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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 11

New Delhi, 3 February 2005

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal received from the New Mangalore Port Trust (NMPT) for revision of rentals of land leased on long/short term as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/33/2003 - NMPT

New Mangalore Port Trust (NMPT) - - - -

Applicant

ORDER

(Passed on this 20th day of January 2005)

This case relates to a proposal received from the New Mangalore Port Trust (NMPT) for revision of rentals of land leased on long/short term.

2. The lease rentals for the NMPT lands were last fixed in February 1997 and were due for revision in February 2002. The NMPT had earlier submitted a proposal in February 2002 for revision of lease rentals; but, subsequently, it desired to place its proposal before its Board of Trustees for further discussion / clarification. Since the proposal could not be kept pending indefinitely, this Authority had closed the case as withdrawn and it was decided to consider revised proposal afresh, when received.

3.1. In this backdrop, the NMPT has filed the instant proposal. The NMPT has made the following main points in its proposal:

- (i). The Policy Guidelines issued by the (then) Ministry of Shipping (MOS) vide letter number PT/17011/55/87-PT dated 1 April 1995, require constitution of a Committee of respective port Chairman, representative of MOS and District Revenue Authority among others for recommending the Scale of Rates of port land apart from other guidelines prescribed in this regard.
- (ii). In the Board Meeting held on 24 May 2002, some of the Trustees have objected the formation of the Committee specifically with reference to the words 'among others'.

This point was referred to the MOS for clarification. The (then) MOS vide letter No. PT-17011/151/95-PT dated 11 September 2002 has clarified that there is no need to have a Committee for recommending the Scale of Rates. Scale of Rates are to be recommended by the Board of Trustee, and to be fixed by TAMP. Chairman of the Port concerned has to place the proposal before the Board. Chairman may associate any one suitable officer for finalizing the proposal, which is to be considered by the Board first and thereafter by TAMP.

- (iii). In compliance of the above directions of the Govt. the NMPT reconstituted the Committee with the Chairman (NMPT), Chief Engineer (Civil), etc., as the member among others.

3.2. The salient points of the report of the Committee and its recommendations with reference to fixation of lease rents of the NMPT lands for the period 2002-2007 are as follows:

- (i). The market value of land in and around the port area during the year 2000-2002 made available by the District Registrar Office was examined. A large variation in the value was found due to various reasons like locational advantage, approach from highway, etc.
- (ii). The base of the lease rent is to re-fixed after a period of 5 years as per the guidelines of the Govt. which is fairly a long period. It has therefore, considered desirable to take into account the average of the highest

registered value of land transactions in villages i.e. Panambur, Bangra Kulur and Kulai village. Accordingly, the average of the highest value of the land transactions of the three villages was arrived at Rs.51.18 lakhs per acre.

- (iii). Out of 1908 acre of the port land, around 42% (i.e. 800 acres) is covered by road, public places, markets, water supply etc. Considering the fact that only 58% of the total land is available for use, the Committee has assessed effective rate of land at Rs.88.15 lakhs per acre.
- (iv). Development cost of Rs. 25.99 crores for the period 1997 to 2002 was allocated to 1108 acres of land available for lease which works out to Rs. 2.34 lakhs per acre. This development cost was also added to the land cost and the total cost worked out to Rs.90.50 lakhs per acre.
- (v). Return @ 15% on the land and development cost is considered for fixation of lease rentals in line with the method adopted for fixation of lease rentals in 1997. Accordingly, the lease rent works out at Rs.27.95 per sq.mtr. per month.
- (vi). The Committee, however, did not suggest this higher rate, but, recommended to keep the lease rentals as suggested by the previous Committee i.e. at Rs.12.13 per sq.mtr. per month for open area outside the security wall.

3.3. The proposal was considered by the Board of Trustees on 25 March 2003. The various members opposed the proposed rate as they found it to be much high compared to the rates prevailing in the neighbouring ports of Tuticorin, Vizag, Cochin, etc. The Board of Trustees after detailed deliberations recommended the lease rentals to be fixed at Rs.9/- per sq.mtr. per month. Accordingly, NMPT has computed the lease rentals for various divisions proportionately.

3.4. The lease rentals proposed by the NMPT and the proposed conditionalities governing the same are as given here under:

(in Rs.)

Sl.No.	Particular	Licence / Lease less than one year (per 100 sq.mtr. per		Licence / Lease more than one year (per 100 sq.mtr. per month)	
		Inside the Security Wall	Outside the Security Wall	Inside the Security Wall	Outside the Security Wall
1.	Open area	1090	975 (730)	990	900
2.	Semi Paved stack yard	1240	1125 (730)	1155	1050
3.	Paved stack yard	1650	1500 (1580)	1570	1425
4. a)	Covered space	3780	3675 (3403)	3600	3500
b)	Platform	3620	3520 (3239)	3450	3350

(** The rates in the bracket are the existing rate applicable till 19 February 2002. It may be noted that in the existing SOR, no separate rates are prescribed for each zones for less than a year/ more than a year or for inside/outside security wall.)

1. The above rates shall be effective from 20.2.2002.

2. The above licence fee will be increased at uniform rate @ 5% (compounded) rounding off to the nearest rupee every year with an option to the Port Trust to re-fix the base after every 5 years.
3. Security deposit equivalent to one month's license fee shall be payable at the time of allotment for licence upto 12 months and 3 months licence fee upto 3 years.
4. The allotments on long term basis will carry payment of premium upfront fee as land rentals at the above rates and a nominal rate of Rs.1/- per annum.
5. All other conditions notified as per the notification of the Karnataka Gazette dated 20.2.1997 is applicable.

3.5. The NMPT has sought approval of the said proposal from this Authority with retrospective effect from 20 February 2002.

4.1. In accordance with the consultative procedure prescribed, the proposal was circulated to the concerned users/ user organisations for their comments.

4.2. A copy each of the comments received from the above users was forwarded to the NMPT as feedback information. In response the NMPT has furnished its observations.

5. Based on a preliminary scrutiny of the proposal, the NMPT was requested to furnish clarifications / additional information on various points. In response to the queries raised by us, the NMPT has furnished the requisite details which are summarised below:

- (i). The port has acquired 1908 acres of land in Panambur village, Baikampady and Tannir Bavi village. Out of these, the port has developed 885 acres of land. The balance of 1023 acres is outside the security wall. Apart from these, the port has acquired 444 acres of land in Kudupu village and Bondel village for quarry.
- (ii). Original cost of the land is reported to be Rs.2.93 crores and Rs.25.99 crores has been incurred for development of the land for the period 1997-98 to 2001-02.
- (iii). The bifurcation of development cost village-wise is not possible since records are maintained on asset code like roads, drains etc., and are not related to the particular land. It has, therefore, allocated development cost on pro-rata basis.
- (iv). The port land was acquired between 1962 to 1971, and hence the market rate worked out based 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 rate. While determining the market value of land, each category of land has not been considered. Since the port is within the limits of Municipal Corporation and the realistic value of land transactions that have taken place in and around port area and adjoining villages have been considered. This is in accordance with the existing guidelines of the Ministry for determining the market value of land.

Since the land inside security wall is the restricted area with CISF security, the market rent for such land is considered @ 10% above the market rate of the land outside security wall.

- (v). The land at NMPT is nearer to the main road and hence comparable with the highest value of the land in the market. Wide variation in the lowest and the highest value of land transaction is mainly due to the proximity to the main road, locational advantages, the developmental activities in and around the land, the cost of infrastructure, etc.
- (vi). The guidelines for revision of lease rentals issued by the Ministry vide letter dated PT/17011/54/2002 dated 17 July 2001 states that at the time of revision of the base lease rentals, the port trust shall ensure that the revised rates of land are enhanced to match the prevalent market rate for similar land in the adjoining area of the port. The average of the market rate of land or weighted average rate may not present the realistic prevalent rate and, therefore, the highest market value of land has been considered to arrive at true market rent in view of its land being nearer to main road.
- (vii). The revision of the lease rentals in the past (1997) was made considering the rate of return @ 15% of land cost based on the similar rate of return adopted by the Ministry while approving the lease for users like M/s. Pure Palm Ltd. (1992), M/s. Universal Agro Produce (1994). In view of the precedence available, the instant proposal has been formulated considering 15% return on land cost. It has also confirmed that the Ministry has not prescribed any guidelines for the fixed rate of return in case of land.
- (viii). The lease rentals for the period less than one year has been proposed to accommodate the requirements of Clearing & Forwarding Agents who opt for short period of lease. Further, in order to encourage long term association with the port, concessional lease rentals are proposed for allotment of land for more than one year.
- (ix). The basic rate of Rs.9/- per sq.mt. for land outside security wall has been arrived. Subsequently, based on the previous lease rentals and depending upon the area available under different zones, divisions and the development cost, etc., the lease rents are suitably proposed for different subdivisions and zones. It may, therefore, not be possible to explicitly find out the reasons for incremental lease rentals under each zone, divisions and sub divisions. The differential in the lease rentals inside and outside the security wall has, however, been maintained at 10% similar to the existing Scale of Rates.

6. When this case was under process, the (then) Ministry of Shipping (MOS) vide its letter No.17011/55/87-PT dated 8 March 2004 issued revised Land Policy for implementation of all major ports (except the Kolkata Port Trust and Mumbai Port Trust). In view of the new land policy issued by the Government, the NMPT was requested to review and, if necessary, revise its proposal.

