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**Tariff Authority for Major Ports**

G.No. 152

New Delhi,

25<sup>th</sup> July 2007

**NOTIFICATION**

In exercise of the powers conferred by Sections 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the Visakha Container Terminal Private Limited (VCTPL) for a review of its Scale of Rates for its operations at the Visakha Container Terminal in Visakhapatnam Port Trust (VPT) as in the Order appended hereto.

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

**Tariff authority for Major Ports**  
**Case No. TAMP/12/2007 - VCTPL**

Visakha Container Terminal Private Limited

- - -

Applicant

**ORDER**

(Passed on this 28<sup>th</sup> day of June 2007)

This case relates to the proposal dated 28 February 2007 from Visakha Container Terminal Private Limited (VCTPL) for a review of its Scale of Rates (SOR) for its operations at the Visakha Container Terminal in Visakhapatnam Port Trust (VPT).

2. The Scale of Rates of the VCTPL was last revised by this Authority in August 2005 and was valid upto 31 March 2007. The validity of the SOR has been subsequently extended for three months upto 30 June 2007 or till final disposal of the proposal filed by the VCTPL, whichever is earlier.

3. The highlights of the proposal of the VCTPL are as follows:

- (i). Clause 3.1.8. of the revised tariff guidelines stipulates that the tariff once fixed by the Authority shall be valid for 3 years unless a different period is explicitly prescribed in any individual case by TAMP or in the past concession agreement. The VCTPL has, however, proposed validity of the revised proposed SOR for one year i.e. 2007-08.
- (ii). It has proposed to continue the existing tariff for one more year on the following grounds:
  - (a). The trade has accepted the present level of tariff and, therefore, inspite of the deficit position it does not propose to revise the existing tariff mainly in the interest of the trade.
  - (b). In the next one year, it expects certain developments like change in ICD traffic (in view of entry of private container rail operator), likely commencement of production/exports by local industries situated in its vicinity, commencement of operations of main line services from the Chennai Container Terminal, etc. The effect of all these factors on the container traffic of VCTPL is not certain.
  - (c). In view of above, there is uncertainty in the container traffic for the future period. This is also likely to have an impact on its investment decisions to be done as per the terms of the LA if the volume touches 1 lakh TEUs. Consequently, there will be an impact on the tariff. It has submitted that it will be in a better position to give three years traffic projections in the next year. It has, therefore, requested to consider its proposal for one year tariff validity period.
  - (d). It has also given precedence of the initial tariff revision exercise which was done for two years period based on its request to seek graded increase in tariff at the end of two years period in view of deficit position then reflected in the cost statement.

(iii). **Traffic:**

- (a). The container traffic actually handled as against the container estimated to be handled in the last order is tabulated below:

Particulars	2005-06	2006-07
Container estimated to be handled (in our last order)	63,000	80,000
Actual container handled	47,276	50,328 (Actuals upto February 2007) 55,422 (Estimate for the full year)

- (b). The reasons for slow pace of growth in the actual container traffic handled in 2005-06 and 2006-07 are attributable to the following factors:

- The support that the terminal got by way of ICD cargo during the period 2004-05 and partially in 2005-06 suddenly dried out on account of tremendous improvement in rake availability on the west coast due to various initiatives taken by the CONCOR.
  - The situation on the west coast with reference to ICD containers improved due to commencement of double stack trains between Mundra/Pipavav and North India.
  - The congestion in container terminals at Nhava Sheva International Container Terminal and Jawaharlal Nehru Port Trust reduced drastically after commissioning of the third container terminal i.e. Gateway Terminal India Private Ltd., in April 2006.
  - The rail freight from New Delhi-Dadri to Mumbai-Mundra-Pipavav both for imports and exports is lower as compared to New Delhi-Dadri-Vizag corridor.
  - The ocean freight on the west coast continues to be lower compared to that available at Visakhapatnam.
- (c). Private container rail operators are expected to commence operations during 2007-08. This may result in gradual increase in ICD traffic to/from VCTPL terminal. However, it expects that the improvement would be mainly due to growth of local cargo than due to ICD and transshipment containers. Based on this assumption the VCTPL has projected 35% increase in the container traffic for the year 2007-08 over the throughput of the previous year. Accordingly, the throughput projection for the year 2007-08 is at 75,000 TEUs.

(iv). **Expenditure:**

- (a). The existing strength of the operating, maintenance and administration manpower is 85. The expenses on operation and direct labour and maintenance labour is estimated to increase by 6.58% per annum based on the prevailing Wholesale Price Index (WPI) over expenditure incurred during the previous year.
- (b). The diesel cost is estimated on the present average fuel consumption of 1.88 litres/TEU and applying 6.58% escalation on the prevailing rate.

- (c). Electricity consumption for illumination is assumed to increase by 5%. The unit rate of power is estimated to increase by 6.58% towards inflation for the year 2007-08. In addition to the unit cost, a fixed amount payable towards the maximum demand load charges is also considered in the estimation of power cost.
- (d). Repairs and maintenance is estimated at 1% on the opening gross block of building and 2% on the opening gross block of plant and machinery.
- (e). During the last tariff revision, the revenue share was admitted as cost at the Net Present Value (NPV) of the revenue stream quoted by the next successful bidder (excluding the upfront fee) in line with the revised tariff guidelines. For the year 2007-08, royalty is estimated on the MGT as per the license agreement and considered to the extent of the second quote in line with the approach followed in the last tariff revision Order.
- (f). Lease rentals is estimated on the total area of 1,64,000 sq. mtrs. taken from the VPT as per the license agreement at the rate of Rs. 1.811 per sq.mtr per fortnight as prescribed in the SOR of the VPT.
- (g). Equipment hire charges are estimated on the projected traffic at the prevailing rates quoted by the out sourcing agencies. For the purpose of internal transportation for carrying the containers from the yard to jetty and vice versa as also within the yard, it is outsourced at Rs. 150 per 20' container and Rs. 200 per 40' container. No increase for inflation is considered.
- (h). Adequate insurance cover is taken for its assets and third party liability under the industrial all risks policy. In view of the terms of the license agreement, the Rail Mounted Quay Cranes and Rubber Tyre Gantry Cranes are insured at their replacement value while the other assets are insured at their cost. The premium is estimated for the year 2007-08 as per the rates paid for 2006-07.
- (i). The other operating expenses are basically related directly to throughput and are towards various operational activities like lashing/unlashing, reefer monitoring, etc. These expenses are estimated directly in proportion to throughput. The VPT staff deployment charges for rail handling are considered on actual basis and no increase for inflation is considered. Other expenses such as manpower, security, water, etc., are estimated to increase by 6.58% per annum towards inflation.
- (j). A technical know-how contract has been entered into by the VCTPL with DP World and United Liner Agencies for a period of 5 years. During the last revision, this was admitted as cost and amortised over the remaining period of the project relying on the Certificate issued by its Chartered Accountant establishing 'arms length' relationship of this transaction as per the Income Tax Act subject to verification of the IT Assessment Order during the next tariff revision. It has submitted that the income tax assessment proceedings are in progress and the assessment orders have not been received till date. In view of this position, it has requested to consider the same treatment as adopted during the last revision and admit this item as cost. .
- (k). The depreciation has been calculated based on the life norms of equipment as per the Companies Act. During the last revision, TAMP has taken the gross block of assets excluding the amount of upfront fee of Rs.3.19 crores, which was capitalised by VCTPL and depreciation rates were applied on the reduced gross block. The same treatment is followed by VCTPL in the cost statement for the year 2007-08.

- (l). Management and administration overheads including marketing expenses are estimated applying annual increase of 6.5% on the prevailing cost.
- (m). Upfront fee payment and lease hold land premium is amortised over the remaining period of the project in line with the treatment given in the last tariff Order.
- (n). For the purpose of estimation of the working capital, debtors are estimated at one months' revenue projection, stores and spares at six months' average consumption, cash and bank balances at one months' cash expenses and current liabilities are assumed to be 15 days average expenses.
- (vi). The actual net surplus/deficit position reported for the years 2004-05,2005-06 and 2006-07(Actuals upto February 2007 and estimates for March 2007) and the cost position reflected for the year 2007-08 in the cost statement at the existing level of tariff is tabulated below:

Rs.in lakhs.					
Sr. No.	Particulars	2004-05 Actuals	2005-06 Actuals	2006-07 Actuals upto Feb'07/ Estimates for Mar'07	2007-08 Estimates
1.	Traffic in TEUs	46838	47276	55522	75000
2.	Operating income	985.39	1118.06	1534.61	2126.35
3.	Total Operating Cost plus management and general overheads	1004.24	793.64	825.45	987.30
4.	Depreciation	646.42	625.80	573.17	537.83
5.	FMI-FME	2.98	2.67	(-)11.58	(-)11.39
6.	Return on investment linked to capacity utilization	398.82	361.36	413.75	717.89
7.	Net surplus after return (2-3-4+5-6)	(-) 1061.11	(-) 660.09	(-) 289.34	(-) 128.06
8.	Net surplus/deficit as percentage of operating income.	(-) 107.68%	(-) 59.03%	(-) 18.85%	(-) 6.02%

- (vii). Cost Saving Measures/Efficiency Enhancement

As per clause 2.4.1. of revised guidelines for tariff fixation, cost reduction achieved due to efficiency improvement in the previous cycle is to be considered during every periodic review of tariff. In this regard, it has submitted the following proactive steps taken to achieve cost savings/efficiency improvement.

- (a). Conservation of Electrical Energy

The following steps have been initiated to cut down electricity consumption which has led to substantial reduction in consumption of electricity :

- The terminal has been divided into 9 zones for purposes of measuring and controlling consumption of electricity. Daily monitoring of electricity consumption is done.
- Strict control is exercised on High Mast lighting through planning and adjusting brilliance based on operational and safety needs.

- “Automatic Switching Sensors” have been installed on all High Mast Towers which ensure switching off at sun rise and switching on at sun set.
- Office air-conditioning, lighting, cafeteria heating equipment etc., are strictly regulated through roving patrols by electrical staff as also Heads of Departments.
- Awareness campaign is launched through in-house news letter and display of “Save Energy” slogans at all places in the Terminal.
- Targets are set with regard to planned consumption of power and strictly adhered to.

As a result, the declining trend observed in average electricity consumption and thereby savings in power cost is as given below:

Period	Average Electricity Cost/Unit (in Rs)	Average Electricity Cost/TEU (in Rs)	Average Electricity Units /TEU (in KWh)	Average Energy Consumption of Quay Cranes per TEU (in KWh)
April'04 – March'05	6.10	239	39	4.88
April'05 – March'06	5.84	205	35	4.19
April'06 – March'07	5.08	146	29	4.12

(b). Conservancy of diesel:

Likewise, there has been substantial reduction in consumption of diesel on account of various proactive steps. For example, (i) stowage in the yard is rearranged in a phased manner such that RTGCs would be used more than the Reach Stackers; (ii) idling time of engines has been drastically cut down; (iii) proper maintenance of diesel generator from time to time etc. Decline in diesel consumption is shown below:

	Average Diesel Consumption Ltrs/hr.		
	RTG	RS-45	RS-10
2005-06	16.00	18.60	11.00
2006-07	14.61	15.82	10.78

(c). In view of the above, it has requested to consider the savings of Rs.11.31 lakhs, Rs.29.37 lakhs and Rs.51.16 lakhs achieved estimated in the power and diesel cost during the year 2005-06 to 2007-08 respectively in this tariff revision exercise.

