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TARIFF AUTHORITY FOR MAJOR PORTS

G No. 59

New Delhi

26 February, 2010

NOTIFICATION

In exercise of the powers conferred under Sections 48 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes the tariff proposal of the Indira Container Terminal Pvt. Ltd., for the services rendered at the BPS Container Terminal operated by it at Mumbai Port, as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/9/2009-ICTPL

The Indira Container Terminal Pvt. Ltd. - - - - Applicant

ORDER

(Passed on this 30 day of December 2009)

This case relates to a proposal from Indira Container Terminal Private Limited (ICTPL) for approval of tariff for the services rendered at the BPS Container Terminal operated by it at Mumbai port.

2.1. Indira Container Terminal Pvt. Ltd. commenced its operation at Ballard Pier Station (BPS) container terminal of the Mumbai Port Trust with effect from 23 June 2008.

2.2 By Order dated 25 November 2008, as an interim measure, this Authority accorded approval to ICTPL to adopt the MBPT's Scale of Rates till 31 March 2009. The validity of the SOR of the ICTPL was extended till 30 June 2009 vide this Authority's Order dated 27 March 2009. The validity was further extended upto 31 March 2010 or till disposal of this tariff proposal, whichever is earlier vide this Authority's Orders dated 17 June and 23 October 2009

3.1. By letter dated 27 February 2009, ICTPL submitted its proposal for tariff revision for a period of three years with effect from 1 June 2009.

3.2. The salient points of the ICTPL's proposal are as under:-

- (1) Estimated container throughput:-
- | | |
|------|------------|
| 2009 | 100510 TEU |
| 2010 | 150000 TEU |
| 2011 | 150000 TEU |
- (2) Increase sought in the existing tariff - 25 %.
- (3) To recover wharfage on cargo inside the container in line with the clause that exists in the SOR of MBPT.
- (4) Estimated capital expenditure:-

(Year)	(Rs. in Lacs)
2008	1566.02
2009	63.19
2010	512.23
2011	63.11

4. A copy of the ICTPL's proposal dated 27 February 2009 was forwarded to MBPT, the landlord port for comments. MBPT by letter dated 24 April 2009 has informed that it has no objection for the proposed upward revision by 25% over the existing tariff of ICTPL.

5. In accordance with the consultative procedure prescribed, the proposal from ICTPL was forwarded to the concerned user organizations for their comments. The comments received from the user organization were forwarded to ICTPL as feedback information. ICTPL has responded to the comments furnished by the users on its proposal.

6.1 Based on the preliminary scrutiny of the proposal, ICTPL was requested to furnish the following information / clarification on various points vide our letter dated 12 May 2009. ICTPL furnished its reply vide its letter dated 1 June 2009. The details called for and the replies received from ICTPL are juxtaposed below:-

Sr. No.	Queries Raised by TAMP	Reply furnished by ICTPL
1	<p><u>GENERAL:</u></p> <p>1. At the time of approving the SOR of the ICTPL vide this Authority's order dated 25 November 2008, fixation of tariff was on the basis of projections and estimates made by ICTPL for the year 2008 - 09. ICTPL is, therefore, requested to furnish in Form – 7 an analysis of the variations in traffic, income and expenditure between actuals and the projections based on which tariff was fixed for the year 2008 – 2009 duly explaining the reasons for variations, if any.</p> <p>2. Sl. No. 8 of Form I declares that IGTPPL has fully complied with the tariff guidelines whereas perusal of the other statements shows the proposal is not in line with those guidelines in some aspects like pass through of revenue share.</p>	<p><u>GENERAL:</u></p> <p>1. The details of analysis of the variations in the traffic, the basis on which the traffic was fixed for the year 2008-09 are furnished in Form No.7.</p> <p>2. As regards compliance with the tariff guidelines, it is reiterated that ICTPL follows strictly to the guidelines issued by the Authority from time to time.</p>
2	<p><u>TRAFFIC:</u></p> <p>1. In the proposal dated 27 February 2009, the traffic for 2008 – 09 has been estimated at 35669 TEUs. The figures for 2008 – 09 needs to be updated with reference to the actuals.</p> <p>2. With reference to the traffic</p>	<p><u>TRAFFIC:</u></p> <p>1. The actual throughput achieved during the year 2008-09 is 31386 TEUs which includes 10648 TEUs handled by MbPT in their berth at 14VD for calculating the penalty on the MGT. Further, taking into account present market scenario, the projections for 2010-11 and 2011-12 have been revised to 1,20,612 and 1,30,663 TEUs respectively.</p> <p>2.a) The projection of traffic for three</p>

	<p>projections, please furnish the following:</p> <p>(a).The basis for estimates of traffic for the three years of 2009 – 10, 2010 – 11 and 2011 - 12.</p> <p>(b). The basis for container mix projected in the total container throughput of the respective category of containers.</p> <p>(c). Why traffic has not been estimated in respect of reefer containers under any of the categories for the ensuing three years when tariff for handling reefer containers has been proposed in the SOR.</p> <p>3. For all the years under consideration, in Form - 2 A, ICTPL has shown the minimum throughput as per the license agreement as the assessed capacity of the terminal. The assessed capacity of the terminal has to be determined based on the capital investments and the infrastructure created. ICTPL is, therefore, requested to compute the assessed standard capacity of the terminal and furnish the details alongwith the revised cost statements.</p> <p>4. In Form - 2 A, ICTPL has not furnished the details of (i) minimum investment obligations as per the concession agreement and (ii) the investments actually made. Kindly comply.</p>	<p>years from 2009-10 has been made taking into account the market scenario and the MGT to be achieved by ICTPL as per the License Agreement signed with MbPT.</p> <p>b) As regards container mix projected in the total container throughput of the respective containers are taken considering the performance of MbPT for the past two years and the market research carried out by ICTPL's Commercial department after discussion with the prospective port users.</p> <p>c) We have not envisaged any reefer containers. However, we have asked for the rates for reefer containers, in the event, ICTPL goes for handling reefer containers in future during the tenure of the tariff, approved by TAMP.</p> <p>3. It is correct that ICTPL has shown MGT as per the License Agreement. Further, the cranes available in the terminal are completely refurbished and taking into account the capacity of the cranes and RTGs, the throughput has been projected. We therefore request the Authority to consider the same as the standard capacity of the Terminal.</p> <p>4. It is brought to the kind notice of the Authority that as per the Concession Agreement signed with MbPT, there is no minimum obligation on the part of ICTPL to cater to the needs of the Terminal. However, the equipments taken over from MbPT have been completely refurbished to meet the requirement of the business</p>
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		demand in the Terminal and to satisfy the port users while using the Terminal.
3.	<p><u>INCOME:</u></p> <ol style="list-style-type: none"> 1. Please furnish a copy of the Audited Annual accounts for the year 2008 – 09 for perusal. 2. The income for 2008 – 09 needs to be updated with reference to actuals. 3. For the year 2008 – 09, ICTPL has considered an income of Rs. 10.28 lacs at the existing rates from demurrage / storage charges / license fees / plot rentals. For the years 2009 – 10, 2010 – 11 and 2011 – 12, no income under this head has been estimated. Kindly furnish the reasons therefor. 4. For the years 2009 – 10, 2010 – 11 and 2011 – 12, ICTPL has considered income at the existing rates from wharfage and handling charges (at existing tariff) of Rs. 13.34 lacs, Rs. 19.91 lacs and Rs. 19.91 lacs respectively. For the year 2008 – 09, no income under this head has been estimated. Kindly furnish the reasons therefor. 5. Although ICTPL has proposed tariff for container handling equipment and stevedoring, no income has been estimated for these two services. Kindly elucidate. 	<p><u>INCOME:</u></p> <ol style="list-style-type: none"> 1. The unaudited Annual Accounts for the year 2008-09 is enclosed. Once the Audit is over, the same will be sent. 2. The income for the year 2008-09 has been duly updated with reference to actuals. 3. The income under demurrage/storage charges has been taken as per the share of revenue receivable from MbPT for the vessels of MbPT handled at ICTPL Terminal. However for 2009-10, 2010-11 and 2011-12, we have not envisaged any income on this head. 4. As regards wharfage for 2008-09, no income has been shown as the Authority had not approved, the collection of wharfage from the port users while communicating its approval for the existing SOR in ICTPL. Therefore, no income has been shown under the head wharfage for 2008-09. Hence, we request the Authority to consider for according its approval for collection of wharfage in line with the existing tariff of MbPT, for the subsequent years as projected. The charges may be reckoned as handling charges instead of wharfage. 5. We had proposed the tariff for container handling equipment and stevedoring in the proposal with a view to have the same services in future. Therefore, the Authority is requested for according its approval.

	<p>6. For handling 35669 TEUs in 2008 – 09, ICTPL at the existing rates has shown a container handling income of Rs. 399.76 lacs. For handling 100510 TEUs in 2009 – 10 and 150000 TEUs each in the subsequent two years, ICTPL has projected the container handling income at Rs. 1802.27 lacs, 2689.53 lacs and 2689.53 lacs respectively. As per note 3 below Form – 2B detailed computation of income with reference to traffic at existing Scale of Rates and proposed Scale of Rates has to be submitted. Kindly, therefore, furnish a working sheet detailing the calculations.</p> <p>7. Similarly, a working sheet, along with a dwell time analysis detailing the calculations of demurrage / storage income, at the existing storage charges and the proposed storage charges may please be furnished.</p> <p>8. ICTPL is requested to confirm that the “other income” estimated in Form 3 A is the income from container storage.</p> <p>9. ICTPL has shown as finance and miscellaneous income Rs. 3 lacs per annum for the years 2009 – 10 to 2011 – 12. The details thereof may please be furnished.</p> <p>10. Exchange rate considered by ICTPL for determining income from dollar denominated tariff may be furnished. The income arising out of the dollar denominated tariff may be updated with the current exchange rate.</p>	<p>6. The container handling income has now been revised to Rs.3,13,44,913/- for the year 2008-09 taking into account the actual income earned by ICTPL. This has happened due to the majority of the containers handled by ICTPL are brought through barges. Therefore, the average income is reduced. For the subsequent years, i.e. for 2009-10 onwards, the projection has been made that the majority of the containers will be handled for the lines.</p> <p>7. The assumption for dwell time calculations of demurrage/ storage income, at the existing storage charges is that 20% of the containers handled at ICTPL will remain for 2 days at the container yard.</p> <p>8. It is confirmed that other income estimated and shown in Form-3A are storage charges of the containers.</p> <p>9. In finance and miscellaneous income, the income shown are the interest income on short-term investment of the surplus fund during the year.</p> <p>10. The exchange rate considered by ICTPL for determining income from dollar denominated tariff is considered at Rs.48.00 per dollar. As per the advice, the income is now updated taking into account the current exchange rate.</p>
4	<u>EXPENDITURE:</u>	<u>EXPENDITURE:</u>

