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Tariff Authority for Major Ports

G.No. 380 **New Delhi,** **14 October 2016**

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby notifies the revised Scale of Rates disposing of the proposal of the India Gateway Terminal Private Limited (IGTPL) for revision of its Scale of Rates as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/81/2015-IGTPL

India Gateway Terminal Private Limited - - - Applicant

QUORUM:

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Rajat Sachar, Member (Economic)

O R D E R

(Passed on this 17th day of September 2016)

This case relates to the proposal received from India Gateway Terminal Private Limited (IGTPL) for general revision of its Scale of Rates (SOR) under Tariff Policy Guidelines, 2005.

2.1. This Authority vide its Order no.TAMP/25/2008-IGTPL dated 5 August 2009 had passed an Order approving the existing SOR of IGTPL which was notified on 11 August 2009. As per this Order, SOR of IGTPL is valid up to 31 December 2015.

2.2. Based on the request made by the IGTPL, this Authority extended the validity of the existing SOR of IGTPL from the date of its expiry till 30 June 2016 or till the effective date of implementation of the revised Scale of Rates, whichever is earlier.

3.1. The IGTPL has vide its letter dated 16 December 2015 filed a proposal for general revision of its SOR. In the said proposal, the IGTPL has proposed 6.98% increase in the existing tariff from 1 January 2016 with an annual increase of 6.98% from 1 April 2016 for each years 2016-17, 2017-18 and 2018-19.

3.2. The said proposal was taken on consultation with the Cochin Port Trust (COPT) and the concerned users/ user organisations. The comments furnished by the COPT and users / user associations were forwarded to the IGTPL as feedback information. The IGTPL has responded to their comments.

3.3. On scrutiny of the proposal, the COPT and IGTPL were requested to furnish additional information / clarifications vide our letters dated 23 May 2016. A joint hearing in this case was held on 07 June 2016. At the joint hearing, the IGTPL, the COPT and the concerned users/ organisation bodies have made their submissions.

3.4. The COPT has furnished information / clarification vide its letter dated 13 June 2016. The IGTPL has vide its letters dated 30 June 2016, 3 August 2016, 10 August 2016, 13 August 2016 and 17 August 2016 furnished additional information/clarifications. While furnishing the requisite information / clarification vide its letter dated 30 June 2016, the IGTPL has furnished revised cost statement and has proposed 9.12% annual increase in tariff with effect from August 2016. Further, the IGTPL has proposed an annual increase of 9.12% from 1 April 2017 onwards for the years 2017-18 and 2018-19.

4. With reference to the totality of information collected during the processing of the case, this Authority has passed a speaking Order disposing of the proposal filed by the IGTPL for general revision of its SOR under Tariff Policy Guidelines, 2005. Based on the deficit position estimated in the cost statement, tariff increase of 4.5% over the existing rates is granted from the date of effect of this Order comes into effect with a provision for annual increase of 4.5% with effect from 1 April 2017 and 01 April 2018 so as to bridge the deficit of ₹6,851.83 lakhs over the validity of the tariff cycle.

5. The speaking Order passed by this Authority is in the process of notification in the Gazette of India and it is likely to take some more time for notification. Since notification of the detailed Speaking Order will take some time, this Authority notifies the revised SOR of the IGTPL which is attached as **Annex**. The revised SOR will come into force after expiry of 30 days from the date of notification of this Order notifying the SOR in the Gazette of India. The Speaking Order

passed by this Authority will be notified separately and communicated to the IGTPL, the COPT and the relevant users/ user organisations in due course of time.

6. The validity of the existing SOR of the IGTPL was last extended till 30 June 2016 or till the effective date of implementation of the revised SOR, whichever is earlier. That being so, the existing SOR is deemed to have been extended from the date of expiry till the date of implementation of revised SOR.

(T.S. Balasubramanian)
Member (Finance)

Annex

INDIA GATEWAY TERMINAL PRIVATE LIMITED

SCALE OF RATES FOR INTERNATIONAL CONTAINER TRANSHIPMENT TERMINAL

PREFACE

This Scale of Rates sets out the charges payable to India Gateway Terminals Private Limited for use of services and facilities provided at the International Container Transhipment Terminal (ICTT).

1. DEFINITIONS

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

(i). **"IGTPL"** means India Gateway Terminal Private Limited, a company incorporated in India, its successors and assigns.

(ii). **"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 / Directorate general of Shipping.

(iii). **"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.

(iv). **"FCL"** means a container said to contain Full Container Load.

(v). **"Foreign going Vessel"** shall mean any vessel other than a coastal vessel.

(vi). **"Hazardous container"** means a Container containing hazardous goods as classified under IMO.

(vii). **"ICD"** means Inland Container Depot.

(viii). **"LCL"** means a container said to contain Less than full Container Load (Container having cargo of more than one importer/ exporter).

(ix). **"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.

(x). **"Per day"** means per calendar day or part thereof.

(xi). **"Port"** means Cochin Port Trust.

(xii). **"Reefer"** means any container for the purpose of the carriage of goods, which require power supply to maintain the desired temperature.

(xiii). **"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.

(xiv). **"Transhipment container"** means a Container discharged from one vessel, stored in IGTPL and transported through another vessel.

(xv). **"VIAN"** means Vessel Identification Advise Number.

2. GENERAL

(i). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for classifying into 'coastal' or 'foreign-going' category for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

(ii). System of classification of vessel for levy of Vessel Related Charges (VRC)

(a) 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. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(b) A foreign going vessel of foreign flag can convert to coastal run on the basis of a License for Specified Period or Voyage issued by the Director General of Shipping and Custom Conversion order.

(iii). Criteria for levy of vessel related charges (VRC) at Concessional Coastal rate and foreign rate

(a) In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(b) In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(c) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(iv). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate

(a) Foreign going Indian vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:-

(i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(ii). Not Converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

*The Central Board of Excise & Customs - Circular No 15/2002-Cus dated 25th February 2002 allows carriage of coastal cargo from one Indian Port to another Indian Port in India, in Indian flag foreign going vessels without any Custom Conversion.

(b). In case of Foreign flag vessels converted to coastal run on the basis of a License for Specified Period or Voyage issued by the Director General of Shipping and a Custom Conversion Order, the coastal cargo/ container loaded from Indian Port and destined from any other Indian Port should be levied at the rate applicable for coastal cargo / container.

(v). Container related charges denominated in US dollar terms shall be collected in equivalent Indian Rupees. For this purpose, the market buying rate notified by the Reserve Bank of India, State Bank of India or its associates or any other Public Sector Bank 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 conversion of the dollar denominated charges into Indian rupees.

(vi). (a). All dollar denominated tariff will be recovered in Indian Rupees after conversion of charges in dollar terms into its equivalent Indian Rupees at the market buying rate notified by the Reserve Bank of India, State Bank of India or its associates or any other Public Sector banks as may be specified from time to time.

(b). The day of entry of the vessel into port limits shall be reckoned as the day for such conversion. In respect of charges on containers, the day of entry of the vessel in the case of import containers and the day of arrival of containers into the port in the case of export containers shall be reckoned as the day for such conversion.

