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TARIFF AUTHORITY FOR MAJOR PORTS

G.NO: 19 **New Delhi, 15 January 2007**

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 approves the proposal received from the South West Port Limited for revision of its Scale of Rates for its multipurpose bulk cargo terminal at berth nos. 5A and 6A in the Mormugao Port Trust as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/19/2006 - SWPL

South West Port Limited (SWPL) - - - - - **Applicant**

O R D E R
(Passed on this 29th day of December 2006)

This case relates to the proposal received from the South West Port Limited (SWPL) for revision of its Scale of Rates for its multipurpose cargo terminal at berth nos. 5A and 6A in the Mormugao Port Trust (MOPT).

2. The MOPT has entered into a Licence Agreement (LA) with the SWPL on 11 April 1999 for the development, construction, operation and maintenance of two dedicated bulk cargo berths nos. 5A and 6A on BOOT basis for 30 years. As per the LA, the berth hire charges and cargo related charges are to be collected by the SWPL.

3. The existing Scale of Rates (SOR) of the SWPL was approved by this Authority vide Order dated 30 September 2004. This Order came into effect retrospectively from 28 May 2004 and is valid for 2 years. Accordingly, the SOR of the SWPL fell due for review in May 2006.

4.1. In this backdrop, the SWPL has filed the proposal for review / revision of its Scale of Rates. It has furnished the cost statements in the revised formats alongwith the draft proposed Scale of Rates.

4.2. The highlights of the proposal are as follows:

(A). **Salient points:**

(i). The Licence Agreement stipulates a minimum guaranteed throughput of 5 Million Metric Tonne.

(ii). (a). The Terminal commenced operations on 19 June 2004 in a semi-mechanised manner. Commercial operations with complete mechanisation commenced from 15 September 2005.

(b). With complete mechanisation of unloading and wagon loading systems, the Terminal can fulfill the MGT subject to availability of rail borne cargo.

(iii). Goa State Pollution Control Board (GSPCB) has issued a directive that after automisation system is put into operation, the entire coal handled at the Terminal should be transported by rail mode only and there will be no road transport of coal by trucks to avoid any pollution.

(B). **Cost Statements:**

(i). Traffic:
The SWPL handled traffic of 2.14 MMT for the year 2004-05 as against the projected traffic of 2.11 MMT considered in its initial tariff fixation proposal. The traffic handled for the year 2005-06 is 3.11 MMT as against the estimated traffic of 4.21 MMT. The traffic for the years 2006-07, 2007-08 and 2008-09 is projected at 3.48 MMT, 4.73 MMT and 5.21 MMT respectively.

(ii). Income has been estimated for the projected traffic at the existing tariff level.

(iii). Expenditure Projections:

(a). Direct / Maintenance Labour:
The direct labour for stevedoring, operating mechanised handling system, storing, loading cargo into wagons, etc, is awarded to various cargo handling contractors. Similarly, maintenance labour for upkeep, replacement of spares, lubes and oils of all machinery in the system are also outsourced. These expenses have been projected on the basis of the existing rates of the contactors and the prevailing market rates.

(b). Repair and maintenance expenses are estimated at 1.5% for civil assets and 3% for mechanical assets, as was approved in its initial tariff fixation.

(c). Maintenance Dredging:
The SWPL is of the opinion that the maintenance dredging is to be carried by MOPT as per the LA. The MOPT, however, disputes this and agrees to dredge only upto 13 mtrs. in the particular approach and 13.5 mtrs. in berth pockets. Pending settlement of dispute, the SWPL has made a provision for maintenance dredging at Rs.89 lakhs, Rs.93 lakhs and Rs.98 lakhs for the three years under projection for additional depth beyond the level stated by the MOPT. The estimates are for volume of 90000 cu. mtr. of dredging in front of berth nos. 5A and 6A @ 98.35 per cubic metre for the year 2006-07 with an annual escalation of 5% in the unit rate for the subsequent years.

(d). Depreciation has been computed on the basis of straight line method for the life norms permissible in accordance with the Companies Act, 1956.

(e). Royalty:
While deciding the initial tariff, royalty / revenue share was not admitted as cost in view of the (then) prevailing policy decision. As per the clause 2.8.1 of the revised tariff guidelines, the royalty / revenue share is to be taken into account for tariff computation in cases where the bidding process is finalised before 29 July 2003 in such a manner as to avoid likely loss to the operator on account of considering this item, subject to the maximum the amount quoted by the next lowest bidder. Since the LA in its case was entered in April 1999 prior to the date stipulated in the revised tariff guidelines, it has included the entire revenue share (i.e. 18%) of the revenue from cargo handling charges payable to the MOPT as an item of cost.

(iv). To optimize usage of berth no. 5A and handle clean, pollution free cargo, it has decided to construct concrete platform behind the existing jetty to provide higher load density storage area. This is likely to give major impetus for storage of heavy cargo like HR coil right behind the berth within the working out reach of mobile harbour cranes. Apart from this, it also proposes to procure a harbour mobile crane, six gantry cranes, related civil and realignment of rail tracks etc. Additions to gross block is estimated at Rs.81.61 crores in 2006-07 which mainly consists of the following:

Sl.No.	**Particulars**	**Rs. in crores**
(i).	Construction of concrete platform	35.00
(ii).	Harbour mobile crane (one)	26.50
(iii).	Gantry cranes (6 nos.)	19.27
(iv).	Other cargo handling equipment	0.84
	Total	**81.61**

(v). The cost statement filed by the SWPL reflects the following position at the existing tariff level after considering 15% return on capital employed:

Sl. No.	Particulars	2006-07		2007-08		2008-09		Total surplus / Deficit (Rs. in lakhs) (% average)
		Net surplus / Deficit (Rs. in lakhs)	% of operating income	Net surplus / Deficit (Rs. in lakhs)	% of operating income	Net surplus / Deficit (Rs. in lakhs)	% of operating income	
1.	SWPL terminal as a whole	(-) 3120	(-) 51.30%	(-) 2132	(-) 25.20%	(-) 1809	(-) 19.10%	(-) 7061 (-) 31.87%
2.	Cargo handling activity	(-) 2780	(-) 59.80%	(-) 2444	(-) 37.60%	(-) 2377	(-) 32.71%	(-) 7601 (-) 43.40%
3.	Berth hire activity	(-) 340	(-) 23.80%	313	15.90%	567	25.90%	540 6%

(C). **Proposed Scale of Rates:**

(i). Berth Hire Charges:

(a). Berth no. 5A - No hike proposed (existing single slab rate to continue).

(b). Berth no. 6A – No hike is proposed in the existing rates. However, uniform berth hire rate is proposed as against the existing rates in four slabs based on GRT of the vessel.

(Though it has stated that no increase is proposed in berth hire for berth no. 6A, the proposed rationalised single berth hire rate is likely to have significant impacts on smaller size vessels.)

(ii). Cargo related charges:

(a). Wharfage and storage charges – No hike proposed.

(b). Cargo handling charges –

Sl.No.	Particulars	Hike Proposed
1.	**At Berth No. 5A**	
(i).	Metal Products, steel coils, slabs	20%
(ii).	Iron Ore Pellets, and any other bulk cargo	No hike proposed.
2.	**At Berth No. 6A**	
(i).	Coal (all types), coke (all types), metallurgical coke and charcoal	26%
(ii).	Limestone	28%
(iii).	Metal products, steel coils and slabs	20%
(iv).	Iron Ore Pellets, and any other bulk cargo	No hike proposed

(iii). The existing dust suppression charge for cargo handled at berth no.5A is proposed to be deleted.

4.3. The SWPL agreed for circulation of Form 1 (Highlights of the proposal), 2A (Traffic Projections), 2B (Income Projections), 3A (Consolidated Income and Cost Statements) and 4A (Capital Employed). It had, however, requested not to circulate the other forms pertaining to details of expenditure, additions to Gross Block, activity-wise cost statement of main activity, etc., on the grounds that the financial and commercial information contained in these other forms are sensitive in nature.

As per the clause 3.2.4 of the revised tariff guidelines, the operator has to explain how irreparable damage will be caused if the request of the operator is not acceded to. The revised cost formats also explicitly state that the entire proposal with all supporting details will be circulated as part of the consultation process. If any of this information is to be treated as confidential and not to be circulated the terminal operator should mention it explicitly and explain the reasons therefor. The

SWPL has not explained any specific reasons for not circulating the other forms but has only made a general statement. Hence, this request of the SWPL was not accepted.

5. In accordance with consultation procedure prescribed, a copy of the proposal as received from the SWPL alongwith the cost statements were circulated to the Mormugao Port Trust (MOPT) and various user organisations seeking their comments. The comments received from the MOPT and various users organisations were forwarded to the SWPL as feedback information / comments. The SWPL has not responded to the comments of the users / user organisations.

6.1. On preliminary scrutiny of the proposal SWPL was requested to furnish some additional information / clarification. The SWPL has furnished its reply. Subsequently, on scrutiny of the reply furnished by the SWPL it was found that there are still some gaps in the information furnished. The SWPL was, therefore, again requested to clarify few points. The SWPL in response has furnished the requisite information / clarification. Subsequently, clarifications were received from the MOPT also. A summary of queries raised by us and reply furnished by SWPL is tabulated below:

Sl.No.	Queries raised by us	Reply furnished by SWPL
I.	**FINANCIAL / COST STATEMENTS**	
(1).	(i). Since the year 2005-06 has already drawn to a close, the estimates for the year 2005-06 should be updated with actuals duly tallying it with the figures reported in the Annual Accounts as certified by its Chartered Accountant. The estimates for the subsequent years may also be modified if necessary, with reference to the actuals.	(i). The revised financial statements incorporating actuals for 2005-06 and Audited Balance Sheet for 2005-06 are furnished. Since the final results for the financial year 2005-06 were much close to the estimates, it is not required to modify its earlier estimations.
	(ii). The Annual Accounts for the year 2005-06 duly certified by its Chartered Accountant forwarded alongwith the reply dated 26 June 2006 reflect the Profit and Loss Statement for the period of around six months i.e. from 22 September 2005 to 31 March 2006 and not for the complete financial year 2005-06. Whereas the actuals considered in the cost statement is for the complete financial year 2005-06. Please furnish the actuals for the full year 2005-06 as duly certified by its Chartered Accountant. Also furnish a reconciliation statement reconciling the Net Profit / Loss before interest and tax as per certified Accounts with the net surplus / deficit in the cost statement. Also, furnish actuals for the period 1 April 2006 to 31 July 2006.	(ii). It has furnished the actuals for trial operation during 01 April 2005 to 21 September 2005 and commercial operations from 22 September 2005 to 31 March 2006 alongwith a certificate from a Practicing Chartered Accountant. Actuals for the period April-July 2006 is also furnished.
	(iii). Since the reviewed tariff can take effect only for part of the year 2006-07, the tariff validity period of 3 years may spill over to 2009-10. The estimates for 2009-10 may, therefore, be furnished.	(iii). The financial statements incorporating the estimates for 2009-10 are furnished.
(2).	Operating income, operating costs, depreciation, overheads, capital employed considered in the cost statement do not match with the figures reported in the Annual Report for the year 2004-05. The reasons for these variations may be explained.	Since the project was not fully completed, it had run the project on trial basis during June 2004 to September 2005. The Annual Accounts for the years 2004-05 and 2005-06 have been compiled capitalising the results of trial run operations (Schedule 'L' of 2004-05 and Schedule 17). The reconciliation between Annual Accounts and the figures mentioned in Form 3A and Form 7 is furnished.
(3).	The traffic for the year 2005-06 is reported to be 3.11 MMT as against 4.24 MMT of SWPL traffic reported by the MOPT in its general revision proposal. This traffic is found to be	(i). The actual traffic handled for the financial year 2005-06 is 3.02 MMT only, as against the estimation of 3.11 MMT. This is because, the small importers of coal and coke still continue

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<td>26% lower than the traffic estimated for the corresponding year in the initial tariff proposed. The traffic for the years 2007-08 and 2008-09 are projected at 3.48 MMT and 4.73 MMT which are also found to be lower than the traffic level indicated by the MOPT at the level of 4.39 MMT and 5 MMT respectively for the corresponding years. Explain the reasons for such wide variation in the traffic projections.</td>
<td>to handle these cargo at MOPT berths. During the financial year 2005-06, the port handled 1.21 MMT of coal / coke.
(ii). The traffic projections for the years 2007-08 to 2009-10 are also lower due to the same factor. Since the actual traffic for 2005-06 does not vary much from the estimated traffic furnished in the statements, there is no need to revise the traffic projections for other years as well.

(iii). It is not known on what basis the port has projected the traffic figures of SWPL for the years 2005-06, 2007-08 and 2008-09.

(iv). Because of under utilisation of capacity and to meet the required minimum guaranteed throughput, it has envisaged investment of Rs.81.62 crores in Phase-3. This will help in augmenting the storage capacity and enable handling export products as well to meet the minimum guaranteed throughput.</td>
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<td>(4).</td>
<td>(i). Explain the reasons for scaling down the income from berth hire charges by 15% for the year 2006-07 over the previous year estimates despite the fact that the traffic for this year is projected to increase by 10.6% over the previous year. Furnish the detailed computation of berth hire income at the prevailing tariff level considering the average discharge / loading rate of vessel, the average GRT of vessel for each of the existing slabs, average stay at each of the berth Nos. 5A and 6A for all the years under consideration.</td>
<td>(i). In order to improve its performance, the SWPL has planned to increase the discharge and loading rates of various commodities as indicated below:

(MMT/day/ship)
<table>
<tr><th>Sl.No.</th><th>Cargo</th><th>Existing</th><th>Proposed</th></tr>
<tr><td>1.</td><td>Coal Panamax</td><td>25000</td><td>32000</td></tr>
<tr><td>2.</td><td>Coal Handimax</td><td>15000</td><td>20000</td></tr>
<tr><td>3.</td><td>Coke Panamax</td><td>10000</td><td>24000</td></tr>
<tr><td>4.</td><td>Limestone</td><td>15000</td><td>24000</td></tr>
<tr><td>5.</td><td>Iron ore pellets</td><td>20000</td><td>25000</td></tr>
</table>

The faster discharge / loading of ships benefits the user but, reduces the income from berth hire accruing to SWPL. The detailed computation of berth hire income is also furnished.</td>
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<td>(ii). Update the income computation considering the prevailing exchange rate as against Rs.44/- considered by the SWPL.</td>
<td>(ii). In the revised cost statements filed on 30 August 2006 the income estimation is done considering exchange rate of Rs.46.50.</td>
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<td>(iii). The repairs and maintenance cost for the year 2006-07 is estimated to increase by 259% over the previous years estimates. During the initial tariff fixation repairs and maintenance was allowed at 1.5% of civil assets and 3% of the mechanical equipment in the absence of availability of actuals. The repairs and maintenance cost for the year 2005-06 is around 1% of the total gross block. The estimation of repairs and maintenance cost for the years 2006-07 to 2008-09 may, therefore, be justified with reference to the actuals repairs and maintenance cost incurred during the year 2005-06.</td>
<td>(iii). The SWPL has furnished gross block of assets, actual repairs and maintenance cost incurred in 2005-06 as tabulated below:

(In Rupees)
<table>
<tr><th>Equip-ment / facility detail</th><th>Gross Block</th><th>Actual repairs and maintenan-ce (includ-ing stores) for 2005-06</th><th>Actual repairs and mainte-nance as % of gross block</th></tr>
<tr><td>1. Civil Assets</td><td>40,93,46,929</td><td>15,76,599</td><td>0.39%</td></tr>
<tr><td>2.Mechani cal assets</td><td>70,41,91,614</td><td>72,47,881</td><td>1.03%</td></tr>
<tr><td>3. Others</td><td>70,86,064</td><td>1,91,469</td><td>2.70%</td></tr>
<tr><td>TOTAL</td><td>112,06,24,607</td><td>90,15,949</td><td>0.80%</td></tr>
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		Full mechanised handling system and automisation was commissioned for commercial use since 15 September 2005 only. Hence, the repairs and maintenance expenses for the year 2005-06 are for six months only and that too at the initial stage of the machinery's installation and are not real indicator of the normal repairs and maintenance. As equipment gets older the expenses on repairs and maintenance is likely to increase. The estimation of repairs and maintenance is done on the basis of average percentage of gross block which is a reasonable indication of the costs and may be considered for the tariff determination.
	(iv). Preliminary and pre-operative expenses should be excluded from the gross block of assets while estimating repairs and maintenance since this is not a relevant item for estimating the repairs and maintenance cost.	(iv). In the revised cost statements, the pre-operative expenses have been excluded from the gross block while computing estimated repairs and maintenance cost.
(5).	(i). The revised tariff guidelines clearly prescribes the estimation of expenditure must be based on the current movement in the Wholesale Price Index (WPI) announced by the Government of India which is reported at 4.5% for the year 2005-06. In this context, explain the reasons for considering an annual escalation of around 8% to 11% in the employee cost, and around 5% annual escalation in the unit cost of power and fuel.	(i). As is being reported in the financial newspapers, the inflation rate at present is over 5% and therefore 5% inflation considered by us is not excessive and may kindly be allowed.
	(ii). (a). Justify the reasons for estimating around 48% increase in the number of direct labour for the year 2007-08 and another 19% increase for the year 2008-09. (b). As regards the arguments of SWPL that the increase is on account of increase in projected traffic, it may be pointed out that the increased cost for additional employees will be spread over the increased traffic and hence the per employee cost should not vary significantly beyond the escalation factor considered in the estimation. In the light of this observation, please justify the increase estimated in the average employee cost for each of the years beyond the admissible limit of 4.5% which is the WPI reported for the year 2005-06.	(a). The detailed computation of the total employee cost is furnished in its tariff proposal. It may be seen that the inflation rate of 5% only has been adopted in the assumption of rate per MT. The higher increase in total cost is on account of increase in the projected traffic in the years 2007-08 and 2008-09 mainly due to handling of steel exports like HR Coils, slabs, which are to be handled manually. The number of employees mentioned in Form 3B are only approximate projections and average cost per employee is a derived figure from the above. The rates per MT adopted for handling export cargo are projections on the basis of prevailing market rates. (b). The increase in the projected traffic is mainly on account of export of steel slabs and HR coils. The less labour force employed presently is basically for handling bulk cargo by mechanical handling system. Hence, a fresh group of larger specialised labour force has to be employed for handling export cargo which is labour intensive. Average cost of such employees is higher. Hence, the increase in rates cannot be compared with the increase in cargo throughput projected. It has furnished a statement of labour charges paid during the year 2005-06, party wise / work order wise and detailed computation of estimated labour cost.
	(iii). Since the services direct and maintenance labour are proposed to be	(iii). As per the trade practices, the contracts were properly tendered and the parties were

