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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.229

New Delhi 9 October 2002

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the Chennai Port Trust for a general revision of its Scale of Rates as in the Order appended hereto.

(S. Sathyam)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/39/2002-CHPT

The Chennai Port Trust (CHPT)

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Applicant

ORDER

(Passed on this 5th day of October 2002)

This case relates to a proposal received from the Chennai Port Trust (CHPT) for a comprehensive revision of its Scale of Rates.

2.1. The CHPT has given the following main reasons for proposing upward revision of its tariffs:

- (i). The Scale of Rates of the CHPT was last revised during April 2000 after an interval of 9 years. Hence the revision is due as per the guidelines of the TAMP for review of tariffs once in two years.
- (ii). Review and revision of tariffs is required due to shift of Thermal Coal to Ennore Port, which contributed 25% of the total throughput of the port.
- (iii). The Container handling activity which had cross-subsidised other activities has been privatised to the Chennai Container Terminal Limited (CCTL); and, therefore, the other activities are deprived of its cross-subsidisation benefit.
- (iv). The establishment expenditure has increased on account of pay revision during 2000-01 with effect from 1 January 1997 for officers and from 1 January 1998 for Class III and IV employees. The liability has also increased on account of liberalisation and consolidation of pensionary benefit.
- (v). Apart from increase in the operating expenditure, additional capital / revenue expenditure has to be incurred to keep the port clean and to maintain the equipment upto the international standard to compete with the Ennore Port.
- (vi). The net surplus which was around Rs. 145.21 crores during 1999-2000 has come down to Rs. 37.60 crores in the year 2000-01 and is expected to drop further.

2.2. The CHPT has proposed a comprehensive revision in its tariff. The following main points have reportedly been considered while preparing the cost statements:

- (i). The operating expenditure for the years 2002-03 and 2003-04 have been projected with 6% increase over the previous year estimates against the norm of 8%. The percentage increase considered in the estimate is less than the norms in the light of the fact that the expenditure shall reduce due to fall in traffic forecast.
- (ii). Assets to be commissioned and operated during the years 2002-03 and 2003-04 have been taken into the asset block for calculation of capital employed.
- (iii). The rate for crantage proposed for revision is inclusive of all gears, viz., grabs, ropes, hooks etc., required as per the operational requirement to rationalise the rates.

2.3. The CHPT did not submit proposed Scale of Rates (draft) along with the proposal. It has stated that the same is under review and revised terms and conditions will be submitted by end of March 2002. The proposal submitted by the CHPT envisages the following:

- (i). Berth hire charges is proposed to be modified so as to include cost of one wharf crane for each berth. The modification proposed is expected to make the port user friendly.

- (ii). (a). Rates for POL and other activities which are in surplus are not proposed to be revised.
- (b). The surplus of POL and other activities will continue to cross - subsidise the activities which are in deficit except the Iron Ore activity.
- (iii). The proposal for revision of tariff for Railway activity will be sent to the Railway Board for approval. The Special Port Service charges of the Railway activity proposed by the port at the time of the last general revision may be approved by the TAMP.
- (iv). The impact of the income tax in view of the proposal of the Finance Minister in the Finance Bill 2002 to bring Major Ports under Income Tax Act from the Assessment year 2003-04 may be considered while revising the tariffs.

2.4. The CHPT has further stated that the surplus of POL and other surplus activities must not cross-subsidise the deficit in Iron Ore activity due to the following facts:

- (i). The other activities are floating in nature and there shall be reduction in volume in case of reduction in subsidy due to its sharing with Iron Ore.
- (ii). The iron ore activity at other ports is an independent activity and is financially sound to meet its full expenditure.
- (iii). The Railway tariffs have been increased by more than 100% during the last 10 years whereas the port has increased the iron ore tariffs by 3% only during the year 2000, after the last revision in 1992. The deficit in iron ore activity was being cross-subsidised by the income from coal and container handling operations.
- (iv). In the Railway Budget 2002-03, it is found that freight of Coal, Cement, Steel which are found to be cheaper by the road and coastal shipping are being wooed back with lower rates and goods such as Iron Ore that are difficult to move by road have to bear a heavier tariff.

2.5. The increase in the tariffs proposed by the CHPT for various activities / sub-activities are given below:

Sl. No.	Activity / Sub Activity	% increase proposed in revenue
I.	Vessel-related charges:	
	(i). Port Dues	25%
	(ii). Towage and Pilotage	140%
	(iii). Berthing and Mooring	290%
	(iv). Water Supply	-
	(v). Salvage and Divers	250%
II.	Cargo-related charges:	
	(i). General Cargo	110%
	(ii). P.O.L.	-
	(iii). Iron Ore	125%
	(iv). Cranage and FLT	250%
	(v). F. C. Vaigai	40%
	(vi). Ware housing	-
III.	Railway charges:	-
IV.	Lands and Buildings	125%

2.6. The proposed increase is expected to increase the operating income (excluding royalty from the CCTL) from Rs. 236.95 crores to Rs. 465.06 crores i.e. 96% increase in revenue in each of the years i.e. 2002 - 03 and 2003-04.

3.1. The cost statements furnished by the CHPT were not in accordance with the format prescribed by this Authority. The CHPT was, therefore, advised to furnish the cost statements in the prescribed format vide our letter dated 12 April 2002. With reference to this Authority's Order dated 6 March 2002 relating to fixation of tariffs for the Chennai Container Terminal Limited (CCTL) the CHPT was advised to furnish a statement showing estimated receipts and payments out of the revenue share available from the CCTL for the years 2002-03 and 2003-04 and to give a detailed note about the proposed utilisation of the Escrow fund.

3.2. The CHPT subsequently vide its letters dated 10 May 2002 and 18 May 2002 furnished a consolidated cost statement in the format prescribed. The cost statements for the individual activities / sub-activities were, however, not furnished. The CHPT has also informed that action was being taken to open an Escrow Account.

4. In accordance with the consultative procedure prescribed, the proposal received from the CHPT was circulated to the CCTL and concerned port users / representative bodies of port users for their comments. The comments received from them are summarised below:

Madras Chamber of Commerce and Industry (MCCI)

- (i). The tariff cycle of two years will only result in review and not revision. The port can only request for a review.
- (ii). The CHPT proposal deals only with macro issues and no minute details have been provided to the users before seeking any revision.
- (iii). Privatisation of Container Terminal / shifting of coal to Ennore did not occur overnight. The port was aware of these developments; but, did not come up with any alternative business proposals to recover the fall in revenue. In fact, the port still enjoys a royalty of 37.128% from the operations at the container terminal.
- (iv). It has offered the following comments after discussing with the Chambers, Trade bodies and User Associations under an umbrella of Consultative Committee of City Chambers of Commerce (CCCCC):
 - (a). If cost plus formula is adopted for tariff revision it will be disastrous to trade, as no efforts will be taken to curtail avoidable expenditure. In fact, any tariff revision shall have a precondition to explore the possibility of reducing cost to enhance profits before opting for an unscientific leap in the tariffs.
 - (b). Earlier four berths were handling coal and berth occupancy was the highest. The exodus of coal to Ennore has resulted in a huge surplus work force.
 - (c). Similarly, the privatisation of the Container Terminal has added to the burden of the redundant work force as only 30 out of the 574 workers deployed at the terminal have opted to join the private operator. This is apart from 160 on-board workers of the erstwhile MDLB who have added to the surplus work force.
 - (d). The ports have agreed the need to rationalise the manning scales and the same is under consideration by the concerned body. While the CHPT has finalised and implemented a reduced and rationalised manning scale for on-board operations such an action in respect of the shore workers are yet to be taken by the Port. If such exercise is undertaken, it will reflect a surplus of 600 workers to the cost of trade.
 - (e). The port must impress upon the Government to offer special VRS packages to the redundant work force (of about 1500 workers) by projecting the recurring savings in the wage bill of about Rs. 50 crores a year.

- (f). A detailed study similar to that taken for iron ore handling activity (which reflected a substantial loss) must be undertaken for specific commodities that drain the profits. This will enable the port to seek selective revision rather than across-the-board hike.
- (g). The port is a service provider and must specialise only in its core competency. Non-core areas like running of hospitals and maintaining schools must be out sourced.
- (h). The TAMP has given a guideline to consider 5% increase per year on the rentals which is in line with the normal approach of the Government. Accordingly, a simple arithmetic will call for an increase of 10% on rentals as the revision is sought after two years. A quantum leap of 100% for this category proposed by the port defies the science of numbers.
- (i). Pay revision is effected once in every five years and impact of the last pay revision has been considered by the TAMP during the last revision in April 2000.
- (j). Income Tax can never be considered as a cost element for computing the tariff.
- (k). The earnings from the CCTL has been projected at a constant figure of Rs. 53.50 crores as against the CCTL's projection of Rs. 72.50 crores and Rs. 85.60 crores for the years 2002-03 and 2003-04.
- (l). When the shore equipment were obsolete, integrated berth hire charges including usage of wharf crane were levied by the port. Now, that there are few shore cranes installed, the port is looking back to split the berth hire and the shore crane as independent components which appears to be incorrect.
- (m). The port had proposed for revision in tariffs in the range of 10% to 100% two years back after a stretch of almost a decade. The instant proposal seeking increase in the range of 25% to 290% (mostly three digit figures) within a span of two years indicates non-application of mind.
- (n). The TAMP may lay down certain guidelines to the ports to scale down their operating costs and to achieve optimum utilisation of the manpower resources by cutting down expenditures in non-core areas while seeking revision in tariffs as the trade cannot be made to suffer for the inefficiencies of the port.

The Chennai Steamer Agents' Association (CSAA)

- (i). In today's highly competitive environment and general recession in the trade the port cannot think of revising its tariff every two or three years with substantial increase.
- (ii). The losses incurred by the port due to improper planning must not be thrust upon the port users. The CHPT must have planned to augment the shortfall of revenue of 25% of the throughput due shifting of coal to Ennore port.
- (iii). The aspect of privatisation on the Container Terminal cannot be a reason for revision of rates as this was a well-drawn and pre-planned project wherein both the Ministry of Shipping and the CHPT are the beneficiaries. Moreover, the CHPT also earns revenue from the CCTL by way of revenue sharing arrangement without incurring any cost.

- (iv). It is the duty and the responsibility of the port to keep the port clean and also to maintain the equipment upto the international standards from the resources available. The port cannot look forward to recover this cost from the users by proposing revision in tariffs.
- (v). Establishment expenditure on account of pay revision cannot be a cause to propose revision in the rates. The CHPT has announced an approximate total income of Rs.480.0 crores in the year 2000-01 as against Rs.473.73 crores in the year 1999-2000. The port has earned an approximate net surplus of Rs.60 crores as against Rs.37.20 crores of the previous year.
- (vi). The revenue losses incurred by the CHPT can be recovered by attracting more foreign vessels to the Chennai port and also by increasing shipment of cars and other accessories to various destinations.
- (vii). The volume of cargo handling is steadily decreasing, at the Chennai port. Hence, it is not advisable to consider any revision of rates at this juncture.
- (viii). (a). The port users and the Trade should have been consulted before the deleting clause in the Scale of Rates prescribed by the Authority vide its Order dated 4 April 2001. The clause deleted in the said Order is as follows:
- “The port dues shall not be levied on a vessel discharging or shipping crew and leaving a port within 48 hours. For this purpose of this clause, pilot over carried due to bad weather be treated as crewmember and vessel emptied from payment of port dues.”*
- (b). The said clause was included in the pre-revised Scale of Rates with the idea of not penalising the ship-owners who had to call the ports to meet out the eventuality arising out of emergencies, such as discharging a sick crew. It was also in line with practice followed by the International Maritime.

Instead, 50% of port dues is prescribed in the existing Scale of Rates for a vessel entering a port but, not discharging or taking in any cargo which completely defeats the noble principle behind the earlier clause. Thus, the earlier clause may be reinstated.

Chennai Container Terminal Limited (CTL)

- (i). The vessel call costs at the Chennai port are very expensive and act as a main deterrent for inducing mainline vessels to call at the Chennai port. A comparison of vessel call cost at the Chennai port with the neighboring ports indicates that the Chennai port is 204% more expensive than Colombo port from where the main line operators expect to divert the vessels and avoid transshipment of Indian Origin Cargo.
- (ii). Reduction in vessel-related charges is essential to attract mainline vessels. Any tariff increase at this time will not only damage trade to Chennai; but, also go against Ministry of the Shipping's objective of making Chennai port a "Mother Port" on the east coast of India.
- (iii). Port dues in Chennai are 4 times more expensive than Colombo. It is recommended that the tariff be made payable for once in 60 days as currently applicable to coastal vessels.
- (iv). In most harbor operations pilotage fees only include one movement of a vessel from stream to berth upon arrival and the other from berth to stream on departure after completion of operations. All other acts of shifting of vessel, such as change of berths or shifting to anchorages, etc. are chargeable as individual services. Contrarily, the consolidated pilotage fees prescribed in the existing Scale of Rates

of the CHPT include additional two acts of shifting of vessel whether used or unused, thus making pilotage very expensive. It will be prudent to deduct an equivalent amount from the pilotage fees towards two shiftings @ 25% each i.e. 50% reduction and incorporate a shifting charge @ 25% of the pilotage fees from the 1st shifting onwards for any shifting requested by the vessel operator.

- (v). In most of the ports, use of tugs are subject to requirement. It is, therefore recommended that the charge toward tug hire must always be subject to physical usage in conjunction with the pilot's requirements.
- (vi). These recommendations if implemented will not only compensate for a perceived revenue loss but also lead to an increase in the revenue. Since inducement benefits are primarily targeted at main haul vessels calling at direct ports, these reductions in vessel-related charges must be limited to container vessels calling ports, in addition to ports in Singapore, Sri Lanka, and Malaysia.
- (vii). (a). An increase of 125% proposed in the lease rents will increase the lease rent from Rs. 9.6 crores to Rs. 21.65 crores for area of 211000 sq. mtr. leased to it by the CHPT.
(b). Any increase in lease rent will have a direct effect on its tariff. The TAMP is requested to grant a corresponding increase in tariff which will take effect on the same day as the CHPT tariff increase.
(c). The CHPT has not justified the increase proposed in the context of additional service or improvement in service. In fact, extensive rehabilitation work is being carried out by it on the lands leased by the CHPT without getting any compensation for its efforts.

The Chennai Custom House Agents' Association (CCHAA)

- (i). The tariffs were last revised in the year 2000. The reasons putforth by the CHPT are not valid enough to justify the revision proposed.
- (ii). It is struggling to get business and if there is any revision now the cargo may get diverted to other nearby ports which are very competitive cost-wise.
- (iii). Income Tax is never a part of cost; and, hence, must not be taken into account while framing the tariff for services rendered by the port.
- (iv). Apart from these it has reiterated the points given in the joint submission by the MCCI and other concerned users.

Indian Vegetable Oil Processors Association (IVOPA)

- (i). The CHPT has sought an increase of about 300% on edible oils, viz. from a fixed rate of Rs. 42.00 per tonne to an ad valorem rate of 0.59%, which comes to almost Rs. 185 per tonne, at current prices. The increase, prima facie, cannot be justified by any increase in general operating expenses.
- (ii). The income will fall due to shifting of coal to Ennore port and privatisation of Container Terminal; but, at the same time there will also be a reduction in operating expenditure on these operations. There cannot be, therefore, any justification for 300% increase on any item.
- (iii). The details of operating costs has to be justified. No commercial operation can levy charges on its users based on unjustified costs, either as a result of inefficient operations or lack of business. Instead the port must endeavor to increase its business, to cover its costs and make profits.

- (iv). The wharfage charges levied on edible oil ranges from Rs. 35/- PMT at Kandla port to Rs. 55/- PMT at Kolkata port. The difference is because the size and total operations varies from port to port. The revised charges must be comparable to other ports of similar size and operations.

The Tamil Chamber of Commerce (TCC)

- (i). The TAMP may consider allowing the benefits of cross-subsidisation from the revenue receivable from the CCTL by way of royalty and surplus of POL to the other activities which are in deficit.
- (ii). On one side the CHPT states that the terms and conditions should be user friendly in the light of the competition from the Ennore Port whereas on the other hand it has proposed abnormal increase in various tariff items including hire charges for crane and fork lift.
- (iii). If some of the operations are not found to be economical, they can be given to private agencies in particular hire of fork lift, and cranes, etc. without increasing the tariff.

Tamil Nadu Electricity Board (TNEB)

- (i). The increase in tariffs proposed by the CHPT to the extent of 110% in general cargo, 290% in Berthing and Mooring 140% in Pilotage and Towage, 125% in Land and Building, etc. are exorbitant.
- (ii). The increase in the establishment expenditure due to pay revision during 2000-01 (with retrospective effect from 1 January 1997) would have as well been accounted for in the last revision of Scale of Rates in April 2000.
- (iii). The revision in the Scale of Rates shall be at the most 25% only and not more in the light of fact that the port has lost 25% of the total throughput due to shifting of thermal coal to Ennore port.
- (iv). Since the proposal for revision in the Scale of Rates is only due to shifting of thermal coal operation to Ennore Port, any increase in tariffs shall not be applicable to its coastal vessels, even if there is any delay in shifting the entire coal handling operation to Ennore Port.

