

(To be published in Part - III Section 4 of the Gazette of India, Extraordinary)

TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 224

New Delhi 4thOctober 2002

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the Tuticorin Port Trust for a general revision of its Scale of Rates as in the Order appended hereto.

(S. Sathyam)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/31/2002-TPT

The Tuticorin Port Trust (TPT)

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Applicant

ORDER

(Passed on this 20th day of September 2002)

This case relates to a proposal received from the Tuticorin Port Trust (TPT) for a general revision of its Scale of Rates.

2.1. The TPT has stated that a comprehensive revision of its Scale of Rates (excluding railway siding charges) was last notified in December 1999. In accordance with the two year cycle of revision of tariffs prescribed by this Authority, the revision of its tariffs is already over due; and, hence, it has submitted the proposal for a general revision of Scale of Rates.

2.2. The salient features of the working based on which the revision is proposed, as explained by the TPT, are as follows:

- (i). Average surplus / deficit over a period of five years (i.e. actuals of 1999-2000, 2000-01 and estimates of 2001-02, 2002-03 and 2003-04) have been considered for arriving at the proposed increase.
- (ii). The income and expenditure figures for the year 2001-02 and 2002-03 are as per Budget proposals.
- (iii). The impact of capital dredging proposed to be carried out in the year 2002-03; and, also the expected increase in traffic after the commissioning of the Berth no. 8 has been considered in the income estimates of the year 2003-04.
- (iv). The income from special rates prescribed for capital dredging and also the expenditure on account of this dredging have been excluded in the instant proposal since a separate proposal is submitted in this context.
- (v). Similarly, the income and expenditure on account of Railways are also excluded from the purview of this working to arrive at the proposed increase, since a separate proposal to the increase the siding charges is submitted to the Railway Board for consideration.
- (vi). The income received from investments and interest paid on loan liability have also been excluded.
- (vii). The return on capital employed is considered at 19%, out of which 13% is towards the interest element and 6% towards the transfer to two statutory reserves.

3.1. This proposal for a general revision of the Scale of Rates was considered by the Board of Trustees of the TPT in their meeting held on 16 February 2002. The Board of Trustees has approved an increase of 10% as against 13% increase suggested for its consideration. The increase in tariffs proposed by the TPT are tabulated below:

Sl. No.	Tariff items	% Increase proposed
(i).	Vessel related charges-Port Dues, Pilotage fees, Tug hire fees, Berth hire charges and charges for water supply to vessels.	10%
(ii).	Cargo related charges	
	(a). Wharfage Dues.	10%
	(b). Charges for handling containers.	10%
	(c). Charges for use of landing place.	50%
	(d). Storage charges on containers.	30%
	(e). Charges for special services for reefer containers.	30%

Sl. No.	Tariff items		% Increase proposed
(iii).	Miscellaneous Services		
	(a).	Rent for occupation of compartments in the Coal Mazdoor lines in the port premises.	60%
	(b).	Licence fee for vehicle/Private cargo handling equipment operating outside the security wall.	20%
	(c).	Other Services	10% - 15%

3.2. Apart from the revision of rates, the proposal submitted by the TPT envisages the following:-

- (i). The charges for use of landing places are proposed to be increased by 50% in view of the fact that the existing rates are on a lower side as compared to the rates prevailing in the other ports. Further, the unit of levy is proposed to be changed from a 'per month or part thereof' basis to 'per fortnight or part thereof' basis.
- (ii). A separate wharfage rate for import and export of wheat has been proposed as against a single rate prescribed in the existing Scale of Rates. A lower wharfage rate for export of wheat has been proposed in sliding scale, beginning from Rs. 35/- PMT for export of wheat upto 2 lakh tonnes.
- (iii). Hire charges for tugs / launches at Zone 'B' is proposed to be deleted since there is no relevant operation from Zone 'B'.
- (iv). A wharfage rate for Sulphuric Acid has been newly proposed.
- (v). The other main amendments proposed in the existing conditionalities are as follows:
 - (a). The unit of levy for goods-in-transit charges is proposed to be changed from 'per wharfage unit' to 'per day per wharfage unit'.
 - (b). Free days for wheat is proposed to be reduced from 30 days to 15 days; and, for other cargo it is proposed to be reduced from 15 days to 10 days.
 - (c). Electricity charges are proposed to be levied separately based on actual consumption and are not included in the proposed rental charges for rooms used in connection with shipping operation.
 - (d). It has proposed to treat warehouses as transit sheds when transit sheds are fully occupied / could not be provided due to reasons attributable to the port.
 - (e). The levy of shifting charges for various movements of vessel are proposed to be explained explicitly.
 - (f). Shifting is proposed to mean shifting from one berth to another. In case a vessel shifts from berth to outer anchorage and re-enters the port under the same port entry, full pilotage fee is proposed to be levied.
 - (g). Definitions of fortnight, shift, etc., are proposed to be amended.
- (v). The TPT has submitted separate proposals for fixation of the following tariff items:
 - (a). Fixation of a wharfage rate for Copper Anode at Rs. 61/- PMT on par with the wharfage rate proposed for Copper Concentrate.
 - (b). Separate tariff for entry of private cargo handling equipment inside the security wall as against a uniform rate applicable at present for entry of

private cargo handling equipment inside/ outside the security wall in view of an audit observation in this regard. The tariff for entry of private cargo handling equipment outside the security wall is proposed to be increased by 20%; and, the tariff inside the security wall is proposed at 25% above the rate applicable outside the security wall.

- (c). Revision of the special rate for capital dredging. Apart from the existing special rate for capital dredging for vessels using deep draught berths and the concessional rate for vessels calling at the container berth, it has proposed to levy 25% of the vessel related charges in respect of vessels calling at VOC Berths No. I and II; and Berth No. V and VI. It has also proposed to levy a special rate of capital dredging on all coastal vessels on each entry.

4. The TPT had not furnished separate cost statements for various activities along with its proposal. Accordingly, the TPT was requested to furnish them in the prescribed format. Main activity-wise cost statements were furnished by the TPT on 14 March 2002.

5.1. In accordance with the consultative procedure prescribed, the proposal of the TPT was circulated to the concerned port users / representative bodies of port users and the PSA SICAL for their comments. The comments received from them are summarised below:

Indian Chamber of Commerce and Industry (ICCI)

- (i). The cost of landing and preshipment cost is much more than that in other developing countries due to a recession in the world economy; and, hence, the importers / exporters are unable to compete in the international market.
- (ii). The proposed wharfage charges for export of agricultural products like sugar, wheat and rice must be reconsidered and reduced to some extent.
- (iii). The rates for imports may be retained at the existing level for another two years.
- (iv). The growth rate of the TPT is steadily going up. Hence, there is no justification for the proposed revision.

Southern Petrochemical Industries Corporation Limited (SPIC)

- (i). The intra-port comparison of the existing rates shows that the wharfage charges for its commodities viz. Ammonia, Phosphoric Acid, Furnace oil, Fertilizer and Rock Phosphate and Sulphur are the maximum as compared to other cargo items despite offering a major share of traffic.
- (ii). Apart from collection of wharfage rate of Rs. 85/- PMT for Phosphoric Acid, ousting priority charges of approximately Rs. 2.5 lakhs is collected whenever the dedicated Berth No.IV is occupied by some other vessel.
- (iii). The port earns a revenue of Rs. 15 lakhs approximately for berth occupancy of just one day in case of Phosphoric Acid. The annual traffic of this cargo alone is not less than 2 lakhs MT whereas the other cargos such as Caustic Lye, EDC, Molasses, etc., which are charged wharfage of around Rs.39/- to Rs.51/-PMT only are not imported even in comparable volumes. In view of the above, the wharfage charges for its cargo must be reduced to a reasonable level.
- (iv). The existing wharfage rate for Ammonia which is at Rs. 85/- PMT needs to be rationalised and reduced in the light of the fact that the volume of Ammonia handled is 1 lakh MT per annum; and, also that comparable liquids such as EDC are charged Rs. 51/- PMT only.
- (v). The wharfage rate for LPG is also exceptionally high compared to that in other ports.

- (vi). The fertilizer industry is facing an acute crisis in the present decontrolled scenario and is subjected to tough competition from the other ports such as Vizag, Cochin, Paradip, Mangalore, Kandla and Mumbai. Any further increase in port charges will make it difficult to reach even the break-even point.
- (vii). The existing rates for fertilizers at Rs. 41/- and Rs.33/- PMT do not seem to be genuine if they are compared with the existing wharfage rates of other essential commodities such as Salt (Rs.5/- PMT) and wharfages rate of comparable commodities like Gypsum (Rs.7/-) and Felspar (Rs.19/- PMT). The wharfage rates for its cargo, therefore, need drastic reduction.
- (viii). It has made certain arguments in support of its request for not revising the siding charges. It may be noted that the port has not submitted any proposal to this Authority for revision of the siding charges.

DCW Limited

- (i). There is a cut-throat competition between imported and indigenous products. In such a situation any decision on the part of indigenous manufacturer to hike the cost of the product will ultimately result in total ruin.
- (ii). The Indian industries have taken rigorous measures like reduction of labour, cutting down unwarranted cost, etc., to reduce the cost of production. Hence, there is no possibility of increasing the cost of the product at present.
- (iii). In the present circumstances, the industries expect that the State / Central Governments as well the industry oriented utility bodies like Port Trusts, Electricity Board, Water Board, etc., will only maintain the present cost structure atleast for the next two years.
- (iv). The port had recently proposed 25% hike on tariffs; and, the TAMP had allowed 18% hike which itself was a burden to the industry. The instant proposal for further revision of its Scale of Rates is unwarranted in the present depressed market conditions.
- (v). The TPT being a major port may implement mechanised operations; and, thereby earn more revenue instead of levying demurrage charges due to slow load / discharge rate.
- (vi). It will be difficult for the importer / exporter to bear the entire burden arising from the increase proposed in Berth hire, Pilotage, etc.
- (vii). The bare realities of the Indian industry which is already struggling for its existence need to be considered. Any fresh imposition will further dampen the spirit of commerce and industry and make the functioning itself economically unviable.
- (viii). Taking into consideration all these factors the instant proposal of the TPT must be kept in abeyance for the next two years.

Sterlite Industries (India) Limited (SIL)

- (i). The 10% increase proposed by the TPT is very high and unaffordable due to the recession in the global economy; and, in particular, the copper smelter industry which is worst affected.
- (ii). It is under severe financial burden and its margins are squeezed due to various factors like reduction of Customs Duty, fall in LME prices, fall in Treatment Charges (TC) and Refining Charges (RC) based on which its profits are fixed. Apart from these, the Government of Tamil Nadu has imposed entry tax of 16% on all petroleum products which is the basic fuel for its smelter.

