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Tariff Authority for Major Ports

G No. 25 **New Delhi, 8 February 2012**

NOTIFICATION

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

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports

Case No. TAMP/48/2011-GTIPL

Gateway Terminals India Private Limited - - - Applicant

O R D E R

(Passed on this 19th day of January 2012)

This case relates to a proposal received from the Gateway Terminals India Private Limited (GTIPL) for general revision of its Scale of Rates.

2.1. The tariff of GTIPL, a BOT operator at Jawaharlal Nehru Port Trust (JNPT), was last fixed vide this Authority's Order dated 3 March 2010 with a validity period till 31 December 2011. In the said Order, this Authority had effected an across the board reduction of 10% from 1 April 2010.

2.2. Subsequently, with reference to an application filed by GTIPL for review of the tariff Order dated 3 March 2010, this Authority passed an Order dated 3 November 2010 disposing the said review application. In the said Order, the tariff reduction of 10% and the validity of the Scale of Rates till 31 December 2011 which was decided vide Order dated 3 March 2010 were maintained.

3.1. Since the tariff validity for the GTIPL expired on 31 December 2011, the GTIPL was required to submit its proposal for revision of its tariff by 30 June 2011. The GTIPL vide its letter dated 29 June 2011 expressed difficulties and requested this Authority to extend the time limit for submission of its proposal by six months i.e. till 1 January 2012, instead of 30 June 2011.

3.2. The request made by GTIPL was considered and time upto 30 September 2011 to file its proposal was allowed, in line with the stipulation made at Clause 3.1.3 of the tariff guidelines of 2005.

4.1. In this backdrop, the GTIPL under cover of its letter dated 30 September 2011 has filed its proposal. The main points as seen from the cost statements forming part of the proposal of GTIPL are summarized below:

(i). The review is for a period of three years from 1 January 2012 to 31 December 2014.

(ii). The tariff proposal has been prepared in accordance with the 2005 tariff guidelines read with 2008 upfront tariff guidelines.

(iii). The traffic figures furnished by GTIPL are as follows:

Year	Traffic (in TEUs)
2009 (Actual)	1559879
2010 (Actual)	1891105
2011(Actual)	1800000
2012 (Estimates)	1395030
2013 (Estimates)	1395030
2014 (Estimates)	1395030

(iv). The actual throughput of 1559879 TEUs and 1891105 TEUs during the years 2009 and 2010 are higher than the minimum guaranteed traffic of 1200000 TEUs and 1300000 TEUs in the sixth and seventh year of operations, as per the Licence Agreement.

(v). The traffic figures for the years 2012 to 2014 are seen to have been restricted to the optimal quay capacity of the terminal which has been calculated following the formula prescribed in the upfront tariff guidelines of 2008. The GTIPL has determined the optimal quay capacity of the terminal as 1395030 TEUs and

optimal yard capacity at 1534638 TEUs. Thus, the optimal capacity of the terminal is 1395030 TEUs (being lower of the quay and yard capacity).

(vi). The average quay crane productivity reported for the year 2010 is 30 moves per hour. Further, as stated by GTIPL, it has been successful in keeping safe the environment with zero number of fatalities in its past operations.

(vii). Royalty payment made by GTIPL to JNPT does not appear to have been factored as cost for the purpose of tariff fixation.

(viii). The GTIPL has furnished the capital employed details for the past years 2009 to 2011 and considered capital cost for the normative level of assets for the years 2012 to 2014.

(ix). The financial position as reflected in the Cost statements furnished by GTIPL is as follows:

(₹ in Lakhs)

Particulars	Actuals			Estimates		
	2009	2010	2011	2012	2013	2014
Traffic (in TEUs)	1559879	1891105	1800000	1395030	1395030	1395030
Operating Income	55526.48	63031.81	57940.70	44915.27	44915.27	44915.27
Operating Expenditure	12039.95	15172.55	14405.84	13286.23	14020.56	14795.53
Depreciation	10687.48	11348.48	12167.68	9217.52	9217.52	9217.52
Overheads	7336.96	7186.61	7729.51	8235.38	8765.60	9321.64
ROCE (permitted)	15812.73	14799.44	13029.14	16810.35	16807.23	16804.12
Surplus/ Deficit	9649.36	14524.73	10608.53	-	-	-
Normative Revenue	-	-	-	47549.48	48810.92	50138.81
Net Surplus/ Deficit	9649.36	14524.73	10608.53	-2634.21	-3895.65	-5223.54
Net Surplus/ Deficit as % of Income	17.38%	23.04%	18.31%	-5.86%	-8.67%	-11.63%
Average Surplus/ Deficit	19.58%			-8.72%		

4.2. Based on the above position, the GTIPL is seen to have generally proposed an across the board increase of 8.72% in the existing level of tariff.

4.3. The main changes proposed in the draft revised Scale of Rates furnished by GTIPL alongwith its proposal are listed below:

(i). Increase in the tariff of empty containers at par with the tariff of loaded containers.

(ii). The rates prescribed for movement of containers from yard to CFS/ CFS to yard are proposed to be deleted, as the activity is not carried out by the terminal.

(iii). Rates for handling Reefer containers to be made at par with rates for hazardous containers.

(iv). Increase the rate for:

(a). handling hazardous containers from the existing 1.25 times the rate of normal container to twice the rate for normal container.

(b). movement from yard to rail for ICD containers from the existing 1.15 times the rate of normal container to twice the rate for normal container.

(c). handling ODC containers from the existing 1.73 times the rate of normal container to twice the rate for normal container.

(v). Rates for Hatchcover, Restow and shut out charges are proposed to be increased to the level of rates at Nhava Sheva International Container Terminal Limited (NSICT). (The increase is seen to be around 29.50% increase over the existing level.)

(vi). Reefer monitoring charges are proposed to be increased to the level of rates at NSICT. (The increase is seen to be around 8.70% increase over the existing level). In addition, the levy of reefer monitoring charges is proposed to be changed from 4 hours to per day basis, as in NSICT.

(vii). The rate for fixing of bottle seals is increased by 300% i.e. from the existing rate of ₹200/- to ₹800/-.

(viii). The major changes proposed in the dwell time charges are as follows:

(a). Free days for empty import/ export containers are reduced from three days to zero to be at par with NSICT.

(b). Free days for ICD loaded and empty import/ export containers are reduced from ten days to seven days to be at par with NSICT.

(c). Free days of back to town containers are reduced from three days to zero.

(d). A note stating that no free days for Reefer, ODC and hazardous containers.

4.4. To summarise, though the GTIPL has proposed a general increase of 8.72% in its proposed Scale of Rates, it is seen that GTIPL has also proposed a higher percentage of increase in some of the tariff items. A summary of the items in which a higher percentage of tariff increase has been sought by GTIPL as seen from its Scale of rates is tabulated below:

Sl. No.	Reference to the Section	Proposed percentage increase in tariff
1.	Section 1A – Rate for ship to yard/ yard to ship charges for Normal Empty containers	34.58%
2.	Section 2 – Charges for Empty transhipment containers	25.43%
3.	Section 3A – Rate for ship to yard charges for Hazardous and Reefer containers (Loaded, ICD and transhipment containers)	74%
4.	Section 3B – Rate for yard to rail charges for Hazardous and Reefer containers	88.54%
5.	Section 3C – Rate for yard to truck charges for Hazardous and Reefer containers	74%
6.	Section 4 – Charges for Over dimensional transhipment and Empty containers	25.43% - TP 4.58% - Empty
7.	Section 5 – Charges for Opening Hatch cover	29.50%
8.	Section 6 – Charges for Restows	29.50%
9.	Section 7A – Charges for Shut outs	29.50%
10.	Section 8 – Charges for Reefer Monitoring & Connection	94.28%
11.	Section 9C – Charges for Fixing Seals	300%

5. In accordance with the consultation process prescribed, the proposal dated 30 September 2011 was circulated to the JNPT and users/ user organisations for seeking their comments. The comments received from the users/ user organisations were forwarded to the

GTIPL as feedback information. The GTIPL has furnished its remarks on the comments of users/ user organisations.

6. Based on the preliminary scrutiny of the proposal, a detailed questionnaire was sent to GTIPL vide our letter dated 9 November 2011 seeking additional information / clarifications on some points from GTIPL. After the joint hearing, the GTIPL has furnished their response vide letter dated 7 December 2011. A summary of the queries raised by us and the corresponding replies furnished by the GTIPL is tabulated below:

Sl. No.	Queries raised by us	Reply received from GTIPL
(A).	**General:**	
(i).	The tariff guidelines of March 2005 stipulate that tariff should be linked to benchmark levels of productivity. In the Form – 1, GTIPL has stated that the average quay crane productivity in the year 2010 was 30 moves per hour. This may be incorporated as a conditionality in the proposed draft Scale of Rates of GTIPL.	The tariff proposal is based on the cost plus approach as envisaged by the 2005 TAMP guidelines read with TAMP order no. TAMP/55/2008– NSICT and TAMP/14/2008 – NSICT dated 19.9.2008 and 30.12.2008 respectively. APMT Mumbai would endeavor to perform in the ensuing years above the established norm of 25 moves per hour as considered by TAMP in the above referred order. The crane productivity is not required to be incorporated in the SOR.
(ii).	GTIPL has stated that its pricing strategy is cost based. GTIPL to bring out the impact of the anticipated improvement in performance on the cost of rendering the service.	Anticipated improvement will result in reduction in the operational costs of the vessel by reduced vessel turnaround time & pre berth waiting period.
(iii).	GTIPL has not filled up the table at Sl.No.8 of Form-1. GTIPL to state whether there is any deviation from the tariff guidelines of March 2005 in framing the current tariff proposal in reference and if so, reasons therefor.	GTIPL tariff proposal is based on 2005 Guidelines read with the TAMP orders no. TAMP/55/2008– NSICT and TAMP/14/2008– NSICT on NSICT tariff revision proposal. It may be noted that clause 2.3 of the TAMP 2005 Guidelines provides that TAMP will normally apply uniform norms and approach while setting tariff for all ports. The said clause 2.3 of the 2005 Tariff Guidelines reads as under "*TAMP will normally apply uniform norms, concepts, principles and approach of tariff setting at all ports*." Further Clause 1.7 of the 2005 Tariff Guidelines permits TAMP to relax application of any of the provisions of those guidelines to a port or group of ports, on its own or on an application made before it by the concerned parties. Clause 2.4.1 of 2005 TAMP Guidelines also mentions the attempts to be made to evolve a normative approach. GTI and NSICT operate under the same regulatory regime, are subject to the same applicable legal framework and hence equal treatment ought to be afforded to parties which are similarly placed. Our tariff application is also based on the principles evolved in the previous tariff order of TAMP in the matter of NSICT referred to hereinabove and the justifications accepted by TAMP while recognizing the efficiency of the terminal operator as provided under para 13 (ii) (a),(b),(c),(d) and Para 13 (iii)(d) of the Order

		no.TAMP/14/2008-NSICT dated 19 September 2008. Based on above referred principles adopted by TAMP and the terms of the 2005 TAMP Guidelines, the present tariff proposal has been submitted without any deviation.
(iv).	It is not clear as to the estimates for the year 2011 consist of actuals of how many months during the year 2011. GTIPL to furnish the details.	The traffic and the revenue estimated are based on the traffic and revenue per TEU during the period Jan-August 2011. The traffic has been moderated for the ongoing QC crane repairs. The expenditure for the estimated traffic of 2011 is based on the audited annual accounts for the year 2010 escalated by 6% for WPI as notified by TAMP.
(v).	The GTIPL to furnish actuals for the period from January 2011 to October 2011, duly certified by a Chartered Accountant.	The actual traffic for the period from January 2011 to October 2011 is 1,577,335 TEUs. The Indian Statutory Accounts for the period January 2011 to December 2011 will be completed and audited only in the year 2012.
(vi).	Rebates and discounts, it any, over the notified ceiling tariff, allowed/ estimated to be allowed by GTIPL during the years 2009, 2010 and 2011 may be furnished yearwise.	The rebate of ₹152,325,163 was given in the year 2009 to retain the clients during the period of global recession which was need of the hour. However, no rebates were given in the year 2010 and 2011 after the signs of economic recovery. These rebates are as per the provision of clause no. 2.16.1 of 2005 TAMP guidelines. Hence, the rebates were allowed only due to the extra ordinary situation prevailing in the global trade during 2009 and to secure the interest of the shipping trade, hence this may be considered by TAMP.
(vii).	The GTIPL to furnish an alternate set of cost statements with detailed workings for the years 2012 to 2014, in the light of the actual/ estimated traffic and financial/ cost details for the year 2011 keeping in view the stipulations made in Clause 2.5.1. of the tariff guidelines of 2005.	Clause 2.9.10 of 2005 TAMP Guidelines categorically provides that the method of determining the designed capacity of Ports will be standardized. This has been done through the 2008 guidelines, where the committee which has gone on the normative cost has determined the optimal capacity of the terminal based on its physical parameters. Needless to say that TAMP should apply uniform norms and approach for calculation of optimal/design capacity of competing facilities in the Nhavasheva Port as per clause 2.3 of 2005 guidelines. It would be incorrect to interpret clause 2.9.10 by considering the actual throughput handled by GTI as its capacity. If such an interpretation was followed, then the actual throughput would equal to capacity and thus the objective of the guideline to provide maximum permissible return for 60%capacity utilisation would become infructuous. Based on above, where capacity as per norms\is lower than traffic estimates, capacity is considered as volume projections. In this context it is stated that TAMP in its order no. TAMP/55/2008– NSICT on NSICT's rate revision proposal has adopted the principle that It will only be a reasonable approach to determine tariff with reference to standard capacity of the terminal instead of the actual volumes achieved or achievable. According to

		TAMP an operator can handle volumes beyond the standard capacity by improving efficiency and/or by infusing more capital. TAMP has also opined that an operator will not be put to disadvantage by reduced tariff on account of higher volumes handled by him beyond the standard capacity. It is, therefore, a better approach to determine tariff with reference to certain pre determined standards of operations and asset utilisation, instead of relying solely on the actuals of an operator. Such a normative approach benefits an efficient operation and at the same time protects the interest of the users by not allowing cost of inefficiency to be passed on to the users in the name of actuals. Providing cushion for cost reduction as envisaged in Clause 2.4.1 may not always reward the whole range of efficiency, particularly the volume increase beyond capacity levels. TAMP has thus concluded that it will only be reasonable to adjust the existing approach to recognise the volume efficiency which is possible by considering the traffic level as per the standard capacity of the terminal. The standard capacity/level determined vide order no. TAMP/55/2008– NSICT and TAMP/14/2008– NSICT on NSICT tariff revision proposal has been taken as the basis while formulating our tariff proposal. From para 4 of NSICT order no. TAMP/14/2008– NSICT it is clear that none of the stakeholders had any serious objections to the methodology adopted to determine the tariff in the case of NSICT order passed in Sept 2008. The request and suggestions made in the consultative process were more for further liberalizing the approach. The revised approach adopted results in a win win situation for both the operators and users. The revised approach encourages an operator to handle higher levels of volume to improve his returns. In view of the above facts there is no need for submitting alternate cost statements.
(viii).	During the proceedings relating to the tariff Order dated 3 March 2010 for review of the then existing tariff of GTIPL, the GTIPL vide its letter No.GTIPL/TAMP/Tariff proposal/1 dated 14 October 2008 calculated the projected throughput for the years 2009 to 2011 at the normative capacity of the terminal. However, the GTIPL in its revised proposal vide its letter No.GTIPL/TAMP/Tariff proposal/2 dated 8 May 2009 withdrew the normative capacity approach and its revised proposal dated 8 May 2009 was based on projected tariff as per the tariff guidelines of March 2005. In the instant proposal dated 30 September 2011 filed by the GTIPL for review of its existing tariff, the GTIPL has calculated the projected throughput for the years 2012 to 2014 at the reported normative capacity of the terminal. In this context, the	Vide our proposal dated 14.10.2008 a rate hike of 21.03% was sought based on the normative capacity and ROCE on gross block assets as granted by TAMP to NSICT vide its order dated 19.9.2008. TAMP vide letter dated 15.1.2009 directed GTI to submit proposal based on clause 2.5.1 of 2005 TAMP guidelines. In the meanwhile TAMP issued the order dated 30.12.2008 on NSICT's rate revision proposal where the approach followed in its interim order passed on NSICT tariff in Sept 2008 was reviewed. At Para 3 (iv) of the order dated 30.12.2008 TAMP clarified that the interim approach adopted by it in NSICT case recognizes return on gross value of assets only for the purpose of determining revenue requirement. Relying on the aforesaid TAMP Order GTI submitted its revised proposal

	GTIPL to explain the circumstances under which it has again resorted to follow the normative approach for estimation of the traffic for the years 2012 to 2014.	claiming ROCE on net block. However, Annexure II to the said TAMP Order dated 30.12.2008 was not put on the website along with the order and only put up on the website of the TAMP in September 2011. This Annexure revealed that the tariff of NSICT was fixed based on the Gross Block Assets. Hence, the present proposal has been submitted on the line of approach adopted by TAMP in the case of NSICT. GTI is of the opinion that TAMP should have adopted the same principle as was followed in the order of NSICT tariff revision dated 19.9.2008 and 30.12.2008 while passing GTI's tariff order in March 2010.Consistency and the principles of equality should be applied while determining the tariff of like terminals operating in the same area.
(B).	**<u>Comparison of actuals vis-à-vis estimates provided earlier</u>:** Clause 2.13 of the tariff guidelines requires this Authority to review the actual physical and financial performance at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing the prevailing tariff. In this context, the GTIPL to clarify/ furnish the following:	
(i).	The GTIPL to furnish duly filled in Form – 7 to enable comparison of actuals with estimates for the years 2009 to 2011, alongwith the reasons for variation.	The requisite information is furnished. The reasons for variation are a) Traffic increase by 15% b) Better cargo mix resulting in increase in Revenue/TEU c) Cost saving initiatives As per Clause 2.13 a review of performance with reference to projections submitted should be a comprehensive review including both physical and financial performance. GTIPL's physical and financial performance has not varied by more than +/- 20% over the projections submitted. Hence, it does not attract adjustment of tariff prospectively.
(ii).	The GTIPL to furnish a Reconciliation statement to reconcile the difference between the Surplus before Interest and tax as given in its Cost statements and the Surplus as reflected in the audited Annual Accounts for the years 2009 and 2010.	The reconciliations for the years 2009 and 2010 are furnished.
(iii).	The GTIPL to clarify the nature of the following expenses as reported in the audited annual accounts for the years 2009 and 2010: (a). Provision for credit notes	(a) Provision for TP volume rebate as per then prevalent SOR

	(b). Commercial Rebates	(b) Volume rebate offered in the year 2009 to retain traffic in view of the extra-ordinary global recession
	(c). Training Service Fees	(c) The income earned from rendering consultancy services
	(d). Liabilities written back as no longer required.	(d) Provisions written back as per accounting standard
	(e). Provision for doubtful debts.	(e) Self explanatory
(iv).	The Annual Accounts for the years 2009 and 2010 reflect a provision for Contingencies to the tune of ₹93.05 lakhs and ₹83.07 lakhs respectively. GTIPL to explain the nature of the contingent expenditure.	The provision made is towards the refund on the coastal containers on production of the requisite certificate issued by the Competent Authority.
(v).	GTIPL to explain the reasons for applying half the prescribed rates of Transhipment containers to arrive at the actual income from transhipment containers for the years 2009 to 2011 and estimated income for the years 2012 to 2014.	The transshipment rates prescribed in the SOR are for load and discharge activity. However the number of containers taken in the revenue calculation are either for load or discharge activity. Therefore 50% of the rate is applied for each leg of the activity.
(vi).	It is seen that GTIPL has generally applied lower rates than that prescribed in the Scale of Rates of GTIPL in the calculation relating to income for movement of all types of containers between yard and rail.	The rates prescribed in SOR for Yard to rail or vice versa for ICD containers consist of Lift On ₹472 + Transportation ₹590 + Lift Off ₹472. (SOR valid till March 31, 2010) In the income calculations, the charge of ₹1462 has been considered for Lift On ₹472+ Transportation ₹590+ mixed train income ₹400. The income for Lift Off is considered separately in the income statements. Same logic is applied for 40' and over 40' containers. The income calculations for the year 2010 from April 1, 2010 are also done on the same basis.
(vii).	In the income calculation for the year 2010, for instance, in respect of income for movement of a normal loaded container from ship to yard, the GTIPL has considered the rate of ₹2845.01 per TEU. This appears to be an average of the pre-revised rate (rate approved in 2006) for a period of three months in the year 2010 and the existing rate (rate approved in March 2010) for a period of nine months in the year 2010. The average according to us in a similar manner, works out to ₹2837.90 per TEU.	The revenue calculation for the periods Jan to March 2010 and April to Dec 2010 are attached.
(viii).	The Annual Accounts for the years 2009 and 2010 reflect depreciation at ₹10931.45 lakhs and ₹11592.45 lakhs respectively. However, the Cost statement furnished by GTIPL reflects depreciation at ₹10687.48 lakhs and ₹11348.48 lakhs for the said years respectively. GTIPL to explain the reason for the difference and reconcile the depreciation figures.	The differences are for the Lease rental amortization and terminals rights adjustments as done by TAMP in its previous order.
(ix).	This Authority vide its Order dated of March 2010 effected a 10% reduction in the then existing tariff of GTIPL with effect from 1 April 2010. While furnishing the Form – 7, as mentioned earlier, and to enable a like to like comparison of the actuals with the estimates, the GTIPL to update the estimated income for the years 2010 and 2011 with reference to the above said reduction in tariff.	Kindly refer to Form 7 and point no. B (i)