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

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

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

(b). The rate of penal interest will be 16.05% per annum. The penal rate will apply to both the IGTPL and the port users equally.

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

(d). The delay in payments by the users will be counted beyond 10 days after the date of raising the bills by the IGTPL. 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, 1963 prescribed as a condition in the tariff.

(x). (a). The container related charges for all coastal should not exceed 60% of the normal container related charges.

(b). In case of container related charges, the concession is applicable on composite box rate. Where itemized charges are levied, the concession will be on all the relevant charges for ship-shore transfer, and transfer from / to quay to / from storage yard as well as wharfage on cargo and containers.

(c). For the purpose of this concession, container from a foreign port which reaches an Indian Port 'A' for subsequent transhipment to Indian Port 'B' will also qualify insofar as the charges relevant for its coastal voyage. In other words, cargo/containers from/to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession.

(xi). Users will not be required to pay charges for delays beyond a reasonable level attributable to the IGTPL.

(xii). In case a vessel idles due to non-availability or breakdown of the shore based facilities of IGTPL or any other reasons attributable to the IGTPL, rebate equivalent to berth hire charges payable to COPT during the period of idling shall be allowed by IGTPL.

(xiii). In case a vessel idles at the IGTPL terminal for more than two hours due to user's fault, ₹1,00,000 per hour will be levied.

(xiv). (a). The rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The Operator may, if it so desires, charge lower rates and/or allow higher rebates and discounts.

(b). The Operator may also, if they so desire rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the users in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling level.

(c). The Operator should, however, notify the public such lower rates and/or rationalisation of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.

(xv). The tariff prescribed in the Scale of Rates will be increased by 4.50% per annum on 1st April every year with reference to the tariff prevailing in the immediate preceding year. The first such escalation will be effected on 1 April 2017 and the last one will be on 1 April 2018. The individual tariff arrived after applying the annual escalation shall be rounded off to 1/100th of a paise.

(xvi). The minimum level of productivity will be 25 moves per hour per crane for handling normal containers by gantry crane as mentioned in schedule 1.1. A reduction of 5% in the charges prescribed in schedule 1.1. will be allowed in case the productivity falls below 25 moves per hour / per crane.

(xvii). In order to decongest the ports and encourage exporters / importers to utilize the port services beyond regular hours, lower charges may be levied for cargo and vessels related services as well as special discount may be offered in port charges for the services rendered after regular hours.

[This condition is incorporated in pursuance to the MOS letter No.PD/14033/101/2015-PD.V dated 3 February 2016 based on which a common adoption Order No.TAMP/14/2016-Misc dated 16 February 2016 is approved by the Authority]

SECTION - I

1. CHARGES FOR ALL NORMAL AND REEFER CONTAINERS

1.1. Gantry Crane Charges including Lashing / unlashing, stowage planning

Particulars	Foreign-going (in US$)	Coastal (in ₹)
Per Laden Container		
Not Exceeding 20' in length	52.26	1373.05

Exceeding 20’ and upto 40’ in length	78.39	2059.59
Over 40’ in length	104.49	2746.07
<u>Per Empty Container</u>		
Not Exceeding 20' in length	52.26	1373.05
Exceeding 20’ and upto 40’ in length	78.39	2059.59
Over 40’ in length	104.49	2746.07

Note:
The consolidated charges prescribed above include the following elements, viz. stevedoring, use of gantry crane, use of transfer crane, lashing / unlashing and stowage planning.

1.2. Transportation from QC to Yard and visa versa

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
<u>Per Laden Container</u>		
Not Exceeding 20' in length	397.71	238.63
Exceeding 20’ and upto 40’ in length	596.59	357.98
Over 40’ in length	795.41	477.24
<u>Per Empty Container</u>		
Not Exceeding 20' in length	353.58	212.16
Exceeding 20’ and upto 40’ in length	530.38	318.22
Over 40’ in length	707.14	424.30

1.3. Transportation from Container Yard to Rail Yard and visa versa

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
<u>Per Laden Container</u>		
Not Exceeding 20' in length	397.71	397.71
Exceeding 20’ and upto 40’ in length	596.59	596.59
Over 40’ in length	795.41	795.41
<u>Per Empty Container</u>		
Not Exceeding 20' in length	353.58	353.58
Exceeding 20’ and upto 40’ in length	530.38	530.38
Over 40’ in length	707.14	707.14

1.4. Handling at Container Yard for lift on / off while receiving from Quay

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
<u>Laden Container</u>		
Not Exceeding 20' in length	848.49	509.11
Exceeding 20’ and upto 40’ in length	1272.73	763.68
Over 40’ in length	1696.97	1018.24
<u>Empty Container</u>		
Not Exceeding 20' in length	265.16	159.08
Exceeding 20’ and upto 40’ in length	397.76	238.63
Over 40’ in length	530.32	318.16

1.5. Handling from truck / rail for delivery / receipt to and from customers

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
Laden Container		
Not Exceeding 20' in length	848.49	848.49
Exceeding 20' and upto 40' in length	1272.73	1272.73
Over 40' in length	1696.97	1696.97
Empty Container		
Not Exceeding 20' in length	265.16	265.16
Exceeding 20' and upto 40' in length	397.76	397.76
Over 40' in length	530.32	530.32

Note:

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

SECTION - II

2. CHARGES FOR ALL TRANSHIPMENT CONTAINERS

Particulars	Foreign-going (in US$)	Coastal (in ₹)
Laden Container		
Not Exceeding 20' in length	145.07	3806.74
Exceeding 20' and upto 40' in length	217.61	5710.09
Over 40' in length	290.14	7613.44
Empty Container		
Not Exceeding 20' in length	128.84	3382.47
Exceeding 20' and upto 40' in length	193.24	5073.75
Over 40' in length	257.64	6764.96

Notes:

(1). The composite rates given above covers gantry crane charges, lashing, unlashing, stowage planning, charges for transportation from quay to yard and vice-versa, charges for grounding and lifting by transfer crane at the yard and wharfage.

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

(3). A transhipment container sent to CFS, ICD or taken delivery locally shall be charged the local container rate.

(4). Charges for Hazardous Containers and Overdimensional Containers will be 1.25 times the rates prescribed above.

