

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

TARIFF AUTHORITY FOR MAJOR PORTS

G No. 16

New Delhi, 2 February 2011

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the Chennai International Terminals Private Limited for fixation of tariff for its container terminal at the Chennai Port Trust, as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/10/2009 – CITPL

The Chennai International Terminal Private Limited - - -

Applicant

ORDER

(Passed on this 3rd day of November 2010)

This case relates a proposal filed by the Chennai International Terminals Pvt. Ltd., (CITPL) at Chennai Port Trust (ChPT) for fixation of its tariff.

2. The CITPL is a Special Purpose Vehicle (SPV) Company which has entered into a License Agreement (LA) with ChPT on 7 March 2007 for development of a second container terminal at Chennai Port on BOT basis for a period of 30 years. The construction period is 24 months from 7 March 2007.

3. The salient features of the project described by the CITPL in its proposal are summarized below:

- (i). Construction of three berths as a common user facility with a total quay length of 832 m. with a basin depth of 15.5 m.
- (ii). Development of container yard in the open space of 3,50,000 sq. m.
- (iii). Providing container handling equipment at the terminal which inter-alia, includes 3 Quay Cranes, 10 Rubber Tyred Gantry Cranes and 6 Reach Stackers.
- (iv). Rail siding facility in terminal to provide direct linkages to Inland Container Depots (ICDs) and eventually for local movement of cargo seamlessly.
- (v). The capacity of the terminal is assessed at 8,00,000 TEUs per annum as per LA.

[However, in the cost statement (Form – 2A) the assessed capacity is given as 4,50,000 TEUs per annum].

- (vi). The total project cost to be incurred during the next three years (2010 to 2012) to provide minimum facilities as per the Licence Agreement and few additional equipment is estimated at Rs.600 Crores. The break-up of project cost is as given below:

Particulars	Amount (Rs. In lakhs)
Plant & Machinery cost	17,788
Civil Construction cost	39,257
IT Software & Office Equipment	840
Total Project Cost	57,885

- (vii). The project implementation schedule is as given below:

Details	Expected dates
Soft launch of commercial operations with 400 meter of quay line	30 April 2009
Commencement of Rail Operations	1 May 2009
Commencement of Full Scale Operations with 832 meter of quay line	31 July 2009

(viii). The annual Minimum Guaranteed Throughput (MGT) shall be as follows:

1 st Operating Year	1,50,000 TEUs
2 nd Operating Year	2,75,000 TEUs
3 rd Operating Year	5,00,000 TEUs
4 th Operating Year to the end of Licence Period	5,00,000 TEUs

(ix). The Licensee is required to pay one time upfront fee amounting to Rs.10 Crores.

(x). The revenue share is at 45.801%. Clause No. 12.13 of the LA entered between the CITPL and ChPT specifies that as per the Government policy revenue sharing is not to be factored into as expense of the CITPL for fixation / revision of its tariff by this Authority.

4. The main points made by the CITPL in its initial proposal dated 5 March 2009 relating to tariff fixation are summarized below:

(i). The CITPL has estimated a throughput of 3,37,517 TEUs, 4,50,023 TEUs and 4,50,023 TEUs for the years 2009-10, 2010-11 and 2011-12 respectively. The current global meltdown makes the situation absolutely uncertain. There is greater uncertainty about foreign exchange rate, expenses, throughput and income. CITPL has gone by past trends of growth of throughput and made projections for operations as no other model for simulating future is available.

The actual performance on all parameters may turn out to be quite different and subdued. Should such a situation arise, it is hoped that TAMP will permit CITPL to put up proposal for revision of tariff as soon as the trends of business drop is available even if it means revision is ahead of schedule.

(ii). The points made by CITPL regarding royalty / revenue share are summarized as follows:

(a). Royalty / Revenue share is not considered as cost in the financial statements. Since royalty / revenue share is payable to the ChPT there will be further increase in deficit.

Any deficit of income over expenditure and permitted ROCE means that the ROCE permitted to the operator as return on its capital is partly utilized for meeting the royalty payment to the port. Interest on debt will also have to be met out of ROCE.

(b). In the case CITPL royalty / revenue share will not be admissible as an item of cost as per the policy decision of the Government. But the competing ports at Tuticorin or NSICT or CCTL get the advantage of pass through of revenue share/ royalty for fixation of tariff. Mere fact that the License Agreements for these ports were executed prior to July 2003 does not change the position that two sets of considerations are applicable for fixing tariff in CITPL and other competing ports. Unless the tariff is fixed considering the revenue share as an admissible item of cost, the BOT operator will be put to considerable loss. Natural justice calls for uniform application of rule in all the ports irrespective of the date of signing of the LA. CITPL should also be permitted pass through of revenue share as an item of cost atleast to the extent of deficit.

(c). The CITPL keeps making losses for the next four years and the carry forward losses are wiped out only in the 7th year of commercial production (after 1/3rd of the Licence period is over). Still it does not propose higher tariff. CITPL does not even propose the tariff justifiable under the tariff

guidelines because the tariff at the competing terminal is lower, since it has the benefit of pass through of a part of revenue share which CITPL does not. This is the fit case for considering the pass through of royalty / revenue share at least to protect ROCE of 16%.

- (iii). The estimated financial position based on the projected income, expenses (without revenue share payable to the ChPT) and maximum permissible ROCE for the years 2009-10 to 2011-12 is given below:

(Rs. in Lakhs)

Year Ending	March 2010	March 2011	March 2012
Estimated Container Traffic (In TEUs)	337517	450023	450023
Income (estimated at the proposed tariff level)	12,737	17,052	17,083
Operating Expenses (excluding Revenue share)	4,911	5,851	6,602
Revenue share	5,834	7,810	7,824
Depreciation	3,245	3,540	3,432
Overhead	877	893	923
ROCE	9,849	9,837	9,271
Surplus / Deficit*	(11,979)	(10,880)	(10,969)
Surplus / Deficit as % of income	-94%	-64%	-64%
Average for 3 years		-74%	

[The above position reported by the CITPL includes Revenue Share as passthrough]

- (iv). As per Clause 2.12 of the guidelines of March 2005, the tariff to be allowed by TAMP initially for a period of one year will not exceed the existing tariff level at the same port or nearby port for comparable facilities unless it is established that adopting the existing tariff will cause hardship to the operator in view of a higher level of investments made.

In the case of CITPL, adoption of existing rate fixed for CCTL as final rate will cause tremendous hardship to CITPL as can be seen from the following table. Based on the projected income, expenses (without revenue share) and maximum ROCE, the operations for the three year period would result in deficit at the CCTL tariff for all services except transportation of containers to any other rail-head or container terminal within ChPT premises:

Year Ending	March 2010	March 2011	March 2012
Estimated Container Traffic (In TEUs)	337517	450023	450023
Income (estimated by adopting CCTL tariff)	10914	14706	19407
Operating Expenses	4653	5517	6263
Depreciation	3,245	3588	3545
Overhead	878	892	919
ROCE	10031	10246	10008
Surplus / Deficit*	(7893)	(5538)	(1328)
Surplus / Deficit as % of income	-72%	-38%	-7%
Average for 3 years		(-) 39%	

The CITPL has stated that it is a fit case for consideration and award of appropriate tariff based on the TAMP guidelines.

- (v). The rate for rail siding activity is taken at the rate applicable to nearby port (vizag) as the services proposed are akin to the services available there.

- (vi). TAMP guideline requires that the tariff proposal for a new facility will be forwarded to TAMP atleast 3 months prior to the expected date of commissioning of the facility. Since the facilities are expected to be commissioned partly on 1 May 2009, the submission of the proposal is delayed. The CITPL has mentioned that if TAMP feels that it is possible to grant only the rate applicable at CCTL, it may please so allow. The CITPL, however, requests that it should be awarded final tariff based on the proposal submitted.
- (vii). The CITPL has stated that it has prepared the proposal in accordance with the guidelines of March 2005.

5. The following was the proposal of the CITPL:

- (i). The present tariff prevalent at CCTL to be given to CITPL as an interim tariff to enable start of the operations from 1 May 2009.
- (ii). Thereafter, the final tariff based on CITPL's projections to be accorded after TAMP's due process of tariff fixation.

6.1. The CITPL proposal was registered as a tariff case and in accordance with the consultative procedure prescribed, the proposal from the CITPL was forwarded to ChPT and to the concerned users/ user organisations for their comments.

6.2. A copy each of the comments received from the users / user organizations was forwarded to CITPL as feed back information. We have not received response of the CITPL on the comments of the users till finalisation of this case.

7.1. Based on a preliminary scrutiny of the proposal, the CITPL was requested to furnish additional information / clarifications on various issues. The CITPL has furnished its reply. The main queries raised by us and the clarifications furnished by the CITPL are tabulated below:

Sr. No.	Queries raised by us	Reply of CITPL
1.	Our letter dated 9.4.2009	CITPL reply dated 17.4.2009
(A).	General:	
(i).	The CITPL is required to complete construction of the project and commence commercial operations within 24 months (by 6 March 2009) from the date of award of the Licence as stipulated in Article 8.1 of the LA. However, the CIPTL has reported vide its letter dated 5 March 2009 that the project is expected to be commissioned partly on 1 May 2009. State whether the Licensor has granted extension of time to complete the project and commission the facilities fully with a copy of extension letter.	The License agreement (LA) with Chennai Port Trust requires CITPL to complete the construction of the project and commence commercial operations within 24 months (i.e. 30th April 2009 – handover date). CITPL has received extension of time to the extent of 161 days from Chennai Port Trust to complete the project. The date of scheduled completion is now fixed at 8th Oct 2009 instead of 30th April 2009. However, the trial operations to commence from 1st May 2009 with partially completed construction. (CITPL furnished a copy of the letter received from ChPT dated 17.4.09 in this regard).
(ii).	The proposal filed by the CITPL appears to be for approval of tariff based on its estimated cost of operations and the investment level for the three year period from 2009-10 to 2011-12. However, while indicating its decision to peg its tariff at the level prevailing at the CCTL as an interim measure in view of the reported meltdown in the economy, the CITPL has also stated that the	CITPL has submitted proposal for interim tariff based on CCTL rates and for final tariff based on estimated cost of operations and investments to be approved by TAMP after one year of operation. Despite the fact that interim tariff as applicable to CCTL leads to loss, CITPL's proposal is for interim rates as awarded to CCTL. CITPL notes that Clause 2.12 does not make a mention of interim tariff. Reference to Clause 2.12 may kindly be

	<p>adoption of existing tariff of CCTL as final tariff will cause hardship to CITPL and has furnished financials to establish the stated position. At some other place, it is mentioned that if TAMP feels it is possible to allow only the CCTL rate, it can be allowed so. The CITPL to clarify the position and categorically state what its proposal is. It may be noted that Clause 2.12 of the tariff guidelines does not make any mention about interim tariff.</p>	<p>treated for allowing initial tariff to CITPL at the existing tariff level at the same port.</p>
(iii). (a).	<p>The tariff guidelines of March 2005 stipulate that tariff should be linked to benchmark of the levels of productivity. The operational strategies and work-plan to the LA states that the CITPL aims to achieve high productivity levels. However, the CITPL has not indicated anything about productivity levels to be maintained for various operations / services. Benchmark levels of productivity to be indicated and incentive for better performance of the terminal and disincentive for performance below benchmark levels to be proposed. The productivity parameters should be included in the Scale of Rates as conditionalities governing the respective tariff items.</p>	<p>The following may kindly be incorporated under General Conditionalities of Scale of Rates at sl. No. (xi) as the benchmark for the level of productivity:</p> <p>2. General</p> <p>(xi) <i>“The benchmark of the level of productivity will be 20 moves per hour per crane in the year 2010 for handling of FCL, LCL and ICD import and export containers by quay cranes as mentioned at Section 4.1.1, 4.2.1 and 4.3.1.”</i></p>
(b).	<p>If CITPL adopts the existing Scale of Rates approved for CCTL in the interim, it may be confirmed whether the productivity levels will be at par with that of the CCTL. The at par productivity levels may be specified as conditionalities governing the respective tariff items.</p>	<p>The productivity level specified is at par with CCTL. But only one year productivity level is presently specified because the interim tariff is requested for one year only.</p>
(iv).	<p>Article 9.74. of the LA envisages levy of infrastructure cess by the CITPL on the cargo handled by it and remit the proceeds to the ChPT for infrastructure development. The said Article further stipulates automatic enhancement of Scale of Rates of CITPL equal to the amount of cess. It may be noted that such an arrangement, if any, will not be in accordance with the tariff setting arrangement envisaged by the statute in its present form and the revised tariff guidelines.</p>	<p>CITPL shall advice ChPT in the regard.</p>
(v).	<p>The CITPL has proposed to commence its operations partly from 1 May 2009. It is not clear whether the cost estimates furnished in the cost statement for the financial year 2009-10 is for a period of 11 months.</p>	<p>The cost estimates are for a period of 12 months. Similarly the income is also for 12 months. CITPL will be incurring loss whether it takes 11 or 12 months operation, CITPL therefore requests consideration of proposal in its current form.</p>
B.	<u>Financial / Cost Statements:</u>	
1.	Capacity: The project Information Memorandum	

	(PIM) attached to the tariff proposal of CITPL states that the capacity of the container terminal is 8,00,000 TEUs. Appendix – 1 to the Licence Agreement confirms this position. As stipulated in para 11.3 of Appendix – 11, the CITPL will build up the capacity of the container terminal in phases through gradual build up of container handling equipment. In this context, CITPL to furnish / clarify the following:	
(i).	(a). Furnish workings for the capacity of the container terminal assessed at 8,00,000 TEUs.	Capacity of the container terminal based on the guidelines prescribed by TAMP in February 2008 is furnished. While so doing the critical component of capacity is found to be QCs and capacity of 200,000 TEUs per QC is assumed.
	(b). The capacity of the container terminal to be operated by the CITPL at the ChPT may be determined based on the method of determining optimum capacity of a container terminal provided in the guidelines for fixation of upfront tariff notified by this Authority in February 2008.	CITPL has calculated terminal capacity as per the formula prescribed in the 2008 upfront tariff guidelines. Quay capacity is calculated at 9,40,000 TEUs considering 8 no. of QCs on notional basis and yard capacity at 35,40,000 TEUs considering the yard area of 30 Hectares.
(ii).	The capital employed figures furnished show that full investment will be made within the years under consideration. This does not appear to be in accordance with the obligations under the provisions of LA for build up of the capacity in phases.	Major part of investments goes in civil construction and will need to be incurred prior to commissioning of the project. Similarly most of the equipment required under license agreement will also be needed mostly at the start of the operation. The equipment beyond provisions of licence agreement needed for handling future growth of container traffic is proposed to be acquired on hire.
(iii).	The basis for considering the capacity of the terminal at 4,50,000 TEUs per annum for the purpose of calculation of return as against the assessed capacity of 8,00,000 TEUs for all the years under consideration to be explained.	In Form 2A Serial IV, Capacity is assessed at 600,000 TEUs and the same figure is used to calculate the capacity utilization at Form 2A serial V. The same figure has been consistently repeated in Form 3A. The capacity is retained at 600,000 TEUs because only three Quay Cranes will be operating during the period. (However in the cost statement submitted on 9 April 2009, the capacity is reported at 4,50,000 TEUs only).
2.	Traffic: With reference to traffic projections, furnish the following: (i). CITPL has stated that it has gone by the past trends of growth in traffic and made projections for future. In this context and in the context of the assessed capacity of the terminal at 8,00,000 TEUs per annum, the estimates of traffic at lower levels for all the years under consideration to be justified.	The assessed capacity of 800,000 TEUs will be reached in the year 2012-13 based on past trend of traffic growth in South India. While projecting for traffic growth at the estimated levels, CITPL expects that traffic growth will continue to be robust. But the present slowdown of economy and the gloom in the market has already resulted in decrease of about 18% in container traffic at ChPT and about 30% in JNPT and hence even the present estimates appear highly optimistic and if the trade scenario does not change fast for better, CITPL may not be able to achieve the estimated traffic also.