(viii). The return on Capital Employed (ROCE) achieved and estimated to be achieved after adjusting 50% of the past losses and after claiming the cost reduction achieved due to efficiency improvement is as follows:

Year	ROCE prior to adjustment of 50% of past losses and effect of cost reduction due to efficiency improvement	ROCE after to adjustment of 50% of past losses and effect of cost reduction due to efficiency improvement
2003-04	(-) 12.97%	(-) 12.97%
2004-05	(-) 11.04%	(-) 13.71%
2005-06	(-) 5.55%	(-) 18.26%
2006-07	(-) 2.37%	(-) 16.89%
2007-08	12.32%	(-) 7.30%

(ix). **Scale of Rates:**

Despite deficit position reflected in the cost statement, it has proposed to retain the existing level of tariff except for the following modification/insertion in its Scale of Rates:

- (a). A new tariff item for non-declaration/mis-declaration of out-of-gauge containers (over-dimensional containers) is proposed at Rs.3000/- per container. In the existing Scale of Rates, this charge is covered under 'Change of Container Status'. It is proposed to make this charge explicit to avoid confusion and hence separate tariff is proposed.
- (b). It has proposed to levy Rs.5000/- per hour or part thereof for container vessels idling at its berth for more than 2 hours for reasons attributable to shipping lines. The proposed charge is introduced to compensate the operator for use of the terminal facilities in terms of men, materials and vehicles, security and vigilance, illumination, housekeeping and maintenance of various facilities, access to canteens and medical facilities, etc.
- (c). The VCTPL has no objection to permit other non-container vessels for various other activities such as minor repairs, disembarkation/embarkation of stores/passengers, berthing of offshore supply vessels, fumigation, etc. Even the Licence Agreement provides for handling non-container cargo vessels at its berth subject to consent of VPT. Notwithstanding the above, it needs to be duly recognised that permitting such activities at the container terminal would become viable only if the terminal is suitably compensated as it involves cost towards access, control of men, materials and vehicles, enhanced security and vigilance in the water front area including random boat patrol, illumination, housekeeping and maintenance of various facilities, access to canteen and medical facilities, conservancy and manpower for supervision of terminal. Accordingly, in order to cater to this request of trade and VPT, the VCTPL has proposed to levy Rs.8000 per hour from non-container vessels for availing the facilities at its terminal. A premium of 50% of the charge is proposed for use of terminal facilities in case dedicated berth is allocated to vessels for more than 24 hours.
- (d). It has submitted that consequent to spurt in fertiliser and food grain imports, the VPT was finding it difficult to cope up with the rising demand for berths. Due to lack of sufficient draught in the inner harbour, panamax vessels could not be handled at the VPT. There is however, much unused space capacity of the VCTPL in the outer harbour which is going untapped. At the request of VPT, it has explored the feasibility of accommodating non-containerised cargo activities at the berth which will also generate additional revenue to the terminal. The VPT discussed the matter with the Visakhapatnam Harbour and Port Workers Union. The VPT has stated that whenever it is mutually agreeable, vessels carrying cargo such as fertilisers, food grains, general cargo, steel products, etc., will be berthed at VCTPL by deploying VDLB labour by the concerned stevedores.

Accordingly, at the request of the VPT, non-containerised cargo like fertilisers, food grains, general cargo, steel products, etc., will be handled at the VCTPL by deploying Visakhapatnam Dock Labour Board (VLDB) labour by the concerned stevedores. For this purpose, 50% of wharfrage collected by VPT for cargo handled at VCTPL will be shared with the VCTPL as per the conditions in the LA entered between both the parties.

4. In accordance with the consultative procedure prescribed, the proposal of VCTPL was forwarded to the Visakhapatnam Port Trust and the concerned users / user organisations seeking their comments. The comments received from the users/user organisation were forwarded to the VCTPL as feedback information. The VCTPL has furnished its comments on the comments of the Visakhapatnam Containers Lines Association (VCLA) and the VPT. The VCTPL has responded on the comments of the VPT and users / user organisations.

5.1. Based on a preliminary scrutiny of the proposal, the VCTPL was requested to furnish additional information / clarifications. The VCTPL has furnished the additional information/clarifications alongwith the revised cost statements. The queries raised by us and the clarifications furnished by the VCTPL is tabulated below:

Sr. No.	Queries raised by TAMP	Response of VCTPL
<b>A.</b>	<b>Financial /Cost Statements:</b>	
(1).	Since the year 2006-07 has already drawn to a close, the estimates for the year 2006-07 may be updated with actuals duly tallying it with the figures reported in the Annual Accounts as certified by its Chartered Accountant. Also, forward a copy of the Audited Annual Accounts for the year 2006-07.	It has furnished revised cost statements duly incorporating the actual figures for the year 2006-07. Since the Annual Accounts for the year 2006-07 are not yet audited, it has furnished provisional and un-audited Annual Accounts.
(2).	Depreciation considered in the cost statement for the year 2005-06 do not match with the figures reported in the Annual Accounts. Likewise, the gross block of assets and the net block of assets for the years 2004-05 and 2005-06 also do not match with the figures reported in the respective Annual Accounts.	Upfront Fee of Rs.3.19 crores paid to VPT in the year 2003-04 has been capitalised in the year 2003-04 as per the accounting standards. The land premium paid to VPT was treated as an asset in the year of capitalisation i.e. 2003-04 and is being written off equally during entire license period. However, during the previous tariff revision exercise TAMP had considered the above two items separately and taken out of the gross value of assets. Hence the difference in the cost statement and the Annual Accounts figures.
(3).	<b>Income:</b>	
(i).	As per the existing Scale of Rates, the tariff for lift on or lift off in respect of a 20' empty container is Rs. 400 and 40' empty container is Rs.600. In the income estimation, the tariff for this item is considered at Rs.300 and Rs.450 for a 20'/40' empty container respectively. Please explain the reasons for this variation or make necessary correction in the income estimation.	The tariff for empties was reduced to Rs.300 for 20' empty container and Rs.450 for 40' empty container in order to encourage the trade to reposition the empties to cater to the imbalance between imports and exports, wherein exports are more. In the revised cost statement, the income estimation has been modified based on the rates prescribed in the SOR .
(4).	<b>Operating Cost and Expenses:</b>	
(i).	Explain the reasons for estimating 27% increase in operating and direct labour cost and 11% increase in the maintenance labour cost in the year 2006-07 over the actuals/estimates of the previous year despite the fact that there is no significant change in the number of employees deployed in the year 2006-07	During the year 2005-06, heavy attrition took place and as a result many trained personnel had left VCTPL and joined other container terminal. As a measure to arrest the attrition rate, the management of the company gave substantial increase in the increments for the year 2006-07 which is 27 % on an average (as against normal increase of 8-10 %). However, even with this increment, the average salary is apparently still less than the existing norms in other terminals.
(ii).	Annual escalation in the estimation of operating and direct labour, maintenance labour, management and general overheads, per unit cost of fuel, etc., will be restricted based on the current movement in the Wholesale Price Index (WPI) as announced by the Government of India for the financial year ended on 31.3.2007.	At the time of submitting its proposal to TAMP, the WPI for the January 2007, was only available. The WPI for the week ended March 31, 2007 is 5.74 %. The escalation in cost for the year 2007-08 is considered based upon the updated WPI in the revised cost statements.

(iii).	The repairs and maintenance cost is estimated to increase from Rs.75.63 lakhs in the year 2006-07 to Rs.123.96 lakhs in the year 2007-08. Explain the reasons for estimating 63% increase in the repairs and maintenance cost for the year 2007-08 and justify it with reference to the actual repairs and maintenance cost incurred in the year 2006-07 recognising that no additions are proposed to the gross block of assets in this particular year.	(a). As per the provisional and Un-Audited Annual Accounts for the year 2006-07, the actual repairs and maintenance cost is Rs.78.25 lakhs . The increase in the actual cost of repairs and maintenance for the year 2006-07 is 28.38 % over the actuals of the relevant previous year.  (b). Major equipment consists of 2 nos. of RMQCs and 2 nos. of RTGCs, which are 20 years and 15 years old respectively when it was imported by VCTPL. After 4 years of operations, major parts and components of the equipment have worn out. Most of these components are not available indigenously and replacements were required to be imported. It was thus left with little choice but to find an alternative source indigenously. This exercise for finding out a suitable supplier(s) is already started. In the process the components are being obtained at higher cost as the supplier is developing new components for the first time and for specific requirement. However, this expenditure is within the limit of 2 % of gross block of plant & machinery and 1 % of gross block of buildings as allowed by TAMP in the last tariff of revision .
(iv).	Furnish copies of the agreement entered by VCTPL with various outsourcing agencies for services outsourced to substantiate the estimate of equipment hire charges for the years 2006-07 and 2007-08.	The expenditure incurred on transportation of containers is shown under the head equipment hire charges. It has furnished copies of the relevant agreement.
(v).	Please explain the reasons for estimating the insurance cost for the year 2007-08 at the level of 2006-07 despite the fact that no addition is proposed to the gross block of assets during the year 2007-08. Also, forward copies of insurance policies taken in the year 2006-07 as a documentary support.	As per sub clause (ii) of Clause (d) of Article 7.1 of License Agreement, it is obligatory on the part of VCTPL to insure the project facilities and services only at replacement value. It has, furnished copies of the insurance policies and relevant extract of the License Agreement as documentary support.
(vi).	Furnish the break-up of 'other expenses. Also, explain the reasons for estimating 28% increase in this cost element in the year 2007-08 over the previous years' estimate.	It has furnished break up of 'other expenses. This includes hire of manpower, tally charges, lashing & unlashng expenses and reefer monitoring charges constituting almost 52.54% of the 'other expenses'. These expenses vary directly in proportion to the throughput. The other items under this head such as security expenses, testing charge and water charges are estimated to increase on the basis of WPI. Therefore, on an average 28% increase is estimated under this head.
5.	<b>Royalty:</b>	
(i)	The traffic for the years 2006-07 and 2007-08 are estimated at 55422 TEUs and 75000 TEUs respectively as against the (MGT) of 72950 TEUs and 104400 TEUs respectively for these two years envisaged in the LA. The VCTPL has considered royalty to the extent of second quote on the (MGT) though the actual traffic estimated to be handled for the years 2006-07 and 2007-08 are found to be lower than the MGT level envisaged in the LA. Explain the reasons why the existing traffic should bear the additional burden of royalty due to the terminal not achieving the minimum guarantee throughput prescribed in the LA. In the light of this	As per Clause 2 of Article 3.6 of the License Agreement, it has to pay to VPT for the shortfall in the income if the Minimum Guaranteed Throughput (MGT) is not achieved. Hence, the expenditure by way of royalty includes the payment for the shortfall in achieving the MGT. Accordingly, royalty is estimated on the MGT and included in the cost statement to the extent quoted by the next lowest bidder.

