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**TARIFF AUTHORITY FOR MAJOR PORTS**

**G.No.260**

**New Delhi,**

**05 July 2018**

**NOTIFICATION**

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Deendayal Port Trust (DPT) for fixation of tariff for handling of high pour point/high viscosity heated crude oil at the existing oil berths at Vadinar, DPT, as in the Order appended hereto.

**(T.S. Balasubramanian)**

Member (Finance)

**Tariff Authority for Major Ports**  
**Case No.TAMP/77/2017-DPT**

Deendayal Port Trust

- - -

Applicant

**QUORUM**

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

**ORDER**

(Passed on this 8<sup>th</sup> day of June 2018)

This case relates to the proposal received from Deendayal Port Trust (DPT) for fixation of tariff for handling of high pour point/high viscosity heated crude oil at the existing oil berths A & B by M/s.Vadinar Oil Terminal Limited (VOTL) at Off-Shore Oil Terminal, Vadinar, DPT.

2.1. The DPT vide its letter dated 28 November 2017 has submitted its proposal for handling of high pour point/high viscosity heated crude oil at the existing oil berths A & B by M/s.VOTL at Off-Shore Oil Terminal, Vadinar, Deendayal Port Trust. The main points made by the DPT in support of its proposal are summarised below:

- (i). As per the agreement dated 08 October 1997 between Deendayal Port Trust & M/s.ESSAR Oil Ltd. (EOL) and subsequent supplementary agreement between DPT, EOL, ESSAR Shipping and VOTL dated 12 September 2015, two Product Jetties and one SPM have been developed in DPT waters at Vadinar to support ESSAR Oil Refinery. The Refinery was envisaged to be of capacity 9 Million Metric Tonnes Per Annum (MMTPA), which has been revamped in phases and presently running at capacity of 20 MMPTA.
- (ii). The crude for the refinery is being imported through the SPM and the refined products, from the refinery are being dispatched through the two product jetties 'A' & 'B' at Off-Shore Oil Terminal Department, Vadinar, DPT.
- (iii). High pour point / high viscosity Crude Oil is transported at high temperature (50°C - 75°C) due to their high pour point and high viscosity nature. Existing SPM system can handle Crude upto 45° C only.
- (iv). Therefore, VOTL has proposed to import such high pour point / high viscosity heated Crude oil through their existing oil berths 'A' & 'B' at Vadinar.
- (v). Permission to M/s. VOTL, Vadinar from Ministry of Environment And Forests (MOEF) for handling crude at their Oil Jetties 'A' & 'B' has already been received vide MOEF letter No.8C/12/285/96-FCW/2040 dated 27.12.2012.
- (vi). The quantity of high pour point / high viscosity heated crude oil expected to be handled at Oil Berths 'A' & 'B' by M/s. VOTL, Vadinar is upto one MMTPA.

- (vii) Clause No.17 of the agreement between DPT and VOTL is reproduced as under:
- (a) Captive cargo of EOL:
    - (i). VOTL shall pay to DPT a royalty equivalent to the wharfage charges applicable to Crude oil from time to time as per Scale of Rates (SOR) of DPT, for handling EOL's captive Crude oil at the SPM.
    - (ii). VOTL shall pay a Royalty equivalent to 51.43% of the wharfage applicable to POL products as per the SOR of DPT, from time to time, for handling of EOL's POL products at their Product jetties.
    - (iii). The Berth hire charges for the vessels calling at Product Jetties of VOTL, 51.43% of the rates as per SOR of DPT, from time to time, shall be leviable.
  - (b). Cargoes other than EOL's captive cargo:
    - (i). VOTL shall pay to DPT a royalty equivalent to the wharfage charges applicable to Crude oil from time to time as per SOR of DPT, for handling Crude oil at the SPM, subject to minimum of ₹12 per MT.
    - (ii). VOTL shall pay a Royalty equivalent to 51.43% of the wharfage applicable to POL products as per the SOR of DPT, from time to time, for handling of POL products at their Product jetties, subject to minimum of ₹18 per MT.
    - (iii). The Berth hire charges for the vessels calling at Product Jetties of VOTL, 51.43% of the rates as per Scale of Rates of DPT, from time to time, shall be leviable.
  - (viii). Accordingly, proposal to Grant permission to handle Crude Oil at Berth A & B by M/s. VOTL at OOT department, Vadinar, DPT, was placed before the Board, including Legal opinion on allowing the handling of crude at product Jetties in its meeting held on 06 January 2017.
  - (ix). Board vide resolution no.158 in its meeting held on 06 January 2017, which is furnished, has approved the following:
    - (a). To approve the proposal to handle crude oil at Berth 'A' and 'B' and to provisionally charge the rates of handling of Crude Oil at Jetty @ 50% of SOR, as applicable for POL Products.
    - (b). To send a detailed proposal to the TAMP for approval of rates in this regard.
  - (x). Presently, the applicable rates for handling POL Products is ₹51.00 per MT (including 2% escalation). Considering the Clause No.17 of the agreement between DPT & VOTL and Board's approval as per B.R. No.158, the present applicable rate is ₹26.23 PMT (51.43% of ₹51.00 PMT) for handling of High pour point / high viscosity heated Crude oil at Berth A & B.

- (xi). Proposed SOR for handling of High pour point / high viscosity heated Crude oil at Berths A & B by M/s.VOTL at Off-shore Oil Terminal Department, Vadinar, DPT is furnished and same may be inserted as Sr. No.(A) 1. (d) of Chapter III.

2.2. In view of the above, the DPT has requested to approve the proposed rate of ₹26.23 PMT for handling of High pour point / high viscosity heated Crude Oil at berths 'A' and 'B' by M/s. VOTL at Off-shore Oil Terminal Department, Vadinar, DPT, as per Annexure – D in view of Sections 48, 49 and 50 of the MPT Act, 1963.

3. As per the General Revision of SOR of DPT approved by this Authority vide Order no.TAMP/18/2016-KPT dated 21 June 2016, the wharfage charges for crude oil is ₹18/- per MT and for POL products it is ₹50/- per MT. After applying WPI escalation at 2%, as stated by DPT, it comes to ₹18.36 per MT and ₹51 per MT respectively from the year 2017-18.

4. In accordance with the consultative procedure prescribed, the proposal of DPT dated 28 November 2017 was forwarded vide our letter dated 06 December 2017 to the VOTL, concerned users / user organisations seeking their comments. We have not received any comments from any users / user organisations except from VOTL vide emails dated 18 December 2017 and 29 January 2018. The comments received from the VOTL was forwarded to DPT for feedback information vide our letters dated 18 December 2018 and 29 January 2018 respectively to furnish its comments. The DPT vide its letter dated 17 January 2018 has responded on comments of VOTL.

