

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
TARIFF AUTHORITY FOR MAJOR PORTS

G No.71

New Delhi,

16 March 2010

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 Gateway Terminals India Private Limited for revision of its Scale of Rates as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/49/2008-GTIPL

Gateway Terminals India Private Limited - - -

Applicant

ORDER

(Passed on this 3rd day of March 2010)

This case deals with the proposal received from Gateway Terminals India Private Limited (GTIPL) for general revision of its Scale of Rates.

2. The tariff of GTIPL, a BOT operator at Jawaharlal Nehru Port Trust (JNPT), was earlier fixed vide Authority's Order dated 23 August 2006 with a validity period till 31 December 2008. The GTIPL has filed its proposal in October 2008 which was completely revised subsequently by it. The validity of the existing Scale of Rates of GTIPL was extended till 30 September 2009 or final disposal of the tariff proposal filed by GTIPL whichever is earlier, vide Order dated 17 June 2009.

3.1. Even though the proposal was revised subsequently, the main points made by GTIPL in its proposal dated 14 October 2008 are summarized below for appreciation of the reply furnished by GTIPL against our queries which will be relevant even in deciding the revised proposal:

- (i). In line with the principle reflected in the Nhava Sheva International Container Terminal Limited (NSICT)'s Order of September 2008,
 - (a). The projected throughput considered for the years 2009 to 2011 is 1395030 TEUs, which is calculated at the normative capacity as per the new 2008 guidelines.
 - (b). The efficiency gains (for the period prior to 2009), on account of actually handling higher volumes than that projected during the last tariff fixation, is not adjusted.
 - (c). Number of Quay cranes and Rubber Tyred Gantry Cranes etc. is worked out as per the 2008 guidelines and accordingly, the return on Capital Employed is worked out on the Gross Block of assets.
- (ii). The main points made with regard to the operating costs are summarized below:
 - (a). Considering the current inflation trend and the hike in diesel and electricity prices, an escalation factor of 8.10% was applied while projecting the expenditure for the years 2009 to 2011, as against 4.6% informed by TAMP. An escalation factor of 15% was, however, considered for the projections of salaries since the average increments in salary given in the private sector industries is around 15%.
- (iii). As per the provisions of the LA and as per the directions of the Government, royalty payment made by GTIPL to JNPT is not to be factored as cost for the purpose of tariff fixation.

The JNPT container terminal does not pay any royalty and the NSICT is allowed partial pass through of royalty. A new terminal like GTIPL with such heavy infrastructure investments should have an equal and fair operating terms with the neighboring terminals. Hence, in the cost statement for the years 2009 to 2011, royalty to be paid by GTIPL to JNPT over and above the minimum guaranteed traffic was factored as efficiency gain. If this major element of cost is not factored for tariff fixation, then there will not be any incentive to the terminal operator to improve the efficiency, as they will be deprived of a reasonable return.

- (iv). With regard to the capital expenditure, the main points are as follows:
- (a). GTIPL has made the necessary investments as per the LA. It has reclaimed 18 hectares of land as agreed in the LA.
- (b). Considering the high demand at the JNPT terminals and based on a Capacity Augmentation Study, GTIPL has started execution of an Expansion Project where,
- The reclaimed land is being paved to convert it into an additional yard area.
 - Additional 2 Quay Cranes, 11 RTG's and 17 Spreaders will be delivered by the year end.
- (c). Earlier, since the GTIPL enjoyed the EOU status, all the equipments were imported under zero amount of duty. Now, with the revocation of EOU status, the requisite duty element has been added to the capital cost.

3.2. The financial position as reflected in the Cost statement originally furnished by GTIPL is as follows:

Sr. No.	Year	Operating Income (Rs. in Crores)		Net Surplus/ Deficit (Rs. In Crores)		% Increase required in the existing tariff
		Existing Rates	Proposed Rates	Existing Rates	Proposed Rates	
1	2009	480.33	581.31	(109.88)	(8.89)	22.88%
2	2010	480.33	581.31	(102.89)	(1.91)	21.42%
3	2011	480.33	581.31	(90.23)	10.75	18.79%
						Average = 21.03%

3.3. The initial proposal of GTIPL was as follows:

- (i). The GTIPL sought an increase of 21.03% over its existing rates. However in respect of some tariff items like handling of over dimensional cargo containers, opening and replacing hatch covers, shutouts, reefer monitoring etc., an increase in the range of 29% to 142% over the existing rates was sought.
- (ii). The GTIPL proposed to introduce charges for miscellaneous services and some new definitions in its proposed Scale of Rates.

4.1. In accordance with the consultative procedure prescribed, the proposal from the GTIPL was forwarded to JNPT and also to the concerned users/ user organisations for their comments.

4.2. The comments received were sent to GTIPL as feedback information. We have not received the comments of GTIPL on the comments of users till finalisation of this case.

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

Sl. No.	Queries raised by us	Reply of GTIPL
A.	General:	
(i).	(a). Analysis of Efficiency & Productivity Improvement (Form 6).	The GTIPL had not submitted the Form 6 and 7. Forms

	(b). The GTIPL to furnish requisite details in the format prescribed in Form 7 for comparison of actuals with estimates as stipulated in paragraph 13.3 of tariff Order dated 23 August 2006.	6 and 7 were furnished only alongwith the revised proposal.
(ii).	The revised tariff guidelines stipulate that tariff should be linked to benchmark of the levels of productivity. The GTIPL to indicate benchmark levels of productivity, which should be included in the Scale of Rates as conditionalities governing the respective tariff items. It is relevant here to mention that it has achieved an average gross crane productivity of 28.55 moves per hour. The benchmark levels of crane productivity to be proposed for the years 2009, 2010 and 2011 to be incorporated in the proposed Scale of Rates of GTIPL.	The revised proposal is primarily based on the cost plus approach as per tariff guidelines of 2005. The GTIPL would endeavor to perform in the ensuing years above the norm of 25 moves per hour prescribed in the 2008 guidelines.
(iii).	GTIPL has stated that its pricing strategy is performance based apart from cost based. GTIPL to bring out the performance guaranteed based on which the revised tariff, if any, will operate.	
(iv).	The estimates of operating cost for the year 2008 is generally found to be on a higher side as compared to the actuals for the year 2007. The estimated Operating & Direct labour cost, Equipment running cost and General Overheads are higher by 46%, 86% and 57% respectively as compared to the actuals for the year 2007. The GTIPL may furnish the actual traffic and income/expenditure for the period January – December 2008 in the prescribed proforma of cost statements. A copy of the draft accounts for the year 2008 may also be furnished. The estimates for the succeeding years to be adjusted keeping in view the actuals for the year 2008, if necessary.	
(v).	The GTIPL to furnish an alternate set of cost statements with detailed workings for the years 2009 to 2011, keeping in view the stipulations made in Clause 2.5.1. of the revised tariff guidelines of 2005.	The cost statement with detailed workings for the years 2009 to 2011 is furnished with revised proposal as stipulated in Clause 2.5.1. of the revised tariff guidelines 2005
B.	Financial/Cost Statement:	
1.	Capacity:	
(i).	With reference to the calculation furnished by GTIPL for optimal quay capacity GTIPL to furnish/clarify the following:- (a). During the proceedings of the general revision of the Scale of Rates of	The capital cost of the quay cranes has been correctly depicted in the statements attached to the proposal.

	<p>GTIPL in 2006, the GTIPL vide its letter dated 13 June 2006 had, <i>inter alia</i>, stated that the use of twin-lift quay cranes at its terminal will help GTIPL achieve a higher productivity. The capital cost captures the cost of twin lift cranes. In this context, the GTIPL to justify 25 moves per hour considered by it in calculation of optimal quay capacity.</p>	<p>The benchmark level productivity considered by GTIPL is 25 moves per hour as prescribed in the norms for calculation of optimal quay side capacity vide 2008 guidelines. The GTIPL goal during the BOT period is to achieve 40 moves per hour once all the favorable factors such as channel depth, size of the ship, product mix and evacuation, etc are in position.</p>
	<p>(b). Article 8.1(xxix) of the LA requires GTIPL to deploy a minimum number of 8 RMQCs. In the proceedings relating to the tariff Order dated 23 August 2006, GTIPL reported that it has deployed 8 RMQCs and the capital expenditure was captured in deciding the tariff of GTIPL in August 2006.</p> <p>As per clause 2.9.11 of the 2005 tariff guidelines, the investments made in accordance with the concession agreement will be considered for the purpose of allowing Return. Since the GTIPL has deployed 8 cranes, the cost of the 8 cranes need to be considered in the capital employed. In this backdrop, the GTIPL to review its quay capacity calculation taking into account 8 RMQCs.</p>	<p>The tariff proposal submitted vide our letter dated 14 October 2008 was based on the guidelines of 2008. In place of that the revised proposal submitted is as per TAMP guidelines of 2005.</p>
(ii).	<p>With reference to calculation of yard capacity GTIPL to clarify the following:-</p> <p>(a). An area of 28 hectares is taken into account in the calculation of the yard capacity. As indicated in the Appendix 22 to the Licence Agreement (LA) between Jawaharlal Nehru Port Trust (JNPT) and GTIPL, an area of 29.84 hectares has been earmarked towards container yard. The GTIPL to explain the reason for considering 28 hectares only for calculation of the yard capacity. The manner of utilisation of balance 1.84 hectares to be furnished and the income arising out of such utilisation, if any, to be quantified and considered in the income estimates for the years 2009 to 2011.</p>	<p>GTIPL has furnished a calculation sheet based on 29.84 hectares of land with the revised proposal.</p> <p>Since the Optimal capacity of the terminal is the lower of the Optimal Quay side capacity and Optimal stackyard capacity, the earlier calculations contained in our submission does not require any alterations due to change in the area from 28 hectares to 29.84 hectares.</p> <p>There is no additional income to be considered for the increased yard area.</p>
	<p>(b). GTIPL has stated that it has reclaimed 18 hectares of land as per the LA and the reclaimed area is expected to increase the yard capacity. However, the additional 18 hectares of land has not been considered in the calculation of optimal yard capacity.</p>	<p>Since the Optimal capacity of the terminal is the lower of the Optimal Quay side capacity and Optimal stack-yard capacity, the earlier calculations contained in our submission does not undergo any change even after considering the reclaimed area.</p>
	<p>(c). GTIPL to confirm whether the storage income arising out of utilisation of 18 hectares of area as storage yard is considered in the estimates of the storage income for the years 2009 to</p>	<p>No additional income is expected to be generated from the increased yard area since the additional area will be mainly utilized for reducing the stacking height from existing 5 high to suitable level to enable smooth operations.</p>

	<p>2011.</p>	<p>GTIPL is also proposing an extension of the free storage period in various categories in the SOR and anticipate an increased inventory level of containers in the yard. This will not generate any additional revenue.</p> <p>Part of this additional area will be utilized for maintenance of Tractor trailers etc. and administration facilities which too will not generate any additional revenue.</p>
<p>2.</p>	<p>Operating Income:</p>	
	<p>(a). The GTIPL proposal does not explicitly state the exchange rate adopted by it for estimation of income arising from the dollar denominated tariff. The GTIPL to furnish the exchange rate adopted by it to estimate the operating income and update the estimates with reference to the prevailing exchange rate level.</p>	<p>The GTIPL has considered exchange rate USD 1 = INR 50 in the revised cost statements.</p>
	<p>(b). The GTIPL to furnish a detailed computation to show the revenue implication arising out of the proposed changes in storage charges. The analysis should show the income arising out of the storage activity with reference to the existing Scale of Rates as well as the proposed Scale of Rates for all the years under consideration as indicated in Note 3 to Form 2B. The dwell time analysis, based on which the GTIPL has arrived at the storage income may also be furnished as required under Note 1 to Form 2B.</p>	<p>GTIPL proposes to amend the free period for containers. GTIPL intends to increase the free days for export loaded boxes from existing 3 days to 7 days. The reduction in free days proposed in respect of ICD containers from existing 15 days to 10 days, for TP loaded containers from existing 30 days to 7 days and for TP empty from existing 15 days to nil days is in line with the actual average dwell time of the past. The proposed changes will not generate any additional income.</p>
	<p>(c). The 'Other Income' (except Interest on Fixed deposits) shown in the Annual Accounts for the years 2006 and 2007 furnished by GTIPL to be included in the Cost statement of the respective years. The GTIPL is also to update its estimated operating income by including the estimated other income for the years 2008 to 2011.</p>	<p>Other Income consists of interest on fixed Deposits, profit on sale of fixed assets and liability written back, etc. which do not form part of Operating Income and hence to be excluded.</p>
	<p>(d). In the existing arrangement, rates for handling the foreign going containers for the movement from yard to rail or vice versa have been prescribed at Rs.1534/-, Rs.2301/- and Rs.3068/- for 20', 40' and above 40' containers respectively. However, in income estimation at the existing level of tariff in respect of this category of containers, the GTIPL has adopted a rate of Rs.1462/-, Rs.2393/- and Rs.2924/- respectively. The income estimates in respect of this category of container to be correctly estimated.</p>	<p>The rates prescribed in SOR for Yard to rail or vice versa for ICD containers consist of Lift On Rs.472 + Transportation Rs.590 + Lift Off Rs.472. In the income calculations, the charge of Rs.1462 has been considered for Lift On Rs.472+ Transportation Rs.590+ mixed train income Rs.400. The income for Lift Off is considered separately in the income statements. Same logic is applied for 40' and over 40' containers.</p>
	<p>(e). The GTIPL has adopted 50% of the prescribed rate for calculating income from normal transshipment container and</p>	<p>Transshipment includes discharge and loading activity. While calculating the throughput of transshipment both the activities are considered separately. Therefore, 50%</p>

	<p>around 58% of the prescribed rate for calculating income from hazardous transshipment container, in the estimates of income at the existing level of tariff from transshipment containers. The GTIPL to clarify the reason for estimating the income at the existing level of tariff at the rates lower than the rates prescribed.</p>	<p>of the overall rate prescribed is applied for both the activities while calculating the income.</p> <p>Same logic has been applied for Hazardous Transshipment containers keeping the rate for Hazardous handling at 1.154 times of the normal container handling rate.</p>
	<p>(f). This Authority vide Order dated 28 June 2007 approved the proposal of JNPT to levy an additional amount of Rs. 400 per TEU with retrospective effect from 15 February 2007 towards Inter Terminal Rail Handling Operation (ITRHO) of ICD containers moved by rail at the terminals of JNPT, including GTIPL. A provision in this regard was also ordered to be inserted in the Scale of Rates of GTIPL. The workings for income and expenditure furnished by the GTIPL do not explicitly show the income arising out of and the expenditure on ITRHO in the actuals for the year 2007 and in the estimates for the subsequent years. The details of income & expenditure from this sub-activity to be furnished. It is also observed that the GTIPL has not included levy of ITRHO in the proposed draft Scale of Rates. The GTIPL to clarify the position.</p>	<p>As stated in 2(d) above the levy under the arrangement for ITRHO (i.e. INR 400/- per TEU) is a part of income from 'yard to rail or vice versa'.</p> <p>Since separate cost details on this activity has not been maintained, it is regretted GTI is not in a position to furnish the expenditure details.</p> <p>GTI recovers the revenue from the ITRHO as per the TAMP order no. TAMP/23/2007-JNPT dated June 28, 2007.</p>
<p>3.</p>	<p>Operating Cost:</p>	
	<p>(i). GTIPL has stated that it has applied an escalation factor of 8.10% while projecting the operating expenditure for the years 2009 to 2011 apparently on the ground of reported change in the average WPI during the first 6 months of the year 2008 over the WPI of the corresponding period in the year 2007. As already communicated by us vide our letter No.TAMP/27/2005-Misc. dated 29 July 2008, an escalation factor of 4.6% per annum will be considered for the expenditure projections in the cost statement.</p>	<p>As per the advice of TAMP, the revised cost statement considering an escalation factor of 4.6 % p.a is submitted. However, for the following specific head of expenses, escalation factor has been considered as under:</p> <ul style="list-style-type: none"> a) Salary - 15 % (The actual average rate of merit increase was 7 % and the additional performance bonus was another 7 % on total salary of 2008.) b). Operating and Direct Labour is based on the contracted rates with KALMAR. (GTIPL has furnished a copy of contract). c). Repairs and Maintenance includes the repairs and maintenance of RTGs which is also based on the Contracted Rates with KALMAR. <p>Equipment hire includes TT hire charges which is also based on the contracts entered into.</p>
	<p>(ii). As reported by GTIPL, it has considered traffic at normative capacity level of 1395030 TEUs each for the years 2009 to 2011 as per the 2008 Upfront tariff guidelines. In that case, the reasonableness of the estimates of operating cost furnished by GTIPL should be established with reference to the operating cost based on the norms prescribed in the guidelines of February</p>	<p>GTIPL has submitted fresh proposal based on tariff guidelines 2005.</p>

	2008.																													
	<p>(iii). <u>Operating and Direct Labour:</u> (a). The estimated Operating and Direct Labour cost for the year 2008 to 2011 comprises, inter alia, the estimated manpower cost for the RTG operators. Likewise, the estimated repairs and maintenance cost includes, inter alia, operation and maintenance of RTGs. It appears that the operation and maintenance of RTGs is outsourced to Kalmar. If it is so, the reason for showing the estimated expenditure on account of operation of RTGs under Operating & Direct Labour cost and Repairs & Maintenance cost instead of showing the outsourcing expenditure separately to be explained. Further, the GTIPL to furnish / clarify the following:</p>	<p>For accounting purpose, the GTIPL considers one third of the RTG Operation & Maintenance costs under Direct Labour & remaining two third is accounted under Equipment repairs & maintenance. The payment made to KALMAR is not duplicated elsewhere.</p>																												
	<p>(i). In the proceedings relating to the initial fixation of tariff of GTIPL vide Order dated 23 August 2006, the GTIPL estimated Operating & Direct Labour cost for the years 2006 to 2008 for monitoring the reefer containers. In the current proposal in reference, the Operating & Direct Labour cost has been estimated to operate RTGs. GTIPL to clarify the reasons for change in the position. It may also be clarified how the manpower cost for reefer monitoring is treated in the cost estimates, giving reference to the estimates in this regard, if any, in the cost statement.</p>	<p>In the estimated cost for the years 2006-08, the Operating & Direct labour included only the expenditure on Reefer Monitoring. The charges paid to KALMAR were included under Equipment Running costs.</p> <p>As per revised grouping of expenses, the reefer monitoring charges are now included in the Management overheads and RTG Operation and maintenance cost is bifurcated as explained at (V) (a) above.</p>																												
	<p>(ii). A comparative position of estimates of manpower cost estimated earlier for the years 2006 to 2008 and the actuals to be furnished.</p>	<p>In the estimated cost for the years 2006-08, the Operating & Direct labour included only the expenditure of Reefer Monitoring. The charges paid to KALMAR were included under Equipment Running costs. As a result, the actual manpower cost is high as compared to estimates made and actual repairs and maintenance cost is less than the estimates made for the years 2006-08.</p> <p>The details sought are furnished below:</p> <p style="text-align: right;">(Rs. in Lakhs)</p> <table border="1" data-bbox="842 1541 1469 1771"> <thead> <tr> <th></th> <th>2006</th> <th>2007</th> <th>2008</th> </tr> </thead> <tbody> <tr> <td>Manpower cost</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td>31.09</td> <td>443.74</td> <td>639.84</td> </tr> <tr> <td>Estimates</td> <td>11.25</td> <td>32.91</td> <td>39.31</td> </tr> <tr> <td>Equipment running cost</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td>1567</td> <td>3061</td> <td>4408</td> </tr> <tr> <td>Estimated</td> <td>2587</td> <td>4536</td> <td>6088</td> </tr> </tbody> </table>		2006	2007	2008	Manpower cost				Actual	31.09	443.74	639.84	Estimates	11.25	32.91	39.31	Equipment running cost				Actual	1567	3061	4408	Estimated	2587	4536	6088
	2006	2007	2008																											
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	<p>(iii). GTIPL to clarify whether Kalmar was selected for operation and maintenance of RTGs by competitive bidding. GTIPL to confirm whether the rates payable to Kalmar are fair and reasonable.</p>	<p>KALMAR was selected after following competitive bidding procedure. The rates payable to KALMAR are fair and reasonable.</p>																												
	<p>(iv). The rate of 10.76 Euro per hour towards operation and maintenance</p>	<p>GTIPL has furnished a copy of the Operations and maintenance agreement dated June 9, 2006 entered</p>																												

	charge paid/ payable to Kalmar for the year 2008 to be validated with documentary evidence.	into with KALMAR. The rate of 10.76 Euro per hour was the average rate paid to KALMAR. The rates per RTG differ depending upon the year of their commissioning.
	(v). The rate of 10.76 Euro per hour is escalated by around 18% in the year 2009 and escalated by around 4% each for the years 2010 and 2011 over the respective previous years. The escalated rates adopted for the years 2009 to 2011 to be validated with a copy of Contract with Kalmar.	GTIPL has furnished the agreement. As per the agreement for the fourth year (2009) and fifth year (2010), the payment to be made is 13 Euro and 13.5 Euro respectively per RTG per hour. The average rate for 2008 works out to 10.76 Euro per hour. The increase with reference to average rate of 2008 amounts to 20.81 % and 25.46% respectively.
	(vi). The basis for considering one-third of the rate per hour estimated towards Operating and Maintenance cost paid / payable to Kalmar as the cost of the manpower to operate the RTG's per hour to be furnished.	In the estimated cost for the years 2006-08, the operating and direct labour included only the expenditure on reefer monitoring. The charges paid to KALMAR were included under Equipment Running Cost. As per revised grouping of expenses, the reefer monitoring charges are now included in the Management Overheads and RTG operation and maintenance cost is bifurcated as explained earlier.
	(vii). The basis for considering the remaining two-third of the rate per hour estimated towards Operating and Maintenance cost paid / payable to Kalmar towards repairs and maintenance of RTGs to be explained with reference to the actuals of the preceding 3 years.	
	(viii). The basis for the annual RTG hours of 202178 each for the three years 2009 to 2011 considered in the estimation of operation and maintenance cost of RTGs be furnished.	All the containers offloaded from the vessel are necessarily to be handled by RTGs at least twice, one Lift Off and one Lift On at the CY. Sometimes, additional Lift off and Lift on from/to stack are to be carried out for shut out container and POD change based on the requirements of trade. In addition, there are some essential housekeeping moves to be carried out by RTGs. The handling thus exceeds 200%. On an average it works out to 204%. The RTG hours for the years 2009-2011 are arrived at as under. (Estimated throughput * 204 %)/ (TEUs handled by RTGs per hour) i.e (1,200,000*204%)/(14.08). This works out to 173,813 hours for the year 2009.
	(b). The estimated expenditure towards Lashing/ Unlashing of Rs.1.26 crores each during the years 2009 to 2011 to be supported by documentary evidence of outsourcing contract and with workings.	The GTIPL has furnished a copy of the relevant contract. As per the contract, GTIPL shall pay at Rs.12.50 per move plus service taxes at prevailing rate. The contract is valid for a period of two years from 1.1.2008 to 31.12.2009 and extendable for further period of one year.
	(c). The number of employees and the average cost per employee have been added to the total estimated operating and direct labour cost, which appears to be a mistake. (Refer Form - 3B).	The error is rectified in the revised proposal.
	(iv). <u>Equipment running cost:</u> (a). <u>Power Cost:</u> (i). GTIPL to furnish basis for the different levels of unit electricity consumption adopted for the RMQC's, RMG's, Yard and Wharf electrification, Reefer plugs and Gate/ common Lighting.	In the revised proposal, the working for Power cost is done based on the past average overall consumption per TEU.

