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Tariff Authority for Major Ports

G.No. 91

New Delhi, 21 May 2004

NOTIFICATION

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

(**A.L. Bongirwar**)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/82/2003-CCTL

The Chennai Container Terminal Limited

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Applicant

ORDER

(Passed on this 4th day of May 2004)

This case relates to the proposal received from the Chennai Container Terminal Limited (CCTL) for review of its tariff.

2.1. The Scale of Rates of the CCTL fixed initially in March 2002 was valid till 14 September 2003. In compliance with the policy direction issued by the Government of India dated 7 November 2003 under Section 111 of the Major Port Trusts Act, 1963 to the effect that TAMP may review and revise tariff in the case of CCTL so as to take into account royalty / revenue share for tariff fixation subject to a maximum of 27%, this Authority passed an Order on 27 November 2003 approving on an interim basis an across-the-board increase of 17% over the (then) existing Scale of Rates of the CCTL and advised the CCTL to submit its proposal for tariff review on or before 15 December 2003. The validity of the interim Scale of Rates was extended, from time to time, beyond the earlier stipulated date.

2.2. In compliance with the Order passed by this Authority, the CCTL has filed its tariff proposal.

3.1. The salient points of the proposal made by the CCTL are as under:

A. Tariff Structure

(i). ICD Traffic

Efforts to attract the volumes from various ICD destination outside Chennai have been considered through strategic pricing. Lower transportation and yard handling charges for ICD origin and destined containers as compared to local deliveries have been proposed.

(ii). Transshipment Containers

Composite handling charges for transshipment containers has been increased by 100%. Even after this increase, the revised rate will be 75% of the charges for load and discharge activity.

(iii). Reefer Containers

Tariff for reefer connection charges has been increased to meet the cost of plug-unplug, monitoring and electricity. The existing charges do not even cover the variable cost of electricity.

(iv). LCL de-stuffing / stuffing charges

Current tariff levels are un-remunerative. Keeping in view the existing tariff levels at CFS around the terminal, the charges have been suggested. The increase will be compensated by the proposed lower demurrage / crantage charges for CFS activities to some extent.

(v). Import storage charges

The current dwell time of containers in the yard is serious concern. With an effort to encourage the trade to move the import containers out of the terminal, increase in free days from 3 to 4 has been proposed. If the containers are not moved out within the free days, ground rent charges will be applicable from the following day of the

discharge of the containers from the vessel. In order to discourage long staying, storage rate has been increased by 100%.

Free time of 15 days is proposed to be allowed for ICD containers only if the documentation is completed within 48 hours of discharge. Otherwise, ground rent will be payable from the following day of discharge.

(vi). Demand from Customs

The Customs office has demanded a sum of Rs.38 lakhs towards the cost of posting the Customs staff during the period July 2003 to June 2004. The expenses have been incorporated in the tariff for future period.

B. Containers volumes

Traffic handled during 2002 was 3.96 lakhs TEUs. Traffic projection for 2003 is 4.89 lakhs TEUs. This exceptional increase of 23.50% over the normal growth is due to diversion of traffic from Tuticorin and Chennai on account of increased efficiency. However, the present trend of growth is 12%. Anticipated traffic growth for 2004 is 13% and for 2005 is 10%. Accordingly, traffic is estimated to be 5,50,310 TEUs for 2004 and 6,05,341 TEUs for 2005.

The container mix has been based on the trend seen during 2003. However, increase in ICD volumes have been considered.

C. Revenue assumptions

The CCTL has considered the exchange rate for 2004 and 2005 as under:

Year 2004	-	1 US \$ = Rs.46.55
Year 2005	-	1 US \$ = Rs.47.02

D. Expense assumptions

- (i). Increase in wages at 12%
- (ii). Increase in diesel prices at 6% for 2004 and 2005.
- (iii). Increase in electricity charges at 10% for 2004 and 2005 against the 16.28% increase in electricity tariff faced in 2003.
- (iv). Depreciation rates in line with the provisions of Companies Act.
- (v). Overheads have been estimated in line with the present trend.
- (vi). Inflation rate for all overheads has been assumed at 6% except for fuel / electricity / labour.
- (vii). It has requested this Authority to allow management fees (payable to P & O Ports) as allowable expense appreciating the distinction between return of financial investment and payment for availing any services.
- (viii). It has stated that on account of differential between 27% royalty allowable and return allowed since commencement of operation, the company has suffered and requested this Authority to consider this in detail in the current tariff fixation.

3.2. The CCTL has proposed the following:

A. Increase in Charges: (with reference to initial tariff fixed in March 2002)

(i).	Consolidated stevedoring charges including transportation (excluding wharfage)	45% - 50%
(ii).	Destuffing the containers	150%
(iii).	Transport and lifts (LCL 20' and LCL 40')	50%
(iv).	Transport and lifts (ICD containers)	25%
(v).	Lift on or lift off charges	34%
(vi).	Additional transportation	25%
(vii).	Transshipment	100%
(viii).	Wharfage per container	45%
(ix).	Premium for hazardous boxes on stevedoring, wharfage, lifts and storage.	25%
(x).	Hatch cover of vessels, restows and shut out charges	80%
(xi).	Reefer charges	85%
(xii).	Extra movement / transportation / shifting within the terminal	45%
(xiii).	Storage charges	100%

B. Some of main provisions / changes proposed in the Scale of Rates

- (i). The existing composite rate for transportation of containers to / from quayside, lift on / off at CY and landing / loading from / to Customer's vehicle has been segregated into two different rates, namely (a) transportation service to / from quayside and (b) for lift on / lift off, delivery / receipt to and from Customer's vehicle.
- (ii). A new provision for levy of additional lift on / lift off charges in case of delivery of an empty container after destuffing at CFS has been proposed.
- (iii). The charges for transportation of ICD container from / to quay to rail yard is lower than the charges for transportation of normal container from / to quay to yard.
- (iv). 50% premium for storage of hazardous container has been proposed.
- (v).
 - (a). Free period for export containers has been reduced from 7 days to 4 days (In a subsequent communication dated 6 February 2004, the CCTL has reverted to 7 days free period for export containers)
 - (b). The existing free period of 3 days for import containers is proposed to be increased to 4 days.
 - (c). If the import containers are not moved out of the terminal the ground rent charges will be applicable from the subsequent day of the discharge of the containers from the vessel.
 - (d). In respect of ICD containers though the existing free period of 15 days is proposed to be continued, the CCTL has proposed that the storage charges shall be applicable from the day following the date of landing up to the date of loading / delivery of containers if ICD documentation is not submitted within 96 hours of discharge of containers.
 - (e). The existing free period of first 3 days in respect of import empty containers and first 7 days of export empty containers is proposed to be removed. The CCTL has proposed to charge empties from the following day of landing.
- (vi). Tariff for new items like forklift charges, packing / unpacking charges at the request of the customers, palletization / depalletization charges and other miscellaneous services have been proposed.

4.1. The CCTL requested to maintain confidentiality of the cost details submitted as a part of the proposal with a request not to circulate them. Request for withholding any such information on the ground of confidentiality can be entertained provided a suitable explanation is given. We, therefore, informed the CCTL, vide our letter dated 10 December 2003, about circulating the proposal as received. The CCTL vide its letter dated 17 December 2003 stated that its cost structure, investment plans and balance sheet information will be exposed to its competitors if the proposal is circulated as such and requested to circulate the draft Scale of Rates, the proposed increase and the covering letter disclosing the assumptions and the basis on which the financial have been made. It also cited clause 8.1. of the Tariff Evaluation Procedure in support of its request not to circulate the financial information. Therefore, in accordance with the consultative procedure prescribed and in line with the clause 8.1 of the Tariff Evaluation Procedure, the proposal of the CCTL containing draft Scale of Rates, existing and proposed rates, Traffic and Income forecast was forwarded to the Chennai Port Trust and concerned port users / representative bodies of port users for their comments.

4.2. A copy each of the comments received from the users was forwarded to the CCTL for its comments / information.

5.1. On a preliminary scrutiny of a proposal, the CCTL was requested vide our letter dated 13 January 2004 and 8 April 2004 to furnish additional information / clarification on various points.

5.2. In response to the queries raised by us the CCTL vide letter dated 6 February 2004, 3 March 2004 and 16 April 2004 has furnished the following clarifications / additional information:

I. FINANCIAL / COST STATEMENTS

- (i). CCTL has furnished unaudited figures for the year 2003.
- (ii). The date of commissioning of extended terminal is 19th August 2002. The designed capacity of Chennai Container Terminal after handing over of Stage II with the equipments proposed is 6,24,000 TEUs being minimum of the following:

(a).	Equipment Capacity (6 QC)	Average 104,000 teus per crane
(b).	Yard Capacity with average 4 dwell days	Average 647,032 tues

With the present dwell days of approx 5.1 days the yard capacity is only 507,476 teus.

The company is making efforts with the lines to have them move their boxes out to the CFS facilities at the earliest or get their customers to take delivery at the earliest given that yard space is at premium and would limit the long term capacity of the terminal. The company does not look at storage as a "source of revenue" or a "profit source" as it would rather have the de-congested yard & enhance in the future the wharf capacity by installation of additional quay cranes.

- (iii). Traffic estimates are derived from our estimates of Indian trade and the traffic growth of the Chennai hinterland as well as the capacity of the container terminal determined on the basis of quay length, back up area, equipment and infrastructure limitations. Keeping in view the present trend of 12% growth rate and considering the fact that the competition will be on rise with VCTPL, Tuticorn, Cochin etc. we have projected a growth of 12% for 2004 and 10% in 2005.
- (iv). CCT terminal capacity is restricted by dwell time of the containers. Dwell time of the containers can be controlled by the tariff structure. With present dwell time of approx 5.1 days, capacity is restricted to 507,476 TEUs. In order to achieve the estimated throughput for the year 2004 and 2005, various alternatives are analysed to reduce the dwell time of the containers in the yard. Increased storage tariff will encourage the trade to move the containers out of the terminal immediately. This will result in lower storage income to the terminal but will enable it meet the challenge of catering to the growth of the trade.

- (v). The break up of other income for 2003 is as under:
- (a). Profit on Sale of low performing assets – Rs. 75.60 Lakhs.
 - (b). Income from scrap generated from construction work at site Rs. 80.76 Lakhs.
 - (c). Rental income from space given to contractors for works Rs. 3.74 Lakhs.

No such exceptional extraordinary income is expected in future years.

(vi). Operating and direct labour / maintenance labour

Though the inflation rate considered is @ 6%, increase in the salary has been assumed @12% for the following reasons:

- (a). Salary increases are never based or linked to inflation in the Indian conditions. Inflation is normally one of the components of salary increase.
- (b). The average increase across various industries is between 10% to 15%.
- (c). Port industry requires skilled labour for operation of equipments. Accordingly to retain skilled labour force in the increasing competitive environment, salary increase has to be in par with similar other terminals.

Survey on remuneration in India has been conducted by renowned HR consultants M/s. Hewitt & Associates. According to the survey results, salary for Indian industry is expected to increase by 12.3% in 2004.

(vii). Equipment operating cost

- (a). The increase in power cost during 2003 is mainly on account of introduction of additional 4 new Post Panamax QC's and activation of new reefer points and new yard lightings.

Another reason for increase in units consumed is due to long-standing reefer containers, which have been detained by customs for almost one year. Approx. 42 No. of 40' footer reefer containers were detained by customs and were in the yard for an average of 193 days and around 16 No. 40' footer reefer container detained by customs lying in yard more than 365 days. The trend of long standing container is assumed to continue.

- (b). Escalation in diesel price

The increase should be read as 7% instead of 6%. The average price during 2003 has been approx Rs. 21.84 per litre. Increase of average price of 2003 over 2002 is 15.61%. Though increase over 2002 has been over 15% p.a. only 7% is considered based on last two to three months average. The present rate is around Rs. 23.81 per litre. Given this increase, a higher percentage may be considered.

(viii). Operating equipment depreciation and non-operating equipment depreciation

As per the Companies Act and generally accepted principles for depreciation, the equipment has to be depreciated over its life. The rate of depreciation is arrived at by considering their remaining useful life. In working their remaining useful life the same norms of life of new equipment have been used.

- (ix). (a). The equipment procurement plan given as per the earlier estimates were based on the fact that the CHPT equipments will be fully refurbished and used. However due to the condition in which these equipments were handed

over and non-availability of spares in the market due to technological obsolescence and shut down of companies which manufactured these equipments, CCTL was left with no alternative other than advancing the equipment purchases. The company has already imported 4 new cranes and 10 RTG's for its operations. The RTG procurement in 2004 has been corrected to 3 from 2.

- (b). The breakdown of major civil additions are as under:

Year –2003	(Figures in Crs)
Wharf Refurbishment	Rs. 25.07
New Reefer yard/ Yard refurbishment	Rs. 27.35
Year –2004	
Operating Building	Rs. 12.36
Wharf refurbishment	Rs. 13.95
Yard Refurbishment	Rs.28.77

- (c). The productivity norms and performance standards considered for equipments are as under:

4 New QC's	90,000 containers per annum
2 Old Chpt QC's	60,000 containers per annum
10 New RTG's	63,000 moves per annum
6 Old CHPT RTG's	42,000 moves per annum

The equipment in place & being planned is sufficient to meet the demand that the terminal anticipates in 2004 & 2005. The terminal must be geared to meet peak capacity during the week as vessel calls are not always the same.

- (x). Other expenses

- (a). Customs cost recovery estimates for 2004 and 2005 has been done on the same basis as per their bill with 6% escalation.
- (b). The leased ABG RTG is not in operation as there is court case against the same. For the purpose of tariff computation the hire charges payable under the contract only upto Sept 04 has been considered.
- (c). (i). The lease hire charges on RTG fork-lift and ITV / RS are as per the concession agreement.
- (ii). 8 forklifts are being used for operations at CFS. These are battery-operated forklifts and the hire charges for each is approx Rs. 55,000 per forklift per month during 2003. For 2004 & 2005, 9 forklifts have been estimated to be hired in view of the increased volume projected.
- (iii). The ITV hire charges are in the rate of 110 per TEU.
- (d). The extended terminal of 285 meters was handed over on 19th August 2002. Accordingly, the lease charges for 2002 are only for 4 months. For the year 2003, the lease charges include the full year charge of the extended facility. The increase in lease rentals of 2004/ 2005 is 5% which is as per norms mentioned in the Scale of Rates.

- (xi). Technical services fees

The Technical Service Fees payments are made by CCTL to P&O for provision of various services, which CCTL uses to fulfill its obligations towards CHPT for operating the terminal. Section 92 of the Income Tax Act, inter alia, provides

allowability of above expenses as deduction. Accordingly TSA payments should be considered as reasonable and justifiable business expenses by regulators and allowed for inclusion in the calculation of cost based tariffs. Further, FIPB and RBI have duly approved payment of TSA.

(xii). General Overheads

- (a). The increase in the general overheads is 53% (2002) and 25% (2003) when compared to final cost sheet, which was gazetted as part of the earlier tariff fixation. Increase is mainly due to expenditure on Information Technology (IT), due to automation of various areas.
- (b). Though in percentage terms the marketing/entertainment expenses seem to be estimated with 372% increase, in absolute terms the increase is approx Rs. 40 lakhs. This increase is mainly on account of marketing efforts that need to be put at various places like Delhi, Tuticorn, Hyderabad, Bangalore etc. to retain and increase the volumes at Chennai, given the extreme competition between the new terminals.
- (c). The steep increase in IT related overheads compared to 2002 in 2003 is mainly on account of full year AMC charge for Terminal Operating Software (NOVIS). During 2002 AMC charges paid only for 2 quarters. During 2003 AMC charges have been paid for the entire year. For 2004/2005 the increase is only 5%.

(xiii). Preliminary and upfront payment written off

Institute of Chartered Accountants of India (ICAI) Guidance Notes recommend preliminary expenses be written off over a period of 3-5 years. International Accounting standards require them to be charged as expenses in the very first year. When there is generally accepted principle of accounting of such expenses, it is unreasonable for TAMP to suggest a different method of accounting the cost and writing off over the life of the project.

Upfront payment is being written off over the life of the project. This is again is based on the generally accepted principle. The proposal is based on generally accepted principle and for the purpose of uniformity, TAMP should also follow the same.

(xiv). Other expenses

There was an error in the estimates for 2003, which has been corrected. There is no change in the interest charge as the same is based on actuals.

(xv). Taxation

There are instances of pre-tax and post-tax allowable returns in other regulatory sectors. Investors would prefer to earn a post-tax return to remove the uncertainties arising from income tax regulations. The tariff is fixed for 2 years. The income-tax structures and tax rates are subject to annual revision through Finance Act. Any upward revision of the income tax rate or introduction of surcharge or new tax without corresponding change in the allowable rate of return could adversely impact the return expectation of the investor. Accordingly, the Authority is required to take the tax expenses into account to fix the tariff.

(xvi). Accounts are not maintained on the basis of each activity as this is very cumbersome and difficult to decide the apportionment. Hence an activitywise statement cannot be provided.

(xvii). Separation Payment

The separation payment, which will be received after 30 years, cannot be adjusted today while calculating our tariff. The separation payment will be used to comply with various statutory and procedural requirements.

(xviii). Working Capital clarification

The increase in the working capital compared to 2002 is mainly on account of payments due to civil contractors. Globally shipping lines enjoy credit facilities & also expect the same from us. Further there will be reduction in current liabilities as most of the Capital expenditure related accruals would not be there from February 04.

