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

Tariff Authority for Major Ports

G No. 156 **New Delhi,** **21 May 2014**

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 for the period from 1 July 2007 to 30 June 2012 and from 1 July 2012 to 30 June 2017 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/6/2012-VOCPT

V.O. Chidambaranar Port Trust - - - Applicant

QUORUM:

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. C.B. Singh, Member (Economic)

O R D E R

(Passed on this 4th day of April 2014)

This case relates to the proposal received from the V.O. Chidambaranar Port Trust (VOCPT) under cover of its letter dated 28 June 2012 for revision of the lease rent of port lands from 1 July 2007 to 30 June 2012 and from 1 July 2012 to 30 June 2017.

2.1. The lease rent of lands of VOCPT was last revised by this Authority vide Order No.TAMP/35/2003-TPT dated 18 November 2004 for a period of five years with effect from 1 July 2002 upto 30 June 2007.

2.2. The VOCPT had, in April 2009, filed a proposal for revision of lease rentals for a period of five years from 1 July 2007. The proposal of VOCPT was taken on consultation with the users. A joint hearing was held on 29 March 2011 on the proposal. However, since the VOCPT did not respond with regard to the decisions taken at the joint hearing even after allowing reasonable time, this Authority vide Order No.TAMP/14/2009-TPT dated 11 October 2011 disposed of the proposal of April 2009 by treating the same as withdrawn and advised the port to expedite filing of its revised proposal.

2.3. In this context, the VOCPT vide its letter dated 2 January 2012 had filed a proposal for revision of lease rent of port lands for a period of five years from 1 July 2007 to 30 June 2012. However, it was observed that the VOCPT had not furnished the recommendations of the Committee as stipulated in Clause 6.3(1)(a) of the Land Policy Guidelines. The VOCPT was, therefore, requested vide our letter dated 23 January 2012 to forward the recommendations of the Committee for the rates proposed by it for the five years period commencing from 1 July 2007 and 1 July 2012 respectively. In this backdrop, the VOCPT under cover of its letter dated 28 June 2012 has filed its proposal for revision of lease rentals for two quinquenniums 2007-2012 and 2012-2017, after a reminder.

3.1. The main points made by the VOCPT in its proposal of June 2012 are summarized below:

(i). The proposal is for revision of lease rentals of port lands for two five years period i.e. from 1 July 2007 to 30 June 2012 and from 1 July 2012 to 30 June 2017.

(ii). The VOCPT has engaged an approved Land Valuer. The Land Valuer has submitted its Valuation Report. (The original proposal contains only the extracts of pages from 45 to 48 from the Valuation Report and not the entire Valuation Report).

(iii). The VOCPT has arrived at the lease rent rate by adopting the various methods with reference to the final valuation report.

(iv). The Committee constituted by the port discussed the lease rent proposal under six options for the period from 1 July 2007 to 30 June 2012 and from 1 July 2012 to 30 June 2017. The Committee has recommended lease rental based on the highest valuation of land at the Option 3 i.e. highest accepted tender on port land for 30 years on upfront basis.

(v). The lease rentals under the six options as considered by the Committee is tabulated below:

(a). For the period with effect from 01.07.2007 to 30.06.2012 (Rate per Sq. m./ annum)

Description	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Recommendation of Committee
	Rate as per State Government Ready Reckoner	Average value of actual relevant transactions in last three years	Highest accepted tender of port lands leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	Highest among all the options
Zone - A							
Service	48.32	41.71	415.27	51.38	60.48	66.76	415.27
Industrial	89.69	77.42	770.83	95.38	112.26	123.93	770.83
Commercial	144.85	125.03	1244.85	154.03	181.30	200.14	1244.85
Zone – B (Port related)							
Service	48.32	41.71	415.27	51.38	60.48	66.76	415.27
Industrial	89.69	77.42	770.83	95.38	112.26	123.93	770.83
Commercial	144.85	125.03	1244.85	154.03	181.30	200.14	1244.85
Zone – B (non-Port related)							
Service	86.98	75.08	747.49	92.49	108.86	120.17	747.49
Industrial	161.45	139.36	1387.49	171.68	202.07	223.07	1387.49
Commercial	260.73	225.05	2240.72	277.26	326.34	360.24	2240.72

(b). For the period with effect from 01.07.2012 to 30.06.2017 (Rate per Sq. m./ annum)

Description	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Recommendation of Committee
	Rate as per State Government Ready Reckoner	Average value of actual relevant transactions in last three years	Highest accepted tender of port lands leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	Highest among all the options
Zone - A							
Service	70.00	47.86	524.33	64.88	76.36	84.30	524.33
Industrial	129.91	88.83	973.15	120.41	141.73	156.45	973.15
Commercial	209.80	143.45	1571.57	194.46	228.88	252.66	1571.57
Zone – B (Port related)							
Service	70.00	47.86	524.33	64.88	76.36	84.30	524.33
Industrial	129.91	88.83	973.15	120.41	141.73	156.45	973.15
Commercial	209.80	143.45	1571.57	194.46	228.88	252.66	1571.57
Zone – B (non-Port related)							
Service	125.99	86.15	943.80	116.78	137.46	151.74	943.80
Industrial	233.84	159.89	1751.67	216.75	255.11	281.62	1751.67
Commercial	377.64	258.20	2828.83	350.03	411.99	454.79	2828.83

(vi). The lease rent approved in the last Order dated 18 November 2004 w.e.f. 1 July 2002 and the lease rental applicable as on 30 June 2007 after applying the applicable escalation factor of 5% for the period 1 July 2003 to 30 June 2004 and

2% for the period thereafter (till 30 June 2007) as prescribed in the said Order is given below:

(**Rate in ₹ per Sq. m./ annum**)

Sl. No.	**Purpose**	**Lease rent approved in Tariff Order No.TAMP/35/2003-TPT dated 18 November 2004 made effective from 1 July 2002**			**Lease rent approved in last tariff Order after applying annual escalation till 30.06.2007**		
		Zone-A Rate/Sq.m/ annum	Zone-B Rate/Sq.m/annum		Zone-A Rate/Sq.m/ annum	Zone-B Rate/Sq.m/annum	
			Port related	Non-Port related		Port related	Non-Port related
(i).	Service/Residential	18.40	18.40	34.70	20.50	20.50	38.67
(ii).	Industrial	34.15	34.15	63.25	38.05	38.05	70.48
(iii).	Commercial	55.15	55.15	102.00	61.45	61.45	113.66

(vii). The lease rent proposed by VOCPT for the two quinquennium is as follows:

(a). Lease rent proposed with effect from 01.07.2007 to 30.06.2012.

(**Rate in ₹ per Sq. m./ annum**)

Sl. No.	**Purpose**	**Zone-A**	**Zone-B**	
			Port related	**Non-Port related**
(i).	Service/Residential	415.27	415.27	747.49
(ii).	Industrial	770.83	770.83	1387.49
(iii).	Commercial	1244.85	1244.85	2240.72

(b). Lease rent proposed with effect from 01.07.2012 to 30.06.2017.

(**Rate in ₹ per Sq. m./ annum**)

Sl. No.	**Purpose**	**Zone-A**	**Zone-B**	
			Port related	**Non-Port related**
(i).	Service/Residential	524.33	524.33	943.80
(ii).	Industrial	973.15	973.15	1751.67
(iii).	Commercial	1571.57	1571.57	2828.83

Escalation at 2% per annum for every year applies to all the above rates.

3.2. Subsequently, the VOCPT vide its letter dated 14 August 2012 has stated that the recommendations of the Committee has been approved by the Board in its meeting held on 20 July 2012. The VOCPT has been requested to furnish the copy of the Minutes of the said Board Meeting.

4.1. In accordance with the consultation process prescribed, the proposal was circulated to the users/ user organisations for seeking their comments. The comments received from the users/ user organisations were forwarded to the VOCPT as feedback information. The VOCPT vide letters dated 1 November 2012 and dated 25 March 2013 has furnished its comments on the points made by the users/ user organisations.

4.2. The SEPC Power Private Limited [Formerly known as SPIC Electric Power Corporation Private Limited] has vide its letter dated 12 November 2012 furnished additional comments. The VOCPT has not responded to the comments. However, it is seen that the comments of SEPC Power Private Limited are generally repetition of the comments of other user associations upon which the VOCPT has responded with its comments.

4.3. Thiagarajar Mills (P) Ltd. and VTM Limited vide their letters dated 31 August 2012 have informed that they have not given their comments as they have filed a case against VOCPT for the exorbitant increase in revision of lease rent with District Munsif Court, Tuticorin. As reported by them, the case is pending with the Court. A copy each of the said communications was forwarded to VOCPT vide our letter dated 10 September 2012 requesting the port to furnish a detailed separate note on each court case as referred by the above users and communicate the current status of the said Court cases. The VOCPT has responded vide its letter dated 25 March 2013.

5. Based on a preliminary scrutiny of the proposal, the VOCPT was requested to furnish additional information/ clarifications on various issues vide our letter dated 22 October 2012. The VOCPT has vide its letter dated 9 May 2013 furnished its reply on the queries raised. Summary of queries raised by us and the response of the VOCPT is brought out in the subsequent paragraphs.

6.1. A joint hearing on the case in reference was held on 29 November 2012 at the VOCPT premises. The VOCPT made a power point presentation of its proposal. At the joint hearing, the VOCPT and the concerned users/ user organisations have made their submissions.

6.2. At the joint hearing held on 29 November 2012, the VOCPT vide its letter dated 29 November 2012 has filed a proposal for levy of higher lease rent in case of multistoried buildings. The highlights of the proposal are summarised below:

(i). The port's land are leased to various parties on long term license basis for construction of warehouses, office buildings and plant for generation of power and other industries. The lease rate is fixed per sqm. per annum for the area leased on for service/ industrial/ commercial purposes. It is seen that the utilization of the leased area for construction of building is not uniform, in as much as, some lessees construct a single storey building, some others construct multi-storied building. Eventhough the lessees pay the same lease rent for the land, the differential degree of usage of the same space by individual lessees is not suitably factored in the collection of the lease rent.

(ii). The issue has been examined and it is felt that higher lease rent should be adopted for calculating upfront in case of multi-storied building. Considering this, the lease rent fixed by the Authority for upfront calculation may be collected at 100% for single storey building and for multi-storied building, additional 50% of the lease rent may be collected for every additional storey over and above basic floor rate.

(iii). The port has requested to consider the proposal and also requested to incorporate the approval of the Authority in the orders to be notified with reference to its proposal for revision of lease rent.

6.3. At the joint hearing, it was decided to process the said proposal of VOCPT for higher lease rent in case of multistoried building along with its proposal for revision in lease rent.

6.4. As decided at the joint hearing, the VOCPT vide our letter dated 6 December 2012 was requested to take action on the following points:

(i). Furnish comments, if any, on each of the written submissions furnished by Chemplast Sanmar Limited, All India Chamber of Commerce & Industries, TANGED Co. Ltd., Tuticorin Port - Land users Welfare Association (Zone-B), and Tuticorin Ship Agents' Association on the proposal of VOCPT at the joint hearing which were forwarded to VOCPT.

(ii). At the joint hearing, the main objections of users were –

(a). The approach adopted by VOCPT of adopting the market value of land based on the highest tender rate obtained for the port land for upfront premium of 30 years for operation of weigh bridge and applying it uniformly for all lands at Zone - A and Zone-B was objected. The position whether the VOCPT has obtained tender rates for other places in Zone-A & Zone-B is not clarified by the port. Further, how the highest tender rate obtained for operation of weighbridge is realistic in representing the facilities, infrastructure and the market value of lands at different areas used for different purposes in Zone-A and Zone-B needs to be adequately explained by the port.

(b). The Tuticorin Port Land Users Welfare Association stated that it is engaged in fishing activities and running related small scale business and workshops in the Zone-B. The Association further stated that Zone-B where it carries out its small scale business being alluvial lands, they were not charged any fee in the past. Only when the port became a major port, it is being asked to pay the lease charges. Though it agreed to cooperate with the port, it opposed the quantum of increase proposed for the lands in Zone-B.

(c). The proposal of the VOCPT to give effect to the proposed rates for the five years period of 1 July 2007 to 30 June 2012 retrospectively from 1 July 2007 is objected by the users.

(iii). The VOCPT was requested to have a meeting with the users / user associations to address their concerns and to furnish its report within two weeks.

6.5. Since there was no response from VOCPT, the port was again requested to furnish requisite information as agreed at the joint hearing vide our letter dated 28 December 2012. Also, the VOCPT was requested to furnish reply to our questionnaire dated 22 October 2012.

6.6. As decided at the joint hearing, the Indian Oil Corporation Ltd. (IOCL) was requested vide our letter dated 6 December 2012 to furnish its written submissions on the point made by it at the joint hearing that the case of allotment of land by the V.O. Chidambaranar Port Trust (VOCPT) to the NLC Tamilnadu Power Limited (NTPL) in May 2011 on upfront basis should be the basis for valuation under Land Policy guidelines.

6.7. As agreed in the joint hearing, the Tuticorin Port Land Users Welfare Association (TPLUWA) was requested vide our letter dated 6 December 2012 to furnish its written comments reflecting its arguments made by it at the joint hearing, latest by 8 December 2012.

7.1. With reference to point of action decided at the joint hearing brought out in para 6.4.(i) above, the VOCPT vide its letter dated 25 March 2013 has furnished its comments on the written submissions made at the joint hearing by the Chemplast Sanmar Limited, All India Chamber of Commerce & Industries, TANGEDCO Ltd., Tuticorin Port - Land users Welfare Association (Zone-B), and Tuticorin Ship Agents' Association.

7.2. With reference to point of action decided at the joint hearing brought out in para 6.6 above, the Indian Oil Corporation Ltd. (IOCL) vide its letter dated 10 December 2012 has furnished their written submission, which was forwarded to VOCPT as feedback information. The VOCPT vide its letter dated 25 March 2013 has furnished its reply.

7.3. With reference to point of action decided at the joint hearing brought out in para 6.7. above, the Tuticorin Port Land Users Welfare Association (TPLUWA) vide its letter dated 7 December 2012 has reiterated its earlier comments furnished vide its letter dated 14 August 2012. The VOCPT vide its letter dated 25 March 2013 has replied that the points raised by the association are already replied during the Joint Hearing. The VOCPT vide its letter dated 25 March 2013 which is brought out in the subsequent paragraph has stated that in view of demand by TPLUWA, special rate i.e. the rate applicable for service category for non-port related area in Zone B is proposed to be levied in the revised proposal dated 25 March 2013 in respect of 11 categories of small petty shops taking into account economically backward nature of the small petty shops. It has further submitted that the fixation/ revision of lease rent based on the methodology adopted by the port is reasonable with respect to rates now proposed in the revised proposal of March 2013 for the purpose relating to small scale marine work shops, small spare parts shop, boat repairing yards, coir shop, betal nut stall, cycle repair shop, battery workshop, stock yard for ice fish, petty shops, salon, tea stalls, etc., (situated in sea shore of south beach road). The VOCPT has also submitted that the question of referring the valuation report and an exercise to adopt the valuation of various user associations is not governed by Land Policy Guidelines 2012 and Board is the competent authority to decide the issue. The question about methodology adopted by the valuer is outside the purview of user associations.

8. In the meantime, Thoothukudi District Tiny and Small Scale Industries Association (TDTSSIA) vide its letter dated 13 December 2012 has furnished their comments after the joint hearing. A copy of their comments was forwarded to VOCPT as feedback information. The VOCPT has not furnished its views on the points made by TDTSSIA.

9. The VOCPT proposal dated 29 November 2012 filed at the joint hearing seeking higher lease rent in case of multi-storied building was forwarded to the concerned users/ user organisations seeking their comments. The comments received from the users/ user organisations were forwarded to VOCPT as feedback information. The VOCPT vide letters dated 25 March 2013 and 18 October 2013 has furnished its comments on the comments of users/ user organisations.

10. The VOCPT vide its letter dated 25 March 2013 has stated that in continuation of the joint hearing held on 29 November 2012, a meeting was held with users/ user associations. The objections on the revised lease rent proposal was discussed during the meeting. Accordingly, the port has modified its earlier proposal. The port has also furnished the revised calculation of lease rentals under the six options for each of the period from 2007 to 2012 and 2012 to 2017. It has also furnished a comparative statement of existing rates vis-à-vis proposed rates for each of the period from 2007 to 2012 and 2012 to 2017. The main points made by the VOCPT in its letter dated 25 March 2013 are summarized below:

(i). The earlier procedure of discounting the 2011 rates under Option III, IV, V viz. highest tender rate, Lease Agreement Rate and SIPCOT Rate have been modified in the revised proposal. In the revised proposal, the value of land in respect of the above options is considered corresponding to the land values of 2007 as per the valuation report. Consequently, valuation of land as per valuer under Option VI which is average of these three options also stands modified in the revised proposal.

(ii). With regard to the allotment of lands at Zone-B for petty shops in view of request made by Tuticorin Port Land Users Welfare Association Zone 'B' as brought in para 6.4.(ii)(b) above, the port has proposed rates as applicable to service purposes under classification Zone-B (Non-port related), taking into account the economically backward nature of small petty ships for 11 categories of petty shops situated in sea shore of South Beach Road.

(iii). By virtue of this position, the following 11 number of petty shops (situated in sea shore of South Beach Road) shall be eligible to pay lease rent for service purposes under classification Zone B (Non-port related):

Sl. No.	**Name of Shop**
1.	Petty Ship and Stall
2.	Stackyard for ice fish
3.	Cycle Repair Shop
4.	Saloon
5.	Fishing Spare parts Store
6.	Petty Shop
7.	Shed for Stacking Yard (i)
8.	Shed for Stacking Yard (ii)
9.	Coir Shop
10.	Marine Spare parts (i)
11.	Marine Spare parts (ii)

(iv). In the earlier proposal dated 28 June 2012, the lease rental rate was arrived at based on the highest accepted tender rate awarded to Mrs. Poovanaithal (considering the actual lease rental rate of ₹1543.40 per sqm as on 1.7.2011). Accordingly, the lease rent for commercial category as on 1 July 2012 worked out to ₹62.46 lakhs/acre and the lease rent as on 1 July 2007 after discounting @ 6% worked out to ₹49.47 lakhs/acre. Now, in the present revised proposal, the lease rent is worked out based on the market value of port land arrived by the valuer as per Land Valuation Report under option III i.e. on the tender of the port land leased on upfront basis for 30 years considering the average of the tender value quoted by the highest (H1) and second highest (H2) bidders. The market value of land as per Valuation report at ₹110.8 lakhs/acre and ₹221.61 lakhs/acre as on 1 July 2007 and 1 July 2011 respectively is considered for arriving at the proposed lease rent.

(v). The lease rentals calculated under the six options in the revised proposal dated 25 March 2013 vis-à-vis the lease rent proposed by VOCPT in the initial proposal dated 28 June 2012 are summarized below. The port has requested to consider the lease rent under option III derived based on highest accepted tender for 30 years on upfront premium being the highest rate for the two quinquennium 1.7.2007 to 30.6.2012 and 1.7.2012 to 30.6.2017.

(a). For the period - 01.07.2007 to 30.06.2012

(**Rate in ₹ / sq.m./ annum**)

Description	**Lease rent arrived in the initial proposal dated 28 June 2012 under six options and the proposed lease rent**							**Lease rent arrived in the revised proposal dated 25 March 2013 under six options and the proposed lease rent**						
	Option I	**Option II**	**Option III**	**Option IV**	**Option V**	**Option VI**	**Lease rental proposed under Option III**	**Option I**	**Option II**	**Option III**	**Option IV**	**Option V**	**Option VI**	**Lease rental proposed under Option III**
	Rate as per State Govt. Ready Reckoner	Average value of actual relevant transactions in last three years	Highest accepted tender of port lands leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report		Rate as per State Govt. Ready Reckoner	Average value of actual relevant transactions in last three years	Highest accepted tender of port lands leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	
Zone - A														
Service	48.32	41.71	**415.27**	51.38	60.48	66.76	**415.27**	48.32	41.71	**55.81**	32.44	34.90	41.05	**55.81**
Industrial	89.69	77.42	**770.83**	95.38	112.26	123.93	**770.83**	89.69	77.42	**103.59**	60.21	64.79	76.19	**103.59**
Commercial	144.85	125.03	**1244.85**	154.03	181.30	200.14	**1244.85**	144.85	125.03	**167.29**	97.23	104.63	123.05	**167.29**
Zone – B (Port related)														
Service	48.32	41.71	**415.27**	51.38	60.48	66.76	**415.27**	48.32	41.71	**55.81**	32.44	34.90	41.05	**55.81**
Industrial	89.69	77.42	**770.83**	95.38	112.26	123.93	**770.83**	89.69	77.42	**103.59**	60.21	64.79	76.19	**103.59**
Commercial	144.85	125.03	**1244.85**	154.03	181.30	200.14	**1244.85**	144.85	125.03	**167.29**	97.23	104.63	123.05	**167.29**
Zone – B (non-Port related)														
Service	86.98	75.08	**747.49**	92.49	108.86	120.17	**747.49**	86.98	75.08	**100.45**	58.38	62.83	73.89	**100.45**
Industrial	161.45	139.36	**1387.49**	171.68	202.07	223.07	**1387.49**	161.45	139.36	**186.45**	108.37	116.62	137.15	**186.45**
Commercial	260.73	225.05	**2240.72**	277.26	326.34	360.24	**2240.72**	260.73	225.05	**301.11**	175.02	188.33	221.49	**301.11**

(b). For the period - 01.07.2012 to 30.06.2017, the port has taken the valuation of land as on 1 July 2011 under six options. It has proposed lease rental based on market value of land under Option III. In the revised proposal, since the valuation of land is as of 1 July 2011, the VOCPT has applied 2% annual indexation to arrive at the proposed rate as on 1 July 2012 under Option III. Such indexation was not captured in its earlier proposal. The comparative position of lease rent proposed in its initial proposal dated 28 June 2012, lease rental under six options based on land valuation as on 1 July 2011 and the proposed lease rental as on 1 July 2012 applying annual escalation of 2% on the Option III proposed by the VOCPT is tabulated below:

(**Rate in ₹ / sq. m./ annum**)

Description	**Lease rent arrived in the initial proposal dated 28 June 2012 under six options and the proposed lease rent**							**Lease rent arrived in the revised proposal dated 25 March 2013 under six options as on 1.7.2011 and the proposed lease rent on 1.7.2012**						
	Option I	**Option II**	**Option III**	**Option IV**	**Option V**	**Option VI**	**Lease rental proposed under Option III**	**Option I**	**Option II**	**Option III**	**Option IV**	**Option V**	**Option VI**	**Lease rental proposed after applying 2% escalation on lease rental at Option III to arrive at the rate as on 1.7.2012**
	Rate as per State Govt. Ready Reckoner	Average value of actual relevant transactions in last three years	Highest accepted tender of port lands leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report		Rate as per State Govt. Ready Reckoner	Average value of actual relevant transactions in last three years	Highest accepted tender of port lands leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	
Zone - A														
Service	70.00	47.86	**524.33**	64.88	76.36	84.30	**524.33**	70.00	47.86	**111.63**	64.88	76.36	84.30	**113.86**
Industrial	129.91	88.83	**973.15**	120.41	141.73	156.45	**973.15**	129.91	88.83	**207.18**	120.41	141.73	156.45	**211.32**
Commercial	209.80	143.45	**1571.57**	194.46	228.88	252.66	**1571.57**	209.80	143.45	**334.59**	194.46	228.88	252.66	**341.28**

Description	Lease rent arrived in the initial proposal dated 28 June 2012 under six options and the proposed lease rent							Lease rent arrived in the revised proposal dated 25 March 2013 under six options as on 1.7.2011 and the proposed lease rent on 1.7.2012						
	Option I	Option II	Option III	Option IV	Option V	Option VI	Lease rental proposed under Option III	Option I	Option II	Option III	Option IV	Option V	Option VI	Lease rental proposed after applying 2% escalation on lease rental at Option III to arrive at the rate as on 1.7.2012
	Rate as per State Govt. Ready Reckoner	Average value of actual relevant transactions in last three years	Highest accepted tender of port lands leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report		Rate as per State Govt. Ready Reckoner	Average value of actual relevant transactions in last three years	Highest accepted tender of port lands leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	
Zone – B (Port related)														
Service	70.00	47.86	**524.33**	64.88	76.36	84.30	**524.33**	70.00	47.86	**111.63**	64.88	76.36	84.30	**113.86**
Industrial	129.91	88.83	**973.15**	120.41	141.73	156.45	**973.15**	129.91	88.83	**207.18**	120.41	141.73	156.45	**211.32**
Commercial	209.80	143.45	**1571.57**	194.46	228.88	252.66	**1571.57**	209.80	143.45	**334.59**	194.46	228.88	252.66	**341.28**
Zone – B (non-Port related)														
Service	125.99	86.15	**943.80**	116.78	137.46	151.74	**943.80**	125.99	86.15	**200.93**	116.78	137.46	151.74	**204.95**
Industrial	233.84	159.89	**1751.67**	216.75	255.11	281.62	**1751.67**	233.84	159.89	**372.93**	216.75	255.11	281.62	**380.38**
Commercial	377.64	258.20	**2828.83**	350.03	411.99	454.79	**2828.83**	377.64	258.20	**602.25**	350.03	411.99	454.79	**614.31**

(vi). Accordingly, lease rent proposed by the VOCPT in the revised proposal vis-à-vis the lease rent proposed in the initial proposal for both the quinquennium as well as the lease rent approved in the last tariff Order and lease rent as on 30.06.2007 after applying annual escalation as prescribed in the Scale of Rates is tabulated below:

(a). Lease rent approved in last tariff Order – 01.07.2002 to 30.06.2007 and the lease rent as on 1.7.2007 after applying applicable escalation i.e. @ 5% for the year 2003-04 and @ 2% for the years 2004-05 to 2006-07.

