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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.226 **New Delhi,** **22 June 2015**

NOTIFICATION

In exercise of the powers conferred under Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Kandla Port Trust (KPT) for fixation of reference tariff for upgradation, operation and maintenance of container terminal at Berth Nos.11 and 12 on Build, Operate, Transfer (BOT) basis at Kandla Port, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/15/2015-KPT

The Kandla Port Trust - - - Applicant

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Chandra Bhan Singh, Member (Economic)

ORDER

(Passed on this 15th day of May 2015)

This case relates to a proposal received from Kandla Port Trust (KPT) for fixation of reference tariff for upgradation, operation and maintenance of container terminal at Berth Nos.11 and 12 on Build, Operate, Transfer (BOT) basis at Kandla Port adopting the upfront tariff for container handling facility approved by this Authority for Jawaharlal Nehru Port Trust (JNPT).

2.1. Before bringing out the submissions made by the KPT in its current proposal of April 2015, it is relevant here to mention that this Authority had passed an Order No.TAMP/43/2014-KPT dated 28 November 2014 fixing reference tariff for Operation and Maintenance of Berth Nos.11 and 12 in Kandla Port as Container Terminal on Public Private Partnership (PPP) mode on “As is where Basis is” following the principles of upfront tariff guidelines of 2008 in line with clause 2.4 of the tariff guidelines of 2013 and based on the proposal filed by the KPT.

2.2. Subsequently, this Authority had passed an Order dated 5 February 2015 reviewing the 28 November 2014 Order based on the submission made by KPT in view of the reference received from one of the prospective bidders consulted during the proceeding of the case to review the Reference Tariff approved in the said Order.

2.3. This Authority in the said review Order has reviewed the optimal capacity of the terminal considered in the reference tariff approved on 28 November 2014. Based on the submissions made by the KPT and prospective bidder, this Authority modified the optimal capacity of the terminal assessed at 6,37,728 TEU’s per annum in the November 2014 Order to 6,00,000 TEU’s per annum in the review Order dated 5 February 2015.

3.1. Subsequently, the KPT vide its letter dated 7 March 2015 filed a proposal seeking approval of Reference Tariff for the proposed Project based on the reference tariff approved for the Container Terminal at Tuna Tekra, Kandla Port on BOT basis vide Order No.TAMP/43/2013-KPT dated 4 October 2013.

3.2. The main submissions made by the KPT in its letter dated 07 March 2015 are summarised below:

(i). Even after extension of due date of price-bids sought based on the reviewed reference tariff approved by the TAMP vide Order dated 05 February 2015, twice from 16.01.2015 to 16.02.2015 and 02.03.2015, KPT did not receive any bids for the Project.

(ii). The prospective bidders represented that the reference tariffs approved are on the lower side, which would reduce the viability of the proposed Project and also indicated their disinterest for the bidding process. The KPT has also quoted an extract from the representation of one of the prospective bidders i.e. ULAIPL as given below:

“It is observed that the basic rate for handling a loaded 20’ container has gone up by only ₹140.81 per TEU as a result of the amendment. In this

connection, kindly refer to our representation No. PGD/ULA/KPT/CPT/09/2014 dated 8.12.2014 addressed to TAMP and copy endorsed to you. It was also brought out in our various representations that the Project will not be feasible unless the basic tariff is at least ₹3600/ TEU. We have brought out in our communications that an important factor which will have a major impact on the financial viability of the Project is the Reference tariff fixed for this Project. The capital cost of the Project which has been estimated at ₹316.65 crores would actually be much higher and in the range of about ₹700 crores taking the replacement cost of the equipment into consideration. As the Project envisages taking over of the existing old equipment, they will be needing replacement earlier that the period normally envisaged in new Projects. TAMP has not agreed to the request for considering the early replacement cost of equipment as the Tariff Guidelines, 2013 and Tariff Guidelines, 2008 do not allow such computation. While we appreciate that the Guidelines referred to do not allow the consideration of replacement cost of the equipment, early replacement of the equipment needs to be factored in as the actual Project cost will be more than double the initial Estimated Cost of the Project.

In the pre-bid meeting taken by Kandla Port with the bidders on 17.1.2015, the port had clarified that the port does not have the title to the equipment as an arbitration case is going on between them and the previous Operator. They have further clarified that even after the title is transferred to the port, the port will not transfer the title to the new Concessionaire, and they will only operate the equipment as a Licensee. In view of this, while the Concessionaire is expected to make full payment for the equipment, he will not be able to claim any depreciation on these equipment as normally possible in other Projects. The Concessionaire will also not be able to raise any finances from the Banks in the absence of the title to the equipment. The only way to make the Project bankable is by revising the tariffs upwards.

The project IRR even at the revised tariffs working out to be too low and cash losses are projected for a number of years. Actually, under the Tariff Guidelines, 2013 the highest tariff available under the 2008 Guidelines for any Terminals in the same port can be considered as the Reference Tariff for all the Terminals coming up in the port during the next five years. The Operator is therefore entitled to rates notified for Tuna Tekra Container Terminal as per the Tariff Guidelines, 2013.

In view of the above position, action may be taken for revision of Reference Tariff suitably."

3.3. Bringing out the above position and in view of non-response of bidders, mainly due to lower tariff, and considering the representations of the bidders, the KPT proposed to restructure the Project and accordingly intended to consider Reference Tariffs under Clause 1.4 of Tariff Guidelines 2013 by adopting the already approved tariff for the Project of Container Terminal at Tuna Tekra.

3.4. In this backdrop, the KPT had sought the approval of the Reference Tariffs for the proposed Project, based on the tariff approved by this Authority vide Order No.TAMP/43/2013-KPT dated 4 October 2013 for Container Terminal at Tuna Tekra, Kandla Port on BOT basis by duly escalating the approved reference tariff by 3.78%, as per the TAMP Order No.TAMP/95/2000-Misc. dated 16 January, 2015.

4.1. On preliminary scrutiny of the KPT proposal dated 7 March 2015, the KPT was requested vide our letter dated 13 March 2015 to relook and file a revised proposal in view of few gaps / deficiency observed in the proposal.

4.2. The KPT undercover of its letter 4 April 2015 has furnished its reply on the gaps observed by us on the subject proposal and has also filed a revised proposal. A summary of the points observed by us in our letter dated 13 March 2015 and reply furnished by KPT thereon is tabulated below:

Sl. No.	Points observed by us	Reply furnished by KPT
(i).	The tariff approved by the Authority for the container terminal at Tuna Tekra based on the proposal of KPT is a reference tariff and not upfront tariff. As per clause 2.2 of the 2013 guidelines, the Major Port Trust can adopt only highest upfront tariff as approved in their own port or any other Major ports after giving detailed and sufficient justification as to how the upfront tariff adopted is representative enough for the proposed facility. Merely stating that the proposal is filed because the Port did not receive bid due to reported lower reference tariff approved by the Authority earlier is not a sufficient reason for adopting the upfront tariff approved at any other Major Port Trusts.	The necessary justification has already been furnished, vide KPT's tariff proposal dated 7 March 2015. It is further stated that the prospective bidders felt that the tariff fixed as per 2008 guidelines is low, as this project is an unique project, where the container traffic has to be picked up from scratch. Thereafter, no bid has been received, probably because the prospective bidders did not find the project economically viable. As such, the KPT has filed revised proposal for reference tariff based on the tariff of Mega Container Terminal at Tuna-Tekra of KPT, approved by the TAMP. It is further stated that on the same lines the TAMP has already approved the proposal for Jawahar Dock (East Berth) Container Terminal, Chennai Port Trust, as well as 'Development of Multipurpose Berth at Paradip Port Trust to handle container and clean cargo".
(ii).	Annex-B attached to the proposal shows that the port has proposed performance standard of 20 moves/Crane/hour. The proposed performance standards is not found to be as per the handling rate norm of 25 moves/Crane/hour prescribed in 2008 guidelines and which is considered in the upfront tariff approved by the Authority in all the container terminal projects of other Major Port Trusts including at Tuna Tekra, which the KPT has proposed to adopt.	The KPT has proposed 20/moves/cranes/hour as performance standards, due to the fact that in the proposed project, the cranes are not new, two out of four cranes are of lower capacity and lying idle since September 2013. However, it is pertinent to mention that PPP operator will replace the cranes after residual life of 12 years. Further, as per the TAMP Guidelines 2013, Performance Standards are to be proposed by the Major Ports, but no reference has been provided under the Guidelines in this respect.
(iii)..	The KPT was, therefore, requested to file its proposal adopting Upfront Tariff approved by the Authority in its own port or any other major port trust as per clause 2.2 of the 2013 guidelines. While doing so, the KPT is also requested to furnish detailed and sufficient justification as to how the upfront tariff (to be) adopted by the KPT is representative enough to the proposed container terminal at berth nos. 11 & 12.	The TAMP was, therefore, requested to approve the Revised Reference Tariff proposal for the project "Development, Operation and Maintenance of Container Terminal at 11th and 12th Berths on BOT basis at Kandla Port", based on upfront tariff proposal approved under TAMP Guidelines of 2008 for container terminal at Jawaharlal Nehru Port Trust (JNPT).

4.3. The KPT while furnishing its response to the queries raised has filed a revised proposal. In the revised proposed, the KPT has proposed to adopt Upfront tariff approved by this Authority vide Order No.TAMP/29/2013-JNPT dated 13 August 2013 for container terminal at JNPT, for fixation of reference tariff for the proposed project following clause 2.2 of the Tariff Guidelines of 2013. The main points made by the KPT in its revised proposal dated 4 April 2015 are summarized below:

(i). The proposed project comprises of the development of back up infrastructure, utilities and outsourcing of the operation and maintenance activities of the above referred container terminal at berth 11^{th} and 12^{th} on BOT basis.

(ii). (a). Details of Berths:

Component	Dimension
11^{th} Berth	264m * 55.65 m
12^{th} Berth	281m * 54.6 m

(b). Maximum size of the vessel which can be accommodated at berths are 65000 DWT and 75000 DWT at berths nos.11 and 12 respectively.

(iii). Optimal capacity

The capacity of Project (for 11^{th} and 12^{th} container berths) is already designed at 0.6 Million TEUs Per Annum.

(iv). Back up area:
The Optimal Yard Capacity is 70% of the maximum number of Containers (in TEUs) that could pass through the yard in a year. The total back up area for the Project is worked out as per the TAMP Guidelines, 2008 based on the designated capacity of Project which is as under:

G = Total ground slot in TEUs = 286 Slots * Hectares
H = Average Stack height= 2.5
P = Period in No. of days=365 S = Surge factor=1.3
D = Average Dwell Time= 4 days for export, 2 days for import (Considering Average dwell time= 3 days)

Hence, area to be provided for capacity of 0.6 Million TEUs is worked out as follows:

Total Hectares = Project Capacity /((0.7*286 slots*Avg Stack Height * Period)/(surge factor * Average Dwell Time))
= 12.80 hectares (Ha) [Rounded off to 15 ha.]

Hence, yard area is considered as 15 ha.

(v). Existing railway sidings available behind the backup area of 11^{th} and 12^{th} berth shall be handed over by the port along with a developed land area of 3.2 Ha along the siding for pre-stacking of ICD container for loading/unloading to/from the rakes. This area is apart from the abovementioned 15 Ha of container stack yard considered behind the 11^{th} and 12^{th} berths. Hence, the total land area to be allotted would be 18.2 Ha. Existing Rail Line would have to be extended by the Concessionaire at its own cost for accommodating the full rake length.

