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

Tariff Authority for Major Ports

G.No. 369 **New Delhi,** **10 October 2016**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from TM International Logistic Limited for general revision of its Scale of Rates , as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/8/2016-TMILL

TM International Logistic Limited … Applicant

QUORUM

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

O R D E R

(Passed on this 17th day of September 2016)

This case relates to the proposal received from the TM International Logistic Limited (TMILL) for general revision of its Scale of Rates (SOR).

2.1. This Authority had passed an Order dated 20 May 2014 disposing of the proposal received from TMILL for general revision of its scale of rates (SOR). The Order was notified in the Gazette of India on 10 June 2014 vide Gazette no. 175. Vide the said Order, the 2008 level of tariff actually levied by the TMILL for the services rendered during the period from 1 April 2013 to 30 June 2014 was recognised to the limited purpose of fixation of tariff, and an across the board increase of 90% over the 2011 level of tariff was granted, to be effective from 01 July 2014 till 31 March 2016. The said Order prescribed validity of the tariff upto 31 March 2016.

2.2. Subsequently, the TMILL filed an application dated 09 July 2014 for review of the Order dated 20 May 2014, in accordance with clause 3.3.1. of the Tariff guidelines of March 2005. This Authority vide its Order dated 13 February 2015 disposed of the Review application filed by TMILL. This Authority vide the said Order while maintaining status quo in the level of tariff approved vide the May 2014 Order, incorporated couple of amendments in the conditionalities governing the levy of rates.

3. In this backdrop, the TMILL has filed a proposal dated 7 January 2016 for general revision of SOR for the three year tariff cycle from 1 April 2016 to 31 March 2019.

4. The main points as seen from the proposal filed by the TMILL vide its letter dated 7 January 2016 are summarized below:

(i). The proposal is for a period of three years viz., 2016-17, 2017-18 and 2018-19.

(ii). The tariff proposal has been prepared in accordance with the 2005 tariff guidelines.

(iii). Actuals for the years 2013-14, 2014-15 and 2015-16 and estimates for the years 2016-17 to 2018-19 have been furnished.

(iv). The total traffic figures (actuals and estimated) for the years 2013-14 to 2018-19 as per the proposal are given below:

Year	Traffic (in MTs)	Actuals/ Estimates
2013-14	710789	Actuals
2014-15	869461	
2015-16	1271402	
2016-17	1055000	Estimates
2017-18	1065000	
2018-19	1150000	

(v). The actual throughput of 710789 MTs, 869461 MTs, 1271402 MTs for the years 2013-14 to 2015-16 is higher than the minimum generated throughput of 5,00,000TEU's as per License Agreement.

(vi). The traffic for the year 2016-17 to 2018-19, has been estimated at 1055000 MTs, 10650000 MTs, 1150000 MTs which is assessed lesser than the assessed capacity of the terminal i.e. 11,24,000 MT/ TEU's.

(vii). The estimated financial and cost position at the existing level of tariff for actual traffic for FY 2013-14 to 2015-16 and at the estimated traffic at existing level of tariff for FY 2016-17 to 18-19 as shown in the consolidated income and cost statement furnished by the TMILL, are summarized below:

(₹ in lakhs)

Sl. No.	particulars	Actuals			Estimates at existing level of tariff		
		2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
i.	Traffic (in MT's)	7107789	869461	1271402	1055000	1065000	1150000
ii.	Operating Cost excluding Depreciation	1785	2018	2693	2929	2975	3178
iii.	Depreciation	373	381	383	400	524	673
iv.	Overheads	486	498	714	741	769	798
v.	Operating Surplus / (Deficit)	(157)	61	430	1053	799	760
vi.	Finance & Miscellaneous Income (FMI)	113	149	86.49	86.56	86.64	150.74
vii.	Finance & Miscellaneous Expenses (FME)	26.13	28.85	29.00	30.11	31.26	32.45
viii.	FMI less FME	87.35	120.31	57.49	56.45	55.39	118.29
ix.	Surplus before Interest and Tax	(70)	181	487	1110	854	879
x.	Capital Employed	3284	4564	4415	4414	7315	6651
xi.	ROCE – Maximum permissible @ 16%	525	730	706	706	1170	1064
xii.	Net Surplus / (Deficit) after allowable ROCE	(595)	(549)	(219)	404	(316)	(186)
xiii.	Net Surplus / (Deficit) as a % of operating Income	(24%)	(19%)	(5%)	8%	(6%)	(3%)

(viii). The TMILL has proposed following additions in capital costs in FY 15-16 and 16-17 to achieve ease of operations and increase in expected traffic for the year 2016-17 to 2018-19 which are given below:

Details of Investment	For the year	Cost of Investment (in lakhs)	Capacity (MT / TEUs)	Remarks / Reasons
1 No Forklift & High Mast and Office building at Berth 12	2015-16	255	32MT	Replacement of old forklift
2 Nos Forklift	2016-17	322	32MT	Replacement of old forklift
Purchase of HMC	2017-18	3400	124MT	Replacement of old HMC

(ix). The TMILL has sought revision in SOR only for following tariff items in the Scale of Rates approved by this Authority vide Order no. TAMP/44/2012 dated 20 May 2014 and has proposed to maintain status quo in other tariff items.

(Rate /MT in ₹)

Sr. No.	Particulars	Current Rate	Proposed Rate	% Increase in Rate
1.	Wharfage Charges for Project cargo and machinery & spares (Immobile units) of various shapes and sizes.	116.01	290.00	150%
2.	On Board Charges for Project cargo and machinery & spares (Immobile units) of various shapes and sizes.	66.27	80.00	20.72%
3.	Equipment Assistance Charges for forklifts of	N/A	25000.00	Newly

	capacity above 20 MT (₹ per shift)			introduced item
4.	Lease Rentals for short term allotment of Bare Land (Rs per SQM per month)	48.05	Not Proposed	subject not in existence
5.	On-board Equipment Operation (applicable on full parcel size) All dry bulk cargo	N/A	6.50	Items introduced on per M/T basis to serve parties undisputedly
6.	On-board Equipment Operation (applicable on full parcel size) HRC/CRC, Plates Sheets, WRC, Tubes/Pipes	N/A	13.00	

(x). Based on the proposed revision sought by the TMILL, the estimated net surplus / deficit at the existing level of tariff is as below: -

(₹ in lakhs)

Sl. No.	Particulars	Actuals			Estimates at existing level of tariff			Estimates at proposed level of tariff		
		2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2016-17	2017-18	2018-19
(i).	Traffic (in MTs)	710789	869461	1271402	1055000	1065000	1150000	1055000	1065000	1150000
(ii).	Operating income	2487	2957	4219	5123	5067	5411	5215	5159	5502
(iii).	Net surplus/ (deficit) after allowable ROCE	(595)	(549)	(219)	404	(316)	(186)	488	(232)	(102)
(iv).	Net deficit as a percentage of operating income	-24%	-19%	-5%	8%	-6%	-3%	9%	-4%	-2%

5. At our request vide our letter dated 20 January 2016, the TMILL vide its letter dated 28 January 2016 has submitted audited segregated accounts for the period of 2013-14 and 2014-15. Subsequently, the TMILL vide its letter dated 28 June 2016 has furnished the draft segregated accounts for the year 2015-16. The TMILL has, however, stated that the figures might change post audit.

6.1. In accordance with the consultative procedure prescribed, the proposal dated 7 January 2016 was circulated to the licensor port i.e. KOPT and to the concerned users/ user organisations vide our letter dated 20 January 2016 seeking their comments. Except KOPT, none of the users have furnished their comments, even after reminder, till the case was finalized. The KOPT vide its letter dated 9 March 2016 has furnished its comments. We have vide our letter dated 14 March 2016 forwarded comments of KOPT to TMILL. Subsequently, TMILL vide its letter dated 20 April 2016 has furnished its reply on KOPT comments.

6.2. A copy of the comments furnished by TMILL vide its letter dated 20 April 2016 on the comments furnished by KOPT vide its letter dated 9 March 2016, was forwarded to KOPT vide our letter dated 10 June 2016. The KOPT was requested to furnish its comments on the pointwise submissions made by TMILL. The KOPT was also reminded vide our letter dated 04 July 2016. The KOPT has not responded till the case was finalised.

7.1. Based on a preliminary scrutiny of the proposal, the TMILL was requested to furnish additional information/ clarifications vide our letter dated 20 April 2016**.** The TMILL has responded vide its letter dated 26 May 2016. The information / clarification sought by us and the response of TMILL thereon are tabulated below:

Sl. No.	Information/ clarification sought by us	Reply of TMILL
(A).	**General:**	
(i).	The Form 3A furnished by TMILL reflects an average deficit of 0.6% for the period of 3 years viz. 2016-17 to 2018-19 at the existing level of tariff. In this regard, the TMILL has sought an increase of 150% in the wharfage charges of project cargo and machinery & spares (immobile units) of various shapes and sizes (Section 4, Sl. No.5) and about 21% increase in the on board charges of Project cargo and machinery & spares (immobile units) (section 5, Sl. No. 3). Further, new tariff has been proposed at ₹ 25000/- per shift for Equipment assistance charges for Forklift of above 20MT (section 10, Sl. No. 10(a)) and for on-board Equipment operation for all dry bulk cargo at ₹ 6.50 per MT and for HRC/CRC, Plates Sheets, WRC, Tubes/Pipes at ₹ 13.00 per MT. Status quo has been maintained in respect of other tariff items. In this connection, the TMILL to furnish an analysis and necessary workings to correlate the increase sought in the above said tariff items in the proposed draft Scale of Rates, with reference to the deficit cost position reflected in the cost statement furnished by TMILL.	TMILL has proposed the new scale of rates considering the surplus/ deficit position and also by considering the competitive position at Haldia Dock Complex. The hike of 150% in the Wharfage charges of project cargo and machinery & spares (immobile units) of various shapes and sizes (Section 4, Sl. No.5) and about 21% increase in the on board charges of Project cargo and machinery & spares (immobile units) (section 5, Sl. No. 3) has been sought by TMILL considering that the productivity levels of these cargoes are much lower than other dry bulk cargo. These cargoes also require sophisticated handling with necessary gears, tools and tackles. The competitive rate at Haldia for these cargo has been also considered for seeking a hike. In section 10, Sl. No. 10(a), TMILL has requested to include rate for forklifts of capacity above 20 MT on per shift basis. TMILL handles various Steel cargo at B#12 wherein the unit weight is often higher than 20 MT and hence Forklift with capacity of 25 MT and 32 MT need to be deployed for safe handling. As the cost of these equipment are higher and also the consumption pattern, TMILL has proposed a higher rate for this category. In section 10, Sl.No.10 (b), TMILL has proposed to include per MT rate for providing On-Board equipment. The reason for the same is that many of the customer wants per MT rate and does not want to get into details of actual equipment usage. Per MT rate helps them to derive total handling cost of their cargo at Port. [TMILL has not pointedly correlated the deficit and increase sought in some tariff items to establish revenue neutral position.]
(ii).	TMILL has stated in Form-1 that its pricing strategy is cost based. TMILL to bring out the impact of the anticipated improvement in the productivity on the unit price.	Different rates for the usage of harbour mobile crane has been considered based on productivity of various cargoes and included in the rates and conditionality under Sec.10. Also, cost of double stacking of iron ore to the user has been avoided under Sec.10/Sec.7. Optional rate on Rs per MT basis has been proposed for usage of equipment on-board and usage of harbor mobile crane to provide simplicity to the users commercially and the same has been derived by considering the different productivity levels.
(iii).	In respect of Sl. No.4 of Form-1, TMILL has furnished only a comparative position of existing Scale of rates and proposed scale of rates. However, the TMILL has not	TMILL has sought increase only in case of Project cargo/machinery and spares. The reason for the same has been already explained in A (i).

	furnished justification/ reasons to the changes incorporated in the proposed draft Scale of Rates. The TMILL to furnish justification/ reasons with reference to each of the changes proposed in the rates and the conditionalities.	
(iv).	The tariff guidelines of 2005 stipulate that tariff should be linked to benchmark of the levels of productivity. The TMILL at Sl. No. 6 of its Form – 1 has maintained the target of ship-day output of 4400 MT as was indicated in the previous proposal of general revision filed in 2011. The reason for not anticipating any improvement in the benchmark level of productivity to be explained.	The draft position at Haldia has not improved much hence parcel size of vessels calling at Haldia remains similar. The cargo mix and method of handling (equipment, tools, tackles, gears etc.) also is similar. Hence TMILL has not considered higher productivity levels.
(B).	**<u>Comparison of actuals vis-à-vis estimates provided earlier</u>:**	
(i).	With regard to the past period analysis, the TMILL to clarify/ furnish the following: (a). The sum total of operating expenses, depreciation, Overheads and Finance & miscellaneous expenditure considered by the TMILL in its Cost statement for the years 2013-14 and 2014-15 do not match with the total Expenditure as reflected in the Segregated Accounts of TMILL for the corresponding years. The TMILL to furnish a Reconciliation statement to reconcile the difference, giving reasons for the difference. (b). The gross block of assets of the beginning of the year 2015-16 as considered by TMILL in Form 4A does not match with the closing gross block of assets as reflected in the segregated Accounts for the year 2014-15. Similarly, the net block of assets also do not match. This appears to be on account of the Fixed Assets Schedule forming port of the Segregated Accounts reflecting the fixed assets for the Haldia Division as a whole and not for Berth no. 12 alone. In view of this position,	A reconciliation statement is furnished, wherein the figures will match with segregated accounts provided by TMILL. [*The Reconciliation statement is furnished only with reference to the Fixed Assets. Reconciliation statement to reconcile the difference between the operating expenses shown in the Segregated Accounts and that shown in the Cost Statement has not been furnished by TMILL]*

<table>
<tr><td></td><td>the TMILL to furnish the Fixed Assets Schedule for the Berth no. 12 for the years 2013-14 to 2015-16. Any difference in the gross block and net block of assets in the Fixed Assets Schedule (to be furnished by TMILL) and Form 4A to be reconciled explaining the reasons for difference.</td><td></td></tr>
<tr><td>(ii).</td><td>Since the financial year 2015-16 is already over, TMILL to furnish the Segregated Accounts for the year 2015-16. The estimates for the year 2016-17 to 2018-19 to be updated with the actuals for the year 2015-16, if required.</td><td>The Segregated Accounts for 2015-16 is under process as the books of accounts for FY'16 has been finalized now. We can provide the same once it is audited and finalized.

(Subsequently, the TMILL vide its letter dated 28 June 2016 has furnished the draft segregated accounts for the year 2015-16.</td></tr>
<tr><td>(C).</td><td><u>Financial/ Cost Statement</u>:</td><td></td></tr>
<tr><td>(1).</td><td><u>Capacity</u>:</td><td></td></tr>
<tr><td></td><td>(i). The TMILL to furnish workings to arrive at the assessed capacity of the berth no.12 at 11.24 lakh MT per annum for the years 2013-14 to 2018-19.</td><td rowspan="2">The ship day output of 4400 has been calculated based on actual productivity achieved during past years. However the same has been estimated based on the actual cargo mix handled at the berth.
Capacity has been estimated considering the past performance and other scenarios like draft restriction, limitation of number of vessels entering/sailing in the port due to lock gate constraint etc.

[TMILL has not furnished working in support of the assessed capacity of 11.24 lakh MT]</td></tr>
<tr><td></td><td>(ii). TMILL has indicated that, it targets to achieve a ship day output of 4400 MT. TMILL to intimate, how the said productivity has been factored into determination of the assessed capacity.</td></tr>
<tr><td>(2).</td><td><u>Traffic</u>:</td><td></td></tr>
<tr><td></td><td>With reference to estimation of traffic, TMILL to clarify the following:-</td><td></td></tr>
<tr><td>(a).</td><td>The TMILL to furnish cargo wise actual traffic handled by it during the period from 01 April 2015 to 31 March 2016.</td><td>TMILL handled 13,48,095 MT from April 2015 to March 2016 with following break-up:
<table>
<tr><th>CARGO</th><th>FY 16 (MT)</th></tr>
<tr><td>Iron Ore</td><td>4,58,371</td></tr>
<tr><td>Flux</td><td>2,55,460</td></tr>
<tr><td>Project / Other Cargo</td><td>15,551</td></tr>
<tr><td>Steel Import</td><td>4,83,587</td></tr>
<tr><td>Steel Exports & Coastal - TSL</td><td>28,905</td></tr>
<tr><td>Fertilizer</td><td>88,326</td></tr>
<tr><td>Others</td><td>17,895</td></tr>
<tr><td>Total</td><td>13,48,095</td></tr>
</table></td></tr>
<tr><td>(b).</td><td>(i). The reason for a significant reduction of 51% in the traffic of Iron Ore during the year 2014-15 as compared to the actual for the year 2013-14.</td><td rowspan="2">TMILL handled export of Iron Ore for various 3rd parties in 2013-14. However, due to implementation of export duty by the Government of India and poor international market, export of Iron Ore declined gradually and became NIL after April, 2014. TMILL handled only 43K of export Iron Ore in 2014-15 compared to 269K in 2013-14. However, due to mining issues in India, Tata Steel was forced to import Iron Ore in 2014-15 and 2015-16. Hence TMILL handled 88K of Import Iron ore in 2014-15 and 458K in 2015-16 on account of Tata Steel. The mining issues of Tata Steel are resolved now and hence they have stopped importing Iron Ore. Tata</td></tr>
<tr><td></td><td>(ii). Further, when the traffic of iron ore has been estimated at 4.58 lakh tonnes in 2015-16, the reason for not estimating any traffic for FY</td></tr>
</table>

	2016-17 to 2018-19.	Steel has indicated that they will have no import of Iron Ore during coming years. TMILL do not have any forecast for handling export of Iron Ore in recent future considering the global economy and market trend. Hence TMILL have not considered any volume against Iron Ore for the future years.
(c).	The projected traffic of Limestone for the year 2015-16 is expected to be 2.66 lakh tonnes, while the traffic for the year 2016-17 and 2017-18 is estimated at 6.50 lakh tonnes and 7.0 lakh tonnes for 2018-19. The basis for considering the estimates for the years 2016-17 to 2018-19.	TMILL handled 2.55 lakh tonnes of Flux (Limestone, Pyroxinite and Dolomite) in 2015-16. TMILL also handled 4.58 Lakhs MT of Iron Ore in 2015-16 at B#12. TMILL was not having a railway siding at B#12 which prohibited it from handling rail bound dry bulk cargoes like Flux and Iron Ore. TMILL commissioned a new railway line at LL-6, B#12 in January, 2015 after which throughput of dry bulk cargoes increased. As explained earlier (i & ii), TMILL has no plan to handle Iron Ore for the years 2016-17 to 2018-19. Hence, there is capacity available at B#12 to handle higher volume of Flux. Tata Steel has plan of importing Limestone at Haldia on a sustained basis and we will be able to handle a major share of the same through B#12 wherein the other portion will be handled from other port berth at Haldia. Based on the above assumptions, TMILL projected a higher volume of Limestone (Flux) to be handled at B#12 for the years 2016-17 to 2018-19.
(d).	(i). The reason for significant reduction in the traffic for Steel Shipment a/c Tata Steel during the years 2014-15 and projected traffic of 2015-16.	Steel export of Tata Steel dropped significantly in 2014-15 due to poor market condition and lower export prices. The same trend continued in 2015-16. However, coastal movement of Steel cargo was handled in 2015-16. The actual volume handled on account of Tata Steel in 2015-16 is as below: a) Export Steel: 12874 MT b) Coastal Steel: 16031 MT
	(ii).Considering the estimated traffic at 19667 tonnes during the year 2015-16, basis for considering a uniform traffic of 1 lac tonnes each during the years 2016-17 to 2018-19. The reason for not estimating any growth in traffic during this period.	Volumes for export of Steel and Coastal movement on account of Tata Steel will depend entirely on the market condition. However, coastal movement of Steel may happen for 50K. Considering the commissioning of Kalinganagar Steel plant, export of Steel on account of Tata Steel is likely to go up. Due to these reasons we have estimated a higher volume for the years 2016-17 to 2018-19. There is no clarity of volumes going up and hence we have maintained the same volume.
	(iii). Similarly, with reference to traffic on steel (account of SAIL and others) the reason for not estimating any traffic for the period of 2016-17 to 2018-19 as compared to the actuals of 4843 tonnes during 2013-14.	There is no forecast of steel cargo on account of SAIL and others to be handled in future years and hence the same has not been considered.
(e).	(i). The substantial reduction of about 71% in the actual traffic of Raw Sugar in 2014-15 over 2013-14.	TMILL handled Sugar on account of Renuka Sugar who has a factory at Haldia. Due to higher cost of production vis-à-vis domestic cost of sugar, the plant is under shutdown. They have no plan to import sugar in future. Hence, the same has not been considered in our traffic projection.
	(ii). The reason for not projecting any traffic for years 2015-16 to 2018-19 to be justified.	

