(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 148 **New Delhi** **17 April, 2020**

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Gateway Terminal India Private Limited (GTIPL) for General revision of its Scale of Rates (SOR) under Tariff Guidelines, 2019. Considering the time involved for notifying the (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 Scale of Rates approved by this Authority on 20 February 2020 was notified in the Gazette of India on 03 March 2020 vide Gazette No. 98. 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 disposing of the proposal of the GTIPL 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/47/2019-GTIPL

Gateway Terminal India Private Limited - - - Applicant

QUORUM

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

O R D E R

(Passed on this 20th day of February, 2020)

This case relates to the proposal received from Gateway Terminal India Private Limited (GTIPL), a BOT Operator at Jawaharlal Nehru Port Trust (JNPT), vide its letter No. GTIPL/TAMP/Tariff Proposal-2019/01 dated 10 September 2019 for general revision of its Scale of Rates.

2.1. This Authority vide its Order No.TAMP/48/2011-GTIPL dated 19 January 2012 had revised the SOR of the GTIPL based on the proposal filed by GTIPL following the then prevailing 2005 Tariff Guidelines. The said Order was notified in the Gazette of India on 8 February 2012 vide Gazette No. 25. The revised Scale of Rates including conditionalities of the GTIPL was to come into effect after expiry of 15 days from the date of notification of this Order in the Gazette of India and was to be in force till 31 December 2014. In the said Order, this Authority had effected an across the board reduction of 44.28% over the then prevailing tariff of GTIPL (i.e. tariff approved vide Order No.TAMP/49/2008-GTIPL dated 3 March 2010) as against the tariff increase of 8.72% sought by GTIPL.

2.2. Aggrieved by the said reduction in its tariff, the GTIPL challenged the tariff order dated 19 January 2012 passed by this Authority by its Writ Petition No.1410 of 2012 in the Hon'ble High Court of Bombay. The Hon'ble High Court has stayed the tariff Order dated 19 January 2012 and has allowed the GTIPL to levy the tariff as approved vide tariff Order dated 3 March 2010. The stay Order of the High Court is still in force and the GTIPL continues to levy the tariff as approved vide tariff Order dated 3 March 2010.

3. The Ministry of Shipping (MOS), in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, has vide its letter No.PR-14019/20/2009- PG (Pt-IV) dated 5 March 2019 issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. The Tariff Guidelines, 2019, 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 Guidelines, 2019, Working Guidelines to operationalize the Tariff Guidelines, 2019, has been notified in the Gazette of India on 11 July 2019, vide Gazette No.244.

4.1. In this backdrop, the GTIPL has filed its proposal dated 10 September 2019 for general revision of its SOR, following Tariff Guidelines, 2019. The GTIPL has made the following submissions:

(i). The 2019 Tariff Guidelines and the 2019 Working Guidelines issued thereunder suffer from certain shortcomings and do not address *inter alia* our following grievances which we have been consistently raising with TAMP, both directly and through our association.

(a). Revenue share is not allowed as a pass-through cost. Revenue share as a pass-through cost should have been provided for all terminals operators covered under 2005 Tariff Guidelines at least to the extent of the 2nd highest bidder, including even for terminals who's bidding process was finalized after July 29, 2003.

(b). The 2019 Tariff Guidelines does not provide for performance linked incentives to encourage terminals to improve performance and achieve higher productivity in the overall interest of the trade.

(c). The 2019 Tariff Guidelines penalize efficient operators by giving a lower tariff to operators who have performed efficiently during the preceding 3 years.

(d). Terminals within the same port premises have different tariff guidelines/rates and as such there is no level playing field and the same is discriminatory.

(ii). Notwithstanding the above, and without prejudice to our rights to take such legal recourse as we are entitled, to impugn *inter alia* the aforesaid aspects of the tariff guidelines that have been imposed from time to time, including the 2019 Tariff Guidelines and without prejudice to the Writ

Petition pending before the Hon'ble Bombay High Court, we submit the tariff proposal in terms of Clause 4 of the 2019 Tariff Guidelines. [Clause 4 lists the procedure for filing the proposal]

(iii). The ARR has been assessed for the year 2019-20 based on the audited financials of preceding three financial years i.e. 2016-17, 2017-18 & 2018-19 as per the methodology prescribed under the 2019 Tariff Guidelines.

(iv). The audited accounts for financial years 2016-17 and 2017-18 has already been submitted. TAMP is requested not to circulate the audited accounts of the Company. Similarly, the data worksheets submitted as supporting the proposal are confidential and hence requested to be not circulated.

(v). GTIPL vide its letter dated 06 September 2019 have already requested JNPT to execute the Separate Agreement.

[Subsequently, the GTIPL vide its email dated 25 November 2019 and JNPT vide its letter dated 24 December 2019 have made available a copy of separate agreement executed between GTIPL and JNPT.]

(vi). Form Nos. 1 to 8, certified by a Chartered Accountant, wherever required, is furnished.

(vii). GTIPL has carefully gone through the Tariff Guidelines, 2019 issued by the Ministry of Shipping and notified by the Tariff Authority for Major Ports (TAMP) (bearing no. TAMP/61/2018-Misc vide Gazette Notification No.92 dated 7 March 2019) and the Working Guidelines, 2019 issued by TAMP in consultation with concerned BOT operators and Major Port Trusts and has prepared the proposal for fixation of tariff in accordance with the said Tariff Guidelines and Working Guidelines, in the formats and supporting documents as prescribed by the Tariff Authority for Major Ports. The proposed tariff will have a validity period of three years from October 01, 2019 to September 30, 2022 and a suitable proposal would be submitted at least three months before the expiry of the validity period.

4.2. The GTIPL has furnished detailed computation of Annual Revenue Requirement (ARR) under Form-1 and Revenue estimation at the proposed rate in Form-4. The ARR computation furnished by GTIPL is tabulated below:

(₹. in lakhs)

Sl. No.	Description	Y1-2016-17	Y2-2017-18	Y3-2018-19
(1).	**Total Expenditure (As per Audited Annual Accounts)**	3,360,009,697	3,366,631,239	3,676,266,273
(i).	Operating expenses (including depreciation)	502,135,085	487,737,847	512,790,427
(ii).	Finance and Miscellaneous expenses (FME)			
	Total Expenditure 1=(i)+(ii)	**3,862,144,782**	**3,854,369,086**	**4,189,056,700**
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	-61,514,537	-82,544,145	-168,479,450
(ii).	Other expenditure items, if any, to be listed -Lease rent paid	422,707,505	439,169,737	456,463,011
	Total of Adjustments 2=(i)+(ii)+ -----	**361,192,968**	**356,625,592**	**287,983,561**
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	-	-	-
(ii).	Interest on loans	29,355,630	7,375,188	-
(iii).	Interest on finance lease	472,683,030	479,436,708	484,705,956
(iii).	Provision for bad and doubtful debts	23,322,957	32,163,932	4,483,882
(iv).	Provision for slow moving inventory	6,995,775	1,741,709	-

(v).	Construction cost-IFRIC 12	4,786,724	7,073,805	6,462,678
(vi)	Other provisions, if any	-		
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]	**537,144,117**	**527,791,342**	**495,652,516**
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	-		
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3)**	**3,686,193,633**	**3,683,203,336**	**3,981,387,745**
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3	3,783,594,905		
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March 2019 followed by the BOT operator (As per IGAAP)	14,126,028,249		
	(ii). Add: Capital Work in Progress as on 31st March 2019 followed by the BOT operator (As per Audited Annual Accounts)	729,482,845		
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory	115,301,635		
	(b). Sundry Debtors	432,455,576		
	(c). Cash	315,060,110		
	(d).Sum of (a)+(b)+(c)	**862,817,321**		
	(iv). Total Capital Employed [(i)+(ii)-(iii)]	**15,718,328,414**		
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**	2,514,932,546		
(9).	**Annual Revenue Requirement (ARR) as on 31 March 2019 as applicable [(6)+ (8)]**	6,298,527,451		
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be (9) x 1.0426)**	**6,566,844,721**		
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR)**	**6,566,844,721**		
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	6,566,844,721		

4.3. The GTIPL has furnished in Form 4, the working of revenue estimation for the existing tariff as well as the proposed tariff for the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed level of tariff is ` 65,668.11 lakhs.

4.4. The GTIPL has furnished a copy each of the Audited Annual Accounts for the years 2017-18 (April 2017 to March 2018) and 2018-19 (April 2018 to March 2019).

4.5. From the proposal of GTIPL, it is seen that the GTIPL has generally sought an increase ranging from 6% to 20% in various tariff items. Status quo has been proposed in some tariff items and about 7% reduction is also proposed in some tariff items. The GTIPL has also proposed some changes to its existing conditionalities.

5.1. In accordance with the consultative procedure prescribed, a copy of the proposal of GTIPL dated 10 September 2019 was forwarded to the Licensor port (JNPT) and the concerned users/ user organisations seeking their comments. Based on the request made by GTIPL regarding non-circulation of some of the documents to the users, on the ground of it being sensitive, only Form 1, 3, 5 and the proposed Scale of Rates were circulated to the users as per Clause 4.3 of the Tariff Guidelines of 2019. The entire proposal was, however, forwarded to the Licensor Port JNPT, for its comments.

5.2. In this regard, the JNPT vide its letter dated 18 October 2019 has stated that any reduction in the tariff of the GTIPL will have an impact on the revenue share paid by GTIPL to JNPT.

6.1. As brought out earlier, the Hon'ble High Court of Bombay has stayed the last tariff Order passed by TAMP in the year 2012 and has permitted GTIPL to levy the then prevailing tariff, which is as per the order dated 03 March 2010 passed by the Authority. The said Court stay Order is still in force.

6.2. In order to ensure that the submission of a proposal by GTIPL for review of its SOR, consequent processing of the proposal by TAMP, passing of the Order by TAMP and implementation of the Order by GTIPL should not amount to contravention of the High Court Order, we have vide our letter dated 20 September 2019 requested GTIPL to intimate the Hon'ble Bombay High Court about GTIPL filing a proposal for General revision of its Scale of Rates (SOR) with TAMP under Tariff Guidelines 2019 and furnish a copy of the said intimation to us.