	<p>(ii). The GTIPL has also considered a fixed cost element in the estimation of its total power cost. The copy of the Electricity bill attached with the proposal indicates a rate of Rs.150/- per KVA towards demand charges, whereas the GTIPL has considered a rate of Rs.203.40 per KVA for the year 2008 in the estimation of fixed power cost. GTIPL to clarify the difference in rates.</p> <p>(iii). In the estimates of power cost for the years 2009 to 2011 for utilisation of RMQC's and RMG's, GTIPL has factored in training costs for which 5% of the estimated throughput has been considered. In this context, GTIPL to furnish the actual training cost incurred for the years 2006 to 2008 supported by documentary evidence. In this regard, paragraph no. 12(ix)(a)(iii) of the GTIPL Order dated 23 August 2008 to be referred.</p> <p>(iv). The cost statement shows that the estimation of power cost for all the years under consideration is based on estimated electricity consumption of around 16 units per TEU. This estimated electricity consumption is found to be higher when compared with the position at some other container terminals. It is noteworthy that the consumption considered by GTIPL is double of that of the norm prescribed in the Upfront guidelines. The estimated consumption of electricity to be reviewed.</p>	<p>Fixed Electricity charge of Rs.203.40 per KVA considered for the year 2008 includes applicable Duty @ 13% on Basic charge of Rs.150/- per KVA and Surcharge of 20% on Basic charge. (Rs.150 + Rs.30+Rs.23.40)</p> <p>However, in the revised proposal, the working for Power cost is done based on the past average overall consumption per TEU.</p> <p>In the initial proposal for tariff revision, the training costs considered was Rs.3.72 lakh, Rs.8.77 lakh and Rs.10.90 lakh for the years 2006, 2007 and 2008 respectively.</p> <p>Though GTI has not got separate details of power consumed for training, it is confirmed that actual power consumption in this respect would be more than what was estimated.</p> <p>In the revised cost statement submitted, the consumption per TEU has been considered at 13.73 KWH per TEU. This is arrived at after considering the total consumption of electricity in units divided by the total number of TEUs handled.</p> <p>The electricity consumption at GTIPL is on higher side because of higher volumes of Reefer containers handled at GTIPL vis a vis other container terminals in JNPT. This fact has also been recognized by the Landlord Port JNPT in their proposal for Upfront Tariff Fixation for the fourth terminal. A copy of the relevant extract is furnished.</p>
	<p>(b). <u>Fuel Cost:</u> With reference to the estimated fuel cost, GTIPL to clarify / furnish the following:</p> <p>(i). The estimated consumption of fuel for operations of RTGs, RSTs, Tractor Trailers and for Backup Power for the years 2009 to 2011 to be justified with reference to the actuals for the preceding three years.</p> <p>(ii). The basis for considering 14.08 TEUs per hour as handling rate of the RTG to be brought out.</p> <p>(iii). Given the handling rate of 14.08</p>	<p>The details of Fuel consumption for 2009-2011 vis-a -viz 2006-08 are furnished in Revised Form No.3B. It will be seen there-from that the consumption of fuel is comparable for all the six years under consideration.</p> <p>The current average rate of RTG handling is 10.2 moves per hour. The same has been converted into TEUs handled per hour by applying 20:40 ratio factor of 1.38 prevalent at GTI.</p> <p>Please refer to reply at (V). (a). (viii) above.</p>

	<p>TEUs per hour and taking into account the estimated throughput, the utilization time of RTG shown in the workings appear to be more by 104%.</p> <p>(iv). The workings for the estimated diesel consumption of 88890 litres for the year 2008 and 81706 litres each for the year 2009 to 2011 for utilization of RST to be furnished.</p> <p>(v). With reference to the estimated additional diesel consumption to compensate 10% savings in electricity consumption, the rationale behind considering 1/3rd of the amount of savings arising from electricity consumption to arrive at the quantum of additional requirement of diesel to be explained.</p>	<p>In the revised proposal, the working for Fuel cost is done based on the past average overall consumption per TEU.</p> <p>This element has not been factored in the revised cost statement submitted herewith.</p>																								
	<p>(c). <u>Repairs & Maintenance Cost:</u></p> <p>(i). The rationale behind adopting different percentages of capital cost of RST, RMQC and RMG to estimate repairs and maintenance charges for all the years under consideration to be explained and the individual estimates to be justified with reference to actuals for the previous years.</p> <p>(ii). The workings for estimating Repairs & Maintenance cost for the empty handlers, operational tools & others for the year 2008 to be furnished and justified with reference to actuals.</p> <p>(iii). (a). The estimated maintenance charge of Rs. 4.96 lakhs for additional DG set for the year 2008 to be justified with reference to actuals.</p> <p>(b). The workings for the estimated amount of Rs.21.46 lakhs for the year 2009 to maintain additional DG sets to be justified with workings keeping in view the actuals for the year 2008.</p>	<p>The equipment-wise repairs and maintenance expenditure has been identified based on the actuals of 2008.</p> <p>The equipment wise expenditure for the years 2009-2011 is estimated after taking into account the inflation factor at 4.6%.</p> <p>The actual figures of 2008 are now shown in the revised cost statement.</p> <p>Two additional CAT 1500 KVA/1200 KWH DG sets costing in aggregate Rs.3 crores have been procured and capitalized in December 2008. The maintenance charges for two DG sets for 2009 to 2011 have been included in the Repairs and Maintenance cost based on the estimated additional expenditure to be incurred thereon.</p>																								
	<p>(c). The Authority vide paragraph No. 12(ix)(d) of Order dated 23 August 2006 allowed the equipment running cost as estimated by GTIPL for the years 2006 to 2007 subject to verification with actual expenditure. Therefore, the GTIPL to furnish the actuals for the year 2006, 2007 and 2008 with break-up for power cost, fuel cost and Repairs & Maintenance</p>	<p>The actuals for the years 2006- 2008 along-with the TEUs handled with the break up of power cost, fuel cost and Repairs and Maintenance cost are as given below.</p> <p style="text-align: right;">Rs. In Lacs</p> <table border="1" data-bbox="831 1783 1489 1984"> <thead> <tr> <th></th> <th>2006</th> <th>2007</th> <th>2008</th> </tr> </thead> <tbody> <tr> <td>TEUs handled</td> <td>387,873</td> <td>1,178,415</td> <td>1,520,776</td> </tr> <tr> <td>Power Cost (Rs)</td> <td>541</td> <td>1,112</td> <td>1,852</td> </tr> <tr> <td>Fuel Cost (Rs)</td> <td>631</td> <td>923</td> <td>1,185</td> </tr> <tr> <td>Repairs & Maint (Rs)</td> <td>393</td> <td>1,026</td> <td>1,371</td> </tr> <tr> <td>Total</td> <td>1,565</td> <td>3,061</td> <td>4,408</td> </tr> </tbody> </table>		2006	2007	2008	TEUs handled	387,873	1,178,415	1,520,776	Power Cost (Rs)	541	1,112	1,852	Fuel Cost (Rs)	631	923	1,185	Repairs & Maint (Rs)	393	1,026	1,371	Total	1,565	3,061	4,408
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	<p>cost.</p> <p>(v). <u>Royalty / Revenue Share:</u> As per Clause 2.8.1 of the 2005 tariff guidelines, royalty / revenue share shall not be allowed as a cost for tariff fixation. As conceded by GTIPL, even the Licence Agreement signed by GTIPL with JNPT contains a specific provision relating to inadmissibility of royalty / revenue share in computation of tariff.</p>	<p>As per the license agreement entered into with JNPT, GTI can not factor Royalty in costs for the purpose of tariff fixation as per the Govt. policy. However, the minimum guaranteed TEUs as per license agreement is 735,000, 950,000 and 1,200,000 in the years under consideration i.e 2009, 2010 and 2011 respectively. GTI has achieved volumes more than 1,300,000 TEUs in the third year of its operations.</p> <p>JNPCT is not liable to pay any royalty. NSICT pays royalty per TEU to JNPT which has been allowed as a full pass through in the cost till 2005 and as a partial pass through after 2005. It is appealed that the new terminal operator like GTI with such heavy infrastructural investments should have an equal and fair operating terms with the other neighbouring terminals in JN Port.</p> <p>In our initial proposal we factored efficiency gain for the additional royalty we pay to land lord port for volumes over and above the minimum guaranteed traffic. Due to our operational efficiency coupled with higher productivity, the trade benefited with a volume growth of 24 %. GTI has added to the existing capacity of JN Port by handling volumes higher than the minimum guaranteed traffic.</p> <p>In the statements submitted earlier for the years 2009 to 2011, we had considered royalty as a cost to the extent of the additional royalty payable over the minimum guaranteed traffic since this is an efficiency gain. If this major element of cost is not allowed for tariff fixation, there will not be any incentive to the Terminal Operators to improve the efficiency as they will be deprived of reasonable return.</p> <p>Despite the above views of GTI, in deference to the advice of TAMP we have excluded the element of royalty in the revised cost statements.</p> <p>We however request the Authority to reconsider its views and allow royalty as a pass through.</p>																														
	<p>(vi). <u>Equipment Hire Charges:</u></p> <p>With reference to the estimated tractor hire charges, GTIPL to furnish the following:</p> <p>(a). The actual tractor hire charges for the years 2006 to 2008 incurred by GTIPL be furnished for verification with reference to the estimates considered by the Authority in the fixation of the tariff of GTIPL in August 2006. In this regard, paragraph 12 ((x)(a) of Order dated 23 August 2006 to be referred to.</p>	<p>The tractor hire charges incurred along with the TEUs handled during 2006-2008 and the estimate considered while fixing the tariff in August 2006 are furnished below.</p> <p style="text-align: right;">Rs.in Lacs</p> <table border="1" data-bbox="831 1783 1477 1962"> <thead> <tr> <th></th> <th>2006</th> <th>2007</th> <th>2008</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Estimated</td> <td>656</td> <td>1,551</td> <td>1,925</td> <td>4,132</td> </tr> <tr> <td>Actual</td> <td>592</td> <td>1,679</td> <td>2,158</td> <td>4,429</td> </tr> <tr> <td>TEUs</td> <td>411,600</td> <td>930,000</td> <td>1,105,000</td> <td>24,46,600</td> </tr> <tr> <td>Estimated</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>TEUS actuals</td> <td>387,873</td> <td>1,178,415</td> <td>1,520,776</td> <td>3,087,064</td> </tr> </tbody> </table> <p>It will be seen from the above that in the aggregate, the actual expenditure was 7 % more over the estimate.</p>		2006	2007	2008	Total	Estimated	656	1,551	1,925	4,132	Actual	592	1,679	2,158	4,429	TEUs	411,600	930,000	1,105,000	24,46,600	Estimated					TEUS actuals	387,873	1,178,415	1,520,776	3,087,064
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<p>(b). Documentary proof to be furnished for the rates considered for estimation of tractor hire charges for the years 2009 to 2011 for the movement of containers between</p> <p>(i). container yard to rail and (ii). Intra Terminal transfers</p> <p>(c). GTIPL to furnish the basis for considering 12% of the estimated throughput for intra terminal transfer.</p> <p>(d). The GTIPL has considered 26% of the estimated throughput for movement between yard to rail, whereas the income computation furnished by GTIPL captures income arising out of handling around 16% of the estimated throughput for movement between yard to rail.</p> <p>(e). The estimated expenditure towards Genset hire charges and additional D.G. set hire charges to be justified with workings supported by documents evidence.</p>	<p>Estimate for 2009-2011 is based on the budgetary quotation received. GTIPL has furnished a copy of the quotation.</p> <p>Inter-terminal transfer takes place mainly on account of Transshipment which is 3% of the total throughput and also on account of ITRHO (Inter Terminal Rail Handling) which is 9% of the total throughput.</p> <p>Detailed calculation of Income for the years 2009-2011 is furnished. The throughput considered for handling income arising for yard to rail activity is 294,898 TEUs (Normal containers – 284,965, Hazardous- 9,907 and ODC- 26) which is 24.5 % of the total throughput of 1,200,000 and the income for balance throughput is considered in Revenue from Mixed Train handling.</p> <p>Due to the procurement of 2 D.G. Sets at an aggregate cost of 3 crores in December 2008, this expenditure has been excluded in the revised cost statement filed herewith.</p>
<p>(vii). <u>Lease rentals:</u></p> <p>(a). GTIPL to confirm that the estimations of lease rentals is as per the terms of Licence Agreement.</p> <p>(b). Detailed workings for the estimated lease rental indicating the area leased and the rate per square metres considered to be furnished for all the years under consideration.</p>	<p>Yes.</p> <p>The workings furnished by GTIPL indicate only break-up for the lease rentals for different category of land and other assets.</p>
<p>(viii). <u>Insurance:</u></p> <p>(a). The estimated insurance cost for the years 2009 to 2011 to be justified with reference to actual payment made to insurance company(ies) during the year 2008. A copy of the Agreement entered into with insurance company(ies) to be furnished. The GTIPL to validate the insurance cost for the year 2008 with documentary evidence.</p> <p>(b). The estimated insurance cost for the year 2008 is seen to be less by 11% as compared to the actuals for the year 2007, inspite of additions to the assets during the year 2008.</p>	<p>The GTIPL has furnished the copies of the insurance cover with ICICI Lombard for the period 01.04.2007 to 14.07.2009.</p> <p>The increase in the estimated cost for 2009 to 2011 is in line with the proposed infusion of capital.</p> <p>The lower expenditure in the year 2008 is due to negotiation held by our Group Finance at global level with the Insurance entities.</p>
<p>(ix). <u>Other expenses:</u></p> <p>The estimated other expenses for the year 2008 to 2011 to be justified with cost details and workings listing out the items considered under Other</p>	<p>The GTIPL has furnished the cost details for 2008. The estimated other expenses for the years 2009-2011 are after applying the escalation factor at 4.6%.</p>

	<p>expenses.</p> <p>(x). <u>Technical Services Fee:</u> In the fixation of tariff of GTIPL in August 2006, no expenditure was estimated towards Technical Service Fee (TSF) from the years 2006 to 2008 and existence of such agreement was also not disclosed. In this context, GTIPL to furnish / clarify the following:</p> <p>(a). The reason for now projecting the TSF expenditure for the years 2008 to 2011.</p> <p>(b). Reasonableness of TSF estimated for all the years under consideration applying the yard stick of 'arms length relationship' as required under Clause 2.8.2 of the revised tariff guidelines.</p> <p>(c). A copy of the agreement for payment of TSF.</p> <p>(d). A copy each of the following document:</p> <p>(i). Provisional Tax audit certificate from the Chartered Accountant for the TSF for the year 2008.</p> <p>(ii). Document establishing the remittance of TSF for the year 2008.</p>	<p>GTIPL has furnished a copy of the Board resolution passed in September 2008 regarding its decision to sign service agreement with the following:</p> <p>(a). APM Terminals and Group Companies to provide services to GTIPL on operations, engineering, HR, health, safety, security, environment, project advisory etc., at the estimated fee upto US\$ 2.4 million plus taxes.</p> <p>(b). Container Corporation of India Limited and group companies to provide consulting services to GTIPL on railway, ICD, projects, operations, engineering, etc., at the estimated fees upto Rs.1.5 Crores.</p> <p>GTIPL has furnished the following documents.</p> <p>(i). A copy of the detailed report of July 2008 of a consultant on Intra-Group Services in the nature of support services to GTIPL.</p> <p>(ii). A copy of the agreement for payment of TSF.</p> <p>(iii). A copy of the tax audit report for the financial year ended March 08.</p> <p>(iv). Copies of payment voucher and invoice.</p>															
	<p>(xi). <u>Overheads:</u></p> <p>(a). GTIPL to list out the items of expenditure considered under the management and administration overheads and furnish detailed workings under this head for all the years under consideration.</p> <p>(b). In the initial fixation of tariff of GTIPL vide tariff Order dated 23 August 2006, the Management and Administration Overheads covered the estimated salary expenses payable to the employees of GTIPL and the expenses like training, recruitment, performance award, etc. The GTIPL to furnish the actuals for the years 2006, 2007 and 2008 with break up for verification of the estimates with reference to the actuals. In this regard, paragraph No. 12(xiv) (b) of tariff Order dated 23 August 2006 to be referred.</p> <p>(c). (i). The items considered under 'General Overheads' to</p>	<p>The GTIPL has furnished the cost details for 2008. The estimated overheads for the years 2009-2011 are after applying the annual increment of 15 % based on the increment rate of 2009. Calculation sheet is provided.</p> <p>The GTIPL has furnished the required details of 2006, 2007 and 2008.</p> <p>The estimated and actual expenditure for the years 2006-08 are tabulated below.</p> <p style="text-align: right;">Rs.in Lacs</p> <table border="1" data-bbox="826 1659 1393 1760"> <thead> <tr> <th></th> <th>2006</th> <th>2007</th> <th>2008</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Estimated</td> <td>1,970</td> <td>2,463</td> <td>2,517</td> <td>6,950</td> </tr> <tr> <td>Actual</td> <td>1,686</td> <td>2,331</td> <td>3,346</td> <td>7,363</td> </tr> </tbody> </table> <p>It will be seen from the above that in the aggregate, the actual expenditure was about 6 % over the estimates.</p> <p>The GTIPL has furnished the item wise details of expenditure for 2008.</p>		2006	2007	2008	Total	Estimated	1,970	2,463	2,517	6,950	Actual	1,686	2,331	3,346	7,363
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	<p>be listed out. (ii). GTIPL to furnish detailed workings for estimating the expenditure under this head for all the years under consideration.</p> <p>(d). The estimated expenditure towards IT licenses was allowed as pass through for the years 2006 to 2008 during fixation of tariff of GTIPL in August 2006 subject to GTIPL justifying this expenditure evidenced by documentary proof in the subsequent review of its tariff. In this regard paragraph 12(xv) of Order dated 23 August 2006 to be referred. The GTIPL to furnish details of actual expenditure incurred towards IT licenses for the years 2006 to 2008 supported by documentary proof.</p>	<p>The general overheads estimated for the years 2009-2011 are after applying the escalation factor.</p> <p>The actual expenditure incurred on IT including license fees for the years 2006 and 2007 as reflected in the audited annual accounts and for the year 2008 as reflected in the draft annual account are as given below. The expenditure incurred is as per the agreements entered into with the various service providers.</p> <p style="text-align: right;">Amt in INR</p> <table border="1" data-bbox="826 618 1485 685"> <thead> <tr> <th>2006</th> <th>2007</th> <th>2008</th> </tr> </thead> <tbody> <tr> <td>22,472,928</td> <td>37,509,388</td> <td>67,353,980</td> </tr> </tbody> </table>	2006	2007	2008	22,472,928	37,509,388	67,353,980
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<p>5.</p>	<p>Capital employed: (i). <u>Fixed Assets:</u> (a). As per the tariff filing forms prescribed for private terminals, the private terminals are required to provide information on the additions to Gross block as per Form -4B. The GTIPL to furnish Form 4B duly filled in giving the details regarding every additional item of expenditure exceeding Rs.1 Crore and added / proposed to be added to the Gross Block during the years 2008 to 2011.</p>	<p>The GTIPL has furnished the duly filled Form no. 4B with the revised proposal.</p>						
	<p>(b). During the last fixation of tariff of GTIPL in August 2006, the GTIPL had estimated investments in its facilities at around Rs.907 crores. As can be seen from the Annual Accounts of 2006 and 2007, the GTIPL has made investments to the tune of around Rs.961.76 Crores (Opening Gross Block of Rs.43.57 Crores + Additions of Rs.753.32 Crores in 2006 + Additions of Rs.164.87 Crores in 2007) by the end of the year 2007. In this backdrop, the GTIPL to furnish the following:</p> <p>(i). Justification for the proposed investments to the tune of Rs.156 Crores in the year 2008 and Rs.111 Crores during the year 2009.</p> <p>(ii). GTIPL to confirm whether the proposed investment are in line with the provisions of the LA.</p>	<p>The investments in the year 2008 and 2009 are Rs.84 crores and Rs.270 crores respectively in the revised proposal. The change in the figures reported earlier is due to exclusion of customs duty element from the 2008 figures and change of method from 2008 Guidelines Optimal Capacity base to 2005 guidelines.</p> <p>Yes.</p>						