- (iii). (a). The total operating income (excluding dredging levy and Railways) have gone up by 16% in the year 2000-01 as compared to previous year. The port has potential for the same growth rate by increasing volumes and reducing the charges.
- (b). The estimates of operating expenditure has increased by 64% to 65% for the year 2001-02 to 2003-04 as compared to 55% increase in the year 2000-01.
- (c). The TPT must aggressively work for increasing its volume to improve the income and must also reduce the operating cost rather than burdening the port users by increasing the tariffs.
- (d). A re-working of operating income and operating cost will show an operating surplus position; and, revision of rates may not be required at all.
- (iv). The interest rates are falling continuously and presently are in the range of 8% to 9% per annum. Under this scenario, an interest rate of 13% considered by the TPT is completely unjustified and unwarranted.
- (v). The volume discounts proposed by the port in the sliding scale for export of wheat is appreciated. Similar volume discounts may be introduced for import of all major raw materials.
- (vi). It has offered the following specific comments on the wharfage rates proposed for a few items. Some of these issues are being dealt with by this Authority as separate case:
 - (a). A separate representation has been submitted about classifying Copper Concentrate under 'Ores and Minerals'. The existing wharfage rate of 'Ores and Minerals' at Rs.19/- PMT must be charged instead of Rs.61/- PMT proposed by the TPT for Copper Concentrate.
 - (b). The present wharfage rate of Rs.33/- PMT for Rock phosphate itself is on a higher side as compared to other ports in South India; and, hence the increase is unacceptable.
 - (c). Copper Anode must be classified under the category of 'Iron and Steel' for the purpose of levy of wharfage rate. It has reiterated that the rates proposed for Copper Anode is completely unjustified.
 - (d). The wharfage rate for Phosphoric acid shall be fixed at a minimum level of Rs.24/- PMT as fixed by the MBPT in view of the competition faced with the global giants who have their own miners.
- (vii). It is not possible to move all the cargo immediately from the wharf with the existing infrastructure available at the port. Further, the transit sheds available are not enough for using it as temporary storage. In the light of this fact, the revision proposed in good-in-transit charges are not justified.
- (viii). The industries / port users using the Tuticorin Port have to incur additional road freight since the port is located away from industrial locations as compared to the other ports such as Chennai, Cochin, etc., which are located in the heart of the city. The proposed increase in tariffs will discourage the customers to use the Tuticorin Port.

The Tuticorin Steamer Agents' Association (TSAA)

- (i). The Government of India is giving more thrust on liberalisation, privatisation and globalisation with a view to improve efficiency and productivity. To achieve this, port must have competitive tariffs and efficient working system in order to attract more cargo and more traffic.

- (ii). All the other neighbouring ports are revising their tariffs once in four years or more whereas the TPT revises the charges every two years, which is not justified.
- (iii). There shall not be any revision in the vessel-related charges since even the existing charges are very high compared to neighboring ports.
- (iv). An overall revision of maximum 5% excluding the vessel-related charges may be allowed.
- (v). Berth hire charges shall be collected on an hourly basis only instead of 8 hours basis.
- (vi). There shall not be any separate shifting charges since these charges have already been taken into consideration while fixing Pilotage fee in accordance with the directions received from the (then) Ministry of Surface Transport (MOST). Moreover, there is an Order of the TAMP that the vessel shifting charges shall not be recovered.
- (vii). Goods-in-transit charges must not be altered.
- (viii). Similarly, charges for the use landing places, siding charges for containers, Licence fee for entry of private equipment into port premises for both inside and outside securities wall shall be maintained at the existing level.

The Tuticorin Sailing Vessel Owners' Association (TSVOA)

- (i). All the piers, wharfs and godowns at the Tuticorin Old Port are in dilapidated and damaged conditions; and, not maintained by the TPT.
- (ii). The traffic at the Tuticorin Old port is meagre due to adverse economic situation. Under these circumstances the proposed increase will not only affect the existing sailing vessel industry; but, will also become counter productive.
- (iii). The old port navigation channel is fast getting filled up with silt thereby, reducing the draft. Even the navigational channel buoys are not properly lighted and moored.
- (iv). In view of the above points, the existing rates must be continued especially at the Old Port.

The Shipping Corporation of India Limited (SCI)

- (i). The existing vessel-related charges of the TPT are high compared to the charges levied by the Chennai and Colombo ports. The proposed increase of 10% will increase this differential further.
- (ii). The entire proposal is hinged upon the Return on Capital Employed (ROCE) which has been considered at 19% (interest component is 13%). Since the Banks have reduced the interest rates, the TPT must rework the computation of ROCE; and, submit fresh proposals in line with the interest rates applicable in actual market conditions.

The PSA SICAL Terminal limited (PSA SICAL)

- (i). The high marine charges in the TPT is one of the deterrent factor for main line vessels to call the Tuticorin Container Terminal (TCT) despite offering high productivity level and fast, flexible and reliable services. The proposed increase of 10% in the vessel-related charges will increase the port charges even higher.
- (ii). The special rate for capital dredging must be fully eliminated in case of container vessels to encourage more vessel calls and in turn to increase the revenue of the port.

- (iii). The rates proposed for Port Dues, Pilotage and Berth hire based on GRT are continued to be set out in an ascending order instead of a flat or a descending order. This will discourage larger vessels from calling at the port as it penalises the larger and modern vessels more than the older and smaller container vessels. Further, the new and large second generation vessels which are more suitable for longer haul run will not be encouraged to call at the Tuticorin Container Terminal (TCT).
- (iv). It supports the modifications proposed in the definition of 'shift, fortnight', etc., as it is a good sign of flexibility.

The Customs Licensed Agents' Association (CLAA)

It has reiterated the comments offered by the TSAA.

The Tuticorin Thermal Power Station (TTPS)

- (i). The existing wharfage rate for Coal and Coke unloaded through Jetty is Rs.38/- PMT which appears too high if compared to the wharfage rate of Rs. 30 /- PMT for Coal and Coke handled in bulk. The wharfage rate for Coal and Coke unloaded through Jetty must be reconsidered and also scaled down to the existing wharfage rate of Rs. 30 /- PMT as applicable to Coal and Coke in bulk.
- (ii). Way leave charges and Berth hire fees are also paid @ Rs. 0.65 PMT and Rs. 0.33 to Rs. 0.77 PMT respectively. Since the conveyor system for transporting of coal through conveyor was already erected by Tuticorin Thermal Power Station, the way leave charges must be waived.

Tuticorin Chamber of Commerce and Industry (TCCI)

- (i). The trade is not in a position to bear any additional financial burden due to the present economical and market condition prevailing in the country.
- (ii). The vessel-related charges of the TPT are very high compared to other ports of India and hence there should not be any increase in the vessel-related charges.
- (iii). An over all revision of 0.5% may be considered except the vessel-related charges.

Tuticorin Stevedores' Association (TSA)

- (i). An across-the-board increase of 13% on the port charges has been proposed which, we feel, is very much on the high side on analysing the financial data furnished. [The TPT has proposed an increase of 10% only].
- (ii). Increase of the port charges will be detrimental to the traffic growth, especially in the export front.
- (iii). An inter-port comparison of all the tariff items with those in neighbouring ports must be done in order to get an overall scenario.
- (iv). The existing marine dues at the Tuticorin Port are probably the highest in the world. The proposed increase of 13% on marine dues for the deep draught berths will be having a cascading effect as a special rate on capital dredging @ 50% is applicable on marine dues which will work to 19.5%; and, is beyond the bearable limit of the trade.
- (v). The income and expenditure relating to the special rate for capital dredging, railway siding charges, investments income and interest on loan liability have not been considered in the cost statement for determining the percentage increase. If the surplus/deficit is reworked including these omitted items, the deficit will come down to 6% as against 13% projected by the TPT.

- (vi). If 6% increase is effected, the marine dues for deep draught berth will be contained to 9% including special rate for capital dredging.
- (vii). In view of the above, an increase of only 6% will be sufficient to meet the capital expenditure for the next five years.
- (viii). The modifications proposed in the terms and conditions by redefining shifting and ousting priority, modifying the shift working hours as 8 hours from the occupation of the berth, treating warehouse as transit area when the transit-shed is fully occupied and the concessional wharfage rate proposed for export of wheat are welcomed since they are user friendly.

5.2. The comments received from the above port users and the PSA SICAL were sent to the TPT as feed back information.

6.1. Based on a preliminary scrutiny of the proposal, the TPT was requested to furnish additional information / clarification on various issues. Some of the main points raised are as given below:

- (i). The cost statements are to be submitted separately for Zone 'A' and Zone 'B' and also for different sub-activities within the cargo-related, vessel-related and estate-related activities.
- (ii). The projection of additional traffic envisaged in the PIB / Project report for capital dredging proposed to be completed in 2002-03 and after commissioning of the berth no.8. Also, the additional traffic considered in the cost statement in this context.
- (iii). The quantum of revision proposed in the Railway charges. Since income and operating expenditure of Railway activity have been excluded, the FME and management and general overheads allocable to the Railway activity must also be excluded.
- (iv). The treatment given to the royalty payment received / receivable from the PSA SICAL Limited. The details of royalty payments receivable from the PSASICAL for the next two years; and, also a confirmation whether projection of container traffic has been made in consultation with the PSA SICAL.
- (v). To consider the additional income due to variation in foreign exchange rate and, the additional income due to restoration of disparities in tariffs for coastal vessel at the admissible level in the cost statements for vessel-related related charges. A differential of 30% in tariff for coastal vessels and foreign-going vessels is to be maintained as per the Government Guidelines.
- (vi). The estimates of expenditure are increased by 12.5%, 10% and 9% for the years 2001-02, 2002-03 and 2002-03 respectively over the previous years estimates which appear to be on the higher side in the light of the fact that inflation has come down to less than 2%.
- (vii). The reasons for the increase in the pension payments and items relating to previous year under the head Finance and Miscellaneous Expenditure (FME) for the year 2000-01 as compared to the actuals of 1999-2000. Provision for payment of arrears of salary, wages and pension due to wage revision and VRS payment, if any, considered in the estimates need to be excluded from FME.
- (viii). The assessed capacity and the traffic handled/projections for the years 2001-02 to 2003-04.
- (ix). The reasons for estimating a 58% increase in the operating expenditure of rentable land and building for the year 2001-02 as compared to the actuals of 2000-01 may be given.

