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**TARIFF AUTHORITY FOR MAJOR PORTS**

**G No. 184**

**New Delhi**

**23 July, 2010**

**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 New Mangalore Port Trust for revision of lease rentals of the port lands as in the Order appended hereto.

**( Rani Jadhav )**  
Chairperson

# **Tariff Authority for Major Ports**

**Case No. TAMP/15/2007-NMPT**

**New Mangalore Port Trust**

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**Applicant**

## **ORDER**

(Passed on this 16<sup>th</sup> day of June 2010)

This case relates to a proposal dated 5 March 2007 received from the New Mangalore Port Trust (NMPT) for revision of lease rentals of the port lands allotted on long term / short term basis.

2. The lease rentals of the lands allotted by the NMPT on long term / short term basis were last revised by this Authority on 20 January 2005. The lease rentals approved by this Authority were implementable with retrospective effect from 20 February 2002 and were valid for a period of five years, i.e., upto 19 February 2007. Based on the request of NMPT, this Authority extended the validity of rates from time to time and it has been extended till 30 September 2010 or till the effective date of implementation of the revised lease rentals, whichever is earlier.

3.1. The NMPT in its proposal dated 5 March 2007 has made the following main points:

- (i). As per the guidelines issued by the Ministry of Shipping under the policy guidelines for land and water management at major ports, a Committee under the Chairmanship of Chairman, NMPT was constituted to work out the land rates in a prescribed procedure.
- (ii). The Committee considered the different rates for various places depending on the location, nature of land, security, etc., and also the prevailing market rates of land in the vicinity of the port, the cost of development, various facilities provided by the port, a fair rate of return on the investment etc.
- (iii). The Committee after examining the various options and alternatives prescribed in the Government guidelines of 2004 came to the following conclusion:

<b>Sl. No.</b>	<b>Classification</b>	<b>Land Rent per sqm.</b>	<b>Development charges per sqm.</b>	<b>Total per sqm.</b>
1.	State Government's ready reckoner of the land value			
	(a). Highest in Panampur village (with 2% escalation)	Rs.9.18	Rs.0.65	Rs.9.83
	(b). Average highest rate of the 3 villages (with 2% escalation)	Rs.9.40	Rs.0.65	Rs.10.05
2.	(a). Average rate of actual relevant transactions registered in last three years in the port's vicinity.	Rs.13.93	Rs.0.65	Rs.14.58

	(b).	Average rate of actual relevant transactions registered in last three years in the port's vicinity with 2% escalation.	Rs.14.47	Rs.0.65	Rs.15.12
3.		Highest accepted tender of Port land for similar transactions.	Rs.13.99	-	-
4.		Rate arrived at by an approved valuer appointed for the purpose by the port.	-	-	-
5.		Any other relevant factor (Scale of Rates for the year 2006-07)	Rs.8.81	+ 2%	Rs.8.99

- (iv). The Committee, for refixation of lease rentals for the period from 20 February 2007 has recommended to adopt the basic rate based on the average rate of actual relevant transaction registered in the last 3 years in the Port's vicinity vide Serial No. 2 (a) at sub-para (iii) above. This rate works out to Rs.14.58 per sq. mtr. per month and the lease rentals for other lands have been proposed on pro-rate basis. Some regrouping has also been proposed by NMPT. Accordingly, the existing vis-à-vis the lease rentals proposed are tabulated below:

(Rate in Rs.)

SI. No.	Particulars	Rate as per existing SOR from 20.2.2007 to 19.2.2008 per 100 m2 P.M	Proposed rates from 20.2.2007 to 19.2.2008 per 100 m2 P.M.
1.	Long term lease of land	898.62	1458.00
2.	Short term licence upto 3 years basis		
	(d). Land / semi paved area (open space)	898.62	1458.00
	(e). Paved stack yard	1944.12	3154.00
	(f). Covered space in overflow sheds or warehouse including platforms for space inside the sheds or warehouse thereof	4184.04	6789.00

- (v). NMPT has proposed way leave charges / right of way charges for laying pipeline service etc. as under:

SI. No.	Particulars	Charges
1.	The way leave charges for laying of pipeline / service conduits.	Twice dia-meter of the pipeline to be considered for charging area of required length at TAMP approved Scale of Rates for leasing of land in open ground.

- (vi). The port is of the view that since there will not be any increase in the base rate for another 5 years, the rates proposed are reasonable considering the various

developments done by the Port Trust and the prevailing market rates in the neighbouring villages.

(vii). NMPT has proposed to retain the existing conditionalities governing the lease rentals.

3.2. The committee's recommendation was considered by the Board of Trustees of NMPT which authorised the Chairman, NMPT to propose the rates to TAMP after consultation with the port users. Chairman, NMPT, accordingly held a meeting with the port users who made the following points:

- (i) There are two categories of land, one is paved and another unpaved. Semi-paved area cannot be considered as a paved area. Users requested that the category of semi paved area must be considered as unpaved area.
- (ii) The users requested NMPT to continue with the existing lease rentals with 2% escalation every year.
- (iii) The users also requested NMPT to consider concession in the rates in case of long term lease.

4. In accordance with the consultative procedure, the proposal was circulated amongst the user organizations / lessees seeking their comments. Their comments, as and when received, were forwarded to NMPT as feed back information. The NMPT has responded to the comments of the users / user organizations.

5. Based on the preliminary scrutiny of the proposal, NMPT was requested to furnish the following information / clarification on various points vide our letter dated 30 November 2007. The details called for in our letter and the replies received from NMPT under letter dated 7 June 2008 are juxtaposed below:-

Sr. No.	Queries raised by TAMP	Reply furnished by NMPT																			
1	NMPT is requested to furnish the location-wise information of the total area of land under its control	<p><b>Total area available with the Port – 2352 acres as detailed below:</b></p> <table border="1" data-bbox="831 1491 1369 1832"> <thead> <tr> <th data-bbox="831 1491 932 1585">Sl.No</th> <th data-bbox="932 1491 1107 1585">Location</th> <th data-bbox="1107 1491 1208 1585">Land in acres</th> <th data-bbox="1208 1491 1369 1585">Use of land</th> </tr> </thead> <tbody> <tr> <td data-bbox="831 1585 932 1675">1</td> <td data-bbox="932 1585 1107 1675">Panambur village Baikampady</td> <td data-bbox="1107 1585 1208 1675">1908</td> <td data-bbox="1208 1585 1369 1675">Port</td> </tr> <tr> <td data-bbox="831 1675 932 1742">2</td> <td data-bbox="932 1675 1107 1742">Kudupu Village</td> <td data-bbox="1107 1675 1208 1742">292</td> <td data-bbox="1208 1675 1369 1742">Quarrying Stones</td> </tr> <tr> <td data-bbox="831 1742 932 1832">3</td> <td data-bbox="932 1742 1107 1832">Bondel village (Quarry)</td> <td data-bbox="1107 1742 1208 1832">152</td> <td data-bbox="1208 1742 1369 1832">Quarrying Stones</td> </tr> </tbody> </table>				Sl.No	Location	Land in acres	Use of land	1	Panambur village Baikampady	1908	Port	2	Kudupu Village	292	Quarrying Stones	3	Bondel village (Quarry)	152	Quarrying Stones
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2	<p>NMPT is requested to furnish the following details:</p> <p>(a). Total area of land available with NMPT</p>	<p>Total area of land available with NMPT:</p> <p>The total land area is 1908 acres situated at Panambur, out of which 565 acres is inside the security compound wall and water lagoon area is 320 acres. The area outside the compound wall is 1023 acres. The area</p>																			