7.1. The NMPT in response has stated that there are no changes in the revised guidelines of the (then) MOS except for the rate of return prescribed at the level 6% on the market value to arrive at the lease rentals and secondly annual escalation of lease rental is reduced to 2% from existing level of 5%. Accordingly, it has re-computed the lease rentals reckoning 6% return on the market value of land and development cost as against 15% return considered by it earlier.

7.2. The lease rental derived by the NMPT considering 6% return on market value of land as per State Govt. Ready Reckoner and average of actual transactions registered in the last three years is tabulated below:

Basis of Land value	Cost of the land (Rs. per hectare)	Cost of the land (without port used land 42%) (Rs. per hectare)	Development cost (Rs. per hectare)	Lease rent computed (@ 6% rate of return excluding development cost) (Rs. per sq.mtr. per month)	Lease rent computed (@ 6% rate of return) Plus 6% return on development cost (Rs. per sq.mtr. per month)	Lease rent computed @ 6% rate of return on cost of the land (without port used land)+ 6% return on development cost (Rs. per sq.mtr. per month)
i). As per State Govt. Ready Reckoner	1,85,25,000	3,19,00,451	5,79,380	9.26	9.55	16.23
ii). Average rate of actual transactions registered in last three years	1,65,05,000	2,76,47,058	5,79,380	8.03	8.31	13.82 (excludes return on development cost)

7.3. Highest accepted tender of port land for similar transactions is also furnished by the NMPT which is found to be in the range of Rs.12 to Rs.26/- per sq. mtr. for various purposes of allotment of land. It has also stated that appointment of any approved valuer for the purpose of arriving at the port land is not considered feasible.

7.4. As against the revised computation stated above, the rate proposed by it earlier was Rs.9/- per sq.mtr. per month for open area outside the security wall and then adjusted suitably for other areas. The NMPT has, therefore, requested to approve the lease rentals proposed by it as per its original proposal except for the modification in the annual escalation in lease rentals at 2% in line with the revised guidelines of the MOS.

8. A joint hearing in this case was held on 8 September 2004 at the NMPT premises. At the joint hearing, the NMPT and the concerned users have made their submissions. In addition to that the Central Warehousing Corporation (CWC), Hindustan Petroleum Corporation Ltd. (HPCL) and the Mangalore Liquid Impex Pvt. Ltd., (MLIPL) have made written submissions reiterating the points made by them earlier.

9.1. At the joint hearing, the users had pointed out that they were not aware of the new guidelines issued by the Government in March 2004 with reference to fixation of lease rentals by the major ports. The NMPT was, therefore, advised to circulate its revised computation along with copy of the new guidelines issued by the Govt. to the users for their comments, if any.

9.2. In response to the above, the Mangalore Chemicals & Fertilizer Limited and the Kanara Chamber of Commerce and Industry have furnished their comments on the proposal of the NMPT with reference to the revised guidelines of the Govt.

proposal. We have not received comments from any other user in this regard despite reminder.

9.3. The comments received from the MCFL and the KCCI was forwarded to the NMPT. In response the NMPT has furnished its observations.

10.1. As decided at the joint hearing, the NMPT has furnished a statement showing the details of the existing land leased to different parties, present lease rentals, etc.

10.2. The NMPT has subsequently furnished the basis of computation of Rs. 9 per sq. mtr per annum for open area outside the security wall. This computation is based on the average of highest transaction value of the lands in three villages for the last three years and considering a return @ 6% per annum. The rate thus arrived has been increased by 25% to arrive at the rental on real market value. It has also clarified that the rate for semi paved yard and paved stack yard for both long term and short has been proposed 25% less than the rate recommended by the Committee. A summary of this computation is as follows:

Sl. No.	Particulars	(in Rs)
1.	Average highest transaction value of three villages for the three years (Rs. per acre).	60,82,260
2.	Return computed @ 6% per annum (Rs. per acre)	3,64,936
3.	Rate per sq. mtr. per annum	7.51
4.	Rate after adding 25% to the above rate to arrive at the real market value (per sq. mtr. per month)	9.39

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

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

- (i). This Authority has been fixing lease rents for Port Trusts lands following the extant Government guidelines on land and water front management of major ports. The proposal initially submitted by the port was reportedly based on the Government guidelines issued in 1995, as amended from time. The Committee constituted to consider rate revision is found to be not in line with NMPT. But, the port has explained that it had constituted the Committee based on a clarification given by the Government to a specific reference in this regard made by the NMPT.

When the proposal was in process, the Government announced its revised land policy guidelines in March 2004. The NMPT was accordingly advised to modify its initial proposal to reflect the revised policy guidelines of the Government. The revised proposal of the NMPT is, therefore, taken up for consideration.

- (ii). The lease rentals of the NMPT were last approved by the (then) Ministry of Surface Transport and notified in the Karnataka Gazette on 20 February 1997 with approval of the Government. Some of the users have objected to the retrospective fixation of rate w.e.f. 20 February 2002 proposed by the port. Mangalore Chemical Fertilizers Limited (MCFL) and some other users have pointed that the NMPT proposal

seeks ahead-of-schedule revision since the earlier rates notified in February 1997 prescribes revision of rates once in seven years. It is relevant here to mention that based on the Govt. guidelines issued in March 1998, the conditionality relating to periodicity of revision prescribed in the 1997 Notification was modified from seven years to five years by this Authority in its Order dated 28 December 1999. That being so, the proposal of NMPT does not seek any ahead of schedule review.

The revised guidelines issued by the Govt. also requires revision of the base rate once in five years. The NMPT has accordingly sought approval to the revised rates retrospectively w.e.f. 20 February 2002 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 inevitable to consider revision of lease rents at NMPT retrospectively from 20 February 2002 even though this Authority does not ordinarily resort to retrospective fixation of rates.

- (iii). Worldwide Shipping Inc (WSI) has contended that the lease rent for semi paved stack yard was fixed at Rs. 730 per 100 sq. mtr. per month by this Authority w.e.f. 3 December 2001 and, therefore, there is no justification for re-fixing the base within three years for this particular item.

In case of semi paved stack yard, this Authority in its Order had accorded retrospective approval of the (then) applicable lease rent for open space for the period 2 February 2000 till December 2001 and for the subsequent period Rs.730 per 100 sq. mtr. per month was approved subject to annual escalation of 5%.

It is relevant to mention that the value of land considered at that time for fixing rent for semi paved stack yard was based on the market value as of 1996 and hence as per the Govt. guidelines, the rent for this category also falls due for revision along with other items of lease.

- (iv). The earlier as well as the revised guidelines of the Government clearly lay down the procedure to be adopted for determining the market value of the port lands. The revised land policy guidelines specifically prescribe that market value of land can be determined taking into consideration the factors like State Govt.'s ready reckonor value, the average rate of actual transactions in last three years for the lands in the port's vicinity, highest accepted tender value of port lands, rate arrived at by the approved valuer and any other relevant factors.

The NMPT in the revised proposal has furnished computation based on State Govt's ready reckoner and average rate of highest transaction of the three villages for the year 2001-02. Highest accepted tender value of port land for similar transaction us also furnished which is found to be higher than the computation done based on market valuation of land.

Most of the users have objected to the methodology of land valuation adopted by the NMPT which takes into account the highest transaction values.

Majority of the users have suggested that the sale value fixed by the Kanara Industrial Area Development Board (KIADB) for industrial land in Panambur village at Rs.12 lakhs per acre may be considered as reference value. The NMPT has, however, clarified that the land at KIADB is an undeveloped land to be developed by prospective entrepreneurs for setting of small scale industries whereas the NMPT land is meant for handling cargo through the port and is strategically

located near the port. In view of this clarification, the comparison of the port land with that of the KIADB is not found to be appropriate.

It is noteworthy that the average market value of land considered by the NMPT is largely influenced by the methodology adopted for computation of considering the highest transaction value of the three villages as against the Govt. recommendations to consider average of actual transactions. The argument of the port that since its lands are nearer to the main road, it is comparable to the highest value of land in the adjoining village and hence the valuation of land done by it may be accepted is not found to be very realistic. It may be more appropriate to consider weighted average of the transaction value, as rightly opined by the Kanara Chamber of Commerce and Industry. In the absence of details of different transactions in these places made available, the valuation reported by the NMPT is relied upon in this analysis subject to the moderations prescribed in the succeeding paragraphs.

- (v). The NMPT has escalated the market value of lands by 42% to arrive at effective market rate for port lands on the ground that 42% of the port land is not available for lease. It has accordingly computed the lease rent at Rs.16.24 and Rs.14.11 per sq.mtr.per month as against the lease rent of Rs.9.55 and Rs.8.32 per sq.mtr. per month if no escalation in the market value is allowed. As rightly pointed out by the Kanara Chamber of Commerce and Industry (KCCI), the land covered by public place markets, parks, greenery, etc., are mainly for the benefit of port staff and not only for lessees. The Government guidelines in this regard prescribe reckoning market value only. Just because part of the estate is not commercially exploited, the market value of leased land cannot undergo any change and the lessees will not be made to pay higher rent for under utilisation elsewhere. The average market value for computation of lease rent is, therefore, moderated by eliminating the scale-up factor applied by the port.
- (vi). The NMPT has proposed to restrict the revised lease rent to Rs.9 per sq. mtr per month for open area allotted outside the security wall. In the revised calculation, the port has not applied the scale up factor to the extent of under utilisation of land. Instead, the NMPT has escalated the land cost (based on the average of highest transaction value of the three village for three years) by 25% to arrive at the real market value. The Govt. guidelines permits average of actual transaction to be escalated by 2%, as may be necessary. Since the NMPT has, considered the average of the highest transaction values there is no justification for escalating the market value of land any further. That being so, average of highest transaction as reported by the port at Rs.60.82 lakhs per acre is relied up for the purpose of this analysis.
- (vii). The NMPT had initially sought 15% return on the market value of lands which has subsequently been scaled down to 6% in line with the revised policy guidelines of the Government. It is noteworthy that many of the users have also suggested to allow return at around this level.
- (viii). Another relevant element in computation of lease rental is the development cost. There can be a view that the various development works carried out by the NMPT may be one of the important factors leading to appreciation of land value. That being so, allowing return on the market value of land and also on the development cost may tantamount to double counting. Though the earlier Government guidelines of 1995 were specific insofar as considering the development

cost of land while fixing the lease rentals, the revised guidelines of 2004 are not explicit about allowing or disallowing return on development cost. If at all, the revised guidelines are more comprehensive to include various factors other than the recorded transaction value of nearby lands for determining the market value of the port lands.

