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Tariff Authority for Major Ports

G.No. 397 **New Delhi,** **12 October 2017**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from International Seaports (Haldia) Private Limited, a BOT operator operating berth No.4A at Haldia Dock Complex, Kolkata Port Trust, for general revision of its Scale of Rates, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/13/2017-ISHPL

International Seaports (Haldia) Pvt Ltd ... Applicant

QUORUM

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

O R D E R

(Passed on this 15th day of September 2017)

This case relates to the proposal received from International Seaports (Haldia) Private Limited (ISHPL), a BOT operator operating berth No.4A at Haldia Dock Complex (HDC), Kolkata Port Trust (KOPT), for general revision of its Scale of Rates (SOR).

2.1. The existing SOR of the ISHPL was last revised by this Authority vide its Order no. TAMP/72/2012-ISHPL dated 4 July 2014 with a tariff validity upto 31 March 2016. This Order was notified in the Gazette of India on 7 August 2014 vide Gazette no. 234. Vide the said Order, status quo was maintained in the then existing tariff of ISHPL.

2.2. Subsequent to the expiry of the tariff validity period, the ISHPL vide its letter dated 17 June 2016 made a request to extend the validity of the existing SOR till 31 December 2016 on the ground that the Annual accounts for the financial year 2015-16 is under process. In order to avoid the vacuum in the SOR and at the same time to not extend the tariff validity for a longer period of time, this Authority vide its Order No.TAMP/72/2012-ISHPL dated 14 July 2016 extended the validity of the SOR upto 30 September 2016 and advised the ISHPL to file its proposal by 31 July 2016.

2.3. Thereafter, based on the request made by the ISHPL vide its letter dated 30 July 2016 to allow them time upto 30 September 2016 to submit its general revision proposal, the Authority granted time till 30 September 2016 to ISHPL to file its general revision proposal.

2.4. In the absence of receipt of a proposal from the ISHPL, when the ISHPL was reminded vide our letter dated 24 October 2016, the ISHPL vide its email dated 26 October 2016 informed that they have started the work on submission of the proposal and they will submit the proposal shortly. Accordingly, this Authority decided to grant time upto 15 December 2016 to ISHPL to file its proposal.

3.1. In this backdrop, the ISHPL, vide its letter no. ISHPL/Kol/2016-17 dated 10 February 2017 has submitted its general revision proposal. The main points as seen from the proposal filed by the ISHPL are summarized below:

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

(ii). The proposal is based on the actuals for the years 2012-13 to 2015-16 and estimates for the years 2016-17 to 2018-19.

(iii). The total traffic figures (actuals and estimated) for the years 2012-13 to 2018-19 are given below:

Year	**Traffic** (in MTs/TEUs)	**Actuals/ Estimates**
2012-13	27.46	Actuals
2013-14	34.21	
2014-15	31.09	
2015-16	28.64	
2016-17	28.00	Estimates
2017-18	24.00	
2018-19	23.00	

(iv). The financial implications at the existing level of tariff for actual traffic for FY 2012-13 to 2015-16 and estimated Traffic for FY 2016-17 to 18-19 as shown in the consolidated income and cost statement furnished by the ISHPL are summarised below:

(₹ in lakhs)

Sl. No.	**particulars**	**Actuals**				**Estimates at existing level of tariff**		
		2012-13	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
(i).	Traffic (in MTs/TEUs)	27.46	34.21	31.09	28.64	28.00	24.00	23.00
(ii).	Operating income	8326	9058	7678	7323	7064	5857	5517
(iii).	Net surplus/ deficit after return	1444	802	-455	-378	93	-1489	-1731
(iv).	Net deficit as a percentage of operating income	17.3%	8.9%	-5.9%	-5.2%	1.3%	-25.4%	-31.4%

(v). The ISHPL has proposed following additions in capital costs to achieve ease of operations & increase in expected traffic.

(₹ In Lakhs)

Sr. No.	**Particulars**	**Details**
1.	Nature of investment	Revamping of Automation System
2.	Year of Commissioning	2018-19
3.	Cost of investment	165
4.	Capacity (MT / TEUs)	---
5.	Purpose of additional investment	To overcome obsolescence

(vi). In this backdrop, the ISHPL has sought the following percentage of increase in the following tariff items:

Sr. No.	**Tariff category**	**Current rate ₹ per MT**	**Proposed rate ₹ per MT**	**% Increase in Rate proposed**
1	Supply of Manpower & Mobile Equipment	9.57	11.70	22.26
2	Wharfage Charges	78.30	102.50	30.91
3	Shore Handling Charges	91.35	119.65	30.98
4	Delivery Charges	30.45	39.85	30.87
5	Ground Rent (beyond 21 days)	43.50	50.00	14.94
6	Weighment Charges for In-motion Weigh Bridge	5.00	5.50	10.00
7	Retrieving Cargo which spills over in transit	5.00	5.50	10.00
8	Siding Charges	5.00	6.00	20.00
9	Loading, reloading & Restacking	20.00	22.00	10.00
10	Taking Photographs for Loaded Wagons	100.00	120.00	20.00
11	Charges for Online Sampling	5.00	5.50	10.00
12	Despatch related services for rail bound cargo through Berth No 4A, including trimming, cleaning, labelling & lime spraying	10.00	12.00	20.00
13	Quarterly Survey of Stock	3.00	3.60	20.00
14	Berth Hire Charges ($) (Foreign Going Vessel)	0.0028	0.0030	6.66

(vii). Based on the proposed revision sought by the ISHPL, the estimated net surplus/ deficit is as below: -

(₹ in lakhs)

Sl. No.	particulars	Actuals				Estimates at proposed level of tariff		
		2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
(i).	Traffic (in MTs/TEUs)	27.46	34.21	31.09	28.64	28.00	24.00	23.00
(ii).	Operating income	8326	9058	7678	7323	7064	7477	7045
(iii).	Net surplus/ deficit after return	1444	802	-455	-378	93	130	-203
(iv).	Net deficit as a percentage of operating income	17.3%	8.9%	-5.9%	-5.2%	1.3%	1.7%	-2.9%

(viii). In addition to this, the ISHPL has made following submissions in its proposal dated 10 February 2017:

(a). The proposal is based on the actual results of the company for the year 2013-14, 2014-15 and 2015-16. For the year 2016-17, based on the actual volume handled till 31 Dec 2016, it is estimated that the facility will handle a total volume of approx. 2.8 million during FY 2016-17. An estimate of 2.4 million has been considered for the next year i.e FY: 2017-18 and 2.3 million for FY: 2018-19.

(b). As regards the mix between coastal cargo and Import cargo and considering the past performance, it is assumed that there will be no coastal cargo during the FY 2016-17. However, it is anticipated that the volumes will move up once the projected developments as envisaged in the Plan by the Ministry of Shipping takes shape in Inland water way development and development of facilities at port for handling coastal vessels. Considering this, it has been assumed that 10% and 15% of coastal cargo will be handled during FY 2017-18 and 2018-19 respectively, which is a reasonable estimate giving over a year for the developments to take shape.

(c). The projected costs for the financial years 2017 to 2019 are based on current actuals adjusted for volume and average inflation after considering the inflation as specified in the TAMP circular.

(d). Royalty has been considered as per license agreement based on the SOR prevailing at Haldia Dock Complex (HDC). As per SOR of HDC notified by TAMP, revised rates as applicable has been considered. In line with the previous directives from TAMP, the surplus has been adjusted as per TAMP guidelines.

(e). In case of computation of working capital, 70% of the dues from SAIL for 15 days has been considered as Debtors outstanding. ISHPL has received only 30% as advance after discharging full vessel and the balance payment is made after the material is fully dispatched and invoice is raised. In view of this, conservatively the outstanding debtors have been taken. The actual financial statements for the last few years will corroborate this statement.

(f). Inventories have been taken based on the actual consumption for the past few years. Cash, creditors (trade payables) and other debtors have been considered based on the guidelines approved by TAMP.

(g). There is a need for revamping of automation system/ electronics of the facilities at Berth No. 4A viz. Stacker - reclaimers, wagon loaders and their control devices which have been in operation since 2004. ISHPL has experienced that with electronic items viz. PLC / VVVF Drives of ship unloaders, spares procurement become progressively difficult with passage of time due to which ISHPL had replaced the electronic controls in FY: 2011-12. With regard to Stacker - reclaimers, wagon loaders and their control devices also, similar procurement problems have started and ISHPL is trying to procure some spares to continue atleast for next financial year. Thereafter, ISHPL would have to revamp the same. Therefore, ISHPL would have to undertake replacements/ revamping of automation system/ electronics of Stacker - reclaimers, wagon loaders and their control devices.

(h). It can be seen from the Form 3A that on the basis of the existing tariff, the terminal will result in a deficit even after adjustments made as per TAMP guidelines. It may be noted that even with the proposed increase, the company will have an average surplus of 0.1% warranting the minimum increase that the ISHPL has sought.

3.2. The ISHPL has also furnished Audited Annual Accounts for F.Y. 13-14, 14-15 and 15-16.

4.1 In accordance with the consultative procedure prescribed, a copy of the ISHPL proposal dated 10 February 2017 was forwarded to the Licensor port, KOPT and to the concerned users/ user organisations vide our letter dated 24 February 2017, seeking their comments. Inspite of a reminder dated 27 March 2017, we have not received any comments from any of the users / user organizations till the case was finalised.

4.2. The KOPT vide its email dated 28 April 2017 has furnished its comments on the ISHPL proposal. The comments received from KOPT were forwarded to ISHPL as feedback information vide our letter dated 3 May 2017. However, inspite of reminders, the ISHPL has not furnished its comments on the submissions made by the Licensor port KOPT. The summary of the comments received from the KOPT is given below:

(i). **Comments on the proposal of ISHPL**

The examination of the vessel income indicated in the cost statement vis - a – vis audited accounts reveals some differences between the two sets of documents as below :

₹. in Lacs

Year	**Vessel Income**	
	Audited Accounts	**Cost Statement**
2012-13	380	380
2013-14	470	447
2014-15	445	415
2015-16	474	432

Similar differences have been noticed in the Royalty expenses reported, as below:

Year	**Royalty Expense**	
	Audited Accounts / Amount actually received by HDC	**Cost Statement**
2012-13	1485	1357
2013-14	1833	1674
2014-15	1980	1808
2015-16	1837	1678

(ii). **Comments on the proposed SOR**

(a). Sec 1.1(xi): The phrase 'competent authority' should be replaced by the phrase 'the Director General of Shipping/Competent Authority and/or any other vessel directed to be treated as 'Coastal' by Govt. of India'.

(b). Sec. 1.2(iii) should be replaced by the following clauses: -

(a) System of classification of vessel for levy of Vessel Related Charges (VRC)

(i) A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(ii) A Foreign going vessel of foreign flag can convert to coastal run on the basis of License for Specified Period or voyage issued by the Director General of Shipping and a custom conversion order.

(b) <u>Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate.</u>

(i) In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
(ii) In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
(iii) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(c) The corresponding vessel related rates should be applied depending on the status of the vessel at the time of the incidence of such charge.

(c). Sec 1.2 (xi) : The provisions in respect of levy of cargo related charges at concessional coastal rate should be recast and incorporated as follows:

<u>Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate.</u>

(i) Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

(a) Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(b) Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

*** The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.**

(ii) In case of a Foreign flag vessel converted to coastal run on the basis of a Special Period License issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

(d). Sec 1.2 (xii) : The phrase 'beyond reasonable level' should be clearly defined to avoid any ambiguity in its meaning and understanding.

(e). Sec 1.2 (xiii) (c): In the last line of the clause, the term 'Terminal' should be deleted to avoid any ambiguity in its meaning and understanding.

(f). Sec. 2.2 : The rate of Berth Hire charge for coastal ships has been proposed with substantial increase of 34.59%. Rationalisation of the same is felt necessary.

(g). Sec. 2.4 : The rate of Penal Berth Hire charge for coastal ships has been proposed with substantial increase by 49.48%. TAMP may consider to advise ISHPL to rationalise the same.

(h). Sec. 3.1 : Although the permissible cargo to be handled at Berth No. 4A includes various commodities viz Fertilizer, Fertilizer Raw Material, Soda Ash and other dry bulk cargo, ISHPL has proposed rate only for Coking Coal which is objected to, as it reflects their intention of handling a single commodity only which is not in consonance with the provisions of the License Agreement as well as leaves scope for underutilization of the berth.

(i). Sec. 3.2 : The Wharfage rate has been proposed with a substantial increase by 30.91%. TAMP may consider to advise ISHPL to rationalise the same.

(j). Sec. 3.3 : The Shore Handling Charge (conventional) has been proposed with a substantial increase by 30.87%. TAMP may consider to advise ISHPL to rationalise the same.

(k). Sec. 3.4.2 and 3.5.2 : The proposed Delivery Charge (mechanical) is 31.86% higher than existing rate while the proposed delivery charge(conventional) is 101.15% higher than the existing tariff. TAMP may consider to advise ISHPL to rationalise the same.

(iii). **General Observation:**
In spite of proposing service wise rate and TAMP's approval of the same, ISHPL has been levying consolidated tariff on SAIL which is also known to TAMP. KOPT's representations to TAMP in the matter remains unaddressed.

KOPT again objects and emphasises that for the tariff so levied by ISHPL, the service wise rates applied must be reflected in the invoices raised by ISHPL on their customer so as to ensure that the tariff levied is contained by ISHPL within the permissible ceiling rates as approved by TAMP. TAMP may consider to pass an order to ISHPL in this regards. As also intimated by KOPT on earlier occasions to TAMP, this is also required for proper assessment of royalty payable by ISHPL in terms of the License Agreement.