5. A joint hearing in this case was held on 30 January 2018 at the DPT premises. The DPT made a brief power point presentation of its proposal. At the joint hearing, the DPT and the concerned users/ user organizations have made their submissions.

6.1. Based on the preliminary scrutiny of the proposal dated 28 November 2017, the DPT was requested to furnish information / clarification on a few points vide our letter dated 12 February 2018. This was followed by reminders dated 23 February 2018 and 09 March 2018. The DPT vide its letter dated 19 March 2018 and subsequent emails dated 24 April 2018 and 23 May 2018 has responded to the information/ clarifications sought by us. A summary of the information/ clarifications sought by us and the response of DPT is tabulated below:

Sl. No.	Information/ Clarifications sought by us	Response from DPT
1.	<b>Productivity Parameters:</b>	
(i).	The DPT in its proposal for arriving at the proposed rate for Crude oil has stated that presently, the applicable rates for handling POL Products is ₹51.00 per MT (including 2% escalation). Considering the Clause No.17 of the Agreement between DPT & VOTL and Board's approval as per B.R. No.158, the present applicable rate is ₹26.23 PMT (51.43% of ₹51.00 PMT) for handling of High pour point / high viscosity heated Crude oil at Berth A & B. In this regard, the following points may be clarified by the DPT:	-
(a).	The DPT in its proposal has referred to Clause No.17 of the agreement between DPT & Vadinar Oil Terminal Ltd. VOTL. It is seen	It is proposed to approve wharfage rate for handling of Crude oil at Product Jetty for ₹26.23 PMT.

	<p>from the DPT letter that clause 17 (A) and B of the said Agreement referred by DPT relates to royalty payment for captive cargo of Essar Oil Limited (EOL) and cargoes other than captive cargo of EOL agreed between DPT and the concerned parties. The mandate of TAMP under Section 48 of the Major Port Trusts Act, 1963 is to fix the Scale of Rates and conditionalities for vessel related services, cargo related services and miscellaneous services rendered by Major Port Trust or BOT operators authorised by Major Port Trust. Royalty/ revenue share agreed between the DPT and any concerned party cannot form the basis for fixation of tariff for services rendered by Major Port Trust. The DPT to therefore propose wharfage rate for Crude oil for high viscosity (high temperature of 50°C - 75°C), furnishing the basis therefor separately without any linkage to Royalty or revenue share agreed by DPT in any agreement.</p>	
(b).	<p>The DPT may kindly note that the wharfage rate to be approved by this Authority will be for the cargo item viz. crude oil of high viscosity for which DPT has filed the current proposal. The rate to be approved by this Authority will be uniform irrespective of whom so ever is the user availing the facility.</p>	<p>It is noted that the wharfage rate to be approved by this Authority, shall be for cargo item i.e. Crude oil to be handled at Product Jetty, which shall be uniform, irrespective of whom so ever is the user availing facility.</p>
(ii).	<p>The copy of the Board Approval of the DPT dated 6.01.2017 forwarded by DPT states that Board of Trustees of DPT has resolved to approve the proposal to handle crude oil at Berth 'A' and 'B' and to provisionally charge the rates of handling of Crude Oil at Jetty @ 50% of SOR, as applicable for POL Products and send detailed proposal to TAMP in this regard.</p> <p>It is relevant here to state that the existing rate for POL products after applying 2% annual escalation on the wharfage rate of ₹50.00 PMT approved by this Authority works out to ₹51.00 PMT. Applying 50% thereof as per the Board approval of DPT, wharfage rate of crude oil with high viscosity comes to ₹25.50 MT. The wharfage rate proposed by DPT in the current proposal is, however, ₹26.23 PMT. From the copy of Board approval it is not clear that Board has approved the proposed rate ₹26.23 PMT for crude oil of high viscosity. Please furnish relevant copy of the Board approval approving the rate proposed by DPT.</p>	<p>(a). A copy of B. R. No. 158 of the Board meeting held on 06.01.2017 is furnished.</p> <p>(b). Subsequently, the DPT vide its letter dated 23 May 2018 has submitted that the Board of Trustees of DPT in its meeting on 4 May 2018 has approved the rate of ₹26.23 PMT for handling Crude Oil at Oil Jetties and to insert the same as Sl. No.A (1)(d) under Chapter III as Crude Oil (to be handled at oil jetties) in the existing SOR of DPT. The port has furnished a copy of the said Board Resolution.</p>
(iii).	<p>The DPT is requested to justify the proposed wharfage rate at ₹26.23 per MT for crude oil with high viscosity with reference to additional service provided and additional cost incurred by DPT for providing services to handle this cargo at Oil Jetty A &amp; B as against wharfage rate of ₹18 per MT for crude oil prescribed in existing SOR of DPT.</p>	<p>The physical properties of the crude which is to be handled at Product Jetty, the rate of discharging, the vessel size and the assistance required from DPT for the berthing of vessels is similar to the POL product. Further, the request of the party to handle Crude oil at Product Jetty instead of handling at SBM has been considered, and hence wharfage rate of ₹26.23 PMT, based on the wharfage charges applicable at product jetties i.e.</p>