6.3 After a reminder dated 5 November 2019, the GTIPL vide its email dated 22 December 2019 has stated that it has intimated the Hon'ble High Court of having filed an application for general revision of Scale of Rates with TAMP under Tariff Guidelines, 2019, on a without prejudice basis. GTIPL has also forwarded a copy of the Additional Affidavit filed by GTIPL in the Hon'ble Court.

6.4. From the copy of the Additional Affidavit, it is seen that the GTIPL has, interalia, made the following submission before the Hon'ble High Court of Bombay;

(i). *This Additional Affidavit is being filed for the limited purpose of bringing on record certain facts that have transpired during the pendency of the present petition.*

(ii). *On 07 March 2019, new tariff guidelines were issued by Respondent No. 2 (Tariff guidelines of 2019"). Pursuant to the Tariff Guidelines of 2019, the Petitioner has on 11 September 2019, without prejudice to its rights and contentions in the present Petition, filed an application for fixation of tariff before Respondent No. 2 under the new Tariff Guidelines of 2019.*

6.5. As part of its Affidavit, the GTIPL has, *interalia*, annexed a copy of its covering letter dated 11 September 2019 (without enclosures) forwarding its proposal to TAMP.

7. The joint hearing in this case was held on 31 October 2019. At the joint hearing, the representatives of GTIPL and JNPT, being licensor Port were present in the Joint Hearing. None of the users/ organization bodies were present at the Joint Hearing. The GTIPL made a presentation of the proposal. The GTIPL and the licensor Port, JNPT have made their submissions at the joint hearing.

8.1. Since none of the users/ user organisations were present in the joint hearing held on 31 October 2019, it was decided at the Joint Hearing, to give one more opportunity to the users/ user organisations to furnish their comments on the GTIPL proposal. Accordingly, all the users/ user organisations were again requested vide letter dated 5 November 2019 to furnish their comments.

8.2. In this regard, only Maritime Association of Nationwide Shipping Agencies India (MANSA) vide its email dated 11 November 2019 has furnished its comments.

8.3. In its submissions, MANSA has, *interalia*, requested to consider its points for discussion before finalization of the case. Since a joint hearing had already been held on the subject proposal, with due intimation to MANSA, among other stake holders it was not found possible to hold another round of discussion on the matter, as requested by MANSA.

8.4. Therefore, while forwarding the comments of MANSA to GTIPL. MANSA was requested to approach GTIPL for a discussion on the matter in reference. The GTIPL vide its email dated 22 December 2019 has also conveyed that, it will be available for discussion with MANSA, when approached by MANSA. In this connection, the MANSA was requested vide letter dated 01 January 2020 to forward the outcome of the discussion between MANSA and GTIPL. However, we have not heard either from MANSA or from GTIPL, till the case was finalized.

9.1. Based on the scrutiny of the proposal, the GTIPL was requested vide letter dated 4 November 2019 to furnish additional information/ clarification. The GTIPL has responded vide its e-mails dated 15 November 2019 and 18 November 2018. The information sought and the response of the GTIPL thereon are tabulated below:

Sl. No.	Information sought	Response of GTIPL
A.	**ARR Computation**	
(i).	In Form no. 1, the total expenditure for the year 2016-17 at sl. No. 1 was shown to the tune of ₹ 386.21 crores, whereas as per the Annual Accounts of GTIPL for the year 2016-17, the total expenses has been shown as ₹ 385.74 crores. The GTIPL to consider the correct expenditure in sl. No. 1 of Form no. 1 for the year 2016-17.	Correction is done in Form no.1.
(ii).	As seen in Form no. 6A, the GTIPL has considered an amount of ₹ 36.12 crores, ₹ 35.66 crores and ₹ 28.79 crores, for adjustment under sl. No. 2 of Form no. 1, during the years 2016-17 to 2018-19 respectively. This amount for adjustment is seen to be arising due to the difference in the amount of depreciation and lease rent as considered based on the IGAAP vis-à-vis that as captured in Annual Accounts as per IND AS. In this connection, the GTIPL to furnish the workings in support of the amount of depreciation and lease rent as considered as per IGAAP in Form no. 6A, for all the years under consideration.	The working in support of the amount of as considered as per IGAAP in Form no. 6A, for all the years under consideration is furnished. The lease rent working along-with invoice copies is also furnished.
(iii).	The schedule of 'Finance Costs' in the audited Annual Accounts of GTIPL, comprises of 'Interest expense on finance lease', 'Interest on borrowings' and 'others'. The expenditure 'others' has not been considered for exclusion by GTIPL in any of the years from the total expenditure in sl. No. 3 of Form no. 1. The said expenditure is also to be excluded from the total expenditure.	The said expenditure is interest paid on delayed payment of taxes and is not in nature of finance costs. Hence the same will be included in total expenses.
(iv).	The figures of Gross Fixed Assets as per IGAAP and Capital Work in Progress as on 31 March 2019 as considered in Form no. 1 is seen to be based on Form no. 7 furnished by GTIPL. With regard to Form no. 7, the GTIPL to furnish workings in support of the following:	
(a).	Opening balance of Gross fixed asset and depreciation as of the year 2016-17 for each of the asset category viz., Plant and Machinery, Furniture and Fixtures, Office equipment, Computers, Hardware Network, Vehicles and any other Fixed Assets.	The GTIPL has furnished the working.
(b).	Depreciation for the year considered in respect of each of the asset category viz., Plant and Machinery, Furniture and Fixtures, Office equipment, Computers, Hardware Network, Vehicles and any other Fixed Assets, for each of the years 2016-17 to 2018-19.	The GTIPL has furnished the working.
(c).	The figure of disposal shown under gross fixed assets as considered in Form no. 7 for the years 2017-18 and 2018-19 to the tune of ₹ 3.71 crores and ₹ 50.83 crores respectively, is not seen as per the Annual Accounts of the respective years. The GTIPL to furnish workings in support of the figures considered in Form no. 7.	The figures of disposal shown under gross fixed assets is as per WDV value in IND AS accounts as gross block was restated at WDV for IND AS implementation. The gross block value for the same is reduced for disposed assets for IGAAP working.
(vii).	With regard to the Working Capital in Form no. 3, the GTIPL to clarify/ furnish the following:	
(a).	Basis for the amount of Inventory of capital spares considered in Form no. 3 to the tune of ₹ 11.53 crores. GTIPL to confirm whether it is one year's average consumption.	It is confirmed it is one year's average consumption.
(b).	The GTIPL has considered an amount of ₹ 20.42 crores towards trade receivables as Sundry Debtors under Working Capital. The GTIPL to note that the trade receivables considered by GTIPL does not arise on account of contractual obligation with JNPT and hence, not admissible as an item of Sundry debtors.	The 2019 Tariff Guidelines and working Guidelines do not exclude sundry debtors from the definition of working capital.
(c).	In the calculation relating to Cash balance, the GTIPL is seen to have considered 'Tax Expenses', while determining one month cash expenses. The GTIPL to note that since tax is not considered as an item of expenditure while determining the tariff of GTIPL, the question of considering the tax expenses, to arrive at the cash balance, is not found appropriate and hence may be excluded.	The 2019 Tariff guidelines clause 2.6 prescribes the limit on cash balance will be one month's cash expenses. Therefore non-cash expenses such as depreciation and construction costs etc. are excluded for calculating cash balance.
B.	**Revenue Estimation**	
(viii).	In Form 4, the GTIPL has indicated the average traffic at 19.56 Lakh TEUs based on the traffic for the years 2016-17 to 2018-	The average container traffic is 13,37,416 containers which is based

	19. In the same Form-4, for revenue estimation, GTIPL has considered various container mix. The aggregate of the said container mix may be matched with the average traffic of 19.56 Lakh TEUs and a working in this regard also to be furnished.	on import and export and restow on/via quay figures i.e vessel discharge and load activity. In detailed working of revenue estimation the total of these there activities is 13,37,416 containers and is matched.
(ix).	With regard to the workings relating to estimation of revenue at the existing and proposed level of tariff in Form no. 4, the GTIPL to clarify/ furnish the following:	
(a).	From the rates for various services as indicated by GTIPL as per the Scale of Rates in Form no. 4, it is seen that the rates are generally as approved vide Tariff Order No.TAMP/49/2008-GTIPL dated 3 March 2010. Subsequent to the said Order, based on a review application filed by GTIPL, the Authority vide its Order no. TAMP/31/2010-GTIPL dated 03 November 2010, though had prescribed status quo in the rates fixed vide Order of March 2010, had, interalia, approved levy of dwell time charges for over height and over dimensional containers at twice the rates for normal containers, instead of 1.25 times the rates for normal containers, as approved in March 2010. However, in the workings, the GTIPL is seen to have considered storage income from over dimensional containers at 1.25 times the rates for normal containers, instead of considering twice the rates. The GTIPL to clarify the position.	This correction is done in revised working.
(b).	Likewise, in the Order no. TAMP/31/2010-GTIPL dated 03 November 2010, disposing the review application filed by GTIPL, the handling charges for hazardous containers was prescribed at 1.25 times the normal containers. The said charge is also not seen to have been correctly captured by GTIPL in its workings.	The storage charges for hazardous are correctly taken at 1.25 times of normal containers.
(c).	In the workings, the GTIPL is seen to have considered a rate of ₹ 400/- for all types of 20' containers and ₹ 800/- for all types of 40' containers, for movement between 'Rail to Yard' and 'Yard to Rail'. This is reported to be based on separate notification. A copy of the separate notification, based on which the said rates have been considered, to be furnished.	The said charges are for ITRHO movement as per TAMP notification. Copy of the TAMP notification is furnished.
(d).	The rates as prescribed in the existing Scale of Rates of GTIPL at Section 9A towards charges for shifting of containers are ₹ 1805.40 for 20' container, ₹ 2708.10 for 40' container and ₹ 3610.80 for above 40' container. However, in the workings, the existing rates have been considered at ₹ 1805 for 20' container, ₹ 2708 for 40' container and ₹ 3610 for above 40' container. The GTIPL to rectify the errors and capture the correct rates.	This correction is done in revised working.
(e).	The GTIPL is seen to have considered an exchange rate of about ₹ 70/- per US dollar for converting the dollar denominated tariff into Indian Rupees in the workings. The basis for considering the same to be indicated.	This is the average exchange rate of last six months.
C.	**<u>Scale of Rates</u>**	
(x).	With regard to the proposed Scale of Rates, the GTIPL to clarify/ furnish the following:	
(a).	The reason for changing the description of title of Section 1 of the proposed SOR, so as to include Rail in-Rail Out containers/ Non vessel bound containers, within the purview of levy of charges under Section 1 to be explained.	This is to cover the activities carried on non-vessel bound containers and rail in rail out containers to avoid ambiguity in charging. These operations so occur rarely and are charged as per SOR.
(b).	In the proposed Scale of Rates, the GTIPL is seen to have deleted the existing Section 1B, which prescribed rates for movement of normal/ reefer containers from Yard to CFS or CFS to yard. The reason for the proposed deletion to be furnished.	Such activities are not carried out by GTI and hence the section is deleted.
(c).	Clause 9.9.3 of the Working Guidelines, interalia, stipulates that premium upto the extent of 50% on handling charge can be levied on over dimensional containers. The GTIPL has, however, proposed 100% premium for handling of ODCs. The GTIPL is requested to propose a premium of 50% for handling of ODCs. Consequently, the income estimated at the proposed level of tariff also to be modified so to capture this impact.	The correction is done in revised Form no.4 and working.