(x).	This Authority vide paragraph no.11(iii)(d)(iii) of its Order dated 3 March 2010 has allowed payment of technical service fee as an item of cost for the years 2008 to 2011 subject to the condition that the GTIPL at the time of next review would produce the Income tax assessment Orders for the years 2008 to 2011 to support the admittance of this expenses by the IT department. The GTIPL has furnished the Assessment Order only with reference to the assessment year 2008-09. The GTIPL is, therefore, requested to furnish the Income tax assessment Orders for the years 2009-10 and 2010-11.	The assessment has been carried out till the year 2007-08. Assessment orders for subsequent years will be submitted as soon as the assessments are carried out.
(xi).	This Authority vide paragraph no.11(viii)(c) of its Order of March 2010 has considered equipment hire charges estimated at the rate of ₹150/- per TEU for the year 2009 and escalation at the rate of 5.8% each for the years 2010 and 2011 subject to verification with actuals during the next review of tariff. The GTIPL is therefore requested to furnish documentary evidence in support of the rate of ₹150/- per TEU incurred towards hire charges of equipment.	The Audited annual accounts for the years 2009 and 2010 submitted which reveals the expenditure incurred for tractor hire charges.
(xii).	It may be recalled that in the Review Order of GTIPL passed in November 2010, it has been mentioned that the unadjusted past surplus of ₹5812.63 lakhs pertaining to the past period (Year 2006 and upto March 2010) is to be considered for set off from the tariff cycle commencing from the year 2012. The GTIPL in its Cost statements furnished now has not given effect to the said adjustment of set off of past surplus. The GTIPL is, therefore, requested to make necessary adjustments in its Cost statement.	As per clause 2.13 the actual physical and financial performance will be reviewed by TAMP at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. If performance variation of more than + or – 20% is observed as compared to the projections, tariff will be adjusted prospectively. While doing so 50 % of the benefit / loss already accrued will be set off while revising the tariff. The set off of 50% referred to above was not extended to GTIPL in TAMP order March 3, 2010. This fact was brought to the notice of the Authority vide letter dated 25.3.2010.
(C).	**Financial/Cost Statement:**	
(1).	**Capacity**:	
(i).	With reference to calculation of quay capacity, GTIPL to clarify the following: (a). Article 8.1(xxix) of the LA requires GTIPL to deploy a minimum number of 8 RMQCs. In the tariff Order of March 2010, the position regarding 8 RMQCs has been recognized. The GTIPL may revise its quay capacity calculation accordingly. (b). The GTIPL in its proposal has stated that the average quay crane productivity in the year 2010 was 30 moves per hour. However, the quay capacity calculation shows that the GTIPL has considered the productivity of the crane at only 25 moves per hour. Explain the reasons why 30 moves per hour per Quay crane cannot be considered for assessing the quay capacity of the terminal.	(a). The present proposal of GTIL is based on the Normative Capacity as per the Order of TAMP on NSICT dated 19.9.2008 and 30.12.2008. (b). GTI's proposal is based on the normative capacity which considers 25 moves per hour. Performance over the normative capacity is purely attributable to efficiency. Calculation of quay capacity based on the actual performance which is dependent on various parameters beyond our control hence can not be taken as norms.
(ii).	With reference to calculation of yard capacity , GTIPL to clarify the following:	

	(a). It is not clear as to how the GTIPL has arrived at the number of ground slots at 9370. GTIPL to furnish the details. It may be noted that in the case of upfront tariff fixation for the container terminal at New Mangalore Port Trust (NMPT) vide Order dated 30 December 2009, ground slots of 360 TEUs per hectare was considered which was based on the analysis of the NMPT with reference to the area occupied by a container and additional area required for movement of container handling equipment, space between containers etc. The same number of ground slots of 360 TEUs per hectare has been considered while fixing upfront tariff for the Mega Container terminal at Chennai Port Trust (CHPT). The GTIPL is, therefore, requested to review its yard capacity calculations. (b). GTIPL to furnish the actual average stack height achieved at the terminal in the last three years i.e. 2009, 2010 & 2011.	(a). 9370 Ground slots are the actual number of slots available for container stacking. We do not have the statistics of the ground slots availability at the two terminals referred to above. (b). The average stack height varies on day today basis depending on the seasonality, arrival, dwell time etc.
(2).	**Traffic**: With reference to estimation of traffic, please clarify the following:	
(i).	The GTIPL to furnish the details of the actual container volume handled during the period of 10 months from January 2011 to October 2011 and also the container mix.	The container volumes handled during the period from January 2011 to October 2011 are 1,577,335 TEUs. The revenue projections for the year 2011 is based on volume mix for the period from January to August 2011 which is furnished in the revenue calculations of 2011 to 2014.
(ii).	Form 2A of the tariff filing formats applicable for private terminal operators like GTIPL are required to furnish actual traffic for the preceding years and estimated traffic for the future three years for fixation/ revision of tariff. The GTIPL is, therefore, requested to furnish the traffic estimates for the years 2012 to 2014.	The actual traffic handled in the preceding years and up to August 2011 has already been submitted in our tariff proposal. Our tariff proposal is based on the normative capacity principles applied by TAMP in its orders on NSICT tariff proposal referred earlier.
(3).	**Operating Income**:	
(i).	The GTIPL to furnish detailed workings to arrive at the estimated income from each of the other ancillary services like Extra Transportation, Seal fixing, Lift on/ off for Inter terminal TP containers, Overstayl of Vessels, Garbage Removal, Real shutouts and slings as listed out in the Working sheet, furnished by GTIPL for each of the years 2012 to 2014.	The revenue projections for the years 2012 to 2014 are extrapolated on the basis of revenue per TEU and underlying volume mix of YTD August 2011.
(ii).	The GTIPL to furnish a detailed computation to show the calculation of income from the storage charges for all the years under consideration. The dwell time analysis, based on which the GTIPL has arrived at the storage income may also be furnished as required under Note 1 to Form 2B.	The detailed calculation of storage charges is not available. The overall average dwell time for the past two years of 2009 and 2010 is around 3 days.
(iii).	The Exchange rate considered by GTIPL in the estimation of the dollar denominated income for the years 2012 to 2014 may be furnished.	The exchange rate considered in our proposal is ₹44.96 per dollar is for revenue as well as expenditure. The current exchange rate for USD and EURO need to be considered by TAMP for IT expenses, Technical Service Fees , Imported spare parts and RTG Operation & maintenance contract respectively.

<table>
<tr><td>(iv).</td><td>GTIPL to clarify as to why the GTIPL has applied lower rates than that prescribed in the Scale of Rates of GTIPL in the calculation relating to income for movement of all types of containers between yard and rail for the years 2012 to 2014.</td><td>Explained at point no. B (vi) above</td></tr>
<tr><td>(v).</td><td>GTIPL to furnish the nature of estimated Credit Note payments to Jawaharlal Nehru Port Trust (JNPT) as given in the Summary of the income estimation for the years 2012 to 2014 alongwith workings.</td><td>The payment to JNPT is for sharing mixed train charges collected by three container terminals at JNPT for ITRHO.</td></tr>
<tr><td>(vi).</td><td>This Authority vide Order dated 28 June 2007 approved the proposal of JNPT to levy an additional amount of ₹400 per TEU towards Inter Terminal Rail Handling Operation (ITRHO) of ICD containers moved by rail at the terminals of JNPT, including GTIPL. A provision in this regard was also ordered to be inserted in the Scale of Rates of GTIPL. GTIPL to furnish documentary evidence to substantiate the payments made to Jawaharlal Nehru Port Trust (JNPT) relating to ITRHO.</td><td>ITRHO payment made to JNPT as reported by GTIPL is as follows:
<table><tr><td>Year 2009</td><td>₹326.18 lakh</td></tr><tr><td>Year 2010 (upto Nov 2010)</td><td>₹294.41 lakh</td></tr></table>
GTIPL has produced copies of invoices raised by JNPT except for the month of January 2009, March and April 2009.</td></tr>
<tr><td>(vii).</td><td>GTIPL to explain the nature of income under the head ‘Revenue share for mixed train handling from JNPT/ NSICT’ as given in the Summary of the income estimation for the years 2012 to 2014 along with workings.</td><td>Two separate heads have been maintained for capturing receipts and payments related to mixed train handling share.</td></tr>
<tr><td>(viii).</td><td>Apart from the general increase in rate proposed, the GTIPL has also proposed a higher increase in some of the services and has also proposed some structural changes in its proposed Scale of Rates. The yearwise additional revenue implication arising from the proposed changes may be quantified and furnished for all the years under consideration. The workings in this regard may also be furnished.</td><td>The details of the additional revenue of ₹37.73 crores per annum has been furnished by GTIPL vide its email dated 21 December 2011. the details are tabulated below:
<table><tr><th>Sl. No.</th><th>Reference to the Section</th><th>Additional projected revenue (INR)</th></tr><tr><td>1</td><td>Section 1A – Rate for ship to yard/ yard to ship charges for Normal Empty containers</td><td>91,781,889</td></tr><tr><td>2</td><td>Section 2 – Charges for Empty transhipment containers</td><td>1,952,183</td></tr><tr><td>3</td><td>Section 3A – Rate for ship to yard charges for Hazardous and Reefer containers (Loaded, ICD and transhipment containers)</td><td>195,294,869</td></tr><tr><td>4</td><td>Section 3B – Rate for yard to rail charges for Hazardous and Reefer containers</td><td>10,011,784</td></tr><tr><td>5</td><td>Section 3C – Rate for yard to truck charges for Hazardous and Reefer containers</td><td>19,011,482</td></tr><tr><td>6</td><td>Section 4 – Charges for Over dimensional transhipment and Empty containers</td><td>-</td></tr><tr><td>7</td><td>Section 5 – Charges for Opening Hatch cover</td><td>8,212,211</td></tr></table></td></tr>
</table>

		8	Section 6 – Charges for Restows	3,512,841
		9	Section 7A – Charges for Shut outs	12,997,553
		10	Section 8 – Charges for Reefer Monitoring & Connection	34,966,223
		11	Section 9C – Charges for Fixing Seals	-
				377,741,035
(4).	**Operating Cost**:			
(i).	With regard to the escalation factor to be applied for estimation of operating costs, it may be borne in mind that as already communicated by us vide our letter No.TAMP/27/2005-Misc. dated 11 July 2011, an escalation factor of 6% per annum will be considered for the expenditure projections in the cost statement.	We have considered an escalation factor 6% p.a in respect all expenditure except in respect of salary where the increased wages as per CBA (Collective Bargain Agreement) signed with the Labor Union has been included in the projections for the years 2011 to 2014.		
(ii).	The workings furnished in the Annexure to Form – 3B for the years 2011 to 2014 may be furnished for the year 2010 also.	The working for the year 2010 is furnished.		
(iii).	**Operating and Direct Labour:** The estimated Operating and Direct Labour cost comprises of the estimated manpower cost for the RTG operators. It appears that the operation and maintenance of RTGs is outsourced to Kalmar. In this backdrop, the GTIPL to furnish / clarify the following: (a). The copy of the latest Contract entered by GTIPL with KALMAR in this regard. (b). GTIPL to clarify as to whether KALMAR was selected for operation and maintenance of RTGs by competitive bidding. The GTIPL may indicate how the fairness and reasonableness of the rates payable to KALMAR are established. (c). The actual Euro rate per hour incurred during the year 2010 towards operation and maintenance of RTGs and paid to KALMAR may be furnished and validated with documentary evidence. (d). It may be recalled that in the last tariff revision, the GTIPL had apportioned one third of the RTG operations and maintenance cost under RTG operators manpower cost as direct	(a). The copy of the contract is furnished. This contract is due for renewal w.e.f June 2012. RTG vendors have given an increase of around 24% in wages to their labour union. (Copy of the agreement is furnished). Hence expected impact in RTG contracted expenses will be about 15% more than the existing level though we have considered an increase of only 6% in our tariff proposal as their wage negotiation was in progress. The cost increase during the year 2011 in RTG operations is much higher than year 2010 due to annual escalation and Euro exchange rate fluctuation. Kindly consider the additional expenditure involved while finalizing the tariff proposal. (b). KALMAR was selected after following competitive bidding procedure. The rates payable to KALMAR are fair and reasonable. KALMAR is not a related and interested party. (c). The details are furnished in response to the question at point 4 (ii) above and read with KALMAR contract copy. (d). This is the matter of internal accounting classification.		

	labour cost and the remaining two third under Repairs & Maintenance cost for the purpose of accounting the expenditure. In the current proposal in reference, the GTIPL has apportioned 55% of the RTG operations and maintenance cost as direct labour cost and the remaining 45% under Repairs & Maintenance cost. The change in the percentage of apportionment of the expenditure may be justified with reasons.	
	(e). The basis for the annual RTG hours of 234092 for the year 2011 and RTG hours of 181425 each for the three years 2012 to 2014 considered in the estimation of operation and maintenance cost of RTGs be furnished.	(e). The detailed working for annual RTG hours is given in the Annex 3B.
	(f). The estimated expenditure towards Lashing/ Unlashing during the years 2011 to 2014 may be supported by documentary evidence of outsourcing contract and with workings.	(f). The copy of the contract is furnished. The expenses are worked out basis ₹12.5 per move (surge factor: 1.38) for the year 2011 and 2012 and 6% escalation for the years 2013 and 2014. [As per the contract copy, the contract period is of two years from 1 January 2010 to 31 December 2011. GTIPL shall pay ₹12.25 per Box + applicable service tax].
	(g). Similarly, the estimated expenditure towards Hazardous cleaning during the years 2011 to 2014 may be supported by documentary evidence of outsourcing contract and with workings.	(g). The copy of the contract valid upto 30 June 2012 is furnished.
(iv).	**Equipment running cost**:	
	a). **Power Cost**:	
	(i). GTIPL to furnish basis for the different levels of unit electricity consumption adopted by GTIPL for the RMQC's, RMG's, Yard and Wharf electrification, Reefer days and Gate/ common Lighting and the assumptions may be supported by the average of the last 3 years.	(i). In the proposal, the working for Power cost is done based on the past average overall consumption for the period Jan 2010 to Dec 2010. A copy of the energy consumption report for the year 2010 is furnished.
	(ii). The documentary evidence to reflect the actual unit cost of electricity applicable for the month of August to October 2011 may be furnished. Also furnish the documentary evidence in support of the charges of ₹210.6 per KVA considered in the estimation of fixed electricity demand charges for the year 2011.	(ii). The copy of the electricity bill for the month of March 2011 is attached along with the working for unit rate. It may please be noted that the electricity rate per unit has increased to ₹12.35 in the month of October. The copy of which is also attached. We request the Authority to consider the current unit rate of Electricity while fixing the revised tariff.
	(iii). GTIPL to furnish the basis for considering that 24% of the total traffic would be handled by RMGs, in the calculation of electricity cost of RMGs.	(iii). This is based on the ICD ratio of year 2010.
	(iv). The workings to arrive at the cost relating to transformer losses in the estimation of electricity cost may be furnished.	(iv). This is based on the empirical studies carried out by GTI.
	(b). **Fuel Cost**:	
	With reference to the estimated fuel cost, GTIPL to clarify / furnish the following:	
	(i). The estimated consumption of fuel for	(i). The estimated fuel consumption for the

	operations of RTGs, RSTs and Tractor Trailers for the years 2011 to 2014 may be justified with reference to the actuals for the preceding three years.	years 2011-2014 is based on the Actual 2010 consumption as provided in Annex 3B.
	(ii). The basis for considering 15.71 TEUs per hour as handling rate of the RTG may be brought out. The actual handling rate for the year 2010 may be furnished.	(ii). During 2010 the handling rate of RTG was 15.71 TEUs per hour.
	(iii). The term 'Handlings' as considered in the fuel cost estimation of RTGs may be explained. The workings for arriving at handlings at 204% may be furnished.	(iii). All the containers offloaded from the vessel are necessarily to be handled by RTGs at least twice, one Lift Off and one Lift On at the CY. Sometimes, additional Lift off and Lift on from/to stack are to be carried out for shut out container and POD change based on the requirements of trade. In addition there are some essential housekeeping moves to be carried out by RTGs. The handling thus exceeds 200%. On an average it works out to 204%.
	(iv). The workings for the estimated diesel consumption of 70357 litres for the year 2011 and 54528 litres each for the years 2012 to 2014 for utilization of RST may be furnished and the consumption may be justified with reference to the actuals for the year 2010.	(iv). The workings for the estimated diesel is based on the actulas of 2010. Actuals of 2010 are given.
	(v). The workings for the estimated diesel consumption of 1845340 litres for the year 2011 and 1430169 litres each for the years 2012 to 2014 with reference to the TTs may be furnished and the consumption may be justified with reference to the actuals for the year 2010. The nature of short recovery/ rate difference per litre may also be explained alongwith workings.	(v). The estimated diesel consumption of 2011 to 14 is based on the actual 2010. The short recovery / rate difference per litre is due to the difference between the prevailing market rate and the pre-negotiated recovery rate of INR 37.50 as per contract.
	(c). **Repairs & Maintenance Cost**:	
	(i). The rationale behind adopting different percentages of capital cost of RMQC, RMG and RTG to estimate repairs and maintenance charges for all the years under consideration may be explained and the individual estimates may be justified with reference to actuals for the previous years 2009 to 2010.	(i). The estimate of equipment-wise repairs and maintenance expenditure has been identified based on the actuals of 2010 as a % of the capital cost of the respective equipment.
	(ii). The workings for estimating Repairs & Maintenance cost for the RST, empty handlers, operational tools & others for the year 2011 to 2014 may be furnished and justified with reference to actuals for the year 2010.	(ii). The estimate of equipment-wise repairs and maintenance expenditure has been identified based on the actuals of 2010 as a % of the capital cost of the respective equipment.
	(iii). The reason for including a component of VAT @ 12.5% on the materials as part of maintenance cost of RTGs may be explained.	(iii). It is in compliance with the directives issued by Government on Indirect Taxes wherein GTI is not entitled to VAT input credit.
(v).	**Equipment Hire Charges**:	
	With reference to the estimated tractor hire charges, GTIPL to furnish the following:	
	(a). Documentary proof may be furnished for the rates considered for estimation of tractor hire charges for the years 2011 to 2014 for the	

<table>
<tr><td></td><td>movement of containers:

(i). upto container yard and container yard to rail and

(ii). Intra Terminal transfers

(b). GTIPL to furnish the basis for considering 26% of the estimated throughput to move between yard and rail and 12% of the estimated throughput for intra terminal transfer.</td><td>A copy of the contract is furnished. The contract is valid till Jan 2012 and due for renewal.

This is based on the actual data for the year 2010.</td></tr>
<tr><td>(vi).</td><td><u>Lease rentals</u>:

(a). GTIPL to confirm that the estimations of lease rentals is as per the terms of Licence Agreement.

(b). Detailed workings for the estimated lease rental indicating the area leased and the rate per square metres considered may be furnished for all the years under consideration.</td><td>(a). Confirmed

(b). Details furnished.</td></tr>
<tr><td>(vii).</td><td><u>Insurance</u>:

The GTIPL to furnish the basis and the workings for the estimated insurance cost. The estimates of insurance cost may be justified with reference to actual payment made to insurance company. A copy of the Agreement entered into with insurance company(ies) may be furnished.</td><td>Details furnished.

(Copy of Insurance Policy Schedule furnished by GTIPL for the period 15 July 2010 to 14 July 2011 shows the Gross Premium at ₹319.35 lakhs).</td></tr>
<tr><td>(viii).</td><td><u>Other expenses</u>:

The estimated other expenses for the years 2012 to 2014 may be justified with cost details and workings listing out the items considered under the said head of expenditure.</td><td>The details for actual of 2010 are furnished. The estimate of 2011 to 2014 are basis the actual of 2010.

<table>
<tr><th>Other Expenses</th><th>Year 2010</th></tr>
<tr><td>Operational</td><td>0</td></tr>
<tr><td>Special handling (OOG, DG and Break Bulk)</td><td>0</td></tr>
<tr><td>Internal Transportation</td><td>13565000</td></tr>
<tr><td>Customs MOT Charges (Merchant Overtime)</td><td>0</td></tr>
<tr><td>Operational Water</td><td>1867198</td></tr>
<tr><td>Inventory Differences</td><td>-120498</td></tr>
<tr><td>Inventory Written-off</td><td>2318640</td></tr>
<tr><td>Customs Duty / Clearance Expenses on spare parts</td><td>1208845</td></tr>
<tr><td>Shifting cargo / Vessel expenses</td><td>729329</td></tr>
<tr><td>Cargo claims recovered</td><td>-13000</td></tr>
<tr><td>Cargo claims</td><td>112546</td></tr>
<tr><td>Operational lubricants</td><td>2672846</td></tr>
<tr><td>Handling</td><td>0</td></tr>
<tr><td>Blue collar overtime</td><td>0</td></tr>
<tr><td>Total</td><td>22340906</td></tr>
</table></td></tr>
<tr><td>(ix).</td><td><u>Technical Services Fee</u>:

(a). GTIPL to establish the reasonableness of technical services fee estimated in the cost statement for all the years under consideration applying the yardstick of "arms length relationship" as required under clause 2.8.2. of the revised tariff guidelines.</td><td>(a). The reasonableness of Technical Service Fees for arms length principle is established through a mark-up in accordance with the Transfer Pricing Rule certified by KPMG.
(GTIPL has furnished a copy of Memorandum for availing certain support services from APM Terminals Management BV).</td></tr>
</table>

<table>
<tr><td></td><td>(b). Document establishing the remittance of TSF for the year 2009, 2010 and 2011 may be furnished.</td><td>(b). A copy furnished.</td></tr>
<tr><td>(x).</td><td><u>Overheads</u>:

(a). GTIPL to list out the items of expenditure considered under the management and administration overheads and furnish detailed workings under this head for all the years under consideration.

(b). The estimated management and administration overheads for the year 2011 is around 10% more than the actuals expenditure for the year 2009. The estimated management and administrative overheads for the years 2012 to 2014 is around 7.50% more than the estimated expenditure of the respective previous years. GTIPL to justify the estimates.

(c). The items considered under 'General Overheads' may be listed out and detailed workings under this head for all the years under consideration may also be furnished.</td><td>(a). The details for actual of 2010 are furnished. The estimates for 2011 to 2014 are based on the actual of 2010.

