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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 138 **New Delhi, 13 September 2006**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the Gateway Terminals India Private Limited for fixation of its Scale of Rates as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

TARIFF AUTHORITY FOR MAJOR PORTS

Case No. TAMP/71/2005 – GTIPL

Gateway Terminals India Private Limited - - - - - Applicant

O R D E R

(Passed on this 23rd day of August 2006)

This case relates to a proposal received on 19 December 2005 from the Gateway Terminals India Private Limited (GTIPL) for fixation of its Scale of Rates (SOR).

1.2. Since its operations were to commence from 15 March 2006, the GTIPL proposed to levy the existing tariff prescribed in the Scale of Rates of JNPT as an interim measure. This Authority approved adoption of the existing Scale of Rates of JNPT for container handling operations by GTIPL for a maximum period of 6 months from 15 March 2006 vide Order dated 14 March 2006.

2. The main points made by GTIPL in its proposal are as follows:

(i). GTIPL has entered into a license agreement with Jawaharlal Nehru Port Trust (JNPT) on 10 August 2004 for Re-development of JNPT's Bulk Terminal into a Container Terminal on a Build-Operate-Transfer basis for a period of 30 years.

(ii). As per the LA, lease charges at the rate of Rs.24.63 crores per annum, subject to an annual escalation of 5% (Annual Lease Charges) are payable annually in advance by GTIPL to JNPT for the lands allotted to them.

(iii). As per the LA, the GTIPL proposes to provide the following project facilities and services:

(a). Widening the quay of the existing bulk berths (BB1/BB2 and BB3/BB4).

(b). Construction of a new central approach bridge of 14 metres wide, refurbishing of northern approach bridge and widening of southern approach bridge.

(c). Dismantling the existing cargo sheds, bagging sheds and railway platform sheds and develop the area into a container yard.

(d). Separate gate complex for better gate control and traffic requirement.

(e). Security fence along the periphery of JNPT's terminal and its area.

(f). The minimum container handling equipment to be deployed by GTIPL is as follows:

Equipment	Within 24 Months from date of award of license	Within 60 Months from date of award of license or date of handing over the assets whichever is earlier
RMQC	06	08
RTGC	18	29
RMGC	02	03
RST	04	04
Empty Handlers	04	04
Tractor Trailer	70	86

(g). GTIPL shall have its own reefer yard within the Licensed Premises.

(h). An area of approximately 18 hectares has to be reclaimed within 60 months of the date of award of the license.

(iv). GTIPL has guaranteed the minimum traffic as under:

Years of Operation	Total TEUs
1st year	130,000
2nd year	350,000
3rd year	536,000
4th year	735,000
5th year	950,000
6th year	1,200,000
7th year onwards	1,300,000

(v). As per the LA, GTIPL has to employ 236 surplus employees of JNPT who have been identified as surplus as a result of the development of the Bulk terminal and as a consequence of the license subject to options to be exercised by the employees. The yearly financial implication in respect of these 236 employees as per the LA is Rs.6.22 crores.

(vi). All vessels related charges shall be recovered by JNPT directly from the users. The container handling charges levied by GTIPL shall be shared with JNPT based on the quoted percentage (35.503%). As per the Govt. policy, and as stipulated in the LA, revenue sharing is not factored into / taken into account as a cost for fixation / revision of tariff by TAMP.

(vii). The investment as per the LA has been estimated at Rs.900 crores. The investment on equipment, civil, IT and other infrastructure proposed by GTIPL as per the current estimates is around Rs.907 crores.

(viii). The accounting period of GTIPL is from January to December.

(ix). The design capacity of the terminal at the commencement of the operation works out to 655,200 TEUs which is estimated to increase to 13,00,000 TEUs by the third year of operation.

(x). The total number of employees for the year 2006, 2007 and 2008 are 320, 408 and 408 respectively (including employees taken over from JNPT)

(xi). The GTIPL has made an upfront payment of Rs.15 crores to JNPT.

(xii). (a). At the expiry of license period, GTIPL would hand over to JNPT the project facilities against a compensation of one rupee.

(b). The value of mobile handling equipments shall be assessed by a valuer and if JNPT needs them, it would acquire them by paying the assessed value.

(xiii). Only the consolidated figures of throughput, income / expenditure and investment may be calculated and not their individual break-up.

2.2 The highlights of the GTIPL proposal are as follows:

(a). The traffic projections for the first three years are as follows:

Year	Throughput in TEUs
2006 (For 9months)	4,11,600
2007	9,30,000
2008	11,05,000

A growth rate of 126% for the year 2007 and 19% for 2008 has been considered.

(b). The tariff is proposed considering a general upward revision of 35.85% in the existing container related tariff of the JNPT. The Scale of Rates of JNPT has been taken as a base and few modifications as suggested in the tariff guidelines have been incorporated.

(c). The net deficit position projected by GTIPL at the existing (JNPT) tariff is as follows:

		2006 (Y+1)	2007 (Y+2)	2008 (Y+3)
1.	Net Deficit (Rs. In Crore)	- 118.39	- 90.21	- 52.32
2.	As a percentage of operating income	95%	32%	16%

3. In accordance with the consultative procedure prescribed, the proposal filed by the GTIPL was forwarded to the JNPT and the concerned user organisations for their comments.

4. The comments received from the concerned user organizations were forwarded to GTIPL as feed back information. The GTIPL has responded to the comments furnished by the users on its proposal.

5.1. Based on a preliminary scrutiny of the proposal, the GTIPL was requested vide our letter dated 4 April 2006 to furnish additional information / clarifications. The GTIPL vide its letter dated 13 June 2006 has responded to our queries. A summary of the queries raised by us and the replies furnished by GTIPL are tabulated below.

Sr. No	Queries raised by us	Replies furnished by GTIPL
1.	The revised tariff guidelines stipulate that tariff should be linked to benchmark of the levels of productivity. Notably, the operational strategies and work plan to the License Agreement prescribe productivity levels of the various facilities of the redeveloped terminal. Please indicate benchmark levels of productivity, which should be included in the Scale of Rates as conditionalities governing the respective tariff items.	As per Article 8 Section 8.1.viii (Page 34 of LA) the efficiency parameter specified is the gross crane productivity of not less than 20 moves per hour per QC from the 2nd year of operation. The crane productivity assumed by GTI is 20, 22 & 24 per hour in 2006, 2007 & 2008 respectively. Adhering to clause 6.8 of the guidelines for tariff fixation, an Efficiency Linked Tariff Scheme has been provided in the scale of rates.
2.	Article 8.58 of the License Agreement envisages levy of infrastructure cess by the GTIPL on the cargo handled by it and remit the proceeds to the JNPT for infrastructure development. The said Article further stipulates automatic enhancement of Scale of Rates of GTIPL equal to the amount of cess. It may be noted that such an arrangement, if any, will not be in accordance with tariff setting arrangement envisaged in the statute and the revised tariff guidelines.	Article 8.58 was a pre condition for entering into the license agreement. However, TAMPs views on the same are noted. JNPT will be informed of this in due course.
3.	The undertaking furnished suggests a tariff validity period upto 31 March 2009. Since cost statements are furnished only upto 31 December	GTIPL accounting year is the calendar year. Hence, the cost statements have been submitted till December 2008. (While submitting the revised cost

<table>
<tr><td></td><td>2008, the validity will expire on 31 December 2008.</td><td>statements, the GTIPL has furnished cost statements only upto the year 2008)</td></tr>
<tr><td>4.</td><td><u>Capacity:</u>
Operational strategies and work plan (Annex – 2) to the License Agreement prescribe berth productivity, gross crane productivity, stack productivity and hatch productivity. In this context please clarify the following:

(i). The capital employed figures furnished show that nearly full investment will be made within the years under consideration. However, the capacity calculation does not reflect this position.

(ii). Capacity should be calculated with reference to the designed parameters of the facilities created / to be created in the relevant year and not based on the physical performance expected by GTIPL. The capacity calculation may be reviewed and justification for each of the parameters assumed should be furnished.

(iii). The reason for considering quay crane moves per hour at 20, 22 and 24 respectively for the three years under consideration against 30 moves per hour indicated in the operational strategy.

(iv).The reason for considering 6 numbers of RMQC's for the year 2008 as compared to the 7 number of RMQC's considered for the year 2007.</td><td>The capital employed figures include expenses on account of reclamation works. The reclamation work does not impact the capacity of the terminal and is being carried out as per the requirements of the License Agreement. The expenses on account of reclamation work out to INR 1140 million (approx).

The parameters considered for determining quayside capacity are the no. of RMQC's used and no. of moves per hour.
The parameters considered for determining terminal capacity are the yard capacity and the various equipment used.
The capacity of the terminal as calculated by GTIPL are as follows:
<table>
<tr><th></th><th>2006
for 9 months</th><th>2007</th><th>2008</th></tr>
<tr><td>Quayside Capacity</td><td>600600</td><td>1341010</td><td>1462920</td></tr>
<tr><td>Terminal Capacity</td><td>671389</td><td>1328600</td><td>1328600</td></tr>
<tr><td>Capacity</td><td>600600</td><td>1328600</td><td>1328600</td></tr>
</table>

Our ultimate goal during the BOT period is to achieve 30 moves per hour & we are working towards that direction as evident in the years two and three. This productivity is expected to be achieved once everything gets stabilized and all factors, which constitute the productivity, are favorable such as size of the ship, product mix, evacuation etc.

(The GTIPL has revised the capacity calculation. The GTIPL has now adopted the RMQC's as 5 in 2006 and 7.60 each in 2007 and 2008. The revised capacity is as given in the above table)</td></tr>
<tr><td>5.</td><td><u>Traffic:</u>
With reference to traffic projections, please furnish the following:

(i). The basis for estimates of traffic for the years 2006, 2007 and 2008.

(ii). Please explain the basis for container mix projected in the total container throughput of the respective category of containers.</td><td>The estimates are based on the understanding with proposed customers based on their estimated projections.
(The GTIPL has furnished the customerwise traffic projections.)

The estimates are based on the understanding with proposed customers based on their estimated projections. The various percentages arrived at, based on customer estimates, are as follows:</td></tr>
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<tr>
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<table>
<tr><th>Sr No</th><th>Type of Containers</th><th>% of total traffic</th><th>%of loaded & empty</th></tr>
<tr><td rowspan="2">1</td><td rowspan="2">Normal & Reefer</td><td rowspan="2">94%</td><td>Loaded-75%</td></tr>
<tr><td>Empty-25%</td></tr>
<tr><td rowspan="2">2</td><td rowspan="2">Coastal</td><td rowspan="2">1%</td><td>Loaded-75%</td></tr>
<tr><td>Empty-25%</td></tr>
<tr><td rowspan="2">3</td><td rowspan="2">Transhipment</td><td rowspan="2">4%</td><td>Loaded-50%</td></tr>
<tr><td>Empty-50%</td></tr>
<tr><td>4</td><td>Hazardous</td><td>0.5%</td><td>Loaded-100%</td></tr>
<tr><td rowspan="2">5</td><td rowspan="2">ODC</td><td rowspan="2">0.5%</td><td>Loaded-60%</td></tr>
<tr><td>Empty-40%</td></tr>
</table>
</td>
</tr>
<tr>
<td></td>
<td>(iii). The GTIPL has proposed tariff for handling reefer containers. However, traffic has not been estimated in respect of reefer containers under any of the container category.</td>
<td>As the handling charges for a normal/ reefer box are the same no separate breakup has been provided for reefers. However, breakup of reefers has been given separately for reefer monitoring charges</td>
</tr>
<tr>
<td>6</td>
<td><u>Operating Income:</u>

(i). Please furnish detailed computation of income with reference to the estimated traffic at the JNPT's Scale of Rates and at the proposed Scale of Rates for all the years under consideration.

(ii). Please furnish the dwell time analysis and computation of estimated income arising out of proposed storage charges.</td>
<td>

The GTIPL has furnished the requisite computation of income.

The GTIPL has furnished the requisite analysis and income calculation</td>
</tr>
<tr>
<td>7</td>
<td>(A). <u>Operating & Direct Labour</u>:

(i). Please furnish details of number of employees and the average cost per employee considered under operating labour for all the years under consideration. The estimated labour cost may be justified with reference to the number of employees, total wage for different categories, labour deployment pattern, manning scale for operation, etc., Also indicate the per TEU employee cost of its terminal.

The total number of employees considered by GTIPL for computation of employee cost includes employees taken over from JNPT, as stated by the GTIPL.</td>
<td>

A total of 428 people (excluding 40 temporary employees & consultants) including 20 people from JNPT have been considered, as against over 900 considered in the license agreement.

The JNPT employees are proposed to be absorbed within GTI and therefore their salaries are taken at the same levels as those of GTI.

The total cost under operating and direct labor has been shown as INR 1,350,000 per annum (in the first year). This accounts for nine people hired for monitoring reefers only.

The total expenses on account of salary,</td>
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</table>

	It is not clear whether all the 236 employees of JNPT have been taken over by the GTIPL. Therefore, please furnish the number of JNPT employees taken over by GTIPL and their cost to GTIPL, considered in the estimated operating and direct labour cost.	has been considered under the head Management & Administration overheads and the detailed workings have been given at annexure to form 3B.
	(ii). Equipment running cost:	
	(a). With reference to estimated power cost, please furnish the working indicating the electricity consumption per TEU and unit cost of electricity.	The electricity consumption of 4.29 Kw/Hr per TEU is based on the existing trial runs. The detailed workings are furnished.
	(b). With reference to the estimated fuel cost, please furnish workings indicating fuel consumption per TEU and unit cost of fuel.	The GTIPL has furnished detailed workings. It has adopted diesel rate of Rs.39/- per litre and escalated by 4.5% in the subsequent years.
	(c). The estimated repairs and maintenance cost works out to around 2%, 2.56% and 4.13% respectively of the gross block at the end of the respective years under consideration. Please furnish the estimated repairs and maintenance cost for equipments and civil work separately for each of the year. The estimated repair and maintenance cost of new equipments may be validated in the light of the fact that such equipments will be covered under guarantee / warranty during the initial period.	GTIPL has furnished workings for the estimates based on standard literature. No documentary proof is, however, furnished by GTIPL
	(d). With reference to the estimated expenditure on account of equipment hire charges, the list of equipments taken on hire / proposed to be taken on hire may be furnished with cost details supported by documentary evidence.	It is proposed to take 90 Tractor/ Trailers on hire. The rates are based on the payments being made by JNPT/NSICT.
	(e). Please confirm that the estimation of lease rentals is as per the terms of the License Agreement. Please furnish detailed computation of the area leased and the rate per sq. meter.	The basic figure is as provided in the LA. This has to be escalated by 5% annually. The detailed calculations are furnished.
	(f). The estimate of insurance cost may be justified with reference to the actual payment made to the insurance company. A copy of the	The insurance cost is based on the actual payment made. GTIPL has furnished a copy of the Insurance contract with ICICI Lombard. The annual premium payable by