The NMPT has admitted that development costs were considered earlier while fixing the lease rent in February 1997. Even though the NMPT has included an element of development cost to arrive at the maximum level upto which the lease rentals can be revised, this element stands eliminated from the proposed rates for two reasons. The NMPT has decided to restrict the lease rentals to Rs.9 per sq.mt.per month which is well below the ceiling level of rent arrived by the port. Secondly, the port has perhaps decided to avoid duplication in view of the fact that it had introduced a 25% escalation to arrive at "real" market value. For reasons explained in the preceding paragraph, escalation in the land cost by 25% cannot be allowed. It is, therefore, necessary to consider actual development cost at written down value and allow a return @ 15% thereon in line with the approach adopted while fixing lease rentals for Tuticorin Port Trust lands recently.

- (ix). The NMPT has reported that Rs.25.99 crores has been spent towards development of roads, drains, electricity upgradation, etc., during the period 1997-98 to 2001-02. The development cost furnished by the NMPT for each of these years are at the original cost and not at the depreciated value. Further it is not clear whether this expenditure is not accounted for in the last general review of rates for cargo and vessel related charges. This Authority has recently decided to allow a return of 15% on the written down value of development cost in the case of TPT. In order to arrive at the written down value, the development cost reported by the NMPT has been adjusted assuming the average life as 25 years for such assets in the absence of exact rates of a depreciation for different relevant assets available. This approach was adopted while disposing of a similar proposal from TPT recently.

The port has reported that out of 1908 acres of land acquired by it in the three villages, 800 acres is used by the port and balance 1108 acres is available for lease. The NMPT had earlier apportioned this development cost over land available with the port for lease but, not on the land used by the port. The entire development cost cannot be loaded only to the lessees. The development will benefit other port activities as well as the port to the extent of lands under its occupation. It is, therefore, found reasonable to allocate development cost for each category on actuals or on prorata basis. The NMPT has expressed its inability to furnish computation for each category of land. In the absence of such details, the development cost at written down value is equally apportioned on the entire port land. The admissible development cost will qualify for a return of 15%.

- (x). Subject to the above analysis, the revised lease rentals will be as hereunder:

(Rs. in lakhs per acre)

Sl. No.	Particulars	(in Rs)
1.	Computation of Return on the land valuation (i). Average highest transaction value of three village for the three years 2001-02 to 2003-04 as reported by the NMPT. (Rs. per acre)	60,82,260

	(ii). Return computed @ 6% per annum on the land value (Rs. per acre) (Rs. per sq. mtr. per month)	3,64,936 7.51
2.	(i). Development cost (depreciated value) (Rs. per acre)	1,21,067
	(ii). Return computed @ 15% per annum on the development cost (Rs. per acre) (Rs. per sq. mtr. per month)	18,160 0.37
3.	Lease rent per sq. mtr per month [1(ii)+ 2(ii)]	Rs. 7.88 rounded off to Rs. Rs. 7.90

- (xi). The lease rent applicable as on 19 February 2002 for open area outside the security wall is Rs. 730 per 100 sq. mtr. per month as against the revised lease rental of Rs. 790 per 100 sq. mtr. per month shown in the table above which will have retrospective effect from 20 February 2002. If the revised rates are implemented, it will result in an effective increase of 8.2%. It is noteworthy that the lease rents would have gone up by 5% w.e.f. 20 February 2002 due to the automatic escalation clause, even without any revision.
- (xii). The existing Scale of Rates does not prescribe differential rates for various categories of land allotted on short term and long term lease and for inside/ outside the security wall. The only conditionality prescribed is about levy of 10% surcharge if the allotment is made inside the security wall.

The NMPT has now proposed different set of rates for short term/long term and for inside/outside the security wall for various categories. The impact of the proposed rate will be in the range of 23% to 34% in case of open areas and 44% to 54% in case of semi paved stack yard with reference to the corresponding rates applicable as on 19 February 2002. In the case paved stack yard, there will, however, be a reduction of 5% to 10% with reference to the rate applicable as on 19 February 2002. In case of covered warehouse and platform space, the impact of the proposed rate will be a marginal increase in the range 1% to 3% and a reduction of around 4% for this category of lands on long term basis inside the security wall.


In the existing SOR separate rate is prescribed for paved ore stack yard at landing places and paved yard at marshalling yard. However, in the proposed schedule no entries are found for these items.

The NMPT has not furnished any basis for computation of lease rents for long term and short term basis for various categories except for allotment of land in open area. The NMPT, after repeated requests, has only clarified that the rate for semi paved stack yard and paved stack yard is proposed 25% less than the rate recommended by its Committee.

The classification of land recommended by the Committee is appreciated, as it appears to follow the functional utilisation of lands and tenure of lease. At the same time, it is difficult to endorse the proposed differential rates without any scrutiny as neither the NMPT nor the report of the Committee explains the basis of computing different set of rates for different categories.

In the absence of any reasonable basis explained for different set of rates proposed, this Authority is constrained to allow the existing

classification of land to continue for the purpose of lease rents and revise the lease rentals by allowing a uniform increase of 8.2% over the lease rentals prevailing as on 19 February 2002. The existing conditionality about levying 10% higher lease rent in case of land licensed inside the security wall for less than one year may be allowed to continue as prescribed in the existing SOR. The rates for covered space, paved stack yard and platform space are also increased uniformly by 8.2%. Since the rates approved by this Authority are ceiling level and the NMPT has already been given a flexibility to charge lower rates in view of a general order passed, the port can operate at a lower level of rates for these categories, if it desires so.

- (xiii). Uniform increase in the lease rentals for different categories of lands is found to be inevitable in view of the gaps pointed out earlier in determining market value and development cost for individual categories of lands. The NMPT is advised to follow a more scientific and rational approach while formulating the proposal for revision of the lease rentals for different services at the time of next revision.
- (xiv). The New Mangalore Port Clearing and Forwarding Agents Association (NMPCFAA) have argued against annual escalation in lease rentals since the base is re-fixed every five years. The relevant Government guidelines stipulate that the lease rents fixed are subject to an automatic annual escalation. In terms of 1995 Govt. guidelines, the annual escalation in lease rent is at 5% (compoundable). In the revised guidelines of March 2004, the quantum of annual escalation is reduced to 2%. The NMPT in its revised proposal has agreed to reduce the annual escalation to 2% in accordance with the Govt. guidelines. In view of this position, the annual escalation is prescribed at 5% p.a. (compounded) for the period upto 19.2.04. Thereafter, the revised and reduced annual escalation @ 2% p.a. will be applicable. 
- (xv). Tanir Bhavi Power Company Private Limited (TBPCPL) has pointed out the land allotted to it is outside the security wall of the port and that major part of the land is for laying pipelines buried below the ground level. It has argued that since the surface area is physically free the lease rent leviable on other users either for land allotted inside or outside the security wall should not be made applicable in its case. The NMPT has clarified that the port has allotted the land to this user and the lease rent applicable for that land is leviable irrespective of the purpose for which the land is being used. Even though the points made by TBPCPL, prima facie, deserve consideration, this Authority does not like to interfere with the ongoing lease agreement. Notwithstanding this decision, the NMPT is advised to examine the issue of way leave charges and come with a suitable proposal for fixing such charges within 6 months.
- (xvi). The Mangalore Liquid Impex Pvt. Ltd., (MLIPL) has pointed out that lease rent paid by it is 24.71 per sq. mtr. per month which is very high in comparison to Rs 7.61 per sq. mtr per month applicable as per the Scale of Rates of the NMPT. It has requested that there should not be any discrimination between the users as regards levy of lease rentals.

The NMPT has reported that land was allotted to the MLIPL on short term lease basis at the rate of Rs.18/- per sq. mtr. p.m. similar to the rate for lease of land adjacent to this land allotted for similar activities to another firm. Since this rate was accepted by the MLIPL during the

time of allotment of land on short terms basis, any reduction in the accepted rate will be the violation of conditions of agreement.

Further, some other users like Hindustan Petroleum Corporation Limited (HPCCL) and Universal Agro have pointed out that the escalation clause prescribed in their respective Lease Agreements is 10% as against 5% prescribed in the Scale of Rates and 2% proposed by the NMPT now in view of the revised Govt. guidelines. They have therefore, requested to reduce the rate applicable to them and to refund the differential.

There is no doubt that the rates notified in the Scale of Rates form the basis of recovering lease rents. Section 49 (3) of the MPT Act allows a discretion to Port Trusts to charge at a rate more than that prescribed in the Scale of Rates, when lease is given by auction or by inviting tenders. Further, the NMPT has pointed out that the leases in these cases were granted after obtaining the clearance of the Government to the terms and conditions. In view of this position and recognising that individual lease agreement had been signed between the concerned lessees and the port, this Authority does not find it appropriate to order any reduction in the lease rent envisaged by the said agreements.