<u>Actuals for 2010</u>
<table><tr><th>Management Overheads</th><th>Year 2010</th></tr><tr><td>Salaries</td><td>156963963</td></tr><tr><td>Bonus</td><td>8615284</td></tr><tr><td>HRA</td><td>35732637</td></tr><tr><td>Temporary Staff</td><td>0</td></tr><tr><td>Leave Encashment</td><td>503163</td></tr><tr><td>Leave Travel Allowance</td><td>240000</td></tr><tr><td>Reallocation Allowance</td><td>0</td></tr><tr><td>Drivers Overtime</td><td>0</td></tr><tr><td>Incentive</td><td>32026997</td></tr><tr><td>Gratuity</td><td>3924916</td></tr><tr><td>Housing Allowance</td><td>0</td></tr><tr><td>Overtime</td><td>6482364</td></tr><tr><td>Incentive – Blue Collar Staff</td><td>86660298</td></tr><tr><td>Other Allowance</td><td>15528027</td></tr><tr><td>Contribution to PF / PPF</td><td>10778006</td></tr><tr><td>Super Annuation</td><td>1000086</td></tr><tr><td>Contribution to Labour Welfare Fund</td><td>30078</td></tr><tr><td>EDLI and Admin Charges</td><td>1187906</td></tr><tr><td>Total</td><td>281679526</td></tr></table>
(b). The estimates of management and administration overheads include additional impact on account of increments to be given as per the Collective Bargaining Agreement (CBA) signed with the Internal Union. (Copy furnished) The increase in basic wages is as given below:
<table><tr><td>01.04.2011 to 31.03.2012</td><td>19%</td></tr><tr><td>01.04.2012 to 31.03.2013</td><td>15%</td></tr><tr><td>01.04.2013 to 31.03.2014</td><td>13%</td></tr></table>
(c). The details for actual of 2010 are furnished. The estimate of 2011 to 2014 are basis the actual of 2010.</td></tr>
<tr><td>(xi).</td><td><u>Depreciation</u>:

GTIPL to furnish detailed workings for the estimated depreciation for all the years under consideration bearing in mind clause 2.7.1. of the revised tariff guidelines. The rates of depreciation adopted may also be furnished giving reference to the Companies Act or provisions of concession agreement as the case may be.</td><td>The workings of Depreciation for the years 2009-11 is furnished. The workings of Depreciation for the years 2012-14 is furnished in the proposal in the Normative capital cost working.</td></tr>
<tr><td>5.</td><td><u>Capital employed</u>:</td><td></td></tr>
<tr><td></td><td><u>Fixed Assets</u>:

(a). The Form – 4A furnished by GTIPL is</td><td>(a). Form No. 4A attached in the proposal</td></tr>
</table>

	incomplete. It furnishes details only for the years 2009 to 2011. The GTIPL to furnish a complete and updated Form – 4A incorporating similar details for the years 2012 to 2014.	furnishes details for the year 2009-11 for the net block and working capital for the years 2012-14. Capital employed is worked on the basis of normative Gross block. The details of which are available in the work sheet 'Normative Capital Cost' based on the approach taken by TAMP in NSICT orders of 2008.
	(b). The GTIPL to furnish details regarding the actual number of handling equipment, gross value of each of the equipment and the date of their commissioning at the GTIPL.	(b). Details furnished.
	(c). The GTIPL to furnish Form – 4B giving full details with regard to the additions to the gross block for the years 2012 to 2014, if any.	(c). Since the proposal is based on the normative approach additions are not considered for the ensuing years.
	(d). The GTIPL is seen to have made additions to its Gross Block of assets to the tune of ₹12.25 crores during the year 2011. The GTIPL is requested to furnish details of the additions and documentary evidence in support of the said additions.	(d). The addition of ₹12.25 crores is as per the budget 2011 duly approved. The actual expenditure incurred so far is furnished and remaining is under implementation. (₹12.25 crores in budgeted additions for the year 2011 towards civil and electrical works, ERP, Plant and Machinery, pavement etc. GTIPL has reported the actual expenditure upto October 2011 at ₹744.88 lakhs.)
	(e). The additions to the gross block, if any, during the years 2012 to 2014 may be supported with documentary proof and the present status of these proposed investments may also be furnished.	(e). Please refer to our reply at 5 (c) above
	(f). It may be noted that completed and commissioned assets alone will be counted for capital employed and work-in-progress should be excluded. A confirmation in this regard may be furnished.	(f). The capex additions done in the year 2009 and 2010 are based on the completion/ installation certificates duly audited.
6.	**<u>Working Capital</u>**:	
	(i). GTIPL to furnish workings to show that the amount considered as Inventory, Pre payment of Lease rentals and Cash balance as part of Working Capital during the years 2009 to 2011 are as per the norms prescribed in guidelines of March 2005.	(i). The inventory for the years 2009-2010 is based on the audited balance sheet. The prepayment of lease rental equals the lease rental paid one year in advance as per License Agreement for the respective years. Cash balances are in accordance with the norms.
	(ii). As stated earlier, while furnishing the complete and updated Form – 4A for the years 2012 to 2014, the working capital components may also be furnished.	(ii). Since the proposal is based on the normative approach adopted by TAMP in its NSICT orders of 2008, the working capital components are not considered.
	(iii). The Form – 4A furnished by GTIPL for the years 2009 to 2011 show unamortised lease rentals and terminal rights adjustments as components forming part of working capital. The reason for considering these components as part of working capital may be explained. The workings to arrive at the said amounts for unamortised lease rentals and terminal rights adjustments may also be furnished.	(iii). The terminals rights and unamortized lease rentals adjustment is done in accordance with the previous tariff order passed by TAMP in March 2010.

<table>
<tr><td>D.</td><td><u>Scale of Rates</u>:</td><td></td></tr>
<tr><td>(i).</td><td>The GTIPL has formulated its proposed Scale of Rates considering an increase of 8.72% over the existing tariff at GTIPL. The benefit of productivity improvements accruing to users justifying this hike may be listed out.</td><td>Support the EXIM growth for India through efficient operations resulting in higher number of vessel calls, reduced waiting times, multiple gate openings and higher productivity (moves/hour) resulting in faster turnaround of vessels (average stay at berth), faster turnaround of trains and TTs (tractor trailors) resulting in faster evacuation without congestion. Following are the Performance Indicators in this respect :
<table>
<tr><th colspan="2" rowspan="2">Performance Indicator</th><th colspan="3">January 2011 to October 2011</th></tr>
<tr><th>JNPCT</th><th>NSICT</th><th>APMT Mumbai</th></tr>
<tr><td>1</td><td>Import (TEUs)</td><td>398.807</td><td>578,448</td><td>857,515</td></tr>
<tr><td>2</td><td>Export (TEUs)</td><td>400,587</td><td>634,290</td><td>719,727</td></tr>
<tr><td>3</td><td>Total (TEUs)</td><td>799,394</td><td>1,212,738</td><td>1,577,242</td></tr>
<tr><td>4</td><td>No. of vessels handled</td><td>573</td><td>516</td><td>867</td></tr>
<tr><td>5</td><td>Berth Productivity (Moves/hr.)</td><td>37.19</td><td>71.84</td><td>93.44</td></tr>
<tr><td>6</td><td>Average Stay at Berth (Day)</td><td>1.25</td><td>1.02</td><td>0.59</td></tr>
<tr><td>7</td><td>Pre-Berthing Waiting time (hrs)</td><td>18.52</td><td>5.45</td><td>0.50</td></tr>
<tr><td>8</td><td>No. of Rakes handled</td><td>1,413</td><td>1,405</td><td>2,151</td></tr>
</table></td></tr>
<tr><td>(ii).</td><td>GTIPL to furnish detailed working with cost elements considered to arrive at the charges proposed for normal containers, ICD containers, Transhipment containers, hazardous and Over Dimensional Containers.</td><td>Since separate cost details on these activities have not been maintained, it is regretted GTI is not in a position to furnish the detailed working with cost elements.</td></tr>
<tr><td>(iii).</td><td>Similar working with cost elements considered may be furnished towards the charges proposed for services for hatch covers, restows, shut out, storage and other services.</td><td>Please refer to our reply at point D (ii) above.</td></tr>
<tr><td>(iv).</td><td>Though the GTIPL has proposed a general increase of 8.72% in its proposed Scale of Rates, it is seen that GTIPL has also proposed a higher percentage of increase in respect of the following items:
<table>
<tr><th>Sl. No.</th><th>Reference to the Section</th><th>Proposed percentage increase in tariff</th></tr>
<tr><td>1.</td><td>Section 1A – Rate for ship to yard/ yard to ship charges for Normal Empty containers</td><td>34.58%</td></tr>
<tr><td>2.</td><td>Section 2 – Charges for Empty transhipment containers</td><td>25.43%</td></tr>
<tr><td>3.</td><td>Section 3A – Rate for ship to yard charges for Hazardous and Reefer containers (Loaded, ICD and transhipment containers)</td><td>74%</td></tr>
<tr><td>4.</td><td>Section 3B – Rate for yard to rail charges for</td><td>88.54%</td></tr>
</table></td><td>(i). Empty Container rate hike

Presently the tariff of empty container handling is 20% lower than loaded container tariff. However we are not aware whether the rational for such differential rates is established anywhere. The costs for handling empty and loaded container is almost the same. Therefore, it is proposed to keep the tariffs for empty and loaded container at the same level. Further as per clause 5.3 of the 2005 Guidelines charges for ship-shore handling and storage of loaded and empty containers should be the same.

(ii). Charges for empty transshipment containers same as above

(iii). Ship to yard charges for reefer and Hazardous containers:
Presently the charges for hazardous containers are at 1.25 times of the normal container charges. Reefer containers are billed at the same rate for normal containers. However, considering the special care to be taken for</td></tr>
</table>

	Hazardous and Reefer containers	
5.	Section 3C – Rate for yard to truck charges for Hazardous and Reefer containers	74%
6.	Section 4 – Charges for Over dimensional transhipment and Empty containers	25.43% - TP 4.58% - Empty
7.	Section 5 – Charges for Opening Hatch cover	29.50%
8.	Section 6 – Charges for Restows	29.50%
9.	Section 7A – Charges for Shut outs	29.50%
10.	Section 8 – Charges for Reefer Monitoring & Connection	94.28%
11.	Section 9C – Charges for Fixing Seals	300%

The reason for proposing a different percentage increase in respect of the above tariff items may be justified. The additional income proposed to be generated on account of each of the proposed changes may be quantified and furnished with workings itemwise for each of the years 2012 to 2014.

handling and associated risk factor involved in these containers the rates for the hazardous and reefer containers are proposed to be twice the normal container rate. Rail operators charge 1.5 to twice on handling, transportation & dwell time of hazardous boxes with no free dwell days. The rates for handling reefer container: should be at par with the rates for handling of hazardous containers since the reefer poses similar risks in handling as that of hazardous handling. As per clause 5.3 of 2005 Guidelines higher charges would be allowed for containers having hazardous goods, reefer and for any special services.

(iv). Yard to Rail charges for Hazardous and reefer containers. The yard to rail charges for Reefer and Hazardous ICD containers are revised to be at twice the yard to rail charges for normal containers for the reasons elaborated at point no. 3 above.

(v). Yard to Truck charges for Hazardous and reefer containers

Refer to point no. 3 and 4 above

(vi). Rates for ODC TP and empty containers

The rates for ODC transshipment containers are proposed to be revised to 2 times the rate of normal transshipment containers since the existing rates are at 1.73 times of the rates for normal containers. As per model SOR of TAMP ODC transshipment containers are eligible for double the rates applicable to normal TP containers. The proposal is therefore justified.

The rates for ODC empty containers are proposed to be revised at par with the rate for ODC loaded container for the reasons elaborated at 1 above.

(vii). Hatchcover, Restow and Shut out charges are proposed to be revised at par with that of NSICT for similar services. (The NSICT tariff is higher by 5% than GTI overall tariff. However the current hatch cover, Restow and Shut out charges of NSICT are higher by 35%.)

(viii). Reefer Monitoring charges :

Reefer monitoring charges are proposed to be revised at par with that of adjacent terminal i.e NSICT for similar services with the same customer base. (The NSICT tariff is higher by 5% than GTI overall tariff. However the current reefer monitoring charges of NSICT are higher by 100% while the energy cost primarily remains the same.). There is a need to increase the tariff for reefer monitoring charges due to negative margin on this activity in view of the change in the tariff category from industrial to commercial leading to substantial hike in electricity cost during the year 2010 in addition to normal tariff increase.

		(ix). Fixing of bottle seals: If the containers enter the Terminals with the bottle seals as per the rule, there are no charges recoverable. The proposed increase to INR 800 is to discourage and to have deterrent effect preventing the containers from entering the terminal without seals which is against the law. The additional income to be generated on account of the proposed changes is quantified as per our reply to point 3 (viii) above,
(v).	The reason to treat Reefer containers at par with Hazardous containers may be justified in the backdrop of other container terminals treating Reefer containers at par with Normal containers. The additional income proposed to be generated on account of the proposed change may be quantified and furnished with workings for each of the years 2012 to 2014.	Reefer containers have working transportable refrigeration machinery which contains inflammable gases. Therefore every terminal has dedicated reefer stacks just as the case for hazardous containers. Therefore the proposal is justified. As per clause 5.3 of 2005 Guidelines higher charges would be allowed for containers having hazardous goods, reefer and for any special services. The additional income to be generated on account of the proposed changes is quantified as per our reply to point 3 (viii) above.
(vi).	The existing Scale of rates prescribe Reefer Monitoring and Connection on 4 hourly basis. In the proposed Scale of Rates, in addition, the GTIPL is seen to have proposed charges for Reefer Monitoring and Connection on per day basis also. The reason for prescribing rates for Reefer Monitoring and Connection on per day basis may be justified.	As per the SOR all the activities with respect are charged on a per day/ per activity basis. Hence extending the same logic to reefer monitoring charges is proposed for having uniformity in the billing process.
(vii).	The GTIPL has introduced a new Note no. 4 under Section – 8 stating that for reefer containers if the return air temperature at the time of gate in is having a variation of more than 5^{o} C as compared to the set temperature, then the plugging charges will be doubled. In this connection, the reason for proposing to treat the said eventuality separately may be explained. The additional income proposed to be generated on account of the proposed change may be quantified and furnished with workings for each of the years 2012 to 2014.	A reefer container and the reefer machinery is basically designed to maintain a temperature which is referred to as set temperature depending on the perishables that are stuffed in the container. Improper Cargo Stuffing at a temperature higher than the set temperature leads to the reefer container machinery to bring down the temperature to the set temperature. Our proposal is to ensure that the cargo stuffing for reefer containers are adhered to as per International Standards. Hence the proposed rate increase is justified. Since we do not have the recorded volume for this envisaged activity, the additional income on account of this proposed change cannot be quantified.
(viii).	The GTIPL has proposed a new tariff item under Section 8(ii) towards Pre-trip Inspection including supply of electricity at US$ 47.68 per move. In this connection, the GTIPL is requested to furnish the following: (a). GTIPL to clarify the existing arrangement to render the services towards Pre-trip Inspection and furnish the charges realised therefor. (b). The proposed rate may be justified with cost details. (c). The reason for proposing the rate as a dollar denominated tariff may be explained.	 (a) Presently this service is not rendered by GTI. (b). It is regretted that the cost details are not maintained. (c). The proposed rate is based on the existing rate levied by NSICT with a reduction of 5% thereon.

	(d). GTIPL to list out the services proposed to be provided under this tariff item. (e). The proposal does not clarify whether the proposed charge is optional at the request of the users for the service or compulsorily levied on all containers handled by GTIPL.	(d). Pre trip inspection (PTI) is done to check reefer machinery preparedness before handing over empty reefer unit for cargo stuffing. (e). It is optional at the request of the users.
(ix).	The Authority vide its Review Order of November 2011 had incorporated a conditionality relating to 'One door open charges'. The GTIPL is not seen to have incorporated the said conditionality in its proposed Scale of Rates. GTIPL to clarify the position.	"One Door Open" charge is applicable for handling container which requires only one door to be kept open (eg. Onion) ". A conditionality as stated herein may be incorporated in the SOR.
(x).	With regard to Section – 10 relating to Dwell time charges, the GTIPL is requested to clarify/ furnish the following: (a). Reason for proposing a 13.87% increase in the dwell time charges of Loaded Import containers. The additional income proposed to be generated on account of the proposed charge may be quantified and furnished with workings for each of the years 2012 to 2014. (b). With reference to Empty Import and Export containers, the GTIPL has removed the existing free days of 3 and has also proposed a 30% hike in the dwell time charges in respect of the said category. GTIPL to explain the rationale behind such a proposal with a dwell time analysis. The additional income proposed to be generated on account of the proposed change may be quantified and furnished with workings for each of the years 2012 to 2014. (c). Reason for proposing a reduction in free days of ICD – Loaded and Empty Import and Export containers moved by rail from the existing 10 days to 7 days may be justified with a dwell time analysis. The additional income proposed to be generated on account of the proposed change may be quantified and furnished with workings for each of the years 2012 to 2014.	 (a). The rates are proposed to be at par with NSICT. The additional income to be generated on account of the proposed change cannot be quantified due to non availability of dwell time analysis (b). The free days are reduced from current three days to zero to be at par with NSICT. The rates are also proposed to be brought at par with NSICT. The additional income to be generated on account of the proposed change cannot be quantified due to non availability of dwell time analysis. (c). The free days are proposed to be reduced from current ten days to seven to be at par with NSICT. This will encourage speedy evacuation of containers by rail. The additional income to be generated on account of the proposed change cannot be quantified due to non availability of dwell time analysis.
(xi).	The general conditionalities proposed by GTIPL in its proposed draft Scale of Rates is seen to be incomplete, when compared with the existing general conditionalities. GTIPL to furnish the entire set of conditionalities.	The relevant portion of the proposed SOR containing the entire set of conditionalities is enclosed.
(xii).	In the existing arrangement, the hazardous containers attract 1.25 times the dwell time charges of the normal containers. Now, the GTIPL has proposed that the hazardous containers and reefer containers to attract 2 times the dwell time charges of the normal containers. The reason for the proposed change may be justified. . The additional income proposed to be generated on account of the proposed change may be quantified and	Presently the charges for hazardous containers are at 1.25 times of the normal container charges. Reefer containers are billed at the same rate for normal containers. However, considering the risk factor involved in the handling of these containers the rates for the hazardous and reefer containers are proposed to be twice the normal container rate. Rail operators charge 1.5 to twice on handling, transportation & dwell time of hazardous boxes

	furnished with workings for each of the years 2012 to 2014.	with no free dwell days. The rates for handling reefer container: should be at par with the rates for handling of hazardous containers since the reefer poses similar risks in handling as that of hazardous handling. As per clause 5.3 of 2005 Guidelines higher charges would be allowed for containers having hazardous goods, reefer and for any special services. The additional income to be generated on account of the proposed change cannot be quantified due to non availability of dwell time analysis.

7. The JNPT was requested vide our letter dated 9 November 2011 to furnish some information. JNPT has responded vide its letter dated 19 December 2011. The information sought from JNPT and its response are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Information sought by TAMP</th><th>Response received from JNPT</th></tr>
<tr><td>(i).</td><td>Actual traffic of GTIPL during the calendar years 2009 and 2010. The actual traffic of GTIPL from January 2011 to October 2011 may also be furnished.</td><td>Actual traffic handled by GTIPL during the calendar year 2009, 2010 and for 2011 upto November 2011 is given below:

<table><tr><th>Year</th><th>Traffic (in TEUs)</th></tr><tr><td>2009</td><td>1559432</td></tr><tr><td>2010</td><td>1890938</td></tr><tr><td>2011 (Jan to Nov)</td><td>1728651</td></tr></table></td></tr>
<tr><td>(ii).</td><td>JNPT to furnish the traffic forecast of GTIPL terminal for the years 2011 to 2014 as per the port’s business plan / annual plan / fiver year plan.</td><td>Traffic forecast of GTIPL for the XIIth Five Year Plan projected by JNPT is as follows:

<table><tr><th>Year</th><th>Traffic (Million TEUs)</th></tr><tr><td>2012-13</td><td>2.05</td></tr><tr><td>2013-14</td><td>2.20</td></tr><tr><td>2014-15</td><td>2.20</td></tr><tr><td>2015-16</td><td>2.20</td></tr><tr><td>2016-17</td><td>2.20</td></tr></table></td></tr>
<tr><td>(iii).</td><td>The estimation of lease rentals made by GTIPL to be verified and confirmed that the lease rates considered is in line with the prevailing Scale of Rates of JNPT.</td><td>Estimation of lease rentals as indicated by GTIPL in their proposal has been verified and found to be in order.</td></tr>
<tr><td>(iv).</td><td>Yearwise payments received by it from GTIPL for mixed train handling share from the year 2009 till date.</td><td>Yearwise payments received by JNPT from GTIPL for mixed train handling share for 2009 till dated is as given below:

<table><tr><th>Year</th><th>₹ in lakhs</th></tr><tr><td>2009</td><td>371.41</td></tr><tr><td>2010</td><td>297.40</td></tr><tr><td>2011 (Jan to Sept)</td><td>63.52</td></tr></table></td></tr>
<tr><td>(v).</td><td>Specific comments on the additions to the Gross Block of assets estimated to the tune of ₹.12.25 crores during the year 2011.</td><td>Capital investment proposed of ₹12.25 crores for 2011 appears to be in order but may be verified by TAMP with work order / contract document.</td></tr>
</table>

8.1. A joint hearing in this case was held on 22 November 2011 at the Office of this Authority. The GTIPL made a power point presentation of its proposal. At the joint hearing, the GTIPL, JNPT and the users / user organisations have made their submissions.

8.2. As decided at the joint hearing, the IMC and WISA have furnished their comments. The comments received from them were forwarded to the GTIPL as feedback information. The GTIPL has furnished its comments on the comments of IMC and WISA.

9. 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.

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

(i). The Scale of Rates of GTIPL was last reviewed in March 2010. In the tariff Order dated 3 March 2010, this Authority had effected an across the board reduction of 10% from 1 April 2010 with a validity period till 31 December 2011. Subsequently, based on an application filed by GTIPL for review of the tariff Order dated 3 March 2010, this Authority passed an Order on 3 November 2010 disposing the review application. In the said tariff Order, the tariff reduction of 10% and the validity of the Scale of Rates upto 31 December 2011 which was fixed vide tariff Order dated 3 March 2010 were retained.

(ii). The GTIPL under cover of its letter dated 30 September 2011 has filed its proposal for review of its existing tariff. This proposal was taken up for consultation with the relevant users. The cost statements furnished by GTIPL under cover of its letter dated 30 September 2011 alongwith subsequent additional information/ clarification furnished by GTIPL is considered in this analysis.

(iii). As mentioned in the earlier part of this Order, the GTIPL has proposed to restrict traffic volumes to the level of normative capacity and furnished estimates accordingly. It has requested to consider its tariff proposal based on the normative capacity based approach maintaining parity with similarly placed terminal at the same location.

The GTIPL has applied the formula prescribed in the Guidelines for fixation of upfront tariff for future PPP projects at the major port trusts, 2008 to determine the optimal capacity at 1395030 TEUs and has restricted the traffic estimates for the years 2012 to 2014 upto the level of optimal capacity, so determined. It has then drawn up the cost statements for the above mentioned traffic level for each of the years 2012 to 2014. While doing so, return on gross block of normative assets is claimed. The gap between the estimated revenue and normative revenue so determined has been sought to be bridged by GTIPL by way of an increase in tariff to the tune of 8.72%.

In short, the main contentions of GTIPL is to decide its tariff by restricting traffic projections only upto normative capacity level and by allowing return on gross value of assets identified to handle the volumes upto the normative capacity level.

(iv). (a). The GTIPL has calculated its quay capacity at 1395030 TEUs, based on the norm of 1 quay crane for every 100 metres of quay length, following the norms prescribed in the upfront tariff guidelines of 2008. Since GTIPL has quay length of 712 metres, GTIPL has calculated its quay capacity based on 7 number of quay cranes. At the outset, it is clarified that the upfront tariff guidelines, 2008 are not applicable in the case of GTIPL, which is governed by the tariff guidelines of 2005.

It is relevant here to mention that Article 8.1(xxix) of the Licence Agreement (LA) entered by GTIPL with JNPT requires GTIPL to deploy a minimum number of 8 Quay cranes. Clause 2.9.11 of the tariff guidelines of March 2005 requires return to be allowed on the investment made in accordance with the obligations under the concession agreement. Hence, the position of minimum requirement of 8 number of cranes as stipulated in the Licence Agreement cannot be ignored for the purpose of allowing Return on Capital Employed. Therefore, consideration of only 7 number of quay cranes for determination of quay capacity does not appear to be correct.

