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Tariff Authority for Major Ports

G.No.469 **New Delhi,** **05 November 2020**

NOTIFICATION

This Authority, in exercise of the powers conferred on it under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), had disposed of the proposal received from the Visakha Container Terminal Private Limited (VCTPL) for General revision of its Scale of Rates under Tariff Guidelines, 2019, in the Meeting of this Authority held on 08 September 2020. However, considering the time involved for notifying (Speaking) Order along with the Scale of Rates, approved by this Authority, this Authority decided to notify only the revised Scale of Rates immediately. Accordingly, the revised Scale of Rates approved by this Authority on 08 September 2020 was notified in the Gazette of India on 6 October 2020 vide Gazette No.415. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order connected with disposal of the proposal of the VCTPL for general revision of its Scale of Rates as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No.TAMP/17/2020-VCTPL

Visakha Container Terminal Private Limited - - - Applicant

QUORUM:

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

O R D E R

(Passed on this 8th day of September 2020)

The Visakha Container Terminal Private Limited (VCTPL) vide its e-mail dated 02 April 2020 has forwarded a proposal dated 01 April 2020 for general revision of its Scale of Rates (SOR).

2. The existing SOR of VCTPL was last approved by this Authority vide Order No.TAMP/28/2017-VCTPL dated 14 November 2017 which was notified in the Gazette of India on 21 December 2017 vide Gazette No.480. In the said Order, status quo was maintained as against 23.30% increased sought by VCTPL in the composite handling rate for import and export containers. Subsequently, this Authority has passed an Order No.TAMP/7/2018-VCTPL dated 31 July 2018 disposing of the Review Application filed by VCTPL which was notified vide Gazette No.331 dated 29 August 2018. Based on review application filed by VCTPL, in the Order dated 31 July 2018, this Authority has granted 10.44% increase in the composite handling rate for import and export container based on the cost position reflected on processing the review application filed by VCTPL. Both the Orders prescribe the validity of the SOR till 31 March 2020.

3. The Ministry of Shipping (MOS) vide its letter No.PR-14019/20/2009-PG (Pt.IV) dated 05 March 2019 has issued a Tariff Guidelines for BOT operators operating in all Major Port Trusts and previously governed by 2005 Tariff Guidelines in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, and directed this Authority to act accordingly with immediate effect. The Tariff Guidelines for BOT operators operating in Major Port Trust and previously governed by 2005 Tariff Guidelines has been notified in the Gazette of India Extraordinary (Part III Section 4) on 07 March 2019 vide Gazette No.92 and communicated to all the concerned BOT operators vide our letter No.TAMP/61/2018-Misc. dated 08 March 2019. Thereafter, as per Clause 1.7 of the Tariff Policy, 2019, Working Guidelines to operationalize the Tariff Policy is notified in the Gazette of India vide Gazette No.244 dated 11 July 2019 after consultation with Major Port Trusts and the BOT operators governed under the erstwhile 2005 Tariff Guidelines which is also hosted on the website of TAMP and communicated to all the concerned BOT operators including VCTPL.

4. The VCTPL vide its e-mails dated 20 March 2020 and 31 March 2020 stated that due to COVID-19 lock down condition prevailing in the country, VCTPL was unable to finalise the proposal. However, VCTPL agreed to send the requisite information as early as possible. In the meanwhile, VCTPL requested to extend the validity of the existing SOR of VCTPL which was valid up to 31 March 2020 till the revised SOR comes into force. This was followed by reminder e-mail dated 06 May 2020. On the request made by the VCTPL, the validity of the existing SOR of the VCTPL was extended for a period of six months from the date of its expiry till 30 September 2020 or till the revised SOR comes into effect and communicated to the VCTPL vide our letter No.TAMP/7/2018-VCTPL dated 13 May 2020.

5.1. In this backdrop, the VCTPL has filed its proposal dated 01 April 2020 for general revision of its SOR, following Tariff Guidelines, 2019 for fixation of tariff for a period of three years. The submission made by VCTPL are as follows:

(i). The tariff proposal has been prepared in the prescribed formats furnishing information based in the financial years 2016-17 to 2018-19. Actual expenditures as per Audited financials for 2016-17, 2017-18 and 2018-19 have been provided in the proposal.

(ii). The audited financials of VCTPL are prepared as per IND AS. Hence, Form 6A and 6B have been provided with detailed reconciliation between Audited Accounts and Cost Statement.

(iii). Capital employed for FY 2018-19 has been calculated as per clause 2.5 of the Tariff Guidelines, 2019.

(iv). ARR has been estimated in Form 1.

(v). Revenue has been estimated in Form 4 at the proposed SOR within the ceiling indexed ARR. The following increase/ decrease is proposed in the SOR:

(a). VCTPL is an export driven gateway terminal. Shipping lines have to reposition empty containers to cater to the export volume. Since there is additional cost to the shipping lines for repositioning these empties, VCTPL extend its support to its customers to meet the demand gap by repositioning empties with reduces cost and offer better freight rates to the Exports. Reduction of 9% in the existing SOR in composite rate of empty container handling charges under clause 1.1 (b) is proposed. This small step would cater to increase in exports from VCTPL which would benefit to the exporters, shipping lines and the VPT.

(b). Proposed an increase in charges for storage of containers under clause 1.10 of existing SOR by 42% and reduction in free period under clause 1.10 (f).

VCTPL anticipates increased share of Transhipments and ICD bound containers in coming years. Currently, ICD bound containers handled by Rake inside VCTPL are enjoying 15 days free period, which VCTPL would like to continue. Therefore, in order to decongest the terminal and optimize the yard, VCTPL proposes to increase the storage charges by 42% to deter keeping containers lying at VCTPL beyond the prescribed free period. EXIM containers are bound either factory or CFS. Moreover, since Vizag has already 8 CFSs at present, the Containers can be evacuated faster. Transhipment containers are having free period of 30 days. VCTPL also proposes to reduce the free period of Transhipment containers from 30 days to 15 days for effective yard utilization and increase in capacity.

(c). No change is proposed in other Tariff items:

The proposal for Tariff has been un-changed under clause nos.1.1 (a), 1.1 (c), 1.2, 1.3, 14, 1.5, 1.6, 1.7, 1.8, 1.9, 1.11 to 1.12 and other services under clause 2.

(d). To apply for WPI on the base Tariff of 2019-20.

As per the Working Guidelines, the base tariff for 2019-20 has been arrived after incorporating the proposal under (a) & (b) in the aforesaid para. VCTPL requests this Authority to apply the applicable WPI for 2020-21, the first year of the next tariff cycle to the base tariff arrived for 2019-20 as per Form-1 and Form-4.

The proposed tariff after incorporating the existing WPI of 2.56% (60% of 4.26%) for FY 2020-21, 2021-22 and 2022-23 are kept in Form-5.

[The WPI indexation announced by this Authority is 1.88% for indexation of SOR and 1.13% i.e. 60% for indexation of tariff for the year 2020-21 effective from 1 May 2020.]

(e). Proposal to convert in USD for tariff items under clause 1.4, 1.5, 1.7, 1.8 and 1.10:

Currently, VCTPL is exposed to foreign currency fluctuations on account of expenditure incurred for annual maintenance contract fee for the TOS software, technical fee, import of critical spares and repayment of foreign currency loan availed for the imports of cranes, interest payments of the foreign currency loan. The average foreign currency outflow in the next tariff cycle would be USD 33,92,346. The equivalent INR exposure would be ₹24 crores p.a. ARR as per Form-1 is ₹174.03 crores p.a. Therefore, the forex expenditure constitutes 14% of the average revenue p.a. VCTPL proposes to convert 8% of its INR based tariff into US Dollar based tariff to overcome the impact of foreign currency fluctuations and savings in the valuable forex reserves of our nation.

(i). Following is VCTPL proposal to convert the relevant tariff items in the SOR to US Dollar based tariff:

Clause in SOR	**Tariff description**	**Average revenue INR in crores as per Form 4**
1.4	With landing Hatch cover on the quay –Foreign going	1.55
1.5	Shifting of containers within vessel (Re-stows):	
	Loaded or empty container shifted by landing and reshipping	0.29
1.7	Charges for supply of electricity (including connecting and disconnecting, monitoring at reefer yard) 4 hours or part thereof.	6.23
1.8	Charges for shut out containers	0.57
1.10	Storage charges	5.18
	Average revenue	₹13.82 crores
	Total of ARR as per Form-1	₹174.03 crores
	% of revenue to convert to US dollar based tariff	8%

(ii). Details of expenditures in foreign currency in next tariff cycle:

USD outflow in next 3 years:	**FY20**	**FY21**	**FY22**	**FY23**
Management fee	1,75,000	1,75,000	1,75,000	1,75,000
AMC	66,792	92,000	92,000	92,000
Import of spares	25,600	25,600	25,600	25,600
Interest on FCNR	7,12,292	13,69,014	11,97,887	10,26,761
Re-payment of FCNR loan	9,50,704	19,01,408	19,01,408	19,01,408
Membership fee	429	450	450	450
Total USD outflow	19,30,817	35,63,473	33,92,346	32,21,219
Average USD outflow in next tariff cycle	33,92,346			
INR outflow	₹24.09 crores			
Total ARR as per Form-1	₹174.03 crores			
% of Forex expenditure of ARR	14%			

Therefore, out of 14% forex expenditure, VCTPL proposes to cover 8% of revenue in terms of US dollar based tariff.

In this regard, SOR of NSICTPL dated 03 March 2020 under Tariff Guidelines, 2019 may kindly be referred to Section 5 (Hatch covers for vessels), Section 6 (Re-stow of containers), Section 7 (Shut out of containers), Section 8 (Reefer monitoring services) and Section 9 (Dwell time charges) which are denominated in US dollar terms.

(f). Data confidentiality clause 4.3 of Tariff Guidelines:

In accordance with clause 4.3 of the Tariff Guidelines, VCTPL requests this Authority not to circulate the information furnished in Forms 1, 2, 3 and 4 and other supporting workings which are commercially sensitive and confidential in nature.

(g). Separate Agreement with the VPT vide clause 1.9 of Tariff Guidelines, 2019:

As per clause 1.9 of Tariff Guidelines, 2019, "the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by these guidelines, by way of a separate agreement with the concerned Major Port Trust."

VCTPL is separately approaching the VPT for compliance of the above.

(h). Submission of documents:

VCTPL has furnished herewith the following documents/ information along with the proposal as per Tariff Guidelines, 2019 and Working Guidelines issued by TAMP to operationalise the Tariff Guidelines, 2019:

(i). Copies of each of Audited Annual Accounts for FYs 2016-17 to 2018-19.

(ii). Prescribed Forms – as per Working Guidelines, 2019 – Form-1, Form-2, Form-3, Form-4, Form-5, Form-6A, Form-6B and Form-7 are furnished.

(iii). Soft copies of the proposal furnished by email and CD (PDF documents).

(i). Extension project and change in volume composition:

Last 3 years average volume is 4,01,800 TEUs as stated in Form-4. Vizag volume is purely dependent on its hinterland volume. The growth of the volume in the next tariff cycle will be extremely low considering the fact that owing to COVID 19 and its impact on the economy. The severity of the impact can be assessed from the facts that:

(i). International Monetary Funds (IMF) indicated that Global economy has already entered a severe recessionary phase.

(ii). Reserve Bank of India as well as International Rating Agency's projection regarding sharp reduction in GDP forecast for FY 2020-2021 to as low as 2% to 2.5%.

Considering the above, achieving an average volume of 4,01,800 p.a. in the next tariff cycle will be an extremely difficult task.

(j). In addition to above, as per the Concession Agreement between VPT and VCTPL, an extension project of 395 meters of quay length with back up area of 17 hectares will be functional by 1st quarter of FY 2021-22. As this facility will have advanced infrastructure and modern equipment, it is expected that 50% to 60% of the existing volume level may be diverted, as majority of shipping lines with larger vessels will berth their vessels at VCTPL II.

(k). Impact of COVID 19 and expansion of VCTPL II, will make it extremely difficult for VCTPL to achieve the volume level of 4,01,800 TEUs.

However, VCTPL shall be trying its best to achieve these targeted numbers through Coastal Containers and Transhipments. In the next tariff cycle period, VCTPL is expecting that the volume split will be as follows:

(i). OD (Origin Destination) - 70%
(ii). Transhipment - 25%
(iii). Coastal - 5%

Basis the above assumption, VCTPL has furnished self-certified Form-1 and Form-4 with this proposal for perusal of TAMP.

5.2. The VCTPL has furnished detailed computation of ARR under Form-1 and Revenue estimation at the proposed rate in Form-4.

(i). A summary position of ARR computation furnished by VCTPL is tabulated below:

(₹ in lakhs)

Sl. No.	Description	Y1	Y2	Y3
		2016-17	**2017-18**	**2018-19**
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation) [excludes CFS]	9,601.22	10,508	14,897
(ii).	Finance and Miscellaneous expenses (FME) [excludes CFS]	1,558.21	1,391	1,959
	Total Expenditure 1=(i)+(ii)	**11,159.43**	**11,899**	**16,856**
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	(260.81)	(252)	(298)
(ii).	Other expenditure items, if any, to be listed			
	Employee benefits expense	22.70	(4)	18
	Unwinding cost on security deposit	(0.72)	(1)	0
	Unwinding cost on Royalty	(561.99)	(624)	(242)
	Total of Adjustments 2=(i)+(ii)+ -----	(801)	(880)	(523)
(3).	**Less Adjustments:**			
(i).	Actual Royalty/ Revenue share paid to the port	(1,833)	(1,941)	(3,119)
(ii).	Interest on loans	(416)	(338)	(832)
(iii).	Provision for bad and doubtful debts	-	(7)	-
(iv).	Provision for slow moving inventory	-	-	-
(v).	Other provisions, if any	-	-	-
	Total of 3=[3(i)+3(ii)+3(iii)+3(iv)+3(v)]	(2,249)	(2,286)	(3,952)
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	898	951	1,528
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3+4)**	9,008	9,684	13,911
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3	10,867		
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant &	38,338		

	Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)	
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)	28
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019	
	(a). Inventory	132
	(b). Sundry Debtors	1,354
	(c). Cash	993
	(d). Sum of (a)+(b)+(c)	2,479
	(iv). Total Capital Employed [(i)+(ii)-(iii)]	40,845
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**	6,535
(9).	**Annual Revenue Requirement (ARR) as on 31 March 2019 [(6)+ (8)]**	17,403
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 i.e. 2019-20 [indexed ARR for the year Y4 will be (9) x 1.0426]**	**4.26%**
(11).	**Ceiling Indexed ARR as given in Sr. No.10 above.**	**18,144**
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	18,144

(ii). The VCTPL has furnished the working of revenue estimation for the existing tariff as well as for the proposed tariff in Form 4 for the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed level of tariff is ₹18,143.89/- lakhs.