	observation, the estimation of royalty may be considered on the throughput projected for the years 2006-07 and 2007-08 and included as cost to the extent quoted by the next lowest bidder as per the revised tariff guidelines.																																		
(6).	This Authority in its last tariff Order of August 2005 had allowed the technical service fee as an item of cost and amortised it over the remaining period of the projected relying on the certificate issued by its Chartered Accountant establishing the 'arms length relationship' of this transaction subject to the verification of the Income Tax Assessment Order in the next tariff review. It was categorically mentioned in the said tariff Order that if such an evidence is not produced in the next review, the estimated expenditure allowed in the said tariff Order would be set out in the next review. Since the VCTPL has not been able to furnish the Income Tax Assessment Order of previous years for verification, please explain why this expenditure admitted as cost in the last tariff Order need not be set off in this review.	<p>(a).It has furnished the Intimation Order by the Income Tax Department under sec.143 (1) of Income Tax Act.1961, for the Assessment Year 2004-05.</p> <p>(b) It has further clarified that as per the advice of its Auditors, it has deferred the claim of Management Fee as expenditure to the year of actual payment. Accordingly, the Intimation Order was given for the year 2004-05.</p> <p>(c). It has submitted that since the expenditure under this head was distributed over the entire lease period in the last tariff revision Order, the same treatment may be continued in this tariff review exercise.</p>																																	
(7).	<b>Working Capital:</b>																																		
(i).	The revised tariff guidelines limits the sundry debtors to one month's estate income and terminal handling charges while computing the working capital. The estimation of sundry debtors at one month's total revenue is not found to be in line with the revised tariff guidelines and hence needs to be modified.	Clause 2.9.9. of TAMP Guidelines lays down limit on sundry debtors balances at two months estate income and railway terminal charges payable by Indian Railways. Accordingly, sundry debtors are estimated in the cost statements.																																	
(ii).	For the purpose of computation of working capital, the inventory of spares has been estimated almost at the level of annual consumption of spares reported in the year 2006-07 which is not found to be in line with the norms prescribed in the revised tariff guidelines. The estimation of capital spares may be modified restricting it to one year's average consumption and other items of inventory (excluding fuel) may be restricted to six month's average consumption based on the actual position obtained for the years 2005-06 and 2006-07. Please furnish the detailed computation in this regard.	<p>The actual inventory for the years 2005-06, 2006-07 are as follows:</p> <table border="1"> <thead> <tr> <th>SI No.</th> <th>Year</th> <th>Inventory (Amount in Rs.)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>2005-06</td> <td>31,55,908</td> </tr> <tr> <td>2</td> <td>2006-07</td> <td>42,83,305</td> </tr> </tbody> </table> <p>The value of inventory has been arrived at as under:</p> <table border="1"> <thead> <tr> <th>SI. No.</th> <th>Particulars</th> <th>Amount in Rs.</th> </tr> </thead> <tbody> <tr> <td>(i).</td> <td>Oil &amp; Lubricants</td> <td>6,78,940</td> </tr> <tr> <td>(ii).</td> <td>Consumables</td> <td>12,57,221</td> </tr> <tr> <td>(iii).</td> <td>Computer consumables</td> <td>1,35,194</td> </tr> <tr> <td>(iv).</td> <td>Stores &amp; Spares</td> <td>17,77,241</td> </tr> <tr> <td>(v).</td> <td>Workshop tools (w/off)</td> <td>89,433</td> </tr> <tr> <td>(vi).</td> <td>Tyres &amp; Tubes</td> <td>11,88,707</td> </tr> <tr> <td></td> <td><b>Total</b></td> <td>51,26,736</td> </tr> </tbody> </table> <p>Inventory balance is considered as 6 months' consumption i.e. Rs.25,63,368/-. This is in accordance with the clause 2.9.9 of the tariff guidelines.</p>	SI No.	Year	Inventory (Amount in Rs.)	1	2005-06	31,55,908	2	2006-07	42,83,305	SI. No.	Particulars	Amount in Rs.	(i).	Oil & Lubricants	6,78,940	(ii).	Consumables	12,57,221	(iii).	Computer consumables	1,35,194	(iv).	Stores & Spares	17,77,241	(v).	Workshop tools (w/off)	89,433	(vi).	Tyres & Tubes	11,88,707		<b>Total</b>	51,26,736
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(iii).	The estimation of current liabilities for computation of working capital is not found to be as per the revised tariff guidelines. The estimation of current liabilities for the year 2007-08 may be modified based on the actuals reported for the years 2005-06 and 2006-07.	The estimation of current liabilities is considered at half month's expenses viz.(i) Equipment running cost, (ii) Equipment Hire charges, (iii) Other Expenses and (iv) Management & other administrative overheads. The actuals of current liabilities include items of extraneous nature which do not have direct relation to the operations. Similarly the actual cash balances for the years 2005-06 and 2006-07 also include																																	

		extraneous items which have no direct relation on the operations. Hence, the estimates for the current assets and current liabilities are related to operating income and operating expenditure only.																																
8.	<b>Form 6 – Analysis of Efficiency and Productivity Improvement:</b>																																	
(i).	The reduction in the per TEU fixed cost of electricity indicated in Form 6 may be on account of increase in the throughput handled/ estimated for each of the years 2005-06 to 2007-08. When the volume handled increases, the fixed costs will get spread over a wider base thus reducing the per TEU cost.	It is correct that as the volume increases the fixed cost will get spread over increased volume and reduces the per TEU cost. But in its case, the value of fixed costs itself is reduced. In the year 2004-05, the fixed element of electricity charges was Rs.29,48,400/-. This amount has been reduced to Rs.23,16,600/- during the year 2005-06, while it is further reduced to Rs.16,54,204/- during the year 2006-07. Hence it has claimed for efficiency and productivity improvement.																																
(ii).	Average electricity consumed per TEU at 39 units in 2004-05, 35 units in 2005-06 and 29 units in 2006-07 indicated in Annex 5 also takes into account the electricity consumed by IT, work shops and other administrative purposes which are more of fixed in nature and may not vary in direct proportion to the variation in the throughput. As a result, when such fixed consumption of power is spread over the increased throughput, the average per TEU consumption will show a reduction.	<p>The details of electricity consumption in units at various locations is tabulated below:</p> <p style="text-align: right;">(in units )</p> <table border="1"> <thead> <tr> <th>Sl.No.</th> <th>Location</th> <th>2005-06</th> <th>2006-07</th> </tr> </thead> <tbody> <tr> <td>(i).</td> <td>RMQC1</td> <td>1,14,549</td> <td>1,27,400</td> </tr> <tr> <td>(ii).</td> <td>RMQC2</td> <td>82,025</td> <td>1,05,900</td> </tr> <tr> <td>(iii).</td> <td>Reefer Points</td> <td>6,45,897</td> <td>6,71,349</td> </tr> <tr> <td>(iv).</td> <td>High Mast Towers</td> <td>4,49,237</td> <td>3,14,544</td> </tr> <tr> <td>(v).</td> <td>Gate Complex, Substation, &amp; Workshop</td> <td>2,44,477</td> <td>2,11,897</td> </tr> <tr> <td>(vi).</td> <td>IT &amp; Canteen</td> <td>1,22,275</td> <td>1,02,930</td> </tr> <tr> <td></td> <td><b>Total</b></td> <td><b>16,58,460</b></td> <td><b>15,34,020</b></td> </tr> </tbody> </table> <p>The above table indicates that the consumption of electricity at the IT and canteen locations is marginal and varies from 6 % to 7 % of total consumptions in units. Thus it is seen that the effect of fixed component on the per TEU consumption is negligible. The consumption at workshop is directly related to operations and hence it is more of a variable nature.</p>	Sl.No.	Location	2005-06	2006-07	(i).	RMQC1	1,14,549	1,27,400	(ii).	RMQC2	82,025	1,05,900	(iii).	Reefer Points	6,45,897	6,71,349	(iv).	High Mast Towers	4,49,237	3,14,544	(v).	Gate Complex, Substation, & Workshop	2,44,477	2,11,897	(vi).	IT & Canteen	1,22,275	1,02,930		<b>Total</b>	<b>16,58,460</b>	<b>15,34,020</b>
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(iii).	It may be noted that average per TEU consumption of power considered in the last tariff revision is to the tune of 33 units per TEU and 29 units per TEU for the years 2005-06 and 2006-07. The actual consumption of power reported for the year 2005-06 is in fact found to be higher than the estimates considered in the last tariff revision Order and the consumption of power reported in the year 2006-07 is almost at the level considered in the last tariff revision.	<p>At the time of last revision, electricity consumption per TEU was assumed as follows:</p> <table border="1"> <thead> <tr> <th>2005-06</th> <th>2006-07</th> <th>2007-08</th> </tr> </thead> <tbody> <tr> <td>37.00</td> <td>34.00</td> <td>30.00</td> </tr> </tbody> </table> <p>In the present submission, the consumption of power is estimated at the following level:</p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>2005-06 (Actuals)</th> <th>2006-07 (Actuals)</th> <th>2007-08 (Estimates)</th> </tr> </thead> <tbody> <tr> <td>Electricity consumption per TEU (in units)</td> <td>35.08</td> <td>27.51</td> <td>23.25</td> </tr> </tbody> </table> <p>Even though the estimates for the years 2005-06 and 2006-07 considered in the last tariff Order are found to be higher than the actuals for the respective years, the estimates for the year 2007-08 are strictly based upon the actual consumptions for the year 2006-07.</p>	2005-06	2006-07	2007-08	37.00	34.00	30.00	Particulars	2005-06 (Actuals)	2006-07 (Actuals)	2007-08 (Estimates)	Electricity consumption per TEU (in units)	35.08	27.51	23.25																		
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(iv).	<p>In view of the above observation, the cost reduction achieved due to improvement in efficiency and due to other factors need to be clearly established. In case of diesel, please explain how cost reduction is achieved due to improvement in efficiency recognising that the consumption of diesel per TEU in the year 2005-06 is reported to be higher than the per TEU consumption of the respective previous year.</p>	<p>It has furnished the following data to show reduction in the consumption of diesel per TEU for the year 2006-07 as compared to 2005-06:</p> <table border="1" data-bbox="858 286 1485 651"> <thead> <tr> <th>Sl. No.</th> <th>Particulars</th> <th>2005-06 (Actuals)</th> <th>2006-07 (actuals)</th> <th>2007-08 (estimates)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Consumption of Diesel ( Litres)</td> <td>99,712</td> <td>104,467</td> <td>140,492</td> </tr> <tr> <td>2.</td> <td>Consumption per TEU</td> <td>2.11</td> <td>1.87</td> <td>1.87</td> </tr> <tr> <td>3.</td> <td>Savings per TEU (Litres)</td> <td>-</td> <td>0.24</td> <td>0.24</td> </tr> <tr> <td>4.</td> <td>Average cost of diesel per litre.</td> <td>30.66</td> <td>33.60</td> <td>35.81</td> </tr> <tr> <td>5.</td> <td>Savings (in Rs.)</td> <td>-</td> <td>4,42,073/</td> <td>6,33,639/</td> </tr> </tbody> </table> <p>It is seen that the average productivity of the yard equipment, about a year ago, was 10-12 moves per hour. In order to reduce the fuel consumption, one of the steps taken was to increase the yard productivity, so that more number of containers are handled in the same duration thereby reducing the idling period between handling of 2 containers. Also, for better engine performance and maintenance, the yard equipment i.e. the Reach Stackers and RTGCs are to be idled for 3 minutes after switching on and prior switching off the engine. More the number of containers are handled in one go, therefore, the lesser fuel is consumed. Accordingly, efforts were put in to enhance the yard productivity and it has succeeded in improving it to 20 – 22 moves per hour. The diesel consumption thereby reduced from 1.6 litres per move to almost 0.8 litres per move.</p>	Sl. No.	Particulars	2005-06 (Actuals)	2006-07 (actuals)	2007-08 (estimates)	1.	Consumption of Diesel ( Litres)	99,712	104,467	140,492	2.	Consumption per TEU	2.11	1.87	1.87	3.	Savings per TEU (Litres)	-	0.24	0.24	4.	Average cost of diesel per litre.	30.66	33.60	35.81	5.	Savings (in Rs.)	-	4,42,073/	6,33,639/
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(v).	<p>The total annual consumption of power arrived at by summing up the consumption of power by high mast, work shop IT etc., and the consumption of power by the quay cranes do not match with the total consumption indicated in Form 3B of the cost statement. The correct position may be indicated.</p>	<p>Average rate per unit has been corrected in the revised cost statements and relevant figures are matching.</p>																														
9.	<p><b>FORM 7:</b></p>																															
(i).	<p>Form 7 furnished along with the proposal gives comparison of actuals vis-à-vis estimates for the years 2003-04 and 2004-05. The last tariff Order, however, considered the cost position for the year 2005-06 and 2006-07 while revising the tariff of VCTPL. Update this form with the actuals vis-à-vis the estimates considered in the last tariff Order for the years 2005-06 and 2006-07. While doing so the income estimates considered in our last tariff Order may be adjusted with reference to tariff revision allowed by this Authority.</p>	<p>It has furnished modified form-7 which reflects the following financial position for the years 2005-06 and 2006-07:</p> <table border="1" data-bbox="852 1570 1465 1720"> <thead> <tr> <th colspan="3">Rs. in lakhs</th> </tr> <tr> <th>Year</th> <th>Estimated net deficit as per Order</th> <th>Actuals</th> </tr> </thead> <tbody> <tr> <td>2005-06</td> <td>- 1301.73</td> <td>-966.71</td> </tr> <tr> <td>2006-07</td> <td>-965.42</td> <td>-644.81</td> </tr> </tbody> </table>	Rs. in lakhs			Year	Estimated net deficit as per Order	Actuals	2005-06	- 1301.73	-966.71	2006-07	-965.42	-644.81																		
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(ii).	<p>Explain the reasons for setting off the losses of the past three years period in the one year itself i.e. 2007-08 when the tariff validity period is for three years as per the revised tariff guidelines</p>	<p>Clause 2.13 of TAMP guidelines prescribes for setting off 50 % of the benefit or loss already accrued if the performance variation is more than +/- 20 %. The Authority in its previous Order dated 19 September 2005 had arrived at the operating profit/loss. This loss is considered for the purpose of set off for future profits. The set off is made only to the extent of the profit made for that year and the balance is carried forward for set off for future losses/profit. It has furnished the detail working as tabulated below:</p> <p style="text-align: right;"><b>Rs. in lakhs</b></p> <table border="1" data-bbox="847 524 1497 1039"> <thead> <tr> <th>Particulars</th> <th>2003-04</th> <th>2004-05</th> <th>2005-6</th> <th>2006-07</th> </tr> </thead> <tbody> <tr> <td>Profit/Loss before interest &amp; tax.</td> <td>(982.55)</td> <td>(662.29)</td> <td>(298.73)</td> <td>247.25</td> </tr> <tr> <td>50% of loss (as per TAMP order) to be set off.</td> <td>(491.28)</td> <td>(491.28)</td> <td>(800.16)</td> <td>(949.52)</td> </tr> <tr> <td>Set off against current year's loss/50%of loss to be carried forward.</td> <td>--</td> <td>(308.89)</td> <td>(149.36)</td> <td>247.25</td> </tr> <tr> <td>Balance loss carried forward to be set off in future.</td> <td>(491.28)</td> <td>(800.16)</td> <td>(949.52)</td> <td>(702.27)</td> </tr> </tbody> </table>	Particulars	2003-04	2004-05	2005-6	2006-07	Profit/Loss before interest & tax.	(982.55)	(662.29)	(298.73)	247.25	50% of loss (as per TAMP order) to be set off.	(491.28)	(491.28)	(800.16)	(949.52)	Set off against current year's loss/50%of loss to be carried forward.	--	(308.89)	(149.36)	247.25	Balance loss carried forward to be set off in future.	(491.28)	(800.16)	(949.52)	(702.27)
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<b>B.</b>	<b>Scale Of Rates:</b>																										
(1).	<p><b>General</b>  The following general conditionality may be incorporated in the proposed Scale of Rates as per clause 2.15. of the revised tariff guidelines.  <i>"Users will not be required to pay charges for delays beyond a reasonable level attributable to the VCTPL"</i></p>	<p>It has agreed to insert the said conditionality in its SOR.</p>																									
(2).	<p>(i). A separate proposal is filed by VCTPL in January 2006 for inserting a conditionality in its SOR for levy of penal charge at Rs.10,000 per hour or part thereof on vessels idling at its berth for reasons attributable to shipping lines. This has been registered as a separate tariff case and processed following the usual consultation process. The VCTPL in the instant proposal has proposed tariff of Rs 5000 per hour on container vessels idling at its berth for more than 2 hours per hour or part thereof for reasons attributable to shipping lines. Different rate seem to have been proposed for the same item in this proposal. Please confirm whether the tariff proposed in the instant tariff revision proposal supersedes the rate proposed in its earlier proposal dated 18 January 2006.</p>	<p>The tariff proposed in the instant tariff revision proposal supersedes the rate proposed in its earlier proposal dated 18 January 2006.</p>																									
	<p>(ii). Furnish a detailed computation to arrive at the proposed rate of Rs.5000 per hour or part thereof in respect of a container vessel idling at</p>	<p>The proposed figure of Rs. 5000 / - per hour is an ad hoc rate. It does not expect any revenue from this element of tariff as the case of vessel overstaying is</p>																									