The Southern India Chamber of Commerce and Industry (SICCI)

- (i). The proposal of the CHPT for revision in rates is untimely; and, some of the reasons given appear to be unconvincing.
- (ii). Trade is going through a difficult period of recession with industrial growth averaging 2.5% during the last year. In such a situation any increase will only add to the financial difficulties of firms and escalate costs in a competitive international market.
- (iii). The privatisation of the Container Terminal has already began to give assured returns by way of revenue sharing arrangement with the CCTL. The operating cost of Rs. 5.30 crores considered for the container handling activity needs to be clarified in the light of the fact that there is no expenditure by the port on container operations.
- (iv). The port must look for new avenues of growth and try to market the port effectively so that there is increase in volume of traffic which shall ultimately generate revenue.
- (v). Apart from these points it has reiterated the points made by the CCCCC.

The Chennai Port Stevedores Association (CPSA)

- (i). The proposal of CHPT is untimely and unwarranted especially when neighbouring ports like Ennore, Tuticorin and Vizag are eating into the volumes of the Chennai Port.
- (ii). The Authority had revised the CHPT Scale of Rates during the year 2000 after a gap of nine years, which necessitated an increase ranging from 18% to 100% on various categories of services rendered by the port.
- (iii). There is no logic or fundamental principles of marketing applied in the instant proposal.
- (iv). The port must implement prudent measures to cut down its establishment and other administrative costs.
- (v). It has reiterated the views of the CSAA that the users should not be burdened due to failure on the part of the port to foresee the eventualities due to privatisation of the Container Terminal and shifting of thermal coal to Ennore port. The port should have evolved suitable measures in a phased manner rather than proposing steep hike in the tariffs.
- (vi). It has referred to the judgment given in the case of the CPSA vs. Union of India and others on privatisation of the Container Terminal wherein it is stated that “the modernization of the container terminal of the second respondent Port being part of implementation of the economic policy of the Government of India and is being resorted to in the interest of the general public” and also “Further, while entrusting such developmental project with the fourth respondent, the Government of India would be simultaneously benefited with huge monetary advances apart from guaranteed income”. These lines were based on the submissions of the Port and the Government of India.
- (vii). The port has not considered the guaranteed income receivable from the CCTL by way of lease of land, sale of assets and royalty receivable based on the minimum guaranteed throughput as per the Concession Agreement (CA). Instead the port has reflected constant revenue of Rs. 53.50 crores to accrue from the CCTL.
- (viii). If the policy of the Government of India is to reduce cross-subsidisation, then there is no reason for the users to subsidise by way of increased tariffs for the 572 redundant workforce of the erstwhile Container Terminal of the CHPT, who should have been employed by the private operator as per the non-negotiable conditions set forth by the Government for this privatisation. It seems the port is seeking ratification from the Authority for these dilutions of the non-negotiable conditions.
- (ix). The increase in tariffs proposed ranges from 25% to 290%, which if implemented will act as a powerful deterrent for the users from utilising the services and facilities provided by CHPT.
- (x). With a depleting traffic scenario, it is essential to introduce volume discounts schemes.
- (xi). The CHPT cannot justify an overall revision in tariffs since it has till date not added value to its infrastructure like handling equipments, floating crafts, warehousing facilities, etc., except in certain areas. These investments must be recovered in a structured / phased manner rather than a steep one time revision.

Chennai Petroleum Corporation Limited (CPCL)

- (i). The proposed increase in towage, pilotage, port dues and berthing fee is very steep.

- (ii). It cannot absorb the rates proposed as it will significantly affect its profitability position. The TAMP may, therefore, reconsider the instant proposal.

The Shipping Corporation of India (SCI)

- (i). The veracity of the figures mentioned in the cost detail of various operations cannot be checked since basic figures in support of the same have not been submitted. A cursory glance, however, reveals that the CHPT is seeking an exorbitant hike.
- (ii). A comparison of the hike proposed by the CHPT at the time of last general revision in 2000, the percentage increase allowed by the TAMP and the increase proposed in the instant proposal reveal that the proposed rates are very steep and will be detrimental to the shipping trades at Chennai.
- (iii). The CHPT will earn net revenue by way of royalty from CCTL and the amount thus received can very well cross-subsidise other activities.
- (iv). The amount receivable from the CCTL under the revenue sharing arrangement considered by the CHPT is less than the projections of the CCTL. The CHPT has considered a constant figure of Rs. 53.50 crores without any increase as against the CCTL's projections of Rs. 72.57 crores for the year 2002-03, Rs. 85.60 crores for the year 2003-04.
- (v). It is not appropriate to include assets which have not yet been installed for purpose of fixation of tariff since the users have not yet enjoyed the facilities of these new assets.
- (vi). The charges prescribed in the existing Scale of Rates for water supply to ships in the outer anchorage, moorings, etc., include the charge for water and related service such as providing barge facilities, etc. The CHPT only lends the barges and requires the users to make arrangement for water. No rebate is, however, offered in the existing tariffs even though the CHPT does not provide water from its own sources. A separate rate may, therefore, be proposed for lending barges only without supply of water.
- (vii). A provision exempting levy of Port dues for a vessel discharging or shipping crew and vacating the port within 48 hours has been deleted in the Scale of Rates notified on 4 April 2001 without giving any opportunity to the trade to express their views. Instead, levy of 50% of the Port Dues is prescribed in case a vessel enters a port; but, does not discharge or take in any cargo. In view of this provision, one of its vessel which had called the Chennai port to discharge her master for medical treatment was levied 50% of the port dues despite not availing any port facility. This clause exempting levy of port dues was prescribed in the pre-revised Scale of Rates so that the ship owners who have to call the port in emergency; but, do not occupy any berth or carry out cargo operations are not penalised. Hence, the earlier provision may be reinstated with retrospective effect from 2000 and the port may be directed to refund the charges received from the SCI in such cases.
- (viii). The list of reasons for which idle time charges are recoverable (as prescribed under Book I, Chapter V; of Scale D) needs a thorough review since in many cases the CHPT attributes the delay to the vessels and penalises the shipowners unnecessarily.
- (ix). In case of damage to port properties, the port unilaterally fixes the responsibility on a particular vessel without giving any opportunity to the vessel owner to prove that it was not caused by his vessel. Moreover, the damage cost recovered is exorbitantly high. Thus a clear cut system shall have to be framed prescribing the procedure to fix the responsibility of a particular vessel which is alleged to have caused damage, a system of joint survey by the port and the port user to assess the extent of damage to the port properties including the estimated expense, etc.

- (x). It is observed that some of the TAMP Orders like the Orders passed on interest payable on delayed refund, no storage charges on abandoned FCL containers for more than 75 days, etc., have not implemented by the CHPT.
- (xi). Many a times the port does not respond to the refund claims of port users despite several reminders and *suo moto* debits are done in the accounts without giving any details of bills / adjustments. An appropriate forum may, therefore, be created to give an opportunity to the port users to redress their grievances.
- (xii). It has also requested to consider the issues raised at the time of last general revision vide its letter No. SCI/ F&A dated 24 June 1999. Some of the main points given by it in the said letter are as follows:
 - (a). The CHPT shall refrain from levying berth hire for the number of days lost by the vessels at berth owing to delay in the arrival of pilots, tugs for any reason whatsoever attributable to the port.
 - (b). Waiver of the port charges when ships are delayed due to strikes.
 - (c). There shall not be any additional shifting charges over and above normal Pilotage fee when a vessel cannot discharge cargo at certain berth due to reasons beyond the control of shipowners like lack of proper facilities, cargo not accessible by floating crane, etc. ,which necessitates shifting of vessels to another berth for discharge of cargo.

The Container Shipping Lines Association of India (CSLA)

- (i). The two year review period prescribed by the TAMP does not mean that only upward revisions must take place every two years.
- (ii). The presumption that reviews are an opportunity simply to increase rates, means that the stated government policy of reducing transaction costs for international trade is not being implemented. The TAMP is requested to address this important issue of high marine costs not just in Chennai port but, also at the other major ports.
- (iii). The CHPT has made no attempt to either reduce the cost or to improve value of money for the services offered.
- (iv). The TAMP must stress that till the time the ports address their internal costs and service levels in response to situations like reduction in income or increase in costs, the proposal to increase rates to make good revenue shortfalls shall not even be contemplated unless other options have first been considered.
- (v). It must be logical that if 25% of the ports throughput has been lost, then the total infrastructure and, therefore, the cost has to be downscaled, unless alternative business can be found within a reasonable timescale. If additional income cannot be found by securing new business the existing labour force must be reduced and made more productive.
- (vi). It is laudable that the CHPT wishes to compete with Ennore; but, the cost of doing so must be met from internal savings/efficiencies.
- (vii). If the CHPT is persuaded to bring cost reductions across-the-board of only 15%, the operating deficit will reduce from Rs.113.98 crores projected by the CHPT to Rs.52.98 crores for the year 2002-03. Such a modest shortfall is not impossible to sustain in the short term while steps are taken to shed further costs and to improve the revenue stream.
- (viii). The CHPT proposal is based on cost plus formula which simply maintains *status quo* in terms of port cost. The Government must change this out-moded cost plus

formula adopted now for fixation of tariff since it only perpetuates inefficiencies placing no onus upon management to improve cost effectiveness.

- (ix). The Government must also review guaranteed rate of return on capital employed enjoyed by the port. A yardstick is necessary which must be comparable with other industries. It must be reasonable in the context of the shipping industry and shall not include costs which are uncontrolled, such as "costs plus" impact, royalty payments and service agreements with shareholders.
- (x). The port is seeking for an increase which will generate a profit which will be substantially more than the 20% allowed by the TAMP.
- (xi). The CHPT has not linked the tariff to the utilisation level and the trade is made to pay for whole of the infrastructure whether it is fully utilised or not.
- (xii).
 - (a). The income from the CCTL, which is presumably the royalty, is substantially less than the figures given by CCTL in their tariff proposal, to the extent of approximately Rs.20 crores in the first year alone.
 - (b). The rental receivable from the CCTL for the use of the terminal has not been considered.
 - (c). There is also no mention of the income received from CCTL for assets handed over to them by the CHPT.
 - (d). The CHPT is requesting a tariff increase based on the totality of its income stream including container royalties (perhaps not considering the rentals) at the same time CCTL is requesting a tariff increase, partly as a result of the size of the royalty it has agreed with the CHPT. There is, therefore, a clear danger that the two issues are muddled and that the trade will in theory pay an increase twice.
 - (e). The CHPT is understating the royalty receivable by allocating substantial amount of direct expenditure and allocating management overheads to the container handling activity. It is inconceivable that the management of the CCTL Concession Agreement can cost the port over US\$ 2.0 million per annum.
- (xiii). The direct expenditure for general cargo, berthing and mooring and towage and pilotage and also the general overheads have almost doubled in the last 4 years though the income has essentially remained static.
- (xiv). It shall be helpful to understand the details of the tariff charges that the CHPT has proposed.

4.3. The Hindustan Chamber of Commerce (HCC) and the Southern India Chamber of Commerce and Industry (SICCI) have reiterated the points made in the joint submission given under an umbrella of the Consultative Committee of City Chamber's of Commerce (CCCC). The comments of the CCCC are reflected in the comments given by various users, as summarised in the preceeding paragraph.

5.1 The comments received from the CCTL and the port users were forwarded to the CHPT as feed back information. The CHPT has responded on the comments of the port users and the CCTL which are summarised below:

On the comments of the Chennai Custom House Agents' Association

- (i). It has reiterated that the hike in the tariff is mainly on account of shifting of thermal coal to Ennore Port as per the policy of the government without shifting of the

related manpower and other infrastructure; and, due to increase in the expenditure on account of pay revision of employees, increase in electricity cost, fuel cost, etc.

- (ii). As per the government directives, the net return to the port shall be 18.5%. Since Income Tax has come into force during 2002-03 and is a part of the cost, it is justified to pass it on to the users.

On the comments of the Indian Vegetable Oil Processors Association

- (i). The request to review the advalorem wharfage charge on vegetable oil and to levy wharfage at specific rates instead of advalorem rate has been considered in the proposal submitted to the Authority.

On the comments of the Chennai Steamer Agents' Association

- (i). The tariff of the CHPT was revised during April 2000 and as per the procedure prescribed for reviewing the tariff once in two years, it is due for a review in April 2002. The competitive environment is not the criteria to defer the revision. The review of the rates is required taking into consideration the financial position of the port and the cost of providing the services. The government has imposed Income Tax on the port services. Since the Income tax was exempted up to 31 March 2002, the argument of competitive environment made before that do not deserve any merit.
- (ii). The argument of the CSAA about improper planning of the port to augment the shortfall of throughput due to shifting of coal to Ennore port is not based on any facts. The Electricity Board was advised to shift the coal in full by 31 March 2002, which has not been done and is expected to be shifted by October or November 2002. Till coal is shifted in full, alternate cargoes cannot come to the port. It cannot stop the coal handling because it is the policy of the government and such action will adversely affect the power generation in the state of Tamil Nadu. Even after complete shifting of coal, time will be required to clean the port and to motivate the importers / exporters to bring clean cargo to the port.
- (iii). The drop in revenue is not due to the privatisation of the container terminal. The surplus manpower are engaged in other port activities to reduce expenditure and also, the entire surplus labour of container handling has been cross-subsidised to other activities.
- (iv). The marine charges get cross-subsidisation of the income received from the container operation and the surplus of the POL. Had this cross-subsidisation been not made, the rate would have been higher than the proposed one. If users desire to avail the international standard services, they must also be ready to pay the tariffs with reference to the cost of providing the services.
- (v). Merely because the port has earned the surplus of Rs. 60 crores during the year 2001-02 against Rs. 37.20 crores in the previous year 2000-01, there is no reason to defer the port revision. The net surplus for the year 2001-02 was only 5% as against 18.5%. specified by the government.
- (vi). No revision in the Scale of Rates was undertaken during the period from 1992 to 2000 due to increase in volumes whereas the other ports have revised their rates atleast twice during the said period. Also, the percentage increase allowed by the Authority during the review made in 2000 was minimal compared to increase allowed at the other ports.

Unless tariff is revised due to reduction of traffic, it will continue to incur losses and will not be in a position to provide efficient services to the users. If the traffic goes up

in future, the port may not take action to increase the rate and, if required, may bring it down to match to its expenditure and return of 18.5%.

On the comments of the Chennai Container Terminal Ltd.

- (i). Its marine charges are based on the cost of providing services and are competitive with other neighbouring ports. The marine charges of the Indian ports will always be higher than the foreign ports due to investment of borrowed capital in infrastructure development, high handling cost because of high manning scales, etc, whereas in foreign port the basic marine infrastructure is provided by the State.
- (ii). The issue to make the Chennai Port a hub port will be taken up after receipt of the decision of the Government in this regard.
- (iii). The proposed hike of 100% in the licence fee is around 10 times lower if compared to the prevailing market rate which is around Rs.69000/- per sq. mtr. in respect of the lands in and around the port. It is, therefore reasonable to de-link the land (and development) cost for fixation of licence fee to give the benefit to users.

On the comments of the Tamil Chamber of Commerce

- (i). The total income received from the CCTL has been fully cross-subsidised to other activities in the proposed tariff revision.
- (ii). The terms and conditions of the SOR have been reviewed and revised to make it more user friendly in line with the long-term plan to privatise its functions in a phased manner. Due to availability of equipment and manpower, it is not financially viable to privatise the functions for which abnormal increase is alleged, as privatisation of those activities will increase the total handling cost.
- (iii). The proposed revision based on the cost of providing the service and 25% return on the capital employed (inclusive of the Income Tax) is fair and reasonable.

On the comments of the South India Chamber of Commerce and Industries

- (i). It has not yet received either dividend or interest for the investment made in Ennore Port as the port is in the nascent stage.
- (ii). In the revised cost statements, the port has eliminated the expenditure of Rs.5.30 crores and has fully cross-subsidised the income from container handling activity from CCTL to other activities.
- (iii). As the shifting of coal may be completed by October or November 2002, action will be taken to attract alternate cargoes such as food grains and other clean cargoes.

On the comments of the Tamil Nadu Electricity Board

- (i). The increase in rates proposed is based only on the income and expenditure of an individual activity and not on decrease in throughput of a particular activity. Earlier the deficiency in income was not only cross-subsidised by Thermal coal but also by the earnings of the Container Terminal.
- (ii). The surplus fund generated over the years have been deployed for creating a new port i.e. Ennore port. Since the facilities will be ultimately utilised by port users, the cost will also be shared by them in proportion to their respective activities.
- (iii). A uniform rate of 70% of the foreign-going vessel rates have been proposed for coastal vessel in respect of all the vessel-related charges as per the TAMP guidelines.

On the comments of the Chennai Port Stevedores Association

- (i). 500 cargo handling workers had retired on the VRS and also the posts of cargo handling workers falling vacant due to superannuating / death / medical invalidation were not filled resulting in a reduction in the strength of such workers from 3311 as on 1 January 2001 to 2406 on 1 January 2002.
- (ii). The strength of the railway workers though reduced from 481 as on 1 January 1999 to 346 as on 1 January 2002, the reduction is less due to requirement of the railway employees to handle Iron Ore and ICD containers. In any case railway is a separate activity and railway tariffs are fixed by the railway board, the income and expenditure thereof has not been considered for the purpose of tariff fixation and the employee cost will not be taken into account to arrive at the surplus man power.
- (iii). Four numbers of 15 tonne wharf cranes are being installed and one 150 tonne floating crane will be commissioned during 2002-03 and 2003-04. The entire WQ berths are being modernised; SQ 3 is being further extended; and, a new berth at EQ is in the finishing stage.

On the comments of the Chennai Petroleum Corporation Limited

- (i). No increase is contemplated in port dues in the revised cost statements submitted to the TAMP. The incomes of container handling activity, the POL and warehouse have been cross-subsidised to all the activities including the Berth Hire, Pilotage and Towage.
- (ii). Foreign exchange rate fluctuations of 3% and 6%, the disparity of income between foreign and coastal vessels are also considered in the revised cost statements. The revised increase in tariffs proposed is only at a barely needed level.