		rate for "POL Products" has been proposed.								
(iv).	Existing Scale of Rates (SOR) of DPT approved by this Authority vide Order No TAMP/18/2016-DPT dated 21 June 2016 prescribes wharfage rate for crude oil and POL products at ₹18 per MT and ₹50/- per MT at Sl.No.1(a) and (b) respectively. Further, note 2 under the Wharfage schedule stipulates that wharfage charges for liquid bulk cargo prescribed are applicable for handling at the Liquid Cargo Berths. Thus, in the existing SOR wharfage rate for the Crude oil handled at berth or at Single Point Mooring (SPM) have not been prescribed separately. In view of the proposal of the DPT seeking separate wharfage rate for crude oil with high viscosity to be handled at Oil Jetty A & B, the DPT may examine whether the existing nomenclature of crude oil at Sr. No. (A) (1) (a) in the existing SOR of DPT needs to be amended to avoid any ambiguity.	<p>The existing nomenclature of Crude oil at Sr. No. (A)(1)(a) in the existing SOR of DPT need not to be amended.</p> <p>Subsequently, DPT vide its email dated 24 April 2018 has stated that in continuation to reply for Para 2 (iv) vide letter No. FA/Cost/1139/101 dt. 19.03.2018, it is to state that</p> <table border="1"> <tr> <td colspan="2">(i). Nomenclature of the existing Sr. No. A (1) (a) of Chapter III Schedule of Wharfage charges may be modified as:</td> </tr> <tr> <td>Crude oil to be handled at SPM</td> <td>₹18.00 PMT</td> </tr> <tr> <td colspan="2">(ii). Proposed tariff of ₹26.23 PMT may be inserted as follows [Sr. No. A (1) (d)]:</td> </tr> <tr> <td>Crude oil to be handled at berth</td> <td>₹26.23 PMT</td> </tr> </table>	(i). Nomenclature of the existing Sr. No. A (1) (a) of Chapter III Schedule of Wharfage charges may be modified as:		Crude oil to be handled at SPM	₹18.00 PMT	(ii). Proposed tariff of ₹26.23 PMT may be inserted as follows [Sr. No. A (1) (d)]:		Crude oil to be handled at berth	₹26.23 PMT
(i). Nomenclature of the existing Sr. No. A (1) (a) of Chapter III Schedule of Wharfage charges may be modified as:										
Crude oil to be handled at SPM	₹18.00 PMT									
(ii). Proposed tariff of ₹26.23 PMT may be inserted as follows [Sr. No. A (1) (d)]:										
Crude oil to be handled at berth	₹26.23 PMT									
(v).	The Annual Revenue Requirement (ARR) considered by this Authority in General Revision of SOR of DPT approved vide Order No.TAMP/18/2016-KPT dated 21.06.2016 is ₹84,251.84 lakhs and the revenue estimated at the SOR approved in the said Order is ₹83,551.58 lakhs. The differential of ₹700.26 lakhs (₹84,251.84 lakhs less ₹83,551.58 lakhs) was left uncovered by this Authority which the port was to take care from the tariff items and conditionalities for which the DPT could not capture the revenue impact at that point of time. The DPT is requested to assess additional revenue from the proposed wharfage rate for crude oil of high viscosity and confirm that annual estimated revenue will be within the differential ARR ₹700.26 lakhs left uncovered in the last tariff Order and also confirm that the total revenue is expected to be within total estimated ARR of ₹84,251.84 lakhs.	The annual estimated revenue of Royalty for handling Crude oil at Product Jetty considering 1 MMT per year shall be ₹262.30 lakhs. However, Royalty income from VOTL is not considered in computation of ARR as per Tariff Guidelines, 2015. Presently VOTL is the only user who shall handle Crude oil at oil berth.								
(vi).	Please furnish a copy each of agreement dated 08.09.1997 between DPT and M/s.ESSAR Oil Ltd. (EOL), subsequent supplementary agreement between DPT and EOL dated 23.04.2004 and subsequent supplementary agreement between DPT, EOL, ESSAR Shipping and VOTL dated 12.09.2015.	A copy of agreement dated 8 October 1997; subsequent supplementary agreement dated 23.04.2004 and 12.09.2005 are furnished.								
(vii).	Please furnish a copy of letter no.8C/12/285/96-FCW/2040 dated 27.12.2012 issued by Ministry of Environment and Forests (MOEF) permitting VOTL to handle crude at the Oil jetties 'A' & 'B' as referred by DPT in its proposal.	Copy of letter no.8C/12/285/96-FCW/2040 dated 27.12.2012 issued by MOEF is furnished.								

6.2. Subsequently, DPT vide its email dated 02 May 2018 has stated that the VOTL is expecting to receive Crude at Berth in June 2018. Hence DPT has requested to approve the rates as proposed, with effect from June 2018.

7. Subsequent to Joint Hearing, VOTL vide its letter dated 10 February 2018 has given further written submissions. The written submissions received from the VOTL was forwarded to DPT for feedback information vide our letter dated 12 February 2018 to furnish its comments. The DPT has not responded till finalization of this case.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to them. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). The proposal of Deendayal Port Trust (DPT) is for fixation of wharfage for handling of high pour point/high viscosity heated crude oil of high temperature of 50°C to 75°C by M/s.Vadinar Oil Terminal Limited (VOTL) at Off-Shore Oil Terminal, Vadinar, DPT at the existing oil berths A & B of DPT.
- (ii). As brought out in the preceding paragraphs bringing out the factual position, the port entered into an agreement dated 08 October 1997 with M/s.Essar Oil Limited (EOL) to develop two Oil Jetties and one SPM in DPT waters at Vadinar to support Essar Oil Refinery. Subsequently, a supplementary agreement was entered between DPT, EOL, and Essar Shipping Ltd (ESL) dated 23 April 2004 whereby the DPT has granted consent for joint execution by EOL, ESL and VOTL of the assignment of DPT granted vide original agreement dated 8 October 1997. Subsequently, a second supplementary agreement was entered on 12 September 2015 between DPT and VOTL amending the Supplementary Agreement of 2004.

The DPT has stated that permission for handling crude at Oil Jetties A & B has been obtained by M/s.VOTL, Vadinar from Ministry of Environment and Forest (MOEF) vide its letter dated 27 December 2012. From the MOEF letter dated 27 December 2012 forwarded by the DPT, it is seen that the MOEF has allowed crude to be transported through already existing facilities on similar conditions to EOL. The port has obtained legal opinion on the said matter. The Board of the DPT after considering the legal opinion obtained by the port has approved the proposal to handle crude oil of high viscosity at Oil Berths 'A' and 'B' of DPT and to provisionally charge the rates at 50% of rates applicable for POL Products prescribed in the existing SOR of the DPT. Based on the approval accorded by the DPT Board, the port has filed the current proposal seeking approval of the rate for handling of crude oil of high viscosity of 50 ° C to 75° C by VOTL at Oil Jetties A & B of the DPT.

In this regard, it is relevant here to state that the agreement and supplementary agreements entered into between the DPT and the individual parties are between the concerned parties. This Authority would not like to go into the interpretation of the provisions of the agreements as it is beyond the mandate of this Authority.

The mandate of this Authority is to fix the Scale of Rates and conditionalities for services rendered by the Major Port Trusts or BOT

operators authorised by Major Port Trusts for services listed under section 48 of the Major Port Trust Act (and for port properties under section 49 of the Act). In the instant case, this Authority proceeds to fix the wharfage rate for handling crude oil of high viscosity at Oil Jetties A and B as the DPT has filed the proposal seeking approval of wharfage rate thereof.

- (iii). The crude oil for the refinery is imported by VOTL through the Single Point Mooring (SPM) at DPT and the petroleum products produced from the refinery are dispatched through the two oil jetties 'A' & 'B' of DPT. The Refinery was envisaged to be of capacity 9 million metric tonnes per annum (MMTPA), which was revamped in phases and present running capacity is reported to be of 20 MMPTA. Presently 17.00 MTPA of crude is imported through the SPM for refining at the Refinery.

The proposal is mooted by DPT in view of VOTL proposing to import 1.00 MTPA of high pour point/high viscosity crude of high temperature i.e. 50° C to 75° C. This category of crude oil cannot be imported at the existing SPM system as the existing SPM can handle crude oil upto 45°C temperature only as reported by both the DPT and VOTL. However, high temperature crude oil of 50°C to 75°C can be handled at oil Jetties of DPT for which no separate wharfage rate is prescribed in the existing SOR. This Authority is, therefore, considers the proposal of the DPT for fixation of wharfage rate for handling of high pour point/high viscosity heated crude oil of 50° C to 75° C at the existing oil berths A & B at Off-Shore Oil Terminal, Vadinar, DPT.

