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Report of the Task Force

Tariff setting for PPP Projects in Major Ports

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Preface

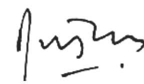
The maritime sector presently carries 70 per cent by value and 95 per cent by volume of India's trade. The cargo handled by Indian ports is expected to rise from 720 MMT in 2007-08 to 1009 MMT in 2011-12, of which the Major Ports controlled by the Central Government would account for an increase from a level of 519 MMT in 2007-08 to 708 MMT in 2011-12. This will require a significant effort for creating additional capacity to meet the traffic demand. The Committee on Infrastructure, chaired by the Prime Minister, therefore, decided that following the successful experience of Public Private Partnerships (PPPs) in operating berths at Major Ports, and in order to maximise the inflow of private capital, new berths at Major Ports would be constructed primarily through the PPP mode.

During the course of programme review, it was recognised that the on-going practice of inviting bids on the basis of revenue share was not compatible with the 'rate of return' regulation based on 'cost plus' approach and that the determination of tariffs on 'cost plus' basis did not provide the requisite incentives for improving efficiencies and reducing costs. It was further recognised that the primary objective of the Port Trusts should not be the maximisation of their rental revenues, as too much emphasis on this aspect would raise the user charges to uneconomic levels. It was agreed that the aim should be to create adequate capacity and promote competition so that efficient and reliable services are provided at economic costs.

A committee was constituted under the chairmanship of Member, Planning Commission with Secretaries of the Department of Shipping, Economic Affairs and Planning Commission as members to go into the issues arising out of the 'cost plus' approach and to recommend the optimum methodology for tariff-setting. After extensive deliberations, the Committee recommended that the tariff structure for each project should be determined prior to invitation of bids so as to enable the prospective bidders to assess the potential revenue streams with greater predictability. Such an approach would also eliminate the pitfalls associated with the 'cost plus' structure. It was recommended that tariffs could be based on the likely capital costs and operating expenses, assuming optimal capacity utilisation and efficient functioning. An alternative could be to set tariffs at a level

equal to the average tariff at similar ports in the region. It was noted that the aberrations, if any, in setting the tariffs upfront would get corrected in the competitive bid process. Such an arrangement would not only ensure a transparent process of tariff determination but would also eliminate the possibilities of regulatory capture.

The recommendations of the Task Force have since been considered and approved by the Committee on Infrastructure and the tariffs are currently being set by the regulator prior to invitation of bids by the respective Port Trusts for selection of Concessionaires.



(Gajendra Haldea)
Adviser to Deputy Chairman
Planning Commission

May 7, 2009

Introduction

1.1 The Committee on Infrastructure (CoI) in its fourth meeting held on May 12, 2005 approved the broad contours for development of Ports and mandated that the programme to create world-class port infrastructure be formulated and implemented within a given time frame. It was decided that following the successful experience of operating berths at major ports on PPP basis and in order to maximize the inflow of private capital, new berths at Major Ports would be constructed primarily through the PPP mode.

1.2 During the course of programme formulation and review of on-going arrangements, it was found that combining of tariff-setting on 'cost plus' basis with the award of concessions with revenue share as the bidding parameter was not tenable. In the review meeting held on October 20, 2006 under the chairmanship of Deputy Chairman, Planning Commission, it was agreed that the tariff setting mechanism and the bidding parameters for PPP projects would be examined by a Task Force under the chairmanship of Shri Anwarul Hoda, Member, Planning Commission and consisting of the following members:

Secretary, Department of Shipping

Secretary, Department of Economic Affairs

Secretary, Department of Legal Affairs

Adviser to Deputy Chairman, Planning Commission

Adviser (Transport), Planning Commission

Managing Director, Indian Ports Association

1.3 The Task Force held meetings on October 31, November 24, December 13 (2006), January 29, April 12 and June 1 (2007) to discuss the tariff setting mechanism and the bidding parameters for PPP projects in Ports. It could not arrive at unanimous recommendations on all aspects considered by it.