	<p>(b). A layout plan of the port land showing location wise details of the areas allotted for different purposes.</p> <p>(c). Areas allotted for port related activities and non-port related activities.</p> <p>(d). Areas earmarked for port operations – utilised.</p> <p>(e). Areas earmarked for port operations –unutilised.</p> <p>(f). Areas allotted for residential purposes - utilised.</p> <p>(g). Areas allotted for residential purposes – unutilised.</p> <p>(h). Areas allotted for industrial purposes and commercial purposes.</p> <p>(i). Areas allotted inside and outside the security wall.</p>	<p>under Port utilization inside as well as outside the security compound wall is 447.15 acres.</p> <p>A layout plan of the Port land is furnished (excluding the Kudupu and Bondel village as they are about 11 km and 7 km away from Port respectively)</p> <p>i) Area allotted for port related activities – 163.25 Acres</p> <p>ii) Area allotted for non-port related activities – 30.71 Acres</p> <p>447.15 Acres - Utilised – 60% of 447.15 Acres</p> <p>unutilized – 40% of 447.15 Acres.</p> <p>128 acres - Utilised – 128 Acres unutilized – Nil</p> <p>i) Area allotted for industrial purposes – Nil</p> <p>ii) Area allotted for commercial purposes – 12.50 acres</p> <p>i) Area allotted inside the security compound wall on long term – 123.17 acres</p> <p>ii) Area allotted inside the security compound wall on short term – 136.57 acres</p> <p>iii) Area allotted outside the security compound wall on long term – 78.28 acres</p> <p>iv) Area allotted outside the security compound wall on short term – 87.08 acres</p>
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	(j). Land allotted for less than a year and for more than a year.	Details furnished																																												
3	NMPT is requested to furnish the location-wise details of rate fixed by State Government of Karnataka for the purpose of Stamp Duty pertaining to the relevant period.	The market value guidelines of immovable properties and buildings in the jurisdiction of Sub-Registrar, Mangalore issued vide No. WUC/3/2003- 2004 / Bangalore dated 10.12.2004 is furnished.																																												
4	In case any auction was held earlier, the basis on which the upfront rates were fixed may be informed.	The Port has allotted the land by inviting tender on upfront fee basis and annual rental basis. A copy of the rate fixed by the Port is furnished.																																												
5.1	Kindly furnish a separate cost statement for the estate activity in the prescribed format based on the actual income and expenditure for 2002-03 to 2006-07 and based on estimates for the next 5 years.	<p>The statement showing income and expenditure for the estate from 2002-2007 is furnished below:</p> <p style="text-align: right;">Rs. in Lakhs</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Income</th> <th>Expenditure</th> <th>Net Surplu s after return</th> </tr> </thead> <tbody> <tr> <td>2002-03</td> <td>1302</td> <td>250</td> <td>430</td> </tr> <tr> <td>2003-04</td> <td>1369</td> <td>253</td> <td>510</td> </tr> <tr> <td>2004-05</td> <td>1707</td> <td>424</td> <td>745</td> </tr> <tr> <td>2005-06</td> <td>1958</td> <td>270</td> <td>1119</td> </tr> <tr> <td>2006-07</td> <td>2164</td> <td>380</td> <td>1201</td> </tr> <tr> <td>2007-08</td> <td>2300</td> <td>394</td> <td>1218</td> </tr> <tr> <td>2008-09</td> <td>2343</td> <td>456</td> <td>1058</td> </tr> <tr> <td>2009-10</td> <td>2385</td> <td>482</td> <td>1002</td> </tr> <tr> <td>2010-11</td> <td>2429</td> <td>515</td> <td>995</td> </tr> <tr> <td>2011-12</td> <td>2473</td> <td>552</td> <td>969</td> </tr> </tbody> </table>	Year	Income	Expenditure	Net Surplu s after return	2002-03	1302	250	430	2003-04	1369	253	510	2004-05	1707	424	745	2005-06	1958	270	1119	2006-07	2164	380	1201	2007-08	2300	394	1218	2008-09	2343	456	1058	2009-10	2385	482	1002	2010-11	2429	515	995	2011-12	2473	552	969
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5.2	Kindly furnish the location wise revenue presently collected by NMPT.	The Port is located in a revenue village of Panambur and as such the location is one. A statement showing land inside and outside wharf is furnished.																																												
5.3.	The financial implications including the additional revenue that would be generated per annum on account of the proposed rate revision may be furnished.	<p>The incremental revenue indicated by NMPT is as follows:-</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Rs. in Lakhs</th> </tr> </thead> <tbody> <tr> <td>2007-08</td> <td>1232.72</td> </tr> <tr> <td>2008-09</td> <td>1257.38</td> </tr> <tr> <td>2009-10</td> <td>1282.52</td> </tr> <tr> <td>2010-11</td> <td>1308.17</td> </tr> <tr> <td>2011-12</td> <td>1334.34</td> </tr> </tbody> </table>	Year	Rs. in Lakhs	2007-08	1232.72	2008-09	1257.38	2009-10	1282.52	2010-11	1308.17	2011-12	1334.34																																
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6	NMPT is requested to confirm that the development charges referred to in its proposal is in conformity with the guidelines issued by Central Government on the land use plan for	The proposal of development charges is in conformity with the guidelines issued by the Ministry on the Land Use Plan for Major Port Trusts in which the Port Trusts are free to include any factors while determining the																																												

	Major Port Trusts.	land value.
7	The basis adopted for determining the market value of each category of the land, in particular the land inside the security area, may be explained.	As per the existing guidelines the lease rental have to be worked out based on several aspects such as cost of development of land, various services provided and fair rate of return and market rent. Since the land was acquired between 1962 to 1971, the market rate worked out on cost of land and allied services may not hold good in the current year and hence market rate of land in the adjoining villages is considered for arriving at a reasonable / prevailing market rent. Since the land inside security wall is the restricted area with CISF security, the market rent for inside security wall is considered @ 10% above the market rate of the land outside security wall.
8	The basis for proposing the long term lease rentals , the rentals for period upto three years and rentals for each sub-divisions like open space, paved stack yard, semi paved stack yard, covered space etc. may be explained.	The Port users mostly prefer the lease of land on short term depending upon their cargo storage requirements. Many requests are being received from the Port users to allot the land / paved space / stackyard etc. on short terms. Hence, the proposal was made to lease the land upto 3 years. This will encourage the Port Users to have a long term association with the Port by opting allotment on short term upto 3 years. Hence, the rate for shortterm / longterm has been suggested in the past and the same was recommended for the next 5 years. However as per the Land / Management Policy guidelines, the allotment of land is made for 11 months. Therefore, the Port would like to revise the earlier provision for short term lease from 3 years to 11 months. All other conditions are being same. Accordingly, suitable revision in the proposal submitted may be considered for approval.
9	The reasons for adopting a single long term lease rate of Rs.1458 per 100 sq.mtr. per month for the entire estate need to be substantiated in the light of the fact that the usage, development and the facilities provided by the port will differ for each category of land.	The Port land is leased for various activities related to cargo handled at Port e.g. bulk cargo, liquid cargo, containers and break bulk cargo. The land requirement for all these activities are different and the Port has developed certain portion of land to suit the requirement of the users. The Port land is bifurcated as inside security and outside security since the land inside security wall is provided with hard surface for handling various type of cargo and the security wall provides safety to the cargo. The area inside security wall is declared as custom notified area and the activities are limited to Port activities only. The area outside security wall has been leased for various users who directly or indirectly provide cargo volume to the Port.

10	Although the Committee report details some of the inputs considered for proposing a rate of Rs.1458 per 100 sq.mtr.per month for long term lease of land, similar details are not furnished while recommending the rates of Rs.3154 per 100 sq.mtr. p.m. for paved stack yard and Rs.6789 for 100 sq.mtr.p.m. for covered space. Kindly clarify.	The Committee has recommended the basic rate of Rs. 14.58 per sq. mtr. per month for long term lease of land outside and inside security compound wall. The rate has been suitably increased for paved stack yard and covered space.
11	Stating that it is to simplify the procedure NMPT has proposed three rates instead of the existing five rates. This has resulted in proposing higher rates in case of existing paved ore stack yard and covered space in over flow sheds or warehouse including platforms thereof. The number of lessees who will be affected by this rationalization and the additional revenue NMPT would generate therefrom may please be informed.	The landing spaces are allotted on monthly license basis or for short term. The various type of surfaces for storage has now become obsolete and either they have been changed to the paved stackyard or have been discontinued. The platform storage has been dismantled for aligning a new railway track. The semi-paved yard has been changed to paved stackyard. Therefore the Port has suggested only 2 categories i.e., for open storage and second category for covered storage, since the platform sheds and the semi paved sheds are not in existence from many years. Therefore no quantification of additional revenue generated from the proposed increase can be made.
12	A statement showing the details of land leased to different parties with the names of lessees, area leased, date of initial allotment, lease rental payable at the time of initial allotment, lease rental being paid at present and the relevant provision contained in the lease deed about the periodic revision of rates may please be submitted.	Requisite details furnished.
13	A comparative statement showing the existing and proposed conditionalities governing allotment of land/lease rental may be furnished.	The Statement showing the existing and proposed conditionalities furnished.
14	Please furnish the following details:  (a).the expenditure incurred in developing the landed estates;  (b). whether the expenditure has been treated as capital or revenue; and  (c). The basic amenities like water, road, lightening, etc provided by NMPT and the year wise expenditure incurred thereon may be informed.	The asset-wise capital expenditure incurred during 2001-02 to 2006 – 07 is furnished.  The revenue expenditure incurred during 2002-03 to 2006-07 is furnished