(**Rate in ₹ per Sq. m./ annum**)

Sl. No.	Purpose	Lease rent approved in Tariff Order No.TAMP/35/2003-TPT dated 18 November 2004			Lease rent as on 30.6.2007 applying annual indexation in the rate approved in last tariff Order of 18 November 2004		
		Zone-A	Zone-B		Zone-A	Zone-B	
			Port related	Non-Port related		Port related	Non-Port related
(i).	Service/Residential	18.40	18.40	34.70	20.50	20.50	38.67
(ii).	Industrial	34.15	34.15	63.25	38.05	38.05	70.48
(iii).	Commercial	55.15	55.15	102.00	61.45	61.45	113.66

(b). Proposed lease rent for the period - 01.07.2007 to 30.06.2012

(**Rate in ₹ / sq. m./ annum**)

Sl. No.	Purpose	Initial proposal dated 28 June 2012			Revised proposal dated 25 March 2013		
		Zone-A	Zone-B		Zone-A	Zone-B	
			Port related	Non-Port related		Port related	Non-Port related
(i).	Service/Residential	415.27	415.27	747.49	55.81	55.81	100.45
(ii).	Industrial	770.83	770.83	1387.49	103.59	103.59	186.45
(iii).	Commercial	1244.85	1244.85	2240.72	167.29	167.29	301.11

(c). Proposed lease rent - 01.07.2012 to 30.06.2017

(**Rate in ₹ / sq. m./ annum**)

Sl. No.	Purpose	Initial proposal dated 28 June 2012			Revised proposal dated 25 March 2013		
		Zone-A	Zone-B		Zone-A	Zone-B	
			Port related	Non-Port related		Port related	Non-Port related
(i).	Service/Residential	524.33	524.33	943.80	113.86	113.86	204.95
(ii).	Industrial	973.15	973.15	1751.67	211.32	211.32	380.38
(iii).	Commercial	1571.57	1571.57	2828.83	341.28	341.28	614.31

(vii). Escalation factor of 2% per annum will apply on the proposed rates.

11.1. A copy of the revised proposal dated 25 March 2013 was circulated to the users/ user organisations for seeking their comments. The comments received from the users/ user organisations have been forwarded to the VOCPT as feedback information. The VOCPT vide its letters dated 28 August 2013, 18 October 2013 and 8 January 2014 has furnished its comments on the points made by the users/ user organisations.

11.2. While furnishing its comments on the users comments vide its letter dated 28 August 2013, the port has also furnished workings for the market value of land considered by the port under Option I and II.

12. The VOCPT was reminded vide our letters dated 28 December 2012 and 5 April 2013 to furnish its response to the queries raised by us vide our letter dated 22 October 2012. The VOCPT has furnished its response vide its letter dated 9 May 2013. The summary of the queries raised by us and reply furnished by the port are tabulated below:

Sl. No.	Queries raised by us	Reply furnished by VOCPT
I.	**GENERAL:**	
(i).	The VOCPT has not furnished the tariff filing forms viz., Form – 1, Form – 2A and Form – 2B as prescribed in the Formats to be submitted at the time of filing proposal for revision of the Estate Rentals. The VOCPT to furnish all the requisite forms separately for both the quinquennium 2007-2012 and 2012-2017.	Duly filled Form 1, Form 2A and Form 2B are furnished as requested.
(ii).	As mentioned at Note no. 1 to Form – 1, the VOCPT to furnish a certificate confirming that its proposal for fixing lease rentals for the period 2007-2012 is in conformity with the 'Land Policy for Major Ports' issued by Ministry of Shipping, Government of India (bearing no. PT-17011/55/87-PT) dated 08 March 2004 and its proposal for fixing lease rentals for the period 2012-2017 is in conformity with the Land Policy for Major Ports approved by the Government of India and made applicable to all Major Port Trusts vide MOS letter No. PT-11033/4/2009-PT dated 4 March 2011 with effect from 13 January 2011.	Yes. The proposal is as per Land Policy for Major Ports.
(iii).	If on any matter the present proposal deviates from the Land Policy Guidelines referred above, VOCPT is requested to furnish the details thereof and the reasons therefor.	No deviation.
(iv).	As mentioned at Note no. 2 to Form – 1, the VOCPT to furnish a certificate to the effect that the land leased zone-wise is as per the port's land use plan.	Yes.
(v).	As mentioned at Note no. 3 to Form – 1, the VOCPT to furnish the details of all the lease granted by the port for commercial and other purposes, zone-wise, separately for the last 3 years viz., 2009-10, 2010-11 and 2011-12.	VOCPT has furnished list of allotments leased by the port for the years 2009-10, 2010-11 and 2011-12 at Zone 'A' and Zone 'B'.
(vi).	Note -4 to Form -1 requires a major port to confirm that Development Cost is allocated to land used by port and each category of rentable land at actuals or on pro-rata basis. The VOCPT has not mentioned anything in this regard. VOCPT is advised to furnish the original cost and the cost of development incurred subsequently for each category of	Estimated Development cost incurred since 01.07.2012 to 30.06.2017 and from 01.07.2007 to 30.06.2012 are furnished. The relevant depreciated cost is shared by total area of rentable lands for Service/ Industrial/ Commercial purposes and per acre cost is worked out. Return on Capital is applicable per acre cost. In the current

	land. It may also be stated whether the Development cost has been allocated to the rentable land. The basis of allocation, whether at actuals or on pro-rata basis may also be furnished.	proposal submitted to the authorities land cost with development cost is considered only in respect of values pertaining to the area under option of State Government Ready Reckoner and registered transactions. In other three options, the valuation is taken as per Valuation Report and no additional development cost is considered.
(vii).	The financial implications including the additional revenue that would be generated per annum on account of the proposed revision in the lease rentals during the quinquennium 2007-2012 and 2012-2017 may be furnished.	₹14.00 crores per annum for the period from 01.07.2007 to 30.06.2012 and ₹20.00 crores per annum from 01.07.2012.
(viii).	From the various Statements furnished by VOCPT under various options for both the quinquennium 2007-2012 and 2012-2017, it is seen that the VOCPT has furnished workings to arrive at the proposed lease rentals for the Service/ Residential, Industrial and Commercial areas under Zone-A and Zone-B. The VOCPT does not appear to have furnished the workings to arrive at the proposed lease rentals for the Service/ Residential, Industrial and Commercial areas under Zone-B (non-port related). The VOCPT is requested to furnish the necessary workings for Zone-B (non-port related).	The rates for Commercial purposes is determined with respect to Land Valuation Report. A multiplier of 0.33 and 0.66 are adopted for Service and Industrial purposes vide P45 of 48 of Land Valuation Report under Sl. No.I.
(ix).	As recorded at paragraph no. 10 (xv) of the tariff Order of November 2004, the Tamil Nadu Electricity Board (TNEB) then had made a mention about a litigation pending in the High Court with reference to the lease rentals fixed for its lands in 1997 and an interim Order passed by the High Court. In this regard, it was clarified to VOCPT that the revised lease rentals incase of TNEB would be governed by the Orders of the High Court. The VOCPT is requested to furnish the status and outcome of the said litigation.	Two cases were filed by TNEB for retransfer of Port land to TNEB by Port and the revision of lease by TAMP were dismissed by the Hon'ble High Court of Madras at Chennai and VOC Port is yet to claim the difference in rates of lease rent.
II.	**VALUATION OF LAND:**	
(i).	In the workings furnished under Option – I (State Government Ready Reckoner for both the quinquennium 2007-2012 and 2012-2017) and Option – II (Average of actual relevant transactions registered in the last three years for both the quinquennium 2007-2012 and 2012-2017), the VOCPT is seen to have considered the Development costs. In this regard, the VOCPT is requested to clarify/ furnish the following:	
	(a). Explain the rationale behind arriving at the lease rentals taking into account 15% (for quinquennium 2007-2012) and 16% (for quinquennium 2012-2017) of the sum of old depreciated development cost and additional development cost also. VOCPT to clarify whether such an action is in line with the Land Policy Guidelines of 2004 and 2010.	As per TAMP Order No.TAMP/35/2003-TPT dated 3 December 2004, a return of 15% was allowed on the modified development cost. Following the instruction issued in the letter of TAMP vide No.TAMP/14/2009-TPT dated 4 May 2009, VOC Port adopted only

	(b). It is seen that the figures of development cost as furnished by the VOCPT now at Col no. (4) of its Statement (Option-I and II) are the figures of the original value of Development cost as given by VOCPT during the proceedings relating to the Order of November 2004. At that time, for the reasons stated in the Order, the moderated Development costs after depreciation were considered to determine the lease rentals then. However, the depreciated value of the development cost now reflected at Col no. (5) of the Statement is lower than the moderated Development costs after depreciation considered in the November 2004 Order. It is not clear as to how the depreciated value of the development cost at Col no. (5) has been worked out. The VOCPT to explain the position and furnish workings in this regard and reconcile the difference.	depreciated value of development cost. The lease rent has been arrived at by applying 15% (for quinquennium 2007-2012) and 16% (for quinquennium 2012-2017) of the sum of depreciated development cost relevant for the period and additional development cost and submitted to TAMP for consideration. The percentage represents the Return on Capital Employed. Details of working for development cost is furnished.
	(c). The VOCPT to explain the basis to arrive at the additional development cost as in Col no. (6) in the Statement (Option-I and II), along with the workings supported by documentary proof/ Rate analysis.	Additional development cost is based on the Assets commissioned for use in the relevant period. Information is furnished.
	(d). As stated earlier, the lease rentals have been determined taking into account the 15% of the sum total of the old depreciated development cost and additional development cost. For the reasons stated in the November 2004 Order, the actual development cost was not considered and the depreciated value of development costs was considered. In this backdrop, the reason for considering the additional development cost without depreciation may not be in line with the approach adopted in November 2004 Order. The VOCPT to review the position and revise additional development cost after counting the depreciation. Necessary workings in this regard may be furnished.	Development cost is considered at depreciated value only and working for the same is furnished.
(ii).	<u>Option – I – State Government Ready Reckoner for both the quinquennium 2007-2012 and 2012-2017:</u>	
	(a). Furnish the copy of the State Government Ready Reckoner, reflecting the value of land considered for Service/ Residential, Industrial and Commercial in its Statement for both the quinquennium 2007-2012 and 2012-2017. If the Ready Reckoner does not reflect the value of individual item, then, how the market value for individual item have been arrived at must be explained.	The market value for individual item (i.e.) Service, Industrial and Commercial have been arrived as per the Report given by the Land Valuer. Reference P44 to 48 of Valuation Report.
	(b). It is not clear as to how the market value with proportion to industrial and commercial classification has been arrived at in Col. No. (2) in the Statement. Furnish the relevant workings in this regard.	As given in page 44 of the Valuation Report, market value for commercial, industrial and service is done at 100%, 66% and 33% of the commercial rate.
	(c). The reason for taking into account the average of the percentage increase among all	The reason for taking into account the average percentage increase is to

<table>
<tr><td></td><td>the categories like Service/ Residential, Industrial and Commercial as mentioned in Col no. (10) to determine the uniform percentage increase over the existing rate, may be explained. It may be noted that such an approach is leading to the rentals of the Industrial and Commercial Section bearing the brunt of a higher percentage of increase. VOCPT to justify the position.</td><td>determine the uniform % increase as furnished in the table below:
<table><tr><th>Category</th><th>TAMP rate 2002 (per sqm/ annum)</th><th>Proposed rate for 2007 (per sqm/ annum)</th><th>% increase</th></tr><tr><td>Service</td><td>18.40</td><td>55.81</td><td>203.32</td></tr><tr><td>Industrial</td><td>34.15</td><td>103.59</td><td>203.34</td></tr><tr><td>Commercial</td><td>55.15</td><td>167.29</td><td>203.34</td></tr></table></td></tr>
<tr><td>(iii).</td><td><u>Option – II – Average of actual relevant transactions registered in the last three years for both the quinquennium 2007-2012 and 2012-2017:</u></td><td rowspan="3">The average rate of actual transaction in last three years are as per the Report given by the Land Valuer. The extract of the Land Valuer Report is available in P24 of 48.</td></tr>
<tr><td></td><td>(a). Furnish details about the actual relevant transactions in last three years and the workings based upon which the VOCPT has determined the market value of land under this option at Col no. (2).</td></tr>
<tr><td></td><td>(b). The reason for taking into account the average of the percentage increase among all the categories like Service/ Residential, Industrial and Commercial as mentioned in Col no. (10) to determine the uniform percentage increase over the existing rate, may be explained. It may be noted that such an approach is leading to the rentals of the Industrial and Commercial Section bearing the brunt of a higher percentage of increase. VOCPT to justify the position.</td></tr>
<tr><td>(iv).</td><td><u>Option – III – Highest accepted tender of port lands for similar transactions for both the quinquennium 2007-2012 and 2012-2017:</u></td><td></td></tr>
<tr><td></td><td>(a). VOCPT to clarify whether the value considered in column 8 represent “highest tender value” or “lease rent”. If the value represent highest tender value, please explain as to how the highest accepted tender value has been arrived at by VOCPT at Col no. (8) to determine the lease rentals under Option IV for both the quinquennium 2007-2012 and 2012-2017.</td><td>The highest accepted tender value has been arrived based on the competitive bidding received by the port during the year 2010 and by applying 6% discount factor.</td></tr>
<tr><td></td><td>(b). From the Note to the Statement furnished by VOCPT, it is seen that the tender is based on award of the highest tender rate by Mrs.Poovanaithal based on an upfront premium of ₹27999/- for 30 years. In this regard, the VOCPT is requested to confirm that the said single award of tender represents the entire port lands covering lands for Service/ Residential, Industrial and Commercial purposes. If not, VOCPT to furnish workings to arrive at the market value based on highest tender for the other two categories.</td><td>The market value of land for Service and Industrial purpose has been arrived based on the tender rate received for commercial purpose by adopting the ratio as approved by the Land Valuer Report and as narrated in P44 of 48 of Valuation Report.</td></tr>
<tr><td></td><td>(c). The land for which the tender was awarded to Mrs.Poovanaithal may fall under any one of the category i.e. Service/ Residential, Industrial and Commercial purposes. In this backdrop, it is not clear as to</td><td>The Valuation Report is structured on the premise that the value of Commercial purpose is realistic and the rate for Industrial and Service purposes is built up with respect to ratios arrived in respect of Sipcot</td></tr>
</table>

	how the same can be considered as base value for land for all purposes.	Industrial area. Hence, this may be accepted.
(v).	Option – IV – Land Value arrived from Lease Agreement for both the quinquennium 2007-2012 and 2012-2017:	
	(a). Furnish details about the Lease Agreements considered and the workings based upon which the VOCPT has determined the market value of land under this option as shown at Col no. (2).	The lease agreement copy referred by the Land Valuer in the report is furnished. On perusal of the report of Land Valuer, it is seen that Lease Agreement attached as Annex-IV of the Report pertains to Lease Agreement entered in May 2011 between VOCPT and M/s.Mannariah and Sons Pvt. Ltd. for lease of Godown admeasuring 20,000 sq. ft. @ ₹2,20,000 monthly rental (i.e. ₹11.00 per sq. ft/ month).
	(b). The reason for taking into account the average of the percentage increase among all the categories like Service/ Residential, Industrial and Commercial as mentioned in Col no. (10) to determine the uniform percentage increase over the existing rate, may be explained. It may be noted that such an approach is leading to the rentals of the Industrial and Commercial Section bearing the brunt of a higher percentage of increase. VOCPT to justify the position.	The issue of considering average increase is based on procedure adopted in 2004 revision. In as much as valuation adopted for Service, Industrial and Commercial is based on respective weights as per Valuation Report, average increase is considered reasonable and may please be admitted.
(vi).	Option – V – Land Value arrived based on Sipcot Allotment rate for both the quinquennium 2007-2012 and 2012-2017:	
	(a). Furnish the basis along with the workings based upon which the VOCPT has determined the market value of land under this option at Col no. (2).	The market value of land has been arrived based on the report submitted by the Land Valuer for land allotted by VOCPT to SIPCOT dated 26 September 2011.
	(b). The reason for taking into account the average of the percentage increase among all the categories like Service/ Residential, Industrial and Commercial as mentioned in Col no. (10) to determine the uniform percentage increase over the existing rate, may be explained. It may be noted that such an approach is leading to the rentals of the Industrial and Commercial Section bearing the brunt of a higher percentage of increase. VOCPT to justify the position.	The reason has already been explained for the query no.(ii)(c).
(vii).	Option – VI – Land Value arrived based on Land Valuer Report for the quinquennium 2012-2017: As seen from the Extract of the Valuation Report of the Valuer furnished by VOCPT, the Valuer has assessed value of land for port related activity at ₹167.35 lakhs per acre, ₹110.45 lakhs per acre and ₹55.22 lakhs per acre for commercial, industrial and service purposes respectively as on 1.7.2011. However, the market value considered by VOCPT for the said purposes are seen to be lower than the value assessed by the Valuer. The VOCPT is requested to clarify the position. Further, VOCPT is also requested to	₹167.35 lakhs per acre is the average rate for commercial purpose with respect to Tendering rate, Sipcot allotment and Lease Agreement rate (Ref. P42/48 of Valuation Report). On this the rates based on SIPCOT Industrial area for Industry purposes is considered at 66% and for Service at 33%. Ref. P44/48 of report. Market value for Industrial and Service purposes under option I and II are not considered for reasons at P41/48 of the report as the same is not realistic as the

	furnish the basis along with the workings based upon which the VOCPT has determined the market value of land under this option at Col. No.2 and derived the lease rentals thereon.	registered value is diluted due to the intention to reduce stamp duty etc.

13.1. Though the VOCPT has furnished a revised proposal under cover of its letter dated 25 March 2013 based on the discussions held by it with the users, it was found that the VOCPT has not furnished information on a few points as agreed at the joint hearing and information/ clarifications sought on few other points. The VOCPT was reminded vide our letter dated 5 April 2013 to furnish requisite information. In response, the VOCPT under cover of its letter dated 9 May 2013 has furnished its reply on the remaining points which is brought out in subsequent paragraphs.

13.2. With reference to point of action decided at the joint hearing brought out in para 6.4.(iii) above, the VOCPT vide its letter dated 9 May 2013 has communicated that a meeting with Port Users was convened on 10 December 2012. It has forwarded a copy of the minutes of the meeting which was attended by representatives of Port Users viz. M/s.DCW, M/s.IOC and Tuticorin Port Land User Welfare Association (Zone B). The minutes of the meeting brings out the main issues raised by the user associations and the point-wise clarification furnished by VOCPT to them.

13.3. A summary position of the information sought by us and corresponding reply of VOCPT thereon are tabulated below:

Sl. No.	Information sought by us	Reply furnished by VOCPT
(i).	Furnish a Report based on the discussions held by VOCPT with the users as agreed at the joint hearing and also the Minutes of the said meeting held with the users.	A Report on the discussions and Minutes of the meeting held with users is furnished [with reference to para 6.4(iii) above].
(ii).	The revised proposal furnished by the VOCPT also does not clarify the position how the highest tender rate obtained for operation of weighbridge is realistic in representing the facilities, infrastructure and the market value of lands at different areas used for different purposes in Zone-A and Zone-B, as agreed during the joint hearing. The VOCPT is requested to clarify the position whether it has obtained tender rates for other places.	Considering the continuous increase in market value of port land, port has submitted the proposal for revision of lease rent based on the highest tender rate for operation of weighbridge. Further, it is submitted that the port can go for tender for private parties for getting competitive offer on request and need basis only. On this issue no further tenders were called after the subject lease of land for operation of weigh bridge in Zone A [with reference to para 6.4(ii)(a) above].
(iii).	A detailed separate note on court cases filed by M/s.Thiagarajar Mills (P) Ltd. and VTM Limited against VOCPT and to communicate the current status of the courts cases as requested by us vide our letter dated 10 September 2012 and 28 December 2012.	M/s.Virudunagar Textiles Mills Ltd. and M/s.Thiyagharaja Mills Ltd., Kappalure filed Suits in the Sub. Court, Tuticorin against the revision of lease rent w.e.f. 01.07.1997 in case O.S.No.141/98 and O.S.148/98. The case is still pending before the Hon'ble Court. The decision therein will be binding on both sides.
(iv).	A copy of the VOCPT proposal dated 29 November 2012 relating to enhanced levy of lease rent in case of multistoried buildings was forwarded to users/ user organisations seeking their comments. The comments received from the users/ user organisations in this regard have been forwarded to VOCPT as feedback information from time to time. The VOCPT has, however, not replied to the comments of any of users/ user organisations, in this regard.	The reply to the comments of the users/ users organisation on the proposal for levy of lease rent in case of multistoried buildings is furnished.