(d).	Clause 9.9.3 of the Working Guidelines, interalia, stipulated that the storage charges for over dimensional containers shall be based on actual ground slots occupied by the container or as per the existing practice. As per the Review Order of March 2010, the storage charges for ODC's was approved at twice the rates for normal containers. Since the levy of twice the rates is the existing practice, the income estimated at proposed level of tariff also to be modified to capture this impact.	It may please be noted that no container can be stacked on ODC container and hence the storage revenue of ground slots is lost considering the normal stack height of 5. The option is with the operator to charge as per actual ground slots or as per the existing practice.
(e).	Clause 10.1.2. of the Working Guidelines, interalia, stipulates that restatement of coastal rates with reference to prevailing exchange rate at the time of each general revision of Scale of Rates will not be resorted to. However, in the proposed Section 6, 7, 8A and 9, the GTIPL is seen to have restated the charges for coastal vessels by considering the prevailing exchange rate. Even in the dwell time charges for the various types of coastal containers in proposed Section 11, the GTIPL is seen to have restated the coastal rates. The GTIPL to propose rates for coastal vessels without restating the exchange rate.	The coastal rates are 60% of the foreign container as described in clause 8.3 of 2019 working guidelines.
(f).	(i). The reason for introducing a note under Section 8 of the proposed SOR, so as to levy shut out charges if loading terminal is changed for TP container, to be explained. (ii). When a definition for shut out container is given at Section 1.17, the reason for proposing the note to be clarified. It is to be clarified whether the proposed note is in harmony with the definition.	If the loading terminal is changed for TP container, additional operational activity is carried out to restack the container. The definition may be changed to include a TP container whose loading terminal is changed.
(g).	(i). The GTIPL under Section 10 of the proposed SOR has proposed introduction of various new services viz., Additional Transportation within the terminal, Additional Lift on/Lift off, Fixing/ removal of Hazardous Sticker, Cancellation/ Reissue of documents, Non- declaration/ Mis-declaration of Hazardous containers, On- Wheel Customs inspection, Empty Container Administration/ Inspection Fee, Demanifest/holding of Container, Invoice Revision, Out of Turn Delivery, Charges for Flat Rack Bundling/ Unbundling, Twist lock cutting charges, Haz bund cleaning charge, Door turning activity, Express delivery, Block stow rent, Break bulk handling, Lashing charges, Entry before gate open, Providing Open yard space for Re-working or any other inspection, Use of Special Equipment, Selective container delivery, Reinsertion of container in EAL, Administrative charges and Reefer Temperature Variance charges. The GTIPL to furnish the basis/ workings to arrive at each of the proposed new rate, keeping in view the stipulation contained in Clause 5.6.1 of the Tariff Guidelines, 2019.	The GTIPL has furnished the justification for introduction of various new services. These have been brought out in the analysis of the proposal of GTIPL.
	(ii). The GTIPL has proposed a rate of ₹ 1,50,000/- per crane hour for handling break bulk cargo at Section 10.25. The GTIPL to clarify whether it has been authorised under the Concession Agreement to handle break bulk cargo.	As per article 10.1 of Licence Agreement which is reproduced below: 10.1 "The Licensee shall, during the Operations Phase, 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 in the currency as permitted by law and duly notified by TAMP ("Scale of Rates") or such other Competent Authority as prescribed under the Applicable Law)." and Gross Revenue as per Licence Agreement point no. (ii) is reproduced below: (ii) All the revenue earned from handling of any cargo other than container. GTI is entitled to levy charges for handling cargo. the break bulk cargo handled by GTI is for cargo moved thru container vessels

(h).	(i). A Note on the need to levy storage charges for Rail in-Rail out/ Non vessel bound loaded/ empty container to be furnished.	This is to cover the activities carried on non-vessel bound containers and rail in rail out containers to avoid ambiguity in charging. These operations so occur rarely and are charged as per SOR.
	(ii). The basis for prescribing storage charges for Over height and over dimensional containers at 3 times the normal applicable charges and the basis for proposing storage charges for One door open and Flat rack bundle containers at 4 times the normal applicable charges, to be furnished.	It may please be noted that no container can be stacked on ODC container and hence the storage revenue of 4 ground slots is lost considering the normal stack height of 5. The option is with the operator to charge as per actual ground slots or as per the existing practice. Similarly one door open container results in difficulty in normal stacking of containers due to its condition- One door open. No container can be stacked over flat rack bundle containers and hence the storage revenue of 4 ground slots is lost considering the normal stack height of 5.
	(iii). Under the Section 11 relating to dwell time charges, the GTIPL is seen to have introduced a new sub-category of container at sl. No. C viz., Rail in-Rail Out/ Non vessel bound loaded/ empty containers. In this regard, the GTIPL to furnish the basis/ workings to arrive at each of the proposed storage rate under this sub-section, keeping in view the stipulation contained in Clause 5.6.1 of the Tariff Guidelines, 2019.	Since all the containers occupy the same space (Except ODC, flat rack and One door open container) same rate has been proposed to all types of containers after considering reduction.
(i).	The reason for proposing deletion of existing note no. 1 and 7 under 'General notes', to be explained.	The notes are not deleted in the proposed SOR.
(j).	In the income estimation at proposed level of tariff, the GTIPL has considered a rate of ₹ 2532/- for 'loaded Gen 45' Container for movement from truck to yard (Sr. No. 154 of Form 4). However, the rate proposed by GTIPL in its proposed SOR is ₹ 1688/-. The income estimation may be modified suitably.	The correction is done in revised working.
(xi).	With regard to the estimation of income at the proposed level of tariff as given in Form no. 4, the GTIPL to clarify/ furnish the following:	
(a).	Considering the dollar denominated rate for Reefer monitoring and Connection at the proposed Section 9, the GTIPL to furnish the workings in support of the rupee denominated rate considered in the estimation of income from Reefer monitoring and Connection in Form no. 4.	Exchange rate of INR 70 per USD is considered with an average dwell time of 2 days i.e 12 -4 hours slots.
(b).	With regard to estimation of income at the proposed level of tariff from various Transhipment Containers, the GTIPL is seen to have considered only half of the relevant proposed rates. The rationale for the same to be furnished.	The TP (Transhipment) activity is divided in TP load and discharge and is captured separately in vessel volumes. Hence the rate for the same is considered at 50% of charges for TP containers.
(c).	The rates as prescribed in the proposed Scale of Rates of GTIPL at Section 10A towards charges for shifting of containers are ₹ 1687.51 for 20' container, ₹ 2531.26 for 40' container and ₹ 3375.01 for above 40' container. However, in the workings relating to estimation of income at the proposed level of tariff, the proposed rates have been considered at ₹ 1687.13 for 20' container, ₹ 2531.17 for 40' container and ₹ 3374.27 or ₹ 3375.20 for above 40' container. The GTIPL is requested to rectify the errors and capture the correct rates. Consequently, the income estimated at the proposed level of tariff also to be modified so to capture this impact.	The corrections are done in revised working.
(d).	The rate as prescribed in the proposed Scale of Rates of GTIPL at Section 10.10 towards charges for fixing/ removal of hazardous sticker is ₹ 600/- per container. However, in the workings relating to estimation of income at the proposed level of tariff, the proposed rate has been considered at ₹ 200/- per container. The GTIPL to rectify the error and capture the correct rates. Consequently, the income estimated at the proposed level of tariff also to be modified so to capture this impact.	SOR is changed for INR 200 per container for this activity.