	<p>1. The expenditure for 2008 – 09 needs to be updated with reference to actuals.</p> <p>2. ICTPL is stated to have incurred an expenditure of 35.06 lacs as equipment running cost during 2008 – 09 for handling 35,669 TEUs. For handling 100510 TEUs in 2009 – 10 and handling 150000 TEUs in 2010 – 11 and 2011 – 12, ICTPL has projected an expenditure of Rs. 328.92 lacs, 491.51 lacs and 491.51 lacs respectively. The basis on which the expenditure has been projected for the next three years may please be explained. As per clause 2.5.1 of the revised tariff guidelines, the expenditure projections should be in line with traffic adjusted for price fluctuations with reference to current movement of wholesale price index for all commodities announced by the Ministry of Finance, Government of India. ICTPL is requested to carry out requisite amendments to the expenditure projections.</p> <p>3. The basis of estimating the average cost per employee in respect of operating and direct labour and maintenance labour may be explained.</p> <p>4. As against the expenditure of Rs. 393.12 lacs incurred in 2008 – 09 towards operating and direct labour, ICTPL has projected the expenditure at Rs. 447.93 lacs, Rs. 470.32 lacs and Rs. 493.84 lacs respectively for the succeeding three years. It is not clear how this cost has been estimated with reference to the containers projected to be handled</p>	<p>1. The expenditure for 2008-09 has now been updated with reference to the actual.</p> <p>2. The actual expenditure for the equipment running cost for the year 2008-09 for handling 20738 TEUs is Rs.113,22,916/-. Accordingly, the handling charges for subsequent years starting from 2009-10 has been revised taking into account the projected expenditure. As per the advice of the Authority, the expenditure has been updated taking into account the current movement of Wholesale Price Index. However 5% increase has been considered for increase in the expenditure.</p> <p>3. The basis of estimating the average cost per employee has been calculated considering the actual expenditure incurred for the employees employed in ICTPL.</p> <p>4. The expenditure incurred for 2008-09 towards operating and direct labour has now been taken as per the Annual Accounts of 2008-09. The projection for subsequent years also have been considered taking into account the current movement of wholesale price index (Average increase of 5% p.a.).</p>
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	<p>during these years. The expenditure projections may please be made adhering to clause 2.5.1 of the revised tariff guidelines.</p> <p>5. As per clause 2.8.1 of the revised tariff guidelines, royalty / revenue share payable by ICTPL to MBPT, the landlord port, will not be allowed as an admissible cost for tariff computation. This fact has also been clearly spelt out in Article 10.1 of the License Agreement entered into by ICTPL with MBPT. ICTPL is, therefore, advised to resubmit the cost statements excluding the royalty / revenue share.</p> <p>6. Kindly confirm that the lease rentals payable are as per the concession agreement. ICTPL has shown a constant figure of Rs. 170.80 lacs per annum as lease rentals payable during 2009 – 10, 2010 – 11 and 2011 – 12. Please confirm that there is no yearly escalation in the rental payable to MBPT.</p> <p>7. Please furnish documentary evidence in respect of the estimated insurance cost. As per the information furnished, ICTPL has proposed to acquire assets worth Rs. 63.19 lacs, Rs. 512.12 lacs and Rs. 63.11 lacs during 2009 – 10, 2010 – 11 and 2011 – 12 respectively. ICTPL is therefore requested to clarify why it has projected an insurance cost of Rs. 44.42 lacs per year for the next three years as against the insurance cost of 17.87 lacs during 2008 – 09.</p> <p>8. Kindly justify the estimated expenditure of 168.67 lacs, 177.10 lacs and 185.96 lacs respectively for 2009 – 10,</p>	<p>5. As per clause 2.8.1 of the revised tariff guidelines, royalty/revenue share payable by ICTPL to MbPT has now been removed for tariff computation. Accordingly, the revised cost statements are submitted.</p> <p>6. It is confirmed that the lease rentals payable to MbPT are as per the Concession Agreement. There is an escalation of 5% every year which is now considered in the cost statement.</p> <p>7. The documentary evidence for the insurance cost is furnished.</p> <p>8. The details of management and administration expenditure for the year 2009-10, 2010-11 and 2011-12 are furnished.</p>
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	<p>2010 – 11 and 2011 - 12 towards management and administration overheads with item-wise details. The expenditure projection has to be made adhering to clause 2.5.1 of the revised tariff guidelines.</p> <p>9. Kindly furnish item-wise details of the estimated general overheads amounting to Rs.136.06 lacs, 142.87 lacs and 150.13 lacs respectively for 2009 – 10, 2010 – 11 and 2011 – 12. Here too it is necessary to adhere to clause 2.5.1 of the revised tariff guidelines while projecting the expenditure.</p> <p>10. Under overheads, ICTPL has shown 79.73 lacs and Rs. 63.65 lacs as “other expenditure” for the years 2008 – 09 and 2009 – 10. The details thereof may be furnished.</p> <p>11. ICTPL is requested to confirm that in the cost statements submitted, it has not included any expenditure and capital investment pertaining to the construction of the Off Shore Container Terminal.</p>	<p>9. The details of general overheads for the year 2009-10, 2010-11 and 2011-12 are furnished.</p> <p>10. The details under other expenditure are also furnished.</p> <p>11. It is confirmed that the cost statement submitted by ICTPL does not include any expenditure and capital investment pertaining to OCT Terminal.</p>
5	<p><u>CAPITAL EMPLOYED:</u></p> <p>1. Only completed and commissioned assets will be counted for capital employed which should also exclude work-in-progress. A confirmation in this regard may be furnished.</p> <p>2. As per the details furnished, ICTPL has acquired assets amounting to Rs. 1566.02 lacs during 2008 – 09. It has also proposed to acquire assets worth Rs. 63.19 lacs, Rs. 512.12 lacs and Rs. 63.11 lacs during 2009 – 10, 2010 – 11 and 2011 – 12. Please confirm whether the fixed assets as at the</p>	<p><u>CAPITAL EMPLOYED:</u></p> <p>1. It is confirmed that only completed assets are included. No work in progress is included in the assets.</p> <p>2. The details of fixed assets for the year 2008-09 is Rs. 16,80,78,709/- as per the unaudited Annual Accounts presented to the Auditors by ICTPL. Once the audit is over, copy of the audited Annual Account will be submitted to the Authority. The proposed addition to the fixed assets in the subsequent years is only</p>

	<p>commencement of operations, and additions already made and proposed during the ensuing three years, are in accordance with the Concession Agreement.</p> <p>3. With reference to the estimated expenditure on fixed assets, please furnish documentary evidence in respect of the capital value of various assets already commissioned. Similarly, evidence of action taken to procure other assets to be added subsequently may be furnished.</p> <p>4. Kindly confirm that the depreciation has been calculated as per clause 2.7.1 of the revised tariff guidelines notified on 31 March 2005</p> <p>5. While arriving at the capital employed, it appears ICTPL has reduced the net fixed assets by the negative working capital. ICTPL is advised that in case the working capital shows a negative figure, it can be treated as zero and no adjustment to the net fixed assets needs to be carried out on this account.</p>	<p>with a view to improve the efficiency of the equipments.</p> <p>3. The documentary evidence for 2008-09 towards capital assets are furnished. However, for the subsequent years, these are all estimates and as and when the same will be incurred, evidences will be produced to the Authority.</p> <p>4. It is confirmed that the depreciation has been calculated as per clause 2.7.1.</p> <p>5. The advice of the Authority has been considered</p>
6	<p>III. <u>SOR:</u></p> <p>1. ICTPL has proposed to define "GRT", "Cold Move" and "VCD" vide Section 1.1. Definitions in Chapter I of the proposed SOR. Since, the SOR submitted by ICTPL does not refer to these terminologies anywhere and they do not in anyway relevant for the container operations carried out by the Terminal; the purpose of defining them may please be explained.</p> <p>2.1. In the context of the proposed conditionality on ICD</p>	<p><u>SOR:</u></p> <p>1. We agree with the suggestion of the Authority and necessary changes are incorporated in Section 1.1 Chapter-I of the proposed Schedule of Rates.</p> <p>2.1 As advised by the Authority, necessary corrections have</p>

	<p>containers, ICTPL is requested to clarify the following:-</p> <p>(i) Whether ICTPL has commenced/carried out any direct ICD activity during 2008 – 09 or propose to commence such activity in near future.</p> <p>(ii) If it has carried out or intend to carry out direct services to ICD boxes, ICTPL to explain why rates have not been proposed for ICD containers in the composite charges on cargo containers handled with Quay Side Gantry Cranes and handled with Cranes other than Quayside Gantry Cranes vide Sections 1 and 2 of Chapter II of the proposed SOR.</p> <p>2.2. ICTPL is also requested to furnish the following:-</p> <p>(i) The number of empty containers received from and removed to ICD during 2008 – 09 and the charges levied on such containers and the aggregate revenue realized from this ICD activity.</p> <p>(ii) The number of import loaded containers manifested locally but subsequently transshipped to ICD during 2008 – 09.</p> <p>(iii) The number of ICD import containers de-stuffed and cleared from the terminal during 2008 – 09 after treating them as FCI and the revenue realized thereon.</p> <p>(iv) The loaded containers</p>	<p>been made in Section 1 and 2 of Chapter-II, as approved by the Authority while considering our proposal.</p>
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	<p>received from / dispatched to ICD by rail /road during 2008 – 09 and the revenue realized thereon.</p> <p>(v) The basis on which the rate of US \$ 3.13 for loaded / empty containers received from / dispatched to ICD by rail / road having length upto 20 feet have been arrived at may be explained with cost details.</p> <p>3. ICTPL has proposed to levy wharfage on cargo inside the export loaded container received from other than port premises excluding container received from ICD at the rate of Rs. 1250, Rs. 1875 and Rs. 2500/- for container having length upto 20 feet, having length upto 40 feet and having length over 40 feet, respectively. How these rates have been arrived at may please be explained with cost details.</p> <p>4. As per the revised guidelines, free period for storage of import and export containers has to be provided though the number of free days can be proposed by the terminal operator. ICTPL has not provided any free period in the proposed SOR. ICTPL is requested to comply with the provisions of the revised guidelines.</p> <p>5. ICTPL is advised to incorporate suitable sections in the SOR for handling and transportation of transshipment containers when such containers are discharged by ICTPL at its terminal and loaded by the MBPT at its berth and vice versa.</p>	<p>3. The proposed levy of wharfage has been arrived at considering 25% increase proposed in our proposal on the rates available in MbPT Schedule of Rates.</p> <p>4. As advised by the Authority, it is informed that for storage of import & export and transshipment containers, the number of free days will be 2 days and 6 days respectively.</p> <p>5. As advised by the Authority, necessary changes have been included in the Schedule of Rates.</p>
7	<p><u>MISCELLANEOUS</u> A copy of the comments received from MBPT vide letter no. FA/ACC/ICTPL (Costing)/254/4063 dated 24 April 2009 on the rate revision proposal of ICTPL is</p>	<p><u>MISCELLANEOUS:</u></p> <p>1. The necessary changes have been made in the Schedule of Rates by increasing reefer charges as per the proposal.</p>

	forwarded for comments.	<p>Our comments on MBPT's letter dated 24.04.09 are as follows:</p> <p>(a) The charges payable for reefer points have been revised upward by 25%. Accordingly, the Cost Statements are revised.</p> <p>(b) charges in respect of labour supplied for stuffing or destuffing of cargo container are also revised upward by 25%.</p> <p>2.(Ai) During the year 2008-09, no wharfage has been collected as the Authority did not approve to charge wharfage. For the subsequent years, wharfage has been calculated as per the existing MbPT tariff. The wharfage charges may please be reckoned as handling charges.</p> <p>ii) Under the head Demurrage/Storage/License fee/port rentals for the year 2008-09 is the amount receivable from MbPT towards vessels of MbPT handled in ICTPL based on the agreement between MbPT and ICTPL.</p> <p>(B) Demurrage/Storage/Dwell time charges have been shown as per actual collected during the year 2008-09 and for subsequent years, it has been projected based on the trend experienced during the previous year.</p> <p>(C) Royalty/revenue share for the years which was shown previously has now been removed.</p>
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6.2. ICTPL by letter dated 1 July 2009 submitted some more additional information / clarifications. ICTPL was requested to furnish information / clarification on various points vide this Authority's letter dated 13 July 2009. The details called for in our letter dated 13 July 2009 and the replies received from ICTPL under letter dated 23 July 2009 are juxtaposed below:-

Sr. No.	Queries Raised by TAMP	Reply furnished by ICTPL												
1.	<p><u>GENERAL:</u></p> <p>(1) Form No. 7 accompanying ICTPL's letter dated 1 June 2009 furnishes the variations in traffic, income and expenditure between actuals and the projections based on which traffic was fixed for the year 2008 – 09. On many of the major heads, the deviations have been more than 20 %. The statement submitted by ICTPL does not contain the reasons for these variations. Kindly furnish the requisite information in this respect.</p> <p>(2) Even in its letter dated 1 July 2009, ICTPL has not stated anything as regards the current performance and targeted objective for productivity enhancement measures.</p>	<p><u>GENERAL</u></p> <p>(1) Global scenario, limitation in draft and age old local working practices has resulted in reduction of traffic and income thereon during 2008 – 09.</p> <p>(2) The current performance for the months starting from April 2009 to June 2009 are furnished below.</p> <table border="1" data-bbox="998 741 1351 961"> <thead> <tr> <th></th> <th><u>Actuals</u></th> <th><u>Budget</u></th> </tr> </thead> <tbody> <tr> <td>April 2009</td> <td>3505</td> <td>6420</td> </tr> <tr> <td>May 2009</td> <td>2885</td> <td>6930</td> </tr> <tr> <td>June 2009</td> <td>2851</td> <td>6495</td> </tr> </tbody> </table> <p>The targeted objective for productivity enhancement measures are furnished below;</p> <p>(a) With a view to attract the customers, we are continuously in touch with all the Liners, who were previously operating at MbPT and the prospective customers. Further, we are targeting to achieve 16 moves per hour and our main objective is to maintain this productivity throughout the year.</p> <p>(b) To re-attract the grain cargo back from Turbhe and Kalamboli rail siding to Mumbai.</p> <p>(c) To productively sell the idea of moving cargo through Dharamtar and Hind Terminal (Nhava-Sheva to and fro ICT by barge and rail respectively).</p> <p>(d) To promote and make Lines utilize the empty yards of MbPT like at Golden Yard to</p>		<u>Actuals</u>	<u>Budget</u>	April 2009	3505	6420	May 2009	2885	6930	June 2009	2851	6495
	<u>Actuals</u>	<u>Budget</u>												
April 2009	3505	6420												
May 2009	2885	6930												
June 2009	2851	6495												

