

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 104

New Delhi,

21 March 2017

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Paradip Port Trust for prescription of rates for allotment of open space on license basis for various purposes other than non-cargo related, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/26/2016-PPT

Paradip Port Trust

...
QUORUM

Applicant

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

ORDER

(Passed on this 8th day of February 2017)

This case relates to the proposal received from Paradip Port Trust (PPT) for prescription of rates for allotment of open space on license basis for various purposes other than non-cargo related.

2.1. This Authority vide its Order no. TAMP/53/2014-PPT dated 15 May 2015 has approved rates for allotment of Port land outside the custom bond area for non-port related activities for a period of five years. The said Order has been notified in Gazette of India vide Notification no. 224 dated 17 June 2015. For the reasons brought out in the said Order, the proposal of the port for prescription of separate differential rates for allotment of open space on licence basis for various purposes other than non-cargo related viz., for Opera, Circus, Exhibitions, Shops like Sweet, Meat, Tea Stall, Hotel, Betel shop, Book stall, Carpentry, Laundry, Cold Drinks Shop etc., Labour shed, Non-commercial Cultural functions, Fire Wood/ Bamboo/ Coal Depot, Hoarding, Wall Painting etc., in three Zones viz., Township Zone, Industrial Zone and Sector – 21 Zone, built up premises, Right of Way Leave charges for grant of way leave permission for laying of conveyors, pipelines etc., outside Custom bound area, were not approved. The Port was advised to determine the rate for allotment of above areas in the three zones following the methodology prescribed in the Land Policy Guidelines for determination of market value and license fee and file a proposal accordingly.

2.2. In this backdrop, the PPT has filed its proposal following Land Policy, 2014 vide its letter No. vide its letter no. AD-EST-MISC-III-06/2011(Vol.I)/964 dated 7 April 2016 for allotment of open space on license basis for various purposes other than non-cargo related.

3.1. The submissions made by PPT in its proposal dated 7 April 2016 are as follows:

- (i). The Authority vide Order no. TAMP/53/2014-PPT dated 15 May 2015 has approved the SOR for allotment of Port land outside the custom bond area for non-port related activities. The Order has been notified in Gazette of India vide Notification no. 224 dated 17 June 2015. The Authority has approved and notified following SOR, which is valid for a period of 5 years w.e.f. 16.07.2015.
 - (a). The market value of Port land is for four different zones as given below:
 - (i). Township;
 - (ii). Industrial;
 - (iii). Sector-21;
 - (iv). Haridaspur
 - (b). The reserved price @6% of the Port land per acre/annum.
 - (c). Escalation @ 5% per annum over the reserve price.
- (ii). Vide the said Order, the Authority had advised the PPT to rework the SOR pertaining to following items, in accordance with notified market value of Port land dated 11 June 2015.
 - (a). Allotment of open spaces on license basis for various purposes other than cargo activities.
 - (b). Allotment of built up premises.

- (c). Way leave charges for grant of way-leave permission for laying conveyor, pipelines etc.
- (d). Supervisory charges for grant of permission for laying conveyor, pipelines etc.
- (iii). As advised by TAMP, the SOR for the above mentioned items has been reworked and the same has been approved by the Land Allotment Committee (LAC) on 17 February 2016. [The PPT has furnished the copy of the LAC proceeding alongwith its proposal.]
- (iv). The Board in its Meeting held on 29 February 2016 has approved the same. [The PPT has furnished the copy of the Board Resolution, alongwith its proposal.]
- (v). Thus, the proposal of the PPT is as follows:
- (a). Revised SOR of Port Land for temporary allotment of open space on license basis outside custom bond area for Non-port related activities, in the following zones:
- (i). Township zone:

Sr. no.	Description for the purpose of allotment	Rate was fixed in the year 2001 rate per sqm./day (in ₹)	Percentage of excess over the base price with comparison with minimum base price of ₹ 0.06/-	Proposed revised rates Per sqm./day in Township zones	
				Rate approved by TAMP Per sqm./day (in ₹)	Proposed revised rate per sqm./day (in ₹)
1	Opera	0.40	6.7	0.74	4.93
2	Circus	0.25	4.2	0.74	3.08
3	Exhibition				
	(a) Commercial	0.20	3.3	0.74	2.47
	(b) Noncommercial	0.10	1.7	0.74	1.23
4	(i) Sweet/Meat/Tea stall/Hotel/Bittle Shop/Book Stall etc.	0.16	2.7	0.74	1.97
	(ii). Cold Drinks	0.33	5.5	0.74	4.07
	(iii).Enhancement /improvement of facility to the existing unit	0.66	11.0	0.74	8.14
5	For commercial use other that under Sr. No. 3	0.20	3.3	0.74	2.47
6	Sling Preparation	0.26	4.3	0.74	3.21
7	Contractor's site camp/Labour shed	0.06	1.0	0.74	0.74
8	Cultural functions (Non-commercial) like Community Puja, Drama Pandal etc.	0.10	1.7	0.74	1.23
9	(a). Hoarding	129.12	2152.0	0.74	1592.48
	(b).Wall painting	32.28	538.0	0.74	398.12

(ii). Industrial Zone:

Sr. no.	Description for the purpose of allotment	Rate was fixed in the year 2001 rate per sqm./day (in ₹)	Percentage of excess over the base price with comparison with minimum base price of ₹ 0.06/-	Proposed revised rates Per sqm./day in Industrial zones	
				Rate approved by TAMP Per sqm./day (in ₹)	Proposed revised rate per sqm./day (in ₹)
1	Opera	0.40	6.7	0.63	4.20
2	Circus	0.25	4.2	0.63	2.63
3	Exhibition				
	(c) Commercial	0.20	3.3	0.63	2.10

	(d) Noncommercial	0.10	1.7	0.63	1.05
4	(j) Sweet/Meat/Tea stall/Hotel/Bittle Shop/Book Stall etc.	0.16	2.7	0.63	1.68
	(ii). Cold Drinks	0.33	5.5	0.63	3.47
	(iii).Enhancement /improvement of facility to the existing unit	0.66	11.0	0.63	6.93
5	For commercial use other that under Sr. No. 3	0.20	3.3	0.63	2.10
6	Sling Preparation	0.26	4.3	0.63	2.73
7	Contractor's site camp/Labour shed	0.06	1.0	0.63	0.63
8	Cultural functions (Non-commercial) like Community Puja, Drama Pandal etc.	0.10	1.7	0.63	1.05
9	(a). Hoarding	129.12	2152.0	0.63	1355.76
	(b).Wall painting	32.28	538.0	0.63	338.94

(iii). Sector-21-Zone

Sr. no.	Description for the purpose of allotment	Rate was fixed in the year 2001 rate per sqm./day (in ₹)	Percentage of excess over the base price with comparison with minimum base price of ₹ 0.06/-	Proposed revised rates Per sqm./day in Sector-21-Zone	
				Rate approved by TAMP Per sqm./day (in ₹)	Proposed revised rate per sqm./day (in ₹)
1	Opera	0.40	6.7	0.56	3.73
2	Circus	0.25	4.2	0.56	2.33
3	Exhibition				
	(e) Commercial	0.20	3.3	0.56	1.87
	(f) Noncommercial	0.10	1.7	0.56	0.93
4	(k) Sweet/Meat/Tea stall/Hotel/Bittle Shop/Book Stall etc.	0.16	2.7	0.56	1.49
	(ii). Cold Drinks	0.33	5.5	0.56	3.08
	(iii).Enhancement /improvement of facility to the existing unit	0.66	11.0	0.56	6.16
5	For commercial use other that under Sr. No. 3	0.20	3.3	0.56	1.87
6	Sling Preparation	0.26	4.3	0.56	2.43
7	Contractor's site camp/Labour shed	0.06	1.0	0.56	0.56
8	Cultural functions (Non-commercial) like Community Puja, Drama Pandal etc.	0.10	1.7	0.56	0.93
9	(a). Hoarding	129.12	2152.0	0.56	1205.12
	(b).Wall painting	32.28	538.0	0.56	301.28

(b). Rent from the units used for commercial purpose:

Comparative statement of existing rates and @ 30% enhanced rent over and above the rent of the year 2010 as suggested by TAMP for realization of rent from the units used for commercial purpose.

Sl. no.	Description of shopping units	Location	Type of Roof	Existing rate per Sqft./month from	Enhanced rate is arrived at by enhancing	Existing rate is arrived at by enhancing @ per

				1.1.2010 (in ₹.)	@30% per Sqft./month over & above the rate as of the year 2010 as observed by TAMP effecting from 1.01.2016 (in ₹.)	Sqft./month every year effective from 1.1.2016 (in ₹.)
1. (A).	All the Units In Weekly Market	'V' Point area	A.C. Sheet	1.85	2.41	2.48
(B).	Nuabazar Market Complex	Nuabazar	A.C. Sheet	3.71	4.82	5.00
(c).	Fair price shop SCR Workshop Unit, Marine Workshop	'V' Point area	A.C. Sheet	3.71	4.82	5.00
2. (A).	All the Units In Weekly Market Buildings type A,B,C,D and Vijaya Market.	'V' Point area	R.C.C	4.62	6.01	6.18
(B).	Kiosk 60 Units Kiosk 22 Units	'V' Point area	R.C.C	5.55	7.22	7.44
(C).	Jubilee Market 20 Units Market Units near Aristocrat Hotel 35 Units	'V' Point area	R.C.C	7.39	9.61	9.91
(D).	Nuabazar Market Complex	Nuabazar	R.C.C	4.62	6.01	6.18
3.	Tarini Market 20 Units	Madhuban and other area	A.C. Sheet	3.71	4.82	5.00
4.	All units of Single Storied market building and Pasupati Restaurant	Madhuban and other area	R.C.C	3.71	4.82	5.00
5.	Two storied Building all Units	Madhuban and other area	R.C.C	4.62	6.01	6.18
6.	Fakirmohan Market Complex all Units	Madhuban and other area	R.C.C	5.55	7.22	7.44
7.	Trade Centre	Between Marine Drive Road to YLC	R.C.C	5.55	7.22	7.44

NB:- In comparison the existing rate is higher than the @ 30% enhanced rent as proposed by the TAMP, over and above the rent of the year 2010.

