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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 500

New Delhi,

29 December 2017

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 disposes of the proposal received from the V.O. Chidambaranar Port Trust for revision of lease rent of port lands following the amended Land Policy Guidelines for Major Ports, 2014, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

TARIFF AUTHORITY FOR MAJOR PORTS
Case No. TAMP/52/2017-VOCPT

V.O.Chidambaranar Port Trust

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Applicant

QUORUM:

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

ORDER

(Passed on 14th day of November 2017)

This case relates to the proposal received from V.O. Chidambaranar Port Trust (VOCPT) for revision of lease rent for port lands for a period of 5 years w.e.f. 01 July 2017 to 30 June 2022 at V.O. Chidambaranar Port. The VOPT has filed the proposal under the amended Land Policy Guidelines, 2014 announced by the Ministry of Shipping (MOS).

2. The existing lease rent of VOCPT lands was last approved by this Authority vide Order No.TAMP/6/2012-VOCPT dated 4 April 2014 with 2% escalation every year which was notified in the Gazette of India on 21 May 2014 with Gazette no.156. The lease rent approved by this Authority was given effect retrospective effect from 1 July 2012 as sought by VOCPT and validity of the rent was for 5 years i.e. till 30 June 2017.

The lease rent approved by this Authority for the land in Port area belonging to the VOCPT w.e.f. 01 July 2012 till 30 June 2017 with 2% escalation every year is as under:-

Sl. No.	Purpose	(Rate in ₹ per sqm. per annum)		
		Zone -A	Zone B	
			Port related	Non-port related
1	Service / Residential	110.60	110.60	199.08
2	Industrial	221.19	221.19	398.14
3	Commercial	335.14	335.14	603.25

3. In this backdrop, the VOCPT has filed a proposal under cover of its letter No.E(C)-CIV-38/2/2017/EST/D.1310 dated 7 June 2017 for revision of lease rent of port land for a period of 5 years in reference. The highlights of the proposal are as given below:

- (i). The port awarded the work of computing the revised lease rent to M/s. KITCO Ltd., Govt. approved valuer, Cochin. M/s. KITCO submitted the report of land valuation of VOCPT.
- (ii). M/s.KITCO in the draft report has considered land valuation by using other relevant factors for consideration (as per Clause No. 13 (a) (v) of LPG 2014). [Port has subsequently submitted the final report of M/s. KITCO Ltd.]
- (iii). The land value assessed by the approved valuer in the draft Report is as follows:

(In ₹)

Sl. No.	Methodology	Zone	Category	Land Value (₹ sqm)	Lease / ₹ Sqm.
IA	State Government's ready reckoner	A	Residential	4150.00	249.0
			Commercial	9000.00	540.0
			Industrial	745.00	44.70
IB	State Government's ready reckoner	B	Residential	7700.00	462.0
			Commercial	20000.00	1200.00
			Industrial	4574.12	274.44
IIA	High actual transaction	A	Residential	NIL	NIL
		B	Residential	5034.00	302.05
		A	Warehouse	1200.00	72.00
IIIA	Highest Tender Cum Auction	A	Residential	NIL	NIL
			Commercial	5502.00	330.12
			Industrial	4001.00	240.06
IIA	Income approach /	A	Residential	3994.70	239.68

	rent capitalization		Commercial	6902.80	414.17
			Industrial	5354.19	312.25
			Warehouse	6249.73	374.98
	Income approach / rent capitalization	B	Residential (port)	NIL	NIL
			Residential (non-port)	7989.41	479.36
			Commercial (non-port)	13111.10	786.67
			Warehouse (port)	10479.40	628.76
			Industrial (port)	9105.35	546.32
IV	Income approach / rent capitalization *	Opt-1	Salt pan	314.06	18.84
		Opt-2	Salt pan	30.18	1.81
V	Whole Sale Index Method	A	Phosphoric acid tank	25201.9	2168.00
			Service / residential	2130.52	127.83
			Industrial	4260.86	255.65
		B	Commercial	6455.91	387.35
			Service / residential	3834.94	230.10
			Industrial	7669.50	460.17
			Commercial	11620.61	697.24

* The Report includes salt pan. VOCPT proposal for revision of lease rent does not mention about salt pan.

- (iv). M/s. KITCO, has recommended, revision of lease rent of VOCPT land based on the WPI method. The land value and lease rent at 6% of the proposed land value, recommended by the approved valuer is tabulated below:

(In ₹)

Sl. No.	Purpose	Area	Proposed land value / Sqm.	Proposed lease / Sqm / annum
1	Service / residential	Zone - A	2130.52	127.83
2	Industrial		4260.86	255.65
3	Commercial		6455.91	387.35
4	Service / residential	Zone - B	3834.94	230.10
5	Industrial		7669.50	460.17
6	Commercial		11620.61	697.24

- (v). (a). For the revision of lease rates, the VOCPT has constituted the Land Allotment Committee (LAC) under the Chairmanship of Deputy Chairman & Estate Officer, Chief Engineer and other Members. The other members of the LAC are Traffic Manager and Financial Adviser & Chief Accounts Officer of VOCPT.
- (b). The meeting of the LAC was held on 3 April 2017. The minutes of the LAC meeting is furnished by VOCPT. The Committee had detailed discussion in the meeting on the land value report furnished by M/s.KITCO. The Committee also had gone through the report and discussed the various methodologies for calculation of lease rent.
- (c). The main points made by the LAC for finalizing the lease rent for port lands are summarized below:
- (i). In the report, M/s.KITCO has arrived at land value and rates from different methodologies for different land users as listed below:
- (a). Methodology I (Guide line value as Clause No.13a(i) of LPG 2014)

- (b). Methodology II (Highest Actual Transaction as per Cl. No.13a(ii) of LPG 2014)
- (c). Methodology III (Highest Tender Cum Auction as per Cl. No.13a(iii) of LPG 2014)
- (d). Methodology IV (Income approach / Rent capitalization method as per Clause No.13 (a) (iv) of LPG 2014).
- (ii). In addition M/s.KITCO has worked out special rate for salt pan and special rate for Phosphoric Acid Tank with berth backup area. These proposals are being dealt with separately.
[There is no separate proposal filed by VOCPT till date for salt pan and for phosphoric Acid Tank]
- (iii). The lease rent arrived from different methodologies as per Land Policy Guidelines, 2014 for different land uses as considered by LAC is tabulated below:

Description	Lease rent approved by TAMP w.e.f. 01.07.2007 escalated rates as on 30.6.2016	Lease rent under various methods				
		Option - I	Option - II	Option - III	Option - IV	
		State Government's ready reckoner	Highest actual transaction	Highest Tender Cum Auction	By Approved valuer	
					(a) Income approach / rent capitalization	(b) Whole sale index method
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Zone-A						
Service	119.72	249.00	---	---	239.68	127.83
Commercial	362.77	540.00	---	330.12	414.17	387.35
Industrial	239.42	44.70	---	240.06	321.25	255.65
Ware house			72.00		374.98	
Zone-B (Port related)						
Service	119.72	462.00	302.05	---	---	---
Commercial	362.77	1200.00	---	---	---	---
Industrial	239.42	274.44	---	---	546.32	---
Ware house	---	---	---	---	628.76	---
Zone-B (Non-Port related)						
Service	215.49	NA	NA	NA	479.36	230.10
Commercial	652.98	---	---	---	786.67	697.24
Industrial	430.96	---	---	---	576.95	460.17

- (iv). The LAC has stated that in existing SoR, only service category is stated. Now, service / residential has been stated by KITCO. However under Land Policy Guidelines 2014, rates are for open land and not for buildings. Hence, the rates are stated as service only.
[In the existing SoR, the first category is "Service / Residential". In the KITCO report "Residential" category is mentioned. There is no mention of "Service" category.]
- (v). As per LPG 2014, Clause No. 13 (a) Allotment Committee may normally take into account the highest of the factors mentioned to determine the latest market value of Port land. In case the land allotment committee is not choosing the highest factor, the reasons for the same have to be recorded in writing.
- (vi). The LAC has noted that M/s.KITCO, has recommended Whole Sale Price Index Method for arriving revised lease rent for VOCPT by applying the WPI index 15.58%. M/s.KITCO has recommended to adopt Whole Sale Price Index method which is not the highest rate among the factors and reasons recorded by them are:
(a). Lack of demand for land
(b). Limitation arising from short term tenure (30 years)
- (vii). The LAC also deliberated the following points:

- (a). During 2015-16 to 2016-17, the number of allotments made was very meager including short term allotments.
 - (b). Considering the highest accepted tender cum e-auction rate, it was observed that except in one tender, in other allotments, it did not fetch higher than the Reserve price.
 - (c). Users represented that adopting the same rate obtained in a single transaction is not correct.
 - (d). The purpose for which land allotted and utilized are not for similar business transactions.
 - (e). The Committee observed that, since Major part of the cargo handled is Coal which is meant for Power Plants, the requirement of land for other cargoes in the near vicinity is less.
 - (f). In respect of Traffic plots, in the recent past, due to poor response to tenders with reserve price based on Commercial rates / Industrial rates, Board decided to go for tender by fixing reserve price by adopting Service rate only. Even for that, the response was less, that too few allotments only.
- (viii). The Committee also noticed that, the methodology adopted by M/s.KITCO for revision of lease rent by Whole Sale Price Index method was proposed for Revision of Lease Rent by Cochin Port Trust has been approved by TAMP and Notified by TAMP vide G.No.304, dated 22nd July 2016.
- (ix). **Recommendations of LAC:**

The rates arrived under various methods by M/s.KITCO and the recommendation of the valuer to adopt WPI rate may be placed before the Board for deliberation and decision on the rates to be adopted, in view of the above points and in light of the provisions of Clause No.13 (a) of Land Policy Guidelines 2014.

4. In accordance with the consultation process prescribed, a copy of the VOCPT proposal dated 7 June 2017 was circulated to the users/ user organizations/ long term allottees (as suggested by the VOCPT) seeking their comments. The comments received from the users/ user organisations/ long term allottees were forwarded to the VOCPT as feedback information. The VOCPT vide its letter dated 9 August 2017 and 19 September 2017 has furnished its reply on comments of the users/ user organisations/ long term allottees.

5.1. In response to our letter dated 23 June 2017, the VOCPT vide its letter dated 28 July 2017 has submitted the following:

- (i). The port has forwarded a copy of the final report of M/s.KITCO. The final report of Land Valuation of VOCPT submitted by M/s.KITCO had been forwarded to the Long Term Allottees on 26 July 2017 with a copy to TAMP.
- (ii). The VOCPT has further stated that the recommendation of LAC attached to the proposal for revision of lease rent forwarded by VOCPT vide letter dated 7 June 2017 was based on final report of KITCO.
- (iii). Apart from the three methods of land valuation considered as per amended LPG 2014 viz. State Government's ready reckoner, High actual transaction and Highest Tender Cum Auction, the approved valuer has also assessed the land value under "other factors, under following two methods :

(a). **Income Approach/ Rent capitalization Method:**

Income approach of valuation is adopted for income fetching properties. Income derived from ground rent and other as rental income from building is considered. Since port has not developed the land nor constructed building

on it for lease, ground rent part from the rental value of the building constructed is arrived by a model study of prudently suggested parameters (indicative of local market situation) like fair market rent and other economic parameters surveyed from the market. Under Rent capitalization method, considering the price of sales and rentals in the vicinity, appropriate ROI for port land under several categories of usage is estimated and capitalized for arriving the value.

(b). **Whole Sale Price Index Method:**

- (i). Apart from the income approach which has been used to arrive at the value, the Wholesale Price Index is considered as a basis for the computation of the value of land belonging to the VOCPT. WPI for 2012 to 2016 is as given below:

Details	2012	2013	2014	2015	2016
All commodities	164.92	175.40	182.01	177.03	180.50

Based on the above figures, there has been an increase of 15.58% in the WPI for the five years between 2012-13 to 2016-17.

- (ii). The Rationale for extending WPI to SORs on Lease Land is given below:
- LPG stipulates that fresh allotments should be on tender cum auction method.
 - When the base price set with such a transparent price discovery further annual or five yearly hikes should also be on a well accepted and transparent mechanism.
 - WPI is well accepted economic adjustment value in relation to base and can be the parameter for periodic revisions land lease as well.
- (iii). However, differential pricing may be relevant when there is exponential demand or growth is at a tipping point.
- (iv). The position obtaining in VOCPT are summarized below:
- VOCPT has specific issues.
 - In view of the poor demand to fresh lease, the rising protests on increase for existing lease rentals and additional accretions of land year on year, the utilization has turned out poor at around 40% which is a major concern.
 - A similar situation obtained at Cochin Port Trust where the Board has recommended for adoption of WPI Method which was accepted by TAMP and all stake holders.
 - The Valuer has to depend on their judgment on the basis of a combination of market analysis under the income method, Demand and the Supply position, Whole sale Price index movement and conditions specific to the port to arrive at a sustainable revision of rentals. Market potential, willingness to pay and sustainability are key factors considered in arriving at the values.

- (iv). The valuation of land in Zones A & B under various purposes in the final report of the approved valuer is tabulated below:

Sl. No.	Methodology	Zone	Category	Land Value (₹ / Sqm)	Lease / ₹ sqm
I A	State Government's ready reckoner	A	Residential	4150.00	249.0
			Commercial	9000.00	540.0
			Industrial	745.00	44.70
I B	State Government's ready reckoner	B	Residential	7700.00	462.0
			Commercial	20000.00	1200.00
			Industrial	4500.00	270.00
II A	Highest Actual Transaction	A	Residential	1810.00	108.60
			Commercial	7860.00	471.60
		B	Residential	15000.00	900.00

			Commercial	34000.00	2040.00
III A	Highest Tender cum Auction	A	Commercial	20066.00	1204.00
			Industrial	Nil	Nil
			Residential	Nil	Nil
IV A	Income approach / rent capitalization	A	Residential	3994.70	239.68
			Commercial	6902.80	414.17
			Industrial	5354.19	321.25
IV B	Income approach / rent capitalization	B	Residential (Port related)	Nil	Nil
			Residential (Non-Port related)	7989.41	479.36
			Industrial (Port)	9105.35	546.32
			Industrial (Non port)	9615.77	576.95
			Commercial (Non port)	13111.10	786.67

[The final report submitted by the approved valuer does not contain the valuation of warehouse, Salt Pan, Phosphoric Acid Tank categories]

- (v). The KITCO in concluding para has recommended the following land value and lease rent at 6% of land value under the WPI method:

Sl. No.	Category	Area	Land Value ₹ / Sqm	Lease Rent ₹ / sqm
1	Service/residential (for Captive Use only)	Zone A & B	2130.52	127.83
2	Industrial	(Port related)	4260.86	255.65
3	Commercial		6455.91	387.35
4	Service/residential (for Captive Use only)	Zone B (Non Port related)	3834.94	230.10
5	Industrial		7669.50	460.17
6	Commercial		11620.61	697.24

[The value of land recommended by LAC in the draft report and final report is under the WPI method and the valuation under this method is same in both under the draft report and the final report.]

- (vi). The port has furnished a copy of approval of the Board on revision of lease rent w.e.f. 1 July 2017 vide Resolution No.33 dated 7 July 2017. The highlights of the proceedings of the meeting of Board of Trustee of VOCPT are summarized below:
- The approved valuer has considered the various factors prescribed in the amended Land Policy Guidelines 2014 and has recommended lease rent under option V i.e. the lease rent arrived at by applying Wholesale Price Index method.
 - The rates recommended by the valuer are still higher than the present lease rates by 6.77% whereas port users are stating that the present lease rates are high.
 - Chairman has stated that option 5 indicated by the valuer by following the wholesale index method in respect of Residential, Commercial and Industrial allotments though reasonable, however, he instructed the Chief Engineer to verify the status of implementation of revised lease rentals in other port and also stated that it has been informed by the users in various forums that the existing rates itself are very high as compared to the availability of land at Town which had made them not to opt for the land at port.
 - After detailed deliberation, VOCPT Board has accorded approval for the rate at arrived by the Whole Sale Price Index Method recommended by M/s.KITCO for arriving at revised lease rent for VOCPT land with effect from 01.07.2017 valid upto 30.06.2022 with escalation of 5% p.a. and to submit the revised proposal to TAMP. Accordingly, the Board of Trustees of VOCPT has decided to modify the proposal already sent to TAMP vide letter

dated 7 June 2017 which was based on the adopting the highest rate among the options given by valuer.