SECTION - III

3. CHARGES FOR ALL HAZARDOUS CONTAINERS AND OVERDIMENSIONAL CONTAINERS

3.1. Gantry Crane Charges including Lashing / unlashing

Particulars	Foreign-going (in US$)	Coastal (in ₹)
Laden Container		
Not Exceeding 20' in length	65.31	1716.32
Exceeding 20’ and upto 40’ in length	97.98	2574.47
Over 40’ in length	130.64	3432.63

3.2. Transportation from QC to Yard and visa versa

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
Laden Container		
Not Exceeding 20' in length	497.15	298.33
Exceeding 20’ and upto 40’ in length	745.75	447.50
Over 40’ in length	994.31	596.66

3.3. Transportation from Container yard to Rail yard and visa versa

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
Laden Container		
Not Exceeding 20' in length	497.15	497.15
Exceeding 20’ and upto 40’ in length	745.75	745.75
Over 40’ in length	994.31	994.31

3.4. Handling at Container Yard for lift on / off while receiving from Quay

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
Laden Container		
Not Exceeding 20' in length	1060.57	636.39
Exceeding 20’ and upto 40’ in length	1590.90	954.62
Over 40’ in length	2121.15	1272.79

3.5. Handling from truck / rail for delivery / receipt to / from customers

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
Laden Container		
Not Exceeding 20' in length	1060.57	1060.57
Exceeding 20’ and upto 40’ in length	1590.90	1590.90
Over 40’ in length	2121.15	2121.15

SECTION - IV

4. WHARFAGE CHARGES

Particulars	Foreign-going (in ₹)	Coastal (in ₹)
Laden Container including ICD container		
Not Exceeding 20' in length	883.83	530.32
Exceeding 20’ and upto 40’ in length	1325.73	795.49
Over 40’ in length	1767.65	1060.64
Empty Container including ICD empty container		

Not Exceeding 20' in length	185.61	111.43
Exceeding 20’ and upto 40’ in length	278.43	167.14
Over 40’ in length	371.25	222.81

SECTION - V

5. CHARGES FOR HANDLING HATCHCOVERS OF VESSELS

Particulars	Foreign-going (in US$)	Coastal (in ₹)
Opening hatchcover and replacing it (charge per hatchcover)		
A. When placing the hatchcover on the quay	24.34	636.39
B. Without placing the hatchcover on the quay	60.85	1590.90

SECTION - VI

6. CHARGES FOR SHIFTING OF CONTAINERS WITHIN VESSELS (RESTOWS) [FULL CONTAINER LOAD AND EMPTY CONTAINER]

Particulars	Foreign-going (in US$)	Coastal (in ₹)
A. Shifting containers within the vessel (per move)		
Not Exceeding 20' in length	40.57	1060.57
Exceeding 20’ and upto 40’ in length	60.84	1590.90
Over 40’ in length	81.12	2121.15
B. Other than (A)		
Not Exceeding 20' in length	90.24	2359.84
Exceeding 20’ and upto 40’ in length	135.37	3539.75
Over 40’ in length	180.48	4719.68

SECTION - VII

7. REEFER RELATED CHARGES

Particulars	Foreign-going (in US$)	Coastal (in ₹)
A. Charges for supply of electricity reefer Monitoring and Connection/disconnection (per 4 hours/or part thereof) [For Laden and Empty]		
Not Exceeding 20' in length	4.72	205.95
Exceeding 20’ and upto 40’ in length	7.10	308.92
Over 40’ in length	9.44	411.91
B. Pre-Trip inspection (including supply of electricity)	62.00	3008.26
C. Cleaning of containers [For Laden and Empty]		
Not Exceeding 20' in length	2.48	120.33
Exceeding 20’ and upto 40’ in length	4.95	240.65
Over 40’ in length	7.44	361.01

Notes:

(1). Above tariff does not include parameter setting or repair and maintenance of malfunctioning reefers.

(2). Pre-trip inspection of the reefer containers, and cleaning of containers are optional services and shall be rendered when requested by user.

(3). The charges prescribed above are also applicable to restow reefer containers.

SECTION - VIII

8. STORAGE CHARGES

Particulars	Rate per container per day or part thereof					
	Foreign-going (in US$)			Coastal (in ₹)		
	Container not exceeding 20 feet in length	Container exceeding 20 feet in length and upto 40 feet length	Container exceeding 40 feet in length and upto 45 feet length	Container not exceeding 20 feet in length	Container exceeding 20 feet in length and upto 40 feet length	Container exceeding 40 feet in length and upto 45 feet length
Laden container						
i) First 3 days	Free	Free	Free	Free	Free	Free
ii) 8-15 days	6.70	13.40	20.07	291.83	583.63	875.39
iii) 16-30 days	13.40	26.77	40.18	583.58	1167.16	1750.74
iv) Thereafter	26.77	53.57	80.35	1167.21	2334.44	3501.65
Empty container						
i) First 3 days	Free	Free	Free	Free	Free	Free
ii) 4-10 days	6.70	13.40	20.07	291.83	583.63	875.39
iii) 11-15 days	13.40	26.77	40.18	583.58	1167.16	1750.74
iv) Thereafter	26.77	53.57	80.35	1167.21	2334.44	3501.65
Transhipment container - Laden						
i) First 30 days	Free	Free	Free	Free	Free	Free
ii) 31-45 days	13.40	26.77	40.18	583.58	1167.16	1750.74
iii) Thereafter	20.07	40.18	60.25	875.39	1750.79	2626.18
Transhipment container - Empty						
i) First 15 days	Free	Free	Free	Free	Free	Free
ii) 16-30 days	13.40	26.77	40.18	583.58	1167.16	1750.74
iii) Thereafter	20.07	40.18	60.25	875.39	1750.79	2626.18

Notes:

(1). (a). Storage period for an import container shall be reckoned from the day following the day of landing upto the day of loading / delivery / removal of container.

(b). Storage period for export container starts from the date containers enters the terminal.

(2). For the purpose of calculation of free period Customs notified holidays and terminal's non-working days shall be excluded.

(3). Transhipment 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.

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

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

(6). For over high and over dimensional containers, the storage charge shall be based on the actual number of ground slots the respective container occupies under the respective slab as given above.

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

(8). The users will not have to pay storage charges for the period during which IGTPL is not in a position to deliver/ ship the containers when requested by the users.

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

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

(ii). If the consignee chooses not to issue such letter of 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 day the Custom 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 line/ consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.

SECTION - IX

9. MISCELLANEOUS CHARGES

S. No.	Particulars	Rate per Container (in ₹)	
		Not exceeding 20' in length	Exceeding 20' in length and upto 40' in length
(i).	Fixing/ removal of seal	247.98	247.98

(ii).	Additional service charge for stacking containers in the designated yard for customs examination or for any other purpose, by prior arrangement.	247.98	371.98
(iii).	Charges for shifting within the Terminal for customs examination or any other purpose and subsequent loading of containers for delivery with Prior arrangement with user.	2324.87	3487.93
(iv).	POD / Vessel Change	3099.84	4649.75
(v).	Change of status / weight of Container	3099.84	4649.75
(vi).	Fixing/removal of Hazardous Sticker (per container)	247.98	247.98
(vii).	One Door Open Charges(per container)	1239.92	1239.92
(viii).	Cancellation of documents (per EIR)	124.00	124.00
(ix).	Non-declaration / Mis declaration of Hazardous containers	3719.79	3719.79
(x).	On- Wheel Customs inspection (per container)	743.97	743.97
(xi).	Sending Containers survey report/Photo at Gate through electronic process (per container)	495.97	495.97
(xii).	Weighment Charges	250.00	375.00

Notes:

(1). Cancellation charges applies when EIR is cancelled at the request of customers.

(2). "One Door Open" charge is applicable for handling container which requires only one door to be kept open (e.g. Onion) and when door opening and securing is carried by the terminal.

(3). "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. Seal charges will be applicable for removal of seals also.

(4). "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 IGTPL to undertake the said activity, within the terminal.

(5). 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.

(6). 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 IGTPL. 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.