	(ii). The CITPL has furnished the traffic estimates of loaded containers, empty containers and reefer containers in respect of foreign containers, transshipment containers and coastal containers. Please explain the basis for container mix projected in the total container throughput of the respective category of containers.	The proportion of loaded containers, empty containers and reefer containers in respect of foreign, transshipment and coastal containers are based on actual containers handled at Chennai port in the calendar year 2008, as published by Chennai Port and other statistics.
3.	Operating Income:	
(i).	Note-3 to Form 2B of the formats prescribed for filing of tariff proposal requires the operator to provide detailed computation of income with reference to the estimated traffic. No such computation has been furnished by CITPL. Please furnish detailed computation of income with reference to the estimated traffic at the level of CCTL tariff and at the proposed Scale of Rates for all the years under consideration.	[CITPL has furnished vide letter dated 9 April 2009]
(ii).	The CITPL has proposed rates for handling hazardous containers and over-dimensional containers. However, neither traffic nor income arising out of handling these categories of containers has been estimated.	CITPL does not expect any significant traffic of such containers and their effect on revenue will be negligible. The tariffs for hazardous and over-dimensional containers are included in the Scale of Rates as a matter of abundant precaution to levy charges if called upon to handle such containers.
(iii).	CITPL has estimated storage income for all the years under consideration. Note-1 to Form 2 requires the operator to furnish dwell time analysis for containers. No such analysis has been furnished. CITPL to furnish the dwell time analysis and computation of estimated income on account of the proposed storage charges.	The analysis of dwell time of containers at the terminal is furnished. The analysis is based on the trends of dwell time income as per actual data published at Chennai Port for containers handled in the calendar year 2008. [The analysis of dwell time furnished by CITPL relates to dwell time of containers in the year 2008 at the container terminals at COPT, CCTL, MICT, NSICT, VCTPL and Karachi. The analysis does not pertain to CITPL]
(iv).	The reason for adopting different exchange rates for the years under consideration for estimation of income to be explained. The estimated income arising on account of dollar denominated tariff may be updated with reference to the prevailing exchange rate.	Exchange rate has been assumed to vary in the range of Rs.46.34 and Rs.47.07 per US Dollar in the years under consideration for tariff fixation. The prevailing exchange rate is between Rs.48 and Rs.50. The estimates are based on a long term outlook of the US Dollar vis-à-vis Indian rupee and on the principle of conservatism and request you to consider the same. The variations will not have significant effect because huge amount of capex denominated in dollar will be incurred during this period.
4. (A).	Operating Cost:	
(i).	<u>Operating and Direct Labour Cost and Maintenance Labour Cost:</u> (a). It appears that the operating and direct labour cost has been considered for full year in 2009-10. Since the operation is going to be commenced from 1 May 2009, the estimated	The operating and direct labour cost is taken for full year 2009-10. Even income is taken for the full year. It may be noted that while revenue will be earned for 11 months in the year and the variable operating expenses will be incurred for 11 months, the direct labour are already recruited in the year 2008-09 and have

	operating and direct labour cost to be moderated suitably, for the years 2009-10.	been put into on the job training. As the resultant change will only increase losses, it is requested that the same figures be continued.
	(b). The basis and justification for considering Rs.3 lakh as average cost per employee for computation of operating and direct labour cost and maintenance labour cost to be furnished.	The basis and justification of average cost per employee at Rs.3 lakhs per annum is furnished in detail. (The details furnished by the CITPL did not correlate with the cost statements furnished by it earlier. Subsequently, the CITPL vide its letter dated 17 April 2009, furnished revised details).
	(c). Applying the average cost of Rs.3 lakh per employee on the number of employees under the category of operating & direct labour and on the number of employees under the category of maintenance labour, the resultant figures do not tally with the estimated operating & direct labour cost and maintenance labour cost.	The detailed working of expenses on operating, direct and maintenance staff given in the Wages sheet of Financial Model is furnished.
	(d). Article 10 of LA provides for absorption of 29 employees by CITPL identified by ChPT as surplus employees. The number of ChPT employees taken over by CITPL and their cost to CITPL, considered in the estimated operating and direct labour cost, to be furnished.	CITPL has not received any information from the 29 employees deemed to be excess under Article 10 of LA. Further, the employees have option either to join CITPL on free will or to continue with Chennai Port Trust. In the absence of any financial information from Chennai Port Trust, the cost of the 29 employees is not included in the Operating Cost. It is requested that the interim tariff order be passed without including it.
(ii).	<u>Equipment running cost:</u> (a). CITPL to furnish detailed working for estimation of power cost for all the years under consideration with justification for the assumed power consumption per TEU. It appears that the estimated power cost includes fixed charges. The element of fixed charges may be brought out in the workings with justification for fixed charges.	CITPL stated that the Assumption Sheet of Financial Model submitted alongwith the proposal gives detailed working of power consumption with break-up as to fixed and variable units. It has also furnished the estimate on power consumption per TEU in the Operating costs.
	(b). Likewise, detailed workings for estimation of fuel cost to be furnished with justification for fuel consumption per TEU considered in the workings.	The CITPL has furnished detailed workings for estimation of fuel cost in the Assumption Sheet of Financial Model submitted alongwith the proposal. CITPL also furnished the estimate on fuel consumption per TEU in the Operating costs.
	(c). The estimated repairs and maintenance cost works out to around 1.55%, 1.55% and 1.57%, respectively of the gross block of assets at the end of the respective years under consideration. CITPL to furnish the estimated repairs and maintenance cost for equipments and civil work separately for each of the year. The estimated repairs and maintenance cost of new equipments may be validated in the light of the fact that such equipments will be covered under guarantee / warranty during the initial period.	The CITPL has furnished the detailed workings for estimation of repairs and maintenance cost in the Assumption Sheet of Financial Model submitted alongwith the proposal. The estimate on repairs and maintenance cost is also included in the details provided. Repairs & Maintenance cost is estimated at 2% and 1% of the capital cost of Mechanical / Electrical equipment and civil structures, respectively.
(iii).	In terms of the Clause 2.8.1. of the tariff	Have noted TAMP's comments. However, the

	<p>guidelines of March 2005, royalty / revenue share payable to the land lord port in the case of CITPL shall not be allowed as a cost for tariff fixation. Even the LA signed by CITPL with ChPT contains a specific provision at Article 12.13 relating to inadmissibility of revenue share in computation of tariff.</p>	<p>reasons for applying partial admissibility of Royalty / Revenue share in the case of CCTL or NSICT as pass through under the prevailing guidelines exist in the case of CITPL also. Hence it is requested that on the grounds of reasonability and not on the basis of guidelines, TAMP may view to grant its admissibility to the extent of protecting ROCE of 16% or the Second Highest Bidder. The calculation of tariff does not include revenue share as an admissible item of expenditure.</p>																
(iv).	<p><u>Equipment hire charges:</u> With reference to the estimated expenditure on account of equipment hire charges, CITPL to furnish / clarify the following:</p>																	
	<p>(a). Serial No. VI of Form 3(B) requires the operator to furnish relevant documents to support the estimates of equipment hire charges. No such documents have been furnished. The list of equipments taken on hire / proposed to be taken on hire with cost details supported by documentary evidence for all the years under consideration to be furnished.</p>	<p>LA permits CITPL to hire equipment like Reach Stacker, Prime Movers (Inter-terminal vehicles). Estimated expenses on account of hire charges are based on the tenders floated and contract awarded to the lowest bidder towards hiring of these equipments. The reach stackers 6 Nos. being hired are part of initial minimum equipment to be in place for commencement of commercial operations. The prime movers are proposed to be hired in proportion to the volume of traffic from the year 2010-11 onwards. (CITPL furnished unsigned copies of Letter of Acceptance issued to the contractors for hiring Reachstackers and Prime Movers. It subsequently furnished the signed copy of the Letter of Acceptance in respect of Reachstackers only).</p>																
	<p>(b). The reason for around 57.50% increase in the estimate for the year 2010-11 as compared to the estimated hire charges for the year 2009-10 to be furnished.</p>	<p>The reason for increase in hire charges to the extent of 57.50% in 2010-11 is due to hiring of 24 nos. prime movers to cater to the smooth evacuation of goods from / to the terminal.</p>																
	<p>(c). As stated earlier, the capital employed figures furnished show that nearly full investment will be made within the years under consideration for providing minimum facilities required as per the LA and few additional equipment to cope up with the projected traffic. That being so, the need to hire equipment to be justified.</p>	<p>The license agreement permits equipment like Reach stackers and prime movers etc. to be hired and hence these are taken on hire. The cost of these equipment are not included in capex.</p>																
(v).	<p><u>Lease Rentals:</u> (a). CITPL to confirm that the estimates of lease rentals are as per the terms of LA.</p>	<p>The estimates of lease rentals are as per LA and the measurements agreed upon with Chennai Port Trust. [As per Appendix – 3 of LA</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="text-align: right; width: 20%;"><u>(In Sq. Mtrs)</u></th> </tr> </thead> <tbody> <tr> <td>1. Total developed Area</td> <td style="text-align: right;">43,200</td> </tr> <tr> <td>2.(i).Undeveloped Area</td> <td style="text-align: right;">1,64,300</td> </tr> <tr> <td style="padding-left: 20px;">(ii).To be reclaimed area</td> <td style="text-align: right;"><u>78,000</u></td> </tr> <tr> <td style="padding-left: 20px;">Total Undeveloped area</td> <td style="text-align: right;">2,42,300</td> </tr> <tr> <td>3. Addl. Area to be developed by CITPL</td> <td style="text-align: right;">72,500</td> </tr> <tr> <td></td> <td style="text-align: right;">-----</td> </tr> <tr> <td></td> <td style="text-align: right;">3,58,000</td> </tr> </tbody> </table>		<u>(In Sq. Mtrs)</u>	1. Total developed Area	43,200	2.(i).Undeveloped Area	1,64,300	(ii).To be reclaimed area	<u>78,000</u>	Total Undeveloped area	2,42,300	3. Addl. Area to be developed by CITPL	72,500		-----		3,58,000
	<u>(In Sq. Mtrs)</u>																	
1. Total developed Area	43,200																	
2.(i).Undeveloped Area	1,64,300																	
(ii).To be reclaimed area	<u>78,000</u>																	
Total Undeveloped area	2,42,300																	
3. Addl. Area to be developed by CITPL	72,500																	

	3,58,000																	

		----- As per copy of ChPT letter No.MPI/3820/05/E, dated 15.04.2009 produced by CITPL, developed area of 60428.116 Sq. mtrs and undeveloped area of 1,46,721.263 sq. mtrs have been handed over to CITPL on 01.05.2007.
	(b). Furnish detailed computation of the area leased and the rate per sq. meter.	The CITPL has furnished the detailed computation of the lease rent with the basis of calculation is indicated in the Financial Model. The working of the computation of cost and the area leased is furnished. The demand from Chennai Port trust towards land lease charges for the year 2009-10 is also furnished. [ChPT vide its letter dated 15.04.2009 has demanded annual land lease charges of Rs. 842.11 lakhs for the year 2009-10 for both developed and undeveloped area]
	(c). The area under lease considered by CITPL in the cost statement for the year 2009-10 of about 2,80,000 sq. meters includes an additional area of 72,500 sq. meters. This additional area is required to be developed by the Licensee (CITPL) as stipulated in Appendix-3 to the LA. The treatment given in the cost statement towards the cost of development of the additional area to be intimated with workings supported by documentary evidence.	The area of 78,000 sq m (reclaimed area) has to be handed over to CITPL by Chennai Port Trust within a period of six months from the scheduled completion date. Hence, have provided for the cost estimates on land lease charges towards this reclaimed area in the future periods. The civil cost to be incurred on the development of reclaimed area is also included in the capital expenditure for the period 2010-11.
(vi).	<u>Insurance Cost:</u> (a). The estimate of insurance cost for assets to be justified with reference to the actual payment made to the insurance company. A copy of the agreement entered with the insurance company (ies) to be furnished.	The terminal is not yet operational and hence any comparison of the estimate with actual is possible post – commissioning only. The insurance is estimated at 1% of Gross Block in line with the normative basis prescribed by TAMP for up-front fixation of tariff. A suitable tailor made insurance cover for the terminal in compliance with the terms of LA is being negotiated. The amounts indicated in the cost sheet are estimated and the actual cost will be derived on those lines as and when the policy coverage is taken. Present policies are in respect of minor value assets and are no indication of actual cost to be incurred on insurance. (CITPL furnished a copy of insurance policy which shows net premium of Rs.14,70,849/- for the period 23.04.2008 to 22.04.2009 for the sum insured of Rs.16717.49 lakhs]
	(b). CITPL has estimated additional insurance cost for loss of profit. It may be noted that the cost to insuring capital assets will only be considered as an admissible item of cost for tariff fixation.	There is no specific mention in the guidelines prescribed for tariff fixation for exclusion of the premium paid on policy towards Loss of profit and hence have considered the same in the operating cost. Since the loss of profit is inter alia with break- down of machinery and operations, CITPL is of the view that the premium estimated to be paid on loss of profit policies may be permitted as an operating cost and admissible for tariff fixation.

(vii).	<p><u>Other expenses:</u></p> <p>Please list out the items of expenditure considered under “other expenses” with cost thereto. The basis of the estimates may be furnished for all the years under consideration.</p>	<p>The CITPL has furnished break up of other expenses. The other expenses relate to lashing / unlashng charges, transport expenditure of shift staff and reefer cleaning expenses.</p>
4. (B)	Overheads:	
(i).	<p>CITPL to list out the components of Management & Administration overheads and General Over-heads with the details of estimated expenditure for each component for all the years under consideration.</p>	<p>The CITPL has furnished the break-up of Management & Administration overheads.</p>
(ii).	<p>Details of the Preliminary expenses and upfront payment of Rs.36.61 Crores considered for amortization over the project period to be furnished. It appears that the amount of Rs.36.61 Crores consists of pre-operative expenses towards Plant and Machinery (Rs.14.79 Crores), IT installations (Rs.0.70 Crores) and Civil Works (Rs.21.13 Crores). That being so, the treatment given in the cost statement to the upfront payment of Rs.10 Crores to be explained.</p>	<p>The upfront payment of Rs.10 crores paid to Chennai Port Trust as per terms of LA is amortised over the remaining period of Licence.</p>
4. (C)	Depreciation:	
	<p>CITPL to furnish detailed workings for the estimated depreciation shown in the work sheet for all the years under consideration bearing in mind clause 2.7.1 of the revised tariff guidelines. It appears that there is mistake in calculation of depreciation for IT installations.</p> <p>It is seen from the work-sheet that the aggregate of the pre-operative expenses amounting to Rs.36.61 Crores towards Plant & Machinery, IT installations and civil works have been capitalized and considered for Depreciation. When the pre-operative expenses have been separately amortized over the entire project period claiming Depreciation on the same amount does not arise.</p>	<p>The CITPL has furnished the detailed working of depreciation in the Fixed Assets and Depreciation Sheet of the Financial Model as a part of submission of 9th April 2009. The pre-operative costs has been capitalized to the fixed asset in proportion of the cost incurred and have depreciated the same over the estimated useful life of the asset as prescribed under Schedule XIV to the Companies Act, 1956 and in terms of the principles coined under the LA. It is true that if the pre-operative expenses are separately amortized over the entire project period, depreciation on the same amount cannot be claimed. It is requested that the amortization of preliminary expenses to the extent of Rs.172 lakh, Rs.166 lakh and Rs.160 lakh during 2009-10, 2010-11 and 2011-12 may be excluded from cost statement.</p> <p>[The details furnished by CITPL contained consolidated workings under three group of assets, viz. Plant & Machinery, Information Technology & Berth & civil cost. However, it did not furnish detailed assetwise depreciation workings]</p>