14. On perusal of the reply furnished by VOCPT vide its letters dated 9 May 2013 and 28 August 2013, it was observed that there are still some information gaps in the information furnished by the VOCPT. The VOCPT was, therefore, vide our letters dated 10 September 2013 and 30 September 2013 requested to furnish additional information/clarification arising out of its letters dated 9 May 2013 and 28 August 2013. The VOCPT vide its letters dated 18 October 2013 and dated 7 January 2014 has furnished its reply. A summary of the additional information/ clarifications sought by us and reply furnished by VOCPT thereon are tabulated below:

Sl. No.	Information/ clarifications sought by us	Reply furnished by VOCPT
	Our Letter dated 10 September 2013	
(i).	As per clause 6.3(1) (a) of the Land Policy Guidelines, the Scale of Rates proposed to TAMP for revision in lease rental has to be recommended by the Committee decided by the Board. The revised proposal filed by the VOCPT vide its letter dated 25 March 2013 is, however, not accompanied with copy of the Report of the Committee. The VOCPT is, therefore, requested to forward a copy of the Report of the Committee constituted by the Board of the Port Trust with reference to the revised proposal dated 25 March 2013.	The revised proposal submitted to the Committee on 07.10.2013 and the Committee report is furnished. Ratification of the Board will be forwarded to TAMP separately. [The VOCPT has subsequently vide its letter dated 7 January 2014 forwarded a copy of the Board Resolution of the VOCPT ratifying the action of the port in filing the revised proposal for revision of lease rental to TAMP.]
(ii).	As decided in the joint hearing, in view of serious objections raised by users / lessees, the VOCPT was requested vide our letter dated 6 December 2012 to adequately explain how the highest tender rate obtained for operation of weighbridge is realistic in representing the facilities, infrastructure and the market value of lands at different areas used for different purposes in Zone-A and Zone-B. The VOCPT vide its letter dated 9 May 2013 has stated that its proposal for reckoning the highest tender rate is considering continuous increase in the market value of port land. The reply furnished by VOCPT does not adequately address the point raised at the joint hearing. The query at para 2(ii) of our letter dated 6 December 2012 is, therefore, reiterated.	As per Land Management Policy Guidelines 2010 under Cl.6.3(1)(iii) the highest tender rate has been prescribed as one of the options for arriving market value of land. Based on this, the proposal for revision of lease rent from 01.07.2007 to 30.06.2012 and from 01.07.2012 to 30.06.2017 has been worked out. During the joint hearing, the users raised queries on arriving the lease rent on highest tender rate for a particular area and applying it for all port land. As per TAMP's directions, the proposal was reviewed. In the revised proposal, instead of taking the lease rent on upfront premium of the H1 bidder, the land value was taken as per Land Valuation Report under Option III. Option III under Land Valuation Report is prepared based on the average of H1 and H2 bidders. Also, since the tender rate taken is for smaller size plot, the correction factor has been applied by the valuer to achieve the fair market value. The proposed lease rent was arrived only based on the above market value of land for all purpose (i.e.) service, industrial and commercial on ratio basis as recommended by the Land Valuer in the Report. The lease rental proposed in the original proposal dated 28 June 2012 vis-à-vis revised lease rental proposed vide letter dated 25 March 2013 is tabulated below:

<table>
<tr>
<td></td>
<td></td>
<td>
<table>
<tr><th>Sl. No.</th><th>Category</th><th>Original proposal dated 28 June 2012</th><th>Revised proposal dated 25 March 2013</th></tr>
<tr><td>1.</td><td>W.e.f. 01.07.2007 (Zone-A)</td><td>Rate in ₹/ sqm/ annum</td><td>Rate in ₹/ sqm/ annum</td></tr>
<tr><td></td><td>Service</td><td>415.27</td><td>55.81</td></tr>
<tr><td></td><td>Industrial</td><td>770.83</td><td>103.59</td></tr>
<tr><td></td><td>Commercial</td><td>1244.85</td><td>167.29</td></tr>
<tr><td>2.</td><td>W.e.f. 01.07.2012 (Zone-A)</td><td></td><td></td></tr>
<tr><td></td><td>Service</td><td>524.33</td><td>111.63 *</td></tr>
<tr><td></td><td>Industrial</td><td>973.15</td><td>207.18 *</td></tr>
<tr><td></td><td>Commercial</td><td>1571.57</td><td>334.59 *</td></tr>
</table>
[* VOCPT has applied 2% annual escalation on these lease rent of 1 July 2011 to arrive at the proposed lease rent as on 1 July 2012.]

In view of the above facts, the revised rates under Option III of the revised proposal submitted by VOCPT may be considered by TAMP.
</td>
</tr>
<tr>
<td>(iii).</td>
<td>The VOCPT at para 4 of its reply dated 9 May 2013 has stated that comments of the users/ user organisations and the proposal of VOCPT dated 29 November 2012 for enhanced lease rentals in case of multi-storied building is furnished as Annexure-D. It is, however, seen that the VOCPT has not furnished its comments on the comments made by Diamond Shipping Agencies Pvt. Ltd., Tamil Nadu Maritime Academy, SHV LPG India Private Limited, Tamil Nadu Electricity Board, Neyveli Lignite Corporation Ltd. and Tuticorin Salt & Marine Chemicals Ltd. forwarded to VOCPT vide our letters of even number dated 31 December 2012 and 21 February 2013.</td>
<td>Reply to the queries raised by Diamond Shipping Agencies Pvt. Ltd., Tamil Nadu Maritime Academy, SHV LPG India Private Limited, Tamil Nadu Electricity Board, Neyveli Lignite Corporation Ltd. and Tuticorin Salt & Marine Chemicals Ltd. has been furnished.</td>
</tr>
<tr>
<td>(iv).</td>
<td>Item I (viii) of our letter dated 22 October 2012:

In the said query, the VOCPT was requested to furnish workings to arrive at the proposed lease rentals for the Service/ Residential, Industrial and Commercial areas under Zone-B (non-port related). The port in its reply has stated that rates for Commercial purposes is determined with respect to the market value of land in Land Valuation Report and a multiplier of 0.33 and 0.66 are adopted for Service and Industrial purposes. However, the land value for commercial area under zone B (non-port related) adopted by the VOCPT is not found in the valuation report. The VOCPT has also not furnished detailed working sought by us. Our query at Item no.I (viii) is, therefore, reiterated requesting the VOCPT to furnish workings to arrive at the proposed lease rentals for the Service/</td>
<td>The proposal submitted by port during 2002 for non-port related activities in Zone B and the same was considered and adopted by TAMP vide Order dated 03.12.2004, for service, industrial, commercial rates as detailed below:
<table>
<tr><th>Category</th><th>Port related (₹)</th><th>Non port related (₹)</th><th>% increase</th></tr>
<tr><td>Service</td><td>18.40</td><td>34.7</td><td>88.58</td></tr>
<tr><td>Industrial</td><td>34.15</td><td>63.25</td><td>85.21</td></tr>
<tr><td>Commercial</td><td>55.15</td><td>102.00</td><td>84.95</td></tr>
</table>
The average % increase of non-port related rates with respect to port related rates was 86.2498%.

The same principle was adopted in the present proposal for non-port related activities in Zone B by using the average percentage increase of 80% upon port related lease rent.
</td>
</tr>
</table>

	Residential, Industrial and Commercial areas under Zone-B (non-port related).	
(v).	From the detailed working of land value furnished by VOCPT vide its letter dated 28 August 2013 it is seen that the VOCPT has considered the value of land as on 1 July 2007 at ₹25.95 lakhs/ acre and ₹12.82 lakhs per acre under Option I and II respectively for commercial area as against land value of ₹21.70 lakhs/ acre given for both these options in the valuation report. Similar variation is observed in the market land value considered as on 1 July 2011. Explain the reasons for deviating from the land value given by the valuer in land valuation report under these two options for both the quinquennium.	The land valuer has given the land value as ₹21.70 lakhs/ acre for commercial area under options I and II. The land valuer has arrived the land value under option I, by taking the average of 10 groups consisting of residential, industrial and commercial areas. VOCPT in the revised proposal has taken the land value as ₹25.95 lakhs/ acre for the year w.e.f. 01.07.2007 and ₹78.61 lakhs/ acre for the year w.e.f. 01.07.2012 by taking the average value of groups which are classified as commercial and have specific rates as per the valuation report. Detailed calculation sheet is furnished. Under Option II, the land valuer has considered the value of land which are registered during 2006 to 2011 in Mullakadu Village, Tuticorin Division, Meelavittan village and other nearby villages. Whereas under Option II in the proposal submitted by VOCPT, it is stated that the land value has been taken based on the average rate of actual relevant transactions registered during 2008 & 2009 and 2011 in Mullakkadu village only. <u>For 01.07.2007 to 31.06.2012</u> (Page 23 of 47 of Land Valuation Report 2007) Avg. Val of Two registrations of 2008 (419600+262020)/(1198.75+952.80) per sqm = 316.80 Value as on 01.07.2007 per acre = 316.80 x 4046.86 = 1282062.10 Value as on 01.07.2007 lakhs per acre = 1282062.10/ 100000 = ₹12.82 lakhs <u>For 01.07.2012 to 31.06.2012</u> Page 24 of 48 of Land Valuation Report 2011 Avg. Val of Two registrations of 2011 (330484+100159)/(300.11+202.341) per sqm = 856.52 Value as on 01.07.2011 per acre = 856.52 x 4046.86 = 3466216.53 Value as on 01.07.2011 lakhs per acre = 3466216.53/ 100000 = ₹34.66 lakhs Hence, the proposal is in order.
(vi).	Many of the users / lessees such as DCW Limited, Southern Petrochemical Industries Corporation Ltd. (SPIC), Indian Oil Corporation Limited (IOCL), etc., have	The land allotted to M/s.NTPL is based on the rate approved by the TAMP communicated in letter No.TAMP/35/2003-TPT dated 03.12.2004 for service category

	mentioned that the VOCPT has allotted 127.465 hectares of land on an upfront premium of ₹20.91/ sq/ mt/year to NLC Tamilnadu Power Limited (NTPL), in May 2011 and have submitted that this should form the basis for considering the market value of land since land given to units like NTPL are similar to their allotments. They have stated that VOCPT cannot discriminate between port users on the basis of their being privately held or belonging to the Public Sector. The port has while furnishing comments on the views of users have stated that the rate fixed for NTPL, is a Government of India undertaking Organisation establishment of Port based Thermal Plant and National important project. But the point made by the lessees why that cannot form the base of arriving at the lease rental may kindly be adequately addressed by the port.	and the payment was made by them on upfront basis for 30 years as per Land Policy Guidelines. Port also considered to allow them for paying the upfront premium. M/s.DCW, M/s.SPIC and M/s.IOC have agreed to pay lease rent on annual lease rent basis at the commercial rates. In this connection, it is submitted that as per Land Management Policy Guidelines port land can be allotted either on upfront premium or annual lease rent basis. M/s.NTPL has requested the port to allot the land on upfront premium basis and the same was accepted by the port for paying upfront premium on service category for 30 years. Port land was allotted to M/s.DCW, SPIC and IOC on annual lease rentals basis under commercial category at that time of allotment and the same was accepted by them. Hence, comparison of allotment of NTPL with other users does not arise at this stage with respect to category of usage viz. Service, Industrial or Commercial.
(vii).	The port may explain the basis of proposing 50% additional lease rent for every additional storey in its proposal dated 29 November 2012.	In order to fix a lease rent in proportionate to the various users those who construct additional floor in the allotted area, port has given a proposal that for single usage 100% and for multistoried buildings additional 50% of the lease rent may be collected for every additional storey. By vertical expansion of the buildings, the use of land is improvised by the lessee without the need for additional land and also earn additional revenue by utilizing structures created in the allotted land without any payment of additional lease rent. Hence, port proposed to levy additional lease rent at 50% of SOR for every additional storey in order to suitably factor in the collection of lease rent. Hence, the proposal submitted by the port may be considered by TAMP.
	Letter dated 30 September 2013	
(viii).	Forward the copy of the Report of the Committee constituted by the Board of the Port Trust and copy of the Board approval.	The VOCPT vide its letter dated 7 January 2014 has intimated that the recommendation of the Committee dated 7 October 2013 on the revised proposal of the VOCPT for revision in the lease rental w.e.f. 1.7.2007 to 1.7.2012 was placed before its Board in the Board Meeting held on 12 November 2013. It has furnished a copy of the Resolution passed by the VOCPT Board approving the Agenda note along with Committee's recommendation.

15. The proceedings relating to consultation in this case are available on records at the office of this Authority. 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.

16. With reference to the totality of the information collected during the processing of this 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 dated 18 November 2004 for a period of five years from 1 July 2002 to 30 June 2007. As brought out in the earlier paragraphs of this Order, the VOCPT had earlier in April 2009 filed a proposal for revision of lease rentals for a period of five years from 1 July 2007 which was taken up on consultation with relevant stakeholders. Since the VOCPT did not respond on the decisions taken at the joint hearing for a long time despite repeated reminders, this Authority vide its Order No.TAMP/14/2009-TPT dated 11 October 2011 disposed of the proposal of April 2009 by treating the same as withdrawn and advised the port to expedite filing its revised proposal. Subsequently, the VOCPT has approached this Authority in June 2012 after a lapse of more than eight months for revision of lease rentals for two quinquenniums viz. 1.7.2007 to 30.6.2012 and 1.7.2012 to 30.6.2017.

(ii). For the purpose of determining lease rentals for the lands belonging to the Port Trusts, this Authority is mandated to follow the land policy guidelines issued by the Government from time to time vide clause 8 of the tariff guidelines issued by the Government in March 2005. The proposal submitted by VOCPT for revision of lease rental for the two quinquenniums is based on the Land Policy guidelines for Major Port Trusts, 2010. When the proposal was already processed and the entire consultation process and joint hearing was over and this case was taken up for finalisation, the Ministry of Shipping in the Government of India has announced revised Land Policy Guidelines for Major Ports, 2014 in January 2014 which came into effect from 2 January 2014. In this regard the following points are brought out for specific mention:

(a). The revised Land Policy guidelines recently issued by the Government is in January 2014. The proposal filed by the VOCPT covers the period 2007 to 2012 and 2012 to 2017. The period 2007 to 2012 pertains to the period prior to the announcement of the 2014 guidelines and the lease rent proposed for the quinquennium 2012 to 2017 also relates to the period prior to the announcement of the 2014 guidelines

(b). As already stated above, the proposal filed by VOCPT in June 2012 as per the Land policy guidelines of the 2010 was processed following 2010 guidelines. The entire consultation process with relevant stake holders as well as the joint hearing was held prior to the announcement of the new 2014 guidelines.

(c). As per Clause 6.3(I) of the Land Policy Guidelines of 2010, the market value of land can be determined taking into consideration any or all the five factors prescribed in the said guidelines and the lease rent has to be fixed at 6% of the market value of the land so determined. The lease rent fixed by this Authority is subject to annual escalation of 2%.

(d). Para 18 (a) of the revised land policy guidelines of January 2014 retains the methodology for determination of market value of the land based on the five factors as prescribed in the Land policy guidelines of 2010. The revised guidelines of the 2014 prescribes the same percentage of 6% for arriving at the lease rental and the rate of annual escalation in the lease rental is also prescribed at 2% with the only difference that these percentages prescribed in the revised Land Policy Guidelines of 2014 are the minimum cap.

(e). The proposal filed by the VOCPT under the land policy guidelines of 2010 arrives at the market value of land on each of the factors mentioned in the guidelines and considers return @ 6% on the highest of the market value so recommended by the Committee constituted to review the lease rental. The proposal filed by the VOCPT while complying with the provisions of land policy guidelines of 2010 is also found to be within the factors prescribed in the revised Land Policy Guidelines of 2014 as well.

(f). In view of the position brought out in paragraphs 16(ii) (a), (b), (c), (d) and (e) above and also recognising that the broad principles for determination of lease rent in the land policy guidelines of 2010 are retained in the revised land policy guidelines of 2014, this analysis proceeds ahead with fixing lease rentals of the VOCPT lands based on the proposal filed by the VOCPT following the land policy guidelines of 2010.

(iii). As per clause 6.3(1) (a) of the land policy guidelines of 2010, the Scale of Rates to be recommended by the port to this Authority for revision in lease rental has to be recommended by the Committee decided by the Board headed by the Chairman of the Port Trust.

The initial proposal filed by the VOCPT dated 28 June 2012 was accompanied with a copy of report of the Committee constituted by the VOCPT as per the land policy guidelines of 2010. It is seen that a Committee under the Chairmanship of Chairman (VOCPT) with the District Revenue Officer (Tuticorin District), Chief Engineer, Secretary (VOCPT) and Head of the Departments as other members was constituted by the VOCPT to review and recommend the revised lease rent for port trust lands.

Subsequently, the VOCPT in view of serious objections raised by various users/ user associations and lessees about steep hike proposed in its proposal of June 2012 has reviewed and filed a revised proposal dated 25 March 2013. The revised proposal is also supported with a copy each of the Report of the Committee recommending the revised lease rentals and approval of the Board of Trustees of the VOCPT approving the revised proposal forwarded by the port to this Authority.

One of the users, Chemplast Sanmar Limited (CSL) has stated that the Committee comprising of officers from the Port Trust and the District Revenue Officer is not in consonance with the guidelines of the Government of India and as per the directions of this Authority. The CSL has, therefore, requested to reject the report of the Committee. In this context, it is relevant here to mention that this Authority has not given any directions about constitution of the Committee. The Land Policy Guidelines of 2010 deals with this. The Land Policy guidelines of 2010 stipulate that the Committee to review the lease rental is to be decided by Port Trust Board and is to be headed by the Chairman of the concerned Port Trust. The VOCPT has constituted the Committee under the Chairmanship of Chairman (VOCPT) with District Revenue Officer (Tuticorin District) and the Head of Departments of the port as Members. Therefore, it is found to be in compliance with the clause 6.3.(1)(a) of the Land Policy Guidelines of the Major Port Trusts, 2010. The point made by CSL to reject the report of the Committee, therefore, does not merit any consideration and deserves to be rejected.

As stated by the VOCPT, the Committee constituted by the Port under the Chairmanship of the Chairman VOCPT has considered the Land Valuation Report furnished by the Valuer and has recommended the rates. Thus, the revised proposal filed by the VOCPT which is supported with the copy each of the Report of the Committee recommending the revised rates and which has the approval of the VOCPT Board is found to be in compliance with the land policy guidelines of 2010 and, therefore, relied upon for processing this case.

(iv). The Tuticorin Custom House Agents' Association (TCHAA) while furnishing their comments on the initial proposal of VOCPT has stated that they did not receive complete valuation report. Subsequently, the TCHAA has in its comments dated 14 December 2012 confirmed that a copy of the Valuation Report was provided to it by the VOCPT. With reference to the submission made by some of other users like SHV LPG India Private Limited, SPIC Electric Power Corporation Private Limited, Tuticorin Port Land Users Welfare Association, etc., that complete valuation report was not provided to them, the VOCPT at the joint hearing held on 29 November 2013 which was attended by various users/ user associations/ lessees has declared that Valuation Report of M/s.Parthasarathy Associates is available in the office of the port and that anybody can approach the office and refer to the Report. As regards the point made by the SHV LPG India Private Limited that they were not provided opportunity to put forth their views, it is relevant here to mention that SHV LPG India Private Limited have furnished their comments to this Authority which was also forwarded to the VOCPT and the port has also responded thereon. Moreover, a joint hearing was also held on 29 November 2013 providing opportunity to all the concerned users/ user associations/ lessees, including SHV LPG India Private Limited to express their views. Hence, all the concerned stakeholders including SHV LPG India Private Limited have been given sufficient opportunity of being heard.

(v). (a). The Land Policy Guidelines clearly lay down the procedure and the methodology to be adopted for determining the market value and the lease rental of the port lands. As per Clause 6.3(I) of the Land Policy Guidelines, the market value of land can be determined taking into consideration any or all of the factors like (i) State Government's ready reckoner value, (ii) the average rate of actual relevant transactions in last three years for lands in the port's vicinity, adding 2% escalation per annum, (iii) highest accepted tender value of port lands for similar transaction, (iv) rate arrived at by an approved valuer and (v) any other relevant factors as may be identified by the port.

(b). The port has determined market value of lands under all the four specific options prescribed in the land policy guidelines. Under the fifth option prescribed in the land policy guidelines which relate to any other relevant factor for determining the market value of land, the VOCPT has considered two factors viz. valuation of land as per lease agreement and valuation of land based on allotment of land by State Industries Promotion Corporation of Tamilnadu Ltd. (SIPCOT). Thus, totally, the VOCPT has determined the market valuation of land under six options.

The DCW Ltd. has sought to argue that the lease rental should be based on the ability to pay by the users rather than based on Land value. But, Land Policy prescribes that the lease rental is to be arrived at based on the market value of land. This Authority is bound by the Land Policy of the Government.

Tuticorin Custom House Agents' Association (TCHAA) has sought to reject the valuation report on various grounds as brought out earlier. But, Land Policy guidelines 2010 prescribe five methods for determination of market value of port land. As per the Land Policy Guidelines, the Committee as decided by the Board headed by the Chairman of the Port Trust may take into account the applicable factor from among the five factors. In the instant case, the Committee headed by the Chairman has taken into account the rate arrived at by an approved valuer appointed by the VOCPT and the Board of the VOCPT has approved the recommendation of the Committee headed by the Chairman of the Port Trust. Clause 6.3(1) (a) of Land Policy does not restrict the Committee to consider a particular method to determine the market value. The market value considered by the VOCPT is the highest among the market value derived based on other six methods. Consideration of highest market value is also in line with the approach adopted by this Authority in other cases as explained in the subsequent paragraphs.