- (x). To confirm that the expenditure on maintenance dredging have been allocated only to the activities relating to Berth hire and Port Dues.
- (xi). To justify the proposed way leave charges with reference to the existing land rentals applicable for the concerned corridors.
- (xii). To justify the proposed crane hire charges, equipment charges with reference to capital as well as operating and maintenance cost.
- (xiii). The definition of Pilotage fee needs to be modified to include the composite services of one inward movement, one outward movement and one shifting within the harbour.
- (xiv). The basis of proposing shifting charges as 25% of Pilotage fee. The reasons for not following the earlier suggestion to propose separate shifting charges without linking it to pilotage and basing it only on cost of providing such services.
- (xv). The provision vesting the authority in the Chairman (TPT) to fix charges for use of crafts for which no rates are prescribed must be deleted.
- (xvi). The reasons for not rationalising the tariff structure through introduction of an appropriate graded Scale of Rates for Port Dues, Berth hire and Pilotage with reference to GRT of the vessels as advised in this Authority's Order passed on 2 June 2000.
- (xvii). Prescription of separate Berth hire charges for different groups of berths based on facilities available thereat. To consider reduction of the berth hire charges for double-banking (for fishing vessels) from 2/3 of the normal berth hire to 50% as is applicable in many other ports; and, extend this provision to all other vessels.
- (xviii). The basis of fixing the wharfage rate for Sulphuric Acid at Rs.50/- PMT.
- (xix). The reasons for changing the unit of levy for demurrage from 'per wharfage unit' to 'per day per wharfage unit'; and, also for modification proposed in the unit of levy of goods-in-transit charges on containerised cargo.
- (xx). The reasons for proposing around 50% increase in case of over stoyal at the covered space and for the use of open space since it is not in line with the 10% increase proposed by the TPT.
- (xxi). Justification for an increase of 30% proposed in respect of services offered to the reefer containers with reference to electricity cost.
- (xxii). The details of additional traffic, if any, generated as a result of the package of marine charges for main line container vessels introduced in August 2001; and, the TPT's stand on continuance of this scheme.

6.2. In response to the queries raised, the TPT has furnished additional information / clarification which is summarised as follows:

- (i). The cost statements for various sub-activities have been furnished. The estimates of 2001-02 have been modified taking into account actuals for the year. With reference to separate cost statement for Zone 'B' it has clarified that this Zone has a lower draught and handles only small and low value cargo consignments through sailing vessels. Since traditionally rates prescribed at Zone 'B' is 50% of the rates applicable at Zone 'A', they may be continued.
- (ii). Additional traffic envisaged in the project report of berth no. 8 is 0.5 million tonnes without capital dredging and 1.5 million tonnes with capital dredging. The traffic forecast considered in the cost statements are not in accordance with the five year plan projection since the additional traffic anticipated from the thermal coal for SEPC

project and the traffic of oil and fertilizer are not forthcoming as per the earlier projections.

- (iii). The revision likely to be proposed in Railway charges have been furnished. (Despite being pointed out, the management and general overheads and the FME and the Capital Employed have not been apportioned to the Railway activity).
- (iv). Royalty of Rs. 552.33 lakhs and Rs. 830.03 receivable from the PSA SICAL for the year 2002-03 and the 2003-04 respectively has been included in the cargo handling activity. The container traffic projection considered for this computation is as per the minimum guaranteed throughput stipulated in the BOT agreement.
- (v). In the revised cost statements furnished, the income due to foreign exchange fluctuation has been considered @ 3% for the year 2002-03 and 2003-04 respectively.

Additional income due to restoration of disparities in tariffs for coastal vessels in respect of vessel-related charges as suggested by the TAMP have, however, not been considered on the ground that it will lead to nearly 200% to 300% increase over the existing rate for coastal vessel. It has clarified that the rates for coastal vessels were adjusted in the 1995 for port dues and pilotage at 30% the tariff for foreign going vessels as per the government guidelines.

- (vi). The TPT has clarified that the expenditure projections have been made based on the trend of average increase of 10% per annum as was agreed by the TAMP during last general revision. (It may, however, be noted that considering the actuals for the year 2001-02 in the revised cost statement, the estimates of operating expenditure (based on the budget proposal) are 14% to 28% more for the year 2002-03 and 35% to 40% more for the year 2003-04 as compared the 2001-02 actuals).
- (vii). The increase in pension payment is due to rolling back of age of retirement in respect of 89 employees. The increase in items relating to previous year is due to payment of arrears on account of wage revision and the same has not been included in the projections.
- (viii). The capital dredging excluded from the capital employed does not include expenditure incurred on capital dredging in the year 1980-81 since the earlier expenditure on capital dredging has not been considered for the dredging levy exercise. The TPT has not clarified anything about the difference observed in the depreciation amount for the Railway activity.

- (ix). The assessed capacity and the traffic projections are furnished below:

Year	Assessed capacity (In million tonnes)	Projections (In million tonnes)
2001-02	13.46	13.02
2002-03	14.94	13.00
2003-04	15.32	14.20

- (x). Interest on borrowed capital has been excluded. It has not been considered as a separate item of expenditure.
- (xi). The operating expenditure of rentable lands and building for the year 2001-02 have been revised and scaled down.
- (xii). Maintenance dredging cost is considered as a part of operating expenditure under Port and Dock activities; and, hence, it is proposed to be recovered from vessel-related charges.
- (xiii). The reference to land cost alone for revision of way leave charges does not appear to be correct as it is a service provided to users for setting up the plant, conveyors, etc.

It has requested not to insist on exact costing exercise as the amount collected is very meagre.

- (xiv). The TPT has clarified that eventhough there is a deficit in hire of crane / equipment, the revision proposed is moderate as a trade promotion measure.
- (xv). The modification in the definition of Pilotage fee as stated by this Authority has been accepted.
- (xvi). The shifting charges proposed at 25% of the pilotage fee is based on distance covered in the total pilotage activities between the berths. It has requested not to insist upon separate shifting charges based on cost of providing service since the number of such movements will be small.
- (xvii). The TAMP has recently authorised the port to fix cost-based rates in anticipation of the TAMP's approval. In view of this, the provision vesting the authority to the Chairman (TPT) to fix tariffs for newly acquired craft may be accepted.
- (xviii). The existing Scale of Rates already have a graded scale for Pilotage fee and Berth hire with reference to GRT of the vessels. Regarding Port Dues there is a single rate applicable to all vessels. Hence, further gradation of the scale with reference to GRT of the vessel is not felt necessary.
- (xix). Out of the 8 general cargo berths, VOC berth number 1 to 4 have wharf crane facility; and, others do not have any wharf cranes. A rebate of 0.09 rupees per GRT is allowed for occupation of berths without wharf crane.

Reduction of the Berth hire to 50% in case of double banking is not accepted. The TPT has, however, accepted that the existing provision of allowing reduction of two third of the Berth hire may be extended to all vessels.

- (xx). The wharfage rate proposed for Sulphuric Acid is after considering a factor of 1.8 for conversion of volume into cubic metre and then to tonnage. It has also agreed to re-group the cargo items having same wharfage rate. It has clarified that the issue of prescribing wharfage rate based on weight / volume / unit instead of advalorem rates may be decided uniformly for all ports.
- (xxi). In order to bring about uniformity of scale with other ports, it is proposed to fix demurrage on a 'per wharfage unit per day' by dividing the existing rates by 6 since the existing unit is prescribed for a period of 6 days. The proposed change in unit is not aimed to earn more revenue but, to facilitate clearance of the cargoes from the transit sheds quickly.
- (xxii). The proposal to treat warehouse as transit area is to give facility of free days for cargoes which cannot be accommodated in the limited transit area for want of space. This may be approved without any modification as the scenario is peculiar to the Tuticorin port.
- (xxiii). The 50% increase proposed in case of overstay at the covered space and open space is to ensure quick clearance and to act as a deterrent factor. It has also requested to retain the existing clause of subletting.
- (xxiv). The increase in charges for refeeer container is after considering the increase in electricity charges from Rs. 3.30 during 1999 to the present rate of Rs. 4.50 per unit.
- (xxv). The scheme of package marine charges for mainline container vessels has no taker so far and the port did not handle any container vessel beyond 18,000 GRT vis-à-vis 20,000 GRT prescribed for availing this benefit. It has not clarified anything about continuance of this scheme.

6.3. The TPT has submitted a revised cost statement vide its reply dated 4 July 2002. The major modifications /amendments made in this cost statement are as follows:

- (i). The estimates of 2001-02 have been modified to actual figures.
- (ii). Sub-activity wise cost statements have been furnished.
- (iii). Additional income from foreign-exchange fluctuation have been considered.
- (vi). Separate cost statement have been furnished including income and expenditure from the Railways as well as capital dredging.

6.4. The average deficit for the five years (1999-2000 to 2003-04) based on the revised cost statement after considering ROCE of 19% comes to 9.26% if the income and expenditure of Railways and capital dredging is excluded. If the same is included, the average deficit works out to 44.06%. The TPT has, however, requested to approve 10% revision in tariffs as proposed by it earlier.

7.1. A joint hearing in this case was held on 6 June 2002 at the TPT premises along with three other cases relating to the TPT. At the joint hearing, the following submissions relevant to this case were made:

Tuticorin Port Trust

- (i). Unavoidable expenses, including developmental costs have been taken into account.
- (ii). For revenue generation we have had to keep in view competitiveness of ports.
- (iii). In case of wheat, differential rates are proposed in view of commercial consideration.
- (iv). Volume discount is offered when excess capacity is available. We are not in that situation. Giving volume discount to one commodity will attract similar requests from others which we can not afford.
- (v). (a). As regards capital dredging we have gone by the TAMP Orders. There is a gap. We have, therefore, had to think of some alternatives. The Board has approved the said proposal.
(b). The proposal is only for generating about Rs. 1 crore. The other Rs. 4 crores we will meet through cost savings.
- (vi). All vessels have to pay the dredging levy because they do avail of many common facilities.
- (vii). All berths have benefited by the dredging; may not be upto 10.7 mtrs.; but may be marginally; that is why only a 25% extra charge has been proposed.
- (viii). Coastal vessels mostly of the TNEB's benefit a lot. The TNEB is saving nearly Rs. 60 crores. Why should we not get some benefit also?
- (ix). We are financially self-reliant. We get no grants. We need a lot of funds to maintain roads, etc.

Tuticorin Stevedores Association (TSA)

- (i). Wheat export concession is required otherwise, we can not export. There is surplus wheat in the country; and, hence, problems in storage. There is a need to export wheat expeditiously.
- (ii). The deficit in port railways siding charges is only less than half of what has been proposed.

- (iii). Cargo handling labour levy is too high. Does it come under the purview of the TAMP? If so, the TAMP must rationalise it.
- (iv). If income from the dredging levy and siding charges is taken into account the deficit will come down to less than 6%.

PSA SICAL Terminals Limited

- (i). We have given comments in writing. Today, we are submitting a hard copy of our slide presentation. Please take that into account.
- (ii). It is evident that bigger ships tend to pay much more. How can there be such a tariff structure? How can bigger vessels be discouraged?
- (iii). Concessions given to bigger vessels are good; but, severely limiting conditionalities are proposed. Please recast. We will give alternative formulations.

Tuticorin Steamer Agents' Association (TSAA)

- (i). Does the TPT require any increase now? Figures do not justify.
- (ii). There shall not be any revision in vessel-related charges. Others may increase by not more than 5%.
- (iii). Berth hire, make it a 'hourly' charge.
- (iv). The TPT collects charges for one shifting also. Is not pilotage supposed to cover this?

Indian National Shipowners' Association, (INSA)

- (i). For coastal vessels the system of fixing 30% concession is harsh.
- (ii). Coastal vessels must not be required to pay special rate for capital dredging.
- (iii). Coastal vessels must continue to get concession in Port Dues.