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

TAMP/81/2015-IGTPL	**:**	**Proposal received from the India Gateway Terminal Private Limited (IGTPL) for General Revision of its Scale of Rates (SOR).**

The summary of comments received from the Cochin Port Trust (COPT) and the users / user associations are tabulated below:

Sl. No.	Comments of the users/ user organizations	Comments of IGTPL
1.	**Cochin Port Trust (COPT)**	
(i).	The validity of the prevailing Tariff Order for ICTT operated by the IGTPL, approved vide TAMP/25/2008-IGTPL dated 05.08.2009 and notified vide G No. 142 dated 11.08.2009, ended on 31.12.2015.	This is a statement of fact.
(ii).	The TAMP, at the request of the IGTPL as well as on its own, had applied the principles of 2004 and 2008 Guidelines for the aforesaid Tariff Order on ICTT.	The Order records in details the deliberations done with regard to the application of 2008 & 2005 guidelines and proposed applicability of tariff increase in line with 2008 guidelines to minimize significant increase in 2010. For the purpose of setting, tariff principles of 2005 guidelines were made applicable.
(iii).	The IGTPL had then specifically requested to determine the tariff for ICTT operations on a normative basis over a long term period in conformity with the 2008 Guidelines. The IGTPL had then argued that since the ICTT operations are commencing post 2008 Guidelines, the normative approach prescribed in the said Guidelines is considered in its case. It had also submitted that the normative tariff will be lower in comparison to the tariff fixed following the usual cost plus method which will benefit the trade and impart stability and provide a conducive environment to negotiate long term contracts.	IGTPL had proposed the application of 2008 guidelines as mentioned above. The Order records in details the deliberations done with regard to the application of 2008 & 2005 guidelines and manner in which the cost plus method was determined to be made applicable. If 2008 guidelines were followed, a tariff increase at 60% of WPI would be applicable in future years without undergoing any review. TAMP may advise us if the application has to be under 2008 guidelines.
(iv).	The Optimal Terminal Capacity for the ICTT is considered at 11,95,740 TEUs in the above Tariff Order.	The optimal capacity was determined at 11, 95,740 on the basis of the Quay capacity being the limiting factor since additional ground slots could be created depending on need. The Order also records that IGTPL had proposed to commence operations with 2000 ground slots. The actual ground slots created was 2446 which can handle 3,43,381 TEUs and these have been adequate to handle volumes till date. Hence it is not correct that

<table>
<tr><td></td><td></td><td>terminal capacity was considered at 11,95,970 TEUs throughout the tariff cycle.</td></tr>
<tr><td>(v).</td><td>The IGTPL had projected the following Traffic for the then Tariff Proposal.
Projected Traffic (TEUs)<table><tr><td>2010</td><td>2011</td><td>2012</td><td>2013</td><td>2014</td><td>2015</td></tr><tr><td>4,78,000</td><td>5,88,000</td><td>6,84,456</td><td>7,52,902</td><td>8,28,192</td><td>9,11,011</td></tr></table></td><td>This is statement of fact</td></tr>
<tr><td>(vi).</td><td>But, the realized Traffic has been a fraction of the Projected Traffic as under, implying the utilization of only 31% of the capacity.
Realized Traffic (TEUs)<table><tr><td>2010</td><td>2011</td><td>2012</td><td>2013</td><td>2014</td><td>2015</td></tr><tr><td>3,12,189</td><td>3,37,053</td><td>3,34,925</td><td>3,46,204</td><td>3,66,376</td><td>3,06,324
(Apr-Dec)</td></tr></table></td><td>The stated actual volumes are correct ,except in the period Apr-Dec 2015 the volume is 306,264.The statement that utilization is only 31% of capacity is not correct .As mentioned the terminal was commenced with 2446 ground slots and this has a capacity of 3,43,381 TEUs, thus the terminal is operating at capacity presently.</td></tr>
<tr><td>(vii).</td><td>The IGTPL, in the current Tariff Proposal has furnished much lower Traffic Projections as under.
Projected Traffic (TEUs)<table><tr><td>2016</td><td>2017</td><td>2018</td></tr><tr><td>4,71,300</td><td>5,54,400</td><td>6,22,600</td></tr></table></td><td>In the current tariff proposal, IGTPL has furnished lower traffic projections as compared to the traffic projections given in 2009. The present traffic projections have been given on the basis of the current market scenario and historical volume growth in South India. It should be noted that the Year in Year growth taken for the traffic projections ranges from 13% to 18%, whereas the historic volume growth in South India has been from 0% to 8%. In spite of low expected growth IGT has projected an increase in excess of 60% over three years.</td></tr>
<tr><td>(viii).</td><td>Cochin Port is of the considered view that one of the critical reasons for non-realization of volumes at ICTT is the exorbitant Terminal Handling Charges (THC) levied by the IGTPL. A comparison of the THC reveals this clearly.
Comparative THC (Notified) for Foreign EXIM Containers (US$)<table><tr><td rowspan="2">Size&Type</td><td colspan="3">Comparative THC (US$)</td><td colspan="2">Other Port THC as a % of Cochin</td></tr><tr><td>Cochin</td><td>Tuticorin (DBGT)</td><td>Chennai (DPW)</td><td>Tuticorin (DBGT)</td><td>Chennai (DPW)</td></tr><tr><td>20' Laden</td><td>93</td><td>51</td><td>36</td><td>54</td><td>38</td></tr><tr><td>40' Laden</td><td>140</td><td>76</td><td>54</td><td>54</td><td>38</td></tr></table>The Exchange Rate used for converting the INR rates into US$ is Rs.66/US$.</td><td>Cochin Port has clearly indicated that it is its view that reason for lower volume is THC charged. IGT disagree to that view. The overall growth for the period 2011-12 to 2014-15 has been 15% for ICTT whereas the South Indian market has grown by 11%. The Terminal Handling Charges (THC) at Cochin are as prescribed in the Scale of Rates approved by TAMP. The THC mentioned of Chennai & Tuticorin are not entirely accurate, however the THC at Cochin is higher than the terminals at Chennai & Tuticorin. Most factors for slow growth of ICTT are attributable directly to COPT, as it failed to complete in time many of its contractual obligations and for which the parties are currently in arbitration. It should be noted that the actual charge of this THC by the shipping lines are much higher. It should be noted that draft of 13.5 mtrs was made available only in Dec 2012 (i.e., nearly 2 years from start of terminal</td></tr>
</table>