(f).	The reason for not estimating any increase in traffic of steel / logs discharge – delivery from jetty during the years 2016-17 and 2017-18 over period 2015-16.	Steel Import in India went up substantially in 2014-15 and 2015-16 due to cheap import of steel coming from China, Japan, Korea etc. This has affected the domestic steel industries of India badly. To create a level playing field, Government of India has taken several measures to curb import of Steel in India. Safeguard duty was imposed at a higher rate on import of steel. Moreover, Minimum Import Price (MIP) has been implemented w.e.f. Feb., 2016 wherein the import of steel will be affected to a great extent. TMILL have contacted various customers who are importing steel and handling through B#12 and they have opined that the volume of their import will go down. Considering the above facts, TMILL have forecasted a lower volume of import steel to be handled at B#12.
(g).	In case of steel / logs discharge – delivery from plot, there is substantial increase in traffic in 2014-15 over 2013-14. As against the projected traffic of 2015-16 at 3.06 lakh tonnes, the traffic estimations for year 2016-17 to 2018-19 are considered at a uniform level of 1.5 lakhs tonnes p.a. The reason for considering a low estimate of traffic and not estimating any growth for the given period to be justified.	
(h).	The traffic of fertilizers (delivery from warf) is projected at 0.84 lakh tonnes in 2015-16. However, the traffic estimated for years 2016-17, 2017-18 and 2018-19 at 0.30 lakh tonnes, 0.40 lakh tonnes and 0.50 lakh tonnes respectively. The reason for estimating lower traffic during 2016-17 to 2018-19 over 2015-16.	The projection has been made based on market information and estimation.
(i).	The reason for the reduction in traffic for project cargo (equipment for shore handling not provided by TMILL) from 0.59 lakh tonnes in 2013-14 to 0.17 lakh tonnes in 2014-15. Also the reason for estimating a constant traffic of 0.25 lakh tonnes for each of the years 2016-17 to 2018-19.	TMILL have handled 15K of Project cargo in 2015-16. Based on the present volume and estimate the projection for future year has been done.
(j).	(i). The TMILL has projected traffic to the tune of 17895 tonnes in 2015-16 under the head of other cargo not specified. However, traffic for this cargo type is not estimated for year 2016-17 to 2018-19.	It is difficult to estimate cargo in this category as these are happening on spot basis. Hence TMILL have not projected any volume. TMILL handled 17895 MT of Pig Iron in 2015-16.
	(ii). The TMILL to also furnish the details of types of cargo covered under the head of 'other cargo not specified'.	
(3).	**<u>Operating Income</u>**:	
(i).	The TMILL has proposed introduction of some new tariff items viz. Equipment	Estimated additional revenue arising out of the "Equipment Assistance Charge" on per MT basis is furnished as given below:

Activity	Quantity (in lakh MT)	Rate	Amount (₹. inlakhs)

<table>
<tr><td></td><td>Assistance Charges (viz. with Forklift etc) and On-board Equipment operation for all dry bulk cargo and for HRC/ CRC,Plates, Sheets, WRC, Tubes/Pipes. The year-wise additional revenue implication arising from these new tariff items to be quantified item wise and furnished for all the years under consideration with workings. In the absence of estimate of additional revenue implication arising from these new tariff items, the Authority may not be in a position to approve the new tariff items.</td><td><table>
<tr><td></td><td></td><td></td><td></td><td>(₹. / MT)</td><td></td><td></td><td></td></tr>
<tr><td></td><td>2016-17</td><td>2017-18</td><td>2018-19</td><td></td><td>2016-17</td><td>2017-18</td><td>2018-19</td></tr>
<tr><td>On-board Equipment Operation (applicable on full parcel size) All dry Bulk Cargo)</td><td>6.50</td><td>6.50</td><td>7.00</td><td>6.5</td><td>42.25</td><td>42.25</td><td>45.50</td></tr>
<tr><td>On-board Equipment Operation (applicable on full parcel size) HRC/CRC, Plates Sheets, WRC, Tubes/Pipes</td><td>2.50</td><td>2.50</td><td>2.75</td><td>13</td><td>32.50</td><td>32.50</td><td>35.75</td></tr>
<tr><td></td><td></td><td></td><td></td><td>Total</td><td>74.75</td><td>74.75</td><td>81.25</td></tr>
</table></td></tr>
<tr><td>(ii).</td><td>In the income calculation at the existing scale of rates, the TMILL has considered On-board equipment assistance Charges for various cargo types viz. Limestone, Steel / logs, Project Cargo, assuming number of shifts per hatch, multiplied by no. of hatches and divided by parcel size. The basis and supporting documents justifying the assumptions of the above assumptions for each type of cargo, wherever these charges are considered, to be furnished.</td><td>Parcel size and requirement of number of shifts for on-board equipment like Loader, Forklifts etc. has been estimated based on the past trend.</td></tr>
<tr><td>(4).</td><td><u>Operating Cost</u>:</td><td></td></tr>
<tr><td>(i).</td><td>Operating and Direct Labour:</td><td></td></tr>
<tr><td></td><td>With reference to the operating and direct labour, TMILL to clarify/ furnish the following:</td><td></td></tr>
<tr><td>(a).</td><td>Documentary evidence in support of the stevedoring expenditure of ₹668 lakhs estimated for the year 2015-16.</td><td>TMILL have provided the “Memorandum of Settlement” for all labour related cost along with original proposal submitted vide letter no. TMILL/225/15-16 dated 07.01.2016. The necessary calculation for ₹ 668 lakhs is furnished.</td></tr>
<tr><td>(b).</td><td>Documentary evidence in support of labour cost to the tune of ₹ 36527/- per month per labour considered in case of 11 numbers of labour and ₹19927/- per month per labour considered in case of 23 numbers of labour under the head of “Operators for Loaders and Forklifts”, for the year 2015-16.</td><td>TMILL have provided the “Memorandum of Settlement” for all labour related cost along with original proposal submitted vide letter no. TMILL/225/15-16 dated 07.01.2016.
[TMILL have provided the calculation reflecting the labour cost of ₹ 36639/- per month per labour and ₹ 19840/- per month per labour)</td></tr>
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<tr><td>(c).</td><td>Documentary evidence in support of labour cost of each trailer driver at ₹ 25944/- per month for the year 2015-16 and labour cost of each trailer helper at ₹ 22728/- per month for the year 2015-16.</td><td>TMILL have provided the “Memorandum of Settlement” for all labour related cost along with original proposal submitted vide letter no. TMILL/225/15-16 dated 07.01.2016.
[TMILL have provided the calculation reflecting the labour cost of ₹ 25962/- per month per labour and 22725.24/- per month per labour)</td></tr>
<tr><td>(d).</td><td>The TMILL has furnished to us copies of the Memorandum of Settlement arrived between the management of various companies with the Labour Union. It is not clear how the said Memorandum of Settlement is relevant for the general revision of tariff at TMILL for Berth no. 12. The TMILL to clarify the position.</td><td>TMILL have provided the “Memorandum of Settlement” for all labour related cost alongwith original proposal submitted vide letter no. TMILL/225/15-16 dated 07.01.2016. All the labour related cost at B#12, as mentioned above, is derived based on these settlement which is done in presence of Assistant Labour Commissioner. Hence these documents are provided as supporting to the cost given by TMILL.</td></tr>
<tr><td>(ii).</td><td>Maintenance labour & Security cost:</td><td></td></tr>
<tr><td></td><td>The TMILL to furnish documentary evidence in support of maintenance labour cost to the tune of ₹ 27195/- per month per labour and considered in case of 12 numbers of labour and ₹17830/- per month per labour and considered in case of 23 numbers of labour, for the year 2015-16.</td><td>TMILL have provided the “Memorandum of Settlement” for all labour related cost along with original proposal submitted vide letter no. TMILL/225/15-16 dated 07.01.2016.

[TMILL have provided the calculation only with respect to ₹17893 per month per labour and has not furnished the workings for ₹27195/- per month per labour]</td></tr>
<tr><td>(iii).</td><td>Equipment running cost:</td><td></td></tr>
<tr><td>(a).</td><td><u>Oil and Lubricant cost</u>:</td><td></td></tr>
<tr><td></td><td>(i). While calculating Oil & Lubricants cost for bulk handling equipment (Loaders) for the year 2015-16, the TMILL is seen to have considered projected traffic of Iron ore and Limetone and a rate of ₹ 12.61 per tonne. The TMILL to explain the basis for considering consumption of Oil & Lubricants in respect of only Iron ore and Limestone and also to furnish documentary evidence in support of ₹12.61 per tonne.</td><td>Loaders are used for only bulk cargo i.e. Limestone and Iron ore for TMILL in 2015-16. ₹.12.61 per tonne has been taken based on the actual per tonne cost incurred on account of oil and lubricant for loaders at the time of furnishing the proposal. The calculation is as below:

Total cost=₹.9009390/-
Total Tonnage=713832 MT
Rate per MT= ₹ 12.62</td></tr>
<tr><td></td><td>(ii). The actual Oil and Lubricant cost incurred in respect of Trailers, Forklifts and Harbour Mobile Crane to be furnished separately for the year 2015-16.</td><td>The actual cost incurred in respect of Trailers, Forklifts and Harbour Mobile Crane for 2015-16 is given as below:<table><tr><td>Type of equipment</td><td>Expenditure (in ₹)</td></tr><tr><td>Trailer</td><td>807075/-</td></tr><tr><td>Forklifts</td><td>1991160/-</td></tr><tr><td>Harbour Mobile Crane</td><td>5370096/-</td></tr></table></td></tr>
<tr><td>(b).</td><td><u>Repairs and Maintenance</u></td><td></td></tr>
</table>

	(i). The actual repairs and maintenance cost incurred during the year 2015-16 to be furnished.	The actual repairs and maintenance cost for 2015-16 is ₹2,13,57,143/-
	(ii). The TMILL to also confirm that onetime expenses have not been factored in the cost estimates.	Cost estimates are made based on the trend of actual expenses.
(c).	<u>Equipment registration cost</u>:	
	The TMILL to furnish documentary evidence in support of ₹16 lakhs considered towards Equipment registration cost during the year 2015-16.	The actual equipment registration cost for 2015-16 furnished. [*The TMILL has furnished vehicle wise breakup for Road Tax during the year 2015-16 aggregating to ₹11,42,234.19 whereas we have asked the breakup for ₹16 lakh]*
(iv).	**Royalty:**	
(a).	As per the provisions of the Licence Agreement entered by TMILL with KOPT, the TMILL is required to pay revenue share on its traffic based on the cargo related charges leviable at KOPT. From the workings furnished by the TMILL with reference to the calculation of revenue share for the years 2016-17 to 2017-18, it is seen that the TMILL has considered the rates prescribed in its Scale of Rates, to determine the revenue share payment for each of the cargo. Further, for the year 2015-16, the rates considered in the revenue share calculation is neither as per the Scale of Rates of KOPT nor as per the Scale of Rates of TMILL. The TMILL, therefore, to rework the revenue share amount for each of the years 2015-16 to 2018-19, based on the cargo related charges leviable at KOPT.	Royalty payment is made on the revenue earned against above activities. The same has also been certified by independent auditor and submitted to HDC, KOPT on regular basis. For 2015-16 the royalty has been calculated based on the operating income which is subject to audit by independent auditor. The audit will commence shortly.
(b).	TMILL is seen to have considered the amount paid/ payable by it to KOPT towards Revenue share as admissible cost for all the years 2015-16 to 2018-19 to the tune of 8.19%. In this regard, it may be noted that in line with the stipulation contained in Clause 2.8.1. of the tariff guidelines of 2005, pass through of revenue share was allowed in the last tariff fixation of TMILL to the	TMILL have considered royalty cost as per rate of second highest bidder as TMILL have done in their earlier application also.

	extent of 8.126% of the cargo related charges as per then prevailing Scale of Rates of KOPT. The TMILL to consider to rework the revenue share calculation in this context.	
(c).	The existing Scale of Rates of KOPT does not prescribe On-board supervision charges. In this context, the reason for calculating revenue share by including On-board supervision charges incase of Iron ore, Limestone, Steel Shipment (TATA Steel), Steel/ Logs discharge from jetty and plot each and Project cargo (Equipment for shore handling not provided by TMILL) to be explained.	KOPT has also claimed royalty on On-Board supervision charges from TMILL and TMILL have disputed the same based on relevant clause/s of the License agreement. However the matter has been referred to an Arbitration Tribunal. Hearing from both TMILL and KOPT is over and the award by the arbitration tribunal is awaited.
(d).	Further, the TMILL has made a mention that it is disputing this payment with KOPT. In this connection, it may be recalled that during the last review of tariff of TMILL, the TMILL has reported that the matter has gone for arbitral resolution. In this connection, a brief note on the outcome of the arbitration, if any, may be furnished. The treatment meted out in the cost statement with regard to the said outcome also to be indicated.	
(e).	It is not clear:	
	(i). How the rate of ₹. 74.03 per MT towards loading onto dumper at the time of shipment has been considered in the revenue share calculation pertaining to Iron ore. The TMILL to furnish the reference to the KOPT Scale of Rates relied upon by it to arrive at the said rate.	TMILL have not projected any Iron Ore to be handled due to reason mentioned earlier. Hence, no revenue and revenue share has been considered against Iron Ore.
	(ii). How the various rates towards Loading onto trailer at the time of shipment, placement and removal of dunnage, clearing and forwarding charges and on-board equipment assistance respectively, has been considered in the revenue share calculation	TMILL has not furnished any comments.

	pertaining to Steel shipment – TATA steel. The TMILL to furnish the reference to the KOPT Scale of Rates relied upon it to arrive at the said rate. (iii). How the rate of ₹. 82.86 per MT, ₹. 82.86 per MT and ₹.57.97 per MT towards Loading at siding, unloading at siding and transportation respectively, has been considered in the revenue share calculation pertaining to Steel shipment – TATA steel – rail bound cargo. The TMILL to furnish the reference to the KOPT Scale of Rates relied upon it to arrive at the said rate. (iv). How the rate of ₹. 4/- per MT for the year 2015-16 and ₹.8.19 per MT for the year 2016-17 to 2018-19 towards equipment assistance has been considered in the revenue share calculation pertaining to Limestone. The TMILL to furnish the reference to the KOPT Scale of Rates relied upon by it to arrive at the said rate.	. TMILL has not furnished any comments TMILL have not considered ₹.4 per MT for the year 2015-16 towards equipment assistance charges. Royalty for 2015-16 has been derived based on the total projected operating income. TMILL have considered ₹. 8.19 per MT for the year 2016-17 to 2018-19 based on our proposed per MT rate for Equipment Assistance charge.
	(v). How the rate of ₹. 82.86 per MT towards on shore labour charges has been considered in the revenue share calculation pertaining to Project cargo (Equipment for shore handling not provided by TMILL). The TMILL to furnish the reference to the KOPT Scale of Rates relied upon it to arrive at the said rate.	Royalty payment is made on the revenue earned against above activities. The same has also been certified by independent auditor and submitted to HDC, KOPT on regular basis.
(v).	**Equipment Hire Charges**:	
	(a). With reference to the equipment hire charges the TMILL to furnish workings to arrive at the total hire charges of ₹.7.13 Lakhs considered for the year 2015-16. (b). If the hire charges has been estimated based on some contract, suitable	The actual expenditure incurred against equipment hire charges for 2015-16 is ₹ 596500/-. The relevant contract copy is furnished. *(The copy of the Contract dated 06.11.2015 with a Vendor, reflects an amount of ₹ 39 lakhs (i.e. 300 shifts @ ₹ 13000/- per shift) towards Equipment hire excavator/ big loader, ₹ 18 lakhs (i.e. ₹ 30 per MT for 60000 MT) towards Equipment support for I/O rake loading and ₹ 14 lakhs (₹ 7 lakhs for 2 nos) towards hire of big loaders. The said document furnished by TMILL neither reflects the working towards hire*

<table>
<tr><td></td><td>copies of the relevant contract agreement in support of the rate of hire charge considered in the workings, to be furnished.</td><td>charges ₹7.13 lakhs nor the amount of ₹5.965 lakhs]</td></tr>
<tr><td>(vi).</td><td>Insurance:</td><td></td></tr>
<tr><td></td><td>(a). The TMILL has projected Insurance cost of ₹ 37.70 lakhs in year 2015-16 as against actual of ₹.16 lakhs incurred during 2014-15, indicating increase in cost by 135%. The reason for the steep increase in insurance cost to be justified. The actual insurance cost for the year 2015-16 to be indicated.
(b). The insurance cost considered for 2016-17 is ₹.40.92 lakhs and for 2017-18 and 2018-19 is considered at ₹ 74.92 lakhs (83% increase over 2016-17). The reason for estimating a substantial increase in insurance cost to be justified.</td><td>The actual insurance cost for 2015-16 is ₹ 26.83 Lakhs. The hike compared to 2014-15 is due to addition of new loaders.

The insurance cost for 2016-17, 17-18 and 18-19 has been linked with the new investment proposal as per Form 4A.</td></tr>
<tr><td>(vii).</td><td>Other expenses:</td><td></td></tr>
<tr><td>(a).</td><td><u>LSD/ Unlashing:</u>
The rate of ₹ 92/- per MT considered in case of Steel Shipment (TATA Steel) and ₹16 per MT considered in respect of Steel/ Logs discharge, project cargo for the year 2015-16, to be supported by a documentary evidence in this regard.</td><td>Contract copy is furnished by TMILL.

Rate of ₹ 92/- MT has been derived as given below:
<table>
<tr><td>Rate for supply of Lashing Material</td><td>Rs.72 per MT</td></tr>
<tr><td>Add VAT @ 5%=</td><td>Rs.3.60 per MT</td></tr>
<tr><td>Supply of labour=</td><td>Rs.16 per MT</td></tr>
<tr><td>Total</td><td>Rs.92 per MT</td></tr>
</table>

[The Work Order dated 03.05.16 furnished by the TMILL reflects the rate of ₹16/- per MT towards unlashing/ lashing of steel/ project cargo. With regard to the rate of ₹92/- per MT towards Steel Shipment (TATA Steel), as per the workings given above, the Work Order furnished by the TMILL reflects the rate of ₹ 72/- per MT towards Rate for supply of Lashing Material. However, no document is made available for ₹ 16/- per MT towards supply of labour as considered in the workings given above.]</td></tr>
<tr><td>(b).</td><td><u>Sticker/ Tag writing/ Colour coding services:--</u>
The rate of ₹23258 per person per month, considered to estimate this expenditure to be validated with documentary evidence.</td><td>This is based on the Memorandum of Settlement as explained earlier. The detail calculation is furnished by TMILL.

[TMILL have provided the calculation of ₹23259 per month per labour]</td></tr>
<tr><td>(c).</td><td><u>Intraport Transportation:</u>
The rate of ₹ 57/- per MT for</td><td>The rates for Intraport Transportation of limestone and iron ore is furnished.</td></tr>
</table>

	Intraport Transportation of limestone and iron ore, and the rate of ₹ 70 per MT for Steel Shipment (TATA Steel) for the year 2015-16, to be supported with documentary evidence.	(*The Work Order dated 03.05.16 furnished by the TMILL reflects the rate of ₹ 57/- per MT towards transportation of bulk cargo.)* Rate for Steel shipment is estimated based on the market rate wherein the final agreed rate with vendor is under discussion.
(d).	<u>Survey Expenses:</u> The documentary evidence in support of ₹3.52 per MT in respect of Limestone, ₹16 per MT in respect of Steel Shipment (TATA Steel), ₹4.50 per MT in respect of Steel discharge, ₹6/- per MT in respect of Project Cargo and ₹3.55 per MT in respect of iron ore, considered towards survey expenses for the year 2015-16 to be furnished.	Contract copy is furnished by TMILL. *[TMILL has furnished the documents for ₹ ₹4.50 per MT in respect of Steel discharge, ₹6/- per MT in respect of Project Cargo and ₹16 per MT in respect of Steel Shipment, but documents in support of ₹ 3.52 per MT in respect of Limestone and ₹ 3.55 per MT in respect of iron ore is not furnished]*
(e).	<u>Loading and Unloading Expenses:</u> (i). The loading and unloading expenses for steel shipment a/c Tata Steel (Rail Bound Activity) at ₹199.00/MT to be validated with documentary proof. (ii). The reason for considering only 50% of the Cargo to incur this expenditure to be explained	Rate confirmation is furnished by TMILL. (The document dated 16 January 2014 furnished by TMILL reflects a rate of ₹ 199/- per MT plus service tax and statutory charges at actuals for unloading of steel cargo from rakes and transportation to B-12/ yard.) TMILL have considered 50% of the total Steel volume to be received by Rail wherein balance will come through road.
(f).	<u>Miscellaneous Operational Expenses:</u> The actual miscellaneous operational expenses incurred during the year 2015-16 to be furnished item wise.	The Segregated Accounts for 2015-16 is under process as the books of accounts for FY'16 has been finalized now. TMILL can provide the same once it is audited and finalized. Subsequently, the TMILL vide its letter dated 28 June 2016 has furnished the draft segregated accounts for the year 2015-16.
(viii).	**Depreciation**:	
	TMILL has proposed additions to the gross block of fixed assets. In the absence of sufficient details regarding exact/ anticipated date of commissioning of additions to the fixed assets, we are not able to scrutinize the depreciation figures furnished by the TMILL. Therefore, TMILL to furnish detailed workings for the estimated depreciation for all the years under consideration. The rates of depreciation adopted may also be furnished giving reference to the Companies Act or provisions of	Depreciation has been calculated as per company's act wherein considered full depreciation where capitalization will be done before 6 month from the start of the financial Year and consider half depreciation where, capitalization will be after 6 month TMILL.

	concession agreement as the case may be.	
(ix).	**Management and Administration Overheads:**	
	The actual item wise Management & Administrative overheads incurred for the year 2015-16 may be furnished. Similarly, the actual items wise general overheads incurred for the year 2015-16 to be furnished.	The Segregated Accounts for 2015-16 is under process as the books of accounts for FY'16 has been finalized now. TMILL can provide the same once it is audited and finalized. Subsequently, the TMILL vide its letter dated 28 June 2016 has furnished the draft segregated accounts for the year 2015-16.
(5).	**<u>Finance & Miscellaneous Income</u>:**	
(i).	<u>Terminal Value</u>: The workings for arriving at the value of discounted terminal value for each of the years under consideration to be furnished.	Considering PLR rate of 14.75%, the terminal value has been considered.
(ii).	<u>Others:</u> (a). The nature of income considered under this head of income may be listed out. (b). The basis for estimating this head of income to be furnished with working.	Other Income includes Interest of FD.
(6).	**<u>Finance & Miscellaneous Expenses</u>:**	
	Please furnish detailed workings for the estimated contribution to provident fund for all the years under consideration.	The projection for FY'17 to FY'19 has been made considering projected actual of FY'16 with inflation as per TAMP's guidelines.
(7).	**<u>Capital employed</u>**:	
	<u>Fixed Assets</u>: (i). Since FY 2015-16 is already over, the TMILL to take into account the actual addition in capital assets during year 2015-16 in Form 4A. (ii). The TMILL also to furnish quotations / work order in support of proposed addition in Gross Block during 2016-17 to the tune of ₹322 lakhs for replacement of old forklift. (iii). The TMILL also to indicate the action taken by it for acquiring a Harbour Mobile Crane (HMC) for ₹3400 lakhs during 2017-18 in replacement of old HMC.	The Segregated Accounts for 2015-16 is under process as the books of accounts for FY'16 has been finalized now. TMILL can provide the same once it is audited and finalized. Subsequently, the TMILL vide its letter dated 28 June 2016 has furnished the draft segregated accounts for the year 2015-16. The Quotation obtained for purchase of Forklift is furnished. (The Quotation *furnished by TMILL for forklift is dated 15 January 2013 for an amount* of ₹. 1,67,24,786/-.) Discussion with various supplier is going on for purchase of new Harbour Mobile Crane.

	(iv). TMILL to note that only completed and commissioned assets should alone be counted for capital employed. The work-in-progress shall not be taken into account. A confirmation in this regard to be furnished.	
(8).	**Working Capital**:	
(i).	TMILL has calculated Inventory at 6 months of the Repairs and maintenance cost. TMILL to confirm as to whether this approach is in line with the prescription made for determination of inventory in the tariff guidelines of 2005.	This has been done in accordance with the guideline as per Clause no. 2.9.9.
(ii).	The TMILL is not seen to have considered current liabilities for arriving at the figure of working capital. The same to be estimated.	No Current liability should be considered for deriving ROCE as Debtor considered as NIL.
(9).	**Scale of Rates:**	
	The reason for proposing changes in the definition of term 'Month' and 'On-board Supervision', in the proposed Scale of Rates to be explained.	It is suggested that 'Month' shall mean 30 or 31 consecutive calendar days to have better clarity primarily in connection with Plot Allotment related issues. Only one change against "On-Board Supervision" in 6, 6.1 g has been suggested to specify that the heaping activity at hook point is related to export bulk cargo only.

