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Tariff Authority for Major Ports

G.No.285 **New Delhi,** **14 July 2021**

NOTIFICATION

This Authority, in exercise of the powers conferred on it under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), had disposed of the proposal received from the IFFCO Kisan Logistics Limited (IKLL) [formerly known as IFFCO Kisan Bazar and Logistics Limited (IKBLL)] for general revision of Scale of Rates (SOR) for the services rendered by it at its captive barge jetty at the Deendayal Port Trust (DPT) under Tariff Guidelines, 2019, in the Meeting of this Authority held on 12 May 2021. However, considering the time involved for notifying (Speaking) Order along with the Scale of Rates, approved by this Authority, this Authority decided to notify only the revised Scale of Rates immediately. Accordingly, the revised Scale of Rates approved by this Authority on 13 May 2021 was notified in the Gazette of India on 11 June 2021 vide Gazette No.231. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order connected with disposal of the proposal of the IKLL for general 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/59/2020-IKLL

IFFCO Kisan Logistics Limited - - - **Applicant**

QUORUM:

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Sunil Kumar Singh, Member (Economic)

O R D E R

(Passed on this 13th day of May 2021)

The IFFCO Kisan Logistics Limited (IKLL) [formerly known as IFFCO Kisan Bazar and Logistics Limited (IKBLL)] under cover of its letter dated 06 November 2020 read with letter dated 05 December 2020 has forwarded a proposal for general revision of its Scale of Rates (SOR).

2. The Scale of Rates (SOR) of IKBLL was approved by this Authority as an interim tariff arrangement vide Order no. TAMP/55/2013-KPT dated 15 May 2015 and notified vide Gazette No.195 dated 28 May 2015 till the final rates are approved by this Authority. Subsequently, the final SOR of IKBLL was approved by this Authority vide Order No. TAMP/55/2013-KPT dated 15 January 2016. The said SOR was notified in the Gazette of India vide Gazette No.69 dated 17 February 2016. The validity of the said SOR was prescribed till 31 March 2018. At the request of IKLL, the existing SOR of IKLL (formerly known as IKBLL) is extended twice and last extended till 31 March 2021 or the effective date of implementation of the revised SOR, whichever is earlier.

3. The existing SOR of IKBLL is fixed under the Tariff Guidelines 2005. The Ministry of Ports, Shipping and Waterways (MoPSW) has, vide its letter dated 05 March 2019, issued Tariff Guidelines 2019 for determination of Tariff of BOT operators operating in all Major Port Trusts who were previously governed by 2005 Tariff Guidelines. The said Tariff Guidelines 2019 issued by the MoPSW has been notified in the Gazette of India on 7 March 2019 vide Gazette No.92. Thereafter, as per Clause 1.7 of the Tariff Policy, 2019, Working Guidelines to operationalize the Tariff Policy is notified in the Gazette of India vide Gazette No.244 dated 11 July 2019.

4.1. The IKLL has filed its proposal dated 06 November 2020 for general revision of its SOR following Tariff Guidelines of 2019. Since the IKLL had not furnished the vital forms viz., Form Nos. 1, 4, 6A, 6B & 7 duly certified by its Chartered Accountant and the draft proposed SOR alongwith conditionalities, the IKLL was requested to furnish requisite documents/ information so as to have the proposal complete in all respect for initiating the consultation process with stakeholders.

4.2. In response, the IKLL vide its email dated 13 December 2020 under cover of its letter dated 05 December 2020, has furnished requisite documents duly certified by its Chartered Accountant and also furnished the proposed draft SOR alongwith conditionalities vide its email dated 16 December 2020.

5. The highlights of the IKLL proposal is given below:

(i). The IKLL has furnished detailed computation of Annual Revenue Requirement (ARR) under Form-1

(₹ in lakhs)

Sl. No.	Description	2017-18	2018-19	2019-20
(1).	Total Expenditure (As per Audited Annual Accounts)			
(i).	Operating expenses (including depreciation)	555.87	525.85	577.20
(ii).	Finance and Maintenance Expenses (FME)	36.30	113.25	310.77
	Total Expenditure 1 = (i)+(ii)	592.17	639.11	887.97
(2).	**Adjustments in respect of items where there is variation in figure reported as per INDAS (As per Audited Accounts) and IGAAP**			
(i).	Depreciation	0	0	0
(ii).	Other expenditure items, if any, to be listed	0	0	0
	Total of Adjustments 2=(i)+(ii)+…..	0	0	0
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	0.57	0.66	0.60

(ii).	Interest on Loans	0	0	0
(iii).	Provision of bad and doubtful debts	0	0	0
(iv).	Provision for slow moving inventory	0	0	0
(v).	Other provisions	116.50	192.33	392.57
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]	117.07	192.98	393.17
(4).	**Add: Admissible Royalty/Revenue Share as per Clause 2.2 of the Tariff Guidelines, 2019**	0	0	0
(5).	**Total Expenditure after Total Adjustments (5=1+2+3+4)**	**475.10**	**446.12**	**494.80**
(6).	Average Expenses of Sl.No.5 = [2017-18+2018-19+2019-20]/3	472.01		
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31 March 2020 (As per IGAAP)	3422.14		
	(ii). Add: Capital Work in Progress as on 31 March 2020 (As per Audited Annual Accounts)	0		
	(iii). Add : Working Capital as per norms prescribed in Clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory	0		
	(b). Sundry Debtors	108.01		
	(c). Cash	29.66		
	(d) Sum of (a)+(b)+(c)	137.67		
	(iv). Total Capital Employed [(i)+(ii)-(iii)]	3559.81		
(8).	**Return on Capital Employed 16% on Sl.No.7(iv)**	569.57		
(9).	**Annual Revenue Requirement (ARR) as on 31 March 2020 [(6)+(8)]**	1041.58		
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2020-21**	1.88%		
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No. 10 above**	1061.16		
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling Indexed ARR estimated at Sl.No.11 above.**	829.28		

(ii). The IKLL has furnished in Form 4 giving detailed working of revenue estimation at proposed tariff for the average of the actual traffic handled by the IKLL at 8,89,409 tonnes during the years 2017-18, 2018-19 and 2019-20. Revenue estimated at the proposed tariff is ₹829.28 lakhs.

(iii). The IKLL has furnished a copy of each of its Audited Balance Sheet and Schedules forming part of it and Statement of Profit and Loss for each of the years viz., 2017-18, 2018-19 and 2019-20 duly certified by its Chartered Accountant. The IKLL has furnished Form nos.1 to 8.

(iv). The IKLL has proposed 45% tariff increase in the existing cargo handling charges. Further, the IKLL has proposed to introduce Storage charge which is not prescribed in the existing SOR. The rates prescribed in the existing SOR, proposed tariff and tariff increase in terms of percentage is tabulated below:

Sl. No.	Description	Existing tariff (₹/MT)	Proposed tariff (₹/MT)	Increase in Percentage
(i).	Cargo Handling Charges-Other Dry Bulk-Foreign Cargo	48.84	70.63	45%
(ii).	Cargo Handling Charges-Other Dry Bulk-Coastal Cargo	29.30	42.37	45%
(iii).	Storage Charges – 6 to 10 days (₹/MT/day)	-	7.73	New tariff
(iv).	Storage Charges – 11-15 days (₹/MT/day)	-	11.60	New tariff
(v).	Storage Charges – 16 days onwards (₹/MT/day)	-	15.47	New tariff

6. In accordance with the consultation process prescribed, a copy of the IKLL proposal dated 06 November 2020, emails dated 13 December 2020 / 05 December 2020 (excluding Audited Annual Accounts) alongwith prescribed forms and subsequent email dated 16 December 2020 was circulated vide our letter dated 18 December 2020 to the DPT and users/ user organisations seeking their comments. We have not received any comments from the users/ user organisations till finalisation of the case.

7.1. Based on the preliminary scrutiny of the proposal, the IKLL was requested vide our letter dated 27 January 2021 followed by reminder dated 02 February 2021 to furnish information/ clarifications on a few points by 08 February 2021. The IKLL has furnished its reply on additional information/ clarification vide its letter dated 08 February 2021. A summary of additional information/ clarification sought by us and reply furnished by IKLL thereon is tabulated below:

<table>
<tr><th>Sl. No.</th><th>Information/ Clarification sought by us</th><th>Reply furnished by IKLL</th></tr>
<tr><td>1 .</td><td><u>Annual Revenue Requirement (ARR) (Form No.1):</u></td><td></td></tr>
<tr><td>(i).</td><td>The Audited Annual Accounts of the IKLL reports ₹0.57 lakhs, ₹0.66 lakhs and ₹0.60 lakhs towards berth hire charges paid to DPT for the years 2017-18 to 2019-20 respectively which has been excluded by IKLL in the computation of ARR as per clause 2.2. of the Tariff Guidelines 2019 being royalty payment to DPT. The IKLL to confirm there is no other payments made to DPT as per the Concession Agreement akin to royalty in the expenditure reported in the Annual Accounts of IKLL for the said years. If there is any other payment made by the IKLL to DPT as per the concession agreement which is of the nature of royalty and reported in the Annual Accounts for the years 2017-18 to 2019-20, the same may also be excluded to comply with clause 2.2. of the Tariff Guidelines 2019.</td><td>It is hereby confirmed that IKLL has not made any other payment to DPT except Royalty stipulated in the Concession Agreement and reported / disclosed in the Annual Audited Financials of FY 2017-18 to 2019-20. Such payment of Royalty to DPT has been excluded for compliance of the clause 2.2 of the Tariff Guidelines, 2019.</td></tr>
<tr><td>(ii).</td><td>(a). As per clause 2.3.1(ii) of TG 2019, only provision for bad and doubtful debts, provision for slow moving inventory, etc. are to be excluded from the total expenditure for computation of ARR.

The IKLL, in Form-1 has excluded Other provisions to the tune of ₹116.50 lakhs, ₹192.33 lakhs and ₹392.57 lakhs for the years 2017-18, 2018-19 and 2019-20 respectively.
In the said exclusion items, one entry relates to Fixed Assets written off to the tune of ₹26.75 lakhs, ₹.49.33 lakhs and Nil for the years 2017-18 to 2019-20 respectively. The nature of this write off and reasons for excluding this item may be explained.</td><td>IKLL had constructed total 3 storage sheds with a total capacity of 35000 MT in the Barge jetty back-up area for warehousing of cargo handled at Barge Jetty which have been operational since 25th September 2015.
Subsequently, we had replaced the existing galvalume roof sheets fixed in above storage sheds with PVC Palruf roofing sheets. The existing sheets were corroded due to presence of corrosive marine atmosphere & accumulation of dust at Barge jetty area and it is warranted that the old sheets be removed. Therefore, old sheets were removed from the storage sheds and were decapitalised in FY 2017-18 and FY 2018-19 respectively as per working shown below:

Financial Year: 2017-18
<table><tr><th>Particulars</th><th>Amount [₹]</th></tr><tr><td>Gross value of galvalume of roof sheets removed from storage sheds</td><td>28,68,342</td></tr><tr><td>Less:Accumulated depreciation till the date of de-capitalisation (depreciation @ 3.83% p.a. for the period from 25.09.2015 to 28.06.2017)</td><td>1,93,228</td></tr></table></td></tr>
</table>

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<td></td>
<td></td>
<td>
<table>
<tr><td>Net value considered for decapitalisation</td><td>26,75,114</td></tr>
</table>

Financial Year: 2018-19
<table>
<tr><th>Particulars</th><th>Amount [₹]</th></tr>
<tr><td>Gross value of galvalume of roof sheets removed from storage sheds</td><td>55,29,157</td></tr>
<tr><td>Less: Accumulated depreciation till the date of de-capitalisation (depreciation @ 3.83% p.a. for the period from 25.09.2015 to 19.07.2018)</td><td>5,96,428</td></tr>
<tr><td>Net value considered for decapitalisation</td><td>49,32,729</td></tr>
</table>

<u>Note</u>: Written down value of roof sheets were decapitalised (i.e. cost of acquisition less accumulated depreciation for the total number of days’ sheets were used). Depreciation rate @ 3.83% p.a. derived as the cost of storage sheds are to be fully depreciated in 26 years i.e. remaining useful life of the parent asset, Barge jetty.