		<p>ensure availability of empty containers in Mumbai.</p> <p>(e) By maintaining the equipments to the best satisfaction of customers through routine maintenance and monthly preventive maintenance and regular enhancement of systems, etc.</p>																						
2	<p><u>TRAFFIC:</u></p> <p>(3) ICTPL has stated that 10648 TEUs handled by MBPT at its 14 VD have been included in the traffic of 31386 TEUs handled by ICTPL during 2008 – 09. Kindly confirm that ICTPL has handled only 20738 TEUs during 2008 – 09.</p> <p>(4) The Container Traffic projected as per Form – 2 A is 31,386 TEUs, 100,510 TEUs, 120,612 TEUs and 130,663 TEUs respectively for 2008-09, 2009-10, 2010-11 and 2011-12. The respective yearly traffic shown in Form 3 – A is however 81,111 TEUs, 1,38,610 TEUs, 1,50,000 TEUs and 1,50,000 TEUs. ICTPL is requested to incorporate the correct figures in the prescribed forms.</p>	<p><u>TRAFFIC:</u></p> <p>(3) It is confirmed that ICTPL has handled only 20,738 TEUs during the year 2008-09 as detailed below:</p> <table border="1"> <tr> <td>June 2008</td> <td>196</td> </tr> <tr> <td>July 2008</td> <td>249</td> </tr> <tr> <td>August 2008</td> <td>1451</td> </tr> <tr> <td>September 2008</td> <td>1299</td> </tr> <tr> <td>October 2008</td> <td>1379</td> </tr> <tr> <td>November 2008</td> <td>3060</td> </tr> <tr> <td>December 2008</td> <td>4762</td> </tr> <tr> <td>January 2009</td> <td>3625</td> </tr> <tr> <td>February 2009</td> <td>2274</td> </tr> <tr> <td>March 2009</td> <td>2443</td> </tr> <tr> <td>Total</td> <td>20738</td> </tr> </table> <p>(4) Traffic projection made in Form 2A at Sr. No. II is the actual traffic handled and to be handled by ICTPL whereas the traffic figures shown in Form No. 3A is linked to Form No. 2A (IV) which is the assessed capacity taken by ICTPL considering the Minimum Guaranteed Throughput (MGT) to be achieved by ICTPL as per License Agreement. Therefore, the Authority may accept the figures at Form 2A.</p>	June 2008	196	July 2008	249	August 2008	1451	September 2008	1299	October 2008	1379	November 2008	3060	December 2008	4762	January 2009	3625	February 2009	2274	March 2009	2443	Total	20738
June 2008	196																							
July 2008	249																							
August 2008	1451																							
September 2008	1299																							
October 2008	1379																							
November 2008	3060																							
December 2008	4762																							
January 2009	3625																							
February 2009	2274																							
March 2009	2443																							
Total	20738																							
3	<p><u>INCOME</u></p> <p>(5) As per Annexure III to letter dated 1 July 2009, ICTPL has projected estimated operating income of Rs. 19,10,82,822/- for the year 2009 – 10. As per the cost statement, the operating income considered for 2009 – 10 is Rs. 18,37,11,858/-. The gap between the figures furnished in</p>	<p><u>INCOME</u></p> <p>(5) The operating income of Rs.19,10,82,822/-, indicated at Annexure II attached to our letter dated 01.07.09, there was a typographical error which has now been corrected. The operating</p>																						

	<p>Annexure III and the cost statement ICTPL may be reconciled.</p> <p>(6) ICTPL has stated that during 2008 – 09 as share of revenue for the vessels of MBPT handled at ICTPL terminal, it has received from MBPT Rs. 18.06 lacs towards demurrage / storage charges. Kindly elucidate why ICTPL has not envisaged any income on this head for subsequent three years.</p> <p>(7) Storage income considered for 2008 – 09 is Rs. 46,40,092/-. This income considered for 2009 – 10, 2010-11 and 2011 – 12 are respectively Rs. 21,49,932/-, Rs. 25,79,918 and Rs. 27,94,912/-. ICTPL has stated that it has arrived at the demurrage / storage income at 20% of the containers handled with an assumption that the containers will remain for two days at the container yard. Though there is large increase in the number of containers expected to be handled during the next three years, ICTPL has projected the storage income much below 50% of the corresponding income generated during 2008 – 09. ICTPL is, therefore, once again requested to submit a working sheet along with a dwell time analysis detailing the calculation of demurrage / storage income at the existing storage charges and the proposed storage charges.</p>	<p>income, previously arrived at Rs.18,37,11,858/- has now been changed to Rs.18,39,74,166/- due to change in the demurrage/storage/dwell time income. The storage was previously estimated at Rs.21,49,932/- and has now been corrected at Rs.24,12,240/-</p> <p>Accordingly, all projections for the subsequent years have been changed,</p> <p>(6) The income of Rs.18.06 lakhs shown under 2008-09 is income towards MbPT bulk vessels handled at ICTPL. There is no projection from MbPT side regarding the vessels to be handled at ICTPL. In absence of any concrete data, it is difficult to project any income under this head. Further, during 2008-09, our berth was vacant due to less number of TEUs handled by us. Now, since our projections are more and our berths may not be vacant for handling the bulk vessels of MbPT, we have not projected any income under this head.</p> <p>(7) The storage income for 2008-09 was Rs.46,40,092/-. This income has now been estimated at Rs.24,12,240/-, Rs.28,94,688/- and Rs.31,35,912/- for the years 2009-10, 2010-11 and 2011-12 respectively. These projections have been made assuming 20% of the containers will remain for 4 days at the container yard. As per the revised SOR proposed by us, the total free period is 2 days in addition to the discharge/loading date. In the calculation, we have taken as 1 day storage collection beyond 3 days free period allowed as per the SOR. Since, we intend to increase our turnaround of the yard and we have estimated more on the container handling income as compared to the previous year, the storage income has been taken at a low level. As the</p>
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		<p>container yard space is less, keeping containers more days in the yard, will not help us in turning around the throughput projected by us.</p> <p>(8) Initially for determining the income from dollar denominated tariff, ICTPL has considered the exchange rate of Rs. 48/- per dollar. ICTPL has subsequently updated the workings taking into account a different exchange rate. The exchange rate considered in the latest working may please be informed.</p>	<p>(8) As regards the ROE, ICTPL has been constantly considering the exchange rate of Rs.48/- per dollar. Inadvertently, in calculation of the storage charge submitted vide our letter dated 01.07.09, it was taken at a lower rate. The same has now been corrected.</p>															
4	<p><u>EXPENDITURE:</u></p> <p>(9) As per the unaudited Annual Accounts for 2008 – 09, the total expenditure amounts to 11,98,24,009/- consisting of employee costs at Rs. 3,23,30,625, administration and operating expenses at Rs. 6,41,38,001, miscellaneous expenditure (write-off) at Rs. 5,39,653 and depreciation at Rs. 2,28,15,730. If the revenue share of Rs. 1,26,14, 319/- paid to MBPT is excluded, the balance expenditure works out to Rs. 10, 72,09,690/-. The expenditure considered in the cost statement for the year 2008 - 09 aggregates to Rs. 10,80,19,490/. A reconciliation statement may please be submitted detailing the reasons for considering an additional expenditure of Rs. 809800/-.</p> <p>(10) Although in its letter dated 1 July 2009, ICTPL has stated that the details of assumptions considered for the year 2009 – 10 have been enclosed in Annexure III thereto, it has only furnished the break-up of the expenditure budgeted under various heads for the year 2009 – 10 and the “assumptions considered” have not been explained therein. There exists wide variation in the head-wise expenditure incurred during the year 2008 – 09 and those projected for 2009 – 10 as shown below:</p> <table border="1" data-bbox="311 1583 922 1894"> <thead> <tr> <th>Sr. No.</th> <th>Particulars</th> <th>Expenditure during 2008 – 09</th> <th>Expenditure projected for 2009 – 10</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Operating and Direct Labour</td> <td>37,805,821</td> <td>4,47,93,206</td> </tr> <tr> <td>2</td> <td>Maintenance Labour</td> <td>65,44,230</td> <td>94,38,240</td> </tr> <tr> <td>3</td> <td>Equipment running cost</td> <td>1,13,22,916</td> <td>3,28,92,506</td> </tr> </tbody> </table>	Sr. No.	Particulars	Expenditure during 2008 – 09	Expenditure projected for 2009 – 10	1	Operating and Direct Labour	37,805,821	4,47,93,206	2	Maintenance Labour	65,44,230	94,38,240	3	Equipment running cost	1,13,22,916	3,28,92,506	<p><u>EXPENDITURE:</u></p> <p>(9) Rs.8,09,800/- included in the expenditure is towards Fringe Benefit Tax (FBT) paid on the expenditure incurred by ICTPL. Since, FBT is a charge in addition to the expenditure, we had considered this as part of expenditure and accordingly, this was included. This is an additional burden on the part of the company payable to the Government. We agree that the tax on income should not be included as part of expenditure, which is taken care of by ROCE. Hence, based on the advice of the Authority, this amount has been deleted.</p> <p>(10) Increase in TEUs handled from 20738 in 2008 -09 to 100510 in 2009 – 10, the expenditure for the full year of 2009 – 10 vis-à-vis the expenditure of about 9 months of 2008 – 09 and the increase in number of employees are the main factors for projecting higher expenditure for the year 2009 – 10.</p>
Sr. No.	Particulars	Expenditure during 2008 – 09	Expenditure projected for 2009 – 10															
1	Operating and Direct Labour	37,805,821	4,47,93,206															
2	Maintenance Labour	65,44,230	94,38,240															
3	Equipment running cost	1,13,22,916	3,28,92,506															

4	Lease Rental Payable	1,47,27,977	1,70,80,308
5	Insurance	15,25,284	44,42,000
6	Management and Administration overheads	30,18,521	1,68,67,000
7	General Overheads	85,55,682	1,36,06,700
8	Contribution to Provident Fund	17,03,329	46,68,393

Since it is not clear how the expenditure under various heads has been projected, ICTPL is requested to furnish the "assumptions considered" and justify the expenditure projected for the year 2009 – 10.

(11) The aggregate Operating Expenditure for 2009 – 10 has been considered at Rs. 17.14 crores. The corresponding expenditure for 2010 – 11 has been projected at 19.61 crores, an increase of about 14 % when most of the expenditure is fixed in nature. Kindly furnish the reasons therefor. The expenditure projections should be in line with the traffic adjusted for price fluctuations with reference to current movement of WPI vide clause 2.5.1 of the revised tariff guidelines. The rate applicable to 2009 – 10 is 5.80 %. Kindly carry out requisite amendments to the expenditure projections

(11) The details of operating expenditure for 2009-10 and 2010-11 are as follows:
(Rupees in Crores)

	2009-10	2010-11
Operating and Direct Labour	4.48	4.70
Maintenance Labour	0.94	0.99
Equipment Running Costs	3.29	3.95
Lease Rentals	1.71	1.79
Insurance	0.44	0.44
Depreciation	3.24	4.54
Management and Administrative Overhead	1.69	1.77
General Overhead	1.36	1.42

All the expenditure were considered taking into account the WPI and increased by 5% as against the rate applicable for 2009-10 as 5.80%. In respect of Equipment Running Costs i.e. towards electricity and fuel, we have considered an

	<p>(12) In the cost statement, ICTPL has considered the insurance expenditure for 2008 -09 at Rs. 15,25,284/- and for the next three years at Rs. 44,42,000/= per year. To substantiate the expenditure, ICTPL has furnished copies of three insurance policies. The premium paid for insuring the container terminal is Rs. 18,00,001/- and the period covered is from 20 June 2008 to 19 June 2009. The other two policies are employees related and the premiums paid are Rs. 70,000/- and Rs. 2,96,584/- covering the period from 19 October 2008 to 18 October 2009. It is not clear from the copies of the three policies how ICTPL has arrived at the insurance expenditure for 2008 -09 at Rs. 15,25,284/- and for the next three years at Rs. 44,42,000/= per year. Kindly elucidate. ICTPL is also requested to confirm that it has not included herein any insurance expenditure pertaining to the employees attending to the construction of the offshore container terminal.</p> <p>(13) It is observed from the allocation statements submitted vide Annex I and Annex III to ICTPL's letter dated 1 July 2009 that it has considered the Fringe Benefit Tax as an item of expenditure. Since ROCE allowable is on a pre-tax rate, ICTPL is advised to exclude FBT from the cost statement. In any case, the current Union Budget has abolished FBT.</p>	<p>increase of 20%. There is no increase in the Insurance Cost (which is now revised), whereas depreciation has been taken as per the actual additions in the assets. Since the rate applicable to 2009-10 is 5.80% to increase the expenditure, necessary revision has been carried out in the Cost Sheets and furnished accordingly.</p> <p>(12) The projections were made based on the number of employees inducted in the Terminal. Actually, when the insurance was finalised, the premium paid by us was only Rs.21,66,585/-. Accordingly, the expenditure has been revised.</p> <p>(13) Since the Government has now decided to abolish FBT, it will not come in the subsequent years. Accordingly, adjustment has been carried out.</p>
5	<p><u>CAPITAL EMPLOYED:-</u></p> <p>(14) As per the information furnished in the latest Form 4 A, ICTPL has acquired assets amounting to Rs. 16,78,28,411/- during 2008 – 09. Although vide letter dated 1 July 2009, ICTPL has submitted copies of a bunch of invoices relating to acquisition of various assets, the details available in those invoices could not be linked to the item-wise assets appearing in Form 4-A. ICTPL is, therefore, requested to furnish a statement co-relating the</p>	<p><u>CAPITAL EMPLOYED:</u></p> <p>(14) Statement is submitted to corroborate the addition in the Fixed Assets.</p>

