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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 95

New Delhi, May 5, 2011

NOTIFICATION

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

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports

Case No. TAMP/55/2009 – CCTL

The Chennai Container Terminal Private Limited

Applicant

O R D E R

(Passed on this 25th day of March 2011)

This case relates to a proposal received from the Chennai Container Terminal Private Limited (CCTPL) for general revision of its Scale of Rates.

2.1. This Authority passed an Order on 28 March 2007 relating to the proposal received from the Chennai Container Terminal Limited (CCTPL), a private container terminal operator at the Chennai Port Trust (CHPT), for general revision of its Scale of Rates. This Order was notified in the Gazette of India on 18 April 2007 vide Gazette No.89.

2.2. Subsequently, with reference to the above mentioned tariff Order, the CCTPL vide its letter dated 7 June 2007 filed an application for review of the Order. The CCTPL review application was processed following the usual consultation process. This Authority vide its Order dated 19 June 2008 disposed of the review application made by the CCTPL. This Order was notified in the Gazette of India on 2 July 2008.

2.3. The validity of the Scale of Rates of CCTPL notified in April 2009 was to expire on 31 December 2009. Since the proposal filed by CCTPL in November 2009 was in consultation stage, this Authority vide its Order dated 31 March 2010 has extended the validity of the Scale of Rates of CCTPL upto 30 September 2010, subject to fully adjusting the additional surplus, if any, over and above the admissible cost and permissible return for the period post 31 December 2009 in the tariff to be determined.

3.1. Clause 3.1.2 of the tariff guidelines of March 2005 requires a major port/ private terminal operator to file its proposal for review of its tariff, at least 3 months before these are due for revision. That being so, the CCTPL should have

filed its proposal by 30 September 2009. After reminders, the CCTPL requested this Authority for grant of time till 24 November 2009 for submission of its proposal, on the ground that the economic slowdown and the advent of the 2nd container terminal at the CHPT have impacted the CCTPL's projections for future volumes and the effect of its investment in 2 number of brand new quay cranes which are in the process of commissioning. In this backdrop, the CCTPL vide its letter dated 24 November 2009 has filed a proposal for general revision of its Scale of Rates.

3.2. The main points made by the CCTPL in its proposal are summarised below:

1. General

- (i). CCTPL's performance has improved steadily and all productivity parameters have been met or exceeded in spite of the terminal operating at close to its capacity. This has been achieved by a combination of investments in new container handling equipments, improved terminal operating systems and a host of process re-engineering activities.
- (ii). Terminal's throughput has increased from around 8.29 lakh TEUs in 2006 to around 11.99 lakh TEUs in 2008.
- (iii). The extraordinary efficiency has attracted several main line operators to deploy their large main line vessels at the terminal and the Chennai Port is now connected to more that 50 Global ports with direct services.
- (iv). Crane productivity has been improved from 22 moves per hour per quay crane in 2006 to over 27 in 2009 through continuous training of its man power and investing in the best quality equipment available.

II. Tariff Proposal

(i). Tariff structure

Tariff structure as adopted by TAMP in the previous tariff notification has been broadly maintained. However, based on the activities performed in the last two years and the procedural changes brought about in the past to improve efficiency and productivity, CCTPL has proposed to realign certain tariff items as well as introduced some new tariff items.

(ii). Excessive over-dimensional containers including containers exceeding 40 MT in gross weight

With many industries being set up in the vicinity of Chennai the requirement for importing Capital goods equipments for setting up the projects has increased substantially. Some of the cargoes are shipped in flat rack containers and exceed in length beyond 52 feet. Such containers are delivered and received directly to / from the customer's vehicles. As this involves a considerable amount of time to carry out the operation and the crane cannot be used for normal container operations during the period of its use for the excessive ODCs, the CCTPL proposes to charge for handling such containers on the basis of the number of normal containers that would have been handled in the same time frame. Such containers take approximately 35 minutes to handle each container. The norms specified by TAMP for crane productivity is 25 moves per hour. It is hence proposed to levy a charge equal to 15 times of the quay crane handling plus container wharfage plus cargo wharfage chargeable for 40 ft length of ODC. The impact of this proposal will be ₹16 lakhs per annum which is considered in the revenue estimates.

(iii). Weighment of containers

The CCTPL has received a written request from Chennai Customs to carry out weighment of import containers before it is gated out of the terminal. Additionally, the Chennai & Ennore Port Steamer Agents' Association (CHENSAA) have requested the terminal to evolve a system for measuring the weight of export containers individually. The present system of weighing the trailer along with the export containers has been found to be unsatisfactory and has lead to instances of over loading of vessels due to wrong declaration of the gross weight of the containers by the shippers. It is proposed to weigh all containers handled at the terminal by utilizing the weighing feature incorporated in the Rubber Tyred Gantry (RTG) and capture the weight in the terminal operating system. This weighing involves additional resources for calibration and certification of the weighment as per law and capture of the information and its transmission to the terminal operating system. It is, therefore, proposed to levy a charge of ₹250 for a 20 ft container and proportionate increase for 40 and 45 ft container as per TAMP norms. Since major volume for this service is not foreseen, the impact would be negligible.

(iv). Fumigation of Tobacco containers

The CCTPL has been charging ₹2200 per 40 ft container for facilitating fumigation of tobacco containers. This charge is felt to be deterrent by the trade and a written request has been made by the largest exporter of tobacco to reduce this rate. Hence, it is proposed to reduce this rate to ₹1000 per 40 ft container. Since the tobacco exporters are able to avail of the facilities at an off-dock CFS for approximately ₹900/- per container, this reduction in tariff will enable CCTPL to utilize its resources in a more gainful manner. The impact of this reduction in CFS revenue will be ₹11 lakhs per annum which is factored in the revenue estimates.

(v). CFS charges in Indian Rupees

The CCTPL CFS located within the port is competing with 25 other CFSs within Chennai. The customers of CCTPL CFS have expressed the opinion that the charges levied for services rendered at the CFS may be denominated in INR alone as it will insulate them especially passengers returning from abroad with the baggage against exchange risks and the rates can be quoted by the CHAs, Forwarders etc., to their ultimate customers with a greater degree of certainty. This will not have any variation in revenue estimates.

(vi). Stuck twist lock removal

In many instances, import containers off loaded from a vessel have been found with the twist lock jammed in the container casting. This requires the container to be segregated on wheel and special equipment to be used for removing the jammed twist lock before it is sent to the yard for stacking. This has to be done in a time critical fashion as the ITV on which this container is loaded cannot be used until the jammed twist lock is removed and the twist lock has to be returned to the vessel before it sails from the terminal. It is proposed to deploy additional resources to enable removal of the jammed twist lock immediately upon its discharge to ensure (1) the ITV is not kept idle, (2) the twist lock is returned to the vessel immediately and (3) the container can be offloaded safely in the yard. Hence it is proposed to levy a charge of ₹1000/- per twist lock removal. The current charges incurred by a container operator to free the jammed twist lock by use of outside agencies cost around ₹2000/-. The revenue realization for this service will be negligible.

(vii). Reduction in free dwell time for import containers

The norms for calculation of yard capacity by TAMP assume import dwell time of 2 days. The procedure of CCTPL have enabled import

dwelling time to be reduced to an average of one day only. Additionally, customs import documentation is required only for containers imported by ACP clients since all other laden containers are moved to an off-dock CFS for further customs processing. With the various other improvements in process, dwelling time for import containers has reduced. Hence, it is proposed to reduce the free days allowed for import containers to 2 days from the existing 3 days. Additionally, the exclusion of customs holidays falling within the free days from the calculation of free days should be dispensed with since the ACP importers are not affected by customs holidays, if any due to various improvements in procedures introduced by the customs for the ACP clients.

(viii). Volume Discounts

CCTPL has invested in 2 brand new quay cranes during September 2009 at a value of ₹115 Crores. In order to fetch effective return on this additional investment CCTPL has to not only retain the existing volume but also enhance the throughput. Hence, it is proposed to introduce a volume discount scheme applicable for all customer achieving threshold volumes during a year. This scheme will be made applicable to shipping line that uses the services of CCTPL to handle more than 20000 TEUs of containers during a calendar year. The impact of this discount works out to approximately 3% of the terminal revenue which has been incorporated in this submission. The Authority is requested to notify this rebate which will enable the CCTPL to minimize the revenue share cost which otherwise would be passed on to the trade.

(ix). Traffic

The traffic handled during 2008 was 1199618 TEUs. The Chennai Container market is expected to contract by about 6% during 2009 and with the advent of the International Container Transshipment Terminal at

Vallarpadam, Cochin which is expected to draw a substantial portion of the hinterland volumes, grow marginally by 3% in the next and an average of about 8% in the subsequent couple of years. The 2nd terminal at CHPT has commenced operations from 4 June 2009. Hence, from 2010 onwards the volume dynamics at Chennai would change as both the terminals, next to each other, would be wooing for the same traffic especially in an environment of negligible growth. It is hence expected that in 2010, 35% of the total available volume would be captured by the new terminal next door. This will result in CCTPL volume reducing to 750000 TEUs. In 2010 the new terminal's share will increase to 36% and hence CCTPL would achieve a volume of 800000 TEUs.

III. Revenue Assumptions

(i). Exchange Rate

The average exchange rate for 2009 has been assumed at 1 US \$ = ₹47. With the global recession impact looming over India and there has been a decline in the growth rate of world wide economy as well as Indian economy it is difficult to predict the movement of exchange rate. However in view of the fact that the growth rate in India is expected in the range of 6% with is more as compared to USA and other European countries the rupee appears to be set for a appreciation. Hence, irrespective of the short term and sporadic spurts in the US dollar, Indian Rupee will continue to appreciate against the US dollar. However, CCTPL has considered only a moderate appreciation of ₹1 per US \$ and considered the projections assuming an exchange rate of 1 US \$ = ₹46/-

(ii). Container mix

The container mix has been based on the trend seen during 2008 and 2009. As the level of industrialization increased and the mix of volume

of finished products Vs input components / raw materials increase the number of 40 ft containers will increase as a percentage of the overall traffic. However, it is important to note here that as the volume of any terminal increases, the number of 40 ft boxes increase as compared to 20 ft boxes. This is the trend all over as 40 ft offers economy of scales to the importers and exporters. In the past 5 years, the 20-40 ratio at Chennai has been rising steadily as enumerated below:

	2006	2007	2008	2009
20 : 40 Ratio	1.34	1.34	1.36	1.33

Based on the above the CCTPL have considered 1.36 for the future years.

Also the ratio of empty to laden containers is on substantial increase and the trend is shown below:

	2006	2007	2008	2009
Empty Ratio	89.11	88.12	87.13	84.16

This trend is expected to continue over the next tariff cycle.

(iii). Storage income

CCTPL is a container terminal constrained by yard space because of extremely small back up area and lack of space to expend the transit yard. Hence, in order to cope up with the growing volume, it becomes necessary to evacuate import boxes quickly and efficiently. This is due to majority of import containers to off-dock CFSs at the earliest possible of its landing at CCTPL. This has resulted in substantially reduced dwell time of import boxes to an average of 1.2 days, thus reducing the storage revenue on import containers.

	2007	2008-09 (15 months)	2009 (9 months)
TEUs	1052993	1447138	852480
Storage revenue (lakhs)	475	556	143
Storage revenue – per TEU	45	38	17

This en-block movement of import boxes has substantially reduced the storage earning of CCTPL. Due to this average storage revenue per TEU has come down from ₹38 to ₹17. Based on the above estimate of ₹18 per TEU of storage revenue has been considered in the projections.

(iv). Terminal benefit

Since all the existing or proposed assets upto 2009 would be fully written off well before the end of licence agreement period, no terminal benefit would accrue from these assets. Nothing would be payable by the CHPT on these fully depreciated assets. Hence, only 10 million US dollars has been considered as terminal benefit and discounted at 15% per annum to arrive at the notional income from all the years.

(v). Duty free scrip under SFIS (Serve from India Scheme)

CCTPL received during the years 2007 and 2008-09 duty free scrip under SFIS for a value of ₹20.83 crores. Depending on the usage of the scrip, the duty amount is capitalised or added to the material cost. Since this is not a normal business revenue this has been excluded suitably in revenue as well as capital employed.

IV. Expense Assumptions

The assumptions for estimation of expenses and the increase considered by the CCTPL are tabulated below:

Sl. No	Expenses	Increase considered	Grounds
1.	Unionized labour	42% in 2009 40% in 2010 5.8% in 2011 & 12	Prevailing wage settlement Long term wage settlement is due in 2010 --- The number of workers has been kept constant at the levels required.
2.	Non-unionized labour	15% per annum	The increment trend in the Indian Corporate Sector and the various surveys and analysis conducted in 2009. This is also in line with the average increase given in 2007 and 2008.

3.	Electricity cost	10% in 2010 5.8% per annum for the rest of years	No increase in the last 3 years. Nominal
4.	Fuel cost	11.26% in 2010 10% per annum for the rest of years	Market inputs on global oil prices. Nominal
5.	ITV hire charge	10% year over year from 2010	Diesel price increase and normal inflation expected during the period.
6.	Lashing contract cost	10% in 2010	General wage levels in the segment is expected to raise by 10%
7.	CFS and checkers contract rates	Actual negotiated rates for 2009 10% increase per annum for the rest of years	Negotiated rate Nominal
8.	Marketing expense	10% in 2010 12% in 2011 15% in 2012	Increased market expenses that would be required due to the competition from the 2 nd terminal.
9.	All other expenses	10%	General inflation rate
10.	Depreciation	Rates as per Companies Act or as per the life norms prescribed in the LA whichever is higher	Revised tariff guidelines.
11.	Leas rentals to CHPT	As per the arbitration award given in March 2006 at ₹1 per sq. mtr. per annum for land allotted to CCTPL.	CHPT preferred an appeal against the stated order in June 2006. The Madras High Court dismissed the application of the CHPT in June 2008. However, the matter is sub-judice since CHPT has preferred an appeal before the Division Bench of Madras High Court. <i>Status quo</i> on the original stand is maintained
12.	Technical Service fee to P & O Ports	At cost	Income Tax authorities has allowed this expense without any adjustments. This is also in line with the revised tariff guidelines of TAMP.

4. The CCTPL proposal is as follows:
- (i). The CCTPL has sought an increase of 16% on all the tariff items over the existing tariff. Subsequently, the CCTPL while responding to the comments of users has stated that it has sought an increase of 18% over the existing tariff.

- (ii). As brought out earlier, it has proposed to realign certain tariff items as well as introduced certain new tariff items.

5. The estimated container traffic and financial position as reflected in the cost statements furnished by the CCTPL are as follows:

I. Estimated container traffic

Year	Container traffic (in TEUs)
2009 (9 months)	852480
2010	780000
2011	820000
2012	850000

II. Estimated Financial position

Sl. No.	Years	Operating income (₹ in lakhs)		Net surplus(+) / Deficit(-) (₹ in lakhs)		Adjustment of 50% of surplus of 2007-09	Net surplus / deficit		Net surplus(+) / Deficit(-) as % of operating income	
		Existing Rates	Proposed Rates	Existing Rates	Proposed Rates		Existing rates	Proposed rates	Existing Rates	Proposed Rates
1.	2010	21130	24940	(5848)	(3003)	1794	(4054)	(1209)	-19%	-5%
2.	2011	22155	26150	(6628)	(3666)	1794	(4834)	(1872)	-22%	-7%
3.	2012	22924	27057	(6402)	(3333)	1794	(4608)	(1539)	-20%	-6%
Average net surplus / deficit as a percentage of operating income									-20.33%	-6%

6. The CCTPL did not furnish the draft Scale of Rates along with its proposal. While acknowledging the CCTPL proposal, the CCTPL was requested to furnish its draft Scale of Rates. The CCTPL vide its letter dated 22 December 2009 has furnished its draft Scale of Rates.

7. The CCTPL requested to not circulate the Annual Report, investment details and computation of designed capacity of the terminal. However, as stipulated in Clause 3.2.4. of the tariff guidelines 2005, CCTPL has not explained as to how any irreparable damage will be caused to it, if its request is not acceded to. Hence the entire proposal as received from the CCTPL (except the Annual Accounts) was circulated.

8. In accordance with the consultative procedure prescribed, the proposal from the CCTPL alongwith the proposed draft Scale of Rates was forwarded to CHPT and also to the concerned users/user organisations for their comments. The comments received from the CHPT and some of the users were forwarded to the CCTPL as

feedback information. The CCTPL has also responded on the comments of CHPT and the users.

9.1. Based on a preliminary scrutiny of the proposal, the CCTPL was requested to furnish additional information/ clarifications. The CCTPL has responded to our queries. The queries raised by us and reply of the CCTPL are tabulated below:

Sl. No.	Our queries	Reply of CCTPL
(A).	General:	
(i).	The revised tariff guidelines stipulate that tariff should be linked to benchmark levels of productivity. CCTPL has stated that it has improved its crane productivity in 2009 to more than 27 moves per hour per quay crane, which may be incorporated in the existing conditionality prescribed at Section 2.12 in the Scale of Rates of CCTPL.	In the draft scale of rates, this should be incorporated.
(ii).	CCTPL has not filled up the table at Sl.No.8 of Form-1. CCTPL to state whether there is any deviation from the revised tariff guidelines in framing the current tariff proposal in reference.	We are taking into account the proceeding orders in the case of NSICT (TAMP/14/2008-NSICT Dt. Sep'08), JNPT (No.34 dt. 12-Mar-09) for the basis on which our tariff has been calculated.
(iii).	CCTPL has stated that its pricing strategy is performance based apart from cost based. CCTPL to bring out the impact of the anticipated improvement in performance on the unit price.	We have not indicated that the pricing is performance based. Please refer to our submission in Form -1 [In form-1 it is stated that pricing strategy is cost based and market based]
(iv).	This Authority vide paragraph no.14(xi) of its Order dated 28 March 2007 had advised CCTPL to gear up its internal system so that it can draw up its proposal supported by cost details for individual activities at the time of next review of its tariff. The CCTPL to furnish the cost elements considered in the proposed charges.	CCT do not maintain Activity based costing and hence this cannot be provided.
(v).	(a). The year 2009 is already over. Traffic and financial / cost details for 2009 may be furnished at actuals.	CCT has now changed its Statutory Accounting Period from Calendar Year to Financial Year and the first Accounts after the change has been drawn up for a period of 15 months ending 31st March 2009. Hence we will be reporting based on the FY. The account for the year 2009-10 is already over and the same has been incorporated in this submission.
	(b). Likewise, actuals for the period from January – May 2010 may be furnished.	The period of January to March 2010 is already covered within the period of the Audit Accounts. We are attaching the actuals for the period for April to June'10 as required by the Authority.

	(c). In the light of the actuals for the year 2009 and upto May 2010, the estimates for the subsequent years may be updated / revised, if necessary.	Done.
	(d). If CCTPL wants to take advantage of the full tariff cycle of 3 years, estimates for the year 2013 may also be furnished.	We have changed the statutory accounting period from Calendar year to Financial Year and hence the calculations of past profits have been done for the period upto Mar'2010. We have proposed the revised tariff effective for a 3 year period from April'2010 to March'2013.
(vi).	Rebates and discounts, if any, over the notified ceiling tariff, allowed by CCTPL during the years 2006-2009 and upto May 2010 may be furnished yearwise.	The tariffs are only ceiling levels and there is no bar in offering lower tariffs as clarified by the Authority from time to time.
B.	<u>Comparison of actuals vis-à-vis estimates provided earlier:</u> Clause 2.13 of the tariff guidelines requires this Authority to review the actual physical and financial performance at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing the prevailing tariff. In this context and with reference to Form – 7 of the tariff proposal filed by CCTPL, the CCTPL to clarify / furnish the following:	
(i).	(a). From the reconciliation statement furnished by CCTPL to reconcile the difference between the profit shown in the Annual Accounts and the profit as furnished in the Cost statement, it is seen that the CCTPL has not considered the income and the expenditure related to the TSA movements in its cost statements. The nature of income therefrom and expenditure thereof may be furnished. The reason for excluding the income and expenditure related to TSA movements from the Cost statement may be explained. If the exclusion, is justified it cannot be confined only to direct revenue & expenditure. Overheads & Capital assets relevant to the activity should be apportioned and excluded.	The TSA movements represents the movement of Cargo from CCTPL CFS to Customer CFSs at locations outside Chennai, namely Bangalore, Hyderabad, Kochi , etc. The Tariff for this activity is outside the scope of TAMP vide its Order Clause 10(vi) of Order NO TAMP/45/2007-CCTPL Dt.19th June 2008. This is a miniscule activity compared to the operations of the Terminal and hence does not involve any allocable Over heads towards the same. Hence we have excluded the collection of charges and the corresponding payment to the Trucking contractors for delivering these cargoes to the above said destinations. Further we have discontinued this activity.
	(b). In the above mentioned Reconciliation statement, the CCTPL has also excluded the income and the expenditure related to the SFIS (Serve from India Scheme) in its cost statements. The CCTPL while responding to the points made by one of the user organizations in this regard has, inter alia, stated that the CCTPL has projected the return on capital employed and depreciation in its proposal only after excluding the capital addition arising from the use of SFIS scrips. In this regard, the CCTPL to establish with workings that it has considered reduced capital	Statement of the scrips under SFIS scheme received and the utilization there of is attached. Please refer to the reconciliation of the Form 3A profits with the Audited accounts where in the exclusion of the impact of the receipt as well as utilisation of the SFIS Scrip is clearly excluded. The asset values have also been excluded to the extent of the impact of SFIS Scrip as may be seen from the same reconciliation.

	expenditure after excluding the SFIS scrips and the corresponding adjustment made in the depreciation.	
(ii).	The total of the operating expenses estimated for the years 2008 and 2009 together in the Review Order of June 2008 was ₹249.37 crores. In Form 7 furnished by CCTPL, the total of the operating expenses as shown in the Estimates column for the years 2008 and 2009 together is ₹259.44 crores. The CCTPL to explain the reason for the mismatch and the difference may be reconciled.	Said difference is reconciled and in the revised submission this difference no longer exists.
(iii).	During the last review of tariff of CCTPL in March 2007, the deletions in the gross block of assets in the year 2006, 2007 and 2008 on account of replacement of the (then) existing assets was assumed at the written down value of the respective assets, in the absence of requisite details not being furnished by CCTPL during the proceedings, subject to verification of actuals at the time of next review. In this regard, paragraph no. 14(v)(s)(vi) of the Order dated 28 March 2007 may be referred to. The CCTPL to confirm that the deletions on account of replacement of assets in the year 2006, 2007 and 2008 are at the written down value of the respective assets.	Yes; It is confirmed that Deletion is made in the Gross block as well as in the Accumulated depreciation and the asset is removed at Written down value.
(iv).	This Authority vide paragraph no.14(v)(k) of its Order dated 28 March 2007 has allowed payment of technical service fee as an item of cost in the estimates for the years 2007 to 2009 subject to the condition that the CCTPL at the time of next review would produce the Income tax assessment Orders for each of the years to show that the concerned authorities have allowed this expenditure. The CCTPL, therefore, to furnish the Income tax assessment Orders for the years 2007 to 2009.	The assessment for the FY years from 2006-07 is under progress, hence the assessment order could be furnished after the completion of the same. However the assessment order for the FY 2005-06 is furnished to demonstrate that Management Technical service fees is allowed by the Income Tax department as business expenditure. [The copy of the Order of Income Tax Authorities produced by CCTPL is for the financial year 2004-05 (Assessment year 2005-06) and not for FY 2005-06. The Income Tax Authorities have assessed the Technical Service Fee at ₹228.38 lakhs as against ₹234.83 lakhs computed by CCTPL. Accordingly, the Income Tax Authorities have ordered that an upward adjustment of ₹6.43 lakhs is required to be made in the income of the CCTPL]
(v).	This Authority vide its Order dated 19 June 2008 allowed a 10% increase in the then existing tariff of CCTPL with effect from 1 August 2008. The CCTPL to update the estimated income with reference to the above said increase and furnish the revised comparative position of actuals vis-à-vis estimates.	Done in the revised tariff submission in Form 7.

(vi).	The CCTPL has considered 50% of the additional surplus earned during the tariff cycle of 2007 to 2009 for adjustment in future tariff. However, it is to be noted that the tariff fixed for the CCTPL for the tariff cycle 2007 to 2009 was subject to the condition of adjustment of entire additional surplus in the next cycle. In this regard, paragraphs 14(vi) and 14(x)(c) of the tariff Order dated 28 March 2007 may be referred to. The entire additional surplus earned during the tariff cycle 2007 to 2009 should be adjusted in the revised cost statement.	The CCTPL has furnished its response which is brought out in the later part of this note.
(C).	<u>Financial/Cost Statement:</u>	
1.	<u>Capacity</u> (i). With reference to calculation of yard capacity CCTPL to clarify the following: (a). The yard capacity is dependent on 'ground slots', 'stack height', 'utilisation', 'peaking time' and 'dwell days'. In this context, CCTPL to state the reason for adopting different ground slots, different stack heights and different percentage of utilisation. The basis for considering 120% peaking factor may also be brought out. (b). CCTPL to estimate the yard capacity based on the parameters mentioned above considering the actuals each for the three years from 2007 to 2009. It may be confirmed that the parameters so considered will remain unaltered in the next three years in spite of the capital expenses proposed to be incurred for replacement/refurbishment / additions. (c). CCTPL has proposed an investment of ₹20 crores towards refurbishment of yard in the year 2011. CCTPL to intimate how the proposed refurbishment of yard has been factored into for determination of yard capacity.	CCTPL has container yard space of 14.6 hectares. Adopting the norms followed by TAMP in its Order no.34 dated 12 March 2009 in the case of JNPT (fixation of upfront tariff for container terminal at JNPT), the grand slot worked out to 4171 and the optimal yard capacity works out to 8,19,762 TEUs. The actual grand slot available in CCTPL is 3960. Even if the actual available grand slot is considered the yard capacity works out to 7,78,292 TEUs only. CCTPL has considered the one as per norms. [It has attached the working sheet]. The optimal capacity has been worked out as per 2005 tariff guidelines. The comparison of actuals and optimal capacity as per the previous order of the Authority is similar and hence should be adopted in the case of CCTPL. The expenses towards refurbishment of yards is primarily towards Yard 7 and balance crossover between yard 6 & 7, in which no refurbishment done in the past so many years. This does not involve creation of any additional capacity.
(ii).	With reference to calculation of quay capacity CCTPL to clarify the following: (a). The CCTPL in its proposal has stated that it has improved its crane productivity from 22 moves per hour in the year 2006 to over 27 in the year 2009. However, the quay capacity calculation shows that the CCTPL has considered the productivity of the crane at only 25 moves per hour. Explain the reasons why 27 moves per hour per Quay crane cannot be considered for assessing quayside capacity.	This has been considered based the Authority notification G No.27 Dt. 26- Feb-2008. However our capacity is constrained by Yard and hence considering 27 moves per hour do not impact the optimum capacity of the Terminal. The 2 old QCs are in the process of disposal and hence only 7 QCs are considered. Further we have based our revised submission on the optimal capacity as per TAMPs orders.
	(b). During the proceedings relating to the last general revision Order dated 28 March	The 2 brand new QCs are procured as a replacement to the old 2 KHIC make QCs

	2007, the CCTPL in addition to the then existing 7 quay cranes, had proposed procurement of additional cranes in the second half of the year 2007 and during the year 2009. The CCTPL in its current proposal has stated that it has invested in 2 brand new Quay cranes during September 2009. The CCTPL does not appear to have considered the additions of crane in its quay capacity calculation. CCTPL to review the position and revise the capacity of the terminal.	inherited from ChPT during 2001. Since they are only for replacement the overall QC number remains at 7 only and hence there is no change in capacity on account of this. These QCs are proposed to be disposed off during the years 2010-11 and 2011-12 respectively and the same have been duly removed in the calculation of Capital Employed.
2.	<u>Traffic:</u> (i). With reference to estimation of traffic, CCTPL to clarify the following: (a). The CCTPL has assumed 3% traffic growth in 2010 over the actual traffic of the year 2009 and 8% traffic growth for the year 2011 and 2012 over the container traffic estimated for the years 2010 at the Chennai Container Market. The container traffic estimated to be handled by CCTPL for the years 2010 to 2012 further assumes that the share of the 2nd container terminal at Chennai Port Trust (CHPT) during the year 2010 is expected to be 35% for the year 2010 and 36% for the year 2011. The CCTPL to furnish the analysis made in this regard.	2nd terminal has taken away 2 services (1 mainline / 1 coastal) from CCT. Indflex2 / TCI which generates about 16,500 TEUs a month. Apart from that they have Minimum guarantee to achieve for which they are expected to take away some other services from CCTPL. If looked in to their growth they have already on an average taken 20%-25% of Chennai volume which was handled by CCTPL. And same is expected to go up due to the above said reason.
	(b). The CCTPL to furnish the details of the actual container volume handled during the period of 5 months from January 2010 to May 2010 and also the container mix.	Total Volume = 4,75,070 TEUs , this represents 3,51,489 containers. [Ratio is 1.35]
	(c). Commissioning of second container terminal at CHPT was known to CCTPL in September 2009. The reasons for induction of additional quay cranes despite the anticipated diversion of traffic may be explained.	We are in a competitive zone & efficiency is one of our selling point. To retain our customers from moving to our competitor we are required to provide a global service level, for which we had to invest & safeguard our interest. Further we are required as per the licence agreement to replace equipments.
	(d). The capacity utilisation of quayside facilities at the projected traffic will be only around 50%. The proposed capital expenses should be justified in the light of the anticipated traffic diversion to the extent of about 30%.	The investments is only replacement to the existing infrastructure to support our efficiency improvement. And there is no new infrastructure that is being built in our system.
3.	<u>Operating Income:</u>	
	(a). Note 3 to Form 2B of the prescribed formats for tariff proposal adopted by this Authority requires the operator to provide detailed computation of income with reference to the estimated traffic. However, no such computation has been furnished by CCTPL. CCTPL to furnish detailed computation of income with reference to the estimated traffic	It has provided revised workings.