(vi). Capital dredging and maintenance dredging alongside the jetty as well as in the approach channel:

The Concessioning Authority shall provide 13m draft in the Navigational Channel and -13m dredged depth alongside the aforementioned container berths.

However, such draft in the navigation channel will be available only on the availability of sufficient height of tide in the channel.

(vii). Assets for the project:

(a). The KPT has listed down the assets already existing with the KPT which will be handed over to the BOT operator as given below:

(i). Four nos. RMQC having 50T capacity (under spreader).
(ii). Four nos. of RTGS having 40T capacity.
(iii). Four nos. of Reach Stackers having 40T capacity.
(iv). Fifteen nos. of Prime Movers
(v). Fourteen nos. of Trailers of 45' long
(vi). Substation Equipments of Electrical Installation consisting of transformers, panels, D.G.Set, lighting mast, etc.
(vii). Misc. moveable assets/equipments lying at site like containers at store, Mini Workshop with tools, oil drums, PVC tanks, spare batters, hydra, air compressor on trolley cabin, etc.

(b). The other capex items of the project to be deployed by the BOT operator are as given below:

(i). Repairing of all the existing equipment to be handed over to the concessionaire by the Concessioning Authority.

(ii). Procuring additional equipments i.e. 4 nos. of RTGCs and 9 nos. of tractor trailers.

(iii). Back up area development of 15 Ha which includes development of container stack yard, construction of pump house, pumps and arrangement for sourcing portable water. Sand filling, providing paver blocks, etc., on developed land area of 3.2 Ha along the rail siding behind the backup area of the 11th and 12th Berths.

(iv). Installation of 11 KV electric substation, electrical, IT and illumination systems.

(v). Firefighting, fire hydrants and water supply lines.

(vi). Any other support infrastructure for the smooth construction and operation of the project.

(Note: The KPT has not indicated capital cost in this proposal as its proposal is for adoption of JNPT upfront tariff).

(viii). Reference Tariff fixation for the project adopting upfront tariff for JNPT Container Terminal

(a). The KPT has reiterated that it did not receive any bids for the project based on the reference tariff approved by the Authority in 28 November 2014 and review Order dated 5 February 2015 till the last date of submission of Request for Proposal (RFP).

(b). Thus, the KPT is looking for reviewing the project structuring including the tariff for the project also. As part of the restructuring exercise and considering the representations of the bidders, KPT is exploring fixation of reference tariff adopting the upfront tariff fixed by TAMP under 2008 Guidelines for JNPT container handling facility.

(ix). The KPT has brought out gist of representation made by one of the prospective bidders i.e. M/s.United Liner Agencies of India (Private) Ltd. (ULAIPL) to Kandla Port Trust vide its letter dated 8 December 2014 and 19 January 2015, RFQ stage Queries by ULAIPL to KPT dated 12 January 2015, ULAIPL letter dated 23 January 2015 to Ministry of Shipping and letter to Tariff Authority for Major Ports (TAMP) dated 21 January 2015 on the reference tariff fixation for this project attached as Appendix – C to its proposal. It is relevant to mention that the representation made by ULAIPL dated 8 December 2014 was also addressed to TAMP. The representation made by UALIPL dated 8 December 2014 and 21 January 2015 to TAMP has been dealt with while passing review Order dated 5 February 2015. A summary of points given in Appendix 'C' with reference to the representation made by the ULAIPL to KPT and to TAMP is given below:

(a). ULAIPL's letters to KPT -

(i). ULAIPL letter to KPT dated 8 December 2014
(*This letter was also addressed to TAMP and has been dealt within the review Order dated 5 February 2015*)

(a). The tariffs notified by TAMP are lower than the rates proposed by Kandla Port Trust. This would affect the viability of the Project.

(b). The lower tariffs would discourage the bidders from active participation.

(c). The existing container terminal with the existing equipment is proposed to be handed over to another Operator on PPP basis. The port had envisaged a much higher capacity and higher capital cost in the RFQ issued in March 2014. The total estimated cost of the Project was ₹608.15 crores with a capacity of 800,000 TEUs.

(d). The prospective bidders had pointed out that if the Project has to attract participation, the scope of the Project needs to be scaled down as such high capacity and capital cost are unwarranted. There is already enough container handling capacity available in the Kandla area. Kandla has stiff competition from GMB ports as it serves the same hinterland. Additional infrastructure is also being planned by KPT itself at Tuna Tekra.

(e). In the circumstances, the only way to make this Project feasible and attractive to bidders is to optimize the Project Facilities in such a way that the scope of the Project and the Project cost are brought back to the original level of investments and the original scope and pegging the tariffs lower than those available at nearby ports. The KPT had done a review and come out with a more realistic Project now by pegging the capacity to 6 lakh TEUs and bringing down the capital cost to about ₹315 crores.

(f). The reference tariff fixed for Tuna Tekra Container Terminal should have become the basis. However, these rates are on the higher side. As prospective bidders keenly interested in the success of this Project, we represented to the port earlier that tariffs for the container terminal should not be too high, for the reason that the Terminal has inferior infrastructure compared to competition in respect of draft, crane outreach, crane speeds, tidal marine access, multiple rail gauzes and berths. But at the same time, if the tariffs are fixed too low, it may yield low IRRs and the Project will become unviable. Kandla Port has taken cognizance of these points.

(ii). ULA Letter to KPT dated 19 January 2015:

(a). The Reference Tariff notified for the Project by TAMP are very low. The Operator will be hard hit by such low tariffs. The Operator is entitled to rates notified for Tuna Tekra Container Terminal (which are much higher) as per the Tariff Guidelines, 2013. It was however decided to fix the independent tariffs for this Project.

(b). The tariffs fixed are too low, it will affect the very viability of the Project. The port may kindly review the position and take up with TAMP/ Government for review of tariffs.
(*The above letter of ULAIPL also reiterates points made by it in its earlier representation dated 8 December 2014*.)

(iii). ULA Letter to KPT dated 12/02/2015.

[*After the review Order dated 5 February 2015 passed by the Authority].*

(a). The basic rate for handling a loaded 20' container has gone up by only ₹140.81 per TEU as a result of the amendment.

(b). The ULAIPL has drawn reference to its letter dated 8 December 2014 to TAMP.

(c). The Project will not be feasible unless the basic tariff is at least ₹3600/TEU.

(d). The capital cost of the Project which has been estimated at ₹316.65 crores would actually be much higher and in the range of about ₹700 crores taking the replacement cost of the equipment into consideration.

(e). The Concessionaire is expected to make full payment for the equipment. However, concessionaire will not be able to claim any depreciation on these equipment as normally possible in other Projects. The Concessionaire will also not be able to raise any finances from the Banks in the absence of the title to the equipment. The only way to make the Project bankable is by revising the tariffs upwards.

(f). The Project IRR even at the revised tariffs is working out to be too low and cash losses are projected for a number of years.

(g). The Operator is therefore entitled to rates notified for Tuna Tekra Container Terminal as per the Tariff Guidelines, 2013.

(b). ULA Letter to TAMP dated 21 January 2015.

(i). TAMP had arrived at the capacity of the berths at 6,37,728 TEUs whereas the KPT has designated the capacity of the Terminal at 600,000 TEUs. Assumption of higher capacities has led to fixation of lower tariffs.

(ii). The Optimal capacity of the Terminal will be much less because of the reasons explained by us in detail in our representation dated 8 December 2014.

(iii). The initial capital cost has been estimated to be ₹316.65 crores, the actual capital cost would be much higher and in the range of about ₹700 crores taking the replacement cost of the equipment into consideration.

(iv). The Project envisages taking over of the existing old equipment and they will require replacement earlier than the period envisaged in new Projects. 8 of the equipment, consisting of 4 Nos. of RMQCs and 4 Nos. of RTGCs will require replacement within 10 to 15 years.

(v). If this factor had been taken into account, the Reference Tariffs worked out would have been higher and the financial viability of the Project would have improved. The Project IRR at the tariffs notified by the Authority is working out to be too low and cash losses are projected for a number of years, which makes the financial model unsustainable and it may not be possible to achieve financial closure. The Project will be viable only if the tariffs are revised upwards to a level of about ₹3600/- TEU.

(c). The representations made by the ULAIPL to TAMP vide its letter dated and 8 December 2014 and 21 January 2015 have already been dealt within in review Order dated 5 February 2015.

(x). To summarise, the KPT has proposed to adopt the reference tariff for the project based on the upfront tariffs approved for the container handling facility at JNPT under upfront tariff Guidelines 2008. Approved upfront tariff in the aforesaid project has been escalated by 31.58% as per the escalation announced by TAMP for upfront tariffs approved with base WPI as on 1st January 2008.

(xi). The Tariff formulation generally comprises formulation of tariff for Berth Hire Charges and Container Handling and charges for Other Services. However, the KPT has already constructed the berth and the berth hire charges are collected by the Concessioning Authority, as per the Scale of Rates prevailing from time to time. Hence, the KPT has not proposed the berth hire charges.

Hence, the tariff formulation in this proposal envisages the proposed tariff for Container handling charges, Storage charges and Charges for Miscellaneous Services.

(xii). The KPT has furnished draft Scale of Rates for different services relating to container handling. For ease of reference, the handling charge for normal 20' container proposed in the draft SOR is given below:

S. No.	Description	Tariff proposed by KPT in the current Proposal dated 4.4.2015 (adoption of JNPT Container Terminal upfront tariff and duly indexed)			
		Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	From Ship to container yard or vice versa	3916.68	3163.47	2350.01	1898.08
2.	From container yard to Railway flat or vice versa (ICD Container Rail only)	1958.33	1958.33	1958.33	1958.33
3.	From Container yard to Truck or vice versa (direct delivery and export intake)	602.57	602.57	602.57	602.57

(xiii). **Performance Standards:**

The Performance Standards proposed by KPT as required under the Tariff Guidelines of 2013 are as follows:

	Performance Standards	Value/Units
1.	Gross Berth Output	**20 Moves/Crane/hour**
2.	Transit Storage Dwell Time for Containers	
	Import	2 days
	Export	4 days
3.	Turnaround Time for receipt/delivery operation	
	Trailer of Containers (Single Operation)	2 hours
	Trailer of Containers (Double Operation)	4 hours
	Rake for ICD Containers (Single Operation)	6 hours
	Rake for ICD Containers (Double Operation)	12 hours

Performance Standards are proposed considering TAMP Order for the Project passed on 28 November 2014.

5. While acknowledging the proposal, the KPT was informed vide our letter dated 9 April 2015 that the escalation factor of 31.58% applied by KPT on the upfront tariff approved for the Container Terminal at the Jawaharlal Nehru Port Trust (JNPT) to arrive at the proposed indexed reference tariff for this project is with reference to base WPI of 1 January 2008 and 1 January 2014. This Authority on 7 April 2015 has approved the escalation factor for the base WPI of 1 January 2008 and 1 January 2015 as 35.08% which has also been intimated to all the concerned Major Port Trusts and BOT operators including KPT vide our letter No.TAMP/12/2009-Misc dated 8 April 2015 and is also uploaded in the website of TAMP www.tariffauthority.gov.in. The KPT was, therefore, requested to revise the indexed reference tariff suitably considering the updated escalation factor as on 1 January 2015 and forward the revised draft Scale of Rates.

6. In accordance with the consultative procedure prescribed, the KPT proposal dated 4 April 2015 was circulated to all concerned users/ user organizations/Prospective bidders as consulted on the earlier proposal of KPT for comments vide our letter dated 9 April 2015. None of the users/user organization/ Prospective bidders have submitted their comments except M/s. ULAIPL vide its e-mail dated 14 April 2015. The comments received from ULAIPL was forwarded to KPT as feedback information. The KPT has responded to the comments of ULAIPL vide its e-mail dated 30 April 2015.

