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

TARIFF AUTHORITY FOR MAJOR PORTS

G No. 187 **New Delhi, 4 September, 2012**

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the Proposal from the Mumbai Port Trust for levy of Cargo Management Charges on containers for the services rendered at its CFS as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
No. TAMP/11/2012–MBPT

Mumbai Port Trust **---** **Applicant**

O R D E R
(Passed on this 8th day of August 2012)

This case relates to a proposal dated 23 February 2012 received from the Mumbai Port Trust (MbPT) for levy of cargo management charges on containers for the services rendered at its Container Freight Station.

2.1. The Indira Container Terminal Private Limited (ICTPL) in December 2010 made a representation to this Authority relating to wrong collection of wharfage, demurrage charges, etc. by Mumbai Port Trust (MbPT) on containers handled at its BPS terminal in MbPT. This reference of ICTPL was registered as a tariff case and this Authority disposed of the case by passing an Order No.TAMP/17/2011-ICTPL dated 29 June 2011 which was notified in the Gazette of India on 11 July 2011 vide Gazette No.141.

2.2. This Authority in its Order dated 29 June 2011 has, inter alia, approved the charges for cargo management services rendered by MbPT at its CFS, by amending the relevant provisions of the then existing Scale of Rates of MbPT, as an interim arrangement, for a period of six months from the date of notification of the Order, i.e. valid upto 10 January 2012. The Authority also advised the MbPT to come up with a well analysed proposal for levy of separate cargo management charges for the services provided by the port at its CFS, duly justified by cost details, within a period of three months from the date of notification of the Order.

2.3. Subsequently, at the request of MbPT, this Authority extended the interim tariff for cargo management services approved vide Order dated 29 June 2011 twice, viz. first vide Order No.TAMP/17/2011/ICTPL dated 27 January 2012 for a period of 3 months up to 10 April 2012 and thereafter vide Order No.TAMP/17/2011/ICTPL dated 9 April 2012, upto 29 June 2012, subject to the condition that if the rates to be approved by this Authority on the cost based proposal to be filed by the MbPT in this regard are lower than the rates prescribed by way of interim tariff arrangement, the MbPT shall refund the difference, being the excess amount collected by it from 11 January 2012, to the concerned parties.

3. In this backdrop, the MbPT vide its letter dated 23 February 2012 has filed the proposal for levy of Cargo Management Charges (CMC) for the services provided by MbPT at its Container Freight Station (CFS). The main points made by the MbPT in its proposal are summarized below:

(i). The activity-wise expenditure for the services rendered towards the levy of existing (interim) CMC, prescribed at clause 7 (a) to 7 (d) of Chapter-5H of the Scale of Rates of MbPT, could not be ascertained.

(ii). Considering the expenditure for CMC and total TEUs handled for the year 2010-11, CMC works out to ₹2079/- per 20' container and ₹4178/- per 40' container. The details furnished by the MbPT for the year 2010-11 are summarized in the table given below:

(₹ in lakhs)

Sl. No.	Particulars	Demurrage	Stuffing/ destuffing	Storage Fees	Wharfage on container cargo	Total
1.	**Income**	**729.00**	**200.34**	**603.84**	**1104.36**	**2637.54**
2.	**Expenditure**					
(i).	Direct cost	394.51	108.42	326.77	597.63	1427.33
(ii).	Overheads	161.78	44.46	134.01	245.09	585.34
(iii).	FME	311.21	85.53	257.78	471.46	1125.98
(iv).	ROCE	8.00	2.20	6.62	12.11	28.93

	Total (i) to (iv)	**875.50**	**240.61**	**725.18**	**1326.29**	**3167.58**
3.	**Deficit (1) minus (2)**	**-146.50**	**-40.27**	**-121.34**	**-221.93**	**-530.04**
4.	**Actual traffic in TEUs**				**63788**	
5.	**Cost per TEU based on total wharfage cost**				**₹2079.22**	

[However, it has not furnished the basis on which different items of expenses have been identified with or apportioned to the tariff item wharfage on containerized cargo in arriving at the total expenditure of ₹1326.29 lakhs. The MbPT, subsequently, vide its letter dated 1 June 2012 stated that the aggregate cost of CFS is apportioned to the different activities / services at CFS on the basis of income of respective activities.]

(iii). It is proposed to levy the CMC, as stated above, for containers handled at CFS / Docks prestack and 1 Unclear Warehouse ID, besides the containers received at MbPT CFS by road from JNPT.

(iv). The proposal has been approved by the Board of Trustees of MbPT. (The port has furnished a copy of the Trustees' Resolution).

(v). The MbPT has furnished projections of traffic, income at the proposed level of tariff and expenditure for the next three years, viz. 2011-12 to 2013-14. The details furnished by the MbPT for the years 2011-12 to 2013-14 are summarized in the table given below:

Sl. No.	**Particulars**	**Estimates (₹ in lakhs)**		
		2011-12	**2012-13**	**2013-14**
1.	Traffic (in TEUs)	**54007**	**59408**	**65349**
2.	Income from levy of CMC at proposed level of tariff	**1125.95**	**1238.54**	**1362.40**
3.	Direct cost (including depreciation)	1512.36	1602.50	1697.48
4.	Administrative cost and management overheads (apportioned)	613.55	643.44	675.15
5.	Finance & Miscellaneous Expenses (Pension Contribution & PLB/PR)	1125.98	1125.98	1125.98
6.	Capital employed	170.68	160.54	150.95
7.	Return on Capital Employed @ 16%	27.31	25.69	24.15
8.	Total cost (including ROCE)	**3279.20**	**3397.61**	**3522.76**
9.	Deficit after ROCE	**-2153.25**	**-2159.07**	**-2160.36**
10.	Deficit as a % of income	**-191%**	**-174%**	**-159%**
11.	Average deficit as a % of income		**-174%**	

[The income projections for the next three years 2011-12 to 2013-14 reckons the income from the proposed cargo management charges for the estimated throughput. But, the expenditure projections for the next three years are based on the total actual expenditure of 2010-11 which also includes expenditure relating to other tariff items, viz. demurrage, stuffing / destuffing charges and storage charges, resulting in a mismatch in the basis adopted by the port in considering the income and expenditure for the next three years. The MbPT, subsequently, vide its letter dated 1 June 2012 furnished the projected expenditure for the next three years for 'wharfage on containerized cargo activity'.]

(vi). The MbPT has also furnished a statement giving details of gross block, depreciation and net block of fixed assets for the capital employed considered by it for the levy of proposed CMC.

(vii). The MbPT has requested to approve the rate of ₹2079/- per 20' container and ₹4178/- per 40' container as Cargo Management Charges for containers handled at CFS / Docks prestack and 1 Unclear Warehouse ID, besides containers received at MbPT CFS by road.

4. In accordance with the consultative procedure prescribed, the proposal of MbPT was forwarded to the Indira Container Terminal Private Ltd. (ICTPL), the private terminal operator at MbPT and relevant users/ user organizations for their comments. Subsequently, the proposal of MbPT was also forwarded to the additional users / organisation bodies as per the list furnished by the MbPT. The comments received from ICTPL and users / user organisations were forwarded to MbPT as feedback information. The MbPT has also furnished its remarks on the comments of the ICTPL and users / user organisations.

5.1. Based on a preliminary scrutiny of the proposal, the MbPT was requested to furnish additional information / clarifications on various points. The MbPT has furnished its response. The queries raised by us and the response of the MbPT are summarised below:

<table>
<tr><th>Sl. No.</th><th>Queries raised by TAMP</th><th>Response of MbPT</th></tr>
<tr><td>(i).</td><td>The Authority in its Order dated 29 June 2011 requested the MbPT to file a well analysed proposal for levy of separate cargo management charges for the services provided by the port at its CFS, duly justified by cost details. The MbPT has stated that it could not ascertain the costs related to services rendered to various categories of containers. The proposal simply computes wharfage on containerized cargo based on apportionment of direct cost, overheads, finance & miscellaneous expenditure and return on capital employed for the year 2010-11 towards ‘wharfage on containerized cargo’ and conversion of the same into box rate based on the container traffic handled in the year 2010-11. The proposal filed by MbPT does not even contain any cost analysis of various services rendered by the port at its CFS. In the absence of identification of services rendered by the MbPT at its CFS and the costs associated with such identified services, it may not be possible for the Authority to appreciate the reasonableness of the proposed rate for cargo management services rendered by the MbPT at its CFS. The MbPT to review its proposal following the directions given by this Authority in its Order dated 29 June 2011.</td><td rowspan="2">(a). The MbPT has stated that a list of various services rendered at the CFS is furnished. (The MbPT has reproduced the activity flow charts furnished by it for various types of containers, at our request, during the proceedings of Order dated 29 June 2011.) The details furnished by the MbPT are brought in the subsequent paragraph.

(b). The expenditure incurred on the CFS during the year 2010-11 furnished by MbPT is given below:

<table>
<tr><th>Operating expenditure at STP & MOD</th><th>2010-11</th></tr>
<tr><td>Operating salaries & wages</td><td>788152.00</td></tr>
<tr><td>Operating stories</td><td>-</td></tr>
<tr><td>Repairs and Maintenance</td><td>-</td></tr>
<tr><td>Salaries & Wages (R&M)</td><td>2262682.50</td></tr>
<tr><td>Stores (R&M)</td><td>200864.46</td></tr>
<tr><td>Sundry (R&M)</td><td>145858.00</td></tr>
<tr><td>General Expenses</td><td>-</td></tr>
<tr><td>Sundry Expenses</td><td>-</td></tr>
<tr><td>Water charges</td><td>616000.00</td></tr>
<tr><td>Electricity</td><td>318690.01</td></tr>
<tr><td>Other sundry expenses</td><td>15390.13</td></tr>
<tr><td>Inter Department expenses</td><td>-</td></tr>
<tr><td>Security Staff deployed at MOD (S&W)</td><td>10687934</td></tr>
<tr><td>Security staff deployed at STP (S&W)</td><td>12023926</td></tr>
<tr><td>Expenditure on TM staff deployed at MOD, STP etc.</td><td>114659532</td></tr>
<tr><td>Depreciation</td><td>1014224</td></tr>
<tr><td>Direct Cost</td><td>142733253</td></tr>
<tr><td><u>Apportioned Cost</u></td><td></td></tr>
<tr><td>Administrative cost</td><td>11517446</td></tr>
<tr><td>Allocation of Management overheads</td><td>47016167</td></tr>
<tr><td>FME – Pension contribution and PLB / BR</td><td>112598384</td></tr>
<tr><td>Return on Capital Employed</td><td>2893120</td></tr>
<tr><td>TOTAL COST</td><td>316758369</td></tr>
</table>

