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TARIFF AUTHORITY FOR MAJOR PORTS

G No. 175 **New Delhi,** **10 June 2014**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), and in compliance of the order dated 20 November 2013 of the Hon'ble High Court of Calcutta, the Tariff Authority for Major Ports hereby disposes of the proposal of the TM International Logistics Limited for general revision of its Scale of Rates for the services rendered at Berth No. 12 of the Kolkata Port Trust at the Haldia Dock Complex as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/44/2012-TMILL

The TM International Logistics Ltd. - - - Applicant

QUORUM

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

O R D E R

(Passed on this 20th day of May 2014)

This Authority had passed an Order on 25 March 2011 disposing of the proposal received from TM International Logistics Limited (TMILL) for general revision of its Scale of Rates, by effecting an across the board reduction of 32.29% in the then existing level of tariff of TMILL with a validity upto 31 March 2013. This Order was notified in the Gazette of India on 25 May 2011 vide Gazette no. 166.

2.1. With reference to the tariff Order dated 25 March 2011, the TMILL filed an application dated 13 June 2011 for review of the Order on certain issues. Simultaneously, the TMILL also filed a Writ Petition No. 9714(W) of 2011 in the High Court of Calcutta on 20 June 2011 against the tariff Order of March 2011.

2.2. The Hon'ble High Court disposed the Writ Petition of TMILL on 5 July 2011 directing this Authority to dispose the Review Application dated 13 June 2011 according to its convenience and Law and directed the TMILL to charge their clients at the old rates and to deposit the difference between the old and the new rates month by month in Short term Fixed Deposit in a Nationalised Bank.

2.3. The Review application filed by TMILL was disposed of vide Order dated 11 October 2011 after following the due consultation procedure prescribed. The Order dated 11 October 2011 effected an across the board reduction of 17.87% in the tariff of TMILL fixed in March 2008, as compared to the earlier reduction ordered at 32.29% in the tariff Order of March 2011 and revised the charges for hire of mobile harbour cranes to ₹35.30 per MT from the earlier approved rate of ₹24/- per MT. This Order was notified in the Gazette of India on 11 November 2011 vide Gazette no. 219.

2.4. However, the tariff Orders dated 25 March 2011 and 11 October 2011 was also challenged by TMILL by its Writ Petition No. 20969(W) of 2011 in the Hon'ble High Court of Calcutta. The Hon'ble High Court vide its Order dated 9 December 2011 stayed the operation of the tariff Order and directed the Petitioners to charge at the (2008) old rates and to deposit the difference between the old rates and the new rates month by month in short term fixed deposits in a Nationalised Bank with regular intimation to this Authority.

3.1. The tariff validity of TMILL was to expire on 31 March 2013 and therefore, the TMILL was reminded vide our letter no. TAMP/39/2005-Misc dated 07 May 2012to submit its proposal for revision of its tariff. The TMILL vide its letter dated 29 June 2012 filed its proposal for general revision of its Scale of Rates for tariff to be effective from 1 April 2013 to 31 March 2016.

3.2. However, it was observed that since the October 2011 tariff Order has been stayed by the Hon'ble Court and also since the TMILL had reported to have been continuing to levy the tariff fixed in the year 2008 during the years 2010-11 till date, we would not have been in a position to carry out the analysis of actual performance of TMILL with reference to the tariff Order of October 2011, as stipulated in Clause 2.13 of the tariff guidelines of 2005. Further, the tariff proposal filed by TMILL vide its letter dated 29 June 2012 cannot be disposed of without carrying out such an analysis. The legal opinion sought suggested for trying an early listing of the pending matters in the Hon'ble Court and till such time to keep the matter relating to re-fixing of rates of TMILL in abeyance.

3.3. Under the circumstance, the TMILL filed a Writ Petition No. 32843 (W) of 2013 praying for fixing a new SOR to be applicable with effect from 1 April 2013 to 31 March 2016 based on the proposal filed by it and that till such time the new SOR for the period 2013-16 is not finalized and notified, they may be allowed to charge the rates proposed by them in their proposal, on an ad-hoc basis.

3.4. In this connection, the Hon'ble justice Sanjib Banerjee on 20 November 2013, after considering submission made on behalf of parties disposed the petition. The operative part of the Order of the Hon'ble Court is reproduced below:

> *"Notwithstanding the pending proceedings, TAMP will settle the schedule of rates applicable to the petitioners for the operation of berth no.12 at Haldia Dock Complex for the period April 2013 to March 2016 on its best judgment and uninfluenced by the pendency of the previous petitions. Since the petitioners say that they have charged at the old rates for the period April 01, 2013 till date and will be charging at such rate or other rate that they deem proper till such time that the TAMP rates are settled and communicated to the petitioners, TAMP should also look into the rate charged during this period and assess whether it is excessive within the meaning of that expression in clause 2.17.4. of the guidelines for regulation of tariff issued on March 31, 2005.*
>
> *TAMP should settle the rates for the period April 2013 to March 2016 and communicate the same to the petitioners within eight weeks from date.*
>
> *W.P.No. 32843(W) of 2013 is disposed of without going into the methodology for the fixation of rates."*

3.5. Thus, in compliance with the direction of the Hon'ble High Court, it was decided to take up the proposal of the TMILL on consultation. Since the proposal filed by TMILL in June 2012 for review of its tariff for the period from 2013-14 to 2015-16 was based on actuals for the period 2010-11 and 2011-12 and estimates for the period from 2012-13 to 2015-16 and given that the year 2012-13 and the first seven months of the year 2013-14 were already over, the TMILL was requested vide our letter dated 22 November 2013 to update its proposal of June 2012 based on the actuals of 2012-13 and also update its estimates for the year 2013-14 with reference to actuals upto October 2013. The TMILL was also requested to review the estimates for the years 2014-15 to 2015-16, if it so desires, based on the updated estimates for the year 2013-14. The TMILL was requested to submit its updated proposal latest by 02 December 2013

3.6. In this backdrop, TMILL vide its letter no. TMILL/202/13-14 dated 04 December 2013 has filed its revised proposal.

4.1. The main points made by the TMILL in its covering letter dated 04 December 2013 are as summarized below:

(i). Rates approved by the Authority as per Order No. TAMP/44/2012-TMILL dated 17 March 2008 has been considered as existing rates. The order passed by TAMP on 25 March 2011 and 11 October 2011 and notified on 25 May 2011 and 9 November 2011 respectively for the revision of rates for 2010-13 had been contested by TMILL in the Hon'ble High Court of Kolkata and Stay Order had been issued by the Hon'ble High Court vide Order No. 20969(W) 2011 dated 9 December 2011. Further that Hon'ble High Court vide order no. W.P. 32843(W) of had permitted TMILL to charge the old rate as per TAMP order TAMP/55/2007 or other rate that deem proper.

(ii). Few labour related contracts are under negotiation with concerned agencies with involvement of Labour Commissioner. The agencies are proposing new Charter of Demands based on which the negotiations are going on. Hence tentative costs has been taken for 2013-2014 on estimated basis.

4.2. The other main points as seen from the proposal filed by the TMILL are summarized below:

(i). The proposal is for a period of three years viz., 2013-14 to 2015-16.

(ii). The proposal is based on the actuals for the years 2010-11 to 2012-13 and estimates for the years 2013-14 to 2015-16.

(iii). The traffic figures for the years 2010-11 to 2015-16 are given below:

Year	Traffic (in MTs)	Actuals/ Estimates
2010-11	1193775	Actuals
2011-12	850112	
2012-13	727870	
2013-14	765000	Estimates
2014-15	915000	
2015-16	915000	

(iv). The capital additions envisaged during the years 2013-14 to 2015-16 are as follows:

Year	Particulars	₹ in Lakhs
2013-14	Railway Link at LL-6 & Infrastructure development	220
	Purchase of Equipment	32
2014-15	Railway Link & Railway Line at LL-6 & Office Building	1420
	Purchase of 2 nos. of 32 tonne Forklifts	310
2015-16	Construction of 3000 sq.m covered shade and development of plot	500

(v). The estimated financial / cost implications at the existing level of tariff as shown in the consolidated income and cost statement furnished by the TMILL are summarised below:

(**₹ in lakhs**)

Sl. No.	Particulars	Actuals			Estimates at existing level of tariff		
		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
(i).	Traffic (in MTs)	1193775	850112	727870	765000	915000	915000
(ii).	Operating income	2815	2175	2801	2753	3141	3319
(iii).	Net surplus/ deficit after return	-230	-747	-249	-860	-1270	-1472
(iv).	Net deficit as a percentage of operating income	-8%	-34%	-9%	-31%	-40%	-44%
(v).	Average net deficit as a percentage of operating income	-NA-			-38.33%		

(vi). Based on the above cost position, the TMILL is seen to have sought various percentage of increase in the Scale of Rates approved in October 2008.

(vii). The TMILL is also seen to have proposed some changes to the definitions/ conditionalities in the Scale of Rates.

4.3. Subsequently, the TMILL has furnished audited segregated annual accounts for operation at berth No. 12 of Haldia Dock Complex for the years 2009-10 to 2012-13.

5.1. In accordance with the consultative procedure prescribed, a copy of the TMILL proposal was forwarded to the licensor port i.e. KOPT and to the concerned users/ user organisations for their comments. None of the users have furnished their comments. The KOPT vide its letter dated 3 January 2013 has furnished its interim comments. A copy of these interim comments were forwarded to TMILL. The TMILL has not responded on the interim comments of KOPT till the finalization of the case. The submissions made by KOPT are as follows:

(i). The tariff proposal filed by TMILL requires to be examined on the basis of Audited Annual Accounts of TMILL. In the absence of Audited Annual Accounts of TMILL for the relevant period, comprehensive comments of KOPT could not be drawn up. TMILL has not submitted their Audited Annual Accounts for 2010-11 onwards to KOPT. In absence of the same, accounting treatment of royalty determined by independent Auditor but not paid by TMILL could not be verified.

(ii). Further, royalty on services covered by KOPT's SOR is to be paid by TMILL on the basis of KOPT SOR. Since, the proposal for revision of KOPT SOR is pending with TAMP, the royalty payment liability of TMILL for future period (2014-15 and 2015-16) cannot be estimated correctly.

(iii). TAMP may consider to move to the Hon'ble High Court of Calcutta for obtaining an extension of time beyond 8 weeks as directed by the Court to dispose of the proposal of TMILL.

(iv). TAMP may advise TMILL to submit their Audited Annual Accounts for 2010-11 onwards. TMILL may also be advised to submit a statement detailing royalty actually paid, royalty determined by the independent Auditor, Royalty considered in the cost statement and Royalty charged as expense in the accounts, for all the previous years considered in the cost statement to KOPT at the earliest in order to submit final comments of KOPT as sought by TAMP or disposing the subject proposal of TMILL.

5.2. The other interim comments of KOPT are summarized below:

(i). The problems associated with TMILL functioning as a general purpose company in contravention of provision of the License Agreement as well as non-compliance of written commitment to segregate their accounts as per agreed procedure, has been highlighted under para-1 of KOPT comments against TMILL last revision proposal for revision of their SOR sent to TAMP vide KOPT letter dated 23 February 2011. The same is still valid and may be considered by TAMP for issuing appropriate direction. TMILL did not take any action to restrict its functioning as a Special Purpose Company and neither had they segregated their accounts of Berth No.12 as per agreed procedure, in spite of written undertaking.

TMILL is continuing the practice of first getting the accounts segregated by their statutory auditor (not in conformity of the procedure agreed by them) and then getting the same verified by the independent Auditor.

It has been seen from their audited accounts that while TMILL disputed the royalty determined by the independent auditor, they had conventionally charged the same as expense in their Accounts of 2007-08. So at one hand they had reduced taxable profit by charging the same as expense while on the other hand disputed the same and did not pay the same to KOPT.

(ii). TMILL may be advised to submit a comparative position of royalty payable for previous periods, vis-à-vis royalty determined by the independent auditor and Royalty charged in the accounts of expenses. TMILL be advised to submit their audited accounts of all the previous years covered by the cost statement.

(iii). As per the License Agreement, TMILL is required to pay royalty as per the prevalent rates of KOPT SOR against services covered by the KOPT SOR. As KOPT proposal for revision of SOR has not yet been approved by the TAMP, it is not clear as to how they have projected the royalty for 2013-14 onwards. TMILL be advised to submit detailed calculation.

(iv). TMILL has stated that they have considered the rates approved by TAMP in March 2008 as existing rate instead of rates determined by TAMP in the year 2011 as they have obtained a stay on the said notification, but as it appears that the Hon'ble High Court had directed that while TMILL may charge old rates but at the same time TMILL is to deposit the difference between the old rates and the new rates month by month in short term deposits in a Nationalized Bank. Under the aforesaid circumstances TMILL should also place the position of the proposed rate vis-à-vis rates approved by TAMP in 2011 for proper assessment.

(v). It is also mentioned in this regard that the License Agreement does not allow TMILL to charge the customer in excess of charges as per KOPT's Scale of Rates (against services which are covered by KOPT SOR) and Royalty is payable against income from such services considering KOPT's SOR Rates. For other services against which rates are not prescribed in KOPT's SOR, Royalty is payable on the actual revenue earned by TMILL.

(vi). TMILL has proposed duel charging system with regard to 'On-board equipment Operation' and 'Charges for Harbour Mobile Crane' under Miscellaneous Services'. Under the proposed system, they can either charge for the same on per equipment per shift basis or per MT basis. They have reasoned that the said provision has been kept to serve the parties undisputedly who wants to have consolidated per MT rate and does not want to get into nitty-gritties of actual equipment usage.

KOPT feels that provision of such duel charging modes for the same service may pose problems in proper assessment of actual revenue and royalty payable more so as TMILL primarily serve Tata Steel Limited, their parent company. TAMP was requested not to allow such dual charging mode for the same services.

(vii). With regard to the charges proposed for using of Harbour Mobile Crane, the following points are placed for consideration of TAMP:

As per Appendix-9 of the License Agreement minimum productivity level of the equipment has been specified at 340 MT per hour. The benchmark productivity should not be less than what has been specified in the License Agreement.

As per the general principle adopted by TAMP in determining rates for Mobile Harbour Cranes, such rates need to be productivity linked. Though TMILL has prescribed a single slab rebate, TMILL has capped the rebate to 10% while keeping the failure to attain productivity open ended. For example, even if the productivity is 50% of the benchmark productivity, TMILL would only offer rebate of 10%. Further, the productivity levels indicated in Form 1 is not a part of the SOR and hence the productivity norms and applicable rates against the same should be prescribed in the SOR itself.

Further as per Govt. Policy coastal concession is also applicable against such charge which TMILL has not indicated.

Another issue that deserves mention is applicability of the proposed levy by TMILL. It is not clear whether TMILL shall levy the MHC Hire charge against all vessels (where MHC support is provided), in addition to the rates for On board charges, Wharfage charge, On board Supervision Charges etc. notified by TAMP. This issue requires to be spelt out clearly in the proposal itself to avoid confusion. This has significant implication in Royalty computation also.

(viii). The dunnaging of Export Cargo has been included under 'Onboard Supervision' charge [S.6.1 (b)]. Again a separate rate for the same has been prescribed under S.10.1 (13). The matter relating to such proposal needs to be clarified.

(ix). KOPT has not permitted handling of containers at berth No-12 and further TMILL has not projected any container handling at their berth. Accordingly, no rate for container handling should be prescribed.

(x). It is also seen that in the cost statement TMILL has mentioned that they have considered lease rental as per KOPT claim as cost even though they are disputing the same and is not paying the same in full.

KOPT feels that unless TMILL agrees to pay the lease rental demanded by KOPT, their tariff should not be determined considering the demanded amount as cost. This is because, in such a situation, at one hand they will not incur the cost while on the other hand they will derive the advantage of the cost in tariff, resulting in double benefit.

6. Based on a preliminary scrutiny of the proposal, the TMILL was requested to furnish additional information/ clarifications vide our letter dated 20 December 2013. TMILL while furnishing its reply to the queries has submitted revised cost statements vide its letter dated 31 January 2014. A summary of the queries raised by us and reply of the TMILL are tabulated below:

Sl. No.	Queries raised by us	Reply of TMILL
(A).	**General:**	
(i).	In the proposed draft Scale of Rates, it is seen that the TMILL has proposed increase in the various tariff items. The proposed percentage of increase for each of the cargo item in a particular activity is seen to be different. In other words, under each activity, a different percentage of increase has been proposed for the various cargo items, instead of across the board increase under each activity. In this connection, the TMILL to furnish an analysis and necessary workings correlating the different percentage of increase for the various cargo items under each of the activity sought in the proposed draft Scale of Rates with the cost position reflected by the Cost statement of TMILL. In the absence of such analysis and workings, increase/ decrease may have to be ordered across the board, depending on the financial/ cost position of TMILL.	Rates for different cargoes have been increased considering the hike in operating cost and also based on the relevance of the existing comparable market rates. Many existing rates are on lower side and the market rate has gone up substantially. Also the increase in cost is varying for different cargoes. We have also tried to maintain similarity with rates of our nearest competitor so as to stay competitive. Hence across the board increase of rates may not be suitable to sustain the operations.
(ii).	From the proposal furnished by the TMILL, it is seen that the proposal is based on the rates approved in the year 2008. In this context, it is relevant to mention here that the Order of the Hon'ble High Court of Calcutta dated 20 November 2013 directs TAMP to fix the rates of TMILL for the period April 2013 to March 2016 on its best judgment and uninfluenced by the pendency of the previous petitions. In order to enable this Authority to pass an Order fixing Scale of Rates of TMILL in its best judgment and uninfluenced by the pendency of the previous petitions, the	As the TAMP order of October 2011 is subjudice, and TMILL has not taken cognizance of that order, the rates approved by this Authority in the said order is not being charged by TMILL. Hence considering these rates as base for preparing the proposal may give wrong indication. We would like to reiterate that we are providing all actual physical performance data, till 2012-13, supported by audited accounts and hence this Authority is having all required information for fixing the rates for 2013-16.

	TMILL to furnish an alternate set of cost statement in the prescribed formats drawn up based on the rates approved for TMILL vide Order of October 2011, along with the necessary workings and requisite information.	
(iii).	TMILL in Form – 1 has stated that its pricing strategy is cost based. Please bring out the impact of the anticipated improvement in the productivity on the unit price.	a) The productivity levels with the usage of harbor mobile crane has been taken at a higher level than the present levels as mentioned in Form 1 and included in the rates and conditionalities under Sec.10. b) Also, cost of double stacking of iron ore to the user has been avoided under Sec.10/Sec.7. c) Optional rate on ₹ 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 proposed productivity levels as against existing productivity levels. If existing productivity levels is considered then rate per mt would increase.
(iv).	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 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.	This has been already explained in the proposed Scale of Rates wherein the existing and proposed scale of rates are given with explanation for change. Reason for changes in conditionalities are also explained in the proposed SOR.
(v).	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 indicated that it targets to achieve a shipday output of 4400 MT. This benchmark level of productivity may be included in the Scale of Rates as a conditionality governing the respective tariff items.	The rates of Harbour Mobile Crane has been linked to the productivity levels. All other rates cannot be linked to the same as the productivity levels are dependent on external factors like stowage, vessel type and crane qualities/capacities etc. which are beyond TMILL's control.
(vi).	Rebates and discounts, if any, over the notified ceiling tariff (as approved in the year 2008), allowed by TMILL during the years 2010-11 to 2012-13 may be furnished year wise. Similarly, Rebates and discounts allowed by TMILL during the years 2010-11 to 2012-13 over the tariff approved in the year 2011 also to be furnished.	TMILL has already explained that as per the Clause 2.13 of the tariff guidelines of 2005, it states that the actual and physical performance of the operator will be reviewed for tariff fixation. The guideline also states that the rate prescribed are at ceiling level and the operator may offer rebate/ discount on the same. Hence we would again request this Authority to consider the actual performance for derivation of rates for 2013-16.
(vii).	While passing the Order dated 20 November 2013, the Hon'ble High court has, interalia, observed/ passed Orders	TMILL has not yet applied the Scale of Rates proposed by them as per original proposal submitted on 29th June, 2012 and a revision

	which is reproduced below: "*Since the petitioners say that they have charged at the old rates for the period April 01, 2013 till date and will be charging at such rate or other rate that they deem proper till such time that the TAMP rates are settled and communicated to the petitioners, TAMP should also look into the rate charged during this period and assess whether it is excessive within the meaning of that expression in clause 2.17.4. of the guidelines for regulation of tariff issued on March 31, 2005.*" In order to comply with the direction of the Hon'ble Court by this Authority, the TMILL to furnish the following details with reference to handling of new cargo items or rendering of new services by TMILL at berth no. 12, if any, beyond 1 April 2013, so as to enable us assess the excess if any, within the meaning of the expression contained in clause 2.17.4. of the 2005 guidelines:	(based on advice of this Authority) on 4.12.2013.
(a).	Details of the new cargo items or new services rendered by TMILL at berth no. 12, if any, beyond 1 April 2013.	
(b).	The rates charged by TMILL for the new cargo items or new services rendered.	
(c).	Consent of the users agreeing to the levy of the rate by TMILL on adhoc basis.	
(d).	Basis/ workings in support of the rates so charged.	
(B).	**<u>Comparison of actuals vis-à-vis estimates provided earlier</u>:**	
	Clause 2.13 of the tariff guidelines of 2005 requires review of the actual physical and financial performance at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing the prevailing tariff. In this context and with reference to Form – 7 of the tariff proposal filed by TMILL, the TMILL to clarify/ furnish the following:	
(i).	In the Form – 7, the TMILL has compared the estimates of the years 2009-10 to 2011-12 with the actuals for the said period, whereas the estimates considered in the last tariff Order of October 2011 was for the years 2010-11 to 2012-13. Moreover, none of the figures furnished by TMILL in the estimates column for the years 2010-11 and 2011-12 match with the estimated figures contained in the TMILL review Order of October 2011. The TMILL ,	We have modified Form-7 as per the direction given by this Authority.

<table>
<tr><td></td><td>therefore, to revise the Form – 7, by excluding the figures for the year 2009-10 and instead include the year 2012-13 so as to enable comparison of the estimates for the years 2010-11 to 2012-13 as considered in the Order of October 2011 with the actuals for the corresponding period.</td><td></td></tr>
<tr><td>(ii).</td><td>This Authority vide paragraph no.15(xxii)(g) had considered expenditure towards stacking of Iron ore under the head of expenditure ‘Miscellaneous Operating Expenses’ during the years 2011-12 and 2012-13 at ₹12/- per MT of iron ore cargo subject to verification with actuals during the next review of its tariff. The TMILL to, therefore, furnish documentary evidence in support of the rate of ₹12/- per MT tonne incurred towards stacking of Iron ore.</td><td>The relevant Contract copy is attached.

