

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

**TARIFF AUTHORITY FOR MAJOR PORTS**

G. No.106

New Delhi 11<sup>th</sup> May 2011

**NOTIFICATION**

In exercise of the powers conferred under Section 49 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of Kandla Port Trust for revision of rate structure of Kandla land of Kandla Port Trust as in the Order appended hereto.

**( RaniJadhav)**  
Chairperson

# **Tariff Authority for Major Ports**

**Case No. TAMP/21/2010-KPT**

**The Kandla Port Trust**

----

**Applicant**

## **ORDER**

(Passed on this 25 day of March 2011)

This case relates to a proposal received from Kandla Port Trust (KPT) for revision of rate structure of the Kandla Land of the Kandla Port Trust.

2. The existing rates for Kandla Land of Kandla Port Trust (KPT) under six categories were approved by Government of India in July 1994.

3.1. KPT under letter No. FA/COST/1021 dated 19 April 2010 submitted its proposal for revision of rate structure of its Kandla Land along with valuation report prepared by an approved land valuer.

3.2. The salient features of the proposal are as under:-

- (i). The Kandla lands, mainly comprising submerged lands near the seashore, cover an area of 2,20,416 acres. Kandla Port has also acquired dry land admeasuring 2172 acres at the village of Kidana and Mithirohar area which is known as Kandla Land category.
- (ii). A committee was constituted for fixing market value of land and Schedule of Rates as per clause No.5.3. (I) of the land policy guidelines issued by the Government of India. The Committee was headed by the Chairman, KPT. The other members were the Deputy Chairman, Chief Engineer, FA & CAO and Secretary of the Port and the Deputy Collector, Anjar representing Government of Gujarat.
- (iii). An approved land valuer was appointed as per clause 5.3(I) (a) (iv) of the land policy guidelines for assessing the market value of the landed estate. He submitted the land valuation report for Kandla land in January 2010.
- (iv). The Committee after going through various aspects and considering the parameters given in the land policy guidelines has accepted the market value of the land as assessed by the approved valuer.
- (v). Since the rates for Kandla land has not been revised from July, 1999, the Port has proposed to fix the rate structure of Kandla land from 5 July 1999.

3.3. The Committee based on the market value assessed by a land valuer has recommended sector wise/ sub-sector wise lease rentals for three consecutive slabs i.e. from July, 1999 to 31 December 2003, 1 January 2004 to 31 December 2008 and 1 January 2009 to 31 December 2013 as shown below.

Sr. No	Description of category	Rate per Sq. Mtrs. (₹)	Lease Rentals @ 6% per Sq. Mtrs. per annum (₹)	Rate per Sq. Mtrs. (₹)	Lease Rentals @ 6% per Sq. Mtrs. per annum (₹)	Rate per Sq. Mtrs. (₹)	Lease Rentals @ 6% per Sq. Mtrs. per annum (₹)
		July, 1999 to 31.12.2003		01.01.2004 to 31.12.2008		01.01.2009 to 31.12.2013	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
A	Land having water front and upto half mile from the shore i.e. the west bank of Kandla creek	690.00	41.40	890.00	53.40	1840.00	110.40
B	Land within half mile from the bank of the creek and having no water front						
B1	Plots abutting on main road	560.00	33.60	720.00	43.20	1490.00	89.40
B2	Plots situated on internal roads	500.00	30.00	650.00	39.00	1340.00	80.40
C	Land beyond half a mile from the bank of the creek						
C1	Plots abutting on main road	500.00	30.00	650.00	39.00	1340.00	80.40
C2	Other plots	410.00	24.60	520.00	31.20	1080.00	64.80
D	<b>Land outside the bunder area and outside the west gate both on north as well as on the south of National Highway</b>						
D1	Plots directly abutting on NH-8A	630.00	37.80	810.00	48.60	1670.00	100.20
D2	Plots abutting on 1st 30 meter road parallel to NH-8A	560.00	33.60	720.00	43.20	1490.00	89.40
D3	Plots abutting on 2nd 30 meter road parallel to NH-8A	540.00	32.40	690.00	41.40	1420.00	85.20
E	Land within the docks	1130.00	67.80	1460.00	87.60	3010.00	180.60
F	<b>Land west of railway siding leading to Kandla Free Trade Zone and up to crossing of railway line</b>						
F1	Plots situated on SEZ side from Kandla Railway	630.00	37.80	810.00	48.60	1670.00	100.20

	Station						
F2	Plots situated on Ahmedabad side from Kandla Railway Station	600.00	36.00	770.00	46.20	1580.00	94.80
G	Land of Liquid Storage Tanks situated at Old Kandla; between railway siding and leading to M/s. IFFCO and M/s. IOCL (LPG)	2790.00	167.40	3580.00	214.80	7380.00	442.80

3.4. The Board of Trustees of KPT has also recommended the above market rate / schedule of rates and lease rentals for approval of this Authority.

4. In accordance with the consultative procedure prescribed, the proposal from KPT was forwarded to the concerned user organizations for comments. Their comments as and when received were forwarded to KPT for remarks. KPT has responded to the comments of the user organizations.

5. On a preliminary scrutiny of the proposal it was found that some additional information / clarification from KPT are required. KPT was addressed to furnish the following details vide our letter dated 7 July 2010. On 4 December 2010, KPT furnished its replies. The details called for and the replies received are tabulated below:

Sr. No.	TAMP's Queries	Reply from KPT.
1	KPT is requested to furnish the location-wise information of the total area of land covered in the port's proposal.	The location wise information is furnished. The area allotted on 30 years lease (in square metres) are as under:- <b>CategoryArea</b> (i) Residential 61,708 (ii) Commercial Salt Land 41,39,806 (iii) Service 20,313 (iv) Others 14, 391
2	KPT to furnish the cost of land and development cost, if any, incurred subsequently.	The SOR of Kandla Land has been formulated depending upon the distance of the land from waterfront and its location and not as per the usage, hence if the value of the land shown at Sr. No. 1 above is given, it will not represent the cost of the categories mentioned therein but will show the mixed values.
3	Location-wise details of rates fixed by the State Government of Gujarat for the purpose of stamp duty as applicable on 1 July 1999, 1 January 2004 and 1 January 2009.	The jantri rates in force from 1 April 2008 have been furnished by KPT. A certificate from sub-registrar, Gandhidham to the effect that the earlier rates are not available has been submitted.
4	The basic amenities like water, road, lightening, etc provided by KPT at Kandla land and the year wise expenditure incurred thereon.	Land at Kandla is being allotted to the lessees on "as-is-where-is" basis in undeveloped condition. The lessee has to develop / reclaim the land at their own cost.
5	KPT has sought approval for revised rentals from 1 July 1999. Kindly confirm that the lease agreements	The lease deeds of the land allotted in Kandla have been formulated on different lines over the years, as per the prevailing