- (iv). Before going into the analysis of the case, it is relevant here to state that the DPT in its proposal has made a reference to Clause No.17 of the supplementary agreement dated 23 April 2004 entered between DPT, EOL, ESL and VOTL. Clauses 17 A and B of the said Agreement entered between DPT and the concerned parties stipulates provisions relating to payment of royalty by VOTL to DPT for captive cargo of EOL and for cargoes other than captive cargo of EOL. The provisions under clause 17 of the said supplementary agreement as furnished by the DPT in its proposal have already been brought out in para 2.1(vii) above and hence not repeated here.

The DPT in its original proposal dated 28 November 2017 referring to the said clause 17 of the supplementary agreement dated 23 April 2004 had proposed rate for crude oil of High pour point / high viscosity to be handled at two product jetties A & B at ₹26.23 PMT being 51.43% of the prevailing wharfage rate of ₹51.00 PMT applicable rates for handling POL Products as per the SOR approved by this Authority.

In this regard, it was pointed out to the DPT at the joint hearing that the mandate of this Authority is to fix the Scale of Rates and conditionalities for vessel related services, cargo related services and miscellaneous services rendered by Major Port Trust or BOT operators authorised by Major Port Trust. This Authority does not have mandate to fix royalty/ revenue share which is between the port and the concerned party. Thus, it was explicitly brought out to the notice of the DPT that royalty/ revenue share agreed between the DPT and any concerned party cannot form the basis for fixation of tariff for services rendered by Major Port Trust. On being pointed out to the port to propose wharfage rate



for this category of Crude oil without any linkage to Royalty or revenue share and furnish the basis thereof, the DPT has vide its letter dated 19 March 2018 proposed wharfage rate for handling of Crude oil at Oil Jetty at ₹26.23 PMT. Thus, the current exercise is for fixation of wharfage rate for handling of crude oil of high viscosity of high temperature of 50° C - 75° C at oil jetties A and B.

- (v). The wharfage rate for Crude oil and POL products prescribed in the existing SOR of the DPT approved by this Authority vide Order No.TAMP/18/2016-KPT dated 21 June 2016 and the relevant note 2 to the wharfage schedule reproduced below:

**“SCHEDULE OF WHARFAGE CHARGES**

Sr. No.	Particulars of commodities	Unit	Coastal rates (in ₹)	Foreign rates (in ₹)
(A)	Liquid (in bulk)			
1.	<u>POL and products</u>			
(a).	Crude Oil	M.T.	18.00	18.00
(b).	POL Products	M.T.	50.00	50.00

Note No.2 to the Wharfage Schedule:

*“Wharfage charges for liquid bulk cargo prescribed above are applicable for handling at the Liquid Cargo Berths. If Liquid bulk cargo is handled at General Cargo Berths, 20% additional wharfage will be charged.”*

Thus, as per the existing SOR of DPT, the wharfage for crude oil is ₹18.00 per MT and for POL products it is ₹50.00 per MT. After applying WPI escalation of 2% in pursuance of the note prescribed in the SOR of DPT for annual indexation at 100% of the WPI and taking into consideration the annual escalation of 2% announced by this Authority for the year 2017-18, the existing wharfage rate comes to ₹18.36 per MT for crude oil and ₹51.00 per MT for POL products. This Authority has announced nil indexation factor for the year 2018-19 and hence the rates as of 2017-18 continue to apply for the year 2018-19 also.

- (vi). The main objections of the VOTL with reference to the proposal of the DPT are on the following grounds:
- Crude oil of high viscosity proposed to be handled at two product oil A & B at DPT berth is same as the crude oil at SPM and is used for manufacturing same Petroleum Products and, therefore, different wharfage rate is not called for.
  - The existing Note 2 to the wharfage schedule prescribes that wharfage for liquid bulk cargo prescribed in the schedule are applicable for handling at liquid cargo berths as well. The VOTL has argued that based on the said note, the existing wharfage rate of ₹18.36 per MT for Crude oil is being charged for Crude oil handled at SPM not only from VOTL but also from other users. This means that Wharfage of Crude Oil is same whether it is handled on SPM or Berths.

- (c). No additional facility or services are provided by DPT for handling crude oil at the POL product jetties A and B by the DPT. DPT is neither required to install any infrastructural facility nor render any service with regard to receipt and or handling of the crude oil proposed to be received at oil jetties at DPT berths and DPT does not claim to have made any additional expenditure. DPT has not been able to provide any cogent reason or justification to seek different and higher rate of wharfage. As such, no case is made out for determination of different and higher rate of wharfage of ₹26.23 PMT for the high pour crude oil to be handled at oil jetties A and B. There is no justification in proposal of DPT to apply 51.43% on ₹51/- PMT to arrive at the proposed rate of ₹26.23/ tonne
- (vii). (a). As regards (vi) (a), the DPT has emphatically stated that the crude oil of high viscosity of high temperature of 50°C to 75°C proposed to be handled at oil jetties A and B of DPT is not the same as the crude oil being handled at SPM. The chemical composition of both crude cargo items is same. But, physical attributes are different. If physical attribute of this crude oil is different, the method of handling are different for both the categories of crude oil. The point that the VOTL cannot handle the crude oil of high viscosity at the existing SPM itself justifies that it is a different class of crude which cannot be handled at SPM. When the DPT sought the pumping rate of crude oil at SPM and oil jetty, the VOTL itself has reported the pumping rate for crude oil at 5000 litres/hour at SPM whereas at oil jetty it is 2000 litres/ hour.

The DPT has given the above as reasons for separate categorization of crude oil of high viscosity of 50°C to 75°C and has sought approval of separate wharfage rate of ₹26.23/ tonne for handling this category of crude oil at Oil jetties A& B.

- (b). As regards (vi) (b), the DPT has stated that the argument of VOTL referring to the note (2) of existing SOR is not correct. The DPT has reiterated that physical property of the crude oil of high viscosity to be handled at product jetty is not same as crude oil handled at SPM.

Thus, though the VOTL has contended that crude oil handled at SPM and crude oil of high viscosity of high temperature of 50°C to 75°C to be handled at the oil jetties are the same, the VOTL has admitted that the crude of high viscosity cannot be handled at SPM. Further, the pumping rate of the crude oil handled at SPM is higher than the crude oil of high viscosity of 50°C to 75°C to be handled at oil jetties. The DPT has justified its proposal for separate wharfage rate for crude oil of high viscosity to be handled at product jetty as stated in preceding sub paragraph. Further, as regards the point made by the VOTL that wharfage rate for crude oil of high viscosity handled by MRPL at jetty of NMPT and that at the SPM is same, it is to state that even in the SOR of the NMPT two separate wharfage rates have been prescribed for crude oil i.e. ₹68.89 for crude oil handled at berth and ₹25/- PMT for crude oil handled through SPM. Even in the SOR of the Cochin Port Trust, separate

wharfage rates have been prescribed for crude oil handled at SPM at ₹25/- PMT and ₹103/- PMT for Crude oil handled at the berth. Thus, based on the position obtaining at the above said ports where separate wharfage rates have been prescribed for crude oil handled at SPM and at port berths and based on the justification furnished by the DPT, the proposal for prescription of separate wharfage rate for crude oil of high viscosity and high temperature of 50°C to 75°C to be handled at the oil jetties merits consideration and hence is approved.