	availed through outsourcing, please furnish copies of the contract entered with the outsourcing agencies to justify the estimation of direct labour and maintenance labour cost. Also, confirm that the relevant service providers were engaged following a competitive bidding.	selected as per the rates and services required by SWPL. Subsequently, it has furnished copies of contracts with outsourcing agencies and number of employees deployed.
	(iv). (a). The unit consumption of power is estimated to increase by 150% during the year 2006-07 over the previous year. Likewise, the unit consumption of power for the subsequent two years is also estimated to increase annually by around 3%. Explain the reasons for variation in the consumption of power per tonne of cargo handled. (b). If the actuals for six months of the year 2005-06 (i.e. after commissioning of the mechanical handling system) reported at Rs.57.19 lakhs in the annual accounts is taken as the base, accepting the clarification of SWPL that this period represent the full mechanised handling system, the power cost will work out to Rs.114.38 lakhs for the full year 2005-06. The estimate for the year 2006-07 after adjustment for traffic growth and annual escalation of 4.5% in the unit rate of power will work out to Rs.162 lakhs. As against this, justify the estimated power cost of Rs.265 lakhs for the year 2006-07. The power cost for the subsequent years may also be reviewed and revised in the light of above observation.	(iv). (a). The power cost mentioned in the year 2005-06 is for only six months as the mechanical handling system was commissioned in September 2005. Hence, this figure is not comparable with the full year's projections for 2006-07. The unit consumption is projected to increase by about 3% every year due to wear and tear of the machinery and the proposed deployment of Gantry cranes and Overhead cranes for handling export cargo. The detailed formula used for computation of cost of power is furnished. (b). Power cost of Rs.265 lakhs for 2006-07 has been estimated on the basis of 2.3 MW load for 20 hours per day for the number of berth-days occupied with a load factor of 65% and power rate of Rs.6.50 per unit. During the year 2005-06 being initial stage of mechanisation, it handled with minimum equipment. For the current year onwards, it has planned to install 5 MVA transformers to supply power to the facilities for various equipment. The actual expenditure on account of equipment running costs for four months April-July 2006 has aggregated Rs.212 lakhs against the proportionate projected expenses of Rs.191 lakhs. In view of this, no change is required to be made in the projected power costs for 2006-07 and subsequent years.
	(v). (a). Explain the reasons for estimating 300% increase in the consumption of water per tonne of cargo handled (i.e. from 0.02 litre per tonne of cargo during the year 2005-06 to 0.08 litre per tonne of cargo for the year 2006-07). (b). The cost of procurement of water from MOPT is estimated at Rs.9/- per KL whereas from the rest of the market it is estimated at Rs.105/- per KL. Explain the reasons for such wide variation in the unit rate of procurement of water and substantiate it with documentary support.	(v). (a). The Terminal was commissioned only in September 2005. The work of sprinkling of water prior to September 2005 was being done through contractors, who were also bringing the water. Thereafter, water is being procured by SWPL and sprinkling is done through the mechanical system. Hence, the water cost for the year 2005-06 was for only six months and is not comparable with projections for following years. (b). The water supplied by MOPT is sewage treated one. The water obtained from market is from normal sources. Hence the difference in cost of procurement. It requires about 900 to 1000 KL every day in order to keep the pollution under control in accordance with the norms laid down by the Goa State Pollution Control Board. Supplies from MOPT are not regular. On an average about 300 to 450 KL is received from MOPT, and the rest is procured from the market. The market cost has increased from Rs.105/- to Rs.130/-, due to increase in demand. We have, however, computed the cost at the rate of Rs.105/- per KL only as furnished in our proposal. It has furnished copies of the bills and offer received

		from supplier to substantiate this estimate. Detailed computation of this estimation is furnished. For subsequent years, inflation factor of 5% is applied in the per unit cost of water.
	(vi). Please confirm the estimation of lease rental for the years 2005-06 to 2008-09 are in line with the terms of the License Agreement.	(vi). The lease rent was calculated as per the Lease Agreement only. As per the Lease Agreement, it has paid Rs.2.16 crores for the Financial Year 2006-07 to MOPT.
	(vii). (a). The basis of estimating the cost of dredging at Rs.98.35 per cubic meter for the year 2006-07 may be substantiated with documentary proof of the relevant contract entered / offer received. (b). The documentary evidence furnished by MOPT indicates the rate of dredging at Rs.30/- per cubic meter for the year 2004-05. SWPL was, therefore, requested to furnish the bill with reference to expenditure incurred towards maintenance dredging for the year 2005-06. Also, furnish the contract entered with the dredging company for the year 2006-07.	(vii). (a). For the financial year 2005-06, it has done maintenance dredging near the berth pockets for 77,370 cubic meters at a rate of Rs.95/- per cubic meter with fuel escalation cost extra. The projections have been made at this rate with inflation factor of 5%. It has furnished a copy of the bill. (b). Copies of the letters issued by MOPT alongwith calculation for the year 2005-06 has been furnished. As per this communication, the dredging cost for the year 2005-06 is Rs.36 lakhs payable to MOPT for that additional dredging beyond level agreed by MOPT. The documentary evidence furnished by SWPL in form of bills raised by the Dredging Corporation of India (DCI) pertains to October 2004. (It has not furnished any copy of the contract entered with the DCI or any bill for the expenditure incurred during the year 2006-07.
(6).	(i). Clarify why the users should be burdened with tariff revision for recovery of royalty payment at the highest level of Rs.12 crores for each of the years 2006-07 and 2007-08 though the terminal has not handled the minimum guarantee throughput of 5 MMT per annum during the corresponding year as envisaged in the LA.	(i). Even after the proposed tariff revision, the net average deficit will be Rs.13.11 crores for three years 2006-07 to 2008-09. It is, thus, evident that the royalty is not getting passed on to the customers, but the Terminal will have to bear the loss.
	(ii). The royalty estimation in the cost statement is not found to be as per the terms of License Agreement and also not in line with Clause 2.8.1 of the revised tariff guidelines. As per clause 7.3.4.3 of the License Agreement entered between the SWPL and the MOPT, the licensee is required to pay 18% of the cargo handling charges to the licensor towards royalty till 36 months from the date of commercial operation (which is reported to be 15 September 2005) and from the 37th month onwards specific criteria is prescribed for arriving at the quantum of royalty payable by the licensee to the licensor. The 37th month from the date of commercial operation will begin from 16th September 2008 based on the date of commencement of commercial operation indicated by the SWPL. In this context, please clarify as to why the SWPL has applied the condition of payment of royalty at the highest level based on the criteria prescribed in the LA from the year 2006-07 itself.	(ii). Clause 7.3.3 of the License Agreement stipulates the time frame for achieving the minimum guaranteed throughput as 66 months from the date of handing over of the licensed premises to SWPL and thereafter, royalty is payable as per the provision of Clause 7.3.4.3. There is a dispute between the MOPT and SWPL about the date of handing over. Pending resolution of this dispute by arbitration, the Port, by Supplementary Agreement dated 23 June 2003, agreed to extend the time for construction and development of the terminal upto 8 March 2004 subject to an explicit condition, *inter alia*, that the licensee will have to pay monthly royalty payment as stipulated in Clause 7.3.4.3 from 37th month from 8 November 2002 (i.e. from 9 November 2005 onwards). A copy of the said Supplementary Agreement is furnished alongwith the proposal. The Royalty figures projected in Form 3A are stated to in accordance with the LA terms.
	(iii). The provisions at (D) under Clause 7.3.4.3 of the LA refers Rs.12 crores as the annual income. It is not clear why this is	(iii). If one considers all items A to D of clause 7.3.4.3 together, the words 'annual income of Rs.12 crores' used in item D are to be taken to

	taken to be revenue share payable by the SWPL.	mean revenue share of Rs.12 crores payable in absolute figure.
	(iv). In terms of clause 2.8.1 of the revised tariff guidelines, indicate the likely loss if revenue share payable by the SWPL to the landlord port MOPT are not considered for tariff fixation for the years 2006-07 to 2008-09. Also, furnish detailed computation of revenue share payable as per the License Agreement and the royalty that can be admitted as per the revised tariff guidelines.	(a). As the agreement was signed before 29th June 2003, in our case, the royalty / revenue share has to be considered as admissible item of cost for tariff fixation. (b). As per Clause 7.3.4.3 'Monthly Royalty Payment' of the License Agreement, the royalty is fixed as the maximum of four different calculations, one of it is Rs.12,00,20,560.00, irrespective of the quantum or percentage of revenue share. (c). Thus even though the rate quoted by the second higher bidder was lower at 13.10%, the licensee has to pay the minimum of Rs.12 crores as per LA. Considering this, the royalty to the extent of this figure will become eligible to be considered as admissible item of cost under the revised tariff guidelines. If it is not considered so, SWPL incurs a loss. (d). The working result of 3 years (2007-08 to 2009-10) / 4 years (2006-07 to 2009-10) at the existing tariff level show an average deficit of 27.67% / 21.36% when royalty to the extent of atleast Rs.12 crores plus 15% ROCE is considered. The same trend will continue to show an average deficit of 11.73% / 5.93 % when royalty is not considered. This means ROCE is not realised in full. In addition royalty in any case will have to be paid to the port thus putting the SWPL to a loss of atleast Rs.12 crores plus extent of ROCE not realised.
(7).	(i). (a). The reasons for estimating around 96% and 36% increase in the insurance cost for the years 2006-07 and 2007-08 over the respective previous years may be justified with reference to the actual insurance cost incurred by the SWPL during the years 2004-05 and 2005-06. Also, confirm whether it is as per the terms of the License Agreement. (b). Clarify why the insurance cost for the years 2007-08 to 2009-10 is estimated to increase, when no addition is proposed to the gross block during these years. Insurance cost should in fact reduce due to depreciation of the assets. Also, furnish documentary support to justify the estimation of insurance cost for the year 2005-06 and 2006-07 considered in the cost statement.	(i). (a) Insurance cost is based on the gross value of assets capitalised during the year. (b). The terminal was commissioned for commercial use only in September 2005. Hence, the insurance cost incurred during the year 2005-06 was for part of the year and that too for the assets, which were capitalised during that year only. Hence, the insurance cost of 2005-06 is not comparable with the projections for 2006-07. The computation of insurance cost for the year 2006-07 is based on the total premium payable for various policies. (c). All the insurance policies are in line with Clause 10.8.1 of the License Agreement. (d). A statement, exhibiting the details of various policies and the cost involved is furnished to substantiate the estimates.
	(ii). Clarify the marine hull policy for damages against ocean vessels estimated at around	(ii). The marine hull policy is to protect the berths and machineries erected on the berth

	Rs.8.40 lakhs per annum. From the License Agreement it is not clear whether there is any provision for covering against such damages. Please furnish a copy of the relevant insurance cover taken during the year 2005-06 to justify this estimate.	from the impact of vessels / floating crafts hitting the berth due to atmospheric changes or due to heavy wind / gale, which happens very frequent in Goa. This insurance policy is for covering such losses.
8.	(i). The administration expenses (other than insurance and License Fee to MOPT) are reported at Rs.84.78 lakhs in its Audited Annual Accounts for six months period of 2005-06. As against this, the management and administration overheads and general overheads are considered at Rs.565 lakhs (actuals) for the year 2005-06 in the cost statement. The reasons for significant variation in this figures in comparison to actuals for six months of 2005-06 may be explained.	(i). Major portion of the human resources and Administration expenses during the last two financial years were capitalised and hence only the remaining portion is debited to Revenue Account. The total expenditure (attributed to revenue account) for the year 2005-06 (trial run plus commercial operation) is Rs.190 lakhs as shown in the revised Form 3A enclosed as Annexed–1 ('admin' sheet). The gross Management and General Overheads includes the capitalised portion, for 2005-06 of Rs.537 lakhs under 'Administrative Costs'. As now commercial operations have commenced all the costs for the ensuing years have to be charged to revenue. As compared to the gross figure for 2005-06 mentioned above the projected costs are not excessive.
	(ii). Justify the reasons for estimating 82% increase in the management and general overheads for the year 2006-07 over the previous year in terms of the provision in the revised tariff guidelines which allows escalation in the expenditure at the current Wholesale Price Index of 4.5%. Also, furnish break-up of the management and general overheads.	(ii). The costs given in 2005-06 is for only part of the year and hence are not comparable with the figures for the coming years. It has furnished detailed breakup of the management and general overheads considered in the estimation.
(9).	Confirm that the depreciation has been computed based on the straight line method with life norms adopted as per Companies Act or based on life norms prescribed in the concessional agreement whichever is higher as per clause 2.7.1 of the revised tariff guidelines.	The depreciation is computed as per the rates mentioned in Schedule-XIV of the Companies Act, 1956 and in line with the terms of License Agreement.
(10).	(i). The initial tariff proposal envisaged an investment of Rs.17.50 crores in Phase-3. As against this, the SWPL has proposed a capital investment plan of Rs.81.62 crores during the year 2006-07. The reasons for such wide variation in the capital investment with reference to its initial project cost and also the reasons for proposing construction of concrete platform at Rs.35 crores which was not envisaged in its initial tariff proposal / project cost may be justified in the light of the fact that the SWPL has not anticipated to achieve the present capacity level and the minimum guarantee throughput of 5 MMT per annum till the year 2008-09.	(i). The investment in Phase-3 initially proposed was meant for cargo handling and other supporting system meant for berth no. 5A. The investment now envisaged in Phase-3 comprises of construction of concrete platform at a cost of Rs.35 crores and procurement of ship un-loader / loader and six gantry cranes for unloading of export cargo from rail and related works for reasons explained in our tariff proposal. The initial technical proposal for reclamation was using gabion wall solutions; leaving certain area behind berth would remain as water and certain area beyond the water area would be capable of storing 2 MT per square meter (20 to 35 mtrs. from water area). With this proposed concrete platform the area which otherwise would have remained unused for the entire concession period, will now be available for use for storage of cargo at a capacity of 10 MT per square meter. The construction of the concrete platform would make this area available for cargo operations and help in fulfilling the minimum guaranteed throughput.

	(ii). Furnish documentary evidence of the capital expenditure incurred by SWPL for its operations at berth nos. 5A and 6A at MOPT.	(ii). The 'Schedule 4' of the Balance Sheet as on 31st March 2006 indicates the gross block as on that date, which tallies with Form 4A. It has subsequently furnished copies of bills / documentary evidence of major items of capital expenditure.
	(iii). (a). With reference to the proposed investment of Rs.81.62 crores during the year 2006-07, please quantify the effect of this investment in terms of addition to the capacity, additional traffic / business, reduction in the unit operating cost or any improvement in the operational efficiency. If the SWPL does not anticipate any increase in volume, reduction in unit cost or increase in capacity, then please justify why this proposed additional investment should be a burden on tariff. (b). Also, furnish documentary evidence for the capital expenditure of Rs.81.62 crores proposed to be incurred during the year 2006-07.	(iii). (a). The main reason of investing Rs.81.62 crores in Phase-3 is to make the area, which would have remained un-utilisable permanently, into badly needed storage space and also to procure equipment / provide other rail related and other facilities to handle the minimum guaranteed throughput. The discharge / loading rates are estimated to increase as stated earlier. This would reduce the berth hire charges and hence help the customers to reduce the voyage cost. (b). Details of the projected outlay for 2006-07 and details of purchase orders / work orders issued as on date, have been furnished.
	(iv). Form 2A states that the capacity of the terminal is 5 MMT as per the License Agreement. License Agreement states 5 MMT is the minimum guaranteed throughput to be achieved by the licensee. In this context, it may be relevant to mention that the minimum guaranteed throughput is not the capacity of the terminal. In fact, capacity will always be more than the minimum guaranteed throughput. Please furnish the detailed computation of the designed capacity of the terminal taking into consideration the additional investment proposed by the SWPL each of the years. The productivity improvements anticipated by the SWPL may also be factored into while computing the capacity for each of the years under projection.	(iv). With the berth length, mechanical handling system and other facilities, and the limited storage space available, the terminal can handle this minimum guaranteed throughput of 5 MMT. The limitation factor is, the rate of evacuation by rail due to constraints in the Ghat section. Today, the present evacuation is on a daily average of four rakes of 58 wagons, each capable of carrying 62 MT, for 350 days in a year. This gives annual capacity / throughput of 5.034 MMT. The Indian Railways with whom the matter was pursued have initiated steps to augment the capacity by doubling the tracks and laying loop lines in stations and crossing in order to accommodate more rake movements. These improvements are expected to be completed by year 2009. The capacity of the terminal would then increase to about 7.50 MMT per annum by 2009-10.
	(v). During the initial tariff fixation, this Authority had specifically pointed out that the preliminary expense should be excluded from the gross block of assets and must be shown separately by spreading it over the entire project period in line with the treatment given at the other private terminals; and, the SWPL had accordingly modified the estimates. Para 2.3. of Appendix-2 of the instant proposal states that license fee and pre-operative expenses are apportioned to cost of assets. Apart from claiming depreciation on this preliminary expense, a separate entry is made in form 3A towards preliminary expenses written off each year which leads to double counting of the same component. The SWPL is requested to exclude this preliminary expense from the gross block of asset and show a separate entry in this regard by spreading it over the	(v). The preliminary expenses shown as part of Miscellaneous expenditure in the Balance sheet, is spent for incorporating and registering the company. As per Accounting Standard, this cost is one time cost and has to be amortised in ten years. This has not been loaded to fixed assets as stated earlier. As part of depreciation on the block of civil works, the pre-operative expenses in effect get spread over the entire license period as required under the revised tariff guidelines. However, in the revised cost statement, the pre-operative expenditure have been separated from gross block and clubbed with preliminary expenses spread over the entire license period.