	agreement entered with the insurance company(s) may be furnished.	GTIPL is Rs.5.66 crores.
	(B). Management & Administration Overheads and General Overheads:	
	(i). Please list out the components of Management & Administration Overheads and General Overheads with the details of estimated expenditure for each component for all the years under consideration.	Details of Management & Administration overheads are as submitted as annexure to 3B. The breakup of Administrative overhead is as follows:- (Rs. in crores) Payment to JNPT 2.28 (CISF & Air & Water Monitoring) Reefer Electricity 1.36 IT Licenses 8.45 Expenses not Capitalized 2.05 (2004/05 expenses written off over 28 years) Other Admin Charges 16.04 ------------- 30.18 -------------
	(ii). The aggregate of estimated Management & General Overheads and General Overheads works out to around 81%, 49% and 49% of the direct operating cost for the respective years. The estimated overheads may be justified.	The overheads appear to be high due to the classification of Staff cost and electricity costs. However, when compared on a global basis with the existing rates of JNPT it is seen that the rates proposed by GTI are the same as that of JNPT.
	(iii). The write-off of preliminary expenses and upfront payment is shown as nil. The total preliminary expenses and upfront payment, with break-up may be furnished, and the treatment given to this element in the cost statement may be explained.	Preliminary expenses being marginal have not been considered. However, expenses charged to revenue in 2004/ 2005 have been included in the administrative expenses and written off over a period of 28 years.
	(C). Depreciation:	
	Please furnish detailed workings for the estimated depreciation for all the years under consideration bearing in mind Clause 2.7.1. of the revised tariff guidelines.	Detailed workings on depreciation have been furnished. These workings have been revised to incorporate the waiver of customs duty on equipment proposed to be cleared under the EOU status.
8	**<u>Capital Employed:</u>**	
	(A) <u>Fixed Assets:</u>	
	(i). Please list out the assets (movable and immovable with cost thereto) considered under capital employed in respect of each of the class of assets.	The GTIPL has furnished the details of the list of assets which has been considered, under each class of asset
	(ii). It may be noted that only	Work in progress has been excluded from

	completed and commissioned assets alone will be counted for capital employed and work-in-progress should be excluded. A confirmation in this regard may be furnished. (iii). With reference to the estimated expenditure on fixed assets, please furnish documentary evidence in respect of the capital value of various assets already commissioned. Similarly, evidence of action taken to procure other assets to be added subsequently may be furnished. (iv). Please confirm whether the fixed assets as at the opening of the year 2006, and additions proposed during the year 2006 and 2007 are in accordance with the Concession Agreement (v). Please furnish the details of capital / revenue expenditure incurred for provision of amenities and modifications of Bulk Berth – 4 of JNPT. Since the JNPT will be retaining BB-4 for its use as per the License Agreement (Appendix – 4), the capital / revenue expenditure incurred by GTIPL, if any, in this regard may not be admissible for fixation of tariff. **(B) <u>Working Capital</u>:** The workings for the projected Working Capital needs may be furnished bearing in mind Clause 2.9.9. of the revised tariff guidelines.	depreciation calculations The GTIPL has furnished documents to support its claim for the expenditure on fixed assets.. Breakup of Fixed assets has been furnished as Annex to Form 4A. Since the license agreement requires for the construction of this infrastructure this cost is a part of the total capital employed. Even though it is given to JNPT they will use it for the mooring of tug/ pilot boats for the benefit of trade. The deck portion is available for GTI use except when used for bunkering and sludge removal by the Tug/ Pilot boats. The total estimate expenditure works out to INR 150 million. The workings have been furnished.
9	**<u>Scale of Rates:</u>** (i). Please furnish a well-structured comprehensive Scale of Rates. Cross- reference to JNPT Scale of Rates may be avoided. (ii). The additional services / facilities proposed to be provided to the users and the benefit of productivity improvements accruing to users justifying the proposed hike may be listed out.	The scale of rates has been revised to incorporate definitions and explanatory notes. Cross-reference to JNPT rates has been deleted. GTIPL's proposal is based on a cost plus estimate. The price of equipments is much higher than it was three or four years back. Productivity estimates of 20 m/hr/crane up to 24 m/hr/crane in the startup operation are assumed given the learning curve. These moves are comparable to other terminals operating in the country. The following features will allow us to take the leap into higher productivity. - Longest and widest quay wall - Twin-lift quay cranes with 61 mt SWL

		under the spreader. -Some twin-lift RTGs - Twin-lift RMGs - 11 lane dedicated gate complex - Pre-gate facility for seamless movement of traffic - 3 rail sidings - Larger yard capacity with further expansion in 5 years. - Efficient and latest IT systems for operations, web access and EDI. - Modern repair workshop - APM Terminals Global and proven expertise in safe terminal management. - Quay cranes with 18 container wide outreach
	(iii). (a). Please furnish detailed working with cost elements considered to arrive at the charges proposed for normal, reefer, transshipment, hazardous and over dimensional cargo containers. (b). Similar working with cost elements considered may be furnished towards the charges proposed for services for hatch-covers of vessels, restows, shutouts, reefer monitoring & connection and various other services indicated in Section 9.	(a) / (b) The scale of rates for the various activities is based on the existing tariff structure of JNPT/ NSCT. However, GTI has attempted to calculate the unit costs of individual activities, e.g. handling, transportation. The calculations have been furnished.
	(iv). (a). (1). Clause 5.3. of the revised tariff guidelines stipulates that charges for ship / shore handling of loaded and empty containers will continue to be the same and not different. The reasons for proposing differential rates for loaded and empty containers for ship to yard / yard to ship for normal and reefer containers under Clause – A to Section 1 may be explained.	The difference is on account of oversight and has been rectified.
	(2). The existing rates in the Scale of Rates of JNPT for handling ICD normal and reefer containers, ICD hazardous containers and ICD over dimensional containers are 50% of the prescribed rates for non ICD containers. That being so, the reasons for proposing the rates for ICD containers at par with non ICD containers under Clause – A, Section – I, Clause - A, Section – 3 and Clause – A, Section – 4 may be explained. .	In the proposed scale of rates the charges for handling ICD containers from ship to yard or vice versa has been provided at sub section A. Handling & transportation of ICD container from yard to rail or vice versa are provided at sub section C. It can be seen that the rates are 50% of the non-ICD containers.
	(b). It is presumed that the	It is clarified that the rates are the same for

	proposed rates under Clause – C, Section – 1, are for handling loaded ICD containers from yard to rail / rail to yard. If it is so, the GTIPL has not proposed rates for empty ICDs for handling from yard to rail / rail to yard. Please propose rates, if necessary.	both loaded and empty containers. The scale of rates has been modified to incorporate this.
	(c). Applicable coastal rates as stipulated in the Clause 4.3. of the revised tariff guidelines may be proposed in Section – 5, Section – 6 and Section – 7 of the proposed Scale of Rates.	The Scale of Rates have been modified accordingly.
	(d). With reference to the proposed rate for FCL & empty 20' shutout containers in Section – 7, it is seen that the proposed rate is around 52% more than the existing JNPT tariff for the relevant tariff item. Please explain the reasons for applying a different percentage of hike as against the proposed hike of 35.85%.	The necessary corrections have been carried out.
	(e). The proposed dollar denominated rates and rates in Rupee terms for reefer monitoring & connection under Section – 8 do not appear to be based on the existing relevant charges of JNPT's Scale of Rates. Please explain and modify the rates, if necessary.	The charges in JNPTs SOR are for 8 hours. The rates specified by GTI are based on 4 hours as required by TAMP. The rates are therefore not being modified.
	(f). The GTIPL has not proposed charges for shifting of above 40' containers (FCL and empty) within the terminal for customs inspection etc., under Clause – A and B of Section – 9 of the proposed Scale of Rates.	The rates have now been specified in the scale of rates.
	(v). (a). The basis for the proposed dwell time charges for various containers may be brought out with justification.	The scale of rates for the various activities is based on the existing tariff structure of JNPT/ NSCT. However, GTI has attempted to calculate the unit costs of individual activities, e.g. handling, transportation. The calculations have been furnished.
	(b). Clause 2.15 of the revised tariff guidelines stipulate that the users will not be required to pay charges for delays beyond reasonable level attributable to the port. Flowing from this principle please incorporate a provision stating that storage charge shall not accrue for the period during which	It is reaffirmed that users will not have to pay storage charges for the period during which GTIPL is not in a position to deliver/ shift the containers when requested by the users

	the GTIPL is not in a position to deliver / shift the containers when requested by the users.	
	(c). Storage charge for coastal containers may be prescribed separately in rupee terms.	A separate scale of rates has been specified for coastal traffic.
	(d). In the existing arrangement of JNPT Scale of Rates dwell time charges are leviable for loaded import and export containers at par. The reason for proposing lower rates for loaded export containers as compared to the loaded import containers may be brought out. (Clause – B of Section 10)	It is seen that the dwell time of Import containers is higher than the export containers. Storage charges are not being treated by the port as revenue but as penalty charges for keeping containers for longer periods within the terminal premises. The intention of keeping slightly higher tariff and lower slabs is to discourage congestion at the ports. This is as permitted by clause 5.8.1 of the Tariff Guidelines.
	(e).(1). Please justify about the 55% increase proposed over the existing dwell time rates of JNPT Scale of Rates for empty (import or export) containers as against the across the board increase of 35.85% sought by GTIPL. (Clause – C of Section 10).	Clause C, Section 10 refers to non-ICD import & export empties. This is comparable with section 3.3.3 sl no 2 of the JNPT scale of rates. TAMP has probable compared this with section 3.3.3 sl no 5 of the JNPT scale of rates where the increase works out to 55%. The actual increase is only 35.85%.
	(2). The reason for not proposing any free days for empty (import or export) containers under Clause – C of Section 10 may be explained. It may be noted that JNPT allows 3 free days for these category of containers.	No free time has been proposed as the terminal wishes to discourage the storage of empties at the port. This is as permitted by clause 5.8.1 of the Tariff Guidelines.
	(f). The mode of transport by which ICD containers are moved may be specified for eligibility of the proposed 15 days free period.	The mode of transport is rail. The appropriate amendment has been made in Section 10 D.
	(g). GTIPL has not proposed free period for transhipment empty containers (Clause – F, Section – 10). Further, the slab structure proposed are different from the existing slab structure in the JNPT Scale of Rates for levy of storage charges for transhipment empty containers. Please clarify.	No free time has been proposed as the terminal wishes to discourage the storage of empties at the port. This is as permitted by clause 5.8.1 of the Tariff Guidelines.
10	**N<u>OTES</u>** (i). While GTIPL has proposed first 3 days as free days for loaded import containers, it has proposed first 7 days as free days for loaded export containers; whereas, no free period has been proposed for empty (import or export) containers. It	Section 10 sub section D has been modified to state "ICD – Loaded and Empty Import and Export containers moved by Rail".

	appears that GTIPL wants to apply free period applicable to normal import containers when normal import containers subsequently change the mode of discharge to ICD by rail. However, the proposed Note (4) is not clear.	
	(ii). Please clarify whether proposed note (6) is in line with Clause 5.4. of the revised tariff guidelines.	Point 6 and 7 have been merged and elaborated. The service in question is for over dimensional and over height containers. No specific guidelines are laid down for these types of containers. However, as these containers usually occupy two or more slots and therefore three times the rate is justifiable. This has also been elaborated in section 5.3 of the tariff guidelines.
	(iii). With reference to the proposed note (7),	
	(a). Justify the proposal to levy 1.5 times of the normal applicable charges on reefer containers. Please list out the services proposed to be rendered for reefer containers to collect the proposed charges.	As reefers are specialized containers special care needs to be taken during storage. In addition they need to be stored in a special area within racks which means that in one slot it is possible to store only one 20' or one 40' thereby resulting in waste of space. Due to this it has been proposed to levy this additional charge.
	(b). GTIPL has stated that it has proposed a premium of 15% in the handling charges of hazardous containers. However, it has proposed to levy 1.5 times of the normal applicable charges for hazardous containers which is not in line with Clause 5.7.3. of the revised tariff guidelines. Please modify the proposed Note (7) suitably in line with the revised tariff guidelines.	This is a typographical error and has been rectified.
	(iv). A note for regular review of exchange rate may be proposed in line with Clause 2.19.3 of the revised tariff guidelines.	A note on review of Foreign Exchange has been added.
	(v). (a). The proposed additional charge of Rs. 41/- per container for providing lashing staff proposed at Note No. 12 may be justified with cost details. If the activity is carried out by out sourcing, copy of the relevant contract may be furnished.	GTI in the startup phase has trained two agencies for handling the lashing activities to be undertaken at the terminal. The agencies have been trained to APMT standards of efficiencies. These agencies will be directly entering into contacts with the shipping lines for providing lashing services. GTI will not be directly providing lashing services to any of the lines. (GTIPL has not furnished the copies of the contracts)
	(b). It may be explained whether	GTI will be providing all the services at the

	GTIPL provides a comprehensive service in the terminal including stowage planning and on-board stevedoring. If it does not, the agency which will provide these services may be indicated. (vi). With reference to the charges for inter-terminal transfer of transshipment containers between the JNPT / NSICT and GTIPL, please clarify the following:	port excluding lashing services.
	(a). The reason for proposing 100% levy of transshipment container handling charges as per the JNPT / NSICT Scale of Rates to be levied by the JNPT / NSICT when a TP container discharged by the JNPT / NSICT is loaded by the GTIPL at its terminal may be explained. It may be noted that only 50% of transshipment container handling charges is leviable in such cases as per the existing arrangement in JNPT / NSICT for levy of charges for inter terminal transfer of transshipment containers between the JNPT and NSICT.	GTI has only proposed 50% as applicable charges for the services rendered. As the tariff proposed to be charged by the other terminals is outside our purview, we have chosen not to comment on the tariff to be charged by them.
	(b). Please justify the proposed additional levy of Rs. 1946 for 20' containers and Rs. 2918 for 40' containers for handling transhipment containers when the transhipment containers discharged by the JNPT / NSICT are loaded by GTIPL. It may be noted that no compensation for revenue share payable to JNPT can be allowed in terms of the Licence Agreement.	The rates are based on the existing tariff of JNPT/NSICT. It is proposed to adopt the same cost structure.
	(vii). The relevant conditionalities governing the levy of concessional tariff for coastal containers notified by this Authority in its Order dated 7 January 2005 may be incorporated in the proposed Scale of Rates.	Adhering to the TAMPs order dated 7-1-2005 the scale of rates for coastal traffic has been framed.
	(viii). The basis for prescribing a cut-off of 350000 TEUs in a year for the purpose of granting 5% rebate in the container handling charges may be brought out.	The following factor were considered while arriving at the cut off for rebate:- ▪ Tidal Conditions ▪ Volumes offered by individual lines ▪ Targeted Efficiencies ▪ Long term relationships ▪ Encouraging larger vessels GTI has also not factored in any rebate while arriving at the hike.
	(ix). The proposed rebate	The proposed rate structure has been

	structure under Note (10) may be justified with reference to cost of providing the respective services. (x). With reference to the proposed general Note (4) please clarify the following:	arrived at considering the rebates being offered by the other terminals. This is in line with the other items of the tariff structure.
	(a). The proposed consolidated charges include charges for rendering various services, including stevedoring and stowage planning, as specified in the General Note (4). However, the GTIPL has mentioned in its proposal that on-board stevedoring and stowage planning services are the responsibility of the vessel agents. In that case, appropriate rebate may be proposed when the on-board stevedoring and stowage planning operations are carried out by the users with their own arrangements.	The scale of rates have been framed keeping in mind that lashing activities will not be handled by GTI and will be the responsibility of the vessel agent. Therefore, there will be no component of rebate in the proposed scale of rates.
	(b). The proposed consolidated charges also include contribution towards railway infrastructure. It is not clear whether such contribution to railway infrastructure is in the form of recurring revenue expenditure. A detailed Note on the contribution to railway infrastructure and the quantum of this element of cost considered in the calculation of the proposed consolidated charges may be furnished.	No specific amount has been included in the scale of rates and therefore reference to Railway Infrastructure has been deleted.
11	**Other Points:**	
	(i). In case of a container from foreign port loading at the GTIPL for subsequent transhipment to an Indian port on coastal voyage or vice versa incorporate a conditionality to state that in such cases 50% of the transhipment rate prescribed for foreign going and 50% of that prescribed for the coastal category shall be levied as per the directions from the Ministry.	A note on the same has been inserted in the scale of rates.
	(ii). As per the Article 10.2 of the License Agreement the vessel related charges, including berth hire, for vessels handled by GTIPL will be collected by the JNPT. The GTIPL may consider to incorporate a conditionality in the Scale of Rates regarding refund of berth hire charges to the vessels for the period	A note on the same has been inserted in the scale of rates.

	when the vessels idle at GTIPL when operations cannot take place due to failure / break-down of the shore based facilities of the GTIPL or any other reasons attributable to GTIPL. (iii). A general conditionality should be included to specify that users shall not be required to pay for any delay caused by reasons directly attributable to GTIPL.	 A note on the same has been inserted in the scale of rates

5.2. The Government of India vide its letter dated 24 April 2006 has conveyed to this Authority that the GTIPL has been conferred EOU status by the Development Commissioner, SEEPZ SPECIAL ECONOMIC ZONE, Mumbai and that the recurring or non-recurring benefits on account of conferment of EOU status, if any, accruing to GTIPL should be taken into account by TAMP while fixing tariff of GTIPL. The GTIPL was, therefore, advised vide our letter dated 12 May 2006 to explain the implications of the EOU status given and how the benefits of EOU are factored in the Cost statements filed with us.