(c). The expenditure on CFS and expenditure related to CFS has been worked out and income from CFS activities has also been considered in the cost sheet. The facilities at CFS are common for all activities at CFS. The cost related to individual services cannot be ascertained as cost related to staff and assets are not exclusive for each type of services. Hence, the aggregate cost of CFS is apportioned on the basis of</td></tr>
<tr><td>(ii).</td><td>As seen from the draft Scale of Rates, the MbPT has proposed a uniform rate of cargo management charges at ₹2079/- per TEU for all categories of import / export containers. For</td></tr>
</table>

	the reasons recorded in paragraphs 9 (ix) to (xi) of Order dated 29 June 2011, the Authority approved different rates of cargo management charges for different categories of containers based on the flowchart showing sequence of activities involved in respect of each category of containers furnished by MbPT. Therefore, the MbPT to justify the uniform rate proposed by it for all categories of containers without recognising the different services availed by different category of containers.	income of major activities at CFS such as storage, stuffing / de-stuffing and demurrage and wharfage on containerised cargo. The income and expenditure of the activities of storage, stuffing / destuffing and demurrage have been excluded from the total income and expenditure of CFS and residual cost has been considered for the Cargo Management Charge (CMC). As the services rendered for different categories of containers and the staff rendering the services are more or less the same, to attract container traffic at this port, a uniform rate of CMC has been proposed.
(iii).	The MbPT has included containers handled at "Docks prestack" and "1 Unclear Warehouse ID" in the scope of levy of proposed cargo management charges. The MbPT to establish that all the container / containerized cargo related services rendered at its CFS are also rendered at the "Docks prestack" and "1 Unceared warehouse ID".	The services rendered at Docks prestack and 1 UC W/H ID for destuffed delivery or loaded deliveries of cargo are similar to that of CFS.
(iv).	As MbPT is aware, the exercise on hand is confined to fixation of cargo management charges for the containers handled by the port at its CFS, which are not handled by the port at its berths and the MbPT would continue to levy the commodity wise wharfage charges on the cargo inside the containers handled by the port in its berths. Since the CFS or other places covered under the scope of the present proposal may be common for both the containers handled by MbPT at its berths as well as containers received from ICTPL / JNPT, the MbPT to confirm that the share of the expenses and assets pertaining to containers handled by the MbPT at its berths are excluded from the expenses and assets considered under the subject proposal.	The containers handled by MbPT in its berth are negligible. The facilities at CFS are used mostly by containers received from ICTPL and Jawaharlal Nehru Port Trust (JNPT). Therefore, share of the expenses and assets pertaining to containers handled by MbPT at its berth are not excluded. (The MbPT has not furnished the details of actual container traffic handled by it at its berths during the year 2010-11). The MbPT has furnished the details of expenditure considered for cargo management proposal based on actuals for the year 2010-11. (The details are already brought out at Sl. No.(i) above.) Out of some aggregate income and expenditure of CFS (MOD, STP), income and expenditure related to services such as demurrage, storage & stuffing / destuffing has been excluded and residual income and cost has been considered for CFS.
(v).	The MbPT has furnished income projections from the levy of cargo management charges for the years 2011-12 to 2013-14 at the	The MbPT has furnished the income projection and expenditure projection for all activities for the years 2011-12 to 2013-14. A summary of income and expenditure projections furnished by MbPT for all the

	rates proposed by it. Since the expenditure projections for the corresponding years include expenditure in respect of other sub-activities also, no link could be established between the income projections and expenditure projections for the years 2011-12 to 2013-14. The MbPT to clarify the position and justify the rate proposed.	sub activities under CFS are tabulated below: **Particulars** | **Demurrage** | **Stuffing / Destuffing** | **Storage Fee on cargo** | **Cargo Mgmt Charge** | **Total** **2011-12** Income Projections | 617.22 | 169.62 | 511.25 | 1125.95 | 2424.04 Expenditure Projections | 881.64 | 242.29 | 730.27 | 1335.59 | 3286.11 Deifict | -264.42 | -72.67 | -219.02 | -209.64 | -862.07 **2012-13** Income Projections | 678.94 | 186.58 | 562.38 | 1238.54 | 2666.44 Expenditure Projections | 894.21 | 245.74 | 740.69 | 1354.64 | 3411.85 Deifict | -215.27 | -59.16 | -178.31 | -116.10 | -745.41 **2013-14** Income Projections | 746.84 | 205.24 | 618.62 | 1362.40 | 2933.10 Expenditure Projections | 907.44 | 249.38 | 751.64 | 1374.67 | 3544.76 Deifict | -160.60 | -44.14 | -133.02 | -12.27 | -611.66 The details of income and expenditure projections furnished by MbPT in respect of Cargo Management Charge for the years 2011-12 to 2013-14 is given below: (₹ in lakhs) **Sl. No.** | **Particulars** | **Cargo Management Charges** 2011-12 | 2012-13 | 2013-14 **I** | **Income from CMC (at proposed tariff level)** | 1125.95 | 1238.54 | 1362.4 **II** | **Expenditure Projections** 1. | Expenses on CFS (STP & MOD) | 19.30 | 20.45 | 21.68 2. | Security staff deployed at MOD & STP (S&W) | 100.80 | 106.85 | 113.26 3. | Expenditure on TM Staff deployed for CMC | 471.46 | 471.46 | 471.46 4. | Depreciation | 4.25 | 4.25 | 4.01 **5.** | **Direct Cost (1+2+3+4)** | **595.80** | **603.01** | **610.41** 6. | Overheads | 256.90 | 269.41 | 282.69 7. | FME | 471.46 | 471.46 | 471.46 8. | ROCE | 11.43 | 10.76 | 10.11 **9.** | **Total Expenditure** | **1335.59** | **1354.64** | **1374.67** **10.** | **Deficit** | **-209.64** | **-116.10** | **-12.27** The expenditure projection for the next three years has been increased by 6% (considering escalation factor) and income projection for other sub-activity has been increased based on traffic.
(vi).	(a). The MbPT has reported actual traffic for the year 2010-11 as 63,788 TEUs, which has been considered to arrive at the proposed rate. As per details of traffic furnished by MbPT, 17,367 TEUs out of 63,788 TEUs are reported to be relating to JNPT, leaving a balance of 46,421 TEUs. It is presumed that these 46,421 TEUs relate to ICTPL containers. If so, during the proceedings relating to recent general revision of tariff at ICTPL, the MbPT has reported the actual traffic handled by ICTPL in the year 2010-11 at 51,224 TEUs, vide its letter No.FA/ACC/254/2527 dated 14	The MbPT has furnished the following details of total TEUs handled by it at CFS during the year 2010-11: **2010-11** | **TEUs** Import | 36095 Export | 10326 JNPT | 17367 **Total** | **63788** The ICTPL handled the total TEUs 51224 included TP containers, i.e. 14920 TEUs (as per ICTPL Form-2A) during the year 2010-11. Thus, number of containers not availing the CFS facility from ICTPL are 14920. (The containers handled by ICTPL, excluding TP containers works out to 36304 TEUs (51224 minus 14920) for the year 2010-11. The total containers handled by MbPT excluding JNPT containers works out to 46,421 TEUs, leaving a balance of 10,117 TEUs

<table>
<tr><td></td><td>March 2012. The MbPT to clarify the reasons for considering the traffic (other than JNPT containers) for the year 2010-11 at a lower level of 46,421 TEUs for computation of rate in the subject proposal.</td><td>(46421 minus 36304). In the absence of break-up details furnished by MbPT in terms of containers handled by ICTPL, JNPT and MbPT reconciling with the total container traffic of 63,788 TEUs reported by it, the balance of 10,117 TEUs remains unexplained).</td></tr>
<tr><td></td><td>(b). The Annexure-I of the proposal filed by MbPT gives details of actual income for the year 2010-11 from demurrage, stuffing & destuffing, storage on cargo and wharfage on containerised cargo. Likewise, the said Annexure-I also gives details of expenditure apportioned to demurrage, stuffing & destuffing, storage on cargo and wharfage on containerised cargo for the year 2010-11. However, the proposed rate of ₹2079/- is arrived at only considering the expenditure relating to 'wharfage on container cargo'. Further, the break-up of actual expenditure for the year 2010-11 (furnished in Annexure-II) are aggregate expenses in respect of demurrage, stuffing & destuffing, storage on cargo and wharfage on containerized cargo. In other words, the proposal of MbPT does not give breakup for actual expenditure of ₹1326.29 lakhs under ‘wharfage on containerized cargo’ for the year 2010-11 in terms of items of expenditure reported in Annexure-II. In this context, the MbPT to clarify / furnish the following:</td><td>---</td></tr>
<tr><td></td><td>(i). In the recent general revision of Scale of Rates of MbPT decided by this Authority vide Order dated 11 October 2011, the actual financial / cost position for the year 2010-11 was considered in the cost statements for various activities / sub-activities. The MbPT to furnish a reconciliation statement linking the actual income / expenditure for the year 2010-11 reported in Annexure-I towards wharfage on containerized cargo with the actual income / expenditure considered under relevant activity in the general</td><td>(a).The storage charges, demurrage charges and stuffing / destuffing charges are recovered as per the SOR of MbPT whenever services are provided. The income and expenditure of (container activity) storage charges, stuffing / destuffing and wharfage charges (now CMC) is part of the service General Cargo handled at the Docks. Demurrage is considered under the Uncleared Warehouse service.

(b). The reconciliation statement linking the actual income / expenditure for the year 2010-11 is furnished. The details of income reconciliation furnished by MbPT are summarized in the table below:

<table>
<tr><th>Particulars</th><th>Demurr-age</th><th>Stuffing / De-stuffing</th><th>Storage Fee on cargo</th><th>Wharf-age</th><th>Total</th></tr>
<tr><td colspan="6">2010-11</td></tr>
<tr><td colspan="6">I - As per General Revision proposal</td></tr>
<tr><td>Income Included under</td><td>--</td><td>200.34</td><td>603.84</td><td>1104.36</td><td>1908.54</td></tr>
</table>
</td></tr>
</table>

	revision proposal.	

sub-activity General Cargo at Docks					
Income Included under sub-activity Uncleared Warehouse	1607.30	--	--	--	1607.30
Total	1607.30	200.34	603.84	1104.36	3515.84
II - As per Reconciliation furnished with Cargo Management Charges proposal now					
Income Included under sub-activity General Cargo at Docks	--	200.34	603.84	1104.36	1908.54
Income Included under sub-activity Uncleared Warehouse	729.00	--	--	--	729.00
Total	729.00	200.34	603.84	1104.36	**2637.54**
Difference (I - II)	878.30	--	--	--	878.30

(The MbPT has not explained the reasons for short consideration of income to the tune of ₹878.30 lakhs in the CMC proposal).

The details of reconciliation of expenditure furnished by MbPT are summarized in the table below:

Particulars	**As per General Revision proposal**	**As per CMC proposal**	**Difference**
Total Expenditure+ ROCE Included under sub-activity General Cargo at Docks	36599.16	3167.58	33413.58
Total Expenditure + ROCE Included under sub-activity Uncleared Warehouse	4377.10	--	4377.10
Total	40976.26	3167.58	603.84
Income Included under sub-activity General Cargo at Docks	--	200.34	603.84
Income Included under sub-activity Uncleared Warehouse	729.00	--	--
Total	729.00	200.34	603.84
Difference (I - II)	878.30	--	--

(The MbPT has not furnished reasons for the difference and the figures as per General Revision proposal are not reconciled with the actuals considered in the General Revision proposal under the relevant sub activity).

	(ii). Relevance of the income / expenditure details relating to demurrage, stuffing & destuffing and storage reported in Annexure-I in determination of the proposed rate.	The activities demurrage, stuffing /destuffing, storage fees and wharfage on containerised cargo are a part of container handling activity, carried out at the CFS. The aggregate cost of CFS represents cost towards all these activities. The cost of CFS represents cost towards all these activities. The cost of activity representing CMC is arrived after apportioning total cost to all activities on the basis of income of respective activity.