(c). The increase in the lease rental proposal based on the original proposal of June 2012 filed by VOCPT works out to be 1926% as on 1 July 2007 in comparison to the escalated lease rental applicable as on 30 June 2007. It is seen that in the original proposal of June 2012, the market value of land as on 1 July 2007 under Option IV based on Lease Agreement and Option V based on allotment of land to SIPCOT, is arrived deescalating the market value of the land of 1 July 2011 applying 6% discounting factor. As regards Option III, the VOCPT has considered the highest accepted tender awarded to Mrs. Poovanaithal on upfront premium basis for 30 years and has arrived at annual lease rental rate of ₹1543.40 per sqm/ annum as on 1.7.2011. The lease rent as on 1 July 2007 is arrived at ₹1222.45 per sq. mtr./ annum after applying discounting factor of 6% for five years period. The VOCPT has not considered the various modification factors applied in the land valuation report. The lease rent proposed in the June 2012 proposal based on the approach adopted by the VOCPT has led to steep increase of 1926% in the lease rental. Many of the users/ user associations/ lessees have objected to the steep increase proposed by VOCPT. They also pointed out that in the said proposal, the market value of land for July 2007 is arrived based on the market valuation of land of 2011 and in their view it is not correct. In view of objections raised by many users/ user associations/ lessees on the approach adopted, the VOCPT has reviewed the position and filed a revised proposal dated 25 March 2013. In the said revised proposal, the VOCPT has considered the market valuation of the land as per the valuation report of 1 July 2007 for arriving at the revised lease rental under all these three options. The increase in the proposed lease rental as per the revised proposal dated 25 March 2013 comes to 172% as on 1 July 2007 with reference to the escalated lease rental prevailing as on 30 June 2007 as against 1926% increase proposed in the original proposal of June 2012, giving relief to the users of VOCPT land.

The Tuticorin Port Land Users Welfare Association drawing reference to the Order dated 13 August 1999 passed by this Authority mentioned that the VOCPT has proposed steep hike in the current proposal nearly to the tune of 2157%. In this context, as already stated earlier, the VOCPT in the revised proposal dated 25 March 2013 has substantially moderated the revised lease rental and the increase proposed is 172% as on 1.7.2007 over the escalated lease rent applicable as on 30.6.2007. Even this increase is inevitable in view of the increase in market value of land due to passage of time.

(d). The VOCPT has furnished the market valuation report of the port lands prepared by the Land Valuer as on 1 July 2007 and 1 July 2011 which was considered by the Committee appointed by the VOCPT for review of the lease rent of the port lands for the said two quinquennium. The VOCPT in the revised proposal has taken into consideration the market value of the land under six options based on the recommendations of Committee and approved by its Board. The general approach adopted by the Land Valuer in determining the market valuation of VOCPT land and the market value of the land considered by the VOCPT under each of the six methods in its revised proposal dated 25 March 2013 are summarized below:

(1). <u>Option (1). : State Government's ready reckoner of the land value maintained by the revenue department.</u>

(i). Under this option, the land valuation report gives guideline value of land reportedly based on the State

Government Ready Reckoner. Considering modification factor for distance and usage, modified value of land is arrived under 10 Groups for various survey numbers in Mullakadu village under Zone 'A' based on their use i.e. residential use, commercial use, industrial use. The average value of the land for the 10 Groups is arrived at ₹19.67 lakhs per acre as on 1 July 2007 and ₹50.78 lakhs per acre as on 1 July 2011. Considering that the port has provided better infrastructure in terms of broad roads, good lighting, etc., and maintained it well, average market value of land is escalated applying a factor of 10%. Thus, the market value arrived as per the valuation report is ₹21.70 lakhs/ acre as on 1.7.2007 and ₹55.85 lakhs/ acre as on 1 July 2011.

(ii). From the modified guideline value of the land given in the valuation report, the VOCPT has taken into account the modified guideline value of land with reference to commercial category only. Since the valuation report considers the average value of land of 10 groups which includes lands relating to residential, industrial and commercial purposes, the VOCPT has considered value of lands which are classified as commercial purpose and arrived at the average market value of land at ₹25.95 lakhs/ acre as on 01.07.2007 and ₹78.61 lakhs/ acre for the year as on 01.07.2011. It has furnished detailed calculation in this regard. Exclusion of market value of lands for "service/ residential" and industrial purpose is perhaps because the VOCPT has first arrived at the market value of land for commercial categories. The market value of land for the two other categories are derived based on the market value of land for commercial category. It is seen that the VOCPT has not considered 10% modification factor provided for infrastructure facility in the valuation report.

(iii). The port has separately considered development cost to the tune of ₹20.22 lakhs per acre for commercial category reportedly taking into consideration the development cost incurred by the port till 2002 and additional development cost incurred for the period 2002 to 2007 both at depreciated value as on 1 July 2007 for commercial category. For the next quinquennium 2012 to 2017, the port has on the same principles considered development cost for commercial category at depreciated value as 1 July 2012 at ₹16.83 lakhs per acre.

(iv). The market value of land and the development cost for the 'industrial' and 'service/residential' category are thereafter arrived by applying factors 66% and 33% on the aggregate of the market value of land and development cost relating to the commercial category reportedly based on principle prescribed in the Land valuation report.

(v). Applying 6% return on the market value of land and 15% return on the development cost and summing up the two returns, lease rental is arrived for Zone A for each of the three categories viz. service/ residential, industrial and commercial for the quinquennium 2007-2012. The Lease rent for the quinquennium 2012-2017 is arrived by the VOCPT which is sum of 6% return on the market value of land as on 1 July 2011 and 16% return on the development cost as on 1 July 2012.

(2). <u>Option (2): Average value of actual comparable transactions registered in the last three years in the port's vicinity</u>

(i). 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 2006 to 2011 covering areas such as Mullakadu Village, Tuticorin Division, Meelavittan village and other nearby villages.

(ii). The land valuation report, however, in the concluding para under this option mentions that though it is an independent method for valuation of land, due to non-transparent practices it rarely reflects the real market value of land and always shows the guidelines value as the transacted amount. Therefore, the land valuation report recommends to consider market value of land as determined under Option I i.e. ₹21.70 lakhs/ per acre as on 1 July 2007 and ₹55.85 lakhs per acre as on 1 July 2011 as the market value of land for option (2).

(iii). The VOCPT has, however, separately arrived at the market value of land under this option. For this purpose, from the land valuation given in the valuation report, the VOCPT has considered the market value of land of sale deed for Mullakadu Villages for the transaction which are relevant for arriving at the market value of the port lands for the two quinquenniums. The average market value of such relevant transactions is arrived at ₹12.82 lakh per acre as on 1 July 2007 and ₹34.66 lakhs per acre as on 1 July 2011 for commercial category of land in Zone A.

(iv). As explained under option I above, the port has also considered the depreciated value of development cost at ₹20.22 lakhs per acre and ₹16.83 lakhs per acre as on 1 July 2007 and on 1 July 2012 respectively for commercial category under Zone 'A'.

(v). The market value of land and the development cost for the industrial and service/residential category is arrived at by applying factors 66% and 33% on the aggregate of the market value of land and development cost of commercial category as already explained under Option I.

(vi). The lease rental arrived by the VOCPT is sum of 6% return on the market value of land and 15% return on the development cost for each of the three categories viz. service/ residential, industrial and commercial as on 1.7.2007 for the quinquennium 2007-2012. The same approach is followed by the port for arriving at the lease rental for the quinquennium 2012-2017 except for return on depreciated development cost is considered at 16% instead of 15%.

(3). <u>Option (3): Highest accepted tenders received for port lands leased for 30 years on upfront premium basis.</u>

(i). The highest tender received by the VOCPT for weighment bridge on upfront premium basis is ₹27,999 per sq. metre for 30 years period. The second highest tender received is ₹20,000 per sq. mtr. for the same facility on upfront premium basis for 30 years period.

(ii). In this context, as already explained in the earlier paragraph, the VOCPT had not gone completely by the valuation report while arriving at the market value of land under option III in the original proposal. The port had considered the highest accepted tender i.e. ₹27,999/ sq. mtr. received on upfront premium as the basis. It did not consider the second highest tender value. The lease rental arrived in the original proposal led to steep increase of 1926% for the quinquennium 2007-2012.

(iii). In the revised proposal of March 2013, the VOCPT has considered the market value of land as derived in the valuation report wherein considering the significant variation between the highest bidder (H1) and the second highest bidder (H2) is 40%, the average of upfront premium quoted by the first two highest bidders H1 and H2 at ₹23,999/- per square metre is taken as the base [i.e. (₹27,999 + ₹20,000)/2].

(iv). Since the average upfront premium so arrived is for 30 years period, the factor for arriving at the lease rent payable in the first year is derived. For this purpose, the factor for arriving at the Net Present Value applying 6% discounting factor for 30 years period is arrived. The annual escalation @ 2% applicable in the lease rent as per the land policy guidelines of 2010 is computed for 30 years period. The product of net present value parameter and the annual escalation parameter is computed for 30 years period, and summing this the factor of 17.53 is thus arrived. The average upfront premium of ₹23,999 per sq. mtr. for 30 years period is divided by the factor of 17.53 and the lease rent is derived at ₹1369 per sq. metre. Thereafter, lease rent of land is converted into acre i.e. ₹55.40 lakhs per acre by applying the conversion factor of 4046.86 for converting from sq. metre to acre.

(v). From the annual lease rental so derived, the market value of land is derived at ₹443.20 lakhs/ acre applying the factor of 8 reportedly stating it to be the relationship specified by the Government between the annual lease rent and the property lease period less than 50 years.

(vi). Further, recognising that the said auctioned property is for 2000 sq. mtrs. whereas the port normally offers larger extent of land ranging from 4000 to 6000 sq. mtrs. for commercial purposes, the port has corrected the market value following the approach adopted in the valuation report by dividing the market value of land by 2 [₹443.20 lakhs per acre/ 2]. The market value of land so derived is ₹221.61 lakhs per acre for commercial category which is reportedly for the year 2011.

(vii). Stating that a minimum increase in the land values between the period 1/7/2007 and 1/7/2011 is 100%, the market value of land arrived as on 1 July 2011 under this option is scaled down to half i.e. ₹110.80 lakhs per acre for commercial category [₹221.60 lakhs/ 2] to arrive at the market value of land as on 1 July 2007.

(viii). The market value of land for the industrial and service/ residential category are arrived at by applying the factors 66% and 33% respectively on the land value derived for the commercial category.

(ix). The lease rent is arrived at applying the prescribed rate of 6% return on the market value of land derived for each of three categories for both the quinquennium for Zone 'A'.

(4). Option (4): Lease Agreement in the port's vicinity

(i). As per the valuation report, the market value of land under this option is arrived based on the lease agreement entered in respect of warehouses leased by VOCPT to port users.

(ii). From the lease rental, the market value of land is derived following Rent Capitalization method applying various parameters given in the report for this purpose.

(iii). The market value of land arrived in the valuation report under this option is ₹64.40 lakhs per acre as on 1 July 2007 and ₹128.80 lakhs per acre as on 1 July 2011 for commercial category under Zone 'A'.

(iv). The market value of land for the industrial and service/residential category is arrived in line with the approach followed for other options.

(v). The lease rent is arrived applying the prescribed return of 6% on the market value of land arrived for each of three categories.

(5). Option (5): Based on the allotment of land by State Industries Promotion Corporation of Tamilnadu Ltd. (SIPCOT)

(i). Under this option, the market value of land is considered based on land allotted by State Industries Promotion Corporation of Tamilnadu Ltd. (SIPCOT) in their industrial estates at Meelavittan village.

(ii). Since the lands of SIPCOT are far away from port area, the valuation of land is scaled up applying distance factor of 3.5. Further, Non-availability factor of 1.25 is also applied stating that there is great demand for land and land is not available for allotment.

(iii). The market value of land is thus arrived at ₹69.30 lakhs per acre as on 1 July 2007 and ₹151.60 lakhs per acre as on 1 July 2011 for the commercial category under Zone 'A'.

(iv). The market value of land for industrial and service/ residential category is arrived as applying the 66% and 33% respectively on the land value derived for the commercial category.

(v). The lease rental is arrived applying the prescribed return of 6% on the market value of land arrived for each of three categories.

(6). Option (6): Valuation of Land by Land valuer

(i). Market value of land under this option is arrived which is the simple average of the market value of land assessed under option III, IV and V.

(ii). The market value of land so derived under this option is ₹81.50 lakhs per acre for commercial category, ₹53.79 lakhs/ acre for industrial and ₹26.90 lakhs/ acre for service/ residential category as on 1 July 2007 for the quinquennium 2007-2012 (upto 30 June 2012). On the same approach, the market value of land for the quinquennium 2012-2017 is arrived at ₹167.35 lakhs/ acre for commercial category, ₹110.45 lakhs/ acre for industrial category and ₹55.23 lakhs/ acre for service/ residential category.

(iii). The lease rent is arrived applying 6% prescribed return on the market value of land for each of the three categories.

(vi). (a). The VOCPT has arrived at lease rental under all the six options as explained above. Based on the recommendations of the Committee, the lease rental is proposed based on the highest lease rent arrived under Option III where the market value of land is derived on the basis of the two (H1 and H2) tenders quoted for weighbridge on upfront premium for 30 years period. Most of the users/ user associations/ lessees have maintained their objections on the lease rent proposed in the revised proposal as well. Diamond Shipping Agencies Pvt. Ltd. has suggested that out of six options considered by the Port, option II which is based on relevant transactions registered in the last 3 years should be considered. The VOCPT has rejected the suggestion clarifying that the value of land under Option I & II are not realistic as these are under statement of value of relevant transactions while registering and cannot be taken as a realistic market land value to determine lease rent.

Tuticorin Custom House Agents' Association and few other user associations/ users have pointed out that as per the Clause 6.3(1) of the land policy guidelines, one of the factors for determining the market value of land is the highest accepted tender for Port land for similar transactions. That being so, the tender invited by the VOCPT for weighbridge cannot be compared to 'similar transactions' of land leased by VOCPT, as mentioned by them. It is also argued by them that it is a single monopoly transaction for which tender has been called by the port. Hence, the highest market value of land derived based on the tender for weighbridge is a monopoly activity of the port and the transaction is not a "similar transaction" to that of the land leased transactions at other places, as further argued by them. Moreover, the said allotment is for small size of plot in comparison to the plots generally allotted by the VOCPT for other purposes. Some of the users have also stated that the value of land for weigh bridge cannot be compared with the value of land allotted to existing leases and that taking the highest value of land of a single transaction is not logical. IOCL and some of the lessees have stated that the weigh bridge earns monthly revenue of 10 lakhs and the other commercial establishment do not earn that kind of revenue. The Tuticorin Custom House Agents Association has also stated that the weigh bridge transaction is leased on upfront basis for 30 years period and it is different from the other leases where the lease rent is payable annually. DCW Limited has stated that considering the tender transaction of the year 2011 to arrive at the market value of land prevailing in the year 2007 amounts to retrospective computation and should be rejected.

(b). As per this methodology, as rightly stated by some of lessees such as Diamond Shipping Agencies Pvt. Ltd., NLC Tamilnadu Power Limited, Indian Oil Corporation Limited the increase in the lease rental proposed by the VOCPT in June 2012 proposal worked out to 1926% as on 1.7.2007 over the then prevailing escalated lease rental on 30.6.2007 for the Zone A and Zone B (Port Related).

In view of serious objections raised by users / lessees, the VOCPT was specifically requested to explain how the highest tender rate obtained for operation of weighbridge is realistic in representing the facilities, infrastructure and the market value of lands at different areas used for different purposes in Zone-A and Zone-B. The VOCPT was also requested to clarify whether the said single award of tender represents the entire port lands covering lands for service/ residential, industrial and commercial purposes. The VOCPT was also requested to have a meeting with users/ user associations and address their concerns.

(c). Acting on the advice rendered by this Authority, the VOCPT held a meeting with the concerned users/ user associations and subsequent to discussion with them, the VOCPT has filed a revised proposal dated 25 March 2013. In the revised proposal, the VOCPT has considered the market value of the land as given in the valuation report under Option 3 for the quinquennium 1.7.2007 to 30.6.2012 and in the revised proposal dated 25 March 2013, the steep increase proposed by the port in the lease rental in its original proposal has been brought down considerably. The VOCPT has clarified that under option 3 instead of deriving the market value of land on upfront premium obtained for the highest bidder H1, in the revised proposal, market value of land has been considered as per Land Valuation Report which takes into account the average value of H1 and H2 for both the quinquennium.

Further, since the tender rate taken is for smaller size plot, the valuation report applied correction factor to achieve the fair market value of land for larger size plots addressing the concern of the users in this regard.

As regards the point made by the TCHAA that the approach adopted by the valuer to take the average of the 1^{st} and the 2^{nd} highest bidder is not in line with the land policy guidelines, it is relevant here to state that the valuer has adopted this approach as the variation in value between first and the second highest bidder was significantly higher at 40%. If this approach was not adopted, the lease rental proposed under this option would have been much higher.

(d). For better understanding, a comparative position of the lease rental as approved by this Authority vide its Order dated 18 November 2004 for the period 1.7.2002 to 30.6.2007, escalated lease rent applicable as on 30 June 2007, lease rent proposed by the VOCPT in its proposal of June 2012 and the revised proposal dated 25 March 2012 both based on the highest market value of land obtained under Option 3 along with percentage increase in the lease rent for each of the zones is tabulated hereunder:

(i). For the period 1.7.2007 to 30.6.2012 – as per VOCPT proposal of June 2012:

(Rate in ₹ / sq.m./ annum)

Sr. No.	Particulars	Rate approved in 2004 Order		Lease rent applicable as on 30.6.2007 after applying 2% annual escalation		Proposed as per VOCPT proposal dated 28.6.2012 for the period 1.7.2007 to 30.6.2012			
						Proposed Lease Rent for the period 1.7.2007 to 30.6.2012		% increase over rate as on 30.6.2007	
		Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)
(i).	Service / Residential	18.40	34.70	20.50	38.67	415.27	747.49	1926%	1833%
(ii).	Industrial	34.15	63.25	38.05	70.48	770.83	1387.49	1926%	1869%
(iii).	Commercial	55.15	102.00	61.45	113.66	1244.85	2240.72	1926%	1871%

(ii). For the period 1.7.2012 to 30.6.2017 – as per VOCPT proposal of June 2012:

(Rate in ₹ / sq.m./ annum)

Based on VOCPT proposal dated 28.6.2012 for the period 1.7.12 to 30.6.2017									
Sr. No.	Particulars	Proposed rate for the period 1.7.2007 to 30.6.2012		Rate as on 30.6.2012 after applying 2% annual escalation		Proposed rate for the period 1.7.2012 to 30.6.2017		% increase over rate as on 30.6.2012	
		Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)
(i).	Service/ Residential	415.27	747.49	449.50	809.11	524.33	943.8	17%	17%
(ii).	Industrial	770.83	1387.49	834.37	1501.86	973.15	1751.67	17%	17%
(iii).	Commercial	1244.85	2240.72	1347.47	2425.43	1571.57	2828.83	17%	17%

(iii). For the period 1.7.2007 to 30.6.2012 – as per revised proposal of VOCPT dated 25 March 2013:

(Rate in ₹ / sq.m./ annum)

Sr. No.	Particulars	Rate approved in 2004 tariff Order		Lease rent as on 30.6.2007 after applying applicable escalation factor		As per VOCPT proposal dated 25.3.2013 for the period 1.7.2007 to 30.6.2012			
						Proposed rate for the period 1.7.2007 to 30.6.2012		% increase over the rates as on 30.6.2007	
		Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)	Zone-A & Zone-B (Port related)	Zone-B (Non Port related)
(i).	Service / Residential	18.40	34.70	20.50	38.67	55.81	100.45	172%	160%
(ii).	Industrial	34.15	63.25	38.05	70.48	103.59	186.45	172%	165%
(iii).	Commercial	55.15	102.00	61.45	113.66	167.29	301.11	172%	165%

(iv). For the period 1.7.2012 to 30.6.2017 – as per the proposal of VOCPT dated 25 March 2013:

(Rate in ₹ / sq.m./ annum)

VOCPT proposal dated 25.3.2013 for the period 1.7.12 to 30.6.2017									
Sr. No.	**Particulars**	**Rate proposed by VOCPT as on 1.7.2007**		**Lease rent applicable as on 30.6.2012 after applying 2% annual escalation**		**Proposed Lease Rent for the period 1.7.2012 to 30.6.2017**		**% increase over the rates of 30.6.2012**	
		Zone-A & Zone-B (Port related)	**Zone-B (Non Port related)**	**Zone-A & Zone-B (Port related)**	**Zone-B (Non Port related)**	**Zone-A & Zone-B (Port related)**	**Zone-B (Non Port related)**	**Zone-A & Zone-B (Port related)**	**Zone-B (Non Port related)**
(i).	Service/ Residential	55.81	100.45	60.41	108.73	113.86	204.95	88%	88%
(ii).	Industrial	103.59	186.45	112.13	201.82	211.32	380.38	88%	88%
(iii).	Commercial	167.29	301.11	181.08	325.93	341.28	614.31	88%	88%

(e). It is thus seen that in the revised proposal dated 25 March 2013, the increase in the lease rental for the quinquennium 2007 to 2012 works out to about 172% as against 1926% proposed in the original proposal of the VOCPT. For the subsequent quinquennium 2012 to 2017, also though the percentage increase of 88% appears higher than the 17% increase in original proposal of June 2012, it can be seen that revised lease rental if seen in the absolute terms is significantly moderated in comparison to the lease rent proposed by VOCPT in its original proposal.

(f). The VOCPT has submitted that valuation of land under each of the factors prescribed in the land policy guidelines has been done by the Consultant appointed by the port. Then as per provisions in the land policy guidelines of Major Ports of 2010, the valuation of land so arrived under each of the six factors has been taken into consideration by a Committee headed by the Chairman of the port. The Committee has recommended lease rent based on the highest market value of land derived on the highest (i.e. average of first two highest bidders) tender accepted by the Port under the third option for the year 2011. The port has clarified that instead of arriving at the market value of land based on upfront premium of the highest bidder, in the revised proposal of March 2013, as per the valuation report the average upfront premium quoted by the first highest i.e. H1 and the second highest bidder H2 has been considered. Moreover, recognising that the said tender is for smaller size of plot, correction factor has been applied by moderating the market value of land in the valuation report. Further, since the market value of land so derived is with reference to the transaction relating to the year 2011, it is seen from valuation report that based on the analysis that the market value of land has atleast doubled between the year 2011 and 2007, the value of land arrived under this option as on July 2011 is scaled down to half for arriving at the market value of land as on 1 July 2007. The port has, therefore, justified that proposal filed by the port based on the option III is as per the provisions contained in the applicable land policy guidelines and hence should be considered.

The Tuticorin Custom House Agents Association (TCHAA) has contended that the approach adopted by VOCPT of arriving at the market value of land of 2007 based on market value of land of 2011 under Option III is not approved by the land policy guidelines. In this regard, it is relevant here to mention that approach adopted by the VOCPT as per the valuation report of moderating the market value of land of 2011 to half of it for arriving at the market value of land in 2007 under option III is not found to be unreasonable. As regards the comment of TCHAA that the transaction of weigh bridge is not a ‘similar transaction’, the VOCPT has outright rejected the contention of TCHAA and categorically stated that the weigh bridge activity is a commercial activity and consideration of the same is in order. This position is relied upon.