On the comments of the Shipping Corporation of India

- (i). The year in which the assets will be commissioned have only been included in the net block of the individual activities. Since the port users will be enjoying the facilities, inclusion of new assets in the Net Block and Capital Employed is correct.
- (ii). The TAMP has deleted the provision about levy of port dues in the SOR notified on 30 March 2001. The TAMP may consider to reinstate the provision which existed in 1992 SOR.
- (iii). The interest rate for delayed payments by users and refunds by the port has been fixed at 15% and the same has also been included in the draft SOR.

On the comments of the Container Shipping Lines Association

- (i). The CCTL's royalty has been calculated on the basis of their past performance and not on the projections made by the CCTL.
- (ii). The profit on sale of assets has been accounted for in the FMI for the year 2001-02.
- (iii). The operating expenditure has increased drastically. The management overheads are apportioned on the basis of V. R. Mehta Committee's recommendation.
- (iv). The revision proposal is based on the cost of individual activity after cross-subsidising the surplus generated from the POL, warehousing and royalty income from the CCTL. The container handling activity is included only upto the year 2001-02 in the cost sheet.

5.2. The CHPT has reiterated its comments furnished in respect of the observations of the various users in the context of the joint submissions made by the CCCCC.

6. Despite its assurance, the CHPT had not furnished the draft revised Scale of Rates even by May 2002. It was, therefore, advised to formulate a draft revised Scale of Rates after undertaking rationalisation of the terms and conditions (since it may have implications on tariffs) and forward the same to us by 31 May 2002 or alternatively to circulate the same to the users by 7 June 2002 so as to facilitate full and proper arguments at the joint hearing scheduled on 17 June 2002.

7.1. A joint hearing in this case was held on 17 June 2002 at the Chennai Port Trust premises in Chennai. At the joint hearing, the following submissions were made:

The Chennai Port Trust (CHPT)

- (i). The CHPT is serious about tariff regulation. We only want time to do the exercise.
- (ii). We will examine whether we may consult the Board of Trustees on this proposal.
- (iii). Because of the CCTL, there is no idle staff, they have been redeployed.
- (iv). We have gone into the details of the long questionnaire sent by the TAMP. We will soon give you the reply.
- (v). The Ennore investment is an extra income and will go into the 'reserve'. We will explain how will it be used.
- (vi). As regards iron ore, we are impressing on the government not to shift 100% to other ports or, at least to give some other cargo.
- (vii). We will give a tariff proposal soon with respect to cargo handling workers levy.
- (viii). The idle capacity is a result of government orders. Please do not penalise us; do not incorporate the 'idle capacity' in whole.
- (ix).
 - (a). We will examine the shifting charges and submit a proposal.
 - (b). Let us unbundle pilotage fee and remove shifting for separate tariff.
- (x). Let users give their views on the composite berth hire. We will try to accommodate.
- (xi). As regards the SCI complaint regarding charges on abandoned containers, the case is with the 'inter – ministry' dispute resolution group'.
- (xii). The capital expenditure variation is entirely due to Ennore shortfalls. The CHPT expenditure has been complete. We will give a detailed statement.
- (xiii). There are genuine reasons for variations in traffic projection. We will explain separately.
- (xiv). As regards the Estate rentals, since all the lands are inside the port area, we did not think it necessary to go through the committee, etc.
- (xv). We will certify about non inclusion of arrears, VRS, etc, related expenditure in the cost statements.
- (xvi). We welcome Berth Hire charges on an hourly basis. The Authority need not wait till 1 April 2003; do straightaway, only reckon with the income loss and adjust accordingly.
- (xvii). We will give a detailed written submission. Please take that into account.

The Hindustan Chamber of Commerce and Industry (HCCI)

- (i). We need time to study the revised Scale of Rates. Mere bulk is not the factor, quality of the contents are important.
- (ii). Something has been done regarding redeployment of labour, but the labour has only 4 days work per month.
- (iii). The DLB is abolished and CHD is set up. It is an executive arrangement, they cannot charge 'gang levy'. It is illegal.
- (iv). There shall be only 'wharfage'; there should be no 'berth hire' at all.
- (v). As regards, manning scale, the shore labour needs 65% reduction.
- (vi). We support the view about unbundling of berth hire.
- (vii). We support the proposal of insurance of equipment.
- (viii). How can a separate C & F levy continue. Abolish it.
- (ix). There are 2 or 3 levies. Let there be a new tariff proposal; but, can there be an interim arrangement of not collecting all or any of these levies?
- (x). The gang charge is an idle time levy. If it is due to late arrival of gang, why should we pay?
- (xi). The port wants the Cargo Handling Division (CHD) as a separate cost centre. We do not agree with this at all.
- (xii). The CHPT did not hold any consultations with the users; perhaps, there was no consultation between different CHPT officers also.
- (xiii). Let there be a 'review' before a 'revision' proposal is formulated.
- (xiv). The CHPT must motivate employees to take the VRS. If they cannot, why shall we be penalised.
- (xv). There is a discrepancy of Rs.30/- crores in the 'Royalty' amount receivable from the CCTL between the CCTL figure and the CHPT figure. How to reconcile?
- (xvi). Since alternative ports are available now, arbitrary tariff increases will only drive away the cargo.

The Indian Vegetable Oils Processors Association (IVOPA)

- (i). (a). Edible oil is not a break bulk cargo. The advalorem is only for break bulk.
- (b). There is a jump from Rs.36/- to Rs.130/- is astronomical; and, claiming it retrospectively is most unreasonable.

The Chennai Steamer Agents' Association (CSAA)

- (i). The estimates indicate that the expenditure goes up and income (invariably) goes down. This needs close scrutiny.
- (ii). Why does allocation of overheads go up steeply?

- (iii). General operating expenditure has been going up. With prior knowledge about traffic going out to Ennore, the CHPT should have anticipated to cut down on costs.
- (iv). The items of pilotage fee must be unbundled. The modern container vessels do not require tugs or (even) pilot.

The Chennai Stevedores Association (CSA)

- (i). We endorse the suggestion about unbundling the pilotage fee.
- (ii). Additional levy for coal was conceived in 1996 as a temporary measure. It is wrongly being contained indefinitely
- (ii). In the light of adverse marketing conditions, the CHPT has to improve efficiency.

The Madras Chamber of Commerce and Industry (MCCI)

- (i). This emphasis on 'cost plus' arrangement must go; cost reduction measures must come up.
- (ii). Port should privatise everything. Even equipment must be left to be hired from outside.
- (iii). The CHPT cannot blame government policies for the deficits. They should take 'grants' from the government, not just raise tariffs.

The Tamil Nadu Electricity Board (TNEB)

All the facilities are not ready at Ennore. We are still handling 40% coal at the CHPT. We cannot be charged more. The tariff increase has been proposed mainly on the grounds that 'profit' goes down after our exit from here.

The Container Shipping Lines Association (CSLA)

- (i). Why guarantee an ROCE of 18.5%? No industry has such an arrangement. Please rationalise.
- (ii). They want overall 20% increase but, if you add up items, it works out to much more.
- (iii). The CHPT figure of 'Royalty' on container handling differs from the CCTL figure. There is a difference of Rs. 30 crores. If this is taken into account, the impact on tariff will be substantial.
- (iv). In the Berthing/Mooring, the traffic and the expenditure has increased; the revenue has not. The CHPT must do something to remove this discrepancy.
- (v). We fully endorse the unbundling of items.

The Southern India Chamber of Commerce and Industry (SICCI)

- (i). We endorse all the points flagged by the Chairman (TAMP) in the opening statement.
- (ii). Many alternative ports are available. Multiple choice combined with arbitrary increase of rates will drive away the traffic. What is required is cost reduction and efficiency improvement.
- (iii). Introduce more and more of volume discounts.
- (iv). We have given a detailed written submission. Please take that into account.

The Chennai Petroleum Corporation Limited (CPCL)

- (i). In case of POL the APM has gone and our maneuverability is limited. We have to insist on cost reduction, efficiency improvement by ports.
- (ii). Do an industry specific consideration. The CHPT has built up a huge reserve from heavy payments made by us. Use that 'reserve' to meet the extra expenditure at least for POL vessels and POL cargo.

The Chennai Custom House Agents' Association (CCHAA)

- (i). As regards Ennore, the government policy is well considered. The CHPT cannot make that an excuse for tariff revision.
- (ii). Interest on capital given to the EPL must be reckoned with for tariff computation in the CHPT.
- (iii). Labour levies are unauthorised and illegal and must be refunded.
- (iv). How can Income Tax be a reason for tariff rise? At best, it is an appropriation of profit and not a charge on profit.

The Chennai Container Terminal Limited (CCTL)

- (i). Please consider the issues listed in our written submission.
- (ii). The CHPT (marine) charges are the highest among the neighbouring charges. If tariffs are hiked, it will be more so.
- (iii). We pay a sum of Rs. 9 crores towards lease rent. The proposed increase will push it up to Rs.21 crores. Please, therefore, give us a corresponding increase in tariff.
- (iv). We endorse the proposal to insure the equipment.

7.2. The CHPT had submitted a copy of the proposed draft Scale of Rates at the joint hearing; however, due to delay in sending a copy of the same to the users, it could not be discussed in this joint hearing.

7.3. At the joint hearing, the CHPT had proposed further to simplify its Scale of Rates and agreed to prepare a second draft of the Scale of Rates. In the light of this request made by the CHPT, a subsequent hearing was fixed on 16 July 2002 to discuss the draft revised Scale of Rates and any new issue arising out of the written submissions to be made by the CHPT.

8. As decided in the joint hearing, the CHPT was requested to furnish the following information:

- (i). The manner in which the extra income earned due to the higher interest rate on its loan on the Ennore Port will be used for meeting liabilities.
- (ii).
 - (a). Separate proposal in respect of reducing the number of shifting included in the composite pilotage fee from 2 to 1.
 - (b). Examination of the suggestion about unbundling the pilotage fee so as to remove the shifting as well as other component activities from the composite charge and prescribe separate rates for the other component activities.
- (iii). Explain the substantial variations in the traffic projection in the Budget Estimates and the general revision proposal.

- (iv). Certify the non-inclusion of payment of any arrears while computing the costs in the tariff revision proposal.
- (v). Details of sale proceeds of assets handed over to the CCTL and the accounting treatment given to the profit on sale of assets.
- (viii). Formulate a tariff proposal prescribing rates for supply of labour for cargo handling consequent upon merger of the DLB with the port trust.

9. The CHPT has responded vide its letter dated 29 June 2002 under cover of which it has forwarded a copy of the revised draft Scale of Rates and has informed that a copy of the revised draft Scale of Rates have been forwarded to all the port user associations. The main modifications proposed in the draft Scale of Rates are summarised below:

- (i). The draft Scale of Rates reduced from 175 pages to 101 pages by deleting redundant notes, removing Book 2 and deleting Chapter- X.
- (ii). Special quay dues on iron ore has been deleted and merged with the berth hire charges.
- (iii). One shifting charge has been excluded from composite pilotage fees and, separate GRT based shifting charge has been proposed.
- (iv). A new provision is proposed to extend a rebate of 10% over and above the last years throughput subject to a minimum handling of 50,000 MT in the previous year.
- (v). The existing provision prescribing the actual charges of hiring of equipment incurred by the port to be recovered from the users has been modified to say that the rates prescribed as per the Scale of Rates will be levied from the users.
- (vi). If equipment available with the port are not made available due to its breakdown, 10% charges specified in the Schedule shall not be collected.
- (vii). Cancellation charges in case of hire of forklift, cranes, etc., has been moderated.
- (viii). The wharfage schedule has been rationalised by deleting redundant entries. The number of items in the schedule has been reduced from 96 to 36.
- (ix). All the conditions and guidelines issued by the Government from time to time about lease of port property has been separated from the Scale of Rates and retained as an Annexure to the Scale of Rates.

10.1. A second joint hearing was held on 16 July 2002 at the CHPT to discuss the issues arising from the revised draft Scale of Rates submitted by the CHPT. At the joint hearing, the following submissions were made:

Chennai Port Trust (CHPT)

- (i). Ennore implications are explained in our detailed written submission.
- (ii). Shift of traffic has affected income from other activities. The overall impact is very adverse.
- (iii). Income Tax is finally final. We have to pay Wealth Tax also.
- (iv). For the time being, we wish to continue with the ROCE model and get an additional return for Income Tax.

- (v). Because of traffic diversion, actual ROCE in the recent past has been around 12% i.e., much less than 18.5% given by the TAMP.
- (vi). As regards liability of the Customs for demurrage dues, they can be held liable only for post-confiscation delays. How can they be liable for pre-confiscation liability?

Consultative Committee of City Chamber's of Commerce (CCCCC)

- (i). We submit a hard copy of our slide presentation. Please take it into serious account.
- (ii). Not much of effort is done to cut costs. Income : expenditure growth is 1:3.
- (iii). Maintenance dredging carried out is actually capital dredging for removal of the 'sand trap'.
- (iv). Why is expenditure on water supply six times its income? Water supply is mostly by private parties.
- (v). Night navigation charges has no justification; hence, delete it.
- (vi). There is no justification for charging 'wharfage' in addition to 'berth hire'.

Federation of Indian Mineral Industries (FIMI)

- (i). Evaluate VRS on IRR basis. Let us not talk of 'loss', etc. There will be no need for that at all.
- (ii). We have given a hard copy of our slide presentation. Please take that into serious account.
- (iii). Capital Employed is Net Block + Working Capital. Please reduce reserves from this. That will be a reasonable approach for ROCE.

Indian Vegetable Oils Processors Association (IVOPA)

- (i). Edible oil in bulk suddenly came to be charged on an ad valorem basis. Earlier wharfage was Rs.42/- PMT. New draft proposes Rs.50 PMT. Please correct the ad valorem mistake. Also, do not to approve the unjustified proposal for tariff increase.
- (ii). Give us the benefit retrospectively.
- (iii). Why separate rates for 'bulk' and 'non-bulk'? Rate shall be the same.

Container Shipping Lines Association (CSLA)

- (i). Concept of 'shift' must be an '8 hour block'.
- (ii). What is the logic for concessions to 'coastal vessel' in crane charges?
- (iii). In GRT based tariff as size increase, revenue will increase. Why should the 'unit charge' in each slab also increase and that too by 40%?
- (iv). As regards Escrow Account for the CCTL royalty, we agree with the arrangement ordered by the TAMP. It should be so, for Ennore investments also.
- (v). As regards 'Pilotage', there shall be a concession if tugs are not taken.

- (vi). We endorse the proposal to introduce an hourly rate for berth hire. Protect the CHPT's revenue earning on a one time basis and introduce it in the CHPT at once so that the system gets introduced.

Hindustan Chamber of Commerce (HCC)

- (i). There are changes in wharfage. Let the CHPT do an impact assessment.
- (ii). Where is the need for Escrow Account? The whole 'general reserve' is to be held to be available for ploughback.
- (iii). In the tariff revisions, increase in volume of traffic has not been taken into account.
- (iv). Unbundle crane hire from berth hire. Also, provide for concessions for downtime.
- (v). Night shift is a lean time and hence rates shall be lower. How can they be higher?
- (vi). Reduce berth hire not only in the Container Terminal but, every where. We agree with the CCTL.
- (vii). 'Per Tonne' rate for crantage is proposed. It has to be 'per hour' or 'per shift' otherwise, rebates for downtime cannot be accommodated.

Chennai Container Terminal Limited (CCTL)

- (i). Lease rentals will have implications for our tariffs. We must also be allowed to increase our tariffs.
- (ii). Marine charges at the CHPT are very high and very unfavorable in comparison with Singapore or Colombo. It does not help us to execute our contract well.

Shipping Corporation of India (SCI) and Indian National Shipowners' Association (INSA)

- (i). Good opportunity given to us to discuss conditionalities which is very important.
- (ii). As regards interest on delayed payments who is to decide. Who is responsible for the delay?
- (iii). Abandoned containers entries do not correspond to the orders given by the TAMP. Who can abandon must be clarified.
- (iv). The port must insure all its equipment. In case of damages to equipment, users shall not be burdened with heavy payments. Page 28 item (iv) shall be deleted.
- (v). Amend the entry on page 31 item (4). Only consignee is held to be responsible. Steamer Agent has no locus standi.
- (vi). Clarifications are more confusing at pages 47-58. Redraft the clauses relating to real estate.
- (vii). We hire water barges and fill up water. The CHPT charges for barge and water also. Why for water?
- (viii). What is the proportion of administration workers of shore labour?