<table>
<tr>
<td></td>
<td>(iii). The actual expenditure of ₹1326.29 lakhs for the year 2010-11 towards ‘wharfage on containerized cargo’ comprises, inter-alia, direct cost of ₹ 597.63 lakhs. The MbPT to furnish the breakup for direct cost in terms of expenditure on shed/ open area for storage of containers & containerized cargo at MOD and STP, expenditure on security staff and TM staff deployed at MOD and STP and depreciation to match with the direct cost of ₹ 597.63 lakhs.</td>
<td>The MbPT has furnished the break up for the actual expenditure of ₹.1326.29 lakhs for the year 2010-11 towards wharfage on containerised cargo, which is given below:
(₹ in lakhs)
<table>
<tr><th>Sl. No.</th><th>Description</th><th>For CMC 2010-11</th></tr>
<tr><td></td><td><u>Expenditure</u></td><td></td></tr>
<tr><td>1.</td><td>Expenses on CFS (STP&MOD)</td><td>18.20</td></tr>
<tr><td>2.</td><td>Security Staff deployed at MOD & STP (S&W)</td><td>95.10</td></tr>
<tr><td>3.</td><td>Expenditure on TM Staff deployed for CMC</td><td>480.09</td></tr>
<tr><td>4.</td><td>Depreciation</td><td>4.25</td></tr>
<tr><td>5.</td><td>Total Cost (1+2+3+4)</td><td>597.64</td></tr>
<tr><td>6.</td><td>Oveheads</td><td>245.09</td></tr>
<tr><td>7.</td><td>FME – pension contribution and PLB / PR</td><td>471.46</td></tr>
<tr><td>8.</td><td>Return on Capital employed</td><td>12.11</td></tr>
<tr><td>9.</td><td>Total Expenditure</td><td>1326.29</td></tr>
</table>
</td>
</tr>
<tr>
<td></td>
<td>(iv). The basis on which each item of the direct costs has been identified with the ‘wharfage on containerized cargo’ to be furnished.</td>
<td>At the CFS demurrage, stuffing / destuffing, storage of container / cargo and wharfage from the containerised cargo activities are being carried out. The direct cost comprised (i) the expenditure on shed / open area at CFS (ii) the salaries and wages of securities staff deployed (iii) the salaries and wages of TM staff and (iv) depreciation. The separate expenditure for each activity has not been ascertained. Therefore, the direct cost has been apportioned on the basis of income of the major activities.</td>
</tr>
<tr>
<td></td>
<td>(v). The MbPT to also confirm that the direct cost considered by MbPT under ‘wharfage on containerized cargo’ is relevant only for the services / activity rendered at the CFS, “Docks pre-stack” and “1 Uncleared Warehouse ID” and these expenses are not covered under any other tariff levied by the port.</td>
<td>The direct cost considered by the MbPT under the wharfage on containerised cargo is not covered under any other tariff levied by the port. However, the above expenditure is part of the service General Cargo Handled at the Docks (storage fees, stuffing / destuffing and wharfage on containerised cargo) and service uncleared warehouse (demurrage).</td>
</tr>
<tr>
<td></td>
<td>(vi). The direct cost, inter-alia, comprises of expenditure on shed / open area for storage of containers & containerized cargo at MOD and STP. The MbPT to furnish the nature of the expenditure incurred in this regard.</td>
<td>The MbPT has furnished the details of the nature of expenditure incurred on shed / open area at MOD and STP, which is given below:
<table>
<tr><th>Operating expenditure at STP & MOD</th><th>2010-11</th></tr>
<tr><td>Operating salaries & wages</td><td>788152.00</td></tr>
<tr><td>Repairs and Maintenance</td><td>-</td></tr>
<tr><td>Salaries & Wages (R&M)</td><td>2262682.50</td></tr>
<tr><td>Stores (R&M)</td><td>200864.46</td></tr>
<tr><td>Sundry (R&M)</td><td>145858.00</td></tr>
<tr><td>General Expenses</td><td>-</td></tr>
<tr><td>Sundry Expenses</td><td>-</td></tr>
<tr><td>Water charges</td><td>616000.00</td></tr>
</table>
</td>
</tr>
</table>

		<table><tr><td>Electricity</td><td>318690.01</td></tr><tr><td>Other sundry expenses</td><td>15390.13</td></tr><tr><td>Inter Department expenses</td><td>-</td></tr><tr><td>Operating expenditure</td><td>4347637.10</td></tr></table>
	(vii). The MbPT to confirm that the security staff and TM staff are deployed at MOD and STP for the sole purpose of cargo management services in relation to containerized cargo handled at the said places.	The cost of security staff and TM staff deployed at MOD and STP is common for all major activities like storage of cargo, stuffing / destuffing etc. However, the expenses incurred on security staff and TM staff has been apportioned on the basis of income of each activity.
	(viii). The proposal of the MbPT is for fixation of rate for cargo management services rendered at CFS, "Docks pre-stack" and "1 Uncleared Warehouse ID". That being so, the relevance of considering the expenditure on shed / open area for storage of containers and containerised cargo at MOD and STP, security staff expenses and TM staff expenses deployed at MOD and STP needs to be clarified.	The cost of salaries and wages of TM's staff at MOD and STP includes the staff cost at Docks pre-stakes and 1 uncleared warehouse. (The port has not furnished pointed response).
	(ix). The break-up and the basis for apportionment of overheads (₹245.09 lakhs) and FME (₹471.46 lakhs) under 'wharfage on containerized cargo', out of the total overheads and FME reported in Annexure-II to be furnished. The MbPT to confirm whether the basis of apportionment considered by the port is in line with the instructions contained in Form 5 of the cost statement formats prescribed by this Authority for general revision of tariff at the Major Port Trusts.	The MbPT has furnished the basis for apportionment of overheads and FME. The port has apportioned items like Administrative cost, Leave Wages & Medical, Pension contribution / PLR on the basis of number of employees and Store keeping expenses and Engineering Works overhead on the basis of direct cost.
	(x). (a). As per Annexure-V of the proposal, the MbPT has identified the assets relating to MOD and STP. The basis of identification of such assets to be furnished. (b). The relevance of considering the assets at MOD and STP for fixation of rate for cargo management services rendered at CFS, "Docks	The assets located at the STP and MOD has been considered. The assets pertaining to the MOD and STP have been considered in the proposal of CMC. However, the cost of assets at Docks pre-stakes and 1 uncleared warehouse has not been considered. (The MbPT has not addressed the query).

	pre-stack" and "1 Uncleared Warehouse ID" to be explained.	
	(c). The basis on which the assets identified with MOD and STP have been further identified with 'wharfage on containerized cargo' and a ROCE of ₹ 12.11 lakhs for the year 2010-11 has been arrived at to be furnished.	The assets are identified as per location and description of the assets. However, ROCE worked out on the basis of net block of the assets. Further, ROCE has been apportioned on the basis of income for the wharfage on containerised cargo.
	(d). The treatment given to depreciation on the assets identified with 'wharfage on containerized cargo' for the year 2010-11 in the Annexure-I to be furnished.	The depreciation for the wharfage on containerised cargo has been apportioned on the basis of income of the wharfage on containerised cargo.
	(e). The MbPT to confirm that the assets considered by the port under 'wharfage on containerized cargo' are utilised only for providing services to containers / containerized cargo handled at CFS, "Docks pre-stack" and "1 Uncleared Warehouse ID".	The assets considered in the proposal are pertaining to the MOD and STP. These assets are used for providing all activities such as stuffing / destuffing, demurrage, storage and wharfage on containerised cargo at the CFS.
(vii).	(a). During the proceedings relating to recent general revision of tariff at ICTPL mentioned above, the ICTPL has reported the estimated traffic for the years 2011-12 and 2012-13 at 30,281 TEUs and 38,097 TEUs respectively. The estimated traffic (other than JNPT containers) considered by the MbPT in the subject proposal for the years 2011-12 and 2012-13 are at a lower level of 23,801 TEUs and 26,186 TEUs respectively. The MbPT to clarify.	The projection for the years 2011-12 to 2013-14 is based on 5 months of actual container traffic handled at MbPT during April to August 2011 is 22503 and for the 12 months (2011-12) is 54007 and increased by 10% for every year. (The MbPT has not updated the container traffic for the year 2011-12 based on actuals).
	(b). Further, the ICTPL has not projected any container traffic at the BPS terminal from the years 2013-14 onwards stating that the operations at BPS would cease from December 2012 as per the LA provision. The MbPT also confirmed this position and	The traffic from the OCT project has not been considered while projection of container traffic for CMC in the year 2013-14. However, container traffic for CMC has been increased by 10%. (The port has not explained the basis for considering an annual increase of 10% in the traffic estimates.)

	stated that operations at the OCT are likely to commence from April 2013. In the subject proposal, the MbPT has projected the container traffic for the year 2013-14 at 65,349 TEUs including JNPT containers of 36,544 TEUs. The MbPT to clarify whether the traffic estimates considered by MbPT for the year 2013-14 under the present proposal are based on the traffic projections at OCT along with the basis for such projections.	
(viii).	Taking into account the above observations, the MbPT to furnish the revised cost statement for the years 2010-11 and 2011-12 (with actuals) and for 2012-13 and 2013-14 (with estimates), as per Form 5 A (iii) of the cost statement formats prescribed by the Authority for general revision of tariff at Major Port Trusts, duly reconciling with the actuals / estimates considered in the general revision proposal of MbPT vide Order dated 11 October 2011, supported by a reconciliation statement.	The MbPT has furnished revised Form 5A (i) for cargo handling activity and revised Form 5 A (iii) for sub-activities General cargo at Docks and Uncleared Warehouse for the years 2010-11 to 2013-14 reportedly with actuals for 2010-11 and estimates for 2011-12 to 2013-14. The MbPT has further stated that cost statement for CMC for the year 2011-12 at actuals will be sent after getting approval of Annual Accounts from the Board. (We have not received the cost statement for CMC for the year 2011-12 based on actuals till finalisation of this case). (It appears that, in the cost statements 5 (A) (iii), the MbPT has considered its estimates for the years 2011-12 to 2013-14 as furnished by it in its revised proposal for general revision of tariff at the proposed tariff level. In other words, the MbPT has not considered the income / cost estimates as considered by the Authority in the general revision order. Hence, the revised activity / sub-activity cost statements 5 (A) (iii) furnished by MbPT are not found useful).

5.2. As brought out above, while furnishing its response to one of our queries requesting the MbPT to list out various services rendered at the CFS, the port has reproduced the activity flow charts furnished by it during the proceedings of the tariff Order dated 29 June 2011, in respect of various types of containers handled at its CFS. The details furnished by the MbPT are given below:

(i) <u>Containers destuffed at CFS in import cycle</u>

a. Submission of advance list by Agent and data entry in system.
b. Discharging of import containers from vessels.
   (Composite box rate under Section 5 (A) & 5 (B) of SoR)
c. Recording tally of import containers discharged and data entry in the system.
d. Stacking container in the yard.
e. Movement of container from Docks to nominated CFS point for destuffing.
   i. Preparation of computerised gate pass for despatching of container from Docks to CFS.
   ii. Passing out of container through Docks.
   iii. Confirming in the system, the passing out of container from Docks through gate.
   iv. Passing in of container received from Docks to CFS in gate.

f. Offloading of import container by the transporter of respective agents in the nominated CFS yard.
g. Destuffing and taking tally of containers and storage of destuffed cargo inside the shed.
(Destuffing charges under Section 5 (G) of SoR. However, destuffing charges being recovered as per T.R. No.110 of 25.02.11 @ Rs.2,800/- per TEU. Licence (storage) fees on the stay of container excluding free days as per Section 5 (E) of SoR).
h. Forwarding / passing of import related documents.
i. Examination of cargo by customs.
j. Verification of documents and preparation of gate pass.
k. Delivery of cargo.
(Charges of container cargo as per Section 5 (H) and rate as applicable under Section 3.1 (A) & 3.1 (B) of SoR for wharfage and demurrage respectively).
l. Removal of empty destuffed container from the yard.
(Licence (storage) fees as per T.R.No.30 dated 27.07.10).

(ii) <u>Loaded containers delivered for factory destuffing in import cycle</u>

a. Submission of advance list by Agent and data entry in system.
b. Discharging of import containers from vessels.
(Composite box rate under Section 5 (A) & 5 (B) of SoR. This is received by ICTPL and not by MbPT)
c. Recording tally of import containers discharged and data entry in the system.
d. Stacking container in the yard.
e. Movement of container from Docks to nominated CFS point.
    i. Preparation of computerised gate pass for despatching of container from Docks to CFS.
    ii. Passing out of container through Docks gate.
    iii. Confirming in the system, the passing out of container from Docks gate.
    iv. Passing in of container received from Docks to CFS in gate.
f. Offloading and stacking of import container by the transporter of respective agents in the nominated CFS yard.
g. Storage of loaded container in the nominated site of the CFS yard.
(Licence (storage) fees on the stay of container excluding free days as per Section 5 (E) of SoR).
h. Forwarding / passing of import related documents.
i. Examination of containerised cargo by customs.
j. Verification of documents and preparation of gate pass.
k. Delivery of loaded container from CFS to the importer's premises for factory destuffing.
(Charges of container cargo as per Section 5 (H) and rate as applicable under Section 3.1 (A) & 3.1 (B) of SoR for wharfage and demurrage respectively).

(iii) <u>Containers stuffed at CFS in export cycle</u>

a. Carting Order of export cargo by the Shipping Agent.
b. Receipt of export cargo at the gate and pass in of the export cargo inside the CFS on verification of export documents by the gate staff.
c. Offloading and storage of export cargo in the shed by the shed staff.
d. Customs examination of export cargo.
e. Receiving and storage of empty container at the gate and CFS yard.
f. Stuffing and tallying of export cargo in the container.
(Container related charges: Stuffing charges under Section 5 (G) of SoR. However, stuffing charges being recovered as per T.R. No.110 of 25.02.2011 @ Rs.2,600/- per TEU. Cargo related wharfage and demurrage charges as per Section 3.1 (A) and 3.1 (B) of SoR).
g. Generation of gate pass and movement of loaded container to Docks.
h. Receipt of export cargo stuffed container at Dock in gate.

i. Storage of export container at pre-stack point in the Docks.
j. Shipment of export container and recording tally.
(Licence (storage) fees excluding free days under Section 5 (E) of SoR. Composite box rate under Section 5 (A) and 5 (B) of SoR).