- (c). As per Clause 5.7.1. of the Working Guidelines 2005, whenever a specific tariff for a service/ cargo is not available in the SOR of that particular port, the concerned Major Port Trust can approach this Authority for notification of tariff based on various methods prescribed therein.

In view of the observation of the DPT as regards (vi) (c), as stated above, DPT has sought to justify the proposed wharfage rate at ₹26.23 per MT for crude oil with high viscosity with reference to additional service provided and additional cost incurred by DPT for providing services to handle this cargo at Oil Jetties A & B of DPT as against wharfage rate of ₹18.00 per MT for crude oil prescribed in existing SOR of DPT. The DPT has not furnished any cost calculation in support of the proposed rate. The DPT has, however, justified its proposal stating that physical properties of the crude which is to be handled at Oil Jetty, the rate of discharging, the vessel size and the assistance required from DPT for the berthing of vessels at oil jetties A & B is similar to the POL products at the oil jetties. The existing wharfage rate for POL products is ₹51 PMT. The DPT has proposed wharfage rate for crude oil of high viscosity high temperature of 50°C to 75°C to be handled at the oil jetties at ₹26.23 PMT. The proposed rate is around 50% of the existing wharfage rate for POL products. The Tariff Policy, 2015 gives flexibility to Major Ports to propose the rates within the Annual Revenue Requirement (ARR). In the last revision of the SOR of DPT approved vide Order No.TAMP/18/2016-KPT dated 21 June 2016, the ARR estimated by this Authority is ₹84,251.84 lakhs per annum and the revenue estimated by DPT at the SOR then proposed and approved in the said Order was ₹83,551.58 lakhs. The differential of ₹700.26 lakhs (₹84,251.84 lakhs less ₹83,551.58 lakhs) was left uncovered by this Authority which the port was allowed to take care from the tariff items and conditionalities for which the DPT could not capture the revenue impact at that point of time. The DPT has in the current proposal estimated additional revenue from 1.00 MMTPA of proposed Crude oil of high viscosity to be handled at oil jetty at ₹262.30 lakh per annum. Since the additional revenue estimated by DPT from the proposed rate is well within the estimated ARR estimated in the June 2016 Order, the proposed rate of ₹26.23 per MT is approved.

- (viii). One of the points made by VOTL is that the concessional rate as per the Agreement is based on the facilities and not based on commodities. Therefore the rate of handling Crude at Jetty should be 51.43% of the wharfage charges applicable to Crude as per SOR of DPT. In this

regard, it is to state that the final rate proposed by the DPT is wharfage rate of ₹26.23 PMT without any linkage to 51.43% revenue share agreed between DPT and the concerned parties. As stated earlier, the interpretation of the agreement entered between DPT, VOTL and the concerned parties is beyond the mandate of this Authority and hence this Authority does not like to go into that matter.

- (ix). The Approval of the Board of DPT dated 06 January 2017 forwarded by DPT states that Board of Trustees of DPT has resolved to approve the proposal to handle crude oil at Berth 'A' and 'B' and to provisionally charge the rates of handling of Crude Oil at Jetty @ 50% of rate, as applicable for POL Products. 50% of the existing wharfage rate of POL products comes to ₹25.50 PMT. However, subsequently, DPT vide its letter dated 24 May 2018 has submitted that the Board of Trustees of DPT in its meeting held on 04 May 2018, has approved the rate of ₹26.23 PMT for handling of Crude Oil at Oil Jetties and to insert the same as Sr. No. A (1) (d) of Chapter III as Crude Oil (to be handle at oil jetties) in the existing Scale of Rates of DPT. Wharfage rate proposed by DPT in the current proposal is ₹26.23 PMT for crude oil of high viscosity, which is in line with the approval of the DPT Board.

Further, this Authority while according approval to the rate proposed by DPT makes it abundantly clear that **the rate approved by this Authority will be uniform irrespective of whom so ever is the user availing the facility.**"

- (x). As stated earlier, the existing SOR of DPT approved by this Authority vide Order No.TAMP/18/2016-DPT dated 21 June 2016 prescribes wharfage rate for crude oil and POL products at ₹18/- per MT and ₹50/- per MT at Sl.No.1(a) and (b) respectively. Further, note 2 under the Wharfage schedule stipulates that wharfage charges for liquid bulk cargo prescribed are applicable for handling at the Liquid Cargo Berths. Thus, in the existing SOR, wharfage rate for Crude oil handled at berth or at SPM have not been prescribed separately. In view of the proposal of the DPT seeking separate wharfage rate for crude oil with high viscosity to be handled at oil jetties A & B, the DPT was requested to examine whether the existing nomenclature of crude oil at Sr. No. (A) (1) (a) in the existing SOR of DPT needs to be amended to avoid any ambiguity. In response, DPT vide its email dated 24 April 2018 has proposed to amend to nomenclature of the Sr. No. A (1) (a) of as "Crude oil to be handled at SPM" in place of existing nomenclature "Crude oil". Further, the DPT has proposed to insert new entry at Sr. No. A (1) (d) as "Crude oil to be handled at berth" at the proposed rate of ₹26.23 PMT.

In the instant case, based on the clarification furnished by DPT and position obtaining at the two Major Ports as stated earlier, the nomenclature of "Crude oil" at Sr. No.(A)(1)(a) in the existing SOR of DPT is modified as "Crude Oil to be handled at SPM". Separate entry is prescribed for Sr. No.(A)(1)(d) as "Crude oil to be handled at berth" with reference to the crude oil of high viscosity of high temperature above 50°C to 75°C to be handled at Oil Jetties A and B as proposed by DPT.

- (xi). Ordinarily the rate approved by this Authority shall come into force after expiry of 30 days from the date of notification of the Scale of Rates in

the Gazette of India. However, since DPT has requested to approve the proposed rates from June 2018 citing that Crude oil at Berth is expected to be handled in June 2018, the rate approved by this Authority is made effective from 1<sup>st</sup> June 2018 in the absence of any specific date indicated by DPT. The validity of the rate is prescribed coterminous with the validity of the existing SOR of DPT which is till 31 March 2019.