5.3. The VCTPL has also furnished Form Nos.1, 4, 6A and 7 duly certified by the practicing Chartered Accountant.

5.4. The VCTPL has proposed increase/ (decrease) to meet the estimated ARR as given below:

Descriptions	**% Increase / Decrease**	
	Foreign	**Coastal**
Container operations		
Composite rate for handling import and export containers	-9% to 0%	-9% to 0%
Hazardous / OOG containers	0%	0%
Handling of Transhipment containers	0%	0%
Lift on or off	0%	0%
Hatch cover handling for one operation (both opening and closing) (with/without landing hatch cover on the quay)	0%	0%
Shifting of containers within vessel	0%	0%
Internal transportation	0%	0%
Reefer related and other general services	0%	0%
Charges for a shut out container	0%	0%
Additional container charges	0%	0%
Charges for storage of containers	42%	42%
Charges for removal of garbage	0%	0%
Charges for supply of fresh water	0%	0%
Other services	0%	0%

6. As brought out earlier, the VCTPL has requested not to circulate Form Nos.1, 2, 3 and 4 and other supporting workings reported to be commercially sensitive and confidential in nature. It was brought to the notice of VCTPL while acknowledging the proposal vide our letter dated 15 May 2020 that since Form-1 is a basic ARR computation based on the Audited Annual Accounts, it is circulated. Form-2 is with regard to allowability of royalty/ revenue share as a pass through as per norms and hence the same is circulated. Since Form-3 deals with only computation of working capital as per norms, the same is circulated. Draft Scale of Rates and Form-5 reflecting the comparative position between the existing and proposed rates are also circulated. Form-4 relating to revenue estimation is forwarded only to VPT and not to the Users. This is in line with the approach followed by this Authority in case of general revision of SOR of Nhava Sheva International Container Terminal Private Limited (NSICTPL) who also had requested not to circulate the forms and various documents as they are commercially sensitive.

7.1. In accordance with the consultative procedure prescribed, the proposal of VCTPL dated 1 April 2020 was forwarded to the VPT and concerned users/ user organisations [except Form 4 and the Audited Annual Accounts] seeking their comments vide our letter dated 15 May 2020. The comments received from the VPT and users/ user organisations were forwarded to VCTPL for feedback information. The VCTPL vide its e-mails dated 6 July 2020 has furnished its reply.

7.2. While submitting comments, the VPT has stated that the VCTPL has not forwarded any Audited Annual Accounts till date and hence could not comment on entire proposal. In view of the said point made by VPT and since VPT is the licensor port, the soft copy of Audited Annual Accounts of the VCTPL for the years 2016-17, 2017-18 and 2018-19 was forwarded to VPT vide our e-mail dated 11 June 2020. The VPT was requested to furnish its additional comments, if any, at the earliest not later than 22 June 2020.

7.3. Further, while furnishing reply on the comments of VPT, the VCTPL has stated that they are furnishing every year Audited Accounts as per requirement by VPT officials from time to time on oral communication. VCTPL will send copies of the same again to VPT.

8. Based on the preliminary scrutiny of the, the VCTPL was requested vide our letter dated 15 July 2020 to furnish additional information/ clarifications on a few points. The VCTPL vide its e-mails dated 27 July 2020, 07 August 2020, 17 August 2020 and 20 August 2020 has furnished its reply. A summary of the additional information/ clarifications sought by us and the reply furnished by the VCTPL is tabulated below:

Sl. No.	Information/ clarifications sought by us	Reply furnished by VCTPL
1.	**General:** As per clause 1.9 of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by this guideline, by way of a separate Agreement with the concerned Major Port Trust. The VCTPL in response to the comments of the VPT has vide email dated 06 July 2020 stated that VCTPL has already submitted the draft agreement to the VPT vide its letter No.VCT/VPT/DYCOO 378/2020 dated 17 June 2020. The VCTPL is requested to expedite to furnish a copy of the separate Agreement as per the prescribed format forwarded by the MOS vide letter No.PR-14019/20/2009-PG (PTIV) dated 08 March 2019 to all the Major Port Trusts including	VCTPL has sent the revised draft to VPT for execution. A copy of the draft agreement is attached for reference.

	the VPT duly signed by the VCTPL and the VPT.	
2.	**<u>Annual Revenue Requirement (ARR) (Form-1):</u>**	
(i).	As per Clause 2.3.2 of Tariff Guidelines, 2019, in case there is variation in the expenditure reported under IND AS and IGAAP, then necessary adjustments need to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. In this regard, Form 6A, furnished by the VCTPL shows adjustments under the head "Depreciation and Amortization" and "Other Expenses" (towards Employee Benefit Expenses, Unwinding cost on security deposit and unwinding cost on Royalty) from IND AS to IGAAP for the years 2016-17 to 2018-19 respectively by way of showing as exclusion from the ARR computation. In this regard, the VCTPL is requested to clarify the following:	
	(a). The nature of expenses reported in the Audited Annual Accounts towards unwinding cost on security deposit and unwinding cost on Royalty and treatment given under IND AS for these two items which are considered for exclusion while drawing the statement under IGAAP.	(a). Unwinding cost on Security deposit: VCTPL had paid security deposit to VPT as per the land allotment letter towards lease rent for its terminal land in 2003 and for CFS land in 2015. Under Indian GAAP, security deposit given is being carried at the transaction value as long term as the amount is refundable after 12 months. However, according to requirement of Ind AS 109, Security deposit given is to be discounted at present value using the prevailing market discounting rate on the date of transition to Ind AS and excess of principal amount over its fair value will have to be expenses out on straight line method over the remaining terms of the security deposit. Accordingly in FY 2016-17, an amount of ₹9,01,146 consisting of ₹71,556 for Terminal rent security deposit and ₹8,29,590/- for CFS rent security deposit were the unwinding cost debited to finance cost and credited to Pre-paid exp-noncurrent a/c. Since these are in the nature of finance cost have been excluded from cost statement. (b). Unwinding cost on Royalty: Under Ind AS 11, VCTPL needs to recognize the annual fixed royalty payments to Port (royalty on MGT) of future years discounted at present value

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<td>using the prevailing market discounting rate on the date of transition to Ind AS. The total discounted royalty cost is debited to Intangible assets and credited to Financial liability.

For every financial year, the remaining asset value is discounted at Present value and over and above the actual royalty paid on MGT TEUs is debited to unwinding cost of Royalty and credited to financial liability.

The actual royalty paid to Port applicable on TEUs handled for the financial year is always debited to Royalty cost above EBITDA line. It is only the future MGT royalty cost present value is debited to finance cost.

The overall impact over the remaining project period in Balance sheet and P & L are kept as Annexure 1 for clear understanding.

Since there is no impact on actual royalty payment to port, as per IGAAP, which needs to be considered as the cost and the unwinding cost of royalty being only a finance cost in nature, has been ignored (i.e. excluded) from cost statement.</td>
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<td>(b). Further, the figure of unwinding of Security deposit as per IND AS in form 6A does not match with the figure reported in the Audited Annual Accounts for each of the years 2016-17 to 2018-19 for this item under the head “Finance cost”. The VCTPL may, therefore, furnish the figures as per IGAAP, IND AS figures duly matching with the Audited Accounts and the differential as per the format prescribed. The differential need to be captured as adjustment in Form 1.</td>
<td>As explained above, the audited accounts unwinding cost of security deposit consist of both for terminal and CFS land lease deposit and forms part of Finance cost in the Annual Accounts. In Form 6B, in FY16-17, 2017-18 and 2018-19, from the total expenditure (incudes unwinding cost of security deposit lying in CFS finance cost) as per Annual accounts, first entire expenses of CFS accounts have been excluded under (a), then unwinding cost of Security Deposit and unwinding cost of Royalty of terminal have been excluded under (3) to report the actual expenditure for ARR purpose for the terminal.
Unwinding cost of SD break up:
<table>
<tr><th></th><th>FY17</th><th>FY18</th><th>FY19</th></tr>
<tr><td>Un-winding cost of SD</td><td></td><td></td><td></td></tr>
<tr><td>Terminal</td><td>71556</td><td>59266</td><td>45625</td></tr>
<tr><td>CFS</td><td>829590</td><td>763463</td><td>687902</td></tr>
<tr><td>Total</td><td>901146</td><td>822730</td><td>733526</td></tr>
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<td>(ii).</td>
<td>The Annual Accounts of VCTPL reports net foreign exchange loss of ₹0.42 lakhs for the year 2016-17 and ₹0.50 lakhs for the year 2017-18. The VCTPL to confirm whether this net foreign exchange loss is on account of actual payment of foreign currency or arising due to restatement of assets to meet the accounting standards. The VCTPL is requested to capture only</td>
<td>The detailed break-up of forex loss incurred are furnished vide its e-mail dated 07 August 2020. Summary of the statement is tabulated below:
(₹ in lakhs)
<table>
<tr><th></th><th>2016-17</th><th>2017-18</th></tr>
<tr><td>Exchange Gain</td><td>0.33</td><td>0.47</td></tr>
<tr><td>Exchange Loss</td><td>0.93</td><td>0.89</td></tr>
<tr><td>Net Loss</td><td>0.60</td><td>0.42</td></tr>
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<td>net foreign exchange loss (after adjusting foreign exchange gain) in respect of actual repayment of foreign exchange. Foreign exchange gain or loss arising on account of restatement of loan/ assets/ expenses are not considered while determining the tariff. The same approach was followed uniformly across all the BOT operators governed under the erstwhile Tariff Guidelines and also under the Tariff Guidelines, 2019 for other BOT operator like the IGTPL.</td>
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<td>(iii).</td>
<td>The figure considered by the VCTPL for exclusion under the head “interest on loan” in Form-1 for the years 2016-17 to 2018-19 do not match with the figures reported in Audited Annual Accounts for the years 2016-17 to 2018-19. This item of exclusion may be corrected and considered as reported in the Audited Annual Accounts.</td>
<td>(a). Interest on loan as per Audited Annual Accounts includes interest cost of Loan of CFS also, which has been excluded by VCTPL in Form 1.

(b). Subsequently, the VCTPL vide its e-mail dated 07 August 2020 has furnished reconciliation and break up FME considered for tariff calculation as tabulated below:

<table>
<tr><th rowspan="2">FME break up considered for Tariff</th><th>Y1</th><th>Y2</th><th>Y3</th></tr>
<tr><th>2016-17</th><th>2017-18</th><th>2018-19</th></tr>
<tr><td>A. Finance Cost as per Audited financials</td><td>1,951.63</td><td>2,000.93</td><td>2,545.15</td></tr>
<tr><td>Less: Finance Cost for CFS</td><td>393.42</td><td>609.49</td><td>585.79</td></tr>
<tr><td>Finance Cost for Container Terminal</td><td>1,558.21</td><td>1,391.43</td><td>1,959.36</td></tr>
<tr><td>Less: Ind AS adjustments</td><td>562.70</td><td>624.40</td><td>242.88</td></tr>
<tr><td>Less: Interest in Loan</td><td>415.88</td><td>338.22</td><td>832.48</td></tr>
<tr><td>B. FME considered by VCTPL for Tariff purpose</td><td>579.63</td><td>428.81</td><td>884.00</td></tr>
<tr><td></td><td></td><td></td><td></td></tr>
<tr><td>Hedging Cost</td><td>570.49</td><td>419.23</td><td>875.51</td></tr>
<tr><td>Interest On OD</td><td>0.30</td><td>0.08</td><td>1.18</td></tr>
<tr><td>Bg Commission</td><td>8.84</td><td>9.51</td><td>7.31</td></tr>
<tr><td>FME for Tariff purpose</td><td>579.63</td><td>428.81</td><td>884.00</td></tr>
<tr><td colspan="4">Note: Hedge cost is paid on Foreign currency loan taken for Purchase of RMQC (2 nos.) and RTGCs (4 nos.) in March 2018.</td></tr>
<tr><td colspan="4">Since these are actual expenditures are to be considered for Tariff determinations.</td></tr>
</table>

(c). Further, the VCTPL vide its e-mail dated 17 August 2020 has made following submissions with regard to hedge cost:

(i). VCTPL had been taken foreign currency loan for procurement of cranes. During 2016-17 there was an outstanding foreign currency loan of USD 12,533,514 as on 31-3-17 which were fully hedged to mitigate upswing in foreign currency fluctuations. This loan instalments were paid as per agreed rate and the net outstanding loan as on 31-3-2018 was USD 11,059,239.

(ii). In addition to that there was additional buyer’s credit/ FCNR loan taken in 2018-19 for USD 17,684,000 (consisting</td>
</tr>
</table>

		of 2 derivative contract with ICICI – USD 15915600 + USD 1768400) fully hedged to mitigate upswing in foreign currency fluctuations. (iii). Hedging of the loan is done upfront so that at the time of payment, when the USD rate appreciates over INR, instead of incurring a huge foreign currency loss on the date of settlement, the company settles the loan amount as per agreed rate in the hedge contract. The hedge cost is the amount paid to Bank for absorbing the risk element in foreign currency fluctuations. For example - in the latest contract of 2018-19, if we refer USD 15915600 derivative contract, the spot rate at the time of entering the contract was ₹67.36 and Strike rate (Agreed rate) was ₹68.36. The due date of foreign currency loan repayment is 10 December 2020. On the date of maturity if the USD to INR rate is more than ₹68.36 (assume it is @ ₹76), VCTPL will pay only @ ₹68.36. And if it is less than ₹67.36, it will pay the converted rate which is prevailing on that date. The Hedge cost paid is the premium to cover the risk of foreign currency fluctuations above ₹68.36. Had it not taken the hedging, if the USD to INR rate is ₹76 on 10 December 2020, it will settle the loan at ₹76 and book the additional foreign currency loss of ₹8.64 per USD (₹76-₹67.36) i.e. approx. ₹13.75 crores for total loan amount of USD 15.91 Mn. (iv). VCTPL has incurred actual hedge cost ₹5.70 crores in 2016-17, ₹4.19 crores in 2017-18 and ₹8.76 crores in 2018-19 as per audited financials. VCTPL requests the TAMP to consider same as claimed under FME in our application.
(iv).	(a). The VCTPL has excluded the provision for bad and doubtful debts of ₹7 lakhs in the year 2017-18 from the total expenses as per clause 2.3 (ii) of the Tariff Guidelines, 2019. This figure could not be cross checked with the Audited Annual Accounts which shows ₹12.96 lakhs in the year 2017-18. The VCTPL to clarify the reasons for mismatch from the figures reported in the Audited Annual Accounts or this item of exclusion may be corrected and considered as reported in the Audited Annual Accounts.	Total bad debts of ₹12.96 lakhs in Annual report includes bad debt pertaining to CFS of ₹6.28 lakhs which is already excluded from the operating expenditure in Form 6B [reconciliation statement].
	(b). The VCTPL has considered an amount of ₹12.96 lakhs in the ARR computation towards “Bad debts written off” in the year 2017-18. The VCTPL to	Bad debts are part of normal operating expenditure which could not be collected from the trade. This is required to be expensed out which is an allowable