II. SCALE OF RATES

(i). Tariff increase

Being an infrastructure industry approx 80% of the costs are fixed. To make an activity wise costing is not only very time consuming activity but also the basis for apportionment of the fixed cost is difficult to determine. Further, the port is in no control of the type of boxes, which it will handle. Historical analysis alone will not help in determining the size of boxes handled by a port.

(ii). Schedule 3.1.2 and 3.1.3 and Schedule 3.3.2 and 3.3.3

Segregation the existing tariff for transportation of containers to / from quay side lift on / off at container yard and landing / loading from / to customer is due to following reasons.

- (a). The breakup of rate now proposed is on the same lines as was being followed by CHPT for the handling charges. In our earlier scale of rate a consolidated rate was approved upto delivery of container to/from customer vehicle.
- (b). The lift on/lift off charges approved was Rs. 550 for a 20' and Rs. 825 for 40'. Rs. 1,050 for 20' and Rs. 1,575 for a 40' where services included transportation from /to container yard and delivery/receipt of the same.
- (c). The operational requirements of the terminals are different from port to port. Based on our experience over 2 years, we have restructured the tariff to suit local operational requirement of the terminal and the trade. Here within the port, customs examinations are carried out and direct deliveries are given resulting in shifting of containers in the yard. A separate charge will help in charging based on services provided.
- (d). In order to keep lower charges for ICD containers for further long term growth of CCT, it is crucial for it to be able to attract upcountry containers. On account of distance, CCTL has disadvantage in comparison to other South Indian ports which are nearer. Hence it needs to attract these containers. By attracting these containers the benefit from a higher volume is felt by all customers.

(iii). Schedule 3.2.2 Charges of handling LCL container by quay crane

The charges mentioned in the earlier tariff sheet is for " landing or loading" from or to customer vehicle. After de-stuffing the containers a further lift on / lift off of the empty container is required. Hence we have put this condition as a clarificatory note to avoid confusion.

(iv). Schedule 3.3.2 and 3.3.3 – Charges for transportation of ICD containers and normal containers

The only reason for proposing a lower rate is to give an incentive to attract ICD cargo to Chennai. Given the distance of ICD to Chennai the customer is at disadvantage due to the additional rail freight they need to pay to bring the box.

(v). Schedule 3.4 – Modification in Note to shut out charges

As per the existing tariff note 2 to Schedule 3.4 shut out charges shall apply in case of transshipment if the vessel nomination is changed after berthing of the originally nominated vessel. The same has been modified for any change in vessel nomination. Based on the earlier definition, the shutout charges will be applicable only if original vessel nomination is changed. With the modification, we intend to cover multiple shutouts of same boxes as this results in shifting of boxes. This is in line with the practice also followed in the tariff order of PSA SICAL container terminal & JNPT as well as other container terminals.

(vi). Schedule 3.6 – 25% premium on wharfage for hazardous containers

The premium of 25% on handling has been earlier approved by TAMP for hazardous containers in our earlier tariff. The same was not applied to Wharfage. Wharfage is one of the components in the entire box handling charge. Accordingly, if on handling 25% is applied, the same should be applied to wharfage also.

(vii). Schedule 3.9 – Reefer related and other general services

Currently our tariff for reefer connection charges is US\$5.50 per 8-hour slab. This recovery does not cater to even the variable costs towards electricity. We have recommended a revised rate US\$ 10.18 per 8hour shift including plug-unplug, monitoring as well as electricity.

(viii). Schedule 3.10- Charges for a shut out container/re-nomination of containers

As per present definition "Shut Out Container" means a container, which has entered the terminal for export for a vessel as indicated by VIAN and is not connected to the vessel for whatsoever reason. Presently the shutout boxed is rolled over to next vessel of same service or to the nominated vessel. If the box is again re-nominated for another vessel, the shutout charges will be applicable second time since it involves further shifting in the yard. This is standard practice followed by all container terminals.

(ix). Schedule 3.11- Charges for container storage

(a). 50% premium for hazardous container is proposed due to following reasons:

- DG container requires proper segregation between classes as per IMDG regulations.
- All ground slots cannot be fully utilized due to above reason and more ground slots have to be used.
- Additional infrastructure needs to be created to cater for emergencies like hazardous bund, specialized fire fighting systems etc.
- Handling a hazardous container does not entail such elaborate facilities being provided.

(b). The free time and rates proposed in case of ICD containers are applicable only for movement to/from ICD's going by rail only.

- (c). There has been a typographical error for free period of Export- FCL and LCL containers. We propose to maintain 7 days free. In case of empty containers we have proposed to charge from the following date of landing. As explained earlier, CCT capacity is constrained by yard. We would like the container to be removed at the earliest. Keeping the same objective in mind it is proposed to charge empties from the following day of landing.
- (d). With an effort to encourage the trade to move the import containers out of the terminal, we have proposed to increase the free days from 3 to 4 within which the containers should be moved out the terminal, failing which ground rent charges will be applicable from the subsequent day to the discharge of the container from the vessel. Further, keeping in view that prime port land should only be used for transit purposes, and long staying should be discouraged, storage rate increase has been considered from US \$ 2.5 for 20' to US\$ 5 for 20'.

Several import ICD containers dwell at the yard for requirement of completion of ICD documentation by the container operators. It is thus suggested that the free time of 15 days should be made available only if the documentation is completed within 48hrs from date of discharge from the vessel. Failing submission of documentation within 48hrs, ground rent charges to become applicable from the following day of discharge of container. However based on suggestions made to us by the trade, we are revising the limit of 48 hours to 96 hours.

- (x). Schedule 3.13 – Charges for supply of fresh water to shipping

The proposed charges have been increased by only 17% as approved by Authority in our earlier tariff. No further increase has been proposed.

- (xi). Schedule 3.12.10- Miscellaneous Charges

- (a). Following miscellaneous charges have been proposed in our new scale of rates:

		20'	40'
(vii).	Fixing/removal of Hazardous Sticker (per containers)	100	100
(viii).	One Door Open Charges per container	600	600
(ix).	Cancellation of documents – per EIR	100	100
(x).	Non- declaration / Miss declaration of Hazardous containers	3,000	4,500
(xi).	On- Wheel Customs inspection (per container)	400	400

Item no. (vii), (ix),(x) are more in the nature of penal charges which is similar to the charges approved by Authority in case of other port operators. These are serious safety lapses which need a strong deterrent.

Item no. (viii) – One-door open charges per container are basically services provided for containers carrying perishable products. Activity requires cutting of seal, opening one door and securing to the side. Again while loading on vessel, the door needs to be closed again for transportation to vessel and re-opening the door and securing onboard. Considering the manpower cost and time involved a nominal charge of Rs. 600 has been proposed.

- (b). Tariff for new items

The new charges at CFS have been proposed to cater to the service request from our users.

The charges are similar to what is being charged by other CFS operators who are in the near vicinity of port. We have not yet called for formal quotations from contractors for providing the above services. The proposed charges are considered based on the verbal discussion that we had with various contractors engaged in same line of activity.

III. CUSTOMS COST RECOVERY

- (i). The cost recovery charges have been raised based on the Circular No.34/2002-Cus and Circular No.128/95-Cus dated 14 December 1995.
- (ii). We have asked the Customs to review its demand for payment bills relating to posting of officers for container terminal gates and CFS activities.
- (iii). The Customs are reviewing whether the charges for container terminal gates should be levied. We have not received any positive reply from Customs.

6.1. The CHPT was also requested vide our letter dated 13 January 2004 to furnish additional information / clarification on certain points.

6.2. In response to the queries raised by us, the CHPT vide letter dated 12 February 2004 has furnished its comments which are summarised below:

- (i). The extended terminal of 285 mtrs. quay length with back up area of 40200 sq. mtrs. was handed over to the CCTL on 19 August 2002. As per the License Agreement after handing over of the extended terminal, they have to achieve guaranteed throughput of 4 lakhs TEUs for the period from 19 August 2002 to 18 August 2003 and thereafter 5 lakhs TEUs every year. As regards the designed capacity of the terminal stage II of 285 mtrs., the capacity of the terminal depends upon the number of equipments deployed, the berth occupancy, gantry move per hour, available back up area, etc. Hence, it may not be possible on the part of Port Trust to assess the exact capacity of the terminal. However, before privatisation when the construction of terminal was initiated by the Port Trust, the capacity of 2.5 lakhs TEUs was estimated in Detailed Project Report (DPR).
- (ii). As stated above, the capacity of the terminal depends upon the equipments deployed, the berth occupancy, available of back up area, per hour move of the gantry crane, etc., the port trust is not in a position to assess the capacity of the container terminal as because details of the equipments to be installed during 2004-05 is not available with the Port Trust. However, during the year 2004-05, they have to achieve the guaranteed throughput of 5 lakhs TEUs as per the License agreement. Considering the estimated capacity of 2.5 lakhs TEUs for 285 mtrs., the throughput for 885 mtrs., of quay length may be around 7 lakhs TEUs. The estimated throughput for the year 2004 and 2005 appears to be reasonable.
- (iii). The CCTL has taken over the first phase on 30 November 2001 and the second phase on 19 August 2002. They have paid to the Port Trust Rs.10.10 crores for the first phase and Rs.1.83 crores for the second phase for the calendar year 2002. They have paid lease rentals of Rs.3.49 crores for the year 2003 against the demand of Rs.12.5 crores. As per the licence agreement they have to pay to the Port Trust Rs.13.15 crores and Rs.13.78 crores for the calendar year 2004 and 2005 respectively.
- (iv). The lease of RTG crane to the CCTL is valid up to October 2004. The CCTL suo motu cancelled the contract with M/s.ABG with effect from 21 June 2003 and has not paid the lease charges to the Port Trust to pay it to M/s. ABG. As per the tripartite agreement between the CHPT, CCTL and M/s. ABG, CCTL shall use the crane and pay the lease charge to Port Trust and the Port Trust in turn shall pay the lease charges to M/s. ABG.

- (v). It is found that the cost statement of the CCTL has not been sent to Port Trust as Port Trust cost statement is sent to all users Association to comments on the input costs and its reasonableness whereas it has been kept as confidential. In this regard, it is requested that since they are providing services to facilitate import and export like port trust and considered as a port inside the port, it is required to circulate the cost statement to Port Trusts and Users Associations to give their comments on the reasonableness of the input costs and identify the area where cost can be controlled. Port may compare it with its cost and give suggestions for reduction in cost in different areas to make the export competitive. It is further submitted that finally if the authority decides to keep confidentiality of the cost statement of the terminal operator, the same may be extended to the port trust to bring uniformity.

7. A joint hearing on the proposal of the CCTL for review of its tariff was held on 20 February 2004 at the CHPT in Chennai. At the joint hearing, the CCTL, CHPT and the concerned users have made their submissions.

8.1. As decided at the joint hearing, the CCTL was requested to furnish additional information and the CCTL vide its letter dated 3 March 2004 and 5 March 2004 responded to the queries raised by us and the details furnished by the CCTL are narrated below:

- (i). Transshipment cost as percent of handling charges is as given below.

		Transshipment as % of handling			
		20 ‘	40 ‘	20 ‘	40 ‘
Singapore	Local	82.00	117.00	77%	82%
	TP	63.00	96.00	-	-
Salalah	Local	109.00	165.00	128%	121%
	TP	140.00	200.00	-	-
Jebeleli	Local	115.00	169.00	121%	114%
	TP	139.00	193.00	-	-
Port Kilang	Local	50.00	75.00	148%	148%
	TP	74.00	111.00	-	-
Mumbai	Local	71.00	107.00	87%	86%
	TP	62.00	92.00	-	-
Tuticorin	Local	35.77	53.66	103%	103%
	TP	37.02	55.53	-	-
Chennai	Local	50.68	76.02	75%	75%
	TP	38.00	57.00	-	-
JNPT	Local	64.45	96.67	100%	100%
	TP	64.45	96.67	-	-

The transshipment charges for above ports are more than 75% of handling charges against our estimate of only 75%.

- (ii). Proposed lease rentals:

- (a). Escalation of 5% has been estimated. The escalation amount considered for the year 2004 works out to Rs. 1.17 cores and for the year 2005 Rs. 1.80 crores. The security deposit and lease rental premium demanded by the CHPT has not been considered for the proposal. Land rental premium, security deposit and escalation clause are not applicable for BOT projects like CCTL.
- (b). The land rental premium, security deposit and escalation clause were incorporated in the CHPT Scale of Rates 2 days prior to take over by CCTL. The items are under dispute between them CHPT and CCTL. We reserve our right to file our claim with retrospective effect if CCTL is required to pay these charges.

(iii) The yard capacity, aggregate dwelling time and overall capacity are as under:

Stack type	Equipment Type	Teu Ground Slots	Stake Height	% stack Utilisation	Static Capacity
Mixed	RTG	2900	4	70%	8,120
Reefer	RTG	180	3	50%	270
Others	RTG	96	1	50%	48
Total-average		3,176	3.85	68%	8,438
Peaking Factor					119%
Normal Capacity					7,090
Aggregate dwell time					4
Days					365
Overall Capacity					647,032

8.2. As agreed at the joint hearing the CHPT was requested to collect the details of rates levied at different container freight situations in and around Chennai (particularly, those operated by Concor and CWC).

8.3. The CHPT vide its letter dated 12 March 2004 has furnished details regarding CFS charges of Concor and CWS. The stuffing / destuffing charges levied by CONCOR and CWC compiled from the details furnished by the CHPT are tabulated below:

Comparative Position of de-stuffing / stuffing charges

(In Rs.)

Sl. No.	Items	CCTL		CONCOR	CWC	
		Existing	Proposed		Madhavaram	Virugambakkam
	<u>Stuffing / de-stuffing per container</u>					
1.	Not exceeding 20' in length	412.86	978	675 (Cargo) 1000 (Metal Scrap)	1100 (Stuffing) *	1100 (Stuffing) * 1000 (De-stuffing)
2.	Exceeding 20' and upto 40' in length	619.29	1466	900 (Cargo) 1600 (Metal Scrap)	1700 (Stuffing) * 1100 (De-stuffing)	1700 (Stuffing) * 1600 (De-stuffing)
3.	Over 40' in length	928.93	1955	-	-	-

* Stuffing charge includes unloading the cargo from the trucks and stuffing into container

9.1. The users have been demanding the cost details relating to the proposal to enable them to meaningfully comment on the proposal of the CCTL. At the joint hearing, held in Chennai, the issue was seriously agitated by the users. The CCTL was, therefore, vide our letter dated 11 March 2004 advised to agree for circulation of the consolidated Profit and Loss Account (excluding the portions relating to capital employed) for the years 2004 and 2005.

9.2. The CCTL vide its letter dated 15 March 2004 agreed for circulation of the consolidated profit and loss account for the years 2003 and 2004 to the concerned users.

9.3. A copy of the consolidated Profit and Loss Account (excluding portions relating to capital employed) for the years 2002, 2003, 2004 and 2005 has been circulated to the concerned users for their comments and some of the users furnished their comments.

10. The CCTL vide its letter dated 26 March 2004 has stated that their tariff denominated in US dollars is having a severe impact on tariff due to appreciation of Rupee against US dollars. It has further stated that the Rupee will continue to gain against the dollar and reversal in the dollar movement against the rupee is ruled out in the medium term.

The CCTL, therefore, requested to suitably increase the tariff to get the necessary cover.

11.1. As decided at the joint hearing, a separate hearing was given to the CCTL to present the costing details of the proposal on 19 April 2004 at the CHPT premises, Chennai. The CCTL was requested to specifically over the following points:

- (i). Cost statements based on revised foreign exchange rate indicated and the actual (interim) tariff allowed vide TAMP Order dated 27 November 2003.
- (ii). Estimation of storage income.
- (iii). Depreciation of assets in 2004 and 2005 with respect to actuals for 2003.
- (iv). Escalation in the Labour and Repairs and Maintenance costs.
- (v). Justifications for the proposed capital additions during 2004 and 2005.
- (vi). Capacity estimation.
- (vii). Justifications for the rationalisation / revision sought in transshipment container rates, storage charges, CFS charges, reefer charges, etc., alongwith additional income therefrom.

11.2. The CHPT was also requested to be present in the hearing and furnish its views / comments on the CCTL proposal.

11.3. The Chief Commissioner of Customs, Chennai was requested to depute a representative of Chennai Customs to the hearing to explain the issue of cost recovery for the Customs Staff posted at the CCTL.

11.4. At the hearing, the Commissioner (customs) stated that his department has reviewed its earlier demand for recovery of cost of customs staff posted in connection with operations of CCTL. Recognising the position obtaining when CHPT was operating the Terminal, the Customs have decided in principle for the present to withdraw its demand for arrears or any payment from CCTL. He has further informed that the issue of claiming such payment in future may also be decided soon.

12.1. The CCTL vide its letter dated 23 April 2004 made the following main points and furnished revised cost statements:

- (i). Lease rentals amounting to Rs. 3.23 Crore for hire of RTGs payable to M/s. ABG industries Limited in the year 2004 is not payable now.
- (ii). The Customs Authority confirmed in the hearing held on 19 April 2004 that Customs recovery charges amounting to Rs. 2.27 Crores and Rs. 2.37 Crores for the years 2004 and 2005 are not payable. The confirmation of Customs may be recorded in the order.
- (iii). Electricity charges have been calculated based on 6% annual inflation giving effect for volume increase. Accordingly, there is reduction of Rs.27 lakhs and Rs. 41 lakhs for the year 2004 and 2005 respectively.
- (iv). Technical service fees amounting to Rs. 2.70 Crores and Rs. 2.80 Crores for the years 2004 and 2005 respectively removed, though CCTL is not in agreement with the disallowance of this expenditure.

