

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

TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 89

New Delhi, 18 April 2007

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the Chennai Container Terminal Limited for general revision of its Scale of Rates as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

TARIFF AUTHORITY FOR MAJOR PORTS

Case No. TAMP/21/2006 – CCTL

The Chennai Container Terminal Limited

- - -

Applicant

ORDER

(Passed on this 28th day of March 2007)

This case relates to a proposal received from the Chennai Container Terminal Private Limited (CCTL) for general revision of its Scale of Rates.

2. The Scale of Rates of CCTL was last reviewed and revised in May 2004. Following the then prevailing two-year validity period, the Scale of Rates of CCTL fell due for review/ revision in May 2006. The CCTL has filed its proposal vide its letter dated 18 April 2006.

3.1. The main points made by CCTL in its proposal are summarized below:

- (i). The designed capacity of the terminal is 833,905 TEUs. CCTL has almost reached its capacity, yet it has been proactively investing in equipments and refurbishments/ up gradation of storage yard to improve its operational efficiency and capacity.
- (ii). CCTL has improved its crane productivity from 17.14 moves per hour per QC in 2004 to over 22 in early 2006. Improved Crane Productivity is as follows:

	2004	2005	2006	2007	2008
Gross Crane Rate (Moves per Hour per Quay Crane)	17.14	18.10	23.00	24.00	25.00

- (iii). Vessel turnaround time also has reduced from 1.32 days in 2004 to about 0.9 day in 2006.

- (iv). 100% en-bloc movement of import container to off-dock CFSs will almost completely eliminate yard congestion, by reduction in dwell time of import containers.
- (v). CCTL has proposed to realign certain tariff items as well as introduce certain new tariff items, which are necessitated due to change / introduction of new activities.
- (vi). CCTL has a very small back up yard and hence the operations are hugely constrained by the size of storage yard. Over Dimension containers (ODC) coming at CCTL occupy much more ground slots than a normal container of similar classification would. It is, therefore, proposed that for over dimensional containers the storage charges shall be based on the actual number of ground slots the respective container actually occupies.
- (vii). "Accredited Clients Programme" is being introduced by the Customs Department by which importers registered by the department as "Accredited Clients" will form a separate category to which assured facilitation would be provided. Customs Department expects that this measure will bring about drastic reduction in the dwell time of cargo and transaction costs for such importers. It is proposed that containers under the "Accredited Client Programme" which are not moved out of the terminal within 3 days, would be shifted by CCTL to the normal import staking area and hence extra lift on / lift off and/ or shifting charges, as applicable, would be charged.
- (viii). In order to facilitate fumigation of cargo by exporter, CCTL has allowed special storage slots for these containers. CCTL has been charging Rs.2,000 per container (40') as this activity involves allotting dedicated slots on the Reefer Platform so that the agent of the exporter can easily access the container without waiting for shifting the containers and bringing it to the ground level. CCTL now proposes to increase this charge from Rs.2000 per box to Rs.2,320 per box, in line with general increase proposed for other tariff items. This facility has been welcomed and greatly appreciated by the tobacco export trade.
- (ix). Any undeclared ODC coming into the terminal either for loading or discharging would require complete preplanning and re-organizing the ground slots. Hence, it is proposed that a special charge, similar to the one currently applicable for non-declaration of Hazardous Container, be also applicable to non-declared Over Dimensional Containers.
- (x). A very nominal handling charge of Rs.100 per bin for handling of the bins with the use of CCTL forklifts has been proposed.
- (xi). Since the average dwell time of ICD containers has now come down below 4 days, 15 free days currently allowed seems excess. Hence, it is proposed to reduce the ICD free days from 15 days to 10 days.

- (xii). CCTL has aggressively assumed a market growth of 12% p.a. right throughout the projection period for the traffic forecast.
- (xiii). The 2nd terminal at Chennai Port is expected to start in January 2008. It is expected that in 2008, the new terminal next door would capture 30% of the total available volume. This will result in CCTL volume reducing to 688,520 TEUs. In 2009 the new terminal's share will increase to 35% and hence CCTL would achieve a volume of 716,061 TEUs.
- (xiv). The average exchange rate for 2006 has been assumed at 1 US\$ = Rs. 44.50.

3.2. Subsequently, the CCTL has filed a revised proposal vide its letter dated 31 October 2006 on the ground of change in the date of commencement of the second container terminal and lapse of time after submission of its tariff proposal in April 2006. The CCTL has also updated the cost statements considering the actuals upto August 2006.

3.3. The revised proposal of the CCTL is as follows:

- (i). It has sought an increase of 11% on all the tariff items over the existing tariff. (It had earlier sought 18% increase in its proposal dated 18 April 2006)
- (ii). The position relating to Container traffic in TEU's is as follows:

Year	Container Traffic (Revised) (in TEU's)
2004	599980
2005	700107
2006	813291
2007 (estimate)	914952
2008 (estimate)	865521
2009 (estimate)	749346

- (iii). The capacity is increased to 941720 TEUs from 2008 onwards, based on actual dwell time of import and export containers.
- (iv). The financial position as reflected in the revised Cost statements furnished by CCTL is as follows:

Sr. No.	Year	Operating Income (Rs. in Lakhs)		Net Surplus(+) / Deficit (-) (Rs. in Lakhs)		Net Surplus(+)/ Deficit (-) as % of Operating Income	
		At Existing Rates	At Proposed Rates	At Existing Rates	At Proposed Rates	At Existing Rates	At Proposed Rates
1	2004	17409	17409	389	389	2.23%	2.23%
2	2005	18756	18756	(60)	(60)	-0.32%	-0.32%
Sr. No.	Year	Operating Income (Rs. in Lakhs)		Net Surplus(+) / Deficit (-) (Rs. in Lakhs)		Net Surplus(+)/ Deficit (-) as % of Operating Income	
		At Existing Rates	At Proposed Rates	At Existing Rates	At Proposed Rates	At Existing Rates	At Proposed Rates
3	2006	21114	21114	167	167	0.79%	0.79%

	Total	57279	57279	496	496	* 0.87%	* 0.87%
4	2007	22768	25272	(276)	1475	-1.21%	5.83%
5	2008	21478	23840	(1352)	296	-6.29%	1.24%
6	2009	18522	20592	(3485)	(2047)	-18.82%	-9.94%
	Total	62768	69704	(5113)	(276)	* -8.15%	* -0.40%

* Average

4.1. In accordance with the consultative procedure prescribed, the proposal along with all supporting details was forwarded to the concerned user organizations for their comments. The comments received from user organizations on the original proposal were forwarded to CCTL as feed back information. The CCTL has also responded to the comments of user organizations.

4.2. The revised proposal of CCTL was also circulated to the CHPT and the users vide our letter dated 6 November 2006. The comments received from user organizations were forwarded to CCTL as feed back information. The CCTL has also responded to the comments of user organizations.

5.1. Based on the preliminary scrutiny of the proposal CCTL was requested to furnish the following information / clarification on various points vide our letter dated 18 September 2006. CCTL furnished its reply vide its letter dated 27 October 2006. The queries raised by us and the replies furnished by CCTL are tabulated below:

Sr. No.	Queries raised by TAMP	Reply furnished by CCTL
(A). (i).	General: The revised tariff guidelines stipulate that tariff should be linked to benchmark of the levels of productivity. Please indicate benchmark levels of productivity, which should be included in the Scale of Rates as conditionalities governing the respective tariff items.	During the last tariff review the productivity has improved from Rate of 17 moves per hour per crane in 2003 to 21 moves per hour per crane during January to August 2006. CCTL proposes to revise the benchmark level of productivity for the revised scale of rates at productivity of 22 moves per hour per Crane in 2007, 23.50 moves per Crane in 2008 and 25 moves per hour per crane in 2009. The average gross crane rate is derived at by considering crane productivity for old cranes at 11 moves per hour in 2004 and is 12 moves per hour in 2006. The productivity of the new cranes was 19 moves per hour in 2004 and is 23 moves per hour in 2006. The revised average gross crane rate of 22 moves per hour is arrived at after considering further likely decline in productivity of old cranes during 2007 to 2009 and higher productivity due to addition of a new crane during end 2007.
(ii).	Please state whether there is any deviation from the revised tariff guidelines in framing the current tariff proposal in reference.	There is no deviation from the tariff guidelines. However, price increase for cost items have been assumed at rates higher than 4.5 % due to the nature of the expenses and conservative estimates of the increase expected in the

		future years.																						
(iii).	CCTL has stated that its pricing strategy is performance based apart from cost based. Please bring out the impact of the anticipated improvement in performance on the unit price.	<p>The improved performance of CCTL over the period has adequately been reflected in the reduced costs per TEU handled since inception. The enhanced productivity and process improvements has resulted in overall efficiency gains to the customer. Productivity gains have resulted in quicker turnaround of vessels and process improvements have resulted in higher throughput being handled from existing infrastructure. With the tariff fixed on a cost plus approach, the efficiency gains are not retained and get automatically factored into the pricing directly.</p> <p>Further the indirect cost savings per call is demonstrated below:-</p> <p>At per call move count of 1800 containers and the stowage facilitating a Crane Intensity of 2.5; at 18 moves per hour per crane, the vessel will have to stay at berth for 40 hours to complete the desired exchange. With the same move count and crane intensity, at 22 moves per crane per hour, the vessel will have to stay alongside for only about 32 hours which saves the shipping line 8 hours per call on charter hire, bunker costs and berth hire charges. Assuming a vessel of about 22500 GT which is typical for this kind of exchange, the savings accrued to the shipping line each year (52 calls) are detailed below:</p> <table border="1" data-bbox="778 1254 1471 1653"> <thead> <tr> <th rowspan="2">Cost Head</th> <th rowspan="2">Rate per hr. (US\$)</th> <th colspan="2">Savings between 18 moves and 22 moves per crane hour</th> </tr> <tr> <th>Per call (US\$)</th> <th>Per year (US\$)</th> </tr> </thead> <tbody> <tr> <td>Charter Hire</td> <td>1,250</td> <td>10,000</td> <td>5,20,000</td> </tr> <tr> <td>Bunker cost (5 tonnes at \$ 175 /T)</td> <td>875</td> <td>7,000</td> <td>3,64,000</td> </tr> <tr> <td>Berth Hire (\$ 0.00289 / GRT / hr.)</td> <td>65</td> <td>520</td> <td>27,040</td> </tr> <tr> <td>Total Savings</td> <td></td> <td>17,520</td> <td>9,11,040</td> </tr> </tbody> </table> <p>Based on the above estimated working, the cost savings to customer of CCTL would be as under:-</p>	Cost Head	Rate per hr. (US\$)	Savings between 18 moves and 22 moves per crane hour		Per call (US\$)	Per year (US\$)	Charter Hire	1,250	10,000	5,20,000	Bunker cost (5 tonnes at \$ 175 /T)	875	7,000	3,64,000	Berth Hire (\$ 0.00289 / GRT / hr.)	65	520	27,040	Total Savings		17,520	9,11,040
Cost Head	Rate per hr. (US\$)	Savings between 18 moves and 22 moves per crane hour																						
		Per call (US\$)	Per year (US\$)																					
Charter Hire	1,250	10,000	5,20,000																					
Bunker cost (5 tonnes at \$ 175 /T)	875	7,000	3,64,000																					
Berth Hire (\$ 0.00289 / GRT / hr.)	65	520	27,040																					
Total Savings		17,520	9,11,040																					

		<table border="1" data-bbox="778 192 1469 450"> <tr> <td>Container exchanged</td> <td>Nos. 1,800</td> </tr> <tr> <td>TEUs exchanged</td> <td>Nos. 2,430</td> </tr> <tr> <td>Estimated cost savings per call</td> <td>Rs. 8,00,000</td> </tr> <tr> <td>Estimated savings per TEU</td> <td>Rs. 330</td> </tr> <tr> <td>Savings as % of Revenue per TEU at CCTL</td> <td>12%</td> </tr> </table> <p data-bbox="778 479 1469 864">This clearly demonstrates the proposed price increase by CCTL will not result in any extra burden to the shipping line, which is our direct customer. The trade pricing in turn is subject to international market forces of demand and supply of shipping services. Since commencement of operations at CCTL, the number of services calling at the port of Chennai has increased from 25 vessels per month in 2001 to 60 vessels per month in 2006. This has resulted also in increased choices and consequent competition in ocean freight rates.</p>	Container exchanged	Nos. 1,800	TEUs exchanged	Nos. 2,430	Estimated cost savings per call	Rs. 8,00,000	Estimated savings per TEU	Rs. 330	Savings as % of Revenue per TEU at CCTL	12%
Container exchanged	Nos. 1,800											
TEUs exchanged	Nos. 2,430											
Estimated cost savings per call	Rs. 8,00,000											
Estimated savings per TEU	Rs. 330											
Savings as % of Revenue per TEU at CCTL	12%											
(iv).	Please furnish the actual traffic and income / expenditure for the period January – August 2006 in the prescribed proforma of cost statement. The accounts for January – August 2006 may be furnished as certified by your Chartered Accountants.	The CCTL has furnished the actuals from January 2006 to August 2006, which is certified by a Chartered Accountant. The CCTL has confirmed that it has based its estimate of 2006 based on actuals till August 2006 and made the corresponding change in the estimate of the succeeding years.										
(B).	<p data-bbox="316 1272 746 1339"><u>Comparison of actuals vis-à-vis estimates provided earlier:</u></p> <p data-bbox="316 1391 746 2007">(1). The CCTL has considered an amount of Rs. 238 lakhs and Rs.276 lakhs for the year 2004 and 2005 towards payment of technical service fee. The payment of technical service fee was not allowed as an item of cost for the purpose of tariff revision in May 2004. It may be noted that admissibility of technical services fee as pass through subject to the condition prescribed in clause 2.8.2. of the revised tariff guidelines has come into effect prospectively from the date of notification of the guidelines on 31 March 2005.</p>	<p data-bbox="778 1391 1469 2007">The guidelines for tariff fixation prior to 31 March 2005 had no specific disallowance of the technical service fees as expenditure. The fact that the revised guidelines allows the technical service fees as admissible expenditure subject to certain conditions demonstrates the logic in allowing of technical services fees as pass through. Since the necessary conditions as envisaged by the revised guidelines are fulfilled in case of CCTL, technical services paid during 2004 and 2005 should be allowed as allowable expenses. Since the expenditure has already gone through the rigorous test of the arm length by the Income Tax Authorities the same should be allowed as a pass through. As per clause 1.4.2 of the revised tariff guidelines the earlier guideline adopted in February 1998 stands superseded with the new guideline and hence basis the new guideline technical services fee should be</p>										

		considered as pass through cost for 2004 and 2005.
(2).	The CCTL has considered an amount of Rs. 233 lakhs as preliminary expenses for the year 2004 and 2005. The preliminary expenses were spread over the entire project period for reasons stated in the earlier Orders passed by this Authority. In line with the decision taken to spread the preliminary expenses over the entire project period, a sum of Rs. 38.28 lakhs each for the year 2004 and 2005 was allowed as preliminary and upfront payment as expenses in the last review of CCTL tariff in May 2004.	As per clause 2.7.1, of the guidelines for the purpose of depreciation of assets, in case of private terminals, depreciation will be allowed, on the straight-line method, with life norms accepted by the Companies Act or based on life norms prescribed by the concession agreement whichever is higher. In the given case since the norms specified by the Companies Act are higher no adjustment is warranted. It is important to note that different stand cannot be taken for writ-off of preliminary expenses and that of fixed assets of the company.
(3).	CCTL has considered 15% return on capital employed adjusted for capacity utilisation. It may be noted that in May 2004 review of the Scale of Rates of CCTL return was allowed at 20% of shareholders funds adjusted for capacity utilisation. The CCTL is requested to review the comparative position of actuals vis-à-vis the estimates on the basis of the observation made above and furnish the reviewed position.	<p>The CCTL has furnished a revised computation of return at 20% on shareholders funds in the revised Form No.7.</p> <p>As per clause 2.13 both the actual physical as well as the financial performance must vary by 20% for setting off benefits / losses incurred in the previous years for set-off while revising the tariff. It may be noted during the past period of review the variation in physical performance has been within the prescribed limit of 20% and hence no adjustment needs to be carried out on account of past performance.</p> <p>For the year 2004 and 2005 the capacity utilization of CCTL is in excess of 85% and hence it qualifies for full return. Even if the financial performance is considered in isolation, the excess financial return do not exceed stipulated 20% increase over projections.</p>
(4).	This Authority in its Order dated 4 May 2004 allowed to continue the interim tariff fixed with an increase of 17% in November 2003 for the years 2004 and 2005. However, 100% increase in container storage charges, 25% increase in storage charges on hazardous containers and 10% increase in transshipment handling charges were allowed in May 2004. The CCTL is requested to update the estimated income with	The impact of increase in tariff is already factored in the actual audited results of 2004 & 2005 the actuals vis-à-vis estimates are based on the actual revenue earned for these activities. It is important to note that in spite of 17% increase in stevedoring tariff in November 2003 and increase in storage rates, the net realizations per TEU for CCTL have increased by only 2% in 2005 and 2006 due to adverse cargo mix, higher 40' number of containers and lower storage yields resulting from quicker evacuation of boxes from the terminal due to efficient operations at CCTL. This clearly demonstrates that the cost per TEU to trade from CCTL has increased very marginally since

	<p>reference to the above said increases allowed in May 2004 and furnish the revised comparative position of actuals vis-à-vis estimates.</p>	<p>2003.</p>
<p>(C). (1).</p>	<p><u>Financial/Cost Statement:</u> <u>Capacity:</u> (i). Capacity calculation furnished by CCTL is dependant on the yard capacity or quay crane capacity whichever is lower. Again, the yard capacity is dependent on 'ground slots', 'stack height', 'utilisation', 'peaking time' and 'dwell days'. In this context, please state the reason for adopting different ground slots, different stack heights and different percentage of utilisation. The basis for considering 120% peaking factor may also be brought out.</p>	<p>The ground slots to be allocated for each type of container is determined on the import / export ratio and the dwell time of each of these categories of containers. Since the import / export ratio is about 52% / 48% while the dwell time for imports is only about 2.5 days when compared to 5.75 days for export containers, more ground slots have to be allocated to export containers than import containers in order to cater to this particular volume mix.</p> <p>Stack height depends on Load density of the yard. Some areas of the yard are capable of only 3-high stacking.</p> <p>Stack utilization is governed by the ability to stack containers of a particular type to the full capacity of the yard. This is not possible with hazardous containers in order to maintain the segregation requirements as determined by IMO and with ODC containers due to the cargo exceeding the standard ISO dimensions thus leading to inability to use the adjacent ground slots leading to low stack utilization. Hence the stack utilization of these containers is much lower than those of normal containers, which are taken at the standard 85% utilization factor.</p> <p>Peaking factor has taken into account for sudden demand for yard space due to</p> <ul style="list-style-type: none"> a)Arrival of vessels out of their planned windows which entails requirement for additional import and export container storage space b)Due to seasonal variations in container volume. <p>The average peak yard inventory for the period January to September 06 shows that the figure of 120% peaking factor is very conservative as against the actual peaks observed during last nine months. The lowest peak is 127% on particular day in July 2006. We have to manage the peaks in excess of 120% by resorting to additional shifting within the yard.</p>
	<p>(ii). With reference to calculation of yard capacity please clarify the</p>	

<p>following:-</p> <p>(a). CCTL has stated that it is investing in refurbishment/up gradation of storage yard to improve its operational efficiency and capacity. Please intimate how the refurbishment/up gradation of storage yard has been factored into determination of yard capacity.</p>	<p>The yard taken over from CHPT totaled 3,546 ground slots and was capable of 3-high stacking only, whereas only after complete refurbishment (including the area occupied by old import CFS) the yard will have 3,960 ground slots which will be capable of 4-high stacking. Thus the yard capacity will go up from 675,600 TEUs per annum to 941,720 TEUs once the refurbishment is completed.</p> <p>During 2005 CCTL completed refurbishment of 1026 ground slots, which enabled its yard capacity in 2006 to increase from 823,509 TEUs to 862,978 TEUs due to these ground slots being usable up to 4 high. In 2006 CCTPL has completed refurbishment of 432 ground slots and will complete another 228 ground slots by the year-end. This will increase CCTL yard capacity in 2007 to 918,650 TEUs. In 2007 the balance yards taken over from CHPT and yet to be refurbished (384 ground slots) will be completed. This will increase the available yard capacity in 2008 to 941,720 TEUs from 918,650 TEUs.</p> <p>Thus the yard capacity will go up from 675,600 TEUs per annum at the time of take over from CHPT to 941,720 TEUs once the refurbishment is completed in 2007. This investment is absolutely essential to enable CCTL to handle the growth in volumes originating during 2007 and 2008.</p>
<p>(b). The designed capacity depends on the quay capacity as seen from the calculations furnished by CCTL. In this regard, it is seen that the CCTL has estimated improvement in its crane productivity from 17.14 moves per hour per crane in the year 2004 to 25 moves per hour per quay crane in the year 2008. However, the quay crane capacity calculations show that only 6.94, 10.42 and 11.50 moves per hour per crane for various types of cranes have been considered by CCTL.</p>	<p>The berth occupancy for a terminal is not 100% hence it is incorrect to compute crane productivity on the basis of crane capacity and total number of hours per year. The crane rate is computed based on actual crane hours worked on the ship and the moves done. However while handling the ship it is not possible to achieve an equal split on all the deployed cranes due to the length of the ship and the stowage of containers on board for discharge and loading at CCTL. Further geared vessels also call at the terminal which result in lower productivity rates since the crane need to boom up while moving over the stakes on either side of the ships gear. Thus the crane rate is calculated only on the actual no. of boxes discharged / loaded on board a vessel while the crane was deployed on it.</p> <p>The crane cannot be deployed continuously as vessel arrival and departure are governed by the berthing schedules of the shipping lines. The increased crane productivity essentially reduces the turn around time of the</p>