7.2. Further, the TMILL was requested vide our letter dated 15 June 2016 to furnish some information / clarification, arising out of the gap in the information furnished by TMILL vide its letter dated 26 May 2016, in response to our letter dated 20 April 2016. The TMILL has responded vide its letter dated 28 June 2016. The information/ clarification sought by us and the response of TMILL thereon are tabulated below:

Sr. No.	Information/ Clarification arising out of the gap in the information furnished by TMILL, as sought by us	Reply of TMILL
(i).	The Reconciliation statement to reconcile the difference in the operating expenses considered in the Segregated Accounts and that in the Cost Statement.	TIMLL has already provided the necessary reconciliation of 2013-14 and 2014-15 vide letter dated 26th May, 2016. (*As brought out earlier, the Reconciliation statement is furnished only with reference to the Fixed Assets. Reconciliation statement to reconcile the difference in the operating expenses in the Segregated Accounts and that in the Cost Statement has not been furnished by TMILL, even now.)*
(ii).	Working in support of the assessed capacity of 11.24 lakh MT.	Assessed capacity of 11.24 Lakh MT has been derived based on the target ship day output of 4400MT. 4400X365X70%= 1124200 MT

		Capacity has been estimated considering the past performance and other Scenarios like draft restriction, limitation of number of vessels entering/sailing in the port due to lock gate constraint etc. Few relevant details of the past Tariff orders issued by TAMP to TMILL is referred as given below: 1) TAMP issued a tariff order dated 12th October, 2007 wherein KOPT has commented on the capacity of B#12 at Page no. 4 and indicated 1.07 million MT as the rated capacity of B#12(copy of relevant page is attached). 2) TAMP issued a tariff order dated 25th May, 2011. TAMP has commented at page 54(copy attached) that they have assessed capacity of B#12 based on the comment of KOPT as per last tariff order. 3) TAMP issued the last (existing) tariff order on 9th June, 2014. TAMP has made similar comment on capacity at page no. 56(copy attached). Based on the above TMILL requests the Authority to consider the capacity of B#12 as 11.24 lakh MT.
(iii).	Workings for ₹.27195/- per month considered in the case of Maintenance labour & Security cost:	The working is attached. (The TMILL has furnished workings towards ₹ 27195/- per month considered in the case of Maintenance labour & Security cost.)
(iv).	In the expenses relating to Vehicle Registration, the TMILL has furnished a list of vehicle wise breakup for Road Tax during the year 2015-16 aggregating to ₹.11,42,234.19 whereas, the breakup was sought for ₹. 16 lakh, as considered by TMILL in its Cost statement.	₹ 11.42 Lacs is the actual expenditure and the Authority may consider the same appropriately.
(v).	The documents furnished by TMILL do not reflect the equipment hire charges of ₹. 7.13 Lakhs considered for the year 2015-16.	Actual expenditure is ₹ 5.96 Lacs and relevant contract copy was provided vide our letter dated 26th May, 2016. This Authority may consider the same appropriately. *(As brought out earlier, the copy of the Contract dated 06.11.2015 with a Vendor, reflects an amount of ₹ 39 lakhs (i.e. 300 shifts @ ₹ 13000/- per shift) towards Equipment hire excavator/ big loader, ₹ 18 lakhs (i.e. ₹ 30 per MT for 60000 MT) towards Equipment support for I/O rake loading and ₹ 14 lakhs (₹ 7 lakhs for 2 nos) towards hire of big loaders. The said document furnished by TMILL neither reflects the working towards hire charges ₹ 7.13 lakhs nor the amount of ₹ 5.965 lakhs. Even now, the TMILL has not furnished the requisite details.)*

(vi).	As per the workings given by the TMILL with regard to the rate of ₹. 92/- per MT towards unlashing/ lashing of Steel Shipment (TATA Steel), the Work Order furnished by the TMILL reflects the rate of ₹. 72/- per MT towards Rate for supply of Lashing Material. However, no document is made available for ₹. 16/- per MT towards supply of labour as considered in the workings given by TMILL.	TMILL has already provided the clarification and supporting vide our letter dated 26th May, 2016. TMILL are providing the supporting again and highlighting ₹.16/MT.
(vii).	The quotation furnished by TMILL towards the forklift is dated 15 January 2013. TMILL may furnish the latest Quotation/ Bill for procurement of Forklift.	The latest quote received for purchase of Forklift is furnished. (The TMILL has furnished a Quotation dated 27 June 2015 reflecting the cost of Forklift at ₹1.40 crores, cost of Coil Ram Attachment at ₹ 3.50 lakhs, excise duty @ 12.5%, VAT @ 14.5%.)
(viii).	No documentary evidence has been furnished in respect of Survey Expenses in support of ₹. 3.52 per MT in respect of Limestone, ₹. 3.55 per MT in respect of iron ore.	TMILL provided the details as per letter dated 26th May, 2016 and provided the supporting details. ₹ 3.52 per MT is combination of ₹ 1.25, 1.37 and 0.90.(3.52=1.25+1.37+0.90) ₹ 3.55 per MT is combination of ₹ 2.65 and 0.90.(3.55=2.65+0.9) *(Though the TMILL had earlier furnished the documentary evidence in support of ₹ 1.25 per MT and ₹ 1.37 per MT towards draft supervision and dispatch supervision, no such working was furnished then, to arrive at ₹ 3.52 per Mt and ₹ 3.55 per MT. Moreover, the Work Order dated 29.4.15 in support of ₹ 0.90 per MT considered in the above calculation towards trip tally and stock accounting, was not furnished earlier and has been furnished only now.)*

8.1. The TMILL vide its letter dated 15 July 2016 has updated its proposal by taking into account the actuals for the year 2015-16. A comparative statement reflecting the various parameters considered by TMILL in its initial proposal dated 7 January 2016 and revised proposal dated 15 July 2016 is tabulated below:

(a). Change in the figures for the year 2015-16 based on the actuals.

Sl. No.	particulars	Actuals as in proposal dated 7 January 2016			Actuals as in proposal dated 15 July 2016		
		2013-14	2014-15	2015-16 *	2013-14	2014-15	2015-16
i.	Traffic (in MT's)	7107789	869461	1271402	7107789	869461	1348188
ii.	Operating Income	2487	2957	4219	2487	2957	4677
iii.	Operating Cost excluding Depreciation	1785	2018	2693	1785	2018	2889
iv.	Depreciation	373	381	383	373	381	423
v.	Overheads	486	498	714	486	498	850
vi.	Operating Surplus / (Deficit)	(157)	61	430	(157)	61	515
vii.	Finance & Miscellaneous Income (FMI)	113	149	86.49	113	149	111
viii.	Finance & Miscellaneous Expenses (FME)	26.13	28.85	29.00	26.13	28.85	42.68
ix.	FMI less FME	87.35	120.31	57.49	87.35	120.31	68.74
x.	Surplus before Interest and Tax	(70)	181	487	(70)	181	584

xi.	Capital Employed	3284	4564	4415	3284	4564	4225
xii.	ROCE – Maximum permissible @ 16%	525	730	706	525	730	676
xiii.	Net Surplus / (Deficit) after allowable ROCE	(595)	(549)	(219)	(595)	(549)	(92)
xiv.	Net Surplus / (Deficit) as a % of operating Income	(24%)	(19%)	(5%)	(24%)	(19%)	(2%)

* Estimates for the year 2015-16

(b). Changes in the Estimates at existing level of tariff in the proposal dated 7 January 2016 and 15 July 2016.

Sl. No.	particulars	Estimates at existing level of tariff in proposal dated 7 January 2016			Estimates at existing level of tariff in proposal dated 15 July 2016		
		2016-17	**2017-18**	**2018-19**	**2016-17**	**2017-18**	**2018-19**
i.	Traffic (in MT's)	1055000	1065000	1150000	1055000	1065000	1150000
ii.	Operating Income	5123	5067	5411	5123	5067	5411
iii.	Operating Cost excluding Depreciation	2929	2975	3178	2939	2989	3195
iv.	Depreciation	400	524	673	440	563	713
v.	Overheads	741	769	798	877	910	945
vi.	Operating Surplus / (Deficit)	1053	799	760	867	604	558
vii.	Finance & Miscellaneous Income (FMI)	86.56	86.64	150.74	86.56	86.64	150.74
viii.	Finance & Miscellaneous Expenses (FME)	30.11	31.26	32.45	44.31	46.00	47.76
ix.	FMI less FME	56.45	55.39	118.29	42.25	40.64	102.98
x.	Surplus before Interest and Tax	1110	854	879	909.00	645.0	994.00
xi.	Capital Employed	4414	7315	6651	4213.00	7059.00	6357.00
xii.	ROCE – Maximum permissible @ 16%	706	1170	1064	674.00	1129.00	1017.00
xiii.	Net Surplus / (Deficit) after allowable ROCE	404	(316)	(186)	235.00	(484.00)	(356.00)
xiv.	Net Surplus / (Deficit) as a % of operating Income	7.88%	(6.24%)	(3.43%)	4.59%	(9.56%)	(6.58%)
xv.	Average Net Surplus / (Deficit) as a % of operating Income	(0.60%)			(3.85%)		

(c). The TMILL has not made any changes in the proposed draft Scale of Rates as compared to the earlier proposal dated 7 January 2016.

8.2. Subsequently, the TMILL vide its email dated 19 August 2016 has made the following submissions:

(a). Rate for "Equipment Assistance charges for Forklift of capacity above 20 MT(₹ per Shift)" has been proposed as ₹25000/ Shift. The rate has been proposed based on the rate for "Forklifts of capacity between 10 MT to 20 MT" which is ₹18723/ Shift. No income against ₹ 25000/Shift for "Equipment Assistance charges for Forklift of capacity above 20 MT (₹ per Shift)" has been estimated.

(b). Rate for "On-Board equipment charges on per MT basis" (₹. 6.5/MT and ₹. 13/MT) has also been proposed based on per Shift rates. Detail of the proposed rates is given as follows:

Sl. No.	On-board Equipment Operation (applicable on full parcel size)	Rate (₹. /MT)		Remarks	Calculation

1	All dry Bulk Cargo	6.5	Item introduced on per mt basis to serve parties undisputably who wants to have consolidated per mt rate and does not want to get into nitigrities of actual equipment usage.	This has been derived by converting the existing per shift rate for loaders with less than 3.5 CBM, based on the usage(no. of shifts) and parcel size(Tonnage).[(3.5 shifts*5 hatches*9361.49)/24000]	6.83
2	HRC/CRC, Plates Sheets, WRC, Tubes/Pipes	13		This has been derived by converting the existing per shift rate for forklift with capacity between 10 MT to 20 MT, based on the usage(no. of shifts) and parcel size(Tonnage).[(3 shifts*4 hatches*18723)/17000]	13.22

(c). The estimated income for ₹.6.5/MT & ₹.13/MT is as follows:

Activity	**Quantity(in MT)**			**Rate (₹/MT)**	**Amount (in ₹)**		
	2016-17	**2017-18**	**2018-19**		**2016-17**	**2017-18**	**2018-19**
On-board Equipment Operation (applicable on full parcel size) All dry Bulk Cargo	650000	650000	700000	6.5	4225000	4225000	4550000
On-board Equipment Operation (applicable on full parcel size) HRC/CRC, Plates Sheets, WRC, Tubes/Pipes	250000	250000	275000	13	3250000	3250000	3575000
				Total	**7475000**	**7475000**	**8125000**

9. A joint hearing in this case was held on 13 June 2016 at the KOPT premises. At the joint hearing, the TMILL made a brief power point presentation of its proposal. The presentation traced the history of the formation of TMILL, nature of its operations, scope of work of Berth No. 12, among other things. At the joint hearing, the TMILL and the concerned users/ user organizations have made their submissions.

10. Given that the TMILL has updated its proposal, a copy of the updated proposal of TMILL was forwarded to KOPT vide our letter dated 29 July 2016 with a request to KOPT to furnish its comment on the traffic estimated by TMILL in its updated proposal, and other estimates, if any. In this regard, the KOPT has responded vide its letter dated 08 August 2016. The submissions made by KOPT are as follows:

(i). During the first four months (April 16 to July 16) of the current fiscal, a total of 5.12 lakh Ton of cargo has been handled by TMILL at Berth No. 12, out of which 4.56 lakh Ton was comprised of Limestone & Flux alone, apart from Import Iron & Steel (0.53 lakh ton) and some quantity of Project Cargo & Machineries.

(ii). The aforesaid traffic trend at Berth No. 12 clearly indicates a pro-rata volume of 1.54 MMT of cargo throughput at the said Berth during the FY 2016-17 in which the volume of Limestone & Flux alone is assessed to be 1.37 MMT and the quantity of Import Iron & Steel works out to be 1.59 lakh tonne.

(iii). However, TMILL in their revised projection submitted through letter dated 20 April 2016 indicated projection of 2.5 lakh ton of import Iron & Steel for the current fiscal. Besides, during discussion, TMILL has indicated handling of about 1 lakh tonne of coastal export of Iron & Steel commodities from Haldia during the current fiscal onwards.

(iv). Apart from the above, various other dry bulk and break bulk cargo like Project Materials, Bagged Cargo, Machineries & Spares etc. are also regularly handled by TMILL at Berth No. 12.

(v). In view of the above it is felt that even with a conservative approach the traffic projection for Berth No. 12 for the FY 2016-17 should not be less than 1.45 MMT, which indicates about 8% growth over the cargo throughput at Berth No. 12 in FY 2015-16.

(vi). As per the traffic target fixed by the Ministry, HDC is to handle 37.5 MMT cargo in FY 2016-17 which suggests an increase of the annual throughput by 12% over the quantity handled (33.5 MMT) during the last fiscal (2015-16). In view of the same, may be appreciated that a cargo growth of 10% per year is felt reasonable for the FY 2017-18 and 2018-19.

(vii). In view of the above, KOPT strongly feels that the cargo projection indicated by TMILL is not realistic in terms of the trend of traffic handled so far at Berth No. 12 and so KOPT holds its earlier position that the traffic projection so made by TMILL is not acceptable.

(viii). Accordingly, in view of the above, the following cargo projection for TMILL operated Berth No. 12 seems to be reasonable for consideration by TAMP.

Financial Year	**Projected volume of cargo**
FY 2016-17	1.45 MMT
FY 2017-18	1.60 MMT
FY 2018-19	1.76 MMT

(ix). With regard to the issue of non-formation of SPV by TMILL and liabilities of TMILL towards payment of royalty to KOPT the position of KOPT communicated earlier stands.

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

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

(i). The Scale of Rates of TMILL was last revised vide Order dated 20 May 2014. Vide the said Order, the 2008 level of tariff actually levied by the TMILL for the services rendered between 1 April 2013 to 30 June 2014 was recognised to the limited purpose of fixation of tariff, and an across the board increase of 90% over the 2011 level tariff of TMILL was granted, to be effective from 01 July 2014 till 31 March 2016. Given that the said Order prescribed validity of the rates upto 31 March 2016, the TMILL has come up with a proposal for review of its tariff for the period from 01 April 2016 to 31 March 2019.

(ii). The TMILL has filed its proposal for review of its tariff in January 2016. This proposal was taken up for consultation with the relevant users/ user organisations. Thereafter, the TMILL has furnished additional information/ clarification as sought by us. While responding, the TMILL has updated its proposal by taking into account the actuals for the year 2015-16, based on its draft Accounts. In view of the said updation, there is a slight change in the estimates built up for the years 2016-17 to 2018-19. The said proposal of TMILL of July 2016 alongwith the additional information/ clarification furnished by TMILL during the processing of the case is considered for the purpose of this analysis.

(iii). Clause 2.13 of the tariff guidelines of 2005 mandates this Authority to review the actual physical and financial performance of the private terminals at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing the prevailing tariff.

During the last fixation of tariff of TMILL, this Authority had relied upon the estimates for the years 2013-14 to 2015-16. Thus, the estimates vis-à-vis actuals for the years 2013-14 to 2015-16 are to be analyzed to assess the actual performance of TMILL during the said period.

(iv). The KOPT has stated with regard to the issues relating to incorporation of TMILL as a Special Purpose Vehicle (SPV), and segregated accounts in respect of Berth no. 12, that the submissions made by it earlier in the previous general revision of TMILL are still valid. Accordingly, the KOPT has requested this Authority to issue appropriate direction to TMILL. In this connection, it may be recalled that the issues relating to incorporation of TMILL as a SPV and submission of segregated accounts by TMILL, have already been addressed by this Authority in detail in the TMILL's past general revision Orders. Accordingly, as held by this Authority on the earlier occasions, the need to prepare Segregated Accounts arises since the Licensee operates in many other areas, apart from the licensed premises and the Accounts drawn up by them include the results of all their operations. The basic requirement of BOT cases is that the successful bidder to a port project has to form a SPV to discharge his obligations under the Licence Agreement. It is incumbent upon the Landlord port to ensure that such SPV has been formed and then enter into a Licence Agreement with such separate entity created. For reasons not known to us, KOPT does not appear to have followed this established procedure. It would be necessary for KOPT to take appropriate steps to ensure such SPV is formed. Till KOPT ensures its Licensee forms a separate SPV and maintains separate accounts, this Authority relies upon the segregated accounts furnished by TMILL, given that the KOPT has not expressed any serious objection to the Segregated Accounts presented by TMILL. However, relying upon the Segregated Accounts of TMILL by this Authority should not be construed as to endorsing the Segregated Accounts submitted by the TMILL.

(v). The analysis of the performance of TMILL during the years 2013-14 to 2015-16 is given below:

(a). TMILL has reported to have actually handled a cargo traffic of 710789 MTs, 869461 MTs and 1348188 MTs during the years 2013-14 to 2015-16 respectively, as against the estimated cargo traffic of 820000 MTs, 915000 MTs and 915000 MTs during the corresponding years. Thus, as against the estimated aggregate cargo traffic of 2650000 MTs, the TMILL has actually handled 2928438 MTs of cargo. The increase in the cargo traffic handled works out to around 10.51%.

(b). As brought out earlier, in the last tariff Order of May 2014 as well as in the Review Order of February 2015, the 2008 level of tariff actually levied by the TMILL for the services rendered between 1 April 2013 to 30 June 2014 was recognised and an across the board increase of 90% over the 2011 level tariff of TMILL was granted, to be effective from 01 July 2014 till 31 March 2016. To have a like to like comparison between the actuals and the estimates, the estimated income for the period 2013-14 to 2015-16 as considered in the May 2014/ February 2015 Order is modified to reflect this position.

(c). The actual income from port related services as reflected in the Segregated Accounts for the years 2013-14 to 2015-16, is considered as the operating income for the corresponding years in the Cost statement.

(d). As seen in the Segregated Accounts for the years 2013-14 to 2015-16, the TMILL has written back the liabilities no longer required and has accounted for 'miscellaneous income' and 'interest on fixed deposits' under the head of 'Other Income'.

The TMILL has excluded the other income from the cost statement for the respective years. For the purpose of the past analysis, the interest income earned by the TMILL on fixed deposits is not taken into account in line with the approach adopted in respect of other tariff cases of private terminals. Since the provision of expenses is not treated as an item of expenditure, the amount of liabilities written back is also not treated as an item of income. Thus, the miscellaneous income to the tune of ₹ 31.44 lakhs, ₹ 0.21 lakhs and ₹ 0.53 lakhs as reflected in the Segregated Accounts for the years 2013-14 to 2015-16 respectively, is considered under the head of 'Finance & Miscellaneous income' in the Cost statement.

(e). The TMILL has to pay Revenue share to the Licensor port KOPT on all kinds of cargo related charges as per prevailing Scale of Rates of KOPT. The Segregated Accounts for the years 2013-14 to 2015-16 reflect an amount of ₹291.54 lakhs, ₹357.42 lakhs and ₹586.02 lakhs as revenue share. As already recorded in the earlier Orders of TMILL, there is a dispute between the KOPT and TMILL with regard to the quantum of revenue share payable by TMILL to KOPT. Based on a communication of TMILL forwarded by the KOPT to us, it is seen that the revenue share assessed by the Independent Auditor is to the tune of ₹316.28 lakhs, ₹332.91 lakhs and ₹556.31 lakhs for the years 2013-14 to 2015-16 whereas, the TMILL is seen to have made a revenue share payment to the tune of ₹241.15 lakhs, ₹ 292.59 lakhs and ₹ 501.50 lakhs. Therefore, the differential amount to the tune of ₹75.13 lakhs, ₹40.32 lakhs and ₹54.81 lakhs is treated as the disputed amount. In line with the approach adopted during the past review of tariff of TMILL, only the undisputed revenue share amount is recognised in the tariff fixation. Therefore, the actual revenue share paid by TMILL is only considered without prejudice to the contentions of the rival parties before the appropriate forum.

In line with the stipulation contained in Clause 2.8.1. of the tariff guidelines of 2005, pass through of revenue share was allowed in the last tariff fixation of TMILL to the extent of 8.126% of the cargo related charges (second quote) as per then prevailing Scale of Rates of KOPT while the first quote is 10.565%. In other words, 76.91% of Revenue share payable by TMILL (8.126%/10.565%) only can be the maximum pass through that can be considered in tariff exercise. Hence 76.91% of the Revenue share paid is considered as a pass through in the past analysis for the years 2013-14 to 2015-16.

(f). The Segregated Accounts furnished by TMILL do not explicitly reveal the lease rentals paid by TMILL to KOPT, as the Segregated Accounts reflects the position inclusive of the plot rent. In the absence of any contrary comments made by the KOPT, the lease rentals as furnished by TMILL in its Cost statement for the years 2013-14 to 2015-16 are considered in the past period analysis.

(g). Subject to the difference in the royalty/ revenue share amount and lease rentals as reflected in the Segregated Accounts and as considered in the Cost statement, the aggregate of operating expenses, overheads and financial and miscellaneous expenses in the Cost statement should match with the total expenses (excl. depreciation) in the Segregated Accounts. However, the aggregate of operating expenses, overheads and financial and miscellaneous expenses as considered in the Cost statement is seen to be higher to the tune of ₹ 26.22 lakhs, ₹ 28.73 lakhs and ₹ 62.72 lakhs for the years 2013-14 to 2015-16, as compared to the Segregated

Accounts of the corresponding period. The Reconciliation statement furnished by the TMILL does not throw light on this difference in spite of request made to TMILL twice to provide reconciliation statement for operating expenses. Therefore, the said amount of ₹ 26.22 lakhs, ₹ 28.73 lakhs and ₹ 62.72 lakhs is adjusted in the management and general overheads reflected in the Cost statement furnished by TMILL for the years 2013-14 to 2015-16.

(h). There is a difference in the amount of depreciation considered by TMILL in the Cost statement for the years 2013-14 to 2015-16 as compared to the Segregated accounts for the respective years. In other words, a lower amount of depreciation has been considered in the Cost statement. In this regard, the TMILL is seen to have excluded the depreciation in respect of the assets relating to berth other than Berth no. 12, in its cost statement. Further, based on the reasoning furnished by the TMILL during its past review that since it has acquired the right to use the land of KOPT, it has capitalized the entire lease rentals and shown it as an asset in the Segregated Accounts. Therefore, it is charging lease rental payable for the relevant year and showing it as part of depreciation in the Segregated Accounts. However, in the Cost statement, it has considered the lease rentals under the head of lease rentals and shown depreciation at the lower level. The position reported by TMILL is taken into account.

(i). As stated above, the Fixed Asset Schedule forming part of the Segregated Accounts for the years 2013-14 to 2015-16 is inclusive of the assets relating to berth other than Berth no. 12 and also the capitalized lease rentals. The value of the net block of assets for the years 2013-14 to 2015-16 as furnished by the TMILL is relied upon in the analysis.

(j). The analysis regarding working capital is as given below:

(i). Sundry Debtors are not taken into account, as it was not considered as part of Current assets in the earlier general revision of tariff of TMILL, Since the norm of two months estate income and Railway Terminal charges payable by Indian Railways is not relevant in the case of TMILL. However, the prepayments and advance to be made by the private operators as per the license agreement to the respective licensor port is recognized as the limit for sundry debtors to the extent they are otherwise permissible as pass through, based on a Common Order of September 2008 passed by this Authority.

The payment of Security Deposit for the lands allotted to TMILL is governed by the Scale of Rates of the Licensor port, KOPT. As per Note 9 of the then existing Rent Schedule for KOPT at Haldia at the relevant point of time, Security for payment of rent/ licence fee shall be recovered at 12 months rent/ licence fee for all types of allotments. Based on the rate of licence fee applicable at the time of initial allotment of 14000 sq. mtrs and subsequent allotment of 54000 sq. mtrs and 9000 sq. mtrs of land, the Security deposit for 12 months period works out to ₹ 141.61 lakhs. Incidentally, this amount has been considered during the past review of tariff of TMILL. The same is considered in this analysis also.

Like at the time of the last review of tariff of TMILL, even now the TMILL has not furnished any details with reference to the Security Deposit for power supply considered by it. Therefore, in line with the treatment meted out in the last review, Security Deposit for power supply is not considered in the analysis.

(ii). The tariff guidelines of 2005 has prescribed a limit of six months average consumption of stores excluding fuels in case of items of Inventory. As considered during the past review, 50% of the Repairs and maintenance is considered as Inventory.

(iii). Cash balance has been calculated at one month's operating expenses including overheads, as done during the past tariff review of tariff of TMILL.

(iv). The TMILL has not furnished the current liabilities for the years 2013-14 to 2015-16. Non consideration of Sundry Debtors as current assets does not justify to exclude current liabilities altogether, as argued by TMILL. The current liabilities shown in the audited Segregated Accounts is for the entire Haldia division and not with reference to Berth no.12. Therefore, the proportion of Current liabilities of the Haldia Division to the Current Assets of Haldia Division as given in the Segregated Accounts is taken as base and applied to the figures of Current Assets as calculated based on the approach as explained in the preceding paragraphs for the years 2013-14 to 2015-16 in the analysis to calculate current liability.