- (v). Preliminary expenses are amortized over the life of the project and this has resulted in reduction of Rs. 1.93 Crores for the years 2004 and 2005, though CCTL does not agree with this treatment. TAMP may reconsider this position and in that case the amount to be considered is Rs. 2.31 Crores for the year 2004 and 2005.
- (vi). It has considered the annual lease rent in its costs based on its computations and not based on the demand of CHPT. As a result, there is reduction in lease rentals in its estimate by Rs. 3.80 Crores in 2004 and Rs. 4.43 Crores in 2005. The cost considered now is Rs. 8.80 Crores for the years 2004 and 2005.
- Lease rental matters including security deposit and one time premium are under arbitration. If the arbitration awards that CCTL has to pay the amount, CCTL retains the right to claim the amount with interest with retrospective effect.
- (vii). CCTL has increased the total repairs and maintenance cost from Rs. 329.62 lakhs to Rs. 332.05 lakhs for the year 2004 and reduced it from Rs. 368.27 lakhs to Rs. 366.20 lakhs for the year 2005.
- (viii). Based on rates applicable in April 2004, it has revised the cost of fuel per litre from Rs. 21.40 to Rs. 24.38 for the year 2004 and applied 6% inflation to arrive the rate for the year 2005.
- (ix). It has effected 20% reduction in the earlier proposed rates of container storage.
- (x). There is reduction of around 26.26% in the rates of transshipment charges. This translates to 59.75% of QC handling charges for load and discharge.
- (xi). It has effected a reduction of around 24% in the charges for supply of electricity at reefer yard. Accordingly, the total electricity cost is reduced from Rs 6.88 Crores to Rs. 6.61 Crores for the year 2004 and from Rs. 8.04 Crores to Rs. 7.63 Crores for the year 2005.
- (xii). It has computed depreciation based on the figures of 2003 (actuals) as against the earlier computation based on estimates. It has considered depreciation for additions to equipments / assets like IT hardware etc., during the year 2005 which was not considered by it earlier.
- (xiii). Calculation of man power cost for the years 2004 and 2005 has been furnished. It has retained the rate of salary increase at 12% per annum.
- (xiv). It has requested for consideration of exchange rate of 1 US \$ = Rs. 44 for the years 2004 and 2005.
- (xv). After discussion with the CHPT, it has maintained the same overall capacity estimated by it earlier at 6,47,032 TEUs.
- (xvi). It has furnished the following tariff comparison of destuffing charges at other container freight stations in and around Chennai.

(In Rs.)

Sr. No.	Name of Operation	CONCOR		CWC		CCTL	
		20'	40'	20'	40'	20'	40'
1.	Destuffing	1000	1600	1000	1600	450	650
2.	Seal Cutting	-	-	-	-	200	200
3.	Reworking and measurement	12/CBM		-	-	-	-
4.	Container handling	625	950	240	660	-	-

- (xvii). CCTL has suffered losses to the tune of Rs. 53.03 Crores during the period April 2002 to November 2003. Necessary effect may be given in this order to allow CCTL to recoup the loss over a period next six years or over ten years.

- (xviii). TAMP has considered the book value of the equipments receivable at the end of 30th year for calculation of the credit back of the amount receivable at the end of 30th year. Even if TAMP was to allow these assets be written off 100% over the relevant period, their depreciation is presently not considered and these assets will be acquired only around the 20th year of the project. Given this fact, this add back be done only when such depreciation is considered. This will ensure that receipts and costs are matched during this relevant period.

12.2. In a subsequent e-mail dated 23 April 2004, the CCTL has made the following requests:

- (i). The request for levying storage charges from the day following the discharge of container if not cleared within free days may be accepted.
- (ii). Storage income is calculated based on the assumption of US \$ 5 for 20' container and US \$ 10 for 40' container and 4 days average dwell time for import containers.
- (iii). The proposal to charge storage on empties from following day of discharge may be accepted.

12.3. The CHPT vide its letter dated 26 April 2004 has furnished the estimation on capacity of the terminal at 7,00,000 TEUs per annum, after discussion with the CCTL.

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 www.tariffauthority.org.

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

- (i). The validity of the initial Scale of Rates prescribed by this Authority vide its Order dated 6 March 2002 was till 14 September 2003. While allowing an increase of 17% over the initially fixed rates in compliance of a policy direction issued by the Central Government, this Authority extended the validity of the Scale of Rates till implementation of the interim rates. In order to review the scale of rates based on realistic facts and figures, CCTL was advised to file a tariff proposal by 15 December 2003. In the meanwhile, an interim increase of 17% was allowed based on the estimates considered at the time of the initial tariff fixation in order to comply with the policy direction of the Government. In this backdrop, this proposal was received from the CCTL with an analysis of the estimated position for the years 2004 and 2005. It may be relevant here to mention that unlike the major port trust, the CCTL follows accounting on calendar year basis.
- (ii). The detailed cost statements with all relevant schedules submitted by the CCTL alongwith its proposal was not circulated among the users, as requested by the CCTL to maintain confidentiality. This has caused a lot of flutter among the users and even the CHPT.

Immediately on receipt of the CCTL's proposal alongwith its request to maintain confidentiality of the cost data, we have taken up with the CCTL and attempted to persuade them to agree to circulate at least some minimum cost details to the users. CCTL has, however, steadfastly maintained its original position and did not consent to circulate the cost statements. It is true that the provisions in the Tariff Evaluation Procedure formulated by the TAMP earlier specifically provides for entertaining request for protection of confidentiality of commercially sensitive information. In accordance with the published document, in such cases only the proposal and information on revised scale of rates and tariff income provisions will be circulated for public response. CCTL has relied on this position accepted by this Authority and demanded that its cost details should not be circulated even though it had not specifically brought out the irreparable damage that could have caused if the details

are shared with the users. We could not over-rule the request of the CCTL as the implications of the decision to circulate the details claimed to be confidential could not be assessed readily. Nevertheless, we continued to persuade the CCTL and finally with their consent the consolidated cost details were circulated to all concerned users for their response. It appears that some of the users organizations are not satisfied with the cost details made available to them.

It may be relevant here to mention that when the CCTL proposal for initial fixation of tariff was taken up in the consultation process during the end 2001 a similar consolidated cost statement only was circulated for public response. Even in the case of major port trusts, the consolidated cost statements for individual activities in the prescribed format are only circulated. The detailed break up of costs and subsequent clarifications on different cost elements furnished by the port trusts are not generally made available to users as a part of the consultation process. Even though the details of costs are not circulated, the CCTL has furnished such details to this Authority and a close scrutiny of the cost statement has been carried out internally.

The CHPT has made a demand in this regard that a similar treatment should be given to port trusts also in maintaining confidentiality of the cost statement. A back reference of its records by the CHPT will reveal that it had made such a request in the past in the proceedings relating to fixation of hire charges for tugs 'Netaji' and 'Singaravellar' (Case No. TAMP/72/2001-CHPT) and fixation of charges for three newly acquired 20T Grab cranes (Case No. TAMP/111/2001-CHPT). Honoring the request made by the port, this Authority did not circulate the cost details in these cases to the users. The concerned users in this proceedings may be aware of this precedent as most of them were also consulted in the relevant cases of CHPT in reference. We do not wish to debate on the issue whether a public statutory body like port trust can claim immunity like a private limited company. If sufficient justification is furnished by a major port trust, their request for maintaining the confidentiality will also be honoured by this Authority.

From the experience gained, this Authority will review the relevant clause in the published document Tariff Evaluation Procedure and prescribe the conditions to be satisfied by the port trusts and terminal operators for claiming confidentiality of their cost details.

- (iii). Before we proceed to analyse the proposal on merits, it is necessary here to mention about an unpleasant incident that happened at the joint hearing held in this case on 20 February 2004. A comment made by an official of CCTL about a representative of the local Chamber of Commerce was unfortunate and uncalled for. The Chairman (TAMP) had to intervene to express his unhappiness over such hostile behaviour and ordered the remarks to be expunged from the records. After the joint hearing, some of the users organizations have lodged a written protest in this regard. This Authority would like to share the sentiments expressed by these users organizations and take cognizance of their protest over the unfortunate comments made by the CCTL official. We hope, CCTL will take note of this and conduct itself befitting its status as a major international container terminal operator and follow the decorum that is expected to be maintained in the public hearings like those set up by this Authority.
- (iv). CCTL, and for that matter some other private terminal operators also, often quote the ocean freight rate levied by shipping lines and the increases effected by them. These issues are not at all relevant to the proceedings before this Authority. It has to be recognized that the Law requires this Authority to regulate the tariff levied by the port trusts and private terminal operators. This Authority has nothing to do with the ocean freight levied by different shipping lines. Further, an argument that rise in port tariff could be justified merely on ground that freight rates are not under regulation is not acceptable to this Authority.
- (v). While fixing the initial tariff by the CCTL, this Authority has adopted a definite approach about admissibility of various cost elements claimed by the CCTL. The

CCTL filed a review petition immediately thereafter which was rejected by this Authority vide its Order dated 12 August 2002. The CCTL filed a Writ Petition before the Hon'ble Delhi High Court against the Order passed by this Authority. In the meanwhile, the Central Government in exercise of its power under Section 111 of the MPT Act has issued a policy direction to consider a maximum of 27% of the revenue share payable by CCTL to CHPT as cost for tariff fixation. This Order was issued after the High Court petition was withdrawn by CCTL. At the joint hearing in this case, the CCTL has made a statement that it had maintained the same costing approach as on the last occasion. But, the proposal initially submitted was not fully in line with the earlier decision. CCTL has, however, subsequently modified its cost statements, at least partly in conformity with the approach adopted earlier in its case. These modified statements were received by us on 23 April 04 and 27 April 04. The analysis of the case is made by us following the principles already set and approach adopted earlier in the CCTL case except as modified by the Government policy direction on treatment of revenue share.

- (vi). The cost position reported by the CCTL alongwith its proposal was based on the estimated level of income and expenditure for the year 2003. Subsequently, at our request, the actual position for the year 2003 was furnished. This analysis is, therefore, based on the actual position reported by the CCTL for the year 2003. Further, the effect of the interim tariff increase of 17% allowed in November 2003 is also taken into account.
- (vii). The forecast of container traffic for the years 2004 and 2005 has been made by the CCTL by considering 12% and 10% container traffic growth over the respective preceding years. While the SICCI accepts a traffic growth of 12% in Chennai, CSLA anticipates a much higher growth. It is noteworthy that the CHPT finds the traffic forecast made by the CCTL reasonable. In the absence of anything available on the contrary, the estimates of traffic growth projected by the CCTL is accepted. Since the actual container throughput for the year 2003 is available, the projection of CCTL for the year 2004 is partially modified by applying the proposed growth rate of 12% on the actuals for 2003. Consequently, projection for the year 2005 also stands partially modified. A calculation error found in the CCTL estimates with respect to restow containers has also been rectified. The actual position with reference to these estimates will be known at the time of the next review of the Scale of Rates. Undue benefit, if any, found to be accrued to the terminal operator due to wrong estimation can be set off against future revision in tariff.
- (viii). The CCTL initially adopted an exchange rate of US\$ 1= Rs 46.55 for 2004 and US\$ 1 = Rs 47.02 for 2005 to estimate the income. As correctly pointed out by CSLA, this position may not be realistic given the current trend in the foreign exchange market where Indian Rupee continues to gain against US\$. Finally, CCTL has proposed to apply an exchange rate of US\$ 1= Rs 44 based on the advice it has received from some of the banks. The position reported by the CCTL is accepted for the purpose of this analysis. Given the fluctuations in the foreign exchange rate, it would have been better if tariff items are denominated in rupee terms only which will give a comfort of certainty to all concerned. The CCTL, however, prefers to continue with the dollar denominated tariff. While this Authority does not like to *suo motu* alter the existing tariff structure, CCTL should note that reduction in revenue, if any, due to further appreciation of Indian Rupee cannot be a reason for this Authority to admit any ahead-of-schedule tariff review proposal.
- (ix). The estimation of gross revenue made by the CCTL is generally relied upon in this analysis except adjustment for throughput with reference to the actuals of 2003 and storage income.

The CCTL has mentioned that the average dwell time during the year 2003 has been 5.1 days and estimated a reduction in the average dwell time to 4 days during the years 2004 and 2005. The anticipated reduction in the of average dwell time to 4 days for the years 2004 and 2005 is accepted as it is in line with the CCTL's policy of de-congesting the yard to improve the capacity. As against the storage income of

Rs.946 lakhs earned during the year 2003, the income from this tariff item is estimated to be Rs.616.72 lakhs for the year 2004 and Rs.617.31 lakhs for the year 2005, after considering an interim increase of 17% allowed in the tariff in November 2003. This estimate of CCTL is not found to be fully realistic even if the anticipated reduction in dwell time is taken into account. Based on the actual storage income for the year 2003, the unit storage income for the year 2003 works out to Rs 191.97 per TEU. Considering the reduction in dwell time anticipated by CCTL and the 17% increase in tariff allowed as an interim arrangement alongwith adjustment in the foreign exchange rate adopted for the purpose of the analysis, the corresponding unit storage income works out to Rs 165.80 per TEU. Based on the estimated throughput, the storage income thus can be reasonably estimated to be Rs 915.10 lakhs for the year 2004 and Rs. 1006.61 lakhs for the year 2005. The estimation of gross revenue is accordingly considered in the modified cost statements.

- (x). At the time of initial fixation of tariff at the CCTL, this Authority had not admitted the royalty/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. However, in compliance of policy direction issued u/s 111 of the MPT Act 1963 received from the Government, 27% of revenue share has been included as cost and an interim revised tariff has been allowed in November 2003. A similar approach of considering 27% of the gross income as cost is adopted in this analysis also.

The CCTL has, however, demanded that the effect of revenue share disallowed prior to November 2003 should also be considered in the present exercise and the loss suffered by it to the extent of Rs 53.03 crores for the period from April 2002 to November 2003 should be recouped over a period of next six to ten years. For this purpose, the CCTL has requested that the annualized amount of Rs 8.84 crores for a period of six years should be considered as a cost item in the present exercise. As mentioned earlier, treatment of 27% revenue share as cost in the CCTL case is a specific Govt. policy direction. The policy direction received by this Authority does not specify any retrospective consideration. Prior to the policy direction issued by the Govt. the CCTL had withdrawn the writ petition filed by it in the Hon'ble High Court of Delhi against the earlier Order of this Authority. While withdrawing the petition, the CCTL did not claim any relief with retrospective effect. In the absence of any explicit directions from the Government or the Hon'ble High Court, there is no case for accepting the contention of the CCTL in this regard. During the meeting taken by the Hon'ble Minister (Shipping) on 5 August 2003 to consider the request of the CCTL, there was no decision of the Government with regard to relief with retrospective effect. Following the meeting, CCTL was required to give a proposal containing their calculations on tariff to the Government for their consideration. In its proposal to the Government, CCTL has not made any demand for retrospective consideration or recouping the 'accumulated loss' in future. At this stage, therefore, it is not possible for this Authority to consider this demand, since the Government has not granted any relief on this account. If the demand is conceded, it can even be viewed as a violation of the policy direction of the Government.

- (xi). The labour cost has been estimated by the CCTL by considering an increase in its staff strength and applying an escalation factor of around 12% over the 2003 estimated cost. The increase proposed in the staff strength for the years 2004 and 2005 is accepted since it is a management decision which may be necessitated due to increase in volumes and induction of new equipment. Generally, an escalation factor equivalent to the inflation level is considered by this Authority for estimating expenditure. Considering the present level of inflation, an escalation factor of 6% is being considered while analyzing the tariff proposals. There is no reason for allowing an escalation of 12% in this case which is proposed in addition to increase in the work force. The CCTL has subsequently brought out that a general wage revision for its employees is due and this will also push up their wage cost if revised salary level is introduced. The negotiations for wage revision are reportedly in progress and the quantum of increase is not known now. If a position different from the one considered in the estimates emerges, the CCTL can come up later with its proposal for a review.

The estimates for the year 2004 furnished by the CCTL are not adjusted with reference to the actuals for the year 2003. Nevertheless, the estimate of CCTL for the year 2004 is found to be marginally less than the estimated wage cost arrived by allowing an annual escalation of 6% over 2003 actuals with suitable adjustment for the estimated manpower. That being so, the estimate for the year 2004 is accepted. As regards the estimate for the year 2005, the labour cost is partially modified restricting the escalation at 6% over 2004 estimate with adjustment for the proposed staff strength.