	at CCTPL's existing Scale of Rates and the proposed Scale of Rates for all the years under consideration separately for container handling and storage.	
	(b). The CCTPL has stated that it has considered the impact of discount arising out of the proposed volume discount scheme in its estimation of operating income for the years 2010 to 2012. However, the CCTPL to furnish the income estimation for the years 2010 to 2012 strictly based on the existing Scale of Rates. Financial impact of the additional proposed tariff items may be shown separately.	In our revised tariff application this is incorporated.
	(c). Apart from the general increase in rate proposed, the CCTPL has also proposed introduction of some new services / facilities. The yearwise additional revenue implication arising from these new services may be quantified itemwise and considered in the income estimation for all the years under consideration. The workings in this regard may also be furnished.	Working Sheet is attached , the same have been incorporated in the income estimation.
4.	<u>Operating Cost:</u> CCTPL has adopted different percentages as escalation factor in the estimation of operating cost. As already communicated by us vide our letter No.TAMP/27/2005-Misc. dated 18 May 2010, an escalation factor of 3.76% per annum will be considered for the expenditure projections in the cost statement.	Specific justifications have been provided for increases in Labour cost, Power cost and Fuel , which are beyond the control of CCTPL. In respect of all other expenditure the approved escalation factor of 3.76% has been considered.
(i).	<u>Operating and Direct Labour:</u> (a). There appears to be a mistake in the calculation of operating labour cost for the years 2008 and 2009. The product of the number of employees and average cost per employee does not match with the amount furnished by CCTPL in its cost statement.	In the current submission the numbers are matching.
	(b). The average cost per employee for the year 2010 is estimated to increase by around 44% as compared to the average cost per employee for the years 2008 and 2009. Likewise, the average cost per employee for the year 2011 and 2012 is estimated to increase by around 10% over the respective previous years. The estimated increase in average cost per employee may be justified with detailed workings for all the years under consideration.	The Wages for the Operators of QC and RTG are governed by a Long Term Settlement (LTS) for a 3 year period. The last LTS period has ended in April'2010 and the company is in the process of negotiating the wages for the next LTS period namely May'2010 - April'2013. This settlement is a tripartite settlement signed in the presence of the Labour Commissioner of Tamil Nadu after protracted negotiations with the Unions. Historically the increase percentage will be higher during the 1st year and nominal increases during the next 2 years. During the last LTS period CCTPL had to give an increase of 45% in the 1st year based on the settlement. Since the increase during the current settlement is also expected to be on

		the above lines, we have considered 45% increase in the 1st year followed by 6% increase for the subsequent years. Considering the practical scenario, the Authority will appreciate that this is not in the nature of escalation in the rate but a contractual obligation as per the labour practices of settlements and hence these cannot be treated at par with other expenses with normal inflation.
(ii).	<u>Maintenance Labour:</u> (a). Similarly, there appears to be a mistake in the calculation of maintenance labour cost for the years 2008 and 2009. The product of the number of employees and average cost per employee does not match with the amount furnished by CCTPL in its cost statement. (b). Likewise, the estimated increase in average cost per employee which is around 22% in the year 2010 over the average cost per employee during 2008 and 2009 and around 15% increase per annum for the years 2011 and 2012 may be justified with detailed working for all the years.	In the current submission the numbers are matching. Salary increase have been considered based on the market scenario and with a view to retain talent. However we have not made significant increase in the manpower in Projections for 2010 - 2013. The majority of the employees under maintenance fall under the nature of work of an operator. Though they are not under union and covered under settlement, we will have to match the wage increases for this category in line with the increases for the unionized category.
(iii).	<u>Equipment running cost:</u>	
(a).	<u>Power Cost:</u> (i). Around 37% increase in the per TEU consumption of electricity estimated for the years 2010 to 2012 over the consumption of power per TEU for the year 2009 may be justified.	There are two major reasons attributed to the increase in the electricity charges, one is the addition of Twin QCs in the total pool have gone up to 3Nos from 1No due to this we observe a 30% increase forecast on the QC consumption. Also the reefer volumes are going up day by day and hence we have considered higher reefer volume and values in our estimates.
	(ii). CCTPL to justify for around 10% increase in the unit cost of electricity estimated for the year 2010 as compared to the unit cost for the year 2009. The actual unit cost of electricity applicable for the month of May 2010 may be furnished.	The Tamil Nadu Electricity Board has not increased power tariff for more than 5 years and a committee has been setup to look into the price increase proposal for the power users. Indications are that there could be increase for the HT users and the same is estimated to be atleast 10%.
	(iii). The CCTPL has also considered a fixed cost element in the estimation of its total power cost. The components forming part of the estimated fixed charges may be listed out with cost details for all the years under consideration with justification for the	Due to installation of Brand new Twin lift Quay Cranes and also the increase in Reefer volume it has been necessary for us to increase the maximum demand from KVA 2100 to KVA 2565 , this has resulted in Fixed

	estimated fixed charges. The actual fixed charges paid/ payable may be justified supported by documentary proof.	charges payable towards electricity charges.									
(b).	<u>Fuel Cost:</u> (i). There appears to be a mistake in the calculation of fuel cost for the year 2008, which may be rectified.	The reduction in the per TEU consumption of fuel cost is achieved by implementing process change as well as replacement by Fuel efficient engines in many of the RTGs.									
	(ii). The increase of around 11.62% in the estimated unit cost per litre for the year 2010 as compared to the unit cost for the year 2009 may be justified.	This is a justified increase and the same is also confirmed with the recent increase in the diesel price by 15% in the last 6months from ₹34.41 - ₹39.46 per liter. In the light of the above we have reviewed and revised our estimated increase to 15%. The price of diesel is not following the pattern of the normal inflation and the Central Government is infact considering a decontrolled mechanism for the diesel prices which is at the moment backed up by subsidies. We had considered a base price of ₹38.41 for the year 2010 in our earlier submission in Nov'09 and even in a span of 8 months this price has gone up to ₹39.57 per liter, with further increase in the offing. Hence we would request the Authority to consider the special nature of this expense and accept the escalation rates as proposed by at 15%									
(c).	<u>Repairs & Maintenance Cost:</u> (i). CCTPL to furnish a detailed working for the estimated repairs and maintenance cost of equipments and electrical installations for all the years under consideration. (ii). CCTPL to justify the repair and maintenance cost estimated for the year 2010 which is around 22% higher as compared to the average repair and maintenance cost incurred during the years 2008 and 2009.	[The list attached by CCTPL shows major items of spares envisaged for replacement in the year 2010-11 to 2012-13 with estimated cost of replacement for each item. The yearwise total cost of replacement is as given below: <table> <tr> <td>2010 – 11</td> <td>-</td> <td>₹197.43 lakhs</td> </tr> <tr> <td>2011 – 12</td> <td>-</td> <td>₹211.34 lakhs</td> </tr> <tr> <td>2012 – 13</td> <td>-</td> <td>₹256.41 lakhs</td> </tr> </table> The repairs and maintenance cost includes the periodical D-checks to be conducted for the QCs and RTGs on attainment of certain level of moves. Hence the YOY percentage will not be a realistic evaluator of the fact. However the average increase per annum is now reduced to 10%, based on the above reasoning. Also it is confirmed that the Repairs and Maintenance cost is less than 2% of gross cost of Electrical and Mechanical Machinery as per 2008 guidelines.	2010 – 11	-	₹197.43 lakhs	2011 – 12	-	₹211.34 lakhs	2012 – 13	-	₹256.41 lakhs
2010 – 11	-	₹197.43 lakhs									
2011 – 12	-	₹211.34 lakhs									
2012 – 13	-	₹256.41 lakhs									
(iv).	<u>Efficiency Gain:</u>										
	(a). In the workings furnished by CCTPL in Form – 6 for Efficiency gains, the CCTPL has not bifurcated each cost group into fixed and	Fuel cost and ITV are entirely variable expenditure, this is because ITV hire charges are paid on per TEU basis. Also diesel is									

	variable component to establish that the cost reduction has arisen on account of efficiency gains. The CCTPL, therefore, to work out the efficiency gains based on the variable component. The workings should clearly indicate the consumption of resources and the rate per unit of resources.	consumed for RTGs, RS, Forklifts and Terminal Vehicles, which have bearing on the terminal Volume. Insurance is an entirely fixed cost. In the power cost we have removed the fixed element and only the Variable component is indicated in the current submission.
	(b). In the Form – 3A furnished by CCTPL, the CCTPL has considered the effect of Efficiency gains twice, i.e. one as efficiency gain as allowed by TAMP from 2004-07 and the other as Efficiency gain for the year, as stated by CCTPL. The reasons for claiming Efficiency gain under two category may be explained with justification.	Based on the tariff order reference case TAMP/45/2007 - CCTPL Dt.19-Jun-2008 para 10(ix) the CCTPL share of ₹68 per TEU has been considered. Over and above the efficiency improvements CCTPL have done further improvement during 2007- 2009 , which has been included in the TAB - efficiency gain , where in we have calculated the efficiency gain due to CCT on account of operational efficiency and the corresponding cost reduction in the four areas of - 1) Power , 2) Fuel , 3) ITV Hire and 4) Insurance.
	(c). In the light of the steep escalation in the estimated expenses proposed, the rationale for claiming efficiency gain in the estimates should be adequately explained.	The rationale behind the claiming of the efficiency gain is that, irrespective of the cost escalations which are beyond the control of the terminal, CCTPL has made several process improvement initiatives and thus achieved the quantitative savings in the expenditure.
(v).	<u>Equipment Hire Charges:</u> The CCTPL to explain/ furnish the following:- (a). The workings for estimated equipment hire charges for the years 2008 to 2012 may be furnished.	CCTPL has furnished workings.
	(b). The list of equipments taken on hire/ proposed to be taken on hire may be furnished validated with documentary evidence.	Forklift and Yard Marshalling Vehicles are hired. Contract Copies are Attached. <u>1. Forklift Services</u> [CCTPL has furnished a copy of the Rates appearing to form part of agreement entered between it and a private party for providing forklift services, which reads as follows: “Contractor shall be compensated for performance of the Services @ ₹67,500 (Rupees sixty seven thousand five hundred only) per month per FLT from 1 st January 2009 to 31 st December 2009 and @ ₹69,400 (Rupees sixty nine thousand four hundred only) per FLT per month from 1 st January 2010 to 31 December 2010. Contractor shall raise an invoice on CCT giving details of the FLT's hired in the last month, in a format approved by CCT. Six (6) Electrical forklifts are to be deployed in operations. Contractor may raise an invoice on estimated charges due for the month on the 1 st of the next month and agree to offer 1.5% cash discount on invoice value if payment is made within 3 working

		days. In the event a forklift is not available for use due to reasons assignable to the contractor, CCT shall deduct pro rata hire charges." <u>2. Yard patrolling services</u> [The CCTPL has furnished a copy of Agreement entered by it with a private party for provision of yard patrolling services and the term of the Agreement is for the calendar year 2009]
	(c). CCTPL has estimated container traffic of 8.52 lakh TEUs for the period of 9 months in the year 2009 and a traffic of 7.80 lakh TEUs for the year 2010. In this context, the estimates of equipment hire charges at a higher level for the year 2010 inspite of a lower traffic during 2010 may be justified.	As indicated earlier ITV hire charges are paid based on the No. of TEUs handled and hence it is proportionate to the volume. We have now considered the increase as per TAMP guidelines.
(vi).	<u>Lease rentals:</u> It appears that the arbitration award is under challenge by CHPT before Hon'ble High Court of Madras. CCTPL to furnish the present status of this case and interim orders, if any, passed by the Court.	The present position in the matter is that ChPT has filed an appeal in the High Court before the Division bench to set aside the arbitration award and made a claim for a total amount of lease rent plus interest thereon The High Court has admitted ChPT's appeal and a date for hearing to commence is awaited. ChPT has not applied for any stay and hence none was granted by the high court IN the event of an unfavourable order CCT would have to pay the lease rentals. It may be noted that ChPT's demand is for ₹77.34 Crores whereas our provision is only ₹52.74 Crores. This provision is based on the same lease rentals which were paid during 2006. Given that the matter is pending with court, in the event of an unfavourable order CCT will have to pay the he amount and hence it is only prudent that the amount may be allowed. In case of any additional amounts payable over and above the provision, CCT reserves its right to claim the same with retrospective effect in future submissions. Also should the court decide the case in favour of CCT, the said amount may be adjusted in the future submissions. We request TAMP to continue to adopt the position as adopted in the 2007 order given that a retrospective addition will make our tariff extremely uncomparable and uncompetitive in a scenario where CCT is placed with retaining its volume given the growth in capacity in South India with the development of II terminal which is functional now and Vallarpadam which is shortly start operation and expected to attract volumes from common hinterlands.
(vii).	<u>Insurance:</u> The CCTPL has not furnished the basis for the estimated insurance cost. The estimates of	[The CCTPL has furnished copies of Insurance polices for insurance of cargo handling liability and port property for the

	insurance cost may be justified with reference to actual payment made to insurance company. A copy of the Agreement entered into with insurance company(ies) may be furnished.	period of insurance from 1.10.2009 to 30.9.2010. The premiums as indicated in the policies are as given below: 1. Internet insured (cargo handling facility) ₹7.28 lakhs 2. Internet insured (physical loss, destruction or damages (including machinery breakdown) to the insurable internet) ₹8.93 lakhs 3. Internet Insured (Material damage to the property and consequential loss) ₹0.99 lakhs ₹17.20 lakhs
(viii).	<u>Other expenses:</u> (a). CCTPL to list out the items considered with cost details under "other expenses". (b). (i). The tariff proposal mentions about lashing contract, CFS & Checkers contract and marketing expenses. We do not find these items of cost in the cost statement furnished by CCTPL. CCTPL to explain the treatment given to these items of cost in the cost statement. (ii). Estimates for lashing contract rates and CFS and checkers contract rates may be validated with documentary proof supported by workings for the estimates.	Security Service, Lashing Charges, CFS Labour, Site Cleaning and STP maintenance. Lashing Contract, CFS and Checker Contracts are included in Other Expenses and Marketing expenses are included in General Overheads. Contract Copies are attached. [1. the Agreement entered by CCTPL with private party for providing lashing services is for a period one year from 01.01.2009 to 31.12.2010. 2. The Agreement entered by CCL with private party for providing services of checkers is for a period of 2 years from 01.01.2009 to 31.12.2011. 3. The Agreement entered by CCTPL with a private party for providing CFS services is for a period from 01.2.2009 to 31.12.2010.]
(ix).	<u>Technical Services Fee:</u> CCTPL to establish the reasonableness of technical services fee estimated in the cost statement for all the years under consideration applying the yardstick of "arms length relationship" as required under clause 2.8.2. of the revised tariff guidelines.	The arms length relationship in these transactions has already been assessed by Income Tax department and the assessment is completed upto FY 2005-06. [CCTPL has furnished a copy of the Assessment order for the FY 2004-05 (AY 2005-06)]
(x).	<u>Depreciation:</u> CCTPL has proposed additions to the gross block of fixed assets. There are also deletions from the gross block of fixed assets. In the absence of sufficient details regarding exact date of commissioning of additions to the fixed assets and date of deletion of fixed assets, we are not able to scrutinize the depreciation figures furnished by the CCTPL. Therefore, CCTPL to furnish detailed workings for the estimated depreciation for all the years under	CCTPL has furnished a list of proposed additions to the Gross block for 2010 to 2013. It has not furnished workings for the estimated depreciation.

	consideration bearing in mind clause 2.7.1. of the revised tariff guidelines. The rates of depreciation adopted may also be furnished giving reference to the Companies Act or provisions of concession agreement as the case may be.	
(xi)	<u>Overheads:</u>	
	(a). CCTPL to list out the items of expenditure considered under the management and administration overheads.	Salary of Management staff and the related Staff welfare expense.
	(b). The estimated management and administration overheads for the year 2010 is around 38% more than the average expenditure for the years 2008 and 2009. The estimated management and administrative overheads for the years 2011 and 2012 is around 15% more than the estimated expenditure of the respective previous years. CCTPL to justify the estimates.	Due to recessionary conditions prevailed during 2008-09, only marginal increases were given to employees in the Calendar year 2009 and 2010. Increase is based on Market Trend. For the years 2011 and 2012 increase is based on the normal market scenario.
	(c). (i). The items considered under 'General Overheads' may be listed out. (ii). Similarly, the estimated general overheads for the year 2010 is around 19% more than the average expenditure for the years 2008 and 2009. The estimated general overheads for the years 2011 and 2012 is around 10% more than the estimated expenditure of the respective previous years. CCTPL to justify the estimates.	R&M Building, Yard, Wharf and Pavements Electricity - Admin Building, Office Cleaning Charges, Printing & Stationary, Travel and Marketing Expenses, Communication Cost, Professional Charges - Audit Fess and Legal Charges, Hardware & Software Maintenance and Licence Cost. In the current submission, increase as per TAMP guidelines is incorporated
(xii).	<u>Preliminary Expenses:</u> The preliminary expenses have to be spread over the entire project period for the reasons explained in the earlier orders passed by this Authority. The CCTPL does not appear to have considered the preliminary expenses for writing off during the years 2010 to 2012.	The preliminary expenses value is insignificant compared to the over all project cost and hence this has been charged off based on the normal accounting norms. Since removing this and charging off in the entire project period will only result in unnecessary reconciliation in the submission without any material benefit TAMP is requested to agree to the book basis of write off.
5.	<u>Finance & Miscellaneous Income:</u>	
	<u>Terminal Value:</u> The CCTPL has stated that US\$ 10 million has been considered as Terminal benefit and discounted at 15% per annum to arrive at the notional income for all the years under consideration. However, it is seen that the CCTPL has not considered the discounted terminal value as notional income. Further, this Authority had considered terminal value at US\$ 1 million in the earlier Orders. The reason	We have noted that the Authority has agreed to consider the terminal value in the last two or three tariff cycles and the Authority has reversed the position on the terminal benefits in its order 2007 for the years 2007, 2008 & 2009. Therefore we have removed the terminal value from our application.

	for mentioning the terminal value as US\$ 10 million in the instant proposal may be clarified. The basis for 15% discounting factor proposed to be considered for discounting the terminal value to arrive at the notional income may be intimated.	
6.	<u>Capital employed:</u>	
(i).	<u>Fixed Assets:</u>	
	(a). <u>Gross Fixed Assets:</u> The value of gross fixed assets at the beginning of the year 1 April 2009 amounting to ₹50105 lakhs matches with fixed assets schedule forming part of annual accounts of CCTPL for the financial year ending 31 March 2009. However, the value of various categories of fixed assets forming part of gross fixed assets shown in the cost statement for the year 2009 do not match with the relevant items shown in the Accounts. This may be clarified and the differences may be reconciled.	Reconciliation furnished - Grouping errors rectified.
	(b). CCTPL to list out the value of the assets considered under "others".	Licence Fees paid to Chennai Port Trust.
(ii).	<u>Additions to the gross block:</u>	
	(a). The actual additions made by CCTPL to its gross block of assets during the year 2009 to the extent of ₹113.91 crores, may be supported with documentary proof.	The additions have been updated upto Mar'10 and the list is attached. The actuals additions during the year 2009-10 is ₹94.11 crores excluding the impact of SFIS Scrip and the major item in this is the purchase of 2 brand new QCs from ZPMC. The documentary proof is attached.
	(b). (i) The details of additions to the gross block furnished in Form 4B for the year 2010 do not match with the information furnished in Form-4A. CCTPL to furnish full details in Form 4B regarding additions to the gross block for the year 2010. (ii). The CCTPL has proposed to purchase two nos. of additional RTG's during the year 2010 reportedly to keep the equipment terminal ratio at 1:3 for QC:RTG. The total number of QCs and RTGs available yearwise may be furnished. CCTPL to confirm whether addition of the two RTG's are as per the Licence Agreement entered between CCTPL and CHPT. (iii). CCTPL to intimate the status of action initiated to procure the RTGs at the cost of ₹17.50 crores and status of proposed investment in information	Reconciliation showing the matching of 4A and 4B is attached. However please note that 4B is furnished for Individual assets cost exceeding ₹1 Crore only. This RTGs are replaced as per the LA provisions. The RTGs are planned during the year 2011-12 and the process will be initiated by December 2010. We have already made an investment in Information Technology for a

	technology (₹15.13 crores), furniture & fixtures (₹0.20 crores) and buildings (₹0.26 crores) during the year 2010. Documentary support to show the action taken towards these capital additions may be furnished.	value of ₹70 Lakh and the same is also commissioned upto June'10.
	(c). CCTPL to confirm whether the proposed investment of ₹8.50 crores in 2011 and ₹9 crores in 2012 towards replacement of 1 no. each of RTG is in accordance with the LA provisions.	This RTGs are replaced as per the LA provisions.
	(d). It may be noted that only completed and commissioned assets should alone be counted for capital employed. The work-in-progress shall not be taken into account. A confirmation in this regard may be furnished.	It is confirmed that only Commissioned assets are taken into account for calculating Capital Employed.
7.	<u>Working Capital:</u> (i). CCTPL to furnish the basis for the estimated sundry debtors for all the years under consideration.	As per the provisions of the Major Port Trust Act, the service charges to the port are payable before availing the services. However please refer to clause 2.6.(I)(iv) of the scale of rates of CCTPL, where in it is indicated that "the delay in payment by the users will be counted only 10days after the date of raising the bills by CCTPL". This clause has been understood to mean a 10 day credit period to the customers. We request TAMP to remove the clause and replace with specific clause with that the payments are to be made in advance in line with the MPT Act. Hence we have considered 7 day turnover as Debtors at any point of time.
	(ii). CCTPL to furnish detailed workings for the estimated pre-payments for all the years under consideration. In this connection, paragraph no. 10(v)(iv) of Order dated 19 June 2008 passed by this Authority disposing of the review application filed by CCTPL, may be referred to.	This represents the eligible MAT credits under Income Tax Act, Advance Taxes paid for ₹3486 Lakhs and CENVAT Credit ₹408 Lakhs and the rest is advances paid to suppliers and Expenses like Insurance premium, which is in the normal course of business. It is expected to stay at current levels.
	(iii). CCTPL to furnish detailed workings for the estimated inventory for all the years under consideration bearing in mind clause 2.9.9. of the revised tariff guidelines.	Inventory is computed as per norms specified under 2.9.9 considering the 1 years average consumption of the spares excluding Fuel.
	(iv). The basis for estimated allowable cash balance for all the years under consideration may be furnished.	This is at the current levels and no major increase is estimated.
8.	<u>Scale of Rates:</u>	
(i).	The CCTPL has formulated its proposed Scale of Rates considering an increase of 18% over the existing tariff at CCTPL. The additional services / facilities proposed to be provided to the users and the benefit of productivity improvements accruing to users justifying this hike may be listed out.	This has been addressed during our presentation to the Trade. A copy of the same is attached herewith.

(ii).	CCTPL to furnish detailed working with cost elements considered to arrive at the charges proposed for normal containers, ICD containers, Transshipment containers, hazardous and Over Dimensional Containers. As already stated this Authority vide paragraph no.14(xi) of its Order dated 28 March 2007 had advised CCTPL to gear up its internal system so that it can draw up its proposal supported by cost details for individual activities at the time of next review of its tariff.	CCT do not maintain Activity based costing and hence this cannot be provided.
(iii).	Similar working with cost elements considered may be furnished towards the charges proposed for services for hatch covers, restows, shut out, storage and miscellaneous charges.	CCT do not maintain Activity based costing and hence this cannot be provided.
(iv).	The proposed note 2.6 (ii) may be modified in line with clause 2.18.2 of the revised tariff guidelines and the rate of interest may be updated with the prevailing Prime Lending Rate of State Bank of India.	We want this clause to be removed in the light of our mention in the covering letter (Payment has to be made in advance) and interest has to start from 0 day - Refer our response to Point 7 (i) above.
(v).	The proposed charges (section 3.1.1., 3.2.1. & 3.3.1.) for handling of containers include the cost of rendering lashing/unlashing services. Though the CCTPL has considered an increase of 18% in the handling charges, it has not considered increasing the corresponding rebate to be allowed when lashing/ unlashing are not provided by the CCTPL.	This has been updated in the current submission.
(vi).	The proposed new tariff items may be justified with reference to cost of providing the service / cost of the facilities availed. Suitable tariff schedule in respect of these items be drawn up.	CCT do not maintain Activity based costing and hence this cannot be provided.
(vii).	Charges leviable at CFS are already prescribed in Indian Rupee.	Please refer to Scale of Rate effective 01-08-2008 Clause 3.2.3 , where in the charges for Stuffing/ Destuffing of cargo at CFS has been indicated in US\$. CCTPL requests that this Tariff item may be converted in to INR. We have also made the required changes in the proposed Scale of Rated submitted by us.
(viii).	Documentary support in respect of the claim that the trade pays around ₹2000/- for clearing jammed first locks may be furnished.	This is Optional charge and none of the trade has objected to this. We are given to understand that the rates charged by other CFS's for this work is ₹2000/-.
(ix).	The proposal does not clarify whether the proposed weighment charges is optional at the request of the users for the service or compulsorily levied on all containers handled by CCTPL.	CCTPL is creating a facility for Weighment of all the containers coming into the terminal. However this is purely optional and we do not expect much takers for this service unless made mandatory by Government Authorities and hence no income is considered in the proposal.

(x).	CCTPL has claimed that enbloc movement of containers have improved yard productivity. While justifying scaled down estimates of storage income, CCTPL has pointed out average dwell time of import boxes as 1.2 days. In such a scenario, the reasons for reducing free period is not clear. CCTPL to furnish a detailed dwell time analysis and also to explain how the existing free period is detrimental in achieving the optimal yard capacity assessed.	The terminal requires reduction in dwell time to optimally serve its customers. The current dwell time is to be taken as a bench mark for terminal performance and efficiencies. It is with this in view that the terminal requires to disincentives increased dwell of containers and therefore the request for reduction in free days.
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9.2. The other submissions made by CCTPL are furnished below:

- (i). CCTPL has made a thorough review of the earlier proposal in the light of the observations made by the Authority as well as the feedback received from the Trade. Consequently it is now proposed to increase all the tariff items by 13.77% as against an increase of 18% proposed earlier. The Trade had mentioned at the hearing that CCTPL is providing a 5 star facility and that is one of the sample feedback about CCTPL service to the Trade. Even at this movement there are congestions at various Indian ports including the JNPT, where shipping lines have proposed for congestion surcharge, we in Chennai have been able to demonstrate an exemplary performance by way of GCR, Vessel Turn around time and Truck Turn around time.
- (ii). Based on the capacity worked out, we have considered a volume of 8,20,000 TEUs Per Annum for the current submission. Please refer to Authority's order No TAMP/55/2008 dt.30th December'2008, where in Para 2.1, the Authority has stated that "in order to encourage the Volume efficiency, the tariff fixation will be based on volumes equivalent to the standard capacity of the terminal". The same has been confirmed by the Authority in Para 4 of the said order.
- (iii). As per the minutes of meeting under the chairmanship of minister shipping reference PR – 14019/6/2002-PG dated 14/09/2003, a decision has been taken in the case of CCTPL the offer of the second highest bidder should be accepted as cost of CCTPL for the purpose of arriving at the tariff. CCTPL was directed to send a proposal and their calculations on this

basis. We have considered 27% of the revenue share which is the offer of the second highest bidder.

- (iv). As per the provision of the Major Port Trust Act, the payment to the services rendered by us are to be paid by the customers before availing the services, however the clause 2.6.(I) (iv) of the Scale of Rates of CCTPL mentions *"The delay in payments by the users will be counted only 10 days after the date of raising the bills by the CCTPL. 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"*. This clause has been understood by the users of our services to mean a 10days credit period, which is not the intention of the Authority. Hence, we request the Authority to delete this clause and replace the same with the following:

"Payment is to be made before availing the services as stipulated in the Major Port Trust Act and the delay in payments by the users will be counted from the date of raising the bills by the CCTPL".

- (v). Para 2.13 of the TAMP notification G No.39 dt.31st March'2005, which reads as follows:

"2.13. The actual physical and financial performance will be reviewed at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. If performance variation of more than + or – 20% is observed as compared to the projections, tariff will be adjusted prospectively. While doing so 50 % of the benefit / loss already accrued will be set off while revising the tariff"

TAMP order G No.89 Dt.18th April '2007 para 14. (vi), reads as follows:

"The CCTPL has considered 12.5% container traffic growth for the year 2007 over the preceding year 2006. In that case, considering the actual traffic of 2006 at 829307 TEUs handled by CCTPL, the traffic for 2007 works out to 932970 TEUs. However, keeping in view the designed capacity of 914033 TEUs for the year 2007, the traffic estimate of 914952 TEUs made by CCTPL for the year 2007 is considered."

The traffic estimates for the years 2008 and 2009 are lower than the estimated traffic for the year 2007. The reduction for the years 2008 and 2009 is based on the impact of the reported commissioning of the 2nd container terminal at CHPT in the year 2008. The operator has repeatedly maintained that fixation of tariff without considering the anticipated volume decrease would be prejudicial to its tariff proposal. Since the 2nd container terminal operator has already been issued with Letter of Intent in November 2006, as confirmed by CHPT, there is a case to factor effect of the 2nd container terminal while estimating the traffic of CCTPL. It is relevant here to mention that CHPT has also indirectly endorsed the position maintained by the operator and recommended acceptance of traffic projections made by CCTPL.

CCTPL maintains that the 2nd terminal would commence operations even from January 2008, though it has considered the effect of commencement of operations by the 2nd terminal from 1 July 2008 in its traffic estimation for the year 2008. Since the 2nd terminal operator has to complete the construction within 18 months from March 2007, as stated by the CHPT, it may be reasonable, to reckon with the impact of the commissioning of 2nd terminal from the last quarter of the year 2008 instead of July 2008 on the traffic estimate made by CCTPL for the year 2008.