The GTIPL submitted vide its letter dated 13 June 2006, revised Scale of Rates and cost statements incorporating the changes arising, inter alia, due to grant of the Export Oriented Unit (EOU) status and validation of various figures during the trial run. The revised Scale of Rates was circulated to JNPT and all users vide our letter dated 14 June 2006.

6. The JNPT was also requested vide our letter dated 4 April 2006 to furnish some additional information/ clarification. The JNPT has responded vide its letter dated 8 May 2006. The queries raised by us and the replies furnished by JNPT are tabulated below:

Sl. No.	Queries raised by TAMP	Reply furnished by JNPT
(i)	The GTIPL has furnished a worksheet for capacity calculation forming part of its proposal dated 19 December 2005. The JNPT is requested to confirm the designed capacity of the Terminal with reference to the investments made and proposed to be made by GTIPL for the years under consideration.	As per License Agreement, the estimated capacity of the terminal is 1.3 million TEU's. The estimated project cost is Rs.900 crores. The breakup is: (Rs) - Equipment 560 cr - Civil Works 300 cr - Computerisation & Other Work 40 cr -------------- 900 cr -------------- The JNPT has given the list of equipment, which is required to be deployed by GTIPL within 24 months and within 60 months of award of the Licence Agreement.
(ii).	Please furnish specific comments on the traffic forecast made by GTIPL.	As per the information received and projections taken for proposal of new RMQC's, the traffic projections are as follows: (in million TEU's) 2005-06 - 2006-07 0.544 2007-08 1.012 2008-09 1.231 2009-10 1.376

(iii).	The lease rentals receivable from the GTIPL for the three years under consideration as per the terms of licence agreement may be indicated.	The lease rentals receivable from GTIPL as per the licence agreement (August to July cycle) (Rs. in crores) 2006-07 25.86 2007-08 27.16 2008-09 28.51
(iv).	The number of employees of JNPT who actually joined GTIPL and the estimated wage cost of such employees per annum may be furnished.	14 employees from JNPT have actually joined GTIPL. Their cost is Rs.37 Lakhs approximately.

7. In the meanwhile, the GTIPL vide its letter dated 5 June 2006 requested this Authority to denominate their tariff in US dollar terms in view of the conferment of EOU status on it. We had vide our letter dated 12 June 2006 sought additional information / clarifications on this issue from GTIPL. There was no response from GTIPL till finalisation of this case.

8. A joint hearing on the case in reference was held on 19 June 2006 at the Office of this Authority. The GTIPL, JNPT and the users have made their submissions.

9. After the joint hearing, Indian Merchant Chamber (IMC) and Bombay Custom House Agents Association (BCHAA) made their written submission. A copy each of the written submissions was forwarded to GTIPL for its comments.

10.1 Based on the discussions held at the time of presentation of the proposal by GTIPL and decisions taken at the joint hearing, we had vide our letter dated 23 June 2006 sought additional information / clarifications from GTIPL. GTIPL has responded vide its letter dated 30 June 2006. The queries raised by us and the replies furnished by GTIPL are tabulated below:

Sr. No.	Queries raised by us	Replies furnished by GTIPL.
1.i.	(i). Clause 2.9.6. of the revised tariff guidelines stipulate that project / feasibility report relied upon by Government / financial institutions, GTIPL will be relied upon for assessment of reasonableness of fresh investments made / proposed for creation of capacity. Please furnish a copy of such project / feasibility report.	The feasibility report forms part of the Licence Agreement which is available with TAMP. (Appendix 13 of the LA gives details about the yearwise Investment plan, but not the Letter of Intent given by the financial institutions) The total investment estimated in the license agreement works out to INR 7884 million, excluding supervision fee payable to CGR (INR 151 Million) and registration charges (INR 250 Millions) and a new gate complex of (INR 230 Million). This works out to a total capex of INR 8515 Million. Against this GTI has shown a total addition of INR 9428 Million. It is to be noted that the scope of the work has not changed. It may also be noted that these calculations were made in 2003 and there has been a significant revision in the rates of steel, cement and other input costs. For the first three years of operations the total revenue generation is INR 7539

		Million in the plan. Our proposal assumes revenues of INR 7358 Million taking 28% hike on existing tariff. From the above, it can be seen that a hike of 28% over the existing tariff had been assumed for the purposes of the business case submitted to JNPT. This rate has made it possible to reach a project IRR of 15%.
1.ii.	The 25% hike proposed in the estimated salary expense for the year 2008 over the year 2007 should be justified.	The proposed hike of 25% takes into account the increase in the number of people and the number of staff. While 15% hike in salary has been considered, a 10% hike in the additional people that may be required. It will be necessary to give this hike in salary given the speed of development in the port sector. Due to the scarcity of skilled people GTIPL has taken most of its people from existing ports & expatriates. With additional container terminals coming up it would be difficult to retain the trained staff.
1.iii.	The training and recruitment expenses are estimated at a higher level on recurring basis, which may be justified.	In addition to the lack of trained staff special emphasis is placed on the safety of the employees. Employees therefore need to be trained annually to maintain the high level of safety expected from all the APM Terminals. APM has also put in special programs for training the terminal staff called the Magnum & Magnet, which have been committed in the license agreement. Recruitment expenses include charges payable to consultants as hiring fee, which has been negotiated by GTI.
1.iv.	It appears that the GTIPL has considered escalation in foreign exchange for estimation of the expenses. Likewise, escalation in foreign exchange must be considered in estimating the operating income for the respective years.	Escalation of foreign expenses for estimation has now been done away with and the expenses revised accordingly.
1.v.	The rationale behind considering an amount of Rs. 888.57 lakhs towards IT Licenses under general overheads may be explained.	The costs classified under IT licenses are recurring indirect costs which are payable on an annual basis. Therefore, they have been classified as revenue costs and included under general overheads.
1.vi.	The GTIPL has considered two months estate income and 2 months terminal charges payable by Indian Railways as Sundry Debtors in its calculation	While GTIPL takes its handling income in advance, store and other charges are collected in arrear. Provision for only such charges have been made in the Sundry Debtors. However, these have now been

	of working capital requirement. The GTIPL does not appear to receive any estate income or provide any railway service.	deleted for the purpose of the TAMP calculations.
2.a.	The estimated repairs and maintenance cost of new equipments may be validated in the light of the fact that such equipments will be covered under guarantee / warranty during the initial period.	Guarantee & Warranty of Equipment covers only the structural parts against manufacturing defects. It does not include the cost of consumable due to normal wear & tear, which need to be replaced in the course of normal running. The break-up of maintenance cost in the first year is as follows:- INR Million Total Maintenance Costs: 159.26 Civil Cost 41.54 Outsourced contracts 83.39 Maintenance RMQC/RMG 34.33 The civil cost will mainly be spent on the road repair, yard and old structure taken from JNPT after the monsoons. The outsourced contract is for the operation and maintenance of the RTG and Reach Stackers and therefore includes a component of the direct labour in the cost. The cost for the maintenance of RMQC and RMG is only INR 3.4 Crores for 11 pieces of equipment and works out to INR 30 lakhs per equipment. This cost is necessary for lube oils, greasing and other maintenance activities, which cannot be covered in the warranty period.
2.b.	A copy of the insurance contract stated to have been furnished by GTIPL along with its letter dated 13 June 2006 is not found.	Copy of the insurance detail is attached. (GTIPL has furnished a copy of the Insurance contract with ICICI Lombard. The annual premium payable by GTIPL is Rs.5.66 crores.)
2.c.	With reference to estimated expenditure on account of equipment hire charges, the GTIPL was requested to furnish cost details supported by documentary proof. The GTIPL has responded saying that the rates are based on payments made by JNPT / NSICT. Please validate the rates with reference to agreement, if any, finalised by GTIPL.	The arrangement has been finalized with M/s. Reliance. A copy of this is attached. The rates are as follows: Per Intra terminal moves 125/- Per Inter terminal moves 275/- Per 1X20' transportation 100/- Per house keeping moves 110/- Housekeeping moves for 1X20' 90/- The GTIPL intends to order for 10 TT's
2.d.	Capital value of various assets already commissioned.	Refer 2g below
2.e.	Evidence of action taken to procure other assets to be added subsequently.	Refer 2g below

2.f.	The GTIPL has proposed additional charge of Rs.41/- per container for providing lashing staff. To a query in this regard, GTIPL has responded stating that the agencies handling the lashing activities at the GTIPL terminal will be directly entering into contract with the shipping lines for providing lashing services. It is noteworthy that GTIPL will not be directly providing lashing services to any of the lines as stated by it. That being so, the proposed charge of Rs.41/- per container for provision of lashing staff may be deleted.	The clause has already been excluded from the Scale of Rates.
2.g.	The details of assets (movable and immovable with cost thereto) considered under each category of Capital Employed, stated to have been furnished are not found.	The statement of procurement is furnished.
2.h.	With reference to the estimated fuel and power cost, furnish workings indicating consumption per TEU and unit cost. The actuals for the past 3 months of operation may be furnished.	The analysis of the actual power consumption for the month of June 06 is as below: Gross Crane Hours 613:14:00 Total Moves Performed. 11533 Total TEUs performed. 15123 Total Power Units 93540 Unit / Move 8.11 Unit / TEU 6.19 Total hours run by the machines in the month of May 06 was 4294 hours consuming 76,056 liters of diesel. The consumption per hour works out to 18.41 liters. Our estimates of 17 liters per hour are therefore, reasonable.
3.	The benefits availed / proposed to be availed by GTIPL under EPCG and EOU may be quantified.	The benefit of the EOU status has been the exemption of the custom duties. The total benefit on this account works out to INR 111 Million.

10.2 As decided at the joint hearing, we had vide our letter dated 23 June 2006, requested JNPT to send a detailed note explaining the rationale behind incorporating a condition for reclamation of 18 hectares of land by GTIPL at cost of Rs.114 Crores in the LA between GTIPL and JNPT, when such expenditure / investment does not add to GTIPL's capacity. The JNPT vide its letter dated 27 June 2006 made the following main points:

(i). As per Appendix-I of the License Agreement, GTIPL is required to carry out reclamation of 18 hectares of land.

(ii). For this project JNPT carried out Techno Feasibility Study through EU India Maritime Transport, wherein the land requirement to handle 1.3. Million TEU has been worked out. The report indicates that there is a need to carry out 18 hectares of land reclaimed for staking containers.

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

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

(i). The GTIPL has entered into a Licence Agreement with JNPT on 10 August 2004 for redevelopment of JNPT's Bulk Terminal into a Container Terminal by designing, redesigning, financing, constructing, operating and managing the terminal on BOT basis for a period of 30 years at an estimated investment of Rs.900 crores. As per the Licence Agreement (LA), the GTIPL was to complete the project within 24 months from the date of award of License and commence commercial operation within 180 days from the scheduled project completion date. That is, the GTIPL was required to commence its commercial operation somewhere around February 2007. The GTIPL has, however, commenced part operations on 15 March 2006.

(ii). The proposal for fixation of tariff has been based on the GTIPL's own projections of traffic and income and the project outlay for redevelopment and cost of operations of the terminal based on its estimates. The BCCI and BCHAA have suggested that GTIPL's initial tariff should be made at par with the tariff prevailing at JNPT for a period of one year to assess the overall income of GTIPL correctly.

The difficulty in adopting the JNPT tariff will be the difference in capital structure of JNPT and GTIPL and the difference in cost of operations in the terminals of JNPT and GTIPL. It is noteworthy that Clause 2.12 of the revised tariff guidelines of 2005 requires a newly commissioned facility adopting the existing tariff. But, this Clause also adds that if adopting the existing tariff of port trust will cause hardship in view of higher level of investment made, a separate cost based tariff will be allowed to him. It is needless to mention that the investment in GTIPL terminal is significantly higher than the depreciated investment level at the JNPT terminal. As this analysis progresses further, it can be seen that the prevailing level of JNPT tariff does not adequately cover the estimated cost and permissible return due to GTIPL. Nevertheless, the GTIPL has operated at the existing level of tariff of JNPT for nearly 6 months now.

(iii). The BCCI wanted details about the investment in plant and machinery envisaged by GTIPL at the container terminal. At the joint hearing held in this case, the users requested for more detailed information to be passed on to them. While filing its tariff proposal in December 2005, the GTIPL made a request to circulate only the consolidated figures of throughput, income / expenditure and the investment. Clause 3.2.4. of the revised tariff guidelines stipulate that the tariff proposal with all supporting details as filed will be circulated to all the users excepting such details / documents which are requested not to be circulated on the grounds of being commercially sensitive / confidential nature. Such request must adequately explain the reasons for classifying the documents / information as commercially sensitive / confidential and also explain how any repairable damage will be caused to the terminal operator if the request is not acceded to. The GTIPL did not explain how any irreparable damage will be caused to it if its request not to circulate the said details is not acceded to. The GTIPL was, therefore, given an opportunity to explain the reasons for its request not to circulate the said details. In response, GTIPL agreed to furnish the summarized information pertaining to the investment on the ground that the information is from their suppliers. Accordingly, summary of investment details, the break-up of traffic, income and expenditure as per the revised format for filing tariff proposals were circulated to the users. It is noteworthy that the details of investment have been subjected to detailed internal scrutiny.