(e). The rates approved by Board of Trustees of VOCPT are as under:

Sl. No.	Purpose	Rates proposed by VOCPT with effect from 01-07-2017 valid upto 30-06-2022 with escalation of 5% p.a.		
		Zone-A Port related (Rate in ₹/ Sqm/Annum)	Zone-B Port related (Rate in ₹/ Sqm/Annum)	Zone-B Non-Port related (Rate in ₹/ Sqm/Annum)
1	Service/Residential	127.83	127.83	230.10
2	Industrial	255.65	255.65	460.17
3	Commercial	387.35	387.35	697.24

5.2 Thus, the VOCPT has proposed revised lease rental as approved by the Board of Trustees of VOCPT.

6. A comparative position of lease rent approved by this Authority in the last Order No. TAMP/6/2014-VOCPT dated 4 April 2014, the lease rent as on 30 June 2017, the proposed lease rent and percentage increase in lease rent are given below for ease of understanding:

Zone	Purpose	Lease Rental approved vide Order dated 4 April 2014 effective from 1 July 2012	Lease Rental as on 30.6.2017 after applying 2% annual escalation	Proposed Lease Rental	% increase
Zone-A	Service/Residential	110.60	119.72	127.83	6.78%
	Industrial	221.19	239.42	255.65	6.78%
	Commercial	335.14	362.77	387.35	6.78%
Zone-B	Port Related				
	Service/Residential	110.60	119.72	127.83	6.78%
	Industrial	221.19	239.42	255.65	6.78%
	Commercial	335.14	362.77	387.35	6.78%
	Non-port related				
	Service/Residential	199.08	215.49	230.10	6.78%
	Industrial	398.14	430.96	460.17	6.78%
Commercial	603.25	652.98	697.24	6.78%	

7. From the VOCPT email dated 28 July 2017, it was not clear whether port has forwarded final report of Land Valuation of VOCPT submitted by M/s.KITCO and copy of approval of the Board to all the stakeholders consulted on the subject proposal. Hence, we have vide letter dated 3 August 2017 forwarded VOCPT email dated 28 July 2017 alongwith a copy of final report of Land Valuation of VOCPT of M/s.KITCO, copy of proposal of Board and revised proposal of lease rent of VOCPT based on the approval of Board to the concerned users/user organisations/long Term Allottees for their comments.

8.1. A joint hearing in this case was held on 10 August 2017 at the VOCPT premises. The VOCPT made a brief power point presentation of its proposal. At the joint hearing, the VOCPT and the concerned users/ organisation bodies/ prospective bidders have made their submissions.

8.2. As agreed at the joint hearing, the VOCPT was requested vide our letter dated 17 August 2017 with subsequent reminder dated 6 September 2017 to take action on the following points:

- (i) A copy each of written submissions made by Shri Vishnu Temple Committee alongwith other Temples, CSI Church, RC Church, Tuticorin Ship Agents' Association, TANGEDCO Ltd., SEPC Power Pvt. Ltd., Hindustan Petroleum Corporation Ltd., Tuticorin Port – Land Users Welfare Association (Zone - B), Tuticorin Salt & Marine Chemicals Ltd., Villavarayar & Son, Tuticorin Customs Brokers' Association, Tuticorin Stevedores' Association at the joint hearing was forwarded to the VOCPT requesting port to furnish its comments immediately.

- (ii). As requested by Tuticorin Ship Agent's Association (TSAA), 1 week time i.e. upto 17 August 2017 was granted to TSAA to furnish its comments to TAMP and to VOCPT. The VOCPT to furnish its comments within 3 days from receipt of comments of TSAA.
- (iii). (a). At the joint hearing, SEPC Power Private Limited and many users/ user organisations pointed out that State Government of Tamil Nadu has in June 2017 published guideline value of land with 33% reduction. The Port users requested the port to go by the reduced guide line value of land announced by the State Govt. Further, the users also objected to the increase proposed by VOCPT and the rate of annual escalation.
- (b). In view of the above points made by the users/ user organisations, VOCPT agreed to request the KITCO to examine the reduced guideline value of land by State Government as referred by users and submit its report immediately. The VOCPT also, agreed to review the annual escalation and to resubmit the proposal after KITCO examines the points and gives the report along with approval of Board of Trustees of VOCPT. The VOCPT was allowed 15 days time i.e. upto 25 August 2017 to resubmit the proposal along with Board approval as agreed by the port.

8.3. With reference to written submissions made by users / user organisations / lessees at the joint hearing, VOCPT vide its email dated 9 August 2017 has furnished its reply. Further, few users like Shri Vishnu Temple Committee alongwith other Temples, CSI Church, RC Church, Tuticorin Ship Agents' Association, TANGEDCO Ltd., SEPC Power Pvt. Ltd., Hindustan Petroleum Corporation Ltd., Tuticorin Port – Land Users Welfare Association (Zone - B), Tuticorin Salt & Marine Chemicals Ltd., Villavarayar & Son, Tuticorin Customs Brokers' Association and Tuticorin Stevedores' Association have furnished comments after the joint hearing a copy each of which was forwarded to VOCPT. The VOCPT has furnished its comments.

9.1. With reference to the third action point flowing from the joint hearing proceeding, the VOCPT has responded vide its letter dated 19 September 2017. The VOCPT has submitted the revised proposal alongwith the approval of its Board of Trustees. The port has also furnished a copy of Minutes of the Board Meeting held on 30 August 2017. The main submissions made by the VOCPT are as under:

- (i). The Board vide Resolution No.43 in its Meeting held on 30 August 2017 resolved that no revision in its existing rates and annual escalation will be 2% instead of 5% escalation proposed or the revised lease rentals to be submitted by M/s. KITCO whichever is less considering less demand.
- (ii). M/s. KITCO, the approved land valuer appointed for valuation of assets of VOCPT has also informed vide email dated 7 September 2017 that they do not expect any reduction in the values. Hence there shall not be any revision in existing rates and escalation 2% p.a. The port has furnished a copy of email received from KITCO dated 7 September 2017.
- (iii). The port has requested to consider the proposal of the port submitted with the above modifications and approved rate may please be communicated at the earliest.

9.2. The highlights of email dated 7 September 2017 furnished by M/s. KITCO with reference to the current proposal are as under:

- (i). As per SRP No.360, the guidelines value for all type of land has been reduced by 33% by Registration Dep. Of Govt. of TN. At the same time, stamp duty has been increased by 3%. Hence net benefit for buyer in monetary term is negligible. This may not affect the demand for commercial properties. Since the price of the properties are governed by the demand in the market, there may not be variation in price after the reduction. We have suggested that WPI method which is not based on guideline value, instead based on the demand of the property.

- (ii). Since there is no variation of rates, we do not expect any reduction in our values proposed. Also VOCPT may take a suitable decision on maintaining the rates existing as on 1 July 2016.

10. Subsequently, the VOCPT vide its email dated 26 September 2017 has furnished revised draft SOR. In the revised SOR, the port has considered the existing lease rent as on the date of expiry i.e. 30 June 2017 and applied 2% escalation in all the rates to arrive at the proposed lease rent as on 01.07.2017. The revised rates of lease / license of land proposed in port area belonging to the VOCPT from 1 July 2017 are as follow:

Sl. No.	Purpose	Rate in ₹ per Sqm. Per Annum		
		Zone "A"	Zone "B" Port related	Zone "B" Non-Port related
1.	Service / Residential	122.11	122.11	219.80
2.	Industrial	244.21	244.21	439.58
3.	Commercial	370.03	370.03	666.04

Notes :

- (i). The rent for the land allotted for the following Shops in Zone "B" (Non-Port related) under "Commercial Category" will be levied based on the rate prescribed in the above Schedule for Zone "B" (Non-Port related) "Service / Residential" category.

Sl. No.	Name of Shop
a.	Petty Shop and Stall
b.	Stackyard for Ice Fish
c.	Cycle Repair Shop
d.	Saloon
e.	Fishing Spare parts Store
f.	Petty Shop
g.	Shed for Stacking Yard – (i)
h.	Shed for Stacking Yard – (ii)
i.	Coir Shop
j.	Marine Spare parts – (i)
k.	Marine Spare parts – (ii)

- (ii). The rates prescribed above shall be applicable with effect from 1st July 2017 till 30th June 2022.
- (iii). The rates shall be escalated by 2% per annum with effect from 1st July 2018 till 30th Jun 2022.
- (iv). The other conditions governing the lease rental shall be as per the Land Policy Guidelines 2014 issued by the Ministry of Shipping, Government of India.

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 will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). The existing Rent Schedule for V.O. Chidambaranar Port Trust (VOCPT) was last approved by this Authority vide Order No.TAMP/6/2012-VOCPT dated 4 April 2014. The lease rent approved by this Authority was given effect retrospectively from 1 July 2012 as sought by VOCPT and validity was prescribed for a period of five years i.e. till 30 June 2017. This Authority in the said Order had approved lease rentals for the two zones. Zone A & B for the purposes of Service/ Residential, Industrial and Commercial as proposed by the VOCPT.

Since the validity of the lease rent was to expire on 30 June 2017, the VOCPT initially filed the proposal dated 7 June 2017. The said proposal stated it was for the

purpose of financial projections and the proposal was sent without approval of its Board so that consultation process could be initiated by this Authority.

Subsequently in July 2017, VOCPT furnished the proposal with approval of its Board of Trustees and final report of the approved valuer which is taken into consideration. In the said proposal, the VOCPT, based on the recommendation of LAC and approval of the Board of Trustees, has proposed the lease rental as arrived by the Government approved land valuer i.e. M/s.KITCO by adopting Wholesale Price Index Method. The port has sought revision of lease rent w.e.f. 1 July 2017 with a validity period of five years i.e. upto 30 June 2022 with annual escalation of 5% p.a.

- (ii). In the initial proposal, the port had, based on the recommendation of the LAC and approval of its Board, proposed lease rent which worked out to 6.78% increase over the existing escalated lease rent as on 30 June 2017. During the processing of the case, few users/ user associations, like SEPC, Tuticorin Alkali Chemicals and Fertilizers Ltd. (TACFL) and others pointed that the State Government of Tamil Nadu has in June 2017 reduced the guideline value by 33%. Hence, they requested the port to consider the reduced guideline value for arriving the valuation of the port land. The users / user associations have also objected the annual escalation of 5% proposed by the VOCPT and requested to maintain at 2% as per the Land Policy Guidelines.

In view of the points made by the users/ user association, the VOCPT, agreed to request the Government approved valuer KITCO appointed by the port to re-examine the valuation of land at the reduced guidelines valuer referred by users and submit its report. The KITCO, after re-examining the valuation report, has maintained the valuation as per its final report stating that though the Government of Tamil Nadu has reduced the land value, it has increased the stamp duty cost and overall cost has not reduced much. The KITCO has further stated that since the price of the properties are governed by the demand in the market, there may not be variation in price after the reduction. The KITCO has also stated that they have recommended valuation on WPI method which is not based on guideline value and instead is based on the demand of the property. Since there is no variation of rates, the KITCO has not expected any reduction in the values proposed by them in the final report. The KITCO has, however, stated that the VOCPT may take a suitable decision on maintaining the existing rates.

The port has, in its final revised proposal of 19 and 26 September 2017 intimated that the Board of Trustees in its Meeting held on 30 August 2017 has resolved that no revision in its existing rates or the revised lease rentals to be submitted by approved valuer M/s.KITCO whichever is less, considering the less demand of the port land. Further, annual escalation approved by the Board of VOCPT is 2% instead of 5% escalation proposed earlier. As stated earlier, the approved valuer M/s.KITCO maintained status quo in its report for the reasons cited in the earlier paragraphs. Based on the approval of the Board, the VOCPT in its final proposal has proposed no revision in the existing lease rent and the annual escalation is proposed at 2%. Thus, the final proposal of port is lease rent as on 30 June 2017 escalated by 2% to arrive at the proposed lease rental as on 01.07.2017. The final revised proposal of VOCPT dated 19 and 26 September 2017 alongwith submissions made during the processing of the case are taken into consideration in the analysis of this case.

- (iii). Before proceeding to analyse this case, it is relevant here to state that some of the users/ user associations and lessees like DCW Ltd., M/s.SHV Energy Pvt. Ltd. etc. have filed writ petitions in the Hon'ble High Court of Madras with reference to the lease rent last revised by this Authority vide Order dated 4 April 2014, applicable for the 5 years period 01 July 2012 to 30 June 2017. So, the pending court cases filed by a few users/ user associations and lessees relate to the lease rent approved by this Authority vide Order dated 4 April 2014 whose validity of lease rent was prescribed till 30 June 2017.

The current proposal has been filed by the VOCPT for the subsequent period from 1 July 2017 onwards. As per the statute, this Authority is mandated to notify from

time to time the rates and conditionalities for any property belonging to or in the possession or occupation of the concerned port trust. Further, clause 12 of the Working Guidelines issued by this Authority to operationalize the Tariff Policy, 2015 issued by the MOS stipulates that this Authority shall follow the Land Policy Guidelines issued by Government from time to time for revision of lease rentals of Major Port Trusts. There is no direction or order from the Hon'ble Court of Madras/ Hon'ble Court of Madras at Madurai Bench in the Writ Petition filed by various lessees on the last Order of April 2014 restraining this Authority to undertake the statutory obligation of fixing the lease rents of VOCPT Lands for the period beyond the validity prescribed in the last Order i.e. beyond 30 June 2017.

As regards the point made by Thiagarajar Mills (P) Ltd. in their comments regarding pending court case filed by them with reference to demand for enhanced lease rent in 1998, the VOCPT has stated that the case is pending in the Hon'ble High Court. The VOCPT has clarified that the pending court case filed by Thiagarajar Mills (P) Ltd does not relate to the current proposal which is for revision of lease rent following the amended Land Policy Guidelines (LPG) 2014 which is for the period 1 July 2017 to 30 June 2022.

- (iv). (a). The amended Land Policy Guidelines 2014, clearly lays down the procedure and the methodology to be adopted for determining the market value and the latest Scale of Rates of the port lands.
- (b). As per clause 11.2(e) of the revised Land Policy Guidelines 2014, a Land Allotment Committee (LAC) shall be constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic.

The VOCPT has constituted the LAC under the Chairmanship of Deputy Chairman & Estate Officer, Chief Engineer, Traffic Manager, Financial Advisor and Chief Accounts Officer. Thus, the VOCPT has complied with the stipulation of the formulation of the LAC as per the amended Land Policy Guidelines, 2014.

- (c). As per Clause 13(a) of the amended Land Policy Guidelines of 2014, the LAC shall determine the market value of land taking into account highest of the five factors like (i) State Government's ready reckoner value if available for similar classification/ activities, (ii) Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board (iii) Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board., (iv) rate arrived at by an approved valuer and (v) any other relevant factors as may be identified by the port. In case the LAC is not choosing the highest factor, the guidelines requires the reasons for the same have to be recorded in writing.

As per clause 13 (c) read with clause 13(a) and (b) of the amended Land policy guidelines of 2014, the port shall file a proposal to this Authority for fixation of latest SOR of the land based on the market value of land recommended by the LAC which will normally take into account the highest of the five factors for market value of land stipulated in Para 13 (a) amended Land policy guidelines of 2014. If the market value of lease rent recommended is not the highest, the Board of Trustees of Port to record reasons for writing.

- (d). The port has appointed a Government approved valuer to arrive at the proposed lease rent based on valuation of land under different methodology prescribed in the amended LPG 2014. Of the five factors prescribed in the amended Land Policy Guidelines, 2014 for arriving at the market value of the land, the approved valuer has assessed the market value of land based on (i). State Government's ready reckoner (ii). Highest rate of actual relevant

transactions registered in last three years (iii). Highest accepted tender-cum-auction rate of Port land, (iv). Rate arrived at by an approved valuer. Under the method of valuation by approved valuer, M/s.KITCO has assessed valuation of land under income approach/rent capitalization Method and also under Wholesale Index Method.

(e). The VOCPT has assessed the value of land under the following methods:

(i). State Government ready reckoner of land values in the area:

Under the first option, the Port has considered Tamil Nadu State Government's ready reckoner Rates of 2012 for the land adjacent to the Port's lands, as made available in official website of Tamil Nadu. The valuation report states that the ready reckoner rate remained uncharged till its final report.

The approved valuer also highlighted that the guidelines value represents minimum value of land assessed for stamp duty for registration purpose. According to the valuer, the guideline value is lower than the prevailing market value. In a few places, the guideline value may be unreasonably higher than the market value.

(ii). Highest rate of actual relevant transactions registered in last three years in the port's vicinity:

Under this option, the land valuation report gives the value of land based on actual sale deed registered with the registrar pertaining to the years 2013 to 2016 covering areas such as Tuticorin Corporation, Meelavittan village and other nearby villages.