CCTPL has estimated its container traffic for the year 2008 at 865,521 TEUs. On the basis of 12% market share of the second container terminal out of the total volume of 10,29,321 TEUs at CHPT, CCTPL has estimated 1,20,000 TEUs to be handled by the second operator for a period of six months from July 2008. Since the second operator may commence operations in the last quarter of 2008, CCTPL may handle 60,000 TEUs in addition to its estimated traffic of 865,521 TEUs. Thus, 9,25,521 TEUs are considered as the traffic at CCTPL for 2008.

The estimated traffic of 7,49,346 TEUs for the year 2009 reported by CCTPL is relied upon duly recognising the impact of the anticipated commencement of the 2nd container terminal. However, if any undue advantage is found to have accrued to the terminal operator due to wrong estimation, the additional surplus so earned will be adjusted fully”.

From the above the Authority may know that the date of commencement of the 2nd terminal as stated by CCT was not an estimate but an Actual based on the facts available at that time. The Authority's order states that CHPT has also endorsed the position of CCTPL. The Authority itself after the representation from CHPT has found, it may be reasonable, to reckon with the impact of the commissioning of 2nd terminal from the last quarter of the year 2008 instead of July 2008 on the traffic estimate made by CCTPL for the year 2008.

Further the Authority states that *“However, if any undue advantage is found to have accrued to the terminal operator due to wrong estimation, the additional surplus so earned will be adjusted fully”*.

The actual position was that the 2nd terminal started in June'2009. We understand that there were technical problems and also an accident involving a QC immediately on commencement of the operations. If everything would have gone as per the schedules indicated earlier CCT's estimations would have infact happened.

Since there was no wrong estimation by CCTPL as stated above, the Authority should not adjust 100% of the Past Profits.

Further the Authority has stated in Para 14 (x):

“If continuance of the existing tariff during the tariff cycle of 2007 to 2009 or the revised tariff, if any, for the year 2009 is found to have allowed the Operator to earn additional surplus due to any wrong estimation, such surplus will be adjusted fully in the next cycle”.

A reading of the above along with the earlier para only confirms that the adjustment of 100% if any has to be only for the year 2009 and cannot be for the years 2007 and 2008.

In view of the above, a maximum of 50% only of the past profits can be considered for the adjustments.

- (vi). During the period 2007 to 2010, we have received duty free Scrip from the Director General of Foreign Trade for a value of ₹36.33 crores. The value of this scrip is usable in lieu of the duty liabilities on the import of equipments, Spares and Consumables. We have utilized the scrip to discharge the duty liability for procurement of the RTGs and QCs for a value of ₹27.10 crores. While it has been accounted as an income in the P & L Account, it is by no means a revenue receipt. The value of duty utilized for procurement of capital items will infact be added to the capitalization of the Assets. There by increasing the cost of Asset as

against the normal procurement. While it is purely an accountant's way of expressing the benefit of the scrip and the corresponding accounting, we do not want to display a higher capital employed because of this adjustments. On the other hand, considering that as revenue in our projections is also not correct. Hence we have removed the impact of the SFIS scrip in our submissions and the same has been explained with a clear working sheet.

9.3. The CHPT was also requested to furnish its specific comments with reference to the points contained in the CCTPL's general revision proposal. The CHPT has furnished its specific comments. The specific points referred to the CHPT and reply of the CHPT thereon are tabulated below:

Sl. No.	Specific comments raised by us	Reply of CHPT
(i).	Capacity of the terminal assessed at 11.77 lakh TEUs each for the years 2007 to 2012.	The CHPT has no specific remarks to offer.
(ii).	Container traffic estimated by CCTPL at 7.80 lakh TEUs, 8.20 lakh TEUs and 8.50 lakh TEUs each for the years 2010 to 2012 respectively and the reasons adduced by CCTPL for reduction in traffic in the next 3 years.	CCTPL has projected reduced container traffic for the years 2010 to 2012 and has attributed the reason for reduction on account of the competition from the CCTPL, which seems to be in order.
(iii).	Actual additions to the Gross block of assets to the tune of ₹113.91 crores during the year 2009 and the proposed additions to the tune of ₹33.08 crores, ₹34.46 crores and ₹11.87 crores each for the years 2010 to 2012 respectively.	The details of the additions to the Gross block have been furnished by the CCTPL in form-4B of its proposal. The same has been perused and it is found that the proposals of addition with regard to purchase of new equipments such as RTG, reach stacker etc., seems to be in order. However, CHPT has no specific remarks to offer on the investment to be made by CCTPL with regard to Network and other communication equipments (both hardware and software).
(iv).	Purchase of 2 quay cranes amounting to ₹113.22 crores in the year 2009, proposed procurement of 2 RTG's during the year 2010, the proposed replacement of one each RTG during the years 2011 and 2012 and the proposed refurbishment of yard amounting to ₹21 crores in the year 2011.	
(v).	Estimated Lease rentals payable by CCTPL to CHPT may be verified and confirmed. The present status of the dispute between CHPT and CCTPL in this regard may be intimated.	The statement showing the details of lease rentals payable by the CCTPL as per agreement and the payment made by the CCTPL as per the orders of the Madras High Court is furnished. [As per statement furnished by CHPT, the lease amount payable as per licence agreement and the

		lease amount paid/ payable by CCTPL as per Hon'ble High Court order given below:																	
		(₹ in lakhs)																	
		<table border="1"> <thead> <tr> <th>Sl. No.</th><th>Wharf</th><th>Period</th><th>Lease amount payable as per LA with 5% annual escalation</th><th>Lease amount paid / payable as per the High Court Order at ₹1 per Sq. Mtrs. With 30% escalation after every 5 years.</th></tr> </thead> <tbody> <tr> <td>1.</td><td>285 Meter wharf (40, 190 se. mtr.) (lease years 19th August to 18 August)</td><td>August 02-03 to August 12-13</td><td>2604.26</td><td>5.30</td></tr> <tr> <td>2.</td><td>600 mtr. Wharf (2,10,500 sq. mtrs) (Lease year 1st December to 30 November)</td><td>December 01-02 to December 12-13</td><td>15282.55</td><td>31.32</td></tr> </tbody> </table>	Sl. No.	Wharf	Period	Lease amount payable as per LA with 5% annual escalation	Lease amount paid / payable as per the High Court Order at ₹1 per Sq. Mtrs. With 30% escalation after every 5 years.	1.	285 Meter wharf (40, 190 se. mtr.) (lease years 19 th August to 18 August)	August 02-03 to August 12-13	2604.26	5.30	2.	600 mtr. Wharf (2,10,500 sq. mtrs) (Lease year 1 st December to 30 November)	December 01-02 to December 12-13	15282.55	31.32		
Sl. No.	Wharf	Period	Lease amount payable as per LA with 5% annual escalation	Lease amount paid / payable as per the High Court Order at ₹1 per Sq. Mtrs. With 30% escalation after every 5 years.															
1.	285 Meter wharf (40, 190 se. mtr.) (lease years 19 th August to 18 August)	August 02-03 to August 12-13	2604.26	5.30															
2.	600 mtr. Wharf (2,10,500 sq. mtrs) (Lease year 1 st December to 30 November)	December 01-02 to December 12-13	15282.55	31.32															
		As regards the present status of the dispute between CHPT and CCTPL on lease rental, the remarks are furnished as under.																	
		In the Arbitral dispute in respect of payment of royalty charges by the CCTPL towards land upfront premium, lease rent and escalation, the Arbitral Tribunal passed the award dated 8.3.2006 rejecting the claim of the CHPT and allowed the counter claim of the CCTPL to the extent of ₹33.77 Crores with interest @ 9% from 28.2.2005 onwards towards future dues from the CCTPL till the date of adjustment against the dues payable by them. As per the Award, the Licensee the CCTPL shall only pay ₹1/- per sq. mtr. Per annum towards the licensee fee with retrospective effect from 30.11.2001 onwards for the entire license period of 30 years ending 29.11.2030. Aggrieved by the above Arbitral award, the port appealed before the Hon'ble High Court of Madras. The High Court by its order dated 9.6.2008, dismissed the claim of the port and confirmed the award of the Hon'ble Arbitral Tribunal. As such, the port has challenged the Single Judge order before the Hon'ble Division of Madras High Court and the matter is yet to be listed for hearing and is pending before the Hon'ble High Court.																	

10.1. A joint hearing in this case was held on 29 June 2010 at the Chennai Port Trust premises. The CCTPL revised its proposal and made a power point presentation of its revised proposal. At the joint hearing, the CCTPL and the user organizations made their submissions.

10.2. As decided at the joint hearing, the CHPT was requested to furnish specific comments on some of the points contained in CCTPL's proposal. In the joint

hearing, it was stated that the dispute regarding the lease rentals payable by the CCTPL to CHPT has already been settled by the Hon'ble High Court of Madras. On the grounds that the CHPT has filed an appeal before the Division Bench, the CCTPL has estimated the lease rentals payable in the future years as per the original claim of the CHPT. It was confirmed by both CCTPL and CHPT that the Division Bench has not stayed the orders of the Hon'ble Single Judge Bench of the Madras High Court. In this context, CHPT was requested to furnish a detailed note on the lease rental payable by the CCTPL, *interalia*, bringing out the lease rentals to be paid by CCTPL for the past period as well as for the next three years as per the orders of the Madras High Court. The lease rental payable by the CCTPL as per the LA has been furnished by the CHPT, is as follows:

CCTPL lease rental calculations towards 285 metres of wharf

Years	Period 19.8.02 to 18.8.03	Rate in ₹	5% increase	Rate after increase in ₹	Sq. mt.	Month	Per sq. mt	Lease amt. due as per agree. In ₹	Years	Rate in ₹ (30% esc after every 5 years	Sq. mt.	Lease amt due as per High Court Order in ₹
1	Aug 02-03	3800	-	3800	40190	12	100	18326640	1	1	40190	40190
2	Aug 03-04	3800	190	3990	40190	12	100	19242972	2	1	40190	40190
3	Aug 04-05	3990	200	4190	40190	12	100	20207532	3	1	40190	40190
4	Aug 05-06	4190	210	4400	40190	12	100	21220320	4	1	40190	40190
5	Aug 06-07	4400	220	4620	40190	12	100	22281336	5	1	40190	40190
6	Aug 07-08	4620	231	4851	40190	12	100	23395403	6	1.3	40190	52247
7	Aug 08-09	4851	243	5094	40190	12	100	24567343	7	1.3	40190	52247
8	Aug 09-10	5094	255	5349	40190	12	100	25797157	8	1.3	40190	52247
9	Aug 10-11	5349	267	5616	40190	12	100	27084845	9	1.3	40190	52247
10	Aug 11-12	5616	281	5897	40190	12	100	28440052	10	1.3	40190	52247
11	Aug 12-13	5897	295	6192	40190	12	100	29862778	11	1.69	40190	67921
								260426378				530106

CCTPL lease rental calculations towards 600 metres of wharf

Years	Period 19.8.02 to 18.8.03	Rate in ₹	5% increase	Rate after increase in ₹	Sq. mt.	Month	Per sq. mt	Lease amt. due as per agree. In ₹	Years	Rate in ₹ (30% esc after every 5 years	Sq. mt.	Lease amt due as per High Court Order in ₹
1	Dec 01-02	3800	-	3800	210500	12	100	95988000	1	1	210500	210500
2	Dec 02-03	3800	190	3990	210500	12	100	100787400	2	1	210500	210500
3	Dec 03-04	3990	200	4190	210500	12	100	105839400	3	1	210500	210500
4	Dec 04-05	4190	210	4400	210500	12	100	111144000	4	1	210500	210500
5	Dec 05-06	4400	220	4620	210500	12	100	116701200	5	1	210500	210500
6	Dec 06-07	4620	231	4851	210500	12	100	122536260	6	1.3	210500	273650
7	Dec 07-08	4851	243	5094	210500	12	100	128674440	7	1.3	210500	273650
8	Dec 08-09	5094	255	5349	210500	12	100	135115740	8	1.3	210500	273650
9	Dec 09-10	5349	267	5616	210500	12	100	141860160	9	1.3	210500	273650
10	Dec 10-11	5616	281	5897	210500	12	100	148958220	10	1.3	210500	273650
11	Dec 11-12	5897	295	6192	210500	12	100	156409920	11	1.69	210500	355745
12	Dec 12-13	6192	310	6502	210500	12	100	164240520	12	1.69	210500	355745

								1528255260				3132240
								260426378				

11.1. The CCTPL under cover of its letter dated 26 July 2010 revised its proposal earlier filed by it in November 2009. In the submissions made by CCTPL in its letter dated 26 July 2010, the CCTPL has revised its traffic estimates for the years 2010-11 to 2012-13 by considering traffic at the level of standard capacity of the container terminal as determined by CCTPL at 8.20 lakh TEUs each for the years 2010-11 to 2012-13. The CCTPL has generally followed the formula prescribed in the upfront tariff guidelines of February 2008 assuming some deviations from the norms prescribed in the 2008 guidelines. It has considered full pass through of revenue share for all the years under consideration.

11.2. A comparative position of its original proposal of November 2009 and revised proposal of July 2010 is tabulated below:

Sl. No.	Particulars	As given by CCTPL in original proposal filed in November 2009			As given by CCTPL in its revised proposal filed in July 2010		
		On Calendar year basis			On Financial year basis		
		2010	2011	2012	2010-11	2011-12	2012-13
1.	Traffic (in TEUs)	780000	820000	850000	82 0000	820000	820000
2.	Operating Income at existing level of tariff (₹ In lakhs)	21130	22155	22924	21835	21835	21835
3.	Net Deficit(-) (₹ in lakhs)	-5848	-6628	-6402	-3635	-4900	-4684
4.	Adjustment of 50% of surplus of 2007-09 (₹ in lakhs)	1794	1794	1794	2215	2215	2215
5.	Net adjusted surplus / deficit (₹ in lakhs)	-4054	-4834	-4608	-1420	-2686	-2469
6.	Net Deficit(-) as % of operating income	-19%	-22%	-20%	-7%	-12%	-11%
7.	Average net surplus / deficit as a percentage of operating income	-20.33%			-10.04%		

11.3. The revised proposal was circulated to the CHPT and the concerned users for their comments. The comments has been forwarded to the CCTPL as feedback information. The CCTPL has not furnished its comments.

12. The CCTPL was requested to furnish further information/ clarification arising out of the revised proposal filed by it as well as its replies furnished to the

additional information / clarification sought by us earlier. The CCTPL has responded to our further queries. Queries raised by us and response of CCTPL is tabulated below:

Sl. No.	Our queries	Reply of CCTPL
1.	The Cost statement forming part of the revised proposal filed by CCTPL reflects an average deficit of around 10% for a period of three years viz. 2010-11 to 2012-13. The reason for seeking an increase of 13.77% in all the tariff items may be clarified.	It is true that the Cost statement indicates an average deficit of 10% before the Tariff increase proposal. However, the second highest royalty being 27% of Revenue is pass through, and the impact of this cost on the tariff increase has to be considered while fixing the new tariff. The average deficit has become 0 after incorporating the 13.77 % rate increase. We are also indicating the following formula which explains this clearly: Deficit before Tariff Increase (i.e. 10%) = 10.00 Royalty Impact on the above (10 * 27%) = 2.70 Royalty Impact on the above (2.7 * 27%) = 0.73 Impact due to Technical Service Fee = 0.34 Total Increase in Tariff proposed= 13.77
2.	The CCTPL was to update/ revise the estimates for the subsequent years 2010-11 to 2012-13 in the light of the actual traffic and financial/ cost details for the year 2009-10. The updated cost statement for the years 2010-11 to 2012-13 furnished by CCTPL are not found to be in line with the request made by us. The CCTPL to update and furnish the revised cost statement for the year 2010-11 to 2012-13 based on the actual traffic and financial/ cost details for the year 2009-10.	We have submitted our original proposal dated 24th November based on the estimated volumes for the years 2010-11 to 2012 -13 . However after perusing the various TAMP orders passed by the Authority, it has been found that TAMP has adopted the practice of fixing tariff as per the capacity. Extract from No: TAMP/14/2008 – NSICT September 2008: Page No: 26 Paragraph 13 are quoted Further excerpts of the Authority's order in the case of NSICT Vide the Authority's order Reference TAMP/55/2008 – NSICT Order Passed on 30th Day of December 2008 Para No: 5 in Page 3 was quoted. Other than the above, orders passed by the Authority in the case of PSA SICAL Tuticorin (G No. 214 dt.30th December'2008, GTI (G No.71 dt.16th March'2010), Mangalore Port (G. No. 29 dt. 19th January '2009 and JNPT, the Authority has further refined the manner and method of calculation of optimal capacity which is specified as per clause 2.9.10 of the 2005 guidelines. <u>2005 Guidelines Para 2.9.10</u> Return allowed will be linked to the utilisation factor of the capacity of the port/terminal as assessed by them considering the berth length and other facilities / equipments provided. In line with the Government policy of ports maintaining spare capacity to avoid congestion and timely development of additional facilities,

		maximum permissible Return will be allowed for capacity utilisation of 60% and above. When the capacity utilisation is found to be in the region of 50% to 60%, a decision on pro-rata reduction in the maximum permissible return to be allowed will be decided on case to case basis after analysing the factors leading to capacity under utilisation. The method of determining designed capacity of ports will be standardized. In line with the requirement of this guide line and past TAMP orders we have reworked and submitted the revised calculations vide our letter dated 26th July'2010, in response to TAMP's requirement.
3.	<u>Capacity:</u> The CCTPL was requested earlier, vide our letter dated 22 June 2010, inter alia, to furnish the reason for adopting different ground slots to arrive at the total ground slots of 3960 considered by it in the yard capacity estimation in its original proposal of November 2009. However, the CCTPL has not furnished the reasons for adopting different ground slots to arrive at the total ground slots of 3960. The CCTPL to furnish the reasons.	We confirm that we have not considered 3960 ground slots in the yard capacity estimation. While we confirm the actual ground slots are only 3960, we have considered 4171 ground slots as per the norms adopted by the Authority through its various orders and calculated the capacity accordingly. The same has been clarified in our letter dated 26th July 2010. Though we have indicated that our yard capacity based on the actual ground slots available (3960 Slots) is 7,78,292 TEUs, we have considered a volume of 8,20,000 TEUs, as the capacity based on the norms and done all workings in our Tariff application based on the same. Hence we confirm that 3960 is not considered for our workings.
4.	<u>Operating Income:</u> (i). Note 3 to Form 2B (Income Projections) of the prescribed formats for tariff proposal adopted by the Authority requires the operator to provide detailed computation of income with reference to the estimated traffic. The CCTPL in its reply has stated to have provided the workings. It seems that CCTPL is drawing reference to Form – 2B, which reflects only the income from each category of containers and does not furnish the detailed computation of income. The CCTPL to furnish detailed computation of income with reference to the updated estimated traffic at CCTPL's existing Scale of Rates and the proposed Scale of Rates for all the years under consideration separately for container handling and storage without the impact of volume discount scheme.	We have provided the detailed breakup for Form 2B. Please note that the same is based on the Volumes based on capacity as explained in our response 2 above. [The said statement provides only income estimation for various activities for the year 2010-11 to 2012-13 at the existing and proposed levy of tariff. It does not contain the detailed computation of income as requested by us. It has stated that the income estimation is based on volumes at standard capacity].
	(ii). The Exchange rate considered by CCTPL in the estimation of the income for the years 2010-11 to 2012-13 may be furnished.	Exchange rate has been considered at ₹44.94 per USD based on the Reserve Bank of India Rate on 31st March'2010. We have considered a uniform rate for the projection period based on the earlier order in the case of CCT Refer Para 10 (iii) "Since estimates for 3 years are

		considered, it is expected that short term fluctuations in exchange rate may get evened out over the period of 3 years. In any case, the actual income realized by the CCTPL during the current tariff validity period including on account of dollar denominated tariff will be reckoned with at the time of the next tariff revision in terms of Clause 2.13 of the guidelines”																																
5.	<u>Operating Cost:</u>																																	
(i).	<u>Operating and Direct Labour:</u>																																	
	(a). The mistake in the calculation of operating labour cost (product of the number of employees and average cost per employee does not match with the amount furnished by CCTPL in its cost statement) for the years 2008-09 and 2009-10, stated to have been rectified by CCTPL, is not rectified in the Form – 3B.	The tripartite wage settlement is for a period of 3 years. The last settlement has already been over in April '10 and the negotiation for the current settlement (i.e. from May'10 to April'13) is under progress. CCTPL had to give an increase of approximately 53% only in the Salary and Annual bonus components excluding the incentives. As a documentary evidence, CCTPL has furnished a sample pay slips of few employees and also a working sheet to support the increase of 53%. Also please note that we have enclosed the documentary evidence of the last tripartite agreement, wherein this increase can be seen in page no. 3 of the document with a title “wage increase over all”. A Copy of the tripartite agreement is attached. Keeping this in mind and also the high inflation which has taken place in the last three years we have considered a conservative estimate of around 44% towards this. We request that our submissions be considered as it is.																																
	(b). The CCTPL has considered an increase of around 44% in the average cost per employee for the year 2009-10 as compared to the year 2008-09. As stated by CCTPL, the increase will be on account of tripartite wage settlement. The CCTPL to furnish documentary evidence to support the increase of around 44% in the average cost per employee.	Employee Count and Cost details for 2007, 2008-09 and 2009-10 are as given below <table><tr><td>Head Count</td><td>2007</td><td>2008-09</td><td>2009-10</td></tr><tr><td>Operators</td><td>199</td><td>183</td><td>177</td></tr><tr><td>Supervisors</td><td>79</td><td>83</td><td>84</td></tr><tr><td>Management Staff</td><td>12</td><td>12</td><td>12</td></tr><tr><td colspan="4">Cost in INR (Lakh)</td></tr><tr><td>Operators</td><td>428</td><td>575</td><td>484</td></tr><tr><td>Supervisors</td><td>181</td><td>295</td><td>280</td></tr><tr><td>Management Staff</td><td>153</td><td>133</td><td>129</td></tr></table> We confirm that the above corrections have been incorporated in Form 3B, in the current submission	Head Count	2007	2008-09	2009-10	Operators	199	183	177	Supervisors	79	83	84	Management Staff	12	12	12	Cost in INR (Lakh)				Operators	428	575	484	Supervisors	181	295	280	Management Staff	153	133	129
Head Count	2007	2008-09	2009-10																															
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Supervisors	181	295	280																															
Management Staff	153	133	129																															
(ii).	<u>Maintenance Labour:</u>	Employee Count and Cost details for 2007, 2008-09 and 2009-10 are as given below																																
	Similarly, the mistake in the calculation of maintenance labour cost (product of the number of employees and average cost per employee does not match with the amount furnished by CCTPL in its cost statement) for the years 2008-09 and 2009-10, stated to	<table><tr><td>Head Count</td><td>2007</td><td>2008-09</td><td>2009-10</td></tr><tr><td>Service Men</td><td>6</td><td>4</td><td>0</td></tr><tr><td>Supervisors</td><td>87</td><td>90</td><td>87</td></tr><tr><td>Management Staff</td><td>15</td><td>15</td><td>15</td></tr><tr><td colspan="4">Cost in INR (Lakh)</td></tr></table>	Head Count	2007	2008-09	2009-10	Service Men	6	4	0	Supervisors	87	90	87	Management Staff	15	15	15	Cost in INR (Lakh)															
Head Count	2007	2008-09	2009-10																															
Service Men	6	4	0																															
Supervisors	87	90	87																															
Management Staff	15	15	15																															
Cost in INR (Lakh)																																		

	have been rectified by CCTPL, is not rectified in the Form – 3B.	Service Men 6 2 0 Supervisors 223 318 251 Management Staff 135 152 134 We confirm that the above corrections have been incorporated in Form 3B, in the current submission
(iii).	<u>Equipment running cost:</u>	
(a).	<u>Power Cost:</u> (i). The CCTPL has justified the increase in the power consumption per TEU on the ground that 2 additional quay cranes have been added to the total pool of equipments and also that CCTPL estimates to handle more Reefer volumes. With reference to the additional quay cranes, the CCTPL has confirmed that the new Quay cranes are in replacement of the existing cranes and as such the number of total equipments will not undergo a change. Also, the quay cranes being new, may consume less power as compared to the old ones which are being replaced. With reference to the additional reefer volumes, it may be noted that, the number of Reefer containers estimated to be handled during the years 2010-11 to 2012-13 are in fact less, as per its revised proposal, as compared to the actual Reefer volumes handled in the past. Therefore, the CCTPL to justify the increase in the power consumption.	The variable power consumption is of two parts; one relating to QC and the other relating to the Reefers. In order to explain this better we have now incorporated the breakup of QC & Reefer in our workings. Please refer to form 3B. While the QC consumption per TEU is fairly uniform , the consumption of Reefer per Reefer -TEU varies with respect to the dwell as well as the temperatures at which to be maintained. We have observed an average power consumption of 200 per Reefer-TEN in 2008-09 (15m) and 151 per Reefer-TEU in 2009-10. Based on this historical trend we have considered an average of 180units per Reefer-TEU for the future periods (i.e. from 2010-11 to 2012-13). TAMP may please review the current submission and accept the same.
	(ii). CCTPL to furnish documentary evidence in support of the increase in the unit rate of electricity considered by CCTPL in the estimation of power cost.	Copy of TNEB Notification along with letter received from ChPT - Notification of Tamil Nadu Electricity Board published on 01.08.2010 in "The Hindu" and through TNEB's Web site is furnished
	(iii). In spite of a specific query in this regard, the CCTPL has not furnished documentary evidence to support the fixed electricity charges paid/ payable by CCTPL. The CCTPL to furnish the requisite documentary evidence	Fixed electricity charges includes two elements viz., a) The power consumed for Administrative building, Yard lighting etc., which are independent of the volume and (This has been considered based on the historical consumption pattern) b) The fixed demand charges charged by ChPT (Documentary evidence required by the Authority is attached. c) Demand charges are attached: No. of KVA – 2565 Rate per KVA - ₹300/- per KVA Fixed Demand (2565 *300) - ₹7,69,500/-

