

(To be published in Part - III Section 4 of the Gazette of India, Extraordinary)
TARIFF AUTHORITY FOR MAJOR PORTS

No. TAMP/12/2019-MUC

Mumbai, 9 August, 2019

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 received from Delhi – Mumbai Industrial Corridor Development Corporation (DMICDC) for levy of Mandatory User Charges (MUC) for DMICDC's Logistics Data Bank (LDB) project across all the Major Port Trusts and BOT operators operating thereat, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/12/2019-MUC.

QUORUM

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

ORDER

(Passed on this 24th day of July 2019)

This case relates to a proposal received Delhi-Mumbai Industrial Corridor Development Corporation (DMICDC) for approval of levy of Mandatory User Charges (MUC) for DMICDC's Logistics Data Bank (LDB) project across all the Major Port Trusts and BOT operators operating thereat.

2.1. The Government of India is developing the Delhi Mumbai Industrial Corridor (DMIC) as a global manufacturing and investment destination. For this propose, a special propose Vehicle (SPV) namely the Delhi- Mumbai Industrial Corridor Development Corporation (DMICDC) has been incorporated for program managing the development of the DMIC Project.

2.2. All the stakeholders involved in the cargo movement have their own standalone information system to manage their operations. Since these systems are not integrated with each other, they do not exchange information on real time basis. Thus, to keep a track on the movement of containers across the ports to the ICDs and the end users, the DMICDC has developed the Logistic Data Bank (LDB) to integrate the information available with various agencies across the supply chain to provide detailed real time information within a single window. The project is intended to provide the near real time visibility of the container movement across the supply chain, thereby streamlining the container logistic movement.

2.3. In this connection, it may be recalled that the Government had decided that Jawaharlal Nehru Port Trust (JNPT) may make a proposal to TAMP for notifying the Mandatory User Charges (MUC) for the LDB project as part of its Scale of Rates.

2.4. Accordingly, based on a proposal mooted by DMICDC through JNPT in September 2014 and after following the usual consultation process with JNPT, BOT terminals operating thereat and the users of JNPT, this Authority vide its Order no. TAMP/49/2014-JNPT dated 13 February 2015 had approved the proposal of the JNPT to levy the Mandatory User Charge (MUC) of ₹125/- per container in the year 2016-17, ₹135/- per container in the year 2017-18 and ₹145/- per container in the year 2018-19 on all containers (except transshipment and coastal) at the JNPT and at the BOT Terminals at JNPT viz., Nhava Sheva International Container

Terminal Private Limited (NSICTPL) and Gateway Terminals India Private Limited (GTIPL). The said levy of MUC had been incorporated in the Scale of Rates of JNPT, NSICTPL and GTIPL respectively. The said Order prescribed a tariff validity period upto 31 March 2019.

2.5. Subsequently, the Ministry of Shipping (MOS) vide its letter no. PD-14033/34/2017-PD-V dated 06 June 2018 directed this Authority to issue a common Order applicable to all the Major Port Trusts and the terminals operating thereat, to prescribe a provision towards levy of MUC on containers towards the LDB Service to be rendered by DMICDC, in the Scale of Rates of all the Major Port Trusts and terminals operating thereat for the year 2018-19 at par with JNPT.

2.6. In pursuance of the communication of MOS, this Authority had passed a Common Order no. TAMP/46/2018-MUC dated 8 June 2018 approving incorporation of a provision towards levy of MUC on containers for the LDB Service to be rendered by DMICDC, in the Scale of Rates of all the Major Port Trusts and private container terminals operating thereat. This Order was notified in the Gazette of India on 03 July 2018 vide Gazette No. 248 and had come into effect from the date of notification of the Order i.e. 3 July 2018 and was valid upto 31 March 2019.

2.7. Further, the MOS vide its letter no. PD-14033/34/2017-PD-V dated 06 June 2018 had already requested all the Major Port Trusts to coordinate with DMICDC to formulate a suitable proposal for levy of MUC and file the proposal before this Authority for approval of MUC with effect from 01 April 2019.

3.1. In this backdrop, the DMICDC vide its letter dated 14 January 2019 has submitted a proposal for renewal of MUC of DMICDC's LDB. The submissions made by DMICDC in its proposal are summarized below:

- (i). The DMIDC Logistics Data Services Ltd. (DLDSL), a Special Purpose Vehicle (SPV) of National Industrial Corridor Development implementation Trust (NICDIT) and NEC Corporation has been incorporated on 30 December 2015 with a view to reduce the overall transaction cost incurred by the Government by bringing in the required Transparency and Visibility across the container transportation supply chain.
- (ii). The objective of DLDSL is of effectively leveraging ICT across the Indian Logistic Sector, inculcate best practice across the various processes and work towards bringing in efficiency in the supply chain.
- (iii). DLDSL's Logistics Data Bank (LDB) System provides Export Import (EXIM) Container visibility from Port terminals to Inland Container Depots (ICDs) / Container Freight Stations (CFSs) and across the Toll Plazas and generates various analytics for the trade to streamline the processes by addressing the bottlenecks. The visibility is provided through the LDB Portal www.ldb.co.in.
- (iv). LDB integrates with existing IT systems of the stakeholders and provide end-to-end tracking information through a single window interface and the service is provided through RFID Technology and integrates with various systems of stakeholders.
- (v). The online LDB tracking system facilitates and provides easy tracking and effective utilization to the import/ export companies. It also allows the users to locate the near real time location and time stamp of the container during its inland movement through road or railways. Thus, it promotes "Ease of doing business" by cutting cost and time for exporters and importers
- (vi). LDB Container tracking service was launched in July, 2016 at India's largest container handling Port terminals of Jawaharlal Nehru Port Terminal (JNPCT, APM Terminal, NSICT & NSIGT Terminal).

- (vii). Based on the success of the LDB Project across the JNPT, the project was extended to India's largest private port terminals of Adani in Mundra (4 terminals) & Hazira in May 2017 and the newly formed Bharat Mumbai Container Terminal (BMCT) at JNPT in April 2018.
- (viii). On 18 December, 2017, the project was launched and implemented across the Port terminals in Southern & Eastern corridor of India and the project is helping in optimizing the Indian Container transportation supply chain using the state of the art technology & best practices. The LDB system is currently operational at 22 Port Terminals of India and providing Container visibility services for more than 90-95% of India's Container Volume.
- (ix). The proposal of DMICDC contains workflow of LDB service and brief information about LDB for container tracking.
- (x). LDB project has contributed immensely in improving container movement visualization across Indian Landscape while highlighting bottlenecks through data analytics. Key improvement areas during the course of project is as follows -
- Port to ICD Transportation time reduced by 57%
 - Port Dwell Time (import cycle) reduced by 49%
 - Port Dwell Time (export cycle) reduced by 22%
 - ICD Dwell Time reduced by 20%
 - Overall reduction in Co2 emission round toll plaza 7%
- (xi). The summary financials are as follows:

Balance Sheet of DMICDC Logistics Data Services Limited for the last 3 years			
Particulars	As at 31.03.2018	As at 31.03.2017	As at 31.03.2016
<u>I. EQUITY & LIABILITIES</u>			
Shareholder's funds			
Share Capital	8,03,96,000	8,03,96,000	5,00,000
Reserves & Surplus	(5,28,71,556)	(3,76,42,070)	(89,381)
<u>Non- Current Liabilities</u>			
Long Term Borrowings	12,75,00,000	12,75,00,000	-
Deferred Tax Liability	79,90,038	-	-
<u>Current Liabilities</u>			
Trade payables	20,34,00,263	1,74,78,852	-
Other current liabilities	93,05,854	70,57,787	-
Short-term provisions	1,63,82,295	-	-
TOTAL	39,21,02,894	19,47,90,569	5,04,290
<u>II. ASSETS</u>			
<u>Non-current Assets</u>			
Fixed Assets			
I. Tangible Assets	5,47,22,924	7,03,59,678	-
II. Intangible Assets	5,68,74,167	4,71,21,801	-
Long Term loans and Advances	2,62,55,273	50,09,091	-
<u>Current Assets</u>			
Inventories	16,90,884	-	-
Trade Receivables	10,16,23,859	2,07,70,689	-

Balance Sheet of DMICDC Logistics Data Services Limited for the last 3 years			
Particulars	As at 31.03.2018	As at 31.03.2017	As at 31.03.2016
Cash and Cash Equivalents	7,49,61,585	54,68,883	5,00,000
Other Current Assets	7,59,74,202	4,60,60,427	4,290
TOTAL	39,21,02,894	19,47,90,569	5,04,290

- (xii). TAMP has, through its Order dated 29 October 2014 (Case No. TAMP/49/2014-JNPT), which was notified in the Gazette of India on 14 November 2014 vide Gazette No.328, read with its speaking order dated 13th February 2015, approved the proposal of JNPT for levy of MUC of ₹.125/- per container in the year 2016-17, ₹.135/- per container in the year 2017-18 and ₹.145/- per container in the year 2018-19 at the JNPT Port Terminals.
- (xiii). For Pan-India operation, the Ministry of Shipping (MOS) vide its letter No.PD-14033/34/2017-PD-V dated 06 June 2018 has conveyed to the TAMP to issue a common order applicable to all the major port trusts and the terminal operating thereat, to prescribe a provision towards levy of Mandatory User Charge (MUC) on containers towards the Logistics Data Bank Service to be rendered by Delhi Mumbai Industrial Corridor Development Corporation (DMICDC), in the scale of rates of all the major port trusts and terminals operating thereat for the year 2018-19 at par with Jawaharlal Nehru Port Trust (JNPT) i.e. ₹.145+GST per container
- (xiv). TAMP, through its common order dated 8 June 2018 (Case No. TAMP/46/2018-MUC), which was notified in the Gazette of India on 3rd July 2018 vide Gazette No.248, directed for levy of Mandatory User Charge (MUC) i.e. ₹.145 + applicable taxes per container towards the logistics data bank service to be rendered by DLDSL.
- (xv). LDB project was extended to cover other ports in India namely 1 terminal of Deendayal Port, 1 terminal of New Mangalore Port, 1 terminal of Cochin Port, 2 terminals of Chennai Port, 1 terminal of Visakhapatnam Port, 1 terminal of Kattupalli Port, 2 terminals of Kolkata Port, 2 terminals of VO Chidambaranar Port, 1 terminal of Krishnapatnam Port and Bharat Mumbai container terminal of JNPT. DLDSL is currently working to implement the LDB services at the ports of Mormugao, Paradip, Kamarajar and Mumbai, which would be operational from 15 February 2019.
- (xvi). The necessary investment in the infrastructure has already been made and the on-going operation is performed by DLDSL which is external to the Port Terminal Operators. Hence, the recovery of the investments will not be the prerogative of the Port Terminal Operators.
- (xvii). As a result, every 3 years the proposal has to be accepted by all the relevant stakeholders and in the event of non-acceptance by any one party can lead to financial non-viability of the project.

3.2. The DMICDC in its proposal has furnished the cost statement based on estimates for the next three financial years i.e. 2019-20, 2020-21 and 2021-22. The cost statement as provided in the proposal is given below:

No. of years		3				
Year			FY 2019-20	FY 2020-21	FY 2021-22	
Month of Operations			12	12	12	(In Mn INR)
						Total
Revenue	Revenue from MUC (A)		947.8	1059.4	1179.8	3186.9
Direct Cost- MDOM	LDB Package License		97.9	97.9	97.9	293.8
	LDB Package license support		74.1	74.1	74.1	222.2
	RFID Solution development		41.1	41.1	41.1	123.3
	RFID Solution Support		14.0	14.0	14.0	42.0
	Total helpdesk cost with COLA		53.6	54.7	55.8	164.1
	Total Hosting Charges		19.7	20.6	21.6	61.9
	Total project management Cost with COLA		61.0	68.2	75.8	205.1
	Total cost of Travel		41.1	47.6	48.2	142.9
	Communication cost + Contingency for RFID		34.94	35.84	36.73	107.5
	Total KIOSK Cost	65%	2.5	2.5	2.5	7.6
	Total electrical cost for deployment of KIOSK	65%	3.2			3.2
	RFID Installation + Recurring Cost of Hardware like UPS, Poles, Cables, Fanless PCS		11.78	15.81	19.84	47.4
	RFID Operations + Maintenance		253.0	253.0	253.0	759.0
Hardware + FOIS	RFID Tag Cost		92.0	96.6	101.5	290.2
	RFID Reader Cost		80.0	95.3	110.6	285.8
	Total Electricity Expense		5.9	6.5	7.2	19.7
	FOIS Cost	65%	2.6	2.6	2.6	7.8
	Total Direct Cost (B)		894.61	926.51	962.4	2783.5
Gross Profit	Gross Profit (C)		53.2	132.9	217.4	403.4
	Gross Profit (%)		6%	13%	18%	13%
SGA Expenses	Staff Salaries		22.6	24.4	26.3	73.3
	Total cost of marketing activities		5.3	5.9	6.5	17.7
	Total cost of Travel		2.3	2.5	2.7	7.5
	Total Audit charges		0.7	0.7	0.8	2.2
	Office Rental		2.5	2.7	3.0	8.2
	Total SGA Expenses (D)					
Operating Profit	Operating profit (E)		19.9	99.4	181.1	300.3
	Operating Profit (%)		2.1%	9%	15%	9%
		Losses (Total)	10.6	15.9	26.4	53
Other Expenses / Income	Losses (Major Ports)	65%	639	10.3	17.2	34.5
	Loan Interest	65%	7.1	7.1	7.1	21.3
	Total Other Expenses (E)		14.0	17.4	24.3	55.8
Net profit	Net profit (G)		53.88	81.97	156.71	244.56
	Net profit (%)		0.6%	7.7%	13.3%	7.7%

3.3. The basis of assumptions considered in the preparation of the proposal of LDB services are as follows:

- (i). Revenue Calculation:
- (a). The total container volume considered for FY 19-20 is 9.9 million boxes for Major and Minor ports.
 - (b). A 5% annual growth in the container volume is taken into account for FY 20-21 and FY 21-22.
 - (c). Container volume is divided into Major ports and Minor ports. The ratio of container volume for Major and Minor ports considered in the proposal is 65:35. The same ratio is used to divide the common costs in the proposal for major ports.
 - (d). The proposed MUC of INR 155, 165 and 175 has been considered to calculate Revenue for FY 2019-20, FY 2020-21, FY 2021-22 respectively.
- (ii). Direct cost- MDOM constitute the IT outsourcing cost for the LDB service.