(iv) Factory stuffed containers received at CFS in export cycle

a. Receipt of factory stuffed container at CFS in gate on verification of relevant export documents.
(Wharfage on cargo inside the factory stuffed export container as per Section 5 (H) (5) of SoR).
b. Offloading and storage of container at the nominated point in the yard.
c. Payment of port charges on shipping bill.
d. Generation of gate pass and movement of loaded container to Docks.
e. Receipt of factory stuffed container at Dock in gate.
f. Storage of export container at pre-stack point in the Docks.
g. Shipment of export container and recording tally.
(Licence (storage) fees under Section 5 (E) of SoR. Composite box rate under Section 5 (A) and 5 (B) of SoR. This is received by ICTPL and not by MbPT).

(V). Import containers received from JNPT by road

a. Submission of advance list / TP document by Agent and data entry in system.
b. Receipt of JNPT container by road at CFS in gate on verification of relevant documents.
(Composite box rate under Section 5 (A) and 5 (B) of SoR. This is received by ICTPL and not by MbPT).
c. Offloading of import container by the transporter of respective agents in the nominated CFS yard.
d. Destuffing and taking tally of containers and storage of destuffed cargo inside the shed.
(Destuffing charges under Chapter V of Section 5 (G) of SoR. However, destuffing charges being recovered as per T.R. No.110 of 25.02.11 @ Rs.2,800/- per TEU. Licence (storage) fees on the stay of container excluding free days as per Section 5 (E) of SoR and ground rent charges as per T.R. No.4 of 8.6.2010).
e. Forwarding / passing of import related documents.
f. Examination of cargo by customs.
g. Verification of documents and preparation of gate pass.
h. Delivery of cargo.
(Demurage charges of container cargo as per Section 5 (H) and rate as applicable under Section 3.1 (B) of SoR).
i. Removal of empty destuffed container from the yard.
(Licence (storage) fees as per T.R. No.30 dated 27.7.2010).

6.1. A joint hearing in this case was held on 2 May 2012 at the Office of this Authority. At the joint hearing, the MbPT, ICTPL and the concerned users/ organisation bodies have made their submissions.

6.2. At the joint hearing, the MbPT was requested to take action on some points and furnish its response by the end of third week of May 2012. The decisions taken at the joint hearing were communicated to the MbPT. The MbPT furnished its response in the 1st week of June 2012. The decisions taken at the joint hearing and the response of MbPT are summarised in the table below:

Sl. No.	Decisions taken at the joint hearing	Response of MbPT
(i).	Convene a meeting with ICTPL and all users consulted in this case to explain	The MbPT has convened a meeting on 14 May 2012 with the ICTPL and the port users. The

	its proposal and furnish any additional information / clarification which may be required by them for proper appreciation of the proposal.	MbPT has furnished a copy of the minutes of the meeting with the list of users who attended the meeting. The points recorded in the minutes of the meeting are summarized in the subsequent paragraph.
(ii).	Furnish additional information / clarification sought vide our letter of even number dated 23 April 2012.	The MbPT furnished additional information / clarifications to our queries which have been brought out in a previous paragraph.
(iii).	Review the proposal by clearly identifying the services rendered at the CFS and assessing the cost associated with provision of such identified services.	The MbPT has reiterated its position that the cost associated with the individual services rendered at CFS could not be ascertained.

6.3. The main points recorded in the minutes of the meeting convened by MbPT with the users on 14 May 2012 are summarized below:

(i). FA & CAO, MbPT explained that the proposal for levy of CMC is based on the Order dated 29 June 2011 passed by TAMP. It is in replacement of wharfage. Prior to this, the MbPT was recovering wharfage on cargo inside the container. The overall rate of CMC is less than the incidence of wharfage on individual items of cargo. CMC represent portion of cost incurred at CFS.

TAMP has approved the rate of CMC as 90% of wharfage charges considering cost involved, handling charges of cargo and documentation at CFS. After consultation and due deliberations, MbPT has proposed ₹ 2079/- as CMC.

(ii). The CFO of ICTPL has stated that there is no wharfage collected by any port in the country on containerized cargo and ICTPL is losing cargo as the cost of handling container in MbPT is expensive on account of CMC.

(iii). BCHAA representative has stated that the total charges paid by trade per TEU will be more after considering CMC as compared to JNPT.

(iv). With reference to comparison of rates at JNPT and MbPT, MbPT has stated that JNPT does not have own CFS and the users have to go to the private CFSs for clearance of the cargo inside the container and the charges at the private CFSs are more than MbPT CFS. The port users agreed that private CFS charges are very high. On this issue, it is recorded in the minutes that in view of insufficient information, the rates at JNPT and MbPT could not be compared.

(v). It is recorded in the minutes that finally, the meeting concluded with the consensus that the rate of CMC of ₹ 2079/- per TEU is reasonable and BCHAA representative to give a comparative statement of charges at MbPT and JNPT within three to four days. (However, we have not received any further information / details from MbPT in this regard till the finalization of this case).

7. The ICTPL vide its letter dated 4 June 2012 has furnished its comments to the MbPT with reference to the points made in the minutes of the meeting held on 14 May 2012, with a copy endorsed to us. The point wise comments furnished by ICTPL are tabulated below:

Sl. No.	**Points recorded at the Meeting**	**Comments of ICTPL**
1.	The Traffic Manager, MbPT explained the services provided at the CFS and dock area for the	All the container handling activities at the CFS are covered under a separate TAMP Order governing those charges. When MbPT uses it premises within the port limits for conducting any activities of destuffing / stuffing of containers as a special case it levies the charges of the CFS SOR for recovery.

<table>
<tr><td></td><td>container handled.</td><td>Services by way of gate monitoring and related paper work can be done away with the usage of IT and right from ICTPL gate to the out gate of MbPT can be linked via IT and does not require all the required monitoring as was mentioned in the meeting to justify the additional costs. Thus the additional charges not to be implemented.</td></tr>
<tr><td>2.</td><td>The JNPT does not have own CFS. For clearance of cargo inside the container the customers have to go to private CFS and the charges at private CFS are more than the MbPT CFS.</td><td>ICTPL does not agree with the statement. A comparative position of CFS charges is given in the following table:
<u>CFS charges for normal 20’ container upto cargo removal for import cycle-Dock Destuffing (Cargo: Iron & Steel weight 20 MT)</u>
(in ₹)<table><tr><th>Particulars</th><th>JNPT GDL</th><th>JNPT CWC</th><th>JNPT Punjab Conware</th><th>MbPT</th></tr><tr><td>Transportation upto CFS</td><td>-</td><td>-</td><td>-</td><td>3,500</td></tr><tr><td>Destuffing charges</td><td>5,050</td><td>4,950</td><td>4,725</td><td>3,640</td></tr><tr><td>Cargo Management charges</td><td>-</td><td>-</td><td>-</td><td>2,079</td></tr><tr><td>Delivery charges</td><td>1,700</td><td>1,700</td><td>1,700</td><td>-</td></tr><tr><td>Internal shifting and handling at CFS</td><td>-</td><td>-</td><td>-</td><td>1000</td></tr><tr><td>Ground rent (min 3 days) Loaded container</td><td>225</td><td>450</td><td>450</td><td>-</td></tr><tr><td>Ground rent (min 1 day) Empty container</td><td>10</td><td>10</td><td>10</td><td>161</td></tr><tr><td>Total CFS charges</td><td>6,985</td><td>7,110</td><td>6,885</td><td>10,380</td></tr></table>Note: Destuffing charges at GDL, CWC and Punjab Conware are inclusive of transportation.

From the above table it is very clear that MbPT CFS charges are much higher than CFS located in JNPT area.</td></tr>
<tr><td>3.</td><td>Port users agreed that the private CFS charges are very high.</td><td>This can be agreed to only when the minutes are signed off by all the port users who were present at the meeting.</td></tr>
<tr><td>4.</td><td>MbPT rates are not high in comparison to JNPT. BCHAA agreed to provide details of cost of handling a container at JNPT vis-à-vis that at MbPT within 3 to 4 days.</td><td>The cost of handling container is higher at MbPT as compared to JNPT. In addition to above comparative table of CFS charges, the comparative tables for port dues and container handling charges is given below:
I. <u>Container handling charges for normal 20’ container</u>
(in ₹)<table><tr><th>Particulars</th><th>JNPCT</th><th>NSICT</th><th>Revised NSICT *</th><th>GTI</th><th>Revised GTI *</th><th>MbPT</th><th>ICTPL</th></tr><tr><td>Wharf to yard and yard to truck</td><td>2,550</td><td>3,341</td><td>2,411</td><td>3,186</td><td>1,775</td><td>3,211</td><td>2,779</td></tr></table>II. <u>Marine / port dues – for a standard vessel of 6,000 TEUs with 45,000 GRT</u>
(in ₹)<table><tr><th>Particulars</th><th>JNPT</th><th>MbPT</th></tr><tr><td>Port dues per GRT (in USD)</td><td>0.1071</td><td>0.2596</td></tr><tr><td>Port dues for 6000 TEUs vessel</td><td>265,073</td><td>642,510</td></tr><tr><td>Berth hire charges per GRT per hour (in USD)</td><td>0.0037</td><td>0.0092</td></tr><tr><td>Berth hire charges for 6000 TEUs vessel for a day</td><td>219,780</td><td>546,480</td></tr><tr><td>Pilotage fees</td><td></td><td></td></tr><tr><td>For first 3000 GRT (in USD)</td><td>-</td><td>12,789</td></tr><tr><td>For every addl. GRT (in USD)</td><td>-</td><td>0.3410</td></tr><tr><td>Per GRT (in USD)</td><td>0.1908</td><td>-</td></tr><tr><td>Pilotage fee for 6000 TEUs vessel</td><td>472,230</td><td>984,720</td></tr><tr><td>Total marine dues</td><td>957,083</td><td>2,173,710</td></tr></table>Exchange Rate : 1 USD = ₹ 55.00</td></tr>
<tr><td>5.</td><td>CMC is in replacement of wharfage. The overall rate of</td><td>There should not be any charge (be it wharfage or CMC) on containerised cargo at the first place when other CFS charges such as stuffing / destuffing, demurrage, ground rent, etc. are being recovered separately.</td></tr>
</table>

	CMC is less than the incidence of wharfage on individual items of cargo.	
6.	TAMP has approved the rate of CMC as 90% on wharfage charges considering cost involved, handling charges of cargo and documentation at CFS.	TAMP approved such rates only as an interim measure and taking reference from Cochin Port Trust (COPT) where CFS charges were not available. However, TAMP had advised MbPT to come with a well analysed proposal for levy of separate CMC for the services provided by the port at its CFS, duly justified by cost details. MbPT has not submitted a proposal listing down the services rendered and cost involved as was brought to the notice of the TAMP at the joint hearing by ICTPL. Again a comparative review of such charges levied for documentation services at various CFSs need to be studied in detail.
7.	In view of the insufficient information from the users, the rates charged at MbPT and JNPT could not be compared.	From the comparative statement at Sl. No.4 above, it is clear that cost of handling a container at MbPT is higher than JNPT. Therefore, it is in the interest of MbPT and trade at Mumbai to rationalise these charges.
8.	The meeting was concluded with the consensus that the rate of CMC ₹2079/- per TEU is reasonable.	ICTPL does not endorse this statement as in the meeting there was no such consensus drawn from the discussion. The MbPT is again requested to take a broader business view in resolving this issue as such charges are discouraging business at MbPT.

8. In the meantime, the MbPT vide its letter dated 18 June 2012 has requested the Authority to further extend the validity of interim tariff approved in tariff Order dated 29 June 2011, beyond 29 June 2012 till the approval of CMC based on the proposal filed by it vide its letter dated 23 February 2012.

