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Tariff Authority for Major Ports

GNo.211 **New Delhi** **26 October 2007**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal from the ABG Kandla Container Terminal Ltd. for fixation of tariff for its operations at berths No.11 & 12 in Kandla Port Trust as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports

Case No. TAMP/43/2006 – ABGKCTL

ABG Kandla Container Terminal Limited - - - Applicant

O R D E R

(Passed on this 12th day of October, 2007)

This case relates to the proposal dated 6 September 2006 received from the ABG Kandla Container Terminal Ltd. for fixation of tariff for its operations at berths No.11 & 12 in Kandla Port Trust.

2.1. The Kandla Port Trust (KPT) had issued a letter of intent on 14 April 2006 to ABG Heavy Industries Ltd. for grant of license to develop, operate and maintain the berths nos. 11 and 12 as container terminal on Build–Operate–Transfer (BOT) basis for a period of 30 years from the date of award of the license. A Special Purpose Vehicle (SPV) named ABG Kandla Container Terminal Limited (ABGKCTL) was accordingly incorporated under the Companies Act, 1956. The License Agreement (L.A.) was signed between KPT and ABGKCTL on 23 June 2006.

2.2. The highlights of the proposal are as follows:

(A). **License Agreement**:

(i). The project comprises of developing the two berths having total length of 545 mtrs. with basin depth of 12.5 mtrs and a yard space of 400,000 sq mtrs. (open space). The proposed container terminal would be utilised for handling fully loaded Panamax and Super Panamax container vessels.

(ii). The ABGKCTL shall commence and complete the construction and development of the terminal within 36 months from the date of award of License i.e. from 23 June 2006.

(iii). The ABGKCTL has guaranteed annual Minimum Guaranteed Throughput (MGT) in the L.A. The MGT, as per the L.A., varies from year to year and is fixed at 450,000 TEUs from the 10th year operation. The MGT for the first five years of operation is as under:

Year of Operation	MGT (in TEUs)
1st year	172,000
2nd year	186,000
3rd year	200,000
4th year	221,000
5th year	243,000

(iv). The licensee has to pay an up-front fee of Rs. 10 crores before execution of the L.A.

(v). (a). License fee for the lands allotted shall be Rs. 377 lakhs payable quarterly preceding the first handover date till the third handover date.

(b). For the period, subsequent to the third handover date, the Annual License Fee prescribed in the L.A. for the following four years is tabulated below:

Payment period	Rs. in lakhs
1st twelve months from the third hand over date	704
2nd twelve months from the third hand over date	729
3rd twelve months from the third hand over date	756
4th twelve months from the third hand over date	783

(vi). The ABGKCTL is authorised to levy and collect all container handling charges. The KPT will levy and collect all vessel related charges on the container vessels as per its Scale of Rates.

(vii). Revenue share of 48.997% on all revenues collected by the licensee shall be payable to the KPT.
(The ABGKCTL has not considered this item as cost in its initial tariff proposal).

(viii). As per the L.A., the licensee is required to obtain stevedoring license from the Kandla Port Trust under the Kandla Port Trust (Licensing of Stevedores) Regulations, 1988.

(B). Financial Statements:

(i). Traffic:

(a). Container traffic handled by the KPT for the years 2003-04 to 2005-06 and the container traffic estimated by the ABGKCTL from November 2006 onwards till 2009-10 (as per Form 2A) is tabulated below:

Actuals at KPT (in TEUs)			Estimate by the ABGKCTL (in TEUs)			
2003-04	2004-05	2005-06	2006-07 (from Nov'06)	2007-08	2008-09	2009-10
170035	178536	148804	71667	190726	205741	221650

(b). Though there was an average 15% growth in container traffic till 2002-03, the growth in traffic has reduced to 7% after the commencement of operations of two private ports namely Mundra International Container Limited (MICT) and Gujarat Pipavav Port Limited (GPPL). Further, the growth of container traffic has shown a negative growth of 17.50% during the year 2005-06.

(ii). Income:
Income is estimated on the projected traffic and at proposed tariff.

(iii). Operating Cost:

(a). Operating expenditure (except fuel cost) has been escalated @ 5% per annum as per the current trend.

(b). The escalation in fuel cost is estimated based on the last two years experience. The annual escalation in per unit cost of fuel is estimated at 10% over the previous year's rate.

(c). The repairs and maintenance cost is estimated at 3% of gross block for electrical and mechanical equipment and 1% of gross block for civil works.

(iv). Revenue share payable to KPT is not considered in the financial statement as an item of cost in line with the revised tariff guidelines. The ABGKCTL has stated that the Bid Document and the L.A. did not specifically mention about its non-inclusion as item of cost. The ABGKCTL has, therefore, requested this Authority to consider revenue share as an item of cost.

(v). The total project cost is estimated at Rs.330.77 crores. This capital cost is spread over three phases as below:

Phase –I (from 23.10.06 to 22.10.07)	Rs.87.36 crores
Phase –II (from 23.10.07 to 22.06.09)	Rs.110.53 crores
Phase –III (from 23.06.09)	Rs. 132.88 crores.

The break up of the capital investment proposed during the three phases is as under:

(Rs. in crores)

Sr. No.	Details		Phase –I	Phase –II	Phase –III
A.	Equipment				
	1.	Mobile Harbour Cranes (2 nos)	39.02	--	---
	2.	Rail Mounted Quay Cranes (2 nos each year)	--	63.47	63.47
	3.	Rail Mounted Gantry Cranes (2 nos each year)	--	9.76	9.76
	4.	Rubber Tyred Gantry Cranes (4 nos. each year)	-	9.76	9.76
	5.	Other equipment	16.70	3.38	3.16
	Total Equipment Cost		55.72	86.37	86.15
B.	Civil works		9.25	10.10	10.00
C.	Electrical installations and office equipment		1.96	1.50	0.30
D.	Consultation/ Finance charge/ Upfront fee.		20.43	12.55	33.93
E.	Railway Network		--	---	2.50
Total			**87.36**	**110.52**	**132.88**

(vi). The net surplus / deficit at the proposed tariff levels reflected in the cost statements submitted by the ABGKCTL for the years 2006-07 to 2009-10 is as follows:

(Rs. in lakhs)

Particulars	2006-07	2007-08	2008-09	2009-10
(i). Operating Income	2173	6417	6923	7458
(ii). Net Surplus/ Deficit after cost and ROCE.	1017	1519	-1960	-2635
(iii). Net Surplus/ Deficit as % of Income	46.79%	23.67%	-28.31%	-35.33%
(iv). Average	1.71%			

2.3. The ABGKCTL reported that its operations were expected to commence from 1 November 2006 with minimum equipment in place.

2.4. The ABGKCTL has stated that tariff of the nearest two private ports surrounding it, namely Mundra International Container Limited (MICT) and Gujarat Pipavav Port Limited (GPPL), are market driven. Though the financial results of the ABGKCTL justify higher tariff than that of MICT and GPPL, it is restrained from proposing higher tariff.

2.5. In terms of the L.A., the KPT can levy and recover the vessel related charges on container vessels at the berths nos.11 and 12. In view of the competition from the two neighbouring private ports with market driven tariff, it has requested this Authority to suitably reduce the vessel related charges of the KPT. This would help in attracting higher throughput to its terminal and tide over stiff competition of the private ports.

3.1. The ABGKCTL has furnished its proposal in the prescribed cost format alongwith the proposed Scale of Rates. It had requested not to circulate Form 2B (Income projections), Form 3B (Details of Expenditure), Form 4A (Capital Employed) and Form 4B (Details of Additions to Gross Block) and other Forms, since the information furnished in these Forms are commercially sensitive.

3.2. As per clause 3.2.4. of the revised tariff guidelines, the request for non-circulation of commercially sensitive information should be supported by reasons explaining how irreparable damage would be caused to the port if such a request is not acceded to. Similarly, as per the prescribed format for filing the tariff proposal, the tariff proposal as filed by the terminal has to be circulated to the respective port, terminal users and the representative bodies of the terminal users. Further, if any of the information is to be treated as confidential and is not to be circulated then the terminal has to mention it explicitly alongwith the reasons therefor. The request of the ABGKCTL was not acceded to since it did not furnish any reasons for classifying the above mentioned documents as commercially sensitive / confidential and also did not explain how irreparable damage would be caused to it if the request is not acceded to. In view of this, the proposal dated 6 September 2006 as received from the ABGKCTL was circulated except the L.A. and Enclosure I to the proposal containing details of assumptions of the project, capital cost, revenue estimation, etc.

4. In accordance with the consultative procedure prescribed, the proposal received from ABGKCTL was forwarded to the KPT and the concerned users / user organisations for their comments. The copy of the comments received from the user / user organisations were forwarded to ABGKCTL as feedback information. The ABGKCTL has furnished its observations on the comments of the users / user organisations.

5.1. Based on a preliminary scrutiny of the proposal, the ABGKCTL was requested to furnish additional information / clarifications. The ABGKCTL has furnished its reply. Since there were some gaps in the information furnished, further clarifications were sought, which were furnished by the ABGKCTL. A summary of the queries raised by us and the clarifications furnished by the ABGKCTL are tabulated here below:

Sl.No.	Queries raised by us	Reply received from ABGKCTL
A.	**General:**	
(1).	The revised tariff guidelines stipulate that tariff should be linked to benchmark of the levels of productivity. The ABGKCTL has not indicated anything about productivity levels to be maintained for various operations / services. Please indicate benchmark levels of productivity and propose incentive for better performance of the terminal and disincentives for performance below benchmark levels. The productivity parameters should be included in the Scale of Rates as conditionalities governing the respective tariff items.	Benchmark levels of productivity along with incentives for better performance and disincentives for lower performance will be proposed after gaining some experience of the operations and taking into account the local and environmental conditions, on commissioning of the project facilities.
(2).	(i). A terminal operator normally provides comprehensive service including on-board stevedoring, stowage planning, lashing / unlashing etc. Please clarify whether the requisite Stevedoring License is obtained by the Licensee for providing these services as required under the L.A. and highlight the tariff arrangement for providing these services.	(i). The relevant provisions of the License Agreement shall be complied with in this regard.

	(ii). The reply furnished by the ABGKCTL was not specific with reference to the queries raised by us. During the presentation both the KPT and the ABGKCTL had confirmed that as per clause 4.12.2 (x), the ABGKCTL is given license for offering composite services for handling containers at Berth Nos.11 and 12 and also that offering the services relating to stevedoring operations is ultimately the responsibility of the ABGKCTL. In the light of the above observation, and also in view of the points made in the queries raised earlier in this regard, the ABGKCTL was again advised to propose suitable tariff arrangement for on-board stevedoring activity in the proposed Scale of Rates. The ABGKCTL was informed that this Authority may be constrained to prescribe *suo motu* a consolidated rate including stevedoring charges rate for on-board stevedoring if they are not included in the revised proposed Scale of Rates.	(ii). The ABGKCTL has clarified that the rate for on–board stevedoring is included in the proposed SOR. *The revised proposed Scale of Rates, however, does not reflect this position and continue to state that the composite handling charges excludes on-board stevedoring charges.*
(3).	(i). Please furnish a copy of the project cost as determined by the Audit firm, which is to be appointed by the licensor in consultation with the licensee as per the L.A. and also furnish all the relevant documents in respect of the capital expenditure incurred by ABGKCTL to the KPT. (ii). The ABGKCTL may furnish all the relevant documents in respect of the capital expenditure incurred by them to the KPT and coordinate with the port to forward a copy of the project cost determined by the Audit firm as per clause 4.8.1. of the LA.	(i). The Licensor is yet to appoint an Audit Firm for determination of the project cost. (ii). (a). It has furnished copies of the purchase orders placed for equipment ordered. The capital cost of other equipment and civil works is, however, based on its estimates. It has agreed to coordinate with the KPT for appointment of the Audit firm and to forward auditor's certificate when issued by them. (ii). (b). As per the L.A., the Audit firm will certify the cost actually incurred upto the end of the quarter to which the certificate pertains. Hence, the capital cost of the project can be determined through the audit certificates only at the end of six months i.e., after the COD-12. It has, therefore, requested to process the proposal on the basis of the estimated project costs.
(4).	Furnish a copy of the report considered by the financial institutions while appraising the proposal of the ABGKCTL for lending the funds for this project.	Bankers have denied to share their appraisal note on account of confidentiality.
B.	**Financial / Cost Statements:**	
1.	**Capacity:**	
(i). (ii).	Indicate the capacity of the container terminal of the Kandla Port before ABGKCTL took over the operations of container terminal of the port. The project plan shows that the capital expenditure is to be done in a phased manner as per the terms of the L.A. By 23 October 2006, 2 Mobile harbour crane and 6 reach stackers are proposed to be deployed. By 23 October 2007 Rail Mounted Quay Cranes (RMQC) and 2 Rubber Tyred Gantry Cranes (RTGS) are proposed to be deployed and by 23 June 2009, it is proposed to add additional 2 RMQC plus 2 RTGS. However, the capacity of the container terminal is	(i). This information will be intimated when the information is received from KPT. (ii). Taking into account the berth length available (one berth up to June 2008 and two berths thereafter), actual / proposed dates of providing handling equipment, storage and evacuation facilities available, the capacity of the terminal has been re-assessed as follows:

<table>
<tr><td></td><td>assessed at uniform level 225000 TEUs per annum for the years 2006-07 to 2008-09 which perhaps does not reflect the equipment deployment plan envisaged in the proposal.</td><td><table><tr><td>2006-07
(5 months)</td><td>:</td><td>66,667TEUs</td></tr><tr><td>2007-08</td><td>:</td><td>2,25,000 TEUs</td></tr><tr><td>2008-09</td><td>:</td><td>3,00,000 TEUs</td></tr><tr><td>2009-10</td><td>:</td><td>4,50,000 TEUs</td></tr></table></td></tr>
<tr><td>(iii).

(iv).</td><td>The KPT assessed the designed capacity of the container terminal at 5.5 lakhs TEUs per annum with deployment of new equipment as against 4.5 lakhs TEUs estimated by the ABGKCTL. Please comment on the reasons for the variation in the assessment of the capacity. Furnish detailed computation of capacity assessment for each of the years under consideration with reference to the designed parameters of the facilities created or to be created in the relevant years and also taking into consideration the expected berth productivity, gross crane productivity, stack productivity under each of the years under consideration.

Indicate what are the quay crane moves per hour considered for assessment capacity of the terminal.</td><td>(iii). The capacity of a berth depends on the length of berth, capacity and quantity of quay cranes, yard capacity and evacuation facilities. It has considered the capacity of quay crane as the limiting capacity and taken the average capacity of each quay crane at 75,000 TEUs per annum. The capacity of each year is assessed accordingly.

(iv). Information is not furnished.</td></tr>
<tr><td>2.</td><td>Traffic:</td><td></td></tr>
<tr><td>(i).</td><td>Furnish the basis of the estimates of traffic for the years 2006-07, 2007-08, 2008-09 and 2009-10.</td><td>The basis of the estimates is furnished in the Project Information Memorandum. There has been average growth of 15% in container traffic at the KPT till the year 2002-03. After the commencement of the private ports, MICT and GPPL, the growth in the container traffic has dropped by 7% and in the year 2005-06 there is negative growth of 17.5%. This is expected to drop further.</td></tr>
<tr><td>(ii).</td><td>The traffic estimation at the level of 1,77,833 TEUs, 1,91,833 TEUs, 2,08,750 TEUs during the year 2007-08 to 2009-2010 in the revised cost statement may be justified in the light of the fact that it is found to be significantly lower than the capacity proposed to be created to the tune of 2,25,000 TEUs, 3,00,000 TEUs and 4,50,000 TEUs for the corresponding years. In this context, please explain and justify why the existing traffic should bear the burden of the additional capacity, which is not proposed to be utilised by the ABGKCTL for the years under consideration.</td><td>(a). The traffic has been estimated taking into account the current trend of traffic at the port, growth potential of traffic from the hinterland, the competition offered by other two private terminals in the close proximity on either side of ABGKCTL. As already mentioned earlier, the traffic at the existing berth under the KPT has shown a negative growth of about 17% in the year 2005-06, i.e. after Mundra Container Terminal stabilised.

(b). The Northern India Shippers Association (NISA), has confirmed the fears about declining container traffic at KPT as genuine. The NISA has suggested that as a prudent step the MGT should be removed at least for the first 5 years. In view of this, the ABGKCTL has requested to accept their traffic projections since the port users feel that even the minimum guaranteed throughput may not be achieved.
Furthermore, under the exclusivity clause, the maximum throughput of 500,000 TEUs has been stipulated in the License Agreement such that efforts made by ABGKCTL in developing this terminal, marketing the same, efficiently operating the same, could accrue to a competitor.</td></tr>
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		(c). As far as capacity is considered it has no choice. The capacity of the terminal depends on berth-length available, equipment provided and the storage yard available and evacuation facilities. Berth-length, number of quayside and yard cranes to be provided and the area of the storage yard to be taken over by the BOT operator are in accordance with the obligations under the L.A. Hence, the KPT will be in a better position to clarify why such stipulations have been made in the L.A.
(iii).	The KPT on our specific query to comment on the reasonableness of the traffic projections of the ABGKCTL has observed that the traffic estimation made by ABGKCTL are not realistic and understated. The KPT has estimated the traffic to be around 3,91,000 TEUs in the year 2009-2010. In view of the comments of the KPT and also in the light of our observation above, the ABGKCTL was again advised to review and revise its traffic projections and consequently also modify the income estimation in the revised cost statement.	The projection for traffic made by KPT is unrealistically high and do not conform either to the present trend or the general expectations. It has reiterated its views about the declining container trend and the apprehension expressed by the NISA in this regard.
(iv).	Indicate the container mix of different categories and size of containers i.e. foreign/coastal, 20' / 40' container, laden/ empty containers, reefer containers etc, handled by the Kandla Port Trust for the last two years to justify the basis adopted by the ABGKCTL for traffic projection.	The requisite information will be furnished on receipt of the same from the KPT. The traffic estimation sheet furnished by ABGKCTL, however, shows that the estimates are based on the prevailing traffic composition at the port.
(v).	The ABCKCTL has proposed tariff for transhipment containers, restow containers, ICD containers, over dimensional and hazardous, etc. However, it has not estimated traffic in respect of these categories of containers. The ABGKCTL is requested to furnish traffic estimates under each category of containers for all the years under consideration for all the tariff items proposed in the Scale of Rates. Also, explain the basis of traffic estimation for these categories of containers.	The number of transhipment, restow, ICD, over-dimensional and hazardous containers cannot be estimated accurately at this stage. In any case their number is not likely to be significant as to materially affect the projected financial results. The rates have been proposed for such containers so that rate is available when such containers would be handled.
(vi).	(a). The Minimum Guaranteed Throughput (MGT) is probably to ensure minimum revenue share to the Licensor. The traffic projections need not be restricted to the level of MGT. In the light of this observation, explain the reasons for estimating the traffic at the level of MGT for all the years under consideration. (b). Since the reply forwarded by the ABGKCTL was not specific to the query raised, our query was reiterated.	(a). The traffic has been projected considering the existing traffic at KPT berth, potential of the hinterland, competition from the container terminals, Mundra & Pipavav, in the close vicinity, which are already operational for quite some time. (b). It has reiterated that the traffic projections have not been based on MGT but on all other relevant factors.
(vii).	The container traffic handled by KPT is reported at 1,70,035 TEUs in 2003-04 and 1,81,000 TEUs in 2004-05. As against this, the traffic estimated by ABGKCTL is at the level of 1,72,000 for the year 2006-07. Furnish detailed analysis for scaling down the traffic for the year 2006-07 over the actuals reported in 2004-05. Since the required analysis was not furnished, the ABGKCTL was again requested to furnish the same.	(a). The traffic projected for 2006-07 is on the basis of the actual traffic at the berth while under operation of KPT as indicated in the projection information report. (b). The actual traffic for the year 2005-06 (148,804 TEUs) is 17% less than that the traffic handled in 2004-05 because of the competition from other private container terminals in the close proximity. The traffic projected for 2006-07 is on a full year's projection of 1,72,000 TEUs, which is higher than the actual traffic for 2005-06.

		Comparison with the traffic figures for 2004-05 would not yield any meaningful conclusion.
(viii).	The basis of considering 1.21 as the factor for converting the estimated TEUs into boxes may be explained. Generally 40' container is considered as two 20' containers for the purpose of boxes into TEUs conversion. Conversion of TEUs into boxes may, therefore, be corrected with corresponding adjustments, if any, in the income estimation.	There is no error in conversion of TEUs into number of containers by applying factor of 1.29. Out of the total number of containers, ratio of 20' to 40' is 71:29. On this basis 100 containers equals 129 TEUs. Hence, a factor of 1.29 has been used to convert the traffic projection in TEUs into number of containers for computing the revenue. Some arithmetical errors, however, have now been corrected.
3.	**Income Estimation:**	
(i).	There appears to be arithmetical error in the detailed income estimation furnished in Annexure 6 of Enclosure 2. The income estimation in respect of foreign going vessel takes into consideration the traffic of coastal vessels also. This arithmetical error may be corrected and the correct position may be reflected in the relevant cost statement.	Necessary corrections have been made in the revised cost statement.
(ii).	The coastal container revenue estimation furnished in Annexure 6 of Enclosure 2 also contains some arithmetical error. Further, these figures do not tally with the revenue estimation in Form 2B. Please make necessary correction in the income estimation for this category of containers and reflect the correct income estimation in Form 2B and 3A.	Necessary corrections have been made in the revised cost statement.
(iii).	Furnish detailed computation of income for the years 2006-07 to 2009-10 with reference to the estimated traffic at the tariff level prescribed in the Scale of Rates of the Kandla Port.	The KPT only recovers wharfage on containers and storage charges. They have no facilities for ship / shore handling, transportation and yard handling of containers. The revenue at KPT rates cannot, therefore, be compared to its revenue estimation.
(iv).	Explain the reasons for not estimating any revenue from handling transhipment containers, restow containers, income from lift on / lift off, transport from rail yard to CY or vice versa etc., in the income estimation though separate rates are proposed in the Scale of Rates. Delete the tariff items from the proposed SOR if traffic for these categories are not envisaged to be handled.	The number of transhipment and restow containers as well as number of optional movements from rail yard to CY or vice versa, etc., cannot be estimated accurately at this stage. The tariff has been proposed for such containers/movements so that a rate is available when occasion arises to handle these categories. Therefore, the income from such items is not likely to be significant.
(v).	(a). Explain the basis of considering the average dwell time of containers as three days for estimation of storage income. (b). Indicate the average dwell time of different categories of containers at the KPT for the last two years.	(a). It does not expect (nor does it desire) the containers to remain in the container terminal for more than three days in view of efficient services proposed to be offered. Storage income has been computed accordingly on that basis. (b). Average dwell time of different categories of containers at the KPT for the last two years will be furnished when the details are received from the port.
4.	**Operating Cost:**	
(i).	**Operating and Direct Labour**: (a). Indicate the average per TEU employee cost of each categories of labour i.e. operating and direct labour, maintenance labour and management and administration labour for the years 2006-07 to 2009-10.	(a). The ABGKCTL has not specifically indicated the per TEU employee cost of each categories of labour and management & administration. It has furnished details of the employees deployed/proposed to be deployed and the cost involved. Based on the information furnished by the ABGKCTL, the per TEU employee cost works out to as follows:

<table>
<tr><td></td><td></td><td>(Rs. per TEU)
2006-07 114.41
2007-08 149.01
2008-09 193.39
2009-10 227.06</td></tr>
<tr><td></td><td>(b). The revised tariff guidelines prescribe estimation of expenditure based on the current movement of Whole Sale Price Index (WPI) announced by the Ministry of Finance which is reported at 4.5% for the financial year 2005-06. On the basis of information furnished, per TEU employee cost works out to Rs.114.41 per TEU, Rs.149.01 per TEU, Rs.193.39 per TEU and Rs.227.06 TEU for the years 2006-07 to 2009-2010 respectively. This effectively works out to around 30% annual increase in the per TEU wage cost for each of the years 2007-08 and 2008-09 over the respective previous years and 17% increase in the year 2009-2010. Justify the estimation of annual escalation in the per TEU employee cost beyond the Whole Sale Price Index of 4.5% announced by the Ministry of Finance for the year 2005-06.</td><td>(b). The Government and the RBI have recently projected the inflation rate for 2006-07 in the range of 5 to 5.5%. The movement of the WPI during the year so far is also in this range. Hence, it has adopted 5% escalation for projection of costs for the year 2007-08 to 2009-2010. It has further clarified that the number of labour / staff deployed gradually increases in those years as indicated in the statement with the provision of the equipment prescribed under the License Agreement. The comparison of employee cost / TEU is not meaningful because the anticipated traffic growth is not commensurate with the equipment required to be provided, and, manpower required to operate, maintain and manage them.</td></tr>
<tr><td></td><td>(c). As per clause 4.12.10. of the LA, the Licensor has to offer employment to 45 employees of the Kandla Port Trust. In the event any labour accepts the offer, the ABGKCTL has to offer employment to such personnel. Furnish number of KPT employees taken over by the ABGKCTL and their cost considered in the estimated operating and direct / maintenance labour cost.</td><td>(c). A few employees out of the 45 employees are likely to opt to join ABGKCTL. The employee cost projected by ABGKCTL includes the cost of such employees that may be taken over.</td></tr>
<tr><td></td><td>(d). The submission made by the ABGKCTL that a few employees of KPT are likely to join ABGKCTL contradicts the clarification furnished by the KPT that none of their employees have joined ABGKCTL. In view of the above the ABGKCTL was requested to revise the employee cost since it has confirmed that estimated employee cost includes cost of employees transferred from KPT.</td><td>(d). There is no need to revise the projected cost. The reply at (c) above was intended to convey that those KPT employees who might actually join ABGKCTL will be taken against the number of employees projected and the remaining will be recruited from the market.</td></tr>
<tr><td>(ii).</td><td>Equipment Running Cost:</td><td></td></tr>
<tr><td></td><td>(a). The per unit cost of electricity estimated by ABGKCTL is Rs.6.82, Rs.7.16 for the years 2006-07 and 2007-08. Justify the estimates with reference to actual per unit cost of electricity incurred by the KPT for the years 2005-06 and in the light of the fact that the variable per unit cost of electricity reported by other private terminals like CCTL is at Rs.5.78 and Rs.6.15 for the years 2006-07 and 2007-08 in their recent tariff revision proposal which is under consideration. Likewise, in case of Gateway Terminal (India) Private Limited (GTIPL), the per unit cost of power is estimated at Rs.4.21 (including taxes) plus certain fixed charges.