		services) and draft of 14.5 mtrs was made available only in April 2013. The relaxation of cabotage was made applicable from Dec 2012 however clarity on the customs procedures were known only much later. Non realization of volumes are also influenced by growth of capacities at Colombo and poor feeder connectivity due to comparatively higher VRC.
(ix).	The IGTPL, in its current Tariff Proposal, at Annex 2, has stated that the existing Container Yard has the capacity to handle 3,43,381 TEUs, which in IGTPL's opinion is commensurate with the Traffic. This is planning for curtailing growth, when the IGTPL had earlier submitted to the TAMP that the Quay Line is the limiting factor, and additional ground slots can be created depending on need.	IGTPL has in the Ann 2 mentioned that "The existing container yard area i.e. 2446 ground slots have a capacity to handle 3, 43,381 TEUs (refer Ann 4 for calculations), this has been adequate and commensurate with the traffic for the period 2010 to 2015." The Proposal has included CAPEX for construction of yards as below Year 2016-17- Construction of 444 Ground Slots Year 2017-18- Construction of 444 Ground Slots Year 2018-19- Construction of 222 Ground Slots CAPEX are being planned in a phased manner so as to put minimum burden on trade due to its effect on tariff revision. Further it is projected that from the current volumes of about 3,06,264 TEUs it is estimated that the volume will grow to 6,22,600 TEUs. It is therefore submitted that there is no "planning for curtailing growth".
(x).	Again, at Annex 2 of the current Tariff Proposal, IGTPL has stated that as per the License Agreement between COPT and IGTPL, the company is required to offer Transhipment Tariff which is competitive with other transhipment ports, and that their present realizations on transhipment containers are below Tamp Tariff. COPT submits before the Hon'ble Authority that this is contrary to the provisions of the License Agreement, which requires that the Tariff is competitive with respect to the neighbouring ports. Therefore,	Article 4.2 of the License Agreement is a good faith clause applicable to both parties of the License Agreement and is in no way connected to Tariff Fixation by TAMP. We are submitting application for fixation of Tariff as per TAMP guidelines before the Authority and the Authority has to determine the Tariff as per the terms of the applicable guidelines and not as per the terms of Licence Agreement. Moreover, the Tariff fixed by TAMP is the

the submission of IGTPL that they are required to be competitive only in Transhipment Tariff, is violative of the License Agreement. The relevant clause of the License Agreement is reproduced below.

*"**4.2 TARIFF FIXATION** The Parties agree that, subject to Applicable Laws including approval of the competent authority, the Tariff are competitive vis-à-vis international container transshipment hubs and major competing ports in the region".*

ceiling limit and for attracting customers we are offering discounts to Transshipment as well as OD Cargo also. It is well established that TAMP only fixes the ceiling of the tariff based on the TAMP guidelines alone. Even the license agreement under clause 4.1 clearly states the same. We are attaching herewith the opinion taken on the subject matter from Economic Law Practice, Advocates & Solicitors.

(xi). Further, it is totally ineffective to be competitive in Transhipment Tariff alone, when the ICTT has so little Transhipment Traffic; as low as 5% of the Total Traffic as revealed below. It is highly relevant to be competitive in OD cargo that forms 95% of the Total Traffic.

Transhipment Traffic at ICTT

Year	Transhipment Traffic (TEUs)	Total Traffic (TEUs)	Transhipment Traffic as a % of Total Traffic
2015 (Apr-Dec)	14,875	3,06,324	5
2014	18,897	3,66,376	5
2013	7,411	3,46,204	2
2012	27,193	3,34,925	8
2011	17,007	3,37,053	5

Further it is recalled that in the earlier application for ICTT tariff fixation made in 2008/2009, IGTPL had proposed to levy berth hire charges since the berth was constructed by IGTPL. COPT had disputed the same. TAMP had then advised *"The COPT and IGTPL are advised to resolve isssues between themselves in the manner provided in the License agreement"* Hence even in past TAMP has left the differences in interpretation of clauses in the license agreement to be resolved between the parties and orders were passed based on the applicable guidelines.

(xii). COPT grants considerable rebates in VRC to container ships to promote the ICTT. The COPT grants 85% rebate in VRC to the 4 Mainline Services that call at the ICTT. Also, 50% rebate in VRC is granted to Container Vessel Services other than Mainline Services to foreign destinations, not confined to Colombo, and not connecting Cochin and Colombo, either directly or via Tuticorin. Further, 30% rebate in VRC is granted to Container Vessel Services, other than Mainline Services, between Cochin and the Middle East, double-dipping weekly at Cochin. The quantum of rebates granted in VRC over the years for promoting ICTT is presented below. It is seen that the rebates granted in VRC amounted to more than 50% of the notified Tariff, resulting in CoPT earning a net VRC income that is less than the quantum of rebates granted; all this for being competitive with respect to the ports in the region to promote ICTT.

ICTT - Rebate Granted in VRC and Net Income

Year	Traffic (TEUs)	Rebate Granted in VRC (Rs. Crores)	Net Income from VRC (Rs. Crores)
2014-15	3,66,376	29.24	29.16
2013-14	3,46,204	33.48	26.53
2012-13	3,34,925	26.42	23.09
2011-12	3,37,053	14.04	18.38

The 85% rebate enables the VRC to be comparable with Colombo, in case where the rebate is less than 85% the marine charges are much higher in comparison.

(xiii). Apart from granting such rebates, the maintenance of 14.5 m draft at the ICTT has shot up the Maintenance Dredging expenditure of COPT considerably. In fact, COPT incurs `20 Crores per annum as incremental Maintenance Dredging expenditure for deepening up to 14.5

Dredging is a contractual obligation of COPT, hence not relevant to the discussion on tariff revision of ICTT.

	m draft from the normally maintained draft of 13.5 m for the lone Mainline Container Vessel Service that calls at a draft up to 14.5 m, but without any commendable volumes. The CoPT also grants 85% rebate in VRC to the said Mainline Service towards being competitive. But, such expenditure on Maintenance Dredging and the revenue foregone due to rebates in VRC have so far been without any meaningful returns with such low volumes at ICTT.	
(xiv).	CoPT is of the view that volumes at ICTT can grow only if competitive Tariffs are ensured. The ICTT has been envisaged with three distinct roles; a Hub Port for Transshipment, a Regional Terminal and a Sub Continental Gateway; promoting Regional and Hinterland cargo through competitive Tariff is a prerequisite for attracting Transshipment cargo.	ICTT has been envisaged primarily as a Transshipment hub, this has been endorsed by CoPT This has been recorded in the earlier TAMP Order- ref (xx)(a) which mentions " Even the Cochin Port Trust has agreed that ICTT operations is primarily to develop it as a transshipment hub…". Further the tariffs decided by TAMP are ceiling rates and the operator and port can decide the actual charge of their respective tariff.
(xv).	In the light of the above, CoPT requests the Hon'ble Authority to review the Tariff Proposal submitted by the IGTPL for the operation of ICTT, and not to allow the hike in the Tariff sought. The CoPT, further requests the Hon'ble Authority to impress upon the IGTPL to reduce their Proposed Tariff by at least 30% before approval so that the THC at ICTT is competitive with that of the ports in the region.	We have submitted our proposal based on the applicable Guidelines and request the Authority to accordingly review the proposal.
2.	**Cochin Custom House Agents Association (CCHAA)**	
(i).	The base rate fixed at the initial stage of commencement of IGTPL in 2011 itself was very high, which was objected by all the stake holders, Besides this TAMP have approved an yearly increase of 3.48% in the THC at IGTPL, which they are increasing every year without fail. Infact even at the present rate Cochin is having the highest THC when compared to the neighboring ports.	The tariff and annual increases of ICTT has been fixed by TAMP as per applicable guidelines. These have been followed by IGTPL.
(ii).	Few months back IGTPL had given a proposal to reduce the free period from 7 days to 3 days at the terminal which was approved by the TAMP keeping aside the strong objection from all the stakeholders. The result of reduction in free period is again the hike in the transaction cost per container. IGTPL in their previous proposal had mentioned that there is congestion at the terminal, which is totally false. At ICTT there is no congestion at all, only 25% of the total space is utilized for storing containers. IGTPL vide their Trade Notice dated 24 December 2015 has given free time 14 days for raw cashews and 10 days extended free	In our letter dated 29th May 2015 to the Authority, we have explained that increase in yard efficiency by increased stack utilization has enabled IGTPL to enhance the yard capacity .However the high dwell days was eroding this increased yard capacity, hence the request was made to reduce the free dwell days . Cashew imports have been a traditional seasonal industry in Kerala and considering