9. At our request, the MbPT has furnished further additional information. The response of MbPT is summarized below:

(i). The MbPT has furnished monthwise details of container traffic handled from July 2011 to May 2012 and the total income from interim CMC earned from July 2011 to May 2012. The details furnished by MbPT are summarized below:

Statement showing number of TEUs handled and Income from Cargo Management charges during July 2011 to May 2012		
Item	**Type**	**Traffic (TEUs)**
Import	FCL	34227
	LCL	1080
	Empty	7253
	Transshipment	4041
	Total	46601
Export	FCL	1867
	LCL	117
	Empty	352
	Transshipment	4183
	Total	6519
Grand Total		**53120**
By ICTPL		24128
By Road		24631
By MbPT		4361
Total		**53120**

Cargo management charges as per Order dated 29 June 2011 (₹ in lakhs)	**1096.39**
Average income per TEU (₹)	**2063.98**

(The port has not furnished average per TEU interim CMC realized by it for each category of containers, viz. FCL Import, FCL Export, LCL Import and LCL Export, as sought by us).

(ii). The actual container traffic handled and wharfage on containerised cargo earned during the years 2008-09 and 2010-11 are furnished by the MbPT. The details furnished by MbPT are given below:

Containers handled and wharfage on containerized cargo earned during the years 2008-09 to 2010-11				
Item	**Type**	**2008-09**	**2009-10**	**2010-11**
Import	FCL	37571	35561	37878
	LCL	3567	2654	1582
	Empty	8362	5624	6390
	Total	49500	43839	45850
Export	FCL	35522	3079	2615
	LCL	119	39	216
	Empty	723	1768	691
	Total	36364	4886	3522
Transhipment	Import	3566	4616	6950
	Export	3062	4757	7466
	Total	6628	9373	14416
Grand Total		**92492**	**58098**	**63788**
By ICTPL		18110	34071	43763
By Road		42404	15797	17367
By MbPT		31978	8230	2658
Total		**92492**	**58098**	**63788**
Wharfage on containerized cargo (₹ in lakhs)		**1422.34**	**1304.69**	**1104.36**

10. 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

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

(i). This Authority vide its Order dated 29 June 2011 approved a tariff arrangement on interim basis for levy of cargo management charges on the containers handled at the CFS of MbPT but not handled by MbPT at its berths, for a period of six months advising the MbPT to come up with a well analysed proposal for levy of separate cargo management charges for the services provided by the port at its CFS, duly justified by cost details, within a period of three months from the date of notification of the Order. The validity of the interim tariff was prescribed upto 10 January 2012. Subsequently at the request of MbPT, the validity of the interim tariff arrangement has been extended, the validity of the last extension being upto 29 June 2012 vide Order dated 9 April 2012, subject to the condition that if the rates to be approved by this Authority on the cost based proposal to be filed by the MbPT in this regard are lower than the rates prescribed by way of interim tariff

arrangement, the MbPT shall refund the difference, being the excess amount collected by it from 11 January 2012, to the concerned parties.

In the meantime, the Scale of Rates of MbPT was revised by this Authority vide its Order dated 11 October 2011 based on a proposal filed by the MbPT for general revision of its Scale of Rates, wherein the interim tariff approved for cargo management charges in Order dated 29 June 2011 were incorporated in the SoR of MbPT.

(ii). ICTPL is a private container terminal operator at the MbPT. Before the licence was granted to ICTPL to operate BPS, MbPT itself was handling containers either at BPS or at any of other berths and providing a range of services / facilities from ship-shore transfer of containers till point of delivery / receipts at the nominated CFS yards. Since the whole range of services / facilities were provided by the port, no separate charge for services rendered at yard / CFS and receipt / delivery was prescribed as the commodity wise wharfage levied on cargo inside the container was taken to include the said services / facilities also.

In the changed operational scenario, MbPT's role is increasingly confined to providing services at its yard / CFS to the containers handled at ICTPL or even JNPT. This called for prescription of separate charge for cargo management at yard / CFS. Such a charge need not differ with reference to types of cargo as is the case with wharfage. Therefore, this Authority vide Order dated 29 June 2011 advised MbPT to file a separate proposal with justification for introduction of cargo management charges for the services provided by it to the containerized cargo.

(iii). In this back drop, the MbPT vide its letter dated 23 February 2012 has filed a proposal for levy of 'cargo management charges' (CMC) on containers handled at CFS / Docks prestack and 1 Unclear Warehouse ID including the containers received at MbPT CFS by road from JNPT. The proposed CMC is not leviable on containers handled by MbPT at its berths. The proposal filed by MbPT vide its letter dated 23 February 2012 along with additional information / clarifications offered by the port during the proceedings of this case is considered in this analysis.

(iv). With reference to the objections of ICTPL and some user associations to the levy of separate cargo management charges at CFS, it has to be noted that this Authority in its Order dated 29 June 2011 has already recognized the position that the containers of ICTPL and containers received from JNPT by road do avail some services at the CFS / yard of MbPT and the MbPT cannot be expected to render such services free of cost. The exercise now on hand is limited to determination of the quantum of cargo management charges that MbPT can levy on the containers availing services at its CFS / yard.

(v). As advised in the tariff Order dated 29 June 2011, the MbPT is required to file a proposal for levy of separate cargo management charges for the services provided by the port at its CFS duly justified by cost details. However, the proposal of MbPT is not found to be based on services rendered to the containers and the cost associated with such services. On the ground that the facilities at CFS for rendering services against levy of demurrage, storage fee, stuffing / destuffing and wharfage are common and not exclusive for each type of service, the port has expressed its inability to identify the cost related to individual services.

(vi). (a). The MbPT has reported the actual expenditure for the year 2010-11 pertaining to CFS (towards demurrage, storage fee, stuffing / destuffing and wharfage) at ₹31.68 crores. The amount of ₹31.68 crores comprise direct cost of ₹14.27 crores and overheads, Finance & Miscellaneous Expenses (FME) aggregating to ₹17.11 crores and Return on Capital Employed (ROCE) amounting to ₹28.93 lakhs. This total expenditure of

CFS is apportioned to demurrage, storage fee, stuffing / destuffing and wharfage based on actual income realized by the port from the respective tariff items during the year 2010-11. The expenditure so apportioned to 'wharfage' works out to ₹13.26 crores. Based on the apportioned expenditure towards wharfage and the actual container traffic of 63,788 TEUs reportedly handled during the year 2010-11, the port has arrived at the proposed rate of ₹2079/- per TEU (₹13.26 crores / 63,788 TEUs). The cost statement for CMC for the year 2011-12, at actuals, is not received by us till finalisation of this case, though the MbPT agreed to furnish it after getting approval of Annual Accounts from its Board of Trustees. Therefore, the proposal of the MbPT relies on the actuals for the year 2010-11 only.

(b). The direct cost of ₹14.27 crores pertaining to CFS (towards demurrage, storage fee, stuffing / de stuffing and wharfage) includes operating expenditure, viz. salaries & wages, repairs & maintenance, electricity charges, water charges, etc. incurred at Manganese Ore Depot (MOD) and Sewree Timber Pond (STP), salaries & wages in respect of security staff and staff of Traffic Department deployed at MOD and STP and depreciation on assets located at MOD and STP. Incidentally, it is understood that MOD and STP are used presently for storage of containers. To a query to furnish the basis adopted for identifying the direct cost pertaining to CFS and also to reconcile the figures with reference to the relevant activity wise / sub-activity wise cost statements considered in the tariff Order of October 2011 relating general revision of Scale of Rates at MbPT, the response of the port is found to be inadequate. For example, if one item of direct cost relating to salaries & wages is seen, it is observed that while a portion of the total salaries & wages relating to security staff deployed at MOD and STP is apportioned to CFS, the entire salaries & wages relating to the staff of Traffic Department is accounted for under CFS. The MbPT has not explained the reasons for the differential approach adopted by it in apportionment of salaries & wages to CFS. In respect of overheads and FME, though the port has furnished basis for apportionment to CFS, the same has not been reconciled with reference to the overheads and FME considered under the relevant activity / sub-activity wise cost statements as per the general revision order of October 2011. In view of the above position, the total cost of ₹31.68 crores for operation of CFS reported by the MbPT for the year 2010-11, which is apportioned to wharfage, among other tariff items, could not be relied upon.

(c). Further, the MbPT has apportioned the total expenditure of CFS to demurrage, storage fee, stuffing / destuffing and wharfage based on the actual income realized from the respective services on proportionate basis. The income based apportionment adopted by the MbPT may not give a reasonably fair position of cost associated with rendering of service towards levy of demurrage, storage fee, stuffing / destuffing and wharfage because the nature of services rendered against levy of each tariff item is different. Levy of stuffing/destuffing charges involves supply of labour, whereas the demurrage is a penal levy for which the costs incurred by the port may be negligible. In view of this position, we are not in a position to accept the cost considered by the MbPT under wharfage item, amounting to ₹13.26 crores, for deriving the proposed Cargo Management Charges of ₹2079/- per TEU.

(vii). As stated earlier, the exercise on hand is to prescribe the CMC for the containers not handled by MbPT at its berths. When requested to exclude the cost relating to containers handled by the MbPT at its berths from the purview of this proposal, the MbPT responded stating that the containers handled by the port at its berth are negligible and hence the cost is not excluded. However, the details

furnished by MbPT on 30 July 2012 at our request shows that MbPT has handled 2658 TEUs during the year 2010-11 and 4,631 TEUs from July 2011 to May 2012. That being so, the contention of MbPT that the volume of containers handled at its berths is negligible does not merit consideration.

Further, when sought to reconcile the volume of containers handled by ICTPL in the year 2010-11, as reported by MbPT during the proceedings relating to general revision of tariff at ICTPL in April 2012 at 51224 TEUs, with the actual volume reported by MbPT in the CMC proposal at 63,788 TEUs, the MbPT stated that out of total containers handled by ICTPL the Transshipment containers to the extent of 14,920 did not avail services at MbPT CFS. However, as per the break-up furnished by MbPT on 30 July 2012, the total volume of 63,788 TEUs reported for the year 2010-11 includes transshipment containers of 14,416 TEUs. Further, the container volume handled by ICTPL is reported at 43,763 TEUs as against 51,224 reported earlier. The reason for the difference in the container volumes handled by ICTPL and treatment given to transshipment containers remains unexplained.

(viii). Though the MbPT has furnished the cost statements for the three years 2011-12 to 2013-14 for the CFS activity as a whole as well as for the CMC proposal based on projections of traffic, income and expenses, the MbPT has not considered the impact of such estimated income and expenses in arriving at the proposed CMC. The proposed CMC is only based on actuals for the year 2010-11. As per the cost statements furnished by MbPT for the years 2011-12 to 2013-14, the estimated financial / cost position for CFS as a whole as well as estimated financial / cost position for individual tariff items demurrage, storage and stuffing / destuffing at the existing tariff level and CMC (at the proposed tariff level) shows deficit position. It appears that the port has furnished the projections for the said three years only to show that port does not gain undue advantage by levying CMC at the proposed level. The MbPT has estimated the expenditure projections for years 2011-12 to 2013-14 by applying 6% annual escalation over the actual expenses of 2010-11 apportioned to 'wharfage' service. Since the approach adopted by MbPT for apportionment of actual expenses to 'wharfage' service in the year 2010-11 are not considered by us for the reasons explained earlier and also keeping in view that the rate proposed by MbPT does not take into account the estimates for the years 2011-12 to 2013-14, we have not analysed the estimates for these three years.

(ix). With reference to the position recorded in the minutes of the meeting held on 14 May 2012 convened by MbPT that there was a consensus reached in the meeting that the proposed levy of ₹2079/- per TEU is reasonable, it is stated that the documentary evidence furnished by MbPT does not substantiate the consent of users. Further, the ICTPL has objected to this position stating that this could be accepted only when the minutes is signed by all the users who were present in the meeting. Therefore, the proposal of MbPT cannot be considered to be a mutually agreed proposal.

(x). For the reasons elaborated in the paragraphs (v) to (vii) above, the proposal of the MbPT for levy of Cargo Management Charges of ₹2079/- per TEU cannot be approved without modification. Keeping in view that the MbPT cannot be expected to render services / provide facilities free of cost to the containers handled by ICTPL or brought from JNPT by road, as already observed by this Authority in Order dated 29 June 2011 and also taking into account the inability of the MbPT to furnish a well analysed cost based proposal, this Authority is constrained to prescribe tariff for the cargo management services by approximation and reasonable modifications of the data furnished by the Port.