Cost Element	Description
LDB and RFID Package license	Basic LDB service package including search service on HADOOP analytics platform.
LDB and RFID Package license support	Cost for feature enhancement (Development of new features) and for upgrading (Enhancement existing system new), minor modification and technical support for helpdesk.
Helpdesk	An information and assistance team that troubleshoots problems with data collection and LDB service to customers via telephone, chat, email etc.
Hosting service	Infrastructure resources and services taken, Operating system, Database & other service like (Jboss, ISS, etc.), maintenance and operation. Data Platform for Hadoop (DPH) is utilized to provide the analytics to various stakeholders.
Project Management	Project management team to supervise the project at all the levels.
Travel cost	Cost of travel for the team managing the operations and IT services at Ports, CFS, ICD, Toll Plazas etc.
Communication and Contingency	The communication cost entails the cost of connectivity between different sites, connectivity cost (leased line) between RFID data centre and LD Data centre as well as the contingency cost for RFID. The contingency cost has been considered at 5%.

- (iii). Direct cost – RDCF constitute the field operation outsourcing cost for the LDB services

Cost Element	Description
Kiosk Cost	Cost for setting up of kiosks at the port terminal premise for stationing the operations staff and RFID Tag inventory of DMICDC
Electrical cost for deployment of Kiosk	The total cost has been calculated by multiplying the electricity requirement (kilowatt hour) with an average per unit rate INR 10.
RFID Installation + recurring cost of hardware	It includes the cost of installation of RFID infrastructure at multiple locations within the country and the recurring maintenance cost for the installed infrastructure such as UPS, pole, cables etc.

RFID operations and Maintenance	It is the manpower cost for tagging, operation at the port and filed support service.
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(iv). Hardware and FOIS cost

Cost Element	Description
RFID Tag Cost	It is the cost of RFID tag that will be tagged in all the import containers
RFID Reader Cost	It is the cost of RFID readers procured by the company for setting up the infrastructure at Ports, CFS, ICD, Toll Plazas etc.
Electricity Expense	It includes the electricity expense for running of the RFID readers and other infrastructure 24*7 at all the locations.
FOIS Cost	LDB has an integration with the Indian Railways – Freight Operations Information System (FOIS) for tracking all the Rail-bound containers. It includes the cost payable to Indian Railways for FOIS integration.

(v). SGA Expenses:

It contains the cost of Selling, General and Administration Expenses of the DLDSL.

(vi). Other Expense / Income –

(a). The total losses incurred by DLDSL for the last three years of LDB operations has been provisioned in the TAMP proposal. 65% of the total loss is considered in the proposal for Major Ports. The same has been divided in the ratio of 20%, 30% and 50% for FY 2019-20, FY 2020-21, FY 2021-22 respectively.

(b). The loan interest payable by DLDS against its loan.

3.4. Accordingly, the DMICDC has sought approval for the levy of MUC of ₹155/-, ₹165/- and ₹175/- per container during the years 2019-20 to 2021-22 respectively, across all the Major Port Trusts in India.

4. In accordance with the consultative procedure prescribed, a copy of the DMICDC proposal dated 14 January 2019 was taken on consultation with all the Major Port Trusts, all the private container terminals operating thereat governed by the erstwhile 2005 guidelines, 2008 and 2013 Guidelines and all concerned users/ user organizations vide our letters dated 31 January 2019 seeking their comments. Comments were received from few Major Port Trusts and some users/ user organisations. These comments were forwarded to DMICDC for its comments. The DMICDC vide its letters dated 12 March 2019 has responded on the comments of the Major Ports/ users/ user organisations.

5.1. Based on a preliminary scrutiny of the proposal, some additional information/ clarification was sought from DMICDC vide our letter dated 2 April 2019. The DIMCDC has responded vide its letter dated 26 April 2019. The additional information/ clarification sought by us and the response of DMICDC thereon are tabulated as below:

Sl. No.	Information/ Clarification sought by us	Reply furnished by DMICDC
A.	General	
(i).	The actual Revenue for the year 2018-19 to be furnished.	Accounts for the FY 18-19 has not yet been finalized, reconciliation of invoices for the month of March 2019 is underway with various ports. However, the provisional revenue for the FY 18-19 is ₹ 96.76 Crores after considering the actual

		revenue from Apr 18 till Feb 19 i.e. ₹ 91.30 crores & projected revenue for Mar 19 at ₹ 5.46 crores
(ii)	In the fixation of Mandatory User Charge (MUC) vide Order no. TAMP/49/2014-JNPT dated 13 February 2015, paragraph no. 7.1 (iv) of the Order, calls for review of the actual surplus/ deficit arising out of the service of Logistics Data Bank (LDB) by levy of MUC during the period from 2015-16 to 2018-19. Accordingly, to enable review the surplus/ deficit for the said period, the DMICDC to furnish the requisite details in the format attached herewith.	<p>The requisite detail in the format attached is furnished. The estimates shared by DLDSL with TAMP in the Order no. TAMP/49/14-JNPT dated 13 February 2015 were based on certain assumptions. However, in the actual scenario there was lot of changes in the business model. Hence the necessary reasons for the variation have been mentioned. Few important disclaimers are listed below for easy reference:</p> <p>(a). Traffic Estimates were based on the assumption of containers in TEUs, while the actual revenue realized is on the basis of boxes which is less than TEUs. Forty feet containers constitute 2 TEUs, however the MUC collected is for 1 box only. In addition to this, DLDSL do not get revenue for coastal and transshipment containers.</p> <p>(b). The estimates were shared with TAMP for 4 years starting from 2015-16 to 2018-19, however the LDB project started from July 2016 at JNPT. All the entries in actuals are for three FY starting from 2016-17 to 2018-19.</p> <p>(c). The estimates shared were only for 3 terminals of JNPT, however the actuals constitute the revenue and costs for JNPT (9 months) in 2016-17, JNPT, Mundra and Hazira in 2017-18 and JNPT, Mundra & Hazira and other major and non-major ports (4 months) in India in 2018-19.</p>
(iii)	The audited Annual Accounts of DMICDC for the years 2015-16 to 2018-19 to be furnished	<p>Delhi Mumbai Industrial Corridor Development Corporation Ltd. (DMICDC) was incorporated to establish, promote and facilitate development of DMIC project. It undertakes project development services for investment regions / industrial areas / economic regions / industrial nodes and townships, for various central government agencies and also assists state governments.</p> <p>DMICDC has formed DMICDC Logistics Data Services Limited (DLDSL), a special purpose vehicle on 30th December 2015 with the objective of effectively leveraging ICT across the Indian Logistics Sector, inculcate best practices across the various processes and work towards bringing in efficiency in the supply chain. The company aims at bringing visibility and transparency in Logistics environment, streamline the operations across the supply chain and help in government's plan of improving the Ease of Doing Business in India.</p> <p>The flagship project of the company "Logistics Data Bank System (LDB System)" that provides the Export Import Container visibility service across India along with comparative performance metrics.</p>