Prima facie, the advantage of new Scale of Rates will not go to them. This is due to the fact that they had themselves accepted the rates which they are paying at present and accordingly signed the lease deed after the proposal were approved by the (then) Ministry of Shipping as stated by NMPT. For the same reasons it is not possible for this Authority to review their cases and they may approach the appropriate authority to redress their grievances.

- (xvii). The NMPT has proposed to incorporate a conditionality stating that allotment of land on long term basis will be on payment of premium upfront fee as land rentals at the prescribed rate and an nominal rate of Re.1 per annum. The Mangalore Chemical Fertilizer Limited (MCFL) has pointed out that the proposed clause for collecting upfront will have huge financial implication and hence has requested that the existing method of collecting annual lease rent may be continued. The NMPT has clarified that the concept of upfront fee is as per the Policy Guidelines issued by the (then) Ministry of Shipping (MOS) for Water front and Land Management. The upfront fee is leviable in case of allotment of land allotted by tendering in future and this system is not applicable for the existing leases.

The revised guidelines of the Govt. stipulates various conditions for allotment/renewal of land on long term basis against upfront fee and also prescribes certain exemptions in a few cases. The proposed conditionality by the NMPT is not found to be fully in line with the revised guideline of the (then) MOS. A condition stating that all terms and conditions governing the lease rent shall be as per the applicable guidelines of the Government is incorporated in the Scale of Rates. The NMPT should operate the Scale of Rates subject to the provisions contained in the Government guidelines.

The NMPT has stated that all other conditions will be as per the notification in the Karnataka Gazette on 20 February 1997. Since the Govt. has issued specific guidelines on the land policy, and amended it from time to time the NMPT should follow the applicable guidelines as prescribed by the Govt.

- (xviii). The existing SOR prescribes refundable security deposit of one year lease rental or irrevocable Bank Guarantee for an amount equivalent to three year's lease rental to remain valid for the lease period in case of long term leases.

The NMPT has proposed to collect security deposit equivalent to one month's license fee for license upto 12 month and 3 month's license fee for lease period upto 3 years. The proposed provision appears to be applicable for lease of land for twelve months or on short term basis i.e. upto three years. Though the revised guidelines does not specifically mention about the Security deposit, there is an explicit provision in 1995 Govt. in this regard. The provision proposed by NMPT is found to be liberal in comparison to the 1995 Govt. guidelines requiring the user to pay security deposit for one year or irrevocable Bank Guarantee for an amount equivalent to three year's lease rental even in case of short term leases. In view of this position, and also recognising that none of the users have raised any objection on the proposed provision, this Authority approves the Security Deposit arrangement proposed by NMPT for short term leases. The existing provision for long term lease is allowed to continue. It may be appropriate to state that the security deposit collected by the port must be refunded at the end of the lease tenure after adjustment of any dues to the NMPT. The proposed provision is inserted subject to this modification.

- (xix). As already explained, the revised rates approved by this Authority will come into effect retrospectively from 20 February 2002. In terms of the Government guidelines, validity of the rates fixed now will be for the period from 20.2.2002 to 19.2.2007.

The revised rates and conditions will be applicable in case of the existing lessees / licensees and in those cases renewed / allotted after 20.2.2002 till notification of this order, only if the respective lease agreement or letter of allotment, if no lease deed is still executed, explicitly provides for revision of lease rentals and conditions during the currency of the lease period.

13. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the revised lease rate for lease of lands belonging to the NMPT w.e.f. 20 February 2002 as given below:

**Lease rate for lease of land in port area belonging to the NMPT
from 20 February 2002**

SI.No.	Particular	(Rate per 100 sq.mtr. per month)
1.	Long term lease of Land	Rs.790.00
2.	Short term License basis.	
	(a). Allotment of land outside security wall for a period upto 3 years	Rs.790.00
	(b). Allotment of paved ore stackyard in the Marshalling yard for a period upto 3 years	Rs.994.00
3.	Landing Places	Rs 790.00

(a).	Open space for storage of goods	
(b).	Paved ore stack yard	Rs.994.00
(c).	Paved stack yard	Rs.1710.00
(d).	Semi paved stack yard	Rs.790.00
(e).	Covered space in over flow sheds or warehouse including platforms	Rs.3682.00 for space inside the sheds of warehouses and Rs.3505.00 for platform space

Notes:

- (i). For license less than one year, a surcharge of 10% on the rate prescribed above will be levied for the allotment inside the Security Wall.
- (ii). The rates prescribed shall be applicable with effect from 20 February 2002 and will be reviewed after five years.
- (iii). The lease rent shall bear an escalation @ 5% (compoundable) per annum for the period 20 February 2003 to 19 February 2004. Thereafter, the rates shall be escalated by 2% per annum till such time the rate is revised by the competent Authority.
- (iv). (a). Security Deposit equivalent to one month's licence fee shall be applicable at the time of allotment for license upto 12 months and 3 month's licence fee for license upto 3 years. The Security Deposit shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT.
(b). In case of lease of land other than those mentioned at (a) above, refundable Security Deposit of equivalent to one year lease rental will be applicable of the lease shall provide an irrevocable Bank Guarantee for an amount equivalent to 3 years (three) lease rentals which shall remain valid for the lease period.
- (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.

(A.L. Bongirwar)
Chairman

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

F. No. TAMP/33/2003 - NMPT - Proposal from the New Mangalore Port Trust (NMPT) for revision of rentals of land leased on long / short term.

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

New Mangalore Port Clearing & Forwarding Agents' Association (NMPCFAA)

- (i). The land was acquired for a sum of about Rs.10,000/- per acre while the proposed lease rent is Rs.5,89,211/- per acre per annum. No cost has been incurred for development of undeveloped port land nor any facilities like tarred roads, sufficient lighting, etc., are provided in the undeveloped land allotted to the clearing and forwarding agents for stacking cargo.
- (ii). The NMPT had initially allotted undeveloped lands by executing separate Lease Deeds with the Stevedoring / C & F Agents for a consideration amount of Rs.13,964/- for a period of 30 years on yearly rental of Rs.2,976/-. Presently, the port is charging for the same land Rs.4,00,000/- as annual rent though no expense has been incurred for the development of this land.
- (iii). A fair rate of return on investment should be computed on actual cost incurred for acquiring the land before 1974 and not on the present market value of land which is only a notional figure. Also, valuation of private commercial land must not to be compared with the value of the State acquired land.
- (iv). Annual escalation of 5% in the lease rentals is only speculative and could also be negative in the present times when the land rates are coming down drastically. There should be no annual escalation in lease rentals at all since the rates are re-fixed once in five years.
- (v). The port has unjustifiably taken the highest registered values for small piece of land in the three villages of Bangra Kulur, Panambur and Kulai. The port land is only within Panambur village and the average registered value of land in this village comes to Rs.16,72,521/- per acre as against Rs.19,73,404/- per acre for the other two villages. Applying 15% return on land value, the lease rentals will work out to Rs.2,58,878/- per acre per annum if the average transaction value of Panambur village is considered and Rs.2,96,010/- per acre per annum if the average transaction costs of all three villages are considered.
- (vi). Comparable piece of land should only be considered for the purposes of assessing the land value. A comparable plot of 1000 acres of industrial land was allotted to M/s. Nagarjuna Power & Steel Company in the recent past at a cost of about Rs.4 lakhs per acre inside Panambur village.
- (vii). The nodal Government Agency i.e. Karnataka Industrial Area Development Board (KIADB) has fixed the outright sale value of land for industrial purpose in Panambur village at Rs.12 lakhs per acre. The cost of land prevailing in comparable areas developed by KIADB at neighbouring Bykampady village is Rs.12 lakhs which may be considered for valuation of port land.
- (viii). Since there is severe recession in the real estate market and the demand for land has come down very steeply in the port area and also elsewhere and also due to slow down in the industrial activity, any increase in the lease rent at this stage will only hamper the progress of industries. The general and bulk cargo handled by the port has come down drastically. There is a possibility of further decrease in this cargo with the proposed hike in lease rentals which is detrimental to the trade.

- (ix). Computation of return @ 15% is unreasonable in the present low interest regime in the range of 7.5% to 9%. It is only fair and equitable that the policy adopted to determine the return on value should provide for downward revision. The lease rentals based on average rate of the three villages indicated by the port and with 7.5% return works out to Rs.3.05 per sq.mtr. /month and in respect of Panambur village it will work out to Rs.2.58 per sq.mtr. per month.
- (x). The lease rental fixed for port land in Mangalore is the highest in comparison with the lease rentals of some of the other major ports.

Central Warehousing Corporation (CWC)

- (i). There have been frequent proposals for enhancement of the lease rental from the NMPT at regular intervals inspite of the fact that there is a recurring element of 5% escalation in lease rentals every year.
- (ii). It vehemently opposed this proposal and has requested not to hike the rentals.
- (iii). A huge sum has been spent by it on infrastructure to attract containerised cargo without any expectation of a major return on our investments. Despite this, there is no much improvement in import / export traffic. Any further increase in lease rentals will be suicidal.
- (iv). The NMPT may accept it as a strategic partner in the development of containerised cargo handling at the port and reduce the existing rate to 50%. In this context, it has quoted that the Railways with whom it has strategic alliance are charging only a nominal lease rent of Rs.1/- sq.mtr per annum on a profit sharing basis.