- (c). Proposed revised SOR of Port land for collection of way-leave charges in the following three zones:

Sr. no.	Description of zone	Annual lease rent Per Acre (in ₹)	Rate Per Sqm./day (in ₹)
1	Township Zone	10,92,000	0.74
2	Industrial Zone	9,36,000	0.63
3	Sector-21 Zone	8,22,000	0.56

Note: The calculation adopted for arriving at SOR for right of way leave charges = Annual lease rent / (365 days * 4048 sq. mtr.)

- (d). Proposed supervision charges (one time) for grant of way-leave permission for laying of conveyors, pipelines, cables etc.
- (i). One time supervision charges @ 15% on the cost of work (materials & laying).

3.2. The PPT alongwith its proposal has forwarded a copy of the observations made by Shri Samantray, Labour Trustee on the proposal.

3.3. Further, the PPT has stated that the proposal in reference is in continuation of earlier proposal submitted for fixing of SOR, which was approved by the Authority vide Order No TAMP/53/2014-PPT dated 15 May 2015. Therefore, Form-1, Form-2A and Form 2B are same as submitted in the earlier proposal and have not been separately furnished by the PPT, along with this proposal to avoid the duplication of the information.

4. Subsequently, the PPT vide its letter dated 29 June 2016 stated that as per the new Policy Guidelines for Land Management 2014, no lease can be granted outside the prohibited area. The existing 43 license holding premises have to be auctioned to convert into lease hold premises. Therefore, the PPT was of the view that existing licensees need not be called for consultation. The PPT also mentioned that, the rates proposed for allotment of land on license basis, is only for short term basis, such as marriage, exhibition etc. Hence, there shall not be any specific long term users due to short duration of time. In view of this, the PPT has proposed that only the way leave permission holders be consulted and accordingly has furnished the names of way leave users organisation with their address and contact numbers. Subsequently, the PPT vide its letter dated 25 July 2016 has confirmed that, no other licensees / way leave permission holders / user organization are required to be consulted in this case, except those furnished vide its letter dated 29 June 2016.

5. In accordance with the consultative procedure prescribed, a copy of the PPT proposal dated 7 April 2016 was forwarded to the users including the way leave permission holders as suggested by PPT, vide our letter dated 11 July 2016 seeking their comments, on the subject proposal. In response to this, some of the users/ way leave permission holders have furnished their comments on the proposal of PPT. These comments were forwarded to the PPT as feedback information. The PPT vide its email dated 31 December 2016 has responded to the comments of the users/ user organisations.

6. Based on a preliminary scrutiny of the proposal, the PPT was requested to furnish additional information/ clarifications on few points vide our letter dated 8 September 2016. After two reminders dated 16 November 2016 and 21 December 2016, the PPT under cover of its letter dated 31 December 2016 has responded. The information/ clarification sought by us and the response of PPT thereon are tabulated below:

Sr. no.	Information/ Clarification sought by us	Response of PPT
(i).	From the proposal of the Port, it is understood that the port vide the said proposal seeks approval for the following: (a).Rates for temporary allotment of Open space on licence basis outside Custom Bond area for various non-port related activities under Township Zone, Industrial Zone and Sector – 21 Zone.	It is to mention here that the market value of the Port land was notified by the TAMP on 11.06.2015 which came into force w.e.f. 11.07.2015. This current revised proposal was approved by the Board on 29.02.2016 i.e within 8 months from the date the market value of the Port land came in to force. As per the TAMP approval, the rate has to enhance @ 5% per annum which shall be

	<p>(b).Rates for Shopping Units used for commercial purpose.</p> <p>(c).Way leave charges</p> <p>(d).Supervision charges</p> <p>With regard to (a) and (c) above, the port has arrived at the proposed rentals based on the Reserve Price in terms of annual lease rent for Township Zone, Industrial Zone and Sector – 21 Zone, as relied upon in the May 2015 Order. In this connection, it may be recalled that the Reserve price in terms of annual lease rent in the May 2015 Order was based on the Market value of land as arrived by the approved valuer then as on 15 August 2014. Considering that two years have passed after the valuation of the land, the Paradip Port Trust (PPT) to examine to update the market value of land to arrive at the rentals for (a) and (c) above.</p>	<p>effected only on completion of a year. Hence, the Port is of the opinion that no separate market value of the Port land needs to be assessed again. Accordingly, the proposal was submitted based on the notified rates of 2015.</p>
(ii).	<p>From the statement (Annexure-3) furnished by PPT, it is not clear how from the Reserve price in terms of Annual lease rent at ₹.0.74 per sq.m per day in respect of Township Zone, various rates have been arrived for allotment of open space for non-port activities in the Township Zone. The PPT to furnish detailed working in respect of each of the rate proposed by it in Township Zone.</p>	<p>As observed by TAMP and also to avoid complication and mis-interpretation in implementing the various rates, single rate in each zone based on the market value notified by the TAMP has been worked out by PPT for allotment of land on license basis for different purposes and the same was approved by the Board of Trustees vide their Resolution No. 59/201617 dated 29.11.2016. The copy of which is furnished by PPT.</p>
(iii).	<p>From the statement (Annexure-3) furnished by PPT, it is not clear how from the Reserve price in terms of Annual lease rent at ₹.0.63 per sq.m per day in respect of Industrial Zone, various rates have been arrived for allotment of open space for non-port activities in the Industrial Zone. The PPT to furnish detailed working in respect of each of the rate proposed by it in Industrial Zone.</p>	
(iv).	<p>From the statement (Annexure-3) furnished by PPT, it is not clear how from the Reserve price in terms of Annual lease rent at ₹.0.56 per sq.m per day in respect of Sector-21 Zone, various rates have been arrived for allotment of open space for non-port activities in the Sector-21 Zone. The PPT to furnish detailed working in respect of each of the rate proposed by it in Sector-21 Zone.</p>	
(v).	<p>From the statement (Annexure-3) furnished by PPT, it is seen that the existing rate of shop units as on 1 January 2010 has been escalated by 30% by PPT to arrive at the proposed rates for the shop units. In this regard, it may be recalled that the Authority vide para 13(xi) of the May 2015 Order has already held that since the rates for built up areas at PPT has not been fixed by the Authority in the past, the question of relying on the existing rates of built up areas to arrive at the proposed rentals does not arise. In view of the above position, the Authority in the May 2015 Order had advised PPT to formulate a</p>	<p>As advised by the TAMP, the SOR for allotment of shopping units will be revisited and a suitable proposal will be submitted in line with Mormugao Port Trust proposal.</p>