7. A joint hearing in this case was held on 16 April 2015 at the premises of KPT. The KPT made a brief power point presentation of its proposal. At the joint hearing, the KPT and the concerned users / users organization and Prospective bidders have made their submissions.

8. The KPT vide its email dated 17 April 2015 under cover of its letter dated 16 April 2015 furnished revised proposed draft SOR (considering the updated escalation factor as on 1 January 2015 as 35.08% on the approved upfront tariff for Container Terminal at the JNPT instead of 31.58% adopted by it earlier). Subsequently, the KPT while furnishing the reply to the points of action decided at the joint hearing, had furnished final revised proposed SOR correcting the deficiencies pointed out by ULAIPL in the draft proposed Scale of Rates.

9. As decided at the joint hearing, the KPT was requested vide our letter dated 23 April 2015 to take action on the following points arising out of joint hearing proceedings. The KPT vide its e-mail dated 30 April 2015 has furnished its reply. A summary of the points of action required to be taken by KPT as decided at the joint hearing and the response of KPT is tabulated below:

Sl. No.	Action points requested by us	Reply of KPT
(i).	At the joint hearing, the KPT intimated that M/s.IL&FS Maritime Infrastructure Company Limited (IMICL) one of the prospective bidders which is not included in the list furnished by them earlier has also been invited to attend	During the joint hearing ILFS had supported the tariffs proposed. Request from them regarding structuring of License fee and other concession terms shall be appropriately addressed at RFP

	the joint hearing by the port. As decided at the joint hearing, the KPT was requested to forward a copy of its proposal dated 4 April 2015 to IMICL with a request to furnish its comments thereon simultaneously to KPT and TAMP by 19 April 2015 and the KPT was to furnish its response thereon in two days' time thereafter, as agreed by the Port. We have not heard anything from the KPT in this regard so far. The KPT to intimate the action taken in this matter and also forward a copy of the communication send by it to IMICL in this regard for our records.	stage. A copy of the proposal was forwarded to M/s.IL&FS and a copy of the comments offered vide their letter dated 30.04.2015 to KPT is forwarded. [The comments of IL & FS on the subject proposal is brought out in the subsequent paragraph].
(ii).	Expedite furnishing point-wise comments on the comments dated 14 April 2015 of one of the prospective bidders i.e. M/s.United Liner Agencies of India (Pvt.) Ltd. (ULAIPL) which was already forwarded to KPT vide our letter of even number 15 April 2015.	(a). Replies to ULA's comments vide their letter dated 14th April is furnished which is already brought out in the preceding paragraphs. (b). During the joint hearing, ULA referred to an opinion from AGI and proposed not to consider ceiling rates approved by TAMP for royalty calculation purpose. However, as per TAMP Guidelines, revenue share shall be calculated based on TAMP approved tariffs only and not the rates after considering discounts/rebates.
(iii)	The Kandla Port Steamship Agents Association (KPSAA) has furnished its arguments in writing as agreed at the joint hearing. A copy of the said letter dated 20 April 2015 of KPSAA is attached herewith. The KPT is requested to examine the same and furnish its views thereon by 26 April 2015.	Replies to comments of KPSAA's is furnished which is brought out in the subsequent paragraphs.
(iv).	At the joint hearing, it emerged that the proposal of the KPT envisages utilization of already existing old equipment by the Concessionaire on payment of annual lease for 12 years as well as deployment of few new equipment by the Concessionaire. Thus, the container terminal project of the KPT is not a green field project. In view of the above position, as informed at the joint hearing, the proposal of KPT to adopt the upfront tariff approved by the Authority for container terminal of the JNPT, though is as per clause 2.2. of the tariff guidelines of 2013, cannot be adopted in too. The Kandla Port Steamship Agents Association (KPSAA) present at the joint hearing had also strongly argued for reduction in the proposed rate on the grounds that the rates proposed based on the JNPT upfront tariff looks on a very higher level which may not be attractive to bring back container trade to Kandla. The KPT may, therefore, relook at its proposal and propose suitable reduction in the proposed tariff.	Stakeholders and TAMP agreed during the joint hearing that the proposal is in line with TAMP Guideline 2013. However, TAMP has asked KPT to relook at its proposal and propose suitable reduction in the proposed tariffs. However, prospective applicants have supported the proposed tariffs. Further also referred that in case of Clean Cargo Berth at Paradip and JNPT 330 m container handling facility, despite being small facilities than Kandla Container Terminal, the rates of Tariff Order approved for JNPT under 2008 Guidelines have been adopted. KPT is of the view that the proposal is in line with Tariff Guidelines of 2013 which asks to refer the tariffs from already approved rates in toto without any change.
(v).	At the joint hearing, a new point was raised by ULAIPL that in the restructured proposal, the KPT proposes to transfer railway line No.12 to	As per Tariff Guidelines of 2013, separate tariff for said charge of ₹4/MT does not seem to be applicable to be

	the BOT operator for which the KPT envisages to collect ₹3.59 crore upfront payment from the operator. Citing that this capex is included in the project cost and moreover, the BOT operator has to undertake development of part of the land and railway siding and has to maintain the railway siding during the project period, ULAIPL has sought a separate rate for rail borne cargo for this facility. In this context, ULAIPL has referred to a separate rate of ₹4 per tonne notified in the SOR of the KPT as special port charges for rail borne cargo to recover capital cost and maintenance of railway infrastructure at the port. At the joint hearing, the KPT also appeared to support the point made by ULAIPL for a separate rate for rail borne cargo for availing the railway siding facilities in this project. In this context, <u>the KPT should clarify as to how a separate tariff for railway siding will fit under clause 2.2. of the tariff guidelines of 2013 filed by KPT adopting the upfront tariff notified for the container terminal at JNPT. If the request of ULAIPL to levy a separate rate for rail borne cargo for availing the railway siding facilities is acceptable to KPT, the KPT should immediately propose the quantum of levy duly justified with cost details with calculations to arrive at the rate based on the share of capacity of cargo that may avail railway siding facilities.</u>	<u>levied by the Concessionaire since TAMP Guidelines 2013 requires to refer the Tariffs approved under 2008 as given in approved order except for application of inflation from the base year.</u>

10.1. With reference to point of action decided at the joint hearing brought out in para 9. (iii) above, the KPT vide its e-mail dated 30 April 2015 has furnished its comments on the arguments made by KPSAA.

10.2. The KPSAA has subsequently vide its letter dated 28 April 2015 made further submissions supporting the proposal of KPT for adopting the JNPT upfront Tariff. The submission made by KPSAA was forwarded to KPT vide our letter dated 30 April 2015. The KPT has not responded to the comments of KPSAA.

11. Again, the KPT vide its e-mail dated 30 April 2014 has forwarded the revised proposal setting right the omissions and commissions as pointed out by ULAIPL. The rates proposed by the KPT adopting the 35.08% of the indexation (as announced by us) on the rates of the JNPT are as follows:

Normal Containers

S. No.	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	From Ship to container yard or vice versa	4020.86	3247.62	2412.52	1948.57
2.	From container yard to Railway flat or vice versa (ICD Container Rail only)	2010.42	2010.42	2010.42	2010.42
3.	From Container yard to Truck or vice versa (direct delivery and export intake)	618.60	618.60	618.60	618.60

The KPT has reiterated the Performance standards of its earlier proposal, as mentioned at para 4.3 (xiii).

12. With reference to point of action decided at the joint hearing brought out in para 9.(i) above, the KPT has forwarded a copy of the comments of IL&FS, a prospective bidder vide its letter dated 30 April 2015 forwarded to KPT to us. The KPT vide its letter dated 7 May 2015 has furnished its reply on the comments of IL&FS.

13. 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.

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

(i). The proposal of the Kandla Port Trust (KPT) is for fixation of reference tariff for upgradation, operation and maintenance of container terminal at Berth Nos.11 and 12 on Build, Operate, Transfer (BOT) basis on “As is where Basis” at Kandla Port adopting the upfront tariff approved by this Authority vide Order No.TAMP/29/2013-JNPT dated 13 August 2013 for container handling facility at Jawaharlal Nehru Port Trust (JNPT).

(ii). As already brought out in the earlier part of this order relating to factual position, the KPT had earlier filed the proposal for fixation of reference tariff for the same project following the principles of tariff guidelines of 2008 for fixation of upfront tariff in line with clause 2.4 of the tariff guidelines of 2013. Based on the proposal filed by the KPT, this Authority had passed an Order No.TAMP/43/2014-KPT dated 28 November 2014 fixing reference tariff for Operation and Maintenance of Berth Nos.11 and 12 in Kandla Port.

Subsequently, one of the prospective bidders consulted during the processing of the case viz. the United Liner Agencies of India (Private) Ltd. (ULAIPL) sought review of the said Order. One of the points made by ULAIPL was to review the optimal capacity considered for determining the reference tariff in the said Order. When the comments of the KPT was sought, the point made by the ULAIPL was fully supported by the KPT. That being so, this Authority had passed an Order dated 5 February 2015 reviewing the Order of 28 November 2014. In the review Order, the optimal capacity of the terminal assessed at 6,37,728 TEU’s per annum in the November 2014 Order was modified to 6,00,000 TEU’s per annum and the reference tariff approved in the November 2014 Order underwent change for the reasons recorded in the said tariff Order of February 2015.

(iii). The KPT has now, filed a fresh proposal for fixation of reference tariff adopting the upfront tariff for container handling facility at the JNPT. In this context, extract of the relevant Clause 2.2. of the reference tariff Guidelines of 2013 is given below for ease of reference:

“2.2. The Reference Tariff (“the Reference Tariff”) for each commodity/category of commodities and each service/category of service or combination of service or services, as the case may be, shall be determined by TAMP for each Port based on a proposal from the concerned major Port. Such proposal shall contain the proposed Reference Tariff and ***“Performance Standards”****. The* **Reference Tariff** *will be the highest tariff fixed for that commodity in the concerned Major Port Trust under the 2008 Tariff Guidelines. In case no tariff has been fixed for that commodity at that Major Port Trust or if the highest tariff fixed for a particular commodity in the concerned major Port Trust does not represent the project proposed to be developed, then concerned Major Port Trust can propose to TAMP any other tariff fixed under 2008 Tariff guidelines in any other major Port Trust which is representative enough for that commodity giving detailed and sufficient justification. While adopting the Reference tariff…………………………… 15 days of receipt.”*

In nutshell, clause 2.2. of the Revised Tariff Guidelines of 2013, *inter alia*, requires this Authority to approve reference tariff based on the proposal of the concerned Major Port Trusts along with the Performance standards. For this purpose, the Major Port Trust can adopt highest upfront tariff fixed in its own port or the highest upfront tariff fixed in any other Major Port Trust. If upfront tariff under these two options do not represent the project proposed to be developed, then concerned major port trusts can propose reference tariff fixed following the principles of 2008 tariff guidelines in any other major port trust, which is representative enough for that commodity giving detailed and sufficient justification.

(iv). As brought in the earlier paragraphs bringing out the factual position of the case, the KPT had earlier applied an escalation factor of 31.58% on the upfront tariff approved for the Container Terminal at the Jawaharlal Nehru Port Trust (JNPT) to arrive at the proposed indexed reference tariff. Subsequently, in the revised proposal dated 30 April 2015, KPT has applied updated escalation factor of 35.08% as on 1 January 2015. The KPT has also rectified few minor deficiencies observed by ULAIPL in the proposed SOR. The final revised proposal filed by the KPT dated 30 April 2015 is taken up for consideration by this Authority.