Mangalore Chemicals & Fertilizers Limited (MCF)

It has reiterated most of the points made by the New Mangalore Port Clearing & Forwarding Agents' Association (NMPC&FAA) as regards market valuation of land, annual escalation factor, unreasonable return on land, etc. In addition, it has made the following points:

- (i). Presently, there is a common method for calculation of the lease rental (on long term lease) and the license fee whereas in the instant proposal, the licence fee is proposed to be collected upfront. The financial implication of the proposed one time upfront payment in lieu of annual lease rent for a period of 10 years will be high as Rs.17/- per sq.mtr. per month as against the existing impact of Rs.9/- per sq.mtr. per month. It is, therefore, requested to continue with the existing method of collecting the lease rent on a yearly basis.
- (ii). Since naptha is used as feed stock, the margins of its Company is already under severe pressure and any increase in the lease rent would make the situation worse and grave. The proposed increase and mode of payment of lease rentals will put further severe pressure since it will have to compete with modern gas based plants and overseas suppliers in view of the Govt. proposal to decontrol fertilizer industries from the year 2006.
- (iii). The cost of infrastructural facilities established in the past like roads, electricity etc., has already been considered while arriving at the existing lease rental. In the absence of any value addition on land, there is no justification for any further increase in lease rentals.
- (iv). As per the Gazette Notification dated 31 January 1997, the base rate of lease rentals is to be taken up for revision once in seven years. Contrary to this position, the NMPT has proposed to take up the revision in base rate in five years itself.
- (v). The proposal for upward revision in lease rentals may be rejected and lease rentals may be re-fixed at Rs.2,58,878/- per annum while continuing with the existing system of the instalment payment for long term lease.

Hindustan Petroleum Corporation Limited (HPCL)

- (i). The port has allotted 3800 sq.mtrs. of land to it within the NMPT premises and the lease rent presently levied is Rs.110.69 per sq.mtr. per annum as against the proposed lease rentals of Rs.327/- per sq.mtr per annum.
- (ii). The average of the highest registered value of land transactions of three villages are considered for computation of lease rentals. This, however, does not reflect the clear picture of the prevailing land value in the Panambur village.
- (iii). It has reiterated the views of some other users that the sale value of lands of KIADB in the areas surrounding NMPT may form the basis for determining the base value of the NMPT land in Panambur.
- (iv). The lease deed entered by it with the port prescribes 10% annual escalation and accordingly the total increase effected since the last revision in 1997 is more than double. The increase in lease rentals from 1997 is very much on higher side and more than adequate to take care of the inflation or any other increase. There is, therefore, ample scope for reduction in the lease rental rather than proposing an increase.
- (v). The lease rentals has been paid by applying the escalation factor of 10% as against 5% proposed by port. Thus, the NMPT may refund the excess amount paid by it after February 2002 immediately.
- (vi). It has reiterated the point made by the MCF that as per Gazette Notification dated 31 January 1997, base rent is to be revised once in seven years whereas the port has proposed to revise the base rent in five years.
- (vii). It has reiterated most of the comments of the NMPC&FAA and also requested to re-fix the existing lease rentals for lands in Panambur based on the land rate determined by the KIADB by allowing a suitable rate of return as against 15% return applied by the NMPT.

Kanara Chamber of Commerce & Industry (KCCI)

- (i). The purpose of the land is to facilitate transit of import and export cargoes and not to be just a source of revenue. The NMPT should lease out land to port users at minimum cost to promote trade through the port and gain revenue by increasing vessel related charges.
- (ii). It may be relevant to point out that many of the port users like Kudremukh Iron Ore Company Limited, Mangalore Chemicals and Fertilizers Ltd., Mangalore Refinery Petro Chemical Limited, Larsen & Toubro and others have built industry on the port land; small port users have put up cranes and other equipment, etc. Hence, it will not be practical for them to move from the port land occupied for nearly 20 years and to shift to lands offered by the KIADB at Rs.12 lakhs per acre.
- (iii). The guidelines issued by the (then) Ministry of Shipping on 1 April 1995 states that the port shall prescribe different rates for different zones depending on the location, nature of land, security, etc. The NMPT has, however, not followed this Government guidelines. The lease rentals should not only be different for each of these villages but also be graded one depending upon various factors such as approach from highways, location advantage, extent of land, etc. If this is not possible, then average of the lowest and highest transaction must be taken for each villages for valuation of land and separate rates should be prescribed for each of the villages.
- (iv). The port has its administrative office, staff quarters, hospital, schools, etc., on the port land and hence the cost of development of the area should proportionately be borne by them also.

- (v). The suggestion for increase in the lease rentals only because 58% of total land is available for leasing is a flaw in the principle. Land covered by public places, markets, parks, greenery, afforestation has been mainly for the benefit of the NMPT staff, school, etc., and not for the benefit of port users. The cost/value of these benefits cannot be foisted on to the port users against the principles of natural justice.
- (vi). The port may consider the competition from the neighbouring ports and private ports and foresee the affect of proposed hike on the trade for the next five years.
- (vii). The present transaction cost of land has gone up only because the land has been developed, so there is no logic in adding development cost to the highest transaction land value obtained for the year 2002.
- (viii). The calculation of lease rental should be at 7% on the land value taking into consideration the current risk free rate of 6.5% to 7.5%.
- (ix). Taking into consideration the above points, lease rent for each of the villages on the basis of average of all transaction and at 7% return will be Rs.2.61 per sq.mtr.per month at Bangra Kulur village, Rs.2.42 per sq.mtr. per month at Panambur village and Rs.3.51 per sq.mtr. per month at Kulai village.

Worldwide Shipping Inc. (WSI)

- (i). In spite of the unfavourable sluggish market conditions, the port has recommended 62.5% hike in the lease rentals of open space from Rs.600/- fixed in the year 1997 to Rs.975/- per 100 sq.mtr. Further, the port has proposed 15% increase for paved area and 23% for covered godown over 1997 base.
- (ii). The lease rental for semi-paved area was fixed by the Authority at Rs.730/- per 100 sq.mtrs. with effect from 3 December 2001 with a provision for annual escalation of 5% every year and with the option for the port to re-fix the base every 5 years. There is no justification to re-fix the base in just 18 months and that too with an increase of 93% in case of semi paved area.
- (iii). Both the open area and semi paved stack yard area is located outside the security compound wall of the port where the port takes no responsibility for the security of the cargo. There is, therefore, no merit for the increase proposed.
- (iv). The recommendation of the NMPT for retrospective implementation of the proposed rates from 20 February 2002 is strongly objected since it will not be in a position to trace out one-time clients for recovery of any arrears.

Alvares & Thomas (A & T)

- (i). The rate proposed by the Port is on higher side. It may be reasonable to reduce the proposed rate atleast by 30% or otherwise the proposed rate should stand firm for 5 years without applying annual escalation of 5%.
- (ii). The new rate should come into force only after the date of approval by the Authority.

Tanir Bavi Power Company Private Limited (TBPCPL)

- (i). The areas of land used by it are open area and outside the security wall of the port and have been lying idle for years. Major part of the land utilised by it is for laying the pipelines which are buried well below the ground level. Hence the surface of the land is physically free. It does not utilise the land for any commercial activity. The fuel pipeline is laid alongside the road. The area utilised for cooling water pipeline is on the shore of the sea. The land utilised by it, therefore, cannot be compared with the land utilised by others at either security wall of the port or outside the security wall of the port.

- (ii). There is already a clause in the lease agreement entered by it with the port which envisages a 5% annual increase in the rentals. There is no justification for increasing the lease rentals for the land allotted to it.

Kudremukh Iron Ore Company Limited (KIOCL)

- (i). The port had fixed lease rentals in 1997 at Rs.2,91,362 per acre which has touched a figure of Rs.4,10,637 per acre by applying 5% escalation clause as per the lease deed.
- (ii). The land was allotted to it on, as is where is basis. The land has been developed by it for construction of pellet plant and port facilities. The NMPT's argument that lot of expenditure has been incurred for developing the land is, therefore, factually incorrect and not acceptable. It is, therefore, not appropriate to charge development cost of other land to KIOCL.
- (iii). Since the allotted land is situated in Panambur and Bangra-Kulur village, the lease rental has to be worked out based on the weighted average land value of these two village only.
- (iv). It will be fair and reasonable to take the cost of inflation index for determining the value of land in line with the property valuation done by the Income Tax Act for purpose of computing tax on capital gain.
- (v). Apart from these points, it has reiterated the points made by other users about considering the sale value offered by KIADB as the basis for working lease rent, computation of return should not more than the Bank rate of interest i.e. at 6% - 7%, etc. It has also reported that the proposal does not comply with the time period for revision specified in the Karnataka Gazette Notification of 31 January 1997.

