
(c).	Return on capital employed	9.97	5.15	2.86	11.65	12.28	11.37	11.53	10.45	9.61	7.84	7.66
III	Total annual cost plus return (I) + (II)	193.83	100.08	62.05	232.29	214.76	501.07	534.71	432.42	339.85	309.19	378.87
IV	Traffic handled at Berth No.FB-1 (in lakh tonnes)	10.07	7.37	2.96	12.34	13.57	15.97	21.09	22.53	21.96	18.73	20.13
IV	Wharfage - ₹ Per tonne (III/IV)	19.25	13.58	20.96	18.82	15.83	31.38	25.35	19.19	15.48	16.51	18.82

Notes:

(₹ in lakhs)

(1).	Management & General Expenses	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
(i).	Direct Management & Admn. Expenses allocated to cargo related activity	368.90	456.75	529.53	552.32	518.24	554.16	608.44	625.40	809.01	995.42	1245.03
(ii).	Common Mgmt. & Admn. Expenses apportioned to cargo related activity (as per Form-5)	1320.38	1403.87	2024.25	2188.45	1890.32	3253.99	3017.16	3126.66	3679.00	4399.34	4900.00
(iii).	Total (i) + (ii)	1689.28	1860.62	2553.78	2740.77	2408.56	3808.15	3625.60	3752.06	4488.01	5394.76	6145.03
(iv).	Apportioned to FB-1 on tonnage ratio	124.75	68.90	35.77	141.50	129.13	202.02	230.95	219.47	232.24	225.36	257.55

(2).	Finance & Miscellaneous Expenses	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
(i).	Finance & Misc. Expenses apportioned to cargo related activity (as per Form-5)	800.48	702.78	1671.66	1532.64	1368.1	5422.74	4587.82	3461.95	1894.00	1819.00	2712.00
(ii).	Re-apportioned to FB-1 on tonnage ratio	59.11	26.03	23.42	79.13	73.35	287.67	292.24	202.50	98.01	75.99	113.66

(3).	Common assets (Note 8 of Berth hire charges)											
(i).	Share of common assets for cargo related activity (Note 8 of Berth Hire charges)	674.83	712.72	1048.58	1220.01	1238.15	1225.16	1206.26	1190.92	1160.50	1173.38	1141.72
(ii).	Common assets apportioned to FB-1 on tonnage ratio	49.84	26.39	14.69	62.99	66.38	64.99	76.84	69.66	60.05	49.02	47.85

Tonnage Ratio	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Total traffic handled at the port (in lakh tonnes)	136.36	199.01	211.31	239.01	253.11	301.04	331.09	385.17	424.38	448.36	480.3
Traffic handled at FB-1 (in lakh tonnes)	10.07	7.37	2.96	12.34	13.57	15.97	21.09	22.53	21.96	18.73	20.13
Ratio	0.073849	0.037033	0.014008	0.05163	0.053613	0.053049	0.063699	0.058494	0.051746	0.041774	0.041911