Further through various letters since 15.06.2006, KOPT has communicated to TAMP the silent provisions of the License agreement entered into between KOPT & ISHPL as well as KOPT's position in respect of such matters. The issue was also represented through KOPT'S letters dated 14.09.2006, 18.08.2010 etc. As the issues are still continuing, TAMP may take a relook into the matter and consider them while making any material determination with regard to the scale of Rates of ISHPL.

As before, KOPT still objects to the proposal of ISHPL for 'double banking charge', because, as before it is again emphasized that ISHPL are not entitle to earn benefit out of the utilization of dock water & space which are beyond the limits of area allotted to them in lease under the License Agreement. Besides, in the incident of such double banking required under compelling situations, KOPT's too has been suffering from loss of its legitimate dues for such space under KOPT's possession by the double banking ship. TAMP needs to take a justified view on the issue and no rate towards 'double banking charge' should be allowed to ISHPL during revision of their Scale of Rates.

5.1. On a preliminary scrutiny of the proposal, the ISHPL was requested vide our letter dated 21 April 2017 to furnish additional information/ clarifications on various issues raised by us. Inspite of our reminders dated 3 May 2017, 07 June 2017 and 21 June 2017, the ISHPL has not responded till the case was finalized. The information / clarification sought by us are as follows:

I. General

(i). Since the year 2016-17 is already over and considering that the revised tariff in respect of ISHPL will come into effect only in the year 2017-18, the ISHPL to consider updating its cost statements by considering the estimates for the year 2019-20 also, so as to have a tariff validity period of 3 years.

(ii). The cost statements for the year 2016-17 may be updated with actuals and estimates for the years 2017-18 to 2019-20 to be reviewed, if necessary, with regard to the actuals for the year 2016-17.

(iii). The ISHPL to furnish a copy of the provisional accounts for the year 2016-17, if audited accounts are not available.

II. Traffic Projections

(i). The estimated traffic for the year 2016-17 may be updated with actuals and estimates for the years 2017-18 to 2019-20 to be reviewed.

(ii). With reference to the estimated volume of cargo at 2.4 Million Tonnes for the year 2017-18 and 2.3 million tonnes for the year 2018-19, the ISHPL has stated in its proposal that it has taken into consideration the following to tone down the volume estimates :

(a). Developments planned by Ministry of Shipping (MOS) in terms of further capital expenditure commitments for ramping up capacities at the existing ports;

(b). New Ports coming up in the immediate areas.

In this regard, the ISHPL to:

(a). List down the year wise and port wise capital expenditure commitments planned by MOS for ramping up capacities and furnish an analysis to show how it will have a negative impact on the volume of cargo to be handled by ISHPL.

(b). List down the new ports coming up in the immediate areas, the cargo profile envisaged to be handled in such new ports, the probable year of commissioning of new ports and furnish an analysis to show how such new ports will negatively impact the volume of cargo to be handled by ISHPL.

(iii). The ISHPL has estimated substantial coastal volume of coal for the years 2017-18 and 2018-19, though no coastal volume has been handled by ISHPL in the years 2012-13, 2013-14, 2015-16 and 2016-17, on the ground that the MOS has projected development in Inland Waterways and has planned facilities at port for handling coastal cargo. In this regard, the ISHPL to indicate the probable year in which the Inland water ways development and the planned facilities at port for handling coastal cargo will take place and furnish an analysis to show how these developments will contribute to the coastal volume of ISHPL during the year 2017-18 and 2018-19.

(iv). The ISHPL has estimated capital expenditure of ₹.165 lakhs during the year 2018-19 towards revamping of automation system. The estimated increase in traffic arising on this account to be considered in traffic estimates for the year 2018-19, as the traffic estimated for 2018-19 is less than the estimated traffic for 2017-18.

III. Income Projections

(i). The estimated income for the year 2016-17 to be updated with actuals and estimated income for the years 2017-18 to 2019-20 may be reviewed, if necessary, based on actuals for the year 2016-17.

(ii). The ISHPL has considered the Vessel related income of ₹. 446.9 lakhs, ₹. 415.4 lakhs and ₹. 432.4 lakhs for FY 2013-14 to 2015-16 respectively in the cost statement. However, the berth hire income is reported at ₹.470.44 lakhs, ₹.445.19

lakhs and ₹. 474.35 lakhs in the Schedule 16 of the Audited Accounts of ISHPL for the years 2013-14 to 2015-16 respectively. The reason for showing less income in the cost statement (Form 2B) to be explained with a reconciliation statement.

(iii). Miscellaneous income as reflected in Schedule 18 of Annual Accounts for the years 2013-14 to 2015-16 is not seen to have been considered by ISHPL in the Cost Statement. Please clarify.

(iv). In the estimation of income under the head 'Other income from optional services', the ISHPL is not seen to have estimated any income arising out of loading, unloading and re-stacking of cargo and retrieving cargo for any of the years 2016-17 to 2018-19. The ISHPL to estimate income on this account.

(v). The estimation of 'Other income from optional Services' during the years 2016-17 to 2018-19 is seen to be on a declining trend at ₹. 768 lakhs, ₹. 658 lakhs and ₹. 631 lakhs respectively as against the actual income to the tune of ₹. 1887 lakhs during the year 2015-16. The reason for lower estimation of income to be justified.

(vi). The ISHPL is also not seen to have estimated income from ground rent (for the period beyond 21 days) for the years 2016-17 to 2018-19. The ground rent income may be captured in the income estimation for the years 2016-17 to 2018-19.

(vii). The ISHPL is seen to have considered actual profit on sale of assets to the tune of ₹. 2.52 lakhs in the Cost Statement under 'Finance & Miscellaneous Income'. However, the same is not reflected in the Annual Accounts of ISHPL for the year 2015-16. The position to be clarified.

IV. Operating Cost

The ISHPL to furnish a Reconciliation statement explaining the difference in the Expenses (Operating Expenses + Overheads + Depreciation) as reflected in the Cost Statement vis-à-vis the total expenses as reflected in the annual Accounts for the years 2013-14 to 2016-17.

(a). Maintenance Labour

The ISHPL has considered an annual escalation of 10% for the years 2016-17 to 2018-19 over the actuals for the year 2015-16 to estimate the cost of Maintenance labour. It is seen from the proposal of the ISHPL that the escalation factor of 10% is based on the contract for the period 01.04.2014 to 31.03.2017. Since the contract period has come to an end, the ISHPL to furnish a copy of the contract entered by the ISHPL for the period 01.04.2017 onwards and estimate the Maintenance labour cost for the years 2017-18 and 2018-19.

(b). Equipment Running Cost

As per the electricity bill for November 2016 furnished by ISHPL, per unit cost of electricity is seen to be ₹. 11.26, whereas, the ISHPL has considered the unit cost of power at ₹. 13.40 for the year 2016-17. The ISHPL to furnish documentary support for the unit rate of ₹. 13.40.

(c). Lease Rentals

(i). In the calculation of Lease Rentals, the lease area during the years 2013-14 to 2015-16 has been considered at 106907.21 sq mtrs. However, from the year FY 2016-17 onwards, the lease area has been reduced to 106787 sq.mtrs. Please explain the reason for considering a lower area of land for estimation of lease rentals.

(ii). The License Agreement between Kolkata Port Trust (KOPT) and ISHPL stipulates an annual escalation 5.1% of the rent payable in respect of land allotted to the ISHPL. The License Agreement also provides for a rebate of 2.5% on timely payment of lease rent. From the details furnished by ISHPL, it is not clear whether the impact of rebate has been built in the estimates of lease rentals. Therefore, the ISHPL to establish with workings that the impact of rebate has been factored in the estimation of lease rentals.

V. Other Expenses.

(a). Insurance Cost
Please furnish the basis and workings for estimation of Insurance Cost.

(b). Testing & Survey charges
Please furnish documentary evidence in support of per tonne rate towards Testing and Survey Charges, which appears to be a contractual service.

(c). Demurrage
The traffic estimated for the years 2016-17 to 2018-19 has been shown as cost towards demurrage in the cost statement.

VI. Depreciation

(i). As per Annual Accounts, Depreciation for the year 2014-15 is ₹. 1039.45 lakhs. However, in the cost Statement it is shown as ₹.1163 lakhs. Kindly reconcile the difference.

(ii). Considering that no sale/deletion of plant and machinery is envisaged during the years 2016-17 to 2018-19 as compared to the year 2015-16, the significant reduction in quantum of depreciation amount relating to Plant & Machinery during the years 2016-17 to 2018-19 to be justified.

(iii). Please confirm that the depreciation for the years 2016-17 to 2018-19 is in line with clause 2.7.1 of 2005 Guidelines.

VII. Overhead
Management & Administrative Overhead

(i). Please list out the items considered under Management and Administrative overheads.

(ii). The escalation factor of 10% considered in estimation of this expense for the years 2016-17 to 2018-19 over the respective estimates of previous years to be justified

VIII. Capital Employed

The ISHPL has estimated a capital addition of ₹.165/- lakhs towards revamping of automation system during the 2018-19. In this connection, the ISHPL is requested to furnish documentary evidence in support of action initiated in procurement of the said asset. Further, reduction in operating cost envisaged due to revamping of automation system also to be furnished.

(i). Sundry Debtors

(a). During the revision of tariff of ISHPL in the past, the sundry debtors are considered at one month's average of estimated lease rental payable by ISHPL to KOPT. However, the ISHPL is not seen to have adopted this approach to estimate sundry debtors for all years under consideration. The balance of sundry debtors to be estimated as per previous tariff Orders.

(b). Consideration of 70% of the dues from SAIL for 15 days as debtors outstanding is not found to be in line with clause 2.9.9. of the Tariff Guidelines of 2005.

(ii). Inventory

The ISHPL to furnish working in support of the value of inventory considered for all the years under consideration.

(iii). Cash Balance

The cash balance estimated by ISHPL is not seen to be in line with the stipulation contained in clause 2.9.9 of the 2005 Guidelines. The same to be estimated as per Guideline provision.

(iv). Loans & Advances

During the review of tariff of ISHPL in the past, the loans and advances are not taken into account as a component of Current assets, as 2005 Guidelines do not provide for the same. On the same line, it may not be possible to consider the amount of loans and advances in the estimation of working capital.

(v). Current liabilities

Please explain the nature of "Current liability for Dividend including tax on dividend" considered in the year 2014-15 to the tune of ₹. 530 lakhs.

IX. Scale of Rates

(a). General Terms & Conditions –

As per Clause 2.18.4 of the 2005 Guidelines, the delay in refunds by the port will be counted beyond 20 days from the date of completion of services or on production of documents required from user. However, the ISHPL has proposed a note to the effect of counting of delay in refunds from 30 days of completion of services. The reason for proposing the note in deviation to the Guidelines position to be explained.

(b). Shore Handling Charges –

In the list of services included within the scope of Shore handling charges, the reason for deleting the service of 'water Sprinkling' from the scope of shore handling charges and for inserting the service of 'collection of spillage right from vessel to stack yard and to transmission' to be explained.

5.2. The Licensor port KOPT was also requested vide our letter dated 21 April 2017 to furnish some information/ clarification on the ISHPL proposal. The KOPT has responded vide its email dated 28 April 2017. The information sought by us and the response of KOPT thereon are tabulated below:

Sl. No.	Information/ clarification sought by us	Response of KOPT
(i).	The traffic estimates of ISHPL for the years 2016-17 to 2018-19.	In the current fiscal (2016-17) about 2.68 million ton cargo has been handled by ISHPL at Berth No. 4A as against 2.84 million ton handled in FY 2015-16. As such, the cargo projection of ISHPL for the FY 2017-18 and 2018-19 seems to be reasonable in view of declining trend of coal import at HDC in FY 2016-17 as compared to FY 2015-16, primarily for the reasons of recession in the Steel Industry as well as emphasis by Govt. on increased use of domestic coal.
(ii).	The actual traffic handled by ISHPL during the year 2016-17.	

<table>
<tr><td></td><td></td><td>In this regard it may be stated here that in FY 2013.-14 and 2014-15, 3.4 million ton and 3.13 million ton of cargo respectively was handled at Berth No. 4A on account of SAIL only. Considering the provision of using Berth No. 4A on common user basis, ISHPL may explore the feasibility of handling additional compatible dry bulk cargo account other importers for optimum utilization of the capacity of the berth.

However, considering the Government's policy to promote the coastal traffic, at least 10% of the cargo to be handled at this berth may be considered as coastal.</td></tr>
<tr><td>(iii).</td><td>Addition to the gross block of assets proposed by the ISHPL during the year 2018-19.</td><td>In respect of the costs of investments at Berth No. 4A it may be stated that as per the License Agreement, ISHPL is required to maintain the mechanised handling facilities in proper working condition and hand over the same to KOPT upon expiry of the license. Thus continuous maintenance of the entire project facilities is required to be undertaken by ISHPL to ensure handling over of the project facilities to KOPT in good shape and proper working condition at the end of the license period. However, they have not intimated to KOPT any specific investment plan in this regard. Therefore, KOPT is not in a position to offer any comment on this.
Thus, regarding additions of assets to the gross block, it is submitted that the same is done at the discretion of ISHPL and KOPT has no comments to offer on the same.</td></tr>
<tr><td>(iv).</td><td>Area of land leased to the ISHPL and the rate of lease rentals considered by ISHPL in the estimation of lease rentals</td><td>With regard to the Area of land leased to the ISHPL and the rate of lease rentals considered by ISHPL in the estimation of lease rentals, the following information is furnished as per the bills raised in March 2017:
<table>
<tr><td>Area of land leased</td><td>Rate per 100 sq.m (in ₹)</td></tr>
<tr><td>103000 sq.m</td><td>4364.13</td></tr>
<tr><td>1795 sq.m</td><td>2810.39</td></tr>
<tr><td>1179 sq.m</td><td>3349.99</td></tr>
<tr><td>715 sq.m</td><td>3190.47</td></tr>
<tr><td>83 sq.m</td><td>3349.99</td></tr>
</table></td></tr>
</table>

6. A joint hearing on the case in reference was held on 8 May 2017 at the KOPT premises in Kolkata. At the joint hearing, the KOPT and ISHPL have made their submissions.