	<p>invoice details with the respective assets procured during 2008 - 09.</p> <p>(15) In its letter dated 1 July 2009, ICTPL has stated that it intends to add second hand equipment like forklift, lashing cage and QCI and RT replacement of festoon cables. Evidence of action taken to procure these assets may please be furnished.</p>	<p>(15) Action is yet to be taken on this, and will submit all details finalised by ICTPL.</p>
6	<p><u>SOR</u></p> <p>(16) Despite a specific advice, ICTPL has not incorporated suitable sections in the SOR for handling and transportation of transshipment containers when such containers are discharged by ICTPL at its terminal and loaded by the MBPT at its berth and vice versa.</p> <p>(17) ICTPL has stated in letter dated 1 June 2009 that it has provided free period of 2 days and 6 days respectively for import and export containers and for transshipment containers. At note (1) below Section 5 of the proposed SOR the details of granting two free days for import/export containers are seen. At General Note (ii) below Section 8 ibid, it has been stated that Transshipment and Same Bottom containers would be treated on par with import containers for levy of license fee for storage charges. ICTPL is requested to indicate the section under which it has proposed 6 days free period for TP containers.</p> <p>(18) At Section 8 of the draft SOR, ICTPL has proposed to levy wharfage on cargo inside the export loaded containers received from other than port premises excluding containers received from ICD at the rate of Rs. 1250/- for a container having length upto 20 feet, Rs. 1875/- for a container having length upto 40 feet and Rs.2500/- for a container having length over 40 feet. As per note (iii) to Sections 1 and 2 of the SOR, the composite charges specified in Sections 1 and 2 include wharfage, on board stevedoring charges, handling at shipside, lift on of export/lift off import containers at the pre-stack area and removal of container</p>	<p><u>SOR</u></p> <p>(16) We have now proposed for transportation and handling charges in MbPT outside ICTPL premises in the SOR at 3(ii) replacing the existing rates. As this will be for the first time we are proposing this activity to be carried out, we have not projected any income and expenditure in the Cost Statement. Once this operation is started, we assure the Authority that all information will be submitted.</p> <p>(17) Necessary incorporation has been carried out in the SOR.</p> <p>(18) We have discussed this issue in detail internally and have taken into account the previous approval of the Authority for SOR and have now decided not to include any wharfage in the SOR. This was also raised by the customers in various meetings and therefore, we request the Authority to agree to our suggestion in deleting the wharfage from the SOR. We have also made necessary</p>

	<p>between shipside and pre-stack. Since Sections 1 and 2 prescribe handling charges for all types of containers, ICTPL is requested to explain the rationale behind its proposal to levy wharfage on cargo inside the export loaded containers received from other than port premises.</p> <p>(19) The mention of containers received from ICD at Section 8 of the draft SOR may be reviewed. In this regard, it may be confirmed whether ICTPL will undertake direct ICD activity and if so, the proposed date of commencing such service. In such an event, the additional revenue on this account may be quantified.</p>	<p>changes in the Cost Statements accordingly.</p> <p>(19) As explained above, this has been deleted from the SOR. We are not contemplating any ICD activities in the near future till the OCT construction is over. Therefore, necessary correction has been carried out in the SOR.</p>
7	<p><u>RATE REVISION SOUGHT BY ICTPL</u></p> <p>(20) ICTPL has sought an increase of 25% over the existing tariff. As per the cost details submitted by ICTPL in Form 3 A, it would generate at the existing rate itself a net surplus of Rs. 84,05,305 (after adjusting the deficit of Rs. 92,17,493 for the year 2009-10 from the surplus of Rs.16,60,424 and Rs. 1,59,62,374 respectively for the years 2010-11 and 2011-2012) during the ensuing three years. Considering the aggregate operating income of Rs. 64, 28,17,128/- projected by the ICTPL for the ensuing three years, in fact there exists a case for reducing the existing rates. ICTPL is, therefore, requested to justify its proposal to increase its existing tariff by 25%.</p>	<p><u>RATE REVISION SOUGHT BY ICTPL</u></p> <p>(20) ICTPL has proposed for an increase of 25% considering the losses sustained during previous year and the anticipated loss in the subsequent years. We have projected traffic of more than 1,00,000 containers in a year starting from the current year but due to current market trend, we may end up in achieving less throughput. Thereby, there will definitely be shortfall in revenue and will enhance the losses of ICTPL. We are definitely not of the opinion that the loss should be recovered through rate increase but to certain extent should be comparable to the rates of the adjoining Terminals.</p> <p>Therefore, the Authority is requested to consider the proposal after taking into account the rates of the adjoining Terminals and the clarifications furnished by ICTPL and take a decision which is considered appropriate.</p>

6.3. While furnishing clarifications to the queries raised by us, ICTPL updated the cost statements furnished by it earlier. A summary of the updated cost position is given below:

Sr.	Particulars	At existing tariff
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No.		2008-09 (Actuals)	2009-10	2010-11	2011-12
	Traffic (In MTs / TEUs)	31386	138,610	150000	150,000
I	Total Operating Income	37,790,997	182,639,982	219,167,978	237,257,602
II	Operating Costs (excluding depreciation)	61,515,201	106,370,845	116,948,786	125,151,134
III	Depreciation	22,815,730	32,353,407	45,382,167	46,891,817
IV	Overheads				
	(i) Management & Administration overheads	3,017,481	15,667,000	16,575,686	17,735,984
	(ii) General Overheads	9,486,604	13,606,700	14,395,889	15,403,601
	Total (i to ii)	12,504,085	29,273,700	30,971,575	33,139,585
V	Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)	(59,044,020)	14,642,029	25,865,451	32,075,066
VI	Finance & Miscellaneous Income (FMI)	3,636,544	300,000	300,000	300,000
VII	Finance & Miscellaneous Expenses (FME)	1,352,658	4,668,393	4,939,160	5,284,901
VIII	FMI Less FME (VI) - (VII)	2,283,886	(4,368,393)	(4,639,160)	(4,984,901)
IX	Surplus Before Interest and Tax (V) + (VIII)	(56,760,134)	10,273,636	21,226,291	27,090,165
X	Capital Employed	146,255,064	120,220,757	126,061,390	85,480,973
XI	RoCE - Maximum permissible (16% / 6.35% / 0%)	23,400,810	19,235,321	20,169,822	13,676,956
XII	Capacity Utilization	21	73	80	87
XIII	RoCE adjusted for capacity utilization	49,14,170	19,235,321	20,169,822	13,676,956
XIV	Net Surplus / (Deficit) (IX) - (XIII)	(61674304)	(8,961,685)	1,056,468	13,413,209
XV	Net Surplus / (Deficit) as a % of operating income (XIV/I in %)	(163)	(5)	0	6

7. By letter dated 19 August 2009, ICTPL further informed as under-

- (a) The value of land reflected in the accounts for an amount of Rs. 550,000/- is the land purchased at Palghar for creating securities for the lenders against the loan obtained for its Project. The necessary documents to support the purchase are furnished.
- (b) As regards procedure and charges for inter-terminal transfer of transshipment containers between ICTPL Terminal and MBPT, ICTPL does not envisage any such activities. On any containers which come to ICTPL Terminal, usual charges are being levied. Therefore, ICTPL does not propose any such charges as are prevalent in the nearby Terminals.
- (c) ICTPL furnished the assumptions considered for the expenditure projection for 2009 – 10.
- (d) ICTPL stated that the following Plant and Machinery and equipment will be added in the ensuing years.

	Rs.
(i) RTGC	3,00,00,000
(ii) Spreader – 2 nos	1,50,00,000
(iii) Forklift	16,00,000
(iv) Lashing Cage	1,00,000
(v) QC1 Replacement of Festoon Cables	25,00,000
(vi) RTGC Replacement of Festoon Cables	9,00,000

- (e) The projections for 2010 – 11 for the above purchases are based on the throughput to be handled. For the year 2010 – 11, ICTPL's projection is 1,20,612 TEUs and for 2011 – 12, the projection is 1,30,663 TEUs. In order to have better operational efficiencies and housekeeping, ICTPL is proposing to have second hand RTGCs in the fleet, in addition to the three it presently possesses. ICTPL will definitely produce all documentary evidences, once the orders are placed. It is necessary to have 2 spreaders as spares in case of failure with the existing ones. ICTPL hence requested TAMP to consider the addition in Plant & Machinery amounting to Rs. 5,10,00,000/-

8.1. A joint hearing in this case was held on 26 November 2009 in the office of this Authority. The ICTPL, MBPT and the concerned users have made their submissions.

8.2. By letter dated 30 November 2009 ICTPL was requested to furnish its Audited Accounts ended 31 March 2009 and a revised cost statement considering the actual throughput for the current year upto the end of October 2009. ICTPL by letters dated 30 November 2009 and 5 December 2009 furnished a revised cost sheet and a copy of the audited financials for the year 2008-09.

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

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

- (i) This Authority allowed ICTPL to adopt the MBPT rates in November 2008 after considering the ICTPL's estimated cost position for the year 2008-09. As per clause

2.13 of the revised tariff guidelines the actual physical and financial performance have to be reviewed with reference to the projections relied upon at the time of fixing the prevailing tariff and if performance variation of more than plus or minus 20% is observed, as compared to the projections, tariff has to be adjusted prospectively. An analysis for the year 2008-09 has been carried out with the figures appearing in the audited Annual Accounts for the year 2008 – 09 furnished by ICTPL. The analysis reveals that as against the throughput of 85325 TEUs estimated for 2008-09, the actual containers handled was only at 31386 TEUs which included 10648 TEUs handled by MBPT. The reason for this adverse variation, according to the ICTPL, is the global recession, limitation in draft and age old local working practices. Due to reduction in traffic, the actual operating income realised was only Rs.3.78 crores against the estimated operating income of 22.93 crores. The corresponding operating expenditure estimated at Rs.7.33 crore, has been contained at Rs.6.15 crores. The management and general administration including general overheads amounted to Rs. 1.25 crores as against the estimate of Rs. 1.07 crores. The expenditure booked under depreciation was only Rs.22.81 crores although the estimate on this count was Rs.30.38 crores. The variation in the capital employed was marginal – the estimate of Rs.14.41 crores increased to Rs.14.62 crores. Although it was estimated that there would be a net surplus of Rs. 3.2 crores during 2008 - 09, mainly due to the reduction in throughput, the year ended with a net deficit of Rs. 8.01 crores. It is thus clear that no undue advantage has accrued to the operator due to operation of the interim rates for the year 2008 – 09.

- (ii) ICTPL has handled only 20783 TEUs during its 9 months and few days operation in 2008 – 09. The traffic projected is 100510 TEUs, 120612 TEUs and 130663 TEUs for the years 2009 – 10, 2010 – 11 and 2011 -12 respectively. ICTPL has stated that to attract customers it is continuously in touch with all the liners who were operating at MBPT in the past and has also taken several measures to bring in new customers. Considering the above statement of ICTPL and the minimum guaranteed throughput of 138610 TEUs, 150000 TEUs and 1500 TEUs to be achieved respectively during 2009 – 10, 2010 – 11 and 2011 – 12 as per the license agreement, the traffic projected by ICTPL is relied upon for the rate analysis. It is noteworthy that none of the users, particularly, the shipping interest, has furnished any comments questioning the traffic estimates considered by the ICTPL. However, if any undue advantage is found to have accrued to the operator due to wrong estimation, adjustments will be made in the tariff at the time of next review of tariff.
- (iii) Considering the traffic projected, the operating income as estimated by ICTPL for the years 2009 – 10 to 2011- 12 has been relied upon. While projecting the income, ICTPL has considered the exchange rate of 1 US\$ = Rs. 48.00. The current exchange rate is around Rs.46.00 = 1 US\$. As per clause 2.5.1 of the revised tariff guidelines, income projections should take into account effect of foreign exchange fluctuation of income from dollar denominated tariff items. Based on the ICTPLs indication that storage income is generated from dollar denominated tariff, the estimated operating income has been reduced by Rs. 95484, Rs. 114581 and Rs. 124130 respectively for the years 2009 – 10, 2010-11 and 2011 -12.
- (iv) ICTPL has considered Rs. 3,00,000 per annum as finance and miscellaneous income for the years 2009 – 10 to 2011 – 12. Since it is the interest income on short term investment of the surplus fund and not an operating income, it has been excluded from the rate analysis.
- (v) Initially ICTPL has proposed to levy wharfage on cargo inside the export loaded containers received from other than port premises excluding containers received from ICD at Rs. 1000 per TEU (coastal Rs. 600/-). Subsequently it has informed that in deference to the requests of its clients it has withdrawn this proposal. Accordingly, in

the revised cost statements submitted, the estimated income from wharfage on cargo inside the containers has been excluded by ICTPL.