(The copy of the Service Contract dated 13 September 2010 furnished by the TMILL, reflects a rate of ₹12/- per MT for stacking of cargo).</td></tr>
<tr><td>(iii).</td><td>It may be recalled that this Authority vide paragraph no. 15(xxxii) of the tariff Order of March 2011 had advised the TMILL to gear up its internal system so that it can draw up its proposal supported by cost details for individual activities at the time of next review of its tariff. In this regard, the TMILL to confirm that its proposal is based on the cost details for individual activities.</td><td>We have given activity wise cost details in the cost working sheet “3B-Exp. Working sheet</td></tr>
<tr><td>(iv).</td><td>With regard to the observation made by this Authority vide paragraph no. 15(xLiii) advising the TMILL to review and reclassify the tariff item “Loading/ Unloading/ Restacking” in connection with use of hoppers for unloading and loading of dumpers using hoppers and propose suitable modifications in the unit rates maintaining revenue neutral position, in the next review of its tariff, the action taken by the TMILL to be brought out.</td><td>Hoppers are used sparingly based on customer demand. We have included this activity in Sl.no. 1 of 7.1.</td></tr>
<tr><td>(v).</td><td>The Operating income, Other income and Finance & Miscellaneous Income considered by the TMILL in its Cost statement for the years 2010-11 to 2012-13 do not match with the Income as reflected in the Segregated Accounts of TMILL for the corresponding years. The TMILL to explain the reason for the difference and furnish a Reconciliation statement, reconciling the difference</td><td rowspan="2">The TMILL has attached a reconciliation statement of profit as disclosed in the proposal w.r.t segregated accounts for the years 2010-11 to 2012-13. The details of the Reconciliation statement are given below:

(₹ in Lakhs)
<table>
<tr><th>Particulars</th><th>2010-11</th><th>2011-12</th><th>2012-13</th></tr>
<tr><td>As per Proposal</td><td>424</td><td>(133)</td><td>320</td></tr>
<tr><td>Less: Lower Royalty considered in proposal</td><td>(74)</td><td>(57)</td><td>(78)</td></tr>
<tr><td>Less: Discounted Terminal value not in the segregated accounts</td><td>0</td><td>0</td><td>(0.49)</td></tr>
<tr><td>Add: Provision written back not included in proposal</td><td>69</td><td>52</td><td>0</td></tr>
</table></td></tr>
<tr><td>(vi).</td><td>Similarly, the sum total of operating expenses, depreciation, overheads and finance & miscellaneous expenditure considered by the TMILL in its Cost statement for the years 2010-11 to 2012-13 do not match with the total Expenditure as reflected in the</td></tr>
</table>

<table>
<tr><td></td><td>Segregated Accounts of TMILL for the corresponding years. The TMILL to explain the reason for the difference and furnish a Reconciliation statement, reconciling the difference.</td><td><table><tr><td>As per Segregated Accounts</td><td>419</td><td>(138)</td><td>241</td></tr></table></td></tr>
<tr><td>(vii).</td><td>During the last review of tariff of TMILL, the actual net block of assets for the year 2009-10 was considered at ₹3940.36 lakhs, as per the segregated accounts then furnished by TMILL. Whereas, now as per the Segregated Accounts, the net block of assets as on 31 March 2010 is shown as ₹8786.65 lakhs. The TMILL to explain the reason for the difference and furnish a Reconciliation statement, reconciling the difference.</td><td>Segregated accounts always shows net block of assets for 2009-10 as ₹8786.65 lacs. This value is for the entire assets of Haldia division. In our last proposal sent on 15.09.2010, the actual net block of assets for the year 2009-10 was considered at ₹3946.31 lakhs. The Reconciliation for the Gross Block of Assets as on 01 April 2010 is as follows:<table><tr><th>Particulars</th><th>₹ in Lakhs</th></tr><tr><td>Net Block as on 01.04.2010 as per Segregated Accounts</td><td>8786.65</td></tr><tr><td>Less: Equipment related to Other Berth - Haldia</td><td>(276.79)</td></tr><tr><td>Less: Others</td><td>(21.93)</td></tr><tr><td>Less: Future rent of LL-6 capitalised in Accounts</td><td>(4541.62)</td></tr><tr><td>As per Segregated Accounts</td><td>3946.31</td></tr></table></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>(i).</td><td>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 2010-11 to 2015-16.</td><td rowspan="2">The ship day output of 4400 has been calculated based on actual productivity achieved during past years with escalation. 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.</td></tr>
<tr><td>(ii).</td><td>TMILL has indicated that it targets to achieve a ship day output of 4400 MT. Please 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, please clarify the following:-</td><td></td></tr>
<tr><td>(a).</td><td>The TMILL to furnish actual traffic handled by it during the period from April 2013 to November 2013 of the current financial year 2013-14.</td><td>TMILL handled 560764 MT from April 2013 to November 2013 with following break-up:<table><tr><td>Iron ore</td><td>217473</td></tr><tr><td>Steel (imp)</td><td>83039</td></tr><tr><td>Steel (exp)-SAIL & Others</td><td>4587</td></tr><tr><td>Steel (exp)-TSL</td><td>67994</td></tr><tr><td>Project Cargo</td><td>42438</td></tr><tr><td>Limestone & Pyroxenite</td><td>56639</td></tr><tr><td>Fertiliser</td><td>21895</td></tr><tr><td>Raw Sugar</td><td>71285</td></tr></table></td></tr>
<tr><td>(b).</td><td>TMILL to explain the reasons for assuming no growth in the traffic during the year 2015-16 as compared to the year
2014-15.</td><td>The increase in traffic for 2014-15 has been derived based on the assumption that commissioning of Railway Line at LL-6 will help to handle more volume of Steel and Limestone. We feel that commissioning of this railway line and augmentation of allied infrastructure will take two years' time to stabilize. Hence we have not considered any</td></tr>
</table>

		further increase in traffic for 2015-16 compared to what we have projected for 2014-15.
(c).	The reason for a significant reduction in the traffic of Iron Ore during the years 2013-14 to 2015-16 when compared with the actual for the year 2010-11 to be explained.	Due to various Government policies, Iron Ore export has gone down more than 50% compared to 2010-11. This slowdown in export of Iron Ore has also affected B#12.It is also proven by the actual handling of Iron Ore in 2012-13 i.e. 120414 MT. However, we have projected much higher tonnage in 2013-14 to 2015-16.
(d).	Reduction in the estimated traffic of Limestone during the years 2013-14 to 2015-16 when compared with the actual for the year 2012-13 to be justified.	TMILL handled 118844 MT of Limestone in 2012-13. Based on the actual data of 2013-14, we have estimated a quantity of 100000 MT to be handled during the year. However, we have projected higher volumes in 2014-15 & 2015-16 based on the assumptions that the railway linkage will help us to attract more cargo. Hence the projection is on higher side compared to actual of 2012-13.
(e).	The reduction in the traffic of Fertilisers during the years 2013-14 to 2015-16 when compared with the actual for the year 2010-11 to be justified.	The projection has been made based on present volume and future projections estimated.
(f).	The reason for not anticipating any growth in the traffic of Steel - SAIL & Others during the years 2013-14 to 2015-16 to be explained.	There is no projection from SAIL and no other party besides Tata Steel & SAIL are exporting Steel in break-bulk from Haldia. Please also note that due to high domestic demand of steel, the exports of steel would be affected in upcoming years.
(g).	The significant reduction in the traffic of Raw Sugar imports during the years 2014-15 and 2015-16 as compared to the estimates for the year 2013-14 to be justified.	The projection has been made based on present volume and future projections estimated.
(h).	The reduction in the traffic of Steel/ logs discharge – delivery from plot during the years 2013-14 to 2015-16 when compared with the actual for the year 2010-11 to be justified.	This projection has been made considering the actual figures of 2013-14 wherein we have handled 83039 MT of Steel till November 2013 (Steel/ Logs Discharge-Delivery from jetty + Steel/ log Discharge-Delivery from plot) against our projection of 140000 MT for the whole year. We have also scanned the market and due to the favorable Domestic market both in terms of price and delivery schedule the major parties are not likely to import increased volumes in recent future. Hence we have reduced the quantity.
(i).	The reason for not anticipating any growth in the traffic of Steel/ logs discharge – delivery from jetty during the years 2013-14 to 2015-16 to be explained.	
(j).	The reason for not estimating any traffic of Steel Shipment a/c. Tata Steel to be moved by rail during the year 2013-14 to be explained.	Presently, TMILL does not have a railway connectivity at LL-6, B#12 as HDC, KOPT is yet to provide the railway link. However, HDC has recently started construction of the railway link which will enable TMILL to have own railway siding at LL-6. This construction job will not be completed by 2013-14 and may take substantial time in 2014-15 also. TMILL needs to put other equipment and machineries to make the railway siding fully operational. We also anticipate that we will require few months of time, after commissioning, to complete all documentation and formalities.
(k).	The basis for estimating 25% of the traffic of Steel Shipment a/c. Tata Steel to be moved by rail during the year 2014-15 and 50% of the traffic of Steel Shipment a/c. Tata Steel to be moved by rail during the year 2015-16 to be explained.	

		Considering all these we have made the above estimate.
(l).	The reason for not anticipating any growth in the traffic of project cargo (cargo for which equipment for shore handling will not be provided by TMILL) during the years 2013-14 to 2015-16 to be explained.	The estimate has been made considering the actual tonnage handled in 2013-14 till November'2013 i.e.42438 MT. Moreover, few of the Ultra Mega Power Projects/Mega Power Projects in the vicinity for which we have been handling the import machineries are nearing completion stage. Based on the above we have made the estimate.
(m).	When the TMILL has neither handled any project cargo (shore handling performed by TMILL), Earth moving equipment and Containers during the years 2010-11 to 2012-13 nor has estimated to handle the above mentioned cargo during the years 2013-14 to 2015-16, the reason for proposing continuation of rates to enable handle the said cargo in the proposed draft Scale of rates may be justified. Given that the said cargo items are not proposed to be handled at TMILL, the tariff to handle the above mentioned cargo as prescribed in the proposed draft Scale of rates to be deleted.	Although we have not handled the same in 2010-11 to 2012-13 and have no projections till 2015-16, we are permitted to perform these activities as per the License agreement. Earth Moving Equipment were handled at B#12 in past also. Hence, we would request this Authority to include these items in the Scale of Rates.
(3).	**Operating Income**:	
(i).	Apart from the general increase in rate proposed, the TMILL has also proposed introduction of some new tariff items. The yearwise 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, this Authority may not be in a position to approve the new tariff items.	New tariff items from which revenue are proposed for 2013-14 to 2015-16 are considered for calculating total revenue from new tariff items as per the details given below: (i). Labour Support (incase of Project/ Other package/ Break Bulk cargo) (Section 7.7): Considering volume of 65000 MTs for each of the years 2013-14 to 2015-16 and based on the proposed rate of ₹50/- per MT, the TMILL has estimated to earn an additional income to the tune of ₹32.50 lakhs per annum during the years 2013-14 to 2015-16. (ii). On-board Equipment Operation (applicable on full parcel size) – All Dry Bulk Cargo (Section 11b): Considering volume of 1 lakh MT, 2.50 lakh MT and 2.50 lakh MT for each of the years 2013-14 to 2015-16 and based on the proposed rate of ₹6.50 per MT, the TMILL has estimated to earn an additional income to the tune of ₹6.50 lakhs, ₹16.25 lakhs and ₹16.25 lakhs during the years 2013-14 to 2015-16. (iii). On-board Equipment Operation (applicable on full parcel size) – HRC/ CRC, Plates, Sheets, WRC, Tubes, Pipes (Section 11b) Considering volume of 2.40 lakh MT, 2.75 lakh MT and 3 lakh MT for each of the years 2013-14 to 2015-16 and based on the

		proposed rate of ₹13/- per MT, the TMILL has estimated to earn an additional income to the tune of ₹31.20 lakhs, ₹35.75 lakhs and ₹39 lakhs during the years 2013-14 to 2015-16.
(ii).	In the income calculation based on the existing Scale of Rates furnished by the TMILL, the reason for not estimating any income on account of dispatch related service in respect of Limestone during the year 2013-14 to be justified, in the context of income having been calculated by TMILL for the said service during the years 2014-15 and 2015-16.	TMILL will be able to collect this charge once we start providing the rake loading activities which are directly linked with railway connectivity as explained in 2 (j) & (k). Hence we have not estimated this income in 2013-14.
(iii).	In the income calculation based on the existing Scale of Rates in respect of Limestone, the TMILL has converted the existing per shift rate of ₹6000/- relating to Equipment Assistance Charges for Front end loaders of Bucket Capacity not exceeding 3.5 CBM into a per tonne rate of ₹4.80. This is reported to be based on the assumption of 3.5 shifts per hatch for 5 hatches and a parcel size of 21887 MT. The basis for each of the above assumptions to be furnished.	Hire rate of loader has been taken as per the existing rate. Parcel size has been taken based on the trend of parcels coming to Haldia considering the draft restriction. No. of shifts is based on trend of past years.
(iv).	In the income calculation based on the existing Scale of Rates in respect of Steel/ logs discharge (both i.e. delivery from jetty and delivery from plot), the TMILL has converted the existing per shift rate of ₹12000/- relating to Equipment Assistance Charges for forklifts of capacity between 10 MT and 20 MT into a per tonne rate of ₹10.80. This is reported to be based on the assumption of 3 shifts per hatch for 3 hatches and a parcel size of 10000 MT. The basis for each of the above assumptions to be furnished.	₹10.80 has been considered for Steel Export a/c Tata Steel. Hire rate of forklift has been taken as per the existing rate. Parcel size has been taken based on the trend of parcels coming to Haldia considering the draft restriction. No. of shifts is based on trend of past years.
(v).	In the income calculation based on the existing Scale of Rates in respect of Steel/ logs discharge (both i.e. delivery from jetty and delivery from plot), the TMILL has converted the existing per shift rate of ₹12000/- relating to Equipment Assistance Charges for forklifts of capacity between 10 MT and 20 MT into a per tonne rate of ₹5.65. This is reported to be based on the assumption of 3 shifts per hatch for 4 hatches and a parcel size of 17000 MT. The basis for each of the above assumptions to be furnished.	Hire rate of loader has been taken as per the existing rate. Parcel size has been taken based on the trend of parcels coming to Haldia considering the draft restriction. No. of shifts is based on trend of past years.
(vi).	In the income calculation based on the existing Scale of Rates in respect of Project cargo (both i.e. equipment for shore handling not furnished by TMILL or shore handling performed by TMILL), the TMILL has converted the existing per shift rate of ₹12000/- relating to	Hire rate of Forklift has been taken as per the existing rate. Parcel size has been taken based on the trend of parcels coming to Haldia considering the draft restriction.

	Equipment Assistance Charges for forklifts of capacity between 10 MT and 20 MT into a per tonne rate of ₹18.00. This is reported to be based on the assumption of 3 shifts per hatch for 4 hatches and a parcel size of 8000 MT. The basis for each of the above assumptions to be furnished.	No. of shifts is based on trend of past years.
(vii).	In the income calculation based on the existing Scale of Rates in respect of Project cargo (equipment for shore handling not furnished by TMILL) and in respect of Earth moving equipment, the TMILL has considered a per tonne rate of ₹42/- and ₹69.03 respectively towards Labour support for shore handling. The existing Scale of rates of TMILL does not reflect the said rates towards Labour support for shore handling. The basis on which the above mentioned rates have been considered in the income calculation may be furnished. The reference to the tariff item in the existing scale of rates to be indicated.	The rate of ₹42/MT has been considered against supply of labour during unloading at jetty, unloading at Plot and delivery from plot wherein TMILL is not providing any equipment support. This has been considered based on the existing Loading/Unloading/Re-Stacking rate as per Clause 7.1of the existing SOR. The rate has been moderated compared to the total rate i.e. 53.10*3=159.3 considering that only labour support is provided. To bring in better clarity, we have suggested a new rate of ₹50/MT for labour supply in our proposed SOR in Clause no.7.7. ₹69.03 has been considered for "Unloading & stacking at plot, Loading at the time of delivery" however no tonnage has been considered and hence no income is considered in the calculation.
(viii).	In the calculation of income from Plot rent at the existing level of rentals for the years 2013-14 to 2015-16, the basis for considering the average parcel size, time taken to handle each parcel and the area occupied by each parcel considered by TMILL for each of the cargo item to be explained with detailed analysis/ workings in this regard.	The detail Plot Rent income calculation at the existing level of rentals for the year 2013-14 to 2015-16 has been given in Sheet "Plot Rent Income Calculation".
(ix).	Though the income from plot rental has been calculated at ₹309.70 lakhs during the year 2013-14, the TMILL in the Cost statement has considered an amount of ₹525.05 lakhs as the income from plot rentals. The TMILL is seen to have added an amount of ₹215.35 lakhs to the plot rental income calculated by it. The reason for adding an amount of ₹215.35 lakhs to the plot rental income to be explained.	₹215.35 Lakhs is added as this income has been generated from Unauthorized Plot Occupation charges and we have explained in the proposal sent to this Authority that "Income from plot rent" in 2012-13 and 2013-14 (for 7 months) was higher than estimate due to earning from unauthorized occupation charges. However this may not continue in future.
(x).	In the calculation of income from hire of Harbour Mobile Crane (HMC) at the existing level of tariff for the years 2013-14 to 2015-16, the basis for considering different per day productivity of HMC for each cargo, different percentage of usage of HMC for each cargo may be explained with detailed analysis/ workings in this regard.	We have calculated the actual usage of 2012-13 and 2013-14 and estimated the usage for the years 2013-14 to 2015-16 based on the same. Discharge rates are estimated based on past discharge rates trend. The HMC utilization as given by the TMILL for the years 2012-13 and 2013-14 (upto December 2013) is as follows: <u>Year 2012-13:</u>

Cargo	Total Quantity handled	Quantity handled by HMC	% of HMC usage
Fertiiser	13658	9541	70%
Limestone	118444	107088	90%
Project cargo	83509	13137	16%
Iron Ore	120414	102217	85%
Raw Sugar	143614	41915	29%
Steel Export	222329	21776	10%

Year 2013-14 (Upto December 2013):

Cargo	Total Quantity handled	Quantity handled by HMC	% of HMC usage
Fertiiser	21895	10570	48%
Limestone	56639	29601	52%
Project cargo	49111	1873	4%
Iron Ore	251631	215418	86%
Raw Sugar	71285	4725	7%
Steel Export	74603	12445	17%

(4).	**Operating Cost**:	
(i).	**Operating and Direct Labour**:	
	With reference to the operating and direct labour, TMILL to clarify/ furnish the following:	
(a).	To furnish documentary evidence in support of the stevedoring expenditure of ₹500 lakhs in respect of the year 2012-13.	Bill details supporting expenditure of ₹49251081/- is attached. Balance amount of ₹748919/- has been taken as provision against gratuity.
(b).	In the calculation of Loader and Forklift operator cost, the TMILL has reported to have considered the rate of ₹27225 per person per month as applicable for the year 2012-13 as base and applied an escalation factor of 7% to determine the rate for the year 2013-14. In this regard, the TMILL to furnish documentary evidence in support of the rate of ₹27225 per person per month.	Calculation is furnished. The calculation has been made based on the Charter Of Demand (COD) agreed by the labour unions and approved by Assistant Labour Commissioner. The copy of the COD is also attached. (The copy of the Memorandum of Settlement is dated 23 July 2013 and makes a mention about the settlement being exclusively for the Crane Operator and Supervisor and would be in force from 01 April 2012 till 31 March 2015. The Settlement makes a mention about escalation in the wage structure of about 29% approximately over the existing wage rate.)
(c).	In the calculation of Loader and Forklift operator cost for the year 2013-14, the TMILL has also factored the arrear impact of the year 2012-13 to the tune of ₹21 lakhs. In this regard, the TMILL to clarify/ furnish the following:	The calculation for the arrear amount has been furnished. However, the actual figure is coming as ₹13.64 Lakhs. This Authority may take this as cost.
(i).	Workings in support of the amount of ₹21 lakhs.	
(ii).	The reason for factoring the arrear impact of the year 2012-13 in the estimates for the year 2013-14 alone.	

(iii).	Given that the segregated Accounts for the year 2012-13 would include the provision of the wage arrears, consideration of the impact in the estimates for the year 2013-14 would amount to double counting.	
(d).	In the calculation of Trailer driver cost, the TMILL has reported to have considered the rate of ₹22554 per person per month as applicable for the year 2012-13 as base and applied an escalation factor of 7% to determine the rate for the year 2013-14. In this regard, the TMILL to furnish documentary evidence in support of the rate of ₹22554 per person per month.	The calculation has been furnished.
(e).	In the calculation of Trailer helper cost, the TMILL has reported to have considered the rate of ₹19164 per person per month as applicable for the year 2012-13 as base and applied an escalation factor of 7% to determine the rate for the year 2013-14. In this regard, the TMILL to furnish documentary evidence in support of the rate of ₹19164 per person per month.	The calculation has been furnished.
(ii).	**Maintenance labour & Security cost:**	
	In the calculation of Maintenance labour & Security cost, the TMILL has reported to have considered the rate of ₹20808 per person per month as applicable for the year 2012-13 as base and applied an escalation factor of 7% to determine the rate for the year 2013-14. In this regard, the TMILL to furnish documentary evidence in support of the rate of ₹20808 per person per month.	The calculation has been furnished.
(iii).	**Equipment running cost**:	
(a).	<u>Repairs & Maintenance Cost</u>:	
(i).	TMILL to justify considering an increase of over 200% in the estimation of repair and maintenance cost for the year 2013-14 when compared with the actual repair and maintenance cost for the year 2012-13.	Please note that we incurred an expenditure of ₹230.13 Lacs in 2011-12 for repair and maintenance charges. As explained in our application sent to this Authority, repair jobs planned in 2012-13 got extended to 2013-14. Moreover the Harbour Mobile Crane is also ageing and maintenance cost has gone up substantially. We also require to change the Engine. Considering all these factors we have considered the R&M cost as above.
(ii).	TMILL to confirm that one-time repair expenses have not been factored in the cost estimates.	Cost estimates are made based on the trend of actual expenses.
(b).	<u>Equipment registration cost</u>:	
	TMILL to furnish documentary evidence to support the payment of ₹10.41 lakhs towards Equipment registration during the year 2012-13.	₹10.41 Lacs consists of several bills for which we have made a summary based on the relevant ledger.