(v). Since the Current Liabilities are found to be more than the Current Assets, the Working Capital results in a negative figure. Therefore, the Working Capital is considered as NIL for the years 2013-14 to 2015-16. Thus, the Capital Employed works out to ₹2838.18 lakhs, ₹4100.19 lakhs and ₹3769.66 lakhs for the years 2013-14 to 2015-16 respectively.

(k). In the last tariff Order of October 2011, Return on capital employed was allowed at 16% for the years 2013-14 to 2015-16. The same position is maintained for allowing Return on the actual Capital Employed for the said years.

(vi). (a). A statement showing the analysis of the performance of TMILL for the years 2013-14 to 2015-16 is attached as **Annex – I**. A summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

(₹ In Lakhs)

Particulars	Aggregate of the Estimates relied upon in the last Order for the years 2013-14 to 2015-16	Aggregate of Actuals for the years 2013-14 to 2015-16	% Variation
Traffic (in MTs)	**2650000**	**2928438**	10.51%
Op. Income	**11499.85 ***	**10121.25**	-11.99%
Total Exps (incl. Depn)	**10606.19**	**9425.26**	-11.13%

***** The operating income estimates are adjusted to reflect the increase granted vide the last tariff Order.

The details regarding the Actual Return earned by TMILL on the Capital Employed are given in the following table:

(₹ In Lakhs)

Sr. no.	Particulars	2013-14	2014-15	2015-16	Average
(i).	Actual Surplus before Return earned by TMILL	-84.62	112.48	604.59	210.82
(ii).	Actual Capital Employed	2838.18	4100.19	3769.66	3569.34

(iii).	Actual Return on Capital Employed as a percentage.	-2.98%	2.74%	16.04%	5.91%
(iv).	Variation in Return on Capital Employed @ 16%	-118.63%	-82.85%	0.24%	-67.08%

(b). As per Clause 2.13 of the tariff guidelines, if review of actual physical and financial performance for the previous tariff cycle shows the variation of more than + or – 20%, then 50% of such accrued benefit / loss has to be adjusted in the next tariff cycle.

As can be seen from the above tables, though the actual financial performance is seen to be more than (-) 20%, in terms of ROCE, the actual physical performance is seen to be 10.51%, which is less than (+) 20%. In view of the above position, in terms of the stipulation contained in Clause 2.13, there is no case to set off 50% of the past deficit pertaining to the years 2013-14 to 2015-16 in the current tariff cycle of TMILL.

(c). The analysis of the past performance of the TMILL for the year 2015-16 is based on the draft segregated Accounts for the year 2015-16. This analysis pertaining to the year 2015-16 will be reviewed based on the final audited segregated Accounts for the year 2015-16.

(vii). We have vide our letter no. TAMP/46/2015-Misc dated 24 July 2015 communicated to TMILL that the surplus quantified for the tariff cycle immediately preceding the challenged tariff Order No. TAMP/27/2011-TMILL dated 11 October 2011 and the tariff fixed in the said tariff order challenged by the TMILL in the Hon'ble High Court will be taken up for review, based on the Ministry of Shipping (MOS) letter No. 14019/20/2009-PG dated 12 June 2015, subject to the permission of the Hon'ble High Court as the matter is subjudice.

Till the permission of the Hon'ble High Court is received, an exercise just to quantify the surplus/ (deficit) amount arising out of giving effect to the MOS letter is undertaken. Given that the income to be considered for the purpose of Clause 2.13 will be the actual income earned by the operator based on their Audited Accounts and not any notional income, the quantum of rebate and discounts to the tune of ₹ 22.47 crores as considered in the said Order of 2011 is reduced from the operating income then relied upon. Therefore, the net surplus after return for the years 2007-08 to 2009-10 as assessed in the 2011 Order at ₹ 19.05 crores stands revised at a net deficit after return to the tune of ₹ 3.42 crores.

Further, as against the traffic estimation of 2850000 MTs for the period from 2007-08 to 2010-11, TMILL had actually handled 3075908 MTs for the said period. The variation works out to 7.93%. As per MOS letter, since both financial and physical parameters has be taken into account for the purpose of Clause 2.13 of the Tariff Guidelines of 2005, no surplus/ (deficit) is eligible for set off. A working statement in this regard is attached as **Annex – II(a)**.

Thus, two instalments of past surplus adjustment amounting to ₹ 306.41 lakhs as effected in the estimates for the years 2010-11 to 2012-13 in the Order of 2011, ought not to have been given effect in the 2011 Order, had the MOS letter come into effect then. The impact of this position can be given effect by giving an increase in tariff in the future tariff cycle. However, as brought out above, the tariff fixed vide the 2011 Order is subjudice and the matter is still pending before the Hon'ble High Court of Calcutta. Therefore, the excess surplus to the tune of ₹ 306.41 lakhs considered earlier is to be credited to TMILL in future tariff cycle, subject to the permission of the Hon'ble Court or provided the TMILL withdraws the Court case in Writ Petition no. 20969 (W) of 2011 or seeks the permission of the Hon'ble Court to allow this Authority to give effect to the said position.

(viii). Similarly, in the May 2014 Order of TMILL followed by a Review Order of February 2015, the quantum of rebate and discounts to the tune of ₹ 10.67 crores as considered in the said Order of 2015 is reduced from the operating income then relied upon. Therefore, as against the net deficit after return for the years 2010-11 to 2012-13, as assessed in the 2015 Order at ₹ 3.91 crores stands revised at a net deficit after return to the tune of ₹ 14.58 crores. Also, the remaining three instalment of the additional surplus over and above the admissible cost and permissible return assessed for the period from 2007-08 to 2009-10 amounting to ₹ 459.62 lakhs, which was adjusted during the tariff cycle 2013-14 to 2015-16, also ought not to have been given effect.

In this case, as against the traffic estimation of 3754506 MTs for the period from 2010-11 to 2012-13, TMILL had actually handled 2771757 MTs for the said period. The variation works out to (-) 26.18%. Even, the financial variation works out to be (-) 88.65%. Since both the physical and financial parameters are seen to be more than +/- 20%, the surplus/ (deficit) is to be set off as per MOS letter, as given below:

Particulars	**₹ in Lakhs**
Total deficit 10-11 to 12-13	-1457.24
20% to be met by TMILL	-291.45
Balance deficit	-1165.79
50% to be adjusted	**-582.90**

Therefore, as against the adjustment of 50% past deficit to the tune of ₹ 1.95 lakhs (₹ 3.91 crores being the deficit for the period 2010-11 to 2012-13 as assessed in the 2015 Order), an adjustment of deficit to the tune of ₹ 5.83 crores ought to have been given effect in the 2015 Order. On account of this position, as against the increase of 90% granted from 01 July 2014 vide tariff Order of May 2014, an increase to the tune of 106.93% ought to have been granted. The financial implication in this regard is assessed at ₹ 847.20 lakhs. A working statement in this regard is attached as **Annex – II(b)**.

The effect of the said amount to the tune of ₹ 847.20 lakhs, arising out of giving effect to the MOS letter, is being taken into effect, while deciding the quantum of increase/ decrease to be effected for the tariff cycle, 2016-17 to 2018-19, as discussed subsequently.

(ix). It may be recalled that in the Review Order of TMILL in October 2011, an amount of ₹2352.43 lakhs was assessed as additional surplus over and above the admissible cost and permissible return for the period from 2002-03 to September 2007. The said amount is to be refunded by the TMILL to the concerned parties, subject to the outcome of the Writ Appeals of TMILL and cross objection of this Authority pending before the Hon'ble High Court of Calcutta.

(x). The cargo profile at berth No. 12 consists of Limestone/ Pyroxinite/ Clinker, Steel, Logs, Fertilizer and Project cargo. As against the actual traffic of 1348188 MTs including iron ore handled during the year 2015-16, the TMILL has estimated the traffic at a reduced level at 1055000 MTs, 1065000 MTs and 1150000 MTs during the years 2016-17 to 2018-19 respectively.

The TMILL has reasoned that the implementation of export duty by the Government of India, global economy and market trend has gradually put an end to the export of Iron Ore. Even the import of iron ore during the year 2014-15 and 2015-16 is not anticipated during the future years, as the mining issues which had led to some import of iron ore in the past, stands resolved. Steel export is reported to have dropped significantly due to poor market condition and lower export prices. However, coastal movement of Steel is gaining momentum and the same is reported to have been captured by TMILL in their traffic estimates. Further, since the sugar plant is in the process of shut down due to higher cost of production the concerned importer has no plan to import sugar in future. Also, on commissioning of a new railway line by TMILL at LL-6, B#12 in January 2015, the TMILL has estimated higher volume of Limestone (Flux) to be handled during the years 2016-17 to 2018-19. Thus, the traffic projection is reported to have been made by TMILL based on market information and estimation.

With reference to the traffic estimates as for the year 2016-17, the KOPT is of the view that considering the actual traffic of TMILL for the period April 2016 to July 2016 at 5.12 lakh MTs, the traffic estimate of TMILL for the year 2016-17 should be at 15.4 lakh MTs. The KOPT is of the view that the traffic projection for the year 2016-17 should not be less than 14.5 lakh MTs even on a conservative side. Further, the KOPT is of the view that since the traffic target fixed by the Ministry for the year 2016-17 suggests an increase of the annual throughput by 12% over the quantity handled during the last fiscal (2015-16), a cargo growth of 10% per year is felt reasonable for the years 2017-18 and 2018-19. Accordingly, by considering a 10% growth rate per annum, the KOPT has stated that the traffic of TMILL should be considered at 16 lakh MTs for the year 2017-18 and 17.60 lakh MTs for the year 2018-19.

A comparative position of the traffic for the years 2016-17 to 2018-19 as estimated by the TMILL and as suggested by the KOPT is given below:

Year	Traffic as estimated by TMILL	Traffic as furnished by KOPT	Difference	Difference percentage
2016-17	1055000	1450000	395000	37.44%
2017-18	1065000	1600000	535000	50.23%
2018-19	1150000	1760000	610000	53.04%

This Authority does not carry out any independent study to determine the likely traffic at a port/ private terminal and it generally relies upon the traffic estimates made by the operator. While furnishing the information/ clarification sought by us, the TMILL has brought out the reasons for estimating lower traffic for the various cargo items for the years 2016-17 to 2018-19 as compared to the actual for the year 2015-16, as brought out above. The TMILL has also stated that its traffic projection takes into account the market dynamics. However, the landlord port i.e. KOPT has strongly objected to the traffic estimates made by TMILL and has furnished indicative traffic figures for the TMILL for the years 2016-17 to 2018-19. In this regard, as shown in the above table, the traffic of TMILL as indicated by the KOPT is almost 50% higher than the traffic estimated by TMILL. Considering that the KOPT and TMILL would have estimated the traffic based on the market trends, ideally there should not be such an alarming difference in the traffic estimates given by the said two parties. In this context, it is noteworthy that barring the year 2015-16, when the TMILL has handled 13.48 lakh tonnes, it has actually handled only 7.10 lakh tonnes and 8.69 lakh tonnes during the years 2013-14 and 2014-15, as brought out earlier in the analysis. Given that the KOPT has indicated a higher traffic for TMILL and considering that the TMILL has handled a higher traffic in 2015-16, it is not appropriate to completely rely on the traffic estimated by TMILL for the years 2016-17 to 2018-19. At the same time, given the wide variation in the traffic estimated by TMILL and KOPT for the period 2016-17 to 2018-19 and taking into account the position of traffic handled by the TMILL during the years 2013-14 and 2014-15, it is also not appropriate to completely take into account the traffic as estimated by KOPT. The KOPT has not pointedly countered the reasoning of TMILL for the traffic projections. The suggestion of KOPT to consider the traffic estimate of 1.60 Million Tonnes and 1.76 Million Tonnes for the year 2017-18 and 2018-19 is far ahead of the capacity of TMILL (1.124 Million Tonnes per annum) by 142.40% and 156.60%. The capacity depends on the physical facilities available and the productivity levels achievable. There is no change in the productivity level of 4400 tonnes per day which has gone into the calculation of capacity at 1.124 Millions Tonnes. As far as the physical infrastructure, the TMILL has not proposed any addition to the existing infrastructure. The investment proposed by TMILL is not to augment the capacity but to replace the existing forklift trucks and HMC. The KOPT has projected a 10% growth rate in the traffic at HDC. As brought out earlier, there is a positive variation of around 10% between the aggregate of actual traffic for the years 2013-14 to 2015-16 and the aggregate of the estimated traffic for the same period. Therefore, if 10% additional traffic is considered for every year over the estimates of TMILL, for the years 2016-17 to 2018-19 the traffic estimate of TMILL works out to 1160500 MTs, 1171500 MTs and 1265000 MTs respectively for the years 2016-17 to 2018-19.

Though the TMILL has neither handled any containers during the past years and nor has projected any container traffic in its future traffic estimates for the years 2016-17 to 2018-19, it has proposed to continue with the prescription of rates for handling containers. In this connection, the KOPT has maintained its earlier position that since container has not so far been handled at Berth No. 12, the item 'container' should be deleted. In this regard, it is relevant to mention here that the permissible cargo to be handled at Berth no. 12 as stipulated in the Licence Agreement includes containerized cargo and, therefore, it is for the Licensor and Licensee to sort out the issues among themselves.

(xi). (a). The TMILL has furnished detailed workings for estimation of income from handling of various cargo items for the years 2016-17 to 2018-19. In this regard, it is relevant to mention here that the income as worked out by the TMILL is based on the estimated traffic for the years 2016-17 to 2018-19 and the relevant rates prescribed in the Scale of rates of TMILL approved vide Order of May 2014. The income estimate for the years 2016-17 to 2018-19 has been reworked by us by considering the traffic estimates at the level as discussed in the preceding paragraph.

The TMILL has also considered income estimated to be earned from providing on-board equipment assistance for various types of cargo based on the rates of Equipment assistance charges for handling equipment like front end loaders and forklifts of different capacities prescribed in the Scale of rates of TMILL approved vide Order of May 2014. The TMILL has estimated the income for providing equipment assistance and furnished workings in this regard. It has assumed different number of shifts for the use of different handling equipment and also different parcel size for the various types of cargo estimated to be handled. The basis for the assumptions made by TMILL is reported to be based on the past trend. The assumptions made by TMILL are relied upon in the estimation of income arising from providing equipment assistance. However, the income for the years 2016-17 to 2018-19 has been reworked by us by considering the traffic estimates at the level as discussed in the preceding paragraph.

Thus, the cargo handling income has been considered at ₹ 4913.47 lakhs, ₹ 4931.77 lakhs and ₹ 5288.77 lakhs for the years 2016-17 to 2018-19 respectively in this analysis instead of the income estimated by the TMILL at ₹4466.79 lakhs, ₹4483.42 lakhs and ₹4807.98 lakhs for the corresponding years.

(b). The 'Other Income' as shown in the Cost statement comprises of Plot Rental income and Income from the use of HMC at Berth no. 12.

(i). The TMILL has furnished workings to arrive at the plot rental income for the said years. As seen from the workings, the estimate is based on the assumptions of TMILL about parcel size for each category of cargo, area requirement for each parcel size, number of parcels expected and storage time for each parcel. The assumptions made by TMILL are relied upon in the estimation of income arising from plot rentals. However, the income for the years 2016-17 to 2018-19 has been reworked by us by considering the traffic estimates at the level as discussed in the preceding paragraph.

(ii). The HMC is proposed to be utilised by TMILL in respect of handling cargo like Limestone, Steel (Exports & Imports), Fertiliser Raw materials and Project Cargo. The income from the use of the HMC is seen to have been estimated by the TMILL by taking into account the estimated traffic for the years 2016-17 to 2018-19, the usage and the per tonne rates for the use of HMC for the various cargo items fixed by this Authority in the Review Order of February 2015. The assumptions made by TMILL are relied upon in the estimation of income arising from the use of HMC. However, the income for the years 2016-17 to 2018-19 has been reworked by us by considering the traffic estimates at the level as discussed in the preceding paragraph.

(xii). The annual escalation of the cost estimates is considered in terms of Clause 2.5.1 of the Tariff Guidelines of 2005 which requires that the expense projections of the major ports and terminal operators should be in line with traffic adjusted for price fluctuation with reference to current movement of Wholesale Price Index for all commodities as announced by the Government of India. In the tariff cases of the private terminal operators decided during the year 2016-17, it has been decided to consider an escalation factor of 2.46% in the estimation of expenditure. Accordingly, an escalation factor of 2.46% is considered in the analysis for estimation of the expenses for the years 2016-17 to 2018-19, instead of the escalation factor of 3.82% considered by TMILL for each of the years 2016-17 to 2018-19.

(xiii). Operating and Direct Labour cost consists of “Stevedoring expenses” and “labour cost for operation of Equipment”.

(a). The TMILL has outsourced the stevedoring activity. The workings furnished by the TMILL reflects an amount of ₹668.79 lakhs incurred for the purpose during the year 2015-16, which is seen to be inclusive of basic pay, all allowances, gratuity, overtime and other incidental expenses. As against the escalation factor of 3.82% per annum considered by TMILL over the actuals for the year 2015-16 to arrive at the estimates of Stevedoring expenses for the years 2016-17 to 2018-19, an escalation factor of 2.46% is considered during the year 2016-17 over the actuals of 2015-16 and an escalation factor of 2.46% each for the years 2017-18 and 2018-19 over the estimates of the respective previous years is considered in the analysis.

(b). The other element is “labour cost for operation of Equipment”. The Cost includes cost of Operators for operating Loaders and Forklifts and cost of Trailer drivers and helpers, which are discussed below:

The cost of Operators for operating Loaders and Forklifts has been estimated based on 34 operators. Considering the rate of ₹ 25298/- per operator per month as base, reported to be the rate applicable for the year 2015-16, the TMILL has applied an escalation factor of 3.82% per annum to arrive at the cost for the years 2013-14 to 2015-16. The number of labour considered by TMILL for deployment to operate the said equipment is a management decision and hence this Authority may not like to go into this aspect. The documentary evidence furnished by the TMILL reflects a rate of ₹ 36639/- per month per labour and ₹ 19840/- per month per labour and not the rate of ₹ 25298/- per operator per month as considered by TMILL in its calculations. Given that the rate pertains to the year 2015-16 which is based on actuals, the position as reported by the TMILL is relied upon for the year 2015-16. Thereafter, an escalation factor of 2.46% is considered during the year 2016-17 over the actuals of 2015-16 and an escalation factor of 2.46% each for the years 2017-18 and 2018-19 over the estimates of the respective previous years is considered in the analysis.

The labour cost of Trailer drivers and helpers have been estimated for 20 drivers and 21 cleaners. Incase of Trailer drivers, considering the rate of ₹ 25944/- per driver per month as reported to be applicable for the year 2015-16 as base, the TMILL has applied an escalation factor of 3.82% per annum to arrive at the cost for the years 2016-17 to 2018-19. Similarly, incase of Trailer helpers, considering the rate of ₹ 22728/- per helper per month as reported to be applicable for the year 2015-16 as base, the TMILL has applied an escalation factor of 3.82% per annum to arrive at the cost for the years 2016-17 to 2018-19. The number of labour considered by TMILL for deployment to operate the said equipment is a management decision and hence this Authority may not like to go into this aspect. The TMILL has furnished workings in support of the cost of Trailer drivers and helpers. An escalation factor of 2.46% is considered during the year 2016-17 over the actuals of 2015-16 and an escalation factor of 2.46% each for the years 2017-18 and 2018-19 over the estimates of the respective previous years is considered in the analysis.

(xiv). The TMILL has estimated the labour cost for 35 operators for maintenance of equipment by considering the rate of ₹ 21845/- per operator per month. The rate considered as base by the TMILL is reported to be the actual pertaining to the year 2015-16. The TMILL has applied an escalation factor of 3.82% per annum to arrive at the cost for the years 2016-17 to 2018-19. The number of labour considered by TMILL for deployment to operate the said equipment is a management decision and hence this Authority may not like to go into this aspect. The TMILL has furnished workings in support of the cost of Trailer drivers and helpers. An escalation factor of 2.46% is considered during the year 2016-17 over the actuals of 2015-16 and an escalation factor of 2.46% each for the years 2017-18 and 2018-19 over the estimates of the respective previous years is considered in the analysis.

(xv). The Equipment Running Cost comprises of “Oil and Lubricant cost” and “Repairs and maintenance cost” in respect of Bulk handling Equipment like loaders, trailers, forklifts and Harbour Mobile Crane and Equipment Registration cost, which are discussed below:

(a). From the workings furnished by TMILL, it is seen that the Loaders are used in respect of handling Bulk cargo like Limestone/ Pyroxinite/ Clinker. To arrive at the Oil and lubricant cost in respect of Loaders for the year 2016-17, the TMILL has taken into account the actual Oil and lubricant cost in respect of Loaders for the year 2015-16 as base and proportionately adjusted it to the traffic for the year 2016-17 and applied an escalation factor of 3.82%. In the absence of any details relating to the unit consumption and cost of oil and lubricants, the methodology adopted by TMILL is relied upon, except for the change in the traffic and escalation factor, as discussed earlier. Incidentally, the same approach was considered during the past review of tariff of TMILL, to determine the cost of oil and lubricants.

(b). Similarly, from the workings furnished by TMILL, it is seen that the trailers and Forklifts are used in respect of handling Break bulk cargo like Steel and Logs. To arrive at the Oil and lubricant cost in respect of trailers and forklifts for the year 2016-17, the TMILL has taken the actual Oil and lubricant cost in respect of trailers and forklifts for the year 2015-16 as base and proportionately adjusted it to the traffic for the year 2016-17 and applied an escalation factor of 3.82%. In the absence of any details relating to the unit consumption and cost of oil and lubricants, the methodology adopted by TMILL is relied upon, except for the change in the traffic and escalation factor, as already discussed earlier. Incidentally, the same approach was also considered during the past review of tariff of TMILL, to determine the cost of oil and lubricants.

(c). To determine the Oil and lubricant cost in respect of HMC for the years 2016-17 to 2018-19, the TMILL has considered the actual cost in this regard incurred during the year 2015-16 and thereafter, considered an escalation factor of 3.82%. The estimates made by TMILL is modified to reflect the change in the escalation factor, as already discussed earlier.

(d). To determine the repair and maintenance cost for the years 2016-17 to 2018-19, the TMILL has considered the actual cost in this regard incurred during the year 2015-16 and thereafter, considered an escalation factor of 3.82%. The estimates made by TMILL is modified to reflect the change in the escalation factor, as already discussed earlier.

(e). The TMILL has made an actual payment of ₹11.42 lakhs during the year 2015-16 towards equipment registration cost like Road Tax, Fitness, Port Permit charges. The TMILL has furnished a summary of the payment made in this regard for the year 2015-16. The same is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 are modified to reflect the change in the escalation factor, as already discussed earlier.

(xvi). As per Clause 5.1(a) read with Clause 4.1(a) of the Licence Agreement, the TMILL has to pay revenue share on all kinds of cargo related charges as per prevailing Scale of Rates of KOPT. However, the TMILL is seen to have considered its own tariff to determine the Revenue share for the various cargo items. The calculation of Revenue share as given by TMILL is, therefore, modified to take into account the rates for the various cargo items as prevalent in the existing Scale of Rates of KOPT, so as to capture the position of the Licence Agreement. Also, in line with the stipulation contained in Clause 2.8.1 of the 2005 guidelines, the maximum admissibility of royalty/ revenue share will be to the extent of the percentage quoted by the second highest bidder for the period after 31 March 2005. Accordingly, the revenue share is estimated for the years 2016-17 to 2018-19 at the rate of 8.126% of the income based on the KOPT Scale of Rates, as applicable.

With regard to the Revenue share payable by TMILL based on the KOPT Scale of Rates, it is relevant to state that the Scale of Rates of KOPT is due for revision. The KOPT has already submitted a proposal and the proposal is under consultation process with the relevant stakeholders. Thus, in the event of revision of Scale of Rates of KOPT in future, the TMILL is given an opportunity to approach this Authority to review its tariff to the limited extent of incorporating the rates to be approved for the various cargo items and services in the revised Scale of Rates of KOPT in the revenue share calculation.