(b). Justify the estimation of per unit cost of power at Rs.6.82 for the year 2006-07 in the cost statement recognising that the KPT has confirmed that the State Electricity Board charges electricity at the rate of Rs. 4.50 per KWH.</td><td>(a). The electricity cost will depend on the prevailing tariff of the supplier. It is not sure whether the tariff and electricity duty levied at by suppliers of power to CCTL & GTIPL is the same as that prevailing at Kandla, which has been considered for projection of electricity cost. The costs have been projected on reasonable basis and hence may be accepted.

(b). The KPT officials have confirmed that the per KWH rate of Rs.4.50 charged by the State Electricity Board is the basic rate. In addition to this, Electricity Duty @ 45% of the basic rate and 12% Service Tax on the total of basic + duty is payable. It has adopted basic rate of Rs.4.20 per</td></tr>
</table>

		KWH. The per unit electricity cost considered in the cost statement is lower than the per unit rate worked out by adding the electricity duty element and service tax on the basic rate.
	(c). Please clarify whether the fixed component of power charges is merged with the variable per unit power cost. Since the fixed component of power cost is not likely to vary with the increase in the traffic for each of the years under consideration, the variable per unit cost of power and the fixed component may be shown separately with corresponding modification in the estimation of power cost, if necessary.	(c). The power cost is computed on the basis of the power consumption per RMQC and number of containers handled in a year by the RMQC plus consumption for general lighting and reefer points. The latter element is about 10% of the former. With the increase in the throughput projection, the requirement for general lighting of the yard as well as number of reefer points will also increase. Hence, it does not envisage any significant change in the unit cost of power by segregating the fixed and variable elements of power cost.
	(d). Justify the annual escalation of 5% in the per unit cost of power and 10% in the per unit cost of fuel since it is beyond the stated level of WPI of 4.5% for the year 2006-07 as announced by the Ministry of Finance.	(d). The actual increase in fuel prices over the last 2-3 years is more than 10%. In view of this, inflation factor of 10% has been considered for projecting fuel costs.
	(e). The basis of estimating the repairs and maintenance cost at 3% on electrical and mechanical equipment at 1% on the civil works may be validated in the light of the fact that such equipment will be covered under the guaranteed warranty during the initial period.	(e). The percentages adopted for projecting repairs and maintenance cost represent average annual cost over the entire life of the assets. It is true that the equipment will be covered by warranty in the initial years; therefore the expenses will be lower. But, in the later years as the equipment becomes old, the costs will be higher than the figure arrived by the percentage adopted. Hence, a uniform percentage has been adopted for projecting these costs, which may be allowed.
	(f). The repairs and maintenance cost allowed for other private operators like NSICT is 1.15% on the opening block of assets, Chennai Container Terminal Limited (CCTL), Visakha Container Terminal Private Limited (VCTPL) and India Gateway Terminal Private Limited (IGTPL) at 2% on equipment cost and around 1% to 1.15% on civil works. In case of recent tariff fixation of GTIPL also, the repairs and maintenance cost was found comparable to the level allowed at these private terminals. In the light of this observation, justify the estimation of repairs and maintenance cost at 3% of the gross block of the equipment.	(f). The estimation of repairs and maintenance cost at 2% of the gross block of the equipment is not adequate for the type of equipment proposed to be provided by ABGKCTL.
	(g). Justify annual escalation of 5% in the repairs and maintenance cost estimation for the years 2007-08 to 2009-10 over the estimated repairs of maintenance cost of the respective previous years.	(g). It has reiterated its reply given earlier with reference the annual escalation factor.
(iii).	**License Fee:**	
	(a). The license fee estimated in the cost statement is not found to be tallying with the license fee prescribed in the clause 7.3. of LA. Furnish detailed computation of estimation of license fee based on the rate prescribed in the LA for the period under consideration.	(a). The license fee has been computed on the basis of fee prescribed in the L.A.

	(b). The assumption sheet states that the additional yard area of 5 hectares is handed over on 23 September 2006 but, the licensee fee for this land for the year 2006-07 is computed for five months i.e. from November 2006. Clarify the correct position when the additional yard area of 5 hectares was handed over by the KPT to the ABGKCTL. (c). It was again reiterated to confirm the exact date when the additional stack yard is made available to ABGKCTL along with documentary support. The KPT has clarified that the license fee to be recovered from ABGKCTL for the additional stack yard will be at Rs.18/- per sq. mtr. per month as per its Scale of Rates as against Rs.20.40 per sq. mtr. per month considered by ABGKCTL in the estimation. The ABGKCTL is requested to correct the estimation of lease rentals for additional stack yard accordingly.	(b). The additional area of 5 hectares is expected to be taken over by November / December 2006. The figure for 2006-07 has been computed on that basis. (c). The rate proposed by the KPT in their general revision proposal (i.e. Rs.207 per 10 sq. mtrs. or part thereof per month) is considered for estimating this cost on the assumption that might be approved by TAMP. If it is not likely to be approved, the figures can be moderated. However, this is not likely to materially affect the financial results disclosed in Form 3A.
(iv).	Justify the estimate of insurance cost for the year 2006-07 with reference to the actual payment made to the Insurance Companies. Furnish a copy of the agreement entered with the Insurance Companies.	Estimates of insurance cost are on the basis of its experience. It has subsequently furnished necessary documents in support of the insurance premium paid in 2006-07 for testing of equipment as well on for equipment deployed/civil works etc.
(v).	Clarify what does the expenditure estimated for minor works relate to. Also, explain the basis of the estimation of this cost.	This minor works represents various small items of capital assets / improvements, which are found necessary and do not necessarily get added to the capital block.
(vi).	**Management Contract Fee:**	
	(a). The copy of the Management Contract signed between the ABG Heavy Industries Limited and the Management Contractor Voltri Terminal Europa SPA on 25 February 2005 (attached as Appendix-I) states that after formation of the Special Purpose Vehicle (SPV), this contract shall be assigned to the SPV. Please furnish a copy of such Assignment Agreement. (b). Please indicate the relevant clause in the Management Contract about the fee payable to the Management Contractor (c). Explain the basis of estimating the Management Contractor's fees at US$ 3.20 per TEUs in Annexure-11 of Enclosure 2. (d). Explain why the management contractor's fee should be linked to throughput projections. Prescribing of a management contract fee linked to the throughput reinforces the argument that it is a payment in nature of dividend without linkage to service provided. Please comment. (e). If cost of management contractor's fee is to be recognised, it should be justified with reference to the cost incurred by him in managing the terminal and return. (f). Clause 2.8.2 of the revised tariff guidelines states that the Technical Services Fee payable by the private terminals to their promoters or to their	In accordance with the terms of the Management Contract signed between ABG Heavy Industries Limited (ABG) and Voltri Terminal Europa S.p.A., Genoa, Italy, on 25 February 2005, the Contract has been assigned to ABGKCTL. However, in view of the commercial sensitiveness of disclosing the Management Contractor's fee, it has been decided to delete the same from the financial statements. (*The revised cost statements furnished by the ABGKCTL excludes estimation of management contract fees from tariff fixation)*

	'associate entity' (as defined under section 92(A) of Income Tax Act as amended from time to time) will not be considered as admissible item of cost for tariff purposes if its reasonableness is not established applying the yardstick of 'arms length relationship'. Please clarify whether the management contract fee is akin to technical service fee paid by other private terminal operators. If so, furnish a certificate of the Chartered Accountant establishing arm length relationship of this transaction as per the Income Tax Act to justify inclusion of the management contract fee as item of cost.	
(vii).	**Management & Administration Overheads and General Overheads:**	
	(a). Furnish detailed breakup of items considered in the estimation of Administration and General Overheads for each of the years under consideration. (b). The management and administration overheads other than salaries is estimated to increase from Rs.160 lakhs in 2007-08 to Rs.242 lakhs i.e., an increase of 51%. The increase estimated in this cost element at a significant level beyond the stated level of the WPI need to be justified recognising that this overhead is generally of fixed nature. (c). Clarify what the Custom O/T expenses at Rs.20 lakhs per annum relates to. (d). Furnish the basis of estimating canteen subsidy with detailed working. (e). Confirm whether the annual expenditure estimated at Rs.12 lakhs for bus and Rs.36 lakhs for car is in the nature of revenue expenditure or capital expenditure. Furnish the basis of estimation of this expenditure along with documentary support. If this expenditure is of capital nature, add it to the gross block of assets and claim depreciation thereon. (f). Since the reply furnished by ABGKCTL was incomplete, it was again requested to furnish the basis of estimation of expenditure on hire / maintenance of bus and car alongwith some documentary support.	(a). Details of Management and Administration overheads pertaining to salaries and others has been furnished. (b). The details of the projected cost furnished will reveal that full administrative and overheads are not expected to be in place in the first year of the operation. This cost element is expected to increase with increase in the activities, marketing efforts and other factors. The escalation factor considered is only 5% as indicated in the statement. (c). The payment represents the amount payable to the Customs Department for posting their staff during the second & night shifts and for Sundays and Holidays. (d). Canteen Subsidy has been computed on the basis of Rs. 20/- | Rs. 25/- per day per employee. (e). The expenditure on bus and car is not of capital nature. The expenditure is on hire or maintenance and operation of bus and cars for official purposes, which is estimated on the basis of its experience. The documentary support can be furnished when the arrangements have been finalised. (f). The buses and cars are proposed to be hired @ Rs.30,000/- per month per car for 6 cars and Rs.50,000/- per month per bus for 2 buses, after the entire facilities and infrastructure are in place.
(viii).	**Depreciation:**	
	The depreciation is computed @ 10.34% on Plant and Machinery. The depreciation claimed by other private terminals is at 5.28% in case of CCTL and NSICT, at 5.6% by IGTPL and around 6.12% by GTIPL, etc., with reference to equipment. In the light of this observation, justify the depreciation rate considered by the ABGKCTL, at 10.34% on plant and machinery bearing in mind clause 2.7.1. of the revised tariff guidelines. Also, give reference to the Companies Act or Provisions of the Concession	The depreciation rate of 10.34% adopted by us is as per provisions of Companies Act, 1956 i.e., (Entry No.II (i) (a) Column 7 of Schedule XIV)

	Agreement as the case may be for the each category of asset group with reference to the depreciation rate considered in the proposal.	
(ix).	**Preliminary Expenses:**	
	The ABGKCTL has considered the preliminary expenses as part of its gross block of assets and claimed depreciation thereon. The preliminary expenses may be excluded from the gross block and shown separately by spreading it over the entire project period in line with the treatment given at other private terminals. The unamortised portion of preliminary expense at the end of each of the years may be added to the capital employed for claiming return.	As part of the gross block of civil works, the preliminary expenses have been spread over the entire project period. It is, however, shown separately in the revised cost statement.
5.	**Capital Employed:**	
(i).	(a). Furnish documentary evidence in respect of the capital value of various assets already commissioned. Similarly, furnish evidence of action taken to procure other assets to be added subsequently for COD 11 and COD 12. (b). Furnish documentary support for the remaining two reach stackers proposed to be deployed in Phase-I since the purchase order furnished by the ABGKCTL is in respect of 4 Nos. of reach stackers, whereas capital cost for this item is estimated for 6 Nos. of reach stackers. (c). The ABGKCTL has not commented or furnished any evidence of action taken to procure other assets to be added subsequently in COD 11 and COD 12.	(a). Copies of the following documents are furnished in support of the cost of assets commissioned and orders placed so far for assets to be added for early COD and COD 11. ➢ Purchase order for US$ 15 million placed on Doosan Heavy Industries & Construction Co. Ltd for supply of 2 Rail Mounted Quay Cranes and 2 Rubber Tyred Gantry Cranes by April 2007. ➢ Purchase order is raised for procurement of 2 nos of mobile harbour cranes for Euro 6 million. Copy of invoices is also furnished to substantiate the estimate. ➢ Purchase order is raised for supply of 4 Reach Stackers at Euro 1.22 million. ➢ Copies of invoice furnished for purchase of tractors/trailers. (b). It is yet to order the remaining two reach stackers. However, the purchase order furnished serves as a guide for the remaining two units of reach stackers. (c). The action for equipment required for COD 11 is already taken and copy of the relevant purchase orders are furnished. In respect of COD 12 action is yet to be taken; and, documents will be furnished only after action is initiated.
(ii).	Confirm that only completed and commissioned assets alone are counted for capital employed and work-in-progress is excluded from the capital employed.	It is confirmed that only assets completed and commissioned have been considered while computing the capital employed for the respective years. The work-in-progress has been excluded from the capital employed.
(iii).	As per clause 4.12.2. (i) read with Appendix IV, CH1 equipment requires deployment of minimum of two numbers of Electric Rail Mobile Quay Gantry Cranes by the licensee in case of early Commencement of Commercial Operations (COD). The equipment proposed to be deployed is, however, 2 mobile harbour cranes instead of RMQC. Please explain the reasons for this deviation from the terms of LA.	The Clause 4.12.2(i) provides that commercial operations be promptly commissioned on Early-COD with Additional Equipment. Appendix IV, Sub-Clause 1.2, provides Additional Equipment to mean minimum two cranes capable of handling ship to / from shore movements of fully loaded containers. Requirement of CH1 equipment to be deployed is at the stage of COD-II.

(iv).	Confirm that the additions to the fixed assets proposed during each of the years 2006-07 to 2009-10 are in accordance with the License Agreement entered into between the KPT and ABCKCTL.	It is confirmed that the additions to assets proposed during the years 2006-07 to 2009-10 are in accordance with the License Agreement.
(v).	Indicate reduction in unit operating costs, if any, additional traffic projected or improvement in operational efficiency on account of proposed additions to the Gross Block of fixed assets during each of the years under consideration.	The initial capital outlay on the project is proposed in phases as per the License Agreement and only when the total outlay is incurred the project becomes complete. The information cannot be furnished in such a case. Only if in future any additional outlay is proposed such considerations will apply.
(vi).	(a). Explain the basis of estimating the capital spares alongwith breakup of major spares items. Also, indicate the capital spares provided along with the purchase of equipment under each of the years under consideration. Confirm that the capital spares provided along with procurement of equipment are not included in this estimation. (b). Exclude the estimation of cash margin for Guarantee / L.C. under the current Assets as it is not found to be as per clause 2.9.9. of the revised tariff guidelines. (c). Consider the current liabilities for estimation of working capital in line with clause 2.9.4. of the revised tariff guidelines.	(a). Capital spares provided along with procurement of equipment have not been included in the estimation of capital spares as part of working capital. The capital spares have been estimated at 3% of Plant & Machinery, IT, Office and Electrical Installations. (b). The Working Capital is described as Current Assets minus Current Liabilities. Even though the estimation of cash margin for Guarantee / L.C. under the current Assets is not as per clause 2.9.9. of the revised tariff guidelines, nevertheless they are part of the Current Assets. Hence, these items may be allowed as part of Working Capital. (c). There are no current liabilities projected for the years under consideration.
(vii).	Arithmetical error in computation of capacity utilisation in Form 3A may be corrected with corresponding modification in the ROCE linked to capacity utilisation.	The arithmetical error has been corrected.
6.	As regards the request made by the ABGKCTL to admit the revenue share payable by them to KPT as cost, it was informed that this Authority is guided by the revised tariff guidelines for treatment of revenue share in tariff fixation process. Since the L.A. was signed subsequent to 29 July 2003, this item cannot be admitted as cost as per clause 2.8.3. of the revised tariff guidelines.	The revenue share is nevertheless an actual outgo and our financial viability will be affected adversely if this item is not considered.
C.	**Scale of Rates:**	
1.	**Definitions:** Modify the definition of the term "Container" to be in line with the prescription at other private terminals like the CCTL, PSA SICAL, and IGTPL. *"Container" means the standard ISO container, suitable for the transport and stacking of cargo and must be capable of being handled as a unit and lifted by a crane with a container spreader.*	Necessary modification has been made in the definition of the term "container" as suggested, in the revised SOR.
2.	**General:**	
(i).	Update the penal rate of interest with reference to the Prime Lending Rate (PLR) of the State Bank of India (SBI), in terms of clause 2.18.2. of the revised tariff guidelines.	The proposed penal rate of interest has been modified accordingly in line with the prevailing PLR of the SBI.

(ii).	The proposed note relating to the applicable taxes need not be incorporated in the SOR.	Earlier such a clause was not there in the SOR as no taxes were leviable on the rates charged by the Ports. Service tax is now payable on the rates charged by the Ports. Therefore, inclusion of such a note is necessary to avoid disputes regarding the rates being raised later by the users about the service tax. The note does not deal with any procedural aspect but relates to rates. Hence, it may be retained.
3.	Clause 2.15. of the revised tariff guidelines stipulates that the users will not be required to pay charges for delays beyond the reasonable level attributable to the port. Flowing from this principle, please incorporate the following provisions in the proposed Scale of Rates: (i). Users will not be required to pay charges for delays beyond a reasonable level attributable to the port. (ii). In case vessel idles due to non-availability or breakdown of the shore based facilities of ABCKCTL or any other reasons attributable to the ABGKCTL, rebate equivalent to berth hire charges payable to KPT accrued during the period of idling of vessel shall be allowed.	Suitable clause on the above lines has been included in the proposed revised SOR.
4.	(i). Explain the basis for arriving at the proposed tariff items in the Scale of Rates. The rates for individual tariff items proposed needs to be justified in the light of the cost / financial statements for that activity. (ii). Furnish detailed working with cost elements considered to arrive at the charges proposed for normal containers, transportation from rail to yard in case of ICD containers, transhipment containers, hazardous and over dimensional Containers. (iii). Similar working with cost elements considered may be furnished towards the charges proposed for services for hatch covers, restows, shut out, storage and miscellaneous charges.	It is not possible to segregate costs of different sub-activities for which a rate is proposed in the absence of relevant data as the terminal is yet to become operational.
5.	Furnish a comparative statement showing itemised tariff applicable as per prevailing Scale of Rates and proposed composite box rate for each categories of containers.	The KPT does not provide all the services envisaged to be provided by ABGKCTL. The proposed rates are based on its costs, and hence may be approved.
6.	**Schedule 1.1: Composite rate for handling import and export containers and Schedule 1.2: Handling charges for transhipment containers:**	
(i).	Furnish itemised breakup of the composite rate proposed for various services offered for handling import / export containers empty and laden and transhipment containers.	Itemised break-up of the various elements of service involved has not been worked out since it has proposed composite box rates for handling containers. It is difficult to work out such itemised rates for various services.
(ii).	Clarify the tariff arrangement for providing stevedoring service, which seems to be the responsibility of the ABGKCTL as per clause 4.12.2 (x) and (xvii) of the LA. Incidentally, the stevedoring activity is one of the services identified u/s 42 of Major Port Trusts Act, 1963 and therefore the rate is	The ABGKCTL confirmed that they shall comply with the relevant provisions of the License Agreement. It has subsequently clarified that the rate for on–board stevedoring is included in the revised proposed SOR. The revised proposed Scale of Rates, however, do not show this

	to be approved by this Authority. This position may not undergo any change even if the L.A. in reference does not specifically require the ABGKCTL exclusively to provide this service. Clause 4.12.2. (x) of the LA, specifically require the licensee to perform, undertake or provide in connection with the Container Terminal all services which the licensor is authorised to perform under provisions of Section 42 of the Major Port Trust Act. As per clause 4.12.2 (xvii), it is the obligation of the licensee to obtain Stevedoring License from the Licensor under Kandla Port Trust (Licensing of Stevedoring) Regulations 1988 or engage any of the Licensed Stevedores operations in the port for carrying of stevedoring operations. In view of this position, the ABGKCTL is requested to examine and propose a suitable tariff arrangement for on-board stevedoring activity for approval of this Authority.	modification in the relevant conditionalities.
(iii).	This Authority, in compliance of policy direction issued by the Government of India, passed an Order dated 7 January 2005. According to para 5(2.3) of the said Order while itemised charges are levied, coastal 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. Clarify whether the proposed concessional rates are in line with the guidelines in respect of the following tariff items: (a). Coastal concession proposed in Schedule 1.1. A, Sl.No. (a), (b) include services relating to loading the containers from or to customer's vehicle. (b). Likewise, coastal rates proposed in Section 1.1.A Sl.No. (c) relates to transport to rail flat from CY or vice versa and lift on / lift off. (c). Concessional tariff on coastal containers is proposed in respect of Schedule 1.3 lift on / lift off charges, Schedule 1.7 Reefer related charges, Schedule 1.8 charges for shut out containers and Schedule 1.9 Additional Charges Concessional tariff for coastal containers need not be prescribed for these tariff items as per the said order. In the light of the above observation, please furnish revised proposal Scale of Rates after necessary corrections.	It is proposed to give coastal concession on the composite box-rate. Necessary correction has been made in the revised proposed SOR.
(iv).	Explain the basis of the rebates proposed in Schedule 1.1.B on the composite rates when port equipment are not used by the terminal user.	Rebates have been proposed taking into account the saving in variable cost and rates prevailing at other container terminals.
(v).	Since no separate wharfage rate is proposed in the SOR please clarify whether the composite rate includes wharfage. Based on the reply furnished, the ABGKCTL was advised to modify the proposed note no. (1) under Section 1.1. A and Section 1.2 to explicitly state that the composite rate includes wharfage.	At present it is not proposed to charge wharfage in addition to the composite box rates. It is not found necessary to modify the proposed note no. (1) under Sections 1.1 and 1.2 since the proposed note brings out the services covered by the proposed composite rate.
7.	Prescribe concessional tariff for coastal vessels in terms with our Order No.TAMP/4/2004/General dated 7 January 2005 in respect of charges prescribed in Section 1.4 towards hatch cover handling.	Necessary modification has been made in the revised Scale of Rates.

8.	**Section 1.7 Reefer related charges:**	
(i).	Explain the basis of the rate proposed for pre-trip inspection and reefer run test. Since the rates proposed were with reference to the market rates, indicate the prevailing market based rates with documentary evidence.	These are optional services. Rates have been proposed considering market rates for the work involved. The rates prescribed for pre-trip inspection are comparable with rates charged by Vizag Container Terminal at Rs. 300/- for 20' and Rs.450/- for 40' containers and USD 16 by PSA SICAL as against Rs.350/- proposed by ABGKCTL for both 20' and 40' containers. Similarly, for reefer run test, Vizag Container Terminal charges Rs. 300/- for 20' and Rs. 450/- for 40' containers as against Rs. 200 proposed in the Scale of Rates.
(ii).	Justify the proposed rate for supply of electricity under Sl.No. (c) with reference to cost of power consumption and other services provided thereat. .	The rate has been proposed taking into account the power consumption and other factors. These are in line with the rates proposed by KPT. In fact, KPT need not provide rates for this service in their SOR as container traffic is to be handled only at ABGKCTL. The electricity charges for reefer containers at MICT is US$ 30 per day as compared to Rs. 180/- for 4 hours proposed by ABGKCTL. Taking 1US$= INR 45, the rate prescribed by the MICT comes to Rs.225 as compared to Rs.180 proposed by them assuming electricity consumption of about 6 units/hour.
9.	Explain the basis of the tariff proposed for various miscellaneous services in Schedule 1.9.	These are optional services. The charges for some items have been proposed with a view to discourage the need for such services. In the case of other items, the rates at other private container terminals have been taken into account while proposing the rates.
10.	**Section 1.10: Charges for Storage of Containers:**	
(i).	Explain the basis for the proposed storage charges for various containers.	The proposed rates are with view to discourage prolonged storage of containers on the premises of the terminal after the free period. The rates charged by other container terminal have been considered while proposing the rate.
(ii).	Clause 2.15. of the revised tariff guidelines stipulates that the users will not be required to pay charges for delays beyond reasonable level attributable to the port. Flowing from this principle incorporate a provision stating that storage charge shall not accrue for the period during which the ABGKCTL is not in a position to deliver / shift the containers when requested by the users.	A suitable provision has been included in the revised proposed SOR.
(iii).	Justify the proposed increase of about 500% over the existing dwell time charges prescribed in the SOR of KPT for the first two slab with reference to the additional cost for the services provided.	The proposed rate is with view to discourage prolonged storage of containers on the premises of the terminal. Besides, the KPT has not to pay any lease rents to anyone. The ABGKCTL has requested to refer to its comments furnished on the fixed revision proposal of the KPT. The ABGKCTL has stated that the dwell time charges proposed by the KPT needs to be deleted since as per the LA all the container vessels are required to be handled at berth nos.11 and 12 by the ABGKCTL.