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

- (i). Wharfage rate for Crude oil of high viscosity high temperature above 50°C to 75°C at ₹26.23 PMT and insert the following new entry at Sr. No.(A)(1)(d) in the existing Scale of Rates of DPT under Chapter III – Cargo related charges under Section 1 – Schedule of Wharfage charges :

**SCHEDULE OF WHARFAGE CHARGES:**

Sr. No.	Particulars of commodities	Unit	Coastal rates (in ₹)	Foreign rates (in ₹)
(A)	<b>Liquid (in bulk)</b>			
1.	<b>POL and products</b>			
(d).	Crude oil to be handled at Oil Jetties	M.T.	26.23	26.23

- (ii). The nomenclature of cargo "Crude Oil" at Sr. No.(A)(1)(a) in the existing Scale of Rates of DPT at Chapter III – Cargo related charges under Section 1 – Schedule of Wharfage charges is modified as follows:  
"Crude oil to be handled at SPM"

10.2. The rate and the modified nomenclature of "crude oil" cargo approved by this Authority shall be deemed to have come into effect from 01 June 2018.

10.3. The DPT is directed to accordingly amend the existing Scale of Rates accordingly.

**(T.S. Balasubramanian)**  
Member (Finance)

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

**TAMP/77/2017-DPT : Proposal for fixation of rate for Handling of high pour point/high viscosity heated crude oil at the existing oil berths A & B by M/s. VOTL at Off-Shore Oil Terminal, Vadinar, Deendayal Port Trust.**

A summary of comments received from VOTL & reply furnished by DPT thereon is summarised below:

Sr. No.	Comments of VOTL	Reply of DPT
(i).	As per the Agreement between EOL (Essar Oil Limited) and DPT (earlier KPT) dated 8.10.1997 (wrongly typed as 2997) and subsequent supplementary agreement between DPT and EOL, Essar Shipping and VOTL dated 23.04.2004, two product jetties and one SPM have been developed by VOTL in DPT water at Vadinar to support the EOL Refinery. The Refinery was envisaged to be of capacity 9 MMTPA, which have been revamped in phases and presently running at 20 MMTPA.	No comments
(ii).	Crude for the Refinery is being imported through SPM and product from Refinery is being dispatched through the Product Jetties. Out of the 20 MMTPA crude requirements around 17 MMTPA is being imported through the SPM.	
(iii).	The Refinery has capacity to handle high pour point/high viscosity Crude which are transported at high temperature (50-75 Deg C), whereas the existing SPM system can handle Crude up to 45 Deg C only. However, high temperature crude can be handled at Jetty. Permission from MoEF has been received by VOTL for the same.	
(iv).	VOLT has requested DPT vide its letter dated 24.02.2016 for permission to handle Crude at Jetty, which was received on 05.05.2017. However, rate for handling was required to be approved by TAMP.	VOTL vide its letter dated 24 February 2016 and 28.05.2016 has sought permission to handle high pour point / high viscosity heated crude oil through their existing berths "A" & "B" at Vadinar.
	Comments on the Proposal:	
(i).	As per the DPT SOR approved by TAMP (Ref.: Chapter III Cargo related charges), the Wharfage charges are specified for the commodity irrespective of facility on which it is handled. Although Note 2 of the Chapter states that "Wharfage charges prescribed above for liquid bulk cargo are applicable for handling at liquid cargo berths". However, the rate prescribed for Crude in this chapter is being charged for Crude handled at SPM also	Accordingly, proposal was placed before the Board in its meeting held on 16.09.2016 and 6.01.2017. And as per the minutes of the Board meeting held on 6.01.2017 vide B.R. No.158, the proposal to handle Crude Oil at Berths "A" & "B" to provisionally charge the rates of handling of Crude Oil at Jetty @ 50% of SOR as applicable to POL products was approved.

	not only from us but also from other users. <b>This clearly means that Wharfage of Crude is same whether it is handled on SPM or Berths.</b>	
(ii).	Clause 17 of the supplementary agreement dated 23.04.2004 between VOTL and DPT (relevant page enclosed for your kind information) states as under:	Accordingly, considering the Clause No.17 of the agreement between DPT & VOTL, proposal to approve the Scale of rate of ₹26.43 PMT (51.43% of ₹51/-PMT) being the applicable rate for handling POL product at Product jetty "A" & "B", has been processed for approval of TAMP. [Proposal of DPT is for ₹26.23 PMT and not for ₹26.43 PMT.]
(a).	For captive cargo of EOL:	
(i).	VOTL shall pay to DPT a Royalty equivalent to the Wharfage Charges applicable to crude oil from time to time as per Scale of Rates of KPT, for handling EOL's captive <b>crude oil at the SBM.</b>	
(ii).	Similarly, VOTL shall pay a Royalty equivalent to 51.43% of the Wharfage applicable to POL Products, as per Scale of Rates of DPT, from time to time, for handling of EOL's <b>POL products at the Product Jetties.</b>	In view of the above, TAMP is requested to approve the aforesaid proposal to charge ₹26.43 PMT (51.43% of ₹51/-PMT), for handling of High pour point / high viscosity heated Crude Oil at Product jetty "A" & "B", by M/s. VOTL at Off shore Oil Terminal, Vadinar. [Proposal of DPT is for ₹26.23 PMT and not for ₹26.43 PMT.]
(iii).	It may kindly be noted that 51.43% rate is applicable on Product Jetties, whereas full rate is applicable on SBM. <b>Therefore, it can be conclusively constructed that the concessional rate as per the Agreement is based on the facilities and not based on commodities.</b>	
(iv).	Therefore the rate of handling Crude at Jetty should be 51.43% of the wharfage charges applicable to Crude as per SOR of DPT.	
(v).	TAMP may kindly approve the rate to be as "51.43% of wharfage charges applicable to crude", while approving the rate for handling Crude oil at the existing berths A&B by VOTL at OOT Vadinar, Deendayal Port Trust.	
<b>II.</b>	<b>Further, comments of VOTL vide its email dated 29.01.2018</b>	
(i).	VOTL has been handling receipt of Crude Oil at its SPM in DPT waters since 2006 and paying Wharfage charges as per Scale of Rates (SOR) approved by TAMP from time to time.	No comments furnished by DPT.
(ii).	As per the current SOR, approved by TAMP, the Wharfage charges for Crude has been approved @ ₹18/- per PMT (variation linked with WPI). In this regard, Note 2 of the said Chapter states that "Wharfage charges prescribed above for liquid bulk cargo are applicable for handling at liquid cargo berths". It is evident that this Wharfage charges does not admit of any classification of Crude Oil which is to be handled at liquid cargo berths and therefore this rate would be applicable to all and every type of Crude Oil handled at any and every liquid cargo berth.	No comments furnished by DPT.
(iii).	Admittedly, Berth A and Berth B of VOTL are Liquid Bulk Cargo berths where the High Pour	No comments furnished by DPT.