	proposal based on the decision to be given by Ministry of Shipping (MOS) with regard to methodology to be followed for fixing Scale of Rates (SOR) of the premises of the Port . However, subsequently, the Mormugao Port Trust (MOPT) had come up with a proposal for fixation of lease rentals for the various Port structures under the Land Policy Guidelines, 2014. Based on the proposal of the Port, lease rentals have been fixed for the structures of MOPT based on the market value of the buildings as assessed by the Valuer, vide Order No.TAMP/32/2015-MOPT dated 27 February 2016. The PPT to take note of the MOPT proposal and propose lease rentals alongwith conditionalities for the shop units, based on the latest market value.	
(vi).	The conditionalites governing levy of way leave charges and temporary allotment of land for non-port activities to be proposed.	The allotment will be governed as per the Land Policy Guidelines and PPT immovable properties (Leasing and Licensing) Regulation, 1975 and Land Policy Guidelines issued from time to time.
(vii).	The PPT alongwith its proposal is seen to have sent a copy of the observation made by Shri Samantray, Labour Trustee on the proposal. The relevance of forwarding these observation to us to be explained.	Mr. P. Samantray in the capacity of Labour Trustee had certain observation and reservation on the SOR approved by TAMP. In order to maintain transparency, it was decided to send these observation to TAMP, so that the same may be examined by the Authority while approving the proposal of PPT.
(viii).	Further, in the Minutes of the Board Meeting, it is stated that the modalities of calculation will be explained to Shri Samantray, Trustee, before sending to TAMP/MOS. The action taken by PPT in this regard to be indicated.	While granting approval to the proposed SOR vide Resolution No. 237/2015-16, dated 29.02.2016, Board has instructed to explain the calculation to Shri P.K. Samantray, the then Labour Trustee. Accordingly, the calculation were explained to Mr. P.K. Samantray, Labour Trustee on 11.03.2016 after which he made similar observation again on 21.03.2016 which was also sent to TAMP.
(ix).	The PPT to clarify the following: (a). The date of effect of the proposed rates and the date upto which the proposed rates would be in force. (b). Whether the proposed rates would be co-terminus to the lease rentals approved vide May 2015 Order?	The dated of effect of this proposal will be from the date of notification and the instant proposal will be co-terminus to the lease rental approved vide Order No. TAMP/53/2014-PPT dated 15.05.2015.
(x).	The PPT to furnish the proposed draft Scale of rates.	Board's approval vide Resolution No. 59/2016-17, dated 29.11.2016 (draft SOR) is furnished by PPT.

7.1. A joint hearing on the case in reference was held on 27 September 2016 at the PPT premises. At the joint hearing, the PPT made a brief power point presentation of its proposal. The PPT and the concerned users/ user organizations have made their submissions at the joint hearing.

7.2. Based on the submissions made by PPT during the joint hearing, the PPT was requested vide our letter dated 17 October 2016 to file its revised proposal, as desired by the port. This was followed by reminders dated 16 November 2016 and 21 December 2016.

7.3. The PPT has responded vide its letter dated 31 December 2016. The Port has stated that to avoid complication and mis-interpretation in implementing the various rates, single rate in each zone based on the market value notified by the TAMP in May 2015 Order, has been worked out by PPT for allotment of land on licence basis for different purposes. The same has been approved by the Board of Trustees in their Meeting held on 29.11.2016. The copy of the Board Resolution has been furnished by the PPT. Accordingly, the PPT has proposed the following:

“(a). Scale of Rates of Port Land for temporary allotment of open space on licence basis outside Custom bound area for non-port related activities:

Sl. No.	Description of Zone	Rate in ₹ per sq.m per day
1.	Township	0.74
2.	Industrial	0.63
3.	Sector-21	0.56

(b). Scale of Rates of Port Land for collection of Way Leave charges:

Sl. No.	Description of Zone	Rate in ₹ per sq.m per day
1.	Township	0.74
2.	Industrial	0.63
3.	Sector-21	0.56

(c). Supervision charges (one time) for grant of Way Leave permission for laying of Conveyors, Pipelines, Cables etc. @ 15% of total cost of pipelines and conveyors.”