Sterlite Industries Limited (SIL)

Cost based approach is not good. Efficiency / productivity /performance standards must get more attention.

Southern Petrochemical Industries Corporation Limited (SPIC)

- (i). We agree with the views of the Sterlite. Cost reduction must be emphasised.
- (ii). Wharfage rates are exorbitant. We give a lot of traffic even then we are fleeced. We must get some relief.

DCW Limited

- (i). Competitiveness must increase. Revision must be postponed.
- (ii). A 2 year cycle is too frequent. It must be a 4 year cycle.
- (iii). Encourage coastal traffic. Give more concessions.

Indian Chamber of Commerce and Industry (ICCI)

- (i). There is plenty of scope for reduction of costs. Rates in other ports are quite low.

- (ii). Wheat export rates everywhere else is low. It is a new cargo. The port will get additional revenue. Give concessions.

Container Shipping Lines Association (CSLA)

- (i). There are many cushions existing in the cost statement. If these are recognised, there may not be any need to increase tariffs at all.
- (ii). Net Block includes quite a lot of non-productive assets which must be removed.
- (iii). ROCE of 18.50% is unrealistically high.
- (iv). As regards marine charges, our rates are already prohibitive. Do not increase further.
- (v). The system adopted for fixing rates for coastal vessels does not make sense. Keep 'rupee as constant' and change the 'dollar'.
- (vi). Increase in rate and, change of GRT slab also will be double whammy.
- (vii). We welcome the proposal to continue with concessions in dredging levy to the Container Terminal.
- (viii). Irrespective of these concessions, examine the 'total call costs' and reduce them to be competitive.
- (ix). As regards Licence costs be selective. Why go in for an across the board increase? (The TPT says: this is only to regulate entry; revenue earning is nominal.)

All India Chamber of Commerce and Industry (AICCI)

We endorse the views of the ICCI.

Tuticorin Sailing Vessel Owners' Association (TSVOA)

We operate in Zone-B where channel draft is less and buoys are not maintained. There is no case for any increase in tariffs.

Tuticorin Custom Licensed Agents' Association (TCLAA)

- (i). Last revision was only in end of 1999. It is too soon to revise the rates. Let the existing rates continue.
- (ii). We have to pay additional cost to Stevedores, etc., amounting to 50% of the wharfage. This is not always taken into account.
- (iii). The TPT does not take bailee responsibility also . The CHA has to do that. Yet the port goes on increasing rates.
- (iv). Container storage rental charges are very high. The land is not a developed area. It is only a reclaimed area. The rate must be reasonable.
- (v). Old port traffic is dwindling. No increase is justifiable there. Please maintain the old rates.
- (vi). Encourage coastal traffic. Give 50% concession.
- (vii). (a). Dredging levy should be confined to deep draft berths.
(b). Berth (7) the Container Terminal continues with the concessions. The Concession Agreement also requires the TPT to give 10.7 mtr. draft.

- (viii). Do not allow the increases. Let the TPT recast; compare with other ports; and, come up with a meaningful proposal.

Indian Oil Corporation Limited (IOC)

- (i). Our wharfage rates are high. Please compare with other ports and rationalise.
- (ii). We incur extra costs because of absence of night navigation; and, restriction on handling of naphtha.

Tuticorin Port Transport and Equipment Owners Association

- (i). There are two different licensing fees inside security wall and outside security wall. Nowhere else does such a system prevail.
- (ii). For vehicles and cargo handling equipment, this works out to substantial proportions. No increase or change must be allowed. Let the old rates continue.

7.2. At the joint hearing, the CSLA has furnished its written submission which is summarised below:

- (i). The port already earns handsome ROCE of 17.6% in 2000-01, 7.25% for 2001-02 and an average return of over 12% during the 5 years under review. Hence, the tariff need not be revised.
- (ii). The port has not outlined any initiatives for improving their internal cost efficiencies. If this is done, the financials of the port will yield a healthy return without any change in the tariff.
- (iii). The royalty income receivable from the PSA SICAL seems to be missing from the financial projections.
- (iv).
 - (a). There are substantial increases in capital employed each year though a lot of the investment is in unproductive assets.
 - (b). While proposing to replace the tug Rajaji in the year 2003-04, the net block of the old tug has not been reduced from the capital employed.
 - (c). There are a number of assets indicated in the schedule of additions which are not directly related to the port functioning.
- (v). The TAMP may consider a realistic rate of return instead of guaranteed ROCE of 19%.
- (vi). Marine dues must be reduced substantially to make the Indian ports internationally competitive.
- (vii). A comparative analysis of vessel related charges indicates that the tariffs proposed by the TPT are high compared to the other Indian ports and some of the neighbouring ports of India.

The tariff proposed by the TPT will make the port as expensive as the NSICT. It is noteworthy that the TPT will become more expensive if the BPT channel levy of the NSICT is excluded.
- (viii). The port is trying to attract transshipment business at the PSA SICAL and at the same time the marine dues are increased, thereby, any possible attraction of lower transshipment tariff is neutralised.
- (ix). The port may clarify how the dollar denominated tariff for foreign-going vessel has been arrived at.

- (x). As per the TAMP Guidelines, tariff review must be done on the basis of result for each specific activity. There is no cost statement for container-related activity for which the port will have minimal costs.
- (xi). There may not be any revenue benefit from the tariff proposed for handling of containers which is perhaps for exceptional cases all container related operations are handled by the PSA SICAL as per the Concessional Agreement.
- (xii). Storage charges for import and export cargo at transit shed is reduced to attract local cargo. No such reduction is, however, proposed for ICD cargo where infact tariff increase is proposed.

7.3. At the joint hearing, the PSA SICAL furnished a hard copy of the slide presentation made by it. It has reiterated its earlier point that the port charges at the TPT are high compared to those at other ports and, therefore, will need a significant reduction. It has also reiterated that the special rate for capital dredging may be fully eliminated for the container berth number 7.

7.4. At the joint hearing, the TPT filed a written submission containing its comments on the responses of various port users which are summarised below:

On the comments of the ICCI

- (i). The port has to recover the cost of operating the various infrastructural facilities needed for movement of vessels and traffic. It also requires funds for providing additional facilities, modernising equipment crafts, etc. Hence, the revision of Scale of Rates is necessary despite efforts of the port to reduce the cost.

On the comments of the SPIC

- (ii). The comments of the company are more or less on the same lines as furnished during the last general revision of 1999.
- (iii). The rates for cargoes are based on cost and the principle of what the trade can bear. Comparison of the rates of other cargoes with the cargo of the SPIC are not relevant in fixation of tariff.
- (iv). The acute competition faced by the company is to be tackled by the company at their level.

On the comments of the DCW

- (v). A port is a nodal infrastructural institution to facilitate international trade with huge investment on infrastructural facilities to safeguard the national interest.
- (vi). The port is striving its best to reduce the cost of operations by installing modern equipment and systems to ensure improved productivity. Despite this the increase in fuel cost, electricity charges, maintenance of berth facilities, equipment, etc., are beyond its control.
- (vii). The proposed increase of 10% is based on financial evaluation for the 5 years period. Hence, the postponement of the proposed revision is not acceptable.

On the comments of the SIL

- (viii). The financial projections proposed by the port incorporated the improvement in traffic for the years 2002-03 and 2003-04 based on traffic forecast. The operating expenditure is also arrived at for the expected level of operation.
- (ix). The ROCE at 19% includes 13% towards interest element based on the lending rate of the Government of India.

- (x). The individual issues relating to volume of discount and wharfage rate on Copper Concentrate and Rock Phosphate, Copper Anode, etc. are being discussed separately.
- (xi). The proposal for fixation of wharfage rate for Phosphoric Acid at Rs.24/- PMT as prescribed at the Mumbai Port is not acceptable.
- (xii). The port transit area is scarce; and, hence, it is not in a position to allow the transit area to be treated as long term storage place. The revision in goods-in-transit charges, therefore, cannot be avoided.

On the comments of the TSAA

- (xiii). The revision conforms to the policies of the Authority.
- (xiv). The revision proposed is based on financial evaluation as prescribed by the Authority; and, hence the suggestion for no revision of vessel-related charges and 5% revision on the other charges are not acceptable.
- (xv). With reference to the TSA's comments to make berth hire on an hourly basis, it is clarified that prior to December, 1999, the berth hire charges were prescribed on 'per day' basis which was modified to 'per shift of 8 hour' basis during 1999 revision. The rationalisation actually has adverse impact on the revenues of the port. In the instant proposal it is proposed to make the shift as running shift, i.e., 8 hrs from the time of occupation of the berth.
- (xvi). The shifting charges are required to regulate the services rendered to the port users for the purpose of shifting of vessels undertaken at the option of the agent. A clear definition of port convenience is proposed so as to remove ambiguity in the levy of shifting charges.
- (xvii). Siding charges are outside the purview of the Authority; and hence, no comments are offered.
- (xviii). It has reiterated its earlier views in response to the comments of the SCI.

8.1. The TNEB did not furnish its comments on the general revision proposal. Subsequent to the joint hearing, it has furnished general comments on the proposal for revision of 'special rate for capital dredging' vide fax message dated 24 June 2002 and has requested that these comments may also be considered in addition to those already furnished by the TTPS.

8.2. It has also requested to convene one more joint hearing at the TPT so that it can put forth its views to the TAMP in person for consideration before finalising the proposal of the TPT.

9. The request of the TNEB for one more joint hearing was acceded to by the Chairman (TAMP). Accordingly, a second joint hearing was held on 17 July 2002 at the CHPT premises. This joint hearing was limited to participation by the TNEB and the TPT since the generality of issues had been addressed by the various port users (including the TNEB) in the earlier joint hearing. At the (second) joint hearing, the following submissions were made:

Tamil Nadu Electricity Board (TNEB)

- (i). Differential rates exist for thermal coal. Rs.38/- is prescribed for us whereas for coal handled in bulk, it is Rs.30/- PMT in another berth.
- (ii). We are a 'bulk' customer. If at all, we should get the concession. At least, it should be the same.
- (iii). As regards dredging levy, the infrastructure facility is responsibility of the TPT. Why should we bear the burden? The TPT should fully fund it out of its reserves.

- (iv). As regards way leave and berth hire, there is a case for reduction of rates.
- (v). The rates are high. We incur a loss. Unless concessions are given, we will be compelled to shift to Ennore.
- (vi). We have not benefited much because of the dredging. Earlier smaller vessels went directly from Haldia to TPT. Because of the dredging, deeper draught and bigger vessels have to call for topping up at the PPT. Thus, cost increases; time increases and the so called gains are consequently not significant.