	<p>entered into by KPT in the past with lessees contain a clause allowing for retrospective revision of the lease rentals</p>	<p>Land Policy Guidelines in vogue some of the conditions are as mentioned hereunder:</p> <p>a) "The Ground Rent hereby reserved may at the option of the lessor be revised and refixed at the end of every five years on or after first day of January."</p> <p>b) "The Ground Rent hereby reserved may at the option of the lessor be revised and refixed at the end of every ten years"</p> <p>c) "The annual lease rent shall be revised @ 30% at the option of Lessor every five years from the date of applicability and such decision of Lessor shall be final and binding and not open for any dispute."</p> <p>d) "The Ground Rent hereby reserved may at the option of the lessor be revised and refixed at the end of every seven years"</p> <p>Hence, there are provisions for revision of rents, albeit the tenures may be different, but surely the rates can be revised.</p>																								
6	<p>Kindly furnish the location-wise lease rentals as of 30 June 1999 and the revenue per year collected during 1999 – 2000 to 2009 – 2010 from the Kandla land.</p>	<p>The estate rentals collected during 1999 - 2000 to 2009 – 10 are as under:</p> <table border="1" data-bbox="831 1352 1310 1738"> <thead> <tr> <th>Year</th> <th>₹ . In Crores</th> </tr> </thead> <tbody> <tr> <td>1999 – 2000</td> <td>12.01</td> </tr> <tr> <td>2000 – 2001</td> <td>11.88</td> </tr> <tr> <td>2001 - 2002</td> <td>12.50</td> </tr> <tr> <td>2002 – 2003</td> <td>16.06</td> </tr> <tr> <td>2003 – 2004</td> <td>13.59</td> </tr> <tr> <td>2004 – 2005</td> <td>22.48</td> </tr> <tr> <td>2005 – 2006</td> <td>15.64</td> </tr> <tr> <td>2006 - 2007</td> <td>24.52</td> </tr> <tr> <td>2007 – 2008</td> <td>9.78</td> </tr> <tr> <td>2008 – 2009</td> <td>13.84</td> </tr> <tr> <td>2009 – 2010</td> <td>12.52</td> </tr> </tbody> </table>	Year	₹ . In Crores	1999 – 2000	12.01	2000 – 2001	11.88	2001 - 2002	12.50	2002 – 2003	16.06	2003 – 2004	13.59	2004 – 2005	22.48	2005 – 2006	15.64	2006 - 2007	24.52	2007 – 2008	9.78	2008 – 2009	13.84	2009 – 2010	12.52
Year	₹ . In Crores																									
1999 – 2000	12.01																									
2000 – 2001	11.88																									
2001 - 2002	12.50																									
2002 – 2003	16.06																									
2003 – 2004	13.59																									
2004 – 2005	22.48																									
2005 – 2006	15.64																									
2006 - 2007	24.52																									
2007 – 2008	9.78																									
2008 – 2009	13.84																									
2009 – 2010	12.52																									
7	<p>The financial implications including the additional revenue that would be generated per annum on account of the proposed rate structure, location-wise, may be furnished.</p>	<p>As against the rent of ₹.9.69 crores collected at old rates during 2010, the lease rent at the proposed rate would be ₹ 45.64 crores.</p>																								
8	<p>As per Govt. letter dated 8 March 2004 any or all of the following factors can be taken into consideration to</p>	<p>The Land Valuation Committee considered all the factors stipulated in the Land Policy Guidelines of March, 2004.</p>																								

	determine the market value of the port land: (i) Land value as per State Govt's ready reckoner, (ii) Average rate of actual relevant transactions registered in last three years in the port's vicinity, adding 2% escalation per annum, (iii) Highest accepted tender of Port land for similar transactions, (iv) Rate arrived at by an approved valuer and (v) Any other relevant factor as may be identified by the port. The rates now proposed by KPT are solely based on the recommendation of a land valuer. KPT is requested to furnish the analysis of the market value assessed by it under all options given in the Government guidelines.	Looking to the facts that the rates of Kandla land in State Govt.s ready reckoner (JANTRI) are very low and there are no transactions in Kandla Land during the last three years, the Committee came to the conclusion that there is no other methodology / way to derive present market rates. Hence, the Committee decided that the rates arrived at by the approved valuer based upon the last auction (of 2005) and the methodology adopted by the Land Valuer are in order. Considering these factors the Board has also approved to recommend the rates so arrived at by the valuer to TAMP for approval.
9	The Board vide T.R. No.200 dated 10 March 2010 has interalia resolved to await the decision of the Gujarat High Court for implementing new market price now being recommended for calculation of the transfer fee as the matter is subjudiced. The details in this respect may please be provided for perusal.	The transfer fees for the Kandla land are being governed by the conditions of the Lease Deed i.e. 6 times of lease rentals or Land Policy Guidelines. The matter is pending in Gujarat High Court, is regarding the transfer fees applicable to Gandhidham Township Land
10	In the existing rate structure approved by the Government of India in July 1994, the rates of ground rent per annum fall under six categories. KPT has now proposed lease rates under 12 categories. The reason therefor may please be elaborated.	The categories approved by the Government in 1994 were very broad ones covering large areas, which did not reflect the correct land value of lands even within those categories. In order to have more realistic and specific rates for different locations, depending upon their approachability, accessibility, distance from the Highways /roads the categories approved by the Government in 1994 have been further divided into sub-categories.
11	Table I of the valuer's report provides the "latest available" jantri rates specified by the Government of Gujarat for collection of stamp duty. The period for which these rates are applicable has not been mentioned therein.	The Jantri rates mentioned in the valuer's report is of the year 2006 onwards.
12	Table IV of the valuation report interalia furnishes the average of the bids received for tank farm land during the auction held in 2005. How this average has been arrived at may be explained.	The average rate of 5005/- calculated in the Table IV of the valuer's report is the result of the total of the col. "total value" divided by the total area of the 17 plots.
13	(a) Bids were received by KPT in 2005 only for three plots abutting NH 8 and seventeen plots in the tank farm land. Considering these rates as the basic rates the valuer has derived the market rates for the entire parcels of Kandla land for the years 1990 to 2009. KPT's specific comments are solicited on the methodology adopted by the valuer in determining the market value of the	The Land Valuation Committee considered all the factors stipulated in the Land Policy Guidelines of March, 2004. Looking to the facts that the rates of Kandla land in State Govt.s ready reckoner (JANTRI) are very low and there are no transactions in Kandla Land during the last three years, the Committee came to the conclusion that there is no other methodology / way to derive present