15.1	NMPT is requested to confirm that the present proposal is in conformity with the land use plan for Major Port Trusts approved by the Central Government and communicated to the ports under letter No.PT-17011/55/87-PT dated 8 March 2004.	Yes
15.2	Also confirm that the rate structure proposed is in accordance with end use as reflected in the Land Use Plan referred to above.	Yes
15.3	If on any matter the present proposal deviates from the land use plan referred to at para 17.1.above, please furnish the details thereof and the reason therefor.	No
15.4	Kindly confirm that the present proposal is submitted only after the NMPT identifying its land requirements and the land which the port can spare.	Yes
15.5	The location-wise areas of land, if allotted on licence basis, the details thereof may please be furnished.	The details of land allotted inside and outside the security wall furnished.
15.6	The details of land, if any, leased on upfront basis and on annual basis and the security amount received per lease/licence may be furnished.	It has furnished details of land allotted on tender basis / accepted rate.
16	NMPT has stated that the rates proposed are based on (i) the rates fixed by State Govt. for the purpose of stamp duty (iii average rate of actual relevant transactions registered in the last three years in the port's vicinity; and (iii) the highest accepted tender of port land for similar transaction and development cost of land, various facilities provided by the port, fair rate of return on investment etc. As per Govt. letter dated 8 March 2004 any or all of the following factors can be taken into consideration to 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. In this context the below mentioned issues require clarification/compliance from NMPT.	Yes

	(a). It is not clear whether the approach adopted to arrive at the proposed rate is uniform for the entire estate. Kindly confirm. If the approach differs for any location the reasons therefor may please be explained.	
	(b) It is not clear to which period the ready reckoner rates considered pertain to. Kindly clarify.	The ready reckoner rates considered pertain to the year 2002-07.
	(c) Why it was not considered essential to appoint an approved valuer for determining the market value may please be clarified.	The market rate of land in the vicinity of Mangalore Port in the adjoining villages is available for making recommendation for fixing of market value of land for schedule of rates. Therefore, it is not considered essential to appoint valuer.
	(d) A statement detailing the actual relevant transactions registered in the last three years in the port's vicinity may be furnished.	Details furnished
	(e) A statement showing the relevant details of tenders floated and accepted for the port land may be furnished.	A list of the offers received for allotment of land for various purposes is enclosed with the quoted rates. Some of the tenders are in evaluation.
	(f) The various facilities provided by the port at different locations may please be furnished.	The Port is providing services like lighting, roads, drainage, water supply and access to the property in the Port estate located at Panambur in an area of 1908 Acres.
	(g) The rate of return on investment considered by the Committee while recommending the revised scale of rates may be indicated.	The rate of return on investment considered by the Committee while recommending the revised scale of rates is 6%
17	In the last para of NMPT's letter dated 5 March 2007 it has been stated that there is more than 2% increase in the value of land over the years. NMPT is requested to quantify the approximate increase in land value that has taken place over the years.	The transactions during 2003-2006 shows that there is substantial increase in land values in Mangalore City and adjoining area. The rate per acre worked on the transacted rate shows increase in land value more than 2%.
18	NMPT has proposed to levy way leave charges for laying of pipeline and service conduits at twice the diameter of the pipeline to be considered for charging area of required length at TAMP approved Scale of Rates for leasing of land in open ground. Kindly furnish the following details in this context:  (a) The various rates said to have been obtained in this connection by NMPT from other ports.	It has furnished comparative rates of way leave charges for pipelines at other Major Port Trusts i.e. Tuticorin Port Trust, Cochin Port Trust, Visakhapatnam Port Trust, Mormugao Port Trust, Kolkatta Port Trust, Paradip Port Trust and Mumbai Port Trust.
	(b)A Comparative statement showing the way leave charges presently being levied and that would be levied if the port's proposal is approved by	At present no separate way leave charges are collected by the Port. This is a fresh proposal.

	this Authority.	
	(c) Clarification as to whether the existing lease agreements entered into with the parties contain suitable clauses for such a levy.	Yes. Most of the licencees are short term licencees less than 11 months. The approved rates will be indicated in fresh agreements. The existing agreements have the clause to pay the revised rates as and when the approval from the Competent Authority for leasing of land. Therefore no ambiguity will arise due to revision of Scale of Rates.

6. While finalising the lease rental revision proposals of KPT and VPT, this Authority felt that it would be appropriate for a Port Trust to assess the market value under all options given in the Government guidelines and derive lease rentals based on the one which is most beneficial to it. NMPT was, therefore requested vide our letter dated 9 May 2008 to reassess the market values of its land estates under all options given in the Government guidelines and derive lease rentals based on the one which is most beneficial to it.

7. NMPT by letter dated 17 July 2009 furnished a valuation report prepared by a valuer appointed for this purpose. In the letter NMPT has stated as under:-

- (i) The valuer after detailed survey and in consideration of the recent transactions of the land in the vicinity of the Port has arrived at the Market value of the Port's estate, the details of which are as under:-

SI.No	Area	Developed Land			Undeveloped Land
		In Rs. Lakhs per Acre. <u>Abutting Main Road</u>	In Rs. Lakhs per Acre. <u>Abutting Cross Road</u>	In Rs. Lakhs per Acre. <u>For Interior Area</u>	In Rs. Lakhs per Acre.
		Value in Rs. (Data Base Year 2008 – 09)			
1	Panambur Village	118.00	82.60	59.00	11.80
2	Marshalling Yard	121.12	84.78	60.56	12.11
3	Commercial Yards along the NH No. 17	140.00	98.00	70.00	14.00
4	Tannirbavi Area	37.31	26.12	18.66	5.65
5	Kudupu	96.25	67.38	48.13	9.63
6	Bondel	69.67	48.77	34.83	6.97

- (ii) The maximum area where the Port proposed to allot land for storage of cargo is in the vicinity of developed land abutting to N.H. 17 i.e., main road in Panambur Village. Therefore, the land value can be considered at Rs. 118.00 Lakhs per Acre. The Port has adopted the market value of the land for arriving Scale of Rates at Rs.1,12,74,139 per Acre while formulating the proposal for leasing of land, in which case the rate works out to Rs. 14.58 per sq. m per month.

- (iii) The rate adopted by the Port is marginally lower by 4.7% than the rate determined under valuation report by the valuer. Therefore, the Port considered the rate to be adopted for leasing of land in Panambur Village as proposed in its letter dated 5 March 2007.
- (iv) The rates determined by the valuer in other places are lower and Port has not developed these lands for storage area and as per the Master Plan of the Port, these areas are to be developed under different schemes where the land rate will follow as per the bidding procedure or as per the guidelines stipulated by the Ministry from time to time.

8. A joint hearing in this case was held on 17 December 2009. At the joint hearing, the NMPT and the concerned users made their submissions. The Association of New Mangalore Port Stevedores, New Mangalore Port Clearing & Forwarding Agents' Association and Kudremukh Iron Ore Company Limited made written submissions at the time of joint hearing. Copies of the written submissions were handed over to NMPT and the Port has responded to the comments.

9.1. At the joint hearing NMPT was advised to find out the average sale transaction for three years instead of the highest sale value reported by them. The Port was also advised to explore the possibilities of prescribing differential rates for different zones of land depending on proximity, layout, development, commercial utility etc.

9.2. NMPT vide letter dated 22 March 2010 submitted statements of (i) area-wise sales transactions of the lands within the vicinity of the port during 2003-04 to 2005-06, (ii) average area-wise sales transaction value per acre obtained during these three years and (iii) the maximum and minimum sale value of land obtained in these three years. NMPT also forwarded an abstract of the valuer's report containing the land value per acre arrived at by him for the developed and undeveloped land in different areas of the port estate. In the abstract, the land value of different areas has been broadly classified under developed land and undeveloped land. The developed land has been segregated into abutting main road, abutting cross road and interior area. The per acre value shown therein differs depending on the area and location. The areas covered are Panambur Village, Marshalling Yard, Commercial Yards along the National Highway No. 1, Tannir Bavi Area, Kudupu and Bondel. The rates of Rs. 118.00 Lakhs, Rs. 121.12 Lakhs, Rs. 140.00 Lakhs, Rs. 37.31 Lakhs, Rs. 96.25 Lakhs and Rs. 69.67 Lakhs per acre are considered for the lands respectively abutting main roads falling under Panambur Village, Marshalling Yard, Commercial Yards along the National Highway No. 17, Tannirbavi, Kudupu and Bondel villages. NMPT in its letter dated 22 March 2010, however has stated that majority of the land where the license is being given is in the vicinity of national highway and the other areas where the land cost falls below Rs. 118.00 Lakhs per acre are meant for future developments and hence these areas cannot be taken into consideration for fixing of lease or license. From this statement, it was not clear whether NMPT proposes to fix rentals for its entire landed estates or restrict it only to the areas abutting main road falling under Panambur Village, Marshalling Yard and Commercial Yards along the National Highway No. 1. The port was, therefore, requested to clarify in this respect vide our letter dated 7 April 2010. Port was also requested to state whether on receipt of the land valuers report dated 4 May 2009, it has been considered, as laid down in the land policy guidelines issued by the Ministry, by a committee headed by the Chairman of the Port and whether the recommendation, if any, of the committee has been placed before the Board of Trustees of NMPT for consideration. Based on the revised land value considered by NMPT, the port was also requested to furnish a draft SOR proposing rate per annum for its different areas / locations.