	<p>Please clarify the position and revise the capacity calculation, if necessary.</p>	<p>vessel at the berth, thus overall reducing the cost of transportation of containers to/from Chennai as explained in point 3 above.</p> <p>Thus our calculation of crane productivity is in line with the industry standards and do not need to be revised.</p>												
	<p>(c). The estimated container traffic for the year 2006 is proposed to be handled with 7 quay cranes. The container traffic estimates for the years 2006 to 2009 are proposed in the decreasing trend except for the year 2007. In this scenario, CCTL has estimated an investment of Rs.31.58 crores in the second half of the year 2007 in procurement of one crane. Further, an additional sum of Rs.23.55 crores is proposed to be invested in procurement of crane during the year 2009. While the CCTL has considered the addition of crane in the year 2007 in capacity calculation, the addition proposed in the year 2009 has not been considered in capacity estimation. Please review the position and revise the design capacity of the terminal.</p>	<p>The addition of the Quay Crane in 2007 has been considered due to the poor productivity obtained on the cranes taken over from CHPT and the need to handle the volumes expected till the 2nd half of 2008 when the 2nd terminal in Chennai is commissioned. The projected volume of 915000 TEUs to be handled at CCTL in 2007 can be done efficiently only on addition of the new quay crane.</p> <p>This crane will increasingly compensate for the expected poor performance of the old QCs due to their ageing and consequent reduction in efficiency and reliability.</p> <table border="1" data-bbox="778 824 1471 1048"> <thead> <tr> <th></th> <th>Hours worked</th> <th>Moves done</th> <th>Productivity</th> </tr> </thead> <tbody> <tr> <td>CCTL – New QCs</td> <td>19,636</td> <td>429,397</td> <td>21.90</td> </tr> <tr> <td>CHPT – Old QCs</td> <td>2,905</td> <td>3,556</td> <td>12.14</td> </tr> </tbody> </table> <p>The volumes handled by New QCs and old CHPT QCs during January to September 2006 demonstrate that the old QCs are affecting the terminal's overall productivity. The new Crane will help us achieve the desired increase in productivity numbers.</p> <p>In order to achieve the higher projected traffic during 2007 and 2008, the berth occupancy will have to increase. This will necessitate increased use of all the available QCs. Also in order to cater to the increased routine maintenance requirement of older QCs and to be able to handle the peaks, additional Crane is justified. It is important to note that even with the new QCs the utilization of quayside equipment during 2007 to 2009 would be well in excess of 60%.</p> <p>The two old QCs have already completed 16 years and are nearing their life. Also in 2010, when the 2 old QCs reach the end of their life, CCTL will in effect only have 6 QCs capable of handling the volumes expected then with the 2nd terminal operational at Chennai. The 2 old QCs put together are expected to handle about 149,600 TEUs in 2007, which will further come down to 123,300 TEUs in 2008. This addition in quay crane will add capacity to the terminal and will also increase the deployment of reliable cranes on the vessels thus increasing crane productivity</p>		Hours worked	Moves done	Productivity	CCTL – New QCs	19,636	429,397	21.90	CHPT – Old QCs	2,905	3,556	12.14
	Hours worked	Moves done	Productivity											
CCTL – New QCs	19,636	429,397	21.90											
CHPT – Old QCs	2,905	3,556	12.14											

		<p>with consequent reduction in vessel turn around time thus adding to the saving already accruing to our customers.</p> <p>The commissioning of a new QC will result in increased capacity as explained in the capacity template. However the existing 4 old RTGs taken over from CHPT will complete its life in 2009. Hence these RTG will have to be necessarily replaced in beginning of 2009. It is also a requirement of the license agreement with CHPT that all assets must be replaced on completion of life norms. This replacement will not result in any change in capacity because the capacity constraint is the yard and not the yard equipment. Also as per clause 2.7.2 of the revised guideline entire capital cost is to be allowed if asset are replaced in accordance with the agreement.</p>															
<p>(2).</p>	<p>Traffic:</p> <p>(i). The reason for scaling down 17% traffic growth in the year 2005 over the year 2004 to uniform traffic growth of 12% for the years 2006 to 2009 in the backdrop of general economic growth of the country and the trend of growth in container trade.</p>	<p>Chennai Container volumes have been growing at an average of about 100,000 Teus per annum for the last 4 years with the marginal variations with in the respective years. The growth during last four years in absolute numbers is summarized as under: -</p> <p style="text-align: right;">Volumes – TEUs 000'</p> <table border="1" data-bbox="777 1128 1469 1397"> <thead> <tr> <th>Year</th> <th>Volumes</th> <th>Growth over previous year</th> </tr> </thead> <tbody> <tr> <td>2002</td> <td>396</td> <td>44</td> </tr> <tr> <td>2003</td> <td>493</td> <td>97</td> </tr> <tr> <td>2004</td> <td>600</td> <td>107</td> </tr> <tr> <td>2005</td> <td>700</td> <td>100</td> </tr> </tbody> </table> <p>Keeping this in the mind the year on year volume growth has been considered at 102,000 Teus in 2007, 114,000 in 2008 and 124,000 in 2009. This itself is a very aggressive growth projection. The year on year average growth rate has been increased from 12% from the original proposal to 12.5% for 2007 & 2008 and 12% for 2009. This indeed is very aggressive growth projection considering the much higher base achieved in 2006.</p> <p>Further it must be recognized that on a growing base number the percentage of growth will continue to fall.</p>	Year	Volumes	Growth over previous year	2002	396	44	2003	493	97	2004	600	107	2005	700	100
Year	Volumes	Growth over previous year															
2002	396	44															
2003	493	97															
2004	600	107															
2005	700	100															
<p>(ii).</p>	<p>Please explain the basis for assuming 30% and 35% reduction in traffic for the year 2008 and 2009 respectively due to the reported</p>	<p>We have revised the share of 2nd terminal to 12% in 2008 and 35% in 2009 based on following assumptions: -</p> <p>It has been assumed that the 2nd terminal will start</p>															

	<p>commissioning of 2nd container terminal at CHPT by 1 January 2008 as assumed by CCTL.</p>	<p>commercial operation only from 1st July 2008. The financial bid for the 2nd terminal was opened on 11th September 2006 and PSA SICAL was declared the highest bidder. Hence it has been very conservatively assumed that the 2nd terminal will start commercial operation within 22 months. It has also been conservatively assumed that the 2nd terminal will handle 20,000 TEUs per month in the 2nd half of 2008. In 2009 the 2nd terminal is expected to handle at least 35,000 TEUs per month.</p> <p>This is a very conservative estimate for the following reasons:</p> <p>a) The second terminal operator can easily start commercial operations from much earlier than July 2008 by employing vessel gear. This can probably start within 12 month of the agreement date. Hence having considered 22 months for start of commercial operations is a major risk taken by us in the tariff proposal.</p> <p>b) Since the volume is already available at Chennai and the lines are already calling Chennai Container Terminal Pvt Ltd, it will not take much effort for second terminal operator to attract a couple of services which can easily result in loss of volume of any where between 40,000 to 50,000 TEUs.</p> <p>c) The second terminal operator will have much higher idle capacity than CCTL, which may allow them to attract new customers. The reasons for likely drop in volumes with large additional port capacity competing for common hinterland of originating cargo/ container is explained in detail vide our earlier submissions in response to the observations of the trade bodies.</p>
<p>(3). (a).</p>	<p><u>Operating Income:</u> Please furnish detailed computation of income with reference to the estimated traffic at CCTL's existing Scale of Rates and the proposed Scale of Rates for all the years under consideration separately for container handling and storage.</p>	<p>The detail computation of income with reference to estimated traffic at CCTL's existing and proposed scale of rate for 2006 to 2009 is furnished.</p>
<p>(b).</p>	<p>CCTL has assumed different exchange rates for the year 2006 and for the period 2007 to 2009 in</p>	<p>CCTL has revised its exchange rate assumption for 2006 from Rs.44.5 to Rs.45.46 based on the actual trend. The estimate for 2007 to 2009 has been kept at 43.50. This is</p>

	<p>income estimation. It may be noted that the exchange rate prevailing at the time of finalisation of the case will be applied for estimation of income for the years 2006, 2007, 2008 and 2009. The estimates may be updated with reference to the current prevailing exchange rate.</p>	<p>based on the projections from reputed international banks. This is also in line with the current trend of appreciating Rupee. It may be noted that as per clause 2.5.1 of the revised guidelines, income projection should be made taking into account effect of foreign exchange fluctuation on income from dollar denominated tariff items. Hence taking into account the current prevailing exchange rate and ignoring the effect of foreign exchange fluctuation on the projected income will be against the guidelines itself. Hence CCTPL has correctly taken the effect of foreign exchange fluctuation in the income projection.</p>
(c).	<p>Apart from the general increase in rate proposed, the CCTL has also proposed rationalization of various operational procedures and introduction of some new services / facilities.</p> <p>The year wise additional revenue implication arising from these proposals may be quantified itemwise and furnished for all the years under consideration. The basis of estimation may also be explained.</p>	<p><u>Gate in after cut – off for the same via</u> The Charges for acceptance of export containers after cut-off for a particular via, has been added to the SOR for regularization only. The charge applied for the service at present is Rs.877.50, which is same as charge for shifting within terminal as these containers have to be offloaded in a buffer stack and then shifted to the stack nominated for the vessel, entailing extra shifting within the terminal. The revenue for this activity is already accruing in the previous years as well and the same has been included in the income projection for the future years.</p> <p><u>Non – Declaration of ODC Boxes ; Handling of bin boxes and Forklift charges for movement of bin boxes at the wharf:</u> The additional revenue on account of this is furnished in the revenue break up working.</p>
(4).	<p><u>Operating Cost:</u> CCTL has adopted different percentages as escalation factor in the estimation of operating cost. As already communicated by us vide our letter No.TAMP/95/2000-Misc. dated 18 May 2006, an escalation factor of 4.5% per annum will be considered for the expenditure projections in the cost statement.</p>	<p>All the costs do not increase only on the basis of the wholesale price index. There are various other factors, which results in price increase much higher than the WPI. Some cost increases are also a factor of price increase as well as increased requirement for higher expenditure. Hence taking into account a uniform price increase for all cost items will be incorrect and against the principle of natural justice. If a price increase higher than WPI is required and justified, it must be allowed. Detailed justification for increase in various cost items is explained in the individual responses on cost. It is not appropriate to consider the published WPI for financial year 2005-06 for all revision applications during 2006-07, which will estimate tariff for next three years. The published WPI data up to September 2006 indicates increase in inflation in the region of 5.5%. Hence appropriate adjustment should be done to costs in line with that.</p>
(i).	<p><u>Operating and Direct Labour:</u></p>	

	<p>The average cost per employee for the year 2006 is estimated at around 111% of the average cost per employee for the year 2005. Likewise, the average cost per employee for the year 2009 and 2008 is estimated to increase around 10% over the respective previous years. The average cost per employee for the year 2007 is estimated to increase by around 21% as compared to the relevant figure for the year 2006 in anticipation of wage settlement in 2007. The estimated increase in average cost per employee may be justified with detailed workings for all the years under consideration.</p>	<p>It would not be correct to compute the cost per employee based on year-end staff strength. During 2005 and 2006 the additional workforce has joined in different months resulting in such statistics. Labour settlement is for three years with a large increase in the first year of the settlement. The next settlement is due in early 2007 where in higher increase is factored in. The increase given for the first year in the first year of the last settlement was 42%. As the Authority would appreciate that labour is the most critical element in providing effective service to the trade and is a very small percentage of total costs, these are legitimate increases and should be allowed without any reduction.</p>
<p>(ii).</p>	<p><u>Maintenance Labour:</u> Likewise, the estimated increase in average cost per employee which is around 19% in the year 2006 over 2005 and around 14% per annum for the years 2007 to 2009 may be justified with detailed working for all the years.</p>	<p>This could be incorrect inference due to year-end staff strength considered for calculating average costs per employee and incorporates the impact of joined during the year.</p>
<p>(iii). (a).</p>	<p><u>Equipment running cost:</u> <u>Power Cost:</u> (i). The reason for around 36% increase in the per TEU consumption of electricity estimated for the years 2006 to 2009 over the consumption of power per TEU for the year 2005 may be clarified.</p>	<p>The increase in Electricity consumption per TEU from 7.38 units in 2005 to 10.01 units in 2006 is to take into account the efficiency gain achieved during last tariff period in line with Clause 2.4.1 of the revised guidelines and illustration shown in the same. The average consumption per TEU has reduced from 13.22 units in 2003 to an average of 7.96 units in 2004 & 2005. Hence 50% of efficiency gain (50% of 13.22 less 7.96) viz. 2.63 units have been added back to the average unit consumption of the 7.38 achieved in 2005. Hence Electricity unit per TEU has been considered at Rs.10.01.</p> <p>CCTL has considered the efficiency gains resulting in cost reduction by efficient utilization of assets during the year 2004 to 2006 only for the high input costs items viz. electricity. There are other areas where the cost reductions have resulted in lower unit cost of operations. Due to difficulty in specific segregation of cost reductions</p>

		from efficiencies, all costs reductions are not included in the proposal.
	(ii). Please explain the reason for around 10% increase in the unit cost of electricity estimated for the year 2006 as compared to the unit cost for the year 2005. The CCTL has estimated unit cost of electricity for the subsequent years applying an escalation factor of 6.4% per annum.	There has been no increase in electricity price since mid 2003, when the price was increased by over 16%. Hence we expect a high price increase either by this year-end or early 2007. Since the price increase will happen after gap of more than 3 years, it is expected to be more than 10%, we have conservatively consider price increase 10% in 2007. For the subsequent year the price increase has been revised into 4.5%. Over a period of four years the price escalations are less then the WPI norms proposed to be adopted by the authority.
	(iii). The CCTL has also considered a fixed cost element in the estimation of its total power cost. The components forming part of the estimated fixed charges may be listed out with cost details for all the years under consideration with justification for the estimated fixed charges. The actual fixed charges paid / payable may be justified with reference to documentary proof.	<p>The fixed charges considered in the proposal consist of two items.</p> <p>(a). There is a fixed charge payable to the electricity department amounting to Rs.597,775/- per month. Hence the per annum fixed charge amount to Rs. 72 lakhs The Electricity bill for June'06 furnished by CCTL shows an amount of Rs.5.67 lakhs towards Demand Consumption.</p> <p>(b). There are certain electricity charges, which are not linked to volume increase. These are mainly for yard lighting and the average consumption per month is 135,000 units. At the current unit price of Rs. 5.25 it amounts to Rs. 7.09 lakhs per month and hence Rs. 85 lakhs per annum. Hence the total fixed cost amount to Rs. 157 Lakhs per annum.</p>
(b).	Fuel Cost: The reason for an increase of around 10% in the estimated unit cost per litre for the year 2006 as compared to the unit cost for the year 2005 may be explained.	The diesel price has been increasing much beyond the WPI and has been in the news the whole of the current year. Even at the current price, the diesel is highly subsidised. The actual average procurement cost of diesel at CCTL in 2005 was Rs.30.04 per Litre and the average diesel cost in 2006 will be Rs.34.00 based on the current price of Rs.35.00 per Litre. This is an increase of over 13%. This trend will continue in the coming years. Hence 10% per annum increase in unit price of diesel is justified.
(c).	(i). Repairs & Maintenance Cost: Please furnish a detailed working for the estimated repairs and maintenance cost of equipments and electrical installations for all the years under consideration.	The detailed working for repair & maintenance cost has been furnished. These are also in line with the actual cost incurred upto August 2006.
	(ii). The rationale behind adopting	Different type of equipments incurred different cost

	different value as a percentage of gross block for various equipments and electrical installations in the estimation of Repairs & Maintenance cost may be explained and the individual estimates may be justified with reference to actuals.	towards repairs and Maintenance depending on the nature of the equipment, age of the equipment and the extent of usage. Normally very expensive equipment like QC and RTG would incur a lower cost towards repair and Maintenance as a percentage of the value of the equipment. These costs have been estimated based on the actual cost incurred at CCTL and compare favorably with the actual cost incurred August 2006.
(iv).	<u>Equipment Hire Charges:</u>	
	(a). The workings for estimated equipment hire charges for the years 2006 to 2009.	The working of the equipment hire charges has been furnished. The equipment hire charges for the year 2007 to 2009 are Rs.10.43, 10.42 and 9.63 crores respectively.
	(b). The list of equipments taken on hire/proposed to be taken on hire validated with documentary evidence.	The list of the equipment taken on hire is attached. The average rate per TEU taken for ITV Hire charge in 2006 is basis the actual average rate upto August 2006.
	(c). CCTL has estimated container traffic of 8.33 lakh TEUs for the year 2007 and at a reduced level of 7.16 lakh TEUs for the year 2009. In this context, the reason for more or less same level of estimates in the equipment hire charges for the relevant two years may be explained.	The price increase considered for the ITV hire charges in 2007 is 15% This is a result of, high diesel price increase in 2006 and 2007, the anticipated increase in ITV hire rates due to replacement of old ITVs and requirement of additional ITVs to cater to additional Quay Crane and implementation of Supreme Court order to limit the weight of the load to be carried by the ITVs/Trucks and increase in cost of operations due to implementation of several safety requirements like keeping the headlights on for 24 hours, insisting on supervisor for each shift for each ITV contractor, etc. We expect a 5-7% increase in rates due to price increases and 10% increase due to deployment of more ITVs for the same volume (approximately 15% increase in the number of ITVs to be deployed by the contractors). For the future years, a nominal 5% pa increase has been considered. The ITV Hire Cost estimated is based on the traffic projection for the particular year and the price increase considered for that particular year.
	(d). The treatment given to the ITV hire charges in the cost statement may be explained. The estimates may be justified with workings supported by documentary evidence.	The estimates are based on actual costs incurred up to August 06.
(v).	<u>Lease rentals:</u> It appears that the arbitration award is under challenge by CHPT before	CHPT has filed an application with the Madras High Court for setting aside for arbitration award. The application has

	<p>Hon'ble High Court of Madras. Please furnish the present status of this case and interim orders, if any, passed by the Court. Please indicate the quantum of lease rent paid by CCTL to CHPT, if any, after the date of award.</p>	<p>been accepted by the High Court and the next hearing is posted on 20th November 2006.</p> <p>CCTL has paid the lease rental in August 2006 at the same rate as it had been paying earlier. It has paid an amount of Rs. 139.63 lakhs as lease rental on 18th August 2006. This is the same amount, which was allowed as cost during the last tariff revision.</p> <p>It may be noted that CHPT has claimed Rs. 165 Million of lease rentals as on 30th June 2006 (excluding interest for towards short payment between 2001 to 2006), The additional amount due every month will be Rs. 5 Million during the tariff review period 2007 – 2009.</p> <p>In event of an unfavourable order, CCTL retain its right to claim such expense retrospectively in future tariff submissions.</p>
(vi).	<p>Insurance: The CCTL has not furnished the basis for the estimated insurance cost. The estimates of insurance cost may be justified with reference to actual payment made to insurance company. A copy of the Agreement entered into with insurance company(ies) may be furnished.</p>	<p>The calculation of insurance cost is attached along with other cost workings. The insurance liability works out to Rs.2.30, 2.33 and 2.42 crores per annum for the years 2007 to 2009. A copy of the Port package insurance is also attached.</p>
(vii).	<p>Other expenses: (a). Please list out the items considered with cost details under "other expenses".</p>	<p>Other expenses include contract labour cost, security cost and Cleaning and Housekeeping cost.</p>
	<p>(b). (i). Please explain the treatment given to the items of cost relating to lashing contract, CFS & Checkers contract and marketing expenses in the cost statement.</p>	<p>Lashing and other contract labour cost are included in other expenses. The marketing expenses are included in general overhead expenses.</p>
	<p>(ii). Estimates for lashing contract rates and CFS and checkers contract rates may be validated with documentary proof supported by workings for the estimates.</p>	<p>The documentary proof for the contract labour cost is furnished. The working for the same is also furnished.</p>

(iii). CCTL has estimated the marketing cost to increase by 8% in 2006, 10% in 2007 and 12% in 2008 and 2009. It may be noted that the estimates may have to be moderated applying the applicable annual escalation factor as already stated.