	<p>entire parcels of Kandla land.</p> <p>(b) Since the market value arrived at by the valuer is predominantly based on the bids received by KPT in the auction of 2005, KPT is requested to furnish the basis on which upfront rates were fixed for the auction held in 2005.</p> <p>(c) In the auctions held in 2005 wide variation is visible in the premiums quoted. The reasons therefor have also to be analyzed by KPT and communicated to us.</p> <p>(d) KPT is requested to confirm that no action was held after 2005.</p> <p>(e) Port may also clarify how auction conducted in 2005 would weigh predominantly in determining the market value for the period 1999 to 2009.</p>	<p>market rates. Hence, the Committee decided that the rates arrived at by the approved valuer based upon the last auction (of 2005) and the methodology adopted by the Land Valuer are in order. Considering these factors the Board has also approved to recommend the rates so arrived at by the valuer to TAMP for approval.</p>
14	<p>For arriving out the basic rate, the valuer has discounted the highest bid received in the auction of 2005 by 15 %. KPT's specific comments on discounting the bid amount to arrive at the market value is solicited.</p>	<p>Same as at Sr. No. 13 above</p>
15.	<p>To arrive at the market rates of the land parcels, the valuer has considered the auction data of 2005 as base rate and has applied thereon a generalized index derived by giving certain weightages for factors like real estate behavior in Gujarat (5%), number of industrial units established in Kutch district (10%), industrial investment in Kutch district (12%), population growth of Kutch district (3%), traffic handled by Kandla port (13%), total income of Kandla port (12%), G.D.P growth rate of India (15%) and GDP growth rate of Gujarat (30%). KPT is requested to offer its specific comments on the methodology of arriving at a general index by the valuer as detailed herein.</p>	<p>Same as at Sr. No. 13 above</p>
16.	<p>While determining the market value, the land valuer has considered weightages for the factor of accessibility (plus 10 % for corner plot), topography (minus 15% for not developed plots), shape (minus 15% for plots of irregular shapes), and usage (plus 25 % for plots having commercial potential and minus 10% for land used for residential purpose). KPT's specific comments are sought on the methodology adopted by the</p>	<p>Same as at Sr. No. 13 above</p>

	land valuer.	
17.	In para 10.14 of the report submitted by the same valuer for revision of the rate structure of the Gandhidham Township Land, he has stated that the valuation exercise is based on the data, information etc collected from the market and represents the open market condition based on the technical / logical analysis. He has also stated therein that for fixing the lease rentals, a special land pricing policy (discount/ premium) can be evolved after considering other factors such as socio economic factors causing impact on cargo business, competition with other ports, impact of land prices on other aspects of economy etc. Neither the land valuer in his present report on the rate structure of the Kandla Land nor the KPT in its proposal has considered any special land pricing policy referred to herein. KPT is requested to confirm that the other factors mentioned herein will not make any substantial impact while arriving at the market value of the Kandla land.	Same as at Sr. No. 13 above
18.	The KPT is also requested to forward a draft Scale of Rates, including the conditionalities attached thereto, for allotment of the Kandla land.	Not furnished.

6.1. A joint hearing was held on 29 July 2010 at Kandla Port Trust. The KPT and the concerned users made their submissions. At the joint hearing KPT agreed to convene a meeting of relevant users and furnish a report to this Authority.

6.2. KPT was also addressed to furnish the following details:-

- (a) A comparative position of zonewise/ sectorwise Jantri rates and proposed rates for each of the three time periods for which the revision is sought.
- (b) Port to communicate the action taken as regards convening a meeting of relevant users in this respect as agreed to at the joint hearing.

7. Subsequent to the joint hearing, the Kandla Liquid Tank Terminal Association (KLTA) submitted their comments on the KPT's proposal vide letters dated 29 July 2010 and 6 January 2011. KPT furnished its remarks for both the letters.

8. On 4 December 2010 KPT furnished a copy of the gist of discussions held by it with the representative of various port users in connection with the revision of rate structure of Kandla Land.

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

10. Considering the information collected during the proceedings of the case, the comments received from the users and the deliberations at the joint hearing, the following points emerge:

- (i). The existing rates for Kandla lands under six categories were approved by Government of India in July 1994.

The rates approved in July 1994 for the Kandla Land were applicable for 5 years and a revision was due in July 1999. KPT in fact had submitted an incomplete proposal to this Authority in 1998-99. This Authority vide Order dated 23 March 1999, however, closed the case and directed the Port to classify the land after collecting the additional information and reclassify the land taking into account the purpose for which it is allotted. Since no proposal was forthcoming from the Port in this regard even after the lapse of nine years, while approving the KPT's proposal for rate revision of Gandhidham Township Land, this Authority vide para 12 (xi) of Order No. TAMP/9/2006-KPT dated 22 April 2008 directed KPT to formulate suitable revision proposal for the Kandla land. It is in this backdrop, the port on 19 April 2010 has submitted the proposal for revision of the rate structure of its Kandla Land.

- (ii). For the purpose of determining lease rentals for the lands belonging to the Port Trusts, this Authority is mandated to follow the land policy guidelines issued by the Government from time to time vide clause 8 of the tariff guidelines issued by the Government in March 2005. The policy announced by the Government in March 2004 on land and water management of Major Port Trusts clearly lays down the procedure to be adopted for determining the market value and the lease rental of the port lands. The market value of land can be determined taking into consideration any or all of the factors like (i) State Government's ready reckoner value, (ii) the average rate of actual relevant transactions took place in last three years for the lands in the port's vicinity, adding 2% escalation per annum, (iii) highest accepted tender value of port lands for similar transaction, (iv) rate arrived at by an approved valuer and (v) any other relevant factors as may be identified by the port. The lease rent has to be fixed at 6% of the market value of the land so determined and the rate is to be escalated by 2% per annum till such time the rate is revised with approval of this Authority.

- (iii). The Rate Revision Committee constituted by the KPT as per the Government guidelines for fixing the market value of land and SOR was headed by the Chairman of the Port and it included the Dy. Collector, Anjar, representing Government of Gujarat. In its first meeting, the Committee decided to appoint an approved valuer for ascertaining the market rate of the Kandla Land and for fixing the schedule of rates. Accordingly, KPT entrusted the valuation work to M/s. R.B. Shah and Associates, an approved land value, in June 2009.

- (iv). (a). The valuer has submitted his report for Kandla land on 19 January 2010. It has been stated therein that the valuer has adopted the market approach for the valuation of the Kandla land. According to the valuer, market approach is a comparative approach to value that considers the sales of similar or substitute properties and related market data and establishes a value estimated by processes involving comparison. It is a general way of estimating a value indication for personal property or an ownership interest in personal property using one or more methods that compare the subject to similar properties or to ownership interests in similar properties. It is noteworthy that the Land Policy guidelines of 2004 recognise determination of market value of lands by engaging land valuers but does not set out the specific methodology to be adopted by such valuer.

- (b). The land valuer has claimed to have collected and analyzed the land rate from various resources including 'Jantri Rate' specified by state

Government for the collection of stamp duty, 'D.C. Rates' specified by Kandla Port Trust for the collection of lease rent (which is also used as the base price for the auction of new plots by KPT), latest available auction rate and/or highest bid for the auction by KPT etc. He has also stated that due weightages have also been given to the factors like location, width of the road on which the plot is abutting, predefined permissible use specified by KPT etc while determining the market value of the land.