7. Subsequent to the joint hearing, ISHPL was requested vide our letter dated 7 June 2017 to look into the concerns raised by HDC on the penal provisions for overstayal of the vessel and absence of incentive provision for better performance of vessel and respond. Inspite of a reminder dated 21 June 2017, the ISHPL has not responded till the case was finalised.

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

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

(i). The existing Scale of Rates (SOR) of the International Seaports (Haldia) Private Limited (ISHPL) was last revised vide Order dated 04 July 2014 with a tariff validity upto 31 March 2016. Vide the said Order, status quo was maintained in the then existing tariff of ISHPL. Subsequently, this Authority vide its Order dated 05 July 2016 has extended the validity of the existing SOR of ISHPL till 30 September 2016 with an advice to ISHPL to file its proposal by 30 July 2016. Time for filing the proposal was initially extended till 30 September 2016 at its request and thereafter upto 15 December 2016. The validity of the ISHPL SOR has not been extended thereafter.

(ii). In the above backdrop, ISHPL filed its proposal for general revision of its SOR in February 2017. This proposal was taken up for consultation with the relevant users. During the processing of the case, since the financial year 2016-17 was already over, the ISHPL was requested to update the cost statements with actuals for the year 2016-17. The ISHPL was also requested to review the estimates for the years 2017-18 to 2018-19 based on the actuals for the year 2016-17. Further, information/ clarification were sought from ISHPL to enable this Authority to pass a reasoned speaking Order. Also, during the joint hearing held on 08 May 2017, the ISHPL was requested to look into the concerns raised by the Kolkata Port Trust (KOPT) on the penal provisions for overstayal of the vessel and absence of incentive provision for better performance of vessel and respond. Inspite of several reminders, as brought out in the factual position of the Order relating to the case in reference, the ISHPL has not responded. The ISHPL has neither furnished the information/ clarification sought by us nor has furnished its comments on the comments furnished by the Licensor Port KOPT. Though the ISHPL agreed in the joint hearing held on 8 May 2017 that it would respond shortly, it remained silent even after lapse of more than 3 months.

Inspite of the year 2016-17 being over and the financials of 2016-17 being available with ISHPL, the ISHPL has failed to furnish the same to this Authority. Therefore, the estimates of the year 2016-17 relied upon now will be reviewed with reference to actuals for the year 2016-17, during the next review of tariff of ISHPL and necessary adjustments will be made as per 2005 guidelines, which the ISHPL may note.

In this connection, it is relevant to mention here that the SOR of ISHPL was due for revision since 01 April 2016 (after expiry of the initial tariff validity period i.e. upto 31 March 2016). Though as stipulated in Clause 3.1.3 of the 2005 tariff guidelines, the BOT Operators are to initiate tariff proposal and forward the same to this Authority, at least three months before these are due for revision, there has been a considerable delay on the part of ISHPL to submit its proposal. The proposal filed by ISHPL in February 2017 (after reminders) is after about 11 months after the date of expiry of original tariff validity period. Now, there is a considerable delay on the part of ISHPL to furnish the relevant information/ clarification as sought by us in April 2017. In the process, about 16 months have already passed after the date of expiry of original tariff validity period. In this backdrop, it is not felt appropriate to indefinitely await the response of ISHPL. In view of this position, this Authority is constrained to dispose of the proposal of ISHPL based on the available information, as gathered during the processing of the case in reference.

(iii). Clause 2.13 of the tariff guidelines of 2005 mandates this Authority to review the actual physical and financial performance of the private terminals at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing the prevailing tariff. During the last fixation of tariff of ISHPL, this Authority had relied upon the estimates for the years 2013-14 to 2015-16. Thus, the estimates vis-à-vis actuals for the years 2013-14 to 2015-16 are to be analyzed to assess the actual performance of ISHPL during the said period.

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

(a). The aggregate of the actual traffic handled by ISHPL during the three year period from 2013-14 to 2015-16 works out to 9.39 million metric tonnes as against the estimated traffic of 8.92 million metric tonnes, registering a positive variation of 5.37%.

(b). The operating income comprises of the cargo handling income, vessel related income and other income.

The cargo handling income considered by ISHPL in its cost statement to the tune of ₹ 8610.94 lakhs, ₹ 7263.27 lakhs and ₹ 6890.72 lakhs for the years 2013-14 to 2015-16 respectively is seen to be as per the Annual accounts of ISHPL for the respective years. The same is taken into account.

Though the annual accounts for the years 2013-14 to 2015-16 reflect the vessel related income at ₹ 470.44 lakhs, ₹ 445.19 lakhs and ₹ 474.35 lakhs respectively, the ISHPL has considered the Vessel related income of only ₹ 446.9 lakhs, ₹415.4 lakhs and ₹ 432.4 lakhs in the cost statement for the said years respectively. The KOPT has also pointed out the lower reporting of vessel related income in the cost statement. The reason for considering lower level of vessel related income in the Cost statement has not been explained by the ISHPL inspite of a specific request made to ISHPL in this regard. In the Order of July 2014 of ISHPL, such a difference has been attributed by the ISHPL towards income from the parking and double banking of vessels. Based on the same reason, the higher level of vessel related income as reflected in the annual accounts for the years 2013-14 to 2015-16 is considered in the analysis, as has been done in the past Order of ISHPL.

Miscellaneous income as reflected in the Annual Accounts at ₹ 2.98 lakhs, ₹ 30.52 lakhs and ₹ 7.51 lakhs for the years 2013-14 to 2015-16 respectively, is not seen to have been considered by ISHPL in the Cost Statement. Inspite of a specific request, the ISHPL has not clarified the reason for exclusion of the said income. In the absence of requisite clarification, the said income has been treated as income in the Cost statement.

Further, since status quo in the rates has been maintained vide the Order of July 2014, the question of updating the estimated income for the years 2013-14 to 2015-16 as relied upon in the July 2014 Order does not arise.

For the purpose of analysis of past performance, the interest income earned by the ISHPL is not taken into account in line with the approach adopted in respect of tariff cases of other private terminals.

(c). (i). The finance expenses i.e. interest expenses reflected in the Annual Accounts for the years 2013-14 to 2015-16 are excluded in line with the approach adopted in respect of tariff cases of other private terminals.

(ii). The KOPT has pointed out the difference of Revenue share expenses as reported in the Annual accounts and in the Cost statement. In the case of ISHPL in the past, 91.33% of revenue share of ISHPL, being the percentage of the NPV of the revenue streams quoted by second highest bidder as compared to that of ISHPL, has been allowed as a pass through, in accordance with the provisions of clause 2.8.1 of the tariff guidelines of March 2005. Following the same approach, 91.33% of the actual revenue share reported in the audited annual accounts for the years 2013-14 to 2015-16 has been considered by the ISHPL in the Cost statement.

(iii). As against the Insurance expenses of ₹ 159.86 lakhs, ₹154.09 lakhs and ₹ 130.56 lakhs reflected in the Annual Accounts for the years 2013-14 to 2015-16, the ISHPL in its Cost statement has considered a lower amount of Insurance cost at ₹ 157 lakhs, ₹ 140 lakhs and ₹ 127 lakhs. In this connection, it may be recalled that in the past revisions also, the ISHPL in its Cost Statement had not taken into account the Insurance cost on Loss of profit policy, since Clause 7.1 (y) of LA requires the ISHPL to purchase and maintain insurance to cover against loss, damage, destruction of the berth, the terminal area and the ancillary facilities on the terminal for replacement at market value and the Insurance cover taken for loss of profit is not as per the LA. The difference in Insurance cost appears to be the insurance cost pertaining to loss of profit policy, which has been correctly excluded by ISHPL in its Cost statement.

(iv). The Annual Accounts for the years 2013-14 to 2015-16 reflect an amount of ₹ 14.72 lakhs, ₹ 8.53 lakhs and ₹2.81 lakhs towards Demurrage Expenses. The same has been considered by ISHPL as an item of expenditure under 'Other Expenses'. In this connection, during the tariff review of ISHPL in January 2011, the ISHPL was advised to come up with an Efficiency Linked Tariff Scheme (ELTS) in order to consider demurrage as admissible cost. However, the ISHPL has so far not come up with any such proposal. Hence, in line with the approach adopted during the previous tariff reviews of ISHPL, the demurrage is not treated as an admissible item of expenditure in the current tariff revision exercise also. Accordingly, testing/ survey charges, photography expenses, loss on sale of fixed assets have been considered.

(v). As against the amount of depreciation to the tune of ₹1039.45 lakhs reflected in the Annual Accounts for the year 2014-15, the ISHPL has considered an amount of ₹ 1163 lakhs as depreciation in the Cost Statement. In the absence of any clarification from the ISHPL on this aspect, the amount of depreciation as reflected in the Annual Accounts is taken in the analysis.

(vi). Write off of the preliminary expenses to the tune of ₹0.76 lakhs for each of the years 2013-14 to 2015-16 is also taken into account in the Cost statement.

(vii). Inspite of a specific request made to ISHPL to furnish a Reconciliation statement explaining the difference in the Expenses (Operating Expenses + Overheads + Depreciation) as reflected in the Cost Statement vis-à-vis the total expenses as reflected in the Annual Accounts for the years 2013-14 to 2015-16, the same has not been made available to us. Thus, subject to the above adjustments, the operating expenses as reflected in the Cost Statement has been reconciled with the operating expenses as reflected in the Annual Accounts for the years 2013-14 to 2015-16.

(d). As per 2005 guidelines, the Capital employed comprises of Net Fixed Assets and Working Capital. The net block of assets as considered by the ISHPL in its Cost statement for the years 2013-14 to 2015-16 is seen to be as per the Annual Accounts for the respective years and thus, considered in the analysis. Clause 2.9.9 of the tariff guidelines of March 2005 prescribes norms for admissibility of working capital. The details of working capital considered in this exercise are as follows:

(i). Sundry Debtors are not taken into account, as it was not considered as part of Current assets in the past general revision Orders of ISHPL. However, the prepayments and advance to be made by the private operators as per the license agreement to the respective licensor port is recognized as the limit for sundry debtors to the extent they are otherwise permissible as pass through, based on a Common Order of September 2008 passed by this Authority. In the last general revision of ISHPL, one month's average lease rent based on the annual lease rent actually paid by the ISHPL was allowed. The same position is maintained in this analysis also.

(ii). As per clause 2.9.9 of the tariff guidelines of March 2005, limit on inventory for capital spares will be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. The annual accounts do not give the details of actual value of consumption of stores & spares during the years 2013-14 to 2015-16. However, based on the inventory balances worked out by ISHPL reportedly based on the 2005 Guidelines, the value of inventory as furnished by the ISHPL is relied upon in the analysis.

(iii). Cash balance has been calculated at one month's operating expenses including overheads, as is done in the case of other private terminals governed by 2005 Guidelines.

(iv). Further, the ISHPL has considered an amount of ₹10 crores each during the years 2013-14 to 2015-16 towards Advance paid to HDC under protest against Royalty. From the past tariff Order of ISHPL, it can be seen that the KOPT has encashed the Security Deposit Bank Guarantee worth ₹10 crores due to a reported dispute between the ISHPL and the KOPT on the Royalty amount. Since the dispute has not been resolved, the ISHPL has considered the amount of ₹10 crores as Prepayment/ advance against Royalty under current assets for the purpose of working capital for the years 2013-14 to 2015-16. The issue is between the KOPT and the ISHPL. This Authority does not like to go into the matter. The said component has not been considered by us in our calculations, as the 2005 guidelines do not provide for the same.

(v). The amount of Loans and Advances, Security Deposit with KOPT considered by the ISHPL in its calculations for the purpose of working capital during the years 2013-14 to 2015-16 is not taken into account in our analysis as the 2005 guidelines do not provide for the same. Such an exclusion was also made during the past reviews of tariff of ISHPL.

(vi). Tariff Guidelines do not prescribe any norm for current liabilities. Therefore, the value of current liabilities as furnished by the

ISHPL for the years 2010-11 to 2012-13 are considered without any change. While doing so, in the absence of requisite information from ISHPL, the additional "Current liability for Dividend including tax on dividend" considered in the year 2014-15 by ISHPL in its workings to the tune of ₹530 lakhs is not considered in the analysis.

(vii). Considering the moderated current assets and current liabilities, the Working Capital for the years 2013-14 to 2015-16 works out to ₹ 540.65 lakhs, ₹ 326.12 lakhs and ₹ 154.56 lakhs respectively, which is considered in the analysis.

(viii). Thus, the Capital Employed works out to ₹ 5756.58 lakhs, ₹ 4258.23 lakhs and ₹ 3042.41 lakhs for the years 2013-14 to 2015-16 respectively.

(e). In the last tariff Order, Return on capital employed was allowed at 16% for the years 2013-14 to 2015-16. Considering the capacity of the terminal at 3.00 million tonnes per annum, the actual capacity utilization during the years 2013-14 to 2015-16 works out to 114%, 104% and 95% respectively. Accordingly, return on capital employed for the said three years is allowed at the rate of 16%.