It may be recollected that in the tariff Order no. TAMP/40/2008-JNPT dated 25 February 2009 relating to fixation of upfront tariff for container handling terminal at the JNPT, this Authority has approved the norm of 1 quay crane for every 83.33 metres of quay length for JNPT, based on the analysis furnished by JNPT. The JNPT had also, interalia, stated that the actual position in this regard prevailing in its other terminals also justified the position of 1 quay crane for every 83.33 metres of quay length. It is noteworthy that GTIPL itself had acknowledged the said position during the proceedings relating to the tariff Order dated 3 March 2010 vide its letter dated 27 January 2010, while justifying its action of acquiring 2 quay cranes in addition to its then existing fleet of 8 quay cranes. The upfront tariff guidelines of 2008, though not applicable in its case but the norms and formula adopted by GTIPL to calculate its capacity, clearly permit this Authority to adjust the norms indicated therein, based on the justification furnished by the Port Trust and the port specific conditions. Accordingly, the updated norm was approved based on the analysis of JNPT which in turn relied upon the position prevailing at the Port. Therefore, the norm of 1 crane per 83.33 meters of the quay length is the standard applicable to JNPT as per the tariff guidelines of 2008, which is partially sought to be adopted by GTIPL to calculate its capacity. The fact relating to updated norms was within the knowledge of GTIPL, as the relevant upfront tariff passed for JNPT has been forwarded to GTIPL also, as it was consulted in the relevant proceedings.

Considering the updated norm of 1 quay crane for every 83.33 metres of quay length, the number of quay cranes works out to 9 quay cranes at GTIPL. As such, the quay capacity at 70% level, works out to 1793610 TEUs, as against the quay capacity calculated by GTIPL at 1395030 TEUs.

However, it is to be kept in view that the GTIPL has deployed 10 number of quay cranes and investment in all the 10 cranes had been recognised, based on the proposed of GTIPL, for allowing return in the last tariff Order. If deployment of 10 number of quay cranes, which is the factual position at GTIPL, is taken into account, the optimal capacity of the terminal works out to 1992900 TEUs at 70% utilisation. Incidentally, the yard capacity is not a constraint at GTIPL.

(b). Secondly, the GTIPL has made a mention that it has considered the Gross Block of Assets in its tariff proposal on the basis of approach adopted in fixation of tariff at NSICTPL in 2008. Clauses 2.9.1 and 2.9.2 of the tariff guidelines of 2005, which are the relevant guidelines applicable to GTIPL, clearly stipulate that return will be on Net Fixed Asset (i.e. Gross Block minus Depreciation minus WIP) plus working capital. The NSICTPL Order of December 2008, which has been referred by GTIPL, again clearly states in paragraph 3(iv) that allowing return on gross block of assets cannot be automatic and it is to be seen in the light of reducing progressively the quantum of pass through of revenue share in tariff computation. Unlike NSICTPL, GTIPL is not eligible even for partial pass through of revenue share in tariff, by virtue of the relevant condition in its Licence Agreement and clause 2.8.1 of the tariff guidelines of 2005 issued by the Government.

Thus, except for the request made by GTIPL to consider its proposal on the basis of normative capacity and gross block of assets, the proposal of GTIPL follows the cost plus approach, as envisaged in the tariff guidelines of March 2005, though income, expenditure and capital are restricted to the normative level of traffic. The proposal of GTIPL is, therefore, analysed following the tariff guidelines of March 2005.

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

upon at the time of fixing the prevailing tariff. The Clause further stipulates for adjustment of 50% of the accrued benefit/ loss in the next tariff cycle, if review of actual physical and financial performance for the previous tariff cycle shows a variation of more than + or – 20%.

The GTIPL has sought to contend that adjustment of past surplus in its case does not arise on the ground that its physical and financial performance during the period from 2009 to 2011 is within 20%. Extending the same logic, the GTIPL has not given effect to the adjustment relating to set off of unadjusted past surplus pertaining to the previous cycle to the tune of ₹5812.63 lakhs as assessed in the Review Order of GTIPL passed in November 2010. With regard to the contention made by GTIPL as mentioned above, the following points should be reckoned with:

(a). The Scale of Rates of GTIPL for the years 2006 to 2008 was initially fixed in August 2006 with a validity period till 31 December 2008. Subsequently, this Authority vide the Orders dated 27 March 2009 and 17 June 2009 extended the validity of the then prevailing Scale of rates. The extension of the tariff validity beyond 31 December 2008 was subject to the condition of fully adjusting any additional surplus for the extended period in the tariff to be set for the future period. Full adjustment of surplus earned after the expiry of original validity period flows from the condition already set commonly for all ports / terminals vide the general Order No.TAMP/23/2003-WS dated 30 September 2008. The GTIPL continued to operate at the Scale of Rates prescribed in August 2006 during the extended tariff validity period. Hence, the question of adjustment of surplus only on account of estimate variation beyond the stated level does not arise for the year 2009 and the first three months of 2010. Therefore, analysis and treatment of the year 2009 and the first three months of 2010 would not be governed by the stipulation contained in Clause 2.13 of the tariff guidelines of 2005.

(b). After the initial tariff Order of August 2006, the tariff for GTIPL was revised in March 2010 vide Order dated 3 March 2010. Since the entire year 2009 and the first three months of 2010 were already over by the time the tariff Order of March 2010 was notified, the tariff fixed was valid from April 2010 to December 2011, as can be seen from the cost statement attached to the tariff Order of March 2010. The tariff Order of March 2010 relied upon the estimates for the period from April 2010 to December 2011 for determining the quantum of reduction effected over the (then) prevailing tariff. As per the stipulation contained in Clause 2.13 of the tariff guidelines of March 2005, review of the actual physical and financial performance of the operator with reference to the projections, is, therefore, to be carried out for the period from April 2010 to December 2011 i.e. the period for which the estimates were relied upon at the time of fixing the existing tariff of GTIPL.

(c). Briefly put, the performance of GTIPL during the year 2009 and upto March 2010 are relevant only to assess the actual additional surplus, if any, earned by GTIPL, during the earlier extended period of tariff validity which is to be adjusted in future tariff, as per the condition already set in the extension Orders of GTIPL. At the cost of repetition, it is to be noted that the GTIPL had continued to operate the facilities during the said period at the tariff level fixed in August 2006, though the initial validity expired in December 2008. In view of this position, analysis for the year 2009 and the first three months of 2010 would not be governed by the stipulation contained in Clause 2.13 of the tariff guidelines of 2005. Therefore, the results of the actual performance of GTIPL for the years 2009, 2010 and 2011 cannot be treated in a uniform manner, as contended by GTIPL.

(d). During the review of tariff of GTIPL in March 2010, the actuals for the year 2009 and the first 3 months of 2010 were not available at that relevant point of time. Therefore, the estimates for the said period were considered for the purpose of past period analysis in the tariff Order of March 2010. Hence, a need arises to replace the estimates for the year 2009 and the first 3 months of 2010 by the actuals for the said period and assess the actual surplus accrued over and above the admissible costs and permissible return.

(e). The position relating to adjustment of unadjusted past surplus to the tune of ₹5812.63 lakhs in the tariff cycle commencing from the year 2012 onwards is already a decision of this Authority as recorded at paragraph no. 13(ii) of the Review Order of GTIPL passed in November 2010. It is not a new decision arising out of any analysis of estimate variation relating to the period from 2009 to 2011 to be done now, as contended by GTIPL.

(f). In view of the above position, no case emerges to consider the position for the years 2009 to 2011 in a consolidated manner, as contended by GTIPL. Taking into account the position that the items of cost statements for the years 2009 to 2011 which are to be discussed are the same, the actual position for the years 2009 to 2011 is assessed together in the current exercise for the sake of convenience. However, the surplus for the year 2009 and for the first three months of 2010 and surplus for the period from April 2010 to December 2011 are dealt separately, as explained in the subsequent part of this analysis.

(vi). Inspite of a specific request to GTIPL to furnish actuals for the period from January 2011 to October 2011, duly certified by a Chartered Accountant, the GTIPL has refused to furnish the requisite details on the ground that the Indian Statutory Accounts for the period January 2011 to December 2011 will be completed and audited only in the year 2012. This stand of GTIPL is contradictory and manifests its intention of not sharing details with this Authority, as in the past it has always been providing the requisite details called for in the earlier review of its tariff. When some other private terminals are able to furnish the certified accounts for part of the year, it is not clear as to why it is not possible for GTIPL to furnish its certified accounts for the part of the year 2011. In the absence of the actuals for the year 2011, the estimates furnished by GTIPL for the year 2011 are adjusted in line with the revised traffic estimates considered. The estimates for the year 2011 would be replaced with actuals, in the next review of tariff of GTIPL, so as to determine the actual position of surplus/ deficit for the year 2011.

(vii). The actual performance of GTIPL during the years 2009, 2010 and 2011 is discussed below:

(a). As brought out earlier, this Authority in its Order of March 2010 had effected a 10% reduction in the then existing tariff of GTIPL with effect from 1 April 2010. This reduction was effected across the board except for the charges pertaining to the Inter Terminal Rail Handling Operations (ITRHO). Since the impact of the downward revision in tariff is reflected by the actual income, the estimated income for the period from April 2010 to December 2011 (except the ITRHO income quantified to the tune of ₹1061.61 lakhs for the period of nine months of the year 2010 and ₹1415.48 lakhs for the year 2011 in the Review Order) is updated to reflect the reduction in tariff, so as to enable a correct comparison between the actuals and the estimates.

(b). The traffic was estimated at 1518034 TEUs for each of years 2009 to 2011 in the last tariff Order. GTIPL has actually handled 1559879 TEUs and 1891105 TEUs during the years 2009 and 2010 respectively. GTIPL has stated to have handled 1577242 TEUs during the period of 10 months of the year 2011. JNPT has informed that 1728651 TEUs have been handled by GTIPL during the period from January 2011 to November 2011. Citing the reason of the impact of the ongoing quay crane repairs at

the terminal, the GTIPL has estimated traffic of 1800000 TEUs for the year 2011. However, considering that GTIPL has already handled 1728651 TEUs during the 11 months of the year 2011, as communicated by JNPT, there is no reason as to why the pro-rated traffic based on actuals for the 11 months of the year 2011 should not be considered for the entire year of 2011. As such, estimated traffic at 1885801 TEUs is considered for the year 2011.

(c). The operating income (net of rebate/ discount) as shown in the audited Annual Accounts for the years 2009 and 2010 is ₹36064.01 lakhs and ₹40501.94 lakhs respectively. The Annual Accounts for the said years report rebates/ discounts to the tune of ₹1523.25 lakhs and ₹31.63 lakhs respectively. The tariff fixing exercise cannot recognize the discounts/ rebates allowed by the private operator at his discretion. GTIPL has furnished workings to arrive at the actual income based on the volume of traffic under each category and the respective rates as prescribed in the SOR of GTIPL except for the storage income. The income so arrived at by GTIPL based on the Scale of Rates is considered. Incidentally, the income so arrived at, tallies with the income as per the audited accounts for the respective years.

The income considered by GTIPL for the year 2009 is net of provision for credit notes to the extent of ₹52.90 lakhs as shown in the Annual Accounts for the year 2009. The GTIPL has clarified that the credit note is on account of transhipment volume rebate as per the then prevalent SOR. It is seen that then prevalent Scale of Rates provided for granting rebate to transhipment volumes. Since the rebate flows from the prescription made in the Scale of Rates of GTIPL, its effect is recognised in the analysis.

The GTIPL has estimated operating income for the year 2011 for an estimated traffic of 18 lakh TEUs. Since the traffic estimates for the year 2011 is considered at 1885801 TEUs, as explained earlier, the income estimates for the year 2011 as furnished by GTIPL has been revised on proportionate basis.

Further, from the above mentioned income arrived for the years 2009 and 2010, the GTIPL has reduced an amount of ₹345.51 lakhs and ₹294 lakhs respectively being the amount paid by it to JNPT/ NSICTPL towards mixed train handling. The JNPT has reported the receipt of income from GTIPL towards mixed train handling to the tune of ₹371.41 lakhs and ₹297.40 lakhs for the years 2009 and 2010 respectively. The receipts reported by JNPT on this account are seen to be higher than the amount considered by GTIPL in its income calculation. It is understood that the receipts reported by JNPT is on accrual basis and the amount reported by GTIPL is on payment basis. Therefore, and keeping in view the position that the overall income reported by GTIPL which is net of payment made to JNPT on account of rail handling operations tallies with the audited annual accounts the position reported by GTIPL is relied upon.

For the year 2011, the GTIPL has reduced an estimated amount of ₹73.82 lakhs being the amount paid/ payable by it to JNPT/ NSICTPL towards mixed train handling. Since the traffic estimates of GTIPL for the year 2011 has been revised, the estimated amount payable by GTIPL to JNPT/ NSICTPL towards mixed train handling is also revised on proportionate basis in tandem with traffic estimate for the said year.

(d). As seen from the Annual Accounts for the years 2009 and 2010, the other income stream of GTIPL includes interest income from Fixed Deposits and Unsecured loans, Provisions written back which are no longer required, Foreign exchange gain, Interest on Income tax refund, Scrap sales, recovery from supplier penalty, profit on sale of assets, training services fee and miscellaneous income.

The items of income namely Scrap sales, profit on sale of assets, recovery from supplier penalty and miscellaneous income appear to be arising out of normal operation of GTIPL. Therefore, these items under the head other income are considered in this analysis as was done in the earlier Order of March 2010. Interest income is not considered as part of income in fixation of tariff of major port trusts / private terminals. The exchange gain arising out of servicing of foreign currency loans are also not treated as part of income.

The GTIPL has not considered the income from training service fee to the tune of ₹31.59 lakhs and ₹6.84 lakhs reflected in the audited annual accounts for the years 2009 and 2010 respectively. As reported by the GTIPL, the income pertains to receipt on account of rendering consultancy services. However, the expenses related to the said service have not been excluded in the cost statement furnished by GTIPL. The GTIPL has not furnished any reason for excluding the said income. Since the income is accounted in the audited accounts and keeping in view that resources of GTIPL have been utilized, the income under the said head has been considered in the analysis.

The GTIPL has treated the provision no longer required and added back to the extent of ₹145.45 lakhs and ₹223.25 lakhs for the years 2009 and 2010 respectively as part of 'Other income'. Since provision kept for expenses is not treated as expenditure in the tariff fixation exercise, the provision added back to income is also not considered in this analysis.

The GTIPL has estimated income to the tune of ₹45.60 lakhs as 'Other income' for the year 2011. Considering the nature of 'Other income' as reported by GTIPL, the said 'Other income' cannot be said to move in line with traffic. Therefore, the 'other income' of ₹45.60 lakhs as furnished by GTIPL is considered without any change.

(e). For the reasons mentioned above and based on the position maintained in the earlier Order of March 2010, the interest expenditure, provision for doubtful debts and the foreign exchange loss are also not treated as an item of cost in the tariff fixation exercise.

The operating expenses in the Annual Accounts for the years 2009 and 2010 reflect an amount of ₹93.05 lakhs and ₹83.07 lakhs respectively towards provision for contingencies. When asked to explain the nature of the said provision, the GTIPL has stated that the provision is kept for refund on the coastal containers on production of the requisite certificate issued by the Competent Authority. It is noteworthy that the GTIPL has not reported handling of any coastal containers during the years 2009 to 2011, as seen from the income workings furnished by GTIPL for the said years. Since no coastal containers have been reportedly handled by GTIPL during the years 2009 to 2011, the question of providing for refund in this regard does not arise. Nevertheless, if at all a situation arises for GTIPL to make refund on this account, then the financial effect can be accommodated in the next review of tariff of GTIPL.

(f). As recorded in paragraph no.11(viii)(c) of the Order of March 2010, equipment hire charges estimated at the rate of ₹150/- per TEU for the year 2009 and escalation at the rate of 5.8% each for the years 2010 and 2011 was considered subject to verification with actuals during the next review of tariff. Despite a request made in this regard to furnish documentary evidence in support of the rate of ₹150/- per TEU incurred towards hire charges of equipment, the GTIPL has not furnished the documentary evidence. Since the expenditure incurred on account of hire of the said equipment is accounted in the audited accounts of the operator, as confirmed by GTIPL, the actual equipment hire expenditure is considered.

(g). In the tariff Order of March 2010, payment of technical service fee was allowed as an item of cost for the years 2008 to 2011 subject to the condition that the GTIPL at the time of next review would produce the Income tax assessment Orders for the years 2008 to 2011 to support the admittance of this expenses by the IT department. If such evidence is not produced by GTIPL, expenditure considered for the years 2008 to 2011 was to be reviewed and fully adjusted in the next tariff revision cycle.

The GTIPL has furnished the Assessment Order only with reference to the assessment year 2008-09. The GTIPL has stated that the assessment has been carried out only upto the financial year 2007-08 (Assessment year 2008-09). As seen from the Assessment Order furnished by GTIPL, the Income tax authorities have accepted the arm's length price of the international transactions as reported by the GTIPL for the assessment year 2008-09. The Income tax authorities have allowed the Technical Service Fee as an item of expenditure in the past and it is assumed that the same will be allowed in the future. Relying on the statement made by GTIPL that assessment for the subsequent years have not yet been done, this Authority is inclined to treat TSF as part of operating costs for the years 2009 to 2011. Incidentally, the GTIPL has produced copies of the Transfer Pricing Memorandum for the financial years 2008-09 and 2009-10. These documents are only drafts and, therefore, not examined thoroughly. The position reported in the audited Annual accounts in this regard is relied upon. The GTIPL is advised to furnish copies of the Assessment Orders as and when they are obtained from the Income tax authorities.

(h). Preliminary expenses written-off to the tune of ₹205 lakhs is considered for each of the years 2009 to 2011, as was allowed in the last tariff order of March 2010.

(i). The audited Annual Accounts for the years 2009 and 2010 report depreciation to the tune of ₹10931.45 lakhs and ₹11592.45 lakhs respectively, whereas the Cost statement furnished by GTIPL reflects a lower amount to the tune of ₹10687.48 lakhs and ₹11348.48 lakhs respectively for the said years. The GTIPL has explained that differences are on account of the Lease rental amortization and terminal rights adjustments as done by this Authority in its previous order. In this regard, it may be recalled that in the initial fixation of tariff of GTIPL in March 2006, the amount of upfront payment alongwith the expenditure incurred on registration of License Agreement was decided to be written off over the remaining licence period of 28 years. The depreciation figures as furnished by GTIPL are stated to reflect this position and hence considered.

(j). The net block of assets taken into account in this analysis is shown below:

(₹ in Lakhs)

Particulars	2009	2010	2011*
Net Block of assets as in the Annual Accounts	93092.29	86940.69	75754.01
Less: WDV of terminal rights as per Annual Accounts	2561.21	2151.41	1741.68
Revised Net Block	90531.08	84789.28	74012.33
Add: Terminal Rights balance as per our calculations	3658.94	3512.61	3366.28
Final Net Block	**94190.02**	**88301.89**	**77378.61**

* Estimates

(k). The working capital position is analysed below:

(i). The GTIPL has considered the actual sundry debtors reflected in the Annual Accounts for the years 2009 and 2010 in the cost statement also for the respective years. This is not in line with the

provisions contained in the tariff guidelines of 2005. As such Sundry Debtors is considered as NIL.

(ii). As per the common Order passed by this Authority dated 30 September 2008, prepayments of certain expenses which flow from the provisions of the Licence Agreement can be considered as Sundry Debtors.

As per the License Agreement entered by the GTIPL with the JNPT, the lease rentals are to be paid by GTIPL annually in advance. However, it is noteworthy that the advance payment will get adjusted against the rent payable for the respective month and at the year end, the entire advance gets adjusted. Hence, the average of the prepayment at 50% of the lease rental pertaining to a year is considered as prepayments of lease rentals forming part of current assets for the respective year. Such a position has been recognized in other relevant cases.

(iii). The tariff guidelines of 2005 prescribe a limit of six months average consumption of stores excluding fuel incase of items of Inventory. When asked to confirm whether Inventory for the years 2009 to 2011 is calculated as per the norms prescribed in the tariff guidelines of 2005, the GTIPL has stated that the inventory is based on the annual accounts. However, cost statement shows inventory at a lower level than the inventory figures shown in the audited annual accounts for the respective years. The inventory figures considered by GTIPL could not be verified in the absence of workings furnished by GTIPL, inspite of a request made in this regard. In the absence of requisite details, the figures furnished by GTIPL towards Inventory for the years 2009 to 2011 are relied upon.

(iv). With reference to the cash balance, the GTIPL has stated that it has calculated the cash balance as per norms. As per the tariff guidelines of 2005, cash balance is to be allowed at one month's cash expenses. However, the Cash balance considered by GTIPL is seen to be on a lower side for the given cash expenses. Therefore, the cash balance considered by GTIPL is modified to reflect the guideline position.

(v). The figures of current liabilities as given by GTIPL for the years 2009 to 2011 is relied upon in the analysis.

(l). Subject to the above, the Working Capital works out to ₹2623.13 lakhs, ₹2871.78 lakhs and ₹2989.52 lakhs for the years 2009 to 2011 respectively.

As such, Capital Employed comprising of Net Block of Assets and Working capital works out to ₹96813.15 lakhs, ₹91173.67 lakhs and ₹80368.13 lakhs for the years 2009 to 2011 respectively.

(m). In the last tariff Order of March 2010, Return on capital employed was allowed at 16% for the years 2009 to 2011. The same position is maintained while analyzing the actuals for the said years.

(viii). A statement showing the analysis of the performance of GTIPL for the years 2009 to 2011 is attached as **Annex - I**. As stated earlier, based on the estimated position for the year 2009 and the first 3 months of 2010, the quantum of past surplus was determined in the tariff Order of March 2010, to be set off in the future tariff cycle. To determine the actual amount of past surplus to be set off, the estimates for the year 2009 upto March 2010 which had been relied upon in the Review Order of November 2010 is replaced with actuals for the corresponding period.

Based on the analysis of performance of GTIPL as discussed in the previous paragraphs, it is seen that as against the surplus of ₹1909.99 lakhs estimated for the year 2009 and upto March 2010 in the Review Order dated 3 Nov ember 2010, the actual surplus is ₹14160.62 lakhs. In other words, additional surplus to the tune of ₹12250.63 lakhs has accrued to GTIPL as compared to the estimated surplus in the review Order of November 2010.

As stated earlier, in the Review Order of November 2010, an amount of ₹5812.63 lakhs was left unadjusted to be set off in the next tariff cycle beginning from 2012 onwards. It may also be recalled that in the tariff Order of March 2010 read with the Review Order of November 2010, two instalments of past surplus has already been set off in the estimates for the year 2010 and 2011. Therefore, a sum of ₹18063.26 lakhs (i.e. ₹12250.63 lakhs + ₹5812.63 lakhs) is to be set off over the balance period of 3 years, which is the tariff cycle of the years 2012 to 2014.

(ix). (a). For the period from April 2010 to December 2011, a summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

(**₹ in Lakhs**)

Particulars	Estimates relied upon in the Review Order			Actuals			% Variation
	2010 (9 months)	2011	Total	2010 (9 months)	2011	Total	
Traffic (in TEUs)	1138525	1518034	2656559	1418329	1885801	3304130	+ 24.38%
Op. Income	36123.95 *	48165.26 *	84289.21	47195.19	60696.45	107891.64	+ 28.00%
Total Exps (incl. Depn)	27734.27	37704.78	65439.05	25217.26	34517.69	59734.95	- 8.72%

***** The operating income estimates are moderated to reflect the across the board 10% reduction effected in the then existing rates of GTIPL with effect from 1 April 2010 (except for the income relating to the Inter Terminal Rail Handling Operations.)