- (xii) (a). The original estimates of electricity costs made by the CCTL considered the unit electricity cost at Rs.125.02 per TEU and Rs.133 per TEU for the years 2004 and 2005 respectively. When it was pointed out that the actual per TEU electricity cost was Rs.102.43 for the year 2003, the CCTL subsequently revised its earlier estimates based on the actuals for 2003 by applying an escalation factor of 6% over the respective previous years for 2004 and 2005 with suitable adjustments for the estimated traffic. The revised position reported by the CCTL is accepted.
- (b). The earlier estimates made by the CCTL considered fuel cost of Rs.21.40 per litre for 2004 which was escalated by 7% to arrive at the cost for 2005. Subsequently, the CCTL revised the estimate by considering the fuel cost of Rs.25.44 per litre for the year 2004 (stated to be the prevailing rate in April 2004). The estimate for the year 2005 has been drawn by considering a 6% escalation in the fuel cost for the year 2004. The revised estimates submitted by the CCTL for fuel cost are relied upon in this analysis.
- (c). In the revised Cost Statement furnished by the CCTL, the repairs and maintenance cost is estimated at Rs.332.05 lakhs for the year 2004 as against the actual repair cost of Rs.348.05 lakhs during 2003. The estimate for the year 2005 is made by considering an escalation of around 10% over the estimates for 2004. The estimated repairs and maintenance cost for the year 2004 is accepted as it is found to be lower than the actuals for the year 2003, even though this position may be due to deletion of old equipment. The CCTL has claimed that many of the equipment will go out of warranty and therefore, a higher escalation in repair cost should be allowed for the year 2005. Merely because the warranty period is over, aging of equipment does not happen in an accelerated manner. Unless there is a major revamp programme the maintenance cost is generally expected to follow the normal trend. The cost projections for the year 2005 are moderated by considering an escalation of 6% over the estimates for 2004.
- (xiii). With reference to the estimates of Depreciation, CCTL has certified that the depreciation rate is considered as per the norms prescribed in the Companies Act. Even for the assets acquired by it from CHPT, the same norms are stated to be applied over the remaining useful life of the assets. In the earlier Cost Statements furnished by the CCTL, discrepancies were observed in computation of depreciation for some of the assets. Subsequently, CCTL modified the depreciation cost with reference to 2003 actuals and has rectified the discrepancies observed earlier.

This Authority has already taken a decision that the depreciation norms given in the Companies Act or the life of the assets prescribed in the Concession Agreement, whichever is less shall be allowed in the case of private terminals. It is observed that the depreciation rate for some of the assets considered by the CCTL is higher than the depreciation rate considered by some of the other terminal operators for similar equipment / assets. Further, the depreciation rate considered now for some of the equipment taken over by the CCTL from CHPT is higher than those rates indicated by the CCTL at the time of initial tariff fixation. 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, for the purpose of this analysis, the revised estimates of depreciation given by the CCTL are taken into account without any modification.

- (xiv). The estimates of other expenses include many cost elements as detailed below:
- (a). Increase of 26.67% and 9% in the estimated hire charges of outsourced equipment is estimated for the years 2004 and 2005 over respective previous years. The CCTL has clarified that it would hire additional forklift due to the increase in throughput. Secondly, the hire charges payable for ITV is with reference to the TEU handled. Considering the increase in throughput and relying on the position reported by CCTL about hire charges of outsourced equipment, the estimation of equipment hire charges is found to be reasonable and accepted.
 - (b). In the earlier Cost Statement furnished by the CCTL, a provision was made towards payment of lease rental for hire of RTG from ABG Heavy Industries. Subsequently, the CCTL has proposed to delete this provision from the cost estimates as the dispute regarding payment of the lease rentals has been settled and the amount is now not payable by the CCTL.
 - (c). The estimate of insurance cost of assets is accepted since it is in line with 2003 actuals.
 - (d). In the original Cost Statement submitted by the CCTL, a provision of Rs. 2.27 crores in 2004 and Rs.2.35 crores in 2005 were included towards payment of wage cost to the Customs personnel posted at CCTL. Since this appears to be a new cost item which was not reported by any other Port Trusts/Private Terminals, we decided to seek clarification from the Customs and accordingly, the Chennai Customs was invited to be present in the hearing on 19 April 2004. The Commissioner of Customs assured that their earlier demand for recovery of this cost was since reviewed and for the present these charges would not be payable by CCTL. Based on the clarification made by the Customs, CCTL has deleted the provision in this regard included in the earlier Cost Statement.
 - (e). The other items under this head are expenditure towards security, cleaning and gardening, etc. The expenditure under this head is estimated to increase by 22% and 12% for the years 2004 and 2005 over the respective previous years. No extraordinary circumstances have been explained to consider an escalation of such a high order. That being so, escalation of costs for these items is restricted to 6% over the respective previous years.
- (xv). The CCTL has to pay to the Chennai Port Trust lease rental for the lands allotted to it. There appears to be some dispute between the CCTL and CHPT over some of the payments relating to the leased land. When asked for a confirmation of the CCTL estimates, the CHPT has indicated the lease rentals payable by CCTL which are higher than the estimates earlier furnished by the CCTL. Subsequently, the CCTL has clarified that their estimates are not based on CHPT demand but in line with its position maintained in that case. The CCTL has finally requested to consider an annual lease rental at 8.8 crores each for the years 2004 and 2005. Further, it has requested that the dispute of lease rentals is already referred to arbitration and if the arbitration award goes against the CCTL then it should be allowed to claim the lease rentals with retrospective effect based on the verdict.
- (xvi). The general overheads are estimated to increase by 18% in 2004 6% in 2005 over the respective previous year's position. One of the elements under the head 'General Overheads' is marketing cost and the CCTL has claimed that a steep increase in this expenditure is necessary on account of extensive marketing efforts required at their end. While we do not dispute the requirement of extensive marketing efforts on the part of CCTL which may be necessary to attract traffic, there cannot be two opinions that overhead expenditure should be contained and a disproportionate increase

cannot be allowed under this head. The estimate of General Overheads is moderated by applying an escalation factor of 6% over the previous year's figure.

- (xvii). The CCTL has originally proposed to amortize the preliminary expenses over a period of 5 years. At the time of the initial tariff fixation, 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 the CCTL in this regard has also been rejected by this Authority. Subsequently, in the revised Cost Statements furnished, the CCTL has followed the approach earlier adopted by this Authority in this regard but, requested this Authority to re-consider its stand in this regard. As mentioned earlier, this issue has already been analyzed in detail in the earlier Orders and there is no extraordinary circumstances found to emerge now warranting any deviation from the approach adopted earlier.

With reference to the position reported at the time of the initial tariff fixation, the amount of preliminary expenses indicated now is found to have undergone a change. As the initial tariff fixation was made relying upon the estimates available then but the actual position with reference to this item of expenditure is available now, the position reported by the CCTL is relied upon.

- (xviii). The estimates initially furnished by the CCTL included payment of Technical Services Fee reportedly payable by the CCTL to its main promoter. Even though it has deleted this item of cost in the revised cost statements furnished subsequently, it has recorded its disagreement for disallowing this expenditure. Technical Service Fee was excluded as item of cost at the time of initial tariff fixation for reasons explained in Order dated 6 March 2000. A review petition filed by CCTL against this Order was also rejected by this Authority. Subsequently, the CCTL has agitated this issue also in the Writ Petition filed by it before the Hon'ble Delhi High Court. This Writ Petition was withdrawn by CCTL, when the Government issued the policy direction on treatment of royalty for the purpose of tariff determination. In view of this position, there is no reason for this Authority to take a different stand with reference to the admissibility of this item of cost for the purpose of tariff fixation.
- (xix). This Authority allows a pre-tax return on equity and therefore does not allow tax as an expenditure for determining the tariff. In the revised statement submitted subsequently, the CCTL has indicated that the impact of taxation, though shown in their cost statements, has not been considered as an expenditure for determining the return. In line with the general stand adopted by this Authority of not to consider tax as an item of cost, this item is excluded in the modified cost statement prepared by us.
- (xx). Credit back of Separation Payment receivable at the end of the project period as per the Concession Agreement is not considered by the CCTL. The CCTL has stated that the amount receivable after 30 years cannot be adjusted today and even if it is done, it should be effected only when depreciation of such assets are considered for tariff computation. Like in the case of Technical Service Fee, this issue has adequately been dealt in the earlier Orders of this Authority and there is no reason for deviating from the earlier approach. Recognizing that the payment would be due for 30 years, the annualised present value is arrived at by applying a discount factor of 12%.
- (xxi). Capacity of the terminal is relevant for determining the return on equity to be allowed. The CCTL maintained that capacity of the terminal with the extended berth available in Phase – II will be 6.47 lakh TEUs. It may be relevant here to mention that the estimation of capacity given by the CHPT was relied upon at the time of the initial fixation of tariff. The CHPT initially reported a capacity of 7 lakh TEUs per annum. As discussed at the hearing held on 19 April 2004, a joint meeting as agreed by CCTL took place between CHPT and CCTL on this issue. Thereafter CHPT has again confirmed the capacity of terminal to be 7 lakh TEUs per annum. Accordingly, this capacity level is taken into account for the purpose of this analysis. With reference to the projected traffic for the years 2004 and 2005 considered in this

analysis, the capacity utilization comes to 79% and 87% for the the years 2004 and 2005 respectively.

- (xxii). (a). The CCTL has considered in their capital estimates addition of various new equipment. Since there is no specific mention in the Concession Agreement about the number of equipment to be deployed but only an overall investment level is prescribed, the proposed additions to capital has been admitted in this analysis.
- (b). The estimated capital employed is financed out of both debt and equity. The proportion of debt and equity has undergone a change in the different estimates furnished by the CCTL mainly with reference to the revenue surplus position and the consequent taxation effect. For the purpose of this analysis, we have relied upon the position reported by the CCTL in the revised cost statement considering revenue estimation with the 17% (interim) increase in tariff allowed earlier. The debt equity ratio is found to be near about 1:1.

As per the approach adopted in the case of private terminal operators so far, the cost of debt as reported by the CCTL is allowed as expense.

In the case of private terminal operators a maximum permissible pre tax return of 20% is being allowed subject to capacity utilization and observance of a debt equity ratio of 1:1. As has been explained earlier, the capacity utilization at CCTL for the year 2004 and 2005 comes to 79% and 87%. Accordingly, the maximum permissible return of equity is adjusted.

- (xxiii). Subject to the analysis given above, the cost statement furnished by the CCTL is modified. The modified cost statement is attached as **Annex - I**. From the cost statements, it may be seen that there is an average net surplus of 0.1% of the operating income for the years 2004 and 2005. It is noteworthy that this position is with reference to the estimated revenue based on the interim tariff increase of 17% allowed earlier. In view of this cost position, there does not appear to be any justification for approving the steep increase in various tariff items proposed by the CCTL. It would suffice if the existing interim tariff fixed with an increase of 17% allowed in November 2003, is allowed to continue for the next two years. Significantly, the revenue impact of revision of some of the tariff items, which are discussed in the succeeding paragraphs of this analysis, is not considered in the modified cost statement. If this effect is also taken into account, the average net surplus position will further improve.
- (xxiv). Some of the users have correctly argued that increase in volume should bring down tariff. This would have happened at the CCTL also but for two major developments since the tariff fixed initially in March 2002. First there is an appreciable gain of Indian Rupee against US Dollar. Since most of the main tariff items are denominated in US Dollar terms but collected in Indian Rupees, there is infact a reduction from the point of view of the users even though the unit rate for tariff item remain static in US Dollar terms. Secondly, tariff had to be adjusted with reference to the Government directive on treatment of revenue share. Besides, some of the major input costs have also undergone significant upward variation in comparison to the position considered at the time of initial tariff fixation. There is no doubt that CCTL has improved efficiency and productivity. All this can come at a cost and, therefore, users will enjoy the benefit of better productivity; even if they do not get any financial relief in tariff. It can be also argued that even keeping tariff at present level is a relief to users.
- (xxv). In its proposal submitted initially, the CCTL requested for a steep hike in the charges for handling transshipment containers by keeping the charges around 150% of the relevant charges for handling import/export containers. The argument of the CCTL is that handling of transshipment containers involves twice the effort as normal containers. The users and in particular the CHPT has opposed to this proposal of CCTL. The CCTL has subsequently reviewed its original proposal and requested for

prescribing handling charges for transshipment at 120% of the applicable rate for normal handling. A comparison of the rates for transshipment containers at some other major container terminals in the country shows that it is around 110% of the normal containers handling charges. As correctly argued by the CCTL, the effort involved in handling transshipment containers is twice as required for normal loading/unloading operations. Nevertheless, recognizing the broader objective of developing hub ports, concessional tariff is being prescribed for transshipment containers at most of the Indian ports. Taking into consideration the efforts involved and cost of such operation, a marginal increase in the transshipment container rates proposed by the CCTL is accepted. The rates for transshipment containers is prescribed at 120% of the rates for handling normal FCL container. This will mean an increase of around 10% in the existing (interim) rates for handling transshipment containers.

- (xxvi). In the existing tariff arrangement, a composite charge is prescribed for handling of containers at the yard which includes the services of lift on/lift off, transportation and delivery/receipt. The CCTL has proposed to bifurcate the composite rate into two separate tariff items i.e. transportation to/from quay and handling at container yard which includes lift on/lift off and delivery/receipt. The proposed bifurcation is done based on a ratio of approximately 47.5 : 52.5. As no sub activity-wise cost detail has been furnished by the CCTL, the reasonableness of the proposed bifurcation from cost point of view could not be assessed. Since the re-structuring of tariff is reportedly to suit local operational requirement, the proposal in this regard is accepted without any increase in the existing (interim) tariff for the composite activity.

In the case of ICD container, the CCTL has proposed to levy transportation charge at around 5% lower than the proposed transportation charge in case of local deliveries. It has been explained that this reduction is proposed to attract ICD traffic. This proposal of CCTL for 5% reduction in the transportation charge in case of ICD containers is accepted but, as per the general decision no increase in the base rate is allowed.

- (xxvii). (a). The CCTL has proposed to make a total change in the free period structure and proposed to levy storage charges without giving any allowance if containers are not cleared within the prescribed free period. This proposed change in the tariff structure has been vehemently opposed by the users. At all the container terminals, and for that matter even in case of break bulk cargo, a minimum number of demurrage free time is allowed to the importers/exporters to clear the cargo /container. If the containers continued to remain in the port's yard beyond the prescribed free period, storage charges are levied only for the period beyond the free days allowed. While the number of free days allowed may vary depending on various local factors at different terminals, there is no deviation in the principle followed in allowing a free period for the importers/exporters to complete required formalities before clearance/shipment of their consignment. Even if the concern of the CCTL to decongest its yard is to be deservedly shared by this Authority, there does not appear to be any reason for deviating from the established practice of allowing free period. That being so, the existing free period structure will continue to be in force at the CCTL.
- (b). It has to be recognized that the container yard in a terminal should only be a transit area. Congestion of container yard will definitely affect productivity and capacity of the Terminal. As a matter of fact, this had happened at the Chennai port not very long ago for a limited period of time. The CCTL has clearly brought out that the expected traffic can be handled only if the average dwell time of containers is progressively reduced to a reasonable level. In order to require the users to expeditiously clear their containers, it has proposed that the storage charges should act as a deterrent. In this context, it is also to be recognized that the CCTL has relatively less back up area for storage. Since storage charges are levied after allowing a reasonable free period, this Authority endorses the views of CCTL and

approves the storage charges as proposed by the CCTL. These charges are, however, leviable only after expiry of the prescribed free periods.

- (c). The CCTL has proposed a premium of 50% of storage of hazardous containers. The special arrangement required to be made in the case of hazardous containers has been explained in detail by the CCTL. Further, a premium of about 25% is already allowed in the handling charges of hazardous containers. It may not be unreasonable to extend the same principle in the case of the storage charges also. The premium on storage charges in case of hazardous containers is, however, restricted to 25% instead of 50% proposed by the CCTL.
- (xxviii). CCTL has proposed to levy a premium of 50% in the wharfage charges also in the case of hazardous containers. A similar proposal was earlier made by VCTPL. This Authority held that such a premium could only be levied on handling charges and not on wharfage. Recognizing the position that wharfage charges prescribed is irrespective of the containerised cargo, there is no case for accepting the proposal of the CCTL in this regard.
- (xxix). (a). CCTL initially proposed a very steep hike in the reefer charges on the ground that the existing tariff does not even cover the variable cost of supply of electricity. When it was pointed out to the CCTL that the cost of electricity has been considered in the overall cost position in the absence of sub-activity wise costing details furnished, the CCTL has agreed to modify its earlier proposal and accordingly requested for a normal across-the-board increase in tariff proposed by it in the case of reefer charges also. Since no across-the-board of revision of the tariff is allowed, the existing rates for supply of electricity to reefer containers will continue.
- (b). The CCTL has proposed to introduce three new tariff items under this category for free trip inspection, connection/disconnection service on board and cleaning of containers. Similar tariff items except connection/disconnection service on board were introduced by this Authority in the case of VCTPL as the relevant services were reportedly to be provided when specifically requisitioned by the users. In the same analogy, the proposed charges are introduced in the Scale of Rates of CCTL subject to the condition that the services shall be optional and to be provided only when specifically requisitioned by the concerned users. Because of introduction of these optional services charges, the services already provided by CCTL against levy of charges for supply of electricity to reefer containers should not undergo any change.
- (xxx). In case of CFS activity and stuffing/destuffing of LCL containers, the CCTL has proposed some changes in the existing tariff structure and introduction of some new tariff items. Based on the information furnished by the CHPT, the proposed rates are comparable with the CFSs operated by CONCOR and CWC in Chennai. With reference to the existing rates for stuffing/destuffing, the proposed rates are very much on the higher side. The CCTL has, however, explained that the reductions proposed in the storage charges at CFS will partially off set the increase in stuffing / destuffing rates from the users point of view. A comparison of the revenue implications with the existing charges and the proposed charges based on an average cargo storage time of 13 days at CFS reported by CCTL reveals only a marginal increase. Since the proposed rates are comparable with the market rates in the area, the proposal of CCTL is accepted. When the revised CFS charges are introduced there will be some relief to the users in the storage charges as the CCTL has proposed a reduction in such charges compared to the existing (interim) rates. In other CFSs at Chennai for which the tariff details are made available to us, there is no separate fork lift charge. Since CCTL have proposed to introduce this charge as an optional item, it is accepted.