The planned commissioning of the 2nd terminal at Chennai coupled with expansion of terminal facilities at Cochin, Tuticorin and Visakhapatnam will necessitate greater expenditure towards marketing of CCTL's facilities and services to the potential users of the terminal. In this context it is worthwhile to note that a 1 page advertisement in an international shipping journal of repute costs Rs.5 lakhs and that in local shipping journal costs Rs. 20,000 per page publication. Participation in International Ports and Logistics exhibitions cost about Rs.10 lakhs per exhibit. As the facilities of the terminal have to be marketed to international clients, the estimated increase in marketing expenditure is justified and realistic.

The estimated amount is budgeted as under: -

Sr No.	Cost Head	2006	2007	2008	2009
1.	Advertising in print and electronic Media	1200000	1450000	1600000	1800000
2.	Sponsoring Events	250000	250000	300000	400000
3.	Trade Meets and Exhibitions	1000000	950000	1200000	1200000
4.	Gifts, giveaways, etc.	250000	250000	300000	300000
5.	Customer meetings, Service launches, etc.	300000	300000	200000	300000
	Totals	3000000	3200000	3600000	4000000

Based on amount estimated, the additional costs per TEU arising from marketing is as under: -

Year	Marketing costs Rs. Lakhs	Cost / TEU Rs.	% of Revenue
2006	30	3	0.001%
2007	32	3	0.001%
2008	36	4	0.001%
2009	40	5	0.001%

Proper marketing efforts will be required for CCTL to retain the volumes at levels estimated in the application. The entire costs proposed are legitimate expenditure.

(viii). **Technical Services Fee:**
Please establish the reasonableness of technical

The Income tax authorities have completed the transfer pricing assessment only upto financial year 2002-2003.

	<p>services fee estimated in the cost statement for all the years under consideration applying the yardstick of "arms length relationship" as required under clause 2.8.2. of the revised tariff guidelines. The copy of the Income Tax assessment order furnished by the CCTL is relevant for the financial year 2002-03 only. A copy of the latest Income Tax assessment order for payment of technical services fee may be furnished.</p>	<p>The Income Tax Authorities have completed a detailed scrutiny and the assessment has passed through rigorous test of arm length transactions. Since the nature and the basis of paying technical fees has not undergone any change in subsequent years there is no reason why technical services fees should not be considered as transaction arms length relationship. The same should be allowed as cost as per Clause 2.8.2 of the guidelines. (The CCTL has furnished Income Tax assessment Order for technical service fee of Rs. 214.45 lakhs for the Financial Year 2003-04 vide its letter dated 12 January 2007)</p>
(ix).	<p><u>Depreciation:</u> In the absence of sufficient details regarding exact date of commissioning of additions to the fixed assets and date of deletion of fixed assets, we are not able to scrutinize the depreciation schedule furnished by the CCTL. Therefore, CCTL is requested to furnish detailed workings for the estimated depreciation for all the years under consideration bearing in mind clause 2.7.1. of the revised tariff guidelines. The rates of depreciation adopted may also be furnished giving reference to the Companies Act or provisions of concession agreement as the case may be.</p>	<p>The CCTL has furnished detailed asset wise list of additions and the detailed asset wise working of depreciation for all the years under consideration. Since assets get added at various points in time during a particular year, for such assets depreciation is considered on an average for six months only in the year of addition. However for large value additions the exact month of addition is considered for the purpose of calculation of depreciation. The depreciation has been worked out on the basis of Clause 2.7.1 of the revised guidelines.</p>
(x).	<p><u>Overheads:</u> (a). Please list out the items of expenditure considered under the management and administration overheads.</p>	<p>Management and Administration staff salary has been considered under this head.</p>
	<p>(b). The estimated management and administration overheads for the year 2006 is around 20% more than the actuals for the year 2005. The estimated management and administrative overheads for the years 2007, 2008 and 2009 is around 12 to 14% more than the estimated expenditure of the</p>	<p>The higher increase in 2006 is due to increase in manpower from 43 in 2006 to 45 in 2007. In 2005 the head count under this head was 33 and the same has increased to 43 in 2006. The increase in 2006 over 2005 is summarized as under:</p>

<p>respective previous years. Please justify the estimates.</p>		Rs. Lakhs
	Actual costs during 2005	179
	Increase on account of wage revision of 2006	27
	Increase on account of headcount during 2006 (10 Nos.)	42
	Estimate for 2006	248
	<p>This increase has happened over the year and hence the full cost impact of the same will reflect in 2007.</p> <p>This is also attributed to the overall increase in cost. The increase in salary has been considered at 14% per annum from 2007 to 2009. The actual increase given in 2006 was 15%.</p> <p>The combination of all the above factors has resulted in increased general and admin manpower cost.</p> <p>We have already submitted necessary documents justifying the higher increase compared with WPI norms in line with that granted in last two years in transportation sector. It is absolutely essential to factor the proposed increases to the skilled manpower in view of large opportunities available in the country and abroad. With the opening up of infrastructure sector and new private container terminals coming up the proposed increases are bare minimum to retain the existing workforce. If lower increases are granted we are bound to lose the trained manpower to competition and this will adversely affect performance standards at CCTL.</p>	
<p>(c). (i). The items considered under 'General Overheads' may be listed out.</p> <p>Please clarify how the 'general overheads' are different from 'management and administration overheads'.</p>	<p>The General overhead expenses consist of the following:</p> <ul style="list-style-type: none"> a) Property Expenses b) General office & Communication cost c) Travel and Accommodation d) Marketing and Promotions e) Consultancy & Legal Charges f) Information Technology cost 	
<p>(ii). It appears that the CCTL has estimated the general overheads for the years 2007 to 2008 applying an escalation factor of around 6.5% over the respective previous years. It may be noted that the estimated</p>	<p>It is not appropriate to consider the published WPI for financial year 2005-06 for all revision applications during 2006-07, which will estimate tariff for next three years. The published WPI data up to September 2006 indicates increase in inflation in the region of 5.5%. Hence adjustment should be done to costs in line with that.</p>	

	<p>general overheads will have to be moderated applying an escalation factor of 4.5% per annum as stated earlier.</p>	
(xi).	<p>Preliminary Expenses: The preliminary expenses have to be spread over the entire project period for the reasons explained in the earlier orders passed by this Authority. However, CCTL has adopted a different approach. It has written off preliminary expenses to the tune of Rs.233 lakhs each for the year 2004 and 2005; and, the remaining amount of preliminary expenses appear to have been spread over the remaining project period at Rs.8 lakhs per annum. It may be noted that the preliminary expenses will be spread over the entire project period as per the decision already taken by this Authority.</p>	<p>CCTL has revised its estimates for 2006 to 2009 by taking write off of the preliminary expense as allowed by the companies act and based on its audited accounts. Hence the preliminary expenses get written off completely in 2006. As per clause 2.7.1 of the guidelines, for the purpose of depreciation of assets, in case of private terminals, depreciation will be allowed, on the straight-line method, with life norms accepted by the Companies Act or based on life norms prescribed by the concession agreement which ever is higher. In the given case since the norms specified by the Companies Act are higher no adjustment is warranted. It is important to note that different stand cannot be taken for write-off of preliminary expenses and that of other fixed assets of the company.</p> <p>Guidance Note on Treatment of Expenditure during Construction Period” issued by Institute of Chartered Accountants of India (ICAI) recommends writing-off these expense in 3 to 5 years. It has taken higher side ceiling of 5 years in case of preliminary expenses. ICAI is the Supreme body in India for accounting pronouncements. Treatment recommended by the Institute not only forms the basis of accounting but, also ensures the treatment of expenses in a uniform way. There is concrete basis for deviation; the Authority should follow the Generally Accepted Accounting Principles (GAAP) for treatment of cost. It is agreed that the preliminary expenses are related with project hence only are allowed as a cost (but the same argument cannot be a basis for treatment taken) and if allowed then burden on tariff in initial period, certainly, cannot be the basis for spreading it over entire license period against Generally Accepted Accounting Principles for such expenses.</p>
5.	<p>Finance & Miscellaneous Income: Terminal Value: CCTL has stated that all the existing or proposed assets upto the year 2009 would be fully written off well before the end of licence agreement period and, therefore, no terminal benefit would accrue to CCTL. It</p>	<p>None of the existing as well as assets proposed to be added during the period upto 2009 will have any residual value at the end of the licence period. It may also be noted that as per article 13.06 (c) of the licence agreement, CCTL will in any case not receive any compensation for equipment having residual life of less</p>

<p>may be noted that the concession agreement stipulates that on expiry of the licence period, the CCTL shall be liable to transfer the entire facility at the terminal, excluding the cargo handling equipment, to the CHPT against a consideration of USD 1.0 million. The concession agreement further provides that if the CHPT decided to take over the equipment it shall pay the CCTL the value of equipment as determined by an independent valuer on the basis of replacement cost less depreciation arrived on 'straight line method'. The termination payment of USD 1.0 million and the book value of the equipment at the 30th year at Rs.59.90 crores were considered as the separation payment to be received by the CCTL at the end of the licence period. This receipt was annualized over the entire period of the project by discounting it at the rate of 12%. In this regard, para 17(xviii) of Order dated 6 March 2002 and para 14(xx) of Order dated 4 May 2004 may be referred. In this backdrop, please clarify the following:</p> <p>(i). The workings for considering Rs.2 lakh each for the year 2005 to 2008 and Rs.3 lakh for the year 2009 as terminal value.</p>	<p>than 5 years. Any residual value should only be dealt with at the time such assets come into existence. At present, as explained above, all assets would complete its prescribed life before the expiry of the licence agreement and no compensation accrue for such assets. Reference may here be drawn to clause 2.7.2 of the licence agreement which clearly states that entire capital cost will be allowed over the remaining concession period if (i) Asset would have residual life at the end of the concession period and (ii) No compensation is payable by the landlord port to licensee when such asset are taken over at end of the concession period. Hence any adjustment for terminal value can be considered only when assets, which will have remaining life at the end of the licence period, come into existence and this depreciation is allowed. Since at present no assets are either available or proposed no terminal value can be considered for such assets.</p> <p>The working of the terminal value is based on the terminal benefit accruing to the company amounting to USD 1 million at the end of the agreement period.</p>
<p>(ii). The reason for considering USD 10 million (if it is so) as terminal value (as stated in expense assumption) as against USD 1 million stipulated in Article 13.12 of the License Agreement.</p>	<p>Terminal value has been considered as USD 1 Million and not USD 10 Million</p>
<p>(iii). The rationale behind 15% per annum adopted as discount factor to arrive at the discounted terminal value receivable by the CCTL.</p>	<p>15% discount factor has been considered in line with the return on capital employed allowed by TAMP</p>

<p>6. (i).</p>	<p>Capital employed: Fixed Assets: (a). Gross Fixed Assets: The value of various categories of fixed assets forming part of gross fixed assets shown in the cost statement for the year 2006 do not match with the relevant items shown in the Accounts. This may be clarified and the differences may be reconciled.</p>	<p>The reconciliation with accounts is furnished.</p>
	<p>(b). Please list out with value the assets considered under "others".</p>	<p>The list of assets considered under others is available in the above reconciliation.</p>
	<p>(c). The fixed assets schedule to the accounts of CCTL as at the end of the year 2005 shows an amount of Rs.10 crores as licence fees. However, article 5.03 of the licence agreement mentions about initial payment of Rs.10 crores as upfront payment to the CHPT and not a licence fee. Please clarify. The treatment given to the upfront payment of Rs.10 crores in the cost statement may be explained.</p>	<p>This amount referred to as licence fees is upfront payment made to CHPT. The same has been amortised over the period of licence. This has been the practice followed in previous applications and tariff orders of TAMP.</p>
<p>(ii).</p>	<p>Additions to the gross block: (a). Please furnish full details of additions to gross block for the year 2006. Further, the proposed additions to the gross block for the year 2006 may be supported with documentary proof and the present status of these proposed investments may also be furnished.</p>	<p>The Head note to Form 4B clearly states the details for additional items of investment exceeding Rs. 1 Crore be only shown. Hence only those items were shown in Form 4B. However, the complete details of additions in 2006, 2007, 2008 and 2009 are furnished.</p>
	<p>(b). (i). The estimated container traffic for the years 2006 to 2009 is seen to be in the decreasing trend except for the estimated traffic for the year 2007. In this scenario, the estimated investment of Rs.31.58 crores in the (second half) year 2007 for procurement of crane needs justification. It is</p>	<p>The addition of the Quay Crane in 2007 has been considered due to the poor productivity obtained on the cranes taken over from ChPT and the need to handle the volumes expected till the 2nd half of 2008 when the 2nd terminal in Chennai is commissioned. This addition in quay crane will add capacity to the terminal and will also increase the deployment of reliable cranes on the vessels thus increasing crane productivity with consequent reduction in vessel turn around time thus adding to the saving already accruing to our customers.</p>

	<p>noteworthy that deployment of additional quay crane in the year 2007 does not add significantly to the terminal capacity due to the limiting factor of yard capacity.</p>	<p>In event if this investment is not allowed, CCTL will not be in a position to meet the desired productivity we aim to achieve.</p>
	<p>(ii). Please furnish full details regarding additions to the gross block for the year 2007. It may also be intimated the status of action initiated to procure the quay crane at the cost of Rs.31.58 crores and proposed investment in information technology and furniture & fixtures during the year 2007.</p>	<p>Since Form 4B required only to give details of investment of Rs.1 crore, the other details were not added. However detailed assets additions for the year 2007 to 2009 are furnished.</p> <p>We have already initiated discussions with vendors for the purchase of QC. The cost estimates are based on our last procurement price adjusted for inflation.</p> <p>The investment in Information technology represents the software upgrade. The software used by CCTL is not supported by the vendor and upgradation is essential to be in line with latest improvements in the industry. The original purchase of software and hardware was way back in 2001 and are fully written off in books. The price of software and hardware is based on the budgetary quotes from vendors for the proposed replacement of IT equipment in early 2007.</p>
	<p>(c). (i). CCTL has proposed an investment of Rs.23.55 crores towards purchase of crane and Rs.22 lakhs for furniture & fixtures in the year 2009. However, no details as required in Form No.4B have been furnished. Please furnish the requisite details in Form No.4B.</p>	<p>Details for investment towards RTGs have been considered in Form 4B. The working calculation for the same is also attached along with the addition details for various years.</p>
	<p>(ii). (a). CCTL has furnished Form-4B in connection with replacement of 4 RTGs at a cost of Rs.28.36 crores. Please explain the treatment given to this proposed investment in the cost statement.</p>	<p>The investment towards 4 RTGs has been considered for calculation of depreciation in 2009 and the net block of this asset at the end of 2009 forms part of capital employed for the year 2009.</p>
	<p>(b). The impact of the</p>	<p>The existing 4 old RTGs taken over from CHPT will</p>

	<p>proposed replacement of 4 RTGs on the capacity of the CCTL, if any, may be brought out.</p>	<p>complete its life in 2009. Hence these RTG will have to be necessarily replaced in beginning of 2009. It is also a requirement of the license agreement with CHPT that all assets must be replaced on completion of life norms. This replacement will not result in any change in capacity because the capacity constraint is the yard and not the yard equipment. Also as per clause 2.7.2 of the revised guideline entire capital cost is to be allowed if asset are replaced in accordance with the agreement.</p>
	<p>(c). It may be noted that only completed and commissioned assets should alone be counted for capital employed. The work-in-progress shall not be taken into account. A confirmation in this regard may be furnished.</p>	<p>Only completed and commissioned assets have been considered for capital employed. However we strongly believe the amount paid towards purchase of terminal assets prior to commissioning should be allowed in computation of capital employed.</p>
(iii).	<p><u>Deletions from the Gross Block:</u> (a). CCTL has proposed deletions in its gross block of assets in the year 2006, 2007 and 2009. The basis for determining the value of such assets in the respective years may be furnished.</p>	<p>Deletion in gross block has been considered when the asset is proposed to be replaced or has been fully depreciated. The deletion has been done both from the gross block and the accumulated depreciation of the respective assets.</p>
	<p>(b). The treatment given in the cost statement to the anticipated profit from sale of the condemned assets may be explained.</p>	<p>No profit from sale of condemned asset has been considered in the proposal as the same as the same is not ascertainable. Further it will fetch minimal scrap value.</p>
7.	<p><u>Working Capital:</u></p>	
(i).	<p>CCTL has made a comparison of projected sundry debtors with 2 months terminal charges payable by Indian Railways. The projected sundry debtors are seen to be lower than the 2 months terminal charges payable by Indian Railways; and, CCTL has adopted the projected sundry debtors for the purpose of working capital. Please furnish the basis for the estimated sundry debtors for all the years under</p>	<p>CCTL does not recover any charges from Indian Railways. This row was filled only for the purpose of bench marking. The actual debtors considered are only 12 days of annual revenue against approved norm of 60 days in line with present trend and market practice of payment. Should there be increase in debtors in view of competition, the same will be adjusted for actual numbers at the time of next review.</p>

	consideration.	
(ii).	CCTL has considered “pre-payments” for all the years under consideration in the category of current assets. It may be noted that according to Clause 2.9.9. of the revised tariff guidelines this cannot be admitted for computing Working Capital.	Clause 2.9.9 of the revised guidelines states that the working capital estimate should be reasonable and not unjustifiably expanded. It does not specify that the prepayments will not be allowed for the calculation of working capital. The amount shown under the head prepayment is nothing but advances paid to CHPT towards Royalty and lease rental charges in line with Agreement. This amount is due in advance to the Port as per contractual agreement. Royalty at minimum guaranteed traffic is payable one month in advance and the lease rental is payable year in advance. Hence these payments are legitimate and valid business payments arising out of the obligation under the licence agreement. Hence the advance paid to CHPT towards these charges must be allowed for the computation of the working capital. These can in no way considered unreasonable and unjustifiable and are backed by actual calculations.
(iii).	Please furnish detailed workings for the estimated inventory for all the years under consideration bearing in mind clause 2.9.9. of the revised tariff guidelines.	The detailed working of inventory is attached with the other cost workings. The same is also analysed in Form 4A. The inventory considered in the proposal is within the prescribed limit.
(iv).	The basis for estimated allowable cash balance for all the years under consideration may be furnished.	The cash and bank balance has been considered at a very nominal value, and is much below the norm prescribed in clause 2.9.9 of the revised guidelines. The working of the same is available in Form 4A.
D.	Scale of Rates:	
(i).	The CCTL has formulated its proposed Scale of Rates considering an increase of 18% over the existing tariff at CCTL. The additional services / facilities proposed to be provided to the users and the benefit of productivity improvements accruing to users justifying this hike may be listed out.	<p>On the basis of the revised proposal CCTL has scaled down the tariff increase to 11%. The proposed increased is based on the cost estimates and the return on capital employed allowed by TAMP.</p> <p>There are various additional services and facilities that CCTL has provided to the shipping lines in last couple of years.</p> <p>Some of the examples are:</p> <ol style="list-style-type: none"> 1. Continuous carting of export boxes which enables an exporter to bring his export container directly to the terminal thus saving on trailer detention charges. 2. Electronic Form-13 which enables an exporter or CHA to directly access the Form-13 document, edit it by filling in the required details and then send it to the terminal thus

obviating the physical transfer of the document and saving on logistics expenses.

3. ICD Rail Express – A facility by which nomination of the vessel that a particular export box is destined for is made prior to arrival of the train at the terminal rail head. This enables the shipping line to avoid detention at the rail head and provides hot connection to the ICD boxes. This has reduced the transaction time for Bangalore ICD export containers from about 96 hrs to less than 48 hours thus saving on logistics cost and inventory costs for the exporters.

4. Delivery from Terminal for Accredited Client Programme importers – By this facility, ACP importers are able to take delivery of containers directly from the terminal thus saving on costs involved in moving containers to off-dock CFS and saving on time and inventory costs.

5. Truck turnaround time :- The average truck turnaround time has reduced from 140 Minutes per truck in 2003 to 65 Minutes in 2006. This is in spite of the increased volumes with the same infrastructure and approach roads within the terminal. CCTL targets to bring this down further to under 50 Minutes in coming tariff cycle.

6. Gate waiting time :- The major reason for congestion at CCTL was entry of export containers without proper documentation. To solve this issue CCTL, has set up of three check-posts in the approach roads to the terminal commencing from 12 Km away from the terminal. It is ensured that no trailer is allowed to come to the Port without proper documentation. This has almost abolished waiting time at CCTL entrance.