	time for the export laden containers through mainline vessels calling at ICTT on weekly schedule, which is contradictory to their statement mentioning congestion at the terminal.	the specific industry requirement, IGTPL has supported by offering extended dwell time of 14 days for cashew containers. Similarly an extended dwell time of 10 day for export containers through Mainline vessels is to support the exporter fraternity to use direct vessel connectivity to their destinations. These measures are as per trade requests and to attract additional cargo.
(iii).	Even though there are permitted free days at the Terminal, the Trade is not allowed to use that also. There are many instances where the lines shift the containers to CFS's near to the Terminal prior to the filing of IGM. Any further revision in SOR is again seriously going to affect the Exim trade.	Movement of containers from the terminal yard is allowed based on the declarations given by shipping lines. The CCHAA may take up their concerns in this regard with the respective Shipping Line/Association.
(iv).	Hence, CCHAA requested not to approve the proposal of IGTPL for the revision in SOR and also to reinstate the free period of 7 days at the terminal.	We have submitted our proposal based on the 2005 Guidelines request the Authority to accordingly review the proposal.
3.	**Cochin Steamer Agents Association (CSAA) and Federation of Indian Coir Exporters Association (FICEA)**	
(i).	From a comparison of the projections of the traffic made by IGTPL in 2009 for the period 2010 to 2015 for considering the Tariff fixation proposal and the actual traffic achieved for the above period, it is noticed that the actual realization is only in the region of about 31 % of the projections.	This is correct. Detailed reply on the factors contributing to non realization of projections are given in the replies below.
(ii).	One cannot deny the fact that at the time IGTPL made the projections in 2009, due care and diligence must have been exercised in arriving at the estimates based on the realistic assessment of the potential for generating such traffic. IGTPL needs to make an assessment why they were not able to achieve the projected traffic and the trade cannot be blamed or made responsible for this under performance by passing on the burden thereof by IGTPL to the trade.	The projections are made based on global economic and market conditions, Government policies etc. Most of these factors are variable and beyond individual control. Further consequent to the downturn in the shipping industry in 2008 the volumes have dropped, for the period 2011 to 2015 the All India container growth is an average 7% and South India container growth is at average 5%. The Terminal Handling Charges (THC) at Cochin are as prescribed in the Scale of Rates approved by TAMP. The applicable submitted by IGT in line with tariff setting guidelines, 2005.
(iii).	In a free market goods for export will move to the cheapest port and hence one comes to the irresistible conclusion that the non-realization of the projected traffic is only due to diversion of the traffic to other ports which offer the same service at a much cheaper tariff especially by way of THC.	Whilst THC at Cochin is higher than the terminals at Chennai & Tuticorin, it should be noted that the actual charge of this THC by the shipping lines are much higher. It should be noted that draft of 13.5 mtrs was made available only in Dec 2012 (i.e. nearly 2 years

(iv).	Major diversion of traffic has taken place to Tuticorin (PSA) and Chennai (DPW) since their THC rates are substantially cheaper and is only 54 % and 38 % respectively of that of IGTPL, Cochin.	from start of terminal services) and draft of 14.5 mtrs was made available only in April 2013. The relaxation of cabotage was made applicable from Dec 2012, however, clarity on the customs procedures were known only much later. Non realization of volumes are also influenced by growth of capacities at Colombo, poor feeder connectivity due to comparatively higher VRC, low South Indian market growth of 0% to 8%,border checkpost bottlenecks, non-availability of CFS also other cost factors outside IGTPL control but influencing the shipper/consignees decision on which port to use .The original projections given are estimates based on multi fold factors as mentioned above .Any delay/absence of any of these would have an impact on achieving the estimated volume . It is also surprising that the Steamer Agents who represent the Shipping Lines who actually move the containers, view bringing of volumes to ICTT as the "entirely the responsibility" of IGTPL. The Tariff fixed by TAMP is the ceiling limit and for attracting customers IGTPL are offering discounts to Transshipment as well as OD Cargo also. It is well established that TAMP only fixes the ceiling of the tariff based on the TAMP guidelines alone.
(v).	Any further increase of the tariff at IGTPL will only increase the migration of traffic to Tuticorin and Chennai resulting in further depletion in the revenue earning possibility of IGTPL. It is therefore of paramount importance that every effort must be made by IGTPL to increase the traffic at Cochin without increasing the already excessively high tariff being charged presently.	
(vi).	It is noted that IGTPL in the statements submitted for consideration of the revision in the tariff, have not identified the real reason for their underperformance which is low traffic due to faulty marketing of the services of IGTPL which have substantially decreased, by almost 50 % of the projection of the traffic when compared to the projections for 2010 to 2015, and thereby tried to by adopting the method of Absorbtion Costing made a claim for substantial increase in the tariff. This method of working will definitely price IGTPL out of the market and will in turn result in further fall in the traffic at IGTPL. This is just counter productive and self-destructive.	
(vii).	In this context it is pertinent to note that in the original projections, the ratio of Inbound/Outbound, Transshipment and Coastal traffic was 60 %, 25 % and 15 % respectively. One of the main objectives of the IGTPL was to offer the services as a Transshipment Terminal as the very name International Container Transshipment Terminal (ICTT) suggests and the responsibility for getting this volume of business was entirely the responsibility of the promoters of IGTPL. Against the projection of 25 %, what has been really achieved during the years 2011 to 2015 was as low as 2% and a maximum of 8%. Had IGTPL fulfilled its obligation of bringing in the 25 % volume of Transshipment Traffic, the revenues of IGTPL would have been so much higher.	
	The following comments are only of CSAA	
(viii).	It is also noted that in the computation of the – Summary of Surplus / (Deficit) in actual Returns	CSAA has correctly pointed out that the ROCE for the period Apr-Dec 2015 should be