10.2. At the joint hearing a joint presentation was made by all the concerned Chamber and the port users. The following main points were highlighted in the presentation:

- (i). The growth rate of income is 8%, expenditure is 21% and Capital Employed is 4% in the year 2001-02 as compared to the 1996-97.
- (ii). The income for the year 2001-02 has been under estimated by Rs.56.80 crores in the proposal as compared to the Annual Accounts figure. Similarly, net FME (i.e. FMI – FME) has been overstated. Also, the net current assets have been overstated in the proposal as compared to the 2001-02 Annual Accounts.
- (iii). Berth hire should not include cost of wharf crane.
- (iv). The reasons are not explained for not giving effect to the TAMP's comments regarding ABH and PBH.
- (v). Night navigation charges to be deleted in the light of the fact that the port has declared itself as a 24-hour port.
- (vi). The need for anchorage fee as against the existing charge.
- (vii). In case of ODO cargo where shore facilities are not used there should be proportionate decrease in wharfage.
- (viii). Rebate to be extended whenever carting takes place at shippers' expense and not limited to Royapuram Railway Yard.
- (ix). Conditions to be incorporated to allow prorata rebate in hire charges of shore cranes for idling due to repairs, want of power, etc.
- (x). Liability on account of damages to be borne by the port based on an insurance cover.
- (xi). The provision prescribing 20% increase in rates in case of power cut may be deleted.
- (xii). Direct delivery by ships' derrick may be exempted from any charge.
- (xiii). A charge of 10% on use of private cranes may be deleted.
- (xiv). No increase in Scale of Rates to be provided; rather there should be a decrease in rates by way of unbundling of composite charges.
- (xv). Innovative solutions must be evolved to attract cargo. Steps to be taken by port to prevent further flight of cargo.
- (xvi). Creation of an escrow account from the proceeds of ROCE, as per the order of TAMP.
- (xvii). To offset the interest loss due to VRS, introduce a cess as a temporary measure.

10.3. At the second joint hearing, the CSLA and the FIMI have filed further written submission. The written submission of the FIMI primarily relates to iron ore handling tariffs. In its written submission, the CSLA has made the following main points:

- (i). The prescription of shifts as a 8 hour period with fixed timings and further provision regarding half a shift are disadvantageous to users who are ready to commence service at the fag end of one shift. It is recommended that the shift is defined as an 8 hour period from the commencement of the service, likewise half shift shall be a period of less 4 hours from the commencement of the service.

- (ii). Taking into consideration number of 45 feet containers that are being used currently, it does not appear reasonable that a 45 feet containers should have wharfrage 50% higher than a 40 feet container.
- (iii). Storage should not be charged on the container as well as on the cargo inside the container. This is clearly a double charge.
- (iv). The time limit for abandoned cargo is taken as 75 days which must be reduced to 60 days as this is more than sufficient time to clear the cargo. The guidance from TAMP on this subject also states 60 days.
- (v). The rationale for 30% discount on coastal vessel on hire of equipment may be clarified as this is a common service and should be applicable uniformly.
- (vi). Under Berth Hire there is a penalty for staying more than 2 hours beyond the notice period. The penalty can start only from the time the vessel has exceeded its permitted stay.
- (vii). Effort involved in accommodating a request for priority berthing is normally a one shot effort and not dependent on the length of stay of the vessel at berth. Consequently, the charges for this service should be a fixed lump sum and not linked to a percentage of the total berth hire cost.

11.1. The CHPT had submitted a separate proposal for revision of iron handling activities by 125% citing a huge revenue deficit in this activity and also based repeatedly on an advice given by the Ministry of Shipping. Subsequently the CHPT had revised its earlier cost statement and proposed to increase iron ore tariffs by 95%.

11.2. In accordance with the usual procedure followed the CHPT's proposal for revision of iron ore handling activity was circulated among relevant bodies of port users for their comments. A joint hearing was set up in this case on 17 June 2002 at the CHPT premises.

11.3. The CHPT has made the following main points/arguments in support of its proposal:

- (i). There is a revenue deficit in the iron ore handling activity.
- (ii). Special Quay Dues levied based on the quantity of iron ore loaded has been proposed to be merged with berth hire charges in the revised Scale of Rates.
- (iii). Benefit of cross-subsidisation shall not be extended to the iron ore handling activity since this cargo is likely to be shifted to the Ennore Port by 2005.
- (iv). There is no idle capacity in the ore handling plant since it handles around 7.5 million tonnes of ores against the assessed capacity of 7 million tonnes.
- (v). Since iron ore traffic will shift to Ennore after 2 or 3 years, any fresh investment to modernise or replace the ore handling system is not financially viable.

11.4. The users have furnished the following main comments:

- (i). The quality of cost estimates furnished by the CHPT is doubtful. Income is understated; expenditure is inflated. Allocation of common expenditure has not been made scientifically.
- (ii). Allowing a ROCE of 18.5% to the CHPT is unreasonable in the context of falling lending rates in the market.
- (iii). Only emphasising on tariff increase is not good. There has to be emphasis on performance also.

- (iv). The users are ready to take on lease the entire ore handling system, if the CHPT is not willing to carry out maintenance and improvements.
- (v). Window berthing allowed to liquid cargo vessels at the iron ore berths reduces the iron ore handling capacity by about 2 million tonnes per annum.
- (vi). There is no justification for any increase in port tariffs for iron ore handling.

11.5. In view of the interrelated nature of the issues involved and also to facilitate a comprehensive appraisal of the financial position of the port with detailed scrutiny of allocation of cost between different activities, the iron ore case has been processed with the general revision proposal of the CHPT.

12.1. Based on a preliminary scrutiny of the general revision proposal and the revised draft Scale of Rates, the CHPT was requested to furnish additional information / clarification on various points. Some of the main points raised are given below:

- (i). Confirmation whether the proposal was discussed with the users and / or considered in the Board meeting. The record notes of the discussions with users bodies and minutes of the Board meeting to be forwarded.
- (ii). Separate cost statements to be furnished in the prescribed format for different sub-activities.
- (iii). The year 2001-02 has drawn to a close; and, hence the actuals of 2001-02 may be considered instead of revised estimates.
- (iv). Confirm whether the projections are in line with the projections envisaged in the post Ennore scenario (at the time of undertaking the Ennore project). A detailed list of assets / equipment that are rendered surplus with the operation of Ennore port and steps taken to deploy / dispose off the same. Also explain the arrangement, if any, with the Ennore port to share the liability on account of the pension and other retirement benefits payable to the retired employees of the CHPT.
- (v). Additional income due to variation in foreign exchange rate in the estimates of vessel related income; and, additional income due to restoration of disparities in tariffs for coastal vessel to the admissible level may be considered in the cost statements for vessel-related charges.
- (vi). The reasons for increase in the 'items relating to previous year' under FME from Rs. 0.47 crores in the year 1999-2000 to Rs. 71.85 crores in the year 2000-01 may be elucidated. Provisions for payment of arrears of salary, wages and pension due to wage revision and VRS payment, if any, considered in the estimates need to be excluded from FME.
- (vii). Explain the basis of apportionment of common expenditure, net block and working capital between various activities and sub-activities.
- (viii). (a). A detailed computation of the income receivable from the CCTL taking into consideration the projections of container traffic in consultation with the CCTL, a statement showing estimated receipts and payments arising due to privatisation of the Container Terminal and a detailed note relating to proposed utilisation of funds from the Escrow Account for the years 2002-03 and 2003-04.
(b). A suitable provision to allow cross-subsidisation from the container handling activity to other activities at the level obtained at the time of last general revision.

- (ix). The assessed capacity vis-à-vis the traffic estimated to be handled by the port during the years 2002-03 and 2003-04.
- (x). The additions proposed in the assets need to be justified in view of the fact that neither the traffic projections show any increase nor any reduction in operating expenditure is estimated.
- (xi). The assets which are rendered surplus / cannibalised / decommissioned / disposed off due to shifting of coal operations to the Ennore Port and privatisation of the Container Terminal to CCTL or due to any other reasons must be excluded from the capital employed figure while computing the ROCE.
- (xii). The reasons for increase in estimates of Working Capital for 2001-02 and 2002-03 even though traffic is expected to decrease and container handling activity is privatised.
- (xiii). The reason for not following the suggestion given by the Authority in the last general revision Order about merging the capital and maintenance cost of the water supply (which are meant for the supply of water at berths) with the cost statement of Berth Hire; and, to propose separate charges of supply of water to recover the operation cost for supply of water.
- (xiv).
 - (a). Furnish an 'impact assessment' statement indicating the income as per the proposed wharfage schedule and the income as per the existing wharfage schedule for the traffic handled during the last two years.
 - (b). Confirmation that in case of deleted items, wharfage rate shall not be levied by classifying it under 'goods otherwise not specified'.
 - (c). Reasons for proposing a rebate of 10% in wharfage charges only in the case of export cargo moving in palletised form.
- (xv). Explain the extra charges prescribed for Night and Holiday Services in the light of the fact that this was abolished in 1984. The port is expected to work round the clock and the incidence of extra expense for such services should be covered by the tariff item for the relevant service.
- (xvi). The present status of the writ appeal in the Schedule of dwell time charges for containers. (referred to in the preamble of Scale B and Scale C).
- (xvii).
 - (a). The circumstances in which the special port dues on rail borne cargo passing through the port was introduced in 1975 and also clarify whether this rate has not been revised since 1975.
 - (b). The reasons for not including this item in the railway rates revision proposal being forwarded to the Railway Board.
- (xviii). The wharf crane hire charges are stated to have been included in the Berth Hire Schedule and at the same time rates for hire of wharf crane are specified separately in Scale B. Either all cranes normally available / required for cargo handling shall be included in the berth hire charges or cranes may be excluded from the composite Berth hire charges.
- (xix). Reasons for inclusion of profit element while recovering cost of damages.
- (xx). The rates for 50T crane are higher than 120T crane which appears to be anomalous.
- (xxi). The time period of maximum period of six months stipulated for levy of demurrage in case of abandoned and uncleared / unclaimed goods appears to be too long.

- (xxii). There should be a reasonable time limit for tracing the packages beyond which the port may have to take responsibility of the cargo which are not traceable instead of a blanket provision for allowing free period.
- (xxiii). The reasons for reducing the free day on exports cargo from 30 days to 15 days. The free days for exports may exclude Sundays and the port non-operating days.
- (xxiv). Way leave charges are to be levied on a pro rata basis of the licence fees applicable to the lands through which a pipeline passes through.
- (xxv). The necessity of requiring a labour licence (presumably, for supply of private labour) is not clear. Explain the need to engage private labour when port labour is surplus.
- (xxvi). The hire charges for tugs, etc., can be prescribed with reference to range of their capacities, instead of individual tugs, etc., in existence at present.
- (xxvii). For all the vessel-related charges prescribed rates for coastal vessel must be denominated in Indian rupees with reference foreign-going vessel rates and current exchange rate.
- (xxviii). Berth hire charges need to be prescribed for different groups according to the availability of cranes at the berths and their capacity for crane-berths. Separate berth hire charges may be prescribed for non-crane-berths.
- (xxix). The existing Scale of Rates prescribing Berth hire charges of Rs.5.60 per 8 hour unit per trawler has been deleted which means they shall have to pay on per GRT basis. The reasons for this modification and the increase in the Berth hire for the trawlers by this proposed modification may be indicated.
- (xxx). Port dues on coastal vessel is payable once in sixty days but restricted to three entries. At many other ports (except VPT & KOPT), Port Dues on coastal vessels are levied once in 30 days.
- (xxxi). Explain the reasons for extending concessional port dues on vessel of smaller parcel size instead of encouraging larger parcel size.

12.2. The CHPT has furnished the additional information / clarification in response to the queries raised by us. Some of the main points are given below:

- (i). The proposal has not been discussed either in the Meeting of Board of Trustees or with the port users. The expected traffic to be handled by the Chennai Port Trust and the detailed financial position on account of the shifting was not envisaged in the PIB note prepared for the construction of the new port at Ennore.
- (ii). Separate cost statements for different sub-activities have been furnished.
- (iii). The actual expenditure for the year 2001-02 has been incorporated in the revised cost statements. The work of shifting the coal from the wharf to the plot and loading it into wagons are done by the handling contractors of the TNEB and after completion of loading of the rake, the port railway employees are engaged to take the rake from the port siding to the port marshalling yard. Taking into consideration, the shifting of thermal coal to the Ennore port, VRS scheme was offered to around 500 cargo handling workers.
- (iv). (a). There was no traffic projection of post Ennore scenario either at the time of commencement of Ennore project or during execution of the project or after completion of the project by the Government.
(b). In the budget estimates for the year 2002-03 prepared during August 2001 traffic projection of 36.70 MT was made taking into consideration 5 to 7

million tones of Thermal Coal to be handled in the CHPT upto September 2002. The thermal coal was in fact to be shifted in full by 30 June 2002. The traffic of the port estimated in revised cost statement is 27.7 MT for 2002-03 after considering the factual position.

- (v). The additional income due to restoration of disparity of 30% between the tariffs for foreign-going and coastal vessels has been considered in the revised cost statements for the vessel related activities. The additional income in vessel related charges due to exchange rate fluctuation @ 3% and 6% has been considered. Ratio of foreign-going vessels and coastal vessel is not indicated in the revised cost statements.
- (vi). The items relating to the previous year on account of payment of wage revision arrears, VRS compensation have been excluded from the FME.
- (vii). (a). The royalty to be received from the CCTL shall be Rs.40.30 crores and Rs.49 crores for the years 2002-03 and 2003-04 respectively.

(b). Taking into consideration the traffic position of the port, competition and other factors, the royalty receivable from the CCTL, has been fully utilised to cross subsidise the cargo handling and storage activities the port and dock charges and the railway on the basis of expenditure because the employees worked in the erstwhile Chennai Container Terminal are redeployed in the aforesaid three activities. Hence, it may not be required to maintain a separate escrow account.

(c). If the TAMP desires the CHPT to maintain Escrow Account the port shall operate and maintain it.
- (viii). The interest rate has been taken as 12.5%. That apart 6% for two statutory reserves and 6.6% for income tax (35% of Income Tax on 18.5%) has been taken into consideration. Hence the overall ROCE works out to 25%.
- (ix). The capacity of the port is 38.75 MT. The traffic of 27.7 MT is estimated to be handled during the years 2002-03 and 2003-04.
- (x). During the said period, only the old cranes are to be replaced thereby increasing the productivity and efficiency. The capacity will increase by 1 MT due to replacement of the old equipment.
- (xi). There will not be any surplus of equipment due to shifting of thermal coal to Ennore port. The container handling equipment disposed off to the CCTL had been deleted from the gross block for calculation of the ROCE. Since the sales proceeds of the fixed assets received from the CCTL were more than the net written down value of the assets disposed off, the differential amount of Rs.2.73 crores was accounted for in the FMI income for the year 2001-02 which is the year of disposal.

There is difference between capital employed projected at the time of last revision and the actuals during the currency of the revision since many of the plan schemes were not implemented due to administrative reasons. Further due to adverse variation in traffic forecast, change in the composition of traffic and other reasons, the port has not earned extra / additional ROCE than the required ROCE. The ROCE of the port for the year 2000-01 and 2001-02 is 12.11% and 11.66% respectively.
- (xii). With reference to the various observations of the Auditor in the Audit Report 1999-2000, it is clarified that a few of these have been reconciled and accounted during 2001-02 accounts. Reconciliation is in progress for some of the items.

- (xiii). The basis of apportioning the dredging expenditure on number of days the dredger has worked for each berth and the quantity dredged may not be appropriate because there are common facilities such as entrance channel including basin, turning circle and sand trap, etc. In view of this, it has been distributed equally to 3 activities i.e. Port dues Pilotage and Towage and Berth hire. The impact of the dredging expenditure on the total vessel related expenditure will be the same irrespective of the basis of apportionment.
- (xiv). In the revised cost statement, the capital cost of water supply has been merged with the cost statement of Berth hire as directed by the TAMP.
- (xv). In the revised Scale of Rates separate rate for the crane and the grab have been proposed because users do not require grab at all the times for the operation. Further, grabs require additional investment and maintenance which are taken to fix the rate for the grab.
- (xvi). Inclusion of the insurance cost of the port assets for the tariff fixation requires detailed analysis of damage cost paid by the users and the premium payable to the Insurance companies to insure the port properties. Since this will take substantial time the current practice may be allowed to continue. After insuring the port property, the port users may be careless and reckless while using the port property and cause damage to it, because they are not liable to pay damage cost. The TAMP may take a decision in this regard examining the pros and cons of insuring the port property with special reference to the annual premium payable and the annual damage cost paid by the users to the port during last three years.
- (xvii). With reference to the specific directions / suggestions made by the Authority in its various orders since the last general revision, the following modifications are proposed:
 - (a). As regard RORO system, it is submitted that based on the commitment of the car exporters, the then prevailing wharfage rate was reduced. Since the exporters failed to fulfill their commitment, the port proposes to withdraw the concessional and enforce the original rate without any enhancement.
 - (b). All items relating to wharfage on logs has been rationalised.
 - (c). Pool rate for equipment / floating craft based on the rates of capacity is proposed instead of the existing system of prescribing charges for individual equipment.
 - (d). One shifting charge has been excluded from the prevailing pilotage fee charge. The shifting charge has been rationalised on GRT basis as per the directives of the Government.
- (xviii). (a). The erstwhile Madras Dock Labour Board has been merged with the Chennai Port Trust with effect from 28 May 2001. A separate levy structure will be proposed to the Authority taking into consideration the expenditure of the Cargo Handling Division to arrive at the revised levy structure.
 - (b). In this proposal, the expenditure and income of the Cargo Handling Division have not been taken into consideration. The existing system of levy structure may be allowed to continue.
- (xix). (a). The items having same wharfage rate are consolidated and, therefore, there will not be either any adverse or favourable impact on the total collection of the wharfage.