(iv).	Justify the proposed note number 5 about levy of three times the normal applicable charges for storage of over dimensional containers with reference to the cost of additional services required to be provided.	Such containers occupy more space horizontally and / or vertically than a 45 feet container. Under revised tariff guidelines, storage charges for containers over 40 feet can be three times the charges of 20 feet containers.
(v).	Clause 5.7.3 of the revised tariff guidelines allows to levy premium to the extent of 25% on the handling and storage charge in case of hazardous container. The ABGKCTL has in note number (6) proposed to levy 50% premium on the applicable storages charge in respect of hazardous and reefer container which is not found to be in line with clause 5.7.3. of the revised tariff guidelines. Justify the proposed premium beyond the level prescribed in the revised tariff guidelines with reference to the cost of additional services required to be provided and also justify the reasons for proposing such a premium in respect of reefer containers with reference to the additional cost involved for this category of container and also in the light of the fact that such premium is not prescribed at other container terminals for this category of container.	It has requested to modify the condition in the Scale of Rates by deleting the reference to reefer containers and modify the premium for over dimensional containers at 25%.
(vi).	Explain the rationale behind including the proposed note number 7 about levy of storage charge on empty containers after the auction is over in the light of the fact that such a provision is not prescribed in the Scale of Rates of any other private terminals.	This is to discourage such containers to remain in the premises after the auction, which itself is resorted to because the container remains uncleared or unclaimed for prolonged period.
11.	**Section 1.11: Charges for Removal of Garbage:** Justify the proposed rate of Rs.2000 per truck per trip for removal of garbage collected on-board the ship with reference to the cost of services provided.	The rate proposed is based on the prevailing market rates.
12.	**Section 1.12: Charges for Supply Fresh Water:** Justify the proposed rate with reference to the cost of procurement of water and for providing the admitted services.	The rate has been moderated in the revised proposed Scale of Rates in line with the rates proposed by KPT.
13.	**Schedule –II Other Services**: Explain the basis of the tariff proposed for other services in section 2.1 to 2.3.	These are optional and occasional miscellaneous services.

5.2. The KPT was also requested to furnish some additional information/ clarifications. The KPT has furnished the clarifications. Based on the scrutiny of the reply furnished, the KPT was again requested to furnish additional information/clarifications. The KPT has, however, not furnished its reply so far despite a reminder. The summary of the queries raised and the clarifications furnished by the KPT are tabulated below:

Sl. No.	Queries raised by us	Response of KPT
(i).	(a). Furnish a copy of the project cost as determined by the Audit Firm, which is to be appointed by the Licensor in consultation with the Licensee as per clause 4.8.1. of the LA. (b). With reference to its reply, the KPT was informed that the ABGKCTL has also been advised to furnish all the documentary evidence in respect of the assets which have already	(a). It is in the process of appointing the Audit Firm. The Licensee has so far not furnished the details of the Project Cost. As soon as the same are furnished, the Audit Firm so appointed by the Licensor will determine the Project Cost and the same will be forwarded. (b). No response from the port.

<table>
<tr><td></td><td>been procured by them. The KPT may coordinate with ABGKCTL and arrange to forward a copy of the project cost as determined by the Audit firm to be appointed by the Licensor as per Clause 4.8.1 of the License Agreement (LA).

(c). Furnish a copy of feasibility report given by KPT during the bidding process with reference to the project cost of privatisation of berth nos. 11 and 12.</td><td>

(c). The port has not furnished any reply to this point.</td></tr>
<tr><td>(ii).</td><td>Furnish the cost statement for container handling activity of the KPT for the last two years i.e. 2004-05 and 2005-06 based on the actuals.</td><td>The relevant information is as follows:
(Rs. In lakhs)
<table>
<tr><th></th><th>Actuals for 2004-05</th><th>B.E. 2005-06</th></tr>
<tr><td>Total Cost</td><td>757.05</td><td>597.65</td></tr>
<tr><td>Total Income</td><td>738.14</td><td>327.64</td></tr>
<tr><td>Surplus / Deficit</td><td>- 18.91</td><td>- 270.01</td></tr>
</table></td></tr>
<tr><td>(iii).</td><td>(a). Comment on the traffic estimation made by the ABCKCTL for the years 2006-07 and 2009-10.

(b). Since the traffic estimations made by the ABGKCTL were not more than the Minimum Guaranteed Throughput (MGT) as contended by the KPT, the KPT was again requested to furnish a reasonable estimate of traffic likely to be handled by the ABGKCTL for each of the years 2006-07 (from the date of commencement of operation) to 2009-2010 taking into consideration the equipment deployed / proposed to be deployed by the ABGKCTL.</td><td>(a). The estimations are more than the MGT. However, the constant figures shown by ABGKCTL for the year 2006-07 to 2008-09 may not be correct. There will be an incremental growth.
Based on the current trend of container traffic originating and destined to the hinterland, the available infrastructure facilities and the anticipated commencement of the Container Terminal operations during the third quarter of 2006-07, the projections of 26.00 lakhs tones (2.17 lakhs TEU) during 2006-07, and 46.94 lakhs tones (3.91 lakhs TEU) for 2009-2010 appear to be realistic.

(b). The KPT has not furnished any clarification to this point.</td></tr>
<tr><td>(iv).</td><td>Furnish the average dwell time of laden/empty containers for both import and export for the past two years.</td><td>The average dwell time at Kandla, for laden containers on an average is about 6 days for import and 2 days for export. However, the dwell time of empties varies from time to time between 3 to 10 days.</td></tr>
<tr><td>(v).</td><td>(a). Indicate the tariff levied by the KPT and Kandla Dock Labour Board (KDLB) (wherever applicable) as per the rates prescribed in its Scale of Rates.</td><td>The tariff levied, by the KPT and KDLB (where applicable) as per the rates prescribed in its Scale of Rates, is as below:
<table>
<tr><th rowspan="2">Sl. No.</th><th rowspan="2">Particulars</th><th colspan="2">Laden Container</th><th colspan="2">Empty Container</th></tr>
<tr><td>20’</td><td>40’</td><td>20’</td><td>40’</td></tr>
<tr><td>(i).</td><td>Handling charge by quay cranes or similar equipment</td><td colspan="4">At Kandla Port there are no quay cranes</td></tr>
</table></td></tr>
</table>

<table>
<tr><td></td><td></td><td>
<table>
<tr><td>(ii).</td><td>Wharfage on Container</td><td>600</td><td>900</td><td>120</td><td>180</td></tr>
<tr><td></td><td>Wharfage on Containerised Cargo</td><td colspan="4">NIL</td></tr>
<tr><td>(iv).</td><td>Stevedoring Charges</td><td>--</td><td>--</td><td>--</td><td>--</td></tr>
</table>
The stevedoring activity of containers is carried out by private operators.</td></tr>
<tr><td></td><td>(b). Furnish the income estimation on the projected traffic of the ABGKCTL at the tariff level prevailing at the KPT.</td><td>The income estimation is as furnished below:
(Rs. in Lakhs)
<table>
<tr><td>2006-07</td><td>363</td></tr>
<tr><td>2007-08</td><td>942</td></tr>
<tr><td>2008-09</td><td>1016</td></tr>
<tr><td>2009-10</td><td>1095</td></tr>
</table></td></tr>
<tr><td></td><td>(c). Comment on the reasonableness of the income estimation made by ABGKCTL.</td><td>Since rates proposed appear to be on higher side, income estimation made by ABGKCTL also appears to be on higher side.</td></tr>
<tr><td>(vi).</td><td>(a). Indicate the designed capacity of the container terminal at the time of the KPT handing over the operations to ABGKCTL.</td><td>At present one berth (i.e., berth No.11), having a length of 281 mtr., has been handed over to the Licensee for container handing and designed capacity of this berth is estimated at 2.5 lakh TEUs per annum.</td></tr>
<tr><td></td><td>(b). Furnish the designed capacity of the ABGKCTL terminal in terms of (annual throughput in TEUs) taking into consideration the deployment of new equipment commissioned / proposed to be commissioned by the ABGKCTL and also taking into consideration increase in the capacity on account of improvement in the productivity which is one of the objectives of privatisation.</td><td>The designed capacity of ABGKCTL Terminal with two berths of 545 mtr. length and with deployment of new equipment is estimated at 5.5 lakhs TEUs per annum.</td></tr>
<tr><td>(vii).</td><td>Number of employees of KPT who actually joined the ABGKCTL and the estimated wage cost of such employees may be furnished.</td><td>No employee of KPT has joined ABGKCTL.</td></tr>
<tr><td>(viii).</td><td>(a). Indicate the exact license fee receivable from the ABGKCTL for each of the years 2006-07 to 2009-10 is as per clause 7.3 of the LA.

(b). The License fee receivable from ABGKCTL indicated in the reply is not found to be as per terms of LA. The KPT has shown the LF2 payment is due from 2007-08, however, as per Clause 7.3 (iii) of LA, LF2 payment accrues from the third hand over date (730 days from the date of handover of license) i.e. 23 June 2008. Furnish correct estimation of lease rentals receivable from ABGKCTL as per the term of LA. In this context, a relevant extract of Annex-9 containing license fee estimated by ABGKCTL (including license fee for additional 5</td><td>The license fee receivable from the ABGKCTL is as below:
<table>
<tr><td>For the year 2006-07</td><td>Rs.1,69,65,000.00 proportionate</td></tr>
<tr><td>For the year 2007-08</td><td>Rs.7,04,00,000.00</td></tr>
<tr><td>For the year 2008-09</td><td>Rs.7,29,00,000.00</td></tr>
<tr><td>For the year 2009-10</td><td>Rs.7,56,00,000.00</td></tr>
</table>
(b). No response is received from the KPT.</td></tr>
</table>

	hectares of stackyard) is attached herewith. The KPT may verify and confirm whether it is as per the terms of LA. (c). Confirm whether 5 hectares of additional stack yard area has been made available to ABGKCTL. If so, indicate the date when this additional backup area was provided to them and also indicate the license fee receivable from ABGKCTL for lease of this backup area for each of the years 2006-07 to 2009-10 in terms with the provisions in the LA. (d). The query about the exact date of handing over the additional stack area was reiterated.	 (c). 5 hectares of land for additional stack yard is, so far, not made available to ABGKCTL. It will be made available on their request as per clause of License Agreement. The fees to be recovered will be as per Scale of Rates for pacca plot inside the port area i.e., Rs.18/- per sq. mtr. per month. (d). No response is received from KPT.
(ix).	Furnish the details of per TEU consumption of power and fuel at the KPT for container handling. The unit rate of electricity fixed by the State Electricity Board and also the unit rate of fuel may also be furnished.	So far, KPT had no specific container handing facilities. The containers are handled by stevedores with the help of ships' gears and are moved by trailers, which are operated and owned by private operators. Hence, their details are not available. The unit rate of electricity recovered by Electricity Board is approximately Rs.4.50 per KWH on an average.
(x).	(i). Comment on the reasonableness of the additions to gross block estimated at Rs.100.23 crores in 2006-07, Rs. 109.71 crores in 2007-08, Rs.84.71 crores in 2008-09 and Rs.34.30 crores in 2009-10. Confirm whether the proposed additional investments are in accordance with the provisions in the L.A.	There is no restriction on investment as far as provision in License Agreement is concerned.
	(ii). The ABGKCTL argued that the investment proposed to be made by them is mandatory as required by the LA. They are, therefore, not responsible for any under utilisation of the facilities created. In this context, the KPT is requested to furnish the basis and justify the investment levels envisaged in the LA.	No further response received from the port on queries raised at (ii) and (iii).
	(iii). The traffic estimation by the ABGKCTL does not indicate any significant growth in the traffic projections despite its proposal to deploy container handling equipment. The KPT was, therefore, again advised to specifically comment on the reasonableness of the additions proposed to the gross block.	
(xi).	(a). The ABGKCTL has proposed composite rate excluding stevedoring charges. Please clarify whether the stevedoring license is given to the ABGKCTL for providing stevedoring operations including lashing / unlashing as per the terms of the LA. Also, clarify who is responsible for offering the stevedoring service. (b). Indicate the tariff arrangement for providing the stevedoring services prior to handing over of the container terminal to ABGKCTL.	(a). As per the KPT (Licensing of Stevedoring Regulation, 1988), License will be given to ABGKCTL and operated as per Licensing Policy. (b). The stevedoring services prior to handing over of container terminal to ABGKCTL was rendered by private operators for which KPT did not have any tariff arrangement in the Scale of Rates.

	(c). Also, furnish a detailed note on the on-board stevedoring arrangement at the container terminal.	(c). Response from the port is awaited.
	(d). Indicate the market rate levied by private stevedores for providing the stevedoring services to container, prior to the port handing over the two berths to ABGKCTL for container handling operations.	(d). Response from the port is awaited.

6.1. In the meanwhile the ABGKCTL submitted a proposal seeking approval on the interim tariff arrangement for its operation at the KPT since it proposed to commission the terminal tentatively in the first fortnight of December 2006. It had requested to grant provisional approval to the interim tariff arrangement proposed from the date of commencement of operations till the rates are finally approved by this Authority. The rates proposed for interim tariff arrangement were same as proposed in the initial proposal. The container handling charges at MICT was reported at Rs.3975/- for a 20 ft. container as against the proposed rate of Rs.3500/- (excluding the charges for stevedoring activities) by ABGKCTL for a 20' laden container.

6.2. Clause 2.12. of the revised tariff guidelines of 2005 specifies that when a new facility is commissioned or existing facilities are privatised, the initial tariff to be allowed will not exceed the existing tariff level at the same port for comparable facilities. If such comparison is not available, prevailing tariff at a comparable nearby port will be considered as the reference level. The relevant guideline further stipulates that a separate cost based tariff will be allowed to an operator right from the commencement of commercial operations, if it is established that adopting the existing tariff of port trust will cause hardship to him in view of a higher level of investment made. As the tariff of MICT was not notified by this Authority, it was not found appropriate to consider those rates as the base for prescribing the *ad hoc* rate at ABGKCTL. In cases of some other private terminal operators the then prevailing rates of the respective major ports were allowed to be adopted as an interim measure.

In case of ABGKCTL, the nearest neighbouring container terminal on the western coast which is under the regulatory jurisdiction of this Authority is Gateway Terminal of India Limited (GTIPL) which is recently developed and commissioned. Since there was wide variation in the traffic and the investment levels envisaged by the ABGKCTL and the projections made by the GTIPL, it was found not appropriate to benchmark the tariff purely on the basis of the rates approved for GTIPL. Likewise, any comparison with the other two terminals at JNPT would also be skewed due to the mere volume of containers handled and the depreciated investment.

6.3. Some of the user associations had also raised objection to the interim tariff level proposed by the ABGKCTL. Their main concern was that the operator proposed to commence the operations with minimum equipment to start with and hence fixation of tariff on equipment likely to be installed may be a premature exercise. The Kandla Port Trust at our request had furnished the report of the outcome of its meeting with the ABGKCTL and the concerned user associations regarding fixation of *ad hoc* tariff of the container terminal to be handled by ABGKCTL. The highlights of the report are explained below:

(i). The breakup of the prevailing rates for conventional mode of handling containers with deployment of ship gear is tabulated below:

Sr. No.	Particulars	Charges (in Rs.)
(a).	Stevedoring	600 to 800
(b).	Wharfage	600
(c).	Lift on at wharf (from jetty hook point to trailer)	150
(d).	Transportation to CY	250
(e).	Lift off at CY	150
(f).	Documentation	500
	TOTAL	**2250 to 2450**

(This tariff is applicable when the ship's gear is used) (ii). The trade suggested that the handling charges of one 20' laden container can be about Rs.2850 to Rs.3050 for the time being if the ships gear is not used and mobile harbour crane is deployed.

(iii). Fixing higher rates should not drive away the existing container traffic from the KPT. The nearby ports such as Mundra and Pipavav hold about 80% to 90% of market share of container traffic for Gujarat and KPT is the only major port on Gujarat coast, which is under the regulatory authority of TAMP for fixing the tariff.

(iv). The trade has also sought clarification on other proposed tariff items. The ABGKCTL has furnished clarifications on the points raised by the trade. A summary of the clarification sought by the trade and reply furnished by the ABGKCTL is tabulated below:

Sl. No.	Clarification sought by the trade	Comments of ABGKCTL
(a).	Lift on, lift off charge of Rs.425/- for 20 feet laden container is not rational on cost basis.	No comments furnished
(b).	Internal transportation of loaded / empty container (Rs.1500/-) and charges for shutout container (Rs.1800/-) needs to be activity-wise cost based.	No comments furnished
(c).	Whether a shutout container is required to pay both the charges of internal transportation as well as charges for shutout containers?	It would levy shutout charges which is inclusive of internal transportation of container.
(d).	Whether door opening charge applies to the empty container when moving out of gate, if the door is required to be kept open for security inspection?	Yes, the very purpose of asking such tariff is to provide this facility to the users.
(e).	Whether inspection charges of Rs.400/- is inclusive of door opening and removing of packages from the container for examination.	No. The inspection charges are actually meant for seal verification by Customs officials and not more than that. If Customs would like to verify the cargo inside the container, than the units must be moved out of ABGKCTL for de-stuffing and subsequent verification. Terminal premises cannot be used for stuffing/de-stuffing activities.
(f).	Justify the proposed charge of Rs.2000/- to Rs.4000/- on 20 feet and 40 feet empty containers respectively for mis-declaration. Clarify whether the charges are inclusive of shifting charges of such mis-declared containers internally.	The mis-declaration of container may lead to statutory implications as Customs may have a right to seize such units and question the integrity of the terminal as well as the carrier. In order to discourage such acts, the charges proposed are well justified. The charges are inclusive of shifting charges of mis-declared containers.

6.4. To summarise, the KPT had suggested to fix the interim rates taking into consideration the phased investment proposed by the ABGKCTL and taking into consideration the market scenario/ trade feedback.

6.5. In view of the submissions made by the KPT, and recognising the concern expressed by the user associations about the investment level estimated by the ABGKCTL, and also recognising the fact that the traffic and the investment which are the key elements had to be firmed up, cost and investment position of ABGKCTL for six months period from January 2007 to June 2007 for which the interim tariff is to be fixed was analysed.

The analysis showed an average surplus of 43.55% for the interim period upto 30 June 2007 at the proposed tariff. In view of this position, and recognising that the investment figures, traffic and cost estimations needed to be firmed, the interim tariff arrangement was approved at 35% less than the tariff level proposed by the ABGKCTL for a period of six months or till fixation of final rates whichever is earlier. The *ad hoc* rate approved by this Authority was inclusive of on-board stevedoring services in view of specific provision in the LA and based on the submissions made by the KPT. The said Order was notified on 24 January 2007 and came into effect from the date of notification of the Order.

7.1. A joint hearing in this case was held on 13 March 2007 at the KPT premises. The ABGKCTL made their slide presentation on its proposal and also submitted a hard copy of the same. At the joint hearing, ABGKCTL, KPT and the concerned users made their submissions. The Federation of Port Users and Kandla Stevedores' Association has filed written submissions at the joint hearing.

7.2. As decided in the joint hearing, the ABGKCTL was advised to furnish the following information:

(i). Actual investment made for COD 11 (with documentary evidence) which is expected to start by 31 March 2007.

(ii). Audited actual operating cost incurred for the period from commencement of operation till 30 June 2007 for further analysis of the proposal for fixation of final rates.

(iii). Update the estimates for the year 2006-07 already furnished earlier with reference to actuals.

7.3. At the joint hearing, it was also decided that the interim tariff approved by this Authority earlier will continue till the final rates are fixed.

8. With reference to the points discussed at the joint hearing, the ABGKCTL has furnished the requisite information / clarifications alongwith revised cost statements which is summarised below:

(i). CAPEX till 30 June 2007 on various assets commissioned / proposed to be commissioned for COD 11 and supporting documents for major items costing over Rs. 10 lakh are furnished. The scheduled date for COD 11 is stated to be 20 October 2007.

(ii). It has furnished Audited statement of expenses incurred during the period from 10 March 2007 to 30 June 2007.

(iii). It has furnished revised cost statement modifying the estimates for the years 2007-08 to 2009-10 and updated with the estimates for the year 2010-11. Some of the main submission made by ABGKCTL with reference to revised cost statement are highlighted below:

(a). **Traffic:**
The traffic for the year 2006-07 was estimated based on the MGT of 172000 TEU's per annum. As against this, the traffic volume for the month of June 2007 has declined to 14,000 TEUs as against 17218 TEUs reportedly handled in May 2007. The traffic is expected to drop further to the level of 11,000 TEUs in July 2007 and for subsequent months during the year 2007-08. If this trend continues, the traffic likely to be handled in 2007-08 will be 1,47,000 TEUs. To arrest the declining traffic, a lot of aggressive marketing effort is required at both international and local centers. It has, therefore, requested to consider these facts while fixing tariff for the container terminal at Kandla to avoid losing traffic to other competing ports to the detriment of the business of Kandla Port.

The revised traffic projections for the year 2007-08 to 2010-11 is tabulated below:

(in TEUs)

Year	Traffic estimated in initial proposal	Revised Traffic Estimation
2006-07	71667 (from November 2006)	Commenced commercial operations from 10 March 2007
2007-08	190726	147713
2008-09	205741	155099
2009-10	221650	162854
2010-11	Not estimated	170996

(b). **Escalation factor and ROCE:**
Considering the average inflation index reported for the year 2006-07, the annual escalation in cost is considered @ 5.40% instead of @ 4.5% considered by the Authority in deciding the interim tariff. Similarly, the ROCE is computed at 16%.

(c). While approving the interim tariff for ABGKCTL, the Authority has not taken into account the estimated capital cost of the marketing office in Mumbai and the 'Interest During Construction' included in the total project capital cost as these had not been substantiated. The Authority has stated that the decision will be reviewed at the time of deciding the final tariff if sufficient justification is submitted. With reference to these two issues, it has made the following submissions:

(i). **Marketing office in Mumbai:**
The marketing office of the Company is proposed to be located at Mumbai. The office premises at Mumbai is proposed to be located in South Mumbai in or around Opera House, Churchgate, Fort area. It aims to provide accommodation for Corporate Office and Marketing Office of the Company with State-of-Art communication facilities, Office softwares and connectivity. The Board of Directors and senior functionaries of Finance and Procurement will also be stationed at Mumbai. It is proposed to purchase 2500 sq. ft. of area in a modern office building. The present market rate in this area is around Rs. 20,000/- to Rs. 45,000/- per sq. ft., interiors will cost @ Rs. 1,000/- per sq. ft. and the office softwares, communication facilities and inter-connectivity is expected to cost around Rs. 50.00 lakh. Total investment on this score will thus be Rs. 7 crores.

It has forwarded a copy of rates for the properties in Mumbai for residential accommodation as appearing in the Times of India, Mumbai edition dated 10 March 2007 and submitted that the rates for the commercial properties will be higher than these rates.

(ii). **Interest during construction:**
The interest during construction is estimated at Rs. 39.05 crores based on interest rate of 11% p.a. A detailed working for arriving at the amount of interest during construction is furnished with the proposal. The project cost of Rs. 330.77 crores is to be financed by drawing loan of Rs. 231.54 crores and deploying equity of Rs. 99.23 crores.

It has arranged for loans from various banks for this purpose and the interest rate varies from 11% to 12.5% per annum.

Copies of the relevant letters from the lenders have been furnished as documentary support. In the present interest rate scenario, the average increase in rate of 1.00% to 1.18% during the 3 (three) years as projected above is very reasonable. As against the above rates, a rate of 11% has been taken for arriving at interest during construction included in the total project cost.

In view of the justification furnished above, it has requested that the capital cost of these two items should also be taken into account while deciding the final tariff.