(xi). As already brought out earlier, the levy of commodity wise wharfage on containerized cargo by MbPT on the containers is to cover whole range of services / facilities from ship-shore transfer of containers till point of delivery / receipts at the nominated CFS yards. It is already reported in the earlier

proceedings that in respect of containers handled at ICTPL terminal and containers brought from outside the port (say JNPT), the MbPT is not providing wharf handling services. That being so, the existing wharfage levy needs to be discounted for the wharf handling activity not provided to the above said categories of containers following some reasonable approach.

For this purpose, the average wharfage per TEU realized by MbPT during the past years is considered as the base for discounting the wharfage component relating to wharf handling. The actual wharfage on containerized cargo earned by MbPT during the years 2008-09 to 2010-11 is reported at ₹ 1422.34 lakhs, ₹ 1304.69 lakhs and ₹1104.36 lakhs respectively. The actual container traffic handled during the corresponding years is reported at 92492 TEUs, 58098 TEUs and 63788 TEUs respectively. The said three years' average actual wharfage realization works out to ₹1838/- per TEU. Though the year 2011-12 is already over, since the MbPT has not furnished the details of actual income and traffic, as stated earlier, the actual position for the year 2011-12 could not be taken into account. The actual average per TEU wharfage realization of ₹1838/- for the years 2008-09 to 2010-11 is taken as the base rate for discounting the wharfage element relating to wharf handling.

In the Scale of Rates of the container handling terminals, viz. Chennai Container Terminal Private Limited (CCTPL), Chennai International Terminals Private Limited (CITPL), India Gateway Terminals Private Ltd. and PSA SICAL Terminals, itemised rates have been prescribed. These Scale of Rates prescribe the wharfage on container and wharfage on containerized cargo separately. It appears that unlike MbPT the wharfage charges prescribed separately in the case of above said container terminals do not cover the charges for facilities / services provided at the CFS.

The average wharfage on containerized cargo at the above mentioned terminals works out to ₹470/- per 20' container. It is conceded that wharfage rates for a commodity across all the Ports / terminals may not be uniform. In the absence of specific details pertaining to MbPT available some reasonable approximation and assumptions may have to be made. Therefore, if a reduction of ₹470/- is effected from the average per TEU wharfage realization of ₹1838/- at MbPT, the balance amount works out to ₹1,368/- per TEU which may be taken to cover all services covered under the commodity wise wharfage levy except handling at wharf.

It is relevant here to mention that the wharfage on containerized cargo earned by MbPT during the years 2008-09 to 2010-11 is based on the Scale of Rates approved by this Authority for MbPT in September 2006. Thereafter, during the recent general revision of Scale of Rates at MbPT vide tariff Order of October 2011, a 30% increase over the then existing all cargo related charges, including wharfage, has been granted. Keeping this in view, if an increase of 30% is allowed on the amount of ₹1368/-, the rate works out to ₹1779/- per TEU. A cost statement prepared based on the above analysis is attached as **Annex-I**.

(xii). The rate arrived at as above is further tested for its reasonableness based on the estimated financial / cost position furnished by MbPT for the future years, though not analysed for the reasons stated earlier. The estimated financial / cost position for CMC furnished by MbPT for the years 2011-12 to 2013-14 shows deficit position at the proposed tariff of ₹2079/- per TEU. Since the year 2011-12 is already over, the estimates for the year 2011-12 cannot be considered at this stage. The estimated deficit for the years 2012-13 and 2013-14, after rectification of arithmetical errors contained in the cost statements furnished by MbPT, works out to ₹193.50 lakhs and ₹125.64 lakhs respectively, aggregating to ₹319.14 lakhs. The estimated income from CMC at the proposed tariff of ₹2079/- per TEU for the estimated traffic furnished by MbPT for the years 2012-13 and 2013-14 works out to ₹1235.09 lakhs and ₹1358.61 lakhs respectively, aggregating to ₹2593.70 lakhs. The average estimated deficit for the years 2012-13 and 2013-14

as a percentage of estimated income for the corresponding years works out to 12.30%.

As recorded in paragraph 12 (xvi) (iii) (c) of tariff Order of October 2011 relating to general revision of Scale of Rates at MbPT, the estimated financial / cost position for the cargo handling activity for the next tariff cycle covering years 2011-12 (4 months) to 2013-14 warranted an increase of 67% over the then existing tariff. However, only 30% increase over the then existing tariff for cargo related charges was allowed in the tariff Order of October 2011, recognizing the position that MbPT sought only 30% increase. Accordingly, even after the 30% increase allowed, the estimated financial / cost position considered in the Order of October 2011 leaves a deficit of 28.46% over the revised tariff. Since the CMC falls under the cargo handling activity of the port, it is appropriate to maintain the deficit of 28.46% in arriving at the CMC in order to maintain revenue neutral position considered in the tariff Order of October 2011, as against 12.30% deficit stated above. Therefore, the proposed rate of ₹2079/- per TEU which reflects 12.30% deficit at the estimated financial / cost position for the years 2012-13 and 2013-14 if adjusted to reflect 28.46% deficit, the rate works out to ₹1817/- per TEU. A cost statement prepared based on the estimates furnished by MbPT is attached as **Annex-II**.

Considering that the rate arrived following the methodology explained at paragraph (xi) above and the rate arrived at based on the estimates furnished by MbPT for the years 2012-13 and 2013-14 are falling around ₹1,800/-, a consolidated CMC of ₹1,800/- is approved.

As a matter of abundant caution, it is clarified that adjusting the rate proposed by the MbPT based on the estimated financial / cost position furnished by MbPT for the future years, as stated above, may not be construed as the incidental approval for the approach adopted by the MbPT in apportioning the expenses to CFS and thereafter to CMC for the year 2010-11 which forms the basis for the estimated expenses for the future years.

(xiii). In the general revision Order of October 2011, the estimated revenue from levy of wharfage on containerized cargo for the years 2012-13 and 2013-14 was considered at ₹1528.12 lakhs and ₹1577.63 lakhs respectively. At the CMC of ₹2,079/- per TEU proposed by MbPT and taking into account the estimated traffic for the years 2012-13 and 2013-14 furnished by the port now, the estimated revenue from CMC works out to ₹1238.54 lakhs and ₹1362.40 lakhs respectively, which is lower than the estimates considered in the general revision order of October 2011. Even at the proposed rate of ₹2,079/- per TEU the MbPT is not meeting the estimated revenue requirement considered in the general revision Order. That being so, prescription of a rate of ₹1,800/- per TEU, which is lower than the rate proposed by MbPT, may not give any undue advantage to the port. Further, at the interim tariff approved by this Authority vide Order dated 29 June 2011, average CMC realized by MbPT from July 2011 to May 2012 is reported at ₹2,063/- per TEU, which shows that rate of ₹1,800/- per TEU will not be more than the interim tariff approved by this Authority.

(xiv). Incidentally, it is relevant here to mention that vide Order dated 29 June 2011 this Authority approved Cargo Management Charges on interim basis for each category of containers, viz. FCL import, LCL import, FCL export and LCL export, etc. separately on the ground that the services rendered by MbPT are different for each category of containers as per the activity flow chart furnished by the MbPT. Now the MbPT has reported that the services rendered for different categories of containers and staff rendering these services are more or less same. Further, the ICTPL has stated that the cargo related services rendered by the MbPT at its CFS are already covered by tariff items like stuffing / destuffing charges, ground rent, demurrage, etc. and levied by MbPT under CFS SOR. Relying on the position

reported by MbPT, a CMC commonly applicable to all categories of containers is approved in this case, as proposed by MbPT.

(xv). In addition to CFS, the MbPT has included locations, viz. Docks pre-stack and 1 Unclear Warehouse ID under the scope of levy of CMC on the ground that the destuffed delivery or loaded deliveries of cargo at Docks Pre-stack and 1 Unclear Warehouse ID are similar to that of CFS. Relying on the position reported by the MbPT, its proposal to include Docks Pre-stack and 1 Unclear Warehouse ID under the scope of levy of CMC is approved.

(xvi). In view of the position brought out above, a consolidated CMC of ₹1800/- per TEU is prescribed for the containers not handled by MbPT at its berths but received from ICTPL terminal or from JNPT by road towards the facilities / services provided to such containers / cargo by MbPT at its CFS / Docks pre-stack / 1 Uncleared warehouse ID, which are not covered under any tariff items prescribed in the SoR of MbPT other than wharfage. This will be in replacement of existing interim tariff arrangement approved by this Authority vide Order dated 29 June 2011.

(xvii). As already stated, the extension of the validity of the interim tariff beyond 10 January 2012 is subject to the condition that if the rates to be approved by this Authority on the cost based proposal to be filed by the MbPT in this regard are lower than the rates prescribed by way of interim tariff arrangement, the MbPT shall refund the difference, being the excess amount collected by it from 11 January 2012, to the concerned parties. However, a common CMC of ₹1,800/- per TEU is approved in this proposal whereas the interim tariff prescribed by this Authority was based on the category of the containers and that too it was linked to the commodity wise wharfage rate. That being so, it is found difficult to compare the interim tariff vis-à-vis the tariff approved in this proposal to ascertain whether the tariff approved is less than the category-wise interim tariff approved earlier. Therefore, the MbPT is directed to adjust the billing already made from 11 January 2012 with reference to the CMC of ₹1,800/- per TEU approved in this order and effect refund in eligible cases.

(xviii). Since the original validity of the interim tariff has expired on 10 January 2012, the rate approved shall come into force with retrospective effect from 11 January 2012.

(xix). The tariff guidelines stipulate a tariff validity cycle of 3 years. However, it has to be recognized that the rate approved in this case is not based on the estimates for future years and existing Scale of Rates at MbPT approved by this Authority in October 2011 is valid upto 31 March 2014. Further, the MbPT has not indicated about the operational arrangement for containers consequent to migration of BPS operations to OCT, which is likely to commence by April 2013, as reported by MbPT. It is not clear whether the existing position of services rendered to containers at CFS / Docks Pre-stack/ 1 Unclear Warehouse ID would continue even after the migration to OCT. In that case, the rate approved in this case may have to be reviewed. Keeping in view the above position, the validity of the rate approved in this case is prescribed upto 31 March 2014 to co-terminus with the validity of the existing Scale of Rates at MbPT subject to the condition that the rate will cease immediately on commencement of operations at OCT. The MbPT is directed to come up with a separate proposal for revision of the rate approved in this case well before the commencement of operations at OCT based on the operational arrangement envisaged for OCT operations. Even otherwise, the MbPT is advised to come up with a well analysed proposal listing out the services rendered by it to the containers at its CFS / yard and after identifying the costs associated thereof in a scientific manner, during the next general review of its tariff.

(xx). The provisions of existing clauses 7 (a) to (e) of schedule 5 (H) – Charges on containerized cargo under Chapter V - Container Related Charges of the existing SoR of MbPT are amended suitably by incorporating the CMC of ₹1,800/- per TEU.

12.1. In the result, and for the reasons given above, and based on a collective application of mind, the provisions at existing clauses 7 (a) to (e) in Schedule 5 (H) - Charges on containerised cargo, Chapter V - Container Related Charges of the Scale of Rates of MbPT approved vide Order dated 29 June 2011 are replaced with the following provision:

"(7) A Cargo Management Charge (CMC) of ₹1,800/- per 20' container (₹1080/- in the case of coastal containers), ₹2,700/- per container above 20' and upto 40' (₹1,620/- in the case of coastal containers) and ₹3,600/- per container above 40' (₹2160/- in the case of coastal containers) shall be recovered in case of import / export containers brought from / taken to other than MbPT operated berths to / from its CFS / Docks pre-stack / 1 Unclear Warehouse ID for delivery / loading. No wharfage shall be payable on the cargo inside the container."

12.2. The revised rate will come into force with retrospective effect from 11 January 2012 and remain valid up to 31 March 2014 co-terminus with the validity of the existing Scale of Rates of MbPT or the date of commencement of operations at OCT, whichever is earlier. The MbPT is directed to come up with a separate proposal for revision of the rate approved well before the commencement of operations at OCT based on the operational arrangement envisaged for OCT operations. Even otherwise, the MbPT is advised to come up with a with a well analysed proposal, during the next general review of its tariff, listing out the services rendered by it to the containers at its CFS / yard and after identifying the costs associated thereof in a scientific manner.