- (xxxi). The following modifications in the existing conditionalities proposed by the CCTL are approved as they appear to be reasonable and in many places it will avoid ambiguity also:
- (a). In case of LCL containers, separate lift on/off charge will be levied for delivery of empty containers after stuffing/de-stuffing.
 - (b). Levy of only 25% of the applicable charges if only 25% or less than 25% of container is de-stuffed/stuffed for customs exemption at CFS.
 - (c). The charges prescribed for shut-out containers is applicable in case of re-nomination of containers also..
 - (d). The free time and storage rates prescribed in case of ICD containers are applicable only for movement of containers to/from ICDs going by rail only.
- (xxxii). The CCTL has proposed to introduce various miscellaneous charges for services like fixing/removal of hazardous stickers, one door open charges, cancellation of documents, miss-declaration of hazardous containers and on wheel customs inspection. Since these are all miscellaneous services, the proposed rates are approved with a slight modification in case of non-declaration/miss-declaration of 40' hazardous containers where the same rate prescribed for 20' container may apply since the proposed charge is in the nature of a penalty. This approach was adopted while prescribing the rate for this tariff item at the VCTPL also.
- (xxxiii). In the existing Scale of Rates rupee denominated rates are prescribed for coastal vessels corresponding to the dollar denominated rates prescribed for foreign-going vessels. In view of the revised foreign exchange rate adopted in this analysis, the coastal vessel rates are adjusted with reference to the corresponding foreign-going vessel and applying the foreign exchange rate of 1 US\$ = Rs 44 which is proposed by the CCTL for estimation of income.

14.1. 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 CCTL placed at **Annex- II**.

14.2 The revised Scale of Rates shall come into effect after expiry of 15 days from the date of its notification in the Gazette of India.

14.3 The validity of the interim Scale of Rates approved vide Order dated 27 November 2003 is extended till the effective date of implementation of the revised Scale of Rates.

14.4 The revised Scale of Rates shall be in force for 2 years after which the approval accorded to it will automatically lapse unless specifically extended by this Authority.

(**A.L. Bongirwar**)
Chairman

Annex-
I

**COST STATEMENT OF THE CHENNAI CONTAINER
TERMINAL LIMITED**

		(Rs.in lakhs)					
		As furnished by the CCTL				Revised by TAMP	
		Actuals	Actuals	Estimates (with 17% interim increase)	Estimates (with 17% interim increase)	Estimates	Estimates
Sl. No.	Particulars	2002	2003	2004	2005	2004	2005
	Throughput in TEUs	395,952	492777	550,310	605,341	551910	607101
	Throughput in containers	304,578	379059	422,363	464,599	423205	465449
I	REVENUE						
	Gross Terminal Revenue	10,460.73	12,908.19	15,247.47	16,663.79	15,553.72	17,005.15
	Other reveune	3.34	234.48	0.00	0.00	0.00	0.00
	Revenue share of 27% of the gross revenue as per the Govt. policy	(2,824.40)	(4,793.31)	(4,116.82)	(4,499.22)	(4,199.50)	(4,591.39)
	TOTAL - (I)	7,639.67	8,349.36	11,130.65	12,164.57	11,354.22	12,413.76
II	OPERATING EXPENSES						
	Operating & Direct Labour	407.79	431.47	520.78	612.38	520.78	582.16
	Maintenance Labour	188.55	203.03	266.20	308.61	266.20	298.58
	Equipment Running Costs	1,060.42	1,273.35	1,487.39	1,713.33	1,490.73	1,702.99
	Operations Equip. Depn.	848.42	1,400.80	1,820.27	2,087.86	1,820.27	2,087.87
	Other Expenses	2,395.35	2,645.69	1,971.94	2,097.29	1,933.99	2,039.17
	Sub Total	4,900.53	5,954.34	6,066.58	6,819.47	6,031.98	6,710.77
	OVERHEADS						
	Mgt. and Admin. Labour	137.94	152.21	190.76	213.65	190.76	209.23
	Non-operating Depreciation	293.05	431.97	452.57	676.63	452.57	676.61
	General Overheads	516.82	545.61	642.26	683.46	578.35	613.05

	Prelim & Upfront Payment w/off	230.20	231.46	38.28	38.28	38.28	38.28
	TOTAL (II)	6,078.55	7,315.60	7,390.44	8,431.49	7,291.93	8,247.94
III	SURPLUS (III) = (I-II)	1,561.12	1,033.76	3,740.21	3,733.08	4,062.28	4,165.82
IV	FINANCING CHARGES						
	Interest on Loans/ Financing Costs	284.63	911.45	1,576.90	1,549.60	1,576.90	1,549.59
V	Credit back of the amount receivable at the end of the 30th year (discounted at 12%)	0.00	0.00	0.00	0.00	83.87	93.93
VI	NET SURPLUS AFTER FIN.CHARGES and credit back of seperation amount(VI) = (III-IV+V)	1,276.49	122.31	2,163.31	2,183.48	2,569.25	2,710.15
	Taxation	10.85	(10.39)	150.24	144.14	0.00	0.00
VII	PROFIT AFTER TAXATION	1,265.64	132.70	2,013.07	2,039.34	2,569.25	2,710.15
VIII	CAPITAL EMPLOYED						
	(a). Share holders Funds	11,953.21	12,085.92	14,867.91	16,765.94	14,867.91	16,765.94
	(b). Borrowed Funds	4,950.00	18,400.00	18,230.00	18,735.15	18,230.00	18,735.15
	TOTAL CAPITAL EMPLOYED (VIII)	16,903.21	30,485.92	33,097.91	35,501.09	33,097.91	35,501.09
IX	ROE AT 20% (VII I(a) x 20%)	2,390.64	2,417.18	2,973.58	3,353.19	2,973.58	3,353.19
	Capacity utilisation of the container terminal					79%	87%
	ROE linked to capacity utilisation					2,344.50	2,908.18
X	NET SURPLUS X (VII - IX)	(1,114.15)	(2,294.87)	(810.27)	(1,169.71)	224.75	(198.02)
XI	NET SURPLUS AS A % OF OPERATING INCOME					1.4%	-1.2%
XII	AVERAGE NET SURPLUS AS A % OF OPERATING INCOME					0.1%	

Chennai Container Terminal Private Limited
Scale of Rates

PREFACE

This Scale of Rates sets out the charges payable to the Chennai Container Terminal Limited for use of services and facilities provided at the Chennai Container Terminal.

1. DEFINITIONS

In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply:

- 1.1. “**CCT**” means Chennai Container Terminal.
- 1.2. “**CCTPL**” means Chennai Container Terminal Pvt Limited, a company incorporated in India its successors and assigns.
- 1.3. “**CFS**” means Container Freight Station at the CCT.
- 1.4. “**Coastal Vessel**” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the competent authority.
- 1.5. “**Container**” means the standard ISO container, suitable for the transport and stacking of cargo and must be capable of being handled as a unit and lifted by a crane with a container spreader.
- 1.6. “**FCL**” means Containers said to contain Full Container Load.
- 1.7. “**Foreign-going Vessel**” shall mean any vessel other than a coastal vessel.
- 1.8. “**Hazardous container**” means a Container containing hazardous goods as classified under IMO.
- 1.9. “**ICD**” means Inland Container Depot.
- 1.10. “**LCL**” means Containers said to contain less than full Container Load (Container having cargo of more than one importer/exporter).
- 1.11. “**Over Dimensional Container**” means a Container carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam, etc. Damaged Containers and Container requiring special devices for lifting is also classified as Over Dimensional Container.
- 1.12. “**Per day**” means per calendar day or part thereof.
- 1.13. “**Reefer**” means any Container for the purpose of the carriage of goods, which require power supply to maintain the desired temperature.
- 1.14. “**Port**” means Chennai Port Trust.
- 1.15. “**Shut Out Container**” means a container, which has entered the terminal for export for a vessel as indicated by VIAN and is not connected to the vessel for whatsoever reason.
- 1.16. “**Tonne**” means one metric Tonne of 1,000 kilograms or one cubic metre.
- 1.17. “**Transshipment container**” means a Container discharged from one vessel, stored in CCT and transported through another vessel.
- 1.18. “**VIAN**” means Vessel Identification Advise Number.

2. GENERAL

- 2.1.** Containers less than and upto 20' in length will be reckoned as one TEU for the purpose of tariff.
- 2.2.** Containers other than that of standard size requiring special devices / slings / handling will be charged as per 3.5 below. Such containers will also include damaged containers and any other type requiring special devices.
- 2.3.** Container-related charges denominated in US dollar terms shall be collected in equivalent Indian rupees. For this purpose, the market buying rate notified by the Reserve Bank of India, State Bank of India or its subsidiary or any other Public Sector Banks as may be specified from time to time prevalent on the date of entry of the vessel into the Terminal (in case of import containers) and on the date of arrival of containers in the Terminal premises (in case of export containers) shall be applied for re-conversion of the dollar-denominated charges into Indian rupees.
- 2.4.** All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.
- 2.5.** All invoices are issued as due on presentation. Failure to pay may cause a lien to be placed on the goods handled at the Terminal and the responsible party may be denied further use of the Terminal until all outstanding charges have been paid.
- 2.6.** (i). The user shall pay penal interest on delayed payments of any charge under this Scale of Rates. Likewise, the CCTL shall pay penal interest on delayed refunds.
- (ii). The rate of penal interest will be in the range between a minimum of 2% above the Prime Lending Rate of the State Bank of India and a maximum of 18% within which the CCTL can choose the rate convenient to their purpose. The penal rate chosen will apply to both the CCTL and the port-users equally.
- (iii). The delay in refunds will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.
- (iv). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the CCTL. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act and/or where payment of charges in advance is prescribed in this Scale of Rates.
- 2.7.** (i). A foreign-going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order.
- (ii). A foreign going vessel of foreign flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping.
- (iii). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
- (iv). In cases of such conversion coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
- (v). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other documents will be required to be entitled to coastal rates.
- 2.8.** An LCL Container coming in and going out of the CCT as a unit load will be regarded as an FCL for the purpose of levying charges.

3. CHARGES FOR CONTAINER OPERATIONS

3.1. Charges for handling FCL import and export containers and empty containers.

3.1.1. Handling by Quay Crane including lashing/unlashing charges.

	Foreign-going Vessel US\$	Coastal Vessel Rs.
Per FCL Container		
- Not exceeding 20' in length	20.48	901.10
- Exceeding 20' and upto 40' in length	30.71	1351.25
- Over 40' in length	40.95	1801.80
Per empty Container		
- Not exceeding 20' in length	20.48	901.10
- Exceeding 20' and upto 40' in length	30.71	1351.25
- Over 40' in length	40.95	1801.80

Services include handling by quay crane and lashing/unlashing.

3.1.2. Transportation from QC to Yard & Vice Versa

	Rs.
Per FCL Container	
- Not exceeding 20' in length	583.55
- Exceeding 20' and upto 40' in length	875.30
- Over 40' in length	1167.10
Per empty Container	
- Not exceeding 20' in length	289.00
- Exceeding 20' and upto 40' in length	433.50
- Over 40' in length	578.00

Services include transport to and from the quayside.

3.1.3. Handling at Container Yard including lift on/off, delivery / receipt to and from customers.

	Rs.
Per FCL Container	
- Not exceeding 20' in length	644.95
- Exceeding 20' and upto 40' in length	967.45
- Over 40' in length	1289.90
Per empty Container	
- Not exceeding 20' in length	319.40
- Exceeding 20' and upto 40' in length	479.10
- Over 40' in length	638.80

Services include lifts at CY for storage and for landing or loading the container from or to customer's vehicle.

3.2. Charges for handling LCL import and export container.

3.2.1. Handling by Quay Crane including lashing/unlashing charges.

	Foreign-going Vessel US\$	Coastal Vessel Rs.
Per LCL Container		
- Not exceeding 20' in length	20.48	901.10
- Exceeding 20' and upto 40' in length	30.71	1351.25
- Over 40' in length	40.95	1801.80

Services include handling by quay crane and lashing/unlashing.

3.2.2. Handling at Container Yard including lift on/off and transportation to and from CFS

	Rs.
Per LCL Container	
- Not exceeding 20' in length	2164.50
- Exceeding 20' and upto 40' in length	3246.75
- Over 40' in length	4329.00

Services include transport to CY, CFS, lifts at CY for storage and for landing or loading the container from or to customer's vehicle, stowage planning on vessel and yard, data handling, processing and transfer of data between vessel, CCT and shipping line. Delivery of empty container will be charged a lift on/lift off charges separately.

3.2.3. Stuffing / destuffing of cargo at the CCT

	Foreign-going Vessel US \$	Coastal Vessel Rs.
Destuffing/stuffing per container		
- Not exceeding 20' in length	21.25	935.00
- Exceeding 20' and upto 40' in length	31.88	1402.70
- Over 40' in length	42.50	1870.00

- Note:**
1. Services include stuffing or destuffing of LCL containers.
 2. For stuffing/destuffing half-a-container, 50% of the above-mentioned rates will be levied. For this purpose, part stuffing / destuffing of 50% or less than 50% of a container will be treated as half-a-container. If a container is, however to be topped up or stuffed/ destuffed more than 50%, it will be treated as a full container. For customs examination at CFS if only 25% or less than 25% of a container is destuffed/stuffed then charges will be 25% of above mentioned rates.

3.3. Charges for handling ICD import and export container.

3.3.1. Handling by Quay Crane including lashing/unlashing charges.

	Foreign-going Vessel US\$	Coastal Vessel Rs.
Per loaded Container		
- Not exceeding 20' in length	20.48	901.10
- Exceeding 20' and upto 40' in length	30.71	1351.25
- Over 40' in length	40.95	1801.80
Per empty Container		
- Not exceeding 20' in length	20.48	901.10
- Exceeding 20' and upto 40' in length	30.71	1351.25
- Over 40' in length	40.95	1801.80

Services include handling by quay crane and lashing/unlashing.

3.3.2. Transportation from QC to container Rail Yard & Vice Versa

	Rs.
Per loaded Container	
- Not exceeding 20' in length	554.40
- Exceeding 20' and upto 40' in length	831.55
- Over 40' in length	1108.75
Per empty Container	
- Not exceeding 20' in length	274.55
- Exceeding 20' and upto 40' in length	411.80
- Over 40' in length	549.10

Services include transport to container rail yard, stowage planning on vessel and yard, data handling, processing and transfer between vessel, CCT and shipping line.

3.3.3. Handling at Container Yard including lift on/off at container Rail Yard

	Rs.
Per loaded Container	
- Not exceeding 20' in length	644.95
- Exceeding 20' and upto 40' in length	967.45
- Over 40' in length	1289.90
Per empty Container	
- Not exceeding 20' in length	319.40
- Exceeding 20' and upto 40' in length	479.10
- Over 40' in length	638.80

Services include lift at container rail yard, data handling, processing and transfer between vessel, CCT and shipping line

3.4. Charges for handling Transshipment Containers including handling by on board stevedoring labour at Quay side, lashing/unlashing charges

	Foreign-going Vessel US\$	Coastal Vessel Rs.
Per loaded Container		
- Not exceeding 20' in length	24.57	1081.10
- Exceeding 20' and upto 40' in length	36.85	1621.40
- Over 40' in length	49.14	2162.20
Per empty Container		
- Not exceeding 20' in length	24.57	1081.10
- Exceeding 20' and upto 40' in length	36.85	1621.40
- Over 40' in length	49.14	2162.20

Services include handling by quay crane (discharge and loading), transport and, lifts, stowage planning on vessel and yard, data handling, processing and transfer between vessel, CCT and shipping line.

Note: 1. A transshipment container sent to CFS, ICD or taken delivery locally shall be charged the local container rate

2. A Shut out charge as per 3.10 shall apply if -

- **The vessel nomination is changed; or**
- *If the vessel nomination is changed from a later vessel to an earlier vessel after the earlier vessel is berthed.*

3.5. Charges for Hazardous Cargo Containers / Over-dimensional Cargo Containers.

A premium of 25% will be levied over the applicable handling charges prescribed above for respective categories of containers.