(d). **Revenue Share:**
It has submitted that on either side of its terminal there are three private terminals (MICT, Adani's at Mundra & Pipavav) which are not under the jurisdiction of TAMP and are free to decide tariff to be charged. The second container terminal at Mundra will become operational in August 2007. As a result, it may not be able to fulfill the obligation of Minimum Guaranteed Traffic (MGT). Nevertheless, the revenue share on the basis of the MGT is required to be paid to KPT as per the Licence Agreement. It has, therefore, reiterated its request to consider the entire revenue share as admissible cost. However, notwithstanding the above, atleast the revenue share payable to the port on the shortfall in throughput with reference to the MGT should be considered, which is akin to licence fee, while fixing tariff in our case.

(e). **Productivity:**
The productivity level at ABGKCTL is being admired by the shipping industry. It has overcome teething problems in a short span of time and are now consistently providing good productivity to all the vessels calling Kandla port. The current productivity prevailing at ABGKCTL is average 15 moves per hour per crane for export and average 20 moves per hour per crane for import and there is 100% improvement in the productivity when compared to the earlier productivity of 7 moves per hour that prevailed during Kandla Port Trust regime of conventional operations by ship's cranes. After commencement of ABGKCTL operations, gearless vessels are being deployed for Kandla and thereby, vessel operators can save considerable sum of money in terms of chartering cost which in turn reduces the overall transaction cost for the importers/shippers using Kandla port.

(f). The cost position reflected as per revised cost statement furnished for the year 2007-08 to 2010-11 is furnished below:

(Rs. in crores)

Particulars	2007- 08	2008 - 09	2009 - 10	2010 - 11
Income at proposed tariff level	49.36	52.77	55.41	58.18
Expenditure	21.42	31.83	36.65	42.77
Depreciation	11.68	19.46	23.54	23.53
Overhead	3.73	5.24	6.07	6.64
ROCE	32.18	42.86	44.13	40.18
Surplus/Deficit	-19.65	-46.62	-54.98	-54.94
Surplus/Deficit as % of income	-39.82%	-88.35%	-99.2%	-94.42%
Average for 4 years	-80.45%			

(v). Some of the main modifications proposed by the ABGKCTL in draft Scale of Rates with reference to its earlier proposal are highlighted below:

(a). It is severely hit by the cash flow after commencement of operations as more than 50% of our invoices are still pending for settlement which is accumulated to the tune of more than Rs. 5 crores. As a result, it is forced to delay the payment of revenue share to the port and also forced to pay more to sub vendors / suppliers as they are jacking up prices on the fear of delayed payments.

As per BOT agreement, for any delayed payments to the port, an interest rate @ SBI PLR plus 1.5% per annum is payable and the payments so made, to the port will be adjusted towards interest amount first and then only it gets adjusted towards the principal amount.

The SOR approved by this Authority for interim period provides for charging lower rate of interest i.e. 13% from the users of the port for any delayed payments made by them. As the payment to port by ABGKCTL is delayed on account of delay in collection of dues from users, it has requested to prescribe penal interest @ 14% p.a. i.e. SBI PLR + 1.5% as payable by it to Port. Similarly, on any refunds to the users, it shall pay the penal interest at this rate.

(b). Note (i) under Section 1.10 – Storage (Dwell time) charges prescribes free dwell time period for import containers commences from the day after the day of landing of the container. For ease of computation, it proposes that the period may commence from the day of completion of discharge of the vessel.

(c). Note (5) under Section 1.10 – Storage (Dwell time) charges:

The initial proposal provided that the store rent for shut out container shall be calculated from the day when the container become shut out till the day of shipment / delivery. Considering that the terminal yard must be treated as purely a transit area and the free storage period for export units are 7 days, it is proposed that the storage period for shut out unit must be calculated from the time the container enters the terminal and not from the time the container become shut out.

(d). Requests are being received from the vessel operators for placing gangway upon berthing of vessel by deploying our reachstacker. There is no rate proposed in its initial proposal as this service was not contemplated. It proposes to charge the same rate as in Section 1.3 lift on / lift off for operation of placing gangway alongside a vessel on berthing. It has, therefore, requested to incorporate a suitable note in the SOR under this Section.

9.1. The revised proposal filed by the ABGKCTL was circulated to the concerned users to furnish their comments. A copy each of the comments received from the concerned users were forwarded to the ABGKCTL as feed back information. We have received comments from ABGKCTL on the points made by the users/user associations.

9.2. A copy of the revised proposal was also forwarded to KPT requesting the port to furnish additional information on the revised proposal filed by the ABGKCTL. The KPT has furnished the requisite information. Summary of the queries raised by us and the reply furnished by the KPT are tabulated below:

Sl. No.	Queries raised by us	Reply furnished by KPT
(i).	Reasonableness of capital expenditure incurred by ABGKCTL till 31 July 2007 and the capital investments proposed to be incurred. Confirm whether actual investment is as per the investment level envisaged in the Licence Agreement.	(a). No specific investment amount or phases thereof is mentioned in the License Agreement (LA) However, project milestones and outer time limit for such milestones have been specified in the LA. Accordingly, the actual investment stated by ABGKCTL for 2007-08 at Rs. 206.31 crores appears to be on higher side considering the procurement of equipment done by ABGKCTL so far and as envisaged in 2007-08.

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The ABGKCTL has not yet furnished all the required information to the Independent Auditor to conclude its comments.

(b). The traffic projections given by ABGKCTL yearwise are much on the lower side, as the MGT stipulated in the LA for 2007-08, 2008-09, 2009-10 and 2010-11 is on conservative side. Further, the traffic projections are on the lower side considering the deployment of 2 nos harbour mobile cranes + 4 reachstackers + adequate number of trailers with prime movers during early COD period, i.e. from 10 March 2007 to October 2007, and the proposed deployment from COD-11, i.e. from onward October 2007 till COD-12 (June 2009), of 2 nos. RMQCs and 2 Nos. of RTGCs alongwith development of 22 hectares back up area and thereafter two more RMQCs i.e. total 4 nos. RMQCs and 2 Nos. RTGCs after taking over 12th cargo berth and its back up area (18 hectares) after June 2009. Thus actual investment shown by ABGKCTL for 2007-08 at Rs. 206.31 crores appears to be on higher side.

(c). Similarly, the capital investment proposed to be incurred upto 2010-11 at Rs. 325.63 crores also appears to be on higher side.

(d). The total estimated investment made by ABGKCTL till date and that as envisaged in future phase is furnished below:

<table>
<tr><th></th><th>Investment made by ABGKCTL till date</th><th>Rs. in crores</th></tr>
<tr><td>(i).</td><td>2 Harbour Mobile Cranes</td><td>32.00</td></tr>
<tr><td>(ii).</td><td>4 Nos. Reach stackers (1.5 crore each)</td><td>6.00</td></tr>
<tr><td>(iii).</td><td>2 Nos. RTGs (5 crore each)</td><td>10.00</td></tr>
<tr><td>(iv).</td><td>18 Haulers</td><td>4.00</td></tr>
<tr><td>(v).</td><td>2 Nos. RMQCs</td><td>40.00</td></tr>
<tr><td>(vi).</td><td>Power arrangement, security, back up area, development and miscellaneous</td><td>10.00</td></tr>
<tr><td colspan="2">TOTAL</td><td>102.00</td></tr>
</table>

<table>
<tr><th></th><th>Future Investments required immediately after taking over 12th Berth and back up area</th><th>Rs. in crores</th></tr>
<tr><td>(i).</td><td>Development of rail link, back up area of 40 hectares, internal roads etc.</td><td>20.00</td></tr>
<tr><td>(ii).</td><td><u>Rs. in crores</u>
2 Nos. RMQCs - 40.00
2 Nos. RTGs - 10.00
18 Nos. haulers - <u>04.00</u></td><td>54.00</td></tr>
<tr><td>(iii).</td><td>Miscellaneous</td><td>1.00</td></tr>
<tr><td></td><td>TOTAL</td><td>75.00</td></tr>
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<tr>
<td>(ii).</td>
<td>Reasonableness of the (revised) traffic estimations taking into consideration the equipment deployed/ proposed to be deployed by the operator and the designed capacity of the terminal.</td>
<td>(a). The traffic estimations projected by ABGKCTL has been examined and it is observed that the projections are on a very lower side. As compared to the MGT specified in LA, ABGKCTL is supposed to have the following traffic projections on account of improvement in its productivity.</td>
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<table>
<tr><th></th><th>2007-08</th><th>2008-09</th><th>2009-10</th><th>2010-11</th></tr>
<tr><td>MGT as per LA</td><td>1,72,000</td><td>1,86,000</td><td>2,00,000</td><td>2,21,000</td></tr>
<tr><td>Designed capacity of ABGKCTL</td><td>2,90,000</td><td>3,30,000</td><td>3,90,000</td><td>4,50,000</td></tr>
</table>
(b). The projected container traffic figures finalised by the Ministry for the year 2007-08 to 2010-11 is furnished below:-
<table>
<tr><th></th><th>2007- 08</th><th>2008 - 09</th><th>2009 - 10</th><th>2010 - 11</th></tr>
<tr><td>TEUS</td><td>292333</td><td>338166</td><td>391166</td><td>452417</td></tr>
</table>
It can be seen from the above statement that the traffic projections given by ABGKCTL are comparatively on lower side than the traffic projection given by the Ministry. The ABGKCTL is, therefore, required to revise its projected traffic (annual throughput in TEUs), particularly considering that a marketing office is also being set up by ABG at Mumbai for attracting the container traffic.
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<tr>
<td>(iii).</td>
<td>The actual traffic handled by ABGKCTL from the date of its commissioning till 30 June 2007 is furnished as under:-</td>
<td>
The actual traffic handled by the ABGKCTL from the date of it commissioning till 30 June 2007 is furnished below:
<table>
<tr><td>Imports</td><td>33364 TEUs</td></tr>
<tr><td>Exports</td><td>26026 TEUs</td></tr>
<tr><td>Total</td><td>59390 TEUs</td></tr>
</table>
</td>
</tr>
<tr>
<td>(iv).</td>
<td>Reasonableness of the operating cost / overheads estimated by the ABGKCTL.</td>
<td>
(a). As the traffic projection considered by the ABGKCTL are on lower side, income projection which are calculated based upon these traffic projection are also on lower side.
(b) From the Form-3A it can be seen that from 2007-08 to 2010-11 increase in traffic is just 15.76% whereas increase in operating cost is 100% which appears not justifiable.
(c). In the year 2009-10 and 2010-11 capacity utilisation considered is 36.19% and 38% respectively. However, ROCE is calculated on 16% without adjusting for capacity utilization as per revised tariff guidelines.
(d). Royalty/Revenue share on difference between both the MGT and the actual traffic handled has been considered in operating cost. Note 1 of form 3B states that the royalty/revenue share to be admitted as cost should be in line with clause 2.8.1. of the revised tariff guidelines, which is not correctly followed. Hence the royalty/revenue share should be disallowed.
</td>
</tr>
<tr>
<td>(v).</td>
<td>Designed capacity of the ABGKCTL in terms of (annual throughput in TEUs) taking into consideration equipment commissioned / proposed to be commissioned and also taking into consideration increase in capacity on account of improvement in the productivity.</td>
<td>The designed capacity of ABGKCTL as a whole on 545 mtrs wharf length with minimum 4 Nos. ship to shore gantry cranes is envisaged to be 6 lakh TEUs.</td>
</tr>
</table>

10. The ABGKCTL was also requested to forward additional information/clarification on a few points with reference to the revised proposal. The ABGKCTL has furnished its reply. Since there were gaps, the ABGKCTL was requested to furnish further clarification. The ABGKCTL has furnished its reply. Summary of queries raised and additional information/clarifications furnished by the ABGKCTL is tabulated below:

<table>
<tr><th>Sl. No.</th><th>Queries raised by us</th><th>Reply furnished by ABGKCTL</th></tr>
<tr><td>1.</td><td>Audited income and capital expenditure pertaining to the period from commencement of operations till 30 June 2007 is not provided despite specific mention in our letter. As per clause 4.8.3. of the LA, cost of the project needs to be audited on quarterly basis by the audit firm appointed by the licensor in consultation with the licensee. Since it is almost five months that the ABGKCTL has commenced the operations, furnish a copy of the project cost determined by the Audit firm for the period upto 31 July 2007.</td><td>(a). Audited actual operating cost incurred for the period from commencement of operations till 30 June 2007 and actual investment made for COD 11 (with documentary evidence) as well as the updated estimates has already been submitted.

(b). As per the terms of LA, M/s. Hemant Someshwar, Chartered Accountants, were appointed as Independent Auditor by Kandla Port Trust, on 22 May 2007. Audit of CAPEX incurred during the quarter ending December 2006 and March 2007 is in progress. The total capital cost of the project through the Audit certificates can be determined only at the end of 6 months after COD-12. It has, therefore, again reiterated its request to process on the basis of the estimated project costs as indicated in the financial statements.</td></tr>
<tr><td>2.</td><td>Traffic</td><td></td></tr>
<tr><td>(i).</td><td>The traffic projections for the years 2007-08 to 2009-10 estimated at 1,77,833 TEUs, 1,91,833 TEUs and 2,08,750 TEUs in its initial proposal is projected to reduce to the level of 1,47,713 TEUs, 1,55,099 TEUs and 1,62,854 TEUs for the corresponding years in the revised cost statement. Explain the reasons for scaling down the traffic projection in the light of the fact that they do not meet even the Minimum Guarantee Throughput (MGT) stipulated in the Licence Agreement for each of the years under consideration.</td><td>(a). The traffic has been estimated taking into account the current trend of traffic at the port and the competition offered by other two private terminals in close proximity on its either side. The scaling down of traffic projections is due to the diversion of traffic from ABGKCTL to the nearby private terminals in the region despite increase in efficiency.
Coastal traffic has already shifted to Mundra and it is understood that they have entered into long term arrangements with MICT.

To support its traffic projections, the ABGKCTL has furnished the following figures of actual traffic handled by it:

<table>
<tr><th>Month</th><th>Containers</th><th>No. of vessels</th></tr>
<tr><td>March 2007</td><td>18544</td><td>27</td></tr>
<tr><td>April 2007</td><td>17035</td><td>29</td></tr>
<tr><td>May 2007</td><td>17218</td><td>27</td></tr>
<tr><td>June 2007</td><td>14464</td><td>22</td></tr>
<tr><td>July 2007</td><td>11351</td><td>14</td></tr>
</table>
</td></tr>
</table>

<table>
<tr><td></td><td></td><td>(b). It is true that the projections do not even equal the minimum guaranteed traffic. It may be pertinent here to make a mention of the concern of Northern India Shippers Association about declining container traffic at Kandla Port and the suggestion to remove the requirement of the Minimum Guaranteed Throughput (MGT) for atleast first five years. It is, thus, clear that even the port users feel that the MGT is not achievable.</td></tr>
<tr><td>(ii).</td><td>Justify the reasons for projecting the container traffic for the year 2007-08 at 1,47,713 TEUs which is lower than the actual traffic of 1.77 lakh TEUS handled by the KPT in 2006-07.</td><td rowspan="2">As indicated by the KPT, the basis on which it has projected container traffic at Kandla at higher levels is not known. The projection of container traffic made by KPT is unrealistically high and does not conform either to the present trend or the general expectations. In this regard,it has referred to KPT's letter dated 30 December 2006, wherein the port confirms that the current container traffic level at the port is not adequate to keep even one berth occupied and hence, they propose to use it for handling general cargo vessels.

In view of the above, the revised traffic projections made are realistic and there is no need for any further modifications therein.</td></tr>
<tr><td>(iii).</td><td>ABGKCTL at the level of 292333 TEUs, 338167 TEUs and 391167 TEUs for the years 2007-08 to 2009-10. In view of the traffic estimations made by the KPT and also in light of our observation, the ABGKCTL is again advised to review and revise its traffic projections and consequently modify the income estimations.</td></tr>
<tr><td>(iv).</td><td>The traffic of transhipment, restow, ICD, over-dimensional and hazardous containers, etc. were not included in the initial proposal filed by the ABGKCTL on the grounds that they could not be estimated at the initial stage. Since the ABGKCTL is now operating the container terminal at the KPT for almost five months, estimate the container traffic in respect of these categories of containers and included it in the estimation based on the actual traffic handled by ABGKCTL for past five months of operation and also obtaining the position from the KPT during their operations prior to the ABGKCTL taking over the operations. Income estimation may also be updated to that extent.</td><td>The actual volumes of restows, ICD, transhipment, over dimensional and hazardous containers during the last five months of operations are not very significant as can be seen from the following total volume handled from April 2007 to July 2007:
(in TEUs)<table><tr><th>DG</th><th>OOG</th><th>Transhipment</th><th>Reshipment</th></tr><tr><td>303</td><td>215</td><td>292</td><td>336</td></tr></table>It is, therefore, not considered necessary to project estimates of these categories as it may not have any material impact.</td></tr>
<tr><td>3.</td><td>Income</td><td></td></tr>
<tr><td>(i).</td><td>Revenue estimation indicates that supply of electricity to reefer containers will be for two days. The estimation of revenue from this tariff item, however, does not reckon with this factor. Further, revenue from supply of electricity to reefer containers seems to have been estimated based on dollar denominated tariff then prescribed in the Scale of Rates of Kandla Port Trust (KPT) as against the proposed tariff of Rs. 180 and Rs. 270 per 4 hour or part thereof for a 20 feet / 40 feet container respectively. Modify the income estimation from this tariff item in the light of our observation.</td><td>The increase in the revenue from supply of electricity for reefer containers for two days based on the proposed rupee tariff will be higher by Rs. 11 lakh, Rs. 53 lakh, Rs. 55 lakh and Rs. 75 lakh during the year 2007-08, 2008-09, 2009-10 and 2010-11 respectively. This will, however, not materially affect the financial deficit reflected in the cost statement. Moreover, whilst there will be an increase in revenue, there will also be increase in expenses and therefore, the same shall be nearly neutral.</td></tr>
</table>

(ii).	Update the income estimation from storage charge with reference to the prevailing exchange rate as against exchange rate of 1 US $ = Rs. 46.50 considered by the ABGKCTL.	By revising the exchange rate, the income estimates from the storage charges will, in fact, be less than the figures indicated in the financial statements. The net result of modification on the estimation of revenue from supply of electricity to reefer containers and from storage charges will not have material impact on the final deficit positions reflected in the cost statement.
4.	**Capacity**	
(i).	Explain the reasons for scaling down the designed capacity of the container terminal for the year 2008-09 from 3 lakhs TEUs per annum estimated in the initial proposal to 2,25,000 TEUs per annum in the revised proposal. Assessment of capacity of terminal at 75,000 TEUs per annum per quay crane does not take into consideration other relevant factors for determining the designed capacity. The KPT has indicated the designed capacity of berth No. 11, which is handed over to the ABGKCTL, at 2.5 lakhs TEUs per annum as against 2.25 lakhs TEUs estimated by the ABGKCTL for the year 2007-08. Please comment on the reasons for variation in the assessment of the capacity. It was reiterated to furnish detailed computation of capacity assessment for each of the years under consideration duly taking into account the designed parameters of the facilities created or to be created in the relevant years and also taking into consideration the expected berth productivity, gross crane productivity, stack productivity under each of the years under consideration.	(a). It has reiterated that the capacity of the terminal depends on the berth-length available, equipment provided and the storage yard available and evacuation facilities. Berth-length, number of quayside and yard cranes to be provided and the area of the storage yard to be taken over by the BOT operator is in accordance with the obligations under the License Agreement. The capacity of quay crane, berth-length and tidal conditions are considered as the limiting factors for determining berth capacity. (b). Taking the average capacity of each quay crane / mobile harbour crane at 75,000 TEUs per annum, 1000 TEU per meter berth length and average waiting time of 6-12 hours for berthing and un-berthing because of tidal conditions at Kandla Port, the berth capacity for 2007-08 and 2008-09 has been kept at 2,25,000 TEUs. (c). The reduction in capacity to 225,000 TEUs is based on actual experience of berthing / unberthing time taken by KPT especially during monsoon period. Unlike competing ports of Mundra and Pipavov, all marine services at Kandla are restricted and operated by KPT. (d). As per international practice for optimal use of berth capacity, three RTGC's need to be deployed with each RMQC. At ABGKCTL, as per the License Agreement, each RMQC is supported by 1 (one) RTGC which further restricts the capacity utilization. Even after providing for the additional four used RTGC's proposed in the proposal, the RMQC: RTGC ratio remains a limiting factor till 2009-10 when full complement of equipment and total berth length of 545 metres will be available. Accordingly, for the year 2009-10 and 2010-11, berth capacity is considered at 4,50,000 TEUs.

5.	**Operating cost**	
(i).	The ABGKCTL has estimated to deploy additional 107 employees in phase-2 and 63 employees in phase-3. Justify the reasons for estimating increase in labour force and consequently the cost thereof in the light of the fact that there is no significant growth estimated in the container traffic and also recognising that the traffic estimated is lower than the MGT envisaged in the Licence Agreement.	It would commission additional equipment including - 2 RMQCs and 6 RTGCs during Phase 2 and 2 RMQCs and 6 RTGCs during Phase 3. Additional staff is required to operate and maintain the additional equipment. In view of this, the computation in terms of manpower requirement and the direct labour cost need not be amended.
(ii).	Specify the exact date when the additional stack yard area of 5 hectares was made available by the KPT to ABGKCTL. Confirm that estimation of licence fee for the years 2007-08 and 2008-09 is based on licence fee of Rs. 18 per square meter per month for pacca plots recently approved in the Scale of Rates of KPT instead of estimation of this cost at the rates proposed by the KPT.	The additional stack yard area of 5 hectare was made available to ABGKCTL on 2nd February 2007 by KPT. The lease rental for this plot was computed at Rs. 126 lakh per annum based on Rs. 20.74 / per sq. mtr. proposed by KPT. However, at the rate approved by TAMP, the rental for this plot will be Rs.108 per annum lakh, a reduction of Rs.16 lakh.
(iii).	**Management and Administration overheads**	
	(a). If the actual management and general overheads reported for three and half months of operations is extrapolated for full year, then it works out to around Rs. 91 lakhs as against Rs. 234 lakhs estimated by ABGKCTL for the year 2007-08. Justify the management and general overheads – others estimated for the year 2007-08 with reference to the actuals incurred upto 30 June 2007. The expenditure, if any, estimated for setting up of new head office at Mumbai under this head may be shown separately.	The figures of actual expenses cannot be extrapolated to validate the annual projections. As indicated in the remarks in Form 3-B, key personnel like Chief Executive Officer, General Manager, Finance & Marketing Managers as well as employees for operating equipment are yet to be appointed. The management and administration cost would keep on increasing as long as equipment are added as required under the LA.
	(b). Furnish detailed break up of Rs. 75 lakhs and Rs. 100 lakhs estimated as the administration and general expenses under this head for the years 2007-08 and 2008-09 respectively. Justify the reasons for estimating 34% increase in this cost item in the year 2008-09 over the estimates of the previous year 2007-08 recognising that there is no significant increase estimated in the traffic in this particular year.	The estimates of administrative and general expenses for 2007-08 and 2008-09 represent various items of expenses such as, telephones, postage & courier, printing & stationery, advertising, books & periodicals, business development, etc. It is not possible to give detailed estimates of each except on ad-hoc basis. The estimated expenses for company and organization of this size are very reasonable and justified.
	(c). Substantiate with documentary support the estimated fees of Rs. 30 lakhs payable to independent engineer in each of the phases I, II and III.	Though the KPT has appointed independent engineer and independent auditor, they have not yet informed us the fees payable to them for each of their service.
(iv).	(a). Copy of insurance cover during construction period furnished by the ABGKCTL is for Rs. 6.7 lakhs pertaining to testing of equipment. Furnish documentary support of Rs. 55.72 lakhs estimated in phase I and Rs. 142.10 lakhs estimated in phase II towards insurance during the construction to substantiate these estimates.	The insurance premium of Rs. 6.7 lakh was paid for all risk erection policy of 2 MHCs. Additional Rs. 20.83 lakh has been paid towards IAR policy. The documentary evidence in support of these expenses has been submitted. The insurance cost at Rs. 55.72 lakh and Rs. 142.10 lakh in Phase I and II have been estimated at 1% of capital cost which was the insurance premium rate prescribed by IRDA for Contractors Plant & Machinery Policy. For port operations, other risks viz., third-party liability for the cargo inside