	its berth for reasons attributable to shipping line for more than two hours.	remote. The charge is more of a deterrent than of a revenue earning tariff. It is basically towards use of terminal facilities beyond the operational time.						
	(iii). The proposed rate of Rs.8000/- per hour or part thereof for use of terminal facilities by non-container vessels may also be justified with reference to the cost of services provided.	At the request of the trade, the non-container vessels were berthed at its berth with the consent of VPT. Since the VCTPL terminal facilities were being utilised and in most cases there was no wharfage accruing, a rate of Rs. One Lakh per day or part thereof was mutually agreed between concerned vessel agent and VCTPL. Since some vessels did not stay for the full day, some section of the trade suggested an hourly rate. Hence the hourly rate (albeit higher than the pro-rata working) has been proposed in order to benefit the trade in case of vessels staying for a shorter duration. This tariff is unlikely to generate much revenue and hence was fixed on an ad hoc basis.						
	(iv). Estimate the additional income likely to accrue from the tariff proposed to be introduced in this schedule and include the same in the income estimation in the cost statement	It is already included under revenue from other additional services in the year 2007-08.						
	(v). The proposed note (b) under this schedule does not clearly prescribe the activities for which its terminal would be available for non-container vessels. The proposed note may be modified to explicitly state the activities for which its berth would be available for vessels as stated in para 5.2 of the proposal.	Its terminal facilities shall be made available to non-container vessels that would come to VCTPL for handling cargo, passengers, repairs to the vessel, fumigation of cargo and any such other activity as may be permitted by VPT. Accordingly, instead of the note (b) which is applicable to both the items 'a' and 'b', the item 'b' in this schedule is modified as under: <table border="1" data-bbox="868 1048 1497 1328"> <thead> <tr> <th></th> <th>Type of Vessel</th> <th>Charges per hour or part thereof stay at the terminal (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>b</td> <td>Non – Container Vessels berthed for purpose of cargo handling or for any other activity permitted by VPT with mutual consent of VCTPL.</td> <td>8,000</td> </tr> </tbody> </table>		Type of Vessel	Charges per hour or part thereof stay at the terminal (in Rs.)	b	Non – Container Vessels berthed for purpose of cargo handling or for any other activity permitted by VPT with mutual consent of VCTPL.	8,000
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(3).	(i). The correspondence exchanged between the VCTPL and the VPT and the minutes of the meeting dated 27 October 2006, with the VPT, the VCTPL and the concerned users forwarded along with the proposal give an understanding that the VPT has given the consent to the VCTPL to handle non-container vessels such as fertilisers, food grains, general cargo, etc., at the VCTPL's terminal by deploying the VDLB labour. Please furnish details of cargo handled by the VCTPL from such non-container vessels during the year 2006-07. Also, furnish the details of wharfage revenue shared by VPT with the VCTPL as per the terms of LA on the cargo handled at its terminal from non-container vessels.	During the year 2006-07, it has handled only two non-container cargo vessels at its terminal. The total revenue earned was Rs.67,130/- in the form of 50 % wharfage from VPT.						
	(ii). Indicate total quantum of cargo from non-container vessels likely to be handled at the VCTPL's terminal in the year 2007-08, wharfage income likely to accrue thereon, and the wharfage income likely to be shared with the VCTPL.	It does not expect much cargo to be handled at its terminal and hence are not in position to project the relevant figures.						

<p>(iii). The LA stipulates that 50% of the wharfage at the rates prescribed in the SOR of VPT shall be shared with the licensee, in case cargo vessels are handled at the VCTPL's terminal. However, no specific provision is found either in the existing Scale of Rates of VPT or in SOR proposed by the VCTPL for such an arrangement. The VCTPL may consider to propose suitable provision in its SOR in this regard to avoid any ambiguity.</p>	<p>Since the element is covered under SOR of the VPT, it is not reflected in SOR of the VCTPL. Further, the handling of the cargo will be done by VPT and the arrangement made so far is that VPT shall collect the wharfage and remit 50 % to VCTPL. This is bilateral arrangement between VPT and VCTPL as per the License Agreement and the trade is not affected as they pay wharfage only once as per SOR of VPT to VPT.</p>
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5.2 The VCTPL has furnished revised cost statements reflecting the following cost position for the years 2006-07 and 2007-08:

Sr. No.	Particulars	Rs.in lakhs.	
		2006-07 Actuals	2007-08 Estimates
1.	Traffic in TEUs	55769	75000
2.	Operating income	1612.76	2151.49
3.	Total Operating Cost plus management and general overhead	818.36	969.87
4.	Depreciation	573.24	541.53
5.	FMI-FME	26.10	(-)11.27
6.	Capital Employed	4685.25	4957.49
7.	ROCE adjusted for capacity utilisation	370.91	743.62
8.	Net surplus deficit (2-3-4+5-7)	(-) 123.66	(-) 114.81
9.	Net surplus deficit as % of operating income	(-)7.67%	(-)5.34%
10.	(i). Available 50% loss to set off for performance variation exceeding- 20%.	(-)949.52	(-)702.27
	(ii). Set off loss against year's profit/50% of loss carried forward.	247.25	628.81
	(ii).Balance 50% of loss available to carry forward to set off against future profits.	(-)702.27	(-)73.46
11.	Cost savings due to efficiency	(-)41.07	(-)91.97

6. The VPT was also requested to furnish some additional information / clarifications. The summary of the queries raised and clarifications furnished by VPT are summarised below:

Sl. No.	Queries raised by TAMP	Reply of VPT																		
(i).	Please furnish specific comments on the reasonableness of the traffic and income projections made by the VCTPL for the year 2007-08.	As per the present trends in traffic, the VCTPL is likely to handle 75,000 TEUs for the year 2007-08.																		
(ii).	Confirm whether the estimated lease rentals of Rs.74.25 lakhs payable by the VCTPL to the VPT for the year 2007-08 is in line with the terms of Licence Agreement.	The VCTPL had paid an amount of Rs. 78.70 lakhs to VPT towards annual lease rentals for the year 2007- 08 as per revised SOR is in line with the terms of License Agreement.																		
(iii).	Indicate the estimated royalty receivable from the VCTPL for the year 2007-08 as per the terms of LA.	<p>The estimated traffic likely to be handled by VCTPL is 75000 TEUs. Royalty payable as per the terms of LA on the Minimum Guaranteed traffic is as follows:</p> <table border="1" style="width: 100%;"> <tr> <td>(i). As per LA</td> <td></td> </tr> <tr> <td>(a). 26<sup>th</sup> June 2006 to 25<sup>th</sup> June 2007.</td> <td>81,600 TEUs</td> </tr> <tr> <td>(b). 26<sup>th</sup> June 2007 to 25<sup>th</sup> July 2008.</td> <td>1,12,200 TEUs</td> </tr> <tr> <td>(ii). Pro-rata MGT and royalty payable</td> <td></td> </tr> <tr> <td>(a). 1<sup>st</sup> April 2007 to 25 June 2007</td> <td>19,226 TEUs</td> </tr> <tr> <td>Royalty payable @ Rs.50 per TEU</td> <td>Rs.9,61,300</td> </tr> <tr> <td>(b). 26 June 2007 to 31 March 2008</td> <td>85,683 TEUs</td> </tr> <tr> <td>Royalty payable @ Rs.75 per TEU</td> <td>Rs.64,26,225</td> </tr> <tr> <td>Total royalty payable on MGT from 1 April 2007 to 31 March 2008</td> <td>Rs. 73,87,525</td> </tr> </table>	(i). As per LA		(a). 26 <sup>th</sup> June 2006 to 25 <sup>th</sup> June 2007.	81,600 TEUs	(b). 26 <sup>th</sup> June 2007 to 25 <sup>th</sup> July 2008.	1,12,200 TEUs	(ii). Pro-rata MGT and royalty payable		(a). 1 <sup>st</sup> April 2007 to 25 June 2007	19,226 TEUs	Royalty payable @ Rs.50 per TEU	Rs.9,61,300	(b). 26 June 2007 to 31 March 2008	85,683 TEUs	Royalty payable @ Rs.75 per TEU	Rs.64,26,225	Total royalty payable on MGT from 1 April 2007 to 31 March 2008	Rs. 73,87,525
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(iv).	<p>The correspondence exchanged between the VCTPL and the VPT and the minutes of the meeting dated 27 October 2006 between the VPT, VCTPL and the concerned users forwarded along with the proposal give an understanding that the VPT has given the consent to the VCTPL to handle non-container vessels such as fertilizers, food grains, general cargo etc., at the VCTPL's terminal by deploying the VDLB labour. Please furnish the details of cargo handled by the VCTPL from such non-container vessels during the year 2006-07. Also, indicate the wharfage revenue shared by VPT with the VCPTL as per the terms of the LA.</p>	<p>(a). The decision of handling non-container vessels such as fertilizers, food grains, and general cargo, etc., at VCTPL's Terminal was taken after a number of meetings and discussions with VCTPL and Trade.</p> <p>(b). It has not given any consent to VCTPL to handle non-container vessels such as fertilizers, food grains, and general cargo etc., at VCTPL's Terminal, as the VCTPL is not entitled to handle non-container vessels without its prior written consent or approval.</p> <p>(c). However, as per the clause 2.5(1) of the LA, it reserves the right to utilise the berth when it is free from container vessels and that the berth will be made available to the VPT within mutually agreed notice period. As per the said clause, the Licensee shall be entitled to collect Wharfage at VPT Scale of Rates and retain 50% of the same when VPT designated vessels are berthed at the terminal when it is vacant.</p> <p>(d). During the year 2006-07, only two non-container vessels were handled at VCTPL and wharfage of Rs. 67,130/- was shared with the VCTPL.</p>
(v).	<p>Please furnish the total quantum of cargo from non-container vessels likely to be handled at the berth operated by VCTPL in the year 2007-08, wharfage income likely to accrue thereon and the wharfage income likely to be shared with the VCTPL.</p>	<p>The total quantum of cargo from non-container vessels likely to be handled at VCTPL terminal for the year 2007-08 cannot be estimated at this point of time. Whenever an over draft vessel arrives at this port to discharge, it is berthed initially at Outer Harbour to lighten part cargo. On attaining Inner Harbour draft, the vessel is shifted to Inner Harbour for completing discharge operation. At certain times, the Outer Harbour berths may not be vacant. At this point of time, as a last resort, these vessels are berthed at VCTPL terminal to reduce pre-berthing detention of the vessels. This is not a regular phenomenon and is an extreme step taken by VPT to accommodate waiting vessels. It has, however, furnished permission from A.P. Pollution Control Board for handling such vessels.</p>
(vi).	<p>The LA stipulates that 50% of the wharfage at the rates prescribed in the SOR of VPT shall be shared with the licensee, in case cargo vessels are handled at the berth operated by VCTPL. However, no specific provision is found either in the existing Scale of Rates of VPT or in SOR proposed by the VCTPL for such an arrangement.</p>	<p>The license agreement stipulates that 50% of the wharfage at the rates prescribed in the Scale of Rates of VPT shall be shared with the licensee for the cargo handled from non-container vessels at VCTPL berths. As sharing of wharfage is already provided in the License Agreement with VCTPL, it does not warrant any separate specific provision in SOR.</p>

7. The VPT has informed that the VCTPL levies Rs.1,00,000 per day on non-container vessels though there is no provision in its SOR. On a query raised by the VPT, the VCTPL has clarified that as per clause 2.17. of the revised tariff guidelines, the VCTPL in consultation with the trade is collecting Rs.1,00,000 per day for handling non-container vessels. Simultaneously, a proposal in this regard has been sent to TAMP for approval of the rate for this service.

8.1. A joint hearing, in this case was held on 12 June 2007 at the Visakhapatnam Port Trust premises. At the joint hearing VCTPL, VPT and the concerned users made their submissions. The VCTPL made a power point presentation of its proposal.

8.2. At the joint hearing the Visakhapatnam Port Trust (VPT) raised objection to the proposed levy of Rs.1 lakh per day towards the general land side facility of VCTPL used by non-container ship berthed at the terminal. The argument of VPT was that such a levy is not generally imposed henceforth at the other major ports and the proposal of VCTPL is not in terms of the BOT license agreement.

The VCTPL, however, argued that the concession agreement has an enabling provision by which it can approach the Authority for fixation of tariff for any use of the project facility handover by the landlord.

8.3. As no consensus could be reached between the VPT, VCTPL and users with reference to this particular tariff item, the VPT was advised to convene a meeting with the relevant user groups and the Visakha Container Terminal Private Limited (VCTPL) to resolve the differences and attempt to arrive at a consensus position. The VCTPL was advised to file a revised proposal on this issue based on cost justification or on the basis of the consensus reached. Since revised proposal to be received by the VPT may involve some time, it was decided to de-link the tariff proposed for non-container vessels from the main proposal and decide the matter separately as and when the revised proposal is filed by the VCTPL.

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

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

- (i). The Scale of Rates of the Visakha Container Terminal Limited (VCTPL) was last revised by this Authority in August 2005. The Scale of Rates was to remain valid upto 31 March 2007. The VCTPL filed a proposal to continue with the existing Scale of Rates one month prior to the expiry of its validity. Since the case had to be processed following the usual consultation process, the Scale of Rates of the VCTPL was extended upto 30 June 2007 or till finalisation of this case whichever is earlier.
- (ii). The revised tariff guidelines prescribe tariff validity cycle of three years with a discretion given to this Authority to prescribe a different validity period. The VCTPL has, however, furnished projections for one year and requested this Authority to allow the existing rate to continue for one more year i.e. 2007-08. The main reason for the approach adopted by VCTPL is the slow pace of growth in volumes and the uncertainties associated with future projection of volume and investment. It is noteworthy that the request of VCTPL is accompanied with requisite cost details. This Authority accepts the request of the VCTPL and takes up this case for prescribing tariff for the year 2007-08 alone.
- (iii). The VCTPL has furnished revised cost statements in May 2007 updating actuals for the year 2006-07 based on the provisional and un-audited Annual Accounts. Marginal variation is observed in the income and total operating cost for the year 2006-07 reflected in the revised cost statement vis-à-vis the position reported in the un-audited Annual Accounts. The VCTPL has furnished reconciliation for these variations. The income and expenditure reported in the un-audited Annual Accounts is relied upon for the purpose of this analysis and the variation noticed in the operating cost are suitably adjusted in other expenses and management overheads.
- (iv). The Licence Agreement (LA) requires the VCTPL to handle a Minimum Guaranteed Throughput of 104837 TEUs for the year 2007-08 after pro rata adjustment. Some arithmetical error observed in computation of the MGT on pro-rata basis by the VPT has been corrected.

As against this, the VCTPL has projected traffic of 75000 TEUs for the year 2007-08. The growth projected in container traffic for the year 2007-08 is 34.5% over the actual throughput handled in the immediate previous year. The VPT has endorsed the traffic projections made by the VCTPL for the year 2007-08. The container traffic projected by the VCTPL is relied upon for the purpose of this analysis.

If any undue advantage is found to have accrued to the operator due to wrong estimation, such advantage will be fully adjusted in the next tariff review.

- (v). Detailed computation of income at the existing tariff level has been furnished for the year 2007-08. In the initial cost statement, the income from lift on/ lift off charge for the year 2007-08 was estimated at the concessional rate offered by the VCTPL. It is relevant to mention that the financial impact of concessions granted cannot be allowed to be passed on to other categories. When pointed out this position, the VCTPL has modified, the income estimation from this tariff item in the revised cost statement filed in May 2007.

The revised operating income estimated by the VCTPL is considered for the purpose of this analysis. At the time of the next review, if it is found that the actual income varies widely from the estimates furnished, the additional accrual will be fully set off against the future tariff revision.

- (vi). The estimate of direct labour and maintenance labour cost for the year 2007-08 has been made with an escalation of 5.74% over the actuals of previous year based on the Wholesale Price Index (WPI) for the week ended March 31, 2007. The Wholesale Price Index (WPI) announced by the Government of India for the financial year ended on 31 March 2007 is 5.4%. The estimate of this cost element is modified applying the WPI of 5.4% over the actuals of the previous year.
- (vii). The estimate of equipment running cost comprises power cost, fuel cost and repairs and maintenance charges which are discussed below:

- (a). Power consumption by quay crane is estimated at 4.18 unit per TEU for 2007-08 at the level reported for 2006-07. The overall consumption of power per TEU is estimated to drop from 27.51 units in the year 2006-07 to 23.25 units per TEU in 2007-08. This is mainly because the fixed consumption of power at high mast, and other areas get spread over the wider base thus reducing per TEU consumption. The power consumption estimates furnished by the VCTPL is accepted.

The increase estimated in the unit rate of power for the year 2007-08 is found to be within the stated limit of 5.4%. Hence the power cost estimated by the VCTPL is accepted.

- (b). The consumption of fuel for the year 2005-06 is reported at 2.11 litres per TEU, which has reduced to 1.87 per TEU in the year 2006-07. The fuel cost for the year 2007-08 is estimated maintaining the consumption at the level obtained in the year 2006-07. The estimation of unit rate of fuel for the year 2007-08 is made by applying 5.74 % escalation over the unit rate of Rs. 32.01 per litre reported in 2006-07. The increase in the unit rate fuel is restricted at the stated level of WPI of 5.4% and suitably adjusted for the estimated growth in traffic. Subject to this modification, the estimation of fuel cost furnished by the VCTPL is accepted.
- (c). Repairs and maintenance is estimated at 1% on the gross block of building and 2% on the gross block of plant and machinery. The repairs and maintenance cost for the year 2007-08 is estimated at Rs.123.96 lakhs as against actuals of Rs.78.25 lakhs reported for the year 2006-07. The estimate of this cost element in the year 2007-08 is found to be 58%

higher over the actuals reported in 2006-07 though the VCTPL has not proposed any additions to the gross block in this particular year.

The VCTPL has justified that major components of the RMQCs and RTGs were worn out in the year 2006-07. Replacements for most these components had to be imported since they were not available indigenously. As a result, the repairs and maintenance cost shot up by 28% in the year 2006-07 itself over the respective previous years.

The actual repairs and maintenance cost in the year 2005-06 indicates a 15% drop over the actual expenditure incurred in the relevant previous year. Hence, the repairs and maintenance cost incurred during the year 2006-07 seems to be higher when it is compared with the 2005-06 actuals. As explained by VCTPL, this may be due to refurbishing of RMQC and RTGs done during the year 2006-07, which need not be repeated every year.

Annual Accounts for the year 2004-05 reports repairs and maintenance cost at Rs.71.57 lakhs. If this cost is extrapolated for arriving at the estimates for the year 2006-07 by applying the normal annual escalation, the derived estimates are found to be closer to the actual repairs and maintenance cost reported in 2006-07.