(b). The details regarding the actual Return earned by GTIPL on the Capital Employed are given in the following table:

(₹ In Lakhs)

Particulars	2010 (9 months)	2011	Average
Actual Surplus before Return earned by GTIPL	21977.93	26178.76	27518.11
Actual Capital Employed	68380.25	80368.13	84999.07
Actual Return earned on capital employed	32.14%	32.57%	32.37%
Variation in Return on Capital Employed @ 16%	100.88%	103.56%	102.31%

(c). As can be seen from the above tables, the variation in the physical performance is more than + 20%. The average additional surplus over and above the admissible cost and permissible return achieved by the GTIPL during the said period is found to be 102.31%.

(d). As per clause 2.13 of the tariff guidelines, if review of actual physical and financial performance for the previous tariff cycle shows a variation of more than + or – 20%, then 50% of such accrued benefit/ loss has to be adjusted in the next tariff cycle.

It may be recalled that in paragraph no.10(F)(iii)(c) of the Review Order of GTIPL of November 2010, it has been recorded that in the tariff Order of March 2010, the traffic projections as furnished by GTIPL (without any traffic growth) were relied upon and the additional investment on container handling equipment was also taken into account for the purpose of allowing return, subject to the condition that the effect of variation in traffic will not be considered in terms of Clause 2.13 of the tariff guidelines of 2005 but would be adjusted fully. In the same paragraph, it was also clarified that the entire additional surplus will be considered for adjustment only if the variation between the estimated and the actual traffic pertaining to the period from April 2010 to December 2011 is more than + / - 20%. Since, the variation in the estimated traffic vis-à-vis actual traffic for the period from April 2010 to December 2011 is seen to be more than 20%, the entire additional surplus of ₹243.57 crores earned during the period from April 2010 to December 2011 is to be set off fully.

(e). As per Clause 2.13 of the tariff guidelines the past surplus is to be set off prospectively. The Guidelines do not explicitly mention the period during which the past surplus is to be set off. However, taking into account the position that in the last tariff Order of GTIPL of March 2010, the past surplus was decided to be set off over a period of five years, this Authority is inclined to set off the surplus relating to the period April 2010 to December 2011 as assessed in the current exercise over a period of five years beginning from the year 2012 onwards.

(f). As stated earlier, surplus for the period from April 2010 to December 2011 has been assessed taking into account the estimates for the year 2011. The estimates for the year 2011 would, therefore, be replaced with actuals, in the next review of tariff of GTIPL, so as to determine the actual quantum of past surplus for the year 2011.

(x). Clause 2.5.1 of the tariff guidelines of 2005 requires the traffic projections to be in line with the projections in the five year/ annual plan and the current/ expected growth. Inspite of a specific request to furnish an alternate set of cost statements for the years 2012 to 2014, in the light of the actual/ estimated traffic and financial/ cost details for the year 2011 keeping in view the stipulations made in Clause 2.5.1. of the tariff guidelines of 2005, the GTIPL has not furnished the requisite cost statement. In the absence of the requisite details, the cost statement of GTIPL for the years 2012 to 2014 have been constructed based on the revised estimates of traffic, income, expenditure and capital employed for the year 2011 as base.

(xi). As stated earlier, GTIPL has considered traffic of 1395030 TEUs each for the years 2012 to 2014 based on the normative capacity based approach adopted by it. For the reasons stated earlier, the question of restricting the traffic at the capacity of the terminal assessed by GTIPL at 1395030 TEUs does not arise. At the same time, since the GTIPL has deployed 10 number of quay cranes and also taking into account the position that the operating cost and capital cost of all 10 cranes are accommodated in the cost statement, capacity of the terminal with 10 quay cranes works out to 1992900 TEUs at 70% utilisation. Incidentally, the yard capacity is not a constraint at GTIPL.

It may be recollected that the GTIPL during the joint hearing has stated that it would be capable of handling above 2.1 million TEUs in the same facility if tariff increase is granted, as proposed by it. Even the JNPT during the joint hearing has submitted that the capacity of GTIPL is 2.2 million TEUs as of 31 March 2011, as per the communication received from the Ministry. However, the GTIPL has disputed the figure of 2.2 million TEUs. The difference in the optimal capacity determined by us and the capability of GTIPL to handle 2.1 million TEUs as well as the capacity assessed by the Ministry may perhaps be due to different parameters of efficiency considered by the respective parties. The capacity of 1992900 TEUs given the deployment of 10 quay cranes as mentioned above is at 70% utilization of the facilities.

The actual growth in container traffic during the years 2007 to 2011 has not been consistent. While the growth in the year 2008 as compared to traffic for the year 2007 was 29%, the growth in the year 2009 as compared to traffic for the year 2008 was around 2.50%, the growth in the year 2010 as compared to traffic for the year 2009 was around 21% and whereas there is a marginal reduction in traffic (estimated) for the year 2011 as compared to the traffic for the year 2010. Since the past trend of growth is found to be erratic, the trend is not found useful to estimate the traffic growth for future. If a traffic growth of 3% year on year over the traffic for the year 2011 at 1885801 TEUs for the years 2012 to 2014 is considered, then the traffic estimates work out to 1942375 TEUs, 2000646 TEUs and 2060666 TEUs respectively, which is comparable to the optimal capacity based on the deployment of 10 quay cranes at 70% utilization.

If at all, there is a significant reduction in the actual traffic handled by GTIPL as compared to the traffic estimates relied upon now, it is open for the GTIPL to seek an ahead of schedule review of its tariff in terms of clause 3.1.8 of the tariff guidelines, 2008.

(xii). The operating income estimated by GTIPL in the cost statement for the years 2012 to 2014 is for a traffic of 1395030 TEUs. The estimated operating income for the years 2012 to 2014 has been updated to reflect the traffic estimates of 1942375 TEUs, 2000646 TEUs and 2060666 TEUs for the years 2012 to 2014 respectively for the said years.

The GTIPL has stated to have applied an exchange rate of ₹44.96 per US$ to estimate the income from the dollar denominated tariff items. Normally, the dollar exchange rate prevailing at the time of finalization of the case in reference is considered as base to determine the income from the dollar denominated tariff items for the future period. However, given the sudden volatility leading to sharp weakening of the Rupee vis-à-vis the US dollar, it may not be possible to say for certain that this position will continue for next three years. The average exchange rate for the last year was of ₹46.33 per US$, which is considered in the analysis for estimating of income from dollar denominated tariff items for the years 2012 to 2014. In any case, exchange rate fluctuation may not be a significant issue in income estimation in this case since only limited tariff items are denominated in US$ terms.

Therefore, from the income workings furnished by GTIPL, the income from the dollar denominated tariff items like Restows, Hatch covers, Reefer and Shutouts have been updated with reference to the exchange rate of ₹46.33 per US$ for all the years under consideration.

Inspite of a specific request, the GTIPL has not furnished workings to arrive at the income from the storage charges. It is to be noted that storage charges prescribed in the Scale of Rates of GTIPL are dollar denominated. In the absence of workings, the income furnished on this account for the year 2011 is updated with reference to the exchange rate of ₹46.33 per US$.

From the workings for income furnished by GTIPL for the year 2011, it is seen that the GTIPL has considered Inter Terminal Rail Handling Operations (ITRHO) income by considering 20% of the total traffic as ICD containers moved by rail which would attract the levy of ₹400/- per TEU. Relying upon the percentage of ICD containers moved by rail, as furnished by GTIPL, the ITRHO income is calculated on the revised traffic estimates of GTIPL for the years 2012 to 2014. The income on this account thus works out to ₹1553.90 lakhs, ₹1600.52 lakhs and ₹1648.53 lakhs for the years 2012 to 2014 respectively. In addition, the GTIPL has considered the estimated receipts from JNPT and NSICTPL as share for mixed train handling of ICD containers at ₹82.42 lakhs for the year 2011. Since the receipts from other terminals do not have a bearing on the traffic of GTIPL, the same level of receipts is considered for the years 2012 to 2014.

Thus, the estimated ITRHO income for the years 2012 to 2014 works out to ₹1636.32 lakhs, ₹1682.94 lakhs and ₹1730.95 lakhs for the years 2012 to 2014.

No traffic of coastal containers for the years 2009 to 2014 is reported.

By considering the revised estimated traffic for the years 2012 to 2014 as explained earlier and by considering the Exchange rate of ₹46.33 per US$, the revised income works out to ₹62633.40 lakhs, ₹64509.93 lakhs and ₹66442.76 lakhs for the years 2012 to 2014 respectively.

The GTIPL has not furnished workings for the 'Other income' estimated to the tune of ₹45.60 lakhs during the years 2012 to 2014. The estimated other income of ₹45.60 lakhs for the year 2011 is maintained for the years 2012 to 2014 since 'Other income' cannot be said to move in line with traffic, in view of its nature.

(xiii). Clause 2.5.1 of the tariff guidelines of 2005 requires that the expenditure projections of the major port trusts / terminal operators should be in line with traffic adjusted for price fluctuations with reference to current movement of Whole Sale Price Index (WPI) for all commodities announced by the Government of India. Accordingly, this Authority has decided to consider an escalation factor of 6% for the expenditure projections in the tariff cases to be decided during the year 2011-12, as communicated to all the major port trusts and private terminal operators including GTIPL vide letter no. TAMP/27/2005-Misc dated 11 July 2011.

(xiv). The Operating and Direct Labour Cost consists of cost relating to RTG operators man-power cost, lashing & securing cost and Hazardous cleaning cost.

(a). RTG operators cost:

The GTIPL has reported to have outsourced the operation and maintenance of RTGs based on a competitive bidding procedure. From the copy of Agreement dated 23 June 2009, it is seen that the agreement entered into by GTIPL is for a period of 9 years. As seen from the workings, the GTIPL has apportioned 55% of the RTG operations and maintenance cost under RTG operators manpower cost as direct labour cost and the remaining 45% under Repairs & Maintenance cost for the purpose of accounting the expenditure, instead of 1/3rd and 2/3rd being allocated in the tariff Order of March 2010. Nevertheless, the quantum of allocation of the expenditure to two different heads made by GTIPL is considered since as the total expenditure is relevant for deciding the financial position for the three years under consideration.

The rate of 11.50 Euro per hour considered by GTIPL for the year 2011 is seen to be after applying an escalation factor of 6% over the actual rate of 10.85 Euro per hour considered by GTIPL for the year 2010. The Agreement entered by GTIPL in this regard for 9 years stipulates price escalation at the rate of 5% for the first year and 6% for the second year upto 31 May 2012. The rate of 11.50 Euro per hour for the year 2011 has been escalated by 6% each for estimating the expenditure under this head for the years 2012 to 2014, by GTIPL, which is in line with the escalation factor adopted by this Authority for the estimation of expenditure relating to tariff cases to be decided during the year 2011-12.

The GTIPL has estimated the expenditure based on the exchange rate of ₹64 per Euro for the year 2011 and ₹66 per Euro each for the years 2012 to 2014. The average exchange rate for the last year was ₹64.46 per Euro, which is considered for estimating expenditure under the said head for the years 2012 to 2014, for the reasons brought out already.

The payment to the contractor is based on the total RTG hours in a year, which is estimated at 234092 hours per annum by GTIPL for the year 2011. Inspite of a query, the GTIPL has not furnished the basis for the estimated RTG hours of 234092 hours. It may be recalled that in the tariff Order of March 2010, a 10% improvement in the RTG productivity was considered on the ground that the output level for handling by RTGs then

reported by GTIPL at 14.08 TEUs per hour was found to be lower than the normative output level of RTGs at 20 TEUs per hour. Considering 204% handling as considered in the last tariff Order and reported by GTIPL and taking into account the estimated traffic of 2011, as given by GTIPL, it is seen that the output level for RTGs works out to around 15.68 TEUs per hour, which is only a marginal improvement in productivity. Since the RTG output level at 15.68 TEUs per hour is still lower than the normative output level of RTGs at 20 TEUs per hour, a 10% improvement in the RTG hours for the years 2011 to 2014 is considered over the respective previous year, taking the RTG hours given by GTIPL for the year 2011 as base. The revised RTG hours per annum for the revised traffic is therefore, considered at 220725 hours, 205275 hours, 191568 hours and 179436 hours for the years 2011 to 2014.

The moderated estimated expenditure under this head works out to ₹893.50 lakhs, ₹887.14 lakhs, ₹877.58 lakhs and ₹871.32 lakhs respectively for the years 2011 to 2014.

(b). Lashing and Securing Cost:

Lashing and securing work has been outsourced by the GTIPL at a rate of ₹12.25 per box and the contract is valid for 2 years from January 2010 to December 2011. Inspite of a query, the GTIPL has not furnished the workings for the estimates of the said expenditure. The expenditure for the years 2012 to 2014 estimated by GTIPL for traffic of 1395030 TEUs has been updated to reflect the expenditure for the revised traffic for the respective years. While doing so, the escalation factor of 6% per annum considered by GTIPL for estimating the expenditure for the years 2013 and 2014, is maintained.

(c). Hazardous bund cleaning:

It is understood that the cleaning and disposal of hazardous and non-hazardous bund have been outsourced to a private party. From the copy of the document furnished by GTIPL, though it is seen that the contract is valid upto June 2012, it is not found possible to correlate the rates mentioned in the document with the amount estimated by GTIPL for the year 2011. The expenditure for the years 2012 to 2014 estimated by GTIPL for the traffic of 1395030 TEUs has been updated to reflect the expenditure for the revised traffic for the respective years. While doing so, the escalation factor of 6% per annum considered by GTIPL for estimating the expenditure for the years 2012 to 2014, is maintained.

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

(a). Power Cost:

The GTIPL has maintained the actual average power consumption per TEU of 10.07 units per TEU for the year 2010 to estimate the power consumption for the years 2011 to 2014.

The GTIPL has considered the unit rate of ₹11.66 per unit for the year 2011, which is supported by documentary proof and necessary workings. The GTIPL has also furnished the latest electricity bill for the month of October 2011 and workings to show that the unit cost of electricity is ₹12.36 per unit. Since the latest unit rate is available, the estimate of power cost furnished by GTIPL for the year 2011 has been updated to reflect the unit cost of electricity at ₹12.36 per unit for the months of October to December 2011. The unit cost of electricity at ₹12.36 per unit is taken as base and escalated by 6% per annum for the years 2012 to 2014.

The fixed power costs estimated for the year 2011 has been taken as base and escalated by 6% per annum for the years 2012 to 2014, by GTIPL. The same position is relied upon in the analysis.

(b). Fuel Cost:

The fuel consumption at 2.2007 litres per TEU, 2.2484 litres per TEU and 2.2933 litres per TEU for the years 2012 to 2014 respectively has been estimated by GTIPL by considering an escalation of around 2% over the estimated consumption for the year 2011 at 2.119 litres per TEU. The estimates for the year 2011 itself has been escalated by around 14% over the actual fuel consumption of 1.86 litres per TEU for the year 2010. The reason for the year on year increase in the fuel consumption per TEU has not been justified by GTIPL. The actual fuel consumption of 1.86 litres per TEU for the year 2010 is taken as base and maintained for the years 2011 to 2014.

The unit cost of fuel considered by GTIPL at ₹41.63 per litre for the year 2011 is updated to the prevailing rate of ₹45.28 per litre. The unit cost of fuel for the year 2011 is escalated by 6% per annum for estimating the expenditure for the years 2012 to 2014.

(c). Repairs and Maintenance cost:

The estimated repairs and maintenance cost for the year 2011 is escalated by 6% per annum for estimating the said expenditure for the years 2012 to 2014.

(xvi). The estimate of equipment hire charges relates to hire of 25 numbers of tractor trailers for handling containers. The estimated pattern of usage of tractor trailers as given by GTIPL is 100% of the estimated throughput for movement upto container yard, 26% of the estimated throughput from yard to rail and around 12% of estimated throughput for inter-terminal transfer. The GTIPL has considered a hire charge of ₹108 per TEU for movement upto container yard and from yard to rail and has considered a hire charge of ₹110 per TEU for inter-terminal transfer.

The hire charge per TEU considered by GTIPL for the year 2011 is seen to be within the range of ₹112 to ₹99.50 per TEU as prescribed for slab wise structure in the copy of the Agreement furnished by GTIPL. Hence the rate per TEU of hire charge considered by GTIPL is relied upon. The estimates of equipment hire charges for the year 2011 as given by GTIPL is updated to reflect the revised traffic of 1885801 TEUs for the year 2011 and is taken as base to estimate the expenditure under this head for the revised traffic for the years 2012 to 2014 with 6% escalation per annum.

(xvii). The GTIPL has estimated lease rentals payable to JNPT at ₹3609.91 lakhs, ₹3746.32 lakhs and ₹3888.51 lakhs for the years 2012 to 2014 respectively. Though the GTIPL has furnished workings showing broad breakup of lease rent payable for different category of land and other assets, the break-up does not give details like area considered for different category of land and other assets and the unit rate therefor. The JNPT has confirmed that the estimates of lease rentals furnished by GTIPL are in order. The estimates of lease rentals are considered as furnished by GTIPL.

(xviii). Inspite of a request, the GTIPL has not furnished workings to arrive at the estimated Insurance cost for the years 2011 to 2014. The GTIPL has furnished copy of the Insurance policy document pertaining to the period from July 2010 to July 2011. However, the estimates of Insurance cost furnished by GTIPL at ₹396.43 lakhs, ₹420.22 lakhs and ₹445.43 lakhs for the years 2012 to 2014 could not be linked to the Policy document furnished by GTIPL. The GTIPL is seen to have escalated the actual insurance cost for the year 2010 by 6% per annum to estimate the insurance cost for the years 2011 to 2014. The estimates of Insurance cost as furnished by GTIPL for the year 2011 is maintained for the years 2012 to 2014, in the absence of workings not being furnished by the GTIPL.

(xix). As reported by GTIPL, the estimated other expenses relate to internal transportation, operational water, inventory differences, inventory written off, customs duty/ clearance on spare parts, shifting cargo/ vessel expenses, cargo claims/ recovered, operational lubricants etc. The GTIPL has not linked this expenditure to the projected traffic. The GTIPL has estimated the said expenditure at ₹251.02 lakhs, ₹266.08 lakhs and ₹282.05 lakhs for the years 2012 to 2014 respectively, by applying an escalation factor of 6% per annum over the estimate of respective previous year, taking the estimates for the year 2011 as base. This position is relied upon in the analysis.

(xx). The payment of Technical Service Fee for the years 2012 to 2014 is not supported by any documentary evidence. Though the GTIPL has not furnished workings to arrive at the amount of Technical service Fee (TSF) estimated for the years 2012 to 2014, it has requested to consider the current exchange rate for estimation of Technical Service Fee.

Relying on the assessment made by the Income Tax authority regarding payment of technical service fee by GTIPL to the associated enterprises for the assessment year 2008-09, it can be reasonably presumed that such payment will be similarly treated for the years 2012 to 2014 also. However, in the absence of workings, no moderation is carried out in the estimates of Technical Service Fee, with regard to the latest exchange rate. The estimates furnished by GTIPL for the years 2012 to 2014 is relied upon, in this exercise, subject to the condition that the GTIPL at the time of next review would produce the Income tax assessment Orders for the years 2009 to 2014 to support the admittance of this expenses by the IT department. If such evidence is not produced by GTIPL, the expenditure considered for the years 2009 to 2014 would be reviewed and fully adjusted in the next tariff revision cycle.

(xxi). The GTIPL has not separately claimed any allowance for efficiency gain, as it has maintained a stand of determining tariff with reference to the standard capacity of 1395030 TEUs as assessed by it, with perhaps an assumption that the revenue contribution from the actual volumes handled above the standard capacity so determined by it, would be the reward for efficiency. The users are of the view that efficiency and efforts put in to achieve higher than the expected targets should always be rewarded. As such, the users have urged for ensuring recognition of efficiency of the terminal by way of rewarding the terminal. Efficiency gain is to be assessed and factored in future estimates in terms of Clause 2.4.1 of the tariff guidelines of 2005.

Clause 2.4.1. of the guideline states that the benchmark for efficiency will be the average performance of the same operator at the same terminal achieved in the immediately preceding tariff cycle. For this purpose a comparison will have to be made of the cost reduction achieved by the operator in the immediately preceding tariff cycle with that of the tariff cycle, which preceded it.

As such it is necessary to make a comparison of the relevant items of cost incurred during the years 2010 and 2011 (covered by the tariff Order of March 2010) with the corresponding relevant items of actual cost incurred during the years 2006 to 2008 (covered by the tariff Order of August 2006) and the year 2009 which formed part of the extended period of validity of the August 2006 Order, as explained earlier. The computation of efficiency gain with respect to the cost items which are variable with traffic is explained hereinunder:

(a). Power cost:

The power consumption for the years 2006 and 2007 are not separately available from the earlier records. By considering the actual unit cost of electricity for the year 2008 at ₹8.87 per unit, the power consumption for the years 2006 and 2007 is worked out at 15.75 units per TEU and 10.64 units per TEU respectively. The power consumption for the year 2008 was 13.73 units per TEU, as recorded in the March 2010 Order of GTIPL. The actual power consumption for the year 2009 as reported by GTIPL in the

current tariff review exercise is 9.55 units per TEU. Thus the average power consumption per TEU for the years 2006 to 2009 works out to 12.42 units per TEU.

The actual power consumption for the year 2010 as well as the estimated power consumption for the year 2011 as reported by GTIPL is 10.07 units per TEU. Accordingly, there is a reduction in the power consumption per TEU by 2.35 units. It is to be noted that the estimates of power cost for the years 2012 to 2014 rely upon the power consumption of 10.07 units per TEU. 50% of the Efficiency gain at 1.17units per TEU at the escalated unit rate of electricity on the revised estimated traffic is allowed for each of the years 2012 to 2014.

(b). Fuel cost:

The fuel consumption for the year 2006 is not separately available. By considering the actual cost of fuel for the year 2007 at ₹35.39 per litre, the fuel consumption for the year 2006 is worked out at 4.60 litres per TEU. The fuel consumption for the years 2007 and 2008 is 2.21 litres per TEU and 2.17 litres per TEU, as considered in the March 2010 Order of GTIPL. The actual fuel consumption as reported by GTIPL is 1.81 litres per TEU for the year 2009. Thus the average fuel consumption per TEU for the years 2006 to 2009 works out to 2.70 litres per TEU.

The actual fuel consumption as reported by GTIPL is 1.86 litres per TEU for the year 2010 and the estimated fuel consumption as reported by GTIPL is 2.119 litres per TEU for the year 2011. For the reasons recorded earlier, the fuel consumption for the year 2011 is also maintained at 1.86 litres per TEU. Thus, the average fuel consumption per TEU during the years 2010 and 2011 is considered at 1.86 litres. Accordingly, there is a reduction in the fuel consumption per TEU by 0.84 litres. 50% of the Efficiency gain at 0.42 litres per TEU at the escalated unit rate of fuel on the revised estimated traffic is allowed for each of the years 2012 to 2014. It is to be noted that the estimates of fuel cost for the years 2012 to 2014 rely upon the fuel consumption of 1.86 litres per TEU.