(v). The KPT has filed the current proposal on the grounds that (a) the port did not receive price bids based on the reference tariff approved by this Authority despite extension given by port twice to offer price bids and (b). Non-response of bidders is mainly because of lower reference tariff approved by this Authority.

As regards the above points made by KPT, it is relevant to mention that the reference tariff fixed by this Authority in the November 2014 and February 2015 Order is based on the project cost estimated by the KPT and following the principles of 2008 guidelines. In fact, during the proceedings of the November 2014 Order, the ULAIPL had categorically stated that the tariff proposed by the KPT are viable and that it is nether too low nor very high.

In view of provision stipulated in clause 2.2. of the 2013 guidelines, the KPT was requested to furnish detailed and sufficient justification as to how the JNPT upfront tariff adopted by it is representative enough for the proposed facility. The KPT has, however, reiterated that no bids have been received at the reference tariff approved by this Authority, probably because the prospective bidders did not find the project economically viable and hence insisted approval of its proposal for reference tariff adopting the upfront tariff for container terminal of JNPT. The KPT has argued that this Authority has approved the JNPT upfront tariff for its another Container terminal at Tuna Tekra at KPT.

(vi). The project envisages utilization of already existing old equipment as well as deployment of few new equipment by the successful bidder. Further, the upfront tariff for container handling facility approved by this Authority at Visakhapatnam Port Trust (VPT) vide Order No.TAMP/61/2012-VPT dated 11 January 2013 and for V.O. Chidambaranar Port Trust (VOCPT) vide Order No.TAMP/34/2008-VOCPT dated 16 October 2008 which are lower than the upfront tariff approved by this Authority for container terminal facility at JNPT are available. Therefore, and keeping in view that since its project is not a completely new project to be developed, the KPT was, during the processing of the case, requested to relook at its proposal and propose suitable reduction in the proposed tariff. However, the port has not proposed any reduction in the reference tariff. Instead, the KPT has maintained its stand and insisted to approve its proposal adopting the upfront tariff fixed for the JNPT. The KPT has, in an attempt to support the approach adopted by it also, drawn reference to the reference tariff approved by this Authority for clean cargo berth at Paradip, tariff notified by this Authority for 330 mtrs. container handling facility at the JNPT and reference tariff approved for container handling facility (Jawahar Dock) at Chennai Port Trust adopting the upfront tariff of JNPT for 1000 mtrs. berth. Even the ULAIPL has made such similar references.

With reference to the argument put forth by the KPT drawing reference to the reference tariff Order passed by this Authority in other Major Port Trusts and in its own port at Tuna Tekra in support of its proposal, it is to be noted by both the KPT and ULAIPL that all the these projects referred above were green field projects and were different from the project envisaged by the KPT at Berth No. 11 and 12. These projects did not involve taking over of existing equipment and deployment of few new equipment as envisaged by KPT in its project. It is relevant here to state that before notifying the tariff for container terminal operator of 330 mtrs. at the JNPT, an exercise was carried internally which showed that per TEU rate for 1000 mtrs. berth length and 330 mtrs. berth length are very much comparable. This has been elaborately explained in para 4(iii) of the Order No.TAMP/64/2014-JNPT dated 16 March 2015. In respect of CHPT which had its own upfront tariff for container terminal, based on the justification given by the CHPT then, as recorded in the relevant reference tariff order the CHPT was allowed to adopt the JNPT upfront tariff, as stipulated in the 2013 guidelines. In the case of the PPT also, based on the justification given by the PPT then and as recorded in the relevant reference tariff Order of the PPT, in view of the uniqueness of its project leading to an extraordinary situation warranting to adopt the rates from two different projects of a same port, the approach adopted by the PPT was approved by this Authority and the said Order clearly stated that it should not be quoted as precedence in fixation of Reference tariff by any other Major Port Trusts. That being so, the reference drawn by the KPT to the other cases in support of its proposal are not found relevant in its case.

(vii). The other reasons put forth by the KPT during the processing of this case for adopting the upfront tariff of the JNPT Container Terminal and the views of the prospective bidders and user associations in support of the proposal of the KPT are given below:

(a). It has stated that the prospective applicants and user organizations have supported the approach adopted by the KPT to adopt the upfront tariff of the JNPT. The KPT has strongly viewed that its proposal is in line with Tariff Guidelines of 2013 which requires the Major Port Trusts to refer to the already approved (upfront) rates in toto without any change and has sought approval of the same.

(b). Both the KPT and ULAIPL have stated that the project should be bankable and viable which was not so based on the reference tariff earlier approved by this Authority. ULAIPL has pointed out that this project is abandoned one. Arbitration process is still going on regarding the equipment. The KPT is not going to transfer title of equipment to the BOT operator even if the arbitration clears the matter and the title of equipment is transferred to KPT. Hence, it will not be in a position to raise any finance from Banks if title of equipment is not transferred to ULAIPL in the event it becoming the successful bidders.

(c). ULAIPL has stated that most of the traffic expected at the terminal is coastal cargo. For coastal cargo/ container, concessional tariff at 60% of the tariff for the foreign counterpart is applicable. Due to concessional tariff applicable to coastal container, the IRR works out very low at the reference tariff earlier approved by this Authority. Though the adopted rate of JNPT appears to be high, it has to be recognised that major container traffic will be coastal for which concessional (reduced) tariff is applicable.

(d). Both ULAIPL and Kandla Port Steamship Agents Association (KPSAA) have submitted that Kandla is a tidal port. There are restrictions on account of drafts and the night navigation and hence only smaller vessels can call the port. Under the present situation, only feeder and coastal traffic can come to Kandla port.

(e). The ULAIPL and KPSAA have further submitted that at Kandla, the container traffic is zero. Operator will be put into lot of difficulty to attract container traffic. Thus, any line which has to call Kandla Port should have good lucrative offer only then the cargo can be shifted from any other port. Operator has to attract container traffic right from the scratch at this terminal.

(f). KPT and ULAIPL both have stated that the container terminal for Tuna Tekra at KPT is also based on adoption of the upfront tariff approved by TAMP for container handling facility at JNPT.

(g). ULAIPL has stated that it fully supports the current proposal of KPT to adopt the JNPT upfront tariff.

(h). The KPSAA, though earlier had submitted that the tariff proposed by the KPT need to be reduced, it has vide its subsequent letter dated 28 April 2014 stated that it has re-checked the KPT proposal and has drawn comparison to the tariff of the neighbouring facilities of Adani Mundra Container Terminal (AMCL) and stated that the rates of AMCL would be still higher by ₹1000/- TEU in comparison to rates proposed by KPT. It has requested that the tariff proposed by the KPT based on reference tariff of JNPT is to be retained.

(viii). It is relevant here to mention that the two berths i.e. Berth No.11 and 12 for which the reference tariff is sought by the KPT were earlier operated by ABG Kandla Container Terminal Limited (ABGKCTL). However, for whatsoever reasons, these two berths have been taken over by the KPT in September 2013 from ABGKCTL. During the processing of this case, it has emerged that there are no bidders to take up this project at the reference tariff earlier approved by this Authority despite the efforts made by the KPT to invite bids of the Project. It is relevant here to state that the two berths 11 and 12 of length 545 mtrs. are lying idle and not recommissioned to facilitate EXIM trade since September 2013. It has to be recognised that berth is a scarce resource for any port and more so for a big major port like KPT. Non-utilisation of these two berths of 545 mtrs. primarily for want of a viable tariff in the opinion of KPT and prospective bidders is a loss to the national exchequer. The purpose of seeking approval of this Authority for the proposed reference tariff is stated to be for the purpose of inviting bids for the project. It is relevant to state here that the clause 2.2. of the tariff guidelines of 2013 requires this Authority to basically approve reference tariff based on the proposal of the port. In view of the above position and relying on the various reasons listed in para 13 (vii) (a) to (h) above as brought by the KPT/ the prospective bidders viz. ULAIPL and the user organization viz. KPSAA during the proceedings of the case and also recognising that the proposal of the KPT for adoption of the upfront tariff of the JNPT is fully supported by prospective bidders and the KPSAA, this Authority is inclined to go with the proposal of the KPT for fixation of reference tariff for the Container terminal at berth nos.11 and 12.

(ix). Most of the containers to be handled at these two berth are expected to be coastal container for which tariff applicable is 60% of the tariff prescribed for foreign cargo as per the coastal concession policy of the Government and feeder vessels. This means the successful bidder would not be in a position to realize revenue at the rates proposed by the KPT. The KPT has not refuted the submissions made by the prospective bidders and user organizations i.e. KPSAA, though neither the KPT nor the prospective bidders have indicated the share of coastal traffic. The above position is, therefore, solely relied upon. However, if at any time during the project period, the share of the coastal container traffic significantly comes down which in the view of the KPT may lead to windfall gain to the BOT operator, then in that case the KPT should ensure that the reference tariff fixed by this Authority in this exercise is got reviewed by the Competent Authority. The KPT should also make the above position abundantly clear in the bid document at the time of bidding stage itself to all the prospective bidders as well as in the Concession Agreement and it will be the sole responsibility of the land lord port KPT to ensure that a proposal is filed before the Competent Authority to get the reference tariff reviewed.

(x). The upfront tariff for the JNPT container terminal, which is proposed to be adopted by the KPT for Reference tariff of the container terminal at berth nos.11 and 12, was notified by this Authority in March 2009. Para 9.1. of the JNPT Order dated 25 February 2009 states that the base year of Wholesale Price Index (WPI) for indexation in the upfront tariff rates approved in the said Order will be 1 January 2008. The KPT has arrived at the proposed reference tariff applying the applicable indexation factor of 35.08% with reference to the indexation factor occurring between the year 2008 and the year 2015.

(xi). At the joint hearing, the ULAIPL made a new submission that in the restructured proposal, the KPT proposes to transfer railway line No.12 to the BOT operator for which the KPT envisages to collect ₹3.59 crore upfront payment from the operator. Citing that this capex is included in the project cost and moreover, the BOT operator has to undertake development of part of the land and railway siding and has to maintain the railway siding during the project period, ULAIPL has stated that a separate rate for rail borne cargo for this facility should be prescribed. In this context, ULAIPL has referred to a separate rate of ₹4 per tonne notified in the SOR of the KPT as special port charges for rail borne cargo to recover capital cost and maintenance of railway infrastructure at the port. Since the KPT appeared to support the submissions made by ULAIPL at the joint hearing for a separate rate for rail borne cargo for availing the railway siding facilities in this project, the KPT was requested to clarify as to how a separate tariff for railway siding will fit under clause 2.2. of the tariff guidelines of 2013. The KPT was also advised to propose the quantum of levy duly justified with cost details with calculations to arrive at the rate based on the share of capacity of cargo that may avail railway siding facilities, if the request of ULAIPL to enable the successful bidder to levy a separate rate for rail borne cargo for availing the railway siding facilities is acceptable to KPT.

The KPT on examining this matter has, however, changed its stand. The KPT has also admitted that the submission made by the ULAIPL is beyond the scope of the tariff guidelines of 2013 which requires to adopt the upfront tariffs approved under 2008 guidelines in toto. The KPT has also clarified that Tariff Guidelines of 2013 do not allow Concessionaire to levy separate tariff other than the adopted tariff duly escalated for arriving at the reference tariff.