4. (D).	Capital Employed:																																																																																																					
(i).	<p><u>Fixed Assets:</u></p> <p>(a). The CITPL to list out the individual assets (movable and immovable with cost thereto) considered under capital employed in respect of each of the following class of assets, clearly bringing out the details for the fixed assets at the beginning of the year 2009-10.</p> <p>(i). Plant & Machinery (ii). Buildings, Sheds and other structures (iii). Information Technology (iv). Others.</p>	<p>CITPL furnished the following details:</p> <p style="text-align: right;">Rs. In lakhs</p> <table border="1" data-bbox="874 353 1433 640"> <thead> <tr> <th>Particulars</th> <th>2010</th> <th>2011</th> <th>2012</th> </tr> </thead> <tbody> <tr> <td>Plant & Machinery</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Gross Block</td> <td>17066</td> <td>17066</td> <td>17066</td> </tr> <tr> <td>Additions</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>Depreciation for the year (10.34%)</td> <td>1765</td> <td>1765</td> <td>1765</td> </tr> <tr> <td>Cumulative depreciation</td> <td>1765</td> <td>3529</td> <td>5294</td> </tr> <tr> <td>Net Block</td> <td>15301</td> <td>13536</td> <td>11772</td> </tr> <tr> <td>IT Installations</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Gross Block</td> <td>708</td> <td>708</td> <td>708</td> </tr> <tr> <td>Additions</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>Depreciation for the year (25%)</td> <td>158</td> <td>158</td> <td>158</td> </tr> <tr> <td>Cumulative depreciation</td> <td>158</td> <td>317</td> <td>475</td> </tr> <tr> <td>Net Block</td> <td>550</td> <td>392</td> <td>233</td> </tr> <tr> <td>Building & civil works</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Gross Block</td> <td>26062</td> <td>41592</td> <td>44592</td> </tr> <tr> <td>Additions</td> <td>15530</td> <td>3000</td> <td>0</td> </tr> <tr> <td>Depreciation for the year (3.70%)</td> <td>1253</td> <td>1596</td> <td>1652</td> </tr> <tr> <td>Cumulative depreciation</td> <td>1253</td> <td>2849</td> <td>4500</td> </tr> <tr> <td>Net Block</td> <td>40339</td> <td>41473</td> <td>40091</td> </tr> <tr> <td>Total Assets</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Gross Block</td> <td>43836</td> <td>59365</td> <td>62365</td> </tr> <tr> <td>Additions</td> <td>15530</td> <td>3000</td> <td>0</td> </tr> <tr> <td>Depreciation for the year</td> <td>3176</td> <td>3519</td> <td>3574</td> </tr> <tr> <td>Cumulative depreciation</td> <td>3176</td> <td>6695</td> <td>10269</td> </tr> <tr> <td>Net Block</td> <td>56190</td> <td>55671</td> <td>52097</td> </tr> </tbody> </table> <p>It has stated that the additional investment envisaged in the year 2010 at Rs.12.75 crores is towards development of the reclaimed area as mentioned in reply to TAMP's query at 4 (A) (v) (c).</p>	Particulars	2010	2011	2012	Plant & Machinery				Gross Block	17066	17066	17066	Additions	0	0	0	Depreciation for the year (10.34%)	1765	1765	1765	Cumulative depreciation	1765	3529	5294	Net Block	15301	13536	11772	IT Installations				Gross Block	708	708	708	Additions	0	0	0	Depreciation for the year (25%)	158	158	158	Cumulative depreciation	158	317	475	Net Block	550	392	233	Building & civil works				Gross Block	26062	41592	44592	Additions	15530	3000	0	Depreciation for the year (3.70%)	1253	1596	1652	Cumulative depreciation	1253	2849	4500	Net Block	40339	41473	40091	Total Assets				Gross Block	43836	59365	62365	Additions	15530	3000	0	Depreciation for the year	3176	3519	3574	Cumulative depreciation	3176	6695	10269	Net Block	56190	55671	52097
Particulars	2010	2011	2012																																																																																																			
Plant & Machinery																																																																																																						
Gross Block	17066	17066	17066																																																																																																			
Additions	0	0	0																																																																																																			
Depreciation for the year (10.34%)	1765	1765	1765																																																																																																			
Cumulative depreciation	1765	3529	5294																																																																																																			
Net Block	15301	13536	11772																																																																																																			
IT Installations																																																																																																						
Gross Block	708	708	708																																																																																																			
Additions	0	0	0																																																																																																			
Depreciation for the year (25%)	158	158	158																																																																																																			
Cumulative depreciation	158	317	475																																																																																																			
Net Block	550	392	233																																																																																																			
Building & civil works																																																																																																						
Gross Block	26062	41592	44592																																																																																																			
Additions	15530	3000	0																																																																																																			
Depreciation for the year (3.70%)	1253	1596	1652																																																																																																			
Cumulative depreciation	1253	2849	4500																																																																																																			
Net Block	40339	41473	40091																																																																																																			
Total Assets																																																																																																						
Gross Block	43836	59365	62365																																																																																																			
Additions	15530	3000	0																																																																																																			
Depreciation for the year	3176	3519	3574																																																																																																			
Cumulative depreciation	3176	6695	10269																																																																																																			
Net Block	56190	55671	52097																																																																																																			
	(b). (i). It appears that a part of total pre-operative expenses is considered for capitalization for each class of assets. If that is so, the details of total pre-operative expenses and the reason for considering only a share of the total pre-operative expenses in the value of fixed assets may be explained. The treatment given to the remaining pre-operative expenses, if any, in the cost statement to be brought-out.	The entire pre-operative expenses of Rs.4655 lakh has been capitalized for each class of asset in the ratio of the value of class of asset to the total asset.																																																																																																				
	(ii). The pre-operative expenses should be amortized over the entire concession period / remaining period of the project. The estimated capital employed figures and the estimated depreciation to be reviewed and modified accordingly for all the years under consideration.	The pre-operative expenses after amortization are amortized over the remaining Licence period in line with your observation.																																																																																																				
	(c). CITPL to note only completed and	The CITPL has confirmed that only completed																																																																																																				

	<p>commissioned assets alone will be counted for capital employed and work-in-progress should be excluded. A confirmation in this regard to be furnished.</p>	<p>and commissioned assets are counted for capital employed.</p>
	<p>(d). With reference to the estimated expenditure on fixed assets, please furnish documentary evidence in respect of the capital value of various assets already commissioned. The CITPL has envisaged additions to the gross block of civil assets to the tune of Rs. 12.75 Crores in the year 2010-11. Evidence of action taken and status of the assets to be added during 2010-11 to be furnished.</p>	<p>The additional investment envisaged in the year 2010-2011 for Rs.12.75 crores is towards development of the reclaimed area of 72,500 sq. m.</p>
	<p>(e). The minimum investment obligation as per the LA is Rs.300.80 Crores over the first six years till 2012-13 as per the year-wise investment plan set forth in Appendix-13 of the LA.</p> <p>Whereas the capital employed figures show that nearly double of the minimum investment obligation will be made within the years under consideration. In this context, CITPL to clarify the following:</p>	<p>CITPL is investing a higher amount than the amounts envisaged in the LA due the fact that the estimates made in the year 2005 by Chennai Port trust are outdated and irrelevant to current environment. The reasons which can be attributed for higher capital outlay are given below:</p> <p>The investment of Rs.481 crores envisaged in the License agreement was based on estimates in 2005 which have no relevance in year 2009</p> <p>The additional cost in respect of laying rail line inside the terminal was not included in the initial cost estimates of ChPT. The additional cost towards this including the design, laying rail, supervision, cost of labour, cost of completion is estimated at additional cost of Rs.10 crores</p> <p>The estimate of Rs.481 crores by ChPT does not include the preoperative expense which is expected to be Rs.50 crores upto commencement of commercial operations.</p> <p>The proposed capital expenditure of Rs.600 crores is after careful evaluation of the requirements in terms of the LA and the prevailing economic scenario. The CITPL has documentary evidence towards the capital expenditure.</p>
	<p>(i). It is stated in the proposal that the CITPL has estimated an investment of Rs.600 Crores to create the minimum facilities required as per the LA and few additional equipment to cope up with the projected traffic. The minimum facilities required as per the LA and the additional equipment envisaged to be listed out with cost thereto.</p>	<p>Minimum facilities required as per LA is given below:</p> <ol style="list-style-type: none"> 1. Construction of Jetty of 832 m length 2. Yard Area of 358,000 sq. m. 3. Equipment: RMQC : 3 RTGC : 10 RS : 6 <p>And other back up equipment to run the container terminal.</p> <p>Initially, it is proposed to provide all above equipment right at beginning except Reachstackers which is proposed to be taken</p>

		on hire.
	<p>(ii). The LA requires the operator to achieve the maximum of the Minimum Guaranteed Throughput (MGT) of 5,00,000 TEUs within the third operating year. It is noteworthy that the CITPL has projected the throughput at 4,50,000 per annum up to the third operating year (2011-12). Conforming to the equipment procurement plan as listed in Appendix-12 and abiding by the year-wise investment plan set forth in Appendix-13 of the LA, the operator is required to invest a sum of Rs.299.90 Crores in the facilities by the year 2011-12 whereas an amount of Rs.600 Crores is proposed to be invested by that period which may cause avoidable burden to the users. In the light of the above observations, the capital employed figures to be reviewed.</p>	<p>CITPL has projected the following throughput during the first three operating years is as under:</p> <p>2009-10: 337,517 TEUs 2010-11: 455,623 TEUs 2011-12: 600,030 TEUs</p> <p>The capital employed is the barest minimum required under the provisions of LA. The variation in capex is on account of the price rise of various project requirements. The original cost estimate in LA of Rs.481 Cr. does not include pre-operative expenses of Rs.46.55 Crore and approx. Rs.10 Crore on rail link.</p>
(ii).	<p><u>Working capital:</u></p> <p>(a). The workings for the projected working capital needs to be furnished bearing in mind Clause 2.9.9 of the tariff guidelines of March 2005.</p>	<p>CITPL reiterates that its proposal is fully compliant with the TAMP guidelines of March 2005.</p>
	<p>(b). It appears that the CITPL has considered Rs.3.54 Crores, Rs.4.74 Crores and Rs.4.75 Crores as an item of Sundry Debtors for the years 2009-10 to 2011-12, respectively, presumably as margin money for the Bank Guarantee to be furnished as Performance Guarantee / Performance Security in terms of Article 5 of the LA. This item of Sundry Debtors to be evidenced by documentary proof.</p>	<p>The sundry debtor is calculated @ 10 days sales but is not included in the working capital as TAMP does not provide for including it.</p>
	<p>(c). The aggregate of the respective amounts considered as items of working capital does not tally with the total working capital figure estimated for the year 2009-10 to 2011-12. The position to be verified.</p>	<p>CITPL has not furnished any reply.</p>
	<p>(d). With reference to the inventory considered as an item of working capital, the basis for considering 1% of the value of opening block of Plant & Machinery relating to the year 2009-10 for the purpose of calculation of "capital spares" and "other inventory" for the year 2009-10 to 2011-12 to be explained.</p>	<p>At pre-operative stage, it is not possible to accurately view inventory levels of capital spares and other with the limited availability of data. Hence CITPL has gone by TAMP guidelines appearing in the form 4 A.</p>
	<p>(e). It is seen that the performance guarantee and lease rent are considered</p>	<p>The Margin for Bank Guarantee is not included in Sundry debtors as sundry debtor is</p>

	<p>by CITPL for calculation of allowable cash balance.</p> <p>As per Article 5.1 of the LA performance guarantee equivalent to Rs.30 Crores is payable to ChPT by CITPL in the form of Bank Guarantee. It appears that the CITPL has already considered the margin money for the Bank Guarantee as an item of Sundry Debtors for the purpose of Working Capital Calculation. The reason for considering Rs.58.34 Crores, Rs.78.10 Crores and Rs.78.24 Crores, respectively for the years 2009-10 to 2011-12 towards performance guarantee under the head "cash balance" for the purpose of calculation of Working Capital is not clear.</p> <p>The CITPL has considered an amount of Rs.7.29 Crores, Rs.9.40 Crores and Rs.9.50 Crores for the years 2009-10 to 2011-12, respectively, towards lease rent as an item under cash balance for the purpose of calculation of working capital. This amount may have to be considered as an item of Sundry Debtors, if the lease rent is payable in advance to ChPT as per LA.</p> <p>The cash balance for the purpose of Working Capital may be computed as per Clause 2.9.9 of the tariff guidelines of March 2005.</p>	<p>calculated @ 10 days sales but is not included in the working capital as TAMP does not provide for including it.</p> <p>We may put the lease rentals as sundry debtors but then also it will be part of the working capital and may not make any difference in tariff calculation.</p> <p>The cash balance for the purpose of Working Capital is compliant with Clause 2.9.9 of the tariff guidelines of March 2005.</p>
C.	Scale of Rates:	
(i).	The Scale of Rates approved by this Authority will be a document implementable by CITPL. The draft Scale of Rates furnished by the CITPL does not contain the definitions for various items used in the draft Scale of Rates and conditionalities governing the proposed rates. Please furnish a self contained comprehensive Scale of Rates.	Scale of rates have been resubmitted on 9th April 2009 for both Interim tariff and final tariff which are in full compliance with your observations and tariff guidelines.
(ii).	(a). CITPL to furnish detailed working with cost elements considered to arrive at the charges proposed for normal, reefer, transshipment, hazardous and over dimensioned cargo containers.	For the interim tariff these are based on rates approved by TAMP for CCTL. (CITPL has not furnished the required details for the final tariff proposed by it).
	(b). Similar working with cost elements considered to be furnished towards the charges proposed for services for hatch covers of vessels, restows, shut-outs, reefer services indicated in miscellaneous and customs inspection services.	For the interim tariff these are based on rates approved by TAMP for CCTL. (CITPL has not furnished the required details for the final tariff proposed by it).
(iii).	Clause 5.1.1. of the tariff guidelines of March 2005 encourages composite box rates for basic container handling	These are distinguished based on the practice followed at CCTL.

	services. The reason for proposing itemized rates for basic container handling services such as ship / shore transfer, transportation between berth to yard, handling at yard and wharfage charges on container and cargo to be explained.	
(iv).	The charges for containers of length above 20' but upto 40' and for containers of length above 40' may be prescribed following the ratio prescribed in Clause 5.4 of the tariff guidelines of March 2005.	These are guidelines compliant.
(v).	The services proposed to be rendered for levy of charges under each tariff item to be specified.	The revised Scale of Rates submitted on 9th April 2009 complies with the requirement.
(vi).	With reference to the proposed rates for handling normal containers and ICD containers, clarify the following: (a). The reason for proposing lower rates for FCL ICD containers as compared to FCL normal containers for the activity of transportation from QC to container and vice versa.	The revised Scale of Rates is submitted on 9 th April 2009 (CITPL proposed same rates for both FCL normal and FCL ICD containers).
	(b). Likewise, the reason for proposing higher rates for FCL ICD containers as compared to the FCL normal containers for handling them at the container yard.	The revised Scale of Rates is submitted on 9th April 2009. (CITPL has proposed same rates for FCL normal and ICD containers.)
	(c). Reason for proposing higher wharfage on cargo of FCL ICD containers as compared to the wharfage on cargo of FCL normal containers.	The revised Scale of Rates is submitted on 9th April 2009 (CITPL has proposed same wharfage for both categories of containers)
(vii).	The CITPL has proposed composite coastal rates for the activity of handling the containers at container yard including lift on / lift off, delivery / receipt to and from customers in respect of normal, ICD, hazardous, over-dimensional containers. It appears that the service includes service for loading the container to the customer's vehicle or landing the container from Customer's vehicle, which does not qualify for coastal concession. The proposed composite tariff items may be unbundled suitably to differentiate the activity qualifying for concessional tariff and the one not qualifying for concessional tariff.	The revised Scale of Rates is submitted on 9th April 2009. (CITPL unbundled the rates in the revised SoR).
(viii).	CITPL has considered different rates of premium for prescription of handling charges for hazardous containers for the activities of transportation from QC to yard and handling at yard. The handling charges for hazardous containers may be proposed considering premium at uniform rate of 25% as stipulated in Clause 5.7.3. of the tariff guidelines of March 2005.	The revised Scale of Rates is submitted on 9th April 2009 (A general note included in the SoR stating that a premium of 25% is applicable on hazardous containers).