(iii). Highest accepted tender cum auction rate of port land:

Under this option, the land valuation report gives the value of land based on latest tender cum action rate of port land for similar transaction which is accepted by Port Trust Board. The approved valuer has noted that four auction cases are available pertaining to the year 2012-2016.

The approved valuer has also noted that a downward trend prevail in the real estate market and sluggishness in growth of industry during the year 2014-2016 which is witnessed from the decrease in number of registration of industrial land compared to previous years during search of date published in Government website. This has been reflected in lower auction rates in succeeding years.

(iv). Rate arrived at by an approved valuer:

(a). Income approach / Rent capitalization method:

Under this option, the approved valuer has done valuation on the basis of income approach method / rent capitalization method after considering the influencing factors some of which are saving fund, present economic scenario, advantage of port near to landing berth, etc.

(b). WPI method –

The approved valuer has considered the land valuation based on the Wholesale Price Index (WPI) Method. The approved valuer has noted that WPI is used as an important measure of inflation in India. Fiscal and monetary policy changes are greatly influenced by changes in WPI. WPI represents the price of goods at wholesale stage i.e. goods

that are sold in bulk and traded between organizations instead of consumers. WPI is an easy and convenient method to calculate inflation. The approved valuer has, in the report, stated that with regard to valuation of land of VOCPT, apart from the income method, the approved valuer has also used the WPI method as a basis for computation of value of land of VOCPT. The WPI considered by the approved valuer for assessing market value of land of VOCPT for the years 2012 to 2016 as per the valuation report is as given below:

Details	2012	2013	2014	2015	2016
All commodities	164.92	175.40	182.01	177.03	180.50

Based on the above figures, the valuer has concluded that there has been an increase of 15.58% in the WPI for the five years between 2012-13 to 2016-17.

The valuer has given the following rationale for extending WPI method for arriving at the lease rent for VOCPT land:

- (i). LPG stipulates that fresh allotments should be on tender cum auction method.
 - (ii). When the base price set with such a transparent price discovery, further annual or five yearly hikes should also be on a well accepted and transparent mechanism.
 - (iii). WPI is well accepted economic adjustment value in relation to base and can be the parameter for periodic revisions land lease as well.
 - (iv). The position obtained at VOCPT is that the port has specific issues. In view of the poor demand to fresh lease, the rising protests on increase for existing lease rentals and additional accretions of land year on year, the utilization has turned out poor at around 40% which is a major concern.
 - (v). The Valuer has to depend on their judgment on the basis of a combination of market analysis under the income method, Demand and the Supply position, Whole sale Price index movement and conditions specific to the port to arrive at a sustainable revision of rentals. Market potential, willingness to pay and sustainability are key factors considered in arriving at the values.
 - (vi). A similar situation obtained at Cochin Port Trust where the Board had recommended for adoption of WPI Method which was accepted by Authority and all stake holders for revision of lease rent of COPT land.
- (v). (a). Thus, based on the above justification, the approved valuer has recommended market value of land and lease rent based on WPI method. The valuation of land for zones A & B for various purposes in the final report of the approved valuer and lease rent arrived at 6% of the market value of land is tabulated below:

Sl. No.	Methodology	Zone	Category	Land Value (₹ / Sqm)	Lease ₹ / sqm / annum
I A	State Government's ready reckoner	A	Residential	4150.00	249.0
			Commercial	9000.00	540.0
			Industrial	745.00	44.70
I B	State Government's ready reckoner	B	Residential	7700.00	462.0
			Commercial	20000.00	1200.00
			Industrial	4500.00	270.00

II A	Highest Actual Transaction	A	Residential	1810.00	108.60
			Commercial	7860.00	471.60
		B	Residential	15000.00	900.00
			Commercial	34000.00	2040.00
III A	Highest Tender cum Auction	A	Commercial	20066.00	1204.00
			Industrial	Nil	Nil
			Residential	Nil	Nil
IV A	Income approach/ rent capitalization	A	Residential	3994.70	239.68
			Commercial	6902.80	414.17
			Industrial	5354.19	321.25
IV B	Income approach/ rent capitalization	B	Residential (Port related)	Nil	Nil
			Residential (Non-Port related)	7989.41	479.36
			Industrial (Port)	9105.35	546.32
			Industrial (Non port)	9615.77	576.95
			Commercial (Non port)	13111.10	786.67

- (b). However, for the reasons cited in the valuation report as given in the preceding paragraph, the approved valuer has recommended lease rent which is not based on the highest of the market value of land but based on the WPI method. The market value of land and the lease rent recommended by the LAC at 6% the market value of the land under the WPI method and approved by the VOCPT Board based on the recommendation of the LAC in its proposal dated 28 July 2017 is given below:

Sl. No.	Category	Area	Land Value ₹ / Sqm	Lease Rent ₹ / sqm / annum
1	Service/residential	Zone A & B	2130.52	127.83
2	Industrial	(Port related)	4260.86	255.65
3	Commercial		6455.91	387.35
4	Service/residential	Zone B (Non Port related)	3834.94	230.10
5	Industrial		7669.50	460.17
6	Commercial		11620.61	697.24

- (vi). The recommendations made by Government approved valuer i.e. land valuation under WPI method which has been considered by the LAC and also approved by the Board of Trustees of VOCPT. The proposed lease rent worked out to 6.78% increase over the existing lease rent as on 30 June 2017. As stated earlier, users / user associations, like SEPC, Tuticorin Alkali Chemicals and Fertilizers Ltd. (TACFL) pointed out the State Government of Tamil Nadu has in June 2017 reduced the guideline value by 33% and requested the port to review the proposed lease rent.

As already brought out earlier, the port requested KITCO to re-examine the valuation of land at the reduced guidelines valuer referred by users and submit its report. The KITCO after re-examining the valuation report has maintained the valuation report submitted by it for reasons explained earlier.

The Board of Trustees of the VOCPT in its Board meeting held on 30 August 2017 has noted that during the joint hearing almost all the users have objected the revision proposed by the port and stated that during the last revision the increase in lease rent was abnormally high. The Board has noted that users have requested the port to revalue the land and the proposed lease rent after recognising the reduced guideline value announced by the State Government and also suggested to reduce the annual escalation proposed at 5% earlier to 2%.

The Board of Trustees has approved existing lease rent or the revised lease rent by KITCO whichever is lower. The port has in its final revised proposals of 19 and 26 September 2017 based on approval of the Board of Trustees in its Meeting held on 30 August 2017 has proposed no revision in its existing rates and has proposed annual escalation at 2% instead of 5%. Thus, the final proposal of port is lease rent as on 30 June 2017 escalated by 2% to arrive at the proposed lease rental as on 01.07.2017. A statement of lease rental approved by this Authority in April 2014 Order, the lease rent as on 30.6.2017 on the date of expiry and final lease rent

proposed by VOCPT from 01.7.2017 after applying 2% annual escalation is tabulated below:

₹ / sqmtr / annum					
Zone	Purpose	Lease Rental approved vide Order No.TAMP/6/2014-VOCPT dated 4 April 2014 as on 1 July 2012	Lease Rental after applying 2% annual escalation as on 30 June 2017	Proposed Lease Rental	% increase
Zone-A	Service/Residential	110.60	119.72	122.11	2%
	Industrial	221.19	239.42	244.21	2%
	Commercial	335.14	362.77	370.03	2%
Zone-B	Port Related				
	Service/Residential	110.60	119.72	122.11	2%
	Industrial	221.19	239.42	244.21	2%
	Commercial	335.14	362.77	370.03	2%
	Non-port related				
	Service/Residential	199.08	215.49	219.80	2%
	Industrial	398.14	430.96	439.58	2%
	Commercial	603.25	652.98	666.04	2%

Thus, in short, the VOCPT has not proposed any increase in the lease rental except the applicable annual escalation of 2% which would otherwise be due on 1.7.2017. The amended LPG allows the Board of Trustees to approve lease rent other than the highest for reasons to be recorded in writing by the Board. The Board has furnished the reasons as explained above. Therefore, the lease rental as proposed by the port based on approval of the VOCPT Board, is approved.

- (vii). (a). As regard the point made by Tuticorin Ship Agents Association (TSAA) that the Valuation Report is hypothetical and KITCO have not considered the factual position while doing the land valuation, it is to state that appointment of approved valuer falls under the domain of the port. The port has confirmed that the KITCO is an approved Govt. valuer and has considered the land valuation based on actual transaction and details obtained from registration office. Further, KITCO has also clarified at the joint hearing that they have done extensive survey of VOCPT land at various sectors and arrived at land value under different methods. In any case, as stated earlier, the VOCPT in the final proposal has proposed the existing lease rent as on 30.06.2017 with 2% escalation on 01.07.2017.

As regards the point made by SEPC Power Private Limited that KITCO has rejected the 2012 land valuation, KITCO has stated that they have not at all considered previous valuation. KITCO has undertaken valuation of land independently. That being so, the point made by SEPC has been denied by the approved valuer KITCO.

- (b). As regards the point made by Tuticorin Salt & Marine Chemicals Ltd. (TSMC) that the proposed lease rents are exorbitant and unviable and rent works out to ₹2,000/ tonne as against cost of product at ₹4,00/ tonne, the VOCPT has clarified that land allotted for salt industry does not fall under the current proposal. The port has decided to file a separate proposal in this regard.
- (c). As regards the point made by the Tuticorin Stevedores Association that application of Land Policy Guidelines at VOCPT may not be correct as the land at VOCPT cannot be treated at par with lands of other Major Port Trusts, it is relevant to state that the scope of amended Land Policy Guidelines, 2014 at para 5 states that the said Guidelines are applicable for all Major Ports except for the land relating to the Township areas of Kandla, Mumbai and Kolkata Ports. Both the Major Ports and this Authority are governed by the amended Land Policy Guidelines, 2014 for fixation of lease rent. The amended Land Policy Guidelines, 2014 prescribes the broad

methodology and factors to be considered for valuation of land. Each Major Port is bound to follow the methodology prescribed in the Land Policy Guidelines to assess the market value of land and propose lease rent with the approval of its Board. The VOCPT has complied with the provisions of amended Land Policy Guidelines, 2014.

- (viii). Vishnu Temple Committee has requested to continue the existing rent of Re.1 and exempt all religious institutions from the purview of revision of lease rent. Sri Siddhi Vinayagar Thirukkovil has also made similar request to the port. The port has also stated that it has already referred to the Ministry of Shipping and have not offered comments. As rightly stated by VOCPT, it is not relevant for fixation of lease rental rates, and it is outside the purview of the same.
- (ix). M/s. International Cargo Terminals and Infrastructure Pvt. Ltd. have stated that it has paid upfront premium to Port Trust for period of lease deed upto 31.12.2023. Therefore, they are not impacted by the current proposal for revision of lease rent of port lands. The port has also confirmed that revision of lease rental shall not apply to the firm till 31 December 2023. As regards, HPCL also, the VOCPT has clarified that the current proposal of lease rent revision with effect from 1 July 2007 is not applicable in respect of the allotment made to HPCL since the allotment has been made on upfront basis for the period from 1 June 2016 to 31 May 2045 for 29 years.
- (x). Tuticorin Port Land User's Welfare Association (TPLUWA) have stated that their members are using the land for fishing community. They are tribal community and doing small business. Hence, it has requested Port to treat the area allotted to fishing community as a special area and charge a nominal fee. Even during the last revision, in view of similar request made by the TPLUWA, the port had proposed a note that for the land allotted at Zone 'B' (Non- Port Related) for Commercial category, the lease rent as applicable to service purposes under classification Zone-B (Non-port related) shall be levied taking into account the economically backward nature of small petty shops for the following 11 categories:

Sr. No.	Name of Shop
a.	Petty Shop and Stall
b.	Stackyard for Ice Fish
c.	Cycle Repair Shop
d.	Saloon
e.	Fishing Spare parts Store
f.	Petty Shop
g.	Shed for Stacking Yard-(i)
h.	Shed for Stacking Yard-(ii)
i.	Coir Shop
j.	Marine Spare parts-(i)
k.	Marine Spare parts-(ii)

The port has in the final draft SOR proposed to retain the proposed note. The same is approved. In any case, the port has maintained status quo in the rates except for the 2% annual escalation in lease rent.

- (xi). Some of the users /lessees have requested for reclassification of the lands allotted to them. DCW Ltd and SHV Energy Pvt. Ltd. have requested that their land should be re-classified under "industrial" and not under "commercial". SEPC Power Private Ltd. (SPPL) has stated that NTPL and SEPL have in fact been classified as different types of user altogether. Land has been leased to SPPL for Power Plant and have been classified as 'Industrial' while TANGEDCO and NTPL have been classified as "Service" for the same land use of Power Plant. SEPC has, therefore requested to be categorized under "Service" as is done for similar land users such as TANGEDCO and NTPL.

With reference to the points made by users/ lessees about classification of land, it is relevant here to mention that the mandate of this Authority is to fix the Scale of Rates

and conditionalities governing the rates for the use of port trusts land. This Authority determines lease rent for the Port trusts land following the applicable land policy guidelines. The issue about classification of land is beyond the jurisdiction of this Authority and hence it is not possible for this Authority to interfere in the matter of classification of the land by the concerned Major Port Trusts in individual cases. Even the port has during the joint hearing categorically stated that classification of land does not fall under the TAMP domain. Classification of land falls under the domain of the port.

- (xii). Clause 13(c) of the amended Land Policy Guidelines 2014 gives flexibility to Ports to fix rate of annual escalation which should not be less than 2% with the approval of the Port Trust Board.

As stated earlier, the port has in its final revised proposed annual escalation of 2% based on the approval of its Board. The port has proposed a note that rates shall be automatically escalated by 2% per annum w.e.f. 1 July 2018 till 30 June 2022. Since the annual escalation in lease rent at 2% is approved by the Board and is found to be in line with the amended Land Policy Guidelines, 2014, the proposed note is approved as proposed by VOCPT.

- (xiii). The port has proposed a note that the other conditions governing the lease rental shall be as per the Land Policy Guidelines 2014 issued by the Ministry of Shipping, Government of India. The proposed note is approved subject to slight modification to state that all the conditions governing the lease rental shall be as per the amended Land Policy Guidelines 2014 issued by the Ministry of Shipping, Government of India and as is amended from time to time.

- (xiv). (a). The VOCPT has sought approval of lease rent retrospectively from 1 July 2017 with a validity period of five years i.e. till 30 June 2022.

A few users have requested that revision in Lease rents may be given prospective effect from the date of notification of the Order in the Gazette and not retrospective from 01.07.2017.

Section 49 of the Major Port Trusts Act, 1963 calls for fixation of rates from time to time. For fixation of lease rent, this Authority is bound by the Land Policy guidelines issued by the Government for arriving at the lease rental for Major Port Trusts land. Clause 13(c) of the Amended Land Policy Guidelines of 2014 stipulates that the Scale of Rates will be revised every five years.

The lease rent approved by this Authority in the last tariff Order of April 2014 clearly mentions that the rates are effective from 1 July 2012 and will remain valid till 30 June 2017 and SOR will be reviewed after five years. The position that the lease rentals for the lands of VOCPT will be reviewed after expiry of five years i.e. from 1 July 2017 is in the knowledge of all the stakeholders. The VOCPT has accordingly sought approval to the revised rates retrospectively w. e. f. 1 July 2017 for the quinquennium 2017-2022.

In view of the clear Government guidelines in this regard, and also recognizing that lease rentals prescribed in the past is with retrospective effect based on the proposal of the VOCPT, the proposal of VOCPT to consider revision of lease rents at VOCPT retrospectively is approved. In fact, it is relevant to mention here that this approach is being followed not only in the case of the VOCPT but also in the other Major Port Trusts like NMPT, VPT, MOPT, etc. while revising the lease rent or port land. In this case of VOCPT, according retrospective effect does not have any impact as such because lease rent approved is the existing lease rent as on 30 June 2017 with 2% annual escalation allowable as per the amended Land Policy Guidelines, 2014 so to arrive at the revised lease rent as on 1 July 2017.

The port has proposed a note that rates prescribed will come into effect from 1 July 2017 and will be valid till 20 June 2022 which is approved.

- (b). It is also made abundantly clear that the revised rates approved by this Authority with retrospective effect from 1 July 2017 based on the proposal filed by the VOCPT can apply in the existing leases subject to provision for periodic revision of rents agreed in the surviving lease agreements and it is for the VOCPT to ensure that all the leases/ licences granted by VOCPT contain a suitable provision regarding retrospective revision of lease rentals.

13.1. In the result, and for the reasons given above, and based on application of mind, this Authority approves the revised lease rentals for estate of VOCPT alongwith the conditionalities attached as **Annex**.