- (vi) As far as the expenditure side is concerned, there is a wide variation in the expenditure incurred in 2008 - 09 and that projected for 2009 – 10 and for the following two years. When requested to justify the expenditure projections for 2009 – 10, ICTPL has informed that the actual of 2008 – 09 covers only a period of nine months (since operation commenced only from 23 June 2008) and the projection for 2009 – 10 are for the full year. Further it has stated that the higher expenditure projection is in tandem with the projected increase in the throughput.
- (vii) The expenditure on operating and direct labour during 2008 – 09 amounted to Rs. 277.51 lacs. ICTPL has projected this expenditure at Rs. 447.93 lacs, 473.91 lacs and Rs.507.08 lacs respectively for the years 2009 – 10, 2010 – 11 and 2011 -12. ICTPL has clarified that the number of employees deployed during 2009 – 10 increased from 85 to 91 and in the budget for 2009 – 10 it has projected an increment of 10%. In the absence of any means to independently ascertain the reasonableness of the estimated number of employees engaged and the compensation paid to them, the estimate provided by ICTPL for 2009 – 10 towards operating and direct labour is relied upon. It is noteworthy that ICTPL has made the expenditure projection for 2010-11 and 2011 – 12 with the current applicable annual escalation rate of 5.8%.
- (viii) As against Rs. 65.44 lacs expended towards maintenance labour in 2008 - 2009, ICTPL has projected the expenditure at Rs. 94.38 lacs, Rs.99.85 lacs and Rs. 106.84 lacs respectively for the ensuing three years. According to ICTPL, the monthly payment of Rs. 7,86,520 made to the contractor during 2008 – 09 was restricted to about eight months, whereas the expenditure for 2009 – 10 onwards has been projected for the full year. Relying upon the expenditure projected for the full year 2009 – 10, the expenditure for 2010 – 11 and 2011 – 12 has been estimated within the permissible limit of annual escalation of 5.8%.
- (ix) The estimated equipment running cost mainly comprises power cost, fuel cost, transportation cost, fuel lubricant and crane hire charges. The cost incurred on this head during 2008 – 09 was Rs. 190.66 lacs. The projection made for the next three years is respectively Rs. 328.92 lacs, Rs. 394.71 lacs and Rs. 427.60 lacs. ICTPL has clarified that the increase in the expenditure projection of Rs. 219 lacs during 2009 – 10 is mainly due to increase in electricity costs (Rs. 16 lacs) , fuel cost (Rs. 64 lacs), TT hire charges (Rs. 114 lacs) spare parts (Rs. 16 lacs) and other miscellaneous expenditure (Rs. 9 lacs) which is in tandem with the projected increase in the throughput. While estimating power cost to operate the QGCs, ICTPL has considered power consumption at 6 units per TEU. Considering the norm of 8 units per TEU prescribed in the 2008 guidelines for upfront tariff setting for PPP projects and the average power consumption at CCTL, PSI SICAL and GTIPL terminals around 8.1 units per TEU, the estimate of ICTPL is on the lower side and it is accepted without any modification. ICTPL's estimate of fuel consumption by RTGs at 2.50 litres per TEU is also on the lower side, when compared with the average consumption of 3.84 litres per TEU at other terminals and the norm of 4 litres per TEU prescribed in the 2008 guidelines for upfront tariff setting for PPP projects. The cost considered by ICTPL for 2010-11 and 2011-12 has been moderated at Rs. 376.59 lacs and Rs. 398.44 lacs respectively after providing for cost escalation at 5.80% over the respective previous years and considering the throughput of 120612 TEUs and 130663 TEUs to be handled during those two years.
- (x) The lease rental paid to MBPT during 2008 – 09 was Rs. 147.27 lacs. The payment on this account projected for ensuing three years is at Rs. 170.80 lacs, 179.34 lacs

and 188.31 lacs respectively. ICTPL has confirmed that this payment is as per the concession agreement entered into with MBPT. MBPT has also not contradicted this position while furnishing its comments.

- (xi) Based on the actual premium payment already made for the year 2009 – 10, ICTPL has projected the insurance cost at Rs. 21.66 lacs per annum for the succeeding three years. As per the 2008 guidelines for upfront tariff setting for PPP projects, 1 % of Gross Fixed Assets value is the norm prescribed as insurance cost. If these norms are applied, though not relevant in this case, insurance expenditure should have been limited at Rs. 17 lakhs. Since actual payment of Rs. 21.66 lacs has been made for 2009 – 10 and Concession Agreement requires to obtain and maintain such insurance cover, the estimate of ICTPL has been accepted without any modification.
- (xii) The depreciation booked for the year 2008 – 2009 amounted to Rs. 228.15 lacs. ICTPL has considered depreciation for the years 2009 -10, 2010-11 and 2011 -12 at Rs. 323.53 lacs, Rs.453.82 lacs and Rs. 468.91 lacs respectively. In view of not considering the proposed capital additions of Rs. 63.19 lacs, Rs. 512.22 lacs and Rs. 63.11 lacs respectively pertaining to 2009 – 10, 2010 – 11 and 2011 – 12 for reasons given in sub-para (xviii) below, the estimated depreciation furnished by ICTPL has also been suitably adjusted.
- (xiii) The management and administration overheads incurred during 2008 – 09 stood at Rs. 30.17 lacs. ICTPL has estimated the expenditure for the years 2009 -10, 2010 – 11 and 2011 – 12 respectively at Rs. 156.67 lacs, Rs.165.75 lacs and Rs. 177.35 lacs. According to ICTPL the increase in this expenditure during 2009 – 10 over that of 2008 – 09 is mainly due to the engagement of a foreign consultant, professional and legal expenses, staff training and other expenditure. Engagement of a foreign consultant and the quantum of compensation payable to him is a management decision. It may be possible that the expenditure considered under this head and under operating and direct labour referred to in sub-para vii above may include the expenditure pertaining to ICTPL's main objective of construction of the offshore container terminal. ICTPL has, however, confirmed that the cost statement submitted for this exercise does not include any effect of the OCT Project. Hence, the details furnished by ICTPL are relied upon. However, if any undue advantage is found to have accrued to ICTPL due to inclusion of any expenditure connected to the construction of the offshore container terminal, adjustment will be made in the tariff at the time of next review of tariff.
- (xiv) The expenditure on general overheads, consisting mainly towards safety, security, welfare, audit, legal, office management etc, during 2008 – 09 amounted to 94.86 lacs. It also includes the fringe benefit tax. For the next three years, ICTPL has estimated this expenditure at Rs. 136.06 lacs, 143.95 lacs and Rs. 154.03 lacs. In this analysis, the fringe benefit tax considered by ICTPL as an expenditure has been excluded and the modified estimates for 2009 – 10 as furnished by ICTPL is relied upon. For the subsequent year, annual escalation at the permissible level of 5.8% is allowed.
- (xv) ICTPL has shown its contribution towards its employee's provident fund (Rs. 46.83 lacs, Rs.49.39 lacs and Rs.52.84 lacs for 2009-10, 2010 -11 and 2011 -12 respectively) under finance and miscellaneous expenses. The expenditure considered by ICTPL has been relied upon.
- (xvi) ICTPL has not included the preliminary expenses, if any incurred, the upfront fees paid for O & M rights and the revenue share as items of cost for the purpose of tariff fixation.

- (xvii) Since the aggregate admissible current assets are lower than the current liabilities, ICTPL has not considered any working capital forming part of the capital employed for arriving at the ROCE.
- (xviii) The net block forming part of capital employed is projected by ICTPL at Rs. 14.62 crores for 2008-09, Rs. 12.02 crores for 2009-10, Rs.12.60 crores for 2010-11 and Rs.8.54 crores for 2011-12. The net block shown for the years 2009-10, 2010-11 and 2011-12 includes capital addition of Rs. 63.19 lacs, Rs. 512.22 lacs and Rs. 63.11 lacs respectively. These proposed capital additions are towards procurement of capacitor bank for QCs, fire equipment, RTGs, spreaders, forklifts, lashing cage, replacement of festoon cables and for addition to information technology during the ensuing three years. No documentary evidence in support of their contention has been submitted by ICTPL. Therefore, these proposed additions have not been considered in the rate analysis as the tariff guidelines specify that only fully commissioned assets can be considered for computing return on capital employed.
- (xix) ICTPL was repeatedly advised to compute the assessed capacity of the terminal based on the capital investment and the infrastructure created. ICTPL in reply reiterated that the minimum guaranteed throughput to be achieved by it as per the license agreement should be considered as the assessed capacity. The position maintained by ICTPL cannot be accepted since designed capacity cannot be equivalent only upto the MGT level. Though not relevant in this case, the upfront tariff guidelines provide the methodology and norms for determining the capacity of a container terminal. However, in view of the non-standard parameters at ICTPL and aged assets in operations, we are unable to import such methodology in the case of ICTPL.

Clause 2.9.11 of the Tariff Guidelines specifies that investment made in accordance with the obligation under Concession Agreement will be considered for ROCE even if full capacity utilization is not achieved.

The assets at ICTPL are taken over from MBPT under the Concession Agreement. They were repaired and refurbished to keep them in operating conditions. Further, the MBPT has not commented anything in adverse on the capital employed figures reported by ICTPL. Therefore, the net fixed assets of ICTPL, subject to exclusion of new capital additions proposed for the future period, is considered for ROCE at 16%.

- (xx) Subject to the discussion above, the cost statement for the terminal has been modified and the modified cost statement is attached as **Annex – I**

- (xxi) As per the modified cost statement the following final cost position emerges:-
Rs. in lakhs

Details	2009 – 10	2010 – 11	2011 – 12
Operating income	1825.39	2190.47	2370.07
Net Surplus (+)Deficit (-)	(60.41)	185.92	344.08
Net Surplus (+)Deficit (-) as a percentage of operating income	(3.31)	8.49	14.52
Average Surplus / Deficit for the	10.26%		

period 1.1.2010 to 31.3.2012	
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- (xxii) The cost position clearly shows that ICTPL will be in surplus at the existing level of tariff. There is, therefore, no justification in granting the proposed increase of 25%. On the contrary, the tariff is to be reduced for the relevant period to fit into the cost plus method adopted. However, reduction of tariff with retrospective effect from 1 April 2009 will cause complication. Therefore, the position for the year 2009 – 10 is considered pro-rata for the remaining three months. Accordingly, the average revenue surplus works out to 10.26% for the period from January 2010 to March 2012. However, providing for some margin of error in the estimations, this Authority decides to effect a reduction of 10 % in the existing rates in the SOR of ICTPL. A casual look at the decision to reduce tariff may appear to be harsh. But, it has to be recognized that the reduction to be effected is on the rates of MBPT which were allowed to be adopted in the initial phase by ICTPL and not on the tariff determined earlier for ICTPL. This is in fact, the first occasion of fixing the tariff of ICTPL following its cost of operation and investment. It is needless to mention that the compulsion of cross-subsidization faced by MBPT does not arise in the case of ICTPL.
- (xxiii) The draft Scale of Rates furnished by the ICTPL is generally found to be in line with the revised tariff guidelines. In its Order dated 25 November 2008, this Authority had advised ICTPL to incorporate a section in its Scale of Rates for levy of charges for any interterminal transshipment of containers between its terminal and that of MBPT. Stating that it does not envisage any such inter terminal movement of transshipment containers, ICTPL has not proposed any rates therefor in the SOR.
- (xxiv) For transporting loaded and empty containers outside ICTPL premises (Transportation within MBPT Docks and to / fro MBPT CFS) ICTPL has proposed transportation charges and lift on / lift off charges. The transportation charges proposed range between Rs. 600 and Rs. 1600 depending on the size of the container and the place to which the container is to be shifted. For lift on and lift off in MBPT docks and at MBPT CFS, ICTPL has proposed rates ranging between Rs. 400 and Rs. 800. This is a new tariff item and no reference to such services is available in the existing Scale of Rates of MBPT. Neither the operational requirement nor any cost analysis is furnished by ICTPL in support of the proposed rates and hence it will not be possible to accord approval to the proposal at this juncture. ICTPL may examine this issue further and come out with a separate well analysed proposal, if necessary.
- (xxv) The CSLA has raised certain issues about the existing conditionalities pertaining to abandoned containers vide para 8.2 above. The relevant provision proposed by ICTPL in its draft SOR is as per Clause 5. 8.3 of the revised tariff guidelines notified in March 2005. The issue raised by CSLA is not concerned only with ICTPL but involves review of the Govt. Policy guidelines.