1.4 After the meeting on June 1, 2007, Chairman held discussions with some of the members individually to try to resolve the differences. On August 20, 2007, he circulated a draft report to the members on the basis of his understanding of the position of the majority of members. Comments and suggestions for changes in paragraphs 2.1, 2.2, 3.2, 3.4, 3.5, 3.6 (e), 3.10 and 3.11 of the draft were received from Secretary, Shipping. Adviser to Deputy Chairman, Planning Commission also submitted a note of dissent relating to the assessment of the current cost plus tariff setting mechanism combined with revenue sharing model as incorporated in paragraphs 2.1 & 2.2. The differing perceptions of these two members on paragraphs 2.1 and 2.2 have been reflected in the Report. As regards the remaining suggestions of Secretary, Shipping, some were taken on board while others could not be accommodated for reasons that are explained in Annex-III, which outlines the action taken on his suggestions and comments.

1.5 This Report is being submitted by the Chairman on his responsibility as reflecting the views of the majority of Members of the Task Force.

Issues and Options

2.1 There was consensus that the present cost plus tariff setting mechanism combined with the revenue sharing model had certain inconsistencies[1]. There was agreement that these inconsistencies needed to be eliminated.

2.2 The Task Force recognised that the on-going practice of bidding on the basis of revenue share was not compatible with the rate of return regulation based on 'cost plus' approach. The Group further noted that determination of tariffs on 'cost plus' basis did not provide the requisite incentives for improving efficiencies and reducing costs.

2.3 The Task Force recognised that the primary objective of the Port Trusts was not to maximise their rental revenue, as too much emphasis on this aspect would ultimately raise the user charges to uneconomic levels. Rather the objective should be to keep tariffs at economic levels with a view to making India globally competitive. The aim should be to create adequate capacity and promote competition so that efficient and reliable services are provided at competitive costs.

2.4 The prevalent tariff caps in the different container terminals were tabulated and may be seen at Annex-I. The statement indicates wide variations in the tariff caps at different ports as well as between terminals. Such divergent tariffs for a similar service provided by different terminals of the same Port, which exist primarily because they are based on a cost plus approach, could be a cause for concern to the users, investors and lenders.

2.5 The Task Force considered various options for determination of tariff caps relating to each category of commodities at the respective Ports. The Department of Shipping also got a study conducted on the Normative Cost Based Tariff Model for Major Ports.

The Task Force considered a paper circulated by the Planning Commission suggesting two possible alternatives as described at Annex-II.

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[1] Secretary, Shipping advocated caution in criticizing the existing system in view of the ongoing litigation and proposed a reformulation of paragraphs 2.1 and 2.2 to read as follows: "There was consensus that there is a need to improve upon the existing tariff setting system in Major Ports. Performance standards have to be factored in and defined while setting tariff caps. Further, for the comfort of the prospective bidders and in the interest of the users, it was felt that the tariff caps should be fixed up front".

On the other hand, Adviser to Deputy Chairman proposed the addition of the following: 'Shri Haldea expressed the view that the past practice of combining rate of return regulation with revenue share bidding was injurious for the Users and the respective Port Trusts, as brought out in a Consultation Paper circulated by his division with a view to drawing lessons for the present exercise. He felt that this Consultation Paper should, therefore form part of the Report. The Group felt that the Paper need not be attached with this Report and the issues raised in the Paper, and not addressed here, could be pursued separately.'

Recommendations

3.1 The Task Force recommended that tariffs should normally be set through competitive market forces, but a cap should be specified to protect users in a situation of inadequate capacity. The tariff caps should be set upfront and prior to inviting bids.

3.2 The tariff caps may be set for containers as well as other categories of commodities. While fixing the cap for each service/ operation, the estimated capital cost and the estimated cost of operation as set out below should be the basis, and the cap should be notified for each Port and each commodity separately. For berths to be offered at the same port, the tariff cap should be uniform.