Tuticorin Port Trust (TPT)

- (i). There can be no increase. Differential rate exists because coal jetty is for thermal coals. It is a dedicated berth; and, hence rate is fixed on that basis. In the general berth coal and other cargo are handled; and, hence differential costing.
- (ii). The differential has existed for long. But, the gap has been narrowing over a period of time; and, now, this will go altogether.
- (iii). As regards way leave charge, the TPT Board's Sub-Committee comprising of representatives of the TPT, TNEB, and the Government of Tamil Nadu recommended a charge of 20 paise PMT which was adopted. This way leave charge was in lieu of lease rental. It is reasonable. The hike proposed applies to all. Why should the TNEB object?
- (iv). Due to the dredging and the deepening of the draught, the TNEB has benefited the most. Why should they object to the special rate? We have made some calculations to estimate the savings made by the TNEB. Please take that into account.
- (v). The special rate for capital dredging partially compensates the TPT. There is, therefore, no revenue accumulation with the TPT.

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

- (i). The cargo-related and vessel-related charges of the Tuticorin Port Trust were last revised in December 1999 by this Authority. The revised rates were prescribed to be valid for a period of three years by making a departure from the normal tariff validity cycle of 2 years. The TPT proposal for revision of cargo and vessel-related charges is due now in accordance with the existing policy of review after two years. The port has proposed revision of both cargo-related and vessel-related charges by 10 %. The port has stated that it has forwarded a separate proposal for revision of the port railway rates for sanction of the Ministry of Railways/Railway Board. It is noteworthy that the Ministry of Shipping has revised its earlier stand and has advised that, according to the legal advice received by them, the port railway tariffs are to be sanctioned only by the Railway Board. That being so, the estimate of additional income from revision of railway charges as furnished by the TPT is taken without any modification in this analysis to determine the overall financial position of the port.
- (ii). The port had initially submitted cost statements for the port as a whole and only for the cargo handling, vessel-related and estate activities and not for individual sub-activities. Even these statements excluded income at the existing level and only direct expenditure of railway activity. It has later submitted cost statements for the four main activities and also supporting sub-activity-wise statements. In the statement for Railway activity, while management & general overhead cost has been apportioned, FME and return on capital employed have not been apportioned. To that extent, the cargo and vessel related activities will get an additional burden. Additional income from revision of railway rates proposed separately has not been specifically quantified. While we are not going into details of that proposal, the estimated additional income is being adopted for the tariff revision exercise.

The Port was asked to furnish separate cost statements for activities in zone 'B' of the Port where rates charged at present are 50% of the rates in zone 'A'. The Port has not furnished such separate cost statements for zone 'B' and has clarified that this zone has a lower draught and handles only small and low value consignments through sailing vessels. It has further requested that, the rates prescribed at zone 'B' are traditionally 50% of the rates applicable at zone 'A' and the same be continued. In the absence of costing details furnished, the extent of deficit at zone B being subsidised from the activities of the zone 'A' is not available. Though it is not a happy situation, this Authority reluctantly accepts the recommendation of the port to continue the existing practice of charging 50% of the rates applicable at zone 'A'. The Port is required to compile cost statements zone-wise and activity / sub-activity-wise at the time of the next general review/revision of its Scale of Rates.

- (iii). The income estimates are stated to have been based after considering the impact of the capital dredging proposed to be carried out during 2002-03 and also the increase in traffic that will be handled after commissioning the berth no. 8. The port has stated that the additional traffic envisaged in the project report of the berth no. 8 is 0.5 m.t. without dredging and 1.5 m.t. with dredging. The port has considered 130 lakh tons for 2002-03 and 142 lakh tons for 2003-04 for this exercise as against 150 lakh tons and 160 lakh tons projected in the 10th five year plan. The reason given is that additional traffic of thermal coal forecast for SEPC project and oil and fertilizer traffic are not forthcoming. In the absence of any other reliable data available these (revised) projections are accepted.
- (iv). The port had not considered in the income projections the additional income from dollar denominated vessel-related tariff items due to likely exchange rate variations for 2002-03 & 2003-04. The port later furnished the information on the basis of 3% and 6% variation which were the escalating factors considered by this Authority in earlier general revision cases. On the basis of the latest trend of the variations in the exchange rates, the estimated additional income has been moderated on the basis of 2% and 4% respectively and incorporated accordingly in the cost statements.
- (v). As per the policy of the Government, a disparity of 30 % is to be maintained between the tariffs for foreign-going and coastal vessels. This necessitates adjustment of the coastal vessel rates even if there is no revision of the rates for the foreign-going vessels. This Authority has been making such adjustments at the time of the review/revision of the tariffs at other ports and considering the estimated additional income on account of such adjustment of tariffs. The port has stated that if this is done the rates for coastal vessels may have to pay 200 to 300 % of the existing rates which will mean a heavy burden on coastal vessels; and, they will not be able to bear it in the current scenario of the industry. The port is, therefore, not in favour of the proposition and has not furnished the estimated additional income on this account. For the purpose of this analysis, this information has been assessed on the basis of the figures of income from coastal vessels indicated in the budget estimates 2002-03 and incorporated in the cost statements.

It is to be recognised that the level of concession to be allowed to coastal vessels has already been settled by a Government policy which has been adopted by this Authority in prescribing such rates at major ports. This as an issue commonly applicable to all the major ports; and, any deviation from the approach adopted so far only in the case of one of the major ports may give rise to (avoidable) complications at other ports. It is also relevant here to recall the objection raised on behalf of the foreign-going vessels in a proceeding relating to some other major ports about requiring them to cross-subsidise coastal vessels. In the face of such objections, the question of allowing any concession beyond the accepted level to coastal vessels does not arise. It is therefore, found to be reasonable to continue with the approach adopted in this regard so far and fix rates (in Rupee terms) for coastal vessels at 70% of the rates for foreign-going vessels. If the TPT desires to offer further concessions over and above the notified rates for coastal vessels on commercial considerations, it can come up with a suitable proposal for allowing discount in the coastal vessel rates.

Needless to point out that the revenue loss on account of such discounts has to be borne by the Port out of the return on capital employed allowed to it through tariffs.

- (vi). The expenditure projections for the year 2001-02 are higher by 12.51% than the actuals for 2000-01 and those for 2002-03 and 2003-04 are higher by 10% and 9% than the figures for the respective preceding years. The actuals for 2001-02 now furnished are less than those for 2000-01. As a result, the projected expenditure for 2002-03 becomes higher by 25.22 % and that for 2003-04 by 9.08 % of the earlier year's figures. These estimates are on the higher side as compared to the prevailing rate of inflation. Users have also termed this escalation in costs as very high. The port has stated that it has estimated the expenditure on the basis of past trend and has also cited 10% escalation in costs allowed on the last occasion. This Authority had allowed escalation in costs at 10% when the inflation rate was around 6-8 % recognising that certain costs like fuel, power and water do not necessarily increase in line with the WPI. Now that the inflation rate is around 2% for quite considerable time it will suffice if escalation in costs are allowed at 6 %. A similar approach has been adopted while deciding recently the general revision of tariffs relating to the JNPT and the MOPT. The figures of projected costs for both the years are modified accordingly.
- (vii). The projections of F&M Expenditure (excluding interest on loans) for 2002-03 and 2003-04 are considerably high. The main item is pension and retirement gratuity. The port has stated that the figures do not include any provision for arrears of pension or VRS liability. The figure of Rs. 14 crore for 2002-03 is still on the high side as compared to the total wage liability of Rs.30 crores. Even so, the projected figure is being allowed unchanged. If this approach is seen to have given any undue advantage to the port, suitable adjustments can be made at the time of the next revision.
- (viii). The expenses on maintenance of the estates for 2001-02 show a substantial increase, mainly on the residential quarters. The projections for 2002-03 and 2003-04 show a further increase. The port must go into this in detail so that unproductive expenses can be kept under control.
- (ix). It has transpired during the processing of the proposal for revision of the special rate for capital dredging that the port had allocated the maintenance dredging expenses to cargo-related and vessel-related activities instead of its allocation to Port dues and berth hire. In reply to a query about its allocation on this occasion, the port has clarified that the expenses have been shown under Port & Dock activity and it is proposed to be covered by vessel-related rates. The supporting sub activity-wise statements show only a small direct cost under berthing and large amounts under pilotage/towage and port services. Apparently, the dredging cost is still being allocated to pilotage/towage. While the position furnished is accepted for this analysis, the port is advised follow a correct allocation of these expenses in future.
- (x). Net Block forming part of the capital employed is shown to increase by 96% by 2003-04 in comparison to the year 2000-01. The port has furnished a list of the assets likely to be commissioned during 2001-02 to 2003-04. As against Rs. 43.53 crores estimated to be added during 2001-02, it now transpires that assets actually commissioned during the year add up to only Rs.38.27 crores. The port has, however, kept the projections for 2002-03 and 2003-04 unchanged at Rs. 56.64 crores and Rs.64.27 crores respectively. It will be pertinent to note that the additional assets completed and commissioned for the year 1999-2000, 2000-01 and 2001-02 are 35%, 16% and 55% of the projections made at the time of last general revision. In view of the trend of actuals vis-à-vis projections for the last three years, the additions projected for the next two years need to be moderated suitably, say by at least 10%.
- (xi). The Working Capital computed on basis of the figures for 2000-01 at Rs. 9.66 crores has been assumed to increase by 10% for 2001-02 to 2003-04. These figures are found to be on the high side. Working capital is considered as current assets (excluding cash balances of funds) less current liabilities. Against Capital Reserve,

Asset replacement Reserve, Capital Debt and Depreciation balances of Rs.551.93 crores, Capital assets aggregate Rs.469.11 crores which leaves a balance of Rs.82.82 crores mainly relating to depreciation and asset replacement reserve. Against Revenue Reserves of Rs.41.88 crores specific investments thereof amount to Rs.32.84 crores leaving a balance of Rs. 9.04 crores. Investments of PF and Pension funds aggregate Rs.36.57 crores against the fund balances amounting to Rs. 50.02 crores leaving a balance of 13.45 crores. The total current assets of Rs.141.78 crores include balances at bank and cash on hand of Rs.93.64 crores. After excluding the amounts of Rs.82.82 crores+Rs.9.04 crores+Rs.13.45 crores, current assets (excluding cash balances of funds) becomes Rs. 36.47 crores. If current liabilities of Rs.36.49 crores is reduced from the current assets the working capital becomes a negative balance. The working capital figure is therefore, taken as nil for the purpose of this analysis.

- (xii). The port has claimed a return on capital employed (ROCE) at 19.5%. In the case of major ports, the ROCE allowed consists of interest on capital (equivalent to the lending rate at which the Government loans are available to the port trusts) and contributions to two mandatory reserves at 3% each. This is the maximum admissible rate which is not required mandatorily to be achieved. The rate at which the Government lends to ports has been reduced to 12.5% from 1 April 2002. The maximum admissible ROCE thus adds up to 18.5% only.