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

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

- (i). The lease rentals for the estates of PPT were fixed for the first time by this Authority in May 2015, based on a proposal filed by PPT. Vide the said Order no. TAMP/53/2014-PPT dated 15 May 2015, reserve price in terms of annual lease rentals were approved in respect of allotment of Port land for non-port related activities [on premium basis (Annual lease) in developed and un-developed land] outside the Prohibited area and allotment of Port land for Government schools and colleges in Port Township for the four Zones viz., Township, Industrial, Sector-21 and Haridaspur [on premium basis (Annual lease) in developed and un-developed land] outside the Prohibited area.

In the said proposal of PPT, which had culminated into the Order of May 2015, the PPT had also proposed rates for allotment of open space on licence basis for various purposes (other than non-cargo related purpose) viz., for Opera, Circus, Exhibitions, Shops like Sweet, Meat, Tea Stall, Hotel, Betel shop, Book stall, Carpentry, Laundry, Cold Drinks Shop etc., Labour shed, Non-commercial Cultural functions, Fire Wood/ Bamboo/ Coal Depot, Hoarding, Wall Painting etc., in three Zones viz., Township Zone, Industrial Zone and Sector – 21 Zone, built up premises, Right of Way Leave charges for grant of way leave permission for laying of conveyors, pipelines etc., outside Custom bound area. However, for the reason that the proposed rates for each of the purpose (except built up premises) was arrived by the PPT by considering the rates as prevailing in the year 2001 as base and since the lease rentals for PPT had not been fixed by this Authority in the past, this Authority had not approved the lease rentals proposed by the Port.

Even in respect of the built up premises, the rentals for each of the various structures had been arrived at by the PPT by taking into account the Replacement Value of the

various structures adjusted for depreciation. Since the Land Policy Guidelines of 2014 did not prescribe any methodology to be followed for fixing the SOR of the premises of the Port and considering that the reference made to Ministry of Shipping (MOS) remained to be disposed of, prescribing rentals for the various structures at PPT by taking into account the Replacement Value of the various structures, was not felt appropriate. Thus, the PPT was advised to formulate a proposal based on the decision to be given by the MOS in this regard. However, subsequently, the Mormugao Port Trust (MOPT) had come up with a proposal for fixation of lease rentals for the various Port structures under the Land Policy Guidelines, 2014. Based on the proposal of the Port, lease rentals have been fixed for the structures of MOPT based on the market value of the buildings as assessed by the Valuer, vide Order No.TAMP/32/2015-MOPT dated 27 February 2016. Thus, the PPT was requested to take note of the MOPT proposal and propose lease rentals alongwith conditionalities for the shop units, based on the latest market value.

It is in this backdrop, the PPT has come up with a proposal only for fixation of Scale of Rates of Port Land for temporary allotment of open space on licence basis outside Custom bound area for non-port related activities and Scale of Rates of Port Land for collection of Way Leave charges. The PPT has delinked its proposal for prescription of rates for allotment of shopping units and has agreed to come up with a separate proposal subsequently based on the MOPT proposal. It has not indicated any time line by which it will file the proposal. In this connection, considering that the rates for allotment of shopping units has not been fixed till date, the PPT is directed to come up with the proposal for allotment of shopping units based on the latest market value, within two months from the date of notification of this Order in the Gazette of India.

- (ii). The PPT has filed its proposal in April 2016. In the said proposal, the port had proposed different rates for temporary allotment of open space on license basis outside custom bond area for Non-port related activities for different purposes, in the different Zones. However, in order to avoid complication and mis-interpretation in implementing the different rates for different purposes, the Port in its proposal dated 31 December 2016 has proposed single rate for each zone. This revised proposal of PPT alongwith the clarification furnished by the PPT during the processing of the case, is being considered in this analysis.
- (iii). To arrive at the proposed rate for each Zone, the PPT is seen to have relied upon the Reserve Price in terms of Annual lease rent determined in respect of the developed land in each Zone in the May 2015 Order of PPT, as given below:

(Amount in ₹ per acre)

Sl. No.	Zone	Reserve Price in terms of annual Lease Rent
1.	Township	10,92,000/-
2.	Industrial	9,36,000/-
3.	Sector-21	8,22,000/-
4.	Haridaspur	31,650/-

From the above rate per acre per annum in respect of each Zone, which was approved in the May 2015 Order, the PPT has arrived at the rate per sq.m per day, as given below, changing only the unit of levy:

No.	Particulars	Basis	Township Zone	Industrial Zone	Sector - 21
i	Reserve Price in terms of Annual lease rent (per acre/ per annum)	Order no. TAMP/ TAMP/53/2014- PPT dated 15 May 2015	1092000.00	936000.00	822000.00

ii	Reserve Price in terms of Annual lease rent (per sq.m/ per annum)	1 acre = 4046.86 sq.m Thus, (i / 4046.86)	269.84	231.29	203.12
iii	Reserve Price in terms of Annual lease rent (per sq.m/ per day)	1 year = 365 days Thus, (ii / 365)	0.74	0.63	0.56

From the above it can be seen that the Reserve Price in terms of annual Lease Rent approved in May 2015 Order has been taken as base by PPT now to arrive at the rates for temporary allotment of open space in Port Land on licence basis outside Custom bound area for non-port related activities as well as towards Way Leave charges in respect of each of the Zone. In other words, the rentals approved in the May 2015 Order as well as the rates approved now are the same, albeit with a different unit of levy.