<table>
<tr><td></td><td>remaining period of the project. Also, reconcile the gross block, depreciation and net block as per the books of accounts for the year 2004-05 and 2005-06 with the corresponding figures to be computed in line with the treatment suggested by this Authority.</td><td></td></tr>
<tr><td>(11).</td><td>(i). The revised tariff guidelines limits the sundry debtors to two month’s of estate income and terminal handling charges while computing the working capital. The estimation of sundry debtors at two month’s total revenue is not in line with the revised tariff guidelines.</td><td>(i). The guideline in respect of sundry debtors is relevant to Major Ports only as vessel-related and cargo related charges are recovered immediately and only estate income and railway terminal charges are items of billed income. In its case, the entire charges are billed to users. Hence, two months total income considered for computation of working capital is reasonable and may be accepted.</td></tr>
<tr><td></td><td>(ii). Please furnish documentary evidence of the orders placed till now for stores and spares to justify the estimates of stores consumption for the year 2006-07.</td><td>(ii). A statement exhibiting the cost and details of purchase orders / contracts for procurement of stores is furnished. This shows that stores worth Rs.172 lakhs were procured for the first four months (April to July) of the year 2006.</td></tr>
<tr><td>(12).</td><td>The benefit of the security deposit refund available to the SWPL at the end of the project period as per the terms of the LA may be annualised and spread over the remaining period of the license by applying the discounting factor at the prevailing PLR / cost of debt as done during the initial tariff fixation.</td><td>The benefit of the security deposit refund has been incorporated in the revised cost statement.</td></tr>
<tr><td>(13).</td><td>Form 7 analysing the actuals for the years 2004-05 and 2005-06 vis-à-vis estimates may be modified in the light of the following observation:
(i). The figures furnished in column 'Existing tariff' particularly the operating cost, return on equity, etc. may be corrected with the estimates considered in our last Order of September 2004.</td><td rowspan="3">The Accounts for FY 2004-05, extrapolated for the full year is furnished in Form-7. The Accounts for FY 2005-06, duly certified by practicing Chartered Accounted is also furnished.

Modified Form-7 reflects the following position.

(Rs. in lakhs)
<table>
<tr><th rowspan="2">Year</th><th rowspan="2">Actuals net surplus / net deficit</th><th rowspan="2">Estimated net surplus / net deficit</th><th colspan="2">Variation</th></tr>
<tr><th>Rs. in lakhs</th><th>In per-cen-tage</th></tr>
<tr><td>2004-05</td><td>(-) 229</td><td>(-) 182</td><td>(-) 47</td><td>26%</td></tr>
<tr><td>2005-06</td><td>588</td><td>311</td><td>277</td><td>89%</td></tr>
</table>
</td></tr>
<tr><td></td><td>(ii). As against the estimates considered in the last tariff Order, the actual position for the years 2004-05 and 2005-06 may be shown duly tallying with the respective Annual Accounts.</td></tr>
<tr><td></td><td>(iii). Since, the figures reported in the Annual Accounts for the year 2005-06 are only for the six months period from September 2005 to March 2006 the SWPL may furnish the Annual accounts for the complete financial year 2005-06 for trial run period as well as after the commercial operation duly certified by the Chartered Accountant.</td></tr>
<tr><td></td><td>(iv). Revenue share payable by SWPL to MOPT was not allowed during the initial tariff fixation. Hence, this may not be included while comparing the estimates allowed during the initial tariff fixation vis-à-vis with actual position.</td><td>(iv). Since the BOOT agreement between SWPL and MOPT was entered on 11th April 1999, the royalty may be considered in accordance with this clause 2.8.1 of the revised tariff guidelines.</td></tr>
<tr><td>(14).</td><td>Page 21 of the proposal states that the tariff revision is proposed considering the cost that the market can bear. In this regard, please furnish the analysis carried out by the SWPL to assess the market affordability of the proposed tariff.</td><td>The tariff increase has been proposed by considering the market affordability as per its judgement.</td></tr>
</table>

II	**SCALE OF RATES**	
(1).	During the initial tariff fixation there was some issue relating to the change of the name of the company and the MOPT and the SWPL had agreed to examine this from legal point of view and to resolve this issue. In this regard, please confirm whether the issue of change of name of the licensee company is finalised and forward the documentary support in this regard.	The matter was discussed with the MOPT. They have no objection for changing the name of the company from ABG Goa Port Ltd to South West Port Ltd. They have suggested that the word ‘Port’ from the new name may be deleted and or replaced with a suitable word. A copy of the MOPT letter is furnished. This will be taken into account while applying for a change in the name of the company.
(2).	The definition of the terms 'coastal cargo' and 'foreign cargo' has not been prescribed in the Scale of Rates of any other major ports / private terminals and hence may not be exclusively prescribed in the Scale of Rates of the SWPL. It would be sufficient to incorporate the various conditionalities for allowing concessional tariff for coastal cargo / vessels in line with our Order dated 7 January 2005 and 15 January 2005 as elaborated in our subsequent query no. 3(ii).	It has no objection to incorporate the various conditionalities for allowing concessional tariff for coastal cargo as advised. However, it is felt that it would be better to define the terms ‘coastal cargo’ and ‘foreign cargo’ to avoid any disputes and to prescribe the provisions at the appropriate places in the SOR.
(3).	**Section 2: General terms and conditions.** (i). The basis for prescribing the penal rate of interest in note 5(b) at 15% may be explained in light of the specific provision in this regard in the revised tariff guidelines.	The PLR of State Bank of India as revised from 7 June 2006 is 12.75%. The present trend is of increasing the interest rates. Hence the proposed penal rate of interest may be allowed to remain at 15%.
	(ii). Incorporate, various provisions relating to concessional tariff for coastal cargo / container prescribed vide our Order No TAMP/4/2000- Genl. dated 7 January 2005 and subsequent amendment dated 15 January 2005.	(ii). It has no objection to incorporate general conditionalities in this regard.
	(iii). Incorporate the following conditionality in the proposed SOR as per clause 2.15 of the revised tariff guidelines: “*Users will not be required to pay charges for delays beyond a reasonable level attributable to the SWPL”.*	(iii). It has incorporated the said clause in its revised proposed Scale of Rates.
(4).	Part- I – Vessel Related Charges Section C – Berth Hire Charges. (i). (a). Explain the reasons for considering the existing berth hire rate applicable for vessels in the range of 30001 to 50000 GRT as the basis for proposing single berth hire rate for berth no. 6A. Though the SWPL has stated that no increase in the berth hire charges are proposed, an analysis shows that the single slab rate proposed by SWPL for berth no. 6A as against the existing four tier structure will lead to a 44% increase in case of vessels upto 20,000 GRT, 18% hike in case of vessels above 20,000 GRT and upto 30,000 GRT. In view of this, please furnish the additional income likely to accrue at the proposed tariff level for each of the existing slabs. The SWPL may consider to propose a suitable alternate tariff structure to smoothen	(a). The existing rate for vessels in the range of 30000-60000 GRT is proposed to be adopted as the single berth hire rate for berth no. 6A because the vessels calling at this berth fall in this range. Smaller vessels are not expected to call at berth no. 6A since only major users bring larger size vessels. If and when smaller vessels of other users call at its terminal, they will be berthed at berth no. 5A for which a lower berth hire rate is prescribed in the proposed SOR. There is no additional burden on users and there is no need to alter the berth hire rate structure proposed in the SOR. In fact due to the improved discharge / loading rates the users will be benefited by way of lower berth hire.

	suitable alternate tariff structure to smoothen the impact and to maintain a revenue neutral position. (b). SWPL has stated that the uniform berth hire proposed in berth no. 6A will not have any impact since all the vessels handled at present are about 30000 GRT at this berth. In this context, it may be relevant to mention that the average GRT of limestone vessel estimated by the SWPL is 27000 GRT which means this category of vessels will have to bear an impact of 18% upward revision i.e. from US$ 0.0275 per GRT per hour to a uniform rate of US$ 0.0325 per GRT per hour. The additional revenue at the proposed increased rate for this category of vessels may be indicated. (c). On the analysis of detailed revenue computation furnished by SWPL it is found that the berth hire revenue for limestone vessels at berth no. 6A is estimated applying US$ 0.0325 per GRT per hour as against the existing rate of US$ 0.0275 per GRT per hour for vessels in the range of 20,000 to 30,000 GRT. SWPL may modify its estimates at the prevailing rate applied for vessels carrying limestones.	A berth hire rate for vessels below 30000 GRT has been provided in the revised SOR and necessary correction has been made in the revenue computation of limestone vessels in the revised financial statements.
	(ii). The existing Scale of Rates prescribes specific discharge / load rate to be achieved by the vessels at berth no. 5A or else it will be accorded ousting priority. Explain the reasons for deleting this existing provision. In view of the proposed deletion of this existing provision, the circumstances in which the vessel berthed at 5A will be accorded ousting priority, if so, need to be explicitly clarified in the SOR.	(ii). The port still continues to handle (import coal / coke) at Berth Nos. 10 and 11 cargo of other users. Because of this, its berth no.5A is under-utilised. In order to utilise the berth, facilities for handling export cargo have been planned in Phase-3. It does not envisage any contingencies of ousting priority to vessels at berth no. 5A. If it arises, in the absence of any provision, it would not levy any extra charge.
	(iii). With reference to the submission made by the SWPL at page 14 of the proposal about filing a proposal for Efficiency Linked Tariff Scheme (ELTS), it is clarified that the ELTS will work both ways. It will reward the operator / port for achieving the prescribed productivity norms or penalise the operator if the prescribed productivity level is not achieved. These factors may be considered while filing the proposal for ELTS.	(iii). The observation will be kept in view while framing ELTS in due course.
(5).	**Part-I – Section D Charges for water supply** (i). (a). Please explain the existing arrangement for supply of water to vessels. Indicate the cost of procurement of water and the cost involved in offering this service alongwith detailed computation. (b). If the water supply is arranged by the SWPL, please propose a specific rate for	(i). (a). As and when required by the Master of the vessel berthed at the terminal, the terminal arranges supply of water in the same manner as is being done by MOPT. The service of water supply to vessels is a not a major source of income. During the years 2004-05 and 2005-06, collection from supply of water was only Rs.1.49 lakhs and Rs.2.58 lakhs respectively. (b). It is proposed to levy same rate as charged by MOPT to vessels at their berths,

	offering this service and justify with reference to the cost of service provided instead of giving cross-reference to the MOPT Scale of Rates. In case the MOPT is providing this service, it may be sufficient to mention that the MOPT will be offering this service and will recover the tariff accordingly.	instead of a separate rate, since there are very few occasions when water is supplied to a vessel.
(6).	**Part- II – Cargo Related Charges** (i). Prescribe concessional wharfage rate for coastal cargo except thermal coal, POL including crude oil, iron ore and iron ore pellets not exceeding 60% of the wharfage applicable for normal cargo in this Schedule in line with our Order no. TAMP/4/2004-Genl dated 7 January 2005 and subsequent amendment dated 15 January 2005.	(i). The concessional rates have been prescribed in the revised proposed SOR.
	(ii). **Section B – Cargo handling charges** (a). Explain the reasons for deleting the existing cargo handling charges in respect of coal, metallurgical coke / coke (all types) charcoal and limestone handled at berth no. 5A. Please clarify under what category these cargo items will be classified for the purpose of levy of cargo handling charges at berth no. 5A. (b). Justify the proposed increase in the range of 20% to 28% in the cargo handling charges for some of the commodities with reference to the increase in the cost of services provided. (c). Note 1 – Explain the reasons for deleting one of the services i.e. loading on trucks for road delivery and vice-versa from the said note for berth no. 5A. If any of the existing services included in composite rate are proposed to be deleted, then a corresponding adjustment, may be done by reducing the composite fee to that extent. (d). As per the existing note no. 5, the handling rate for HR Coils and slabs exclude dunnaging and lashing charges. The modification proposed in this note gives an impression that dunnaging and lashing including suitable labour and material are expected to be arranged for all cargo items at the cost of the vessel master. The reasons for this modification in the existing provisions and the impact thereof, on the users for each of the cargo items may be indicated. Also, clarify which all cargo items include dunnaging and lashing charges in the existing cargo handling rate and the extent thereof. As stated earlier, in case any of the services included in the composite fee are	(a). The small users who import coal, coke, metallurgical coal, charcoal and limestone still continue to call at MOPT Berth Nos. 10 and 11 and are not expected to avail the services provided by it at berth no. 5A. In view of this, it is felt that there is no need to keep a wharfage rate for these items of cargo at berth no. 5A. (b). The cost statement for cargo handling activity discloses an average 30.3% deficit for the years 2006-07 to 2008-09 in the cargo handling sub-activity. Even after considering income at the revised rates proposed in the SOR, there would still be an average deficit of 9.1% in this sub-activity. The revised rates proposed are, therefore, not excessive. (c). The Goa State Pollution Control Board has directed that the entire coal handled at the terminal should be transported by rail mode only and there should be road transport of coal by trucks. Because of this, 'loading of trucks for road delivery and vice versa' was deleted from the scope of service in note 1. Now it has been reworded considering the export cargo proposed to be handled at berth no. 5A. There is no need to make any adjustment in the rate proposed. (d). The dunnaging and lashing is required only in the case of exports of iron ore pellets, metal products and steel coils / slabs. This will be arranged by the cargo owners at their cost from private contractors. If requested by the shipper, the same will be arranged by SWPL, through a mutually acceptable contractor. The customer will pay the contractor directly and SWPL will help in supervising the work. This position existed even at the stage of the initial tariff proposal. The ambiguity in the wording is being removed by suitably changing the wording of the clause. In view of this, there is no need for any adjustment in the rate proposed.

	proposed to be deleted, a suitable adjustment should be done by correspondingly reducing the composite fee. (e). The proposed note no.6 requiring the users to arrange for Custom House Agents at their cost for clearing the cargo from Customs and the proposed note no. 7 appear to be procedural issues and not related to tariff fixation and hence, may not be included in the Scale of Rates. (f). Prescribe separate concessional rate for handling coastal cargo in line with our Order No. TAMP/4/2004-Genl. dated 7 January 2005 and subsequent amendment dated 15 January 2005.	 (e). The said provisions are deleted from the revised SOR. (f). The concessional rates for handling of coastal cargo have been prescribed in line with revised tariff guidelines.
(7).	As stipulated under clause 6.8 of the tariff guidelines, benchmark levels of productivity may be indicated and incentives may be proposed for better performance of the terminal and disincentives for performance below the benchmark levels. The rationale for proposing such benchmark levels and the incentive / disincentive may also be indicated.	A separate ELTS with benchmark levels of productivity will be proposed later after gaining sufficient experience of the operations.
(8).	**Section C – Ground rent / storage charges.** (i). Incorporate the following condition flowing from the principle prescribed in the revised tariff guidelines that users should not be made to pay for the delays attributable to ports: *"Storage charge / ground rent on cargo shall not accrue for the period when the SWPL is not in a position to deliver / ship the cargo when requested by the user"*	 The said condition has been incorporated in the revised proposed SOR.

6.2. The revised cost statement filed by the SWPL reflected the following cost position at the existing tariff level:

Sr. No.	Particulars	Operating Income (Rs. in lakhs)				Net Surplus (+) / Deficit (-) (Rs. in lakhs)				Net Surplus (+) / Deficit (-) as a % of operating Income			Average surplus / deficit %
		2007-08	2008-09	2009-10	Total	2007-08	2008-09	2009-10	Total	2007-08	2008-09	2009-10	
1.	Consolidated cost statement for the terminal as a whole	8457	9453	11920	29830	-1739	-1317	-288	-3344	-20.6	-13.9	-2.4	-12.3
2.	Cargo handling activity	6499	7273	9199	22971	-1571	-1399	-933	-3903	-24.2	-19.2	-10.1	-17.8
3.	Berth hire activity	1958	2180	2721	6859	-168	81	640	553	-8.6	3.7	23.5	6.2

7. Simultaneously, the MOPT was also requested to furnish information / clarification. The MOPT has furnished its reply. A summary of queries raised by us and the reply furnished by the MOPT is tabulated below:

Sl. No.	Queries raised by us	Reply received from MOPT
(i).	Traffic projected by the SWPL for the years 2005-06, 2006-07 and 2007-08 are 3.11 MMT,	The SWPL has projected the traffic for the year 2006-07 and 2007-08 less

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<td>3.48 MMT and 4.73 MMT respectively as against the projections made by the MOPT in its general revision proposal at the level of 4.24 MMT, 4.39 MMT and 5 MMT for the corresponding years. The traffic projections are, found to be lower in comparison to the Minimum Guaranteed Throughput (MGT) of 5 MMT per annum as per the License Agreement. Please furnish specific comment on the reasonableness of the traffic projections made by the SWPL for the years 2005-06 to 2008-09.</td>
<td>than the MGT, citing the reason that despite Goa State Pollution Control Board's directions, MOPT still continues to handle rail / road mode coal / coke at berths nos.10 and 11 and thereby they are not in a position to achieve the MGT. This is not acceptable on the following grounds.