(e).	The rate as proposed in the Scale of Rates of GTIPL at Section 10.19 towards charges for Flat Rack Handling is ₹ 210/- per 20' container and ₹ 315/- per 40' container. However, in the workings relating to estimation of income at the proposed level of tariff, the proposed rates have been considered at ₹ 7742.68 per 20' container and ₹ 11614.02 per 40' container (Sr. no. 220 & 221) and at ₹ 350/- (Sr. no. 237). The GTIPL to rectify the error and capture the correct rates. Consequently, the income estimated at the proposed level of tariff may also be modified so to capture this impact.	Please note the rates mentioned at Section 10.19 are flat rack bundling and unbundling activity. The rates of 7742.68 per 20' container and ₹ 11614.02 per 40' container are for flat rack handling. The rates of flat rack handling are treated at par with ODC rates as definition of ODC now includes flat rack container as well. The correction in revenue estimation of INR 315 instead of INR 350 is done at Sr.. No. 237.
(f).	The rate as prescribed in the proposed Scale of Rates of GTIPL at Section 10.34(b) towards charges for garbage removal is ₹ 48000/- per ship. However, in the workings relating to estimation of income at the proposed level of tariff, the proposed rate has been considered at ₹ 47362.95 per ship. The GTIPL to rectify the error and capture the correct rates. Consequently, the income estimated at the proposed level of tariff may also be modified so to capture this impact.	This is corrected in revised working.
(g).	Charges for 'flat rack bundle' for storage of 20' & 40' container (Sr. no. 222 & 223 of Form 4) has been considered at ₹ 968.80 & ₹ 1937.60 respectively for revenue estimation. This rate is not seen to be in line with note no. 7 (iii) of Section 11. Please clarify.	The correction is done in revised working.
(h).	The rate of ₹ 3061.80 considered for estimation of revenue for change of loading terminal for TP container (Sr. no. 234 of Form 4) is not found to have been proposed in the SOR. The GIPL to clarify the position.	As explained above such container is treated as shout out container and hence charge for shut out container is applied.
(i).	The difference in the description given for tariff items at Section 10.28 and 10.29 in the proposed SOR to be clarified. Both descriptions are found to be identical.	This is duplication and is removed from SOR.
D.	**Others**	
(xii).	The GTIPL has proposed increase in tariff for Transhipment containers, hazardous containers and over dimensional containers, reduction in tariff for ship to yard/ yard to ship movement of containers, hatch cover handling activity, charges for shut out containers, charges for shifting of containers within he terminals and reduction in dwell time charges. The GTIPL is requested to indicate the impact in terms of increase or reduction in tariff as the case may be, in percentage terms in per TEU rate, on account of its tariff revision proposed.	The impact is overall reduction of 6.55% reduction in per TEU rate.
(xiii).	GTIPL to confirm that it has estimated income for all the tariff items as proposed by it in its proposed Scale of Rates.	It is confirmed that GTIPL has estimated income for all the tariff items as proposed by it in its proposed Scale of Rates.
(xiv).	The Authority has passed common adoption Orders for all Major Port Trusts and BOT operators operating thereat including GTIPL from time to time and all the Major Port Trusts and BOT operators operating thereat including GTIPL were requested to include suitable notes in the SOR. However, the GTIPL is not seen to have included suitable notes in the proposed SOR in line with following common adoption Orders:	
(a).	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.	The notes are suitably incorporated in SOR.
(b).	Common Order No.TAMP/12/2019-MUC dated 24 July 2019 incorporating a provision towards levy of Mandatory User Charge (MUC) on containers for the Logistics Data Bank Service to be rendered by Delhi-Mumbai Industrial Corridor Development Corporation (DMICDC) in the Scale of Rates of all the Major Port Trusts and BOT operators operating thereat for a period of two years.	

	The GTIPL to incorporate the provisions in the SOR stipulated in these common Orders.	

9.2. The Audited Annual Accounts of GTIPL for the years 2017-18 and 2018-19 reflect an amount of ₹ 209.70 lakhs and ₹ 121 lakhs towards 'Net Loss on Foreign exchange transaction and translation (Other than considered as finance cost)'. When the GTIPL was requested to clarify the nature of expenses, the GTIPL vide its e-mail dated 30 January 2019 has clarified that the amount of exchange gain/ loss incurred on foreign currency transactions is mainly on account of payment to foreign vendors, arising due to exchange rate differences at the time of booking of invoices and payment.

10. As brought out above, while furnishing the additional information and clarification, the GTIPL vide its e-mails dated 15 November 2019 and 18 November 2018 has revised its various tariff filling forms and has also furnished a revised draft SOR. A summary position of Revised ARR computation furnished by GTIPL is tabulated below:

(Amount in ₹.)

Sl. No.	Description	Y1 2016-17	Y2 2017-18	Y3 2018-19
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	3,355,334,915	3,366,631,239	3,676,266,273
(ii).	Finance and Miscellaneous expenses (FME)	502,135,085	487,737,847	512,790,427
	Total Expenditure 1=(i)+(ii)	**3,857,470,000**	**3,854,369,086**	**4,189,056,700**
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	-61,514,537	-82,544,145	-168,479,450
(ii).	Other expenditure items, if any, to be listed - Lease rent paid	422,707,505	439,169,737	456,463,011
	Total of Adjustments 2=(i)+(ii)+ -----	**361,192,968**	**356,625,592**	**287,983,561**
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	-	-	-
(ii).	Interest on loans	29,355,630	7,375,188	-
(iii).	Interest on finance lease	472,683,030	479,436,708	484,705,956
(iii).	Provision for bad and doubtful debts	23,322,957	32,163,932	4,483,882
(iv).	Provision for slow moving inventory	6,995,775	1,741,709	-
(v).	Construction cost-IFRIC 12	4,786,724	7,073,805	6,462,678
(vi).	Other provisions, if any			
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]	**537,144,117**	**527,791,342**	**495,652,516**
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**			
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3)**	**3,681,518,851**	**3,683,203,336**	**3,981,387,745**
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3			3,782,036,644
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March 2019 followed by the BOT operator (As per IGAAP)			14,126,028,249
	(ii). Add: Capital Work in Progress as on 31st March 2019 followed by the BOT operator (As per Audited Annual Accounts)			729,482,845
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			

	(a). Inventory	115,301,635
	(b). Sundry Debtors	432,455,576
	(c). Cash	315,060,110
	(d). Sum of (a)+(b)+(c)	**862,817,321**
	(iv). Total Capital Employed [(i)+(ii)-(iii)]	**15,718,328,414**
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**	2,514,932,546
(9).	**Annual Revenue Requirement (ARR) as on 31 March 2019 as applicable [(6)+ (8)]**	6,296,969,190
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be (9) x 1.0426)**	**6,565,220,078**
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR)**	**6,565,220,078**
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	6,565,220,078

11. Based on the scrutiny of the GTIPL proposal, the Licensor port (JNPT) was also requested vide letter dated 4 November 2019 to furnish some information/ clarification. The JNPT has responded vide its letter dated 24 December 2019. The information sought and the response of the JNPT thereon are tabulated below:

Sl. No.	Information sought	Response of JNPT
(i).	JNPT to furnish its comments on the computation of ARR as furnished by GTIPL in its Form no. 1.	The ARR furnished by GTIPL in its Form 1 was found in order.
(ii).	In Form 4, the GTIPL has indicated the average traffic at 19.56 Lakh TEUs for the years 2016-17 to 2018-19. The said average traffic at 19.56 lakh TEUs to be confirmed by JNPT.	Average Traffic of 19.56 Lakh is found to be in order.
(iii).	The JNPT to furnish its comments on the estimation of revenue at the proposed level of tariff as furnished by GTIPL in its Form no. 4.	JN Port has modified charges that are to be collected on account of Inter Terminal handling charges from BOT operators. Port has proposed in their SOR following changes under Clause No. 3.3.6: ***Charges for handling TP Containers between JNPT and BOT Terminal:*** *If a container is discharged by the JNPT and loaded by the BOT Terminals and vise versa, the charges will be as under:* *50% of transshipment container handling charges and LIFT OFF/ LIFT ON charges as per the JNPT Scale of Rates will be charged to the line by the JNPT. For the same container* *The BOT terminal will charge 50% of the Transhipment container handling charges as per its Scale of Rates and, in addition, also levy a charge of towards inter-terminal transfer as per its Scale of Rate.* The same needs to be incorporated in GTIPL's SOR also. The same was also informed to M/s. GTIPL and their confirmation with respect to modification in their scale is furnished.
(iv).	The GTIPL has proposed a rate of ₹ 1,50,000/- per crane hour for handling break bulk cargo at Section 10.25. The JNPT to clarify whether JNPT has	Charges with respect to Break Bulk handling proposed by M/s. GTIPL was discussed with M/s. GTIPL official and they have confirmed that they are not handling any Bulk vessel at GTIPL but certain Break Bulk cargo are handled in container vessel and

	authorised GTIPL under the Concession Agreement to handle break bulk cargo.	Break Bulk are stored in container slot provided in container vessel. In addition to above, various agreement clauses which defines allowable gross revenue to GTIPL are as under As per article 10.1 of Licence Agreement which is reproduced below; *"The Licensee shall, during the Operations phase, 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 in the currency as permitted by law and duly notified by TAMP ("Scale of Rates") or such other Competent Authority as prescribed under the Applicable Law")* And Gross Revenue as per Licence Agreement point no. (ii) is reproduce below: (ii) All the revenue earned from handling of any cargo other than container. From the above, M/s. GTIPL is allowed to collect any type of cargo related charges from its Shipping lines. Copies of above clauses is furnished by JNPT.
(v).	To furnish its comments on the comparative statement furnished by GTIPL in Form no. 5, highlighting the changes/ amendments proposed by GTIPL in its proposed Scale of Rates vis-a-via the existing Scale of Rates.	The JNPT has furnished its comments on Form No. 5 i.e. on changes for amendments proposed by GTIPL in its proposed SOR vis-à-vis the existing SOR. These have been brought out in the analysis of the proposal of GTIPL. The JNPT has further stated that, Ministry of Shipping has issued Tariff Guidelines for BOT operator 2019 dated 7 March 2019 and Working Guidelines to operationalize the Tariff Guidelines, 2019 for Determination of Tariff for BOT Operators operating in Major Port Trusts on 11 July 2019. TAMP may fix tariff of M/s. GTIPL as per the guidelines mentioned aforesaid.

12. 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.

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

(i). The Scale of Rates of Gateway Terminal India Private Limited (GTIPL) was last revised by this Authority vide Order dated 19 January 2012, following the Tariff Guidelines 2005. Vide the said Order, this Authority has effected an across the board reduction of 44.28% over the then prevailing tariff of GTIPL (i.e. tariff approved for GTIPL vide Order no. TAMP/49/2008-GTIPL dated 3 March 2010). Aggrieved by said reduction in its tariff, the GTIPL has challenged the tariff order of January 2012 in the Hon'ble High Court of Bombay. The Hon'ble High Court have stayed the operation of the Order and has permitted the Petitioner i.e. GTIPL to charge at the old rates. The writ petition is yet to be disposed of by the Hon'ble Court.