Mangalore Refinery and Petrochemicals Limited (MRPL)

- (i). The increase proposed by NMPT is exorbitant to the extent of 500% increase in some cases. It does not really represent the current value of land proposed to be leased. It also defeats the basic objective of Land Management Policy to optimise utilisation of land and promote growth of traffic to a considerable level which will thus result in the growth of the port.
- (ii). The percentage of income to the expenditure from the estate activity is to the extent of 84% on an average for the years 1999-2000, 2000-01 and 2001-02 which shows that the port is already earning return on this investment more than the required level. Allowing any further increase will only add to their margin at the cost of the port users.
- (iii). The earlier proposal of the NMPT was sent back by TAMP in view of representation made by the trade. The NMPT instead of taking it into right perspective has only constituted another Committee which has computed higher rate than before. The NMPT has, then, adopted an arbitrary rate which is quite higher than the existing rate without any substantiation. The proposal of NMPT may be rejected outright with a direction to continue with the existing rate.
- (iv). It is not clear from the proposal how the rate of Rs.9/- per sq.mtr. per month has been arrived at and how the various rates applicable to open area and other areas is worked out. The rates for covered space and platform are same as those recommended by the Committee considering Rs.12.13 per sq.mtr. as the basis.
- (v). The land value of villages considered by the port for fixation of lease rentals are very high, particularly Kulur village. This village has got highest transaction value of Rs.65 lakhs which has lead to higher average land valuation. The appropriate village that needed to be considered are Panambur village and to a certain extent Bykampady, where actually the port land is located.

- (vi). The land belonging to NMPT is basically used for industrial purposes and as such it will be appropriate to consider the land cost adopted by the KIADB, nodal agency of the Government which has assessed the land at Panambur at Rs.12 lakhs.
- (vii). The registration value of small pieces of land used for personal use, etc., cannot be the basis for arriving at the land value. Though this point has been recognised by the Committee in their report, it has not adjusted the land valuation for these abnormal factors.
- (viii). Computation of the return on land @ of 15% is exorbitant and could be somewhere between 6% to 7% as the port is in service sector.
- (ix). Annual escalation of 5% needs to be reviewed in the light of the fact that estate value is going down all over the country.

Association of New Mangalore Port Stevedores (ANMPS)

- (i). It has reiterated the views of other users that the port has unjustifiably taken the highest registered values for small piece of land of the three villages.
- (ii). In the year 1978, undeveloped land was allotted by the NMPT to some of its member and lease deed was executed in 1979 for a yearly rental of Rs.2976/- for 93 cents of land. The port has thereafter neither incurred any expenses nor made any improvement on these lands, but, presently, the port is charging lease rental of Rs.805/- per 100 sq.mtr. which means an increase of about 12000% over the original rent of 1979.
- (iii). The comparable piece of land should be considered for the purposes of assessing land value. Also, the end use of such land is a relevant factor. Comparable value of land allotted to some of the Industries in Panambur is around Rs.4 lakhs per acre and M/s. KISCO has purchased land opposite to the port at Panambur village at Rs.2 lakhs per acre.
- (iv). There is no other comparable transaction except the land acquired by the KIADB for industries. The KIADB has developed the land with basic infrastructure like layouts, roads, electricity and water facilities which is presently available for outright purchase at Rs.12 lakhs per acre adjacent to the port land. The value of undeveloped port land is to be assessed below this for obvious reasons.
- (v). A fair rate of return of investment should be computed on actual amounts incurred for acquiring the land before 1974 and not the present market value which is only a notional figure. The value of private commercial land should not be compared with the state acquired land.
- (vi). If the mean value of the transactions reported by the Committee is considered, the average valuation of land for the three villages will work out to Rs.19,73,404; and if return @ 15% is considered, the rate works out to Rs.610/- per 100 sq.mtr.per month. This will reduce to Rs.366/- per 100 sq.mtr.per month if Bank rate of interest of 7% plus 2% more than the lending rate as allowed by the TAMP is considered.
- (vii). In view of the above, it has suggested to fix lease rentals less than Rs.500/- per 100 sq.mtr. per month.

Aspinwall & Co. Ltd. (ACL)

- (i). It has reiterated the comments made by the Association of New Mangalore Port Stevedores.

Sri Ganesh Shipping Agency (SGSA)

- (i). The proposed increase of 75% in the lease rentals is exorbitant and the users will be forced to make alternative arrangement if the same is approved.
- (ii). There is always fluctuations in the land value. The port has not decreased the land rent accordingly so far.
- (iii). The NMPT has allotted undeveloped land to it at a low rate and at present it is collecting Rs.4 lakhs per acre per annum without incurring any expense on development of the land.
- (iv). It has reiterated the most of the points made by the Association of New Mangalore Port Stevedores and other users.

Mangalore Liquid Impex Pvt. Ltd. (MLIPL)

- (i). The rate prescribed for port land at present is Rs.7.67 per sq.mtr. per month whereas the lease rentals paid by it is Rs.24.81 per sq.mtr.per month which is more than 300% of the prescribed rate. All other allottees of the port land in New Mangalore port area are paying less than Rs.10/- per sq.mtr. per month with one or two exceptions. There should not be any discrimination among the allottees of land, so far as lease rentals are concerned in absence of clear guidelines. The proposed lease rentals should, therefore, not be made applicable in its case rather the NMPT may be directed to reduce the rate.

Indian Oil Corporation Limited (IOCL)

- (i). The proposed increase of 50% in the existing lease rentals is exorbitant.
- (ii). There is an inbuilt escalation factor of 5% per annum on compoundable basis in the Lease Agreement entered by it with the NMPT. This may be continued without any further escalation in lease rentals.
- (iii). Being a Public Sector organization, it may be exempted from payment of Security Deposit. Also, clarify whether any interest is payable on this Security Deposit.
- (iv). The existing system of collection of lease rentals annually may be continued since it may not be in a position to pay the lease rentals in advance.

IMC Limited (IMCL)

- (i). It is operating Mangalore Terminal since 1982 with a rental of Rs.21/- per 100 sq.mtrs. The land rentals have been hiked a couple of times; and, with effect from April 2002 lease rentals is paid @ of Rs.805/- per 100 sq.mtrs. per year which means lease rentals have been increased nearly 40 times even without reckoning the increase proposed in the instant proposal.
- (ii). Another relevant factor to be reckoned is that the NMPT also progressively increases the water and electricity charges.
- (iii). The lease rentals should not be hiked every five years as in reality the real estate value has not appreciated; in fact it is dwindling in the recent past and hence the charges must be reduced.
- (iv). With the existing provision of 5% enhancement every year, (which means 34% compounded increase in every 5 years) the burden of highest lease has already suffered. The lease rentals should be reversed taking into consideration the current downward trend in the real estate.
- (v). The increase proposed now is 23% higher than the present rates and with an inbuilt 5% increase every year, the lease rentals will increase by nearly 60% five years from now. Such a steep increase is totally unjustified in view of the prevailing circumstances.

- (vi). The port users cannot extend value based service at competitive rate with such frequent hike in lease rentals at short notice. This will make its operations unviable in the long run and it may be more prudent to purchase the land outright.

Universal Agro (UA)

- (i). As per clause 7 of the lease deed signed by it with the NMPT for 30 years period, lease rentals can be revised by NMPT every 5 years and there is an escalation clause of 10% on the rental every year. Since the last revision in its case was done by the NMPT in April 2000, the next revision will fall due only from April 2005 onwards.
- (ii). The escalation clause in lease rentals is prescribed at 10% per annum in its case as per the old guidelines of the Government though the Govt. has revised and reduced it to the level of 5% (and now at 2% as the revised guidelines in 2004).
- (iii). It has no objection in the revision proposed by the NMPT provided the port modifies its lease deed reducing the escalation clause to 5% per annum as per the new guidelines and secondly the Minimum Guaranteed Throughput clause is totally dispensed with from the date allotment of land in accordance with the Govt. guidelines dated 17 July 2001.

Export Tradelink Agencies (ETA)

- (i). The port had acquired the land for Rs.10,000/- per acre while the proposed lease rent is Rs.4.8 lakhs per acre / per annum for undeveloped land.

Facilities like tarred roads, sufficient lighting water & wash facilities, etc., are also not provided for undeveloped land allotted to the Clearing & Forwarding Agents for stacking cargoes like Timber, Granite, Sulphur, etc.
- (ii). There should be no annual increase at all since base rate is being re-fixed once in five years. The increase affected since the last revision in 1997 itself works out 25% which is more than adequate to take care of the increase. In fact the land rate has come down drastically and the port has not reduced the lease rental accordingly.
- (iii). The total handling cost at New Mangalore Port is comparatively very high, as a result the importers / exporters are reluctant to use the port for further transactions. Any increase in the lease rent at this stage will only hamper the progress of industries.
- (iv). It has requested that the proposed lease rentals may be reduced considerably. Secondly, the revised lease rentals may be made applicable on prospective basis and not on retrospective basis.

H.M.L. Agencies Pvt. Ltd. (HMLAPL)

- (i). The lease rentals notified in the Karnataka Gazette dated 20 February 1997 are valid till 20 February 2004, and the lease rentals of semi paved area notified on 3 December 2001 is valid till 3 December 2006.
- (ii). The proposed increase is 63% in case of open area and 93% in case of semi paved stack yard as compared to the rentals fixed in 1997 and 2001 respectively are inordinate.
- (iii). Apart from the above, it has reiterated some of the comments made by other users.

Cargolinks

- (i). Their views are included in the comments of the Association of New Mangalore Port Stevedores. In addition to that it has pointed out that the granite traffic has

shifted considerably from this port to better competitive ports i.e. Chennai, Tuticorin & Karwar as the exporters are under the burden of paying higher rates mainly on account of the higher wharfage and land lease rental at this port. The instant proposal if approved will drive away the entire granite traffic from this port.

Larsen & Toubro Limited (L & T)

- (i). Present trend of steep fall in interest rate, globalization of trade and competitive market condition may be considered while finalising the rate.

ELF Gas India Ltd., (EGIL)

- (i). It has reiterated the views of the others that the proposed rates are quite high. In addition to that, it has stated that as per long term lease agreement entered by it with the NMPT on 9 December 1998, base rent is to be reviewed every 7 years, which means that the revision falls due only on 9 December 2005. Any revision in the lease rental in its case before the stipulated date is, therefore, not acceptable.