		Add : Meter Rent (2*1200) - ₹ 2400/- Add 5% Electricity Tax on - ₹ 38,595/- Total Fixed Demand pm - ₹8,10,495/- Total Fixed Demand pa - ₹97,25,940/- (for the FY 2010-11) The charges for the subsequent years has been considered with the escalations factors as per the TAMP guidelines.
(b).	<u>Repairs & Maintenance Cost:</u> To a query to furnish detailed working for the estimated repairs and maintenance cost of equipments and electrical installations for all the years under consideration, the CCTPL has just furnished the list of Major Spares Replacement for the years 2010-11 to 2012-13. Also the list is with respect to the spares replacement to the tune of ₹197.43 lakhs, ₹211.34 lakhs and ₹265.40 lakhs as against the estimated Repairs and maintenance cost of ₹550 lakhs, ₹605 lakhs and ₹665 lakhs for the years 2010-11 to 2012-13 respectively. The CCTPL to furnish a detailed working to arrive at the estimates of Repairs and Maintenance Cost for all the years under consideration.	Repairs & maintenance cost cannot be accurately estimated and more so when the machines are getting older and older the maintenance costs are likely to go up. Based on the past 3 years we have observed that the maintenance costs are around 1.7% of the Equipment costs. While the fact remains that the expenses are likely to go up, we have taken a conservative estimate of maintaining the same percentage of expenses to the Asset costs. We also request the Authority to refer to the normative norms for this category of expenses, which is fixed as 7% of cost of all mechanical and electrical equipments. However we have also provided list of major items. We request TAMP to consider the numbers as submitted by us.
(iv).	<u>Efficiency Gain:</u> (a). In the workings furnished by CCTPL for Efficiency gains incase of Power and Fuel Cost, the CCTPL has simply divided the entire variable cost with the traffic, without factoring the consumption of resources and the rate per unit of resources. The efficiency on the part of CCTPL can be recognized only if the cost reduction has arisen on account of reduction in the consumption of resources, as was determined during the last general revision of CCTPL. The CCTPL to rework its efficiency gains workings.	With respect to the power cost the amount indicated is the total cost of power consumed in the Terminal for the respective years. Please note that the electricity tariffs have remained same during the period Jan'07 – Mar'10 and hence the savings in cost truly represents the savings due to efficiency. However we are providing the breakup of Fixed and Variable electricity cost. Fixed and Variable Unit Workings are furnished.
	(b). In the workings furnished by CCTPL for Efficiency gains incase of ITV hire, the relevance of considering the power cost is not clear.	The word power cost is a typographical error, and it should be replaced with ITV hire. We apologize for the same.
	(c). The CCTPL has considered insurance cost as an item in the Efficiency gain calculation. The CCTPL to establish how the efficiency of CCTPL has an impact on the insurance cost. Further, the relevance of considering power cost in the calculation is not clear.	The Insurance cost is based on the value of the assets and also the claim pattern of the insured. By implementing safe work process and with proper maintenance of the machines we were able to bring in the efficiency in this area and thereby able to reduce the Insurance cost Year over Year in spite of the additional investment. The words "power cost" may be read as "Insurance cost" and we apologize for the

		typographical error.																																																
(v).	<u>Equipment Hire Charges:</u> The CCTPL was to furnish documentary evidence in support of the equipments taken on hire. The CCTPL has furnished copies of documents in respect of hire of forklift and YMV. Documentary evidence in support of hire of ITV, has not been furnished.	Documentary evidence in support of hire of ITV is attached. The per TEU rate for ITV hire being paid to the contractors is ₹85. [The agreement is valid for a period of 3 years from 1 July 2008 to 30 June 2011]																																																
(vi).	<u>Lease rentals:</u> The CCTPL to furnish the lease rentals payable by it to CHPT calculated as per the Arbitration Award for the past period from the date of effect of Arbitration Award as well as for the 3 years from 2010-11 to 2012-13, supported by workings.	Lease Rentals Working has been furnished. As the Authority is aware, the arbitration award has been challenged by CHPT and matter is under appeal before the Madras High Court. Since the matter is subjudice, we would request Authority to consider the amounts as indicated in our submission. In the event of CCTPL getting the final judgment in its favour, the entire amount may be adjusted at that point of time. Any interim adjustment made now will jeopardize our position as we may not be in a position to realize the same due to changing market conditions as well as, it would put the trade to severe strain at a later date in case the judgment is not in favour of CCT. [The lease rent payable for past period and for further period as per Arbitration Award is tabulated below as given by CCTPL Lease rent payable as per Arbitration Award for past period <table><tr><th rowspan="2">Particular</th><th colspan="2">Period</th><th rowspan="2">Amount paid by CCTPL</th><th rowspan="2">No. of years</th><th rowspan="2">No. of months</th><th rowspan="2">Amount payable</th></tr><tr><th>From</th><th>To</th><th>Sq. mt.</th></tr><tr><td>Stage I assets (600 m berth)</td><td>30.11.01</td><td>31.3.10</td><td>211,000</td><td>9</td><td>4</td><td>1,969,333</td></tr><tr><td>For stage II assets (285 m addl. Berth)</td><td>19.8.02</td><td>31.3.10</td><td>40,190</td><td>7</td><td>7</td><td>304,777</td></tr></table> Lease rent payable as per Arbitration Award for future period <table><tr><th rowspan="2">Particular</th><th colspan="2">Period</th><th rowspan="2">Amount paid by CCTPL</th><th rowspan="2">No. of years</th><th rowspan="2">No. of months</th><th rowspan="2">Amount payable</th></tr><tr><th>From</th><th>To</th><th>Sq. mt.</th></tr><tr><td>Stage I assets (600 m berth)</td><td>1.4.10</td><td>31.3.13</td><td>211,000</td><td>3</td><td>0</td><td>633,000</td></tr><tr><td>For stage II assets (285 m addl. Berth)</td><td>1.4.10</td><td>31.3.13</td><td>40,190</td><td>3</td><td>0</td><td>120,571</td></tr></table>	Particular	Period		Amount paid by CCTPL	No. of years	No. of months	Amount payable	From	To	Sq. mt.	Stage I assets (600 m berth)	30.11.01	31.3.10	211,000	9	4	1,969,333	For stage II assets (285 m addl. Berth)	19.8.02	31.3.10	40,190	7	7	304,777	Particular	Period		Amount paid by CCTPL	No. of years	No. of months	Amount payable	From	To	Sq. mt.	Stage I assets (600 m berth)	1.4.10	31.3.13	211,000	3	0	633,000	For stage II assets (285 m addl. Berth)	1.4.10	31.3.13	40,190	3	0	120,571
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(vii).	<u>Depreciation:</u> CCTPL was to furnish detailed workings for the estimated depreciation for all the years under consideration bearing in mind clause 2.7.1. of the revised tariff guidelines. The CCTPL was also to furnish the rates of depreciation adopted by it giving reference to	Detailed working for the estimated depreciation for all the years along with rates of depreciation adopted is furnished. We confirm that we have considered the rates of depreciation as prescribed by the companies Act which is as																																																

	the provisions of Companies Act or provisions of concession agreement as the case may be. In reply, the CCTPL has only furnished the list of assets estimated to be added to the Gross Block of Assets during the years 2010-11 to 2012-13. The CCTPL to furnish the requisite details.	per the clause 2.7.1 of the guidelines.												
6.	<u>Capital employed:</u>													
(i).	<u>Fixed Assets:</u> (a). The value of gross block of fixed assets at the beginning of the year 1 April 2009 amounting to ₹49376 lakhs in the revised Form – 4A, does not match with fixed assets schedule forming part of annual accounts of CCTPL for the financial year ending 31 March 2009, which shows a balance of ₹50105 lakhs. The difference may be reconciled and a correct revised grouping of the assets may be furnished.	Please refer to the Para on SFIS Scrip in our submission dated 26 th July'10; we have removed the impact of SFIS scrip in the Capitalization as indicated therein. The position is reconciled as given below: <table><tr><th>Particulars</th><th>As of Mar'09</th><th>As of Mar'10</th></tr><tr><td>Gross Block as per Annual Accounts</td><td>50,105</td><td>60,961</td></tr><tr><td>Less : SFIS impact removed</td><td>729</td><td>2,710</td></tr><tr><td>Gross Block as per Form 4A</td><td>49,376</td><td>58,251</td></tr></table>	Particulars	As of Mar'09	As of Mar'10	Gross Block as per Annual Accounts	50,105	60,961	Less : SFIS impact removed	729	2,710	Gross Block as per Form 4A	49,376	58,251
Particulars	As of Mar'09	As of Mar'10												
Gross Block as per Annual Accounts	50,105	60,961												
Less : SFIS impact removed	729	2,710												
Gross Block as per Form 4A	49,376	58,251												
	(b). To a query requesting CCTPL to furnish documentary proof in support of the actual additions made by CCTPL to its gross block of assets during the year 2009-10, the CCTPL has just furnished a statement showing the capital cost and the other associated costs with reference to the purchase of 2 Quay Cranes amounting to ₹9304 lakhs. The CCTPL to furnish documentary proof in support of ₹9402 lakhs during the year 2009-10.	Documentary proof in support of Actual additions – 2009-10 have been furnished.												
	(c). With reference to the CCTPL replacing its existing quay cranes with two new quay cranes, the CCTPL to furnish the actual number of Quay cranes, Rail mounted Gantry Crane, Rubber tyre gantry crane, and all other equipments being used at its terminal. The CCTPL to furnish the gross value of each type of equipment as considered in the Closing Gross Block of Plant and Machinery in the Annual Accounts for the year ending 31 March 2010 for perusal.	List of Plant & Machinery with QTY and Value for the year ending 31-03-2010 is furnished. [The list shows the gross block of plant & machinery at ₹39564.11 lakhs as on 31.3.2010]												
	(d). CCTPL has already acquired two new quay cranes in replacement of the existing quay cranes in the year 2009-10. However, the CCTPL proposes to dispose the existing cranes only during the years 2010-11 and 2011-12 respectively. CCTPL has reported that it has excluded the value of the cranes to be replaced, in the calculation of Capital Employed. It is not clear as to in which year the Written Down Value (WDV) of replaced quay cranes is excluded. The CCTPL to exclude the WDV of the replaced quay cranes from the capital employed relating to the year 2009-10 itself. It also to exclude the	Depreciation workings are furnished. In the same working please refer to para "Deletion during the year", you will find that 1QC had been excluded in the year 2010-11 and the other QC during 2011-12. Please note that we have considered a realistic assumption of disposing of these cranes during the years 2010-11 and 2011-12. While we do not expect any profit or loss in respect of QC disposed of during 2010-11, we have considered a profit of ₹70 Lakh for 2011-12. <table><tr><th>Particulars</th><th>QC 1</th></tr></table>	Particulars	QC 1										
Particulars	QC 1													

	corresponding cost relating to operating the replaced quay cranes from the time of replacement of the said quay cranes. The cost statement may be modified suitably. The CCTPL also to estimate the profit/ loss on the disposal of the said two quay cranes and account such profit/ loss suitably in the Cost statement.	<table><tr><td>WDV as on 31-03-2010</td><td>61.12 lacs</td></tr><tr><td>Expected Realisation</td><td>61 lacs</td></tr><tr><td>Profit (Loss) on sale of Asset</td><td>No profit/Gain</td></tr></table> <table><tr><td>Particulars</td><td>QC 2</td></tr><tr><td>WDV as on 31-03-2011</td><td>No Value</td></tr><tr><td>Expected Realisation</td><td>70 lacs</td></tr><tr><td>Profit (Loss) on sale of Asset</td><td>70 Lacs</td></tr></table> We have not considered any maintenance expenditure.	WDV as on 31-03-2010	61.12 lacs	Expected Realisation	61 lacs	Profit (Loss) on sale of Asset	No profit/Gain	Particulars	QC 2	WDV as on 31-03-2011	No Value	Expected Realisation	70 lacs	Profit (Loss) on sale of Asset	70 Lacs				
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Profit (Loss) on sale of Asset	70 Lacs																			
	(e). CCTPL to intimate the status of action initiated to procure the Capital assets during the year 2010-11 amounting to ₹1558 lakhs. Documentary support to show the action taken towards these capital additions may be furnished.	Most of the items indicated for procurement is under pipeline and we have attached the quotations for most of the items in the list. Others are in the pipeline of enquires. (Some of the Quotations furnished by CCTPL are seen to be in respect of its group concerns. The CCTPL vide its email have confirmed that the Quotations obtained for the Group Concerns may be considered as supporting for the estimates of CCTPL also.)																		
7.	<u>Working Capital:</u>																			
(i).	For the reasons stated at paragraph no. 10(v)(iii) of Order dated 19 June 2008 passed by this Authority disposing of the review application filed by CCTPL, this Authority may not be in a position to consider Sundry Debtors at 7 days turnover, as requested by CCTPL.	The business dynamics have now changed and many of the shipping lines are holding continuous debit balances. In case of many of the customers we receive the payment only after 10 days after the presentation of the invoices. The position of debtors as at 31st March '2010 was as follows. <table><tr><td></td><td>As at March 31, 2010</td><td>As at March 31, 2009</td></tr><tr><td>Sundry Debtors</td><td>₹ '000</td><td>₹ '000</td></tr><tr><td>Unsecured, considered good</td><td></td><td></td></tr><tr><td>Debts outstanding for a period exceeding six months</td><td>124</td><td>-</td></tr><tr><td>Other debts</td><td>33,099</td><td>10,930</td></tr><tr><td></td><td>33,223</td><td>10,930</td></tr></table> While the revenue Year over Year has not significantly changed, the debtors balance has now become 3 times of the last year scenario. In the context of the revised changes in the business environment, we submit to the Authority to accept our submission of 7 days for Sundry Debtors.		As at March 31, 2010	As at March 31, 2009	Sundry Debtors	₹ '000	₹ '000	Unsecured, considered good			Debts outstanding for a period exceeding six months	124	-	Other debts	33,099	10,930		33,223	10,930
	As at March 31, 2010	As at March 31, 2009																		
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Debts outstanding for a period exceeding six months	124	-																		
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	33,223	10,930																		
(ii).	From the submissions made by CCTPL, it appears that CCTPL has considered eligible MAT Credits, Advance Tax, CENVAT Credit for the purpose of determining Pre-payments as part of Working Capital. In this connection,	1. These payments arise out of the obligations covered under the Licence agreement 2. These payments cannot be																		

	as mentioned at paragraph no. 10(v)(iv) of Order dated 19 June 2008 passed by this Authority disposing of the review application filed by CCTPL, pre-payments were allowed to the limited extent of covering payments arising out of the obligations under the Licence Agreement.	distinguished as being outside the scope of the Licence agreement, since it is only because of the Licence and framed under the Licence agreement that these prepayments arise in law. 3. The Licence agreement requires vide clause 7.01 (d) , that "The Licensee shall during the Licence Period pay in a timely manner all taxes, duties, levies, cess and charges including but not limited to income tax, sales tax , excise duty , customs duty and octroi that may be levied, claimed or demanded from time to time by any Government Authority or any other statutory body or corporation under any law, statute or any amendment to existing law and statute including any increase therein effected from time to time by any Government Authority or any other statutory body or corporation under any law, statute or any amendment to existing law & statute in respect of the Project/ the Project Facilities and Services."
8.	<u>Scale of Rates</u> In spite of a query in this regard, the CCTPL has not furnished suitable tariff schedule in respect of the proposed new tariff items. The CCTPL to prescribe a tariff schedule alongwith conditionalities governing the rates in respect of the proposed new tariff items.	The proposed new Tariff Items have already been incorporated in the draft Scale of Rates. Following are the new Tariff proposals made by us: Excessively Over Dimensional Containers, Weightment of Containers, Fumigation of Tobacco Containers, CFS Charges in INR and Removal of Stuck Twist Locks

13.1. A 2nd hearing on the case in reference was held on 29 November 2010 at the office of this Authority. It was decided in the hearing, interalia, that the CCTPL would furnish Cost statements for the years 2010-11 to 2012-13 in line with the tariff guidelines of 2005 by capturing the actuals upto October 2010 and review the cost statements for the years 2011-12 and 2012-13 accordingly. It was further decided that CCTPL and CHPT would furnish some additional information/ clarification. As decided at the hearing, the CCTPL under cover of its letter dated 8 December 2010 has furnished a revised proposal.

13.2. With reference to the submissions made by CCTPL under cover of its letter dated 8 December 2010, it is seen that the CCTPL has made some changes in its proposal when compared to its earlier revised proposal. A comparison of the estimated traffic and the estimated financial position submitted by CCTPL in its original proposal of November 2009, in the revised tariff proposal filed in July 2010 and that furnished in December 2010 is tabulated below:

(₹ In Lakhs)

Sl. No.	Particulars	As given by CCTPL in its original proposal in November 2009			As given by CCTPL in its revised proposal filed in July 2010			As given by CCTPL under cover of its letter dated 8 December 2010		
		On Calender Year basis			On Financial Year basis			On Financial Year basis		
		2010	2011	2012	2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
1.	Traffic (in TEUs)	780000	820000	850000	820000	820000	820000	1061136	850000	800000
2.	Operating Income at existing level of tariff	21130	22155	22924	21835	21835	21835	28695	23396	22087
3.	Operating Expenses excl Royalty and incl. Depreciation & Overheads	12572	14256	15064	13513	15009	15459	14493	15212	15471
4.	Revenue share	5705	5982	6189	5895	5895	5895	7748	6317	5964
5.	Net Deficit(-)	-5848	-6628	-6402	-3635	-4900	-4684	390	-3876	-4442
6.	Adjustment of 50% of surplus of 2007-09	1794	1794	1794	2215	2215	2215	2228	2228	2228
7.	Net adjusted surplus / deficit	-4054	-4834	-4608	-1420	-2686	-2469	2618	-1649	-2214
8.	Net Deficit(-) as % of operating income	-19%	-22%	-20%	-7%	-12%	-11%	9%	-7%	-10%
9.	Average net surplus / deficit as a percentage of operating income	-20.33%			-10.04%			-2.65%		

13.3. The information sought by us and the replies furnished by CCTPL in its letter dated 8 December 2010 as decided in the 2nd hearing are summarized and tabulated below:

Sr. No.	Additional information/ clarification sought by us	Reply furnished by CCTPL
1.	The CCTPL to furnish Cost statements for the years 2010-11 to 2012-13, for the period for which tariff is to be set, in line with the tariff guidelines of 2005 and the instructions contained in the proforma for filing the tariff proposals, since capturing the actuals upto October 2010 and to review the cost statements for the years 2011-12 and 2012-13 accordingly.	Cost statements for the years 2010-11 to 2012-13 have been revised incorporating the actual volumes from April to October 2010. The volume of the second terminal (CITPL) has been constantly increasing month on month. A few services have moved out of CCTPL to CITPL. One more service is likely to move out from CCTPL to CITPL for commercial reasons. The impact of this service will alone be 1 lakh TEUs per annum. Considering these factors, the CCTPL has projected a traffic volume of 1061136 TEUs, 850000 TEUs and 800000 TEUs for the years 2010-11 to 2012-13. However, since the practice of setting the tariff on the basis of optimal capacity is widely used in case of Nhava Sheva International Container Terminal Limited (NSICT), upfront tariff fixation cases of New Mangalore Port Trust (NMPT) and Jawaharlal Nehru Port Trust (JNPT), following any other practice will be detrimental. The CCTPL therefore reiterates and appeals to TAMP, to proceed on the basis of the application filed for optimal capacity.
2.	Revenue earned by CCTPL during the years 2006 upto March 2010 as per the prevailing Scale of	(The CCTPL has furnished workings to show the Container handling income from the various categories of containers for the years 2006 upto October 2010.)

	Rates with detailed workings and details of discount, if any, allowed by CCTPL.																									
3.	Detailed computation of income with reference to the traffic forecast for the years 2010-11 to 2012-13, alongwith detailed working based on the existing level of tariff notified in the Scale of Rates. Yearwise details of the rebates and discounts estimated to be allowed by CCTPL for the said period may also be furnished.	(The CCTPL has furnished workings to show the Container handling income from the various categories of containers for the period from November to March 2011 and for the years 2011-12 and 2012-13. Though the CCTPL has furnished the figure of the amount of rebate estimated to be allowed, it has not furnished workings for the same.) The CCTPL has further stated that In an environment of competition, rebates have to be allowed to the customers. These rebates are essentially volume discounts and are to be allowed only based on customer fulfilling agreed volume targets. As such, the same may be treated as cost.																								
4.	Detailed analysis of the savings to the trade as claimed by CCTPL.	(The CCTPL has furnished workings to show a savings/ benefit to the tune of ₹787/- per TEU to the trade during the year 2009, as summarized below: <table border="1"> <thead> <tr> <th>Sr.No.</th><th>Description</th><th>₹ Per TEU</th></tr> </thead> <tbody> <tr> <td>1.</td><td>Savings in Berth hire charges (₹16/- per TEU) on account of reduction in vessel turnaround time and ₹200/- per TEU on account of Charter hire savings</td><td>216</td></tr> <tr> <td>2.</td><td>Savings due to reduction in truck turnaround time</td><td>140</td></tr> <tr> <td>3.</td><td>Interest Savings due to reduced dwell time</td><td>144</td></tr> <tr> <td>4.</td><td>Savings due to enabling terminal/ customs e-process</td><td>39</td></tr> <tr> <td>5.</td><td>Savings due to container detention charges</td><td>216</td></tr> <tr> <td>6.</td><td>Efficiency gains not factored in tariff proposal 2007-2009 (no workings furnished)</td><td>32</td></tr> <tr> <td></td><td>TOTAL</td><td>787/-</td></tr> </tbody> </table>	Sr.No.	Description	₹ Per TEU	1.	Savings in Berth hire charges (₹16/- per TEU) on account of reduction in vessel turnaround time and ₹200/- per TEU on account of Charter hire savings	216	2.	Savings due to reduction in truck turnaround time	140	3.	Interest Savings due to reduced dwell time	144	4.	Savings due to enabling terminal/ customs e-process	39	5.	Savings due to container detention charges	216	6.	Efficiency gains not factored in tariff proposal 2007-2009 (no workings furnished)	32		TOTAL	787/-
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6.	Efficiency gains not factored in tariff proposal 2007-2009 (no workings furnished)	32																								
	TOTAL	787/-																								
5.	Complete set of the audited Annual Accounts for the financial year 2009-10.	(The CCTPL has furnished the complete set of Audited Annual Accounts for the year ended 31 March 2010.)																								
6.	A Certificate to the effect that the benefit accrued to CCTPL on account of the 'Serve from India Scrip' will be utilised towards import of capital assets for CCTPL alone and that the benefit is not passed on to its sister concerns.	The benefits accruing to CCTPL on account of the SFIS Scrip will be utilized towards Import of Capital Assets for CCTPL alone. Incase due to business exigencies, it is required to transfer the Scrip to the sister concerns as per the provisions of Customs, the same will be returned back by way of Scrip only and will not be transferred for consideration of cash.																								

7.	Definitions/ conditionalities relating to the proposed new tariff items viz. excessively over dimensional containers, weighment of containers, removal of twist lock, fumigation etc.	(The CCTPL has furnished the revised Scale of rates incorporating the definitions/ conditionalities.)
8.	CCTPL to furnish a hard copy of the presentation made by it during the joint hearing held on 29 November 2010.	(The CCTPL has furnished a copy of the presentation made by it on 29 November 2010.)

13.4. The information sought from CHPT and the response of CHPT as decided in the 2nd hearing are summarized and tabulated below:

Sr. No.	Information sought by us	Response of CHPT
1.	CHPT to furnish details of income of CCTPL for the past period (from the year 2006 upto March 2010) which has been verified by CHPT's auditor for the purpose of computation of the revenue share payable by CCTPL to CHPT.	(The CHPT has furnished monthwise details of the Revenue earned by CCTPL as per auditor, Royalty to be paid by CCTPL as per Auditor, Royalty paid by CCTPL and the difference in the royalty amount actually paid by CCTPL and that payable by CCTPL as per auditor, from January 2006 to March 2010.)
2.	CHPT to verify the position relating to the utilisation of duty free scrip under Serve from India Scrip (SFIS) by CCTPL against the applicable capital expenditure incurred by them.	It has been ascertained from CCTPL that a sum of ₹27.10 crores (2008-09 – ₹7.30 crores and 2009-10 – ₹19.80 crores) have been made towards capital expenditure.

14. The CCTPL under cover of its letter dated 28 January 2011 has forwarded to us a copy of the Long Term Settlement signed by it on 19 January 2011 in support of the quantum of increase considered by it for the unionized category of employees. The impact of LTS as furnished by CCTPL is reproduced below:

(₹ in Lakhs)

Particulars	2009-10	2010-11	2011-12	2012-13
Estimated earlier	957	1301	1423	1559
Revised Estimates based on LTS	957	1300	1402	1508

15. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received will be sent separately to

the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>

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

- (i). The Scale of Rates of CCTPL was last reviewed in March 2007. In the tariff Order of March 2007, *status quo* of the then prevailing tariff level was maintained for the years 2007 to 2009 with a validity for the tariff till 31 December 2009. However, with reference to an application filed by CCTPL to review the tariff Order of March 2007, this Authority passed an Order in June 2008 granting an across the board increase of 10% to be effective from 1 August 2008 till 31 December 2009.

Subsequently, this Authority vide its Order dated 31 March 2010 has extended the validity of the existing Scale of Rates of CCTPL till 30 September 2010, subject to fully adjusting the additional surplus, if any, over and above the admissible cost and permissible return for the period post 31 December 2009 in the tariff to be determined for the next tariff cycle.

- (ii). Clause 3.1.2 of the tariff guidelines of March 2005 requires a major port/private terminal thereat to file its proposal at least 3 months before the tariff is due for revision. After reminder, the CCTPL filed its proposal for general revision of its Scale of Rates in November 2009. This proposal was taken up for consultation with the relevant users. After the first joint hearing, the CCTPL furnished a revised proposal in July 2010. The revision was mainly on account of change in the approach adopted by CCTPL for estimation of traffic.

Based on the discussions held at a subsequent hearing on 29 November 2010, the CCTPL under cover of its letter dated 8 December 2010 has

furnished a revised proposal. The revised cost statement furnished by CCTPL under cover of its letter dated 8 December 2010 alongwith the subsequent additional information/ clarification furnished by CCTPL is considered for the purpose of this analysis.

- (iii). Clause 2.13 of the tariff guidelines of 2005 mandates review of the actual physical and financial performance of the Major Port Trusts and private terminals at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff.

During the last review of tariff of CCTPL, the position was analysed for the calendar years 2007, 2008 and 2009 relying upon the estimates for the said years. As such, it is necessary to make a comparison of the estimates for the years 2007, 2008 and 2009 with that of the actuals for the said years. Further, the CCTPL has continued to operate its facilities beyond December 2009 at the level of tariff approved in June 2008. Incidentally, it has changed its Accounting Period from Calendar Year basis to Financial Year basis from the year 2008-09 onwards.

Thus, the actuals for the years 2007, 2008-09 and 2009-10 have been considered to analyse the past performance of CCTPL. The period from April 2010 to March 2011 has been considered as part of the next tariff cycle under consideration.

- (iv). The performance of CCTPL during the years 2007, 2008-09 and 2009-10 is analysed below:
 - (a). As brought out earlier, an across the board 10% increase over the then prevailing tariff vide Order dated 19 June 2008, which came into effect from 1 August 2008. Since the impact of the upward revision of tariff is reflected by the actual income, the estimated income for the period from August 2008 to December 2009 is

updated to reflect the increase granted, so as to enable comparison between the actuals and the estimates.

- (b). CCTPL has handled 1052993 TEUs, 1447138 TEUs and 853746 TEUs during the years 2007, 2008-09 and upto December 2009 (proportionately considered for 9 months in the year 2009-10) respectively, as against the estimate of 914952 TEUs, 925521 TEUs and 749346 TEUs for the years 2007, 2008 and 2009 respectively.
- (c). The operating income (net of rebate/ discount) as shown in the audited Annual Accounts for the year 2007, 2008-09 and 2009-10 is ₹25868.01 lakhs, ₹38801.13 lakhs and ₹31767.43 lakhs respectively. The CCTPL has furnished workings to arrive at the actual income based on the volume of traffic under each category and the respective rates as prescribed in the SOR of CCTPL. The income so arrived at by CCTPL based on the Scale of Rates is relied upon, without considering rebates and discounts since the tariff fixing exercise cannot recognize the discounts/ rebates allowed by the private operator at his discretion.

In the Cost statements furnished, the CCTPL has reduced its actual operating income for the years 2007, 2008-09 and 2009-10 by ₹93 lakhs, ₹147 lakhs and ₹81 lakhs respectively (the aggregate of which works out to ₹3.21 crores), being the income earned by it from the Bonded Trucking operations for movement of Container from CCTPL CFS to Customer CFSs at locations outside Chennai. In this context, it may be relevant to recollect that this Authority in its tariff Order of June 2008, has held that bonded trucking service facilitating transportation of goods by CCTPL outside port area would not come under the regulatory oversight of this Authority. Therefore, the CCTPL has excluded the income arising from this

activity from its operating income and the expenses relating to the said activity from its operating expenditure. Incidentally, the CCTPL has stated to have discontinued the said activity.

The CHPT, while responding to a query to furnish details of income which has been verified by CHPT's auditor for the purpose of computation of the revenue share payable by CCTPL to CHPT, has furnished the audited monthwise income details of CCTPL for the period from 2006 to March 2010. When the monthwise income of CCTPL as reported by CHPT is aggregated for each of the years 2007 upto March 2010, it is seen that the income figures furnished by CHPT is at a higher level to the tune of ₹4.22 crores as compared to the income figures furnished by CCTPL. When asked to clarify the reasons for the said difference, the CCTPL has explained that the income figures given by CHPT also includes the income related to bonded trucking to the tune of ₹3.21 crores for the said period. With regard to the residual amount of ₹1.01 crores, it is on account of difference in the approach adopted by CHPT and CCTPL to recognize the income at the year end. That is, according to CCTPL, CHPT recognizes income from the vessel the day when it enters the port (say 31 March) whereas the CCTPL recognizes income only after completion of the vessel operations (say after 31 March). As a result, at any given point of time, the income of CCTPL as recognised by CHPT may be marginally higher as compared to the income recognised by CCTPL. Hence, the income figures based on the workings furnished by CCTPL with reference to the existing Scale of Rates are taken into account. Thus, the operating income at ₹258.73 crores, ₹388.03 crores and ₹323.58 crores are considered for the calendar years 2007 to 2009 respectively in the Cost statement.

- (d). The other income stream reported in the Annual Accounts of CCTPL includes interest income, customs duty credit from SFIS Scrip, Scrap sales, Foreign exchange gain, provisions written back which are no longer required, provision for doubtful debts written back, profit on sale of assets and miscellaneous income.

The items of income namely Scrap sales, profit on sale of assets and miscellaneous income appear to be arising out of normal operation of CCTPL. Therefore, these items of other income are considered in this analysis. Since Return is allowed on Capital Employed (ROCE), interest income is not treated as income in fixation of tariff of major port trusts/ private terminals. The exchange gain arising out of servicing of foreign currency loans are also not treated as part of income, as has been the general practice followed. Similarly, the interest expenditure and the foreign exchange loss are also not treated as an item of cost in the tariff fixation exercise.

An amount of ₹980.23 lakhs, ₹1103.15 lakhs and ₹1550.12 lakhs is shown as Customs duty credit from SFIS Scrip in the Annual Accounts for the years 2007, 2008-09 and 2009-10 respectively. The CCTPL has excluded the value of the said Duty credit from its Other Income. As stated by CCTPL, the said Scrip is to be utilized in lieu of the entire duty liabilities on the import of equipments, spares and consumables and till March 2010, it has utilized the Scrip to the extent of ₹2775.50 lakhs to discharge the duty liability for procurement of Cranes, leaving an unutilised balance of ₹858 lakhs. Incidentally, the corresponding value of the SFIS Scrip has been excluded by CCTPL from the Net Block of Assets and Equipment running cost, which is explained in the later part of the analysis. The CHPT has confirmed that it has ascertained from CCTPL that a sum of ₹27.10 crores have been made towards

capital expenditure. In this connection, it is to be noted that the CCTPL has utilized the Scrip to the extent of ₹65 lakhs under the head of Equipment running cost apart from the amount of ₹27.10 crores towards Capital Expenditure. This position aggregates to the sum of ₹27.75 crores.

The CCTPL has confirmed that the benefits accruing to CCTPL on account of the SFIS Scrip will be utilized towards import of Capital assets for CCTPL alone. With reference to the amount of ₹858 lakhs lying unutilized, the CCTPL has not explained the proposed utilization of the duty Credit in the additions proposed during the years 2010-11 to 2012-13. The CCTPL is advised to furnish details of utilization of the Duty credit, in the next review of its tariff.

- (e). One of the items considered by CCTPL under the head 'Operating Cost' is Efficiency gain in its cost statement for the years 2007 to 2009-10. The CCTPL has considered an amount of ₹716.04 lakhs, ₹984.05 lakhs and ₹774.06 lakhs towards Efficiency gain for the said period, calculated at ₹68/- per TEU, as claimed by it during the proceedings which culminated in the tariff review Order of June 2008.

In this regard, it may be relevant to note that during the proceedings relating to tariff Order of June 2008, the CCTPL had claimed benefit of efficiency gain to the tune of ₹68/- per TEU. However, for the reasons recorded in paragraph 10(ix) of the June 2008 Order, this Authority had allowed the benefit of Efficiency gain arising on account of Contract/ casual labour cost, Equipment running cost and Equipment hire cost to CCTPL to the extent of ₹372.58 lakhs, ₹397.24 lakhs and ₹338.99 lakhs based on the estimated traffic of 914952 TEUs, 925521 TEUs and 749346 TEUs, which works out to ₹40.72 per TEU, ₹42.92 per TEU and ₹45.23 per TEU during the

years 2007 to 2009 respectively. That being so, the question of consideration of allowing Efficiency gain at the uniform rate of ₹68/- per TEU does not arise.

The unit Efficiency gain as determined in the Order of June 2008 for the admissible items of cost is maintained and adjusted for the actual volume of traffic handled during the said period.