(ii) In the meanwhile, the 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 Guidelines. Consequent to the issue of the Tariff Guidelines, 2019, by the Ministry of Shipping, the tariff fixation exercise in respect of the GTIPL is to be governed by the stipulations contained in the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019.

(iii). In this backdrop, the GTIPL has come up with a proposal in September 2019 for revision of its tariff, following the Tariff Guidelines, 2019, and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019. The revision has been sought by the GTIPL on the tariff as approved by this Authority vide its Order dated 3 March 2010, which is now being levied by the GTIPL based on the Order of the Hon'ble Court.

(iv). The GTIPL has filed its proposal for general revision of its Scale of Rates in September 2019. Thereafter, in November 2019, while furnishing the additional information/ clarification, the

GTIPL has filed its revised proposal. The revised proposal of November 2019 along with the additional information/ clarification furnished by GTIPL during the processing of case is considered in this analysis.

(v). (a). Clause 2.1 of the Tariff Guidelines, 2019 requires the BOT Operator to assess the Annual Revenue Requirement (ARR) which is the average of the sum of the 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 the Capital Employed obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(b). The GTIPL has assessed the Annual Revenue Requirement (ARR) for the three years i.e. 2016-17 (Y1), 2017-18 (Y2) and 2018-19 (Y3) duly certified by the practicing Chartered Accountant. The total operating expenditure considered by GTIPL for the years 2016-17, 2017-18 and 2018-19 for arriving at the average sum of the Actual Expenditure for the respective years is seen to be as per the Audited Annual Accounts of GTIPL for the respective years.

(c). While assessing the ARR, the GTIPL has made certain adjustments in respect of items where there is variation in figures reported in IND AS (As per Audited Annual Accounts) and Indian Generally Accepted Accounting Principles (IGAAP) in ARR computation, as prescribed in Clause 2.3.2. of the Tariff Guidelines, 2019. The following adjustments done by GTIPL in line with the provision prescribed in Clause 2.3.2 of the Tariff Guidelines, 2019 are brought out for specific mention;

(i). The GTIPL has reduced an amount of -₹615.15 lakhs, -₹825.44 lakhs and –₹1684.79 lakhs for the years 2016-17, 2017-18 and 2018-19 from total expenditure towards of depreciation arising due to the difference in the amount of depreciation as per INDAS and IGAAP for the respective years. The GTIPL has furnished workings in support of amount of difference in depreciation between IND AS and IGAAP, which is found to be reconciled with the Audited Annual Accounts for the respective years. Based on the above and also since the said adjustment made by GTIPL has been certified by the practicing Chartered Accountant, the amount considered by GTIPL for adjustment towards depreciation is relied upon.

(ii). The GTIPL has added an amount of ₹4227.08 lakhs, ₹.4391.70 lakhs and ₹.4564.63 lakhs for years 2016-17, 2017-18 and 2018-19 towards lease rentals paid to JNPT, arising due to the difference in the amount of lease rent as per INDAS and IGAAP for the respective years from the total expenditure.

As reported by GTIPL, the lease rent is recognized as Finance cost in the audited annual accounts drawn as per IND AS and reported in accounts as Interest on Finance lease based on NPV of Future Lease rent payments in the Audited Annual Accounts. To consider the actual lease rent paid by GTIPL to JNPT during the years 2016-17 to 2018-19, GTIPL is seen to have added the actual lease rent payment to arrive at ARR. From the workings furnished by GTIPL, it is seen that the lease rent for the years 2016-17 to 2018-19 is at ₹ 4232.19 lakhs, ₹ 4395.71 lakhs and ₹ 4566.29 lakhs respectively. Hence, the amount as per the separate workings furnished by GTIPL is considered instead of the amount as considered by GTIPL in Form 1.

(d). As prescribed in Clause 2.2 and 2.3.1 of the Tariff Guidelines, 2019, the GTIPL has excluded the following expenses, which are not admissible in ARR computation. The said adjustments are brought out for specific mention:

(i). Clause 2.2 of the Tariff Guidelines, 2019, interalia, 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 as decided by the Ministry of Shipping vide its Order No.PR-14019/6/2002-PG dated 29 July 2003. Clause 2.3.1 (i) also stipulates that Royalty/ Revenue share payment to the extent not admissible in tariff fixation is to be excluded.

GTIPL is a BOT operator, who falls in the post July 2003 era, wherein the Licence Agreement entered into between the GTIPL and JNPT stipulates that as per the Government Policy, revenue sharing shall not be factored into/ taken into account as cost of fixation/ revision of tariff by TAMP. Thus, incase of GTIPL, the revenue share payable by GTIPL to JNPT is not admissible as an item of cost.

From the Audited Annual Accounts of GTIPL for the years 2016-17, 2017-18 and 2018-19, it is seen that the Revenue share paid by GTIPL to JNPT is reflected as an appropriation of the operating income of GTIPL and thus, it does not form part of the operating expenditure. Since, the total expenditure as per Audited Annual Accounts does not include Revenue share paid by GTIPL to JNPT, the question of exclusion of Revenue share paid to JNPT does not arise. In other words, the revenue share paid by GTIPL to JNPT has not been considered as an item of cost by GTIPL in the Form 1.

Nevertheless, the GTIPL in its proposal has made a request to consider the Revenue share as a pass-through cost to the extent of the 2nd highest bidder even in respect of for terminals (covered under the erstwhile 2005 Tariff Guidelines) whose bidding process was finalized after 29 July 2003.

In this regard, it is stated that allowance or disallowance of Royalty/ Revenue share as an item of cost in tariff fixation, flows from the policy direction of the Government. This Authority is not the appropriate forum to deal in the matter of allowance of revenue share as an item of cost in tariff fixation in case of GTIPL.

(ii). As per Clause 2.3.1 (ii) of the Tariff Guidelines, 2019, the GTIPL has excluded the Interest on loans, provision for bad and doubtful debts, provision for slow moving inventory etc., as reflected in the Audited Annual Accounts for the years 2016-17, 2017-18, 2018-19.

(iii). The schedule of ‘Finance Costs’ in the audited Annual Accounts of GTIPL, reflects an amount of ₹. 1.00 lakh for year 2016-17, ₹.9.30 lakhs for the year 2017-18 and ₹.280.80 lakhs towards ‘other expenses’. On a specific query in this regard, the GTIPL has sought to argue that Other Expenses under Finance Cost represents interest paid on delayed payments of taxes and is not in the nature of finance cost and refused to exclude this expenditure from the ARR calculation. Since the amount is penal in nature and also since tax as an expenditure is not considered as an admissible item of cost for fixation of tariff, the interest paid on delayed tax payments is excluded from the operating expenditure.

(iv). The GTIPL has excluded the construction cost on service concession assets as reported in the Audited Annual Accounts for the years 2016-17 to 2018-19. The GTIPL has reported that the exclusion is due to the difference in the treatments of construction cost on service concession agreement [International Financial Reporting Interpretations Committee (IFRIC) 12] in INDAS and IGAAP. Considering that the exclusion of construction cost on service concession assets made by GTIPL has been certified by the practicing Chartered Accountant, the exclusion of this cost from the expenditure in this regard is accepted.

(v). Following the provisions prescribed at Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019, and based on the adjustments as effected as brought out above, the average expense for the years 2016-17 to 2018-19 works out to ₹.37726.93 lakhs, as against the average expense of ₹ 37820.37 lakhs as assessed by the GTIPL.

(vi). (a). Based on the stipulation contained in Clause 2.5 of the Tariff Guidelines of 2019, the GTIPL has worked out the figure of Capital Employed. Capital employed comprises of Gross Fixed assets as arrived as per IGAAP plus capital work in progress as on 31 March 2019. The GTIPL has furnished workings/ reconciliation with regard to restatement of Gross fixed assets as per IGAAP vis-à-vis the Gross fixed assets under

IND AS in the Audited Annual Accounts for the year 2018-19, duly certified by a Chartered Accountant. The capital work in progress has been considered based on the audited Annual Accounts for the year 2018-19. The Gross fixed assets at ₹141260.28 lakhs and the Capital Work in Progress at ₹7294.83 lakhs as on 31 March 2019, as considered by the GTIPL are relied upon.

(b). Clause 2.6. of the Tariff Guidelines, 2019 stipulates the norms for determining the working capital. Working capital comprises of Inventory, Sundry debtors and Cash balances, as per Clause 2.6 of the Tariff Guidelines, 2019. Limit on inventory for capital spares will be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. Limit on cash balance will be one month's cash expenses. Advance payment of Revenue Share/ royalty and lease rental / license fee to the landlord port flowing from the contractual obligations is to be treated as sundry debtors.

(c). The GTIPL has considered inventory to the tune of ₹. 1153.01 lakhs, which has been confirmed by the GTIPL to be one year's average consumption of capital spares. Hence, the same is relied upon.

The GTIPL has considered an amount of ₹ 4324.56 lakhs as regards Sundry debtors. This comprises of ₹ 2042.24 lakhs being the advance lease rent paid to JNPT and an amount of ₹ 2282.32 lakhs towards Trade receivables.

Given that the amount of lease rent has undergone a change as discussed in one of the earlier paragraphs, the amount of sundry debtor in this regard has also been changed in the ARR calculation.

As regards Trade receivables, since the Tariff Guidelines, 2019 and Working Guidelines, 2019, do not specifically exclude Trade receivable from the definition of sundry debtors, the GTIPL is seen to have considered Trade receivables as part of working capital.

In this regard, it is to state that as per section 58 of the Major Port Trusts Act, 1963, rates in respect of goods to be landed shall be payable immediately on the landing of the goods and rates in respect of goods to be removed from the premises of a Board, or to be shipped for export, or to be transshipped, shall be payable before the goods are so removed or shipped or transshipped. The trade receivables allowed by the GTIPL appears to be at its discretion. In view of the above statutory provision, this Authority is not be in a position to accede to the request made by the GTIPL to include the trade receivables a part of sundry debtors.

To determine the Cash balance, the GTIPL is reported to have excluded non-cash expenses such as depreciation and construction costs etc. While doing so, 'tax expenses' has been considered as part of Cash expenses and thereafter, one month cash balance has been worked out by GTIPL. Since tax is not considered as an item of expenditure while determining the tariff of GTIPL, the question of considering the tax expenses, to arrive at the cash balance, is not found appropriate and hence is excluded.