		the container and the damage to third-party properties, cash in transit, workmen compensation policy etc. are to be taken additionally.
	(b). As already mentioned earlier, preliminary expense and upfront fee may be excluded from the gross block of assets and shown separately by spreading it over the entire project period in line with the treatment given at the other terminals.	As a component of CAPEX, the Upfront Fee has been amortised over the entire period of license. The annual amortised amount has now been segregated from depreciation and shown separately in Form 3 A. The figures in Form 4 have not been changed as the un-amortized balance will be eligible for ROCE.
	(c). The interest during construction period (IDCP) seems to have been computed on cumulative cost of project till July 2009 on the debt portion. As a result, IDCP as well as return on investment is being claimed on assets which are captalised / proposed to be capitalised. In light of this observation, please furnish revised computation of IDCP.	(c). It has submitted that IDCP will have to be reduced by Rs.18.37 crore on account of excluding capitalised assets for estimation of this cost.
	(d). Furnish documentary evidence for expenditure incurred towards lenders syndication fee and upfront fee.	(d). This expenditure is expected to be incurred before full commissioning of the project. Sanction letters from the lenders indicating the processing fees has been furnished. It has, therefore, requested to include the syndication fees and other finance cost as part of the cost of project.
6.	**Capital Employed**	
(i).	The documentary support in form of Customs invoice furnished for purchase of mobile harbour cranes indicate per unit cost of mobile harbour crane at 3 lakhs Euro. Explain the reasons why the capital expenditure of this asset is estimated at 3,15,000 Euro per unit of crane in the cost statement. Indicate the actual capital expenditure incurred for procurement of this asset since the figures in Schedule I – CAPEX and annexure -2 Capital cost in respect of this item are found to be different.	At the time of preparing the TAMP proposal, the price for MHCs were not frozen and hence, was indicated at Euro 3,150,000. The actual CIF price of each MHC is Euro 3,000,000. Still it is requested not to change this amount because there are many items of CAPEX for which the cost has not been frozen and are subject to market fluctuation, exchange rate variation, shipping freight cost etc.
(ii).	Confirm whether the Rail Mounted Quay Cranes and RTGs have been commissioned as mentioned in Schedule I – CAPEX. The estimate of the proposed capital expenditure may be updated based on the prevailing exchange rate instead of Rs. 46.50 considered in the estimation. If these assets are not yet commissioned, indicate the exact time when they are likely to be commissioned.	Two imported RMQCs and two RTGCs have landed on 3 June 2007 at Kandla and are under commissioning. Both are likely to be made available for commercial operations from 2nd week of September 2007. The exchange rate has come down recently. For these cranes, the forward contracts were booked much before the cranes landed and the actual variation in the price is, therefore, nominal.
(iii).	The proposed capital expenditure includes Rs. 976.50 lakhs in phase II and Rs. 976.50 lakhs phase III towards procurement of 4 used RTGs. Justify the proposed capital expenditure on 4 used RTGs in addition to 2 new RTGs in each of these phase when the LA requires the operator to invest on 2 RTGs in CH-3 and 2RTGs on CH-4 stage only	In order to provide better terminal services at par with nearby private ports and to fulfill the ratio of 1:3 between RMQC & RTGCs, it is necessary to bring in more number of RTGCs for the terminal operations. The Purchase Order for the 4 used RTGCs will be placed in due

	and furnish documentary support to substantiate these estimates.	course. The estimates are based on the basis of the present market trend.
(iv).	Furnish documentary support for the remaining two reach stackers proposed to be deployed in phase-I since the purchase order furnished by the ABGKCTL is in respect of 4 Nos. of Reach Stackers, whereas capital cost for this item is estimated for 6 Nos. of Reach Stackers in the cost statement for phase-I period.	The remaining two reach stackers are yet to be ordered. The cost indicated in the purchase order will serve as guide for the remaining two units.
(v).	As per the copies of invoices furnished, capital expenditure of Rs. 283.42 lakhs seems to have been incurred by ABGKCTL for purchase of 14 prime movers and 10 trailers. As against this, the CAPEX sheet estimates an expenditure of Rs. 409.50 lakhs for procurement of these assets. The estimation of capital expenditure may be modified with reference to the actual expenditure incurred by ABGKCTL.	ABGKCTL had placed order for 18 Prime movers and 18 tractor-trailers (TTs) to feed 4 Quay side cranes. So far, 18 Prime Movers and 10 tractors have been received whilst the remaining 8 trailers are yet to be delivered to ABGKCTL. Copy of Purchase Orders for remaining 8 TTs is attached as documentary support.
(vi).	The opening gross blocks of civil works is indicated at Rs. 36.02 crores for the year 2007-08 with an additional investment of Rs. 22.76 crores proposed during this particular year. Documentary evidence furnished by the ABGKCTL is, however, for Rs. 12.96 lakhs only towards refurbishment of 5 hectares of land allotted by KPT. Furnish documentary support of major capital expenditure incurred under this head and evidence of action taken to initiate other civil works in COD 11 and COD 12 to substantiate the estimates. Also furnish detailed break up of civil works estimated in each of the years 2007-08 to 2009-10.	Rs. 36.02 crore includes Upfront Fee of Rs. 10 crore, preliminary expenses and interest during construction amounting to Rs. 22.29 crore.
(vii).	The documentary support towards consultancy for civil works reveals that the quotation has been received for Rs. 175 lakhs as against the capital expenditure of Rs. 250 lakhs considered in the revised cost statement. Explain the reasons for this variation in estimation.	The quotation received for consultancy for civil works amounting to Rs. 1.5 crore is excluding the monthly fees for the site staff. Kindly refer to clause 7.1.3 of the quotation. The estimate for the site supervision fees is Rs. 1 crore (Rupees One Crore only). Thus, the total estimated cost for consultancy for civil works amounts to Rs. 2.5 crore.
(viii).	Furnish specific documentary support in form of sale deed, etc. to substantiate capital expenditure of Rs. 7 crores to be incured for purchase of office property in Mumbai.	Copy of sale deed will be furnished after it is executed on identifying a suitable property in South Bombay. The documents in support of the reasonableness of the estimated cost has been furnished. Meanwhile, it has requested to consider this as absolutely essential cost as it is affecting marketing of the terminal.

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

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

(i). The Kandla Port Trust has entered into a Licence Agreement with ABG Kandla Container Terminal Limited (ABGKCTL) on 23 June 2006 for development, operation and maintenance of berths nos. 11 and 12 as container terminal on Build–Operate–Transfer (BOT) for period of 30 years. The LA stipulates that the construction and development of the Container Terminal must be completed and the licensee must commence the operations with entire fleet of equipment in place within 36 months from the date of award of License i.e. by 23 June 2009.

The ABGKCTL had opted for early commencement of operations with deployment of the minimum number of equipment required as per the terms of the LA. On the request made by the ABGKCTL to fix interim tariff, the estimation of cost and investment for the six months i.e. January 2007 to June 2007 was analysed. The estimates were moderated wherever found necessary for the reasons explained in the relevant Order notified on 24 January 2007. Based on the cost position so derived, this Authority approved an interim tariff at 35% lower than the tariff proposed by the ABGKCTL for the period of six months. The interim tariff arrangement approved for six months period was allowed to continue till fixation of final rates. The ABGKCTL was advised to file revised cost statements after firming up the estimates based on actuals of six months operations.

(ii). While filing its tariff proposal in September 2006, the ABGKCTL had made a request not to circulate the income projections, details of expenditure projections and capital employed details. Clause 3.2.4. of the revised tariff guidelines stipulate that the tariff proposal with all supporting details as filed will be circulated to all the users excepting such details / documents which are requested not to be circulated on the grounds of being commercially sensitive / confidential nature. Such a request must adequately explain the reasons for classifying the documents / information as commercially sensitive / confidential and also explain how any repairable damage will be caused to the terminal operator if the request is not acceded to. The request of the ABGKCTL was not acceded to since it did not furnish any reasons for classifying the above mentioned documents as commercially sensitive / confidential and also did not explain how irreparable damage would be caused to it if the request is not acceded to. Accordingly, the details furnished by the ABGKCTL in the format prescribed by this Authority for filing tariff proposal were circulated to the users. It is noteworthy that the details of investment, income estimation, etc., have been subjected to detailed internal scrutiny.

(iii). Based on the actual operations for the period from 10 March 2007 to 30 June 2007, the ABGKCTL has updated the traffic/income estimation. As rightly stated by ABGKCTL, the actual expenditure reported for first four months of operation is based on minimum equipment deployed for commencement of operations in early phase as per the LA. It may, therefore, not form a firm basis for assessment of reasonableness of estimates for the subsequent years.

More than half of the year 2007-08 will be over by the time this Order is implemented. In view of this position, and recognising that the tariff approved by this Authority has three years validity, ABGKCTL has in the revised cost statement furnished estimations for the year 2010-11 as well. The tariff proposal of ABGKCTL based on the revised cost statement furnished under cover of its letters dated 24 July 2007 and 30 August 2007 are considered in the analysis.

(iv). (a). One of the most critical components in the tariff fixation exercise of ABGKCTL is the traffic projections.

The License Agreement entered between the ABGKCTL and the KPT stipulates the Minimum Guaranteed Throughput (MGT) at 172000, 186000, 200000 and 221000 TEUS respectively for the first four years of operations.

In the initial proposal, the traffic was estimated at the level of 71667 TEUs for 2006-07 (for five months), 190726 TEUs in 2007-08, 205741 TEUs in 2008-09 and 221650 TEUs in 2009-10.

Subsequently, the ABGKCTL has scaled down the traffic estimation at the level of 147713 TEUs for the year 2007-08. For the subsequent years, 5% growth is estimated in the container traffic. The traffic for the years 2008-09 to 2010-11 is estimated at 155099 TEUs, 162854 TEUs and 170996 TEUs respectively.

The land lord port KPT has projected the container traffic of its port at 292333 TEUs, 338166 TEUs, 391166 TEUs and 452417 TEUs for the years 2007-08 to 2010-11 in the 11th five year plan. The KPT has pointed out that traffic estimation made by the ABGKCTL is low and does not even meet the Minimum Guaranteed Throughput (MGT) prescribed in the LA. The ABGKCTL has contented that the estimation made by the land lord port is unrealistically high and not in conformity either to the present trend or the general expectations. It has submitted that the traffic estimation is justified recognising that the average growth in the container traffic at the Kandla Port which was around 15% till 2002-03 has reduced to 7% in 2003-04 after the commencement of operations of two private ports namely Mundra International Container Limited (MICT) and Gujarat Pipavav Port Limited (GPPL) and a negative growth of 17.5% reported in the container traffic of the KPT during the year 2005-06 over the traffic handled in the respective previous years.

The ABGKCTL has clarified that the traffic projections envisaged in the initial proposal has been scaled down due to the diversion of traffic from ABGKCTL to the nearby private terminals viz. Mundra International Container Limited (MICT). The actual traffic handled by the ABGKCTL in March 2007 at 18544 TEUs is reported to have dropped gradually over the past few months of operations to the level of 14464 TEUs in June 2007 and 11351 TEUs in July 2007.

The ABGKCTL seems to have focused only on the last two months of container traffic handled at the terminal for revised estimation of traffic. The drop in the traffic reported in the last few months could only be a temporary phase during initial taker over of the operations. Actual traffic handled by ABGKCTL for almost last four and half months of operation from 10 March 2007 to July 2007 is reported to be 78612 TEUs. If this data is extrapolated for the full year, the traffic likely to be handled will be around 202000 TEUs as against 1,47,713 TEUs estimated by the ABGKCTL. Infact, the container traffic handled by Kandla Port for the year 2006-07 is reported at 1.77 lakh TEUs as per the statistics published by the Indian Ports Association. Nevertheless, recognising that ABGKCTL will be operating with minimum equipment prescribed in the LA for first six months of 2007-08 and also considering the diversion of traffic reported in the initial phase of operations, the traffic estimate for the year 2007-08 is considered at 1,72,000 TEUs which is the minimum level of traffic expected to be achieved as per the terms of the LA in the first year of operation.

The average growth rate assumed by the ABGKCTL at around 8% per annum for the years 2008-09 and 2009-10 in its initial proposal was scaled down to 5% per annum in the revised proposal.

As mentioned earlier, the KPT has observed that the traffic projected by the operator is on a lower side. The KPT has estimated around 15.7% growth in the container traffic of its port for the years 2008-09 to 2010-11. The Working Group Report for the 11th five year plan relating to Port

Sector has estimated the container traffic of major ports of India to grow at 16.9% Compound Annual Rate of Growth. Average growth estimated in the container traffic in the western belt i.e. Jawaharlal Nehru Port Trust is around 12%, 15.7% at Kandla Port Trust and 12.7% at the Mumbai Port Trust for the years 2008-09 and 2009-10. It is thus evident that the annual growth rate estimated by the ABGKCTL is far low in comparison to the general trend of growth in container trade of this country expected in the next few years.

Taking into consideration additional equipment and infrastructure proposed to be deployed by the operator and improvement in the productivity which is expected to be achieved therefrom, it may not be unreasonable to presume atleast 12% growth rate in the traffic of ABGKCTL for the subsequent years based on the lowest growth rate obtained from the above analysis. Accordingly, revised traffic estimation for the years 2008-09 to 2010-11 are considered in this analysis at 192640 TEUs, 215757 TEUs and 241648 TEUs respectively. It is relevant to mention here that the revised traffic projection considered in the analysis is based on a very conservative approach relying upon the MGT level for the initial year and will significantly be lower in comparison to the capacity proposed to be created during these years.

If any undue advantage is found to have accrued to the ABGKCTL due to variation of actual performance in traffic, such undue advantage accrued to ABGKCTL will be set off fully in the next review. The surplus, if any, accrued due to variation of traffic estimation will not be considered in terms of Clause 2.13 of the revised tariff guidelines but the entire amount would be considered for adjustment in the next tariff validity period.

(b). The ABGKCTL has not included in its estimates traffic pertaining to transhipment containers, restow containers, ICD containers, over dimensional and hazardous containers separately though tariff is proposed for these categories of containers. The ABGKCTL has argued that the traffic of these categories of containers is not significant and it will not materially effect the financial position. Based on the actual container traffic handled in the last five months of operations, the container traffic of these containers is reported to be around 230 TEUs per month. The rates have been proposed for such containers so that rate is available in case such container is to be handled. Based on the presumption that the MGT for 2007-08 includes these categories of containers also, no further adjustment in the revised estimates of traffic explained in the preceding paragraph is made.

(c). The ABGKCTL has adopted certain container mix comprising of 20'/ 40' container, laden/ empty container and reefer containers based on the existing composition at port. The same ratio is adopted on the modified traffic estimation for the years 2007-08 to 2010-11.

(v). (a). The income has been estimated at the proposed level of tariff for the throughput projected for the years 2007-08 to 2010-11. The income estimation has been modified with reference to the revised traffic estimation considered in this analysis. The income estimation is based on the container mix assumed by ABGKCTL.

(b). The ABGKCTL has estimated storage income based on average dwell time of three days (after allowing the proposed free period of 3 days for import and 7 days for export). Average dwell time for laden containers reported by the KPT for the past two years is on an average about 6 days for import and 2 days for export and varies in the range of 3 to 10 days for empties. Average dwell time of containers adopted by the ABGKCTL is accepted and considered for estimating income from this tariff items with reference to revised traffic estimation.

Income from storage charge is estimated based on the dollar denominated tariff and applying an exchange rate of Rs.46.50. This calculation is updated with the exchange rate of Rs.40.98, which is the prevailing rate at the time of concluding this analysis.

(c). Income from supply of electricity to reefer containers has been estimated at the tariff level prescribed in the pre-revised Scale of Rates of the Kandla Port Trust at US$5.5 and US$8.25 for eight hours or part thereof for a 20'/40' container respectively. The ABGKCTL has assumed that electricity to reefer containers will be supplied for two days. Income estimation from this tariff item, however, does not reckon the assumption made by ABGKCTL. The income estimation from supply of electricity to reefer container is modified to reflect the correct position.

(d). The modified operating income subject to above adjustment is considered for the purpose of this analysis. If it is found that the actual operating income varies from the estimates furnished now, the additional accrual will be adjusted fully against the tariff at the time of the next review.

(vi). (a). The operating direct labour cost and maintenance labour cost are estimated by the ABGKCTL with an increase in its staff strength during each phase of operations and applying annual escalation factor of 5% per annum over the estimated cost of the respective previous years.

The operating direct and maintenance labour cost is estimated for 79 number of employees in the year 2007-08. The deployment of labour / staff is estimated to increase gradually in the subsequent years in view of deployment of additional equipment as per the terms of the LA. The operating direct labour and maintenance labour is estimated to increase to the level of 157, 187 and 217 in the years 2008-09 to 2010-11 respectively.

The employee cost per TEU on the revised throughput estimates works out to Rs.130 per TEU for the year 2007-08 which increases to Rs. 156 per TEU and Rs. 187 per TEU for the years 2008-09 and 2009-10 respectively. As rightly stated by the ABGKCTL, increase in the per TEU employee cost for each years under consideration is due to the fact that the anticipated traffic growth is not commensurate with the equipment required to be provided as per the LA and, consequent additional manpower required to operate, maintain and manage them.

At other container terminals like Chennai Container Terminal Limited (CCTL), Nhava Sheva International Container Terminal Ltd. (NSICT), Jawaharlal Nehru Port Trust (JNPT) and PSA SICAL, employee cost per TEU is in the range of Rs. 125 to Rs.200 per TEU. The employee cost per TEU at the Gateway Terminal India Limited is around Rs. 250.

Based on the position obtaining at the other private operators, and recognising that increase proposed in the staff strength for the years 2008-09 to 2010-11 is a management decision which is necessitated by the induction of new equipment as per the requirements of the LA, the estimation of employee cost made by the ABGKCTL is accepted.

(b). Clause 2.5.1. of the revised tariff guidelines requires that the expenditure projections of the major ports / terminal operators should be in line with traffic adjusted for price fluctuations with reference to current movement of Wholesale Price Index (WPI) for all commodities as announced by the

Government of India. Escalation factor upto 5.4% needs to be considered for the expenditure projections in the tariff cases to be decided during the year 2007-08. Annual escalation considered by the ABGKCTL in estimation of the employee cost @ 5% over the estimates of previous year is within the prescribed limit.

(c). As per the License Agreement (clause 4.12.10.), the Licensee has to offer employment to 45 employees of the Kandla Port Trust. The KPT has confirmed that none of its employees have opted to join the private terminal operator. The ABGKCTL has also confirmed that the estimation of employee cost does not factor any additional cost on this account.

(vii). The estimated equipment running cost consists of three cost elements viz. power, fuel and repairs and maintenance which are discussed hereunder:

(a). Quantum of power consumption per TEU is estimated at 6.64 unit per TEU for all the four years under consideration.

The ABGKCTL has justified that estimation is based on power consumption per RMQC plus consumption for general lighting and reefer points. The consumption of power at other terminals like the Chennai Container Terminal Limited, PSA SICAL Terminals Limited and Gateway Terminal Limited is in the range of 7.7 to 8.30 units per TEU. Based on the position obtaining at the other private terminals, the per TEU power consumption estimated by the ABGKCTL seems to be reasonable and hence is accepted.

The ABGKCTL has adopted basic rate of power at 4.20 per KWH and estimated electricity duty @ 45% of the basic rate and service tax thereon to arrive at the unit cost of power at Rs. 6.82 for the year 2007-08. The KPT has confirmed that the basic rate charged by the State Electricity Board is Rs.4.50 per KWH. The unit cost of power as estimated by the ABGKCTL is accepted.

Escalation factor of 5% per annum applied by the ABGKCTL for the years 2008-09 to 2010-11 over the unit cost of the respective previous years is also found to be within the stated limit prescribed in the revised tariff guidelines.

The estimates of power cost are adjusted suitably with reference to the modified traffic estimates considered for the years 2007-08 to 2010-11.

(b). The computation of fuel cost furnished by ABGKCTL is based on fuel consumption of 3 litres per TEU for the years 2007-08 to 2010-11. This is found to be reasonable in comparison to the fuel consumption at other private terminals like the Chennai Container Terminal Limited and PSA SICAL Terminals Limited at 3.4 litres to 3.8 litres per TEU. The fuel consumption per TEU as estimated by the ABGKCTL is accepted.

The unit rate of fuel considered for the year 2007-08 is Rs. 40.00 per litre. Considering the current market rate, the unit rate assumed for estimation is found to be reasonable.

The unit rate of fuel is escalated by 10% per annum for the subsequent years 2008-09 to 2010-11. In this regard, it is relevant to mention that this Authority is guided by the revised tariff guidelines which require the expenditure to be estimated based on the current WPI (for all commodities) reported at 5.4% and adjusted for traffic growth. With reference to the argument of the ABGKCTL that escalation in the fuel price should be treated separately, it has to be recognised that WPI for all commodities is a weighted average index which captures the price movement in different identified groups which also includes fuel. It is not that all groups in the basket of WPI had suffered the same quantum of escalation. It is, therefore, not found necessary to allow escalation in the fuel cost beyond the current permissible annual escalation rate of 5.4% per annum for each of the years under consideration besides adjustment for the estimated increase in volumes.

(c). (i). The last item of cost considered by ABGKCTL under this head is repairs and maintenance charges. The repairs and maintenance cost is estimated at 3% on electrical and mechanical equipment and 1% on the civil works.

The ABGKCTL was requested to justify the estimate recognising the fact that the equipment will be covered under the warranty during the initial period. In this regard the ABGKCTL has clarified that repairs and maintenance expenses is lower in the initial years when equipment is covered by warranty but, in the later years as the equipment becomes old, the costs will be higher. Hence, a uniform percentage has been adopted for projecting repairs and maintenance cost based on the average annual cost over the entire life of the assets. The ABGKCTL has not furnished any analysis of the average annual cost for adopting the said percentages to estimate the repairs and maintenance cost.

The repairs and maintenance cost allowed for other private operators like Nhava Sheva International Container Terminal Limited is 1.15% on the opening block of assets. In case of Chennai Container Terminal Limited (CCTL), Visakha Container Terminal Private Limited (VCTPL) and India Gateway Terminal Private Limited (IGTPL), repairs and maintenance cost allowed was at 2% on equipment cost. In the recent tariff fixation at GTIPL also, the repairs and maintenance cost was found comparable to the level allowed at these private terminals. In line with the position obtaining at other private terminals, the repairs cost for equipment is estimated at 2% of the gross block of equipment.

The opening gross block of equipment cost for the year 2007-08 and additions proposed to the gross block of the assets in the years 2008-09 to 2010-11 has been modified as explained in the subsequent analysis. The repairs and maintenance cost has been suitably adjusted for the modifications done in the estimation of gross block of assets.

(ii). The percentage adopted for estimating repairs and maintenance cost on civil works is found to be comparable to the other private terminals and hence is accepted. The repairs and maintenance cost estimated by ABGKCTL on civil works, however, includes preliminary expenses. The estimate of this cost element is revised based on modified gross block of civil works excluding the preliminary expenses.

(iii). Annual escalation of 5% estimated in the repair cost for the years 2008-09 to 2010-11 over the estimates of the respective previous years is allowed.

(viii). The (then) Ministry of Shipping has issued a policy guideline on 29 July 2003 requiring the revenue share/ royalty payment shall not be factored into as cost for tariff fixation/ revision by the TAMP. The revised guidelines for tariff fixation also reflect this policy.

In the instant case, the L.A. was signed by the ABGKCTL with the KPT on 23 June 2006. As per the revised tariff guidelines, the revenue share payable by ABGKCTL to KPT cannot be admitted as cost. The argument of ABGKCTL that the Bid Document and the L.A did not specifically mention about its non-inclusion as item of cost is misplaced. As per the LA, the licensee has confirmed that it will not claim any changes / amendment or waiver in the Agreement on account of non-admissibility and or non-adjustment of royalty as an item of cost in fixation of rates by TAMP.

The ABGKCTL in its initial tariff proposal had not included revenue share as an item of cost in line with the revised tariff guidelines. However, in the revised cost statement, the shortfall in revenue likely to accrue with reference to non-achievement of the MGT has been included as an item of cost by stating that it is akin to license fee and hence must be admitted as cost. The reasons adduced by ABGKCTL for admitting this element of cost are not acceptable. Users cannot be made responsible for the operator not achieving the MGT level, which incidentally, is his commercial decision.

Notwithstanding the above position, as already mentioned earlier and also brought to the notice of the ABGKCTL, revenue share cannot be admitted as an item of cost in their case as per the revised tariff guidelines since the LA was signed subsequent to 29 July 2003. Even the Ministry of Shipping, Road Transport and Highways vide a separate communication has advised this Authority to strictly adhere to the revised tariff guidelines for treatment of royalty in case of ABGKCTL while fixing the tariff.

(ix). (a). The ABGKCTL has to pay license fee to the KPT at the rates prescribed in the LA for the yard / area allotted/ to be allotted by the licensor. The license fee for the year 2007-08 is estimated at Rs. 377 lakhs per annum as per the terms of the LA and hence is accepted as furnished.

For the years 2008-09 to 2010-11, license fee for the yard allotted is estimated at Rs. 704 lakhs, Rs. 729 lakhs and Rs. 756 lakhs respectively. The LA, prescribes schedule of license fee payable by the licensee to the licensor from the third hand over date of additional 18 hectares of land behind Berth No 12. (i.e. from 23 June 2008). The license fee is prescribed for the period of twelve months which increases gradually over the entire project period.

The license fee for the year 2008-09 estimated by the ABGKCTL at Rs. 704 lakhs is for the entire year though as per the terms of the LA, this will accrue from June 2008 onwards. Despite specific request made in this regard, the land lord port has not indicated the correct position. The estimation of license fee for the years 2008-09 is considered proportionately at the rates prescribed in the LA for the relevant period. In view of this, the license fee for the subsequent years 2009-10 and 2010-11 are also modified to that extent as per the rates prescribed in the LA.