	Point Crude Oil is proposed to be handled and therefore there is no reason or justification for not applying the same Wharfage charges for handling of High Pour Point Crude Oil at Berth A and Berth B of VOTL. In other words, there is no justification for seeking approval of higher Wharfage charges @ ₹26.23 PMT for handling of High Pour Point Crude Oil at Berth A and Berth B of VOTL.	
(iv).	Further, neither the aforesaid Proposal dated 28.11.2017 of DPT for approval of higher Wharfage charges @ ₹26.23 PMT nor does any of enclosures thereto contain justification for levying a different / higher Wharfage charges for handling of High Pour Point Crude Oil at Berth A and Berth B of VOTL.	No comments furnished by DPT.
(v).	Admittedly, for handling of High Pour Point Crude Oil at Berth A and Berth B of VOTL, DPT is not required to undertake any special measure or add to or create any facility in this behalf as all the costs and measures for handling are to be borne and arranged by VOTL.	No comments furnished by DPT.
(vi).	Admittedly, for handling of High Pour Point Crude Oil at Berth A and Berth B of VOTL, DPT is not required to render any service much less special service and therefore there is no justification for levying different / higher Wharfage charges therefor.	No comments furnished by DPT.
(vii).	Furthermore, para 7.3 of Resolution No.67 of DPT enclosed as Annexure "A" to their proposal categorically records "the Dy. Conservator reported that handling of high pour point / high viscosity was much safer..."	No comments furnished by DPT.
(viii).	It is further submitted that DPT has not been able to provide any ground justifying for having a different Wharfage charges for VOTL for handling of high pour point / high viscosity crude as the high pour point / high viscosity crude also is a type of crude and not a different commodity and DPT has not provided any explanation as to why this is required to be differently treated.	No comments furnished by DPT.
(ix).	It would be pertinent the however the rate prescribed for Crude in the Chapter III is being charged for Crude handled at SPM also. <b>This clearly means that Wharfage charges of Crude is same whether it is handled on SPM or Berths.</b>	No comments furnished by DPT.
(x).	It is further submitted that based on the existing DPT SOR and considering the provisions of the Agreement between DPT and EOL/VOTL, the rate for handling Crude oil at the existing berths A & B by VOTL at OOT Vadinar, must be "51.43% of wharfage charges applicable to Crude Oil as per SOR of DPT".	No comments furnished by DPT.

2. A joint hearing in this case was held on 30 January 2018 at the DPT premises. The DPT made a brief power point presentation of its proposal. At the joint



hearing, the DPT and the concerned users/ user organizations have made the following submissions:

**Deendayal Port Trust (DPT):**

- (i). As per agreement dated 08/10/1997 between Deendayal Port Trust and M/s. Essar Oil Limited and subsequent supplementary agreement between DPT, EOL, and ESSAR Shipping, M/s. ESSAR has developed two Product Jetties and one SPM in DPT waters at Vadinar to support Essar Oil Refinery.
- (ii). The Refinery was envisaged to be of capacity 9 MMPT, which was revamped in phases and presently running at capacity of 20 MMPTA.
- (iii). The crude for the refinery is being imported through their SPM and the refined produced from the refinery are being dispatched through the two product jetties 'A' & 'B'.
- (iv). For the 20 MMPTA capacity of refinery, M/s. ESSAR wants to handle high pour point/high viscosity crude and these types of crude oils are transported at high temperature i.e. upto 50° C to 75° C due to their high pour point and high viscosity nature.
- (v). Existing SPM system can handle crude upto 45° C only, thereby they are not able to import above types of crude through SPM.
- (vi). Permission for handling crude at Oil Jetties A & B has been obtained by M/s. VOTL, Vadinar from Ministry of Environment and Forest vide letter dated 27 December 2012.
- (vii). The quantity of such crude oil to be handled at Oil Berths A & B is upto one (01) MMPT per year.
- (viii). The DPT Board has approved the proposal to handle crude oil at berths 'A' and 'B' and to provisionally charge the rates of handling of crude oil at jetty @ 50% of SoR, as applicable for POL products.
- (ix). Presently, the applicable wharfage rates for handling POL products is ₹51 per MT (including 2% escalation). Considering the clause no.17 of the agreement between DPT & VOTL and Board's approval, TAMP is requested to approve the proposed rate of ₹26.23 PMT (i.e. 51.43% of ₹51 PMT) for handling of high pour point/high viscosity heated crude oil at Berths A & B.

**Vadinar Oil Terminal Limited (VOTL), Vice President**

- (i). This crude of high pour point/high viscosity is not different from the crude oil handled at SPM. Only because the viscosity of the crude oil is high beyond 45°, it cannot be handled at existing SBM.
- (ii). The existing SOR approved by TAMP already prescribes rate for Crude oil. Note 2 to the existing SOR states that wharfage rate for liquid cargo at bulk will be applicable for handling liquid cargo at berth. Since the rate of the commodity crude oil is already prescribed in the existing SOR, there is no justification for introducing new category of wharfage rate for crude to be handled at product jetty.

- (iii). We have built the berth and SPM. We are not getting any concession for handling crude oil at SPM. So far as handling Crude at POL berth, we should get concession in wharfage rate.
- (iv). No extra facility or services are provided for handling crude oil at the berths by the DPT.
- (v). Though, in Agreement, it is mentioned as royalty, what we pay is wharfage. In the invoices raised by DPT it states as wharfage.

**Sr. Dy. CAO, DPT:**

- (i). Our proposal is for fixation of wharfage rate for crude oil handled at product jetty at ₹26.23 / tonne.
- (ii). Whether pumping rate for Crude oil at SPM and Crude oil of high viscosity at product jetty is the same?

**VOTL:**

- (i). Pumping rate at SPM is 5000 litres/hour whereas at product jetty it will be 2000 litres/ hour.

**Sr. Dy. CAO, DPT:**

- (i). VOTL have reached full capacity.
- (ii). We anticipate there could be reduction in export of POL products from the Berth nos 1 and 2.

**Dy. Chairman:**

- (i). The crude oil of high viscosity proposed to be handled at berth is not the same as the crude oil handled at SPM. This is a different class of crude which cannot be handled at SPM. Chemical composition in both cargo items is same. But, physical attributes are different. The point that the VOTL cannot handle the crude oil of high viscosity at the existing SPM itself is a reasonable reason to classify this as a different category.
- (ii). The crude oil of high viscosity are handled in smaller ships. Pumping rate is less. The existing SPM cannot handled this crude.
- (iii). This is a different class of crude oil.

**VOTL:**

- (i). Smaller ship and less pumping rate will increase revenues of DPT.
- (ii). We are presently importing 17 MTPA crude oil which is handled at SPM. SPM crude oil handling will remain same.
- (iii). POL products will continue to be exported through product jetty only.
- (iv). Presently, capacity utilization of product jetty is 60%. One vessel per month of crude oil of high viscosity is expected at berth. Additional one MTPA is proposed to be handled at product jetty. This will improve utilisation of the product jetty.