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

(₹ in Lakhs)

Particulars	Aggregate of the Estimates relied upon in the last Order for the years 2013-14 to 2015-16	Aggregate of Actuals for the years 2013-14 to 2015-16	% Variation
Traffic (in MTs)	89.15	93.94	5.37%
Op. Income	22,157.89	24,196.12	9.20%
Total Expenses (incl. Depn)	20,173.16	20,837.35	3.29%

(b). The details regarding the Actual Return earned by ISHPL on the Capital Employed are given in the following table:

Particulars	2013-14	2014-15	2015-16	Average
Actual Surplus (deficit) before Return earned by ISHPL	2,093.82	752.43	510.23	1118.83
Actual Capital Employed	5,756.58	4,258.23	3,042.41	4352.41
Return on actual capital employed at eligible rate of 16%	921.05	681.32	486.78	696.39
Actual Return on Capital Employed	36.37%	17.67%	16.77%	25.71%

(c). 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.

It may be recalled that based on the Ministry of Shipping (MOS) letter No. 14019/20/2009-PG dated 12 June 2015, the ISHPL was, interalia, communicated vide our letter no. TAMP/46/2015-Misc dated 24 July 2015 that this Authority would henceforth take into account both the financial and physical parameters, for the purpose of clause 2.13 of the Tariff Guidelines of 2005.

In the case in reference, the actual financial performance in terms of ROCE is ₹ 3356.48 lakhs for the three years put together. The variation as compared to the estimates is 25.71%, which is seen to be more than (+) 20%, in terms of ROCE, the actual physical performance is seen to be 5.37%, which is less than (+) 20%. Since both the financial and physical parameters are not more than +/- 20%, in terms of the stipulation contained in Clause 2.13 of the 2005 Guidelines, there is no case to set off 50% of the past surplus of ₹ 3356.48 lakhs pertaining to the years 2013-14 to 2015-16 in the current tariff cycle of ISHPL.

(vi). It may also be recalled that this Authority vide letter no. TAMP/46/2015-Misc dated 24 July 2015 communicated to ISHPL that the surplus quantified for the tariff cycle immediately preceding the last tariff Order and the tariff fixed in the last tariff order would be reassessed, based on the Ministry of Shipping (MOS) letter No. 14019/20/2009-PG dated 12 June 2015.

In this connection, it is relevant to mention here that there was no addition of notional income on account of rebate or discount in the July 2014 Order of ISHPL. Further, as against the traffic estimation of 73 lakh tonnes of cargo for the period from 2010-11 to 2012-13, ISHPL had actually handled 74.75 lakh tonnes of cargo for the said period. The variation worked out to 2.40%. As per MOS letter, since both financial and physical parameters has to be taken into account for the purpose of Clause 2.13 of the Tariff Guidelines of 2005, no surplus/ (deficit) is eligible for set off.

Therefore, two instalments of past surplus amounting to ₹387.28 lakhs set off in the estimates for the years 2013-14 to 2015-16 in the Order of July 2014, ought not to have been given effect in the July 2014 Order, as per the MOS letter.

The effect of the said amount to the tune of ₹ 387.28 lakhs, arising out of giving effect to the MOS letter, is being taken into effect, while deciding the quantum of increase to be granted/ decrease to be effected for the tariff cycle, 2016-17 to 2018-19, as discussed subsequently.

(vii). The sole cargo handled by the ISHPL at berth No. 4A is Coking coal. As against the actual traffic of 28.64 lakh tonnes of Coking coal handled by ISHPL during the year 2015-16, the ISHPL has estimated handling of 28 lakh tonnes during the year 2016-17. For the years 2017-18 and 2018-19, the ISHPL has estimated the traffic of coking coal on a declining trend at 24 lakh tonnes and 23 lakh tonnes respectively, as compared to the previous years. Further, out of the total traffic as estimated by ISHPL above, the share of the coastal cargo has been estimated at 0%, 10% and 15% for the years 2016-17 to 2018-19 respectively.

The traffic for the year 2016-17 is reported by ISHPL to be based on the actuals upto December 2016 and estimates for the balance three months from January to March 2017. Inspite of a specific request, the ISHPL has not furnished the actual traffic for the year 2016-17. However, the Licensor port KOPT has stated that the actual traffic handled by ISHPL during the year 2016-17 is 26.80 lakh tonnes. In a scenario where the actuals for the entire year is already available, there is no reason as to why the said actual traffic for the year 2016-17 should not be considered. Accordingly, the actual traffic of 26.80 lakh tonnes as reported by KOPT is considered as the traffic of ISHPL for the year 2016-17.

The declining trend in traffic of coking coal during the years 2017-18 and 2018-19 over the previous years, has been attributed by the ISHPL to various developments planned by the Government in terms of further capital expenditure commitments for ramping up capacities at the existing ports; new Ports coming up in the immediate areas. The declining trend of import coal traffic during the years

2017-18 and 2018-19 has also been endorsed by the KOPT on the ground of recession in the Steel Industry as well as emphasis by Government on increased use of domestic coal. With regard to the traffic estimates for the year 2017-18 and 2018-19, it is relevant here to mention that none of the user/ user organizations have objected to the traffic forecasts made by ISHPL. In fact, it is noteworthy that the KOPT has endorsed the traffic estimates of ISHPL for the years 2017-18 and 2018-19. Since this Authority does not carry out any independent study to determine the likely traffic at a port/ private terminal, the traffic forecast for the years 2017-18 and 2018-19 as furnished by the ISHPL and endorsed by the KOPT is relied upon for the purpose of this analysis.

With regard to the share of coastal cargo, the KOPT is of the view that considering the Government's policy to promote the coastal traffic, at least 10% of the cargo to be handled at this berth is considered as coastal. Since the ISHPL has also considered the share of coastal traffic at 10% and 15% for the years 2017-18 and 2018-19, the same is considered in the analysis, without any change.

(viii). (a). The estimated cargo handling income for the years 2016-17 to 2018-19 comprises of income estimated to be earned by the ISHPL from On board & Wharfage charges, Shore Handling charges, Delivery charges and Income from other optional services.

(b). The income estimate from Onboard & Wharfage charges, Shore Handling charges and Delivery charges is seen to be based on the rates prescribed in the existing Scale of Rates of ISHPL and the traffic projected for the years 2016-17 to 2017-18. However, the income estimate for the years 2016-17 is modified so as to reflect the reduced level of traffic for the year 2016-17, as brought out in the preceding paragraph.

(c). The Income from other optional services under the cargo related activity comprises of income estimated to be earned by the ISHPL from services like Weighment for in-motion weighbridge, Siding Charges, Photo of loaded wagons (per Wagon), Online sampling, Despatch related services for railbound cargo and Quarterly survey of stock. The income from the said services is also seen to be based on the rates prescribed in the existing Scale of Rates of ISHPL and estimated for the entire traffic projected to be handled by the ISHPL for the years 2013-14 to 2015-16. However, in the estimation of income under the head 'Other income from optional services', the ISHPL is not seen to have estimated any income arising out of loading, unloading and re-stacking of cargo and retrieving cargo for any of the years 2016-17 to 2018-19. Inspite of a specific request, the ISHPL has not clarified the reason for estimating no income from the said services.

In this connection, it is relevant here to recall that during the last review of tariff of ISHPL also in July 2014, the ISHPL had not estimated any income from these services and in the absence of requisite details from ISHPL then, the proportion of cargo that had availed these services at 13.25% and 15% respectively, as was considered in the general revision of tariff of ISHPL in January 2011, was considered in the July 2014. Thus, based on the same reasoning, based on the proportion of cargo availing the services of loading, unloading and re-stacking of cargo and retrieving cargo at 13.25% and 15% respectively and by considering the existing rate of ₹20/- per tonne prescribed for the service of Loading, unloading & restacking of cargo and ₹5/- per tonne for retrieving of spilled cargo, the income for the said services is estimated.

(d). The ISHPL has adopted an exchange rate of ₹68/- per US $ in the computation of income from berth hire charges, for each of the years 2016-17 to 2018-19. In this regard, it is relevant here to mention that the exchange rate prevailing at the time of analysis of the case is considered uniformly for estimation of income from dollar denominated tariff items for all the years under consideration.

In our analysis, since the financial year 2016-17 is already over, and since the actual average dollar exchange rate for the said period is available, the berth hire income from the foreign going vessels for the year 2016-17 is estimated based on the average exchange rate of ₹67.27 per US$ that prevailed during the said year. For the years 2017-18 and 2018-19, an exchange rate of ₹ 63.749 per US$ prevailing at the time of concluding the analysis of this case is considered.

(e). The ISHPL has not reported to have earned income from double/ triple banking operations during the years 2013-14 to 2015-16. However, as discussed earlier, the income from double / triple banking operations has been recognized during the years 2013-14 to 2015-16.

The KOPT is of the view that ISHPL is not entitled to earn benefit out of the utilization of dock water and space which are beyond the limits of area allotted to them in lease under the License Agreement and therefore, ISHPL is not permitted to recover berth hire charges for double/ triple banked vessels. As brought out in the past general revision Orders of ISHPL,

there appears to be a dispute between the Licensor port, KOPT and ISHPL, with regard to the non-remittance of the amount collected by KOPT towards double/ triple banking operations, to ISHPL. The matter pertains to the scope of the Licence Agreement entered into between the KOPT and ISHPL. This Authority does not like to delve deep into this aspect. The ISHPL is not seen to have estimated any income from double/ triple banking operations for the years 2016-17 to 2018-19. However, in line with the approach adopted by the Authority in the tariff revision of ISHPL in the past and also since the double/ triple banking operations at berth No.4A have not been ruled out in future, there is a need to capture the income estimate of double/ triple banking operations. However, in the absence of any basis for computation and in line with the approach adopted in the July 2014 Order of ISHPL, the average income as considered in the general revision Order of ISHPL at ₹49.71 lakhs is considered as the income towards double / triple banking operations for each of the years 2016-17 to 2018-19.

(ix). The operating expenses estimated for the years 2016-17 to 2018-19 are analysed as under:

(a). 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. The escalation factor to be adopted in respect of tariff cases to be disposed during the year 2017-18 is 2%. However, though the case of ISHPL is being decided during the year 2017-18, the expenditure for the years 2016-17 to 2018-19 has been estimated by ISHPL after considering the actuals for the year 2015-16 as base. Therefore, an escalation factor of 2.46% over the actuals for the year 2015-16 (being the escalation factor applicable for the year 2016-17) is considered in the analysis to estimate the expenditure for the year 2016-17 and the escalation factor of 2% is considered in the analysis to estimate the expenditure for the years 2017-18 and 2018-19, over the respective previous year as against the various escalation factors considered by the ISHPL in its calculations.

(b). The cost of maintenance labour is reported to have been outsourced to a private party. The ISHPL has considered an annual escalation of 10% for the years 2016-17 to 2018-19 over the actuals for the year 2015-16 to estimate the cost of Maintenance labour. Inspite of a specific request, the ISHPL has not furnished the copy of the Contract. In the absence of the Contract copy, the labour cost for the year 2016-17 is estimated by considering an escalation factor of 2.46% over the actuals for the year 2015-16. For the subsequent two years, an escalation factor of 2% for each of the year has been considered.

(c). The Equipment running cost comprises of cost of power and the cost of repairs and maintenance.

(i). The ISHPL has estimated the power cost based on the estimated power consumption per tonne and unit cost of power. The actual power consumption per tonne during the year 2015-16 is reported at 1.1 units, and the same level of power consumption has been considered for the years 2016-17 to 2018-19, which is relied upon in the analysis.

The ISHPL has considered cost of electricity at ₹13.40 per unit. However, the documentary evidence furnished by the ISHPL for the month of November 2016 in support of the cost of electricity reflects the rate of ₹11.26 per unit. Inspite of a specific request, the ISHPL has not furnished documentary support for the unit rate of ₹. 13.40. Nevertheless, since the actual cost of power during the year 2015-16 is seen to be ₹12.92 per unit, the same is taken as base and escalated by 2.46% for the year 2015-16 and 2% each during the years 2017-18 and 2018-19 over the respective previous year to estimate the power cost for the said three years.

(ii). The ISHPL has considered the actual repair and maintenance cost for the year 2015-16 as base and escalated it by 7% to arrive at the repairs cost for the year 2016-17. The escalation factor for the year 2016-17 is considered at 2.46% and an escalation factor of 2% each is considered for the years 2017-18 and 2018-19.

(d). As stated earlier, 91.33% of the revenue share payable by the ISHPL to the KOPT is considered as admissible cost. As per the LA, the percentage of revenue share applicable for the years 2016-17 to 2018-19 is 61.04%. The ISHPL has estimated revenue share for the year 2016-17 based on a rate of ₹104.98 per tonne and for the years 2017-18 and 2018-19 based on the rate of ₹ 150/- per tonne. The rate of coking coal of KOPT as considered by the ISHPL at ₹104.98 per tonne for the year 2016-17 is seen to be as per the pre-revised SOR and the rate of ₹ 150/- for the years 2017-18 and 2018-19 is seen to be as per the revised SOR of KOPT which has come into effect in the fag end of the year 2016-17.

The KOPT has raised certain issues on the computation of revenue share payable by the ISHPL to the KOPT. As per clause 5.1 (a) and 5.1 (b) of the LA, revenue share is payable on the cargo handling charges as per prevailing SOR / tariff of HDC. Accordingly, the on-board and wharfage rate as applicable for coal handling through mechanical system as prescribed in the SOR of the KOPT has been considered in the computation of revenue share. The issues raised by the KOPT are to be settled between the KOPT and the ISHPL. This Authority does not like to go into the legality of the issues raised by KOPT and interpret the provisions of the Licence Agreement. However, the estimated revenue share payment considered in this analysis is without prejudice to the outcome of the disputes between the KOPT and ISHPL in this regard.