(b). Additional stack yard area of 5 hectare was also made available to ABGKCTL by KPT in February 2007 at the request made by the licensee which is in line with the provisions of LA. The lease rent for this plot is estimated at Rs. 126 lakhs for the year 2007-08 based on rate for pacca land proposed by KPT at Rs. 20.74 per sq. mtr. per month in its general revision proposal. It has also estimated 5 % escalation in the rate while estimating license fee for the subsequent year 2008-09.

The license fee for pacca land prescribed by this Authority in the Scale of Rates of the KPT is Rs. 18 per sq. mtr. per month. Accordingly, the license fee for additional stack yard area of land is modified with reference to the rate prescribed in the Scale of Rates of the KPT. No escalation is considered on the unit rate in line with the prescription in the Scale of Rates of the KPT.

(c). Subject to the above modification, the revised lease rental considered in the cost statement is Rs. 485 lakhs, Rs. 758 lakhs Rs. 725 and Rs. 752 lakhs for the years 2007-08 to 2010-11 respectively.

(x). The insurance cost is estimated at Rs. 150 lakhs, Rs. 212 lakhs, Rs. 233 lakhs and Rs. 233 lakhs for the years 2007-08 to 2010-11 respectively. The insurance cost is estimated on the gross block of assets @ 1% on mechanical and electrical equipment and 0.06% on civil works and others. This works out to around 0.84% of the net block of fixed assets for the year 2007-08. The documentary evidence furnished by the ABGKCTL is with reference to the premium paid in 2006-07 and does not substantiate the estimate made for the year 2007-08.

Insurance cost is generally estimated at historical value in case of other private operators except a few private terminals like the India Gateway Terminal Limited and the Visakha Container Terminal Limited where insurance cost is estimated on replacement value of assets in view of provision in the LA.

Clause 9.1.6. of the LA require the ABGKCTL to take insurance cover against loss, damage or destruction of container terminal, including licensed premises and assets at the replacement value. Neither the proposal nor the documentary support furnished by the ABGKCTL makes any reference about replacement cost of assets for estimation of insurance cost.

For the purpose of this analysis, insurance cost is estimated @ 0.84% on the total written down value of the assets. While doing so, modified estimates of net fixed assets are considered.

(xi). An expense of Rs. 20 lakhs per annum is estimated towards minor works representing various small items of capital asset improvements which are not added to the capital block. Since the estimate of this expense is not significant, it is considered in the analysis as furnished by the ABGKCTL.

(xii). The estimation of management and administration overheads cover salary expenses payable to the management employees of ABGKCTL and other expenses like general administration expense, training, maintenance of vehicles as discussed hereunder:

(a). The salaries of management and administration staff is estimated at Rs. 64 lakhs for the year 2007-08. This estimates seems to on the lower side as against an actual expenditure of Rs.20.19 lakhs reported in the first four months of operations. Salaries of majority of management staff are estimated for half of the year pertaining to 2007-08 as most of the key personnel are to be deployed during second phase of the operations expected to commence from October 2007. The estimate of salaries of management staff furnished for the year 2007-08 is accepted as furnished by ABGKCTL.

For the subsequent years, annual escalation @ 5% is considered in the cost estimates of previous years for all the years under consideration. The estimates of salaries pertaining to management and administration staff is accepted as furnished by the ABGKCTL.

(b). The management and administration overheads is estimated at Rs. 234 lakhs in the year 2007-08 which is estimated to increase by 33.7% in the year 2008-09. A sizeable portion of general overheads is towards general administration expense, Customs O/T expense, fee to Independent

Engineer, hire of cars and buses, etc. It has not furnished any documentary evidence to substantiate this expense based on the last six months of operations. The actual expenditure of Rs. 22.97 lakhs reported till 30 June 2007 do not justify the estimated expenses for the year 2007-08. To our query to furnish detailed break up of Rs. 75 lakhs and Rs. 100 lakhs estimated as the administration and general expenses under this head for the years 2007-08 and 2008-09 respectively, it has clarified that the estimates are made on adhoc basis. When advised to substantiate the estimated fees of Rs. 30 lakhs payable to independent engineer in each of the phase I, II and III with documentary support, it has made a general remark that the landlord port has appointed the auditor firm but has not informed the fee payable to the auditors. General overheads also include overheads pertaining to marketing office in Mumbai. Some of the user associations have also mentioned about unspecified cost items included in its proposal.

A quick view of this cost estimate at other private terminals like Chennai Container Terminal Limited, PSA SICAL Terminals Limited, etc., reveals that the total management and general including salaries to management staff forms around 15% to 16% of the total expense excluding depreciation and at the India Gateway Terminal Limited it is around 20% of the total operating cost. At ABGKCTL, the estimate of total management and general overheads constitutes 22.4% of the total operating cost for the year 2007-08.

Based on the position obtaining at other private terminals, and also recognising that the estimate of most of the expenses under this head are on adhoc basis without any rationale furnished by the ABGKCTL, the management and general overheads estimated by the operator are moderated by 15% and allowed at 85% of the level estimated by the ABGKCTL for all the years under consideration so as to keep estimated management and general overheads at 18% to 20% of the total cost.

(xiii). Clause 2.7.1. of the revised tariff guidelines stipulates that depreciation will be allowed in the case of private terminals on straight line method with life norms adopted as per the Companies Act, 1956 or based on life norms prescribed in the concession agreement whichever is higher. The ABGKCTL has confirmed that the depreciation rates adopted in the tariff proposal are as per the provisions prescribed in the Companies Act.

Depreciation on addition proposed to the gross block of equipment and civil works for the years 2007-08 to 2009-10 are estimated for six months period by the ABGKCTL since the assets are likely to be commissioned and available for use for six months period during the relevant financial year. The same approach has been followed while modifying the estimate of depreciation with reference to modified estimate of capital cost.

The depreciation is computed only in respect of the assets which are fully completed and commissioned during the relevant financial year.

(xiv). As per the provisions of the License Agreement, the ABGKCTL is required to transfer the container terminal to the KPT at one Rupee on expiry of the Project period. In view of this, the terminal value receivable by the ABGKCTL on expiry of the project period is taken as nil.

(xv). In the initial proposal, ABGKCTL had estimated Rs. 18.22 crores, Rs. 24.81 crores and Rs. 29.11 crores as Technical Service fee for the years 2007-08 to 2009-10 with reference to management contract fee payable to Voltri Terminal Europa SPA based on the relevant contract signed by the ABG Heavy Industries Limited. Subsequently, ABGKCTL has decided to delete this item from the financial statements in view of sensitiveness of disclosing the fee payable to management contractor.

(xvi). The License Agreement stipulates stage-wise equipment deployment plan from the date of signing the License Agreement.

The phase wise investment plan reported by the ABGKCTL and KPT as per the LA is tabulated below:

Particulars	**Commencement of operations as per LA terms**	**Equipment deployment**
Phase-I (Early COD)	17.02.2007 (Actual operations commenced from 10 March 2007)	2 cranes capable of handling ship to/from shore movement and required number of equipment such as RTGs, reachstacker and tractor trailers.
Phase-II (COD-11)	20.10.2007	CH1 & CH3 Equipment i.e. 2 RMQCs and 2 RTGCs and required number of tractor trailers
Phase-III (COD-12)	20.06.2009	CH4 Equipment – Additional 2 RMQCs & 2 RTGCs and required number of tractor trailers

The LA stipulates that the licensor shall handover 22 hectares of land alongwith handover of berth No. 11. Another 18 hectares of land is to be handed over to ABGKCTL in June 2008. The licensee is required to develop the earmarked area into container stackyard.

The total project cost estimated at around Rs.330 crores including preliminary expenses in the initial proposal was reduced to Rs. 325.63 crores in the revised cost statement filed on 24 July 2007.

Some of the users have pointed out that as per the original tender condition, the land lord port KPT would make part investment on the project cost of the ABGKCTL. The proposal of the ABGKCTL does reckon with any such investment made by the land lord port for tariff fixation process. Hence the points made by the users in regard to the investment of KPT are not fully relevant.

The estimated capital cost furnished in Annex-2 (Capital cost sheet) varies from the total capital cost indicated in Form 4A pertaining to capital employed computation. The capital expenditure indicated in Form 4A is taken as the base since these estimates are reflected in the consolidated cost statement. The detailed breakup of capital cost estimates furnished by ABGKCTL is phase-wise and not with reference to relevant financial year. The year-wise capital expenditure is derived synchronizing it with the phase-wise details furnished by the ABGKCTL.

The ABGKCTL has furnished documentary evidence with reference to the cost of most of the equipment deployed / proposed to be deployed in phase-I and phase-II. The capital cost estimates furnished by the ABGKCTL are updated with reference to the documentary support wherever variations are observed. The modifications done in the capital cost estimates furnished by the ABGKCTL and the reasons therefor are explained below:

(a). Despite a specific advice, the ABGKCTL has not forwarded a copy of the project cost certified / determined by the Independent Auditors to be appointed as per the terms of the LA. It has clarified that the capital cost of the project can be determined by the Auditors only at the end of six months and has therefore, requested to process the proposal on the basis of the estimated project costs. The KPT on the other hand has informed that the ABGKCTL has not furnished the requisite data to the Independent Auditors to conclude their comments.

On our request for its assessment of reasonableness of the capital cost estimated by the ABGKCTL, the KPT has pointed out that the estimate made by the operator is on the higher side. The KPT has assessed the capital cost of equipment deployed by ABGKCTL at Rs. 102 crores and Rs. 75 crores is estimated to be incurred after taking over the berth No. 12. The capital cost for RMQC indicated by the KPT is found to be significantly lower than the actual cost of equipment, as evident from the documents furnished by the ABGKCTL. Further, upfront payment, preliminary expense, cost of other civil works, IT, etc., are not taken into account by the KPT. For the purpose of this analysis, the documentary support wherever furnished by the ABGKCTL are relied upon and reckoned with.

(b). ABGKCTL reportedly commenced operations under early COD phase from 10 March 2007 with deployment of 2 mobile harbour cranes 4 reach stackers and required prime movers as per the terms of the LA. The unit price of mobile crane and reach stacker at Euro 31.50 lakhs and Euro 4.2 lakhs considered by the ABGKCTL for estimating the capital cost do not match with the unit price reflected in the relevant invoice copy furnished by the operator (i.e. Euro 30.00 lakhs for mobile harbour crane and Euro 3.05 lakhs for reach stacker). Documentary evidence furnished pertains to 4 reach stackers. Even the KPT has confirmed this position. That being so, the estimate of capital expenditure in respect of mobile harbour crane and reach stackers are revised with reference to the documentary support furnished by the ABGKCTL for the year 2006-07.

The LA does not specifically mention whether the mobile cranes brought under the initial phase would continue to be pressed into service even after the arrival of full complement of shore equipment at the later phases. The KPT has not made any comment in this regard but ABGKCTL has drawn up its estimates which gives an impression that these equipment would continue to be in the operation at the Terminal.

The estimate of capital cost towards tractor trailer matches with the documentary evidence furnished and hence is accepted. Documentary support in respect of miscellaneous items such as spreader spares, spreader bars, reefer plugs, weigh bridge are not furnished since the unit cost is not significant. The estimate for these items as furnished by the ABGKCTL is relied upon.

(c). ABGKCTL has confirmed that cost of assets completed / commissioned or likely to be commissioned are considered in computation of capital employed for the relevant years. It is, however, found that part payments made in the initial years for procurement of RMQC, RTGs etc., are also capitalised in the estimates furnished. For the purpose of this analysis, capital cost of only those assets which are commissioned or likely to be commissioned as per the terms of the LA are considered for computation of capital employed.

(d). The LA requires the licensee to deploy 2 Rail Mounted Quay Cranes and 2 Rubber Tyred Gantry Cranes and required number of tractor trailers in Phase II i.e. by October 2007.

Relying on the documentary support furnished by the ABGKCTL and also recognising that the proposed investment is in line with the terms of the LA, the capital cost estimated for 2 RMQCs and 2 RTGs and tractor trailers are considered in the year 2007-08.

Additional Employee cost, Depreciation, repairs and maintenance cost and insurance premium are estimated for half of the year 2007-08 assuming that they will be commissioned in October 2007 as per the terms of LA.

(e). The third phase of operations is to commence with deployment of additional 2 RMQC and 2 RTGs and required number of tractor trailers. The ABGKCTL has estimated capital cost pertaining for these equipments in the year 2008-09 whereas the third phase of operations is to be commence by June 2009 as per the terms of the LA. The capital cost with reference to these equipment are, therefore, shifted to the year 2009-10.

(f). In addition to 2 RTGs proposed to be deployed in each of the phase II and III as per the LA, the ABGKCTL proposes to deploy 4 additional RTGs during each of the these phase. It has justified that in order to provide better terminal services at par with nearby private ports and to fulfill the ratio of 1:3 between RMQC & RTGCs, it is necessary to bring in more number of RTGCs for the terminal operations. It has not furnished any documentary support to substantiate this estimate. Since the proposed investment is not found to be as per the equipment deployment plan envisaged in the LA and in the absence of any documentary support furnished by the ABGKCTL, the capital cost estimated towards 4 additional RTGs are not considered in this analysis. Incidentally, even the KPT has not indicated any additional RTGs required to be deployed beyond the scope of the LA.

(g). The ABGKCTL has estimated capital cost of Rs. 10 crores each for development of earmarked 22 hectares of land and 18 hectares of land into Container Stack Yard. Of the total estimated capital cost for development of 22 hectares of land, Rs. 5.6 crores is capitalised in the year 2006-07 and balance in 2007-08. The ABGKCTL has not furnished any documentary evidence of any expense incurred under this head nor has indicated any action plan initiated by it in this regard. Most of the users have also reported out that no yard development work has been initiated by the operator.

It has to be recognised that the LA requires the licensee to develop the earmarked 22 hectares of land into container stackyard but does not stipulate any specific time limit for such development unlike time limit stipulated for deployment of equipment. Recognising that concrete steps initiated for development of 22 hectares of land is not reported by the operator, there is no reason for presuming the work would be completed within the remaining five months of 2007-08. Therefore, the capital cost with reference to this item is shifted to the year i.e. 2008-09 assuming that the earmarked area will be fully developed before third phase of operations is commenced in June 2009.

In the absence of any documentary support furnished, it is difficult to assess the reasonableness of capital cost estimated by the ABGKCTL. However, recognising that development of the earmarked area into Container Stack Yard is the requirement of the LA, it may, be necessary to reckon with this capital cost. Since no documentary evidence is furnished by the ABGKCTL, an adhoc reduction of 10% is done in the estimates furnished by the ABGKCTL. Accordingly, Rs. 9 crores is considered as capital cost in the year 2008-09 towards development of 22 hectares of land into CY.

On the same analogy, capital cost towards development of 18 hectares of land into CY is shifted to year 2009-10 at Rs. 9 crores recognising that the investment for the proposed civil work flows from the provisions in LA.

(h). ABGKCTL has estimated Rs. 200 lakhs towards development of office plus workshop which is spread over in 2006-07 and 2007-08 at Rs. 110 lakhs and Rs. 90 lakhs respectively. It has not furnished any documentary support of any work initiated for construction of office and workshop till September 2007. The estimate for this item is shifted to 2008-09. In the absence of any documentary support furnished by the operator to assess reasonableness of the estimate, 90% of the estimates furnished by the ABGKCTL is reckoned with for the purpose of this analysis.

(i). Actual capex of Rs. 12.96 lakhs is reported for leveling of 5 hectares of additional area taken on lease and it is supported by documentary evidence. The actual capex is recognised in the cost statement.

(j). Capital cost of Rs. 7 crores is estimated towards marketing office in Mumbai in the year 2006-07. Despite a specific advice to substantiate this estimate while approving the interim tariff, it has not furnished any concrete documentary support. Property rates Mumbai has been furnished to justify the estimated cost. The users have made strong objection on the capital cost estimated by the ABGKCTL under this head. In the absence of any concrete documentary support furnished by the ABGKCTL to validate the estimated cost and also recognising that the proposed investment is not envisaged in the LA, the capital cost estimated for marketing office in Mumbai is not considered in this analysis.

(k). The LA requires development of rail network by the ABGKCTL. Submissions made by the KPT also confirm this position. The ABGKCTL has estimated Rs. 155 lakhs in 2007-08 and Rs. 95 lakhs in 2008-09. As per the LA terms, the licensee has to make a request to the licensor to obtain this additional area. It has not mentioned about such a request made to the port. The KPT has assessed this investment after takeover of Berth No. 12. Recognising that the ABGKCTL has to commence the third phase of operations by June 2009, the capital cost estimated by the ABGKCTL is considered in the year 2009-10 after 10% moderation in line with the approach followed for other items when no documentary evidence is made available to assess the reasonableness of the estimates.

(l). As per Clause 2.9.11. of the revised tariff guidelines, in case of private operator, if the investment is made in accordance with the obligations under the concession agreement it will be considered for ROCE even if full capacity utilisation is not achieved. That being so, even though the traffic projections for the period under consideration do not commensurate with the capacity proposed to be created, investments proposed to be made in accordance with the obligations under License Agreement are considered in the tariff fixation process.

(m). (i). The ABGKCTL has considered the preliminary expenses as part of gross block of civil works. The preliminary expenses must be excluded from the gross block and shown separately. It is to be written off over the entire project period in line with the treatment given at other private terminals. ABGKCTL has not excluded of preliminary expense from the gross block of assets on the grounds that un-amortised preliminary expense is entitled for claiming return. Total preliminary expense estimated by the ABGKCTL over three phase is Rs.65.88 crores of which Rs. 10 crores is towards upfront fee as per the terms of the LA. Another two major items included in the preliminary expense are interest during the construction period and insurance during the construction period which are discussed in below.

(ii). Insurance during the construction period is estimated @ 1% per annum on the cumulative equipment cost deployed at the end of each financial year under the head preliminary expense. Apart from this, insurance cost is also estimated as a revenue expense. This amounts to duplication of part of the same cost element. Documentary support furnished for the year 2006-07 reveal that insurance premium is paid for testing of equipment for period of two months @ 1.08% per annum. Insurance during construction period should ideally not include insurance cost pertaining to the equipment which are already commissioned. Insurance cost during the construction period estimated by the ABGKCTL for the years 2007-08 to 2009-10 (upto June 2009) is, therefore, modified applying the rate of premium obtained from documentary support furnished by the ABGKCTL for the year 2006-07 on modified equipment cost.

(iii). Interest during construction period (IDC) estimated at Rs. 38 crores is also computed on cumulative cost of project till July 2009. As a result, IDC is claimed on the capitalised assets apart from claiming return on such investment. On being pointed out, the ABGKCTL has admitted that there is double counting and has reduced this estimate by Rs. 18.37 crores. It has, not furnished any detailed computation in this regard.

IDC is modified with reference to revised capital cost and the time frame for commissioning of assets as reported by ABGKCTL. The rate of interest @ 11% as estimated by ABGKCTL is maintained unaltered. Accordingly, modified IDC works out to Rs. 7.93 crores, which is considered in this analysis.

(iv). ABGKCTL has not furnished any documentary support with reference to lenders syndication fee, lenders upfront fee, EPGC concession guarantee, etc. estimated at around Rs. 11 crores under preliminary expense. It has made a general statement that these operating cost are expected to be incurred before commissioning of the project. It is relevant to mention that such items of expenses have not been not considered by other private terminals while fixing their tariff.

In view of this, and also recognising that estimates are not substantiated by any documentary evidence, these estimates are excluded from the head preliminary expenses.

(v). The modified preliminary expense is Rs. 19.27 crores. As mentioned earlier, preliminary expense is excluded from the gross block of civil works. The estimation of repairs and maintenance, depreciation, and insurance cost on civil works are modified to that extent.

The preliminary expense is spread over the remaining period of the project in line with the general approach adopted by this Authority in case of other private terminals. The un-amortised portion of preliminary expense continues to form part of capital employed on which return is allowed.

(n). The investment plan proposed by the ABGKCTL for the years 2006-07 to 2010-11 and the modified investment considered subject to the above analysis is tabulated below:

Rs. in lakhs

Sl. No.	Particulars	Nos	Furnished by ABGKCTL					Modified by us				
			2006-07	2007-08	2008-09	2009-10	Total	2006-07	2007-08	2008-09	2009-10	Total
1.	Equipment Cost											
(i).	Mobile Harbour Cranes	2	3903	0	0	0	3903	3717	0	0	0	3717
(ii).	Rail Mounted Quay Cranes	2 each in phase II & III	635	6347.25	5077.80	634.73	12694	00	6347.25	0	6347.25	12694
(iii).	Rubber Tyred Gantry Cranes New	2 each in phase II & III	97.65	976.50	878.85	0	1953	0	976.50	0	976.50	1953.00
(iv).	Rubber Tyred Gantry Cranes Used	4 each in phase II & III	97.65	878.85	0	976.50	1953	0	0	0	0	0
(v).	Reachstackers	4 in phase I	820.26	0	0	0	820.26	595.67	0	0	0	595.67
(vi).	Spreader Spare/ bars, reefer plugs, weigh bridge etc		124.12	22	0	0	146.12	124.12	22	0	0	146.12
(vii).	Tractor Trailer	12n nos in each phase	315	315	0	315	945	315	315	0	315	945
	Total Equipment Cost		**5992**	**8540**	**5957**	**1926**	**22415**	**4752**	**7661**	**0**	**7639**	**20051**
2.	**IT, office and Electrical Installations**		**27**	**194**	**85**	**70**	**376**	**27**	**194**	**85**	**70**	**376**
3.	Civil Works											
(i).	Gate and drainage		29	1	2	3	35	29	1	2	3	35
(ii).	Office + Workshop		110	90	0	0	200	0	0	180	0	180
(iii).	CY Leveling 5 Hec		0	0	0	0	0	13	0	0	0	13
(iv).	CY Leveling +compaction 22 hec & 18 hec	Phase II, phase III	560	440	760	240	2000	0	0	900	900	1800
(v).	Marketing Office at Mumbai		700	0	0	0	700	0	0	0	0	0
(vi).	Railways		0	155	95	0	250	0	0	0	225	225
(vii).	Consultancy - civil		Considered under preliminary expenses					47.78	47.78	47.78	15.93	159.27
	Total Civil works (excluding preliminary exp)		**1399**	**686**	**857**	**243**	**3185**	**90**	**48**	**1130**	**1144**	**2412**
4.	Gross Block of Assets		**7418**	**9420**	**6899**	**2239**	**25976**	**4869**	**7903**	**1215**	**8853**	**22840**
5.	Preliminary Exp											
(i).	Upfront Fee		1000	0	0	0	1000	1000	0	0	0	1000
(ii).	Other Preliminary Exp		1203	1590	1593	1200	5587	304	154	261	208	927
(iii).	Total Preliminary exp & upfront fee		2203	1590	1593	1200	6587	1304	154	261	208	1927
6.	Total project cost		**9621**	**11010**	**8492**	**3439**	**32563**	**6173**	**8058**	**1475**	**9061**	**24767**

(xvii). (a). It is seen from the workings furnished by ABGKCTL that the estimation of some of the elements of working capital is not in accordance with the revised tariff guidelines.

The limit on inventory of capital spares prescribed in the tariff guidelines is one year’s average consumption. The ABGKCTL being a new terminal, the quantum of one year's average consumption may not be available. The ABGKCTL has estimated the value of capital spares at three percent of the depreciated value of the Plant and Machinery and IT installation, etc. Accordingly, estimates of capital spares are moderated applying the stated percentage on the modified closing balance of the relevant assets.

The revised tariff guidelines stipulate that the limit for other items of inventory will be 6 months average consumption of stores excluding fuel. The ABGKCTL has adopted the approach of calculating the value of other items of inventory at 0.25% on the depreciated value of the Plant and Machinery and IT installation, etc. The estimates of capital spares are moderated applying the stated percentage on the moderated closing balance of the relevant assets.

Being a new terminal, the approach adopted by ABGKCTL is relied upon. The determination of allowable inventory in respect of capital spares and other inventory should be done strictly in accordance with the prescription made in the revised tariff guidelines in the next review of tariff of ABGKCTL.

The allowable cash balance for the years 2006, 2007 and 2008 is moderated as per the revised tariff guidelines.

(xviii). The capital employed subject to the modifications explained in the foregoing paragraphs works out about to Rs.135.19 crores, Rs.136.01 crores, Rs.206.18 crores and Rs.183.02 crores for the years 2007-08 to 2010-11 respectively.

(xix). (a). The capacity of the terminal in the initial proposal was assessed at 225000 TEUs, 300000 TEUs and 450000 TEUs per annum for the years 2007-08 to 2009-10 respectively. Subsequently, the capacity of the terminal for the year 2008-09 is scaled down maintaining it at the level assessed for the year 2007-08. Despite a specific request, the ABGKCTL has not furnished detailed computation of capacity with reference to the designed parameters of the facilities created or to be created in the relevant years and taking into consideration the expected berth productivity, gross crane productivity, stack productivity etc.

The capacity of quay crane has been considered as the limiting capacity for assessment of the terminals capacity.