In this context, we would like to refer clause [ix] [a] of TAMP order dated 15.01.2016 [page 25] which stipulates that:
As per clause 2.7.1 of the tariff guidelines 2005, the depreciation has to be computed based on the straight line method with life norms adopted as per Companies Act or based on life norms prescribed in the Concession Agreement whichever is higher. IKBLL to confirm whether the computation of depreciation is as per tariff guidelines.

In view of that, for complying with the said condition of the order and since amount of assets written off is over and above depreciation charged as per Companies Act, same has been excluded from expenditure considered for computation of Annual Required Revenue in Form 1.
</td>
</tr>
<tr>
<td></td>
<td>(b). The Annual Accounts of the year 2018-19 and 2019-20 reports interest paid on GST and interest on TDS for the year 2018-19. Since it appears that the interest paid by the IKLL is of penal nature, the same may be considered for exclusion in the computation of ARR as users cannot be burdened for such interest component.</td>
<td>As advised, computation is revised to exclude said amount[s] and submitted in revised workings of Form 1.</td>
</tr>
<tr>
<td></td>
<td>(c). The Annual Accounts for the year 2018-19 shows Service tax Cenvat credit written off to the tune of ₹0.13 lakh. Since Service tax payable is not treated as expenditure, the credit write off of the service tax cannot be part of computation of ARR and hence may be excluded.</td>
<td>As advised, computation is revised to exclude said amount[s] and submitted in revised workings of Form 1.</td>
</tr>
<tr>
<td></td>
<td>(d). The Annual Accounts for the years 2018-19 and 2019-20 report expenditure towards joining fees and NSDL Annual</td>
<td>As advised, computation is revised to exclude said amount[s] and submitted in revised workings of Form 1.</td>
</tr>
</table>

	custody charges of ₹1.01 lakh and ₹0.62 lakhs respectively, and Demat charges of ₹0.14 lakhs and ₹0.11 lakhs in the years 2018-19 and 2019-20. Since these items do not appear to be related to jetty operations, the same may be excluded from ARR computation.	
	(e). Please clarify the nature of expenses reported under the head "Consent renewal fees" to the tune of ₹8235 and ₹28982 in the year 2018-19 and 2019-20 respectively. If the said expense do not relate to jetty operation, the same may be excluded from ARR computation.	As advised, computation is revised to exclude said amount[s] and submitted in revised workings of Form 1.
(iii).	(a). Clause 2.6 of Tariff Guidelines 2019, inter alia, stipulates that advance payment of lease rental/ license fee to landlord port flowing from the contractual obligations will be recognized as part of sundry debtors in the computation of working capital. The IKLL in the working sheet 2 to Form 3 (i.e. Appendix H) has shown ₹189.47 lakhs towards prepaid license Fees and prepaid water front charges to be reported in the Audited Annual Accounts for the year 2019-20. This figure does not match with figures reported in the Audited Annual Accounts. The Licence fee and water front charges reported in the Audited Annual Account of the year 2019-20 is ₹213.82 lakhs. That being so, 50% of the same works out to ₹106.91 lakhs which need to be considered under this item in the computation of working capital in line with the practice followed in the last tariff Order dated 15 January 2016 and in the case of the other BOT operators also. The IKLL may accordingly correct this item in the computation of working capital for ARR computation.	Amount of ₹ 189.47 lakhs shown in worksheet 2 to Form 3 is matched with balance as on 31.03.2020 and 50% of the same ₹107.68 lakhs along with other trade receivables for ₹0.33 lakhs aggregating to ₹108.01 lakhs was considered as working capital. As advised, said amount is revised to ₹106.91 lakhs and revised computation is being submitted in revised Form 3.
	(b). Further, IKLL has considered trade receivables to the tune of ₹0.33 lakhs under the Sundry debtors in Form 3. This item is not in line with clause 2.6. of the Tariff Guidelines 2019 and hence may be excluded from working capital calculation.	Clause 2.6 of Tariff Guidelines 2019 begins with following wording: "Working capital will comprise of inventory, sundry debtors and cash balances." Hence sundry debtors were considered for 0.33 lakhs. We have revised computation as advised and same is being submitted in revised Form 3 in Annexure A.
(iv).	As per clause 2.6 of Tariff Guidelines 2019, the limit on cash balance is one month's cash expenses. In Form-3 for Computation of Working Capital, the IKLL has considered ₹29.66 lakhs towards Cash expenses by excluding Non-cash expenditure from the Total Expenditure as reflected in the Annual Accounts for the year 2019-20. The IKLL is entitled to one month cash expense i.e. total admissible expense for Y3 furnished in Form-1 less depreciation for Y3 under this item. (i.e. as per the current Form 1 furnished by IKLL it works out to ₹21.63	As advised one month's cash expenses value is revised to 21.63 lakhs and revised computation is being submitted in revised Form 3 in Annexure A. [As per the revised proposal one month's cash expenses works out to ₹21.54 lakhs]

	lakhs []`. 494.80 lakhs less 235.21 =[`259.59 /12 = 21.63 lakhs]) The IKLL, is therefore, requested to accordingly make necessary correction in this item based on the revised Form 1 to be furnished by the IKLL.	
(v).	In the light of the above observation, the IKLL is requested to furnish revised Form-1 for computation of ARR duly certified by practicing Chartered Accountant or Cost Accountant.	As advised revised computation is being submitted for your kind perusal in Annexure A.
2.	**<u>Revenue Estimation (Form 4)</u>:**	
(i).	The IKLL in Form 4, Appendix-I has considered average traffic at 889409 MT per annum based on the actual traffic handled by IKLL for the years 2017-18, 2018-19 and 2019-20 at 734955 MT, 984860 MT and 948412 MT respectively. The IKLL in the said Form 4 has stated that in the last three years the IKLL has handled only captive cargo and no third party cargo was handled. The IKLL has stated that it estimates that equal quantity will be handled for third party also. That being so, the average traffic to be handled by IKLL shall be 17,78,818 MT per annum (i.e. 889409 MT of captive cargo and 889409 MT for third party cargo). However, it is seen that the IKLL has estimated revenue only for 889409 MT and not for total traffic covering both captive cargo and third party cargo envisaged to be handled by IKLL. In this regard reference is drawn to para 13(vi) of the last tariff Order. This Authority in the last tariff Order No.TAMP/55/2013- KPT dated 15 January 2016 in para 19.(v) has observed that this Authority is statutorily required under the provisions of the MPT Act to fix tariff for the services rendered by the IKBLL as a whole, irrespective of whether the cargo handled is for own use or a third party cargo. Accordingly, even during the last tariff revision exercise, tariff was approved by this Authority for the cargo handled at the IKBLL jetty as a whole, without going into whether the cargo is captive or a third party cargo. That being so, the IKLL is requested to modify its proposal to capture the average traffic for the Jetty as a whole i.e. average traffic of the last three years 2017-18 to 2019-20 at 889409 MT in respect of captive cargo plus the average cargo estimated to be handled for third party cargo. This may entail changes in the proposed rates as well. The IKLL to make necessary changes and submit the revised proposal.	In this respect, we would like to humbly submit that: (a). Figures of total of column 9 of table B in Form 4 are carried forward to sr no 12 of Form 1 to compare said figures with ceiling estimated at sr no 11 of Form 1. (b). As per the structure of various Forms, revenue estimated on the basis of historical quantities handled in last 3 years at proposed SOR is being compared with ceiling arrived at on the basis of historical expenditure of last 3 year. (c). Further Form 4 itself provides for considering historical quantities and not estimated future quantities. For example, Table A of Form 4 provides format for computation of average actual traffic; this average actual traffic figures are required to be mentioned in column no 8 of Table B heading of which reads as under: "Average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3." In view of above, computation has been submitted exactly to comply with prescribed formats and logic of comparing historical financial data with historical quantitative data. Considering such facts, we are of the opinion that future estimated quantities cannot be used for comparison with historical cost as per Audited Annual Accounts. Hence, we most respectfully submit to accept our submission with computations as revised with above referred suggestions.
3.	**<u>Past Period Performance (Form-8)</u>:**	
	The IKLL has furnished Form 8 without giving analysis for past period performance. Reference is drawn to note no.1 of the	It is mentioned in note no.1 of the prescribed Form no 8 that "This Form is to be filed along with other Forms in the general revision of

	prescribed form which states that this Form is to be filed along with other Forms in the general revision of Scale of Rates subsequent to the first tariff revision done under Tariff Guidelines, 2019. The current proposal of IKLL is first revision under TG 2019 and hence reference is drawn to Clause 3.1.2 of the Tariff Guidelines, 2019 which stipulates that surplus/ deficit upto the period of first tariff fixation under this Guidelines shall be dealt with as per Clause 2.13 of the 2005 Tariff Guidelines as reproduced below: *"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."* During the last tariff revision, estimates for the years 2015-16, 2016-17 and 2017-18 was considered. The IKLL is, therefore, to furnish the statement showing the actual physical and financial performance vis-à-vis the estimates relied upon in the previous tariff cycle as done in earlier tariff revision exercises under erstwhile Tariff Guidelines, 2005 and make necessary adjustments from the estimated ARR in case there is variation in both physical and financial parameters by +/-20%. A sample of past period analysis statement is attached as **Annex- A** for your reference.	Scale of Rates subsequent to the first tariff revision done under Tariff Guidelines, 2019." In this respect, we humbly submit that IKLL is submitting herewith "First Tariff Revision Proposal" In view of that, the said clause will be complied in subsequent Tariff Revision proposal to be filed in future.
4.	**<u>Proposed Scale of Rates</u>:**	
(i).	<u>General Terms and Conditions</u>:	
	This Authority has passed common adoption Orders for all Major Port Trusts and BOT operators operating thereat from time to time and all the Major Port Trusts and BOT operators operating thereat were requested to include suitable notes in the SOR. However, the IKLL has not included suitable note in the proposed SOR in line with the following common adoption Order: Amendment Order No.TAMP/53/2015-VOCPT dated 25 September 2018 in common adoption Order No. TAMP/53/2015-VOCPT dated 26 November 2015 relating to provision prescribed for concessional coastal tariff for ships and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh in terms of Notification No.38/2018- Customs (N.T.) dated 11 May	As advised, we have incorporated following note in Revised SOR. Amendment Order No.TAMP/53/2015-VOCPT dated 25 September 2018 in common adoption Order No. TAMP/53/2015-VOCPT dated 26 November 2015 relating to provision prescribed for concessional coastal tariff for ships and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh in terms of Notification No.38/2018- Customs (N.T.) dated 11 May 2018 issued by the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.