2. The NMPT has responded on the comments of the users. Some of the main points made by the NMPT are summarised below:

On the comments of M/s. Mangalore Chemicals and Fertilizers Ltd. (MCFL)

- (i). The value of the land considered for the proposed revision is based on the existing guidelines of the Govt. and at a fair rate of return @ 15% on the land value.
- (ii). The real estate recession is not found in Panambur village. There is no justification for downward revision of rates as suggested by the MCFL since the rates of land in and around Panambur village have shown upward trend and the increase in the demand for the land around Panambur village has necessitated an increase in the lease rentals.
- (iii). The concept of upfront fee is as per the Policy Guidelines issued by the (then) Ministry of Shipping (MOS) for Water front and Land Management. The upfront fee is applicable to allotment of land based on tender system. The MCFL has not participated in the tender procedure; they have been allotted land in consideration of their commitment for throughput through NMPT.
- (iv). The land at KIADB is an undeveloped land to be developed by prospective entrepreneurs for setting of small-scale industries whereas the NMPT land is meant for handling cargo through the port. The NMPT is strategically located near the port and the port related activity will be much easier and economical. As such there is no comparison of the purpose and usage of these two lands.
- (v). The in built escalation clause at 5% (compoundable) per annum is as per the policy guidelines of the MOS and the same has been adopted.
- (vi). The port has acquired the land at less cost than the lease rent proposed but, it cannot be construed that the same should be applied since the port has incurred large expenditure towards the development.
- (vii). The NMPT has developed many infrastructural facilities like road, water, electricity and drainage system and maintaining them continuously. The contention that cost of all these facilities has been recovered is not correct.
- (viii). Fair rate of return on investment made by this port for development of land has been considered at 15% of the land cost based on the previous guidelines issued by the MOS from time to time.
- (ix). As per guidelines, the revision in lease rentals can be done once in 5 years. It is found necessary to revise the existing SOR to match with the market trend of lease rents in the port area.

- (x). The annual escalation of 5% and CPI index do not have relation and, therefore, cannot be compared.
- (xi). The lease rents in other major ports cannot be compared with that of the NMPT since the facilities and services and many other aspects are different in NMPT.

On the comments of M/s. Hindustan Petroleum Corporation Ltd.

- (i). The land allotted to the HPCL is very near to the loading of vessels and the HPCL are having the advantage of quick evacuation and loading of their products. The lease rent based on the proposed revision works out to Rs.327/- per sq.mtr.per. per annum. This is based on the agreement with HPCL which has already been approved by the (then) MOS.
- (ii). The annual escalation of 10% on lease rent every year is as per the agreement entered between HPCL and NMPT and this has been approved by the (then) MOS. Since the agreement is related to the type of cargo handled, the strategical location of the lessee and as per the captive use of the lessee, the suggestion for reduction in lease rent is not justified.

On the comments of Kanara Chamber of Commerce and Industry

- (i). As regards the KCCI's request to consider different lease rents for different activities it has stated that the reasons for considering the higher value of land transaction has already been clarified.
- (ii). It is not correct that road, drainage, water supply and electricity has not been provided by NMPT. The national highway even though passing through the port is not under the ownership of the port and, hence, it cannot be maintained by NMPT.
- (iii). The KIOCL, MCFL and MRPL are the captive users and as per their requirement they have developed their own infrastructure.
- (iv). The cost of development is proportionately considered for lease rentals excluding the area under port use. The development cost is considered proportionately for land proposed for lease.
- (v). Even though 58% of the total land is available for leasing, while recommending the lease rent, the development cost has not been considered in computation of lease rent.
- (vi). The return on capital @ 6% as suggested by the KCCI and other users based on the market rate of lending (@6.5% to 7%) is not considered as fair rate of return for land assets. 15% return on land is considered as explained earlier.
- (vii). The lease rent @ Rs.3.51/- per sq.mtr.per. month suggested by KCCI is not acceptable since the revision proposed is based on Policy Guidelines of the Govt. and present rate of land considering the infrastructure development by the Port and the location.

On the comments of M/s. Worldwide Shipping Inc.

- (i). The real estate in Panambur village is not showing any downward trend. Since the port has to utilise the land commercially, the contention of the WSI that the existing rentals are already high is not correct.
- (ii). The divisions / zones and type of services have been proposed in the revised rent to justify the usage of the said land.
- (iii). It has reiterated that the proposed lease rental is as per the Policy Guidelines of the Govt. The five year validity of the rates expired on 19 February 2002 and hence are due for revision w.e.f. 20 February 2002.

- (iv). All the leases in the past have been finalised subject to a condition that any lease which are as per Scale of Rates will have to pay the revised rent from the due date of revision.
- (v). The option of revising the base every 7 years was issued by the Ministry in 1998.

On the comments of M/s. Alvares & Thomas

- (i). There is no case to reduce the lease rentals. The rates cannot be firm since this is contrary to the Guidelines. It has reiterated that the effective date of implementation of the lease rentals shall be from the due date of revision i.e. 20 February 2002.

On the comments of M/s. Tanir Bavi Power Company Private Limited

- (i). All the land in the port is for development of port activities and the contention that the land is idle is not true. The area was being used for stacking of dredging pipes by DCI and they were paying the rent for stacking of pipes. These being the prime area of the port, many other users are willing to take the land at NMPT rates.
- (ii). Even though the land is used by the firm for laying pipelines, since the area is occupied by them the land rent is applicable for the same. The contention of the firm that they are protecting the property of the port is flimsy.
- (iii). It is not true that the port has not spent any money for the development of the area utilised by this user. The firm is using the port road for all their activities free of cost.
- (iv). It is not correct to say that the rental should not be increased since usage is same.

On the comments of Kudremukh Iron Ore Company Ltd.

- (i). The land rent for fixation of lease rentals has been obtained from the registrar office of the adjoining villages where the port is situated. The land adjoining to the KIOCL premises is entirely developed by the port. The component of development cost of land has not been taken in the proposed lease rent.
- (ii). The suggestion to fix lease rent on the basis of average of two villages i.e. Panambur and Bangra-Kulur cannot be considered. As per the existing guidelines, the lease rent has to be enhanced to match the prevalent market rate for similar land in the adjoining areas of the port.
- (iii). There are so many concessions offered to KIOCL. The port provides services to the KIOCL at reasonable rate in accordance with the terms of the MOU.

On the comments of Mangalore Refinery and Petrochemicals Ltd.

- (i). The statement made by the MRPL that the proposed rates are as high as 500% is totally misleading.
- (ii). The proposed rates in some cases is negative and in some other cases it is between 17% to 51% as compared to the existing rates.
- (iii). The estimated rental income and the expenditure on the estate pointed out by the MRPL has no relevance in fixation of the lease rentals. The indirect expenditure for the developmental activities, inflation of land, interest on investment, etc. are not included in the estate expenditure. Hence, the percentage of net income @ 84% claimed by MRPL is totally baseless and irrelevant.

On the comments of Association of New Mangalore Port Stevedores (ANMPS)

- (i). The rent at which port has allotted the land to various port users in 1979 or otherwise has no relevance to rent fixation. The Scale of Rates has been fixed taking into consideration the guidelines issued by the Govt. from time to time.
- (ii). The decrease in lease rental by other ports may be due to pressure of trade and considerable decrease in the cost of land in neighbouring villages during the past.
- (iii). Land was earmarked for Nagarjuna Power & Steel Co. for establishing coal handling facilities but, the port trust has taken decision to issue notice to NPSC for cancellation, as the firm has not come up with any firm proposal even after lapse of 2^{1/2} years.

On the comments of M/s. Mangalore Liquid Impex Private Limited

- (i). The MLIPL was allotted land (measuring 1.75 acres) on short term lease basis at the rate of Rs.18/- p.m. which was similar to the rate for lease of land adjacent to this land allotted for similar activities to another firm. Since this rate was accepted by the MLIPL at the time of allotment, any reduction in the accepted rate will be a violation of conditions of agreement.

On the comments of Indian Oil Corporation Ltd.,

- (i). It has reiterated the comments furnished by it earlier. In addition to that it has clarified that the Security Deposit is refundable on surrender of land and hence no interest is payable.

On the comments of M/s. I.M.C.

- (i). 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 4 times. As per the clause in the agreement for payment of lease rentals the firm has to pay revised lease rentals as per the approved Scale of Rates. The submission of the firm that the lands available at KIADB for outright purchase @ Rs.300/- per sq.mt. cannot be compared with the port land since IMC is strategically located near the jetty for handling POL. The firm has to pay the lease rentals as per the agreement.

On the comments of M/s. Universal Agro Ltd.

- (i). The firm has so far not made any application for considering their request about amending the escalation clause as 5% instead of 10% and dispensing with the minimum guaranteed clause in the terms of its lease agreement. The position shall be reviewed on receipt of the application from this user.

On the comments of M/s. Central warehousing Corporation (CWC)

- (i). As per Clause 7 of the lease agreement, the lease rent has to be revised on the first day of January of the year after expiry of the 10 years of the lease and thereafter at the end of every 5 years. Accordingly, the lease rentals of CWC has been revised on 21st and 26th year of the said lease agreement.
- (ii). The CWC has objected and stated that the revised rate is not acceptable to it on the ground that it is pending TAMP approval and hence leads to audit objection. This argument is however, not acceptable to the port since the revised rate has been demanded as per the Agreement only.
- (iii). As regards the request of the CWC to reduce the existing rate to 50% and to charge lease rent @ Re.1/- per sq.mtr. per year on profit sharing basis, the NMPT has agreed to examine the proposal if it is submitted by them in detail.