		(The TMILL has furnished the summary of the Road Tax, Fitness, Port Permit charges for the financial year 2012-13.)
(iv).	**Royalty:**	
(a).	As per the provisions of the Licence Agreement entered by TMILL with KOPT, the TMILL is required to pay royalty 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 royalty for the years 2013-14 to 2015-16, it is seen that the TMILL has considered the KOPT's 4% special levy also to determine the royalty payment for each of the cargo. In this connection, it is relevant to mention here that the special levy has been available in KOPT for quite some time. Even then, during the revision of tariff of TMILL in the past, the special levy component as applicable to KOPT was not included to the per tonne rate for each of the cargo. In such a scenario, the reason for now including the special levy component in the calculation of royalty cost to be justified by the TMILL.	We have not considered any special rate levied by KOPT for calculation of royalty. Royalty calculation has been done based on the actual royalty payment made to HDC, KOPT. These figures are also audited by independent auditors and reports are submitted to KOPT on yearly basis.
(b).	The existing Scale of Rates of KOPT does not prescribe On-board supervision charges. In this context, the reason for calculating royalty by including On-board supervision charges in case 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 we have disputed the same based on relevant clause/s of the License agreement. However the matter has been referred to an Arbitration Tribunal. The arbitration is still going on and decision is pending from the tribunal.
(c).	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, 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.	
(d).	TMILL is seen to have claimed the entire amount paid/ payable by it to KOPT towards Royalty/ Revenue share as admissible cost for all the years 2013-14 to 2015-16. In this regard, it may be noted that the maximum admissibility of royalty/ revenue share will be to the extent of the percentage quoted by the second highest bidder for	We request this Authority to consider the figure calculated in "Form 3A" against Royalty. We have made the calculation based on the 2005 Guideline as mentioned by this Authority.

	the period after 31 March 2005, as stipulated in the 2005 guidelines.	
(e).	It is not clear how the rate of ₹79.17 per MT towards loading onto dumper at the time of shipment has been considered in the royalty 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.	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.
(f).	It is not clear how the rate of ₹4.00 per MT towards equipment assistance has been considered in the royalty 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.	
(g).	It is not clear how the rate of ₹196 per MT, ₹11.80 per MT, ₹5.31 per MT and ₹13.82 per MT 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 royalty calculation 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.	
(h).	It is not clear how the rate of ₹51 per MT, ₹51 per MT and ₹35 per MT towards Loading at siding, unloading at siding and transportation respectively, has been considered in the royalty 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.	
(i).	It is not clear how the rate of ₹42.00 per MT towards on shore labour charges has been considered in the royalty 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.	
(j).	In the calculation of the royalty cost in respect of the plot rentals, the TMILL is seen to have arrived at the royalty cost by considering the plot rental income as base and then dividing the figure by 47.91 and thereafter multiplying by 60.7. A brief note on this adjustment to be furnished, clarifying the calculation.	
(v).	**Equipment Hire Charges**:	

(a).	With reference to the estimated hire charges, the TMILL has not furnished workings to arrive at the hire charges of ₹12 lakhs for the year 2013-14. The TMILL to furnish the requisite workings.	The actual expense till November'2013 was ₹7.62 Lacs. We have estimated ₹12 Lacs based on the same. (The contract copy furnished by the TMILL dated 11 September 2013 reflects an amount of ₹12000/- per shift for a Big Loader. It is not clear how this rate works out to the hire charges of ₹12 lakhs.)
(b).	If the hire charges has been estimated based on a contract, copies of the relevant contract agreement in support of the rate of hire charge considered in the workings, to be furnished.	
(vi).	**Lease rentals**:	
	During the last revision, lease rentals was considered in case of 14000 sq. mtrs of hardstand land allotted by KOPT to TMILL at the rate of ₹34.24 per sq. mtr for the year 2011-12. Similarly, the lease rentals incase of 54000 sq. mtrs of land and 9000 sq. mtrs. of land was considered each at the rate of ₹22.02 per sq. mtr for the year 2011-12. By applying an escalation factor of 5%, the rate that would be leviable during the year 2012-13 would work out to ₹35.95 per sq. mtr for 14000 sq. mtrs of hardstand land and ₹23.12 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 ₹36.07 per sq. mtr for 14000 sq. mtrs of hardstand land and ₹21.59 per sq. mtr. in case of both 54000 sq. mtrs of land and 9000 sq. mtrs. of land. TMILL to clarify the reason for the difference	54000 & 9000 Sq.M.— As per agreement with HDC, KOPT for operating at 54000 Sq.M. and 9000 Sq.M. land, co-terminus with B#12, annual increment clause is 5% (which as per the Land Policy Guidelines was 2%) and for timely payment a rebate of 2.5% is given by the Port. The same has been considered in our calculation as cited above. TMILL had taken up with the KOPT for revising the land allotment conditions in line with the then prevailing Land Policy Guidelines and Schedule of Rent of KOPT. This issue is pending for resolution for quite some time now. TMILL had calculated the Plot Rent as per the payments made by it. 14000 Sq.M.---- We have considered the actual amount paid to HDC, KOPT for 2012-13 as ₹60,59,136/- based on which ₹36.07/Sq.Mtr. has been derived. In this case there is no rebate even if timely payment is made.
(vii).	**Insurance**:	
(a).	The estimates of insurance cost for the years 2012-13 may be justified with reference to actual payment made to insurance company. A copy of the Agreement entered into with insurance company (ies) to be furnished.	The TMILL has furnished copies of bills paid against insurance charges amounting to ₹29 lakhs.
(b).	The estimated insurance cost for the year 2013-14 is found to be higher by around 98% as compared to the actuals for the year 2012-13. TMILL to justify the estimated increase considered.	We have taken the actual figure till November'2013 which is ₹18 Lacs and based on that rectified the earlier figure of ₹54 Lacs to ₹29.52 Lacs.
(viii).	**Other expenses**:	
(a).	<u>LSD/ Unlashing:</u>	
	The TMILL to furnish the copies of the contract to support the rate for LSD/ Unlashing considered at ₹125/- per MT in respect of Steel Shipment a/c. Tata Steel and ₹16/- per MT each in respect of Steel/ logs Discharge - Delivery from jetty, Steel Discharge - Delivery from plot and Project cargo.	For Lashing, break-up of ₹125/- is as following: a) Material: ₹105 per MT +VAT and b) Labour: ₹16/- (The Work Order copy dated 13 September 2012 furnished by the TMILL reflects an amount of ₹105/- per MT towards supply of both dunnaging and lashing. Another Work Order copy dated 29 July 2013 furnished by

		the TMILL reflects an amount of ₹16/- per MT towards manpower for unlashing of imported cargo or lashing of export steel cargo.)
(b).	<u>Sticker/ Tag writing/ Colour coding services:</u>	
	In the calculation of cost relating to Sticker/ Tag writing/ Colour coding services, the TMILL has reported to have considered the rate of ₹17814 per person per month as applicable for the year 2012-13 as base and applied an escalation factor of 7% to determine the rate for the year 2013-14. In this regard, the TMILL to furnish documentary evidence in support of the rate of ₹17814 per person per month.	The salary of people engaged in the above activity is same as Trailer Helpers. The monthly salary would be ₹19171. We are modifying the same accordingly.
(c).	<u>Despatch related Services:</u>	
(i).	The reason for not estimating the said expenditure for the year 2013-14 to be explained, when it has been estimated for the years 2014-15 and 2015-16.	TMILL is planning to handle Limestone dispatch through Rakes from LL-6, B#12 once the railway siding is operational. We plan to do the same from 2014-15 and hence the cost has been estimated accordingly.
(ii).	The basis for considering a rate of ₹18 per MT in respect of limestone may be explained.	Dispatch related services will start at B#12 only after commissioning of Railway Line. We have projected quantity to be handled by rail in 2014-15. The cost for 2014-15 for the said activity has been estimated based on current market rates.
(iii).	If the rate has been estimated based on a contract, copy of the relevant contract agreement in support of the rate considered in the workings, to be furnished.	
(d).	<u>Intraport Transportation:</u>	
(i).	The basis for calculation of Intraport Transportation cost with reference to the per tonne rate of ₹65/- in case of limestone, ₹70/- in case of steel shipment (TATA steel) and ₹65/- in case of Iron ore considered for the year 2013-14, to be furnished. If this activity is outsourced, the contract copy, in this regard, to be furnished	(The document furnished by the TMILL in this regard is an intimation dated 06 April 2013, received by the TMILL from its vendor prescribing the rate for Intraport transportation for dry bulk cargo from LL6 plot to jetty at berth no.12 or vice a versa at ₹65/- per MT, with effect from 01 January 2013.) Further in view of new Charter of Demand made w.e.f. Sep'13, the vendor is claiming for further hike. Based on the same we have estimated IPT rates for Iron Ore, Limestone and Steel.
(ii).	The basis for considering 5% of the estimated traffic of TATA Steel for intraport transportation to be furnished.	We have modified the same. (The earlier 5% has been modified to 40%. However, the basis for considering 40% of TATA Steel for intraport/transportation has been not been explained by TMILL)
(e).	<u>Survey Expenses:</u>	
	The basis for calculation of Survey expenses with reference to the per tonne rate of ₹2.62 in case of limestone, ₹10.80 in case of steel shipment (TATA steel), ₹3.50 in respect of Steel discharge, ₹6/- in respect of project	(The Work Order copy dated 10 April 2013 furnished by the TMILL reflects a rate of ₹1.25 per MT towards draft supervision, vessel discharge, supervision of limestone at Haldia port and ₹1.37 per MT towards despatch supervision of limestone by rail to JSR from

	cargo discharge – delivery from wharf and ₹1.50 in case of Iron ore considered for the year 2013-14, to be furnished. If this activity is outsourced, the contract copy, in support of the rate for each of the cargo item to be furnished.	Haldia port, thus aggregating to ₹2.62 per MT. Another Work Order dated 12 April 2013 furnished by the TMILL reflects various per tonne rates towards preshipment inspection charges for HRC, CRS, HRS, slabs, CRcoils, tube, pipes, billet etc., ranging from ₹4/- per MT to ₹12/- per MT. the TMILL seems to have considered an average of ₹10.80 per MT for Steel as a whole. The Work Order copy dated 05 April 2013 furnished by the TMILL reflects a rate of ₹3.50 per MT towards supervision of discharge and delivery of import steel cargo. The Work Order copy dated 05 April 2013 furnished by the TMILL reflects a rate of ₹6/- per MT towards supervision of discharge and delivery of import project cargo, machineries, equipment etc. The Work Order copy dated 05 April 2013 furnished by the TMILL reflects a rate of ₹1.50 per MT towards supervision of receipt, shipment and documentation of iron ore.
(f).	<u>Clearing and Forwarding:</u>	The Work Order copy dated 24 June 2010 with a validity period till 31 March 2012 furnished by the TMILL reflects a rate of ₹4.25 per MT towards C&F job for Break Bulk Export.
(i).	The basis for considering the per tonne rate of ₹4.25 towards Clearing and Forwarding expenses in case of steel shipment (TATA steel) for the year 2013-14 to be furnished.	
(ii).	If the rate has been estimated based on a contract, copy of the relevant contract agreement in support of the rate considered in the workings, to be furnished.	
(g).	<u>Miscellaneous Operational Expenses:</u>	
	It is not clear how the cost towards slings and gears have been estimated for the year 2013-14. It is not seen to be based on the actuals for the year 2012-13. The TMILL to clarify the position.	We have taken per MT cost for 2012-13, on actual, which is ₹7.62/MT. Based on the same we have calculated the estimate for 2013-14 by considering 7% WPI and projected tonnage.
(ix).	**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 concession agreement as the case may be.	Construction of Railway Line has already started and we have already made investment. The same is expected to be commissioned by 2014-15. It is difficult to project exact date of commissioning as the construction of our Railway line is linked with the completion of HDC, KOPT's proposed railway link to LL-6 for which the construction has already started. Other investments proposed by us are closely related to the construction of the Railway line and hence exact date of commissioning can't be specified now. However, while calculating the depreciation we have estimated the timelines and accordingly calculated depreciation based

<table>
<tr><td></td><td></td><td>on Companies Act/ Management estimation.</td></tr>
<tr><td>(x).</td><td>General Overheads:</td><td></td></tr>
<tr><td></td><td>The TMILL is seen to have applied an escalation factor of 6.5% in the estimation of general overheads during the years 2013-14 to 2015-16, over the actual for the year 2012-13. The TMILL to review the expenditure with reference to 7% escalation, if it so desires.</td><td>We have modified the same.</td></tr>
<tr><td>5.</td><td><u>Finance & Miscellaneous Income</u>:</td><td></td></tr>
<tr><td>(i).</td><td><u>Terminal Value</u>:</td><td></td></tr>
<tr><td></td><td>The workings for arriving at the value of discounted terminal value for each of the years under consideration to be furnished.</td><td>Considering PLR rate of 14.75% for the year 2013-14 to 2015-16, the terminal value has been considered.</td></tr>
<tr><td>(ii).</td><td><u>Others:</u></td><td></td></tr>
<tr><td>(a).</td><td>The nature of income considered under this head of income to be listed out.</td><td rowspan="2">₹43 Lakhs considered for 2012-13 consists of ₹3 lakhs of <u>Write back</u> whereas the major balance amount of ₹40 Lakhs is related to the <u>interest accrued from the Fixed Deposit</u> made by TMILL as per Court Order related to TAMP orders of 2011. As per the direction of the Hon'ble Court, TMILL has deposited the difference between the Old rate and New rate in a Schedule bank.

We can't estimate any income on these for future years as this will depend on the final outcome of the pending court cases.</td></tr>
<tr><td>(b).</td><td>The reason for not estimating any income under this head during the years 2013-14 to 2015-16 to be furnished, given that there has been some amount of income under this head during the past.</td></tr>
<tr><td>6.</td><td><u>Finance & Miscellaneous Expenses</u>:</td><td></td></tr>
<tr><td></td><td>TMILL to furnish detailed workings for the estimated contribution to provident fund for all the years under consideration.</td><td>The projection for FY'14 to FY'16 has been made considering actual of FY'13 with inflation as per TAMP's guidelines. We have modified the calculation accordingly.</td></tr>
<tr><td>7.</td><td><u>Capital employed</u>:</td><td></td></tr>
<tr><td></td><td><u>Fixed Assets</u>:</td><td></td></tr>
<tr><td>(i).</td><td>The value of gross fixed assets at the beginning of the year 2012-13 as considered in the Form – 4A does not match with the gross value of assets shown in the segregated accounts for the year 2012-13. Similarly, the value of net fixed assets at the end of the year 2012-13 as considered in the Form – 4A does not match with the net value of assets shown in the segregated accounts for the year 2012-13. The reason for considering values other than that reflected in the segregated accounts to be explained. A reconciliation statement may be furnished reconciling the difference.</td><td>Balance sheet of segregated accounts consists of assets belonging to the total Haldia establishment. The Reconciliation for the Gross Block of Assets as on 01 April 2012 is as follows:
<table>
<tr><th>Particulars</th><th>₹ in Lakhs</th></tr>
<tr><td>Opening as on 01.04.2012 as per Form 4A of proposal</td><td>4963</td></tr>
<tr><td>Add: Equipment related to Other Berth - Haldia</td><td>272</td></tr>
<tr><td>Add: Office Equipment, Furniture, Fixtures & Vehicles</td><td>70</td></tr>
<tr><td>Add: Future rent of LL-6 capitalised in Accounts</td><td>5954</td></tr>
<tr><td>As per Segregated Accounts</td><td>11259</td></tr>
</table></td></tr>
<tr><td>(ii).</td><td>Since the year 2013-14 is almost over, the TMILL to furnish documentary evidence in support of the estimate made during the year 2013-14 i.e.</td><td>The details of expenses made are given below:
<u>Purchase of Equipment</u>:</td></tr>
</table>

	providing of railway link at LL – 6 and purchase of equipment.	Purchase Order copy dated 07 October 2013 for purchase of SDLG Wheeled Loader for ₹35.70 Lacs is furnished by the TMILL. <u>Railway Line</u>: From the copy of the KOPT Letter dated 04 September 2013, furnished by the TMILL, it is understood that the Order for execution of work relating to construction of Railway tracks including embankment from Common users siding near Chiranjibpur Level Crossing leading to TMILL siding has been placed by KOPT with the Contractor on 03.09.2013 with a scheduled completion period of 10 months, and that the total cost of ₹7.02 crores is to be borne by KOPT and TMILL equally. The TMILL is seen to have already made a payment of ₹1.76 crores towards 50% of its share, as seen from the copy of the Treasury Receipt furnished by the TMILL.
(iii).	The equipment purchased/ proposed to be purchased during the year 2013-14 to be listed out with values for each equipment. The TMILL has stated that the said equipment would increase the efficiency of cargo handling. The efficiency improvement in the cargo handling may be quantified.	
(iv).	The present status in respect of additions proposed for the year 2014-15 to be furnished.	We floated enquiries for constructing the Railway Line at LL-6, B#12. We are in the process of selecting the successful bidder and issue work order so that the job can be started.
(v).	The equipment purchased/ proposed to be purchased during the year 2014-15 to be listed out with values for each equipment. The TMILL has stated that the said equipment would increase the efficiency of steel handling. The improvement in efficiency in steel handling may be quantified.	We have planned to buy 2 nos.32 MT heavy duty Forklifts for handling steel cargo. This will improve the quality of handling and reduce damages. The improvement in efficiency is difficult to project at this stage.
(vi).	The status of action initiated in respect of additions proposed for the year 2015-16 also to be intimated.	We are yet initiate action on the same.
(vii).	It may be noted 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.	We have not considered any work-in progress.
7.	**<u>Working Capital</u>**:	
(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.	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 to arrive at the working capital. The TMILL to consider current liabilities before arriving at the figure of working capital.	No Current liability should be considered for deriving ROCE as Debtor is considered as NIL.
D.	**<u>Scale of Rates</u>**:	
(i).	The TMILL has formulated its proposed Scale of Rates considering an increase over the existing tariff at TMILL. The	The productivity levels with the usage of harbour mobile crane has been taken at a higher level than the present levels as

	additional services/ facilities proposed to be provided to the users and the benefit of productivity improvements accruing to users justifying this hike to be listed out.	mentioned in Form 1 and included in the conditionalities 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 Rupee 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 proposed productivity levels as against existing productivity levels. If existing productivity levels is considered then rate per MT would increase.
(ii).	Please furnish detailed working with cost elements considered to arrive at the charges proposed towards wharfage, on-board charges, on-board supervision, loading/ unloading/ restacking, transportation and miscellaneous charges for each of the cargo items. Such detailed working also to be furnished in respect of tariff for new cargo items proposed to be introduced by TMILL as given in the proposed draft Scale of Rates.	Detailed costing for each sub activity is practically impossible. Many rates proposed in the Scale of Rates are aligned to the actual sub-contracted costs and/ or market rate.
(iii).	The TMILL has proposed to modify the existing definition of 'on board and on shore supervision'. In this context, TMILL to confirm whether the proposed modification to the definition will be in harmony with the existing services listed under schedule of 'on board supervision'.	We have excluded Cleaning of jetty, water sprinkling and hatch/ deck cleaning charges from the scope of On-Board Supervision and included in Miscellaneous Charges. This will give a better clarity and options for the user to pay for the services when they want to take from us.
(iv).	The rate of interest in the proposed note 3(vii)(b) to be updated in line with the prevailing Prime Lending Rate of State Bank of India.	We have updated the same to 14.75% from previous rate of 12.75%.
(v).	TMILL to explain the reasons for prescribing rates for handling containers when the TMILL does not anticipate any container traffic for the years under consideration and has stated in Form – 5B that no container is projected at the berth during the concerned period.	Sometimes, as a part of Project cargo consignments, few containers may be needed to be handled at berth no.12. Hence, a specific rate for container handling is proposed.
(vi).	The TMILL at sl. No.1, 3 and 4 of Section 4.1 has proposed to widen the scope of the tariff category by including some new cargo items. In this connection, the TMILL to confirm whether the cost of rendering service to the new cargo items so included, is not less than the cost of rendering service to the existing cargo items under the said tariff category.	New cargoes added in Sl. No. 1, 3 and 4 of Section 4.1 has been done considering similar nature of cargo wherein the cost of handling will be similar. For example, handling cost of Iron Ore Pellet will be similar to handling cost of Iron Ore.
(vii).	The reason for shifting the cargo item 'Bag cargo' from existing sl.no.3 to the proposed sl.no.4 of Section 4.1, which has the effect of proposing a reduction	We have done this regrouping considering that Bag cargo is similar to Break-Bulk cargoes. However, we have not estimated any quantity against this head and hence there is

	of around 14% in the existing wharfage rate of Bag cargo, to be clarified. The financial implication arising out of the said shifting to be quantified and furnished year wise.	no financial implication.
(viii).	The TMILL at sl.no.2 and 3 has proposed deletion of some cargo items. The reason for the deletion to be explained.	We have not deleted but renamed the "all types of ore" category.
(ix).	The reason for shifting the cargo item 'Bag cargo' from the existing sl.no.2 to the proposed sl.no.2 of Section 5.1, which has the effect of proposing an increase of over 116% in the existing wharfage rate of Bag cargo, to be clarified. The financial implication arising out of the said shifting to be quantified and furnished year wise.	Same as point no. (vii)
(x).	While carrying out the rationalization of Section 5.1, the reference to the term 'log' is seen to have been deleted. The reason for the deletion to be clarified, given that logs are proposed to be handled at Berth no. 12.	We have modified the same and included "Log" in Sl.No.2 of 5.1.
(xi).	The TMILL at sl. No. 2 of Section 5.1 has proposed to widen the scope of the tariff category by including some new cargo items. In this connection, the TMILL to confirm whether the cost of rendering service to the new cargo items so included, are not less than the cost of rendering service to the existing cargo items under the said tariff category.	New cargoes added in Sl. No. 2 of Section 5.1 has been done considering similar nature of cargo wherein the cost of handling will be similar. For example, Handling cost of HRC/ CRC, Steel Slabs etc. will be similar to handling cost of Iron and Steel
(xii).	The description of the residual clause at proposed sl. no. 6 of Section 5.1 and proposed sl.no.7 of Section 6.1, appears to be erroneous. TMILL to propose a correct description.	Sl.no. 6 of Section 5.1 details the cargoes which TMILL can't handle at B#12 as per the License Agreement. The same has also been listed in Sec 3.xii. For Sl.no.7 of Section 6.1, the same logic as above is relevant.
(xiii).	The rate of <u>₹110 per MT</u> proposed to be introduced at sl. no. 6 of Section 5.1 for all cargo not specified, to be justified with cost details supported by necessary workings. The financial implication arising out of the said proposed rate to be quantified and furnished year wise.	Machineries and other over dimensional cargoes imported, sometimes do not fall under the <u>project cargo</u> category as per custom classification and hence they are grouped under "<u>Other Cargo</u>". We have proposed same rate as for Project cargo and have not considered any separate volume under this head.
(xiv).	The method of handling car, any rubber tyre vehicle and earth moving equipment for rendering on board service to be intimated since the TMILL now proposes to handle by slings (Ref sl.no. 5 of Section 5.1).	Slings are used for discharging these cargoes wherein sling of adequate capacity is tied at appropriate points of the machine.
(xv).	The rate of <u>₹185 per MT</u> proposed to be introduced at sl. no. 7 of Section 6.1 for all cargo not specified, to be justified with cost details supported by necessary workings. The financial implication	Machineries and other over dimensional cargoes imported, sometimes do not fall under the <u>project cargo</u> category as per custom classification and hence they are grouped under "<u>Other Cargo</u>". We have proposed

	arising out of the said proposed rate to be quantified and furnished year wise.	same rate as for Project cargo and have not considered any separate volume under this head
(xvi).	A brief note explaining the reason for proposing introduction of new cargo entry 'Iron ore and all types of ore (rate includes high stacking wherever necessary – double stacking will be avoided' as sl. no. 2 in Section 7.1 to be furnished, when the TMILL proposes to levy the same rate as applicable to sl.no. 1 of Section 7.1.	We are proposing high stacking to be included in the "Stacking" rates to give better efficiency to our valued customers. We have also proposed in 7.6 that "Wherever high heaping at plot is needed or done by TMILL at the time of receipt of export iron ore / iron ore pellets or at the time of discharging of import cargo like limestone or other ores, charges for such high heaping will be same as loading/ unloading/ stacking charges. (Earlier it was under Miscellaneous charge head. Now if after receipt and stacking of cargo high heaping is done, additional high heaping charges will be levied.)". This is aimed to improve our efficiency and pass on the benefit to the customer
(xvii).	The reason for deleting the existing conditionality under Section 7.1 which states that 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, to be explained. The financial implication arising out of the proposed deletion of note to be quantified and furnished year wise.	Hoppers are used sparingly based on customer demand. We have included this activity in Sl.no. 1 of 7.1. However, we have not considered any quantity against this and hence there is no financial implication.
(xviii).	The TMILL has introduced a new note under proposed Section 7.1 to the effect that wherever high heaping at plot is needed or done by TMILL at the time of receipt of export iron ore / iron ore pellets or at the time of discharging of import cargo like limestone or other ores, charges for such high heaping will be same as loading/unloading/stacking charges. In this regard, the TMILL has stated that earlier it was under Miscellaneous charge head and that now it is proposed that if after receipt and stacking of cargo high heaping is done, additional high heaping charges will be levied. The TMILL to justify proposing the said note by giving a brief note explaining the existing position as well as the proposed position. The financial implication arising out of the said proposed note to be quantified and furnished year wise.	Same as point no. xvi.
(xix).	The reason for introducing a new note under proposed Section 7.1 to the effect that wherever only labor support is provided by TMILL and no equipment support is provided, consolidated rate of ₹50/- PMT will be applicable towards provision of labor for shore handling activity in case of project / any other	We have proposed the rate based on market rate and overall cost position of TMILL at B#12. The market rate for project cargo where this activity is used is much higher i.e. ₹88/- per MT. The relevant circular prescribing a rate of ₹88/- per MT for Project cargo is furnished by the TMILL.