Some of the user associations have stated that the land policy does not stipulate consideration of highest value of land and sought to argue that it is in violation of land policy. In this regard, it has to be kept in view that the land policy guidelines does not prohibit the port trust to consider the highest value of land. It gives discretion to the port in this regard. It is further relevant here to state that this Authority while according approval to the lease rental proposals of Cochin Port Trust (COPT) and Visakhapatnam Port Trust (VPT) vide Orders dated 4 May 2010 and 29 November 2010 respectively has held that it would be appropriate for a Port Trust to assess the market value under all options given in the Land Policy guidelines and derive lease rentals based on the one which is most beneficial to the port. Even in the case of the Kolkatta Port Trust (KOPT), this Authority before processing the Order No.TAMP/40/2011-KOPT dated 14 February 2012 for revision of lease rental has insisted the port to re-assess the market values of its estates under all options given in the Land Policy guidelines and derive lease rentals based on the one which is most beneficial to it. The lease rental approved by this Authority in the case of KOPT is also based on highest value of land as recommended by KOPT. In fact, the revised Land Policy Guidelines of 2014 in para 18(a) requires the Land Allotment Committee to take into account the highest of the market value of land determined under the five options. This clearly shows that the Government has endorsed the approach of this Authority adopted in earlier cases mentioned above to arrive at the lease rental under all the options prescribed in the Land Policy Guidelines and consider the one which is much beneficial to the port.

In view of clarification furnished by the VOCPT and bearing in mind that the Committee headed by Chairman (VOCPT) and comprising of Head of the Departments of the port trust and which also included District Revenue Officer, appointed for fixation of the Revised Rent Schedule, has, after considering the market valuation of land under all the six options recommended to consider the highest market value of land obtained under option 3 for arriving at the proposed lease rental and also recognising that the Board of Trustees of VOCPT has approved the revised proposal, and that the proposal filed by VOCPT is in line with the land policy guidelines and also in line with the decision taken by this Authority in determination of lease rental in other Major Port Trusts, this Authority is inclined to accept the approach adopted by VOCPT in determining the lease rental based on the highest market value of land under Option 3.

The land valuation report considered by the Consultant for arriving at the market value of land for the quinquennium 2012-2017 is as on 1 July 2011. Recognising that the lease rental arrived based on the highest market value of land is with reference to the valuation as on 1 July 2011, the port has applied 2% annual escalation to arrive at the lease rent as on 1 July 2012 for the quinquennium 2012-2017. The approach adopted by the VOCPT to update the lease rental as on 1 July 2012 is seen to be reasonable and appropriate and the quantum of escalation applied is at the level prescribed in the land policy guidelines of 2010 and hence is accepted.

One of points made by SHV LPG India Private Limited (SLIPL) is that the determination of lease rental should not be linked as a percentage of market value of land but should be arrived considering 2% to 3% increase over the prevailing lease rental. The point made by the SLIPL is not found to be in line with the land policy guidelines of 2010. It has to be recognised that land is the scarce resource of the port trust. The land policy guidelines specifically stipulates that the lease rent should be based on the market value of the port land. Therefore, linkage of rate to market value is inevitable.

(vii). (a). Some of the users/ lessees such as DCW Limited, Southern Petrochemical Industries Corporation Ltd. (SPIC), Indian Oil Corporation Limited (IOCL), etc., have pointed out that the VOCPT has allotted 127.465 hectares of land on an upfront premium of ₹20.91/ sq/ mt/ year to NLC Tamilnadu Power Limited (NTPL), in May 2011 and have submitted that this should form the basis for considering the market value of land since land given to NTPL is similar to their allotments.

(b). When the VOCPT was requested to examine and respond to the submission made by the lessees, the VOCPT has submitted that as per Land Management Policy Guidelines of 2010, port land can be allotted either on upfront premium or annual lease rent basis. Based on the request of M/s.NTPL, the land was allotted to M/s.NTPL based on the lease rent approved by this Authority in the Order No.TAMP/35/2003-TPT of the year 2004 for "service category" and the allotment was done on upfront premium basis on service category for 30 years. On the other hand, land allotted to M/s.DCW, SPIC and IOC is on annual lease rentals basis under "commercial category" at that time of allotment of land and the same was accepted by them. The VOCPT has submitted that since the purpose of land allotment to NTPL is for "service category", comparison of allotment of lands to NTPL with other users does not arise at this stage with respect to category of usage viz. Service, Industrial or Commercial.

(c). The VOCPT has not adequately addressed the point made by some of the users/ user associations. The port has reported that the lease for the land allotted to NTPL was fixed on upfront premium basis applying the lease rent approved in the 2004 Order of this Authority, duly escalated. The Land Policy guidelines stipulate the five factors for determining the market value of land which has been listed out in the earlier paragraphs. The land policy guidelines do not prescribe arriving at market value of land based on allotment of land on upfront premium considering the lease rent approved by this Authority in the last Order as the basis amongst the five factors prescribed in the guidelines. Such an approach may not represent the realistic market value of land. The argument of some of the users to adopt this as the basis is not found to be in line with the 2010 guidelines.

(viii). The lease rental arrived by the VOCPT under Option 1 and 2 includes 15%/ 16% return on the development cost in addition to the prescribed rate of 6% return on the market value of the land. Many of the users/ user associations have raised objection on the inclusion of 15%/ 16% return on the development cost stating that it is not in line with the land policy guidelines of 2010. The land policy guidelines of 2010 do not provide for allowing any return on the development cost in addition to 6% return on the market value of land. The Tamil Nadu Maritime Academy (TNMA), DCW Ltd. and TCHAA have pleaded for reduction in the development cost.

Consideration of development cost relates to option I and II. It has to be recognised that the final lease rent proposed by the VOCPT is based on option III. Since the proposed lease rent is arrived based on the option III as proposed by the VOCPT, any modification about exclusion/ moderation in the development cost and return thereon under Option I and II will not have any impact on the final decision of this Authority and hence no modification is made in the statement attached as **Annex - I (a) and (b)**.

(ix). As already explained in the earlier paragraph, the VOCPT has considered the market value of land for the "commercial" activity as the base and arrived at the market value of land for industrial/ service category at 66% and 33% of the market value of land considered for the Commercial category respectively under each of the six options for both the quinquenniums for Zone 'A'. The port has justified this stating that this is as per the ratio adopted by the valuer in the valuation report. It is seen that in the last tariff Order as well the VOCPT had arrived at the market value of land for service/ residential and industrial purpose at 62% and 34% of the market value of land for commercial category. Recognising that the percentages now adopted are closer to the level considered and accepted in the last tariff Order and also recognising that above methodology of arriving at the lease rental for the service/ residential and industrial is based on the valuation report which has been considered by the Committee appointed by the VOCPT for review of the lease rental and also approved by the Board of Trustees of the VOCPT, this Authority relies and proceeds based on the approach followed by VOCPT for valuation of land for these two categories.

(x). (a). It is seen that no separate valuation of land is undertaken for Zone B for each of the options except Option 1. The Valuation Report assesses the market value of land for Zone 'B' at ₹110.80 lakhs/ acre as on 1 July 2007 and ₹526.40 lakhs/ acre as on 1 July 2012 under the first option i.e. based on the guideline value of land as per the State Government's Ready Reckoner for North Beach Road and South Beach Road. The land valuation Report states that port lands at Zone 'B' are in the heart of the Tuticorin port city and hence value of its land will be higher than the valuation of land for Zone 'A'. However, considering that the major part of the land in Zone 'B' is used for port related activity inside the security wall, the Land valuation report recommends to consider market value of land for Zone B at the level of Zone A. The Committee appointed by the VOCPT has also, based on the report of the land valuer considering the value of land for Zone 'B' port related activity at par with Zone 'A', recommended the lease rentals for Zone 'B' (port related) same as Zone 'A'. The approach adopted by VOCPT for valuation of land in Zone 'B' (port related) is not found to be scientific to represent the realistic market value of that land in Zone 'B' (port related). However, recognising that such approach is based on the valuation report and has also been recommended by the Committee, the approach for arriving at lease rent for Zone B (port related) at par with lease rent for Zone A is considered in this analysis.

(b). As regards zone B (non-port related activity), the lease rental is arrived by VOCPT applying 80% increase over the lease rent proposed for Zone B (port related activity). On seeking the basis for adopting such a percentage linked to Zone B (port related activity), the VOCPT has clarified that it is based on similar approach followed in the last tariff Order of 2004. In the said Order, the lease rental for Zone 'B' (non-port related activity) was 88.58%, 85.21% and 84.95% more than the lease rental prescribed for Zone B (port related activity) for service/ residential, industrial and commercial category respectively. Based on these percentages, the average percentage increase works out to 86.5%. Based on this average position, the port has considered average percentage increase at 80% over the lease rental of Zone B (port related) to arrive at the proposed lease rental for Zone B (non-port related activity) for each of the three categories. Based on the clarification furnished by the VOCPT and recognising that the proposed rates are based on the recommendation of the Committee appointed by the VOCPT and has been approved by the VOCPT Board, this Authority is inclined to consider the approach followed by VOCPT for arriving at the lease rental for Zone B (non-port related) as proposed by the VOCPT.

(xi). It is seen that in the current exercise, the VOCPT has not independently arrived at market value of lands for Zone A for each categories except for commercial category. As regards Zone B, the lease rental for port related activity is treated at par with lease rental of Zone A. The lease rental for Zone B (non-port related activity) is arrived as a percentage increase over lease rental derived for Zone B (port related activity). Moreover, the lease rental for different categories viz., service/ residential and industrial purpose is also arrived linking it as a percentage of lease rent for commercial category. Whilst the approach adopted by the VOCPT is relied upon and considered in the current exercise for determining lease rental for the two quinquennium, the VOCPT is advised that at the time of next tariff review, it should undertake the exercise of valuation of land for both the zones 'A' and 'B' independently for the each categories in these zone following the applicable land policy guidelines.

(xii). The VOCPT has arrived at lease rent under each options as briefly explained in the preceding paragraphs and has arrived at percentage increase in the lease rent as on 1 July 2007 with reference to the updated lease rent as on 30.6.2007 for each of the three categories. Subsequently, the Port has arrived at average of the percentage increase among all the three categories which is taken into account for finally arriving at the lease rental for each of three categories under each of the six options. This is reportedly done to have uniform percentage increase across the three categories. The land policy guidelines of 2010 stipulates that lease rent is to be determined by allowing 6% return on the market value of land. The approach adopted by VOCPT will not meet the said stipulation in the 2010 guidelines as the actual rate of 6% return on the market value of land for arriving at the lease rental will not be exactly 6%. The approach adopted by the VOCPT of taking average percentage increase will result in flow of cross subsidy between different categories where one category will have to bear the brunt of higher lease rent compared to the other categories. Incidentally, clause 2.11.4 of the 2005 tariff guidelines recommends to phase out cross subsidization in tariff. For the purpose of our analysis, lease rent is computed strictly considering 6% return on the market value of land of the respective category as stipulated in the land policy guidelines of 2010 instead of taking average percentage increase over the escalated lease rent derived by the VOCPT.

(xiii). Subject to the discussions above, the statement furnished by VOCPT showing the market value of land, lease rentals arrived by the above mentioned six methodologies is modified and modified statement is attached as **Annex - I (a) and (b)**.

The lease rentals approved by this Authority for the quinquennium 2007-2012 would lead to an increase in the lease rentals to the tune of 164%, 185%, and 167% in service/ residential, industrial and commercial categories in Zone A and Zone B (port related) as against uniform increase 172% for the corresponding categories in Zone A and Zone B (port related) proposed by the VOCPT as on 1 July 2007 as compared to the escalated lease rentals being paid by the users of land as of 30 June 2007.

The increase in the lease rentals for Zone B (non-port related) for the same quinquennium works out to 152%, 177%, and 160% in service/ residential, industrial and commercial categories as against increase of 160%, 165%, and 165% for the corresponding categories proposed by VOCPT as on 1 July 2007 as compared to the escalated lease rentals being paid by them as of 30 June 2007.

For the quinquennium 2012-2017, the increase in lease rental as on 1 July 2012 approved by this Authority works out to be 88% at the level proposed by VOCPT in each of the service/ residential, industrial and commercial categories for the Zones A and Zone B (port related and non-port related) as compared to the escalated revised rental (approved) and payable by users/ lessees as on 30 June 2012. Recognising the objection to the steep increase earlier proposed by the port in the lease rentals, the VOCPT, after consulting the stakeholders, has moderated the increase proposed earlier in its original proposal of July 2012 and brought down substantially to address the concerns of the stakeholders. It is further to be noted that the Land Policy Guidelines of the Government announced in the year 2010, requires the lease rentals to be revised every five years based on the prevailing market value of the land. The market value of the land is bound to go up particularly, with the passage of time. The VOCPT has framed the proposal following the Land Policy Guidelines and the hike in the lease rentals is inevitable.

(xiv). (a). During the processing of the proposal for revision of lease rental, the VOCPT proposed to incorporate a proposal for levy of higher lease rent in case of multistoried buildings. The VOCPT has contended that the port lands are leased to various parties on long term license basis for construction of warehouses, office buildings and plant for generation of power and other industries. The lease rent fixed is with reference to the area leased for service/ industrial/ commercial purposes. Some lessees have constructed a single storey building, whilst some others have constructed multi-storied building and as such the utilization of the leased area is not uniform. The lessees pay the same lease rent for the land though there is difference in the degree of usage of the same space by individual lessees. In order to factor differential use by different lessee, the VOCPT has proposed to levy 100% of the proposed lease rent for single storey building and for multi-storied building, additional 50% is proposed to be collected for every additional storey over and above basic floor rate. Most of users consulted on this proposal have raised objection on the said proposal of VOCPT. SHV LPG India Private Limited has argued that the lease agreement prescribes rent for the land leased by the VOCPT and it does not have any stipulation to charge additional rent for multistoried buildings. Some of the users/ user association have pointed out that multistoried construction is essential for industrial activities like installation of control room, substation, conference room, etc., and they are not fetching additional revenue in the form of rent for such utilisation of port land. It only leads to optimum utility of ports land. Tuticorin Custom House Agents' Association has pointed out that the construction of multistorey building has been at the cost of the lessees and hence proposal of VOCPT to collect lease rent on the construction of single multistory building is not correct.

(b). When sought to explain the basis for arriving at the proposed lease rent for multistorey building, the port has sought to justify its proposal stating that by vertical expansion of the buildings, the use of land is improvised by the lessee without the need for additional land and they also earn additional revenue by utilizing structures created in the allotted land without any payment of additional lease rent. Hence, it has proposed to levy additional lease rent for first storey and for every additional storey at the proposed level. The VOCPT has further submitted that lessees derive additional gain by use of multistoried construction and hence port is justified to levy additional lease rent for floor above the base floor at the level proposed by the port.

(c). As rightly pointed out by some of the users/ user associations, the Land Policy Guidelines of 2010 do not mention about factoring valuation of buildings and structures while arriving at lease rent. It is, however, relevant here to mention that in the case of Kolkatta Port Trust (KOPT), the rent schedule for Kolkatta Dock System (KDS) which was approved by the Government of India in 1996 prior to constitution of this Authority already prescribed the rates for structures. The KOPT had, therefore, in its proposal for revision in lease rent for lands sought approval of the revised rates for structures along with revision in the rates for land. This

Authority while approving the revised lease rent of the KOPT in Order No.TAMP/40/2011-KOPT dated 14 February 2012 had held that if only the rentals for the land is revised based on its market value and the rentals for the structures which already existing in their rent schedule is left untouched, it may lead to an anomalous position where a lessee for an open land would pay increased rentals on account of the updation of land values whereas a lessee of the structure, who enjoys value added services at the structures, as compared to a lessee of an open land, would not be subjected to any increase in his rentals. In the KOPT case, the port had also furnished the Written Down Value (WDV) for the structures at KDS. This Authority in the said Order has approved revised lease rent on structures maximum to the extent of 30% in the then existing rentals escalated as of the year 2010 or the rate proposed by the KOPT whichever was lower.

(d). With reference to the said proposal of the VOCPT, though it is admitted that the lessee by constructing storeys derives the benefit in terms of more utilisation of the same land area, it has to be recognised here that, as rightly pointed out by the TCHAA, the cost of construction of the building on the land in the VOCPT case is incurred by the lessee and not by the port as in the case of the KOPT. This position is not denied by VOCPT.

It has to be further recognized that whilst the market value of the land appreciates, the cost of building depreciates. Despite request, the VOCPT has not explained the rationale or the basis for adopting lease rent for structures as a percentage of the proposed lease rent for land. In the absence of any appropriate basis furnished by the VOCPT and in view of the above deficiencies observed in the proposal, the said proposal of the VOCPT for rates for multistorey building could not be approved. The VOCPT is, therefore, advised to file a well analysed proposal in light of the above observation, if the ownership position for structures prevailing at VOCPT for the structure is at par with the position obtaining at KOPT.

(xv). Tuticorin Port Land Users Welfare Association (TPLUWA) has expressed grievance against reportedly abnormal hike proposed in the lease rent. The association has requested the VOCPT that taking into account their economically backward nature of small petty shops and fishing related activities carried out at Zone B a special treatment should be given to these categories of lessees by categorising them under Zone-B ‘service’ category as done by the VOCPT earlier instead of categorising them under Zone-B ‘commercial’ category for the purpose of levy of lease rental. Acceding to the request of TPLUWA, the VOCPT has responded positively and in the revised proposal dated 25 March 2013, the Port has agreed to the request of TPLUWA to levy lease rent as applicable to ‘service’ category under Zone-B (Non-port related), in respect of few categories of small petty shops situated in sea shore of South Beach Road, viz. Petty Ship and Stall, Stackyard for ice fish, Cycle Repair Shop, Saloon, Fishing Spare parts Store, Petty Shop, Shed for Stacking Yard (i) and (ii), Shed for Stacking Yard (ii), Coir Shop, and Marine Spare parts (i) and (ii). As stated in the subsequent paragraph, this Authority does not have any mandate to interfere in the matter of classification of land which is under the domain of the Port trust. However, since the VOCPT has agreed to apply the lease rent for Zone B (non-port related) applicable for service category in respect of eleven items of shops listed above, it is found appropriate to insert a suitable note in the Scale of Rates approved by this Authority listing out these eleven petty shops to operationalise the arrangement and to avoid any ambiguity and dispute in this regard.

(xvi). (a). Few users / lessees have raised objection on the classification of land by the VOCPT. Both SHV LPG India Private Limited and DCW Limited have requested that their land should be re-classified under “industrial” and not under “commercial”. The IOC has requested that the land allotted to them should be classified under “service” and not under “commercial” category. The VOCPT has rejected the requests made by the IOC Ltd., DCW Ltd. and SHV LPG India (P) Ltd. for reclassification of land. It has clarified that the land allotted by the port is for carrying out commercial activities for IOC Limited and the land allotted by the port to SHV LPG India Private Limited and DCW Limited is for industrial activity and hence the classification of land by the Port is in order. With reference to the points raised 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.

(b). SEPC Power Private Limited has requested that the classification of port users should be done irrespective of the position whether the user is belonging to the Public Sector or to private sector. The VOCPT has stated that it is for this Authority to take a decision. The point made by the VOCPT that this Authority will decide about classification of the port user is not covered by the statutory powers conferred on this Authority. The mandate given to this Authority under Section 49 of the MPT Act is to determine the Scale of Rates and prescribe statement of conditions for the port lands. Accordingly, this Authority fixes the Scale of Rates and prescribe statement of conditions for the overall port lands. It is for the concerned port trust to apply the Scale of Rates approved by this Authority following the applicable land policy guidelines.

(c). VOCPT has categorised land in Zone-B as “Port related” and “Non-port related”. The Tamil Nadu Maritime Academy (TNMA) states that as per clause 5.2.1.1(a) no distinction should be made between port related and non-port related in fixing rate since the rate proposed for non-port related purpose in Zone-B is higher than the rate proposed for port related purposes in Zone-B. The clause referred by TNMA is with reference to 2004 Land policy of the Government. The corresponding clause 6.2.1 also of the Land Policy Guidelines of 2010, the policy guidelines under which the VOCPT proposal is considered, does not stipulate such distinction. That no distinction should be made between port related purposes and non-port related purpose is with reference to allotment of land as stipulated in the said clause and not for fixation of lease rental/ license fee for port land.

(xvii). Tuticorin Custom House Agents Association has pointed out that the Land Use Plan of Port classifies the port areas into eight categories; however, the VOCPT has categorized the area into only 3 zones in violation of the Land Use Plan. In this regard, VOCPT has stated that the three categorization of land i.e. service/ residential, industrial and commercial category is approved by this Authority. The point made by VOCPT that this Authority has approved three categorization of land does not give complete and correct picture. Para 5 of the Land Policy Guidelines of 2010 clearly requires the Major Port Trusts to have a land use plan for the entire land which has to be approved by the Port Trust Board and forwarded to the Government. Para 6 of the land policy guidelines stipulates that land can be allotted on the basis of the approved land use plan/ zoning. Categorisation of the Port Trust Land and its allotments is prerogative of the concerned Port Trust and it does not fall under the domain of this Authority. The lease rental approved by this Authority for the three categories viz. service/ residential, commercial and industrial in the last tariff Order of 2004 is completely based on the proposal of the Port Trust. In fact, lease rent with the same classification of land was notified in the tariff Order of 1 July 1997 which is also based on the then proposal filed by the VOCPT. This Authority does not have any mandate to categorize the lands of the Major Port Trusts which is under the domain of the concerned Major Port Trusts as per Land Policy Guidelines of 2010.

(xviii). The TCHAA has stated that revision in the lease rent proposed by the VOCPT in its earlier April 2009 proposal was objected by the users/ association as unrealistic and hence the Port Trust was directed by this Authority to submit the revised proposal. Diamond Shipping Agencies Pvt. Ltd. (DSAPL) has stated that the earlier proposal filed by the VOCPT in April 2009 was rejected and returned by this Authority on the grounds that the port had sought retrospective revision in the lease rent which was objected by many users and association and that the VOCPT was advised to revise the base rate on the basis of the average value of the actual land registered in the past three years. With reference to the point made by the TCHAA and first point made by DSAPL, it is clarified that this Authority in its Order dated 11 October 2011 decided to close the earlier proposal of April 2009 as the VOCPT had not taken necessary actions on the three action points decided at the joint hearing which had been brought out in para 9.2. of the said Order and not for the reasons cited by the DSAPL and TCHAA.

The point made by the DSAPL that the VOCPT was advised by this Authority to revise the market value of land on the basis of the average value of the actual land registered in the past three years is not found to be the correct position. As brought out in para 9.2. of the said Order, one of the action points for the VOCPT at the joint hearing was to assess the market value of land by engaging an approved valuer as envisaged in the 2010 land policy guidelines. In fact, it is seen that the VOCPT in the current proposal has engaged the approved valuer to assess the market value of land as advised in the last tariff Order.

(xix). The VOCPT has not proposed any specific conditionalities governing the lease rentals. For the reasons explained in paragraph 16(ii) that the current proposal has been processed following the Land Policy Guidelines of 2010 and also recognising that the lease rent fixed by this Authority for the two quinquennium 2007-2012 and 2012-2017 which is given retrospective effect from 1 July 2007 and 1 July 2012 respectively for the reasons explained in the subsequent paragraph, the lease rent approved has to be governed by the terms and conditions of the land policy guidelines of 2010. Since the VOCPT has not proposed any terms and conditions, a suitable note is incorporated stating that all terms and conditions governing the lease rent/ license fee shall be as per the land policy guidelines of 2010 issued by the Ministry of Shipping in the Government of India.