The yard area may not be a limiting factor in the case of the ABGKCTL as the area earmarked for development of stack yard as per the terms of the LA appears to be far in excess of the traffic envisaged to be handled. However, recognising that the investment for development of 22 hectares and 18 hectares of land into container stackyard is in line with the obligations in the LA, it has been reckoned with in this analysis.

Average capacity of each quay crane is considered at 75,000 TEUs per annum for assessment of the capacity. This seems to be on lower side in comparison to capacity of more than 1 lakh TEUs per annum per quay crane assessed by other private terminals like the Gateway Terminal India Limited, Chennai Container Terminal Limited, etc.

The KPT has conveyed the capacity of the ABG Container Terminal at 290000 TEUs, 330000 TEUs, 390000 TEUs and 450000 TEUs per annum for the years 2007-08 to 2010-11 respectively. For the purpose of this analysis, the capacity of the terminal assessed by the land lord port is relied upon.

(b). Taking into account the modified traffic estimates and the capacity of the terminal at the level assessed by the KPT, the capacity utilisation of the terminal for the years 2007-08 to 2010-11 are at the level of 59.31%, 58.38%, 55.32% and 53.70% respectively. It can thus be seen that for all the years 2007-08 to 2010-11, 50% to 60% of the assessed capacity is only expected to be utilised. The revised tariff guidelines prescribes minimum capacity utilisation of 60% for claiming full ROCE. Clause 2.9.11. of the revised tariff guidelines stipulates that if the investment made by the private operator is in accordance with the obligations under the concession agreement it will be considered for ROCE even if full capacity utilisation is not achieved. In case of the ABGKCTL, only such investment which are in accordance of the LA is considered in this analysis. Hence, it is entitled for full ROCE @ 16% on the modified the capital employed as per the revised tariff guidelines even if utilisation of the capacity is below 60%.

(xx). Subject to the discussion, the cost statement has been modified. The modified cost statement is attached as **Annex-I**. The result disclosed by this statement is summarised as shown in the table given hereunder:

Rs. in lakhs

Surplus(+)/ Deficit (-) 2007-08		Surplus (+)/Deficit (-) 2008-09		Surplus (+)/ Deficit (-) 2009-10		Surplus (+)/ Deficit (-) 2010-11		Average Surplus(+) / Deficit (-) as a% of operating income at the proposed tariff level
(Rs. in lakhs)	As % of operating income at the proposed tariff level	(Rs. in lakhs)	As % of operating income at the proposed tariff level	(Rs. in lakhs)	As % of operating income at the proposed tariff level	(Rs. in lakhs)	As % of operating income at the proposed tariff level	
1790	30.92%	1304	19.76%	194	2.63%	456	5.51%	11.16%

The above statement shows the result for the full year of 2007-08 at the proposed tariff level. But, the ABGKCTL operated the terminal at interim tariff approved by this Authority which was 35% less than the proposed tariff level. The position pertaining to the period after October 2007 is only be relevant since revised tariff will have prospective effect. That being so, for arriving at the average surplus position, the revenue surplus for the year 2007-08 is considered for five months on prorata basis. Accordingly, the modified cost statement as per the above table shows an average surplus of around 11.16% for the years 2007-08 (five months period) to 2010-11 over the operating income estimated at the proposed tariff level.

In view of the surplus position depicted by the cost statement at the proposed tariff level, there is a case for reduction in the tariff level proposed by the ABGKCTL to the extent of say 11%. Accordingly, all the tariff items proposed by the ABGKCTL is reduced by 11%.

Some of the users have requested to maintain the tariff at the interim level. It is admitted that the final tariff fixed based on the estimates of the three years is higher than the interim tariff approved by this Authority in January 2007. That is because, while fixing the interim tariff, the investment level and cost position for the period of six months was considered since the ABGKCTL had not firmed up the estimates. The final tariff fixed in this exercise is based on the cost position obtained for the period 2007-08 (from November) till 2010-11 and taking into consideration the investment envisaged in the LA during this period. It may therefore not be appropriate to draw comparison of the interim tariff with the final tariff.
Subject to the decision to reduce the proposed tariff by 11%, the individual tariff items proposed by the ABGKCTL and the proposed conditionalities are discussed in the subsequent analysis.

(xxi). Based on our suggestion, the definition of the term ‘Container’ has been modified in line with the prescription at other private terminals. The other terms defined under ‘Definitions’ in the draft proposed Scale of Rates are found to be in accordance with the definition prescribed by this Authority in case of other private terminals.

(xxii). The proposed note no. (iii) (b). under general terms and conditions stipulates that the rate of penal interest on delayed payment by users or delayed refunds by the ABGKCTL shall be levied at 1.5% above the Prime Lending Rate (PLR) of SBI. The proposed note is modified to reflect the applicable penal rate of interest at 2% above the prevailing PLR of SBI as per clause 2.18.2 of the revised tariff guidelines. Accordingly, penal rate of interest 14.75% is prescribed in its Scale of Rates.

(xxiii). A premium of 25% is proposed on hazardous cargo containers over the applicable handling charges. This is in line with the revised tariff guidelines and hence is accepted.

It has also proposed 25% premium on over dimensional containers over the applicable handling charges. It is relevant to mention that this Authority has prescribed the premium at the stated level on handling charges of Over Dimensional Container in case of Chennai Container Terminal Limited, India Gateway Terminal Private Limited, PSA SICAL Terminal Limited, etc. Based on the position obtained at these terminals, the proposed conditionality to levy premium of 25% in case of Over Dimensional Containers over the applicable handling charges is accepted.

(xxiv). The revised tariff guidelines stipulates that the users will not be required to pay charges for delays beyond the reasonable level attributable to the port. The ABGKCTL has on our advice introduced a suitable note in this regard.

Since the berth hire charges for vessel handled by the ABGKCTL will be collected by the KPT as per the terms of the LA, the ABGKCTL has at our request incorporated a suitable conditionality in its Scale of Rates to state that in case a vessel idles due to non-availability or breakdown of shore based facilities of ABGKCTL or any other reasons attributable to ABGKCTL, rebate equivalent to berth hire charges payable to KPT accrued during the period of idling of vessels shall be allowed.

(xxv). The proposed note no. (ix) under general terms and conditions relating to levying of applicable taxes is not incorporated in the Scale of Rates since it is not a tariff item. The proposed note is, therefore, deleted from the revised Scale of Rates.

(xxvi). The tariff proposal of ABGKCTL is not based on activity-wise costing. The ABGKCTL has pleaded its inability to furnish activity-wise cost details. This case is, therefore, processed further without insisting for activity-wise costing. The ABGKCTL is advised to gear up its internal system so that it can draw its proposal supported by cost details of individual activity at the time of next review of its tariff.

(xxvii). The composite box rate proposed in the initial proposal did not include tariff for on-board stevedoring including lashing / unlashing and stowage planning. The LA requires the licensee to perform, undertake and provide comprehensive services in connection with the container terminal authorised to be undertaken by the port under Section 42 of the Major Port Trusts Act, 1963. The stevedoring activity is one of the services identified under Section 42 of the Major Port Trusts Act, 1963 and therefore, the rate is to be approved by this Authority.
The KPT has also confirmed that it is the ultimate responsibility of the ABGKCTL to offer the stevedoring services and has granted the Stevedoring License to the ABGKCTL. In view of the submissions made by the KPT and provisions in the LA, this Authority while approving interim tariff mentioned that the composite box rate is inclusive of on-board stevedoring services and advised ABGKCTL to come up with a suitable tariff arrangement for providing the stevedoring services in light of the observation made by this Authority.

The ABGKCTL has clarified that the rate for on-board stevedoring services is included in the revised proposed Scale of Rates. The revised proposed Scale of Rates, however, does not reflect this modification in the relevant conditionalities.

The relevant note no. 1 proposed in schedule 1.1.A. and schedule 1.2. are modified to state that the composite box rate is inclusive of on-board stevedoring including stowage planning, lashing / unlashing apart from other services mentioned therein.

(xxviii). The proposed note no. 1 under Section 1.1.A. and Schedule 1.2. does not explicitly state that the composite box rate is inclusive of wharfage apart from other services mentioned therein. The ABGKCTL has clarified that it does not propose to charge any separate wharfage. Based on the clarification furnished by the ABGKCTL, the proposed note no. 1 under Section 1.1.A. and 1.2. is modified to include wharfage as well in the list of services prescribed therein.

(xxix). The concessional tariff is proposed at 60% of the tariff of foreign containers on the composite box rates proposed for handling import / export containers, transhipment containers, restow container and hatch cover handling for coastal category. The proposed concessional rates for coastal containers are found to be in line with the Government policy guidelines, which is under review, and the prescription at other major ports / private terminals and hence is accepted subject to modification required to the extent of reduction suggested in the preceding analysis.

Concessional rates for transportation of container to rail flat from CY or vice versa, internal transportation, reefer related charges are proposed for coastal category. The Government policy guidelines do not require prescription of concessional tariff to coastal category for these services. The rates proposed by the ABGKCTL are, therefore, modified to that extent.

(xxx). The ABGKCTL has proposed to offer rebate in the composite rate, if the users make their own arrangement for carrying out various operations with the prior permission of ABGKCTL when the equipment of the ABGKCTL is not available for some reason. The rebates have been proposed taking into consideration the saving in variable cost and the rebates prescribed at other container terminals. The proposed rebate structure is approved subject to 11% reduction in line with the general decision for all tariff items.

(xxxi). The composite rate proposed for handling 20’ transhipment container is 1.5 times the charges for handling normal import / export container. The rate proposed for handling 40’ and above 40’ transhipment container is less than 1.5 times the relevant tariff proposed for handling normal import / export container. The differential in the rates proposed for handling of transhipment container is in compliance with the revised tariff guidelines.

(xxxii). The proposed note no. 2 in the Schedule 1.2. states that in respect of containers from foreign port landing at Indian Port A for subsequent transhipment to Indian Port B will be levied concessional charges relevant for its coastal voyage. The proposed condition is made explicit to state that in respect of containers from foreign port landing at ABGKCTL for subsequent transhipment to Indian port on a costal voyage or vice versa would be charged at 50 % of the transhipment charges prescribed for foreign going vessels and 50% of the transhipment charges prescribed for the coastal category in line with the policy direction of the Government and the general prescription at other private terminals / major ports.

(xxxiii). The charges proposed for pre-trip inspection and reefer run test in respect of reefer containers exclude charges for supply of power. It has clarified that the proposed rates are based on the market rate for the work involved and are optional services rendered only at specific request made by the user. The proposed rates are comparable to the rates prescribed at other private terminals like the Visakha Container Terminal Private Limited (VCTPL).

Charges for supply of electricity are proposed at Rs. 180/- for 4 hours for 20 feet container and Rs. 270/- for 40 feet container. It has not furnished any cost details to justify the proposed rates. The ABGKCTL has, however, submitted that the proposed rates are based on the power consumption, cost of the power and other relevant factors. The proposed rates are comparable with the rates prescribed at other private terminals like Visakha Container Terminal Private Limited (VCTPL), Gateway Terminal India Private Limited (GTIPL), etc. The proposed rates subject to reduction effected in all tariff items based on the position reflected by the cost statement is prescribed in its Scale of Rates.

(xxxiv).(a). Free dwell time for import container is proposed for 3 days, export container for 7 days, ICD containers and shut out containers for 15 days and 30 days in respect of transhipment containers. The revised tariff guidelines gives flexibility to the port / private operator to propose free period. The free period proposed by the ABGKCTL is, therefore, accepted.

In the initial proposal, free dwell time for import container was to commence from the day after the day of landing of the container in line with the revised tariff guidelines. Subsequently, in the revised proposal for ease of computation the said condition is modified to state that free dwell time for import container will commence from the day of completion of the discharge of the vessel. The Kandla Stevedores Association Limited (KSAL) agrees to the proposed modification in the conditionality. It is relevant to mention here that clause 5.8.2. of tariff guidelines stipulates a specific provision for computation of free dwell time for import / export container which is followed without any difficulties at any other private terminals in the country. The proposed note no. 1 in the Schedule 1.10. is, therefore, suitably modified to reflect the position contained in the relevant tariff guidelines and in line with the prescription at other private terminals / major ports.

(b). In the revised proposal, the ABGKCTL has proposed that storage period for shut out container shall be calculated from the day when the container enters the terminal till the day of shipment / delivery. It has clarified that the proposed modification is with a view that the terminal yard must be treated purely as a transit area and free storage period of 7 days are already available for export containers. Both the Kandla Port Steamship Agents Association (KPSAA) and Kandla Stevedores Association Limited (KSAL) have objected the proposed modification in the said conditionality. As rightly stated by the user associations, free period of a shut out container at other private terminals like CCTL, VCTPL, GTIPL, etc. commence only after the container is shut out. There is no extraordinary circumstance warranting a differential treatment in case of ABGKCTL. The proposed note is, therefore, modified restating the provision prescribed in its initial tariff proposal.

(c). A premium of 50% on the applicable storage charge was proposed in respect of hazardous and reefer containers in the initial proposal. Clause 5.7.3 of the revised tariff guidelines allows levying premium to the extent of 25% on the handling and storage charge in case of hazardous container. On being pointed out, the ABGKCTL has reviewed the proposed condition and proposed to levy 25% premium on the applicable storage charge in respect of hazardous. The revised proposed condition is in line with the tariff guidelines and hence is accepted.

(d). The ABGKCTL has proposed to levy thrice the normal applicable charges for storage in respect of Over Dimensional Containers (ODC). It has clarified that Over Dimensional Containers occupy more space horizontally and / or vertically than a 45 feet container. As per the revised tariff guidelines, storage charge for containers above 40' feet is to be prescribed at three times the tariff of 20 feet container. It has, therefore, proposed to levy three times the normal storage charge for ODC.

In this context it is relevant to mention that the Visakha Container Terminal Limited was the first private operator to have proposed storage charge on Over Dimensional Containers at 300% of the applicable storage charge on the ground that this category of container occupy more space than a normal container leading to loss of stacking slots of 2 to 14 normal containers. At that time, since no cost details was made available and VCTPL was the first terminal to have proposed such a tariff, and in the absence of any basis available, this Authority had prescribed the premium @ 25% as applicable for hazardous cargo. Notably premium @ 25% is prescribed on storage charge of Over Dimensional Container at other private terminals like the PSA SICAL, GTIPL, etc.

There, however, seems to be some force in the submissions made by the ABGKCTL. The operator needs to be compensated for the extra ground slot occupied by an Over Dimensional Container.

In case of CCTL, storage charge for Over Dimensional Container has been prescribed based on the actual number of ground slots occupied as proposed by the operator. Recognising that levy of storage charge must be based on the space occupied by the Over Dimensional Container, the proposed note no. 3. under Schedule 1.10. is modified in line with the prescription at CCTL.

(e). A note is proposed stating that in case of auction containers, if the auction is over, the empty containers will attract storage charges as empty containers from the day following the day destuffing is completed. The proposed provision is incorporated to discourage empty containers to remain in the premises for prolonged period after the auction. Based on the clarification furnished by the ABGKCTL and recognising that there has been no pointed objection from the users with reference to the said provision prescribed in the interim tariff approved by this Authority, the proposed condition is prescribed in its revised Scale of Rates.

(f). Flowing from the principle advocated in the revised tariff guidelines that the users must not be required to pay charges for delays beyond reasonable level attributable to the port / private terminal, the ABGKCTL has on our request incorporated a provision stating that storage charge shall not accrue for the period when ABGKCTL is not in a position to deliver / ship the containers when requested by the users.

(xxxv). In the revised proposed Scale of Rates, the ABGKCTL has proposed to incorporate a condition under Schedule 1.3. to levy the charges for lift on / lift off for placing, gangway by deploying the reach stacker at the request of the vessel. As rightly stated by the KPSAA separate rate for this service need to be prescribed without any linkage to lift on / lift off charges of the container. However, recognising that tariff for placing gangway using equipment of the operator is being proposed for the first time and it is an optional service offered at the request made by the user, the proposed tariff arrangement is approved. The ABGKCTL is advised to prescribe separate tariff for offering this service based on the cost of service provided in the next tariff review.

(xxxvi). Tariff proposed for shifting of container within vessel (restow) was inadvertently interposed in the initial proposed Scale of Rates. The rates for the first operation i.e. shifting of containers by landing it on the wharf and reloading should be more than the second operation i.e. shifting of container without landing on the wharf. Necessary corrections have been incorporated by the ABGKCTL in the revised proposed Scale of Rates which is accepted.

(xxxvii). Tariff for fixing /removal of seal, weighment of trailer are proposed 1.5 time and 2 times the 20' container in respect of 40' container and above 40' fee container. Tariff for these services will not vary with the size of the container. Hence uniform tariff at the level applicable for 20' container is prescribed in the Scale of Rates in line with the prescription at other terminals like the VCTPL.

(xxxviii). The charges for other services like visitor's entry pass, photography and vehicle entry pass are miscellaneous services hence is approved as proposed by the ABGKCTL. As regards entry fee for vehicle, the ABGKCTL has incorporated a suitable note stating that it will not be levied on vehicles entering / leaving ABGKCTL's terminal for delivery / despatch of container / cargo. This is in line with the prescription at other terminals like the South West Port Limited (SWPL), VCTPL, Vizag Seaport Limited and hence is accepted.

(xxxix). The revised tariff guidelines stipulated that tariff should be linked to benchmark of the level of productivity. The ABGKCTL was advised to indicate benchmark levels of productivity to be included in the Scale of Rates. The ABGKCTL has assured to prescribe benchmark levels of productivity on gaining some experience in the operations and taking into account the local and environmental condition on commissioning of full fledge project facilities. The ABGKCTL may accordingly be advised to incorporate a suitable scheme based on the experience gained in the operation while formulating its next proposal for review of tariff.

13.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the revised Scale of Rates of the ABGKCTL which is attached as **Annex-II**.

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

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

In this regard, the ABGKCTL is required to furnish to this Authority through KPT its Annual Accounts and performance report within 60 days of closing of the respective accounting year. If ABGKCTL fails to provide such information within the stipulated time limit, the KPT may initiate appropriate action against ABGKCTL. In the event, this Authority will proceed *suo motu* to review the tariff. This apart, analysis of variation will also be made at the time of the next general review at the end of the usual tariff validity period and full adjustment of additional surplus will be made in the tariff to be fixed for the next cycle.

(A.L. Bongirwar)
Chairman

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

F. No.TAMP/43/2006 – ABGKCTL - **Proposal from the ABG Kandla Container Terminal Ltd. for fixation of tariff for berths No.11 & 12 at Kandla Port Trust.**

1. The summary of comments received from the user / user organisations and comments of the ABG Kandla Container Terminal Limited (ABGKCTL) thereon are tabulated below:

Sl. No.	Comments of users / user organisations	Comments of ABGKCTL
1.	**Kandla Port Stevedores' Association (KPSA)**	No comments furnished.
(i).	The rates proposed by the ABGKCTL exclude stevedoring charges towards stowage planning, lashing/unlashing and on-board supervision. Stevedoring is main element/service to be attended by the terminal operators. If this is kept beyond the purview of TAMP it may give scope to cover up anything and may lead to complete monopoly for additional recoveries from trade under the guise of approved tariff. The operator may, therefore, be advised to submit stevedoring charges also.	(Though no specific reply is furnished by the ABGKCTL to their comments, this issue is raised by us separately and the ABGKCTL has given its reply.)
(ii).	Fixation of charges either provisional or fixed will not be in conformity with the services assured by the terminal operator, as the terminal is not yet set-up. Hence fixation of charges will be a pre-mature exercise.	
(iii).	The tariff for handling containerised traffic may be fixed considering the present expenses incurred by the exim trade.	
(iv).	The terminal operator has informed that certain expenses incurred by them are to be proportionately divided in minimum 15 years period by assessing the services, which can be rendered by the operators.	
2.	**Kandla Port Steamship Agents Association (KPSAA)**	
(i).	All the container line operators & vessel agents strongly feel that the proposed tariff is incomplete and immature looking at the present infrastructure and the work-in-progress. The tariff demands charges for a full-fledged terminal, which is still not in place.	No comments furnished.
(ii).	Several questions and doubts arise on various hidden unspecified expenses and charges proposed by terminal on every segment. It has requested to form a forum to discuss the rates and services.	
(iii).	Once KPT offers gantries, the feeder companies which presently charge higher slot hire from Kandla as compared to Mundra because of size of vessel can think of shifting to gearless vessels. This will reduce slot hire due to faster turn around and due to gearless vessels.	

<table>
<tr><td>(iv).</td><td>The importers/exporters will go wherever they have comforts of service and cost effectiveness. If the new Kandla terminal offers the same service like Mundra and Pipavav then based on the cost effectiveness the final port will be decided. Hence the tariff cannot be increased by more than 20% for laden and by 10% on empties on the present cost shown below. This will assist the KPT in retaining the present trade and encouraging the new trade to shift to them.

(for 20'container in Rs.)
<table>
<tr><th>Particulars</th><th>Cost of Export laden container</th><th>Cost of Import empty container</th></tr>
<tr><td>Lift on at yard and transportation to hook point</td><td>475 to 500</td><td>----</td></tr>
<tr><td>Transportation to Yard and lift off</td><td>----</td><td>350 to 375</td></tr>
<tr><td>Wharfage</td><td>600</td><td>120</td></tr>
<tr><td>On-board Stevedoring</td><td>800</td><td>800</td></tr>
<tr><td>Total</td><td>1875 to 1900</td><td>1270 to 1295</td></tr>
</table>
As against this, the lines are recovering about Rs. 2250 to Rs. 2500 all inclusive plus actual wharfage on loaded containers of Rs.600/-.</td><td></td></tr>
<tr><td>3.</td><td>Kandla Stevedores Association Limited (KSAL) and Kandla Custom House Agent's Association (KCHAA)</td><td></td></tr>
<tr><td>(i).</td><td>They have reiterated that the proposal is incomplete since it excludes stevedoring charges. In the absence of these charges the total cost of operations proposed by the ABGKCTL cannot be worked out. The operator may be requested to include stevedoring charges in its proposal to enable us to offer our comments.</td><td rowspan="2">No comments furnished.</td></tr>
<tr><td>(ii).</td><td>Investment figures and other details have been furnished for synchronising the tariff without providing the requisite infrastructure at initial stage to start the operations as per the terms of the L.A. Thus consideration of tariff on equipment likely to be commissioned will be an exercise of pre-mature nature. The proposal is incomplete and pre-mature in nature and needs to be dropped to save container trade at Kandla Port.</td></tr>
<tr><td>4.</td><td>Northern India Shippers Association (NISA)</td><td></td></tr>
<tr><td>(i).</td><td>There is no justification in the plea of the licensee for considering royalty/revenue share payable to the port as an item of cost and hence should not be considered at all.</td><td>The justification for royalty / revenue share to be taken into account as an item of cost has already been furnished to TAMP in the proposal.</td></tr>
<tr><td>(ii).</td><td>Investment of Rs.200 crores by Kandla Port should not be loaded to the tariff. This should either be absorbed by the Kandla Port itself or be treated as a long term interest free loan to ABGKCTL who should repay it out of their profits over a period of 15 to 20 years. Payment by ABGKCTL should be backloaded and no payment should be allowed during the initial years.</td><td>(a). It has no objection to this proposal provided the Kandla Port (KPT) gives us this Rs.200 crores upfront in cash and the same, as suggested, by NISA shall be backloaded and no payment shall be required during the initial years as suggested by NISA.

(b). Based on the scale of investments and other submissions made in the proposal, the investment of Rs.200 crores made by Kandla Port Trust should be considered for fixation of tariff.</td></tr>
</table>

(iii).	The submissions made by the ABGKCTL that the port is situated between private ports at Mundra and Pipavav does not synchronise with the free market economy. To compete with the two private ports, ABGKCTL will have to ensure better service and efficient functioning retaining low operating costs so as to maintain their viability.	It agrees with views expressed by NISA. It, however, requests for such freedom in order to maintain viability as well to be able to compete with Mundra and Pipavav and other such similar ports coming up in the vicinity, which are not in the purview of TAMP. This would ensure fair play and level playing field.
(iv).	Fears about declining container traffic at Kandla Port are genuine to some extent. The clause regarding throughput and minimum guarantees should have been included cautiously while drafting the License Agreement. A prudent step would be to remove any minimum guarantee throughput for atleast first five years. The ABGKCTL will in any case have to provide innovative services to attract users.	It agrees with the views of the NISA regarding the traffic and throughput. The Minimum Guarantee Throughput (MGT) requirement is very much a dagger on its head. It shall provide best quality service and innovate it to the extent possible. However, there are private container terminals surrounding it as well as other terminals, which are coming up. These terminals are not regulated by TAMP and are having total freedom in operation and fixation of tariff. Furthermore, these private container terminal operators do not have any MGT requirement.
(v).	The suggestion made by the ABGKCTL to reduce the vessel related charges of the KPT is welcomed and due consideration must be given to the same.	The KPT should drastically reduce the vessel related charges since the KPT shall be getting revenue share of 48.997% as well as upfront fee of Rs.10 crores as well as license fees from them in accordance with the terms/provisions of the License Agreement. The benefit should, therefore, be passed on by way of reduction in vessel related charges.
(vi).	It is assumed that TAMP would carefully examine the admissibility of depreciation to the extent proposed by the licensee.	No specific comments furnished.
(vii).	Care should be taken to ensure that there is no confusion with regard to services to be provided by licensor and the licensee and the collection of charges for the same.	No comments as it is bound by the provisions of the License Agreement.
5.	**Gujarat Chamber of Commerce and Industry**	
(i).	The terminal is not made operational so far though it was expected to commence from 1 November 2006 with first set of minimum equipment in place. Therefore, it is too early to fix the tariff at this stage.	No comments furnished.