Based on the analysis of this expenditure incurred in the past, there does not seem to be any justification to allow the cost element at the level estimated by the VCTPL. The estimate of repairs and maintenance cost for the years 2007-08 is, therefore, modified by applying prevailing WPI of 5.4% over the actuals reported in the previous year 2006-07.

- (viii). (a). In the last tariff revision, the royalty payable by the VCTPL to the VPT was admitted as an item of cost to the extent quoted by the second lowest bidder in line with the revised tariff guidelines.

The Net Present Value of the revenue stream quoted by the next lowest bidder (excluding upfront fee which is uniform) obtained from the VPT was found to be 51% less than the relevant assessment for the VCTPL's bid. Accordingly, royalty amount payable by the VCTPL on its traffic projections was allowed upto 49% thereby restricting the royalty payment to the level quoted by the next lowest bidder.

- (b). The VCTPL has claimed royalty payable to the extent of the second lowest quote but on the Minimum Guaranteed Throughput.

The traffic projections for the year 2007-08 is lower than the MGT envisaged in the LA. As per LA, the VCTPL is bound to pay royalty on the Minimum Guaranteed Throughput in case the actual traffic handled is less than the level of MGT.

The VCTPL has indicated the MGT at the level of 104400 TEUs for the financial year 2007-08 but has not furnished detailed working. The MGT computed by us based on pro-rata basis in line with the approach followed by the VPT works out to be 41816 TEUs, 73448 TEUs and 104837 for the years 2005-06 to 2007-08 respectively.

The actual container traffic handled by VCTPL is 47276 TEUS and 55769 TEUs in the years 2005-06 and 2006-07 and estimates for the year 2007-08 is 75000 TEUs. It is thus clear that the VCTPL has not met MGT in the year 2006-07 and does not anticipate to reach such level even in the year 2007-08.

- (c). The VCTPL has claimed royalty to the extent of the second lowest quote on the Minimum Guaranteed Throughput for the year 2007-08 on the grounds that it is obligatory on its part to pay the royalty to VPT on the shortfall of throughput. In such case, if the royalty amount beyond the traffic handled / estimated is considered as cost in tariff, then the existing traffic will have to bear additional burden arising due to the terminal not achieving the minimum guaranteed throughput quoted by the private terminal operator.

Incidentally a similar situation was faced at another private terminal i.e. South West Port Limited (SWPL) in the Mormugao Port Trust. While processing that case, the Government was informed that if traffic estimated by the private terminal is lower than the MGT envisaged in the LA, it will be appropriate to consider the revenue share/ royalty applicable only on the estimated traffic projections and admit it to the extent of the second lowest bid for the purpose of tariff computation. This means, the additional royalty payable due to non-realisation of the minimum guaranteed throughput will not be recognised. This approach was followed while considering the tariff revision proposal at SWPL. Similar approach is followed in the case of VCTPL also. Accordingly, royalty payable by VCTPL to VPT is allowed as pass through to the extent quoted by the second lowest bidder on the throughout projection of 75000 TEUs for the year 2007-08.

- (ix). The estimate under the head equipment hire charges relates to transportation cost of containers incurred by the VCTPL by outsourcing this activity to private contractors. The VCTPL has furnished a copy of the agreement entered with the outsourcing agencies to substantiate this estimate. The estimate of this item of cost for the year 2007-08 captures volume growth alone over the previous year 2006-07 without any effect of price inflation. The estimates furnished by the VCTPL is accepted.
- (x). The insurance cost for the year 2006-07 is reported at Rs.45.16 lakhs. For the year 2007-08, this cost item is estimated at the level incurred in the year 2006-07. It has not proposed any additions to the gross block of assets during this year.

The License Agreement provides for insuring, the project facilities and services at replacement value. It has furnished copies of the insurance policies along with the premium details for the year 2006-07 to substantiate the insurance cost. The insurance policy also mentions that the equipment and the buildings are covered at the replacement value subject to the maximum level included in the policy for each category of assets. It is not explained how the replacement value of the equipment in reference was determined. Nevertheless, the position reported by VCTPL is relied upon for this exercise. The estimates of insurance premium as furnished by VCTPL are considered in this analysis.

- (xi). In terms of LA, the VCTPL pays lease rentals for the 164000 sq. mtrs. for land allotted to it by the VPT. It has estimated lease rental of Rs. 75.74 lakhs payable to VPT as per the rates prescribed in the Scale of Rates of VPT. The actuals for the year 2006-07 also report the lease rental of Rs. 75.74 lakhs paid to the VPT. The VPT has, however, stated that the VCTPL has paid Rs. 78.70 lakhs towards annual lease rentals for the year 2007-08 as per revised Scale of Rates in line with the terms of License Agreement. The revised Scale of Rates of the VPT was notified in the Gazette of India on 6 June 2006. In the revised Scale of Rates though the license fee for open storage was not modified, the unit of levy was modified which may have marginal impact on the lease rental. That being so, the position indicated by the VPT is relied upon and considered in this analysis.
- (xii). The estimate of management and general overhead is made considering 5.74% increase towards inflation in the WPI over 2006-07 Actuals. This estimate is

modified applying the WPI of 5.4% in line with the approach followed for estimating other cost items.

- (xiii). Depreciation has been computed as per the rates prescribed in Companies Act, 1956. During the last tariff revision, it was observed that upfront fee of Rs.3.19 crores paid to VPT was capitalised and depreciated at the applicable rates. Likewise, the lease hold premium paid to VPT was also treated as an asset and depreciated. This Authority had categorically pointed out that the upfront fee and lease hold premium are one time expenditure relating to the project and hence need to be amortised over the entire project period in line with principle followed in case of other private operators. Accordingly, suitable adjustment was made in their cost statement to reflect this position while fixing the tariff.

For the purpose of tariff fixation, the VCTPL has excluded upfront fee and lease hold premium from the gross block of assets and shown separate entry by spreading these expenditure over the project period. It has also made suitable modification in the depreciation to that extent. This is found to be in line with the approach followed at other private terminals and the treatment given in the last tariff revision and hence is accepted.

- (xiv). The other expenses are reported at Rs. 67.17 lakhs in the provisional Annual Accounts for the year 2006-07. This item is estimated to increase by around 19% in the year 2007-08 over the previous years actuals.

The estimates of other expenses include tally charges, lashing/unlashing expenses and reefer monitoring charges constituting almost 47% of the total other expense. These expenses are reported to vary directly in proportion to the traffic. The other items under this head such as security expenses, testing charge and water charges are estimated to increase by 5.74% based on the WPI. Since almost the half of the expenses under this head vary with the traffic, the overall increase under this item is found to be more than the inflation rate considered by VCTPL.

Based on the position for the year 2006-07, the clarification furnished by the VCTPL is relied upon. The estimate of other expense furnished by the VCTPL for the year 2007-08 is accepted subject to the modification in the estimation of hire of man power, security expenses, testing charge and water charges, etc. by applying the annual escalation at the stated level of 5.4% over the actuals of 2006-07. Few of the expenses, which are expected to vary with the traffic, is accepted at the level estimated by the VCTPL.

- (xv). (a). The management expense relates to Technical Service fee payable by the VCTPL to the Dubai Ports International (DPI) and United Liner Agencies (ULI). Copy of the contract entered by the VCTPL with the relevant parties in December 2002 for rendering this service was forwarded during the last tariff revision.

As per the revised guidelines for tariff fixation 'Technical Service Fee' payable by the private terminals to their promoters or to their 'associate entity' can be admitted as an item of cost for tariff fixation purposes if yardstick of 'arms length relationship' of this transaction is established as defined under Income Tax Act. In the last tariff revision, this item was admitted as cost relying on the certificate from its Chartered Accountant certifying that the technical service fee payable by the VCTPL to the DPI and ULA has been determined having regard to 'arms length price' computed as per the provisions of Section 92 (C) of the Income Tax Act 1961. This expense was allowed as cost subject to verification at the time of next review based on the IT assessment order.

The Income Tax Assessment order for the year 2004-05 does not make any specific mention of admitting this expense.

The VCTPL has clarified that the payment of Management Fee has been deferred due to lack of sufficient funds. The agreement also provide for payment of the fee in the subsequent period as and when sufficient funds are available. Hence for the purpose of IT Assessment, the claim of this expenditure has been deferred and is proposed to be claimed in the year in which the actual payment is made. Based on the clarification furnished by the VCTPL, this item is admitted as cost relying on the certificate issued by its Chartered Accountant during the last tariff revision certifying 'arms length' of this transaction as per the Income Tax Act 1961 subject to verification at the time of next review based on the IT assessment order.

- (b). The TSA specifies payment to parent companies for a period of 5 years from 2003-04. The benefit of the technical services is expected to be available for the entire project. Hence the technical service fee payable by the VCTPL is spread over the remaining period of the project in line with the approach followed during the last tariff revision.

Technical service fee relevant for the first two years 2003-04 and 2004-05 prior to the revised tariff guidelines is not considered for spreading over the project period for reasons stated in the earlier Order this Authority. The management expense for the next three years i.e 2005-06 to 2007-08 are amortised over the remaining project period.

Accordingly, sum of provision made towards the management expense for the years 2005-06 and 2006-07 in the respective Annual Accounts and estimate for the year 2007-08 based on the current exchange rate i.e. Rs.392.00 lakhs are amortised over 28 years in line with the treatment given in the last tariff revision. This pass through is allowed subject to the conditions that VCTPL will produce at the time of next review the IT assessment orders for each of the years to show that the Income Tax Authorities has allowed this expenditure. If such evidence is not produced, expenditure allowed now will be set off in the next tariff review.

- (xvi). The VCTPL has made a claim of Rs.11.31 lakhs, Rs.29.37 lakhs and Rs.51.16 lakhs to be allowed as a pass through towards efficiency gain achieved in the year 2005-06, 2006-07 and 2007-08 over the year 2004-05.

A careful reading of clause 2.4.1. of the revised tariff guidelines would show that the benchmark for efficiency will be the average of the past performance of the same operator at the same terminal achieved in the immediately preceding tariff validity cycle. Secondly, the cost reduction should have been achieved due to improvement/efficiency/productivity.

In the working furnished to support the claim of efficiency gain, it is seen that the actual consumption of power in the years 2005-06, 2006-07 and 2007-08 has been compared with the actuals of 2004-05.

The relevant clause in the revised tariff guidelines is intended to compensate the operator for the reduction in the cost estimates due to efficiency / productivity improvement envisaged in the current tariff cycle over the average performance in the immediately preceding tariff validity cycle. The efficiency claim made by the VCTPL does not satisfy this stipulation made in the revised tariff guidelines.

The consumption of power by the quay cranes in the year 2007-08 is estimated at the same level of 2006-07. Likewise, the estimates of diesel consumption per TEU for the year 2007-08 do not show any significant improvement over the average diesel consumption achieved in the immediate preceding cycle.

With reference to the reduction in the consumption of power claimed at other areas like high mast towers, etc., the VCTPL has not established how this is achieved due to improvement in efficiency / productivity level and how the trade are benefited thereby. These measures mainly seem to be efforts made by VCTPL to reduce loss which could be possible only because of low volumes handled at its terminal.

In light of the position explained above, no allowance for efficiency gains claimed by the VCTPL is taken in the estimates for 2007-08.

Since the cost position considered in the current exercise is for a truncated validity period, the VCTPL is allowed to establish cost reduction expected to be achieved due to the efficiency / productivity improvement in the next tariff cycle with reference to the average performance of the years 2005-06 to 2007-08 in line with the revised tariff guidelines and also taking into consideration the observation made hereinabove.