(a). Secretary (Shipping)'s letter dated 15 December 2005 at para 17(ii) states that the Port is compelled to continue handling of coal / coke operations at berths nos. 10 and 11 due to inability of SWPL to handle road-borne cargo. Under such circumstances, it is not considered appropriate to modify the fundamental clauses of the License Agreement with regard to the Minimum Guaranteed Throughput, etc.

(b). During the year 2005, the total coal / coke traffic handled at MOPT was 4.00 MMT at berths nos. 10 and 11. It is a known fact that despite constant persuasion with SWPL with regard to creation of facilities for handling road mode, coal / coke traffic at their berths, such facilities are yet to be developed by them and they are using the berths more or less as captive facility by delaying the development of traffic. Even in case of considering shifting of the entire coal / coke traffic from berth nos. 10 and 11, they are not in a position to achieve the MGT and therefore, the reason cited for less traffic as against the MGT is not acceptable. The traffic projected by SWPL could be based on their own demand and other trends.</td>
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<td>(ii).</td>
<td>The SWPL has stated that Goa State Pollution Control Board has directed that the entire coal that is handled at the terminal should be transported by rail mode only and that there should be no road transport of coal by trucks. It is understood that the Secretary, Ministry of Shipping had issued an Order (No PD/13011/2005-MOPT dated 15 December 2005) directing the MOPT to continue to handle bulk coal / coke at berth no. 11 till an alternative facility is developed. In this regard, please clarify the operational arrangement envisaged for the coal that requires road movement from the port. Also, indicate coal / coke projections likely to be handled exclusively by the MOPT by road / railway mode since the general revision proposal filed by the port does not explicitly disclose this information.</td>
<td>(c). Coal / coke projection likely to be handled exclusively by MOPT for next 5 years by rail / road-mode is furnished hereunder:

(In million tonnes)
<table>
<tr><th>Commodity</th><th>Coal / Coke</th></tr>
<tr><td>2006-07</td><td>5.30</td></tr>
<tr><td>2007-08</td><td>5.52</td></tr>
<tr><td>2008-09</td><td>5.79</td></tr>
<tr><td>2009-10</td><td>6.02</td></tr>
<tr><td>2010-11</td><td>6.20</td></tr>
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(iii).	Please confirm the lease rental paid by the SWPL for the year ended on 31 March 2006 is Rs.206 lakhs. Also, confirm that the estimation of lease rentals payable by the SWPL for the years 2006-07 to 2008-09 at Rs.216 lakhs, Rs.227 lakhs and Rs.239 lakhs respectively are in line with the lease rent prescribed in the SOR of the MOPT and also in accordance with the terms of the LA.	It is confirmed that the lease rental paid by SWPL for the year 2005-06 was Rs.206 lakhs and the amount payable for the years 2006-07 to 2008-09 are at Rs.216 lakhs and Rs.239 lakhs respectively. This is as per License Agreement, Para (7.3.4.2). The license fee is subject to an upward revision at the end of every year by 5% of the fees paid for the preceding year.
(iv).	The SWPL has estimated an addition Rs.81 crores to its gross block during the year 2006-07 for additional equipment, construction of sheds for additional storage space, etc. Please furnish your comments on the reasonableness of the investments proposed to be made by the SWPL.	Except for the construction of the storage area it is not aware of any developments proposed to be undertaken by SWPL. The deck slab and piles may cost an amount of Rs.35 crores as indicated by SWPL for the year 2006-07.
(v).	Indicate the existing assessed capacity of the two berths handled by the SWPL taking into consideration the investments made by operator and the equipment deployed for the operations. Also, indicate the assessed capacity of the operator for the years 2006-07 to 2008-09 taking into consideration the additional investment of Rs.81 crores proposed during the year 2006-07 and particularly with reference to the proposed construction of higher density storage area which was not envisaged in its initial project cost.	The existing capacity can be taken as 5 MMT per annum. Since SWPL has not informed us of any of their development plans, it is not in a position to comment on the assessed capacity for the years 2006-07 and 2007-08. Since the additional storage area with deck slab under construction is in lieu of reclamation which was originally envisaged, there will not be any appreciable increase in the capacity on account of this.
(vi).	(a). Confirm that the estimation of royalty payment by SWPL at Rs.12 crores for each of the year 2006-07 and 2007-08 and Rs.13.09 crores for the year 2008-09 is in accordance with the terms of the LA. If not, the detailed computation of royalty estimated to be collected from the SWPL may be furnished.	(a). As per clause no.7.3.4.3 of the License Agreement, the Licensee has to handle minimum guaranteed throughput of 5 MMT per annum through this terminal from the 37th month of the date of Commercial Operation and onwards. However, as per the subsequent Supplementary Agreement signed with the Licensee, the Minimum Guaranteed Throughput shall be achieved by the Licensee from the 37th month from 8 November 2002 (i.e. from 9 November 2005). The royalty payable is highest of the following: (aa). 18% of the cargo handling charges irrespective of discount if any, granted by the Licensee. (ab). 18% of the cargo handling charges for the Minimum Guaranteed Throughput. (ac). The Minimum annual income determined on the basis of 18% of the total income at the rate of cargo handling fixed by the TAMP for a Minimum Guaranteed Throughput of 5 MMT per annum. (ad). The annual income of Rs.12,00,20,560.00.

		The SWPL had made a projection of traffic for the year 2006-07 to 2008-09 at a level of 3.48 MMT, 4.73 MMT and 5.21 MMT respectively. As per the License Agreement, the terminal operator has to pay minimum royalty of about Rs.12 crores per annum during 2006-07 and 2007-08 irrespective of traffic handled. The royalty payable to the Port for the year 2008-09 has to be computed considering the estimated traffic of 5.21 MMT.
	(b). The revised tariff guidelines allows the royalty / revenue share payable by the private operator to the landlord port in those BOT cases where the bidding process was finalised before 29 July 2003 as a cost for tariff fixation to avoid the likely loss incurred by the private operator if this item is not included as cost subject to maximum of the amount quoted by the next lowest bidder. In this regard, furnish the revenue share quoted by the next highest bidder alongwith an extract of the relevant document. Also, indicate the exact date when the bidding process was finalised in this case.	(b). The revenue share quoted by the 2nd highest bidder was 13.10%. The price bids were opened on 20 February 1996 and the License Agreement was signed on 11 April 1999.
(vii).	Indicate the reasonableness of the estimated dredging considered by SWPL. Since MOPT also engages dredging contractors, furnish the dredging cost / cubic mtr. incurred by the MOPT.	The maintenance dredging estimated by the SWPL at Rs.89.00 lakhs for 2006-07 and Rs.93.00 lakhs for 2007-08 is found to be on the higher side. The maintenance dredging incurred by the port for the year 2005-06 is around Rs.30.00 per cubic meter which may be considered reasonable.

8. A joint hearing in this case was held on 5 July 2006. The SWPL made a slide presentation of the proposal. At the joint hearing the SWPL and MOPT made their submissions.

9.1. Subsequently, the MOPT has furnished the following information regarding revenue share payable by the SWPL to the MOPT:

(i). The tendering process for the proposed project development at berth nos. 5A and 6A was taken up during 1995-96 prior to the TAMP coming into existence.

(ii). The bidders were required to quote the percentage revenue that they would be offering to the port as well as the minimum guaranteed annual amount. The minimum guaranteed throughput was fixed at 5 MMT per annum.

(iii). M/s. ABG Goa Port Limited (now called M/s. SWPL) had offered the highest revenue share of 18% and minimum guaranteed annual amount was at Rs.29.50 crores. At that point of time the bidders were free to fix their own cargo handling rates.

(iv). Subsequently, while licence agreement was being finalised, TAMP came into existence. M/s. ABGKCTL then contended that since they were not free to fix their own cargo handling rates as these rates are to be approved by the TAMP, they shall be liable to pay only 18% of the cargo handling charges for a minimum guaranteed throughput of 5 MMT and not the minimum guaranteed annual amount of Rs.29.50 crores quoted by them earlier.

(v). This matter was referred by them to the Government. The Government clarified that M/s. ABGKCTL are not liable to pay the minimum guaranteed annual amount under the changed circumstances.

(vi). After receiving the orders from the Government, there were further negotiations with M/s. ABGKCTL and finally with their concurrence, it was decided that an amount of Rs.12,00,20,560.00 is to be included in the licence agreement as the minimum guaranteed annual amount.

9.2. In this regard, this Authority reiterated its earlier opinion to the Ministry of Surface, Road Transport and Highways (MSRTH) that comparison of royalty had to be drawn in totalities of the successful bid and the Second Lowest bid in totalities with reference to all the bid variables. A private terminal operator has to pay royalty to the Land lord Port to the level of minimum agreed level of throughput even if the actual traffic handled or estimated to be a handled is lower. If this royalty amount is considered as cost in tariff, the existing traffic will have to bear additional burden arising due to commercial decision of the minimum guaranteed throughput quoted by the private terminal operator.

9.3. It was subsequently pointed out to the MSRTH that it would be appropriate to consider the revenue share applicable on the estimated traffic projections furnished by the SWPL and admit it to the extent of the second lowest bid for the purpose of tariff computation. This means the additional revenue share payable due to non-realisation of the minimum guaranteed throughput will not be recognised. The Ministry was requested to advise us if it feels any other approach is to be adopted. We have not received any advise from the Ministry in this regard.

10. 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

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

(i). During the initial tariff fixation done in September 2004, both the MOPT and the SWPL had agreed to examine the issue relating to change of the name of the Licensee Company from legal point of view.

The SWPL has clarified that this matter is resolved and the MOPT has no objection for changing the name of the company from ABG Goa Port Limited to South West Port Limited. However, the port has suggested to delete the word 'Port' or replace it with a suitable word. The SWPL has agreed to take into account the suggestion of the MOPT while applying for a change in the name of the company.

In view of the position explained above, we proceed to prescribe the Scale of Rates of the South West Port Limited (SWPL) for operation of its two berth nos. 5A and 6A at the MOPT assuming that the issue of change of name of the company will be finalised soon. The revised Scale of Rates approved by this Authority will automatically apply to the operations of the re-named company also, when such change of name is approved by the competent authorities.

(ii). The License Agreement stipulates a Minimum Guaranteed Throughput (MGT) of 5 Million Metric Tonne (MMT) per annum to be handled by the SWPL at the terminal. The actual traffic handled for the financial year 2005-06 is, however, reported at 3.02 MMT, as against 4.21 MMT estimated during the initial tariff fixation. One of major reasons attributed to this reduced traffic is that the small importers of coal and coke continue to use the berths of the MOPT for handling their cargo. Another reason cited by the SWPL for the reduced traffic is the direction issued by the Goa State Pollution Control Board in July 2005 requiring the SWPL to handle entire coal by rail mode only and not to transport coal by road movement to avoid any pollution.

For similar reasons, the traffic for the years 2007-08 and 2008-09 are projected at 3.48 MMT and 4.73 MMT which are again lower than the MGT stipulated in the LA. The traffic for the years 2008-09 and 2009-10 are, however, projected at 5.21 MMT and 6.50 MMT.

Even during the initial tariff fixation, the SWPL had not accounted for movement of cargo by road while estimating the traffic. Subsequently, based on our specific advice, the SWPL had devised an operational plan for road movement to meet the demands of the small users. The MOPT has pointed out that despite constant persuasion with SWPL to create facilities at the terminal for handling coal / coke cargo by road mode, it has not yet developed / created the requisite facilities for handling cargo by road mode to cater to the demands of the small volume users. The Department of Shipping after discussions with the port, SWPL and the concerned users has issued an Order on 15 December 2005 directing the MOPT to continue to handle coal / coke operations at its berth nos. 10 and 11 till an alternative facility is developed by the SWPL to handle this category of cargo at its terminal in view of the constraints in the premises licensed to the SWPL.

The issue raised by the small volume users who move cargo by road mode appears to have been resolved for the time being since the MOPT will continue to handle coal / coke at their berths as per the directions of the Government.

It is relevant here to mention that the decisions relating to privatisation of a port facilities and the operational arrangements thereat are not within the regulatory scrutiny of this Authority. Since many users raised a concern in this regard at the time of the last tariff fixation exercise, this Authority used its good offices to bring MOPT and SWPL together to find an amicable solution to the problems faced by the small volume users. Some of the comments furnished by certain users associations suggest that this Authority went by the consent of large scale users of the terminal while fixing the existing tariff. This Authority does not go only by the consent or dissent expressed by specific groups but follows a prescribed uniform procedure and methodology for determining tariff; a careful reading of the earlier order will reveal that such principles were applied in the SWPL case also for fixing its initial tariff.

Be that as it may, the traffic estimates, as furnished by SWPL are relied upon for the purpose of this analysis. At the time of the next general review of tariff to be undertaken after the validity period is over, if any undue advantage is found to have accrued to the Terminal Operator due to wrong estimation, the additional surplus earned will be fully accounted for in the tariff to be fixed then.

(iii). The estimated income from the berth hire for the year 2006-07 is scaled down by 22% over the actuals for the previous year. The SWPL has explained that this is on account of increase in the discharge and loading rates of various commodities envisaged to be achieved by the SWPL. The SWPL has furnished detailed computation of berth hire income based on expected improvement in the performance level. The income estimated from berth hire charge is considered in this analysis presuming that the discharge / loading rates envisaged in the proposal will be achieved by the SWPL.

The income from berth hire is estimated by SWPL applying exchange rate of US$1= Rs.46.50. However, in case of coal handled by panamax vessels constituting predominant category of cargo, berth hire income is estimated applying exchange rate of Rs.44/-. The current exchange rate is around Rs.44.62. The income estimation from berth hire charge is updated applying the prevailing rate of exchange, which has resulted in an increase of the estimated income from berth hire.

The actual storage income for the year 2005-06 is reported at Rs.154 lakhs. The income estimation, for the subsequent two years 2006-07 and 2007-08 is, however, scaled down to Rs.106 lakhs and Rs.149 lakhs. The SWPL has not furnished any specific reason for scaling down the storage income for these years. The estimates for the years 2008-09 and 2009-10 are estimated to increase to the extent of traffic growth anticipated over the respective previous years.

Actual storage income for the first six months for the year 2006-07 upto September 2006 is reported to be Rs.74 lakhs and if this data is extrapolated for the full year, the annual income will work out to Rs.148 lakhs. The storage income for the year 2006-07 is, therefore, modified at Rs.148 lakhs based on actuals furnished for the past six months. For the subsequent years, the income from storage charge is estimated to increase to the extent of the anticipated growth in traffic in line with the approach followed by SWPL in their estimation. Accordingly, the modified storage income of Rs.201 lakhs, Rs.221 lakhs and Rs.276 lakhs for the years 2007-08, 2008-09 and 2009-10 respectively is considered in the cost analysis.

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

(iv). The actual repairs and maintenance cost for the year 2005-06 as certified by the Auditors of SWPL is around Rs.92 lakhs, which works out to 0.80% of its gross block. As against this, the repairs and maintenance cost for the subsequent years under consideration is estimated at Rs.530 lakhs per annum.

The SWPL has argued that the commercial operations with full mechanised handling system and automisation commenced from mid September 2005 only and with the ageing of the equipment, repairs and maintenance cost is likely to increase. Hence, it has justified that estimation of this expenditure at 3% on equipment cost and 1.5% on civil works on the basis of average percentage of gross block is reasonable.

It has to be recognised that ageing of the equipment will be gradual and no special circumstance is projected to show that such a happening will be on an accelerated manner in this tariff validity period.

The argument of SWPL that the repairs and maintenance cost reported for the year 2005-06 may not furnish a true basis for the expenditure for the following year is accepted for the purpose of this analysis. Even then the actual repairs and maintenance cost for the first four months pertaining to the current financial year i.e. 2006-07 with fully mechanised operation is reported to be Rs.66 lakhs. It this data is extrapolated for the full year, the repairs and maintenance for the year 2006-07 will work out to Rs.200 lakhs as against Rs.530 lakhs estimated by SWPL.

In the absence of any specific reasons explained by SWPL for such a substantial increase in repairs and maintenance cost in the next six months of this year, there is no justification to allow the cost element at the level estimated by the SWPL.

In the light of the actuals reported by the SWPL for first four months of the 2006-07 and also obtaining the position at other private terminals, the repairs and maintenance cost including labour is considered at 2% of the gross block of assets pertaining to equipment and at 1% on other assets and civil works. The pre-operative expenses have been excluded from the gross block while estimating the repairs and maintenance cost.

The addition proposed to the gross block in the year 2006-07 to the tune of Rs.35 crores for construction of concrete platform and Rs.45.77 crores for deployment of additional gantry cranes and other equipment, etc., are yet to be commissioned and are likely to be completed by the end of this financial year as reported by the SWPL. In view of this position, the repairs and maintenance cost in respect of these additions proposed to the gross block may not be incurred during the year 2006-07. The repairs and maintenance cost on these additions is, however, allowed from the year 2007-08 onwards at the stated level. Accordingly, the revised estimation of repairs and maintenance cost will be Rs.227 lakhs for the year 2006-07 which is closer to the estimation based on the actuals reported for the first four months.

The repairs and maintenance cost for the subsequent years is estimated on the same principle at 2% on equipment cost and 1% on civil works based on the position obtaining at the other terminals. Accordingly, the revised estimation of repairs and maintenance cost will be Rs.353 lakhs per annum instead Rs.530 lakhs estimated by the SWPL.

(v). (a). The equipment running cost consists of three cost elements viz. power, fuel and water.

As in the case of repair and maintenance cost, the SWPL has clarified that since, the operations were not fully mechanised till September 2005, the actuals for the year 2005-06 may not be the appropriate basis for assessing the reasonableness of the estimates for the future period. The SWPL has, on our request, furnished the actuals for four months pertaining to the current financial year. If the actual equipment running cost for the first four months of the year 2006-07 is extrapolated for the full year, the estimates so arrived at are found higher than the estimates considered by the SWPL for the year 2006-07 in the cost statement.

It has furnished detailed computation power, fuel and water cost estimation for the year 2006-07.