3.6. Charges for Wharfage

	Foreign-going Vessel US\$	Coastal Vessel Rs.
Per Container (box only)		
- Not exceeding 20' in length	1.17	51.50
- Exceeding 20' and upto 40' in length	1.76	77.45
- Over 40' in length	2.34	103.00
Per Containerised Cargo		
	(In Rs)	(In Rs)
- Not exceeding 20' in length	643.50	643.50
- Exceeding 20' and upto 40' in length	965.25	965.25
- Over 40' in length	1287.00	1287.00

- Note:**
1. *The charge for containerised cargo in all cases will be in Rupee terms.*
 2. *The charge for containers in cases of 'foreign arrival' and 'foreign departure' will be in Dollar terms.*
 3. *The charges for containers in cases of 'coastal arrival' and 'coastal departure' will be in Rupee terms.*
 4. *Wharfage will be charged on all containers including ICDs, transshipment, LCL and FCL and empty containers.*

3.7. Charges for handling hatch covers for one operation (both opening and closing).

	Foreign-going Vessel US\$	Coastal Vessel Rs.
Without landing hatch cover on quay	16.38	720.70
With landing hatch cover on quay	40.95	1801.80

Note: *Half the rate shall be charged if there is only one activity, i.e. either an opening or closing operation.*

3.8. Charges for shifting containers within vessel (Restows).

	Foreign-going Vessel US\$	Coastal Vessel Rs.
Within hatch (without landing and reshipping) per container		
- Not exceeding 20' in length	9.95	437.80
- Exceeding 20' and upto 40' in length	14.92	656.50
- Over 40' in length	19.89	875.20
Via Quay (shifted by landing on Quay & reshipping) per container		
- Not exceeding 20' in length	29.25	1287.00
- Exceeding 20' and upto 40' in length	43.88	1930.70
- Over 40' in length	58.50	2574.00

Note: No wharfage will be levied on the restow containers and containerised cargo.

3.9. Reefer related and other General Services

		Foreign-going Vessel US\$	Coastal Vessel Rs.
a)	Pre-trip inspection (including supply of electricity)	30.00	1320.00
b)	Connection or disconnection Services On board a Vessel	2.00	88.00
c)	Cleaning of Container		
	- Not exceeding 20' in length	1.50	66.00
	- Exceeding 20' and upto 40' in length	3.00	132.00
	- Over 40' in length	4.50	198.00
d)	Supply of electricity (including connection and disconnection, monitoring of temperature at reefer yard) Per container per 8 hours shift or part thereof		
	- Not exceeding 20' in length	6.44	283.40
	- Exceeding 20' and upto 40' in length	9.65	424.60
	- Over 40' in length	12.87	566.30

Note: 1. Above tariff does not include parameter setting or repair & maintenance of malfunctioning reefers. Above charges are also applicable to restore reefer containers.

2. Pre-trip inspection of the reefer containers, connection or disconnection services on board the vessel and cleaning of containers are optional services and shall be rendered when requested.

3.10 Charges for a shut out container / re nomination of containers

	Foreign-going vessel US \$	Coastal Vessel Rs.
Per Container		
- Not exceeding 20' in length	22.23	978.10
- Exceeding 20' and upto 40' in length	33.35	1467.40
- Over 40' in length	44.46	1956.25

Note: Above charge shall apply where -

(a) an export container or a transshipment container or a re-export container is shut out and subsequently delivered out of CCT.

(b) a container is shut out by one vessel and subsequently shipped on another vessel, in addition to the charges for handling by quay crane charges. In this case, the free storage period will be given to the Container in accordance with section 3.11 from the time the container is first received. If the free storage period is exceeded, storage charges shall be calculated after the expiry of the free period up to the time of lift on.

3.11. Charges for Container storage

Sl. No.	Particulars	Foreign-going Vessel			Coastal Vessel		
		Rate per container per day or part thereof (in US \$)			Rate per container per day or part thereof (in Rs.)		
		Upto 20' in length	Above 20' and upto 40' in length	Above 40' in length	Upto 20' in length	Above 20' and upto 40' in length	Above 40' in length
1.	Import-FCL, LCL & Empty First 3 days 4-15 days 16-30 days Beyond 30 days	Free 5.00 10.00 20.00	Free 10.00 20.00 40.00	Free 15.00 30.00 60.00	Free 220.00 440.00 880.00	Free 440.00 880.00 1760.00	Free 660.00 1320.00 2640.00
2.	Export – FCL & LCL & Empty First 7 days 8-15 days 16-30 days Beyond 30 days	Free 5.00 10.00 20.00	Free 10.00 20.00 40.00	Free 15.00 30.00 60.00	Free 220.00 440.00 880.00	Free 440.00 880.00 1760.00	Free 660.00 1320.00 2640.00
3.	ICD-Import & Export – Loaded & empty First 15 days 16-30 days 31-45 days Beyond 45 days	Free 5.00 10.00 20.00	Free 10.00 20.00 23.40	Free 15.00 30.00 35.10	Free 220.00 440.00 880.00	Free 440.00 880.00 1029.60	Free 660.00 1320.00 1544.40
4.	Transshipment – Loaded & empty First 30 days 31-45 days 46-60 days Beyond 60 days	Free 5.00 10.00 20.00	Free 10.00 20.00 40.00	Free 15.00 30.00 60.00	Free 220.00 440.00 880.00	Free 440.00 880.00 1760.00	Free 660.00 1320.00 2640.00
5.	Shutout – Loaded & empty First 15 days 16-30 days Beyond 30 days	5.00 10.00 20.00	10.00 20.00 40.00	15.00 30.00 60.00	220.00 440.00 880.00	440.00 880.00 1760.00	660.00 1320.00 2640.00
6.	Change of status to local delivery First 3 days 4-15 days 16-30 days Beyond 30 days	Free 5.00 10.00 20.00	Free 10.00 20.00 40.00	Free 15.00 30.00 60.00	Free 220.00 440.00 880.00	Free 440.00 880.00 1760.00	Free 660.00 1320.00 2640.00

3.12.1. Storage period for a container shall be reckoned from the day following the day of landing upto the day of loading / delivery / removal of container.

3.12.2. For purposes of calculation of free time, Sundays, Customs notified holidays, and the Terminal's non-operating days shall be excluded.

- 3.12.3.** Transshipment containers whose status is subsequently changed to local FCL/LCL/ICD shall loose the concessional storage charges. The storage charges for such containers shall be recovered at par with the relevant import containers storage tariff.
- 3.12.4.** For hazardous container, the storage charges shall be 25% more under the respective slab as given above.
- 3.12.5.** The free time and storage rates prescribed in case of ICD containers are applicable only for movement of containers to/from ICDs going by rail only.
- 3.12.6.** Normal import containers subsequently changing the mode to either LCL or ICD container will enjoy the free period applicable to local FCL containers.
- 3.12.7.** Total storage period for a shut out container shall be calculated from the day following the day when the container has become shut out till the day of shipment/delivery.
- 3.12.8.** The storage charges on abandoned FCL containers/shipper owned containers shall be levied upto the date of receipt of intimation of abandonment in writing or 75 days from the date of landing of container, whichever is earlier subject to the following conditions:
- (i). The consignee can issue a letter of abandonment at any time.
 - (ii). If the consignee chooses not to issue such letter of abandonment, the container Agent/MLO can also issue abandonment letter subject to the condition that,
 - (a). the Line shall resume custody of container along with cargo and either take back it or remove it from the port premises; and
 - (b). the Line shall pay all port charges accrued on the cargo and container before resuming custody of the container.
 - (iii). The container Agent/MLO shall observe the necessary formalities and bear the cost of transportation and destuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall be continued to be levied till such time all necessary actions are taken by the shipping lines for destuffing the cargo.
 - (iv). Where the container is seized/confiscated by the Custom Authorities and the same cannot be destuffed within the prescribed time limit of 75 days, the storage charges will cease to apply from the date the Customs order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and destuffing. Otherwise, seized/confiscated containers should be removed by the Lines/consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the date of such removal.

3.12.9. Miscellaneous Charges

Sl. No.	Particulars	Rate per Container (in Rs.)	
		Not exceeding 20' in length	Exceeding 20' in length and upto 40' in length
(i).	Fixing/removal of seal	200.00	200.00
(ii).	Lift on/lift off in the CY	643.50	965.25
(iii).	Charges for shifting within the Terminal	877.50	1316.25
(iv).	POD Change	877.50	1316.25

(v).	Additional movement – Terminal to Rail or Rail to Terminal / Charges for extra movement/ transportation	877.50	1316.25
(vi).	Change of status of Container from Rail to Road or vice-versa	877.50	1316.25
Sl. No.	Particulars	Rate per Container (in Rs.)	
		Not exceeding 20' in length	Exceeding 20' in length and upto 40' in length
(vii).	Fixing/removal of Hazardous Sticker (per container)	100.00	100.00
(viii).	One Door Open Charges per container	600.00	600.00
(ix).	Cancellation of documents – per EIR	100.00	100.00
(x).	Non-declaration / Mis-declaration of Hazardous containers	3000.00	3000.00
(xi).	On-Wheel Customs inspection (per container)	400.00	400.00

- Note:**
1. **Cancellation charges** applies when EIR is cancelled at the request of customers.
 2. **"One Door Open" Charge** is applicable for handling container which requires only one door to be kept open (eg. Onions) and when door opening and securing is carried by the terminal.
 3. **"Fixing of Seal"**

Bottle seals shall be fixed on every container arriving at the terminal – by rail/road/sea without a proper bottle seal on it, prior to allowing its entry. This shall be done without the written consent of the shipping lines. The list of such containers on which a seal is affixed by the terminal shall be intimated to the lines.
 4. **Fixing/removal of Hazardous Sticker"**

Hazardous sticker indicating IMCO class only shall be affixed on a container carrying hazardous cargo. Similarly old sticker on the container shall be removed from a container carrying non-hazardous cargo. In either case, the customer has to intimate in writing to CCT to undertake the said activity, within the terminal.
 5. **On-wheel Customs inspection**

The on-wheel inspection of a container shall be allowed at the nominated point only, on the written request of the customer. The container doors can be opened only under customs supervision. No stuffing/destuffing, even partially, shall be permitted within the terminal premises.
 6. Additional movement – from terminal to rails siding or rail siding to terminal will be applicable for ICD container moved by CCT.

7. Non-Declaration / Mis-declaration of Hazardous container

The Customer has to declare the hazardous nature of the cargo as per the IMCO rules and furnish the relevant hazardous details to CCT. The above charges are only for non-declaration/mis-declaration of the hazardous nature of the container.

The liabilities and cost towards the consequences arising due to non declaration or mis-declaration shall, however, be on the customer's account.

3.13. Charges for supply of Fresh Water to shipping alongside the container berths.

	Foreign-going US\$.	Coastal Rs.
Per 1000 Liters or part thereof	6.79	298.80

3.14. Charges for clearance of Garbage on-board

	Rs.
Per 1/2 cubic meter bag	234.00

4. CHARGES LEVIABLE AT THE CFS

4.1. Storage charges

Period	Rate per ton or part thereof per day or part thereof (Rs.)
First 3 days	Free
4-10 days	25.00
11 days to 20 days	50.00
21 days to 30 days	75.00
Thereafter	100.00

Note: For purposes of calculation of free time, Sundays, Customs notified Holidays, and the Terminal's non-operating days shall be excluded.

4.2. Charges for Landing from / Loading to vehicle Rs.35/- per ton or part thereof.

4.3. Forklift charges at the request of customer Rs.175 per MT.

4.4. Packing/unpacking charges at the request of the customer Rs.50 per package.

4.5. Admittance and labelling charges for receiving of cargo for stuffing Rs.25 per MT.

4.6. Documentation charges per consignment Rs.50.

4.7. Palletization / Depalletization per pallet Rs.100.

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

F. No. TAMP/82/2003-CCTL _sal from the Chennai Container Terminal Limited for review of its tariff.

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

The Tamil Chamber of Commerce (TCC)

- (i). Since the results or future estimates of the CCTL are not available for our perusal, we are unable to make any comments about the revision of rates. The financial results and future estimates may be made available to the users for the sake of transparency.
- (ii). Since the information is available with TAMP, the Authority can take decision on the merits like efficiency and competition from the new ports.

The Southern India Chamber of Commerce and Industry (SICCI)
and

The Chennai and Ennore Ports Steamer Agents' Association (CEPSAA)

- (i). 12% growth in traffic is likely to increase in future and this would necessitate a downward traffic structure.
- (ii). From a throughput of around 3.5 lakh TEUs, the Chennai Port Trust (CHPT) was able to generate profit of over Rs. 50 crores annually after meeting huge social obligation expenses. But the private terminal operator does not have many of these expenses to incur.
- (iii). The last tariff order passed by TAMP disclosed average net surplus for the year 2002 & 2003 after accounting for all admissible cost and returns. In spite of the surplus position, the CCTL argues that they are making losses when their throughput has already crossed 4.8 lakh TEUs during year 2003.
- (iv). An interim hike of 17% in tariff has been given to CCTL to nullify CCTL's alleged loss of 17%. This is based on the results of March 2003 of the CCTL and not based on the October or November position. With the substantial increase in the throughput achieved by CCTL during the period from April 2003 to October 2003, 17% alleged loss would have been totally eliminated.
- (v). With the overall increase in throughput, the CCTL should achieve a reasonable profit without increase in tariff. The interim hike of 17% should have increased their profits substantially. There is no further need for any revision in the CCTL tariff.
- (vi). Royalty is a matter between the licensor and licensee. If it is allowed to be loaded as cost item by the licensee, the future prospective licensees may quote any amount as royalty. Inclusion of royalty in computation of tariff is detrimental to the trade.
- (vii). Even at the present level the CCTL tariff is higher than the tariff of private terminals in Vizag and Tuticorin.

- (viii). The tariff structure has been altered and components broken down making it difficult to compare with existing structure. In order to facilitate easy comparison and evaluation a uniform set of tariff items among various ports may be maintained.
- (ix). The interim increase of 17% in CCTL tariff was announced practically retrospective in nature and our members had no time to inform their principals. The practice of giving 15 days notice period for cargo related charges and 30 days notice period for vessel related charges may be adopted without any exemption.
- (x). Item-wise comments.
 - (a). Increasing the transshipment handling rates by 100% is not justifiable.
 - (b). Increase in reefer tariff by around 80% does not seem to match with the justification that TNEB has increased the tariff.
 - (c). Increase in LCL rates will force the customers to look out for cheaper options. Further citing that the proposed hike is based on existing tariff in CFS around the terminal is unjustifiable and exposes their motive. The argument that the current average dwell is 5-7 days and stating that as the reason for tariff hike in storage is not all justified owing to following reasons.
 - (i). Delay by CCTL for containers that involve shifting to reduce their costing.
 - (ii). Delay by CCTL to load trailers when their berth is occupied by working vessel.
 - (iii). If vessels arrive on weekends there could be two days delay.
 - (iv). Extending one additional free day with a clause that storage will be charged for all days if not cleared within the free time would result in confusion. This will also result in lower berth productivity as CCTL have to clear higher volumes of containers every day and due to lack of sufficient equipment when vessels are handled simultaneously.
 - (d). The proposal that the ICD Container should be cleared within 48 hours is not justified, as there could be customs delays. No line likes to delay the ICD movements. On one hand CCTL says that it wants to promote the movement to ICDs and, on the other hand they are trying to restrict the free storage.
 - (e). The present proposal to hike the storage tariff by 100% compared to the tariff before 28 November 2003 is not all justified. The move to reduce the free days for export storage to 3 days will result in additional expenditure for the shipping lines as some of the main liners call once a week only. The vessel operators will be forced to accept a last minute rush to accommodate the containers. CCTL has made a remark that storage will be charged from day one if the containers are not cleared within the free time. This is totally baseless, harsh and irrational. This is against the very concept of "free time".
 - (f). Cancellation of free storage for empties is not justified. Generally CCTL delays the loading of trailers in the yard if there is a working vessel. Because of the cancellation of free storage the user will be forced to pay more for the inefficiency of CCTL.
 - (g). CCTL has inserted a new clause proposing a 50% additional storage for hazardous cargo. This is not justified and was not prevailing till now.
 - (h). The claim that customs has demanded for payment of cost recovery charges for their services is not justified.

- (i). In the proposal CCTL has claimed an increase in their labour charges to manage the additional volumes. Such additional volumes will definitely yield additional remunerations and the increase in expense towards additional labour will be only a fraction of the total revenue earned.
- (j). In the proposal seeking a tariff of Rs.600/- per container for ODO Containers is not only shocking but also baseless because as per their own explanation the activities involved are just opening and securing the door.
- (k). Hefty hike in the shut out charges by 80% compared to the tariff before 28th November without any explanations is totally baseless.
- (l). **MANAGEMENT FEES:** The contract is awarded to the parent company on its strength and experience, whereas the CCTL was a later creation. As has been mentioned by the Authority in the previous order the BOT agreement has been awarded based on the technical expertise the promoter is expected to pass on to the Indian JV Company. Such payment is definitely in the nature of return on capital employed and needs to be treated as a part of a profit. It cannot, therefore, be recognized as a cost element for determination of tariff.

The interim hike given is contrary to the point of view of the Authority. The Tariff has been increased by 27% over the past 18 months, which is a record by itself. Moreover, an interim hike of 17% has been granted to nullify the alleged deficit of CCTL, based on CCTL's March 2003 figures. Terminal Operator should now be in a position to earn substantial profit because his throughput has increased substantially.

TAMP should consider a reduction in the tariff and reject the increases sought.

The Chennai Custom House Agents Association (CCHAA)

- (i). When the Chennai Port Trust makes a proposal for any general revision each and every aspect of the revision is dealt in detail supported by detailed working. The CCTL has submitted a vague proposal without proper justification.
- (ii). The Government of India have brought down the rates of duty from 25% to 20% while announcing Mini Budget. With multiplicity of players in the Cell Phone sector there is reduction in tariff. The CCTL because of its monopoly, should not seek such a steep increase.