(ix).	The reason for considering different rates of premium for prescription of handling charges of over dimensioned cargo containers for the activity of transportation from QC to yard and handling at yard to be explained.	The revised Scale of Rates is submitted on 9th April 2009 (CITPL proposed 3 times of normal charges uniformly for all activities).
(x).	The proposed handling charges at Quay for transshipment containers are seen to be double the proposed handling charges at Quay prescribed for normal containers. Likewise, the proposed container wharfage and cargo wharfage are found to be 67% and around 74% more than the corresponding rates proposed for normal containers wharfage and cargo wharfage of normal containers. The handling charge for transshipment containers may be prescribed following Clause 5.5.1 of the tariff guidelines for March 2005. The basis for prescribing different container wharfage and cargo wharfage as compared to the corresponding charges in respect of normal containers to be explained.	In the revised Scale of Rates submitted on 9th April 2009, CITPL proposed the rates for transshipment containers at 1.5 times of normal containers.
(xi).	(a). The basis for the proposed dwell time charges for various containers may be brought out with justification.	The revised Scale of Rates is submitted on 9th April 2009 (CITPL has not furnished any justification)
	(b). Clause 2.15 of the revised tariff guidelines stipulate that the users will not be required to pay charges for delays beyond reasonable level attributable to the port. Flowing from this principle, please incorporate a provision stating that storage charging shall not accrue for the period during which the CITPL is not in a position to deliver / shift the containers when requested by the users.	The revised Scale of Rates submitted on 9th April 2009 complies with the requirement.
	(c). The proposed dwell time charges include charges for ICD containers. Therefore, the dwell time charges for ICD containers proposed in a separate table to be deleted.	The revised Scale of Rates is submitted on 9th April 2009
(xii).	The CITPL has proposed to adopt the rate applicable at the Visakha Container Terminal Pvt Ltd. (VCTPL) at the Visakhapatnam Port Trust (VPT) for the activity of transport of containers to rail flat from CITPL rail yard or vice versa including lift-on / lift-off. In this context, CITPL to clarify the following:	
	(a). Given the fact that the services rendered by VCTPL and the services proposed to be rendered by CITPL (transportation and lift on / lift off) are even, the proposed higher rate of Rs.1,800 per TEU for loaded container and Rs.1700 per TEU for empty	The revised Scale of Rates is submitted on 9th April 2009 (No justification furnished. However, rates are revised to Rs.1,400/- and Rs.1,120/- per loaded and empty container respectively).

	container as against the corresponding rates of Rs.1,250/- and Rs.1150/- respectively prescribed in the Scale of Rates of VCTPL to be justified.	
	(b). The charges proposed for containers of length above 20' but upto 40' and for containers of length above 40' are found to be not in line with the ratio prescribed in Clause 5.4 of the tariff guidelines of March 2005. The proposed rates may be modified in line with the said Clause of the guidelines.	The revised Scale of Rates is submitted on 9th April 2009 (The CITPL modified the rates as per guidelines provisions).
D.	Other Points:	
(i).	CITPL to confirm that it would provide a comprehensive service in the terminal including stowage planning and on-board stevedoring.	CITPL has confirmed that it would provide a comprehensive service in the terminal including stowage planning and on-board stevedoring.
(ii).	The relevant conditionalities governing the levy of concessional tariff for coastal containers notified by this Authority vide Order dated 7 January 2005 may be incorporated in the proposed Scale of Rates.	The relevant conditionalities governing the levy of concessional tariff for coastal containers notified by TAMP vide Order dated 7 January 2005 is incorporated in the proposed Scale of Rates.
(iii).	In case of a container from foreign port landing at CITPL for subsequent transshipment to an Indian Port on coastal voyage or vice versa incorporate a conditionality to state that in such cases 50% of the transshipment rate prescribed for foreign going and 50% of that prescribed for the coastal category shall be levied as per the directions from the Ministry.	Complied in the revised scale of rates submitted on 9 April 2009.
(iv).	As per Article 12.3. of the LA the vessel related charges, including berth hire for vessels calling at CITPL terminal will be collected by the ChPT. The CITPL may consider incorporating conditionality in the Scale of Rates regarding refund of berth hire charges to the vessels for the period when the vessels idle at CITPL when operations cannot take place due to failure / break-down of the shore based facilities of the CITPL or any other reasons attributable to CITPL.	Noted for incorporation in Scale of Rates: <i>"CITPL will refund berth hire charges to the vessels for the period when the vessels idle at CITPL when operations cannot take place due to failure / break-down of the shore based facilities of the CITPL or any other reasons attributable to CITPL"</i>
(v).	A general conditionality should be included to specify that users shall not be required to pay for any delay caused by reasons directly attributable to CITPL.	Included in the Scale of Rates submitted on 9 April 2009.
(vi).	Conditionalities for payment of interest by users on delayed payments and payment of interest by CITPL on delayed refunds may be proposed as per the provisions of the tariff guidelines of March 2005.	Included in the Scale of Rates submitted on 9 April 2009.

(vii).	The conditionalities relating to recovery of Dollar denominated tariff in Indian Rupees and conversion of the Dollar denominated tariff into its equivalent Indian Rupees may be proposed as per the provisions contained in the tariff guidelines of March 2005.	Included in the Scale of Rates submitted on 9 April 2009.
(viii).	The conditionalities relating to levy of storage charges on abandoned containers may be proposed following the guidelines prescribed in this regard.	Included in the Scale of Rates submitted on 9 April 2009.

7.2. On a scrutiny of the additional information / clarifications furnished by the CITPL, there were certain gaps in the response of CITPL and discrepancies in the calculations. The CITPL was, therefore, requested to furnish further additional information / clarifications. The CITPL has responded. The queries raised by us and the clarifications furnished by the CITPL are tabulated below:

Sr. No.	Queries raised by us	Reply of CITPL
A.	<u>On CITPL Letter No. CITPL/TAMP/2009/03, dated 9 April 2009 (Breakup for capital expenditure)</u>	
(i).	The CITPL has not furnished documents in support of the reported payment of Rs.3.432 Crores to the ChPT towards cost of sand through dredging.	The CITPL has furnished a copy of the demand letter from the ChPT together with proof of payment.
(ii).	The contract value for testing land soil is estimated at Rs.7,07,850. However, the supporting document furnished shows the cost at Rs.5,18,822 only.	The actual cost incurred on testing land soil is Rs.518,822/- only. The lower amount was spent in lieu of the reducing in scope of work in comparison to the work order. The total cost on account of testing land soil shall be read as Rs.518,822 only.
(iii).	With reference to the cost of rails (refer to A8), the amount reported to have been paid as on 31 March 2009 is more by Rs.2.00 lakhs than the contract value.	The amount of Rs.2 lakhs was paid by CITPL. Till date CITPL have not got refund of the security deposit. (furnished a copy of the proof of payment).
(iv).	As regards engineering consultancy (Refer to A11), the contract value is shown as Rs.17.28 lakhs whereas the amount reported to have been paid as on 31 March 2009 is shown as Rs.3.09 Crores. Further, the fee schedule attached with documentary evidence (A – 11) furnished by CITPL shows the fees at US\$ 15,000. Applying the exchange rate 1US\$ = Rs.48, as considered by CITPL for conversion of US dollar rates for other contracts, the fees work out to Rs.7,20,000 only. The difference between the contract value, actual payment and the cost shown in the documentary evidence may be reconciled.	The consultancy agreement is for an amount of US\$ 36,000 and on conversion at Rs.48 per US \$ is Rs.17.28 lakhs only. It is a typographical error and does not populate the overall civil construction cost; the terminal's capital expenditure has not been impacted. (CITPL has furnished a copy of contract entered by it with MacPorts Ltd., Hongkong for US \$ 36,000).
(v).	Considering the contract value of three RMQCs (Refer to B-1) given in US\$ terms and applying the exchange rate of 1US\$ = Rs.48, the capital cost of RMQCs works out to Rs.80.84 Crores as against Rs.83.77 Crores shown by CITPL.	CITPL has furnished the proforma invoice for the RMQCs together with the insurance spares. RMQCs – 3 nos. - US\$ 16,841,074.00 Spare parts for RMQCs - US\$ 450,110.00 Warranty spares for RMQCs - US\$ 208,080.00

		Total cost of RMQCs - US\$ 17,499,264.00 The rupee value of the same works out to Rs.83.99 crores as against their initial submission of Rs.83.77 crores.
(vi).	It is shown in the document (B - 3) furnished by CITPL that the main contract value given in US\$ terms is for supply of ten units of Rubber Tyred Gantry Cranes (RTGCs), including testing. The said document also shows separate cost in US\$ terms towards third party inspection. However, the cost for engineering inspection has been shown as a separate item of expenditure (Refer to B - 4) as can be seen from the documentary evidence. In this context, the following points to be clarified:	As provided in documentary submissions vide B-3 and B-4, the cost of third party inspection offered by the supplier is at US\$ 130,000. CITPL opted for external third party inspection which is at lower cost to the company. The cost of the RTGC when it arrives will stand reduced by US \$ 55,000.
	(a). Whether the estimated contract value shown in Indian Rupee terms includes the cost of third party inspection?	No, the cost of RTGCs does not include the cost of third party inspection offered by supplier.
	(b). When the main contract for supply of RTGCs includes testing and the contract (B3) contains a clause for third party inspection, the engineering inspectors cost (B4) estimated at Rs.62.40 lakhs separately for RTGs to be justified.	The third party inspection was opted out of the main contract after identifying a cheaper vendor for inspection. The cost of RTGs is only towards the cost of equipment.
B.	<u>On CITPL letter No. CITPL/TAMP/2009/04, dated 17 April 2009:</u>	
(i).	CITPL to clarify the position furnishing a detailed working for the estimated operating and direct labour cost of Rs. 554 lakhs, Rs. 580 lakhs and Rs. 606 lakhs for the years 2009-10 to 2011-12, respectively.	CITPL regret that there was mistake in the figures in letter dated 5 March 2009. Some of the entries were wrongly reflected while copying and some figures were missing. CITPL has furnished the detailed working of Direct Labour and Overheads. The figures for 2009-10 to 2011-12 also furnished.
(ii).	CITPL to clarify the position and furnish a detailed working for the estimated maintenance labour cost of Rs. 77 lakhs, 81 lakhs and 84 lakhs for the years from 2009-10 to 2011-12, respectively.	CITPL regret that there was mistake in the figures in letter dated 5 March 2009. Some of the entries were wrongly reflected while copying and some figures were missing. CITPL has confirmed that the maintenance labour cost in Form 3B is correctly mentioned. (CITPL furnished revised break-up details).
(iii).	The documents furnished by CITPL (refer Annex - 8) in support of hire charges of handling equipments are found to be unsigned copies. Signed copies to be furnished.	CITPL has furnished signed copy of the Letter of Acceptance (LOA) issued to the Contractor for hire of equipment in respect of Reach stackers.
(iv).	With reference to the Annexure - 9, furnished by CITPL showing computation of land lease charges, CITPL to clarify the following: (a). As seen from the copy of ChPT letter No. MP1/3820/05/E, dated 15 April 2009 addressed to the CITPL, as furnished by the CITPL, the ChPT did not claim land lease charges for reclaimed area for the year 2009-10. However, the CITPL has included an amount of Rs.124 lakhs for reclaimed area for the year 2009-10.	As per terms of LA, ChPT shall charge land lease charges on the reclaimed area from the date of handing over the same to Licensee. ChPT was originally to handover the said area in 2009-10. However, have not done the same till date. On a conservative basis, CITPL have assumed the same would be given possession atleast in 2010-11 and provided for the same.

	(b). The CITPL has estimated land lease charges for the year 2009-10 at Rs.308 lakhs and Rs.260 lakhs for the developed area and undeveloped area, respectively, vis-à-vis claim of ChPT for Rs.369.82 lakhs and Rs.472.28 lakhs.	The higher demand from ChPT on land lease charges is based on land policy of the Government of India having lease charges with base year being 2004 and Scale of Rates were modified accordingly. Though this revision in Scale of Rates has not been approved by TAMP or competent authority, CITPL was coerced to pay such higher charges. And CITPL has paid such higher demand under protest.
(v).	The CITPL projected general overheads at Rs.366 lakhs, Rs.383 lakhs and Rs.400 lakhs for the three years under consideration in Form – 3B furnished under the cover of its letter No.CITPL/TAMP/2009/002, dated 5 March 2009. Against this position, the CITPL has revised its estimates and projected the expenditure at Rs.137 lakhs, Rs.3195 lakhs and Rs.3962 lakhs as seen from the Annexure – 13 furnished by CITPL vide its letter dated 17 April 2009. The steep increase in the revised estimate for the years 2010-11 and 2011-12 as compared to the revised estimate pertaining to the year 2009-10 may be justified.	Ignore the amount advised through letter dated 17 April 2009. It erroneously included other expenses also. (CITPL furnished the revised break up details).
(vi).	The documentary evidence (D-4) furnished by CITPL under cover of its letter dated 9 April 2009 shows that the pre-operative expenditure is Rs.3523.41 lakhs. The CITPL has stated vide its letter dated 17 April 2009, inter alia, that it has amortized the pre-operative expenses including Rs.1000 lakhs of upfront payment over the remaining License period. That being so, the aggregate of pre-operative expenses and upfront payment works out to Rs.4523.41 lakhs. If this amount is amortized over the remaining Licence Period, the amount to be amortized every year works out to Rs.161.55 lakhs from the year 2009-10 onwards. However, the CITPL has considered Rs.136 lakhs, Rs.131 lakhs and Rs.126 lakhs for the three years under consideration, respectively. The write-off pre-operative expenses and upfront payment may be reviewed.	CITPL has stated that the detailed working of pre-operative expenses is furnished as an Annexure. The write off of pre-operative expenses should be at Rs.172.40 lakhs per annum taking balance license period as 27 years. (The said Annexure was not found attached with the letter).

7.3. The ChPT was requested to furnish comments/information/ clarifications on the proposal of CITPL. The ChPT has furnished its reply. The queries raised by us and the clarifications furnished by the ChPT are tabulated below:

Sr. No.	Queries raised by us	Reply of ChPT
1.	Our letter dated 9.4.2009	
(i)	ChPT to furnish its comments on the proposal filed by CITPL for fixation of tariff for its container terminal at the	It is suggested that CITPL may follow the same tariff as of M/s.CCTPL initially till the finalization of tariff. M/s.CCTPL also initially adopted

	ChPT. ChPT to furnish comments on the proposal of CITPL to adopt the tariff prevailing at CCTL as an interim measure in view of the reported meltdown in the economy.	ChPT's SoR before evolving its own tariff structure. However, TAMP may take a final decision on the issue.
(ii).	The CITPL has signed the Licence Agreement (LA) with the ChPT on 7 March 2007. The CITPL is required to complete construction of the project and commence commercial operations within 24 months (by 6 March 2009) from the date of award of the Licence as stipulated in Article 8.1 of the LA. However, the CITPL has reported vide its letter dated 5 March 2009 that the project is expected to be commissioned partly on 1 May 2009. ChPT to state whether the ChPT has granted extension of time to the CITPL to complete the project and commission the facilities fully with a copy of extension letter.	<p>A Licence Agreement has been executed with CITPL and ChPT on 7 March 2007 for the development of second container terminal and the licensed premises was handed over on 1 April 2007. Subsequently, the date of handing over has been shifted to 1 May 2007 with Board's approval. The Environmental Clearance for extension of berth has been obtained on 1 November 2006. As per the agreement definitions the date of handing over means the date of signing of the agreement or handing over the Licensor's Assets excluding the Reclaimed Area and / or providing Environmental clearance for extension of berth whichever is later. As per the Clause 8.1, the licensee shall complete construction of Project Facilities and Services within a period of 24 months from the date of Award of License i.e. 30 April 2009. The commercial operation is to be commenced within 180 days from the expiry of the construction phase as per the Clause 8.11 of the agreement conditions.</p> <p>Due to the encumbrances lying in the licensed premises, as requested by the licensee, the Trust has shifted the Scheduled Project Completion date from 30 April 2009 to 8 October 2009 with Board's approval (copy furnished). Thereby, the commercial operation shall be commenced within 180 days from the date of 8 October 2009.</p>
(iii).	Appendix – 1 (Project Description) to the Licence Agreement (LA) entered between the Chennai Port Trust (ChPT) and the Chennai International Container Terminal Pvt. Limited (CITPL) states that the capacity of the container terminal is assessed as 8,00,000 TEUs per annum. The ChPT is requested to furnish workings for the capacity of the terminal assessed at 8,00,000 TEUs per annum.	The proposed quay length is 832 metres and as per the international bench mark for throughput calculation of container terminal viz. 1000 TEUs per running metre is taken and the capacity of the container terminal was fixed as 8.00 lakh TEUs per annum.
(iv).	(a). The minimum investment obligation as per Article 9.1. (vi) read with Appendix – 13 is around Rs.300.00 Crores within the year 2011-12. However, the CITPL has envisaged investment of around Rs.600 Crores within the year 2011-12 to create minimum facilities as per the provisions of LA and few additional equipment to cope up with the projected traffic as reported by the operator. The ChPT to furnish its specific comments on the	As per the Agreement provisions, the licensee may invest not less than 300 crores before the 6 th year from the date of Award of License. The Licensee had invested an amount of Rs.377,29,72,419/- upto June 2009 (ChPT furnished a copy of unsigned letter from CITPL dated 30 June 2009 as a proof).