(d). Thus, based on the above, the Working Capital has been worked out at ₹ 6371.32 lakhs as against the working capital of ₹ 8628.17 lakhs, considered by GTIPL.

(e). Thus, based on the above, the total capital employed including the revised working capital works out to ₹ 154926.44 lakhs as against the capital employed of ₹ 157183.28 lakhs as assessed by the GTIPL.

(vii). As per Clause 2.7 of the Tariff Guidelines, 2019, Return on Capital Employed (ROCE) at 16% is worked out on the revised Capital Employed, which works out to ₹ 24788.23 lakhs, which is considered in the annual Revenue Requirement (ARR) computation.

(viii). The ARR comprises of the average of the expenditure for the three financial years 2016-17 to 2018-19 plus 16% ROCE. The ARR has been worked out to ₹ 625.15 crores (₹ 377.27 crores + ₹.247.88 crores), as against the ARR assessed by the GTIPL at ₹ 629.70 crores (₹378.21 crores + ₹. 251.49 crores).

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 2019-20 which is 4.26%. The indexed ceiling ARR has been worked out to ₹ 651.78 crores (i.e. ₹. 626.47 crores * 1.0426), as against the indexed ARR assessed by the GTIPL at ₹ 656.52 crores. The detailed ARR calculation is attached as **Annex – I**. A summary of the ceiling indexed ARR, is given below:

(₹ in crores)

Sr. No.	**Particulars**	**ARR computation**	
		As furnished by GTIPL	**As Considered by Us**
1	Average Expenses [Y1+Y2+Y3]/3	378.20	377.27
2	Capital employed as on 31.03.2019 including capital work in progress as on 31.03.2019 and working capital as per norms	1571.83	1549.26
3	Return on capital employed @ 16%	251.49	247.88
4	ARR as on 31 March 2019 (4=1+3)	629.69	625.15
5	Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 (4.26%)	656.52	651.78
6	Ceiling Indexed Annual Revenue Requirement (ARR)	**656.52**	**651.78**

Based on the Ceiling Indexed ARR as determined at sl. no. 6 above, the GTIPL has drawn the proposed Scale of Rates (SOR), as per clause 2.9 of the Tariff Guidelines, 2019.

(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 for the years 2016-17 to 2018-19 has been considered by the GTIPL at 19,56,284 TEUs. The JNPT has confirmed the average traffic as considered by GTIPL in its workings.

(b). As per Clause 2.11.1 of Tariff Guidelines, 2019, the BOT Operators have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant. While drawing up the proposed SOR, the GTIPL is seen to have proposed increase in some tariff items and reduction in some tariff items. The overall impact of the proposed changes in the SOR has been stated to be reduction of 6.55% on the existing tariff being levied by GTIPL.

The GTIPL has given detailed working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding average traffic for the years 2016-17 to 2018-19, as required as per Clause 2.11.1. of the Tariff Guidelines, 2019, to realize the indexed ARR of ₹ 656.52 crores, as assessed by the GTIPL. The said revenue estimation statement as assessed by the GTIPL has been duly certified by a Chartered Accountant.

(c). Considering that the indexed ARR as determined by GTIPL at ₹656.52 crores has been reduced to ₹ 651.78 crores, as brought out earlier, it may not be correct to approve the Scale of Rates as proposed by the Port, as it will lead to GTIPL earning an estimated revenue of ₹ 656.52 crores. In other words, the Scale of Rates as proposed by the GTIPL is to be modified to such an extent, so as to reduce the estimated revenue to be earned by GTIPL by about ₹ 4.74 crores i.e. ₹ 656.52 crores - ₹ 651.78 crores.

This can be done either by effecting an across the board reduction in the proposed Scale of rates to the tune of 0.72% (₹ 4.74 crores / ₹ 656.52 crores) or by effecting a reduction in only one of the tariff items in the proposed Scale of Rates. Since effecting a reduction of 0.72% in each of the tariff item of the proposed Scale of Rates is cumbersome, it is felt appropriate to effect a reduction in only one tariff item in such a manner, as to reduce the estimated revenue to be earned by GTIPL by about ₹ 4.74 crores.

From the revenue estimation statement as furnished by the GTIPL, it is seen that GTIPL has estimated an income of about ₹ 43.45 crores from Reefer Monitoring and Connection from the proposed rates. The said proposed rates of Reefer Monitoring and Connection is reduced by 11%. This results in a revenue reduction to the tune of ₹ 4.78 crores. In other words, the Scale of Rates as proposed by the GTIPL is approved, except that the increase in the existing level of Reefer Monitoring and Connection charges is restricted to 9.38% instead of the increase of 22.88%, as proposed by the GTIPL.

(d). Clause 10.1.2 stipulates that restatement of coastal rates with reference to prevailing exchange rate at the time of each general revision of Scale of Rates will not be resorted to. While drawing the proposed Scale of Rates, the coastal rates proposed in respect of Opening hatch cover and replacing it (Section 6), Restow charges (Section 7), Shut outs (Section 8) and Reefer Monitoring and Connection Charges (Section 9), is seen to have been restated by the GTIPL by adopting the prevailing exchange rate of ₹ 70/- per 1 US$.

Inspite of a specific request, the GTIPL is seen to have proposed continuance of the restated coastal rates, on the ground that the coastal rates are 60% of the foreign container as described in clause 8.3 of 2019 working guidelines. In this regard, it is to state that Clause 8.3 of the Working Guidelines as referred by GTIPL, stipulates allowing of coastal concession as per policy direction of the Government. The policy direction of the Government is not amended for restatement of the coastal concessional tariffs with reference to the prevailing exchange rate.

Thus, based on the stipulation contained in Clause 8.3 of the Working Guidelines, 2019, the coastal rates as proposed by the GTIPL are modified so as to not restate the coastal rates.

(e). The GTIPL is also seen to have prescribed rates for storage of coastal containers at 60% of the rates of the foreign containers. As per Clause 8.3 of the Working Guidelines, coastal concession is to be allowed on all the handling charges for ship-shore transfer and transfer from/ to quay to/ from storage yard. Thus, storage charges do not fall within the ambit of grant of coastal concession. Thus, the coastal storage charges are prescribed in Rupee terms, without considering the coastal concession.

(f). The modification of coastal rates as discussed in the preceding two paragraphs is not seen to have any impact on the revenue estimation at the proposed level of tariff, as the GTIPL is not seen to have considered any handling/ storage of coastal containers. Thus, the said changes have been incorporated in the revised Scale of Rates notified in respect of GTIPL.

(x). The Government of India in the Ministry of Shipping (MOS) undercover of its letter No. PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No.PT-11033/51/2014-PT dated 4 September 2014 to this Authority. Accordingly, this Authority vide its Order no. TAMP/52/2014-Genl. dated 28 November 2014 has, *interalia*, the replacement of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts and BOT Operators operating thereat, as follows:

"*Coastal vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the Director General of Shipping/ Competent Authority.*"

Therefore, the existing definition of Coastal Vessel in the SOR of GTIPL is modified with the above mentioned definition of 'Coastal Vessel' to reflect the position contained in MOS letter dated 11 November 2014.

(xi). The comparative statement giving the existing conditionalities and the conditionalities wherever the GTIPL has proposed amendment/ deletion in the existing conditionalities or has proposed introduction of new provisions, along with remarks/ reasoning as furnished by the GTIPL for the proposed modification along with the comments of JNPT thereon and with the reasoning furnished for recommending acceptance or refusal to the proposed amendments is attached as

Annex - II. The proposed modification/ deletion in the existing conditionalities is approved taking into consideration the remarks/ reasoning furnished by the GTIPL and JNPT and our remarks/ analysis thereon given in the said Annex-II.

(xii). (a). Before we proceed to consider the revised SOR of GTIPL, it is pertinent here to draw reference to Clause 3.1.1 of the Tariff Guidelines, 2019, which stipulates that in case of the BOT operators, whose tariff have not been reviewed in the past due to litigations pending in the High Courts on the Tariff Orders passed by this Authority, the surplus/ deficit over and above the admissible costs and permissible return, if any, arising during the period of litigation will be subject to either the orders of the respective Courts or as per the treatment to be collectively decided by the Ministry of Shipping (MOS), concerned Major Port Trust, concerned BOT operator and this Authority.

(b). As stipulated in Clause 3.1.1 of the Tariff Guidelines, 2019, and based on clarification / information sought by CITPL and PSA SICAL (a BOT Operator at V.O Chidambaranar Port Trust) on treatment of past period surplus, a Draft Policy Framework to decide on the treatment of past period surplus/ deficit, over and above the admissible costs and permissible return arising during the period of litigation in respect of BOT Operators who have approached various High Courts and have obtained stay on the operation of the last tariff Order passed by this Authority, was prepared and forwarded to the MOS vide our letter no. TAMP/61/2018-Misc dated 26 April 2019, for deliberation by MOS with the concerned BOT operators, concerned Major Port Trusts and this Authority. The MOS has been reminded in this regard vide our letters dated 23 July 2019 and 18 November 2019. The response of MOS is awaited.

(c). Thus, it is to state that incase of GTIPL, neither the Hon'ble High Court of Bombay has passed Order disposing of the Writ Petition no. No.1410 of 2012 paving a way for treatment of surplus/ deficit, nor have we received a decision from the MOS, on the treatment of surplus/ (deficit) arising over and above the admissible costs and permissible return during the period of litigation. In other words, neither the methodology for determination of surplus during the period of litigation nor the treatment to be meted out to the surplus accrued during the period of litigation has been firmed up.

(xiii). Without giving the impact of any adjustment of past period surplus which might have accrued during the period of litigation, the income realisable at the estimated level of tariff has been kept at the ARR level of ₹ 651.78 crores, by proposing increase/ decrease to the existing level of rates being levied by the GTIPL i.e. the Court permitted tariff, as discussed in the earlier paragraphs. With the said estimated income, no gap has been left out. If any adjustment of surplus is carried out in the ARR of ₹ 651.78 crores, it will further reduce the ARR and warrant a reduction in the proposed level of tariff.