3.3 The performance standards such as Turnaround Time for receipt/ delivery operations that must be met by the concessionaire should also be defined. The expectation would be that the performance parameters would be set at progressively higher levels than those notified in the past, and would take into account the technological developments.

3.4 Capital Cost: A normative estimate of the capital cost of building a new terminal for a particular class of commodities may be made assuming an optimal capacity of the terminal in the context of the respective port. The capital cost should comprise the costs of construction and acquisition of equipment as well as the cost of financing including the IDC. The amount so arrived at should be treated as the estimated capital cost for determining the tariff caps. A fair return on the capital employed (which is 16 per cent as of now) should also be assumed by TAMP.

3.5 Operating Cost: The annual operating cost of the terminal in a particular port for a class of commodity shall be estimated assuming a reasonably efficient operation to be determined on a normative basis assuming a capacity utilization of 75 per cent of the installed capacity. Expenses on account of maintenance and repairs, fuel and electricity, insurance and under other heads shall be taken into account. All types of operations performed shall be taken into account.

3.6 It is recommended that the following overarching parameters should be followed in setting of tariffs:

(a) Tariff should be set upfront before bidding.

(b) The tariff so set would be a cap.

(c) Once tariff caps have been set for a port they would apply to all terminals that are bid out subsequently for handling identical cargo in that port.

(d) Tariff caps may be reviewed once every five years to adjust for any extraordinary events that could not have been foreseen by a prudent person.

(e) Tariff caps would be indexed to inflation, but only to an extent of 60 per cent of the variation in WPI occurring between 1.1.2007 and January 1 of the year of the revision, and revision made every year.

3.7 After determining the tariff caps based

on the aforesaid guidelines, bids for award of concessions may be invited on the basis of revenue share to be offered by bidders.

3.8 The Group noted that the advantage of competitive bidding based on revenue share was that the traffic risk of bidders would be mitigated and their willingness to share revenues based on their actual traffic/ income would be greater. As a result, Port Trusts were likely to get more revenues while the risks of the concessionaire would be more manageable. The practice of revenue sharing has been also adopted in other sectors such as telecom, airports and highways.

3.9 The tariff caps as and when revised will be applicable to projects that are bid out subsequently.

3.10 The Task Force favoured a "non-compete" clause to provide comfort to the concessionaire for a period of seven years from the commencement of the concession or five years after the completion of the project, whichever is shorter. During this period, Port Trusts should only award those projects, which have been included in their Plan and made known to the bidder. This would provide some certainty to the bidders and enable them to project their revenue streams with a view to making better/ higher bids to the Port Trusts. Keeping the award of new terminals open-ended would introduce uncertainty, and bidders may not be willing to manage such a risk except by seeking an appropriate risk premium from the Port Trust.

3.11 It is recommended that the Department of Shipping may issue appropriate policy directions to TAMP, keeping in view the legal framework, so as to give effect to the recommendations contained in the Report. It should be possible for TAMP to notify the tariff caps for each Port Trust by November 30, 2007 to enable bids to be invited from December onwards.

Determination of Tariff for Port Terminals

According to the directives issued by the Department of Shipping, the determination of tariffs for Port Terminals is required to be undertaken by the Tariff Authority for Major Ports (TAMP) on a 'cost plus' basis, including an annual return of 15% on the capital employed.

A perusal of the attached statement would indicate that tariffs for handling containers at different ports range between Rs. 971 and Rs. 3,540 per container. Even for different terminals at the same port (JNPT), the tariffs range between Rs. 2,550 and Rs. 3,540. Moreover, in some cases, there has been an increase in unit rates while in others, there is a decline.

From the perspective of users, such variations may appear irrational and unjustified. Moreover, such divergent tariff levels would not be conducive to inter-port and/ or intra-port competition. 'Cost plus' tariffs are also known to promote padding of costs besides raising complex regulatory issues.