13.2. The revised lease rent approved shall be effective from 1 July 2017 as proposed by the VOCPT and shall remain valid for period of five years i.e. till 30th June 2022.

14. The VOCPT is directed to amend the Schedule of Lease Rent accordingly.

(T.S. Balasubramanian)
Member (Finance)

V.O.CHIDAMBARANAR PORT TRUST

Scale of Rates for Lease / License of land in Port area belonging to the VOCPT from 1st July 2017

Sl. No.	Purpose	Rate in ₹ Per Sqm. Per Annum		
		Zone "A"	Zone "B"	
			Port related	Non-Port related
1.	Service/Residential	122.11	122.11	219.80
2.	Industrial	244.21	244.21	439.58
3.	Commercial	370.03	370.03	666.04

Note :

- (i). The rent for the land allotted for the following Shops in Zone "B" (Non-Port related) under "Commercial Category" will be levied based on the rate prescribed in the above Schedule for Zone "B" (Non-Port related) "Service / Residential" category.

Sr. No.	Name of Shop
a.	Petty Shop and Stall
b.	Stackyard for Ice Fish
c.	Cycle Repair Shop
d.	Saloon
e.	Fishing Spare parts Store
f.	Petty Shop
g.	Shed for Stacking Yard-(i)
h.	Shed for Stacking Yard-(ii)
i.	Coir Shop
j.	Marine Spare parts-(i)
k.	Marine Spare parts-(ii)

- (ii). The rates prescribed above shall be applicable with effect from 1st July 2017 till 30th June 2022.
- (iii). The rates shall be escalated by 2% per annum with effect from 1st July 2018 till 30th June 2022.
- (iv). All other conditions governing the license fee/ lease rent shall be as per the amended Land Policy Guidelines of 2014 issued by the Ministry of Shipping, and as may be amended from time to time.

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

F. No.TAMP/52/2017 - VOCPT - Proposal from the V.O. Chidambaranar Port Trust (VOCPT) for revision of lease rent of port lands for a period of 5 years w.e.f. 01 July 2017 valid upto 30 June 2022 at V.O.Chidambaranar Port.

A summary of comments received from users/ user organisations and reply furnished by V.O. Chidambaranar Port Trust (VOCPT) thereon are tabulated below:

Sl. No.	Comments of the users/ user organisations/ long term allottees	Reply furnished by VOCPT										
1.	Tamil Nadu Maritime Academy											
(i).	The lease rent in respect of port's land provided to Academy on long term basis, is being revised as given below: <table border="1" data-bbox="335 739 893 929"> <thead> <tr> <th>S. No.</th> <th>Land allotted to the Academy</th> <th>Lease period</th> <th>Existing concessional lease rent with effect from 30.12.2014 and upto 30.06.2017 with 2% escalation per annum</th> <th>Proposed lease rent with effect from 01.07.2017 and upto 30.06.2022 with 5% escalation per annum</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>20,102.82 sq. mts.</td> <td>30.12.2006 to 29.12.2035</td> <td>₹28.77 per sq.m. (as on 30.12.2014)</td> <td>₹462/- per sq.m.</td> </tr> </tbody> </table>	S. No.	Land allotted to the Academy	Lease period	Existing concessional lease rent with effect from 30.12.2014 and upto 30.06.2017 with 2% escalation per annum	Proposed lease rent with effect from 01.07.2017 and upto 30.06.2022 with 5% escalation per annum	1.	20,102.82 sq. mts.	30.12.2006 to 29.12.2035	₹28.77 per sq.m. (as on 30.12.2014)	₹462/- per sq.m.	The proposal for revision of lease rent had been forwarded to TAMP. Board has accorded approval and the revision proposal as approved by the Board hosted in Port Website.
S. No.	Land allotted to the Academy	Lease period	Existing concessional lease rent with effect from 30.12.2014 and upto 30.06.2017 with 2% escalation per annum	Proposed lease rent with effect from 01.07.2017 and upto 30.06.2022 with 5% escalation per annum								
1.	20,102.82 sq. mts.	30.12.2006 to 29.12.2035	₹28.77 per sq.m. (as on 30.12.2014)	₹462/- per sq.m.								
(ii).	This Academy is purely an educational institution established in 1998 with a view to imparting maritime training courses to Weaker, Backward and Fishermen community regions living along the coastal area of Tamil Nadu with payment of nominal fees structure. The institution is collecting low course fees in comparison with similarly placed other institutions in Tamil Nadu as well as in other States.											
(iii).	As per Para 16(2)(g) of the Land Policy Guidelines for Major Ports, 2014, concession upto 75% on the annual lease rent shall be granted to Government Schools and Colleges. This Academy is a Government Institute and functioning under the administrative control of Government of Tamil Nadu.											
(iv).	Invoking the aforementioned provisions, the concession to the extent of 75% on the annual lease rent has been granted to the Academy by V.O. Chidambaranar Port Trust with effect from 30.12.2014 instead of 01.01.2007, the date on which, the revised upward lease rent came into effect. The issue was, however, taken up by our Chairman, Tamil Nadu Maritime Academy, Chennai with Chairman, VOCPT, Tuticorin in our letter No.4458/S4/207, dated 01.04.2016.	The request for grant of concession is not related to the proposal for revision of lease rent.										
(v).	Hitherto they are collecting same fees to impart maritime time courses from the trainees for years altogether without being revised ensuring the interests of the Weaker Section and down trodden region communities unaffected due to revision. The fees in respect of the package courses have also been considerably reduced for the interests of the trainees recently.											
(vi).	Taking into account all factors in view, we request that the existing status quo in the											

	<p>matter of collection of lease rent beyond 30.06.2017, at the same prevailing rates, without imposing any upward revision, as now proposed by the port, be continued beyond 30.06.2017, as a special case, on the ground that if the lease rent is raised as proposed this educational institution run by the Government of Tamil Nadu would meet acute financial hardships and would put in imbroglio condition which could not be denied and the purpose for which the Institution was established would certainly be defeated.</p>	--
2.	Southern Petrochemicals Industries Corporation Ltd.	
(i).	<p>When the proposal for revision of land lease rent was released by TAMP for the period 2012-2017, we were surprised to note that lease rent was hiked by 600% with retrospective effect and subsequently we made our representation to VOCPT, TAMP, Ministry of Shipping, etc. requesting to revise the lease rents to reasonable levels with prospective effect. Since our requests were not considered, we filed petition before Hon'ble High Court of Madras (Madurai Bench) challenging the TAMP notification of abnormal lease rent revision with retrospective effect and the High Court has granted interim stay against the implementation of the said revision of rent.</p>	---
(ii).	<p>While we have challenged the previous revision applicable for the period 2012-2017 and the same is pending before Hon'ble High Court, TAMP now has released the next revision of lease rent of Port lands for the period 2017-2022, which is again abnormally on higher side. You are very much aware of the fact that recently the Guideline value for the lands in Tamil Nadu has been reduced to extent of 33%. Under these circumstances, instead of reducing the rent proportionately, increase of the rent by another 34% to 107% is contrary to the norms. Moreover, we understand that there are no takers for the Port Lands in VOCPT for the simple reason that, the lease rent quoted is very high and Port is not getting any response whenever the lands are put into auction for lease.</p>	There has been takers during 2016-2017 also non-utilisation of land relates to the traffic and demand.
(iii).	<p>Hence, we express our objection to increase the lease rent and request that the lease rent should be reduced from the current levels in line with the reduced guideline rates.</p>	---
3.	VTM Limited	
(i).	<p>In suit O.S.779/2004 before the Principal District Munsif's Court, Tuticorin (Formerly O.S. No.141/98, Sub-Court, Tuticorin) wherein we have questioned previous demand for enhanced rate made in 1998 is still pending disposal before the said Court. Hence, we have not given our comments in this matter.</p>	The pendency of the O.S. in District Munsif's Court is not related to the current proposal for revision of lease rent.
4.	Thiagarajar Mills (P) Ltd	

(i).	Thiagarajar Mills (P) Ltd. has pointed out that suit in O.S.778/2005 before the Principal District Munsif's Court, Tuticorin (Formerly O.S. No.142/98, Sub-Court, Tuticorin) wherein we have questioned your previous demand for enhanced rate made in 1998 is still pending disposal before the said Court. Hence, we have not given our comments in this matter.	The pendency of the O.S. in District Munsiff Court is not related to the current proposal for revision of lease rent.
5.	Tuticorin Alkali Chemicals and Fertilizers Limited	
(i).	We have already made known our view points through several letters to VOCPT that, even the past retrospective revision of rent and current rent valid till 30.06.2017, itself are unimaginably high and there is a huge disconnect with values of similar lands in the adjacent areas contiguous to this land. While we were expecting atleast a 50% reduction to the lease rentals, the proposal to hike it by another 37% is a rude shock.	---
(ii).	We are not in agreement with the report on the following points:	
	<p>(a). Land Value: As per para 11 of the "report of the committee" the value of the industrial land has been arrived at as ₹4260.86/ sq. mt. based on WPI Index. This translates to ₹1.70 crore per acre. Whereas the guideline value of the land based on the land which we own contiguous to the leased land is 5 times lower and even the lands which are registered in the recent past are also similar to the guideline value. Hence, fixing a rate at the above value or at the recommended ₹321.25 based on the "Income" approach need to be lowered by 400% to 500%. The value indicated under option I as per Tamil Nadu Government is most appropriate and tallies with the reality of the situation. To our surprise, even this ₹255.65 is not being recommended as the rent, and the higher value of ₹321.25, arrived at by income approach is being proposed/ considered in cash flows. This is clearly an un-workable rate and we are being pushed to the corner and we may have no other alternative but to shut down the operation. The port already has similar land in that area remaining un-utilised and this will only add to that and may not result any immediate income to the port.</p>	The guideline value comparison is not possible in this case. The land possessed by the party is in the accessibility to Berth and Back up along with security features. Accordingly guideline values of the land outside the port is not comparable for the purpose of revision. The rate arrived by income method is not considered in the recommendation due to underutilization of port land.
	<p>(b). Year-wise Escalation: We also do not accept the proposal for increasing the current escalation rate from 2% escalation per year to 5% per year. Kindly drop this and if possible kindly implement a firm lease rent for 5 years with minor escalation once in 5 years.</p>	---
	<p>(c). Determining the price of the land on the 5 approaches done now, may require some changes. The value of the land is purely depending on supply and demand, the use to which the land is being put or dependence on</p>	---

	port activities. The concept that the industrial "land" that is not connected to port should return 6% of market value or on the basis on any of the approaches presented is not practical. While projects are built, it is based on steady income model where there are no "appreciation" to the capital cost are considered and will never be practical to sustainer. We are using the land for the past 35 years, it is impractical to assume a lease rental increase from 0.5 ₹/sq.m. to current proposal of ₹321.55, while we are at the same level operation and in a heavy loss scenario.	
(iii).	Kindly give a careful consideration to the points presented and grant us an opportunity for peaceful co-existence, to protect the livelihood of 500 direct and atleast 1000 indirect workers depended on this Plant's continuance of production.	---
6.	Tuticorin Thermal Power Station	
(i).	It is informed that TANGEDCO's plea is to accept the 50% balance lease rent amount payable to VOCPT for the period upto 30.06.2007 which was withheld by TANGEDCO as per interim stay orders of the Hon'ble High Court/ Madras vide WMP No.28405/2003 in W.P.29970/2003 without any interest and to fix the lease rent as upfront premium on par with lease rent terms of NLC Tamil Nadu Power Limited @ ₹379.36/ sqm for 30 Years by way of escalating the base rate of ₹20.90/ sqm/ Annum (as on 01.07.2007) by 2% per annum and by discounting such escalated rate at 6% per annum for the period from 01.07.2007 to 30.06.2037.	Current proposal is not related to fixation of lease rental of all lands.
7.	M/s.International Cargo Terminals and Infrastructure Pvt. Ltd.	
(i).	We have already paid upfront premium to Port Trust for period of lease deed upto 31.12.2023. Therefore, we presume that we are not impacted to the intended revision of lease rent of port lands.	Yes, this lease rental revision shall not apply to the firm till 31 December 2023.
8.	Vishnu Temple Committee	
(i).	We wish to submit that Vishnu Temple is rendering spiritual and charitable service to the residents of the Harbour Quarters and the same is functioning with the contribution received from them. With the present day increased cost, it is very difficult to perform even the day to day poojas. Hence, any increase in the lease rent from the present rate of Re.1/- will affect the functioning of the temple and the temple maintenance committee will not be in a position to pay the proposed revised rate of rent on per Sq.m basis.	--
(ii).	Vishnu temple requests to continue the existing rent of Re.1 and exempts all religious institutions from the purview of revision of lease rent.	The rates for religious purpose had already been referred to Ministry of Shipping and at present no comments in this regard.
9.	M/s.Golden Electronic Weigh Bridge	

(i).	We have fully paid lease rent for 30 years upto 26/01/2035. Hence, the above proposal cannot be applicable to us. So we kindly request you to withdraw the above revision proposal and oblige.	Yes, this lease rental revision shall not apply to M/s. Golden Weigh bridge till 26.01.2035.
10.	Indian Potash Ltd. (IPL)	
(i).	As against existing TAMP approved rate valid for the period from 01.07.2012 to 30.06.2017 of ₹335.14 per sq.m./ annum, the Port has now proposed a rate of ₹540/- per sq.m./ annum, which works out to an exorbitant increase of 61.13%. Further, the basis adopted for arriving at the enhanced rate i.e. State Government's ready reckoner, seems to be arbitrary and not acceptable to us. Even the approved valuer M/s. KITCO appointed by the VOCPT for this purpose has suggested for adopting a different method for valuation i.e. Wholesale Price Index method according to which rate suggested was ₹387.37 only.	The proposal for revision of lease rent had been forwarded to TAMP. Board has accorded approval and the revision proposal as approved by the Board is hosted in Port Website. Board has recommended for applying Wholesale Price Index method.
(iii).	The Government of Tamilnadu has recently slashed the guideline value of the properties by 33% w.e.f. 08.06.2017 and we feel that this might not have been taken into consideration by the port authorities in the proposed rate. We got our last allotment of leased land in the year 2008 for a period of 30 years for an area of 6960 sq.m. for which we paid upfront premium @ 3505/- per sq.m. which works out to ₹116.83 per sq.m./ annum. On comparison, the existing lease rate itself is on the higher side and proposed rate of ₹540/- is definitely exorbitant.	---
(iv).	Considering the above factors, we would like you to intervene and re-fix the rate to a reasonable level linked to WPI.	---
11.	Tuticorin Ship Agents' Association	
(i).	The lease agreement is for 30 years with a normal increase in the lease rent rate spelled in the agreement. The present increase is abnormal and could not afford by the users considering the current market situation. Apart from this a huge amount is already invested for construction of building in the port lands. This violates the agreement.	The proposal for revision of lease rent had been forwarded to TAMP. Board has accorded approval and the revision proposal as approved by the Board is hosted in Port Website. Board has recommended for applying Wholesale Price Index method. This may be noted.
(ii).	No development cost can be recovered from users. The market value of land reflects the development made by port trust. Therefore, market value of land and development cost cannot be on users.	
(iii).	Its needs to be emphasized that the proposal contains an alarming increase in rates apart from the following charges levied by VOCPT on users: (a). Handling charges on bulk cargo. (b). Mechanical handling by conveyor. (c). Shore crane handled by Harbour Mobile Crane. (d). Increase in cargo handling levy by three times. (e). TPT CHLP levy has been increased.	