(iv). When the tariff proposal of GTIPL was under process, the Government of India in the Ministry of Shipping, Road Transport and Highways (MSRTH) vide its letter dated 24 April 2006 informed that the GTIPL has been conferred Export Orient Unit status and advised that the recurring / non-recurring benefits on account of conferment of EOU status accruing to GTIPL should be passed on to users and be taken into account while fixing tariff of GTIPL. When asked to explain how the benefits of EOU are factored in the cost statements, the GTIPL furnished a revised Scale of Rates and revised cost statement incorporating the changes on account of grant of EOU status and also incorporating the charges arising out of escalation in price of diesel and validation of various figures based on the trial run of its facility. The GTIPL has scaled down the proposed increase in tariff sought in December 2005 from 35.85% to 28.68%.

The tariff proposal of GTIPL based on the revised cost statement furnished by GTIPL under cover of its letter dated 13 June 2006 is considered in the analysis.

(v). The revised tariff guidelines prescribe a tariff validity cycle of three years. The revised cost statements filed by GTIPL is for a period of three years, 2006, 2007 and 2008 and upto December 2008. Incidentally, the operator follows calendar year as the accounting period. Since the analysis is based on the cost and traffic position for a period upto December 2008, the tariff approved now will be valid for the period upto December 2008 only.

(vi). GTIPL has projected traffic of 4,11,600 TEUs for 9 months in the year 2006 and 9,30,000 TEUs and 11,05,000 TEUs for the years 2007 and 2008 respectively. MANSA has expressed its doubt on the traffic projection of GTIPL as it anticipates that GTIPL would handle a larger volume of traffic than projected by the operator. The JNPT has furnished traffic projection for GTIPL for the financial years 2006-07 to 2009-10. The traffic projection of GTIPL furnished by JNPT, adjusted for calendar years, reveals that GTIPL would handle 4,08,000 TEUs for the year 2006 (9 months), 8,95,000 TEUs and 11,76,000 TEUs for the years 2007 and 2008 respectively. If the traffic projection for the years 2006 to 2008 is aggregated, the total traffic for the period under consideration projected by GTIPL is less by 32,400 TEUs (about 1.3%) than the projection given by JNPT. When asked to furnish the basis of traffic projections, the GTIPL has sought to explain that the traffic estimates are based on the understanding with prospective customers on the basis of the projections estimated by such customers. The GTIPL has also furnished break-up of customer-wise traffic for the years under consideration.

The GTIPL has adopted certain percentages to arrive at container mix comprising of normal and reefer containers (94%), coastal containers (1%), transhipment containers (4%), hazardous and overdimensional containers (1.0%). The estimated container mix is based on the customer profile as stated by GTIPL.

Since the difference in the total traffic projection for the years under consideration between the estimates of GTIPL and JNPT is marginal, the traffic projection as furnished by GTIPL is relied upon for the purpose of this analysis. However, if any undue advantage is found to have accrued to the GTIPL due to variation of actual performance in traffic, such undue advantage accrued to GTIPL will be set off fully in the next review. In view of the general economic growth of the country and, therefore the trend of growth in container trade this variation will not be considered in terms of Clause 2.13 of the revised tariff guidelines which specifies a method of treating variation in estimates. This Authority finds it reasonable to adjust fully the additional surplus, if any, arising in the context of estimate variation.

(vii). (a). The GTIPL has furnished a detailed computation of income from container activity for all the years under consideration. Estimate of income has been made at the existing tariff level i.e., the JNPT tariff. With respect to the dollor denominated tariff, it is found that the GTIPL has adopted a different higher rate for the tariff items of opening hatchcover and replacing it, hatch to hatch shifting and shutout charges. The reason for applying a different rate remains unexplained. The income estimation on account of these tariff items are modified at par with existing JNPT tariff and for the throughput projected.

In respect of the charges for transhipment containers, there are four slabs in the tariff prescribed of the JNPT tariff. The GTIPL has considered only the fourth slab for estimation of income. The GTIPL has not made income estimation for the first three slabs, even though rates have been proposed in the draft Scale of Rates. The income estimate as furnished by the GTIPL is considered.

In the estimation of above discussed dollor denominated tariff items, the GTIPL has applied an exchange rate of about Rs.44/-. The calculation is updated with the currently prevailing exchange rate of Rs.46.70.

The income estimate is based on the container mix assumed by GTIPL. As stated earlier, the assumption for the container mix made by GTIPL is again based on the customer profile. It has to be recognized that the year 2006 is the first year of operation. It is, therefore, not found possible to validate the assumptions made by GTIPL. As such, the operating income as estimated by GTIPL is considered in this analysis subject to adjustment in the dollor denominated tariff items. If it is found that the actual operating income varies from the estimates furnished now, the additional accrual will be adjusted fully against the tariff at the time of the next review.

(b). The GTIPL has considered average dwell time of different categories of containers based on the position obtaining at the JNPT for the last 4 years for estimation of storage income. The storage income has been estimated at around Rs.765 lakhs Rs.1677 lakhs and Rs.1984 lakhs for the years 2006, 2007 and 2008 respectively.

Income from storage charges is estimated based on the prevailing dollor denominated tariff and applying an exchange rate of Rs.44/-. This calculation is updated with the current exchange rate of Rs.46.70. Some mistakes were observed in the computation of storage income made by GTIPL in respect of loaded export containers and empty import and export containers and ICD loaded and empty import export containers in adopting the existing tariff prescribed in the JNPT Scale of Rates for relevant items. The mistakes were rectified by adopting the correct dollor denominated rates contained in the JNPT Scale of Rates.

(viii). (a). The item of cost “Operating and Direct Labour” relates to labour cost for deploying manpower towards monitoring the reefer containers. GTIPL has estimated 9 man shifts, 21 man shifts and 24 man shifts per day for the years 2006, 2007 and 2008, respectively. The increase in man shift for the year 2008 and 2007 over the respective previous years is due to the anticipated increase in volume of traffic of reefer containers.

(b). The GTIPL has estimated Rs.13.50 lakhs towards reefer monitoring manpower cost for 9 man shifts at the rate of Rs.1.50 lakhs per man shift per annum for the entire 12 months of operation in the year 2006. Since the GTIPL has commenced operation only from 15 March 2006, the estimate of Rs.13.50 lakhs is moderated proportionately.

(c). Operating and direct labour cost is projected to increase at around 16.50% and 14.20% for the years 2007 and 2008 respectively over the preceding years. While the GTIPL has accounted for the increase in the manpower in computing this cost for the year 2007 and 2008, the hike in the rate of manpower cost remains unexplained.

Clause 2.5.1. of the revised tariff guidelines requires that the expenditure projections of the major ports / terminal operators should be in line with traffic adjusted for price fluctuations with reference to current movement of wholesale price index (WPI) for all commodities as announced by the Government of India. Accordingly, escalation factor of 4.5% needs to be considered for the expenditure projections in the tariff cases to be decided during the year 2006-07. The estimation of operating and direct labour for the years 2007 and 2008 is, therefore, moderated by allowing annual escalation of 4.5% over the annualised previous year's estimate and adjusting to the anticipated volume increase.

(ix). The estimated equipment running cost comprises power cost, fuel cost and maintenance charges, which are discussed below seriatim:

(a). (i). While estimating power cost to operate RMQC, RMG and power cost for yard electrification, the GTIPL has considered unit rate of electricity charges at Rs.4.21 per KW hour for the year 2006. The GTIPL has justified this rate by claiming that this estimate in this regard is based on the actuals obtained during the trial run. The escalation factor of 4.50% per annum applied by the GTIPL for the year 2007 and 2008 over the respective previous years is also found to be as per the revised tariff guidelines.

(ii). Quantum of power consumption per TEU by Rail Mounted Quay Cranes (RMQC) and Rail Mounted Gantries (RMG) is maintained at 4.29 KW Hr / TEU and at 4.21 KW Hr / TEU respectively for all the three years under consideration. The power consumption estimates with reference to these equipments are accepted as furnished by GTIPL.

(iii). In computation of power cost for utilisation of RMQCs and RMGs, GTIPL has factored in training cost for which 5% of the estimated throughput has been considered. This cost works out to around Rs.3.72 lakh, Rs.8.77 lakh and Rs.10.90 lakh for the years 2006, 2007 and 2008 respectively. While admitting this item as cost, it is presumed that the GTIPL will actually incur this expenditure as estimated. If this presumption is not found to be correct, suitable adjustment will be made in future tariff.

In computation of power cost to operate RMGs, GTIPL anticipates utilisation of RMGs to the extent of 30% of the estimated container traffic. The assumption of the GTIPL is considered in this analysis.

(iv). Apart from the estimated variable cost discussed above, GTIPL has considered fixed cost towards contract demand for electricity consumption. The quantum of contract demand of 5500 KVA for a period of 9 months for the year 2006 and 11000 KVA each for the year 2007 and 2008 and charges for the payment of fixed cost escalated at the admissible rate as computed by the GTIPL are considered.

(b). The second item in the equipment running cost is the estimated fuel cost for operation of RTG, RST and to run backup power. The computation of fuel cost furnished by GTIPL shows that the quantum of fuel consumption by RTG, RST and fuel consumption for back up power is 4.53 litres per TEU, 4.18 litres per TEU and 3.87 litres per TEU for the years 2006, 2007 and 2008 respectively. It is observed that the decrease in the fuel consumption per TEU from the year 2006 to the year 2008 is on account of improvement envisaged in handling number of TEUs per hour by RTG. The number of TEUs estimated to be handled by RTG for the year 2006 is 9.33 TEUs per hour, which improves to 10.27 TEUs per hour for the year 2007 and 11.2 TEUs per hour in the year

2008. The fuel consumption per TEU estimated by GTIPL is comparable with around 4 litres per TEU estimated by IGTPL and around 3 to 4 litres per TEU reported by other private terminal operators like the CCTL and VCTPL.

The unit rate of fuel considered for the year 2006 is reported at Rs. 39.50 per litre by the GTIPL, which is escalated by 4.5% per annum for the subsequent two years, 2007 and 2008. Considering the current market rate, the unit rate assumed for estimation is found to be reasonable. The fuel cost estimates for the year 2006, 2007 and 2008 as furnished by the GTIPL are accepted.

(c). The last item of cost considered by GTIPL in the category of "equipment running cost" is maintenance charges. The GTIPL has estimated the cost of maintenance of RST, RMQC, RMG and RTG and maintenance of civil / electrical structures. The MANSA has stated that the estimated maintenance cost should be less for the new equipments, as equipments are covered under guarantee/warrantee during the initial period. GTIPL has, however, clarified that the guarantee / warrantee of equipments covers only structural parts against the manufacturing defects; and, the cost of spares due to normal wear and tear that are needed to be replaced in the course of normal running are not included in the guarantee / warrantee of equipments.

(i). The basis adopted by GTIPL in estimation of maintenance charges for RST and RTG is duration of utilisation of these equipments and applying the cost per hour on the utilisation hours. The number of hours considered for estimation of maintenance charges is same as the number of hours considered for estimation of fuel cost for operating RTG and RST. Therefore, the basis of duration of utilisation of these equipments for estimation of maintenance charges is considered without any change.

The GTIPL has considered an amount of 9.81 Euro as maintenance cost per hour for the year 2006 for RST and 14.88 Euro for RTG for which no basis is given. Applying a conversion factor of Rs. 54 per Euro, the maintenance charges for the RST have been computed. Further, GTIPL has considered escalation factor of 4.5% per annum on both cost per hour of maintenance and also on the Euro exchange rate. The GTIPL has subsequently agreed to revise the estimate without any annual escalation in exchange rate. The estimates are moderated applying the applicable escalation factor on the estimated cost per hour but keeping the exchange rate of Rs. 54 per Euro constant for the three years under consideration in respect of the admissible number of equipment.

Normally, the estimated repairs and maintenance cost is taken at a definite percentage of gross block of fixed assets in the case of private terminal operators. The repairs and maintenance cost allowed for CCTL was 2% of equipment cost. In case of NSICT it was 1.15% of the opening block of assets. If the repairs and maintenance cost of equipments in respect of RST / RTG is calculated on the basis of gross block of fixed assets it will be higher than the estimates of GTIPL. Therefore, the moderated estimates as mentioned above are considered in this analysis.

(ii). The estimated maintenance cost of RMQC and RMG is based on the capital cost of the respective category of equipments. As mentioned earlier, this approach is accepted by this Authority in respect of estimation of maintenance charges of equipments of other private terminal operators, while fixing initial tariff based on estimates.

In the estimates for the year 2006, the GTIPL has considered 2% of the capital cost of equipment adjusted pro rata for 9 months operation. The estimate for the year 2006 is retained in this analysis without any modification. With reference to the estimates for the subsequent two years, 2007 and 2008, the GTIPL has considered 2.61%, 2.73% for both category of equipments respectively. The estimates are moderated allowing 4.5% escalation on the annualized rate applicable for the year 2006.

(iii). The GTIPL has estimated maintenance charges of electrical works at 2.5%, 5.23% and 5.46% on the cost of electrical works for the three years under consideration. These estimates are found to be higher than that considered by GTIPL in respect of estimation of maintenance charge of equipments. Reason for higher percentage of maintenance charges considered by GTIPL remains unexplained. The estimates of GTIPL in this regard for 2006 is moderated by allowing only 2% of the Gross Block of the relevant assets and for the subsequent years by allowing an annual escalation of 4.5%.

(iv). The maintenance cost of civil works is estimated to be constant at about 34.06 Crores for all the years under consideration. However, the percentage of maintenance charge considered by GTIPL is in the range of 2% to 2.18%. The repairs and maintenance cost allowed for other private operators like CCTL is at 1.5% on the civil works. The estimates of maintenance charge for civil works are moderated at 1.5% of cost of civil works for 2006 and the maintenance charge for 2007 and 2008 is escalated by 4.5% per annum.

(d). A comparative analysis of the estimated equipment running cost of GTIPL and other private terminals as well as JNPT reveals that the position relied upon in the GTIPL is on the higher side. It is relevant to mention here that the estimates of GTIPL are relied upon based on the justifications furnished by it. If it is found that the actual expenditure varies from the estimates considered now, the surplus accrued on account of wrong estimation will be fully adjusted in the future tariff at the time of the next review.

(x). (a). With respect to movement of containers to yard, the rate of hire charges firmed-up by GTIPL with the private service provider is Rs.120 per move. GTIPL has adopted this rate in the computation of hire charges for movement of containers to container yard. It is relevant to mention here that the arrangement firmed up by the GTIPL in this regard is on monthly basis as per the document furnished by it. We are not aware whether the rate obtained now is a correct indicator on a long-term basis. The estimated hire charges for movement of containers to container yard are based on the estimated container throughput for the years 2006, 2007 and 2008. The estimates furnished for tractor hire charges for movement of containers to container yard are accepted allowing 4.5% escalation per annum for the years 2007 and 2008, subject to verification of actuals.