	as per Audited Accounts and Permissible return- in Annexure 7 and detailed working in form 7, there is a COMPUTATIONAL ERROR in so far as the ICTT Deficit for the period April – December 2015 has been computed by taking the ROCE at 16% of the Capital Employed of ` 73,681 lakhs for the whole year at ` 11,788.96 whereas it ought to have been only for the nine months period amounting to ` 8841.72 lakhs resulting in an overstatement of the deficit by 2947.24 lakhs.	taken at 9 months instead of the whole year, the deficit may be reduced by ` 2947.24 lacs as stated.
(ix).	It is also noticed in Annexure 8 – Cost Statement of International Container Transshipment Terminal under Cost Plus Method - The deficit of the period December 2009 to December 2015 aggregating to ` 240.810 Crores has been factored in as an expenditure to be recovered from trade in future by way of increase in tariff, This is totally unreasonable and illegal, in so far as the past deficit, if any, is now sought to be recovered from the trade who will constitute a totally different segment when compared to that during which the deficit, if any, was incurred.	IGTPL tariff is determined by The TAMP under the 2005 guidelines. The guidelines prescribe the methodology and manner of arriving at the permissible tariff. Under these guidelines the surplus or deficit of the earlier tariff cycle is permitted to be setoff while revising the tariff. Therefore the contention of CSAA that the adjustment of past deficit is illegal is not correct.
(x).	It may also be noticed that the Maximum Permissible ROCE as per Sr No. XII to Form 5A is as under; (a). On Business Assets 15.00% (b). On Business Related Assets 6.35% In all the computation submitted by IGTPL, they have not disclosed the value of the Business Related Assets which are entitled to a lower ROCE thereby claiming a higher ROCE on Business Related Assets. Further, they have charged ROCE at 16% instead of the maximum permitted ROCE of 15% which itself is exercise.	CSAA has contended that the computations submitted by IGTPL do not disclose the value of Business Related Assets .These assets are as defined under Form 4- " Assets created for supporting business i.e. Hospitals, Schools etc.", since IGTPL does not have any asset in this category , there is no disclosure required in the computations. Further CSAA have pointed out that 16% ROCE has been charged instead of the permitted ROCE of 15%, it is submitted that the current approved ROCE is 16% and the same has been used in the computations.
(xi).	The ROCE at 15% is the Maximum Permitted ROCE and that itself does not entitle IGTPL to claim that as an eligible ROCE.	CSAA has opined that the ROCE has to be determined on basis of industry norms and the global performance of DP World should be taken as eligible ROCE for IGTPL. It is submitted that the permissible ROCE is determined by TAMP as per the guidelines. Also CSAA submission that returns in excess
(xii).	ROCE has to be determined on the basis of Industry Norms and the Global performance of DPW giving an Arms Length Benchmark of the reasonable ROCE in order to ensure that the working of the IGTPL would give them a REASONABLE ROCE.	

<table>
<tr>
<td>(xiii).</td>
<td>A copy of the data sourced from the Home Page of DP World available on the public domain. The data in US $ Millions is as under:
Ratio of Profit on Assets Employed

<table>
<tr><td></td><td>2014</td><td>2013</td><td>2012</td><td>Average</td></tr>
<tr><td>Profit for the year (USD-M)</td><td>782.1</td><td>721.8</td><td>816.5</td><td>N.A.</td></tr>
<tr><td>Total assets Employed (USD-M)</td><td>17904.7</td><td>16760.5</td><td>16337.2</td><td>N.A.</td></tr>
<tr><td>Return on Assets Employed (%)</td><td>4.37</td><td>4.31</td><td>5.00</td><td>4.56</td></tr>
</table>

Ratio of Return on Capital Employed

<table>
<tr><td>2014</td><td>2013</td><td>2012</td><td>Average</td></tr>
<tr><td>7.1</td><td>6.7</td><td>6.8</td><td>6.87</td></tr>
</table>
</td>
<td rowspan="3">of ROCE recommended by CSAA be settled by Government of India out of its own fund is not in accordance with the existing guidelines. The Authority may appropriately advise the CSAA.</td>
</tr>
<tr>
<td>(xiv).</td>
<td>From the data available above, it is very clear that the ROCE that IGTPL is eligible to claim should be restricted to the mean of the above two average ratio, i.e. 4.56 and 6.87 resulting in a permissible Average ROCE of 5.72 only order to be equitable to the trade and the development of the ICTT operated by IGTPL and without any detriment to them taking into account their Global Performance Benchmarks.</td>
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<tr>
<td>(xv).</td>
<td>It is further submitted that:
(a). The tariff presently charged by IGTPL is excessive and must be “reduced to give them a ROCE of 5.72 which is comparable to their Global Operational Result as revealed in their own financials and which will not in any way adversely affect DPW – Cochin Operation.

(b). A proper Business Plan must be implemented to substantially increase the revenues of IGTPL by increasing the volume of traffic by better utilization of available facilities, an aggressive marketing of the terminal and offering very competitive rates of tariff and thereby making IGTPL the First Choice Terminal.

(c). Not to cast any burden on the trade and kill the industry which is already under pressure to survive due to the various economic situations prevailing internally and globally,

(d). Any compensation to IGTPL by way of ROCE above 5.72% be not extracted from</td>
</tr>
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<tr><td></td><td>the trade but settled by the Government out of its funds in accordance with any bilateral agreement ,if any.</td><td></td></tr>
<tr><td>(xvi).</td><td>Consider all the above indicated points which have tabled and critically analyze the financial supporting which DPW has furnished to substantiate their Tariff revision request prior to giving recommendation on the said proposal.</td><td>We have submitted our proposal based on the applicable Guidelines and request the Authority to accordingly review the proposal.</td></tr>
<tr><td>4.</td><td>Tata Global Beverages Ltd (TGBL)</td><td></td></tr>
<tr><td>(i).</td><td>The details of export/imports by TGBL through COPT in the last six years are shown below for reference.
<table>
<tr><th>Year</th><th colspan="2">Export</th><th>Import</th><th>Total Throughput</th></tr>
<tr><td></td><td>MT</td><td>TEU's</td><td>TEU's</td><td>TEU's</td></tr>
<tr><td>2010-11</td><td>4318</td><td>1110</td><td>390</td><td>1500</td></tr>
<tr><td>2011-12</td><td>4043</td><td>1003</td><td>318</td><td>1321</td></tr>
<tr><td>2012-13</td><td>3535</td><td>928</td><td>298</td><td>1226</td></tr>
<tr><td>2013-14</td><td>3604</td><td>957</td><td>281</td><td>1238</td></tr>
<tr><td>2014-15</td><td>3813</td><td>1019</td><td>290</td><td>1309</td></tr>
<tr><td>2015-16</td><td>4000</td><td>1197</td><td>290</td><td>1487</td></tr>
</table>
Switching from RGCT, Willingdon Island to ICTT, Vallarpadam has adversely affected TGBL's business and following are few of the key issues faced by TGBL:
(a). There has been an increase of around 65% in THC and other related costs, which has an additional monetary impact of ` 55 lakhs on TGBL's business.

(b). TGBL is also incurring additional cost due to reduced free period mainly because of delay in receipt of documents from the Overseas suppliers like Sri Lanka etc. with shorter transit time, holidays and delay in clearance etc. Further, reduction in free time will definitely attract additional detention/demurrage charges having further adverse effect on TGBL's business.</td><td rowspan="4">Our submission is that over the years there have been all round increase in costs. The Terminal Handling Charges (THC) and free days at Cochin are as prescribed in the Scale of Rates approved by TAMP.