	<p>(f). Penal berth hire charges has been included for cargo handling.</p> <p>(g). National tribunal has not been implemented for cargo handling.</p> <p>Considering not applying mind to keep cargo handling, we request to not implement the revision on land owners.</p>																															
12.	DCW Limited																															
(i).	<p>Classification of Land:</p> <p>The revision of lease rent is applicable to our 2nd allotment land of 8,618.40 sq.mtr., for which the lease period expires on 31.08.2020.</p> <p>The land has been categorized as Commercial by the Port. Factually, we should have been classified only under industrial category, since we do not have any commercial activity. The leased land at the Port is only used as a Transit terminal to handle VCM for our plant, for our own self consumption and not for sale. In our case, we are manufacturing PVC resin and the imported raw material is 100% self consumed and hence our activities to be considered under industrial category and not under commercial category.</p> <p>The land is only as a transit terminal. DCW is having pipe line connections from jetties to receive cargo from ship and transfer to our plant located in Sahupuram at Kayalpatnam Municipal limit. Hence, it is requested to consider our classification of land from commercial to industrial category.</p>	<p>Classification of category as Industrial instead of Commercial is a separate issue to be dealt with and has no connection with the proposal for revision of lease rent.</p> <p>The proposal for revision of lease rent had been forwarded to TAMP. Board has accorded approval and the revision proposal as approved by the Board is hosted in Port Website</p>																														
(ii).	<p>Revision of Rates:</p> <p>During 2007 and 2012, TAMP has revised the rates with 2% escalation per annum. In our case, the TAMP has revised the lease rent as follows:</p> <table border="1"> <thead> <tr> <th colspan="2">Period</th> <th>TAMP revised rate</th> <th>% of increase to the previous year</th> <th>Remarks</th> </tr> <tr> <th>From</th> <th>To</th> <th>Per Sq. Mtr.</th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td>01.09.2006</td> <td>30.06.2007</td> <td>61.45</td> <td></td> <td></td> </tr> <tr> <td>01.07.2007</td> <td>30.06.2012</td> <td>164.28 + 2% Escalation every year</td> <td>167.34</td> <td>TAMP Revised the rates from 01.07.2007</td> </tr> <tr> <td>01.07.2012</td> <td>30.06.2017</td> <td>335.14 + 2% Escalation every year</td> <td>88.47</td> <td>TAMP Revised the rates from 01.07.2012</td> </tr> <tr> <td>01.07.2017</td> <td>30.06.2022</td> <td>540 + 5% Escalation every year</td> <td>48.85</td> <td>TAMP Revised the rates now from 01.07.2017</td> </tr> </tbody> </table> <p>TAMP has revised rates with effect from 01.07.2017 to 30.06.2022 with an escalation of 5% per annum. Earlier TAMP has considered 2% escalation every year. Now the % of escalation per year has been revised from 2 to 5%. It will reach ₹689.20 per sq. mtr. on 30.06.2022, the increase will be 27.63% higher than the new TAMP rate announced now which is three times higher than the previous escalation. Earlier the increase was 8.24% only on every 5 years. Hence, reconsider the % of increase per year.</p>	Period		TAMP revised rate	% of increase to the previous year	Remarks	From	To	Per Sq. Mtr.			01.09.2006	30.06.2007	61.45			01.07.2007	30.06.2012	164.28 + 2% Escalation every year	167.34	TAMP Revised the rates from 01.07.2007	01.07.2012	30.06.2017	335.14 + 2% Escalation every year	88.47	TAMP Revised the rates from 01.07.2012	01.07.2017	30.06.2022	540 + 5% Escalation every year	48.85	TAMP Revised the rates now from 01.07.2017	
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(iii).	Clarification:	No comments furnished by the port.																														

	In the list of allotments issued by the port upto the year 2016-17 at zone A, the purpose of land allotted to DCW Ltd. was mentioned as "Charity" for the 1 st allotment of 19,703 sq. mtr. inadvertently. Hence, we request that we may be classified under industrial category.	
13.	M/s.Pereira & Roche (P) Ltd.	
(i).	The Company vide letter dated 05.09.2014 has terminated the Agreement of Lease dated 22.03.1994 by giving 3 months notice and the same has been received by the port on 05.09.2014.	No comments furnished.
(ii).	We have also requested port to furnish its valuation and express its willingness to purchase the super structure within two months but the same letter remains unanswered. However, the Lease stands terminated in terms of our notice and port cannot claim any rent after such termination and consequently the landlord and tenant relationship having come to an end and port cannot seek to revise the rent either.	
(iii).	Even before the termination, for several years, we have been trying to transfer our rights under the lease and we had corresponded with the Port Estate Management regarding the same with no positive response which compelled us to terminate the lease.	
(iv).	We have requested port to react expeditiously, so that we can transfer the super structure either to the port or to any suitable person named by the port.	
14.	M/s.Hindustan Petroleum Corporation Ltd. (HPCL)	
(i).	HPCL is a PSU under Ministry of Petroleum & Natural Gas, Government of India.	The current proposal of lease rent revision with effect from 1 July 2007 is not applicable in respect of the allotment made to HPCL since the allotment has been made on upfront basis for the period from 1 June 2016 to 31 May 2045 for 29 years.
(ii).	We have taken land admeasuring 23,750 sqm. from VOCPT for setting up Truck parking facility with retail outlet.	
(iii).	The land was taken through online reverse auction conducted by MSTC.	
(iv).	This is a service related project of providing Truck parking for the trucks coming to VOCPT.	
(v).	This project benefits the stakeholders of the port like Transporters & truck drivers.	
(vi).	We have taken the land at a very high cost of ₹7000/ sqm. The premium paid was ₹19.95 crores and 1.15 crores deposit, which is very very high. Our project is viable only at present rental of ₹1/ sqm, due to the huge premium. Any further escalation would make our project unviable. Hence, please do not revise the rental as sought by VOCPT.	
(vii).	We provide free facilities like Toilets, Bath, Dormitory facilities, which are service oriented.	
(viii).	Lease was registered very recently, only in January 2017.	
(ix).	We reserve right to bring additional points to justify our claims.	
15.	Tuticorin Port - Land Users Welfare Association (Zone - B)	

(i).	<p>The lands in the occupation of the members of the Port Land Users Welfare Association (Zone - B), Tuticorin are not and were never the property of the Port and the occupation of the respective occupants can be traced back to, long prior to the establishment of VOCPT. The said lands occupied by them are sea bed lands and they have been roped into and made to pay the rent under mutual mistake, (between the Tuticorin Port Trust and the present payees whom you call as allottees) which is apparent from the information disclosed by the Tuticorin Port Trust by their letter dated 27.09.2016 and also by fraud coercion and undue influence etc. From the above reference we are able to see that the Port has started collecting rent from the existing occupants under the impression that they are occupying part of S.No.1108/1C, /1A, 1107, 1106/1, 1106/2, 1108/2A and 1108/2B. Because the rent was demanded by an organization which we thought will not make any mistake or illegal demands, our members started paying the rents without knowing that the VOCPT have no claim over the lands occupied by them.</p>	Not relevant to fixation of lease rentals.
(ii).	<p>Now upon survey we find we are in occupation of property which are not the port lands and some are sea bed lands Kirama Natham Lands, etc. and at any rate was not the property of VOCPT.</p>	
(iii).	<p>Our members and their forefathers have been working on the sea shore for the last several generations and they have expanded their possession as the sea receded by Act of God and by their own Act of dumping the sea and the Tuticorin Port cannot claim any right over such properties. Besides all the lands are also lying well within CRZ Prohibition limits that it will amount to asking for a share of the booty.</p>	
(iv).	<p>Under the above circumstances, the area of occupation as determined in annexure are all totally erroneous and the proposed demand revision of rent is equally illegal and without Jurisdiction.</p>	
(v).	<p>It is also understand that the port authorities have suppressed the pending proceeding in A.S.No.15/2016 before the District Court, Tuticorin and other pending proceedings in other courts which render the whole issue subjudice.</p>	
(vi).	<p>The only lively hood of our members who belong to the fishing community in general, engaged in fishing activities and allied activities is only by squatting on the sea side and in the Sea Bed lands exposing themselves to odd weathers and the risk of the sea and depending upon the sea for all their needs. The lands occupied by our members is an extension of the Inigo Nagar and it is a known fact that with respect to Inigo Nagar that the High Court prohibited the authority of the VOCPT before</p>	

	getting their title adjudicated by the competent court of law.	
(vii).	Regarding the proposal dated 07.06.2017 from the VOCPT, we submit:	
	(a). TAMP has called upon us for our comments by 30.06.2017. But communication had been received only on 27.06.2017 and it was in form of a CD & we could not know what it was till yesterday. Further, all the relevant papers are with our Advocate and filed into court hence there is some delay in submitting our reply which may kindly be condoned.	
	(b). Our Members will be happy to participate in the joint hearing, if any, along with their Advocate. But however we are afraid an issue which is pending before a court of law cannot be adjudicated by any of us.	
	(c). The Association was formed when we were under the wrong impression that we are all Port Land users. Now we are clear that the lands in our occupation are sea bed lands over which the port has no authority or Jurisdiction. So please do not be carried away by the name of our Association.	
16.	Sri Siddhi Vinayagar Thirukkovil	
(i).	This Vinayagar temple was constructed in the Port residential area early in 1973 for worship by the officers, employees and workers residing in the Port Township area and land was allotted on a nominal rent of ₹1 per year as a welfare measure. The day-to-day maintenance of temple & pooja is also managed by the meager contribution of the officers and staff among themselves. However, we found it very difficult to meet the expenses. There is no financial aid by the Port Trust. There is no commercial transaction involved under the circumstance. We request to continue the present nominal lease lent purely as a welfare measure to the residents in the port township.	Not relevant to fixation of lease rental rates, and it is outside the purview of the same.

2. A joint hearing in this case was held on 10 August 2017 at the VOCPT premises. The VOCPT made a brief power point presentation of its proposal. At the joint hearing, the VOCPT and the concerned users/ organisation bodies/ prospective bidders have made the following submissions:

V.O. Chidambaranar Port Trust (VOCPT)

(Dy Chairman)

- (i). Allow port to go for tendering. If lease rent proposed by port is high, market will not accept it. Why SEPC and users are not allowing port to discover market lease rent by inviting tender cum auction ?
- (ii). Port requests Government approved valuer KITCO to look into the ready reckoner land value published in June 2017 by State Government of Tamil Nadu as referred by many users/ user organisation and quickly give its report.
- (iii). We will also review the annual escalation.

(FA&CAO)

- (i). As per Land Policy Guidelines, lease rent need to be revised every five years.
- (ii). Last revision was approved in May 2014. Lease rent was approved from 1 July 2012 to 30 June 2017.
- (iii). Port has appointed Government approved valuer for undertaking valuation of land as per the Land Policy Guidelines (LPG).
- (iv). Valuer has assessed land value under 5 methods. Valuer has recommended value of land and lease rent following WPI method for reasons stated in the report.
- (v). As per Land Policy Guidelines, lease rent should not be less than 6%. Land Allotment Committee has considered the recommendation of valuer and referred it to the Board to decide.
- (vi). Board has approved lease rent based on WPI method with 5% annual escalation.
- (vii). The point referred by TANGEDCO is being dealt separately. It has no relevance to fixation of lease rent.
- (viii). As regards, the rates for religious purpose; port will examine.
- (ix). Since Board was not constituted, we had sent the original proposal. That proposal is not relevant now. Subsequently, VOCPT has filed proposal with Board approval where only 6.77% increase is proposed.
- (x). Increase proposed is nominal at 6.77% over the lease rent as on 30 June 2017.
- (xi). Classification of land does not fall under the TAMP domain. Classification of land falls under the domain of the port.

Tuticorin Ship Agent's Association

- (i). Valuation Report is hypothetical. They have not considered the factual position. Due to proximity to sea, the Buildings are dilapidated, maintenance is high. High lease rent proposed by port is not feasible. This factual position is not considered while doing the land valuation.
- (ii). Valuer has taken lease rent of land at proximity area which are not relevant.
- (iii). We need time to collect information on value of land and submit our further comments.

Tuticorin Stevedores Association

- (i). Land Policy Guidelines is applied equally across all Major Ports. Application of Land Policy Guidelines at VOCPT may not be correct as the land at VOCPT cannot be treated at par with lands of other Major Port Trusts.
- (ii). At the proposed rates, increase in lease rent works out to 600% from the lease rent applicable as in the year 2002.
[Dy Chairman VOCPT: We cannot base lease rent based on market value of land obtained in the year 2002.]
- (iii). There are several Court cases filed by users/ user associations which are pending before the Hon'ble Courts.
- (iv). Port land is leased land. It can neither be sold nor mortgaged.

- (v). People who have invested on improving the land allotted to them are bleeding. Increased lease rent is uneconomical.
- (vi). As users we are suffering due to high increase in lease rent.
- (vii). Port is the biggest landlord of Tuticorin. But, they should consider reasonable increase in lease rent. Port should see that lease rent is viable.

Tuticorin Salt & Marine Chemicals Ltd.

- (i). We are lessees producing salt on port land for around 75 years.
- (ii). Proposed lease rent is enormously high.
- (iii). Cost of rent works out to ₹2000/ tonne. Whereas, cost of production of salt is ₹400/ tonne. The proposed lease rent is unviable.
- (iv). Gujarat is leading producer of salt. They charge only ₹800/ tonne towards rent.
- (v). Salt industry is a labour industry. If lease rent is not made viable, it will impact livelihood of many labourers dependent on this industry.
- (vi). Salt cannot be produced in any place or shifted anywhere. It needs appropriate geographical conditions.
- (vii). We have invested huge amount for developing salt production in this port.
- (viii). The port is splitting plots allotted for salt industry into 10 acres. Evaporation ponds and crystallization ponds are required for salt manufacture. It is not possible to produce salt in 10 acres land.
[Dy Chairman, VOCPT: There is no restriction placed by port as such. Port is not saying to do business in 10 acres of land. Port has stated land will be allotted in multiples of 10 acres by the port.]

[Dy Chairman, VOCPT : Why is salt industry preventing the port from going for tender process by getting stay in the Court. They should allow port to discover the market rent of land.]

Tuticorin Port Land User's Welfare Association

- (i). Our Members are using the land for fishing community.
- (ii). They are tribal community and doing small business.
- (iii). We approached Court as port issued evacuation notice.
- (iv). Port may treat the area allotted to fishing community as a special area and charge a nominal fee. We are ready to pay.

M/s.Hindustan Petroleum Corporation Ltd.

- (i). Lease was registered only in January 2017 for land allotted to us. We have paid huge premium of ₹19.95 crores.
- (ii). Lease rent should not be increased for us. Our project will be affected.
[Dy Chairman, VOCPT: Revised proposed lease rent is not applicable to HPCL]

Bharath Sanchar Nigam Ltd.

- (i). We are catering to rural areas.

- (ii). We are not able to generate revenue even to meet maintenance and operating cost. [Dy Chairman, VOCPT : Port cannot discuss on salaries, overhead structure of each organisation for revision of lease rent.]
- (iii). We are ready to give back part of the land to the port.
- (iv). We may be allowed to pay the same rent what we are paying now.

Southern Petrochemicals Industries Corporation Ltd.

- (i). The acquisition cost of land and lease rent so far recovered by the port should be considered while arriving at the proposed lease rent.
- (ii). Value of small acre of land given to a weigh bridge operator was considered while fixing lease rent in the last revision. Such comparison cannot form the basis for large parcel of land. Land Policy Guidelines requires to compare identical land for valuation purpose.
- (iii). Port should not look only from commercial angle while proposing increase in lease rent. There should be conducive atmosphere in the port to carry out port activities.

Darangdara Chemical Works Limited

- (i). Land allotted to us is categorised as commercial category. Our activities should be categorised under industrial category.

[Dy Chairman, VOCPT: VOCPT will examine the matter.]

SEPC Power Private Limited

- (i). Port always compares proposed lease rent with the existing lease rent.
- (ii). Lease rent ought to be reasonable on two perspectives viz. (i). Board itself has acknowledged that existing lease rent is high. (ii). The Govt approved valuer KITCO in its report itself rejects the valuation of land of 2012.
- (iii). The lease rent fixed during the last revision was based on business model given to weigh bridge operator. It is business model; not lease rent. That was applied across all port land for arriving at the lease rent. The lease rent fixed in last Order itself is exorbitant.
- (iv). There is mismatch in categories mentioned in the valuer's report. At some places it is stated as "service" at some places as "residential".
- (v). To my understanding, Commercial land means where entity decides the price. Industry purpose is where the value of land is market driven. Service related land is where discount/ rebates may be given.
- (vi). To treat land allotted to NTPL and TANGEDCO as "industrial" category and others under "commercial" category is not fair. Land should be categorised based on the land policy and not based on entity.
- (vii). State Government has published 33% reduction in guideline value in the year. Then, it is not clear how, the port can assess increase in value of port land.
- (viii). Escalation is proposed to be increased from 2% to 5%. There is no basis for 5% annual escalation. We request TAMP to reject 5% annual escalation and consider 2% annual escalation as per the LPG.
- (ix). Consider 50% decrease in the existing lease rent and annual escalation at 2%. This is our submission.

TANGEDCO

- (i). Ours is a service oriented organisation. Proposed lease rent is high. Port was allotted land by the State Government free of cost.
- (ii). Last occasion also, we requested to treat us at par with NTPL. We reiterate the same.

Indian Potash Ltd.

- (i). Revision in last two quinquenniums has been more than 100%.
- (ii). We are servicing farming community.
- (iii). There is no infrastructure development on the land allotted to us. There is no sanitation, no water facility or drainage provided, road conditions are bad.
- (iv). Existing lease rent itself is high. We request to continue with existing lease rent.

M/s. Tuticorin Alkali Chemicals and Fertilizers Ltd.