	2018 issued by the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.	
(ii).	As per clause 5.4.1. of the Tariff Guidelines 2019, penal interest for delayed payments by users and delayed refund by BOT operators is prescribed at 15%. The note 2(i).(b). under the General Terms and conditions proposed by the IKLL proposes the penal interest rate at 14.15% which may be modified to 15% to fall in line with the guideline provision.	As advised, we have modified the interest rate in the revised SOR as submitted in Annexure B.
5.	**Proposed Storage Charge:**	
(i).	During the last tariff revision approved vide Order No TAMP/55/2013-KPT dated 15 January 2016, the IKLL had not proposed any storage charge. To a specific query in this regard, as brought out in para 13 of Order No.TAMP/55/2013-KPT dated 15 January 2016 at Sl No (i), the IKLL had then clarified during the last tariff revision that the proposed cargo handling charges do not include storage charges. As per Article-8.1 (Levy and Recovery of Tariff) of Concession Agreement, Concessionaire shall collect the Cargo Handling Charges at the rates approved by TAMP. As such, it is not clear where is the requirement for fixation of separate storage charges as per provision in Concession Agreement. However, now in the current proposal, the IKLL has proposed separate storage charges in the proposed SOR which contradicts the stand of the IKLL in its last general revision proposal. In view of the above, the IKLL to confirm and give reference to the relevant clause in the Concession Agreement that the IKLL can levy storage charge on cargo of third party as per the provisions of the Concession Agreement.	A. Background: IFFCO Kisan Logistics Limited ("the Company") was incorporated on February 26, 2004 under the Companies Act, 1956. The company is wholly owned subsidiary of Indian Farmers Fertiliser Cooperative Limited (IFFCO). The company entered into an agreement with Deendayal Port Trust on February 17, 2011 for construction and setting up of a Barge jetty at Kandla Port (Build Operate Transfer Basis) for captive use. The duration of Agreement 30 years. The construction of Barge Jetty has been completed and commercial operation commenced from 16th November, 2013. Barge Jetty capacity 2.00 MMTPA for handling of solid fertilisers, raw materials and other products of dry cargo. As per the Concession Agreement entered into between IKLL and DPT, 36000 m2 of land has been leased by DPT as a backup area for development of port facilities in addition to 2400 m2 of land for construction of Barge Jetty. As per the Concession Agreement, the Barge Jetty facility is proposed to be utilized for the third party cargo also to optimize the use of handling facilities. Therefore, it is felt that for attracting third party cargo handling at barge jetty, the covered storage facility shall be required for storage of cargo. Further, IFFCO has diverted its imported fertiliser to IKLL Barge Jetty which were earlier handled through Kandla & Mundra port. Our plant operations are affected whenever imported fertilisers handled at Barge jetty as we have to dedicate our conveyor system & silo compartment for imported fertiliser which in case would have been utilized for handling & storage of fertiliser produced in plant. Therefore, a flexible alternative is required for importing fertiliser alongside own production of fertilisers so that our plant operation can be sustained along with unloading operations of ships and barges for imported fertilizes. IKLL had constructed total 3 warehouses

		with a total capacity of 35,000 MT in the Barge jetty back-up area for storage of cargo handled at Barge Jetty which have been operational since 25th September 2015. The concession Agreement does not specifically mention anywhere for construction of storage sheds and same were undertaken by IKLL voluntary to handle the cargo as explained in above paras. Further, it is commercial wisdom that a port cannot operate efficiently without adequate storage facilities (page 84 of the Concession Agreement states the Company should provide other support facilities for proper and efficient functioning). Concession Agreement for construction of Barge Jetty of which warehouses are essential & integral part of Barge jetty. Construction of warehouses had been included in para (ii) and para (iv) of Appendix 4 of the Concession Agreement; that para (iii) of Appendix 4 very specifically says to have capacity to handle 2 MMTPA of cargo, which was possible only when related warehousing facilities are also constructed within Backup area; that construction of 3 warehouses was therefore part of the Concession Agreement. Warehouses have been constructed in the Backup area as per Appendix 1 read with Appendix 4 of the Concession Agreement. <u>B. Provisions in the Concession Agreement</u>: In this context, we would like to refer Article 8.1 of Concession Agreement "Levy and Recovery of the Tariff" [page 34] which provides as under: "The Project Facilities and Services under this agreement have been developed by the Concessionaire for its own use. The Tariff is not levied for own use. However, in order to optimise the use of the facility and as per the provisions of this agreement and in case the Concessionaire handles Other Cargo as directed by the Concessioning Authority, for some other User during the Operation phase, the Concessioning Authority shall be entitled to levy and recover tariff from the Owners/ consignees of cargo and the vessel owners/ agents using the Project Facilities and Services as per the Scale of Rates notified time to time. As of the date hereof, the applicable Tariff is as set out in Appendix 13. In addition, the Concessioning Authority shall collect from the user berth hire charges as per the Kandla Port Scale of Rates notified time to time, and share with the Concessionaire 50% of any payments

		realized for such berth hire charges. Further, the Concessionaire shall collect the Cargo Handling Charges at the rates approved by the TAMP for handling Other Cargo through the mechanized facility as set out in Appendix 12 and applicable from time to time and shall pay to the Concessioning Authority 25% of the same as Royalty. For avoidance of doubt it is clarified that the Concessioning Authority shall collect the 100% wharfage charges for Other Cargo, as per Kandla Port Trust applicable Scale of Rates. It is further stated that the Concessioning Authority shall collect the other vessel related charges including Port dues, pilotage Fees, mooring charges, stream dues, anchorage fees etc., as per Scale of Rates and revised from time to time; " Further to that, Article 9.1[B] of Concession Agreement [page 35] provides as under: [a] The Concessionaire shall collect the Cargo handling Charges as approved by the TAMP and pay to the Concessioning Authority 25% of the rates approved by the TAMP for handling Other Cargo through the mechanized facility as set out in Appendix 12 and applicable from time to time as Royalty per Month, chargeable by the Concessionaire ("the Royalty"). [b] Gross Revenue shall be computed on the basis of the maximum Tariffs leviable for and in respect of the Project Facilities and Services provided during the relevant period of computation. It is clarified that discounts and deferments, if any offered by the Concessionaire to the users or amounts if any not collected by the Concessionaire for any reason whatsoever in respect of the Project Facilities and Services, shall be ignored for the purpose of Gross Revenue. Further, in computing the Gross Revenue, income from interest, sale of assets, amounts received by the Concessionaire by way of damages from third parties (excepting damages received from the users on account of demurrage or such other related charges in respect of the Project Facilities and Services), taxes and cesses in respect to the Project Facilities and Services, if any collected and paid to any Government Authority shall also be ignored. Considering the above provisions of Articles 8.1 and 9.1 of Concession Agreement, it can be said that Article 8.1 does not at any place

		bar concessionaire from charging for any other services related to project facilities. In addition, gross revenue definition provided in Article 9.1 specifically only excludes revenues other than in respect of the Project Facilities and Services from being considered as part of Gross Revenue for royalty payments and revenue sharing on charges collected for port facility in any name is sufficiently covered under definition of Gross Revenue. <u>C. Services offered by other Operator:</u> AKBTPL (M/s Adani Kandla Bulk Terminal Private Limited) as well as KICTL (M/s Kandla International Container Terminal Limited) are also having separate schedule of rates for warehousing. In view of the above, it is prudent commercial practice to offer storage facility to the users of port which will not only be beneficial for IKLL but also DPT.
(ii).	If, the IKLL confirms that it can levy storage charge as per the Concession Agreement for third party cargo, the following points to be addressed:	
	(a). The IKLL has furnished the working to arrive at storage charge wherein it has considered years wise slab wise cargo quantity using storage facility for the years 2017-18, 2018-19 and 2019-20 and arrived at average quantum availing storage facility at 5879285 tonnes which has finally been spread over the estimated revenue requirement from storage charge to arrive at the base storage charge. The existing SOR does not prescribe any storage charge. The IKLL to furnish the basis considered by the IKLL for arriving at the proposed storage charges.	Computation of said storage charges is submitted.
	(b). In the proposed SOR, the IKLL has proposed the storage charges and included the same under the Schedule of Cargo Handling charges. In this regard, the following points may be considered: (i). The IKLL may propose separate Schedule of Storage charge. (ii). Normally, storage charge is leviable after free storage period. Clause 8.5 of the Working Guidelines 2019, stipulates that free days beyond which storage charges are leviable may be prescribed by the BOT operator. IKLL may therefore propose free period under the schedule of storage charge beyond which storage charge shall be leviable. This is in line with the prescription in the SOR of other Major Port Trusts and BOT operators. Consequent to above, if any	 (i) As advised, separate SOR is submitted. (ii). As advised, such conditions are incorporated in SOR submitted.

	change arises in the revenue estimation from storage charge, the same may be done and revised revenue estimation in Form 4 may be furnished duly certified by practising Chartered Accountant or Cost Accountant. (iii). Further, conditions governing levy of storage charge like - computation of free period, exclusion of customs notified holidays and terminal non-working days for computation of free period may be proposed in the draft proposed SOR. The IKLL may, if required, peruse the SOR of other ports or operators available on the website of TAMP.	 (iii). As advised, such conditions are incorporated in SOR submitted.
6.	**<u>Calculation of proposed tariff furnished in Appendix K</u>**:	
	The IKLL in appendix K has given working for arriving at the proposed cargo handling charge and storage charge. In the said working it is seen that proposed rate arrived by the IKLL for cargo handling charge and storage charge captures share of DPT @33.33% to the base rate. The relevance of adding the share of DPT is not clear. As IKLL is aware that revenue share/ royalty payment is not admissible as pass through for tariff fixation as per clause 2.2. of the Tariff Guidelines 2019 and in line with the approach followed in the last tariff Order. Thus, IKLL to exclude revenue share component, if any, included in the proposed tariff.	In this respect, IKLL is of the opinion that following clauses are relevant for determination of SOR: Clause 2.9 - The ARR determined by the BOT operators as per clause 2.8 above is the ceiling Annual Revenue Requirement based on which the BOT operators will draw the Scale of Rates (SOR). Clause 2.10 - For drawing the SOR, the traffic to be considered would be the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. The actual traffic should be duly certified by the concerned Major Port Trust within 10 days. Clause 2.11.1 - Based on the Annual Revenue Requirement as assessed as per Clause 2.9 above and taking into account the traffic as per Clause 2.10 above, the BOT operator will have the flexibility to determine the rates to respond to the market forces based on its commercial judgment and draw the SOR within the ceiling of Annual Revenue Requirement, duly certified by a practising Chartered Accountant/ Cost Accountant. The BOT Operator shall have option to draw SOR to achieve revenue lower than the ceiling ARR. In this regard, BOT operators will make a detailed working of income estimation indicating each of the tariff items in the proposed SOR for corresponding traffic as in clause 2.10 above and establish itself that the sum of the revenue so determined from all the tariff items in the SOR is within the ceiling of the ARR determined in clause 2.9. above duly certified by a practicing Chartered Accountant/ Cost Accountant. For ensuring precise compliance of various clauses of Tariff Guidelines, 2019 dated 07.03.2019 including clause 2.9 to 2.11.1of said Guidelines, Working Guidelines, 2019