As rightly stated by the KPT, clause 2.2. of the tariff guidelines of 2013 envisages to adopt the approved upfront tariff in toto subject to indexation from the base year to the relevant year in the adoption cases. The tariff guidelines of 2013 do not allow to pick and choose the rate based on adopted upfront tariff for few services and some different tariff determined following cost plus formula prescribed by the tariff guidelines of 2005 for only one particular service. The KPT has also not proposed any separate tariff for this category of cargo. In view of the above position, this Authority is not in a position to prescribe any separate tariff for such a facility. It is made explicit that the reference tariff prescribed by this Authority is for composite service for all the facilities offered by the Terminal operator.

(xii). The KPT has rectified some minor deficiencies pointed out by ULAIPL in the proposed SOR. The words “loaded” and “Empty” have been added in the schedule 3.1., in Table D relating to handling charge for transhipment containers the first slab is corrected as 1-3000 TEUs instead of 3000 TEUs, and the words “in ₹” are added after the words “Rate per TEU” in schedule 3.3. Charges for

Miscellaneous Service rendered to the container vessels. These minor changes in the adopted SOR of JNPT do not involve any change in the adopted Scale of Rates of JNPT and hence is approved as proposed by the KPT. Apart from that, the ULAIPL has also listed down various clauses relating to performance linked tariff, grievance redressal, mandatory disclosure by operators etc., with a request to incorporate the same as notes in the Scale of Rates. The KPT has not included the same in the proposed SOR. This Authority has recently, in the reference tariff of the three cases of the V.O. Chidambaranar Port Trust prescribed the general notes for performance linked tariff as per tariff guidelines of 2013 which are incorporated in the SOR approved by this Authority. The other provisions of the tariff guidelines 2013 relating to grievance redressal, mandatory disclosures, etc., are prescribed in this Order approved by this Authority. They need not form part of the SOR.

(xiii). (a). As stated earlier, Clause 2.2 of the revised tariff guidelines of 2013 requires this Authority to prescribe the Reference Tariff along with the Performance Standards. The KPT has proposed Performance Standard for container terminal at Berth No. 11 and 12 at 20 moves/ crane/ hour for gross output/ hour and has stated that the proposed performance standards is as per the November 2014 Order.

In this context, it is relevant here to mention that in the November 2014 Order, reference tariff was determined following the principles of 2008 guidelines based on the proposal then filed by the port. Therein, for assessing the optimal capacity, the handling rate of crane is considered at 20 moves/ crane/ hour and hence the performance standard was allowed to be prescribed as proposed by the KPT at 20 moves/ crane/ hour as it matched with the handling rate (productivity) considered for the capacity assessment.

(b). The current proposal of the KPT is an adoption of the JNPT upfront tariff. The argument of the KPT that the performance standard of 20 moves/ cranes/ hour is proposed due to the fact that in the proposed project, the cranes are not new and that two out of four cranes are of lower capacity and lying idle since September 2013 is not found relevant in the current exercise where the KPT has adopted the JNPT rate. The KPT itself has, on the point made by ULAIPL for a separate tariff for railway siding, categorically mentioned that in adoption case tariff has to be adopted in toto. The upfront tariff approved for JNPT is based on the productivity of 25 moves per crane per hour, among other things. If the upfront tariff of JNPT is to be adopted, the performance standard also has to be adopted in toto as considered for arriving at the JNPT upfront tariff. If the reduced performance standard as proposed by the KPT is to be prescribed then the tariff adopted also needs to be tinkered with i.e. reduced which is not proposed by the KPT nor envisaged in the tariff guidelines of 2013. In view of the above position, the performance standard in terms of Gross output/ hour is prescribed at 25 moves/ hour/ crane.

As regards the submission made by the KPT that the tariff guidelines of 2013 require Performance Standards are to be proposed by the Major Ports, but no reference has been provided under the Guidelines in this respect, it is relevant to mention that a letter has been addressed to the Ministry of Shipping requesting to advise all the Major Port Trusts to propose reasonable and achievable Performance Standards which should not be lower than the output (handling) rate considered in the optimal quay capacity calculation of the PPP project. Since the proposal of the KPT is based on adoption of the JNPT rate as stated above, the handling rate of 25 moves/ crane/ hour considered for arriving the adopted rate is considered for prescription of performance standard. It is relevant here to mention that 25 moves/ crane/ hour is prescribed in all the container terminal projects of other Major Port Trusts like Chennai Port Trust (CHPT), Kolkata Port Trust (KOPT) including at Tuna Tekra of KPT. As regards the point made by ULAIPL about calling of feeder and coastal vessels at Kandla Port, it may be relevant to mention that this is only a present phenomena due to restrictions on draft and night navigation as reported by both ULAIPL and the KPSAA. Improvement in the reported constraints during the project period has not been ruled out either by the KPT or by ULAIPL/KPSAA. Moreover, the upfront tariff of JNPT container terminal is arrived adopting the 25 moves / hours / cranes for capacity computation. The KPT has adopted the JNPT upfront tariff and hence, performance standard considered for JNPT upfront tariff has to be adopted. Therefore, and keeping in view the overall position of the proposal, this Authority is not in a position to accord approval for 20 moves solely on the ground that 17 moves for feeder vessels have been approved in the proposal of the JNPT for fixation of reference tariff vide tariff Order dated 13 August 2013, quoted by one of the bidders.

(c). The other performance standards prescribed by the KPT relating to Transit Storage Dwell Time for Import and Export Containers, Turnaround Time for receipt/ delivery operation are seen to be in line with the performance standards prescribed in the Reference tariff Schedule of container terminal at Tuna Tekra and hence are prescribed as proposed by KPT.

(xiv). The Government of India in the Ministry of Shipping (MOS) under cover of its letter No.PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No.PT-11033/51/2014-PT dated 4 September 2014 to this Authority. Accordingly, this Authority vide its Order No.TAMP/52/2014-Genl. dated 28 November 2014 has, inter alia, approved the replacement of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts as follows:
'"*Coastal vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority.*'

Therefore, the definition of Coastal Vessel proposed by the KPT has been modified with the above mentioned definition of 'Coastal Vessel'.

15.1. Subject to above analysis, the Reference Tariff Schedule and the Performance Standards as proposed by the port are attached as **Annex - I** and **Annex - II** respectively.

15.2. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Reference Tariff Schedule for upgradation, operation and maintenance of container terminal at Berth Nos.11 and 12 on Build, Operate and Transfer (BOT) basis at Kandla Port and notify it along with the Performance Standards.

15.3. If at any point of time during the project period, the share of coastal container to be handled by BOT operator significantly reduces as compared to the foreign containers, the reference tariff approved by this Authority should be reviewed and KPT being the licensor port should ensure that the reference tariff is reviewed. The KPT therefore, should make the above position abundantly clear in the bid document at the time of bidding stage itself to all the prospective bidders as well as in the Concession Agreement.

16.1. As per clause 2.5 of the Revised Tariff Guidelines 2013, the Reference Tariff and Performance Standards notified by this Authority shall be mentioned in the bid document and subsequently in the Concession Agreement in respect of PPP Projects. Accordingly, the KPT is advised to incorporate the Reference Tariff and Performance Standards, in the bid document and subsequently in the Licence Agreement in respect of PPP Project.

16.2. From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire licence period.

However, the Licensee would be free to propose a tariff along with Performance Standards (the “Performance Linked Tariff”) from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

16.3. The proposal shall be submitted to this Authority along with a certificate from the independent engineer appointed under the Licence Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.

16.4. On receipt of the proposal, this Authority will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

16.5. In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, this Authority will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

16.6. After considering the views of the Major Port Trust, if this Authority is satisfied that the Performance Standards as incorporated in the Licence Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.

16.7. While considering the proposal for Performance Linked Tariff, this Authority will look into the Performance Standards and its adherence by the Licensee. This Authority will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.

16.8. From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by this Authority subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and this Authority shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

16.9. As stipulated in Clause 6.2 of the revised 2013 guidelines, in the event any user has any grievance regarding non-achievement by the Licensee of the Performance Standards as notified by this Authority, he may prefer a representation to this Authority which, thereafter, shall conduct an inquiry into the representation and give its finding to the KPT. The KPT will be bound to take necessary action on the findings as per the provisions of the respective Licence Agreement.

16.10. As stipulated in Clause 6.3.1 of the revised 2013 guidelines, within 15 (fifteen) days of the signing of the Licence Agreement, the concerned operator will forward the Licence Agreement to this Authority which will host it on its website.

16.11. As stipulated in clause 6.3.2 of the revised 2013 guidelines, the Licensee shall furnish to this Authority quarterly reports on cargo traffic, ship berth day output as well as the tariff realized for each berth. The quarterly reports shall be submitted by the PPP operator within a month following the end of each quarter. Any other information which is required by this Authority shall also be furnished to them from time to time.

16.12. As stipulated in clause 6.3.3 of the revised 2013 guidelines, this Authority shall publish on its website all such information received from PPP operator. However, this Authority shall consider a request from the Licensee about not publishing certain data/ information furnished which may be commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/ information in question and the likely adverse impact on their revenue/ operation of upon publication. This Authority's decision in this regard would be final.

16.13. As per clause 3.8.5 of the guidelines, if any question arises requiring clarifications or interpretation of the Scale of Rates and the statement of conditionalities, the matter shall be referred to this Authority and its decision in this regard will be binding on the operator.

16.14. The performance norms for the project should be clearly brought out in the bid documents. The Licensee is expected to perform at least at the performance norms brought out in the bid document/ Licence Agreement.

16.15. The actual performance of the Licensee will be monitored by this Authority. If any complaint regarding quality of service is received, this Authority will enquire into such allegation and forward its findings to the KPT. If any action is to be taken against the operator, the KPT shall initiate appropriate action in accordance with the provisions of the relevant Licence Agreement.

(T.S. Balasubramanian)
Member (Finance)

Annex - I

KANDLA PORT TRUST

TARIFF SCHEDULE FOR "DEVELOPMENT, OPERATION AND MAINTENANCE OF CONTAINER TERMINAL AT BERTHS NOS.11TH AND 12TH BOT BASIS AT KANDLA PORT.

CHAPTER 1 – DEFINITIONS & GENERAL TERMS & CONDITIONS

1.1. DEFINITIONS – GENERAL

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

(ii). **"Foreign-Going vessel"** shall mean any vessel other than Coastal vessel.

(iii). **"FCL"** means Containers said to contain Full Container Load.

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

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

(vi). **"Import container"** means a container discharged from one vessel, stored in container yard and transported out through Road or Train.

(vii). **"Export container"** means a container arrived by road or Train, stored in container yard and loaded on the assigned vessel.

(viii) **"Port area"** means the custom bound area / Port operational Area of the Port.

(ix). **"Normal Container"** shall mean general type containers, not falling under special categories mentioned subsequently.

(x). **"Reefer Container"** shall mean a refrigerated container used for carriage of perishable goods with provision for electrical supply to maintain the desired temperature.

(xi). **"Hazardous Container"** shall mean a container containing hazardous goods as classified under IMO.

(xii). **"Transhipment Container"** shall mean a container, which is discharged from one vessel, stored in the yard and transported through other vessel.

(xiii). **"Over dimensional Container"** shall mean a container carrying over dimensional cargo beyond the normal size of standard container and needing special devices like slings, shackles, lifting beam etc. They also include damaged containers and other types which require special devices.

(xiv). **"Shut out Container"** shall mean a container which enters into the port as an export intake for a particular vessel (as indicated by the Vessel Identification Advice Number, i.e. VIA No.) and is not connected to the particular vessel for reasons whatsoever, then the container is termed to be a shutout container.