The KOPT has further stated that there is a difficulty in proper assessment of revenue share since ISHPL is raising consolidated bills on its customer, wherefrom tariff for different services are not identifiable and that the said matter remains unaddressed by this Authority. Though the comments of KOPT were made available to ISHPL, the ISHPL has chosen to not respond to the comments of KOPT. Nevertheless, as per the provisions of the LA, the revenue share payable by ISHPL is dependent on the SOR of HDC and not on the SOR of ISHPL. In any case, this Authority does not like to go into the rival contentions on the issue of revenue share, which is to be resolved between the parties as per the provisions of LA.

As an abundant measure of caution, it is stated that the approach adopted by this Authority in computing the admissibility of revenue share should not be construed as an endorsement of the stand taken either by the ISHPL or by the KOPT.

(e). The Equipment hire cost has been estimated by the ISHPL by considering the actuals for the year 2015-16 and escalating it by 7% and taking into account traffic estimates, to estimate the expenditure in this regard for the year 2016-17. The escalation factor for the year 2016-17 is considered at 2.46% and an escalation factor of 2% each is considered for the years 2017-18 and 2018-19.

(f). As stipulated in the LA, the lease rent payable shall be the lease rent specified in the LA with 5.1% annual escalation from the date of allotment or the schedule of rent prescribed in the SOR from time to time, whichever is higher. As reported by the KOPT earlier, this LA provision is applicable only for the land area of 103,000 sq. m. mentioned in the LA and in respect of allotments made to ISHPL after the LA, the lease rent as per the Schedule of Rent applicable from time to time would be payable by the ISHPL.

The ISHPL has estimated the lease rentals for the years 2016-17 to 2018-19 by considering an escalation factor of 5.1% over the actual lease rental for the year 2015-16. Inspite of a specific request, the ISHPL has not established that the impact of rebate has been factored in the estimation of lease rentals. Further, the Rent Schedule for the land and buildings of KOPT at Kolkata and Haldia have been revised with effect from 7 April 2016. The revised lease rentals to be applicable in respect of allotments made to ISHPL after the LA have not been factored by ISHPL in its workings. Even based on the details of the March 2017 bill as communicated by the KOPT, the rentals for the entire year 2016-17 could not be worked out.

However, in the absence of detailed workings, the revision in the Rent Schedule of KOPT could not be factored into the estimates of lease rentals for the years 2016-17 to 2018-19. The estimates as furnished by the ISHPL are considered in the analysis, subject to proportionate reduction in lease rental on account of estimated reduction in the area of land considered by ISHPL for the years 2016-17 to 2018-19, as considered by ISHPL as compared to actual area of land during 2013-14 to 2015-16.

(g). As against the actual insurance cost of ₹ 127.39 lakhs during the year 2015-16, the ISHPL has estimated the Insurance cost for the year 2016-17 at ₹ 115.20 lakhs and thereafter applied the escalation factor of 2.46% each to estimate the insurance cost for the years 2017-18 and 2018-19. The approach adopted by the ISHPL is relied upon, except that the escalation factor in respect of the each of the year 2017-18 and 2018-19 is restricted to 2.00%.

(h). The 'Other expenses' comprising of Testing/ Survey Charges, Photography Expenses and Demurrage charges are discussed below:

(i). The Testing and Survey expenses have been estimated for the year 2016-17, based on the rate of ₹1.20 per tonne for the entire cargo traffic. The rate of ₹1.20 per tonne is seen to be acceptable considering the position that during the last review of tariff of ISHPL in July 2014, a rate of ₹1.20 per tonne was considered. Therefore, the rate of ₹1.20 per tonne is relied upon and considered for the year 2016-17. For the years 2017-18 and 2018-19, the expenditure is estimated based on the traffic estimate of the respective year and taking into account the rate of ₹1.50 per tonne for the entire cargo traffic. Inspite of a specific request, the ISHPL has not furnished documentary evidence in support of ₹ 1.50 per tonne. In the absence of requisite details, an escalation factor of 2% over the estimates for the year 2016-17 is considered to arrive at the expenses for the year 2017-18 and 2018-19.

(ii). The photography expenditure has been estimated by the ISHPL by considering the actuals for the year 2015-16 as base and escalating it by 3.82%, 2% and 2% per annum to estimate the expenditure in this regard for the years 2016-17 to 2018-19. The approach adopted by the ISHPL is considered, except that the escalation factor in respect of the year 2016-17 is considered at 2.46% and that of 2017-18 and 2018-19 has been considered at 2%.

(iii). During the fixation of tariff for ISHPL in the year 2007 and 2011, demurrage was not considered as an admissible cost and the ISHPL was advised to come up with an 'Efficiency Linked Tariff Scheme (ELTS)' in this regard. Even now, the ISHPL has not come forward with such 'ELTS'. Therefore, the estimated demurrage for the years 2016-17 to 2018-19 as considered by the ISHPL is not taken into account in the analysis.

(i). 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 ISHPL has not furnished separate workings in respect of calculation of depreciation. It has also not confirmed that the depreciation provided in the cost statement is in line with clause 2.7.1 of the tariff guidelines of March 2005. Considering that no sale/ deletion of plant and machinery is envisaged during the years 2016-17 to 2018-19 as compared to the year 2015-16 and inspite of a specific request, the ISHPL has not explained the reason for the significant reduction in quantum of depreciation amount relating to Plant & Machinery during the years 2016-17 to 2018-19. In the absence of any basis, the lower amount of depreciation as estimated by the ISHPL for the years 2016-17 to 2018-19 is considered in the analysis.

(j). The Management and administration overheads has been estimated by the ISHPL by considering the actuals for the year 2015-16 as base and escalating it by 10% per annum to estimate the expenditure in this regard for the years 2016-17 to 2018-19. Inspite of a specific request, the ISHPL has not justified considering 10% escalation. The approach adopted by the ISHPL is considered, except that the escalation factor in respect of the years 2016-17 to 2018-19 is considered at 2.46%, 2% and 2% respectively.

(k). During the initial fixation of tariff, the preliminary expenses of ₹22 lakhs was earmarked for amortization over the remaining license period and accordingly, ₹0.76 lakhs was considered as annual amortization amount. The ISHPL has considered said amount of ₹0.76 lakhs per annum towards amortization of preliminary expenses in the estimates for the years 2016-17 to 2018-19.

(l). The ISHPL has not claimed Efficiency gain, in any of the items of the Operating cost though it can be claimed as per the stipulation contained at Clause 2.4.1 of the March 2005 Guidelines. Therefore, Efficiency gain has not been analysed and considered in the estimation of operating costs for the years 2016-17 to 2018-19 in the current tariff revision of ISHPL.

(x). The ISHPL has not estimated any Finance and Miscellaneous income and expenditure for the years 2016-17 to 2018-19.

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

(a). The additions to the gross block of assets has been proposed by the ISHPL only during the year 2018-19. In this connection, the ISHPL has proposed investment of ₹165 lakhs towards revamping of automation system/ electronics of the facilities at Berth No. 4A viz. Stacker - reclaimers, wagon loaders and their control devices which have been in operation since 2004 and are reported to have obsolete. The additions to the gross block of assets as proposed by the ISHPL are considered in this analysis.

(b). Working Capital:

(i). The sundry debtors are considered at one month's average of the estimated lease rental payable by the ISHPL to the KOPT, as per the approach adopted during the past review of tariff of ISHPL.

(ii). The value of inventory is taken as estimated by ISHPL as the said amount is reported to be based as per norms.

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

(iv). The current liabilities is considered at the level estimate by the ISHPL in its proposal. For the reasons given earlier, Security Deposit with KOPT, advance paid to HDC under Protest against Revenue share, Loans and Advances, which have been considered by the ISHPL in its calculation of working capital is not taken into account in our analysis as the 2005 guidelines do not provide for the same. Such an exclusion was also made during the past review of tariff of ISHPL.

(v). Based on the above position, the working capital for the years 2016-17 to 2018-19 works out to ₹ 179.54 lakhs, ₹ 316.29 lakhs and ₹ 310.20 lakhs respectively.

(c). Thus, the Capital Employed for the years 2016-17 to 2018-19 works out to ₹ 2393.59 lakhs, ₹ 2114.70 lakhs and ₹ 1857.98 lakhs respectively as against the amount of ₹ 4554.60 lakhs, ₹4366 lakhs and ₹ 3630.93 lakhs for the said three years respectively. The difference is mainly due to exclusion of Security Deposit with KOPT, advance paid to HDC under Protest against Revenue share, Loans and Advances, which have been considered by the ISHPL in its calculation of working capital, as the 2005 guidelines do not provide for the same.

(xii). During the fixation of tariff of ISHPL in January 2011, this Authority has considered the capacity of the berth of ISHPL at 3.00 Million Tonnes Per Annum (MTPA), based on the position then reported by the KOPT. The same capacity is considered in the current analysis also, given that the ISHPL has not proposed any major capital investment leading to capacity creation in the current tariff cycle.

Considering the capacity of 3.00 MTPA, the capacity utilisation for the years 2016-17 to 2018-19 based on the estimated throughput works out to 89.33%, 80% and 76.67% respectively. The tariff policy guidelines of March 2005 provide for allowing maximum permissible return on capital employed, if the capacity utilisation is more than 60%. Accordingly, the ISHPL is eligible for maximum permissible return. Therefore, the return on capital employed at the maximum permissible rate of 16% is considered for the years 2016-17 to 2018-19.

(xiii). (a). Subject to the discussions above, the cost statement has been modified. Further, as brought out earlier, the benefit on account of past surplus adjustment amounting to ₹ 387.28 lakhs as already made in the estimates for the years 2013-14 to 2015-16 in the Order of July 2014, is to be given to ISHPL, while deciding the quantum of increase to be granted / decrease to be effected for the tariff cycle 2016-17 to 2018-19. The modified cost statement is attached as **Annex – II**. The results disclosed by cost statement at the existing level of tariff at ISHPL are summarized as shown in the table given here in under:

Sr. No	Particulars	Operating Income (₹ in crores)				Net Surplus(+)/ Deficit(-) (₹ in crores)				Net Surplus(+)/ Deficit(-) as a % of operating Income			Average Surplus/ Deficit %
		2016-17	2017-18	2018-19	Total	2016-17	2017-18	2018-19	Total	2016-17	2017-18	2018-19	
1	**ISHPL as a whole**	68.96	59.68	56.27	184.91	-2.30	-9.10	-11.09	-22.50	-3.34%	-15.26%	-19.71%	-12.77%

(b). As can be seen from the above table, the ISHPL would be in deficit to the tune of around ₹ 22.50 crores during the years 2016-17 to 2018-19 at the existing level of tariff. This deficit is after reversing the past surplus adjustment to the tune of ₹ 387.28 lakhs based on the MOS letter, which was effected in the July 2014 Order, as discussed earlier.

(c). Given the deficit position as reflected by the modified Cost statement, there is a case for granting increase in the existing tariff of ISHPL. 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 ISHPL would come into force, it would be around November 2017. Thus, the ISHPL would have to recover the deficit for the years 2016-17 to 2018-19 over the remaining tariff validity period of 1 year and 5 months.

(d). Considering the total resultant deficit of ₹ 22.50 crores to be recovered in the balance tariff validity period of 1 year and 5 months, it is seen that the existing Scale of Rates warrants an across the board increase of 27.73% for the 1 year and 5 months period. As brought out in the earlier part of the Order, the ISHPL has sought different percentage of increase in different tariff items ranging from around 6% to 31%, to meet the deficit of ₹ 28.08 crores as assessed by it, commencing from the years 2016-17 to 2018-19.

(e). From the Cost statement furnished by the ISHPL along with its proposal, it is seen that based on the levy of tariff for the various tariff items as proposed by the ISHPL, the ISHPL would generate an additional revenue to the tune of ₹ 22.02 crores during the balance tariff validity period of 1 year and 5 months in the current tariff cycle, as shown below:

(₹ in lakhs)

Sr no.	Particulars	2017-18	2018-19	Total
(i).	Operating Income as estimated by ISHPL at existing level of tariff	5857.47	5517.46	11374.93
(ii).	Operating Income as estimated by ISHPL at proposed level of tariff	7476.81	7044.76	14521.57
(iii).	Additional income estimated to be earned by ISHPL at proposed level of tariff (ii-i)	1619.33	1527.30	3146.64
(iv).	Additional Income for the balance 1 year and 5 months of current tariff cycle	**674.72**	**1527.30**	**2202.02**

Thus, by levy of the rates as proposed by the ISHPL during the balance period from November 2017 to March 2019 of the current tariff cycle, the ISHPL would be in a position to recover the estimated deficit to the tune of ₹ 22.50 crores.

In other words, as against the proposal of the ISHPL seeking approval for the rates proposed by it for levy during the entire tariff cycle from 2016-17 to 2018-19 to cover the estimated deficit of ₹ 28.08 crores as assessed by it for the said period, this Authority is inclined to grant approval for the rates proposed by ISHPL to be levied during the balance period from November 2017 to March 2019 of the current tariff cycle to cover the total resultant estimated deficit of ₹ 22.50 crores as assessed by us. Since the additional income that would accrue to the ISHPL during the 17 months period amounting ₹. 2202.02 lakhs at the rates proposed by ISHPL is well within the estimated deficit of ₹. 22.50 crores, the ISHPL would not be unduly enriched by allowing it to collect the tariff at the proposed rates.