		dated 11.07.2019 have been issued which prescribe various forms for consistent manner of computation of ceiling limit and comparison of said limit with revenue at proposed SOR. Ceiling limit in Format 1 is already calculated by excluding share of DPT in the form of royalty. In present case, revenue estimate in Form 4 as per computation methodology prescribed therein is within ceiling limit for Annual Revenue Requirement computed in manner prescribed in Form 1. In view of that, we are of the opinion that any other computations need to be ignored, if revenue estimate is within limits of amounts arrived at in Form 1 already excluded in in sr no 3 [i] of Form 1.
7.	**Separate Agreement**:	
	As per clause 1.9 of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by this guidelines, by way of a separate Agreement with the concerned Major Port Trust. The IKLL has in this regard furnished a copy of the separate Agreement. But, the agreement is signed by IKLL only and it is shown as draft. The IKLL to arrange to furnish final copy of agreement duly signed by authorised signatory of both IKLL and DPT.	The Agreement executed by IKLL with DPT duly signed by authorised signatories is submitted herewith.

7.2. The computation of Storage Charges and the ARR from Storage Charges are summarized in the following table:

Particulars	2017-18	2018-19	2019-20
Total allowable expenditure	47509742	44377216	49376728
Total expenditure related to storage facilities	8566244	7150807	8754076
% of revenue allocable to storage charges	18.03%	16.11%	17.73%
Average			17.29%
Ceiling of Annual Revenue Required in lakhs			1058.52
Ceiling of Annual Revenue Required for storage in lakhs			183.03
Ceiling of Annual Revenue Required for handling in lakhs			875.49

Particulars	Qty	Rate	Value
6-10 days	193497.700	6.50	1257735
11-15 days	144208.153	11.00	1586290
16 days onwards	1102367.782	14.00	15433149
Total in amount			18277174
Estimated amount in Lakhs			182.77

7.3. The IKLL, while furnishing information / clarification sought by us, has vide its letter dated 08 February 2021 furnished revised cost statements and revised proposed draft SOR. The main points as regards the revised proposal are summarized below:

(i). The revised Annual Revenue Requirement (ARR) under Form-1 computed by the IKLL is given below:

(₹ in lakhs)

Sl. No.	Description	2017-18	2018-19	2019-20
(1).	Total Expenditure (As per Audited Annual Accounts)			
(i).	Operating expenses (including depreciation)	555.87	525.85	577.20
(ii).	Finance and Maintenance Expenses (FME)	36.30	113.25	310.77
	Total Expenditure 1 = (i)+(ii)	592.17	639.11	887.97
(2).	**Adjustments in respect of items where there is variation in figure reported as per INDAS (As per Audited Accounts) and IGAAP**			
(i).	Depreciation	0	0	0
(ii).	Other expenditure items, if any, to be listed	0	0	0
	Total of Adjustments 2=(i)+(ii)+…..	0	0	0
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	0.57	0.66	0.60
(ii).	Interest on Loans	0	0	0
(iii).	Provision of bad and doubtful debts	0	0	0
(iv).	Provision for slow moving inventory	0	0	0
(v).	Other provisions	116.50	194.68	393.61
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]	117.07	195.34	394.21
(4).	**Add: Admissible Royalty/Revenue Share as per Clause 2.2 of the Tariff Guidelines, 2019**	0	0	0
(5).	**Total Expenditure after Total Adjustments (5=1+2+3+4)**	**475.10**	**443.77**	**493.76**
(6).	Average Expenses of Sl.No.5 = [2017-18+2018-19+2019-20]/3	470.88		
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31 March 2020 (As per IGAAP)	3422.14		
	(ii). Add: Capital Work in Progress as on 31 March 2020 (As per Audited Annual Accounts)	0		
	(iii). Add : Working Capital as per norms prescribed in Clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory	0		
	(b). Sundry Debtors	106.91		
	(c). Cash	21.63		
	(d) Sum of (a)+(b)+(c)	128.54		
	(iv). Total Capital Employed [(i)+(ii)-(iii)]	3550.68		
(8).	**Return on Capital Employed 16% on Sl.No.7(iv)**	568.11		
(9).	**Annual Revenue Requirement (ARR) as on 31 March 2020 [(6)+(8)]**	1038.99		
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2020-21**	1.88%		
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No. 10 above**	1058.52		
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling Indexed ARR estimated at Sl.No.11 above.**	809.82		

(ii). (a). The cargo handling charge for Other Dry bulk cargo proposed in the revised SOR by the IKLL is same as proposed in the original proposal.

(b). Flowing from the point of action arising at the joint hearing, the IKLL has proposed to retain prescription of cargo handling charge for Steel and bagged cargo and Timber logs in the existing SOR with 18% and 20% increase proposed over the existing rate for Steel and bagged cargo and Timber logs respectively.

(c). The rates proposed for storage charges proposed in the original proposal is revised by slightly reducing it and free period of 5 day is proposed now.

(iii). The existing rate and revised rate as per the revised proposed SOR of IKLL are tabulated below:

(a). Cargo Handling Charge

(₹/MT)

Sl. No.	Other Dry Bulk	Existing tariff as per Order dated 15.01.2016		Revised Proposed Rates		% Increase
		Foreign	Coastal	Foreign	Coastal	
(i).	Other Dry Bulk	48.84	29.30	70.63	42.37	45%
(ii).	Steel and Bagged Cargo	59.56	35.74	70.63	42.37	18.6%
(iii).	Timber Logs	58.67	35.20	70.63	42.37	20%

(b). Storage Charge

(₹/MT)

Sl. No.	Particulars	Existing	Revised Proposed Rate (New item)	% Increase
(i).	First 5 days Free	--	--	New Item
(ii).	6 – 10 days	--	6.50	New Item
(iii).	11-15 days	--	11.00	New Item
(iv).	16 days and above	--	14.00	New Item

(iv). Revenue estimate is modified to capture the revised proposed rate. The IKLL has furnished revised Form no.1 & 4 duly certified by the practicing Chartered Accountant.

7.4. Based on preliminary scrutiny of the proposal of the IKLL, the DPT was also requested vide our letter dated 13 January 2021 to furnish information / clarification on the following points. The DPT has furnished its response vide letter dated 09 March 2021. A summary of additional information/ clarification sought by us and reply furnished by DPT thereon is tabulated below:

Sl. No.	Information/ Clarification sought by us	Reply furnished by DPT
(i).	Confirm that the lease rent considered in the computation of Annual Revenue Requirement (ARR) for the years 2017-18 to 2019-20 at ₹202.21 lakhs, ₹205.69 lakhs and ₹213.82 lakhs respectively as shown under License fees and Waterfront charges in the Working Shee1 for Form 1 and reported in the Audited Annual Accounts for these years are in line with the provisions of the Concession Agreement.	License Fee and Water front charges paid by IKLL is under: 1. Year 2017-18 – ₹201.116 Lakhs 2. Year 2018-19 – ₹205.478 Lakhs 3. Year 2019-20 – ₹213.081 Lakhs This charges are in line with the provisions of the concession agreement.
(ii).	(a). The IKLL in Form 4, Appendix 1 has considered average traffic at 889409 MT per annum based on the actual traffic handled by IKLL for the years 2017-18, 2018-19 and 2019-20 at 734955 MT, 984860 MT, and 948412 MT respectively. The DPT to confirm the actual traffic reported by IKLL is in order.	Actual Traffic handled by IKLL is under: 1. 2017-18 – 723053 MT 2. 2018-19 - 986306 MT 3. 2019-20 – 1002312 MT Based on the above average traffic is 903890 MT per annum.
	(b). The IKLL in Form 4 (Appendix I) regarding revenue estimation has stated that in the last three years the IKLL has handled only captive cargo and no third party cargo was handled. The IKLL estimates that equal quantity will be handled for third party also. That being so, the average traffic to be handled by IKLL shall be 17,78,818 MT per annum (i.e. 889409 MT of captive cargo and 889409 MT for third party cargo). The DPT to confirm the average traffic for the Jetty as a whole, as tariff is to be proposed by the IKLL for the Jetty as a whole in line with the approach followed in the last IKLL tariff Order dated 15 January 2016.	It was proposal of M/s. IKLL. Till date they have handled only one vessel during the last two years. DPT do not know the future plan of IKLL on handling third party cargo.

(iii).	The Audited Annual Accounts of the IKLL reports ₹0.57 lakhs, ₹0.66 lakhs and ₹0.60 lakhs towards berth hire charges paid to DPT for the years 2017-18 to 2019-20 respectively which has been excluded by IKLL in the computation of ARR as per clause 2.2 of the Tariff Guidelines 2019 being royalty payment to DPT. The DPT to confirm there is no other payments made by IKLL to the DPT as per the Concession Agreement akin to royalty in the expenditure reported in the Annual Accounts of IKLL for the said years. If so, the same to be indicated to us for exclusion in the ARR computation as per clause 2.2 of the Tariff Guidelines 2019.	Confirmed that there are no payment from M/s. IKLL akin to royalty.
(iv).	During the last tariff revision approved vide Order No.TAMP/55/2013-KPT dated 15 January 2016, the IKLL had not proposed any storage charge. To a specific query in this regard, as brought out in para 13. of the said Order at Sl No (i), the IKLL had clarified then that the proposed cargo handling charges do not include storage charges. As per Article- 8.1 (Levy and Recovery of Tariff) of Concession Agreement, Concessionaire shall collect the Cargo Handling Charges at the rates approved by TAMP. The IKLL then contended that there is no requirement for fixation of separate storage charges as per provision in Concession Agreement. Thus, the existing SOR does not prescribe storage charges. However, now in the current proposal, the IKLL has proposed separate storage charges in the proposed SOR which contradicts the stand of the IKLL in its last general revision proposal. The DPT to confirm and give reference to the relevant clause in the Concession Agreement that the IKLL can levy storage charge on cargo of third party as per the provisions of the Concession Agreement.	Concession agreement is silent regarding collection of storage charges for Other cargoes.
(v).	As per clause 1.9. of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by this guidelines, by way of a separate Agreement with the concerned Major Port Trust. The DPT to furnish a copy of the separate Agreement as per the prescribed format forwarded by the MOS vide letter No PR-14019/20/2009-PG (PTIV) dated 8 March 2019 to all the Major Port Trusts including the DPT duly signed by the IKLL and the DPT.	As desired a copy of separate agreement as per prescribed format forwarded by the MOPSW duly signed by DPT and IKLL is submitted.