(c). Equipment hire charges:

The per TEU equipment hire charges for the years 2006 and 2007 are not available. For the year 2008, the GTIPL has reported the hire charge at ₹100/- per TEU. As stated earlier, the GTIPL has neither furnished workings nor furnished the documentary evidence to support per TEU hire charge for the years 2009 to 2011. The GTIPL has considered a hire charge of ₹108 per TEU for movement upto container yard and from yard to rail and has considered a hire charge of ₹110 per TEU for inter-terminal transfer for the years 2012 to 2014. As per the stipulation made in the Guidelines, the benefit of Efficiency can be given to an operator only if it continues to project the future cost at a reduced level. The GTIPL is seen to have considered a higher rate for estimating equipment hire charges. Hence, Efficiency gain in respect of Equipment hire charges is not considered.

Thus, the amount to be allowed on account of the Efficiency Gain in power and fuel together works out to ₹689.56 lakhs, ₹752.86 lakhs and ₹821.97 lakhs for the years 2012 to 2014 respectively.

(xxii). The Management and Administration Overheads comprises of Salary of staff and the related Staff welfare expense, as seen from the details furnished by GTIPL. This item of expenditure is different from the Operating labour cost as the operating labour cost is with reference to the expenditure related to the RTG operators. The GTIPL has not linked the Management and Administration Overheads to the projected traffic and has estimated this expenditure for the years 2012 to 2014 by considering an escalation of around 7.50% over the estimated expenditure of the respective previous years, taking the estimates for the year

2011 as base. To a query in this regard, the GTIPL has stated that the estimates of management and administration overheads include additional impact on account of increments to be given as per the Collective Bargaining Agreement (CBA) signed with the Internal Union. The GTIPL has furnished a copy of the Agreement dated 27 September 2011 which would be valid till March 2014. However, from the Annex forming part of the Agreement, it is seen that there is an increase in wages to the tune of 19% for the period from April 2011 to March 2012, 15% increase from April 2012 to March 2013 and 13% increase from April 2013 to March 2014, with respect to some category of employees only. In view of the above position, the Management and Administration Overheads as estimated by GTIPL for the years 2012 to 2014 is relied upon in the analysis, subject to verification of estimates with actuals in the next review of tariff of GTIPL.

(xxiii). The General Overheads comprise of Repairs and maintenance of Office, Employee insurance, Food and Canteen Expenses, Training expenses, Office Repair charges, Office Electricity expenses, CISF Security fees, facilities maintenance, Conveyance, Printing & Stationary, Travel and Marketing Expenses, Communication Cost, Professional Charges - Audit Fess and Legal Charges, Hardware & Software Maintenance etc. GTIPL has estimated the said expenditure at ₹4679.59 lakhs, ₹4960.36 lakhs and ₹5257.99 lakhs for the years 2012 to 2014 respectively, by applying an escalation factor of 6% per annum over the estimate for the year 2011. This position is relied upon in the analysis.

(xxiv). Preliminary expenses written off to the tune of ₹205 lakhs per annum for the years 2012 to 2014 is in line with the approach adopted in the tariff Order of March 2010 and relied upon in the analysis.

(xxv). The GTIPL has not estimated any Finance and Miscellaneous Income and Expenditure for the years 2012 to 2014.

(xxvi). Inspite of a specific request to furnish Form – 4A which gives details of Capital Employed with respect to the years 2012 to 2014, the GTIPL has not furnished the same. The net block of assets furnished in the Form – 4A for the year 2011 is taken as base and adjusted for depreciation, to determine the net block of assets for the years 2012 to 2014. The adjustment relating to Lease rental amortization and terminal rights adjustments as explained in the earlier part of the analysis, is reckoned with while arriving at the net block of assets for the years 2012 to 2014. It is relevant to mention here that inspite of a query in this regard, the GTIPL has not furnished details of additions to its gross block of assets, if any, for the years 2012 to 2014.

(xxvii). Working Capital:

On the ground that the normative level of assets does not recognize Working capital as part of the Capital Employed, the GTIPL has not estimated Workings capital for the years 2012 to 2014. However, we have recognized Working capital on the following basis for the years 2012 to 2014:

(a). As already mentioned, prepayments of certain expenses which flow from the provisions of the Licence Agreement can be considered as Sundry Debtors.

As per the License Agreement entered by the GTIPL with the JNPT, the lease rentals are to be paid by GTIPL annually in advance. Accordingly, as explained in the initial part of the analysis, 50% of the lease rentals for the years 2012 to 2014 have been considered as prepayments of lease rentals forming part of current assets for the said years.

(b). The tariff guidelines of 2005 has prescribed a limit of six months average consumption of stores excluding fuels incase of items of Inventory. In the absence of requisite details, the level of Inventory considered for the year 2011 by GTIPL is maintained for the years 2012 to 2014.

(c). Cash balance has been calculated at one month's operating expenses including overheads.

(d). The figure of current liabilities as relied upon for the year 2011 is maintained for the years 2012 to 2014.

(e). Subject to the above, the Working Capital works out to ₹3249.60 lakhs, ₹3451.08 lakhs and ₹3664.98 lakhs for the years 2012 to 2014 respectively.

(xxviii). Capital Employed comprising of Net Block of Assets and Working capital works out to ₹68723.93 lakhs, ₹57021.13 lakhs and ₹45330.75 lakhs for the years 2012 to 2014 respectively.

(xxix). As stated earlier, the optimal capacity of GTIPL has been assessed at 1992900 TEUs. This assessment is for the purpose of deciding the entitlement of GTIPL for the maximum permissible level of Return on Capital Employed as per Clause 2.9.10 of the 2005 guidelines. Since the capacity utilization works out to more than 60%, Return on the Capital Employed at the rate of 16% is allowed for the years 2012 to 2014. It is to be borne in mind that the capacity of 1992900 TEUs is the optimal capacity at 70% utilization.

(xxx). Subject to the above discussions, the Cost statement has been modified. The modified Cost statement is attached as **Annex - II.** The results disclosed in the Cost statement are summarized below:

(₹ in Crores)

Particulars	2012	2013	2014	Total
Operating Income	626.79	645.56	664.88	1937.23
Net Surplus	257.20	278.69	299.59	835.48
Net Surplus as a percentage of Operating Income	41.03%	43.17%	45.06%	43.09% (Average)

In view of the revenue surplus position even at the existing level of tariff after adjusting all admissible estimated costs and permissible return, depicted in the Cost statement, no case emerges for granting any increase in tariff as proposed by the GTIPL. There is infact a strong case to effect a reduction in the existing level of tariff at GTIPL to maintain the cost plus approach envisaged by the tariff guidelines of March 2005.

(xxxi). The average net surplus position of 43.09% is with reference to the estimated operating income for the years 2012 to 2014 at the existing tariff which includes the estimated income from rail handling operations of ICD containers (ITRHO) at ₹1636.32 lakhs, ₹1682.94 lakhs and ₹1730.95 lakhs for the years 2012 to 2014 respectively. Since the tariff for the ITRHO containers is governed by a separate tariff Order and commonly applicable to all the terminals at JNPT, the reduction warranted by the cost position will not be applicable on the existing rate of ₹400 per TEU for ITRHO of ICD containers. Taking into account the net surplus of ₹835.48 crores for the years 2012 to 2014 and considering the adjusted estimated operating income of ₹1886.73 crores for the corresponding period, the average net surplus as a percentage of operating income works out to 44.28%. The existing tariff level is, therefore, reduced by 44.28% across-the-board.

(xxxii). The proposal of GTIPL is not based on itemwise cost for each tariff item. The GTIPL was requested to furnish cost elements considered in the proposed charges. The GTIPL has expressed its inability to provide such information, on the ground that it does not maintain separate cost details of the activities. Since the proposed tariff for individual services is not with reference to the cost of providing the respective services, it is possible that the deficit in one component of operation is cross subsidized by the surplus in other components. The GTIPL is advised to gear up its internal system so that it can draw up its proposal supported by cost details for individual activities at the time of next review of its tariff.

(xxxiii). The GTIPL has sought different percentage of increase for different tariff items for some or the other reasons. In this context, it is relevant to note here that if any increase in tariff is granted as sought by GTIPL, it would further increase the percentage of across the board reduction in tariff, as discussed in the earlier paragraph, owing to accrual of additional income from such higher level of tariff. Non prescription of higher rates as proposed by GTIPL would not, however, put GTIPL in a disadvantageous position for the reason that the cost position is analysed for the terminal as the whole and, as stated in the preceding paragraph, since the tariff for individual services is not with reference to the cost of providing the respective services, flow of cross-subsidies between different component of operations will maintain the revenue equilibrium.

(xxxiv).The GTIPL has proposed to have the tariff for normal empty container at par with the tariff of normal loaded container. Similarly, it has proposed to have the tariff for empty transshipment container at par with the tariff of loaded transshipment container. Also, the GTIPL has proposed to prescribe the rates for empty ODCs at par with the rates for loaded ODCs. The reason being given that costs for handling empty and loaded container is almost the same and also because Clause 5.3 of the tariff guideline of 2005 stipulates that Charges for ship-shore handling and storage of loaded and empty containers will continue to be the same.

With regard to the stipulation contained in the guidelines as mentioned by GTIPL, it is noteworthy that the guideline stipulates uniform rate for handling loaded and empty containers only with reference to a ship to shore transfer. However, incase of GTIPL, a consolidated rate has been prescribed for ship to yard transfer. In such a scenario, it may not be possible to extend the scope of the stipulation of the guidelines for ship to yard transfer, as proposed by GTIPL.

The GTIPL has not established as to how the costs for handling empty and loaded container are the same. It is relevant to mention here that the Scale of Rates of the neighbouring terminals of GTIPL viz., JNPT container terminal and NSICTPL prescribe lower tariff for the empty containers as compared to the loaded containers. The users like MANSA and SCI have objected to the proposal of GTIPL. In view of the above, this Authority is not in a position to approve the proposal of GTIPL for prescription of uniform rates for loaded and empty containers.

(xxxv).In the existing arrangement, the reefer containers are treated at par with normal containers. For hazardous containers, a premium of 25% over the rates for normal containers is prescribed. Now, the GTIPL has proposed that the hazardous containers and reefer containers to attract 2 times the charges prescribed for the normal containers.

For the proposal of GTIPL to treat the reefer containers at par with hazardous containers, the GTIPL has stated that every terminal has dedicated reefer stacks just as the case for hazardous containers and that special care is to be taken for handling hazardous and reefer containers considering the associated risk factor involved in these containers. Also, as per clause 5.3 of 2005 Guidelines higher charges would be allowed for containers having hazardous goods, reefer and for any special services.

Though Clause 5.3 of the tariff guidelines stipulate that higher charges would be allowed for containers having hazardous goods, reefer and for any special services, Clause 5.7.3 of the guidelines stipulates that premium to the extent of 25% would be allowed incase of hazardous containers. Thus, by harmonious reading both the stipulations together, it appears that premium of only 25% can be allowed incase of handling hazardous containers.

With regard to Reefer containers, it is relevant to mention here that the Scale of Rates of the neighbouring terminals of GTIPL viz., JNPT container terminal and NSICTPL treat reefer containers at par with normal containers. The users have also objected to the proposal of GTIPL. The additional income furnished by the GTIPL in this regard is a combined position involving the Hazardous as well as

reefer containers. The financial implication for the reefer containers alone is not furnished. Therefore, this Authority is not in a position to accede to the request of the GTIPL to prescribe premium for handling reefer containers. The existing arrangement to treat the reefer containers at par with normal containers will continue.

(xxxvi). The GTIPL has proposed to charge the ODC transhipment containers at twice the rates for the normal transhipment containers on the ground that as per the model Scale of Rates of TAMP, transhipment ODCs are eligible for double the rates applicable to normal transhipment containers.

In this regard, it may be recollected that the GTIPL in their Review application which culminated in the tariff Order of November 2010 had, interalia, proposed to prescribe rates for transhipment ODCs at twice the rates for the normal transhipment containers. As recorded at paragraph no.10(G)(ii)(d)(ii) of the Order dated 3 November 2010, the tariff guidelines of 2005 do not stipulate a higher rate for handling ODCs. In the neighbouring terminals at NSICT and container terminal operated by JNPT, the rates prescribed for ODCs do not differentiate between transhipment ODC containers and other ODC containers. Additional efforts are involved in handling ODC's. However, the cost details are not quantified and furnished separately. The extra cost, if any, is in any case built into the expenditure estimates for the terminal as a whole. This Authority was, therefore, not in a position to accede to the request made by GTIPL in this regard, at that point of time. The GTIPL was advised to propose higher charges for handling transhipment ODCs in the next review of tariff of GTIPL, supported by cost details, if it so desires.

Even now, the GTIPL has not furnished the cost details as sought by this Authority in the earlier occasion, to justify the prescription of higher rates for handling transshipment ODCs. In this backdrop, this Authority is not inclined to accede to the request made by GTIPL in this regard.

(xxxvii). The GTIPL has proposed a 29.50% increase in the rates for Opening of Hatchcover and replacing it (Section 5), Restows (Section 6) and Shut outs (Section 7), over the existing tariff so as to have the rates at par with that of NSICTPL for similar services.

To have similarity in the rates for similar services rendered at other terminal cannot be a ground to seek a higher increase in tariff. It may have to be borne in mind that rates for services rendered at a particular terminal are arrived based on the terminal's cost position. At the same time, if the proposal of GTIPL is supported with cost justifications with reference to its terminal, its request can be processed. However, inspite of a request, the GTIPL has not furnished any cost workings in support of its proposal. The proposal of GTIPL seeking a higher percentage of increase in the rates for Hatchcover, Restows and Shut outs, is not acceded to.

(xxxviii). The GTIPL has proposed 94.28% increase in the existing rates for Reefer Monitoring and Connection (Section 8) in view of the substantial hike in electricity cost due to change in the tariff category of GTIPL from industrial to commercial. The GTIPL has also stated that with the proposed increase in tariff, the rates for the said service would almost be at par with that of NSICTPL for similar service.
In this regard, it may be recollected that the GTIPL in their Review application which culminated in the tariff Order of November 2010 had, interalia, proposed higher charges for Reefer connection on the ground of increase in the electricity cost. As recorded in paragraph no.10(G)(ii)(b) of the Order dated 3 November 2010, the basis for the proposed increase in the charges for Reefer Monitoring and Connection is stated to be on account of higher electricity consumption and increase in unit rate of electricity. However, since the expenses related to handling reefer containers had already been captured in the tariff Order of March 2010 and also since no new position was been brought out by GTIPL then, warranting increase in the charges for Reefer monitoring and connection, this Authority had not acceded to the request made by GTIPL then.

Now, an electricity consumption of 10.07 units per TEU has been considered in the analysis, as furnished by GTIPL, to determine the power costs for the years 2012 to 2014 apart from the allowance for efficiency gain. The per unit cost of electricity at ₹12.36 per unit for the year 2012 has also been considered based on the documentary evidence furnished by GTIPL. The expenses relating to the Reefer containers have already been captured in the cost position of the terminal as a whole. No other justification has been furnished by GTIPL in support of its proposal seeking a higher increase in tariff for the Reefer monitoring and connection. The proposal of GTIPL in this regard is not approved.

(xxxix). The existing Scale of rates prescribe Reefer Monitoring and Connection charges on 4 hourly basis. In the proposed Scale of Rates, in addition to the existing arrangement, the GTIPL has proposed charges for Reefer Monitoring and Connection on per day basis also for having uniformity in the billing process.

In the Scale of Rates of all other major container terminals in India, the rates for Reefer Monitoring and Connection has been prescribed on four hourly basis, in line with the Clause 5.7.1 of the tariff guidelines of 2005. The GTIPL has not explicitly brought out the occasions when the GTIPL would like to invoke the levy on per day basis. Prescription of different levies for the same service in the Scale of Rates would lead to confusion, apart from the proposal not being in line with the guideline position. This Authority, therefore, allows the existing arrangement of prescription of levy for Reefer Monitoring and Connection on four hourly basis, to continue.

(xL). The GTIPL has proposed to introduce a new Note no. 4 under Section – 8 stating that for reefer containers if the return air temperature at the time of gate in is having a variation of more than 5^{o} C as compared to the set temperature, then the plugging charges will be doubled. While responding to a query in this regard, the GTIPL has stated that a reefer container and the reefer machinery is basically designed to maintain a temperature which is referred to as set temperature depending on the perishables that are stuffed in the container. Improper Cargo Stuffing at a temperature higher than the set temperature leads to the reefer container machinery to bring down the temperature to the set temperature. As such, the GTIPL has proposed the said conditionality to ensure that the cargo stuffing for reefer containers are adhered to as per International Standards.

The GTIPL has not explicitly brought out as to how such a situation was dealt by it in the past. Moreover, there is no prescription of a similar conditionality in the Scale of Rates of any other major container terminals in India. The GTIPL has not brought out any special circumstances warranting the need for a specific prescription in this regard at its terminal. This Authority, therefore, is not in a position to approve the proposed conditionality.

(xLi). The GTIPL has proposed a new tariff item under Section 8(ii) towards Pre-trip Inspection including supply of electricity at US$ 47.68 per move. As mentioned by GTIPL, Pre trip inspection (PTI) is an optional service which is done at the request of the users to check reefer machinery preparedness before handing over empty reefer unit for cargo stuffing. In response to a query in this regard, the GTIPL has expressed its inability to furnish the cost justification for the proposed rate. In the absence of the cost details, the Authority is not in a position to approve the proposed rates for Pre-trip Inspection.

(xLii). The existing rate for fixing of bottle seals has been proposed to be increased by 300% i.e. from the existing rate of ₹200/- to ₹800/- by GTIPL. The GTIPL has stated to have proposed the increase so as to discourage and to have a deterrent effect, thereby preventing the containers from entering the terminal without seals which is against the law.

The users like SCI and MANSA have objected to the said increase in the rates. However, considering the position that the proposed levy is penal in nature, the proposal of GTIPL is, therefore, approved.

(xLiii). The conditionality relating to the levy of 'One door Open charge', as approved in the Order dated 3 November 2010 of GTIPL is reinstated in the proposed Scale of Rates of GTIPL.

(xLiv). The GTIPL has proposed a 13.87% increase in the dwell time charges of Loaded Import containers so as to make the rates comparable to that prevailing at NSICTPL. Similarly the GTIPL has proposed to reduce the existing 3 free days to zero, and has also proposed a 30% hike in the dwell time charges relating to Empty Import and Export containers, so as to make the rates and structure at par with NSICTPL. The GTIPL has also proposed a reduction in free days of ICD – Loaded and Empty Import and Export containers moved by rail from the existing 10 days to 7 days.

The GTIPL has also not quantified the additional income to be generated on account of the proposed changes due to non availability of dwell time analysis. As stated earlier, to have similarity in the rates for similar services rendered at other terminal cannot be a ground to seek a higher increase in tariff. The rates for services rendered at a particular terminal are to be arrived based on the terminal's cost position. Since the GTIPL has not furnished any cost details in support of its proposal, the proposal of GTIPL with reference to the above mentioned tariff items are not approved.

(xLv). In the existing arrangement, the hazardous containers attract 1.25 times the dwell time charges of the normal containers. Now, the GTIPL in the Notes relating to the levy of storage charges has proposed that the hazardous containers and reefer containers to attract 2 times the dwell time charges of the normal containers.

Prescription of premium for hazardous containers is governed by the stipulation contained at Clause 5.7.3 of the tariff guidelines of 2005 and hence the storage rates for hazardous containers cannot be prescribed at twice the rates for normal containers, as proposed by the GTIPL. With regard to the prescription of higher storage rates for reefer containers, for the reasons mentioned earlier, the proposal of GTIPL is not approved.

(xLvi). In line with clause 2.18.2 of the tariff guidelines, the proposed note relating to penal interest for delayed payment by users/ refund by GTIPL has been modified to reflect the prevailing Prime Lending Rate of State Bank of India at 14.75% plus 2%.

11. In the result, and for the reasons give above, and based on a collective application of mind, this Authority approves the revised Scale of Rates of the GTIPL which is attached as **Annex- III**.

12.1. The GTIPL has requested to make effective their tariff Order after expiry of 30 days from notification or to continue with the existing rates till new tariff guidelines are announced by the Government. In this connection, it is stated that tariff review has to be undertaken when due and by following the tariff guidelines that are in force at the material time. Therefore, this Authority is not in a position to accede to the request of the GTIPL to continue with the existing rates till new tariff guidelines are announced by the Government.

As per the stipulation made in Clause 3.2.8 of the tariff guidelines of March 2005, the revised/ modified charges will come into effect after expiry of 30 days from the date of gazette notification, unless otherwise different arrangement is specifically mentioned in the respective tariff orders. The 30 days lead time for implementation of the Orders is not a mandatory time limit stipulated by the Guidelines. It is only a default time limit prescribed for implementation of a tariff Order, if this Authority does not set any other time limit. In the past also, this Authority has prescribed lead time shorter than 30 days. Considering the fact that the validity of the existing tariff has already expired with effect from 31 December 2011 the revised Scale of Rates and conditionalities of the GTIPL will come into effect after expiry of 15 days from the date of notification in the Gazette of India and would be in force till 31 December 2014. The approval accorded would automatically lapse thereafter unless specifically extended by this Authority.

12.2. The validity of the existing Scale of Rates of the GTIPL is deemed to have been extended beyond 31 December 2011 till the effective date of implementation of the revised Scale of Rates.

12.3. This Authority has relied upon the estimates for the years 2012 to 2014. Additional surplus, if any, arising due to variation in actual performance in the said years will be governed by the provisions of Clause 2.13 of the tariff guidelines of 2005 in the next review.

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

13. In this regard, the GTIPL is required to furnish to this Authority its annual accounts and performance report within 60 days of closing of the respective accounting year. If GTIPL fails to provide such information within the stipulated time period, the JNPT may initiate appropriate action against GTIPL. In the event, this Authority would proceed suo motu to review the tariff of GTIPL. This apart, analysis of variation may also be made at the time of the next general review at the end of the usual tariff validity period and adjustment of additional surplus would be made in line with the tariff guidelines of March 2005 in the tariff to be fixed for the next cycle.