In sum, it would be better to substitute the present arrangement by notifying a price cap for all ports or a group of ports. All concessionaires should be free to determine their own tariffs subject to the price cap which can be suitably indexed for neutralizing the impact of inflation. Over time, the tariff cap should also be calibrated downwards to reflect efficiency improvements. For this purpose, the well accepted approach based on RPI-X could be considered. A safety valve may also be stipulated for modification of tariffs, once in five/ ten years, to reflect exceptional events that could not have been foreseen.

In view of the above, it could be argued that tariffs for handling of containers could be fixed at, say Rs. 2,750 per container.

Handling Charges for Laden Containers (in Rs.)

Sl.No	Name of the Operator	Normal import/export containers				
		Current Rate	Period of validity	Previous Rate	Period of validity	Variation between Tariffs (%)
Jawaharlal Nehru Port						
1	Jawaharlal Nehru Port Trust (JNPT)	2550	Sept 06-Mar 09	3000	Aug 02-Mar 05	-15
2	Nhava-Sheva International Container Terminal (NSICT)	2640	Aug 05-Aug 08	3480	Nov 00-Nov 02	-24
3	Gateway Terminal International Private Limited (GTIPL)	3540	Aug 06-Mar 08	3000	Mar 06-Aug 06	18
Cochin Port						
4	India Gateway Terminal Private limited (IGTPL)	2462	Oct 05-Mar 08	2205	Dec 03-Oct 05	12
Tuticorin Port						
5	*PSA SICAL Terminals Limited (tariff fixed in 2006)	971	Aug 06-Sept 09	2303	Dec 99-Dec 01	-58
Chennai Port						
6	Chennai Container Private Lmited (CCTL)	2846	May 04-May 06	2846	Nov 03-May 04	0
Visakhapatnam Port						
7	Visakha Container Terminal Private Lmited (VCTPL)	2800	Aug 05-Mar 07	2374	Sep 03-Mar 05	18

* In view of interim stay obtained by PSA SICAL, they continue to levy the tariff of December 1999.

Guidelines for determination of Tariff Cap

TAMP may be asked to determine the tariff cap for each class of commodities at the respective Ports by adopting the following formula.

Option I

1. For any given commodity/ category of commodities, the average tariff may be computed. This may be done by adding the applicable tariff at the 12 Major Ports as on 1.4.2007 and dividing the sum by 12.

2. Tariff caps for the respective Port Trusts may be determined within a band of 25% above/ below the average tariff. This determination may be done by DoS in consultation with TAMP and the respective Port Trusts.

3. The tariff caps so determined may be notified by DoS/ TAMP as the applicable tariff for 2007-2008.

4. The applicable tariff caps may be increased every year, as on 1st April thereof, to the extent of 70% of the variation in WPI occurring between 1.1.2007 and January 1 of the year of revision.

5. DoS/ TAMP may review and revise these tariff caps, once in five years; provided that the revised tariff caps would apply only to agreements entered into after such revision.

6. Tariff caps may also be revised, once in five years, to account for any extraordinary events that could not have been foreseen by a prudent and diligent person.

Option II

1. Capital Cost: TAMP may make an estimate of the capital cost of building a new terminal for a particular class of commodities assuming an optimal size of the terminal in the context of the respective Port. The capital cost should include the cost of construction and the cost of financing, such as IDC. The amount so arrived at should be treated as the estimated capital cost for determining the tariff cap. An annual return of 15% may be assumed on the aforesaid capital cost, both for return on capital and return of capital.

2. Operating Cost: The annual operating cost of the aforesaid terminal should be determined assuming a reasonably efficient operation by the concessionaire and based on capacity utilization equivalent to 75% of the installed capacity.

3. Traffic: The capacity utilization i.e. the volume of cargo/ containers to be handled at the terminal may be assumed at 75% of the installed capacity.