It may be recalled that while allowing Efficiency Gain in the Order of June 2008, the Efficiency gain was not shown as a separate item of cost, but was built into the respective heads of expenditure. However, in this analysis, to enable a better presentation, the effect of Efficiency gain considered in the estimates is excluded from the respective heads of expenditure and shown separately.

- (f). The Annual Accounts for the years 2007 to 2009-10 show an amount of ₹9615.24 lakhs, ₹14468.23 lakhs and ₹12068.56 lakhs as Royalty. With reference to the royalty/ revenue share, CCTPL has considered royalty at 27% of the income considered in its Cost statement. In case of CCTPL, Revenue share is to be allowed as a cost to the extent of second highest bid, as per the policy direction issued by the Government under Section 111 of the Major Port Trusts Act, 1963, vide Ministry of Shipping letter no. PR-14019/6/2002-PG(1) dated 7 November 2003. The Policy direction issued specifically for the CCTPL directs this Authority to review the tariff of CCTPL so as to take into account the revenue share as cost for tariff fixation in such a manner as to avoid likely loss to CCTPL on account of the revenue share not being taken into account for tariff fixation, subject to a maximum of 27% (out of total 37.128%) revenue share being paid by CCTPL. This treatment may continue to be allowed for such of the remaining period of the Agreement with CCTPL as may be necessary for the above purpose only. In

other words, 72.72% Revenue share payable by CCTPL (i.e. 37.128%) only can be the maximum pass through that can be considered in tariff exercise. Hence 72.72% of the Revenue share as shown in the audited Annual Accounts is considered as a pass through for the years 2007 to 2009-10.

- (g). As recorded in the last tariff Order of CCTPL passed in March 2007, there is a dispute between CCTPL and the Licensor port CHPT with regard to the lease rentals payable by CCTPL to CHPT. It has been brought to our notice during the proceedings of this case that an Arbitration Award has been pronounced. As per the Award, the CCTPL is to pay lease rentals @ ₹1/- per sq.m per annum with effect from December 2001, escalating it by 30% every five years. As reported by CHPT, it preferred an appeal against the stated Award in June 2006 before the Hon'ble High Court of Madras. The Hon'ble High Court of Madras has dismissed the application of the CHPT and confirmed the Arbitration Award in June 2008. The CHPT has preferred an appeal before the Division Bench of Hon'ble Madras High Court. There is no interim direction from the Hon'ble Madras High Court on the appeal preferred by CHPT. It is also understood that the amount has been adjusted by the CHPT and CCTPL and that the said parties have closed the said transaction.

Nevertheless, for the purpose of the past analysis, the lease rentals for the years 2007 upto March 2010 is considered at the level of ₹881.59 lakhs per annum as considered in the last tariff Order of CCTPL in March 2007. This is done since the difference between the lease rentals allowed as Estimates in the past tariff Orders and the actual paid/ payable as per Arbitration Award is quantified separately for full adjustment. If actual lease rentals as per the Award are considered in the Cost statement for the years 2007 to

2009-10, it would tantamount to double counting. Consideration of lease rentals at ₹881.59 lakhs per annum for the years 2007 upto March 2010 in the past analysis should not be construed as the lease rentals at ₹881.59 lakhs per annum is recognised as admissible expenditure for the said period.

The CCTPL has requested this Authority to continue to adopt the position as adopted in the 2007 order in respect of Lease Rentals. It should be noted here that the Hon'ble High Court of Madras has confirmed the Award of the Hon'ble Arbitral Tribunal. The Division Bench has neither passed an interim direction nor stayed the order of the Hon'ble Single Judge Bench of the Madras High Court. The CHPT and CCTPL have actually effected all the necessary adjustments. In this backdrop, it is not clear as to why only adjustment in the tariff fixation exercise be deferred for a later period, as requested by CCTPL.

- (h). In the tariff Order of March 2007, since the CCTPL had produced the Assessment Orders with reference to the years 2002-03 and 2003-04, which showed that the Income tax authorities have allowed the Technical Service Fee as an item of expenditure, this Authority had allowed the estimated payment of technical service fee as an item of cost in the estimates for the years 2007 to 2009 subject to the condition that the CCTPL at the time of next review would produce the Income tax assessment Order for each of the years to show that the concerned authorities have allowed this expenditure. If such evidence is not produced, the estimated expenditure allowed then will have to be set off in the current tariff review.

CCTPL has furnished copy of the Assessment Order for the financial year 2004-05 and stated that the assessment for the

subsequent years is not yet over. From the Assessment Order furnished by CCTPL, it is seen that out of the total Technical Service Fee of ₹234.80 lakhs as claimed by CCTPL, the Income tax authorities have disallowed an amount of ₹6.43 lakhs on account of arithmetical mistake on the part of CCTPL and allowed the balance amount of ₹228.37 in the Assessment Order. The Income tax authorities have allowed the Technical Service Fee as an item of expenditure in the past and it is assumed that the same will be allowed in the future. Relying on the statement of CCTPL that assessment for the subsequent years have not yet been done, this Authority is inclined to treat TSF as part of operating costs for the years 2007 to 2009-10. The CCTPL is advised to furnish copies of the Assessment Orders as and when they are obtained from the Income tax authorities for further scrutiny.

- (i). The write-off of preliminary expenses to the tune of ₹38.28 lakhs is considered for the years 2007, 2008-09 and 2009-10, as was allowed in the last tariff order of August 2006.
- (j). The Operating expenditure as shown in the audited annual accounts for the years 2007 to 2009-10 do not match with the sum total of the operating expenditure, overheads and Finance and Miscellaneous Expenses as shown by CCTPL in the Cost statement. The expenses in the Cost statement are lower by ₹117.70 lakhs, ₹227.70 lakhs and ₹149 lakhs for the years 2007 to 2009-10, when compared with the position reported in the Annual Accounts. We have relied upon the position furnished by CCTPL in its Cost statement.
- (k). There is a difference of ₹38.47 lakhs and ₹177.76 lakhs in the amount of depreciation considered by CCTPL in the Cost statement for the years 2008-09 and 2009-10 as compared to the Annual

Accounts for the respective years. In other words, a lower amount of depreciation has been considered in the Cost statement. The difference appears to be on account of CCTPL removing the impact of the SFIS Scrip from the Capital employed. The depreciation figures as furnished by CCTPL are relied upon.

- (l). As stated above, the CCTPL has excluded the value of SFIS Scrip component from the Net Block of assets shown in the Annual Accounts for the respective years. As such, the reduced net block of assets is taken into account for the purpose of this analysis, as shown below:

(₹ in Lakhs)

<u>Net Block of Assets</u>	2007	2008-09	2009-10
As per audited Accounts	35209.05	36276.39	43106.30
Less: Effect of SFIS	0.00	690.53	2493.77
As considered in the Cost statement	35209.05	35585.86	40612.53

The working capital is analysed below:

- (i). On the ground that the CCTPL is required to pay royalty on monthly basis in advance for each month for a Minimum Guaranteed Throughput (MGT) of 5 lakh TEUs per annum as per provisions of the Licence Agreement of CCTPL entered into with CHPT, and likewise, the CCTPL is also required to pay lease rent for the lands allotted to it in advance every year as per the Licence Agreement, this Authority while disposing the review application made by CCTPL in June 2008 has allowed pre-payment of royalty and lease rent as part of current assets. In line with the earlier decision, the monthly royalty amount on a MGT of 500000 TEUs calculated at ₹276.42 lakhs, ₹301.55 lakhs and ₹319.80 lakhs is considered as pre-payment forming part of the Current assets.

- (ii). In line with the approach adopted in the Review Order of CCTPL, 50% of the amount considered in the Cost statement as lease rentals is considered as the prepayment of lease rentals for the years 2007 to 2009-10.
- (iii). The tariff guidelines of 2005 has prescribed a limit of six months average consumption of stores excluding fuel incase of items of Inventory. The CCTPL has not furnished the details of the consumption of stores and fuel. The Annual Accounts of CCTPL furnish value of consumption of stores and spare parts at ₹487.42 lakhs, ₹696 lakhs and ₹571.01 lakhs for the years 2007, 2008-09 and 2009-10 respectively. In the absence of requisite details regarding capital spares and fuel, 50% of the amount as shown in the Annual Accounts is considered as Inventory.
- (iv). Cash balance has been calculated at one month's operating expenses including overheads, as done during the last tariff revision of CCTPL.
- (v). The CCTPL has not furnished the current liabilities for the past years. As such, the figures of Sundry Creditors as reflected in the Annual Accounts of CCTPL for the years 2007 to 2009-10 are considered in the analysis.
- (vi). Subject to the above, the Working Capital results in a negative figure. As such, Capital Employed comprises of Net Block of Assets and works out to ₹35209.05 lakhs, ₹35585.86 lakhs and ₹40612.53 lakhs for the years 2007, 2008-09 and 2009-10.

- (m). In the last tariff Order of March 2007, Return on capital employed was allowed at 16% for the years 2007 to 2009. The same position is maintained while analyzing the actuals for the said years.
- (v). (a). A summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

(₹. In Lakhs)

Particulars	Estimates relied upon in the last Order		Actuals			% Variation	
	2007 & 2008	2009	2007 & 2008	2009		2007 & 2008	2009
				3 months	9 months		
Traffic (in TEUs)	1840473	749346	2210703	289428	853746	20.12%	52.56%
Operating Income	46912.56 *	20496.25 *	56915.51	7760.63	24268.82	21.32%	56.27%
Total Exps (incl. Depn)	34250.08	15906.54	35943.65	4789.08	15880.56	4.94%	29.94%

* The operating income estimates are moderated to reflect across the board 10% increase granted in the then existing rates of CCTPL with effect from 1 August 2008.

The details regarding the Actual Return earned by CCTPL on the Capital Employed are given in the following table:

(₹ In Lakhs)

Particulars	2007	2008	2009
Actual Surplus before Return earned by CCTPL	9117.50	11720.79	11320.88
Actual Capital Employed	35209.05	35585.86	40612.53
Actual Return earned on capital employed	25.90%	32.94%	27.88%
Variation in Return on Capital Employed @ 16%	61.88%	105.88%	74.25%

- (b). As can be seen, the variation in the physical performance is more than + 20%. In the last general revision Order, maximum return of 16% was allowed for the years 2007 to 2009. The additional surplus over and above the admissible cost and permissible return achieved by the CCTPL during the said three years is found to be in the range of 61.88% to 105.88%.

As per clause 2.13 of the tariff guidelines, if review of actual physical and financial performance for the previous tariff cycle

shows the variation of more than + or – 20%, then 50% of such accrued benefit / loss has to be adjusted in the next tariff cycle. Therefore, there is a case to adjust the past surplus in the current tariff cycle of CCTPL.

- (c). With regard to adjustment of additional surplus accruing to CCTPL in the last tariff cycle from the year 2007 to 2009, it is pertinent to recall the decisions taken by this Authority in the tariff Order dated 28 March 2007. Incidentally, the position relating to the estimates of traffic as considered in the March 2007 Order of CCTPL was maintained in the Review Order of June 2008.

Keeping in view that the traffic estimate projected by the CCTPL for the year 2007 was comparable to the reported designed capacity of the terminal at 914033 TEUs, the traffic estimate as projected by CCTPL for the year 2007 was considered by this Authority at 914952 TEUs.

The traffic as estimated by the CCTPL for the year 2008 and 2009 were lower than the estimated traffic for the year 2007 on account of the anticipated impact of the commissioning of the second container terminal at CHPT. The traffic estimate for the year 2008 projected by CCTPL was slightly revised upwards and considered at 925521 TEUs, keeping in view the impact of the probable time of commencement of operations by the second terminal in the year 2008.

So far as the year 2009 is concerned, the estimated traffic as reported by CCTPL was relied upon by this Authority. However, this Authority, in the same breath ruled that if any undue advantage is found to have accrued to the terminal operator due to wrong estimation, the additional surplus so earned will be adjusted fully.

The estimates of traffic considered by this Authority for the year 2007 (914952 TEUs) and 2008 (925521 TEUs) appear to be comparable with the reported designed capacity of 914033 TEUs. If this position is recognised, the ruling of this Authority that the additional surplus earned will be adjusted fully if any undue advantage is found to have accrued to the CCTPL due to wrong estimation would be relevant for the year 2009. For the earlier years, only 50% of additional surplus should be adjusted as per Clause 2.13 of the tariff guidelines.

- (d). The CCTPL has argued that adjustment of past surplus should be governed by the relevant provisions of the tariff guidelines as increase in its volumes was not on account of its wrong traffic estimation but on account of circumstances beyond its control due to delay in the commissioning of the second terminal due to some mishap. Since there was no wrong estimation of traffic on the part of CCTPL, it has strongly opined that this Authority should not adjust 100% of the Past surplus.
- (e). It is noteworthy that the traffic estimates relied upon by this Authority for the years 2007 and 2008 were comparable to the reported designed capacity of the terminal. This Authority had not cast a doubt on estimated traffic for the years 2007 and 2008. Therefore, variation between the actuals and the estimates is treated in line with Clause 2.13 of the tariff guidelines of 2005. Accordingly, 50% of the surplus for the years 2007 and 2008 is considered for adjustment in future tariff.

As far as the year 2009 is concerned, this Authority had reservations in the traffic estimates for the year 2009 on account of CCTPL factoring the impact of commencement of operations of the second terminal at CHPT. Hence, this Authority had decided to adjust fully the additional surplus arising in the context of wrong

estimation, as recorded in the tariff order of March 2007. Infact, the doubts raised by this Authority over the traffic estimates for the year 2009 have come true, since the CCTPL has actually handled an additional traffic of around 53% as compared to the traffic estimates relied upon in the tariff Order of March 2007. Hence, the additional surplus for the year 2009 is considered fully for adjustment in future tariff.

- (f). The validity of the existing Scale of Rates of CCTPL has been extended beyond 31 December 2009, subject to fully adjusting the additional surplus, if any, over and above the admissible cost and permissible return for the period post 31 December 2009 in the tariff to be determined.
- (g). A summary of the surplus for the past period, which is to be adjusted in future tariff is given below:

₹ in lakhs

Particulars		Past surplus	To be set off	Amount
2007		3484.05	50%	1742.03
2008		6027.05	50%	3013.53
2009	Jan to March	1506.76	Full	1506.76
	April to December	3517.17	Full	3517.17
2010	Jan to March	1312.51	Full	1312.51
TOTAL				11092.00

- (h). As discussed earlier, as per the Arbitration Award, the CCTPL is to pay the lease rentals calculated at ₹1/- per Sq.m. per annum subject to 30% escalation every five years. Therefore, the additional lease rental allowed as an item of cost in the earlier tariff Orders of CCTPL over and above the Arbitration Award from the year 2002 upto March 2010 is quantified at ₹76.14 crores as shown below:

			(₹ In Lakhs)
Year	Lease rentals allowed	Lease Rentals as per Arbitration Award	Additional Amount
2002	962.16 *	2.26	959.90
2003	1165.04 *	2.51	1162.53
2004	881.59	2.51	879.08
2005	881.59	2.51	879.08
2006	881.59	2.60	878.99
2007	881.59	3.18	878.41
2008	881.59	3.26	878.33
2009	881.59	3.26	878.33
2010 (3 months)	220.40	0.81	219.58
TOTAL			7614.24

* The quantum of lease rentals allowed for the years 2002 and 2003 as cost is not explicitly available in the CCTPL Order of 2002. But the Order makes a mention that the figures given by Licensor port CHPT is relied upon. Accordingly, the figures have been taken into account from the CHPT letter no. T2/65/5735/2001/AR dated 8 January 2002.

- (i). Thus, an aggregate amount of ₹187.06 crores (₹110.92 crores on account of past surplus and ₹76.14 crores on account of additional lease rentals) is available for adjustment.

As per Clause 2.13 of the tariff guidelines the past surplus is to be set off prospectively. However, since the year 2010-11 will be over before the revised tariff to be approved for CCTPL comes into effect, the adjustments of past surplus can only be effected during the years 2011-12 and 2012-13, as no retrospective adjustment tariff is envisaged.

In the tariff cases of some other private terminals decided earlier, the past surplus is set off over a period of five years, wherever huge past surplus arose for adjustment. Following the approach adopted in such cases, the past surplus is set off over a period of five years beginning from the year 2011-12.

- (vi). (a). By drawing reference to the NSICT Order of September 2008 and various Upfront tariff Orders passed by this Authority, the CCTPL in its proposal dated 8 December 2010 has appealed to this Authority to process its proposal based on the standard capacity approach.

The CCTPL has adopted the formula prescribed in the Upfront tariff Guidelines to determine the optimal capacity of CCTPL and restricted the traffic estimates to the level of optimal capacity. It has then proceeded following the actual Cost plus approach in the expenditure estimates.

- (b). The CCTPL has not followed the NSICT Order in totality, but selectively. The CCTPL has followed the approach adopted in the NSICT Order only to the extent that suits its purposes. The CCTPL has sought relaxation in the norms relating to ground slots. The estimated Expenses have not been calculated as per the norms prescribed in the tariff guidelines of 2008. The 2008 Guidelines do not recognize consideration of the impact of the individual Wage Settlements entered into by an operator.

Also, incase of NSICT, since the contribution from the volumes handled beyond the standard capacity is a source available to meet the residual royalty not considered in the tariff computation, it envisaged progressive reduction in the quantum of royalty, if unit rate of royalty does not undergo a change, with the increase in traffic volumes beyond the standard capacity. Thus, a pass through at the reduced level was found sufficient as against the maximum permissible level. However, the CCTPL for the purpose of allowing Revenue share has drawn reference to the Minutes of the meeting held on 5 August 2003 and considered 27% of the income as revenue share in the Cost statement. In this connection, it is relevant to mention here that in the meeting held on 5 August 2003 at the Ministry, it was decided that the offer of the second highest bidder should be accepted as cost of CCTPL for the purpose of arriving at the tariff. This was subject to CCTPL filing a proposal to the Ministry. It was further decided by the Ministry to permit revision of tariff of CCTPL in the abovesaid manner and this Authority would be requested to review the case by issue of a suitable directive by

the Ministry under Section 111 of the MPT Act. The policy direction was issued by the Government under Section 111 of the MPT Act on 7 November 2003, specifically for the CCTPL which directed this Authority to review the tariff of CCTPL so as to take into account the revenue share as cost for tariff fixation in such a manner as to avoid likely loss to CCTPL on account of the revenue share not being taken into account for tariff fixation, subject to a maximum of 27% (out of total 37.128%) revenue share being paid by CCTPL. Thus, the CCTPL has not adopted the NSICT Order of September 2008 in totality, but only selectively.

- (c). Since yard is a constraint, the CCTPL has calculated its yard capacity following the formula prescribed in the Upfront guidelines of 2008. The yard capacity has been reported by CCTPL at 820000 TEUs for the years 2010-11 to 2012-13, which is reportedly based on the 285 ground slots per hectare as adopted in the Upfront tariff case of Jawaharlal Nehru Port Trust (JNPT). In the case of upfront tariff fixation for the container terminal at JNPT, though the ground slot of 286 TEUs per hectare was shown in the calculation, it did not influence the result substantially as the quay capacity remained as the limiting factor in that case. In the case of upfront tariff fixation for the container terminal at New Mangalore Port Trust (NMPT) vide Order dated 30 December 2009, ground slots of 360 TEUs per hectare was considered which was based on the analysis of the NMPT with reference to the area occupied by a container and additional area required for movement of container handling equipment, space between containers etc. The same number of ground slots of 360 TEUs per hectare was considered while fixing upfront tariff for the Mega Container terminal at CHPT. Hence the same is considered in case of CCTPL also. The CCTPL has stated that the average stacking height at CCTPL is 2.84 (rounded off to 3). Taking the other factors as considered by CCTPL, the Yard capacity of CCTPL works out to 1033006 TEUs. It is to be borne in

mind that the capacity of 1033006 TEUs is the optimal capacity at 70% utilization. It is noteworthy that the CCTPL vide its letter dated 24 November 2009 reported the traffic handled at its terminal as 11.99 lakhs TEUs and pointed out that the terminal was 'operating at close to its capacity.'

- (vii). The traffic estimates furnished by CCTPL is 1061136 TEUs, 850000 TEUs and 800000 TEUs for the years 2010-11 to 2012-13 respectively. The CCTPL has projected around 7% decrease in traffic in the year 2010-11 as compared to the actuals of 1138328 TEUs for the year 2009-10. The CCTPL has further projected a traffic reduction of around 20% and 6% in the years 2011-12 and 2012-13 as compared to the traffic estimates of the respective previous years.

The CCTPL has sought to justify its declining trend in traffic by stating that the volume at the 2nd terminal has been constantly increasing month on month. The CCTPL has further added that few services have moved out or moving out of CCTPL to the 2nd terminal, thereby reducing the market share of CCTPL.

Though the CCTPL has stated that there would be a reduction in its traffic on account of diversion of traffic to the second terminal, it is not supported by any traffic analysis. The estimated traffic for the year 2010-11 furnished by CCTPL at 1061136 TEUs also factors the operation of the second terminal, which has commenced operations since September 2009. Incidentally, the estimated traffic is comparable to the standard capacity of 1033006 TEUs as discussed in the preceding paragraph. It is to be borne in mind that the capacity of 1033006 TEUs is the optimal capacity at 70% utilization. Hence, the traffic estimate of 1061136 TEUs as given by CCTPL is relied upon for the year 2010-11. The traffic estimates for the years 2011-12 and 2012-13 are also considered at a level of 1061136 TEUs.

If there is a significant reduction in the traffic handled by CCTPL as compared to the traffic estimates relied upon now, it is open for CCTPL to seek an ahead of schedule review of its tariff.

- (viii). (a). The operating income estimated by CCTPL in the cost statement for the year 2010-11 is ₹28694.97 lakhs. From the workings furnished to arrive at the income from the handling of various types of containers, it is seen that CCTPL has calculated income on a traffic of 1101136 TEUs for the year 2010-11 considering the rates as prescribed in the existing Scale of Rates, as against the traffic estimate of 1061136 TEUs shown in the Cost statement. However in its Cost statement, it has considered income for the traffic level of 1061136 TEUs. Therefore, the workings furnished by CCTPL are adjusted for the estimated traffic of 1061136 TEUs.
- (b). In respect of the year 2010-11, the actual income for a period of seven months from April to October 2010 reported by CCTPL is verified with reference to the existing Scale of rates and considered without any change.

For the remaining five months of 2010-11 and for the years 2011-12 and 2012-13, the CCTPL has considered the dollar exchange rate of ₹44.94 per US\$ to estimate the dollar denominated income in its income calculations. In respect of the income estimates from dollar denominated tariff items the exchange rate prevailing at the time of analysis of the case, is considered uniformly for estimation of income from dollar denominated tariff items, for all the years under consideration. In our analysis, since the period from November 2010 to February 2011 is already over, and since the actual dollar exchange rate is available, the income from the dollar denominated tariff items for the period from November 2010 to February 2011 is estimated based on the average exchange rate of ₹45.25 per US\$

obtained for the said period. The income estimations for the period from March 2011 to March 2013 are modified so as to give effect to the exchange rate of ₹45.25 per US\$ prevailing at the time of finalization of this case.

- (c). In spite of a request made, the CCTPL has not furnished working to arrive at the income from handling ICD containers, storage charges, replacing hatch cover, other income etc. It is to be noted that the rates prescribed in the Scale of Rates of CCTPL in respect of these tariff items is dollar denominated. In the absence of workings, the entire income furnished on this account is updated with reference to the exchange rate of ₹45.25 per US\$. Nevertheless, it may be relevant to note that as can be seen from the traffic profile furnished by CCTPL, the coastal container traffic is around 1% of total container traffic. Therefore, the updation of the income arising out of the above mentioned tariff items with reference to the prevailing exchange rate may not have a significant impact in the overall estimated operating income of the terminal.
- (d). Subject to the above adjustments, the revised income for the year 2010-11 works out to ₹29596.86 lakhs. By considering the traffic for the years 2011-12 and 2012-13 at the level of traffic for the year 2010-11, as explained earlier, and by considering the Exchange rate of ₹45.25 per US\$, the revised income works out to ₹29653.46 lakhs each for the years 2011-12 and 2012-13.
- (ix). Clause 2.5.1 of the tariff guidelines of 2005 requires that the expenditure projections of the major port trusts / terminal operators should be in line with traffic adjusted for price fluctuations with reference to current movement of Whole Sale Price Index (WPI) for all commodities announced by the Government of India. Accordingly, an escalation factor of 3.76%

needs to be considered for the expenditure projections in the tariff cases to be decided during the year 2010-11.

- (x). As against the actual number of operating and direct labour at 279 during the year 2008-09, the actual number of employees in this category has been reduced to 273 by CCTPL during the year 2009-10. However, the CCTPL has estimated to have 284 employees under this category during the years 2010-11 to 2012-13. The increase in the number of operating and direct labour is in the backdrop when the CCTPL has estimated a fall in its traffic estimates. The increase in the number of operating and direct labour estimated for the years 2010-11 to 2012-13 is relied upon.

As against the actual average cost per operating and direct labour at ₹3.50 lakhs per annum during the year 2009-10, the CCTPL has estimated an increase of around 31% in the average cost in the year 2010-11 and estimated the cost at ₹1301 lakhs. The increase projected by CCTPL is on the ground that it is in the process of negotiating wages for the next Long Term Settlement (LTS) for the period 2010 – 2013. Subsequently, the CCTPL has furnished a copy of the LTS signed by it on 19 January 2011. The LTS furnished by CCTPL does not explicitly reflect the percentage increase in the labour cost. However, the CCTPL has moderated its initial estimate after considering the impact of the LTS at ₹1300 lakhs for the year 2010-11. The moderated estimate reported by CCTPL is relied upon for the year 2010-11.

The estimates of the operating and direct labour for the years 2011-12 and 2012-13 are seen to be escalated by around 9.50% over the estimates of the respective previous years. However, the estimates for the years 2011-12 and 2012-13 are moderated by applying the escalation factor of 3.76% per annum.

- (xi). As against the actual number of maintenance labour at 109 during the year 2008-09, the actual number of employees has been reduced by CCTPL to 102 during the year 2009-10. However, the CCTPL has estimated to have 113 employees under this category during the years 2010-11 to 2012-13. In line with the reasoning given in the preceding paragraph, the increase estimated by CCTPL in the number of maintenance labour for the years 2010-11 to 2012-13 is relied upon.

As against the actual average cost per maintenance labour at ₹4.05 lakhs per annum during the year 2009-10, the CCTPL has estimated an increase of around 5% in the average cost in the year 2010-11 and around 15% increase each for the years 2011-12 and 2012-13 as compared to the estimates for the respective previous years. As conveyed by CCTPL, though the said category of workers is not covered under the wage settlement, a wage increase will have to be given to them in line with the increase given for the direct labour category. The CCTPL has not produced any evidence to show that wage increase sought by it in respect of maintenance labour has already been allowed in view of a similar increase granted to the Operating and Direct labour.

Since the said category of maintenance labour is not covered by the LTS, as confirmed by CCTPL, the estimates of CCTPL for the years 2010-11 to 2012-13 are moderated by applying the escalation factor of 3.76% taking the actuals for the year 2009-10 as base.

- (xii). The estimated Equipment running cost comprises of power cost, fuel cost and cost of repairs and maintenance. Each item of estimate is discussed in the following paragraph:

- (a). (i). The CCTPL has estimated electricity consumption of 6.82 units per TEU (including consumption by Reefer containers) for the years 2010-11 to 2012-13 as against the actual

power consumption of 6.25 units per TEU (including consumption by Reefer containers) during the year 2009-10. The CCTPL has stated that the increase in the power consumption per TEU for the years 2010-11 to 2012-13 is that it estimates to handle more Reefer volumes in these three years. The CCTPL has further sought to explain that the consumption of electricity per Reefer-TEU varies with respect to its dwell time as well as the temperatures at which it is to be maintained. As reported by CCTPL, it had observed an average power consumption of 200 units per Reefer-TEU in the year 2008-09 and 151 units per Reefer-TEU in 2009-10. Based on this, it has built in an average of 180 units per Reefer-TEU in the estimates of 6.82 units per TEU in the estimates for the future.

Looking to the traffic estimates furnished by CCTPL, it is seen that the number of Reefer containers estimated to be handled during the years 2010-11 to 2012-13 are in fact less, as compared to the actual Reefer volumes handled in the past. That being so, the argument put forth by CCTPL for estimating an increase in the power consumption for the years 2010-11 to 2012-13 does not merit consideration.

- (ii). The actual power consumption during the last tariff cycle as furnished by CCTPL is 6.03 units, 6 units and 6.25 units per TEU respectively for the years 2007 to 2009. The average consumption for the said period works out to 6.09 units per TEU, which is considered for the estimation of electricity cost for the years 2010-11 to 2012-13.
- (iii). As against the actual electricity cost at ₹5.25 per unit for the year 2009-10, the CCTPL has considered the cost at ₹6.09

per unit, ₹6.44 per unit and ₹6.82 per unit each for the years 2010-11 to 2012-13. With regard to a query to justify the proposed increase in the unit cost of electricity, the CCTPL has furnished to us a copy of the letter from CHPT to CCTPL mentioning that subsequent to the electricity tariff revision of Tamil Nadu, the revised electricity tariff of ₹5.85 per unit (currently ₹5 per unit) would be payable by CCTPL with effect from 1 August 2010. The CCTPL has also furnished to us a copy of the electricity bill raised by CHPT for the month of January and June 2010, which shows that over and above the unit cost of electricity of ₹5 per unit, the CCTPL is also required to pay an additional Electricity tax @ 5%. Put together, the unit cost of electricity prior to the revision worked out to ₹5.25 per unit. On the same line, the revised unit cost of electricity would work out to ₹6.14 per unit (₹5.85 per unit + 5% tax), which has been considered by CCTPL for the year 2010-11. However, the CCTPL has considered the effect of revision in electricity tariff for the full year of 2010-11, whereas it has been with effect from 1 August 2010. Accordingly, the power cost estimates of CCTPL for the years 2010-11 are moderated so as to give effect of the revision in electricity tariff from August 2010.