With regard to Revenue share from Plot Rentals, the TMILL has calculated the same, based on its own Scale of Rates. Taking into account the details as considered by the TMILL in its calculation of plot rentals and the rate of lease rentals for the HDC of KOPT approved in the year 2011 and duly escalated by 2% per annum, the income from plot rentals is arrived at. Thereafter, the revenue share from plot rentals is estimated for the years 2016-17 to 2018-19 at the rate of 8.126% of the plot rental income based on the KOPT Scale of Rates. With regard to the Revenue share from plot rentals payable by TMILL based on the KOPT Rent Schedule, it is relevant to state that the Rent Schedule of KOPT is already due for revision. The KOPT is yet to file a proposal in this regard. Thus, in the event of revision of Rent Schedule of KOPT in future, the TMILL is given an opportunity to approach this Authority to review its tariff to the limited extent of incorporating the revised Rent Schedule of KOPT in the revenue share calculation.

In respect of revenue share for the income from the use of MHC at TMILL, the revenue share payment for the years 2016-17 to 2018-19 is calculated based on the existing rate of MHC at KOPT to the tune of ₹ 62.40 per MT. In the event of revision of Scale of Rates of KOPT, the TMILL is given an opportunity to approach this Authority to review its tariff to the limited extent of incorporating the revised rates for the use of HMC in the revised Scale of Rates of KOPT to be approved, in the revenue share calculation of HMC.

The TMILL in its calculation has considered Revenue share for On board supervision, placement and removal of dunnages and clearing and forwarding charges incase of Steel Shipment a/c – TATA Steel, based on the rate prescribed in its Scale of Rates. Since this approach is not seen in line with the provision in the LA, the said components have not been considered in the calculation of Revenue share.

Further, for the reasons recorded in the earlier tariff Orders of TMILL, the Revenue share is calculated on the cargo related charges prescribed in the Scale of Rates of KOPT for the purpose of this analysis, without going into the details of the arbitration matter referred. By way of abundant caution, it is mentioned that revenue share figures considered in this exercise are only for the tariff fixation purpose and should not be taken as the determination by this Authority of the dispute, between the TMILL and KOPT on the subject payment.

(xvii). The TMILL is reported to have made an actual payment of ₹ 5.96 lakhs during the year 2015-16 towards Equipment hire charge. The same is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as already discussed earlier.

(xviii). The TMILL has estimated lease rentals at ₹268.69 lakhs, ₹278.95 lakhs and ₹289.61 lakhs for the years 2016-17 to 2018-19 respectively, based on the claim made by the Licensor port KOPT, for the initial allotment of hard stand land of 14000 sq. mtrs and subsequent allotment of 54000 sq. mtrs and 9000 sq. mtrs of land area. The LA stipulates that the licence fee will be enhanced every year by 5% of the licence fee payable in the preceding year or the scheduled licence fee then in force, whichever is higher.

It may be recalled that during the last revision, lease rental was considered in case of 14000 sq. mtrs of hardstand land allotted by KOPT to TMILL at the rate of ₹37.75 per sq. mtr for the year 2013-14. Similarly, the lease rentals incase of 54000 sq. mtrs of land and 9000 sq. mtrs. of land were considered each at the rate of ₹24.28 per sq. mtr for the year 2013-14. By applying an escalation factor of 5%, the rate that would be leviable during the year 2016-17 would work out to ₹ 43.70 per sq. mtr for 14000 sq. mtrs of hardstand land and ₹28.10 per sq. mtr. in case of both 54000 sq. mtrs of land and 9000 sq. mtrs. of land. Instead, the TMILL has considered a rate of ₹43 per sq. mtr for 14000 sq. mtrs of hardstand land, ₹ 25.80 per sq. mtr. for 54000 sq. mtrs of land and ₹ 27.10 per sq. mtr. in case of 9000 sq. mtrs. of land. The lease rental is worked out based on the rates as derived by us for the year 2016-17 as discussed above. For the years 2017-18 and 2018-19, the TMILL is seen to have considered an escalation factor of only 3.82% in the estimation of lease rentals. Since the Licence Agreement provides for an escalation of 5%, the same is considered for estimating the lease rentals for the years 2017-18 and 2018-19. The impact of rebate to the tune of 2.5% receivable by the TMILL in the case of timely payment of lease rentals, is also taken into account.

(xix). While estimating insurance cost for the years 2016-17 to 2018-19, the TMILL has maintained the actuals/ estimates for the respective previous year and in addition, has estimated insurance cost of 1% on the proposed additions to the assets during the said years. Though, the basic approach adopted by TMILL is relied upon in the analysis, the impact of escalation on the old as well as the new assets is taken into account in our analysis.

(xx). The estimates of other expenses relate to Lashing, Securing and Dunnaging (LSD), unlashing, sticker, despatch related services, intraport transportation, survey, clearing & forwarding expenses and miscellaneous expenses. Each of these items is discussed below:

(a). Lashing / Securing / Dunnaging (LSD)/ unlashing:

This expenditure is in respect of Lashing / Securing / Dunnaging (LSD)/ unlashing of Steel cargo (TATA), Steel/ Logs discharge – delivery from jetty, Steel discharge – delivery from plots and Project cargo. TMILL has outsourced this activity as seen from the copy of the work order furnished.

The actual considered by TMILL for the year 2015-16 is seen to be ₹ 91.60 per MT in respect of Steel cargo (TATA) and ₹ 16/- per MT in respect of Steel/ Logs discharge – delivery from jetty, Steel discharge – delivery from plots and Project cargo. The TMILL has taken the said rates as base and applied an escalation factor of 3.82% per annum to arrive at the estimates for the years 2016-17 to 2018-19.

The TMILL has furnished workings in support of the rate of ₹91.60 per MT and has also furnished a documentary evidence in the form of the work order of May 2016 reflecting the rate of ₹ 16/- per MT towards unlashing/ lashing of steel/ project cargo. The same is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as already discussed earlier.

(b). Sticker, Tag writing & color coding services:

The expenditure is captured in respect of 12 persons. Considering the rate of ₹ 23258/- per person per month reported to be the actual for the year 2015-16, the TMILL has estimated the expenditure for the years 2013-14 to 2015-16 by considering an escalation of 3.82% per annum.

The TMILL has produced a detailed working in support of the rate of ₹ 23258/- per person per month. The same is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as already discussed earlier.

(c). Intra-port Transportation

The expenditure relating to intra-port transportation is estimated to be incurred in respect of cargo items like limestone and steel. From the workings it is seen that a rate of ₹57/- per MT being the actual in respect of limestone for the year 2015-16 has been escalated at 3.82% per annum for the subsequent years 2016-17 to 2018-19. In respect of Steel a rate of ₹ 70/- per MT has been considered for the year 2016-17 and thereafter escalated by 3.82% for the subsequent years 2017-18 and 2018-19.

The document of May 2016 furnished by the TMILL in support of the rate, prescribes the rate for Intraport transportation for dry bulk cargo at ₹57/- per MT. The TMILL is not in a position to furnish documentary evidence in support of the rate of ₹70/- per MT. Since it has not firmed up the rate. Therefore, for the expenditure estimation relating to intra-port transportation in respect of Steel, the base rate is considered at ₹ 57/- per MT following the approach adopted in the last tariff Order of May 2014, which was not objected by TMILL. The expenditure in respect of the years 2016-17 to 2018-19 is estimated by considering an escalation of 2.46% per annum.

(d). Survey Expenses

Other expenses include survey expenses of lime stone, steel and project cargo. The rate of survey expenses considered by TMILL for estimation purpose varies from cargo to cargo. The copy of the Work Order furnished by the TMILL reflects the rate of ₹3.52 per MT in respect of Limestone, ₹16 per MT in respect of Steel Shipment (TATA Steel), ₹4.50 per MT in respect of Steel discharge and ₹6/- per MT in respect of Project Cargo. These rates are reported to be for the year 2015-16. The same has been considered as base by TMILL and escalated by 3.82% to arrive at the estimates for the year 2016-17 to 2018-19. The estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as already discussed earlier.

(e). Loading & Unloading Expenses:

The expenditure relating to Loading & Unloading is estimated to be incurred in respect of rail bound steel cargo. From the workings it is seen that a rate of ₹199/- per MT being the actual for the year 2015-16 has been escalated at 3.82% per annum for the subsequent years 2016-17 to 2018-19.

The rate of ₹199/- per MT is supported by documentary evidence. The same is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as already discussed earlier.

(f). Miscellaneous Operational Expenses:

The estimated miscellaneous operational expenses comprise of cost of Slings and Gears, Cargo Pool Labour & Other Labour Expenses and Handling Loss. The actuals for the year 2015-16 has been taken as base and escalated by 3.82% per annum by TMILL to arrive at the estimates for the subsequent years. The actuals for the year 2015-16 as furnished by TMILL is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as already discussed earlier.

(xxi). The TMILL has not claimed Efficiency gain, in any of the items of the Operating cost. As such, no Efficiency gain is considered in the estimation of operating costs for the years 2016-17 to 2018-19 in the current tariff revision of TMILL.

(xxii). The Management & Administration Overheads mainly comprise of Salary and wages, legal charges, electricity expenses and other office related expenses. The actuals for the year 2015-16 has been taken as base and escalated by 3.82% per annum by TMILL to arrive at the estimates for the subsequent years. The actuals for the year 2015-16 as furnished by TMILL is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as discussed earlier.

(xxiii). The General Overheads mainly comprise of Advertisement & Subscription, Entertainment Expenses, General Charges, Guest House Expenses and Other Expenses. The actuals for the year 2015-16 has been taken as base and escalated by 3.82% per annum by TMILL to arrive at the estimates for the subsequent years. The actuals for the year 2015-16 as furnished by TMILL is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as already discussed earlier. However, though an amount of ₹ 5.29 lakhs is reported to be the actual amount incurred towards Director's remuneration during the year 2015-16, the same has not been estimated by TMILL for the subsequent years 2016-17 to 2018-19. The approach of TMILL in this regard is relied upon.

(xxiv). The Finance and Miscellaneous Income as estimated by the TMILL comprises of the discounted terminal value and interest of Fixed deposits. The interest income on fixed deposits estimated to be earned by the TMILL is not taken into account in line with the approach adopted in respect of other tariff cases of private terminals. Further, as per the provisions of the Licence Agreement, the terminal value payable by KOPT to TMILL is ₹2.30 crores. Recognising that the payment would be due for 30 years, the annualised present value for the years 2016-17 to 2018-19 is arrived at by applying a discount factor of 14.05%. The discounting rate of 14.05% to arrive at the net present value is selected bearing in mind the prevailing PLR rate.

(xxv). The Finance and Miscellaneous Expenses comprise of the Contribution to Provident Fund. The actuals for the year 2015-16 has been taken as base and escalated by 3.82% per annum by TMILL to arrive at the estimates for the subsequent years. The actuals for the year 2015-16 as furnished by TMILL is taken as base and the estimates made by TMILL for the years 2016-17 to 2018-19 is modified to reflect the change in the escalation factor, as already discussed earlier.

(xxvi). The Capital Employed comprising of Net Fixed Assets and Working Capital are analysed in the following paragraphs:

(a). Fixed Assets:

(i). Year 2016-17:

The TMILL has proposed additions to the tune of ₹3.22 crores under the head 'Plant & Machinery'. The TMILL proposes to invest ₹ 3.22 crores to replace 2 nos. of Forklift Trucks. The TMILL has furnished a copy of the Quotation in this regard. The cost of the forklift trucks as furnished by the TMILL is taken into account.

(ii). Year 2017-18:
The TMILL has proposed additions to the tune of ₹ 34 crores under the head 'Plant & Machinery'. The TMILL proposes to invest ₹ 34 crores to replace its old HMC. The TMILL has stated that it is in discussion with various suppliers for purchase of new Harbour Mobile Crane. The TMILL has not furnished any documentary evidence in support of the cost of the equipment. Given that the Licensor port KOPT has not expressed any objection to the capital investment proposed by the TMILL, the investment to the tune of ₹ 34 crores during the year 2017-18 as proposed by TMILL, is considered in the analysis.

(iii). The TMILL has not estimated any capital additions during the year 2018-19.

(b). Working Capital:

(i). The TMILL has not considered Sundry Debtors as part of its estimates of Working Capital.

(ii) The TMILL has considered 50% of the estimated Repairs and maintenance cost for the years 2016-17 to 2018-19 as Inventory for the said years. The TMILL has confirmed that it is in line with the stipulation at Clause 2.9.9 of the tariff guidelines of 2005.

(iii). Cash balance has been calculated at one month's operating expenses including overheads.

(iv). The Security deposit amounting to ₹ 141.61 lakhs is considered for each of the years under consideration, as has been done during the last review of tariff of TMILL.

(v). The TMILL has not furnished the figures of estimated Current liabilities for the years under consideration. As stated earlier, current liabilities relevant for Berth no. 12 have been calculated for the past period. Based on the average ratio between the current assets and current liabilities for the past years i.e. 2013-14 to 2015-16, the current liabilities have been estimated for the years 2016-17 to 2018-19. Thus, the working capital (Current assets less current liabilities) works out to be NIL for all the years 2016-17 to 2018-19.

(xxvii). Clause 2.7.1 of the tariff guidelines stipulates that incase of private terminals, depreciation has to be allowed on straight line method with life norms adopted as per the Companies Act, 1956 or based on the life norms prescribed in the Concession Agreement whichever is higher. The LA does not prescribe life norms for the assets. Though the TMILL has not furnished separate workings in respect of calculation of depreciation, it has confirmed that they have estimated the depreciation based on Companies Act. The position as reported by the TMILL is relied upon.

(xxviii).The TMILL has stated that the capacity of berth no. 12 is 11.24 lakh MT per annum, by considering an average ship day output rate of 4400 MT per day following the pattern of planned cargo mix for 365 days with 70% utilisation. It may be recalled that during the proceedings relating to tariff fixation of TMILL during the year 2008, the KOPT had conveyed the capacity of the TMILL at 10.7 lakh tonnes. Considering the estimated traffic and capacity of 11.24 lakh tonnes, this capacity utilisation works out to be more than 100% for the years 2016-17 to 2018-19. Since the estimated capacity utilisation is more than the cut off limit of 60%, Return on the Capital Employed at the maximum rate of 16% is allowed for the years 2016-17 to 2018-19.

(xxix). (a). Subject to the discussions above, the cost statement has been modified. The modified cost statement is attached as **Annex – III**. The results disclosed by cost statement at the existing level of tariff at TMILL are summarized as shown in the table given here in under:

Sr. No	Particulars	Operating Income (₹ in crores)				Net Surplus(+)/ Deficit(-) (₹ in crores)				Net Surplus(+)/ Deficit(-) as a % of operating Income			Average Surplus/ Deficit %
		2016-17	2017-18	2018-19	Total	2016-17	2017-18	2018-19	Total	2016-17	2017-18	2018-19	
1	TMILL as a whole	56.30	56.80	60.75	173.85	7.07	0.47	1.87	9.41	12.57%	0.82%	3.08%	5.49%

(b). As can be seen from the above table, the TMILL would be in surplus to the tune of around ₹ 9.41 crores during the years 2016-17 to 2018-19 at the existing level of tariff. This surplus is after giving credit to a deficit of an amount of ₹ 8.43 crores arising due to giving effect to the MOS letter, as discussed earlier.

(c). Given the surplus position as reflected by the modified Cost statement, there is a case for effecting reduction in the existing tariff of TMILL. Considering the time taken for notification of the Order in the Gazette of

India and the lead time after which the revised Scale of Rates of TMILL would come into force, it would be around October 2016. Thus, the surplus for the years 2016-17 to 2018-19 would have to be set off over the remaining tariff validity period of 2 years and 6 months.

(d). In this connection, it is relevant to mention here that though the TMILL in its proposed Scale of Rates has proposed to maintain status quo in its existing Scale of Rates, it has sought an increase of 150% in the wharfage charges of project cargo and machinery & spares (immobile units) of various shapes and sizes (Section 4, Sl. No.5) and about 21% increase in the on board charges of Project cargo and machinery & spares (immobile units) (section 5, Sl. No. 3). Further, new tariff has been proposed at ₹ 25000/- per shift for Equipment assistance charges for Forklift of above 20MT (Section 10, Sl. No. 10(a)) and for on-board Equipment operation for all dry bulk cargo at ₹ 6.50 per MT and for HRC/CRC, Plates Sheets, WRC, Tubes/Pipes at ₹ 13.00 per MT.

(e). The increase in the wharfage charges of project cargo and machinery & spares is reported to have been proposed by TMILL, to be in line with rate of KOPT. It is seen that as against the existing wharfage rate of ₹ 240/- per MT for Project cargo at KOPT, the TMILL has proposed a rate of ₹ 290/- per MT. It is noteworthy that the KOPT in its current general revision proposal has proposed a wharfage rate of ₹ 277.20 per MT for Project Cargo. Further, as against the existing on board handling charge of ₹ 58.32 per MT at KOPT, the TMILL has proposed a rate of ₹ 80/- per MT. It is noteworthy that the KOPT in its current general revision proposal has proposed a wharfage rate of ₹ 67.36 per MT.

It is a known fact that the handling of Project cargo involves more efforts and is also more time consuming as compared to handling of other dry/ break bulk cargo. Recognising this position, while fixing the rate for use of a HMC at TMILL in February 2015, the per tonne rate fixed for handling of Project cargo through HMC is higher at ₹ 529.41 per MT as compared to the rate for handling of dry/ break bulk cargo ranging from ₹ 56.25 per MT to ₹ 136.36 per MT.

In view of the above position and considering that the wharfage and on board handling charges proposed by the port for the Project cargo is comparable to the existing wharfage and on board handling charges prevailing at KOPT, this Authority is inclined to approve the wharfage rate of ₹ 290/- per MT and on board handling charge of ₹ 80/- per MT as proposed by the TMILL for Project cargo.

This increase granted in the wharfage rate and on board handling charge in Project cargo and the increase in the traffic estimates of Project cargo as discussed earlier, will generate an additional income to the tune ₹ 1.29 crores during the remaining tariff validity period of 2 years and 6 months.

(f). Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 10(b) proposing levy towards On-board Equipment Operation, where it is proposed to levy ₹6.50 per MT in respect of all dry Bulk Cargo and ₹13/- per MT in respect of HRC/CRC, Plates Sheets, WRC, Tubes/ Pipes. The TMILL has stated that the rates have been proposed for convenience of the users who often like to have per MT rates for handling cargo and do not want to get into nitigrities of actual equipment usage. The rate of ₹6.50 per MT in respect of all dry Bulk Cargo is reported to be derived by converting the existing per shift rate of ₹ 9369.41 per shift as applicable for loaders with less than 3.5 CBM, based on the number of shifts, parcel size and hatches. Similarly, the rate of ₹13/- per MT in respect of HRC/CRC, Plates Sheets, WRC, Tubes/ Pipes is reported to be derived by converting the existing per shift rate of ₹ 18723/- per shift as applicable for forklift with capacity between 10 MT and 20 MT, based on the number of shifts, parcel size and hatches. The TMILL has estimated the income that may accrue to TMILL in the event of approval of the proposed rates.

From a user's point of view, the duration of deployment of the equipment for loading/ unloading operations may not be of much relevance. For the user, the tariff should correlate to the tangible output i.e. cargo handled. In such a scenario, proposal of TMILL for prescription of a tonne based rate is commendable. Hence, the proposal of TMILL to levy ₹6.50 per MT in respect of all dry Bulk Cargo and ₹13/- per MT in respect of HRC/CRC, Plates Sheets, WRC, Tubes/ Pipes, is approved.

From the income workings furnished by TMILL, it is seen that the rate of ₹ 9369.41 per shift as applicable for loaders with less than 3.5 CBM and based on the number of shifts, parcel size and hatches, has been converted by TMILL to ₹ 8.19 per MT in the income calculation at the existing level of tariff, whereas, the TMILL is seeking approval for only ₹ 6.50 per MT. Similarly, the rate of ₹ 18723/- per shift as applicable for forklift with capacity between 10 MT and 20 MT and based on the number of shifts, parcel size and hatches, has been converted by TMILL to ₹ 13.22 per MT in the income calculation at the existing level of tariff, whereas, the TMILL is seeking approval for only ₹ 13/- per MT.

Thus, in other words, approval of ₹6.50 per MT in respect of all dry Bulk Cargo and ₹13/- per MT in respect of HRC/CRC, Plates Sheets, WRC, Tubes/ Pipes, and the increase in traffic as discussed earlier, would result in TMILL generating lower revenue to the tune ₹ 32.71 lakhs during the remaining tariff validity period of 2 years and 6 months.

(g). Considering the impact in revenue arising due to increase granted in the wharfage rate and on board handling charge in Project cargo to the tune ₹1.29 crores and the reduction in revenue to the tune ₹ 32.71 lakhs on account of per tonne rates, during the remaining tariff validity period of 2 years and 6 months, the cost position warrants a reduction of 7% in the existing Scale of Rates of TMILL. A working in this regard is shown below:

Particulars	**2016-17 (6 months)**	**2017-18**	**2018-19**	**Total**
Estimated Income at the existing level of tariff	2814.87	5680.25	6074.66	**14569.79**
Reduction in Income on account of approval of per MT rates for on board equipment assistance	6.34	12.69	13.68	**(-) 32.71**
Increase in income on account of higher Wharfage & OBC charges for Project cargo	25.81	51.62	51.62	**129.06**
Revised Operating Income	**2834.34**	**5719.19**	**6112.61**	**14,666.13**
Surplus as assessed in the cost statement				**940.76**
Reduction in Surplus on account of approval of per MT rates for on board equipment assistance				**32.71**
Increase in surplus on account of higher Wharfage & OBC charges for Project cargo				**129.06**
Resultant final surplus				**1,037.11**
Reduction in the existing				**7%**

level of tariff	

(h). In view of the above position, the existing Scale of Rates of TMILL is reduced by 7%, except for the wharfage rate and on board handling charge in Project cargo and the per tonne rates for on board equipment assistance charges.

(xxx). The existing definition of the term 'Month' states that 'Month' shall mean 30 consecutive calendar days including holidays unless otherwise specified. The TMILL has proposed to modify the definition to state that 'Month' shall mean 30 or 31 consecutive calendar days, as the case may be, depending on the number of days the calendar month contains in which the monthly period begins, including holidays unless otherwise specified, so as to have better clarity primarily in connection with Plot Allotment related issues. The Scale of Rates of Licensor Port KOPT as well as the Scale of rates of the other private terminal operating at KOPT define 'Month' as 30 consecutive days. Prescription of a different definition at TMILL alone may lead to confusion among the user groups. The TMILL has not explained any difficulties faced by it, if the existing definition continues. Even the KOPT is of the view that it would be appropriate to continue with the existing definition. The existing definition may, therefore, continue unaltered.

(xxxi). The existing definition of the term 'On-board supervision' states that it shall mean certain services, both on-board and on-shore, rendered by TMILL during ship to shore/ shore to ship transfer operation of cargo for achieving greater productivity/efficiency in vessel-operation. The TMILL has proposed to modify the definition to state that 'On-board supervision' shall mean certain services both on-board and on-shore, rendered by TMILL during ship to shore/ shore to ship transfer operation which are not included within the purview of On-board handling charges or loading/ unloading charges or Miscellaneous Charges and are ancillary in nature and some of which are needed for achieving better productivity/ efficiency during vessel operation.

In this regard, it is relevant to mention here that a separate Schedule prescribing the rates for 'On-board Supervision' lists out the various services included under the levy of 'On-board Supervision'. Prescription of a definition for 'On-board Supervision' and a separate list of services elsewhere in the Scale of Rates, may lead to confusion. The TMILL has not established that the proposed modification to the existing definition of 'On-board Supervision' will be in harmony with the existing services listed under the Schedule of 'On-board Supervision'. The existing definition for On-board Supervision may, therefore, continue unaltered.