		Therefore, DLDSL is sharing its Audited Annual Accounts for the Financial Year 2015-16, 2016-17 and 2017-18. The copy of Audited Annual Accounts is furnished.																																																
(iv)	A reconciliation statement, to reconcile the difference, if any, between the estimates vis-à-vis the respective figures as indicated in the audited Annual Accounts for the years 2015-16 to 2018-19 as furnished in the format attached, also to be furnished	<p>The Audited Financial Expenses head as shown in the below table need to be looked against the summation of Annexure - 1 Actual Expense head for validation and reconciliation.</p> <table border="1"> <thead> <tr> <th>Audited Financial Expenses (Annexure - 4)</th> <th>Annexure - 1 Expenses</th> </tr> </thead> <tbody> <tr> <td>Direct Fees and Other Expenses (Only Lease Rent)</td> <td>Rail Integration fees, RFID Operations, RFID Tags, LBD Package License & Support, Real-time Solution, Helpdesk, Hosting, Tools & Communication</td> </tr> <tr> <td>Depreciation</td> <td>Depreciation</td> </tr> <tr> <td>Other Expenses (Excluding Lease Rent), Employee Benefit Expenses</td> <td>Sales, General & Administrative Expenses - Outsourced</td> </tr> <tr> <td>Other Income</td> <td>Finance & Miscellaneous Income (FMI)</td> </tr> </tbody> </table>	Audited Financial Expenses (Annexure - 4)	Annexure - 1 Expenses	Direct Fees and Other Expenses (Only Lease Rent)	Rail Integration fees, RFID Operations, RFID Tags, LBD Package License & Support, Real-time Solution, Helpdesk, Hosting, Tools & Communication	Depreciation	Depreciation	Other Expenses (Excluding Lease Rent), Employee Benefit Expenses	Sales, General & Administrative Expenses - Outsourced	Other Income	Finance & Miscellaneous Income (FMI)																																						
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B.	Cost Workings as furnished by DMICDC at Page 23 of its Proposal of January 2019:																																																	
I.	<u>Revenue from MUC</u>																																																	
(i).	The Revenue for the year 2019-20 is reported to be based on the total container volume for FY 2019-20 at 9.9 million boxes and considering the proposed MUC of ₹ 155/- per container. The ratio of container volume at major and non-major ports is considered at 65:35. Based on these parameters, the revenue should work out to ₹ 99.74 crores. As against this, the DMICDC has shown the revenue for the year 2019-20 at ₹ 94.78 crores. The DMICDC to, therefore, furnish detailed working in support of the revenue projected for each of the years 2019-20 to 2021-22 respectively.	<p>TAMP understanding is correct that total container volume for FY 2019-20 at 9.9 million boxes and the ratio of container volume at major port to be 65% of the total volume. Hence, the total container volume is 6.4 million boxes. The MUC considered in the FY 2019-20 is INR 155 per container. However, for calculating the revenue of DLDSL we considered 95% of MUC i.e. 95% of 155 which is 147.3. And 5% of the MUC will be shared with the port terminals. Therefore, the total revenue calculation for FY 2019-20 is shown as 94.78 crores.</p> <table border="1"> <thead> <tr> <th>No of years</th> <td>3</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <th>Year</th> <td></td> <td></td> <th>2019</th> <th>2020</th> <th>2021</th> </tr> </thead> <tbody> <tr> <td>Month of Operations</td> <td></td> <td></td> <td>12</td> <td>12</td> <td>12</td> </tr> <tr> <td>Container Boxes in Mn (Major Ports)</td> <td></td> <td>65%</td> <td>6.4</td> <td>6.8</td> <td>7.1</td> </tr> <tr> <td>MUC per container (INR)</td> <td>10</td> <td>Increase Y-O-Y</td> <td>155</td> <td>165</td> <td>175</td> </tr> <tr> <td>% MUC Per container to DLDSL</td> <td></td> <td>5% share to Port Terminals</td> <td>95%</td> <td>95%</td> <td>95%</td> </tr> <tr> <td>MUC Per container to DLDSL (INR)</td> <td></td> <td></td> <td>147.3</td> <td>156.8</td> <td>166.3</td> </tr> <tr> <td>Revenue for DLDSL (Major Ports)</td> <td></td> <td></td> <td>947.8</td> <td>1059.4</td> <td>1179.8</td> </tr> </tbody> </table>	No of years	3					Year			2019	2020	2021	Month of Operations			12	12	12	Container Boxes in Mn (Major Ports)		65%	6.4	6.8	7.1	MUC per container (INR)	10	Increase Y-O-Y	155	165	175	% MUC Per container to DLDSL		5% share to Port Terminals	95%	95%	95%	MUC Per container to DLDSL (INR)			147.3	156.8	166.3	Revenue for DLDSL (Major Ports)			947.8	1059.4	1179.8
No of years	3																																																	
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Month of Operations			12	12	12																																													
Container Boxes in Mn (Major Ports)		65%	6.4	6.8	7.1																																													
MUC per container (INR)	10	Increase Y-O-Y	155	165	175																																													
% MUC Per container to DLDSL		5% share to Port Terminals	95%	95%	95%																																													
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II.	Traffic																																																																																																																																									
(i).	The basis to consider growth in traffic to the tune of 5% per annum over the previous year traffic during the years 2020-21 and 2021-22, may be furnished.	The basis to consider growth in traffic to the tune of 5% per annum is based on the data by Ministry of Shipping which states 4% CAGR for the last 10 years. However, the growth in 2017-18 has been around 7%. Hence, on a conservative side we have considered the growth of 5% to take into account historical and recent trends.																																																																																																																																								
(ii).	The basis to consider the ratio of container volume at major and non-major ports at 65:35, to be furnished.	<p>As per the Indian Container Market Report 2018 by Drewry and Gateway Research, the ratio of container volume at major and non-major ports for the FY 17-18 in TEUs is calculated at 60:40. However, the non-major ports handle significant percentage of transshipment containers which do not add to the revenue of DLDSL. Therefore, on a conservative side the ratio of 65:35 is considered at major and non-major ports. The relevant sections of the Indian Container Market Report 2018 by Drewry and Gateway Research have been furnished for quick reference. The complete report can be accessed through the link provided below:</p> <table border="1"> <thead> <tr> <th>Port</th> <th></th> <th>Actual Throughput Containers (TEUs) FY 17-18</th> <th>Transshipment % FY 17-18</th> </tr> </thead> <tbody> <tr> <td colspan="4">Minor Ports</td> </tr> <tr> <td>Mundra International Container Terminal</td> <td>MICTPL</td> <td>1089155</td> <td>9%</td> </tr> <tr> <td>Adani Mundra Container Terminal</td> <td>AMCT</td> <td>1286714</td> <td>4%</td> </tr> <tr> <td>Adani International Terminal Container</td> <td>AICTPL</td> <td>1571800</td> <td>33%</td> </tr> <tr> <td>Adani CMA Mundra Terminal</td> <td>ACMT</td> <td>530742</td> <td>10%</td> </tr> <tr> <td>Adani Hazira Container Terminal</td> <td>AHCT</td> <td>500879</td> <td></td> </tr> <tr> <td>Ennore - Kamarajar</td> <td>AECT</td> <td>2638</td> <td></td> </tr> <tr> <td>Kattupalli</td> <td>KICT</td> <td>490291</td> <td></td> </tr> <tr> <td>KPCT - Krishnapatnam</td> <td>KPCT</td> <td>479552</td> <td>44%</td> </tr> <tr> <td>Total non-major ports</td> <td></td> <td>5951771</td> <td></td> </tr> <tr> <td colspan="4">Major Ports</td> </tr> <tr> <td>Jawaharlal Nehru Port Container Terminal</td> <td>JNPCT</td> <td>1481768</td> <td>2%</td> </tr> <tr> <td>Nhava Sheva International Container Terminal</td> <td>NSICT</td> <td>641122</td> <td>1%</td> </tr> <tr> <td>Nhava Sheva India Gateway Terminal</td> <td>NSIGT</td> <td>659000</td> <td>1%</td> </tr> <tr> <td>APM Terminals Mumbai - Gateway Terminals India</td> <td>GTIPL</td> <td>2027896</td> <td>1%</td> </tr> <tr> <td>BMCT</td> <td>BMCT</td> <td>23212</td> <td>2%</td> </tr> <tr> <td>Kandla</td> <td>KICT</td> <td>117162</td> <td></td> </tr> <tr> <td>NMPT</td> <td>NMPT-C</td> <td>115498</td> <td></td> </tr> <tr> <td>Mormugao</td> <td>MPT-C</td> <td>21018</td> <td></td> </tr> <tr> <td>CoPT(ICTT)</td> <td>ICTT</td> <td>514997</td> <td>7%</td> </tr> <tr> <td>Paradip</td> <td>PICT</td> <td>6334</td> <td></td> </tr> <tr> <td>CCTPL - Chennai</td> <td>CCTPL</td> <td>646482</td> <td></td> </tr> <tr> <td>CITPL - Chennai</td> <td>CITPL</td> <td>901584</td> <td></td> </tr> <tr> <td>Visakha - Vizag</td> <td>VCTPL</td> <td>388289</td> <td>1%</td> </tr> <tr> <td>Kolkata</td> <td>BKCT</td> <td>640182</td> <td></td> </tr> <tr> <td>Haldia</td> <td>HICT</td> <td>156690</td> <td></td> </tr> <tr> <td>PSA-Sical - Tuticorin</td> <td>TCT</td> <td>495264</td> <td></td> </tr> <tr> <td>DBGT - Tuticorin</td> <td>DBGT</td> <td>201093</td> <td></td> </tr> <tr> <td>MbPT</td> <td>MbPT-C</td> <td>42387</td> <td></td> </tr> <tr> <td>Total major ports</td> <td></td> <td>9079978</td> <td></td> </tr> <tr> <td>Overall Total Volume (Major + Non Major ports)</td> <td></td> <td>15031749</td> <td></td> </tr> <tr> <td>Minor Ports (%)</td> <td></td> <td>40%</td> <td></td> </tr> <tr> <td>Major Ports (%)</td> <td></td> <td>60%</td> <td></td> </tr> </tbody> </table>	Port		Actual Throughput Containers (TEUs) FY 17-18	Transshipment % FY 17-18	Minor Ports				Mundra International Container Terminal	MICTPL	1089155	9%	Adani Mundra Container Terminal	AMCT	1286714	4%	Adani International Terminal Container	AICTPL	1571800	33%	Adani CMA Mundra Terminal	ACMT	530742	10%	Adani Hazira Container Terminal	AHCT	500879		Ennore - Kamarajar	AECT	2638		Kattupalli	KICT	490291		KPCT - Krishnapatnam	KPCT	479552	44%	Total non-major ports		5951771		Major Ports				Jawaharlal Nehru Port Container Terminal	JNPCT	1481768	2%	Nhava Sheva International Container Terminal	NSICT	641122	1%	Nhava Sheva India Gateway Terminal	NSIGT	659000	1%	APM Terminals Mumbai - Gateway Terminals India	GTIPL	2027896	1%	BMCT	BMCT	23212	2%	Kandla	KICT	117162		NMPT	NMPT-C	115498		Mormugao	MPT-C	21018		CoPT(ICTT)	ICTT	514997	7%	Paradip	PICT	6334		CCTPL - Chennai	CCTPL	646482		CITPL - Chennai	CITPL	901584		Visakha - Vizag	VCTPL	388289	1%	Kolkata	BKCT	640182		Haldia	HICT	156690		PSA-Sical - Tuticorin	TCT	495264		DBGT - Tuticorin	DBGT	201093		MbPT	MbPT-C	42387		Total major ports		9079978		Overall Total Volume (Major + Non Major ports)		15031749		Minor Ports (%)		40%		Major Ports (%)		60%	
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(iii).	The basis to project the container volume at 9.9 million containers for the year 2019-20 to be explained.	<p>As per the Indian Container Market Report 2018 by Drewry and Gateway Research (refer Annexure 3), the total volume of containers in FY 17-18 in TEUs is 15 Mn across all major and non-major ports in India. Assuming the percentage growth in the FY 18-19 and FY 19-20 to be 5%, the total volume of containers in TEUs come out to be 15.8 Mn and 16.6 Mn respectively. However, the revenue for DLDSL gets generated based on the EXIM boxes rather than the TEUs and excluding coastal and transshipment containers.</p> <p>The conversion factor from TEUs into boxes is</p>																																																																																																																																								