(Rani Jadhav)
Chairperson

Annex - I

Gateway Terminals India Private Limited (GTIPL)

Analysis of performance of GTIPL for the years 2009 to 2011

₹ in lakhs

Sr. No.	Particulars	Estimates relied upon in the tariff Order of March 2010 as revised in the Order of November 2010				Actuals		
		2009	2010 (3 months)	2010 (9 months)	2011	2009	2010	2011 *
	Traffic (In TEUs)	1518034	379508	1138525	1518034	1559879	1891105	1885801
I	**Total Operating Income**							
	Container handling income	53359.68	13339.92	36123.95	48165.26	55207.66	62824.51	60650.85
	Other Income	0.00	0.00	0.00	0.00	93.44	102.41	45.60
	Total	**53359.68**	**13339.92**	**36123.95**	**48165.26**	**55301.10**	**62926.92**	**60696.45**
II	**Operating Costs (excluding depreciation)**							
	Operating & Direct Labour	766.60	175.79	527.36	671.14	619.11	996.82	1068.62
	Equipment Running Costs	5428.19	1361.74	4085.23	5633.28	4049.22	4754.07	5346.49
	Equipment Hire	3142.33	831.15	2493.44	3517.41	2277.81	2693.65	2815.12
	Lease Rentals	3234.26	838.57	2515.71	3496.34	3231.67	3344.43	3479.47
	Insurance	476.71	126.09	378.27	533.61	395.40	352.82	373.99
	Other expenses	363.63	96.18	288.54	407.04	166.74	223.41	236.81
	Techncial Service Fee	1488.98	390.91	1172.74	1641.62	1300.00	2807.35	1300.00
	Total	**14900.70**	**3820.43**	**11461.29**	**15900.44**	**12039.95**	**15172.55**	**14620.50**
III	Depreciation	12453.32	3312.89	9938.67	12880.63	10687.48	11348.48	12167.68
IV	**Overheads**							
	Management & Administration overheads	3023.28	799.66	2398.97	3384.15	2682.25	2816.80	3109.80
	General Overheads	4765.71	1260.53	3781.59	5334.56	3714.73	4080.18	4414.71
	Preliminary expenses & Upfront Payment write-off	205.00	51.25	153.75	205.00	205.00	205.00	205.00
	Total	**7993.99**	**2111.44**	**6334.31**	**8923.71**	**6601.98**	**7101.98**	**7729.51**
V	**Operating Surplus (I) – (II) – (III) - (IV)**	**18011.67**	**4095.16**	**8389.68**	**10460.48**	**25971.69**	**29303.91**	**26178.76**
VI	Finance & Miscellaneous Income (FMI)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
VII	Finance & Miscellaneous Expenses (FME)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
VIII	FMI Less FME (VI) - (VII)	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**18011.67**	**4095.16**	**8389.68**	**10460.48**	**25971.69**	**29303.91**	**26178.76**
X	Capital Employed	103111.74	23118.53	69355.60	80655.77	96813.15	91173.67	80368.13
XI	Return on Capital Employed	16497.88	3698.96	11096.90	12904.92	15490.10	14587.79	12858.90
XII	**Net Surplus / (Deficit) (IX) - (XI)**	**1513.79**	**396.20**	**-2707.22**	**-2444.44**	**10481.59**	**14716.12**	**13319.85**
XIII	**Adjustment of past surplus earned during the period from 2006 upto March 2010**	**0.00**	**0.00**	2143.03	2857.38	**-**	**-**	**-**
XIV	**Total Net surplus**	**1513.79**	**396.20**	**-564.19**	**412.94**	**10481.59**	**14716.12**	**13319.85**

Annex - II

Gateway Terminals India Private Limited (GTIPL)

Consolidated Income & Cost statement for the private terminal

₹ in lakhs

Sr. No.	Particulars	Actuals		Estimates at the existing level of tariff as given by GTIPL			Estimates at the existing level of tariff as moderated by TAMP		
		2010	2011 *	2012	2013	2014	2012	2013	2014
	Traffic (In TEUs)	1,891,105	1,885,801	1,395,030	1,395,030	1,395,030	1,942,375	2,000,646	2,060,666
I	**Total Operating Income**								
	Container handling income	62,824.51	60,650.85	44,869.67	44,869.67	44,869.67	62,633.40	64,509.93	66,442.76
	Other Income	102.41	45.60	45.60	45.60	45.60	45.60	45.60	45.60
	Total	**62,926.92**	**60,696.45**	**44,915.27**	**44,915.27**	**44,915.27**	**62,679.00**	**64,555.53**	**66,488.36**
II	**Operating Costs (excluding depreciation)**								
	Operating & Direct Labour	996.82	1,068.62	932.77	988.74	1,048.07	1,067.79	1,074.81	1,086.66
	Equipment Running Costs	4,754.07	5,346.49	4,399.50	4,695.65	5,009.56	5,898.10	6,388.62	6,921.11
	Equipment Hire	2,693.65	2,815.12	2,207.45	2,339.90	2,480.29	3,073.55	3,355.70	3,663.76
	Lease Rentals	3,344.43	3,479.47	3,610.07	3,746.32	3,888.51	3,609.91	3,746.32	3,888.51
	Insurance	352.82	373.99	396.43	420.22	445.43	373.99	373.99	373.99
	Other expenses	223.41	236.81	251.02	266.08	282.05	251.02	266.08	282.04
	Technical Service Fee	2,807.35	1,300.00	1,488.98	1,563.65	1,641.62	1,488.98	1,563.65	1,641.62
	Efficiency Gains	-	-	-	-	-	689.56	752.86	821.97
	Total	**15,172.55**	**14,620.50**	**13,286.23**	**14,020.56**	**14,795.53**	**16,452.90**	**17,522.03**	**18,679.66**
III	Depreciation	11,348.48	12,167.68	9,217.52	9,217.52	9,217.52	12,167.68	12,167.68	12,167.68
IV	**Overheads**								
	Management & Administration overheads	2,816.80	3,109.80	3,350.79	3,600.24	3,858.65	3,350.79	3,600.24	3,858.65
	General Overheads	4,080.18	4,414.71	4,679.59	4,960.36	5,257.99	4,679.59	4,960.37	5,257.99
	Preliminary expenses & Upfront Payment write-off	205.00	205.00	205.00	205.00	205.00	205.00	205.00	205.00
	Total	**7,101.98**	**7,729.51**	**8,235.38**	**8,765.60**	**9,321.64**	**8,235.38**	**8,765.61**	**9,321.64**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	29,303.91	26,178.76	14,176.14	12,911.58	11,580.58	25,823.04	26,100.21	26,319.37
VI	Finance & Miscellaneous Income (FMI)	-	-	-	-	-	-	-	-
VII	Finance & Miscellaneous Expenses (FME)	-	-	-	-	-	-	-	-
VIII	**FMI Less FME (VI) - (VII)**	-	-	-	-	-	-	-	-
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**29,303.91**	**26,178.76**	**14,176.14**	**12,911.58**	**11,580.58**	**25,823.04**	**26,100.21**	**26,319.37**
X	Capital Employed	91,173.67	80,368.13	105,064.69	105,045.21	105,025.74	68,723.93	57,021.13	45,330.75
XI	Return on Capital Employed	14,587.79	12,858.90	16,810.35	16,807.23	16,804.12	10,995.83	9,123.38	7,252.92
XII	**Net Surplus / (Deficit) (IX) - (XI)**	14,716.12	13,319.85	(2,634.21)	(3,895.65)	(5,223.54)	14,827.21	16,976.83	19,066.45
XIII	Adjustment of the entire surplus for the period from April 2010 to December 2011 in five years beginning form the year 2012 onwards.		24,356.95	-	-	-	4,871.39	4,871.39	4,871.39
XIV	Adjustment of past surplus arising from the Review Order of November 2010.			-	-	-	6,021.09	6,021.09	6,021.09
XV	**Total Surplus**			**(2,634.21)**	**(3,895.65)**	**(5,223.54)**	**25,719.68**	**27,869.30**	**29,958.92**
XVI	Net Surplus as a percentage of operating income			-5.86%	-8.67%	-11.63%	41.03%	43.17%	45.06%
XVII	**Average Net Surplus as a percentage of operating income**			**-8.72%**			**43.09%**		

* Estimates

Annex - III

GATEWAY TERMINALS INDIA PRIVATE LIMITED
Scale Of Rates

I. Definitions:-
1.1“GTI” or “Terminal” means GATEWAY TERMINAL INDIA PVT. LTD.

1.2.“Coastal Vessel” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the competent authority.

1.3“Foreign Vessel” shall mean any vessel other than a coastal vessel.

1.4“Container” means the standard ISO container, suitable for transport and stacking of cargo and must be capable of being handled as a unit and lifted by a crane with a container spreader.

1.5“Full Container Load (FCL)” means a container containing cargo belonging to one consignee in the vessels manifest.

1.6“Less than Container Load (LCL)” means a container containing cargo belonging to more than one consignee in the vessels manifest.

1.7“Free period” shall mean the period during which cargo/ container shall be allowed storage free demurrage charges / ground rent and the period shall exclude Customs notified holidays and Terminal's non-operating days.

1.8 “Hazardous container” means a Container containing hazardous goods as classified under IMO.

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).

1.10 "Port" shall mean Jawaharlal Nehur Port Trust.

1.11 “Reefer Container” shall mean a refrigerated Container used for carriage of perishale goods and provisions for electrical supply to maintain the desired temperature.

1.12“ICD” means Inland Container Depot.

1.13“Per day” means per calendar day or part there of.

1.14“Import container” means a container discharged from one vessel, stored in GTI and transported out through Road or Train.

1.15 “Export container” means a container arrived by road or Train, stored in GTI and loaded on the assigned vessel.

1.16 “Transhipment container” means a Container discharged from one vessel, stored in the container yard, and transported through another vessel.

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.

1.18 “Back to Town container” shall mean a container entering the terminal for export for a specific vessel voyage but unable to be exported for some reason and removed from the terminal.

1.19 “VCN” means Vessel Call Number

1.20“VIAN” means Vessel Identification Advice Number.

II. The following consolidated charges for handling and movement of containers shall be payable by the Shipping Lines / Agents of Vessels or Cargo Agents for services rendered in resepct of containers and containerized cargo passing through the terminal.

SECTION - 1 CHARGES FOR ALL NORMAL AND REEFER CONTAINERS.

A. Ship to yard/ yard to ship using port crane.

Particulars.	Foreign-Going (INR)	Coastal (INR)
Loaded Container		
20'	1,538.54	923.12
40'	2,307.81	1,384.69
Over 40'	3,077.08	1,846.25
ICD Container		
20'	1,538.54	923.12
40'	2,307.81	1,384.69
Over 40'	3,077.08	1,846.25
Empty Container		
20'	1,242.67	745.60
40'	1,864.00	1,118.40
Over 40'	2,485.33	1,491.20

B. Yard to Rail/Rail to Yard for ICDs only

Particulars.	Foreign-Going (INR)	Coastal (INR)
ICD Container (Loaded & Empty)		
20'	769.27	-
40'	1,153.91	-
Over 40'	1,538.54	-

C. Yard to truck / truck to yard

Particulars.	Foreign-Going (INR)	Coastal (INR)
Loaded Container		
20'	236.70	-
40'	355.05	-
Over 40'	473.40	-
Empty Container		
20'	236.70	-
40'	355.05	-
Over 40'	473.40	-

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

SECTION - 2 CHARGE FOR ALL TRANSHIPMENT CONTANERS

Particulars.	Foreign-Going (INR)	Coastal (INR)
Loaded Container		
20'	1,775.24	1,065.14
40'	2,662.86	1,597.72
Over 40'	3,550.48	2,130.29
Empty Container		
20'	1,538.54	923.12
40'	2,307.81	1,384.69
Over 40'	3,077.08	1,846.25

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 - 3 CHARGES FOR ALL HAZARDOUS CONTAINERS

A. Ship to yard using port crane.

Particulars.	Foreign-Going (INR)	Coastal (INR)
Loaded Container		
20'	1,923.18	1,153.91
40'	2,884.76	1,730.86
Over 40'	3,846.35	2,307.81
ICD Container		
20'	1,923.18	1,153.91
40'	2,884.76	1,730.86
Over 40'	3,846.35	2,307.81
Transshipment Container		
20'	2,219.05	1,331.43
40'	3,328.57	1,997.14
Over 40'	4,438.10	2,662.86

B. Yard to Rail for ICDs only

Particulars.	Foreign-Going (INR)	Coastal (INR)
ICD		
20'	887.62	-
40'	1,331.43	-
Over 40'	1,775.24	-

C. Yard to Truck

Particulars.	Foreign-Going (INR)	Coastal (INR)
Loaded		
20'	295.87	-
40'	443.81	-
Over 40'	591.75	-

SECTION - 4 CHARGES FOR ALL OVER DIMENSIONAL CARGO CONTAINERS.

A. Ship to yard using port crane.

Particulars.	Foreign-Going (INR)	Coastal (INR)
Loaded		
20'	3,077.10	1,846.40
40'	4,615.62	2,769.70
Over 40'	6,154.20	3,692.90
ICD		
20'	3,077.10	1,846.40
40'	4,615.60	2,769.70
Over 40'	6,154.20	3,692.90
Transshipment		
20'	3,077.10	1,846.40
40'	4,615.65	2,769.70
Over 40'	6,154.20	3,692.90
Empty		
20'	2,485.33	1,491.20
40'	3,728.00	2,236.80
Over 40'	4,970.67	2,982.40

B. Yard to Rail for ICDs only.

Particulars.	Foreign-Going (INR)	Coastal (INR)
ICD		
20'	1,538.54	-
40'	2,307.81	-
Over 40'	3,077.08	-
Empty Container		
20'	1,538.54	-
40'	2,307.81	-
Over 40'	3,077.08	-

C. Yard to truck

Particulars.	Foreign-Going (INR)	Coastal (INR)
Loaded Container		
20'	473.40	-
40'	710.10	-
Over 40'	946.79	-
Empty Container		
20'	473.40	-
40'	710.10	-
Over 40'	946.79	-

SECTION 5 - HATCHCOVER OF VESSELS
Opening hatchcover and replacing it (charge per hatchcover)

Particulars.	Foreign Going Vessels (USD)	Coastal Vessels (INR)
A. When placing the hatchcover c	36.56	1,016.24
B. Without placing the hatchcove	14.62	406.49

Note: If only one operation is carried, half of the hatch cover handling charnges as above shall be levied

SECTION 6 - RESTOWS FCLs & MTs
Shifting containers within the vessel (per move)

A. Hatch to Hatch shifting

Particulars.	Foreign Going Vessels (USD)	Coastal Vessels (INR)
FCL & MT 20'	12.19	338.75
FCL & MT 40'	18.28	508.04
FCL & MT > 40'	24.37	677.49

B. Other than A.

Particulars.	Foreign Going Vessels (USD)	Coastal Vessels (INR)
FCL & MT 20'	48.74	1354.98
FCL & MT 40'	73.12	2032.47
FCL & MT > 40'	97.49	2709.96

SECTION 7 - SHUT OUTS

A. Shutouts Charges	Foreign Going Vessels (USD)	Coastal Vessels (INR)
FCL & MT 20'	24.37	1129.15
FCL & MT 40"	36.56	1693.73
FCL & MT >40'	48.74	2258.30
B. Transportation of shutout containers	**Foreign Going Vessels (INR)**	**Coastal Vessels (INR)**
FCL & MT 20'	887.62	887.62
FCL & MT 40'	1,331.43	1,331.43
FCL & MT >40'	1,775.24	1,775.24

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 -REEFER MONITORING AND CONNECTION

Particulars.	Foreign-Going (USD)	Coastal (INR)
FCL & MT 20'	2.43	112.58
FCL & MT 40'	3.65	168.87
FCL & MT >40'	4.86	225.16

Note :

1. The above charges are for a period of 4 hours or part thereof

2. Additional electricity charges at the prescribed rates will be applicable in the case of reefer restows also.

3. The tariff presribed above does not include parameter setting or repair & maintenance of malfuntioning reefers.

SECTION 9 - OTHER SERVICES

A. Shifting of containers within the terminal for customs inspections or any other purpose, and subsequent loading of containers for delivery

Particulars.	INR
FCL 20'	1,005.97
FCL 40'	1,508.95
FCL Over 40'	2,011.94
MT 20'	1,005.97
MT 40'	1,508.95
MT Over 40'	2,011.94

Other purposes include for change in the POD, weight, category, status and exit mode and ICD containers without details.

B. Additional service charge for stacking continers in the designated yard for customs examination or for any other purpose by prior arrangement.

	INR
FCL 20'	118.35
FCL 40'	177.52
FCL Over 40'	236.70
MT 20'	118.35
MT 40'	177.52
MT Over 40'	236.70

Particulars	INR
Fixing of bottle seal	800.00
Breaking of seal	111.44

Particulars	FCL & MT (USD)
20'	48.74
40'	73.12
Over 40'	97.49

E.Charges for vessel overstay beyond 2 hours after completion of operation - rate in INR per hour 55,720.00

F. One door Open Charge per container in INR 557.20

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

G. Charges for fresh water supply per metric tonne in INR 101.97

SECTION 10 - DWELL TIME CHARGES

A. Loaded Import containers	Foreign-going vessels (USD)	Coastal vessels (INR)
First 3 days Free	Free	Free
4 -15 days		
20'	1.93	89.22
Over 20'	3.85	178.43
Over 40'	5.78	267.65
16 - 30 days		
20'	3.85	178.43
Over 20'	7.69	356.40
Over 40'	11.54	534.60
Thereafter		
20'	7.69	356.40
Over 20'	15.39	712.81
Over 40'	23.08	1,069.21

B. Loaded Export containers		
	Foreign-going vessels (USD)	Coastal vessels (INR)
First 3 days Free	Free	Free
4 -15 days		
20'	1.93	89.22
Over 20'	3.85	178.43
Over 40'	5.78	267.65
16 - 30 days		
20'	3.85	178.43
Over 20'	7.69	356.40
Over 40'	11.54	534.60
Thereafter		
20'	7.69	356.40
Over 20'	15.39	712.81
Over 40'	23.08	1,069.21

C. Empty Import or Export containers

	Foreign-going vessels (USD)	Coastal vessels (INR)
First 3 days Free	Free	Free
4 -15 days		
20'	1.69	78.30
Over 20'	3.38	156.59
Over 40'	5.07	234.89
16 - 30 days		
20'	3.38	156.59
Over 20'	6.76	313.19
Over 40'	10.14	469.78
Thereafter		
20'	6.76	313.19
Over 20'	13.52	626.38
Over 40'	20.28	939.57

D. ICD - Loaded and Empty Import and Export Containers moved by Rail

First 10 days	Foreign-going vessels (USD) Free	Coastal vessels (INR) Free
11 -15 days		
20'	1.69	78.90
Over 20'	3.38	156.59
Over 40'	5.07	234.89
16-30 days		
20'	3.38	156.59
Over 20'	6.76	313.19
Over 40'	10.14	469.78

Thereafter		
20'	6.76	313.19
Over 20'	13.52	626.38
Over 40'	20.28	939.57

E. Transhipment loaded Containers

	Foreign-going vessels (USD)	Coastal vessels (INR)
First 7 days	Free	Free
8-15 days		
20'	1.93	89.22
Over 20'	3.85	178.43
Over 40'	5.78	267.65
Thereafter		
20'	3.85	178.43
Over 20'	7.69	356.40
Over 40'	11.54	534.60

F. Transhipment empty containers

	Foreign-going vessels (USD)	Coastal vessels (INR)
First 7 days		
20'	1.93	89.22
Over 20'	3.85	178.43
Over 40'	5.78	267.65
8-15 days		
20'	3.85	178.43
Over 20'	7.69	356.40
Over 40'	11.54	534.60
Thereafter		
20'	7.69	356.40
Over 20'	15.39	712.81
Over 40'	23.08	1,069.21

G. Shutout loaded & empty containers

	Foreign-going vessels (USD)	Coastal vessels (INR)
1-15 days		
20'	1.93	89.22
Over 20'	3.85	178.43
Over 40'	5.78	267.65
16 - 30 days		
20'	3.85	178.43
Over 20'	7.69	356.40
Over 40'	11.54	534.60
Thereafter		
20'	7.69	356.40
Over 20'	15.39	712.81
Over 40'	23.08	1,069.21

H. Back to Town loaded & empty containers

	Foreign-going vessels (USD)	Coastal vessels (INR)
First 3 days Free	Free	Free
4-15 days		
20'	1.93	89.22
Over 20'	3.85	178.43
Over 40'	5.78	267.65
16 - 30 days		
20'	3.85	178.43
Over 20'	7.69	356.40
Over 40'	11.54	534.60

Thereafter		
20'	7.69	356.40
Over 20'	15.39	712.81
Over 40'	23.08	1,069.21

Notes:-

1.The total storage period for a container shall be reckoned from the day following the day of landing upto the day of shipment /delivery/date of removal of the container and includes Sundays and Holidays.

2.Transhipment containers whose status (mode of dispatch) is subsequently changed locally shall lose the concessional dwell time as prescribed in Section 10 item (E). Dwell time charges/ Other Charges for such containers shall be recoverd at par with import/export containers. A transhipment box, moved other than as defined above, shall be charged at Tariffs applicable to a export/ import container. Such a move will not be treated as a transhipment move.

3. Transhipment containers subsequently changing the mode of dispatch to rail shall be treated as other ICD containers for the purpose of levy of storage fees. In such cases additional shifting charges will be applicable for movement of containers from container yard to ICD yard.

4. The users will not have to pay storage charges for the period during which GTI is not in a position to deliver/ shift the containers when requested by the users.

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

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

7. (i) Dwell time charges for Hazardous containers shall attract 1.25 times the normal applicable charges.

(ii) Dwell time charges for Over height and over dimensional containers shall attract twice the normal applicable charges.

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

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

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

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

9 The status of the vessel , as borne out by its certification by the Director General of Shipping shall be the deciding factor for its classification as "coastal"or "foreign going"for the purposes of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

10 (i) Container-related charges denominated in US dollar terms shall be collected in equivalent Indian rupees. For this purpose, the market buying rate (notified by the Reserve Bank of India, State Bank of India or its associates or any other public sector banks as may be specified from time to time) prevalent on the date of entry of the vessel into port limits (in case of import containers) and on the date of arrival of containers in the Terminal Premises (in case of export containers) shall be applied for conversion of the dollar - denominated charges into Indian rupees.

(ii) The cargo / container related charges for all Coastal cargo / containers, other than thermal coal, POL including crude oil, Iron Ore and Iron pellets, should not exceed 60% of the normal cargo / container related charges.

11. (i) The user shall pay penal interest on delayed payments of any charge under this scale of rates. Likewise, the GTIPL shall pay penal interest on delayed refunds.

(ii) The rate of interest will be 16.75 % p.a. The penal interest will apply to both GTIPL and its users equally. The delay in refunds by GTIPL will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later. The delay in payments by the user will be counted only 10 days after the date of raising the bills by GTIPL. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act, 1963 and / or where payment of charges in advance is prescribed in this Scale of Rates.

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

GENERAL NOTES

1. Users will not be required to pay charges for delays beyond a reasonable level attributable to the Terminal operator.

2. Containers less than and up to 20 feet in length will be reckoned as one TEU for the purpose of Tariff.

3. The consolidated charges as above include the following elements, viz Stevedoring, use of Gantry crane, use of transfer crane, stowage planning, wharfage on tare weight of containers and containerized cargo, transportation.

4. Containers other than that of standard size requiring special devices or slings or handling will be charged twice the applicable rates. Such containers will also include damage containers and any other type requiring special devices.

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

6. In case a vessel idles due to non availability or breakdown of the shore based facilities of GTI or any other reasons attributable to the GTI, rebate equivalent to berth hire charges payable to JNPT accrued during the period of idling of vessel shall be allowed by the GTI.