The Shipping Corporation of India Limited (SCI)

- (i). The Scale of Rates approved in March 2002 were found to be exorbitantly high when compared to the then trade at Chennai. Subsequently, the rates were hiked by 17% with effect from 28 November 2003 without consulting users.
- (ii). The CCTL now on an average expects an increase of around 35% over March 2002 rates and 100% increase in storage charges.
- (iii). The increase of free storage period from 3 to 4 days proposed by CCTL is a welcome step.
- (iv). The CCTL proposal of charging storage charges from the day following the date of landing up to the day of loading / delivery of containers, if containers are not moved within the free period, is not acceptable as it may not be possible to move the containers within 4 free days in certain cases on account of genuine problems faced by the trade.

- (v). The proposal to levy storage charges for ICD containers up to the date of loading containers on rail from the day following the date of landing if ICD documents are not submitted within 48 hours needs to be looked into.
- (vi). The proposed increase of rates for transshipment containers is also 100% from the existing rates and this will not encourage transshipment through Chennai Port.

Madras Chamber of Commerce and Industry (MCCI)

- (i). The CCTL intends to become a hub port which would require encouragement of transshipment containers. The proposal to increase the rates for transshipment containers would be detrimental.
- (ii). There has been an increase in electricity rates, but, this does not justify the increase sought in tariff. Increase in tariff should be granted proportionately to the element of the electricity charges in the original tariff at a level by which electricity rates have been increased during this period.
- (iii). CCTL has voluntarily carried out LCL destuffing / stuffing even against the will of the carriers. There is no mandatory regulation/ legal responsibility for this operation. CCTL would not have done this operation voluntarily if there was no remuneration in it. This operation, therefore, does not warrant an increase.
- (iv). The activity of a terminal to receive, load, discharge and deliver containers is part of its function. There is no substantial increase in the dwell time of the containers since fixing original tariff for import storage charges. While it is accepted that dwell time of import containers should be minimal, the request of the CCTL for applying the storage charges from the date of landing, if the containers are not cleared within 3 to 4 days is absurd. Storage charges should be applicable only after a certain number of days. The general norm seems to be in the range of 3 to 4 days.
- (v). The Government of India invited 3 international terminal operators namely P&O ports, Hutchison and PSA to bid for this project since there were no Indian companies with a track record of running containers terminals. It is, therefore, reasonable to assume that the successful bidder (P&O Ports) had the expertise, experience and capability to run a container terminal. Therefore, payment of management fees to 3rd party even if it is out of their own group is untenable. By taking equity participation, M/s. P&O Ports are bringing their core competency of running container terminal, and, therefore, should not be allowed to charge any management fees as this goes against the very fabric of their being invited to bid in the first place.
- (vi). While Government has permitted royalty payments to be treated as cost, retrospective impact should not be allowed.

Hindustan Chamber of Commerce (HCC)

- (i). The volume handled by CCTL has nearly doubled since the terminal was taken over by it. Hence the cost of operation now should be much less than what was anticipated by the CCTL and TAMP. There is, therefore, no logic in CCTL seeking any upward review of its tariff.
- (ii). In the initial stage of its establishment, the CCTL would have incurred heavy outflow towards revenue expenditure as they had to take up maintenance of the equipments, yards etc., TAMP may arrive at a decision if there is any justification for the review of CCTL tariff after perusal of the audited profit and loss account of the CCTL and also taking into account the interim relief of 17%.

Container Shipping Lines Association (CSLA)

- (i). In the absence of copy of financial statements no comments can be provided on the CCTL proposal.
- (ii). We require elucidation of CCTL statement on the royalty disallowance and its connection with return since commencement of operation.
- (iii). Instead of considering 27% maximum royalty prescribed by Government of India, reasonable level has to be considered for the year 2003 taking into account actual revenue / expenditure and tariff for 2003. Royalty should be restricted to 5% of revenue for the year 2004 which is comparable with NSICT and PSA SICAL for similar number of years since commencement of operations.
- (iv). The ratio of transshipment charges as a percentage of QC handling charges for load and discharge activity is only around 50% in other major ports. The 100% hike by CCTL is not, therefore, justified.
- (v). Around 80% increase in reefer tariff is not justified when compared with 16.28% hike in electricity tariff by TNEB. The increase in TNEB tariff is in INR whereas the CCTL proposed increase in US\$ which will complicate administration of rates to the lines on account of fluctuating exchange rates. The increase in tariff by TNEB should have impact on the reefer electricity charges only and should not have any impact on the monitoring and plugging / unplugging charges. As TNEB would be paid based on actual electricity consumed, the tariff for reefer electricity should be on hourly basis.
- (vi). Increase in LCL stuffing / destuffing rates will force the customers to look for cheaper options outside Chennai Port. CCTL may not be able to recover the charges levied by customers on CFS activities.
- (vii). The current average dwell time of 5 –7 days for import storage charges stated by the CCTL is due to following reasons:
 - CCTL delays delivery of containers that involves shifting to reduce cost.
 - When the berth occupancy is high where cranes concentrate on feeding and receiving containers from the vessels, there is delay by CCTL to load trailers.
 - Many vessels arrive on weekends forcing two days delay.

Therefore, there is no justification for hike in storage charges. The proposal of extending one additional free day with the clause that storage will be charged from day one if not cleared within the free time is feasible subject to CCTL guaranteeing truck turnaround time with the container delivered within half an hour of entry into the terminal and subject to CCTL maintaining nil congestion at the Terminal gate for entry.

In the absence of such a service level, if the containers overstaying, the import storage charges be calculated from the day free days for the import container expires.

- (viii). The proposal to reduce free days storage for exports from seven to four days with an additional clause that the storage charges would be applicable from day one if the container is not loaded within the free days need not be accepted as it would deter the main line calls at CCTL.
- (ix). The proposal that the documentation for import ICD containers must be completed within 48 hours from date of discharge of the vessel in order to avail 15 free days on storage is not feasible as these delays are on account of processing delays by customs, weekends and customs holidays. No line would purposely delay movements to ICDs as this would add up to the transit and delivery schedule which would make the line less competitive.
- (x). CCTL delays loading of trailers in the yard when the berth occupancy is high, and, therefore, cancellation of free three days storage for empties is not justified. At least, two free days should be allowed for empties.

- (xi). 71% hike in storage rates as compared to interim tariff has been proposed for laden containers. In case of empties, the hike is 242% compared to the interim tariff. The free days now given is a sufficient deterrent to use the port space as a storage area and the increase in storage tariff is thus unwarranted.
- (xii). In respect of demand from customs, no similar application of costs noted in the financials during tariff review of other ports.
- (xiii). The CCTL has handled approximately volumes of 23.50% more in 2003 compared to 2002 which far exceeds their projection at the time of submission of their earlier proposal. The present projection of 13% increase in 2004 and 10% in 2005 is grossly understated. There will be at least 17-18% growth. There is a case for tariff reduction because of the economy of scale the CCTL would have achieved with increased volumes without any commensurate increase in costs.
- (xiv). The exchange rate of 1 US \$ = Rs. 46.55 cannot be applied when the existing market rate is less by 1 rupee. Considering this fact the assumption of one US\$ = Rs. 47.02 for the year 2005 also cannot be allowed.
- (xv). Since the financial statements have not been circulated, we are not in a position to comment on expense assumptions.

- (xvi). The present CCTL tariff level, after considering interim hike, for certain critical elements is higher than the tariff at VIZAG and Tuticorin and the comparative tariffs are tabulated below.

Sr. No.	Cost Item	Tariffs			Difference CCTL V/S**	
		CCTL	Vizag	Tuticorin	Vizag	Tuticorin
	USD per TEU					
1.	QC charges	20.48	17.5	17.22	17.03%	18.93%
2.	Reefer Charges	6.44	4.95	5.17	30.10%	24.56%
3.	Container wharfage	1.17	0.9	0.92	30.00%	27.17%
	INR per TEU					
4.	Transportation and handling QC to yard	1129	1050	940	17.05%	30.74%

Notes:

* CCTL Tariff is after the 17% hike given recently by TAMP for royalty

** +ve % implies CCTL Tariff higher than other ports and vice versa

It is clear from the above comparison that the rates at neighbouring competing ports are lesser by around 14% to 23% with equal levels of productivity.

- (xvii). CCTL has recently spent on new equipments. The requirement of these equipments may be in excess of actual requirement in terms of current & projected volumes. It could be that CCTL has raised equity for such excessive expenditure on equipment, which they may be passing on to the customers through tariff increase.
- (xviii). The steep increase in handling, hatch covers and restows ranging from 24% to 54% has no logical explanation. The earlier levels may be maintained.

2. The CCTL has responded to the comments of the users which are summarized below:

On the Comments of Hindustan Chamber of Commerce (HCC)

- (i). The tariff fixed by the Authority on the initial proposal of the CCTL in 2002 was based on estimates of the volumes handled by the CCTL. The estimated volume and the actual volume handled by CCTL during the years 2002, 2003 are furnished below:

		<u>2002</u>	<u>2003</u>	Total
(a)	Estimated Volume	4,24,908	4,84,395	9,09,303
(b)	Actual Volume	3,95,952	4,92,777	<u>8,88,729</u>
	Short fall	(-) 28956	(+)8382	(-)20,574

Since the actual volume is lower than the estimated volume there is no justification in the view expressed that the CCTL volumes were taken at the then operating limit at CHPT.

- (ii). The Balance Sheet and Profit and Loss Account of CCTL reflected the actual expenses incurred by CCTL on capital and revenue accounts. CCTL has undertaken refurbishments of the equipment and yard and this has been properly capitalized. The allegation that heavy outflow has been incurred to maintain the equipment and yard as revenue expenditure is not correct.
- (iii). The relief provided to CCTL in terms of 17% increase has been based on proper justification.

On the comments of Container Shipping Lines Association (India) (CSLA)

- (i). CCTL is a private limited company and the results / future estimates are not available to public as these are extremely confidential documents. All our cost structure will be

exposed to our competitors. The evaluation criteria for the proposal are well established by TAMP. As long as the justification for expenses is given, the need to circulate the financials should be reviewed by TAMP.

- (ii). The CCTL has suffered on account of the differential between royalty allowable at 27% and the return allowed since commencement of its operations. This may be considered in detail for being allowed in the current tariff fixation.
- (iii). The transshipment charge as a percentage of normal handling charges is as under:

Transshipment as % of handling					
		20'	40'	20'	40'
Singapore	Local	82.00	117.00	77%	82%
	TP	63.00	96.00	-	-
Salalah	Local	109.00	165.00	128%	121%
	TP	140.00	200.00	-	-
Jebelali	Local	115.00	169.00	121%	114%
	TP	139.00	193.00	-	-
Port Kelang	Local	50.00	75.00	148%	148%
	TP	74.00	111.00	-	-
Mumbai	Local	71.00	107.00	87%	86%
	TP	62.00	92.00	-	-
Tuticorin	Local	35.77	53.66	103%	103%
	TP	37.02	55.53	-	-
Chennai	Local	50.68	76.02	75%	75%
	TP	38.00	57.00	-	-
JNPT	Local	64.45	96.67	100%	100%
	TP	64.45	96.67	-	-

- (iv). The increase in power cost during 2003 is due to activation of new reefer points. The reason for increase in units consumed is due to longstanding reefer containers which has been detained by customs for almost one year. It is not possible to have reefer charges on hourly basis and most ports who were earlier charging on a 24 hour basis have brought down the basis of charging to 8 hours.
- (v). LCL stuffing / destuffing rates at CCTL are in line with charges of other CFS in the facility. Comparison of the same on the basis of information available with us is given below

Activity	Containers	Concor	CWC	CCT
Stuffing	20'	1,000	1,000	978
De-Stuffing	40'	1,600	1,600	1,467

Based on the discussion with users, we have proposed reduction in cargo demurrage charges. If there is cheaper option, the trade will automatically choose it. If the level of cargo handled at CFS is reduced the number of custom staff would also get reduced thereby reducing the cost element.

- (vii). The statement made by the CSLA that CCTL delays the delivery of containers when the berth is occupied is false. The CCTL has encouraged trade to undertake enblock movement of their containers within the port since the yard is congested. The tariff suggested by us for import storage charges will provide further incentive to move boxes outside the terminal at the earliest.

We have extended one free day for import storage and there will be no charge on Sundays and Customs holidays.

- (viii). We have reverted from 4 free days to 7 free days for export containers and from 48 hours to 96 hours for import ICD containers to complete documentation to avail of the 15 free days. Apart from the free days, Sundays and Customs holidays are excluded.

- (ix). Most ports do not provide free days for empties. Empty containers can be removed on Sundays.
- (x). As far as the CCTL proposal for storage rates is concerned the intention is not to generate storage revenues. The approach is that the containers should be moved out from the port at the earliest. The yard should not be used as storage area.
- (xi). The CCTL has predicted with reasonable accuracy, growth in volumes. The users who moved out from Chennai earlier when the terminal was operated by CHPT have returned to CCTL. The compounded annual traffic growth rate in the region is around 12% from 1993-94 to 2002-03. It is therefore, illogical for CSLA to suggested 17% to 18% growth.
- (xii). Regarding the revenue estimates the CCTL agrees with CSLA and it is suggested that the exchange rate may be considered at Rs. 45.30 per US\$ and Rs. 46.00 per US \$ for the year 2004 & 2005 respectively.
- (xiii). The CSLA has furnished the tariff comparison for certain critical elements prevailing in terminals at Vizag and Tuticorin. The CCTL cannot comment on the costing and tariff of other terminals. The CSLA letter brings out the competition prevailing in the region. The CCTL is ready to compete and provide better value for money through better services.
- (xiv). CCTL has not raised equity indiscriminately to earn guaranteed 20% return on equity. On the other hand CCTL has gone in for debt at the less cost.
- (xv). The operations involved in a restow container are almost similar to loading / discharging of any normal container. Accordingly the restow charges have been worked out approximately 91% QC charges for loading / discharging of containers. Similarly, the charges for handling of Hatch containers have been worked out based on the operation involved at approximately 85% of QC charges of a 40 foot container.
- (xvi). CSLA through its various consortia has adopted a stand of increasing shipping freights. As per the orders passed by TAMP terminal handling charges are part of freight and shipping lines should not separately collect this amount from the consignor or consignee. This amount is still being collected over and above freight.
- (xvii). CSLA or its various conferences raised freight at each and every possible opportunity and do not abide by orders of TAMP. Terminal handling charges constitute 2% of the total logistical cost and it is also necessary to regulate the freight charges by shipping lines.

On the comments of Tamil Chamber of Commerce (TCC):

The Tamil Chamber of Commerce has stated that future estimates are not available to enable it to furnish comments. CCTL has furnished complete details to TAMP.

On the comments of SICCI & CEPSSA:

- (i). The CCTL has considered the traffic growth suggested by SICCI.
- (ii). The CCTL information is confidential and complete information has been provided to TAMP for scrutiny.
- (iii). Regarding the SICCI point of 17% interim hike there is no need to respond as the Authority has comprehensively dealt with the position in its order dated 28 November 2003.
- (iv). Each port has difference in the services provided, its cost structure investment plans and the license agreement. The CCTL cannot comment on the tariff structure of the ports like Vizag and Tuticorin has pointed out by SICCI a competitive scenario emerged and CCTL will retain its customers at the proposed tariffs.

- (v). With regard to SICCI request for notice period for implementation of new tariff, the CCTL will follow the practice prescribed by TAMP once an order is Gazetted for current application.
- (vi). On the one hand the SICCI says about the dominant position of CCTL at Chennai Port and on the other, the SICCI states that the tariff structure of CCTL should be in line with neighboring ports. The position adopted by SICCI, in this regard is contradicting.
- (vii). The transshipment charges in the neighboring ports are more than 75% of handling charges against our estimate of 75%.
- (viii). Export storage period has been increased to 7 free days as was available earlier.
- (ix). DG container requires proper segregation between classes as per IMDG regulation. On ground slots cannot be fully utilised due to above reason and more ground slots have to be used instead. Infrastructure needs to be created to cater emergencies like hazardous prone and specialized fire fighting system. Therefore 50% premium has been proposed for hazardous containers.
- (x). Details of demand from customs have been submitted to the TAMP.
- (xi). The Commissioner of Customs has claimed for payment of cost recovery charges for the services rendered by the Customs Officials amount to Rs. 184.76 lakhs with retrospective effect from November 2001.
- (xii). Increase in salary is never based or linked to inflation in Indian conditions. Inflation is normally between one of the components of salary increase. The overall increase across various industries is between 10 to 15%. Port industry requires skilled labour for operation of equipments. Accordingly, to retain the skilled labour forces salary increase has to be at par with the similar terminals. As per survey conducted by M/s. Hewitt and Associates salary for Indian industry is expected to increase by 12.3 % in 2004.
- (xiii). The proposal for seeking Rs. 600 for ODO containers is on account of the spaces lost having to keep the doors open as well as security to be provided to ensure no pilferage.
- (xiv). Higher rates for shutouts have issued proposed to minimize the shutouts and encourage the trade to bring in boxes that have complete documents.
- (xv). The increase in power cost during 2003 is mainly on account of introduction of additional 4 new post-panamax QCs and activation of new reefer points and new yard lightings. Another reason for increase in units consumed is due to longstanding reefer containers which has been detained by customs for almost one year. It is assumed that the trend of longstanding containerization will continue. The increase in electricity is a function of the rate increase as well as the consumption increase.
- (xvi). There needs to be a distinction between return on capital and return on technology. The CHPT has benefited from the receipt of the royalty and lease rent. If there is argument against management fees, then, in the same manner the CHPT is not entitled to lease rent and royalty.
- (xvii). The trade and shipping lines have forgotten the improved efficiency and reduction of cost that they have benefited since CCTL has been operating the terminal. The following facilities have been created or refurbished.
 - Reconstruction of entire 600 meter wharf refurbishment of approximately 79000 square meter pavement.
 - Construction of 33 KV substation for supply of electricity with backup facilities in case of power failures.
 - New reefer points with 270 bulk points.