(b). The GTIPL has also furnished the estimates for movement of containers from container yard to rail. 30% of the estimated throughput is anticipated by the operator for this move from container yard to rail, which tallies with the container mix considered in the traffic projection. With reference to per move rate of Rs. 130/- considered by GTIPL, we could not find this rate in the agreement entered by GTIPL with the private service provider. For computation of hire charges for movement of container from container yard to rail, the rate of Rs. 120/- per move specified in the agreement for intra terminal move is relied upon. Subject to the above, the estimates furnished by the GTIPL for hire charges of tractor trailers for movement of containers from container yard to rail are accepted allowing an escalation of 4.5% per annum for the years 2007 and 2008.

(xi). (a). License Agreement provides for payment of annual charges for the license period payable by GTIPL to JNPT for the JNPT's assets and licensed premises handed over to GTIPL. The total annual lease charges payable by GTIPL to JNPT for the year 2004-05 is Rs. 2346.15 lakhs as indicated in the License Agreement payable annually in advance. GTIPL has stated that it has paid the annual lease charges amounting to Rs. 24,63,45,750/- in the year 2005 which is arrived at by applying 5% escalation on the annual lease charges applicable for the year 2004-05.

The estimates for the year 2006 furnished by GTIPL in this regard are for the full year. Since the commercial operation by the GTIPL during the year 2006 is for about 9 months, the proportionate annual lease charges for 3 months in the year 2006 cannot be charged as an expense for the year 2006. It needs to be treated as preliminary expense and written off over the remaining period of 28 years. Accordingly, the estimated annual lease charges for the year 2006 furnished by GTIPL is revised. It is relevant to mention here that return at admissible rate for the unamortised amount has been allowed for all the 3 years under consideration.

(b). In terms of the License Agreement, the GTIPL is liable to pay rentals for additional land for gate complex as per the existing Scale of Rates of JNPT along with applicable escalation factor. In this connection, GTIPL has estimated an amount of Rs. 3 Crores, Rs. 4.2 Crores and Rs. 4.41 Crores towards the lease rental for the additional land area of 11 hectares for the gate complex. It appears from the estimates for the year 2006 and 2007 that the estimate for the year 2006 is for nine months. It appears from the copies of allotment letter and the bill raised by JNPT furnished by the GTIPL that the lease rent for the additional area is payable only from February 2006. That being so, the lease rent for additional area for the period February 2006 to December 2006 (11 Months) works out to around Rs.3.41 crores.

The amount of Rs.3.41 Crores is considered for the purpose of this analysis. It is to be noted that since the GTIPL is in operation only for 9 months in the year 2006, the lease rental applicable for 9 months, which is Rs.2.79 crores, is considered for the year 2006 as expenditure against the amount of Rs.3 crores estimated by GTIPL. The remaining amount for 2 months is treated as preliminary expenses and amortised over remaining period of 28 years. Admissible return on unamortised balance is allowed for the year 2006, 2007 and 2008.

The lease rental for this additional land amounting to Rs.4.22 crores and Rs.4.41 crores estimated by GTIPL for the subsequent 2 years, 2006 and 2007, are moderated to about Rs.3.89 crores and Rs.4.08 crores applying the escalation factor of 5% over the respective previous years.

(xii). The License Agreement provides for insuring all the assets constructed and purchased by the GTIPL including the assets handed over to GTIPL by JNPT at the cost and expense of GTIPL. The insurance cost for the year 2006 is estimated at Rs. 565.78 lakhs for 4 quarters. The MANSA has made a general statement that the insurance cost estimated by GTIPL is higher than the insurance cost prevailing at JNPT. It has, however, not furnished any comparative position. The documents furnished by GTIPL towards payment of insurance premium to the insurance company indicates that the GTIPL is liable to pay quarterly premium in the year 2006. The estimated insurance cost is moderated by allowing insurance premium payable for 3 quarters with applicable service tax as mentioned in the insurance document furnished by GTIPL.

(xiii). Clause 2.7.1. of the revised tariff guidelines stipulates that depreciation will be allowed in the case of private terminals on straight line method with life norms adopted as per the Companies Act, 1956 or based on life norms prescribed in the concession agreement whichever is higher. It is seen from the workings that GTIPL has adopted the depreciation rates prescribed in the Companies Act.

The GTIPL has considered depreciation for 6 reach stackers and office equipments for the year 2006. GTIPL has not produced any documents to show that 6 Reach Stackers and office equipments will be procured in the year 2006. It has to be recognized that Licence Agreement stipulates deployment of these reach stackers within 24 months. That being so, the proposed investment towards purchase of 6 reach stackers is shifted from the year 2006 to the year 2007 and depreciation is allowed accordingly. The estimated cost of procurement of office equipment is also shifted to 2007 and depreciation is allowed accordingly at the applicable rates.

(xiv). The overheads estimated by GTIPL fall into two categories, namely, "Management and Administration overheads" and "general overheads". These two categories of overheads are discussed below:

(a). Management and Administration overheads cover salary expenses payable to the employees of GTIPL and other expenses like training, recruitment, performance award etc., The License Agreement provides for an employee strength of 904 persons when the terminal reaches its peak operating volume of 14 lakh TEUs. For the purpose of this exercise GTIPL has considered 428 personnel for the year 2007 for the estimated throughput of 9.30 lakh TEUs.

As per the provisions of License Agreement, GTIPL is required to employ 236 personnel of JNPT identified as surplus as a result of the redevelopment of the bulk terminal. However, the estimated employee cost for the year 2007 for a total number of 428 employees includes the employee cost of only 20 JNPT employees stated to have been joined GTIPL. To a query, JNPT has, however, stated that only 14 employees from JNPT have actually joined GTIPL. Though there is difference in the position reported by GTIPL and JNPT, it does not make any significant impact in this analysis as the total employee strength of 428 is relied upon.

(b). The employee cost per TEU works out to about Rs. 232 per TEU as against the general trend of around Rs.125 to Rs.200/- per TEU at other container terminals like CCTL, NSICT, JNPT and PSA SICAL. The employee cost per TEU at GTIPL is found to be on higher side. While it is recognized that the quantum of compensation package is a management decision of the GTIPL, we have no means to independently ascertain the reasonableness of estimated number of employees proposed to be engaged and their compensation. Therefore, the number of employees and the compensation to them, as furnished by GTIPL is relied upon. If it is found that the actual expenditure varies from the estimates furnished now, the surplus accrued on account of wrong estimation will be fully set off against the future tariff at the time of the next review. Staff welfare cost estimated by the GTIPL towards staff entertainment, performance award, training etc., and cost of recruitment are allowed since such cost are not included elsewhere.

(c). The employee cost estimated for the year 2006 is around 19.71 Crores for a period of about 9 months operation in the year 2006 as compared to about Rs. 24.63 Crores for the full year operation during 2007. The estimation of about Rs. 19.71 Crores for the year 2006 is accepted as it is comparable to the estimates for the year 2007.

(d). The GTIPL has proposed 25% hike in the estimated salary expenses for the year 2008 over the year 2007. When asked to justify, GTIPL responded stating that it has considered 15% hike in salary and 10% hike in the additional people who may be required for the year 2008. The requirement of additional people in the year 2008 may be warranted due to higher estimate of traffic in the year 2008. However, the 15% hike in salary requires to be moderated in line with the admissible escalation factor as per the revised tariff guidelines. In this exercise, the average salary is estimated for 428 employees upon which escalation of 4.5% is allowed. On this escalated average salary for the year 2007, the total salary for 471 employees has been computed for the year 2008 to accommodate 10% additional manpower estimated by GTIPL.

Incidentally, the projected salary expenses for the year 2008 estimated by GTIPL includes 25% hike in other expenses like training, recruitment etc., apart from salary component. With reference to the estimate of training and recruitment expenses on recurring basis, it has to be recognised that GTIPL is committed to undertake manpower development programme as set out in the License Agreement. However, 25% hike considered by GTIPL in this regard is not sufficiently justified. Therefore, the estimated expenses (other than salary) for the year 2008 is moderated applying an escalation factor of 4.5% per annum over the estimated figure for the year 2007.

(xv). The second category of overheads estimated by GTIPL pertains to “General Overheads”. While the salary of the personnel of GTIPL is accounted for under Management and Administration overheads, other expenses are accounted for under general overheads. A sizeable portion of general overheads is expenditure towards Information Technology license considered by GTIPL on recurring basis. The GTIPL has sought to clarify that IT Licences are recurring indirect cost on annual basis. However, no document towards incidence of such expenditure for IT license is produced by GTIPL. The estimated expenditure towards IT licenses is considered in this analysis subject to GTIPL justifying this expenditure evidenced by documental proof in the next review of its tariff.

Around 50% of the estimated General overheads account for other administrative charges. It has to be recognised that the GTIPL has not considered the expenses towards rent, rates, taxes, telecommunication, stationery cost, electricity charges and other office expenses, etc., in any other place in the estimates.

The GTIPL is bound to bear 25% of the actual expenses incurred by JNPT on deployment of CISF personnel for the security as per the provisions of License Agreement. Apart from this expenditure, GTIPL has considered expenses towards pollution control.

Expenses charged to revenue in the year 2004 and 2005 have been written off over a period of 28 years and the annualised expenditure is accounted for in the estimates for the year 2006 at Rs.2.05 crores.

In the light of the clarifications furnished by GTIPL, the estimated "general overheads" for the year 2006 are considered. The GTIPL has estimated the General overheads for the subsequent years 2007 and 2008 applying an escalation factor of 4.50%. over the respective previous years. Since the amount of Rs.2.05 crores is the annualised amount included in the estimate for the year 2006, escalation factor is not considered on this annualised amount. Subject to this exemption, the estimated General overheads for the year 2007 and 2008 are considered in this analysis.

(xvi). The GTIPL has clarified that the preliminary expenses being marginal are not considered for writing off.

(xvii). The (then) Ministry of Shipping has issued a policy direction on 29 July 2003 clarifying that the revenue share / royalty payment shall not be factored into a cost for tariff fixation / revision by this Authority. In the instant case, the License Agreement signed by the GTIPL with JNPT on 10 August 2004 contains a specific provision relating to inadmissibility of royalty / revenue share in computation of tariff. The GTIPL has, therefore, not included revenue share as an item of cost for tariff fixation purpose.

(xviii). As per the provisions of the License Agreement, the GTIPL is required to transfer the assets (other than mobile cargo handling equipments) to the GTIPL at one Rupee to JNPT on expiry of the Project period. If JNPT decides to takeover the mobile cargo handing equipments, the value of mobile cargo handling equipments will depend on the value as assessed by the valuer. Since the cargo handling equipments are deployed at the cost of GTIPL and the terminal value of other assets will be only Rupee one, the terminal value receivable by the GTIPL on expiry of the project period is taken as nil.

(xix). (a). The License Agreement provision prescribed the minimum equipments to be deployed by the GTIPL within 24 months from the date of signing the License Agreement. The License Agreement also prescribes the minimum number of additional equipments to be provided by the GTIPL within 60 months of date of award of License Agreement. The fixed assets considered by the GTIPL under capital employed by it to operate the terminal are discussed below:

(i). The License Agreement provides for minimum deployment of 6 Nos. RMQCs before 9 August 2006 and minimum of 8 RMQCs before August 2009. The GTIPL is reported to have deployed 8 RMQCs before 30 May 2006. In view of the EOU status availed, the GTIPL has procured 5 RMQCs without incidence of Customs duty. The remaining 3 RMQCs is reported to have been procured with payment of Customs duty as per the documents furnished by the GTIPL.

(ii). The License Agreement prescribed that the private operator shall deploy a minimum number of 18 RTGCs within 24 months and a minimum of 29 RTGCs within 60 months. The GTIPL has furnished copies of documents for 29 RTGCs procured / to be procured by 15 October 2006. In view of the conferment of EOU status on GTIPL, cost of only 8 RTGCs includes incidence of Customs duty.

(iii). The deployment of minimum number of RMGCs prescribed in the License Agreement is 2 within 24 months and 3 within 60 months. The GTIPL has built-in the capital cost of 3 RMGCs to be deployed during the year 2006.

(iv). The GTIPL is obliged under Licence Agreement to deploy 4 numbers of reach stackers within 24 months and additional 4 reach stackers within 60 months. Out of the 8 reach stackers proposed to be deployed, the capital cost of two reach stackers which are evidenced by copies of documents are considered for the year 2006. The estimated capital cost of the remaining 6 reach stackers are shifted to the year 2007 because the Licence Agreement requires the operator to deploy the stated minimum number of reach stackers.

(v). The GTIPL could not substantiate the estimated capital cost of Rs.45.356 Crores proposed towards providing office equipments with documents. Status of the procurement plan in the year 2006 is also not furnished. Since provision of office equipments is essential, the proposed estimated capital cost of office equipments is shifted to the year 2007.

(vi). The estimated capital employed includes civil works like office building including electrical works, quayside constructions, yard paving and gate complex. The estimates as furnished by GTIPL are considered.

(vii). The Licence Agreement stipulates that the GTIPL shall reclaim the whole of 18 hectares land identified for reclamation in the environmental clearance within 5 years from 10 August 2004 i.e., the land has to be reclaimed before August 2009. The GTIPL has proposed to capitalize the expenditure of Rs.118.233 Crores in the year 2007. However, the copy of the contract dated 13 May 2006 entered by GTIPL with a private party indicates that a lump sum price of only Rs.114.00 Crores has been firmed up for the reported reclamation work.

The GTIPL has claimed that reclamation of land does not add to its capacity. However, as clarified by the JNPT, the GTIPL is required to carry reclamation of land as per the Licence Agreement and that the report on the Feasibility Study carried by JNPT indicates that there is a need to reclaim 18 hectares of land for staking containers. It is noteworthy that Clause 2.9.11 of the revised tariff guidelines stipulates that ROCE will be allowed on investments made as per the Licence Agreement even if full capacity utilisation is not achieved.

In view of this position, the proposed investment of Rs.114 crores in the year 2007 is considered in this analysis.

(viii). The estimated capital expenditure of Rs.35.20 crores towards information technology is considered in this analysis. This estimated capital expenditure is supported by the documentary evidence furnished by the GTIPL.

(ix). The GTIPL has estimated an amount of Rs.40.979 crores towards land development. There appears to be a mistake in the nomenclature of expenditure. Rs.40.979 crores actually represents Rs.15 crores paid by it as upfront payment to JNPT at the time of signing of License Agreement and Rs.25.9793 crores incurred as stamp duty for registration of the Agreement. The GTIPL has disclosed the aggregate amount of Rs.40.979 crores as terminal rights in its financial statements for the period ended 31 December 2004. To a query regarding treatment given to the upfront payment in the cost statement, the GTIPL did not furnish any comments. The upfront payment alongwith the expenditure incurred on registration of License Agreement is written off over a period of 28 years and the annualised amount is considered for the years 2006, 2007 and 2008.

(b). GTIPL has estimated total working capital at Rs. 9.17 Crores, 16.02 Crores and 18.60 Crores for the years 2006, 2007 and 2008, respectively. It is seen from the workings furnished by GTIPL that the estimation of working capital is not in accordance with the revised tariff guidelines.