(xx). As per the land policy guidelines of 2010, the lease rent fixed by this Authority is subject to an automatic annual escalation at 2% per annum. A note is, therefore, inserted under the rent schedule to state that lease rent prescribed as on 1 July 2007 is subject to 2% annual escalation for the period 1 July 2007 to 30 June 2012 and the lease rent prescribed as on 1 July 2012 is subject to annual escalation @ 2% from 1 July 2012 to 30 June 2017.

(xxi). This Authority has passed an Order No.TAMP/34/2001-TPT dated 27 August 2002 fixing lease rent of ₹2016/- per acre per annum following the then applicable land policy guidelines revising the lease rate for the land leased out to M/s.Tuticorin Salt & Marine Chemicals Limited (TSMC). The rate was approved with retrospective effect from 8 July 1998. The Tuticorin Salt & Marine Chemicals Ltd. during the proceeding of this case has pointed out that the Hon'ble High Court of Madras has stayed the Order of this Authority dated 27 August 2002 in Writ Appeal No.3941 of 2003 and has further stated that the Hon'ble High Court of Madras, by its Order dated 22 October 2007 in the Writ Appeal No.6450 of 2003 has passed Orders directing the appellant to pay at the rate of ₹900 per acre for the past period from 08.07.1998 to 31.10.2007 and thereafter to pay at the rate of

₹1000 per acre starting from 1 November 2007. The TSMC has contended that since the matter is subjudice, VOCPT has to follow the court orders and cannot increase the land rent for salt land. It has requested VOCPT to fix rent for salt land in conformity with the rent fixed by State Government and Central Government for their salt land. The VOCPT has clarified that revision of lease rent for the land allotted to M/s.TSMC does not come under the current proposal filed before this Authority and the Port has to propose a rate separately in this regard with effect from 08.07.2008. The VOCPT is, therefore, advised to initiate appropriate action in line with the applicable land policy guidelines and in consistent with the direction, if any, issued by the Hon'ble High Court in this matter.

(xxii). (a). The VOCPT has stated that Tamilnadu Electricity Board (TNEB) has filed two cases in the Hon'ble High Court of Madras for retransfer of Port land to TNEB and challenging the revision of lease rent by this Authority in the last tariff Order of 2004. The VOCPT has stated that the Hon'ble High Court of Madras at Chennai has dismissed the Writ Petitions filed by the TNEB and that the port is awaiting for the judgment copies. The Court Order in this regard is not made available while processing this case. It is for the VOCPT to comply with the directions of High Court in the litigation reportedly dismissed by the Hon'ble High Court. As regards the point made relating by TNEB about their request to the VOCPT for retransfer of port's land to TNEB, this Authority does not have any mandate on this matter.

(b). Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) has stated that consequent to observation of the Hon'ble High Court, they are in the process of negotiating with VOCPT on the lease rental and hence has requested this Authority not to publish the revised lease rental till the matter is amicably settled between the TANGEDCO and the VOCPT. In this regard, it is clarified that it is always open to both the parties to go for negotiation or settlement if they decide to do so and this Authority has nothing to do in this regard. It has to be recognised that the lease rent fixed by this Authority is for the port lands as a whole and not with reference to any individual lessee/ user. Merely on the ground that some negotiation is being undertaken between the TANGEDCO and VOCPT, notification of the revised lease rental cannot be withheld.

(c). Thiagarajar Mills (P) Ltd. and VTM Limited during the proceedings of this case have brought out that they have filed a case against VOCPT for the exorbitant increase in revision of lease rent and the case is pending with the Court. The VOCPT has also admitted that the case is pending for disposal before the Court and has agreed that the decision will be binding on both the sides. It is, therefore, clarified that the applicability of revised lease rents in case of Thiagarajar Mills (P) Ltd. and VTM Limited will be governed by the orders of the concerned Hon'ble Court.

(xxiii). (a). The proposal of the VOCPT seeks approval of rates for two quinquenniums with retrospective effect from 1 July 2007 for the quinquennium 2007-2012 and from 1 July 2012 for the quinquennium 2007-2012. Most of the users/ user associations/ lessees have strongly objected the proposal of the VOCPT seeking retrospective revision in the rates. They have pointed out that the revised rate should have prospective effect only from the date of actual approval of the rates.

Significantly, Section 49 of the Major Port Trusts Act, 1963 calls for fixation of rates from time to time. It is admitted that ordinarily as per clause 3.2.8. of the 2005 guidelines, the Scale of Rates approved by this Authority is given prospective effect. It is, however, relevant to mention here that for fixation of lease rent, as per Clause 8 of the 2005 guidelines, 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 6.3(1)(d) of the land policy guidelines of 2010 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 November 2004 clearly mentioned that the rates are effective from 1 July 2002 SOR and 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 2007 and from 1 July 2012 is in the knowledge of all the stakeholders. The VOCPT has accordingly sought approval to the revised rates retrospectively w.e.f. 1 July 2007 for the quinquennium 2007-12 and w.e.f. 1 July 2012 for the quinquennium 2012-17.

In view of the clear Government guidelines in this regard, it is necessary to consider revision of lease rents at VOCPT retrospectively even though this Authority does not ordinarily resort to retrospective fixation of rates. Accordingly, the objection of the stakeholders in this regard is dismissed. The revised rates approved for the quinquennium 2007-12 will have effect from 1 July 2007 and the revised rates approved for the quinquennium 2012-17 will have effect from 1 July 2012. A suitable note is, therefore, inserted to this effect in the rent schedule stating the revised rent approved for the quinquennium 2007-2012 will come into effect from 1 July 2007 and will be valid till 30 June 2012 and the lease rent approved for the quinquennium 2012-2017 will come into effect from 1 July 2012 and will remain valid till 30 June 2017.

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. In the case of the Visakhapatnam Port Trust, the lease rent approved by this Authority vide Order No.TAMP/37/2009-VPT dated 29 November 2009 for the two quinquennium 1998-2003 and 2003-2008 was given retrospective effect from 1 April 1998 and 1 April 2003 for the two quinquennium respectively as proposed by the VPT following the applicable land policy guidelines. Subsequent revision in the lease rent of the VPT lands approved vide Order No.TAMP/63/2011-VPT dated 19 June 2012 was also given retrospective effect from 1 April 2008 as proposed by the VPT.

The lease rental approved in the case of New Mangalore Port Trust vide Order No.TAMP/15/2007-NMPT dated 16 June 2010 was also given retrospective effect from 20 February 2007. It is relevant here to mention that the said Order of the NMPT was challenged by some users/ lessees in the High Court of Karnataka mainly in view of retrospective effect given by this Authority. The Hon'ble High Court vide their judgment dated 28 June 2013 has dismissed all the Writ Petitions filed by the users/lessees in this matter and has upheld the Order of this Authority for retrospective revision and has also upheld the demand made by the NMPT based on the Order of this Authority for revised lease rentals with retrospective effect.

(b). It is also made abundantly clear that the revised rates approved by this Authority with retrospective effect from 1 July 2007 and 1 July 2012 will be made applicable in case of the existing lessees / licensees subject to provision for periodic revision of rates agreed in the surviving lease agreements and in those cases of renewal / allotment only if the respective lease agreement or letter of allotment, if no lease deed is still executed, explicitly provides for revision of lease rentals during the currency of the lease period. In fact, the concluding para of the October 2011 Order this Authority has already clarified that the revised lease rates when approved by this Authority based on the revised proposal to be 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 after 1 July 2007 contain a suitable provision regarding retrospective revision of lease rentals.

(c). Chemplast Sanmar Limited has stated that the lease deed does not contemplate retrospective revision of these rentals. However, the VOCPT has stated that such provision is available in the agreement. In any case, as already stated earlier the revised rates approved by this Authority are to be applied in the existing leases subject to the provisions of periodic revision of rents agreed in the surviving lease agreements.

17. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the revised lease rate for lease of lands belonging to the VOCPT for the periods 1 July 2007 to 30 June 2012 and 1 July 2012 to 30 June 2017 attached as **Annex - II (a) and (b)**.

(T.S. Balasubramanian)
Member (Finance)

Annex - I (a)

Statement showing the market value of Land and Lease rental as on 1.7.2007 to 30.6.2012 for land of V.O. Chidambaranar Port Trust

A. Market Value of Land as well as development cost (depreciated) as furnished by VOCPT for Zone 'A'

(` Lakhs/ Acre)

Description	Option 1		Option 2		Option 3	Option 4	Option 5	Option 6
	As per State Government Ready Reckoner		Average value of actual relevant transactions in last three years		Average of Highest H1 and H2 accepted tender of port land leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report
	Market Value of Land	Development cost	Market Value of Land	Development cost	Market Value of Land	Market Value of Land	Market Value of Land	Market Value of Land
Service/ Residential	8.56	13.01	4.23	13.01	36.56	21.25	22.87	26.90
Industrial	17.13	16.30	8.46	16.30	73.13	42.50	45.74	53.79
Commercial	25.95	20.22	12.82	20.22	110.80	64.40	69.30	81.50

B. Figures as furnished by VOCPT at 'A' above is relied upon by TAMP

(` Lakhs/ Acre)

Description	Option 1		Option 2		Option 3	Option 4	Option 5	Option 6
	As per State Government Ready Reckoner		Average value of actual relevant transactions in last three years		Average of Highest H1 and H2 accepted tender of port land leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report
	Market Value of Land	Development cost	Market Value of Land	Development cost	Market Value of Land	Market Value of Land	Market Value of Land	Market Value of Land
Service/ Residential	8.56	13.01	4.23	13.01	36.56	21.25	22.87	26.90
Industrial	17.13	16.30	8.46	16.30	73.13	42.50	45.74	53.79
Commercial	25.95	20.22	12.82	20.22	110.80	64.40	69.30	81.50

C. Lease Rent arrived by VOCPT considering 6% return on Market Value of land and 15% return on Development Cost and thereafter arriving at percentage increase for each categories and applying the average percentage increase to arrive at lease rental for Zone 'A'

(Rate in ` per Sq. m./ annum)

Description	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Lease rent proposed by VOCPT based on the highest lease rent arrived under Option 3
	As per State Government Ready Reckoner	Average value of actual relevant transactions in last three years	Average of Highest H1 and H2 accepted tender of port land leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	
Service/ Residential	48.32	41.71	55.81	32.44	34.90	41.05	55.81
Industrial	89.69	77.42	103.59	60.21	64.79	76.19	103.59
Commercial	144.85	125.03	167.29	97.23	104.63	123.05	167.29

D. Lease Rental considered by TAMP

(Rate in ` per Sq. m./ annum)

Description	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Lease rent recommended for approval based on the highest lease rent arrived under Option 3
	As per State Government Ready Reckoner	Average value of actual relevant transactions in last three years	Average of Highest H1 and H2 accepted tender of port land leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	
Service/ Residential	48.32	41.71	54.21	32.44	34.90	41.05	54.21
Industrial	89.69	77.42	108.42	60.21	64.79	76.19	108.42
Commercial	144.85	125.03	164.28	97.23	104.63	123.05	164.28

Note: For the purpose of this statement, the lease rent under options 1, 2, 4, 5 & 6 are reproduced as given by VOCPT as they are not finally considered in the fixation of the land lease rent. The modification done i.e. of applying 6% on the market value of land to arrive at lease rent is done only with reference to option 3 which is considered for arriving at the final lease rent.

Annex - I (b)

Statement showing the market value of Land and Lease rental as on 1.7.2012 to 30.6.2017 for land of V.O. Chidambaranar Port Trust

A. Market Value of Land as well as development cost furnished by VOCPT as on 1 July 2011 for Zone 'A'

(` Lakhs/ Acre)

Description	Option 1		Option 2		Option 3	Option 4	Option 5	Option 6
	As per State Government Ready Reckoner		Average value of actual relevant transactions in last three years		Average of Highest H1 and H2 accepted tender of port land leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report
	Market Value of Land	Development cost	Market Value of Land	Development cost	Market Value of Land	Market Value of Land	Market Value of Land	Market Value of Land
Service/ Residential	25.94	10.28	11.44	10.28	73.13	42.50	50.03	55.23
Industrial	51.88	13.29	22.88	13.29	146.26	85.01	100.06	110.45
Commercial	78.61	16.83	34.66	16.83	221.61	128.80	151.60	167.35

B. Figures as furnished by VOCPT at 'A' above is relied upon by TAMP

(` Lakhs/ Acre)

Description	Option 1		Option 2		Option 3	Option 4	Option 5	Option 6
	As per State Government Ready Reckoner		Average value of actual relevant transactions in last three years		Average of Highest H1 and H2 accepted tender of port land leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report
	Market Value of Land	Development cost	Market Value of Land	Development cost	Market Value of Land	Market Value of Land	Market Value of Land	Market Value of Land
Service/ Residential	25.94	10.28	11.44	10.28	73.13	42.50	50.03	55.23
Industrial	51.88	13.29	22.88	13.29	146.26	85.01	100.06	110.45
Commercial	78.61	16.83	34.66	16.83	221.61	128.80	151.60	167.35

C. Lease Rent arrived by VOCPT considering 6% return on Market Value of land and 16% return on Development Cost and thereafter arriving at percentage increase for each categories and applying the average percentage increase to arrive at lease rental for Zone 'A'

(Rate in ` per Sq. m./ annum)

Description	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Lease rent considering the highest lease rent as on 1.7.2011 and applying 2% annual escalation to arrive at the proposed lease rent as on 1.7.2012
	As per State Government Ready Reckoner	Average value of actual relevant transactions in last three years	Average of Highest H1 and H2 accepted tender of port land leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	
Service/ Residential	70.00	47.86	111.63	64.88	76.36	84.30	113.86
Industrial	129.91	88.83	207.18	120.41	141.73	156.45	211.32
Commercial	209.80	143.45	334.59	194.46	228.88	252.66	341.28

D. Lease Rental considered by TAMP

(Rate in ` per Sq. m./ annum)

Description	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Lease rent considering the highest lease rent as on 1.7.2011 and applying 2% annual escalation to arrive at the lease rent as on 1.7.2012 recommended by TAMP
	As per State Government Ready Reckoner	Average value of actual relevant transactions in last three years	Average of Highest H1 and H2 accepted tender of port land leased for 30 years on upfront premium	Based on Lease Agreement	Based on Sipcot Allotment rate	Based on the Land Valuer Report	
Service/ Residential	70.00	47.86	108.43	64.88	76.36	84.30	110.60
Industrial	129.91	88.83	216.85	120.41	141.73	156.45	221.19
Commercial	209.80	143.45	328.57	194.46	228.88	252.66	335.14

Note: For the purpose of this statement, the lease rent under options 1, 2, 4, 5 & 6 are reproduced as given by VOCPT as they are not finally considered in the fixation of the land lease rent. The modification done i.e. of applying 6% on the market value of land to arrive at lease rent is done only with reference to option 3 which is considered for arriving at the final lease rent.

Annex - II (a)

Rate for lease/ license of land in port area belonging to the VOCPT from 1 July 2007

Sr. No.	Purpose	(Rate in ₹ per Sq. mtr. per annum)		
		Zone A	Zone B	
			Port related	Non-port related
1.	Service / Residential	54.21	54.21	97.58
2.	Industrial	108.42	108.42	195.16
3.	Commercial	164.28	164.28	295.70

Note:

(i). The rent for the land allotted for following Shops in Zone B (Non port related) under 'commercial category' will be levied at the rate prescribed in the above schedule for Zone B (Non port related) "Services / 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)
j.	Coir Shop
k.	Marine Spare parts-(i)
l.	Marine Spare parts-(ii)

(ii). The rates prescribed above shall be applicable with effect from 1 July 2007 till 30 June 2012.

(iii). The rates shall be escalated by 2% per annum with effect from 1 July 2008 till 30 June 2012.

(iv). The other conditions governing the lease rental shall be as per the Land Policy Guidelines of 2010 issued by the Ministry of Shipping, Government of India.

*****

Annex - II (b)

Rate for lease/ license of land in port area belonging to the VOCPT from 1 July 2012

Sr. No.	Purpose	(Rate in ₹ per Sq. mtr. 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

Note:

(i). The rent for the land allotted for 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) “Services / 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)
j.	Coir Shop
k.	Marine Spare parts-(i)
l.	Marine Spare parts-(ii)

(ii). The rates prescribed above shall be applicable with effect from 1 July 2012 till 30 June 2017.

(iii). The rates shall be escalated by 2% per annum with effect from 1 July 2013 till 30 June 2017.

(iv). The other conditions governing the lease rental shall be as per the Land Policy Guidelines of 2010 issued by the Ministry of Shipping, Government of India.

*****

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

F. No.TAMP/6/2012 - VOCPT - Proposal from the V.O. Chidambaranar Port Trust for revision of lease rent of port lands from 1 July 2007 to 30 June 2012 and from 1 July 2012 to 30 June 2017.

1.1. 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 users / user organisations	Reply furnished by VOCPT
1.	**Indian Potash Limited**	
(i).	The lease rent proposed by VOCPT is exorbitant and 23 times higher than the existing rate for the period from 01.07.2007 to 30.06.2012 and 28 times for the period from 01.07.2012 to 30.06.2017. [i.e. from the existing TAMP approved rate of ₹55.15 per sq.m/Annum to ₹1244.85 and ₹1571.57 per sq.m/Annum respectively].	Lease rent of Port land has been worked out strictly in accordance with Land Policy of Major Ports approved by Government. The existing lease rent is the rate approved by TAMP for the period from 1.7.2002 in 2004. The same, therefore, cannot be compared with the proposed rates.
(ii).	The proposed lease rent of ₹1244.85 per Sq.m/Annum (for commercial) for the period from 01.07.2007 to 30.06.2012 is found to be almost 3 times higher than the rate of ₹453.60 per sq.m/Annum earlier sought by the Port in 2009 and not considered by TAMP.	This is based on the land valuation report in respect of the similar lands. Hence, now the proposal stands.
(iii).	The VOCPT had proposed the rates from out of 6 options and choosing option no.3 i.e. the highest tender rate received and awarded by them to one Mrs.Poovanaithal. We do not know the purpose for which the land was leased to this party and the extent of the plot allotted. It must be a small area as compared to vast allotment of land of about 14000 sq.m. made to our Company on which we have constructed godown for storage of our fertilizer cargo being imported through the port. We do not agree with the basis adopted by the port for seeking revision in the lease rent.	As per Sl.No: 6.3 (i)under the head “Market value of land and Schedule of Rates (SOR)” Committee constituted for arriving at market value of land may take into account “Highest accepted tender of Port land for similar transactions” as one of the applicable factor to decide lease rent. Hence, the decision of Port to recommend the rate of highest accepted tender of Port land for similar transaction is justified. The purpose of the lease to M/s.Poovanainthal is for commercial activity to operate the weighbridge. Hence, the rate is in order. The area, whether small or large is not the criteria for lease rent fixation.
(iv).	As per our workings, in terms of monthly storage charges, the proposed lease rent will amount to an increase of approx. ₹60/- pmt for the fertiliser cargo being handled by us at the port. Such steep increase in the rate with a further escalation of 2% per annum will eventually affect the farm gate prices of fertilizers which the farmers can ill afford.	The rate has been arrived at strictly in accordance with Land Policy of Major Ports approved by Government. The issue raised is internal to the industry and Port cannot consider such issues.
(v).	No other Port is charging such high lease rent.	Lease rent are proposed by each Port separately considering the provision of required infrastructure and traffic projection. Hence, the question of comparing the rate with other port does not arise.
(vi).	In the light of the above, it is requested that TAMP should not consider the steep increase sought by the VOCPT in the lease rent but to fix and approve only	The rate has been arrived at strictly in accordance with Land Policy of Major Ports approved by Government.

	reasonable increase in rate in the interest of the Port Users so that handling through the port is kept viable to all. Further, increase in the lease rent may please be considered only from 01.07.12 and not for the period from 01.07.2007 to 30.06.12 as already represented by us and other port users during the last joint hearing held at Tuticorin on 29.03.2011. It is reiterated that suitable and nominal increase in lease rent only may be approved by TAMP after taking into consideration the purpose for which the land allotment was made by the Port and not on the arbitrary basis proposed by the port.	Since the revision of lease rent is due from 01.07.2007, the revision of lease rent proposed by Port is effective retrospectively from 01.07.2007.
2.	**Tuticorin Salt & Marine Chemicals Ltd.**	
	We had earlier vide our letters dated 17 September 2009 and 29 March 2011 elaborately objected to the revision proposed for the period from 1 July 2007 to 30 June 2012, which are briefly brought out below. It is requested that the letters dated 17.09.2009 and 29.03.2011 be treated as part and parcel of this letter:	
(i).	TAMP in its order dated 27 August 2002, while fixing the rent for salt land, observed in para (vi) of its Order, that: *"In the absence of any guideline in this regard available on record (and developing such a guideline at this stage will involve a detailed study which will unnecessarily delay the case under adjudication), it will be reasonable to adopt the maximum return already proposed by one of the major port trusts i.e. Visakhapatnam Port Trust. That being so, for the purpose of this analysis the return on market value of land is limited to 6%".*	Guidelines to fix the lease rent has been provided in Land Policy of Major Ports approved by the Government. (Port has already requested the lessee to vacate the Port land since the said land is required for the Port's own development purpose. Hence, the request of the lessee to consider separate treatment in fixing rate of lease rent is not acceptable. Further revision of lease rent for the land issued to M/s.TSMC does not come under this TAMP proposal, it has to be proposed separately with effect from 08.07.2008).
(ii).	The High Court of Madras was pleased to stay the Order of TAMP dated 27 August 2002, fixing a rent of ₹2016/- per acre per annum in Writ Appeal No.3941 of 2003 & WPMP No.6450 of 2003. The High Court of Madras, by its Order dated 22 October 2007 in the Writ Appeal No.6450 of 2003 passed the following Orders: "…………… keeping in view of the facts and circumstances of the case, we feel interest of justice would be served by directing the appellant to pay at the rate of ₹900 per acre for the past period from 08.07.1998 to 31.10.2007 and thereafter to pay at the rate of ₹1000 per acre starting from 1 November 2007". Since the matter is subjudice, VOCPT has to follow the court orders and cannot increase the land rent for salt land.	
(iii).	By our letter dated 29 March 2011, we had objected to the VOCPT for adopting the value furnished by the Tahsildar, who had taken the market value from south beach road, which is far away from the Port Trust land and the value furnished is for small plots and residential areas. Hence, the same cannot be applied for salt land.	Revision of lease rent is only as per the guide lines of Government and referring the Hon'ble High Court cases does not come under this purview. It has reiterated that revision of lease rent for the land issued to M/s. TSMC does not come under this TAMP proposal.
(iv).	In addition to above objection, the following is submitted: The lease rent of the Salt Department land, which is adjacent to VOCPT land is only ₹750/- per acre per annum. It is understood that the Tamil Nadu State Government has leased its land for salt manufacture, adjacent to south of the Port Land, at a rent of about	When the land is leased to State Government/ Central Government Port has every right to lease the land on concession rate with the approval of the competent authority and hence the firm cannot question / claim the same.