(xiv). The operating expenses, management and administration overheads have been apportioned by ISHPL between various activities, viz. berthing, on-board & wharfage, cargo handling and delivery adopting a percentage share. The capital employed and depreciation has been apportioned by ISHPL first to the berthing activity on the basis of assets identified for this activity and the balance is apportioned to cargo handling activity as a whole. The total cargo handling share is again re-apportioned by ISHPL between the three sub-activities, ‘on-board & wharfage’, ‘cargo handling’ and ‘delivery’ adopting certain percentage share. From the individual activity based cost statements, it is seen that the quantum of increase as proposed by ISHPL for some of the tariff items exceeds the quantum of average deficit as reflected in the respective cost statement for the tariff cycle of 3 years. However, based on internal workings, it is found that considering that deficit is to be made good to ISHPL over the remaining 17 months of the current tariff cycle, the quantum of increase as eligible to ISHPL for the remaining tariff validity cycle is well within the average deficit of the respective cost statement. Therefore, preparation of activity/ sub-activity cost statement is not found relevant for the current exercise.

(xv). The KOPT has made a mention about ISHPL handling coking coal cargo on account of SAIL only inspite of KOPT’s repeated request to ISHPL to make use of Berth No. 4A as a common user facility to handle different types of cargo permitted under the License Agreement, thereby causing underutilization of the berth. In this connection, it is relevant to mention here that considering the capacity of Berth no. 4A at 3 MMTPA and taking into the account the cargo projections for the years 2016-17 to 2018-19, the average capacity utilisation is about 82%. In this scenario, it is not clear how the facility of ISHPL lies underutilised as stated by the KOPT. Nevertheless, the ISHPL is advised to take steps to handle the cargo of other users also at its facility so as to ensure more utilisation of its facility.

(xvi). For the reasons relating to double/ triple banking of vessels as brought out earlier, the KOPT has requested this Authority to delete provisions in the existing SOR of

ISHPL which enables ISHPL to recover berth hire charges for double / triple banked vessels. Given that the estimated income relating to the double/ triple banking of vessels has been captured during the years 2016-17 to 2018-19, the Scale of Rates of ISHPL should prescribe charges relating to double/ triple banking of vessels. This Authority is not inclined to go into dispute between the KOPT and ISHPL in this regard. The KOPT and ISHPL are advised to resolve the dispute mutually.

(xvii). The KOPT has stated that all the issues pertaining to ISHPL as brought to the notice of this Authority in the past, are still continuing. It has, therefore, requested this Authority to relook into the matter and consider the issues while making any material determination with regard to the Scale of Rates of ISHPL. In this regard, it is relevant to mention here that generally all the issues pointed out by the KOPT pertain to some dispute relating to the LA entered into between the KOPT and ISHPL. This Authority is not a party to the LA. Therefore, this Authority is not in a position to go into the issues pertaining to the LA.

(xviii). As suggested by KOPT and as prescribed in the Scale of Rates of other Major Port Trusts and private terminals operating thereat, the existing definition of 'Coastal Vessel' has been replaced in line with the Order no. TAMP/52/2014-Genl. dated 28 November 2014 passed by this Authority. Further, the notes relating to System of classification of vessel for levy of Vessel Related Charges (VRC), Criteria for levy of Vessel Related Charges (VRC) and Cargo Related Charges (CRC) at concessional Coastal rate is incorporated in the Scale of rates of ISHPL.

(xix). In line with clause 2.18.2 of the tariff guidelines, the proposed note 3(vii)(b) is modified to reflect the prevailing Prime Lending Rate of State Bank of India at 13.75 %.

(xx). The existing Scale of Rates of ISHPL prescribes a note to the effect that the users will not be required to pay for delays beyond a reasonable level attributable to ISPHL. The KOPT has stated that the phrase 'beyond reasonable level' should be clearly defined to avoid any ambiguity in its meaning and understanding. In this regard it is to state that the said Note is in line with Clause 2.15 of the 2005 Guidelines and therefore, no change is effected in the said note.

(xxi). At the suggestion of the KOPT, a minor modification by way of deletion of the word 'terminal' from the existing note at Sl no. (xiii)(c) under Section 1.2 is made to avoid any ambiguity.

(xxii). As per Clause 2.18.4 of the 2005 Guidelines, the delay in refunds by the port will be counted beyond 20 days from the date of completion of services or on production of documents required from user. However, the ISHPL has proposed a note to the effect of counting of delay in refunds from 30 days of completion of services. Inspite of a specific request, the ISHPL has not explained the reason for proposing the note in deviation to the Guidelines position. In view of this position, the existing note would continue unaltered.

(xxiii). In the list of services included within the scope of Shore handling charges, the ISHPL has proposed to delete the service of 'water Sprinkling' from the scope of shore handling charges. Inspite of a specific request, the ISHPL has not explained the reason for proposing change in the note. In view of this position, the existing list of services included within the scope of Shore handling charges, would continue unaltered.

(xxiv). The KOPT, while furnishing its comments, has stated that the rate of Berth Hire charge and Penal Berth Hire charge for coastal ships, Wharfage rate, Shore Handling Charges, Delivery Charges as proposed by ISHPL are to be rationalised. In this regard, it is to state that, as discussed earlier, based on the cost position of ISHPL, the rates as proposed by the ISHPL for the various services are approved. While doing so, the rate of Berth Hire charge and Penal Berth Hire charge for coastal ships is seen to have been restated based on the prevailing exchange rate. In this regard, reference is drawn to Clause 6.1.2. of the 2005 Guidelines which, interalia, stipulates that restatement of coastal rates with reference to prevailing exchange rate at the time of each general revision of Scale of Rates will not be resorted to. In view of this position, since the ISHPL has sought an increase of 7.14% in the berth hire charges for foreign going vessel, the berth hire charges for coastal vessel is also prescribed with 7.14% increase. Likewise, the same treatment is meted out to penal berth hire charges.

(xxv). A note to the effect that the rates prescribed in the Scale of rates are ceiling levels; likewise, rebates and discounts are floor levels and that the ISHPL may, if it so desires, charge lower rates and/or allow higher rebates and discounts, is incorporated in the Scale of Rates of ISHPL.

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

10.2. Since the decision on the quantum of increase granted to ISHPL is for balance tariff cycle of 1 year and 5 months, the revised Scale of Rates and conditionalities in respect of ISHPL would come into effect from 1 November 2017 and shall be in force till 31 March 2019. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

10.3. The validity of the existing Scale of Rates of ISHPL is deemed to have been extended beyond 30 September 2016 till the effective date of implementation of the Order passed.

10.4. The ISHPL should furnish to this Authority through KOPT its Annual Accounts and performance report within 60 days of closing of the respective accounting year. If ISHPL fails to provide such information within the stipulated time limit, the KOPT will initiate appropriate action against ISHPL.

10.5. The tariff of the ISHPL has been fixed relying on the information furnished by the operator and based on various 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, it will require the ISHPL to file a proposal ahead of the schedule to review its tariff and to set off fully the advantage accrued on account of such variations in the revised tariff.

10.6. In this regard, the ISHPL is advised to furnish a report of the actual physical and financial performance within 15 days of completion of each quarter of a year without fail in the same format in which the cost statement for the tariff proposals are filed. The report should also be accompanied with the reasons for variation from the estimates relied upon for fixing the tariff in force. If a variation of (+)/(-)20% is observed between the actual and the estimates for two consecutive quarterly period, this Authority will call upon the ISHPL to submit its proposal for an ahead of schedule review. If the ISHPL fails to file a tariff proposal within the time limit to be stipulated by this Authority, this Authority will proceed *suo motu* to review the tariff.

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

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

(T.S. Balasubramanian)
Member (Finance)

Annex-I

INTERNATIONAL SEAPORTS (HALDIA) PRIVATE LIMITED

ANALYSIS OF PERFORMANCE DURING THE YEARS 2013-14 to 2015-16

₹ in lakhs

Sr. No.	Particulars	Estimates relied upon in the tariff Order of July 2014			Actuals		
		2013-14	2014-15	2015-16	2013-14	2014-15	2015-16
	Traffic (in lakh tonnes)	34.15	27.50	27.50	34.21	31.09	28.64
I	**Operating Income**						
	Cargo handling income	8,221.21	6,423.56	6,226.41	8,610.94	7,263.47	6,890.72
	Vessel related income	527.99	393.66	365.06	470.44	445.19	474.35
	Other Income	0.00	0.00	0.00	2.98	30.52	7.51
	Total	**8,749.20**	**6,817.22**	**6,591.47**	**9,084.36**	**7,739.18**	**7,372.58**
II	**Operating Costs (excluding depreciation)**						
	Maintenance Labour	194.48	204.21	214.42	194.48	275.00	302.50
	Equipment Running Cost	1,138.31	1,111.81	1,178.52	1,038.98	832.38	812.40
	Royalty / revenue share	1,665.34	1,545.04	1,480.66	1,674.27	1,808.37	1,678.15
	Equipment Hire Charges	1,534.84	1,626.93	1,724.55	1,868.18	1,736.80	1,664.12
	Lease Rentals	463.86	487.52	512.38	463.86	487.71	510.98
	Insurance	161.85	171.56	181.85	157.20	139.91	127.39
	Other Expenses	43.71	37.87	40.14	43.71	41.56	36.59
	Total	**5,202.39**	**5,184.94**	**5,332.52**	**5,440.69**	**5,321.74**	**5,132.14**
III	Depreciation	888.49	903.49	903.49	933.19	1,039.45	1,062.93
IV	**Overheads**						
	Management & Administration overheads	564.46	585.68	607.70	615.90	624.80	666.52
	Preliminary expenses write-off	0.76	0.76	0.76	0.76	0.76	0.76
	Total - IV	**565.22**	**586.44**	**608.46**	**616.66**	**625.56**	**667.28**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**2,093.10**	**142.35**	**(253.00)**	**2,093.82**	**752.43**	**510.23**
VI	**Finance & Miscellaneous Income (FMI)**	0.00	0.00	0.00	0.00	0.00	0.00
VII	**Finance & Miscellaneous Expenses (FME)**	0.00	0.00	0.00	0.00	0.00	0.00
VIII	FMI Less FME (VI) - (VII)	0.00	0.00	0.00	0.00	0.00	0.00
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**2,093.10**	**142.35**	**(253.00)**	**2,093.82**	**752.43**	**510.23**
X	**Capital Employed**	5,209.50	4,692.52	3,805.24	5,756.58	4,258.23	3,042.41
XI	**Return on Capital Employed @ 16%**	833.52	750.80	608.84	921.05	681.32	486.78
XII	**Capacity Utilization**	113.83%	91.67%	91.67%	114.03%	103.63%	95.47%
XIII	**RoCE adjusted for capacity utilization**	833.52	750.80	608.84	921.05	681.32	486.78
XIV	**Net Surplus/ (Deficit) (IX)-(XIII)**	**1,259.58**	**(608.45)**	**(861.84)**	**1,172.77**	**71.11**	**23.45**

INTERNATIONAL SEAPORTS (HALDIA) PRIVATE LIMITED
Consolidated Income & Cost statement for the private terminal

₹ in lakhs

Sr. No.	Particulars	Actuals			Estimates at existing level of tariff as given by ISHPL			Estimates at the exisitng level of tariff as moderated by TAMP		
		2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2016-17	2017-18	2018-19
	Traffic (In lakh Tonnes)	34.21	31.09	28.64	28.00	24.00	23.00	26.80	24.00	23.00
I	**Total Operating Income**									
	Cargo handling income	8610.94	7263.47	6890.72	6638.43	5518.03	5205.67	6445.04	5599.63	5283.87
	Vessel related income	470.44	445.19	474.35	405.59	339.45	311.79	450.94	368.67	343.06
	Others	2.98	30.52	7.51	0.00	0.00	0.00	0.00	0.00	0.00
	Total	**9084.36**	**7739.18**	**7372.58**	**7044.02**	**5857.47**	**5517.46**	**6895.99**	**5968.30**	**5626.93**
II	**Operating Costs (excluding depreciation)**									
	Maintenance Labour	194.48	275.00	302.50	332.75	366.03	402.63	309.94	316.14	322.46
	Equipment Running Cost	1038.98	832.38	812.40	846.96	807.34	811.72	823.14	780.21	780.66
	Royalty / revenue share	1674.27	1808.37	1678.15	1789.26	1926.65	1807.90	1789.26	1926.65	1807.90
	Equipment Hire Charges	1868.18	1736.80	1664.12	1780.61	1579.66	1566.82	1705.06	1490.71	1457.17
	Lease Rentals	463.86	487.71	510.98	537.04	564.43	593.21	536.44	563.79	592.55
	Insurance	157.20	139.91	127.39	115.20	118.03	120.94	115.20	117.50	119.85
	Other Expenses	43.71	41.56	36.59	61.73	62.84	60.41	34.93	38.84	37.41
	Total	**5440.69**	**5321.74**	**5132.14**	**5463.55**	**5424.97**	**5363.63**	**5313.97**	**5233.84**	**5118.01**
III	**Depreciation**	933.19	1039.45	1062.93	745.64	415.64	415.64	745.64	415.64	415.64
IV	**Overheads**									
	Management & Administration overheads	615.90	624.80	666.52	682.92	696.57	710.51	682.92	696.57	710.51
	Preliminary expenses write-off	0.76	0.76	0.76	0.76	0.76	0.76	0.76	0.76	0.76
	Total	**616.66**	**625.56**	**667.28**	**683.68**	**697.33**	**711.27**	**683.68**	**697.33**	**711.27**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	2093.82	752.43	510.23	151.15	-680.47	-973.07	152.71	-378.51	-617.98
VI	**Finance & Miscellaneous Income (FMI)**	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
VII	Finance & Miscellaneous Expenses (FME)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
VIII	FMI Less FME (VI) - (VII)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
IX	**Surplus Before Interest and Tax (V) + (VIII)**	2093.82	752.43	510.23	151.15	-680.47	-973.07	152.71	-378.51	-617.98
X	**Capital Employed**	5756.58	4258.23	3042.41	4554.60	4366.00	3630.93	2393.49	2114.60	1857.87
XI	**Return on Capital Employed @ 16%**	921.05	681.32	486.78	728.74	698.56	580.95	382.96	338.34	297.26
XII	Capacity Utilization	114%	104%	95%	93%	80%	77%	89%	80%	77%
XIII	RoCE adjusted for capacity utilization	921.05	681.32	486.78	728.74	698.56	580.95	382.96	338.34	297.26
XIV	**Net Surplus / (Deficit) (IX) - (XIII)**	1172.77	71.12	23.45	(577.58)	(1379.03)	(1554.02)	(230.25)	(716.85)	(915.24)
XV	**Past surplus benefit of July 2014 Order passed on to ISHPL, as per MOS letter**	0.00	0.00	0.00	703.11	0.00	0.00	0.00	(193.64)	(193.64)
XVII	**Net Surplus / (Deficit) (IX) - (XIII)**	1172.77	71.12	23.45	125.53	(1379.03)	(1554.02)	(230.25)	(910.49)	(1108.88)
XVIII	**Net Surplus / (Deficit) as a % of operating income (XVII/I in %)**	12.9%	0.9%	0.3%	1.8%	-23.5%	-28.2%	-3.34%	-15.26%	-19.71%
XIX	**Average Net Surplus / (Deficit) as a % of operating income**					**-16.64%**			**-12.77%**	

Annex - III

INTERNATIONAL SEAPORT (HALDIA) PRIVATE LIMITED
SCALE OF RATES
PART I - GENERAL

1.1. Definitions -

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

(i). “Authorised Representative” means employee or agent of Customer / Berth user and ISPHL designated from time to time by them, through a written notice to other party, to monitor, facilitate and direct their respective parties’ performance.