The sundry debtors are estimated at half month's operating income, which is not in accordance with the requirement of the revised tariff guidelines. Two months estate income and two months terminal charges payable by Indian Railways are the norms for allowable Sundry Debtors. In view of this position, the estimated Sundry Debtors is not considered in this analysis.

The limit on inventory of capital spares prescribed in the tariff guidelines is one year’s average consumption. The GTIPL being a new terminal, the quantum of one year's average consumption may not be available. The GTIPL has estimated the value of capital spares at one percent of the depreciated value of the Plant and Machinery. Accordingly, estimates of capital spares are moderated applying one percent on the moderated closing balance of Plant and Machinery.

The revised tariff guidelines stipulate that the limit for other items of inventory will be 6 months average consumption of stores excluding fuel. Here again, the GTIPL has adopted the approach of calculating the value of other items of inventory at one percent on the maintenance charge of equipment. Notably, the estimated maintenance charge of equipments does not include fuel cost. Being a new terminal, the approach adopted by GTIPL is relied upon. Accepting the approach adopted by GTIPL should not be construed to mean the automatic approval to the approach adopted by the terminal. The determination of allowable inventory in respect of capital spares and other inventory should be done strictly in accordance with the prescription made in the revised tariff guidelines in the next review of tariff of GTIPL.

The allowable cash balance for the years 2006, 2007 and 2008 is moderated as per the revised tariff guidelines.

(c). The License Agreement provides for deployment of certain number of minimum equipments within 24 months and within 60 months from the date of award of Contract. The GTIPL has advanced the investment on deployment of certain equipments like RMQCs, RTGCs and RMGC at GTIPL. This has to be seen in the light of the volume built up in the years 2007 and 2008 which is steadily moving towards the designed capacity envisaged with full complement of equipment. Since the investment proposed to be made made is in accordance with the obligations under License Agreement the estimated investment is considered in line with the revised tariff guideline.

(d). The capital employed subject to the modifications explained in the foregoing paragraphs works out about to Rs.753.71 crores, Rs.855.35 crores and Rs.790.68 crores for the years 2006, 2007 and 2008, respectively.

(xx). The GTIPL has reviewed its initial capacity calculation at our instance. The terminal capacity so reviewed by GTIPL is stated at 600600 TEUs, 1328600 TEUs and 1328600 TEUs for the years 2006, 2007 and 2008, respectively. Incidentally, the JNPT has conveyed that the estimated capacity of the terminal as per Licence Agreement is 13,00,000 TEUs per annum.

The capacity utilisation for throughput projected works out at the level of 62.36%, 70% and 83.17% for the years 2006, 2007 and 2008, respectively. As stipulated in the revised tariff guidelines, the return on capital employed allowed will be linked to utilisation factor of the capacity of the port / terminal assessed by them. Maximum permissible return will be allowed for capacity utilisation of 60% and above. Since the estimated capacity utilisation for the throughput projected is seen to be more than 60% for all the years under consideration, maximum permissible return of 15% is allowed on the capital employed at GTIPL.

(xxi). Subject to the discussion, the cost statement has been modified. The modified cost statement is attached as **Annex-I.** The result disclosed by this statement is summarised as shown in the table given hereunder:

Surplus (+)/deficit (-) 2006		**Surplus (+)/deficit (-) 2007**		**Surplus (+)/deficit (-) 2008**	
(Rs. in lakhs	**As % of operating income**	**(Rs. in lakhs)**	**As % of operating income**	**(Rs. in lakhs)**	**As % of operating income**
(-) 10519.71	(-) 85.58%	(-) 6917.29	(-) 24.94%	(-) 3234.09	(-) 9.83%

In view of the deficit position depicted by the cost statement, there is a case for an upward revision of tariff from the current JNPT level.

The cost position depicts an estimated deficit of around 86% for the year 2006 and an average deficit of around 17.40% for the year 2007 and 2008. Since revised tariff is implementable prospectively, the deficit for the last quarter of 2006 only will be relevant. As brought our earlier, the GTIPL has envisaged to handle a volume of 9.30 lakh TEUs and 11.05 lakh TEUs for the year 2007 and 2008 respectively; and, this means that only the volumes estimated for the year 2007 and 2008 move towards design capacity envisaged with full complement of equipment and investment in other facilities at GTIPL. It is to be noted that the GTIPL has advanced the investment on deployment of certain equipments to the year 2006 to handle a volume of around 40% of the average estimated volume for the year 2007 and 2008. The reason for huge deficit in the year 2006 is primarily the low volume and advancement of investment in the year 2006. If part of the deficit relevant for the last quarter of 2006 is reckoned for deciding the quantum of increase in the tariff, it will give only a distorted position. It may be seen that when the traffic stabilizes during the year 2007 and 2008 the average deficit for these two years works out to 17.40%. This means, the JNPT tariff level which the GTIPL is authorised to levy at its terminal should be increased by 18%. Though the result is based on the average deficit position for the year 2007 and 2008, the revised tariff will become effective from date of implementation of the Order in view of the revenue deficit position emerged for the year 2006 also. The revised tariff approved will be valid till 31 December 2008.

(xxii). The GTIPL has proposed to adopt the tariff structure of the JNPT / NSICT Scale of Rates. GTIPL was requested to furnish activitywise costing. Though the GTIPL has claimed to have furnished calculation for the unit cost pertaining to handling and transportation activities, no such calculation was available for our scrutiny. The rates for all individual components of services would have been more scientifically determined with reference to the cost of services provided if such details had been furnished by the GTIPL. We have proceeded this case further without insisting for activitywise costing for other activities from the GTIPL recognising that it may not have reliable data for such costing since it has commenced the operations recently. The GTIPL is advised to draw up its proposal supported by cost details for individual activities at the time of the next revision / review of its tariff.

(xxiii). Initially, GTIPL proposed differential rates for loaded and empty containers for ship to yard / yard to ship for normal and reefer containers. Clause 5.3. of the revised tariff guidelines stipulates that charges for ship / shore handling of loaded and empty containers will continue to be the same and not different. However, composite box rate is not the same for loaded and empty containers due to wharfage element. The GTIPL has revised its earlier proposal perhaps due to the confusion created by our query. For the reasons explained, the proposed base rates for empty containers are modified at the JNPT level adopted initially by GTIPL. It is noteworthy that income calculation furnished by GTIPL captures the adopted rates applicable for loaded containers and empty containers.

(xxiv). The terms defined under “Definitions” in the draft Scale of Rates furnished by the GTIPL are generally found to be in accordance with the definitions accepted by this Authority in the cases of other private terminals.

(xxv). The concessional tariff proposed for coastal containers at 60% of the tariff of foreign containers and the concessional tariff prescribed in the handling charges for transhipment containers and transhipment coastal containers are found to be in line with revised tariff guidelines.

(xxvi). The note under Section –1 stating that “normal containers are general type of containers, not falling under any specific categories mentioned subsequently” is approved.

(xxvii). Section – 8 of the draft Scale of Rates governs the levy of charges for reefer monitoring and connection on FCL & empty 20’, 40’ and above 40’. GTIPL has proposed a conditionality under general note stating that charge for reefer container as per Section 8 shall be applicable as additional charge for all reefer containers. Since Section 8 deals with charges leviable for the services of reefer monitoring and connection, the proposed conditionality under general note to levy additional charges on container categories does not appear to be necessary.

(xxviii). Clause 5.7.1. of the revised tariff guidelines stipulate that charges for power supply and monitoring of reefer containers will be levied on 4 hourly unit. The proposed Note –1 under Section 8 is in line with the revised tariff guidelines.

(xxix). The proposed Note – 1 and 2 under Section 2, Note 2 under Section 8 and Notes 1 to 5, 6 (i) and (iii), 7 under Section 10, general Note 1 & 3, and the proposed rebate structure applicable to port users for carrying out various operations with their own arrangements are found to be in line with the existing conditionalities approved in the Scale of Rates of JNPT. Therefore, the proposed Notes said here are approved.

The proposed Note 8 and 10 to Section 10 are found to be in line with the existing conditionalities in the Scale of Rates of IGTIPL which are approved.

(xxx). The proposed note 6 (ii) to Section – 10 prescribing dwell time charges for hazardous containers at 1.25 times of the normal applicable charges is approved as it is in line with Clause 5.7.3. of the revised tariff guidelines.

(xxxi). The Scale of Rates of JNPT allows a rebate of Rs.30/- per container in handling charges when the port user provides lashing/unlashing gang for lashing operations of containers. The GTIPL, however, maintains that it will be providing all the services at the terminal excluding lashing services. Since the GTIPL has adopted the JNPT consolidated charges for handling and movement of containers as base, applicable rebate for not providing lashing / unlashing services needs to be allowed to the users. A suitable conditionality is incorporated in the Scale of Rates of GTIPL.

(xxxii). The Scale of Rates of JNPT provides for levy of half of the hatch cover handling charges if only one operation is carried out. A corresponding provision is included in the Scale of Rates of GTIPL.

(xxxiii). In the Scale of Rates adopted by GTIPL, storage charges are leviable for loaded import and export containers at par. GTIPL has proposed slightly higher tariff and lower slabs for loaded import containers on the ground of discouraging congestion in the terminal. It has argued that it is in line with the provision contained in the revised tariff guideline.

It may be relevant to mention here that the GTIPL has adopted the existing tariff structure of the JNPT Scale of Rates for the various activities as stated by it. The dwell time analysis made by the GTIPL is stated to be based on the position obtaining at JNPT for the last 4 years. That being so, dwell time charges and slab structure in the Scale of Rates of the GTIPL can not be different from the existing arrangement in the JNPT Scale of Rates. In view of this position, the slab structure is modified in line with the existing slab structure for levy of dwell time charges as per the Scale of Rates of JNPT. The base rates for the dwell time charges are also modified to be in line with the relevant charges of the JNPT Scale of Rates.

(xxxiv). Section – 10 of the draft Scale of Rates prescribe dwell time charges. Note – 2, to Section – 10 governs the circumstances in which transhipment container loses the concessional dwell time prescribed for transhipment containers. A transhipment container when loses its identity is proposed to be charged at rates applicable for export / import container. The proposed note is approved.

(xxxv). The proposed note 9(ii) to prescribe rate of penal interest on delayed payments / refunds is modified to reflect the applicable penal rate of interest in terms of prevailing PLR of SBI and Clause 2.18.2 of the revised tariff guidelines.

(xxxvi). The second and third paragraphs of the proposed note 9(ii) governing the delay in payment by users and the delay in refunds by GTIPL are modified to reflect the Clause 2.18.3 and 2.18.4 of the revised tariff guidelines.

(xxxvii). Clause 2.15 of the revised tariff guidelines stipulates that the users will not be required to pay charges for delays beyond reasonable level attributable to the port / private terminal. In this regard, the GTIPL was requested to incorporate a provision stating that storage charge shall not accrue for the period during which the GTIPL is not in a position to deliver / shift the containers when requested by the users. The GTIPL has agreed to the suggestion made. The conditionality proposed at Sl. No. 9 of General Note is suitably modified.

A general note stating that users will not be required to pay charges for delays beyond a reasonable level attributable to the terminal is also incorporated as stipulated in Clause 2.15 of the revised tariff guidelines.

Since the berth hire charges for vessels handled by GTIPL will be collected by the JNPT as per the terms of Licence Agreement, the GTIPL at our request has incorporated a suitable conditionality as general note-8 in its Scale of Rates to state that in case a vessel idles due to non-availability or break-down of the shore based facilities of GTIPL or any other reasons attributable to the GTIPL, rebate equivalent to berth hire charges payable to JNPT accrued during the period of idling of vessel shall be allowed.

(xxxviii). The proposed charges for handling transhipment containers when a container is discharged by the JNPT / NSICT and loaded by the GTIPL at its terminal and the proposed charges when a container is discharged by the GTIPL and loaded by the JNPT / NSICT at their terminals are found to be not in line with the Scale of Rates adopted by GTIPL as an interim measure. Further, the proposed additional charges for inter terminal transfer of transhipment containers are found to be higher than the existing rates prescribed in the Scale of Rates of JNPT. The reasons for prescribing higher charges remain unexplained. The additional charges towards inter terminal transfer as prescribed in the Scale of Rates of JNPT is allowed to continue in the case of the GTIPL for a period of 6 months. The GTIPL is advised to come up with a proposal for levy of additional charges towards inter terminal transfer based on the cost of rendering the service.

(xxxix). The proposed Note – 2 under general note describes the itemised services proposed to be rendered towards levy of consolidated charges. The itemised services include "Stowage Planning, etc.,". The comparable note in the existing Scale of Rates of JNPT does not include "Stowage Planning, etc.,". Since the operator is willing to render service towards "Stowage Planning" without any additional cost, the proposed Note – 2, is approved subject to deletion of the word "etc.,".

(XL). GTIPL has proposed volume discount scheme in which any line performing more than 350000 TEUs in a year shall qualify for a rebate of 5% of the total handling charges of the containers. Clause 4.4. of the revised tariff guidelines encourages major ports / private terminals to adopt sliding Scale of Rates to motivate greater performance with a view to attract additional volume. Therefore, the proposed volume discount scheme is approved.

(XLi). The revised tariff guidelines stipulate that tariff should be linked to benchmark of the levels of productivity. The GTIPL was advised to indicate benchmark levels of productivity to be included in the Scale of Rates. The GTIPL has proposed efficiency linked tariff scheme (ELTS) which appears to be based on the ELTS earlier prescribed in the Scale of Rates of NSICT on interim basis in November 2000. Subsequently, the proposal of the NSICT to an ELTS at its container terminal was rejected by this Authority vide Order dated 28 March 2001. The interim ELT Scheme prescribed earlier was also rescinded since the ELTS required further refinement. Since the proposed ELTS by GTIPL is based on the then prevailing ELTS at NSICT, it is found not appropriate to approve the proposal.

(XLii). The GTIPL has incorporated a suitable conditionality in its Scale of Rates as general note 7 to state that in respect of containers from a foreign port landing at GTIPL for subsequent transshipment to Indian port on a coastal voyage or vice versa would be charged at 50% of the transshipment charges prescribed for foreign going vessels and 50% of the transshipment charges prescribed for the costal category. The proposed note is in line with the prescription made in the relevant policy decision of the Government and hence is accepted.

(XLiii). This Authority approved an interim tariff arrangement at GTIPL vide Order dated 14 March 2006 for a period of 6 months. Since the Order passed disposing of the GTIPL tariff proposal will come into effect after expiry of 30 days from date of its notification in Gazette of India, the validity of the interim tariff arrangement is extended till the effective date of implementation of the Order disposing of the GTIPL proposal.

(XLiv). The revised tariff guidelines prescribe tariff validity cycle of 3 years. Since the financial and traffic position considered for the purpose of this analysis is only till 31 December 2008, the validity of the revised Scale of Rates will also expire on 31 December 2008.

13.1. 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 GTIPL which is attached as **Annex-II.**

13.2. The revised Scale of Rates and conditionalities of the GTIPL will come into effect after expiry of 30 days from the date of Notification of the Order in the Gazette of India and shall be in force till 31 December 2008. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

13.3. The tariff of the GTIPL has been fixed relying on the information furnished by the operator and based on assumptions made as explained in the analysis. If this Authority, at any time, during the prescribed tariff validity period, finds that the actual position varies substantially from the estimations considered or there is deviation from the assumptions accepted herein, this Authority may require the GTIPL to file a proposal ahead of the schedule to review its tariff and to setoff fully the advantage accrued on account of such variations in the revised tariff.