	package / break bulk cargo, to be explained. The basis for the proposed rate of ₹50/- per MT to be furnished with cost details and necessary workings.	
(xx).	While combining the existing sl.no.1 and 2 of Section 9.1 and instead proposing a common sl.no.1 in the proposed Section 8.1, the reference to the term 'bag cargo' is seen to have been deleted. The TMILL has not proposed any rate for bagged cargo in the proposed Section 8.1. The rate that may be levied on bagged cargo arriving at berth no. 12 to be indicated with cost details and necessary workings. The financial implication in this regard to be quantified and furnished year wise.	We have included "bagged cargo" in Sl.No.2 of 8.1. However, we have not estimated any quantity and hence there is no financial implications.
(xxi).	Under the proposed Section 8.1, the TMILL has introduced a new sl.no. 4 enabling it to levy ₹260/- per MT incase of Project cargo and machinery & spares including their packages weighing greater than 20 tonnes and upto 35 tonnes. The basis for the proposed rate of ₹260/- per MT to be furnished with cost details and necessary workings. The financial implication in this regard to be quantified and furnished year wise.	The rate has been quoted considering the nature of the cargo which requires special types of vehicles alongwith safety arrangements. Market rate of transportation for such cargo has also been considered. However, we have not projected any volume under this head and hence there is no financial implications.
(xxii).	Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 7 proposing levy ₹6600/- per shift towards Equipment Assistance Charges for IT-12 Caterpillar. The basis for the proposed rate of ₹6600/- per shift to be furnished with cost details and necessary workings. The financial implication in this regard to be quantified and furnished year wise.	The proposed rate is normally 10% higher than current market rate. Since proposal is for 3 years, 10% higher rate is proposed. No income under this head has been proposed.
(xxiii).	Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 11(a) proposing levy ₹17600/- per shift towards Equipment Assistance Charges for forklifts of capacity above 20 MT. The basis for the proposed rate of ₹17600/- per shift to be furnished with cost details and necessary workings. The financial implication in this regard to be quantified and furnished year wise.	We are deploying forklift above 20 MT for steel handling and hence a new rate has been proposed for the same. The rate has been proposed based on the proposed rate of Forklift with capacity between 10-20 MT. Higher capacities Forklift has higher Fuel consumption besides higher maintenance cost. The rate has been proposed considering the same. No income under this head has been proposed.
(xxiv).	Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 11(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 basis for the proposed rates to be furnished with cost details and necessary workings. The financial implication in	These rates are proposed for convenience of the users who often like to have per MT rates for handling cargo. The rates are proposed based on actual past figures and escalating the same considering a 3 years period. The financial implication is furnished, as discussed earlier.

	this regard to be quantified and furnished year wise.	
(xxv).	The TMILL vide sl. no. 12 (a) and (b) in the proposed Section 10.1 has proposed Equipment Assistance Charges for 104 tonne Harbour Mobile Crane on shift basis and per tonne rates for various types of craro, respectively. In this regard, the following information/ clarification to be furnished:	We had earlier proposed a rate of ₹1,25000 / Shift based on detailed working. We have proposed a hike of 20% to cover the increased operational expenses. The TMILL has also furnished a calculation sheet, based on actual cost and usage of the crane for 2012-13 for deriving per shift rate at ₹150000/-.
(a).	The workings to support the per shift rate of ₹150000/-	
(b).	This Authority under which the TMILL is levying the per shift rate of ₹125000/- to be explained.	TMILL has furnished copies of some correspondences pertaining to the year 2008, when it had approached TAMP with a proposal for fixation of a shift based rate for HMC at ₹125000/-. The documents do not reflect any approval accorded by TAMP for the shift based rate for HMC at ₹125000/-.
(c).	The workings in support of the per tonne rate of ₹56.25 in respect of Iron Ore and Limestone, ₹73.77 in case of Fertiliser and other bulk cargo, ₹136.36 in case of HRC/CRC Imports, ₹112.50 in case of Steel Export and ₹529.41 in case of Project Cargo.	We have proposed the per MT rate based on the different productivity of various cargoes as given in Form 1, Sl.No.2.
(d).	The reason to propose simultaneous levy of rate on shift basis and per tonne basis to be justified. It may be noted that in all cases relating to prescription of rates for use of HMC at various major port trusts, only a per tonne rate has been approved.	This is for the convenience of the various user and also to protect the interest of TMILL. We handle cargoes like project cargo, machineries, over dimensional cargo etc. wherein the discharge rate is very low compared to Coal which we are not allowed to handle at B#12. Also we need to ensure the safety of the cargo considering the price attached to it. Hence we need a per shift rate to recover our cost. Even for other cargoes the deployment of crane increases due to reason beyond the control of the terminal operator i.e. poor stowage, delay in receipt of material, weather delay etc. wherein with a per MT rate it would be difficult to recover the cost and make justified profit. Hence we request this Authority to consider our proposal.
(e).	The financial implication in this regard may be quantified and furnished year wise.	The financial implication is as per Form 2B(ii) of Income Calculation.
(xxvi).	Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 16 proposing a levy ₹5.20 per MT towards Cleaning of Jetty/ hatch/ deck and water sprinkling for bulk Cargo Handling wherever necessary for bulk cargo handling. The basis for the proposed rate to be furnished with cost details and	This activity has been taken out from the scope of "On-Board Supervision" and kept as a separate item as explained in point no. (iii).

	necessary workings. The financial implication in this regard to be quantified and furnished year wise.	
(xxvii).	The reason for proposing modification to the existing rebate conditionality to be explained.	This has been done to bring better clarity for the customers.

7. The KOPT was requested vide our letter dated 20 December 2013 to furnish its specific comments on some points arising out of the TMILL proposal. While seeking the specific comments, the KOPT was also requested to verify the segregated accounts of TMILL pertaining to the years 2009-10 to 2012-13 and furnish its comments. When the KOPT was reminded in this regard, vide our letter dated 31 December 2013 , the KOPT vide its letter dated 31 December 2013 has stated that they have not received copies of the segregated accounts of TMILL for the years 2009-10 to 2012-13. Though the copies of the segregated accounts of TMILL for the years 2009-10 to 2012-13 were forwarded to KOPT vide our letter dated 20 December 2013, the same were again forwarded to KOPT under cover of our letter dated 01 January 2014 in view of the request made by the KOPT. The KOPT vide its letter dated 09 January 2014 has furnished its interim comments on the specific points, pending examination of the segregated accounts. The specific points raised by us and the reply of KOPT thereon are tabulated below:

Sl. No.	Points made by us	Interim Comments of KOPT
(i).	Traffic forecast made by TMILL for the years 2013-14 to 2015-16.	As per records TMILL has handled 6,15,846 MT of Cargo during the period from 1 April 2013 to 31 December 2013. Accordingly, the projection of 7,65,000 MT cargo for the year 2013-14 made by TMILL appears to be lower. If the handling in last nine month is taken as a base, the projected handling for 2013-14 should be around 8,20,000 MT. However, if TMILL has any specific reason for projecting lower cargo traffic for the balance period of the current fiscal, they may explain the same in details to TAMP for appropriate consideration. For 2014-15 and 2015-16, TMILL has projected traffic of 9,15,000 MT per year. The same appears to be in order.
(ii).	Utilization of land allotted by KOPT to TMILL for computing the plot rent income for all the years under consideration.	It is difficult for KOPT to comment on the proposed utilization of plots. However, from the details submitted by TMILL along with payment of provisional royalty, the following position regarding income from Plot Rent and unauthorized occupation charges emerges:

<u>PLOT RENT INCOME DETAILS OF TMILL (INCULDING INCOME FROM UNAUTHORISED OCCUPATIONS)</u>	
(AS PER DETAILS SUBMITTED BY TMILL ALONG WITH PROVISIONAL PAYMENT)	
Nov-13	2330600
Oct-13	3776876
Sep-13	11561083
Aug-13	14042671
Jul-13	13085635
Jun-13	11394563
May-13	9369599

<table>
<tr>
<td></td>
<td></td>
<td>
<table>
<tr><td>Apr-13</td><td>10077569</td></tr>
<tr><td>Total:</td><td>75638596</td></tr>
</table>

Based on the above statistics, the income from Plot Rent and unauthorized occupation is likely to exceed ₹10.00 crore in current fiscal. That being so, the plot rent income of ₹309.70 lacs projected by TMILL for 2013-14 appears to be understated. The said estimation of ₹309.70 lacs for 2013-14 (at current rates) appears to include only Plot Rent Income and not income from unauthorized occupation, even though TMILL is indicating substantial earning from unauthorized occupation charge in their declaration made with payment of provisional royalty. For the period 2014-15 and 2015-16 also, the estimation of plot rent income (₹367.55 lacs per year at current rates) does not seem to include the unauthorized occupation charges.
</td>
</tr>
<tr>
<td>(iii).</td>
<td>The existing Scale of Rates of KOPT do not prescribe On-board supervision charges. In its calculations showing royalty, the TMILL has included On-board supervision charges in case of Limestone, Steel Shipment (TATA Steel), Steel/ Logs discharge from jetty and plot each, Mobile and Immobile Project cargo each for all the years under consideration. 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, TMILL had 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.</td>
<td>As per the License Agreement royalty is payable on actual revenue earned by TMILL. For the services for which rates are prescribed in the Scale of Rates of KOPT; TMILL is required to pay royalty considering rates prescribed in KOPT's Scale of Rates as per License Agreement. For services, which are not covered by KOPT's SoR, TMILL is required to pay royalty on actual revenue earned. The independent auditor is also determining royalty considering the aforesaid principle.

The above being so, royalty against on board supervision charge is payable on the basis of actual revenue earned by TMILL, as per the License Agreement. TMILL is however, disputing that royalty is payable in this account and the said dispute, along with other disputes, are presently under Arbitration.

The arbitration between KOPT and TMILL has not concluded as yet.</td>
</tr>
<tr>
<td>(iv).</td>
<td>The investment proposed by TMILL during the years 2013-14 to 2015-16.</td>
<td>TMILL has not provided the details of their plan of proposed investments. Accordingly, it is not possible for KOPT to comment on the investment proposed to be made by them as shown in the cost statement. However, an order has already been placed by KOPT to provide Railway connectivity to Berth No.12 and TMILL has agreed to bear a part of the said cost. Accordingly, investment for development of Railway Yards etc. inside the TMILL area by TMILL is expected in the coming year to reap the benefit of the railway connectivity. So far as the other expenditure projected by TMILL, we are unable to offer any comments in absence of any details.</td>
</tr>
</table>

8.1. A joint hearing in this case in reference was held on 10 January 2014 at the KOPT premises in Kolkata. The TMILL made a power point presentation of its proposal. At the joint hearing, TMILL, KOPT and the concerned users/ organization bodies have made their submissions.

8.2. Based on the submissions made by the KOPT at the joint hearing and as agreed by the TMILL, TMILL was requested to furnish the details of the Fixed Deposit and its full-fledged audited accounts from the year 2010-11 onwards to KOPT. In this regard, it was understood from the KOPT letter dated 22 January 2014 addressed to TMILL and with a copy endorsed to us, that as decided at the joint hearing, TMILL did not furnish the details of the fixed deposit and its full-fledged audited accounts from the year 2010-11 onwards to KOPT. The TMILL was, therefore, reminded to furnish the requisite information to KOPT vide our letter dated 24 January 2014.

8.3. As agreed at the joint hearing, the KOPT was also requested vide our letter dated 15 January 2014 to furnish its final comments on the TMILL proposal within 10 days after receipt of the requisite information from TMILL and also to furnish a brief note on the Arbitration matter relating to royalty aspect, along with its final comments on the TMILL proposal. After a reminder dated
27 February 2014, the KOPT vide its letter dated 11 March 2014 has responded. A copy of the comments of the KOPT was forwarded to TMILL for its comments. The TMILL vide its letter dated 14 March 2014 has responded. The submissions made by the KOPT and the response of the TMILL thereon are tabulated below:

Sl. No.	Submissions of KOPT	Comments of TMILL
(i).	**<u>Brief note on the Arbitration matter relating to royalty aspect:</u>**	
(a).	In terms of the License Agreement, TMILL is required to pay KOPT (HDC) royalty per month at the percentage level set out in the license agreement of the actual revenue earned by TMILL during the month. It is further provided that for the purpose of computation of royalty the applicable tariff as per prevailing Scale of Rates of KOPT would be considered. The final royalty amount would be computed after completion of annual period of 12 months on the basis of actual revenue earned by the licensee during the concerned period, duly certified by the Independent Auditor. Based on the final annual royalty amount so computed vis-a vis provisional amount earlier paid by TMILL the additional amount of royalty receivable KOPT, HDC or amount of excess receipt refundable by KOPT, HDC would be assessed and to be acted upon by TMILL or KOPT/HDC as the case may be. This will however be subject to the condition that from 4th annual period of license the licensee shall have to guarantee annual royalty payment at a percentage level of the actual annual revenue earned by it (duly certified by the Independent Auditor) or ₹1.6 crores whichever is higher.	It is to mention that the License Agreement states that for the purposes of computation of royalty, the applicable tariff as per prevailing Scale of Rates of the licensor would be considered.
(b).	M/s Ray & Ray, Chartered Accountants, was appointed as the Independent Auditor and TMILL is required to obtain	The contention of KOPT that TMILL has failed to adhere to the timelines for submission of Royalty Audit report certified

	the annual Royalty Audit Report at the end of every 12 months period within a period of 45-days immediately on completion of every 12 months period. However, TMILL has failed to adhere to the time stipulation and submitted the Royalty Audit Report in respect of 1st three years of operation much after due date.	by M/s Ray & Ray, in respect of 1st three years of operation, is not based on facts. As per the provision of License Agreement TMILL was supposed to submit to KOPT a panel consisting of at least 3 reputed firms or companies or body corporate or a combination thereof having necessary expertise for being appointed as Independent Auditor within 30 days from the date of signing License Agreement, KOPT was supposed to appoint the Independent Auditor from out of such panel within 30 days from the date of receipt of such panel. KOPT has failed to adhere to these guidelines of the license agreement and responsible for delay in selection of Independent Auditor. This has contributed mostly for the delay in submission of Royalty Audit Report.
(c).	TMILL had objected the final Audit Report of 1st three years, submitted by the Independent Auditor and raised several points regarding the method adopted by Independent Auditor for calculation of Royalty. The differential Royalty Bills along with interest as certified by the Independent Auditor in the Audit Report for 1st three years were raised by Manager (Finance) and the same were also disputed by TMILL. The disputes were referred to a Committee for amicable settlement. However, the amicable settlement had failed and TMILL was asked to liquidate the differential Royalty Bills.	It is agreed to the extent that these are facts and under consideration of the Arbitration Tribunal.
(d).	Meanwhile, the 4th year Royalty Audit Report for the period from 29.01.2005 to 28.01.2006 was submitted by TMILL vide letter dated 31.01.2009. As per the report TMILL is liable to pay ₹1,16,95,625/- against short payment of royalty. However, TMILL have submitted the report under protest.	It is agreed to the extent that these are facts and under consideration of the Arbitration Tribunal.
(e).	The Bank Guarantee worth ₹1.5 crores submitted by TMILL was encashed by KOPT/HDC in April 2009 as TMILL was not paying the differential Royalty determined by Independent Auditor.	It is to mention that encashment of Bank Guarantee worth ₹1.5 crores by KOPT/HDC is against the principles of the License Agreement.
(f).	The disputes raised by TMILL in respect of four years Audit Report was finally referred to Arbitration.	It is agreed to the extent that these are facts and under consideration of the Arbitration Tribunal.
(g).	Sri S. Sathyam, former Chairman, TAMP has been appointed as Arbitrator on behalf of KOPT for the said Arbitrations. Shri Ajit Kr. Sengupta, former Justice of Kolkata High Court was appointed as Arbitrator by TMILL while Justice (Retd.) Chittatosh Mukherjee, former Chief Justice of Kolkata High Court and Mumbai High Court has been appointed as Presiding Arbitrator in the instant	

	Arbitrations. Meanwhile, TMILL vide their letter dated 10.07.09 had again requested to refer the entire dispute for amicable settlement. However, since the Arbitration process has already been initiated and Sri S. Sathyam has already been appointed as Arbitrator vide this office letter dt. 15.06.09 their request was not accepted and all the disputes raised by TMILL were referred to Arbitrations. Meanwhile, the Independent Auditor had submitted the Royalty Audit Report for 5th and 6th year against which TMILL have again raised objections which are more or less similar in nature to the objections raised against Royalty Audit Report for the first four years.	
(h).	KOPT's raised the differential royalty bill as certified by Independent Auditor in respect of 5th and 6th years of Audit Report and accrued interest thereon as per provision of the License Agreement and referred the Bills for Arbitration as TMILL have already referred the earlier bills against differential Royalty to the Arbitration. KOPT also referred the other disputes, raised by TMILL against 5th & 6th year's Audit Report, to on going Arbitrations. All other disputes raised by KOPT like incorporation of TMILL as SPV, segregation of accounts in respect of Berth No.12 as per Accounting Standard AS-17 to ascertain the actual revenue earned by TMILL from the activities at Berth No. 12, etc. were also referred to the on-going Arbitration along with all monetary claims of KOPT which might arise in future.	
(i).	Total 43 sittings of the case have already been held. The Advocate of KOPT has already completed submission on behalf of KOPT. Meanwhile TMILL has filed Affidavit for giving evidence through two witnesses which have been objected by KOPT. However, after penalising TMILL with the cost of ₹10,000/- (to be paid to KOPT) Arbitrate Tribunal has allowed filing of Affidavit by TMILL. The examination and cross examination of the witnesses has also been concluded. Presently, the advocate of TMILL is continuing with his arguments on the case. The next dates of hearing are scheduled on 05.04.2014 when the advocate of TMILL is to continue with his arguments.	
(ii).	**Fixed Deposits made by TMILL in terms of Order of Hon'ble Calcutta High Court:**	
	TMILL has submitted a certificate issued	The desired details as asked by KOPT has

<table>
<tr><td></td><td>by S P Chatterjee & Co. Chartered Accountants certifying that TMILL has made Fixed Deposit amount to ₹6,79,83,857.00 in terms of the order of the Hon'ble High Court at Calcutta.

(The KOPT has forwarded to us the copy of the certificate submitted by TMILL. The Audit Certificate certifies that as per the Order of the Hon'ble High Court of Calcutta dated 5 July 2011 and subsequent Order dated 9 December 2011, the TMILL has made short term fixed deposit of ₹6,79,83,857/- with a nationalized bank till 31 March 2013).</td><td>been provided.</td></tr>
<tr><td>(iii).</td><td><u>Other Comments:</u></td><td></td></tr>
<tr><td>(a).</td><td>The Independent Auditor, in its reports earlier, had indicated non-maintenance of Log Book by TMILL for utilization of equipments other than the MHCs. As per the License Agreement as well as requirements of assessing the royalty, TMILL is required to maintain details of deployment and utilization of its equipment, which they have been failing in spite of reporting of the Independent Auditor as well as the advice of HDC, KOPT. Under the circumstances, proposal of TMILL for shift wise charge for equipment assistance/hire is superfluous and does not hold merit. TMILL may be advised by TAMP to submit details of equipment utilization for the past years to assess the position appropriately.</td><td>As per Independent Auditor (IA) Report for last three years i.e. 10-11, 11-12 and 12-13, Royalty on Equipment charges have been considered and calculated on shift basis and same has been calculated by IA on the basis of log book maintained by TMILL.

Per shift hire rate of equipment is necessary for pay-loaders, forklifts and other Heavy Earth Moving equipment since these are used for hatch finishing in case of dry bulk cargo, stowing in case of steel loading for export and taking out cargo from hatch coaming in case of project/steel imports or as per need.