	proposed investments.	
	(b). The LA provides for appointment of Independent Engineer by the ChPT. ChPT to furnish a certificate from Independent Engineer certifying the amount invested by the CITPL in the Project so far.	As per the Additional Auditor Certificate, the licensee has made an investment of Rs.2937 million upto 31 March 2009 (copy of relevant extract of auditor report furnished. However, certificate from the Independent Engineer is not furnished)
(v).	ChPT to furnish specific comments on the traffic forecast made by CITPL in the context of the assessed capacity of the terminal at 8,00,000 TEUs.	The proposed quay length is 832 m. and as per the international bench mark for throughput calculation of container terminal viz., 1000 TEUs per running metre is taken and the capacity of the container terminal was fixed as 8.00 lakh TEUs per annum. [No comments on the traffic forecast are furnished by ChPT]
(vi).	(a). The estimation of lease rentals made by CITPL may be verified and confirmed that the area considered is as per the LA and the lease rates considered are in line with the prevailing Scale of Rates of ChPT.	As far as leased area is concerned, the area measuring 2,07,149.379 sq. m. (developed area – 60,428.116 sq. m. and undeveloped area – 1,46,721.263 sq. m.) was handed over to CITPL and action has been taken to reclaim and hand over the reclamation area measuring 78,000 sq. m. as per agreement provision. [ChPT has not confirmed about the lease rates].
	(b). The area under lease considered by CITPL in the cost statement for the year 2010-11 of about 3,58,000 sq. m includes an area of 78,000 sq. m. to be reclaimed. Article 6.4 of the LA stipulates that ChPT will endeavour to handover the reclaimed area prior to the date of commercial operations to CITPL. ChPT to state when the work of reclamation of land is going to be completed. The status of handing over this additional area of reclaimed land to be intimated.	As per the Agreement provisions, the area measuring 2,07,149.79 sq. mtrs. has been handed over to CITPL. In addition, the area measuring 78,000 sq. m. is to be reclaimed and handed over to the licensee within 30 months from the date of Award of License i.e. 6 months from 8 October 2009. The reclamation work is under progress. [Area is to be reclaimed by 8 April 2010]
(vii).	Article 10 of LA provides for absorption of 29 employees by CITPL identified by ChPT as surplus employees. The number of employees of ChPT who actually joined the CITPL and the estimated wage cost of such employees per annum to be furnished.	The ChPT has not furnished any reply.
(viii).	Article 9.74. of the LA envisages levy of infrastructure cess by the CITPL on the cargo handled by it and remit the proceeds to the ChPT for infrastructure development. The said Article further stipulates automatic enhancement of Scale of Rates of CITPL equal to the amount of cess. It may be noted that such an arrangement, if any, will not be in accordance with the tariff setting arrangement envisaged by the statute in its present form and the revised tariff guidelines.	The ChPT has not furnished any reply.
2.	<u>Our letter dated 1.5.2009</u>	
(i).	As seen from the copy of ChPT letter No. MP1/3820/05/E, dated 15 April 2009 addressed to the CITPL, furnished by the CITPL, the ChPT has	The escalation factor of 5% for calculating lease rentals to be paid by the CITPL for the land allotted to them is as per Article 13.14 of the License Agreement (furnished a copy of relevant

	<p>worked out the lease rent charges for developed area and un-developed area for the year 2009-10 after factoring in 5% escalation per annum over the base rate. It is relevant here to mention that the Land Policy guidelines issued by the Government of India in February / March 2004 stipulate that the land lease rates shall be escalated by 2% per annum. Notably, a general note has been incorporated in Chapter – 6 of the Scale of Rates of ChPT notified by this Authority on 30 March 2006 regarding application of Land Policy guidelines announced by the Government. Further, the note – b prescribed under general conditions for long term lease in the Scale of Rates of ChPT stipulates that the lease rent shall bear an escalation at 2% per annum. That being so, the ChPT to clarify the reason for considering an escalation factor of 5% for calculating lease rentals to be paid by the CITPL for the land allotted to the operator.</p>	<p>extract of LA)</p>
(ii).	<p>As can be seen from the proposal filed by CITPL, the operator has estimated capital expenditure of Rs.578.85 Crores as of the year 2009-10. A copy of the statement showing detailed break-up for the estimated capital expenditure, as given by CITPL, is attached as Annex. The CITPL has stated that it has already incurred the capital expenditure of Rs.332.79 Crores as of 31 March 2009. It has been further stated by the operator that it would be making a payment of around Rs.2.04 Crores in April 2009. Thus, total capital expenditure that would have been incurred by CITPL as of April 2009 works to Rs.334.83 Crores. As already requested by us, the ChPT may furnish a certificate from the independent engineer appointed by it certifying the amount invested by the CITPL in the project so far.</p>	<p>As per the Additional Auditor Certificate, the licensee has made an investment of Rs.2937 million upto 31 March 2009 (copy of relevant extract of auditor report furnished)</p>
(iii).	<p>The statement showing the detailed break-up for the estimated capital expenditure furnished by CITPL includes capital expenditure to the tune of around Rs.9.64 Crores towards cost of rails and laying of railway lines. The ChPT to intimate the obligation of CITPL under the Licence Agreement entered between ChPT and CITPL in this regard giving reference to the relevant Article of Licence Agreement</p>	<p>The relevant agreement provision is reproduced below:</p> <p style="text-align: center;"><u>Appendix 4: Project Facilities and Services of License Agreement</u></p> <p><u>Rail evacuation:</u> The rails service is an option that is evaluated as an additional service for effective evacuation of containers in and out of the container terminal and to attract mainline operators, depending on the commercial feasibility.</p>

--	--	--

7.4. The ChPT was requested to furnish further additional information / clarifications arising out of its response dated 20 August 2009. The ChPT has furnished its reply. The queries made by us and the clarifications furnished by the ChPT are tabulated below:

Sr. No.	Queries raised by us	Reply of ChPT												
(i)	Copy of document furnished by the ChPT relates to the report of the Auditors of the CITPL regarding investment made by CITPL. The ChPT to furnish certificate from the Independent Engineers appointed by the ChPT certifying the amount invested by CITPL in the project.	The certification of investments is not under the purview of Independent Engineer's scope of works.												
(ii)	ChPT to furnish specific comments on the traffic forecast made by the CITPL as already requested by us. The response of the ChPT in this regard is with regard to the estimated capacity of the container terminal.	<p>The assessed capacity of the Terminal is 8,00,000 TEUs and as per Article 9.11 of the LA, M/s.CITPL have to achieve the Minimum Guaranteed Traffic as under:</p> <table data-bbox="821 806 1396 963"> <tr> <td>1st operating year</td> <td>-</td> <td>1,50,000 TEUs</td> </tr> <tr> <td>2nd operating year</td> <td>-</td> <td>2,75,000 TEUs</td> </tr> <tr> <td>3rd operating year</td> <td>-</td> <td>5,00,000 TEUs</td> </tr> <tr> <td>From 4th operating year to -</td> <td>-</td> <td>5,00,000 TEUs</td> </tr> </table> <p>the end of License Period</p> <p>As regards the traffic forecast made by the CITPL is concerned this office has no specific remarks to offer as this is operational issues to be decided by M/s.CITPL and any further comments on the traffic forecast may be obtained from M/s.CITPL, though ChPT also addressed the CITPL on this issue.</p>	1 st operating year	-	1,50,000 TEUs	2 nd operating year	-	2,75,000 TEUs	3 rd operating year	-	5,00,000 TEUs	From 4 th operating year to -	-	5,00,000 TEUs
1 st operating year	-	1,50,000 TEUs												
2 nd operating year	-	2,75,000 TEUs												
3 rd operating year	-	5,00,000 TEUs												
From 4 th operating year to -	-	5,00,000 TEUs												
(iii)	ChPT is again requested to confirm whether the rates considered by CITPL for estimation of lease rentals are in line with the prevailing SoR of ChPT. The response of ChPT does not confirm this position.	ChPT informed that no rates have been proposed by the CITPL towards lease rentals as observed from the Interim tariff (SoR) as approved by TAMP vide order TAMP/10/2009-CITPL dated 19 May 2009. (The reply furnished by the ChPT is not found relevant).												
(iv)	The ChPT has not responded to our request with regard to the number of identified surplus employees who actually joined the CITPL and the estimated wage cost of such employees per annum. ChPT to furnish the details.	The working strength in the year 2006 was 306 which got reduced to 292 as on 01.07.2009. This reduction in working strength of 14 is adjusted against the surplus staff strength of 29 as on 07.03.2007. The remaining 15 surplus staff is utilized for the function of SQ-2 which was part of Area-V after the emergence of 2 nd Container Terminal at SQ-3, SQ-4 and EQ and this SQ-2 the part of erstwhile Area-V is merged with Area-IV and the staff are utilized for the function of Area-IV.												

8. The proposal of the CITPL was that the present tariff prevalent at the adjacent container terminal to be given to CITPL as initial tariff to enable start of the operations from 1 May 2009. Thereafter, the final tariff based on CITPL's projections to be given after due process of fixation of tariff by this Authority. Since CITPL proposed to partly commence operations in the 3rd Week of May 2009 and recognizing that the ChPT had no objection for allowing the CITPL to adopt the existing Scale of Rates of the adjacent container terminal as initial tariff, this Authority decided to accord approval to the proposal of CITPL to levy tariff at the level prevailing at the

adjacent terminal as an interim tariff arrangement for a period upto 30 June 2009 vide Order dated 15 May 2009. It was made clear to the CITPL that allowing the CITPL to levy tariff at the level existing at the adjacent container terminal should not be construed as an incidental approval of pass through of royalty / revenue share payable by CITPL to ChPT. The validity of the interim tariff arrangement was extended till 30 September 2010 at the request of the CITPL, vide Order dated 31 March 2010, subject to the condition that additional surplus, if any, over and above the admissible cost and permissible return earned by the CITPL from the date of commencement of operations will be fully adjusted in the tariff to be determined.

9.1 The CITPL was requested vide our letter dated 14 June 2010 to update the cost statements with actuals for the year 2009-10, review the estimates for the years 2010-11 & 2011-12 and to furnish the estimates for the year 2012-13 also. The CITPL was also requested to furnish a detailed statement of actual capital expenditure incurred so far duly certified by the Chartered Accountants.

9.2 The CITPL vide its letter dated 24 June 2010 has furnished revised cost statements reportedly based on actual upto April 2010 and estimated for the remaining part of year (on calendar year basis) and after reviewing the estimates for the year 2011 and 2012 in line with the forecast for the year 2010. Regarding audited financials for the year ended 31 March 2010, the CITPL stated that it follows calendar year based accounting and requested to grant some time to furnish the same.

9.3 However, the revised cost statement furnished by the CITPL vide its letter dated 24 June 2010 did not include actuals for the year 2009 and estimates at the existing level of tariff. Further, the cost statement furnished by CITPL was with reference to the proposed level of tariff.

9.4 The CITPL under cover of its letter dated 24 June 2010 has also furnished a detailed statement showing the total cost incurred for the construction and development of the second container terminal at the ChPT as on 21 September 2009 certified by a Chartered Accountant firm vide their Report dated 21 December 2009. The actual capital expenditure is shown as Rs.565.78 crores. The summary of capital expenditure as certified by the Chartered Accountant firm is given below:

(Rs. In crores)

Particulars	Landed cost	Other expenses	Borrowing cost	Total cost
Buildings	316.83	32.15	15.33	364.31
Plant & Machinery	149.85	0.87	12.76	163.48
Electrical Installation	11.77	1.19	0.57	13.53
Computers	1.85			1.85
Software	4.47			4.47
Furniture & fixtures	1.27			1.27
Leasehold improvements	0.18			0.18
Office Equipment	0.38			0.38
Vehicles	0.14			0.14
Intangibles (Upfront fee & Leasehold premium paid to ChPT)	16.17			16.17
TOTAL	502.91	34.21	28.66	565.78

10.1. Since the CITPL did not furnish the estimates for the year 2010 to 2012 at the existing level of tariff, the operator was requested to furnish the estimates at the existing level of tariff and also the actuals for the year 2009 supported by audited accounts by 16 August 2010, vide our letter dated 3 August 2010. After granting extension of time upto 25 August 2010 at the request of the CITPL, the CITPL vide its letter dated 24 August 2010 furnished the updated proposal giving actuals for the year 2009 and estimates for the year 2010 to 2012 at the existing level of tariff. Audited Accounts for the year 2009 was also furnished. Apart from furnishing the cost statement, the CITPL submitted that due to economic downturn in general and damage to its quay crane in particular, its terminal could generate steady volumes only after April 2010. As such, it has sought more time to assess the impact on these events, which are stated to be beyond its control and in turn to be able to make an evaluation of the projected volumes for the coming

tariff cycle. Therefore, the CITPL has sought an extension of the current tariff for a further period of one year.

10.2 Subsequently, the CITPL while furnishing a copy of the Agreement entered by it with a private party towards outsourcing of Prime Movers has furnished the details of actual traffic handled by it for the period from January 2010 to August 2010, under cover of its letter dated 14 September 2010, as given below:

Month	TEUs
January 2010	15,603
February 2010	15,799
March 2010	19,330
April 2010	25,602
May 2010	25,747
June 2010	24,025
July 2010	26,925
August	30,220
Total	1,83,251

10.3. A comparative position of the CITPL proposal of 5 March 2009, revised proposal of 24 June 2010 and the updated proposal of 24 August 2010 is given below:

(Rs. In Lakhs)

Sl. No.	Particulars	Proposal dated 5 March 2009			Revised Proposal dated 24 June 2010			Updated proposal dated 24 August 2010			
		2010	2011	2012	2010	2011	2012	2009 (Actuals)	2010	2011	2012
1.	Estimated container traffic (in TEUs)	3,37,517	4,50,023	4,50,023	2,70,014	3,64,518	5,00,025	20,100	3,37,500	4,50,000	4,50,000
2.	Income at interim tariff level	10,853 *	14,446 *	14,475*	8,625@	11,697@	16,077@	476	10,266	13,898	14,111
3.	Operating Expenditure **	4,911	5,851	6,603	4,706	5,553	6,404	512	5,021	5,967	6,721
4.	Depreciation	3,245	3,540	3,432	3,461	3,445	3,347	713	3,431	3,765	3,679
5.	Overhead	877	893	923	878	894	924	225	879	895	925
6.	Fin. & Misc. Income (net)							(597)	0	0	0
6.	Capital Employed	61,556	61,480	57,941	58,034	56,292	54,897	53,807	64,627	65,649	61,862
7.	ROCE	9,849	9,837	9,271	9,286	9,007	8,783	8,609	10,340	10,504	9,898
8.	Surplus / Deficit	(8,029)	(5,675)	(5,754)	(9,706)	(7,202)	(3,381)	(10,180)	(9,406)	(7,233)	(7,112)
9.	Surplus / Deficit as a % of Operating Income	-74%	-39%	-40%	-113%	-62%	-21%	-2139%	-91.62%	-52.04%	-50.40%
10.	Average surplus / deficit as a % of operating income	-51%			-65%				-62.05%		

* Income estimates at the interim tariff level furnished by CITPL subsequently through e-mail is considered since the original proposal submitted by CITPL contained income estimation at the proposed level of tariff.

@ Income at the proposed level of tariff as considered by the CITPL.

** CITPL has considered Royalty / revenue share as admissible expenses, which has been excluded.

11.1. A joint hearing in this case was held on 29 June 2010 at the ChPT premises in Chennai. At the joint hearing, the CITPL and ChPT have made their submissions.

11.2. At the joint hearing, the CITPL was advised to furnish a detailed note bringing out the reasons for its proposal to continue with the existing rates for one more year.