- (xvii). (a). The gross block of assets and net fixed assets excluding the upfront fee and lease hold premium capitalised is reported at Rs. 72.74 crores and Rs. 50.62 crores for the year 2006-07. The depreciation amount considered for computation of net fixed assets marginally varies from the depreciation considered in the consolidated cost statement. The depreciation reported in the consolidated cost statement is considered for arriving at net fixed assets.

The VCTPL has not proposed any additions to the gross block of assets in the year 2007-08. For the purpose of this analysis, gross block and net fixed assets subject to modification in the depreciation for the year 2006-07 are considered. The balance upfront fee and the lease hold premium to the extent not written off at the end of the relevant financial year is added to the capital employed for computation of return.

- (b). For the purpose of estimation of the working capital for the year 2007-08, debtors are estimated at one months' revenue projection, stores and spares at six months' average consumption, cash and bank balances at one months' cash expenses and current liabilities are assumed to be 15 days average operating expenses. It has clarified that the current liabilities include items of extraneous nature which do not have direct relation to the operations and hence must be excluded for computation of working capital to reflect the position with reference to operating expense.

The estimation current liabilities and sundry debtors for the year 2007-08 are not found to be line with the revised tariff guidelines and hence suitably modified to comply with the revised tariff guidelines. The basis of estimation of cash balance is found to be in line with the revised tariff guidelines, however, in view of the some moderations done in the estimations of operating cost, the estimation of cash balance is modified to that extent. The modified estimation of working capital for the year 2007-08 based on the norms prescribed in the revised tariff guidelines is negative and hence considered as nil.

The capital employed subject to the modification explained in the foregoing paragraph works out to Rs.48.49 crores for the year 2007-08.

- (xviii). The capacity of the Container Terminal was assessed at 100000 TEUs per annum in last tariff revision for the years 2005-06 and 2006-07 based on the equipment deployed at the terminal. In the instant proposal, the VCTPL has assessed the designed capacity of the Container Terminal at 105668 TEU per annum for the years 2004-05 to 2007-08. The capacity of the Container Terminal

for the analysis of past period performance i.e. for the years 2005-06 and 2006-07 is considered at 1 lakh TEUs per annum at the level considered in the last tariff Order. The capacity of the container terminals for the year 2007-08 is considered at 105668 TEUs per annum as assessed by the VCTPL.

The capacity utilisation for the throughput projected works out to be 47%, 56% and 71% for the years 2005-06 to 2007-08. The capacity utilisation level reported for the years 2005-06 and 2006-07 are lower than 60%. As per the terms of the revised tariff guidelines, the return on capital employed for these two years are allowed at the stated level of 15% and adjusted for utilisation of the capacity.

For the year 2007-08, full return on capital employed is allowed since the capacity utilisation is estimated to be more than 60%. The rate of return for 2007-08 is allowed @16% per annum based on the updated values of the key parameters prescribed in the revised tariff guidelines.

(xix). The VCTPL has not recognised the annualised impact of the terminal benefits receivable at the end to the project. In the absence of the relevant information furnished by the VCTPL, the depreciated book value of container handling equipment at the end of the project period is considered as terminal benefits receivable at the end of the project. Recognising that the payment would be due for 30 years, the annualised present value for the year 2007-08 is arrived at by applying a discounting factor of 11.5% in line with the approach followed in the last tariff Order.

(xx). (a). The VCTPL has furnished an analysis of the actuals for the past period 2005-06 and 2006-07 which are modified to the extent they are not found to be in conformity with the earlier Order and the general principles followed.

The income estimates considered in the last tariff Order are adjusted for increase in the rates allowed by this Authority in the said Order.

The actuals as reported in the respective Annual Accounts are considered. The general approach followed in the last tariff Order is followed for the assessment of the cost position for the past period.

For the years 2005-06 and 2006-07, the royalty payable to the VPT to the extent of the NPV quoted by the second lowest bidder is considered on the actual throughput achieved in the respective years even if the MGT as per the LA is not achieved in line with the analysis contained elsewhere in the agenda.

(b). Accordingly, the net deficit after allowable return and the net deficit as per the last tariff Order subject to the above discussions is as follows:

(Rs. in lakhs)

Years	Net deficit as per 2005 tariff Order after updating the income for tariff increase allowed	Net deficit actuals
2005-06	(-)1120.10	(-)720.35
2006-07	(-) 189.43	(-) 216.43
<b>Total</b>	<b>(-)1309.53</b>	<b>(-)936.78</b>

(c). The variation in terms physical and financial performance of the actual position vis-à-vis the estimates considered in the last tariff Order is more than 20%.

It is however relevant to recognise that the overall actual position for the years 2005-06 and 2006-07 indicate only reduction in the deficit position in comparison to the position reflected in the last tariff Order despite the actual traffic being 25% and 30% lower than the estimates made in the

last tariff Order. One of the reasons for this position is the return on capital employed which is restricted to capacity utilisation reported below 60% based on the actual throughput handled as against full return granted in the last tariff Order based on capacity utilisation estimated at more than 60%.

Recognising the under utilisation of the capacity of the terminal and also bearing in mind that last tariff Order did not cover the full deficit position reflected by the cost statement while granting tariff revision, it is not found necessary to compensate for past losses suffered for the years 2005-06 and 2006-07. The existing traffic cannot be burdened with additional tariff for the expected traffic not achieved and capacity under utilisation. The objective should be to achieve better utilisation of the capacity created and for this purpose, tariff should act as an incentive to induce growth.

- (xxi). The cost statement for the year 2007-08 has been modified in line with the above analysis. The modified cost statement is attached as **Annex-I**. The summarised position of the results disclosed by the cost statements are tabulated below:

<b>Operating Income (Rs. in lakhs)</b>	<b>Net Deficit (Rs. in lakhs)</b>	<b>Net Deficit (as % of income)</b>
2151.49	(-)83.79	(-)3.89%

The modified cost statement reflects a deficit of 3.89% for the year 2007-08 at the existing tariff level. In view the deficit reflected by the cost statement, the proposal of the VCTPL to continue with the prevailing tariff for the year 2007-08 is accepted.

The actual physical and financial performance will be reviewed at the end of the prescribed tariff validity period with reference to the projections relied upon for this tariff revision. Variation, if any, will be adjusted in future tariff in the manner prescribed in the revised tariff guidelines.

- (xxii). Users should not be required to pay charges for delays beyond reasonable level attributable to the major ports / private terminals as stipulated in clause 2.15 of the revised tariff guidelines. The VCTPL has accordingly, in view of our suggestion agreed to introduce a suitable note in this regard in its proposed Scale of Rates.

Flowing from this principle a suitable provision stating that storage charge shall not accrue for the period during which the VCTPL is not in a position to deliver / ship the cargo as and when requested by the users is also incorporated in line with the provision prescribed in other private terminals and the major ports.

- (xxiii). The existing provision relating to penal rate of interest on delayed payments by users and refunds by VCTPL is updated with interest rate of 14.75% being 2% above the prevailing PLR of the State Bank of India in line with the revised tariff guidelines.

- (xxiv). The VCTPL has proposed to introduce three tariff items in the existing Scale of Rates as discussed here under:

- (a). Levy of Rs. 3000/- per container is proposed for non-declaration/mis-declaration of Out-Of-Gauge (OOG) containers i.e. over-dimensional containers. It is understood that this charge is covered under 'Change of Container Status' in the existing Scale of Rates. It has proposed to make this charge explicit and separate to avoid confusion. The existing Scale of Rates of VCTPL already prescribes such tariff for non-declaration / mis-declaration of hazardous container.

Though the Visakhapatnam Containers Lines Association had initially expressed certain reservation on introduction of the proposed tariff, subsequently at the joint hearing they have given consent to the proposed item.

Since the proposed tariff is more of a deterrent in nature than a regular charge, the proposed tariff is approved. Incidentally, tariff at the same level is prescribed in the Scale of Rates of Chennai Container Terminal Limited for non-declaration / mis-declaration of over dimensional containers.

- (b). It has proposed to levy Rs.5000/- per hour or part thereof for container vessels idling at its berth for more than 2 hours for reasons attributable to shipping lines. It had earlier proposed Rs.10000 per hour of part thereof in a separate proposal which is superseded by the revised rate proposed in the current tariff proposal. The proposed tariff of Rs. 5000 per hour for container vessels idling at berth is arrived on an adhoc basis.

It is relevant to mention here that the containers vessels handled by VCTPL are governed by the provisions prescribed in the Scale of Rates of the VPT with reference to levy of berth hire. The SOR of the VPT also stipulate provisions for levy of penal berth hire for underperformance of vessel with reference to the loading/ unloading norms to be determined by the Committee constituted for this purpose and penal berth hire for over stayal of vessel after completion of the loading / unloading operations beyond the prescribed time limit.

The provisions relating to levy of penal berth prescribed in the SOR of VPT are to be applied to container vessels idling at the berths operated by the VCTPL subject to some modification in the existing procedure. The Committee constituted by the VPT for the purpose of imposing penal berth hire must also include representatives from the VCTPL and representatives of container lines association while prescribing loading/unloading norms of container vessels to assess under performance of container vessel for the purpose of levy of berth hire.

The VPT will only act as a collecting agent and remit the penal berth hire, if any, collected from container vessels to the VCTPL.

- (c). It has proposed to levy Rs.8000 per hour from non-containers vessels for availing general land side facilities at its terminal.

The users have also objected to the proposed levy. The land lord port VPT has also strongly objected the proposed levy on the grounds that it is not as per the terms of the LA. The VPT has clarified that it reserves the right to utilise berth when it is free and the berth will be made available to VPT within mutually agreed notice period. The LA allows VCTPL to designate other than container vessels at the berths operated by VCTPL with the mutual consent of the VPT and for this, the VCTPL is entitled to collect and retain 50% of the wharfage as per the SOR of the VPT.

The VCTPL on the other hand, claims that since most of the non-container vessels that came to its terminal last year had no cargo for handling, there was no accrual of wharfage to VCTPL and hence it is proposed to levy 8000 per hour or part thereof for non container vessels for availing the facilities at the terminal. While this Authority feels that some compensation could be allowed for such cargo to VCTPL, its cost needs to be justified.

In view of strong objections from the licensor as well as users, no consensus could be reached between the VPT, VCTPL and users with reference to this particular tariff item. The VCTPL is, therefore, advised to file a revised proposal on this item based on cost justification or on the basis of the consensus reached amongst them. An appropriate decision on this tariff item will be taken by this Authority when the revised proposal is received from the VCTPL. Recovery of charges, if any, made by VCTPL on this account is subject to adjustment / refund / further recovery, based on the final rate to be approved by this Authority.

- (xxv). The Scale of Rates approved by this Authority will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India. In the instant case, since the existing Scale of Rates is allowed to continue, the Order approved by this Authority will come into effect immediately.

As already mentioned earlier, the financial position considered for the purpose of this analysis is till 31 March 2008 only. Hence, the validity of the Scale of Rates with the amendments approved will also expire on 31 March 2008. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

11.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the existing Scale of Rates of VCTPL to continue for the year 2007-08 subject to the amendments attached as **Annex - II**.

11.2. The tariff has been fixed relying on the information furnished by the VCTPL and based on assumptions made as explained in the analysis. The VCTPL is directed to file its next tariff review proposal well before the expiry of its validity along with the actual financial/performance details in the format prescribed. Analysis of variations also be made at the time of the next general review at the end of the tariff validity period and full adjustment of additional surplus will be made in the tariff to be fixed for the next cycle.