On the comments of M/s. ELF Gas India Limited

- (i). The port has allotted land to them on long term basis for laying a pipeline at their request.
- (ii). As per the terms of the allotment order, lessee is liable to pay the lease rent, whenever the schedule of rate is revised by the competent authority. Further, as per the conditions, the port shall refix base of lease rent every seven years.

On the comments of M/s. Cargo Links (CL)

- (i). The statements made by Cargo Links that the port has allotted undeveloped land is not correct. The land allotted was hard surface and developed. The firm is using the heavy cranes for lifting the hard granites thereby spoiling the area frequently.

3.1. A joint hearing in this case was held on 8 September 2004 at the NMPT premises. At the joint hearing, the following submissions were made:

Kanara Chamber of Commerce & Industry

- (i). The return of 15% on land is unrealistic.
- (ii). Loading the development cost of port hospital, quarters, etc., on leased land is unfair.
- (iii). Considering highest transaction value is irrelevant. We should consider average rate for larger area of sale.
- (iv). The port occupies mainly Panambur. The other two villages are not very relevant for purposes of valuation of lands.
- (v). Competitiveness of industries will be affected if the proposal is accepted and upfront method of lease rental collection is adopted.

Association of New Mangalore Port Stevedores

- (i). The port acquired lands for Rs.4000/- per acre. But, we are required to pay lease rent at Rs.4 lakhs per acre.
- (ii). The land value (transaction value) adopted in the exercise is unrealistic.
- (iii). The rates at other ports like Cochin and Tuticorin are very much lower than the NMPT rates.
- (iv). The rate should be reasonably around Rs.4/- per sq.mtr.per month for unpaved area. Presently it is Rs.8.40 per sq.mtr. per month.

Mangalore Refinery and Petrochemicals Limited

- (i). The port earns a profit of 84% from estate activity in the past 3 years. There is no need to raise the rate.
- (ii). Small piece of lands sold in one village cannot be a representative basis to decide on rates affecting a large chunk of port lands.
- (iii). 5% cumulative increase per annum had already given the port an increase of 28%. There may not be any need to increase rates any further. If at all, the rates can be reduced to make industry competitive.

Kudremukh Iron Ore Company Limited

- (i). We are port based and give lot of traffic to port. We need special consideration.
- (ii). When compared to other lands available in Panambur, the rates for NMPT lands are exorbitant.

- (iii). Periodic revision makes our assessment of financial impact difficult and uncertain.
- (iv). Security deposit and upfront payment clauses in the lease agreement should be reviewed.

Universal Agro Produce Exports (P) Limited.

- (i). If at all the rates are to be revised, it should be 5 years from the date of original allotment and not after 5 years from the last revision of Scale of Rates.

Ultra Tech Cemco Ltd.

- (i). We have taken land in 1997 for cement handling. The rate was finalised in the tendering processing. There was no escalation clause then. Now because of Govt. policy, NMPT applies Minimum Guaranteed Throughput (MGT) and escalation clause also on us which is unfair.
- (ii). MGT clause should not apply in view of amendment in the Government Policy in this regard.

Hindustan Petroleum Corporation Limited

- (i). Our lease commenced in 1995 @ Rs.480 per 100 sq.mtrs. Now we pay around Rs.1100/- per 100 sq.mtrs. The increase is more than double.
- (ii). We bring in 1.2 million tones of LPG. This gives lot of revenue to Port. The estate should be seen as a support to core business of port and not as a separate source of revenue.

Indian Oil Corporation Limited

- (i). Please reduce the rates. If not possible, please retain them at the existing level.

Provident Shipping Agency

- (i). We endorse the views of Stevedores Association.

Indian Ports Warehousing Company

- (i). We endorse the views of Stevedores Association.
- (ii). The increase since last revision is 40.78% due to automatic escalation. Further burden cannot be passed on to users.
- (iii). Revision should be prospective.

World Wide Shipping Inc.

- (i). We agree with the views of Stevedores Association.

Central Warehousing Corporation

- (i). The rates offered by NMPT will not attract container trade.
- (ii). Please reduce the rates by 50% and declare a moratorium on increase in rates for a long term to give stability.

Mangalore Liquid Implex Private Ltd.

- (i). We have taken the land on tender basis. But, we request that we may be brought under normal Scale of Rates.

Shri Ganesh Shipping Agency

- (i). We request to reduce the rate to Rs.4/- per sq.mtr.

Mangalore Chemicals & Fertilizers Limited

- (i). There is a justification for downward revision.

IMC Limited

- (i). In 1982 we had taken 5 acres land at Rs.82 per sq.mtr. Now we pay Rs.850/- per 100 sq.mtr. No justification for further increase.

Bharat Petroleum Corporation Limited

- (i). The increase is manifold in the past 10 years.

Tanir Bavi Power Company Private Limited

- (i). Our land lies outside port area and no development was done by port. No case for revision.

New Mangalore Port Trust

- (i). We followed strictly the guidelines of the Government issued in 2004.
- (ii). We follow the terms and conditions of lease deed in all cases where such agreements are executed.
- (iii). We should not compare our lease rentals with other ports. Rates across ports vary.

3.2. At the joint hearing, the Central Warehousing Corporation (CWC), Hindustan Petroleum Corporation Ltd. (HPCL) and the Mangalore Liquid Impex Pvt. Ltd., (MLIPL) have made further written submissions reiterating the points made by them earlier. The MCIPL has reiterated its earlier grievance that it is paying lease rental more than 300% in excess of lease rentals paid by other users which is clearly an injustice and that the NMPT has rejected its request to reduce the lease rental and fix it on par with other users on the reasons which are unacceptable to them. It has, therefore, requested to reduce its lease rental and fix at the level fixed by the port in the last tender and also refund the excess lease rental paid by them so far.

4.1. As decided at the joint hearing, the NMPT was advised to circulate the revised computation alongwith copy of the new guidelines issued by the Govt. to the users for their comments. In response, the MCFL and the KCCI have furnished their comments which was forwarded to the NMPT for its comments.

4.2. A summary of the comments received from the MCFL and the KCCI and the NMPT comments thereon are tabulated hereunder:

Sl.No.	Comments of users on the NMPT proposal with reference to revised Govt. guidelines on March 2004	NMPT comments on users' comments.
	Comments of KCCI	
(i)	As per clause 5.3 (1) (a) (ii) of the Land Policy, the average rate of actual relevant transactions registered in the last three years are to be taken for arriving at the market value of land. This works out to Rs.16,72,521 for Panambur village, Rs.18,15,150 for Bangra Kulur and Rs. 24,32,692 for Kulur village. The land from Panambur village is given on licence basis to the port users,	As per the Guidelines, the market value of land can be determined based on various methods prescribed in clause 5.3 (1) (a) (i) to (v). Accordingly, value of land has been arrived at based on valuation made by the State Govt. for relevant market transaction for similar land.

	hence scheduled of rates must be taken on undeveloped cost as Rs.16,72,521 per acre.	
(ii).	Development cost may be charged extra only for land used for roads, culverts etc., which as per Civil Engineering Consultants is 5% of the land cost (i.e. approximately Rs.2,00,000 per acre). Accordingly the cost of developed land at Panambur will work out to Rs.19,60,548 per acre, at Bangra Kulur at Rs.21,10,684 and at Kulai village at Rs.27,60,728 per acre.	Weightage on development cost is not included in the working of land rent.
(iii).	As per clause 5.3 (1) (b) of the Land Policy, return @ 6% of the market rate is computed for fixing the lease rentals. Accordingly, the rate for Panambur village work out to Rs.1,17,633/- per annum.	As per Guidelines, the rate of return has been considered at 6% of the land cost.
(iv)	As per Clause 5.3 (1) (a) (ii) of the revised guidelines of the Govt., escalation in lease rental is to be taken at 2% per annum. 2% escalation on 6% return is negligible. The schedule of rates will any way be reviewed every five years and hence it is requested that there must be no annual escalation of schedule of rates.	It has proposed escalation @ 2% in the proposal as per the revised guidelines of the Govt. Review of SOR is proposed at every five years as per the revised guidelines.
(v).	Irrespective of whether renewal is provided for in the existing long term lease agreement, the lease should be renewed with the approval of the Board.	The renewals are as per Guidelines of the Govt.
(vi).	If there is no provision for the payment of upfront premium in the existing lease agreements, it should not be insisted upon as the viability of the Industry was worked out on the basis of the existing agreement.	The upfront premium is applicable for fresh renewals / leases except where the lessee requests for conversion / renewal on long term lease.
	Comments of Mangalore Chemicals and Fertilizers Limited	
(i).	The port lands allotted to it has not been developed by the NMPT, therefore, the development cost should not be added to land value.	Development costs not incurred by NMPT are not added to cost. In anyu case, the development cost has not been considered in final recommendation of revision of rent.
(ii).	Payment of rentals as upfront fee for long term lease is a new concept which did not exist before and it is totally against the interests of port users. Moreover, the said new guidelines clearly states that upfront fee is applicable for fresh allotment (Sec. 5.2.1.1) and not for renewal of existing lease (5.2.1.2). It is, therefore, necessary to retain the existing system of collecting rentals / licence fees annually for renewal of existing leases.	This is not relevant for fixation of lease rentals since this pertains to policy of allotment of land and, therefore, it has no comments to offer.