11. In the result and for the reason given above and based on a collective application of mind, this Authority approves the revised Scale of Rates of ICTPL attached as **Annex II**.

12. The revised Scale of Rates and conditionalities will come into effect immediately from the date of notification of the Order in the Gazette of India and shall be in force till 31st March 2012. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

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

14. The tariff of the ICTPL has been fixed relying on the information furnished by the operator and based on the assumptions made as explained in the analysis. The ICTPL 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 30 June, 30 September, 31 December and 31 March 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 periods, this Authority shall call upon ICTPL to submit its proposal for an ahead of scheduled review. If ICTPL fails to file a tariff proposal within the time limit to be stipulated by this Authority, suo motu proceedings will 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 adjustment of additional surplus will be made in the tariff to be fixed for the next cycle.

(Rani Jadhav)
Chairperson

COST STATEMENT OF INDIRA CONTAINER TERMINAL PVT LTD								
Sr.No.	Particulars	Estimates furnished by ICTPL				Estimates moderated by TAMP		
		2008-09 (Actuals)	2009-10	2010-11	2011-12	2009-10	2010-11	2011-12
	Traffic (In MTs / TEUs)	31,386	100,510	120,612	130,663	100,510	120,612	130,663
I	Total Operating Income							
	(i) Container handling income	31,344,913	180,227,742	216,273,290	234,121,690	180,227,742	216,273,290	234,121,690
	(ii) Cargo handling income	1,805,992	-	-	-	-	-	-
	(iii) Others	4,640,092	2,412,240	2,894,688	3,135,912	2,311,730	2,774,076	2,886,297
	Total (i to iii)	37,790,997	182,639,982	219,167,978	237,257,602	182,539,472	219,047,366	237,007,987
II	Operating Costs (excluding							
	(i) Operating & Direct Labour	27,750,999	44,793,206	47,391,212	50,708,597	44,793,206	47,391,212	50,139,902
	(ii) Maintenance Labour	6,544,230	9,438,240	9,985,658	10,684,654	9,438,240	9,985,658	10,564,826
	(iii) Equipment Running Costs	10,966,711	32,892,506	39,471,008	42,760,258	32,892,506	37,659,914	39,844,189
	(iv) Lease Rentals payable as per concession agreement	14,727,977	17,080,308	17,934,323	18,831,040	17,080,308	17,934,323	18,831,039
	(v) Insurance	1,525,284	2,166,585	2,166,585	2,166,585	2,166,585	2,166,585	2,166,585
	Total (i to v)	61,515,201	106,370,845	116,948,786	125,151,134	106,370,845	115,137,692	121,546,541
III	Depreciation	22,815,730	32,353,407	45,382,167	46,891,817	31,207,975	31,476,459	31,591,371
IV	Overheads							
	(i) Management & Administration	3,017,481	15,667,000	16,575,686	17,735,984	15,667,000	16,575,686	17,537,076
	(ii) General Overheads	9,486,604	13,606,700	14,395,889	15,403,601	12,442,565	14,245,978	15,072,245
	Total (i to ii)	12,504,085	29,273,700	30,971,575	33,139,585	28,109,565	30,821,664	32,609,321
V	Operating Surplus / (Deficit) (I) – (II) –	(59,044,020)	14,642,029	25,865,451	32,075,066	16,851,087	41,611,551	51,260,754
VI	Finance & Miscellaneous Income (FMI)	3,636,544	300,000	300,000	300,000	-	-	-
VII	Finance & Miscellaneous Expenses (FME) - contribution of provident fund	1,352,658	4,668,393	4,939,160	5,284,901	4,668,393	4,939,160	5,284,901
VIII	FMI Less FME (VI) - (VII)	2,283,886	(4,368,393)	(4,639,160)	(4,984,901)	(4,668,393)	(4,939,160)	(5,284,901)
IX	Surplus Before Interest and Tax (V) +	(56,760,134)	10,273,636	21,226,291	27,090,165	12,182,694	36,672,391	45,975,853
X	Capital Employed	146,255,064	120,220,757	126,061,390	85,480,973	113,901,657	120,938,590	79,169,573
XI	RoCE - Maximum permissible (16% / 8.33% / 0%)	23,400,810	19,235,321	20,169,822	13,676,956	18,224,265	18,079,624	11,567,383
XII	Net Surplus / (Deficit) (IX) - (XI)	(80,160,945)	(8,961,685)	1,056,468	13,413,209	(6,041,571)	18,592,767	34,408,470
XIII	Net Surplus / (Deficit) as a % of operating income (XIII) in %	(162.57)	(4.90)	0.57	6.12	(3.31)	8.49	14.52

INDIRA CONTAINER TERMINAL PRIVATE LTD
SCALE OF RATES

CHAPTER – I

1.1 DEFINITIONS

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

- (i). ICTPL shall mean Indira Container Terminal Private Ltd
- (ii). 'Vessel' includes any thing made for the conveyance mainly by water of human being or of goods and a caisson.
- (iii). '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 valid coastal licence issued by the competent authority.
- (iv). 'Foreign-going Vessel' shall mean any vessel other than Coastal vessel.
- (v). "Reefer Container" shall mean a refrigerated container used for carriage of perishable goods with provision for electrical supply to maintain the desired temperature.
- (vi). "Hazardous Container" shall mean a container containing hazardous goods as classified under IMO.
- (vii). "Transshipment container" shall mean any container, which is discharged from one vessel, stored in the container yard and transported through another vessel.
- (viii). "Free period" shall mean the period during which cargo/container shall be allowed storage free of demurrage charges and this period shall exclude Sunday(s), customs holidays and Port's Non-working days.
- (ix). "Over dimensional container" shall mean a container carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam etc. They also include damaged containers and other types which require special devices.
- (x). "Shut out Container" shall mean a container which enters into the port as an export intake for a particular vessel (as indicated by the Vessel Identification Advice Number i.e. VIA No.) and is not connected to the particular vessel for reasons whatsoever.
- (xi). "Demurrage" shall mean charges payable for storage of cargo within port premises beyond free period, as specified in the scale of rates.
- (xii). "Full Container Load" (FCL) shall mean a container containing cargo belonging to one consignee in the vessel's manifest.
- (xiii). "Less than a Container Load" (LCL) shall mean a container containing cargo belonging to more than one consignee in the vessel's manifest.
- (xiv). "Month" shall be reckoned as 1st day (inclusive) of one month to the 1st day (exclusive) of the next month or from the 2nd day (inclusive) of one month to the 2nd day (exclusive) of the next month and so on. E.g. 14th of January (inclusive) to 14th of February (exclusive) (i.e. a period of 30 days).

- (xv). "Day" means a calendar day i.e. the period from the midnight of a day to the midnight of the following day.

1.2. General Terms and Conditions

- (i). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as 'coastal' or 'foreign-going' for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.
- (ii). (a). A foreign going vessel of Indian Flag having a General Trading Licence can convert to Coastal run on the basis of a Customs Conversion Order or on filing of Coastal International General Manifest in Coastal Establishment Section of Customs Department.
- (b). A foreign going vessel of Foreign Flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping.
- (c). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
- (d). In cases of such conversion, coastal rates shall be chargeable only till the vessel completes coastal discharging operations; immediately thereafter, foreign-going rates shall be chargeable by the discharge ports.
- (e). For dedicated Indian coastal vessels having a Coastal Licence from the Director General of Shipping, no other document will be required to be entitled to Coastal rates.
- (iii). (a). All dollar denominated tariff will be recovered in Indian Rupees after conversion of charges in dollar terms into its equivalent Indian Rupees at 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.
- (b). The day of entry of the vessel into port limits shall be reckoned as the day for such conversion. In respect of charges on containers, the day of entry of the vessel in the case of import containers and the day of arrival of containers into the port in the case of export containers shall be reckoned as the day for such conversion.
- (c). 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.
- (iv). Interest on delayed payments/refunds:
- (a). The user shall pay penal interest on delayed payments and ICTPL shall pay penal interest on delayed refunds at the rate of **13.75%** per annum.
- (b). The delay in payments by user will be counted beyond 10 days after the date of raising the bills. This provision will not apply to the case where payment is to be made before availing of the services/use of terminal properties as stipulated in the MPT Act, 1963 and/or prescribed as a condition in the tariff.
- (c). The delay in refunds by the terminal will be counted beyond 20 days from the date of completion of services or on production of all the documents required from the user, whichever is later.

- (v). (a). The rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The ICTPL may, if it so desires, charge lower rates and/or allow higher rebates and discounts.
- (b). The ICTPL may, if it so desires, rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling level.
- (c). The ICTPL should notify the public such lower rates and/or rationalisation of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.
- (vi). (a). Wherever a specific tariff for a service/cargo is not available in the notified Scale of Rates, the ICTPL can submit a suitable proposal to the TAMP.
- (b). Simultaneously with the submission of proposal, the proposed rate can be levied on an ad hoc basis till the rate is finally notified.
- (c). The ad hoc rate to be operated in the interim period must be derived based on existing notified tariffs for comparable services/cargo; and, it must be mutually agreed upon by the ICTPL and the concerned user(s).
- (d). The final rate fixed by the TAMP will ordinarily be effective only prospectively. The interim rate adopted in an ad hoc manner will be recognised as such unless it is found to be excessive requiring some moderation retrospectively.
- (vii). The minimum charges recovered in any bill shall be Rupees Twenty (Rs.20/-) only.
- (viii). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.
- (ix). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.5 shall be taken as 0.5 unit and fractions of 0.5 and above shall be treated as one unit, except where otherwise specified.
- (x). (a). The cargo/container related charges for coastal cargo/containers, other than thermal coal and POL including crude oil iron ore and iron ore pellets will be 60% of the normal cargo/container related charges.
- (b). In case of cargo related charges, the concessional rates shall be levied on all the relevant handling charges for ship-shore transfer and transfer from/to quay to/from storage yard including wharfage.
- (c). In case of container related charges the concession is applicable on composite box rate. Where itemized charges are levied, the concession shall be on all the relevant charges for ship-shore transfer and transfer from/to quay to/from storage yard as well as wharfage on cargo and containers.
- (d). The charges for coastal cargo/containers/vessels will be denominated and collected in Indian Rupees.
- (xi). Users will not be required to pay charges for delays beyond a reasonable level attributable to ICTPL.

- (xii). (a). Container from a foreign port which reaches an Indian Port 'A' for subsequent transshipment to Indian Port 'B' will be levied the concessional charges relevant for its coastal voyage. In other words, containers from/to Indian ports carried by vessels permitted to undertake coastal voyage will qualify for concession.
- (b). A container from foreign port landing at ICTPL 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.
- (xiii). In case a vessel idles due to non availability or breakdown of the shore based facilities of ICTPL or any other reasons attributable to the ICTPL, rebate equivalent to berth hire charges payable to MBPT accrued during the period of idling of vessel shall be allowed by ICTPL.

SCALE OF RATES
CHAPTER – II

1. Composite charges on Cargo containers handled with Quay Side Gantry Cranes

Description	Containers upto 20'				Containers Above 20' but upto 40'				Containers length above 40'			
	Rates for Foreign Containers (in Rs.)		Rates for Coastal Containers (in Rs.)		Rates for Foreign Containers (in Rs.)		Rates for Coastal Containers (in Rs.)		Rates for Foreign Containers (in Rs.)		Rates for Coastal Containers (in Rs.)	
	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty
General Containers	2223	1773	1334	1064	3335	2660	2001	1596	4446	3546	2668	2128
Hazardous Containers*	2785	2223	1671	1334	4179	3335	2507	2001	5571	4446	3443	2668
Transshipment Containers	2646	2286	1587	1372	3969	3429	2381	2057	5292	4572	3175	2743
Same Bottom Containers	2646	2286	1587	1372	3969	3429	2381	2057	5292	4572	3175	2743
Export containers brought by Barges under Shipping Bills from other ports for shipment	2673	2313	1604	1388	4010	3470	2408	2082	5346	4626	3208	2775
Containers moved by barges between ICTPL & other ports	2700	2250	1620	1350	4050	3375	2430	2025	5400	4500	3240	2700
* The composite charges for hazardous containers will be applicable in respect of permissible 'A' category containers as also 'B' & 'C' category containers.												