- (b). A few items are deleted as they are not handled. If handled, cargo will pay the wharfage rate classified under "Goods otherwise not specified" till fixation of new tariff.
 - (c). There is no palletised cargo handled in the port after privatisation of Container Terminal. Hence the provision is deleted. On the other hand for the break bulk cargo, a new provision is proposed to extend the rebate of 10% wharfage on the additional quantity handled 10% over and above the last year's throughput by an individual importer / exporter subject to a minimum handling of 50,000 MT in the previous years.
 - (d). Necessary modification has been made in the revised Scale of Rates as regards value of cargo for levy of advalorem rate.
 - (e). Though the nomenclature is "Night and Holiday services" the charges are collected only for working in the Closed Holidays. If the holiday expenditure is estimated and taken into the costing mechanism to fix the tariff, it will be compulsory to work. Since, both the vessel owners and the workers have to agree to work during holidays it may not be justified to load it to the costing mechanism. The nomenclature of Night and Holiday services has been changed to 'holiday services' in the revised Scale of Rates.
- (xx). The writ appeal with reference to storage charges on containers is yet to be disposed off. The port may follow the tariff applicable to the CCTL for collection of container rental charges. Hence, existing provisions relating to container storage are deleted and the necessary provisions of the CCTL tariffs are incorporated in the revised terms and conditions.
- (xxi). (a). An Additional Charge of 80 paise PMT was charged during 1978. This was revised to Rs.3/- PMT in 1983 and the nomenclature was also changed from Additional Charge to Special Port Service Charges. Subsequently, the rate was also revised to Rs.5/- PMT in 1991.
- (b). The Special Port Service Charges on rail born goods passing through the port was revised by the Government on its recommendation. It does not fall under the ambit of the Railway Board. Since the TAMP revises all the tariffs earlier revised by the Government, the Special Port Service Charges come under the jurisdiction of the TAMP.
 - (c). On shifting of thermal coal to Ennore Port, there is a reduction of around 60% in the rail borne traffic. The railway earnings which was Rs.38 crores during 2000-02 by handling around 10 MT of coal and 7 MT of iron ore may be around Rs.10 to Rs.12 crores on account of handling 7 MT of iron ore as against the expenditure of Rs.18 crores to Rs.20 crores during 2002-03. Hence the Special Port Service charges may be increased by at least 100% to minimise the loss of the railway activities in the current year.
- (xxii). (a). After a detailed discussion with the users, it has been decided that irrespective of the amount paid to the lesser for hire of the equipment, the charges prescribed in the Scale of Rates will be recovered from the users. The revised Scale of Rates have been modified accordingly. It has also been decided not to hire any new equipment and the equipment which are not available with the port will be privatised or brought by the users.
- (b). If the equipment are available with the port and not made available to the party due to its break down, it is proposed not to collect the 10% charge specified in the Schedule.
- (xxiii). Charges for one wharf crane upto 15 tonne capacity is included in the berth hire charges. After detailed deliberation in the joint hearing it was decided to continue

the practice of composite berth hire charge. The separate rates specified for hire of wharf crane will be applicable if a user requires additional cranes to maximise productivity to eliminate vessel demurrage.

- (xxiv). An additional 20% of the tariff is charged in case of TNEB to compensate the additional expenditure of generator when power is supplied to the Electric wharf cranes (which requires high voltage power) on request of the user.
- (xxv). Cancellation charges have been moderated in the revised Scale of Rates as suggested.
- (xxvi). The provision relating to recovery of damages has been modified by eliminating the profit element and incorporating the overhead charges. Provision has also been made to deal with damage claim when the repair is made through the contractor and also departmentally.
- (xxvii). Prior to 2000 revision the rate of 120 tonne crane and 50 tonne crane were same. Against, its request to increase the tariff by 100% for both the cranes, the Authority increased the tariff by 50% in case of 120 tonne crane and 100% in case of 50 tonne crane. Therefore, the tariff for 50 tonne crane became higher than the 120 tonne crane. The anomaly is temporary in nature because the 120 tonne crane is scheduled to be replaced by a new 150 tonne crane during October 2002 for which a new tariff will be proposed to the Authority.
- (xxviii). The period of six months specified for levy of demurrage on abandoned, unclaimed / uncleared good is as per the order of the Authority, which is uniformly followed in all the major port trust. The Authority may examine and issue a common order to reduce the period for all Major Port Trust.
- (xxix). Three free working days is proposed to be allowed for tracing the packages from the date of receipt of enquiry in Harbour Office in writing.
- (xxx). After discussion with the port users, it is decided to restore the free period to 30 days in case of export cargo. The TPT and VPT also allow 30 free days (including Sundays and CHPT Holidays) for export, hence, the clause has been retained.
- (xxxi). The prevailing tariff structure for goods confiscated by the Customs is for 50 kgs package. While rationalising the tariffs, the rate has been converted into per tonne. The per tonne rate shall be Rs.30 instead of Rs.35 in the earlier draft Scale of Rates.
- (xxxii). After discussion with users it has been agreed to continue the provision prescribing charges when labour requisitioned for work is not fully utilised till integration of Cargo Handling labour and shore labour. After integration, the said Scale B of Chapter V will become inoperative. The shore workers cost is not recovered from Stevedores as in the case of port workers. Unless the idle time charge is levied the users will book the labour and keep them idle depriving other users / activities. The logic to charge more idle time for booking more gangs is to ensure that the labourers are properly utilised and thereby the productivity and the ship turnaround time are improved.
- (xxxiii). The rate for working on non-operating day has been fixed taking into consideration the requirements of man power and their over time including the supervision cost. The non-operating days are declared in beginning of the year and thereby there is no hardship to the port users as working on holidays is optional. The night weightage charge are not charged.
- (xxxiv). The way leave charges will be levied on the basis of licence fees applicable to the land with 200% overhead because the pipelines make hindrance for overall usage of the land as could have been made in the absence of pipelines. Accordingly, the

revised draft Scale of Rates has been modified. While calculating the area of the pipeline, the areas adjacent thereto which remain vacant due to safety or other statutory requirements will be considered as the area used by the pipeline.

- (xxxv). The labour licence fee is applicable for engagement of labours in the work for which port labours are not supplied. Despite surplus port labour, as per the changed policy of the Government to reduce port activity and operate as a landlord, new areas are not included in the scope of the port labour operation.
- (xxxvi). The suggestion to have a common rate for tugs of same capacity can be accepted only if the costs of operation, manning etc., are averaged for same capacity of tugs to arrive at the hire charges. After completion of the acquisition of the tugs and replacement of existing tugs, the port shall take the average operating cost to fix the hire charge capacity wise. Since the tug hire charges is included in the Pilotage fee and tugs are very rarely requisitioned, once or twice in two years for emergency operation for outside parties, the rate has no substantial impact on the port revenue.
- (xxxvii). The rate applicable to coastal vessels is freezed at 70% of the foreign-going vessel rate by applying the exchange rate prevailing on the date of notification of the Scale of Rates. It shall, therefore, be logically appropriate to link the coastal vessel charge as a percentage of the foreign-going vessel charge as on the date of arrival to up held the objective to collect 70% of the foreign-going vessel charges.
- (xxxviii). There is no non-crane berths except Oil berth and Iron ore berth. The cranes are installed by the licensee in the container berth. In Oil, Container and Ore berths, no cranage charges has been included in the composite berth hire charges.
- (xxxix). The berth hire charge of all major port trusts are not in the same line as the ports are following their own pattern. There will be adverse financial impact on the revenue in case of change of berth hire tariff into a descending order on increase of the GRT. It may not be prudent to change it without making a common pattern for all the port. The crane hire charge has not been included in the Group V and VI of the berth hire charge schedule as the vessel above 30,000 GRT mainly relates to the iron ore and POL vessels and very rarely any vessels above 30,000 indicated in these groups are berthed in inner harbour. In view of this, it is prescribed that in case vessels more than 30,000 GRT are berthed, cranage charges shall be collected separately.
- (xL). The port has not indicated the basis of arriving at wharf crane hire charges and night and holiday work charges for inclusion in the berth hire. It has, however, clarified that the night and holiday charges are included in the berth hire as per the direction of Government of India.
- (xLi). The port trust has made investment to revamp the Boat Basin and Timber Pond. The earlier rates were not cost based but service oriented, taking into the consideration the policy of the government. Due to the changed policy of the government the rates are fixed on cost basis. That apart, the vessels which berthed in the Timber Pond and Boat Basin are not commercial vessels and, therefore, it does not get any revenue from them as in case of commercial vessels. The tariff has been increased steeply to make the activity commercially viable.
- (xLii). After commissioning of the fishing harbour, the trawlers and other crafts which are required to call at the fishing harbour, are calling at the Chennai Port to take the advantage of its nominal rate. The rate has been increased as a deterrent to discourage call of such vessels which creates hindrance for port operation, pollution hazard and law and order problem. In the review meeting with the port users it was agreed to levy 50% of berth hire charges for anchoring at mooring point and 25% of the berth hire charge as the anchorage fee for anchoring at any point other than mooring point within the port limit. The terms and conditions have been revised, accordingly.

(xLiii). The berth hire charges for iron ore vessels have been recalculated including the special quay dues; and, the calculation has also been enclosed.

12.3. The CHPT has submitted revised cost statements. The revised rate of increase in tariffs proposed by the CHPT for the various sub-activities is tabulated below:

Sl. No.	Activity / Sub Activity	% increase proposed in revenue
I.	Vessel-related charges:	
	(i). Port Dues	-
	(ii). Towage and Pilotage	95%
	(iii). Berthing and Mooring	155%
	(iv). Water Supply	-
	(v). Salvage and Divers	620%
II.	Cargo-related charges:	
	(i). General Cargo	35%
	(ii). P.O.L.	-
	(iii). Iron Ore	95%
	(iv). Cranage and FLT	110%
	(v). F. C. Vaigai	0%
	(vi). Ware House	-
III.	Railway charges:	-
IV.	Lands and Buildings	110%

13. The CHPT has also given its reply to the various points arising at the joint hearing. It has reiterated its arguments on most of the points. In addition to that, the CHPT has made the following points:

- (i). (a). Out of the total investment of the CHPT in the Ennore Port Limited as on 31 March 2002, Rs.100 crores has been converted into equity as per a Government Directive and the balance of Rs.412 crores is taken as intercorporate loan. The terms and conditions including the rate of interest of the intercorporate loan are yet to be finalised by the Government.
- (b). Considering the financial position of the Ennore Port Limited, it is expected that neither they will declare dividend during the next 5 years nor will be able to pay interest on the intercorporate loan to the port. The CHPT will be deprived of return for five years.
- (c). As the investment made in the Ennore Port is out of the General Reserve, it shall not be taken into consideration for tariff fixation as per TAMP guideline.
- (ii). (a). The actual man power as on 31 March 2000 is 8425 which is the optimum man power required for the port operation as against 15000 man power deployed during 1998-99.
- (b). Taking into consideration the shifting of thermal coal from Chennai Port to Ennore port, action has been taken to abolish all the post after superannuation from 1998-99.
- (c). VRS are offered to privatise activities which are financially beneficial to the port in long run.
- (iii). The port has given ultimatum to the TNEB to shift the coal in full by 30 September 2002.
- (iv). In addition to payment Income Tax from the financial year 2002-03 it shall also have to pay the wealth tax. The return of 18.5% on capital employed is the return after

tax because when the directive was issued the Income Tax was not in force at that time.

- (v). It has no objection to levy the container storage and the free time as levied by the CCTL.
- (vi). The Night Shift Allowance is collected irrespective of the working hours from all the parties. In case the TAMP desires to limit it to the operation during 6.00 p.m. to 6.00 a.m. the loss of revenue due to such modification may be compensated by escalating the Night Shift Allowance.

14. Subsequent to the second joint hearing some of the users have furnished further submission which are summarised below:

Chennai Container Terminal Limited (CCTL)

- (i). By proposing a 5% escalation cost per annum the CHPT is seeking to remove itself from the purview of TAMP and avail of an automatic increase. This cannot be allowed.
- (ii). The CHPT has carried no improvements of the land under its use whatsoever. In fact, it spends crores of rupees to bring the container yard and other leased areas to an acceptable standard for safe and efficient operations.
- (iii). During the Concession Agreement negotiations, the issue of yearly escalations, deposit and premium equivalent to one years' rent was discussed extensively. Finally, it was decided that the Non Negotiable Conditions (NNC) did not require this. These penal lease rent provisions shall not apply to the CCTL.

Chennai Steamer Agents' Association (CSAA)

- (i). The proposal to charge 70% of the dollar denominated tariff of foreign-going vessel cannot be imposed on coastal vessel. A fixed rupee tariff can be prescribed for coastal vessel to enable it to be competitive in the trade.
- (ii). The existing provision prescribing that for the vessel landing / shipping 1000 tonnes or less the provisions of Section 50 A, 50 B etc., will apply unless the vessel enters Bharti Dock has been deleted. In view of this Port Dues at higher rates will be collected for these vessels which will adversely affect the vessel owner.
- (iii). Even the revised draft Scale of Rates does not list down the circumstances under which the DPC can issue notice to vessel to vacate berth with 12 hours.

Hindustan Chamber of Commerce (HCC)

- (i). The method of handling container is entirely different at the CCTL. Hence, the CHPT can only apply the container tariff of CCTL with regard to the Port storage, wharfage and free days. While, for the purpose of Terminal Handling, a new set of rates will have to be prescribed.
- (ii). There shall be no rates toward Terminal Handling charges while containers are handled in the inner harbour as entire handling will be done by the vessel's own gear or private cranes. It will be the responsibility of the stevedores to engage gangs from the CHD and also to arrange its own private trailers for the said purpose.

Shipping Corporation of India (SCI)

- (i). The revised Scale of Rates does not prescribe separate coastal vessel tariff in respect of vessel-related charges. The proposal to levy 70% of the foreign-going vessel tariff shall lead to an increase of 133% over the existing rate and shall also have multiple effects in view of the increase proposed by the CHPT in the vessel-related charges.
- (ii). At one place it is stated that the shifting done at the uses request shall not be charged. Subsequently, in note- C it is prescribed to levy shifting charges on all acts of shiftings excluding the inward and outward movement connected with pilotage and additional two acts of shifting. It is, therefore not clear whether only one shifting will be free of cost or two.
- (iii). The existing clause prescribing levy of Port Dues as applicable to the vessel landing / shipping / landing and shipping 1000 tonnes or less (unless the vessel enters the Bharti Dock) for the purpose of clauses 4,5, and 9 has been deleted which shall have adverse impact as port will collect much higher rate than currently applicable.
- (iv). The revised Scale of Rates does not provide the circumstances under which the DPC can issue notice to a vessel to vacate berth within a period of 12 hours.
- (v). It has reiterated that no rebate has been given in the revised Scale of Rates for not providing water from their own source, while supplying water barges.

15. Subsequently, the CHPT vide letter dated 20 September 2002 after getting the feed back from the port users and taking into consideration the cargo through put has decided to increase the free time of the import cargo from 3 days to 7 days, excluding Sundays and port holidays. With the proposed modification the importers shall get adequate time to clear the cargo and minimise the demurrage cost.

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

- (i). The Scale of Rates of the CHPT was last revised in April 2000. Following the usual tariff validity cycle of 2 years prescribed, the general review/ revision of tariffs is due now. The port has accordingly proposed increases in tariffs for various activities/sub-activities ranging from 25% to 290% as indicated in para 2.5 above. The proposal was later revised by scaling down the increase proposed as indicated in para 12.3 above. The port has also proposed rationalisation of the tariff structure and conditionalities in the existing Scale of Rates. Although there is scope for further rationalisation, this is a welcome beginning and the efforts of the CHPT in this regard deserve to be complimented.
- (ii). The port had not submitted cost statements activitywise/sub-activitywise initially but had submitted only a consolidated cost statement for the port as a whole. Subsequently, it has also furnished separate cost statements for the (a) cargo handling activity (b) vessel related activity and (c) railway and estate activity together. Sub-activitywise cost sheets furnished are, however, strictly not in the format prescribed by this Authority. Normally, the aggregate of the sub activity/activity wise statements should tally with the statement for the port as a whole and the latter in turn with the annual accounts/budget estimates. There are some major discrepancies in the figures between the consolidated statement and sub-activity statements. The income from CCTL revenue share and surplus of POL & Warehousing activity have been double counted in the income estimates once as a specific item and as allocation to other activities. Necessary amendments have been made in the statements.
- (iii). The CHPT has pointed out that its proposal was not discussed either in the meeting of the Board of Trustees or with the port users. Users have complained about lack

of consultation prior to formulating the proposal. The MPT Act as amended in 1997, does not require tariff proposal to be approved by the Board of Trustees of a Major Port Trust. This Authority has, however, been encouraging proposals to be sent through the Board of Trustees either with their approval or at least with their comments. Even though this Authority provides an opportunity of hearing to all concerned, it will be useful for the port trusts to consult their users at the proposal-formulation stage itself so that the market response can also be built into the proposed tariffs. In any case, it may not be practically possible for this Authority to hold consultations on every detail. It also avoids any time delay at the approval stage, if many of the issues/objections resolved later can be sorted out at the initial stage itself.