(xv). **"Back To Town Container"** shall mean a container entering the port for export but unable to be exported for whatever reason and taken back to town.

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

1.2. GENERAL TERMS & CONDITIONS

(i). (a). A foreign going vessel of Indian Flag having a General trading License can convert to Coastal run on the basis of a Custom Conversion Order.

(b). A foreign going vessel of Foreign Flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping.

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

(d). In cases of such conversion coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

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

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

(iii). Vessel related charges shall be levied on Shipowners/Steamer Agents.

(iv). (a). The Vessel related charges for all Coastal vessels should not exceed 60% of the corresponding charges for other vessels.

(b). The container related charges for all Coastal should not exceed 60% of the normal container related charges.

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

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

(e). The charges for coastal containers / vessels shall be denominated and collected in Indian Rupee.

(v). Interest on delayed payments / refunds:

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

(b). The rate of penal interest will be 2% above the Prime Lending Rate of State Bank of India (SBI). The penal interest rate will apply to both the operator and the port users equally.

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

(d). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the operator. This provision shall, however, not apply to the cases where payment is to be made before availing the services / use of Port Trust's properties as stipulated in the Major Port Trust Act and / or where payment of charges in advance is prescribed as a condition in this Scale of Rates.

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

(vii). (a). The rates prescribed in this Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The operator may, if he so desires, charge lower rates and/ or allow higher rebates and discounts.

(b). The Operator may also, if it so desires, rationalize the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalization gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels. Provided that the operator should notify the public such lower rates and / or rationalization of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and / or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.

(viii). The users will not be required to pay charges for delays beyond a reasonable level attributable to the operator.

CHAPTER 2 – VESSEL RELATED CHARGES

Vessel Related Charges shall continue being collected by Kandla Port Trust as per the terms and conditions of Scale of Rates of KPT as revised from time to time.

CHAPTER 3 – CHARGES FOR SERVICES RENDERED TO CONTAINERS AND CONTAINERIZED CARGO

GENERAL TERMS AND CONDITIONS:

(i). A container originally declared as transhipment container, subsequently moved by rail or road will lose it is identity as a transhipment container and shall be treated as a normal import container and prescribed charges as applicable shall be payable.

(ii). Containers less than and up to 20' will be reckoned as one TEU (Twenty Equivalent Unit) and more than 20' and up to 40' will be reckoned as one FEU (Forty Equivalent Unit) for the purpose of tariff.

(iii). All charges for containers more than 20' in length and upto 40' in length will be 150 per cent of the applicable charges prescribed.

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

3.1. CHARGES FOR HANDLING AND MOVEMENT OF CONTAINERS:

The following consolidated charges for handling and movement of container shall be payable by the Shipping Lines or Agents of vessels or cargo agents for services rendered in respect of containers and containerised cargo passing through the port

A. Normal Containers

S. No.	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	From Ship to container yard or vice versa	4020.86	3247.62	2412.52	1948.57
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	2010.42	2010.42	2010.42	2010.42
3.	From Container yard to Truck or vice versa (direct delivery and export intake).	618.60	618.60	618.60	618.60

B. Reefer Containers

S. No.	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	From Ship to container yard or vice versa	4020.86	3247.62	2412.52	1948.57
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	2010.42	2010.42	2010.42	2010.42
3.	From Container yard to Truck or vice versa (direct delivery and export intake).	618.60	618.60	618.60	618.60

C. Hazardous Containers

S. No.	Description	Rate per TEU (in ₹)	
		Foreign Container	Coastal Container
		Loaded	Loaded
1.	From Ship to container yard or vice versa	5026.98	3016.55
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	2512.58	2512.58
3.	From Container yard to Truck or vice versa (direct delivery and export intake).	773.24	773.24

D. Transhipment Containers

S. No.	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	1-3000 TEUs	4639.44	4020.86	2783.66	2412.52
2.	3001 - 6000 TEUs	4330.15	3711.57	2598.09	2226.94
3.	6001 - 9000 TEUs	4020.86	3402.26	2412.52	2041.36
4.	Thereafter	3711.57	3092.97	2226.94	1855.78

Notes:

(1). Rate is based on total TEUs brought by the Shipping Lines or agents in the same financial year.

(2). A container originally declared as transhipment container, subsequently moved by rail or road will lose it is identity as a transhipment container and shall be treated as a normal import container and prescribed charges as applicable shall be payable.

E. Over Dimensional Cargo Containers

S. No.	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	From Ship to container yard or vice versa	8041.72	6495.23	4825.03	3897.14
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	4020.86	4020.86	4020.86	4020.86
3.	From Container yard to Truck or vice versa (direct delivery and export intake).	1237.18	1237.18	1237.18	1237.18

Note: The consolidated charges as above include the following elements, viz. stevedoring, use of Gantry crane, use of transfer crane, wharfage on tare weight of containers, wharfage on containerized cargo, transportation and contribution towards railway infrastructure.

3.2. DWELL TIME CHARGES FOR CONTAINER, STORED IN THE PORT PREMISES:

Sl. No.	Particulars	Rate per container per day or part thereof (in ₹)		
		Upto 20' in length	Over 20' to upto 40' in length	Above 40' in Length
1.	Non-ICD/ CFS Import - loaded			
	First 2 days	Free	Free	Free
	3-6 days	491.69	983.38	1475.07
	7-9 days	584.90	1169.79	1754.69
	10-12 days	695.66	1391.32	2086.99
	13-15 days	826.69	1653.38	2480.07
	16-18 days	982.03	1964.06	2946.09
	19-22 days	1168.44	2336.88	3505.33
	23-26 days	1389.97	2779.95	4169.92
	27-30 days	1652.03	3304.06	4956.09
	Thereafter	1965.41	3930.83	5896.24
2.	Non-ICD/ CFS Import - Empty			
	First 2 days	Free	Free	Free
	3-6 days	491.69	983.38	1475.07
	7-9 days	584.90	1169.79	1754.69
	10-12 days	695.66	1391.32	2086.99
	13-15 days	826.69	1653.38	2480.07
	16-18 days	982.03	1964.06	2946.09
	19-22 days	1168.44	2336.88	3505.33
	23-26 days	1389.97	2779.95	4169.92
	27-30 days	1652.03	3304.06	4956.09
	Thereafter	1965.41	3930.83	5896.24
3.	Non-ICD/ CFS Export - Loaded			
	First 3 days	Free	Free	Free
	4-6 days	491.69	983.38	1475.07
	7-9 days	584.90	1169.79	1754.69
	10-12 days	695.66	1391.32	2086.99
	13-15 days	826.69	1653.38	2480.07
	16-18 days	982.03	1964.06	2946.09
	19-22 days	1168.44	2336.88	3505.33

Sl. No.	Particulars	Rate per container per day or part thereof (in ₹)		
		Upto 20' in length	Over 20' to upto 40' in length	Above 40' in Length
	23-26 days	1389.97	2779.95	4169.92
	27-30 days	1652.03	3304.06	4956.09
	Thereafter	1965.41	3930.83	5896.24
4.	Non-ICD/ CFS Export - Empty			
	First 3 days	Free	Free	Free
	4-6 days	491.69	983.38	1475.07
	7-9 days	584.90	1169.79	1754.69
	10-12 days	695.66	1391.32	2086.99
	13-15 days	826.69	1653.38	2480.07
	16-18 days	982.03	1964.06	2946.09
	19-22 days	1168.44	2336.88	3505.33
	23-26 days	1389.97	2779.95	4169.92
	27-30 days	1652.03	3304.06	4956.09
	Thereafter	1965.41	3930.83	5896.24
5.	CFS Import loaded - moved by road			
	First 2 days	Free	Free	Free
	3-6 days	491.69	983.38	1475.07
	7-9 days	584.90	1169.79	1754.69
	10-12 days	695.66	1391.32	2086.99
	13-15 days	826.69	1653.38	2480.07
	16-18 days	982.03	1964.06	2946.09
	19-22 days	1168.44	2336.88	3505.33
	23-26 days	1389.97	2779.95	4169.92
	27-30 days	1652.03	3304.06	4956.09
	Thereafter	1965.41	3930.83	5896.24
6.	CFS Import empty - moved by road			
	First 2 days	Free	Free	Free
	3-6 days	491.69	983.38	1475.07
	7-9 days	584.90	1169.79	1754.69
	10-12 days	695.66	1391.32	2086.99
	13-15 days	826.69	1653.38	2480.07
	16-18 days	982.03	1964.06	2946.09
	19-22 days	1168.44	2336.88	3505.33
	23-26 days	1389.97	2779.95	4169.92
	27-30 days	1652.03	3304.06	4956.09
	Thereafter	1965.41	3930.83	5896.24
7.	CFS Export loaded - moved by road			
	First 3 days	Free	Free	Free
	4-6 days	491.69	983.38	1475.07
	7-9 days	584.90	1169.79	1754.69
	10-12 days	695.66	1391.32	2086.99
	13-15 days	826.69	1653.38	2480.07
	16-18 days	982.03	1964.06	2946.09
	19-22 days	1168.44	2336.88	3505.33
	23-26 days	1389.97	2779.95	4169.92

Sl. No.	Particulars	Rate per container per day or part thereof (in ₹)		
		Upto 20' in length	Over 20' to upto 40' in length	Above 40' in Length
	27-30 days	1652.03	3304.06	4956.09
	Thereafter	1965.41	3930.83	5896.24
8.	CFS Export empty - moved by road			
	First 3 days	Free	Free	Free
	4-6 days	491.69	983.38	1475.07
	7-9 days	584.90	1169.79	1754.69
	10-12 days	695.66	1391.32	2086.99
	13-15 days	826.69	1653.38	2480.07
	16-18 days	982.03	1964.06	2946.09
	19-22 days	1168.44	2336.88	3505.33
	23-26 days	1389.97	2779.95	4169.92
	27-30 days	1652.03	3304.06	4956.09
	Thereafter	1965.41	3930.83	5896.24
9.	ICD Import and Export loaded or empty – moved by rail			
	First 5 days	Free	Free	Free
	5-15 days	982.03	1964.06	2946.09
	16-30 days	1965.41	3930.83	5896.24
	Thereafter	3930.83	7861.66	11792.48
10.	Transhipment- loaded			
	First 15 days	Free	Free	Free
	16-30 days	1965.41	3930.83	5896.24
	Thereafter	3930.83	7861.66	11792.48
11.	Transhipment- Empty			
	First 7 days	Free	Free	Free
	8-15 days	1168.44	2336.88	3505.33
	Thereafter	3930.83	7861.66	11792.48

Notes:

(1). The total storage period for a container shall be reckoned from the day following the day of landing upto the day of shipment/delivery/date of removal of the container and includes Sundays and Holidays but excludes Custom notified holidays and port non working days.

(2). Transhipment containers subsequently changing the mode of dispatch locally or to the container freight station for destuffing/stuffing shall loose the concessional dwell time as prescribed in Item (4) above. Dwell time charges for such containers shall be recovered at par with import containers as prescribed in item no. 1 or 2 as applicable.

(3). Transhipment containers subsequently changing the mode of dispatch by rail to ICD shall be treated as other ICD containers for the purpose of levy of Dwell time charges fees and shall be charged at the rates in item (4) above. In such cases additional shifting charge will be applicable for movement of container to container yard to ICD yard.

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

(5). Normal import containers subsequently changing the mode of dispatch by rail to ICD will enjoy the free period applicable to normal import container only. In such cases additional shifting charges will be applicable for movement of container from container yard to ICD yard.