Charging on shift basis for such special needs is an integral part of operations and therefore is not superfluous. KOPT is earning royalty on the same as per following details taken from IA report:
<table>
<tr><th>Sl. No.</th><th>Royalty Year</th><th>Income from Equipment Hire Charges**</th><th>Royalty on Equipment Hire Charges**</th></tr>
<tr><td>1</td><td>29/01/10 to 28/01/11</td><td>5,46,75,899.00</td><td>57,76,508.73</td></tr>
<tr><td>2</td><td>29/01/11 to 28/01/12</td><td>2,79,16,600.00</td><td>29,49,388.79</td></tr>
<tr><td>3</td><td>29/01/12 to 28/01/13</td><td>2,49,86,199.00</td><td>25,44,789.16</td></tr>
</table>

** May be noted that this also includes equipment hire charges for the HMC. As per details out of the above equipment hire charges, the equipment hire from equipments other than HMC is given below:
<table>
<tr><th>Sl. No.</th><th>Royalty Year</th><th>Income from Equipment Hire Charges other than HMC</th></tr>
<tr><td>1</td><td>29/01/10 to 28/01/11</td><td>19,85,899.00</td></tr>
<tr><td>2</td><td>29/01/11 to 28/01/12</td><td>30,36,600.00</td></tr>
<tr><td>3</td><td>29/01/12 to 28/01/13</td><td>48,66,199.00</td></tr>
</table>

Therefore per shift rate is not superfluous but</td></tr>
</table>

		necessary for (i). Operational Requirement (ii). As required by customer (iii). Royalty Payment to KOPT
(b).	Section 6.1(b) & (f) under "On-Board Supervision charge" include service of "dunnaging of export cargo" and "placement and removal of dunnages at jetty during discharge" as such TMILL may clarify on the charges for "placement and removal of dunnages for steel cargo wherever customer demand / needed" proposed by them under section 10.1(13).	"On-Board Supervision charge" as per Section 6.1.(b) & (f) includes the following activity: (a). 'dunnaging of export chargo' – this is related to the securing, lashing and dunnaging activity inside the hatch of the vessel. This is required to ensure the safety of the cargo during voyage. (b). 'placement and removal of dunnages at jetty during dishcarge' – when the steel cargo is discharged there is requirement to keep the same on dunnages in the jetty to avoid damage to the cargo. Section 10.1(13) deals with 'placement and removal of dunnages for steel cargo wherever customer demand/needed' – This is valid for both import and export of steel. TMILL need to keep the cargo at plot on dunnages as per requirement of customer so to ensure that there is no damage during storage. In case of export whenever steel cargo is received for storage, TMILL need to keep them on dunnages at plot/warehouse as per requirement of customer. During delivery of import steel, there are requirements of providing dunnage. However, this activity is entirely different from the activity stated in Section 6.1.(a) & (f).
(c).	Similarly, in view of proposing charges for "high heaping of bulk cargo at plot" (as laid under section 10.1(15)), the provisions under section 7.6 should be done away with, since the tariff under section 10.1(15) has been proposed by TMILL itself.	Under section 10.1(15)), TMILL has proposed to delete 'high heaping of bulk cargo at plot'. However, it is mentioned under 7.6 as under: "7.6. Wherever high heaping at plot is needed at the time of receipt of export iron ore/iron ore pellets, the same is included in one time stacking charges (Earlier it was additionally leviable under Miscellaneous charge head which was ₹24.24/t). **However, if after receipt and stacking of cargo high heaping is done, then additional re-stacking charges will be levied**." Hence, TMILL has proposed that if there is requirement from customer of additional re-stacking then the same service will be provided and necessary charges will be levied. Hence this clause should remain as proposed by TMILL.
(d).	In both the paragraphs of Note (ii) under	TMILL agrees to deletion of 'KOPT' term

<table>
<tr><td></td><td>section 9, the term KOPT should be deleted.</td><td>from the note (ii) of clause under section 9.</td></tr>
<tr><td>(e).</td><td>TMILL has also submitted a reconciliation statement detailing Royalty paid provisionally, Royalty assessed by the Independent Auditor and Royalty charged in the Audited Accounts as expense. As per the said statement, Independent Auditor has determined Royalty of ₹8.93 crore (approx) for the three financial years of 2010-11, 2011-12 and 2012-13 while TMILL has charged ₹9.246 crores as Royalty in the accounts as expense. TMILL has indicated that they have actually paid ₹7.889 crore royalty to KOPT for the said period. As it appears TMILL is continuing with their practice of charging the royalty determined by Independent Auditor as expense in their Accounts but not paying the same to KOPT, which is unacceptable. However, the reason for difference in the royalty determined by the Independent Auditor and royalty charged to Accounts is not clear. TMILL may be advised to explain the same.

(The KOPT has furnished the copy of the letter submitted by TMILL in this regard. The details of the royalty payment for the years 2010-11 to 2012-13 as seen from the letter of TMILL to KOPT is given below:
<table>
<tr><th>Particulars</th><th>2010-11</th><th>2011-12</th><th>2012-13</th><th>Total</th></tr>
<tr><td>Royalty assessed by the Independent Auditor as per SOR (Note 2)</td><td>276.12</td><td>217.40</td><td>288.18 (Note 1)</td><td>781.7</td></tr>
<tr><td>Royalty assessed by the Independent Auditor as per Revenue (Onboard Supervision) (Note 2)</td><td>34.11</td><td>31.25</td><td>46.75</td><td>112.11</td></tr>
<tr><td>Royalty paid by TMILL during FY 11 – FY 13
a). 2,65,92,859/-
b). 2,29,41,754/-
c). 2,93,63,506</td><td></td><td></td><td></td><td>788.98</td></tr>
<tr><td>Royalty charged as Expenses in TMILL books</td><td>326.85</td><td>253.66</td><td>344.13</td><td>924.64</td></tr>
</table>
Note:
1. Royalty Audit completed for the period upto 29 January 2013. February and March 2013 figures are computed as</td><td>As applicability of Royalty on Onboard Supervision is in arbitration stage provision of Royalty on onboard supervision amounting to ₹1.12 crore in last three years from FY 10-11 to 12-13 has been kept. Royalty determined by IA and charged to accounts should be same but as Royalty Report is usually submitted after closure of financial year, an excess provision of ₹30 lacs (approx.) is there.</td></tr>
</table>

	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 whereas the financial year is April to March. Hence, to arrive at the calculation on 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.)	

9. In the meanwhile, based on the application filed by this Authority, the Hon'ble Court has been pleased to extend the time to finalise the Schedule of Rates applicable to the TMILL for the period from April 2013 to March 2016 for a further period of three months from the date
i.e. 28 February 2014.

10. At our request, the TMILL vide its letter dated 21 March 2014 has forwarded the Fixed Asset Schedule pertaining to Berth no.12 for the years 2010-11 to 2012-13, Capital Employed and reconciliation of Lease rent payable for the years 2010-11 to 2015-16.

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

12. With reference to the totality of 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 25 March 2011. In the said tariff Order, this Authority had effected a reduction of 32.29% in the then existing tariff of TMILL. With reference to an application filed by TMILL to review the tariff Order of March 2011, this Authority vide its Order dated 11 October 2011 disposed the review application filed by TMILL. The Order of October 2011 effected an across the board reduction of 17.87% in the tariff of TMILL fixed in March 2008, as compared to the earlier reduction ordered at 32.29% in the tariff Order of March 2011 and revised the charges for hire of mobile harbour crane to ₹35.30 per MT from the earlier approved rate of ₹24/- per MT.

As brought out in the earlier part of the Order, the TMILL has challenged the tariff Orders of March and October 2011 in the Hon'ble High Court of Calcutta. The Hon'ble High Court has stayed the operation of the Orders and has directed the Petitioners to charge at the old 2008 rates and to deposit the difference between the old rates and the new rates month by month in short term fixed deposits in a Nationalised Bank with regular intimation to this Authority. The writ petition is yet to be disposed of by the Hon'ble Court. In the meanwhile, TMILL filed another Writ Petition in the Hon'ble Court in October 2013, interalia, praying for fixing a new SOR for TMILL to be applicable with effect from 1 April 2013 to 31 March 2016 based on the proposal filed by it in June 2012. In this regard, the Hon'ble Court on 20 November 2013 after considering submission made on behalf of parties have disposed the petition directing this Authority to fix the new scale of rates for TMILL for the period April 2013 to March 2016 on its best judgment and without getting influenced by the previous petitions.

The TMILL in its submissions has stated that the Hon'ble High Court has permitted TMILL to charge the old rate as per TAMP order TAMP/55/2007 or other rate that deem proper. In this regard, it is relevant to mention here that the TMILL has brought out only a part of the Order of the Hon'ble Court. The complete operative part of the Order of the Hon'ble Court has been brought out in the earlier part of this tariff order.

Accordingly, the exercise of fixation of tariff of TMILL for the years 2013-14 to 2015-16 has been undertaken in the best judgment of this Authority and without getting influenced by the pendency of the previous writ petitions filed by the TMILL in the Hon'ble High Court of Calcutta, as directed by the Hon'ble High Court.

(ii). At our request, the TMILL in December 2013, has filed its proposal for general revision of its Scale of Rates for the period from April 2013 to March 2016 updating its earlier proposal filed in June 2012. This updated proposal was taken up for consultation with the relevant users/ user organisations. Thereafter, in January 2014, while responding to the queries raised by us, the TMILL has made some slight changes to its cost statement forming part of its proposal of December 2013. The revised cost statement furnished by TMILL under cover of its letter dated 31 January 2014 alongwith the additional information/ clarifications 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 Major Port Trusts and 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 2010-11 to 2012-13. Thus, it is necessary to make a comparison of the estimates for the years 2010-11 to 2012-13 with that of the actuals for the said years. For the said purpose, the estimates for the 2010-11 to 2012-13 as contained in the tariff Order of March/ October 2011 are to be taken into account.

As brought out in the factual position relating to the case, due to stay granted by the Hon'ble High Court on the operation of tariff Order of March and October 2011, and the matter being subjudice, it was not found possible to consider the estimates contained in the said Order for the purpose of past period analysis for the period from 2010-11 to 2012-13 and without which, the tariff for the future cycle 2013-14 to 2015-16 could not be determined and therefore, the proposal of TMILL furnished in June 2012 could not be processed then.

However, based on the position that this Authority has now been directed by the Hon'ble High Court to fix the tariff of TMILL for the years 2013-14 to 2015-16 without getting influenced by the pendency of the previous writ petitions filed by the TMILL, the estimates for the years 2010-11 to 2012-13 as considered in the tariff Order of March and October 2011 are taken into account for carrying out the exercise for assessing the past performance of TMILL for the years 2010-11 to 2012-13, in line with the policy prescription contained in Clause 2.13 of the 2005 Guidelines, notwithstanding the stay granted by the Hon'ble High Court on the tariff Orders of March and October 2011. The TMILL has stated that it has considered the rates approved in March 2008 as "existing rates". In this regard, it has to be kept in view that the tariff fixed in October 2011 are only stayed by the Hon'ble High Court. The October 2011 tariff Order has not been set aside by the Hon'ble High Court. In fact, as rightly observed by KOPT, the difference between March 2008 (higher) rates and October 2011 (lower) rates is required to be deposited in the Fixed Deposit by TMILL. This Authority has not been restrained from considering the estimates containing in the tariff order of October 2011/March 2011. The estimates forming part of the tariff Order of March/ October

2011 are considered and compared with reference to the actuals for the corresponding years, so as to assess the past performance of TMILL.

(iv). As was done in the earlier occasions, the KOPT was requested to verify and furnish its comments on the audited Segregated Accounts of TMILL. Inspite of a specific request, the KOPT has not furnished its comments on the Segregated Accounts of TMILL. The KOPT has made a mention about referring the matter relating to incorporation of TMILL as a SPV, segregation of accounts in respect of Berth no. 12, the on-going Arbitration. In this connection, it has to be recognised that 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 him include the results of all his operations. The basic requirement of BOT cases is that the successful bidder to a port project has to form a Special Purpose Vehicle (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, the onus of certifying the Segregated accounts squarely rests on KOPT. We presume that KOPT has no serious objection to the Segregated Accounts presented by TMILL, or else, it should have brought out this position while furnishing its comments on the TMILL proposal. 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 2010-11 to 2012-13 is given below:

(a). As brought out earlier, this Authority in its tariff order of October 2011 has effected an across the board reduction of 17.87% over the then prevailing tariff, to be effective from the effective date of implementation of the Order dated 25 March 2011. However, as per the decision of the Hon’ble Court, the TMILL continues to charge the tariff fixed in March 2008 and deposit the differential between the 2008 tariff and the 2011 tariff in Fixed Deposits. Thus, the income shown in the Segregated Accounts of TMILL for the years 2010-11 to 2012-13 reflects the income collected by TMILL based on the 2008 level of tariff. Since this Authority has to fix tariff without getting influenced by the pendency of the previous writ petitions filed by the TMILL, and keeping in view clause 2.13 of the tariff policy guidelines, the income for the years 2010-11 to 2012-13 has to be taken into account based on the reduced level of tariff approved in October 2011. In view of this position, the TMILL was requested to furnish an alternate set of Income/cost statements drawn up based on the rates approved for TMILL vide Order of October 2011. However, on the ground that TMILL has not taken cognizance of Order of October 2011 and that the rates approved in the said order is not being charged by TMILL, TMILL has not furnished the alternate set of Income/cost statement, as requested by us. In view of this position, the exercise of assessing the past performance of TMILL for the years 2010-11 to 2012-13 is carried out based on the information available on the records of this Authority.

(b). In compliance of the direction of the Hon’ble Court, the TMILL has been intimating us from time to time about the details of the Fixed Deposits being created by it every month, beginning from 24 June 2011 towards the difference between the amount collected by TMILL (based on the 2008 tariff) and the amount of income based on the 2011 tariff. The differential income for the years 2011-12 and 2012-13, based on the details of the fixed deposits furnished by the TMILL works out to ₹371.08

lakhs and ₹308.75 lakhs respectively. This amount of the fixed deposit is reduced from the operating income reflected in the Segregated Annual Accounts for the years 2011-12 and 2012-13 respectively, so as to arrive at the income based on the reduced level of tariff approved in October 2011.

Since the tariff fixing exercise cannot recognize the discounts/ rebates allowed by the private operator at his discretion, the TMILL was specifically requested to furnish the details of the Rebates and discounts, if any, allowed by TMILL during the years 2010-11 to 2012-13. Though the TMILL has responded to the query, it has not categorically denied of allowing any discounts/ rebates during the years 2010-11 to 2012-13. Considering the position that the discounts/ rebates have been allowed by the TMILL in the previous tariff cycle, it may not be incorrect to assume that the TMILL would have offered discounts/ rebates during the years 2010-11 to 2012-13 also.

However, since detailed workings have not been furnished by the TMILL with regard to the calculation of operating income realisable from various activities for the years 2010-11 to 2012-13, it is not found possible to determine the operating income based on the rates approved in October 2011, so as to not recognise the impact of rebates/ discounts. In view of this position, it may not be unreasonable to consider the amount of rebates/ discounts to the tune of 15% of the operating income as determined in the preceding paragraph. If the TMILL is of a view that quantum of rebates/ discounts considered is on the higher side, the TMILL may approach this Authority to the limited extent of reviewing the quantum of component relating to rebates and discounts considered in this analysis.

Further, to have a like to like comparison between the actuals and the estimates, the estimated income for the period from the effective date of implementation of the Order dated 25 March 2011 to 31 March 2013 is modified to reflect the reduction effected.

(c). TMILL has actually handled a cargo traffic of 1193775 MTs, 850112 MTs and 727870 MTs during the years 2010-11 to 2012-13 respectively, as against the estimated cargo traffic of 1251502 MTs each during the corresponding years. Thus, as against the estimated aggregate cargo traffic of 3754506 MTs, the TMILL has actually handled 2771757 MTs of cargo. The reduction in the cargo traffic actually handled works out to around 26.18%.

(d). As seen in the Segregated Accounts for the years 2010-11 to 2012-13, 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 uniform approach adopted in respect of other tariff cases of major port trusts and private terminals. Since, the provision of expenses is not treated as an item of expenditure, the amount of provision added back is also not treated as an item of income. Thus, the Finance & Miscellaneous income comprises of income from the head miscellaneous income to the tune of ₹0.04 lakhs, ₹150.02 lakhs and ₹0.05 lakhs as reflected in the Segregated Accounts for the years 2010-11 to 2012-13.

(e). The Segregated Accounts for the years 2011-12 and 2012-13 reflect provision for bad and doubtful debts to the tune of ₹16.85 lakhs and ₹26.16 lakhs respectively. The said expenses are excluded in line with the approach adopted uniformly in respect of other tariff cases of major port trusts and private terminals.

(f). 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 2010-11 to 2012-13 reflect an amount of ₹326.85 lakhs, ₹253.66 lakhs and ₹344.13 lakhs respectively as revenue share. The KOPT as well as the TMILL have reported about a dispute prevailing 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 ₹310.23 lakhs, ₹248.65 lakhs and ₹334.93 lakhs for the years 2010-11 to 2012-13 whereas, the TMILL is seen to have made a revenue share payment to the tune of ₹265.93 lakhs, ₹229.42 lakhs and ₹293.64 lakhs. Therefore, the differential amount to the tune of ₹44.30 lakhs, ₹19.23 lakhs and ₹41.29 lakhs is treated as the disputed amount. In line with the approach adopted during the last review of tariff of TMILL in 2011, 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 as per then prevailing Scale of Rates of KOPT. In other words, 76.91% of Revenue share payable by TMILL (i.e. 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 2010-11 to 2012-13.

(g). 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 2010-11 to 2012-13 are considered in the past period analysis.

(h). There is a difference in the amount of depreciation considered by TMILL in the Cost statement for the years 2010-11 to 2012-13 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 last 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 2010-11 to 2012-13 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 2010-11 to 2012-13 as furnished by the TMILL is relied upon in the analysis.

(j). The position 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. 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.

The payment of Security Deposit for the lands allotted to TMILL are 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 was considered during the last review of tariff of TMILL. The same is considered in the analysis.

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. The TMILL has considered 50% of the repairs and maintenance as Inventory, as considered during the last review. On the same lines, 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 last tariff review of tariff of TMILL.

(iv). The TMILL has not furnished the current liabilities for the years 2010-11 to 2012-13. 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 2010-11 to 2012-13 in the analysis to calculate current liability.

(v). The Working Capital for the years 2010-11 and 2011-12 works out to ₹112.10 lakhs and ₹35.18 lakhs respectively. In the year 2012-13, since the Current Liabilities is 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 year 2012-13. Thus, the Capital Employed works out to ₹3835.69 lakhs, ₹3510.63 lakhs and ₹3196.68 lakhs for the years 2010-11

to
2012-13 respectively.

(k). In the last tariff Order of October 2011, Return on capital employed was allowed at 16% for the years 2010-11 to 2012-13. 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 2010-11 to 2012-13 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 2010-11 to 2012-13	Aggregate of Actuals for the years 2010-11 to 2012-13	% Variation
Traffic (in MTs)	3754506	2771757	-26.18%
Op. Income	8742.05 *	8177.75	-6.45%
Total Exps (incl. Depn)	7200.27	7182.22	-0.25%

***** The operating income estimates are adjusted to reflect the across the board reduction of 17.87% in the then existing rates of TMILL.

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

Particulars	2010-11	2011-12	2012-13	Average
Actual Surplus (deficit) before Return earned by TMILL	893.87	-205.99	410.08	365.99
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	23.30%	-5.87%	12.83%	10.41%

(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, the actual physical performance is seen to be more than (-) 20%. The TMILL has sought to explain that the traffic for the year 2010-11 mainly comprised of iron ore and due to various Government Policies iron ore export has gone down thereby drastically reducing the iron ore traffic since the year 2011-12 onwards. With reference to financial performance, the TMILL has not earned the entitled return of 16% per annum. If the eligible return of 16% considered at the estimate stage and actual return of 10.41% are compared, the variation in this financial performance works out to around (-) 35%. Therefore, in terms of the stipulation contained in Clause 2.13, there is a case to adjust 50% of the past deficit pertaining to the years 2010-11 to 2012-13 in the current tariff cycle of TMILL.

(c). A summary of the surplus/ deficit position for the years 2010-11 to 2012-13 is given below:

(₹ in lakhs)

Years	Amount
2010-11	280.16
2011-12	-767.69
2012-13	-101.39
	-588.91
50% to be set off in future tariff	**-294.46**

(d). As per Clause 2.13 of the tariff guidelines the past surplus / deficit is to be set off prospectively. Since the year 2013-14 is already over, the adjustment relating to past deficit can only be effected from the year 2014-15 onwards.

(e). Further, as mentioned in the Review Order of TMILL of October 2011, it may be recalled that three instalments of the additional surplus over and above the admissible return and permissible cost assessed for the period from 2007-08 to 2009-10 amounting to ₹459.62 lakhs remains to be adjusted during the tariff cycle 2013-14 to 2015-16.

(vii). 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.

(viii). The cargo profile at berth No. 12 consists of iron ore, limestone/ pyroxinite/ clinker, steel, sugar, logs, fertilizer and project cargo. As against the actual traffic of 1193775 MTs handled during the year 2010-11, the TMILL has estimated the traffic at 765000 MTs during the year 2013-14 and 915000 MTs each during the years 2014-15 to 2015-16, based on the reduced level of traffic handled during the years 2011-12 and 2012-13.

As brought out in our earlier paragraph, the TMILL has reasoned that the traffic for the year 2010-11 mainly comprised of iron ore and due to various Government policies, Iron Ore export has gone down, thereby drastically reducing the iron ore traffic at TMILL since the year 2011-12 onwards. Also, due to high domestic demand of steel, the TMILL is of the view that the exports of steel would be affected in upcoming years. Further, due to the completion of the various projects in and around Kolkata, the TMILL does not foresee more of project cargo. TMILL has also stated that the traffic projection has been made based on present volume and that the construction of the railway link by 2014-15 and the commissioning time required thereafter has also been taken into account by it while estimating the traffic for the years 2013-14 to 2015-16. Further, based on the position that it will take some time for the new railway line and allied infrastructure to stabilize, the TMILL has not considered any further increase in traffic for 2015-16 compared to what it has projected for 2014-15.

With reference to the traffic estimate for the year 2013-14 the KOPT is of the view that considering the actual traffic of TMILL for the period April 2013 to December 2013, the traffic estimate of TMILL is at a lower level to the tune of about 55000 tonnes. The TMILL has not commented on the views of KOPT about the lower traffic estimate of TMILL for the year 2013-14, though the views of KOPT was made available to it. Therefore, the judgment of the Licensor Port, is relied upon in this regard. Accordingly, the traffic for the year 2013-14 is considered at 820000 MTs, instead of 765000 MTs estimated by the TMILL.

With regard to the traffic estimates for the year 2014-15 and 2015-16, it is relevant here to mention that none of the user/ user organizations have objected to the traffic forecasts made by TMILL. In fact, it is noteworthy that the KOPT has endorsed the traffic estimates of TMILL for the years 2014-15 and 2015-16. This Authority does not carry out any independent study to determine the likely traffic at a port/ private terminal. Since the traffic projection for the year 2013-14 to 2015-16 is reported to have been made by TMILL based on the present volume and the market conditions, the traffic forecast for the years 2014-15 and 2015-16 as furnished by the TMILL is relied upon for the purpose of this analysis.

Though the TMILL has neither handled any containers during the past years i.e. 2010-11 to 2012-13 and nor has projected any container traffic in its future traffic estimates for the years 2013-14 to 2015-16, it has proposed to continue with the prescription of rates for handling containers on the ground that as a part of Project cargo consignments, few containers are needed to be handled at berth no.12. The KOPT has argued that TMILL is not permitted to handle any container traffic and as a result has requested to not prescribe any rate for handling containers in the SOR of TMILL. 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.

(ix). (a). The TMILL has furnished detailed workings for estimation of income from cargo handling for the years 2013-14 to 2015-16. 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 2013-14 to 2015-16 and the relevant rates prescribed in the Scale of rates of TMILL approved in March 2008. Since the mandate given to this Authority is to fix the tariff of TMILL for the years 2013-14 to 2015-16 without getting influenced by the pendency of the previous Writ Petitions, the income estimate for the years 2013-14 to 2015-16 has been reworked by us by considering the tariff at the level approved in October 2011, keeping 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 in March 2008. 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 remains unexplained. The assumptions made by TMILL are relied upon in the estimation of income arising from providing equipment assistance. However, the income for the years 2013-14 to 2015-16 has been reworked by considering the tariff at the level approved in October 2011.