As regards water cost, the SWPL has clarified that it requires about 900 KL every day for sprinkling on dusty out of which an average about 300 to 450 KL is received from MOPT, and the rest is procured from the market. The cost of procurement of water from MOPT is estimated at Rs.9/- per KL whereas from the rest of the market it is estimated at Rs.105/- per KL. The difference in this rate is because the water supplied by MOPT is sewage treated one, whereas the water obtained from market is from normal sources. It has furnished copy of the bill raised by the supplier to substantiate this estimate.

The detailed computation of power and fuel cost furnished by the SWPL for the year 2006-07 and also the documentary evidence furnished by the SWPL in respect of procurement cost of water are relied upon in admitting the estimates for the year 2006-07.

(b). The SPWL has estimated the consumption of power and fuel to increase by around 3% per annum from the year 2007-08 onward on the grounds that there will be wear and tear of the equipment and also for the proposed deployment of gantry cranes and overhead cranes.

Since gantry cranes are proposed to be added to the gross block during the end of the financial year 2006-07, these equipment will be in operation fully from the next year onwards. Hence, increase in the consumption of power estimated by the SWPL due to deployment of additional equipment is considered for the year 2007-08.

Wear and tear of equipment will happen in a gradual manner for which depreciation is already being provided. It is not clear whether it will have any significant impact on the consumption of power every year. The SWPL has not proposed any addition to the equipment during the years 2008-09 and 2009-10. In the absence of any reasonable justification advanced by SWPL, the proposed annual increase in the consumption of power and fuel during the years 2008-09 and 2009-10 is not accepted. The unit rate of consumption of power and fuel for the years 2008-09 to 2009-10 are considered at the level estimated by SWPL for the year 2007-08.

(c). The unit cost of power, fuel and water is estimated to increase by 5% per annum for the subsequent years 2007-08 to 2009-10 based on the current trend in the inflation rate.

In this regard, it is relevant to mention that this Authority is guided by the revised tariff guidelines which require the expenditure to be estimated based on the current WPI (for all commodities) reported at 4.5% and adjusted for traffic growth. The estimated power and fuel cost are, however, adjusted for growth in the traffic anticipated during each of the years under projection in line with the revised tariff guidelines. The estimate of unit cost of water is also allowed to escalate at the stated level.

(vi). (a). The operating and direct labour cost for the year 2006-07 is marginally lower than the actuals incurred in the year 2005-06 despite a 15% growth in the traffic. The SWPL has furnished detailed computation of operating the direct labour cost with reference to on-board and handling expenses for all the years under consideration. Reduction in the operating labour cost in 2006-07 is mainly due to complete mechanised cargo handling operations from this particular year except in case of HR coils.

The SWPL has furnished the documentary evidence in forms of bills paid to the various contractors for the services outsourced and copies of the agreement with the contractors for providing such services. The estimates for the year 2006-07 is accepted.

(b). The operating and direct labour cost for the years 2007-08, 2008-09 and 2009-10 are estimated at Rs.1873 lakhs, Rs.2475 lakhs and Rs.3764 lakhs as against Rs.1065 lakhs estimated for the year 2006-07.

The SWPL has clarified that the increase in the estimated operating and direct labour cost from the years 2007-08 onwards is due to significant growth in traffic of HR coils. This cargo is not being handled at present at its terminal. The additional investment proposed to be made by the end of the year 2006-07 is mainly to enable them to handle this cargo. Since HR coils handling is highly labour intensive, larger number of specialised labour forces are required to be deployed for handling this cargo. Average cost of such employees is reported to be significantly higher in comparison to the labour involved for handling other bulk cargo by mechanised operations.

In view of the submissions made by SWPL, it is not found appropriate to compare the direct average per employee cost estimated during each year without giving due consideration to the cargo mix of HR coil in the total traffic.

In the absence of any contract entered by them at present for outsourcing handling HR coil, it has furnished a copy of invoice raised by a private stevedore for handling steel slab at the MOPT's berth which is Rs.133/- per tonne.

The stevedoring expense for handling HR coil is estimated at the unit rate of Rs.145.75 for the year 2006-07 which is found to be higher than the rate presently being charged by the private stevedores based on the documentary evidence furnished by SWPL. No justification is furnished by SWPL for the higher level of the outsourcing rates considered in the estimates. This expense is, therefore, estimated at Rs.138.99 per metric tonne for the year 2007-08 after allowing 4.5% annual escalation over the rate indicated in the copy of the bill furnished by the SWPL for handling similar cargo.

(c). The average unit operating and direct labour cost in respect of coal, coke, limestone, HR coil, etc., is estimated to increase by 5% per annum. This is restricted to 4.5% at the current level of the WPI in line with the escalation allowed for other tariff items.

(vii). The SWPL has stated that the license fee payable to the MOPT for lands leased to them is estimated as per the terms of the License Agreements. The MOPT has also confirmed this position.

(viii). There seems to be some dispute between the SWPL and the MOPT on the quantum of dredging to be undertaken by the MOPT. Pending settlement of the dispute, the SWPL has made a provision for maintenance dredging for additional depth beyond the level stated by the MOPT in the tariff revision proposal.

The actual maintenance dredging cost for the year 2005-06 is reported to be Rs.36 lakhs based on the bills raised by the MOPT. As against this, the SWPL has reported the maintenance dredging cost at Rs.89 lakhs, Rs.93 lakhs and Rs.98 lakhs and Rs.102 for the years 2006-07 to 2009-10 respectively.

The estimates are made for volume of 90000 cu. mtr. of dredging in front of berth nos. 5A and 6A @ of Rs.98.35 per cubic metre for the year 2006-07 with an annual escalation of 5% in the unit cost for the subsequent years. On a query raised by us to assess the reasonableness of the estimation of the dredging cost, the MOPT observed that the dredging rate estimated by the SWPL is on the higher side in comparison to Rs.30/- per cubic metre, incurred by the port during the year 2005-06.

Despite a specific request, the SWPL has not furnished documentary evidence in respect of the maintenance dredging cost paid by it to the Dredging Corporation of India (DCI) for the recent years 2005-06 or 2006-07. It has furnished a bill relating to the year 2004-05 which perhaps pertains to the expenditure incurred at the stage on commencement of its operations and hence may not be relevant.

The actual dredging cost reported by the SWPL for the year 2005-06 based on the bills raised by the MOPT is Rs.36 lakhs. Accordingly, the dredging rate works out to Rs.40.00 per cubic metre including the fuel cost claimed by MOPT, mobilisation and de-mobilisation charges, etc. This appears to be closer to the figure indicated by the MOPT.

In the absence of any documentary evidence furnished by the SWPL for the recent years to substantiate the unit rate of Rs.98.35 per cubic metre, and also in view of the specific observation made by the port, the actual expenditure incurred by the SWPL towards dredging for the year 2005-06 is taken as the base. Accordingly, the dredging cost for the year 2006-07 is estimated at the rate of Rs.41.80 per cubic metre for the year 2006-07 after applying the annual escalation @ 4.5% on the actual rate derived for the year 05-06.

For the subsequent years, the annual escalation in the per unit rate is allowed at 4.5% as considered for other items.

(ix). (a). Another major point to be considered in this tariff revision proposal is revenue share payable by the SWPL to the MOPT. It is noteworthy that this item was not allowed earlier as a pass through. In fact, the initial tariff fixation Order of SWPL straightaway rejected inclusion of this item as a cost element for tariff computation in line with the principle followed by this Authority prior to the issue of the tariff guidelines by the Government.

(b). As per the revised guidelines for tariff fixation, in case of bids finalised before 29 July 2003, the tariff computation must take into account royalty / revenue share payable by the private operators to the landlord port as cost for tariff fixation so as to avoid the likely loss on account of this item not being taken into account, subject to maximum of the amount quoted by the next lowest bidder.

(c). The L.A. was signed by the SWPL in April 1999. While implementing the revised tariff guidelines for allowing (part of) royalty as pass through, in the case of the Chennai container Terminal Limited, Visakha Container Terminal Limited and the Nhava Sheva International Container Terminal Limited, the loss in this context was taken to be the revenue deficit after considering admissible cost elements and permissible return. If the royalty to the maximum extent quoted by the second bidder is not allowed, as per the revised tariff guidelines it will result in reduction in the return on capital employed and to that extent there will be a 'loss'. Therefore, the maximum permissible level of revenue share as stipulated in clause 2.8.1.

of the revised tariff guidelines is allowed as pass through for the years 2006-07 to 2009-10.

(d). There is some dispute between the SWPL and the MOPT about the date of handing over the licensed premises. Pending settlement of this dispute, the MOPT and the SWPL have entered into a Supplementary Agreement in June 2003. As per this Supplementary Agreement, from 9 November 2005 onwards Licensee has to pay revenue share that is highest of the 18% of the cargo handling charges computed on various parameters prescribed in the LA subject to a minimum payment of Rs.12 crores. It also requires the licensee to achieve the Minimum Guaranteed throughput of 5 Million Metric Tonne per annum from November 2005 onwards.

(e). The traffic for the years 2006-07 and 2007-08 are, however, projected below the MGT prescribed in the LA. In view of this, the SWPL has claimed the minimum revenue share payable to the MOPT at Rs.12 crores per annum in the tariff revision exercise. For the subsequent two years 2008-09 and 2009-10 also, the revenue share payable to MOPT is considered at the same level in the cost statement.

(f). The submission made by the MOPT that prior to constitution of this Authority the bidders were free to fix the tariff on their own is not the correct legal position then applicable. Even prior to constitution of TAMP, a Port Trust could notify its Scale of Rates only with the prior approval of the Government for various services prescribed in Section 42 of the Major Port Trust Act. By virtue of the amendments to the Major Port Trusts Act, 1963, made in 1997, the power earlier vested with the Board of Trustees of a Major Port and the Government to fix port tariffs stood ousted and such power has been conferred on the TAMP.

(g). The MOPT had earlier mentioned that the revenue share quoted by the next lowest bidder was 13.10% and the minimum amount of revenue share quoted was Rs.11.10 crores.

Subsequently, it has clarified that the SWPL had expressed their reservation to the Government about payment of the minimum guaranteed amount in view changed position requiring regulation of their tariff by this Authority. The Government in this regard has also confirmed that M/s. ABGKCTL are not liable to pay the minimum guaranteed annual amount under the changed circumstances.

However, after receiving the orders from the Government, the MOPT and the SWPL held further negotiations and with concurrence of both the parties the minimum amount of Rs.12,00,20,560.00 payable as revenue share is reported to have been included in the Licence Agreement. It is not known whether the prescription of this minimum amount of revenue share in the LA has been specifically approved by the Government in supersession of its earlier decision.

(h). Notwithstanding the above position, it is relevant to mention that in view of the provision in the LA, the SWPL is required to pay a minimum amount of the revenue share even though the traffic handled or estimated to be a handled is lower than the minimum guaranteed throughput prescribed in the LA. If this royalty amount is considered as cost in tariff, the existing traffic will have to bear additional burden arising due to the terminal not achieving the minimum guaranteed throughput quoted by the private terminal operator. It is noteworthy that the revenue share payable by SWPL would have been more than Rs.12 crores at the existing tariff, if they had handled volumes in excess of the MGT level.

The Government was informed that in the instant case since the traffic estimated by the SWPL is lower than the MGT envisaged in the LA, it will be appropriate to consider the revenue share applicable on the estimated traffic projections furnished by the SWPL and admit it to the extent of the second lowest bid for the purpose of tariff computation as per the revised tariff guidelines. This means, the additional revenue share payable due to non-realisation of the minimum guaranteed throughput will not be recognised.

Since no other alternative approach is suggested by the Government, the revenue share is computed on the cargo handling income for the traffic projections made by the SWPL and is admitted as cost to the extent quoted by the second bidder reported at 13.10% for all the years 2006-07 to 2009-10 as per the revised tariff guidelines.

(x). The SWPL has confirmed that depreciation has been computed on the basis of straight line method for the life norms permissible in accordance with the Companies Act, 1956.

The preliminary expense of Rs.8.70 crores incurred during construction period was earlier capitalised under civil and equipment cost and depreciated at the applicable rates. Subsequently, on being pointed out by us, SWPL in the revised cost statement has excluded this item from the gross block of assets and has agreed to spread over the expense over 25 years. Since the handing over of the licensed premises was in November 2002, the remaining period of the project after the financial year 2005-06 will be 26 years. Accordingly, the preliminary expenses reported as of 31 March 2006 is spread over the remaining project period in line with the general principle adopted at the other private terminals. The preliminary expense to the extent not written off is added to the capital employed at the end of each of the years for computation of return.

(xi). The insurance cost for the year 2005-06 is reported at Rs.41 lakhs by the SWPL. The insurance cost for the subsequent years 2006-07 to 2009-10 are estimated at Rs.91 lakhs, Rs.129 lakhs, Rs.127 lakhs and Rs.129 lakhs respectively.

As already mentioned earlier, the actuals for the year 2005-06 may not be considered for comparison purpose since it does not represent the expenditure for the full year with the mechanised operations.

The insurance policies taken by SWPL upto August 2006 involve a total premium amount of Rs.78.54 lakhs. Apart from this, it has proposed to take some additional marine policy for export cargo, etc., and accordingly the insurance premium is estimated at Rs.91 lakhs for the years 2006-07. The LA also requires the Licensee to take necessary insurance cover throughout the project period.

The total insurance cost estimated by SWPL works out to around 0.5% to 0.68% of the net fixed assets for the years 2006-07 and 2007-08 which is found to be comparable to the insurance cost estimated by the private terminals and hence is accepted.

For the year 2007-08, insurance cost is estimated at similar rate on the additions of Rs.81.61 crores proposed to the gross block of assets. Accordingly, the insurance cost estimated at Rs.129 lakhs for this year is accepted.

For the subsequent two years 2008-09 and 2009-10, the insurance cost is estimated at almost the same level as 2007-08 though it has not proposed any additions to the equipment during these years. Insurance cost should in fact reduce due to depreciation of the assets. In the absence of any clarification from the SWPL in this regard, the insurance cost is allowed at 0.68% of the net fixed assets for the subsequent years in line with the estimation for the year 2007-08.

(xii). The management and general overhead for the year 2005-06 is reported at Rs.346 lakhs as per the certified Annual Accounts. As against this, the estimate for the year 2006-07 is Rs.552 lakhs. The SWPL has clarified that the actual management and general overheads for the year 2005-06 were to the tune of Rs.537 lakhs of which Rs.191 lakhs pertaining to the trial run period were capitalised.

Like other items of expenditure, the actual management and general overheads reported for the first four months of the year 2006-07 is extrapolated for the full year to assess the reasonableness of this estimate. It is found that the management and general overhead estimated by the SWPL is well within the estimate derived based on past four months actuals. The management and general overhead estimated by SWPL for the year 2006-07 is considered in the cost statement.

For the subsequent years, the annual escalation is restricted to 4.5% over the respective previous years as considered for the other items.

(xiii). As required by the LA, Security Deposit of Rs.1.53 crores paid by the SWPL to the MOPT is refundable at the end of the project. The SWPL has spread the benefit of this refund available at the end of the project period equally over the remaining period of the license at the level considered in the last tariff Order. The computation is partially modified considering the annualised present value by applying a discount factor of 11% at the current level of PLR in line with the approach followed in case of tariff fixation / revision of other private terminal operators.

(xiv). (a). The gross block excluding the preliminary expenses capitalised for the financial year 2005-06 is reported at Rs.149.39 crores.

For the purpose of this analysis, gross block and depreciation, reported by the SWPL along with the proposal and the figures reported in its Annual Accounts 2005-06 are relied upon since the figures indicated in Form 4A of the revised cost statement do not tally with the figures reported in Annual Accounts.

(b). An addition of Rs.81.62 crores is proposed to the gross block during the year 2006-07. This consists of Rs.35 crores for construction of new concrete platform, Rs.26.50 crores for procurement of a mobile harbour crane, and around Rs.20 crores for purchase of six numbers of gantry cranes, other equipment, electrical installation, IT, etc.

(c). The LA does not mention about the specific investment plan of the licensee. It allows the licensee to provide for additional facilities at its discretion after informing the licensor. The MOPT has endorsed the proposed investment made on the concrete platform and found the estimates to be reasonable. As regards the other investments, the port has not made any comments as they are not aware of the same.

(d). The SWPL has clarified that the initial technical proposal of reclamation would have provided storage for 2 MT per square meter, whereas the proposed concrete platform area which otherwise would have remained unused for the entire concession period, will now be available for use for storage of cargo at a capacity of 10 MT per square meter. This higher load density platform behind the existing berth is expected to give major impetus for storage of heavy cargo like HR coil within the out reach of harbour mobile crane. This investment along with additional equipment is proposed to create operational facilities to meet growth in export traffic and better utilisation of berth no.5A.

(e). The estimated capital cost has been substantiated by producing copies / details of purchase orders released for most of the assets such as civil works relating to construction of concrete platform, mobile harbour crane, gantry cranes, railway siding, other electrical installation, etc. It could not furnish the documentary support in respect of the proposed capital cost of Rs.6.30 crores towards conveyor structures. It has explained that this expenditure will be incurred only after the harbour mobile crane arrives at its terminal by end of January 2007.

(f). The SWPL does not expect any increase in the capacity on account the proposed addition nor does it expect reduction in the per unit cost.

Since the proposed capital expenditure are largely to improve infrastructure facility and to increase the storage space which is one of the major constraint at this terminal, and also recognising that the SWPL has validated the capital cost for most of the capital costs, the proposed addition to the gross block during the year 2006-07 is considered in this analysis.

As already mentioned earlier, the preliminary expense remaining at the end of each year after ammortisation is added to the capital employed for computation of return.

(xv). (a). The sundry debtors are estimated at two month's total income. The revised tariff guidelines limits the sundry debtors to two month's of estate income and terminal handling charges. In this context, the argument of the SWPL that this norms are applicable only in case of major ports is not correct. The tariff guidelines are applicable to both major ports as well as private terminals.