7. Barcoding at CFS :- All the city CFSs have been installed with barcode printers. CCTL updates the data everyday to enable form 13 data to be put on the matrix barcode. On arrival of the trailer with the export container at CCTL's pre-advice gate, the bar code is scanned and the data enters the terminal operating system. This reduces the transaction time at the gate from 5 minutes to 20 seconds approx. Through this we are in a position to handle higher volumes with same infrastructure and investment.

		<p>We have in great detail enumerated the benefit that has accrued and will accrue to the customer of CCTL in A – General point 3 in above. It is not in CCTL's control whether the customer passes on the benefit to the trade.</p>
(ii).	<p>Please furnish detailed working with cost elements considered to arrive at the charges proposed for normal containers, ICD containers, Transshipment containers, hazardous and Over Dimensional Containers.</p>	<p>The tariff proposal is not based on item wise cost for each element of tariff. The Proposal is a composite proposal based on the revenue and cost estimates for the future years. It is not possible to have the system to split the cost under each equipment and services. Therefore, the tariff has to be fixed based on overall cost position. It has to be recognised that the overall cost position considered for the terminal as a whole takes into account all admissible operating expenditure estimated by the terminal. This means, cost deficit, if any, under one of the components of services, is made good by surplus available in some other components since the tariff are not exactly with reference to the cost of rendering individual services.</p>
(iii).	<p>Similar working with cost elements considered may be furnished towards the charges proposed for services for hatch covers, restows, shut out, storage and miscellaneous charges.</p>	<p>Please refer to our submission to point no. (ii) above.</p>
(iv).	<p>Clause 2.15 of the revised tariff guidelines stipulates that the users will not be required to pay charges for delays beyond the reasonable level attributable to the port. Flowing from this principle, please incorporate the following provisions in the proposed Scale of Rates:-</p> <p>(a). Users will not be required to pay charges for delays beyond a reasonable level attributable to the port.</p>	<p>CCTL is not agreeable to this since the wording is very ambiguous and is likely to lead to frivolous claims. The Authority will need to define and quantify the reasonable level attributable to the port before incorporating this in the conditions.</p>
	<p>(b). In case vessel idles due to non-availability or breakdown of the shore based facilities of CCTL or any other reasons attributable to the CCTL, rebate equivalent to berth hire charges payable to CHPT accrued during the period of idling of vessel</p>	<p>This is not agreeable to CCTL. There is no system of reward or penalty currently applicable on the services provided by ports. The substantial saving accrued by the customers of the CCTL due to faster turn around of the vessels has not been passed on to CCTL and hence any delays should also not warrant any penalty. Having said above, CCTL will be open to consider a system that applies mutually to its customer as well as itself.</p>

	shall be allowed.	
	(c). The users will not have to pay storage charges for the period during which CCTL is not in a position to deliver/shift the containers when requested by the users.	CCTL is not agreeable to this condition as wording is very ambiguous and is likely to lead to frivolous claims. The Authority will need to define and quantify the reasonable level attributable to the port before incorporating this in the conditions. Also CCTL's inability to deliver the containers arising from actions by bodies outside the control of CCTL, should not trigger this condition.
(v).	CCTL has proposed conditionality at clause 3.12.6 governing the application of additional lift on/lift off and/or shifting charges, if the container meant for delivery under the Accredited Client Programme (ACP) reported to be under introduction by Customs Department are not moved within 3 days of its landing at the terminal. Since ACP appears to be a procedure envisaged by Customs Department, the proposed description of ACP at clause 1.21 (Definition) may not be required to be notified by this Authority.	While the description of ACP has been defined by Customs, the charges for lift-on/lift off and shifting of the containers in case they are not cleared from the terminal within 3 days have to be approved by TAMP.
(vi).	The relevant date for application of market buying rate for conversion of dollar denominated charges in case of import containers has been mentioned as the date of entry of the vessel into the Terminal (Refer Note 2.3). The words "into the Terminal" may be modified as "into port limits" as specified in clause 2.19.2. of the revised tariff guidelines.	The date of entry of the vessel into port limits is governed by various factors as diverse as from weather to speed capability of a particular vessel and is not governed by CCTL. As most of CCTL's vessels call the terminal on fixed window schedules, it is immaterial when the vessel actually entered port limits. Further as CCTL will be able to provide its services only when the vessel has actually berthed at the terminal, the clause "into the Terminal" is the most appropriate for applying the conversion rate of dollar denominated charges for import containers.
(vii).	The proposed note 2.6 (ii) may be modified in line with clause 2.18.2 of the revised tariff guidelines and the rate of interest may be updated with the prevailing Prime Lending Rate of State Bank of India.	The same has been changed in proposed Statement of conditions.
(viii).	The proposed charges (section 3.1.1., 3.2.1. & 3.3.1.) for handling of containers include the cost of rendering lashing/unlashing services. Please propose rebate	Such services cannot be subject to specific containers on a vessel. Lashing/Unlashing are vessel specific services and are either provided for the vessel or not provided. Should any vessel not require lashing/unlashing services in entirety during a specific port call, CCTL proposes a

	based on cost of rendering lashing/unlashing services, when such services are not provided by the CCTL.	rebate of Rs 10 per container. This arrangement should only be with prior consent of CCTL and subject to the shipping lines agreeing to follow all safety related regulations of the terminal and without affecting terminal's productivity.
(ix).	CCTL has proposed itemized rates for handling containers. The reasons for not adopting composite box rate as suggested in clause 5.1.1. of the revised tariff guidelines, may be explained.	The CCTL proposes to continue to charge at itemised rates for handling containers as it has been found to be convenient as well as acceptable to the trade. Reference here may be drawn to clause 5.1.1 of the revised guidelines wherein the option of opting for composite or itemised rate has been left to the terminal operator.
(x).	<p>This Authority, in compliance of policy direction issued by the Government of India, passed an Order dated 7 January 2005. According to para 5(2.3) of Order dated 7 January 2005, while itemized charges are levied, coastal concession will be on all the relevant charges for ship shore transfer, and transfer from / to quay to / from storage yard as well as wharfage on cargo and containers. In this back-drop, CCTL is requested to clarify the following: -</p> <p>(i). Whether the proposed concessional rates are in line with the guidelines. Coastal concession for containers for handling at container yard proposed in Section 3.1.3. and 3.2.2. includes services relating to loading the containers from or to customer's vehicle.</p>	<p>The proposed concessional rate for coastal containers is in line with the guidelines. It is to be recognized that concessional rates for coastal containers were primarily provided to incentivise movement of cargo in container via the coastal route. However we have already submitted to the authority that even after the concessions granted the volume of coastal containers have not increased significantly clearly highlighting that success of coastal operation is not dependent on port tariff. The terminal continues to lose on such arbitrary reductions in tariff items and urges the authority to withdraw this concession forthwith.</p>
	(ii). Likewise, proposed coastal rates for handling ICD Import and Export containers includes services relating to transport of containers to container rail yard and transfer between vessel, CCTL and shipping line (Section 3.3.2.), transfer between vessel, CCTL and shipping	Transportation from /to the railhead (Concor Annex) to/from the terminal does not involve coastal concessional tariff.

	line (Section 3.3.3. and 3.4.).																													
(xi).	<p>(a). With reference to the proposed note No.3.12.4. under section 3.11 of the draft Scale of Rates for levy of storage charges for over dimensional containers (ODC), the CCTL is requested to furnish year wise statistics for the year 2004, 2005 and for the period January 2006 to August 2006 regarding the number of ODCs handled by CCTL and their sizes. The linkage between an ODC occupying 62'X10' of ground space and the proposal to charge 8 times of storage charge applicable for a 20' container may be explained by bringing out the ground space occupied by a 20' container.</p>	<p>The year wise volume of ODC containers is given below.</p> <table border="1" data-bbox="777 313 1465 595"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">Import</th> <th colspan="2">Export</th> <th rowspan="2">Total TEUs</th> </tr> <tr> <th>20'</th> <th>40'</th> <th>20'</th> <th>40'</th> </tr> </thead> <tbody> <tr> <td>2004</td> <td>273</td> <td>543</td> <td>291</td> <td>223</td> <td>2096</td> </tr> <tr> <td>2005</td> <td>377</td> <td>678</td> <td>428</td> <td>241</td> <td>2643</td> </tr> <tr> <td>2006 (Jan. – Sep.)</td> <td>447</td> <td>910</td> <td>502</td> <td>226</td> <td>3221</td> </tr> </tbody> </table> <p>The ODC volume is less than 0.40% of the total volume handled.</p> <p>A standard 20' container which measures 20' in length and 8' in breadth occupies a ground space of 20' x 10' which includes 1' on each side for access by the RTG spreader. While a standard container can be stacked 4 high in CCT and Over Dimensional Container (ODC or OOG) can be stacked only 1-high. Further, the cargo jutting out of each side of the container renders that many adjacent ground slots unusable. For example windmill blade containers have a total length of about 80'. Hence they occupy 4 x 20' ground slots and since no containers can be stacked on top of these containers, in effect they occupy the space that can accommodate 16 TEUs. Hence it is proposed to charge the storage for ODCs based on the actual no. of ground slots that they occupy in the yard. CCTL does not propose to charge storage on the slots lost above the ground level and only propose to charge the ground slots lost at the ground level.</p>		Import		Export		Total TEUs	20'	40'	20'	40'	2004	273	543	291	223	2096	2005	377	678	428	241	2643	2006 (Jan. – Sep.)	447	910	502	226	3221
	Import			Export		Total TEUs																								
	20'	40'	20'	40'																										
2004	273	543	291	223	2096																									
2005	377	678	428	241	2643																									
2006 (Jan. – Sep.)	447	910	502	226	3221																									
	<p>(b). The CCTL has stated that the ODCs will include windmill boxes. The term "windmill boxes" may be defined.</p>	<p>Windmill boxes are 40' containers carrying windmill blades, which are more than 40' in length. The cargo therefore juts out of the container for a length of about 40'. This extra length is supported by special attachments to the containers and the weight is partly balanced by adding counterweights inside the container. These containers pose the following logistical constraints.</p> <ol style="list-style-type: none"> a. They cannot pass lengthwise between the legs of the QC. b. They are normally stowed on the ship at the topmost tier on hatch covers. c. They are eccentrically loaded containers. d. The windmill blades are very sensitive and have to be handled with utmost care. <p>The trailers carrying these containers have to use exclusive exit points from the port, as the turning radius is</p>																												

		very high.
	(c). The linkage between “corner casting problems” and the proposal to levy storage charges applicable for ODCs on containers having “corner casting problem” may be explained.	Containers having “corner casting problems” are those where the corner castings (the points where the container is lifted with a spreader) are damaged. Thereby, a normal container spreader cannot be used to handle these containers. Special gear such as wire rope slings with elephant hooks / Chinese fingers have to be used for handling these containers at both the quay and the yard. Hence, they have to be handled similar to an ODC and therefore the proposal to levy the charges applicable for ODCs to these containers as well.
(xii).	(a). CCTL has stated that it has been charging Rs.2000 per 40’ container for facilitating fumigation of Tobacco containers. Reference of authorization given by this Authority to levy such charge may be intimated.	The charge of Rs.2000 per 40’ container has been applied by way of Special Service Requests on specific requirements of the tobacco exporters to enable them to carry out fumigation of the cargo just prior export and to enable them to bring their containers into the terminal based on their export orders. The services performed by CCT to facilitate fumigation in addition to the normal services for an export container are, 1. Grounding of the container to facilitate placement of fumigant. 2. Re-stacking of container after placement of fumigant. 3. Storage of container while fumigation is in progress (approx. 5 days) 4. Grounding of container to facilitate de-gassing and ventilation. 5. Re-stacking of container on completion of de-gassing/ ventilation. 6. Lift-off from fumigation stack to ITV for transportation to nominated vessel slot 7. Lift-on from ITV to nominated vessel slot. 8. To complete all the above processes, CCTL allows the tobacco exporter 8 days free storage in addition to the 7 days available for a normal export container.
	(b). The proposed charge of Rs.2360 per container (20’ or 40’ or > 40’) (Sl. No. xiii of section 3.12.11) for facilitating fumigation of containers may be justified with cost details to render the service.	The services to be provided for a fumigation container are as detailed in (xii) (a) above. The increase in tariff is in line with the general increase requested for in this tariff revision proposal.
(xiii).	(a). CCTL has proposed different rates (Sl.No. vi of section 3.12.11) for 20’, 40’ and >40’ for change of status of container from Rail to Road or vice-versa or for any	Change of status involves shifting of the container from Rail ICD yard to normal delivery yard and vice versa. This involves a lift-on/lift-off and shifting using the terminal’s ITV. Hence the rates cannot be the same for a 20’, 40’ and >40’ container.

	<p>other kind of change status of a container. The rate need not vary with reference to the size of container for the purpose of levy of a charge for change of status. CCTL may consider to adopt the proposed rate for 20' containers as rate for change of status of a container for 40' container and >40' container also.</p>	
	<p>(b). Likewise, the proposed charges for export containers which arrive in the terminal after the gate cut-off time may be made uniform based on the proposed rate for a 20' container. It is relevant to mention here that CCTL has proposed uniform rates for 20', 40' and >40' hazardous container for their non-declaration/mis-declaration.</p>	<p>Acceptance of export containers after cut – off for a particular via involves offloading of these containers in a buffer stack and then shifted to the stack nominated for the vessel, entailing extra shifting within the terminal. Hence the rates cannot be the same for a 20', 40' and >40' container.</p>
<p>(xiv).</p>	<p>CCTL has proposed a special charge of Rs.3540 per container for non-declaration/mis-declaration of ODC similar to the existing arrangement applicable for non-declared/mis-declared hazardous container. The rationale behind adopting the rate applicable for hazardous container to the ODC may be explained.</p>	<p>When an ODC container is declared in advance, the requisite handling gear (slings, hooks, etc.) and the yard space can be allocated in advance and kept ready at the points of handling for efficient handling of the containers. In case they are not declared / mis-declared, all the above have to be arranged after physically sighting the container. This leads to delays in handling of the container through no fault of CCTL. This impacts not only the subject containers but also other containers whose handling is delayed due to non-declaration / mis-declaration by the shipping line concerned.</p>
<p>(xv).</p>	<p>CCTL has proposed Rs.100 per container for use of its forklift for movement of lashing bins within the terminal (Sl.No. xiv of section 3.12.11). The proposed rate may be justified. Further, the statement made by CCTL, in this connection, in its summary of tariff proposal (Sl. No. 8) that “charges are applicable for handling of containers containing these lashing bins from the vessel at the applicable restow tariff” is not clear. Please clarify the statement. Reference to the applicable restow</p>	<p>The containers containing these lashing bins have to be discharged from the vessel and placed on the quay. Each such container contains upto 12 such lashing bins.</p> <p>a. The lashing bins are then moved using CCTL's forklift to the loading / discharging points adjacent to the QCs. These lashing bins are used to store the lashing material taken off from each container as it is discharged.</p> <p>b. Once discharging from a particular bay is completed and loading commences, the lashing material is used again while loading the containers on board the vessel.</p> <p>c. On completion of the loading operation, all the lashing bins are re-stacked in the lashing bin container and the container is re-loaded on board the vessel.</p> <p>d. Thus the lashing bin container is re-stowed on the</p>

	tariff in the proposed Scale of Rates also may be furnished.	vessel via the quay and such re-stowing charges should be applied. e. Since the handling of each lashing bin involves cost to CCTL by way of usage of forklift and personnel, the handling charge of Rs.100 per lashing bin is proposed.
(xvi).	(a). With reference to the proposed CFS bonded trucking charges, please clarify/furnish the following: The proposed service falls within the provisions of Section 42(1) of the MPT Act and the License Agreement permits the CCTL to undertake such services.	Since this services involves removing, shifting and transporting of goods outside the premises of the Port, the Authority may not notify the schedule of rates for the proposed service. However this is a value added service that CCT provides based on specific customer requests.
	(b). Please justify the rate of Rs.708 per CBM or per MT, whichever is higher, proposed at Note 4.8 under section 4 (charges leviable at the CFS) with cost details to render the service of stuffing and trucking of cargoes destined for Bangalore ICD in a truck.	Transportation by closed truck – Rs.500 / cbm Insurance premium for transportation – Rs. 65 / cbm Survey fees at destination – Rs. 50 / cbm Documentation charges – Rs. 35 / cbm Total cost to CCTL – Rs. 650 / cbm Please note that this is an exceptional service provided only by CCTL on specific requirement of our customers and results in incremental volumes for CCTL.
	(c). Please justify the charges proposed at Note 4.9 for stuffing and dispatching of cargo to different ICD destinations in respect of – (i). LCL full load per truck (ii). 20' full load per truck (iii). 27' full load per truck with cost details to render the service.	As above
	(d). The reason for not prescribing charges for stuffing and dispatch of 27' full load per truck, to the ICD destinations, other than Bangalore ICD, may be explained.	There is no demand at present for 27' truck to destinations other than Bangalore.
E.	Miscellaneous	
(i).	As stated by the CCTL (para 3 of Revenue Assumptions), CCTL is envisaging movement of 100% import containers to off-dock CFSs from June 2006. In this regard, relevance of copy of the letter dated 12 April 2006 from the Customs Department furnished by the CCTL	The CCTL has furnished a copy of Chennai Customs Public Notice No. 71/2006 detailing the said mentioned movement.

	<p>regarding movement of FCL containers directly to CFSs upon landing at CCTL may be explained. It may be noted that the copy of the letter dated 12 April 2006 is not conclusive about movement of containers from CCTL directly to various CFSs.</p>	
(ii).	<p>A note analyzing the cost implications to users due to the proposed en-bloc movement of import boxes to off-dock CFS may be furnished. It may also be explained how the concerned off dock CFS will be selected and the tariff arrangement thereat.</p>	<p>The cost for movement to off-dock CFSs is Rs.3300 per 20' container and Rs.4500 per 40' container which includes transportation from CCTL to the off-dock CFS, lift-off at the CFS, 3 days free storage at the CFS to enable Customs examination and loading onto importer's truck after examination. These charges were arrived at jointly by the shipping lines, CFSs, Custom House Agents and Chambers of Commerce. CCTL does not in any way influence the fixation of these rates.</p> <p>This movement was necessitated as Customs withdrew the facility of on-wheel examination of FCL containers at CCTL's CFS facility. Further, if the containers are not moved expeditiously out of the terminal, it will cause congestion within the terminal leading to berthing delays, which in turn will add to the cost to trade by way of imposition of surcharge etc.</p> <p>The off-dock CFS is nominated by the shipping line, which transports the goods in the container for the importer. CCTL does not influence this nomination.</p>
(iii).	<p>Likewise, an analysis of cost implication to users due to the methodology proposed for handling 'accredited' containers may be furnished.</p>	<p>CCTL is providing 3 days for the ACP importer to take delivery of his import container directly from the terminal. Considering that Customs provides the facility to file the Bill of Entry and pay the duty on declaration basis to the ACP importer upto 30 days in advance of actual arrival of the container, this period of 3 days is very much adequate for those ACP importers who wish to avail of the facility. It is only when the ACP importer fails to take delivery of his container even 3 days after it has landed in the terminal does CCTL inform the CFS mentioned by the shipping line in the IGM to evacuate the container from the terminal to the relevant CFS. This will involve shifting of the container from the ACP stack to the relevant CFS stack and hence it is proposed that a shifting charge should be levied.</p> <p>If the ACP container is delivered from the terminal within 3 days, there will be no additional cost implication to the user. Only in cases where the container has not been</p>

		taken delivery of from the terminal an additional shifting charge and charges for transportation and handling at CFS as detailed in E) ii) above will be applicable.
--	--	--

5.2. The CCTL has made following additional submissions:

- (a). Clause 2.8.1 of the revised tariff guidelines states that royalty should be allowed to avoid likely loss to the operator. The return currently allowed is 15% on capital employed and non-allowance of a portion of royalty deprives the operator from earning the desired and allowed return of 15%. Though CCTL has considered 27% of revenue as cost for the purpose of arriving at the revised tariff, royalty payment should be fully allowed as cost. Hence the actual return earned below 15% should also be construed, as loss to the operator (as the operator is unable to achieve 15% return on capital employed) and full Royalty should be allowed as pass through.
- (b). CCTL has considered the efficiency gains resulting in cost reduction by efficient utilisation of assets during the year 2004 to 2006 only for the high ticket input cost items namely electricity. There are other areas where the cost reductions have resulted in lower unit cost of operations. In view of difficulty in specific segregation of cost reductions from efficiencies, all cost reductions are not included in the proposal. However, a computation of 50% share of efficiency gains is furnished for consideration. 50% of the estimated efficiency gains worksout to Rs. 128/- per TEU (5% of present revenue per TEU) on actual cost reduction and Rs. 196/- per TEU (7% of present revenue per TEU) for inflation adjusted cost per TEU. After considering 50% of the estimated efficiency gains, the proposed increase would be subject to upward revision of 16% against 11% indicated in the proposal.