Thus, the cargo handling income at ₹1761.29 lakhs, ₹2052.48 lakhs and ₹2208.73 lakhs for the years 2013-14 to 2015-16 respectively is considered in this analysis instead of the income estimated by the TMILL at ₹2042.40 lakhs, ₹2546.92 lakhs and ₹2719.87 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. Based on the workings furnished by TMILL and the assumptions made by it in this regard, the plot rental income has been estimated by the TMILL at ₹309.68 lakhs for the year 2013-14 and ₹367.53 lakhs each during the years 2014-15 and 2015-16. Relying upon the various assumptions made by the TMILL, the plot rental income for the years 2013-14 to 2015-16 has been reworked by considering the level of plot rentals as approved in October 2011.

Further, during the year 2013-14, the TMILL has taken into account an additional income to the tune of ₹215.35 lakhs, arising due to the unauthorized occupation of plots. However, the same has not been estimated by the TMILL for the years 2014-15 and 2015-16 on the ground that the same may not continue in future. The judgment of the TMILL in this regard is relied upon. However, the income of ₹215.35 lakhs is moderated and considered at ₹188.02 lakhs on proportionate basis so as to give effect to the reduced level of tariff approved in October 2011.

(ii). The HMC is proposed to be utilised by TMILL in respect of handling cargo like Iron Ore, Limestone, Steel (Exports & Imports), Fertiliser Raw materials and Project Cargo. From the workings it is seen that the TMILL has assumed different levels of productivity per day for different cargo and considering the traffic of the respective cargo, has arrived at the number of shifts. Thereafter, the TMILL is seen to have considered the rate of ₹125000/- per shift for estimation of income from the use of the HMC for the years 2013-14 to 2015-16.

In this connection, it may be relevant to mention here that this Authority vide its review Order of October 2011 has approved a rate of ₹ 35.30 per MT for use of HMC. Therefore, considering the percentage of utilization of the HMC as furnished by the TMILL and considering the individual traffic of each of the cargo items proposed to be handled by the HMC and based on the per tonne rate of HMC, the income from the use of HMC has been reworked. The reworked aggregate income for the years 2013-14 to 2015-16 works out to ₹390.77 lakhs as against the income of ₹643.75 lakhs estimated by the TMILL for the three years put together.

(x). 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. It is to be noted that the expenditure estimates are moderated applying the escalation factor of 7% in the tariff cases of the major port trusts and private terminal operators decided during the year 2013-14. The TMILL is also generally seen to have adopted the escalation factor of 7% per annum, taking the respective previous year as base.

Though the case of TMILL is being decided during the year 2014-15, the expenditure for the years 2013-14 to 2015-16 has been estimated by TMILL considering the actuals for the year 2012-13 as base. Therefore, an escalation factor of 7% over the actuals for the year 2012-13 is being considered in the analysis to estimate the expenditure for the years 2013-14 to 2015-16.

(xi). Operating and Direct Labour cost consists of “Stevedoring expenses” and “labour cost for operation of Equipment”, which are discussed below:

(a). The TMILL has outsourced the stevedoring activity. A copy of the bill in this regard furnished by TMILL reflects an amount of ₹492.51 lakhs for the year 2012-13 and ₹7.49 lakhs towards the gratuity. The TMILL has applied an escalation factor of 7% per annum over the actuals of ₹500 lakhs incurred during the year 2012-13 to arrive at the estimates of Stevedoring expenses for the years 2013-14 to 2015-16. This position is relied upon 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 11 operators. Considering the rate of ₹27225/- per operator per month as base, reported to be the rate applicable for the year 2012-13, the TMILL has applied an escalation factor of 7% 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 does not like to go into this aspect. Inspite of a specific request, the TMILL has not furnished the documentary evidence in support of the rate of ₹27225/- per operator per month. Since the rate pertains to the year 2012-13 presumably based on actuals, the position as reported by the TMILL is relied upon.

Further, the TMILL has factored the arrear impact pertaining to the year 2012-13 to the tune of ₹13.65 lakhs in the year 2013-14. Clause 2.5.2 of the tariff guidelines of 2005 specifically makes a mention about non admissibility of arrear payment while determining the tariff. The said clause of the guidelines provides for meeting such one-time payments from its accumulated surplus.

As brought out earlier, since the TMILL would have been in a deficit position at the tariff approved in October 2011, during the years 2010-11 to
2012-13, the one-time payment of wage arrears is taken into account in the tariff fixation exercise for the year 2013-14.

The labour cost of Trailer drivers and helpers have been estimated based on 21 operators each. Incase of Trailer drivers, considering the rate of ₹22554/- per driver per month as reported to be applicable for the year 2012-13 as base, the TMILL has applied an escalation factor of 7% per annum to arrive at the cost for the years 2013-14 to 2015-16. Similarly, incase of Trailer helpers, considering the rate of ₹19164/- per helper per month as reported to be applicable for the year 2012-13 as base, the TMILL has applied an escalation factor of 7% 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 does not like to go into this aspect. Here also, inspite of a specific request, the TMILL has not furnished the documentary evidence in support of the rate of the driver and helper per month. Since the rates pertain to the year 2012-13 presumably based on actuals, the position as reported by the TMILL is relied upon.

(xii). The TMILL has estimated the labour cost for 12 operators for maintenance of equipment by considering the rate of ₹20,808/- per operator per month. The rate considered as base by the TMILL is reported to be pertaining to the year 2012-13. The TMILL has applied an escalation factor of 7% 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 does not like to go into this aspect. Here also, the TMILL has not furnished the documentary evidence in support of the rate of the operator. For the reason stated earlier, the position as reported by TMILL is relied upon.

(xiii). 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 Iron Ore, Limestone/ Pyroxinite/ Clinker. To arrive at the Oil and lubricant cost in respect of Loaders for the year 2013-14, the TMILL has taken the actual Oil and lubricant cost in respect of Loaders for the year 2012-13 as base and proportionately adjusted it to the traffic for the year 2013-14 and applied an escalation factor of 7%. 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. Incidentally, the same approach was considered during the last review of tariff of TMILL in the year 2011, 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 2013-14, the TMILL has taken the actual Oil and lubricant cost in respect of trailers and forklifts for the year 2012-13 as base and proportionately adjusted it to the traffic for the year 2013-14 and applied an escalation factor of 7%. 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. Incidentally, the same approach also was considered during the last review of tariff of TMILL in the year 2011, to determine the cost of oil and lubricants.

(c). Further, from the workings furnished by TMILL, it is seen that the IT -12 Caterpillar is used in respect of handling Project cargo. To arrive at the Oil and lubricant cost in respect of the said equipment for the year 2013-14, the TMILL has taken the actual Oil and lubricant cost in respect of IT -12 Caterpillar for the year 2012-13 as base and proportionately adjusted it to the traffic for the year 2013-14 and applied an escalation factor of 7%. 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. Incidentally, the same approach was considered during the last review of tariff of TMILL in the year 2011, to determine the cost of oil and lubricants.

(d). To determine the Oil and lubricant cost in respect of HMC for the years 2013-14 to 2015-16, the TMILL has linked the actual cost of Oil and lubricant cost incurred during the year 2012-13 to the actual total number of shifts operated during the said year and proportionately adjusted to the total number of shifts estimated to be operated during the years 2013-14 to 2015-16 and applied an escalation factor of 76%. The methodology adopted by TMILL is relied upon and accordingly the cost is considered for the revised number of shifts relevant for the revised traffic. Again, the said approach was considered during the last review of tariff of TMILL in the year 2011, to determine the cost of oil and lubricants of HMC.

(e). The TMILL has estimated the repair and maintenance cost for the year 2013-14 at ₹234 lakhs when compared with the actual repair and maintenance cost incurred for the year 2012-13 at ₹77.68 lakhs. To a query raised in this regard, the TMILL has sought to clarify that some of its repair works planned for the year 2012-13 spilled over to the year 2013-14. Considering the position that the TMILL has actually incurred an amount of ₹230.13 lakhs during the year 2011-12 towards repairs and maintenance cost, it is found reasonable to consider the repair and maintenance cost at ₹234 lakhs, as estimated by the TMILL for the year 2013-14, keeping in view the ageing of the equipment and spill over position reported by TMILL. The same is considered in the analysis and taken as base and escalated by 7% per annum to arrive at the repairs and maintenance cost each for the years 2014-15 and 2015-16 respectively. In any case, the estimated financial performance will be reviewed with reference to actuals during the next review of tariff of TMILL for the next tariff cycle.

(f). The TMILL has made an actual payment of ₹10.41 lakhs during the year 2012-13 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 2012-13. The same is taken as base and escalated by 7% per annum by the TMILLL. This position is considered in the analysis.

(xiv). 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. The cargo related charges mainly comprise of wharfage, on board charges, transportation, loading/ unloading/ restacking etc. This Authority has revised the tariff of KOPT in February 2014. The revised cargo related charges have come into effect at KOPT from 01 April 2014 i.e. during the financial year 2014-15. Thus, the computation of revenue share payment for the year 2013-14 is based on the cargo related charges of KOPT that existed prior to the February 2014 revision. For the years 2014-15 and 2015-16, the Revenue share is calculated based on the revised cargo related charges of KOPT. 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 2013-14 to 2015-16 at the rate of 8.126% of the income based on the KOPT Scale of Rates, as applicable.

With regard to Revenue share from Plot Rentals, the TMILL has calculated the same in a very simplistic manner without taking into account the yearwise details of the each item of cargo as was done by it during its last review in the year 2011. 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 upto the year 2014, the income from plot rentals is arrived at. Thereafter, the revenue share from plot rentals is estimated for the years 2013-14 to 2015-16 at the rate of 8.126% of the plot rental income based on the KOPT Scale of Rates.

In respect of revenue share for the income from the use of MHC at TMILL, the TMILL the TMILL has calculated the same based on rate of ₹125000/- per shift for the years 2013-14 to 2015-16. In our calculations pertaining to the revenue share on the HMC income, the computation of revenue share payment for the year 2013-14 is based on the rate of MHC at KOPT to the tune of ₹52/- per MT that existed prior to the February 2014 revision. For the years 2014-15 and 2015-16, the Revenue share is calculated based on the revised rate of MHC at KOPT to the tune of ₹62.40 per MT.

The TMILL in its calculation has considered Revenue share for 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 to be noted 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.

(xv). The Equipment hire charge is for hire of small loaders to handle the traffic of limestone. The Contract copy furnished by TMILL shows a hire charge of ₹12000/- per shift for a Big Loader. The TMILL has not explained how this rate works out to the hire charges of ₹12 lakhs for the year 2013-14. However, the TMILL has submitted that considering the actual expenditure in this regard to the tune of ₹7.62 lakhs incurred upto November 2013, the estimation of ₹12 lakhs appears to be in order, if considered on proportionate basis. Based on this submission made by the TMILL and keeping in view that the actual expenditure in this regard for the year 2013-14 will be subject to review during the next review of tariff of TMILL, the estimate in this regard for the year 2013-14 is considered. For the next two years the TMILL has estimated ₹15 lakhs each by linking the expenditure to the traffic of limestone. This position is also considered.

(xvi). The TMILL has estimated lease rentals at ₹234.43 lakhs, ₹244.30 lakhs and ₹255.16 lakhs for the years 2013-14 to 2015-16 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 ₹34.24 per sq. mtr for the year 2011-12. Similarly, the lease rentals incase of 54000 sq. mtrs of land and 9000 sq. mtrs. of land were considered each at the rate of ₹22.02 per sq. mtr for the year 2011-12. By applying an escalation factor of 5%, the rate that would be leviable during the year 2013-14 would work out to ₹ 37.75 per sq. mtr for 14000 sq. mtrs of hardstand land and ₹24.28 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 ₹36.79 per sq. mtr for 14000 sq. mtrs of hardstand land, ₹22.79 per sq. mtr. for 54000 sq. mtrs of land and ₹23.10 per sq. mtr. in case of 9000 sq. mtrs. of land. Inspite of a specific request, the TMILL has not clarified the reason for the difference in the rate of lease rentals. The lease rental is worked out based on the rates as derived by us for the year 2013-14 as discussed above. For the years 2014-15 and 2015-16, the TMILL is seen to have considered an escalation factor of only 2% 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 2014-15 and 2015-16. 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.

(xvii). While estimating insurance cost for the years 2013-14 to 2015-16, 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.

(xviii). 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:

The 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.

In respect of Steel cargo (TATA), the TMILL has considered a rate of ₹125/- per MT and in respect of Steel/ Logs discharge – delivery from jetty, Steel discharge – delivery from plots and Project cargo, a rate of ₹16/- per MT has been considered, for the year 2013-14.

The documentary evidence in the form of the work order reflects the rate of ₹105/- per MT plus Value Added Tax (VAT) for supply of dunnaging and lashing material and another work order reflects a rate of ₹16/- per MT for manpower for unlashing of import cargo or lashing of export cargo. Though, the validity of the contract is not known from the work order, they are seen to be of latest, one of September 2012 and another of July 2013. The rates considered by the TMILL for the year 2013-14 is escalated by 7% per annum to determine the expenditure for the years 2014-15 and 2015-16.

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

The expenditure is captured in respect of 12 persons. Considering the rate of ₹19164/- per person per month reported to be the actual for the year 2012-13, the TMILL has estimated the expenditure for the years 2013-14 to 2015-16 by considering an escalation of 7% per annum.

The TMILL has mentioned that the rate of ₹ 19164/- considered for estimating the expenditure under this head, is the rate of the trailer helper for the year 2012-13, as discussed earlier. The TMILL has produced a detailed working sheet and the same has been relied upon.

(c). Despatch related services

The despatch related services for handling limestone has been outsourced by TMILL. On the ground that Despatch related services will start at Berth no. 12 only after commissioning of Railway Line in the year 2014-15, the cost has not been estimated by TMILL for the year 2013-14.

For the year 2014-15, the TMILL has considered a rate of ₹18/- per MT based on the current market rate. The position as reported by the TMILL is relied upon.

(d). Intra-port Transportation

The expenditure relating to intra-port transportation are estimated to be incurred in respect of cargo items like limestone, steel and Iron ore. From the workings it is seen that the TMILL has considered a rate of ₹65/- per

MT incase of limestone and iron ore and ₹70/- per MT incase of Steel as applicable for the year 2013-14.

The document furnished by the TMILL in support of the rate, prescribes the rate for Intraport transportation for dry bulk cargo from LL6 plot to jetty at berth no.12 or vice a versa at ₹65/- per MT, with effect from 01 January 2013. No other document has been furnished by the TMILL in support of the rate of ₹70/- per MT. Therefore, the expenditure estimation relating to intra-port transportation in respect of Steel is also considered at ₹65/- per MT for the year 2013-14. The expenditure in respect of the years 2014-15 and 2015-16 is estimated by considering an escalation of 7% per annum, as done by the TMILL.

(e). Survey Expenses

Other expenses include survey expenses of lime stone, steel and iron ore. 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 ₹2.62 per MT for limestone, ₹3.50 per MT in respect of Steel discharge, ₹6/- per MT in respect of project cargo and ₹1.50 per MT incase of iron ore. These rates have been considered by the TMILL for the year 2013-14 and thereafter they have been considered an escalation factor of 7% per annum. This position is relied upon.

In case of Steel cargo, the Work Order furnished by the TMILL reflects various per tonne rates towards preshipment inspection charges for HRC, CRS, HRS, slabs, CRcoils, tube, pipes, billet etc., ranging from ₹4/- per MT to ₹12/- per MT. The TMILL seems to have considered an average of ₹10.80 per MT for Steel as a whole. The TMILL has not furnished details to arrive at the average rate of ₹10.80. The estimate as furnished by the TMILL is relied upon. For the years 2014-15 and 2015-16, the TMILL has applied an annual escalation factor of 7%, which is considered in the analysis.

(f). Clearing & forwarding Expenses:

TMILL has considered a rate of ₹4.25 per MT in respect of TATA Steel cargo for estimation of this expenditure for 2013-14, which is supported by documentary evidence. The per tonne rate of ₹4.25 is escalated by 7% per annum for estimating Clearing & Forwarding expenditure for the years 2014-15 and 2015-16, taking the respective previous year as base.

Further, the TMILL has considered a rate of ₹201.16 per MT in respect of rail bound TATA steel cargo towards Clearing & forwarding Expenses for the year 2014-15 and considered an escalation factor of 7% for the year 2015-16. No documentary evidence in support of the rate so considered has been furnished. The estimated expenditure is considered subject to verification with actuals during the next review of the tariff of TMILL.

(g). Miscellaneous Operational Expenses:

The estimated miscellaneous operational expenses comprises of cost of slings and gears and the civil maintenance of plots.

The slings and gears cost has been considered in respect of TATA steel cargo, Steel/logs Discharge - Delivery from jetty, Steel/logs Discharge - Delivery from plot and Project cargo. A rate of ₹7.62 per MT reported to be actual cost for the year 2012-13 has been escalated by 7% per annum to arrive at the cost for the years 2013-14 to 2015-16. The estimated expenditure is considered in the analysis.

In respect of cost of civil maintenance of plots, the TMILL has taken the actuals for the year 2012-13 as base and applied an annual escalation factor of 7% to arrive at the said expenditure for the years 2013-14 to 2015-16. This position is considered.

(xix). 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 2013-14 to 2015-16 in the current tariff revision of TMILL.

(xx). The Management & Administration Overheads mainly comprises of Salary and wages, legal charges, electricity expenses and other office related expenses. The TMILL has taken the actuals for the year 2012-13 as base and applied an escalation factor of 7% per annum to arrive at the said expenditure for the years 2013-14 to 2015-16. The same is considered in the analysis.

(xxi). The General Overheads mainly comprises of Advertisement & Subscription, Entertainment Expenses, General Charges, Guest House Expenses and Other Expenses. The TMILL has taken the actuals for the year 2012-13 as base and applied an escalation factor of 7% per annum to arrive at the said expenditure for the years 2013-14 to 2015-16. The same is considered in the analysis.

(xxii). The Finance and Miscellaneous Income comprises of the discounted terminal value. 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 2013-14 to 2015-16 is arrived at by applying a discount factor of 14.75%. The discounting rate of 14.75% to arrive at the net present value is selected bearing in mind the prevailing PLR rate.

(xxiii). The Finance and Miscellaneous Expenses comprise of the Contribution to Provident Fund. The TMILL has taken the actual Contribution for the year 2012-13 as base and applied an escalation factor of 7% to arrive at the said expenditure for the subsequent years 2013-14 to 2015-16. The estimates furnished by the TMILL are considered.

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

(a). Fixed Assets:

(i). Year 2013-14:

The TMILL has proposed additions to the tune of ₹2.52 crores for the following items:

No.	Particulars	₹ in Lakhs
1.	Plant & Machinery	32.00
2.	Buildings, Sheds and other structures	20.00
3.	Railway yard	200.00
	TOTAL	**252.00**

The addition to the tune of ₹220 lakhs (₹200 lakhs + ₹20 lakhs) is towards providing of Railway link and Railway siding facility at LL-6. As stated by TMILL, the railway link is expected to be commissioned by 2014-15. Based on the information furnished by the TMILL, it is understood that the Order for execution of work relating to construction of Railway tracks has been placed by KOPT with the Contractor in September 2013 with a scheduled completion period of 10 months. Even the KOPT has endorsed this position. As per Clause 2.9.5 of the 2005 guidelines, only completed and commissioned assets should alone be counted for capital employed. As the railway link and the siding are expected to be commissioned in the year 2014-15, the investment in this regard to the tune of ₹220 lakhs is shifted to the year 2014-15.

The plant and machinery addition is with reference to purchase of a SDLG Wheeled Loader. The TMILL has furnished a copy of the Purchase Order in this regard. The cost of the plant and machinery as furnished by the TMILL is taken into account.

(ii). Year 2014-15:

The TMILL has proposed additions to the tune of ₹17.30 crores in respect of the following items:

No.	Particulars	₹ in Lakhs
1.	Plant & Machinery	310.00
2.	Railway yard	1420.00
	TOTAL	**1730.00**

The estimated plant and machinery addition is towards purchase of 2 nos. of 32 tonne Forklifts for handling steel cargo. The TMILL is of the view that deployment of Forklifts would improve the quality of handling and reduce damages. The TMILL has not furnished any documentary evidence in support of the cost of the equipment.

The capital additions of ₹1420 lakhs is towards Railway Link at LL-6 with Railway line at LL-6 and Office building. Here also, the TMILL has not furnished any documentary evidence in support of the cost of the capital additions. The TMILL has made a mention that they are in the process of selecting the successful bidder and issuing work order for constructing the Railway Line at LL-6.

We do not have the benefit of the views of the KOPT as they have expressed their inability to comment on the capital investments proposed by the TMILL. The position as reported by the TMILL in this regard is relied upon, subject to review during the next review of the tariff of TMILL.

Also, as stated earlier, the investment in the railway link and the siding to the tune of ₹ 220 lakhs which has been shifted to the year 2014-15, is also taken into account.

(iii). In the year 2015-16, the TMILL has estimated an amount of ₹500 lakhs towards Construction of 3000 sq.m covered shed and development of Plot, to create facility for storage of rail bound steel cargo.

In this connection, it may be recalled that during the last revision of tariff of TMILL in October 2011, the TMILL had proposed investment for construction of Covered shed. However, the TMILL is not seen to have made this investment during the last tariff cycle, as proposed by it.

Given that the railway connectivity would be commissioned in the year 2014-15, the proposed investment in covered shed to the tune of ₹500 lakhs is taken into account in the analysis.

(b). <u>Working Capital:</u>

(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 2013-14 to 2015-16 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. The estimated Inventory is reckoning with the moderation effected in the Repairs and Maintenance cost as discussed earlier.

(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. 2010-11 to 2012-13, the current liabilities have been estimated for the years 2013-14 to 2015-16. Thus, the working capital (Current assets less current liabilities) works out to ₹40.74 lakhs, ₹44.93 lakhs and ₹47.41 lakhs for the years 2013-14 to 2015-16 respectively.

(xxv). 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/ Management estimation. The position as reported by the TMILL is relied upon. The shifting of the capital cost pertaining to the railway line from the year 2013-14 to 2014-15, as discussed earlier, have been taken note of while calculating the depreciation.

(xxvi). 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. We do not have the benefit of the views of KOPT in this regard. However, 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 68.68%, 76.63% and 76.63% respectively for the years 2013-14 to 2015-16. 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 2013-14 to 2015-16.

(xxvii). (a). Subject to the discussions above, the cost statement has been modified. The modified cost statement is attached as **Annex - II**. 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:

SUMMARY OF THE RESULTS OF TMILL AT THE LEVEL OF TARIFF APPROVED IN OCTOBER 2011.

Sr.	Particulars	Operating Income	Net Surplus(+)/ Deficit(-)	Net Surplus(+)/ Deficit(-) as a	Average

No		(₹ in crores)				(₹ in crores)				% of operating Income			Surplus/ Deficit %
		2013-14	2014-15	2015-16	Total	2013-14	2014-15	2015-16	Total	2013-14	2014-15	2015-16	
1	TMILL as a whole	23.35	24.79	26.38	74.52	-10.15	-18.34	-20.58	-49.08	-43.48%	-73.99%	-78.03%	-65.17%

(b). As can be seen from the above table, the TMILL would be in deficit to the tune of around ₹49.08 crores during the years 2013-14 to 2015-16 if it operates the facility at the level of tariff fixed in the year 2011. This deficit is after adjustment of balance three instalments of past surplus amounting to ₹4.60 crores and the 50% of the past deficit pertaining to the years 2010-11 to 2012-13 amounting to ₹2.94 crores, as discussed earlier.