In this regard, the GTIPL is required to furnish to this Authority through JNPT its annual accounts and performance report within 60 days of closing of the respective accounting year. If GTIPL fails to provide such information within the stipulated time limit, the JNPT may initiate appropriate action against GTIPL. In the event, this Authority will proceed *suo motu* to review the tariff. This apart, analysis of variation will also be made at the time of the next general review at the end of the usual tariff validity period and full adjustment of additional surplus will be made in the tariff to be fixed for the next cycle.

(A.L. Bongirwar)
Chairman

ANNEX - I

Consolidated Cost statement for the Gateway Terminals India Private Limited (GTIPL)

(Figures in Rupees)

Sr. No.	Particulars	Estimates Given by GTIPL 2006	2007	2008	Estimates moderated by TAMP 2006	2007	2008
	Traffic (In MTs / TEUs)	411,600	930,000	1,105,000	411,600	930,000	1,105,000
I	**Total Operating Income**						
	(i) Container handling income	1,240,677,239.25	2,801,027,065.66	3,316,597,098.31	1,229,161,746.48	2,773,458,012.46	3,290,816,771.45
	(ii) Cargo handling income	-	-	-	-	-	-
	(iii) Vessel related income	-	-	-	-	-	-
	(iv) Others	-	-	-	-	-	-
	Total (i to iv)	**1,240,677,239.25**	**2,801,027,065.66**	**3,316,597,098.31**	**1,229,161,746.48**	**2,773,458,012.46**	**3,290,816,771.45**
II	**Operating Costs (excluding depreciation)**						
	(i) Operating & Direct Labour	1,350,000.00	3,675,000.00	4,800,000.00	1,125,000.00	3,291,750.00	3,931,290.00
	(ii) Maintenance Labour	-	-	-	-	-	-
	(iii) Equipment Running Costs	268,031,383.07	591,521,518.07	672,946,401.26	258,769,905.52	453,678,726.88	608,818,873.04
	(iv) Maintanence dredging	-	-	-	-	-	-
	(v) Royalty / revenue share	-	-	-	-	-	-
	(vi) Equipment Hire	71,988,840.00	169,976,565.00	211,049,665.61	65,691,360.00	155,107,260.00	192,582,936.00
	(vii) Lease Rentals payable as per concession agreement						318,260,181.15
	(viii) Insurance	56,578,140.00	73,500,000.00	73,500,000.00	46,761,832.71	73,500,000.00	73,500,000.00
	(ix) Other expenses				-	-	-
	(x) Technical Service Fee				-	-	-
	Total (i to x)	**614,760,556.82**	**1,144,724,933.85**	**1,283,650,510.20**	**626,060,095.48**	**988,682,671.31**	**1,197,093,280.19**
III	Depreciation	314,964,942.38	610,793,610.24	650,283,475.72	307,822,842.25	632,103,514.82	651,141,514.82
IV	Overheads						
	(i) Management & Administration overheads	197,077,600.00	246,347,000.00	307,933,750.00	197,077,600.00	246,347,000.00	251,715,106.50
	(ii) General Overheads	301,941,309.00	317,828,667.91	334,430,957.96	281,441,309.00	294,106,167.91	307,340,945.46
	(iii) Preliminary expenses & Upfront Payment write-off					20,500,000.00	
	(iv) Others	-	-	-	-	-	-
	Total (i to iv)	**499,018,909.00**	**564,175,667.91**	**642,364,707.96**	**499,018,909.00**	**560,953,167.91**	**579,556,051.96**

V	Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)	(188,067,168.95)	481,332,853.66	740,298,404.43	(203,740,100.25)	591,718,658.42	863,025,924.48
VI	Finance & Miscellaneous Income (FMI)	-	-	-	-	-	-
VII	Finance & Miscellaneous Expenses (FME)	-	-	-	-	-	-
VIII	FMI Less FME (VI) - (VII)	-	-	-	-	-	-
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**(188,067,168.95)**	**481,332,853.66**	**740,298,404.43**	**(203,740,100.25)**	**591,718,658.42**	**863,025,924.48**
X	Capital Employed	8,013,006,283.23	8,761,592,560.14	8,201,259,355.29	7,539,830,642.79	8,556,320,706.32	7,909,569,550.35
XI	RoCE - Maximum permissible 15%	901,463,206.86	1,314,238,884.02	1,230,188,903.29	848,230,947.31	1,283,448,105.95	1,186,435,432.55
XII	Capacity Utilization				68.53%	70.00%	83.17%
XIII	RoCE adjusted for capacity utilization	901,463,206.86	1,314,238,884.02	1,230,188,903.29	848,230,947.31	1,283,448,105.95	1,186,435,432.55
XIV	**Net Surplus / (Deficit) (IX) - (XIII)**	**(1,089,530,375.81)**	**(832,906,030.36)**	**(489,890,498.86)**	**(1,051,971,047.57)**	**(691,729,447.53)**	**(323,409,508.07)**
XV	**Net Surplus / (Deficit) as a % of operating income (XIV/I in %)**				**-9.83%**		

Annex – II

GATEWAY TERMINALS INDIA PRIVATE LIMITED

Scale Of Rates

1.Definitions:-

1.1. “GTI” or “Terminal” means GATEWAY TERMINAL INDIA PVT. LTD.

1.2. “Coastal Vessel” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the competent authority.

1.3 “Foreign Vessel” shall mean any vessel other than a coastal vessel.

1.4 “Container” means the standard ISO container, suitable for transport and stacking of cargo and must be capable of being handled as a unit and lifted by a crane with a container spreader.

1.5. “Full Container Load (FCL)” means a container containing cargo belonging to one consignee in the vessel's manifest.

1.6. “Less than Container Load (LCL)” means a container containing cargo belonging to more than one consignee in the vessel's manifest.

1.7. “Hazardous container” means a Container containing hazardous goods as classified under IMO.

1.8. “Over Dimensional Container (ODC)” means a Container carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam, etc. Damaged Containers and Containers requiring special devices for lifting are also classified as Over Dimensional Container.

1.9. “Reefer” means any Container for the purpose of the carriage of goods, which require power supply to maintain the desired temperature.

1.10. “ICD” means Inland Container Depot.

1.11. “Per day” means per calendar day or part there of.

1.12. “Import container” means a container discharged from one vessel, stored in GTI and transported out through Road or Train.

1.13. “Export container” means a container arrived by road or Train, stored in GTI and loaded on the assigned vessel.

1.14. “Transshipment container” means a Container discharged from one vessel, stored in the container yard, and transported through another vessel.

1.15. “Shut Out Container” means a container that entered the terminal as export for a vessel as indicated by VCN/VIAN and is not connected to the vessel for whatsoever reason and is lying in the container yard.

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

1.17. "VCN" means Vessel Call Number .

1.18. "VIAN" means Vessel Identification Advice Number.

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

SECTION - 1 CHARGES FOR ALL NORMAL AND REEFER CONTAINERS

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

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	3068	4602	6136	1841	2762	3682
ICD Container	3068	4602	6136	1841	2762	3682
Empty Container	2478	3717	4956	1487	2230	2974

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

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	1092	1638	2184
Empty Container	1092	1638	2184

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

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
ICD Container (Loaded & Empty)	1534	2301	3068

D. Yard to truck / truck to yard

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	472	708	944
Empty Container	472	708	944

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

SECTION - 2 CHARGE FOR ALL TRANSHIPMENT CONTANERS

A. 1 - 3000 TEUs

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	3540	5310	7080	2124	3186	4248
Empty Container	3068	4602	6136	1841	2762	3682

B. 3001 - 6000 TEUs

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	3304	4956	6608	1982	2973	3964
Empty Container	2832	4248	5664	1699	2549	3398

C. 6001 -9000 TEUs

Particulars	Foreign-Going (In Rs.)	Coastal (in Rs.)

	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	3068	4602	6136	1841	2762	3682
Empty Container	2596	3894	5192	1558	2337	3116

D. Above 9000 TEUs

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	2832	4248	5664	1699	2549	3398
Empty Container	2360	3540	4720	1416	2124	2832

Note:

1. Rate is based on total TEUs brought by the shipping line or agents in the same financial year.

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

SECTION - 3 CHARGES FOR ALL HAZARDOUS CONTAINER

A. Ship to yard using port crane

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	3540	5310	7080	2124	3186	4248
ICD Container	3540	5310	7080	2124	3186	4248
Transhipment Container	3540	5310	7080	2124	3186	4248

B. Yard to CFS - Transport and lifts at CFS

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	1180	1770	2360

C. Yard to Rail for ICDs only

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
ICD	1770	2655	3540

D. Yard to Truck

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded	590	885	1180

SECTION - 4 CHARGES FOR ALL OVER DIMENSIONAL CARGO CONTAINERS

A. Ship to yard using port crane

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded	6136	9204	12272	3682	5523	7364
ICD	6136	9204	12272	3682	5523	7364
Transhipment	6136	9204	12272	3682	5523	7364
Empty	4956	7434	9912	2974	4461	5948

B. Yard to CFS - Transport and lifts at CFS

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	2183	3275	4366
Empty Container	2183	3275	4366

C. Yard to Rail for ICDs only

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
ICD	3068	4602	6136
Empty Container	3068	4602	6136

D. Yard to truck

Particulars	Foreign-Going (In Rs.)		
	20'	40'	Over 40'
Loaded Container	944	1416	1888
Empty Container	944	1416	1888

SECTION 5 - HATCHCOVERS OF VESSELS

Opening hatchcover and replacing it (charge per hatchcover)

Particulars.	Foreign Going Vessels (in US$)	Coastal Vessels (In Rs.)
A. When placing the hatchcover on the quay	72.90	2043
B. Without placing the hatchcover on the quay	29.16	817

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

SECTION 6 - RESTOWS FCLs & MTs

Shifting containers within the vessel (per move)

A. Hatch to Hatch shifting

Particulars	Foreign-Going (In US $)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	24.30	36.44	48.60	681	1021	1362

B. Other than A

Particulars	Foreign-Going (In US $)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	97.20	145.79	194.40	2724	4085	5447

SECTION 7 - SHUT OUTS

A. Shutouts Charges

Particulars	Foreign-Going (In US $)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	48.60	72.91	97.20	2270	3405	4539

B. Transportation of shutout containers

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	1770.00	2655.00	3540.00	1770	2655	3540

SECTION 8 - Reefer Monitoring and Connection

Particulars	Rate per 4 hours or part thereof					
	Foreign-Going (In US $)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
FCL & MT	4.86	7.29	9.72	227	340	454

Note: Additional electricity charges at the prescribed rates will be applicable in the case of reefer restows also.

SECTION 9 - OTHER SERVICES

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

Particulars	In Rs		
	20'	40'	Over 40'
FCL & MT	2006	3009	4012

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

Particulars	In Rs		
	20'	40'	Over 40'
FCL & MT	236	354	472

SECTION 10 - DWELL TIME CHARGES

A. Loaded Import containers

Particulars	Foreign-going (In US $)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 3 Days	Free	Free	Free	Free	Free	Free
4 -15 days	3.84	7.68	11.52	179.30	358.65	538.00
16 - 30 days	7.67	15.34	23.01	358.20	716.40	1074.55
Thereafter	15.34	30.68	46.02	716.40	1432.75	2149.10

B. Loaded Export containers

Particulars	Foreign-going (In US $)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 3 Days	Free	Free	Free	Free	Free	Free
4 -15 days	3.84	7.68	11.52	179.30	358.65	538.00
16 - 30 days	7.67	15.34	23.01	358.20	716.40	1074.55
Thereafter	15.34	30.68	46.02	716.40	1432.75	2149.10

C. Empty Import or Export containers

Particulars	Foreign-going (In US $)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 3 Days	Free	Free	Free	Free	Free	Free
4 -15 days	3.37	6.74	10.11	157.40	314.80	472.15
16 - 30 days	6.74	13.48	20.22	314.80	629.60	944.30
Thereafter	13.48	26.96	40.44	629.60	1259.20	1888.60

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

Particulars	Foreign-going (In US $)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 15 Days	Free	Free	Free	Free	Free	Free
16 - 30 days	3.37	6.74	10.11	157.40	314.80	472.15
31 - 45 days	6.74	13.48	20.22	314.80	629.60	944.30
Thereafter	13.48	26.96	40.44	629.60	1259.20	1888.60

E. Transhipment loaded Containers

Particulars	Foreign-going (In US $)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 30 Days	Free	Free	Free	Free	Free	Free
31 - 45 days	3.84	7.68	11.52	179.30	358.65	538.00
Thereafter	7.67	15.34	23.01	358.20	716.40	1074.55

F. Transhipment empty containers

Particulars	Foreign-going (In US $)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 15 Days	Free	Free	Free	Free	Free	Free
16 - 30 days	3.84	7.68	11.52	179.30	358.65	538.00
31 - 45 days	7.67	15.34	23.01	358.20	716.40	1074.55
Thereafter	15.34	30.68	46.02	716.40	1432.75	2149.10

G. Shutout loaded & empty containers

Particulars	Foreign-going (In US $)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
1 - 15 Days	3.84	7.68	11.52	179.30	358.65	538.00
16 - 30 days	7.67	15.34	23.01	358.20	716.40	1074.55
Thereafter	15.34	30.68	46.02	716.40	1432.75	2149.10

H. Back to Town loaded & empty containers

Particulars	Foreign-going (In US $)			Coastal (In Rs.)		
	20'	Over 20'	Over 40'	20'	Over 20'	Over 40'
First 3 Days	Free	Free	Free	Free	Free	Free
4 - 15 days	3.84	7.68	11.52	179.30	358.65	538.00
16 - 30 days	7.67	15.34	23.01	358.20	716.40	1074.55
Thereafter	15.34	30.68	46.02	716.40	1432.75	2149.10

Notes:

1. The total storage period for a container shall be reckoned from the day following the day of landing upto the day of shipment /delivery/date of removal of the container and includes Sundays and Holidays.

2. Transhipment containers whose status (mode of dispatch) is subsequently changed locally shall lose the concessional dwell time as prescribed in Section 10 item (E). Dwell time charges/ Other Charges for such containers shall be recoverd at par with import/export containers. A transhipment box, moved other than as defined above, shall be charged at Tariffs applicable to a export/ import container. Such a move will not be treated as a transhipment move.

3. Transhipment containers subsequently changing the mode of dispatch to rail shall be treated as other ICD containers for the purpose of levy of storage fees. In such cases additional shifting charges will be applicable for movement of containers from container yard to ICD yard.

4. The users will not have to pay storage charges for the period during which GTI is not in a position to deliver/ shift the containers when requested by the users.

5. Normal import containers subsequently changing the mode of dispatch to rail will enjoy the free period applicable to normal import containers only.

6. The total storage period for a shutout container shall be calculated from the day following the day when the container has become shutout till the day of Shipment/delivery.

7. (i). Dwell time charges for Hazardous containers shall attract 1.25 times the normal applicable charges.

   (ii). Dwell time charges for Over height and over dimensional containers shall attract 1.25 the normal applicable charges.