6. The CCTL was requested vide our letter dated 25 January 2007 to furnish additional information / clarifications arising out of the revised cost statements furnished by CCTL vide its letter dated 31 October 2006. The CCTL has responded by its letter dated 6 February 2007. The main queries raised by us and the response of CCTL are tabulated below:

Sr. NO.	Our Query	CCTL Response
(i).	As per the revised proposal, the container traffic estimates show a declining trend in the years 2008 (8.65 lakh TEUs) and 2009 (7.49 lakh TEUs). In this scenario the CCTL to justify the augmentation of the yard capacity to 9.42 lakh TEUs in the year 2007.	The yard capacity in 2006 was only 862978 TEUs which is lower than the proposed volume of 914033 TEUs for 2007. The existing capacity is also inadequate to meet the projected volume of 470860 TEUs in first half of 2008, which works out to an annualized volume of 942000 TEUs. Hence, it is imperative that the existing yard is refurbished. The stacking yard taken over from CHPT had damaged surface and poor load ability factors and had to be refurbished completely. Almost entire yard has been refurbished other than yard 4 and 7. Both these yards are also in poor state and have sunk considerably with major

		undulations. If these yards are not refurbished at the earliest, they will be in unusable condition soon. Hence, refurbishment is required apart from to increase yard capacity. If these yards are not refurbished the increase in volume projected for 2007 will not be possible. Refurbishment of yard 4 has almost been completed and refurbishment of yard 7 would be started once yard 4 refurbishment is completed.												
(ii).	The alternate cost statements without considering anticipated decline in traffic due to commissioning of the 2 nd terminal to be furnished.	CCTL has reiterated its earlier position regarding the commencement of 2 nd terminal at CHPT. It has further stated that fixation of tariff without consideration of the anticipated volume decline would be prejudicial to the tariff application of CCTL. While furnishing the working without considering the effect on CCTL volume due to the 2 nd terminal at CHPT, the operator has stated that this should not be considered for the purpose of tariff revision. CCTL has shown from the workings that the tariff increase works out to 13% considering the efficiency gains. CCTL has reiterated that it should be allowed to retain 50% of efficiency gains (Rs. 128 per TEU) when considering its tariff application.												
(iii).	CCTL has considered a fixed cost element in the estimation of total power cost. In this regard, CCTL has conveyed an estimated expenditure of around Rs. 85 lakhs per annum reportedly for yard lighting based on the average electricity consumption of 1.35 lakh units per month calculated at Rs. 5.25 per unit. CCTL was requested to support the average consumption of 1.35 lakh units per month with documentary evidence.	<p>The data furnished by the CCTL is tabulated below:</p> <table border="1"> <thead> <tr> <th>Month</th> <th>June 06</th> <th>July 06</th> </tr> </thead> <tbody> <tr> <td>Fixed Consumption (Units)</td> <td>130273</td> <td>146573</td> </tr> <tr> <td>Variable Consumption (Units)</td> <td>531359</td> <td>613683</td> </tr> <tr> <td>Total Electricity Consumption</td> <td>661632</td> <td>760256</td> </tr> </tbody> </table> <p>The CCTL has furnished copies of electricity bill for the month of June 06 and July 06 to support the total electricity consumption.</p>	Month	June 06	July 06	Fixed Consumption (Units)	130273	146573	Variable Consumption (Units)	531359	613683	Total Electricity Consumption	661632	760256
Month	June 06	July 06												
Fixed Consumption (Units)	130273	146573												
Variable Consumption (Units)	531359	613683												
Total Electricity Consumption	661632	760256												
(iv).	The CCTL to validate with documentary proof to support the equipment hire charges to the tune of Rs. 89/- per TEU for the year 2006.	CCTL has furnished a list of equipments taken on hire. It has also furnished workings to show that the average ITV hire cost is Rs. 89.30 per TEU. The working also gives break-up of fixed equipment hire cost for 2006. Copies of the relevant contracts have been furnished.												
(v).	Hearing in the case of arbitration award challenged by CHPT with regard to the lease rentals was supposed to have been held on 20 November 2006. The CCTL to furnish the present status of the case and the interim orders, if any, passed by the Court.	CCTL has stated that the main application by CHPT challenging the award is yet to be heard and the next hearing is slated for 27 February 2007. CCTL has further confirmed that no interim orders have been passed as the matter is yet to be heard.												

(vi).	The CCTL to validate with documentary proof for the additions to the fixed assets during the year 2006`	Details of assets added upto August 2006 have already been furnished in its reply dated 27 October 2006. The CCTL further stated that out of the proposed investment in fixed asset of Rs. 553 lakh during the period from September 2006 to December 2006 Rs. 345 lakhs had been spent till December 2006. CCTL has informed that orders placed for the balance assets amounting to Rs. 208 lakhs are likely to be delivered / commenced by January – February 2007.
(vii).	CCTL to furnish the status of the investments proposed for the year 2007.	The proposed investment for 2007 are being pursued as planned. CCTL is under negotiation with vendors for finalization of QC to enable it to place the order shortly. All other investments are under various stage of procurement process.

7. The CHPT was requested vide our letter dated 18 September 2006 to furnish information / comments on certain specific points. After reminders, CHPT responded vide its letter dated 09 January 2007. The queries raised by us and the response of CHPT are tabulated below:

Sr. No.	Our queries	CHPT Response
(i).	Specific comments on the relevance and reasonableness of the investments proposed to be made by CCTL during 2006 to 2009 and whether these investments are in line with the Licence Agreement.	<p>As per Clause 3.06 of the concessional agreement entered with CCTL, the licensee shall invest not less than US\$ 50 million on civil works and new state of the art equipment during the first two years, including the amount of guarantees to be provided, initial upfront payment and the cost of the existing equipment of the licensor to be taken over by the licensee, to be made to the licensor, increasing to US\$ 100 million in 5 years.</p> <p>The statement of CCTL that it has invested US\$ 124.52 million as of June 2006 has not been verified by CHPT. The CHPT appointed audit for auditing the receipts / investments made by CCTL has completed the audit from November 2001 to November 2003 and according to the Audit Certificate, CCTL has made a investment of US\$ 74.33 million as of November 2003. The investments made by CCTL during the period from December 2003 to June 2006 will be independently verified through the audit by chartered accountant.</p> <p>Considering the growth of container traffic, CCTL has proposed investments in the form of refurbishment of civil structures and replacement of equipments to enhance the productivity level, apart from its plan to add one more quay crane. All these investments are necessary to improve the performance of container terminal and are in line with Licence Agreement.</p>

(ii).	The capacity of the CCTL with reference to the equipment deployed and other investments made in infrastructure by the CCTL during the year 2006 and envisaged to be added during the years 2007 to 2009 may be indicated. Also, please furnish a detailed computation of assessment of capacity of the container terminal.	As assessed by Indian Ports Association (IPA), the capacity of the terminal is 10 lakh TEUs based on the infrastructure available with CCTL. Considering the proposal of the CCTL to add one more gantry crane, the effect of this additional crane will be about one lakh TEUs.						
(iii).	Please furnish specific comments on reasonableness of the traffic projections made by CCTL for the years 2006 to 2009 including specific comments on the impact considered by CCTL owing to the reported commissioning of second container terminal in January 2008 at the CHPT on the traffic projections for the year 2008 and 2009.	The Letter of Intent for the second container terminal has been handed over to the successful bidder during October 2006. The terminal has to commence operation within 24 months. As per contractual terms, the terminal operator has to handle the following traffic: (a). 1. 50 lakh TEUs during first year of operation (b). 2.75 lakh TEUs during second year of operation (c). 5.00 lakh TEUs during the third year of operation There may be transfer of container traffic presently handled by CCTL in view of the commissioning of second terminal. Therefore, the assumption made by CCTL seems to be reasonable.						
(iv).	Please indicate the lease rent paid by the CCTL for the year 2006, if any.	<p>CCTL has paid the following lease rental charges for the year 2006</p> <table border="0" data-bbox="802 1227 1469 1456"> <thead> <tr> <th style="text-align: left;"><u>Amount Claimed by CHPT</u></th> <th style="text-align: right;"><u>Amount paid by CCTL</u></th> </tr> </thead> <tbody> <tr> <td>Rs. 2,22,76,407/- (for 285 mts berth)</td> <td style="text-align: right;">Rs.1,39,62,910/- (paid in August 2006)</td> </tr> <tr> <td>Rs. 12,25,07,969 (for 600 mts berth)</td> <td style="text-align: right;">Rs. 7,41,96,000/- (paid in November 2006)</td> </tr> </tbody> </table> <p>As per agreement conditions, CCTL has to pay the lease rental charges at Rs. 38 per sq. mtr per month (with 5% annual escalation). However, as per arbitration award, dated 8 March 2006, CCTL is liable to pay only Rs. 1 per sq. mtr per month for land allotted to it. CHPT has filed an Original Petition in Hon'ble High Court at Madras to set-aside the arbitration award. Therefore, CCTL is liable to pay the lease rental charges as per the claim of CHPT as per licence agreement. But, CCTL is paying annual licence fee of Rs. 8,86,58,910/- irrespective of demand of higher amount by CHPT as per the agreement.</p>	<u>Amount Claimed by CHPT</u>	<u>Amount paid by CCTL</u>	Rs. 2,22,76,407/- (for 285 mts berth)	Rs.1,39,62,910/- (paid in August 2006)	Rs. 12,25,07,969 (for 600 mts berth)	Rs. 7,41,96,000/- (paid in November 2006)
<u>Amount Claimed by CHPT</u>	<u>Amount paid by CCTL</u>							
Rs. 2,22,76,407/- (for 285 mts berth)	Rs.1,39,62,910/- (paid in August 2006)							
Rs. 12,25,07,969 (for 600 mts berth)	Rs. 7,41,96,000/- (paid in November 2006)							
(v)(a).	The CCTL has proposed to offer	CCTL's argument for charging tariff / higher tariff						

	some additional services and rationalize various operational procedures which are likely to have tariff implication. The CHPT may examine these proposals and offer pointed comments.	seems to be reasonable. However, TAMP may approve a reasonable tariff in consultation with users.
(b).	The changes proposed with respect to movement to off docks CFS may be examined in detail with reference to the tariff implications it may have on users.	The proposed movement of containers to off dock CFS will help to ease the congestion at the yard thereby increasing the productivity. However, additional burden in the form of movement charges imposed on the consignees may be kept low in consultation with trade.
(c).	It may be confirmed that the proposed 'Bonded Trucking' service is covered by the Licence Agreement between CCTL and CHPT and also the relevant service falls under Section 42 of the MPT Act, 1963.	This is a facility extended by the CCTL to the ICD based consignees. It is not in violation of Section 42 of the MPT Act, 1963. However, rate may be decided in consultation with trade.

8. The CCTL made a presentation on the proposal in reference on 22 November 2006. Based on the discussions held at the presentation, the CCTL was requested vide our letter dated 1 December 2006 to furnish some more additional information/ clarification. The CCTL vide its letter dated 8 December 2006 has furnished the requisite information. The additional information/ clarification sought by us and the response furnished by CCTL is tabulated below:

Sr. No.	Queries raised by TAMP	Reply furnished by CCTL
(i).	The CCTL is requested to furnish a copy of the report (Study on the traffic/capacity of the Southern region), relied upon by it while estimating its traffic forecasts.	<p>The CCTL has furnished the Report. Based on the current trend, it is expected that growth in 2006 will be around 13.16%. In spite of this, CCTL has aggressively projected regional growth in excess of 14% per annum for the projected period 2007 to 2008.</p> <p>There will be substantial capacity additions and capacity is expected to increase from 1.99 Mn TEUs in 2007 to 2.41 Mn in 2008 & 3.63 Mn in 2009, resulting in intensive competition amongst the terminals in the region. Although it has been assumed that the 2nd terminal at Chennai will commence commercial operations from July 2008, it is highly likely that they would be able to start handling containers from January 2008 onwards. This will surely lead to substantial loss of business to CCTL. Further, the capacity utilisation of the terminals in the region is expected to fall from 82% in 2007 to 77% in 2008 and as low as 59% in 2009. This will result in fierce competition for the available volume in the region and</p>

		<p>CCTL will lose market share to the new terminal at Chennai as well as other terminals in the region.</p> <p>CCTL will be operating at 100% capacity in 2007. CCTL has consistently increased its capacity through investment in refurbishment of its Storage Yards as well as continuous process reengineering. However, on completion of refurbishment of the container storage yards in 2008, CCTL will reach its peak capacity of 941,720 TEUs. Hence in the first half of 2008, it would not be able to handle more than 470,860 TEUs. In the 2nd half of 2008, when the second terminal at Chennai commences operations, the volume available at Chennai would be shared by the two terminals and a modest 120,000 TEUs has been assumed to be handled by the second terminal and the rest by CCTL. However, since the second terminal at Chennai is expected to start operations in early 2008, CCTL is likely to handle lower than projected volumes in 2008 & 2009. Since CCTL will be reaching capacity in 2007, growth rate cannot be considered in isolation and the complete South India growth has to be considered for projecting CCTL volume.</p> <p>The above projections are based on the past and current trend and the capacity constraint at CCTL and hence the volume projected by CCTL for 2008 & 2009 is rather aggressive and in reality it is likely be lower than the projected volumes.</p>																																				
(ii).	<p>An analysis showing that earmarking of the ground slots for Over Dimensional Containers (ODC's) at CCTL will reduce the capacity of the CCTL.</p>	<table border="1" data-bbox="743 1335 1469 1581"> <thead> <tr> <th>Stack Type</th> <th>Slots/TEU Ground</th> <th>Stack Height</th> <th>% Utilisation</th> <th>Static Capacity</th> <th>Peaking Factor</th> <th>No of Days</th> <th>Dwell Days</th> <th>Capacity in TEUs</th> </tr> </thead> <tbody> <tr> <td>ODC</td> <td>204</td> <td>1</td> <td>50%</td> <td>102</td> <td>120%</td> <td>365</td> <td>5</td> <td>6205</td> </tr> <tr> <td>Norma</td> <td>204</td> <td>4</td> <td>85%</td> <td>694</td> <td>120%</td> <td>365</td> <td>5</td> <td>42194</td> </tr> <tr> <td colspan="8">Loss of Capacity</td> <td>(35,989)</td> </tr> </tbody> </table> <p>It is evident from the above table that since ODCs can be stacked only one high and one ODC may occupy more than one ground slot. CCTL loses approximately 36,000 TEUs of yard capacity.</p>	Stack Type	Slots/TEU Ground	Stack Height	% Utilisation	Static Capacity	Peaking Factor	No of Days	Dwell Days	Capacity in TEUs	ODC	204	1	50%	102	120%	365	5	6205	Norma	204	4	85%	694	120%	365	5	42194	Loss of Capacity								(35,989)
Stack Type	Slots/TEU Ground	Stack Height	% Utilisation	Static Capacity	Peaking Factor	No of Days	Dwell Days	Capacity in TEUs																														
ODC	204	1	50%	102	120%	365	5	6205																														
Norma	204	4	85%	694	120%	365	5	42194																														
Loss of Capacity								(35,989)																														
(iii).	<p>The escalation factor of 4.50% per annum considered by this Authority for the expenditure projections is based on the Wholesale Price Index (WPI) for All Commodities announced by the Ministry of Finance, Govt. of</p>	<p>The current WPI is much higher than 4.5% per annum inflation than that being proposed to be considered by the Authority. At present inflation is on a sharp rising trend and is currently around 5.5%. It has been well over 5% for the past 4 months. It is expected that inflation will rise further in future and hence 4.5% inflation is not a realistic assumption as we have already reached 5.5%. In spite of inflation crossing</p>																																				

	<p>India as stipulated in Clause 2.5.1 of the revised tariff guidelines. That being so, the contention of CCTL that the WPI is exclusive of the hike in petrol and diesel prices is not clear. The CCTL is requested to furnish the Weightage of fuel cost in WPI, as agreed during the presentation.</p>	<p>5.5%, we have considered only 5% as general inflation in the tariff proposal.</p> <p>Diesel price increase in the past has been much higher than general increase in Inflation. Diesel price has increased from an average of Rs.25.46/ltr in 2004 to Rs 35/ltr currently, an increase of 37% over the last 2 years. Further, the weight of Mineral Oil in the WPI basket of commodities is 6.99% where as fuel cost as a % of total cost at CCTL (excluding royalty, lease rental, depreciation and technical service fee as these costs are not WPI driven) is above 18%. Hence fuel price is far more sensitive to CCTL cost structure than it is to the Wholesale Price Index and hence needs to be treated separately for the purpose of cost calculation and tariff application.</p>																														
<p>(iv).</p>	<p>Please furnish the actual percentage increase in the salary for the years 2001 to 2006 over the respective previous years.</p>	<p>The actual % salary increase for the years 2001 to 2006 has been as under:</p> <table border="1" data-bbox="743 902 1476 1234"> <thead> <tr> <th></th> <th>Total Salary in Rs Lacs</th> <th>Average no of employee</th> <th>Average salary per employee (Rs Lacs)</th> <th>% increase in salary</th> </tr> </thead> <tbody> <tr> <td>2002</td> <td>712</td> <td>414</td> <td>1.72</td> <td>NA</td> </tr> <tr> <td>2003</td> <td>753</td> <td>417</td> <td>1.80</td> <td>5%</td> </tr> <tr> <td>2004</td> <td>917</td> <td>411</td> <td>2.23</td> <td>24%</td> </tr> <tr> <td>2005</td> <td>986</td> <td>364</td> <td>2.71</td> <td>21%</td> </tr> <tr> <td>2006</td> <td>1281</td> <td>417</td> <td>3.07</td> <td>14%</td> </tr> </tbody> </table> <p>While we tried to restrict the increase in 2004 to inflation, we had labour unrest. Hence we had to resort to higher increase in wages. The average increase in wages in the recent past in India has been in excess of 14% and experts have projected even higher wage increase for 2007. Further, majority of CCTL employees are qualified manpower and we continuously face risk of attrition from growing industries like IT & BPO, which are thriving in and around Chennai. Hence in order to retain talent it is imperative that we offer the employees competitive salary and increments.</p>		Total Salary in Rs Lacs	Average no of employee	Average salary per employee (Rs Lacs)	% increase in salary	2002	712	414	1.72	NA	2003	753	417	1.80	5%	2004	917	411	2.23	24%	2005	986	364	2.71	21%	2006	1281	417	3.07	14%
	Total Salary in Rs Lacs	Average no of employee	Average salary per employee (Rs Lacs)	% increase in salary																												
2002	712	414	1.72	NA																												
2003	753	417	1.80	5%																												
2004	917	411	2.23	24%																												
2005	986	364	2.71	21%																												
2006	1281	417	3.07	14%																												
<p>(v).</p>	<p>The CCTL has facilitated fumigation of tobacco containers for which the CCTL levies a charge of Rs.2000/- per container as stated by it in its proposal. This rate does not appear to have been approved by this Authority. Hence, the CCTL is requested to forward a copy of the authorization, based on which the</p>	<p>The obligation of CCTL under the Licence Agreement is to make efforts to maximise the cargo handled so as to achieve optimal utilisation of the Project Facilities and Services. Towards ensuring this objective the service of fumigation is provided to the trade.</p> <p>Based on the requirement of fumigation by the importers, the tobacco exporters carry out fumigation of the cargo within CCTL. Since the container is already available at the terminal, it facilitates prompt connection of tobacco export</p>																														

	<p>rate of Rs. 2000/- per container is levied by CCTL.</p>	<p>containers once the fumigation process is completed at the terminal itself. If this process were to be carried out at an off dock CFS, it would involve double trucking, one from the shipper's warehouse to the CFS and the other from the CFS to the terminal, resulting in additional cost to the exporter. Further at the CFS, there would be a lift-on and lift-off once for the fumigation and once for the degassing. The exporter saves on all these costs by sending the container directly to CCTL. The charge of Rs 2000 is agreed with the trade and they are availing of this service as it is provided at an extremely competitive cost to them. Since this is not a service specified under the Licence Agreement the Authority is not required to notify tariff in this regard.</p>
<p>(vi).</p>	<p>The CCTL has started providing "Bonded Trucking" Facility and has proposed rates for the same. In this regard, the CCTL is requested to confirm as to whether the provisions of "Bonded Trucking" facility is as per the provision of the Licence Agreement entered by it with Chennai Port Trust.</p>	<p>CCTL operates the CFS as part of the concession agreement with Chennai Port Trust. Acting as custodian of the Cargo within the CFS, CCTL facilitates movement of the cargo on specific requests of the shipping lines and consol agents to various ICD destinations. As custodian, CCTL is allowed as per Customs Rules to provide this service under its Customs Bond. However this service is not specified in the License agreement and hence the Authority may not notify tariff for this service. CCTL will charge for this service based on the terms that it may from time to time agree with its customers.</p>
	<p>The CCTL has also made the following points:</p> <p>(i). The working of efficiency gains which had not been considered in its tariff application. 50% of these efficiency gains amounts to Rs 128 per teu. On consideration on this efficiency gain, the proposed increase in tariff would revise upwards from 11% to 16%. Hence the Authority should consider the efficiency gains while finalising the tariff proposal.</p> <p>(ii). Over the last 3 years the per TEU revenue realisation at CCTL has dropped from Rs 2,902 in 2004 to Rs 2,596 in 2006, a drop of 11% in 2 years. This is a direct benefit that has accrued to the trade and its average per TEU cost has reduced.</p> <p>(iii). Due to efficient operations at CCTL, trade has benefited immensely. In monetary terms these benefit quantifies to approximately USD 18.4 Mn. As against that the impact of tariff revision is only USD 2.9 Mn during the next tariff period. This is a small percentage of the benefits that has already been accruing to the trade and hence should be allowed without any reduction.</p>	

9.1. A copy of the CCTL letter dated 8 December 2006 was forwarded to CHPT for its comments vide our letter dated 27 December 2006. CHPT vide its letter dated 3 February 2007 has responded.