2. Composite charges on Cargo containers Handled with cranes other than Quayside Gantry Cranes.

Description	Containers upto 20'				Containers Above 20' but upto 40'				Containers length above 40'			
	Rates for Foreign Containers (in Rs.)		Rates for Coastal Containers (in Rs.)		Rates for Foreign Containers (in Rs.)		Rates for Coastal Containers (in Rs.)		Rates for Foreign Containers (in Rs.)		Rates for Coastal Containers (in Rs.)	
	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty
General Containers	1683	1503	1010	902	2526	2255	1515	1353	3366	3006	2020	1804
Hazardous Containers*	2111	1886	1266	1131	3166	2829	1900	1697	4221	3771	2533	2263
Transshipment Containers	2511	2241	1507	1345	3767	3362	2260	2017	5022	4482	3013	2689
Same Bottom Containers	2511	2241	1507	1345	3767	3362	2260	2017	5022	4482	3013	2689
Export containers brought by Barges under Shipping Bills from other ports for shipment	2538	2268	1523	1361	3807	3402	2284	2041	5076	4536	3046	2722
Containers moved by barges between ICTPL & other ports	2160	1980	1296	1188	3240	2970	1944	1782	4320	3960	2592	2376

* The composite charges for hazardous containers will be applicable in respect of permissible 'A' category containers as also 'B' & 'C' category containers.

Notes: Sections 1 & 2

(i) The above composite rates include the following charges towards onboard stevedoring and inclusion of this element in THC levied by the Shipping Lines/ Agents shall be regulated in accordance with the Order of TAMP passed in case no: TAMP/47/2000-MBPT, dated 12 June 2001:

Quayside Gantry Cranes:

- | | | |
|-----|--|------------|
| (a) | All general Containers. | Rs. 382.80 |
| (b) | All Transshipment containers and all same bottom Containers. | Rs. 765.60 |
| (c) | All export containers brought by barges under shipping bills from JNPT for shipment through ICTPL terminal | Rs. 671.55 |

Non-Quayside Gantry Cranes:

- | | | |
|-----|--|-------------|
| (a) | All general Containers. | Rs. 637.48 |
| (b) | All Transshipment containers and all same bottom Containers. | Rs. 1274.97 |
| (c) | All containers handled by barges to and fro JNPT | Rs. 288.75 |

- (d) All export containers brought by barges under shipping bills from JNPT for shipment through ICTPL Rs. 926.23
- (ii). Cargo container means specifically designed container of uniform size for consolidating goods within compact unit.
- (iii). The above charges include wharfage, on board stevedoring charges, handling at shipside, lift on of export/lift off import containers at the pre-stack area, removal of container between shipside and pre-stack.
- (iv). Additional services of loading/unloading of containers on to the Agents' trailers.
- (v). Lashing and unlashng containers on board the vessel shall be the responsibility of the vessel agents. If lashing and unlashng service is provided by the ICTPL, Rs.27/-, Rs. 41/- and Rs. 54/- extra per 20' unit, 40' unit and above 40' unit respectively shall be leviable.
- (vi). When a transshipment container is unloaded by gantry crane and loaded by Non-Gantry crane or vice versa, 50% of the Box rate for Transshipment containers prescribed at Sections 1 & 2 respectively will be applicable.
3. **With the prior permission of the ICTPL authorities, rebates shall be applicable to the port users for carrying out various container operations with their own arrangements. The rebates applicable along with the conditions are as follows:**

(i). **Stevedoring Charges**
(a). **When Gantry crane is used**

Sr. No.	Particulars	Foreign-Going (in Rs.)			Coastal (in Rs.)		
		20'	40'	Over 40'	20'	40'	Over 40'
1.	General containers						
	Loaded	382.80	382.80	382.80	229.68	229.68	229.68
	Empty	382.80	382.80	382.80	229.68	229.68	229.68
Sr. No.	Particulars	Foreign-Going (in Rs.)			Coastal (in Rs.)		
		20'	40'	Over 40'	20'	40'	Over 40'
2.	Transshipment and same bottom containers						
	Loaded	765.60	765.60	765.60	459.36	459.36	459.36
	Empty	765.60	765.60	765.60	459.36	459.36	459.36
3.	Export Containers brought by barges under shipping bills from other ports for shipment						
	Loaded	671.55	671.55	671.55	402.93	402.93	402.93
	Empty	671.55	671.55	671.55	402.93	402.93	402.93

(b). **When crane other than Gantry crane is used**

Sr. No.	Particulars	Foreign-Going (in Rs.)			Coastal (in Rs.)		
		20'	40'	Over 40'	20'	40'	Over 40'
1.	General containers						
	Loaded	637.48	637.48	637.48	382.49	382.49	382.49
	Empty	637.48	637.48	637.48	382.49	382.49	382.49

2.	Transshipment and same bottom containers						
	Loaded	1274.97	1274.97	1274.97	763.99	763.99	763.99
	Empty	1274.97	1274.97	1274.97	763.99	763.99	763.99
3.	Containers handled by barges to and fro other ports						
	Loaded	288.75	288.75	288.75	173.25	173.25	173.25
	Empty	288.75	288.75	288.75	173.25	173.25	173.25
4.	Export Containers brought by barges under shipping bills from other ports for shipment						
	Loaded	926.23	926.23	926.23	555.74	555.74	555.74
	Empty	926.23	926.23	926.23	555.74	555.74	555.74

(ii). **Transportation Charges**

Sr. No.	Particulars	Foreign-Going (in Rs.)			Coastal (in Rs.)		
		20'	40'	Over 40'	20'	40'	Over 40'
1.	General containers handled by barges to and fro other ports						
	Loaded	621.50	932.25	1243	372.90	559.35	745.80
	Empty	506	759	1012	303.60	455.40	607.20
2.	Transshipment, Same bottom Containers and Export Containers brought by barges under shipping bills from other ports for shipment through ICTPL Terminal						
	Loaded	1243	1864.50	2486	745.80	1118.70	1491.60
	Empty	1012	1518	2024	607.20	910.80	1214.40

4. Charges on container handling equipment

(1) Charges will be leviable on container handling equipment per move as follows:

	Containers upto 20'		Containers Above 20' but upto 40'		Containers length above 40'	
	Foreign	Coastal	Foreign	Coastal	Foreign	Coastal
	US \$	Rs.	US \$	Rs.	US \$	Rs.
(a). Quayside Gantry Crane	17.10	446.51	25.65	669.77	34.20	893.03
(b).Rubber Tyred Yard Gantry Crane/ Reach Stacker/ Top Lift Truck (TLT)	4.50	117.50	6.75	176.25	9.00	235.00
(c).Trailer	13.05	340.75	19.58	511.14	26.10	681.52

(2) Composite box rate for on board shifting operations of containers.

Description	Foreign (in Rs.)						Coastal (in Rs.)					
	20'		40'		Above 40'		20'		40'		Above 40'	
	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty	Loaded	Empty
Gantry Crane	1100	1100	1886.40	1886.40	1886.40	1886.40	659.70	659.70	1132.20	1132.20	1132.20	1132.20
Ship Crane	522	522	522	522	522	522	313.20	313.20	313.20	313.20	313.20	313.20

(3) Charges for miscellaneous handling by Quayside Gantry Cranes:

(a)	For opening hatch cover / pontoon and placing it -	Foreign	Coastal
	(i) by placing it on the quay (full cycle)	US \$ 68.40	Rs. 1786.05
	(ii) without placing it on the quay	US \$ 34.20	Rs. 893.03
(b)	For discharging/loading packages, units vehicles and / or any other material except containers individually weighing 20 Tonnes and above per operation/move.	US \$ 136.80	Rs. 3572.11
(c)	For discharging/loading packages, units vehicles and / or any other material except containers individually weighing less than 20 Tonnes per operation/move.	US \$ 68.40	Rs. 1786.05

5. Licence (storage) fees on containers:

Sr. No.	Place of Storage	Rate per day or Part thereof		
		Container having length upto 20'	Container having length over 20' but upto 40'	Container having length above 40'
1	Loaded/Empty container landed and stored or brought for export and stored inside the Terminal	U.S \$ 2.25	U.S. \$ 4.5	U.S \$ 6.75
2	Empty Container stored inside the Terminal	U.S \$ 0.45	U.S \$ 0.90	U.S \$ 1.35

- In case of import containers above charges are leviable from the date following the date of completion of vessel's import operations.
- In case of export containers above charges are leviable from date of bringing in of fully loaded container till the date prior to the date of shipment (i.e. excluding the date of shipment)/the date of removal in case of Empty Container.
- In case a container is not removed/shipped within 10 days from the date following the date of completion of import operations in case of import or from the date of receipt in case of export, the Licence (storage) Fees will be levied at double the rate prescribed at 5. 1 above from 11th day.
- Hazardous container will be charged at 25% premium.
- Demurrage charge on both cargo and container shall not accrue for the period when ICTPL is not in a position to deliver cargo/container when requested by the users.
- The storage charge shall not accrue for the period during which the ICTPL is not in a position to deliver/shift the containers when requested by the users.

Notes:

- (1) Import loaded containers removed out of terminal area for destuffing shall be charged license (storage) fees from the date following the date of completion of vessel's import operations till the date of removal including the date of removal. Similarly, export loaded/empty containers received from the areas other than the terminal premises shall be charged license (storage) fees from the date of receipt till the day prior to the date of shipment (i.e. excluding the date of shipment).
- (2) If a container has already been charged license (storage) fees on a particular day under Section 4 above, the same unit will not be charged once again on the same day even if it is moved between the areas referred to above.
- (3) The charges on a container shall be levied irrespective of whether the container is stored on chassis or on ground or stacked high.
- (4) License (storage) fees on Containers brought under Shipping Bill for export shall be charged in terms of provisions of Section 5 above from the date of receipt of the container in the port premises.
- (5) The combined Transport Operators/Masters, Owners or Agents of vessels shall remove the containers to the respective site/yard/de-stuffing point, within a period of 4 calendar days following the date of the vessels completion of import operation. If the combined Transport Operators/Masters, Owners or Agents of vessels fail to remove such containers to the nominated areas within the prescribed period of 4 calendar days, ICTPL shall have the authority to remove such containers to the nominated areas at the risk and cost of combined Transport Operators/Masters, Owners or Agents of vessels. Removal charges as notified from time to time will be levied on such containers.
- (6). Container stuffed in the terminal premises/container received in terminal duly stuffed in the areas other than terminal premises and removed for shipment through Ports / terminal other than ICTPL shall be charged License fees as per section 5 above from the day following the date of stuffing/from the date of receipt till the date of removal of container. In the case of containers stuffed in the terminal premises/containers received duly stuffed in the areas other than terminal premises and removed to town shall be charged License fees of US\$ 2.25 (Coastal – Rs. 97.92) for a container having length up to 20 feet, US\$ 4.50 (Coastal – Rs.195.84 for a container having length above 20 feet but up to 40 feet and US\$ 6.75 (Coastal – Rs. 293.76) for a container having length above 40 feet per day or part thereof from the day following the date of stuffing/from the date of receipt till the date of removal of the containers. The cargo inside the container shall be charged demurrage at the rate of Rs. 450/- per TEU per day or part thereof for the period of its stay in the terminal. [No separate wharfage shall be recovered either on such container or on cargo inside the container].
- (7). Storage charges on abandoned FCL containers/Shipper owned containers shall be levied up to the date of receipt of intimation of abandonment in writing or 75 days from the date of landing of container whichever is earlier subject to the following conditions.
 - (i). The consignee can issue a letter of abandonment at any time.
 - (ii). If the consignee chooses not to issue such letter of abandonment, the container Agent/MLO can also issue abandonment letter subject to the condition that,
 - (a). the line shall resume custody of container along with cargo and either take back it or remove it from the terminal premises; and

- (b). the line shall pay all terminal 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 de-stuffing. In case of their failure to take such action within the stipulated period, the storage charge of container shall be continued to be levied till such time all necessary actions are taken by the shipping lines for de-stuffing 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 Customs orders 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 terminal premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.
- (8). The container other than 'shipper owned container' shall be removed from the regular storage area and moved to Sales Warehouse/Overflow Sheds by ICTPL at the cost and responsibility of the Main Line Operators (MLOs) and thereafter, the container can be de-stuffed before the empty containers are removed from the terminal premises by the MLOs.