<table>
<tr><td></td><td>₹150/- per acre per annum. Hence, it is only fair and just, for VOCPT to take the above rent into consideration in fixing the lease rent for salt land and cannot neglect the same while fixing the rent for its salt land.

The lease rent of Tamil Nadu Government for land given to Tamil Nadu Salt Corporation is only ₹135/- per acre per annum. There has been no increase in the lease rent for a very long period of time.</td><td>In view of reply of Sl.No.1 & 2 above the remarks are not relevant to current proposal.</td></tr>
<tr><td>(v).</td><td>From the recommendation made by VOCPT, the Company will have to pay an amount of ₹56,54,021/- per acre/ annum, i.e., for 262 acres of lease land it works out to ₹148,13,53,502/- (Rupees Hundred and Forty Eight Crores Thirteen Lakhs Fifty Three Thousand Five Hundred and Two only), which means for the period from 01.07.2007 to 30.06.2012, it works out to ₹740,67,67,510/- (Rupees Seven Hundred and Forty Crores Sixty Seven Lakhs Sixty Seven Thousand Five Hundred and Ten only). A comparative statement of proposed rent per sq.mt per annum and its effect of cost per tonne of salt is given below for your information:

<table>
<tr><th></th><th colspan="3">Rate/ Sq.mt/ annum</th><th colspan="3">Cost of Rent per tonne of Salt</th></tr>
<tr><th rowspan="2">Zone-B (Industrial) (Non-Port related)</th><th>01.07.2002 to 30.06.2007</th><th>01.07.2007 to 30.06.2012</th><th>01.07.2012 to 30.06.2017</th><th>01.07.2002 to 30.06.2007</th><th>01.07.2007 to 30.06.2012</th><th>01.07.2012 to 30.06.2017</th></tr>
<tr><td>63.25</td><td>1387.49</td><td>1751.67</td><td>₹4295/-</td><td>₹94,234/-</td><td>₹1,18,967/-</td></tr>
</table>

The present selling price of Salt is ₹600/- per tonne i.e., for 15,000 tonnes of Salt which is produced in VOCPT land, the turnover would be ₹90 lakhs per annum, whereas the rent proposed for the 262 acres works to ₹180 crores per annum. This will show the unrealistic and unreasonable rent proposed by VOCPT.</td><td>The rate has been worked out by a Committee constituted by the Chairman/ VOC Port based on the guidelines contained in Land Management Policy approved by Government. Hence, the rate proposed by Port is realistic one.</td></tr>
<tr><td>(vi).</td><td>Keeping the above facts in mind, at the joint meeting held on 29 March 2011, we were informed that our case will be dealt separately and a fair rent will be fixed for Salt land.</td><td>Not acceptable.</td></tr>
<tr><td>(vii).</td><td>Therefore, it is requested that a fair rent for salt land of VOCPT be fixed in conformity with the rent fixed by the State Government and Central Government for their salt land.</td><td>Not agreed to.</td></tr>
<tr><td>3.</td><td>Tuticorin Port - Land Users Welfare Association (Zone - B)</td><td></td></tr>
<tr><td>(i).</td><td>The Zone - B lands in which we are running small scale business and industries, being Alluvial lands, were not charged any fee for our business activities linked with fishing. Only after Tuticorin became the Major port, we have been asked to pay this kind of lease amount.</td><td>The said land was used for Port related activities. Further, it is informed that the name of members of the Land User’s Welfare Association is not known. However, the lease rent from the lessees who have been allotted land in Zone-B area are being remitted by them as per the TAMP rate.</td></tr>
<tr><td>(ii).</td><td>These lands were once fully utilized for fishing activities and related small scale business and workshops over a very long period. We have been engaged in fishing activities for more than 100 years.</td><td>No comments.</td></tr>
<tr><td>(iii).</td><td>This abnormal hike in the lease amount will affect the livelihood of these poor fishermen. It may even drive out the traditional fishing communities who are not equipped for any other business/ employment.</td><td>Rate has been fixed only as per guidelines of Land Management Policy approved by Government.</td></tr>
<tr><td>(iv).</td><td>These land are alluvial lands and taking the said fact in to consideration, we were allowed to occupy without any</td><td>Not relevant.</td></tr>
</table>

	objections from any quarter and we were allowed to set up industries and trade which will help assist and complement the fishing and sea transport industries, which was then the only activity in the coast.	
(v).	Fishing industries require boats and Catmarams and Sail Boats used for transportation, which are now mechanized and it is more a cottage industries afloat and providing employment to those engaged in fishing and sea transportation.	Not relevant.
(vi).	Poor fishermen (economically most backward) are running small scale marine workshops, small marine spare parts stalls, Boat Repairing Yards, Coir shop, betal nut stall, cycle repair shop, Petty shops, Saloon and Tea stalls etc., in Zone-B lands (Sea shore of south Beach Road) in South Beach Road. Our income is meager and we cannot be compared to large commercial establishments and business houses.	Not relevant.
(vii).	A hike in our operational cost will be ultimately passed on to the general public, resulting in a hike of food prices.	Not relevant.
(viii).	Our industry is an amenity to the industries stated supra and is public related though apparently it may look commercial and hence it cannot be treated as a commercial venture. On the other hand people and other authorities should make a humane approach to the issue since it ultimately reflects on the public and the society consisting of poor customers, and fishermen and the minority community involved in the fishing and the connected trades.	Not relevant.
(ix).	Further, fishing industries has now become a seasonal industry and during this lean period also the establishment has to sustain itself without income and pay their workers.	Not relevant.
(x).	The global recession has had a negative impact on all the port activities. There is a sharp fall in our meager profits and at many times, losses. We depend on the port and port related activities and fishing industry for our livelihood and we are facing severe hardship.	Not relevant.
(xi).	The Members of Association consist of boat repairers, Machine shops, Traders trading in accessories for fishing vessels, fishing nets, fish grading industries and the like and those dealing with the personal needs of the sea going folk viz. Teashops Barbour shop, betal nut shops, etc. as stated supra.	Not relevant.
(xii).	On the face of above facts taking into consideration the increase in the cost of every thing even though an annual increase of 5% is tough on us, we are agreeable. Any increase more than 5% will be unacceptable and oppressive.	Port's proposal stands. TAMP is requested to take a decision.
(xiii).	Our business area in the Zone - B mainly lies between South of Zone B compound wall and North of the fishing harbour and lies in the sea bed, and mostly on the East of the South Beach Road. Only a few shops are located on the West. It cannot be treated on par with the patta lands and the residential area west of the South Beach Road.	The lessees who have been allotted Port land in Zone-B remit lease rent as per the demand raised by the Port based on the TAMP tariff. The proposal now submitted to TAMP is based on the land value as per the TAMP's instructions and for fixing the land value of Port land. Land value is more in Zone B than in Zone A. Hence not agreed to.
(xiv).	Our earning is very low because we are running these small scale shops and industries for repairing fishing boats, sailing boats, Catamarams and our business fully depending of Fishing harbour and Zone-B of Tuticorin	

	port.	
(xv).	Zone B is in no way Comparable to Zone A which is provided with electricity, water, road facilities and the lands are well landscaped etc., but it does not provide any such facilities in Zone B. So while calculating the lease amount for Zone - B lands a totally different yardstick has to be applied. Proposed increase is unwarranted and is against justice and equity.	
(xvi).	A Similar steep increase of the lease amount was proposed in 1998 from ₹15/- per sq. mt. per annum to ₹142/- per sq. mt. per annum. So, we made appeal to the Tariff Authority and by considering our justified appeal, the Tariff Authority fixed the license fee at ₹26 per sq.mt per annum, which enabled us to continue our services in Zone - B lands.	Authority may take appropriate decision.
	(a). In this regards, we would like to bring to your kind notice the observations made by TAMP on 13.08.99 in the gazette notification which reads as follows:- "The lease amount ₹142 per sq. mt per annum (when it was raised from ₹15 per sq. mt per annum to ₹142 sq.mt per annum) cannot be valid for services, residential and industrial leases and said it was "untenable and is causing avoidable and unjustified hardships", to us.	
	(b). In the Joint Hearing held on 29.03.2011, we objected to the retrospective effect and to the steep increase from ₹34.15 to ₹271.53 for the industrial purpose and from ₹55.15 to ₹438.51 for commercial purpose, but after our appeal it is further increased from ₹34.15/sqmt/annum to ₹770.83/sqmt/annum (nearly 2157% increases), for commercial from ₹55.15/sqmt/annum to ₹1244.85/sqmt/annum (nearly 2157% increases) for the period 01.07.07 to 30.03.12. It is very sad to note instead of sympathy we have received a punishment in the hands of the authorities who erroneously placed reliance on the highest bid in Zone-A. This steep increase will be untenable and will cause avoidable and unjustifiable hardship.	
	(c). We learn that M/s. Parthasarathy's report has given proposals of much lesser rent which has not been considered by the Port Authorities and they have chosen the highest rate found in Zone - A which as already stated is in no way comparable to the subject of lease in favour of our members.	
	(d). We have been remitting the lease rent so far without any arrears and rent upto June 2012 has been remitted as accepted.	
	(e). Revision can't be retrospective as it would put undue burden on small tenants like us and drive us into debts/ closure of our business and ultimately lead to the dying of the fishing harbour.	
	(f). We submit that the valuation said to have been furnished by the Thasildahar and now by a valuer, has been procured behind our back and without notice to us. We have not been provided the copies of the said valuation report. If notice had been given to us we would have had been provided with an opportunity of placing the following facts: (i). That the land in question is an alluvial lands not survey and outside municipal limits. Some other lands	The above records could not be provided to the user since the said documents are one of the component for fixing market value of Port land and put up to TAMP for approval. As the above is a requirement of TAMP with respect to Land Policy Guidelines notice to users is not a requirement.

	are subject to the tidal fluctuations and as such has market value and that they are in no way comparable to the patta lands west of beach road and lying within Municipal limits which are usable commercially. (ii). The lands in our occupation are within five hundred meters from the sea and the Tsunami belt and has no market value. It is surprising how the Tasildhar and the Valuer managed to fix the market value for Alluvial Land. (iii). The basis for arriving at the market value is totally erroneous. The fact that the alluvial lands have no market value is forgotten. Under the above circumstances we submit that increase above 5% of the existing rent will neither be just or in the interest of the small traders nor the society at large.	
	(g). We also learnt that the valuation report says that the price of individual parcel of land is not verified. On the face of the said facts the valuation report has to be rejected as baseless and the Port Authorities may be directed to treat the lease in question as a public amenity for the benefit of the public and fix the rent weeding the profit making motive, taking into consideration the above facts. So, kindly drop the proposed increase that too retrospectively.	TAMP may take appropriate decision.
4.	**Tamil Nadu Electricity Board [TNEB] (Tamil Nadu Generation and Distribution Corporation Limited) and Tuticorin Thermal Power Station**	
(i).	It is pertinent to point out that while Government of Tamil Nadu has handed over the land free of cost to Tuticorin Port Trust for establishment of Major Port at Tuticorin and the TPT in turn handed over a portion of the said land on long term lease basis to TNEB for establishment of TTPS. Initially, TPT has leased out the land to TTPS at the rate of 11 paise/ Sq.m/ Annum for 10 years from 1973 onwards. At the time of handing over of land by TPT to TNEB, the land was barren land with no developments and till date all development works on these lands have been done by TNEB at its own cost.	When the Port lands were allotted to TNEB, the TNEB had accepted the conditions that TTPS has to remit the lease rent every year promptly as per the lease rent fixed by the Tuticorin Port Trust and revised from time to time. As per the terms and conditions for allotment of land to TNEB, the lease rent can be revised after expiry of 10 years of lease period initially and thereafter at the end of five years. The lease rent was subsequently revised with approval of Ministry in the year 1982, 1987 and 1992.
(ii).	Subsequently, TNEB had repeatedly requested TPT to retransfer the land to TTPS since the land was originally allotted to TPT by the Tamil Nadu Government at free of cost. Even though TTPS is continuously pressing for retransfer of the land, without considering our request, TPT were under the practice of revising the lease rent at the end of every five years from 1983 onwards.	Two cases filed by TNEB for retransfer of Port land to TNEB by Port and the revision of lease by TAMP were dismissed by the Hon'ble High Court of Madras at Chennai and VOC Port is awaiting for the judgment copies.
(iii).	TNEB is a service oriented organization and statutory body of State Government. The enhancement of lease rent by TPT will further increase the cost of generation and in turn affect the general public only. Claiming of lease rent from TANGEDCO by TPT on par with lease rent collected by them from commercial private export/ import organizations is not acceptable. Considering the above, TNEB is highly objecting the revision of lease rent by TPT.	When the Port lands were allotted to TNEB, the TNEB had accepted the conditions that TTPS has to remit the lease rent every year promptly as per the lease rent fixed by the Tuticorin Port Trust and revised from time to time.

<table>
<tr><td>(iv).</td><td>The lease rent claimed by TPT as on 01.07.2007 ₹20.91/Sq.m/Annum with annual escalation of 2%, has been paid as per the orders of the High Court of Madras and the present lease rent as on 01.07.2012 is ₹23.08/Sq.m/Annum.</td><td rowspan="2">The proposal is in accordance with the Land Policy Guidelines 2010 and Valuation Report of certified Valuer as required by the Authority. Hence, the proposal is in order.</td></tr>
<tr><td>(v).</td><td>This being the present status, in the proposal, the lease rent increased as ₹415.27/ Sq.m/ Annum and ₹524.33/ Sq.m/ Annum as on 01.07.2007 and 01.07.2012 respectively is exorbitant.</td></tr>
<tr><td>(vi).</td><td>TNEB/TANGEDCO is facing critical financial crisis with huge accumulated loss of ₹55,000 Crores. Despite the above, TANGEDCO is continuing in maintaining uninterrupted Power Supply to the Tamil Nadu State and striving hard to put the industries in the State on Perfect Track.</td><td>Internal issue of the TNEB. Not relevant for tariff fixation. TNEB is not giving concession to any industry from the published electricity tariff.</td></tr>
<tr><td>(vii).</td><td>Considering the above facts, it is requested to fix the present lease rent at the existing rate now being paid with annual escalation of 2%, till the matter is sorted out.</td><td>Not agreed to.</td></tr>
<tr><td>5.</td><td>Diamond Shipping Agencies P. Ltd.</td><td></td></tr>
<tr><td>(i).</td><td>The base rate was refixed during 1997 @ ₹42/- per sq.mtr. per annum vide TAMP order dtd. 1st July 1997. It was also mentioned in the order that an escalation of 5% every year shall be applied. We give below the working for the 5 years from 1997 to 2002 for Zone ‘A’ commercial plot.
<table>
<tr><td>1997</td><td>42.00</td><td>5 %</td></tr>
<tr><td>1998</td><td>44.10</td><td>5 %</td></tr>
<tr><td>1999</td><td>46.31</td><td>5 %</td></tr>
<tr><td>2000</td><td>48.62</td><td>5 %</td></tr>
<tr><td>2001</td><td>51.05</td><td>5 %</td></tr>
</table>
Subsequently, the rates for the 2002-2003 period was not reviewed during 1st half of 2002 - and the Port submitted their revision of base rate during 2003 to be effective from 2002. It was strongly objected by the Port Users that retrospective implementation should not be applied.

Meanwhile, the base rate for 2002 was fixed at ₹55.15 per sq.mtr. per annum with a very nominal increase of 8.03% over the previous year rate.</td><td>Factual. Lease Rent is fixed with respect to Land Policy Guidelines 2010.</td></tr>
<tr><td>(ii).</td><td>Further, in the TAMP Order dtd. 18th November 2004, it was advised that 5% incremental increase shall be applied for the year upto 2003 only – and thereafter the year on year increase percentage has been restricted to 2% from 2004 onwards. Accordingly the following revision was applicable for the period 2002-2007.
<table>
<tr><td>2002</td><td>55.15</td><td>8.03%</td></tr>
<tr><td>2003</td><td>57.91</td><td>5%</td></tr>
<tr><td>2004</td><td>59.07</td><td>2%</td></tr>
<tr><td>2005</td><td>60.25</td><td>2%</td></tr>
<tr><td>2006</td><td>61.45</td><td>2%</td></tr>
<tr><td>2007</td><td>62.68</td><td>2%</td></tr>
</table>
The Port Authorities are very well aware that as per the Lease Agreement, the base rate has to be revised for the 5 years period 2007-2012 which was due from 1st</td><td>This is an administrative issue concerning the submission of proposal, consideration and sanction by the</td></tr>
</table>

	July 2007. However, the Port Authorities delayed the submission to 2009 and subsequently a personal hearing of TAMP was heard during 2010-11 only. The Port had proposed to revise the lease-rent from 2007 @ ₹438.51 per sq.mtr. per annum and it was strongly objected that they have not taken the average value of the transactions during the past three years – but instead taken the highest value of one transaction which was strongly objected by the Users.	TAMP. The earlier proposal was rejected by the Authority vide Order notified in the Gazette of India extraordinary dated 11.11.2011.
(iii).	The representation of the association against the retrospective implementation was favourably considered by your good offices. Accordingly, the proposal provided by the Port was rejected and it was advised to provide revised base rate on the basis of average value of the actual land registered during the past three years.	Authority may take a decision.
(iv).	Subsequently the Port proposed for a tender of land exclusively for the purpose of providing weighbridge facility for the Port Users. Considering the convenient location of the plot and the best opportunity for huge volume of vehicular traffic for weighment, the land was taken at a very high cost by the bidder effective from 1st July 2011 for 30 years lease period.	The revision of lease rent has been worked out strictly in accordance with Land Policy Guidelines approved by Government and considered by the Committee and approved by the Port Trust Board. Hence, proposal is in order.
(v).	On the above basis, the Port had proposed to revise the rent from 2007 @ ₹1244.85 per sq.mtr. per annum which is more than 1926% and also advised to implement the revised rate retrospectively from 2007 – both are not at all acceptable to the trade.	
(vi).	It may be noted that no weighbridge operation in Tuticorin will be viable on the rates quoted by the successful bidder. We understand that the weighbridge functioning at the Tuticorin Port Estate is handling appx. 500 vehicles per day - thereby earning monthly revenue of ₹10.00 lakhs. Whereas, the other commercial establishments like offices and godowns in the Port Estate do not have that kind of revenue. Hence arriving at lease-rent for the above land lease, on the basis of land allotted to the weighbridge is totally illogical.	
(vii).	The proposal of the Port has 5 options of valuation in which they have considered option No.3, which is the highest accepted tender of Port land with upfront premium by the weighbridge Operator. However the TAMP has considered for fixing the lease-rent during 2004 @ ₹55.15 on the basis of average value of the transactions registered for the last three years and it has been highlighted in option 2 of the comparative statement provided in the proposal.	Port has worked out valuation of land by applying all five methods mentioned in Land Policy Guidelines approved by Government. The Committee constituted for the purpose has reviewed and revised the rate accordingly. TAMP is to decide on the rates based on the proposal sent by Port.
(viii).	It is felt that option No.2 only has to be entertained for the period from 01.07.2012 to 30.06.2017 and for the completed 5 years period (2002-2007) the Port shall not implement any change on retrospective basis. On behalf of the Tuticorin shipping industry, a suitable order for revision of the lease-rent at realistic and reasonable level is requested, so that the Tuticorin shipping industry do not suffer huge burden of lease-rent being rested on them.	
6.	**SPIC Electric Power Corporation Private Limited (letter dated 17 August 2012)**	
(i).	The Rate increase is very steep and would adversely	Rates are as per Land Policy

	impact ultimate users.	Guidelines with respect to the Valuation Report.
(ii).	The Rate increase should not have Retrospective Effect and should have only a prospective effect and should be applicable for the period from the date of actual approval of the rates.	Authority is to take a decision.
(iii).	The classification (or Purpose) of users shall be on the basis of usage and accordingly discrimination shall not be made to Public / Private sector. For instance, a Service Industry shall be classified under Service Category irrespective of the user being a Public Sector or a Private sector.	Authority is to take a decision.
7.	**M/s.SHV LPG India Private Limited**	
	General The proposal though a revision of the earlier one returned by TAMP, has come at a time when the Indian industry across all segments is going through a slump and the GDP forecast is being revised frequently in a downward trend. This apart, there is constant fall in the industrial output across nation and sectors. Revering to the issue on hand, it is ironical that VOCPT has made proposal to increase lease rentals not just in terms of percentages, but in terms on number of times on the existing lease rent and even for the period which has expired on 30.06.2012.	Internal issues of the industry not relevant to tariff fixation. The revision of lease rent has been worked out strictly in accordance with Land Policy Guidelines approved by Government.
(i).	Proposal of VOCPT All the pages of the proposal of the VOCPT are not supplied to us. All the pages of the report of M/s.Parthasarathy Associates for valuation of the land are also not supplied to us. In this regard, we request you to kindly supply us the entire material based on which the proposal with several options is made by VOCPT so that we can submit our final and conclusive comments on the same. However, in the interest of expeditious disposal by Authority, we submit herein below our interim comments and reserve our right to submit additional comments as and when we receive all the supporting documents before your kind authority disposes off the VOCPT's proposal.	Valuation Report of M/s.Parthasarathy Associates is considered by the Committee constituted by the Port and proposal has been approved by the Board of Trustees of VOCPT. Hence, the report is for internal use of VOCPT and is not for circulation to public.
(ii).	Increment for Expired Period The last rate revised by TAMP were subject to escalation at 5% (compoundable) per annum for the period 01.07.2003 to 30.06.2004 and thereafter at 2% per annum. Accordingly, the rates were being revised every year. The lease rentals are our direct costs which go to the handling cost of our product and in the current speculative market we are constrained to increase the cost based on the past years' revision. Whatever increase in tariff decided by TAMP and passed on to us cannot be collected from our customers as the period has already lapsed. Hence, it is our earnest request to kindly consider only prospective and reasonable enhancement in rent not retrospectively for the period that is already expired and such a high increase. Our sincere request in this regard is that the current exercise being done may be given effect for the next five years from 1 July 2012.	Authority is to take a decision.