8.1. A joint hearing in this case was held on 29 January 2021 through Video Conferencing. At the joint hearing, the IKLL and the DPT have made their submissions.

8.2. In view of the point made by DPT at the joint hearing regarding inclusion of cargo handling charges for steel and bagged cargo and Timber logs by the IKLL in the proposed SOR in line with the existing SOR, the IKLL was requested vide our letter dated 02 February 2021 to review its proposal to that extent while furnishing additional information/ clarification sought by us. As brought out earlier, the IKLL vide its letter dated 08 February 2021 has furnished revised cost statements and revised proposed draft SOR.

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

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

(i). The Scale of Rates (SOR) of IFFCO Kisan Logistics Limited (IKLL) [formerly known as IFFCO Kisan Bazar and Logistics Limited (IKBLL)] was last approved by this Authority vide Order No.TAMP/55/2013-KPT dated 15 January 2016, following the Tariff Guidelines of 2005. The validity of the SOR was prescribed till 31 March 2018. At the request of IKLL, the validity of the existing SOR was extended from time to time and the last extension was granted till 31 March 2021.

(ii). The Ministry of Ports, Shipping and Waterways (MOPSW), the then Ministry of Shipping (MOS), as a policy direction under Section 111 of the Major Port Trusts Act, 1963, has issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. Consequent to the issue of the Tariff Guidelines, 2019 by the MOS, the tariff fixation exercise in respect of the IKLL is to be governed by the stipulations contained in the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019.

Following the Tariff Guidelines, 2019 and Working Guidelines 2019, the IKLL has filed its proposal dated 05 December 2020 for general revision of its SOR followed by submission of additional documents vide its letter dated 16 December 2020.

Subsequently, the IKLL vide its letter dated 08 February 2021 has furnished the revised ARR computation and revised proposed SOR wherein the IKLL has proposed to prescribe the rate for Steel and bagged cargo and Timber logs based on the suggestion of the DPT. The final revised proposal filed by the IKLL vide its email dated 08 February 2021 read with its proposal dated 05 December 2020 along with submissions made by the IKLL and the DPT during the processing of the case are considered in this analysis.

(iii). (a). Clause 2.1 of the Tariff Guidelines, 2019, requires each BOT Operator to assess the ARR which is the average of the sum of Actual Expenditure as per the final Audited Annual Accounts of the immediate preceding three years (Y1), (Y2) and (Y3) at the time of submitting the proposal subject to certain exclusions as prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines issued by this Authority plus Return at 16% on Capital Employed obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(b). The IKLL has assessed the ARR based on Audited Annual Accounts for the preceding three years i.e. 2017-18 (Y1), 2018-19 (Y2) and 2019-20 (Y3) duly certified by a practicing Chartered Accountant. While assessing the ARR, the IKLL has made exclusions of the expenses not admissible in ARR computation for arriving at the Average annual expenses for the year 2017-18, 2018-19 and 2019-20, as prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019. The following adjustments done by IKLL in line with provisions prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines are brought out for specific mention except for few modifications done by us for the reasons explained in the following paragraph:

(i). Clause 2.2 of the Tariff Guidelines, 2019, *inter alia*, stipulates that Royalty/ Revenue share payable to the landlord port by the BOT operator will not be allowed as an admissible cost for tariff computation and in those cases where the bidding process was finalized before 29 July 2003, it will be taken into account as cost to the extent of the next highest bidder in the ARR computation.

In case of IKLL (formerly known as IKBLL), the license agreement was signed in February 2011. Thus, in line with the stipulation contained in the guidelines, royalty/ revenue share is not treated as pass through in tariff fixation of IKLL. This is also in line with the approach followed in the last tariff revision. Accordingly, royalty reported in the Audited Annual Accounts at ₹0.57 lakhs, ₹0.66 lakhs and ₹0.60 lakhs for the years 2017-18, 2018-19 and 2019-20 respectively are excluded.

In response to our specific query with respect to any other payment made by IKLL to the DPT as per Concession Agreement (CA) akin to royalty in the expenditure reported in the Annual Accounts of IKLL, the IKLL has confirmed that it has not made any other payment to DPT except royalty stipulated in the CA and reported in annual accounts of FY 2017-18 to 2019-20. The DPT has also confirmed this position. The said position is relied upon.

(ii). As per Clause 2.3.1 (ii) of the Tariff Guidelines 2019, interest on loans, provision for bad and doubtful debts, provision for slow moving inventory, other provisions if any, are to be excluded.

(a). The IKLL has considered interest on loan for the years 2017-18 to 2019-20 as Nil. The annual accounts of the IKLL do not show any amount towards interest on loan and hence the same is considered as Nil in the analysis.

(b). The IKLL has excluded ₹116.50 lakhs, ₹194.68 lakhs and ₹393.61 lakhs towards other provisions as reported in the Annual accounts for the years 2017-18 to 2019-20 respectively following the applicable clause of the Tariff Guidelines 2019.

(iii). Clause 2.3.2 stipulates that in case there is variation in the expenditure reported under IND AS and IGAAP (like depreciation), then necessary adjustments to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. Form 6A and Form 6B furnished by the IKLL which is duly certified by practicing Chartered Accountant states that accounts of IKLL are not prepared on the basis of IND AS and hence there is no variation in the expenditure reported under IND AS and IGAAP. The said position is relied upon.

(c). Following the provisions prescribed at Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines and based on the adjustments as discussed above, the IKLL has arrived at average expenses for the years 2017-18 to 2019-20 at ₹470.88 lakhs.

(iv). (a). As per clause 2.5 of the Tariff Guidelines 2019, Capital Employed will comprise of Gross Fixed assets (Property, Plant & Equipment) [as arrived as per the Indian Generally Accepted Accounting Principles (IGAAP)] plus capital work in progress as on 31 March/ 31 December of the year Y3 to be restated from the figures reported under IND AS in the Audited Annual Accounts and working capital as per norms prescribed. The IKLL has considered gross fixed assets at ₹3422.14 lakhs as per IGAAP in line with provision prescribed in Clause 2.5 of the Tariff Guidelines, 2019. The IKLL has furnished the prescribed Form 7 giving computation of gross fixed assets as per IGAAP duly certified by practicing Chartered Accountant. As brought out in earlier paragraphs, the IKLL has clarified that IND AS is not followed in the IKLL. The Gross Fixed Assets as on 31 March 2020 considered by the

IKLL as per IGAAP and duly certified by the Chartered Accountant is relied upon.

The IKLL has considered capital work-in-progress as Nil as on 31 March 2020 which is in line with the position reported in the Audited Annual Accounts for the year 2019-20.

(b). Working capital comprises of Inventory, Sundry debtors and Cash balances, as per Clause 2.6 of the Tariff Guidelines, 2019. The norm prescribed for the computation of working capital is limited to one year's average consumption of inventory for capital spares and other items of inventory at six months' average consumption of stores excluding fuels. The IKLL has reported Nil capital spares consumption which is relied upon. Consumption of inventory is also not reported by IKLL.

As per Clause 2.6 of the Tariff Guidelines, 2019 read with clause 2.2 of the Working guidelines to operationalise the Tariff Guidelines, 2019, advance payment of revenue share/ royalty and lease rental / license fee to landlord port flowing from the contractual obligations will be recognised as sundry debtors for computation of working capital. As per Article 9.1(A)(a)(i) & (ii) of the License Agreement, the IKLL is required to pay license fee and water front charges to the DPT for the lands and water front allotted to it in advance every year till the end of license period. License fee and water front charges reported in the annual accounts for the year 2019-20 is ₹213.82 lakhs and accordingly IKLL has considered 50% thereof i.e. ₹106.91 lakhs towards sundry debtors which is found to be in order and in line with the approach followed in other tariff cases of BOT operators.

As per the norm, limit on cash balance for working capital computation is one month's cash expenses. The IKLL has considered one month cash expenses to the tune of ₹21.63 lakhs [494.80-235.21)/12=21.63 lakhs] based on the total admissible expenditure for the year 2019-20 less depreciation for 2019-20 based on the cost statement filed along with the original proposal. This item is updated with reference to the revised cost statement furnished by the IKLL in February 2021 at ₹21.54 lakhs [i.e. 493.76-235.21)/12=21.54 lakhs].

(c). Subject to modifications as explained above, the modified capital employed works out to ₹3550.59 lakhs as against total capital employed arrived by IKLL at ₹3550.68 lakhs. Return on Capital Employed (ROCE) considered by IKLL at 16% is ₹568.11 lakhs. The modified ROCE works out to ₹568.09 lakhs based on the modified Capital Employed.

(v). The ARR comprises of the average of the expenditure for the three financial years 2017-18 to 2019-20 plus 16% ROCE. The ARR as on 31 March 2020 arrived by the IKLL is ₹1038.99 lakhs (₹470.88 lakhs + ₹568.11 lakhs). The modified ARR arrived by us works out to ₹1038.97 lakhs (₹470.88 lakhs + ₹568.09 lakhs). Further, as per Clause 2.8 of Tariff Guidelines, 2019, the said ARR needs to be indexed @ 100% of the WPI applicable for the year 2020-21 which is 1.88%. The indexed ceiling ARR assessed by the IKLL is ₹1058.52 lakhs applying 1.88% indexation for the year 2020-21 (i.e. ₹1038.99 lakhs * 1.0188). As per the modified ARR computation done by us, the modified indexed ceiling ARR works out to ₹1058.50 lakhs for the year 2020-21 (₹1038.97 lakhs * 1.0188 = ₹1058.50 lakhs). This does not include past period adjustment. The analysis relating to the past period is brought out in subsequent paragraphs.

The final detailed working of ARR calculation furnished by the IKLL which has been duly certified by Chartered Accountant is relied upon. This is subject to minor modification as explained above. The detailed ARR calculation furnished by the IKLL and modified ARR calculation by us are attached as **Annex-I** (**a**) and (**b**) respectively.

(vi). Clause 3.1.2 of the Tariff Guidelines, 2019 stipulates that in case of the BOT operators who have not gone to the Court against the previous Order of this

Authority, the surplus/ deficit for the past period till the period of tariff fixation during the first fixation of Tariff under the Tariff Guidelines of 2019 is to be done as per clause 2.13 of the Tariff Guidelines, 2005.

The estimates considered in the last tariff Order for three years i.e. 2015-16 to 2017-18 need to be reviewed vis-à-vis the actuals for these years.

The IKLL has furnished a statement showing the actual physical and financial performance vis-à-vis the estimates relied upon in the previous tariff cycle for the period 2015-16 to 2017-18. The figures considered by the IKLL in the past period statement are considered in the analysis subject to one modification in capital employed as explained in the subsequent paragraphs.

(vii). The analysis is as given below:

(a). The actual traffic handled by IKLL during the period from 2015-16 to 2017-18 is 1.32 Million Metric Tonnes(MMT), 0.81 MMT, and 0.73 MMT (as reported in Form 4 duly certified by CA) respectively aggregating to 2.86 MMT as against the estimated traffic of 2 MMT for each of the years for the corresponding period aggregating to 6 MMT estimated in the tariff Order dated 15 January 2016.