6. Charges payable for reefer points:

- (1). For every reefer plug point allotted, a charge of US\$ 5.85 (coastal – Rs. 254.61) per container per Unit of 4 hours or part thereof will be levied.
- (2). Reefer points will be allotted on per container/per point basis.
- (3). The combined Transport Operators/Masters, Owners or Agents of vessels shall provide their own cables from the sources of supply (plug points provided for the purpose) to the Reefer Container and shall employ their own qualified staff to connect the reefer container to this supply and attend on it when in use.
- (4). ICTPL reserves the right to supply power to reefer containers and shall not be responsible for any loss whatsoever that the combined Transport Operators/Masters, Owners or Agents of vessels may incur in the event of the:
 - (a). failure of electric supply due to reasons beyond the control of the ICTPL,
 - (b). ICTPL's inability to supply power in time, and
 - (c). disconnect the supply without assigning any reason, should this become necessary for smooth operation in the Terminal

7. Charges in respect of labour supplied for stuffing or destuffing of cargo containers:

	Per Container	
	Foreign	Coastal
(i) container having length upto 20'	US \$ 25.65	Rs. 1116.31
(ii) container having length over 20' but upto 40'	US \$ 51.30	Rs. 2232.58
(iii) Container having length above 40'	US \$ 76.95	Rs. 3348.90

GENERAL NOTES:

- (i) Mafi's and imported chassis shall be treated on par with containers of equal sizes for levy of all charges under this Section and if the same are taken back on board the vessel from which they have been discharged, no charges shall be levied.

- (ii) Transshipment and same bottom containers shall be treated on par with import containers for levy of license fees for storage.

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

No. TAMP/9/2009-ICTPL

PROPOSAL FROM INDIRA CONTAINER TERMINAL PRIVATE LIMITED (ICTPL) FOR APPROVAL OF TARIFF FOR THE SERVICES RENDERED AT THE BPS CONTAINER TERMINAL OPERATED BY IT AT MUMBAI PORT.

A Summary of the comments received from the user organizations are summarized below:

Sr No.	Users' Comments	ICTPL's Comments
1	<p>Indian National Shipowners' Association</p> <p>We strongly oppose any raise in Port Tariff due to reason prevailing in the shipping industry. Any raise in Port Tariff will make the shipping company go into losses and this will hamper the growth of the shipping industry more so the Coastal Shipping.</p> <p>We understand that Indira Container Terminal has been taken over from Mumbai Port Trust but no additional facilities have been created. The old cranes which have been repaired by Indira Container Terminal are being used for discharge of containers. No new equipment has been installed at the Terminal which will make ships to turn around at a faster pace. In fact there should be discount on the prevailing rate in view of the recession being faced by the shipping industry.</p>	<p>Even though ICTPL has not put any new equipments for handling of the cranes, the cranes and RTGCs taken over from MBPT were completely refurbished with a view to cater satisfactory services to the customers. The efficiency of the cranes is more or less equivalent to most efficient cranes available in similar terminals. The moves per hour is quite comparable and in no way inferior to the new cranes. The average moves per hour is 18/19 at present. The SOR of MBPT was operational from 01.12.2006 and the same rates without any increase have been implemented w.e.f 23 June 2008 after ICTPL has started its operation. We have very moderately proposed for an increase in the tariff by 25% only. Therefore, the Authority is requested to consider our proposal after considering the cost sheets and clarifications in our proposal submitted by us and take appropriate decision.</p>
2	<p>Association of Multimodal Transport Operators of India</p> <p>No comments in this matter.</p>	<p>No comments</p>
3	<p>Mumbai and Nhava Sheva Ship-Agents Association (MANSA)</p>	

	<p>(i) The condition stipulated states that nature of cargo or its origin will not be of any relevance for the purpose of revision. We observe that the weight of the consignment, the nature of packing etc. are relevant for fixing the handling charge as the mode of handling will be different for different packaging. However, if ICTPL is talking of only containers then we have no further comments.</p> <p>(ii) Interests on the delayed refunds are stipulated to be @ 14.75% p.a. The rate of interest payable on refunds should be same as that of rate of interest recoverable on the delayed payments.</p> <p>(iii) The condition stipulates that the delay in payments by the User will be counted beyond 10 days of the date of raising the Bills. We recommend that the same should be 30 days as is usually the period in other cases.</p> <p>(iv) The condition stipulates that refunds by the Terminal will be counted as 20 days from the date of completion of the service etc. The computation of delays in refund should be beyond 30 days i.e. it should be same as the period at (iv b) above.</p> <p>(v) The condition stipulates fixing of rate at adhoc basis. We recommend that fixing of rate on adhoc basis should not be detrimental to the User.</p>	<p>(i) This is a normal condition which was taken from the Schedule of Rates of MbPT and with the approval of TAMP, this has been continuing since June 2008. The suggestion of MANSA may be considered at the Authority's level and take a decision. They have also mentioned that since we are handling only containers, they have no further comments. We also agree to that.</p> <p>(ii) This is a condition notified by the Authority and therefore, the same rate will be applicable for refund in case of ICTPL and delay receipts from the customers.</p> <p>(iii) We do not accept the suggestion of MANSA as this has been accepted by the Authority more than a decade before.</p> <p>(iv) Same as mentioned in (iii) above.</p> <p>(v) We believe such adhoc rates as mutually agreed between the Port / Terminal Operator and the User should be levied till the rate is finally notified. Therefore, we agree with the suggestion of MANSA and the ad hoc rates should be mutually agreed rates.</p>
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	<p>(vi) The condition stipulates that delays beyond a reasonable level attributable to ICTPL will not be charged. It is suggested that delays beyond reasonable level may please be defined by ICTPL.</p> <p>(vii) Composite Charges on Cargo Containers Handled With Quay Side Gantry Cranes. There is an increase of 25% on all items.</p> <p>(viii) Composite Charges on Cargo Containers Handled With Cranes Other Than Quay Side Gantry Cranes. There is an increase of 25% on all items.</p> <p>(ix) Stevedoring Charges. Charges are same as that of MbPT.</p> <p>(x) Charges on Container Handling Equipment. Charges will be leviable on container handling equipment per move. There is an increase of 25% on all items.</p> <p>(xi) Composite Box Rate for on board shifting operations of containers. There is an increase of 25% on all items.</p> <p>(xii) Charges for miscellaneous handling by Quayside Gantry Cranes. There is an increase of 25% on all items.</p> <p>(xiii) License (storage) fees on containers. There is an increase of 25% on all items.</p>	<p>(vi) We do not accept the suggestion of MANSA as it is very difficult to define reasonable level before hand.</p> <p>(vii) Since MANSA has not raised any issue on this, ICTPL does not offer any comments.</p> <p>(viii) Since MANSA has not raised any issue on this, ICTPL does not offer any comments</p> <p>(ix) Since MANSA has not raised any issue on this, ICTPL does not offer any comments</p> <p>(x) Since MANSA has not raised any issue on this, ICTPL does not offer any comments</p> <p>(xi) Since MANSA has not raised any issue on this, ICTPL does not offer any comments</p> <p>(xii) Since MANSA has not raised any issue on this, ICTPL does not offer any comments</p> <p>(xiii) Since MANSA has not raised any issue on this, ICTPL does not offer any comment</p>
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	<p>(xiv) We have serious objections in the stipulation that as laid down under</p> <p>(a) If the consignee chooses not to issue letter of abandonment, the Container Agent / MLO can also issue abandonment letter subject to the condition,</p> <p>i) The line shall resume custody of container along with cargo and either take back it or remove it from the terminal premises; and</p> <p>ii) The line shall pay all terminal charges accrued on the cargo and container before resuming custody of the container.</p> <p>The above provisions are absurd in as much as the vessel Agents cannot be expected to abandon the cargo as it does not belong to them as the ownership of cargo does not vest with them nor can they take the container anywhere except to the Custom Notified area i.e. Port or Custom Warehouse. This needs to be reviewed and proper directions given.</p> <p>(xv) Charges on Containerized Cargo. ICTPL has proposed for an increase of 25%. Container traffic has not increased at all but there is a downward trend is not understood how much extra input has been put in by ICTPL. The equipments used are old and given by MbPT for use by the Terminal. The Berth and the Yards are the same old areas and most of the infrastructure support comes from the Port or the private users. ICTPL has not invested huge sums nor has it attracted any appreciable traffic to the port unless ICTPL comes out with the Offshore Container Terminal, there could not be any justification for increase in</p>	<p>(xiv) These are all usual conditions taken from the Schedule of Rates of MbPT and the Authority has duly considered during the submission of our proposal and therefore, we do not agree to any changes as suggested by MANSAs.</p> <p>(xv) Since MANSAs has not raised any point on this, ICTPL does not offer any comments, however, the following facts are brought out for clarity:</p> <ol style="list-style-type: none"> 1. The productivity of the Terminal has increased from around 9 moves per hour per crane when operated by MbPT to 18 moves per hour per crane at present. 2. The free dwelling period for containers import / export cycle is 3 days including discharge /shipment dates.
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	<p>the proposed Tariff of ICTPL It is observed that a flat 25% increase in the Tariff rates have been proposed by ICTPL without any justification and without any base. An analysis of the work done by ICTPL on this present Terminal shows that charges are just for dropping containers on the wharf or on the trailer and nothing more. It is also observed that the proposed Tariff of the ICTPL is 40% above that of JNPT. Surprisingly, ICTPL has done away with grant of free days for ground rates and suggested accrual of charges from the 1st day itself. Why there should be a difference of working in the MbPT Tariff structure and that of ICTPL till it works from the present container handling berth at BPS which is now termed as ICTPL. There need not be any difference between the storage charges inside the Terminal or in the MbPT Storage Yard immediately behind the ICTPL Terminal. If the ICTPL chooses to recommend higher rates for the lower output it is achieving, the decline in the traffic would further deteriorate and there may be no callers at all in the ICTPL. Instead of giving incentives; offering lower rates and attracting the traffic, ICTPL is trying to make fast bucks in the short term it is running the Terminal. Neither the productivity has increased nor the throughput. Hence, we feel it is not at all the opportune time for ICTPL to seek any hike in the present Tariff.</p> <p>(xvi) We seek further clarification from ICTPL on the following:</p> <p>a) More pragmatic analysis in terms of throughput, income, expenditure, investment etc.</p> <p>b) No enhanced capital investment should be considered in view of the fact that ICTPL has yet to start its OCT Project in its full earnest.</p>	<p>3. ICTPL's present tariff is much less than in JNPT as ICTPL's handling charges also includes delivery of container/receipt of container (lift-on/lift-off) in the case of import/export, whereas in the case at JNPT, the charges are not composite.</p> <p>(xvi) We have taken a very pragmatic approach while placing the tariff for rate revision and therefore, the income, expenditure and investment are commensurate with the proposal.</p> <p>We have not proposed any huge capital investment in the BPS Terminal, therefore, the users should not be concerned for that. The Authority may take a suitable decision on this.</p>
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	<p>c) Throughput and income should be re-evaluated thus eliminating a superfluous increase in the Tariff sought.</p> <p>d) Overall rate increase of 25% across the Board should not be considered. Instead the Terminal should be requested to pay more attention to efficiency and a consequent increased throughput to be adopted as the base, and offer reduced rates to the Trade to attract more traffic in this period of economic down turn and chaotic conditions in EXIM Trade.</p>	
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2. A joint hearing in this case was held on 26 November 2009 in the office of this Authority. The ICTPL and the concerned users have made their submissions. The gist of the joint hearing held is as under:-

ICTPL

- (1) We have commenced operations in July 2008 and levy adhoc rates at par with MBPT rates as approved by TAMP.
- (2) We have given all costing details. Please allow 25% increase.
- (3) We have handled only about 27000 TEUs in 2008-09 against MGT of about 72000 TEUs. In this year till Nov., we have handled only 23000 TEUs. We may not handle more than 50,000 TEUs in the current financial year.
- (4) We will submit audited annual accounts.
- (5) We achieve about 18 moves/hrs. The capacity of the terminal is 200000 TEUs.
- (6) We have already refurbished the cranes taken over from MBPT. We propose to augment the equipment. The new RTG, if purchased, will be shifted to the OCT project when commissioned.
- (7) We have not given any increment to employees for the past 2 years. We have to allow increment this year. Therefore, we have projected higher wage cost.

MBPT

- (8) We have noted that ICTPL has withdrawn the proposal to levy separate wharfage on containerized cargo.

MANSA

- (9) We appreciate the problems of ICTPL. But shipping lines also suffered due to economic melt down. This is not the time to increase tariff.

ICTPL

- (10) Even after increase by 25%, we will not make any profit. It will be barely sufficient to cover our costs.

BCHAA

- (11) The terminal attempts to make unjust enrichment. Poor volume build up at ICTPL may have more reasons other than recession.
- (12) ICTPL maintains same traffic projection. Then why should they add capacity & incur capital expenses?
- (13) Octroi is a major problem for Mumbai Port. GST is in the offing which may boost trade in Mumbai.

ICTPL

- (14) We have projected traffic with a reasonable growth Further, we do not seek recovery from users for revenue share, penalty etc.

CSLA

- (15) The conditionalities relating to abandoned containers require review.
- (16) If ICTPL tariff is more than JNPT, no volume will come to ICTPL.

SKS Logistics

- (17) We contribute to nearly 60% to 70% of volumes of ICTPL by barge movement from JNPT. There is a pressure to reduce cost. There is no case for any tariff increase.