- (iv). In this connection, it may be recalled that the Reserve price in terms of annual lease rent in the May 2015 Order was based on the Market value of land as arrived by the approved valuer then as on 15 August 2014. Considering that two years have passed after the valuation of the land, the PPT was requested to examine updating the market value of land to arrive at the rentals. However, the Port is of the opinion that it does not want to again assess the market value of the Port land on the ground that the base rate notified in June 2015 has not matured for annual escalation when the Board of the PPT approved the proposal in February 2016. In this regard, it is also noteworthy that the port has not sought a different five year validity for the rentals approved, but has proposed the validity of the rentals approved to be co-terminus to the validity of the Reserve price in terms of annual lease rent as approved vide Order No. TAMP/53/2014-PPT dated 15 May 2015. Considering that the validity of the rentals approved is proposed to be co-terminus to the validity of the Reserve price in terms of annual lease rent as approved vide Order No. TAMP/53/2014-PPT dated 15 May 2015, the view of the port to not again assess the market value of the Port land is accepted.
- (v). Thus, the above said derived rate of ₹ 0.74 per sq.m per day, ₹ 0.63 per sq.m per day and ₹ 0.56 per sq.m per day in respect of Township Zone, Industrial Zone and Sector – 21 respectively has been proposed by the PPT for temporary allotment of open space in Port Land on licence basis outside Custom bound area for non-port related activities as well as towards Way Leave charges in respect of each of the Zone.

Considering that the Reserve Price in terms of annual Lease Rent as approved in the May 2015 Order in respect of Township Zone, Industrial Zone and Sector – 21 has been taken as base by PPT to arrive at the rate for temporary allotment of open space in Port Land on licence basis outside Custom bound area for non-port related activities as well as towards Way Leave charges in respect of each of the Zone and keeping in view that the port's revised proposal has the approval of the Board of Trustees, this Authority is inclined to approve the rates for temporary allotment of open space in Port Land on licence basis outside Custom bound area for non-port related activities as well as towards Way Leave charges in respect of each of the Zone, as proposed by the Port.

- (vi). The port has also proposed a note to the effect that the one time Supervision charges for grant of Way Leave permission for laying of Conveyors, Pipelines, Cables etc. will be 15% of total cost of pipelines and conveyors. From a harmonious reading of the note no. 5 and 6 of the Broad Terms and Conditions for issuance of Right of way

Permission for laying Pipelines/conveyors etc., forming part of the Land Policy Guidelines, it can be seen that the Guidelines stipulate that each Port Trust Board can formulate and approve its own policy for levy of one time supervision charges as a percentage of the cost of laying of pipelines/conveyors etc. in the port limits from all the parties to the Port Trust. The note proposed by the Port is in line with the said stipulation of the Land Policy Guidelines and hence, is approved.

- (vii). The rate for temporary allotment of open space in Port Land on licence basis outside Custom bound area for non-port related activities as well as towards Way Leave charges in respect of each of the Zone now approved would come into effect from the date of notification of the Order in the Gazette of India as proposed by the PPT and the validity will be co-terminus to the validity of the Reserve price in terms of annual lease rent as approved vide Order No. TAMP/53/2014-PPT dated 15 May 2015, which is also as proposed by the PPT.
- (viii). The PPT is seen to have furnished a full-fledged Scale of rates inclusive of short title, commencement and application, definitions, terms and conditions etc. The said definitions, terms and conditions are seen to be the same as already prescribed in the Rent Schedule approved vide Order No. TAMP/53/2014-PPT dated 15 May 2015. Since the rate for temporary allotment of open space in Port Land on licence basis outside Custom bound area for non-port related activities as well as towards Way Leave charges in respect of each of the Zone now approved, would form part of the same Rent Schedule as approved in May 2015, it is not necessary to again prescribe the said definitions, terms and conditions along with the rates now approved.
- (ix). The PPT alongwith its proposal has forwarded to us the observation and reservation expressed by its Labour Trustee and has requested this Authority to examine the same. The comments of the Labour Trustee are mainly seen to be with regard to the change to be effected in the Land Policy Guidelines with regard to considering all five factors to prescribe SOR rather than SOR based on the highest value of the land, increase in the rentals, collection of rentals by PPT, renewal of lease by PPT.

In this connection, it is to state that the rate for temporary allotment of open space in Port Land on licence basis outside Custom bound area for non-port related activities as well as towards Way Leave charges in respect of each of the Zone approved now, is not being fixed afresh based on a fresh valuation of land but is being fixed now by relying upon the reserve price in terms of annual lease rentals which was considered in the May 2015 Order of PPT. The said reserve price in terms of annual lease rentals fixed in May 2015 have been in force for more than a year now. Therefore, the argument that the rentals approved now is very high does not hold any merit now. With regard to the point made by the Trustee to the effect of changing the Land Policy Guidelines, it is to state that the Land Policy Guidelines is issued by the Government of India and this Authority does not have the competence to effect changes in the Policy issued by the Government. The other issues as made by the Labour Trustee like collection of rentals and renewal of lease pertain to PPT. The PPT may look into these issues.