(c). In this regard, it may be relevant to mention here that 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 July 2014. Thus, under the normal circumstances, the deficit for the years 2013-14 to 2015-16 would have to be recovered over the remaining tariff validity period of 1 year and 9 months from July 2014 to March 2016. Ordinarily, tariff fixation orders are enforced only prospectively. Giving retrospective operation to such orders will create (avoidable) complications, besides causing an accounting chaos. In exceptional cases retrospective effect may be given for reasons to be recorded as stipulated in clause 3.2.8 of the tariff guidelines of March 2005. However, in TMILL case there is special circumstance warranting deviation from the stated policy. As brought out earlier, the Hon'ble High Court of Calcutta have directed this Authority to settle the schedule of rates applicable to TMILL for berth no. 12 at HDC for the period April 2013 to March 2016. This Authority is, therefore, bound by the High Court direction to fix the tariff retrospectively from April 2013.

In this connection, it is relevant to recall that the TMILL has continued to levy the tariff at the 2008 level of tariff for the period of 15 months from April 2013 to June 2014 in terms of the order of the Hon'ble High Court whereas, the financial position as discussed above is based on the 2011 level of tariff. Thus, though the TMILL is in deficit at the 2011 level of tariff, the deficit at the 2008 level of tariff would have been lower when compared with the deficit at the 2011 level of tariff. Therefore, it may not be appropriate to load the additional deficit arising due to the 2011 level of tariff over the deficit at the 2008 level of tariff, on to the users availing the services at TMILL after July 2014.

Therefore, a calculation has been made in this regard, which is attached as **Annex - III**.

Based on the calculation, the following position emerges:

(**₹ in crores**)

Particulars	At the 2008 level of tariff		At the 2011 level of tariff	
	2013-14	2014-15 3 months	2013-14	2014-15 3 months
Net Deficit	-5.53	-2.95	-10.15	-4.59
Total net deficit	-8.48		-14.74	
Differential deficit for 1 year and 3 months	-6.27			
Deficit at the 2011 level of tariff for the balance 1 year 9 months of the tariff cycle	-34.34			
Deficit to be recovered at the 2011 level of tariff in the balance 1 year 9 months of the tariff cycle	-40.61			
Operating income of balance 1 year & 9 months at the 2011 level of tariff	44.97			
Total deficit as a % of operating income	-90.30%			

From the above, it can be seen that at the 2011 level of tariff the TMILL would have been in deficit to the tune of ₹14.74 crores for the period from April 2013 to June 2014 as against the deficit of ₹8.47 crores at the 2008 level of tariff for the corresponding period. Therefore, instead of the entire deficit pertaining to the period from April 2013 to June 2014, it may be appropriate to consider recovery of the differential deficit only. This is possible only after recognising levy of the 2008 level of tariff by the TMILL for the corresponding period. Given that the Hon'ble High Court of Calcutta has directed this Authority to fix the tariff of TMILL for the period from 1 April 2013 to 31 March 2016, and keeping in view that the tariff application of TMILL is for fixation of tariff for the period April 2013 to March 2016, the 2008 level of tariff actually levied by the TMILL for the services rendered between 1 April 2013 to 30 June 2014 can be considered as the actual tariff limited to the purpose of fixation of tariff from April 2013. As a measure of abundant caution, it should be noted that recognition of the 2008 level of tariff being levied by TMILL for fixation of tariff for the period between April 2013 to June 2014 should not be construed as this Authority conceding the challenge of TMILL against the tariff Order of 2011 made before the Hon'ble High Court of Calcutta.

Taking into account the Differential deficit for 1 year and 3 months at ₹6.27 crores and the deficit at the 2011 level of tariff for the balance 1 year
9 months of the tariff cycle at ₹34.34 crores, the total deficit to be recovered at the 2011 level of tariff in the balance 1 year 9 months of the tariff cycle works out to ₹40.61 crores. Considering the Operating income of balance
1 year & 9 months at the 2011 level of tariff at ₹44.97 crores, the total deficit as a percentage of operating income works out to 90.30%.

(d). In the proposed draft Scale of Rates, it is seen that the TMILL has proposed increase in the various tariff items. The proposed percentage of increase for each of the cargo item in a particular activity is seen to be different. In other words, under each activity, a different percentage of increase has been proposed for the various cargo items, instead of across the board increase under each activity. In this connection, the TMILL was requested to furnish an analysis with necessary workings to correlate the different percentage of increase for the various cargo items under each of the activity sought in the proposed draft Scale of Rates with the cost position reflected by the Cost statement of TMILL.

In this connection, the TMILL has not furnished any such analysis and workings. It has simply stated that differential increase in rates for different cargoes have been sought based on the relevance of the existing comparable market rates. The TMILL has also stated to have tried to maintain similarity with rates of its nearest competitor so as to stay competitive and that an across the board increase of rates may not be suitable to sustain the operations.

As stipulated in the 2005 Guidelines, the fixation/ revision of tariff should be based on the cost plus approach. As stated by TMILL, the proposed increase in the rates are proposed by them so as to enable them to be in competition with their competitors. Since the reasoning furnished by the TMILL does not fall within the scope of the 2005 guidelines and in the absence of necessary workings, this Authority is not in a position to grant different percentage of increase. Therefore, an across the board increase in the 2011 level of tariff of TMILL, based on the deficit position depicted by the overall cost position of TMILL, as discussed earlier, is granted.

(e). Accordingly, keeping a margin for estimation error, if any, this Authority is inclined to grant an across the board increase of 90% (rounded off) over the 2011 level tariff of TMILL, to be effective from 01 July 2014 till 31 March 2016.

(f). As brought out earlier, the increase sought by TMILL at various percentages is over the March 2008 level of tariff. As also brought out earlier, the 2011 level of tariff approved by this Authority in October 2011 is lower than the 2008 level of tariff. On a comparison of the March 2008 level of tariff, October 2011 level of tariff, the new tariff applicable for the period from 1 July 2014 to March 2016 and the tariff proposed by TMILL for all items of tariff, the new tariff applicable for the period from 1 July 2014 to March 2016 for all tariff items except the rates for the following tariff item effective from 1 July 2014 to 31 March 2016 (21 months) are found to be higher than the rates proposed by TMILL for the period 1 April 2013 to 31 March 2016 (36 months):

(i). Wharfage charges for Project cargo, machinery and spares (Immobile items)

(ii). Wharfage charges for Logs/ Timber/ Veneer.

(iii). On-board charges for Project cargo, machinery and spares (Immobile items)

(iv). Loading/ Unloading/ Re-stacking charges for container.

(v). Transportation charges for

(a). all types of dry bulk cargo

(b). Tubes and pipes, logs, iron & steel, newsprint weighing less than 20 tonnes.

(c). Project cargo and machinery and spares including their packages weighing less than 20 tonnes.

(d). Container

(vi). Despatch related services for opening, cleaning and closing of wagons.

(vii). Charges for supply of unskilled labour.

(viii). Equipment hire charges for HMC for Fertilizers and other bulk cargo, HRC/ CRC imports.

(ix). Equipment assistance charges for forklifts of capacity above 20 MT.

The position of the tariff effective from 1 July 2014 to 31 March 2016 (21 Months) for all the tariff items (except the tariff items listed above) to be more than the tariff proposed by TMILL for the period from April 2013 to 31 March 2016 (36 months) arises because, it is noteworthy that the TMILL has proposed an uniform Scale of Rates to be applicable for the entire period from April 2013 to March 2016, whereas, two different set of tariff is being approved now to be applicable during the period from April 2013 to March 2016. Since the level of tariff approved for the period April

2013 to June 2014 is lower than the rates proposed by the TMILL, the tariff applicable for the period from July 2014 to March 2016 is seen to be higher so as to enable TMILL recover the differential deficit pertaining to the period April 2013 to June 2014. It is also noteworthy that though the tariff approved for the period 1 July 2014 to 31 March 2016 is found to be more than the tariff proposed by TMILL excepting for some tariff items listed above, the tariff increase approved for the entire tariff cycle from 1 April 2013 to 31 March 2016 is to meet the estimated deficit of ₹4908.32 lakhs whereas the additional estimated revenue sought by the TMILL by recovery of the proposed rates on the revenue estimated at the existing 2011 rates works out to a higher level of ₹5041.87 lakhs. The TMILL would earn the estimated additional revenue only to the tune of ₹4908.32 lakhs to cover the deficit as per the tariff approved for the period 1 April 2013 to 31 March 2016 as against the higher level of revenue increase of ₹5041.87 lakhs, sought by it. A table showing the above position is given below:

(₹ in lakhs)

Sr. No.	Particulars	2013-14	2014-15	2015-16	Total
(i).	Income at proposed rate (as estimated by TMILL)	3,622.43	4,233.97	4.481.19	12,337.59
(ii).	Income estimated at the existing rate if 2011 rate was implemented by TMILL.	2,178.53	2,479.19	2,638.00	7,295.72
(iii).	Additional revenue at proposed rates over revenue at 2011 rates (iii) = (i) less (ii)	1,443.90	1,754.78	1,843.19	5,041.87
(iv).	Net deficit as per TAMP statement at 2011 rates	(-) 1,015.44	(-) 1,834.40	(-) 2,058.48	(-) 4,908.32

This establishes that the tariff approved for the period of 21 months from 1 July 2014 to 31 March 2016 will not result in any undue advantage to the TMILL.

(xxviii). It may be recalled that this Authority in the tariff Order of October 2011 had advised TMILL to gear up its internal system so that it can draw up its proposal supported by cost details for individual activities at the time of next review of its tariff. In this regard, the TMILL has stated that it is practically impossible to have detailed costing for each sub activity. The TMILL has also stated that many of the rates proposed in its Scale of Rates are aligned to the actual sub-contracted costs and/ or market rate. However, the TMILL is again advised to make an attempt to draw up its proposal supported by cost details for individual activities at the time of next review of its tariff.

(xxix). The TMILL has proposed to modify the definition of the term 'TMILL premises' so as to also include 'any additional land allotted'. Since the TMILL has been allotted additional land by the KOPT as per the provisions of the Licence Agreement, the modification to the term of TMILL premises as proposed by the TMILL is approved.

(xxx). The existing definition of 'demurrage' interalia, states to exclude the cargo stored at the area allotted to a port user on licence basis for storage of cargo during the licence period, from the purview of demurrage. The TMILL has proposed modification to the said definition to the effect so as to delete the term 'during the licence period', so as to be in line with the definition at KOPT.

In this regard, it is relevant to mention here that the proposed modification will enable the TMILL to levy licence fees on cargo stored at the allotted area till vacation of the area by the port user and avoid double recovery. Since the said note gives clarity to the definition of demurrage, the insertion of the said note is approved.

(xxxi). The TMILL has proposed to modify the existing definition of 'Month' so as to define month as 31 consecutive calendar days also, as against the existing 30 consecutive calendar days. 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. The existing definition is to, therefore, continue unaltered.

(xxxii). The TMILL has proposed to modify the existing definition of 'on board supervision' so as to not include the services covered within the purview of on-board handling or loading/ unloading charges or Miscellaneous charges or services ancillary in nature, so as to give a better clarity and options for the user to pay for the services when availed from TMILL.

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. Inspite of a specific query, the TMILL has not explained whether 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 is to, therefore, continue unaltered.

(xxxiii). 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 to remain unaltered.

(xxxiv). 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 14.75 %.

(xxxv). The TMILL has proposed to widen the scope of levy of wharfage charge and on board charges by including the names of some new cargo items in the respective schedules and by pruning the names of some items so as to include it as part of the main item group. The TMILL has stated that the new cargo items have been included taking into account the similarity in nature of cargo and the cost of handling. Since the widening of scope would give more clarity and minimize the scope for ambiguity, the proposed rationalisation of the wharfage schedule and on board charges schedule, is approved.

(xxxvi). The TMILL has proposed shifting of the cargo item 'Bag cargo' from existing sl.no.3 to the proposed sl.no.4 of Section 4.1 as well as from existing sl.no.2 to the proposed sl.no.2 of Section 5.1, on the ground that the Bag cargo is similar to Break-Bulk cargoes. This has the effect of proposing a reduction of around 14% in the existing wharfage rate and increase of around 116% in the existing on board charges of Bag cargo. Further, the TMILL has stated that since they have not estimated any quantity against this head, there would not be any financial implication arising due to the proposed change in the categorization. Based on the position that the proposed category in respect of bag cargo is more appropriate and given that there is no pointed objection from any of the users, the proposal of the TMILL in this regard, is approved.

(xxxvii). The TMILL has introduced a rate of ₹110/- per MT as On-board charges to cover cargo not falling under any of the category as mentioned in the 'On-board Charge Schedule'. Similarly, the TMILL has introduced a rate of ₹185/- per MT as On-board supervision charges to cover cargo not falling under any of the category as mentioned in the 'On-board Supervision Schedule'. The TMILL is of the view that sometimes imported Machineries and other over dimensional cargoes do not fall under the project cargo category as per custom classification and they are grouped under "Other Cargo". Thus, the TMILL has proposed the same rate as applicable for Project cargo in the respective on board charges schedule and on board supervision schedule. The TMILL has also stated that such category of cargo would form part of the Project cargo. Given that the rate proposed by the TMILL is at par with the tariff of Project cargo and that the income from project cargo takes into account the income from such cargo items, the proposal of the TMILL is approved. However, the rate for the said category is restricted to the rate approved for Project cargo in the respective tariff schedules.

(xxxviii). Under the proposed Section 8.1, the TMILL has introduced a new sl.no. 4 enabling it to levy ₹ 260/- per MT incase of transportation of Project cargo and machinery & spares including their packages weighing greater than 20 tonnes and upto 35 tonnes. In this regard, the TMILL has stated to have proposed the rate by taking into account the nature of the cargo which requires special types of vehicles along with safety arrangements and also based on the market rate of transportation for such cargo.

Inspite of a specific request, the TMILL has not furnished the cost details and the necessary workings to arrive at the proposed rate of ₹260/- per MT. The TMILL is also not seen to have furnished any document in support of the market rate of transportation for such cargo. In the absence of requisite details and based on the position reported by TMILL that it has not projected traffic of such cargo, this Authority is not in a position to approve the proposed rate.

(xxxix). Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 7 proposing levy ₹6600/- per shift towards Equipment Assistance Charges for IT-12 Caterpillar. Inspite of a specific request, the TMILL has not furnished the cost details and the necessary workings to arrive at the proposed rate of ₹6600/- per shift. In the absence of requisite details and based on the position reported by TMILL that it has not projected any income from the use of equipment, this Authority is not inclined to approve the proposed rate.

(xL). Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 11(a) proposing levy ₹17600/- per shift towards Equipment Assistance Charges for forklifts of capacity above 20 MT. Inspite of a specific request, the TMILL has not furnished the cost details and the necessary workings to arrive at the proposed rate of ₹17600/- per shift. In the absence of requisite details and based on the position reported by TMILL that it has not projected any income from the use of equipment, this Authority is not inclined to approve the proposed rate.

(xLi). Under the proposed Section 10.1, the TMILL has introduced a new sl.no. 11(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. The TMILL has further stated that the rates are proposed based on actual past figures and escalating the same considering a 3 years period.

In this regard, it is relevant to mention here that given that no rate for the said tariff item has been approved in the past, it is not clear how the rates have been arrived at by TMILL based on actual past figures. Inspite of a specific request, the TMILL has not furnished the cost details and the necessary workings to arrive at the proposed rates. In the absence of requisite details, this Authority is not inclined to approve the proposed rates.

(xLii). In the existing Scale of Rate approved in October 2011, there is a tariff item for levy of lease rentals for short term allotment of bare land. In the income calculation now, the TMILL has not considered plot rental income from the said tariff item. The TMILL has also proposed deletion of the said levy in its proposed Scale of Rates. Accordingly, the said tariff levy is not prescribed.

(xLiii). The issue of prescription of shift based rate for the use of the MHC apart from the per tonne rate has been adequately examined and the proposal of the TMILL for shift based rate was rejected for the reasons recorded in the tariff Orders of March and October 2011. The TMILL has not brought out any extraordinary circumstances now, warranting a deviation from the decision already taken earlier. Therefore, the levy of rate for the use of MHC on per tonne basis is to continue.

(xLiv). The TMILL has proposed a new tariff item for levy of high stacking wherever necessary in respect of Iron ore and all types of ore at sl. no. 2 in Section 7.1. The rate for the new tariff item is proposed to be at par with the rate for loading/ unloading/ re-stacking of other bulk cargo as mentioned at Sl. No. 1 of Section 7.1. Simultaneously, it has also proposed deletion of the tariff item relating to prescription of rate for high heaping of bulk cargo at the plot as prescribed at Sl. no. 12 of Section 10 of the Scale of Rates approved in 2011. Reportedly, this is aimed to improve its efficiency and pass on the benefit to the customers. The rate for high heaping of bulk cargo at the plot proposed for deletion is ₹19.90 per MT, whereas, the new rate proposed to be levied for high stacking is ₹27.61 per MT.

The existing rate of ₹19.90 per MT, if allowed to continue will undergo an upward revision by 90% resulting in ₹37.81 per MT. On the other hand, if the revised rate for loading/ unloading/ re-stacking of other bulk cargo is made applicable for high heaping of bulk cargo also, as proposed by the TMILL, the rate works out to ₹33.14 per MT, which is seen to be lower than the rate of ₹37.81 per MT. Further, the TMILL while responding to the comments of the KOPT, has stated that the said charges would be leviable only if there is requirement from customer of additional re-stacking. Since, this is only an optional service and the rate that would be leviable would be lower than the existing tariff, if allowed to continue with hike, the proposal of the TMILL is approved. However, the note proposed by the TMILL in this regard, is modified as follows:

'Wherever high heaping at plot is done by TMILL, at the request of the customer, at the time of receipt of export iron ore/ iron ore pellets or at the time of discharging of import cargo like limestone or other ores, charges for such high heaping will be same as loading/ unloading/ stacking charges.**'**

(xLv). The reason cited by the TMILL for deletion of the existing conditionality at Section 7.3 which states that 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, is that the Hoppers are used sparingly based on customer demand and that the proposed Sl. no. 1 of 7.1 gives reference to the use of hoppers for loading/ unloading/ re-stacking of cargo. The linkage between the proposed deletion of the note and making a mention at sl. No.1 that hoppers would be used is not sufficiently clarified. Therefore, the existing arrangement to continue.

(xLvi). The TMILL has proposed a new note under proposed Section 7.1 to the effect that wherever only labour support is provided by TMILL and no equipment support is provided, consolidated rate of ₹50/- per MT will be applicable towards provision of labour for shore handling activity in case of project / any other package / break bulk cargo. This rate is reported to be based on the prevailing market rate. Since the proposed rate is not based on cost of rendering the service and also since the TMILL has not estimated the additional revenue arising out of the proposed new tariff item, the Authority is not in a position to approve the proposed rate.

13.1. In the result, and for the reasons give above and based on collective application of mind, this Authority recognizes the 2008 level of tariff as the revised tariff for the period from April 2013 to 30 June 2014. The Scale of Rates for the period 1 April 2013 to 30 June 2014 is attached as **Annex - IV (A)**. The Scale of Rates for the period 01 July 2014 to 31 March 2016 is attached as **Annex - IV (B)**.

13.2. The Scale of Rates and conditionalities of the TMILL as contained in Annex - IV (B) may come into effect from 01 July 2014 and shall be in force till 31 March 2016. The approval accorded to the Scale of Rates shall automatically lapse thereafter unless specifically extended by this Authority.

13.3. 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 would 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.

13.4. 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 shall 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.