(ii). “Berth” means the berth No 4A at Haldia Dock Complex, Kolkata Port Trust and the back-up area.

(iii). “Conveyor System” means a series of belt conveyors extending from the berth to stackyard and to wagon loader.

(iv). “Draft” means the draft prevailing at HDC on day to day basis.

(v). “Haldia Dock Complex (HDC)” shall mean oil jetty, other jetties, wharves and berths at Haldia and River Moorings at Haldia Anchorage.

(vi). “Metric Ton” means a weight of 2,204.623 pounds or 1,000 Kilogram.

(vii). “Port” means 'Kolkata Port Trust (KoPT)', the corporate entity, and will include Kolkata Dock System and Haldia Dock Complex.

(viii). “Terminal User” means any importer or exporter using the facilities in the port to import and/ or export the cargo.

(ix). “ISPHL” means International Seaport (Haldia) Private Limited, a Special Purpose Company (SPV) incorporated under the Laws of India having its Registered Office presently at Flat No. 27, 5th Floor, 105, Park Street, Kohinoor Building, Kolkata - 700 016, its successors and permitted assignees, which has been granted license for construction, operation, management and maintenance of the berth No. 4A at Haldia Dock Complex of Kolkata Port Trust.

(x). “ISPHL Premises” means the area licensed to ISPHL including the back-up area allotted under the License Agreement with Kolkata Port Trust, Haldia Dock Complex (KoPT).

(xi). Coastal vessel” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority

(xii). “Foreign-going vessel” means any vessel other than coastal vessel.

(xiii). "Day” shall be reckoned as a period from 6.00 a.m. of a day and ending at 6.00 a.m. the following day.

(xiv). “Weather Working Day” (WWD) means Monday through Sunday, covering three shifts of eight hours each excluding Port Holidays and Custom holidays.

(xv). “Week” shall mean 7 consecutive calendar days including holidays.

(xvi). “Month” shall mean 30 consecutive calendar days including holidays unless otherwise specified.

(xvii). “Shut-out” cargo shall mean export cargo left in the ISPHL Premises, having not been shipped on board the vessel for which it was received in ISPHL Premises.

1.2. General Terms & Conditions

(i). All goods landed within the limits of the ISPHL shall be assessed on import application and the charges/ fees shall be paid before the goods are removed.

(ii). All goods intended for shipment shall be assessed on export application and the statutory charges shall be paid before the goods are shipped.

(iii). (a). System of classification of vessel for levy of Vessel Related Charges (VRC)

(i) A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(ii) A Foreign going vessel of foreign flag can convert to coastal run on the basis of License for Specified Period or voyage issued by the Director General of Shipping and a custom conversion order.

(b). Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate.

(i) In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(ii) In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(iii) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(c). The corresponding vessel related rates should be applied depending on the status of the vessel at the time of the incidence of such charge.

(iv). Vessel related charges shall be levied on owners / agents of the vessel. Wherever rates have been denominated in US dollar terms, the charges shall be recovered in Indian Rupees after conversion of US currency to its equivalent Indian Rupees at the market buying rate notified by the Reserve Bank of India. The day of entry of the vessel into the port limit shall be reckoned as the day for such conversion.

(v). A regular review of exchange rate shall be made once in 30 days from the date of arrival of the vessels in cases of vessels staying in the ISPHL for more than thirty days. In such cases the basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of review.

(vi). No refunds shall be made unless the refund amount is ₹ 100.00 or more.

(vii). For the purpose of calculating the dues, the unit weight shall be 1 MT or 1,000 kilograms. Fraction of a MT will be rounded off to the nearest MT.

(viii). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions up to 0.5 be taken as 0.5 unit and fractions of 0.5 and above be treated as one unit, except where otherwise specified.

(ix). Interest on delayed payments / refunds.

(a). The user shall pay penal interest at the rate of 15.75% per annum on delayed payments of any charge under this Scale of Rates.

(b). Likewise, the ISPHL shall pay penal interest at the rate of 15.75% per annum on delayed refunds.

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

(d). The delay in refunds by ISHPL will be counted beyond 20 days from the date of completion of services or on receipt of all the documents required from the users, whichever is later.

(x). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.

(xi). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate.

(i) Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

(a). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(b). Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

* The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.

(ii) In case of a Foreign flag vessel converted to coastal run on the basis of a Special Period License issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

(a). The status of a vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for classifying into 'coastal' or 'foreign-going' category for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose. The corresponding vessel related charges shall be applied depending on the status of the vessel at the time of the incidence of such charge.

(b). A foreign-going vessel of Indian Flag having a General Trading License can convert to Coastal run on the basis of a Customs Conversion Order.

(c). A foreign-going vessel of Foreign Flag can convert to coastal run on the basis of Coastal Voyage License issued by the Director General of Shipping.

(d). In cases of such conversion**,** coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(e). In cases of such conversion, coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations;

immediately thereafter, foreign-going rates shall be chargeable by the discharge ports.

(f). For dedicated Indian coastal vessels having a Coastal Licence from the Director General of Shipping**,** no other document will be required by her to be entitled to Coastal rates.

(xii). The users will not be required to pay for delays beyond a reasonable level attributable to ISPHL.

(xiii). (a). Whenever a specific tariff for a service/ cargo is not available in the notified Scale of Rates, the ISPHL can submit a suitable proposal.

(b). Simultaneously with the submission of proposal, the proposed rate can be levied on an ad hoc basis 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 ISPHL 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.

(xiv). Survey / testing services shall include drawing of on line sample, moisture analysis both at the time of discharge and loading and submission of report.

(xiv). (a). The rates prescribed in this SoR are ceiling levels; likewise, rebates and discounts are floor levels. The ISHPL may, if it so desires, charge lower rates and/or allow higher rebates and discounts.

(b). The ISHPL may also, if it so desires, rationalize the conditionalities prescribed in this SoR.

(c). The ISHPL should notify the public such lower rates and/or rationalization of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.

PART II -VESSEL RELATED CHARGES

SECTION – A – PORT DUES & SECTION – B – TOWAGE & PILOTAGE

2.1. These services will be rendered by the Kolkata Port Trust to the vessels entering the ISPHL's berth No. 4A, Haldia Dock Complex. The charges for these services shall be payable directly to KoPT by Ship owners / vessel agents as provided in the KoPT Scale of Rates in force.

Section - C - BERTH HIRE CHARGES

2.2. Berth Hire Charges at Berth No. 4A shall be payable to ISPHL by Masters/ owners/ agents of the vessel at the rates specified below.

Description	Unit Rate per GRT/ Per hour or part thereof	
	Foreign-going vessel (US$)	Coastal vessel (₹)
Berth 4 A	0.0030	0.0796

General Notes relating to Berth hire:

(i). The minimum berth hire payable is US$300 in case of foreign going vessels and ₹7960/- in case of coastal vessels.

(ii). Berth hire for the period of 1 hour in which the vessel changes its status can be charged on the basis of the status of the vessel at the beginning of the relevant block of 1 hour period.

(iii). The berth hire shall be leviable from the time the vessel occupies the berth till the time the vessel leaves the berth.

(iv) Whenever a Vessel is double/ triple banked with another vessel occupying the Berth, the Vessel so double / triple banked will be charged at the rate of 50% of the Berth hire charges specified above provided the vessel is in non-working condition.

(v). (a). No berth hire shall be levied on vessel after expiry of 4 hours from the time of signaling its readiness to sail.

(b). The time limit of 4 hours prescribed for cessation of Berth Hire shall exclude the ship's waiting time for want of favorable tidal conditions, inclement weather and due to lack of night navigation.

(c). The master / agent of the vessel shall signal readiness to ISPHL and HDC only in accordance with favorable tidal and weather conditions.

(d). There shall be a penal rate equal to one day's (24 hours) berth hire charge for a false signal. 'False Signal' would be when a ship signals readiness and asks for a pilot in anticipation even when she is not ready for un-berthing due to engine not being ready or cargo operation not completed or such other reason attributable to the vessel. This excludes the signaling readiness when a ship is not able to sail due to unfavourable tide, lack of night navigation or adverse weather conditions.

(vi). Incase a vessel idles due to non availability or breakdown of the ISPHL equipment or power failure at ISPHL or any other reasons attributable to ISPHL, rebate equivalent to berth hire charges accrued during the period of idling of the vessel shall be allowed.

2.3. Penal Berth Hire Charges

2.3.1. Penal berth hire charges shall become payable for over-stayal of the vessel beyond the berth occupancy as per the norms given in clause 2.4 if the norms cannot be achieved due to any reasons attributable to the vessel.

2.3.2. Vessels, which require closing hatches/ draft survey, shall be permitted to occupy the berth after completion of cargo operation without attracting penal berth hire charges for four hours.

2.4. **Penal berth hire charges** shall be levied in addition to normal berth hire for the period of over-stayal at the rates prescribed below.

Sl. No.	Particulars	Rate per GRT per hour	
		Foreign-going vessel (in US $)	Coastal vessel (in ₹)
(i).	Upto 6 hours	0.0050	0.1338
(ii).	Above 6 hours & upto 12 hours	0.0100	0.2676
(iii).	Above 12 hours & upto 18 hours	0.0250	0.6690
(iv).	Above 18 hours per day or part thereof	0.0500	1.3380

2.5. **Commodity wise per day output rates**

Sl. No.	Nomenclature	Output per WWD (in MT)
(i).	Coking coal	14000

Note: (i) The above output is based on two workable hatches or pro-rata, if less.

PART - III CARGO RELATED CHARGES

SECTION A – SUPPLY OF MANPOWER AND MOBILE EQUIPMENT

3.1. These Charges shall be payable by the importer/ exporter of cargo to ISPHL on the draft survey quantity of cargo at the rates specified below for supply of man power and mobile equipment inside the holds of the vessel.

Sr. No.	Particulars of Commodity	Rate per metric tonne (₹)	
		Foreign	Coastal
(i).	Coking coal	11.70	7.02

Notes:

The weight to be charged shall be computed on the basis of the draft survey weight on arrival of the vessel and on completion of cargo discharge/shipment

SECTION B - WHARFAGE CHARGES

3.2. Wharfage charges shall be payable by the importer/ exporter of cargo to ISPHL on the draft survey quantity of cargo at the rates specified below, and shall cover transfer of cargo up to stack yard, i.e.,

(i) Unloading of cargo from Vessel to Berth or vice versa,
(ii) Movement of cargo from Berth till TP-2 or vice versa, and
(iii) Cleaning Charges
(iv) Dust suppression services wherever necessary and provided.

Sr. No.	Particulars of Commodity	Rate per metric tonne (₹)	
		Foreign	Coastal
(i).	Coking coal	102.50	61.50

Notes:
The weight to be charged shall be computed on the basis of the draft survey weight on arrival of the vessel and on completion of cargo discharge/shipment.

SECTION C - SHORE HANDLING CHARGES

3.3. Shore Handling Charges shall be payable to ISPHL by the importer/exporter on the draft survey quantity of cargo at the rates specified below and will cover

(i) Conveying from TP-2 to the stack yard in ISPHL Premises.
(ii) Stacking the same with the help of Stacker & Reclaimer and other mobile equipment to avoid mix up and contamination.
(iii) Heaping the cargo, dozing, covering the cargo with tarpaulin to avoid sliding during rain and flying away during wind, extra dozing for accommodating more cargo and dozing in while loading wagon to enable reclaiming by the reclaimer, Collection of spillage right from vessel to stack yard and to transmission, water sprinkling, system cleaning, keeping the cargo grade-wise at different bay, keeping drainage system in proper working condition with continuous maintenance.

Sr. No.	Particulars of Commodity	Rate per metric tonne (₹)	
		Foreign	Coastal
(i).	Coking coal	119.65	71.79

Notes:
The weight to be charged shall be computed on the basis of the draft survey weight on arrival of the vessel and on completion of cargo discharge/shipment.