9.3. NMPT by letter dated 31 May 2010 informed that on receipt of the valuation report from the approved valuer, the matter was placed before the Board and the Board at the meeting held on 29 May 2010 has resolved to approve the land rate at Rs. 112.74 lakhs per acre for fixing the lease rentals effective from 20 February 2007. In the said letter, the port reiterated that the rental for landing places and majority of the land used along the National Highway No. 17 may only be fixed.

10. 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>

11. With reference to the totality of information collected during the proceedings of the case, the comments received from the users and the deliberations at the joint hearing, the following position emerges:

- (i) 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 and the methodology 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.
- (ii) NMPT in March 2007 submitted its proposal for revision of lease rentals of its landed estate based on the average rate of actual relevant transaction in the port's vicinity registered in the sub-registrar's office during the three years of 2003 – 04, 2004 – 05 and 2005 – 06. The proposal of the port did not recognize the difference in the values of the lands lying at different locations but, generally relied upon the sale transaction recorded at nearby three villages. While according approval to the lease rental proposals of KPT and VPT this Authority had taken the view that it would be appropriate for a Port Trust to assess the market value under all options given in the Government guidelines. Accordingly, by letter dated 9 May 2008, NMPT was requested to reassess the market value of its landed properties under all options and derive lease rentals based on the one which is most beneficial to the Port.
- (iii) Under letter dated 17 July 2009, NMPT submitted a valuation report prepared by a professional valuer appointed by it for determining the market value of its estates. This valuation report furnishes the market values for different localities viz. Panambur Village, Marshalling Yard, Commercial Yards along the National Highway No. 17, Tannir Bavi Area and Kudupu and Bondel villages. The valuer has claimed that the market values of the lands have been assessed after ascertaining the potentiality of the land and within the provisions of the Karnataka Stamp Act, 1957 and Karnataka Stamp Rules, 1958 and the subsequent amendments made thereof from time to time.
- (iv) (a) Although the valuer has given the market values for different locations and within the locations (i.e., for areas abutting main road, for areas abutting cross roads, for interior areas and for undeveloped areas), NMPT, for fixation of lease rentals, has not considered the land values assessed by the valuer. According to the Port, the maximum area where it proposes to allot land for storage of cargo is in the vicinity of developed land abutting to National Highway 17 i.e. main road in Panambur Village. The port, therefore, is of the view that the value of Rs. 118 lakhs per acre arrived at by the valuer for Panambur land can be considered as the base value for fixation of the lease rentals of its entire landed estates and the rate for paved stackyard and covered space be increased on pro-rata basis. However, stating that

the market value of Rs. 118 lakhs per acre arrived at by the valuer is only marginally higher by 4.7% over the land value of Rs. 112.74 lakhs per acre considered by it while mooted its proposal dated 5 March 2007, NMPT has requested this Authority to determine the lease rentals of its entire landed estate based on the value of Rs.112.74 lakhs per acre.

(b) As per the valuation report, for ascertaining the market value, the valuer has collected from the sub-registrar's office the recorded sale values of lands adjoining to the port estate. Copies of randomly selected sales transactions registered in the sub-registrar's office of Mangalore have been attached to the Report as evidences of the records relied upon for arriving at the market values. As per the report, the valuer has arrived at the market values based on the transaction values registered during 2007 – 08, 2008 – 09 and 2009-10 of which majority of the cases pertain to 2008 – 09. For determining the market value, location-wise, the valuer has considered the following:-

- (i) The potentiality of the land.
- (ii) Lands abutting cross roads are considered at 70% of the value of land abutting main road and value of interior areas is considered as 50% of the land abutting the main roads for the developed land.
- (iii) Value of the undeveloped land is considered as 10% of the value considered for the main road.
- (iv) Land is said to be developed when schools, hospitals, Government bus stand, railway station, airport, port, markets and offices are available near by including water supply, sanitary works, telephone network, mobile network, storm water drainage, underground drainage, electrification, electrical facilities etc. are also available, apart from the proximity to national highway, state highway, major district roads, including residential, commercial, industrial and institutional areas incorporating the institution of higher learning.
- (v) An undeveloped land is the one in which the areas are untouched by human activities and the facilities indicated at (iv) above for developed land are not available.

(c) In his report, the valuer has also stated the assumptions and limitations, giving pertinent facts about the property and explaining the reasoning leading to estimation of market value of the landed estates situated at the prime areas, abutting cross roads, interior area and undeveloped areas. This Authority is, therefore, inclined to consider the area-wise market values as ascertained by the approved valuer instead of the proposal of NMPT to consider the market value of Panambur to fix the rentals for the entire estate.

v) NMPT has landed property at Panambur, Marshalling Yard, Commercial Yards along the N.H. No. 17, Tannir Bavi, Kudupu and Bondel villages. The N.H. 17 passes through the port estate and as such the area falling adjacent to the N.H is considered as most active and commercially important. The area in Tannir Bavi is used as liquid cargo storage yard. The Port activity outside wharf area takes place adjacent to National Highway in Panambur and Bykampady area where the storage activity of timber logs, granite, fertilizer and other bulk cargoes takes place. The Marshalling Yard where the port has its railway siding is also situated at this area. Kudupu and Bondel villages are 11 kms and 7 kms respectively away from the main port area. Although the valuer has ascertained the market value for the different locations (Panambur, Marshalling Yard, Commercial Yards along the N.H. No. 17, Tannir Bavi, Kudupu and Bondel villages), the port has proposed to fix a common lease rentals for all the locations based on the market value relating to Panambur Village. Since the market value differs depending on the proximity, layout, development, commercial utility, etc., it will not be proper to fix a common rate for the entire landed estate solely based on the

ascertained market value of Panambur village. As the valuer has arrived at the market value for all the locations separately, this Authority is of the view that the lease rentals have to be fixed, location-wise, based on the market values applicable to each of these locations.

- vi) The valuer, based on two transactions at Tannir Bavi village and three transactions pertaining to Padukody village has arrived at a market value of Rs. 37.31 lakhs per acre for Tannir Bavi village. While arriving at the market value, he has considered that Tannir Bavi area comes under the coastal management regulation Act. The development of any land within the coastal zone will require environment clearance and hence the buyers would be apprehensive about the non-clearance of the development works by the authorities concerned. According to NMPT, this is not the case within the port limits where the port related activities are permitted and hence the market rates at Tannir Bavi cannot be lower than that of the adjoining areas. In support of its contention the port has furnished a copy of the State Government ready reckoner published in March 2008 where the market values of land for commercial purpose at Tannir Bavi and Padukodi villages have been furnished. As per the ready reckoner, the market values of 18 locations of these two villages range between Rs. 50 lakhs and Rs. 140 lakhs per acre and the average market value works out to Rs. 77.20 lakhs per acre.
- vii) Majority of the land transactions considered by the valuer to determine the reasonable market value pertain to the period 2008 – 09 (31 cases out of 39). The Port has requested this Authority to fix the lease rentals with retrospective effect, i.e. effective from 20 February 2007. It will, therefore, be necessary to arrive at the market value of the lands applicable for the year 2007 – 08. In the absence of any other information and analysis made available to back calculate the market value for the year 2007 – 08, it is necessary to de-escalate the market value of land arrived at by the valuer for 2008 – 09 (and that pertains to Tannir Bavi area based on the ready reckoner value) by 4.6% i.e. the percentage of escalation in Wholesale Price Index registered during 2008 – 09 over that of 2007 – 08. The market value per acre arrived at on this basis for 2007 – 08 for the different locations are as under:-

Location	Market value ascertained by the valuer with database for 2008 – 09 / based on ready reckoner value for Tannir Bavi area. (Rs. In lakhs per acre)	The adjusted market value for 2007 – 08. (Rs. In lakhs per acre)
Panambur Village	118.00	112.81
Marshalling Yard	121.12	115.79
Commercial Yards along the N.H. No. 17	140.00	133.84
Tannir Bavi	77.20	73.80
Kudupu	96.25	92.02
Bondel	69.67	66.61