	justify why the debt that cannot be recovered or collected from a debtor should be loaded on to the tariff payable by the user only for the services rendered by VCTPL.	expenditure as per Companies act and Income Tax Act.
(v).	<u>Form 3 - Computation of Working Capital</u>: As per Clause 2.6 of Tariff Guidelines, 2019 the norm for computation of working capital is limited to one year's average consumption of inventory for capital spares and other items of inventory at six months' average consumption of stores excluding fuels. Limit on cash balance will be one month's cash expenses. Advance payment of Revenue Share/ royalty and advance payment of lease rental/ license fee to the landlord port flowing from the contractual obligations will be recognised as a part of sundry debtors. In the light of the above provision in the TG 2019 and in the light of the observation given below, the VCTPL to make the necessary modification/ correction in Form 3:	
	(a). On perusing the linkage given in Form 3 for estimation of Inventory of capital spares to the tune of ₹0.36 lakhs it is seen that they pertain to closing inventory for consumables, oil & lubricant, Tyres, Stores & spares and not capital spares. The six months consumption of the same items are captured by VCTPL in Form 3 Sr. No.(i) (b) under the head Other Inventory excluding fuel and customized spares. The VCTPL may, therefore, make necessary correction in this Form in the light of the above observation.	₹0.36 lakhs is the inventory balance of capital spares separately classified and shown as one year WC requirement. Average capital spares consumptions are not captured separately in financials. Since the amount is insignificant, it may kindly be considered for WC purpose. However, the consumptions of other inventory items i.e. consumables, oil & lubricant, Tyres, Stores & spares are calculated based on consumption expenditure shown in Form 6B which is reconciled in WC calculations sheet accordingly ₹132.03 lacs i.e. 6 months average consumptions is considered for WC calculations.
	(b). In the Form 3 relating to computation of working capital (as per norms), the VCTPL has considered an amount of ₹889.85 lakhs at Sr. No.II (a) towards trade receivables. The linkage provided to the said item to the Trial Balance of 2018-19 shows that it pertains to Accounts Receivable – External, Internal companies and Others. Capturing of this item is not found as per the norms prescribed under Clause 2.6 of Tariff Guidelines, 2019 for computation of working capital and hence may be deleted.	According Clause 2.6 Working capital will comprise of inventory, sundry debtors and cash balances. Advance payment of Revenue Share/ royalty to the landlord port flowing from the contractual obligations will be recognised as a part of sundry debtors. Advance payment of lease rental/ license fee to landlord port flowing from the contractual obligations will be recognized as part of sundry debtors. ₹889.85 lakhs is towards trade receivable and an essential part of Working Capital (WC) requirement in any prudent business. Therefore, it is considered in Form 3. Nowhere in the TG 2019, Trade receivable is excluded from WC calculations.
	(c). As per the clause 2.6 of the Tariff Guidelines, 2019 read with clause 2.2 of the Working guidelines to operationalise	Lease rent to VPT is always paid in advance and flows from the lease agreement dated 10 March 2016 (Ref

	the Tariff Guidelines, 2019 and as per note prescribed under Form-3, advance payment of Revenue Share/ royalty and lease rental/ license fee to landlord port flowing from the contractual obligation will be recognized as part of sundry debtors. As observed in para 15(viii) (b) of the last tariff revision Order dated 14 November 2017 the License Agreement entered by the VCTPL with the VPT, does not prescribe any advance payment of lease rentals. As per Article 5.1 of the LA entered between VCTPL and VPT, the royalty is payable on 7th day of the immediately subsequent month. Thus, as per LA, the VCTPL is not required to make any advance payment to VPT. That being so, ₹464.27 lakhs considered by VCTPL towards advance payment of lease rent and royalty in Form-3 in the computation of Working capital is not in line with Tariff Guidelines, 2019. The VCTPL to make necessary corrections in the computation of Working Capital in this item to comply with the guidelines position.	Page no.4 of the lease agreement under clause "Rent") as well as from the allotment letter of 2003. Lease agreement and allotment letter of 2003 are attached.
	(d). The VCTPL has considered cash balance at ₹992.62 lakhs in computation of working capital where cash expenses is considered at sum of Cost of material consumed at ₹1,115.71 lakhs, Employee benefit expenses at ₹2,099.64 lakhs and Other expenses at ₹8,696.16 lakhs which is not found as per the prescribed norm. Cash expense for working capital computation may be corrected and considered as one month cash expense of the year 2018-19as per clause 2.6 of the Tariff Guidelines, 2019. To explain, as the per the cost statement furnished by the VCTPL in the original proposal dated 02 April 2020 cash expense works out to ₹935.26 lakhs (i.e. admissible expenses ₹13,911 lakhs for the year 2018-19 – ₹2,687.84 lakhs. depreciation as per IGAAP / 12 = ₹935.23 lakhs). The VCTPL is to make necessary modification to comply with the Tariff Guidelines.	The VCTPL has considered cash balance at ₹992.62 lakhs in computation of working capital where cash expenses is considered at sum of Cost of material consumed at ₹1,115.71 lakhs, Employee benefit expenses at ₹2,099.64 lakhs and Other expenses at ₹8,696.16 lakhs after excluding the CFS related expenditures from the annual report – Please refer Form 6 B.
(vi).	**<u>Fixed Asset Statement as per IGAAP considered in ARR (Form-7)</u>:** The figures of Gross Fixed Assets as per IGAAP and Capital Work in Progress as on 31 March 2019 as considered in Form no.1 is seen to be based on Form no.7 furnished by VCTPL, with regard to Form no.7, the VCTPL is requested to furnish workings in support of the following:	
	(a). As per the Notes forming part of financial statements for the year 2016-17, note no.2 under the head "Statement of	In may be noted that as on the date of transition from to Ind AS, assets which are to be handed over to Concessioning

	Compliance" states that the year 2016-17 is the first year the Company has prepared the financial Statement under IND AS. Further note 3.17 states the VCTPL has elected to continue with the carrying value of all tangible and intangible assets as of 01 April 2015 under previous IGAAP and used carrying value as the value of fixed assets on the transition date. Note 5 of Audited Annual Account 2016-17 gives the carrying amount as on 1 April 2015, 31 March 2016 and 31 March 2017. The carrying value of assets i.e. net fixed assets for the year ending on 2014-15 i.e. as on 31 March 2015 reported in the Audited Annual Accounts under IGAAP for the year 2014-15 is ₹10,616.01 lakhs and ₹9,283.84 lakhs for the year 2015-16. As against that, the Gross Fixed Assets opening balance considered in the year 2016-17 is ₹19,721 lakhs as per Form no.7 which could not be linked. The VCTPL is requested to reconcile the Gross Fixed Assets under IGAAP considered by VCTPL and ensure that it matches with gross block of 2014-15/ 2015-16 whichever is taken as the base year for transition from IGAAP to INDAS.	Authority at the end of the project period have been classified under Intangible assets. The net block value as on the date of transition is considered as the opening asset value for Ind AS is concerned. In our working in Form 6B, we have first considered depreciation as per Ind AS i.e. as per Annual Accounts. We have deducted from there the depreciation of CFS assets and arrived depreciation as per Ind AS for terminal assets. For ARR computation, depreciation as per IGAAP is taken under row no.41 of Form 6B. A detailed reconciliation of gross asset value of each block of assets, depreciation and net book value both as per Ind AS and IGAAP are kept under Annexure 3 pertaining to FY 2015-16 (pure IGAAP), 2016-17 (both Ind AS & IGAAP), 2017-18 (both Ind AS & IGAAP) and 2018-19 (both Ind AS & IGAAP). These statement includes detailed calculations of unit wise – VCTPL and CFS separately. Subsequently, VCTPL vide its email dated 17 August 2020 has also made additional submissions with regard to Computer - closing balance of 2015-16 is not matching with opening of 2016-17 as per Annexure 3 as given below: Reply: As per Audited financials: a) Closing balance of Computer as on 31-3-2016 (FY2015-16): ₹2,46,16,343 b) Closing balance of Computer software as on 31-3-2016 (FY2015-16): ₹5,89,66,902 As per Annexure-3 a) Opening balance of Computer as on 01-4-2016 (FY2016-17): ₹2,38,17,343 b) Closing balance of Computer software as on 01-4-2016 (FY2016-17): ₹5,97,65,902 The difference of ₹7,99,000 in individual asset block are interchanged in Annexure 3. However, in total assets value it has no impact. Further, with regard to Annexure-3 deletions in Financial year 2016-17 does not match with Audited Annual Accounts of the 2016-17, the VCTPL vide its email dated 17 August 2020 has clarified that there is deletion in Plant & Machinery of ₹1,19,79,725 during FY 2016-17. As per

		Financials it is shown under Disposals in Gross block in 2016-17. Same amount is appearing in Annexure 3 deletion column in Gross block during 2016-17.
	(b). As per note 7, a reconciliation statement between opening Balance of the Gross Fixed Assets for each of the asset category viz., Plant and Machinery, Furniture and Fixtures, Office equipment, Computers-Software, Computers-Hardware, Vehicles, Buildings including Jetty and any other Fixed Assets for the years 2016-17, 2017-18 and 2018-19 as per IGAAP and INDAS to be furnished.	Annexure 3 gives detailed explanation.
	(c). Workings in support of Depreciation in respect of each of the asset category viz., Plant and Machinery, Furniture and Fixtures, Office equipment, Computers-Software, Computers-Hardware, Vehicles, Buildings including Jetty and any other Fixed Assets, for each of the years 2016-17 to 2018-19.	Annexure 3 gives detailed explanation.
	(d). The figure of additions and disposal shown under gross fixed assets schedule in Form no.7 for the years 2016-17, 2017-18 and 2018-19 do not match with the net additions reported in Audited Annual Accounts of the respective years. The VCTPL is requested consider the net additions for each of the years 2016-17 to 2018-19 as per the figures reported in the Audited Accounts of the respective years. While doing so, any additions/ disposal pertaining to CFS may be excluded.	Annexure 3 gives detailed explanation.
	(e). The capital work in progress reported in the Annual Accounts for the year 2018-19 is ₹672.43 lakhs under schedule 5. As against that the VCTPL has considered it at ₹28.00 lakhs which does not match with the figures reported in the Audited Annual Accounts. The reason for considering a lower amount of capital work-in-progress may be explained.	Annexure 3 gives detailed explanation.
3.	**Revenue estimation (Form-4):**	
(i).	The VCTPL has indexed the ARR by 4.26% for the year 2019-20. The VCTPL has stated that the proposed SOR is indexed for the year 2020-21 by 2.56% i.e. 60% of WPI of 4.26%. It is relevant to state here that annual indexation in the SOR at 60% of the WPI announced by the Authority for the year 2020-21 is 1.13% (i.e. 1.88% * 60%) for the BOT operators under TG 2019. The revenue estimation now furnished by the VCTPL in Form 4 does not match with the rate proposed in the SOR after the 60% WPI indexation. Since the year 2020-21 has commenced and the SOR proposed by	We have indexed 1.13% for 2020-21 Tariff in Form 5 instead of 2.56%.

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<td>the VCTPL is after applying annual indexation, the VCTPL may correct the rates proposed in the SOR by applying the correct indexation factor at 60% of WPI variation i.e. 1.13% instead of 2.56%. Consequently, the revenue estimation in Form 4 may also be modified to capture the rates proposed in the SOR after indexation (after applying correct indexation factor of 1.13%). The VCTPL to ensure that the revenue estimated at the proposed SOR is well within the ceiling indexed ARR.

Further, since the ARR estimated by the VCTPL is after applying indexation factor for the year 2019-20, and recognizing that the year 2020-21 has commenced and the rate to be notified by the Authority shall be in the current financial year 2020-21, the estimated ARR may be indexed for the year 2020-21 as well.</td>
<td></td>
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<tr>
<td>(ii).</td>
<td>The VCTPL has proposed to convert the following existing tariff items prescribed in rupee terms in US$ for foreign container to meet 8% expenditure incurred in foreign currency so as to overcome the impact of foreign currency fluctuations and savings in the valuable forex reserves of the nation and has cited the SOR of NSICTPL dated 03 March 2020 where Hatch covers for vessels under Section 5, Section 6 -Re-stow of containers, Section 7 - Shut out of containers, Section 8 - Reefer monitoring services and Section 9 - Dwell time charges are denominated in US dollar terms.
<table>
<tr><th>Clause in SOR</th><th>Tariff description</th></tr>
<tr><td>1.4</td><td>With landing Hatch cover on the quay – Foreign going</td></tr>
<tr><td rowspan="2">1.5</td><td>Shifting of containers within vessel (Re-stows):</td></tr>
<tr><td>Loaded or empty container shifted by landing and reshipping</td></tr>
<tr><td>1.7</td><td>Charges for supply of electricity (including connecting and disconnecting, monitoring at reefer yard) 4 hours or part thereof.</td></tr>
<tr><td>1.8</td><td>Charges for shut out containers</td></tr>
<tr><td>1.10</td><td>Storage charges</td></tr>
</table>

On perusing the proposed SOR, it is seen that the VCTPL has considered exchange rate in the range of 1 US$ = 66.42 (say for example shifting charge = existing rate ₹3,325*1.0256 indexation applied by VCTPL/ proposed US $ rate 51.34). Whereas the current foreign exchange rate is around 1US$ = ₹74.67. The VCTPL to update the proposed rate in US$ with the prevailing exchange rate and furnish the</td>
<td>The INR is depreciating at a rapid space recently due to uncertainty in the global economy at present on account of weak demand followed by the Covid19 pandemic scenario. Therefore, current scenario is not a usual circumstance to consider the USD INR conversion rate. In order to save outflow of foreign currency expenses, VCT has proposed a small % of its tariff item to convert to USD and not of any intention to earn additional forex. Therefore, in order to have level playing, it has compared the USD to INR trend of more stable period i.e. comparable expenditures considered for FY 2016-17 to 2018-19 and hence taken 66.42 as the conversion rate. Anyway, if any surplus arises, the Authorities can always adjust it in the next tariff cycle. Therefore, we have not made any changes to our existing proposal and request the authorities to kindly consider.</td>
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</table>

	workings in support of the proposed Dollar denominated tariff as against the rupee denominated rate considered proposed draft SOR. The VCTPL may also confirm that the revenue estimate is also modified accordingly and the overall revenue estimate is within the ceiling indexed ARR.	
4.	**Scale of Rates:**	
(i).	General Terms and Conditions: The Authority has passed common adoption Orders for all Major Port Trusts and BOT operators operating thereat including VCTPL from time to time and all the Major Port Trusts and BOT operators operating thereat including VCTPL were requested to include suitable notes in the SOR. However, the VCTPL has not included suitable notes in the proposed SOR in line with following common adoption Order: Amendment Order No.TAMP/53/2015-VOCPT dated 25 September 2018 in common adoption Order No.TAMP/53/2015-VOCPT dated 26 November 2015 relating to provision prescribed for concessional coastal tariff for ships and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh in terms of Notification No.38/2018- Customs (N.T.) dated 11 May 2018 issued by the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance. The VCTPL is requested to incorporate the provisions in the SOR stipulated in these common Orders.	Noted and may be incorporated.
(ii).	The general note no.(v) (b) under Section 1.2 of the proposed SOR relating to rate of interest on delayed payments, may be revised at 15% as against proposed 16.75% to fall in line with Clause 5.4.1 of the Tariff Guidelines, 2019.	Noted and may be incorporated.
(iii).	The VCTPL has proposed to reduce the existing free period for transhipment containers from 30 days to 15 days in the proposed SOR. However, the revised reduced slabs are not reflected in the revenue estimation in Form 4. This may be corrected in Form 4. The VCTPL to confirm that the additional revenue likely to accrue due to reduced free period for transshipment container is captured in the revenue estimation.	Currently there is no revenue from Transhipment storage. Even if the free period is reduced it will not have any revenue out of it and hence no revenue can be estimated.
(iv).	It is seen that though the VCTPL has proposed tariff it has not estimated revenue in Form 4 for a few tariff items as listed	

	below:	
	(i). Handling of Transhipment container (Coastal)	(i). No revenue is earned from this category. There is no coastal transshipment handled by VCTPL. In order to accommodate customers, the tariff item has been continued in case of future requirement if any.
	(ii). Lift on / off (Empty)	(ii). No revenue is earned from this category. It is an optional service. Lift on and lift off income is generally earned from laden containers for the purpose of either any customs examination of survey. Empty lift on/off is not earned. However, to facilitate trade this tariff item is being continued.
	(iii). Hatch cover handling for one operation (without landing hatch cover on quay)	(iii), (iv) and (v). No revenue is earned from this category. However, to facilitate trade this tariff item is being continued.
	(iv). Shifting container within vessel [Restows] (Coastal)	
	(v). Internal transportations	
	(vi). Reefer related and other general service (Pre-trip inspection excluding electricity charges)	(vi). No revenue is earned from this category. However, to facilitate trade this tariff item is being continued. Normally Run test is carried out and all revenue is captured in Run test category.
	(vii). Additional charges: (a). Container cleaning charges – high pressure water wash (b). Cancellation of document – per EIR (c). One door open charges (per container) (d). Fixing/ removal of hazardous sticker (e). Plugging/ unplugging of reefer container (f). Insurance of documents (g). VIA cancellation (h). Delay of submission of documents beyond the prescribed time (i). Non-declaration/ mis-declaration of OOG container (j). Charges of providing of gateway to vessel per calendar day	(vii). No revenue is earned from these categories. However, to facilitate trade this tariff item is being continued.
	(viii). Storage charges (Hazardous containers)	(viii). No additional storage is captured for Haz containers. Currently the storage revenue from hazardous categories are captured in normal storage of either Import or export containers. Due to safety reasons, most of the hazardous containers move out within free period and negligible storage income is included under normal storage income.
	(ix). Charges for supply of fresh water	(ix). No revenue is earned from these categories. However, to facilitate trade this tariff item is being continued.
	(x). Other services: (a). Vehicle entry pass	(x). It cannot be estimated and revenue may be captured and have no impact on tariff. To facilitate trade this tariff items are