- (c). The valuer has stated that there is great mismatch among the 'Jantri Rates', 'D.C. Rates' and the bids received by KPT during the auction held in year 2005. According to him the bids received in 2005 are the actual transactions that has taken place and they reasonably represent the actual market conditions / behaviour. The rate considered by the valuer for the analysis is the highest bid price received in auction. According to him the highest bid price received by auction may not represent the actual market scenario as it represents the value / interest for specific person and hence cannot be considered as the market value. He has, therefore, considered an average discount of 15% over the highest bid price for considering the base rate for the purpose of the valuation exercise. Since the auction data was available for one category only, the basic rates for other category of the land parcels have been estimated by the valuer considering their location, usage, etc. This mode of estimation, i.e. arriving at the market value of many other category of land parcels based on the auction data obtained for a solitary category and applying a discount factor of 15% thereon has been accepted by the Committee and the Board of Trustees of the Kandla Port Trust.
- (d). The valuation analysis, according to the land valuer, is based on the market survey, the data and information collected from various government bodies and other independent agencies and is also based on the assumption that the existing use of the assets is the highest and the best.
- (e). The land valuation has been reportedly carried out on sample basis and individual parcel of land has not been verified. The valuer has stated that the mass valuation exercise carried out by him may not represent exact and accurate value for a specific plot and the market value of any specific parcel of land may be higher or lower than the guideline rate arrived at by him. The valuation of the land of tank farm situated at old Kandla (between railway siding and leading to M/s. IFFCO and M/s. IOCL) has been considered separately from other land parcels of KPT as the tank farm has some special features / facilities like pipeline for oil to the port, CISF security etc.
- (f). The valuer in his report has stated that the land situated at Kandla Port Trust has special features and characteristics as compared to land outside the KPT. According to him, the value of land at KPT is highly influenced by the performance of the port, activities of the port, features of the port and economic development of the state as well as the country. In his opinion, the ordinary real estate market will also have some bearing on the value of land of KPT. Factors like traffic handled by KPT, revenue generated by KPT, number of industrial units developed in Kutch district, industrial investment in the district, population growth of the district, GDP growth rate of India, GDP growth rate of Gujarat and real estate market behavior in the surrounding area during year 1990 up to 2009 have been considered by the valuer to estimate the market rate of the land of Kandla Port Trust. Since these factors are recorded in various units of measurements, in order to bring them on a common

platform for comparison, the valuer has claimed to have converted the respective data into percentage to form a general index after assigning certain weightages to the individual index considered for finding out the trend during 1990 up to 2009. In order to estimate the general index, he has assigned weightages of (i) 5% to real estate behaviour in Gujarat, (ii), 10% to number of industrial units established in Kutch District, (iii) 12% to industrial investment in Kutch District, (iv) 3% to population growth of Kutch District (v) 13 % to traffic handled by Kandla Port (vi) 12% to total income (Operating plus Non-operating) of Kandla Port Trust (vii) 15% to GDP growth rate (India) and (viii) 30% to GDP growth rate (Gujarat). Based on the above factors the valuer has arrived at an independent generalized index considering the base year as 2005 and the market rate of Kandla land has been estimated for the years 1990 to 2009.

The independent generalized index arrived at by the valuer considering the base year as 2005 and assigning different weightages for several factors detailed above, has been accepted by the rate revision committee and the Board of Trustees of the Kandla Port Trust.

- (g). In the existing rate structure approved by the Government of India, the rates of ground rent per annum fall under six categories as detailed in sub-para (i) above. Taking the auction data available for the year 2005 as the basic rates and the generalized index derived at as detailed in sub-para (f) above and also considering the usage and location of the land parcels, the valuer has derived the market rate of the land parcels of KPT as on 1 January 2009 under 12 categories, as against the existing six categories.

When requested to elaborate the reason for proposing the rates under 12 categories, the port has replied that the categories approved by the Government in 1994 were very broad covering large areas and they did not reflect the correct value of lands even within those categories and in order to have more realistic and specific rates for different locations, depending upon their approachability, accessibility and distance from the highways / roads the categories have been further divided into sub-categories.

- (h). The land valuer has confirmed that the valuation report reasonably represents the market position and contains no material omissions of relevant information.
- (i). The land valuer has stated that for determining the market value, he has considered weightages for the factor of accessibility (plus 10 % for corner plot), topography (minus 15% for non developed plots), shape (minus 15% for plots of irregular shapes), and usage (plus 25 % for plots having commercial potential and minus 10% for land used for residential purpose).
- (j). The report of the valuer has been accepted in toto by the Rate Revision Committee headed by Chairman, KPT and the Board of Trustees of the Port. Relying on the judgment of the Committee and Board, and also bearing in mind the fact that land valuation by professional valuers is one of the approaches specified in the policy guidelines of the Government, this Authority considers the land valuation proposed by the KPT based on the valuer's report.
- (v). According to the land valuer, the valuation is also based on the data, information etc. collected from the market and represents the open market condition based on the technical and logical analysis. He has, therefore, stated that in order to

attract investment, entrepreneurship and socioeconomic development of the region after considering various socio-economic factors like impact on cargo business, competition with other ports, impact of land prices on other aspects of economy etc. and its effect on the growth of the nation, impact on employment generation in Kandla region and any other factors associated with public interest, a special land pricing policy (discounts / premium) can be evolved. When the Port was specifically requested to confirm whether the other factors mentioned by the valuer will make any substantial impact while arriving at the market value of the Kandla land, KPT has stated that it has considered all the factors stipulated in the land policy guidelines and has come to the conclusion that the market value determined by the valuer is in order.

- (vi). Bids were received by KPT in 2005 only for three plots abutting NH 8 and seventeen plots in the tank farm land. As stated earlier, considering these rates as the basic rates the valuer has derived the market rates for the entire parcels of Kandla land for the years 1990 to 2009. For arriving out the basic rate, the valuer has discounted the highest bid received in the auction of 2005 by 15 %. Thereafter, to arrive at the market rates of the land parcels, the valuer has applied on the basic rate a generalized index derived by giving certain weightages for factors like real estate behavior in Gujarat, number of industrial units established in Kutch district, industrial investment in Kutch district, population growth of Kutch district, traffic handled by Kandla port, total income of Kandla port, G.D.P growth rate of India and GDP growth rate of Gujarat as detailed in sub para v (e) above. KPT's specific comments were therefore sought on (i) the methodology adopted by the valuer in determining the market value of the entire parcels of Kandla land based on the few auctions held in 2005 (ii) on discounting the bid amount to arrive at the market value by 15% (iii) on the methodology of arriving at a general index by the valuer and (iv) the other factors mentioned by the valuer as detailed in sub-para (vi) above. In reply, KPT has categorically stated that the Land Valuation Committee has considered all the factors stipulated in the land policy guidelines of the Government. Looking to the fact that since the rates of Kandla land in State Govt.s ready reckoner (JANTRI) are very low and there are no transactions in Kandla Land during the last three years, the Committee has come to the conclusion that there is no other methodology / way to derive the present market rates. Hence the Committee has decided that the rates arrived at by the approved valuer, based upon the last auction (of 2005) and the methodology adopted by the valuer are in order. KPT has also stated that looking to these factors the Board of Trustees of the Port has also approved to recommend the rates so arrived at by the valuer. In this connection it is noteworthy that the Committee is empowered to take into account any or all the factors enumerated in sub-para (iii) above to determine the market value of the port land. The Committee after going through the various aspects and considering the parameters given in the land policy guidelines has accepted the market value of the land as assessed by the approved land valuer. The Government guidelines do not indicate a specific preference to any particular method. The Government guidelines also do not spell out the manner in which the rates are to be arrived at by the valuer appointed by the Port for valuation of the land. It is, therefore, presumed that the Board of Trustees of the KPT based on the recommendation of the rate revision committee headed by the Chairman, KPT and including one of its members being the representative of the Government of Gujarat (Deputy Collector, Anjar) is fully convinced with the Valuation Report while endorsing the proposed rates. Relying on the valuation report submitted by KPT and on the judgment of the Board of Trustees of the Kandla Port Trust, this Authority accords approval to the Sector wise lease rentals at 6% of the market value recommended by the port vide Column Nos. (4), (6) and (8) of the table under para 3.3 above for the period from (i) July 1999 to 31 December 2003, (ii) 1 January 2004 to 31 December 2008, and (iii) 1 January 2009 to 31 December 2013 respectively.