- (viii) It will not be proper to increase the rental for paved stack yard and covered space on pro-rata basis as proposed by the Port. These rentals have to be arrived at by considering the land value and the cost of superstructure added thereon. With reference to the lease rentals prevailing in Feb 2007 and the rentals arrived at, based on the adjusted market value vide sub-para (vii) above, increase / decrease in market value of the lands is shown as given below:-

Location  (i)	Rate per Rs. 100 sq. meter per month as per existing SOR as on 20.2.2007 (ii)	Rate per Rs. 100 sq. meter per month as per the adjusted land value (iii)	% increase / decrease in land cost. (iv)	% increase / decrease in the cost of superstructure. (v)
Panambur Village	898.62	1393.78	55.10	22.04
Marshalling Yard	898.62	1430.60	59.20	23.68
Commercial Yards along the N.H. No. 17	898.62	1653.61	84.02	33.61
Tannir Bavi	898.62	911.81	1.46	0.58
Kudupu	898.62	1136.92	26.52	10.61
Bondel	898.62	822.98	(8.42)	(3.37)

(The rate per 100 square meter per month at Column (iii) above has been arrived at as:- Adjusted market value per acre x 6/100 x 1/12 x 1/4046.90 x 100. One acre is equal to 4046.90 square meter. )

For fixing annual rental effective from 20.02.2007, it is necessary to adjust the land value with the percentage increase or decrease in value as shown above. Though the cost of superstructure added may not appreciate in proportion to the appreciation in value of the land, it is necessary to consider a reasonable increase therefor. The percentage increase in this component, has been assumed at 40% of the increase in the land value. To illustrate, at Panambur village the appreciation in market value as arrived at in the table above being 55.10%, the appreciation of superstructure is limited at 22.04% (i.e. 40% of 55.10%) of the increase in land cost. The same approach has been adopted for arriving at the rentals for the paved stack yards and covered space for all the six locations while fixing the rentals for the paved stack yards and covered space vide **ANNEX I (a), I (b), I (c), I (d), I (e) and I (f)** attached hereto.

- (ix) (a) The Central Warehousing Corporation, GMR Energy Limited, Indian Ports Warehousing Company, Kudremukh Iron Ore Company Limited and Bharat Petroleum Corporation have pleaded for continuance of the existing rate of lease rent even beyond 20 February 2007 without any upward revision as annual escalation of 2% is already applied on the existing rate of lease rent. 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 these organizations cannot be acceded to as rightly pointed out by the port.
- (b) The Indian Oil Corporation has argued that the lease rental should be in line with the state government's ready reckoner of the land value pertaining to Panambur village. NMPT has countered this argument stating that although the Government guidelines permit it to have the option to fix the highest lease rental, the port has only adopted a realistic method for determination of the basic rent.
- (c) IMC Limited and Kudremukh Iron Ore Company Limited who have been allotted 7 acres and 108.92 acres of land respectively on long term basis have stated that the proposed rates of Rs. 1458 per 100 square meter per month is abnormally high when compared to the existing rate of Rs. 897.88 for 100 square meter per month. The port has defended its proposal by stating that as per the lease deed both the firms have to pay the revised rentals at approved scale of rates.

- (x) NMPT has stated that in the existing arrangement no rates are available for way leave charges and right of way for laying service conduits, pipelines etc. The port has, therefore, proposed the way leave charges for laying of pipeline and service conduits at twice the diameter of the pipeline to be considered for charging area of required length at TAMP approved Scale of Rates for leasing of land in open ground. The Indian Oil Corporation is of the view that for levying the way leave charges in case of overlapping dock lines, necessary credit should be given for the overlapping portion instead of charging based on twice the diameter. According to the IMC Limited, way leave charges should be levied for the land actually occupied by the pipeline (i.e. one diameter of the pipe multiplied by total length). It is to be mentioned herein that this Authority in its Order No. TAMP/41/2003-JNPT dated 10 August 2004 has clarified that for the purpose of way leave charges, the area occupied by single pipelines should be calculated based on the diameter and length of those pipelines. In case of multi-layer pipeline stacks, the physical area occupied by the multilayer pipeline stacks should be considered and the respective users should be billed for pro-rata area on the basis of the diameter and length of their pipelines passing through that area. With respect to the area shared with road, rails, jetties, etc., the respective users should be billed pro-rata for 50% of concerned area assuming that they do not have exclusive possession of land and what they have is only 'Right of Way'. As far as underground pipes are concerned if the users establish that the possession of surface area above the underground cross-country pipelines is not physically with them, the area occupied by such pipelines should be counted 50% of the product of diameter and length, for the purpose of levy of way leave charges.
- (xi) NMPT in its letter dated 5 March 2007 had proposed revised rental for allotment of open space, semi paved area, paved stackyard and covered space on short-term license basis upto three years. However in its letter dated 7 June 2008 the Port informed this Authority that the allotment of land is being made for eleven months and hence it is necessary to fix rentals for short term license basis upto eleven months and not upto three years. Acceding to the specific request of the port, which is in accordance with the land management policy guidelines of the Govt., in the SOR the lease rentals for short-term allotment of land has been considered for a period of eleven months.
- (xii) The rates prescribed in the SOR are ceiling levels. The revised rates approved by this Authority are to be applied in the existing leases subject to the provisions of periodic revision of rents agreed in the surviving lease agreements.

12. Considering a base lease rate of Rs. 1393.79 per 100 sq. metres per month with effect from 20 February 2007, an additional income of about Rs. 12.27 crores per annum would be generated from the existing leases due to the rate revision.

13. The revised guidelines issued by the Govt. require revision of the base rate once in five years. NMPT has accordingly sought approval to the revised rates retrospectively w.e.f. 20 February 2007 i.e. on expiry of five years from the effective date of the implementation of the previously revised rates. In view of the clear Govt. guidelines in this regard, it is necessary to consider revision of lease rents at NMPT retrospectively from 20 February 2007 even though this Authority does not ordinarily resort to retrospective fixation of rates.

14. In the result, and for the reasons given above, and based on collective application of mind, this Authority in supersession of the existing lease rates for lease of lands belonging to NMPT accords approval to the revised rates as per **ANNEX – II** attached hereto.

**(Rani Jadhav)**  
Chairperson

**ANNEX - I (a)**

**WORKING FOR RENTALS FOR PAVED AREAS AND COVERED AREAS AT  
PANAMBUR VILLAGE**

**(Rs. per 100 sq.mtrs per  
month)**

**1 Rental for Open Space 1393.78**

**2 Rental for Paved area**

Rental as per  
existing SOR as on 20.02.2007  
(provisional) % increase in land value by  
55.10% and % increase in  
superstructure by 22.04%

(i) Land component	898.62	1393.78
(ii) Superstructure	1045.50	1275.93
Rental for paved area (i) + (ii)	1944.12	<b>2669.71</b>

**3 Rental for Covered area**

Rental as per  
existing SOR as on 20.02.2007  
(provisional) % increase in land value by  
55.10% and % increase in  
superstructure by 22.04%

(i) Land component	898.62	1393.78
(ii) Superstructure	3285.42	4009.53
Rental for covered area (i) + (ii)	4184.04	<b>5403.31</b>

**Summary**

**(Rs. per 100  
sq.mtrs per month)**

Rental for Paved area	2669.71
Rental for Covered area	5403.31

**ANNEX - I(b)**

**WORKING FOR RENTALS FOR PAVED AREAS AND COVERED AREAS AT  
MARSHALLING YARD**

**(Rs. per 100 sq.mtrs per  
month)**

**1 Rental for Open Space 1430.60**

**2 Rental for Paved area**

Rental as per existing SOR as on 20.02.2007 (provisional)      % increase in land value by 59.20% and % increase in superstructure by 23.68%

(i) Land component	898.62	<b>1430.60</b>
(ii) Superstructure	1045.50	1293.07
Rental for paved area (i) + (ii)	1944.12	<b>2723.67</b>

**3 Rental for Covered area**

Rental as per existing SOR as on 20.02.2007 (provisional)      % increase in land value by 59.20% and % increase in superstructure by 23.68%

(i) Land component	898.62	<b>1430.60</b>
(ii) Superstructure	3285.42	4063.41
Rental for covered area (i) + (ii)	4184.04	<b>5494.01</b>

**Summary**

**(Rs. per 100  
sq.mtrs per month)**

Rental for Paved area	2723.67
Rental for Covered area	5494.01

**ANNEX - I(c)**

**WORKING FOR RENTALS FOR PAVED AREAS AND COVERED AREAS AT  
COMMERCIAL YARDS ALONG THE N.H. NO. 17  
(Rs. per 100 sq.mtrs per  
month)**