The variable power cost estimates of CCTPL for the years 2011-12 and 2012-13 are moderated by applying the applicable escalation factor taking the rate of ₹6.14 per unit for the year 2010-11 as base.

- (iv). The CCTPL has also estimated the electricity cost towards Yard Lighting and Administration building calculated at an annual consumption of 15.48 lakh units for all the years under consideration. The annual consumption of 15.48 lakhs

is based on the actuals for the year 2009-10 and hence relied upon. However, the electricity cost estimates of CCTPL for the years 2011-12 and 2012-13 are moderated by applying the applicable escalation factor taking the rate of ₹6.14 per unit for the year 2010-11 as base.

- (v). The CCTPL has also considered the fixed component of electricity cost at ₹97.26 lakhs, ₹102.90 lakhs and ₹108.87 lakhs for the years 2010-11 to 2012-13. From the workings furnished by CCTPL, it is seen that the actual annual fixed demand of electricity during the year 2009-10 had been 31667 KVA. By considering the rate of ₹300/- per KVA (as mentioned in the letter of CHPT dated 12 August 2010 to CCTPL), an amount of ₹95 lakhs per annum is estimated for the year 2010-11, which is closer to their estimate of ₹97.26 lakhs. Similarly, their estimate for the years 2011-12 and 2012-13 are moderated by maintaining the same fixed consumption of electricity and by escalating the rate of ₹300/- per KVA by applying the applicable escalation factor.
- (b). The CCTPL has maintained the actual fuel consumption at 2.50 litres per TEU of the year 2009-10 for the years 2010-11 to 2012-13, which is considered in this analysis.

The CCTPL has considered an escalation factor of 15% in the cost of fuel for the year 2010-11 as compared to the actuals for the year 2009-10 and an escalation factor of 10% for estimating the cost of fuel for the years 2011-12 and 2012-13 as compared to the respective previous years. The CCTPL has sought to argue that the price of diesel is not following the pattern of the normal inflation and the Central Government is infact considering a decontrolled mechanism for the diesel prices which is at the moment backed up

by subsidies. As an example, the CCTPL has stated that as against the price of ₹38.41 per litre considered for the year 2010 in the November 2009 submission, in a span of 8 months the price has gone up to ₹39.57 per litre, with further increases in the offing. As such, the CCTPL has requested this Authority to consider the special nature of this expense and accept the escalation rates as proposed by them.

The rate of diesel as prevailing at the time of finalization of the case at ₹44.16 per litre is considered for the year 2010-11. With reference to the request of CCTPL to consider a higher escalation, it is to be noted that the expenditure estimates are moderated applying the escalation factor of 3.76% in the tariff cases of Major Port Trusts and private terminals decided so far during the year 2010-11. Therefore, it is not possible to deviate in the case of CCTPL alone, from the procedure followed so far in respect of other cases. The rate is escalated by applying the applicable escalation factor for the years 2011-12 to 2012-13, taking the respective previous year as base.

- (c). The CCTPL has not furnished the workings to arrive at the estimated Repairs and Maintenance cost at ₹574.62 lakhs, ₹632.08 lakhs and ₹695.29 lakhs for the years 2010-11 to 2012-13. The actual Repairs and Maintenance expenses for the year 2009-10 is ₹499.67 lakhs. The actual Repairs and Maintenance cost for the year 2009-10 as a percentage of Closing Gross block of assets for the year 2009-10 works out to 1.02%. This is taken as the base and escalated by 3.76% per annum over the respective previous year, on the Closing Gross block of assets of the respective years (excluding additions during the year) to arrive at the Repairs and Maintenance cost for the years 2010-11 to 2012-13.

In addition, 2% of the value of the additions to the fixed assets estimated to be added in the year 2010-11 to 2012-13 is also added to the figure of Repairs and Maintenance cost as calculated above.

- (xiii). As discussed earlier, the benefit of the Efficiency gain arising out of reduction in the variable cost, was estimated and allowed to CCTPL in the tariff Order of June 2008. While analyzing the past performance, this benefit has been considered on the actual traffic for the years 2007 to 2009. The CCTPL has proposed to perpetuate the effect of the Efficiency gain allowed in the tariff Order of June 2008 for the subsequent years also. In this regard, it may be relevant to mention here that the benefit arising out of the efficiency gain as per the stipulation made at Clause 2.4.1 of the tariff guidelines of 2005, has already been passed on to CCTPL in the last tariff Order of June 2008 in the years 2007 to 2009. For the current tariff cycle, the benefit of efficiency gain, if any, will have to be determined by comparing the relevant items of cost incurred during 2007 to 2009 (covered by the tariff Order of June 2008) with the corresponding relevant items of actual cost incurred during the period 2004 and 2005 (covered by the tariff Order of May 2004). Hence, it is not correct to extend the benefit arising out of the efficiency gain in the last Order in the current tariff cycle also.
- (xiv). The CCTPL has also claimed the benefit of efficiency gain in respect of power cost, fuel cost, insurance and ITV hire charges to be factored in the current tariff cycle. The CCTPL has furnished workings for its claim of Efficiency gain calculated at ₹34/- per TEU i.e. ₹10.65 per TEU in respect of power cost, ₹14.44 per TEU in respect of fuel cost, ₹5.50 per TEU in respect of ITV hire charges and ₹3.79 per TEU in respect of Insurance. The approach adopted by CCTPL to make a comparison of the relevant items of cost incurred during 2007 to 2009-10 with the corresponding relevant items of actual cost incurred during the years 2004 and 2005, is

found to be in line with the approach adopted in the June 2008 Order of CCTPL

Though the CCTPL has worked out the efficiency gain based on the variable component of the relevant cost, it has not based the calculation of cost reduction on the consumption of resources, inspite of a query in this regard. It may be recalled that in the June 2008 Order of CCTPL, the efficiency gain was worked out on the reduction in consumption of power, fuel, hire charges etc. Though the CCTPL has furnished working, it was not found useful. The Efficiency gain has been quantified based on the position relied upon in the June 2008 Order of CCTPL.

(a). Power cost:

As stated earlier, the actual average power consumption as reported by CCTPL is 6.09 units per TEU during the years 2007 to 2009-10. The average power consumption is 8.01 units per TEU for the years 2004 and 2005, as recorded in the June 2008 Order of CCTPL and also in the past. Accordingly, there is a reduction in the power consumption per TEU by 1.92 units. As such, 50% of the Efficiency gain at 0.96 unit per TEU at the escalated unit rate of electricity on the estimated traffic of 1061136 TEUs is allowed for each of the years 2010-11 to 2012-13. It is to be noted that the estimates of power cost for the years 2010-11 to 2012-13 rely upon the power consumption of 6.09 units.

(b). Fuel cost:

The actual average fuel consumption as reported by CCTPL is 2.75 litres per TEU during the years 2007 to 2009-10. The average fuel consumption is 3.60 litres per TEU for the years 2004 and 2005, as recorded in the June 2008 Order of CCTPL and also in the past. Accordingly, there is a reduction in the fuel consumption per TEU by 0.85 litres. As such, 50% of the Efficiency gain at 0.425 litres per TEU at the escalated unit rate of fuel on the estimated traffic of

1061136 TEUs is allowed for each of the years 2010-11 to 2012-13. It is to be noted that the estimates of fuel cost for the years 2010-11 to 2012-13 rely upon the fuel consumption of 2.50 litres.

(c). ITV Hire charges:

The per TEU ITV hire charges for the years 2007 to 2009-10 considered for calculation of Efficiency Gain is Rs.84.39 per TEU. As per the stipulation made in the Guidelines, the benefit of Efficiency can be given to an operator only if it continues to project the future cost at a reduced level. The CCTPL has considered a rate of Rs.85/- per TEU for estimating ITV hire charges (discussed in the later part of the Note). This does not fit into the guideline position.

(d). Insurance:

To a query to CCTPL to establish as to how the efficiency has an impact on the insurance cost, the CCTPL has attempted to relate the reduction in Insurance cost achieved due to implementation of safety measures. However, the linkage between reduction in insurance cost and the volume handled is not established by CCTPL. Hence, the question of Efficiency gain in respect of Insurance does not arise.

The amount allowed to CCTPL on account of the Efficiency Gain works out to ₹243.05 lakhs, ₹252.18 lakhs and ₹261.67 lakhs for the years 2010-11 to 2012-13 respectively.

- (xv). CCTPL has considered 27% of the revenue estimated by it (net of rebate/ discounts) for the years 2010-11 to 2012-13 as revenue share payable to the Licensor, CHPT. For the reasons stated earlier, 27% revenue share is calculated on the revised gross operating income.

- (xvi). (a). The CCTPL has estimated ₹1063.24 lakhs, ₹900.01 lakhs and ₹883.92 lakhs towards Equipment hire charges for the years 2010-11 to 2012-13. The Equipment hire charges are seen to be in respect of hire of Inter Terminal Vehicle (ITV), Fork lifts and Yard patrolling Vehicles. The CCTPL has furnished contract copies in respect of hire of the said vehicles.
- (b). In respect of the ITV, the rate as mentioned in the contract is ₹85/- per TEU for a three year period from July 2009 to June 2011. This per TEU rate is considered for the year 2010-11. For the subsequent years, the rate of ₹85 per TEU is taken as base and escalated by 3.76% taking the rate of the respective previous year as base.
- (c). For the hire of Forklifts, the contract copy furnished by CCTPL shows the rate in respect of hire of forklifts at ₹67500/- per forklift per month for the period from 1 January 2009 to 31 December 2009 and mentions a rate of ₹69400/- per forklift per month for the period from 1 January 2010 to 31 December 2010. The contract also makes a mention about hire of 6 forklifts. The hire charge of ₹69400/- per forklift per month is taken as base and escalated by 3.76% per annum, taking the rate for the respective previous year as base.
- (d). In respect of the yard patrolling vehicles, the contract copy furnished by CCTPL is for the period from 1 January 2009 to 31 December 2009. The rate as mentioned in the said contract copy is ₹233898/- per month for hire of yard patrolling vehicles. The hire charge of ₹233898/- per month is taken as base and escalated by 3.76% per annum, taking the rate for the respective previous year as base.

- (xvii). The CCTPL has not furnished workings to arrive at the estimated Insurance cost. The CCTPL has furnished copies of the Insurance policy documents. The Insurance policy is for the period from 1 October 2009 to 30 September 2010. However, the estimates of Insurance cost furnished by CCTPL at ₹130.59 lakhs, ₹126.48 lakhs and ₹126.32 lakhs for the years 2010-11 to 2012-13 could not be linked to the Policy document furnished by CCTPL. It is seen that as compared to the actual Insurance cost for the year 2009-10 at ₹191.30 lakhs, the estimates for the years 2010-11 to 2012-13 are on a lower side and the estimates furnished by CCTPL are considered.
- (xviii). As reported by CCTPL, the Other Expenses comprise of Lashing charges, Security charges, CFS Service cost, STP Maintenance cost, Cost of Checkers etc. The CCTPL has not furnished the cost breakup for the total amount of Other Expenses. Some of the cost items like Lashing, CFS service cost depends upon the volume of traffic, whereas the other items of cost included under the head of 'Other Expenses' are fixed in nature. Though the CCTPL has furnished Contract copies in respect of the said items of cost, it is not found possible to correlate the rates mentioned in the Contract with the individual cost items. In the absence of details for individual cost items, the actual per TEU rate for the year 2009-10 is taken as base and escalated by 3.76% per annum for the subsequent years, taking the previous year as base.
- (xix). With reference to payment of Technical service Fee (TSF), as stated earlier, the Income tax authorities have allowed this expenditure in the assessment for the financial year 2004-05 and relying on the assessment made by the Income Tax authority regarding payment of technical service fee by CCTL to the associated enterprises in the past, it can be reasonably presumed that such payment will be similarly treated for the years 2010-11 to 2012-13 also.

The estimate of ₹329.87 lakhs furnished by CCTPL for the year 2010-11 is relied upon. From the actuals and estimates of TSF furnished by CCTPL for the past and the future, it appears that the TSF is directly proportional to the Operating Income. Accordingly, since the operating income estimates for the years 2011-12 and 2012-13 is maintained at the level of income for the year 2010-11, the amount of TSF as furnished by CCTPL for the year 2010-11 is considered for the years 2011-12 and 2012-13 also, subject to the condition that CCTPL will produce at the time of next review income tax assessment orders for each of the years to show that the concerned authorities have allowed this expenditure. If such evidence is not produced, estimated expenditure allowed now will be set off in the next tariff review of CCTPL.

- (xx). The Management and Administration Overheads mainly comprises of Salary of Management staff and the related Staff welfare expense, as reported by CCTPL. The estimated management and administration overheads for the year 2010-11 is around 21% more than the actuals for the year 2009-10. Similarly, the estimate of said Overheads for the years 2011-12 and 2012-13 is around 15% more than the estimated expenditure of the respective previous years. The reasoning given by CCTPL is vague. This Authority has been moderating the Management and Administration Overheads incase of other private terminals like GTIPL applying the applicable escalation factor. The actuals of 2009-10 is taken as base and escalated by 3.76% per annum over the figures of the respective previous years.
- (xxi). As stated by CCTPL, the General Overheads comprise of Repairs and maintenance of Building, Yard, Wharf and Pavements Electricity of Admin Building, Office Cleaning Charges, Printing & Stationary, Travel and Marketing Expenses, Communication Cost, Professional Charges - Audit Fess and Legal Charges, Hardware & Software Maintenance and Licence Cost. In the absence of any justification for seeking a higher escalation,

the actuals for the year 2009-10 is taken as base and escalated by 3.76% per annum over the figures of the respective previous years.

- (xxii). As reported by CCTPL, it has already written off the preliminary expenses following the normal accounting norms. Hence it has not shown the write off in its Cost statement. It has requested this Authority to agree to the book basis of write off. In this context, it may be relevant to mention that at the time of the initial fixation of tariff, this Authority had decided to spread the preliminary expenses over the entire project period for reasons explained in the relevant Order. A review petition filed by CCTPL in this regard was rejected by this Authority. This issue has already been analyzed in detail in the earlier Orders and no extraordinary circumstance is found to emerge now warranting any deviation from the approach adopted earlier. An amount of ₹38.28 lakhs per annum as considered at the time of last review of tariff is now considered for the years 2010-11 to 2012-13.
- (xxiii). Under Finance and Miscellaneous Income, the CCTPL has estimated under the head 'Others' income to the tune of ₹110 lakhs during the year 2010-11 and Profit on sale of assets to the tune of ₹70 lakhs in the year 2011-12. The CCTPL has stated that the profit is on account of sale of Quay crane. Similarly, the CCTPL has estimated Loss on sale of assets to the tune of ₹296 lakhs in the year 2010-11 under the head of Finance and Miscellaneous Expenses. The CCTPL has not furnished the basis for the estimates for the profit or loss on sale of assets. The estimate of profit and loss on sale of assets is not considered in the cost statement. However, the profit or loss on sale of assets at actuals, if any, will be considered while reviewing the past period performance during the next review.
- (xxiv). The Finance and Miscellaneous Income also comprises of the discounted terminal value. As per the provisions of the Licence Agreement, the CCTPL is entitled to receive a separation amount of US\$ 1 million from the

CHPT. Recognising that the payment would be due for 30 years, the annualised present value for the years 2010-11 to 2012-13 is arrived at by applying a discount factor of 12.75% and by considering the exchange rate of ₹45.77 per US\$. The discounting rate of 12.75% to arrive at the net present value is selected bearing in mind the prevailing PLR rate.

With regard to the terminal value in respect of the equipments having a residual life of more than five years, this Authority in the June 2008 Order of CCTPL has decided to consider the terminal value in respect of the equipments in the last 2 or 3 tariff cycles of CCTPL when the position may become clearer.

(xxv). The Capital Employed comprising of Net Fixed Assets and Working Capital are analysed in the following paragraphs:

(a). Fixed Assets:

(i). Year 2010-11:

The CCTPL has proposed additions to the tune of ₹15.58 crores in the following manner:

No.	Particulars	₹ in Lakhs
1.	Network Infrastructure	100.00
2.	ITV Monitoring System	350.00
3.	Gate Automation	500.00
4.	Civil Work	26.00
5.	Furniture & Fixtures	20.00
6.	IT Hardware & Software	562.20
	TOTAL	1558.20

With reference to the capital additions in the year 2010-11, the CCTPL has furnished Quotations obtained by it. It is seen that some of the Quotations furnished by CCTPL in support of its additions have been obtained for its group concerns viz. NSICT, India Gateway Terminals Private Limited (IGTPL) etc. The CCTPL has stated that the rates

mentioned in the Quotations obtained for the group concerns may be considered as supporting documents for their estimates of capital additions. The statement made by CCTPL in this regard is relied upon and accordingly the capital additions as proposed by CCTPL for the years 2010-11 are considered in the analysis.

(ii). Year 2011-12:

The CCTPL has proposed additions to the tune of ₹51.97 crores in the following manner:

No.	Particulars	₹ in Lakhs
1.	Motor Vehicles	6.00
2.	Furniture & Fixtures	6.00
3.	Office Equipment	23.00
4.	Refurbishment of Yard 7	2000.00
5.	Energisation of Reefer Stack	100.00
6.	Workshop Tools	250.00
7.	Reach Stacker/ Empty Handler	200.00
8.	RTG	2600.00
9.	IT Hardware	12.00
	TOTAL	5197.00

One of the major investment proposed by CCTPL during the year 2011-12 is towards Refurbishment of Yard to the tune of ₹20 crores. The CCTPL has stated that owing to major undulations, it is required to undertake refurbishment of Yard 7 and balance cross over between Yard 6 and 7 so as to ensure proper running of RTG's on the track in the said area. The CCTPL has added that this will not add to its capacity. In spite of a specific query to CHPT, the CHPT has not furnished its comments on the refurbishment of yard as proposed by CCTPL. The investment proposed in this regard is taken into account.

The other major investment is in the form of purchase of new RTGs in replacement of the existing ones. The CCTPL has stated that the replacement of RTGs is as per the Licence Agreement. Even the CHPT has endorsed the replacement of the RTGs by CCTPL. As such, the investment to the tune of ₹26 crores is considered.

The other investments as proposed by the CCTPL during the year 2011-12 are also taken into account.

(iii). Year 2012-13:

The CCTPL has proposed additions to the tune of ₹11.87 crores in the following manner:

No.	Particulars	₹ in Lakhs
1.	RTG	900.00
2.	Office Equipment & Furniture	350.00
3.	IT Hardware & Software	500.00
	TOTAL	1187.00

Purchase of new RTGs is in replacement of the existing ones. For the reasons stated in the preceding paragraph, the investment to the tune of ₹9 crores is considered. The other investments as proposed by the CCTPL during the year 2012-13 are also taken into account.

(b). Working Capital:

- (i). The CCTPL has stated that as per the provisions of the Major Port Trust Act, the charges to the port are payable before availing the services. However, in its scale of rates, since it is indicated that "the delay in payment by the users will be counted only 10 days after the date of raising the bills by CCTPL", this clause has been understood to mean a 10 day credit period to the customers. In view of the above, the CCTPL has requested this Authority to remove the clause

from its Scale of Rates and instead replace it with a specific clause that the payments are to be made in advance in line with the MPT Act. As a result, the CCTPL has considered 7 day turnover as Debtors at any point of time.

In this regard, it is noteworthy that the CCTPL during the proceedings relating to the last Review application had requested this Authority to consider 12 days annual revenue as sundry debtors. However, as recorded by this Authority in the Review Application Order of June 2008, that in the proceedings before this Authority relating to the representations made by the port user organisations for waiver of charge on containers, which could not be cleared during the strike period at CCTL (Order dated 30 September 2004), the CCTL confirmed that it maintains Deposit accounts of the users. This shows that CCTL realizes money in advance from the port users and there may not be any occasion for port charges outstanding with the users even for a day. In view of the above, the request made by CCTPL to consider 7 day turnover as Debtors is not acceded to.

- (ii). The CCTPL has stated that the eligible Minimum Alternate Tax credits under Income Tax Act, Advance Taxes paid, CENVAT Credit, advances paid to suppliers and Expenses like Insurance premium incurred in the normal course of business has been considered as Prepayments under Current Assets. Clause 5 (iv) of the Order dated 30 September 2008 notified by this Authority refining certain areas of the existing approach/ practice followed in tariff setting exercise of Major Port Trust and private terminals stipulates that the prepayments and advances to be made by the private operators as per the Licence Agreement will be recognised as the limit for Sundry Debtors to the extent they are otherwise permissible as pass through. Advance

payment of revenue share/ Royalty to the landlord port will be recognised as part of Sundry Debtors only if and to the extent such revenue share/ Royalty is considered as pass through in tariff. The items considered by CCTPL as Prepayments are not Cost items considered as pass through in the tariff fixation exercise. Therefore, consideration of the said items as part of Current assets does not fall within the guideline position.

However, as discussed earlier and as per the Guideline position, the monthly royalty amount calculated for a MGT of 5 lakh TEUs and 50% of the lease rentals considered in the Cost statement for the years 2010-11 to 2012-13 is considered as pre-payment forming part of the Current assets for all the years under consideration.

- (iii). The CCTPL has not furnished workings for the figure of Inventory considered by it in the Cost statement. It has confirmed that the Inventory is computed as per norms specified under Clause 2.9.9 of the tariff guidelines of 2005 by considering one year's average consumption of spares excluding fuel. The amount as estimated by the CCTPL as Inventory is relied upon.
 - (iv). Cash balance has been calculated at one month's operating expenses including overheads.
 - (v). The CCTPL has furnished the figure of current liabilities for the years 2010-11 to 2012-13. The figures as furnished by CCTPL are considered in the analysis.
- (c). Subject to the above, the estimated Working Capital results in a negative figure. Even the CCTPL has determined its Working

Capital to be negative. However, it has reduced the negative working capital from the figure of the Net Block of assets. Since the Working Capital is negative, it has been taken as NIL in the analysis. In other words, the Capital Employed for the years 2010-11 to 2012-13 consists of only Net Block of assets at ₹37224.40 lakhs, ₹36510.30 lakhs and ₹31919.20 lakhs.

(xxvi). Clause 2.7.1 of the revised tariff guidelines stipulates that incase of private terminals, depreciation has to be allowed on straight line method with life norms adopted as per the Companies Act, 1956 or based on the life norms prescribed in the Concession Agreement whichever is higher. The CCTPL has confirmed that it has considered the rates for depreciation as prescribed in the Companies Act. As stated earlier, CCTPL has proposed additions to the capital assets during the years 2010-11 to 2012-13. Since the CCTPL has not furnished the date of commissioning of the proposed additions, 50% of the depreciation is considered in the respective initial year of the commissioning of the assets.

(xxvii). Return on the Capital Employed at the rate of 16% is allowed for the years 2010-11 to 2012-13.

(xxviii).(a). Subject to the above discussions, the Cost statement has been modified. The modified Cost statement is attached as **Annex –I**. The results disclosed in the Cost statement are summarized below:

(₹ in Crores)

Particulars	2010-11	2011-12	2012-13	Total
Operating Income	295.97	296.53	296.53	889.03
Net Surplus	32.81	58.75	61.74	153.30
Net Surplus as a percentage of Operating Income	11.09%	19.81%	20.82%	17.24% (Average)

In view of the surplus position as depicted in the Cost statement, there is no case for granting any increase in tariff as proposed by the CCTPL. There is infact a strong case to effect a reduction in the existing level of tariff at CCTPL. It is to be kept in view that the

surplus arises mainly on account of set off of additional past surplus. A part of the additional past surplus represents the amount already collected in the past over and above the amount that should have been collected as per the Cost plus approach. Adjustment of lease rentals allowed in the past flows from the Arbitration Award, which was confirmed by the Hon'ble High Court of Madras.

The Net Surplus available of ₹153.30 crores is to be adjusted by effecting a reduction in the existing tariff over the remaining tariff validity period of 2 years i.e. 2011-12 and 2012-13.

The Operating Income at the existing level of tariff for the said two years is ₹593.06 crores. Thus, to adjust the surplus of ₹153.30 crores in the said two years, the existing tariff is to be reduced by 25.85%, at the estimated level of expenditure shown in the Cost statement. It has to be recognized that the Cost statement is drawn up, where estimated revenue share is calculated as a percentage of the estimated income at the existing level of tariff. Any reduction in the existing tariff will result in a reduction in the income and as a result, corresponding reduction in the amount of revenue share and technical service fee payable. Thus, after taking into account this factor, the reduction to be effected works out to the extent of 35.05%, which is explained below:

(Figures in Percentage)

Surplus		25.85
Revenue share impact on the above (25.85 * 27%)	6.98	
Revenue share impact on the above (6.98 * 27%)	1.88	
Impact due to Technical Service fee	0.34	9.20
Percentage reduction warranted		35.05

“

- (d). An across the board reduction of 35% in the existing level of tariff at CCTPL is, therefore, effected. It is noteworthy that the main reason for the tariff reduction is adjustment of past surplus which has been

carried out in terms of the tariff guidelines, earlier tariff order and the Arbitration Award concerning lease rentals. In so far as rewarding efficiency, the Efficiency gains are allowed in expenditure estimates as provided in the tariff guidelines. In its letter of 24 November 2009, CCTPL attributes its performance mainly to invest in equipment and process re-engineering. The investment made and proposed to be made by CCTPL in new facilities/ replacement is fully considered before quantifying the revenue surplus, which determined the tariff adjustment.

- (e). Out of the total past surplus assessed at ₹187.06 crores, ₹74.83 crores is adjusted during the years 2011-12 and 2012-13 of the current tariff cycle and an unadjusted balance surplus to the tune of ₹112.23 crores will be adjusted in the next tariff cycle of CCTPL.

(xxix). It may be recalled that this Authority in the CCTPL Order of March 2007 had advised CCTPL to gear up its internal system so that it can draw up its proposal supported by cost details for individual activities at the time of next review of its tariff. While responding to a query in this regard, the CCTPL has reported that it does not maintain Activity based costing and hence cannot provide the requisite details. It is surprising to note that a terminal of high calibre is not in a position to furnish activity based costing. The CCTPL is again advised to gear up its internal system so that it can draw up its proposal supported by cost details for individual activities at the time of next review of its tariff.

(xxx). The CCTPL has stated that since it has proposed to delete the note contained in its Scale of Rates wherein it is stated that the delay in payment by the users will be counted only 10 days after the date of raising the bills by CCTPL, it has also requested to delete the note prescribing the rate of penal interest.

The CCTPL has stated that as per the provisions of the Major Port Trust Act, the service charges to the port are payable before availing the services. However, in its scale of rates, since it is indicated that the delay in payment by the users will be counted only 10 days after the date of raising the bills by CCTPL, this clause has been understood to mean a 10 day credit period to the customers. In view of the above, the CCTPL has requested this Authority to remove the clause from its Scale of Rates and instead replace it with a specific clause that the payments are to be made in advance in line with the MPT Act.

The note referred by CCTPL not only states that the delay in payment by the users will be counted only 10 days after the date of raising the bills by CCTPL but also specifies that the said provision will not apply to the case where payment is to be made before availing of the services/ use of port properties as stipulated in the MPT Act, 1963 and/ or prescribed as a condition in the Scale of rates. This note is in line with the provision contained in Clause 2.18.3. of the tariff guidelines of 2005. In view of the above, the request made by CCTPL to delete the said note is not acceded to.

The proposed general note 2.6(ii) prescribing rate of penal interest on delayed payments/ refunds is also retained and modified to reflect the applicable penal rate of interest at 14.75% in terms of prevailing Prime Lending Rate of State Bank of India at 12.75% as stipulated at Clause 2.18.2 of the revised tariff guidelines.

(xxxi).The tariff guidelines of 2005 stipulate that tariff should be linked to benchmark levels of productivity. CCTPL has stated that it has improved its crane productivity in 2009 to more than 27 moves per hour per quay crane. The CCTPL has stated that this may be incorporated in its Scale of Rates. Accordingly, the existing note 2.12 is suitably modified to reflect the crane productivity at 27 moves per hour.

(xxxii). The CCTPL has proposed that the charges for the services rendered at the CCTPL CFS may be denominated in Indian Rupees. While responding to a query that the Charges leviable at CFS are already prescribed in Indian Rupee, the CCTPL has stated that it intends to prescribe the dollar denominated rate for Stuffing/ Destuffing of cargo prescribed at Section 3.2.3 in Indian Rupee. The CCTPL has reasoned that the customers of CCTPL CFS have expressed the opinion that the charges levied for services rendered at the CFS be denominated in INR alone as it will enable them to quote rates to the passengers returning from abroad with the baggage with a greater degree of certainty. The CCTPL has further added that this will not have any variation in revenue estimates. Considering that there is no pointed objection from the users and keeping in view that this will not alter revenue estimates as reported by the terminal, the proposal of CCTPL to prescribe rate for Stuffing/ Destuffing in Indian Rupee terms is approved.

(xxxiii).The CCTPL has proposed to reduce the free days allowed for import containers to 2 days from the existing 3 days. The CCTPL has stated that due to the various improvements in the process of CCTPL have enabled import dwell time to be reduced to an average of one day only. Additionally, the CCTPL has sought to dispense the exclusion of customs holidays falling within the free days from the calculation of free days, since the ACP importers are not affected by customs holidays, if any, due to various improvements in procedures introduced by the customs for the ACP clients.

The users have opposed the reduction in free days as proposed by the CCTPL. The HCC has stated that there are several hurdles like lack of free movement of trucks & Trailers, lack of connecting road facilities, etc and as a result the ground realities suggest that it takes more than 3 to 5 days to evacuate the containers. In spite of a specific query to furnish a detailed dwell time analysis and to explain how the existing free period is detrimental in achieving the optimal yard capacity assessed, the CCTPL

has not furnished the requisite information. It has also not quantified the additional income that would be realized by it on account of the reduction in the dwell time of import containers. In view of the above, the request of CCTPL is not acceded to.