(xiv). The proposal filed by GTIPL for review of its tariff is before this Authority for disposal. Clause 4.6 of the Tariff Guidelines, 2019, requires this Authority to pass a speaking order and notify the SOR based on the proposal submitted by the BOT operators in the Official Gazette within 60 days from the date of filing. The proposal has been filed by GTIPL in September 2019. The time limit prescribed in the Guidelines has already exceeded, due to non-receipt of timely response from JNPT and time involved in the consultation process. Since the proposal is received as a "Tariff Case" and registered as such, it is not possible to keep the proposal pending indefinitely.

While approving the rates as proposed by the GTIPL, it is also intimated to GTIPL that whenever the Hon'ble High Court of Bombay passes Order disposing of the Writ Petition no. No.1410 of 2012 paving a way for treatment of surplus/ deficit or a decision from the MOS is received on the treatment of surplus/ (deficit) arising over and above the admissible costs and permissible return during the period of litigation, whichever is earlier, the tariff of GTIPL approved now would be subject to review then, so as to capture the impact of the surplus that has arisen during the period of litigation.

(xv). It is relevant here to mention that vide letter no. TAMP/46/2015-Misc dated 24 July 2015 it has been communicated to GTIPL that the surplus quantified for the tariff cycle immediately preceding the challenged tariff Order and the tariff fixed in the said tariff order challenged by the GTIPL in the Hon'ble High Court will be taken up for review, based on the Ministry of Shipping (MOS) letter No. 14019/20/2009-PG dated 12 June 2015, subject to the permission of the Hon'ble High Court, as the matter is subjudice. Accordingly, an Affidavit was filed by us in the Hon'ble Court in August 2015, interalia, praying before the Hon'ble Court to permit this Authority to review the order of January 2012 to give effect to the opinion of the Learned Attorney General of India as directed by the MOS. The matter is still pending before the Hon'ble Court. After receipt of the permission of the Hon'ble High Court, an exercise to quantify the surplus/ (deficit) based on the MOS letter has to be undertaken.

(xvi). This Authority vide Order No.TAMP/12/2019-MUC dated 24 July 2019 has approved revised Mandatory User Charges (MUC) for DMICDC's Logistics Data Bank (LDB) project across all the Major Port Trusts and BOT operators operating thereat. Therefore, the revised MUC on containers for the Logistics Data Bank Service rendered by DMICDC approved by this Authority for a period of two years for common adoption by all Major Port Trusts and BOT terminals thereat shall be applicable in case of GTIPL also. The note in this regard as proposed by the GTIPL is slightly modified to reflect the MUC applicable for the next two years.

(xvii). 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 31st 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. It is relevant here to state that in the instant case indexation for the year 2019-20 is already considered in the ARR and for drawing the SOR. The next annual indexation in SOR is applicable from 1 May 2020. That being so, a note is inserted in the SOR to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 60% of the WPI to be announced by this Authority. The annual indexation will be from 01 May 2020. The indexed SOR shall be intimated by the GTIPL to the JNPT, users and to this Authority.

13.1. In the result, and for the reasons give above, and based on a collective application of mind, this Authority approves the Scale of Rates and conditionalities of the GTIPL.

13.2. The revised Scale of Rates and conditionalities of the GTIPL shall come into force after expiry of 30 days from the date of notification of the Order passed by this Authority in the Gazette of India and shall be in force for a period of three years thereafter, subject to annual indexation. The approval accorded to the Scale of Rates shall automatically lapse thereafter unless specifically extended by this Authority.

13.3. The tariff of GTIPL has been fixed based on the prevailing information and without considering any adjustment of past period surplus relating to the period of litigation. Therefore, whenever the Hon'ble High Court of Bombay passes Order disposing of the Writ Petition no. 1410 of 2012 paving a way for treatment of surplus/ deficit or a decision from the MOS is received on the treatment of surplus/ (deficit) arising over and above the admissible costs and permissible return during the period of litigation, whichever is earlier, as stipulated in clause 3.1.1 of the Tariff Guidelines, 2019, the tariff of GTIPL approved now would be subject to review then, so as to capture the impact of the surplus that has accrued to GTIPL during the period of litigation.

13.4. As stipulated in Clause 7 of the Tariff Guidelines, 2019, the GTIPL shall furnish to this Authority, annual reports on container traffic handled, average moves by crane per hour and average dwell time for containers. The annual reports shall be submitted by the GTIPL within 90 days following the end of each of the year. Any other information which is required by this Authority from time to time shall also be furnished by GTIPL.

13.5. An analysis of variation in the tariff and revenue will also be made at the time of the next general review of tariff of GTIPL at the end of the tariff validity period and adjustment of additional surplus will be made in the tariff to be fixed for the next cycle, subject to the provisions contained in Clauses 3.2.1 and 3.2.2 of the Tariff Guidelines, 2019.

(T.S. Balasubramanian)
Member (Finance)

Annex-I

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for GTIPL operating at JNPT.

Rs. INR

Sl. No.	Description	Y1-2016-17	Y2-2017-18	Y3-2018-19
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	3355334915	3366631239	3676266273
(ii).	Finance and Miscellaneous expenses (FME)	502135085	487737847	512790427
	Total Expenditure 1=(i)+(ii)	**3857470000**	**3854369086**	**4189056700**
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	-61514537	-82544145	-168479450
(ii).	Other expenditure items -Lease rent paid	423218927	439570732	456629122
	Total of Adjustments 2=(i)+(ii)	**361704390**	**357026587**	**288149672**
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port			
(ii).	Interest on loans	29355630	7375188	0
(iii).	Interest on finance lease	472683030	479436708	484705956
(iii).	Provision for bad and doubtful debts	23322957	32163932	4483882
(iv).	Provision for slow moving inventory	6995775	1741709	0
(v).	Construction cost-IFRIC 12	4786724	7073805	6462678
(vi).	Interest on delayed payment of taxes	100000	930000	28080000
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]	**537244117**	**528721342**	**523732516**
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	0	-	-
(5).	**Total Expenditure after Total Adjustments (5 = 1+2-3)**	**3681930273**	**3682674331**	**3953473856**
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3	3772692820		
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March 2019 followed by the BOT operator (As per IGAAP)	14126028249		
	(ii). Add: Capital Work in Progress as on 31st March 2019 followed by the BOT operator (As per Audited Annual Accounts)	729482845		
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory	115301635		
	(b). Sundry Debtors	228314561		
	(c). Cash	293516602		
	(d). Sum of (a)+(b)+(c)	**637132798**		
	(iv). Total Capital Employed [(i)+(ii)-(iii)]	**15492643892**		
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**	2478823023		
(9).	**Annual Revenue Requirement (ARR) as on 31 March 2019 as applicable [(6)+ (8)]**	6251515843		
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be (9) x 1.0426)**	**6517830418**		
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR)**	**6517830418**		
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	6565220078		

Annex-II

Comparison of existing SOR and conditionalities vis-à-vis proposed tariff and conditionalities

Sr. No.	Existing SOR		Proposed SOR		Reasons/ justification given by GTIPL for amendments in conditionalities	Comments of Licensor Port JNPT	Analysis
	Schedule No.	Tariff and Conditionalities	Schedule No.	Tariff and Conditionalities			
1	1.8	"Hazardous Container" means a container containing hazardous goods as classified under IMO.	1.8	"Hazardous container" means a Container containing hazardous goods as classified under IMO **including empty container with residual content of hazardous material.**	Proposed definition of hazardous container includes empty container having residual content of hazardous material	Empty tank Container having residual content of hazardous materials is treated as hazardous container	In view of the submission made by GTIPL and based on recommendation of JNPT for the proposed modification in the definition of "Hazardous Containers", this Authority has approved the proposed modification.
	-	-	Section-3 (B)	Charges have been prescribed for handling Empty Hazardous containers	-		Consequently, handling charges as proposed by the GTIPL for handling Empty Hazardous Containers is approved.
2	1.9	"Over Dimensional Container (ODC)" means a Container carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam, etc. Damaged Containers (including boxes having corner casting problem)	1.9	"Over Dimensional Container (ODC)" means a Container carrying over dimensional cargo beyond the normal size of standard containers **or cargo which is brought in flat rack container** and needing special devices like slings, shackles, lifting beam, etc. Damaged Containers (including boxes having corner casting problem) **and Containers requiring special devices for lifting are also classified as Over Dimensional Container.**	The operations are complicated and require planning for stacking such containers	Flat rack container with over dimensional cargo requires special handling hence considered as ODC	In view of the submission made by GTIPL and based on the recommendation of JNPT for the proposed modification in the definition of "Over dimensional Containers", this Authority has approved the proposed modification.
3	II Section-1 (Description)	Charges for all Normal and Reefer Containers	II Section-1 (Description)	Charges for all Normal **& Rail in -Rail Out containers/Non vessel bound containers**	The modification proposed is to cover the activities carried on non vessel bound containers and rail in rail out containers to avoid ambiguity in charging. These operation occurs rarely and is charged as per SOR.	No comments furnished by JNPT	In view of the submission made by GTIPL and since no users have objected to the proposed modification, this Authority has agreed to the proposed modification.
4	Section-1 (B) Section-3 (B) Section-4 (B)	Yard to CFS/ CFS to yard-Transport and lifts at CFS	-	-	Charges for Yard to CFS/ CFS to yard -Transport and lifts at CFS, has been deleted in the proposed SOR, since the said activities are not carried out by GTIPL	No comments furnished by JNPT	In view of the submission made by GTIPL and since no users have objected to the proposed deletion, this Authority has agreed to the proposed deletion.