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

(7). Over high and over dimensional containers shall attract thrice the normal applicable charges.

(8). Hazardous containers shall attract 1.25 times the normal applicable charges.

(9). In case of stuffing the containers inside the port, the dwell time charges will be applicable as follows:

(i). Prior to stuffing, dwell time charges as applicable to empty containers will be charged.

(ii). Free period and dwell time charges as applicable to loaded export containers will be charged from the day following the day of completion of stuffing and intimation to Port.

(10). In the case of auction containers, after the auction is over, the empty containers will attract the dwell time charges as empty containers from the following day the de-stuffing is completed.

(11). The storage charges shall not accrue for the period during which the Terminal is not in a position to deliver containers for reasons attributable to it when requested by the user.

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

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

(ii). If the consignee chooses not to issue such letter of abandonment, the container Agent/MLO can also issue abandonment letter subject to the condition that,

(a). the Line shall resume custody of container along with cargo and either take back it or remove it from the port premises; and

(b). the line shall pay all port charges accrued on the cargo and container before resuming custody of the container.

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

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

3.3. CHARGES FOR MISCELLANEOUS SERVICES RENDERED TO THE CONTAINER VESSELS:

A. Reefer Monitoring and Connection

S. No.	Description	Rate per TEU (in ₹)			
		Foreign Going Vessel		Coastal Vessel (₹)	
		Loaded	Empty	Loaded	Empty
1.	Additional charges per 4 hours or part thereof for electricity consumption and monitoring of reefer containers	301.59	301.59	301.59	301.59

Note:
Additional electricity charge at the prescribed rates will be applicable in case of Reefer Containers also

B. Other Services Rendered

S. No.	Description	Rate per TEU (in ₹)			
		Foreign Going Vessel		Coastal Vessel (₹)	
		Loaded	Empty	Loaded	Empty
1.	Shifting of containers from one yard to a another yard within the terminal for customs inspection or any other purpose and subsequent loading of containers for delivery.	2604.65	2604.65	2604.65	2604.65
2.	Additional service charges for stacking containers in designated yard for custom examination or for any other purpose by prior arrangement.	306.35	306.35	306.35	306.35

C. Opening of Hatch Cover and Replacing it

S. No.	Description	Rate per Hatch Cover (in ₹)	
		Foreign Going Vessel	Coastal going vessel
1.	When placing it on the Quay	4524.60	2714.76
2.	Without placing it on the Quay	1809.57	1085.75

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

D. One Hatch to Another Hatch or within the Same Hatch

S. No.	Description	Rate per Hatch Cover (in ₹)			
		Foreign Going Vessel		Coastal going vessel	
		Loaded	Empty	Loaded	Empty
1.	Hatch to hatch shifting (involving 1 move only)	1507.99	1507.99	904.79	904.79
2.	Other than (a) mentioned above	6032.58	6032.58	3619.55	3619.55

4. GENERAL NOTES:

(i). The Reference Tariffs will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2015 and 1 January of the relevant year. Such automatic adjustment of Reference Tariffs will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.

(ii). From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire licence period.

However, the Licensor would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

(iii). The proposal shall be submitted to TAMP along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.

(iv). On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

(v). In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

(vi). After considering the views of the Major Port Trust, if TAMP is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.

(vii). While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.

(viii). From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

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Annexure - II

Performance Standard

Sr. No.	Performance Standard	
1.	Gross Berth Output	25 Moves / Crane / hour
2.	Transit Storage Dwell Time for Containers	
	Import	2 Days
	Export	4 Days
3.	Turnaround Time for receipt / delivery operation	
	Trailer for Containers (Single operation)	2 hours
	Trailer for Containers (Double operation)	4 hours
	Rake for ICD Containers (Single operation)	6 hours
	Rake for ICD Containers (Double operation)	12 hours

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

F. No.TAMP/15/2015- KPT - Proposal received from Kandla Port Trust (KPT) for fixation of reference tariff for upgradation, operation and maintenance of container terminal at Berth Nos 11 and 12 on Build, Operate, Transfer (BOT) basis at Kandla Port.

A summary of the comments received from M/s. United Liner Agencies of India (Pvt.) Limited (ULAIL) and comments of the Kandla Port Trust (KPT) thereon is tabulated below:

Sl. No.	Comments made by users/ user organisations and prospective bidders	Response of KPT
I	M/s. United Liner Agencies of India (Pvt.) Limited	
(i).	**Container Handling Tariffs**	
	It has reiterated the submission made vide its earlier letter dated 8 December 2014 and 12 February 2015. In addition to that ULAIL has made the following submissions: (a). While we appreciate that the Guidelines referred to do not allow the consideration of replacement cost of the equipment, early replacement of the equipment needs to be factored in as the actual Project cost will be more than double the initial Estimated Cost of the Project. (b). The Project IRR even at the revised tariffs is working out to be too low and cash losses are projected for a number of years, especially in view of the fact that majority of cargo that is likely to be handled is coastal cargo for which the rates are much lower than for the foreign cargo. The only practical way out of this situation is to go in for the notified tariffs of Tuna Tekra Terminal because under the Tariff Guidelines, 2013 the highest tariff available under the 2008 Guidelines for any Terminal in the same port can be considered as the Reference Tariff for all the Terminals coming up in that port during the next five years. (c). The Operator is therefore, entitled to rates notified for Tuna Tekra Container Terminal (which were based on JNPT Container Terminal Tariffs) as per the Tariff Guidelines, 2013. (d). TAMP had vide its letter No. TAMP/43/2014-KPT dated 28-1-2015 stated that as per clause 2.2 of the tariff guidelines of 2013 issued by the Ministry of Shipping, the	The prospective bidder has supported the proposal of KPT for notifying the tariffs on the basis of JNPT Container Terminal.

	Reference Tariff to be approved by this Authority has to be based on the proposal filed by the concerned Major Port Trusts. Accordingly, the Reference Tariff determined by the Authority in the tariff Order no. TAMP/43/2014-KPT dated 28 November 2014 is based on the proposal filed by the KPT and therefore ULA may take up this as well as any other matter relating to this project directly with the proposer port i.e. KPT. (e). Accordingly the matter was taken up with KPT vide letter No. PDG /ULA/KPT/CTP/16/2015 dated 12-2-2015. (f). No bidders came forward to submit their bids by the Bid Due Date i.e. 2-3-2015. The KPT discharged the process and convened a stake holders meeting on 11-3-2015 to understand the views of the stake holders to reformulate the Project. (g). In the stakeholders meeting convened by KPT on 11-3-2015, the bidders voiced apprehensions about the low viability of the Project in view of low tariffs, apart from other issues. This has resulted in KPT amending the Scope of the Project and reformulating the Reference Tariff. The port issued a fresh RFQ on 15-3-2015. (h). In the light of the above background, we fully endorse the proposal of KPT for notifying the tariffs on the basis of JNPT Container Terminal Tariff duly escalated for inflation as provided in the 2013 Guidelines to make the Project more attractive and saleable and request TAMP to notify the same.	
(ii).	**Productivity Parameters**	
	There is a concern expressed by us in respect of the Productivity Parameters and the storage charges notified for Tuna Tekra Project. The crane Productivity has been indicated as 25 moves/hour in the Tuna Tekra tariff. TAMP may kindly agree to notify the productivity parameter of 20 moves/hour as proposed by KPT due to following reasons : (a). In Kandla Container Terminal, it will be very difficult to achieve this productivity as the cranes are old and crane outreach is limited. Two out of the four cranes are of lower capacity and these cranes are lying unutilized since September 2013. (b). Productivity will also depend on the type of ships that are likely to call Kandla Port. Most of these ships will be small and old because of draft limitations. Such ships will have inherent problems leading to low	The prospective bidder has supported the productivity parameter of 20 moves/ hour as proposed by KPT. Moreover, the same was also notified by TAMP in the earlier notification.

	productivity. In view of these reasons, the port has kindly agreed to rework out the Productivity and consented to a norm of 20 moves/ hour. (c). This has an impact on the capacity of the Project which was worked out at 6 lakh TEUs. TAMP has also agreed to this and this has been notified in the previous notification. It is therefore appropriate to adopt the productivity parameter of 20 moves /hour for crane productivity. (d). It may also kindly be noted that the productivity indicated for feeder vessels in the .INPT Reference Tariff Notification for JNPT 4th Container Terminal by TAMP vide Notification G No 235 of 10-9-2013 is only 17 moves/hour for feeder vessels. It is relevant to mention here that majority of the vessels that are likely to call on Kandla will be feeder vessels only. (e). Earlier TAMP had agreed to revise certain productivity parameters and conditionalities while adopting the Reference tariff of some other ports in case of Paradip Multipurpose Cargo berth, Kolkata Diamond Harbour Project and Tuna Tekra Container Terminal Project itself. There are therefore precedents available for making certain changes while adopting the rates of other Terminals as Reference Tariff.	
(iii)	There are certain omissions and commissions and inaccuracies in the proposed SOR, which are furnished below:	
1.	In para 3.1, Charges for handling and movement of containers, a. In Table A-Normal Containers, the sub headings, 'Loaded' and 'Empty' are missing	The same has been inserted and the revised tariff proposal has been furnished.
	b. In Table D-Transshipment Containers, against S.l\lo 1, instead of 3000 TEUs, it should read 1-3000 TEUs	The same has been rectified in the revised tariff proposal.
2.	In para 3.3, Charges for Miscellaneous Service rendered to the container vessels a. in Table A, after Rate per TEU, In ₹ may be added in brackets b.	The same has been added in the revised tariff proposal.
	b. In Table B, after Rate per TEU, In ₹ may be added in brackets	
3.	In the Scale of rates of KPT, a separate charge of ₹4 per tonne has been notified to recover the capital cost and regular	As per TAMP Guidelines 2013, separate tariff for said charges of ₹.4/MT does not seem to be applicable to be levied by

	maintenance cost incurred by KPT on railway infrastructure within the port. In the present RFQ, KPT has proposed to transfer Line No. 12 to the Concessionaire and the cost of the rail line has been included in the Project cost. The concessionaire has also to undertake development of the land and the rail siding. In view of this, a tariff towards railway infrastructure attributable to the Concessionaire to be recovered from rail borne cargo needs to be notified.	the Concessionaire.
4.	The ULAIL has also listed down various clause relating to performance linked tariff, grievance redressal, mandatory disclosure by operators etc. to be incorporated as notes in the Scale of Rates.	Concession Agreement would be incorporated with the provision that the Parties shall abide by the Tariff Guidelines 2013. Hence, there is no need to spell all the provisions of Tariff Guidelines 2013 in the Tariff Proposal.
(d).	**Conclusion**	
	TAMP is requested to consider the proposal of Kandla Port Trust for notifying the JI\IPT Container Terminal Tariffs with the modification that the crane productivity parameter changed from 25 moves/hour to 20 moves/hour. As the rates proposed by KPT are the ceiling rates, the Operator will be at liberty to offer rebates/incentives, where feasible, in order to promote container traffic, without incurring the risk of such rebates not being considered for the purpose of calculation of income, in the light of the recent opinion of the Attorney General of India received by the Government.	

2. A joint hearing in this case was held on 16 April 2015 at the premises of KPT. The KPT made a brief power point presentation of its proposal. At the joint hearing, the KPT and the concerned users / users organization and Prospective bidders have made the following submissions:

<u>Kandla Port Trust (KPT)</u>

(i). Makes a brief power point presentation of its proposal. Hard copy is given.