	<p>(c). With reference to additions to the Gross Block proposed during the year 2008, GTIPL to furnish the details of actual additions made and documentary evidence in respect of those additions.</p>	<p>The GTIPL has furnished the copies of completion certificates. The details are as follows:</p> <table border="1" data-bbox="826 315 1493 544"> <thead> <tr> <th>Nature of Work</th> <th>Contract value</th> <th>Value of completed work as 31/12/2008</th> </tr> </thead> <tbody> <tr> <td>Pavements, Services and Reefer platforms</td> <td>Rs.105.30 Crores</td> <td>Rs.31.00 Crores</td> </tr> <tr> <td>Soil improvement work</td> <td>Rs. 9.5 Crores</td> <td>Rs.6.54 Crores</td> </tr> <tr> <td>Stand-by generators</td> <td>Rs.4.358 Crores</td> <td>Rs. 3.787 Crores</td> </tr> <tr> <td>Electrical installation</td> <td>Rs.9.75 Crores</td> <td>Rs.9.20 Crores</td> </tr> <tr> <td>Total</td> <td>Rs.128.906 Crores</td> <td>Rs.50.527 Crores</td> </tr> </tbody> </table> <p>The Audited Annual Accounts support the addition to the Gross Block to the tune of about Rs.85 Crores during the year 2008.</p>	Nature of Work	Contract value	Value of completed work as 31/12/2008	Pavements, Services and Reefer platforms	Rs.105.30 Crores	Rs.31.00 Crores	Soil improvement work	Rs. 9.5 Crores	Rs.6.54 Crores	Stand-by generators	Rs.4.358 Crores	Rs. 3.787 Crores	Electrical installation	Rs.9.75 Crores	Rs.9.20 Crores	Total	Rs.128.906 Crores	Rs.50.527 Crores																																					
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	<p>(d). The proposed additions to the gross block during the year 2009 to be supported with documentary proof and the present status of these proposed investments may also be furnished.</p>	<p>GTIPL has furnished the following details with documentary evidence:</p> <table border="1" data-bbox="826 719 1481 1178"> <thead> <tr> <th>Nature of work</th> <th>Capex 09</th> <th>Contract value</th> <th>Doc. Evidence</th> <th>Status</th> </tr> </thead> <tbody> <tr> <td>Electrical Installation phase II</td> <td>8780 lacs</td> <td>8780 lacs</td> <td>Contract copy</td> <td>Work will be completed in 2009</td> </tr> <tr> <td>2 STS Cranes</td> <td>6316 lacs</td> <td>6316 lacs</td> <td>Contract Copy</td> <td>Capitalized in Feb 09</td> </tr> <tr> <td>Project Consultancy</td> <td>317 lacs</td> <td>317 lacs</td> <td>Contract copy</td> <td>On completion in 2009</td> </tr> <tr> <td>Project consultancy phase II</td> <td>531 lacs</td> <td>531 lacs</td> <td>Contract copy</td> <td>On completion in 2009</td> </tr> <tr> <td>11 RTGs</td> <td>7871 lacs</td> <td>7871 lacs</td> <td>Contract Copy</td> <td>On completion in 2009</td> </tr> <tr> <td>20 Spreaders</td> <td>1209 lacs</td> <td>1209 lacs</td> <td>Contract Copy</td> <td>Capitalized in Jan 09</td> </tr> <tr> <td>ERP and data processing</td> <td>712 lacs</td> <td>Budgeted capex</td> <td></td> <td>Replacement</td> </tr> <tr> <td>Reach stackers</td> <td>422 lacs</td> <td>Budgeted capex</td> <td>Budgetary quote</td> <td>Required as per LA</td> </tr> <tr> <td>Empty Handlers</td> <td>268 lacs</td> <td>Budgeted capex</td> <td>Budgetary quote</td> <td>Required as per LA</td> </tr> <tr> <td>Total</td> <td>26426 lacs</td> <td>38035.9 lacs</td> <td></td> <td></td> </tr> </tbody> </table>	Nature of work	Capex 09	Contract value	Doc. Evidence	Status	Electrical Installation phase II	8780 lacs	8780 lacs	Contract copy	Work will be completed in 2009	2 STS Cranes	6316 lacs	6316 lacs	Contract Copy	Capitalized in Feb 09	Project Consultancy	317 lacs	317 lacs	Contract copy	On completion in 2009	Project consultancy phase II	531 lacs	531 lacs	Contract copy	On completion in 2009	11 RTGs	7871 lacs	7871 lacs	Contract Copy	On completion in 2009	20 Spreaders	1209 lacs	1209 lacs	Contract Copy	Capitalized in Jan 09	ERP and data processing	712 lacs	Budgeted capex		Replacement	Reach stackers	422 lacs	Budgeted capex	Budgetary quote	Required as per LA	Empty Handlers	268 lacs	Budgeted capex	Budgetary quote	Required as per LA	Total	26426 lacs	38035.9 lacs		
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	<p>(e). The proposed investments during the years 2008 and 2009 includes investment to the tune of Rs.35.49 Crores and Rs.77.75 Crores each reportedly towards pavement of reclaimed area. GTIPL to clarify whether the pavement of the reclaimed land is mandatory as per the provisions of the LA. The investment to be justified keeping in view the surplus yard capacity already available with reference to the optimal quay capacity.</p>	<p>The actual investment of Rs.38 crores in the year 2008 consist of Rs.6.5 crores towards reclamation and balance Rs.31.5 towards pavement in 2008. Rs.73.55 crores towards pavement and Rs.2.95 crores towards soil improvement in 2009. These investments are in compliance with the provisions of the License agreement. The cost statement enclosed to this proposal has been prepared as per the TAMP guideline of 2005. The additional area will be mainly utilized for reducing the stacking height from existing 5 high to suitable level to enable smooth operations.</p>																																																							
	<p>(f). The GTIPL has stated that it has considered the capital employed in the cost statement in terms of Clause 4.1 of Annex – I to the Upfront tariff guidelines of 2008. The capital employed so considered is Rs.1107.17 Crores each for the years 2009 to 2011. The amount of Rs.1107.17 Crores includes Rs.474.99 Crores Civil Cost as on 31 December 2007 as reflected in the Annual accounts and the proposed additions to the Civil cost to the tune of Rs.56.81 Crores during 2008 and Rs.110.84 Crores during 2009. In this context, GTIPL to clarify the following:</p>																																																								

	<p>(i). As per Clause 4.1 of Annex – I to the Upfront tariff guidelines of 2008, the norm for calculation of civil construction cost is as per the estimates given by the port trust for construction of civil assets for achieving maximum capacity. As can be seen in Appendix 13 to the LA, the project cost towards Civil Works development has been estimated by the Port Trust (JNPT) at Rs.334.6 Crores. That being so, considering an amount of Rs.474.99 Crores as on 31 December 2007 towards Civil cost instead of Rs.334.6 Crores estimated by JNPT to be justified.</p> <p>(ii). The norm prescribed in the 2008 guidelines does not recognise additional Capital cost other than the cost for the assets required for normative level of operations. Civil cost is restricted to the initial estimation made by the Landlord Port. In this backdrop, the estimated additions of Rs.56.81 Crores during 2008 and Rs.110.84 Crores during 2009 to the civil cost to be justified.</p>	<p>The GTIPL has furnished the cost statement with the proposal revised as per the tariff guidelines of 2005.</p>
	<p>(ii). <u>Working Capital:</u> GTIPL to furnish workings to show that the amount considered as Sundry Debtors, Inventory, Pre payment of Lease rentals and Cash balance as part of Working Capital during the years 2006 to 2008 are as per the norms prescribed in guidelines of March 2005.</p>	<p>Sundry debtors are not taken into account while arriving at the working capital in terms of clause 2.9.9 of 2005 guidelines.</p> <p>Inventory (other than capital spares) is accounted at minimum of actual and six months average consumption of stores (excluding fuel) as per clause 2.9.9 of 2005 guidelines.</p> <p>GTIPL pays lease rental to JNPT one year in advance (as per License agreement) and the same amount has been reported under prepayment of lease rental.</p> <p>The cash balance is considered at minimum of actual cash balance or one months cash expenses whichever is lower in terms of clause 2.9.9 of 2005 guidelines.</p>
<p>6.</p>	<p><u>Other points:</u> (i). The claim of the GTIPL for efficiency gain is based on the reported higher traffic volume achieved during the years 2007 and 2008 as compared to the projection made by GTIPL at the time of fixation of its tariff in August 2006. It to be noted that Clause 2.4.1 of the tariff guidelines of March 2005 deals with rewarding the operator for cost reduction achieved due to efficiency improvement. The GTIPL to recast its cost estimates in line with Clause 2.4.1 of the guidelines of March 2005, if it so desires.</p>	<p>As per Clause 2.4.1, efficiency in terms of cost reduction can be measured by comparing the average of the past performance achieved in the immediately preceding tariff validity cycle. The cycle of 2006-2008 being the first operational cycle a comparative statement with reference to a previous cycle can not be worked out.</p>
	<p>(ii). The GTIPL has conveyed that</p>	

	<p>the EOU status conferred on the GTIPL earlier for imports of equipments has been revoked abinitio by the Directorate General of Export Promotion. In this context, GTIPL to furnish/ clarify the following:</p> <p>(a). The documents (Annex XV) attached to the proposal includes a copy of letter dated 11 January 2008 of Directorate General of Export Promotion conveying the revocation of EOU status granted to GTIPL. However, the copy of the Minutes of the Board of the Directorate is not found attached. GTIPL to furnish a copy of the Minutes.</p> <p>(b). The reasons for withdrawal of EOU status to be furnished.</p> <p>(c). On the ground of withdrawal of EOU status, the GTIPL has capitalised the customs duty element to the respective assets. However, the GTIPL has not furnished any documentary proof to show that it has paid the customs duty. Further, it is seen that the Hon'ble High Court of Mumbai vide Order dated 28 August 2008 has stayed the operation of the Order dated 13 November 2007 passed by the Board of Directorate General of Export Promotion. In this circumstance, the capitalisation of the customs duty to be justified.</p> <p>(d). The Hon'ble High Court of Mumbai in its Order dated 28 August 2008 has permitted the GTIPL to apply for license under the EPCG Scheme for all goods cleared after 13 November 2007 or pending for clearance and all future clearances. The GTIPL to state the progress made in this regard.</p>	<p>In the revised cost statements submitted herewith, the customs duty considered earlier has been excluded from the capital employed.</p>
C.	Scale of Rates:	
(i).	<p>The GTIPL has formulated its proposed Scale of Rates considering an increase of 21.03% over the existing tariff at GTIPL. The benefit of productivity improvements accruing to users justifying this hike to be listed out.</p>	<p>In the revised proposal the increase proposed is 4.92%. However, against the norm of 25 moves per hour vide the Tariff guidelines of 2008, the average moves per hour for 2008 stood at 26.02. GTI's endeavor is to achieve 40 moves per hour.</p>
(ii).	<p>GTIPL to furnish detailed working with cost elements considered to arrive at the charges proposed for normal containers, ICD containers, Transshipment containers, hazardous and Over Dimensional Containers.</p>	<p>The cost elements considered for normal containers, ICD containers, Transshipment containers, hazardous and Over Dimensional Containers are in line with the March 2005 guidelines and the existing GTI tariff after considering proposed increase percentages.</p>
(iii).	<p>Similar working with cost elements considered to be furnished towards the</p>	<p>The cost elements considered for services for hatch covers, restows, shut out, storage and other services</p>

	charges proposed for services for hatch covers, restows, shut out, storage and other services.	are in line with the March 2005 guidelines and the existing GTI tariff after considering proposed increase percentages.
(iv).	The charges for Transshipment containers prescribed at Section 2 of the proposed Scale of Rates have been consolidated to prescribe a single rate for loaded and empty containers as against the existing practice of having slab wise rates. The GTIPL to explain the rationale behind prescribing a single rate. The additional financial implication arising out of the said rationalisation to be quantified and furnished with workings for all the years under consideration.	<p>It was not mandatory to provide any additional concession to Trans-shipment containers as per the guidelines issued by TAMP. However, GTI in it's 2006 proposal provided additional concession to the TP containers as an additional facility to the trade. However, it has been observed that the trade has not availed the facility to the extent expected by GTI.</p> <p>In view thereof GTIPL proposes to discontinue this additional facility.</p> <p>For the reasons elaborated above there would hardly be any financial implication due to the proposed rationalization.</p>
(v).	The GTIPL has introduced a new Note no. 3 under Section – 8 stating that the charges proposed for Reefer monitoring and connection does not include parameter setting or repair and maintenance of malfunctioning of Reefers. In this connection, the GTIPL to furnish the services presently provided against levy of the approved tariff and also list out the services proposed to be rendered for reefer monitoring and connection instead of listing out the services not proposed to be rendered.	GTIPL's existing conditionality did not explicitly mention the services not provided while providing reefer connections. GTIPL has now proposed to inform the trade that the repairs & maintenance of malfunctioning reefers are not covered in the tariff proposed.
(vi).	While the GTIPL has proposed an across the board increase of 21.03% over the existing rates, the reason for proposing an increase of around 15 times the existing rate relating to tariff item of Additional service charge for stacking containers in the designated yard for customs examination (Refer Section 9 of proposed Scale of Rates) to be furnished.	An unintentional error had occurred in our earlier proposal. The existing rates are being restored in the revised SOR with an across the board increase of - 4.92%.
(vii).	<p>The GTIPL has proposed a new tariff item under Section 9 for handling of lock bins. In this connection, the GTIPL to furnish the following:</p> <p>(a). GTIPL to clarify the existing arrangement to render the services towards handling of lock bins and the charges realised therefor.</p> <p>(b). The proposed rate to be justified with cost details.</p> <p>(c). The reason for proposing the rate as a dollar denominated tariff.</p> <p>(d). GTIPL to list out the services proposed to be provided under this</p>	<p>The lock bins are being handled as the hatch covers are being handled via bay. The activity involves handling of Lock Bin (20' and 40') by QC, keeping it at wharf and loading it on the vessel. The charges are collected equal to the Hatch cover shifting via bay.</p> <p>The separate cost details for this activity has not been maintained. However, the handling of lock bins being akin to handling of hatch covers , we have proposed the same rate as is applicable to hatch covers , which is dollar denominated.</p>

	tariff item.																										
(viii).	<p>The GTIPL has proposed under Section 9 charges for shifting of containers within the terminal for customs inspection or for 'any other purpose'. In this regard, GTIPL to furnish the following:</p> <p>(a). The 'purposes' for which the rate will be applied to be listed out.</p> <p>(b). The reason for separately proposing charges towards additional transportation of containers within the terminal to be clarified. It may be noted that such transportation, if any, undertaken for the convenience of the Terminal cannot be charged.</p>	<p>The additional shifting takes place when ICD containers arrive without details, change in POD and change in category, such as normal to hazardous, etc. Separate rates for each of the shifting explicitly mentioned in the proposed SOR are now clubbed under a single head "charges for shifting of containers within the terminal for customs inspection or for 'any other purpose' in order to avoid undue complexity in the SOR for shifting charges.</p> <p>The situations when the additional transportation of containers within the terminals become necessary has been stated under (a) above. Additional Transportation if undertaken for the convenience of the Terminal will not be charged.</p>																									
(ix).	<p>The GTIPL has not projected income from handling break bulk cargo. That being so, the reason for proposing the rate of Rs.450000/- per hour for occupation of quay crane proposed under tariff item 'handling break bulk cargo' to be clarified with justification for the proposed rate supported by cost details.</p>	<p>The GTIPL has not included the charges in the revised proposal.</p>																									
(x).	<p>GTIPL has proposed a levy of US\$ 5000 per hour for the overstay of the vessel due to user's fault. The proposed charges to be justified with reference to the loss of revenue to the operator due to overstay of vessel for the reasons attributable to the users.</p>	<p>Any vessel overstaying at wharf due to user's fault hampers the operational efficiency at wharf side and land side as well consumes the operational time. The proposal is to compensate the loss of opportunity GTI suffers on account of overstay of vessels. Considering the rate of 25 moves per hour per crane, the revenue for 276 TEUs is lost for 8 cranes. At revenue contribution Rs.500/- per TEU, the revenue lost per hour of overstay of vessel is approx. RS.138,000. To penalize such operational hurdles, the charge is proposed to be at Rs 2,00,000 per hour for berth occupancy after completion of operations beyond 1 hour.</p>																									
(xi).	<p>In Section – 10 relating to Dwell time charges for each category of containers, GTIPL has either reduced the number of free days or has totally removed the free storage days from the existing rate structure –</p> <p>(a). The reason for reducing/removing the free days to be explained with a dwell time analysis.</p> <p>(b). The financial implication on account of reduction/ removal of free storage days to be quantified and furnished with detailed working for all the years under consideration.</p>	<p>On reconsideration, GTI has decided to increase the free days for loaded imports and exports as given below. In other cases GTI intends to reduce free days from the existing level since the actual dwell time is much less than the available no. of free days. Also, it is at par with the neighbouring terminal as tabulated below.</p> <table border="1"> <thead> <tr> <th></th> <th>Existing</th> <th>Existing</th> <th>As Proposed</th> <th>As proposed</th> </tr> <tr> <td></td> <td>GTI</td> <td>NSICT</td> <td>Submission dated 14.10.08</td> <td>In the revised SOR</td> </tr> </thead> <tbody> <tr> <td>Loaded Import</td> <td>3 days</td> <td>3 days</td> <td>3 days</td> <td>3 days</td> </tr> <tr> <td>Loaded export</td> <td>3 days</td> <td>7 days</td> <td>3 days</td> <td>7 days</td> </tr> <tr> <td>Import/Export empty</td> <td>3 days</td> <td>0 days</td> <td>0 days</td> <td>3 days</td> </tr> </tbody> </table>		Existing	Existing	As Proposed	As proposed		GTI	NSICT	Submission dated 14.10.08	In the revised SOR	Loaded Import	3 days	3 days	3 days	3 days	Loaded export	3 days	7 days	3 days	7 days	Import/Export empty	3 days	0 days	0 days	3 days
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(xii).	Clause 2.15 of the revised tariff guidelines stipulates that the users will not be required to pay charges for delays beyond the reasonable level attributable to the port. Flowing from this principle, the provision that Users will not be required to pay charges for delays beyond a reasonable level attributable to the port was introduced in the existing Scale of Rates. The GTIPL appears to have deleted this conditionality. The existing conditionality in this regard to be reinstated.	The existing conditionality is retained in the proposed SOR.																									
(xiii).	The proposed note 10 (ii) under Section – 10 to be modified in line with clause 2.18.2 of the revised tariff guidelines and the rate of interest may be updated with the prevailing Prime Lending Rate of State Bank of India.	As ascertained from SBI, the current Prime Lending Rate is 10.25 %. Adding 2% thereon a rate of 12.25 % prescribed in the SOR.																									