As per the stipulation contained in Clause 4.5 of the tariff guidelines of 2005, free days allowed shall be exclusive of customs notified holidays and port non-working days. In this backdrop, the request of CCTPL to dispense the exclusion of customs holidays falling within the free days from the calculation of free days is not in line with the tariff guidelines.

(xxxiv).In view of the request made by a largest exporter of tobacco, the CCTPL has proposed to reduce the existing rate of ₹2200 per 40 ft container for facilitating fumigation of tobacco containers to ₹1000 per 40 ft container.

The users have endorsed the proposal of CCTPL to have lower rates for fumigation of tobacco containers. The reduction in income on account of prescribing lower rate for fumigation is quantified at ₹11 lakhs per annum by CCTPL. The proposal of CCTPL is, therefore, approved.

(xxxv).Another new tariff proposed to be introduced by the terminal is towards Stuck twist lock removal at ₹1000/- per twist lock removal. According to CCTPL, this requires the container to be segregated on wheel and special equipment and deployment of additional resources so as to enable removal of the jammed twist lock in a time critical fashion before it is sent to the yard for stacking. The CCTPL has stated that since the service is optional, the revenue realization for the said new service will be negligible.

The CEPSAA have opposed the proposed charge on the ground that the charge is part of the stevedore responsibility taken up by CCTPL and supposedly is built into the QC/ gantry charges already prescribed in the tariff. The rate of ₹1000/- proposed by the CCTPL is on the ground that the outside agencies charge ₹2000/- for the said service. To a query to furnish documentary support in respect of the claim that the trade pays around

₹2000/- for clearing jammed locks, the CCTPL has stated that they are given to understand that the rates charged by other CFS's for the said work is ₹2000/-. The CCTPL has not furnished any cost details/ justification for the proposed rate. As a result, the proposed rate for Stuck twist lock removal at ₹1000/- is not approved.

(xxxvi).The CCTPL has proposed to levy a charge of ₹250/- per 20' container towards Weighment of containers, on account of a request from Chennai Customs to carry out weighment of import containers before it is gated out of the terminal. The CCTPL has stated that the service is optional and as such it does not expect many takers for this service. The CCTPL has not given any cost details to arrive at the proposed rate of ₹250/- per TEU. As such, this Authority is not in a position to approve the proposed rate.

(xxxvii).In its proposal the CCTPL has proposed to levy a charge equal to 15 times of the quay crane handling plus container wharfage plus cargo wharfage chargeable for 40 ft length of ODC containers incase of Excessive over-dimensional containers including containers exceeding 40 MT in gross weight.

The users have objected to the proposed rate for handling excessive over-dimensional containers. The CCTPL has pointedly addressed the objection raised by the users in this regard. Inspite of a specific query in this regard, the CCTPL has not furnished the cost of providing service for the excessive over-dimensional containers. In the absence of cost details, this Authority is not in a position to approve the proposed rates for the said service.

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

18.1. The revised Scale of Rates and conditionalities of the CCTPL will come into effect after expiry of 15 days from the date of notification in the Gazette of India and shall be in force till 31 March 2013. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

18.2. The validity of the existing Scale of Rates of the CCTPL is deemed to have been extended beyond 30 September 2010 till the effective date of implementation of the revised Scale of Rates, in terms of the earlier extension Order.

18.3. This Authority has relied upon the estimates for the years 2010-11 to 2012-13. Additional surplus, if any, arising due to variation in actual performance in the said years will be governed by the provisions of Clause 2.13 of the tariff guidelines of 2005 in the next review.

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

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

(Rani Jadhav)
Chairperson

CHENNAI CONTAINER TERMINAL PRIVATE LIMITED												
Scenario 2 : Consolidated Income & Cost statement, when past surplus is set off over a period of five years.												
(Rs. In Lakhs)												
Sr.No.	Particulars	Actuals					Estimates at the existing level of tariff as given by CCTPL			Estimates at existing level of tariff as moderated by us		
		2,007	2,008	2009 3 months	2009 9 Months	2010 3 Months	2010-11 *	2011-12	2012-13	2010-11	2011-12	2012-13
	Traffic (In TEUs)	1052993	1157710	289428	853746	284582	1061136	850000	800000	1061136	1061136	1061136
I	Total Operating Income											
	Container handling income	25873.01	31042.50	7760.63	24268.82	8089.61	28694.87	23396.35	22087.43	29596.86	29653.46	29653.46
	Total	25873.01	31042.50	7760.63	24268.82	8089.61	28694.87	23396.35	22087.43	29596.86	29653.46	29653.46
II	Operating Costs (excluding depreciation)											
	Operating & Direct Labour	817.20	865.53	216.38	717.35	239.12	1301.05	1422.84	1558.64	1300.02	1348.90	1399.62
	Maintenance Labour	390.32	407.60	101.90	309.60	103.20	481.48	553.71	636.76	474.86	492.71	511.24
	Equipment Running Costs	1963.64	2082.04	520.51	1427.21	475.74	2256.46	2133.06	2239.08	2251.43	2438.40	2659.02
	Efficiency Gain	466.53	540.63	135.16	420.21	0.00	1086.13	870.03	818.85	243.55	252.71	262.21
	Royalty / revenue share	6992.34	8417.20	2104.30	6582.32	2194.11	7747.61	6317.01	5963.61	7991.15	8006.43	8006.43
	Equipment Hire	895.46	1080.98	270.25	768.22	256.07	1063.24	900.01	883.92	980.03	1017.94	1056.22
	Lease Rentals	881.59	881.59	220.40	661.19	220.40	881.59	881.59	881.59	3.26	4.08	4.24
	Insurance	198.59	184.76	46.19	143.47	47.82	130.59	126.48	126.32	130.59	126.48	126.32
	Other expenses	439.61	530.23	132.56	333.61	111.20	568.17	578.97	610.09	430.24	446.41	463.20
	Technical Service Fee	324.78	408.85	102.21	321.83	107.28	329.87	274.87	254.37	329.87	330.50	330.50
	Total	13370.07	15399.41	3849.85	11685.01	3754.93	15846.21	14058.57	13973.23	14135.01	14464.59	14819.00
III	Depreciation	2325.60	2536.13	634.03	3171.12	1057.04	4945.67	5910.07	5777.75	4915.50	5710.80	5730.00
IV	Overheads											
	Management & Administration overheads	272.34	290.33	72.58	313.87	104.62	505.57	581.41	668.62	434.23	450.55	467.50
	General Overheads	781.04	892.17	223.04	681.85	227.28	943.32	978.79	1015.59	943.32	978.79	1015.59
	Preliminary expenses & Upfront Payment write-off	38.28	38.28	9.57	28.71	9.57	0.00	0.00	0.00	38.28	38.28	38.28
	Total (i to iv)	1091.66	1220.79	305.20	1024.43	341.48	1448.89	1560.19	1684.21	1415.83	1467.62	1521.37
V	Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)	9085.68	11886.18	2971.55	8388.27	2936.16	6454.09	1867.52	652.25	9130.53	8010.45	7583.09
VI	Finance & Miscellaneous Income (FMI)											
	Profit on sale of assets	1.63	0.09	0.02	0.43	0.14	0.00	70.00	0.00	0.00	0.00	0.00
	Discounted terminal value	0.78	0.90	0.22	0.66	0.27	0.00	0.00	0.00	1.12	1.27	1.43
	Others	30.74	21.77	5.44	27.60	9.20	110.00	0.00	0.00	110.00	0.00	0.00
	Total	33.15	22.75	5.69	28.69	9.61	110.00	70.00	0.00	111.12	1.27	1.43
VII	Finance & Miscellaneous Expenses (FME)											
	Loss on sale of assets	1.33	188.14	47.04	26.28	8.76	296.00	0.00	0.00	0.00	0.00	0.00
	Total	1.33	188.14	47.04	26.28	8.76	296.00	0.00	0.00	0.00	0.00	0.00
VIII	FMI Less FME (VI) - (VII)	31.82	-165.39	-41.35	2.41	0.85	-186.00	70.00	0.00	111.12	1.27	1.43
IX	Surplus Before Interest and Tax (V) + (VIII)	9117.49	11720.79	2930.20	8390.68	2937.01	6268.09	1937.52	652.25	9241.65	8011.71	7584.52
X	Capital Employed	35209.05	35585.86	35585.86	40612.53	40612.53	36736.36	36337.29	31837.54	37254.90	36740.00	32196.90
XI	Return on Capital Employed	5633.45	5693.74	1423.43	4873.50	1624.50	5877.82	5813.97	5094.01	5960.78	5878.40	5151.50
XII	Net Surplus / (Deficit) (IX) - (XIII)	3484.05	6027.05	1506.76	3517.18	1312.51	390.27	-3876.45	-4441.76	3280.87	2133.31	2433.01
XIII	50% of the Net Surplus after Return earned by CCTPL during the years 2007 and 2008 and 100% of the Net surplus after Return for the period from January 2009 to March 2010 and the additional lease rentals allowed in the past from 2002 to March 2010, to be set off over a period of five years.			18706.24			2227.68	2227.68	2227.68	-	3741.25	3741.25
XIV	Total Net Surplus/(Deficit) for Tariff Period						2617.95	-1648.77	-2214.07	3,280.87	5874.56	6174.26
XV	Net Surplus / (Deficit) as a % of operating income (XIV/I in %)						9.12%	-7.05%	-10.02%	11.09%	19.81%	20.82%
XVI	Average Net Surplus / (Deficit) as a % of operating income						-2.65%			17.24%		

Note: * The Figures for the year 2010-11, contains actuals upto October 2010 and estimates thereafter.

Annex-II

CHENNAI CONTAINER TERMINAL PRIVATE LIMITED

Scale of Rates

PREFACE

This Scale of Rates sets out the charges payable to Chennai Container Terminal Private Limited for use of services and facilities provided at the Chennai Container Terminal.

1 DEFINITIONS

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

- 1.1.** "CCT" means Chennai Container Terminal.
- 1.2.** "CCTPL" means Chennai Container Terminal Pvt Limited, a company incorporated in India its successors and assigns.
- 1.3.** "CFS" means Container Freight Station at the CCT.
- 1.4.** "Coastal Vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the competent authority.
- 1.5.** "Container" means the standard ISO container, suitable for the transport and stacking of cargo and must be capable of being handled as a unit and lifted by a crane with a container spreader.
- 1.6.** "FCL" means Containers said to contain Full Container Load.
- 1.7.** "Foreign-going Vessel" shall mean any vessel other than a coastal vessel.
- 1.8.** "Hazardous container" means a Container containing hazardous goods as classified under IMO.
- 1.9.** "ICD" means Inland Container Depot.
- 1.10.** "LCL" means Containers said to contain Less than full Container Load (Container having cargo of more than one importer/
- 1.11.** "Over Dimensional Container" means a Container carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam, etc. Damaged Containers (including boxes having corner casting problem) and Container requiring special devices for lifting is also classified as Over Dimensional Container.
- 1.12.** "Per day" means per calendar day or part thereof.
- 1.13.** "Reefer" means any Container for the purpose of the carriage of goods, which require power supply to maintain the desired temperature.
- 1.14.** "Port" means Chennai Port Trust.
- 1.15.** "Shut Out Container" means a container, which has entered the terminal for export for a vessel as indicated by VIAN and is not connected to the vessel for whatsoever reason.
- 1.16.** "Tonne" means one metric Tonne of 1,000 kilograms or one cubic metre.
- 1.17.** "Transshipment container" means a Container discharged from one vessel, stored in CCT and transported through another vessel.
- 1.18.** "VIAN" means Vessel Identification Advise Number.
- 1.19.** "Fumigation Facility" means facilitating decontamination of cargo with are prone to be affected by pests and which requires pesticides to decontaminate by the way of fumigation or degassing or both.
- 1.20.** "Accredited Clients Programme" means a programme being introduced by the Customs Department by which importers registered by the department as "Accredited Clients" will form a separate category to which assured facilitation would be provided. Except for a small percentage of consignments selected on a random basis by the RMS, or cases where specific intelligence is available or where a specifically observed pattern of non-compliance is required to be addressed, the Accredited Clients will be allowed clearance on the basis of self assessment i.e. as a matter of course, clearance would be allowed on the basis of their declarations, and without examination of goods. Further, this benefit would be available to the registered Accredited Clients at all the ports in the country where EDI and the RMS are operational.

Customs Department expects that this measure will bring about reduction in the dwell time of cargo and transaction costs for such importers. Custom Houses may create separately earmarked facility/counters for providing customs clearance service to the Accredited Clients. Commissioners of Customs are also required to work with the Custodians for earmarking separate storage space, handling facility and expeditious clearance procedures for these clients. Further IMG has also recommended faster delivery system by creating separate area in the port premises clearly earmarked for immediate delivery of cargo to specified accredited importers'. This programme has been defined in details in Customs Circular No. 42/2005-Cus dated 24th November 2005.

2 GENERAL

- 2.1.** Containers less than and upto 20' in length will be reckoned as one TEU for the purpose of tariff.
- 2.2.** Containers other than that of standard size requiring special devices / slings / handling will be charged as per 3.5 below. Such containers will also include damaged containers and any other type requiring special devices.
- 2.3.** Container-related charges denominated in US dollar terms shall be collected in equivalent Indian rupees. For this purpose, the market buying rate notified by the Reserve Bank of India, State Bank of India or its subsidiary or any other Public Sector Banks as may be specified from time to time prevalent on the date of entry of the vessel into the Terminal (in case of import containers) and on the date of arrival of containers in the Terminal premises (in case of export containers) shall be applied for re-conversion of the dollar-denominated charges into Indian rupees.
- 2.4.** All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.
- 2.5.** All invoices are issued as due on presentation. Failure to pay may cause a lien to be placed on the goods handled at the Terminal and the responsible party may be denied further use of the Terminal until all outstanding charges have been paid.
- 2.6.** (i) The user shall pay penal interest on delayed payments of any charge under this Scale of Rates. Likewise, the CCTL shall pay penal interest on delayed refunds.
- (ii). The rate of penal interest will be 14.75% per annum. The penal rate chosen will apply to both the CCTL and the port-users equally.
- (iii). The delay in refunds will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.
- (iv). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the CCTL. 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.
- 2.7.** (i) A foreign-going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order.
- (ii). A foreign going vessel of foreign flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping.
- (iii). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
- (iv). 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 by the discharge ports.
- (v). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other documents will be required to be entitled to coastal rates.
- 2.8.** An LCL Container coming in and going out of the CCT as a unit load will be regarded as an FCL for the purpose of levying charges.
- 2.9.** Users shall not be required to pay charges for delays beyond a reasonable level attributable to the CCTL.
- 2.10.** In case a vessel idles due to breakdown or non-availability of the shore based facilities of CCTL or any other reasons attributable to CCTL, rebate equivalent to berth hire charges payable to Chennai Port Trust accrued during the period of idling of vessel shall be allowed by CCTL.
- 2.11.** If a terminal user provides, with prior consent of CCTL, lashing/ unlashings for lashing operations of all containers in the vessel, then a rebate of Rs.21.45/- per container in handling charges prescribed in Section 3.1.1, 3.2.1, 3.3.1 and 3.4 shall be allowed, subject to the terminal user agreeing to follow safety regulations.
- 2.12.** The benchmark of the level of productivity will be 27 moves per hour per crane for handling of FCL , LCL and ICD import and export containers by quay cranes as mentioned at Section 3.1.1, 3.2.1 and 3.3.1.

3 CHARGES FOR CONTAINER OPERATIONS

3.1. Charges for handling FCL import and export containers and empty containers.

3.1.1. Handling by Quay Crane including lashing/unlashing charges.

	Foreign-going Vessel US\$	Coastal Vessel ₹
Per FCL Container		
- Not exceeding 20' in length	14.64	369.04
- Exceeding 20' and upto 40' in length	21.96	553.32
- Over 40' in length	29.28	737.92
Per empty Container		
- Not exceeding 20' in length	14.64	369.04
- Exceeding 20' and upto 40' in length	21.96	553.32
- Over 40' in length	29.28	737.92

Services include handling by quay crane and lashing/unlashing.

3.1.2. Transportation from QC to Yard & Vice Versa

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per FCL Container		
- Not exceeding 20' in length	417.24	250.35
- Exceeding 20' and upto 40' in length	625.84	375.51
- Over 40' in length	834.48	500.69
Per empty Container		
- Not exceeding 20' in length	206.64	123.98
- Exceeding 20' and upto 40' in length	309.95	185.97
- Over 40' in length	413.27	247.96

Services include transport to and from the quayside.

3.1.3.(a) Handling at Container Yard including lift on/off onto / from the Internal Transfer Vehicle

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per FCL Container		
- Not exceeding 20' in length	230.57	138.35
- Exceeding 20' and upto 40' in length	345.87	207.52
- Over 40' in length	461.14	276.68
Per empty Container		
- Not exceeding 20' in length	114.19	68.51
- Exceeding 20' and upto 40' in length	171.28	102.77
- Over 40' in length	228.37	137.02

Services include lifts at Container Yard for storage.

3.1.3.(b) Handling at Container Yard lift on/off for delivery / receipt to and from customers.

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per FCL Container		
- Not exceeding 20' in length	230.57	230.57
- Exceeding 20' and upto 40' in length	345.87	345.87
- Over 40' in length	461.14	461.14
Per empty Container		
- Not exceeding 20' in length	114.19	114.19
- Exceeding 20' and upto 40' in length	171.28	171.28
- Over 40' in length	228.37	228.37

Services include lifts at CY for landing or loading the container from or to customer's vehicle.

3.2. Charges for handling LCL import and export container.

3.2.1. Handling by Quay Crane including lashing/unlashing charges:

	Foreign-going Vessel US\$	Coastal Vessel ₹
Per LCL Container		
- Not exceeding 20' in length	14.64	369.04
- Exceeding 20' and upto 40' in length	21.96	553.32
- Over 40' in length	29.28	737.92

Services include handling by quay crane and lashing/ unlashing

3.2.2.(a) Transportation of Container from QC to Container yard and Vice Versa:

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per LCL Container		
- Not exceeding 20' in length	396.40	237.84
- Exceeding 20' and upto 40' in length	594.56	356.73
- Over 40' in length	792.75	475.65

Services include transportation of container from Quay to Yard and Vice Versa.

3.2.2.(b)

Handling at Container Yard including lift on/off onto / from the Internal Transfer Vehicle:

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per LCL Container		
- Not exceeding 20' in length	230.57	138.35
- Exceeding 20' and upto 40' in length	345.87	207.52
- Over 40' in length	461.14	276.68

Services include lifts at Container Yard for storage.

3.2.2.(c) Transport of Container from Yard to CFS and Vice Versa, Loading and Unloading container from / to Customers Vehicle and Handling at CFS:

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per LCL Container		
- Not exceeding 20' in length	920.65	920.65
- Exceeding 20' and upto 40' in length	1,381.00	1,381.00
- Over 40' in length	1,841.34	1,841.34

Services include landing or loading the container from or to customer's vehicle, stowage planning on vessel and yard, data handling, processing and transfer of data between vessel, CCT and shipping line. Delivery of Empty Container will be charged a lift on/off separately.

3.2.3. Stuffing / destuffing of cargo at the CCT

	Foreign-going Vessel ₹	Coastal Vessel ₹
Destuffing/stuffing per container		
- Not exceeding 20' in length	695.57	382.97
- Exceeding 20' and upto 40' in length	1,043.35	574.44
- Over 40' in length	1,390.84	765.77

Note: 1 Services include stuffing or destuffing of LCL containers.

2

For stuffing/destuffing half-a-container, 50% of the above-mentioned rates will be levied. For this purpose, part stuffing / destuffing of 50% or less than 50% of a container will be treated as half-a-container. If a container is, however to be topped up or stuffed/ destuffed more than 50%, it will be treated as a full container. For customs examination at CFS if only 25% or less than 25% of a container is destuffed/stuffed then charges will be 25% of above mentioned rates.

3.3. Charges for handling ICD import and export container.

3.3.1. Handling by Quay Crane including lashing/unlashing charges.

	Foreign-going Vessel US\$	Coastal Vessel ₹
Per loaded Container		
- Not exceeding 20' in length	14.64	369.04
- Exceeding 20' and upto 40' in length	21.96	553.32
- Over 40' in length	29.28	737.92
Per empty Container		
- Not exceeding 20' in length	14.64	369.04
- Exceeding 20' and upto 40' in length	21.96	553.32
- Over 40' in length	29.28	737.92

Services include handling by quay crane and lashing/unlashing.

3.3.2. Transportation from QC to container Rail Yard & Vice Versa

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per loaded Container		
- Not exceeding 20' in length	396.40	237.84
- Exceeding 20' and upto 40' in length	594.56	356.74
- Over 40' in length	792.76	475.66
Per empty Container		
- Not exceeding 20' in length	196.31	117.79
- Exceeding 20' and upto 40' in length	294.44	176.66
- Over 40' in length	392.61	235.57

Services include transport to container rail yard, stowage planning on vessel and yard, data handling, processing and transfer between vessel, CCT and shipping line.

3.3.3 (a) Handling at Container Yard lift on/off on to / from the Internal Transfer Vehicle:

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per loaded Container		
- Not exceeding 20' in length	230.57	138.35
- Exceeding 20' and upto 40' in length	345.87	207.52
- Over 40' in length	461.14	276.68
Per empty Container		
- Not exceeding 20' in length	114.19	68.51
- Exceeding 20' and upto 40' in length	171.28	102.77
- Over 40' in length	228.37	137.02

Services include lifts at Container Yard for storage.

3.3.3 (b) Handling at Container Rail Yard lift on/off while giving delivery for Rail

	Foreign-going Vessel ₹	Coastal Vessel ₹
Per loaded Container		
- Not exceeding 20' in length	230.57	230.57
- Exceeding 20' and upto 40' in length	345.87	345.87
- Over 40' in length	461.14	461.14
Per empty Container		
- Not exceeding 20' in length	114.19	114.19
- Exceeding 20' and upto 40' in length	171.28	171.28
- Over 40' in length	228.37	228.37

Services include lift at container rail yard, data handling, processing and transfer between vessel, CCT and shipping line.

3.4. Charges for handling Transshipment Containers including handling by on board stevedoring labour at Quay side, lashing/unlashing charges

	Foreign-going Vessel US\$	Coastal Vessel ₹
Per loaded Container		
- Not exceeding 20' in length	17.56	442.59
- Exceeding 20' and upto 40' in length	26.35	664.05
- Over 40' in length	35.13	885.34
Per empty Container		
- Not exceeding 20' in length	17.56	442.59
- Exceeding 20' and upto 40' in length	26.35	664.05
- Over 40' in length	35.13	885.34

Services include handling by quay crane (discharge and loading), transport and, lifts, stowage planning on vessel and yard, data handling, processing and transfer between vessel, CCT and shipping line.

- Note:** 1 A transshipment container sent to CFS, ICD or taken delivery locally shall be charged the local container rate.
- 2 A Shut out charge as per 3.10 shall apply if -
- The vessel nomination is changed ; or
 - If the vessel nomination is changed from a later vessel to an earlier vessel after the earlier vessel is berthed.

3.5. Charges for Hazardous Cargo Containers / Over-dimensional Cargo Containers.

A premium of 25% will be levied over the applicable handling charges prescribed above for respective categories of containers.

3.6. Charges for Wharfage

	Foreign-going Vessel US\$	Coastal Vessel ₹
Per Container (box only)		
- Not exceeding 20' in length	0.84	21.13
- Exceeding 20' and upto 40' in length	1.26	31.78
- Over 40' in length	1.67	42.09
Per Containerised Cargo	₹	₹
- Not exceeding 20' in length	460.10	276.06
- Exceeding 20' and upto 40' in length	690.16	414.10
- Over 40' in length	920.21	552.12

Note:

- The charge for containerised cargo in all cases will be in Rupee terms.
- The charge for containers in cases of 'foreign arrival' and 'foreign departure' will be in Dollar terms.
- The charges for containers in cases of 'coastal arrival' and 'coastal departure' will be in Rupee terms.
- Wharfage will be charged on all containers including ICDs, transshipment, LCL and FCL and empty containers.

3.7 Charges for handling hatch covers for one operation (both opening and closing).

	Foreign-going Vessel US\$	Coastal Vessel ₹
Without landing hatch cover on quay	11.71	295.17
With landing hatch cover on quay	29.28	737.92

Note: Half the rate shall be charged if there is only one activity, i.e. either an opening or closing operation.

3.8 Charges for shifting containers within vessel (Restows).

	Foreign-going Vessel US\$	Coastal Vessel ₹
Within hatch (without landing and reshipping) per container		
- Not exceeding 20' in length	7.12	179.36
- Exceeding 20' and upto 40' in length	10.67	268.79
- Over 40' in length	14.22	358.40
Via Quay (shifted by landing on Quay & reshipping) per container		
- Not exceeding 20' in length	20.92	527.11
- Exceeding 20' and upto 40' in length	31.38	790.66
- Over 40' in length	41.83	1,054.05

Note: No Wharfage will be levied on the restow containers and containerised cargo.

3.9 Reefer related and other General Services

		Foreign-going Vessel US\$	Coastal Vessel ₹
a)	Pre-trip inspection (including supply of electricity)	21.45	540.54
b)	Connection or disconnection Services On board a Vessel	1.43	36.04
c)	Cleaning of Container		
	- Not exceeding 20' in length	1.07	27.03
	- Exceeding 20' and upto 40' in length	2.15	54.05
	- Over 40' in length	3.22	81.08
d)	Supply of electricity (including connection and disconnection, monitoring of temperature at reefer yard) Per container per 4 hours shift or part thereof		
	- Not exceeding 20' in length	2.30	57.99
	- Exceeding 20' and upto 40' in length	3.45	86.98
	- Over 40' in length	4.60	115.97

Notes

- Above tariff does not include parameter setting or repair & maintenance of malfunctioning reefers. Above charges are also applicable to restow reefer containers.
- Pre-trip inspection of the reefer containers and cleaning of containers are optional services and shall be rendered when requested.

3.10 Charges for a shut out container/ renomination of containers

	Foreign-going vessel US \$	Coastal Vessel ₹
Per Container		
- Not exceeding 20' in length	15.89	667.49
- Exceeding 20' and upto 40' in length	23.85	1,001.64
- Over 40' in length	31.79	1,335.24

Note: Above charge shall apply where -

- an export container or a transshipment container or a re-export container is shut out and subsequently delivered out of CCT.
- A container is shut out by one vessel and subsequently shipped on another vessel, in addition to the charges for handling by quay crane charges. In this case, the free storage period will be given to the Container in accordance with section 3.11 from the time the container is first received. If the free storage period is exceeded, storage charges shall be calculated after the expiry of the free period up to the time of lift on.

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

- (i). The consignee can issue a letter of abandonment at any time.
- (ii). If the consignee chooses not to issue such letter of abandonment, the container Agent/MLO can also issue abandonment letter subject to the condition that,
 - (a) The Line shall resume custody of container along with cargo and either take back it or remove it from the port premises; and
 - (b) The Line shall pay all port charges accrued on the cargo and container before resuming custody of the container.

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

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

3.12.12. The ground slots for export containers will be reserved for 7days for weekly call of the vessel and for 5days for bi-weekly calls of vessel.

3.13 Miscellaneous Charges

S. No.	Particulars	₹ per container		
		Not exceeding 20' in length	Exceeding 20' in length and upto 40' in length	Exceeding 40' in length
(i).	Fixing/removal of seal	143.00	143.00	143.00
(ii).	Lift on/lift off in the CY	460.10	690.16	920.21
(iii).	Charges for shifting within the Terminal	627.41	941.12	1,254.83
(iv).	POD Change	627.41	941.12	1,254.83
(v).	Additional movement – Terminal to Rail or Rail to Terminal / Charges for extra movement/ transportation	627.41	941.12	1,254.83
(vi).	Change of status of Container from Rail to Road or vice-versa	627.41	941.12	1,254.83
(vii).	Charges for export containers arriving in the terminal after the gate cut-off time for the particular VIAN	627.41	941.12	1,254.83
(viii).	Fixing/removal of Hazardous Sticker (per containers)	71.50	71.50	71.50
(ix).	One Door Open Charges per container	429.00	429.00	429.00
(x).	Cancellation of documents - per EIR	71.50	71.50	71.50
(xi).	Non- declaration / Mis declaration of Hazardous and Over Dimensional containers	2,145.00	2,145.00	2,145.00
(xii).	On- Wheel Customs inspection (per container)	286.00	286.00	286.00
(xiii).	Facilitating Fumigation of Tobacco Containers	1,000.00	1,000.00	1,000.00
(xiv).	Forklift charges for movement of Lashing Bins within the Terminal (per Lashing Bin)	71.50	71.50	71.50

Notes

- (i). Cancellation charges applies when EIR is cancelled at the request of customers
- (ii). "One Door Open" charge is applicable for handling container which requires only one door to be kept open (eg. Onion) and when door opening and securing is carried in the terminal.
- (iii). "Fixing of Seal ". Bottle seals shall be fixed on every container arriving at the terminal - by rail /road/sea without a proper bottle seal on it, prior to allowing its entry. This shall be done without the written consent of the shipping line. The list of such containers on which a seal is affixed by the terminal shall be intimated to the lines.
- (iv). "Fixing/ removal of Hazardous Sticker". Hazardous stickers indicating IMCO class only shall be affixed on a container carrying hazardous cargo. Similarly old stickers on the container shall be removed from a container carrying non-hazardous cargo. In either case, the customer has to intimate in writing to CCT to undertake the said activity, within the terminal.
- (v). On- Wheel Customs inspection. The on-wheel inspection of a container shall be allowed at the nominated point only, on the written request of the customer. The container doors can be opened only under customs supervision. No stuffing/ destuffing, even partially, shall be permitted within the terminal premises.

(vi). Additional movement - from terminal to rails siding or rail siding to terminal will be applicable for ICD container moved by CCT.

(vii). Non- Declaration / Mis-declaration of Hazardous container. The Customer has to declare the hazardous nature of the cargo as per the IMCO rules and furnish the relevant hazardous details to CCT. The above charges are only for non-declaration/ mis-declaration of the hazardous nature of the container.