(xxxii). As per the definition contained in Scale of Rates of TMILL, 'Transhipment' shall mean transfer of cargo/ container from a sea going vessel/ barge to another sea going vessel/ barge for destination to other Port/ Ports. The TMILL has proposed to include any cargo unloaded from a vessel for some operational reason and subsequently loaded in the same vessel, within the scope of transhipment.

The definition for 'Transhipment' as contained in the Scale of Rates of other major ports like Cochin Port Trust (COPT), Mumbai Port Trust (MBPT), Paradip Port Trust (PPT) and KOPT, do not include the operation of unloading the cargo from a vessel for some operational reason and subsequently loading in the same vessel. The TMILL has also not brought out the need for proposing the said modification. The existing definition may, therefore, remain unaltered.

(xxxiii). In line with clause 2.18.2 of the tariff guidelines, the proposed note 3(vii)(b) has been modified to reflect the prevailing Prime Lending Rate of State Bank of India at 14.05 %.

(xxxiv). Under the proposed Section 6.1, which lists down the various services included in the scope of 'On-Board Supervision' charges, the TMILL at Sl. No. g has proposed to replace the existing term ‘Heaping of cargo at hook point’ to ‘Heaping of export bulk cargo at hook point’. Since the proposed amendment would bring in clarity, the proposed modification is approved.

(xxxv).The existing Section 7.1 at sl. No. 1 prescribes charges for Loading/ Unloading/ Re-stacking of Limestone, Pig Iron, Sugar and other Ferrous metals and all types of Ore at ₹ 33.14 per MT. In the proposed Scale of Rates, by keeping the rate constant at ₹ 33.14 per MT, the TMILL has proposed bifurcation of existing sl. No. 1 into two cargo groups viz., (1) Limestone, Pig Iron, Sugar and other Ferrous metals and all types of ore by using hoppers and (2) Iron Ore and all types of Ore (includes high stacking wherever necessary – double stacking will be avoided). Since the proposed modification brings in more clarity, the proposed amendment is approved.

(xxxvi). The existing Section 8.1 at sl. No. 1 and 2 prescribes charges for Transportation of Limestone, Pig Iron, Sugar and other Ferrous metals and all types of Ore and charges for Transportation of Soda, Sulphur, C.I Goods, Cement, all types of bag cargo and other dry bulk not specified at a same rate of ₹ 57.97 per MT. In the proposed Scale of Rates, the TMILL has proposed merging of existing sl. No. 1 and 2 so as to prescribe ‘All types of dry bulk cargo’ by retaining the rate at ₹ 57.97 per MT. The judgment of the TMILL to propose merger of cargo items is relied upon and hence the proposed amendment is approved.

(xxxvii).Under the proposed Section 10.1, the TMILL has proposed deletion of lease rentals prescribed for short term allotment of bare land on the ground that rate does not exist. From the workings of income from plot rentals, it is seen that the lease rentals prescribed for short term allotment of bare land has not been considered in the income estimation for the years 2016-17 to 2018-19. Hence, the deletion of the rate as proposed by the TMILL is approved.

(xxxviii).Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 10(a) proposing levy ₹ 25000/- per shift towards Equipment Assistance Charges for forklifts of capacity above 20 MT. The rate of ₹ 25000/- is reported to be arrived based on the existing rate for ‘Forklift of capacity between 10 MT to 20 MT’ at TMILL at ₹ 18723/- per shift. However, the TMILL has not quantified the additional income that may arise on account of the proposed rate, inspite of a specific request in this regard. In the absence of additional income details, this Authority is not inclined to approve the proposed rate. Nevertheless, since the TMILL has proposed to replace the lower capacity Forklift with a 32 tonne Forklift for on board equipment assistance service, the TMILL is advised to come up with a separate proposal with requisite details.

(xxxix).The existing Scale of Rates prescribes provision relating to grant of rebate equivalent to the berth hire charges accrued during the idling period of vessel, in case a vessel idles at berth no. 12 due to non-availability or breakdown of the port equipment or power failure at TMILL or for any other reasons attributable to TMILL. In the proposed Scale of Rates, the TMILL has proposed deletion of the existing provision and instead has proposed rebate incase of the following:

(a). Incase ship idles at berth no. 12 for more than 20% of the total ship’s stay because of reasons entirely attributable to TMILL Terminal, the berth hire charges for the idling period in excess of 20%, shall be refunded by TMILL.

(b). If a vessel discharge more than 25000 MT of Limestone/ Fertiliser/ raw material for fertiliser in a single call at Berth no.12, a rebate of 10% shall be allowed on Wharfage charge on quantity exceeding 25000 MT.

The existing note of granting rebate equivalent to berth hire charges, has been uniformly prescribed in the SOR of all BOT operators/ Major Ports. Replacing the existing note with the note now proposed by TMILL may need wider consultation among all stake holders. Till such time such an exercise is carried out, the existing note may remain unaltered. The 2nd note prescribed by TMILL would give relief to the users. The 2nd note proposed by TMILL is, therefore, approved.

(xL). The KOPT has requested for prescription of coastal rate for equipment Assistance charge for the services rendered by HMC. The general condition prescribed in this regard would take care the levy of coastal rate in eligible cases.

(xLi). A condition to govern the interest on delayed refunds is prescribed in the existing SOR of TMILL. The KOPT has suggested to include the words “lodging of refund claim” in the condition. The words “production of all documents” available in the existing prescription would take care of the suggestion of KOPT.

13.1. In the result, and for the reasons give above and based on a collective application of mind, this Authority approves the Scale of Rates and conditionalities of the TMILL attached as **Annex – IV.**

13.2. The revised Scale of Rates and conditionalities of the TMILL would come into force after expiry of 30 days from the date of notification of the Order in the Gazette of India. Since the estimates of cost and financial position of TMILL has been considered upto 31 March 2019, the revised Scale of Rates and Conditionalities governing the rates of the TMILL will be in force till 31 March 2019. The approval accorded to the Scale of Rates will automatically lapse thereafter unless specifically extended by this Authority.

13.3 The validity of the existing SOR of TMILL is deemed to have been extended beyond 30 June 2016 till the effective date of implementation of the Order passed.

13.4. The tariff of the TMILL has been fixed relying on the information furnished by the TMILL and based on assumptions made as explained in the analysis. If this Authority, at any time, during the prescribed tariff validity period, finds that the actual position varies substantially from the estimations considered or there is deviation from the assumptions accepted herein, this Authority may require the TMILL to file a proposal ahead of the schedule to review its tariff and to set off the advantage accrued on account of such variations in the revised tariff, as per Clause 2.13 of tariff guidelines of 2005.

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

13.6. (a). As per the Tariff Policy guidelines 2005, the rates prescribed in the Scale of Rates are ceiling levels; rebates and discounts are floor levels. The TMILL may exercise the flexibility to charge lower rates and/or allow higher rebates and discounts.

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

(T.S. Balasubramanian)
Member (Finance)

Annex - I

Sr. No.	Particulars	Estimates relied upon in the tariff Order of 20 May 2014 and as reviewed in the Order dated 13 February 2015			Actuals		Based on draft Accounts
		TM INTERNATIONAL LOGISTICS LIMITED (TMILL)					
		Analysis of performance of TMILL for the years 2013-14 to 2015-16.					
							₹ in Lakhs
		2013-14	**2014-15**	**2015-16**	**2013-14**	**2014-15**	**2015-16**
	Traffic of Cargo (in MT's)	**820000**	**915000**	**915000**	**710789**	**869461**	**1348188**
I	**Operating Income**						
	Cargo handling income	1761.29	3437.90	4196.59	1727.41	2656.71	3990.59
	Other income	573.87	714.59	815.61	759.45	300.40	686.68
	Total	**2335.16**	**4152.49**	**5012.20**	**2486.86**	**2957.12**	**4677.27**
II	**Operating Costs (excluding depreciation)**						
	Operating & Direct Labour	699.59	733.96	785.33	655.66	786.68	870.15
	Maintenance Labour	32.06	34.31	36.71	22.28	24.81	94.37
	Equipment Running Costs	308.85	342.24	368.61	212.32	269.24	378.84
	Royalty / revenue share	172.80	234.02	254.24	185.48	225.04	385.73
	Equipment Hire	12.00	15.00	15.00	8.73	32.50	5.96
	Lease Rentals	240.78	246.50	252.35	236.36	253.85	261.25
	Insurance	29.48	51.04	59.61	31.79	16.00	28.08
	Other expenses	540.14	807.09	1006.22	392.35	358.18	796.65
		2035.70	**2464.15**	**2778.07**	**1744.97**	**1966.31**	**2821.03**
III	Depreciation	397.93	511.58	540.99	372.73	381.36	422.65
IV	**Overheads**						
	Management & Administration overheads	470.48	503.42	538.66	450.69	459.34	769.03
	General Overheads	113.60	121.55	130.06	8.95	9.64	18.57
		584.08	**624.97**	**668.72**	**459.64**	**468.98**	**787.59**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	-682.55	551.79	1024.43	-90.49	140.48	646.00
VI	**Finance & Miscellaneous Income (FMI)**						
	Other Income	0.00	0.00	0.00	31.44	0.21	0.53
	Discounted terminal value receivable as per the concession agreement	0.56	0.64	0.74	0.56	0.64	0.74
	Total	**0.56**	**0.64**	**0.74**	**32.00**	**0.85**	**1.27**
VII	**Finance & Miscellaneous Expenses (FME)**						
	Contribution to Provident Fund	25.70	27.50	29.43	26.13	28.85	42.68
	Total	**25.70**	**27.50**	**29.43**	**26.13**	**28.85**	**42.68**
VIII	**FMI Less FME (VI) - (VII)**	-25.14	-26.86	-28.69	5.87	-28.00	-41.41
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**-707.68**	**524.94**	**995.74**	**-84.62**	**112.48**	**604.59**
X	**Capital Employed**	2880.99	4324.40	4287.48	2838.18	4100.19	3769.66
XI	**Return on Capital Employed**	460.96	691.90	686.00	454.11	656.03	603.15
XII	**Net Surplus / (Deficit) (IX) - (XI)**	-1168.65	-166.96	309.74	-538.72	-543.55	1.44

REVIEW OF PAST PERIOD ANALYSIS CONTAINED IN THE CHALLENGED TARIFF ORDER OF 2011, BASED ON MOS LETTER.

Figures as in the review Order of 2011

Particulars	POSITION AS RELIED UPON IN THE REVIEW ORDER OF OCTOBER 2011						POSITION BASED ON THE MOS LETTER					
	Actuals			Estimates of TAMP in Review Order of 2011			Actuals			Estimates of TAMP in Review Order of 2011		
	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Traffic	941838	924992	1209077	1251502	1251502	1251502	941838	924992	1209077	1251502	1251502	1251502
Operating income	2784.29	2600.57	3540.89	3393.35	3175.63	3177.83	2784.29	2600.57	3540.89	3393.35	3175.63	3177.83
Less: Rebates & Discounts	0.00	0.00	0.00	0.00	0.00	0.00	655.32	802.56	788.84	0.00	0.00	0.00
Operating Income	2784.29	2600.57	3540.89	3393.35	3175.63	3177.83	2128.97	1798.01	2752.05	3393.35	3175.63	3177.83
Operating Expenses incl. Depreciation & Overheads	1562.61	1621.26	2113.98	2282.40	2416.10	2522.03	1562.61	1621.26	2113.98	2282.40	2416.10	2522.03
Surplus before return	1221.68	979.31	1426.91	1110.94	759.53	655.79	566.36	176.75	638.07	1110.94	759.53	655.79
Capital Employed	2973.94	3847.97	3946.30	3785.47	3694.11	3972.06	2973.94	3847.97	3946.30	3785.47	3694.11	3972.06
Return on Capital Employed	475.83	615.67	631.41	605.67	591.06	635.53	475.83	615.67	631.41	605.67	591.06	635.53
Surplus after return	745.85	363.63	795.50	505.27	168.47	20.26	90.53	-438.93	6.66	505.27	168.47	20.26
Past surplus set off over a period of five years.		766.04		0.00	153.21	153.21		-170.87		0.00	0.00	0.00
Total Surplus				505.27	321.68	173.47				505.27	168.47	20.26

COST STATEMENT EXCLUDING HARBOUR MOBILE CRANE

No.	Particulars	As in October 2011 Review Order			Now Reviewed based on MOS Letter		
		2011-12	2012-13	Total	2011-12	2012-13	Total
I	Operating Income as in the Cost statement	3175.63	3177.83		3175.63	3177.83	
	Less: Income from HMC	-360.83	-360.83		-360.83	-360.83	
	Residual Estimated Operating Income	**2814.80**	**2817.00**	**5631.79**	**2814.80**	**2817.00**	**5631.79**
II	Operating Cost as in Cost statement	1764.02	1844.56		1764.02	1844.56	
	Less: Expenses relating to HMC	-162.67	-168.79		-162.67	-168.79	
	Residual Estimated Operating Expenses	**1601.35**	**1675.77**	**3277.12**	**1601.35**	**1675.77**	**3277.12**
III	Depreciation as in Cost statement	214.39	223.39		214.39	223.39	
	Less: Depreciation relating to HMC	-66.00	-66.00		-66.00	-66.00	
	Residual Depreciation	**148.39**	**157.39**	**305.79**	**148.39**	**157.39**	**305.79**
IV	Overheads	**430.92**	**447.13**	**878.05**	**430.92**	**447.13**	**878.05**
V	Finance and Miscellaneous Income	**0.62**	**0.70**	**1.31**	**0.62**	**0.70**	**1.31**
VI	Finance and Miscellaneous Expenses	**7.37**	**7.65**	**15.03**	**7.37**	**7.65**	**15.03**
VII	Capital Employed as in Cost statement	3694.11	3972.06		3694.11	3972.06	
	Less: WDV of HMC	-859.00	-793.00		-859.00	-793.00	
	Residual Capital Employed	**2835.11**	**3179.06**	**6014.18**	**2835.11**	**3179.06**	**6014.18**
VIII	Return on Capital Employed as in Cost statement	591.06	635.53		591.06	635.53	
	Less: Return on HMC	-137.44	-126.88		-137.44	-126.88	
	Residual Return on Capital Employed	**453.62**	**508.65**	**962.27**	**453.62**	**508.65**	**962.27**
IX	Residual Surplus after Return (I - II - III - IV + V - VI - VIII)			**194.85**			**194.85**
X	Surplus after Return for the year 2010-11 as in Cost statement			**505.27**			**505.27**
XI	Total Surplus for the years 2010-11 to 2012-13			**700.12**			**700.12**
XII	Adjustment of 2 instalments of past surplus/ full (deficit)			**306.41**			**0.00**
XIII	Total Surplus			**1006.54**			**700.12**
XIV	Total Surplus as a percentage of Residual Operating Income (XIII / I)			**17.87%**			**12.43%**

Accordingly, a reduction of 17.87% was effected vide the Review Order of October 2011	Thus, a reduction of 12.43% ought to have been effected in 2011 based on MOS Letter.

As against the traffic estimation of 2850000 MTs for the period from 2007-08 to 2009-10, TMILL had actually handled 3075908 MTs for the said period. The variation works out to 7.93%. Hence, as per MOS letter, surplus/ (deficit) is not to be set off. **Therefore, excess surplus considered earlier of Rs.306.41 lakhs is to be credited to TMILL in future tariff cycle, subject to the permission of the Hon'ble Court.**

	2007-08	2008-09	2009-10	Total
Actual traffic	941838	924992	1209077	3075908
Estimated traffic	900000	950000	1000000	2850000
Variation %				7.93%

Annex - II (b)

REVIEW OF PAST PERIOD ANALYSIS CONTAINED IN THE TARIFF ORDER OF 2015, BASED ON MOS LETTER.

Figures as in the review Order of 2015

Particulars	POSITION AS RELIED UPON IN THE REVIEW ORDER OF FEBRUARY 2015: Actuals			Estimates of TAMP in Review Order of 2015			POSITION BASED ON THE MOS LETTER: Actuals			Estimates of TAMP in Review Order of 2015		
	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Traffic	1193775	850112	727870	820000	915000	915000	1193775	850112	727870	820000	915000	915000
Operating income	3365.59	2053.02	2957.48	2335.16	2479.09	2638.00	3365.59	2053.02	2957.48	2335.16	2479.09	2638.00
Less: Rebates & Discounts	0.00	0.00	0.00	0.00	0.00	0.00	422.19	270.60	373.87	0.00	0.00	0.00
Operating Income	3365.59	2053.02	2957.48	2335.16	2479.09	2638.00	2943.40	1782.42	2583.61	2335.16	2479.09	2638.00
Operating Expenses incl. Depreciation & Overheads	2342.90	2280.61	2456.27	3042.84	3627.55	4016.46	2342.90	2280.61	2456.27	3042.84	3627.55	4016.46
Surplus before return	1022.69	-227.59	501.21	-707.68	-1148.46	-1378.46	600.50	-498.20	127.34	-707.68	-1148.46	-1378.46
Capital Employed	3835.69	3510.63	3196.68	2880.99	4324.40	4287.48	3835.69	3510.63	3196.68	2880.99	4324.40	4287.48
Return on Capital Employed	613.71	561.70	511.47	460.96	691.90	686.00	613.71	561.70	511.47	460.96	691.90	686.00
Surplus after return	408.97	-789.29	-10.26	-1168.64	-1840.36	-2064.45	-13.21	-1059.90	-384.13	-1168.64	-1840.36	-2064.45
Past surplus set off		-195.29		0.00	-97.64	-97.64		-582.90		0.00	-291.45	-291.45
Previous past period surplus adjusted (balance 3 cycles)				153.20	153.20	153.20				0.00	0.00	0.00
Total Surplus				-1015.44	-1784.81	-2008.90				-1168.64	-2131.81	-2355.90

	2010-11	2011-12	2012-13	Total
Actual traffic	1193775	850112	727870	2771757
Estimated traffic	1251502	1251502	1251502	3754506
Variation %				-26.18%

Particulars	2010-11	2011-12	2012-13	Average
Actual Surplus (deficit) before Return earned by TMILL	600.50	-498.20	127.34	76.55
Actual Capital Employed	3835.69	3510.63	3196.68	3514.33
Return on actual capital employed at eligible rate of 16%	613.71	561.70	511.47	562.29
Actual Return on Capital Employed	15.66%	-14.19%	3.98%	1.82%
Variation in Return on Capital Employed @ 16%	-2.15%	-188.69%	-75.10%	-88.65%

As against the traffic estimation of 3754506 MTs for the period from 2010-11 to 2012-13, TMILL had actually handled 2771757 MTs for the said period. The variation works out to 26.18%. Even the variation in financial parameter works out to be more than 20% i.e. 88.65% as shown above. Hence, as per MOS letter, since both parameters are met, the (deficit) is to be set off, as given below:

Actual deficit for 2010-11 to 2012-13	-1457.24
20% to be met by TMILL	-291.45
Balance deficit	-1165.79
50% of past deficit to be accounted	**-582.90 lakhs**

	WORKINGS FORMING PART OF FEBRUARY 2015 ORDER		WORKINGS NOW BASED ON MOS LETTER	
	2013-14	**2014-15**	**2013-14**	**2014-15**
Income at the 2008 level of tariff as given by TMILL	For 7.65 lakh tonnes	For 9.15 lakh tonnes	For 7.65 lakh tonnes	For 9.15 lakh tonnes
- cargo handling	2042.40	2,546.92	2042.40	2,546.92
- plot rentals	525.05	367.55	525.05	367.55
- HMC	185.80	226.48	185.80	226.48
	2753.24	3140.94	2753.24	3140.94
Income at the 2008 level of tariff	For the higher traffic of 8.20 lakh tonnes	For 3 months from April to June 2014	For the higher traffic of 8.20 lakh tonnes	For 3 months from April to June 2014
- cargo handling	2189.23	636.73	2189.23	636.73
- plot rentals	562.79	91.89	562.79	91.89
- HMC	199.15	56.62	199.15	56.62
	2951.18	785.23	2951.18	785.23
Less: Operating expenses incl. overheads and depreciation	3017.70	900.17	3017.70	900.17
Operating surplus/ (deficit)	-66.52	-114.94	-66.52	-114.94
FMI less FME	-25.14	-6.71	-25.14	-6.71
Surplus before interest & tax	-91.66	-121.65	-91.66	-121.65
Capital Employed	2880.99	4324.40	2880.99	4324.40
ROCE	460.96	172.98	460.96	172.98
Net surplus/ deficit	-552.62	-294.63	-552.62	-294.63

Particulars	At the 2008 level of tariff		At the 2011 level of tariff		At the 2008 level of tariff		At the 2011 level of tariff	
	2013-14	2014-15 3 months	2013-14	2014-15 3 months	2013-14	2014-15 3 months	2013-14	2014-15 3 months
Net Deficit	-5.53	-2.95	-10.15	-4.46	-5.53	-2.95	-11.69	-5.33
Total net deficit	-8.47		-14.62		-8.47		-17.02	
Differential deficit for 1 year and 3 months	-6.14				-8.54			
Deficit at the 2011 level of tariff for the balance 1 year 9 months of the tariff cycle	-33.48				-39.55			
Deficit to be recovered at the 2011 level of tariff in the balance 1 year 9 months of the tariff cycle	-39.62				-48.09			
Operating income of balance 1 year & 9 months at the 2011 level of tariff	44.97				44.97			
Total deficit as a % of operating income	-88.09%				-106.93%			

-8.47

-847.20 lakhs being the amount arising out of application of the MOS letter, to be credited to TMILL, in the future tariff cycle.

Annex - III

TM International Logistics Limited (TMILL)
Consolidated Income & Cost statement.