- (vii) (a). The Indian Farmers Fertiliser Co-operative Limited (IFFCO) have pleaded for continuance of the existing rate of lease rent even after the expiry of the lease period without any upward revision, as according to them the new rate should be applied to new lessees and not for IFFCO. The Kandla Liquid Tank Terminal Association (KLTTA) has also pleaded on the same lines of IFFCO and has further stated that based on an Order of the High Court of Kerala in the case of Cochin Port Trust, the annual escalation should be on base rent and not on cumulative basis. Food Corporation of India (FCI) has sought exemption from the proposed enhancement of the rates quoting a 2008 order of this Authority in Gandhidham land matter. The Gandhidham Chamber of Commerce and Industry (GCCCI) has stated that KPT has not mentioned in its proposal about one special civil application before the Hon'ble High Court of Gujarat about levying of transfer fee. According to GCCCI, KPT should not have made the proposal of revision of rate before this Authority as the issue of transfer fee is directly related to the SOR for Township land.
- (b). As regards the contention of IFFCO the port has stated that the Agreement entered into with it contains renewal clause to the effect that on expiration of the term, the lessee be granted at his option a new lease by way of renewal for a further period of thirty years on such terms and conditions as the lessor may in its absolute discretion can determine. It is relevant to mention in this context that the guidelines issued by the Government in March 2004 prescribe for revision of base rate once in five years and hence the request of IFFCO and KLTTA for continuance of the existing rate of lease rent even after the expiry of the lease period without any upward revision cannot be acceded to as rightly pointed out by the port. When specifically sought, KPT has informed that the land allotted to FCI is on leave and license basis for eleven months only and every renewal is treated as fresh allotment. It is clarified that the rates to be prescribed in the SOR are ceiling levels. The revised rates approved are to be applied in the existing leases subject to the provisions of periodic revision of rents agreed in the surviving lease agreements.
- (c). GCCCI has stated that the issue of transfer fee is directly related to the SOR for township land. KPT on this issue has stated that the proposal dealt with herein relates to Kandla land and not the GandhidhamTownshipLand. However, in this connection it is clarified that as per the Government's land policy for Major Ports, subject to the fulfillment of the conditions specified therein, lessees can be permitted to transfer the lease (in case of leases granted on upfront basis) on payment of a fee to the Port equal to 50% of the difference between the current upfront premium and the original upfront premium, weighted for the balance lease period. In case of leases which were originally granted on annual lease rent basis, in addition to the charges stated above, as per Government's land policy, transfer can be allowed subject to the payment of an upfront premium, equivalent to the NPV of the lease rent calculated as prescribed in the policy document for the remaining period in accordance with the prevailing SOR / Rates approved by the competent authority. Nevertheless, on the issue of transfer fees, this Authority has already clarified under its earlier Orders dated 4 February 2000 and 31 August 2000 in case No.TAMP/10/2000-Gen that TAMP does not have the authority to approve levy of lease transfer fee/mortgage fee by the Major Ports in the absence of a specific provision in the MPT Act, 1963. In the Order dated 31 August 2000 it has also been clarified that TAMP does not have the power to disapprove such levies and the Port Trusts can take their own decision in this matter as per the policy guidelines of the Government.

- (viii). The KPT has sought approval to the revised rates retrospectively w.e.f. July 1999. To a pointed query as to whether the lease agreement with the lessees contain a clause allowing for retrospective revisions of the lease rental, the port has confirmed that there are provisions for such revisions. It is also relevant to mention that the guidelines issued by the Government in March 2004 require revision of the base rate once in five years. Earlier, guidelines of the Government also maintained the 5 year period for revision of rates. In view of the clear Government guidelines in this regard, and also recognizing that the lease agreements entered by KPT reportedly provide for retrospective revision of rents, this Authority accepts the proposal of the KPT for retrospective revision of rates in respect of its Kandla land from July 1999 as detailed in para 3.3 above.
- (ix). As per the Government guidelines, the lease rent fixed is subject to an automatic annual escalation at 5% till 24 February 2004 and at 2% thereafter. Though specifically requested, KPT has not submitted a draft SOR including the conditionalities attached thereto for allotment of the Kandla land. In fact, the KPT has not proposed any conditionalities to govern the application of rates of rentals of KPT land. The land policy for Major Ports prescribes clear cut guidelines relating to application of lease / license fees. While according approval to the revised rates a general note is also included to the effect that all other conditions governing the lease rentals shall be as per the guidelines issued by the Ministry of Shipping as may be amended from time to time.

11. In the result and for the reasons given above, and based on a collective application of mind, this Authority in supersession of the existing lease rates for lease of Kandla land belonging to KPT accords approval to the revised rates as per the **ANNEX** attached hereto.

**( RaniJadhav )**  
Chairperson

## Lease rate for lease of Kandla lands belonging to Kandla Port Trust.

Sr. No	Description of category	Lease Rentals per Sq. Mtr. per annum as on July 1993 (₹.)	Lease Rentals per Sq. Mtr. per annum as on 1 January 2004 (₹.)	Lease Rentals per Sq. Mtr. per annum as on 1 January 2009 (₹.)
A	Land having water front and upto half mile from the shore i.e. the west bank of Kandla creek	41.40	53.40	110.40
B	Land within half mile from the bank of the creek and having no water front			
B1	Plots abutting on main road	33.60	43.20	89.40
B2	Plots situated on internal roads	30.00	39.00	80.40
C	Land beyond half a mile from the bank of the creek			
C1	Plots abutting on main road	30.00	39.00	80.40
C2	Other plots	24.60	31.20	64.80
D	<b>Land outside the bunder area and outside the west gate both on north as well as on the south of National Highway</b>			
D1	Plots directly abutting on NH-8A	37.80	48.60	100.20
D2	Plots abutting on 1st 30 meter road parallel to NH-8A	33.60	43.20	89.40
D3	Plots abutting on 2nd 30 meter road parallel to NH-8A	32.40	41.40	85.20
E	Land within the docks	67.80	87.60	180.60

F	<b>Land west of railway siding leading to Kandla Free Trade Zone and up to crossing of railway line</b>			
F1	Plots situated on SEZ side from Kandla Railway Station	37.80	48.60	100.20
F2	Plots situated on Ahmedabad side from Kandla Railway Station	36.00	46.20	94.80
G	Land of Liquid Storage Tanks situated at Old Kandla; between railway siding and leading to M/s. IFFCO and M/s. IOCL (LPG)	167.40	214.80	442.80

Note:

- (i) The lease rentals shall bear an escalation @ 5% (compoundable) per annum for the period July 1999 to 24 February 2004 and @ 2% thereafter.
- (ii) All other conditions governing the lease rentals shall be as per the guidelines issued by the Ministry of Shipping as may be amended from time to time.

**SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY**

**F.No.TAMP/21/2010 – KPT - PROPOSAL FROM KANDLA PORT TRUST (KPT) FOR REVISION OF RATE STRUCTURE FOR KANDLA LAND OF KANDLA PORT TRUST.**

1. The comments received from the port users / representative bodies of port users are summarised below:

Sr. No.	Users	Reply furnished by KPT
1.	<p><b>Indian Farmers Fertiliser Cooperative Limited</b></p> <p>The lease rates proposed by KPT at 6% of the assessed valuation of the land is very high as compared to the provisional annual ground rent of ` . 16/- per sq. meter being paid by us as approved by the KPT Board in April 2001.</p> <p>The leveling / reclamation of the site allotted to us was carried out by our own cost before we constructed the fertilizer factory. The land is in our possession for the last 39 / 32 years where we have invested crores of rupees in its development.</p> <p>Any increase in the lease rate will have adverse effect on cost of production</p> <p>IFFCO is a farmers co-operative society. It is unique as the owners of the IFFCO are also the customers.</p> <p>IFFCO had taken on lease the land on the basis of fixed annual ground rent, which was initially at Re. 0.45 per Sq metre. Clause 7 of the lease deed executed between IFFCO and Kandla Port Trust is reproduced hereunder:-</p> <p><i>“The ground rent here above reserved may at the option of the lessor be revised and refixed at the end of every ten years, subject to the ground rent so refixed at the end of first ten years not exceeding double the original rent and the ground rent so refixed at the end of the second ten years not exceeding thrice the rate originally fixed.”</i></p> <p>Accordingly, the annual ground rent was earlier revised twice as under:-</p>	<p>It is not possible to accede to the request made by IFFCO as the Land Policy Guidelines for Major Ports in regard to renewal of existing leases state as under:-</p> <p>(i) If land is not required by port for its own use, the port should then identify whether land is required for the purpose for which it was originally leased or any other purpose consistent with the Land Use Plan. If it is so required and if renewal is provided for in the existing lease agreement, it should be renewed with the approval of the Board for a period not exceeding thirty years. The lease rent/upfront premium should not be less than the prevailing SoR/rates approved by competent authority and or market value, as the case may be. No compensation will be payable by the port in the event of refusal to renew the lease.</p> <p>(ii) If the option for renewal is not provided in the existing lease agreement, the Port, at its discretion, may decide to grant a fresh lease in favour of the existing lessee at the terms to be approved by the Board without public auction/tender. The lease rent/upfront premium should not be lower than SoR duly updated or the market value as the case may be. In addition, a premium amounting to one year's rental as per prevailing SoR shall be collected by the port.</p> <p>(iii) Further, in the ongoing PIL in the hon'ble High Court of Delhi, one of the issues pointed out by the Hon'ble High Court in its order dated 20/04/2010 is as under</p> <p>“..... necessary steps should be taken to now protect and safeguard the interest of the revenue including the Kandla Port Trust”</p>

<p>Original lease rate Re. 0.45 per sq. mt. for the first ten years</p> <p>Revised lease rate Re. 0.90 per sq. mt. for the second slab of ten years (11<sup>th</sup> – 20<sup>th</sup> year).</p> <p>Revised lease rate ` 1.35 per sq. mt. for the third slab of ten years. (21<sup>st</sup> – 30<sup>th</sup> year).</p> <p>The above stated formula should be continued. The rates proposed by the Kandla Port Trust, can at best be applied and charged from the new lessees but not from IFFCO.</p> <p>The renewal of lease and revision of rates should be in accordance with the terms and conditions of the earlier lease deeds. Charging lease rental from IFFCO at commercial rates based on inflated current cost of the land is not proper and legal.</p> <p>The lease rate being proposed by KPT for renewal is about 8200% more than the rates that were last charged. It would be highly illogical to apply the Land Policy Guidelines which are framed in 2003 / 2004 to the renewal of lease agreements signed way back in 1971 and 1978. The annual lease rates @ 6% of the market rate as recommended by the valuer for residential land as well as commercial / industrial land is not justifiable. There should be separate lease rentals for different categories of land viz. Industry, Commercial and Residential.</p> <p>In view of above, we request you to kindly consider the following:</p> <ol style="list-style-type: none"> <li>1. The proposed revision in rates should be made applicable for the new allotments of land / lease made after July, 1999.</li> <li>2. The rates may be revised as (i) lease rental @ 1% per annum of the market value of land for industries and (ii) lease rental @ 3% per annum of the market value of land</li> </ol>	<p>The above matter was referred to the Assistant Solicitor-General of India, who has opined that</p> <p>“on perusal of the land policy would show that the thrust is on two aspects while disposing of land including on lease and / or license basis, namely (a) that such disposal has to be by public auction; and (b) It is to be at the current market value.”</p> <p>In view of the above, Kandla Port Trust has got no option but to levy fees as per the Government guidelines and at the prevalent market rates (SoR).</p> <p>Kandla Port Trust has not violated the conditions of the lease deed of the lease period already expired, as during the entire lease period the rent was levied as per the condition provided in the Lease Deed. Since the lease is to be renewed, the fresh Land Policy Guidelines issued by the Government will come into force during the renewed period and accordingly the rates will also be as per the present market value. During the earlier lease of 30 years, the lease rent could not be increased looking to the restriction of the condition provided in the lease deed (revision of maximum 2 times that too not more than thrice of the initial rent, which was 30 years old) and now after the lapse of 30 years when the market value of land is being charged, IFFCO's contention that the rates have been increased exorbitantly is not correct as they have enjoyed the benefit of the lease deed already executed for the past 30 years and they cannot be allowed to continue to do so for an interminable period. Further, while applying for renewal of lease periods, IFFCO has given undertaking to pay the rent at revised rates, if so approved. Hence, when the rates are to be revised, IFFCO should not back out from their undertaking.</p>
---	--

	<p>for commercial.</p> <p>3. The provisional rate of lease rent of ` 16/- per square Mt. as approved by the KPT vide its Resolution No. 147 dated 26 April, 2001, be made final in respect of all lands taken by IFFCO, as it is the prevailing rate under SOR, for the entire renewal period.</p>	
2	<b>The Gandhidham Chamber of Commerce &amp; Industry</b>	
	<p>KPT's proposal does not give the fair picture of the position obtaining in this regard as no mention is made about the Special Civil Application No. 1045 of 2010 filed by Shri L.H. Mehta v/s. Kandla Port Trust, before Hon'ble High Court, Gujarat, wherein interim stay against the operation and implementation of impugned circular dated 29 October 2009 regarding levy of transfer fee by KPT is granted. While the matter is subjudice, we feel, there is no justification / logic in referring the matter to you, till the matter is finally decided by Hon'ble High Court, as the matter of transfer fee is directly related to the scale of rates for township land.</p>	<p>The revision is made as per the provision of Land Policy Guidelines issued by Govt. of India.</p>
	<p>During the course of visit of the Secretary (Shipping) at Kandla Port from 7 May to 9 May, 2010, he has stated that a new policy will soon be declared for the land under Kandla Port Trust, which is aimed at solving most of the problems. He had confirmed during his visit that the proposal by KPT to free residential lands is under the consideration of the shipping ministry. When a comprehensive policy is in offing, there is no valid reason to consider the present proposal of KPT for enhancement in scale of rates.</p>	<p>The present Government guidelines allow only leasing of the land through competitive bidding for 30 years. However, a proposal is being made to Government to convert all residential and residential cum commercial plots into freehold. Till the decision is not taken for conversion of land into freehold, the present revision is in order.</p>
	<p>It is observed that the meeting of the Committee constituted for revision of rate structure of GTL consists of only Government officials. The participation by the public and associations of users has been avoided. This is against the principle of natural justice.</p>	<p>No comments offered.</p>