- (i). Increase proposed is exorbitant.
- (ii). Entire land allotted to us is not being used by us. But, we have to pay lease rent for the entire land.
- (iii). The Government of Tamilnadu has slashed the guideline value of property by 33% from June 2017. Why the Guideline value of State Government of Tamilnadu is not being used ?
- (iv). All the land around port are vacant or salt pan or green belt area.
- (v). We have developed the road. Considering this fact, can there be lower rent for us?
- (vi). It is impossible to earn 6% return on investment on assets. Can 6% return considered for arriving at lease rent be downsized? Any fixed asset giving return more than 2% is remote.

[Member (Finance): Land Policy Guidelines stipulates lease rent should not be less than 6% of the market value of land]

M/s.KITCO, (Govt approved valuer of Land appointed by VOCPT)

- (i). We have done extensive survey of VOCPT land at various sectors. We have arrived at land value under different methods.
- (ii). We have taken Guideline value published by State Government Ready Reckoner. We have collected 20 registered documents and considered the relevant registered documents for land valuation. We have given proper weightages to assess market value of port land and arrived at lease rent.
- (iii). As regards the point made by SEPC Power Private Limited that KITCO has rejected the 2012 land valuation, it is to state that we have not at all considered previous valuation. We have undertaken valuation of land independently.
- (iv). Income Methodology is the most appropriate for land valuation. Under Income Method, lease rent is coming very high for commercial area.
- (v). Considering the poor demand for fresh lease, the VOCPT specific issues, and also considering the WPI approach followed for valuation of land of Cochin Port Trust, we have recommended WPI method for VOCPT land valuation.

Tuticorin Ship Agent's Association

(i). We request to continue the existing lease rent.

3. A summary of the written submissions / comments of users / user organisations / lessees and comments furnished by VOCTP thereon are tabulated below:

Sl. No.	Comments of users	Reply furnished by VOCTP
1.	Vishnu Temple Committee	
(i).	<p>The Vishnu Temple, Vinayagar Temple, Santhanamariamman Temple, Masjid-e-Noor, CSI Church and RC Church are using the land allotted to them for religious purpose only and for worshipping of God. We are not doing any business / profession other than religious worshipping and are maintained through donations from developers.</p> <p>Therefore, it is humbly requested that the proposed revision of rent for the land allotted to the above purposes may please reconsidered and religious institutions may be exempted from the revision of lease rent.</p>	Not relevant to fixation of lease rental rates, and it is outside the purview of the same.
2.	SEPC Power Private Ltd.	
(i).	<p>SEPC Power Private Limited (hereinafter referred to as "SEPC")</p> <p>(a). SEPC was allotted land for setting up of Tuticorin Thermal Power Project admeasuring an extent of 36.81 Hectares near check port No.1 on long term annual lease rent basis along with ancillary facilities. At the time of allotment on 1 April 2010, the revised and updated TAMP rates at ₹40.01 per sq.mtr per annum as on 1 July 2009 and subject to revision from time to time as per TAMP Guidelines were fixed.</p> <p>(b). The port has identified the above lands allotted to SEPC for establishing the Power Plant which actually falls under "service" category based on the Land Policy Guidelines, Major Port, 2014 issued by the Ministry of Shipping, Government of India based on the similar land use lessees such as TANGECO & NTPL. However, we are being lease rentals as are applicable for "Industrial" category lessees.</p>	No comments furnished by port.
(ii).	VOCTP operates in the nature of a monopoly, considering that even after the announcement of the liberalization in the port sector, the development of private ports and terminals is yet to take full effect. Consequently, till such time, competition is literally absent and the VOC Port to that extent has overwhelming control and influence.	No comments furnished by port.
(iii).	<p>Price Fixation and the Tariff Authority for Major Ports</p> <p>(a). TAMP is the sole Authority for fixation of rates, in exercise of its power under the MPT Act and has been constituted with the insertion of S.47A to the Act in 1997. The TAMP also has the sole power to fix the Scale of Rates for services to be performed by the Board and for use of its property under S.48 and S.49 of the</p>	No comments furnished by port.

	<p>Act. The TAMP, under S.111 of the MPT Act, is bound by the directives on question of Policy issued by the Central Government from time to time.</p> <p>(b). The very purpose of the contribution of the TAMP and the power granted to it for fixation of rates is to ensure that the rates are maintained within reasonable limits. This is done by way of a proposal being given by the respective Major Port Trust to the TAMP for fixing of a Scale of Rates, and the TAMP after considering the issues through a consultation process involving all stakeholders, issuing a Scale of Rates through a Gazette Notification.</p> <p>(c). The TAMP has issued guidelines for tariff fixation in Gazette No.39 dated 31 March 2005, and the relevant terms in this regard are extracted here below:</p> <p>“2.2 In prescribing the tariff TAMP will be guided by the following:</p> <ul style="list-style-type: none"> (i). Safeguarding the interest of shippers / consignees and other port users. (ii). Ensuring just and fair return to ports. (iii). The factors which will encourage competition, economical use of resources, efficiency in performance and optimum investment. (iv). The established costing methodologies (including cost plus approach) and pricing principles. (v). The policy direction issued by the Central Government under Section 111 of the MPT Act. (vi). Ensuring transparency and participative approach while discharging its functions. (vii). Tariff leverage will be used to improve operational efficiency of the ports. (viii). Overall long term objective will be to move to competitive pricing and to push performance of Indian Ports to internationally competitive. <p>2.4.2. Tariff will examine the reasonableness of the costs and investments to ensure that inefficiencies, uneconomic uses / practices or excess are not passed on to users.</p> <p>2.16.1. The rates prescribed in the Scale of Rates are ceiling level; likewise, rebates and discounts are floor levels. The ports may, if they so desire, charge lower rates and / or allow higher rebates and discounts.</p>	
(iv).	<p>Lease of Land:</p> <p>(a). It is significant to state that the very purpose of fixation of rates is to allow a reasonable rate of return, and at the same time ensure that costs do not escalate unreasonably and affect public interest. In this regard Para 1.2 of the General Terms and Conditions specifically states in sub para (xiii) that the</p>	No comments furnished by port.

	<p><i>“rates prescribed in this Scale of Rates are ceiling levels: likewise, rebates and discounts are floor levels. The Port may, if so desires, charge lower rates or allow higher rebates and discounts.”</i></p> <p>(b). This clearly demonstrates the policy that the rates are the higher limits and if at all rates can only be reduced as incentives and to increase efficiency. This is for the reason that in order to sub-serve common good, the policy is directed at keeping rates within limits and at the same time allow free play for the port by allowing rebates as incentives for efficiency.</p> <p>(c). Further, the lands are leased to the lessees based on the specific land use identified upfront based on which different categories of land lease rent approved by TAMP are levied from such lessees.</p>	
(v).	<p>Land Policy Guidelines for Major Ports</p> <p>(a). As set out herein above, when the Land Policy is announced, the same is required to be followed in terms of policy, as well as rates. The Central Government had notified the Land Policy, initially, for Major Ports on 08.03.2004 and a fresh Land Policy in 2010. Thereafter a fresh Land Policy Guidelines for Major Ports was introduced in 2014 and the amended Land Policy Guidelines for Major Ports was introduced in 2015, which is applicable to the present proposal.</p> <p>(b). It is significant to state the requirement for issuance of the said Land Policy arose because land is one of the important resources of the port trust. With increasing traffic in port, there was a necessary to regulate the allotment of land and have a well considered land policy that could be uniformly applied by all the major ports.</p> <p>(c). The policy directive contains specific policy guidelines in respect of the land inside customs bound area, and the land outside the customs bound area.</p> <p>(d). It is submitted that the very purpose of the policy is to ensure that the rates are not unreasonably increased so that the goods that become available in the country through ports do not have to bear a disproportionately high cost burden arising out of various activities over which the port has power to levy tariff and rates. This regulation in pricing is principally for the reason that due to various historical reasons, the number of participant and players in port related activities as well as the number of ports are not large resulting in disproportionate concentration and monopolistic tendencies that</p>	No comments furnished by port.

	<p>has the potential to cause unreasonable increase in rates.</p> <p>(e). Furthermore, in the said Land Policy Guidelines, the ports are to fix the land lease rates based on the Land use and not based on the status of the lessee.</p>	
(vi).	<p>Statutory Provision in respect of Rate Fixation under the Major Port Trusts Act, 1963:</p> <p>The relevant provisions are as follows:</p> <p>42. Performance of service by Board or other person.</p> <p>(1) A Board shall have power to undertake the following services:</p> <p>(a). <i>landing, shipping or transshipping passengers and goods between vessels in the port and the wharves, piers, quays or docks belonging to or in the possession of the Board.</i></p> <p>(b). <i>receiving, removing, shifting, transporting, storing and delivering goods brought within the Board's premises:</i></p> <p>(c). <i>carrying passengers by rail or by other means within the limits of the port or port approaches, subject to such restrictions and conditions as the Central Government may think fit to impose.</i></p> <p>(d). <i>receiving and delivering, transporting and booking and dispatching goods organizing in the vessels in the port and intended for carriage by the neighbouring railways, or vice versa, as a railway administration under the Indian Railways Act, 1890 (9 of 1890)</i></p> <p>⁴⁹(e). <i>piloting, hauling, mooring, remooring, hooking or measuring of vessels or any other service in respect of vessels.</i></p> <p>^{49B} (f). <i>developing and providing subject to the previous approval of the Central Government, infrastructure facilities for ports.</i></p> <p>(2). <i>A Board may, if so requested by the owner, take charge of the goods for the purpose of performing he service or services and shall give a receipt in such form as the Board may specify.</i></p> <p>(3). <i>Notwithstanding anything contained in this section, the Board may, with the previous sanction of the Central Government, authorise any person to perform any of the services mentioned in sub-section (1) on such terms and conditions as may be agreed upon.</i></p> <p>^{49C}[3(A) <i>Without prejudice to the provision of sub-section (3), a Board may, with the previous approval of the Central Government, enter into any agreement or other arrangement, whether</i></p>	No comments furnished by port.

<p><i>by way of partnership, joint venture or in any other manner) with, any body corporate or any other person to perform any of the services and functions assigned to the Board under this Act on such terms and conditions as may be agreed upon.]</i></p> <p>(4) No person authorised under sub-section (3) shall charge or recover for such service any sum in excess of the amount [specified by the Authority, by notification in the Official Gazette.]</p> <p><i>(5). Any such person shall, if so required by the owner, perform in respect of goods any of the said services and for that purpose take charge of the goods and give a receipt in such form as the Board may specify.</i></p> <p><i>(6). The responsibility of any such person for the loss, destruction or deterioration of goods of which he has taken charge shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.</i></p> <p><i>(7). After any goods have been taken charge of and a receipt given for them under this section, no liability for any loss or damage which may occur to them shall attach to any person to whom a receipt has been given or to the master or owner of the vessel from which the goods have been landed or transhipped.</i></p>	
<p>49. Scale of rates and statement of conditions for use of property belonging to Board</p> <p>⁵⁵ [(1) The Authority shall from time to time, by notification in the Official Gazette, also frame a scale of rates on payment of which, and a statement of conditions under which, any property belonging to, or in the possession or occupation of, the Board, or any place within the limits of the port or the port approaches may be used for the purposes specified hereunder]:-</p> <p>(a) approaching or lying at or alongside any buoy, mooring, wharf, quay, pier, dock, land, building or place as aforesaid by vessels;</p> <p>(b) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building, road, bridge or place as aforesaid by animals or vehicles carrying passengers or goods;</p> <p>(c) leasing of land or sheds by owners of goods imported or intended for export or by steamer agents;</p>	<p>No comments furnished by port.</p>

	<p><i>(d) any other use of any land, building, works, vessels or appliances belonging to or provided by the Board.</i></p> <p><i>(2) Different scales and conditions maybe framed for different classes of goods and vessels.</i></p> <p><i>⁵⁷⁽³⁾ Notwithstanding anything contained in sub-section (1), the Board may, by auction or by inviting tenders, lease any land or shed belonging to it or in its possession or occupation at a rate higher than that provided under sub-section (1).]</i></p>	
(vii).	<p>It is evident from a reading of the regime considering the purpose and constitution of the VOCPT, its statutory obligations, the constitution of TAMP and the land policy of major ports that the VOCPT, in view of its monopoly position as also the fact that it is a statutorily constituted body, is to act in a just, fair and reasonable manner. It is the object of the VOCPT to facilitate trade and commerce, and to act in a manner that is most beneficial, and comply with Article 39(b) of the Constitution of India. Article 19(6)(2) of the Constitution would also equally apply as the VOCPT is deemed to be a monopoly. The policy with respect to price fixation in respect of port facilities is well settled. Considering that competition is yet to be created in the field of port service, price regulation has assumed a statutory character. The principal guidelines in this regard is that prices have to be fixed in a manner that would ensure reasonable rate of return and at the same time would be in public interest and not result in escalation of price due to policies in that regard.</p>	No comments furnished by port.
(viii).	<p>Revised Proposal of VOCPT for revision of Lease Rentals:</p> <p>(a) VOCPT has filed a proposal for revision of lease rentals.</p> <p>(b) It has proceeded to engage a land valuer, viz., Kitco Consultants which prepared a valuation report based on the basis of the documents and enquiry without any consultations with other stakeholders.</p> <p>(c) The said valuation report has listed five options for arriving at the lease rents, of which the Port Trust appears to have decided to adopt the WPI method and after internal deliberations has forwarded a proposal for the 5 year period from 1.7.2017 to 30.6.2022 with escalation of 5%.</p> <p>(d) It is significant to state that in the meeting of 7.7.2017, the Trust has itself recognized that the users are finding even the</p>	No comments furnished by port.

	current rates to be too high but have nevertheless recommended an increase.	
(ix).	<p>Objections on the Revised Proposal of VOCPPT for revision of Lease Rentals: The objections we have to the increase are briefly set out here below:</p> <p>(a). Lease rent ought to be reasonable since the existing lease rent rates are already very high, which is already a subject matter of challenge before the Hon'ble High Court, Madras by various users through writ petitions; (Various writ petitions by various lessees pending before Hon'ble High Court, Madras)</p> <p>(b). Port itself acknowledges the fact that the existing rates itself are high (<i>The Minutes of the Ports Board meeting No 1 held on 7.7.2017</i>)</p> <p>(c). The revision in Lease rents have to prospective from the date of gazette publication and not retrospective from 01.07.2017. The guidelines for determination of Tariff / SOR also stipulate prospective fixation of SOR which shall be at-least 90 days from date of filing of proposal by Port; (<i>Para 3.1.2 of Working Guidelines to operationalise the Policy for determination of Tariff for Major Port Trusts, 2015</i>);</p> <p>(d). Re-classification of the lands allotted to us as "Service" category and not "Industrial" category and to accordingly apply "Service" category rates and not "Industrial" category rates to us; (<i>Para 9 of Land Policy Guidelines which stipulate "lease lands based on land use.."</i>)</p> <p>(e). Unrealistic & incorrect valuation of Land:</p> <p>(i) The valuation report does not consider the downward trend of real estate market;</p> <p>(ii) Guideline value of the lands fixed by the Government in 2012 were considered ignoring the revised guideline value fixed by the Government in 2017 (<i>Circular 25735/C1/2017 dated 8.6.2017 issued by Registration Department, Government of Tamilnadu</i>)</p> <p>(iii) There is no basis for assuming that the earlier rates were reasonable and thereafter using that as a base to prescribe escalation based on the WPI.</p> <p>(iv) The Consultant themselves admit that the recent transactions of Port cannot form the basis for land valuation considering the extent</p>	<p>M/s. KITCO valuation report is based on Land Policy guidelines, 2014 issued by Govt. of India., Ministry of Shipping. The challenge before Hon'ble High Court by some lessees is mainly against the retrospective revision.</p> <p>Board Meeting only discussed the points stated by the users that the existing users are saying so which has been referred. The Board neither agreed or disagreed.</p> <p>Working guidelines apply to General revision of SOR and current revision of lease rent is as per the provisions contained in LPG 2014. Hence, revision effective from the year 2017 is in order w.r.t. previous revision on 1 July 2012.</p> <p>Not relevant to fixation of lease rentals.</p>

<p>of land and land use which draws to the conclusion that the earlier lease rates are not reasonable.</p> <p>(v) There is no basis for fixing escalation at 5% annually when all escalation even in the past is 2% annually. Further, it is wrong to take escalation itself into consideration going by the fact that the consultant has considered the WPI and Interest for the five years period.</p> <p>(vi) Port lands cannot be equated to outside lands, and peculiar features of port lands have not been considered. For instance, SEPC has spent ₹40 Crs for raising the low lying area of land allotted. Further, the consultant has ignored the roads / drainages / common areas built into the market rates of outside areas whereas the same are being considered while fixing the lease rate of Port land.</p> <p>(f). Further, the Government of Tamilnadu has itself recognized that the property transactions are not taking place due to substantial dip in real estate values and has passed a GO reducing the Guideline Values across the board by 33%. This is an important factor and ought to be considered as it is now an established fact that land values are unrealistic. If the original base price was on such unrealistic basis, the same cannot be used as a base for further increase. In fact a reduction ought to have been recommended. <i>(Circular 25735/C1/2017 dated 8.6.2017 issued by Registration Department, Government of Tamilnadu)</i></p> <p>(g). Further the Report of Kitco itself recognizes at page 22 of the Report that utilization is only 40% due to the unrealistic rates and is a major concern and further that there have been rising protests against the raise. Having recognized the same, there could be no basis for increase and rather there should be a reduction. Even if the WPI method is followed, the base rates for the first year ought to be much lower.</p> <p>(h). The Port cannot function as a private landlord, obtaining high lease rentals and increased revenue from land by entirely ignoring the fact that it is essentially a Port Trust which is required to make best use of its resources to generate income as a Port and owes a duty to utilize them in a manner which is beneficial to the public at large, rather than seeking to merely maximize the revenue to its exchequer.</p> <p>(i). In all the Major Ports of the world, the land available had been leveraged in a manner which optimizes the throughput and thus</p>	<p>The issue has been re-examined and M/s. KITCO has confirmed the rates already given in the report stating that, though the Government revalued the land rates, it increased the stamp duty and overall cost has not reduced much.</p>
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increases the revenue of ports rather than merely charging higher rates on the land itself and stifling industry.