		<p>taken as 0.60. This factor is based on our historical data for 4 terminals of JNPT, 4 terminals of Mundra and Hazira. Therefore, the volume considered for FY 2019-20 is 16.6 Mn multiply by 0.60 which is 9.9 Mn containers</p> <table border="1"> <thead> <tr> <th colspan="6">Calculation for Conversion Factor of 0.6</th> </tr> <tr> <th>Container Terminal Name</th> <th>Known as</th> <th>Location</th> <th>Throughput (TEUs) FY 17-18</th> <th>Actual Containers DLDSL data FY 17-18</th> <th>TEUs to boxes conversion ratio</th> </tr> </thead> <tbody> <tr> <td>Mundra International Container Terminal</td> <td>MICTPL</td> <td>Mundra</td> <td>10,79,307</td> <td>678559</td> <td>0.628698785</td> </tr> <tr> <td>Adani Mundra Container Terminal</td> <td>AMCT</td> <td>Mundra</td> <td>12,86,714</td> <td>656447</td> <td>0.510173201</td> </tr> <tr> <td>Adani International Terminal Container</td> <td>AICTPL</td> <td>Mundra</td> <td>15,71,800</td> <td>609303</td> <td>0.387646647</td> </tr> <tr> <td>Adani CMA Mundra Terminal</td> <td>ACMTP</td> <td>Mundra</td> <td>5,30,742</td> <td>300446</td> <td>0.566086724</td> </tr> <tr> <td>Adani Hazira Container Terminal</td> <td>AHCT</td> <td>Hazira</td> <td>5,00,879</td> <td>328995</td> <td>0.656835284</td> </tr> <tr> <td>Jawaharal Nehru Port Container Terminal</td> <td>JNPT</td> <td>Mumbai</td> <td>14,81,768</td> <td>1020883</td> <td>0.68896278</td> </tr> <tr> <td>Nhava Sheva International Container Terminal</td> <td>NSICT</td> <td>Mumbai</td> <td>6,41,122</td> <td>412523</td> <td>0.643439158</td> </tr> <tr> <td>Nhava Sheva India Gateway Terminal</td> <td>NSIGT</td> <td>Mumbai</td> <td>6,59,000</td> <td>425836</td> <td>0.646185129</td> </tr> <tr> <td>APM Terminals Mumbai - Gateway Terminals India</td> <td>GTIPL</td> <td>Mumbai</td> <td>20,27,896</td> <td>1371714</td> <td>0.676422262</td> </tr> <tr> <td></td> <td></td> <td></td> <td>97,79,228</td> <td>5804706</td> <td>0.593575076</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="4">Calculation to project 9.9 million boxes in FY 19-20</th> </tr> <tr> <th></th> <th>Actual Throughput Containers (TEUs) FY 17-18</th> <th>Projected Throughput Containers FY 18-19</th> <th>Projected Throughput Containers FY 19-20</th> </tr> </thead> <tbody> <tr> <td>Percentage growth over last year</td> <td></td> <td>5%</td> <td>5%</td> </tr> <tr> <td>Container throughput (TEUs)</td> <td>15.0</td> <td>15.8</td> <td>16.6</td> </tr> <tr> <td>Container throughput (Boxes)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Conversion Factor (0.6)</td> <td></td> <td></td> <td>9.9</td> </tr> </tbody> </table>	Calculation for Conversion Factor of 0.6						Container Terminal Name	Known as	Location	Throughput (TEUs) FY 17-18	Actual Containers DLDSL data FY 17-18	TEUs to boxes conversion ratio	Mundra International Container Terminal	MICTPL	Mundra	10,79,307	678559	0.628698785	Adani Mundra Container Terminal	AMCT	Mundra	12,86,714	656447	0.510173201	Adani International Terminal Container	AICTPL	Mundra	15,71,800	609303	0.387646647	Adani CMA Mundra Terminal	ACMTP	Mundra	5,30,742	300446	0.566086724	Adani Hazira Container Terminal	AHCT	Hazira	5,00,879	328995	0.656835284	Jawaharal Nehru Port Container Terminal	JNPT	Mumbai	14,81,768	1020883	0.68896278	Nhava Sheva International Container Terminal	NSICT	Mumbai	6,41,122	412523	0.643439158	Nhava Sheva India Gateway Terminal	NSIGT	Mumbai	6,59,000	425836	0.646185129	APM Terminals Mumbai - Gateway Terminals India	GTIPL	Mumbai	20,27,896	1371714	0.676422262				97,79,228	5804706	0.593575076	Calculation to project 9.9 million boxes in FY 19-20					Actual Throughput Containers (TEUs) FY 17-18	Projected Throughput Containers FY 18-19	Projected Throughput Containers FY 19-20	Percentage growth over last year		5%	5%	Container throughput (TEUs)	15.0	15.8	16.6	Container throughput (Boxes)				Conversion Factor (0.6)			9.9
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(i).	The actuals of all items of cost for the year 2018-19 also to be furnished	The actuals of all items of cost for the year 2018-19 is indicated in Annexure – 1. The Accounts for the FY 18-19 has not yet been finalized. However, the provisional expenses for the FY 18-19 is after considering the actual expenses from Apr 18 till Dec'18 and projected expenses for Jan-Feb-Mar' 19																																																																																																
(ii).	The detailed workings to arrive at each of the cost elements (as listed out in Page no. 23 of DMICDC proposal) to be furnished. Documentary evidence in support of the relevant cost elements also to be furnished	Annexure – 2 may be referred for cost justification of the cost elements.																																																																																																
(iii).	It is not clear as to under what head of expenditure, the 5% payment of Revenue to collecting agents, has been captured. The same to be indicated with necessary workings.	DLDSL raise invoice to the respective port terminals by multiplying container volume and 95% of the MUC charge. The port terminals realize 100% of the revenue against the LDB project, while remit only 95% of the revenue to DLDSL and retain 5% of the revenue as charges for collection of MUC. Hence 5% payment of revenue to collecting agents have been captured while calculating revenue for DLDSL.																																																																																																
(iv)	<p>(a). The annual escalation factor as considered by DMICDC in the estimation of expenditure as listed below, needs justification, given that the Authority has approved an escalation factor of 4.26%, which may have to be considered to build up the estimates of expenditure for the years 2019-20 to 2021-22, over the respective previous year actuals/ estimates:</p> <p>(i). Total Project Management cost with COLA - About 12%.</p> <p>(ii). Staff Salaries – About 8%</p> <p>(iii). RFID Reader Cost – About 19%</p>	The COLA considered for the staff salaries and project management cost is 5% only. However, the escalation in cost is increasing more due to increase in the infrastructure. The LDB infrastructure will grow as DLDSL will cover more sites like Toll Plazas, ICDs, CFSs, Industrial Hubs etc. With the increase in infrastructure there will be additional requirement for new RFID readers and manpower to manage these new sites. Therefore, the escalation in cost is due to the additional new resources.																																																																																																