	(b). Photography (c). Charges for use of terminal facility by vessels. The VCTPL to confirm that no traffic is handled during the last three years in respect of each of these tariff items. The VCTPL may consider to include probable revenue likely to arise from these items on estimate basis.	being continued. Anyway, if any surplus arises, the Authorities can always adjust it in the next tariff cycle. Therefore, we have not made any changes to our existing proposal and request the authorities to kindly consider our proposed revenue estimate.
5.	**<u>Past Period Surplus</u>:**	
(i).	Clause 3.1.2 of the Tariff Guidelines, 2019 stipulates that in case of operators who have not approached Courts, the surplus/deficit upto the period of first tariff fixation under this Guidelines shall be dealt with as per Clause 2.13 of the 2005 Tariff Guidelines as reproduced below: *"The actual physical and financial performance will be reviewed at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. If performance variation of more than + or - 20% is observed as compared to the projections, tariff will be adjusted prospectively. While doing so 50% of the benefit/ loss already accrued will be set off while revising the tariff."* The VCTPL is, therefore, requested to furnish the statement showing the actual physical and financial performance vis-à-vis the estimates relied upon in the previous tariff cycle as done in earlier tariff revision exercises under erstwhile Tariff Guidelines, 2005 and make necessary adjustments from the estimated ARR in case there is variation in both physical and financial parameters by +/-20%.	Actual performance as per 2005 GL and comparison with projections made in the last Tariff order is kept as separate sheet in the Tariff filing Form. As can be seen since the physical parameter does not vary +/- 20%, no surplus required to be adjusted as per previous Tariff Order followed by AG opinion on the interpretation of clause 2.13 of TG, 2005.
(ii).	During the last tariff revision Order No.TAMP/28/2017-VCTPL dated 14 November 2017 in para 16 (xxii), the Authority had, for reasons stated in the Order, allowed Technical Service Fee (TSF) as part of operating costs subject to the condition that the VCTPL will produce copies of the IT Assessment Orders at the time of next tariff review. It is relevant here to mention that the above mentioned contracts entered by the VCTPL are with an organization involving one of its promoters. As per Clause 2.8.1 of the tariff guidelines of March 2005, TSF payable by the private terminals to their promoters or to their associate entity can be admitted as an item of cost for tariff fixation purposes if yard-stick of 'arm's length relationship' is established as defined under Income Tax	TSF paid by VCTPL is under arm's length as per Sec 92E of the Income Tax Act' 1961. VCTPL has been complying with the Transfer pricing provision and filing relevant Auditors' certificate vide Form 3CEB. Besides, Income tax assessment order for FY 2014-15 to 2016-17 is attached as Annexure-4, wherein it can be seen there is no disallowance of TSF expenditure and are allowed as per the assessment. [For FY 2014-15 no formal assessment order was received and directly we got the refund amount (attached refund chq and ITR for reference)] Actual payment made for FY 2014-15 to 2016-17 based on contract are attached as

	Act, 1961. Para (xxii) of the 21 March 2015 Order requires VCTPL to furnish at the time of next tariff revision furnish the relevant Income Tax Assessment. The VCTPL, is, therefore, to furnish the relevant Income tax Assessment Order allowing the TSF as an item of cost for income tax purpose and also furnish documentary evidence to support the actual payment of TSF arising out of the second and third contracts for the years 2014-15 to 2016-17 or else the TSF expense with reference admitted as expense in the concerned exercise will be adjusted i.e. nullified in the current tariff revision.	Annexure 5.

9. The Licensor Port, the VPT was also requested vide our letter dated 15 July 2020 to furnish additional information on a few points. In response, the VPT vide its letter dated 20 July 2020 has furnished its reply. A summary of the additional information sought by us and the corresponding replies furnished by the VPT is tabulated below:

Sl. No.	Information sought by us	Reply furnished by VPT
(i).	The VPT has furnished comments on the proposal of the VCTPL vide its e-mail dated 03 June 2020. While furnishing the comments, one of the points made by the VPT was that VCTPL has not forwarded any Audited annual accounts and hence the port could not comment on entire proposal. In this regard, TAMP has already vide email dated 11 June 2020 forwarded soft copy of the Audited Annual Accounts of the VCTPL for the years 2016-17 to 2018-19 to VPT for furnish its further comments, if any, by 22 June 2020. We have not received further comments from the VPT. The VPT is requested to furnish further comments, if any, based on Audited Annual Accounts of the VCTPL immediately.	[VPT has not furnished any additional comments based on Audited Accounts of VCTPL forwarded to the port.]
(ii).	The Operating Expenses (including depreciation) as well as Finance and Misc. expenses reported in the Audited Accounts of the VCTPL for the years 2016-17 to 2018-19 is ₹12,710.84 lakhs, ₹15,132.28 lakhs and ₹20,527.38 lakhs respectively. As against that, the VCTPL in Form 1 at Sr. No.1 has considered total expenditure as per Audited Accounts at ₹11,159.43 lakhs, ₹11,899 lakhs and ₹16,856.37 lakhs for the corresponding years. On perusing Form 6B which is Reconciliation statement of Total expenses considered in the cost statement and total expenses reflected in the Audited Annual Accounts for each of the years 2016-17 to 2018-19, it is seen that the VCTPL has excluded the expenses relating to the CFS from the total Expenses while computing the ARR. This is in line with the approach adopted by the VCTPL in the last tariff revision	At page 18 of the License Agreement read with Appendix-12, CFS operations are covered under License Agreement. Accordingly, at the request of BOT operator, VPT had allotted land to VCTPL vide VPT's letter No.Estate/VCTPL/BOT/SA/1449A dated 12.12.2014 and the possession was taken on 13.05.2015 for the purpose of setting up of container freight station. The allotment of land for CFS seems to be in line with the License Agreement. In the context mentioned above, TAMP may decide the admissibility of expenditure on CFS and tariff for the services rendered at CFS by VCTPL. Copies of land allotment order and page 18 of the License Agreement and Appendix 12 is furnished.

<table>
<tr><td></td><td>approved by the Authority vide Order No.TAMP28/2017-VCTPL dated 14 November 2017. In this regard, reference is drawn to para 16 (iii) of the said Order where the Authority held that the CFS operations carried out by the VCTPL at the existing terminal does not flow from the License Agreement dated 11 September 2002 entered by VCTPL with VPT which is for development, operation and maintenance of full-fledged container terminal at outer harbor of VPT. It is for the landlord port trust to satisfy itself on the question whether the CFS services rendered by VCTPL are covered by the Licence Agreement. The same point is reiterated.</td><td></td></tr>
<tr><td>(iii).</td><td>Furnish comments on the estimation of revenue at the proposed level of tariff as furnished by VCTPL in its Form-4.</td><td>For Containers exceeding 40 feet in length and upto 45 feet length the rate in the SOR for Import Laden, Import Empty, Export Empty, 4 to 15 days and Shut out containers – Laden and Empty one to 15 days is ₹392 per container per day or part thereof was considered in Form 4 under existing tariff as ₹393.</td></tr>
<tr><td>(iv).</td><td>The VCTPL has proposed to convert the following existing tariff items prescribed in rupee terms in US$ for foreign container to meet 8% expenditure incurred in foreign currency so as to overcome the impact of foreign currency fluctuations and savings in the valuable forex reserves of the nation and has cited the SOR of NSICTPL dated 03 March 2020 where Hatch covers for vessels under Section 5, Section 6 - Re-stow of containers, Section 7 - Shut out of containers, Section 8 - Reefer monitoring services and Section 9 - Dwell time charges are denominated in US dollar terms.
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<tr><th>Clause in SOR</th><th>Tariff description</th></tr>
<tr><td>1.4</td><td>With landing Hatch cover on the quay – Foreign going</td></tr>
<tr><td rowspan="2">1.5</td><td>Shifting of containers within vessel (Re-stows):</td></tr>
<tr><td>Loaded or empty container shifted by landing and reshipping</td></tr>
<tr><td>1.7</td><td>Charges for supply of electricity (including connecting and disconnecting, monitoring at reefer yard) 4 hours or part thereof.</td></tr>
<tr><td>1.8</td><td>Charges for shut out containers</td></tr>
<tr><td>1.10</td><td>Storage charges</td></tr>
</table>
The VPT is requested to furnish its specific comments, if any, on the proposed change from rupee tariff to US$ tariff for foreign containers.</td><td>On the proposed change from rupee tariff to US$ tariff for foreign containers by VCTPL, TAMP may decide based on the earlier years US$ revenue and expenses.</td></tr>
<tr><td>(v).</td><td>As per clause 1.9 of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by this guideline, by way of a separate Agreement</td><td>VCTPL has submitted the draft agreement to VPT and the issue is under finalization.</td></tr>
</table>

	with the concerned Major Port Trust. The VPT in its comments dated 03 June 2020 had stated that the VCTPL has not entered into separate agreement till to date under Tariff guidelines 2019. The VCTPL in response has vide email dated 06 July 2020 stated that VCTPL has already submitted the draft agreement to the VPT authorities vide its letter No.VCT/VPT/DYCOO 378/2020 dated 17th June 2020. The VPT to, therefore, expedite furnishing a copy of the separate Agreement as per the prescribed format forwarded by the MOS vide letter No.PR-14019/20/2009-PG (PTIV) dated 08 March 2019 to all the Major Port Trusts including the VPT duly signed by the VCTPL and the VPT.	

10. A joint hearing in this case was held on 7 July 2020 through Video Conferencing. The VCTPL made a power point presentation of its proposal. At the joint hearing, the VCTPL and the concerned users/ organisation bodies have made their submissions.

11. 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.

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

(i). The Scale of Rates (SOR) of Visakha Container Terminal Private Limited (VCTPL) was last approved by this Authority vide Order No.TAMP/28/2017-VCTPL dated 14 November 2017, following the Tariff Guidelines of 2005, which stipulated cost plus pricing model and the revised SOR was notified in the Gazette of India on 21 December 2017 vide Gazette No.480. Subsequently, this Authority has passed an Order No.TAMP/7/2018-VCTPL dated 31 July 2018 disposing of the Review Application filed by VCTPL which was notified vide Gazette No.331 dated 29 August 2018. Both the Orders prescribe the validity of the SOR till 31 March 2020.

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

The VCTPL has filed its entire proposal dated 01 April 2020 for general revision of its SOR under the Tariff Guidelines, 2019 and Working Guidelines 2019. The VCTPL has furnished the requisite information/ clarification sought by us along with modified workings vide its emails dated 27 July 2020, 07 August 2020, 17 August 2020 and 20 August 2020. The same along with submissions made by the Port and users during the processing of the case are considered in this analysis. The cost statements and revenue estimates furnished by VCTPL are duly certified by a practicing Chartered Accountant.

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

(b). The VCTPL has stated that for the year 2019-20, accounts are not audited. So, the VCTPL has considered Audited Annual Accounts of 2016-17 to 2018-19 for ARR computation. The VCTPL has assessed the ARR based on Audited Annual Accounts for three years i.e. 2016-17 (Y1), 2017-18 (Y2) and 2018-19 (Y3) duly certified by a practicing Chartered Accountant. While assessing the ARR, the VCTPL has made exclusions of the expenses not admissible in ARR computation for arriving at the Average annual expenses for the year 2016-17, 2017-18 and 2018-19, as prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019. The ARR estimated by the VCTPL is found to be in order and hence considered based on clarification furnished during the processing of the case except for few modifications for the reasons explained in the following paragraphs.

(i). The Operating Expenses (including depreciation) as well as Finance and Misc. expenses reported in the Audited Accounts of the VCTPL for the years 2016-17 to 2018-19 is ₹12,710.84 lakhs, ₹15,132.28 lakhs and ₹20,527.38 lakhs respectively. As against that, the VCTPL in Form 1 at Sr. No.1 has considered total expenditure as per Audited Accounts at ₹11,159.43 lakhs, ₹11,899.16 lakhs and ₹16,856.37 lakhs for the corresponding years. On perusing Form 6B which is a Reconciliation statement of total expenses considered in the cost statement and total expenses reflected in the Audited Annual Accounts for each of the years 2016-17 to 2018-19, it is seen that the VCTPL has excluded the expenses relating to the CFS from the total Expenses while computing the ARR. This is in line with the approach adopted by the VCTPL in the last tariff revision approved by this Authority vide Order No.TAMP28/2017-VCTPL dated 14 November 2017. During the consultation process of the last tariff revision where VPT was also consulted, VPT then did not make any observation of land allotted to VCTPL for CFS and that VCTPL was entitled to provide CFS services as per the License Agreement. In this regard, reference is drawn to para 16(iii) of the said Order where this Authority held that the CFS operations carried out by the VCTPL at the existing terminal does not flow from the License Agreement dated 11 September 2002 entered by VCTPL with VPT which is for development, operation and maintenance of full-fledged container terminal at outer harbor of VPT. It is for the landlord port trust to satisfy itself on the question whether the CFS services rendered by VCTPL are covered by the Licence Agreement. That being so, this Authority goes ahead with the proposal of the VCTPL in the current tariff revision exercise of terminal of the VCTPL which excludes the expenses, revenue and gross fixed assets of CFS as it is in line with the decision of this Authority in the last tariff Order.