- (iv). Traffic projections considered by the CHPT for this exercise are 27.70 MT for both 2002-03 and 2003-04 as against the projection of 32.35 and 35.35 MT respectively in the 10th five year plan of the port. The traffic forecast for the year 2002-03 shown in the Budget estimates was also 36.70 MT. The port has sought to explain that the traffic forecast for the five year plan was made during the year 2000-01 and it has no relevance at present due to certain major changes in the planning premises like commissioning of Ennore port. The budget estimates for the year 2002-03 was also prepared in August 2001 when it was expected that CHPT might handle about 5 to 7MT of thermal coal during 2002-03. Pursuant to the Government Orders to shift thermal coal traffic to Ennore port by the end of September 2002 at the latest, the target for the port was fixed at 32.5 MT including container traffic to be handled at the private terminal. Other traffic of the port has accordingly been placed at 27.7 MT. It is difficult to accept that the traffic (estimates) for the years 2003-04 will be same as that for the year 2002-03. Nevertheless, in the absence of any other reliable data, the projections furnished by the port have been considered without any modifications.
- (v). The CHPT was also requested to indicate whether the traffic projections are in line with the projections envisaged in the post Ennore scenario (at the time of undertaking the Ennore project). The port has clarified that traffic expected to be handled by the CHPT after shifting of the Thermal Coal to the Ennore port and the detailed financial position on account of such shifting was not envisaged in the PIB note prepared for the Ennore port. The PIB note, however, mentions that (a) from the environmental point of view activities at the Chennai port cannot be increased, particularly those relating to handling of coal, in fact traffic must be reduced for improving air quality; and, (b) setting up the port at Ennore will not have adverse effect of the Chennai port since even now traffic is being diverted from Chennai in the absence of adequate availability of berthing time. It is a peculiar situation where the CHPT has invested in another port and seen shift of its existing traffic to the new port. It is even more interesting that the CHPT seeks hike of the existing tariffs mainly as a sequel to these developments.
- (vi). The port has not considered in the income projections, the additional income from the dollar denominated vessel-related tariff items arising out of exchange rate variations for 2002-03 & 2003-04. It has later furnished the information on the basis of 3% & 6% variation which were the escalating factors considered by this Authority in the past. In the tariff proposals dealt with recently, on the basis of the latest trend of variations in the exchange rates, this has, however, been moderated to 2% and 4% respectively. Estimated additional income computed accordingly is included in the cost statements.
- (vii). As per the policy of the Government, a disparity of 30% is to be maintained between the tariffs for foreign-going and coastal vessels. This necessitates an adjustment of the coastal vessel rates even if there is no revision of the rates for the foreign-going vessels. This Authority has been making such adjustments at the time of general review/revision of the tariffs at other ports and considering the estimated additional income on account of such adjustment of tariffs. The port has furnished estimate of the additional income on this account. This has been added in the cost statements.

The CHPT has proposed that instead of prescribing separate rupee denominated rates for coastal vessels at 70% of the rates for foreign-going vessels at the current exchange rate, it is better to prescribe that the rates for coastal vessels as 70% of the dollar denominated rates for foreign-going vessels so that whenever there is fluctuation in the rupee/dollar exchange rate in favour of rupee, coastal vessels will not be at disadvantage. This, however, goes against the policy of the Government to prescribe rates for coastal vessels in rupee terms only. This Authority has decided to adjust the coastal vessel rates with reference to foreign-going vessel rates only at the time of general revision. This is an issue applicable to all the Major Ports and any deviation from the approach adopted so far only in the case of one Major Port may give rise to complications at other ports. It is, therefore, appropriate to continue with the approach adopted in this regard so far and prescribe the rates in rupee terms for coastal vessels which will remain constant till the next review/revision of the Scale of Rates.

- (viii). The port has not considered Finance and Miscellaneous Income (excluding interest on investments) in the statement for the port as a whole and for the main activities while it has been shown in the sub-activity-wise cost statements. Since the figures are substantial it has been taken into account in the cost exercise for tariff purposes.
- (ix). The CHPT has projected operating expenditure for the years 2002-03 and 2003-04 with an annual escalation of 6% and justified this approach by claiming that only 6% escalation is considered against 8% increase over the previous year's estimates in view of the fact that the expenditure will reduce due to fall in traffic. Annual escalation in costs was allowed at 8% on the last occasion when the inflation rate was around 6%. In view of the present trend of inflation in the range of 2-3%, this Authority has allowed an annual escalation 6% in the case of tariff revision proposals of other ports recently finalised. With the falling traffic variable costs are expected to come down and the escalation factor need to be applied to the fixed cost. The CHPT has not been able to furnish details of the fixed and variable costs. Since the CHPT itself has chosen a lower percentage of escalation in view of the reduction in the traffic projections, it is reasonable to restrict the annual escalation to be allowed in the operating costs (excluding depreciation) and management and general overheads to atleast say 5% instead of 6% allowed in other cases, if not disallowed totally.
- (x). Finance and Miscellaneous Expenditure (excluding interest) projected for the years 2002-03 and 2003-04 is Rs.71.33 crores and Rs.75.61 crores as against Rs.76.16 crores in 2001-02 which itself is more than double the figure (Rs.34.28 crores) for 2000-01. The port has stated that the projections for 2002-03 and 2003-04 do not include arrears on account of wage revision as also VRS compensation payments. Main items of expenditure are Pension payments / Retirement Gratuities, PLB / Performance Rewards and VRS compensation. Budget Estimates for 2002-03 indicate that as against Rs.36.44 crores in 2000-01, Revised Estimates for 2001-02 was Rs.51.36 crores and estimate for 2002-03 was Rs.66.36 crores. The introductory note to the budget estimates states that increased provision for 2002-03 was for one-time payment to officers/employees superannuating during that year. Such a one-time payment to be made, if required, can be met out interest income of the port. In this backdrop, the F. & M. Expenditure projected for 2002-03 and 2003-04 must be restricted by adopting a liberal approach to say Rs.50 crores in each of years for the purpose of this tariff revision exercise.
- (xi). Regulation of Port Railway charges was taken by this Authority based on an advice rendered by the (then) Ministry of Shipping even though this Authority felt that it was not competent to do so. The Ministry of Shipping has now revised its earlier stand and advised that the competent authority to decide the port railway charges is the Ministry of Railway/Railway Board. It is not clear whether the CHPT has sent any proposal for revision of railway charges to the Railway Board. In any case, the port

has not shown any additional income on account of revision of the existing railway charges in the cost statement. Without going into the details, the estimates for railway activity furnished by the CHPT are taken into account for determining the overall financial position of the Port in this analysis.

- (xii). The Net Block forming part of Capital Employed is projected to go up from Rs.305.91 crores in 2001-02 to Rs.341.52 crores in 2002-03 and Rs.388.44 crores in 2003-04. The port was asked to furnish a list of assets likely to be completed and commissioned during the years. The information furnished is incomplete in as much as the yearwise breakup and the cost of each asset to be added are not furnished. The capital employed for the year 2000-01 and 2001-02 is Rs.349 crores and Rs.318 crores as against Rs. 409 crores and Rs.427 crores respectively, projected at the time of last general revision of the tariff. The return allowed on the basis of projections in the last revision has thus turned out to be higher. The Port has stated that due to administrative reasons many plan schemes did not take off and this resulted in drop in the capital employed. It has claimed that no extra return has been earned by the Port due to adverse variation in the traffic forecast and other reasons. It is not possible to go into the veracity of this claim for want of full details. This can, however, be taken as a guide to moderate the projections of addition to the net block during 2002-03 and 2003-04. In this backdrop the projected addition to the capital block, during the two years has been moderated by 20%.
- (xiii). The port had considered very high level of working capital forming part of the capital employed. When asked to furnish detailed computation of those figures, the port has revised the figure downward to Rs.12 crores. Even the revised figures appears to be on the higher side considering the fact that majority of cargo and vessel related charges are collected in advance by the Port. From the balance-sheet as on 31 March 2002, it is observed that capital reserve, capital debt depreciation and revenue reserve together add up to 1654.95 crores against which investment in Capital assets, Ennore Project and Loans/Bonds amount to Rs.1225.79 crores, leaving a cash balance of Rs.429.16 crores. Against the Provident Fund and Pension Fund balances of Rs.749.00 crores investments in Loans/Bonds amount to Rs.514.20 crores leaving a cash balance of Rs.234.80 crores. The total cash balances of funds not covered by specific investments, therefore, amount to Rs.663.96 crores. Current Assets including balances at Bank and cash on hand aggregate to Rs.786.96 crores. Current Assets excluding of the cash balances of funds referred to earlier, thus work out to Rs.123.00 crores. Current liabilities also aggregate to Rs.123.00 crores. Thus, Working Capital (i.e. current assets excluding of cash balance of funds minus current liabilities) requirement is Nil. The Working Capital level is accordingly amended while computing Capital Employed.
- (xiv). Users have observed that the income on account of revenue share to be received from the CCTL considered by the CHPT is very much on the lower side. This observation of the users may be based on the figures furnished by the CCTL in its proposal fixing tariffs. It is noteworthy that the proposal of the CCTL was moderated and, therefore, the revenue projections given in the CCTL proposal had also undergone change. The Port has replied that it has considered the income on the basis of the past performance of the CCTL and not on the basis of its traffic projections. The gross revenue projected by the CCTL for years 2002 and 2003 is Rs.112.06 crores and Rs.130.56 crores respectively. Under the revenue share arrangement CHPT is to get 37.128% of the gross revenue in addition to the lease rentals for the lands allotted. The income figures considered by the CHPT viz. Rs.53.50 crores and Rs.56.20 crores are accepted in the light of gross revenue projected and lease rentals payable by the CCTL.

Even though the revenue sharing is not recognised as a cost element for determining the tariffs at the CCTL, the CHPT will continue to derive the benefit of inflows on account of the revenue sharing and lease rentals since relevant provisions in the concession Agreement will govern the actual transaction between the licensor and the licensee. This will have an impact on the level of cross-

subsidisation between various activities at the CHPT. The existing tariffs at the CHPT are fixed on the last occasion recognising flow of cross-subsidies between different activities. Since complete elimination of cross-subsidisation at one go may have serious repercussions for some weak commodities, this Authority advised the CHPT to set aside from the revenue share to the extent of surplus available in the container activity assessed at the time of the last general revision so that it continue to cross-subsidise the other activities at the (then existing level). After meeting the cost of surplus labour and providing for cross-subsidisation, the CHPT was required to maintain 50% of the balance revenue share available in an escrow account for the purpose of creation of capital assets to modernize handling facilities. It was also decided that issues relating to the utilisation of the revenue share received by the CHPT and, more particularly, funds available in the Escrow account was to be more pointedly dealt with at the time of the general revision/ review of the CHPT tariff.

The CHPT has now stated that the surplus staff of the container activity has been redeployed in other activities and has, therefore, proposed to utilise the entire revenue share receivable from the CCTL to cross-subsidise certain other activities which are in deficit. This will increase the level of cross-subsidisation which is against the stated policy of this Authority to contain the cross-subsidisation pending final decision after a proper study about its elimination/phasing out. In the peculiar situation obtaining at CHPT with reference to shift of traffic and consequent labour redundancy, the proposal of the port can be allowed since it will be ultimately in the interest of users in general. At the CHPT, other than container activity (which is now privatised), handling of POL, warehousing and Port Conservancy, all other activities are in deficit.

(xv). The CHPT has insisted that cross-subsidisation benefit cannot be extended to the iron ore handling activity since this traffic is likely to shift to Ennore shortly. It is noteworthy that the benefit of cross-subsidisation had been allowed to this activity while determining the quantum of tariff increase ordered at the time of last general revision of tariffs at the CHPT. The stated position of this Authority (and, indeed of the Government also) is against cross-subsidisation. Nevertheless, this Authority has not yet taken a final view on complete elimination of cross-subsidisation. It has already been decided to engage a reputed financial advisory organisation to go into this issue. Till a final view on elimination/phasing out of cross-subsidisation is taken commonly for all the major port trusts, it has to be continued at the existing level. The proposal of the CHPT tantamounts to complete elimination of cross-subsidisation benefit from the iron ore tariffs. This Authority is not inclined to take such a decision in respect of a Port Trust in isolation and that too in respect of only one of the activities in that Port. That being so, the benefit of cross-subsidisation may be allowed to flow to the iron ore handling activity also like other activities depicting cost deficits.

(xvi). The CHPT has claimed a Return on Capital Employed (ROCE) at 25% in view of the income tax liability newly imposed on the major port trusts.

In the case of major port trusts, the ROCE allowed consists of interest on capital (equivalent to the lending rate at which the Government loans are available to the port trusts) and 3% contribution to each of the two mandatory reserves to be maintained. Since the rate at which the Government lends to the major ports is currently 12.5%, the maximum admissible ROCE adds up to 18.5% only.

Users have been objecting to the higher rate of return on capital employed allowed to the Major Port Trusts in view of the present low interest rate regime where loans at much lower rates are available from the commercial banks and the financial institutions. Private Terminal Operators have also been representing against the differential treatment given to them vis-à-vis the Major Port Trusts in this regard. A review of this model has already been initiated and it has been decided to commission a Study in this regard by a reputed financial advisory organisation. If the review results in modifications of the existing approach adopted, corresponding

changes can be effected in the model prospectively; but, such a basic change will have to be introduced commonly at all the major ports. Till such time, the existing method of allowing return on capital employed will have to continue; and, a deviation only in respect of the CHPT cannot be made.

It has already been settled by this Authority in other cases relating to the Private Terminals that the effect of taxation will not be included in tariff computation and, only a pre-tax return will be allowed. In view of the ROCE approach adopted in the case of the Major Ports of not distinguishing between return on own and borrowed funds, there is already a cushion available to the Ports. Without being accused of being discriminatory, this Authority cannot allow a pre-tax return in the case of Private Terminal and a post-tax return in the case of Port Trust. In view of the cushion already available and the ROCE of 18.5% being allowed, which can be seen as liberal in the current interest rate situation there does not appear any case for enhancing the level of return with reference to the newly imposed tax liability on Major Ports.

Earlier, the Major Port Trusts were retaining the entire surpluses generated in their reserves without the need to share them with the Government. Taxation may be the route now taken by the Owner (i.e. the Government) to claim a share of the surplus generated by the managing agency (i.e. Port Trust). The incidence of this burden cannot, therefore, justifiably be shifted to port-users.

It is noteworthy that a similar request made by the JNPT and the MOPT to allow higher ROCE on account of the newly imposed income tax liability has been rejected by this Authority for stated reasons.

- (xvii). Maximum permissible ROCE to be considered for tariff exercise is a function of utilisation of capital assets. In many cases this Authority has reduced ROCE with reference to the capacity utilisation. The capacity of the CHPT is stated to be 38.75 million tonnes which is expected to increase in 2003-04 by one million tonnes due to the proposed replacement of wharf cranes. The total traffic projected to be handled during the years 2002-03 and 2003-04 is, however, 32.50 million tonnes. Since revenue share and lease rentals to be paid by the CCTL are also considered in this exercise and vessel-related income accrues to CHPT, container traffic to be handled by the CCTL is also considered for computing utilisation factor which works out to 83.8% and 81.7% respectively for 2002-03 and 2003-04. The maximum permissible ROCE to be allowed at 18.5% per annum for these years must, therefore, be restricted to the capacity utilisation factor.
- (xviii). At the time of the last general revision of tariff, it was observed that CHPT had apportioned the cost of dredging more to pilotage / towage and less to port service instead of apportioning it to the port service and berth hire on the basis of number of days the dredger has worked for each service or the quantity dredged. In spite of the advice to follow correct allocation, the port has on this occasion also apportioned the cost on the same basis to all the three activities, as before, in equal proportion. The CHPT is advised to follow the guidelines already laid down for allocation of dredging expenditure while formulating its proposal for next general review / revision.
- (xix). The Management and General overheads are in the region of around 48% of the operating cost. This is very high and the port must take effective steps to curtail not only the operating cost but also the M&G overheads so its the tariffs can remain competitive.

The notes attached to the BE 2002-03 of the CHPT list out various action plan to enforce cost reduction. When asked to indicate the status of implementation of such measures, the port has vaguely replied that it has implemented a few of such identified action points. The CHPT has, however, not quantified the result of such cost reduction measures introduced. This Authority may like to advise the CHPT to

seriously identify areas of cost reduction immediately and take immediate action to introduce corrective measures.

- (xx). In the light of the analysis given above, the cost statements for the Port as a whole and different main activities have been modified. The modified cost statements are attached as an **Annex – I (a) to (e)**.
- (l). Summarised results of the various subactivities (without considering effect of cross-subsidisation of royalty income from CCTL)

Sr. No.	Particulars	Operating Income		Net surplus/deficit		Net surplus/deficit % of income		Avg surplus / deficit %
		2002-03	2003-04	2002-03	2003-04	2002-03	2003-04	
		Rs. in crores		Rs. in crores				
1.	Vessel related Charges	92.48	93.41	-52.83	-58.46	-57.1%	-62.6%	-59.9%
	(i) Port Dues	24.60	24.82	10.27	10.03	41.8%	40.4%	41.1%
	(ii) Berth hire	20.57	20.81	-33.96	-35.31	-165.1%	-169.7%	-167.4%
	(iii) Pilotage and Towage	47.10	47.57	-25.63	-29.53	-54.41%	-62.08%	-58.2%
	(iv) Water	0.184	0.184	-3.36	-3.49	1825.1%	-1895.5%	-1860.3%
	(v) Salvage	0.02	0.02	-0.15	-0.15	-766.2%	-769.2%	-767.7%
2.	Cargo related charges	150.84	152.87	-4.35	-12.47	-2.9%	-8.2%	-5.5%
	Cargo Handling	52.12	54.15	-7.94	-9.00	-15.2%	-16.6%	-15.9%
	Cranage & FLT	13.00	13.00	-9.62	-14.00	-74.0%	-107.7%	-90.8%
	F C Vaigai	2.00	2.00	0.22	0.14	11.0%	7.2%	9.1%
	Warehouse	17.20	17.20	12.65	12.48	73.5%	72.5%	73.0%
	P.O.L	31.90	31.90	23.61	23.60	74.0%	74.0%	74.0%
	Iron Ore	34.62	34.62	-23.27	-25.69	-67.2%	-74.2%	-70.7%
3.	Railways	23.15	23.15	-16.55	-18.11	-71.5%	-78.2%	-74.9%
4.	Estate	5.30	5.30	-2.43	-2.76	-34.7%	-39.4%	-37.0%
5.	Port as a whole (excluding royalty from the CCTL)	271.77	274.73	-76.16	-91.80	-28.0%	-33.4%	-30.7%

- (II). Summarised results of the main activities and the port as a whole after considering the effect of cross-subsidisation of royalty in income from CCTL are as follows:

Activity	Surplus(+) / Deficit(-) 2002-03 Rs. in crores	Surplus(+) / Deficit(-) 2003-04 Rs. in crores	Surplus(+) / Deficit(-) as percentage 2002-03	Surplus(+) / Deficit(-) as percentage 2003-04
Port as a whole	(-) 32.28	(-) 47.25	(-) 11.9%	(-) 17.2%
Cargo Handling	(+) 14.42	(+) 6.00	(+) 9.6%	(-) 3.9%
Vessel- related	(-) 34.76	(-) 40.84	(-) 37.6%	(-) 43.7%
Railway	(-) 9.49	(-) 9.65	(-) 41.0%	(-) 41.7%
Estates	(-) 2.43	(-) 2.76	(-) 34.7%	(-) 39.4%

Railway activity shows an aggregate deficit of Rs.19.14 crores for the years 2002-03 and 2003-04 after allowing the benefit of cross-subsidisation at the level proposed by the port to this activity. The deficit in the railway activity has to be left out of the consideration since it is not reasonable to bridge the entire deficit out of tariff increase in other activities. The Port must approach the Railway Board for an appropriate revision of Port railway rates.