	<p>The allotment of land through execution of lease deed for 99 years is itself a “deemed sale” and as such the market value fluctuations should not impact the lessees.</p>	<p>No comments offered.</p>
	<p>The decision to enhance the rates is ex-parte i.e. by Kandla Port Trust and it cannot be acceptable / implemented.</p>	<p>The revision is done systematically keeping the Government land policy in view. i.e as per the rates prescribed in the land policy approved by the Government of India.</p>
	<p>As proposed rates are too high, it will result in multiplicity of the litigations against the KPT. The disturbing the general public will not only invite anger and resentment, but it will have direct impact on the efficiency of the port.</p>	<p>The rate revision is done as per the prescribed land policy guidelines within the terms of lease agreement.</p>
	<p>The proposed scale of rates will have impact on ground rent which will be exorbitant and it will affect the general public in toto. This needs to be rationalized in a democratic way. There must not be profit motto. Similarly, proposed scale of rates will mean that huge transfer fee has to be paid by the purchaser of a plot which might have been allotted 30-40 years back at a very meagre cost.</p>	<p>The purpose of any rate revision, be it general rate revision or land related SOR, is to increase revenue in the national exchequer, but this has to be within the prescribed guidelines. Accordingly, KPT revised its SOR looking to the administration expenses and market value / escalation of prices of land. Not doing so will lead to loss to the national exchequer. Further, the ground rent will be revised as per the provision contained in the lease deed.</p>
	<p>The existing rates should be continued, as the enhanced new rate will have direct effect on the Transfer fee leading to wide repercussions.</p>	<p>Same as above.</p>
	<p>The enhanced rates structure will create an anomaly as the plots allotted by M/s. SRC Ltd., will not have any impact and it will not apply to allotments made by SRC Ltd., This will create huge difference in payment of transfer fee.</p>	<p>There should not be any anomaly as the revision of the SRC plot is also implemented as per the jantri rate and as per the prescribed regulations.</p>

	<p>The valuation report interalia says that the report is only recommendatory in nature and is neither intended nor valid for any other use. To rely solely on the report prepared in a short span of time is not reasonable. Many factors are not taken into consideration. The proposal is sent by KPT in a hurried manner. The rates shown in various tables for the years from 1990 to 2009 are imaginary in nature and are neither realistic nor convincing. This fact can be verified from the office of the Sub Registrar, Anjar / Gandhidham, from the records of various registrations made during the given period.</p>	
	<p>Majority of the plots were allotted on payment of Development charges only.</p>	<p>No comments offered.</p>
	<p>The proposal of Kandla Port Trust for revision of rate structure for Kandla land is pending with TAMP, and the same is yet to be decided. Despite this, Kandla Port Administration has quoted the basic price of plot – from ` 1604/- to `.1886 per sq. m.t., while inviting tenders for allotment of plots for construction of godowns / warehouses at Kandla on 30 years lease. While the new guidelines are yet to be approved by TAMP, inviting tenders at proposed revised prices is against the principles of natural justice.</p> <p>Similarly, the annual lease rental for each plot is stipulated @ Re. 1/- with applicable service Tax, whereas old allottees are subjected to pay ranging between ` .100/- to ` .425/-.</p> <p>This move will prove advantageous to the neighboring private ports like Mumbai, Pipava, Dahej, where land is free hold.</p>	<p>No comments offered.</p>
	<p>It is understood that Kandla Port Administration has commenced issuing notices for payment of difference of transfer fee at the rate, which are yet to be approved by TAMP, and pending litigation in Hon. Gujarat High Court.</p>	<p>No comments offered.</p>

	<p>This demand is made by the port administration on the basis of Land Policy guidelines dated 8 March, 2004. When the new Land Policy is in offing, as stated by the Secretary (Shipping) recently, there is no justification in demanding the transfer fee at revised rates.</p> <p>We request you to kindly disapprove the proposal of Kandla Port Trust for revision of rate structure as it contains may flaws and is not consistent.</p>	
3.	<b>Food Corporation of India</b>	
	<p>The increase in rent proposed is exorbitant for FCI being a subsidy based Govt. of India Undertaking. TAMP vide Order No. TAMP/9/2006-KPT dated 27 April 2008 has stated that "This Authority accords approval to the proposed revision of rates which will not apply to pre-1999 leases as the relevant lease agreements reportedly does not contain any provision for levying lease rent."</p> <p>In view of the above Order, FCI may be exempted from the proposed enhancement since the lease of FCI at Kandla is of 1982.</p>	<p>A plot admeasuring 136164 square meters was allotted to FCI on 13 December 1984 on leave and license basis for 11 months which has been renewed upto 12 October 2006. Since the matter of renewal was under approval stage, the monthly license fee was accepted upto 12 November 2008. Thereafter license fee was not accepted as a Competent Authority has not approved the proposal for renewal of leave and license.</p>

2. A joint hearing in this case was held on 29 July 2010 at Kandla Port Trust. The KPT and the concerned users have made their submissions. The gist of the joint hearing held is as under:-

**KPT**

- (1). The existing rates were fixed in 1994.
- (2). We have fully followed the Government guidelines. Valuation is done based on Valuers report.
- (3). Jantri Rates are very low. We have not considered them.
- (4). Valuation is based on auction held in 2005. No auction was made thereafter.
- (5). Government has issued a separate instruction which require to consider last auction value to assess market value.
- (6). 2005 auction was in respect of warehouse and liquid tank farms. Warehouses are allotted. But tank farms are yet to be allotted because the auction value was found to be lower.
- (7). The revision is warranted as Delhi High Court in a PIL directed us to revise the land rates to maximise revenue from estate. Advocate General has opined to take into account auction values and revise the rates.

**GCCI**

(8). The proposed rates are exorbitant. Please review.

**IFFCO**

(9). KPT allotted underdeveloped land. Development was made by us at huge cost. Port demanding increase in rates based on market value is not justified.

(10). We have given written submissions. Please consider our request.