- High mast lines for the better lighting within the terminal thereby improving the productivity and safety.
 - 4 new post-panamax cranes.
 - 10 new RTGs
 - Facility for off line updation of containers.
 - State of the Art computer system and terminal operating system.
- (xviii). Shipping lines pay lower vessel related charges on account of faster turn around of vessels from 5 days in 2001 to an average of 17 hours. As a result of faster turn around time there has been better asset utilization of the shipping lines enabling them to gain higher return on the same asset employed. The congestion surcharge of US\$ 150 to US\$ 200 per TEU being levied by shipping lines on every container at CHPT was withdrawn after the terminal was taken over by CCTL.
- (xix). As a result of continuous efforts productivity has increased from gross rate of 8 moves per hour to 28 moves per hour. The average berth stay reduced from 96 hours under CHPT to 17 hours under CCTL and number of vessel calls increased from 21 vessels to 48 vessels per month. This is adequate proof of improved efficiency and reduced costs from which the trade has gained. Allegations made by SICCI do not reflect the true position of the CCTL.
- (xx). The trade too has enjoyed direct benefits from the productivity of CCTL apart from the removal of congestion surcharge. Importers/ exporters are in the position of ship or import just in time which has reduced the inventory carrying cost and other cost that the trade had to bear previously on account of delays in shipment. Trade enjoys better asset utilization and also in reduction working capital leading to higher incomes and better cash management.

On the comments of CCHAA:-

- (i). When the customs duty was as high as 36 percent to 50 percent, CCTL has adopted the EPCG route to clear the equipment at 5% duty. The benefit of such reduced duty has resulted in lower cost and trade has benefited from this. As a result of CCTL's productivity volumes have increased at Chennai which has brought higher volumes of business to CCHAA. There has been no reduction in the charges levied by CCHAA despite increase in their business.

On the comments of the SCI:-

- (i). The charges paid by the trade to the CHPT and CCTL are compared. The real increase in March 2002 was -6.92% and the increase was 8.90% in December 2003.
- (ii). The CCTL has modified the rates for storage of containers to encourage the trade to move the boxes out of the terminal at the earliest and not to use the container yard as storage area. If the shipping lines move the boxes at the earliest they will not be incurring the storage charges. We have, however, in line with the request of users already communicated to TAMP of extension of 7 free days for export storage and revision of free 48 hours to 96 hours for completion of ICD storage documentation.

On the comments of MCCI:

- (i). We have increased the period for filing of documents in respect of IDC traffic from 48 hours to 96 hours.
- (ii). LCL stuffing / destuffing rates at CCTL are in line with charges of other CFS in the facility.
- (iii). The tariff suggested by us for import storage will provide further incentive to move boxes outside the terminal at the earliest as well as profit trade with benefits. We have extended one free day for import storage and there will be no charge on Sundays and Customs holidays.

- (iv). There needs to be a distinction between return on capital and return on technology. The CHPT has benefited from the receipt of royalty and lease rent. If there is argument against management fees, then, in the same manner the CHPT is not entitled to lease rent and royalty.

3. A joint hearing on the proposal of the CCTL for review of its tariff was convened on 20 February 2004 at the CHPT Conference Room, in Chennai. At the joint hearing, the following submissions were made by the respective parties:

Chennai Container Terminal Limited (CCTL)

- (i). The validity of the tariff fixed in March 02 had expired in Oct 03. Hence, this proposal for review.
- (ii). We maintained the same costing approach as in the last occasion. As per the Govt. policy, admissible revenue share is included as an item of cost.
- (iii). This proposal generally seeks an increase of 18% over the Dec 03 rates.
- (iv). (a). We do not want to increase storage income. Our aim is to reduce the yard congestion.
(b). Our projections of 5.5 lakh TEUs in 2004 and 6.05 lakh TEUs in 2005 are achievable only if average dwell time is less than 4 days.
(c). We will give a separate note on yard capacity, dwell time, capacity constraints, etc. in connection with the storage rates.
(d). Import- 4 days and Export-7 days of free time are proposed. ICD-15 days free time is proposed.
- (v). Transshipment rate in CCTL is the lowest among the major transshipment ports in the region. Today, our rate is 46% of basic rate. We propose to increase to 75% of the basic rate. We will give a comparative analysis of transshipment rates (with reference to basic handling) at other transshipment ports.
- (vi). Our proposed CFS rates are on par with CONCOR and CWC rates in Chennai.
- (vii). Against our projection of 4.84 lakh TEUs for 2003, the actual throughput was 4.93 lakhs. There is no underestimation of throughput as alleged by some users.
- (viii). We assumed an exchange rate of Rs 48/- during last revision. Actually, it became (approx) Rs 46/-. We incurred a loss on this count.
- (ix). (a). After we took over, turn around time has improved from 5 days to 12 to 14 hours now. Further, congestion surcharge was removed. These are definite benefits to Trade.
(b). Crane productivity has gone up from 8 moves/hour to 20-22 moves/hour.
- (x). Container handling charge at port is a small portion of total logistic cost. The increase sought by us will not hit the Trade.

- (xi). Benefit of royalty is given only from December 2003. Please consider the loss on this account of Rs 44 crores incurred by us till that date.
- (xii). 3% contribution for 'Development Fund' allowed in case of Port Trusts should be given to us also.
- (xiii). We work 24 hours – 365 days. Let users come on Sundays and Holidays also to complete paper works. We will be glad to assist them.
- (xiv). We encourage competition. Now-a-days, there is a choice to customers. If our rates are high, they have an option to shift elsewhere. We are open to competition.
- (xv). We still standby our initial request about maintaining confidentiality of our cost data. We do not agree to the request of users. Let TAMP scrutinize the costing aspect of the proposal. We will give all required details to TAMP to facilitate its scrutiny.

Hindustan Chamber of Commerce (HCC)

- (i). Even though fuel prices have gone up, long haul land transportation rates are going down. This is not happening in port sector.
- (ii). There is an increase of 1 lakh TEUs compared to what they initially proposed. This itself would be sufficient to cover cost escalation. Actually, this calls for reduction in tariff to the extent of 20%.
- (iii). CCTL claiming confidentiality of details is not correct. There should be transparency.
- (iv). The CCTL claim of 18% increase is wrong. It is around 28% in most of the items.
- (v). Demurrage / storage charges should be a penal rate after allowing a reasonable time for clearance. It cannot start from day one. Let the existing rate for import continue. After 8 days, there can be an accelerated increase in rate.
- (vi). The basic objective of TAMP is to promote transparency. Please circulate the costing details.

Southern India Chamber of Commerce and Industry (SICCI)

- (i). We endorse the views of HCC.
- (ii). Any increase will affect our ex-im trade. We oppose to the proposal.

Tamil Chamber of Commerce (TCC)

In ICD movement we already incur additional transportation cost for moving containers from ICD yard to normal yard. No justification for further increase

Madras Chamber of Commerce and Industry (MCCI)

- (i). We agree with the views of other Chambers.

- (ii). The proposed increase for reefer is very steep.
- (iii). It is the Government policy to develop Chennai into a transshipment hub. Increase in rate proposed is detrimental to this objective.
- (iv). If concessional rate is charged for ICD containers, why cannot a similar treatment be given to local container. They form a substantial portion of volume.

Chennai and Ennore Ports Steamer Agents' Association (CEPSAA)

- (i). We have given an elaborate written comments. Please consider them.
- (ii). A reduction of 20% is warranted because of increase in volumes.
- (iii). The proposed reefer charges are irrational. They are disproportionate to the increase in TNEB rates.
- (iv). The alteration proposed in the tariff structure is not necessary. It only adds to the burden on users.

Container Shipping Lines Association (India) (CSLA)

- (i). We need financial statement to make pointed comments.
- (ii). Admitting royalty in tariff tantamounts to passing the commercial risk of terminal operator on to the users.
- (iii). We request transshipment containers should be charged 50% of normal rates.
- (iv). Storage charges – status quo may be maintained. Empties should be given some free times.
- (v). The traffic projection of 12% to 10% growth is unrealistic. It should be around 18%.
- (vi). The foreign exchange rate assumption is also not in line with the current position.
- (vii). The issue of Technical Service fee is already decided by TAMP. CRISIL has also endorsed this view.

Chennai Custom House Agents' Association (CCHAA)

- (i). Seal breaking / customs inspection charges are already very high. Please reduce.
- (ii). Please do not allow any increase.

Shipping Corporation of India Limited (SCI)

Free days should exclude Sundays & Holidays.

Confederation of Indian Industry (CII)

Considering the volume growth, existing rates should be brought down. No case for any further increase.

Indian National Shipowners' Association (INSA)

- (i). There is no transparency. We do not know where CCTL is losing which warrants this revision.
- (ii). Tariff should have nexus with performance. CCTL performance levels should be made known to users.

Chennai Port Trust

- (i). Like TAMP allowed CCTL's request of confidentiality, when we make similar request. TAMP may entertain such request.
- (ii). We have given the details of lease rentals. Please verify with CCTL cost statement.

South India Shippers' Association

- (i). An increase of 17% was allowed recently. Another increase of around 30% will only cause diversion of traffic.
- (ii). Efficiency improvement should result in cost reduction.

4. The Chennai Custom House Agents Association (CCHAA) vide its letter dated 19 February 2004 made written submissions at the joint hearing. The written submission made by the CCHAA relevant to the proposal under reference is summarized below:

- (i). The present review of CCTL tariff should consider the interim increase as an integral part of the present proposal. The minimum increase CCTL has sought now is about 44% to the rates as applicable on 6 March 2002. The present trend globally is cost reduction, larger volumes and thinner margin.
- (ii). The CCHAA has furnished a comparative statement of rates effective from 6 March 2002, rates applicable from 27 November 2003 after the 17% increase and the rates as proposed by CCTL for the current review of its tariff.

5. After the joint hearing the HCC and the CEPSAA vide their letter dated 23 February 2004 and 27 February 2004 respectively have made the following points:

Hindustan Chamber of Commerce (HCC)

- (i). We object to the behaviour of the CMD of CCTL towards the Vice-President of the chamber during the joint hearing.
- (ii). The trade is at a disadvantageous position due to non-circulation of financials and Profit and Loss account by the CCTL, which will be a precedent and will be followed by others while seeking tariff review in future. There is a specific clause in the concession agreement signed by CCTL and CHPT that any revision in the tariff will have to be circulated and discussed in consultative forum.
- (iii). The proposal of the CCTL for 100% increase in storage charges after providing 4 free days is not fair. After 4 free days, slab must not be exponentially high and the existing tariff must be continued for 6 days and thereafter high penal tariff is acceptable.
- (iv). The new practice that, in the event an importer is unable to move out the container from the terminal within the free days, he will have to pay the storage charges from day one without any free days, is not fair.
- (v). The technical services fee should not be accepted as part of its costing.
- (vi). While the charter rates of ships have increased over 300% which is in proportion to the freight rates, the freight rates have not been increased even by 15%.
- (vii). The CCTL has stopped paying lease charges to RTGS that were on lease with them.
- (viii). TAMP must reduce the tariff from the one notified in November 2003 and the projection of traffic growth should be at 20% per year. There is no justification for tariff increase.

Chennai & Ennore Port Steamer Agents' Association (CEPSAA)

- (i). We take strong exception to the manner in which an office bearer of a local chamber of commerce was intimidated by the Chairman-cum-Managing Director of CCTL. Suitable strictures should be recorded on this by TAMP so that such occurrences can be avoided in future for a better conduct at hearing.
- (ii). The congestion at the terminal worsened and persisted till the first quarter of the year 2002 after CCTL took over of the terminal.
- (iii). The average berth stay for all the vessels handled during January 2004 is 25 hours against claim of only 17 to 20 hours by CCTL.
- (iv). Freight rates published for lines are only recommendatory in nature and in practice many of the shipping lines charge less than the published rates.
- (v). We register our protest for permitting the CMD of CCTL to make the statement that the trade could go to Vizag or Tuticorin if the rates are high in CCTL.
- (vi). The basic principle of public hearing is transparency and acceptance of CCTL stand for not circulating their financial results is not correct.
- (vii). As per the lease agreement between CCTL and CHPT the CCTL has to invest US\$ 100 million and if CCTL has invested US\$ 75 million it is as per their contractual agreement.

- (viii). There should be a substantial downward revision in CCTL tariff as it will not be possible to even justify continuance of existing tariff.

6. A copy each of letter dated 23 February 2004 and 27 February 2004 was forwarded to CCTL as feed back information.

7. The comments received from the users on the consolidated profit and loss account of the CCTL for the years 2002, 2003, 2004 and 2005 are summarised below:

The Madras Chamber of Commerce and Industry (MCCI)

- (i). Profit after tax per box is Rs.621/- and Rs.726/- for the year 2004 and 2005 respectively. This confirms that at the existing Scale of Rates, which has already got the benefit of a provision to charge 27% revenue share as expense, PAT is very substantial.
- (ii). The view point of trade that the CCTL has benefited enormously from the economies of scale is sustained.

Chennai and Ennore Ports Steamer Agents' Association (CEPSAA)

- (i). We reiterate that unless the full final accounts of the CCTL is provided, no meaningful analysis is possible.
- (ii). Only 10% increase in throughput has been taken as a benchmark whereas the actual growth is more. The CCTL has already crossed 5 lakhs TEUs in March 2004 and the final annual throughput would be higher than the projected figure.
- (iii). General overheads and non-operating depreciations are showing enormous increase.
- (iv). Contribution towards overhead has grown by 33.4% in the year 2003 over the year 2002 with the proposed hike the contribution will grow by 145% in the year 2004 and 174% in the year 2005 when compared with the figures of the year 2002.
- (v). Net profit which was at 10.39% in 2002 drops by -12% in the year 2003 despite increase in contribution. This shows that overheads are shooting. The progress of profit is from -12% in the year 2003 to +246.52% in the year 2005. This is absolutely a preposterous proposition and why any user should support / bear this.
- (vi). Overheads including finance charges as a percentage of direct income has gone from 13.98% in 2002 to 67.49% in 2003. This is further projected at 115.5% in 2004 and 120.15% in 2005 over the figures of 2002. The CCTL should, therefore, control the overheads.
- (vii). The CCTL has not been transparent and is attempting to hide the factual position. The abstract of profit and loss account forwarded by the Authority is of little use for making detailed analysis.

Container Shipping Lines Association (India)

The CSLA has reiterated its earlier points made by it in its letter dated 17 February 2004. The additional points furnished by it are summarised below:

- (i). Without the cost schedules and notes to accounts we are not in a position to review the profitability of CCTL.
- (ii). The increase in operating and direct labour in 2003 compared to 2002 was only 8%. The estimated increase for 2004 and 2005 is, however, taken at around 18% which is extremely high. This increased percentage also does not correspond with the rate of 12% given by CCTL for expense assumption for labour in their proposal.

- (iii). The increase in maintenance labour cost in 2003 compared to 2002 was only 12%. The estimated increase for 2004 is taken at around 26% which is extremely high.
- (iv). There is steep increase of 71% in the annual depreciation charges in 2003 compared to 2002.
- (v). There are variations in other expenses for the four year period as furnished below:

(Rs. in 000's)

Particulars	2002	2003	2004	2005
Other expenses	239,535	249,761	290,242	277,497
% increase over previous year	NA	4.27%	16.21%	-4.39%

The above table showing decrease in other expenses in 2005 over 2004 does not correspond with the overall increase of 6% assumed by the CCTL in the expense assumptions for other expenses.

- (vi). Management fees should not be allowed as expense.
- (vii). Management and Administration labour has been assumed to increase by 23% in 2004 compared to 2003 whereas the increase in 2003 compared to 2002 was only 12.57%.
- (viii). Profit after tax in 2003 is lower than the figure compared to 2002 due to high interest and finance charges. Interest and finance charge has increased by 280% in 2003 compared to 2002 in spite of earning a higher surplus in 2003.
- (ix). The exchange rate of 1 US \$ = Rs.46.55 cannot be applied when the existing market rate is less by Rs.2.55. The assumption of 1 US \$ = Rs.47.02 for 2005 also cannot be allowed.
- (x). We see from the limited information provided to us that CCTL is already making handsome surplus which calls for reduction in tariff.

Tamil Chamber of Commerce (TCC)

- (i). The profit and loss account submitted by the CCTL is abstract of their accounts without giving full details on individual annual expenditure and receipt.
- (ii). The increase in throughput considered by the CCTL is only 10% whereas CCTL has already crossed the increase more than 10% with a total throughput of 5 lakh TEUs for the year ending March 2004.
- (iii). The expenditure has shown abnormal increase compared to the years 2002 and 2003.
- (iv). The profit margin has increased without any proposition considering the investment made by the CCTL. Overhead expenses have to be controlled for better profits without increase in rates.
- (v). If the rates are increased abnormally it will affect entire trade using Chennai Port considering the competition in the neighbouring ports.