(b). Cash and bank balance has been considered at one month's operating expenditure in the computation of working capital. It has not applied this norm to management and general overheads. Clause 2.9.9 of the revised tariff guidelines limits cash balance at one month's cash expense. It does not restrict the application of this norm to operating expenditure. Since management and general overhead also involves cash expense, the prescribed norm is applied to this head of expenditure and the modified position is considered.

(c). The capital employed subject to the modifications explained in the foregoing paragraphs works out to Rs.227.59 crores for the year 2006-07 and Rs.214.21 crores for the year 2007-08, Rs.199.38 crores for the year 2008-09 and Rs.185.02 crores for the year 2009-10.

(xvi). The SWPL has assessed that the capacity of the terminal will be 5 million metric tonnes taking into consideration the berth length, mechanical handling system and other facilities, and the limited storage space available. The MOPT also confirms this position.

With the expected improvement in the rail infrastructure, the SWPL expects the capacity of the terminal to increase to 7.5 million metric tonnes by 2009-10.

The capacity utilisation for the throughput projected works out to be more than 60% for the years 2006-07 to 2009-10. As per the revised tariff guidelines, the SWPL is entitled for full return on capital employed @ of 15% since the capacity utilisation is more than 60%.

(xvii). (a). During the initial tariff fixation of SWPL in September 2004, the estimated cost position for the years 2004-05 and 2005-06 were relied upon. The income estimation at the proposed tariff and the throughput projected by the SWPL was considered.

(b). The SWPL commenced the operations from 19 June 2004. Since the project was not fully completed, it had operated on a trial basis during June 2004 till September 2005. The commercial operations with fully mechanised operations commenced from 22 September 2005 onwards.

Clause 2.13 of the revised tariff guidelines mandates this Authority to review the actual physical and financial performance of the major port / private operators at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing the prevailing tariff.

(c). The Annual Accounts furnished by the SWPL for the year 2005-06 reflect the Profit and Loss Account from 22 September 2005. For the trial run period, the Annual Accounts reflects the excess of income position over the expenditure after capitalising various items of expenditure. It does not give detailed break up of expenses.

Hence for the purpose of this analysis, the profitability statement for the trial run period as well as the commercial operations together duly certified by the Auditors of SWPL for the year 2005-06 is considered.

The statement furnished by SWPL for the year 2004-05 is not certified by their Auditors. Nevertheless, since the overall surplus position in this statement for the trial run from 19 June 2005 to 31 March 2005 matches with the figures reported in the Annual Accounts, the same is relied upon for this analysis.

(d). The SWPL has furnished an analysis of the actuals for the past period 2004-05 and 2005-06 with reference to the estimates considered in our tariff Order. The analysis for the past period furnished by the SWPL is modified with reference to the following:

(aa). For the year 2004-05, it has extrapolated the data for the period 1 April to 18 June 2004 based on the actuals incurred for the trial run period 19 June 2004 to 31 March 2005 on pro-rata basis.

Since the SWPL commenced the operations only from 19 June 2004 onwards and recognising that the estimates for the year 2004-05 considered in our tariff Order is also for ten months which almost matches with period of operations by SWPL for this particular year, it is not found necessary to make any pro-rata adjustment in the actuals for a like to like comparison.

(ab). Revenue share payable to SWPL was not admitted as cost during the last tariff fixation in line with the principles then followed by this Authority prior to the issue of the revised tariff guidelines. This position is maintained for assessment of actual performance.

(ac). In the last tariff Order, 20% return on equity linked to capacity utilisation and the estimated cost of debt was considered in the tariff fixation process for the years 2004-05 and 2005-06. The return on equity share holders fund deployed in the business is considered with reference to the actuals similar to the approach followed in the last tariff Order. The return is also linked to the actual capacity utilisation level.

(ad). The actual cost of debt reflected in the Annual Accounts is also considered at actuals for both the years 2004-05 and 2005-06 in line with the approach followed in the last tariff Order.

(ae). Depreciation for the year 2005-06 is considered by SWPL at Rs.1089 lakhs though the Annual Accounts reports it at Rs.575 lakhs. The SWPL has clarified that the depreciation reflected in the Annual Accounts is for six months period only after it commenced the commercial operation and hence the actuals is shown on pro rata basis for the full year. Like other items of income and expenditure, the depreciation amount reflected in the Annual Accounts and the cost position as duly certified by Auditors of SWPL is relied upon for this purpose.

(e). The actual traffic, income and operating expenditure for the year 2004-05 do not vary significantly with the estimates considered in the last tariff Order.

The variation in the depreciation is mainly because SWPL was in the trial run period. Most of the assets proposed to be deployed were in the form of work in progress. Hence, the actual depreciation is reported at Rs.5 lakhs as against Rs.423 lakhs estimated in the last tariff Order for the year 2004-05.

The another major variation is with reference to the estimation of equity share holder' funds. As against the estimated equity share holder's fund of Rs.72.65 crores considered in the last tariff Order, the actual equity share capital reported in the Annual Accounts for the year 2004-05 is at Rs.46.20 crores. This is because of the variation in estimation of capital employed relied in the last tariff Order and the actual position reflected now. The debt portion is, however, comparable to the estimation in the initial tariff Order.

(f). For the year 2005-06, there is significant reduction in the traffic to the extent of 28% in comparison to the estimates considered in the last tariff Order. As against 4.21 MMT traffic estimated in the last tariff Order, the actual traffic handled is reported at 3.02 MMT. This is mainly because the iron ore pellets traffic, coke traffic estimated in the initial tariff fixation could not materialise and also since the cargo by road movement envisaged during the initial tariff fixation could not be handled due to lack of infrastructure facilities. Consequently, the actual income is also reported to be 32% lower than the estimations.

Despite these variations analysed above, the operating surplus increases from Rs.2701 lakhs estimated in the initial tariff Order for the year 2005-06 to Rs.3262 lakhs, mainly because actual expenditure for most of the items were almost 45% to 80% lower than the estimation considered in the last tariff Order.

The actuals for the years 2005-06 show a surplus of 31% after admissible return as against surplus 3.6% reflected in the last tariff Order. The variation in the actuals vis-à-vis estimates considered in the last tariff Order is 481%. The variation in the actuals vis-à-vis estimates for the year 2004-05 is also at similar level.

(g). The SWPL continues to operate the terminal for the year 2006-07 at the rate approved in September 2004. It is relevant to mention that by the time this Order is implementable only about two months will be left in the year 2006-07. Hence, instead of considering it for tariff revision for the subsequent years, it may appropriate to consider it with the past period and adjust the net deficit position for this year along with the net surplus reflected for the past two years.

Since no estimates for the years 2006-07 are available for the purpose of comparison, the cost position as assessed by the SWPL subject to the modification done for reasons explained earlier in the analysis is considered.

Since this analysis is done based on the estimates for the year 2006-07, the actual position shall be subject to review during the next tariff revision exercise. If the variation is found to be more than the level prescribed in the revised tariff guidelines, it shall be adjusted in the next tariff validity cycle.

(h). Accordingly, a summary of net surplus / deficit after allowable return subject to the above discussions is as follows:

(Rs. in lakhs)

2004-05	624
2005-06	1809
2006-07	(-) 2002
Total	**431**

(i). The variation in the estimates considered in the last tariff Order vis-à-vis the actuals for each of the years 2004-05 and 2005-06 is found to be more than 20%. The surplus reflected after admissible cost and return for these two years is set off against the deficit of the year 2006-07. 50% of the balance surplus reflected in the table i.e. Rs.215.50 lakhs is spread over the current tariff validity period of three years in line with clause 1.13. of the revised tariff guidelines.

(xviii). The consolidated cost statement and main activity-wise cost statements for the years 2007-08 to 2009-10 have been modified in line with the above analysis. The modified cost statements are attached as **Annex-I (a) to (c)**. The summarised position of the results disclosed by the financial / cost statements are tabulated below:

Sr. No.	Particulars	Operating Income (Rs. in lakhs)				Net Surplus (+) / Deficit (-) (Rs. in lakhs)				Net Surplus (+) / Deficit (-) as a % of operating Income			Avg. surplus / deficit %
		2007-08	2008-09	2009-10	Total	2007-08	2008-09	2009-10	Total	2007-08	2008-09	2009-10	
1.	Consolidated cost statement for the terminal as a whole	8514	9510	11971	29996	(-) 966	(-) 524	476	(-) 1014	(-)11.4%	(-) 5.5%	4.0%	(-)4.30%
2.	Berth Hire Activity	1963	2181	2711	6855	(-) 87	173	747	833	(-) 4.5%	7.9%	27.6%	10.3%
3.	Cargo handling activity	6551	7330	9260	23141	(-) 878	(-) 697	(-) 272	(-) 1846	(-)13.4%	(-) 9.5%	(-) 2.9%	(-) 8.6%

It can be seen from the above table that the modified cost statement shows an average deficit of around 4.30**%** for the years 2007-08, 2008-09 and 2009-10 for the terminal as the whole over the operating income estimated at the prevailing rates.

The vessel related activity reflects an average surplus of 10.3%. The surplus in the vessel related activity partially offsets the deficit in the cargo handling activity leaving a marginal deficit of 4.30% to be bridged through tariff revision.

The SWPL has not proposed any increase in the berth hire activity in view of the surplus reflected in this activity. It has, however, proposed to rationalise this tariff item which is discussed in the subsequent part of this analysis.

Under the cargo handling activity, no increase is proposed in the wharfage charge, dust suppression charge and storage charge. The handling charges is, however, proposed to be increased by 20% for metal products / steel coils, 26% in case of coal and 28% in case of limestone. No hike is proposed for iron ore pellets and other dry bulk cargo.

Since the overall cost position reflects a deficit of 4.30% only, it does not warrant tariff increase at the level proposed by the SWPL. The tariff increase is necessary only to the bridge the deficit of Rs.1014 lakhs for the three years under consideration. As proposed by the SWPL, increase in tariff is to be restricted to the cargo handling charges.

Based on the information furnished by the SPWL, the total income from the cargo handling charges in respect of metal products / steel coils / slabs coal / coke (all types) and limestone at the existing tariff level is estimated at Rs.17478 lakhs for all the three years under consideration. The cargo handling charges for these items are increased by 6% to offset the deficit reflected in the cost statement. Since the SWPL has not proposed any tariff revision in the cargo handling charges of iron ore pellets and other bulk cargo not specified in the schedule, the existing tariff is allowed to be continued for these cargo items as proposed by the SWPL.

(xix). (a). The cost statement for berth hire activity reflect a surplus position of 10.3% for the years 2007-08 to 2009-10 as per the revised cost statement. The SWPL has not proposed any increase in the berth hire charges in view of surplus position reflected in its cost statement. However, rationalisation proposed in the berth hire structure in line with the revised tariff guidelines can be considered provided it may not have significant financial impact for both the users and the operator.

(b). The existing SOR prescribes a uniform berth hire charge at berth no. 5A at US$ 0.0125 per GRT per hour or part thereof. It has proposed to continue with the existing uniform rate at berth no. 5A in line with clause 6.10. of the revised tariff guideline. The proposed berth hire at this particular berth is accepted, subject to updating the rate for coastal vessels at the prevailing exchange rate.

(c). As regards berth no. 6A, the existing Scale of Rates prescribes berth hire in four tier rates. In order to comply with the revised tariff guidelines, the SWPL has proposed a single berth hire rate at US$ 0.035 per GRT per hour or part thereof. It has considered the existing berth hire applicable for vessels in the range of 30001 to 50000 GRT as the base for proposing this uniform rate.

On analysis, it was found that prescription of uniform berth hire will lead to significant increase of 44% for vessels upto 20000 GRT and 18% increase for vessels in the range of 20001 to 30000 GRT, whereas the vessels of above 50000 GRT will get benefit of 7.6% reduction in the prevailing berth hire. Since the impact was found to be substantial for vessels below 30000 GRT, the SWPL was requested to review and propose an alternate tariff structure to smoothen the impact and also maintain a revenue neutral position. The SWPL initially contended that the smaller vessels are not expected to call at berth no. 6A and hence, it is not necessary to alter the berth hire structure proposed in its Scale of Rates. However, subsequently, the SWPL agreed to prescribe berth hire for vessels below 30000 GRT as per the prevailing tariff structure.

As rightly stated by SWPL, most of the coal vessels and coal / coke vessels calling at its terminal are more than 30000 GRT and hence will not be affected at the proposed uniform rate. There are, however, few vessels bringing limestone and coal which are below 30000 GRT. As already mentioned earlier, no increase is warranted in the berth hire activity in view of the surplus position reflected under this activity.

Since rationalisation at one go is likely to have significant impact on vessels below 30000 GRT, it is found appropriate to prescribe two-tier berth hire structure to ensure that the smaller vessels are not unduly burdened due to the proposed uniform rate. For similar reasons, in case of other ports like the Mormugao Port, Visakhapatnam Port, etc., also, this Authority has allowed rationalisation in the vessel related charges in a gradual manner.

Even the SWPL has subsequently agreed to continue with the existing lower berth hire rate for vessels below 30000 GRT. In view of the above analysis, the berth hire at berth no. 6A is prescribed in two-tier tariff structure, i.e. upto 30000 GRT at US$ 0.0275 per GRT per hour or part thereof and vessels above 30000 GRT at US$ 0.0325 per GRT per hour or part thereof at part with the existing rates for similar slabs.

(xx). The SWPL has proposed to define the terms `coastal cargo' and `foreign cargo' in its proposed scale of rates. `Coastal cargo' is defined to mean any cargo which the vessel discharges at one Indian port after shipment from another Indian port or vice versa irrespective of its actual origin or destination. `Foreign cargo' is defined to mean any cargo other than `coastal cargo'. The Scale of Rates of the other major ports or private terminals do not define these terms. The SWPL has insisted to retain the proposed definition of the terms ` coastal cargo' and 'foreign cargo' in its Scale of Rates. Since the intention of defining these terms is to avoid any ambiguity / disputes and also recognising that none of the users or the MOPT have raised any objection to the proposed definition, this Authority approves incorporation of the same in its revised Scale of Rates.

(xxi). The bank name proposed for adopting the market buying rate in proposed provision relating to conversion of vessel related charges denominated in dollar into rupee terms is not found to be in line with the revised tariff guidelines. The proposed provision is modified in line with the prescription in the revised tariff guidelines. The SWPL must, however, inform the Trade about the specific bank it has adopted for this purpose.

(xxii). The penal rate of interest for delayed payment is proposed at 15% on the grounds that the Prime Lending Rate (PLR) of State Bank of India is 12.75% as on June 2006. The SWPL has considered the PLR of SBI for loans against gold ornaments, immovable property, etc.,

It is relevant to mention that the prevailing PLR of the State Bank of India is 11%. Accordingly, the proposed provision relating to penal rate of interest on delayed payments by users and refunds by SWPL is updated with interest rate of 13% being 2% above the prevailing PLR of the State Bank of India.

(xxiii). Users should not be required to pay charges for delays beyond reasonable level attributable to the major ports / private terminals as stipulated in clause 2.15 of the revised tariff guidelines. The SWPL has accordingly, in view of our suggestion introduced a suitable note in this regard in its proposed Scale of Rates. It has also incorporated a provision stating that storage charge shall not accrue for the period during which the SWPL is not in a position to deliver / ship the cargo when requested by the users. These proposed provision are in line with the revised tariff guidelines, hence is accepted.

(xxiv). The SWPL has proposed concessional tariff for coastal vessels / cargo not exceeding 60% of the tariff proposed for normal cargo / foreign going vessels in line with the revised tariff guidelines. Iron ore pellets and thermal coal are excluded from this concessional tariff in respect of cargo handling charges in line with the revised tariff guidelines.

While prescribing the concessional tariff in respect of berth hire charges, the SWPL has considered an exchange rate of Rs.44/- for the purpose of conversion of dollar denominated rate into rupee terms. Restatement of rates is not in line with the tariff guidelines. It has to be, however, recognised that the objective of the relevant guidelines is to ensure that the coastal vessels are not burdened periodically on account of the accumulated effect of fluctuation in the exchange rate. It is relevant to mention that the exchange rate considered at the time of last general revision of Scale of Rates of SWPL was higher than the prevailing exchange rate. Hence, if the berth hire for coastal vessel rates are not restated with reference to the current level of exchange rate, it will not comply with the Government guideline requiring such tariff to be prescribed at the concessional level at 60% of the tariff applicable for the foreign-going vessels. Therefore, the rates of coastal vessels / containers are prescribed at 60% of dollar denominated rates applying the current exchange rate of Rs.44.62, wherever the present tariff is found to be not in line with the coastal concession policy.

The SWPL has incorporated various provisions relating to concessional tariff for coastal cargo / vessels in line with our Order dated 7 January 005 and 15 January 2005.

(xxv). The SWPL has proposed to delete cargo handling charges prescribed in its existing SOR in respect of coal, metallurgical coke / coke (all types) charcoal and limestone handled at berth no. 5A on the grounds that the small users will continue to call at the MOPT Berths Nos. 10 and 11 for importing these cargo as per the directions of the MSRTH.

Since the SWPL does not expect to handle these cargo items at berth no. 5A, its proposal to delete the cargo handling charges and also the dust suppression charge for these cargo items at berth no. 5A is accepted.

(xxvi). The existing SOR clarifies that the handling charges for HR coils and slabs shall exclude dunnaging and lashing charges. The SWPL has proposed to modify the said note to state that users are expected to arrange this facility at their cost. The SWPL has clarified that the proposed modification is only to remove the ambiguity prevailing in the existing SOR. The dunnaging and lashing is required in the case of exports of iron ore pellets, metal products and steel coils / slabs. Since the proposed modification is only to remove the ambiguity and is not intended to change the position prevailing in the existing SOR, the said proposed provision is accepted.