The variation in the physical performance is 52.33% negative which is found to be more than +/-20%.

(b). The income estimates considered in the last tariff Order for the years 2015-16 to 2017-18 are adjusted to capture the effect of tariff increase granted in the last tariff Order dated 15 January 2016 for a like to like comparison with the actual income from the date of implementation of the Order.

For the purpose of analysis of the past period, the actual income as reported in the Audited Annual Accounts for the years 2015-16 to 2017-18 as furnished by the IKLL and supported with reconciliation statements are considered.

(c). The depreciation figures as per the IGAAP considered by the IKLL excluding net block of Front portion (Berth construction cost) of Barge Jetty for the reasons stated earlier are relied upon and considered.

(d). The IKLL has considered lease rent at ₹141.66 lakhs, ₹178.26 lakhs and ₹202.22 lakhs for the years 2015-16 to 2017-18 respectively as reflected in the annual accounts and the same are considered.

(e). The revenue share was not allowed as admissible cost during the previous tariff cycle as per the then applicable Tariff Guidelines 2005. Accordingly, the IKLL has not considered Revenue share paid to DPT for each of the years 2015-16 to 2017-18 in line with the Tariff Guidelines, 2019 and in line with the approach followed in the last tariff revision.

(f). The IKLL has considered Gross Fixed assets as capital employed at ₹3281.30 lakhs, ₹3418.76 lakhs and ₹3537.85 lakhs for the years 2015-16 to 2017-18 respectively for the purpose of computing ROCE.

The Capital employed considered during the last tariff revision under the then applicable Tariff Guidelines of 2005 is Net Fixed Assets + working capital as per the then applicable Tariff Guidelines 2005. That being so, for the past period analysis, the same approach is followed i.e. the net fixed assets and not the gross fixed assets.

The working capital is considered as per norms. The Stores and spares consumed is captured in line with the norms prescribed in the Tariff Guidelines of 2005. The cash balance is considered at one month cash expense in line with the guideline position. The current liabilities as reported in the audited annual accounts of the respective years is considered. Subject to the above adjustments, Working Capital works out to negative and hence treated as Nil.

Accordingly, the modified capital employed considered in the past period cost statement prepared by us for the years 2015-16 to 2017-18 is at ₹2,891.81 lakhs, ₹2,764.07 lakhs and ₹2,837.54 lakhs respectively. ROCE of 16% is considered in line with the decision of this Authority in the last tariff Order.

(g). A copy of the cost statement reviewing estimates of 2015-16 to 2017-18 vis-à-vis actuals of the corresponding period is attached as **Annex – II.**

(h). 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	**Aggregate for the years 2015-16 to 2017-18 in absolute terms**		**Variation in %**
	Estimates as per tariff Order	**Actuals**	
Traffic (in lakh MMTPA)	6.00	2.86	-52.33%
Total Operating Income	2,942.86	1,560.55	-46.97%
Total Expenditure including FMI less FME, Depreciation and overheads	2,221.86	1,245.67	-43.94%
Surplus/ deficit before Return	721.00	314.88	-56.33%
Capital Employed (Average)	1,501.90	2,831.14	-88.50%
16% Return on Capital Employed	720.91	1,358.95	-88.50%
Net Surplus after ROCE (before adjustment of past surplus)	0.09	-1,044.07	

(i). The findings of the analysis with reference to the past period relating to the period from 2015-16 to 2017-18 are given below:

(i). The actual aggregate traffic handled by the IKLL is 2.86 lakh MMTPA as against the estimated traffic of 6 lakh MMTPA during the period from 2015-16 to 2017-18. The variation in the physical parameters i.e. actual traffic handled is 52.33% negative in comparison to the estimates.

(ii). The operating income earned by the IKLL is ₹1,560.55 lakhs as against estimation of ₹2,942.86 lakhs for the corresponding period resulting in negative variance of 46.97%.

(iii). On the expenditure side, the actual aggregate expenditure for the years 2015-16 to 2017-18 is ₹1,245.67 lakhs as against the estimated expenditure of ₹2,221.86 lakhs considered in the last Order for the corresponding period. The total actual expenditure thus shows negative variance of 43.94% in comparison to the expenditure estimated in the last tariff Order.

(iv). The average capital employed for the period from 2015-16 to 2017-18 is ₹2,831.14 lakhs as against average estimated capital employed of ₹1,501.90 lakhs. The variation in the average capital employed comes to 88.50% negative.

(v). As per the modified cost statement for the past period prepared by us, the aggregate estimated surplus of IKLL considered in the last tariff Order was ₹0.09 lakhs. As against that, the aggregated deficit is ₹1,044.07 lakhs at actuals after admissible cost and 16% ROCE for the period from 2015-16 to 2017-18.

(vi). The average annual return earned on the average capital employed thus works out to 3.71%, as shown in the following table:

(₹ **in lakhs**)

Particulars	2015-16	2016-17	2017-18	AVG.
Actual Surplus/ deficit before return	251.71	49.56	13.61	314.88 (Total) 104.96 (Avg.)
Actual Capital Employed	2891.81	2764.07	2837.54	2,831.14 (Avg.)
Actual Return earned on capital employed	8.70%	1.79%	0.48%	3.71%

(vii). 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 +/ (-) 20%, then 50% of such accrued benefit/ loss has to be adjusted in the next tariff cycle. As per the opinion of AG also as conveyed by the MOS, variation in both physical and financial parameters should be taken into account for the purpose of clause 2.13. Further, as per the opinion of the AG, if the variation in both the physical and financial parameters is more than 20%, then 20% of the surplus is to be allowed to be retained by the operator. It is only the surplus over and above the 20% that shall be shared equally i.e.50:50 between the operator and the users. In nutshell, 60% of additional surplus is allowed to be retained with the operator and 40% additional is to be shared with users by considering adjustment in future tariff.

It can be seen from the above analysis that the variation in the physical parameter i.e., actual traffic handled is more than 20% i.e. 52.31% negative. In financial performance in terms of return on capital employed entitled at 16%, variation of + 20% / (-) 20% comes to 19.20% (16+3.2) and 12.8% (16-3.2). In the instant case, the return earned on capital employed is 3.71%. Thus, the variation in financial parameter is found to be more than 20% but on the negative side.

Since the variation in both the parameters are found to be more than +/ (-) 20%, there appears to be a case for adjustment of past period deficit in the current tariff cycle following the opinion of the AG on the interpretation of clause 2.13 of the Tariff Guidelines of 2005 i.e. 40% of the net deficit.

It is further relevant to state that the original validity of the SOR last approved by this Authority is till 31 March 2018. The IKLL has continued to levy the rates in the approved SOR based on the extension of the validity of the SOR approved by this Authority. Thus, in addition to above the exercise of past period for the years 2015-16 to 2017-18, the actuals for the years 2018-19 and 2019-20 are also assessed following the same approach as done for the years 2015-16 to 2017-18. The net deficit after admissible expenditure and ROCE as per the cost statement works out to ₹308.24 lakhs and ₹426.27 lakhs for the years 2018-19 and 2019-20 aggregating to ₹734.51 lakhs.

This entire deficit for the year 2017-18 and 2018-19 need to be adjusted along with 40% deficit as per the opinion of the AG for the years 2015-16 to 2017-18 which aggregates to ₹1,152.14 lakhs (i.e. ₹734.51 lakhs + ₹417.63 lakhs being 40% of aggregate deficit of ₹1,044.07 lakhs).

It is relevant here to mention that the IKLL has not sought adjustment of past period deficit in the ARR computed in Form 1. Further, it is seen that at the proposed tariff increase sought by the IKLL and revenue estimated therefrom at ₹809.83 lakhs as against modified ARR of ₹1,058.50 lakhs, there is already a huge gap of ₹248.67 lakhs. Thus, when there is already a huge shortfall in the ARR, adding the deficit of past period to the extent of ₹1152.14 lakhs for the years 2015-16 to 2017-18 and 2018-19 and 2019-20 as explained above will only lead to widening the gap.

This huge deficit appears to arise mainly because the IKLL has handled only 48% of the traffic estimated during the last tariff revision as can be seen from huge negative variation in the traffic. Thus, any adjustment of past period deficit in the case of IKLL will only be a notional adjustment. The IKLL does not propose to recover this deficit of the past period during this tariff cycle. That being so, no adjustment of the past period deficit is considered in the computation of the ARR.

(viii). Thus, the analysis is proceeded taking into consideration the modified indexed ceiling ARR of ₹1058.50 lakhs for the year 2020-21 as against ARR estimated by the IKLL at 1058.52 lakhs.

(ix). (a). As per Clause 2.10 of Tariff Guidelines, 2019, for drawing the SOR, the traffic to be considered would be the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3, duly certified by the concerned port. The average traffic considered by the IKLL for the years 2017-18 to 2019-20 is 889409 tonnes based on the actual traffic handled by IKLL.

When requested IKLL to capture the traffic estimated to be handled of third party cargo, the IKLL has justified that it has complied with the prescribed forms which requires to capture the average of actual traffic handled by the BOT operator during preceding three years for drawing SOR. Since the IKLL has followed the Tariff Guidelines 2019, this Authority proceeds with its revenue estimation.

In any case, clause 3.2.1 provides for review of actual traffic vis a vis the traffic considered in the previous tariff cycle and for adjustment in next tariff revision if the variation in both physical and financial parameters is more than +/- 20% during such review.

The DPT has furnished the actual traffic handled by the IKLL at 723053 tonnes, 986306 tonnes and 1002312 tonnes and thus the average of three years traffic works out at 903890 tonnes. The average traffic as per the traffic furnished by the DPT is 14481 tonnes more than that considered by IKLL (i.e. 903890 - 889409 tonnes). The reason for variation remains unexplained by the DPT.

Thus, for the purpose of this analysis, the average traffic of 0.89 Million Metric Tonne(MMT) for the years 2017-18 to 2019-20 considered by the IKLL for revenue estimation is relied upon as it is duly certified by Chartered Accountant.

It can be seen from the subsequent analysis that even at the said average traffic of IKLL and the proposed rate, there is a revenue gap of ₹248.67 lakhs remaining uncovered.

(b). Clause 2.11.1 of Tariff Guidelines, 2019, gives flexibility to the BOT Operators to determine the rates within the estimated ARR to respond to the market forces based on commercial judgment. The proposal of the IKLL is within the guideline provision.

The tariff increase proposed by the IKLL in the cargo handling charge is 45% for other bulk cargo, 18% for Steel and bagged cargo and 20% Timber logs.

The total revenue estimated by the IKLL is found to be within the ARR and hence the proposed cargo handling charge is approved as proposed by the IKLL.