	<p>(b). Contingency It is not clear as to how much contingency factor has been considered for estimation of RFID expenditure. The same to be indicated with detailed justification.</p>	<p>As DLDSL will be tagging only the Import containers, hence the RFID cost is calculated based on the 50% of the container volume for the respective FY. However, a contingency factor of 10% is considered for tag loss, tagging of coastal and transshipment containers.</p> <table border="1" data-bbox="919 439 1485 860"> <thead> <tr> <th>RFID tag Cost (Major Ports)</th> <th></th> <th></th> <th>2019</th> <th>2020</th> <th>2021</th> </tr> </thead> <tbody> <tr> <td>Total No of Containers (in Mn)</td> <td></td> <td></td> <td>6.4</td> <td>6.8</td> <td>7.1</td> </tr> <tr> <td>Containers to be Tagged (in Mn)</td> <td>50%</td> <td>Only Import Containers to be tagged</td> <td>3.2</td> <td>3.4</td> <td>3.5</td> </tr> <tr> <td>Total tags reqd every yr (including 10% losses) (in Mn)</td> <td>10%</td> <td></td> <td>3.54</td> <td>3.72</td> <td>3.90</td> </tr> <tr> <td>Per Tag Cost (INR)</td> <td>26</td> <td></td> <td>92.04</td> <td>96.65</td> <td>101.48</td> </tr> </tbody> </table>	RFID tag Cost (Major Ports)			2019	2020	2021	Total No of Containers (in Mn)			6.4	6.8	7.1	Containers to be Tagged (in Mn)	50%	Only Import Containers to be tagged	3.2	3.4	3.5	Total tags reqd every yr (including 10% losses) (in Mn)	10%		3.54	3.72	3.90	Per Tag Cost (INR)	26		92.04	96.65	101.48
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(v).	<p>The tariff for DMICDC is decided following cost plus 16% Return on Capital employed. In the subject proposal, the DMICDC is seen to have neither indicated the capital employed nor the Return component in the workings. The DMICDC to rework its cost estimates by indicating the capital employed and considering a Return on Capital employed @ 16%, for each year under consideration. It is noteworthy that Return @ 16% on the Working Capital component (comprising of cash balance calculated at one month estimated operating expenses) was considered during the fixation of MUC in the year 2015</p>	<p>During the fixation of MUC in the year 2015, we had considered 16% return on capital employed on which interest cost is one of the components of the return on capital. In our current proposal, we have only considered our actual interest cost, therefore we have not considered here 16% return on capital as assumption</p>																														
(vi)	<p>The DMICDC has considered 'Interest on Loan' as a cost in the current exercise of determination of MUC. In this regard, it is relevant here to mention that the Authority allows 16% Return on Capital employed. The rate of Return at 16% has been determined following the Capital Asset Pricing Model (CAPM). Cost of Debt is one of the parameters considered while determining the rate of Return at 16%. Hence, 'Interest on Loan' is not separately captured as a cost item in the tariff fixation exercise</p>	<p>In our current proposal we have not requested for 16% Return on Capital Employed, which has been considered in our earlier proposal. In the current proposal we have only considered actual interest cost.</p>																														

5.2. Subsequently, we have vide our letter dated 22 May 2019 sought some information/ clarification from DMICDC, arising out of the response of DMICDC, as brought out above. The DMICDC has responded vide its letter dated 24 May 2019. The information sought by us and the response of DMICDC thereon are tabulated below:

Sl. No.	Information / Clarification sought by us	Reply furnished by DMICDC
(i).	As seen from the Annex – I furnished by DMICDC, it is observed that the figure of sum total of all expenses pertaining to the year 2017-18 is not matching with the sum total of	As furnished in Annex – I of letter dated 26.4.19, the total operating cost is ₹.5457 lakhs and the total Management & General

	expenditure as reflected in the audited annual accounts of 2017-18. The DMICDC to furnish a statement reconciling the difference between the expenditure figures for year 2017-2018 as furnished in the Annex – I and the audited annual accounts of 2017-18.	Administration Expenses is ₹.1075 lakhs. Hence, the total of the expenses is ₹.6532 lakhs (excluding depreciation and finance cost). The total expenses on both these accounts excluding depreciation and financial cost ₹.6532 lakhs is same as indicted in the audited financial of FY 2017-18. The Annex – I and Audited Financial of FY 2017-18 are furnished.																																				
(ii)	The DMICDC to also furnish the audited annual accounts for the year 2018-19. If the same is not available, the DMICDC may furnish unaudited / provisional annual accounts for the year 2018-19.	The Financial Statement of DLDSL for the year 2018-19 is still not yet finalised. However, provisional Annual Accounts for the year 2018-19 is furnished.																																				
(iii)	The Audited Annual Accounts of 2015-16, 2016-17 and 2017-18 as furnished by the DMICDC are seen to capture the combined operations at both Major Ports and Non-Major Ports. Since the proposal of DMICDC relates to fixation of MUC charges for Major Port Trusts alone, the DMICDC to furnish the segregated annual accounts for the years 2015-16 to 2018-19 reflecting the operations of DMICDC at Major Ports only. The segregation to be furnished with regard to fixed assets also as reflected in the Consolidated Annual Accounts.	It may be noted that in financial year 2016-17, the operations of the project started only at 4 container terminals at JNPT. In financial year 2017-18, in addition to the operations in JNPT, operations were started at Mundra Port and in the year 2018-19, based on the TAMP Order dated 8 June 2018, operations were started at other Eastern and Southern Ports. Port wise details of the start of operations of the project is furnished. [Year-wise breakup of expenditure and revenue among Major Ports for the years 2017-18 and 2018-19 are furnished by DMICDC as given below : Cost Sheet Statements as on 31.3.2018 <table border="1"> <thead> <tr> <th>Financial Year</th> <th>2017-18 Audited (INR)</th> </tr> </thead> <tbody> <tr> <td>Particulars</td> <td>Major Ports</td> </tr> <tr> <td>Revenue from operations</td> <td>415,062,621</td> </tr> <tr> <td>Other Income</td> <td>-</td> </tr> <tr> <td>Total Income</td> <td>415,062,621</td> </tr> <tr> <td>Expenses</td> <td></td> </tr> <tr> <td>Direct Expenses</td> <td>319,611,707</td> </tr> <tr> <td>Employee Benefits expenses</td> <td>2,219,060</td> </tr> <tr> <td>Finance Cost</td> <td>6,654,294</td> </tr> <tr> <td>Depreciation</td> <td>20,815,964</td> </tr> <tr> <td>Other Expenses</td> <td>79,558,424</td> </tr> <tr> <td>Total Expenses</td> <td>428,859,453</td> </tr> <tr> <td>Profit Before Tax</td> <td>(13,796,831)</td> </tr> </tbody> </table> Cost Sheet Statements as on 31.3.2019 <table border="1"> <thead> <tr> <th>Financial Year</th> <th>2018-19 Provisional (INR)</th> </tr> </thead> <tbody> <tr> <td>Particulars</td> <td>Major Ports</td> </tr> <tr> <td>Revenue from operations</td> <td>560,155,502</td> </tr> <tr> <td>Other Income</td> <td>-</td> </tr> <tr> <td>Total Income</td> <td>560,155,502</td> </tr> </tbody> </table>	Financial Year	2017-18 Audited (INR)	Particulars	Major Ports	Revenue from operations	415,062,621	Other Income	-	Total Income	415,062,621	Expenses		Direct Expenses	319,611,707	Employee Benefits expenses	2,219,060	Finance Cost	6,654,294	Depreciation	20,815,964	Other Expenses	79,558,424	Total Expenses	428,859,453	Profit Before Tax	(13,796,831)	Financial Year	2018-19 Provisional (INR)	Particulars	Major Ports	Revenue from operations	560,155,502	Other Income	-	Total Income	560,155,502
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		Expenses	
		Direct Expenses	459,202,544
		Employee Benefits expenses	4,463,615
		Finance Cost	6,238,135
		Depreciation	13,980,023
		Other Expenses	66,115,780
		Total Expenses	550,000,097
		Profit Before Tax	10,155,405

6.1. Considering the Pan-India consultation involved in the case in reference, joint hearing on the case were held at two different venues i.e. on 25 February 2019 at the Office of this Authority in Mumbai and on 01 March 2019 at the Chennai Port Trust premises in Chennai.

6.2. At both the joint hearings, the DSDSL made a brief power point presentation on the proposal. At the joint hearings, the Major Port Trusts / Private Container Terminal Operators, users/ user organisations and the DMICDC have made their submissions.

7.1. In the meanwhile, the JNPT vide its letter dated 15 April 2019 requested for the Audited financials of the DMICDC to enable JNPT furnish its comments on the DMICDC proposal. The audited financial statements as forwarded by DMICDC to us while furnishing the additional information/ clarification, as brought out above, was forwarded to JNPT, to enable JNPT furnish its comments.

7.2. In this regard, the JNPT vide its letter dated 15 May 2019 has stated that JNPT will be able to offer comments on DMICDC proposal only after receipt of the port wise income and expenditure duly audited financial on account of MUC charges and not the consolidated audited financials as forwarded by TAMP.

7.3. A copy of the communication received from JNPT was forwarded to DMICDC for appropriate action of the DMICDC. In this regard, the DMICDC vide its letter dated 24 May 2019 has *interalia*, responded that DLDSL only prepares the consolidated accounts covering all Major and Minor Ports as there is no statutory requirement for preparing port-wise income and expenditure statement and calculating port wise profitability.

7.4. We have vide our letter dated 07 June 2019 forwarded the response of DMICDC to JNPT with a request to furnish its comments by 11 June 2019. The JNPT has not responded till the case was finalized.

8.1. Considering that the initial validity of the existing tariff of MUC was getting expired on 31 March 2019 and the time required for analysing the submissions made by stakeholders and for the proposal to mature for final consideration of this Authority and in order to avoid a vacuum in the tariff, this Authority vide its Order no.TAMP/46/2018-MUC dated 26 February 2019 has extended the validity of the existing tariff towards levy of MUC in the Scale of Rates of all the Major Port Trusts and BOT operators operating thereat, for a period of three months, beyond 31 March 2019 i.e. upto 30 June 2019 or till the effective date of implementation of new tariff to be fixed for levy of MUC based on the proposal filed by DMICDC, whichever is earlier.

8.2. Thereafter, the validity of the MUC has been extended beyond 30 June 2019 i.e. from 01 July 2019 upto the time the new MUC rates approved comes into effect or upto 30 September 2019, whichever is earlier.