- (x). It may be recalled that in the proceedings relating to the Order of May 2015, the PPT had stated that the Scale of Rates for the Custom bound area is being worked out by the port and is yet to be finalised by the port. The PPT in its submissions had also stated that the proposal for fixation of Scale of Rates related to Harbour area will be submitted by PPT separately. In spite of lapse of a considerable time, the PPT has still not come up with a proposal for fixation of Rates for the Custom bound area and Harbour area. The Port is directed to come up with a proposal for fixation of Rates for the Custom bound area and Harbour area, within two months from the date of notification of this Order in the Gazette of India.

10.1. In the result, for the reasons given above, and based on a collective application of mind, this Authority approves insertion of the following provisions as Section 3.7 of the existing Rent Schedule of PPT approved vide Order No. TAMP/53/2014-PPT dated 15 May 2015:

- “(a). Scale of Rates of Port Land for temporary allotment of open space on licence basis outside Custom bound area for non-port related activities:**

Sl. No.	Description of Zone	Rate in ₹ per sq.m per day
1.	Township	0.74
2.	Industrial	0.63
3.	Sector-21	0.56

- “(b). Scale of Rates of Port Land for collection of Way Leave charges:**

Sl. No.	Description of Zone	Rate in ₹ per sq.m per day
1.	Township	0.74
2.	Industrial	0.63
3.	Sector-21	0.56

- “(c). Supervision charges (one time) for grant of Way Leave permission for laying of Conveyors, Pipelines, Cables etc. @ 15% of total cost of pipelines and conveyors.”**

10.2. The above provisions would come into effect from the date of notification of the Order in the Gazette of India and their validity will be co-terminus to the validity of the Reserve price in terms of annual lease rent as approved vide Order No. TAMP/53/2014-PPT dated 15 May 2015.

(T.S. Balasubramanian)
Member (Finance)

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

F. No. TAMP/26/2016-PPT	Proposal received from Paradip Port Trust for revision of Scale of Rates of Port land.
--------------------------------	---

A summary of the comments of users / user organisations and response of Paradip Port Trust (PPT) thereon is tabulated below:

Sr.no.	Comments of way leave permission holders	Reply of PPT											
1.	Indian oil Corporation Limited (IOCL)												
	IOCL is a major port facility user at Paradip and the steep increase proposed by PPT would adversely affect the investment made by IOCL at Paradip. The increase proposed by PPT is very high (upto 400% in some cases) and it is to be reviewed.	During Public Consultation meeting attended by IOCL on 27.09.2016, there was no objection on this matter.											
2.	Indian Farmers Fertiliser Cooperative Ltd (IFFCO)												
(a).	The existing Scale of Rates of PPT is already high as compared to other Indian ports.	In the recent meeting with IFFCO for renewal of license for captive berths IFFCO has already agreed to pay the proposed ROW rates for the conveyor as a part of the agreement.											
(b).	The rates are proposed to be revised as per proposal of PPT as under:												
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">Sr. no.</th> <th style="width: 30%;">Description</th> <th style="width: 20%;">Existing Rate (Sqr.Mtr./Day)</th> <th style="width: 20%;">Proposed Rate (Sqr.Mtr./Day)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Way-leave charges</td> <td>₹. 0.48</td> <td>₹. 0.74</td> </tr> <tr> <td>2.</td> <td>Licence Fees</td> <td>₹. 0.48</td> <td>₹. 2.47</td> </tr> </tbody> </table> <p>Any increase in SOR on port land as proposed by PPT would be an additional financial burden on IFFCO.</p>		Sr. no.	Description	Existing Rate (Sqr.Mtr./Day)	Proposed Rate (Sqr.Mtr./Day)	1.	Way-leave charges	₹. 0.48	₹. 0.74	2.	Licence Fees	₹. 0.48
Sr. no.	Description	Existing Rate (Sqr.Mtr./Day)	Proposed Rate (Sqr.Mtr./Day)										
1.	Way-leave charges	₹. 0.48	₹. 0.74										
2.	Licence Fees	₹. 0.48	₹. 2.47										
3.	M/s Essar Bulk Terminal Paradip Ltd (EBTPL)												
(a).	EBTPL has entered license agreement with PPT for mechanization of CQ-3 berth for a period of 10 years and extendable further 5 years.	No specific comments have been furnished by the Port.											
(b).	EBTPL has mechanized the CQ-3 berth and installed Shiploader and conveyors on berth for loading Pellets. EBTPL has connected with series of conveyors with transfer towers to Pellet Plant (6 MMTPA) of Essar Steel India Ltd. EBTPL are currently loading Pellets about 4 lakh tonnes per month with high load rates and there will be improved loadings in future as Essar Steel is in process of building 2 nd Pellet Plant which will have another 6 MMTPA. It is expected to be commissioned in mid FY18.												
(c).	PPT has allotted land both inside and outside of the Paradip Port prohibited area in which outside ROW and some part of inside port area is completely undeveloped and marshy area which EBTPL developed during												