The Estate activity shows an aggregate deficit of Rs.5.19 crores for the years 2002-03 and in 2003-04. The Port has considered lease rentals payable by the private operator CCTL under cargo handling activity instead of under estate activity,

presumably because operational area earlier utilised for storage of containers has been handed over to the CCTL. Since the capital cost of this land included in the Net Block under cargo handling is not readily available, the wrong classification of lease rental payable by the CCTL could not be set right. The CHPT is advised to correctly classify the income and net block at the time of future review/revision. In view of this, results of cargo handling activity and estate activity are considered together, there is a combined surplus of Rs.15.23 crores for the two years taken together. In this backdrop, there is no need to revise the estate rentals.

The cargo handling activity shows an aggregate surplus of Rs.20.42 crores for 2002-03 and 2003-04. POL and warehousing activities show substantial surpluses and other sub activities are in deficit. The vessel-related activity shows the highest deficit of Rs.75.60 crores for 2002-03 and 2003-04 together. Port dues shows a surplus and other sub activities show substantial deficits. The net deficit for the Port as a whole (after considering the income from CCTL but excluding the Railway deficit) amounts to Rs.60.39 crores for 2002-03 and 2003-04 taken together.

It is, however, to be noted that - (a) the drop in traffic is due to a conscious decision to create a new Port and to divert the existing thermal coal traffic of CHPT thereat; about Rs.500 crore out of the CHPT surpluses / reserves have been utilised to create the new Port and the CHPT will eventually get return in the form of dividend/interest on the funds so utilised, (b) though the traffic projections for 2002-03 envisage total shift of traffic of thermal coal, the TNEB has stated that they will not be able to completely shift the traffic to the new port by the deadline set and at least about 40% would still be handled at CHPT during 2002-03, which means the CHPT still earns revenue from coal traffic, (c) the management and general overheads are very high as compared to operating expenses which are to be contained by cost control measures to be taken by the Port; and, (d) Operating costs itself are high in comparison with the reduced traffic projections. In this backdrop, it is reasonable to leave uncovered 20% of the aggregate deficit of Rs.60.39 crores for the years 2002-03 and 2003-04. This means tariff need to be revised to target an additional revenue of about Rs.48 crores to be generated in the two years under consideration.

Of the cargo-related services though general cargo handling and cranae show a deficit, if these are considered along with warehousing, it results into a surplus; warehousing revenue mainly accrues from general cargo. Hence no revision will be required in the charges for these services. P.O.L. handling activity is in surplus and hence revision in that case is also not necessary. Iron Ore handling sub-activity shows a large deficit. Even with this deficit cargo-handling activity as a whole shows a small surplus after considering flow of cross-subsidy. Still the rates for iron ore handling need to be revised to bring them closer to the cost of rendering service. Such a rationalisation cannot be effected in one go. It is, therefore, decided to limit upward revision of these charges to 15%.

Of the vessel-related services, Port dues shows surplus and Pilotage/Towage shows more deficit mainly because dredging cost has been wrongly apportioned to the latter. In view of this and since almost all vessels pay Port dues Pilotage/Towage and Berth hire, these items of tariff can be considered together for revision. It is, therefore, decided that all the existing vessel-related charges be increased by 20%.

- (xxi). The erstwhile Madras Dock Level Board has been merged with the Chennai Port Trust with effect from 28.5.2001. Prior to the merger, the DLB was supplying labour to work on Board and collecting levy. The levy structure as contained in the merger settlement is reportedly being followed by the Port at present. Since the employees of the erstwhile DLB have now become the employees of the CHPT, the rates for supply of cargo-handling labour are required to be approved of this Authority. The Port has stated that a separate levy structure will be proposed by them on the basis of income and expenditure of the Cargo Handling Division. Though they have

furnished a cost statement for this activity as requested by this Authority, they have excluded these figures from the present tariff proposal for other activities of the Port. They have requested that pending formulation of a separate proposal for the on-board service rendered by the Cargo Handling Division, they may be permitted to continue with the levy structure as it is. It is not possible to ratify/approve the proposal without full details and proper scrutiny. More than three months have already elapsed since the port assured to submit a proposal in this regard. The Port should expedite submission of the proposal without further delay and the CHPT is required to submit its proposal in this connection within 3 months from now.

- (xxii). The existing SOR of the CHPT provides that port dues for coastal vessels shall be levied at the prescribed rates once in 60 days and these will remain valid for 3 entries during the period of 60 days. At all other ports, port dues on coastal vessels are leviable once in 30 days without any limitation regarding number of entries. A provision similar to that of the CHPT existed in the TPT has been amended to fall in line with the provisions at other ports. It is reasonable to prescribe in the Scale of Rates of the CHPT to levy port dues once in 30 days on coastal vessels. This will give some additional revenue to the port.
- (xxiii). The composite pilotage-cum-towage charges at other ports are taken to cover services of inward and outward movements and one shifting within same dock system/dock basin at the request of users alongwith provision of pilots, tugs and launches as may be required for the job. The pilotage charges at the CHPT, however, cover inward/outward movement and two shiftings. Some of the users and the CCTL also have objected to the inclusion of two shiftings in the pilotage charges as it adds to the burden of vessels not requiring second shifting. They have in fact requested unbundling of the composite pilotage charges and providing for recovery of towage depending upon the actual number of tug(s) used. The issue of bifurcating pilotage and towage cannot be considered in isolation for one port. The composite pilotage/towage charges were introduced as a part of rationalisation/simplification of Port tariff structure undertaken in 1985 or so. The provision for charging towage charges for extra tugs required, wherever existed has been even deleted while dealing with the tariff revision proposals of other ports. Requirement of tugs for towage operation may become a matter of subjective decision which is not desirable particularly if levy of additional charges is dependent thereon. The issue of unbundling of tariffs for composite services can be examined in detail for a common decision applicable for all the ports in due course. In the CHPT case, the provision relating to definition of pilotage is only amended to include only one shifting at the request of the users. It may be relevant here to mention that the CHPT has reduced the existing pilotage fees by excluding cost one shifting. It has already been clarified in an earlier Order that in case of shifting of vessel to outer anchorage normal pilotage charges will be payable.
- (xxiv). The existing Scale of Rates provides that a deduction of 7% in the GRT be allowed in the case of Indian Naval vessels for recovery of pilotage fees. The port has deleted this provision since it could not find any authority to support this provision.
- (xxv). In the definition of shifting done for 'port convenience' (when shifting charges are not recoverable), there is a stipulation that "any other shifting as decided by the CHPT may be treated as for Port convenience". Since this provision allows unguided discretionary power, it is deleted.
- (xxvi). Users have objected to the extra charges leviable for night navigation on the grounds that there are less movements in the night. The ports are expected to work round the clock and there cannot be any extra charge for such working in the night. If at all, there must be a concessional rate at the night to encourage utilisation during lean period. The relevant provision is, therefore, be deleted from the SOR.
- (xxvii). The SOR also provides that charges for services of pilot requisitioned but not utilised after the pilot has boarded a vessel. An explanatory note provides that

charges are not leviable in case of (a) cancellation received sufficiently in time before the pilots board the vessels and (b) cancellation caused under exceptional circumstances for reasons that could not be attributed to the vessel's fault. The component (a) of this provision is contrary to the main clause and component (b) provides unguided discretion. This explanatory note is, therefore, deleted.

- (xxviii). The CHPT has proposed to prescribe that berth hire charge include use of one wharf crane (irrespective of their capacity except 20 tonne gantry crane) and night and holiday charges (other than the CHPT closed holiday charges). This Authority has advised all the major ports that berth hire charges must be prescribed for different groups of berths, according to the availability of cranes at the berth and other facilities provided thereat. The CHPT has stated that there is no non-crane berth except oil berth (BD2) and iron ore berth (BD1); and, container berths licenced to the private operators are provided with container handling cranes of the licensee. The notes below the berth hire schedule indicate that the element of wharf crane hire and night and holiday charges included in the berth hire rate are Rs.1837 (87.465 US\$) and Rs. 1225 (58.31 US\$) for 8 hour unit and a rebate to the extent of element of wharf crane hire will be allowed in case of vessels berthed at oil berths, coal berths and container berths and rebate to the extent of night and holiday charge element allowed for berths managed and operated by private parties. A rebate to the extent of the element of wharf crane hire is available at the mooring berths and to old petroleum berth, and for research vessels, fishing trawlers and passenger vessels, RORO vessels /car carriers vessels in group I to IV of berth hire Schedule I. The provisions in this respect are very clumsy and the rate of rebate allowed for berths without cranes is also very low. In the absence of any cost details furnished by the CHPT and lack of feedback from user side, we are unable to make any modification as implication of such modifications cannot be readily assessed. The CHPT is advised to address the issue frontally atleast at the time of the next general review.

By virtue of a rationalisation measure introduced in various port tariffs in 1985 or so, night allowance levied separately had come into being and merged with berth hire charges. Because of this merger, all vessels pay this element irrespective of whether they work in the night or not. This means, the composite berth hire charge is being paid by all vessels. Opening up the base rate and excluding the element towards night allowance will have substantial financial implication. The CHPT is advised to arrange to excise this component from the composite berth hire charges while formulating its proposal for the next general review / revision of its tariffs.

- (xxix). The unit rates of berth hire charges are normally expected to go down with increasing size of the vessels. The position is exactly the reverse at the CHPT. In addition, the conditionalities stipulate that the element of wharf crane hire charges will be levied in addition in the case of vessels falling in the higher tonnage groups V and VI i.e. above 30,000 GRT. In reply to a query the port has replied that there is no uniform pattern followed by the Major Ports in prescribing the berth hire rates for different GRT groups; there will be adverse financial impact on the revenue in case of change of the rate in the descending order for higher tonnage group of vessels. It has, therefore, requested that the existing pattern of berth hire charges may be allowed to continue until a common pattern is finalised for all the Major ports after due examination of all implications. This request is accepted.
- (xxx). In its Order relating to the last general revision of tariffs at the CHPT, this Authority suggested merger of Special Quay Dues with berth hire charges. It is noteworthy that this charge is being levied on ship owner/agent. The CHPT has now proposed revised berth hire charges for iron ore vessels by merging the Special Quay Dues with them. It may be relevant here to mention that a similar rationalisation has been made by this Authority at the VPT also. The entry relating to levy of special Quay Dues stands deleted from the Scale of Rates.

- (xxxi). The unit of berth hire charges earlier was on a per day basis. This was causing unnecessary additional burden on vessels which stayed beyond 24 hours for a short duration of few hours. Ideally, unit should be one hour so that incidence of such additional burden can be minimised. Instead of introducing a drastic change of unit from 24 hours to 1 hour it was decided initially to introduce 8 hourly unit. This Authority has recently alerted the ports that the unit is proposed to be changed to an hourly basis from 1 April 2003 and that the revenue impact of such a change may be reckoned with while framing the next year's budget estimates. It is noteworthy that the cut off date of 1 April 03 is only an outer limit proposed. If any major ports want to introduce a change in the unit of charging in line with the proposed change before the cut off date, this Authority may not have objection to accept such proposals. The CHPT has indicated that it has no objection to switch over to the one hour unit provided the likely adverse impact on revenue is taken care of. The revenue from such cases of marginal spillover is not really well-earned revenue; some of the users elsewhere have termed this as reduction in unjustified profits. There is no need to protect it specially in view of the uncertainties of estimates of traffic and income/expenditure and the need to curtail costs. This Authority is, therefore, inclined to introduce an hourly rate of berth line at the CHPT tariff straightaway now without waiting for a common decision applicable for all the major ports.
- (xxxii). The berth hire charges are proposed to be increased from Rs. 55.30 to Rs. 500 per 8 hours or part thereof in the case of vessels belonging to coast guard services, vessels not registered under the harbour craft rules, etc., occupying Boat Basin and Timber Pond. Similarly, any powered harbour craft registered under the harbour craft rules other than non-commercial powered harbour craft belonging to the Central Government or State Government the berth hire charges have been increased by over 300% to Rs.2000 per month or Rs.30 per 8 hour unit. The CHPT has clarified that such a hike in rates is necessary to recover its investment made recently to revamp the Boat Basin and Timber Pond. It has also argued that the rates charged earlier were concessional and the proposed rates are comparable with the market rates. This proposal of the CHPT is approved.
- (xxxiii). The port has proposed to delete the existing provision prescribing berth hire charges of Rs. 5.60 per 8 hour unit or Rs. 413.70 per calendar month for trawler or boat. The port has clarified that after commissioning of fishing harbour, trawlers and other craft, which should normally call at the fishing harbour, are calling at the other berths to take advantage of the nominal rates. The provision prescribing concessional rates has, therefore, been deleted as a deterrent to discourage the call of such vessels which creates hindrance for port traffic, pollution hazards and also law and order problem. The arguments of the port are found to be reasonable; and, hence its proposal is accepted.
- (xxxiv). The port was earlier levying the rate prescribed for mooring berth for vessels shifted to anchorage. While deciding a representation made by the CSAA, this Authority required the CHPT to prescribe within 6 months a separate anchorage fee on GRT basis without linking it to the berth hire charges. The port has clarified that the issue was discussed with the port users and they have agreed that 50% of berth hire charges as anchorage fees for anchorage at mooring point and 25% of berth hire charges as anchorage fees for any other point within the port limit. The CHPT has accordingly made separate provision for anchorage fees. Since this is an agreed formulation, this Authority is inclined to accept it.
- (xxxv). The existing Scale of Rates provides that if any vessel choose to occupy berth for more than two hours after completion of discharge or loading or ballasting or after expiry of the notice period of 4/12 (depending upon the berth occupied) hours given by the Deputy Port Conservator (DPC) to vacate the berth, additional berth hire charges shall be payable at the rates prescribed. The CHPT was requested to specify the objective criteria/norms laid down for issue of notice by the DPC to vacate the berths. Users have also objected to these vague provisions. At some

other ports where similar provisions existed, objective criteria/norms have been framed by the Port as insisted by this Authority and these have been incorporated in the respective Scale of Rates. The CHPT also needs to come up with the objective criteria/norms to be followed for issue of notice to vacate the berths. Till such time, the clause empowering the DPC to issue notice is deleted.

- (xxxvi). In the proposed Scale of Rates, the CHPT has reduced the number of items in the wharfage schedule from 96 to 36 by deleting some of the items. The Port was requested to furnish an impact assessment statement indicating the income as per the proposed wharfage schedule and the income as per the existing wharfage for the traffic handled during the last two years. Without furnishing any figures, the CHPT has merely stated that rationalisation of number of items in the wharfage schedule has been made by deleting the items which are not handled or seldom handled through the port and items which carried the same wharfage rate have been consolidated; and, therefore, there will not be either any adverse or favourable impact on the total collection of wharfage. Apart from the impact on the overall wharfage revenue, it is necessary to see that there is no significant adverse impact on any individual commodity. Users have, however, not raised any objection to the revised wharfage schedule proposed except the IVOPA. The IVOPA has pointed out that ad valorem rate proposed for animal or vegetable oils (not in bulk) increases the burden by almost 300 times. The CHPT has conceded the point and has agreed to prescribe a unit based rate for this commodity. The IVOPA has also pleaded for a retrospective implementation of this rationalisation. This Authority generally approves rates and conditionalities with prospective effect only. That being so, the request of the IVOPA cannot be agreed to. The rationalisation in wharfage schedule proposed by the CHPT is, however, approved.
- (xxxvii). The Port was requested to explore the possibility of specifying a per ton wharfage rate for items which are at present charged on ad valorem basis. It has replied that ad valorem wharfage was introduced in 1980s, in all the major ports, mainly for break bulk items, on the basis of the recommendations of the Directing Group as a part of rationalisation / simplification of the port tariff structures. It has suggested that this issue be considered on all port basis and in consultation with all concerned and a policy be evolved. While this issue can be considered commonly for all ports, it will be appropriate for the CHPT to examine ad valorem rate structure closely and propose, as far as possible, conversion of some of the regular items into a tonnage based wharfage rates with reference to cost of handling such commodities.
- (xxxviii). The CHPT had proposed a rebate at 10% in wharfage only in case of export cargo moving in palletised form. It has clarified that this provision is prevailing at the port for a long time. Since no palletised cargo is being handled in the port after privatisation of container terminal, it has now been proposed deletion of this provision. The provision is, therefore, deleted from the revised Scale of Rates.
- (xxxix). The Users have suggested that suitable volume discount scheme be introduced. In deference to such suggestions, the port has accordingly proposed a new provision to extend a rebate of 10% in wharfage for the additional quantity over and above the previous year's throughput by an individual importer/exporter who have handled at least 50,000 MT in the previous year provided the throughput exceeds 110% of the previous years throughput. This Authority is in favour of encouraging volume discount schemes. The proposed provision requires further major commoditywise examination to fine tune it to a scientifically formulated scheme so that it can really act as an incentive to attract additional traffic. Nevertheless, as a first step in the desired direction, the proposed provision is approved.
- (xl). The SOR prescribed additional levies on dangerous goods/ explosives of all kinds of landed or shipped and on goods ex-oil tankers landed outside the enclosed harbour. The term 'enclosed harbour' however was not defined in the existing Scale of Rates. This port has now defined this term and this definition is included in the revised Scale of Rates.