9.2. (a). The CHPT vide its letter dated 9 January 2007 conveyed that it had issued the Letter of Intent (LOI) for the second container terminal to the successful bidder during October 2006, whereas in the CHPT's letter dated 3 February 2007 it was

stated that LOI was issued by the port in December 2006. To a query to confirm the actual date of LOI, the CHPT vide its letter dated 21 February 2007 confirmed that the LOI for development of second container terminal was issued on 5 November 2006. The CHPT anticipates that the agreement may be signed in the first week of March 2007.

- (b). The CHPT was further requested to specify the probable date by which the second container terminal would commence its operations. The CHPT has replied that the licence period shall commence from the date of signing of Agreement (1st week of March 2007) and the licensee shall complete the construction within 18 months from March 2007. This implies that the construction may be completed by the licensee by August 2008 for commencement of operations. However, it is to be noted that the construction period may be extended by CHPT by six more months, as communicated by CHPT. This further means that the second container terminal operator may commence operations by February 2009 also.

10. A joint hearing on the case in reference was held on 05 January 2007 at the premises of Chennai Port Trust. The CCTL, CHPT and the users made their submissions.

11. The CCTL vide its letter dated 12 January 2007 has furnished clarifications to the points raised by us at the joint hearing. The points raised and the clarifications furnished by the CCTL are tabulated below:

Sr. No.	Points raised by us	Clarification furnished by CCTL.
(i).	The provisions of the concession agreement under which the fumigation services are rendered.	<p>(i). As per Clause 3.08A of the concession agreement, the obligation of the licensee is as under indicated as follows: “The Licensee’s obligations under this Article 3.08 shall include but <u>shall not be limited</u> to the following...” Based on this clause it is clear that obligations of CCT in the concession agreement is only an indicative list and does not restrict provision of any additional service requested for by the trade.</p> <p>(ii). As per Clause 3.8A (i) 2 (b) the licensee shall make efforts to maximize cargo handled so as to achieve optimal utilization of the Project Facilities and Services provided that this provision shall not be construed as obliging the Licensee to adopt tariff discounting or rebating practices other than in the interest of optimizing Licensee’s sustainable profitability in accordance with sound business practices; The activity of fumigation is undertaken with an objective to attract and retain the tobacco containers at CCT and maximize the cargo handled to achieve optimum utilization of its facilities.</p>
(ii).	Why does CCTL believe that charges for fumigation services do not require	We had detailed the activity undertaken by CCT for facilitation of fumigation services vide our letter dated 27 October 2006. The rate of Rs. 2,000/- for 40’ container charged by CCT was

	approval of this Authority?	<p>based on existing tariffs and was calculated as under:</p> <table border="1" data-bbox="719 271 1437 595"> <tr> <td data-bbox="719 271 794 349">(a).</td> <td data-bbox="794 271 1241 349">Grounding of container for fumigation and restacking</td> <td data-bbox="1241 271 1437 349">Rs. 965.25</td> </tr> <tr> <td data-bbox="719 349 794 427">(b).</td> <td data-bbox="794 349 1241 427">Grounding the container for de-gassing & restacking</td> <td data-bbox="1241 349 1437 427">Rs. 965.25</td> </tr> <tr> <td data-bbox="719 427 794 472">(c).</td> <td data-bbox="794 427 1241 472">Documentation charges</td> <td data-bbox="1241 427 1437 472">Rs. 50.00</td> </tr> <tr> <td data-bbox="719 472 794 551">(d).</td> <td data-bbox="794 472 1241 551">Seal cutting / fixing where applicable</td> <td data-bbox="1241 472 1437 551">Rs. 19.00</td> </tr> <tr> <td data-bbox="719 551 794 595"></td> <td data-bbox="794 551 1241 595">Total Charges</td> <td data-bbox="1241 551 1437 595">Rs. 2000</td> </tr> </table> <p>Since the charges levied by CCT were as per TAMP approved tariffs, there was no need for specific tariff item for these activities.</p> <p>Since the seal fixing / cutting activity is difficult to monitor and charge as specified tariff we have asked for a consolidated rate to avoid any ambiguity in implementation.</p>	(a).	Grounding of container for fumigation and restacking	Rs. 965.25	(b).	Grounding the container for de-gassing & restacking	Rs. 965.25	(c).	Documentation charges	Rs. 50.00	(d).	Seal cutting / fixing where applicable	Rs. 19.00		Total Charges	Rs. 2000
(a).	Grounding of container for fumigation and restacking	Rs. 965.25															
(b).	Grounding the container for de-gassing & restacking	Rs. 965.25															
(c).	Documentation charges	Rs. 50.00															
(d).	Seal cutting / fixing where applicable	Rs. 19.00															
	Total Charges	Rs. 2000															
(iii)	Whether royalty is payable to Port on these charges?	Royalty due to the CHPT is paid toward fumigation charges in accordance with Clause 5.02 of the Concession Agreement.															
(iv)	Under what provisions of the concession agreement the ICD bonded trucking services are rendered?	(i). Bonded trucking is a service of transporting cargo from one bonded area (port) to another bonded area (outside the port such as CFS's / ICD's) prior customs clearance is undertaken at the CFS or ICD. This service is regularly undertaken by private and public sector companies such as CONCOR, CWC and other Private CFS / ICD operators. Similarly CCT is company registered under the Indian Companies Act, 1956 and scope of activities is through its object clause in Memorandum of Articles of Association. The main objective of the company is not limited to the provisions of services under the concession agreement only. Accordingly, with the provisions in the MOA and AOA and necessary approvals of Chennai Customs CCT provides this service to its customers. Having said above, we would also clarify that there are no specific restrictions in the concession agreement with CHPT that prohibits the company from undertaking these activities towards improving its own primary business under the concession agreement.															
(v)	Why does CCT believe that charges for ICD bonded trucking service does not require TAMP approval?	(i). It is our understanding that TAMP is an authority constituted under the provisions of the Major Port Trust Act, 1963 to set Tariff for services undertaken by the major ports or any other person authorized under Section 42 subsection (1) of the MPT Act, 1963. In this instance, we believe that the bonded trucking service offered to our customer to a facility outside the port area is not within the application of the Major Port Trust Act and accordingly outside the realms of Tariff Regulation by the respected Authority.															

12. Subsequently, the CCTL vide its letter dated 19 February 2007 furnished its un-audited accounts for the year 2006 and details along with the supporting documents with regard to the additions to the fixed assets made during the year 2006 and documents for the status of the investments proposed for the year 2007. In addition, it made the following submissions:

- (a). The CCTL, while reiterating its stand on the efficiency gains conveyed in its letter dated 27 October 2007 for electricity cost, has stated that 50% of efficiency gains achieved in the previous tariff cycle needs to be considered for arriving at the cost for the next tariff cycle as per the example given in the revised tariff guidelines and 50% of efficiency gains likely in forthcoming tariff period should not form part of computation.
- (b). The operator has stated that it has managed to achieve higher capacity utilisation during the last cycle only through efficient utilisation of existing resources and process innovation. Hence, unit cost reduction was not only a function of fixed and variable cost structure but also achieved by CCTL through the resultant efficiency gains. Hence, the cost reduction was possible only on account of efficiency of CCTL.
- (c). The CCTL has reiterated its earlier stand not to notify the bonded trucking charges.

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

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

- (i). Following the (then) prevailing two year validity period, the tariff at CCTL revised in May 2004 fell due for review in May 2006. The CCTL filed a proposal dated 18 April 2006 before this Authority for general revision of its Scale of Rates. Apart from the general increase of 18% in rates proposed, the CCTL has also proposed conditionalities relating to rationalization of some of operational procedures and introduction of tariff for some new services. On the grounds of the reported commissioning of the second container terminal at CHPT and updation of the cost estimates, the CCTL filed a revised proposal dated 31 October 2006 updating the cost statements based on the actuals upto August 2006. The CCTL has scaled down the proposed increase of rates from 18% to 11% over the existing tariff. The reduction in the proposed increase in rates, *prima facie*, appears to be due to the upward revision of estimated container traffic for the years 2006 to 2009. Subsequently, the CCTL has furnished unaudited statement of accounts for the entire year 2006. The revised proposal dated 31 October 2006 along with actuals for 2006 has been considered in the analysis for review of the existing tariff of the operator.

- (ii). The CHPT has again raised an issue about circulation of cost details of the tariff proposal of CCTL. This issue had been adequately dealt with by this Authority in the Order dated 4 May 2004 relating to the general revision proposal of the CCTL. The CHPT has made a demand for circulation of cost details of the instant proposal. It is clarified that the complete proposal as received from the CCTL was circulated to the relevant users and the CHPT.

- (iii). Generally, the annual escalation of the cost estimates is considered in terms of Clause 2.5.1 of the revised tariff guidelines which requires that the expenditure projections of the major ports and terminal operator should be in line with traffic adjusted for price fluctuations with reference to current movement of Wholesale Price Index for all commodities as announced by the Government of India. Based on the average inflation rate for the financial year 2005-06 annual escalation factor of 4.5% is considered for the expenditure projections in the cost statements of the tariff cases to be decided during the year 2006-07. Since CCTL has adopted different percentages as escalation factor in the estimation of operating cost, the above position was brought to the notice of CCTL again. CCTL has maintained that application of uniform price increase for all cost items will be incorrect and consideration of the published WPI for the financial year 2005-06 for deciding the tariff cases in 2006-07 is not appropriate. It has to be recognised that WPI for all commodities is a weighted average index which captures the price movement in different groups.

The reviewed Scale of Rates of CCTL may come into effect for implementation by CCTL probably in the month of April 2007. Considering the prevailing increasing trend of inflation, it may be necessary to update the annual escalation factor with reference to the current 52 week average inflation which is reported to be marginally higher than 5%. In view of this position, annual escalation of 5% is considered for estimation of expenditure projection, wherever required.

- (iv). The last review of the Scale of Rates of CCTL in May 2004 was made relying on the estimated cost position for the years 2004 and 2005. As mandated by clause 2.13 of the revised tariff guidelines, this Authority is required to review the actual physical and financial performance of the major port/private operator therein at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing prevailing tariff.

The two years validity of the Scale of Rates of CCTL prescribed vide this Authority's Order dated 4 May 2004 had expired and this Authority vide Order dated 11 May 2006 extended the validity of the Scale of Rates for a period of six months beyond 4 June 2006. This means the CCTL has continued to operate the facilities during the year 2006 also at the tariff level approved in May 2004. Therefore, the actual performance of CCTL during the year 2006 furnished by the Operator is also taken into account along with the comparative position of actuals vis-à-vis estimates furnished by CCTL for the years 2004 and 2005 for the purpose of analysis of past performance of CCTL.

- (v). The performance of CCTL during the years 2004 to 2006 is discussed below:

- (a). This Authority in its Order dated 4 May 2004 allowed 100% increase in container storage charges, 25% increase in storage charges on hazardous containers and 10% increase in transshipment handling charges. The revised rates came into effect on 5 June 2004. Since the impact of the upward revision of tariff is reflected by the actual income, the estimated income with reference to the increase allowed in May 2004 needs to be updated to make a correct comparison between the actuals and the estimates. Accordingly, the estimated operating income in respect of these tariff items is updated applying the increase allowed for seven months in the year 2004 and for the entire period for the year 2005.
- (b). CCTL has handled 5,99,980 TEUs and 7,00,107 TEUs during the years 2004 and 2005 respectively. If the aggregate of the estimated volume and actual volume is compared, the volume handled by CCTL is about 12% more than that estimated while reviewing its tariff in May 2004. The CCTL has conveyed actual traffic of 829307 TEUs for the year 2006.
- (c). The actual operating income as per the annual accounts for the years 2004 & 2005 and the actual operating income for the year 2006 as reported by CCTL are considered.
- (d).
 - (i). The actual operating and direct labour cost and maintenance labour cost for the year 2006 are found to be around 26% and 38% more than the actual labour cost for the year 2005. The operating labour strength of 241 employees in the year 2005 has increased to 275 employees in 2006. Likewise, the maintenance labour strength of 103 employees in 2005 has increased to 115 employees in 2006. The increase in staff strength may be necessitated due to increase in volumes and induction of new equipment.
 - (ii). Wage cost for the year 2007 has been estimated by considering an increase of around 24% over the 2006 in case of operating labour and 17% increase in case of maintenance labour. While CCTL has considered additional operating labour for the year 2007, the strength of maintenance labour has been maintained at 2006 level. The additional operating labour considered by CCTL is accepted for the same reason given in the previous paragraph.

The CCTL has argued that higher increase in wage cost has been factored in anticipation of wage settlement in the year 2007. However, the quantum of increase is not known now, without which this Authority is not in a position to accept the estimates for the year 2007. The estimated operating & direct labour and maintenance labour cost for the years 2007 to 2009 are

moderated applying an escalation factor of 5% per annum over the respective previous years taking the actuals for the year 2006 as base and reckoning with the cost of additional operating labour. It is noteworthy that no increase in the staff strength is reported for the years 2008 and 2009. If a position significantly different from the one considered in the estimates emerges, the CCTL can come up with its proposal for ahead-of-schedule review.

- (e). (i). (a). CCTL has reported an average electricity consumption of 7.96 units per TEU during the years 2004 and 2005 to operate QCs. Arguing that it has achieved an efficiency gain of 5.26 units per TEU during the years 2004 and 2005 over the reported 13.22 units of electricity consumption for the year 2003, 50% of 5.26 units per TEU has been added back to the actual per TEU electricity consumption of 7.38 units in 2005 for the purpose of estimates at 10.01 units per TEU for the years 2007 to 2009.

During the CCTL's tariff review exercise in May 2004, CCTL had communicated with detailed month-wise break-up vide its letter dated 6 February 2004 the actual electricity consumption of 7 units per TEU for operation of QCs in the year 2003, against 13.22 units for the year 2003 reported now. The basis for 65.15 lakh units of electricity consumption for the year 2003 considered now by CCTL to calculate 13.22 units per TEU was not made available. The actual 7 units per TEU for the year 2003 reported earlier by CCTL in February 2004 compares well with the 7.96 units average consumption for the years 2004 and 2005. There does not appear to be any efficiency related gain achieved during the year 2004 and 2005 in operating the QCs, in relation to the actual position of 2003, conveyed by CCTL. The estimated electricity cost for the year 2007 to 2009, is modified based on the quantum of 7.38 units per TEU for the year 2007 to 2009.

- (b). In the revised proposal submitted by CCTL, the operator has made a claim of Rs.128 per TEU to be allowed as a pass through towards 50% of the reported efficiency gain achieved in the year 2005 over the 2003.

A careful reading of Clause 2.4.1 of the revised tariff guidelines would show that the benchmark for efficiency will be the average of the past performance achieved in

the immediately preceding tariff validity cycle. Secondly, cost reduction should have been achieved due to improvement in efficiency / productivity.

When the working furnished by CCTL for the claim of Rs.128 per TEU is juxtaposed to the stipulation prescribed in the relevant tariff guideline, it is seen that the actual cost for the year 2005 is only considered by CCTL and the actual cost for the year 2004 is not taken into account in the computation. Further, CCTL has made a comparison of actual expenditure for the year 2005 over the actuals of the year 2003. This approach does not satisfy the first stipulation made in the revised tariff guideline.

The expenses listed in the calculation include fixed costs also. The operator has reported actual container throughput of around 7 lakh TEUs in 2005 as against 4.93 lakh TEUs handled in the year 2003. When the volume handled increases, the fixed costs will get spread over a wider base thus reducing the per TEU cost. Cost reduction achieved due to improvement in efficiency and due to other factors need to be clearly segregated, which is not done in this case by the operator.

CCTL has reported an amount of Rs. 21.47 crores as actual equipment running cost for the year 2006. The estimation of different elements of equipment running cost like power and fuel consumption per TEU, unit cost of electricity and fuel are considered at 2006 level to examine the estimates of equipment running cost for the year 2007 to 2009. CCTL has considered an increase of around 10% in the unit cost of electricity for the year 2007 over the year 2006 on account of expected increase in the unit cost of electricity. As mentioned earlier, the permissible 5% annual escalation is considered to moderate the estimates. The estimates of fixed cost for the years 2007 to 2009 are also moderated applying an escalation factor of 5% per annum over the respective previous years taking the year 2006 as base.

- (ii). In the estimates of fuel cost for the years 2007 to 2009, CCTL has considered an escalation factor of 10% per annum over the estimates of the respective previous years. The contention of the CCTL that the wholesale price index is exclusive of the hike in petrol and diesel prices is not substantiated by the operator. That being so, no exceptional treatment for estimation of fuel cost

different from the permissible annual escalation factor may be warranted. The estimated fuel cost for the years 2007 to 2009 is moderated accordingly.

- (iii). Repairs and maintenance cost has been estimated by adopting different values as a percentage of gross block. CCTL has claimed that different types of equipments incur different costs of repairs & maintenance depending on the age of equipments and extent of usage. If that is so, then repairs & maintenance cost should depend on the age and extent of usage of each equipment. The workings furnished by CCTL show that CCTL has adopted a definite percentage for equipments for a particular group of equipments which implies that in that group all the equipments warrant uniform rate of maintenance expenditure irrespective of their age and extent of usage of the respective equipment in the relevant group. Further, the linkage between the percentage adopted and the estimated quantum of repairs & maintenance cost has not been shown with empirical evidence.

The estimated repair and maintenance cost for the years 2007 to 2009 is moderated applying an escalation factor of 5% per annum over the respective previous years taking the year 2006 as base.

- (f). At the time of initial fixation of tariff at CCTL, this Authority had not admitted the revenue share payable by the CCTL to CHPT as a cost item for determination of tariff. This stand was reiterated by this Authority while disposing the review petition filed by the CCTL against the initial Order. Subsequently, in compliance of policy direction issued under section 111 of Major Port Trusts Act, 1963, by the Government, 27% of the gross income was considered as cost in the tariff review exercise of CCTL in May 2004.

Though the CCTL has considered 27% of revenue as cost for the purpose of proposed tariff, it has, subsequently, demanded full royalty as pass through on the ground that part of royalty not allowed as cost deprives it from earning the admissible return of 15% and the return earned below 15% should be construed as loss. The Government policy is quite clear in setting the ceiling level of pass through on this account; and, the condition of incurring loss is only to permit pass through upto the ceiling level. The question of this Authority allowing pass through of revenue share in excess of the ceiling level prescribed by the Government policy does not arise at all.

- (g). The CCTL has estimated Rs.1043 lakhs, Rs.1042 lakhs and Rs.963 lakhs towards equipment hire charges for the years 2007 to 2009 respectively. It appears that CCTL has awarded the contract for taking the Inter Terminal Vehicle (ITV) on hire to various private parties and different rates

per TEU have been firmed-up with the private parties. The average rate of Rs.89 per TEU considered for the year 2006 is relied upon. Apart from this variable cost of ITV hire charge, CCTL has estimated hire charges for forklifts and yard marshalling vehicles, which are seen to be fixed hire cost payable on monthly basis.

The estimated per TEU equipment hire charges for the year 2007 escalated at 15% by CCTL is moderated applying an escalation factor of 5% per annum over the actual hire charges for the year 2006. The estimates for the subsequent two years are moderated applying an escalation factor of 5% per annum over the respective previous year taking the moderated estimate for the year 2007 as base.