5.2. The JNPT was requested to furnish the following information / clarifications on the proposal filed by GTIPL. The JNPT responded after reminders. The additional information / clarification sought from the JNPT and the response of JNPT are tabulated below:

Sl. No.	Information / clarification sought from JNPT	Response of JNPT																																							
(i).	<p>(a). Specific Comments on the proposed additions to the assets to the tune of Rs.156 Crores in the year 2008 and Rs.111 Crores during the year 2009. In this context, the JNPT is requested to furnish the following.</p> <p>(b). The proposed investments during the years 2008 and 2009 includes investment to the tune of Rs.35.49 Crores and Rs.77.75 Crores each reportedly towards pavement of reclaimed area. Whether the pavement of the reclaimed land is mandatory as per the provisions of the LA.</p>	<p>(i). The details of investments upto 2009 submitted by the GTIPL indicated that such investments made on reclamation and pavement is as per Clause 2.5 of Appendix-I – Project description forming part of Licence Agreement between JPT and GTIPL. The details of investments made by GTIPL upto 2009 are as follows:</p> <p style="text-align: right;">(Rs. in Crores)</p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>2006</th> <th>2007</th> <th>2008</th> <th>2009</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Reclamation</td> <td>47.39</td> <td>60.67</td> <td>8 Crores 4.95(com-mon cost)</td> <td>--</td> <td>121.01</td> </tr> <tr> <td>Pavement</td> <td>--</td> <td>--</td> <td>37.00</td> <td>33.00</td> <td>70.00</td> </tr> <tr> <td>Soil improvement</td> <td>--</td> <td>--</td> <td>6.50</td> <td>1.75</td> <td>8.25</td> </tr> </tbody> </table> <p>(ii). The present status of scheme till date is as follows:</p> <table border="1"> <tbody> <tr> <td>a.</td> <td>Area reclaimed till date</td> <td>16 hectares</td> </tr> <tr> <td>b.</td> <td>Area paved till date</td> <td>9 hectares</td> </tr> <tr> <td>c.</td> <td>Investment till date on reclamation</td> <td>121.01 Crores</td> </tr> <tr> <td>d.</td> <td>Investment till date pavement</td> <td>70 Crores</td> </tr> <tr> <td>e.</td> <td>Investment till date on soil improvement</td> <td>8.25 Crores</td> </tr> </tbody> </table> <p>Pavement on another 9 hectares is under progress</p>	Particulars	2006	2007	2008	2009	Total	Reclamation	47.39	60.67	8 Crores 4.95(com-mon cost)	--	121.01	Pavement	--	--	37.00	33.00	70.00	Soil improvement	--	--	6.50	1.75	8.25	a.	Area reclaimed till date	16 hectares	b.	Area paved till date	9 hectares	c.	Investment till date on reclamation	121.01 Crores	d.	Investment till date pavement	70 Crores	e.	Investment till date on soil improvement	8.25 Crores
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(ii).	The JNPT to furnish the actual Revenue share paid by GTIPL for the calendar years 2006 to 2008.	<p>The actual revenue share padded by GTIPL to JNPT is as follows:</p> <p style="text-align: right;">(in Rs.)</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th>2006</th> <th>2007</th> <th>2008</th> </tr> </thead> <tbody> <tr> <td>Actual revenue share</td> <td>42,66,50,470</td> <td>145,05,53,095</td> <td>193,77,13,809</td> </tr> </tbody> </table>		2006	2007	2008	Actual revenue share	42,66,50,470	145,05,53,095	193,77,13,809
	2006	2007	2008							
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(iii).	The estimation of lease rentals made by GTIPL to be verified and confirmed that the lease rates considered is in line with the prevailing Scale of Rates of JNPT.	The estimated lease rentals of GTIPL as projected by them is being compared with the Licence Agreement entered into between JNPT and GTIPL. The same will be intimated to TAMP on verification. [JNPT did not furnish the requisite details till finalisation of the case]								

6.1. While disposing of the application dated 6 March 2009 filed by GTIPL to permit it to withdraw its tariff proposal dated 14 October 2008, this Authority vide its Order dated 27 March 2009 decided to conclude the proceedings only after hearing the concerned parties. However, the GTIPL was afforded an opportunity to update its proposal dated 14 October 2008. The GTIPL has filed a revised proposal. The main points made by the GTIPL in the revised proposal are summarized below:

- (i). The revised proposal is filed as per the "Guidelines for Tariff Fixation of Major Ports" dated 31 March 2005.
- (ii). The GTIPL has witnessed sharp decline of 33.56% in the volumes handled at its terminal since September 2008. There is a steady fall in the throughput after September 2008 as a result of global economic recession as shown below:

Sl. No.	Month	Throughput (TEUs)
1.	September 2008	1,37,411
2.	October 2008	1,31,276
3.	November 2008	1,26,242
4.	December 2008	1,14,001
5.	January 2009	99,618
6.	February 2009	91,286
7.	March 2009	1,14,063

The throughputs for the years 2009 to 2011 will be much lower than the volumes achieved in 2008. In view of drop in volumes, GTIPL has proposed a volume incentive scheme in the revised SOR to retain the existing customers and attract new customers.

- (iii). Based on the proposed volume incentive scheme GTIPL has re-estimated the container traffic as given below:
 - (i). Year 2010 - 1380000 TEUs
 - (ii). Year 2011 - 1580000 TEUs
- (iv). As per the revised cost statements the GTIPL has made a surplus of Rs.57.25 Crores during the period of 2006-08. This surplus is arrived at without considering royalty payments to landlord port & debt servicing costs, etc., as per TAMP guidelines, 2005.
- (v). As per Clause 2.13 of the TAMP guidelines, 50% of Rs.57.25 Crores is to be set off while revising the tariff for the next tariff cycle i.e. 2009-2011.
- (vi). Considering the present economic situation, the GTIPL has requested this Authority to spread over 50% of Rs.57.25 crores amounting to Rs.28.62 Crores over a period of next 9 years stating that similar adjustments have been made in

the case of NSICT vide Order dated 29 September 2008 by this Authority. (Adjustment of past surplus was spread over a period of 5 years in NSICT case).

6.2. Following is the revised proposal of GTIPL:

- (i). Retain the existing rates till 31 December 2009.
- (ii). Across the board increase of 4.92% for the years 2010 and 2011 over the existing rates.
- (iii). With reference to the amended draft Scale of Rates filed by GTIPL, the GTIPL has introduced volume discount scheme. The operator has stated that any shipping line performing, as given in the table below, will be eligible for the rebate of the Terminal Handling Charges (THC) of the containers:

I. Service wise

Service handling above 150,000 TEUs annually	4% on the THC for containers handled by that service.
Service handling above 180,000 TEUs annually	6% on the THC for containers handled by that service.
Service handling above 210,000 TEUs annually	8% on the THC for containers handled by that service.

II. Shipping line wise

Shipping line handling 300,000 TEUs annually	6% on the THC for containers handled by that shipping line.
Shipping line handling 450,000 TEUs annually	8% on the THC for containers handled by that shipping line.

The GTIPL has further proposed that in the event the shipping line is eligible for service wise and shipping line wise rebate in a year, the service wise rebate will not be applicable to that particular shipping line. The operator has further proposed that the rebate will be valid for year 2009 and will be subject to review for extension for the next two years, 2010 and 2011.

- (iv). The following new charges have been proposed:
 - (a). Charges for fresh water supply – 4 USD per tonne
 - (b). Charges for garbage removal – Rs.3157 per activity
- (v). The GTIPL has withdrawn the earlier proposed charges towards change in Proof of Delivery (POD), change in weight, category, exit mode, status and the charges for ICD / Rail containers arrived without details.

6.3. In the revised proposal the GTIPL has updated the estimates for the year 2008 with reference to actuals and modified the estimates for subsequent years. A comparative position of the proposals of October 2008 and May 2009 filed by GTIPL is tabulated below:

Sl. No.	Particulars	Initial proposal dated 14.10.2008				Revised proposal dated 8.5.2009			
		Years				Years			
		2008 Estimates	2009 Estimates	2010 Estimates	2011 Estimates	2008 actuals	2009 Estimates	2010 Estimates	2011 Estimates
I.	Traffic (In lakhs TEUs)	15.18	13.95	13.95	13.95	15.21	12.00	13.80	15.80
II.	Operating income (Rs. In crores)	522.52	480.33	480.33	480.33	544.86	429.83	494.16	565.77

	At existing rates								
III.	Net surplus/ deficit (Rs. in crores) after return at existing rates	64.35	(109.88)	(102.89)	(90.23)	107.85	(67.15)	(16.53)	51.65
IV.	% of increase over the existing tariff	--	22.88%	21.42%	18.79%	--	(15.62)%	(3.36)%	9.13%
V.	Average % of increase over the existing tariff	--	21.03%			--	4.92%		

6.4. Since the GTIPL effected significant changes in its revised proposal, the revised proposal was also circulated to the JNPT and the other relevant users/ user organizations seeking their comments.

6.5. The JNPT has furnished its comments on the GTIPL's revised proposal. The JNPT comments were forwarded to GTIPL as feedback information. The GTIPL has responded on JNPT comments.

7. The GTIPL by its letter dated 7 September 2009 made the following written submissions:

- (i). In view of the economic turmoil, fluctuating inflation and foreign exchange rates, unpredictable volumes and committed capital expenditure, it may not be appropriate to either reduce or increase the tariff at this juncture. Any increase in tariff will lead to loss of Customers and any reduction will further worsen the financials which are already under pressure due to lower volumes and rebates offered to retain the business.
- (ii). The existing tariff may be retained till 31 December 2009 as requested in the revised proposal. The reasons maintained in the revised proposal for retention of existing tariff till December 2009 continue to hold good.
- (iii). The adjustments for final increase / decrease in tariff for the year 2009 can be made in the tariff to be fixed for the years 2010 and 2011, as proposed in the revised proposal when the economy will revive.

8.1. A joint hearing in this case was held on 27 November 2009 at the Office of this Authority. The GTIPL made a presentation explaining salient points of its proposal. The GTIPL, JNPT and the users made their submissions.

8.2. It was decided at the joint hearing that the GTIPL would furnish the following:

- (i). Updated estimates for the year 2009 by considering the actuals upto November 2009. Consequently, the estimates for the subsequent period to be adjusted.
- (ii). A detailed note on the basis of its projections of traffic for the future period.

8.3. The main points made by GTIPL in response are summarised below:

- (i). The throughput for the year 2009 has been reassessed based on the actual performance till November 2009. Since the global recession is not fully over it is expected that the year 2010 and 2011 also may have to contain with the same volume as that of 2009. The reassessed throughput for the year 2009, 2010 and 2011 is pegged at 15.10 lakh TEUs for each of the year.

- (ii). The income estimates for the three years has been worked out afresh in tandem with the revised throughput. The GTIPL would achieve the throughput of 15.10 lakh TEUs for the year 2009 after paying discounts and rebates to the Customers. The operating income shown in the cost / income statement is net of rebates and at current volume mix.
- (iii). (a). Considering the volume handled / to be handled the operating costs have also undergone change in the revised cost / income statement. The escalation factor considered in the revised cost statement is at 5.8% as notified by this Authority in its letter No.TAMP/27/2005-Misc. dated 30 June 2009 in place of 4.6% taken in the earlier proposal.
- (b). After the terrorist attack on 26 November 2008 on Mumbai, the security deployment at the ports has been heavily augmented. The bills for deployment of CISF personnel are serviced by JNPT on GTIPL based on the actual expenses of the past. An additional expenditure of Rs.2.06 Crores per annum on this account has been envisaged in the revised cost statement based on 2009 actual billing (GTIPL has furnished copy of the bills dated 5 May 2009 raised by JNPT)
- (c). Subsequent to the submission of proposal dated 8 May 2009 to this Authority, the final communication from APMT head-quarter with regard to merit increases and Performance Bonus for 2010 has been received. Accordingly, the merit increases and performance bonus have been revised to 8% and 10% respectively as compared to earlier increase of 7% and 7% respectively.
- (iv). Capital employed remains the same except for a marginal change in workings capital due to the revised working.
- (v). The revised working reflects rate increase of 0.27% as against the rate increase of 4.92% in the earlier proposal dated 8 May 2009.

8.4. A comparative position of the proposals of October 2008, May 2009 and December 2009 is tabulated below:

Sl. No.	Particulars	Initial proposal dated 14.10.2008				Revised proposal dated 8.5.2009				Updated proposal dated 7.12.2009			
		2008 Estimates	2009 Estimates	2010 Estimates	2011 Estimates	2008 Estimates	2009 Estimates	2010 Estimates	2011 Estimates	2008 Actuals	2009 Estimates	2010 Estimates	2011 Estimates
I.	Traffic (In lakhs TEUs)	15.18	13.95	13.95	13.95	15.21	12.00	13.80	15.80	15.21	15.18	15.18	15.18
II.	Operating income (Rs. In crores) At existing rates	522.52	480.33	480.33	480.33	544.86	429.83	494.16	565.77	544.86	522.81	522.81	522.81
III.	Net surplus/ deficit (Rs. in crores) after return at existing rates	64.35	(109.88)	(102.89)	(90.23)	107.85	(67.15)	(16.53)	51.65	107.85	2.42	(4.91)	(0.35)
IV.	% of increase over the existing tariff	--	22.88%	21.42%	18.79%	--	(15.62)%	(3.36)%	9.13%	--	0.46	(0.94)	(0.07)
V.	Average % of increase over the existing tariff	--	21.03%			--	4.92%			--	0.27%		

9. After joint hearing, the GTIPL has made written submission. The main points made by the GTIPL are summarised below:

A. Letter dated 11 December 2009

- (i). The GTIPL has served the trade better in terms of Gross Crane Productivity of 30 moves per hour and berth productivity of 89 moves per hour as per YTD October 09 statistics. The comparative GCR numbers for JNPCT and NSICT are 15 and 24 moves per hour respectively. The Berth productivity numbers are 36 and 74 moves per hour for JNPCT and NSICT respectively.
- (ii). GTIPL has been at the forefront in handling smaller vessels, smaller parcel sizes and even barges. GTIPL has handled 1,968 vessels in the year 2009 till October as against 1,608 vessels and 1,472 vessels handled by JNPCT and NSICT respectively. In last 10 months GTI has handled 134 barges with a single parcel size of even 10 TEUs.
- (iii). In 2009, GTIPL offered storage and volume rebates to the shipping lines. The benefits of lower container handling and storage charges are passed on (by shipping lines) to the imports / exports which have helped trade to reduce costs and do more business during recession.
- (iv). GTIPL embarked upon an expansion program by ordering by March 2008, 2 QCs, 11 RTGs and 20 spreaders looking at the rising demand at JNPT in the year 2008. Since there was no further scope of expansion at JNPCT and NSICT, GTIPL invested in expansion project to cater to the demand of the trade.
- (v). GTIPL had to reclaim the additional land and make it suitable for container handling operations as per the License concession with JNPT. The investment in reclamation would not be of any use unless it is used for handling additional throughput. This is also to ensure the compliance with Clause 2.4.2 of TAMP Guidelines 2005 that inefficiencies, uneconomic uses / practices or excesses are not passed on to users. If GTIPL had not invested in expansion, the investment in the yard would have been redundant and the costs would have been passed to the trade.
- (vi). Post commissioning of additional equipment, GTIPL has handled more vessels per berth-day in comparison to other terminals. GTIPL has increased the average vessels per berth-day from 2.75 to 3.10, by turning around the vessels faster. Hence, the trade has been able to save bunker costs due to faster turnaround of vessels as the average stay of vessel at GTIPL is 0.54 days (YTD October 2009) as against 1.17 days and 0.86 days at JNPCT and NSICT respectively.
- (vii). The additional equipment, especially, quay cranes not only augments much wanted infrastructure but also in line with the improvement in the equipment to berth-length efficiency ratio. JNPCT @ 8 quay cranes has a ratio of 1 crane/85 meter berth-length. The NSICT was commissioned after JNPCT has a ratio of 1 crane/75 meter berth length. GTIPL @ 10 cranes has a comparable ratio of 1 crane/71.2 meter berth-length (earlier GTIPL @ 8 quay cranes had a ratio of 1 crane/89 meter berth-length – sub-optimal usage of berth length).
- (viii). GTIPL hired additional manpower to operate additional equipments to be acquired under expansion project in 2008 and created employment for the local people specially PAPs (project affected people). In 2009, GTIPL did not lay-off any blue collar employee though it was not able to earn returns on the additional investment in terms of higher volumes due to recession.

B. Letter dated 27 January 2010

- (i). In the revised cost statement filed by GTIPL vide its letter dated 11 December 2009, the following clarification may be added since GTIPL wishes to pass on the benefit in the rebate structure of the Scale of Rates to the end Customers:

“ The rebate will be applicable only to the loaded container handling”

- (ii). The variation of actual throughput as compared to the projected throughput for the year 2006 to 2008, which is 26.17%, is mainly on account of operating efficiency such as higher gross crane productivity, faster turn around of the vessel, etc.

As per Clause 2.13 of the revised tariff guidelines of 2005, if the performance variation of more than (+) or (-) 20% is observed, tariff will be adjusted prospectively with set off of 50% benefit already accrued. Therefore, in the proposal under consideration with TAMP, GTIPL has considered 50% of the past surplus for adjustment in the next tariff cycle.

GTIPL has further proposed to spread the past surplus over nine years mainly for the following reasons:

- (a). GTIPL's actual return on capital employed is severely affected due to the impact of recession and Committed Cost on account of expansion.
- (b). Long term spread of past surplus will avoid short term fluctuation in the tariff benefiting the trade.

If the past surplus is adjusted fully, it will have a major impact on the tariff decision and consequently on the financial performance of the private operator. This will also lead to one time major adjustment resulting in tariff fluctuations. It is not clear why the benefit of 50% adjustment of the past surplus is not given to GTIPL.

- (iii). GTIPL has considered additional investment for procurement of equipment in 2009 as tabulated below:

Particulars	Amt in Rs.
2 QCs	63 Crores
11 RTGs	79 Crores
20 Spreaders	12 Crores
Total	154 Crores

With the additional QCs, the total number of QCs deployed by GTIPL is 10. The same is in line with TAMP in its Order NO.TAMP/40/2008 dated 25.2.2009 for fixation of upfront tariff for fourth container terminal at JNPT of one QC for each 83.33 metres of quay length.

The License Agreement (LA) while specifying minimum equipment requirement does not restrict for future additional deployment. The decision of expansion was taken during the time when economy was showing upward trend based on a detailed study report by APM terminals.

GTIPL has taken the decision to purchase additional equipment to bring in operational efficiency. GTIPL surpassed the Minimum Guaranteed Throughput (MGT) requirement of 13 lakh TEUs to be achieved in the seventh operating years as set out in the LA in the second year of its operation. Since then there has been continuous improvement in the processes and operational efficiencies. The throughput of around 15.21 lakh TEUs achieved in 2008 was at 96% of the capacity with 8 cranes. This could not have been possible at such an early stage without overstressing the then existing fleet of equipment.

The additional equipment, especially Quay Cranes, not only augments much wanted infrastructures but also is in line with the improvement in the equipment to berth-length efficiency ratio as referred to earlier letter of GTIPL.

The decision to deploy additional equipment emerged out of the need to cater to the needs of then increasing demand to avoid capacity crunch and to ease the imminent pressure on the overstretched equipments which were being operated at a risk of breakdown. However, due to unpredictable and unforeseen recession GTIPL is presently unable to utilize the capacity fully in 2009-11.

GTIPL's decision to undertake expansion in 2008 is in line with Clause 2.9.10 of the revised tariff guidelines which deals with Government policy of ports maintaining spare capacity to avoid congestion and timely development of additional facilities, linkage of return to the capacity utilisation to decide about maximum admissible return and admissibility of maximum return for capacity utilisation of 60% and above. In 2009-11, GTIPL will utilize 75% of the capacity with 10 cranes.

(iv). The additional cranes have assisted the trade in many ways few of them are given below:

(a). GTIPL has handled 171 barges in 2009 as compared to 146 barges in 2008 with a smallest barge of 7 TEUs also. Given the limited quay length and with earlier fleet of cranes, it was difficult to accommodate barges when two mainliner vessels are berthed. With the introduction of new cranes, barges can be easily catered hassle-free. This has helped the coastal trade since the large operations are largely handled at GTIPL amongst the three terminals at JNPT.

(b). With the augmentation of additional equipment, GTIPL is now well equipped to accommodate more unscheduled calls. GTIPL has accommodated 567 vessels as adhoc calls in 2009 as compared to 435 vessels in 2008, an increase of over 30%. This has helped trade in the time of recession.

(c). Some of the bigger panel size services need the operation of 5 cranes at a time. Earlier with 8 cranes, it would limit operation on the vessel berthed on the adjacent berth. With more number of cranes, GTIPL has been able to turnaround the vessels faster on the limited quay length.

(d). (i). With the additional equipment in 2009, as compared to 2008 the operational efficiency has improved, as can be seen from the relevant indication of improvement of operational efficiency as tabulated below:

Efficiency Parameter	Year 2008	Year 2009	Percentage improvement
Gross Crane Productivity	26.02 moves per hour	29.99 moves per hour	15%
Berth Productivity	67.07 moves per hour	92.23 moves per hour	38%
Total vessels handled	1037	1,100	6%
Average parcel size of the vessel	1.467 TEUs	1,418 TEUs	- 3%
Vessel turn around time	1.37 days	0.54 days	61%
Truck Turnaround time	102.2 minutes	73 minutes	29%
No. of trains handled	2.400	2.658	11%

JNPCT & NSICT have handled less number of vessels in 2009 over 2008 (14% and 3% respectively).

- (ii). Decrease in truck turnaround time and handling of more ICD traffic has been possible due to deployment of additional RTGs. In 2009, GTIPL has handled smaller vessels resulting in reduction of overage parcel size as compared to 2008. This was due to the impact of recession wherein the average parcel size was squeezed. The decrease in parcel size is comparatively marginal in relating to the drastic improvement in the vessel turnaround time in 2009 over 2008. The operational efficiency through deployment of additional equipment is passed on to the trade and economy during the time of recession.

In line with Clause 2.4.2, 2.9.6 and 2.9.10 of the revised tariff guidelines, the additional investment has resulted in operational efficiency and 75% capacity utilisation, the benefit of which will endure for a long term for the biggest major port in Indian contributing to more than 60% of the EXIM trade.

10. 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>

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

- (i). The initial proposal filed by the GTIPL, vide its letter dated 14 October 2008 has sought a tariff increase of about 21% following the standard capacity based approach evolved in the tariff case of the Nhava Sheva International Container Terminal Ltd (NSICT). When this proposal was in consultation process, the GTIPL, vide its letter dated 6 March 2009 proposed to withdraw its tariff proposal, citing various difficulties in projecting container throughput for the years 2009, 2010 & 2011, in the backdrop of global economic recession. Since this Authority already initiated formal proceeding on the proposal filed by GTIPL in October 2008 for review of its tariff, it was appropriate to conclude the proceedings only after hearing the concerned parties. This Authority was, therefore not inclined to accede to the request of the GTIPL to withdraw its proposal dated 14 October 2008. The GTIPL was, however, afforded an opportunity to update its proposal dated 14 October 2008, to reflect the changed circumstances. The GTIPL filed a revised proposal in May 2009 which followed terminal-wise cost plus method prescribed in the tariff guidelines of March 2005.

Subsequently, as decided at the joint hearing held on 27 November 2009, the GTIPL updated its cost statements filed in May 2009 and filed the updated cost statements vide its letter dated 7 December 2009. These updated cost statements filed by GTIPL in December 2009 are considered in this analysis.

- (ii). The existing tariff of the GTIPL was fixed in August 2006 relying on the estimated cost position for the years 2007 and 2008. As mandated by clause 2.13 of the tariff guidelines of March 2005, this Authority is required to review the actual physical and financial performance of the major ports/private operators therein, at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing prevailing tariff.