4. Determination of Tariff Cap: Based on the above assumptions, and after consultation with stakeholders and experts, the TAMP may determine the tariff cap for each class of commodities at the respective Ports.

5. Indexation: The costs and tariffs should be fixed with reference to the Wholesale Price Index as on January 1, 2007. These may be revised annually to offset 70% of the impact of variation in WPI.

6. Revision of tariff cap: The above would constitute the tariff cap for a particular class of commodities at a given port. This may be reviewed once every five years to adjust for any developments of an extraordinary nature which could not have been foreseen or anticipated by a prudent and diligent person.

7. Tariff-setting by competition: It is expected that the above tariff cap would operate only while capacity shortage exists. Following the creation of adequate capacity, both in the Major Port as well as in Non-Major Port segments, the tariff would get determined by competition.

Action Taken Report on the comments of Secretary, Shipping

Draft report	Comments of Department of Shipping	Suggested revised formulation	Action Taken
2.1 There was consensus that the present cost plus tariff setting mechanism combined with the revenue sharing model had certain inconsistencies. There was agreement that these inconsistencies needed to be eliminated. 2.2 The Task Force recognised that the on-going practice of bidding on the basis of revenue share was not compatible with the rate of return regulation based on 'cost plus' approach. The Group further noted that determination of tariffs on 'cost plus' basis did not provide the requisite incentives for improving efficiencies and reducing costs.	The impact of acknowledging the inconsistencies as pointed out in **paras 2.1 and 2.2** on existing concessions and a couple of ongoing court cases may kindly be reconsidered. The observations in the report may jeopardise the Government's stand in ongoing litigation. Criticism of the existing system should be made cautiously as it will continue to be applicable to the existing operators.	2.1 & 2.2 There was consensus that there is a need to improve upon the existing tariff setting system in Major Ports. Performance standards have to be factored in and defined while setting tariff caps. Further, for the comfort of the prospective bidders and in the interest of the users, it was felt that the tariff caps should be fixed upfront.	The suggestion for changing the formulation in para 2.1 is in conflict with the suggestion of the Adviser to the Deputy Chairman, Planning Commission to incorporate a strong criticism of the present system. The original text has therefore been retained in the Report as representing the view of the majority of members and the individual views of Secretary, Shipping and Adviser to Deputy Chairman are also reflected in it.
3.2 The tariff caps may be set for containers as well as other categories of commodities. While fixing the cap for each service/ operation, the estimated capital cost and the estimated cost of operation as set out below should be the basis, and the cap should be notified for each Port and each commodity separately. For berths to be offered at the same port, the tariff cap should be uniform.	In **para 3.2**, the second sentence should be reworded as follows: "*…the estimated capital cost and estimated cost of operation should be arrived at based on the norms for different operations (to be) evolved by Department of Shipping. For this purpose, the recommendations in the Study commissioned by DoS could be relied upon.*" If the above clause is inserted, it gives a broad guideline for determination of normative levels of capital and operating cost.	3.2 The tariff caps may be set for containers as well as other categories of commodities. While fixing the cap for each service/ operation, the estimated capital cost and the estimated cost of operation *should be arrived at based on the norms for different operations (to be) evolved by Department of Shipping. For this purpose, the recommendations in the Study commissioned by DoS could be relied upon, following the broad methodology given* below and the cap should be notified for each Port and each commodity separately. For berths to be offered at the same port, the tariff cap should be uniform.	The Task Force has not examined the Study commissioned by DoS, which was first made available to the Chairman by email at 6.00 PM only on August 20, 2007. Hence, it is not possible to endorse the same. It is for DoS to take a view on the recommendations contained in the Study. The Task Force can only make broad recommendations, as it has done.