(T.S. Balasubramanian)
Member (Finance)

Annex-I

Cost Statement for Cargo Management Charges at MbPT based on past actuals				
Particulars	**Unit**	**2008-09**	**2009-10**	**2010-11**
Actual wharfage on containerised cargo earned as reported by MbPT	Rs. in lakhs	1422.34	1304.69	1104.36
Actual traffic in TEUs handled as reported by MbPT	TEUs	92492	58098	63788
Average wharfage realisation per TEU	Rs. / TEU	1537.80	2245.67	1731.30
Average wharfage realisation per TEU for the years 2008-09 to 2010-11		**1838.26**		
Less: Average wharfage on containerised cargo calculated based on the position prevailing in the Container Terminals (Workings furnished below)	Rs. / TEU	**470.00**		
Balance considered towards other services rendered at CFS / pre-stack area of MbPT	Rs. / TEU	**1368.26**		
Add: 30% of Rs.1231.30 to account for 30% increase allowed in cargo related charges in tariff order of November 2011	Rs. / TEU	**410.48**		
Average realisation estimated towards other services at the present tariff level	Rs. / TEU	**1778.73**		
		say	**1779.00**	

Workings:

Name of the Container Terminal	Wharfage on cont. cargo (In Rs./TEU)	
CCTPL	460.00	@
CITPL	621.28	@
IGTPL	469.26	@
PSA SICAL	330.00	@
	470.14	

@ Prescribed in respective SoR

Cost statement for Cargo Management Services based on estimates furnished by MbPT

Annex-II

Sl. No.	Particulars	Actuals 2010-11	Estimates furnished by MbPT (₹ in lakhs) 2011-12	2012-13	2013-14	Estimates after rectifying arithmetical errors (₹ in lakhs) 2011-12	2012-13	2013-14
1	**Traffic in TEUs**	**63788**	**54007**	**59408**	**65349**	**54007**	**59408**	**65349**
2	**Income (at proposed tariff except for the year 2010-11)**	**1104.36**	**1125.95**	**1238.54**	**1362.4**	**1122.81**	**1235.09**	**1358.61**
3	**Expenditure**							
(i).	Direct Operating Expenses	18.20	19.29	20.45	21.68	19.29	20.45	21.68
(ii).	Salaries & Wages of Security staff deployed at MOD & STP	95.10	100.81	106.86	113.27	100.81	106.86	113.27
(iii).	Salaries & Wages of TM staff deployed at MOD, STP, etc.	480.09	471.46	471.46	471.46	508.90	539.43	571.80
(v).	Depreciation	4.25	4.25	4.25	4.01	4.25	4.25	4.01
	Direct cost	**597.64**	**595.81**	**603.02**	**610.42**	**633.25**	**670.99**	**710.76**
(vi).	Apportioned Management & Administrative overheads	245.09	256.90	269.41	282.69	259.80	275.39	291.91
(vii).	Apportioned FME (Pension contribution / PLR)	471.46	471.46	471.46	471.46	471.46	471.46	471.46
	Total cost	**1314.19**	**1324.17**	**1343.89**	**1364.57**	**1364.51**	**1417.84**	**1474.13**
(viii).	Return on capital employed	12.11	11.43	10.75	10.11	11.43	10.75	10.11
	Total cost plus ROCE	**1326.30**	**1335.60**	**1354.64**	**1374.68**	**1375.94**	**1428.59**	**1484.24**
4	**Deficit at the proposed tariff level (2) minus (3)**	**-221.94**	**-209.65**	**-116.10**	**-12.28**	**-253.14**	**-193.50**	**-125.64**
5	**Net Deficit as a % of income from CMC**	**--**	**-18.62%**	**-9.37%**	**-0.90%**	**-22.55%**	**-15.67%**	**-9.25%**
6	**Average Deficit as a % of income from CMC for 2012-13 & 2013-14**	**--**		**-4.94%**			**-12.30%**	
7	**Increase warranted by Cargo Handling Activity in the 2011 general revision**						**-67.00%**	
8	**Increase allowed in 2011 general revision order**						**30.00%**	
9	**Deficit position allowed to continue after allowing 30% increase**						**-28.46%**	
10	**Average Cost per TEU for the years 2012-13 & 2013-14 (Sl.No.3 / 1)**						**2334.81**	
11	**Cost per TEU adjusted to maintain deficit position at 28.46%**						**1817.52**	

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/11/2012-MBPT	**:**	**Proposal from the Mumbai port trust for levy of cargo management charges on containers for the services rendered at its CFS.**

A Summary of the comments received from the ICTPL and users / user organisations and the response of MbPT thereon are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Comments of User organisation</th><th>Comments of MbPT</th></tr>
<tr><td>1.</td><td><u>Indira Container Terminal Private Limited (ICTPL)</u>

(i). The inordinate delay in submission of proposal by MbPT and undue collection of wharfage has caused reduction of ICTPL throughput month by month and as a result during the current year the throughput has reached its minimum.

(ii). The throughput handled by ICTPL since its inception till February 2012 are given below:

<table>
<tr><th>Financial year</th><th>Traffic Handled (in TEUs)</th></tr>
<tr><td>2008-09</td><td>31,386</td></tr>
<tr><td>2009-10</td><td>39,002</td></tr>
<tr><td>2010-11</td><td>51,593</td></tr>
<tr><td>Apr’11 to Feb’12</td><td>27,946</td></tr>
</table>

The above table shows that the port users have lost interest in operating at BPS Terminal which is due to the exorbitant charges collected by MbPT over and above the container handling charges of ICTPL. There has been slight reduction in their charges after the Order notified by the Authority in July 2011 but still charges continue.</td><td>The MbPT has not responded.

The MbPT has not furnished any comments.</td></tr>
<tr><td></td><td>(iii). The activity wise details of expenditure for the charges under 5(H) 7(a) to 7(d) have not been furnished by MbPT. In the absence of details, it is difficult to comment on their proposal.</td><td>The activity-wise expenditure for charges under Sr. Nos.5(H) 7(a) to (d) is not separately available and it is not ascertained. However, entire area of CFS is utilised to deliver FCL & LCL import containers discharged and to handle export container to be shipped from ICTPL berth.</td></tr>
<tr><td></td><td>(iv). The Authority while passing the Order on 29 June 2011 and notified on 12 July 2011 has brought out the following points which are very relevant in this proposal:

“Before the licence was granted to ICTPL to operate BPS, MbPT itself was handling containers either at BPS or at any of other berths and providing a range of services /</td><td>Before licence was granted to ICTPL, MbPT itself was handing containers and recovering wharfage and demurrage charges on containerised cargo (after expiry of free days), storage fees and stuffing / destuffing charges. The container activity (container handled at</td></tr>
</table>

	facilities from ship-shore transfer of containers till point of delivery / receipts at the nominated CFS yards. Since the whole range of services / facilities were provided by the port, no separate charge for services rendered at CFSs and receipt / delivery was prescribed as the wharfage levied on containerised cargo was taken to include the said services / facilities also. The existing SoR of MbPT which was approved in September 2006, before the advent of ICTPL, reflects this position as no separate charge for CFS / delivery or receipt services is prescribed. The only charge provided was for supply of labour for stuffing / destuffing. In the changed operational scenario, MbPT's role is confined to providing services at its yard to the containers handled at ICTPL or even JNPT. This calls for prescription of separate charge for cargo management at CFS. Such a charge need not differ with reference to types of cargo as is the case with wharfage. At any rate, there may not be any justification in allowing wharfage on containerised cargo to be levied for the services mainly rendered at CFS yards. The MbPT is advised to file a separate proposal within 3 months with justification for introduction of cargo management charges for the services provided by it to the containerised cargo.**"**	berth) is handed over to the ICTPL since June 2008. Although, MbPT incurs expenditure on maintaining the CFS and other Docks area where container activity is carried out, the container activity is in deficit when considering the income from stuffing / destuffing, storage fees, demurrage and wharfage on containerised cargo with the total expenditure. The detailed workings for the income and the expenditure during the year 2010 to 11 is given below: **Sl. No. / Description / Total Cost (in ₹)** 1. Expenditure on shed / open area for storage of containers & containerised cargo – MOD — 3327574 2. Expenditure on shed / open area for storage of containers & containerised cargo – STP — 1020073 3. Security Staff deployed at MOD (S&W) — 10687934 4. Security staff deployed at STP (S&W) — 12023926 5. Expenditure on TM staff deployed at MOD, STP etc. — 114659532 6. Depreciation — 1014224 **Direct Cost** — **142733263** **Apportioned Cost** 7. Allocation of Administrative cost and Management overheads — 58533613 8. FME – Pension contribution and PLB / BR — 112598384 9. Return on Capital Employed — 2893120 **TOTAL COST (A)** — **316758379** **INCOME** 10. Demurrage — 72900000 11. Stuffing / destuffing — 20034000 12. Storage fees on cargo — 60384000 13. Wharfage on containerised cargo — 110436000 **TOTAL INCOME (B)** — 263754000 14. Net Surplus / deficit — - 53004369 From the above table, after considering the income received from the above activities the deficit is ₹5.30 Crores. Even after considering income from the CMC then also container services will be in deficit.
	(v). The details submitted by the MbPT in Annexure-I of its proposal to arrive at the CMC of ₹ 2079.22 shows that the MbPT has considered demurrage, stuffing/destuffing, storage fee and wharfage on container cargo. It is not known whether the CMC is in addition to the CFS charges towards supply of labour, stevedoring charges (for stuffing and destuffing) and any other charges which are	(i). The CMC worked out by MbPT are leviable on 20 feet and 40 feet size containers. The charges are based on the expenditure incurred by MbPT for providing services at CFS and it does not vary as per type of cargo. (ii). MBPT has also clarified that the stuffing/ destuffing charges, storage fees and demurrage (after expiry of free days) will be recovered

collected from the customers. There is no mention in MbPT's proposal in this regard.

separately whenever services are provided.
[The CMC of ₹ 2079.22 is based on expenditure towards 'wharfage on containerized cargo' (₹ 1326.29 lakhs) and traffic (63788 TEUs)].

(vi). ICTPL strongly object to the proposed CMC, which is very much detrimental to the trade and as such collection of wharfage on containerised cargo is nowhere in any of the Terminals in the ports of our country. The Authority is aware that in JNPCT, NSICT and GTIPL, there is no wharfage charges levied on the containers coming to the port or to any of the CFSs including the JNP CFS whose tariff is approved by TAMP from time to time. The rates and tariff structure followed by JNP CFS may be a good reference for comparing the rates and the structure prevailing at JNPT and MbPT. A comparative statement of total cost to trade at JNP terminals and at MbPT is given below which clearly shows that Mumbai trade is discouraged by high cost to trade:

Sl. No.	Cost for handling import normal 20' container	ICTPL	MbPT	JNPT	GTIPL	NSICT
(i).	Port Handling Charges					
	(a). Terminal handling charges	2,223	3,211	2,550	1,775	2,411
	(b). Gr. rent terminal (3days free, 1 day Gr. Rent)	111	161	136	171	203
	Cost at Terminal	**2,334**	**3,372**	**2,686**	**1,946**	**2,614**
(ii).	CFS charges upto cargo removal					
	(a). Transportation upto CFS	3,200	3,200	-	-	-
	(b). Destuffing charges	3,640	3,640	2,933	2,933	2,933
	(c). Internal shifting and handling at CFS	1,000	1,000	-	-	-
	(d). Laden container Gr. rent (Min 3 days stay)	-	-	-	-	-
	(e). Gr. rent of Mty. Container	161	161	21	21	21
	Cost of CFS	**8,001**	**8,001**	**2,954**	**2,954**	**2,954**
(iii).	CMC charges	2,079	2,079	-	-	-
(iv).	Octroi clearance					
	N-Form charges (cargo to be taken out of Mumbai limit)	100	100	-	-	-
	Octroi clearance cost	**100**	**100**	**-**	**-**	**-**
(v).	Empty repositioning cost					
	(a). Transportation charges (Mty Yard at NSA)	1,500	1,500	1,200	1,200	1,200
	(b). Toll	200	200	-	-	-
	(c). LOLO	-	-	150	150	150
	Total Empty Repo cost	**1,700**	**1,700**	**1,350**	**1,350**	**1,350**
	Service Tax 10.3%	**1,070**	**1,177**	**720**	**644**	**713**
(vi).	**Total Cost for Dock Destuffing**	**15,284**	**16,428**	**7,710**	**6,894**	**7,630**

Note: At JNPT stuffing / Destuffing charges include Transportation ex JNP + ₹51/- per MT.