**1 Rental for Open Space 1653.61**

**2 Rental for Paved area**

Rental as per existing SOR as on 20.02.2007 (provisional) % increase in land value by 84.02 % and % increase in superstructure by 33.61%

(i) Land component	898.62	<b>1653.61</b>
(ii) Superstructure	1045.50	1396.89
Rental for paved area (i) + (ii)	<u>1944.12</u>	<b>3050.50</b>

**3 Rental for Covered area**

Rental as per existing SOR as on 20.02.2007 (provisional) % increase in land value by 84.02 % and % increase in superstructure by 33.61%

(i) Land component	898.62	<b>1653.61</b>
(ii) Superstructure	3285.42	4389.65
Rental for covered area (i) + (ii)	<u>4184.04</u>	<b>6043.26</b>

**Summary**

**(Rs. per 100  
sq.mtrs per month)**

Rental for Paved area	3050.50
Rental for Covered area	6043.26

**ANNEX - I (d)**

**WORKING FOR RENTALS FOR PAVED AREAS AND COVERED AREAS AT  
TANNIR BAVI**

**(Rs. per 100 sq.mtrs per  
month)**

**1 Rental for Open Space 911.81**

**2 Rental for Paved area**

Rental as per existing SOR as on 20.02.2007 (provisional) % increase in land value by 1.46% and % increase in superstructure by 0.58%

(i) Land component	898.62	<b>911.81</b>
(ii) Superstructure	1045.50	1051.56
Rental for paved area (i) + (ii)	1944.12	<b>1963.37</b>

**3 Rental for Covered area**

Rental as per existing SOR as on 20.02.2007 (provisional) % increase in land value by 1.46% and % increase in superstructure by 0.58%

(i) Land component	898.62	<b>911.81</b>
(ii) Superstructure	3285.42	3304.48
Rental for covered area (i) + (ii)	4184.04	<b>4216.29</b>

**Summary**

**(Rs. per 100  
sq.mtrs per month)**

Rental for Paved area	1963.37
Rental for Covered area	4216.29

**ANNEX - I(e)**

**WORKING FOR RENTALS FOR PAVED AREAS AND COVERED AREAS AT  
KUDUPU**

**(Rs. per 100 sq.mtrs per  
month)**

**1 Rental for Open Space 1136.92**

**2 Rental for Paved area**

Rental as per  
existing SOR as on 20.02.2007  
(provisional) % increase in land value by  
26.52% and % increase in  
superstructure by 10.61%

(i) Land component	898.62	<b>1136.92</b>
(ii) Superstructure	1045.50	1156.43
Rental for paved area (i) + (ii)	1944.12	<b>2293.35</b>

**3 Rental for Covered area**

Rental as per  
existing SOR as on 20.02.2007  
(provisional) % increase in land value by  
26.52% and % increase in  
superstructure by 10.61%

(i) Land component	898.62	<b>1136.92</b>
(ii) Superstructure	3285.42	3633.76
Rental for covered area (i) + (ii)	4184.04	<b>4770.68</b>

**Summary**

**(Rs. per 100  
sq.mtrs per month)**

Rental for Paved area	2293.35
Rental for Covered area	4770.68

**ANNEX - I (f)**

**WORKING FOR RENTALS FOR PAVED AREAS AND COVERED AREAS AT  
BONDEL**

**(Rs. per 100 sq.mtrs per  
month)**

**1 Rental for Open Space 822.98**

**2 Rental for Paved area**

Rental as per  
existing SOR as on  
20.02.2007  
(provisional) % decrease in land value by  
8.42% and % decrease in  
superstructure by 3.37%

(i) Land component	898.62	<b>822.98</b>
(ii) Superstructure	1045.50	1010.27
Rental for paved area (i) + (ii)	1944.12	<b>1833.25</b>

**3 Rental for Covered area**

Rental as per  
existing SOR as on  
20.02.2007  
(provisional) % decrease in land value by  
8.42% and % decrease in  
superstructure by 3.37%

(i) Land component	898.62	<b>822.98</b>
(ii) Superstructure	3285.42	3174.70
Rental for covered area (i) + (ii)	4184.04	<b>3997.68</b>

**Summary**

**(Rs. per 100  
sq.mtrs per month)**

Rental for Paved area	1833.25
Rental for Covered area	3997.68

**Lease rate for lease of lands belonging to NMPT.****A. Lease of Port lands at various location**

Location	For open areas per 100 sq. meter per month (Rs.)	For paved areas per 100 sq. meter per month (Rs.)	For covered space per 100 sq. meter per month (Rs.)
Panambur Village	1393.78	2669.71	5403.31
Marshalling yard along NH-17	1430.60	2723.67	5494.01
Commercial Yards along the N.H. No. 17	1653.62	3050.50	6043.26
Tannirbavi	911.81	1963.37	4216.29
Kudupu	1136.92	2293.35	4770.68
Bondel	822.98	1833.25	3997.68

**Notes:**

- (i). For the allotment inside the Security Wall, a surcharge of 10% on the rate prescribed above will be levied.
- (ii). The rates prescribed shall be applicable with effect from 20 February 2007 and will be reviewed after five years.
- (iii). The lease rent shall bear an escalation @ 2% (compoundable) per annum till such time the rate is revised by the competent Authority.
- (iv). Security Deposit equivalent to one month's licence fee shall be applicable at the time of allotment for license upto 11 months. The Security Deposit shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT.
- (v). The other conditions governing the lease rental shall be as per the guidelines issued by the (then) Ministry of Shipping as may be amended from time to time.

**B. Way leave charges for laying of pipelines / service conduits**      The rate for open area as applicable to the location vide A above for the area occupied by the pipelines / service conduits.

Note to B above: For the purpose of way leave charges, the area occupied by single pipelines should be calculated based on the diameter and length of those pipelines. In case of multi-layer pipeline stacks, the physical area occupied by the multilayer pipeline stacks should be considered and the respective users should be billed for pro-rata area on the basis of the diameter and length of their pipelines passing through that area. With respect to the area shared with road, rails, jetties, etc., the respective users should be billed pro-rata for 50% of concerned area assuming that they do not have exclusive possession of land and what they have is only 'Right of Way'. As far as underground pipes are concerned if the users establish that the possession of surface area above the underground cross-country pipelines is not physically with them, the area occupied by such pipelines should be counted 50% of the product of diameter and length, for the purpose of levy of way leave charges.

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

**No. TAMP/15/2007-NMPT -**

**Proposal from the New Mangalore Port Trust for revision of lease rentals of port land allotted on long term / short term basis.**

A Summary of the comments received from the user organizations on the proposal dated 5 March 2007 are summarized below:

Sr.No.	Comments by users / user organizations	Reply of NMPT
1.	<b><u>Central Warehousing Corporation</u></b>	
	<p>The lease rental for these lands is being revised regularly and the last revision was taken place w.e.f. 20.2.2002 with the provision for escalation of 5% from 20.2.2003 to 19.2.2004 and thereafter @ 2% every year from 20.2.2004 onwards. Now the lease rental is proposed to be revised at Rs.1458/- per 100 sq.mtr.per month with an escalation of 2% (compounded) every year from 20.2.2007 which is proposed to be made applicable for next 5 years upto 19.2.2012. The escalation works out to 65.49% over the present rent during 20.2.2007 to 19.2.2008 and with the escalation of 2% every year, the same shall increase to 79.23% during 20.2.2011 to 19.2.2012. We propose for continuance of the existing rate of lease rent even beyond 20.2.2007 without any upward revision as the escalation of 2% every year is already available on the existing rate of lease rent.</p>	<p>Central Warehousing Corporation (CWC) has been allotted 3.72 acres of land outside the security compound wall for construction of warehouse on long term lease basis for a period of 30 years. As per the condition No.7 of the lease deed, CWC has to pay the revised lease rent on the 1<sup>st</sup> day of January of the year falling immediately after expiry of 10 years of the lease and thereafter at the end of every 5 years, provided the revision rates shall be either as per the SoR in force at the time of revision or 25% over the previous lease rent whichever is higher.</p> <p>In view of the agreement condition and guidelines issued by MOST, the request of CWC to continue the existing rate can not be accepted and revision of rent will be charged or applicable as per the SoR in force at the time of revision or 25% over the previous lease rent whichever is higher.</p>
2.	<b><u>Indian Oil Corporation Limited.</u></b>	
	(i). The revised rate suggested by New Mangalore Port Trust should be in line with State Govt.'s ready reckoner of the land value pertaining to Panambur village (Rs.9.83/sq.mtr.).	(i). The revision of Scale of Rate has been done based on the guidelines issued by the Ministry of Shipping, for which, the port has option to fix highest lease rentals. The port has adopted realistic method of approach for determination of basic rent.
	(ii). For levying the way-leave charges in case of over lapping dock lines, necessary credit should be given for the over lapping portion instead of charging flat rate of twice the diameter.	(ii). Please see the comments as provided in case of IMC below.
3.	<b><u>IMC Limited</u></b>	
	IMC has put up a third party liquid	I.M.C. has been allotted land