11.3. The CITPL has responded vide its letter dated 2 July 2010 as follows:

- (i). CITPL terminal has completed its construction phase and commenced commercial operations on 22 September 2009 on schedule.

- (ii). Prior to this date, due to the unfortunate accident on 5 June 2009, one of its Quay cranes was damaged by a RORO carrier, which was proceeding to its berth at West Quay 1 under pilotage. As the quay crane (which is state of art twin lift capable equipment with 52 m. out-reach) was brand new, CITPL had initiated an insurance claim against the vessel. Additionally, repairs to the crane were to be carried out by experts all of whom were based overseas.
- (iii). The repairs to the crane could only be completed by 14 December 2009 and it was only after this date that CITPL had the capacity to handle vessels of the size requiring 3 quay cranes. CITPL was able to get initially one main line service from 20 December 2009 itself. Customers were waiting for the actual track record of the terminal and especially the repaired crane prior to committing themselves. The net impact of this incident was that it was only in the month of April 2010 that the CITPL was able induce the main line service to call at its terminal.
- (iv). The global recession began in 2008 and is only now showing some signs of releasing its grip on international trade. It is still too early to determine with any confidence when CITPL can predict the stabilization or the increase in volumes and ocean freight rates.
- (v). Feedback from the customers and the shipping lines continues to be that while there are some signs of recovery in international trade in India, particularly Chennai continues to be impacted by heavy imbalance leading to repositioning of empties. The shipping lines have commented that it would take some time before stability of volumes particularly export volumes would emerge.
- (vi). The net impact of all this unforeseen events is that the CITPL is yet to confidently predict the volume projection for the next 3 years of the tariff cycle as required by this Authority. The CITPL has been operating on reasonable capacity only after April 2010 which requires assessment of its own operating costs, provide for increased improvement measures with a view to fulfilling or endorsing the cost structures indicated by it in its original tariff proposal made in March 2009.
- (vii). The CITPL requested to extend the validity of the existing interim rate for a period of one year more. During this time, CITPL would constantly assess both the overall market trend and its internal cost improvement measures and when it is in a position to confidently endorse volume projections and operating the cost indicated in the tariff application; it would approach this Authority for a formal award of a final tariff. In the event the market conditions warrant, CITPL may also revise its tariff application, if so required based on the current trend.

11.4. A copy of CITPL letter dated 2 July 2010 was forwarded to ChPT for its comments. The ChPT vide its letter dated 11 August 2010 responded stating that this Authority may consider the request of CITPL to extend the validity of the present tariff adopted by CITPL for further one more year for the reasons stated by CITPL in its letter dated 2 July 2010.

12. 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 will also be made available at our website <http://tariffauthority.gov.in>

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

- (i). As per the License Agreement (LA) signed between Chennai Port Trust (ChPT) and Chennai International Terminals Private Ltd (CITPL) on 7 March 2007, the CITPL was to complete construction of the project by 30 April 2009, 24 months from the date of award of License. The ChPT has reportedly granted 161 days extension of time to CITPL to complete construction of the project and, therefore, the revised date of completion was 8 October 2009.

As per the LA, the CITPL is required to commence commercial operations within 180 days from the expiry of construction phase and accordingly the CITPL was required to commence the commercial operation latest by 6 April 2010. However, the CITPL has reported vide its letter dated 2 July 2010 that it has commenced commercial operations with effect from 22 September 2009, ahead of the scheduled date of commencement.

- (ii). Initial tariff for CITPL was allowed in May 2009 based on the provisions of Clause 2.12 of the tariff guidelines. There appears to be a misunderstanding that by allowing the CITPL to operate the facilities at the initial tariff given to it at par with the adjacent terminal, partial pass-through of royalty / revenue share is allowed in the case of CITPL. Clause 2.12 of the tariff guidelines of March 2005 provides that when a new facility is commissioned or existing facilities are privatized by any port trust, the initial tariff to be allowed will not exceed the existing tariff level at the same port for comparable facilities. If such comparison is not available, prevailing tariff at comparable nearby port will be considered as the reference level. At the time of filing proposal for fixation of tariff in March 2009, the CITPL made a request in its proposal to allow the tariff prevailing at the nearby terminal as initial tariff since the operator envisaged to commence operations from 1 May 2009 with partially completed facilities. In line with the guideline position and as per the request of the CITPL, the tariff prevailing at the nearby container terminal was given to CITPL as initial tariff vide Order dated 15 May 2009.

It is a fact that the tariff at the nearby private container terminal, contains an element of Royalty / Revenue share which is admissible as pass-through in respect of that private container terminal operator. The tariff of CITPL needs to be determined in the light of the permissible costs and investment of its own. The Licence Agreement contains a specific provision relating to inadmissibility of revenue share as an item of cost in the tariff computation of CITPL. The same issue was made abundantly clear while allowing initial tariff to CITPL vide Order dated 15 May 2009. As we proceed further in the analysis, it can be seen that the tariff to be given to the CITPL is based on the estimated admissible cost of operations and the level of investment made by the operator in the facilities.

- (iii). The original proposal of the CITPL filed in March 2009 was based on the projected traffic to be handled at CITPL and estimated cost of operations of the terminal. However, the CITPL is operating the container terminal for the past one year from end of September 2009 applying the tariff given to it in May 2009 at its request. Mainly citing difficulties in estimating volumes for next three years and not confident of endorsing the estimates furnished by it in its tariff proposal of March 2009, the operator has proposed to continue with the existing tariff for one more year. Since the CITPL has reportedly commenced commercial operations from the end of September 2009, the actual financial / cost data made available to us is only for a limited period of around 3 months in the calendar year 2009. Incidentally, the operator follows calendar year as the accounting period. The data relating to the limited period of 3 months is not sufficient to validate the estimates for the next 3 years from 2010 to 2012 furnished by the CITPL. Further, the ChPT has no objection to the proposal of CITPL to continue with the existing rates for one more year. Notably, the users consulted in this case have expressed a general view that it would be appropriate for the CITPL to establish its credentials and seek revision of tariff thereafter. Even though the request is to continue with the existing tariff, we have analysed the financial and cost position to ensure that such an arrangement may not *prima facie* provide any advantage beyond the cost plus model envisaged by the Tariff Guidelines. Since the validity of the tariff given to CITPL expired on 30 September 2010 and keeping in view the request of the CITPL to allow it to continue with the existing tariff for one more year, the estimates of financial / cost data furnished by the CITPL for the year 2012 does not appear to be relevant in this exercise. Therefore, the estimates for the year 2010 and 2011 are only considered in this analysis.

- (iv). The CITPL has furnished the actual financial / cost details for the period from 22 September 2009 to 31 December 2009. From the estimates furnished by it for the years 2010 and 2011, it is seen that it has projected deficit as a percentage of operating income at around 92% and 52% respectively for the years 2010 and 2011 and an average deficit of 72% for the said two years, if it operates the facilities at the level of existing tariff. The estimates of the CITPL are analysed taking into account the traffic forecast, investment made in the facilities, and reasonableness of the cost items following the provisions stipulated in the tariff guidelines of March 2005. For this purpose, the proposal filed by CITPL based on the updated cost statements furnished under cover of its letter dated 24 August 2010 is considered.
- (v). (a). The audit certificate of investment made by the CITPL as on 22 September 2009 shows a total amount of Rs.565.78 crores. The investment of Rs.565.78 crores includes Rs.316.83 crores for civil works, Rs.149.85 crores for plant & machinery, Rs.11.77 crores for electrical installations, Rs.8.29 crores for computers & software, furniture & fixtures, leasehold improvements, office equipment and vehicles and Rs.10 crores towards upfront fee and Rs.6.17 crores towards premium on annual land lease charges and annual way leave charges. Further, the investment of Rs.565.78 crores also includes capitalised pre-operative expenses to the extent of Rs.34.21 crores and capitalised borrowing cost of Rs.28.66 crores.
- (b). The LA stipulates deployment of three Rail Mounted Quay cranes (RMQC) and 10 Nos. Rubber Tyred Gantry Cranes (RTGC). It is seen from the documentary evidence produced by the CITPL that it has deployed 3 Nos. RMQCs and 10 Nos. RTGCs. The plant & machinery as per audited position as on 22 September 2009 includes the value of these RMQCs and RTGCs, apart from other items of plant & machinery like spreader for quay cranes, radio data terminal, warranty spares for quay cranes and rail network.
- (c). It is seen that the actual investment of Rs.565.78 crores is more than the estimated investment of Rs.300.80 crores indicated in the LA. The investment envisaged in the LA is at a minimum level. The CITPL has pointed out about the cost escalation from the year 2005 when the estimates of Rs.300.80 crores were framed. Further, the CITPL has reported that additional cost in respect of laying the railway line inside the terminal was not included in the initial cost estimates, though the LA provides an option to the terminal operator to introduce the rail link to the terminal premises to enhance evacuation and provide direct rail facility for the terminal. The capital cost in this regard is reported at Rs.9.89 crores by the CITPL. The CITPL has also reported that the pre-operative expenses upto commencement of commercial operations were also not included in the initial estimates. When asked to furnish specific comments on the investments of CITPL at the terminal, the ChPT has only reported the position envisaged in the LA but not explained the variations between the actuals and the estimated Capital Cost prepared by it in the tendering stage. Further, the Port has also expressed its inability to furnish the certificate of investment by the Independent Engineer, as the scope of engagement does not include this aspect. The actual investment of Rs.565.78 crores based on the audit certificate for expenditure incurred towards construction and development of the container terminal is considered as the facilities reportedly developed are as per the Licence Agreement.
- (d). The LA requires the Licensee to pay non-refundable upfront fee of Rs.10 crores and premium on Annual land lease charges and annual way leave charges. The audited position as on 22 September 2009 shows the

upfront fee of Rs.10 crores and the premium on the above said accounts to the extent of Rs.6.17 crores. The CITPL has amortized the aggregate amount of Rs.16.17 crores over the project period of 30 years, which is found to be in line with the approach adopted by this Authority in the cases of other private operators. However, the CITPL has not considered the unamortized amount as part of the capital employed for the respective years in the cost statement. This Authority has considered the unamortized portion as part of Capital Employed for all the years under consideration.

- (vi). The actual financial / cost details for the period 22 September 2009 to 31 December 2009 are discussed in the following paragraphs.
- (a). Actual traffic at 20,100 TEUs is reported for the period of operations from 22 September 2009 to 31 December 2009. The actual revenue deficit before allowing return and excluding revenue share is reported at Rs.1052.00 lakhs for the said period which is in agreement with the audited accounts for the year 2009.
 - (b). The audited annual accounts for the year ended 31 December 2009 furnished by the CITPL report the value of gross block of assets as at 31 December 2009 at Rs.561.55 crores, as against the gross investment of Rs.565.78 Crores as on 22 September 2009 certified by the Auditors of the CITPL. The difference remains unexplained. Since the position as on 31 December 2009 is relevant for allowing return, the position as at 31 December 2009 as per the audited accounts is taken into consideration. The net block of assets as at 31 December 2009 including the unamortized portion of upfront fee and leasehold premium works out to Rs.55205.24 lakhs, which is considered for allowing return at the applicable rate.
 - (c). The sundry debtors of Rs.223 lakhs, Inventory of Rs.192 lakhs and the cash balance of Rs.487 lakhs shown in the cost statement are found to be the position as reflected in the audited accounts for the year 2009. The amount of sundry creditors reported by the CITPL is at Rs.834 lakhs. The CITPL has shown the net working capital at Rs.67 lakhs in the cost statement.

Clause 2.9.9 of the tariff guidelines of March 2005 prescribes norms for admissibility of working capital. As per the norms prescribed in March 2005 tariff guidelines, two months' estate income and two months' terminal charges payable by Indian Railways are the limit for allowable sundry debtors. This Authority has passed an Order on 30 September 2008 which, inter-alia, permits the outflow on certain items arising from contractual obligations of LA to be taken as a part of sundry debtors. The CITPL has not furnished details of sundry debtors. Therefore, sundry debtors at the end of the year 2009 claimed in the cost statement is excluded for the purpose of computing admissible amount of working capital. It is, however, examined in the later part of this analysis with respect to the estimated sundry debtors for the years 2010 and 2011 whether there is any other debtor arising due to inevitable and mandatory transactions arising from the provisions of LA.

The limit on inventory for capital spares prescribed in the tariff guidelines is one year's average consumption. Since no details of capital spares consumption is furnished and, therefore, no amount for the year 2009 is considered.

The limit on other items of inventory will be six months average consumption of stores excluding fuel as stipulated in the tariff guidelines

of March 2005. The CITPL has not considered this item of working capital in the cost statement. It is, however, seen from the annual accounts for the period in consideration that stores and spares excluding fuel have been consumed to the tune of Rs.26.62 lakhs. As per norms, Rs.13.31 lakhs (50% of Rs.26.62 lakhs) is taken in to account towards this item of working capital following the prescribed norm.

The limit on cash balance prescribed in the tariff guidelines is one month's cash expenses. The amount of Rs.487 lakhs considered by CITPL in the cost statement is found to be the actual cash balance as on 31 December 2009 as per the audited accounts. The cash balance is allowed on pro-rata basis at Rs.56.92 lakhs for the actual cash expenses for the period in consideration excluding royalty / revenue share since royalty / revenue share is not an admissible item of expenditure in the case of CITPL as can be seen in the later part of this analysis.

The aggregate of the items of current assets at admissible level as explained above works out to Rs.70.23 lakhs. The CITPL has furnished the value of current liabilities at Rs.834 lakhs. The value of current liabilities considered by the CITPL is taken into account for the purpose of working capital. The net of current assets and current liabilities works out to be a negative value. Therefore, the working capital for the period is considered as 'Nil'.

- (d). Considering the annual capacity of 8 lakhs TEUs as stipulated in the LA, the capacity for the period from 22 September 2009 to 31 December 2009 on pro-rata basis works out to 2.21 lakhs TEUs. The actual volume handled by the CITPL in the said period is 20,100 TEUs. Accordingly, the capacity utilisation for the period in consideration works out to 9.08%. Clause 2.9.11 of the tariff guidelines of March 2005 stipulates that if the investment made by the private terminal operator is in accordance with the obligations under the LA, it will be considered for ROCE even if full capacity utilisation is not achieved.

The rate of return fixed for the year 2009-10 is 16%. Maximum permissible return on capital employed is considered pro-rata for the period from 22 September 2009 to 31 December 2009, which works out to Rs.2444 lakhs. The total net deficit aggregates to Rs.3496 lakhs for the said period from 22 September 2009 to 31 December 2009 which is 734% of the operating income for the said period.

- (vii). The CITPL has projected traffic of 337,500 TEUs and 450,000 TEUs for the years 2010 and 2011 respectively. The actual traffic for the first 8 months of the year 2010 upto August 2010 is reported at 183,251 TEUs. The actual traffic achieved by the CITPL for the first eight months generally indicates a month on month growth of about 10.60%. If the same trend is presumed to continue, the total volume achievable for the whole year 2010 works out to 339,742 TEUs. The estimate of CITPL, at 337,500 TEUs is more or less comparable to this position and, therefore, considered without any change.

The traffic projection as furnished by CITPL for the year 2011 at 450,000 TEUs is with a growth of 33% over the estimated traffic for the year 2010. The estimated traffic for the year 2011 is more than the Minimum Guaranteed Throughput (MGT) prescribed in the LA at 275,000 TEUs for the second year of operation. The volume of traffic estimated by the CITPL for the year 2011 is relied upon.

Though the estimated traffic compares favourably with MGT levels, there is considerable underutilization of available capacity and scope for enhancing the capacity. If any undue advantage is found to have accrued to the CITPL owing to variations in actual performance in traffic, entire surplus over and above the

admissible cost and permissible return, if any, will be adjusted in the next tariff cycle if the variation between the estimated and actual traffic is more than 20% as stipulated in Clause 2.13 of the tariff guidelines of March 2005.