Users have been questioning the reasonableness of allowing as high a return as 19.5% (now 18.5%) in the backdrop of the lower interest rate regime prevailing now and when loans at much lower rates can be available from commercial banks/financial institutions. The Private Terminal Operators are also complaining about the differential treatment given to them vis-à-vis major ports in this regard. This Authority has decided to initiate a review of the ROCE model and it has already been decided to commission a Study in this regard by a reputed financial advisory organisation. If the review results in modifications of the existing approach adopted, corresponding changes can be effected prospectively; but, such a basic change will have to be introduced commonly at all the major ports. Till such time, the existing method of allowing ROCE will have to continue; and, a deviation only in respect of the TPT cannot be made.

The port has indicated that against the assessed capacity of the port as a whole of 14.94 MT for 2002-03 and 15.32 MT for 2003-04 the projected traffic is 13.00 MT and 14.2 MT respectively. The underutilisation of the capacity, therefore, works out to 13% and 7.3% respectively. This Authority has been disallowing return on capital employed to the extent of underutilisation of the capacity in the case of private terminals and major ports. Accordingly, the maximum permissible return on capital employed of 18.5% has to be moderated in the case of the TPT also with reference to the capacity utilisation factor.

- (xiii). The TPT has considered the royalty receivable from the PSASICAL as Rs. 552.33 lakhs for the year 2002-03 and Rs. 830.03 lakhs for the year 2003-04 based on the minimum guaranteed traffic specified in the Concession Agreement. The royalty amount considered by the PSASICAL in its proposal for tariff revision, which is being processed as a separate case, is higher compared to the TPT figures. There is no reason why the information furnished by the person who operates the Terminal should be discounted. Since the PSASICAL estimates are based on calendar year and the TPT estimates are based on financial year, it becomes difficult to modify the cost statements of the TPT by reflecting the correct position with reference to royalty receivable in the absence of month-wise container traffic projections. Hence the relevant adjustments have not been made in the cost statements and to this extent the income estimates of TPT will remain understated. It will be relevant here to mention that the port as a whole is in a surplus position despite not considering this differential in the royalty income.
- (xiv). Subject to the analysis given above, the cost statements for the port as whole and for different main activities have been modified. The modified cost statements are

attached as **Annex-I (a to f)**. The results disclosed by these statements are summarised as shown in the table given hereinafter.

Sr. No.	Activity	Surplus(+) / Deficit(-) 2002-03 (Rs. in lakhs)	Surplus(+) / Deficit(-) 2003-04 (Rs. in lakhs)	Surplus(+) / Deficit(-) as percentage of operating income 2002-03	Surplus(+) / Deficit(-) as percentage of operating income 2003-04
(i).	Port as a whole (without capital dredging)	(+) 762.13	(+) 518.68	(+) 6.40 %	(+) 4.03 %
(ii).	Port as a whole (including Capital Dredging)	(+) 804.69	(+) 725.58	(+) 6.01 %	(+) 4.98 %
(iii).	Cargo handling activity	(+) 1162.99	(+) 1057.54	(+) 19.04%	(+) 15.99%
(iv).	Port and Dock facility	(+) 159.14	(+) 287.52	(+) 3.42 %	(+) 5.61 %
(v).	Estate activity	(-) 509.00	(-) 760.33	(-) 59.00%	(-) 88.13%
(vi).	Railway activity	(-) 50.99	(-) 66.06	(-) 18.50%	(-) 23.97%

It will be seen from the above that the port as a whole (without considering the impact of the capital dredging) shows an average surplus of 5.22% and there is, therefore, no justification to revise the rates as proposed by the port. On the contrary there is a case for reduction of both cargo and vessel-related charges. The Railway activity and the Estate activity are in deficit, which are cross-subsidised by surpluses in the cargo handling activity and vessel-related activity. This Authority has not yet taken a final view on complete elimination of cross-subsidisation. Pending such decision, cross-subsidisation between different activities is being allowed to continue at the existing level. That being so, in the case of the TPT, the cargo-related charges and the vessel-related charges can be revised downwards only to the extent of the net overall surplus-apportioned between the two activities proportionately. It appears reasonable to allow an opportunity to the TPT to propose reduction in tariffs required instead of this Authority effecting a *suo motu* reduction. The TPT is given six months time to come up with a suitable proposal in consultation with its users. If such a proposal is not filed by the TPT within the stipulated time limit, this Authority may like to proceed *suo motu* to alter the rates based on the information available.

The deficit in estate activity is mainly due to the heavy deficit in the sub-activity quarters for the port officers and employees. Direct cost and management overheads allocated show substantial increase during 2001-02 and are further expected to go up during 2002-03 and 2003-04. The port may look into this to control the deficit under this sub-activity.

- (xv). The port as a whole, including the impact of the capital dredging, also shows an average surplus of about 5.5%. For the reasons stated in the order, the special rate for dredging was prescribed at 50% of the Port Dues, Pilotage and Berth hire on the basis of the depreciation and debt servicing liability of Rs.1348.93 lakhs - annualised on the basis of the total liability- leaving the balance deficit of about 18% (amounting to about Rs. 400 crores) to be borne by the port from its reserves. The debt service liability annualised on the basis of the total liability is now estimated by the port as Rs.1260.89 lakhs. The port as a whole shows a revenue surplus after allowing depreciation on capital dredging and accounting for the entire annualised debt service liability. If a portion of this liability is left to be borne by the port from its reserves as decided in the previous order, the surplus will be further increase to that extent. There is, therefore, no need to increase the special rate for the capital dredging. On the

contrary, the requirement of funds indicates that it can be reduced to say 30%. Since the TPT has filed a separate proposal in this regard, the details are analysed in that case.

- (xvi). Clause 17 of Chapter I of the Scale of Rates provides that if a user/hirer does not pay charges within 10 days from the date of receipt of the bill all services of the Board to him will be stopped until arrears are paid in full and other craft/equipment /tools & plant under the control of the user/hirer will not be allowed to ply/ be used in the port area. While the port may be within its right to take such action, this provision need not be incorporated in the SOR to be approved by this Authority. The port can take administrative action as may be necessary. This clause is suitably modified to prescribe the time limit for payment of dues after which interest will be levied. A similar clause under the dry docking charge is also deleted.
- (xvii). Since dual criteria- measurement and weight – for levy of wharfage have been done away with, the clause 21 specifying that the unit more favourable to the port will apply has become redundant and, hence, is deleted.
- (xviii). The Scale of Rates of the TPT approved by this Authority at the time of the last general revision and also the draft revised Scale of Rates proposed by the TPT contain a conditionality stipulating that 'all goods to be landed within the port shall be assessed on Import Application and wharf dues shall be paid immediately on landing of the goods'. The Accountant General (Tamil Nadu and Pondicherry) for the purpose of the applying levy of interest in case of delayed payment has interpreted it to treat the time for payment as the time of arrival of goods at the place of embarking i.e. immediately on berthing of a vessel. The TPT has taken a stand that the time for payment is before unloading of goods on to a berth. A conditionality similar to the one in reference in the TPT Scale of Rates is not available in any other major ports. Further, when an explicit provision is available in the Statute, there is no need to have it as a conditionality in the Scale of Rates. That being so, this conditionality is deleted from the Scale of Rates of TPT.
- (xix). Under the existing Scale of Rates, port dues for coastal vessels are due once in 60 days; the payment once made is valid for only three entries of the same vessel during the said 60 days. At other ports, port dues on coastal vessels are payable once in 30 days without any limitation regarding number of entries. For the sake of uniformity, it is considered reasonable to prescribe in the Scale of Rates of the TPT to levy port dues once in 30 days on coastal vessels. This will give some additional revenue to the port and thus increase the overall surplus.
- (xx). There is a provision in the Scale of Rates that in the event of any dispute regarding the position of a vessel as to the limits of the port, it will be decided by the Deputy Conservator or by the officers authorised by the Port in this regard. The position of a vessel is a question of fact which can be verified by the Port as well as the master of the vessel. That being so, there is no need to have any such discretionary powers in the Scale of Rates for resolution of the dispute in the matter. This note as, therefore, deleted.
- (xxi). Generally, the composite Pilotage fees are taken to cover services of pilot(s), required number of tugs and launches with crew for movement of vessel in an out of the Port and one shift within the same dock system / basin. The existing definition in the Scale of Rates covers services of pilot(s) and tugs / launches for inward and outward movement of the vessel. By its order dated 5 January 2001, this Authority has held that shift of vessels from berth to the anchorage is a complete pilotage operation and the port is entitled to levy full pilotage fee for such operation. A similar stand was taken by this Authority in the case of VPT also. The definition of pilotage and relative provisions are to be amended in line with the general formulation approved in respect of some other ports and this Authority's Order dated 5 January 2001.

- (xxii). While incorporating the general formulation approved by this Authority listing out the circumstances in which the shifting of a vessel can be considered as for port convenience, TPT has added that 'shifting of a vessel from a deeper draught berth to a lower draught berth in VOC wharf to accommodate the first waiting vessel requiring a deeper draught berth, provided no other vessel requiring a lower draught berth waits in the queue' may also be taken as a shift for port convenience. This proposal is found to be reasonable and is approved.
- (xxiii). The SOR provides that charges for cancellation of pilotage movement under exceptional circumstances for a reason that can not be attributable to the vessel can be waived. Generally, this Authority prefers to prescribe conditionalities in a definite manner without providing any discretionary powers to the regulated entities. One of the guidelines adopted at the Chennai Workshop on Tariff Regulations (February 1998) is about not making users to pay for delays caused by the Port. Even if this conditionality is to continue in the Scale of Rates to deal with exceptional circumstances, it has to be modified to specify that the cancellation charges will not become payable when the cancellation is for reasons attributable to the Port.
- (xxiv). The Port has proposed pilotage / towage fees for (a) mooring a vessel outside the harbour when it does not enter or leave it; and, (b) for shifting and re-mooring or for turning a vessel around at the berth for such services like bunkering, supply of fresh waters, repairs, etc. Both these charges are leviable at 25% of the pilotage fees payable for inward and outward movement. The minimum charges prescribed, however, are lower in the case of (b) above presumably considering the time taken and distance involved in the operation. It will, therefore, be logical to prescribe a proportionately lower percentage for (b) above. It is accordingly decided to fix the rate therefor at 20% on the basis of the ratio of minimum charges prescribed for the two operations.
- (xxv). There is a provision in the Scale of Rates for levy of detention charges for tugs in Zone 'B'. Since the port has stated that there are no such operations from Zone 'B', the related provision is being deleted.

The Scale of Rates provides that the Chairman (TPT) can fix charges for use of craft for which rates are not prescribed in the tariff. This provision is not in line with the tariff setting arrangements envisaged in the Statute. Hence, this provision is deleted. The port can approach this Authority well in advance when such a contingency arises. The argument of the TPT for retention of this provision by comparing it with the general delegation made by this Authority to the Port Trusts for fixing ad hoc rates is totally incorrect. The provision to levy ad hoc rates is not an open-ended power given to the Port Trusts but is subject to specific circumstances and submission of proposal to this Authority.