The initial validity period of the scale of Rates of GTIPL prescribed, vide this Authority's order dated 23 August 2006, had expired on 31 December 2008 and the validity stands extended till 31 March 2010 (i.e. beyond 31 December 2008). By the time the revised tariff is implemented at GTIPL, the first three months of the year 2010 from January 2010 to March 2010 will be over. Therefore, the performance of GTIPL for the period upto March 2010 is also taken into account along with the comparative position of actuals vis-à-vis estimates furnished by

GTIPL for the years 2006 to 2008 for the purpose of analysis of past performance of GTIPL.

- (iii). To begin with, the performance of GTIPL during the years 2006 to 2008 is discussed below:
- (a). The GTIPL commenced its operations on 15 March 2006 adopting the JNPT tariff level as an interim arrangement. This Authority in its order dated 23 August 2006 allowed 18% increase over the JNPT tariff level which the GTIPL was authorised to levy at its terminal. The revised rates came into force on 13 October 2006. Since the impact of the upward revision of tariff is reflected by the actual income, the estimated income with reference to the increase allowed in August 2006 is updated to make a correct comparison between the actuals and the estimates.
- (b). GTIPL has handled 3,87,873 TEUs, 11,78,451 TEUs and 15,20,776 TEUs during the years 2006, 2007 and 2008 respectively, as against the estimate of 4,11,600 TEUs, 9,30,000 TEUs and 11,50,000 TEUs for the corresponding years. If the aggregate of the estimated volume (24,46,600 TEUs) and aggregate of the actual volume (30,87,064 TEUs) is compared, the volume handled by GTIPL is about 26% more than that estimated while fixing its tariff in August 2006, the fact which was acknowledged by GTIPL vide its letter dated 27 January 2010.
- (c). (i). The actual operating income for the years 2006 to 2008 reported in the audited annual accounts of GTIPL is considered.
- (ii). The income streams of GTIPL also include other income like interest on fixed deposits, interest on secured loans, liabilities written back, exchange gain, profit on sale of assets, miscellaneous income, recoveries from suppliers and scale of scrap. The GTIPL has not considered other income in its cost statement on the ground that the other income does not form part of operating income.
- The items of income namely recovery from suppliers, profit on sale of assets, liabilities written back, miscellaneous income and sale of scrap appear to be arising out of operation of the facilities at GTIPL. Therefore, these items of other income are considered in this analysis. Since Return on Capital Employed (ROCE) is allowed, interest on Loans is not separately allowed as an item of cost in fixation of tariff of major port trusts / private terminals. The interest cost is, therefore, not separately recognised in this analysis. The interest income on fixed deposits and the exchange gain arising out of servicing of foreign currency loans are also not treated as part of other income.
- (d). (i). The GTIPL has considered actual expenditure of Rs.14.23 crores in the cost statement for the year 2008 towards payment of Technical Service Fee (TSF) and estimated such payment at Rs.1488.98 lakhs, 1563.65 lakhs and Rs.1641.62 lakh for the years 2009 to 2011, respectively. GTIPL did not report payment of TSF in the estimates for the years 2006 to 2008 which was filed during its initial fixation of tariff in August 2006.
- (ii). As per Clause 2.8.1. of the tariff guidelines of March 2005, TSF payable by the private terminals to their promoters or to their associate entity can be admitted as an item of cost for tariff fixation purposes if yard-stick of 'arms length relationship' is established as defined under Income Tax Act, 1961. The tax

audit report for the financial year 2008 furnished by GTIPL does not make any observation about this expense.

- (iii). The GTIPL has furnished copy of the resolution of its Board of September 2008 to enter into service agreements with the concerned parties for payment of fee to provide services to GTIPL in operation, engineering, safety, security, environment etc., One service agreement signed by the GTIPL in October 2008 with APM Terminals Management BV is valid for one year with a provision for renewal for further term of one year. Another agreement signed by GTIPL in November 2008 with Container Corporation of India Limited is valid upto 31 March 2009 with a provision to renew the agreement for a further term of one year. The audited annual accounts for the year 2008 reflects the payment of TSF of Rs.14.23 Crores. Based on the above said documents furnished by GTIPL, this item is considered as cost for the year 2008 to 2011 subject to the condition that the GTIPL will produce at the time of next review of its tariff the Income Tax Assessment Orders for the years 2008 to 2011 to support the admittance of this expense by the IT Department. If such evidence is not produced by GTIPL, expenditure considered now for the years 2008 to 2011 will be reviewed and fully adjusted in the next tariff revision cycle. Incidentally, in the case of CCTL, VCTPL and PSA SICAL this item of expense was allowed subject to production of Income Tax Assessment order at the time of filing their next proposal.
- (iv). License Agreement provides for payment of annual charges by the GTIPL to JNPT for the JNPT's assets and licensed premises handed over to GTIPL.

The actuals for the year 2006 furnished by GTIPL in this regard are for the full year. Since the commercial operations by the GTIPL during the year 2006 is from 15 March 2006, the proportionate lease for the period from 1 January 2006 to 14 March 2006 was treated as preliminary expense and written off over the period of 28 years, while fixing the tariff of GTIPL in August 2006. Following the same approach, the actual annual lease charges for the year 2006 is revised based on the break-up for the actual annual lease charges furnished by GTIPL. It is relevant to mention here that return at admissible rate for unamortized amount has been allowed for all the years under consideration.

- (e). The actual operating cost for the years 2006, 2007 & 2008 works out, subject to the adjustments explained in the proceedings paragraphs, to Rs.11,402.25 lakhs, Rs.22,612.14 lakhs and Rs.29,277.45 lakhs respectively as against the estimates considered by this Authority at Rs.14,124.02 lakhs, Rs.21,612.39 lakhs and Rs.24,072.91 lakhs respectively for the corresponding years.
- (f). The write-off of preliminary expenses and upfront payment of Rs.205 lakhs each for the year 2006 to 2008 is considered, as was allowed in the last tariff order of August 2006.
- (g). (i). As regards capital employed, the Net Block of capital assets includes depreciated value of Terminal Rights. The Terminal Rights relates to upfront payment of Rs.15.00 Crores paid by GTIPL to JNPT and Rs.25.9793 Crores incurred as Stamp Duty for registration of License Agreement. The GTIPL has

depreciated the aggregate amount of Rs.40.979 Crores at 10% per annum.

Since the above expenditure is relevant for the whole of the project life and keeping in view the approach adopted in the tariff cases of other private operators, the upfront payment and the expenditure incurred on registration of Stamp Duty was written off over a period of 28 years in the earlier Order of August 2006. The same approach is followed with reference to actuals. It is relevant to mention here that return at admissible rate for the unamortized amount has been allowed for all the years under consideration.

- (ii). The norm as prescribed in the tariff guidelines of 2005 for limit on inventory for capital spares is one year's average consumption. In the last tariff Order of August 2006, the GTIPL, being a new terminal, had estimated the value of capital spares at 1% of the depreciated value of Plant & Machinery. However, the GTIPL has not considered inventory of capital spares for any of the years under consideration now.
- (iii). In respect of other items of inventory, the norm is maximum 6 month's average consumption of stores excluding fuel. In the last tariff Order of August 2006, inventory other than fuel was considered at 1% of the closing balance of Plant and Machinery. Now, the GTIPL has considered the lower of the actual value of inventory excluding fuel as at the end of the respective year reflected in its audited annual accounts and six month's average consumption, which is in line with the norms of tariff guidelines. While considering the repair & maintenance cost for this purpose, the contract value of outsourcing of services for RTGs is excluded.
- (iv). The other items of working capital considered by GTIPL is pre-payments of lease rentals. Prepayments of lease rentals were not considered as an item of working capital for the years 2006 to 2008 in the last tariff Order of August 2006.

Based on the decision taken in the CCTL case, this Authority has passed an Order on 30 September 2008 announcing refinement in the 2005 tariff guidelines which, inter alia, permits the outflow on certain items arising from contractual obligations of LA to be taken as part of sundry debtors.

Article 10.5 of the Licence Agreement provides for payment of annual charges for the license period payable by GTIPL to JNPT for the JNPT's assets and licensed premises handed over to GTIPL. Article 10.7 of the LA further states that the GTIPL shall also pay license for the additional land or other premises made available by the JNPT to GTIPL.

As per Article 10.5 of the License Agreement, the lease rental is payable by the GTIPL to JNPT on annual basis in advance for each year. The expenditure claimed by GTIPL pertaining to the prepayment of lease rental in respect of assets other than land and water area and additional assets like land, buildings, bus shelter, rail lines etc., to the tune of Rs.2958.56 lakhs, Rs.3068.34 lakhs and Rs.3119.34 lakhs for the year 2006 to 2008 respectively is supported by the bills raised by JNPT. After rectifying the minor arithmetic error found in the pre-payment calculation for the years

2006 and 2008, the advance payment of lease rentals for the years 2006 to 2008 is considered as part of sundry debtors.

- (v). The GTIPL has considered lower of actual cash balance and one month's cash operating expenses. This is in line with tariff guidelines which prescribed cash balance at maximum one month's cash expenses. The balance considered is, however, exclusive of lease rentals for lands which is considered as part of sundry debtors.
- (vi). The current liabilities for the year 2006 to 2008 is considered as reported by GTIPL.
- (vii). Subject to the above analysis, the capital employed for the year 2006 to 2008 works out to Rs.79,111.79 lakhs, Rs.85,326.44 lakhs and Rs.88,105.78 lakhs, respectively.
- (h). In the last tariff Order of August 2006, Return on capital employed was allowed at 15% for the period from April 2006 to December 2008. Since the commercial operation of GTIPL during the year 2006 is for about 9 months, return for the year 2006 was allowed proportionately for 9 month. The same position is maintained while analyzing the actuals. Incidentally, the GTIPL has also claimed return for 9 months in the year 2006.
- (i). The GTIPL commenced its operations on 15 March 2006 and operated the facilities by levying the tariff prescribed in the Scale of Rates of JNPT as an interim measure as approved by this Authority. As stated earlier, the revised rates came into force on 13 October 2006. The GTIPL was in deficit to the tune of Rs.8,441.22 lakhs in 2006 and has earned additional surplus over and above the admissible cost and permissible return to the tune of Rs.5,419.01 lakhs and Rs.12,152.95 lakhs for the years 2007 and 2008 respectively. The aggregate additional surplus position for the said three years works out to Rs.9,130.74 lakhs after adjustment of the deficit of the year 2006.

The analysis of the actual physical performance of GTIPL as compared to the estimates considered for the year 2006 to 2008 together, shows a positive variation of 26% in actual traffic. Clause 2.13 of the tariff guidelines of March 2005 stipulates that if the performance variation of more than 20% is observed as compared to the projection, 50% of the benefit already accrued will be set off while revising the tariff. However, while relying upon the traffic estimates furnished by GTIPL, in view of the general economic growth of the country and therefore, the trend of growth in container trade at the relevant point of time, this Authority decided that adjustment for variation in estimates will not be considered in terms of clause 2.13 of the tariff guidelines of March 2005 but it would be reasonable to adjust fully the additional surplus, if any, arising in the context of estimation variation, as recorded in paragraph no. 12 (vi) of the tariff order dated 23 August 2006. Incidentally, the mention made at paragraph 6 of the Order dated 27 March 2009 extending the validity of the existing Scale of Rates of GTIPL till 30 June 2009 that Clause 2.13 of the tariff guidelines will be applied to review the actual physical and financial performance of GTIPL only upto 31 December 2008 is an oversight. Full adjustment of surplus earned after the expiry of original validity period is a condition already set commonly for all ports / terminals vide the general Order No.TAMP/23/2003-WS dated 30 September 2008. Further, the question of estimate variation does not arise in the year 2009 as the previous tariff was fixed considering estimates only upto the year 2008.

The GTIPL has now argued that adjustment of past surplus should be governed by the relevant provisions of the tariff guidelines as increased volumes was the result of its operational efficiency. The tariff guidelines of 2005 permits this Authority to deviate from any of the provision and this Authority for stated reasons decided to treat estimates variation in the case of GTIPL differently. That it will be treated differently was an advance notice given way back in August 2006 itself. In other words, the tariff increase granted in August 2006 was subject to the condition of adjusting fully the effect of estimate variation in the current cycle. There does not appear to be any reason for reviewing the decision already taken.

- (iv). The initial three year tariff cycle at GTIPL is already over on 31 December 2008. As stated earlier, the GTIPL has continued to operate the facilities during the year 2009 also at the tariff level approved in August 2006. By the time the revised tariff is implemented at GTIPL, the first quarter of the calendar year 2010 may come to an end. That being so, the additional surplus, if any, earned by the operator during the period from January 2009 to March 2010 needs to be assessed for full adjustment in future tariff. Since the period from January 2009 to March 2010 falls in the current tariff cycle 2009 to 2011, the estimated income / cost position of GTIPL for the said period i.e., from January 2009 to March 2010 is analyzed along with the estimated income / cost position for the remaining period of the current tariff cycle upto December 2011 in the following paragraphs.
- (v). The GTIPL in its original proposal of October 2008 projected the container throughput for the years 2009 to 2011 following the normative approach prescribed in the upfront tariff guidelines of February 2008. The revised proposal filed by GTIPL in May 2009 is, however, based on the actual terminalwise cost plus model.

It is relevant here to mention that this Authority had while disposing of a tariff case of the Nhava Sheva International Container Terminals Limited (NSICT) evolved an improved approach to recognise volume efficiency achieved by the operator. This approach provides a framework that would encourage an operator to bring efficiency to operations to handle volume more than the standard capacity level considered for tariff computation in order to improve return on investment.

The LA entered by the JNPT with GTIPL requires the GTIPL to deploy a minimum number of 8 RMQCs. In the tariff proceedings relating to the tariff order of August 2006, GTIPL reported that it has deployed 8 RMQCs. Considering 8 RMQCs and applying the formula and relevant parameters provided in the upfront tariff guidelines of 2008, the standard capacity of the container terminal at GTIPL works out to around Rs.15.94 lakh TEUs per annum. Looking to the maximum actual volume reported by the GTIPL at around 15.21 lakh TEUs in the year 2008 and the projected volume of around 15.18 lakh TEUs each for the years 2009 to 2011, the standard capacity based approach may not be relevant in the case of GTIPL at this juncture. When the volumes handled at GTIPL exceed the standard capacity, the normative approach adopted to determine tariff at NSICT could be applied for determining the tariff in future.

- (vi). (a). The GTIPL in its revised proposal submitted in May 2009 estimated a traffic of around 12.00 lakh TEUs, 13.80 lakh TEUs and 15.80 lakh TEUs for the years 2009 to 2011 respectively. Responding on the proposal of GTIPL, the JNPT felt that the traffic estimates pegged by GTIPL are conservative. At the joint hearing held in the case, the BCCI pointed out that the traffic anticipated to be handled by GTIPL for whole of the year 2009 was already achieved by it with two months to go for closure of the year 2009 and sought for careful scrutiny of the traffic estimates of the GTIPL. Subsequently on our advice, the GTIPL has revisited the traffic estimate for the year 2009 and scaled up the same to 15,18,038 TEUs.

The GTIPL has maintained same level of traffic for the years 2010 and 2011 also on the ground that the global recession is not fully over. As correctly observed by BCHAA, the year 2009 could be an exceptional year faced with economic slowdown. Later part of 2009, however, showed a promise of revival which is also evident from the month-on-month volume increase in GTIPL. GTIPL itself justifies its investment on two additional RMQCs and some RTGs to the high demand situation at JNPT. In such a scenario, maintaining the same level of throughput for the next two years also appears to be not very convincing. This Authority does not carry out any independent traffic study for individual ports and terminals. Neither, the JNPT nor any major user associations has furnished any details on the possible future traffic scenario at GTIPL. That being so, suo motu modification of traffic estimates of GTIPL cannot be done with any amount of certainty and reasons. The traffic projections as furnished by GTIPL is, therefore, relied upon for the purpose of this analysis. However, if any undue advantage is found to have accrued to the GTIPL owing to variation of actual performance in traffic and keeping in view that the projected traffic does not assume growth for the years 2010 and 2011 and additional investment is considered in this exercise the effect of variation in traffic will not be considered in terms of Clause 2.13 of the tariff guidelines of March 2005 but will be adjusted fully in the next cycle.

- (b). The GTIPL has adopted certain percentages to arrive at container mix comprising of foreign containers (90.44%), transshipment containers (4.15%), hazardous (3.59%), over dimensional containers (0.43%) and restows (1.39%). The estimated container mix is based on the actual volume mix upto October 2009 in the year 2009, as reported by GTIPL. The container mix as reported by GTIPL is relied upon in this exercise.
- (vii). (a). The GTIPL has furnished a detailed computation of handling income from container handling activity with reference to the existing rates and the projected traffic for the years 2009 to 2011. Apart from estimation of income from handling foreign containers, transshipment, hazardous and over dimensional container containers, the GTIPL has furnished income estimation from handling lock bins, hatch cover, shut outs, lift on / lift off activity, extra transportation of transshipment containers, reefer power charges etc., for the year 2009 and considered uniformly for the years 2010 and 2011. The income estimation as shown in the cost statement is found to be more by Rs.4.65 lakhs each for the year 2009 to 2011 than the estimates shown in the workings. The reason for this difference remains unexplained. We have gone by the estimates as shown in the workings

The GTIPL has considered the income estimations arising out of Inter Terminal Rail Handling Operations. (ITRHO) of ICD containers moved by rail. The ITRHO income works out to Rs.1641.11 lakhs each for the years 2009 to 2011. In addition, the GTIPL has considered the estimated receipts from JNPT and NSICT as share for mixed train handling of ICD containers at Rs.35.73 lakhs each for the years 2009 to 2011. The aggregate of the estimated ITRHO income works out to 1676.84 lakhs each for the years 2009 to 2011.

No traffic of coastal containers for the years 2006 to 2011 is reported. The GTIPL has, therefore, not considered the coastal income in the income estimation.

- (b). The GTIPL has estimated storage income uniformly at Rs.1250.98 Lakhs each for the years 2009 to 2011. The accuracy of the estimated storage income could not be verified in the absence of calculations not being

furnished by the GTIPL. However, it appears that the storage income estimates for the year 2009 is based on actuals till November 2009. The estimated storage income for the year 2009 to 2011 is relied upon as furnished by the GTIPL.

- (c). The operating income estimated by GTIPL for the years 2009 to 2011 is after adjustment of rebate at the level of Rs.1523.25 lakhs each for the year 2009 to 2011. Likewise, the GTIPL has adjusted some Credit Notes to the tune of Rs.360.22 lakhs each for the year 2009 to 2011 as debits in the income calculation. Allowing rebates is a management decision of the GTIPL and tariff fixing exercise cannot recognise it. This Authority in any case is not concerned with the discretionary treatment given by GTIPL on case to case basis. Adjustment of Credit Notes does not appear to be relevant in the income calculation. We have gone by the income estimated by the GTIPL as per the existing Scale of Rates of GTIPL.
 - (d). The GTIPL has considered the exchange rate of 1 US\$ = Rs.47.70 for estimating the income arising out of Dollar denominated tariff items. The estimated income is updated with the exchange rate of 1 US\$ = Rs.45.7350 prevailing at the time of concluding this analysis.
- (viii). The estimates of operating cost are analysed below:
- (a). Operating and Direct Labour cost

The Operating and Direct Labour Cost consists of two cost items, namely the estimated man-power cost for the RTG operators and lashing and securing cost.

- (aa). RTG operators cost:

The GTIPL has outsourced reportedly on a competitive bidding basis the operation and maintenance of RTGs to M/s. KALMAR in June 2006. It is seen that the agreement entered into by GTIPL in June 2006 is for a period of 5 years. As also seen from the copy of the agreement entered between GTIPL and KALMAR, the contract is a package for execution of the work relating to RTG repairs and maintenance and operations. The GTIPL has apportioned one third of the RTG operations and maintenance cost under RTG operators manpower cost as direct labour cost and the remaining two third under Repairs & Maintenance cost for the purpose of accounting the expenditure. The quantum of allocation of the expenditure to two different heads made by GTIPL is considered since ultimately the total expenditure is relevant for deciding on tariff.

The average rate of 10.76 Euro per hour payable to KALMAR and considered by GTIPL for the year 2008 has been escalated by around 18% in the year 2009 and escalated by around 4% each for the year 2010 & 2011. The copy of the Agreement shows that the rate at which payment is to be made to KALMAR for the year 2009 is 13 Euro per hour. The increase with reference to the average rate of 2008 is seen to be 20.81% for the year 2009 and 25.46% for the year 2010.

The payment to KALMAR is based on the total RTG hours in a year, which is estimated at 2,20,005 hours per annum. To a query in this regard, the GTIPL has explained that all the containers offloaded from the vessel are necessarily to be handled by RTGs atleast twice, one lift-off and one lift-on at the

container yard, apart from additional lift-off and lift-on for shut-out containers and essential house keeping moves to be carried out by the RTGs.

The upfront tariff guidelines of 2008 prescribe norm for container handling equipment according to which 3 RTGs are prescribed for one QC. If the norm of 25 moves per hour is taken into account as prescribed in the guidelines and with a TEU ratio of 1.3, the three RTGs may be in a position to give a productivity of about 66 TEUs per hour. In an ideal situation where frequent shifting is not required, one RTG may, therefore, handle around 20 TEUs / hour. The out put level of 14.08 TEUs per hour for handling by RTGs reported by GTIPL is found to be lower than the normative output level of 22.75 TEUs per hour. The year on year increase in rate at which payment is to be made to Kalmar should also be reflected by improvement in the productivity level. No analysis other than a copy of the contract is produced to justify the reported escalation. In the absence of such analysis, at least 10% improvement in the RTG productivity is reasonably expected. The GTIPL has estimated 2,20,005 hours each for the year 2009 to 2011. Since the year 2009 is already over, 10% improvement in the RTG hour for the year 2010 and 2011 is considered over the respective previous year taking the year 2009 as base. The RTG hour per annum works out to 199,922 hours and 181,736 hours for the years 2010 and 2011 respectively.