2.1. A joint hearing in this case was held on 13 March 2007 at the KPT premises. The ABGKCTL made their slide presentation on its proposal and also submitted a hard copy of the same. At the joint hearing, ABGKCTL, KPT and the concerned users have made the following submissions.

ABG Kandla Container Terminal Limited (ABGKCTL)

(i). Our proposal is based on staggered investment.

(ii). We agree to absorb the on-board stevedoring cost in our composite tariff.

(iii). Our terminal is fully operational as per the Licence Agreement (LA). The LA envisages phasewise development.

(iv). Our yard is a transit storage yard. If 3-4 days of dwell time is maintained with enbloc movement, we are ready to handle the traffic volumes anticipated.

Kandla Stevedores Association (KSA) and Gandhidham Chamber of Commerce and Industry (GCCI)

(i). The KPT Board note indicates investment of Rs. 175 crores by ABGKCTL. It is not clear how ABGKCTL claims it to be Rs. 330 crores.

(ii). Till COD 12, the second berth can't handle gearless vessel, which has to essentially move to KPT berth.

(iii). Productivity and efficiency improvement are yet to be demonstrated.

(iv). KPT insists that ABGKCTL will provide shore based services irrespective of the place of berthing i.e. even at KPT berth. This is not as per Licence Agreement.

(v). In view of the above, the handling at KPT berths include only shore handling. So, please prescribe rates only for shore handing by ABGKCTL and not composite box rate.

(vi). Tariff should be made depended on phasewise investment to be made and volume built-up.

(vii). Till 9 March 2007, the containers stored at the yard paid US $0.5 per day after 7 days of free time. When ABGKCTL commenced its operations on 10 March 2007, rate of US $1.95 per day is being charged for storage at the same yard. The interim tariff is a steep increase over the earlier storage. If ABGKCTL's proposal is approved, it will lead to 500% increase.

(viii). The yard behind berth 11 is not at all developed so far. The proposed container storage can be levied only when the yard is ready.

(ix). The lines have already revised THC from Rs. 2300/- to Rs. 4500/- for 20' container. This is because of ABGKCTL's interim tariff. The final tariff will push cost to shippers tremendously high.

Kandla Custom House Agents Association (KCHAA)

(i). We endorse the views of GCCI.

The Container Shipping Lines Association (India) (CSLA)

(i). Lines welcome privatisation. If tariff needs to go up because of cost, it should also be ensured that it is coupled with efficiency improvement.

(ii). The terminal is not at all ready. It is unusual to allow tariff increase when operations are not on full scale.

(iii). TAMP has not allowed terminals elsewhere to increase tariff immediately on commissioning of truncated services. The same position applies here.

(iv). Revenue share / royalty cannot be a pass through. We fully endorse the TAMP's decision in this regard.

(v). The temporary storage yard of ABGKCTL is grossly inadequate to handle the traffic.

Kandla Steamship Agents Association (KSAA)

(i). We don't agree with the justification given by ABGKCTL for seeking pass through of royalty.

Kandla Port Trust (KPT)

(i). We will go strictly by the conditions of Licence Agreement. KPT will earnestly provide the seaside facilities.

(ii). We fully support ABGKCTL since the terminal will add to KPT's traffic and customer satisfaction.

2.2. At the joint hearing, the Federation of Port Users and Kandla Stevedores' Association has filed their written submissions which are summarised below:

Federation of Port Users & Kandla Stevedores' Association

(i). The proposal submitted by the ABGKCTL is not based on facts but it seems they rely on expectation of the equipment cost, civil construction cost and traffic to be handled at Kandla Port.

(ii). The provisional rates approved by the Authority may be allowed to continue subject to consideration of the following:

(a). The information furnished by the ABGKCTL for the year 2006-07 is not factual, since operations have been started by employing 2 mobile shore cranes from 10 March 2007 hence all figures estimated in Project Information Memorandum are only bare estimation on which finalization of tariff may not be just and fare.

(b). The ABGKCTL have desired that KPT should reduce vessel related charges in proportion to 48.997% of income to be received by KPT from ABGKCTL to bring reasonability to their tariff.

(iii). The ABGKCTL have till date brought only 2 mobile shore cranes and 3 top lifters which are not sufficient to justify the capital investment made by them also do not justify their claim of depreciation. They have also not yet fulfilled the requirement of item 4.2.1 and 4.3. of the project information memorandum. The projected results shown at 9.3 are also based on approximation, which do not have any base since operations have been started from 10 March 2007 only.

(iv). The ABGKCTL have at the initial stage preferred to work only at berth No. 11. Whereas as per proposal, berth Nos. 11 & 12 with 40 hectares of adjacent land is to be developed for the terminal. The composite rate prescribed at Rs.2275/- for 20' container includes lift-on lift-off and transportation of container from wharf to container yard. Rebate of Rs.747/-is also declared for the said activity if performed by the users. Their actual expenses are Rs. 747/- only for which they want recovery from user @ Rs. 2275/-. The other items also in fact carry equal margin of profit for ABGKCTL.

(v). The interim tariff approved by the TAMP may be allowed to be continued for a period of one year though it is not justified except for the material fact that they have to pay 49% to KPT. It is can also be seen that the quantum of leverage maintained by ABGKCTL in their proposal needs proper justification.

2.3. Subsequent to the joint hearing, the Container Shipping Lines Association (India) (CSLA) has filed written submission on the proposal under reference and interim tariff arrangement approved by this Authority as summarised below:

(i). As a matter of principle, the CSLA is perfectly prepared to consider price increases from operational sub-contractors provided the rates proposed are properly justified, there is clear evidence of cost saving initiatives on a continuing basis and increase in rates will bring improvements in the value for money proposition offered by the sub-contractor.

(ii). The proposal by ABGKCTL to increase rates should not be allowed until the terminal is ready in all respects to take over the container business being handled in Kandla port. There remains large number of unanswered questions about the way in which the terminal is to operate. It cannot be right that that the rates can go up when the modus operandi is unclear.

(iii). When other terminals are required to have atleast a working operation in place, before their rates are fixed, why this maxim is not applied to ABGKCTL. This would be inconsistent.

(iv). The ABGKCTL terminal in its currently understood modus operandi brings no substantive benefit in terms of value for money proposition.

(v). The request of ABGKCTL to admit revenue share as item of cost cannot be allowed, in line with the treatment accorded to other terminals. The government policy for the time being is quite clear on this point and there cannot be an exception in this case.

(vi) It is acknowledged that ABGKCTL is facing loss of business to MICT but it cannot be the reason to increase rates to compensate for loss of income. ABGKCTL and KPT must look to their own cost structure rather than simply trying to pass on this problem to the trade.

(vii). The ABGKCTL had made a valid point that marine costs need to be reduced. As has repeatedly been said by CSLA these costs are very high compared to neighbouring countries and need to be reviewed. It is acknowledged that Kandla's marine charges are lower than some other ports in India but they remain high by regional standards.

(viii). Handling rates must include on-board stevedoring and ship-planning services.

(ix). On the basis of the foregoing, the Lines believe that for the time being no increase should be allowed. Once current operational issues are resolved then clearly the terminal must be put in a position whereby it can make a profit, however it must take into account the competition that exists from Mundra.

(x). The container lines calling in Kandla are most seriously dissatisfied with the level of service that ABGKCTL is providing. The lines are complaining of serious delays to vessels, poor handling rates and little or no response from the staff and management of ABGKCTL. It is quite wrong for a terminal operator to on the one hand be applying for a significant increase in rates and on the other to be giving a service that is inferior to the previous operation.

(xi). It seems inappropriate that the Kandla Port Trust should continue to receive royalties from an organisation to which it has entrusted a part of its operation and which is now demonstrably giving an inferior service.

3. The revised proposal filed by the ABGKCTL was circulated to the concerned users to furnish their comments. A copy each of the comments received from the concerned users were forwarded to the ABGKCTL as feed back information. We have received comments from ABGKCTL on the points made by the users/user associations. The summary of comments received from the concerned users/user associations on the revised proposal and the comments of the ABGKCTL thereon are tabulated below as follows:

Sl. No.	Comments of users / user organisations	Comments of ABGKCTL
1.	**Kandla Port Steamship Agents Association (KPSAA)**	
(i).	**Productivity / Traffic:**	
	➢ ABGKCTL was entrusted terminal with desire to improve productivity and cost effectiveness of Kandla Port for container traffic. However after commencement of ABG terminal the volume has dropped by more than 40% which is also confirmed by ABGKCTL in its proposal. Many major lines have shifted their operation from Kandla to Mundra and more are expected to shift in near future.	(i). The KPSAA has not made any relevant comment except regarding traffic with which it concurs. The volume of traffic at its terminal has dropped and more liners are rumoured to shift in the near future, especially due to commissioning of one more deep draught container terminal at Mundra with full freedom from TAMP, Kandla Port Trust (KPT), other Central and Governmental agencies / authorities. Other than this the comments furnished by the ABGKCTL are as follows:

	➢ Trade is governed by cost effectiveness of terminals and the second container terminal at Mundra which is operative from next week will further, the competition with Kandla terminal for containers. ➢ Any increase in ABGKCTL container tariff will be detrimental to container traffic at Kandla and it will divert further traffic to other terminals. In fact the present interim tariff is on higher side as already submitted during the joint hearing. ➢ Prior to the ABGCKTL taking over the terminal, KPT used to handle average throughput of about 15,000 TEUS per month which culminates to about 180,000 TEUS per annum. However, ABGKCTL has proposed a lower than this volume even in the year 2010-11. This itself is absurd when Indian economy is growing and EXIM trade is bound to grow more than 14%. Correct evaluation of throughput will itself change the proportionate per unit cost.	(a). It is operating at 14 (fourteen) moves per hour per crane, which is 100% improvement over the previous method of handling by ships' gear. In this regard, it has furnished to TAMP letters of appreciation from existing (current) vessel operators which bears testimony and confirms satisfaction of customers. It is pertinent to note that none of the Shipping Lines are complaining about its productivity and, in fact, are commending its performance. (b). It reiterates that productivity at the terminal cannot be linked to volume. For instance at Visakhapatnam Container Terminal Pvt. Ltd. (VCTPL), the productivity is high, however, volume is still approximately 5000 TEUs per month despite aggressive marketing efforts. Therefore, the comments of the two Associations (i.e. KPSAA and KSAL) about diversion of the traffic from Kandla Port Trust due to productivity are not tenable. (c). The traffic projections submitted to TAMP are realistic. Competition is going to increase in the coming years due to commissioning of one more container terminal at Mundra. Due to this intense competition, it is forced to adopt a strategy of retaining the existing traffic first and thereafter look for new business. Its competitors have an edge over them in attracting new business due to their infrastructure, freedom and marine facilities. (d). The proposed tariff, based on the projected CAPEX, income and expenses indicated by its financial statements, is reasonable and lower than the tariff prevailing at the competing ports. If the proposed tariff is reduced it might not be possible to provide facilities as planned and this might further affect the productivity. The contention of the associations' for diversion of traffic due to increase in tariff is also not justified. The contribution of handling cost at the port in the overall logistics cost to shippers would be in the region of only 2-3% and hence, they may not even be worried about the tariff of any terminal. The selection of port by any shipper is based mainly on the infrastructure facilities at the port, availability of marine services, supporting infrastructure like CFS, road – rail connectivity to the hinterland, tariff, and incentives / volume discounts offered by the port / terminal. (e). Despite its competitors having higher tariff then them, they are still in an advantageous position of luring traffic because of the better marine services to their terminal, better marine infrastructure and connectivity to hinterland. Hence, the contention of the associations that increased tariff may lead to further fall in traffic is not correct.

		(f). It has two mobile harbour cranes to operate vessels. Whenever there are two vessels alongside. It deploys two mobile harbour cranes for one vessel and the other vessel has to operate with the vessel's gear. There is a provision in its SOR for giving rebate in such a case. It is known that the productivity by using ship's crane would be 50% of that by the mobile harbour crane. The allegation of drop in productivity when two vessels are alongside needs to be seen from this angle. Despite such a situation, its productivity is consistently at a level of 14 moves / hour / crane. In view of the better productivity at the terminal, it has requests from vessel operators for window arrangement for their vessels.
(ii).	Marketing office in Mumbai: Kandla trade has nothing to do with Mumbai office. Further the promoters have many other businesses which are also operated out of Mumbai. Hence attribution of extravaganza at Mumbai to the trade in Kandla is absurd. If this trend is promoted, tomorrow terminal will open offices abroad in Dubai and Singapore from where the major Kandla trade is controlled. All feeders calling into Kandla are mostly controlled from either Singapore or Dubai.	(a). Anyone in the maritime trade business will have an office at Mumbai as Mumbai is the capital of India's maritime trade. Further, all the container lines and vessel operators, the terminal operators like Port of Singapore Authority (PSA) and DP World (Dubai Ports World) have their HQ offices located in Mumbai. (b). The purpose of establishing its Corporate – Office and not just marketing office at Mumbai is basically, to liaison and interact with the existing customers which facilities decision making. Further, in order to meet the competition, it needs to have controlling office at Mumbai to attract further traffic as all the decision makers of major shipping lines and vessel operators who are stationed in Mumbai. (c). It strongly regrets the use of the word "extravaganza". In fact, the marketing office proposed shall not be extravagant but rather for the basic facilities needed for promoting its marketing efforts. (d). Its other companies operating from Mumbai have nothing to do with the proposed marketing office. It is not understood why our other business should subsidise the container terminal.
(iii).	**Project Cost:**	
	As per original tender condition, total costs of the project was Rs. 271 crores of which KPT would invest Rs. 116 crores and balance Rs. 155 crores was to be invested by the terminal operator. ABGKCTL in its proposal has estimated an investment of Rs. 330 crores, which is itself incorrect and misleading there by garnering more tariff from trade. As per the MOU, until COD 12 is achieved additional equipment costs cannot form part of Project Costs. However, in the proposal submitted, costs of all additional equipment is been attributed to the Project. The shortfall due to Minimum Guaranteed Traffic to port is considered as a cost. The promoters of the terminal had taken a calculated risk before quoting the guaranteed throughput	It will invest in phased manner the estimated project cost of Rs.330 crores. Accordingly, as required under L.A, it has invested in various stages like Early COD, COD 11 and COD 12. After the signing of License Agreement on 23 June 2006, it has been forced to opt for early COD by KPT in order to avoid diversion of traffic to the nearby terminals. In order to meet the commitments as per early COD, it has brought in two MHCs and four Reachstackers. It has also furnished a certificate from an independent Engineer to that effect. The argument of the association not to consider the additional equipments as project cast is not tenable as this is part of the project cost. As per TAMP guidelines, tariff is determined on the basis of the projections for the next three years. The request of the associations to take into account

	and the cost due to shortfall is purely attributable to them. It cannot be recovered from the trade which is using the terminal nor can the trade share the incompetencies of the terminal.	CAPEX only on equipment commissioned goes counter to guidelines. After the License Agreement is signed, the MOU cited by the Kandla Steamship Agents Association ceases to be of any relevance.
(iv).	As regards interest claim, correct invoices are not given to the trade by the terminal and hence payment is not received in time. It should be appreciated that none of the international shipping lines pay incorrect bills. Of late the terminal has started a system of advance payment and hence there is no question of such interest. Further, KPT SOR is separate and governed by Major Port Trust Act. ABGKCTL tariff is governed by a mutual and separate licensee agreement with a set of terms and conditions where interest charges to trade is nowhere specified. Hence there cannot be any argument for penal interest as claimed in para 2.9. of the proposal.	No specific comments furnished.
(v).	As per interim tariff, the storage charges are 219% higher than the then existing storage charges of the port. ABGKCTL has still not developed its yard and is using the same old land where the port used to store its containers. For same land how can some one charge more than 200%? In its revised tariff ABGKCTL is proposing an increase of 512% in storage charges when they have till date not invested a single rupee in the yard.	
(vi).	No international terminal calculates storage charges in case of shut out containers from the day it entered the terminal. Shut out storage charges has to be considered only from the day the shut out takes place.	
(vii).	Gangway placing charges has no relevance to lift on/off of containers. This has to be independent charge recoverable from the trade using such services.	
2.	**Kandla Stevedores' Association Ltd.**	
(i).	The Interim Tariff is in itself extremely high and is not commensurate with the level of investments made and operationalised by ABGKCTL, the level of services offered by ABGKCTL and the existing cost that prevailed at Kandla for similar operations. Further, based on the interim tariff approved by TAMP, the container yard (CY) terminal handling charges are proposed to be increased by 100%, storage charges by 290% without any investment being made on CY development. (As compared to the initial / original proposal, the container storage charges are proposed to be increased by 500 %.). The combination of these factors has diverted 40% of container traffic from the port. Therefore the tariff needs to be fixed much lower than the interim tariff.	KSAL has no role to play since there is no stevedoring activity in a BOT terminal. The stevedores are not concerned when a complete terminal is privatized and handed over to a BOT operator through a transparent global bid process. Except for the above, it has not furnished any specific comment on the comments of the KSAL.

(ii).	ABGKCTL as per its presentation during the joint hearing is claiming total investment of Rs. 330 crores. However as per Agenda notes of KPT Board of Trustees Meeting held on 18 August 2006, ABGKCTL is to invest Rs. 155 crores. This leaves a difference of Rs. 175 crores. To substantiate, the KSAL has furnished a copy of the agenda.	No specific comments furnished
(iii).	Till date, neither the two RMQC's have been operationalised nor is any CY development undertaken as envisaged in the LA.	
(iv).	There is nothing to prevent ABGKCTL to construct "Marketing Offices" at various cities in India and abroad and claim these as marketing activities of the Kandla terminal and thereby load this cost onto the Trade. The estimated cost of marketing office in Mumbai should absolutely not form a part of project cost.	
(v).	(a). The difference between KPT and ABGKCTL claim on project cost is to the tune of Rs. 175 crores. TAMP may enquire the correct position.	No specific comments furnished
	(b). It has referred to LA for the definitions relating to Project Cost, Additional Equipments. It is amply clear that the costs towards Additional Equipments, as listed in para 1.2 of Appendix IV, would not be considered as a part of Project cost since these equipments as per clause 4.2 of the LA are required only if the operator opts for Early-COD. There is, however, no binding on the operator to opt for Early-COD.	
	(c). In view of the above, it has requested TAMP to deduct the cost shown in the CAPEX statement towards Additional-Equipments for arriving at the Total Project Cost. The Total Project Cost must be derived as per actual cost incurred till date less (-) cost of additional equipment less (-) cost of equipments not operationalised till date prior to fixation of tariff.	
(vi).	Revenue Share	
	(a). Revenue share payable by ABGKCTL to port on the shortfall in throughput vis-à-vis the MGT cannot and should not be considered as admissible cost. The operator as per the LA has agreed to the MGT and any shortfall is solely due to the shortcomings of the operator who is fully responsible for the same and accordingly the consequences of the same are to be borne by the operator.	No specific comments furnished
	(b). In case revenue share on this shortfall in throughput is considered as admissible cost the basic logic of MGT would stand defeated, besides the operator not taking any measures to achieve atleast the MGT as per the LA.	
	(c). Entire revenue share cannot be considered as admissible cost as per the stated position of TAMP as the bidding process was completed after 29 July 2003.	

(vii).	Productivity	
	(a). The levels of productivity that ABGKCTL claims to have achieved are firstly not at all on a consistent basis. If such levels have been achieved, that too on very few occasions, it has been only with one container vessel working at berth and not two vessels simultaneously. The claim of productivity level having improved by 100% as compared to earlier is absolutely incorrect.	No specific comments furnished
	(b). It would be pertinent to highlight that at Kandla Port with the earlier conventional operations, a consistent productivity of between 15 to 20 moves per hour per Ship Crane (Import / Export) was achieved and importantly this was achieved with two Container vessels working simultaneously and at times with three Container vessels working simultaneously as well.	
	(c). Actually, the productivity has dropped drastically as compared to earlier when viewed with two vessels working simultaneously. This is one of the reasons for diversion of container traffic and drop in overall throughput. Level of service i.e. productivity besides others being abysmally poor coupled with high cost of trade has been the sole cause for diversion and drop in throughput.	
(viii).	Interest	
	(a). Collection of revenue against service provided is the sole responsibility of ABGKCTL. Failure to do so due lack of systems and instead blame the users for the same is incorrect, misleading and not a justification to allow reworking of interest payable to port by ABGKCTL. LA clearly specifies the rate of interest payable to port and accordingly ABGKCTL is bound by the same.	No specific comments furnished
	(b). Attempt to link the rate of interest payable by them to port as per the LA with that of the regular SOR of the port is absolutely not justified as these two cannot be linked and TAMP should not allow it.	
(ix).	Scale of Rates	
	(a). It has no objection to the proposed condition that dwell time on import containers will commence from day of completion of discharge of vessel, instead of existing provision.	No specific comments furnished
	(b). It does not agree with the proposed computation of free period for shut out containers. Containers are not moved into the yard in the belief that they will be shut out. Shut out of containers occur under exceptional circumstances. Hence, as is the practice all over, the storage period of a shut out container must only be counted from the time the container is shut out and not from the time when the container entered the terminal yard.	

	(c). Placement / removal of gangway cannot be compared in any way to Lift on or Lift off of container, hence proposed charges following this comparison would be incorrect. Separate charges for this activity may be prescribed but not in comparison to Lift on / off of a container.	
3.	**Kandla Port Stevedores Association (KPSA)**	No comments furnished.
(i).	It is true that container traffic is showing downward trend. The reason being non-availability of qualified manpower, technical hands and an aptitude for trade with ABGKCTL. This has resulted in heavy loses to the exim trade.	
(ii).	The income projection shows an increase of 20% at March 2001 whereas expenditure is projected at 100%, which is not factual.	
(iii).	Marketing office is not an expense to be considered as expenditure for running terminal at Kandla. Hence, it seems efforts are made to justify higher investment claimed.	
(iv).	Interest during construction: ➢ The total project cost shown is Rs.370.77 whereas project approved by the Board of Kandla Port Trust is for Rs.155 crores. The loan availed is not for use in terminal and hence interest element need not be considered for hypothetical loan figures. ➢ The interest on loan is claimed for their sister concern. However, if at all loan is justified then the rate is much heavier than market rate and hence needs to be ignored. ➢ It is also on record that investment made towards gantry crane is not yet gainfully utilized. The said crane is installed in June 2007 and the same is as on date idle. ➢ The terminal equity shown as Rs.99.23 is only to furnish figures. The real gainful investment is only for 2 RTG, 2 Q.C.-04-05, TOP LIFTERS- 20-25 trailors-trucks for which cost is hardly Rs.90.00 crores.	
(v).	The revenue sharing arrangement need not be considered as expenditure for working the cost of the terminal, as the same is part of competitive bid submitted by the operator for getting the allotment of terminal.	
(vi).	The item no.2(iv)(d) in the interim approved tariff relating to interest on delayed payments is not honoured by the Operator. The KPT, being a monopoly, instead is pressurizing the trade for not only making advance payment but have recorded these to be interest free deposits for rendering services.	
(vii).	The total income from handling 20' and 40' loaded containers and 20' and 40' empty containers is Rs. 35.66 crores whereas the income against these activities is shown at Rs. 49.36 crores. No justification is furnished for this mismatch. Further, coastal traffic has gone from Kandla on account of terminal operators' mis-management and anti-trade approach.	

3.	**Gandhidham Chamber of Commerce and Industry (GCCI)**	
(i).	The interim tariff is on very high side and is not commensurate with the level of investments made and operated by ABGKCTL and the level of services being offered by the company. At the same time, the cost is too high compared to the services provided by the Kandla Port Trust. These factors have led to diversion of about 40% of the container traffic elsewhere since commissioning of the operations by ABGKCTL.	No comments furnished.
(ii).	To ensure that further erosion in container traffic does not take place, the tariff must be fixed at much lower level as compared to the interim tariff. The proposal of the ABGKCTL, therefore, does not merit consideration, as the same is unjustified and untenable.	
(iii).	The trade is governed by the principle of cost effectiveness of terminals. The second container terminal at Mundra will pose serious threat to the Kandla Terminal, as charges there are much lower. Any increase will be detrimental to the port users and it may result in diversion of the traffic.	
(iv).	Apart from this, it has reiterated the submission made by other user associations.	