Draft report	Comments of Department of Shipping	Suggested revised formulation	Action Taken
3.4 Capital Cost: A normative estimate of the capital cost of building a new terminal for a particular class of commodities may be made assuming an optimal size of the terminal in the context of the respective port. The capital cost should comprise the costs of construction and acquisition of equipment as well as the cost of financing including the IDC. The amount so arrived at should be treated as the estimated capital cost for determining the tariff caps. A fair return on the capital employed (which is 15% as of now) should also be assumed by TAMP. 3.5 Operating Cost: The annual operating cost of the terminal in a particular port for a class of commodity shall be estimated assuming a reasonably efficient operation to be determined on a normative basis assuming a capacity utilization of 75% of the installed capacity. Expenses on account of maintenance and repairs, fuel and electricity, insurance and under other heads shall be taken into account. All types of operations performed shall be taken into account.	Designed capacity of a terminal should take into account the physical features of the facilities being posed for privatisation, as it is difficult to define an optimal size of a terminal otherwise. However, optimum capacity of given terminal can be worked out based on the performance norms for different resources subject to the constraints imposed by the physical features. Capital cost can be determined for the capacity to be created. Return on the capital employed is 16% as of now and accordingly the same has been indicated. Determination of optimum capacity for a terminal itself provides for various allowances for utilisation, maintenance, etc. for example, berth occupancy is taken at 60% and effective working time of crane is considered at 80%. Therefore, the operating cost at the normative level can be taken for the full optimum capacity so arrived at.	3.4 Capital Cost: A normative estimate of the capital cost of building a new terminal for a particular class of commodities may be made for an optimal *capacity* of the terminal in the context of the respective port. The capital cost should comprise the costs of construction and acquisition of equipment as well as the cost of financing including the IDC. The amount so arrived at should be treated as the estimated capital cost for determining the tariff caps. A fair return on the capital employed (which is *16%* as of now) should also be assumed by TAMP. 3.5 Operating Cost: The annual operating cost of the terminal in a particular port for a class of commodity shall be estimated *for the optimal capacity determined as per para 3.4 above.* Expenses on account of maintenance and repairs, fuel and electricity, insurance and under other heads shall be taken into account. All types of operations performed shall be taken into account. *However, revenue share will not be recognized as an item of cost for tariff determination.*	(i) The words “size” and “15%” have been substituted by the words “capacity” and “16%”, respectively. (ii) There is no clear justification given for changing the formulation suggested in the middle of para 3.5. (iii) Since the recommendations of the Task Force relate to setting of tariffs prior to bidding, any clarification relating to revenue share that would be known only after bidding is not considered relevant. [Although the DoS is in agreement with the recommendation in para 3.2 that for berths to be offered at the same port the tariff cap would be uniform, some of the comments seem to be based on the underlying assumption that a tariff cap shall be determined for each terminal.]