(c). The existing SOR of IKLL do not prescribe storage charge. During the last tariff revision approved vide Order No TAMP/55/2013-KPT dated 15 January 2016, the IKLL had not proposed any storage charge. To a specific query in this regard, as brought out in para 13 of Order No.TAMP/55/2013-KPT dated 15 January 2016 at Sl No (i), the IKLL had then clarified during the last tariff revision that the proposed cargo handling charges do not include storage charges. As per Article- 8.1 (Levy and Recovery of Tariff) of Concession Agreement, Concessionaire shall collect the Cargo Handling Charges at the rates approved by TAMP.

In the current proposal, the IKLL has proposed to introduce storage charge after 5 days free period.

Bringing out the position of the last tariff Order, when sought IKLL to give reference to the relevant clause in the Concession Agreement that the IKLL can levy storage charge on cargo of third party as per the provisions of the Concession Agreement, the IKLL has now justified that the Storage facility is allied to Cargo handling services. The IKLL has further stated that in case of SOR of most of the BOT operators at Major Port Trusts including BOT operators at DPT like ABG Kandla Container Terminal Limited, Central Warehousing Corporation (CWC), JRE Infra Pvt. Ltd., etc., the Storage charge is prescribed in their SOR. As per the Concession Agreement of IKLL with DPT, to optimize the use of handling facilities the barge jetty facility is proposed to be utilized for the third party cargo also. Hence, to attract third party cargo, the IKLL has stated that the covered storage facility shall be required for storage of cargo.

The IKLL has furnished detailed justification for proposed Storage charges and stated that Articles 8.1 and 9.1 of Concession Agreement do not bar concessionaire from charging for any other services related to project facilities.

In response to our query to the DPT to confirm and give reference to the relevant clause in the Concession Agreement that the IKLL can levy storage charge on cargo of third party as per the provisions of the Concession Agreement, the DPT has stated that the Concession Agreement is silent regarding collection of storage charges for Other cargoes.

It is relevant to state here that the SOR of all the BOT operators under the Tariff Guidelines of 2019 prescribe storage charge. Even the upfront tariff fixed for BOT operators governed under the Upfront tariff Guidelines of 2008 and Reference Tariff Guidelines of 2013 for container, dry bulk and multipurpose cargo prescribe separate storage charge apart from consolidated cargo handling charge following the norm prescribed for apportionment of ARR for prescription of storage charge.

The licensor port DPT has not objected the proposed storage charge by the IKLL.

In view of the position brought out and for the reasons stated by the IKLL for proposing Storage charges and also recognising that the total revenue estimated at the proposed tariff including tariff proposed for storage charges is well within the ceiling ARR, the proposed storage charge is approved.

(d). At the proposed rates in the revised Scale of Rates, the IKLL has estimated revenue of ₹809.83 lakhs as against modified estimated ARR of ₹1058.50 lakhs. The ARR gap left uncovered is to the tune of ₹248.67 lakhs.

The IKLL has given detailed working of revenue estimation in Form 4 indicating each of the tariff items in the proposed SOR for corresponding average traffic for the years 2015-16 to 2017-18, as required as per Clause 2.11.1 of the Tariff Guidelines, 2019. The revenue estimation statement has been duly certified by a Chartered Accountant. The revenue estimation furnished by the IKLL is relied upon.

(x). Based on the above analysis, a summary of the ceiling indexed ARR furnished by the IKLL and as considered by us based on the modified cost statement and the revenue estimated by the IKLL are given below:

(**₹ in lakhs**)

Sr. No.	**Particulars**	**ARR computation furnished by the IKLL**	**ARR computation modified by us**
1	Average admissible Expenses for the years 2017-18, 2018-19 and 2019-20 [Y1+Y2+Y3]/3	470.88	470.88
2	Capital employed as on 31.03.2020 including capital work in progress as on 31.03.2020 and working capital as per norms	3550.68	3550.59
3	Return on capital employed @ 16%	568.11	568.09
4	ARR as on 31 March 2020 (4=1+3)	1038.99	1038.97
5	Indexation in the ARR @ 100% of the WPI applicable for the year 2020-21 (1.88% for the year 2020-21)	1058.52	1058.50
6	Ceiling Indexed Annual Revenue Requirement (ARR)	1058.52	1058.50
7	Revenue estimated by the IKLL at proposed rate (Form 4)	809.83	809.83
8	Revenue gap	248.69	248.67

(xi). The IKLL has proposed two separate SORs viz., one for Cargo handling charges and other for Storage charges. There is no need for separate SOR for Storage charge and hence the proposed schedule of Storage charge alongwith the proposed conditionalities are incorporated in the revised SOR of IKLL at Schedule 4.

(xii). As per clause 1.9 of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by these guidelines by way of a separate Agreement with the concerned Major Port Trust. The IKLL has furnished a copy of separate Agreement with the DPT as required under clause 1.9 of Tariff Guidelines 2019.

(xiii). (a). With respect to the common adoption Order No.TAMP/53/2015-VOCPT dated 25 September 2018 relating to concessional coastal tariff for ships and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh, the conditionality incorporated by the IKLL as note (viii) is found to be not in line with the common adoption Order approved by this Authority. The conditionalities approved by this Authority in common adoption Order are prescribed in the SOR of IKLL at Sr. No. (viii) and (ix) of General Terms and Conditions.

(b). As regards new tariff item relating to Storage charges, IKLL has proposed three notes below the schedule relating to free period of five days, computation of free period to exclude terminal non-working days and custom notified holidays and non-levy of storage charges for the reasons attributable to the terminal operator. The proposed notes are found to be in line with clause 8.5 of working Guidelines 2019 and in line with the prescription in the SOR of other BOT operators and hence approved.

(c). The IKLL has not proposed the conditionality as to from when the computation of free period is to be reckoned with. The SOR of the DPT prescribes that free for imports shall be reckoned with from the date of complete discharge of vessel's cargo. Free period for exports shall commence from the date on which the cargo is brought in the transit / port area. The demurrage will cease from the day following the date of berthing of vessel. These conditionalities which are found relevant for IKLL also are prescribed in the SOR of the IKLL.

(xiv). As per Clause 2.12 of the Tariff Guidelines, 2019, the SOR will be indexed annually to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Government of India occurring between 1st January to 31 December of the relevant year. Such adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. The IKLL has not proposed any note in this regard. In the current revision the annual indexation of 1.88% pertaining to the year 2020-21 is captured. That being so, they are entitled for annual indexation in the tariff for the year 2021-22 at 0.33% under Tariff Guidelines, 2019. Hence, **the revised SOR approved by this Authority needs to be indexed by 0.33% by the IKLL and apply the revised SOR from the date it comes into effect.** The relevant note as regards annual indexation approved in case of other BOT operators is prescribed in the SOR of the IKLL.

(xv). Clause 4.9 of the Tariff Guidelines, 2019 prescribes tariff validity cycle of three years subject to annual indexation as mentioned in clause 2.12. Therefore, the validity of the revised SOR is prescribed for a period of 3 years from the date of effect of revised SOR subject to annual indexation clause prescribed in the SOR.

(xvi). Clause 4.8 of the Tariff Guidelines, 2019 stipulates that ordinarily the Order approved by this Authority shall come into effect after expiry of 30 days from the date the Order is notified in the Gazette. Accordingly, the SOR approved by this Authority and notified separately will come into effect after expiry of 30 days from the date of the Order notifying the SOR in the Gazette comes into effect. The existing SOR of IKLL is valid upto 31 March 2018. At the request of IKLL, the validity of existing SOR is extended upto 31 March 2021 by this Authority. By the time the revised SOR comes into effect it may be around June 2021. Hence, the validity of the existing SOR is deemed to have been extended from the date of expiry till the revised SOR comes into effect.

(xvii). (a). As per the Tariff Guidelines, 2019, the rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The IKLL may exercise the flexibility to charge lower rates and/or allow higher rebates and discounts.

(b). **If there is any error apparent on the face of record considered or for any other justifiable reasons, the IKLL may approach this Authority for review of the tariff fixed, giving adequate justification/ reasoning within 30 days from the date of notification of the Order passed in the Gazette of India.**

10.1. In the result, and for the reasons given above, the revised Scale of Rates of the IKLL is approved which has been notified separately.

10.2. The revised Scale of Rates and conditionalities of the IKLL will come into effect after expiry of 30 days from the date of notification of the Order notifying the SOR in the Gazette of India and shall be in force for a period of three years from the date the revised SOR comes into effect. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

10.3. As per clause 7 of the Tariff Guidelines 2019, the IKLL shall furnish to TAMP without fail annual reports on cargo traffic handled. The annual reports shall be submitted by the IKLL within 90 days following the end of each of the year. Any other information which may be required by TAMP shall also be furnished to them from time to time. The IKLL is advised specifically to refrain from withholding requisite information.

10.4. During the next review of Scale of Rates of IKLL, the actual revenue and actual traffic will be compared with the ARR and the traffic relied upon in the immediate previous tariff cycle. If, on such review, variation in both physical and financial parameters is more than +/- 20%, then the surplus/ deficit shall be adjusted in the Annual Revenue Requirement of the next tariff cycle as per clause 3.2.1 of the Tariff Guidelines 2019.

(T.S. Balasubramanian)
Member (Finance)

Annex - I (a)

Form-1

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts furnished by IKLL

(Rs. in lakhs)

Sr No	Description		2017-18	2018-19	2019-20
a	Total Expenditure [As per Audited Annual Accounts]				
[i]	Operating Expenses [including depreciation]		555.87	525.85	577.20
[ii]	Finance and Miscellaneous Expenses [FME]		36.30	113.25	310.77
	Total Expenditure 1 = [i] + [ii]		**592.17**	**639.11**	**887.97**
[2]	Adjusted in respect of items where there is variation in figures reported as per INDAS [As per Audited Accounts] and IGAAP	Form 6A			
[i]	Depreciation		0	0	0
[ii]	Other expenditure items, if any, to be listed		0	0	0
	Total of Adjustments 2= [i] + [ii]		**0**	**0**	**0**
[3]	Less Adjustments:				
[i]	Actual Royalty / Revenue share paid to the Port		0.57	0.66	0.60
[ii]	Interest on Loans		0	0	0
[iii]	Provision for bad and doubtful debts		0	0	0
[iv]	Provision for slow moving inventory		0	0	0
[v]	Other provisions		116.50	194.68	393.61
	Total of 3 = [3[i] + 3 [ii] + 3 [iii] + 3 [iv] + 3 [v]		**117.07**	**195.34**	**394.21**
[4]	Add: Admissible Royalty / Revenue Share as per Clause 2.2 of the Tariff Guidelines, 2019	Form 2	0.00	0.00	0.00
[5]	Total Expenditure after Total Adjustments [5 = 1 + 2 + 3 + 4]		**475.10**	**443.77**	**493.76**
[6]	Average Expenses of Sl No 5 = [2017-18 + 2018-19 + 2019-20] / 3			**470.88**	
[7]	Capital Employed				
	[i] Gross Fixed Assets [Property, Plant & Equipment] as on 31st March 2020 [As per IGAAP] [As per working sheet 2]			**3422.14**	
	[ii] Add: Capital Work in Progress as on 31st March 2020 as per [Audited Annual Accounts]			0.00	
	[iii] Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019.	Form 3			
	[a] Inventory			0	
	[b] Sundry Debtors			106.91	
	[c] Cash			21.63	
	[d] Sum of [a] + [b] + [c]			128.54	
	[iv] Total Capital Employed [[i] + [ii] + [iii]]			**3550.68**	
[8]	Return on Capital Employed 16% on Sl No 7 [iv]			568.11	
[9]	Annual Revenue Requirement [ARR] as on 31st March of 2020 [[6] + [8]]			**1038.99**	
[10]	Indexation in the ARR @ 100% of WPI applicable for the year 2020-21			1.88%	
[11]	Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No.10 above.			**1058.52**	
[12]	Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl No 11 above.	Form 4		**809.82**	