- (xxvi). In the Order passed on 2 June 2000 relating to fixation of the special rate for capital dredging, this Authority had advised the port to consider rationalisation of tariff structure through introduction of an appropriate graded Scale of Rates for port dues, berth hire and pilotage with reference to GRT of the vessels to take care of the draught factor at the time of the next general revision. Users also have suggested that the vessels, which do not require a deeper draught, need not be required to pay either higher port dues or the extra dredging levy. The port has stated that berth hire charges and pilotage fees already have graded scale of rates with reference to GRT of vessels. Since port dues are for entry of the vessel the port does not feel it necessary to have a graded scale of rates. The extra cost on account of the capital dredging is covered by the special rate for dredging and not by basic port dues. The existing pattern of rates is, therefore, allowed to continue.
- (xxvii). The existing schedule of berth hire charges denominates rates in dollar terms and rupee terms for foreign-going vessels and coastal vessels respectively. In addition there exists a note that the foreign-going vessels will be charged berth hire at the rates specified in the schedule and the coastal vessels will be charged at 70 % of the rates specified. These provisions are confusing and it will be sufficient to specify rates

in dollar terms for foreign-going vessels and in rupee terms (equal to 70% of the rupee equivalent of the dollar denominated rate at the current exchange rate) for coastal vessels.

(xxviii). The Tuticorin Steamer Agents Association and the INSA have observed that the vessel-related charges at the TPT are very high and, therefore, the revision of charges must be restricted to 5%. The PSA-SICAL and the CSLA have represented that burden on the larger ships must be reduced by keeping the unit rate at the same level. This Authority itself had earlier advised the port to consider introducing graded rates for the vessel-related charges so that the larger vessels, which benefit from the capital dredging undertaken for deepening the draught, would pay more. The graded unit rate prescribed for the pilotage and berth hire charges fulfill this objective and can be retained

(xxix). The Scale of Rates provides that a uniform rate of berth hire charges for occupation of any berth and that the vessels berthed at additional berths, finger jetty and shallow water berth are allowed a rebate of Rs. 0.09 per GRT per unit of 8 hours. The port has clarified that the port has two coal jetties and one oil jetty and one container terminal now operated on BOOT terms and 8 general cargo berths; of the general cargo berths, berths no. VOC 1 to 4 have wharf crane facility and others do not have such a facility. The rebate for non-crane berths is about 11 % for coastal vessels falling in the highest GRT slab; for foreign going vessels it works out to about 4 %. This appears to be very low as compared to the differential between rates for crane berths and non-crane berths obtaining at some other ports. The TPT has also not justified the existing rebate with reference to costing details of wharf cranes. The existing rebate is required to be steeped up. In the absence of cost details, it is found reasonable to increase the rate of rebate to 20% which is the discount rate prevailing at the NMPT and which has recently been approved for the KPT.

This Authority has already advised all the major port trusts to rework the berth hire charges by appropriately grouping the berths with reference to the facilities available/services provided. The TPT has not apparently followed this advice. There is no justification for levying a unit berth hire rate at all the berths (except the classification of crane/non-crane berths). The users are also aware of the advice given by this Authority in this regard to all the major port trusts; but, in this case none of the users have also agitated this issue. While the existing system of levying berth hire charges at the TPT is allowed to continue, this Authority requires the TPT to address this issue frontally at the time of the next general review/general revision of its Scale of Rates.

(xxx). The TSAA has requested that the unit of levying berth hire charges may be reduced to an hourly basis. This Authority had already reduced the unit of levying berth hire charges from a day basis to a 8 hourly basis commonly for all the major port trusts. Any further reduction in the unit of charging has to be dealt with at the national level commonly for all the major port trusts and cannot be decided in isolation in the case of only one port.

It is noteworthy that all the major port trusts have already been alerted about a proposed move to reduce the unit of levying berth hire charges to an hourly basis with effect from 1 April 2003. Comments of the major port trusts as well as of relevant user organisations have also been sought on the proposed amendment. This issue will be taken by this Authority at the appropriate time for final consideration. The decision to be taken being common to all the major port trusts will equally apply at the TPT also.

(xxxi). Berth hire charges are payable for a minimum period of 8 hours or part thereof. The Scale of Rates provides that if the vessel continues to occupy a berth beyond a period of 8 hours but vacates it in the next 2 hours, the vessel has to pay additional berth hire charges at 25% of the rate applicable; if the occupation is beyond 2 hours charges for the full shift of 8 hours are payable. In reply to a query, the port has stated this provision acts a incentive for berth/vessel productivity and may be allowed.

This proposal is to provide relief to vessels and, hence, is accepted. The wording of unit in the relative note is corrected from 'shift of 8 hours' to 'period of 8 hours' as has been done in some other port trusts.

- (xxxii). Like other major ports, the TPT has also a system of priority/ousting priority berthing for an additional charge. This system has been in vogue with reference to a Govt. instruction on the subject. In the case of the general revision of Scales of Rates of some other major ports, this Authority had observed that , in the context of limited availability of berthing facilities at present, there would always be any number of vessels ready to pay additional charges; and, it would give scope for exploitation of (discretionary) powers. Since a final view on this issue has not yet been taken by this Authority, as was done in the case of other major ports, it does not like to approve or disapprove the priority berthing arrangement at the TPT. The TPT can continue to levy the charge as hithertofore until a final view is taken for common adoption by all the ports.
- (xxxiii). This Authority had on the last occasion initially advised the TPT to introduce an efficiency-linked-tariff scheme on the lines of a scheme introduced at the MOPT. This was not insisted upon later because the scheme at the MOPT was under review. Now, that the scheme as modified is in operation at the MOPT for a sufficiently long period, it can be introduced at the TPT for the coal-handling activity to begin with. The port can come up with a suitable proposal in this regard.
- (xxxiv). The Scale of Rates provides that berth hire charges on fishing vessels double banked with another vessel occupying a berth are leviable at 2/3rds of the normal rate. At many other ports in such cases berth hire at half the normal rate is charged. The port was requested to follow this practice and make the provision applicable to other vessels as well. While the port has agreed to modify the clause to make it applicable to all vessels, it does not consider it necessary to reduce the rate to 50 % of the normal rate as the State Government maintains separate fishing harbour at Tuticorin. The grounds given by the port do not justify the need for continuing the higher rate charged. The provision is amended to fall in line with the provision at other ports.
- (xxxv). The Scale of Rates provides that in the case of LASH vessels anchored at outer anchorage, port dues will be payable irrespective of whether the anchorage point is within the port limit declared by the Government or not for the simple reason that the barges of the mother vessel have to be brought into the port. The argument given by the port is not tenable. No Port dues become leviable if the mother vessel does not enter the port limits. Barges of the vessel which enter the port limits will pay Port Dues based on their registered tonnage. This clause is required to be modified suitably.
- (xxxvi). The port has proposed to include a conditionality to provide for shifting of vessels to outer anchorage if it does not observe the productivity norms prescribed. The port has furnished these norms laid down as a part of the norms for berthing of vessels at TPT. These norms are already implemented effective from 2nd March 2000. These norms can be incorporated in the schedule of berth hire charges as a conditionality.
- (xxxvii). In the wharfage schedule ad-valorem rates have been continued for nineteen items as at present. The port was advised to systemise the unit of levy. The port has opined that this issue be considered on an all port basis for common adoption. The ad-valorem basis of wharfage for certain break-bulk cargo was introduced in 1985-86 as a part of the exercise of rationalisation of the port tariff structure. It takes care of the cross-subsidisation to the heavy bulk cargo where it is not possible to charge wharfage rates based on the cost of handling that cargo. This Authority has not yet considered and finally decided whether cross-subsidisation will be discontinued and, if so, in what manner/phases. It has been decided to restrict the cross-subsidisation to the existing level in the meanwhile. The cost of handling of various commodities, at least for the major commodities, is to be analysed to arrive at a weight / volume based wharfage rate. Since this type of detailed costing information is not available with the port, the ad-valorem rates may have to be continued for the time being.

Nevertheless, it is to be borne in mind that ad-valorem is relevant for taxation purposes; but, port tariffs are not 'tax'. They are fees for services rendered. The Port is, therefore, advised to propose rationalisation of its wharfage schedule by reducing the number of items subject to ad-valorem wharfage at the time of the next general review / revision of tariffs.

(xxxviii).The MMTC has requested for a reduction of wharfage on wheat. The TPT has also proposed a reduction in the wharfage of wheat and also a volume discount scheme. This proposal has been delinked from the general revision case and dealt with

- (XLii). The TNEB has represented that while wharfage at Rs.38 PMT is charged for thermal coal handled by them at their jetty coal handled in bulk at another berth wharfage is charged at Rs.30 PMT. The Port has stated that the differential exists because thermal coal for TTPS is handled at a dedicated berth; and, hence, the rate has been fixed on that basis. At the general berth coal and other cargo also are handled; hence the differential costing and rate. While the basic wharfage rate fixed need not be disturbed, a volume discount scheme can be introduced for thermal coal also bearing in mind the fact that thermal coal is the major commodity handled at the TPT and the financial surplus disclosed by the cost statements. The basic rate can be prescribed for the quantity upto 2.5 million tonnes handled in a year. For the next slab of quantity over 2.5 million tonnes and upto 5 million tonnes a lower rate of Rs.29 PMT and for quantities in excess of 5 million tonnes the lower rate of Rs.23 PMT can be prescribed. This will result in a substantial drop in the projected income (Rs.285 lakhs) per annum and, consequently, in the surplus as indicated earlier.
- (XLiii). The Port has proposed a new wharfage rate for Sulphuric Acid as a specific sub-item at Rs.50 PMT. The rate for the residual item of 'liquid cargo not specified' (which will be applied in the absence of specific sub-item) is Rs 90 per cubic meter. In reply to a query, the Port has stated that the rate for Sulphuric Acid has been proposed considering a factor of 1.8 for conversion of volume in cubic meter to metric tonne. The rate proposed is approved.
- (XLiv). The SPIC has requested not to revise its tariffs but to have them rationalised. A similar request made by the SPIC was considered on the last occasion; and, this Authority felt that because SPIC was required to guarantee a certain minimum traffic, a better course would be to introduce a volume discount scheme. The port has not come up with any such proposal. Barring a general request made, the SPIC has also not suggested anything concrete with supporting details. This Authority, therefore, advises the TPT and the SPIC to examine the issue of introducing volume discounts and, come up, preferably, with an agreed proposal.
- (XLv). The SOR provides that if any question arises about classification of any goods, it will be referred to the Chairman (TPT) for decision and that his decision will be final. This clause is not in line with the tariff setting system envisaged in the Statute. The provision is amended in line with a provision introduced at other ports to the effect that, in cases of doubt, the Customs classification will be referred to before any item is classified under 'unspecified items' to find out whether the cargo can be classified under any of the specific categories in the wharfage schedule.
- (XLvi). There is also an existing provision that the wharfage collected will be subject to a minimum of Rs. 50/-. This goes counter to a general condition specified elsewhere that minimum amount of any bill will be Rs. 10/-. This condition therefore, may be deleted.
- (XLvii). Charges of goods-in transit are at present prescribed as 'per wharfage unit per 6 days'. The port proposes to change the unit as 'per wharfage unit per day' as prescribed in other ports by dividing the existing rates by 6 with suitable rounding off to the higher side. The adjusted rates proposed, however, add to the burden of users. They have complained against this and desired to retain the existing 6 day unit. While the change of unit to per day is allowed, the rates are suitably adjusted to reduce the impact to the minimum; and, the nomenclature of this charge is changed to demurrage as existing at other ports. Significantly, the TPT has accepted this modification.
- The unit for dwell time charges on containers has also been changed to 'per day' instead of 'per 6 days'; the rate, however, is suitably moderated to minimise the impact of the change in the unit of charging.
- (XLviii). The TPT has proposed that if import/export cargo require transit space and the transit sheds are full, space in the warehouse may be allotted on transit terms provided the cargo gets cleared within free days. If the cargo remains in the warehouses after the

free days relevant transit fees will be levied. These arrangements are to be approved by the Chairman on a case by case basis. There may be no need for a case by case approval; and, if there is shortage of space in transit sheds, some warehouse/s can be declared as 'transit area' for the duration of congestion and all consignments will be eligible for storage on transit terms during that period. The proposed clause is amended accordingly and approved for incorporation in the Scale of Rates.