3.1. Subsequent to the joint hearing, the Kandla Liquid Tank Terminal Association (KLTA) submitted their comments on the KPT's proposal vide letter dated 29 July 2010. KPT has furnished its remarks thereon. The Association's comments and the port's reply thereto are furnished below:-

<b>Kandla Liquid Tank Terminal Association's Comments</b>	<b>Reply furnished by KPT</b>
<p>We will be badly affected due to heavy enhancement in lease rent as proposed by KPT. We have invested huge sum in creating storage tanks, pipelines and other infrastructure. The initial lease rent was ` 1.80 per square meter which was enhanced to ` .3.60 after ten years and thereafter to ` . 5.40 after twenty years. Likewise the initial plots of land for which the lease had been extended, their rent has been fixed at ` .11.00 per square meter with the condition of 5% cumulative escalation per annum.</p> <p>The High Court of Kerala in the case of Cochin Port Trust has directed that the 5% annual escalation should be on base rent and not on cumulative basis.</p> <p>The proposal of KPT is very high when compared to the last TAMP approved rates during 1994.</p> <p>KPT is falling under the definition of State within the meaning of Article 12 and as per various directions provided from time to time by the Supreme Court KPT would not be actuated by any profit making motive and required to deal fair reasonably and in the interest of the public as well as nation.</p>	<p>The contentions raised therein by the Association are totally baseless as the lessees taking benefit of the restrictions of the conditions of the lease deed have been enjoying the possession of the land at rates which are almost 3 decades old. Surely the lessees are not doing their business or offering their services at the same rates which they were levying about 30 years back.</p> <p>There has been considerable appreciation in the value of the land, be it port land or other land and the rates have increased. Further, the Association has given vague and evasive statements in its letter and has not given any valid or legal provisions in support of its representations. In fact, if the total business done by the parties on the land allotted to them and the value of the land and its mortgage done by the parties are brought out by the Association, the picture would be totally different than that is being painted by the Association.</p> <p>As regards renewal of existing leases, the remarks furnished against the comments of IFFCO may please be seen.</p> <p>The SoR proposed by Kandla Port Trust has been framed keeping in view the land policy guidelines of Ministry and hence the contention of the Association is not acceptable.</p>

3.2. The Kandla Liquid Tank Terminal Association by their letter dated 6 January 2011 submitted further comments. The Port has furnished its remarks thereon. Those details are tabulated below:-

Sr.No.	Kandla Liquid Tank Terminal Association's comments	Reply furnished by KPT
1	<p>In the case of chemicals and other liquid cargoes, due to safety and other technical requirements, around 75% of land is to be developed fully and it has to be kept reserved as part of the statutory compliance as all liquid cargoes are more or less hazardous. In effect for actual utilization of 25% of land every terminal has to pay for 100% of allotted land. This fact has not been considered by the valuer when he has estimated the market price.</p>	<p>The Associations' contention seems to be preposterous as they have submitted no documentary evidence that they are using only 25% of the land and the rest is not being utilized. Further, every lessee has to pay the rent for 100% of land, no matter how much land the lessee is actually utilizing. Optimum utilization of the land depends upon the individual lessees.</p>
2	<p>Valuer has taken the market value as per the tenders invited in 2005 and subsequent evaluation / escalation of balance 4 years and has concluded the market price at very higher rate. When the tenders were invited in the year 2005 parties quoted comparatively high because of the following reasons:-</p> <p>(a) CRZ clearance obtained by the Port for all types of Liquid Cargoes.</p> <p>(b) Proper approach road has to be provided to all terminals by the Port.</p> <p>(c) Fully developed pipeline corridor and proper drainage / storm water facility to be provided by the Port.</p> <p>(d) Power connection at the nearest point of plot.</p> <p>(e) Fully developed parking place to be provided by the Port.</p> <p>(f) Guaranteed common user dockline for terminals to be ensured by the port.</p> <p>However, none of the above facilities were provided to any of the existing terminals. Even after five years the said transactions for the plots auction have not been completed and as such it will be incorrect to consider these for valuations.</p>	<p>The KLTTA has rightly pointed out the differences between the earlier and new allotments, but they have failed to recognize the fact that in the past the land was being allotted to the parties as per the requests made by the parties or the parties used to get the convenient plots transferred in their names. Whereas the situation in 2005 is totally different, as the plots at a fixed location were auctioned by Kandla Port Trust, and parties had to compete and pay the highest upfront premium, and there was no CRZ clearance available during that bidding process. Moreover, the important point is that, the issue pertains to revision of rates.</p>
3	<p>The Valuer has not only fixed the market value of the land for this newly considered category for the slab 2009 onwards as ` 7380/- per Sq. M, but he has also fixed the rate for this category</p>	<p>The categorization of land had been increased as the categories approved by the Government in 1994 were very broad covering large areas, which did not reflect the correct land value of lands even</p>

	of land for the slabs 1999 to 2003 and 2004 to 2008, when this category was non-exist. The valuer having no regards for the proximity of the land from the water front have fixed the market value for Liquid Storage Tank Terminals category at Old Kandla at ` . 7380/- per Sq.M, whereas the value of the land within the Dock Area has been fixed at ` . 3010/- per Sq.M.	within those categories. In order to have more realistic and specific rates for different locations, depending upon their approachability, accessibility, distance from the highways / roads the categories approved by the Government in 1994 have been further divided into sub-categories. The contention of KLTTA that rates should be fixed keeping in view the proximity from waterfront is not clear as to how would the proximity of waterfront affect the liquid terminals.
4	We strongly feel that one of the major consideration for the revision of ground rent should be related to the base rent in addition to other factors like Jantri Rate, Market Value of the lot.	The revision of the rates was proposed in accordance with clause 5.3 (l) of the Land Policy Guidelines dated 8 March 2004. Further, it is not clear as to what KLTTA means by "base rent",

\*\*\*\*\*

M/s. Indian Farmers Fertilizer Cooperative Limited, (IFFCO)  
Old Kandla, Kutch,  
Gujarat – 370 201.  
**Phone: 70640 / 70381**  
[Iffco\\_Kandla@iffco.nic.in](mailto:Iffco_Kandla@iffco.nic.in)

The General Manager,  
M/s. Sindhu Resettlement Corporation Limited,  
Adipur (Kutch) 370 205.  
[src\\_adipur@yahoo.com](mailto:src_adipur@yahoo.com)

The Nirvasit Harijan Cooperative Handling Society Limited,  
Ganesh Nagar,  
Gandhidham, Kutch 370 201.

The Gujarat housing Board,  
Housing Division,  
Jamnagar,  
Gujarat-361 008.

The President,  
Gandhidham Chamber of Commerce and Industry, (GCCCI)  
“CHAMBER BHAVAN”, Plot No.71, Sector-8,  
Post Box No.58,  
Gandhidham,(Kutch)-370201.

Fax : 02836 220888  
**E-Mail: [gcci1953@yahoo.co.in](mailto:gcci1953@yahoo.co.in) / [info@gccikandla.com](mailto:info@gccikandla.com)**

The Chairman,  
Kandla Port Trust,  
Administrative Office Building,  
Gandhidham,  
Kutch-370 201.  
**Tel-02836-233001**  
**Fax-02836-232040**  
[fdc@kandlaport.gov.in](mailto:fdc@kandlaport.gov.in); [chairman@kandlaport.gov.in](mailto:chairman@kandlaport.gov.in);  
[dychairman@kandlaport.gov.in](mailto:dychairman@kandlaport.gov.in)

The Chairman,  
Food Corporation of India, (FCI)  
Khadya Sadan,  
16-20, Barakhamba Lane,  
New Delhi – 110 001