A comparative statement of total per TEU charges are as given below:

(in ₹)

Sr. No.	Description	Contnr. handled at BPS berth by MbPT	Contnr. handled by MbPT other than BPS berth	Contnr. handled by ICTPL	Contnr. handled at JNPT
1.	Composite box rate (246.900 tonne)	3211	2431	2223	2210
2.	Wharfage #	4280	4280	-	-
3.	One day ground rent	163	163	111	138
4.	Container yard to Pvt. CFS	-	-	-	786
5.	Internal shifting & handling	-	-	1000	-
6.	Destuffing charges (CFS charges)	3640	3640	3640	-
7.	Cargo Management Charges as proposed	-	-	2079	-
	Total charges per TEU	**11294**	**10513**	**9053**	**3134**

(# IGM / Item No.2015433.03 – 9 container 20 feet – total Wt. 246833 Kg. 246.900 tonne, wharfage for import iron and Steel Materials ₹156 tonne foreign)

Note:-

1. Storage charges are levied separately at MbPT and Private CFS.
2. Demurrage charges are levied separately as per SOR at MbPT after expiry of free days.
3. In case of JNPT, loaded import container is removed from container yard to private CFS, storage charges and destuffing charges are recovered by private CFS from importer (as JNPT is not looking towards Cargo Management and delivery of cargo).

From the above table, the handling cost of one TEU handled at MbPT is not much higher than ICTPL. However, in the case of JNPT, all charges recovered by private CFS for storage / safety and delivery of the cargo need to be considered.

(vii). In addition to the above due to the recent upward revision by 30% of the vessel related charges in MbPT the operation in Mumbai Port has become very costlier and uneconomical to the trade. The vessel related charges in MbPT when compared with the neighbouring terminal are around 113% higher even though the infrastructure at MbPT is very old in comparison. Any shipping line will find it difficult to operate from Mumbai Port. The

It is observed from the table given by ICTPL in its letter, the transportation upto CFS ₹3200/- is taken on the higher side. Octroi clearance cost and transportation charges of ₹1500/- are not notified charges as per the SOR of the MbPT. Apart from this, the ground rent is considered two times and internal shifting charges of ₹1000/- are not as per the SOR of the MbPT. In this regard, the ICTPL is requested to furnish

	ICTPL has requested the Authority to take an overall view of the situation to enable the trade to be very competitive and self-sustaining.	extract of above charges. It is pointed out here that ICTPL have agreed in the joint hearing that they have all information regarding container handled at ICTPL. However, MbPT requested some information from ICTPL on 21 March 2012, which has not been provided. In reply to questions regarding number of factory stuffed containers directly received at ICTPL BPS Terminal from other than port premises excluding containers received from ICD and subsequently shipped from ICTPL and destination from where container is received at ICTPL berth, the ICTPL has stated that all the containers enter ICTPL under form no.13 however all the details of the containers enter at MbPT gate. We do not collate this data. From the above statement it is clear that MbPT has incurred the expenditure to maintain all records of the container and also give other services like passes issued to consignees, updation of all movements in the system of MbPT's computer etc. The MbPT furnished a copy of the MbPT's letter dated 21 March 2012 and ICTPL letter dated 2 April 2012.
	(viii). The cargo stored / carted into the bonded warehouse from the date of stuffing / destuffing till the time the importers take delivery or the exporters get LET EXPORT order, the activities involved are all covered under the CFS SOR's of MbPT and thus ICTPL are not able to comprehend the levy of this additional CMC charge and what ambit of services does this cover beyond the normal routine work required for stuffing / destuffing which already stand covered. Refer to Order passed by Authority reproduced in the above paragraphs wherein the Authority has clearly asked for services to be defined against the said CMC charges which has not been shown anywhere. Instead of giving cost details of the services rendered under CMC, MbPT has furnished the details of Income and Expenditure pertaining to Demurrage, stuffing / destuffing etc. which are not relevant. Further the expenditure considered for demurrage, stuffing / destuffing, storage fees and wharfage cannot be verified without any details furnished by MbPT.	
	(ix). The MbPT has indicated in Annexure-IV of its proposal that the wharfage is leviable on the containers handled at CFS / Docks pre stack and 1 Un Clear Warehouse ID, besides the containers received at MbPT CFS by road from JNPT. ICTPL requested the Authority to confirm their understanding in this regard that the proposed CMC will be leviable even on the containers received at MbPT CFS by road from JNPT in concurrence with the Order passed by the Authority vide Order dated 29 June 2011 wherein the then prevailing exemption from wharfage charges for the aforesaid containers was withdrawn. The difference in services offered by MbPT to ICT containers and that through road would not be comprehended. Irrespective of the above, ICTPL protest against CMC being applied.	
	(x). As per Licence Agreement signed with MbPT, the MbPT were supposed to provide necessary infrastructure which was very clearly discussed in the joint hearing on 25 March 2011. Therefore, levying additional charges towards CMC in addition to CFS charges will be an extra burden on the trade and for this reason; ICTPL is suffering huge losses, reduction in throughput, which have already been brought out in the previous paragraphs.	
	(xi). As regards the board proposal submitted by MbPT, the MbPT have simply calculated based on the projections made by them in view of the points explained as above. In the absence of any details, it is very difficult	

	to comment on the rates proposed by MbPT. Therefore, the ICTPL request the Authority to take their views in this regard and pass necessary orders in discontinuance of wharfage charges with immediate effect and also request that whatever extra charges MbPT have collected from the trade should also be considered for refund.	
	(xii). ICTPL request the Authority to direct MbPT to clarify on all charges which will be payable on the container / cargo by the customers to MbPT on a container / cargo handled at ICT to get clarity and avoid interpretational misunderstanding of complex SOR of MbPT.	
2.	**Indian Merchants' Chamber (IMC)** **&** **The Bombay Custom House Agents' Association**	(i). The MbPT has provided valuable services since 1976 to the trade. (ii). The MbPT has recovered all the charges as per the Scale of Rates of MbPT which was approved by the Ministry of Shipping from time to time and now TAMP as against the services provided to the trade. It is stated here that CMC is not additional charges as stated by BCHAA. (iii). The expenditure on CFS has been considered as against the income received from demurrage on cargo, storage fees, stuffing / destuffing and wharfage on containerised cargo. TAMP has approved the CMC of 90% on wharfage rates considering cost involved, handling charges of cargo and documentation together. Wharfage stands cancelled when ₹2079 per TEU is reasonable and as per TAMP's guidelines for tariff fixation.
	(i). The MbPT recovers wharfage for all cargo, that is unloaded in its premises. These charges were recently revised upwards.	
	(ii). Mumbai Port authorities recover huge sums as Warehouse Charges on cargo stored in containers at their CFSs.	
	(iii). The MbPT also recovers huge penal costs under Demurrage Charges for cargo not cleared by trade within the free period.	
	(iv). The MbPT since 1976, when containerised cargo commenced in India, have never resorted to recovery of cargo management charges, since the same were part of the port wharfage charges and demurrage charges, that were being recovered.	
	(v). Recovery of an additional charge, as cargo management charges would tantamount to a 3rd tier of charges being recovered on the same cargo.	
	(vi). At present the trade pays the following: (a). Port Wharfage Charges (b). Port Warehouse Charges (c). Container Terminal Handling Charges (d). Container Detention Charges (e). Port Demurrage Charge	
	(vii). In addition to the common points the BCHAA has stated that in light of all these charges being recovered, there is no justification for levying an additional charge by the MbPT.	
	(viii). The BCHAA has further stated that in the year 1997-98, the MbPT handled approx. 6.5 lakhs containers, whereas today it handles barely 63,788 containers, hence the proposal to recover cargo management charges would only result, in further depletion of containers being handled at Mumbai Port.	

3.	**Mumbai and Nhava Sheva Ship Agents' Association**	
	(i). The MbPT has proposed an amendment to the provisions of Section 5 (H) Charges On Containerised Cargo at Sr. No. (7), Chapter V of the SOR. Presently, under this Section, a cargo management charge equivalent to 90% wharfage rates prescribed in Schedule 3.1 (a) of Chapter III is payable and other charges as stipulated in (b), (c), (d) & (e) are payable by the Cargo Interests.	As stated at Sl. No.2 above.
	(ii). The MbPT has now proposed a flat rate of ₹2,079/- and ₹4,178/- as Cargo Management Charges (CMC) for 20 feet / 40 feet containers respectively.	
	(iii). Even though this replaces the existing provision as observed above and recoverable from Cargo Interests, MANSA has stated that this will be adding to the charges on Cargo Interest. This will increase the cost of import / export and then resulting in increased transaction costs. It is understood that in no other Indian Ports such Cargo Management Charges are recovered. There is no system of additional charges levied by the landlord port for the containers handled by the private operators under BOT terms other than the notified container handling charges which is collected by the Terminal operator.	
	(iv). The MbPT attempt to recover the wharfage charges in different form is not at all justified when the concept of wharfage is not a practice in the container trade. In addition to this MbPT have a separate tariff for container handling at their nominated CFS which needs to be consolidated on per TEU basis with break up of expenses in line with the tariff prevailing at neighbouring ports.	
	(v). The MANSA do not agree with the introduction of a new element of Cargo Management Charges on the Cargo Interests as this will ultimately increase the cost of handling in the Port and is detrimental to the traffic growth.	

2. A joint hearing in this case was held on 2 May 2012 at the Office of the Authority. At the joint hearing, the MbPT, ICTPL and the concerned users/ organisation bodies have made the following submissions:

Mumbai Port Trust (MbPT)

(i). We have given a detailed proposal with calculations.

(ii). The proposed charges are applicable in case of containers handled at ICTPL and JNPT but coming to our CFS area.

(iii). All services for cargo at CFS are provided by us and not by ICTPL including filing customs out turn report. Port remains responsible for cargo and files complaint with the concerned authorities in case of short landing, etc.

(iv). The costs for CFS furnished now are not included separately in the General Revision.

(v). Our proposal is to introduce a box rate concept of charges. Nature of cargo will be irrelevant, if the proposed charge is introduced.

(vi). We provide all documentation in respect of cargo. ICTPL does not handle cargo.

Indira Container Terminal Limited (ICTPL)

(i). We don't deny the services provided by MbPT. The proposed rate should be clearly justified by the corresponding cost of rendering the relevant services. It is not correct to approve a tariff only to protect the earlier wharfage revenue.

(ii). We don't handle documentation in respect of cargo, as we handle only containers.

(iii). MbPT should spell out the different charges it will levy at CFS in addition to the proposed rate.

(iv). The rates proposed by MbPT should be comparable to what have been levied at other CFSs for similar services.

Container Shipping Lines Association (CSLA)

(i). We are not directly involved.

(ii). MbPT should levy the CFS charges from cargo interests. They can't penalise vessel agents, if cargo owner does not pay.

(iii). MbPT continues to levy demurrage even though they have powers to dispose of unclaimed goods after 60 days.
[MbPT says, it can act only after customs issue No Objection Certificate]

Mumbai and Nhava Sheva Ship Agents Associaton (MANSA)

(i). MbPT already levies charges for the services rendered at CFS. Why one more tariff item?
[MbPT clarifies, the proposed charges will be in lieu of wharfage levied earlier and there is no duplication]

(ii). Even if MbPT discontinues wharfage, ICTPL will levy its charges. Trade is burdened.

(iii). The proposed charge is just another name for wharfage. MbPT does not operate at wharfs in case of containers and, therefore, they can't charge.

Bombay Custom House Agents' Association (BCHAA)

(i). The services provided by MbPT at CFS should be included in their warehousing charges. No merit emerges for a separate tariff item.

(ii). MbPT is already costly. The proposed rate will only divert traffic to JNPT.

- - - - -