SECTION D - DELIVERY CHARGES

3.4.1. For delivery of cargo by mechanized wagon loading system charges shall be payable to ISPHL by the importer/ exporter on the draft survey quantity of cargo at the rates specified below.

3.4.2. Delivery Charges will cover
(i) Reclaiming cargo from the Stack Yard within ISPHL Premises by Stacker & Reclaimer.
(ii) Conveying and loading into the wagon, through the wagon loader, maintaining proper profile of loading as per the carrying capacity of the wagon.
(iii) Loading of cargo as per grade and as per requirement for various plant destinations.

Sr. No.	Particulars of Commodity	Rate per metric tonne (₹)
(i).	Coking coal	39.85

3.5.1. For delivery of cargo by loading trucks by conventional method charges shall be payable to ISPHL by the importer/ exporter on the draft survey quantity of cargo at the rates specified below.

3.5.2. Delivery Charges will cover
(i) Reclaiming from the Stack Yard within ISPHL Premises by front end loader.

(ii) Loading into the trucks through the front-end loader maintaining proper profile of loading as per the carrying capacity of the truck.

(iii) Loading as per grade and plant site requirement

Sr. No.	Particulars of Commodity	Rate per metric tonne (₹)
(i).	Coking coal	35.00

SECTION E - GROUND RENT / STORAGE CHARGES

3.6. All the cargo, which is received at ISPHL Berth No. 4A for export / outward and/or import / inward handling, shall be stored in the stack yard at ISPHL Premises. The charges for Storage / Ground Rent for the stack yard at ISPHL Premises shall be charged as follows:

Sr. No.	Particulars of Commodity	Rate per metric tonne per day for the period beyond 21st day for the balance cargo (₹)
(i).	Coking coal	50.00

NOTE:

i) Twenty-one free days shall be allowed after the complete discharge of vessel's cargo in case of imports and the date of arrival of cargo at the yard in ISPHL Premises in case of exports.

ii) For the purpose of calculating the free period Customs notified holidays and Port/ ISPHL Berth non-working days shall be excluded.

iii) Ground rent /storage charges shall be payable for all days including Sundays and customs notified holidays for stay of cargo beyond the prescribed free days.

SECTION F – MISCELLANEOUS (OPTIONAL SERVICES)

Sr. No.	Particulars	Rate per metric tonne (₹)
(i).	Weighment charges for in-motion weigh bridge empty and loaded including weighment certificate	5.50
(ii).	Loading, unloading & restacking of cargo	22/-
(iii).	Taking Photograph of loaded wagons converting into CD and supplying 2 CDs wagon wise / rake wise.	120/- per Wagon
(iv).	Siding Charges	6.00
(v)	Retrieving cargo which spills over in transit to the conveyor system/stack yard to minimize loss	5.50
(vi)	Charges for On-line Sampling for Moisture analysis of Receipt and Despatch Cargo	5.50
(vii)	Despatch related services for rail bound cargo through Berth No. 4A, including trimming, cleaning, labeling & lime spraying	12/-
(viii)	Quarterly Survey of Stock by approved surveyor	3.60

PART – IV - CHARGES FOR OTHER SERVICES

4.1. Visitor Entry Pass:

	Yearly	Monthly	Daily
(a) Per Application	₹ 240	₹ 60	₹ 30
(b) Per Replacement	₹ 60	₹ 60	₹ 30

4.2 **Vehicle Entry Pass** (for vehicles other than the vehicles entering the terminal for Delivery / dispatch of cargo): ₹ 100 per entry

4.3 **Photography:**

(i). Film shooting and photography ₹ 10,000 per day
(ii). Taking photographs of Crews and Others ₹ 300 per day
(iii). Video-graphy (related to operational activities) ₹ 3,000 per day

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<u>SUMMARY OF THE COMMENTS RECEIVED FROM KOLKATA PORT TRUST AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.</u>

F. No. TAMP/13/2017-ISHPL		Proposal from International Seaports (Haldia) Pvt Ltd for general revision of its Scale of Rates.

A summary of the comments received from Licensor port, Kolkata Port Trust is given below:

(i). **Comments on the proposal of ISHPL**

In the current fiscal (2016-17) about 2.68 million ton cargo has been handled by ISHPL at Berth No. 4A as against 2.84 million ton handled in FY 2015-16. As such, the cargo projection of ISHPL for the FY 2017-18 and 2018-19 seems to be reasonable in view of declining trend of coal import at HDC in FY 2016-17 as compared to FY 2015-16, primarily for the reasons of recession in the Steel Industry as well as emphasis by Govt. on increased use of domestic coal.

In this regard it may be stated here that in FY 2013.-14 and 2014-15, 3.4 million ton and 3.13 million ton of cargo respectively was handled at Berth No. 4A on account of SAIL only. Considering the provision of using Berth No. 4A on common user basis, ISHPL may explore the feasibility of handling additional compatible dry bulk cargo account other importers for optimum utilization of the capacity of the berth.

However, considering the Government's policy to promote the coastal traffic, at least 10% of the cargo to be handled at this berth may be considered as coastal.

Further the examination of the vessel income indicated in the cost statement vis - a – vis audited accounts reveals some differences between the two sets of documents as below :

₹. in Lacs

Year	Vessel Income	
	Audited Accounts	Cost Statement
2012-13	380	380
2013-14	470	447
2014-15	445	415
2015-16	474	432

Similar differences have been noticed in the Royalty expenses reported, as below:

Year	Royalty Expense	
	Audited Accounts / Amount actually received by HDC	Cost Statement
2012-13	1485	1357
2013-14	1833	1674
2014-15	1980	1808
2015-16	1837	1678

In respect of the costs of investments at Berth No. 4A it may be stated that as per the License Agreement, ISHPL is required to maintain the mechanised handling facilities in proper working condition and hand over the same to KOPT upon expiry of the license. Thus continuous maintenance of the entire project facilities is required to be undertaken by ISHPL to ensure handling over of the project facilities to KOPT in good shape and proper working condition at the end of the license period. However, they have not intimated to KOPT any specific investment plan in this regard. Therefore, KOPT is not in a position to offer any comment on this.

(ii). **Comments on the proposed SOR**

(a). Sec 1.1(xi): The phrase 'competent authority' should be replaced by the phrase 'the Director General of Shipping/Competent Authority and/or any other vessel directed to be treated as 'Coastal' by Govt. of India'.

(b). Sec. 1.2(iii) should be replaced by the following clauses: -

(a) System of classification of vessel for levy of Vessel Related Charges (VRC)

(i) A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(ii) A Foreign going vessel of foreign flag can convert to coastal run on the basis of License for Specified Period or voyage issued by the Director General of Shipping and a custom conversion order.

(b) Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate.

(i) In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
(ii) In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
(iii) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(c) The corresponding vessel related rates should be applied depending on the status of the vessel at the time of the incidence of such charge.

(c). Sec 1.2 (xi) : The provisions in respect of levy of cargo related charges at concessional coastal rate should be recast and incorporated as follows:

Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate.

(i) Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

(a) Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(b) Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

*** The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.**

(ii) In case of a Foreign flag vessel converted to coastal run on the basis of a Special Period License issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

(d). Sec 1.2 (xii) : The phrase 'beyond reasonable level' should be clearly defined to avoid any ambiguity in its meaning and understanding.

(e). Sec 1.2 (xiii) (c): In the last line of the clause, the term ‘Terminal’ should be deleted to avoid any ambiguity in its meaning and understanding.

(f). Sec. 2.2 : The rate of Berth Hire charge for coastal ships has been proposed with substantial increase of 34.59%. Rationalisation of the same is felt necessary.

(g). Sec. 2.4 : The rate of Penal Berth Hire charge for coastal ships has been proposed with substantial increase by 49.48%. TAMP may consider to advise ISHPL to rationalise the same.

(h). Sec. 3.1 : Although the permissible cargo to be handled at Berth No. 4A includes various commodities viz Fertilizer, Fertilizer Raw Material, Soda Ash and other dry bulk cargo, ISHPL has proposed rate only for Coking Coal which is objected to, as it reflects their intention of handling a single commodity only which is not in consonance with the provisions of the License Agreement as well as leaves scope for underutilization of the berth.

(i). Sec. 3.2 : The Wharfage rate has been proposed with a substantial increase by 30.91%. TAMP may consider to advise ISHPL to rationalise the same.

(j). Sec. 3.3 : The Shore Handling Charge (conventional) has been proposed with a substantial increase by 30.87%. TAMP may consider to advise ISHPL to rationalise the same.

(k). Sec. 3.4.2 and 3.5.2 : The proposed Delivery Charge (mechanical) is 31.86% higher than existing rate while the proposed delivery charge(conventional) is 101.15% higher than the existing tariff. TAMP may consider to advise ISHPL to rationalise the same.

(iii). **General Observation:**

In spite of proposing service wise rate and TAMP’s approval of the same, ISHPL has been levying consolidated tariff on SAIL which is also known to TAMP. KOPT’s representations to TAMP in the matter remains unaddressed.

KOPT again objects and emphasises that for the tariff so levied by ISHPL, the service wise rates applied must be reflected in the invoices raised by ISHPL on their customer so as to ensure that the tariff levied is contained by ISHPL within the permissible ceiling rates as approved by TAMP. TAMP may consider to pass an order to ISHPL in this regards. As also intimated by KOPT on earlier occasions to TAMP, this is also required for proper assessment of royalty payable by ISHPL in terms of the License Agreement.

Further through various letters since 15.06.2006, KOPT has communicated to TAMP the silent provisions of the License agreement entered into between KOPT & ISHPL as well as KOPT’s position in respect of such matters. The issue was also represented through KOPT’S letters dated 14.09.2006, 18.08.2010 etc. As the issues are still continuing, TAMP may take a relook into the matter and consider them while making any material determination with regard to the scale of Rates of ISHPL.

As before, KOPT still objects to the proposal of ISHPL for ‘double banking charge’, because, as before it is again emphasized that ISHPL are not entitle to earn benefit out of the utilization of dock water & space which are beyond the limits of area allotted to them in lease under the License Agreement. Besides, in the incident of such double banking required under compelling situations, KOPT’s too has been suffering from loss of its legitimate dues for such space under KOPT’s possession by the double banking ship. TAMP needs to take a justified view on the issue and no rate towards ‘double banking charge’ should be allowed to ISHPL during revision of their Scale of Rates.

(iv). Regarding additions of assets to the gross block, it is submitted that the same is done at the discretion of ISHPL and KOPT has no comments to offer on the same.

(v). With regard to the Area of land leased to the ISHPL and the rate of lease rentals considered by ISHPL in the estimation of lease rentals, the following information is furnished as per the bills raised in March 2017:

Area of land leased	Rate per 100 sq.m (in ₹)
103000 sq.m	4364.13
1795 sq.m	2810.39
1179 sq.m	3349.99
715 sq.m	3190.47
83 sq.m	3349.99

1.2. However, the ISHPL has not furnished its comments on the submissions made by the Licensor port, KOPT.

2. A joint hearing on the case in reference was held on 8 May 2017 at the KOPT premises in Kolkata. At the joint hearing, the KOPT and ISHPL have made their submissions.

ISHPL

(i). Our is a company predominately invested by overseas investors. There is no involvement of overseas investors in day to day management. ISHPL is managed by professionals.

(ii). 2013-14 is peak year when we handled around 3.4 Million tonnes. Volume is dropping thereafter every year. Government has planned to increase capacities. New ports are coming up. Dhamra port is expected to commission in 2017. Therefore, we have estimated 2.4 Million tonnes and 2.3 Million tonnes for the year 2017-18 and 2018-19. It is a prudent estimate. We have considered market scenario. Kolkata Port Trust (KOPT) is on record in support of our traffic estimates.

(iii). In the past coastal cargo was nil. But, Coastal volume may go up due to measures taken by Government to encourage coastal movement of cargo. We have estimated 10% and 15% coastal volume for the year 2017-18 and 2018-19.

(iv). We are working on the queries raised by TAMP. We will reply shortly.

(v). We take well the suggestion of KOPT for volume improvement at ISHPL. We are also worried on the declining trend of volume. We can’t live with 2.3 million tonnes in the long run. It is OK for short term. Ours is an import berth. The total capacity of HDC is more as compared to the availability of import cargo. There is no scope for adding additional import cargo at ISHPL. Stacking area is a constraint for ISHPL. We are in the process of appointing consultant for improvement.

(vi). Penalty is levied not to earn income. We will review the penal provision and come back to TAMP along with our reply to the quires raised by TAMP.

(v). With the current health of the plant, we are satisfied with the per day output of 14000 tonnes. There are no frequent breakdown. We are in the process of appointing consultant for a detailed study.

KOPT

(i). It is true that coal import is coming down. It has handled about 2.68 million tonne in 2016-17 as against 2.84 million tonne in 2015-16. There is recession in steel industry. Government is emphasizing use of domestic coal. So, cargo projection for 2017-18 and 2018-19 is reasonable.

(ii). ISHPL berth is a common users berth. It handles only SAIL cargo. It should explore the possibility of handling cargo of other importers. There will be optimum utilization of berth. Exorbitant hike in tariff is not the solution. Proposed rates are high as compared to HDC rates.

(iii). Penalty for overstayal of vessel above 18 hours is 16 times of the normal berth hire charges. It is hefty. ISHPL should improve the per day output norms of 14000 tonnes. Vessels will quickly turn around.

(iv). Hefty penalty is not in line with Government Berthing Policy. In KOPT the penalty is only twice the berth hire charges for overstayal of the vessel.

(v). ISHPL should also propose incentive for better performance of the vessels. This will make the terminal attractive.

(vi). Out of 30 years concession, 15 years are still to operate. Please modify the plant and increase the productivity from 14000 tonnes per day.