During the processing of this case, the proposal of the VCTPL of excluding the CFS activity and reference to para 16(iii) of the last revision Order of the VCTPL approved by this Authority was brought again to the attention the VPT. In that regard, VPT has clarified that at page 18 of the License Agreement read with Appendix-12, CFS operations are covered under License Agreement. Accordingly at the request of BOT operator, VPT had allotted land to VCTPL vide VPT's letter No.Estate/VCTPL/BOT/SA/1449A dated 12 December 2014 and the possession was taken on 13 May 2015 for the purpose of setting up of CFS. The allotment of land for CFS seems to be in line with the License Agreement. The VCTPL has commenced the operations at the CFS from the year 2016-17 as seen from the cost statement. The VPT has left for this Authority to decide the admissibility of expenditure on CFS and tariff for the services rendered at CFS by VCTPL.

In view of the position now brought out by the VPT that the CFS services rendered by the VCTPL is as per the License Agreement entered between the port and the VCTPL and the port has allotted land to VCTPL for CFS service, and since the current proposal excludes, expenses and return on gross block of assets relating to the CFS in the computation of ARR, the VCTPL is advised to formulate a separate well analysed proposal seeking tariff for CFS services rendered by VCTPL following the Tariff Guideline, 2019, within three months of date of notification of the Order in the Gazette of India.

(ii). Clause 2.2 of the Tariff Guidelines, 2019, *inter alia*, stipulates that Royalty/ Revenue share payable to the landlord port by the BOT operator in those cases where the bidding process was finalized before 29 July 2003 tariff computation will be taken into account to the extent of the next highest bidder in the ARR computation.

Accordingly, during the years 2016-17 to 2018-19, Revenue share as reflected in the Audited Annual Accounts of corresponding period to the tune of ₹1,833.42 lakhs, ₹1,941.45 lakhs ₹3,119.09 lakhs respectively are excluded. Since the bidding process in respect of VCTPL was finalised before 29 July 2003, revenue share to the extent of the next highest bidder i.e. 49% has been considered in the computation of ARR i.e. ₹898.37 lakhs, ₹951.31 lakhs and ₹1,528.36 lakhs during the years 2016-17 to 2018-19 respectively. 49% of royalty payment being the level quoted by the second highest bidder is allowed on the actual traffic handled by it as pass through in line with the approach followed in the last tariff Order of VCTPL. This is in line with the clause 2.2 of the tariff guidelines of 2019.

(iii). As per Clause 2.3.1 (ii) of the Tariff Guidelines, 2019, Interest on loans, provision for bad and doubtful debts, provision for slow moving inventory etc., are to be excluded.

Accordingly, the VCTPL has excluded the Interest on loans to the tune of ₹415.88 lakhs, ₹338.22 lakhs and ₹832.48 lakhs during the years 2016-17 to 2018-19 respectively and ₹6.68 lakhs towards provision for bad and doubtful debts for the year 2017-18 pertaining to the terminal. Interest on Over Draft (OD) to the tune of ₹0.30 lakhs, ₹0.08 lakhs and ₹1.18 lakhs for the years 2016-17 to 2018-19 respectively which is not excluded by VCTPL is excluded. As stated earlier, the VCTPL has already excluded the expenses relating to CFS operations from the operating expenses taken as the base for the computation of ARR from the expenses reported in Audited Annual Accounts for each of the years 2016-17 to 2018-19.

(iv). Clause 2.3.2 stipulates that in case there is variation in the expenditure reported under IND AS and IGAAP (like depreciation), then necessary adjustments to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. The Audited Accounts of VCTPL are IND AS compliant. The VCTPL has made necessary adjustment in the "Depreciation and Amortization" and "Other Expenses" (towards Employee Benefit Expenses, Unwinding cost on security deposit and unwinding cost on Royalty) from IND AS to IGAAP for the years 2016-17 to 2018-19 respectively by way of showing as exclusion from the ARR computation to capture these items as per IGAAP to comply with the Guideline position. Further, the VCTPL has explained the adjustments done by it from the audited figures reported under IND AS to IGAAP for the purpose of ARR computation which is brought out in the earlier paragraphs. The VCTPL has furnished the requisite working in Form 6A which is duly certified by practicing Chartered Accountant and the same is relied upon.

For the purpose of the analysis, these items for the years 2016-17 to 2018-19 as furnished by the VCTPL duly certified by the practicing Chartered Accountant are relied upon and considered.

(c). Following the provisions prescribed at Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines and based on the adjustments as discussed above, the VCTPL has arrived at average expenses for the years 2016-17 to 2018-19 at ₹108.67 crores which is considered by us.

(iv). (a). As per clause 2.5 of the Tariff Guidelines, 2019 Capital Employed will comprise of Gross Fixed assets (Property, Plant & Equipment) [as arrived as per the Indian Generally Accepted Accounting Principles (IGAAP)] plus capital work in progress as on 31 March/ 31 December of the year Y3 to be restated from the figures reported under IND AS in the Audited Annual Accounts and working capital as per norms prescribed. The Audited Annual Accounts for the year 2018-19 under IND AS reports total Gross fixed Assets at 579.79 cores for the year 2018-19. Of this the VCTPL, after excluding the gross block of the CFS, has reported the Gross value of Fixed Assets for the terminal at ₹495.46 crores under the IND AS. For the computation of ARR, the VCTPL has considered gross fixed assets as per IGAAP at ₹383.38 crores in respect of the terminal after excluding ₹84.33 crores pertaining to the CFS in line with provision prescribed in Clause 2.5 of the Tariff Guidelines, 2019. The VCTPL has furnished the prescribed Form 7 giving computation of gross fixed assets as per IGAAP duly certified by practicing Chartered Accountant. The Gross Fixed Assets as on 2018-19 considered by the VCTPL as per IGAAP duly certified by the Chartered Accountant is relied upon and considered.

The work-in-progress reported in the Audited Annual Accounts for the year 2018-19 is ₹6.72 crores. The VCTPL has considered Work in progress at ₹0.28 crores excluding Capital work-in-progress relating to CFS. The same is relied upon and considered.

(b). Working capital comprises of Inventory, Sundry debtors and Cash balances, as per Clause 2.6 of the Tariff Guidelines, 2019. The norm prescribed for the computation of working capital is limited to one year's average consumption of inventory for capital spares and other items of inventory at six months' average consumption of stores excluding fuels. The VCTPL has considered annual consumption of capital spares at ₹0.36 lakhs being the inventory balance of capital spares stating that average capital spares consumptions are not captured separately in financials. The consumptions of other inventory items i.e. consumables, oil & lubricant, Tyres, Stores & spares are based on six months average consumptions. In view of the clarification furnished by the VCTPL and the figures duly certified by the Chartered Accountant, the same is relied upon and considered.

The VCTPL has considered cash balance at ₹992.62 lakhs in computation of working capital where cash expenses is considered at one month of sum of Cost of material consumed at ₹1,115.71 lakhs, Employee benefit expenses at ₹2,099.64 lakhs and Other expenses at ₹8,696.16 lakhs.

It is relevant here to state that the admissible expenses computed by the VCTPL for the year 2018-19 is ₹13,910.55 lakhs. The cash expenses after excluding depreciation of ₹2,688.00 lakhs under IGAAP for the year 2018-19 as furnished by VCTPL works out to ₹11,222.56 lakhs and one month cash expense thereon as per norms works out to ₹935.32 lakhs which is considered. This is in line with the approach followed in the case of all the BOT operators and Major Port Trusts whose tariff is determined under the Tariff Guidelines of 2019 and Tariff Policy, 2018 respectively.

The VCTPL has captured an amount of ₹1354.12 lakhs under Sundry Debtors towards trade receivables. The VCTPL has stated that it is towards trade receivables and is an essential part of Working capital requirement in any prudent business. As per Section 58 of the MPT Act, the payment for services rendered is to be collected in advance before the goods are removed or shipped. Trade Receivable arising out of discretion exercised by VCTPL cannot be considered for working capital computation. In the case of tariff revision of CITPL vide Order No.TAMP/36/2019-CITPL dated 29 November 2019 fixed under Tariff Guidelines, 2019, the request of the operator to include Trade Receivable as part of Sundry Debtors was not considered.

As per the clause 2.6 of the Tariff Guidelines, 2019 read with clause 2.2 of the Working guidelines to operationalise the Tariff Guidelines, 2019, advance payment of lease rental/ license fee to landlord port flowing from the contractual obligations will be recognised as sundry debtor for computation of working capital.

The License Agreement entered by the VCTPL with the VPT, does not prescribe any advance payment of lease rentals. In the last tariff revision Order also, this point was made out and lease rentals was not considered in computation of working capital. During processing of the current case, the VCTPL has furnished copy of allotment letter dated 07.01.2003 which provide for advance payment of lease rental for every year. Thus, in the current revision, 50% of lease rent is captured in the computation of working capital at ₹464.27 lakhs as considered by VCTPL.

As per Article 5.1 of the LA entered between VCTPL and VPT, the royalty is payable on 7th day of the immediately subsequent month. VPT has also stated that royalty is not paid in advance. Hence, this item does not warrant inclusion in the working capital computation.

Subject to modifications as explained above, the modified Working Capital works out to ₹15.32 crores as against total Working Capital arrived by VCTPL at ₹24.79 crores.

(c). Subject to modifications as explained above, the modified capital employed works out to ₹398.98 crores as against total capital employed arrived by VCTPL at ₹408.45 crores. Return on Capital Employed (ROCE) considered by VCTPL at 16% is ₹65.35 crores. The modified

ROCE works out to ₹63.84 crores based on the modified Capital Employed.

(v). The ARR comprises of the average of the expenditure for the three financial years 2016-17 to 2018-19 plus 16% ROCE. The ARR arrived by VCTPL is ₹174.02 crores (₹108.67 crores + ₹65.35 crores). The modified ARR arrived by us works out to ₹172.52 crores (₹108.68 crores + ₹63.84 crores). Further, as per Clause 2.8 of Tariff Guidelines, 2019, the said ARR needs to be indexed @ 100% of the WPI applicable for the year 2019-20 which is 4.26%. The indexed ceiled ARR assessed by the VCTPL is ₹181.44 crores applying 4.26% indexation.

The VCTPL has proposed indexed SOR for the year 2020-21 applying indexation factor of 2.56% but has not applied indexation for the year 2020-21 in the ARR computation. The current year is 2020-21 and the indexation announced by this Authority for the year 2020-21 is 1.88% for arriving at the indexed ARR and 1.13% for indexation of tariff. That being so, the VCTPL is entitled for indexed ARR for the year 2020-21.

As per the modified ARR computation done by us the modified indexed ceiling ARR applying indexation factor of 4.26% for the year 2019-20 and 1.88% for the year 2020-21, it works out to ₹183.25 crores for the year 2019-20. This does not include of past period adjustment. The analysis relating to the past period is brought out in subsequent paragraphs.

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

(vi). (a). As per Clause 2.10 of Tariff Guidelines, 2019, for drawing the SOR, the traffic to be considered would be the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3, duly certified by the concerned port. The average traffic considered by the VCTPL for the years 2016-17 to 2018-19 is 4,01,800 TEUs. The VPT has furnished the traffic handled by the VCTPL at 3,67,199, 3,88,624 and 4,50,460 TEUS and the average of three years traffic works out to 4,02,094 TEUs. There is slight variation in the average traffic furnished by the VPT. The reason for variation remains unexplained by VPT. However, VCTPL has clarified that the Traffic shown by VPT is based on shift cut off. However, actual traffic calculation by the VCTPL is based on sailing of vessel which it has reported to VPT after end of the month. Therefore, for the purpose of this analysis, the average actual traffic for the years 2016-17 to 2018-19 at 4,01,800 TEUs considered by the VCTPL for revenue estimation is relied upon.

As regards the point made by the VPT that the traffic handled during 2019-20 is 5,03,630 TEUs and considering Y3 as 2019-20, the average traffic comes to 4,47,571 TEUs, the VCTPL has clarified that the audited accounts of 2016-17, 2017-18 and 2018-19 available at the time of submitting the proposal is considered as Y1, Y2 and Y3 respectively. Therefore, the average traffic for the corresponding three years at 4,01,800 TEUs is considered. The average traffic considered by the VCTPL is in line with the Tariff Guidelines 2019 and the approach followed in the case of tariff fixation of other BOT operators under the ibid guidelines and hence is considered at the level considered by the VCTPL.

(b). Clause 2.11.1 of Tariff Guidelines, 2019, gives flexibility to the BOT Operators to determine the rates within the estimated ARR to respond to the market forces based on commercial judgment. The said clause further states that the BOT Operator shall have option to draw SOR to achieve revenue lower than the ceiling ARR.

The VCTPL has proposed to maintain status quo in the existing SOR subject to indexation factors for the year 2020-21, 9% reduction in composite handling charges for empty containers and 42% increase in storage charges. Further, the VCTPL has proposed to reduce free period for transhipment containers from existing 30 days to 15 days to deter container from staying long in the terminal.

As regards reduction proposed in the empty container handling charges, the VCTPL has justified that it is an export driven gateway terminal. Shipping lines have to reposition empty containers to cater to the export volume. Since there is additional cost to the shipping lines for repositioning the empties, VCTPL has proposed reduction in the handling charges of empty containers by 9%. This small step, VCTPL feels, would cater to increase in exports from VCTPL and would benefit to the exporters, shipping lines and the VPT. The Visakhapatnam Container Lines Association (VCLA) has appreciated this proposal of the port. The proposed reduction in the composite handling charges for empty containers is approved.

The VCTPL has stated that current yard utilization is almost 80%. Most of the containers are DPD and about 30% are not evacuated within free days. This impacts yard capacity and congests the yard. Hence, VCTPL has proposed 42% increase in the storage charge to improve the evacuation. Container Shipping Lines Association (India) [CSLA] and Visakhapatnam Container Lines Association (VCLA) have opposed to proposed increase. However, since Vizag has already 8 CFSs at present and that the Containers can be evacuated faster, VCTPL has proposed to reduce the free period for Transhipment containers from 30 days to 15 days for effective yard utilization and increase in capacity, which is considered.

At the proposed tariff, VCTPL envisages revenue of ₹181.44 crores. It is relevant here to state that the revenue estimated by the VCTPL captures existing rates approved by this Authority in the last tariff revision Order of 14 November 2017 read with the review Order dated 31 July 2018 for all the tariff items except for proposed tariff decrease of 9% in container handling charges for empty containers and 42% increase in the storage charges.

Whereas, in the proposed SOR, the VCTPL has applied the indexation for the year 2020-21 for all the other tariff items. That being so, the revenue estimate is modified to capture the indexation factor for the year 2020-21 as proposed by the VCTPL in its SOR subject to applying the correct indexation factor for the year 2020-21 at 1.13% in the existing tariff i.e. the tariff approved by this Authority in the last tariff revision Order of 2017 as against indexation factor of 2.56% considered by the VCTPL.