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

TAMP/48/2011-GTIPL	:	Proposal from the Gateway Terminals India Private Limited for general revision of its Scale of Rates.

1. A summary of comments received from the users / user organisations and comments of Gateway Terminals India Private Limited (GTIPL) thereon is tabulated below:

Sl. No.	Comments of users / user organisations	Comments of GTIPL
1.	The Container Shipping Lines Association (India) (page no.114/c and 233/c)	
(i).	In view of the current capacity constraints in the three terminals of JNPT, CSLA welcomes any initiative from TAMP to incentivize (through the tariff mechanism) for increased productivity and throughput at the terminals. The CSLA has no objection towards the tariff revision not exceeding 8% on handling rates for laden containers only.	CSLA's support for incentivizing the terminal for increasing productivity and throughput through tariff mechanism in view of the current capacity constraint is appreciated. We are fully in agreement with CSLA. Performing terminals should be incentivized to boost efficiency and help creating additional capacity at the ports over and above the MGT. TAMP may please take note that incentivizing performing operator will beneficial to overall industry. CSLA has no objection on the tariff increase sought by GTI.
(ii).	The handling rates for hazardous units, reefer units, empties and	Increase in charges for empty, hazardous, reefer monitoring charges-

	storage charges for all containers should not be increased at all.	Refer to our replies to comments by MANSA at point no. (i), (iii), (iv) and (viii).
(iii).	In case the 2005 TAMP Guidelines are applied for determining the revision in Tariff for GTIPL, we are agreeable to the same.	No Comments
(iv).	If, however, it is intended to apply the 2008 TAMP Guidelines for the tariff revisions, we would request that GTIPL furnishes us the detailed calculations, to enable us comment on the same.	
(v).	(a). We object to empty containers being treated at par with laden containers for tariff fixation and hence the empty handling tariff should be maintained at present level. (b). The proposed increase of 74% for hazardous units is not acceptable, as there has been no change in rules, regulations no operating costs for handling of hazardous units. (c). We object to increase of 94% for reefer monitoring charges and suggest that we align the same to an increase in the power tariff applicable to the port.	
(vi).	We request that similar guidelines	

	should be used for considering rate proposals for different terminals at the same ports.	
2.	Mumbai and Nhava-Sheva Ship-Agents Association (page nos.116-118/c) The Shipping Corporation of India Ltd. (page no.126-128/c)	
(i).	With regard to increase in the Tariff of Empty Container at Par with Loaded Container Tariff, there is almost 30-35% imbalance between Imports and Exports. In all the other Ports and Terminals, the tariff of empty container is rightly kept lower than that of laden. This was done by TAMP from the very beginning after considerable studies and deliberations. We do not want this basic approach to be changed at all.	Presently the tariff of empty container handling is 20% lower than loaded container tariff. However we are not aware whether the rational for such differential rates is established anywhere. The costs for handling empty and loaded container is almost the same. Therefore, it is proposed to keep the tariffs for empty and loaded container at the same level. Further as per clause 5.3 of the 2005 Guidelines charges for ship-shore handling and storage of loaded and empty containers should be the same.
(ii).	We agree to the removal of Transport and lifts at CFS removed from SOR since this activity is not carried out by the Terminal.	No comments needed.
(iii).	Proposed increase for Hazardous containers is not acceptable as there are no additional rules and regulations for safety which is affecting	Presently the charges for hazardous containers are at 1.25 times of the normal container charges. Reefer containers are billed at the same rate

	operational cost.	for normal containers. However, considering the special care to be taken for handling and associated risk factor involved in these containers the rates for the hazardous and reefer containers are proposed to be twice the normal container rate. Rail operators charge 1.5 to twice on handling, transportation & dwell time of hazardous boxes with no free dwell days. The rates for handling reefer container: should be at par with the rates for handling of hazardous containers since the reefer poses similar risks in handling as that of hazardous handling. As per clause 5.3 of 2005 Guidelines higher charges would be allowed for containers having hazardous goods, reefer and for any special services.
(iv).	Proposal to increase tariff of Reefer Containers to double of General containers is not acceptable as there is no additional cost to terminal.	
(v).	It is left to TAMP to decide about the yard to rail charges for ICD containers but we find the request to be too high since there is already CRO charge in addition to normal charges.	The yard to rail charges for Reefer and Hazardous ICD containers are revised to be at twice the yard to rail charges for normal containers for the reasons elaborated at point no.(iii) above.
(vi).	We leave the issue of the rates for ODC transhipment containers to TAMP for considering, if found feasible.	The rates for ODC transshipment containers are proposed to be revised to 2 times the rate of normal transshipment containers since the existing rates are at 1.73 times of the

		rates for normal containers. As per model SOR of TAMP ODC transshipment containers are eligible for double the rates applicable to normal TP containers. The proposal is therefore justified. The rates for ODC empty containers are proposed to be revised at par with the rate for ODC loaded container for the reasons elaborated at (i) above.
(vii).	For Hatch Cover, Restow and Shut Out Charges, increase fee is not justified in view of the fact that handling of Hatch cover is an integral part of vessel operation, Restow are unavoidable, and shut out are partially due to various restrictions imposed by Terminal.	Hatchcover, Restow and Shut out charges are proposed to be revised at par with that of NSICT for similar services. (The NSICT tariff is higher by 5% than GTI overall tariff. However the current hatch cover, Restow and Shut out charges of NSICT are higher by 35%.)
(viii).	We do not agree to the proposal of reefer monitoring charges to be increased since these charges are directly connected with electricity consumption and prevailing power tariff. TAMP will recall that it was on our request these charges were made on 4 hourly basis. Thus we recommend that same may be made on an hourly basis as the Principle of tariff is that only service rendered should be paid for.	Reefer monitoring charges are proposed to be revised at par with that of adjacent terminal i.e NSICT for similar services with the same customer base. (The NSICT tariff is higher by 5% than GTI overall tariff. However the current reefer monitoring charges of NSICT are higher by 100% while the energy cost primarily remains the same.). There is a need to increase the tariff for reefer monitoring charges due to negative

		margin on this activity in view of the change in the tariff category from industrial to commercial leading to substantial hike in electricity cost during the year 2010 in addition to normal tariff increase.
(ix).	Based on actual cost of procuring security bottle seals we are of the opinion that the existing charges are adequate and thus we request TAMP to maintain same at the present level of ₹200/- for fixing of Bottle Seal.	If the containers enter the Terminals with the bottle seals as per the rule, there are no charges recoverable. The proposed increase to INR 800 is to discourage and to have deterrent effect preventing the containers from entering the terminal without seals which is against the law.
(x).	Revision in Dwell time charges for: (a). Import laden containers is not justified. (b). By making dwell time of empty container NIL, terminal would be asking the lines to move such empties in large numbers within 24 hours prior loading which would completely choke the gates for laden movements and will be detrimental to the trade's interest. As lines cannot recover the cost of empty movement, they will be compelled to move such containers at last moment in bulk, which is not feasible. GTIPL obviously has not taken any consideration for the trade or its customers.	(a). The rates are proposed to be at par with NSICT. (b). The free days are reduced from current three days to zero to be at par with NSICT. The rates are also proposed to be brought at par with NSICT.

	(c). We accept the reduced dwell time for ICD laden empty import / export containers by rail. We request to maintain the existing free 10 days for empty ICD Import / export by road. (d). With regard to Back to town category, TAMP may consider the proposal of GTIPL. (e). With regard to changes proposed in dwell time charges for hazardous, reefer and ODC containers, it is proposed that the current applicable dwell time charges to be maintained.	(c). The free days are proposed to be reduced from current ten days to seven to be at par with NSICT. This will encourage speedy evacuation of containers by rail. (d). No comments (e). Presently the charges for hazardous containers are at 1.25 times of the normal container charges. Reefer containers are billed at the same rate for normal containers. However, considering the risk factor involved in the handling of these containers the rates for the hazardous and reefer containers are proposed to be twice the normal container rate. Rail operators charge 1.5 to twice on handling, transportation & dwell time of hazardous boxes with no free dwell days. The rates for handling reefer container should be at par with the rates for handling of hazardous containers since the reefer poses similar risks in handling as that of hazardous handling. As per clause 5.3

		of 2005 Guidelines higher charges would be allowed for containers having hazardous goods, reefer and for any special services.
(xi).	Shipping Corporation of India has further stated that policies and guidelines should be conducive for growth and not punitive in any case.	
	Mumbai and Nhava-Sheva Ship-Agents Association (page no.118/c)	
(xii).	GTIPL has given a volume projection of 13,95,030 TEUs each for the years 2012, 2013 and 2014 as against the volume of 18,91,105 TEUs in 2010 and 15,59,879 TEUs in 2009. We are sure, GTIPL will handle in the year 2011 also the volume similar to or in excess of the volume it handled in the year 2010. Hence, it is clear that GTIPL is trying to reduce the volume by 22.5%. TAMP needs to find out the reason for this. In case it is because of lack of incentive for handling higher volume, then, we request TAMP to address this issue very seriously. There is lack of overall capacity in JNPT. If the private terminals deliberately reduce the	Our tariff proposal is based on the normative capacity and TAMP's orders on NSICT tariff proposal passed in 2008.

	volume, it will very seriously affect the trade. Hence, we submit that TAMP kindly look into this matter in all its priority as otherwise the trade will seriously be affected. The terminal may be given due incentives to bring in more efficiency and handle much more volume as the 4th Terminal is a long way ahead.	
3.	Bombay Chamber of Commerce & Industry (page nos.120/c)	
(i).	The trade is not in favour of any tariff increase at the GTIPL. It is recommended that the present tariff of GTIPL may please be maintained.	BCCI recommends maintaining the existing tariff. Our proposal is to have a modest increase of 8.72% over the existing tariff based on the normative capacity and TAMP's orders no. TAMP/55/2008– NSICT and TAMP/14/2008 – NSICT. It may please be noted that APMT Mumbai's tariff was reduced by 10% as per TAMP's order passed in March 2010. Despite inflation of 11%, TAMP allows cost escalation of 6%. We have asked for a modest increase of 8.72% which is much less than the actual cost increases due to inflation, that too, for the next three years.
(ii).	Charging the empty container handling and movement at par with	BCCI does not agree to have uniform rate for handling empty and laden

	the laden containers has no logical reasoning. This will curb imports into the Nhava Sheva.	containers. In this respect kindly refer to remarks offered at sr. no.2(i) on the comments of MANSA.
(iii).	Doubling charges on Reefer, Special Containers and Hazardous Chemical is unjustified. These should be maintained at the existing level.	BCCI does not agree doubling the charges for reefer and hazardous containers. In this respect kindly refer to remarks offered at sr. no. 2(iii) & (iv) on the comments of MANSA.
(iv).	Movement and Repositioning of empty containers require a minimum of three days. It would not be possible to move and reposition empty containers into Container yard within 24 hours. The current provision of three days should therefore be retained.	BCCI does not agree reduction in the free period for empty containers. In this respect kindly refer to remarks offered at sr. no. 2(x)(b) on the comments of MANSA.

2. A joint hearing in this case was held on 22 November 2011 at the Office of the Authority. The GTIPL made a power point presentation explaining salient points of its proposal. The GTIPL, JNPT and the users made the following submissions:

Gateway Terminals India Limited (GTIPL)

(i). GTIPL made a Powerpoint presentation. Hard copy was given.

(ii). Our quay length is 712 mtrs. We have 10 RMQCs, 40 RTGs and 3 RMGC No. of ground slots in the storage area is 9370.

(iii). Pre-berthing waiting time in 2011 is only 0.50 hrs and we have achieved a berth productivity of 93.44 moves / hour.

(iv). As per concession Agreement we are expected to handle about 1.3 million TEU. Because of our higher performance, we have paid about ₹5000 crores to JNPT as additional revenue share for volumes handled above MGT.

(v). We have invested in additional equipment. We have inducted twin pick cranes, which means in the same pick, the crane can handle two boxes. We have deployed more RTGs.

(vi). We request TAMP to apply tariff guidelines 2005 read with the Authority's Order TAMP/55/2008-NSICT and TAMP/14/2008-NSICT.

(vii). As listed in clause 2.2 of the guidelines, TAMP may consider economic use of resources and optimum investment. Efficiency in performance should be rewarded.

(viii). Clause 2.3 of the guidelines requires application of uniform norms and principles at all Ports. We request NSICT Order of 2008 may be followed in our case also.

(ix). Our standard capacity is 1.4 million TEUs. Tariff may be fixed with reference to capacity and not based on tariff forecast.

(x). Past surplus for 2006-08 has already been adjusted in the earlier Order as per clause 2.13 of the guidelines.

(xi). Tariff order may be made effective 30 days from notification or TAMP may continue with the existing rates till new tariff guidelines are announced by the Government.

(xii). If tariff increase is allowed as proposed and our 16% return is allowed, we are confident of handling above 2.1 million TEUs in the same facility.

(xiii). The Government letter does not say 2.2 million TEUs as the capacity. It gives only cargo volume of 26.4 MT for GTIPL.

Mumbai and Nhava-Sheva Ship Agents' Association (MANSA)

(i). The terminal has been handling much more than 1.4 million TEUs. We don't find any reasons to restrict future volumes to 1.4 million TEUs for fixing tariff. TAMP may decide.

(ii). We oppose to the proposed reduction in dwell time and request reefer charges be prescribed on hourly basis.

The Container Shipping Lines Association (India) (CSLA)

(i). In congested port facilities like JNPT, performance of port operators is very important. We don't mind if tariff is fixed in such a way to induce performance. More importantly, we do not want efficiency to be disregarded or penalized.

(ii). We request TAMP to apply uniform set of principles to all terminals at JNPT.

(iii). Empty containers can't be treated at par with loaded for levy of tariff.

(iv). Any increase in reefer charges should be linked to increase power charges.

Jawaharlal Nehru Port Trust (JNPT)

(i). Applying normative approach to GTIPL is for TAMP to decide.

(ii). As per the communication received from Ministry, the capacity of GTIPL as 2.2 millions TEUs as of 31 March 2011.

(iii). Tariff arrangement for reefer, hazardous, empty, etc. should be same across all the 3 terminals in JNPT.

Shipping Corporation of India Limited (SCI)

(i). We endorse the views of CSLA.

Indian Merchants' Chamber (IMC)

(i). Privatisation of Port facilities has not really effected any reduction in EXIM cost to the trade.

(ii). We don't have any grievance against the existing rate. But GTIPL's claim of restricting volumes to 1.4 million TEUs to seek increase in tariff defines logic.

(iii). MGT should not be confused with capacity. GTIPL is equipped to handle much more than 1.4 million TEUs. Privatisation is only to improve efficiency and GTIPL may be living upto that expectation.

Western India Shippers Association (WISA)

We compliment the terminal for its performance. At the same time, efficiency should translate into cost reduction. We suggest status quo in tariff.

3. As decided at the joint hearing, the IMC and WISA have furnished their comments. The comments received from them were forwarded to the GTIPL as feedback information. The GTIPL vide its letter dated 7 December 2011 has furnished its comments on the comments of IMC and WISA. A summary of the comments received from user organisations and response of GTIPL thereon are tabulated below:

Sl. No.	Comments of user organisations	Response of GTIPL
1.	The Western India Shippers' Association (WISA) (page nos.215/C)	
(i).	We are in complete agreement that efficiency and efforts made towards achieving higher than expected targets should always be rewarded. Penalizing such performances by disincentive will be detrimental.	WISA's support that efficiency and efforts made towards achieving higher than expected targets should always be rewarded and penalizing such performances by disincentive will be detrimental is highly appreciated. We are fully in agreement with WISA. Performing terminals should be incentivized to boost efficiency and help creating additional capacity at the ports over and above the MGT. TAMP may please take note that incentivizing performing operator will beneficial to overall industry.

		Particularly WISA's opinion, being the ultimate bearer of transaction costs carries more weight age for rewarding efficiency.
(ii).	It is also important that such efficiencies when achieved result in savings which are either direct or notional to all the stake holders. It is often observed that reductions in tariffs made by TAMP's orders often benefit only certain segments of the trade; without any benefit being passed on to the cargo; which is actually bearing the cost. This needs to be addressed and suitably resolved.	No comments
(iii).	We find no substance in the submissions of a net deficit of 8.72% on the income as this is based on Minimum Guarantee Throughput. The terminal having already achieved 30% more volume over MGT in the year 2011 is a fair enough reason not to accept this.	WISA recommends maintaining the existing tariff. Our proposal is to have a modest increase of 8.72% over the existing tariff based on the normative capacity and TAMP's orders no.TAMP/55/2008– NSICT and TAMP/14/2008 – NSICT. It may please be noted that APMT Mumbai's tariff was reduced by 10% as per TAMP's order passed in March 2010 despite its performance over MGT. Despite inflation of 11%, TAMP allows cost escalation of 6%. We have asked for a modest increase of 8.72% which is much less than the actual cost

		increases due to inflation, that too, for the next three years.
(iv).	It goes without saying that the terminal has had to make additional investments to make this performance excellance, which is definitely accounted for, to be spread over the next years.	WISA's acknowledgement of the necessity to infuse additional investment to maintain excellence in performance is appreciated.
(v).	In view of the above submissions and also the position expressed in the joint hearing, it is our opinion that the TAMP orders should ensure recognition of efficiency. We also find that maintaining the current Scale of Rates status quo will ensure such incentive is acknowledged and given.	GTIPL has not furnished its comments.
2.	Indian Merchants' Chamber (IMC) (page nos.216-218/C)	
(i).	It is our earnest appeal to the Authority with the interest of Exim Industry must also be considered and trade should not always be exploited. India is the only country, where the highest slab of Container Detention Charges at US$ 48 per TEU and US$ 96 per FEU per day are being recovered, when compared with any other country in the world and the terminal handling charges are also the highest,	GTIPL has not furnished its comments

<table>
<tr><td></td><td>despite large volumes being handled. The situation and the predicament in which the Exim Industry is placed, our submission is that there should be no upward revision at present granted to GTIPL. However, we are willing to have the existing tariff retained till the 4th container terminal is commissioned and the GTIPL handle 2.1 million TEUs as confirmed.</td><td></td></tr>
<tr><td>(ii).</td><td>GTI/ APM Terminals have the longest Container Terminals i.e. 710 meters in J.N. Port, which can easily handle 2 million TEU annually.</td><td>The optimal quay length capacity benchmark for similar sized terminals globally is 1,200 TEUs per mtr / per quay length per annum. APMT Mumbai have through our efficiency has one of the highest quay length utilization in the world i.e. 2,654 TEUs per mtr / per quay length per annum. This is 121% above the optimum international benchmark which cannot be easily achieved as mentioned by IMC in its letter. The comparative throughput of terminals at JNPT is as per table below:

<table>
<tr><th>Period</th><th>JNPT</th><th>NSICT</th><th>GTIPL</th></tr>
<tr><td>Jan to Oc 2011</td><td>7,99,394</td><td>12,12,738</td><td>15,77,242</td></tr>
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		APMT Mumbai can handle more throughputs if there is an incentive for better performance and efficiency is not penalized.
(iii).	GTI/ APM Terminals have handled volumes far exceeding the minimum guarantee throughput signed in the concession agreement, because of the Exim Trade support to Nhava Sheva Port. This support is now desired to be exploited.	APMT Mumbai has always supported EXIM trade by handling throughput above MGT right from the inception much ahead of time. The landlord port earned additional revenue of ₹500 crores due to better performance of APMT Mumbai and Trade also benefited. However, it was the terminal who was penalized by a tariff reduction of 10% in March 2010. Rate increase of 8.72% is modest based on the normative cost and it cannot be construed as exploitation of EXIM trade. Despite inflation of 11%, TAMP allows cost escalation of 6%. We have asked for a modest increase of 8.72% which is much less than the actual cost increases due to inflation, that too, for the next three years
(iv).	It is a well know fact, that against most Government Organisations, when the same are privatized, the volumes that would be handled by the Private Operators in 99% cases always exceeds handling capacity by more than 50% and at times	The actual volume handled (1.89 Mio TEUs in 2010) by APMT Mumbai is around 50% above MGT (1.3 Mio TEUs). However there is no incentive for better performance. Rather the efficiency was penalized by reduction

	even 100%. Hence a mere 20% increase at present is no great achievement, but has been a huge source of income to the Terminal Operators.	of tariff by 10% in March 2010.
(v).	When J.N. Port was created, it handled approx. 6 containers per hour per crane. When a Terminal was handed over to P & O Ports in 1989, the handling output increased to 15 containers per hour per crane. Now more than 30 containers per hour per crane are handled. Hence, the returns derived by the Container Terminal operators are far greater than they could have ever imagined.	The return derived by the container terminal needs to be correlated to the investment made and actual return earned (after parting revenue share). There has to be recognition of better performance and reasonable return on investment should be allowed.
(vi).	When the GTI/ APM Terminals was given the 3rd Terminal, to the best of our recollection, the volumes handled by GTI/ APM Terminals far exceeded the minimum guarantee throughput, which was to be achieved in the 3rd year, as the same was achieved in the 11th month of its operation. Hence, their ROI was much greater than anticipated.	
(vii).	The presentation made by GTI/ APM Terminals itself proves beyond a reasonable doubt, the huge dividends that the terminal has	

	earned in light of the Revenue Share that they are paying to J.N. Port.	
(viii).	At present GTI/ APM Terminals is handling approx. 1.50 millions TEU, which is barely 20% higher than the minimum guarantee throughput, whereas we are confident, that at the existing terminal of 710 meters GTI/ APM Terminals should be able to handle easily 2.0 million containers at the existing site, hence there is no justification for a general upward revision of their tariffs. GTI/ APM Terminals representatives also confirmed that 2.10 million TEU could be easily handled at the existing terminal.	Refer to our comment at (ii) above
(ix).	Since GTI/ APM Terminals is already handling 20% more than their minimum guarantee throughput, that itself shows, that their return of investments is much higher than what was budgeted/ anticipated by them, when they bid for terminals and offered the generous percentage of royalty to be shared with J.N. Port at the cost of industry.	Please note that the revenue share is not allowed as cost while fixing the tariff. Therefore the cost is not passed on to the industry. Rather terminal operator is penalized having to pay the revenue share out of the reduced ROCE year on year.
(x).	GTI/ APM Terminals has invested and installed more mechanical	Reasonable return on investment needs to be allowed for installing

	container handling equipments and has derived huge profits from the same, at the existing tariff. This must be appreciated as the support of the Exim Industry to their terminal.	additional equipments and infrastructure to achieve higher throughput.
(xi).	Despite large volume being handled by this terminal and statement being made that there was no congestion at J.N. Port, we regret to inform, that till date the Shipping Lines continue to recover Port Congestion Charges from our Members. Hence, they take double benefit and exploit India's Exim Industry.	The terminal has provided additional capacity as envisaged by the port. Therefore Terminal is not in a position to comment upon the congestion charges levied by the Shipping Lines.
(xii).	We request, that the Costs i.e., T.H.C., being recovered at other adjoining International Ports like in Sri Lanka, Dubai, Gulf Countries and Singapore must be carefully studied by TAMP, which in our opinion could assist in arriving at a Fair and Just Tariff.	No comments