- (XLix). The port has proposed to reduce the free period allowed for export of wheat from 30 to 15 days and in the case of other cargo from 15 to 10 days to ensure quick clearance and prevent the use of port premises for long term storage. While this is a rational change, the free period has to be exclusive of Sundays, Customs holidays and port non-operative days. The proposed provision is amended accordingly.
- (L). The port proposes to treat the period of detention by the Collector of Customs (for reasons other than ordinary process of appraisal) and by any Public Health Authority as free periods for the purpose of charging demurrage. It may not be reasonable for a Port to forego its revenue for reasons attributable to some other Government agencies. In the case of goods detained by the Customs for the purpose of analytical or technical tests, other than the ordinary process of appraisal, this Authority has approved in the case of the CHPT a clause allowing graded concession in demurrage. This clause was adopted at the VPT also.

No such concession is admissible for goods detained by the Public Health Authority at other ports. The importers are expected to observe the requirements / regulations laid down by such authorities; and, if the goods are detained for violation of such requirements, the importer shall be liable for demurrage or he shall arrange for the goods to be shifted to some other bonded warehouse. The port need not be required to give any concession in charges leviable. It is noteworthy that the Supreme Court has also held that a bailee can collect his charges on goods stored in his premises even for the period when such goods are detained by the Customs. The provision regarding goods detained by the Customs is modified on the lines of the provision approved in the Scale of Rates of the CHPT; and, the provision relating to detention by the PHO and others can be deleted.

- (Li). According to the existing stipulation, demurrage of unclaimed goods will not be charged on Master or Agent of the ship if the goods are cleared within two months from the date of discharge of the vessel. The Port has now proposed that demurrage will be charged from the Master or Steamer Agents upto four months from the date of discharge. The Ports can auction unclaimed goods after a period of 60 days. It is, therefore, reasonable to amend the provision that the demurrage charges on unclaimed goods may be recovered from the Masters or Agents of the ship for a period of two months if the goods are not cleared by that time.
- (Lii). The existing provision to allow free period on goods on the basis of a certificate on survey about damage is proposed to be deleted by the port to avoid exercise of discretion by the Traffic Manager. This is in accordance with the general stand of this Authority to minimise exercise of discretion in applying the Scale of Rates and is allowed.
- (Liii). The charges for use of landing places have been proposed to be increased by about 50 % as against the general proposal to increase the rates by 10%. The port has stated that this has been done to ensure quick clearance of the port's limited space available for incoming cargoes and make it deterrent for over-stay of cargo. This is found to be rational and, therefore, approved. The nomenclature of the charge may be changed to License (storage) fees as prevailing in other ports. (The port has accepted this suggestion).
- (Liv). The Port has proposed licence (storage) fees for covered space on the basis of rates 'per fortnight or part thereof' and for open space 'per month or part thereof'. It has also proposed exceptions through foot notes, that where the licensee occupies for a period of 7 days or less continuously the area licensed for use for a fortnight, 50% of

the charges leviable for the fortnight will be leviable. Similarly, where the licensee occupies for a period of 15 days or less continuously, the area licensed on a monthly basis 50% of the monthly charges will be leviable. It is better to prescribe a rate for a week or part thereof and delete the exceptions proposed through foot notes. The Scale of Rates is modified accordingly and definition of a week for this purpose to mean 'a continuous period of 7 days' is added in lieu of the definition for the fortnight.

- (Lv). A conditionality in the Scale of Rates stipulates that sub-letting of land or covered space licensed to any user is not permissible without the prior permission of the Chairman (TPT) and in case of violation of this condition the licence is liable to be cancelled. This Authority has already held that sub-letting is not permissible; and, has accordingly, amended the SORs of many of the ports. As was done in the case of the other ports, it is necessary to amend the SOR of the TPT to provide that sub-letting is not permissible at all.
- (Lvi). The charges for handling and storage of 40 ft containers at present existing in the Scale of Rates are higher by about 70% than those for 20 ft containers. At all the other ports and private container terminals the charges for handling 40 ft containers are one and half times the charges for handling 20 ft containers; and, the storage charges for 40 ft containers are double of that for 20 ft containers. It is reasonable to prescribe charges for 40 ft containers in the TPT Scale of Rates adopting these ratios.
- (Lvii). The port was requested to incorporate, in the draft SOR presented by it, this Authority's Order about levy of storage charges on abandoned containers. The port has stated that as the TPT is not the bailee of cargo; unless and until the Lines or container owners destuff cargo with Customs permission and hand them over to the port, no action can be initiated for disposal of the cargo. This Authority does not like go into the issue whether the port is a bailee or not. The provision about abandoned containers as approved for the other ports is, however, incorporated in the revised Scale of Rates.
- (Lviii). The Scale of Rates provides that in the case of laden containers, the cargo of which is unclaimed or uncleared for more than two months, Lines will be allowed to destuff the cargo and hand over to the port for disposal. The port now proposes to add that "space will be provided subject to availability; and, non-availability of space will not absolve the liners from payment of container rentals" (presumably, dwell time charges). The amendment proposed goes counter to the intention of the main clause to limit the dwell time charges to 60 days. The provision is deleted in view of the inclusion of the clause about storage charges on abandoned containers approved by this Authority for common adoption by all the major ports.
- (Lix). The reefer monitoring charges are proposed to be revised by about 30% as against the general revision of 10 % proposed. The port has sought to justify that charges for electricity have gone up from Rs. 3.30 per unit in 1999 to Rs. 4.50 per unit. It has to be recognised that this cost has been included in the overall cost position; and, the port as a whole depicts a surplus. That being so, it is reasonable to increase tariff for one single item based on cost without such analysis for all the other tariff items. The unit of levy is, however, modified from 'per shift of 8 hours' to 'per block of 8 hours' basis in line with such a change effected in other ports /private terminals.
- (LX). The schedule of hire charges for cranes, forklift trucks and other mechanical appliances for purposes other than loading / unloading operations has been modified by the Port to remove the equipment which are not in existence and to rationalise the rates for a group of equipments based on their capacity instead of prescribing rates for individual items of equipment. This is a reasonable modification and is approved.
- (LXi). The schedule of charges for use of dry dock provides that the hirer will pay in advance hire charges for docking/undocking and daily hire charges as stipulated and that in the event of vessel not being ready for docking or not using dock on the day notified for admission of the vessel, the advance deposit paid will be liable to be

forfeited in full or part at the discretion of the Chairman (TPT). These discretionary powers are not in line with the general stand of this Authority in this regard and, the corresponding provision in the Scale of Rates is, therefore, deleted. Instead of stipulating that the deposit is liable to be forfeited, it is better to specify that cancellation charges equivalent to the deposit already paid will be levied in such an event. The relevant provision is modified accordingly.

- (LXii). The SOR prescribes charges for usage of fire fighting equipment for salvage and standby duties. Normally, it is a statutory duty of a port to provide fire fighting arrangements in the port; there can, therefore, be no specific charge for these services. The cost relating to this service is seen to be taken along with other costs of cargo and vessel-related activities. The port has stated that the charges are payable when fire fighting unit is deployed for stand by duty at the request of the Agent of the vessel. The provision is retained making this explanation offered specifically clear therein.
- (LXiii). The port has agreed to delete the separate charge for providing telephone connection to a vessel at berth treating it as covered by the berth hire charges.
- (LXiv). The Port has reduced the number of slabs based on the value of the salvage goods for the purpose of levying the fees and rationalised the ad valorem rates as well as the minimum charges prescribed for the use of services for salvage of goods. These changes are reasonable and accepted.
- (LXv). The CSLA and the Customs House Agents Association have represented that the license fee for private equipment allowed to be operated in the port shall not be increased. They have stated that the port equipment is used for departmental purposes and the private equipment is not competing with the port's equipment. In fact, the port must outsource this service for certain period and charge royalty. The port has stated that the revenue from this source is not a major item and not enough to cover the cost of maintenance of the roads in the port; the fees are more for regulation of the entry of private equipment. While the existing charges for entry is not be revised in view of the overall surplus position, a 25% increase for entry into the security wall proposed is approved.
- (LXvi). A scheme of packaged marine charges for main line container vessels was introduced in August 2001. The port has stated that there are no takers for the scheme; the port has not handled any container vessel beyond 18000 GRT vis-à-vis the limit of 22000 GRT prescribed for the scheme of packaged marine charges. It is noteworthy that the scheme was valid for one year. Since no one has availed of the benefit envisaged by the Scheme within the validity period stipulated, it may not be necessary to include this provision in the revised Scales of Rates. The existing provisions are, therefore, be deleted as redundant.
- (LXvii). The issue of levying separate charges for cargo handling workers has been raised by the TSA. It is understood that a Labour Pool has been formed by taking over the Labour Pool earlier managed by the TSA. The legal position of this Labour Pool coming under the administrative control of the TPT is not known. In any case, the TPT has not proposed inclusion of any cargo handling worker levy in its Scale of Rates. If the members of the Labour Pool administered by the port trust are treated as port employee, the charges leviable for supply there from for cargo handling operations are definitely to be regulated by this Authority. Even otherwise, there can be an opinion that the Labour Pool can be treated as an authorised service provider in terms of section 42 of the MPT Act. In the event, it becomes necessary for the Port to propose ceiling rate for the services provided by such authorised person. The TPT can examine this issue in detail and come up with suitable proposal within six months, to regulate cargo handling workers levy.

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

11.2. The revised rates and conditionalities relating to vessel-related charges will become effective after expiry of 30 days from the date of notification of this Order in the Gazette of India.

11.3. The revised rates and conditionalities relating to cargo-related charges and other miscellaneous charges will become effective after expiry of 15 days from the date of notification of this Order in the Gazette of India.

(S. Sathyam)
Chairman