8. The storage charges on abandoned FCL containers / shippers owned containers shall be levied upto the date of receipt of intimation of abandonment in writing or 75 days from the days the day of landing of the container, whichever is earlier subject to the following conditions:

   (i). The consignee can issue a letter of abandonment at any time.

   (ii). If the consignee chooses not to issue such letter of abandonement, the container agent/MLO can also issue abandonment letter subject to the condition that,

      (a) The Line shall resume custody of container along with cargo and either take it back or remove it from the port premises; and

      (b). The line shall pay all port charges accrued on the cargo and container before resuming custody of the container.

   (iii). The container Agent/MLO shall observe the necessary formalities and bear the cost of transportation and destuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall be continued to be levied till such time all necessary actions are taken by the shipping lines for destuffing the cargo.

(iv). Where the container is seized/confiscated by the Custom Authorities and the same cannot be de-stuffed within the prescribed time limit of 75 days, the storage charges will cease to apply from the day the Custom order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and de-stuffing. Otherwise, seized/confiscated containers should be removed by the line/consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.

9. Container-related charges denominated in US dollar terms shall be collected in equivalent Indian rupees. For this purpose, the market buying rate (notified by the Reserve Bank of India, State Bank of India or its associates or any other public sector banks as may be specified from time to time) prevalent on the date of entry of the vessel into port limits (in case of import containers) and on the date of arrival of containers in the Terminal Premises (in case of export containers) shall be applied for conversion of the dollar - denominated charges into Indian rupees.

10. (i). The user shall pay penal interest on delayed payments of any charge under this scale of rates. Likewise, the GTIPL shall pay penal interest on delayed refunds.

(ii). The rate of penal interest will be 13% p.a. The penal interest will apply to both GTIPL and its users equally.

The delay in refunds by GTIPL will be counted only 20 days from the date of completion of services or on production of all the documents required from the users.

The delay in payments by the user will be counted only 10 days after the date of raising the bills by GTIPL. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act and/or where payment of charges in advance is prescribed in this Scale of Rates.

11. A regular review of exchange rate shall be made once in 30 days from the date of arrival in the cases of vessels staying in the port for longer period. The basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of review.

I. TRANSHIPMENT BETWEEN GTIPL & JNPT/NSICT

Procedure and charges for inter-terminal transfer of transhipment containers between GTIPL & JNPT/NSICT :

(i) Procedure for handling transshipment (TP) containers:

(a). TP Containers discharged at the JNPT/NSICT and bound to be loaded at the GTIPL will be transported by the JNP/NSICT TTs;

and, the JNP/NSICT RTGCs will discharge these containers in GTIPLs designated yard.

(b). Similarly, TP containers discharged at the GTIPL and bound to be loaded at the JNPT/NSICT will be discharged by the GTIPL by using its RTGCs and TTs in the designated yards of the JNPT/NSICT.

(ii). Charges for handling TP Containers:

(a). If a container is discharged by the JNPT/NSICT and loaded by the GTIPL at its terminal, the charges will be as under:

- 50% of the Transshipment container handling charges as per the JNPT/NSICT Scale of Rates will be charged to the Line by the JNPT/ NSICT.

- For the same container the GTIPL will charge 50% of the transshipment container handling charges as per its Scale of Rates and, in addition, also levy a charge of Rs.1300/- (for 20') or Rs.1950/- (for 40') or Rs 2600 (>40') towards inter-terminal transfer.

(b). If a container is discharged by the GTIPL and loaded by the JNPT/NSICT at its Terminal, the Charges will be as under:

- The GTIPL will charge 50% of transshipment container handling charges/as per their Scale of Rates.

- For the same container JNPT/NSICT will charge 50% of the transhipment container handling charges as per their Scale of Rates and in addition also levy a charge of Rs.1428/- (for 20') and Rs.2142/- (for 40') or Rs.2856/- (for >40')

GENERAL NOTES:

1. Users will not be required to pay charges for delays beyond a reasonable level attributable to the port.

2. Containers less than and up to 20 feet in length will be reckoned as one TEU for the purpose of Tariff.

3. The consolidated charges as above include the following elements, viz Stevedoring, use of Gantry crane, use of transfer crane, stowage planning, wharfage on tare weight of containers and containerized cargo, transportation.

4. Containers other than that of standard size requiring special devices or slings or handling will be charged twice the applicable rates. Such containers will also include damage containers and any other type requiring special devices.

5. Any line performing more than 350000 TEUs in a year shall qualify for a rebate of 5% of the total handling charges of the containers.

6. With prior permission of the GTIPL authorities, rebate as follows shall be applicable to terminal users for carrying out various operations with their own arrangements when GTIPL equipments are out of order or not available because they are hired to other users or for any other reason. The rebates applicable along with conditions are as follows:

(i) If ship's own gear are used for loading/unloading contianers from shore to ship or vice versa, rebates in handling charges shall be allowed as under:

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	708	1062	1416	425	637	850
Empty Container	708	1062	1416	425	637	850

(ii). If a port user employs his own Tractor Trainer (T.T.) for transporting containers from (a) Quay to Container yard, or (b) Container Yard to Quay

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	354	531	708	212	319	425
Empty Container	354	531	708	212	319	425

(iii). If a user brings his own equipment for lifting containers from the container yard to truck and vice versa, the following rebates in handling charges shall be allowed:

Particulars	Foreign-Going (In Rs.)			Coastal (in Rs.)		
	20'	40'	Over 40'	20'	40'	Over 40'
Loaded Container	295	443	590	177	266	354
Empty Container	295	443	590	177	266	354

(iv). No rebate will be admissible for back to town containers handled by private equipment.

(v). If the terminal user provides lashing/ unlashing gang for lashing operations of containers, then a rebate of Rs.36/- per container in handling charges shall be allowed. The rebate shall be limited to number of containers actually lashed.

7. A container from a foreign port landing at GTI for subsequent transhipment to an Indian port on a coastal voyage or vice versa would be charged at 50% of the transhipment charge prescribed for foreign going vessel and 50% of that prescribed for the coastal category.

8. In case a vessel idles due to non availability or breakdown of the shore based facilities of GTI or any other reasons attributable to the GTI, rebate equivalent to berth hire charges payable to JNPT accrued during the period of idling of vessel shall be allowed by the GTI.

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Summary of the comments received from the port users / different user organisations and arguments made in this case during the joint hearing before the Authority

F. No. TAMP/71/2005-GTIPL **- sal from the Gateway Terminals India Private Limited for fixation of its Scale of Rates.**

1. The comments received from the port users / representative bodies of port users are summarised below:

Bombay Chamber of Commerce & Industry (BCCI)

(i). Further clarifications are needed about the basis for formulating the GTIPL tariff by increasing JNPT's existing tariff by 35.85%.

(ii). Details about the investment in plant and machinery and the period of amortization are needed.

(iii). Ground rent charges are exorbitantly high at USD 4.42 under the first slab itself.

(iv). The shutout charges are well above 50% of JNPT's existing tariff.

(v). Reefer charges are calibrated for 4 hrs period rather than the 8 hrs period which is the norm.

(vi). GTIPL also has increased the charges on similar proportion for all other services, such as, over dimensional cargo, hazardous cargo container, hatch cover handling of vessels etc.

(viii). It is recommended that GTIPL's initial tariff should be made at par with that of JNPT for the first financial year to assess the overall income of GTIPL correctly.

Jawaharlal Nehru Port Trust (JNPT)

It is in agreement with the tariff increase as proposed by GTIPL. It has no other comments to offer

Mumbai and Nhava-sheva Ship-agents Association (MANSA)

(i). GTIPL's proposal states that the large investments of between Rs.500 Crores and Rs.600 Crores made by them in the terminal can reach the permissible ROCE of 15% in the first 3 years of operation only if there is a general increase of 35.8% over the scale of rates prevailing at JN

Terminal and NSICT. This increase is almost equal to the revenue share of 35.503% to be paid to JNPT, though the proposal states explicitly that the revenue share has not been factored into the submission.

(ii). It is premature to review the scale of rates of GTIPL even before the terminal has commenced operations.

(iii). Projected throughput indicated by GTIPL in Form 3A does not appear to jibe with the details in Form 2A.

(iv). Cost at the JN Terminal – with its higher throughput, stable state of operations and depreciated equipment – will not be comparable with costs at GTIPL. However, even after allowing for that, some of the costs indicated by GTIPL seem far higher than they ought to be.

(v). Equipment running costs estimated by GTIPL, with brand new equipment that would be more efficient and require less maintenance, are several magnitudes higher than JNPT.

(vi). Management, Administration and General Overheads projected by GTIPL as a private sector with more flexibility in employment practices, higher technology inputs and no responsibility for the landlord function are several magnitudes larger than JNPT.

(vii). Insurance costs provided by GTIPL are much higher than the JNPT though the two terminals would be essentially seeking cover for the same risks.

(viii). Clarification is required on Form 4A which indicates Plant & Machinery (including additions) in the first year of operations at Rs. 4073.714 million, prior depreciation. Other Assets, including additions have been valued at Rs. 4077.431 million, prior depreciation.

(ix). The logic behind the more than 50% increase in shutout charges whereas across-the-board increase in the scale of rates is 36% needs to be explained.

(x). Container traffic growth in India would consistently reach or beat the middle teens over the next 5 years due to autonomous growth in international trade as well as increased container penetration and much of this trade would continue to be funneled through the ports in West and Northwest India. The network advantages and the cluster benefits at Nhava would ensure that the GTIPL would handle a far larger volume of traffic than they have projected. Hence, it would be premature to review the scale of rates of GTIPL at this stage. It would be more appropriate to review the scale of rates around the third quarter of 2007.

2. The comments received from the above users were forwarded to GTIPL as feed back information. The GTIPL vide its letter dated 20 June 2006 has furnished its comments on the comments of the MANSA. The main points made by GTIPL are summarized below:

(i). As per the tariff guidelines, Form 2A requires the volumes be specified in TEUs and not in container units. MANSA while calculating the volume projections have again converted these numbers into TEUs resulting in wrong volume projections. Therefore, the volumes of 4,11,600 for 2006, 9,30,000 for 2007 and 11,05,000 for 2008 have been correctly stated.

(ii). The cost comparison of GTIPL against JNPT, made by MANSA, for each subhead is not correct due to the different classification of expenses by both JNPT & GTIPL. The correct comparison will be to compare the costs in totality.

(iii). If depreciation, JNPT license fee and the surcharge on electricity paid to JNPT are excluded from the total cost we get a more accurate comparison.

Particulars	**X Port**		**GTIPL**		
	2003-04	**2004-05**	**2006**	**2007**	**2008**
TEU's Handled	1038434	1138868	411600	930000	1105000
Total Operating cost	1158215000	1366931000	614760556	1144724933	1283650510
Depreciation	113548000	145256000	314964942	610793610	650283475
Management & General Overheads	299795000	286108000	499018909	564175668	642364707
Total Expenses	1571558000	1798295000	1428744407	2319694211	2576298692
Cost per TEU	1513.39	1579.02	3471.20	2494.29	2331.49
Cost per TEU (excluding depreciation)	1404.05	1451.48	2705.98	1837.53	1743.00
Cost per TEU (excluding depreciation & JNPT lease electricity charges)			2163.50	1491.48	1436.57

From the table, it is seen that for comparable volumes i.e., 2008, GTIPL's total cost per TEU is lower at Rs.1436 per TEU and for JNPT after working out for inflation at 4.5% for 4 years, the cost per TEU works out to Rs.1730 per TEU which is 18% higher than GTIPL's cost per TEU.

3. A joint hearing on the case in reference was held on 19 June 2006 at the Office of the Authority. The GTIPL, JNPT and the users made the following submissions at the joint hearing:

<u>Gateway Terminals India Private Limited (GTIPL)</u>

(i). Made a slide presentation of the present facilities created and the tariff proposal.

(ii). We have learnt from the inadequacies of the existing terminals of JNPT and accordingly designed our terminal to meet the future needs fully. This reflects in our investment.

(iii). Our operation plan is designed in such a way that the receipt/ evacuation by train/ by road will also receive equal attention like vessel operation. Our gate complex and rail yard are designed for efficient receipt/delivery operations.

(iv). Because of the EOU status received by us recently, our equipment cost may reduce. Therefore, we revise the increase in tariff sought to 28.65% (as against 35.85% proposed earlier).

Jawaharlal Nehru Port Trust (JNPT)

(i). We don't have any objection to the proposal. It appears that the proposal generally complies with the tariff guidelines.

Mumbai and Nhava-sheva Ship-agents Association (MANSA) and Bombay Chamber of Commerce and Industry (BCCI)

(i). We request more detailed information may be passed on to users for making informed comments.

(ii). Considering the fact that the entire proposal is based on estimates, the tariff may be maintained at JNPT levels for the first year. We may reassess thereafter based on actuals of GTIPL during the 1st year operation.

(iii). The cost relating to reefer charges & dwell time charges should be studied more closely.

Bombay Custom House Agents Association (BCHAA)

Investment needs to be made considering the market price prevalent. No justification to increase tariff by around 30%, just because the order of investment is higher.

Shipping Corporation of India (SCI)

(i). The cost position after EOU status may be given to us for making our comments.

(ii). We endorse the views of MANSA and request that the existing rate may continue for the 1st year operation.

4.1. After the joint hearing IMC and BCHAA made their written submission vide their letters dated 20 June 2006 and 19 June 2006, respectively. The main points made by IMC and BCHAA are summarized below:

Indian Merchants's Chamber (IMC)

(i). The decision that the 3rd Container Terminal should be privatized and not managed by the JNPT administration itself was to reduce the Handling Cost at JNPT Container Terminal. In various international as well as in the World Bank Report, it was stated, that in the Asian Region, the Handling Cost at JNPT including Terminal Handling Charges was one of the highest.

(ii). Such a proposal has been mooted by M/s. GTIPL for which no bonafide explanation has been submitted to justify the same, except stating the high cost is incurred towards construction of the Terminal.

(iii). The proposed increase desired by the GTIPL should not be considered at present, since they have barely commenced operations and any consideration in tariff should only be done two years from commencement of its operations.

Bombay Custom House Agents Association (BCHAA)

(i). GTIPL's rationale behind the rate escalation of 35.85%, which has been subsequently reduced to 28.65% is not clear. The BCHAA wishes to mention that even at the above referred joint hearing, the presentation made by GTIPL did not give any reasonable justification for escalation of rates except mentioning about their high investment costs.

(ii). The investment in any project is incurred only after considering the market conditions & prevalent tariff payable by the customer for a similar product with an admissible increase year after year.

(iii). The private investment in port sector is initiated to build modern hi-tech port infrastructure, to provide healthy competition and to offer efficient service at competitive price to end users.

(iv). The justification that due to high investment cost, the tariff should be higher in GTIPL is totally irrational, not admissible nor sustainable.

(v). Any long term investment does not yield desired returns in the initial years and the end of return have got to be arrived at after taking into account the total period of the BOT (Building Operate Transfer) contract, which in this case is 30 years.

(vi). Since there is no justification for an escalation of 28.65% in tariff, we request for deferring the request and maintain status quo of rates currently fixed at par with JNPT for a period one year till the project is made fully operational.

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