The revenue estimated by the VCTPL is ₹181.44 crores. As explained above, the modified ceiling indexed ARR estimated by us is ₹183.25 crores. At the proposed rates, i.e. 9% reduction proposed in empty container handling charges, 42% increase in storage charges and indexed rates applying indexation factor of 1.13% for the year 2020-21 in all the other tariff items as proposed by the VCTPL in its SOR, the modified revenue works out to ₹183.21 crores. Applying 1.13% indexation factor on the rate proposed by VCTPL for empty container and storage charges shall result in revenue estimation exceeding the estimated ARR by ₹0.26 crores. As per clause 2.11.1 of the TG 2019, the revenue estimation at the prescribed rates should be within the estimated ARR. Hence, the proposed rate by VCTPL for empty container handling charges with 9% reduction and 42% increase in storage charges is presumed to subsume the indexation factor of 1.13% for the year 2020-21. The modified revenue estimates is found to be within the modified ARR estimated by us at ₹183.25 crores leaving a marginal gap of ₹0.04 crores left uncovered (₹183.25 crores - modified ARR - ₹183.21 crores -modified revenue estimates]. As per clause 2.11 of the Tariff Guidelines, the revenue estimates at the proposed SOR should be within the ceiling indexed ARR. The proposal of the VCTPL is in line with the Guideline position and hence is approved.

The VCTPL has given detailed working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding average traffic for the years 2016-17 to 2018-19, as required as per Clause 2.11.1 of the Tariff Guidelines, 2019. It is seen that for a few tariff items prevailing in the existing SOR as well as in the proposed SOR, the VCTPL has not estimated revenue in Form 4 as listed in the earlier paragraphs and hence not reiterated for the sake of brevity. The VCTPL was required to confirm that no traffic is handled during the last three years in respect of each of these tariff items and was also requested to consider to include probable revenue likely to arise from these items on estimate basis. In this regard, the VCTPL has categorically stated that no revenue is earned from these categories. However, to facilitate trade these tariff items are proposed to be continued. For the reasons explained by the VCTPL, this will not have any revenue impact as no traffic for these items is reported to have been handled during the last three years 2016-17 to 2018-19.

The revenue estimation statement has been duly certified by a Chartered Accountant. The revenue estimation furnished by the VCTPL is relied upon subject to modification done as brought out in the earlier paragraphs.

Further, for the reasons stated in the subsequent paras, the rates proposed by the VCTPL for five tariff items by converting the existing rate into dollar terms applying the exchange rate of 1US$ = ₹66.42 is corrected. This will not have any impact on the revenue as such.

(vii). As per clause 1.9 of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by this guidelines, by way of a separate Agreement with the concerned Major Port Trust. The VCTPL has stated that it has requested the VPT in this regard and shall submit the same in due course of time. The VPT has also confirmed that the VCTPL has submitted the draft agreement to VPT and the issue is under finalization. The VCTPL, is advised to furnish a copy of the separate Agreement soon as per the prescribed format forwarded by the MOS vide its letter dated 08 March 2019 to all the Major Port Trusts including the VPT duly signed by the VCTPL and the VPT for our records.

(viii). Clause 3.1.2 of the Tariff Guidelines, 2019 stipulates that in case of the BOT operators who have not gone to the Court against the previous Order of this Authority, the surplus/ deficit for the past period till the period of tariff fixation during the first fixation of Tariff under the Tariff Guidelines of 2019 is to be done as per clause 2.13 of the Tariff Guidelines, 2005.

The VCTPL has furnished review of the estimates vis-à-vis the actuals for the past period of 2016-17 to 2018-19 based on Audited Annual Accounts. Review of past period of 2016-17 was done during the last tariff revision and the estimates considered in the last tariff Order is for the years 2017-18 to 2019-20. Hence, review of the estimates vis-à-vis the actuals need to be done for the three years i.e. 2017-18 to 2019-20. Therefore, subsequently, based on our request, the VCTPL has furnished Cost Statement for the past period 2017-18 and 2018-19 based on Audited Annual Accounts. The VCTPL has reconciled the expenditure reported in the Audited Annual Accounts for the years 2017-18 and 2018-19 and that considered in the cost statement. As regards the year 2019-20, the VCTPL has stated that the accounts are not Audited. Therefore, for the year 2019-20, the VCTPL considered provisional figures for comparison purpose of actuals with estimates considered in the last tariff Order for the year 2019-20. Since the year 2019-20 is over but the Audited Accounts for this year is not available, this Authority, for the purpose of past period analysis, goes ahead based on the approach followed by the VCTPL as done in case of VSPL, subject to review during the fixation of tariff for next tariff cycle based on actuals for 2019-20 based on Audited Annual Accounts.

Based on the reconciliation statement furnished by the VCTPL, the figures considered by the VCTPL in the past period statement are considered in the analysis. The actuals for the year 2019-20 shall, however, be reviewed based on the actuals as per the Audited Annual Accounts for the year 2019-20 during the next tariff revision of the VCTPL.

(ix). The analysis is as given below:

(a). The income estimates considered in the last tariff Order for the years 2018-19 and 2019-20 are adjusted to capture the effect of tariff increase granted in the review Order dated 31 July 2018 for a like to like comparison with the actual income from the date of implementation of the Order.

The opinion of Attorney General for India conveyed by Ministry of Shipping vide its letter dated 12 June 2015 is that the actual income earned by the operator based on their Audited Accounts should be considered and not any notional income. Therefore, for the purpose of analysis of the past period, the actual income as reported in the Audited Annual Accounts for the years 2017-18 and 2018-19 and for the year 2019-20 actuals/ provisional as furnished by the VCTPL and supported with reconciliation statements are considered.

(b). On perusing Reconciliation statement of Total expenses/ income considered in the cost statement and total expenses/ income reflected in the Audited Annual Accounts for each of the years 2017-18 to 2019-20, it is seen that the VCTPL has excluded the expenses/ income relating to the CFS from the total expenses/ income for past period analysis as done for ARR computation. This is in line with the approach adopted by the VCTPL in the last tariff revision approved by this Authority vide Order No.TAMP28/2017-VCTPL dated 14 November 2017.

It is seen that VCTPL has also excluded income from sale of scrip pertaining to the terminal to the tune of ₹1110 lakhs, ₹2095 lakhs and ₹1614 lakhs in the years 2017-18, 2018-19 and 2019-20. Since the sale of scrip is related to and/ or relevant for VCTPL terminal and the VCTPL could have obtained exemption in the Custom duty on the strength of scrips on their imports, this item is captured in the income for these three years. This will not have any impact on the final decision making as such.

(c). The estimates of depreciation in the cost statement prepared during the last revision was based on IGAAP. From the year 2016-17, the VCTPL has followed IND AS method of accounting. For a like to like comparison, the VCTPL has considered the depreciation figure under IGAAP and has reconciled the same with the IND AS figures. The depreciation figures as considered by the VCTPL are relied upon and considered.

(d). The VCTPL has considered admissible Revenue share paid to VPT for each of the years 2017-18 to 2019-20 in line with the Tariff Guidelines, 2005 and Tariff Guidelines, 2019.

(e). The interest on loans has also been excluded by VCTPL for each of the years 2017-18 to 2019-20 in line with the general approach followed by this Authority. The VCTPL has not excluded interest on OD for each of the said years which is excluded from the cost statement for the past period.

(f). The Capital employed considered during the last tariff revision under the then applicable Tariff Guidelines of 2005 is Net Fixed Assets + working capital as per the prescribed norms. The Net Fixed Assets reported in the Audited Annual Accounts is based on IND AS. The VCTPL has considered capital employed as the net fixed assets as per IGGAP at ₹23,203.30 lakhs, ₹22,303.74 lakhs and ₹19,677.14 lakhs for the years 2017-18 to 2019-20 respectively for the purpose of computing ROCE.

The net fixed assets considered by the VCTPL in the computation of capital employed for the past period do match with the Form 7 figures which is duly certified by the Chartered Accountant for the years 2017-18 and 2018-19 for ARR computation. Since the net fixed assets under the IGAAP furnished by the VCTPL in Form 7 are duly certified by the practicing Chartered Accountant, the same are considered for the past period.

The working capital is considered as Nil as per norms.

(g). A copy of the cost statement reviewing estimates of 2017-18 to 2019-20 vis-à-vis actuals of the corresponding period is attached as **Annex - II**.

(h). A summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

(**₹ in crores**)

Particulars	**Aggregate for the years 2017-18 to 2019-20 in absolute terms**		**Variation in %**
	Estimates as per tariff Order	**Actuals**	
Traffic (in lakh tonnes)	12.40	13.42	8.16%
Total Operating Income	456.94	661.48	44.76%
Total Expenditure including FME less FMI, Depreciation and overheads	351.18	377.26	7.43%
Surplus/ deficit before Return	105.76	284.22	
Capital Employed (Average)	220.33	217.28	-1.38%
16% Return on Capital Employed	105.76	104.30	-1.38%
Net Surplus after ROCE (before adjustment of past surplus)	0.00	179.92	

(i). The findings of the analysis with reference to the past period relating to the period from 2017-18 to 2019-20 are given below:

(i). The actual aggregate traffic handled by the VCTPL is 13.42 lakh tonnes as against the estimated traffic of 12.40 lakh tonnes during the period from 2017-18 to 2019-20. The variation in the physical parameters i.e. actual traffic handled is 8.16% positive in comparison to the estimates.

(ii). The operating income earned by the VCTPL is ₹661.48 crores as against estimation of ₹456.94 crores for the corresponding period resulting in positive variance of 44.76%.

(iii). On the expenditure side, the actual aggregate expenditure for the years 2017-18 to 2019-20 is ₹377.26 crores as against the estimated expenditure of ₹351.18 crores considered in the last Order for the corresponding period. The total actual expenditure thus shows positive variance of 7.43% in comparison to the expenditure estimated in the last tariff Order.

(iv). The average capital employed for the period from 2017-18 to 2019-20 is ₹217.28 crores as against average estimated capital employed of ₹220.33 crores. The variation in the average capital employed comes to 1.38% negative.

(v). As per the cost statement for the past period furnished by VCTPL, the VCTPL has earned aggregate surplus of ₹179.92 crores after admissible cost and 16% ROCE for the period from 2017-18 to 2019-20.

(vi). The average annual return earned on the average capital employed is as shown in the following table:

(**₹ in crores**)

Particulars	2017-18	2018-19	2019-20	AVG.
Actual Surplus/ deficit before return	87.09	91.21	105.90	284.22(Total) 94.74 (Avg.)
Actual Capital Employed	232.03	223.04	196.77	217.28 (Avg.)
Actual Return earned on capital employed	37.53%	40.89%	53.82%	43.60%

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

It can be seen from the above analysis that the variation in financial performance in terms of return on capital employed is more than 20%, (20% variation over 16% comes to 19.20%). The VCTPL has earned average annual return on capital employed at 43.60%.

Though the variation in financial performance in terms of return on capital employed is more than 20%, the variation in the physical parameter i.e., actual traffic handled is less than 20% i.e. 8.16% positive. Since the variation in one of the parameters is found to be less than +/(-) 20%, there is no case for adjustment of past period surplus in the current tariff cycle as per the opinion of the AG on the interpretation of clause 2.13 of the Tariff Guidelines of 2005.

(j). As stated earlier, since the Audited Accounts for the year 2019-20 is not available at the time of finalizing this case, the comparison of estimates for the year 2019-20 considered in the last tariff Order along with the actuals/ provisional Accounts for the year 2019-20 furnished by the VCTPL in the current tariff revision exercise and considered in the past period analysis shall be again reviewed with reference to the Audited Accounts for the year 2019-20 at the time of next review. Adjustment, if any, to be done in the future tariff on account of variation shall be governed by the Tariff Guidelines of 2005 since the past period analysis in this case is done following the clause 2.13 of 2005 Tariff Guidelines.

(x). As brought out in the preceding paragraphs, the modified indexed ceiling ARR was arrived at ₹183.25 crores. As stated in the analysis in the preceding paragraphs there is no case for past period adjustment based on the analysis given in the preceding paragraphs.

(xi). Based on the above analysis, a summary of the ceiling indexation ARR furnished by the VCTPL and as considered by us based on the modified cost statement is given below:

(**₹ in crores**)

Sr. No.	**Particulars**	**ARR computation furnished by the VCTPL**	**ARR computation modified by us**
1	Average admissible Expenses for the years 2016-17, 2017-18 and 2018-19 [Y1+Y2+Y3]/3	108.67	108.68
2	Capital employed as on 31.03.2019 including capital work in progress as on 31.03.2019 and working capital as per norms	408.45	398.98
3	Return on capital employed @ 16%	65.35	63.84
4	ARR as on 31 March 2019 (4=2+3)	174.03	172.52
5	Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 and 2020-21 (4.26% for the year 2019-20 and 1.88% for 2020-21) [VCTPL has only considered 4.26% indexation for the year 2019-20]	181.44	183.25
6	Ceiling Indexed Annual Revenue Requirement (ARR)	181.44	183.25
7	Revenue estimated by the VCTPL at proposed rate	181.44	183.21
8	Revenue gap (short fall in Estimated Revenue over ARR)	0.00	0.04

As stated earlier, marginal gap of ₹0.04 crores to meet the modified estimated ARR is left uncovered.

(xii). The VCTPL has proposed to convert the five of the following existing tariff items prescribed in rupee terms into US$. The VCTPL is exposed to foreign currency fluctuations on account of expenditures incurred for annual maintenance contract fee for the TOS software, technical fee, import of critical spares and repayment of foreign currency loan availed for the imports of cranes, interest payments of the foreign currency loan. The average foreign currency outflow anticipated by the VCTPL in the next tariff cycle is US$ 33,92,346 equivalent to ₹24 crores p.a. in rupee terms. The forex expenditure constitutes 14% of the average annual revenue. In the current proposal, the VCTPL proposes to convert the following five tariff items into US$ to meet 8% of the expenditure incurred in foreign currency so as to overcome the impact of foreign currency fluctuations and savings in the valuable forex reserves of the nation.

Clause in SOR	**Tariff description**
1.4	With landing Hatch cover on the quay –Foreign going
1.5	Shifting of containers within vessel (Re-stows):
	Loaded or empty container shifted by landing and reshipping
1.7	Charges for supply of electricity (including connecting and disconnecting, monitoring at reefer yard) 4 hours or part thereof
1.8	Charges for shut out containers
1.10	Storage charges

It is relevant to state here that based on the proposal of the NSICT for denomination of few tariff items, this Authority has vide Order No.TAMP/1/98-JNPT dated 15 March 2000 approved the proposal of NSCIT for denominating reefer monitoring charges and shut out charges then prescribed in rupee terms into dollar denomination. The VCTPL has justified its proposal citing the SOR of NSICTPL dated 03 March 2020 where Hatch covers for vessels (under Section 5), Section 6-Re-stow of containers, Section 7-Shut out of containers, Section 8-Reefer monitoring services and Section 9-Dwell time charges are denominated in US dollar terms. The prescription of the above tariff items is in dollar terms even in the SOR of other BOT operators like the Gateway Terminal India Private Ltd, PSA SICAL Terminals Ltd. and India Gateway Terminal Pvt. Ltd. That being so, and for the reasons cited by the VCTPL, this Authority is inclined to approve the proposal of the VCTPL for conversion of the existing rupee denomination of these five tariff items into US$.

For converting the above five tariff items from existing denomination in rupee terms for foreign container, the VCTPL has considered exchange rate of 1 US$ = 66.42. For example, the rate prescribed in the existing SOR for shifting is ₹3325/- for a foreign container. The VCTPL has applied indexation of 2.56% being 60% of WPI indexation of 4.26% announced for the year 2019-20 and arrived at ₹3410.12. This is divided by exchange rate 66.42 to arrive at the proposed US$ rate of 51.34 for a foreign container.