- (xLi). The handling charges for iron ore prescribed in the Scale of Rates of the CHPT is a composite rate which covers all operations relating to receiving and shipment of the cargo. Based on a proposal of the CHPT, this Authority had already approved a rebate of Rs.20 per tonne over the composite handling charge when iron ore is manually unloaded from wagons at the Royapuram Railway Yard and inter-carted to the mechanical ore handling plant for shipment at the cost of exporters. This rebate has been allowed since the Port's receiving system (like wagon tippler and stacker) is not used. It will be reasonable to extend such a rebate in all cases where the Port's receiving system is not engaged instead of limiting it to only in the case of inter-carting from the Royapuram Railway Yard. The existing conditionality in this regard in the Scale of Rate is modified accordingly.
- (xLii). The SOR includes a provision for extra charges for the night and holiday services which were abolished by all the Ports in 1980s as part of simplification / rationalisation of the port tariff structures. The ports are expected to work round the clock and the incidence of extra expenses for providing such services need to be covered by the tariff items for the relevant services. The port has clarified that the charges prescribed in the relative Chapter are meant to be collected only in the case of vessel working on the closed holidays (about six in a year) observed by the CHPT. The CHPT has sought to explain that if separate charges are eliminated, the users may insist on working on such closed holidays and if the workers do not agree to work on, there may be a problem. Such problems, however, need to be tackled administratively. No such provisions for extra charges for work on closed holidays exist at any other major port. Significantly, even at the CHPT, the CCTL does not levy such charges for working on closed holidays. The relative provisions are, therefore, deleted from the Scale of Rates.
- (xLiii). The schedules of dwell time (storage) charges on containers prescribe rates in terms of US dollars and also in rupees. In accordance with the interim orders passed by the Division Bench of the Hon'ble High Court of Madras only the dollar denominated rates are being levied w.e.f. 22.11.2000; the rates in rupees terms have been discontinued w.e.f. 21 Nov 2000 and that this is subject to final outcome in the writ appeal filed by the CHPT. The port has clarified that the appeal is yet to be disposed off by the Hon'ble High Court. The container handling activity has since been privatised and the terminal is now being operated by the CCTL. The rates (in dollar terms) prescribed in this schedule are different than the rates prescribed in the tariff recently approved for the CCTL. Since small number of containers from Combi vessels may at best be handled at the CHPT area, the CHPT has agreed that the tariff applicable at the terminal operated by the CCTL for this service be made applicable for containers handled at the CHPT area also. The provisions relating to the dwell time (storage) charges on containers have accordingly been amended by the port.
- (xLiv). Apart from the charges for services rendered by the Port Railway approved by the Railway Board, there is a provision to levy special port service charge on rail borne goods passing through the Port. The Port has proposed that this charge be increased by 100%. In reply to a query regarding the circumstances in which this charge was introduced, the port has clarified that since Railways Authorities fixed port railway tariff lower and not as proposed by the Port, the railway activity used to result in heavy deficit and to cover the deficit this special levy was approved by the Ministry of Surface Transport as proposed by the Port in 1975. The rate was revised from time to time with the approval of that Ministry and the present rate of Rs 5 PMT is in force from 11.6.1991. On shifting to thermal coal traffic to Ennore Port there will be about 60% reduction in rail borne traffic and, therefore, the need to increase the rate. As stated earlier, the Ministry of Railways/Railway Board is the competent authority to sanction rates for any charges for service rendered by the Port railways. This Authority does not like to approve or disapprove the rates already being levied by the CHPT; the question of approving the proposed increase obviously does not arise. It will be appropriate for the CHPT to approach the

Ministry of Railways/Railway Board for any increase in the special port service charge on rail tariff goods.

- (xLv). There is an existing provision under the charges for the cranes and fork lift trucks that when cranes are hired by the Port from private parties and made available to the users, actual charges incurred by the Port will be charged. When it was suggested to the Port that it might consider allowing the users to hire private cranes directly, the Port had replied that because the it hired wharf cranes for cargo handling operation and the hire arrangements were to continue for four more years, the relevant clause was incorporated in the tariff. It has subsequently reviewed the matter in consultation with the users and has proposed that irrespective of the amount paid to the lessor for hire of the equipment, charges be recovered from the users in accordance with the rates prescribed in the Scale of Rates for their own equipment. It has also decided as a policy, not to hire any new equipment in future and allow the users to hire private equipment on their own when such equipments are not available with the Port. The relevant clauses have, therefore, been deleted.
- (xLvi). The SOR also prescribes that private cranes and other equipments shall be allowed at the request of the party subject to payment of 10% of the charges prescribed for port cranes and other equipment. As suggested, the CHPT has now agree to modify the clause to provide that 10% of the prescribed charges will not be payable if port equipment is not available due to break down / planned maintenance or having been hired to other users. The relevant clauses have accordingly been amended.
- (xLvii). The SOR includes a separate schedule of hire charges for wharf cranes for landing and shipment. In accordance with the Govt. decision wharf crane charges were included in the composite berth hire charges at the time of rationalisation / simplification of the port tariff structures in 1980s. The CHPT tariff, however, incorporates charges for only one wharf crane in the composite berth hire charge and for any additional crane required for landing or shipping of cargo, hire charges specified in the separate schedule are payable. Either all cranes normally available / required for cargo handling should be included in the berth hire charges or entirely may be excluded. The CHPT has replied that the issue was discussed with the users and it was proposed to continue the existing practice of composite berth hire charges to include the charges for only one wharf crane. This proposal is allowed on this occasion. The Port must incorporate charges for wharf cranes available at the berths in the berth hire charges by suitably adjusting the berth hire rate at the time of next general review / revision.
- (xLviii). Users have objected to levy of 20% extra charges for electric wharf cranes when there is a power cut by the State Electricity Board. The Port has clarified that on such occasions electric wharf cranes are operated, at the request of the users, with the help of high voltage generators. The cost of generation is more as compared to the rates charges by the Tamilnadu Electricity Board and to take care of the additional expenditure; additional 20% is charged when power is supplied through the generators. It is the duty of port to provide power from alternative source to operate wharf cranes when berth hire charges are being levied even for the duration when cranes cannot be operated due to power cut. Moreover, when rates are determined on the basis of overall costs the additional cost of generation of power is taken care of in the exercise. The provision for levying extra 20% charges is, therefore, deleted.
- (xLix). Note-4 below the charges for cranes and forklift trucks stipulates that cancellation charges are payable for the entire period of requisition of the cranes. This provision was found very harsh and the Port was requested to moderate it to limit the cancellation charges to half a shift or at best one shift. In consultation with the Users, the Port has modified the condition accordingly. The proposed modification is approved.

(L). Note-5 provides for levy of penalty when loads heavier than the marked capacity of the crane are handled. The tariff also provides for recovery of cost of repairing the damages. After discussion with the Port Users, the CHPT has now amended the clause to exclude the penal provision.

(Li). A provision in the SOR for recovery of cost of repairing the damages sustained by the cranes/forklift trucks, etc. specifies that apart from the direct and indirect charges, centage charges and profit element shall also be included while computing the cost of repairs. There is no justification for inclusion of profit element. The Port has subsequently proposed deletion of profit element and agreed to levy only 20% overhead charges on the direct and indirect costs. The proposed modification is accepted.

The SCI has pointed out that in case of damage to Port properties, the Port unilaterally fixes the responsibility on a particular vessel without giving any opportunity to the vessel owner to prove that it was not caused due to his vessel. Moreover, the damage cost recovered is exorbitantly high. To redress such complaints, the Port can consider insuring the port equipments and cover the cost of insurance while proposing tariff revision instead of recovering the cost of damage from the User causing the damage. This advice was given to the CHPT even at the time of the last revision of the SOR. As a matter of fact, the Kandla Port Trust has adopted such a system for tugs and launches at the instance of this Authority.

(Lii). There is a provision under the schedule of charges for floating cranes placing restrictions to lift only one load at a time for discharge or loading operation and a penalty for violation of the stipulation. It is an operational issue which can be enforced by the CHPT strictly. Levy of a penalty alone may not serve the desired purpose. This clause is, therefore, deleted.

(Liii). There is a provision in the SOR that demurrage will be levied for a maximum period of six months in case of abandoned and un-cleared/unclaimed goods. The time period stipulated appears to be too long and the cargo is just occupying the space without any definite monetary benefit. The MPT Act permits disposal of such cargo after 60 days; the maximum time period of six months may, therefore, be scaled down to a reasonable level. The Port has stated that the period of six months is uniformly followed in all the Major Ports and the issue of reduction in the period be, therefore, considered commonly for all Ports after due consultations with all concerned. The existing provision is, accordingly, retained pending a review commonly for all Ports.

There is a provision for levy of demurrage on goods in the case of non-supply of Bogy Rail Truck (BFU) type wagon. The Port was requested to simplify the provision to enable correct interpretation/application. It has now proposed its deletion. This is accepted.

(Liv). Clause 9(b) under the demurrage schedule give discretionary powers for declaring separate free days for coastal cargo or foreign cargo discharged from the same vessel, in the same voyage, and in the same berthing. Such discretionary powers without any guidelines for exercise thereof are not desirable; and, therefore, this conditionality is deleted.

(Lv). The existing Scale of Rates stipulates levy of no demurrage for the periods during which the CHPT is unable to trace packages owing to congestion in transit storage place, wrong sorting or incorrect tallying (i.e. from the date of receipt of enquiry in the harbour office in writing to the date of their being pointed by the CHPT staff). Such a blanket provision is likely to result in misuse and hence there is a need for reasonable time limit on the period for which demurrage will not be recovered. The Port has now proposed modification of the clause to provide that only three working days will be given free for tracing the packages. Exemption in demurrage beyond

this period be allowed only if the importer renews his enquiry every three days. The proposed modification is accepted

- (Lvi). The period of free days for import cargo is at present three days exclusive of Sundays, Custom's Holidays and Port's non-operational days. The Port has now proposed to increase the free days to seven days. Treating this is a commercial decision of the Port, the proposal is allowed. Free days for exports have been retained as 30 days.
- (Lvii). The demurrage rate on goods confiscated by Customs/ sold in auctions which was earlier expressed as per unit of 50 Kg. package has now been modified as per ton rates. It does not involve any revision of rate and is, therefore, allowed.
- (Lviii). The existing SOR prescribes charges for CHPT labour requisitioned and supplied but not properly or fully utilised. This provision may have relevance when there was shortage of shore workers. Presently, when there is surplus labour and average employment available to the labour is stated to have considerably gone down, there is no need for such a provision. Anyway the requisitioning party pays labour charges to the port for the full shift irrespective of the fact whether labour is used or not. The corresponding schedule of charge is deleted.
- (Lix). After discussion with the Port Users, the Port has proposed deletion of the schedule of charges for providing watch and supervision for the overhead gangway connecting the vessel and the passenger station. This is allowed.
- (Lx). Similarly, schedule of charges for removal of goods, lying in the transit area within free time, has been amended to provide that the charges be recovered only in the case the goods remaining beyond the free period and removed thereafter.
- (Lxi). The schedule of way-leave charges for laying pipelines prescribes specific unit rates instead of linking them to the rates of licence fee applicable to the lands through which the pipelines pass through. The Port has now proposed such linkage to the licence fee applicable to the area. However, they have proposed 200% overhead cost as the pipelines make hindrance for overall usage of the land. It has been provided that the area to be charged will take into account the adjacent areas which have to remain vacant for safety and other statutory requirements. The issue of levying for additional space adjacent to pipeline corridors is to be decided commonly for all the major ports. Till such a decision is taken, the existing provision in the CHPT can continue unaltered.
- (Lxii). The SOR prescribes charges for issuing labour license. In reply to a query, the CHPT has clarified that these license fees are applicable for a license to engage labour for the work for which port labour is not supplied. It has added that even though there is surplus port labour, in view of the present policy of the Government to reduce the activities directly run by the Port, and operate and switch over more and more to the concept of landlord port, the port labour is not being supplied in the new areas of activity. The provision is, therefore, allowed.
- (Lxiii). The SOR prescribes hire charges for tugs for use other than for pilotage-cum-towage operation by individual name of the tug. This Authority has already advised the CHPT to prescribe hire charges with reference to the range of capacity of tugs / equipment instead of individual tugs / equipment. The CHPT has replied that occasions for hire of tugs for such other use are very rare and it will propose hire charges for a group of tugs on the basis of average cost of operations after new tugs being acquired in replacement of the existing tugs are commissioned. Since some of the tugs and lighters/ barges have been disposed of these entries have been deleted by the port. In view of this, the existing arrangement is retained.
- (Lxiv). The schedule of charges for chain testing services has been deleted from the proposed SOR. The Port has stated that private facilities for testing of chain and

other gears have come up around the port and this service is no longer being rendered by the Port workshops which are fully engaged for the port work. Hence, the schedule has been deleted from the SOR.

- (Lxv). As regards the point raised by CSAA and SCI regarding deletion of the earlier provision exempting levy of port dues for a vessel discharging or shipping crew and vacating the port within 48 hours at the time of last general revision, it has to be noted that the concession in port dues envisaged under Section 50A and 50B of the MPT Act have been made applicable uniformly to all the ports. No exception can be made in the case of the CHPT alone. Section 53 of the MPT Act empowers to the Board of Trustees to allow remissions in revenue; and, individual cases like the one cited by the SCI may be dealt with accordingly, if the Port wants to entertain them.
- (Lxvi). The SCI has pointed out that the Port recovers prescribed charges for supply of water to ships in the outer anchorage, moorings, etc. when it makes available only the water barge and requires the Users to make arrangement for water. No rebate is allowed even though the CHPT does not provide water from its own resources. It is, therefore, necessary to incorporate a suitable rate of rebate in the tariff for non-supply of water in such cases. The CHPT has in fact proposed a rebate in such cases in the revised Scale of Rates. The rebate proposed is, however, required further refinement with reference to cost of water included in the composite rate.
- (Lxvii). The CHPT has now proposed that for direct delivery/shipment, no separate cramage charges relating to stacking/delivery will be recovered. This has been a long pending request of the users. The proposal of the CHPT in this regard is approved.
- (Lxviii). The CCTL has agitated the issue of high vessel-related charges at the CHPT. Some of the users have also been complaining about high marine charges at Indian Ports when compared to other international ports in the neighbourhood. It has to be recognised that the total cost of rendering port services is influenced to a great degree by the capital structure and financing model of the service provider. In the public trust model adopted in our country to manage the major ports, the major port trusts are expected to be self-reliant and are required to meet not only their operating costs but also the capital cost from their revenues.

Keeping in mind the demand of users and the CCTL and allowing maximum cross-subsidisation benefits to the vessel-related activities, the upward increase in tariffs has been limited to 20% whereas the cost position shows a huge deficit of around 70%. Rationalisation in the unit of levying berth hire charges and exclusion of cost of one shifting from composite pilotage fee will provide some relief to users. Howsoever much this Authority may like to rationalise tariffs, it has to move ahead in a phased manner given the financial implications to the port and other cross-section of users.

- (Lxix). At the time of the last general revision of tariffs, this Authority requested the port as well as the users to come up with their proposal for rationalisation of various conditionalities. Faced with almost no response from users side, this Authority had notified the corresponding Scale of Rates, with some minor modifications, as proposed by the CHPT after a lapse of nearly one year from the earlier Order revising tariffs. Even now, the CHPT has done well on its part to start the process of simplification of its Scale of Rates; but, a lot can be done to rationalise further. Even though this Authority has allowed sufficient opportunity to users in this case, we are constrained to observe that pointed references on individual conditionalities have not been received. It is the users apart from the port who are in a better position to assess the implications of the conditionalities governing application of tariffs. We hope a joint effort will be made by the Port and its users to simplify the Scale of Rates further atleast during the next general review/revision.

(Lxx). Subject to the analysis made above, the existing Scale of Rates of the CHPT is revised. While revising the Scale of Rates, the tariff orders passed by this Authority for common adoption by all the major ports as well as the Orders passed with specific reference to the CHPT have been incorporated at appropriate places. Likewise, formulations already approved by this Authority in respect of other major ports' Scale of Rates are also followed, wherever required.

17. In the result, and for the reasons given above, and based on a collective application of mind this Authority approves the revised Scale of Rates of the CHPT attached as **Annex- II**.

18. The revised provisions relating to the vessel-related charges will come into effect after expiry of 30 days from the date of their notification in the Gazette of India. The revised provisions in respect of other charges will come into effect after expiry of 15 days from the date of their notification in the Gazette of India.

(**S. Sathyam**)
Chairman