	<p>storage terminal within the Port boundary walls on land leased from NMPT. Over the years we have built up a good clientele through our efforts of marketing our terminal facilities. This has resulted in increased throughputs of liquid cargo through the Port, close to 2 lakhs MT per year, generating significant revenue to the Port from various revenue streams such as wharfage, berth hire charges, pilot charges etc.</p> <p>We are located inside the Port boundary walls near to the jetty. This does not give us any locational advantage because we are not given any special preference as compared to those terminals which are located outside the port area. This is a major financial burden and we have to keep reducing our terminal charges in order to attract business from liquid cargo importers. NMPT had escalated our lease rental several times over the years and now stands at Rs.826 per 100 sq.m. The proposed increase will almost double the current lease rentals at one shot which would severely affect our financial viability. We will therefore have to hike our terminal charges to cover the increased costs, which would in turn affect the viability of liquid imports through the NMPT Port. This will result in the importers diverting their business to other ports. Port should attract more cargo through a scheme of incentives and attractive charges. The current practice of fixing lease rentals based on the commercial rates of surrounding properties meant for different purposes must be done away with. The lease rentals and escalations should not be prohibitive leading to high costs and poor viability of the project.</p> <p>The port has proposed to revise the way leave charges for providing land for laying of pipelines to the jetty from our terminal. This will be an additional burden. It is common knowledge that a port based liquid terminal needs to be connected to the jetty by pipelines in order to be able to handle liquid cargoes safely and</p>	<p>measuring 7 acres for construction of storage tanks on long term lease basis inside the security compound wall. The rate applicable is as per the Scale of Rate approved by the Government/TAMP. The firm has raised several points against increasing the lease rentals. It is clarified that the land allotted to IMC is being utilised by the firm since 1982 and as per the agreement, the rates have been revised more than 5 times. As per the Clause in the lease deed for payment of lease rentals, the firm has to pay the revised rentals at approved Scale of Rate. IMC is strategically located near to the Jetty for handling POL products. In view of the above, the firm has to pay the lease rent as per the agreement.</p> <p>The fixation of way leave charges was suggested by TAMP and there is a need to fix the rate for way-leave charges and right of way for laying service conduits, pipelines etc. At present there is no Scale of Rates for right of way or way leave permission. An effort has been made to obtain the rates from various ports for similar cases. Ports are adopting different methods of charging and there is no uniformity as far as charging of pipeline is concerned. In view of the above, it has been proposed to adopt the way-leave charges for laying pipeline/service conduits as submitted to the TAMP.</p>
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	<p>quickly and thus ensure quick turnaround of ships resulting in better utilisation of the berths. Charging for way leave for laying these pipelines in the port land is an additional cost for all liquid terminals. Many of the major ports across the country charge way leave only for the land actually occupied by the pipeline (i.e. 1 diameter of the pipe x the total length). This was the practice at NMPT also. The new proposal from NMPT to charge way leave at twice the diameter of the pipeline will further increase these costs and adversely affect our financial viability. We therefore submit that in the overall interest of the port, the revision in the lease rentals should only be nominal and not such a huge increase as proposed by the port. Further the system of charging way leave rates should be continued as at present.</p>	
4.	<b><u>Kudremukh Iron Ore Company Ltd.</u></b>	
	<p>(a) Our company has taken 9 tracts of land from NMPT for industrial purpose on long term lease for export of iron ore and pellets. The Karnataka Industrial Area Development Board (KIADB) has fixed the sale value of land in Panambur and Baikampady area @ Rs.12 lakhs per acre. It is more appropriate to consider this rate of Rs.12 lakhs per acre as a base for working out the lease rent.</p> <p>(b) The NMPT has now proposed the rate for long term lease of land @ Rs.1458 per 100 sq.mt. per month as compared to the existing rate of Rs.897.88 per 100 sq.m.per month which is abnormally high. The proposed revision works out to be 62.38% hike.</p> <p>(c) The Hon'ble Supreme Court has directed KIOCL to stop mining at Kudremukh mines from 1 January 2006. Under the compelling circumstances, we have no option but to stop mining at Kudremukh. We are now forced to look for an alternative by way of outsourcing the raw material to meet our production/shipment target. In view of various constraints the company</p>	<p>The port has allotted 108.92 acres of land in different stages to KIOCL on long term lease basis for setting up of infrastructural facilities for receiving the slurry, drying and loading into ship. The lease rent is being charged at the TAMP approved rate. Though the Supreme Court has directed the company to stop mining at Kudremukh from 1 January 2006, the KIOCL has plans to bring iron ore from other mine heads located in Karnataka/Andhra Pradesh. The KIOCL has occupied prime port land and it has to utilise the land to the fullest extent. KIOCL has to pay the lease rentals as per the terms and conditions of the lease deed entered between Port and KIOCL.</p> <p>The request of KIOCL to continue the existing Scale of Rate is not acceptable. However lease rent will be charged as per TAMP approved rate or as per agreement made with KIOCL.</p>

	<p>is facing presently, it is difficult for us to sustain the loss and further financial burden of the company.</p> <p>(d) KIOCL is one of the partners in progress of NMPT since its inception contributing substantially in their revenue. Every year we are paying around Rs.15 crores in the form of different charges besides land rent of around Rs.4.25 crores per annum.</p>	
5.	<b><u>Indian Ports Warehousing Company</u></b>	
	<p>We have done a huge investment in creating an infrastructure for handling over 50 thousand kl. of oils and chemicals. One of the main items handled by us was kerosene oil and we were able to breakeven till the change in policy on kerosene which has had adverse effect on our business. Imports at New Mangalore Port are now limited to few products and the frequency and quantity is limited. There is no regularity in the arrival of the consignments.</p> <p>Since we are not permitted to store items other than those offloaded from the sea, we are unable to capitalize on other avenues to optimize our storage capacity. We request you not to increase the rental as any additional levy may have serious consequences on our business.</p>	<p>IPWC has been allotted 3 acres of land inside the security compound wall on long term lease basis for construction of storage tanks. As per the terms and conditions of the lease deed, IPWC has to pay the revised lease rent on the 1 day of January of the year falling immediately after expiry of 10 years of the lease and thereafter at the end of every 5 years, provided the revision rates shall be either as per the SOR in force at the time of revision or 25% over the previous lease rent whichever is higher. Therefore, the request of IPWC not to increase the rental is not acceptable.</p>
6.	<b><u>Hindustan Petroleum Corpn. Ltd.</u></b>	
	<p>The land allotted to us on long term (30 years) lease is with a fixed rent of Rs.630/100 sq.mtr. with an escalation of 10% every year which do not come under the purview of revision before the expiry of the 30<sup>th</sup> year i.e. 2025. Hence presently we do not have any comments on the above subject.</p>	No comments
7.	<b><u>Nagarjuna Power Corporation Limited.</u></b>	
	<p>As per the Government policy guidelines, the committee proposing SOR for land should consider various aspects such as State Government's ready reckoner of land value in that area, recent transactions for sale of land in that area, highest accepted tender for land, recommendation of approved valuer and any other factors. All these five factors have to be</p>	<p>The port has not allotted any land to NPCL. As such, there is no comments.</p>