(xxvii). As per the existing Scale of Rates, if a vessel at berth no. 5A does not achieve discharge / load rate at the prescribed level due to restriction placed by the vessel, it will be accorded general ousting priority. The SWPL has proposed to delete this existing conditionality in respect of berth no. 5A. On being asked to explain the reasons for deleting the existing provision, the SWPL has clarified that berth no. 5A is presently being under utilised and hence, it does not envisage such contingencies of according ousting priority to vessels at berth no. 5A. Even if such occasion arises, it has clarified that there would not be any extra charge. In view of the clarification furnished by the SWPL and also recognising that it will benefit the users, this Authority is inclined to approve the proposal of the SWPL to delete the said provision from its Scale of Rates.

(xxviii). As per the existing Scale of Rates of the SWPL, the charges for supply of water is collected at the rates prescribed in the approved SOR of the Mormugao Port Trust. The SWPL was advised to propose a specific rate for offering this service with reference to the cost of services provided in case the SWPL provides this service, instead of giving cross reference to the Scale of Rates of MOPT. In this regard, the SWPL has clarified that there are very few occasions where it arranges to supply water. In view of this, and also recognising that the income from supply of water to vessels is reported insignificant at around Rs.2.5 lakhs, the proposal of SWPL to levy the same rate as prescribed in Scale of Rates of MOPT is accepted. However, instead of giving cross reference to the Scale of Rates of MOPT, the rate prescribed in the SOR of MOPT for supply of water to vessel is incorporated in the revised Scale of Rates of SWPL.

(xxix). The dust suppression charge is prescribed at Rs.2.15 per MT for coal / coke handled at berth no. 6A. The SWPL has not proposed any modification in the existing rate. It proposes to extend this levy to limestone handled at berth no. 6A. Since the levy is for recovering the expenditure incurred by the port on containing dust pollution while handling cargo, the proposal of the SWPL is approved.

(xxx). The MOPT has pointed out that handling of iron ore and iron ore pellets is covered under Port Regulation – Mormugao Port (Shipment of Ores and Pellets from MOHP Berth No.9 and related matters) Regulations, 1979 and hence, the licensee cannot handle iron ore or pellets at its berths without its permission. The SWPL has not furnished any specific comments in this regard. As already mentioned in the earlier Order, this issue appears to be relating to interpretation of the Regulation and the LA and is not a tariff related issue.

(xxxi). As per the revised tariff guidelines, the private operators are required to propose incentive for better performance of the terminal and disincentive for performance below the benchmark level. As agreed by the SWPL, it is advised to incorporate such a scheme based on the experience gained in the operation while formulating its next proposal for review of tariff.

(xxxii). Some of the proposed provisions which are not in line with the common prescription at other major ports / private terminals and the provisions of the revised tariff guidelines have been modified.

(xxxiii). The revised tariff guidelines prescribe tariff validity cycle of three years. Since the financial position considered for the purpose of this analysis is only till 31 March 2010, the validity of the revised Scale of Rates will also expire on 31 March 2010.

12.1. 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 SWPL attached as **Annex-II**.

12.2. The revised Scale of Rates and conditionalities of the SWPL 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 March 2010. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

12.3. The tariff of the SWPL has been fixed relying on the information furnished by the operator and based on various 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, it may require the SWPL to file a proposal ahead of the schedule to review its tariff and to set off fully the advantage accrued on account of such variations in the revised tariff. Analysis of variation will also be made at the time of the next review and adjustments will be made as provided in the revised tariff guidelines.

(A.L. Bongirwar)
Chairman

Annex - I(a)

Consolidated cost statement of South West Port Limited

(In Rs. Lakhs)

S. No	Particulars	Estimates furnished by SWPL				Modified Estimates		
		2006-07	2007-08	2008-09	2009-10	2007-08	2008-09	2009-10
		3.48	**4.73**	**5.21**	**6.5**	**4.73**	**5.21**	**6.50**
I	Traffic (In MTs)	3.48	4.73	5.21	6.50	4.73	5.21	6.50
	Capacity Utilization	69.6%	94.6%	104.2%	86.7%	94.6%	104.2%	86.7%
II	**Total operating Income**							
	(I) Container handling income							
	(ii) Cargo Handling Income	4648	6498	7273	9204	6551	7330	9261
	(iii) Vessel related income	1417	1958	2180	2721	1963	2181	2711
	(iv) Others							
	Total (I to iv)	**6065**	**8456**	**9453**	**11925**	**8514**	**9510**	**11971**
III	**Operating Costs (excluding depreciation)**							
	(i) Operating & Direct Labour	**1065**	**1873**	**2475**	**3764**	**1807**	**2354**	**3527**
	(ii) Repairs & Maintenance + Labour for maintenance	530	530	530	530	353	353	353
	(iii) Equipment Running Costs	573	777	901	1170	766	863	1076
	(iv) Maintanence dredging	89	93	98	102	39	41	43
	(v) Royalty / revenue share	1200	1200	1200	1200	858	960	1213
	(vi) Equipment Hire	0	0	0	0	0	0	0
	(vii) Lease Rentals payable as per concession agreement (water area 60500 sq mtr + land area 40200)	216	227	239	251	227	239	251
	(viii) Insurance	91	129	127	129	129	118	111
	(ix) Other expenses	55	58	61	64	58	60	63
	Total (i to ix)	**3819**	**4887**	**5631**	**7209**	**4238**	**4988**	**6637**
IV	Depreciation	1237	1489	1489	1489	1489	1489	1489
		0						
V	Overheads							
	(I) Mangement & Administration overheads	453	475	499	524	473	494	516
	(ii) General Overheads	99	104	109	114	103	108	113
	(iii) Preliminary & Upfront payment write-off	44	44	44	44	37	37	37
	(iv) Others							
	Total (I to iv)	**596**	**623**	**652**	**682**	**613**	**639**	**666**
	Total Expenses	**5651**	**6999**	**7772**	**9380**	**6339**	**7116**	**8792**
V I	Operating Surplus / (Deficit) ((II) - (III) - (IV)- (V))	**414**	**1457**	**1681**	**2544**	**2175**	**2394**	**3179**
VII	FMI Less FME	0.0	0.0	0.0	0.0	0.0	0.0	0.0
VIII	Credit back of annualised value of security deposit receivable at the end of the project	0	0.2	0.2	0.0	0.3	0.4	0.4
IX	**Surplus before interest**	**414**	**1457**	**1681**	**2544**	**2175**	**2395**	**3180**
X	Capital Employed	22374	21307	19993	18879	21421	19938	18502
XI	RoCE - Maximum permissible (15%)	3356	3196	2999	2832	3213	2991	2775
XII	Capacity Utilization	70%	95%	104%	87%	95%	104%	87%
XIII	**Net Surplus / (Deficit) (IX - XI)**	-2942	-1739	-1318	-288	-1038	-596	404
XIV	**Surplus / deficit accrued for the past period from 2004-05 to 2006-07**					431		
XV	**50% of the surplus accrued in the past set off over three years 2007-08 to 2009-10**					72	72	72
XVI	**Net Surplus / (Deficit) after adjustment of past surplus**					***(966)***	***(524)***	***476***
XVII	**Net Surplus / (Deficit) as a% of operating income (XVI / I in %)**	-48.5%	-20.6%	-13.9%	-2.4%	-11.4%	-5.5%	4.0%
XVIII	**Average net surplus / deficit for the three years 2007-08 to 2009-10**		***-12.30%***			***-4.30%***		

Annex - I(b)

Cost Statement for Cargo Handling Activity

(In Rs. Lakhs)

Sr. No.	Particulars	Estimates furnished by SWPL				Modified Estimates		
		2006-07	2007-08	2008-09	2009-10	2007-08	2008-09	2009-10
	Traffic (in million tonnes)	**3.48**	**4.73**	**5.21**	**6.50**	**4.73**	**5.21**	**6.50**
I	**Operating Income**							
	(i) Handling	3470	4889	5498	7089	4889	5498	7089
	(ii) Wharfage	1005	1376	1520	1800	1376	1520	1800
	(iii) Storage including demurrage	106	149	165	220	201	222	276
	(iv) Dust suppression	67	86	90	95	86	90	95
	(v) On board stevedoring							
	Total (I to v)	**4648**	**6499**	**7273**	**9203**	**6551**	**7330**	**9260**
II	**Direct Operating Expenses**							
	(i) Operating & Direct Labour	1065	1873	2475	3764	1807	2354	3527
	(ii) Repairs & Maintenance + Labour	497	497	497	497	331	331	331
	(iii) Equipment Running Costs	573	777	901	1170	766	863	1076
	(iv) Maintanence dredging					0	0	0
	(v) Royalty / revenue share	1200	1200	1200	1200	858	960	1213
	(vi) Equipment Hire	0	0	0	0	0	0	0
	(vii) Lease Rentals payable as per concession agreement (land area 40200sq.mtr)	95	100	105	110	100	105	110
	(viii) Insurance	73	110	107	108	110	99	93
	(ix) Other expenses	30	31	33	34	31	33	34
	(x) Technical Service Fee	0	0	0	0	0	0	0
	Total (I to x)	**3533**	**4588**	**5317**	**6883**	**4003**	**4746**	**6385**
III	Depreciation	894	1146	1146	1146	1146	1146	1146
IV	Allocated share of Overheads							
	(i) Management & Administration overheads	347	365	384	404	363	380	398
	(ii) General Overheads	76	80	84	88	79	83	87
	(iii) Preliminary expenses & Upfront Payment write-off	44	44	44	44	37	37	37
	(iv) Others	0	0	0	0	0	0	0
	Total (i to iv)	**467**	**489**	**512**	**537**	**479**	**501**	**522**
	Total Expenses	**4894**	**6223**	**6977**	**8567**	**5629**	**6392**	**8053**
V	Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)	**-246**	**275**	**296**	**633**	**922**	**938**	**1207**
V I	Credit back of annualised value of security deposit receivable at the end of the project					0.34	0.38	0.42
VII	Capital Employed for the activity	13121	12307	11298	10437	12372	11267	10228
VIII	RoCE - Maximum permissible (15%/ 6.35%)	1968	1846	1695	1566	1856	1690	1534
IX	Capacity Utilization	70%	95%	104%	87%	95%	104%	87%
X	RoCE adjusted for Capacity utilization	1968	1846	1695	1566	1856	1690	1534
XI	**Net Surplus / (Deficit) (V) +(V I) - (X)**	**-2214**	**-1571**	**-1399**	**-933**	**-933**	**-752**	**-327**
XII	**Net Surplus / (Deficit) as a % of operating income (XI/I in %)**	**-47.6%**	**-24.2%**	**-19.2%**	**-10.1%**	**-14.2%**	**-10.3%**	**-3.5%**
XIII	**50% of the surplus accrued in the past set off over three years 2007-08 to 2009-10**					55	55	56
XIV	**Net Surplus after adjustment of the past period surplus**					**-878**	**-697**	**-272**
XV	**Net Surplus / (Deficit) as a % of operating income (XIV/I in %)**					**-13.4%**	**-9.5%**	**-2.9%**
XVI	**Average net surplus / deficit for the three years 2007-08 to 2009-10**			**-17.8%**			**-8.6%**	

Annex - I(c)

Cost Statement for Vessel Related Activity

(In Rs. Lakhs)

Sr. No.	Particulars	Estimates furnished by SWPL				Modified Estimates		
		2006-07	2007-08	2008-09	2009-10	2007-08	2008-09	2009-10
I	**Operating Income**							
	Berth Hire Charges	**1,417**	**1,958**	**2,180**	**2,721**	**1,963**	**2,181**	**2,711**
II	**Direct Operating Expenses**							
	(i) Operating & Direct Labour							
	Mooring Charges	25	26	28	29	26	27	29
	(ii) Repairs & Maintenance incl. Labour	33	33	33	33	22	22	22
	(iii) Equipment Running Costs	0	0	0	0	0	0	0
	(iv) Maintanence dredging	89	93	98	102	39	41	43
	(v) Royalty / revenue share	0	0	0	0	0	0	0
	(vi) Equipment Hire	0	0	0	0	0	0	0
	(vii) Lease Rentals payable as per concession agreement (water area 60500 sq mtr)	121	128	134	141	128	134	141
	(viii) Insurance	18	19	20	21	19	19	18
	(ix) Other expenses				0			0
	Total (I to ix)	**287**	**299**	**313**	**326**	**234**	**243**	**253**
III	Depreciation	342	342	342	342	342	342	342
IV	Allocated share of Overheads							
	(i) Management & Administration overheads	106	110	115	120	109	114	118
	(ii) General Overheads	23	24	25	25	24	24	25
	(iii) Preliminary expenses & Upfront Payment write-off							
	(iv) Others							
	Total (i to iv)	**129**	**134**	**140**	**145**	**133**	**138**	**143**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**660**	**1182**	**1385**	**1907**	**1253**	**1457**	**1972**
VI	Capital Employed for the activity	9253	9001	8695	8443	9048	8671	8274
VII	RoCE - Maximum permissible (15%)	1388	1350	1304	1266	1357	1301	1241
VIII	Capacity Utilization	69.6%	94.6%	104.2%	86.7%	94.6%	104.2%	86.7%
IX	RoCE adjusted for Capacity utilization	**1388**	**1350**	**1304**	**1266**	**1357**	**1301**	**1241**
X	**Net Surplus/ (Deficit) (V) - (IX)**	**-728**	**-168**	**81**	**640**	**-104**	**156**	**731**
XI	**Net Surplus / (Deficit) as a % of operating income (X/I in %)**	**-51.3%**	**-8.6%**	**3.7%**	**23.5%**	**-5.3%**	**7.2%**	**27.0%**
XII	**50% of the surplus accrued in the past set off over three years 2007-08 to 2009-10**					**17**	**16**	**16**
XIII	**Net Surplus after adjustment of the past period surplus**					-87	173	747
XIV	**Net Surplus / (Deficit) as a % of operating income (XIII/I in %)**					**-4.5%**	**7.9%**	**27.6%**
XV	**Average net surplus / deficit for the three years 2007-08 to 2009-10**			**6.2%**			**10.3%**	

Annex-II

SOUTH WEST PORT LIMITED

SCALE OF RATES

1. **DEFINITIONS - GENERAL**

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

(i). ***"Per Day"*** means per calendar day unless other wise stated.

(ii). ***"SWPL"*** means South West Port Limited a company incorporated in India, its successors and assigns.

(iii). ***"Port"*** means the Mormugao Port Trust (MOPT) whereas "Terminal" means South West Port Limited (SWPL), now or hereafter operated by South West Port Limited.

(iv). ***"Coastal Vessel"*** means 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.

(v). ***"Coastal Cargo"*** means any cargo, which the vessel discharges at one Indian port after shipment from another Indian port or vice versa irrespective of its actual origin or destination.

(vi). ***"Foreign Cargo"*** means any cargo other than coastal cargo.

(vii). ***"Foreign Vessel"*** means any vessel other than a coastal vessel.

(viii). ***"Tonne"*** or ***"MT"*** means one Metric Tonne of 1,000 kilograms or one cubic metre.

2. GENERAL TERMS AND CONDITIONS

(i). The Status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, is the relevant factor to decide whether vessel is *'coastal' or 'foreign-going'* category for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

(ii). (a). A foreign-going vessel of Indian flag having a General Trading License can convert to coastal run on the basis of a Customs Conversion Order.

(b). A foreign-going vessel of foreign flag can convert to coastal run on the basis of a Coastal Voyage License issued by the Director General of Shipping, Government of India only.

(c). In cases of such conversion, Coastal rates shall be payable from the time the vessel starts loading coastal goods.

(d). In cases of such conversion, coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign going rates shall be chargeable.

(e). For dedicated Indian coastal vessels having a Coastal License from the Director General of Shipping, no other documents will be required to be entitled for coastal rates.

(iii). Wherever rates of vessel related charges have been denominated in US dollar terms the charges shall be recovered in Indian Rupees after conversion of US currency to its equivalent Indian Rupees at the market-buying rate notified by the Reserve Bank of

India, State Bank of India or its Associates or any other Public Sector Banks as may be specified from time to time. The date of entry of the vessel into the port shall be reckoned with as the day for such conversion.

(iv). A regular review of exchange rate shall be made once in thirty days from the date of arrival of the vessels in cases of vessels staying in the port for more than thirty days. In such cases, the basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of the review.

(v). (a). The cargo related charges for all coastal cargo, other than thermal coal, POL including crude oil, iron ore and iron pellets, should not exceed 60% of the normal cargo / container related charges.

(b). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship-shore transfer and transfer from / to quay to / from storage yard including wharfage.

(c). Cargo from a foreign port, which reaches an Indian Port ‘A’ for subsequent transhipment to Indian Port ‘B’ will be, levied the concessional charges relevant for its coastal voyage. In other words, cargo from / to Indian ports carried by vessel permitted to undertake coastal voyage will qualify for the concession.

(d). The charges for coastal cargo / vessels shall be denominated and collected in "Indian Rupee".

(vi). Interest on delayed payments / refunds:

(a). The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the SWPL shall pay penal interest on delayed refunds.

(b). The rate of penal interest will be 13%. The penal interest rate will apply to both the SWPL and the port users equally.

(c). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the SWPL. 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.

(d). The delay in refunds will be counted only 20 days after the date of completion of services or on production of all the documents required from the users, whichever is later.

(vii). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.

(viii). Users will not be required to pay charges for delays beyond reasonable level attributable to the SWPL.

PART 1 - VESSEL RELATED CHARGES

SECTION – A – PORT DUES and SECTION – B – PILOTAGE FEES

These services will be rendered to the vessels entering the SWPL's berth numbers 5A and 6A by the Mormugao Port Trust as per their approved Scale of Rates. The charges shall be payable directly to the Mormugao Port Trust by masters / owners / agents of the vessel.