(j). The TAMP should take into account the globally established practice of Ports to allot land for carrying on economic activity, including establishment of industries to ensure captive cargo to the Port, thereby enhancing the sustainability of that port. The lands in and around Ports were generally expected to be utilized for port related activities. It is, therefore, clear that the principal objective for notifying the Land Use Policy was to make the rates at Major Ports realistic and competitive in order to leverage the availability of land, to optimize the throughput and enable them to ably compete with other Minor Ports who were drawing away traffic and revenue from such Major Ports. This should be seen in the context of utilization at 40% which is poor.

(k). If such rates are approved it would render the port extremely uncompetitive thereby forcing the users to shift to other ports or closing their operations as persons using other ports would have an advantage.

(l). It is pertinent to note that the scale of rates is mandated to be in accordance with the purpose of land use and the committee is required to recommend to TAMP varying scales of rates in accordance with the end use, as reflected in the Land Use Plan, the classification of our land can only be Service due to the use and not Industrial.

(m). The Land Use Policy does not mandate a single method to be applied for all lands as has been sought to be done in the instant case. This is based on the fundamental rationale that the land itself is to be viewed as one that can be leveraged for increasing throughput and revenue therefrom and, as such, the particular use of a land becomes important and the Land Use Policy also mandates fixing of rates in accordance with the same with the specific objective of ensuring that an industrial undertaking or a service is not charged with lease rents that are determined merely by the value of land as in the instant case.

(n). It is submitted, that the Port Trust is taking unfair advantage of its original land allotment at cheap rates and act like a mere commercial landlord for all of its port lands and look to generate its income from rents.

(o). It is stated that the exorbitant valuation that has been arrived at is illustrated by the fact that, in several cases, the enhanced lease land rent

	<p>over 5 years exceeds the actual market value of the property.</p> <p>(p). It is stated that the said differential treatment is also clearly evinced by the fact that the NTPL and us have in fact been classified as different types of users altogether. Land has been leased to us for Power Plant and have been classified as 'Industrial" while TANGEDCO and NTPL have been classified as "Service" for the same land use of Power Plant. As such, it is submitted that there is blatant differential treatment amounting to discrimination against us and no reasonable nexus or public objective is achieved to justify the same.</p> <p>In view of the above, the following are placed before the Hon'ble Authority for consideration:</p> <p>1. The proposed Lease Rates be reduced at-least by 50% by considering:</p> <p>(a) Reduction of Guideline value by 33% as per the circular issued by GoTN;</p> <p>And</p> <p>(b) Reasonable Rates for indexation</p> <p>2. The Increase in Lease rates if at all allowed shall be prospective and not retrospective from 1.7.2017</p> <p>3. The Escalation of lease rentals shall be kept at 2% and not 5%</p> <p>The lease shall be collected on the basis of "Land Use" and not on the basis of "Status of the Lessee" and accordingly, SEPC shall be categorized under "Service" as is being done for similar land users such as TANGEDCO & NTPL.</p> <p>We request you to kindly accept our above submissions and also permit us to submit additional submissions after the detailed hearing scheduled on 10.8.2017.</p>	<p>Board has resolved to consider to continue with the existing rates which is being submitted to TAMP.</p> <p>Already all the existing allottees have been informed that revision is due and lease agreement also clearly state that lease rental is due for revision w.e.f 01 July 2017. Hence, the contentin of the user is not correct.</p> <p>Board has resolved to consider 2% escalation p.a.</p> <p>Not relevant t fixation of lease rentals.</p>
<p>3.</p>	<p>Hindustan Petroleum Corporation Ltd.</p>	
<p>(i).</p>	<p>We are a PSU under Ministry of Petroleum & Natural gas, Government of India.</p>	<p>The current proposal of lease rent revision with effect from 1 July 2017 is not applicable in respect of the allotment made to HPCL since the allotment has been made on upfront basis for the period of from 1 June 2016 to 31 May 2045 for 29 years.</p>
<p>(ii).</p>	<p>We have taken land admeasuring 23,750 SQM form VOCPPT for setting up Truck parking facility with retail outlet. The land was taken thru online reverse auction conducted by MSTC in March 2016. The premium of ₹19.95 Crs & 1.15 Crs deposit was paid very recently in July 2016. This is a service related project of providing Truck parking for the trucks coming to VOC port. We have taken the land at a very high cost of ₹7,0000/- Sq M. The premium paid was</p>	

	₹19.95 Crs & 1.15 Crs deposit, which is very very high. Our project is viable only at present rental of ₹1/SqM, due to the fact that we have paid a huge premium. Any further escalation would make our project unviable. Hence please do not revise the rental as sought by VOC port.	
(iii).	We provide free facilities like Toilets, Bath, Dormitory facilities, which are service oriented.	
(iv).	Lease was registered very recently, only in January 2017.	
(v).	We reserve our right to bring additional points to justify our claims.	
4.	Tuticorin Port – Land Users Welfare Association	
(i).	In the outset we submit that the lands occupied by our Association Members are Sea Bed Lands and no man's property. Our members and their predecessors are in possession since long prior to coming into existence of VOCPT itself. We found very recently that the lands are not port lands and we have initiated Civil Proceedings in this regard and without prejudice to the said proceedings we are participating in this discussion.	No comments furnished by port.
(ii).	The port Authorities were under a wrong impression that we are in occupation of Survey Nos. 1108/1C, 1A, 1107, 1106/1, 1106/2, 1108/2A and 1108/2B and they demanded payment of rent, and it was demanded and paid on account of mutual mistake. As a matter of fact our members are occupying only the Sea Bed Lands.	
(iii).	We are submitting with regard to fixing of tariff with respect to port lands if any in Zone-B and without admitting that the lands in the occupation of our members are port lands and we are participating in this meeting and making the following submissions: (a). It is relevant to note that the tariff was ₹34.15 per sq.m. per annum upto 2007. The port classified all the occupation of Zone-B as "Port related service category" (vide their letter dated 14 December 2015 – copy enclosed) and agreed to fix the tariff for 01.07.2007 to 01.07.2012 at ₹54.21 per Sq. Mt. per annum by approximately escalating the then existing rent by about 59%. For 2012 to 2017 it was revised from ₹54.12 per Sq.Mt. per annum ₹110.60 per Sq. Mt. per annum from 01.07.2012 onwards with 2% escalation every year and this escalation is 100% increase over the then existing rent. (b). But the port added a raider in their letter dated 14 December 2015 that after 2017 there will be no direct allotment but allotment will be only by E-Tender. The said condition being not discussed or agreed we did not accept this clause.	
(iv).	The fact remains that the rate of tariff considered reasonably by both parties involved	

	<p>for 2007 to 2012 was only ₹54.21 per Sq.Mt. per annum + 2% annual increase and from 2012 onwards ₹110.60 per Sq.Mt. per annum + 2% annual increase. Now we are given to understand that the Port Trust has given a recommendation to revise the rent at over ₹6,000 per Sq Mt. per annum to call for E-Tender for 2017 to 2022 which is not agreed.</p> <p>Even a reading of the above will show the abnormality of the claim which is quiet against the agreed terms which is reduced to a resolution of the TPT i.e. ₹110 per Sq. Mt. per annum + 2% annual increase from 2012 onwards.</p>	
(v).	<p>A perusal of the conditions of E-Tender also will disentitle the present occupiers from participating in the E-Tender and it is calculated and conditions have been laid only to allow the rich and influential to participate in the bid while most of our members are Petti Traders like running a Barbour Shop, Cycle Repair Shop, Tea Shop, Small Marine Work Shop, Boat Yard and the like catering to minor requirements and all these craftsmen are always in debts.</p>	
(vi).	<p>Taking into consideration all the above factors, and the facts and circumstances besides the economic recession leading to setback, in all sorts of business, business activities and industries and the uncertainties on account of the policy of the Government which are yet to be time tested, we request that the mutually agreed amount of ₹110.60/- per Sq. Mt. per annum with 2% escalation from 2012 onwards for the years to come. (with respect to the Port Land only).</p>	
(vii).	<p>In the interest of the members of the public and the 1000 and odd families eking out their lively hook in the Sea Bed Lands a human approach by all the authorities concern is solicited.</p> <p>Kindly consider the above facts in fixing the rates for 2017 to 2022 (with respect to Port Land) and confirm the present occupants of port lands to continue at the revised rates as suggested above and without resorting to E-Tender procedure. Kindly instruct the Port Authorities not to claim rent for lands which do not belong to them.</p>	
5.	Tuticorin Salt & Marine Chemicals Ltd.	
(i).	<p>Salt industry is a traditional industry in Tuticorin and salt is produced here for more than 100 years.</p>	
(ii).	<p>We had taken lease of barren, marshy land from the Minor Port of Tuticorin (State Government). The land was completely inundated with tide water. Our Company has invested large sums of money and huge labour force have toiled for several years. After a strenuous efforts, the marshy land was developed into a modern salt works.</p>	

(iii).	Our Salt works was established even before independence of our Country. The State Government had transferred the fully developed Salt works, along with other waster land for development of Major Port during the year 1969.																																												
(iv).	Salt is an essential commodity and has no substitute. It cannot be produced anywhere and everywhere, but only in coastal area where the conditions like soil, availability of brine, climate etc. are conducive for Salt production.																																												
(v).	If the land is substituted by any other industry, the process is irreversible and the production of Salt cultivating area once lost is lost and it cannot be easily made us.																																												
(vi).	Further, we wish to state that presently there is no surplus and suitable land in Tamil Nadu. Therefore, we humbly submit that whatever land is under salt production should be protected so that the future demand of salt is met.																																												
(vii).	Further, we wish to state that these salt pans act as a carbon sink and it is useful by way of absorbing all the pollutants and harmful gases produced by industries in Tuticorin.																																												
(ix).	<p>VOCPT has fixed a rate of ₹66,33,921/- for 10 acres for 5 years, i.e., ₹1,32,678/- per acre/annum. At this rate the cost of lease rent per ton of Salt would work out to ₹1,900/- per ton, whereas today's selling price of Salt is about ₹350/- per ton. A comparison of lease rent for Salt land in other states is given below:</p> <table border="1" data-bbox="344 1182 906 1485"> <thead> <tr> <th>Particulars</th> <th>Gujarat</th> <th>Tamil Nadu</th> <th>Rajasthan</th> <th>Andhra</th> <th>Central Govt-Salt Department</th> </tr> </thead> <tbody> <tr> <td>Ground Rent (per acre)</td> <td>121</td> <td>5</td> <td>100</td> <td>6</td> <td></td> </tr> <tr> <td>Panchayat Tax (per acre)</td> <td>60</td> <td>25</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>Local Fund (per acre)</td> <td>121</td> <td>5</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>Royalty (per acre)</td> <td>440</td> <td>100</td> <td>0</td> <td>55</td> <td>0</td> </tr> <tr> <td>Education Cess (per acre)</td> <td>60</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>Total</td> <td>802</td> <td>135</td> <td>100</td> <td>61</td> <td>750</td> </tr> </tbody> </table>		Particulars	Gujarat	Tamil Nadu	Rajasthan	Andhra	Central Govt-Salt Department	Ground Rent (per acre)	121	5	100	6		Panchayat Tax (per acre)	60	25	0	0	0	Local Fund (per acre)	121	5	0	0	0	Royalty (per acre)	440	100	0	55	0	Education Cess (per acre)	60	0	0	0	0	Total	802	135	100	61	750	As discussed during the joint hearing on 10 August 2017, the current proposal does not cover the subject land and separate proposal for fixation of tariff for TSMC shall be submitted.
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(x).	<p>Moreover, VOCPT has proposed to lease the total area in lots of 10 acres. We would like to mention here that Salt cannot be cultivated in 10 acres and is not practically viable. Also, the adjoining land of Port Trust Salt land is the Central Government Salt Department land. We are operating the whole stretch of land as a single unit and have constructed cone ting roads, channels, brine supply etc.</p> <table border="1" data-bbox="370 1765 874 2067"> <thead> <tr> <th>Sl. No.</th> <th>Name of Shop</th> </tr> </thead> <tbody> <tr> <td>a.</td> <td>Petty Shop and Stall</td> </tr> <tr> <td>b.</td> <td>Stackyard for Ice Fish</td> </tr> <tr> <td>c.</td> <td>Cycle Repair Shop</td> </tr> <tr> <td>d.</td> <td>Saloon</td> </tr> <tr> <td>e.</td> <td>Fishing Spare parts Store</td> </tr> <tr> <td>f.</td> <td>Petty Shop</td> </tr> <tr> <td>g.</td> <td>Shed for Stacking Yard – (i)</td> </tr> <tr> <td>h.</td> <td>Shed for Stacking Yard – (ii)</td> </tr> <tr> <td>i.</td> <td>Coir Shop</td> </tr> <tr> <td>j.</td> <td>Marine Spare parts – (i)</td> </tr> </tbody> </table>	Sl. No.	Name of Shop	a.	Petty Shop and Stall	b.	Stackyard for Ice Fish	c.	Cycle Repair Shop	d.	Saloon	e.	Fishing Spare parts Store	f.	Petty Shop	g.	Shed for Stacking Yard – (i)	h.	Shed for Stacking Yard – (ii)	i.	Coir Shop	j.	Marine Spare parts – (i)	Not relevant to fixation of lease rental.																					
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	We humbly pray to the TAMP to recommend our lease for renewal for a further period. We are willing to pay a fair rent which is viable for producing Salt. All the labourers who are solely dependent on this industry will also be saved.	
6.	Villavarayar & Sons Tuticorin Stevedores Association Tuticorin Customs Brokers' Association	
(i).	We have been granted individual lease at Zone-A, World Trade Avenue and they have erected buildings at an enormous cost.	
(ii).	In the outset, we submit that the lease deed itself has provided for an annual escalation of rent @ 5% per annum which is more than adequate and now the rent paid is much more than reasonable.	Though escalation 5% exist in lease deed, as per LPG 2014 valuation of land is to be done once in 5 years. Earlier rates base has been considered for applying WPI only where as the calculation in other methods stipulated in LPG 2014 also has been made which indicates much higher rate than the existing and considering the market down trend, only WPI has been applied by M/s. KITCO. WPI is to be applied only on the existing rates. As per clause 13(iv) of Land Policy Guidelines 2014, under any other method, the land valuer has adopted the WPI method for calculating the lease rentals.
(iii).	The World Trade Avenue was contemplated in 1994 and we opted to own a building in the Word Trade Avenue. But unfortunately the World Trade Avenue became unsuitable for the purpose for which it was conceived and after spending several lakhs of rupees on construction buildings, individuals, Associations and companies have abandoned their investments and moved into the Town that now the World Trade Avenue is abandoned Avenue. Nearly 75% of the Port Users have vacated the buildings constructed by them in the World Trade Avenue.	No comments furnished by port.
(iv).	In terms of the lease agreement revision of rent does not fall due in 2017. Now we understand that there is a proposal to revise a rent to ₹387.35 per Sq. Mts. with the usual escalation of 5% per annum while at present we are paying ₹362.77 per Sq.Mts. which is also very much on the higher side. We further understand that this revision is proposed on a valuation report KITCO, a private land valuer and we submit that the valuation report is hypothetical and the valuer has not taken into consideration either the factual or the negative aspects which the lands suffers. They have failed to consider the fact that because of the close proximity to the sea the	Not relevant to fixation of lease rentals. KITCO is a Government approved valuer and submitted the report as per the provisions contained in LPG 2014 and is not a private land valuer; has considered all the relevant factors.