(Rs. In Lakhs)

Sr. No.	Particulars	Actuals			Estimates furnished by TMILL in its updated proposal dated 15 July 2016			Estimates as modified by TAMP		
		2013-14	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**2016-17**	**2017-18**	**2018-19**
	Traffic (In MTs)	710789	869461	1348188	1055000	1065000	1150000	1160500	1171500	1265000
I	**Total Operating Income**									
	Cargo handling income	1727.41	2656.71	3990.59	4466.79	4483.42	4807.98	4913.47	4931.77	5288.77
	Others	759.45	300.40	686.68	656.24	583.53	602.59	716.27	748.48	785.89
	Total	**2486.86**	**2957.11**	**4677.27**	**5123.03**	**5066.95**	**5410.57**	**5629.74**	**5680.25**	**6074.66**
II	**Operating Costs (excluding depreciation)**									
	Operating & Direct Labour	655.66	786.68	870.15	936.21	971.98	1,009.11	913.48	935.95	958.97
	Maintenance Labour	22.28	24.81	94.37	91.75	95.25	98.89	91.75	94.01	96.32
	Equipment Running Costs	212.32	269.24	378.84	370.14	387.42	416.96	376.22	385.48	405.99
	Royalty / revenue share	185.48	225.04	385.73	419.58	417.73	446.06	290.29	294.33	315.92
	Equipment Hire	8.73	32.50	5.96	6.16	6.37	6.59	6.11	6.26	6.41
	Lease Rentals	236.36	253.85	261.25	268.69	278.95	289.61	281.77	295.85	310.65
	Insurance	31.79	16.00	28.08	40.92	74.92	74.92	31.99	66.78	68.42
	Other expenses	392.35	358.18	796.65	805.85	756.20	852.52	779.79	805.89	919.52
	Total	**1744.97**	**1966.31**	**2821.03**	**2939.30**	**2988.82**	**3194.65**	**2771.39**	**2884.54**	**3082.21**
III	Depreciation	372.73	381.36	422.65	439.70	563.49	712.69	439.70	563.49	712.69
IV	**Overheads**									
	Management & Administration overheads	450.69	459.34	769.03	863.05	896.02	930.25	787.94	807.33	827.19
	General Overheads	8.95	9.64	18.57	13.79	14.31	14.86	13.79	14.12	14.47
	Total	**459.64**	**468.98**	**787.59**	**876.84**	**910.33**	**945.11**	**801.73**	**821.45**	**841.66**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**-90.49**	**140.47**	**646.00**	**867.19**	**604.32**	**558.12**	**1,616.92**	**1,410.77**	**1,438.10**
VI	**Finance & Miscellaneous Income (FMI)**									
	Discounted terminal value receivable as per the concession agreement.	0.56	0.64	0.74	0.56	0.64	0.74	0.94	1.07	1.22
	Other Income	31.44	0.21	0.53	86.00	86.00	150.00	0.00	0.00	0.00
	Total	**32.00**	**0.85**	**1.27**	**86.56**	**86.64**	**150.74**	**0.94**	**1.07**	**1.22**
VII	**Finance & Miscellaneous Expenses (FME)**									
	Contribution to Provident Fund	26.13	28.85	42.68	44.31	46.00	47.76	43.73	44.81	45.91
	Total	**26.13**	**28.85**	**42.68**	**44.31**	**46.00**	**47.76**	**43.73**	**44.81**	**45.91**
VIII	**FMI Less FME (VI) - (VII)**	**5.87**	**(28.00)**	**(41.41)**	**42.25**	**40.64**	**102.98**	**(42.79)**	**(43.74)**	**(44.69)**
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**-84.62**	**112.47**	**604.59**	**909.44**	**644.96**	**661.10**	**1574.13**	**1367.03**	**1393.41**
X	Capital Employed	2838.18	4100.19	3769.66	4212.84	7059.00	6356.58	3651.96	6488.48	5775.78
XI	Return on Capital Employed	454.11	656.03	603.15	674.05	1129.44	1017.05	584.31	1,038.16	924.13
XII	Capacity Utilization	88.02%	86.45%	113.00%	93.84%	94.73%	102.29%	101.80%	102.76%	110.96%
XIII	Return adjusted for capacity utilization	454.11	656.03	603.15	674.05	1,129.44	1,017.05	584.31	1,038.16	924.13
XIV	**Net Surplus / (Deficit) after allowable ROCE (IX - XIII)**	(538.72)	(543.56)	1.45	235.39	(484.48)	(355.95)	989.82	328.87	469.28
XV	**Past deficit set off**				0.00	0.00	0.00	-282.40	-282.40	-282.40
XVII	**Total Surplus/ (Deficit)**				235.39	-484.48	-355.95	707.41	46.47	186.88
XVIII	**Net Surplus / (Deficit) as a % of operating income (XVII/I in %)**				4.59%	-9.56%	-6.58%	12.57%	0.82%	3.08%
XIX	**Average Net Surplus/ (Deficit) as a % of operating income**				-3.85%			5.49%		

Particulars	**2016-17 (6m)**	**2017-18**	**2018-19**	**Total**
Estimated Income at the existing level of tariff	2814.87	5680.25	6074.66	**14569.79**
Reduction in Income on account of approval of per MT rates for on board equipment assistance	6.34	12.69	13.68	**32.71**
Increase in income on account of higher Wharfage & OBC charges for Project cargo	25.81	51.62	51.62	**129.06**
Revised Operating Income	**2834.34**	**5719.19**	**6112.61**	**14,666.13**
Surplus as assessed in the cost statement above	707.41	46.47	186.88	**940.76**
Reduction in Surplus on account of approval of per MT rates for on board equipment assistance				**32.71**
Increase in surplus on account of higher Wharfage & OBC charges for Project cargo				**129.06**
Resultant final surplus				**1,037.11**
Reduction in the existing level of tariff				**7%**

Annex – IV

T M International Logistics Limited
Scale of Rates for operations at Berth No.12 of Haldia Dock Complex

1. **Short title of Commencement**

   The Scale of Rates set out herein shall be called SCALE OF RATES of the T M International Logistics Limited (TMILL), Berth No. 12, Haldia Dock Complex of the Kolkata Port Trust.

2. **Definition**

   In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply.

   (i). 'T M International Logistics Limited' shall mean the company registered under Companies Act, 1956 having its registered office at 43, Chowringhee Road, Kolkata – 71.

   (ii). TMILL premises shall mean the area licensed to TMILL including the backup area and any additional land allotted under the License agreement.

   (iii). 'Day' shall mean the period starting from 6 am of a day and ending at 6 am on the following day.

   (iv). 'Demurrage' shall mean charges payable for storage of cargo within TMILL premises beyond free period as specified in this Scale of Rates and shall not include the cargo stored at the area allotted to a port user on licence basis for storage of cargo.

   (v). 'Hazardous I' shall mean the cargo categorized as Hazardous-I in the list of Hazardous Cargo adopted by the Board of Trustees of Kolkata Port Trust from time to time.

   (vi). 'Month' shall mean 30 consecutive calendar days including holidays unless otherwise specified.

   (vii). 'On Board handling Charges' shall mean charges on Cargo/ Commodity/ Article/ Package/ Container for rendering on board services by the TMILL in the form of supply of manpower for ship loading/ unloading operation.

   (viii). 'On-board supervision' shall mean certain services, both on-board and on-shore, rendered by TMILL during ship to shore/shore to ship transfer operation of cargo for achieving greater productivity/efficiency in vessel-operation.

   (ix). 'Overside Discharge/ Shipment' shall mean the operation of unloading/ loading of cargo ex/into vessel without passing through the quay at the time of discharge/ shipment operation.

   (x). 'Shut out' cargo shall mean export cargo left in the TMILL premises having not been shipped on board the vessel for which it was received for shipment in TMILL premises.

   (xi). 'Stock Cargo' shall mean cargo received at the Port for shipment without export documents.

   (xii). 'TEU' shall mean Twenty Feet Equivalent Unit of container.

   (xiii). 'Transhipment' shall mean transfer of cargo/ container from a sea going vessel/ barge to another sea going vessel/barge for destination to other Port/ Ports.

   (xiv). 'Wharfage' shall mean the basic dues recoverable on all cargo/ container landed or shipped or transhipped within the TMILL premises.

3. **General Principles of Assessment:**

(i). The minimum weight/ measurement chargeable shall be 1 tonne/1 CBM although the gross weight/measurement may be less than 1 tonne/1 CBM. In case where the charge is on weight basis and the gross weight is not an exact multiple of 100 Kgs, the same will be rounded off to the next higher multiple of 100 Kgs. Where the gross CBM includes decimals, the same should be rounded off to the next higher whole unit of CBM.

(ii). Rates applicable for a period/ unit other than weight shall be applicable to the part of a period/ unit thereof.

(iii). Unless otherwise specified**,** if TMILL equipment is booked for landing/ shipment of cargo/ container from/ into vessel or for any other purpose by the vessel, equipment hire charge as specified in Section 10.1 shall be levied.

(iv). Cargo Related Charges shall be levied on the owners of the cargo or their Clearing and Forwarding Agents / Handling Agents except where specified otherwise, or in cases where Ship Owners/Steamer Agents agree to pay such charges.

(v). Samples, Catalogues and other articles for which Shipping Companies charge no freight and on which no Customs duty is payable, diplomatic mail bags, crew baggage and all goods meant for TMILL's use at Berth no.12, HDC shall be exempted from payment of all cargo related charges.

(vi). No demurrage shall be charged for the days during which delivery cannot be effected due to strike by the Kolkata Port Trust/ TMILL employees provided, the concerned Importer or his Authorized Agent files the complete delivery documents on payment of all charges prior to commencement of the strike.

(vii). Interest on delayed payments / refunds:

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

(b). The rate of penal interest will be 16.05%. The penal interest rate will apply to both the TMILL and the port users equally.

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

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

(viii). Before classifying any cargo under “unspecified category” or otherwise, if required, to know the nature of cargo for levy of cargo handling charges, the relevant Customs classification shall be referred to in order to find out whether the cargo can be classified under any of the specified categories mentioned in the schedules.

(ix). Users will not be required to pay charges for delays, beyond a reasonable level, attributable to TMILL.

(x). (a). Wherever a specific tariff for a service/ cargo is not available in the notified Scale of Rates, the TMILL can submit a suitable proposal to the TAMP.

(b). Simultaneously with the submission of proposal, the proposed rate can be levied on an ad hoc basis with due notice to Kolkata Port Trust about levy of such rate, till the rate is finally notified.

(c). The ad hoc rate to be operated in the interim period must be derived based on existing notified tariffs for comparable services/ cargo; and, it must be mutually agreed upon by the TMILL and the concerned user(s).

(d). The final rate fixed by the TAMP will ordinarily be effective only prospectively. The interim rate adopted in an ad hoc manner will be recognised as such unless it is found to be excessive requiring some moderation retrospectively.

(xi). The rates prescribed in this Scale of Rates are ceiling level; likewise the rebates and discounts are floor levels. The TMILL may, if it so desires, change lower rates and/ or allow higher rebates and discounts.

(xii). The TMILL does not handle the following cargoes at Berth no. 12:
(a). Thermal Coal in bulk.
(b). Coking Coal in bulk.
(a). Various types of coke and other black cargo in bulk.
(a). Various types of liquid bulk cargo handled through pipelines.

(xiii). The rate prescribed for handling of containers is applicable for 20 ft. container. For container above 20 ft. and upto 40 ft. the rate would be 150% of the prescribed rate. For containers exceeding 40 ft. the rate would be 200% of the prescribed rate.

(xiv). In case of coastal cargo/ containers, other than thermal coal, iron ore and iron ore pellets, 60% of the prescribed rates shall be applicable.

4. Wharfage Charges:

4.1 Wharfage on Foreign cargo shall be levied at the rates as mentioned in the table below:

Sl. No.	Particulars	Rate per MT (in ₹)
1	Iron Ore, Iron Ore pellets and Sand	30.82
2	Limestone and all types of ore except iron ore.	61.63
3	Fertilizer materials, MOP, Rock Phosphate, Soda, Sulphur, C.I. Goods, Cement clinker and other dry bulk not specified.	108.49
4	Tubes and pipes, Iron and Steel, Newsprint, HRC/CRC, Steel Slabs, Beams, Rails, Wheels, Sheets and bagged cargo.	92.45
5	Project cargo and machinery & spares (Immobile units) of various shapes and sizes.	290.00
6	Containers - other than over dimensional container	3390.20 per TEU
7	Car, any rubber tyre vehicle, earth moving equipment	6163.98 per unit
8	Logs/Timber/Veneer	161.80 per CBM
9	All other cargo not specified above except those specified at Sec 3.xii.	417.01

4.2 On cargo discharged/ shipped overside, charges shall be levied 70% of the above mentioned rates.

4.3. For transhipment of cargo or shifting of cargo on board, charges shall be recovered at 1.5 times the rates specified in 4.1 above.

4.4. On shutout/ stock cargo, which is taken back from TMILL premises, 50% of wharfage shall be levied. In addition, on-board handling charges & shore handling charges, as may be applicable, shall be levied if labour and/or equipment are/ is supplied by TMILL for handling of cargo.

No additional wharfage shall be levied on shutout cargo if the same is subsequently shipped without being removed from port premises.

5. On-Board Charges:

5.1 On-Board Charges shall be levied on Foreign cargo at the rates as mentioned in the table below:

Sl. No.	Particulars	Rate per MT (in ₹)
1	All types of dry bulk cargo (excludes bag cargo)	46.22

2	Tubes and pipes, Iron and Steel, Newsprint, HRC/CRC, Steel Slabs, Beams, Logs, Rails, Wheels, Sheets and bagged cargo.	123.28
3	Project cargo and machinery & spares (Immobile units)	80.00
4	Containers	423.78 per TEU
5	Car, any rubber tyre vehicle, earth moving equipment when discharged/shipped by using of slings (Rs per Unit)	77.04 per unit
6	All other cargo not specified above except those specified at Sec 3.xii.	61.63

5.2 On cargo discharged / shipped overside, charges shall be levied 70% of the abovementioned rates.

5.3. For transhipment of cargo or shifting of cargo on board, charges shall be recovered at 1.5 times the rates specified in 5.1 above.

6. On-board supervision:

6.1 On-board supervision charges shall be levied for the following services provided by TMILL at berth no. 12 terminal in respect of import/ export cargo at the rates specified below:

a. Unlashing of import cargo.
b. Lashing, securing and dunnaging of export cargo.
c. Providing slings and gears for the cargo handling operation.
d. Tally survey of cargo during discharge.
e. Survey of cargo quality discharged/ shipped.
f. Placement and removal of dunnages at jetty during discharge.
g. Heaping of export bulk cargo at hook point.
h. Supervising/ monitoring/ directing the entire cargo handling work during vessel operation including queuing of trailers/ dumper from plot to jetty and vice versa in order to achieve better discharge/ loading thereby reducing the turnaround of the vessel.

Sl. No.	Particulars	Rate per MT (in ₹)
1	Limestone, Pig Iron and other Ferrous metals, all types of ore and other dry bulk cargo	22.44
2	Tubes and pipes, Logs, Iron and Steel, Bagged cargo, Newsprint discharged from the ship.	138.69
3	Tubes and pipes, Logs, Iron and Steel, Newsprint shipped into ship.	222.57
4	Project cargo and machinery & spares (Immobile units)	256.84
5	Containers	428.06 per TEU
6	Car, any rubber tyre vehicle, earth moving equipment	5136.65 per unit
7	All other cargo not specified above except those specified at Sec 3.xii.	256.84

7. Loading/ Unloading/ Re-Stacking:

7.1 Following charges for supply of manpower and equipment for loading/ un-loading/ re-stacking of Foreign cargo shall be levied at the rates specified in the table below:

Sl. No.	Particulars	Rate per MT (in ₹)
1	Limestone, Pig Iron, Sugar and other Ferrous metals and all types of ore by using hoppers.	30.82
2	Iron Ore and all types of Ore (includes high stacking wherever necessary – double stacking will be avoided)	30.82
3	Soda, Sulphur, C.I. Goods, Cement, all types of bag cargo and other dry bulk not specified	68.49
4	Tubes and pipes, Logs (Rs per CBM), Iron and Steel, Newsprint.	77.06
5	Project cargo and machinery & spares including their packages.	77.06

6	Containers	277.36 per TEU

Note: For removal of doubts it is hereby clarified that where equipment support is provided and charges are levied under clause 10 – 'Miscellaneous charges' then no separate levy will be made under this section.

7.2 Where a cargo is unloaded and stacked simultaneously at the place of unloading, then it would amount to one operation only.

7.3 Where hoppers are used for the unloading of cargo from the vessel and dumpers are loaded using the hopper then it would constitute one operation of loading activity.

8.Transportation

8.1 The following charges shall be levied on cargo, for which TMILL Terminal undertakes any transportation within the port limits.

Sl. No.	Particulars	Rate per MT (in ₹)
1	All types of dry bulk cargo	53.91
2	Tubes and pipes, Logs, Iron and Steel, Newsprint and bagged cargo.	53.91
3	Project cargo and machinery & spares including their packages weighing less than 20 tonnes.	53.91
4	Containers (TEU)	462.28 per TEU

9. Demurrage

9.1.Demurrage shall be levied on Import cargo (other than containerised cargo) after allowing a demurrage-free period as specified below: -

Sl. No.	Description	Demurrage-free period
1.	Hazardous-I cargo	Actual date of landing
2.	All other cargo except those mentioned at Sl. No. 1,3 & 4	3 days after the last landing date of the vessel by which the cargo is imported.
3.	Non-hazardous cargo using port equipment for delivery, non-hazardous cargo for Nepal and Bhutan, Log, Timber and Veneer.	6 days after the last landing date of the vessel by which the cargo is imported.
Sl. No.	**Description**	**Demurrage-free period**
4.	Cargo imported by voluntary/relief organization like Missionaries of Charity, Bharat Sevashram Sangha, Ramkrishna Mission, CARE, CRS, WFP and others as may be accepted by Kolkata Port Trust from time to time on the basis of certification by the Appropriate Govt. Authority of Central Govt./State Govt. and Govt. of Nepal/ Bhutan or their local Consulate General.	30 days after the last landing date of the vessel by which the cargo is imported.

Note

i) Last Landing Date (LLD) is the date on which a vessel completes her import discharge. However, TMILL may declare any other date as such LLD for cargo already discharged from the vessel when the vessel is not doing cargo operation work in working berth for more than 24 hours for any fault/ reason not attributable to TMILL. In such cases, a vessel may have more than one LLD.

ii) For the purpose of calculation of free time, Customs notified holidays and the KoPT/ TMILL's non-operational days shall be excluded. Sundays shall not be excluded for the purpose of calculation of free time unless Customs notified holidays and the KOPT/ TMILL's non-operational days fall on Sundays.

After demurrage charge begins to accrue no allowance is made for Customs notified holidays or KOPT/ TMILL's non-operational days.

9.2 Demurrage on Import cargo (except log, timber, veneer) shall be levied after the expiry of demurrage free period at the following rates: -

Sl. No.	Type of cargo	Rate in ₹ per tonne per day or part thereof.	
		For the first 15 days.	16th day onwards
1.	Hazardous – I	222.03 per tonne	261.20 per tonne
2	All other cargo	52.25 per tonne	78.35 per tonne

9.3 Demurrage on Import log, timber, veneer shall be levied after the expiry of demurrage free period at the following rates: -

Sl. No	Type of cargo	Rate in ₹ per CBM per day or part thereof.		
		For the first 7 days.	8th to 14th day	From 15th day onwards
1.	Log, Timber, Veneer	7.85	15.67	23.48

9.4. No demurrage shall be levied on export/stock cargo, except Hazardous-I category, if such cargo is shipped within 30 days from the date of receipt. However, after the 31st day, demurrage on such cargo shall be levied @ ₹52.25 per tonne per week or part thereof from the date of receipt till the date of shipment.

9.5 Export cargo of Hazardous-I category shall be received only for direct shipment. In case such cargo is not shipped on the date of receipt, demurrage shall be levied at rate of ₹222.03 per tonne per day or part thereof from the day following the date of receipt upto the date of shipment or removal from port premises.

9.6 Demurrage shall be levied on shutout/stock cargo, other than Hazardous I cargo, @ ₹13.06 per tonne per day or part thereof from the date of receipt of cargo upto the date of removal of cargo from the port premises without being shipped. If shutout cargo is shipped by any subsequent vessel provision of clause.9.4 shall apply.

9.7 On cargo/commodity which is received neither as import nor as export nor as stock for shipment, demurrage shall be levied @ ₹52.25 per tonne per day or part thereof from the date of receipt upto the date of removal of the cargo from the port premises.

9.8 On uncleared /Customs confiscated cargo sold by auction or tender or private agreement or in any other manner demurrage shall be levied at the rates specified at clause 9.2 or 9.3, as the case may be, after allowing free time of 10 days after the date the cargo is made available for delivery.

9.9 The demurrage on cargo shall not accrue for the period during which the TMILL is not in a position to deliver cargo for reasons attributable to the TMILL when requested by the user.

10. Storage and Miscellaneous Services:

10.1 Charges shall be levied for the following services/facility as per table below –

Sl.No	Particulars	Rate (in ₹)
1	Despatch related services for opening, cleaning and closing of wagons	10.27 per MT
2	Lease rentals for short term allotment of Hard stand land	69.50 per sq.mtr per month
3	Lease rentals for short term allotment of Hard stand Covered shed	109.57 per sq.mtr per month
4	Charges for supply of unskilled labour	217.66 per manshift

5	Equipment hire charges for Front end loaders of Bucket capacity exceeding 3.5 CBM	17412.39 per shift
6	Equipment hire charges for Front end loaders of Bucket capacity not exceeding 3.5 CBM	8706.19 per shift
7	Equipment hire charges for Forklift of capacity below 10 MT	3627.58 per shift
8	Equipment hire charges for Forklift of capacity between 10 MT and 20 MT	17412.39 per shift
9	On-board Equipment Operation (applicable on full parcel size) - All dry Bulk Cargo - HRC/CRC, Plates Sheets, WRC, Tubes/Pipes	 6.50 per MT 13.00 per MT
10	Placement and Removal of dunnages at plot for steel cargo wherever customer demands	17.12 per MT
11	Clearing and Forwarding	7.70 per MT
12	High heaping of bulk cargo at plot	35.19 per MT
13	Equipment assistance charges for Harbour Mobile Crane of 104 MT	

Description of cargo	Rate per MT in ₹
Iron Ore	52.31
Limestone	52.31
Fertiliser and other bulk cargo	68.61
HRC/CRC Imports	126.81
Steel Export	104.63
Project Cargo	492.35

14	Cleaning of Jetty/ deck and water sprinkling for bulk cargo handling wherever necessary for bulk cargo handling.	7.07 per MT

10.2 Equipment hire charges on per shift basis shall be levied at 50% of the specified rates wherever the deployment of equipment is less than or equal to 4 hours in any shift.

10.3 The licensing of open/ covered space by TMILL within its allotted area for a period of up to (11) eleven months on monthly rent basis for storage of import/ export cargo may be done without recourse to a tender procedure. The following conditions shall be followed in such cases:

(i). The period of license shall not exceed (11) eleven months.

(ii). The space allotted shall not be sub-let/ assigned/ transferred/ shared by the allottees.

(iii). Encroachment or unauthorized occupation of land and Railway Tracks etc. by the licensee will involve a liability to pay a penalty at the rate of ten times the scheduled license fee in addition to the cost of rectification of damages caused to the TMILL's properties. If the licensee fails to remove the cargo from the encroached area in spite of notice to do so, the cargo will be removed elsewhere within TMILL's allotted area by TMILL at the risk and cost of the licensee and penal license fee at the rate of ten times the normal rate will be levied on the space occupied by the cargo so removed.

(iv). Cargo stored under a license shall be at the entire risk and responsibility of the licensee. The licensee shall post his own watchman to safeguard the cargo stored at the allotted space and to prevent any unauthorized occupation of such space by others.

(v). The licensee shall not construct or put up any building, erection or convenience on space occupied under license.

(vi). In case the licensee fails to hand over the space in vacant possession on the date of expiry of the license, TMILL shall levy normal demurrage charges as per TMILL's Scale of Rates as applicable from time to time for the period the cargo remains in TMILL's premises beyond the period for which the license was granted.

(vii). The licensee shall agree to comply with all rules and directions issued by TMILL from time to time. If the licensee neglects to comply with such rules or directions, TMILL may terminate the license.

(viii). The license is terminable on 15 days' notice on either side. No claim for any compensation whatsoever for revocation of the license will be entertained.

(ix). The licensee shall agree that all payments and expenses of whatever sort due to TMILL in respect of the license be recovered at the rates prescribed on TMILL's Scale of Rates from time to time.

(x). The licensee shall comply with all instructions, rules or regulations that may from time to time be issued by KOPT, Municipal Authority, the Chief Controller of Explosives, Government of India or whosoever concerned in relation to storage of cargo.

(xi). The license fee will be charged from the date of handing over possession of the land on the actual area to be found on demarcation.

(xii). When the storage area is allotted on license basis for storage of import / export cargo, demurrage on cargo stored in the licensed premises shall not be levied again.

(xiii). The licensee shall be required to utilize the allotted land for the purpose for which it is licensed. No change in purpose of utilization will be allowed without specific written permission from TMILL.

(xiv). The licensee will not cause any damage to TMILL's properties. If, however, any damage is caused, the licensee shall be liable to make good the damages at his own cost and arrangement to the satisfaction of TMILL.

(xv). The licensee shall have to make his own arrangements to keep the allotted land and its surroundings neat, clean and in proper sanitary condition.

(xvi). After the expiry of the licences of the yard/shed, or termination or determination or forfeiture of licence, if the licensee continues to occupy it unauthorisedly, the licensee shall be liable to pay compensation for wrongful use and occupation at the following rates till vacant possession is obtained: -

First 30 days	3 times the rate as per prevailing SOR
Next 30 days	5 times the rate as per prevailing SOR
Continued unauthorized occupation beyond 60 days	10 times the rate as per prevailing SOR

11. Rebates/ Refunds:

(a). Incase a vessel idles at berth no. 12 due to non-availability or breakdown of the port equipment or power failure at TMILL or for any other reasons attributable to TMILL, rebate equivalent to the berth hire charges accrued during the idling period of vessel shall be levied.