The estimated amount calculated for the year 2009 based on the exchange rate of 1 Euro = Rs.69/- is updated with reference to the average conversion rate of 1 Euro = Rs.67.4443 of the year 2009 and the exchange rate of 1 Euro = Rs.64.2050 prevailing at the time of concluding analysis of this case for determining the estimated expense for the years 2010 and 2011. The moderated estimate works out to Rs.1887.28 lakhs, Rs.1696.92 lakhs and Rs.1600.90 lakhs, respectively for the years 2009 to 2011. In order to test the reasonableness of the estimated expenditure for the operation and maintenance of RTGs, the norms prescribed in the upfront tariff guidelines of 2008 for container terminal is taken into account. The guidelines prescribe a norm of 2% of cost of equipments for repairs and maintenance and 10% of gross fixed assets value towards other expenses for a container terminal with a capacity of more than 5 lakh TEUs. If the estimates for RTG operations and maintenance cost moderated by us are contrasted with the above guidelines, the estimates as a percentage of capital cost of equipments works out to around 8%, which is well below the norm of 12%.

(ab). Lashing and Securing Cost

Lashing and securing work has been outsourced by the GTIPL to a private party at a rate of Rs.12.50 per box and the contract is valid for 2 years from January 2008 to December 2009 and extendable for a further period of one year. The GTIPL has considered the rate of Rs.12.50 for estimation of this expense for the year 2010 and 2011 for around 72.50% of the estimated throughput per annum. The contract and the period of contract is supported by documentary proof. The estimates as furnished by GTIPL are considered.

(b). Equipment running cost:

(ba). Power Cost

GTIPL has estimated the power cost considering 13.73 units per TEU for the year 2009 to 2011, reported to be based on the past average overall consumption per TEU at GTIPL. The actual consumption for the year 2008 also has been reported at 13.73 units per TEU.

Comparing the consumption of 13.73 units per TEU to the consumption of 12 units per TEU at the neighbouring terminal NSICT, the consumption at GTIPL is higher because of higher volumes of reefer containers handled at GTIPL as clarified by the GTIPL. This position was reported by the landlord port JNPT also at the time of its proposal for fixation of upfront tariff for the container terminal at the JNPT. The GTIPL has considered the unit rate at Rs.11.46 in the year 2009 supported by documentary proof. Clause 2.5.1 of the tariff guidelines of 2005 requires that the expenditure projections of the major port trusts / terminal operators should be in line with traffic adjusted for price fluctuations with reference to current movement of Whole Sale Price Index (WPI) for all commodities announced by the Government of India. Accordingly, escalation factor of 5.80% needs to be considered for the expenditure projections in the tariff cases to be decided during the year 2009-10. The estimation of power cost for the year 2010 and 2011 applying the escalation factor of 5.80% taking 2009 as base is in line with the guideline.

(bb). Fuel Cost:

The computation of fuel cost furnished by GTIPL shows that it has considered the consumption at 2.17 litres per TEU as against the actual consumption of 2.21 litres per TEU for the year 2008. It is on the lower side when compared with the norm of 4liters per TEU prescribed in the upfront tariff guidelines of 2008 perhaps due to outsourcing of certain services. The unit cost of fuel considered by GTIPL at Rs.37.44 per litre is updated to the prevailing rate of Rs.36.70 per litre. The escalation considered in the unit rate for estimating the expenditure for the years 2010 and 2011 is in line with the tariff guideline.

(bc). Repairs and Maintenance cost

The basis adopted by GTIPL in estimation of maintenance cost for equipments is by adoption of different percentages of capital cost of the respective handling equipments. When asked to explain the rationale for the approach adopted by GTIPL, the operator has clarified that it has identified equipment-wise repairs and maintenance expenditure based on the actuals of 2008. The guidelines for fixation of upfront for container terminal prescribe a norm of 2% of cost of equipments. The estimates of GTIPL are found to be within the reasonable level with reference to the norms. The estimates of GTIPL are considered in this analysis as furnished by GTIPL.

(c). Equipment hire charge:

The estimate of equipment hire charges relates to hire of tractor trailers for handling containers. The estimated pattern of usage of tractor trailers is

100% of the estimated throughput for movement upto container yard, 26% of the estimated throughput from yard to rail and around 13.60% of estimated throughput for inter-terminal transfer. The GTIPL reported that the hire charge for the year 2008 was Rs.100 per TEU. Based on a budgetary quotation, the GTIPL has estimated the hire charges applying a rate of Rs.150 per TEU for the year 2009. The expenditure for the next two years has been estimated applying the escalation factor of 5.8% per annum over the respective previous year, taking the year 2009 as base. The estimates of GTIPL are considered subject to verification with actuals during the next review of tariff.

(d). Lease Rentals

The GTIPL has estimated lease rentals payable to JNPT at Rs.3234.26 lakhs, Rs.3354.28 lakhs and Rs.3496.34 lakhs for the year 2009, 2010 and 2011 respectively.

The GTIPL has furnished workings showing broad breakup of lease rent payable for different category of land and other assets. The break-up does not give details like area considered for different category of land and other assets and the unit rate therefor. Apart from this, the estimates of GTIPL are on calendar year basis whereas the lease rent claimed by JNPT is for part of the year 2009 and part of the year 2010, as seen from the copies of the bills of JNPT furnished by GTIPL.

In view of the above position, it was found not possible to verify the accuracy of estimates JNPT was requested to cross verify and confirm that the estimates furnished by GTIPL are in line with the prevailing Scale of Rates JNPT. Except an acknowledgement of our request, we did not receive requisite information from JNPT till finalization of this case. Relying on the confirmation of GTIPL that the estimates are as per the terms of License Agreement, the estimates are considered as furnished by GTIPL.

(e). Insurance

The License Agreement provides for insuring all the assets constructed and purchased by the GTIPL including the assets handed over to GTIPL at the cost and expense of GTIPL. The insurance cost for the years 2009, 2010 and 2011 is estimated at Rs.476.71 Lakhs, Rs.504.36 lakhs and Rs.533.61 lakhs, respectively. The GTIPL has estimated this cost applying an escalation factor of 5.80% per annum over the estimate of respective previous year taking the actual insurance cost for the year 2008. The insurance cost estimated for the years 2009 to 2011 is in the range of 0.36% to 0.39% of the gross block of assets and is well within the norms prescribed in the upfront tariff guidelines. The estimates of insurance premium as furnished by GTIPL are considered in this analysis.

(f). Other expenses

The estimated other expenses relate to internal transportation, inventory written off etc., It is estimated at Rs.363.63 lakhs, Rs.384.72 lakhs and Rs.407.04 lakhs for the year 2009 to 2011 respectively, by applying an escalation factor of 5.80% per annum over the estimate of respective previous year, taking the actuals for the year 2008 as base.

(g). Clause 2.7.1 of the tariff guidelines of March 2005 stipulates that in the case of private terminals depreciation will be allowed on straight line method with life norms adopted as per Companies Act. The rates of depreciation considered in the last fixation of tariff of GTIPL in August

2006 are maintained now. It is noteworthy that the rates depreciation considered by GTIPL for the year 2009 to 2011 are the same rates considered by the operator in the year 2008 as seen from the certified audited accounts of the GTIPL for the year 2008.

(h). Overheads

In respect of Management & Administration Overheads the GTIPL has proposed increase of 17% for the year 2009 over the actuals for the year 2008 and an increase of 18% each for the years 2010 and 2011 over the respective previous years. In respect of General Overheads, the operator has proposed 10.55% increase for the year 2009 over the actuals for the year 2008 and around 7% increase for the years 2010 and 2011 over the respective previous years.

The reason cited for the proposed quantum of increase is the reported merit increases and performance bonus for 2010. The GTIPL has also stated that it has considered an expenditure of Rs.2.06 Crores per annum based on the bill raised by JNPT for deployment of CISF personnel as miscellaneous charges.

As brought out earlier, Clause 2.5.1 of the tariff guidelines of March 2005 requires that the expenditure projection of the major ports / private terminal operators should be in line with traffic adjusted for price fluctuation with reference to current movement of WPI. Accordingly, the estimated Management and Administration overheads, for the year 2009 is moderated applying an escalation factor of 5.80% on the actuals for the year 2008 and thereafter the claim of Rs.2.06 Crores made by the JNPT in May 2009 reportedly towards cost of deployment of CISF personnel is considered for the year 2009. The estimates for the year 2010 and 2011 are moderated applying the escalation factor of 5.8% per annum taking the year 2009 as base.

The estimated General Overheads is moderated for the year 2009 to 2011 in line with the admissible escalation factor of 5.80% per annum taking the actuals for the year 2008 as base.

(i). Expenses charged to revenue in the year 2004 and 2005 have been written off over a period of 28 years and the annualized expenditure is accounted for in the estimates for the year 2009 to 2011 at Rs.2.05 Crores each. This is in line with the approach adopted by GTIPL and accepted by this Authority in the initial fixation of tariff of GTIPL in August 2006.

(j). In its initial proposal of October 2008, the GTIPL had factored in the royalty / revenue share payable by GTIPL to JNPT over and above the minimum guaranteed throughput as efficiency gain. In the revised proposal of May 2009 and in the updated proposal of December 2009, the royalty / revenue share has not been considered as an item of cost by GTIPL.

The operator has, however, requested this Authority to reconsider the matter. The Ministry of Shipping has issued a policy direction on 29 July 2003 clarifying that the revenue share / royalty payment shall not be factored into as a cost for tariff fixation / revision by this Authority. As conceded by GTIPL, even the LA signed by GTIPL with JNPT in August 2004 contains a specific provision relating to inadmissibility of royalty / revenue share in computation of tariff.

(ix). Capital Employed

Fixed Assets

(a). Year 2009

The additions to the gross block proposed for the year 2009 to the extent of around Rs.271.62 Crores include the cost of two Rail Mounted Quay Cranes (RMQC), 11 Rubber Tyred Gantrys and 20 Spreaders as given below:

(i).	2 RMQCs	Rs. 63.16 Crores
(ii).	11 RTGS	Rs. 78.71 Crores
(iii).	20 Spreaders	<u>Rs. 12.09 Crores</u>
	Total	<u>Rs.153.96 Crores</u>

The above equipment are stated to add to the capacity and improve productivity. Incidentally, the above equipment are procurements over and above the minimum number of equipment prescribed in the License Agreement.

- (b). The balance amount to the tune of around Rs.117.66 Crores relates to the proposed additions to the gross block in respect of electrical installations (to enhance existing set-up and electrical works for expanded capacity), pavement (for reclaimed land to reduce yard congestion and easy evacuation), soil improvement in reclaimed land, genset (for energy saving), project consultation (for expanded capacity), data processing equipment (for replacement), ERP software (for upgradation), improvement to lease hold (for smooth operations), plant & machinery (tractor trailer positioning system for smooth operations), reach-stackers and empty handlers.

One of the major items of the above listed investments slated for 2009 relates to pavement of reclaimed land at a cost of around Rs.74.31 Crores. As clarified by the GTIPL, the investment will enable the GTIPL to achieve lowering the stacking height and easing the yard congestion and evacuation. Significantly, pavement of reclaimed land is a requirement of the License Agreement as the operator has to incur civil cost to convert the reclaimed land into a container yard as mentioned in the year-wise investment plan of the LA. It is noteworthy that Clause 2.9.11 of the tariff guidelines of March 2005 stipulate that ROCE will be allowed on investments made as per the License Agreement.

The GTIPL has reported that the procurement of Reach Stackers and Empty Handlers at a cost of around Rs.4.22 Crores and 3.68 Crores are as per the requirement of LA.

The JNPT has confirmed that the GTIPL has already installed the additional quay cranes, RTGs and Spreaders and they are in operation at GTIPL. However, the response of the JNPT with regard to the other investments made during the year 2009 at the GTIPL is not found fully useful to ascertain the status of the investments made by GTIPL during the year 2009. The position reported by GTIPL and based on the documentary evidence like contract copies and budgetary quotes furnished by GTIPL, the investments proposed for the year 2009 is relied upon for this analysis.

(c). Year 2010

The investment proposed during the year 2010 is to the extent of around Rs.25.39 Crores towards data processing equipment (for replacement), ERP software (for gate automation) and Tractor Trailer (TT) maintenance workshop (facilitation to operations). Incidentally, though the tractor trailers are hired by the GTIPL, the workshop for TT is stated to facilitate operations.

(d). Year 2011

The operator has proposed investment of around Rs.9.80 Crores in the year 2011 towards data processing equipment (for replacement) and ERP software (for gate automation).

The proposed investments for the year 2010 and 2011 generally being in the nature of replacements of the existing facility and automation are considered subject to verification during the next general revision of tariff of GTIPL.

(e). Working Capital:

With respect to inventory, the GTIPL has considered the inventory (other than capital spares) at 50% of the estimated repair & maintenance cost of equipments. Clause 2.9.9 of the tariff guidelines of March 2005 prescribes a maximum of 6 months average consumption of stores excluding fuels. Since the estimates on the consumption of stores are not made available, the approach adopted by GTIPL in this regard is considered subject to verification with reference to actual in the next review of its tariff.

Incidentally, since the estimated repairs & maintenance cost of equipments includes the repairs & maintenance cost of RTGs and keeping in view the fact that the GTIPL has outsourced the repairs & maintenance of RTGs, 50% of the estimated repair & maintenance cost of equipment excluding the repair & maintenance cost of RTGs only considered.

Pre-payment of lease rentals for the years 2009 to 2011 is estimated at Rs.3234.26 lakhs, Rs.3354.28 lakhs and 3496.34 lakhs by GTIPL for the respective years. For the reasons stated earlier, the estimates furnished by GTIPL could not be verified either independently or with the assistance of JNPT. Considering that the pre-payment of lease rental is an obligation under LA and subject to verification of the estimates with actuals during the next review of the tariff of GTIPL, the estimates furnished by GTIPL are considered.

The tariff guideline prescribes a limit on Cash balances at 1 month's cash expenses. Since pre-payment of lease rental is already considered as an item of current asset, the estimated lease rental has been excluded from the estimated cash expenses by GTIPL for computation of one month's case expense. Current liabilities are reckoned with as estimated by GTIPL.

- (x). During the proceedings relating to the fixation of tariff of GTIPL in August 2006, the JNPT conveyed that the capacity of the terminal is 13,00,000 TEUs. The license agreement provides for a minimum of 8 quay cranes. Borrowing the formula prescribed in 2008 guidelines for capacity calculation, the standard capacity for 8 quay cranes with a 70% utilization factor level works out to 15,94,320 TEUs. The formula prescribes a norm of 25 moves per hour in the

calculation of optimum quay capacity. Incidentally, the GTIPL has claimed 30 moves per hour as gross crane productivity, Considering the capacity of 15,94,320 TEUs and the estimated traffic of 15,18,034 TEUs each for the year 2009 to 2011, the capacity utilization works out to 95.20%.

The LA prescribes deployment of minimum number of 8 quay cranes and 29 RTGs. As against this minimum requirement, the GTIPL has added two quay cranes and 11 RTGs along with 20 spreaders to its fleet of existing handling equipments. The additional capacity should ideally be reflected in the traffic estimates for the years 2009 to 2011. But, the addition of handling equipments is not backed by any growth in traffic anticipated to be handled at the terminal during the tariff validity cycle upto 2011. The estimated traffic for the years 2009 to 2011 is actually lower than the capacity with 8 quay cranes. The operator has reported that the introduction of additional cranes have assisted the trade in handling more barges which help coastal trade and it is in the position to accommodate more unscheduled calls and it has been in a position to turnaround the vessels faster on the limited quay length.

With 10 quay cranes and following the formula prescribed in the upfront tariff guidelines of 2008 for determination of quay capacity, the capacity at GTIPL works out to 19.92 lakh TEUs. The capacity utilization with 10 quay cranes works out to 76% if the projected traffic of 15.18 lakh TEUs is considered. Since, the capacity utilization will be more than 60% when if the terminal operates with the 10 quay cranes, the maximum permissible return of 16% is allowed on the capital employed for the years 2009 to 2011.

- (xi). As stated earlier, the GTIPL has continued to operate the facilities during 2009 at the tariff level decided in August 2006. By the time the tariff being revised comes in to force, the first quarter of the calendar year 2010 will be over. The financial/ cost position for the period January 2009 to March 2010, subject to the discussion in the earlier paragraphs, discloses an additional surplus of around Rs.2712.77 lakhs over and above the admissible cost and permissible return. The amount of Rs.2712.77 lakhs is considered in full, for the reasons explained earlier, alongwith the additional surplus of Rs.9,130.74 lakhs for the period 2006 to 2008, aggregate of which works out to Rs.11,843.51 lakhs, for set off in the tariff for the period from April 2010 to 31 December 2011. The cost statement emerging out of the analysis of the performance of GTIPL for the year 2006 to 2009 is attached as **Annex-I**.

Regarding adjustment of the past surplus in future tariff, normally past surplus is set off in the next immediate tariff cycle, which will be April 2010 to 31 December 2011 in the case of GTIPL. The GTIPL has made a request to adjust the past surplus in 9 instalments on the ground that GTIPL's actual return is severely affected due to impact of the recession and to avoid short term fluctuations in the tariff. Past surplus was adjusted in 5 equal instalments in the case of NSICT and PSA SICAL which were decided earlier. There is no exceptional reason to deviate from the earlier approach. The summary of the actual past surplus for the period 2006 to 2008 and estimated surplus for the period January 2009 to March 2010 and the manner of its adjustment in the future tariff is given below:

Rs. in lakhs

Year	Surplus / (deficit)
<u>Actuals</u>	
2006	(8,441.22)
2007	5,419.01
2008	12,152.95
Total (A)	9,130.74
<u>Estimates</u>	
2009	2156.01
Jan '10 to Mar '10	556.76
Total (B)	2712.77
Total (A) + (B)	11843.51

The additional surplus of Rs.11,843.51 lakhs is adjusted in five equal installments in the future tariff cycle commencing from April 2010 to December 2011. The allocable portion for the period of nine months in the year 2010 (from April 2010 to December 2010) is considered proportionately. In the process, a sum of Rs.4,145.23 lakhs would get adjusted till 31 December 2011 leaving a balance of Rs.7,698.28 lakhs to be adjusted from the tariff cycle commencing from the year 2012. It is relevant here to mention that the additional surplus of Rs.2,712.77 lakhs for the period January 2009 to March 2010 is based on estimates. Therefore, this additional surplus should be reviewed based on actuals for the said period at the time of next tariff review.

- (xii). Subject to the discussion, the cost statement has been modified. The modified cost statement is attached as **Annex-II**. The results disclosed by this statement is summarized as shown in the table given herein under:

Details	2010 (April 2010 to December 2010)	2011 January 2011 to December 2011
Operating income	40501.43	54001.91
Net Surplus (+) Deficit(-)	3446.79	5760.92
Net Surplus (+) Deficit (-) as a percentage of operating income	8.51%	10.67%
Average surplus for the period 1 April 2010 to 31 December 2011	9.74%	

The cost position depicts an average surplus of 9.74% for the period 1 April 2010 to 31 December 2011. There is, therefore, no justification to grant the proposed increase of 0.27%. On the contrary, the existing tariff is to be reduced for the relevant period to fit into the cost plus method adopted.

This average net surplus position of 9.74% is with reference to the estimated operating income for the period 01 April 2010 to 31 December 2011 and the estimated operating income for the said period is inclusive of the estimated income arising out of rail handling operations of ICD containers (ITRHO).

As stated earlier, the estimated income arising out of rail handling operations of ICD Containers works out to Rs.1676.84 lakhs each for the years 2010 and 2011. If considered proportionately for the remaining period of nine months of the year 2010, this income will be Rs.1257.63 lakhs. Since the tariff for the ITRHO containers is governed by a separate tariff Order and commonly applicable to all the terminals at JNPT, the reduction warranted by the cost position will not be applicable on the existing rate of Rs.400 per TEU for ITRHO of ICD containers. Taking into account the net surplus of Rs.3446.79 lakhs and Rs.5,760.92 lakhs for the relevant period and considering the adjusted estimated operating income of 39243.81 Lakhs and Rs.52325.08 lakhs for the period 1 April 2010 to 31 December 2010 and 1 January 2011 to 31 December 2011, respectively, the average net surplus as a percentage of operating income works out to 10.05%. The existing tariff level is reduced by 10% across-the-board. The revised tariff to be approved will come into effect from 1 April 2010 and remain valid till 31 December 2011.

- (xiii). The definition for "free period" to mean the period during which cargo / container shall be allowed storage free of demurrage charges / ground rent and this period shall exclude Customs notified holidays and Terminal non operating days introduced by the GTIPL is in line with Clause 5.8.1 of the tariff guidelines of March 2005.