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

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

- (i). The Delhi - Mumbai Industrial Corridor Development Corporation (DMICDC), has formed a Special Purpose Vehicle (SPV) titled as DMICDC Logistics Data Services Limited (DLDSL). It is a SPV of National Industrial Corridor Development Implementation Trust and NEC Corporation of Japan. The DLDSL's Logistic Data Bank (LDB) integrates the information available with various agencies across the supply chain to provide detailed real time information and visibility of the container movement across the supply chain using RFID technology, within a single window, thereby streamlining the container logistic movement. This was initially launched in the Jawaharlal Nehru Port Trust (JNPT) in the year 2016 and thereafter, it has been gradually implemented across the major port trusts and private terminals operating thereat. Since the proposal is filed by DMICDC, the proposal is considered for approving tariff for DMICDC implementable by the Major Port Trusts and all the BOT Terminals operating thereat.
- (ii). It may be recalled that the JNPT proposal, which had culminated in the tariff Order of February 2015 was filed by JNPT. The DMICDC, which has filed the proposal now neither falls under the category of Major Port Trusts nor BOT Terminals operating thereat. However, the operational staff of DLDSL deployed at the wharfside, entry and exit gates of the port premises as well as at the Railway Siding perform the RFID tagging to the containers. Since this service falls under section 48(1) (e) [any other service in respect of vessels, passengers or goods] of the Major Port Trusts Act, 1963, the service rendered by the DLDSL to the Container falls under the regulatory regime of this Authority and tariff for the said service is to be fixed by this Authority. Since the DMICDC is a different category of service provider, its tariff is determined based on the actual financial position for the years 2017-18 and 2018-19 and the estimates for the years 2019-20 to 2021-22, as explained hereunder.
- (iii). The combined financial results relating to LDB services rendered by the DMICDC for the years 2017-18 and 2018-19 at few of the Major Port Trusts and BOT Terminals thereat at the rate of ₹ 135/- for the year 2017-18 and ₹ 145/- per container for the year 2018-19 shows a deficit of ₹ 36.41 lakhs. [(13796831) + 10155405]. Therefore, it is not appropriate to continue with the existing rate of ₹ 145/- per container for the next tariff cycle when the DMICDC is attempting to achieve full scale operations. As stated by the DMICDC, LDB is one of the Indo Japanese Partnership Projects announced in the joint statement of Prime Minister of both the countries. This project is being implemented with the cooperation of Ministry of Shipping, Ministry of Road Transport and Highways, Ministry of Railways and Ministry of Commerce and Industry. Considering the utility of the project and given that the LDB project is in an evolving stage and since the levy of the existing MUC reflects a deficit position, this Authority is inclined to approve the MUC as proposed by the DMICDC for the years 2019-20 and 2020-21 at ₹ 155/- per container and ₹ 165/- per container.

At the income estimated by the DMICDC based on the above mentioned proposed rates of ₹ 155/- per container and ₹ 165/- per container for the years 2019-20 and 2020-21 respectively, and considering the estimated expenditure for the said two years, the DMICDC is not estimated to achieve 16% return. However, for the year 2021-22, the DMICDC is estimated to earn surplus beyond 16% return, at the proposed rate of ₹ 175/- per container.

In view of the above position, it is felt appropriate to prescribe the rates for a period of two years only i.e. for the years 2019-20 and 2020-21. Subsequently, based on the actuals for the years 2019-20 and 2020-21, which would capture the levy of MUC charges for the entire year across all Major Ports and the BOT terminals operating thereat, the rate of ₹155/- per container and ₹ 165/- per container, shall be reviewed and tariff shall be fixed for the subsequent three year tariff cycle.

- (iv). The Kolkata Port Trust (KOPT) as well as some of the users have opposed the increase in the MUC as proposed by the DMICDC and have requested for the existing MUC to continue. As stated in the previous paragraph, based on the levy of ₹ 135/- per container for the year 2017-18 and ₹145/- per container for the year 2018-19, the financial position shows a deficit to the tune of ₹ 36.41 lakhs. Therefore, there is found to be a merit to increase the MUC. Also, the DMICDC has stated that the LDB project has a long gestation period which will require at least 10 years to show healthy returns.
- (v). 5% of the total MUC is passed on to the Major Port Trusts and BOT terminal operators as data handling charge for collecting the MUC. During the proceedings relating to the case in reference, there has been a demand from the stakeholders to increase the percentage share. Considering the development of overall trade and keeping the trade interests into account, the DMICDC has requested the existing practice of retaining of the 5% MUC by the Major Port Trusts and private terminal operators to continue. Expenses incurred by the stakeholders in excess of 5% MUC, can be an item of expenditure in the Annual Revenue Requirement (ARR) in their respective general revision proposals.
- (vi). The JNPT had requested for the audited port wise income and expenditure on account of MUC charges. In this regard, the DMICDC has stated that only consolidated accounts covering all Major and Minor Ports are prepared by it as there is no statutory requirement for it to prepare port-wise income and expenditure statement and calculate port wise profitability. In this backdrop, the JNPT was requested to furnish its comments. The JNPT has not responded till the case was finalized. Nevertheless, the only concern as put forth by JNPT during the joint hearing was that, considering the year on year growth in traffic in JNPT, whether JNPT was cross-subsidising others by way of levy of MUC. In this regard, during the joint hearing, the DMICDC has clarified to the JNPT that unlike other port terminals, since there are many CFSS operating around JNPT, The JNPT users are being benefitted by the facility.

11.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority accords approval for the following:

- (i). Levy of ₹155/- per container as Mandatory User Charge across all the Major Ports and the BOT terminals operating thereat, after expiry of 15 days from the date of notification of the Order passed in the Gazette of India and shall remain valid for a period of one year. On completion of an anniversary thereafter, levy of ₹.165/- per container as MUC for a period of one more year. The approval accorded shall automatically lapse unless specifically extended by this Authority.
- (ii). Insertion of the following provision in the Scale of Rates of all the Major Port Trusts and all the BOT terminals operating thereat governed by the 2008, 2013 and 2019 (erstwhile 2005) Guidelines for fixation of tariff:

“An amount of ₹ 155/- per container will be levied on all containers (except transshipment and coastal) handled at the Major Port Trusts and BOT terminals operating thereat towards Mandatory User Charge (MUC) for the Logistics Data Bank (LDB) service rendered by DMICDC for a period of one year thereon. On completion of one year thereafter, ₹ 165/- per container will be levied as MUC for the next period of one year. The approval accorded would automatically lapse thereafter unless specifically extended by the Authority. ”
- (iii). The MUC of ₹155/- per container and ₹165/- per container prescribed is at ceiling level. The Major Port Trusts and the private terminals operating thereat may levy lower rates if authorized by DMICDC.
- (iv). Tracking and viewing the movement of containers across the ports to the ICDs and end users would be provided to the users against the payment of MUC.

- (v). 5% of the total MUC shall be passed on by the DMICDC to the Major Port Trusts and the BOT Terminals operating thereat for collecting the MUC.
- (vi). No royalty/ revenue share is payable by the BOT Terminals operating thereat to the Port Trusts on the MUC collected by the BOT Terminals.
- (vii). The rate of ₹155/- per container and ₹165/- per container, shall be reviewed and the tariff shall be fixed for the subsequent three year tariff cycle.

11.2. The DMICDC is advised to come up with a proposal for fixation of the MUC, atleast 2 months prior to the expiry of the notified rates.

11.3. As brought out earlier, the validity of the existing levy of MUC has initially been extended upto 30 June 2019. The existing MUC of ₹145/- per container is deemed to have been extended beyond 30 June 2019 till 30 September 2019 or till the date the revised MUC of ₹155/- per container comes into effect across all Major Port Trusts and private terminals operating thereat, whichever is earlier.

(T.S. Balasubramanian)
Member (Finance)