- (viii). The CITPL has adopted certain proportion of container mix comprising of normal and reefer containers (97%), transshipment containers (2%) and coastal containers (1%). The estimated container mix is based on the actual container mix prevailed at the adjacent terminal in the year 2008 as reported by CITPL. As per actual traffic handled at the adjacent terminal (CCTPL) for the year 2008-09 (15 months), the proportion of foreign, transshipment and coastal containers in the total volume handled works out to approximately 97%, 1% and 2% respectively. Since the variation between container mix ratio adopted by the CITPL and the position obtaining at CCTPL is only in respect of transshipment and coastal containers that too not significant, the container mix adopted by the CITPL is considered.
- (ix). (a). Apart from estimation of income from handling foreign containers, transshipment and coastal containers, the CITPL has furnished income estimation from levy of storage charges, reefer electricity charges, rail terminal activity and hatch-cover operation. It appears that in respect of dollar denominated tariff, an exchange rate of Rs.49.69 and Rs.50.46 for the years 2010 and 2011 respectively are considered.
- (b). Income from container handling activity is estimated by the CITPL by adopting some consolidated rates. Detailed workings for income estimation based on the item-wise rates prescribed in the existing SoR are not furnished. However, considering the item-wise rates prescribed in the existing tariff and applying the exchange rate for dollar denominated tariff, prevailing at the time of concluding the analysis of this case for the estimated traffic, the income estimates for the years 2010 and 2011 are verified and found to be closer to the estimates furnished by the CITPL. Therefore, the income estimates furnished by CITPL are relied upon in this analysis.
- (c). To a request made to the CITPL, to furnish dwell time analysis of containers, the CITPL has furnished a bar chart of dwell time of containers prevailing at other container terminals like COPT, CCTL, MICT. However, the storage income estimated by the CITPL is not linked with this analysis. The CITPL has considered the estimated storage income for the entire volume at average of one day's stay beyond the prescribed free period. The storage income as estimated by the CITPL for the years 2010 and 2011 are considered after rectifying error found in the workings.
- (x). The CITPL has estimated the operating & direct labour cost at Rs.556 lakhs and Rs.582 lakhs for the years 2010 and 2011 respectively. It has considered manpower of 178 employees uniformly for the said 2 years. Considering an average annual employee cost at Rs.3.13 lakhs, it has estimated the cost at Rs.556 lakhs for the year 2010. The unit employee cost of Rs.3.13 lakhs considered for the year 2010 has been escalated applying an escalation factor of 4.60% per annum for the year 2011.

With respect to the maintenance labour, the CITPL has considered 27 employees for the year 2010 and 30 employees for the year 2011. Considering an average annual salary of Rs.2.59 lakhs per employee, the estimate for the year 2010 is worked out at Rs.70 lakhs. The average annual salary of Rs.2.59 lakhs for the year 2010 is escalated applying an escalation factor of 3.88% for the year 2011.

The reasonableness of the employee cost considered by the CITPL is examined and found to be comparable with average employee cost per TEU prevailing at the other terminals. Therefore, the annual average cost per employee considered by the CITPL for the year 2010 is taken in to account and the estimates for the year

2011 are moderated applying the escalation factor of 3.76% adopted by this Authority for the tariff cases to be decided during the year 2010-11.

- (xi). The estimated equipment running cost comprises power cost, fuel cost and repairs & maintenance expenditure, which are discussed below seriatim:

(a) Power cost:

The CITPL has estimated the power cost at Rs.568 lakhs and Rs.684 lakhs respectively for the years 2010 and 2011 which includes variable and fixed cost. While the power requirement is estimated at 9.45 KWH per TEU uniformly for the two years, the unit cost is considered at Rs.6.35 for the year 2010 and Rs.6.64 for the year 2011 assuming 4.60% escalation. Accordingly, the variable power cost works out to Rs.202.53 lakhs and Rs.282.37 lakhs respectively for the years 2010 and 2011. Apart from the variable cost, the CITPL has considered fixed charges at Rs.365.53 lakhs and Rs.401.63 lakhs respectively for the years 2010 and 2011. However, the details of fixed charges are not furnished by the CITPL in its updated proposal of August 2010. Since the actuals in this regard furnished by the CITPL is only for a limited period of 3 months in the year 2009, the actuals could not be fully relied upon to validate the estimates for the years 2010 and 2011.

If the actual position prevailed at the adjacent container terminal during the past two years 2008-09 and 2009-10 is referred, the power consumption is about 6.25 units per TEU. The fixed cost is found to be Rs.167 lakhs per annum. The total power cost is found to be around Rs.6 crores per annum for the annual throughput of around 12.93 lakhs TEUs. The estimate of CITPL at Rs.5.68 crores for a throughput of 3.37 lakhs TEUs is found to be on the higher side.

Therefore, the actual consumption of 6.25 units per TEU is considered and the actual unit cost of Rs.5.80 at CITPL for the year 2009 is escalated applying the escalation factor of 3.76% p.a. Fixed cost of Rs.167 lakhs per annum is considered on adhoc basis and the estimates of CITPL for the year 2010 and 2011 in this regard are moderated applying annual escalation factor of 3.76%.

(b) Fuel cost:

The fuel cost is estimated based on the fuel requirement of 5.66 litres per TEU (though mentioned as 4.96 litres per TEU in the cost statement) and unit cost of Rs.37.66 per litre with an annual escalation of 4.60%. Since the actuals in this regard furnished by the CITPL is only for a limited period of 3 months in the year 2009, the actuals could not be relied upon to validate the estimates for the years 2010 and 2011.

The actual fuel consumption obtaining at the adjacent terminal of 2.50 litres per TEU is taken as the base for estimation of fuel cost at the CITPL for the years 2010 and 2011. The unit rate of fuel is considered at the prevailing market rate of Rs.40.16 per litre for the year 2010 and escalated with 3.76% for the year 2011. The estimates of fuel costs furnished by the CITPL are moderated as explained above for the estimated volume for the year 2010 and 2011. In this regard it is relevant to note that CITPL has proposed to hire tractor-trailers and Reach Stackers for the operations and the relevant cost is considered under different head.

(c) Repairs & maintenance:

CITPL has estimated repairs & maintenance cost at 2% of capital cost of mechanical and electrical equipment and 1% of capital cost of civil assets. This expenditure is generally estimated as a percentage of cost of assets only in respect of new additions and in case of old assets the usual method of

considering past actuals with annual escalation is followed. Since CITPL being a new terminal, its estimates towards repairs and maintenance cost at 2% of the cost of mechanical and electrical assets and 1% of the cost of civil assets is found to be in line with the approach followed in case of other private terminals. However, the estimates are revised consequent upon the revisions made in the gross block.

- (xii). The CITPL has factored in the royalty / revenue share payable by it to the ChPT in the cost statement requesting this Authority to consider royalty / revenue share as pass through on various grounds.

The Ministry of Shipping has issued a policy statement on 29 July 2003 clarifying that the royalty / revenue share payment shall not be factored in to as a cost for tariff fixation / revision by this Authority. Clause 2.8.1. of the tariff guidelines of March 2005 stipulates that royalty / revenue share payable to the Land Lord Port by the private operator will not be allowed as an admissible cost for tariff computation as decided by the Government vide its policy statement dated 29 July 2003. The LA signed between the CITPL and the ChPT in March 2007 contains a specific provision relating to inadmissibility of royalty / revenue share in computation of tariff. The royalty / revenue share cannot be considered as pass through in the case of CITPL.

- (xiii). The estimated equipment hire charges relate to hiring 6 Nos. Reach-stackers, 24 Nos. Prime Movers, 3 Nos. Fork-lifts, Workshop Tools, EO Trolley, 2 Nos. Air Compressor and UHF.

The LA provides for deployment of 6 Nos. Reach-stackers with an option to the operator to hire them. The LA allows an option to the operator to decide the number of Prime movers based on the operational requirements. The CITPL has opted to hire both reach-stackers and prime movers. Incidentally, the actual cost of fixed assets does not include the cost of reach-stackers and prime movers as confirmed by the CITPL and as seen from the audited position of fixed assets. With regard to the other items of equipments for which CITPL has estimated hire charges, there is no specific provision in the LA. They appear to be ancillary equipments.

The CITPL has furnished documentary support only in respect of hiring of reach-stackers and prime-movers. These equipments are reported to have been hired based on competitive bidding basis.

The CITPL has estimated an amount of Rs.489.88 lakhs for hire of 6 nos. reach-stackers for the year 2010 and escalated it by applying the escalation factor of 4.60% for the year 2011. The CITPL has, however, not furnished workings for the estimate of Rs.489.88 lakhs. The copy of work order dated 15 December 2008 furnished by the CITPL is valid for two years with an option for renewal for another two years. The rates are presumed to be valid upto December 2010 and extendable upto December 2012. The work order indicates a rate of Rs.5,67,000/- per month per reach-stacker for less than one year old reach-stacker and Rs.5,47,200/- per month per reach-stacker for less than 3 years old reach-stacker. There is, however, no mention about escalation clause. In the absence of workings and any explanation, lower rate of Rs.5,47,200/- per reach-stacker per month is considered and the estimated expenses on hire of reach-stackers for the year 2010 is moderated accordingly. Since no provision for escalation is found in the work order, the estimate for the year 2011 is also considered at the same level of 2010.

The CITPL has not estimated hire charges for prime movers for the year 2010. It is seen from the copy of the contract furnished by the CITPL, the arrangement is effective from 1 June 2010 for one year with an option to continue for another year and the CITPL has contracted to pay at Rs.90/- per TEU upto 27,000 TEUs per

month and at Rs.80/- per TEU beyond 27,000 TEUs. Since the contract is effective from 1 June 2010, the amount payable by the CITPL on this account is calculated from June 2010 taking into account the actual traffic for the months from June 2010 to August 2010 furnished by the CITPL. For the remaining period from September 2010 to December 2010, the estimate of hire charges is considered taking into account the contract rates and the traffic estimated to be handled during this period.

The CITPL has considered estimate of Rs.274 lakhs for the year 2011 towards hire charges for prime movers. However, the estimate is not supported with workings. Though the contract entered between the CITPL for hiring prime movers contains a provision for rate adjustment for escalation / reduction in the diesel price, no specific formula to link the diesel price and the base rate is indicated. Accordingly, the estimate for the year 2011 is moderated taking into consideration the rates in the contract for the estimated throughput. The moderated estimate for the year 2011 works out to Rs.392.40 lakhs as against the CITPL estimate of Rs.274 lakhs. The reason for lower level of estimate of CITPL is not clear in view of the workings not being made available to us, as stated earlier.

The CITPL has estimated an amount of Rs.91 lakhs towards hire charges for fork lifts, workshop tools, trolley, air compressors and UHF for the year 2010 and escalated it by 4.60% for the year 2011. Despite asked to furnish documentary evidence in support of its estimates, CITPL did not furnish the same. In the absence of documentary evidence for hire charges, this Authority is not in a position to reckon the estimates in this regard.

(xiv). Lease Rent:

The CITPL has considered an area of 279,617 sq. m. for the year 2010 and an area of 357,919 sq. m. for the year 2011 and has estimated an amount of Rs.692 lakhs and Rs.727 lakhs for the years 2010 and 2011 respectively.

The LA provides for allotment of developed area of 43,200 sq. m. and undeveloped area of 242,300 sq. m. The undeveloped area includes 78,000 sq. m. of reclamation area. Apart from developed and undeveloped area, the LA provides for allotment of additional water area of 72,500 sq. m. to be developed by the CITPL. As far as the rates to be charged by the ChPT for the allotted area, the LA prescribes that licence fee contained in the Scale of Rates of ChPT are applicable. Since the LA stipulates that no fee for the water area is leviable for the first 10 years of the licence period, the water area of 72,500 sq. m. is not relevant for the purpose of fixation of tariff of CITPL at this stage.

As per copy of ChPT's letter dated 15 April 2009 produced by the CITPL, developed area of 60,428.116 sq. m. and undeveloped area of 146,721.263 sq. m. have been handed over to the CITPL on 1 May 2007. As far as the status of handing over of reclamation area of 78,000 sq. m. is concerned, the ChPT, in response to a query raised in this regard, has stated that the said area is to be reclaimed and handed over to the CITPL by April 2010.

It is relevant to mention here that the CITPL and the ChPT sought some clarifications in January 2010 on the Scale of Rates concerning the license fee leviable by the ChPT. This Authority, vide order dated 3 September 2010 has clarified as follows:

- “(i) The base date of license fee for calculation of charges leviable for licensing the ChPT lands is the effective date of implementation of the tariff Order dated 5 October 2002.

- (ii). The base rates prescribed in the Scale of Rates of ChPT vide Order dated 5 October 2002 for allotment of space should be escalated by 2% per annum from the due date of such annual escalation which fell after February / March 2004 on announcement of the Land Policy Guidelines by the Government. For the period prior to this, escalation factor of 5% per annum as stipulated in the tariff Order dated 5 October 2002 should be applied.
- (iii). The category of land in which an individual lease / licence would fall is a matter of fact to be administered by the port. There is nothing for this Authority to clarify the Scale of Rates, as no ambiguity is found therein.

Following the above position and relying on the Scale of Rates of ChPT, the estimates of lease rental furnished by the CITPL are revised for the years 2010 and 2011. The revised estimates work out to Rs.911.52 lakhs and Rs.986.13 lakhs as against the estimates of CITPL at Rs.692 lakhs and Rs.727 lakhs for the years 2010 and 2011 respectively.

As measure of caution, it has to be noted that both the CITPL and ChPT are reportedly in the process of referring the dispute between them on license fee to arbitration. The estimates of estate rental considered in this exercise should not be construed as pre-judging the issues to be decided in arbitration proceedings. It is made clear that the estimates considered by this Authority are subject to outcome of the arbitration proceedings and while reviewing the actuals during the next cycle, if the actuals are found to be lower than the estimates considered in this exercise, the difference will be fully adjusted in the tariff to be set then.

(xv). Insurance

The insurance cost is estimated by CITPL at 1% of gross block of assets towards assets coverage and 0.3% of the estimated income for loss of profit.

The LA requires the CITPL to insure for the loss, damage or destruction to the project facilities and services including assets handed over by the ChPT to the CITPL at replacement value and any other insurance that is necessary to protect the CITPL and its employees. The estimated insurance cost has not been justified with reference to the depreciated replacement cost of assets.

To a query relating to the estimated insurance cost, the CITPL has sought to explain in April 2009 that it is negotiating a suitable tailor made insurance cover for the terminal in terms of the provisions contained in the LA and the estimates are at 1% of the gross block of assets as per the normative basis prescribed in the upfront tariff guidelines. Even after a lapse of more than a year, CITPL has not furnished the actual outcome.

In other container terminals like CCTPL, GTIPL and VCTPL, the insurance cost is in the range of 0.36% to 0.60% of gross block. In the case of CITPL, the estimate is moderated by considering 0.5% of the opening gross block for the years 2010 and 2011, subject to verification with reference to actuals supported by documentary evidence to be produced at the time of next review of its tariff.

The insurance cost estimated for loss of profit is not considered as such arrangement is not explicitly contained in tariff guidelines of March 2005.

(xvi). Other expenses

- (a) The other expenses estimated by the CITPL relate to lashing/unlashing expenses @ Rs.42/- per box, reefer maintenance expenses at Rs.33/- per

box and transportation expenses for employees estimated at Rs.13.73 lakhs per annum for the year 2010. These rates have been escalated by CITPL by applying escalation factor of 4.60% for estimating the expenses for the year 2011. The CITPL has not furnished basis for the estimates.

- (b) The rate of Rs.42/- per box considered by the CITPL for lashing / unlashng is relied upon for the year 2010 and the estimate for the year 2011 is moderated applying the escalation factor of 3.76%, subject to verification with reference to actuals supported by documentary proof during the next review of its tariff.
- (c) The CITPL has considered the reefer cleaning and monitoring expenses for the entire volume of traffic at Rs.33/- per box. This rate is relied upon and considered for the estimated reefer volume of 2734 TEUs for the year 2010 and the estimate for the year 2011 is moderated considering the estimated reefer volume of 3645 TEUs for the year 2011 and applying the escalation factor of 3.76% on the rate, subject to verification with reference to actuals supported by documentary proof during the next review of its tariff.
- (d) The last item under other expenses relates to transport expenses for shift employees. The CITPL has estimated a lump sum amount of Rs.13.73 lakhs per annum for the year 2010 and escalated it by applying the escalation of 4.60% for the subsequent year. The estimate of Rs.13.73 lakhs is relied upon subject to verification with actuals during the next review of the tariff and the estimates for the year 2011 is moderated applying the escalation factor of 3.76%.