**Sr. Dy. CAO, DPT:**

- (i). What is the difference in handling crude at SPM and product jetty?

[VOTL: In the existing SOR the wharfage rate prescribed for handling liquid bulk is same at SPM and at berths]

**Dy. Chairman:**

- (i). The argument of VOTL referring to the note (2) of existing SOR is not correct. The physical property of the crude oil of high viscosity to be handled at product jetty is not same as crude oil handled at SPM.
- (ii). Essar Oil Ltd has created the SPM at DPT. The VOTL admits that this crude of high viscosity cannot be handled at SPM. This itself is a reasonable argument that the two crude oil categories are different.
- (iii). If physical attribute of this crude oil is different, the method of handling are different, then, these are reasonable reasons for categorization of crude oil of high viscosity of 50 ° C to 75° C as a separate category.

**Sr. Dy. CAO, DPT**

- (i). Revenue from Essar Oil is not forming part of ARR. It is treated as revenue share.

[**Member TAMP:** Mandate of TAMP is to fix Scale of Rates. TAMP does not have mandate to fix royalty/ revenue share which is between the port and the concerned party. ]

3. A summary of the further written submission made by VOTL is tabulated below:

Sl. No.	Written submissions
1.	<b>Vadinar Oil Terminal Limited (VOTL)</b>
(i).	As stated in our earlier aforesaid two letters and oral submissions made during the hearing that the Crude which we propose to handle on the Berths is just crude and no other or any different commodity, hence the wharfage rate of crude should be applicable on this Crude also. Copy of crude assay report (property details) of typical normal and high pour point crude is enclosed for reference.
(ii).	Crude is one of many minerals that we get from the earth having complex hydrocarbon mixture like paraffin, aromatic hydrocarbons, gaseous hydrocarbons and non-hydrocarbons (Sulphur compounds, nitrogen compounds, oxygen compounds) and minerals heavier crudes contains higher Sulphur. Depending on predominance of hydrocarbons, petroleum is classified as paraffin base, intermediate base or naphthenic base. The reason for varying composition of crude is due to different age, pressure, temperature, different bedrock composition, different climates and location of the source and in any case the commodity remains the same i.e. Crude oil.
(iii).	It is pertinent to note that in the SOR's of all the major ports approved by TAMP, available on TAMP website, Crude has been mentioned as one and single commodity with no classification based on any criteria whatsoever whether on the basis of property of Crude or otherwise for wharfage. Even the SOR of the Gujarat Maritime Board (copy of SOR is enclosed for your kind reference mentions only one category of Crude for charging wharfage).
(iv).	Reliance Industries Ltd.'s Refinery at Jamnagar also receives high pour point Crude, similar to one being proposed, at their Jetty located in GMB waters and pays to GMB the wharfage as per rate applicable to them for Crude.
(v).	Similarly, in New Mangalore Port the same type of high pour point crude is being received by Mangalore refinery and Petrochemicals Ltd. (MRPL) at their Jetty, and the wharfage is being charged by the Port is the same as that of Crude.
(vi).	Admittedly, DPT is neither required to install any infrastructural facility nor render any service with regard to receipt and or handling of the crude proposed to be received at Berth and DPT does not claim to have made any additional expenditure. The higher wharfage rate sought

	<p>by DPT in their proposal is not in consonance with any of the guidelines approved by Ministry of Shipping &amp; notified by TAMP, which is being followed by TAMP for determining the wharfage rate. As per Guidelines for Determination of Tariff for Major Ports, 2015, notified by TAMP on 27.01.2015, the rates are to be determined by TAMP considering actual expenditure of the Port. DPT has not been able to provide any cogent reason or justification to seek different and higher rate of wharfage. As such no case is made out for determination of different and higher rate of wharfage for the high pour crude.</p> <p>Therefore, the rate of wharfage proposed by DPT for the high pour Crude, is unfair, unreasonable, arbitrary and against the spirit of Article 14 of the Constitution of India, and hence, legally not tenable and liable to be rejected.</p>
(vii).	Further, regarding the points raised by DPT during the hearing we wish to submit our reply point wise the following, which was also explained during the meeting:
(a).	<p>"Facility remaining same as is used for handling product hence wharfage rate for this Crude should be same."</p> <p>The argument is against the very concept of the DPT SOR, wherein the wharfage of different commodity is different even if these are handled on the same berth. In short different rate can be sustainable and chargeable only when commodities are different.</p>
(b).	<p>"This Crude is different than normal Crude hence rate should be different":</p> <p>The facts mentioned in para 1 and 2 of this letter prove that the crude proposed to be handled is just a crude oil and used for manufacturing same Petroleum Products and therefore different rate is not called for.</p>
I.	Apprehension of reduction of revenue:
(i).	<p>"Berths occupancy is already high and adding Crude will lead to reduction of Product dispatch thereby reduction of revenue."</p> <p>This Apprehension of DPT does not have any basis. There is enough time slots available even after handling the Product to handle up to 1 MMTPA of crude also and thereby this will be additional cargo. As such quantity of product to be dispatched from Berth is dependent on production from Refinery which will be same even after considering this Crude.</p>
(ii).	<p>Shifting of Crude Cargo from SPM to Berth:</p> <p>Shifting of Cargo from SPM to Berth does not make commercial sense as the freight of VLCCs/ Suezmax ships handled at SPM is less than the Aframax Ships to be held at Berth and saving in freight with VLCC/ Suez max is much more than wharfage differential.</p> <p>It may be noted that out of present 20 MMTPA throughput of Refinery around 17-18 MMTPA is received through SPM and balance is received through pipeline from Cairn, Rajasthan, which is high pour Crude, similar to the one proposed to be handled at Berths. For the last 2-3 years there is a reduction of Cairn Crude. It was 2.79 MMT in 2015-16, 2.45 in 2016-17 and 1.31 MMT till Dec 2017 in 2017-18. This arrangement of handling Crude at Jetty is being proposed to compensate this reduction. Thereby, the revenue of DPT is expected to rather increase.</p>
(viii).	In view of the above, it is once again submitted that there is no justification for addition of a new category of commodity in the SOR that too specifically applicable to particular jetty of a particular company, as proposed by DPT, since tariff for Crude Oil is already covered in the DPT SOR.
(ix).	It is, therefore, requested that TAMP may kindly reject the proposal of DPT and hold that based on the existing DPT SOR and the provisions of the Agreement between DPT and EOL/VOTL, the rate for handling high pour point crude oil at the existing berths A & B by VOTL at OOT Vadinar, shall be 51.43% of wharfage charges applicable to Crude Oil as per SOR of DPT.

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