The VCTPL was requested to update the proposed rate in US$ with the prevailing exchange rate. To this, the VCTPL has responded that the INR is depreciating at a rapid space recently due to uncertainty in the global economy at present on account of weak demand followed by the Covid-19 pandemic scenario. Citing that the current scenario is not a usual circumstance to consider the USD INR conversion rate, in order to have level playing, it has considered exchange rate for the stable period for the years 2016-17 to 2018-19 and taken 1US$ = 66.42 as the conversion rate for converting rupee denominated tariff for the five items into US$ for foreign container.

It is relevant here to state that the revenue to be earned by the VCTPL at the proposed rate in US$ will be at the prevailing rate. If the rate proposed by the VCTPL is considered, the revenue to be earned at the prevailing exchange rate may lead to increase in estimated revenue and exceed the estimated ARR.

The average exchange rate since January 2020 till finalization of the case is 1US$=74.27. Hence, it is found appropriate to apply the exchange rate of 1US$=74.27 for converting these tariff items into US$. This will not have any impact on revenue estimates as the prevailing exchange rate is considered to arrive at the proposed rate. The tariff for coastal container is prescribed at the existing level as the VCTPL has not envisaged any increase in the existing tariff for foreign container.

(xiii). The proposal of the VCTPL states that it has proposed status quo in the existing SOR except for reduction of 9% in the consolidated charges for empty containers, 42% increase in storage charge, conversion of five items from rupee into dollar and increase in free period for transshipment container. The SOR, however, is proposed by the VCTPL after applying indexation factor for the year 2020-21 by 2.56%. The revenue estimated by the VCTPL in Form 4 do not capture the indexed rates proposed in the SOR. This mismatch was brought to the attention of the VCTPL to make necessary correction. Further, it was also brought out that the indexation in the tariff at 60% of the WPI announced by this Authority for the BOT operators governed under the Tariff Guidelines 2019 for the year 2020-21 is 1.13%. The VCTPL has not made necessary correction in the SOR. Hence, the SOR of the VCTPL is corrected in line with proposal of the VCTPL approved by this Authority. That is to say that, the revised SOR is prescribed applying correct indexation factor of 1.13% for the year 2020-21 over the existing rate as against 2.56% applied by the VCTPL for all the tariff items apart from prescription of the proposed reduction of 9% in the consolidated charges for empty containers, 42% increase in storage charges, reduction in free period for transshipment container as proposed by the VCTPL and conversion of the five tariff items in US$ for foreign container at the exchange rate of 1US$ =74.27.

(xiv). It is relevant to state here that this Authority in view of the concessional coastal tariff for ships and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh in terms of Notification No.38/2018- Customs (N.T.) dated 11 May 2018 issued by the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance has passed an amendment Order No.TAMP/53/2015-VOCPT dated 25 September 2018 in common adoption Order No.TAMP/53/2015-VOCPT dated 26 November 2015. The said Order passed is for common adoption by all the Major Port Trusts and BOT operators operating thereat. The VCTPL has agreed to incorporate but has not incorporated the provisions prescribed in the Order dated 25 September 2018. The provisions proposed by the VCTPL are updated with the amended provisions approved by this Authority in the recent Order.

(xv). The rate originally approved by this Authority vide Order No.TAMP/46/2018-MUC dated 08 June 2018 for mandatory users charge has been subsequently revised by this Authority vide Order No.TAMP/12/2019-MUC dated 24 July 2019 based on the proposal of Delhi-Mumbai Industrial Corridor Development Corporation (DMICDC) alongwith relevant notes governing the tariff prescribed. The VCTPL has proposed said notes governing the approved rates. Considering that the validity of the rates prescribed for MUC will be different from the validity of the revised SOR of the VCTPL, it is appropriate to prescribe only a note stating that MUC will be governed by separate common adoption Order No.TAMP/46/2018-MUC dated 24 July 2019 approved by TAMP for common adoption by all Major Port Trusts and BOT terminals.

(xvi). In view of conversion of few items in dollar terms, the VCTPL has proposed a new note relating to re-conversion of US dollar denominated tariffs into Indian rupees and also prescription of the procedure for re-conversion of container charges denominated in US dollar terms. The said note proposed is in line with clause 5.5.1 of Tariff Guidelines, 2019. Hence, said modification is considered.

(xvii). The VCTPL was requested that the general note no.(v) (b) under Section 1.2 of the proposed SOR relating to rate of interest on delayed payments, may be revised at 15% as against proposed 16.75% to fall in line with Clause 5.4.1 of the Tariff Guidelines, 2019. The VCTPL has agreed to do the same, but it is seen that the VCTPL has not made any correction in the proposed SOR. Therefore, the proposed SOR is modified to that extent.

(xviii). The VCTPL has proposed to reduce the existing free period for transhipment containers from 30 days to 15 days in the proposed SOR. However, the revised reduced slabs are not reflected in the revenue estimation in Form 4. The VCTPL was requested to correct the same in Form 4. However, it is seen that the VCTPL has not made any correction in this regard in Form-4. Therefore, in the Form-4 modified by us, said modifications are incorporated. Further, the VCTPL was to confirm that the additional revenue likely to accrue due to reduced free period for transshipment container is captured in the revenue estimation. In this regard, the VCTPL has confirmed that currently there is no revenue from Transhipment storage. Even if the free period is reduced it will not have any revenue out of it and hence no revenue can be estimated.

(xix). As per Clause 2.12 of the Tariff Guidelines, 2019, the SOR will be indexed annually to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Government of India occurring between 1st January to 31st December of the relevant year. Such adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. The VCTPL has not proposed any note in this regard. In the current revision, the annual indexation of 1.13% in the tariff for the year 2020-21 is already captured. That being so, they are entitled for annual indexation in the tariff for the year 2021-22 commencing from 1 May 2021. Hence, a suitable note is added to that effect to state that the SOR is subject to automatic annual indexation to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by this Authority occurring between 1st January to 31st December of the relevant year. Such adjusted SOR will come into force from 1st May of the relevant year to 30th April of following year. The first annual indexation will be from 1 May 2021. The indexed SOR should be intimated by the VCTPL to the VPT, concerned users and to this Authority.

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

(xxi). Clause 4.8 of the Tariff Guidelines, 2019 stipulates that ordinarily the Order approved by this Authority shall come into effect after expiry of 30 days from the date the Order is notified in the Gazette. Accordingly, the revised SOR will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette. The existing SOR of VCTPL is valid from the date of expiry for a period of 6 months i.e. till 30 September 2020 or till the revised SOR of VCTPL comes into effect, whichever is earlier. The validity of the existing SOR is deemed to have been extended till the revised SOR comes into force.

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

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

13.1. In the result, and for the reasons given above, and based on a collective application of mind, the revised Scale of Rates of the VCTPL is approved which has been notified separately.

13.2. The revised Scale of Rates and conditionalities of the VCTPL will come into effect after expiry of 30 days from the date of notification of the Order notifying the revised SOR in the

Gazette of India and shall be in force for a period of three years from the date the revised SOR came into effect. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

13.3. As per clause 7 of the Tariff Guidelines, 2019, the VCTPL shall furnish to TAMP without fail annual reports on cargo traffic handled and ship berth day output. The annual reports shall be submitted by the VCTPL within 90 days following the end of each of the year. Any other information which is required by TAMP shall also be furnished to them from time to time.

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

(T.S. Balasubramanian)
Member (Finance)

Annex - I(a)

Form - 1

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

Rs. in lakhs

Sl. No.	Description	Y1	Y2	Y3
		2016-17	2017-18	2018-19
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	9,601.22	10,507.73	14,897.01
(ii).	Finance and Miscellaneous expenses (FME)	1,558.21	1,391.43	1,959.36
	Total Expenditure 1=(i)+(ii)	11,159.43	11,899.16	16,856.37
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	-260.81	-252.23	-297.66
(ii).	Other expenditure items, if any, to be listed			
	Employee benefits expense	22.70	-3.84	17.94
	Unwinding cost on security deposit	-0.72	-0.59	-0.46
	Unwinding cost on Royalty	-561.99	-623.81	-242.43
	Total of Adjustments 2=(i)+(ii)+ -----	-800.81	-880.48	-522.60
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	-1,833.42	-1,941.45	-3,119.09
(ii).	Interest on loans	-415.88	-338.22	-832.48
(iii).	Provision for bad and doubtful debts	-	-6.68	
(iv).	Provision for slow moving inventory		-	
(v).	Other provisions, if any			
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]	-2,249.29	-2,286.34	-3,951.57
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	898.37	951.31	1,528.36
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3+4)**	9,007.70	9,683.65	13,910.55
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3			10,867.30
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)			38,338.03
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)			28.08
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory			132.39
	(b). Sundry Debtors			1,354.12
	(c). Cash			992.62
	(d). Sum of (a)+(b)+(c)			2,479.13
	(iv). Total Capital Employed [(i)+(ii)-(iii)]			40,845.25
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			6,535.24
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]**			17,402.54
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be (9) x 1.0426)**			**4.26%**
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No.10 above.**			**18,143.89**
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**			18,143.89

Annex - I(b)
Form - 1

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts furnished by VCTPL and modified by TAMP.				
				Rs. in lakhs
Sl. No.	**Description**	**Y1**	**Y2**	**Y3**
		2016-17	**2017-18**	**2018-19**
(1).	**Total Expenditure *** **(As per Audited Annual Accounts excluding CFS)**			
(i).	Operating expenses (including depreciation)	9,601.22	10,507.73	14,897.01
(ii).	Finance and Miscellaneous expenses (FME)	1,558.21	1,391.43	1,959.36
	Total Expenditure 1=(i)+(ii)	11,159.43	11,899.16	16,856.37
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	-260.81	-252.23	-297.66
(ii).	Other expenditure items, if any, to be listed			
	Employee benefits expense	22.70	-3.84	17.94
	Unwinding cost on security deposit	-0.72	-0.59	-0.46
	Unwinding cost on Royalty	-561.99	-623.81	-242.43
	Total of Adjustments 2=(i)+(ii)+ -----	-800.81	-880.48	-522.60
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	-1,833.42	-1,941.45	-3,119.09
(ii).	Interest on loans	-415.58	-338.14	-831.30
(iii).	Provision for bad and doubtful debts	-	-6.68	
(iv).	Provision for slow moving inventory		-	
(v).	Other provisions, if any			
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]	-2,248.99	-2,286.26	-3,950.39
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	898.37	951.31	1,528.36
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3+4)**	9,008.00	9,683.73	13,911.73
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3			10,867.82
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)			38,338.03
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)			28.08
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory			132.39
	(b). Sundry Debtors			464.27
	(c). Cash			935.32
	(d). Sum of (a)+(b)+(c)			1,531.99
	(iv). Total Capital Employed [(i)+(ii)-(iii)]			39,898.10
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			6,383.70
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6) + (8)]**			17,251.52
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be (9) x 1.0426)**			**4.26%**
(11).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2020-21 @ 1.88%.**			**1.88%**
(12).	**Ceiling Indexed Annual Revenue Requirement (ARR) after applying indexation factor as given in Sr. Nos.10 and 11 above.**			**18,324.57**
(13).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**			18,320.73

Note: The VCTPL has furnished reconcilation statement reconciling total expenses as reported in Audited Annual Accounts and expenditure pertaining to CFS which is excluded.

Annex - II

VISAKHA CONTAINER TERMINAL PRIVATE LIMITED

(Rs in Lakhs)

Analysis of the Past Period Performance of VCTPL for the years 2017-18 to 2019-20 furnished by VCTPL and modified by TAMP

Sr. No.	Particulars	Estimates relied upon in the Tariff review Order dated 31.07.2018				Actuals				Variation in Percentage (%)
		2017-18	2018-19	2019-20	Total	2017-18	2018-19	2019-20 (Provisional)	Total	
	Traffic (In TEUs)	**388,289**	**416,000**	**436,000**	**1,240,289**	**388,289**	**450,427**	**502,750**	**1,341,466**	8.16%
	Optimal Capacity	474,500	474,500	474,500	**1,423,500.00**	474,500	474,500	474,500	**1,423,500.00**	
I	**Total Operating Income**									
	Container handling income	11708.19	13120.38	14181.66	39,010.23	13,953.10	16,675.24	18,902.27	49,530.61	
	Others	2170.19	2214.58	2298.53	6,683.29	4415.88	6114.21	6087.45	16,617.54	
	Total	**13878.38**	**15334.96**	**16480.19**	**45,693.53**	**18,368.97**	**22,789.46**	**24,989.72**	**66,148.15**	44.76%
II	**Operating Costs (excluding depreciation)**									
	Operating & Direct Labour	461.88	480.54	490.16	1,432.58	483.80	531.52	579.95	1,595.27	
	Maintenance Labour	490.68	543.09	553.99	1,587.76	486.15	532.93	581.50	1,600.58	
	Equipment Running Costs	1620.39	2137.54	2281.98	6,039.91	1,372.83	1,768.05	1,759.47	4,900.34	
	Royalty / revenue share	951.31	1401.40	1602.30	3,955.01	951.31	1,528.36	1,847.61	4,327.27	
	Equipment Hire	1277.99	1358.47	1429.95	4,066.40	1,319.82	1,454.19	1,554.81	4,328.82	
	Lease Rentals payable	468.14	477.50	487.05	1,432.70	85.26	928.54	551.26	1,565.06	
	Insurance	112.44	283.97	331.54	727.96	114.01	138.84	162.16	415.01	
	Other expenses	564.19	593.33	611.45	1,768.96	788.50	872.79	951.63	2,612.92	
	Technical Service Fee	61.77	61.77	61.77	185.32	113.24	123.02	164.58	400.84	
	Total	**6,008.80**	**7,337.61**	**7,850.20**	**21,196.61**	**5,714.91**	**7,878.24**	**8,152.96**	**21,746.11**	2.59%
III	Depreciation	1,666.10	3,196.23	3,383.07	8,245.40	1,522.50	2,687.84	2,710.75	6,921.09	-16.06%
IV	**Overheads**									
	Management & Administration overheads	1680.68	1714.29	1748.58	5,143.55	1905.44	2343.26	2863.91	7,112.60	
	Preliminary expenses & Upfront Payment write-off	12.53	12.53	12.53	37.58	0	0	0	0	
	Total	**1,693.21**	**1,726.82**	**1,761.10**	**5,181.13**	**1,905.44**	**2,343.26**	**2,863.91**	**7,112.60**	37.28%
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**4,510.27**	**3,074.30**	**3,485.82**	**11,070.39**	**9,226.12**	**9,880.12**	**11,262.11**	**30,368.35**	
VI	**Finance & Miscellaneous Income (FMI)**									
	Others	15.00	15.00	15.00	45.00	30.52	242.05	17.65	290.22	
	Total	**15.00**	**15.00**	**15.00**	**45.00**	**30.52**	**242.05**	**17.65**	**290.22**	
VII	**Finance & Miscellaneous Expenses (FME)**									
	Contribution to Provident Fund	151.19	154.22	157.30	462.72	117.77	115.16	122.74	355.67	
	Loss on sale of assets and others					-0.08	0.87	1.54	2.33	
	Foreign Exchange loss on repayment of foreign currency loans based on review application by VCTPL					429.70	884.00	564.80	1,878.50	
	Total	**163.05**	**179.36**	**197.30**	**539.71**	**547.40**	**1,000.03**	**689.07**	**2,236.50**	
VIII	FMI Less FME (VI) - (VII)	(148.05)	(164.36)	(182.30)	(494.71)	(516.87)	(757.98)	(671.42)	(1,946.28)	
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**4,362.22**	**2,909.94**	**3,303.52**	**10,575.68**	**8,709.25**	**9,122.13**	**10,590.69**	**28,422.07**	
X	Capital Employed	23091.81	21103.73	21902.78	22,032.77	23203.30	22303.74	19677.14	21,728.06	-1.38%
XI	Return on Capital Employed @ 16%	3694.69	3376.60	3504.44	10,575.73	3712.53	3568.60	3148.34	10,429.47	-1.38%
XII	**Net Surplus / (Deficit) (IX) - (XI)**	**667.53**	**(466.66)**	**(200.92)**	**(0.05)**	**4996.72**	**5553.54**	**7442.35**	**17,992.61**	

Sr. No.	Particulars	Estimates relied upon in the Tariff review Order dated 31.07.2018				Actuals				Variation in Percentage (%)
		2017-18	2018-19	2019-20	Total	2017-18	2018-19	2019-20 (Provisional)	Total	
XIII	**Estimated surplus of 2017-18 adjusted on pro-rata basis for 12 months over the years 2018-19 and 2019-20**	556.27	278.14	278.14		-	-	-	-	
XIV	**Net Surplus / (Deficit) (XIII) - (XIII)**	111.25	-188.52	77.21	**(0.05)**	4996.72	5553.54	7442.35	**17,992.61**	
XV	**Net Surplus / (Deficit) as a % of operating income (XIV/I in %)**	**0.80%**	**-1.23%**	**0.47%**		**27.20%**	**24.37%**	**29.78%**		
XVI	**Average Net Surplus / (Deficit) as a % of operating income**	**0.01%**				**27.12%**				

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

F.No. TAMP/17/2020-VCTPL - Proposal received from Visakha Container Terminal Private Limited (VCTPL) for General revision of its Scale of Rates (SOR) under Tariff Guidelines, 2019.