- (h). The CCTL has to pay to the CHPT lease rental for the lands allotted to it. There is some dispute between the CCTL and CHPT over the payments relating to the leased land. When asked to furnish the present status of the case, CCTL has intimated that CHPT has filed an application with the Hon'ble High Court of Madras for setting aside an arbitration award in this regard. The operator has also confirmed that no interim order has been passed by the Hon'ble High Court in this regard. The CCTL has furnished an estimate of Rs.881.59 lakhs each for the year 2006 to 2009 towards payment of lease rental to the CHPT. CHPT has confirmed the receipt of this amount during the year 2006 against its claim of Rs.1447.84 lakhs. The estimates of lease rental as furnished by the CCTL are considered in this analysis. The CCTL has requested that in the event of an unfavorable Order then it should be allowed to factor the additional lease rental payable based on the verdict in future tariff, which does not appear to be unreasonable.
- (i). From the documentary evidence furnished by CCTL in support of insurance cost for the year 2006, it appears that element of foreign exchange is involved in payment of insurance cost. The estimated insurance cost for the years 2007 to 2009 applying an uniform exchange rate of Rs. 43.50 per US Dollar is moderated by considering the prevailing exchange rate of Rs. 44.18 per US Dollar. Incidentally, the estimated insurance cost includes CFS Bonded Trucking transit insurance which is also considered. The estimates of CCTL at around Rs.230 lakhs, Rs.233 lakhs and Rs.242 lakhs, subject to moderation on account of prevailing exchange rate, as compared to the actual of Rs.203 lakhs in 2006 is accepted considering the additions proposed by CCTL to the gross block of assets during 2007 to 2009.
- (j). The estimates of other expenses include some cost elements as detailed below:
 - (a). The CCTL has outsourced the lashing/unlashing service, as seen from the copy of the contract entered by CCTL with a private party

in August 2006. Applying the rates firmed up in the contract, the actual for 2006 could not be confirmed since the actual for the year 2006 may include services like gate survey and wharf survey other than lashing/unlashing services. The operator has not furnished the detailed working despite a request made. The estimated lashing/unlashing expenditure for the year 2007 to 2009 is moderated based on the projected container traffic for the respective years and applying an escalation factor of 5% per annum over the respective previous years taking the actual of 2006 as base, after exclusion of security and cleaning charges.

- (b). The escalation in the estimates of other items under this head of expenditure towards security, cleaning and gardening, etc., is restricted to 5% over the respective previous years.

- (k). Payment of technical service fee by CCTL to the main promoter was not allowed as an item of cost for the purpose of last tariff revision for the reasons stated in the Order dated 4 May 2004. The CCTL has considered an amount of Rs.238 lakhs and Rs.276 lakhs for the years 2004 and 2005 towards payment of technical service fee in its comparison of estimates vis-à-vis actuals. The argument of the CCTL that technical service fee is an admissible expenditure as per the revised tariff guidelines and hence should be allowed as pass through for the year 2004 and 2005 is totally misplaced as these guidelines came into effect only on 31 March 2005. Further, comparison of earlier estimates with actuals should be made as per the position maintained in the last Order. Payment of technical service fee for the years 2004 and 2005 is not, therefore, considered as pass through.

The users have objected that technical service fee should not be considered as cost. The revised tariff guidelines of 2005 issued by the Government permits such payment as admissible cost under certain circumstances. For allowing technical service fee payable by the private operator as an admissible item of cost for tariff purpose, its reasonableness is required to be established by applying the yardstick of "arms length relationship" as per the relevant provision of the Income Tax Act, 1961. From the documentary evidence furnished by CCTL, it is seen that the concerned Income Tax authority has considered this expenditure in their assessment for the financial years 2002-03 and 2003-04 and relying on the assessment made by the Income Tax authority regarding payment of technical service fee by CCTL to the associated enterprises in the past years, it can be reasonably presumed that such payment will be similarly treated for the years 2006 to 2009 also. Compared to the actual technical service fee paid by CCTL of about Rs.291 lakhs during the year 2006, the estimated amount in this regard for the years 2007 to 2009 is seen to be less.

The technical service fee includes a fixed element in US Dollar terms and a variable element denominated in Indian Rupee. The estimated fee payable for the years 2007 to 2009 is moderated applying the prevailing exchange rate of Rs.44.18 per US\$ for conversion of fixed fee payable by CCTL, subject to the condition that CCTL will produce at the time of next review income tax assessment orders for each of the years to show that the concerned authorities have allowed this expenditure. If such evidence is not produced, estimated expenditure allowed now will be set off in the next tariff review.

- (l). As clarified by CCTL, the operator accounts for the staff salary under the management & administration overheads. It is also observed from the workings that the expenses towards staff welfare at 8.50% of the estimated management & administration overheads is also accounted for under this head, which is considered for the purpose of this analysis.

CCTL has reported a uniform staff strength of 45 for the years 2007 to 2009 over the actual staff strength of 43 for the year 2006. The estimated overhead of Rs.355 lakhs for the year 2007 is seen to be on account of additional wages payable to the additional staff and around 17% escalation considered by CCTL over the actual for the year 2006. While the additional expenditure on account of additional strength is allowed, the estimate for the year 2007 is moderated applying an escalation factor of 5% over the actual of 2006. The estimated overheads for the year 2008 and 2009, are moderated applying an escalation factor of 5% per annum over the respective previous years.

- (m). The estimates of general overhead for the years 2007 to 2009 are moderated applying an escalation factor of 5% per annum over the respective previous years taking the actual expenditure for the year 2006 as base.
- (n). The preliminary expenses are found to be completely written off by CCTL as of the year 2006. At the time of the initial fixation of tariff, this Authority decided to spread the preliminary expenses over the entire project period for reasons explained in the relevant Order. A review petition filed by CCTL in this regard was rejected by this Authority. This issue has already been analyzed in detail in the earlier Orders and no extraordinary circumstance is found to emerge now warranting any deviation from the approach adopted earlier. An amount of Rs.38.28 lakhs per annum as considered at the time of review of tariff in May 2004 is now considered for the years 2006 to 2009.
- (o). Finance & Miscellaneous income includes discounted terminal value receivable as per the concession agreement. CCTL has considered Rs. 1 lakh for the year 2004 and Rs. 2 lakh each for the year 2005 to 2008 and

Rs. 3 lakhs for the year 2009. Despite a request made to CCTL, working for the terminal value considered in the cost statement was not made available. CCTL has stated that adjustment for terminal value should be done only when assets which will have life at the end of the license period and depreciation on such asset is allowed for tariff computation. This issue has adequately been dealt in the earlier orders of this Authority and there is no reason for deviating from the earlier approach. Recognising that the payment would be due for 30 years, the annualised present value for the years 2007 to 2009 is arrived at by applying a discount factor of 12.25%. The discounting rate of 12.25% to arrive at the net present value for the years 2007 to 2009 is selected bearing in mind the prevailing PLR rate.

- (p). The loss on repayment of foreign currency loan and loss on sale of assets reported by the CCTL for the years 2004 and 2005 duly reflected in the annual accounts are considered.
- (q). In case of private terminal operators, the return allowed prior to the year 2005-06 was based on the equity component of capital employed. Hence, the interest on debt component was allowed as a pass through while fixing tariff. This approach was adopted in the case of CCTL also while reviewing its tariff in May 2004. In line with this approach, the interest component is considered as cost and while considering so, the interest component reported in the cost statement for the year 2005 is modified to reflect the position obtained in the annual accounts for the year 2005.
- (r).
 - (i). With reference to the debt component of capital employed, the position reported in the cost statement for the year 2004 and 2005 is considered as it agrees with the annual accounts of the respective years.
 - (ii). The CCTL has reported shareholders fund to the tune of Rs. 155.58 Crores for the year 2004 and 171.34 Crores for the year 2005 in the cost statement. A comparison of this reported position with the annual accounts reveals that CCTL has made adjustments on the quantum of shareholders fund shown in the annual accounts to include provision towards deferred tax, difference in the royalty quoted by CCTL and the second highest bidder and lease rental difference arising out of the figures shown in the annual accounts and the figures shown in the cost statement. Since shareholders fund is considered as equity and reserves and surplus, the position reported in the annual accounts for the years 2004 and 2005 is considered for the purpose of allowing return on shareholders fund for these two years.
- (s). The position relating to the audit, conducted on behalf of CHPT, of investments made by CCTL for the period November 2001 to November

2003 in its facilities is not fully useful, for the purpose of past analysis relating to the year 2004 and 2005. The investments made by CCTL subsequent to November 2003 is yet to be verified by the CHPT. The position as reported in the annual accounts for the year 2004 and 2005 is, therefore, relied upon.

The CHPT has endorsed the proposed investments of CCTL for the years 2006 to 2009 and it has been confirmed by CHPT that the said proposed investments are in line with License Agreement. The investment in assets to the extent of around Rs.102 crores during the years 2006 to 2009 proposed by CCTL is discussed below:

- (i). Out of Rs.15.95 crores investment envisaged during the year 2006, around Rs.12 crores relate to refurbishment of two yards and backup area. The remaining investment relate to furniture & fixtures (Rs.1.20 crores), IT related facilities (Rs.1.20 crores), plant & machinery (Rs.0.63 crore) and miscellaneous civil works to the tune of around Rs.1 crore. All documents in proof of the investment made in the year 2006, is not presented for scrutiny. Since CHPT has endorsed the investments, this Authority is inclined to consider the investments at CCTL in the year 2006 as indicated by the operator.

The CCTL had subsequently reported that an amount of around Rs.174 lakhs may not be capitalized in the year 2006 and may spill over to 2007. In view of this revised position, necessary adjustments in the capital employed originally estimated for the year 2006 and 2007 are made. Consequently, the estimate of depreciation is also modified suitably.

- (ii). The proposed investment of around Rs.61.39 crores in the year 2007 includes purchase of quay cranes at a cost of Rs.30.72 crores, refurbishment of yards, CFS and rectification of wharf to the tune of Rs.14.50 crores and investment in IT related facilities to the tune of Rs.12.72 crores. The CCTL has also proposed to invest Rs.296 lakhs towards procurement of container handling equipments like forklift, trailer, reach stacker, etc. and Rs.49 lakhs in furniture & fixtures.

The quay crane is proposed to be procured in the scenario of declining trend in the traffic at CCTL. To a query in this regard, CCTL has sought to clarify that due to the poor productivity of the crane taken over from CHPT, it has considered the procurement of additional quay crane in the year 2007 with confirmation that the additional quay crane will add to its capacity. It is noteworthy that this additional quay crane has been considered in the capacity calculation of the terminal for the year 2007 by the

operator taking its usage for a period of 2 ½ months. Bearing in mind the plea of the CCTL that it will not be in a position to meet the desired level of productivity it aims to achieve if this investment in quay crane is not allowed, the proposed investment in quay crane is considered. Reportedly, the operator has already initiated action towards procurement of the said quay crane.

CCTL considers that refurbishment of yard is essential to increase the yard capacity from 3 stack high to 4 stack high. Hence, the proposed investment of Rs.14.50 crores, which also includes rectification of wharf and other miscellaneous civil works, is considered for the purpose of this analysis.

The proposed investment of Rs.12.72 crores in IT related facilities is seen to be towards upgrading the existing old IT related facilities. The proposed investment of Rs.296 lakhs in plant & machinery and Rs.49 lakhs in furniture & fixtures are also taken into account.

- (iii). The proposed investment of Rs.99 lakhs in the year 2008 towards computer and furniture & fixtures, being replacement of the existing assets, is reckoned with.
- (iv). The LA provision 3.08 (A) (v) stipulates replacement of existing RTGCs not later than 20 years. The CCTL has taken over four RTGCs of 1989 make from CHPT. The said RTGCs are due for replacement in the year 2009. Therefore, the proposed investment of Rs.23.33 crores towards replacement of existing 4 RTGCs in the year 2009 is in accordance with the LA provision and hence considered.
- (v). CCTL has confirmed that it has considered only completed and commissioned assets in the capital employed.
- (vi). Despite a query to CCTL to furnish the basis for the proposed deletions in the gross block of assets in the year 2006, 2007 and 2009, the operator has merely stated that the deletion has been considered when the asset is proposed to be replaced or has been fully depreciated. Subject to verification of actuals at the time of the next review, it is assumed that the deletion on account of replacement of the existing assets is at the written down value of the respective assets for the purpose of this analysis.
- (t). As stipulated in Clause 2.7.1. of the revised tariff guidelines depreciation will be allowed, in the case of private terminals on the straight line method with life norms adopted as per the Companies Act, 1956 or based on the life norms prescribed in the concession agreement whichever is higher.

CCTL has categorically stated that depreciation has been worked-out on the basis of Clause 2.7.1. of the revised tariff guidelines.

- (i). Capital spares include both of items taken over from CHPT and new items purchased by the operator. CCTL has depreciated the new assets as per the rates prescribed in the Companies Act and the old assets taken over from CHPT have been depreciated on the remaining useful life of the assets. With the given rate of depreciation shown in the calculation by CCTL, this position could not be verified. With respect to other assets taken over from CHPT, depreciation has been calculated based on remaining useful life of the assets. This position as reported by CCTL is relied upon.
- (ii). The business operating system and information technology hardware have been depreciated at 20% and 33.33% respectively, reportedly based on the Companies Act, 1956 provision. These reported rates are seen not to have been explicitly prescribed in Companies Act, 1956.

Likewise, in respect of tractor / trailer, fuel bowser / fork lift and workshop tools depreciation adopted by CCTL are seen not to have been prescribed in the Companies Act, 1956. A comparison of the list of items taken over by CCTL from CHPT as per the licence agreement does not mention these asset items except tractors / trailer. It has to be recognized that the Companies Act does not prescribe a specific depreciation rate for each and every asset employed by a company. It allows some freedom to the management to decide the rate of depreciation in such cases within the broad guidelines prescribed. That being so, the estimates of depreciation in respect of the business operating system and information technology hardware and other equipments like tractor trailer, fork lift, etc., furnished by the CCTL are taken into account without any modification.

- (u). (i). CCTL has considered 12 days of annual revenue as sundry debtors for the purpose of working capital. Clause 2.9.9. of the revised tariff guidelines prescribes a ceiling of two months estate income and railway terminal charges as sundry debtor balances. Since CCTL does not recover estate income/railway terminal charges, amount of sundry debtors is considered as Nil.
- (ii). On the ground that the operator pays royalty and lease rental charges in advance to CHPT in line with the LA, the operator has considered prepayments as an item of current assets for all the years under consideration. It is argued that such payments are valid business payments arising out of the obligation under the

LA. The prepayments considered by CCTL are not taken into account for the purpose of assessment of working capital, since the prepayment is not an item prescribed for consideration as working capital in the guidelines.

- (iii). The revised tariff guideline has prescribed a limit of six months' average consumption of stores excluding fuels in the case of items of inventory. Stating that the estimates are within the prescribed norms, CCTL has projected Rs.515 lakhs, Rs.573 lakhs, Rs.580 lakhs and Rs.611 lakhs for the years 2006 to 2009 respectively. The estimated inventory allowable as per norms could not be verified in the absence of estimated annual consumption of inventory. The position reported by CCTL is relied upon.
 - (iv). CCTL has considered cash balance at a very nominal level and much below the limit of one month's cash expenses prescribed in the revised tariff guidelines. The cash balance is allowed upto the limit prescribed in the revised tariff guideline.
 - (v). The current liabilities as estimated by the CCTL are considered without any change for all the years under consideration.
- (V). (i). The capacity of the terminal considered at the time of last review of tariff at CCTL was 7 lakh TEUs per annum and the return on equity was allowed adjusted to capacity utilisation of 79% and 87% for the years 2004 and 2005, respectively. CCTL in its current tariff proposal has conveyed the capacity of the terminal, supported by workings, at the level of 633600 TEUs and 700598 TEUs for the years 2004 & 2005, respectively. Considering the actual container traffic for the years 2004 and 2005, and taking into account the revised capacity conveyed by CCTL, the capacity utilisation works out to 94.69% and 99.93%, respectively.

Contending that maximum permissible return of 20% should be allowed for capacity utilisation of 60% and above, CCTL has claimed maximum return on equity for these two years. The stipulation of allowing maximum permissible return for capacity utilisation of 60% and above contained in the revised tariff guidelines which came into effect from 31 March 2005, cannot have retrospective application. It is to be further noted that approach adopted by this Authority for allowing maximum return on equity during the last review of tariff needs to be kept in view for analysis of the past performance. Thus, return on equity at 20% adjusted to the revised capacity utilisation is considered.

- (ii). The capacity of the terminal is assessed by CCTL at 862978 TEUs for 2006, 914033 TEUs for 2007, 941720 TEUs each for 2008 and 2009. The CHPT has, however, conveyed the capacity of the CCTL at 10 lakh TEUs per annum as reportedly assessed by the Indian Ports' Association. If the addition of one crane is also taken into account, the effect of the additional crane will be about 1 lakh TEUs, as stated by CHPT.

The CCTL has proposed addition of one quay crane during the last quarter of the year 2007. Taking into consideration this additional quay crane, the capacity of CCTL will be 10 lakh TEUs each for 2006 and 2007 and 11 lakh TEUs each for 2008 & 2009, according to CHPT.

Notwithstanding the existing quay cranes or any addition of quay cranes, the effective capacity at CCTL is dependent on the yard capacity, which is a limiting factor as seen from the workings furnished by CCTL. It would have been useful to further examine the position reported by CCTL, had CHPT furnished detailed computation of capacity of the terminal. CHPT has not furnished computation of assessment of CCTL capacity, though we asked for it. In this backdrop, the capacity of the terminal as estimated by CCTL, is taken into consideration for the purpose of allowing return on capital employed.

- (iii). Taking into account the actual traffic of 829307 TEUs and considering the capacity of the terminal at 862978 TEUs, the capacity utilisation works out to 96.10%. The cut off point for maximum permissible return is 60%. Since the actual capacity utilisation for the volume projected is seen to be more than 60% for the year 2006, maximum permissible return of 15% is allowed on the moderated capital employed.
- (w). The analysis shows that CCTL has earned a total additional net surplus of Rs. 36.13 Crores after ROE for the years 2004 and 2005. A comparison of the physical and financial performance of CCTL in the said two years between the updated estimates and the actuals shows that the variation is within 20% as prescribed in Clause 2.13 of the revised tariff guidelines. Hence, no adjustment of the additional surplus earned by CCTL in the said two years is made. With reference to the performance of CCTL for the year 2006, the actual position shows that CCTL had earned a net surplus after ROCE of Rs.9.69 Crores.

The updated estimates for the years 2004 and 2005 show an aggregate net surplus after return of Rs.1166.74 lakhs for an aggregate throughput of 1159011 TEUs for the years 2004 and 2005. Out of the total net surplus after return of Rs.969.15 lakhs earned by CCTL during 2006, surplus at

the level of previous years calculated on per TEU basis is allowed to be retained by CCTL. The balance of Rs.134.31 lakhs needs to be adjusted in future tariff. 50% of this additional surplus is set off equally in the next tariff cycle of three years.

- (vi). The CCTL has considered 12.5% container traffic growth for the year 2007 over the preceding year 2006. In that case, considering the actual traffic of 2006 at 829307 TEUs handled by CCTL, the traffic for 2007 works out to 932970 TEUs. However, keeping in view the designed capacity of 914033 TEUs for the year 2007, the traffic estimate of 914952 TEUs made by CCTL for the year 2007 is considered.

The traffic estimates for the years 2008 and 2009 are lower than the estimated traffic for the year 2007. The reduction for the years 2008 and 2009 is based on the impact of the reported commissioning of the 2nd container terminal at CHPT in the year 2008. The operator has repeatedly maintained that fixation of tariff without considering the anticipated volume decrease would be prejudicial to its tariff proposal. Since the 2nd container terminal operator has already been issued with Letter of Intent in November 2006, as confirmed by CHPT, there is a case to factor effect of the 2nd container terminal while estimating the traffic of CCTL. It is relevant here to mention that CHPT has also indirectly endorsed the position maintained by the operator and recommended acceptance of traffic projections made by CCTL.

CCTL maintains that the 2nd terminal would commence operations even from January 2008, though it has considered the effect of commencement of operations by the 2nd terminal from 1 July 2008 in its traffic estimation for the year 2008. Since the 2nd terminal operator has to complete the construction within 18 months from March 2007, as stated by the CHPT, it may be reasonable, to reckon with the impact of the commissioning of 2nd terminal from the last quarter of the year 2008 instead of July 2008 on the traffic estimate made by CCTL for the year 2008.

CCTL has estimated its container traffic for the year 2008 at 865,521 TEUs. On the basis of 12% market share of the second container terminal out of the total volume of 10,29,321 TEUs at CHPT, CCTL has estimated 1,20,000 TEUs to be handled by the second operator for a period of six months from July 2008. Since the second operator may commence operations in the last quarter of 2008, CCTL may handle 60,000 TEUs in addition to its estimated traffic of 865,521 TEUs. Thus, 9,25,521 TEUs are considered as the traffic at CCTL for 2008.