	<p>considered collectively and not individually and then based on that an average/reasonable value should be worked out. Port itself has worked out the different land rates chargeable under each of the five different factors. As per the calculation the lowest chargeable land rent is Rs.8.81 per sq.mtr. while the highest chargeable rate is Rs.14.47 per sq.mtr. NMPT has decided to consider the highest land rental of Ra.14.58 per square metre based on average rate of actual registration of property in last three years in the port's vicinity. It is felt that rather than considering just one factor for determining of lease rental, it would be more appropriate to have an arithmetic average of the lease rental under all the five factors. Based on this, the arithmetic average under all the five factors will be Rs.11.63 per sqm.</p> <p>The proposed scale of rates should not be more than Rs.1163 per sq.mtr. with 2% annual escalation.</p>	
8.	<b><u>CMA CGM Global (India) Pvt. Ltd.</u></b>	
	We have not taken any port land from New Mangalore Port Trust on lease on long term or short term basis. We are acting as a container liner at Mangalore and all our import/export containers will be stacked in the port container yard for which we are paying the ground rent	No comments from NMPT
9	<b><u>Bharat Petroleum Corporation Ltd.</u></b>	
	(i). The basic rate of lease rental should not be increased to Rs.14.58 per sq. metre and should be maintained at Rs.8.98 as this rate is also arrived at after escalation of 2% every year. Port may charge 2% escalation every year on Rs.8.98 per square meter for next five years	(i). The port has allotted 10110 sq.mtrs. of land for pipeline corridor and 2025 sq.mtrs. of land for construction of office and 1860 sq.mtrs. for approach road on long term lease basis. As per the conditions of the lease deed and guidelines of the Ministry, the lease rentals has to be revised once in five years.
	(ii). We have entered into an agreement with New Mangalore Port Trust for 3 different plots where escalation of 5% is charged. We submit that escalation of only 2% should be charged for these 3 plots. We should like to submit that the base rate should not be changed every five years.	(ii). As per the condition of the lease deed entered between the Port and BPCL, the annual escalation is 5% and not 2%.
	(iii).We had requested port for	(iii). 2025 sq.mtrs. of land has

	surrendering of 2025 sq.mtrs. land after 18 years of agreement, as now we do not have any utility of this land. However, port is not accepting the land back and are continuing to charge the rentals. This is unnecessary burden on us. Port is advised to accept surrendering of the land.	been allotted on long term lease basis for construction of office accommodation. As per the agreement conditions there is no provision to premature surrender the land.
10.	<b><u>BASF India Ltd</u></b>	
	We have taken 885 sq.mtrs. of land for laying our waste water pipeline from NMPT on long term lease basis for a period of 23 years with effect from 1 May 2003 on payment of negotiated upfront premium of Rs.26,56,000/- and nominal lease rentals of Re.1 per annum. Except the aforesaid leased land, we have not taken any other land from NMPT. In view of this fact we are not liable to pay any revised lease rent for the aforesaid 885 sq.mtrs. of land to NMPT and hence we have not been responding to your letters.	No comments.
11	<b><u>GMR Energy Limited</u></b>	
	<p>We are having a short term lease of unpaved land for approach road and two long term leases of unpaved land for laying underground pipelines</p> <p>The above areas of land are in open area, outside the security wall of the port which was lying idle for years and the major portion of the land leased by us is utilised for laying the underground pipelines- fuel pipeline alongside the road and cooling water pipeline on the sea shore</p> <p>In the lease agreement, it is mentioned "the lease rent hereby reserved may at the option of lesser be revised at uniform rate of 5% compounded every year with an option to the lesser to refix the base every five years provided the revised rate every five years shall be either as per schedule of rent in force at the time of revision or 5% increase over the previous lease rent, whichever is higher." As per this we have been paying more than the TAMP approved tariff.</p> <p>We are not utilizing the land for any</p>	<p>No comments</p> <p>No comments</p> <p>No comments</p> <p>No comments</p>

	<p>commercial activities and hence there is no additional income generated.</p> <p>Hence, as requested unanimously during the meeting held at NMPT, on 8 February 2007 by all the port users to continue with the existing scale of rate with an escalation of 2% every year, it is requested to consider and approve accordingly.</p>	<p>This is not acceptable. The lease rent will be charged as per the TAMP approved rate or as per Agreement made with GMR Energy Limited.</p>
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2. A joint hearing in this case was held on 17 December 2009 where the NMPT and the concerned users made their submissions. The gist of the joint hearing held is as under:-

NMPT

1. Powerpoint presentation of its proposal.
2. Since Panambur village does not record any sale transaction, we have taken average of 3 nearby villages.

Association of Stevedores

3. We welcome 2% annual increase. But the revised base rate is exorbitant.
4. The sale transaction value in nearby villages for small plots cannot guide valuation of port lands. Port lands are infrastructure. It should facilitate trade and not driven solely by commercial consideration.
5. Port has acquired land at a low cost. Why should they attempt to maximize their revenue on account of the real estate price escalation elsewhere?

KIOCL

6. Sale value referred by NMPT is a private consideration of sale of small plot of land. It cannot be the basis for Valuation.

C & F Agents Association

7. Port need not profit out of real estate price increase. Rather it should attempt to facilitate trade and trade growth will automatically increase the port revenue.

3. At the joint hearing the Association of New Mangalore Port Stevedores, New Mangalore Port Clearing & Forwarding Agents' Association and Kudremukh Iron Ore Company Limited made written submissions. Copies of the written submissions were handed over to NMPT for comments. The written submissions of the parties and the comments thereon furnished subsequently by NMPT are tabulated below.

Sr.No.	Comments by users / user organizations	Reply of NMPT
1	<p><b>Association of New Mangalore Port Stevedores and</b></p>	
2	<p><b>New Mangalore Port Clearing &amp; Forwarding Agents'</b></p>	

	<p><b>Association</b></p>	
	<p>In an atmosphere of competitiveness between Ports to attract cargo and the need to come out on the recessionary trends worldwide there is an urgent need for a judicious re-fixing of rentals based on actual costs incurred by the Port and not exorbitant notional figures.</p> <p>The Port lands were acquired before 1974 at a cost of about Rs. 2000/- per acre or Rs. 0.49 per sq.m and the rentals all these years have recovered the initial and running costs many times over.</p> <p>The Cost of development is minimal since the Port has not paved or Semi-paved most of the areas and is offering undeveloped land without any layout's asphalted roads, sufficient lighting, water and wash facilities etc., to the Stevedores and Clearing &amp; Forwarding Agents for stacking Granite, Timber and other cargoes.</p> <p>Taking the cost of bought and sold private commercial land around the Port area for computing lease rentals at the cost of buying and selling of land is not fair nor commercially correct. We have to compare only comparables. The Port is not selling the land to the Port users but only leasing or renting out the land what has been acquired much below at a very low cost i.e. much below market rates.</p> <p>We may bring to your kind notice that only 30% of the Port lands are being utilized for stacking by the trade because of high costs.</p> <p>In the present commercial scenario when input costs on all commodities imported and exported are reflected on the final competitive costs to the consumers any trend to artificially jack-up costs should be avoided. The very reason for making</p>	<p>The guidelines for revision of rent issued by the Ministry of Shipping have been followed, in which, the market rate for the land has been considered to arrive at the lease rent/licence fee etc.</p> <p>The cost of the land has to be considered as per the market rates and the historical price of the land has no relevance to the prevailing market rate and has not been taken into consideration.</p> <p>The cost of development as per the actual historical cost has been considered, which is based on actual cost incurred during last revision to the proposed revision.</p> <p>As per the guidelines, to ascertain the market rate for the land adjoining to the Port area, the value of the sale of land transacted in the past 3 years has to be considered prior to the submission of proposal in 2007.</p> <p>The land rents at New Mangalore Port are comparable to other ports, the licence for the land in cost analysis of cargo handling is insignificant and low comparative to the land cost. Therefore the increase in the licence fee will not have much affect on the cost of handling cargo.</p>

	<p>available to the Port Trust strategic prime land at very low value is only to ensure that import and export costs of commodities is maintained at reasonable levels, which the consumer can bear. Profiteering by responsible public sector is not justifiable.</p> <p>We hope TAMP will assess the Port contentions in the light of above facts placed before it and re-fix a reasonable and fair land rental based on the costs annually incurred by the Port for land, thus saving the Import/Export trade at this Port from such disastrous rentals. In case this is not possible then this may be frozen at the present rates.</p>	
3	<p><b><u>Kudremukh Iron Ore Company Limited.</u></b></p> <p>KIOCL Limited has purchased 3.63 acres of land in the year 2008 from KIADB for industrial purpose @ Rs. 25 Lakh per acre. The land was purchased in the month of October 2008 and the same was registered in the name of KIOCL Limited on 30.12.2008. There is no further appreciation in the cost of land for industrial purpose in this region. The existing lease rent rate of NMPT for long-term lease of land itself is very high and hence downward revision of lease rent considering the global recession will really help to improve our Company's financial position.</p>	<p>The land purchased by Kudremukh Iron Ore Company Limited is in the vicinity of the KIOCL premises, which is undeveloped land and marshy land. The purchase has been made from KIADB. The KIADB is a State Govt. organization which acquired land for industrial purpose at the rate fixed by the State Govt. through land acquisition proceedings. The procedure for fixing of sale price for the land etc are governed by many factors which cannot be compared to the Port land. The Port land is used for Port activities for providing services for import and export. As per the guidelines issued by the Ministry of Shipping, the market of the land will have to be taken for consideration of fixing of licence fee and lease rentals. Therefore, the KIOCL purchase prices cannot be taken into consideration.</p>

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