(xvii). Depreciation

The rates of depreciation as per the audited accounts for 2009 and the rates considered by the CITPL for estimates for the year 2010 and 2011 are found to be different. In the audited accounts, the CITPL has applied depreciation rates on itemised assets, as per the provisions of the Companies Act. Though the CITPL has grouped the assets into 3 categories, viz. Berth & civil assets, Plant & Machinery and IT Installations in the estimates, the depreciation rates considered by the CITPL are as per the provisions of the Companies Act. The depreciation for 2010 and 2011 is recalculated applying the rates of depreciation adopted by the CITPL on the moderated value of fixed assets.

(xviii). Overheads:

- (a) The CITPL accounts for staff salary under the management and administration overheads. It has estimated an amount of Rs.375 lakhs and Rs.380 lakhs respectively for the years 2010 and 2011.
- (b) The CITPL has considered 18 Nos. administration and finance staff and 10 Nos. management staff for the year 2010. The average annual salary per staff considered by CITPL is Rs.3.50 lakhs for administration & finance staff and Rs.31.20 lakhs for managerial staff. The number of employees and the rate of salary considered by the CITPL are relied upon subject to verification with reference to actuals in the next review of its tariff. As far as the estimates for the years 2011 is concerned, it has considered 20 administration & finance staff and 11 managerial staff and the average salary of Rs.3.60 lakhs and Rs.28.00 lakhs per annum per staff respectively. The CITPL has considered the average salary for managerial staff at a lower level compared to 2010. The estimate for the year 2011 is considered without any modification.

- (c) The general overheads estimated by CITPL consist of various administrative expenses like communication, travelling, vehicle maintenance, advertisement, security, etc. The estimates for 2010 are relied upon subject to verification with reference to actuals in the next review of its tariff and the estimate for the year 2011 is moderated by applying the escalation factor of 3.76%.
- (xix). As stated earlier, the amount considered by the CITPL under the caption of preliminary expenses & upfront payment write off relates to amortization of upfront fee of Rs.10 crores and leasehold premium of Rs.6.17 crores over the project period. However, there appears to be an error in the calculation of annualized amortization figure furnished by the CITPL. The amount of 16.17 crores is amortized over the project period of 30 years which works out to Rs.53.90 lakhs per annum, which is considered for the year 2010 and 2011.

(xx). Capital employed:

- (a) As explained earlier, the adjusted opening gross block for the year 2010 is Rs.55205.24 lakhs. The CITPL, in its updated proposal of August 2010, has proposed additions to the gross block to the tune of Rs.2373 lakhs towards plant & machinery, Rs.236 lakhs towards IT installations and Rs.4816 lakhs towards civil works for the year 2010 and Rs.2505 lakhs towards civil works for the year 2011. The CITPL has not furnished details of the proposed additions in its updated proposal. However, during the proceedings of the case, the CITPL has stated that the additional investment of Rs.1275 lakhs proposed by it in its original proposal dated 5 March 2009 relates to development of reclaimed area. As stated earlier, the reclaimed area should have been handed over to CITPL in April 2010. Considering that it might take some time for development of the reclamation area, it is reasonable to expect that the actual usage of the developed area may fructify in the year 2011 only. Accordingly, the investment of 1275 lakhs proposed in the year 2010 is shifted to the year 2011. In the absence of details and justification for the other items of additions to the gross block proposed in the updated proposal, they are not considered in this analysis.

The net block for the years 2010 and 2011 is accordingly works out to Rs.51829.77 lakhs and Rs.49682.07 lakhs as against Rs.57734 lakhs and Rs.56474 lakhs respectively.

(b) Working Capital:

The CITPL has estimated working capital of Rs.6893 lakhs and Rs.9175 lakhs for the years 2010 and 2011 respectively. The each item of working capital estimated by the CITPL is analysed in the following paragraphs.

- (i) The CITPL has not considered sundry debtors for any of the years under consideration in the cost statement. However, the CITPL has considered an amount of Rs.729 lakhs and Rs.940 lakhs respectively for the years 2010 and 2011 towards 'Land Rent' under estimated cash balance. As already stated, the prepayments and advance to be made by the private operators as per the License Agreement will be recognised as a limit for sundry debtors to the extent they are otherwise permissible as pass through. In this case, the LA provides for payment of one year land lease charges and way leave charges in advance. Accordingly, the estimate of land lease charges and way leave charges pertaining to the years 2011 and 2012 are allowed as sundry debtors for the years 2010 and 2011 respectively.

- (ii) The CITPL has considered Rs.24 lakhs each for the years 2010 and 2011 towards capital spares. It has also considered an equal amount towards other items of inventory for the years 2010 and 2011, which aggregates to Rs.48 lakhs each for the respective years. The basis for considering this item is not furnished. Though the CITPL is in operation from September 2009, the basis for considering the capital spares and other stores is not furnished in the updated proposal.

The actual consumption of stores for the part of the year 2009 for around 3 months as furnished in the audited annual accounts is reported at Rs.26.62 lakhs. On proportionate basis, the annual consumption of stores works out to Rs.106.48 lakhs and 6 months' average stores consumption, as per norms, works out to Rs.53.24 lakhs. Since the estimate of CITPL for capital spares and other items of stores put together is within the limit of Rs.53.24 lakhs, the estimate of CITPL for the years 2010 and 2011 are considered without any modification.

- (iii) The CITPL has estimated a cash balance of Rs.6846 lakhs and Rs.9128 lakhs for the years 2010 and 2011 respectively which includes Land Rent of Rs.729 lakhs and Rs.940 lakhs respectively for the corresponding years. The portion of land rent in the cash balance is considered by us under sundry debtors following the guidelines, as already explained.

The CITPL has not furnished workings for the estimation of remaining portion of cash balance considered by it at Rs.6117 lakhs and Rs.8188 lakhs for the years 2010 and 2011 respectively. It appears from the indication given in the cost statement that the amounts relate to performance guarantee. Clause 2.9.9 of the tariff guidelines limits cash balance to the extent of one month's cash expenses. When sought to furnish reasons for considering the performance guarantee in the estimation of cash balance, the response of CITPL does not clarify the position. The cash balance estimated by CITPL is moderated as per the norm prescribed in the tariff guidelines.

- (iv) The CITPL has not estimated any amount towards current liabilities for the year 2010 and 2011. The scenario of zero current liability in a business operation appears to be far from reality, particularly when the operator has shown actual current liabilities to the extent of Rs.834 lakhs as at the end of the year 2009 in the cost statement. Therefore, amount of Rs.834 lakhs is considered uniformly for the year 2010 and 2011.
- (v) Thus, the moderated net working capital for the year 2010 and 2011 works out to Rs.586.73 lakhs and Rs.638.67 lakhs as against the CITPL's estimates of Rs.6893 lakhs and Rs.9175 lakhs for the years 2010 and 2011 respectively.

- (c) The position of capital employed for the year 2010 and 2011 works out to Rs.52416.50 lakhs and Rs.50320.74 lakhs as against the estimates of CITPL at Rs.64627 lakhs and Rs.65649 lakhs respectively for the years 2010 and 2011.

- (xxi). As stated earlier, the capacity of the terminal as envisaged in the LA is 8 lakh TEUs per annum. The method adopted to assess the capacity is not clear and appears to be understated in the light of the formula available in the 2008 tariff guidelines.

The CITPL has provided 3 nos. of quay cranes which is the minimum requirement as per the LA. It has considered the capacity of the terminal at 6 lakhs TEUs per annum, considering the capacity of each quay crane at 2 lakh TEUs per annum. The capacity of each quay crane, applying the formula at 70% utilisation, works out to 199,290 TEUs per quay crane. Taking into account this capacity and considering the estimated traffic volume of 337,500 for the year 2010 and 450,000 TEUs for each of the years 2011, the capacity utilisation works out to 56% and 75% respectively for the years 2010 and 2011. Even otherwise, as already stated in the analysis earlier, as per the tariff guidelines, the private operator is eligible for full ROCE if the investment made by him is as per the LA.

In view of the position explained above, full ROCE of 16% adopted by this Authority for the cases to be decided during the year 2010-11 is allowed in this case. The ROCE on the moderated capital employed works out to Rs.8386.64 lakhs and Rs.8051.32 lakhs for the years 2010 and 2011 respectively.

- (xxii). Subject to the discussion, the cost statement has been modified. The modified cost statement is attached as **Annex-I**. The net surplus / deficit position reflected in this statement is summarised in the table given below:

(Rs. in lakhs)

Particulars	2010	2011	Total
Operating Income	10,265.80	13,897.70	24,163.50
Net surplus / (deficit) before return	2251.13	5448.76	7699.89
Capital employed	52,416.50	50,320.74	-
Return @ 16% on capital employed	8,386.64	8051.32	16437.96
Net surplus / (deficit) after return	(6,135.51)	(2,602.56)	(8,738.07)
Net surplus / (deficit) as a % of operating income	-59.77%	-18.73%	-
Average surplus / (deficit) as a % of operating income	-36.16%		-

- (xxiii). As may be seen from the above table, the operator does not derive any undue advantage if the existing tariff is allowed to continue till 2011. On the other hand, such an arrangement will not be an extreme hardship to the operator. Though the results indicate a high deficit, the operator will not incur any operating deficit. Instead of the maximum permissible return of 16%, the operator will earn return on capital employed at the rate of 4.29% and 10.83% respectively for the years 2010 and 2011.

The proposal of the CITPL to continue with the existing tariff is due to the realization that its business operation need not earn full rate of return in the initial years of operation particularly in the phase of volume build up. Further, in a situation of improved capacity utilisation in the year 2011, if any, the operator might be in a position to earn return closer to the permissible level of 16%.

As brought out earlier, the CITPL has requested this Authority to allow it to continue with the existing tariff for one more year. The Licensor port ChPT has no objection to the proposal of CITPL to continue with the existing tariff for one more year. The general view expressed by the users consulted in this case also endorses this position. Since the financial / cost position for the whole year 2011 is analysed, this Authority is inclined to allow the CITPL to continue with existing tariff upto 31 December 2011. The validity of the existing tariff expiring on 30 September 2010 is deemed to have been extended till the effective date of implementation of the Order passed on the case in reference.

- (xxiv). The tariff guidelines of March 2005 stipulates that tariff will be linked to benchmark of the levels of productivity. To a suggestion made to the CITPL to include the productivity parameters in the Scale of Rates as conditionalities, the CITPL has agreed to include a conditionality to indicate the benchmark productivity of the

quay crane at 20 moves per hour. A conditionality in this regard is suitably incorporated in the Scale of Rates of CITPL.

14.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority allows the CITPL to continue with the existing tariff ordered vide order dated 15 May 2009 for a period till 31 December 2011. The validity of the Scale of Rates will automatically lapse thereafter unless specifically extended by this Authority.

14.2. The validity of the existing Scale of Rates of CITPL is deemed to have been extended beyond 30 September 2010 till the effective date of implementation of the Order passed.

14.3. The following conditionality is prescribed at serial No.2.12 after serial No.2.11 in Chapter-2 (General) of the existing Scale of Rates of CITPL.

“2.12. The benchmark of the level of productivity will be 20 moves per hour per crane for handling of FCL, LCL and ICD import and export containers by quay cranes as mentioned at Section 3.1.1, 3.2.1 and 3.3.1.”

14.4. CITPL should furnish to this Authority through ChPT its annual accounts and performance report within 60 days of closing of the respective accounting year. If CITPL fails to provide such information within the stipulated time limit, the ChPT may initiate appropriate action against CITPL.

14.5. The CITPL is allowed to continue with the existing tariff relying on the information furnished by it and based on assumptions made as explained in the analysis. If this Authority, at any time, during the prescribed tariff validity period, finds that the actual position varies substantially from the estimates considered or there is deviation from the assumptions accepted herein, this Authority may require the CITPL to file a proposal ahead of the schedule to review its tariff and to setoff fully the advantage accrued on account of such variations.

14.6. In this regard, the CITPL is requested to furnish a report of the actual physical and financial performance within 15 days of completion of each quarter of a year i.e. for the period ending on 31 March, 30 June, 30 September and 31 December of each of the years in the same format in which the cost statement for the tariff proposals are filed. The report should also be accompanied with the reasons for variation from the estimates relied upon for fixing the tariff in force. If a variation of (+)/(-)20% is observed between the actual and the estimates for two consecutive quarterly period, this Authority may call upon the CITPL to submit its proposal for an ahead of scheduled review. If the CITPL fails to file a tariff proposal within the time limit to be stipulated by this Authority, this Authority may proceed suo-motu to review the tariff.

(Rani Jadhav)
Chairperson

Annex-I
Consolidated cost statement for Chennai International Terminals Pvt. Ltd. (CITPL)

(Rs. in lakhs)

Sr. No.	Particulars	Actuals 2009 (22.9.09 to 31.12.09)	Estimates furnished by CITPL		Estimates considered by TAMP	
			24 August 2010		2010	2011
			2010	2011	2010	2011
	Traffic (in TEUs)	20100	337500	450000	337,500	450,000
I	Total Operating Income					
	(i) Container handling income	476	10266	13898	10,265.80	13,897.70
	(ii) Cargo handling income					
	(iii) Vessel related income					
	(iv) Others					
	Total (i to iv)	476	10,266	13,898	10,265.80	13,897.70
II	Operating Costs (excluding depreciation)					
	(i) Operating & Direct Labour	61	556	582	556.00	576.72
	(ii) Maintenance Labour	7	70	81	70.00	80.70
	(iii) Equipment Running Costs	98	2266	2697	1,365.75	1,563.76
	(iv) Maintenance dredging	0	0	0	-	-
	(v) Royalty / revenue share	0	6117	8188	-	-
	(vi) Equipment Hire	77	581	915	600.91	623.51
	(vii) Lease Rentals payable as per concession agreement	232	692	727	911.52	986.13
	(viii) Insurance	10	652	689	272.69	272.69
	(ix) Other expenses	27	203	276	120.99	162.63
	(x) Technical Service Fee	0	0	0	-	-
	Total (i to x)	512	11,138	14,155	3,897.86	4,266.14
III	Depreciation	713	3431	3765	3,321.58	3,368.81
IV	Overheads					
	(i) Management & Administration overheads	62	375	380	375.00	380.00
	(ii) General Overheads	109	367	384	366.33	380.10
	(iii) Preliminary expenses & Upfront Payment write-off	54	136	131	53.90	53.90
	(iv) Others	0	0	0	-	-
	Total (i to iv)	225	879	895	795.23	814.00
V	Operating Surplus / (Deficit) (I) – (II) – (III) – (IV)	(974)	(5,183)	(4,918)	2,251.13	5,448.76
VI	Finance & Miscellaneous Income (FMI)					
	(i) Profit on sale of assets	0	0	0	-	-
	(ii) Discounted terminal value receivable as per the concession agreement (discounted at ...)	0	0	0	-	-
	(iii) Others with details	1	0	0	-	-
	Total	1	-	-	-	-
VII	Finance & Miscellaneous Expenses (FME)					
	(i) Contribution of Provident Fund	0	0	0	-	-
	(ii) Loss on repayment of foreign currency loans if any	0	0	0	-	-
	(iii) Loss on sale of assets	0	0	0	-	-
	(iv) Others with details	79	0	0	-	-
	Total	79	-	-	-	-
VIII	FMI Less FME (VI) - (VII)	(78)	-	-	-	-
IX	Surplus Before Interest and Tax (V) + (VIII)	(1,052)	(5,183)	(4,918)	2,251.13	5,448.76
X	Capital Employed	55205	64627	65649	52,416.50	50,320.74
XI	RoCE - Maximum permissible (15% / 6.35% / 0%)	2,444	10,340	10,504	8,386.64	8,051.32
XII	Capacity Utilization	9.08%	75.00%	100.00%	42.19%	56.25%
XIII	RoCE adjusted for capacity utilization	2444	10,340	10,504	8,386.64	8,051.32
XIV	Net Surplus / (Deficit) (IX) - (XIII)	(3,496)	(15,523)	(15,421)	(6,135.51)	(2,602.56)
XV	Net Surplus / (Deficit) as a % of operating income (XIV/I in %)	-734%	-151%	-111%	-59.77%	-18.73%
	Average surplus / (deficit) as a % of operating income	-734%	-131%		-36.16%	