3. **Recommendations**

3.1 The Task Force recommended that tariffs should normally be set through competitive market forces, but a cap should be specified to protect users in a situation of inadequate capacity. The tariff caps should be set upfront and prior to inviting bids.

3.2 The tariff caps may be set for containers as well as other categories of commodities. While fixing the cap for each service/operation, the estimated capital cost and the estimated cost of operation as set out below should be the basis, and the cap should be notified for each Port and each commodity separately. For berths to be offered at the same port, the tariff cap should be uniform.

3.3 The performance standards such as Turnaround Time for receipt/delivery operations that must be met by the concessionaire should also be defined. The expectation would be that the performance parameters would be set at progressively higher levels than those notified in the past, and would take into account the technological developments.

3.4 Capital cost: A normative estimate of the capital cost of building a new terminal for a particular class of commodities may be made assuming an optimal capacity of the terminal in the context of the respective port. The capital cost should comprise the costs of construction and acquisition of equipment as well as the cost of financing including the IDC. The amount so arrived at should be treated as the estimated capital cost for determining the tariff caps. A fair return on the capital employed (which is 16% as of now) should also be assumed by TAMP.

3.5 Operating Cost: The annual operating cost of the terminal in a particular port for a class of commodity shall be estimated assuming a reasonably efficient operation to be determined on a normative basis assuming a capacity utilization of 75% of the installed capacity. Expenses on account of maintenance and repairs,
fuel and electricity, insurance and under other heads shall be taken into account. All types of operations performed shall be taken into account.

3.6 It is recommended that the following overarching parameters should be followed in setting of tariffs:

(a) Tariff should be set upfront before bidding.

(b) The tariff so set would be a cap.

(c) Once tariff caps have been set for a port they would apply to all terminals that are bid out subsequently for handling identical cargo in that port.

(d) Tariff caps may be reviewed once every five years to adjust for any extraordinary events that could not have been foreseen by a prudent person.

(e) Tariff caps would be indexed to inflation, but only to an extent of 60% of the variation in WPI occurring between 1.1.2007 and January 1 of the year of the revision, and revision made every year.

3.7 After determining the tariff caps based on the aforesaid guidelines, bids for award of concessions may be invited on the basis of revenue share to be offered by bidders.

3.8 The Group noted that the advantage of competitive bidding based on revenue share was that the traffic risk of bidders would be mitigated and their willingness to share revenues based on their actual traffic/ income would be greater. As a result, Port Trusts were likely to get more revenues while the risks of the Concessionaire would be more manageable. The practice of revenue sharing has been also adopted in other sectors such as telecom, airports and highways.

3.9 The tariff caps as and when revised will be applicable to projects that are bid out subsequently.

3.10 The Task Force favoured a “non-compete” clause to provide comfort to the Concessionaire for a period of seven years from the commencement of the concession or five years after the completion of the project, whichever is shorter.
During this period, Port Trusts should only award those projects, which have been included in their Plan and made known to the bidder. This would provide some certainty to the bidders and enable him to project their revenue streams with a view to making better/higher bids to the Port Trusts. Keeping the award of new terminals open-ended would introduce uncertainty, and bidders may not be willing to manage such a risk except by seeking an appropriate risk premium from the Port Trust.

3.11 It is recommended that the Department of Shipping may issue appropriate policy directions to TAMP, keeping in view the legal framework, so as to give effect to the recommendations contained in the Report. It should be possible for TAMP to notify the tariff caps for each Port Trust by November 30 2007 to enable bids to be invited from December onwards.

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