SECTION - C - BERTH HIRE CHARGES

Berth Hire Charges at Berth numbers 5A and 6A shall be payable to SWPL by masters / owners / agents of the vessel at the following rates.

BERTH NO.5A
(Maximum LOA of Vessel 190 mtrs. in conjunction with another vessel of LOA 225 mtrs. at Berth No.6A)

Sl.No.	Class of Vessel	Rate per GRT per hour or part thereof	
		Foreign going Vessel (in US $)	Coastal Vessels (in Rs).
1.	All Vessels	0.0125	0.34

BERTH NO.6A
(Under Mechanised Operation system)

Sl.No.	Class of Vessel	Rate per GRT per hour or part thereof	
		Foreign going Vessel (in US $)	Coastal Vessels (in Rs.)
1.	Upto 30,000 GRT	0.0275	0.75
2.	30,001 GRT and above	0.0325	0.87

Notes:

(1). Berth Hire charges includes charges for services rendered and facilities provided at the Berth, such as occupation of berth, overtime at berth, removal of rubbish collected on board by the vessel and delivered on the wharf, cleaning of Berths, fire watch, etc.

(2). The above charges are leviable against Masters, Owners or Agents of vessels and other floating craft approaching or lying at or alongside berths per GRT per hour or part thereof.

(3). The Berth hire charges leviable per vessel is subject to a minimum of US$ 650.00 in case of foreign going vessel and Rs.17,402 in case of coastal vessel.

(4). The period of berth hire shall be calculated from the time the vessel occupies the berth.

(5). No berth hire charges shall be payable for the period when loading / unloading operations cannot be carried out due to non-availability of the shore cranes / mechanical handling system of SWPL, due to breakdown or any other reason attributable to SWPL.

(i). Berth hire shall stop 4 hours after the time of vessel signaling its readiness to sail.

(ii). The time limit of 4 hours prescribed for the cessation of berth hire shall exclude the ship's waiting time for want of favorable tide conditions, inclement weather, and due to lack of night navigation.

(iii). The master / agent of the vessel shall signal readiness to sail only in accordance with favorable tidal and weather conditions.

(iv). The Penal Berth hire shall be equaled to one-day's (24 hours) berth hire charge for a false signal.

"False signal" would be when the vessel signals readiness and asks for a pilot in anticipation even when she is not ready for un-berthing due to engine not being ready or cargo operation not completed or such other reasons attributable to the vessels. This excludes the signaling readiness when a vessel is not able to sail due to unfavorable tide, lack of night navigation or adverse weather conditions."

(6). The de-ballasting time allowed at berth numbers 5A and 6A shall be 3 hours and beyond that penal berth hire charges shall be levied at five times the normal berth hire charges, the incidence being reduced to per hour or part thereof, that may be applicable to the vessel. This will be in addition to the normal berth hire charges applicable for the entire duration of the vessel's stay at the berth.

(7). Vessels banked on offside of another vessel at these berths, berth hire charges shall be 50% of normal charges payable by such vessels.

(8). The provisions of the License Agreement shall govern priority Berthing and charges on it, if any. Whenever the priority berthing is granted to a vessel, a fee equivalent to Berth Hire charges for a single day (24 hours) or @ 75% of the Berth Hire charges calculated for the total period of actual stay at the Berth, whichever is higher, shall be levied.

(9). (i). For providing ousting priority to a vessel, a fee equivalent to berth hire charges for a single day (24 hours) or @100% of the berth hire charges calculated for the total period of actual stay of the vessels at berth, whichever is higher, shall be levied.

(ii). In addition, shifting out / in charges of the vessels shall be levied on the vessels, which are provided ousting priority.

(iii). Ousting priority at berth no.6A will be accorded only when a discharge / load rate of 25,000 MT of cargo per weather working day cannot be achieved due to restrictions placed by the vessels.

SECTION – D

CHARGES FOR SUPPLY OF WATER TO VESSELS AND MISCELLANEOUS SERVICES

Charges for water supplied to vessels shall be payable to by masters / owners / agents of the vessel at the following rates:

Sl.No.	Particulars	Rate per 1000 litres	
		Coastal Vessel (in Rs.)	Foreign-going Vessel (in US$)
1.	At Berth	97.85	3.65402

PART - II CARGO RELATED CHARGES

SECTION – A
WHARFAGE CHARGES AT BERTH NOS. 5A AND 6A

Wharfage on the cargo handled at berths numbers 5A and 6A shall be payable directly to SWPL, at the rates specified below, by importer or exporter of cargo, on the manifested quantity of cargo, which is declared in the Bill of entry filed with the Customs:

Sl.No.	Particulars of Commodity	Unit	Rate for Import / Export (in Rs.)	
			Foreign Cargo	Coastal Cargo
1. (a).	Coal (all types except thermal coal)	MT	30.00	18.00
1. (b).	Thermal coal	MT	30.00	30.00
2.	Metallurgical Coke / Coke / Charcoal	MT	45.00	27.00
3.	Limestone	MT	10.00	6.00
4.	Iron Ore Pellets	MT	30.00	30.00
5.	Metal products, Steel Coils, Slabs	MT	30.00	18.00
6.	Any other bulk cargo not specified above	MT	30.00	18.00

SECTION - B
CARGO HANDLING CHARGES

Cargo Handling Charges at Berth numbers 5A and 6A shall be payable on the manifested cargo directly to SWPL by importer or exporter of cargo at the rates specified below:

At Berth No.5A

Sl.No.	Particulars of Commodity	Unit	Rate for Import / Export (in Rs.)	
			Foreign Cargo	Coastal Cargo
1.	Iron Ore Pellets	MT	140.00	140.00
2.	Metal products, Steel Coils, Slabs	MT	159.00	95.40
3.	Any other bulk cargo not specified above	MT	150.00	90.00

At Berth No.6A

Sl.No.	Particulars of Commodity	Unit	Rate for Import / Export (in Rs.)	
			Foreign Cargo	Coastal Cargo
1. (a).	Coal (all types except thermal coal)	MT	100.70	60.40
1. (b).	Thermal coal	MT	100.70	100.70
2.	Metallurgical Coke / Coke (all types) / Charcoal	MT	143.10	85.85
3.	Limestone	MT	132.50	79.50
4.	Iron Ore Pellets	MT	140.00	140.00
5.	Metal products, Steel Coils, Slabs	MT	159.00	95.40
6.	Any other bulk cargo not specified above	MT	150.00	90.00

Notes:

(1). At the berth number 5A, Cargo Handling Charges shall cover the following services:
- Unloading of cargo from ship to the berth or vice versa,
- Movement of cargo from the berth to SWPL stackyard or vice versa,
- Movement within the SWPL stackyard,
- Unloading from railway wagons or vice versa.

(2). At the berth number 6A Cargo Handling Charges shall cover the following services:
- Unloading of cargo from ship to the berth or vice versa,
- Movement of cargo from the berth to SWPL stackyard or vice versa,
- Movement within the SWPL stackyard,
- Loading on railway wagons for rail delivery or vice versa.

(3). Covering of Wagons by tarpaulin / plastic cover is not included in above handling charges prescribed in the schedule.

(4). The dunnaging and lashing will have to be arranged by the users at their costs to the satisfaction of the Master of the vessel.

(5). 50% of the Cargo Handling Charges shall be payable before the cargo is received for handling. Balance 50% of the Cargo Handling charges shall be payable before the clearance / shipment of the cargo.

SECTION - C
GROUND RENT / STORAGE CHARGES

The storage charges for cargo stored in the stackyard of SWPL shall be as follows:

I. Ground rent / storage charge for import / inward cargo

(Rate in Rs. per MT per day)

Sl.No.	Particulars of Commodity	Rate for first Five days for the balance cargo remaining after the free period	Rate for Sixth day to Tenth day for the balance cargo	Rate for Eleventh day to Twentieth day for the balance cargo	Rate for Twenty-first day onwards for the balance cargo
1.	Coal (all types)	10.00	25.00	50.00	100.00
2.	Metallurgical Coke / Coke (all types) / Charcoal	15.00	40.00	75.00	150.00
3.	Limestone	10.00	25.00	50.00	100.00
4.	Any Other dry bulk cargo not specified above	15.00	40.00	75.00	150.00

Notes:

(1). *THREE Free Days* shall be allowed, after complete discharge of vessel's cargo or when the last package is discharged. For the purpose of calculation of free period, Sundays, Customs notified holidays and Terminal's non- working days shall be excluded.

(2). *Ground rent / storage charges* shall be payable for all days including Sundays and Customs notified holidays for stay of cargo beyond the prescribed free days.

(3). After 21 days beyond Free Days, the balance cargo shall be liable to be shifted to other place out of SWPL area at the sole cost and consequences to the importer / exporter.

(4). For levy of ground rent / storage 'Day' shall be reckoned as from 7.00 a.m. to 7.00 a.m. of the following day.

II. Ground rent / Storage charges for Export / Outward cargo

(Rate in Rs. per MT per day)

Sl.No.	Particulars of Commodity	Rate for first Five days for the balance cargo remaining after the Free Period	Rate for Sixth day to Tenth day for the balance cargo	Rate for Eleventh day to Twentieth day for the balance cargo	Rate for Twenty-first day onwards for the balance cargo
1.	Iron Pellets	10.00	25.00	50.00	100.00
2.	Metal products, Steel Coils, Slabs and other general bulk cargo	5.00	10.00	25.00	50.00

Notes:

(1). In case of export cargo, Seven Free Days shall be allowed from the day the first lot of cargo / consignment has been received. For the purpose of calculation of free period Sundays, Customs notified holidays and Terminal's non-working days will be excluded.

(2). After the prescribed free days, ground rent / storage charges shall be payable for all days including Sundays and Customs notified holidays as stated above.

(3). After 21st day beyond free days, the balance cargo shall be liable to be shifted to other place out of SWPL area at the sole cost and consequences to the exporter.

(4). For levy of ground rent / storage 'Day' shall be reckoned as from 7.00 a.m. to 7.00 a.m. of the following day.

(5). If the entire cargo accumulated is not within the free period and the balance cargo is earmarked / linked to the next ship, further free period will be allowed from the date of production of documentation in support of this claim. Otherwise, penal ground rent at the appropriate rate applicable as per the rates prescribed in the above schedule shall be payable.

General Note to Section C:

(1). Storage charges / ground rent on cargo shall not accrue for the period when the SWPL is not in a position to deliver / ship the cargo when requested by the user due to reasons attributable to SWPL.

SECTION – D

DUST SUPREESION CHARGES

The Dust Suppression Charges for water sprayed for suppression of dust for effective pollution control shall be levied on manifested quantity on Coal, Coke and Limestone at the following rates:

(1). For cargo handled at Berth No.6A, Rs.2.15 per MT shall be levied from the stage of unloading from the vessel till the cargo is loaded onto railway wagons including storage at SWPL stackyard.

Part- III

OTHER SERVICES

1. VISITOR ENTRY PASS

		Yearly	Monthly	Daily
(a).	Per Application	Rs.200.00	Rs.50.00	Rs.20.00
(b).	Per Replacement	Rs.50.00	Rs.50.00	Rs.20.00

2. VEHICLE ENTRY PASS

Per Entry	Rs.75.00

Note: The vehicle entry fee will not be levied on vehicles entering / leaving the SWPL berths for delivery / dispatch of cargo.

3. PHOTOGRAPHY

(a).	Film Shooting and Photography	Rs.8,500.00 per day
(b).	Taking Photographs of Goods handled	Rs.500. 00 per day
(c).	Taking Photographs of Crews and Others	Rs.250.00 per day
(d).	Videography (related to operational activities)	Rs.2,500.00 per day

4. CRANE HIRE CHARGES

The hire charges for the SWPL's cranes installed at berth nos.5A and 6A shall be payable directly to SWPL for use for the purposes other than for cargo handling as per following rates

(a).	For 110/42 MT capacity mobile harbour cranes	Rs.25,000.00 per hour
(b).	For others cranes	Rs.15,000.00 per hour

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

F. No. TAMP/19/2006 – SWPL - Proposal received from the South West Port Limited (SWPL) for revision of its Scale of Rates for its multipurpose cargo terminal at berth nos. 5A and 6A at the Mormugao Port Trust (MOPT).

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

Mormugao Port Trust (MOPT)

(i). As per clause 7.3.4.3 of the License Agreement, the Licensee has to handle guaranteed throughput of 5 MMT per annum from 37^{th} month of commercial operation and onwards. The royalty payable is highest of the following:

(a). 18% of the cargo handling charges irrespective of discount if any, granted by the Licensee.

(b). 18% of the cargo handling charges for the minimum guaranteed throughput.

(c). The minimum annual income determined on the basis of 18% of the total income at the rates of cargo handling fixed by the TAMP for a minimum guaranteed throughput of 5 MMT per annum.

(d). Annual income of Rs.12,00,20,560.00.

(ii). Revenue share payable to MOPT has been considered at Rs.12 crores, Rs.12 crores and Rs.13.09 crores for the years 2006-07 to 2008-09 respectively in the cost statement. With reference to this, it has furnished the following comments:

(a). While approving the initial tariff of the SWPL, royalty payment was not considered as cost in view of the guidelines issued by the MSRTH vide letter no. PR/14019/6/ 2002-PG dated 29 July 2003.

(b). The clause 2.8.1 of the revised tariff guidelines, however, prescribes the method of treatment of royalty in those cases where BOT was finalised prior to 29 July 2003. In such cases, royalty / revenue share will be taken into account as a cost in such a manner as to avoid likely loss to the operator on account of royalty / revenue share not being taken into account, subject to the maximum amount guaranteed by the next lowest bidder.

(c). In view of the said provision in the revised tariff guidelines, the differential amount of Rs.0.89 crores (i.e. the difference in the amount of royalty quoted by SWPL [Rs.12 crores] and the amount quoted by the 2nd lowest bidder [Rs.11.11 crores]) is to be considered in determining the tariff fixation as an admissible cost.

(iii). The SWPL has made traffic projections for handling iron ore / steel products during the years 2006-07 to 2008-09. The handling of iron ore is covered under the Mormugao Port (Shipment of ore as pellets from MOHP berth no.9 and related matters) Regulation 1979. As such the Licensee cannot handle iron ore at berth nos. 5A and 6A. This issue was brought to the notice of the Authority while fixing the initial tariff of SWPL, but was not considered by the Authority while sanctioning the existing SOR.

(iv). As regards cost statement and other relevant information with the respect to the recent guidelines, it does not have any comments to offer since the port is not the direct user of the SWPL terminal.

(v). As per clause 2.18.2 of the revised tariff guidelines, the penal interest on delayed payments / refunds will be 2% above the prime lending rate of the State Bank of India. As against this, the SWPL has proposed 15% penal interest on delayed payments / refunds.

Mormugao Port Users Association (MPUA)

(i). While considering the initial proposal of the SWPL for tariff fixation, the small importers had brought to the notice of TAMP, serious difficulties in the absence of adequate infrastructure for road delivery in SWPL. The MOPT and SWPL were then requested to analyse the demand of the users and file a report of the joint meeting. The arrangement and operational plan worked out by the MOPT was found to be technically unfeasible as the 10000 square meter plot proposed by the MOPT for road delivery was not sufficient to cater to even one party operating from the berth nos. 10 and 11.

(ii). The existing tariff approved by the Authority was exorbitantly high in comparison to then prevailing MOPT rates. One of the main grounds of accepting the initial proposal of the SWPL was that the principal user, JSW Steel Limited (JSWSL) had accepted the proposed tariff. No weightage was given to the small importers like us. Justification by the SWPL that freight advantages of nominating higher size vessel and faster turnaround can offset increase in tariff is in reality applicable only to JSWSL who have necessary infrastructure and financial resources. Presently none of us, for reasons like L.C. limitation, inventory cost, railway bottleneck, railway connectivity, scale of operations, financial resources, etc., are in a position to nominate bigger size vessels.

(iii). This matter was taken up with the MOPT to find an amicable solution but in the absence of any progress, the Associations have sought judicial intervention. Accordingly, a writ petition was filed by M/s. Aparant Iron and Steel Pvt. Ltd. and others against Union of India, SWPL and others. In pursuance of the writ petition, MSRTH issued an order in December 2005 directing the MOPT to continue to handle bulk coal / coke at berth no. 10 / 11.

(iv). Berth no. 5A which was earlier provided for handling smaller vessels of coal / coke by road delivery, is proposed to be modified to handle cargoes like steel slabs, HR coils, etc.

Kalyani Steels (KS)

(i). It has reiterated the points raised by the Mormugao Port Users Association. In addition to that it has stated that the tariff proposed is exorbitantly high and unprecedented. The rates of SWPL are highly disproportionate to the rates charged by the MOPT.

(ii). JSW Steel Limited (JSWSL) and SWPL are group companies. The JSWSL will accept the proposed increase in tariff since it is an interested party and a major user of the SWPL facility.

(iii). The proposed tariff will be against the principles of natural justice if the interest of other users is ignored and the objections are not considered by the Authority.

JSW Steel Limited (JSWSL)

(i). It is in agreement with revision of Scale of Rates proposed by the SWPL.

South West Mining Limited (SWML)

(i). Confirms its agreement to the tariff revision proposal of the SWPL.

2. A joint hearing in this case was held on 5 July 2006. The SWPL made a slide presentation of the proposal. At the joint hearing the following submissions were made:

South West Port Limited

(i). Handling cargo for road delivery is prohibited by State Pollution Control Board. We will give a copy of the Order.

(ii). We are designed and equipped to handle rail delivery cargo.

Mormugao Port Trust

(i). Based on High Court Order, Secretary (Shipping) has passed an Order to handle road delivery cases only at MOPT berth nos. 10 and 11.

(ii). The tariff of SWPL is very high. It discourages other users to bring vessels (even with rail delivery) to SWPL berth.

(iii). Facilities supposed to be created as per BOOT are not created (e.g. land reclamation and road delivery facilities).

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