	construction stage. Following are our submissions which need to be considered while finalizing the scale of Rates.	
	(i).The ROW land is mainly used for conveyor series and is engaged in mechanized cargo transportation of Pellets and EBTP used small area for laying conveyor trestle foundations. At some of the areas, Port is allowing store cargo underneath the conveyors leaving the conveyors structural surrounding area. As the cargo handling efficiency is increased without using the Port back up facilities including road infrastructure, the ROW charges should be charged at minimum rates.	No land allotted to EBTP is being used by PPT. However, occasionally the cargo spillages are occurring beneath conveyor belt. However, PPT will take care in future.
	(ii).There is no uniformity of pricing method in calculating the area charges. At present, Traffic Dept, PPT is charging 5 types of rates for Dock area land (Inside Port area) whereas ESTATE, PPT is charging @ ₹.14/- per sq.mtr/month. We request for one rate for entire ROW area and it should not be more than ₹.9/- per Sq.mtr.	As per Land Policy Guidelines ROW charges should be based on market value of the Port land notified. The rate notified by the TAMP vide Notification No. TAMP/53/2014-PPT dated 11.06.2015 is exclusively for the areas located outside the custom bond area. The SOR for the custom bond are is different types of stockyards which are having different SOR. Hence, there can be different rates. It is further emphasized that PPT is not charging any rate which is not as per SOR.
	(iii).PPT should allot ROW to EBTP for the licensing period as per Concession Agreement instead of renewals every year as there is a legal licensing agreement in place between Paradip Port and Essar Bulk Terminal Paradip Ltd for a period of 10 years and extendable another 5 years.	ROW allotment is governed as per the provision of Land Policy Guidelines. Accordingly permission is extended on yearly basis. However, the said procedure does not have any impact on the User as Port is taking advance action for renewal of permission. Besides this, such practice will help the Port to change the revised rate as and when required in accordance with revision of rates.

1.2. Further, IFFCO while furnishing its comments as brought out above, has also drawn reference to its comments furnished by it earlier with regard to the proposal filed by PPT in September 2014 for revision of rates for allotment of Port land, which, had interalia, included proposal for revision of way leave charges. The said comments of IFFCO and the response of PPT furnished then, are tabulated below:

Sr. no.	Comments of IFFCO dated 30.12.2014.	Reply of PPT dated 03.02.2015
(a).	IFFCO is making payment to Paradip Port Trust for allotment of Port land not directly for Port related activities such as use as railway siding for dispatch of Fertilizers at Rangiarh as per below: a) Ground Rent for 14,000 Sqr. Mtr. –₹.25,000/- per acre per annum. b) Licence Fees for 10,345 Sqr. Mtr.- ₹.0.48 per Sqr. Mtr. per day. c) Ground Rent for laying electric cable (142 Sqr.Mtr.) – ₹.0.48 per Sqr. Mtr. Per day.	As per the Land Policy Guidelines, 2014 there is no provisions available in the Land Policy to give concession to party like IFFCO.
(b).	IFFCO Plant at Paradip was taken over from M/s. Oswal Chemicals & Fertilizers Ltd. In Oct	No specific comments furnished by the port.

	2005. Since then, there has been no enhancement in production capacity of fertilizer, as the plant faces serious constraints in despatch of finished fertilizer in the absence of railway siding inside the plant.	
(c).	Therefore, annual tonnage of IFFCO's raw material imports has only marginally increased since 2005. But IFFCO has been paying various port charges with enhancements in SOR at regular intervals as per agreement.	
(d).	Further, Fertilizer prices are based on subsidy fixed & controlled by the Deptt. Of Fertilisers.	
(e).	Also the subsidy on Phosphatic Fertilizers has been reduced as per new Government Policy without any additional compensation to the manufacturer for rise in price of fertilizer raw-materials. This has reduced profit margin drastically on the sale of fertilizers.	
(f).	In view of the circumstances as aforementioned any increase in SOR on Port land would be an additional financial burden on IFFCO since the same cannot be passed on to consumers.	
(g).	IFFCO requests that, there should not be further upward revision in SOR in Port land allotted in favour of IFFCO.	

2. A joint hearing on the case in reference was held on 27 September 2016 at the PPT premises. At the joint hearing, the PPT made a brief power point presentation of its proposal. At the joint hearing, the PPT and the concerned users/ user organizations have made the following submissions:

Paradip Port Trust (PPT)

- (i). Based on the direction of the Authority in the May 2015 Order of PPT, the SOR pertaining to Allotment of open spaces, Allotment of built up premises, Way leave charges and Supervisory charges has been reworked.
- (ii). The rates for temporary allotment of land has been reworked by us. Instead of having various categories of open allotment i.e. Opera, Circus, exhibition etc., it has now been decided to have a single rate for temporary allotment irrespective of the end use. PPT will file a revised proposal in this regard.
- (iii). In respect of Built-up premises, PPT will submit a revised proposal in line with the Mormugao Port Trust, as indicated by TAMP.
- (iv). The proposed way leave charges is in line with the direction of TAMP.
- (v). The proposed supervision charges is as per the Land Policy Guidelines.

Essar Bulk Terminal

- (i). The existing Way leave charges are already on a higher side. Further increase may be avoided.

(PPT: The increase sought is not a great jump. On the earlier occasion, the existing way leave charges of ₹ 0.48 per sq.m per day was proposed to be increased to ₹ 2.2 per sq.m per day. Now, we have proposed to increase the existing way leave charges of ₹ 0.48 per sq.m per day to ₹ 0.74 per sq.m per day. The proposed increase is bare minimum.)