- (xiv). The proposed definition for "TAMP" need not be notified since the term is already defined in the MPT Act.
- (xv). The existing Scale of Rates of GTIPL prescribe rates for handling transshipment containers on a sliding scale linked to volumes handled. The GTIPL has consolidated the existing charges to prescribe a single rate. Since the users have reportedly not availed the advantage of sliding scale and relying on the GTIPL's assessment that there would be no financial implication due to the proposed rationalization, the proposed single rate for loaded and empty containers is approved, subject to downward adjustment in the existing rate.
- (xvi). The GTIPL has proposed a new note stating that the tariff item "Reefer monitoring and connection" does not include parameter setting or repair and maintenance of malfunctioning of a Reefer container. The proposed note is in line with the provision available in other container terminals like NSICT, CCTL and VCTPL and hence is approved.
- (xvii). A new tariff item for handling of lock bins has been proposed in dollar denominated tariff at the rate prescribed in dollar terms for shifting of the containers within the vessel via wharf. The GTIPL has clarified that the handling of lock bins is akin to the activity of shifting the containers within the vessel via wharf. Based on the clarification of the GTIPL, the tariff item for handling of lock bins is prescribed at the rate applicable for the existing tariff item of shifting of container within the vessel via wharf, subject to the general downward adjustment in rate. The GTIPL has considered revenue from this new tariff item in the estimation of operating income. Incidentally, none of the users consulted in this proceeding has raised any objection on the proposed tariff item.
- (xviii). The GTIPL has proposed to impose a penalty of US \$ 5000 per hour for overstaying of the vessel at the terminal of GTIPL due to user's fault. Subsequently, the GTIPL proposed to levy the penalty in rupee terms at Rs.2,00,000 per hour after completion of operation beyond 1 hour.

Considering handling rate of 25 moves per hour and 8 quay cranes, which is the minimum number stipulated in the License Agreement and taking into account 70% utilisation of cranes, as followed for determining the standard capacity as per the norms prescribed in the tariff guidelines of 2008, the GTIPL may lose revenue contribution on account of not being able to handle 140 TEUs per hour. If an amount of Rs.500 per TEU is considered as such revenue contribution on ad-hoc basis as considered by this Authority in the case of NSICT while reviewing its tariff in September 2008, loss will be around Rs.70,000 per hour. Since the levy is in the form of penalty to act as a deterrent, a penalty of Rs.1,00,000 per hour is, therefore, prescribed for over-stay of the vessel at the berth beyond 2 hours after completion of operation due to user's fault.

- (xix). In respect of the free dwell time period for storage of container, the GTIPL has proposed increase in the free period for loaded export container from the existing level of 3 days to 7 days.

The existing free period of 15 days for ICD containers, 30 free days for transshipment loaded container and 15 free days for transshipment empty container are proposed to be reduced to 10 free days, 7 free days and zero free days respectively. The GTIPL has reported that the actual dwell time of containers is less than the free period prescribed in the existing arrangement and the proposed arrangement is at par with the position obtaining at the NSICT. In fact in respect of empty containers and ICD loaded containers the GTIPL has proposed three and ten free storage days as compared to zero and seven free days obtaining at the NSICT. Incidentally, none of the users consulted in the proceedings has

raised any objection on the proposed modifications. The proposed modification in the existing free dwell time is approved.

- (xx). In the existing arrangement, dwell time charge for over height and over-dimensional container is leviable at 1.25 times of the normal applicable charges. The reason for the proposed increase in the dwell time charge for the said category of containers to 2 times from the existing level of 1.25 times remains unexplained. The existing provision may continue without any change.
- (xxi). The proposed note to prescribe rate of penal interest on delayed payments / refunds is modified to reflect the applicable penal rate of interest in terms of prevailing PLR of SBI and Clause 2.18.2 of the tariff guidelines of March 2005.
- (xxii). Rebate of 5% on the total handling charges was proposed by the GTIPL in its initial proposal for shipping lines bringing throughput of more than 4,50,000 TEUs in a year. In the revised proposal, the GTIPL has proposed volume discount scheme reportedly to retain the existing customers in view of the global recession. As pointed out by BCHAA, a rebate given to one segment will have an effect on other segment, in the cost plus model of tariff determination. Further, how realistically the cut off limits for qualifying for the rebates are drawn up is not explained. In any case, the Terminal Operator can at his discretion offer rebates as may be necessary, since the rates set by this Authority are only ceiling level. It is noteworthy that the GTIPL has pointed out the linkage between the general tariff increase sought by it and the rebates proposed to be offered. Now, since this Authority is effecting an across-the-board reduction in the tariff, the need for prescribing a rebate scheme in the Scale of Rates does not arise.
- (xxiii). In the existing arrangement, the shut out charges are not governed by any conditionality. The proposed note in this regard states that the shut out charges shall apply if the vessel nomination is changed or if the vessel nomination is changed from a later vessel to an earlier vessel after the earlier vessel is berthed. The proposed note is in line with the provision available in the other container terminals like PSA SICAL, VCTPL and CCTL. As such, the proposed note is approved.
- (xxiv). With reference to the new tariff item for additional transportation of containers within the terminal, proposed at Rs.592 per TEU, it is to be noted that there is already a tariff item for shifting of containers within the terminal for customs inspections or for any other purpose. That being so, the proposed tariff item for additional transportation of containers within the terminal lacks merit for consideration, more particularly, in the absence of any cost analysis justifying the proposed new rate. Therefore, the said tariff item is not approved.

The GTIPL has proposed a rate of Rs.150 for fixing of seal and Rs.450 for breaking of seal. This tariff item is prescribed at a uniform rate of Rs.200/- for fixing as well as breaking the seal as prescribed in other container terminals like NSICT, CCTL and IGTPL. It is a miscellaneous tariff item which may not have significant financial implication.

The proposed one door open charges at Rs.1000 per container is similar to the tariff item and rate approved in the neighbouring container terminal, NSICT. Hence, the same is approved.

The proposed dollar denominated rate of US \$ 4 per tonne for fresh water supply is prescribed in terms of Indian Rupees applying the exchange rate of 1 US \$ = Rs.45.7350, which works out to around Rs.183 per tonne. The rate of Rs.183 per tonne is closer to the rate of Rs.200/- per tonne that was approved for VCTPL.

Since this Authority has recently approved a rate of Rs.500 per ship/ port craft per visit of the garbage collector to the ship / port craft for garbage removal as a

ceiling rate to be applied commonly at the JNPT as a whole without reference to individual service providers vide our Order No.TAMP/7/2009-JNPT dated 30 December 2009, the tariff item in this regard proposed by GTIPL is not required to be notified.

12. In the result and for the reasons given above, and based on a collective application of mind, this Authority approves the revised SOR of GTIPL attached as **Annex-III**.

13. The revised Scale of Rates and conditionalities will come into effect from 1 April 2010 and shall be in force till 31st December 2011. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

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

15. The tariff of the GTIPL has been fixed relying on the information furnished by the operator and based on the assumptions made as explained in the analysis. The GTIPL should furnish a report of the actual, physical and financial performance within 15 days of completion of each quarter of a year. Such quarterly reports are to be filed for the period ending 31 March, 30 June, 30 September and 31 December of each of the year in the same format in which the cost statements 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 GTIPL to submit its proposal for an ahead of scheduled review. If GTIPL fails to file a tariff proposal within the time limit to be stipulated by this Authority, suo motu proceeding may be initiated to review the tariff. This apart, analysis of variations may also be made at the time of the next general review at the end of the usual tariff validity period and full adjustment of additional surplus will be made in the tariff to be fixed for the next cycle.

(Rani Jadhav)
Chairperson

Analysis of performance of GTIPL for the years 2006 to 2009 based on actuals
Consolidated Cost statement for the Gateway Terminals India Private Limited (GTIPL)

Annex I

(Figures in Rupees)

Sr.No	Particulars	Estimates considered in Tariff Order number TAMP/71/2005- GTIPL dated 23 August 2006			Actuals			Estimate as per GTIPL	Estimate as per TAMP
		2006	2007	2008	2006	2007	2008	2009	2009
	Traffic (In MTs / TEUs)	411600	930000	1105000	387873	1178415	1520778	1518034	1518034
I	Total Operating Income								
	(i) Container handling income	1287385000	3272680454	3883163789	1205324309	4063519815	5448609784	5228108470	5400191138
	Total	1287385000	3272680454	3883163789	1205324309	4063519815	5448609784	5228108470	5400191138
II	Operating Costs (excluding depreciation)								
	(i) Operating & Direct Labour	1125000	3291750	3931290	3109812	44374526	63984345	78114080	76659740
	(ii) Equipment Running Costs	258769906	453678727	608818873	156700271	306125419	440870403	545727959	542819279
	(iii) Equipment Hire	65691360	155107260	192582936	59242262	167908361	215805269	317876282	314233000
	(iv) Lease Rentals payable as per concession agreement	253711997	303104934	318260181	230718869	300600193	312722090	323425952	323425952
	(v) Insurance	46761833	73500000	73500000	48143212	52660795	45057372	47670699	47670699
	(vi) Other expenses	-	-	-	19340358	21821516	34370001	36363461	36363461
	(vii) Technical Service Fee						142334266	148898400	148898400
	Total (i to vii)	626060095	988682671	1197093280	517254784	893490810	1255143746	1498076834	1490070531
III	Depreciation	307822842	632103515	651141515	278869463	851183614	955872704	1269729037	1245332374
IV	Overheads								
	(i) Management & Administration overheads	197077600	246347000	251715107	135268332	194672866	266283759	311551998	302328217
	(ii) General Overheads	281441309	294106168	307340945	208832722	321867188	450444844	497983610	476570645
	(iii) Preliminary expenses & Upfront Payment write-off	20500000	20500000	20500000	20500000	20500000	20500000	20500000	20500000
	Total (i to iii)	499018909	560953168	579556052	364601054	537040054	737228603	830035608	799398862
V	Operating Surplus / (Deficit) (I) – (II) – (III) – (IV)	-145516847	1090941100	1455372942	44599008	1781805337	2500364731	1630266991	1865389372
VI	Finance & Miscellaneous Income (FMI)				1286691	39992576	36517280		-
VII	Finance & Miscellaneous Expenses (FME)	-	-	-	-	-	-		
VIII	FMI Less FME (VI) - (VII)								
IX	Surplus Before Interest and Tax (V) + (VI)-VIII	-145516847	1090941100	1455372942	45885699	1821797913	2536882011	1630266991	1865389372
X	Capital Employed	7539830643	8556320706	7909569550	7911179233	8532643907	8810577749	10236896107	10311174734
XI	RoCE - Maximum permissible 15%	848230947	1283448106	1186435433	890007664	1279896586	1321586662	1637903377	1649787957
XII	Capacity Utilization	0.69	0.70	0.83	65	89	95	76	76
XIII	RoCE adjusted for capacity utilization	848230947	1283448106	1186435433	890007664	1279896586	1321586662	1637903377	1649787957
XIV	Net Surplus / (Deficit) (IX) - (XIII)	-993747794	-192507006	268937509	-844121964	541901327	1215295349	-7636386	215601414
XV	Net Surplus / (Deficit) as a % of operating income (XIV) in %	-77.19%	-5.88%	6.93%	-70.03%	13.34%	22.30%	-0.15%	3.99%

GATEWAY TERMINALS INDIA PRIVATE LIMITED
Scale Of Rates

I. Definitions:-

- 1.1. "GTI" or "Terminal" means GATEWAY TERMINAL INDIA PVT. LTD.
- 1.2. "Coastal Vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the competent authority.
- 1.3. "Foreign Vessel" shall mean any vessel other than a coastal vessel.
- 1.4. "Container" means the standard ISO container, suitable for transport and stacking of cargo and must be capable of being handled as a unit and lifted by a crane with a container spreader.
- 1.5. "Full Container Load (FCL)" means a container containing cargo belonging to one consignee in the vessel's manifest.
- 1.6. "Less than Container Load (LCL)" means a container containing cargo belonging to more than one consignee in the vessel's manifest.
- 1.7. "Free Period" shall mean the period during which cargo / container shall be allowed storage free demurrage charges / ground rent and the period shall exclude Customs notified holidays and Terminal's non-operating days.
- 1.8. "Hazardous container" means a Container containing hazardous goods as classified under IMO.
- 1.9. "Over Dimensional Container (ODC)" means a Container carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam, etc. damaged Containers (including boxes having corner casting problem).
- 1.10. "Port" shall mean Jawaharlal Nehru Port Trust.
- 1.11. "Reefer Container" shall mean a refrigerated container used for carriage of perishable goods with provisions for electrical supply to maintain the desired temperature.
- 1.12. "ICD" means Inland Container Depot.
- 1.13. "Per day" means per calendar day or part there of.
- 1.14. "Import container" means a container discharged from one vessel, stored in GTI and transported out through Road or Train.
- 1.15. "Export container" means a container arrived by road or Train, stored in GTI and loaded on the assigned vessel.
- 1.16. "Transshipment container" means a Container discharged from one vessel, stored in the container yard, and transported through another vessel.
- 1.17. "Shut Out Container" means a container that entered the terminal as export for a vessel as indicated by VCN/VIAN and is not connected to the vessel for whatsoever reason and is lying in the container yard.

1.18. "Back to Town container" shall mean a container entering the terminal for export for a specific vessel voyage but unable to be exported for some reason and removed from the terminal.

1.19. "VCN" means Vessel Call Number.

1.20. "VIAN" means Vessel Identification Advice Number.

II. The following consolidated charges for handling and movement of containers shall be payable by the Shipping Lines / Agents of Vessels or Cargo Agents for services rendered in respect of containers and containerized cargo passing through the terminal:

Section - 1 Charges for all Normal and Reefer Containers

A. Ship to yard/ yard to ship using port crane.

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	2761.20	4141.80	5522.40	1656.90	2485.80	3313.80
ICD Container	2761.20	4141.80	5522.40	1656.90	2485.80	3313.80
Empty Container	2230.20	3345.30	4460.40	1338.12	2007.00	2676.60

B. Yard to CFS/CFS to yard - Transport and lifts at CFS

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	982.80	1474.20	1965.60
Empty Container	982.80	1474.20	1965.60

C. Yard to Rail/Rail to Yard for ICDs only

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
ICD Container (Loaded & Empty)	1380.60	2070.90	2761.20

D. Yard to truck / truck to yard

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	424.80	637.20	849.60
Empty Container	424.80	637.20	849.60

Note: Normal containers are the general type containers, not falling under any special categories mentioned subsequently.

SECTION - 2 CHARGE FOR ALL TRANSHIPMENT CONTANERS

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	3186.00	4779.00	6372.00	1911.60	2867.40	3823.20
Empty Container	2761.20	4141.80	5522.40	1656.90	2485.80	3313.80

Note:

A container originally declared as transshipment container, subsequently moved by rail or road will lose its identity as a transshipment container and shall be treated as normal import container and the prescribed charges as applicable shall be payable

SECTION - 3 CHARGES FOR ALL HAZARDOUS CONTAINER

A. Ship to yard using port crane

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	3186.00	4779.00	6372.00	1911.60	2867.40	3823.20
ICD Container	3186.00	4779.00	6372.00	1911.60	2867.40	3823.20
Transshipment Container	3186.00	4779.00	6372.00	1911.60	2867.40	3823.20

B. Yard to CFS - Transport and lifts at CFS

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	1062.00	1593.00	2124.00

C. Yard to Rail for ICDs only

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
ICD	1593.00	2389.50	3186.00

D. Yard to Truck

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded	531.00	796.50	1062.00

SECTION - 4 CHARGES FOR ALL OVER DIMENSIONAL CARGO CONTAINERS

A. Ship to yard using port crane

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded	5522.40	8283.60	11044.80	3313.80	4970.70	6627.60
ICD	5522.40	8283.60	11044.80	3313.80	4970.70	6627.60
Transshipment	5522.40	8283.60	11044.80	3313.80	4970.70	6627.60
Empty	4460.40	6690.60	8920.80	2676.60	4014.90	5353.20

B. Yard to CFS - Transport and lifts at CFS

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	1964.70	2947.50	3929.40
Empty Container	1964.70	2947.50	3929.40

C. Yard to Rail for ICDs only

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
ICD	2761.20	4141.80	5522.40
Empty Container	2761.20	4141.80	5522.40

D. Yard to truck

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	849.60	1274.40	1699.20
Empty Container	849.60	1274.40	1699.20

SECTION 5 - HATCHCOVERS OF VESSELS

Opening hatchcover and replacing it (charge per hatchcover)

Particulars.	Foreign Going Vessels (in US\$)	Coastal Vessels (In Rs.)
A. When placing the hatchcover on the quay	65.61	1838.70
B. Without placing the hatchcover on the quay	26.24	735.30

Note: If only one operation is carried, half of the hatch cover handling charges as above shall be levied.

SECTION 6 - RESTOWS FCLs & MTs

Shifting containers within the vessel (per move)

A. Hatch to Hatch shifting

Particulars	Foreign-Going (In US \$)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	21.87	32.80	43.74	612.90	918.90	1225.80

B. Other than A

Particulars	Foreign-Going (In US \$)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	87.48	131.21	174.96	2451.60	3676.50	4902.30

SECTION 7 - SHUT OUTS

A. Shutouts Charges

Particulars	Foreign-Going (In US \$)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	43.74	65.62	87.48	2042.66	3064.41	4085.32

B. Transportation of shutout containers

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	1593.00	2389.50	3186.00	1593.00	2389.50	3186.00

Note: Shut out charges as given above shall apply if- 1. the vessel nomination is changed 2. If the vessel nomination is changed from a later vessel to an earlier vessel after the earlier vessel is berthed.

SECTION 8 - REEFER MONITORING AND CONNECTION

Particulars	Rate per 4 hours or part thereof					
	Foreign-Going (In US \$)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	4.37	6.56	8.75	204.27	306.40	408.53

- Note: 1. The above charges are for a period of 4 hours or part thereof.
2. Additional electricity charges at the prescribed rates will be applicable in the case of reefer restows also.
3. The tariff prescribed above does not include parameter setting or repair & maintenance of malfunctioning reefers.

SECTION 9 - OTHER SERVICES

A. Shifting of containers within the terminal for customs inspections or any other purpose, and subsequent loading of containers for delivery

Particulars	In Rs		
	20'	40'	Over 40'
FCL & MT	1805.40	2708.10	3610.80

Other purposes include for change in the POD, weight, category, status and exit mode and ICD containers without details.

B. Additional service charge for stacking containers in the designated yard for customs examination or for any other purpose by prior arrangement.

Particulars	In Rs		
	20'	40'	Over 40'
FCL & MT	212.40	318.60	424.80

C. Fixing / Breaking of Seal

Particulars	In Rs
Fixing of Seal	200
Breaking of seal	200

D. Handling of Lock Bins

Particulars	In US \$		
	20'	40'	Over 40'
FCL & MT	87.48	131.21	174.96

- E. Charges for vessel overstay due to user's fault beyond 2 hours after completion of operation – rate per hour** - Rs.1,00,000
- F. One door Open Charge per container** - Rs.1000.00
- G. Charges for fresh water supply per metric tonne** - Rs.183.00

SECTION 10 - DWELL TIME CHARGES

A. Loaded Import containers

Particulars	Foreign-going (In US \$)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 3 Days	Free	Free	Free	Free	Free	Free
4 -15 days	3.46	6.91	10.37	161.37	322.79	484.20
16 - 30 days	6.90	13.81	20.71	322.38	644.76	967.10
Thereafter	13.81	27.61	41.42	644.76	1289.48	1934.19

B. Loaded Export containers

Particulars	Foreign-going (In US \$)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 3 Days	Free	Free	Free	Free	Free	Free
4 -15 days	3.46	6.91	10.37	161.37	322.79	484.20
16 - 30 days	6.90	13.81	20.71	322.38	644.76	967.10
Thereafter	13.81	27.61	41.42	644.76	1289.48	1934.19

C. Empty Import or Export containers

Particulars	Foreign-going (In US \$)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 3 Days	Free	Free	Free	Free	Free	Free
4 -15 days	3.03	6.07	9.10	141.66	283.32	424.94
16 - 30 days	6.07	12.13	18.20	283.32	566.64	849.87
Thereafter	12.13	24.26	36.40	566.64	1133.28	1699.74

D. ICD - Loaded and Empty Import and Export Containers moved by Rail

Particulars	Foreign-going (In US \$)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 10 Days	Free	Free	Free	Free	Free	Free
11-30 days	3.03	6.07	9.10	141.66	283.32	424.94
31 - 45 days	6.07	12.13	18.20	283.32	566.64	849.87
Thereafter	12.13	24.26	36.40	566.64	1133.28	1699.74

E. Transshipment loaded Containers

Particulars	Foreign-going (In US \$)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 7 Days	Free	Free	Free	Free	Free	Free
8-45 days	3.46	6.91	10.37	161.37	322.79	484.20
Thereafter	6.90	13.81	20.71	322.38	644.76	967.10

F. Transshipment empty containers

Particulars	Foreign-going (In US \$)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 7 Days	3.46	6.91	10.37	161.37	322.79	484.20
8 - 30 days	6.90	13.81	20.71	322.38	644.76	967.10
Thereafter	13.81	27.61	41.42	644.76	1289.48	1934.19

G. Shutout loaded & empty containers

Particulars	Foreign-going (In US \$)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
1 - 15 Days	3.46	6.91	10.37	161.37	322.79	484.20
16 - 30 days	6.90	13.81	20.71	322.38	644.76	967.10
Thereafter	13.81	27.61	41.42	644.76	1289.48	1934.19

H. Back to Town loaded & empty containers

Particulars	Foreign-going (In US \$)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 3 Days	Free	Free	Free	Free	Free	Free
4 - 15 days	3.46	6.91	10.37	161.37	322.79	484.20
16 - 30 days	6.90	13.81	20.71	322.38	644.76	967.10
Thereafter	13.81	27.61	41.42	644.76	1289.48	1934.19

Notes:

1. The total storage period for a container shall be reckoned from the day following the day of landing upto the day of shipment /delivery/date of removal of the container and includes Sundays and Holidays.
2. Transshipment containers whose status (mode of dispatch) is subsequently changed locally shall lose the concessional dwell time as prescribed in Section 10 item (E). Dwell time charges/ Other Charges for such containers shall be recovered at par with import/export containers. A transshipment box, moved other than as defined above, shall be charged at Tariffs applicable to a export/ import container. Such a move will not be treated as a transshipment move.
3. Transshipment containers subsequently changing the mode of dispatch to rail shall be treated as other ICD containers for the purpose of levy of storage fees. In such cases additional shifting charges will be applicable for movement of containers from container yard to ICD yard.
4. The users will not have to pay storage charges for the period during which GTI is not in a position to deliver/ shift the containers when requested by the users.
5. Normal import containers subsequently changing the mode of dispatch to rail will enjoy the free period applicable to normal import containers only.
6. The total storage period for a shutout container shall be calculated from the day following the day when the container has become shutout till the day of Shipment/delivery.
7. (i). Dwell time charges for Hazardous containers shall attract 1.25 times the normal applicable charges.
(ii). Dwell time charges for Over height and over dimensional containers shall attract 1.25 the normal applicable charges.
8. The storage charges on abandoned FCL containers / shippers owned containers shall be levied upto the date of receipt of intimation of abandonment in writing or 75 days from the days the day of landing of the container, whichever is earlier subject to the following conditions:
 - (i). The consignee can issue a letter of abandonment at any time.
 - (ii). If the consignee chooses not to issue such letter of abandonment, the container agent/MLO can also issue abandonment letter subject to the condition that,

- (a) The Line shall resume custody of container along with cargo and either take it back or remove it from the port premises; and
 - (b). The line shall pay all port charges accrued on the cargo and container before resuming custody of the container.
 - (iii). The container Agent/MLO shall observe the necessary formalities and bear the cost of transportation and destuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall be continued to be levied till such time all necessary actions are taken by the shipping lines for destuffing the cargo.
 - (iv). Where the container is seized/confiscated by the Custom Authorities and the same cannot be de-stuffed within the prescribed time limit of 75 days, the storage charges will cease to apply from the day the Custom order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and de-stuffing. Otherwise, seized/confiscated containers should be removed by the line/consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.
9. The status of the vessel , as borne out by its certification by the Director General of Shipping shall be the deciding factor for its classification as "coastal"or "foreign going"for the purposes of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.
10. (i). Container-related charges denominated in US dollar terms shall be collected in equivalent Indian rupees. For this purpose, the market buying rate (notified by the Reserve Bank of India, State Bank of India or its associates or any other public sector banks as may be specified from time to time) prevalent on the date of entry of the vessel into port limits (in case of import containers) and on the date of arrival of containers in the Terminal Premises (in case of export containers) shall be applied for conversion of the dollar - denominated charges into Indian rupees.
- (ii). The cargo / container related charges for all Coastal cargo / containers, other than thermal coal, POL including crude oil, Iron Ore and Iron pellets, should not exceed 60% of the normal cargo / container related charges.
11. (i). The user shall pay penal interest on delayed payments of any charge under this scale of rates. Likewise, the GTIPL shall pay penal interest on delayed refunds.
- (ii). The rate of interest will be 13.75 % p.a. The penal interest will apply to both GTIPL and its users equally.
- The delay in refunds by GTIPL will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.
- The delay in payments by the user will be counted only 10 days after the date of raising the bills by GTIPL. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act, 1963 and / or where payment of charges in advance is prescribed in this Scale of Rates.
12. A regular review of exchange rate shall be made once in 30 days from the date of arrival in the cases of vessels staying in the port for longer period. The basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of review.

GENERAL NOTES:

1. Users will not be required to pay charges for delays beyond a reasonable level attributable to the Terminal operator.
2. Containers less than and up to 20 feet in length will be reckoned as one TEU for the purpose of Tariff.
3. The consolidated charges as above include the following elements, viz Stevedoring, use of Gantry crane, use of transfer crane, stowage planning, wharfage on tare weight of containers and containerized cargo, transportation.
4. Containers other than that of standard size requiring special devices or slings or handling will be charged twice the applicable rates. Such containers will also include damage containers and any other type requiring special devices.
5. A container from a foreign port landing at GTI for subsequent transshipment to an Indian port on a coastal voyage or vice versa would be charged at 50% of the transshipment charge prescribed for foreign going vessel and 50% of that prescribed for the coastal category.
6. In case a vessel idles due to non availability or breakdown of the shore based facilities of GTI or any other reasons attributable to the GTI, rebate equivalent to berth hire charges payable to JNPT accrued during the period of idling of vessel shall be allowed by the GTI.
7. The storage charges shall not accrue for the period when GTI is not in a position to deliver the containers when requested by the user.

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

No.TAMP/49/2008-GTIPL - Proposal from the Gateway Terminals India Private Limited for general revision of its Scale of Rates.

1. A Summary of the comments received from the user organizations are summarised below:

Indian Merchants' Chamber: (IMC)

Tariff at GTIPL is highly exorbitant. The reasons for arriving at such a conclusion are listed below:

- (i). GTIPL came into its operation in the year 2006 and in the year 2007, GTIPL was given an increase of 16% on its tariff.
- (ii). As per the License Agreement, GTIPL has projected the capacity at 1395030 TEUs for the year 2009 to 2011, whereas it has already handled more than 1.3 Million TEUs in the 3rd year of its operations.
- (iii). In the light of huge volumes being handled by the concerned terminal, instead of the tariffs being reduced, the terminal operator seeks an upward revision of 21%.
- (iv). Since GTIPL has already been compensated by huge volumes being handled, it would be appropriate that TAMP either retains the existing tariff or in all fairness and taking into account the present scenario and conditions, reduce GTIPL tariff by more than 40%.

Shipping Corporation of India: (SCI)

- (i). The Liner shipping industry is passing through acute crisis due to significant drop in EXIM trade. It has resulted in underutilization of container ships. The existing tariff of GTIPL is significantly higher than the terminals of JNPCT and NSICT. Increasing tariff by 21% at the juncture when the liner shipping industry is passing through acute crisis and when Government is working on extending concessions for EXIM trade, may not be desirable, as these will increase transaction costs for EXIM trade.
- (ii). Justification given by the terminal operator for increase in some of the costs are no longer valid in today's context. The fuel prices have come down already and are expected to be further reduced in the next few weeks. Hardware asset values are decreasing the world over. Employee costs are being trimmed down. The inflation rate is way below the rate assumed by GTIPL.

- (iii). In the depressed market with global economic condition, it is suggested that tariff should be restructured below current levels to act as catalysts for boosting the international trade.

Association of Multimodal Transport Operators of India (AMTOI)

AMTOI has no comments to offer.

The Bombay Custom House Agents' Association (BCHAA)

- (i). The inflationary trend of around 12% and hike in the diesel prices by 10% have been taken into account to arrive at the expenditure projections. This has led to the accelerated factor on 8.10%

For the past two quarters, inflation has been negligible and cost of funds have also been comparatively low due to capital inflows. RBI predicts only 5% inflation by the financial year end and banks are awash with funds to lend.

- (ii). The existing tariff level of GTIPL is already more than the other terminals at JNPT.
- (iii). The base period chosen is the year ending 31.3.2009. Everybody knows that this was a disastrous year for the shipping and container handling activities, hence to use statistics of this year as basis is to mislead the trade.
- (iv). The following positive aspects have not been reflected in the traffic projections:
- (a). RBI, Government of India, FICCI and other advisory bodies predict the next two years to be achieving a growth of 8% in GDP, making India the second fastest growing economy amongst emerging markets.
- (b). Traffic likely to be generated on creation of additional fixed assets, albeit with a gestation period.
- (v). The BCHAA does not support the submission of GTIPL for revision of Scale of Rates and reiterate that the existing scales should prevail.

Jawaharlal Nehru Port Trust (JNPT)

- (i). The actual traffic handled by GTIPL during the years 2006 (March–December 2006), 2007 and 2008 are 411600 TEUs, 1178415 TEUs and 1520521 TEUs respectively. GTIPL has considered traffic at only 1517684 TEUs for the year 2008.
- (ii). The lower traffic projection for the years 2009, 2010 & 2011 estimated at 1395030 TEUs for each year as compared to the actual

traffic for the year 2008, can be accepted as there is a recession world wide and drop in growth rate.

- (iii). GTIPL has mixed tariff guidelines of March 2005 and guidelines of February 2008. The upfront guidelines of 2008 are applicable only in respect of new BOT projects being awarded and not applicable to the existing terminal. This has been made amply clear in order itself. Therefore, mixing both of them may not be in order.
- (iv). The escalation factor for calculating operating cost for the future years should be taken at 4.6% instead of 8.10% as considered by GTIPL. The recent decrease in the price of diesel should be factored in whilst calculating the operating cost for the future period. The Management overheads appear to be reasonable and may be accepted.
- (v). GTIPL has achieved volumes more than the minimum guaranteed throughput and even surpassed the peak minimum guaranteed throughput of 13 lakh TEUs in the third year of their operation. Even though the TAMP guidelines do not permit royalty as a pass through cost they have for their working purpose adopted royalty over and above minimum guaranteed throughput as a partial pass through as efficiency gain. Even though the logic provided by them appears to be reasonable, this is not as per the approved guidelines.
- (vi). The calculation of return on capital employed on gross capital employed is not in order.

2. The JNPT has furnished its comments on the GTIPL's revised proposal. The JNPT comments has been forwarded to GTIPL as feedback information. The GTIPL has responded on JNPT comments. The comments furnished by the JNPT and response of GTIPL on JNPT's comments are tabulated below:

Sl. No.	Comments of JNPT	Response of GTIPL												
(i).	<p><u>Traffic Adopted:</u> The GTIPL in its proposal dated 14.10.2008 had adopted uniform traffic throughput for 2009, 2010 and 2011 at 1376543 TEUs. In the revised proposal projected traffic to be handled has been subsequently reduced. The traffic projected to be handled in 2009, 2010 and 2011 are stated below:</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Revised Proposal (TEUs)</th> <th>Earlier proposal (TEUs)</th> </tr> </thead> <tbody> <tr> <td>2009</td> <td>1188900</td> <td>1376543</td> </tr> <tr> <td>2010</td> <td>1367236</td> <td>1376543</td> </tr> <tr> <td>2011</td> <td>1565385</td> <td>1376543</td> </tr> </tbody> </table>	Year	Revised Proposal (TEUs)	Earlier proposal (TEUs)	2009	1188900	1376543	2010	1367236	1376543	2011	1565385	1376543	<p>The total traffic for three years considered in the proposal dated 14.10.2008 and revised proposal dated 8.5.2009 is almost same i.e. 4.1 million TEUs.</p> <p>The throughput projected in earlier proposal at 1.39 million TEUs for all the three years was calculated on normative capacity base in line the TAMP guidelines, 2008. The throughput projected for the years 2009, 2010 and 2011 at 1.2 million TEUs, 1.38 million TEUs and 1.58 million TEUs respectively in the revised proposal is on the basis of actual volume trend in 2009 and global recession. The revised proposal is as per the TAMP guidelines.</p>
Year	Revised Proposal (TEUs)	Earlier proposal (TEUs)												
2009	1188900	1376543												
2010	1367236	1376543												
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		<p>The volume trend in the year 2009 is as follows:</p> <table border="1"> <thead> <tr> <th>Month</th> <th>Throughput</th> </tr> </thead> <tbody> <tr> <td>January</td> <td>99,630</td> </tr> <tr> <td>February</td> <td>91,304</td> </tr> <tr> <td>March</td> <td>114,063</td> </tr> <tr> <td>April</td> <td>115,114</td> </tr> <tr> <td>May</td> <td>124,556</td> </tr> <tr> <td>June</td> <td>127,964</td> </tr> <tr> <td>July</td> <td>147,081</td> </tr> <tr> <td>August</td> <td>132,043</td> </tr> </tbody> </table> <p>In July 2009 volumes were high mainly because of the evacuation of large of number of empty containers and number of adhoc vessels called which may not so happen in the subsequent months. This can be noticed from August 2009 volumes.</p>	Month	Throughput	January	99,630	February	91,304	March	114,063	April	115,114	May	124,556	June	127,964	July	147,081	August	132,043
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(ii).	<p><u>Additional Equipments:</u> Additional equipment of 2 QCs, 10 RTGCs and 20 Spreaders have already been installed and are in operation in GTIPL. In spite of additional equipments installed, the traffic is being projected at very conservative basis due to declining traffic handled in the recent past and the uncertainty prevailing in trade.</p>	<p>The decision for additional investments in the new equipments was taken looking at the upward trend in volumes prevalent then in order to serve the trade better. The traffic projections were arrived at after considering the impacts of ongoing global recession.</p>																		
(iii).	<p><u>Operating Cost</u> The operating cost is projected to increase @ 4.8% each year. However, with respect to salary increase of 10% each year has been projected. In the old proposal the operating cost was projected to increase @ 4.6% and the salaries @ average rate 15% each year.</p>	<p>The inflation at 4.8% increase has been considered as notified by TAMP as escalation factor to be applied for the tariff cases to be decided in the year 2008-09. In fact it should have been at 5.80% applicable to the year 2009-10 as subsequently communicated by TAMP. The management overheads are escalated by 14% on the basis of the business decision made by the APMT group with reference to the compensation packages to its employees.</p>																		
(iv).	<p>Lease rentals has been taken as a part of cost.</p>	<p>Lease rentals have been considered as cost as per TAMP guidelines.</p>																		
(v).	<p><u>Revenue Share</u> The traffic projected over and above MGT has been factored as a part of cost for the years 2009, 2010 & 2011 as 735000, 950000 and 1200000 respectively.</p>	<p>Royalty payable @ 35.503% of revenue to JNPT is not shown as cost in the revised proposal.</p>																		

(vi).	<p>Rebates Rebate of 5% on the total handling charges was proposed for shipping lines bringing throughput of more than 450000 TEUs in its old proposal. In the revised proposal following volume incentive scheme have been proposed in the Scale of Rates:</p> <p>I. Service-wise</p> <p>(a).</p> <table border="1" data-bbox="355 499 834 869"> <tr> <td>Service handling above 150,000 TEUs annually</td> <td>4% of the THC for containers handled by that service</td> </tr> <tr> <td>Service handling above 180,000 TEUs annually</td> <td>6% of the THC for containers handled by that service</td> </tr> <tr> <td>Service handling above 210,000 TEUs annually</td> <td>8% of the THC for containers handled by that service</td> </tr> </table> <p>II. Shipping Lines-wise</p> <table border="1" data-bbox="363 963 834 1209"> <tr> <td>Shipping line handling 300,000 TEUs annually</td> <td>6% on the THC for containers handled by that shipping line.</td> </tr> <tr> <td>Shipping line handling 450,000 TEUs annually</td> <td>8% on the THC for containers handled by that shipping line.</td> </tr> </table> <p>It is presumed that the rebates / discounts being offered above will not have any impact on the revenue share to be paid to JNPT as per agreement Clause no.11.8 and 10.3.</p>	Service handling above 150,000 TEUs annually	4% of the THC for containers handled by that service	Service handling above 180,000 TEUs annually	6% of the THC for containers handled by that service	Service handling above 210,000 TEUs annually	8% of the THC for containers handled by that service	Shipping line handling 300,000 TEUs annually	6% on the THC for containers handled by that shipping line.	Shipping line handling 450,000 TEUs annually	8% on the THC for containers handled by that shipping line.	<p>The scheme of rebates offered to trade in the revised proposal is to retain the existing customers in view of the global recession. The rebate scheme sought is for the year 2009 and will be subject to review for extension for the years 2010 and 2011.</p> <p>As per Clause 11.8 of the LA, for the purpose of computation of gross revenue, the discounts / rebates in Tariff, if any, offered by the licensee to the users shall be ignored. Accordingly, the transshipment volume rebates given to customers as per present SOR are deducted from gross revenue for calculation of royalty. Customer specific rebates such as extended free days, customer specific volume discounts are not deducted from the gross revenue for calculation of royalty.</p> <p>It is obvious from the existing well settled arrangement that the discounts, if any, that are offered to customers by GTIPL over and above the discounts stated in the approved SOR will be ignored while calculating the revenue share payable to JNPT. That means the revenue share will be calculated on the gross revenue without deducting rebates / discounts offered over and above specified in the SOR. The point has already been made amply clear to JNPT by GTIPL vide its letter dated 13 August 2008.</p>
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	<p>(b). The actual throughput handled by the GTIPL in 2008-09 is 1462207 TEUs. The throughput handled by the GTIPL in the last four months are as stated below:</p> <table border="1" data-bbox="373 1518 810 1680"> <thead> <tr> <th>Month</th> <th>TEUs</th> </tr> </thead> <tbody> <tr> <td>April 2009</td> <td>115144</td> </tr> <tr> <td>May 2009</td> <td>124556</td> </tr> <tr> <td>June 2009</td> <td>127964</td> </tr> <tr> <td>July 2009</td> <td>147081</td> </tr> </tbody> </table> <p>Due to declining trend in traffic handled in 2008 and early 2009 and global economic recession it can be seen that the GTIPL has adopted very conservative approach in the projected traffic to be handled. The reasons given is that it is very difficult to make a reasonable volume projections for next three years as it is not known when the economy will take a positive turn.</p>	Month	TEUs	April 2009	115144	May 2009	124556	June 2009	127964	July 2009	147081	
Month	TEUs											
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	<p>(c). The old proposal was following TAMP guidelines of March 2005 and guidelines for upfront tariff setting of 2008. The</p>	<p>GTIPL revised proposal dated 8 May 2009 filed on basis of the TAMP guidelines 2005 due to following reasons:</p>										

	<p>revised proposal is following the TAMP guidelines of March 2005 only.</p>	<p>(a). Old proposal filed was as per 2008 guidelines – Normative method at Optimal capacity of 1.39 million TEUs.</p> <p>(b). With recession it was felt that GTIPL may not be able to achieve the throughput of 1.30 million TEUs in 2009.</p> <p>(c). There is uncertainty about the revival of the economy and hence uncertainty about 2010 projections.</p> <p>(d). Royalty was taken partially as cost on the earlier proposal. However, in the meeting held at Delhi on December 17, TAMP made it very clear that royalty will not allowed as cost in case of GTIPL.</p> <p>(e). It was also felt that the costs of GTIPL were not being fit into the normative costs provided by TAMP guidelines 2008 due to different cost parameters at GTIPL. (e.g. High electricity cost due to more reefer handling)</p>
	<p>(d). Operating income: The GTIPL is following calendar year namely January to December. For year 2009 GTIPL is not asking any revision in tariff as in earlier proposal. For the subsequent two years 2010, 2011 GTIPL has asked uniform increase of Scale of Rates by 4.92% each year. In the old proposal overall increase of 21.03% in existing rates was sought.</p>	<p>In the revised proposal, GTIPL has asked the Authority to retain the existing tariff for the year 2009. In view of the current economic turmoil, fluctuating inflation and forex rates, unpredictable volumes and committed capital outgo, it may not be appropriate to either reduce or increase the tariff at this juncture. This is because any increase in tariff will lead to loss of customers and any reduction will further worsen the financials which are already under pressure due to lower volumes and rebates / discounts offered to retain the business.</p> <p>The overall increase sought for the year 2010 and 2011 works out to 4.92% as per the revised proposal as against 21.02% in the old proposal due to:</p> <p>(a). Exclusion of royalty from the cost in the revised proposal.</p> <p>(b). ROCE calculated on the net block of assets in the revised proposal as against gross block of assets in the old proposal.</p> <p>(c). Actual 2008 figures included in the revised proposal as against estimates for 2008 in the old proposal.</p> <p>(d). Adjustment of past surplus is done in the revised proposal.</p>
	<p>(e). Foreign Exchange Earnings: The foreign exchange rate over the last six to eight months have been very volatile. Hence, revenue earnings from foreign currency denominated traffic has been taken on a very conservative basis.</p>	<p>Despite volatility of the foreign currency we adopted exchange rate of INR 50 for an US dollar in the revised proposal.</p>

(vii).	50% of Rs.57.05 Crores being the surplus for 2008 was set off against the projected tariff for three years. In the present proposal 50% is proposed to be set off over a period of next 9 years.	GTIPL had not adjusted 50% of past surplus in the earlier proposal. As mentioned in the revised proposal, in view of the present economic situation and committed fixed costs GTIPL has requested TAMP to spread the surplus over a period of 9 years similar to the adjustment made in case of NSICT Order dated 29 September 2008.
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3. A joint hearing in this case was held on 27 November 2009 at the Office of the Authority. The GTIPL made a power point presentation explaining salient points of its proposal. The GTIPL, JNPT and the users made the following submissions:

Gateway Terminals India Limited (GTIPL)

- (i). Our tariff proposal for increase is to be seen with volume discount.
- (ii). The capex is as per Licence agreement.
- (iii). If we have to add volumes to traffic projected, then discount allowed should be recognised.

COSIA

- (i). Users cannot be responsible for volume decrease. Economic recession is common to all business.

The Bombay Custom House Agents' Association (BCHAA)

- (i). GTIPL wants to pay rebate to some segment and proposes to make up by increase from someone else.

The Bombay Chamber of Commerce and Industry (BCCI)

- (i). The projected volume for 2009 is already achieved by GTIPL by end of October 2009. The tariff estimates require careful scrutiny.
- (ii). Allowing ROCE at same rate for Land Lord & Operator is not correct. The efforts of Land Lord is more whereas the operator gets an established business.

The Container Shipping Lines Association (India) (CSLA)

- (i). We welcome GTIPL proposal to allow discount.