(b). If a vessel discharge more than 25000 MT of Limestone/ Fertiliser/ raw material for fertiliser in a single call at Berth no.12, a rebate of 10% shall be allowed on Wharfage charge on quantity exceeding 25000 MT.

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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/8/2016-TMILL		**Proposal from TM International Logistics Limited for general revision of its Scale of Rates.**

A summary of comments received from Kolkata Port Trust (KOPT) and reply of TM International Logistics Limited (TMILL) thereon is tabulated below:

<table>
<tr><th>Sl. No.</th><th>Comments of KOPT</th><th>Reply of TMILL</th></tr>
<tr><td>(i).</td><td>Traffic Projection:</td><td></td></tr>
<tr><td></td><td>Traffic projection relied upon by TMILL:
<table>
<tr><td>2015-16</td><td>2016-17</td><td>2017-18</td><td>2018-19</td></tr>
<tr><td>1.27 MMT</td><td>1.05 MMT</td><td>1.065 MMT</td><td>1.115 MMT</td></tr>
</table>
As per KOPT's office records, till January'16, TMILL has handled 1,206,271 MT of cargo at Berth No. 12, which indicates a pro rata traffic volume of 1,447,525 MT cargo for the FY 2015-16. There has not been much of variation in the commodity mix projected by TMILL. Accordingly, the reduction in projected traffic by TMILL does not seem to be reasonable and the same should not be less than at least the 2015-16 level. In view of the above, it is felt that the volume of traffic projected by TMILL, as aforesaid, is not acceptable. TMILL may be advised to submit explanation for projecting such reduced volume of traffic.</td><td>Actual volume handled at B#12 in 2015-16 is 1.35 Million MT. This volume includes a quantity of 4.6 Lacs MT of Imported Iron Ore on account of Tata Steel. Tata Steel was forced to import iron ore due to mining issues which have been resolved and there is no plan of importing iron ore in future. B#12 also handled 5.16 Lacs MT of Steel cargo in FY'16 which is an exception considering the cheap imports of Steel in India during this period. After the implementation of Safeguard Duty and Minimum Import Price (MIP), the trend of import steel is expected to go down substantially. KOPT has also mechanised the operation in various berths at Haldia Dock Complex which is going to increase the productivity and ease the congestion at Haldia, whereby, B#12 will face more competition with regard to attracting customers.

Base cargo for B#12 is Limestone/ Flux and Steel. We have estimated handling of higher volume of Limestone/ Flux in the coming years. However, total Steel handling may go down due to reasons stated as above. A table showing comparison of Limestone/Flux and Steel handled at B#12 in last 3 years and projection for next 3 years:
<table>
<tr><th></th><th colspan="6">Year</th></tr>
<tr><td></td><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td><td>2018-19</td></tr>
<tr><td>Import Limestone/ Flux</td><td>72923</td><td>243043</td><td>255460</td><td>650000</td><td>650000</td><td>700000</td></tr>
<tr><td>Steel (A=B+C+D)</td><td>214988</td><td>440625</td><td>512491</td><td>350000</td><td>350000</td><td>375000</td></tr>
<tr><td>Import Steel (B)</td><td>129561</td><td>414559</td><td>460081</td><td>250000</td><td>250000</td><td>275000</td></tr>
<tr><td>Coastal Steel(C)</td><td>5980</td><td>5930</td><td>39536</td><td>50000</td><td>50000</td><td>50000</td></tr>
<tr><td>Export Steel(D)</td><td>79447</td><td>20136</td><td>12874</td><td>50000</td><td>50000</td><td>50000</td></tr>
</table>
Considering the above issues, it is felt that the estimated volumes considered is justified.</td></tr>
<tr><td>(ii).</td><td>Other Observations:</td><td></td></tr>
<tr><td>(a).</td><td>The problems associated with TMILL's functioning as a general purpose company in contravention with the provision of the License Agreement as well as non</td><td>TMILL is submitting segregated accounts on regular basis to HDC, KOPT. The accounts of B#12 is audited by Independent Auditor M/s. Ray & Ray as per the provision of the License</td></tr>
</table>

	compliance of written commitment towards submission of Segregated Account as per the mutually agreed terms had been highlighted under Para 1 of KOPT's comments on TMILL's earlier proposal for revision of their tariff which was sent to TAMP vide letter dated 23.02.2011. The same position is still valid and may be considered by TAMP for issuing appropriate direction. TMILL has neither confined their activity as an SPV nor have they been submitting Segregated Accounts following the agreed terms.	Agreement. TMILL is also paying Royalty to HDC, KOPT following the norms of the License Agreement.
(b).	The License Agreement requires TMILL to consider the rates of concerned services as per KOPT's rates, when such services & rate thereof are contained in KOPT's SoR. KOPT's SoR is due for revision from 01.04.2016 for which KOPT is in the process of filing its tariff proposal to TAMP. As such, the basis considered by TMILL to project royalty payments for the years 2016-17 onwards could not be understood. TMILL may be advised to clarify the matter.	Royalty has been calculated based on the agreed terms of the License agreement. Prescribed % of Royalty payable to Port has been considered on the revenue earned by TMILL. TMILL is not aware of the new rates to be implemented by KOPT w.e.f. 01.04.2016 and hence it is not possible to calculate royalty based on the same.
(c).	As per License Agreement, for the services included in KOPT's SoR, TMILL is entitled to levy tariff at best at the rate provided in KOPT's SoR. As per the position maintained by KOPT, for the other services not included in KOPT's SoR, royalty should be considered on the basis of actual income of TMILL from such services. TAMP may consider this while looking into the tariff proposal of TMILL.	TMILL is entitled to levy tariff as per the approved Scale of Rates for B#12 and has been complying with the same. In case, the services offered by TMILL is not included in the SOR of HDC, KOPT, royalty is not payable by TMILL. We would like to mention that TMILL and KOPT is presently involved in an arbitration related to this issue and the outcome of the same is awaited.
(d).	TMILL has proposed to introduce 'On-board Equipment Operation charge' [Sec. 10.1 (10b)] on per ton basis and 'Equipment assistance charges' [Sec. 10.1 (6), (7), (8) & (9) on per MT basis. Keeping two such different modules/ provisions may be confusing to the customers in respect of applicability of such charge as well as the same may pose difficulty in assessment of royalty too. It is not clarified either under the section of 'Miscellaneous Services' [Sec.10] that whether either or both of the charges will be applicable for providing the equipment service. In the License Agreement [Appendix 9], the productivity level of the MHC is specified to be 340 MT per hour. Accordingly, the benchmark level of productivity of MHC should be in parity with the productivity level so indicated in License Agreement.	TMILL have proposed both "Per Shift" and "Per MT" equipment charges as in many cases the customer wants a Per MT rate. It is to clarify that either the "Per Shift" or "Per MT" rate will be charged to the customer based on requirement. Hence, both the charges will not be applicable. Productivity of MHC will vary from one product to another. TMILL has represented this in front of KOPT and the Authority, which has been accepted and hence the Authority provided different rates for different cargo as per the last tariff order TAMP/44/2012-TMILL dated 9 June 2014. We have not asked for any enhancement in these rates in the new proposal.
(e).	The clause 27 of the Annual Accounts of TMILL for FY 2014-15 reveals that as at 31.03.2015, the company's investment in equipment's and infrastructure aggregate to ₹. 25.80 crore, which means no addition in investment in equipments and infrastructure	On the investment shown under note 27 of Financials for FY'15 TMILL's comments are as below: (a).The note is against the initial investment requirement to be made by TMILL at Berth#12, based on the conditions of the

	after their initial investments till 2005. Therefore, the reason for showing an addition of ₹. 73,616,025/- on account of Plant & Equipment (as indicated under Note 6 of the Segregated Account for year 2014-15) could not be understood. KOPT has not apprised of the details of the addition, if any, on this score. TMILL may be asked by TAMP to clarify the issue.	tender document given by HDC, KOPT for Operation and Maintenance of B#12 under BOT model. TMILL was required to make an initial investment of ₹. 30.07 Crores against which actual investment of ₹. 25.80 Crores was made by TMILL. Subsequently, TMILL obtained approval for the short investment from Port Trust Authorities with suitable modification to the investment obligation (The TMILL has furnished a copy of KOPT letter no.Ad/0038/Pvt.Sector/12/TMILL/Part-III/ 4914 dated 13 December 2006), addressed by the KOPT to Ministry of Shipping (MOS), wherein the KOPT has, stated the following: (i). The Licence agreement signed between KOPT and TMILL in respect of berth no. 12 of HDC provides that the TMILL will invest about ₹ 30.07 crores for deployment of various cargo handling equipment and creation of other infrastructure at the said berth. The agreement also provides the broad specifications of the equipment and other infrastructure to be provided by TMILL at berth no. 12. (ii). TMILL have made a total investment of ₹ 25.80 crores in equipping and development of other infrastructure at berth no. 12 of HDC and the same has been certified by independent auditor as per the provision of the Agreement. This has resulted in a shortfall in total investment of about ₹ 4.27 crores as compared to the required investment of ₹ 30.07 crores. TMILL have also made some need based changes in the specification of the equipment and other infrastructure with approval of the independent engineer following the relevant provision of the Licence Agreement. (iii). The issues relating to the shortfall in investment and changes in specification of some of the equipment/ infrastructure by TMILL have been examined in detail by the Board of Trustees of KOPT who have approved the changes proposed by TMILL in the specification of the equipment and other infrastructure with revised investment vide Resolution no. 113 dated 24.8.2005, subject to sanction of Central Government.) (b). For any further investment at Berth#12 TMILL are providing the investment details in TAMP approved format and also submitted segregated accounts which include investment details of Haldia. TMILL are also providing segregation of investment at Berth#12 from Fixed Assets

<table>
<tr><td></td><td></td><td>schedule mentioned in certified segregated accounts based on requirement of TAMP.

(c). Moreover during FY 14-15 there was major investment made in LL-6 on account of Railway siding development as well as for commissioning of new equipment. These investments have been shown in the Fixed Assets schedule but not included in the above clause 27 of notes, since the above note is reflecting only the initial investment which was required to be complied by the company as per requirement of the tender document. TMILL have also communicated to HDC, KOPT regarding new investments.

(The TMILL has furnished a letter no. POH/GN-72/914/16 Dated 24-02-2016 addressed by it to KOPT, which gives list of equipment replaced by TMILL at berth no. 12, details of civil works completed, equipment planned to be replaced and list of other planned infrastructure projects.)</td></tr>
<tr><td>(f).</td><td>It is seen from Form -1 that the average cost at the proposed rate including MHC charge is as below:

<table><tr><td>Iron Ore Export</td><td>Steel Import</td><td>Fertilizer Import</td><td>Limestone Import</td><td>Steel Export</td><td>Project Cargo Import</td></tr><tr><td>₹.320.61 per MT</td><td>₹.914.20 per MT</td><td>₹. 264.26</td><td>₹. 353.74 per MT</td><td>₹. 800.15 per MT</td><td>₹. 1002.24 per MT</td></tr></table>
The proposed rate is found to be exorbitantly high. The same is even much higher than KOPT's rate even though TMILL does not have the huge past pension liability like KOPT. The rates require moderation.

The proposed MHC rate for Project Cargo (₹. 529.41 per ton) is found to be abnormally high and needs moderation.</td><td>Rates for different activities against various cargoes are derived based on the prescribed methodology of Tariff guideline. Detail of various cost has been furnished by TMILL as per the prescribed format.

Productivity of MHC in case of Project cargo is much lower compared to other Bulk and Break-Bulk cargoes which have already explained in point no. 4, above</td></tr>
<tr><td>(g).</td><td>For the MHC tariff contained at S.10.1 (11b) under Miscellaneous Charges, TAMP has not provided coastal rate earlier, which is not at par with the extant guidelines of TAMP. Accordingly, in accordance with the extant guidelines, TAMP may look into the matter appropriately for stipulating a coastal rate for MHC tariff.</td><td>The Authority may deal the matter appropriately.</td></tr>
<tr><td>(iii).</td><td><u>Observations on Scale of Rates:</u></td><td></td></tr>
<tr><td></td><td><table><tr><td>Sl. No</td><td>Sec. No.</td><td>Comments of KOPT</td></tr><tr><td>1.</td><td>2(v)</td><td>The phrase 'the list of Hazardous Cargo adopted by the Board' should be replaced by 'the list of Hazardous Cargo adopted by the Board of Trustees for the Port of Kolkata'.</td></tr><tr><td>2.</td><td>2(vi)</td><td>To simply application/ consideration of a length of period, a single cap of '30 consecutive calendar days' is felt to be appropriate instead of referring</td></tr></table></td><td><table><tr><td>Sl. No</td><td>Sec. No.</td><td>Comments of TMILL</td></tr><tr><td>1.</td><td>2(v)</td><td>We are agreeable to the same change.</td></tr><tr><td>2.</td><td>2(vi)</td><td>The authority may take an appropriate view on the same.</td></tr></table></td></tr>
</table>

		the different caps of '30 consecutive calendar days or consecutive calendar 31 days or even 28 consecutive calendar days' etc.			
3	2(vii)	Considering the position maintained by KOPT not allowing handling of containers at Berth No. 12 as well as the fact that no marine freight container has so far been handled at Berth No. 12, the item 'container' should be deleted.	3	2(vii)	As per the License Agreement, TMILL is authorised by KOPT to handle Container at B#12. Hence the rates for container handling should form a part of the SOR.
4	2(viii)	The services under 'On-board Supervision' are described at S.6 of the draft proposal. Hence, in order to maintain clarity in understanding, a separate definition as given at S.1(viii) is not felt appropriate.	4	2(viii)	S.6 provides the detail activities carried out under "On-Board Supervision" whereas S.2 (viii) gives only the definition. Both should be retained to have better clarity.
5	2(xiii)	Reference comment against S.2(vii) above, the S.2(xiii) should be deleted.	5	2(xiii)	Should be retained as explained in 2(vii)
6	2(xiv)	Same as the comments given above against S.2(vii).	6	2(xiv)	Already clarified.
7	2(xv)	Same as the comments given above against S.2(vii).	7	2(xv)	Already clarified.
8	3(v)	The phrase "goods meant for TMILL's use" should be modified as "goods meant for TMILL's use at Berth No. 12".	8	3(v)	This is acceptable to TMILL.
9	3(vii)(c)	For clear understanding, the condition of 'lodging of refund claim' should be incorporated appropriately by recasting the sentence.	9	3(vii)(c)	The authority may take appropriate view on the same.
10	3(vii)(d)	In the phrase 'as stipulated in the Major Port Trust Act', the words 'for the major ports' should be inserted between the words 'stipulated' and 'in'.	10	3(vii)(d)	The authority may take appropriate view on the same.
11	3(viii)	The word 'Port' should be replaced by the words 'cargo handling'.	11	3(viii)	This is acceptable to TMILL.
12	4.1(5)	About 150% increase in the rate has been proposed, which does not seem to be reasonable.	12	4.1(5)	The existing rate is low and considering the lower productivity of Project cargo, we have proposed the hike. The proposed rate is also in line with the existing rates of HDC, KOPT.
13	4.1(6), 4.5, 6.1(Sl. No. 5), 6.2, 7.1(Sl. No. 6), 7.4, 8.2	Reference comment against S.2(vii) above, the S.4.1(6) should be deleted.	13	4.1(6), 4.5, 6.1(Sl. No. 5), 6.2, 7.1(Sl. No. 6), 7.4, 8.2	As already explained rates related to Container handling need to be included in the SOR.
14.	4.6, 7.5, 8.1(Sl. No.5), 8.3, 9	Reference comment against S.2(vii) above, the term 'container' should be deleted.	14.	4.6, 7.5, 8.1(Sl. No.5), 8.3, 9	Already clarified. Comments related to "container" need to be retained.
15	5.5	Reference comment against S.2(vii) above, the term 'container' should be deleted.	15	5.5	Already clarified. Comments related to "container" need to be retained.
16	6.1	There are elements of services (like heaping of export cargo, placement of dunnage etc.) which are not required uniformly for all types of cargo. Hence TMILL may be asked to segregate the charges in terms of the types of cargo requiring the same and accordingly propose tariff separately.	16	6.1	In this section we have provided the possible activities which can be carried under the head of "On-Board supervision". We have provided separate rate against specific type of cargo for activities like heaping of export cargo, placement of dunnage other than jetty etc. in Se. 10.1.
17	6.1 (Sl. No. 7)	The rate is proposed to be at par with project cargo. The service arrangements & requirements for many types of cargo like Bag Cargo etc. are not so sophisticated as needed for Project Cargo and so	17	6.1 (Sl. No. 7)	All other cargo has been assumed to be of the same nature as project cargo wherein productivity will be much lesser. Hence similar rate has been proposed.

Sl.	Clause	Comment	Sl.	Clause	TMILL response
		should not be subjected to the same level of tariff as of Project Cargo.			
18	10.1 (6) & (7)	Same bucket capacity mentioned for both. TMILL may be asked to state correctly.	18	10.1 (6) & (7)	10.1 (6) mentions bucket capacity as "exceeding 3.5 CBM) whereas 10.1(7) mentions bucket capacity as "not exceeding 3.5 CBM". Hence the differentiation has been made.
19	10.1(10b)	To avoid confusion, TMILL may be asked to clarify and state in clear terms if the rate excludes on-board service of MHC.	19	10.1(10b)	This is for On-Board equipment like Loader and Forklifts. MHC charges have been given separately in 11.(b)
20	10.2	The phrase "Equipment hire charges shall be levied....." should be replaced by "Equipment hire charges on per shift basis shall be levied.....".	20	10.2	This is acceptable to TMILL.

(iv). **Royalty Payment**:

It is seen that TMILL is continuing their practice of charging the royalty determined by Independent Auditor as expenses in their audited account but at the same time disputing the determination of the Independent Auditor and not paying the full royalty as per the Independent Auditor's report. This aspect may be appropriately considered by TAMP while determination of their tariff.

Further, TMILL may be advised to submit a reconciliation of Royalty determined by the Independent Auditor, Royalty actually paid to KOPT and Royalty charged to Audited Accounts for 2013-14 and 2014-15.

As already communicated to the Authority during earlier tariff proposals and clarifications, an Arbitration is going on between TMILL and KOPT regarding this issue and the outcome of the same is still awaited.

The statement relating to the reconciliation of Royalty for 2013-14 and 2014-15, as furnished by the TMILL to KOPT vide its letter no.POH/TAMP/0020/16 dated 15.04.2016, has been furnished to us. The details as reflected in the statement are as follows:

(Amount in ₹)

	Royalty FY 13-14			Royalty FY 14-15		
	01.04.13 to 29.01.14 as determined by Independent Auditor	30.01.14 to 31.03.14 as determined by Independent Auditor	Total	01.04.14 to 29.01.15 as determined by Independent Auditor	30.01.15 to 31.03.15 as determined by Independent Auditor	Total
Royalty assessed by the Independent Auditor as per SOR	23011804	4234555	27246359	20889641	6523142	27412783
Royalty assessed by the Independent Auditor for activities not within SOR	3884882	497422	4382304	4302862	1575285	5878147
Royalty paid by TMILL as per SOR	22343487	1771085	24114572	22735752	6523142	29258894
Royalty as per GL	27284048	1869973	29154021	27032939	8708912	35741851

Note:

1. Royalty Audit completed upto 29th Jan, 15. Feb' 15 and Mar' 15 figure computed as per provisional royalty paid by TMILL.

2. The coverage for the Royalty Audit period are from 29 January to 28 January of the respective financial year basis, the independent auditor royalty report have been adjusted accordingly.

3. The Company keeps in each year the provision of royalty in its books of accounts,

		to be adjusted accordingly on the receipt of the final report of the Independent Auditor. 4. The Company also made additional payment of ₹ 625,500/- and ₹ 1,070,564/- as differential payment as per Independent Auditor Report pertaining to activities under port scale of rates.)

2. A joint hearing in this case was held on 13 June 2016 at the KOPT premises. At the joint hearing, the TMILL made a brief power point presentation of its proposal. The presentation traced the history of the formation of TMILL, nature of its operations, scope of work of Berth No. 12, among other things. At the joint hearing, the TMILL and the concerned users/ user organizations have made the following submissions:

TM International Logistics Limited

(i). Our proposal is for the tariff cycle 2016-17 to 2018-19.

(ii). We handled 1.35 Million Tonnes of cargo in 2015-16. This volume includes 4.6 lakh tonnes of imported Iron Ore on account of Tata Steel. Tata Steel was forced to import Iron Ore due to mining issues. The total cargo volume of 1.35 Million Tonnes also includes 5.16 lakh tonnes of steel cargo. It is the highest ever steel import due to cheap import from China, Japan and Korea.

(iii). Mining issues are resolved. So, there is no plan to import Iron Ore by Tata Steel in future. Import of steel cargo is likely to go down due to implementation of Govt. policies like Safeguard Duty, Minimum Import Price and anti dumping. We have to face Competition from Haldia Dock Complex mechanized operations. It will increase the productivity and ease congestion at HDC. It will be difficult for TMILL to attract customers due to more competition from HDC mechanized berths. Therefore, we had to estimate volume at lower levels for the next tariff cycle as compared to the actual volume handled in 2015-16. However, the volume estimates are higher as compared to the average volume handled in our berth in the past years despite competition from the HDC due to mechanization of berth and the Government Policies on steel import.

(iv). Our operating cost has gone up since hike in labour cost from 2013. New Wage Agreement has been signed in 2015. The hike is in the range of 50% to 60%. Our other cost of operations has also gone up. However, we have proposed to maintain the previous rates. We have sought increase only in Project Cargo, Machinery and spares.

(v). We are committed to provide bench-mark service levels to our customer at competitive rates. We have made substantial investment in our berth to improve throughput and handling efficiency. Railway Line has been commissioned to handle rail borne cargo. New loaders have been commissioned to improve quality of handling and reduction in cost.

(vi). We have plan for future investment in New Fork Lifts and new Harbour Mobile Crane to improve the infrastructure.

(vii). We request the Authority to approve the proposed rates to sustain our operations at Berth No. 12.

Kolkata Port Trust

(i). The Ministry of Shipping has set traffic projection for KOPT at 37.5 Million Tonnes for FY 2016. There must be contribution by TMILL with its share of traffic, to achieve the target set by the Ministry.

(ii). TMILL has achieved 1.35 Million Tonnes in 2015-16. We don't find any reason for reduction in traffic for the future years. Traffic projection is not acceptable to us. The Projection should not be less than the level achieved in 2015-16. It must be 10% more than 1.35 Million Tonnes achieved in 2015-16. There must be constant effort to improve traffic.
[TMILL: 4.6 Lakh tonnes of Iron ore import in 2015-16 by Tata Steel is unprecedented. There is no plan for Iron import by Tata Steel in future. We don't see much of export coming to us]

(iii). Rates for steel and Project Cargo are abnormally high. There should be parity in rates between TMILL and HDC. Rates must be brought down.
[TMILL: Our rate for iron ore, lime stone etc., on an average is ₹ 320 per tonne. KOPT rate is ₹ 287 per tonne. It has proposed hike from ₹ 287 to ₹ 340 per tonne]

(iv). KOPT has burden due to legacy cost. We have pension liability. TMILL has no such burden. There is no reason for TMILL to seek increase in rates.
[TMILL: Our security cost and power cost is high. Operating cost at Haldia has gone up post settlement of Wage Agreement]

(v). Mobile crane rate for Project cargo at ₹ 529.41 per tonne is high.
[TMILL: Productivity of crane for Project cargo is much lower as compared to bulk and break bulk cargo. The proposed rate of ₹ 529 per tonne is based on the productivity of Project Cargo]