Draft report	Comments of Department of Shipping	Suggested revised formulation	Action Taken
3.6 (e) Tariff caps would be indexed to inflation, but only to an extent of 60% of the variation in WPI occurring between 1.1.2007 and January 1 of the year of the revision, and revision made every year.	It is suggested that for the sake of stability in tariff caps and so as to even out fluctuations in WPI, the automatic escalation may be provided cumulatively every three years.	3.6 (e) Tariff caps would be indexed to inflation, but only to an extent of 60% of the variation in WPI occurring between 1.1.2007 and January 1 *of the subsequent year, and the revision made cumulatively for every three years.*	It is established practice in other infrastructure sectors to adjust for inflation annually. A three year period would increase the inflation risk of the Concessionaire and cause him to seek a higher risk premium. There are no grounds for departing from this well accepted practice in other sectors. Acceptance of this suggestion would defeat the aim of making the environment conducive to the participation of the private sector in PPP arrangements.
3.10 The Task Force favoured a "non-compete" clause to provide comfort to the concessionaire for a period of seven years from the commencement of the concession or five years after the completion of the project, whichever is shorter. During this period, Port Trusts should only award those projects, which have been included in their Plan and made known to the bidder. This would provide some certainty to the bidders and enable them to project their revenue streams with a view to making better/ higher bids to the Port Trusts. Keeping the award of new terminals open-ended would introduce uncertainty, and bidders may not be willing to manage such a risk except by seeking an appropriate risk premium from the Port Trust.	**Para 3.10** speaks of a non-compete clause. The comfort of a non-compete clause should be provided only on project specific basis i.e. for such projects which in the reasonable judgement of concessioning authority would not be viable without such exclusivity. It is felt that we should not bind ourselves to such a clause by referring only to a time-frame (of five or seven years). It may so happen that for unforeseen reasons or exigencies a need may arise to develop another terminal or project to handle additional cargo, which had not been planned for. This clause would bind our hands and may in such a scenario lead to creation of a monopolistic situation. If a non-compete or exclusivity clause is favoured, this report should mention it in general terms without going	3.10 The Task Force favoured a "non-compete*/exclusivity" clause to be incorporated in the Concession Agreements on a project-specific basis so as to provide comfort to the concessionaire, for such projects which in the reasonable judgement of concessioning authority would not be viable without such exclusivity.*	The proposed formulation is somewhat vague and open-ended. As a rule, concession agreements should provide predictability. This clause would not bind the hands of Port Trusts as long as they indicate to the bidders, the plans of the Port Trust to award more terminals. Acceptance of the suggestion will increase the uncertainties for potential bidders.

Draft report	Comments of Department of Shipping	Suggested revised formulation	Action Taken
	into the details of the clause. **Alternately**, the clause could be as follows: *"The Concessioning Authority shall not operationalise any additional facility within Port Limits for handling (specify cargo) either on its own or through any other Person until the earlier of (i) 5 (five) years from the Scheduled Project Completion Date; or (ii) the average annual volume of cargo handled at the Project Facilities and Services reaches a level of 75 (seventy five) % of Project Capacity for 2 (two) consecutive years ("**Exclusivity Period**")."*		
3.11 It is recommended that the Department of Shipping be requested to issue directions to TAMP within a period of one month on all relevant matters as elaborated above. TAMP should be directed to notify the tariff caps for each Port Trust by October 31, 2007 so that bids can be invited by November 2007.	Conformity to Legal framework while issuing guidelines had been recommended by DoS so as to acknowledge the present framework under Section 42 (4) of the Major Port Trusts Act. Section 42 of the Major Port Trusts Act, 1963 contains the provisions relating to "Performance of services by Board or other person". As per Section 42 (3) of the Act, the Board may, with the previous sanction of the Central Government, authorize any person to perform any of the services mentioned in sub-section (1) of Section 42 on such terms and conditions as may be agreed upon. Further, as per the sub-section (4) of Section 42 which is reproduced below:	3.11 It is recommended that the Department of Shipping be requested to issue *appropriate policy directions to TAMP, keeping in view the legal framework, so as to give effect to the recommendations contained in this Report. Department of Shipping will ensure that all PPP Projects will be presented to competent authority for its consideration along with the tariff caps so determined.*	The text has been appropriately modified so as to approximate more closely to the suggestions of DoS. Para 3.11 now reads as follows: It is recommended that the Department of Shipping may issue appropriate policy directions to TAMP, keeping in view the legal framework, so as to give effect to the recommendations contained in the Report. It should be possible for TAMP to notify the tariff caps for each Port Trust by November 30, 2007 to enable bids to be invited from December onwards.

Draft report	Comments of Department of Shipping	Suggested revised formulation	Action Taken
	"No person authorized under Sub-section (3) shall charge or recover for such service any sum in excess of the amount [specified by the Authority, by notification in the Official Gazette]". Further, para 3.11 should be reworded to indicate that the Department of Shipping will issue appropriate policy directions to give effect to the recommendations contained in this report. Department of Shipping will ensure that all PPP projects will be presented to the competent authority for its consideration along with the tariff caps so determined.		

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