(T.S. Balasubramanian)
Member (Finance)

Annex - I

Sr. No.	Particulars	Estimates relied upon in the tariff Order of 25 March 2011 and as reviewed in the Order dated 10 October 2011			Actuals (Modified to reflect the income at the 2011 level of tariff)		
		2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
	TM INTERNATIONAL LOGISTICS LIMITED (TMILL)						
	Analysis of performance of TMILL for the years 2010-11 to 2012-13.						
							₹ in Lakhs
	Traffic of Cargo (in MT's)	**1251502**	**1251502**	**1251502**	**1193775**	**850112**	**727870**
I	**Income from services rendered**	3393.35	2738.74	2609.95	3236.78	2074.62	2866.35
	Total	**3393.35**	**2738.74**	**2609.95**	**3236.78**	**2074.62**	**2866.35**
II	**Operating Costs (excluding depreciation)**						
	Operating & Direct Labour	536.78	556.96	577.91	534.46	537.68	618.57
	Maintenance Labour	15.76	16.35	16.97	14.64	16.02	17.46
	Equipment Running Costs	251.13	260.30	269.82	203.94	325.50	145.29
	Royalty / revenue share	187.14	210.60	211.18	204.54	176.46	225.85
	Equipment Hire	3.79	3.79	3.93	39.62	1.04	4.40
	Lease Rentals	207.96	247.07	259.42	179.58	190.68	224.77
	Insurance	38.82	40.03	45.03	28.45	28.81	27.25
	Other expenses	409.30	428.91	460.30	449.76	384.56	344.05
		1650.68	**1764.02**	**1844.56**	**1654.99**	**1660.75**	**1607.64**
III	Depreciation	209.87	214.39	223.39	223.93	248.68	279.49
IV	**Overheads**						
	Management & Administration overheads	401.34	416.43	432.09	435.75	413.60	439.70
	General Overheads	13.97	14.49	15.04	20.40	91.13	106.17
		415.31	**430.92**	**447.13**	**456.15**	**504.73**	**545.87**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	1117.49	329.41	94.87	901.71	-339.53	433.35
VI	**Finance & Miscellaneous Income (FMI)**						
	Other Income	0.00	0.00	0.00	0.04	150.02	0.05
	Discounted terminal value receivable as per the concession agreement	0.55	0.62	0.70	0.55	0.62	0.70
	Total	**0.55**	**0.62**	**0.70**	**0.59**	**150.64**	**0.75**
VII	**Finance & Miscellaneous Expenses (FME)**						
	Contribution to Provident Fund	7.11	7.37	7.65	8.43	17.10	24.02
	Total	**7.11**	**7.37**	**7.65**	**8.43**	**17.10**	**24.02**
VIII	**FMI Less FME (VI) - (VII)**	-6.56	-6.75	-6.95	-7.84	133.54	-23.27
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**1110.93**	**322.65**	**87.91**	**893.87**	**-205.99**	**410.08**
X	**Capital Employed**	3785.47	3694.11	3972.06	3835.69	3510.63	3196.68
XI	**Return on Capital Employed**	605.67	591.06	635.53	613.71	561.70	511.47
XII	**Net Surplus / (Deficit) (IX) - (XI)**	505.25	-268.41	-547.62	280.16	-767.69	-101.39

Annex - II

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

(Rs. in Lakhs)

Sr. No.	Particulars	Actuals (Modified to reflect the income at the 2011 level of tariff)			Estimates furnished by TMILL in January 2014 at the 2008 level of tariff			Estimates as reviewed by TAMP at the 2011 level of tariff		
		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16
	Traffic (In MTs)	1193775	850112	727870	765000	915000	915000	820000	915000	915000
I	**Total Operating Income**									
	Cargo handling income	3236.78	2074.62	2866.35	2042.40	2546.92	2719.87	1761.29	2052.48	2208.73
	Others				710.84	594.02	599.02	573.87	426.62	429.27
	Total	**3236.78**	**2074.62**	**2866.35**	**2753.24**	**3140.94**	**3318.89**	**2335.16**	**2479.09**	**2638.00**
II	**Operating Costs (excluding depreciation)**									
	Operating & Direct Labour	534.46	537.68	618.57	699.59	748.56	800.96	699.59	733.96	785.33
	Maintenance Labour	14.64	16.02	17.46	32.06	34.31	36.71	32.06	34.31	36.71
	Equipment Running Costs	203.94	325.50	145.29	304.24	342.12	368.48	308.85	342.24	368.61
	Royalty / revenue share	204.54	176.46	225.85	213.03	244.56	260.25	172.80	234.02	254.24
	Equipment Hire	39.62	1.04	4.40	12.00	15.00	15.00	12.00	15.00	15.00
	Lease Rentals	179.58	190.68	224.77	234.43	244.30	255.16	240.78	246.50	252.35
	Insurance	28.45	28.81	27.25	29.52	46.82	51.82	29.48	51.04	59.61
	Other expenses	449.76	384.56	344.05	512.65	815.07	1,016.79	540.14	807.09	1,006.22
	Total	**1654.99**	**1660.75**	**1607.64**	**2037.52**	**2490.74**	**2805.17**	**2035.69**	**2464.15**	**2778.07**
III	Depreciation	223.93	248.68	279.49	403.11	511.47	540.88	397.93	511.58	540.99
IV	**Overheads**									
	Management & Administration overheads	435.75	413.60	439.70	470.48	503.42	538.66	470.48	503.42	538.66
	General Overheads	20.40	91.13	106.17	113.45	121.40	129.89	113.60	121.55	130.06
	Total	**456.15**	**504.73**	**545.87**	**583.94**	**624.81**	**668.55**	**584.08**	**624.97**	**668.72**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**901.71**	**(339.53)**	**433.35**	**(271.33)**	**(486.08)**	**(695.71)**	**(682.54)**	**(1,121.60)**	**(1,349.77)**
VI	**Finance & Miscellaneous Income (FMI)**									
	Discounted terminal value receivable as per the concession agreement.	0.55	0.62	0.70	0.56	0.64	0.74	0.56	0.64	0.74
	Other Income	0.04	150.02	0.05	0.00	0.00	0.00	0.00	0.00	0.00
	Total	**0.59**	**150.64**	**0.75**	**0.56**	**0.64**	**0.74**	**0.56**	**0.64**	**0.74**
VII	**Finance & Miscellaneous Expenses (FME)**									
	Contribution to Provident Fund	8.43	17.10	24.02	25.70	27.50	29.43	25.70	27.50	29.43
	Total	**8.43**	**17.10**	**24.02**	**25.70**	**27.50**	**29.43**	**25.70**	**27.50**	**29.43**
VIII	**FMI Less FME (VI) - (VII)**	**(7.84)**	**133.54**	**(23.27)**	**(25.14)**	**(26.86)**	**(28.69)**	**(25.14)**	**(26.86)**	**(28.69)**
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**893.87**	**(205.99)**	**410.08**	**(296.47)**	**(512.94)**	**(724.40)**	**-707.68**	**-1148.46**	**-1378.46**
X	Capital Employed	3835.69	3510.63	3196.68	3494.61	4754.64	4763.70	2880.99	4324.40	4287.48
XI	Return on Capital Employed	613.71	561.70	511.47	559.14	760.74	762.19	460.96	691.90	686.00
XII	Capacity Utilization	88.02%	86.45%	113.00%	64.07%	76.63%	76.63%	68.68%	76.63%	76.63%
XIII	Return adjusted for capacity utilization	613.71	561.70	511.47	559.14	760.74	762.19	460.96	691.90	686.00
XIV	**Net Surplus / (Deficit) after allowable ROCE (IX - XIII)**	280.16	(767.69)	(101.38)	(855.60)	(1,273.68)	(1,486.58)	(1,168.64)	(1,840.37)	(2,064.45)
XV	**50% of the past deficit set off**		(294.45)		0.00	0.00	0.00	0.00	(147.23)	(147.23)
XVI	**Set off of balance three instalment of the past surplus assessed for the period 2007-08 to 2009-10**				0.00	0.00	0.00	153.20	153.20	153.20
XVII	**Total Deficit**				(855.60)	(1,273.68)	(1,486.58)	(1,015.44)	(1,834.40)	(2,058.48)
XVIII	**Net Surplus / (Deficit) as a % of operating income (XVII/I in %)**				-31.08%	-40.55%	-44.79%	-43.48%	-73.99%	-78.03%
XIX	**Average Net Surplus/ (Deficit) as a % of operating income**				-38.81%				-65.17%	

Annex - III

WORKINGS

	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
- cargo handling	2042.40	2,546.92
- plot rentals	525.05	367.55
- HMC	185.80	226.48
	2753.24	3140.94

	For the higher traffic of 8.20 lakh tonnes	For 3 months from April to June 2014
Income at the 2008 level of tariff		
- cargo handling	2189.23	636.73
- plot rentals	562.79	91.89
- HMC	199.15	56.62
	2951.18	785.23
Less: Operating expenses incl. overheads and depreciation	3017.70	900.17
Operating surplus/ (deficit)	(66.52)	(114.94)
FMI less FME	(25.14)	(6.71)
Surplus before interest & tax	(91.66)	(121.65)
Capital Employed	2880.99	4324.40
ROCE	460.96	172.98
Net surplus/ deficit	(552.62)	(294.63)

Particulars	At the 2008 level of tariff		At the 2011 level of tariff	
	2013-14	2014-15 3 months	2013-14	2014-15 3 months
Net Deficit	-5.53	-2.95	-10.15	-4.59
Total net deficit	-8.47		-14.74	
Differential deficit for 1 year and 3 months	-6.27			
Deficit at the 2011 level of tariff for the balance 1 year 9 months of the tariff cycle	-34.34			
Deficit to be recovered at the 2011 level of tariff in the balance 1 year 9 months of the tariff cycle	-40.61			
Operating income of balance 1 year & 9 months at the 2011 level of tariff	44.97			
Total deficit as a % of operating income	-90.30%			

Annex – IV (A)

T M International Logistics Limited
Scale of Rates for operations at Berth No.12 of Haldia Dock Complex
for the period 1 April 2013 to 30 June 2014

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 back up 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 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 16.75%. 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	21.24
2	Limestone and all types of ore except iron ore.	42.48
3	Fertilizer materials, MOP, Rock Phosphate, Soda, Sulphur, C.I. Goods, Cement clinker and other dry bulk not specified.	74.34
4	Tubes and pipes, Iron and Steel, Newsprint, HRC/CRC, Steel Slabs, Beams, Rails, Wheels, Sheets and bagged cargo.	63.72
5	Project cargo and machinery & spares (Immobile units) of various shapes and sizes.	74.34
6	Containers - other than over dimensional container	2336.40 per TEU
7	Car, any rubber tyre vehicle, earth moving equipment	4248 per unit
8	Logs/Timber/Veneer	111.51 per CBM
9	Any other cargo not specified above - Import Cargo -Export Cargo	 0.26% ad-valorem 0.212% ad-valorem

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	Lime-stone, Pig Iron and other Ferrous metals and all types of ore	31.86
2	Finished Fertilizer, Soda, Sulphur, C.I. Goods, Cement, all types of bag cargo and other dry bulk not specified ore	31.86
3	Tubes and pipes, Logs, Iron and Steel, Newsprint.	84.96
4	Project cargo and machinery & spares (Immobile units)	42.48
5	Containers	292.05 per TEU
6	Car, any rubber tyre vehicle, earth moving equipment	53.10 per unit

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 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	19.47
2	Tubes and pipes, Logs, Iron and Steel, Bagged cargo, Newsprint discharged from the ship.	95.58
3	Tubes and pipes, Logs, Iron and Steel, Newsprint shipped into ship.	153.40
4	Project cargo and machinery & spares (Immobile units)	177.00
5	Containers	295.00 per TEU
6	Car, any rubber tyre vehicle, earth moving equipment	3540.00

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	21.24

2	Soda, Sulphur, C.I. Goods, Cement, all types of bag cargo and other dry bulk not specified	47.20
3	Tubes and pipes, Logs (Rs per CBM), Iron and Steel, Newsprint.	53.10
4	Project cargo and machinery & spares including their packages weighing less than 20 tonns.	53.10
5	Containers(TEU)	191.16 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	Limestone, Pig Iron and other Ferrous metals and all types of ore.	37.17
2	Soda, Sulphur, C.I. Goods, Cement, all types of bag cargo and other dry bulk not specified.	37.17
3	Tubes and pipes, Logs, Iron and Steel, Newsprint weighing less than 20 tonnes.	37.17
4	Project cargo and machinery & spares including their packages weighing less than 20 tonnes.	37.17
5	Containers (TEU)	318.60 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.
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	153.00 per tonne	180.00 per tonne
2	All other cargo	36.00 per tonne	54.00 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	5.40	10.80	16.20

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 @ ₹54.90 per tonne per week or part thereof from the date of receipt till the date of shipment.

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 ₹125.65 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.

Demurrage shall be levied on shutout/stock cargo, other than Hazardous I cargo, @ ₹7.39 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.

On cargo/commodity which is received neither as import nor as export nor as stock for shipment, demurrage shall be levied @ ₹54.90 per tonne per day or part thereof from the date of receipt upto the date of removal of the cargo from the port premises.

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.

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	7.08 per MT
2	Lease rentals for short term allotment of Hard stand land	47.91 per sq.mtr per month
3	Lease rentals for short term allotment of Hard stand Covered shed	75.52 per sq.mtr per month
4	Lease rentals for short term allotment of bare land	30.80 per sq.mtr per month
5	Charges for supply of unskilled labour	150 per manshift
6	Equipment hire charges for Front end loaders of Bucket capacity exceeding 3.5 CBM	12000 per shift
7	Equipment hire charges for Front end loaders of Bucket capacity not exceeding 3.5 CBM	6000 per shift
8	Equipment hire charges for Forklift of capacity below 10 MT	2500 per shift
9	Equipment hire charges for Forklift of capacity between 10 MT and 20 MT	12000 per shift
10	Placement and Removal of dunnages at plot for steel cargo wherever customer demands	11.80 per MT
11	Clearing and Forwarding	5.31 per MT
12	High heaping of bulk cargo at plot	24.24 per MT

10.2 Equipment hire charges 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 subletted/ 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.

11. Rebates/Refunds:

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, rebate equivalent to the berth hire charges accrued during the idling period of vessel shall be allowed.

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Annex – IV (B)

T M International Logistics Limited
Scale of Rates for operations at Berth No.12 of Haldia Dock Complex
for the period 1 July 2014 to 31 March 2016.

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 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 16.75%. 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	33.14
2	Limestone and all types of ore except iron ore.	66.27
3	Fertilizer materials, MOP, Rock Phosphate, Soda, Sulphur, C.I. Goods, Cement clinker and other dry bulk not specified.	116.66
4	Tubes and pipes, Iron and Steel, Newsprint, HRC/CRC, Steel Slabs, Beams, Rails, Wheels, Sheets and bagged cargo.	99.41
5	Project cargo and machinery & spares (Immobile units) of various shapes and sizes.	116.01
6	Containers - other than over dimensional container	3645.38 per TEU
7	Car, any rubber tyre vehicle, earth moving equipment	6627.94 per unit
8	Logs/Timber/Veneer	173.98 per CBM
9	All other cargo not specified above except those specified at Sec 3.xii.	448.40

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)	49.70
2	Tubes and pipes, Iron and Steel, Newsprint, HRC/CRC, Steel Slabs, Beams, Logs, Rails, Wheels, Sheets and bagged cargo.	132.56
3	Project cargo and machinery & spares (Immobile units)	66.27
4	Containers	455.68 per TEU
5	Car, any rubber tyre vehicle, earth moving equipment when discharged/shipped by using of slings (Rs per Unit)	82.84 per unit
6	All other cargo not specified above except those specified at Sec 3.xii.	66.27

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 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	24.13
2	Tubes and pipes, Logs, Iron and Steel, Bagged cargo, Newsprint discharged from the ship.	149.13
3	Tubes and pipes, Logs, Iron and Steel, Newsprint shipped into ship.	239.32
4	Project cargo and machinery & spares (Immobile units)	276.17
5	Containers	460.28 per TEU
6	Car, any rubber tyre vehicle, earth moving equipment	5523.28 per unit
7	All other cargo not specified above except those specified at Sec 3.xii.	276.17

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.	33.14
2	Soda, Sulphur, C.I. Goods, Cement, all types of bag cargo and other dry bulk not specified	73.64
3	Tubes and pipes, Logs (Rs per CBM), Iron and Steel, Newsprint.	82.86
4	Project cargo and machinery & spares including their packages.	82.86
5	Containers	298.24 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	Limestone, Pig Iron and other Ferrous metals and all types of ore.	57.97
2	Soda, Sulphur, C.I. Goods, Cement, all types of bag cargo and other dry bulk not specified.	57.97
3	Tubes and pipes, Logs, Iron and Steel, Newsprint weighing less than 20 tonnes.	57.97
4	Project cargo and machinery & spares including their packages weighing less than 20 tonnes.	57.97
5	Containers (TEU)	497.08 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.	16^{th} day onwards
1.	Hazardous – I	238.74 per tonne	280.86 per tonne
2	All other cargo	56.18 per tonne	84.25 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.	8^{th} to 14^{th} day	From 15^{th} day onwards
1.	Log, Timber, Veneer	8.44	16.85	25.25

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 31^{st} day, demurrage on such cargo shall be levied @ ₹56.18 per tonne per week or part thereof from the date of receipt till the date of shipment.

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 ₹238.74 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.

Demurrage shall be levied on shutout/stock cargo, other than Hazardous I cargo, @ ₹14.04 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.

On cargo/commodity which is received neither as import nor as export nor as stock for shipment, demurrage shall be levied @ ₹56.18 per tonne per day or part thereof from the date of receipt upto the date of removal of the cargo from the port premises.

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.

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	11.04 per MT
2	Lease rentals for short term allotment of Hard stand land	74.73 per sq.mtr per month
3	Lease rentals for short term allotment of Hard stand Covered shed	117.82 per sq.mtr per month
4	Lease rentals for short term allotment of bare land	48.05 per sq.mtr per month
5	Charges for supply of unskilled labour	234.04 per manshift
6	Equipment hire charges for Front end loaders of Bucket capacity exceeding 3.5 CBM	18723.00 per shift
7	Equipment hire charges for Front end loaders of Bucket capacity not exceeding 3.5 CBM	9361.49 per shift
8	Equipment hire charges for Forklift of capacity below 10 MT	3900.62 per shift
9	Equipment hire charges for Forklift of capacity between 10 MT and 20 MT	18723.00 per shift
10	Placement and Removal of dunnages at plot for steel cargo wherever customer demands	18.41 per MT
11	Clearing and Forwarding	8.28 per MT
12	High heaping of bulk cargo at plot	37.81 per MT
13	Equipment assistance charges for Harbour Mobile Crane of 104 MT	67.07 per MT
14	Cleaning of Jetty/ deck and water sprinkling for bulk cargo handling wherever necessary for bulk cargo handling.	7.60 per MT

10.2 Equipment hire charges 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.

11. Rebates/Refunds:

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, rebate equivalent to the berth hire charges accrued during the idling period of vessel shall be allowed.

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SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY AND COMMENTS RECEIVED FROM THE PORT USER AND COMMENTS OF TMILL THEREON

F. No.TAMP/44/2012-TMILL	**-**	**Proposal from the TM International Logistics Limited for general revision of its Scale of Rates for the period from April 2013 to March 2016.**

A joint hearing in this case in reference was held on 10 January 2014 at the Kolkata Port Trust (KOPT) premises in Kolkata. The TM International Logistics Limited (TMILL) made a power point presentation of its proposal. At the joint hearing, TMILL, KOPT and the concerned users/ organization bodies have made the following submissions:

TM International Logistics Ltd.

(i). TMILL filed Review Application for review of the tariff Order of March 2008. TAMP was kind enough to entertain the Review Application and passed an Order in October 2011.

(ii). Since there were issues in October 2011 Order, TMILL has challenged both the Orders of TAMP. The Hon'ble Court has stayed both the Orders of TAMP.

(iii). The proposal submitted by TMILL is based on the advice of TAMP.

(iv). We are implementing the rates approved in 2008, which in turn were based on the actuals for the years 2005-2007. 6 years have gone by. Operating cost on all the items have increased since then. For example, the cost for intraport transportation of iron ore the cost of ₹32/- per tonne has been considered in the tariff fixation, whereas, we are actually paying ₹59/-. This scenario can be seen in respect of many of the operating costs.

(v). Also, the cost of diesel has also gone up as we are being treated as a Bulk consumer based on a new circular.

(vi). Though, as per the presentation, it is seen that we are making some profit after tax and it may appear to be fair, it is to be noted that we have to deposit the differential amount in the Fixed Deposit.

(vii). Thus, we are short in respect of the cash flows and the situation is very difficult.

(viii). We are also required to spend money for augmenting the infrastructure. We would have to bear 50% of the cost relating to the new railway siding.

(ix). Therefore, please consider our case and grant us increase in rates.

(x). Further, considering a low discharge rate for project cargo (i.e. 100 tonnes per day), prescription of a common per tonne rate of ₹35.30 for all cargo to be handled by the HMC is not correct. KOPT is charging ₹88.86 per MT at 4B. Please look into this. We also want a shift based rate for project cargo to be handled by HMC.

(xi). Though we have handled about 12 lakh MT in the year 2009-10, it mainly comprised of iron ore. The traffic of iron ore has drastically reduced over the years. The global and economic slowdown is also one of the factors. Further, due to the completion of the various projects in and around Kolkata, we do not foresee more of project cargo.

(xii). Wharfage and the On-board handling charges are main tariff items in the SOR of TMILL. If tariff is less in TMILL then the traffic will come to TMILL. But if tariff is more in TMILL, the traffic will go to KOPT. We, therefore, want a parity in the Wharfage rate and the On-board handling charges at both TMILL and KOPT.

(BCCI - If there is only a minor difference in the rate of TMILL and KOPT, no port user would mind paying more provided he can make a savings in the overall cost. Finally, the efficiency is that matters to the port user.)

(xiii). We need time upto 31 January 2014 to respond to the queries raised by TAMP. We have no objection if TAMP seeks an extension of time of 3 months from the Hon'ble Court, to dispose of our general revision proposal by TAMP

Kolkata Port Trust:

(i). We have responded to the specific clarification sought by TAMP. We reiterate the same.

(ii). In HDC, all types of cargo are handled by the HMC. In respect of project cargo, the discharge rate is seen to be about 700-800 tonnes per day.

(iii). TMILL is not intimating us about the details of the Fixed Deposit being created by it.

(iv). We would be able to give our final comments only if we receive the full-fledged audited accounts from TMILL. In the past we have noticed some difference in the royalty aspect. The TMILL in the past used to furnish the full-fledged audited accounts. But now, it has stopped furnishing the same.

(v). The arbitration in respect of the Royalty aspect is still pending. We agree to furnish a Brief note on the Arbitration matter.

(vi). Unless the tariff of KOPT is determined, royalty payable by TMILL to KOPT cannot be determined. The tariff proposal of KOPT is pending with TAMP. Therefore, TAMP may request the Hon'ble Court to extend the time limit.

(vii). We agree with the traffic projections of TMILL. However, the TMILL has not considered the income from unauthorized occupancy of plot in their income projections.

(viii). We agree that the Railway line connectivity is required for TMILL. But it is difficult for us to comment on the quantum of capital cost estimated for the Railway line connectivity.

(TMILL agrees during the joint hearing to furnish the details of the Fixed Deposit and its full-fledged audited accounts from the year 2010-11 to KOPT within a week.)

Bengal Chamber of Commerce and Industry:

(i). The existing lease rental for short term allotment of hard stand land at ₹72/- is proposed to be increased to ₹102/-. Kindly consider a lower rate, as we have to keep the cargo till the final delivery.

(ii). The proposed 265% increase in the charges for supply of unskilled labour is also on the higher side. Kindly look into it.

2. As decided at the joint hearing, the Bengal Chamber of Commerce & Industry (BCCI) was requested vide our letter dated 15 January 2014 to furnish its written comments to us and to TMILL simultaneously. The TMILL was also requested to respond to the comments of

BCCI. In this regard, the BCCI vide its letter dated 17 January 2014 has furnished its comments to TMILL with a copy endorsed to us. The TMILL vide its letter dated 07 February 2014 addressed to BCCI and copy endorsed to us, has furnished its comments on the submissions of BCCI. The submissions of BCCI and the comments of TMILL thereon are tabulated below:

Sl. No.	Submissions of Bengal Chamber of Commerce & Industry (BCCI)	Comments of TMILL
	BCCI members opined that the following items needs to be re-examined by TMILL since they may cause hardships to the ship owners & operators.	
(i).	First Chart 10.1 under item no. 3 i.e. "Lease Rentals for short term allotment of Hard Stand Covered sheds (₹ per SQM per month)" – the existing rate is ₹75.52 and TMILL proposed rate is ₹102.45, which is an increase of 35.5%. It is suggested to retain the same at a reasonable increase of 15% on the existing rate i.e. ₹86.85 per SQM per month.	The rate for "Lease Rentals for short term allotment of Hard Stand Covered Sheds" (Item no. 3 of 10.1) has been proposed considering the overall cost position and market rates. However, the same is under consideration of TAMP and TMILL justified reduction in the same.
(ii).	First Chart 10.1 under item no. 5 "Charges for supply of unskilled labours – (₹ per manshift)". – the existing rate is ₹150/- and proposed rate is ₹576.92, which is an increase of 284.61%. It is suggested to retain the same at a reasonable increase of 35% on the existing rate i.e. ₹ 202.50 per manshift.	The existing rate for "Charges for supply of unskilled labours" (Item no. 5 of 10.1) is far below the existing market rates. The cost of Labour at Haldia has gone up substantially over last 5-6 years and the proposed rate is needed to recover the cost. It may also be noted that the existing market rate will go up further post the new Charter of Demand w.e.f. September 2013. TMILL has also considered a 3 years period for the proposed rate. Hence it is requested to consider the case.
(iii).	As far as project cargo is concerned, it is appreciated that handling of project cargo vessels is un-remunerative from the port operators' point of view. Still then, an increase of 222.82% is very much on the higher side; as KOPT including Haldia Dock Complex has significantly lost movement of project cargo due to several constraints including high costs.	The productivity of Project cargo is much lower compared to other cargoes handled at B#12, Haldia. Due to the safety related issued of the high value cargoes, proper measures are necessary during discharge. Moreover, the existing Wharfage rates are much lower than the market rates. Proposed rate is needed to recover the cost and sustain the business. Hence it is requested to consider the case.

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