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

ANNEX - I

**Consolidated Cost statement of Visakhapatnam Container Terminal Limited**

(Rs. Lakhs)

Sr.No.	Particulars	2006-07 furnished by VCTPL	2007-08 Estimates furnished by VCTPL	2006-07 Actuals	2007-08 Modified Estimates
	Traffic (In MTs / TEUs)	55,769	75,000	55,769	75,000
	<b>Capacity</b>	105,568	105,568	100,000	105,568
I	<b>Total Operating Income</b>				
	(i) Container handling income	1,345.40	1,900.78	1,345.40	1,900.78
	(ii) Others	267.36	250.71	247.78	250.71
	<b>Total (i to ii)</b>	<b>1,612.76</b>	<b>2,151.49</b>	<b>1,593.18</b>	<b>2,151.49</b>
II	<b>Operating Costs (excluding depreciation)</b>				
	(i) Operating & Direct Labour	95.22	100.68	95.22	100.36
	(ii) Maintenance Labour	65.87	69.65	65.87	69.43
	(iii) Equipment Running Costs	189.71	261.32	189.71	219.59
	(iv) Royalty / revenue share	13.66	38.37	13.66	25.27
	(v) Equipment Hire	70.20	95.19	70.20	95.19
	(vi) Lease Rentals payable to VPT	75.74	75.74	75.74	78.70
	(vii) Insurance	45.16	45.16	45.16	45.16
	(viii) Other expenses	68.77	80.19	67.17	78.85
	(ix) Management Expense	15.50	15.50	13.99	13.99
	<b>Total (i to ix)</b>	<b>639.82</b>	<b>781.80</b>	<b>636.71</b>	<b>726.53</b>
III	Depreciation	573.24	541.53	573.24	541.53
IV	Overheads				
	(i) Management & Administration overheads	166.02	175.55	164.52	173.40
	(ii) Preliminary expenses & Upfront Payment write-off	12.53	12.53	12.53	12.53
	<b>Total (i to ii)</b>	<b>178.54</b>	<b>188.07</b>	<b>177.05</b>	<b>185.93</b>
V	Operating Surplus / (Deficit) (I) – (II) – (III) – (IV)	221.16	640.09	206.17	697.49
VI	Finance & Miscellaneous Income (FMI)	39.08	2.00	42.38	2.00
	<b>Total</b>	<b>39.08</b>	<b>2.00</b>	<b>42.38</b>	<b>2.00</b>
VII	Finance & Miscellaneous Expenses (FME)				
	(i) Contribution to Provident Fund	12.55	13.27	12.55	13.27
	(ii) Loss on sale of assets	0.43	-	0.43	-
	<b>Total</b>	<b>12.98</b>	<b>13.27</b>	<b>12.98</b>	<b>13.27</b>
VIII	FMI Less FME (VI) - (VII)	26.10	(11.27)	29.40	(11.27)
IX	Credit back of the amount receivable at the end of the project period	-	-	5.25	5.85
X	<b>Surplus Before Interest and Tax (V) + (VIII)</b>	<b>247.26</b>	<b>628.81</b>	<b>240.82</b>	<b>692.07</b>
XI	Capital Employed	4,685.25	4,957.49	5,466.04	4,849.17
XII	RoCE - Maximum permissible (15% for 2006-07, and 16% for 2007-08)	702.79	743.62	819.91	775.87
XIII	Capacity Utilization	52.78%	70.98%	55.77%	70.98%
XIV	RoCE adjusted for capacity utilization	370.91	743.62	457.25	775.87
XV	<b>Net Surplus / (Deficit) (X) - (XIV)</b>	<b>(123.66)</b>	<b>(114.81)</b>	<b>(216.43)</b>	<b>(83.79)</b>
XVI	<b>Net Surplus / (Deficit) as a % of operating income (XV/I in %)</b>	<b>-7.67%</b>	<b>-5.34%</b>	<b>-7.85%</b>	<b>-3.89%</b>

**Amendments to the Scale of Rates of Visakha Container Terminal Private Limited notified on 19 September 2005 vide Order No.TAMP/31/2005-VCTPL.**

- (i). The existing note No.(iii)(b) in Schedule 2. GENERAL, may be replaced with the following:

*“ The rate of penal interest will be 14.75% per annum. The penal interest will apply to both the VCTPL and users equally.”*

- (ii). Insert the following conditionality as Note No.(viii) in Schedule 2.GENERAL:

*“User will not be required to pay charges for delays beyond a reasonable level attributable to the VCTPL”*

- (iii). Insert Sr.No.15 under Schedule 1.9.- ADDITIONAL CHARGES – as given below:

Sl. No.	Particulars	(In Rs.)		
		Container not exceeding 20 feet in length	Container exceeding 20 feet in length and upto 40 feet length	Container exceeding 40 feet in length and upto 45 feet length
15.	Non-declaration/mis-declaration of OOG container (Rate per container)	3000		

- (iv). Insert the following provision as Note No.(6) under Schedule 1.10.- CHARGES FOR STORAGE OF CONTAINERS :

*“(6) – The storage charge shall not accrue for the period during which the VCTPL can not effect delivery of import container or shipment of export container when requested by the user.”*

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

**F. No. TAMP/12/2007- VCTPL - Proposal from Visakha Container Terminal private Limited for revision of its Scale of Rates.**

1. The comments received from the Visakhapatnam Port Trust and port users / representative bodies of port users and the response furnished by the VCTPL are tabulated below:

Sl. No.	Comments of users / user organisations	Comments of VCTPL
1.	<b>Visakhapatnam Containers Lines Association (VCLA)</b>	
(i).	<p>Non / Misdeclaration of OOG Container :</p> <p>The lines have to operate various types of containers like flat rack, high cube, reefer, hazardous and OOG. The lines make every effort to declare the type and details of the boxes to the terminal at the time of import as well as export. As the terminal is already levying various charges like direct loading, change of container status, cancellation of document, fixing of seal, mis-declaration of hazardous container, via cancellation, delay in submission of documents, etc., it is felt that a new charge is uncalled for. Hence, status quo should be maintained.</p>	<p>(a). The charge shall be levied only in case the dimensions of the OOG container is not properly declared.</p> <p>(b). The OOG containers need to be handled with aid of slings and shackles/over head frame and other such gears as against handling by normal spreader. As such it is imperative that the dimensions of the container must be clearly mentioned, to enable them to be prepared with the requisite loose gear in time to ensure smooth handling of containers and without any delays. This is in interest of the shipping line as the operations need not be held up for want of making the requisite arrangements.</p> <p>(c). The charges are more of a deterrent than a regular charge on the same lines as that for non/misdeclaration of hazardous containers. The inclusion of this tariff item is fully justified and may be approved.</p>
(ii).	<p>Tariff proposed for container vessels idling at berth for reasons attributable to shipping line for more than 2 hours.</p> <p>The VCTPL has stated in its explanatory note that there was a requirement of the VPT to handle vessels carrying fertilizers and food grains in order to meet the sudden spurt in their import. The berth was given to VCTPL on BOT basis for developing a container terminal and handle container vessels. These vessels have to pay port dues, pilotage and berth hire for the use of the berth given to VCTPL. The container vessels have to maintain a schedule and it is not possible for vessel operators to sustain delays. Further, the cost of these vessels is also very high and no vessel operator will deliberately delay the vessel. However, if a vessel is delayed and there is pressure on the berth that particular vessel can always be shifted out as is done in most ports. Hence charging of Rs.5000 per</p>	<p>(a). At the outset, it needs to be categorically clarified that the requirement of VPT to berth non-containerised vessel at VCT is only when the berth is available. Its facility will never be provided by delaying or denying the berth to a container vessel. The terminal has been set up for container traffic and shall remain predominantly a container terminal.</p> <p>(b). Further, staying of container vessel at berth beyond the operations time will deny its customer the usage of its facilities to other clientele. Thus, there is loss of opportunity here. Moreover, the container vessel continues to utilise the terminal facilities beyond its normal stay at terminal.</p> <p>(c). This charge will be applicable only when a container vessel stays at berth for more than two (2) hours after completion of operations and that too only if the reasons for such stay are attributable to the concerned shipping line.</p>

	hour over and above the berth hire is totally abnormal. It is requested that this tariff item be dropped.	
2.	<b>Visakhapatnam Port Trust (VPT)</b>	
(i).	It has no objection to the proposal of the VCTPL for continuing the existing tariff for one more year for the reasons explained by them.	No comments furnished.
(ii).	With regard to the proposed new tariff for Non / Misdeclaration of OOG Container at Rs.3000 per container and for idling of container vessels at berth for reasons attributable to shipping line for more than 2 hour at Rs. 5000 per hour or part thereof, the views of the trade/shipping lines are to be considered. It has no comments on the same.	No comments furnished.
(iii).	As per the LA, the VCTPL is not entitled to handle any vessels other than container vessels. However, clause 2.5 (1) allows the port trust to designate other than container vessels at the berths operated by VCTPL. For this the VCTPL is entitled to collect and retain 50% of the wharfage as per the SOR of the VPT. Thus the VCTPL is not entitled to collect any charges from non-container vessels. Therefore, the proposed new tariff for non-container vessels at Rs. 8000 per hour or part thereof is not warranted and is not acceptable to VPT. It is also not proper to notify the charges for non-container vessels which the VCTPL is not entitled to handle. Any services to such vessels shall be provided by VPT and charges for the same shall be collected by the port.	<p>(a). The charges proposed by the VCTPL is not for handling( i.e. cargo discharge/loading) of non-container vessels, which is prerogative of the VPT.</p> <p>(b). As indicated the proposal, the non-container vessel are berthed at the behest and concurrence of the VPT. These non-container vessels berth at its terminal enjoy the infrastructure facilities available for which it is proposing to levy nominal charge of Rs.8000/- per hour or part thereof. It has reiterated that the proposed charge is towards access control of visitors (excluding labour), materials (excluding cargo) and passenger vehicles, enhanced security and vigilance in the water front area, illuminating, house keeping and maintenance of various facilities, etc.</p> <p>(c). Most of the non-container vessels that came to its terminal last year had no cargo for handling. Hence there was no accrual of wharfage to VCTPL. The wharfage accrued from two non-container vessels in the last year was very less. The VPT would appreciate that the accrued wharfage amount was too meager a composition for the services utilised.</p> <p>(d). As per Article 4.1 of the License Agreement, it is entitled to collect charges from the owners/consignees of cargo and vessel owners/agents using the project facilities and services as per the Scale of Rates duly approved by the Authority.</p>
(iv).	The photography charges shall normally accrue to VPT as it owns the berths.	It differs from the contention of the VPT. This tariff item is in its SOR since inception and there was no objection from the VPT in the last 4 years when the tariff was in operation. Further, the jetty alongwith all the other area was transferred to VCTPL although the VPT continues to be true owner of all the assets.

2. A joint hearing, in this case was held on 12 June 2007 at the Visakhapatnam Port Trust premises. The VCTPL made a power point presentation of its proposal. Apart from this, following submissions were made at the joint hearing:

**Visakha Container Terminal Private Limited**

- (i). In the last one year, about 31 non-container vessels were berthed. We are already levying the proposed rate of Rs.1 lakh/day.

**Visakhapatnam Container Lines Association**

- (i). We have no objection to the additional charges on non declaration of OOG containers.
- (ii). Idling of vessels is not a problem at VCTPL since surplus capacity is available. When trade is growing, introduction of such charges is not desirable.

**Visakhapatnam Stevedores Association**

- (i). The charges VCTPL demands for non container vessels at VCTPL are exorbitant.
- (ii). We suggest a charge similar to priority berthing charges @75% may be levied.

**Visakhapatnam Port Trust**

- (i). We feel no justification in VCTPL claiming additional berth hire for idling for more than 2 hours, as no opportunity cost is involved.
- (ii). For non-container vessels, the VCTPL has not taken our consent, which is mandatory under BOT agreement.