Annex - I (b)

Form-1

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts furnished by IKLL and modified by TAMP

(Rs in lakhs)

Sr No	Description		2017-18	2018-19	2019-20
[1]	Total Expenditure [As per Audited Annual Accounts]				
[i]	Operating Expenses [including depreciation]		555.87	525.85	577.20
[ii]	Finance and Miscellaneous Expenses [FME]		36.30	113.25	310.77
	Total Expenditure 1 = [i] + [ii]		**592.17**	**639.10**	**887.97**
[2]	Adjusted in respect of items where there is variation in figures reported as per INDAS [As per Audited Accounts] and IGAAP	Form 6A			
[i]	Depreciation		0	0	0
[ii]	Other expenditure items, if any, to be listed		0	0	0
	Total of Adjustments 2= [i] + [ii]		**0**	**0**	**0**
[3]	Less Adjustments:				
[i]	Actual Royalty / Revenue share paid to the Port		0.57	0.66	0.60
[ii]	Interest on Loans		0	0	0
[iii]	Provision for bad and doubtful debts		0	0	0
[iv]	Provision for slow moving inventory		0	0	0
[v]	Other provisions		116.50	194.68	393.61
	Total of 3 = [3[i] + 3 [ii] + 3 [iii] + 3 [iv] + 3 [v]		**117.07**	**195.34**	**394.21**
[4]	Add: Admissible Royalty / Revenue Share as per Clause 2.2 of the Tariff Guidelines, 2019	Form 2	0.00	0.00	0.00
[5]	Total Expenditure after Total Adjustments [5 = 1 + 2 + 3 + 4]		**475.10**	**443.77**	**493.76**
[6]	Average Expenses of Sl No 5 = [2017-18 + 2018-19 + 2019-20] / 3			**470.88**	
[7]	Capital Employed				
	[i] Gross Fixed Assets [Property, Plant & Equipment] as on 31st March 2020 [As per IGAAP] [As per working sheet 2]			3422.14	
	[ii] Add: Capital Work in Progress as on 31st March 2020 as per [Audited Annual Accounts]			0.00	
	[iii] Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019.	Form 3			
	[a] Inventory			0	
	[b] Sundry Debtors			106.91	
	[c] Cash			21.54	
	[d] Sum of [a] + [b] + [c]			128.45	
	[iv] Total Capital Employed [[i] + [ii] + [iii]]			**3550.59**	
[8]	Return on Capital Employed 16% on Sl No 7 [iv]			568.09	
[9]	Annual Revenue Requirement [ARR] as on 31st March of 2020 [[6] + [8]]			**1038.97**	
[10]	Indexation in the ARR @ 100% of WPI applicable for the year 2020-21			1.88%	
[11]	Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No.10 above.			**1058.50**	
[12]	Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR	Form 4		**809.83**	

Annex-II

IFFCO Kisan Bazaar and Logistics Limited (IKBLL)

(Rs in Lakhs)

Analysis of the Past Period Performance of IKBLL for the years 2015-16 to 2017-18 furnished by IKBLL and modified by TAMP

Sr. No.	Particulars	Estimates relied upon in the Tariff Order dated 15.01.2016				Actuals						Variation in Percentage for the years 2015-16 to 2017-18 (%)
		2015-16	2016-17	2017-18	Total	2015-16	2016-17	2017-18	Total	2018-19	2019-20	
	Total Traffic (In MMTPA)	**2.00**	**2.00**	**2.00**	**6.00**	**1.32**	**0.81**	**0.73**	**2.86**	**0.98**	**0.95**	-52.31%
	(i) Captive Cargo	**1.00**	**1.00**	**1.00**	**3.00**	**1.32**	**0.81**	**0.73**	**2.86**	**0.98**	**0.95**	-4.66%
	(ii) Third Party Cargo	**1.00**	**1.00**	**1.00**	**3.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	-100.00%
	- Foreign Cargo	0.97	0.97	0.97	2.92	0.00	0.00	0.00	0.00	0.00	0.00	-100.00%
	- Coastal Cargo	0.03	0.03	0.03	0.08	0.00	0.00	0.00	0.00	0.00	0.00	-100.00%
I	**Total Operating Income**											
	Cargo handling income	980.95	980.95	980.95	2,942.86	634.07	456.39	445.46	1,535.92	596.92	574.83	-47.81%
	Others	-	-	-	-	2.12	11.66	10.85	24.63	59.16	16.10	
	Total	**980.95**	**980.95**	**980.95**	**2,942.86**	**636.19**	**468.05**	**456.31**	**1,560.55**	**656.08**	**590.93**	-46.97%
II	**Operating Costs (excluding depreciation)**											
	(i) Operating & Direct Labour	0.00	0.00	0.00	-	0.00	0.00	0.00	0.00	0.00	0.00	
	(ii) Maintenance Labour	24.73	25.68	26.66	77.07	53.79	35.19	29.58	118.57	29.39	31.26	53.84%
	(iii) Equipment Running Costs *	16.37	17.00	17.65	51.02	36.00	45.07	50.14	131.22	4.20	14.85	157.17%
	(iv) Equipment Hire	424.00	424.00	424.00	1,272.00	**0.00**	**0.00**	**0.00**	0.00	**0.00**	0.00	-100.00%
	(v) Lease Rentals payable	141.03	142.76	144.52	428.31	141.66	178.26	202.22	522.13	205.70	213.82	21.91%
	(vi). Custom establishment Charges	46.89	48.68	50.54	146.12	17.59	19.55	21.08	58.22	28.73	56.98	-60.15%
	(vii) Insurance	8.32	8.64	8.97	25.92	11.05	12.71	12.84	36.59	13.20	13.31	41.18%
	(viii) Other expenses	2.20	2.28	2.37	6.86	22.31	13.95	15.22	51.48	13.19	14.75	650.88%
	Total (i to viii)	**663.54**	**669.04**	**674.71**	**2007.30**	**282.41**	**304.72**	**331.08**	**918.21**	**294.41**	**344.96**	-54.26%
III	Depreciation **	71.80	71.38	71.38	214.56	104.27	135.58	143.08	**382.93**	145.13	145.46	78.47%
IV	Overheads	-	-	-	-	**3.93**	**1.34**	**0.94**	**6.20**	**4.24**	**3.35**	
	(iii) Preliminary expenses & Upfront Payment write-off	-	-	-								
	(iv) Others	-	-	-		3.93	1.34	0.94	6.20	4.24	3.35	
	Total (i to iv)	-	-	-	-	**390.61**	**441.64**	**475.10**	**1,307.35**	**443.77**	**493.77**	
V	**Operating Surplus / (Deficit) (I) – (II) – (III)**	**245.61**	**240.53**	**234.86**	**721.00**	**245.58**	**26.41**	**-18.79**	**253.20**	**212.31**	**97.16**	
VI	Finance & Miscellaneous Income (FMI)	-	-	-		6.13	23.15	32.40	61.68	47.43	44.68	
VII	**Surplus Before Interest and Tax)**	245.61	240.53	234.86	**721.00**	**251.71**	**49.56**	**13.61**	**314.88**	**259.74**	**141.84**	-56.33%
VIII	Capital Employed (Net)	**1572.60**	**1501.91**	**1431.19**	**1,501.90**	**2891.81**	**2764.07**	**2837.54**	**2,831.14**	**3549.87**	**3550.68**	88.50%
IX	Return on Capital Employed	**251.62**	**240.31**	**228.99**	**720.91**	**462.69**	**442.25**	**454.01**	**1358.95**	**567.98**	**568.11**	88.50%
X	Capacity Utilization	Exeeds 60% utilisation										
XI	RoCE adjusted for capacity utilization	**251.62**	**240.31**	**228.99**	**720.91**	**462.69**	**442.25**	**454.01**	**1,358.95**	**567.98**	**568.11**	88.50%
XII	**Net Surplus / (Deficit) (V) - (VIII)**	**-6.01**	**0.23**	**5.87**	**0.09**	**-210.98**	**-392.69**	**-440.39**	**-1,044.07**	**-308.24**	**-426.27**	
XIII	**Net Surplus / (Deficit) as a % of operating income (XII/I in %)**	**-0.61%**	**0.02%**	**0.60%**		**-33.16%**	**-83.90%**	**-96.51%**		**-46.98%**	**-72.13%**	
XIV	**Average**	**0.00%**				**-71.19%**				**-59.56%**		

SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F.No. TAMP/59/2020-IKLL- Proposal received from the IFFCO Kisan Logistics Limited (IKLL) [formerly known as IFFCO Kisan Bazar and Logistics Limited (IKBLL)] for general revision of Scale of Rates (SOR).

1. A joint hearing in this case was held on 29 January 2021 through Video Conferencing. The IKLL, DPT and the concerned users / user organizations have made their submissions at the joint hearing.

IFFCO Kisan Logistics Limited (IKLL)

(i). Our Barge Jetty is mainly a captive facility to handle the cargo of IFFCO. IFFCO imports raw material fertilizer through our barge Jetty.

(ii). Capacity of our jetty is 20 lakh MT. Presently, we are handling only 10 lakh MT of IFFCO cargo. We do not handle third party cargo at present.

(iii). We are now planning to handle third party cargo. As per the Concession Agreement, when DPT reaches full capacity, DPT can divert cargo to our Jetty.

(iv). We want to handle third party cargo to optimize our capacity.

(v). We have filed the proposal under Tariff Guidelines, 2019.

(vi). We are not receiving timber logs and steel. Hence, we have not sought tariff for these items.

(vii). We expect to handle Potash from IPL as third party cargo

(viii). We have also sought separate tariff for storage charges.

Deendayal Port Trust (DPT)
[Mr. Krishnan]

(i). As per Concession Agreement, IKBL can collect cargo handling charge. Storage charge is not specifically mentioned in Concession Agreement. Port does not mind to the proposed storage charge.

IKLL

(i). We expect DPT will divert some cargo to our terminal. We also expect to handle third party cargo by our own marketing efforts. This will boost traffic and increase the capacity utilization.

DPT

(i). The existing SOR of IKLL approved by TAMP prescribe cargo handling charge for other dry bulk cargo, steel and bagged cargo and Timber logs. In the proposed SOR, the IKLL has proposed cargo handling charge only for other Dry bulk cargo. Why IKLL has not proposed rate for Timber logs and steel and bagged cargo? The cargo handling charges for these two cargoes may also be proposed in the SOR, so that IKLL has the rates available to handle these cargoes.

[**IKLL**: We will examine this matter.]

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