A summary of the comments received from Visakhapatnam Port Trust (VPT) and users/ user organisations and reply furnished by Visakha Container Terminal Private Limited (VCTPL) thereon are tabulated below:

Sl. No.	Comments received from VPT and users/ user organisations	Reply furnished from VCTPL
1.	**Visakhapatnam Port Trust (VPT)**	
(i).	Traffic handled by VCTPL for the years Y1, Y2 and Y3 submitted by VCTPL is as follows: 2016-17 - 3,67,199 TEUs 2017-18 - 3,88,624 TEUs 2018-19 - 4,50,460 TEUs The average of the above years works out to 402094 TEUs. Traffic handled during 2019-20 is 5,03,630 TEUs and considering 2019-20 as Y3, the average works to 4,47,571 TEUs.	We assume, the Traffic shown by VPT is based on shift cut off. However, VCTPL's calculation is based on sailing of vessel. Therefore, there is marginal difference. Moreover, VCTPL has reported to VPT after end of the month based on sailing of the vessels. The financial year-wise Volume are as follows: 2016-17 : 3,66,683 TEUs 2017-18 : 3,88,289 TEUs 2018-19 : 450, 427 TEUs 2019-20 : 5,02, 750 TEUs It may be noted that as per Tariff Guidelines 2019, the actual expenditures, Actual capital employed and Actual Traffic handled should be considered as per the final Audited Accounts of immediate preceding three years (Y1, Y2 and Y3) at the time of submitting the proposal. Since VCTPL has audited accounts of 2016-17, 2017-18 and 2018-19 available at the time of submitting the proposal, therefore, Y3 would be FY 2018-19 and therefore average traffic proposed to be considered is 4,01,800 TEUs.
(ii).	VCTPL has not entered into separate agreement till to date under Tariff Guidelines, 2019.	VCTPL has already submitted the draft agreement to the VPT authorities vide its letter No.VCT/VPT/DYCOO 378/2020 dated 17 June 2020.
(iii).	Ceiling Indexed ARR ₹18,144 lakhs submitted by VCTPL included WPI applicable 4.26% for the year 2019-20 and further escalation for the year 2020-21 is to be applied which works out to ₹18,485 lakhs and income estimation is to be made below ₹18,485 lakhs for the year 2020-21, but VCTPL request to increase the base tariff arrived for 2019-20 and proposed tariff of VCTPL worked out by considering escalation of 2.56% (60% of 4.26%) at point (iv) of letter dated 01.04.2020. Hence, the same may be looked into.	It may be noted that as per Tariff Guidelines 2019, the actual expenditures, Actual capital employed and Actual Traffic handled should be considered as per the final Audited Accounts of immediate preceding three years (Y1, Y2 and Y3) at the time of submitting the proposal. Since VCTPL has audited accounts of 2016-17, 2017-18 and 2018-19 available at the time of submitting the proposal, the base Tariff for 2019-20 is to be arrived at by indexing 100% of WPI i.e. 4.26% to the ARR calculated for Y1, Y2 and Y3. For 2020-21, VCTPL has considered the WPI @ 2.56% since at the time of proposal the WPI rate for 2020-21 had not been

		announced. We understand from the notification dated 9 April 2020 that the applicable WPI for 2020-21 would be 1.13%. The changes which the TAMP authorities may kindly consider.
(iv).	In details of expenditure in foreign currency in next tariff cycle has been detailed for 4 years. However, outflow in next tariff cycle is considered as 3 years average FY 21, 22 and 23.	In its covering letter, VCTPL has stated that the estimated foreign expenditures in the next Tariff cycle i.e. FY20-21, 21-22 and 22-23 and shown 2019-20 as base figures for information purpose. These estimations have been furnished to reason out why VCTPL requires about 8% of its revenue items in SOR to be converted to US Dollar denominated Tariff.
(v).	Royalty paid for the years 2016-17 to 2019-20 is as follows and not paid in advance: 2016-17 - ₹18,33,41,500/- 2017-18 - ₹19,41,44,500/- 2018-19 - ₹31,19,09,250/- 2019-20 - ₹37,70,62,500/-	Yes. VCTPL has not claimed the royalty as paid in advance to Port in Form 3.
(vi).	Lease rent paid by VCTPL for the year 2018-19 is ₹8,98,33,725/-	Lease rent paid to VPT for 2018-19 is ₹9,28,54,305/- + GST ₹1,67,13,775/- Payment details are enclosed for reference.
2.	**Container Shipping Lines Association (India) [CSLA]**	
(i).	Owing to COVID pandemic, CSLA is encountering negative impact over cost/ recovery ratio. In addition, CSLA had extended waivers as per Government Guidelines and hence its utmost important that additional costs burdens shouldn't be applied in such critical period.	VCTPL has also extended benefits to the Trade by waiving off 100% storage charges during the COVID 19 lockdown period from 25 March, 2020 to 3 May, 2020 in spite of the fact that the Terminal was operating 24/7. Although VCTPL also suffered due to COVID pandemic, efforts have been made to avoid any substantial increase in the main container handling charges for laden containers other than the eligible WPI applicable as per 2019- Tariff Guidelines. In fact, in order to reduce empty repo cost for the benefit of the shipping line/ trade, VCTPL has proposed for a reduction in Empty container handling charges by 9% in its base Tariff. Therefore, VCTPL is of considered view that there will not be any cost escalation to the Trade taking into consideration the overall costing. Moreover, the current proposal covers the next three years Tariff cycle and has followed the Tariff Guidelines, 2019.
(ii).	The ground rent charges increased by 64% which is very high leap and hence it is proposed that implementation to be deferred to next year or it should be mitigated by at least 50% if to be implemented as per TAMP proposed time-frame. The CSLA has furnished tabulation of existing tariff, proposed storage tariff and percentage increase. [Tabulation of CSLA is reproduced separately in the subsequent paragraph.]	VCTPL has proposed 42% increase in storage charges. Due to latest depreciation in INR, the increase seems to be high, however, the shipping lines charges are also in USD and is naturally hedged for the dollar appreciation and therefore calculation of 64% increase is not a correct analysis. VCTPL's proposal to increase 42% is justified by following reasons: a) Current yard utilization is almost 80%. b) DPD containers which account for 30% are not evacuated within free days. c) ICD bound containers have 15 days free period.

		VCTPL anticipates larger share of ICD and Transhipment bound containers in coming years. Since there are already 8 CFSs at Vizag currently in operation, the EXIM bound containers can be evacuated faster. And therefore, to decongest the terminal and optimize yard VCTPL has proposed to increase the storage charges by 42%. Moreover, in spite of increase by 42%, still VCTPL's storage charges is one of the lowest amongst container terminals in India.
(iii).	Considering huge negative impact over revenue generation, CSLA have no alternatives except to on-pass such spurt in costs to customers which resulting in increase in logistics cost which is detrimental to growth of India EXIM trade.	As explained in the aforesaid paras, VCTPL is of the considered view, there will be no increase to the overall handling cost to the Trade, but will reduce this cost with reduction in empty container handling.
3.	**Visakhapatnam Container Lines Association (VCLA)**	
(i).	Firstly, VCLA has thanked VCTPL for voluntarily coming forward with a proposal of reduction to the composite rate of Empty Container Handling charges. Predominantly, Vizag Port has been an export oriented location and significantly low on the imports, due to which there is a frequent imbalance in availability of equipment for exports. In order to meet the local demand for exports, most of the lines tend to empty repo the equipment from various other locations. VCLA presume that the above move by the VCTPL will certainly bring significant relief to the carriers and indirectly to the trade, both in terms of cost of operations and consistency in availability of equipment at Vizag.	VCTPL understands the Trade's concern of empty repo cost and hence the reduction is proposed. This would also encourage the Trade to do more of Exports.
(ii).	With regard to the proposal for increased components of the SOR, VCLA assumes that any rise at this point of time would not be encouraging and unwelcomed by the trade. As such the shipping industry has been sailing through rough weather for over a considerable period of time and sudden advent of COVID 19 has rendered yet another serious blow to the growth of our industry. The VCTPL as an integral part and a key facilitator to the industry, should re-look into the proposal of increasing at this juncture and also extend a helping hand to the trade as they have been doing in various other aspects of cost reduction/ waivers.	VCTPL has also extended benefits to the Trade by waiving off 100% storage charges during the COVID 19 lockdown period from March 25th, 2020 to 3rd May, 2020 in spite of the fact that the Terminal was operating 24/7. Although VCTPL also suffered due to COVID pandemic, efforts have been made to avoid any substantial increase in the main container handling charges for laden containers other than the eligible applicable WPI as per the 2019 Tariff Guidelines. In fact in order to reduce empty repo cost for the benefit of the shipping line/ trade, VCTPL has proposed for a reduction in Empty container handling charges by 9% in its base Tariff. Therefore, VCTPL is of considered view that there will not be any cost escalation to the Trade taking into consideration the overall costing. Moreover, the current proposal covers the next three years Tariff cycle and has followed the Tariff Guidelines 2019. VCTPL has following concerns to increase the storage charges in order to evacuate the EXIM containers faster within the free period:

		a) Current yard utilization is almost 80%. b) DPD containers which account for 30% are not evacuated within free days. c) ICD bound containers have 15 days free period. d) VCTPL anticipates larger share of ICD and Transhipment bound containers in coming years. Since there are already 8 CFSs at Vizag currently in operation, the EXIM bound containers can be evacuated faster. And therefore, to decongest the terminal and optimize yard VCTPL has proposed to increase the storage charges. This would help the Terminal and Trade by quick turnaround of the Trailers and Vessels and therefore improve overall efficiency.

1.2. The CSLA has furnished the following tabulation of existing storage tariff, proposed storage tariff and percentage increase:

Category	**Status**	**Period**	**Old Tariff**			**New Tariff**						**+/-**			**%**
			Rate INR			**Rate USD**			**Rate in INR @ 75**						
			20'	**40'**	**45'**	**20'**	**40'**	**45'**	**20'**	**40'**	**45'**	**20'**	**40'**	**45'**	
Import	Laden	0-3 days	Free	Free	Free	Free	Free	Free	Free	Free	Free				
		4-15 days	131	261	392	$2.87	$5.73	$8.59	215.25	429.75	644.25	84.25	168.75	252.25	64.31
		16-30 days	261	523	784	$5.73	$11.45	$17.16	429.75	858.75	1287	168.75	335.75	503	64.66
		Thereafter	523	1045	1568	$11.45	$22.89	$34.33	858.75	1716.75	2574.75	335.75	671.75	1006.75	64.20
Export	Laden	0-7 days	Free	Free	Free	Free	Free	Free	Free	Free	Free				
		8-15 days	131	261	392	$2.87	$5.73	$8.59	215.25	429.75	644.25	84.25	168.75	252.25	64.31
		16-30 days	261	523	784	$5.73	$11.45	$17.16	429.75	858.75	1287	168.75	335.75	503	64.66
		Thereafter	523	1045	1568	$11.45	$22.89	$34.33	858.75	1716.75	2574.75	335.75	671.75	1006.75	64.20
Imp/ Exp	Empty	0-3 days	Free	Free	Free	Free	Free	Free	Free	Free	Free				
		4-15 days	131	261	392	$2.87	$5.73	$8.59	215.25	429.75	644.25	84.25	168.75	252.25	64.31
		16-30 days	261	523	784	$5.73	$11.45	$17.16	429.75	858.75	1287	168.75	335.75	503	64.66
		Thereafter	523	1045	1568	$11.45	$22.89	$34.33	858.75	1716.75	2574.75	335.75	671.75	1006.75	64.20

2. A joint hearing in this case was held on 7 July 2020 through Video Conferencing. The VCTPL made a power point presentation of its proposal. At the joint hearing, the VCTPL and the concerned users/ organisation bodies have made the following submissions:

<u>Visakha Container Terminal Private Limited (VCTPL)</u>

(i). The proposal is filed under TG, 2019. Tariff cycle covers FY 2020-21 to 2022-23.

(ii). For the year 2019-20, accounts are not audited. So we have taken Audited Accounts of 2016-17 to 2018-19 for ARR computation.

(iii). ARR is computed as per Tariff Guidelines, 2019.

(iv). We propose to reduce empty container handling charges by 9%.

(v). Current yard utilization is almost 80%. Most of the containers are DPD and about 30% are not evacuated within free days. This impacts yard capacity and congests the yard. Hence, we propose 42% increase to improve the evacuation.

(vi). Other tariff items are kept at the existing level. We have only proposed WPI indexation in tariff.

(vii). We propose to convert 5 tariff items from present Rupee terms to US $. We are exposed to foreign exchange fluctuation on account of AMC fee, Technical fee, import of spares, repayment of foreign loan. So we want to propose 5 tariff items in dollar.

Visakhapatnam Port Trust (VPT)

(i). Regarding Separate Agreement, we shall furnish as per MOS format.

(ii). We have no objection to the proposal. It is acceptable to VPT.

Visakhapatnam Container Lines Association (VCLA)

(i). We welcome VCTPL's proposal to reduce empty container handling charge by 9%. We congratulate on behalf of lines for this move. It will benefit the trade.

(ii). As regards storage charge, we had objected in view of the current scenario. But the reasoning given by VCTPL is acceptable. The proposed increase by VCTPL is to decongest the yard. We are okay with it.

Visakha Container Terminal Private Limited (VCTPL)

(i). We expect the extension terminal project to commence by August 2021. That may impact our traffic of this terminal.

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