(ii). Bids were invited based on reference tariff earlier approved by TAMP based on our proposal. But, response was nil since the approved reference rate is not attractive.

(iii). Hence, we have now filed the proposal adopting the upfront tariff approved by TAMP for Container Handling facility at Jawaharlal Nehru Port Trust (JNPT).

(iv). In the restructured project, the existing equipment viz. 4 RMQCs, 4 RTGCs, 3 Reach stackers and miscellaneous assets including electrical items will be given by us to the BOT operator. For this no upfront payment is proposed to be collected from the BOT operator as envisaged in its earlier proposal. Instead, in the restructured project, license fee is proposed to be collected by us from the successful BOT operator for a period of 12 years. Capital cost of the project has come down due to this modification in comparison to our earlier proposal for which the Reference tariff was approved.

(v). We will now handover dedicated railway line behind berth nos.11 and 12 unlike our earlier proposal where the port was to retain it. For this, ₹3.19 crores is the upfront payment payable by the BOT operator which is included in the capex. The revised capex for this project is estimated to be ₹159.81 crores.

(vi). We have now revised the proposed reference tariff adopting the upfront tariff for JNPT container terminal and indexing it to the escalation factor recently announced by TAMP with base WPI of January 2008 and 1 January 2015 at 35.08% instead of escalation factor as of 1 January 2014 at 31.58% considered in our proposal dated 4 April 2015.

M/s. United Liner Agencies of India (Pvt.) Ltd. (ULAIPL)

(i). Project should be bankable and viable. It was not so on the reference tariff earlier approved by the TAMP. Most of the traffic expected at the terminal is coastal cargo. For coastal cargo/ container, concessional tariff at 60% of the tariff for the foreign counterpart is applicable. Due to concessional tariff applicable to coastal container, the IRR works out very low at the reference tariff approved by the TAMP earlier.

(ii). We fully support the current proposal of KPT to adopt the JNPT upfront tariff.

(iii). The container terminal for Tuna Tekra at KPT is also based on adoption of the upfront tariff approved by TAMP for container handling facility at JNPT.

(iv). Existing equipment to be handed over by the port are old. Moreover, they are not used since 2013. Apart from this, due to draft restriction, only small vessels are expected to call at berth nos.11 and 12. All these factors will affect the productivity of the berth. At JNPT the productivity for main line vessel is 25 moves / crane / hour and for feeder vessels it is 17 moves/ hour / crane. For the reasons stated above, performance standards for this project should be considered at 20 moves/crane/ hour.

(v). This project is abandoned one. Arbitration process is still going on regarding the equipment. The KPT is not going to transfer title of equipment to the BOT operator even if the arbitration clears the matter and the title of equipment is transferred to KPT. Hence we will not be in a position to raise any finance from Banks if title of equipment is not transferred to us.

(vi). Operator has to attract container traffic right from the scratch at this terminal. Operator will be put into lot of difficulty to attract container traffic.

(vii). There are some deficiencies in the draft SOR proposed by KPT. We have pointed it out in our letter dated 14 April 2015 which needs to be addressed.

(viii). In the restructured proposal, the KPT proposes to transfer railway line No 12 to the BOT operator for which the KPT envisages to collect ₹3.59 crore upfront payment from the operator. This is included in the project cost. Moreover, the BOT operator has also to undertake development of part of the land and railway siding. We have to maintain it during the project period. In view of the above, a separate rate is required to be recovered from rail borne cargo. In the KPT SOR, a separate rate of ₹4 per tonne has been notified to recover capital cost and maintenance of railway infrastructure at the port.

[KPT- At present, KPT collects ₹4/ tonne as special charges for railway borne cargo. Now, we are going to handover the railway line behind berth no.12 to the concessionaire. Hence, some rate need to be determined for this service.]

(ix). TAMP has allowed certain changes in the reference tariff approved on adoption cases. For example, in case of multipurpose cargo terminal at Paradip Port Trust which is combination of clean cargo and container, in Tuna Tekra, for smaller project TAMP has allowed adoption of tariff of container terminal at JNPT. Project specific requirement has to be considered.

(x). Though the adopted rate of JNPT appears to be high, it has to be recognised that major container traffic will be coastal for which concessional tariff is applicable.

Kandla Port Steamship Agent's Association (KPSAA)

(i). KPT is a tidal port. The port has draft limitation and restrictions for night navigation.

(ii). The BOT operator for this project has to start from zero. He has to attract container traffic to the port. At the proposed rate, it is not possible to attract container traffic to Kandla. Hence, proposed rate needs to be reduced. Tariff should be attractive to attract the container traffic. We request to reconsider the proposed rate and reduce it.

(iii). Feeder vessel have added cost for feeding the main line vessel.

(iv). KPT can handle other clean cargo at the terminal when the facility is idle so that the terminal can be optimally utilised.

[ULAIPL- This is not practicable. Container vessel need priority. It is not like PPT. It will lead to conflict of interest.]

M/s. IL&FS Maritime Infrastructure Company Limited (IMICL)

(i). We request to reduce the proposed performance parameter of 20 moves/ crane as it has ramification on the Concession Agreement. Concessionaire will obviously try to increase and achieve better performance.

(ii). Average dwell time of 2 days and 4 days is not sufficient.

3. A summary of the written submissions made by Kandla Port Steamship Agents Association (KPSAA) at the joint hearing and the reply furnished by KPT thereon are tabulated below:

Sl. No.	Written submissions made by KPSAA	Reply furnished by KPT
1.	**Kandla Port Steamship Agents Association (KPSAA)**	
(i).	Any port is recognized by its marine facilities, and container port needs all 24 hours marine operations only then the window system can be set. But at kandla due to the tidal restrictions, drafts and the night navigation restrictions the window system for container vessel could never be implemented. Presently at Kandla, the container traffic is zero. Thus any line which has to call kandla should have good lucrative offer only then the cargo can be shifted from any other port. Under the present situation we can foresee that only feeder and coastal traffic can come to kandla, however the rates fixed based on the JNPT and Tuna Tekra looks to be on a very higher level which may not be attractive to bring back container trade to Kandla Port.	Proposed Project attracts Tariff Guidelines of 2013 which asks to refer to the tariffs from already approved in toto without any change. Further, prospective applicants have supported the proposed tariffs. Further, as stated earlier in case of Clean Cargo Berth at Paradip and JNPT 330 mtrs container handling facility, despite being small facilities than Kandla Container Terminal, reference tariff based on the rates of Tariff Order approved for JNPT under 2008 Guidelines is approved.
(ii).	To reduce the handling cost the operator should be allowed to do the stuffing and d-stuffing of the containers inside the port area also.	Since KPT has signed contract with CWC, it is not possible at this juncture to allow stuffing de-stuffing of containers inside the port.
(iii).	To reduce the handling cost there should be a Railway station inside the port area nearby to the container terminal so that the transport of containers by rail do not have to take two legs Kandla / Gandhidham Gandhidham / destination. It is very important for ICD containers even to give a glance at Kandla port.	Proposed project envisages handing over the railway line behind berth no. 11 and 12 to the concessionaire as the dedicated line for terminal.
(iv).	Container vessels must have top most priority for berthing/sailings.	Over-riding priority movement to the Container vessels over all other vessels shall be provided subject to available draft and tide.
(v).	Whenever there is no container vessel at berth no. 11 on 12, the port should allow berthing of	Project is proposed to be developed by the Concessionaire to handle container cargo.

	other clean bulk / break bulk vessels and handle other clean bulk / break bulk cargos to avoid idling of the berth, as with the let out of the 'terminal to the container operations there is surely going to be congestion in the port general berths and during such circumstances that at kandla there are berths lying vacant but port unable to berth vessels due to their contracts. This will reduce congestion and will also add up revenue to all parties.	Bulk / break bulk cargo may not be viable since it shall warrant additional cost (for equipments) burden which may not be recovered through handling during the limited berth availability. Moreover, for multipurpose cargo including bulk and break bulk, separate project at 16th berth has already been proposed by issuing the RFQ.

4.1. The KPSAA has subsequently vide its letter dated 28 April 2015 has made further submissions supporting the proposal of KPT for adopting the JNPT upfront Tariff. The submission made by the KPSAA is summarized below:

(i). We have re-checked the proposed Tariff for the above Project and are of an opinion that the present container handling rates prevailing at Mundra have been further revised recently. A comparison of the rates of Adani Mundra Container Terminal with the proposed tariffs for Kandla Container Terminal indicates the rates at Mundra would be higher by ₹.1000/-TEU. The following Table gives the details of these rates. JNPT 4th Container Terminal tariffs as compared to MICT tariffs –

NORMATC ONTATNER(TEU)

Sr. No.	Activity	Terminal	Foreign Container (₹)		Coastal Container (₹)	
			Empty	Loaded	Empty	Loaded
1.	From Ship to container yard or vice versa and truck delivery	JNPT	4519.15	3766.04	2952.58	2500.65
		Mundra	5676.42	5357.52	5676.42	5357.52
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	JNPT	5875.01	5121.80	4308.34	3856.41

(ii). It is generally seen that the tariffs for all other container handling service including CFS rates are much higher at Mundra as compared to Kandla. The cost of operations will therefore be much higher at Mundra than at Kandla. Therefore adopting JNPT rates for this Terminal may not be a big disincentive for the container vessels to call on Kandla port.

4.2. The KPT has not responded to the comments of KPSAA.

5. A summary of the comments received from M/s IL&FS Maritime Infrastructure Company Limited (IMICL) as decided at the joint hearing and response of the KPT thereon is tabulated below:

Sl. No.	Comments made by prospective bidder M/s IL&FS Maritime Infrastructure Company Limited	Reply furnished by KPT
(i).	**Tariff**:	
	The current tariff proposed by Kandla Port Trust for the project along with performance indicators seems favourable for the viability of the Project. It is requested that these tariff be retained as they are based on reference tariff of JNPT and are also less than the tariff of the neighbouring facilities Mundra– ₹ 5,270/TEU Pipavav – ₹ 5,518 / TEU	Regarding tariffs, it is to state that the prospective bidder has supported the proposal of KPT for notifying the tariffs on the basis of JNPT Container Terminal. Further the prospective bidder has mentioned that “the tariff can be considered for review once the draft at

	Further, the performance parameter proposed as no. of moves / crane / hours are quite practical considering the operational limitations at Kandla Port. Thereafter, the tariff can be considered for review once the draft at the berth / channel and operational conditions are improved as compared to the neighboring ports.	the berth / channel and operational conditions are improved as compare to the neighboring ports". In this regards, it is to state that as per Guidelines for Determination of tariff for projects at Major Ports, 2013, review of tariffs based on such parameters is not possible.
(ii)	**Performance Standards**	
	The proposed performance standard for Transit Storage Dwell Time for Containers i.e 2 days for imports and 4 days for exports may be extended to 7 - 10 days as this will provide an incentive to the end users to utilise the terminal for storage as the CFS and other facilities at Kandla are limited and rake availability for container rails is also limited. Further, a significant cargo is likely to be coastal cargo and hence to facilitate the overall economy of logistics cost, this increase in dwell times will be helpful. Notwithstanding the above, the Concessionaire shall of course make efforts to increase throughput volumes, however it must be appreciated that the removal of containers from the terminal yard is determined by the end user/consignee rather than the terminal operator.	Regarding performance standards, it is to state that as per Guidelines for determination of Tariff for projects at Major Ports, 2013, the performance standard for Transit storage Dwell time has been proposed as per the approved tariff order of JNPT Container terminal notified vide No.34 dated 12 March 2009.

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