The estimated traffic of 7,49,346 TEUs for the year 2009 reported by CCTL is relied upon duly recognising the impact of the anticipated commencement of the 2nd container terminal. However, if any undue advantage is found to have accrued to the terminal operator due to wrong estimation, the additional surplus so earned will be adjusted fully.

- (vii). In computation of income arising out of dollar denominated tariff, the CCTL has adopted the exchange rate of Rs.43.50 per US\$ for the years 2007 to 2009 based on the advice it has received from some banks. The conversion of dollar denominated tariff in Indian rupees for the purpose of estimation of operating income for review purpose depends on the prevailing exchange rate at the time of finalization of tariff case. The operator has argued that consideration of the prevailing exchange rate and ignoring the effect of foreign exchange fluctuation on projected income from dollar denominated tariff will be against the provision in the revised tariff guidelines. But then, CCTL has considered a uniform rate of Rs.43.50 per US\$ for all the three years under consideration. In the event of fluctuation in the foreign exchange rate, the rate of conversion may not remain constant for a period of 3 years. The income estimates of CCTL arising on account of dollar denominated tariff are updated based on the prevailing exchange rate of Rs.44.18 per US\$.
- (viii). The estimation of gross revenue made by CCTL is generally relied upon for this analysis except adjustment for foreign exchange rate for dollar denominated tariff and the additional income that may arise due to adjustment of traffic projection for the year 2008. The estimated operating expenditure, as furnished by CCTL, in respect of power and fuel, royalty, equipment hire and lashing / unlashings, is based on the CCTL estimated volume of container traffic. Therefore, the impact of handling additional TEUs in the year 2008 on the above mentioned expenditure items is considered in the cost statement.

The CCTL has estimated storage income of around Rs.149 lakhs, Rs.138 lakhs and Rs.120 lakhs for the years 2007 to 2009 respectively against the estimated storage income of Rs.373 lakhs during the year 2006 and actual storage income of Rs.772 lakhs during the year 2005. As can be seen here, there is a declining trend in the estimated storage income. The CCTL has mentioned that the average dwell time during the year 2005 has been 3.26 days and estimated a reduction in the average dwell time to 2.5 days in the year 2006 and it is further estimated, as per the capacity calculation, to 2.3 days each during the years 2007 to 2009. The anticipated reduction in this average dwell time is accepted as the CCTL is constrained by yard space and it is necessary for CCTL to evacuate import containers quickly. It is relevant here to mention that the CCTL has envisaged movement of import containers to off dock CFSs within 3 days of landing at containers. The storage income as estimated by CCTL for all the years under consideration are considered in this analysis.

The estimated income for the years 2007 to 2009 arising out of the proposed new services viz. charges for export containers arriving in the terminal after the gate cut off time, non declaration/mis-declaration of ODC, facilitating fumigation services and forklift charges for movement of lashing bins within the terminal and CFS Bonded Trucking services are considered without any change.

- (ix). Considering the estimated container traffic of 914952 TEUs and the estimated capacity of 914033 TEUs for the year 2007, the CCTL would marginally surpass

the estimated capacity. Taking into account the modified traffic estimate of 925,521 TEUs for the year 2008 and 749,346 TEUs for the year 2009 and the estimated capacity of 941,720 TEUs each for the year 2008 and 2009, the capacity utilisation works out to around 98% and 80% respectively for the said two years. Since the estimated capacity utilisation is seen to be more than the cut-off limit of 60%, maximum permissible return of 15% is allowed on the moderated capital employed for the years 2007 to 2009.

- (x). Subject to the discussion above, the cost statement has been modified. The modified cost statement is attached as **Annex-I**. The result disclosed by cost statement at the existing level of tariff is summarized as shown in the table given herein under:

Sr. No	Particulars	Operating Income (Rs. in crores)				Net Surplus(+)/ Deficit(-) (Rs. in crores)				Net Surplus(+)/Deficit(-) as a % of operating Income		
		2007	2008	2009	Total	2007	2008	2009	Total	2007	2008	2009
1	CCTL as a whole	229.14	231.09	186.71	646.95	4.33	4.16	-23.39	-14.90	1.89%	1.80%	-12.53%

As can be seen from the above table, there is a *prima facie* case for increase in tariff over the existing level. However, the deficit shown by the cost statement for the year 2009 is purely on account of the anticipated diversion of traffic to the second terminal.

Even though it is certain that the licence for second container terminal has been awarded, the timing of commissioning of that terminal and the quantum of possible diversion of traffic can not be anticipated with any degree of certainty. That being so, this Authority finds it not reasonable to give advance effect to the anticipated and uncertain reduction in traffic in 2009 by allowing tariff increase for the years 2007 and 2008, which are otherwise reporting a surplus position. A clear position about the second terminal will emerge possibly by the later part of 2008. Therefore, this Authority would like to maintain *status quo* in tariff levels for the years 2007 and 2008, and, if necessary, to consider any tariff adjustment for the year 2009 at a later stage. It is noteworthy that this Authority had adopted the approach of allowing stepwise tariff increase within the tariff validity cycle of 3 years at some other private terminals also.

If the aggregate net surplus of Rs.848.61 lakhs for the years 2007 and 2008 is adjusted with the estimated deficit of Rs.2339.55 lakhs for the year 2009, the resultant net deficit will be 8% of the estimated operating income for the year 2009. Bearing in mind the fact that the permissible level of revenue share pass through considered in the estimate will increase with the increase in operating income due to upward revision of tariff, the increase in tariff warranted for the year 2009 will be about 11%, if the position presented by CCTL actualises.

In the result, this Authority decides that the existing tariff will be valid for the period till end of 2009, subject to the following:

- (a). If there is any significant traffic diversion from the CCTL on account of commissioning of the second terminal, the Terminal Operator may, on or before 30th November 2008, apply to this Authority with relevant details for adjusting the tariff for the year 2009. This Authority will take the following factors into consideration and determine the quantum of revision in the tariff to be allowed:

- (aa). The increase in tariff warranted for the year 2009, taking into consideration that all factors as provided in this proceedings are true, would be 11%. If this does not turn out to be true the estimate increase of 11% would have to be readjusted.
 - (ab). Ascertaining the developments relating to the commissioning of the second terminal and the container traffic position from the Chennai Port Trust (CHPT).
 - (ac). Audited actual results of CCTL for the period from January 2007 to September 2008, for adjusting the surplus, if any, in the financial position for the year 2009 with reference to the admissible items of cost.
- (b). On the above basis, this Authority will review the tariff for the year 2009 and pass appropriate Order on or before 31 December 2008, to enable CCTL to levy the applicable revised tariff if any with effect from 1 January 2009.
 - (c). If continuance of the existing tariff during the tariff cycle of 2007 to 2009 or the revised tariff, if any, for the year 2009 is found to have allowed the Operator to earn additional surplus due to any wrong estimation, such surplus will be adjusted fully in the next cycle.
- (xi). As admitted by CCTL, its tariff proposal is not based on itemwise cost for each tariff item. CCTL was requested to furnish cost elements considered in the proposed charges. CCTL has pleaded its inability to provide such information. Since the proposed tariff for individual services is not with reference to the cost of providing the respective services, the deficit making activity is cross subsidized by the surplus making activities, as acknowledged by the operator. The CCTL is advised to gear up its internal system so that it can draw up its proposal supported by cost details for individual activities at the time of next review of its tariff.
 - (xii).
 - (a). To our suggestion to indicate benchmark levels of productivity for inclusion in the Scale of Rates as conditionalities governing the respective tariff items, CCTL has proposed 22 moves, 23.50 moves and 25 moves per hour per crane for the years 2007, 2008 and 2009 respectively for the revised tariff arrangement at CCTL. Accordingly, these average productivity levels have been incorporated as a conditionality governing the tariff items for handling containers by quay crane.
 - (b). The CSLA has raised a point regarding the improvement needed in crane productivity from the reported level of 25 moves per hour at CCTL. Even with the increased productivity level of 22 moves per hour estimated for the year 2007 from 18 Moves, the CCTL has shown 12% saving per TEU for the shipping lines. There may be further savings to the shipping lines

when the estimated higher levels of crane productivity materialise in the year 2008 and 2009 at CCTL.

- (xiii). When the corner points in the container where the container is lifted with a spreader are damaged, a normal container spreader may not be used to handle such container. CCTL has clarified that in such circumstances, special gear has to be used and handled similar to an ODC. That being so, it may not be unreasonable to levy charges on such containers having damaged corner points (corner casting problems) at the rate applicable for an ODC. Therefore, the proposal of the CCTL to insert the sentence "including boxes having corner casting problem" in the existing definition of ODC is approved.
- (xiv). The CCTL has to earmark a specified stack area for stacking the import containers of accredited consignees. CCTL has proposed 3 days within which such containers should be moved out from the designated stack area failing which the operator envisages to shift the container to the normal import stack area at the cost of the importers. It is reasonable to prescribe a time limit within which such container should be cleared from the designated stack area. Considering the yard capacity, which is a limiting factor at CCTL the proposed time limit of 3 days is approved. Since the special arrangement is a procedure envisaged by the customs department, the proposed description of "Accredited Client Programme" is incorporated in the Scale of Rates of CCTL, as proposed.
- (xv). The proposed general note 2.6(ii) to prescribe rate of penal interest on delayed payments / refunds is modified to reflect the applicable penal rate of interest in terms of prevailing 12.25% PLR of SBI and Clause 2.18.2 of the revised tariff guidelines.
- (xvi). (a). The revised tariff guidelines state that the users will not be required to pay for delays beyond the reasonable level attributable to port. In view of this, it was suggested to incorporate a provision stating that storage charge shall not accrue for the period during which CCTL is not in a position to deliver / shift the containers when requested by the users. The CCTL has argued that the wording in the provision is ambiguous and may lead to frivolous claims. It is relevant here to mention that this Authority has already prescribed this conditionality in the Scale of Rates of private terminals and port trusts such as India Gateway Terminals Pvt Ltd., (IGTPL), Visakha Container Terminal Pvt Ltd., (VCTPL), New Mangalore Port Trust (NMPT), Chennai Port Trust (CHPT), Visakhapatnam Port Trust (VPT), Kolkata Port Trust (KOPT) and Gateway Terminal India Private Limited (GTIPL) which were decided after notification of the revised tariff guidelines and no such complaints of frivolous claim are received so far. The relevant provision is, therefore, incorporated in the Scale of Rates of CCTL.
- (b). Since the berth hire charges for vessels handled by CCTL are collected by the CHPT as per the terms of Licence Agreement, CCTL was advised

to incorporate a conditionality to refund berth hire charges to the vessels for the period when the vessels idle at its terminal when operations cannot take place due to failure / break-down of the shore based facility. This also flows from the principle of not requiring user to pay for delays beyond the reasonable level attributable to port / operator. The CCTL has, however, sought to argue that there is no system of reward or penalty currently applicable on the services provided by the ports and the substantial saving accrued to the users due to faster turnaround of the vessels has not been passed on the CCTL and delays also should not warrant any penalty. It is, therefore, not agreeable to incorporate the provision.

This conditionality has already been prescribed in the Scale of Rates of the IGTPPL, SWPL, VSPL, GTIPL and VCTPL and recently in the Scale of Rates of International Seaports (Haldia) Pvt Ltd., (ISHPL). Even in case of some of the ports which have come for revision after implementation of revised tariff guidelines like CHPT, VPT, NMPT, KOPT a condition is prescribed to the effect that berth hire charge shall not be levied for the period of idling of vessels for reasons attributable to port.

There is no reason why the provision prescribed in case of other terminals in this regard should not be made applicable to CCTL particularly when such provision is based on the principles set out in the tariff policy guidelines issued by the Government. A suitable conditionality requiring CCTL to allow rebate equivalent to berth hire accrued during the period of idling of vessels on account of reasons attributable to the terminal is included in the Scale of Rates of CCTL. The general principle stipulated in Clause 2.15 of the revised tariff guidelines that the users will not be required to pay charges beyond the reasonable level attributable to the CCTL is also to be incorporated in the Scale of Rates of CCTL. If CCTL proposes a suitable efficiency linked tariff model within built in penalty and reward scheme, such proposal will be taken for consideration.

- (xvii). Arguing that the various factors which govern the date of entry of a vessel into the port limit are not in the control of CCTL, and that the CCTL provides the services only when the vessel has actually berthed at the terminal, the operator has maintained that the date of entry of vessel into the terminal is more appropriate than the date of entry of vessel into the port limit for application of market buying rate for conversion of dollar denomination charges in case of import containers. Clause 2.19.2 of the revised tariff guidelines prescribes a specific formulation, which is followed without any difficulties at other private terminals in the country. The proposed note 2.3 is suitably modified to reflect the position contained in the relevant revised tariff guideline.
- (xviii). (a). The proposed charges for handling containers include provision of lashing/ unlashng services. When asked to propose rebate based on cost of rendering lashing / unlashng services, when such services are not

provided by CCTL, the operator has proposed a rebate of Rs.10 per container along with conditionality to grant rebate. Based on the actual lashing / unlashings and survey expenses relevant for the years 2004 to 2006 as communicated by CCTL the average works out to Rs.34 per TEU. Since the break up for lashing unlashings and survey expenses is not made available, Rs.30 per container is prescribed as rebate to be given by CCTL when it does not undertake lashing / unlashings services. Incidentally, a rebate of Rs.36 per container approved in the Scale of Rates of the GTIPL, Rs.26 per container approved in the Scale of Rates of NSICT and JNPT.

- (b). It appears that the arrangement of lashing / unlashings services at CCTL are not a container specific; but, vessel specific. The service is either provided for a vessel or not provided. CCTL has further stated that the users must have prior consent of CCTL for not availing the said service. This Authority does not have reservation to approve the above conditionalities, including the proposed conditionality that the grant of rebate is subject to the shipping lines agreeing to follow the prescribed safety regulations.

- (xix). (a). CCTL has proposed a new provision to levy storage charge for over dimensional containers based on the actual number of ground slots occupied.

There is mixed response from the users to the proposed storage charges for over dimensional containers. Though the CCTL will have more yard space with enblock movement of containers, as rightly pointed out by the CEPSAA and agreed by CCTL, the operator may need to be compensated for the extra ground slot occupied by an over dimensional container. There is some force in the argument of CCTL to levy storage charges based on the space occupied by an over dimensional container. Notably, a premium of 25% has been prescribed for storage charge leviable on ODC in the Scale of Rates of other private operators like VCTPL, GTIPL and PSA SICAL. But, the revised arrangement proposed by CCTL appears to be reasonable and is approved. In this context, it may be relevant to take note of the fact mentioned by CCTL about the shipping lines charging over dimensional consignment on the same method.

- (b). The existing 15 days free storage period prescribed for ICD containers is proposed to be reduced to 10 days on the ground of reduction in the average dwell time to below 4 days. While the users have welcomed the proposal, they have apprehensions regarding delivery of the containers within the (reduced) free period. As rightly brought out by CCTL, the ten days free dwell time is above the currently reported 4 days. By operation of the general conditionality introduced, the users will not be required to

pay storage charges for the period during which the CCTL is not in a position to delivery the containers when requested by the users.

- (xx). Another tariff item proposed by CCTL is towards facilitating fumigation to tobacco containers. It appears that the CCTL has been levying an amount of Rs.2000 per 40' container to render the fumigation services. The rate of Rs.2000 is a derived rate from the existing relevant tariff items, as clarified by the operator. Now, a consolidated rate has been proposed.

The CHPT has categorically stated that the fumigation services rendered by CCTL are within the scope of License Agreement and the rate for the services is required to be fixed by this Authority. It is noteworthy that the CHPT was collecting charges for the fumigation services rendered by it to some general cargo earlier. Since the operator has been charging for the fumigation services rendered to the users and bearing in mind that no user has objected to the proposed tariff item, proposed tariff item is approved. Nevertheless, CCTL is advised to seek the authorisation of this Authority before levy of a new tariff at its terminal in future, by following the procedure prescribed in the revised tariff guidelines.

- (xxi). For accepting an export container at the gate of the terminal after the cut-off time specified for a particular vessel, the CCTL has proposed to levy a new tariff. From the list of services described by CCTL to handle such containers, it is seen that such containers entail additional shifting within the terminal; and, the charge prescribed for shifting within the terminal is proposed to be levied for handling such containers. No user has objected to this proposal. The respective tariff approved for shifting of respective category of container within the terminal may be made applicable for handling the export containers arriving in the terminal after the gate cut-off time.
- (xxii). In the existing tariff arrangement, there is a provision to levy charges if a hazardous container is not declared so. This existing provision is proposed to be extended to cover a situation when an over dimensional container is not declared so. As rightly clarified by CCTL, when a container is declared as an ODC after arrival at the terminal, the operator has to organise the requisite handling equipments and arrange for sufficient storage space after physically sighting the over dimensional container at the terminal. This may lead to delay in handling other containers. The proposed inclusion of the over dimension container in the existing tariff item will and avoid delay in handling other containers and hence is approved.
- (xxiii). The proposed rate of Rs. 100 per lashing bin to handle the bin which is used to store lashing material using CCTL's forklift truck is approved, as provision of this service involves cost to CCTL. If this cost is not captured by a separate tariff item, it would have resulted in revision of some other general rate.

- (xxiv). Initially, CCTL proposed two new tariff items for providing bonded trucking services. These two tariff items relate to the optional service of consolidation and dispatch of cargo of various consignees to Bangalore and to other destinations. Subsequently, the CCTL has requested this Authority not to notify the rates on the ground that the bonded trucking service offered by the operator to its customer to a facility outside the port area is not within the provisions of MPT Act. On the other hand, CHPT, the licensor, has taken a stand that the bonded trucking service will come under the scope of Section 42 of the MPT Act and stated that this Authority has powers to fix rates for such services and has conveyed port's entitlement for royalty on the revenue earned by CCTL for rendering the said service.

The CCTL is a special purpose company to perform functions under the licence agreement with the CHPT which authorises it to perform the identified services specified under Section 42 of MPT Act. If the service is not under Section 42, it is not clear whether CCTL can provide such service. That being so, the service undertaken by CCTL is with authorisation of the licensor under Section 42 of the MPT Act. In that case, any tariff levied on this account requires approval of this Authority under Section 48 of the MPT Act. It is noteworthy that the users have option either to avail the said services from the CCTL or any other agency, as clarified by CHPT. Incidentally, the users have strongly suggested to incorporate the bonded trucking charges in the Scale of Rates. The proposed rates for bonded trucking services are approved.

- (xxv). The CCTL has confirmed that the proposed concessional rates for coastal containers are in line with revised tariff guidelines.
- (xxvi). The CCTL has considered to reserve ground slot for 7 days in respect of export containers identified for weekly call of the vessels and 5 days in respect of export containers identified for bi-weekly calls of the vessels. A suitable conditionality in this regard is incorporated.
- (xxvii). The extended six months validity of the existing Scale of Rates of CCTL beyond 4 June 2006 has expired on 4 December 2006. The existing Scale of Rates is deemed to be valid beyond 4 December 2006 till the effective date of implementation of the revised scale of rates at CCTL.
- (xxviii). The revised tariff guidelines prescribe tariff validity cycle of 3 years. Since the financial and traffic position considered for the purpose of this analysis is only till 31 December 2009, the validity of the revised Scale of Rates will also expire on 31 December 2009 subject to the provisions mentioned in sub para (x) above.

15.1. 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 CCTL which is attached as **Annex-II**.

15.2. The revised Scale of Rates and conditionalities of the CCTL will come into effect after expiry of 30 days from the date of notification in the Gazette of India and shall be in force till 31 December 2009 subject, however, to the stipulation prescribed under paragraph 14 (x) above. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

15.3. The validity of the existing Scale of Rates of the CCTL is deemed to have been extended beyond 4 December 2006 till the effective date of implementation of the revised Scale of Rates.

15.4. The tariff of the CCTL has been fixed relying on the information furnished by the operator and based on assumptions made as explained in the analysis. If this Authority, at any time, during the prescribed tariff validity period, finds that the actual position varies substantially from the estimates considered or there is deviation from the assumptions accepted herein, this Authority may require CCTL to file a proposal ahead of the schedule to review its tariff and to set-off the advantage as per the revised tariff guidelines accrued on account of such variations in the revised tariff.

In this regard the CCTL is required to furnish to this Authority through CHPT its annual accounts and performance report within 60 days of closing of the respective accounting year. If CCTL fails to provide such information within the stipulated time period, the CHPT may initiate appropriate action against CCTL. In the event, this Authority may proceed suo motu to review the tariff of CCTL. This apart, analysis of variation will also be made at the time of the next general review at the end of the usual tariff validity period and adjustment of additional surplus will be made in line with the revised tariff guidelines in the tariff to be fixed for the next cycle.

(A.L. Bongirwar)
Chairman