Sr. No.	Existing SOR		Proposed SOR		Reasons/ justification given by GTIPL for amendments in conditionalities	Comments of Licensor Port JNPT	Analysis
	Schedule No.	Tariff and Conditionalities	Schedule No.	Tariff and Conditionalities			
5	Section-2 (Note)	A container originally declared as transhipment container, subsequently moved by rail or road will lose its identity as a transhipment container and shall be treated as normal import container and the prescribed charges as applicable shall be payable.	Section-2 (Note)	Note:A container originally declared as transhipment container, subsequently moved by rail or road will lose its identity as a transhipment container and shall be treated as normal import container and the prescribed charges as applicable shall be payable. **The charges for Hazardous TP will be 1.5 Times of Normal TP containers and charges for ODC TP will be 2 times normal TP containers.**	As per Clasue 9.6.1 of 2019 working guidelines.	As per 2019 working guidelines.	Clause 9.9.3 of the Working Guidelines, 2019, stipulates 50% premium for handling of hazardous containers and over dimensional containers. Since the propsoed provision is in line with the said stipulation and also avoids ambiguity in the charges to be levied on hazardous and over dimensional Transhipment containers, the proposed modification is approved.
6	Section-3	Handling charges for hazardous containers are prescribed at 1.25 times of the normal containers	Section-3	Handling charges for hazardous containers are prescribed at 1.5 times of normal container	As per clause 9.9.3 of 2019 working guidelines	Handling charges for hazardous container is 1.25 times of normal (As per JNPT SOR)	Proposed charges for Hazardous containers at 1.5 times of the normal containers is in line with the clause 9.9.3 of the working guidelines 2019. Hence, approved.
7	Section-3	Charges for Hazardous Transhipment containers	-	-	-	-	Since the charges to be levied on the Hazardous Transhipment Container has been prescribed as a separate note as brought out above, the deletion of entry prescribing separate Charges for handling Hazardous Transhipment containers, as deleted by GTIPL, is approved.
8	-	-	Section -4	Charges for all Reefer Containers	-	No comments furnished by JNPT	In the existing SOR of GTIPL, charges for handling Normal containers and Reefer containers were prescribed together in **the** same Section. Now, charges for Normal containers has been proposed at Section 1 and charges for handling Reefer Containers are separately proposed at Section 4, keeping the rates same for both Normal and Reefer containers. Since, prescription of separate section for reefer containers amounts to only realignment of charges and may avoid ambiguity, the proposal of GTIPL to have a new section **prescribing** charges for handling Reefer containers is approved.
9	Section-7 Note	Shut out charges as given above shall apply if - 1. the vessel nomination is changed 2. If the vessel nomination is changed from a later vessel to an earlier vessel after the earlier vessel is berthed	Section-8 Note	Shut out charges as given above shall apply if - 1. the vessel nomination is changed 2. If the vessel nomination is changed from a later vessel to an earlier vessel after the earlier vessel is berthed **3. loading terminal is changed for TP container.**	If the loading terminal is changed for TP container, additional operational activity is carried out to restack the container.	Shut out charges applicable for all categories of containers.	In view of the justification given by GTIPL and since the JNPT and the users have not objected to treating of change in the loading terminal as shut out container, the proposed modification is approved.

Sr. No.	Existing SOR		Proposed SOR		Reasons/ justification given by GTIPL for amendments in conditionalities	Comments of Licensor Port JNPT	Analysis
	Schedule No.	Tariff and Conditionalities	Schedule No.	Tariff and Conditionalities			
	1.17	"Shut Out Container" means a container that entered the terminal as export for a vessel as indicated by VCN/VIAN and is not connected to the vessel for whatsoever reason and is lying in the container yard.	1.17	"Shut Out Container" means a container that entered the terminal as export for a vessel as indicated by VCN/VIAN and is not connected to the vessel for whatsoever reason and is lying in the container yard. **A Transhipment container whose loading terminal is changed will also be treated as Shut Out container.**	Based on the above, the definition of Shut Out container may also be modified.	No comments furnished by JNPT	Since the change in the loading terminal is to be treated as shut out container, the definition of shut out container is also modified appropriately, as requested by GTIPL.
10	-	-	10.5	Charges for additional transportation within the terminal	Leg of transportation of total shifting charge of Rs. 1687/- comprises of three vertical moves and one transportation.[Rs.397x3+Rs496]	No comments furnished by JNPT	The proposed new entries are separate tariff items segregated from the consolidated shifting charges, which comprises of lift on / lift off and transportation. Proposed new tariff items are approved.
	-	-	10.6	Charges for additional lift on/ lift off	Leg of shifting out of total shifting charge of Rs. 1687/- comprises of three vertical moves and one transportation. [Rs.397x3+Rs496]		
11	-	-	10.25	Break bulk handling (per Crane hour)	The charge is prescribed for cargo moved through container vessels.	The GTIPL has confirmed that they are not handling any Bulk vessel at GTIPL but certain Break Bulk cargo are handled in container vessel and Break Bulk are stored in container slot provided in container vessel. As per Licence Agreement, GTIPL is allowed to collect any type of cargo related charges from its Shipping lines.	In view of the submission made by GTIPL and based on the recommendation of JNPT and since none of the users have objected to the introduction of the charge and also since the GTIPL has estimated the income arising out of the proposed levy, this Authority has approved the proposed introduction of charges for break bulk handling.

Sr. No.	Existing SOR		Proposed SOR		Reasons/ justification given by GTIPL for amendments in conditionalities	Comments of Licensor Port JNPT	Analysis
	Schedule No.	Tariff and Conditionalities	Schedule No.	Tariff and Conditionalities			
12	-	-	(Sl. N	10. Fixing/removal of Hazardous Sticker -per container. 11. Cancellation/Reissue of documents - per container. 12.Non- declaration / Mis declaration of Hazardous containers per container-Handling. 13.Non- declaration / Mis declaration of Hazardous containers-per container -Penalty. 14.On- Wheel Customs inspection per container(Excludes handling and door opening, seal cutting). 15. Empty Container Administration/Inspection Fee -Per container. 16.Demanifest /holding of Container. 17.Invoice Revision (per invoice). 18.Out of Turn Delivery. 19.Charges for Flat Rack Bundling/Unbundling. 20.Twist lock cutting charges (excluding lift off/ lift on and tpt as per SOR) per lock. 21.Haz bund cleaning charge-administrative charge (excluding cost recovery) per container. 22.Door turning activity. 23.Express delivery 24.Block stow rent-per month-per block slot of 28 TEUs (non haz). 26.Lashing inspection charges for ROB containers only per container. 27.Entry before gate open (Early Gate In). 28.Lashing for F/R or ODC- per container. 29.Providing Open yard space for Re-working or any other inspection (per 20'). 30.Use of Special Equipments . 31.Selective container delivery. 32.Reinsertion of container in EAL. 33.Administrative charges for various activities. 34.Reefer Temperature Variance.	At par with neighbouring terminals/ based on activities/ to meet the shifting and administrative cost		Based on the submissions made by the GTIPL and keeping in view the flexibility available to the Operator to determine the rates based on the market forces and commercial judgment of the operator within the ARR and since the income from the said tariff items has been captured by the GTIPL in the income estimation at the proposed level of tariff and also since there is no pointed objection from any of the users/ user organisation/JNPT on the proposed changes, this Authority has approved the rates for the new activities, as proposed by GTIPL.
13	Section-10	Free days A. Loaded Import containers - 3 B. Loaded Export containers - 3 C. Empty Import/ Export containers - 3 D. ICD Loaded & Empty & Import & Export moved by Rail - 10	Section-11	Free days A. Loaded Import containers - 2 B. Loaded Export containers - 2 D. Empty Import/ Export containers - 2 D. ICD Loaded & Empty & Import & Export moved by Rail - 7	Free days are prescribed at par with neighbouring terminals	No comments furnished by JNPT	Keeping in view the flexibility available to the Operators to propose free days as per Clause 9.10.1 of the Working Guidelines and since no users has objected to reduction of free days, this Authority has approved the proposed reduction of free days.

Sr. No.	Existing SOR		Proposed SOR		Reasons/ justification given by GTIPL for amendments in conditionalities	Comments of Licensor Port JNPT	Analysis
	Schedule No.	Tariff and Conditionalities	Schedule No.	Tariff and Conditionalities			
14	-	-	Section-1	C. Storage charges for Rail in Rail out/ non vessel bound Loaded/ Empty containers	The modification proposed is to cover the activities carried on non vessel bound containers and rail in rail out containers to avoid ambiguity in charging.	No comments furnished by JNPT	Since the new storage slab structure prescribed for Rail in Rail out/ non vessel bound Loaded/ Empty containers is same as normal loaded/ empty/ import/ export containers, the proposed introduction of new storage slab is approved.
15	Section-10 Note 7	(i). Dwell time charges for Hazardous containers shall attract 1.25 times the normal applicable charges.	Section-11 Note 7	(i). Dwell time charges for Hazardous containers shall attract 1.50 times the normal applicable charges.	As per 2019 working guidelines clause 9.9.3	No comments furnished by JNPT	Proposed charges for Hazardous containers at 1.5 times of the normal containers is in line with the clause 9.9.3 of the working guidelines 2019. Hence, the proposed note is approved.
		(ii) Dwell time charges for Over height and over dimensional containers shall attract 2 times the normal applicable charges.		(ii) Dwell time charges for Over height and over dimensional containers shall attract 3 times the normal applicable charges.	No container can be stacked on ODC container and hence the storage revenue of 4 ground slots is lost considering the normal stack height of 5. The option is with the operator to charge as per actual ground slots or as per the existing practice.	No other container can be stacked over the ODC container. Charges levied are as per JNPT SOR.	As per Clause 9.9.3 of the Working Guidelines, the storage charge for over dimensional containers shall be based on the actual number of ground slots the respective container occupies or as per the existing practice. Since the prescription is as per the existing SOR of JNPT and since the Working Guidelines gives flexibility to the operator to determine storage charges for ODCs, the proposed note is approved.
		-		(iii) Dwell time charges for One door open and Flat rack bundle containers shall attract 4 times the normal	No container can be stacked over Flat rack and One door open container. Hence, the storage revenue of 4 ground slots is lost considering the normal stack height of 5.	One door open containers contains perishable cargo and are stacked in the yard above any container or with one door of container open.	In view of the submission made by GTIPL and based on the recommendation of JNPT and since none of the users have objected to the introduction of the charge and also since the GTIPL has estimated the income arising out of the proposed levy, this Authority has approved the proposed introduction of storage charges for One door open and Flat rack bundle containers.