	<p>building life is only 20 years and an inspection will show that many of the building are highly dilapidated and the maintenance cost is a huge sum of money which reduces the rental value of the land which was originally salt pans and unfit for erection of buildings.</p>	
(v).	<p>KITCO has also not based their valuation on the actual sale deeds simply saying that the documents have been undervalued while as a matter of fact there is a law which is prohibiting undervaluation for the purpose of registration, on the face of which under valuation is impossible.</p> <p>We further understand that the lands were acquired by the Government for the formation of Harbour at about ₹500 to 1000 per Acre and after acquisition the land become inalienable and has no market value. In spite the KITCO has seem to have taken into consideration the hypothetical market rate allegedly prevailing in the adjacent residential areas far away from the site in question.</p> <p>Under the above circumstances we want some time to collect recent sale deeds and submit it before you, before you fix the tariff based on the hypothetical reports before you.</p> <p>We submit that the present rent paid itself is on the higher side and the proposal to revise the same may be dropped.</p>	<p>The statement made by the party is not correct. KITCO has confirmed that the following actions were carried out for valuation.</p> <p>(a). Study of actual transaction values in the documents vide annexure of the report.</p> <p>(b). These documents have been collected from concerned registration office.</p> <p>The issue is not related to the proposal of for revision of lease rent which is done as per the provisions contained in Land Policy Guidelines 2014.</p> <p>Board has resolved for not revising the rates, which will be submitted to TAMP for consideration.</p>
7.	Tuticorin Ship Agents Association	
(i).	<p>We recall the fact the Zone "A" is being vacated fast by the occupants and tenants since the location and lie of the property is not conducive for the purpose for which it is intended to be used. Further, the rent and the escalation fixed initially for the first 30 years is very exorbitant that the tenants are paying a very high rent far above the prevailing rates of rent.</p>	No comments furnished by port.
(ii).	<p>As submitted already, the land within port area are inalienable and has no market value. However, we admit that they have a rentable value. It is needless to say that the rent collected by the Port Trust itself from persons occupying the lands in the vicinity will form the best basis for collecting rent from us and other occupants on Zone "A".</p>	
(iii).	<p>The Tuticorin Port itself has been leasing lands adjacent to Zone "A" and located within a distance of about 3 Kms to a reputed company called TSMC at the rate of ₹200/- per acre per annum which has been recently revised to ₹2,016/- per acre per annum and the said rate of rent, we understand was challenged before the High Court and that the High Court has permitted the company to pay at the rate of ₹1,000/- per annum per acre and the port has been receiving the same without any protest. This works out to only ₹2/- per Sq. Mt.</p>	<p>The statement by the firm is not related to the current proposal of revision of lease rent, since for salt pans separate computation of rates are made.</p>

(iv).	<p>The officers quarters for the Port Trust employee are located within a stone thrown distance of Zone "A" and we understand that each building is located upon 50 Cents of land and has a building with a plinth of not less than 2000 Sq. Ft. of posch construction and the rent collected for land and building is less than ₹1,000/- per month and the land rent will work out to less than ₹2/- per Sq.Mt.</p>	<p>Allotment of residential quarters to employees does not fall under the purview of Land Policy guidelines and it cannot be compared.</p>
(v).	<p>When vacant land is leased to individuals firm and associations connected to the port activity they are also to be treated in par with port employee.</p> <p>There can be no multiple standards for different sets of people in a public undertaking like the port.</p> <p>After all the Port Trust cannot have difference scales for different people and at any rate people like us – without whom the port itself cannot function – should not be given a step child treatment, but should be treated in par with port employees. In this regard we have addressed for details from the Tuticorin Port under the RTIA and we undertake to produce the particulars and details when received.</p> <p>We submit that after demonization and GST the market value of the properties have dwindled to nearly 50%.</p>	<p>No comments furnished by port.</p> <p>Market value is based on land valuation by approved valuer a Government Agency M/s. KITCO</p>
(vi).	<p>The guideline value fixed by the TN Government was very high and after repeated representation from various quarters the Government of Tamil Nadu has down sliced the guideline value by 33% flat – Though they were convinced of the fact that the market value had come down by 50% on account of technical difficulties and we request you to take the above facts into consideration and reduce the existing rent collected to ₹2/- per Sq.Mt. or at the worst slash it down to 50% the existing rent.</p> <p>The recommendation of the Port for upward based on the valuation report submitted by M/s. KITCO which is a Kerala based company who had no personal knowledge of the things and facts in this part of the country. It would have been just and fair if a local firm had been asked to prepare the valuation report based on the rent collected by the Port Trust themselves for the properties adjacent to Zone "A".</p> <p>KITCO also should have taken into consideration the rent collected by the Port Trust for their own lands rather than considering the market value in the adjacent residential colonies which are outside the port area.</p>	<p>This issue has been re-examined and M/s.KITCO has confirmed the rates already given in the reports stating that, though the Government revalued the land rates, it increased the stamp duty and overall cost has not reduced much. However, the Board of Trustees has recommended only 2% escalation to rates as on 1.7.2016 with further annual escalation of 2% p.a.</p> <p>The comments are not based on facts. M/s. KITCO is a Government approved valuer.</p> <p>M/s.KITCO has submitted the lease rent rate based on L.P.G. 2014.</p>
(vii).	<p>It is also relevant to note that Koilpillai Nagar is also located within 3 Kms from Zone "A". But the said property being in a residential colony, which are patta lands can in no way be equated</p>	<p>As per LPG 2014, issued by Ministry of Shipping, in order to arrive the market value of the Port land, the approved Valuer has to arrive the rate in 5</p>

	<p>to the lands demised to us to form the basis for fixing the rent payable by us.</p> <p>It is settled position of Law that small residential plots in residential colonies cannot form the basis.</p> <p>To sum up we submit that the rent fixed for us and other occupants should be on the basis of rent collected by the port itself from the leases of the properties adjacent to Zone "A" which along will be the best guideline.</p> <p>Though we have been paying a much larger rent of ₹370/- per Sq.Mt. unaware of the above facts taking into consideration the present downward trend of business and business income besides the high cost of administration etc., the proposal to make a further enhancement has really irked us and compelled us to study the prevailing rates in the locality and we are constrained to request to kindly slash down the existing rent to ₹2/- per Sq. Mt. or at lease by 50% and render justice.</p>	<p>methodologies . Out of five, one of the methods is to arrive the actual relevant transactions registered in last 3 years in Port's vicinity. Hence, M/S.KITCO has arrived lease rent for Residential, Commercial and industrial by one of the methodology. M/s.KITCO has considered and studied the market value of nearby land to Port area (KoilPillai Nagar) which is located within 3 kms from Zone A.</p>
10.	M/s. SHV Energy Pvt. Ltd.	
(i).	Enhancement of lease rent ought to be reasonable since the proposed lease rent rates are already on a very high base, which is already subject a matter of challenge before the Hon'ble High Court, Madras by various users through Writ petitions.	M/s. KITCO valuation report is based on Land Policy guidelines, 2014 issued by Govt. of India., Ministry of Shipping. The challenge before Hon'ble High Court by some lessees is mainly against the retrospective revision.
(ii).	Enhancement ought to be prospective and not retrospective, i.e. from 01 July 2017, since the increase in rent for expired periods cannot be passed through to the customers.	Already all the existing allottees have been informed that revision is due and lease agreement also clearly state that lease rental is due for revision w.e.f 01 July 2017. Hence, the contention of the user is not correct.
(iii).	Re-classification of the lands allotted to us as Industrial and not commercial and to accordingly apply Industrial rates and not commercial rates.	It is not relevant to fixation of lease rental rates.
(iv).	Options put forward by the consultant were based on an unrealistic and incorrect valuation of lands without factoring downward trend of real estate market.	The consultants are authorized / approved valuers who are professionals in their area. All the factors have been duly considered M/s. Kerla Industrial Technical Consultancy Organization Ltd. (KITCO) is a Govt. approved land valuer.
(v).	There is no basis for assuming that the earlier rates were reasonable and thereafter using that as a base rate prescribe escalation based on the WPI.	Earlier rates base has been considered for applying WPI only Whereas the calculation in other method stipulated in LPG 2014 also has been made which indicates much higher rate than the existing and considering the market down trend, only WPI has been applied by M/s. KITCO. WPI is to be applied only on the existing rates. As per clause 13(iv) of Land Policy Guidelines 2014, under any other method the land valuer has

		adopted the WPI method for calculating the lease rentals.
(vi).	There is no basis for fixing escalation at 5% annually when all escalation even in the past is 2 % annually. A 5 % increase annually will lead to a tremendous increase.	LPG, 2014 stipulates a minimum of 2% increase every year considering inflation 5% was proposed. However due to request of all Users in Joint Hearing Board has resolved to fix minimum increase stipulated (i.e) 2%.
(vii).	Port lands cannot be equated to outside lands, and peculiar features of Port lands have not been considered	Land valuation report has been evaluated by the Land Valuer as per Land Policy guidelines 2014.
(viii).	Further, the Government of Tamil Nadu has itself recognized that the property transactions are not taking place due to substantial dip in real estate values and has passed a GO reducing the Guideline Values across the board by 30%. This is an important factor and ought to be considered as it is now an established fact that land values are unrealistic. If the original base price was on such unrealistic basis, the same cannot be used as a base for further increase. In fact a reduction ought to have been recommended.	This issue has been re-examined and M/s KITCO has confirmed the rates already given in the reports stating that, though the Government revalued the land rates, it increased the stamp duty and overall cost has not reduced much .
(ix).	Further the Report of KITCO itself recognizes at Page 22 of the Report that utilization is only 40% due to unrealistic rates and is a major concern and further that there have been rising protests against the raise. Having recognized the same, there could be no basis for increase and rather there should be a reduction. Even if the WPI method is followed the base rates for the first year ought to be much lower.	Always wherever price increases, there exist protest. However Board, considering all factors resolved to have the same rates with 2% escalation.
(x).	The Port cannot function as a private landlord, obtaining high lease rentals and increased revenue from land by entirely ignoring the fact that it is essentially a Port Trust which is required to make best use of its resources to generate Income as a Port and owes a duty to utilize them in a manner which is beneficial to the public at large, rather than seeking to merely maximize the revenue to its exchequer.	The fixation and revision of lease rent is as per Land Policy Guidelines, 2014 or as amended by MOS, GOI from time to time. The issues raised are not relevant to current proposal.
(xi).	In all the Major Ports of the World, the land available had been leveraged in a manner which optimizes the throughput and thus increases the revenue of the Port's rather than merely charging higher rates on the land itself and stifling Industry.	Lease rental fixation is as per Land Policy Guidelines, 2014.
(xii).	The TAMP should take into account the globally established practice of Ports to allot land for carrying on economic activity, including establishment of Industries to ensure captive cargo to the Port, thereby enhancing the sustainability of that Port. The lands in and around Port's were generally expected to be utilized for Port related activities. It is, therefore, clear that the principal objective for notifying the Land Use Policy was to make the rates at Major Ports realistic and competitive in order to leverage the availability of land, to optimize the throughput and enable them to ably compete with other Minor Ports who were drawing away	Land valuation to fixation of rates are as per methods stipulated in LPG 2014.

	traffic and revenue from such Major Ports. This should be seen in the context of utilization at 40% which is poor.	
(xiii).	If such rates are approved it would render the port extremely uncompetitive thereby forcing the users to shift to other ports or closing their operations as persons using other ports would have an advantage.	Land valuation to fixation of rates are as per methods stipulated in LPG 2014.
(xiv).	It is pertinent to note that the scale of rates is mandated to be in accordance with the purpose of land use and the committee is required to recommend to TAMP varying scales of rates in accordance with the end use, as reflected in the Land Use Plan, the classification of our land can only be Industrial due to the use and not commercial.	Not relevant to fixation of lease rentals.
(xv).	The Land Use Policy does not mandate a single method to be applied for all lands as has been sought to be done in the instant case. This is based on the fundamental rationale that the land itself is to be viewed as one that can be leveraged for increasing throughput and revenue there from and, as such, the particular use of a land becomes important and the Land Use Policy also mandates fixing of rates in accordance with the same with the specific objective of ensuring that an industrial undertaking or a service is not charged with lease rents that are determined merely by the value of land as in the instant case.	The proposal of revision of lease rental fixation submitted to the TAMP is based on the Land Policy Guidelines 2014,
(xvi).	It is submitted, that the Port Trust is taking unfair advantage of its original land allotment at cheap rates and act like a mere commercial landlord for all of its port lands and looks to generate its income from rents.	There is no original allotment as such. Allotment period and manner of allotment is left to the users to opt with maximum period of 30 years that can be allotted by the Board. Moreover, two options exist for users either annual lease or upfront premium for 30 years. In case of upfront, no escalation of rates shall be there. Port Trust being a Government Organisation, shall never take unfair advantage. Hence proposal is based on Land Policy guidelines 2014 approved by MOS, GOI.
(xvii).	The Land Use Policy of the VOC Port Trust classifies the port area into the following eight categories: i. Residential & Plantation ii. Commercial & Industrial iii. Proposed area for future power plants iv. Bulk Cargo Storage v. Warehouse Area vi. Container Yard vii. Break Bulk Storage viii. Trucks Parking Area	Factual
(xviii).	However, the proposal which seeks to revise the categories of the land into only three types: namely services / residential, commercial and industrial. The port is bound by the Land Use Policy to classify members into different zones, as in the case of other Major Ports which have	The categorization is being followed for many years. Moreover, others are subcategory and hence the main categorization has been done.

	categorized lands into as many as 13 zones, and submit a proposal for each of the categories. As such, in present case, the categorization of the port area into only 3 zones is in violation of the requirements laid down under the Land Use Policy applicable	
(xix).	It is stated that the exorbitant valuation that has been arrived at is illustrated by the fact that, in several cases, the enhanced lease land rent over 5 years exceeds the actual market value of the property.	The fixation of SOR is on the basis of valuation as per the Govt guidelines which is 6% of the value arrived. However, under the present context, valuation is based on WPI increase and the net effect of increase after adjustment of increase of 2% per annum will be effected only around 3%. This at any case cannot be treated as exorbitant rate.
(xx).	It is stated that the said differential treatment is also clearly evinced by the fact that the NTPL and us have in fact been classified as different types of users altogether. We are operating the LPG Terminal on the leased lands after obtaining a licence under the Factories Act, 1948, the Tamil Nadu Factories Rules, 1950, and the related Law which is applicable to factories. We have been properly complying with Laws applicable to factories, yet, we have been classified as 'Commercial' under the .As such, it is submitted that there is blatant differential treatment amounting to discrimination against us and no reasonable nexus or public objective achieves to justify the same.	Rates are not different for Government and Private operators LPG 2014 provides for concession to GOVT/PSU Moreover, this is not relevant to fixation of lease rentals
(xxi).	In addition to the above the following points are raised:	
(xxii).	In India almost 90% of LPG is consumed only in the Domestic sector which is highly subsidized and balance 10% only is sold to Commercial /Industrial segment.	Not relevant to current proposal
(a).	Even in the commercial/Industrial segment there is heavy competition by various players including the National Oil Companies.	Not relevant to current proposal
(b).	As one of the parallel marketers of LPG, we do not have the access to the subsidized domestic LPG segment and its majority of customers are from the Commercial and Industrial segment only.	Not relevant to current proposal
(c).	Due to the subsidized domestic market and intense competition in the Commercial /Industrial segment we are not able to grow its volumes in the past years in spite of best efforts in optimizing the cost and evolving various new strategies in the market.	Not relevant to current proposal
(d).	Though we had created infrastructure in the initial years considering a huge growth potential, in view of the stagnant growth rate, its facilities including the Tuticorin LPG Import Terminal remains grossly under-utilized.	Not relevant to current proposal
(e).	Government of India has announced aggressive policy on Natural gas and indicated that Natural Gas pipeline would be laid between	Not relevant to current proposal and is internal to the company.

	Kakinada & Tuticorin via Chennai covering most part of Tamil Nadu, which will be a further threat to LPG.	
(f).	If the rentals are revised in such an exorbitant manner it will be a disincentive for us which will further affect its margins and sustainability to a large extent when we are trying hard to break-even.	Not relevant to current proposal and is internal to the company