The liabilities and cost towards the consequences arising due to non declaration or mis declaration shall, however , be on the customers account.

3.14. Charges for supply of Fresh Water to shipping alongside the container berths.

	Foreign-going US\$.	Coastal ₹
Per 1000 Liters or part thereof	4.86	203.93

3.15. Charges for clearance of Garbage on-board

	₹
Per 1/2 cubic meter bag	167.31

4 CHARGES LEVIABLE AT THE CFS

4.1. Storage charges

Period	Rate per ton or part thereof per day or part thereof ₹
First 3 days	Free
4 - 10 days	17.88
11 days- 20 days	35.75
21 days - 30 days	53.63
Thereafter	71.50

Note: For purposes of calculation of free time, Sundays, Customs notified Holidays, and the Terminal's non-operating days shall be excluded.

4.2 Other Charges

Service	Unit of levy	Rate in ₹
Charges for landing from/ Loading to vehicle.	per ton or part thereof.	25.03
Forklift charges at the request of customer.	per Metric Ton	125.13
Packing/ unpacking charges at the request of the customer.	per package	35.75
Admittance and labeling charges for receiving of cargo for stuffing.	per Metric Ton	17.88
Documentation charges.	per consignment	35.75
Palletization / Depalletization.	per pallet	71.50

3.11. Charges for Container storage

Sl. No.	Particulars	Foreign-going Vessel			Coastal Vessel		
		Per container per day or part thereof			Per container per day or part thereof		
		Rates in US\$			Rates in ₹		
		Upto 20' in length	Above 20' and upto 40' in length	Above 40' in length	Upto 20' in length	Above 20' and upto 40' in length	Above 40' in length
1	Import-FCL, LCL & Empty 0- 3 days 4-15 days 16-30 days Beyond 30 days	Free 3.58 7.15 14.30	Free 7.15 14.30 28.60	Free 10.73 21.45 42.90	Free 150.15 300.30 600.60	Free 300.30 600.60 1201.20	Free 450.45 900.90 1801.80
2	Export – FCL, LCL & Empty 0- 7 days 8-15 days 16-30 days Beyond 30 days	Free 3.58 7.15 14.30	Free 7.15 14.30 28.60	Free 10.73 21.45 42.90	Free 150.15 300.30 600.60	Free 300.30 600.60 1201.20	Free 450.45 900.90 1801.80
3	ICD – Import & Export – Loaded & empty First 10 days 11-30 days 31-45 days Beyond 45 days	Free 3.58 7.15 14.30	Free 7.15 14.30 28.60	Free 10.73 21.45 42.90	Free 150.15 300.30 600.60	Free 300.30 600.60 1201.20	Free 450.45 900.90 1801.80
4	Transshipment – Loaded & empty First 30 days 31-45 days 46-60 days Beyond 60 days	Free 3.58 7.15 14.30	Free 7.15 14.30 28.60	Free 10.73 21.45 42.90	Free 150.15 300.30 600.60	Free 300.30 600.60 1201.20	Free 450.45 900.90 1801.80
5	Shutout – Loaded & empty First 15 days 16-30 days Beyond 30 days	3.58 7.15 14.30	7.15 14.30 28.60	10.73 21.45 42.90	150.15 300.30 600.60	300.30 600.60 1201.20	450.45 900.90 1801.80
6	Change of status to local delivery First 3 days 4—15 days 16-30 days Beyond 30 days	Free 3.58 7.15 14.30	Free 7.15 14.30 28.60	Free 10.73 21.45 42.90	Free 150.15 300.30 600.60	Free 300.30 600.60 1201.20	Free 450.45 900.90 1801.80

3.12.1. Storage period for a container shall be reckoned from the day following the day of landing upto the day of loading / delivery / removal of container.

3.12.2. For purposes of calculation of free time, Sundays, Customs notified holidays, and the Terminal's non-operating days shall be excluded.

3.12.3. The storage charges shall not accrue for the period during which the CCTL is not in a position to deliver / ship containers when requested by the user.

3.12.4. Transshipment containers whose status is subsequently changed to local FCL/LCL/ICD shall lose the concessional storage charges. The storage charges for such containers shall be recovered at par with the relevant import containers storage tariff.

3.12.5. For hazardous container, the storage charges shall be 25% more under the respective slab as given above.

3.12.6. For over dimensional containers including the windmill boxes. the storage charges shall be based on the actual number of ground slots the respective slab as given above.

3.12.7. If boxes meant for delivery under the "Accredited Client Programme" (ACP) as explained at 1.21 above are not moved out within 3 days of its landing at the terminal, these boxes would be shifted to the normal import stack area from the designated ACP import stack area, in which case extra Lift on/Lift off and/or Shifting charges as applicable would be charged.

3.12.8. The free time and storage rates prescribed in case of ICD containers are applicable only for movement of containers to/from ICDs going by rail only.

3.12.9. Normal import containers subsequently changing the mode to either LCL or ICD containers will enjoy the free period applicable to local FCL containers.

3.12.10. Total storage period for a shut out container shall be calculated from the day following the day when the container has become shut out till the day of shipment/ delivery.

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

F. No.TAMP/11/2009-COPT - Proposal from the Chennai Container Terminal Private Limited for revision of its Scale of Rates. of its Scale of Rates

1. The summary of comments received from users / user organisations and the comments of Chennai Container Terminal Private Limited (CCTPL) thereon are tabulated below:

Sl. No.	Comments of users	Comments of CCTPL on users comments
1.	The Chennai & Ennore Ports Steamer Agents' Association (CEPSAA)	
(i).	The proposal admits that an increase of 16% has been sought while actual workings reflect more. The CCTPL need to clarify how this has been computed.	We regret that the 16% in the cover letter is a typographical error and 18% is the correct rate of increase sought. We have adequately explained the rationale for the revision in our submissions and attachments and the same is as per the TAMP guidelines.
(ii).	Out of gauge cargoes / over dimensional cargoes – the THC matrix is disputable. An excessive levy as proposed appears to be an attempt to dissuade such import / export of such cargo through CCTPL. The CCTPL cannot choose to handle what suits their interest and turn down one section of the trade indirectly. The current levels of 25% over the normal THC is more than adequate to serve this need.	The proposal for OOG containers is only applicable for excessively OOG containers which cannot be handled while having the normal container spreader attached to the crane. Handling of such excessively OOG containers requires removal of the normal container spreader in order to attach the special handling gear required to handle such excessively OOG containers. The justification for the charges proposed is given along with our proposal. The time taken for handling such excessively OOG containers is about 35 minutes per container which directly affects the productivity of the terminal as mandated by TAMP and hence the terminal must be compensated for the resources deployed for handling these containers.
(iii).	Weighment of containers should not be applied across and must be restricted to heavy cargoes as this increase transaction costs. Further terminal must be collected accordingly from such parties directly as is being done from tobacco exporters.	Until a container is actually weighed, it cannot be determined whether the container is heavy or not. Further, it is not possible to apply only this charge payable by the shipper / consignee directly. Since all containers will be weighed, it can only be charged to the shipping line, who in turn may collect it from their customers.

(iv).	Stuck twist lock removal – This charge is not acceptable as this is part of the stevedore responsibility taken up by CCT and supposedly is built into the QC/gantry charges already in tariff.	The QC handling charge only involves removal and fitment of container lashing material which are readily removed / fitted by hand. This proposal only applies to those containers lashing gear which are jammed and cannot be removed by hand. This obviously requires special gear and processes along with personnel trained in the use of such special gear. The proposed charge is to cover the costs associated with the removal of such gear.
(v).	Reduction in the free days for import containers: the recession has already done extensive damage in bringing down the throughput by over 25% and the various measures taken by the Government of India in boosting the economy is slowly paying its dividends. There is an increasing need expressed by the trade to cut down their costs and take direct deliveries from terminal instead of from the CFSs view open space availability at the terminal. In light of this reducing the free time would be the unkindest cut of all.	The proposal and justification for reduction of dwell days has been clearly outlined. All the stakeholders in the container trade have the responsibility to reduce the dwell days for import containers, which will ultimately lead to a reduction in cost for the importer. While the terminal's current average import dwell time is less than 1 day, we have agreed to retain such containers for twice the current dwell time free of charge within the terminal. Further, it has been the stated policy of the Government of India and Indian Customs that goods be cleared as soon as possible within landing. In order to ensure that all stakeholders work actively towards reduction of the dwell time, it is necessary that a deterrent be in place for those exceeding the average by substantial margins.
(vi).	Reducing the dwell time of containers is the fundamental responsibility of the terminal and ensures that the terminal is strictly used for the movement of export / import cargoes in and out of the terminal and the facility is not used as storage space. It was at CCTPL's behest that the off-dock movement of import containers to CFS was commenced to reduce congestion within the terminal. This came at a price for the trade for movement. The terminal cannot seek compensation for its loss of revenue consequent to an action initiated by them for their cause.	Same as response to (v).
(vii).	At the present juncture of recession having deeply hit the industry and while awaiting its recovery, any increase on transaction costs would further hamper	We have adequately explained the rationale for the revision in our submission and attachments and the same is as per the TAMP guidelines.

	the efforts of trade to restore normalcy.	
(viii).	It is also essential that TAMP must make the service provider realize that such proposals should not become customary after expiry of the period of the previous approval and that this practice must be discouraged. On the contrary we do not see any efficiency gains being passed on by decrease in THC. Hence would request that the present tariffs be maintained and there is no justifiable urgency to provide an upward revision at a time when the trade is struggling.	The clear working on efficiency gains achieved and passed on to the trade has been outlined in our proposal. The computation of efficiency gains is as per the tariff setting guidelines of March 2005.
2.	Chennai Port Trust (CHPT)	
(i).	<u>Current performance and targeted objective for productivity enhancement measures:</u> CCTPL has envisaged some measures to bring about an Online Linkage with Customs to facilitate paperless approvals for movement of Container from the Terminal. As such there is no specific remarks to offer.	CCTPL has no comments to offer.
(ii).	CCTPL has proposed to realign certain tariff proposals as well as introduce certain new tariff items aimed at improved efficiency and productivity. This will result in increase in the income of M/s.CCTPL as well as the royalty share of CHPT. With reference to introduction of new services, there is no specific remarks to offer since the implementation and execution of the new proposals has to be decided by M/s.CCTPL.	
(iii).	<u>Volume Discounts:</u> CCTPL proposal to introduce a Volume Discount of 3% for all Shipping Lines who use their service to handle more than 20000 TEUs may have an impact on CHPT revenue share. As per Article 4.01 of the License Agreement, the discounts given by the Licensee below the rate fixed by the TAMP shall be given by the Licensee only in respect to the charges due and	The Notification for volume discount will enable CCTPL to attract more volumes to CCT. This will enhance the amount of Royalty payable to CHPT and hence in our opinion CHPT should welcome this proposal and consider revenue share on Discounted volumes.

	payable by the Consignees/Owners or Vessel owners/Agents to the Licensee and not in respect of the charges payable by such persons directly to the Licensor. Further, as per Article 5.02 (a) of the License Agreement, any discounting or rebating in tariff shall not effect the amount of royalty payable by Licensee which shall be calculated on the basis of the amount fixed by the TAMP or the actual tariff recovered/charged for the actual throughput whichever is higher whether or not Licensee is able to recover it or not. Subject to compliance of the Article of the Agreement, M/s.CCTPL proposal for Volume discounts may be considered. Since the rates approved by TAMP are the ceiling rates only, M/s.CCTPL may offer any Volume discounts on their own.	
(iv).	<u>Container Volumes:</u> CCTPL has stated that there will be a reduction in the handling of Containers by them since the second terminal at Chennai Port has commenced operations from 4 June 2009 and that 35% of the total available volumes would be captured by the 2nd Container Terminal. This is a traffic projection as made by M/s.CCTPL and CHPT has no specific remarks to offer.	CCTPL has no comments to offer.
(v).	<u>Revenue Assumption:</u> CCTPL has stated the methodology/the assumptions made in computing the income of their proposals and CHPT has no specific remarks to be offered on the above.	
(vi).	<u>Expense Assumptions:</u> CCTPL has stated the methodology/the assumptions made in computing the expenditure of their proposals and CHPT has no specific remarks to be offered on the above.	
3.	Hindustan Chamber of Commerce (HCC) and Andhra Chamber of Commerce (ACC)	

	CCTPL has seen stupendous growth and is working at its optimum capacity (almost 100%). While TAMP in its guidelines recognizes 70% utilization as an accepted norm for cost workings, the additional revenue/gain by the CCTPL should satisfy them. HCC is representing the interest of trade bodies and its users urge them to share their gains resulting by way of handling large volumes and the resultant reduction in per unit cost. This reduction in costs should enable them to reduce the tariffs rather than ask for an increase of 16%. Moreover by their own submission they foresee competition in future this should make them to reduce tariffs and attract more customers rather than increase the tariffs and see more exodus of cargo.	--
(i).	<u>Tariff Proposal</u>: While it is proposed by them to revise the tariffs by 16% over the current tariffs, we find in their working on change in average cost for a typical port user to go up by about 18%. The trade especially under the present global scenario of recession is not in a position to bear such a steep hike. If insisted and approved it will result in the costs of the Indian industry to go up and thereby lose its competitiveness.	We regret that the 16% in the cover letter is a typographical error and 18% is the correct rate of increase sought. We have adequately explained the rationale for the revision in our submissions and attachments and the same is as per the TAMP guidelines.
(ii).	<u>Excessively Over Dimensional Containers and containers exceeding 40MT in Gross Weight</u>: Such cases are rare and a liberal approach should be adopted. We disagree with the CCTPL's suggestion to fix the tariff taking into account that it takes 35 minutes per move for such containers and TAMP recognizes 25 moves per hour for such crane hence proportionate cost to be worked out and allowed to be charged i.e. as suggested by them at a cost of 15 moves. This should not be permitted at all. Tariff is not cargo wise but container wise. If permitted will set a wrong precedent.	The proposal for OOG containers is only applicable for excessively OOG containers which cannot be handled while having the normal container spreader attached to the crane. Handling of such excessively OOG containers requires removal of the normal container spreader in order to attach the special handling gear required to handle such excessively OOG containers. The justification for the charges proposed is given along with our proposal. The time taken for handling such excessively OOG containers is about 35 minutes per container which directly affects the productivity of the terminal as mandated by TAMP and hence the terminal must be compensated for the resources deployed for handling these containers.
(iii).	<u>Weighment of Containers</u>: We the	There have been very frequent occurrences of

	Trade body and the users do not want any weighment to be carried out. We understand that CHENSSA has not made any such request. It should not be levied. As per CCTPL's own submission the revenue amount will be negligible then CCTPL should be magnanimous enough not to charge the same.	over loading of containers beyond the declared weight. This has lead to consequent over loading of ships and the need to 'shut-out' and 're-route' export containers on to other vessels. This has affected the Terminal's space utilisation and ability to freely accept export containers. Accurate weighment will enable the terminal to advise the shipping lines of the correct weight thereby enabling the Shipping lines to take preventive action to avoid overloading of ships. Provision of this facility involves substantial additional investment and hence this cannot be provided free of charge as requested
(iv).	<u>Facilitating Fumigation of Tobacco Containers:</u> CCTPL has proposed to reduce by more than half (From Rs.2200/- to Rs.1000/-), the charges for facilitating fumigation of cargo for A particular user. We are very happy. We would further appreciate if the same principle is applied for all users.	No Comments.
(v).	<u>Reduction in free days for import containers:</u> The move for reducing number of free days from 3 to 2 is simply uncalled for. As per their own submission maximum containers are moved out say within 1.2 days. The assumptions made are upon existence of idealistic situations which do not really exist. There are several hurdles like lack of free movement of trucks & Trailers, lack of connecting road facilities, etc. Presently also the ground realities suggest that it takes more than 3 to 5 days to evacuate the containers. Under the circumstances we would suggest that instead of reducing the number of free days from 3 to 2 it should be increased from 3 days to 5 days. Further the suggestion of excluding the Customs holidays falling within free periods from the calculation of free period should never be accepted. CCTPL should be advised to drop the proposal.	The proposal and justification for reduction of dwell days has been clearly outlined. All the stakeholders in the container trade have the responsibility to reduce the dwell days for import containers, which will ultimately lead to a reduction in cost for the importer. While the terminal's current average import dwell time is less than 1 day, we have agreed to retain such containers for twice the current dwell time free of charge within the terminal. Further, it has been the stated policy of the Government of India and Indian Customs that goods be cleared as soon as possible within landing. Towards this end, Government of India has facilitated advance filing of documents with Customs for clearance of Import containers and provided facility of EDI based approval for movement of containers to off-dock CFSs immediately on grant of entry inwards of the vessel. There is thus no need for an importer/shipping line/CFS to wait for Customs clearance after arrival of the vessel. Therefore the need for excluding customs holidays from the calculation of free time is obviated. In order to ensure that all stakeholders work actively towards reduction

		of the dwell time, it is necessary that a deterrent be in place for those exceeding the average by substantial margins.
(vi).	<u>Labour:</u> Labour needs to be paid well but the proportions stated seem to be on the higher side. The increase should be proportionate to what other industries in general pay. Needless to say under the present circumstances of recession the increase assumed is higher. Moreover when the increase is done at the indexed rate, a further increase at 45% assumed is higher. We in no way object to CCTPL giving increased wages and fat salaries. Our only concern is that for cost considerations, only the amount worked out as per guidelines should be adopted.	Labour settlements are part of the Industry practice and to retain skilled manpower on whom CCT has spent considerable amount in training and developing their skills, the increase matching with industry standards have to be given. Hence this increase has to be considered. Further these settlements are for longer period where there is initial increase in the first year followed by lower increase in coming years. Please note that the average increase for the 3 year period works out only to around 18% which as explained above is very reasonable and keeping with the industry standards.
(vii).	<u>Electricity:</u> Assumption of 10% increase and at 5.80% thereafter is without sound reasoning and needs to be evened out.	TNEB is already in the process of increasing its tariff citing huge losses and in the final stages of announcing the price revision. CCT has assumed very nominal increase of 10% in the 1st year and gone by TAMP guidelines for further years.
(viii).	<u>Fuel Cost:</u> There was a steep fall in the fuel cost in the years 2008 and 2009. Compared to those rates the cost may have marginally gone up. But for the present it has stabilized. Therefore increase of 11.26% for the year 2010 and at 10% thereafter is on the higher side. CCTPL in one of their own monthly Trade Meet had stated that they were able to achieve a record of 52 moves per hour. This had resulted in a saving of fuel of about 1,00,000 liters. This is laudable. But when there are savings in the cost, estimating increase in cost on assumptions and asking for a hike in tariff is not understandable.	The effect of the savings achieved due to efficiency gains on savings in fuel costs has been passed on in our Tariff Proposals as per the guidelines of TAMP. We also would like to point out that the diesel price has already increased by 9.4% compared to the price prevailing at the time of our submission of thproposal.and therefore the assumed increases are very reasonable and justified.
(ix).	<u>ITV Hire Charges:</u> Assumption of 10% inflation rate is unreasonable when presently it ranges between 5 to 7.2%. Reasonableness as per TAMP guidelines may be adopted.	The assumptions are reasonable based on the actual prevailing scenario and request TAMP to consider the same as submitted.
(x).	<u>Lashing Contract Cost:</u> Same as ITV hire charges. Reasonableness to be adopted.	The assumptions are reasonable based on the actual prevailing scenario and requests TAMP

		to consider the same as submitted.
(xi).	<u>CFS & Checkers Contract rates:</u> Reasonableness as per TAMP guidelines may be adopted.	The assumptions are reasonable based on the actual prevailing scenario and requests TAMP to consider the same as submitted.
(xii).	<u>Marketing Expenses:</u> This is an expenditure to face the emerging competition in future. They may have to spend on marketing, but this is not a cost related to the normal operations and hence should never be taken in to cost consideration for fixation of tariffs.	Marketing Costs are very much part of the total cost in any organisation and there is no reason for excluding the same.
(xiii).	<u>General Expenses:</u> To be adopted as per Norms in Table- 3, Sl No. 6.	The assumptions are reasonable based on the actual prevailing scenario and requests TAMP to consider the same as submitted.
(xiv).	<u>Depreciation:</u> To be adopted as per Norms in Table- 3, Sl No. 5.	The assumptions are reasonable based on the actual prevailing scenario and request TAMP to consider the same as submitted
(xv).	<u>Lease Rental Payments to CHPT:</u> This may be adopted as per the Scale of Rates of Chennai Port Trust. However Revenue sharing involved if any should not be treated as cost as it is only an appropriation of profits among them and not a charge against profits. Further we do not understand the arithmetic's of their calculations.	The lease rentals are as per the scale of rates. The Cost pass through percentage of the Royalty has been decided by MOS and same policy directions have been adopted in the proposal.
(xvi).	<u>Technical Fee to P&O Ports:</u> We draw your attention to Para 2.8.2 of Notification G.No.39 Dt. 31.03.2005. First the need to pay and then the reasonableness needs to be established. Allowance of the Technical Fee by Income Tax department is not a justification in itself. This is stated here as there is no explicit mention in the Guidelines for Major Ports 2008. As per our understanding the technical fee to a promoter is payable if the organization running the port activity is new or has no technical experience of running a port facility of handling more than 4,00,000 TEUS. DP WORLD is number one in handling of port facilities across the globe. Hence DP World paying Technical Fee is not understandable. If they are paying they may pay but our suggestion is that it should not be added	The proposal has been submitted taking into account the requirement of Para 2.8.2 of guidelines for setting up tariff notified in March 2005 and we confirm that the requirement of 'arms length relationship' has already been established.

	as cost for Tariff calculations. Moreover Technical Fee is not a recurring expense.	
(xvii).	<u>Receipts from Served from India Scheme (SFIS)</u> : This is an earning directly related to the normal operations of services carried out by CCTPL. These are treated as deemed export and they earn this incentive. As such this is a Revenue Receipt. If they have utilized the scrip in import of Capital Goods they can capitalize the same. But their suggesting that there is no effect or nil effect since they offset the receipt against expenditure while utilizing the scrip. Their assumption is erroneous as a revenue receipt cannot be offset against a capital expenditure.	TAMP guidelines provides for return on capital employed by the terminal operator. The SFIS scripts allow the operator to have reduced capital expenditure in form of duty. The SFIS are utilised for purchase of Capital equipments. Use of SFIS script does not result in injection of capital by the operator and hence is only notional accounting adjustment. While using the SFIS, since the capital investment is not made by the terminal operator. It should not qualify for return on investment. In the application submitted by CCT, the return on capital employed and depreciation is projected only after excluding the capital addition arising from use of SFIS. . Based on the above, there is no adverse impact in setting of tariff.
4.	National Association of Container Freight Station (NACFS)	
	NACFS has reiterated the comments made by HCC.	The CCTPL comments are similar to the comments furnished by it on the comments made by HCC.

2. A joint hearing in this case was held on 29 June 2010 at the Chennai Port Trust premises. The CCTPL revised its proposal and made a power point presentation of its revised proposal. At the joint hearing, CCTPL and the concerned users/ organisation bodies have made the following submissions:

Chennai Container Terminal Private Limited

- (i). We have inducted 2 new Quay Cranes in 2009. These are turin pick cranes. With this, more windows are available for ships and productivity of 30 + moves / hour has become possible.
- (ii). We have asked for an increase of about Rs.490 / TEU more than 2009 tariff. The breakup of savings to users because of our efforts is as follows:

High productivity	-	216
Reduced inventory holding	-	144
IT enabled process	-	39
Reduced container detention	-	216
Operational improvement	-	32
Reduced trucking cost	-	140
Total savings to customer	-	784 / TEU

The proposed increase will not, therefore, burden the users.

- (iii). Import container dwell time was around 1 - 2 days in 2008 and it was 1 day in 2009.
- (iv). CCTPL share in southern market has declined from 60% in 2007 to about 51% in 2010.
- (v). We propose an investment of Rs.316, Rs.315 and Rs.210 crores in 2010, 2011 and 2012 respectively.
- (vi). With the commissioning of 2nd container terminal at CHPT, our volumes in 2010 have suffered.
- (vii). From 2011 to 2012, we expect 8% growth per annum over the respective previous year.
- (viii). Additional investment has helped us to provide berthing even to non-window vessels.
- (ix). Wage settlement for our workers is valid from 3 years. The last settlement was 2007. It is now due from May 2010.
- (x). Appeal is filed by CHPT against the Order of Single Judge on lease matter. Division Bench has not stayed the Order. (CHPT confirms that they account the actuals received from CCTPL in their tariff proposal and not the notional one claimed by CCTPL.)

Chennai & Ennore Ports Steamer Agents' Association

Trade is undoubtedly benefited by private container terminals. But not in tangible cost reduction. Improvement of systems is expected.

Hindustan Chamber of Commerce

- (i). Savings to the users alone cannot be the reason for tariff increase. Such increase should be permitted within the framework of tariff guidelines of 2005.
- (ii). Duty exemption received from CCTPL should be accounted as revenue receipt to them.
- (iii). We strongly oppose the proposed reduction of free days.

- (iv). Truck turnaround of 40 minutes claimed by CCTPL is only in the operational area. Trucks wait at the gate for hours. This should be addressed to ensure real benefit accrues to users. This will have impact on free days.

3.1. The revised proposal was circulated to the CHPT and the concerned users for their comments. Shipping Corporation of India Limited (SCI) vide its letter dated 10 September 2010 has furnished its comments on the revised proposal filed by CCTPL, which has been forwarded to the CCTPL as feedback information. The CCTPL has not furnished its comments on the points made by SCI. The comments received from the SCI is summarised below:

- (i). The general revision of Scale of Rates proposed by CCTPL basis efficiency parameters / cost savings to terminal users should be based on actual figures at the start and end of the revision cycle and that the same should be reworked and submitted for their consideration alongwith their growth (traffic) projections upto the year 2013.
- (ii). It is suggested that commensurate with the efficiency parameters instituted / invested in by CCTPL, the same should be accompanied by reduction/ savings in costs to port users and any loss in revenues due to reduction in volumes due to prevailing recessionary conditions, loss of business to the new terminal viz. CITPL etc. could not be expected to be subsidized by terminal users.
- (iii). It is observed that the growth projections of commissioning of the proposed new mega offshore container terminal sometime during 2013 and the new container terminal at Ennore not defined suitably in the current proposal submitted by CCTPL.
- (iv). The CCTPL's contention regarding emergency of other regional ports in South India such as Vallarpadam and poaching on the same hinterland, it may be worthwhile to note that International Container Transshipment Terminal (ICTT) at Vallarpadam is another terminal owned & operated by DP World as also of the fact that emergence of other regional ports is hardly a secret with each and every single port project aggressively publicized by the promoters as well as by the Government in its National Maritime Development Programme (NMDP) / Public-Private Partnership initiatives / success stories. Needless to say, competition is here to stay and CCTPL may be encouraged to initiate cost-cutting / austerity measures etc., benefits/ savings of which could then be used to attract new customers as well as retaining existing ones.
- (v). The increases for power, fuel, operating labour costs as enumerated by CCTPL would surely have found a place in their long term business model and suitable increases at appropriate time intervals would have been incorporated in the various sensitivity analysis carried out by them to establish the viability of the above mentioned long term business model. It is noteworthy that CCTPL is now

a mature terminal, free from the shackles that inhibited its growth & development (in the past), and must be ideally placed on the downward spiral of its learning curve, affording them a unique opportunity to ass on the benefits reaped in the form of reduced per unit costs to port users rather than seek upward revisions from time to time as is done by many ports in the public domain.

- (vi). There should not be any general revision of Scale of Rates as proposed by CCTPL.

3.2. The other user organisations have not furnished their comments on the revised proposal of the CCTPL. The CHPT vide its letter dated 25 November 2010 has furnished its comments on the revised proposal of the CCTPL. The comments furnished by the CHPT are summarized below:

- (i). Capacity:

CCTPL is in possession of 2,50,700 sq. mtr. which includes yard space, wharf, berth are etc. Further, CCTPL is citing the TAMP order No.34 dated 12.3.2009 which was for the Jawaharlal Nehru Port Trust (JNPT) and claims that they must be treated at par with JNPT for which, CHPT has no specific remarks to offer.

- (ii). Volume

The projected volume of 8,20,000 TEUs by CCTPL seems to be lower side since, CCTPL have already surpassed the said volume. The container traffic handled by CCTPL in the last five years is furnished below:

Year	TEUs handled
2005-06	734815
2006-07	885422
2007-08	1128108
2008-09	1141089
2009-10	1138238

- (iii). Royalty

It is observed that CCTPL have computed the revenue share as per Clause 2.8.1 of the revised tariff guidelines.

- (iv). Modification in Scale of Rates – Cluase 2.6.(I) (iv)

The applicability of the Major Port Trusts Act to the Terminal Operators has to be examined.

- (v). Adjustment of Past Surplus

This is a matter on which TAMP may decide and CHPT has no further remarks to offer.

(vi). SFIS Scrip
CHPT has no specific remarks to offer.

(vii). Lease Rentals

The dispute in respect of payment of charges by CCTPL towards land upfront premium, lease rent and escalation, the Arbitral Tribunal passed the award dated 8.3.2006 rejecting the claim of the CHPT and allowed the counter claim of the CCTPL to the extent of Rs.33.77 crores with interest @ 9% from 28.5.2005 onwards towards future dues from CCTPL till the date of adjustment against the dues payable by them. Moreover, as per the Award, the licensee CCTPL shall only pay Re.1/- per sq. mtr per annum towards the license fee with retrospective effect from 30.11.2001 onwards for the entire license period of 30 years ending 29.11.2030.

Aggrieved by the above Arbitral Award, the port preferred the OP 535/2006 before the Hon'ble High Court of Madras and the Hon'ble High Court by its order dated 9.6.2008, dismissed the claim of the port and confirmed the award of Hon'ble Arbitral Tribunal. As such, the port preferred the instant OSA 1/2009 challenging the Single Judge Order before the Hon'ble Division of the Madras High Court and the matter is yet to be listed for hearing and is pending in the High Court.

(viii). Power

This needs to be decided based on Norms / Guidelines of TAMP.