We have submitted our proposal based on the applicable Guidelines and request the Authority to accordingly review the proposal.</td></tr>
<tr><td>(ii).</td><td>Any initiative in increasing THC charges and reduction in free period for import/ export containers will ultimately result in increase in the product cost, which will make TGBL's product un-competitive in the International markets, resulting in reduction of export volume affecting foreign exchange reserves to country.</td></tr>
<tr><td>(iii).</td><td>An uncompetitive pricing in the international market on account of adverse operating conditions at ICTT, Vallarpadam, will seriously impact on performance and continued existence.</td></tr>
<tr><td>(iv).</td><td>TGBL requests to withdraw the proposal given by IGTPL and maintain the status quo to avoid</td></tr>
</table>

	additional burden to compete TGCL product in the International markets.	

2.1. The Coimbatore Custom House and Steamer Agents' Association (CCHSAA) vide its letter dated 29 January 2016 has furnished its comments as brought out below. The IGTPL has not responded to the comments of CCHSAA till finalization of this case.

(i). The volume is considerably increasing according to their statistical information passed on to the trade during their open house meetings with various forums and per their statements, while the volumes are increased, the total revenue also increases automatically.

(ii). Handling Tariff at DP WORLD, Cochin are the costliest tariff compared to all South Indian Terminals which was highlighted several times.

(iii). CCHSAA and their members are having the option of using Cochin, Chennai and tuticorin terminals for shipping export or import, considering the proximity, service availability to a particular sector of destination, majority of the containers are routed through Cochin port and all other sectors are routed through other terminals which make their business internationally uncompetitive.

(iv). IGTPL on one side has represented TAMP to increase their scale of charges. On the other side, huge incentive agreements are being signed with exporters at our region to maximize their volumes out of Cochin which itself shows that they are agreeing to the scale of rates applicable at IGTPL is huge.

(v). However, not all the exporters/ importers are given this facility, making few exporters in to trouble due to uncompetitive product rates with their buyers internationally.

(vi). Knowingly that the incentive is a big expense for the operator, insisting for increase in tariff charges and introducing big incentive is not justifiable in terms of their revenue and targets.

(vii). Utilization of the facilities are not properly looked into by understanding the market studies and one of the main complaint from the trade forums with is the PRESENT TERMINAL HANDLING CHARGE at IGTPL is very high compared to all other terminals.

(viii). Increasing THC and then paying few shippers a portion of that could be like FMCG good sales where the price is hiked and attractive discounts are offered as an enticement.

(ix). Though Cochin is 200 KMS away Coimbatore, why containers are routed through Tuticorin and Chennai is only because of existing higher charges at IGTPL. We are forced to divert cargo via Tuticorin and Chennai that just 200 kms which actually help to reduce the additional expenses on truck/ train.

(x). CCHSAA are also attaching herewith newspaper reports for the past one year (few numbers) wherein the entire industries were complaining about the scale of rates already charged by IGTPL

If their tariff rates are justifiable to the trade, why the throughput is not increasing to the targeted level of traffic for several years. Reason is simple-HIGH TARIFF.

(xi). Based on the above facts and genuine reasons, CCHSAA strongly opposes the move for proposed increase which will hit the international business out of Coimbatore and our members can't accept any increase in scale of rates with approval of TAMP authorities.

CCHSAA also appeals to TAMP good selves to include their association for attending personal hearing on behalf of the trade and industry at Coimbatore and Tirupur.

2.2. A joint hearing in this case was held on 07 June 2016 at the COPT premises. The IGTPL made a power point presentation of its proposal. At the joint hearing, the IGTPL, COPT and the concerned users / user associations have made their submissions:

India Gateway Terminal Private Ltd. (IGTPL)

(i). Makes a brief power point presentation of its proposal.

(ii). Gross Crane moves / hour at RGCT was 15.87. At ICTT, it is 29.47 moves / hour. Vessel Turnaround time at RGCT was 30.1 hours which has reduced to 12.46 hours at ICTT. Vessels handled at RGCT were 371 which is increased to 599 to ICTT. Thus, ICTT has achieved operational efficiency in container handling.

(iii). Total loss incurred by us in previous period is ₹ 471.73 crores. Of this, we propose to recoup ₹ 241.78 crores in the current proposal.

(iv). Tariff increase of 6.98% in the existing tariff is proposed in the current proposal.

(v). The proposal is for revision from January 2016 to March 2019. Revision proposed is for 39 months so that comparison becomes easier.

(vi). It has been a challenging period for IGTPL. With combined efforts of trade and port, we have reached the present traffic level.

(vii). Container handling at RGCT was different. It had few equipment. ICTT is a new container Terminal with full fledge equipment. At ICTT, we have 6 QCs, 15 RTGs and other supporting equipment for container handling. Cost and tariff of RGCT cannot be compared with ICTT. ICTT tariff is comparable with tariff of new container terminals.

(viii). We will have to rework the tariff in view of recent Order of TAMP dated 26 May 2016 wherein the reinstatement in the coastal vessel/ container tariff to the prevailing dollar rate is kept in abeyance in pursuance of the direction from the Ministry.

(ix). THC of IGTPL is only one component. The charges collected by Shipping Lines include other charges.
[CCHAA : We refer to the THC of IGTPL only]

(x). We are strictly following guidelines.

(xi). We will submit clarification sought by TAMP.

Cochin Port Trust (COPT)
Chairman (I/c)

(i). We have given written comments. We reiterate it.

(ii). When we go for marketing, the reason cited by the trade is that the Terminal Handling Charges (THC) at IGTPL is highest in the region.

(iii). We use 1% of revenue share received from IGTPL for marketing efforts to attract container traffic at ICTT.

(iv). IGTPL productivity is highest amongst other container terminals.

(v). Existing tariff may be retained. It can be reviewed later.

Cochin Steamer Agents Association (CSAA)

(i). We have given written comments which may be considered.

(ii). With joint efforts of port, trade and IGTPL, we have been able to increase traffic at ICTT at the existing level.

(iii). IGTPL offers discounts in the existing tariff. This itself proves that they admit that their existing rates are high.

(iv). We request IGTPL to maintain current tariff for one year. Then the rate can be reviewed.

(v). With increase in volume, the operating cost per TEU will come down.

(vi). We seek clarification from IGTPL on coastal rates in view of recent Order passed by TAMP in pursuance of direction from the Ministry of Shipping (MOS).

[IGTPL: In pursuance of TAMP Order dated 26 May 2016 excess if any collected will be refunded to the trade from the date the said Order has come into effect.]

(vii). COPT offers discount on vessel related charges to attract vessel. This is appreciated.

(viii). We admit Service level at ICTT is good. Their own group company offer the same service at half the rate at Chennai.

<u>Cochin Custom House Agents Association (CCHAA)</u>

(i). When IGTPL appears to be in a loss, why should they carry on business?

(ii). Cochin Port is costlier port in comparison to neighbouring ports. So trade is affected.

(iii). Based on proposal of IGTPL TAMP had reduced free period of laden containers from 7 days to 3 days. There is no congestion at ICTT. Increase free period from 5 days to 14 days.

(iv). Do not increase the prevailing rates. To maintain the increasing trend of traffic observed in recent year, tariff should not be increased. There is a need to reduce the tariff. If tariff is reduced, volume will increase. IGTPL should attempt to increase volume instead.

<u>The Seafood Exporters Association of India</u>

(i). We are worst affected at existing and proposed rate.

(ii). THC are 300% higher than what it was when handled at RGCT.