(iii).	<u>Classification of our land</u> We are operating LPG Terminal on the land leased to us by the TPT by obtaining license under the Factories Act and Tamilnadu Factories Rules and related laws applicable to factories. We are also observing compliance of the laws that are applicable to factories. However, commercial rates of rent are being applied to us. In this regard, we sincerely submit that the appropriate classification of our land is industrial and not commercial. As such, we request TAMP and TPT to apply industrial rate and not commercial rate.	LPG Terminal does not come under the classification of Industry and hence their request cannot be acceded to.
(iv).	<u>Manifold Increase in Rentals</u> Our LPG Terminal is situated near the Red gate in the Tuticorin port and we are currently classified under Zone-A Commercial. The current lease rental paid by us works out to an average of ₹69.78 per sq.m./ annum against the current proposal which ranges from 200% to 22 times. In view thereof the proposed revision is astronomical. Although, it is appropriate for TPT to revise rents under the lease deed, we humbly and sincerely request you to note that such a manifold hike in the rent was beyond our initial contemplation. We have entered into a long lease of 30 years and have invested substantial amounts for creating our infrastructure on the basis of this long term lease. However, during the lease period, if rents are revised in such high proportions which are several times more than the existing ones, we will not only stand to lose the benefits of a long term lease, but will be put to loss due to the same.	The revision of lease rent has been worked out strictly in accordance with Land Policy Guidelines approved by Government.
(v).	<u>Comments on options given by the Port</u> As per the valuation report given by M/s.Parthasarathy, value per acre of the land as on 01.07.2011 for Industrial purpose is ₹1,67,35,000/- and for Commercial purpose is ₹1,10,45,000/-. At the rate of 6% of the land value, the annual rentals for Industrial purpose would be ₹6,62,700/- per acre or ₹163/- per sqm. and for commercial purpose, at the same rate would be ₹10,04,100/- per acre or ₹248 per sqm. This valuation is based on non-realistic measures and does not take into consideration the present down trend in the real estate market. Therefore, the same is not just and reasonable. All the other options including the rates as per government ready reckoner, average value of actual relevant transactions registered in last three years, highest accepted tender of port land leased for 30 years on upfront premium, land value arrived from lease agreement and the allotment rate of SIPCOT are not in sync with reality. The rate recommended by VOCPT under Option III is highly unrealistic which cannot be adopted. The same is an upfront premium for 30 years which will not be subject to any revision for the next 30 years. Therefore, there cannot be any comparison of the same with the existing lease holders.	Valuation Report takes the value for Commercial purpose and adopt weightage of 66% for Industrial and 33% for service based on the study of different values. This is accepted by the Committee and approved by the Board of Trustees of VOCPT.

	The lowest rate option for period beginning 01.07.2007 is ₹144.85 per sqm. (Option I), which is more than 200% higher than the existing lease rental. The lowest rate option for the period beginning 01.07.2012 is ₹194.46 per sqm which is more than 250% of the existing lease rental. Any long lease rentals should be revised on just and reasonable grounds and should not be in a way that threatens sustainability of the very industry. A 2% to 3% prospective increase on the existing lease rentals would be just and reasonable.	
(vi).	<u>Our Terminal's Position in LPG Market</u> In addition to the above we wish to bring the following points for your consideration with respect to our industry: • 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. • Even in the commercial/ industrial segment there is heavy competition by various players including the National Oil Companies. • As one of the parallel marketers of LPG, we do not have the access to the subsidized domestic LPG segment and our majority of customers are from the commercial and industrial segment only. • Due to the subsidized domestic market and intense competition in the commercial/ industrial segment we are not able to grow our volumes in the past years in spite of best efforts in optimizing our cost and evolving various new strategies in the market. • Though we have created infrastructure in the initial years considering a huge growth potential, in view of the stagnant growth rate, our facilities including the Tuticorin LPG Import Terminal remains grossly under-utilized. • Government of India has announced aggressive policy on Natural gas and indicated that Natural gas pipeline would be laid between Kakinada & Tuticorin via Chennai covering most part of Tamil Nadu, which will be a further threat to LPG. • If the rentals are revised on such a high and also with effect from 01.07.2007, it will be a disincentive for us which will further affect our margins and sustainability very badly especially at this stage when we are trying hard to break-even into profit from sustained losses.	Not relevant to Lease Rent fixation by Port as per Land Policy Guidelines.
(vii).	<u>Request for consideration</u> The following requests to TAMP and Tuticorin Port Trust are made:	
	(a). to rework on the cost to arrive at a reasonable lease rent by not linking the rentals to a percentage of market value taken from the revenue department and to the	(a). Not agreed to

	percentage of development cost or to any of the Options mentioned in the proposal dated 28 June 2012 of VOCPT;	
	(b). revise the lease rent in terms of percentage of the existing rent to a tune of 2 to 3%;	(b). Not agreed to
	(c). to apply industrial rates to us instead of commercial rates; and	(c). Not agreed to
	(d). to apply the revised rentals only prospectively with effect from 01.07.2012.	(d). To be decided by TAMP
8.	**Chemplast Sanmar Limited**	
(i).	The VOCPT has not complied with the instructions issued by your goodself and on this ground itself, the applicable seeking revision is liable to be rejected.	The point is not specific. Hence no comments.
(ii).	For the period from 1 July 2007 to 30 June 2012, the proposal made by the VOCPT for revision of lease rentals is liable to be rejected for the following reasons:	
	(a). The proposal has been made by the Port Trust on 28 June 2012, just two days from the expiry of the period itself and would have reached TAMP only after the expiry of the period. The proposal is therefore highly arbitrary, besides being belated and barred by limitation.	This is an administrative issue concerning the submission of proposal, consideration and sanction by the TAMP. The earlier proposal was rejected by the Authority vide Order No.TAMP/14/2009-TPT notified in the Gazette of India extraordinary dated 9 November 2011.
	(b). Retrospective revision of rates is not permitted by the provisions of the Major Ports Trust Act 1963 or by the guidelines issued by the Government of India or Regulations made by TAMP.	TAMP will decide.
	(c). Agreement between the parties, viz. the lease deed dated 09.08.1987 does not contemplate such retrospective revision of these rentals.	Provision of revision of rate has been provided in Lease Agreement.
	(d). A perusal of the proposal would show that the rentals proposed to be increased from ₹55 per sq.mtr. per annum to ₹1244.85 per sq.mtr. per annum for the period from 1 July 2007 to 30 June 2012 is an increase of over 22.63 times. This increase is highly arbitrary and illegal.	The proposal is in accordance with Land Policy Guidelines 2010 and the Valuation Report of the certified Valuer. Hence in order.
	(e). If such an increase has been informed to us at the start of the period under reference, we may have decided to surrender the land at that stage and therefore to demand such a huge amount, which would have to come and approximately ₹11 crores after the period under reference, would be highly arbitrary and an illegal action.	Regarding surrender of land, it is for the lessee to decide and the extant rules of the lease deed will decide the modalities of the said surrender. This is not relevant to tariff fixation.
	(f). It is a well established principle of law that retrospective revision of rates cannot be allowed unless there is a justifiable cause set out by the concerned. In this case, a perusal of the Application submitted by VOCPT and the other annexure would reveal that no justifications have been made by them for the retrospective revision. Therefore, the question of revising the rates for the period 1 July 2007 to 30 June 2012 does not arise.	TAMP will decide.
	(g). Even though, according to the Port Trust, the lease rates were due for revision from 01.07.2007, sufficient materials have not been put forward by the Port Trust justifying the retrospective increase. You may appreciate that any kind of revision retrospectively in the	Price fixation should factor into account, the probable increase in input costs and the increase in lease rent is a predetermined one as per the Lease Agreement.

	lease rates will adversely affect the lessees as the lessees had already factored the lease rents while fixing the price of the final product.	
(iii).	In respect of the period from 1 July 2012 to 30 June 2017, the proposal made by the VOCPT, the revision of lease rent of port lands is liable to be rejected for the following reasons:	
	(a). The increase to the rate of ₹1571.57 per sq.mtr. per annum is highly arbitrary and excessive. It amounts to over ₹1300/- per sq.ft. per month, which is far away from the market rates in respect of the built up commercial properties with all facilities such as air-conditioning etc. in Major Metros.	Rate has been fixed only as per Land Policy Guidelines approved by Government.
	(b). Retrospective revision of rates is not permitted by the provisions of the Major Port Trust Act 1963 or by the guidelines issued by the Government of India or Regulations made by TAMP.	TAMP will decide.
	(c). Agreement between the parties, viz. the lease deed dated 09.08.1987 does not contemplate such retrospective revision of these rentals.	
	(d). A perusal of the proposal would show that the rentals proposed to be increased from ₹55 per sq. mtr. per annum to ₹1571.57 per sq.mtr. per annum for the period from 1 July 2012 to 30 June 2017, which is an increase of over 20 times. This increase is highly arbitrary and illegal.	Proposal is as per Land Policy Guidelines approved by Government and is in order.
	(e). It is a well established principle of law that retrospective revision of rates cannot be allowed unless there is a justifiable cause set out by the concerned. In this case, a perusal of the Application submitted by VOCPT and the other annexure would reveal that no justifications have been made by them for the retrospective revision. Therefore, the question of revising the rates for the period 1 July 2012 to 30 June 2017 does not arise.	TAMP will decide.
	(f). Even though, according to the Port Trust, the lease rates were due for revision from 01.07.2007, sufficient materials have not been put forward by the port trust justifying the retrospective increase. You may appreciate that any kind of revision retrospectively in the lease rates will adversely affect the lessees as the lessees had already factored the lease rents while fixing the price of the final product.	
	(g). Further, the Port Trust has not set out the facilities of infrastructure justifying the steep increase as contemplated by this Honourable Authority on 29.03.2011. When the Tariff Authority for Major Ports has categorically stated that the lease rent is not found to be realistic, it is not understood as to how this Application is maintainable without satisfying the infrastructure of facilities provided to the lessees in the port.	Port has made required development works and has provided infrastructure facilities such as roads, bridges, runway, street lights etc.
(iv).	The rate recommended by the Committee, both for the period from 1 July 2007 to 30 June 2012 and from 1 July 2012 to 30 June 2017 are extremely high and the claim is almost 20 times the existing rates which is not supported by any evidence, whether technical or otherwise.	Not agreed to.
9.	**Tamil Nadu Maritime Academy**	
(i).	The Tuticorin Port Trust allotted 20,100 sq.m. of land	VOCPT has not furnished any

	alongwith buildings to the Tamil Nadu Maritime Academy, an autonomous body under the Government of Tamil Nadu to conduct maritime courses collecting fees from the trainees on "No profit and no loss" basis. You may appreciate that as this is an educational institution to impart training to the aspirants in sea related courses approved by the DG Shipping, some kind of concessions/ exemptions be extended to this Academy in the matter of levy of lease rent on the port's land as is being extended to the other Central/ State Government Departments.	comments.
(ii).	The comments of the Academy on the proposal of the Port Trust for the revision of lease rent of land from 1.7.2007 to 30.6.2012 sought for in TAMP's letter No.TAMP/14/2009-TPT dated 8 October 2009 were already furnished vide this Academy's letter dated 4 November 2009. The comments of the Academy already furnished in letter dated 4 November 2009 may also hold good on the present proposal which are summarised below:	VOCPT has not furnished any comments.
	(a). As per the Land policy guideline issued in March 2004 for Major ports vide clause 5.2-1-1(a), there should be no distinction between port related and non port-related purposes. But, in the proposed revision Tuticorin Port Trust has taken into account 1.8 times of the rate fixed for port, related purposes to arrive at the rate for non port-related purposes.	As per land policy and advised by the TAMP Authority proposal was submitted. As committed by the lease the allotment has been made.
	(b). Vide the clause 5.3-(1)b the lease rent per annum should be arrived at 6% of market value of the land whereas in the proposal Tuticorin Port Trust has taken 12% of the market value for arriving at the lease rent.	
	(c). For arriving at the market value of land, instead of taking average value of the land in the surrounding area, Tuticorin Port Trust has taken the maximum value in that area.	
	(d). Regarding the development cost – The Tuticorin Port Trust has given the development work done at Zone-B vide Enclosure I. (Committee Report), for (a). Widening and Strengthening of roads, (b). Dredging and (c). Providing of High mast Lights Item a:- Limit of Road maintained by Tuticorin Port Trust ends much before the Zone-B land area. The road alongside this land is only Public Road and is used by many others. Item b:- Dredging work was done inside the finishing harbour. That work was done exclusively for fishing harbour. Item c:- High masts lights are also provided inside the fishing harbour only.	
	(e). In the view of the above, kindly reduce the element of development cost included for the land at Zone-B. This Academy has taken 20100 sq. mtrs. of land from Tuticorin Port Trust on 29 years lease on 13 December 2009 on the Annual lease basis. We were asked to pay security deposit of 5 years lease rent in cash. Tuticorin Port Trust did not accept our request to submit the	VOCPT has not furnished any comments.

security deposit bank guarantee. Normally, for all such agreements / contracts, the security deposit in bank guarantee is acceptable. Due to the cash payment, this Academy is having fund shortage for the maintenance and developmental works. It is requested to kindly consider this issue and do the needful.

The interest earned for the deposit money adds up to the escalation and increases the rate more than 2% per annum.

10. Southern Petrochemical Industries Corporation Ltd. (SPIC)

(i). The Tuticorin Port Trust has proposed for a steep revision of lease rentals retrospectively for the five year period from 1 July 2007. As is obvious, that the increase is not only exorbitant but also it is fixed in such a way of ignoring the industrial growth around the Port.

VOCPT has not furnished its comments.

(ii). The base rate was refixed during 1997 @ ₹421- per sq. mtr. per annum vide TAMP order dated 01.07.1997. It was also mentioned in the order that an escalation of 5% every year shall be applied. The working for the 5 years from 1997 to 2002 for AIT & BG Railway Siding is given below:

Year	AMMONIA IMPORTATION TERMINAL		BG RAILWAY SIDING	
	Commercial-Category		Industrial-Category	
	Lease Rent	Percentage	Lease Rent	Percentage
1997	42.00	5	26.00	8.5
1998	44.10	5	28.83	5.0
1999	46.31	5	30.35	2.0
2000	48.62	5	30.97	2.0
2001	51.05	5	31.60	2.0

Subsequently the rates for the period 2002-2003 was not reviewed during 1st half of 2002 and the Port submitted their revision of base rate during 2003 effective 2002. It was strongly objected by the Port Users including ourselves that the revision to be given effect only for prospective and not for retrospective.

Meanwhile, the base rate for 2002 was fixed at ₹55.15 per square metre per annum with a very nominal increase of 8.03% over the previous year rate.

Further, in the TAMP Order dated 18 November 2004, it was advised that 5% incremental increase shall be applied for the year upto 2003 only and thereafter the year after year increase percentage has been restricted to 2% from 2004 onwards. Accordingly, the following revision was applicable for the period 2002-2007.

Year / Period	AMMONIA IMPORTATION TERMINAL		BG RAILWAY SIDING	
	Commercial - Category		Industrial - Category	
	Lease Rent	Percentage	Lease Rent	Percentage
2001			31.60	
01.07.2002 to 27.11.2002	55.15	8.03	34.15	8.05
2003	57.91	5.00	35.86	5.00

	<table><tr><td>2004</td><td>59.07</td><td>2.00</td><td>36.57</td><td>2.00</td></tr><tr><td>2005</td><td>60.25</td><td>2.00</td><td>37.31</td><td>2.00</td></tr><tr><td>28.11.2006 to 30.06.2007</td><td>61.45</td><td>2.00</td><td>38.05</td><td>2.00</td></tr><tr><td>01.07.2007 to 27.11.2007</td><td>62.68</td><td>2.00</td><td>38.81</td><td>2.00</td></tr></table>	
(iii).	The Port Authorities are very well aware that as per the Lease Agreement, the base rate has to be revised for the 5 years period 2007-2012 which was due from 1 July 2007. However, the Port Authorities delayed the submission to 2009 and subsequently a personal hearing of TAMP was heard during 2010-11 only.	
(iv).	The Port had proposed to revise the category of commercial and industrial lease rent of ₹438.51 per sq metre per annum and ₹271.53 respectively for AIT and BG Railway Siding respectively from 1 July 2007. It was strongly objected that they have not taken the average value of the transactions during the past three years - but instead taken the highest value of one transaction. In this connection, the representation of the Port Users against the retrospective proposal was favourably considered by your good office. Accordingly, the proposal provided by the port was rejected and it was advised to provide revised base rate on the basis of average value of the actual land registered during the past three years. The TAMP has considered for fixing the lease rent during 2004 at ₹55.15 on the basis of average value of the transactions registered for the last three years and it has been highlighted in option 2 of the comparative statement provided in the proposal. As Option no.1, SPIC wishes the TAMP authorities to revise the lease rent in terms of percentage of the existing rent to a tune of 2% to 3%. Finding difficulties on this, SPIC wishes to inform TAMP to arrive at a lease rent fixed between Option No.2 among the six alternatives and the lease rent paid during the period 01.07.2002 to 27.11.2007 (Commercial - ₹62.68; Industrial - ₹38.81). To have an eventual solution, Option No.2 among the six alternatives is suggested. While making the consideration, the period should have to be taken from 01.07.2012 to 30.06.2017 and for the completed 5 years period (2002-2007), it is submitted that Port should not implement any change on retrospective basis as our books of accounts had been closed based on the then prevailing rates and revision of lease rental retrospectively for the past five years, i.e. from 2007 will have an adverse impact in the current year.	
(v).	In addition, the lease rent for the Ammonia Importation Terminal has been fixed under Commercial Category since the Ammonia Importation Terminal is registered as Factory under the Tamilnadu Factories Rule, 1950 under Registration No.TN - 729. Hence, it is requested that land allotted for this terminal be classified under Industry Tariff.	
11.	**NLC Tamilnadu Power Limited (NTPL)**	

<table>
<tr><td></td><td>NLC Tamilnadu Power Limited (NTPL) has taken lease of 127.465 hectares of land from VOCPT on upfront premium payment for a lease period of 30 years from 14.08.2007 to establish 2x500MW Coal based Thermal Power Plant. The entire upfront premium payment for the above land has already been paid by NTPL after firming up the base lease rate as ₹20.91 per sq.m. per annum. Hence, the proposal submitted by VOCPT for revision of lease rent of port lands from 1 July 2007 to 30 June 2012 and 1 July 2012 to 30 June 2017, is not applicable to NTPL. Therefore, NTPL have no comments to offer on this subject matter.</td><td>VOCPT has not furnished its comments.</td></tr>
<tr><td>12.</td><td>Indian Oil Corporation Limited (IOCL)</td><td></td></tr>
<tr><td>(i).</td><td>(a). IOC was allotted land in year 1974, which was further renewed for another spell of 30 year lease effective 29.12.2002 to 28.12.2032.

(b). The base rate was refixed during 1997 @ ₹42/- per sq.mtr. per annum vide TAMP order dated 1 July 1997. It was also mentioned in the order that an escalation of 5% every year shall be applied, working for the 5 years (from 1997 to 2002) for Zone ‘A’ commercial plot is given below:
<table>
<tr><th>Year</th><th>Annual Land rate</th><th>% increase</th></tr>
<tr><td>1997</td><td>42.00</td><td>5%</td></tr>
<tr><td>1998</td><td>44.10</td><td>5%</td></tr>
<tr><td>1999</td><td>46.31</td><td>5%</td></tr>
<tr><td>2000</td><td>48.62</td><td>5%</td></tr>
<tr><td>2001</td><td>51.05</td><td>5%</td></tr>
</table>
(c). Subsequently, the rates for the 2002-2003 period was reviewed during 2003 and was made effective retrospectively from 2002. It was strongly objected by the Port Users that retrospective implementation should not be applied.

(d). Meanwhile, the base rate for 2002 was fixed at ₹55.15 per sq. mtr. per annum with a nominal increase of 8.03% over the previous year rate.

(e). Further, in the TAMP Order dated 18 November 2004, it was advised that 5% incremental increase shall be applied for the year upto 2003 only – and thereafter the annual percentage increase has been restricted to 2% from 2004 onwards. Accordingly the following revision was applicable for the period 2002-2007.
<table>
<tr><th>Year</th><th>Annual Land rate</th><th>% increase</th></tr>
<tr><td>2002</td><td>55.15</td><td>8.03%</td></tr>
<tr><td>2003</td><td>57.91</td><td>5%</td></tr>
<tr><td>2004</td><td>59.07</td><td>2%</td></tr>
<tr><td>2005</td><td>60.25</td><td>2%</td></tr>
<tr><td>2006</td><td>61.45</td><td>2%</td></tr>
<tr><td>2007</td><td>62.68</td><td>2%</td></tr>
</table>
(f). The Port Authorities are very well aware that as per the Lease Agreement, the base rate has to be revised for the 5 years period 2007-2012 which was due from 1 July 2007.</td><td>Annual escalation of lease rent fixed is different from revision of lease rent once in five years as per Land Policy Guidelines.

Factual and is as per extant Land Use Policy guidelines.

Port has taken timely action with respect to receipt of land values from District Revenue authorities and conforming to Land Policy Guidelines.

Factual.</td></tr>
</table>

	(g). As per the report of the Port Trust committee, the rates approved by board of trustees of port trust in the meeting held on 13-02-2009 was submitted to TAMP vide letter dated 21-04-2009 according to which the commercial rate for Zone-A was ₹37.80 per sq mtr/ month. This rate has been recommended @ 12% of average cost of the land, plus 18% development cost. The annual implication works out to ₹454. The port trust was advised to submit revised proposal. VOCPT submitted revised proposal dated 29-06-2009 to TAMP according to which the commercial rate for Zone-A was ₹438.51 per sq.mtr/annum @ 6% of market value of land. The port users objected to the increase on the ground that proposed rate is very steep. The port trust was again advised to submit revised proposal along with land value assessed by Government approved Valuer. Now, the Port had proposed to revise the lease-rent from ₹1244.85 per sq. mtr. per annum under Commercial Category, which works out to an increase of 1925% as compared to rental of the year 2007. Same is strongly objected as it is based on the highest value of a single transaction for a small plot of land, which is not very logical. The land was given for weighbridge operation, the end use of which is totally different from end use of other land users. The land allotted to weighbridge operation thru highest bid with upfront premium for 30 years will not have representative character. The current proposed rate is very much higher than the rates proposed by VOCPT in 2009 and there is no logic to support the increases in the market value of the land. The hike, if implemented, may lead to immense hardship, and be the major cause for an uneconomical operation. However, in past also, the TAMP has considered for fixing the lease-rent during 2004 @ ₹55.15 on the basis of average value of the transactions registered for the last three years and it has been highlighted in option 2 of the comparative statement provided in the proposal. We feel that option No.2 only has to be the higher ceiling for the period from 01.07.2012 to 30.06.2017 and for the completed 5 years period (2002-2007), the Port shall not implement any change on retrospective basis. Even otherwise the valuation of land by the government valuer as well as highest accepted bid in tender had been done in end of 2011, which cannot be basis for retrospective revision of rates from 2007.	Not agreed to. TAMP may take a decision. TAMP will decide.
(ii).	<u>Dissimilar Value Considered</u>: Bid value for a weighing bridge is not to be included for consideration, since it is dissimilar to the purpose under Clause <u>6.3.(1).a.(iii)</u> which is being perused by TAMP vis-à-vis other land users. It may be noted that no weighbridge operation in Tuticorin will be viable on the rates quoted by the successful bidder. It is understood that the weighbridge functioning at the Tuticorin Port Estate is handling appx. 500 vehicles per day - thereby earning a monthly revenue of ₹10.00 lakhs. Whereas the	Not relevant for lease rent fixation.

<table>
<tr><td></td><td>other commercial establishments like offices and godowns in the Port Estate do not have that kind of revenue</td><td></td></tr>
<tr><td>(iii).</td><td><u>Similarity in case w.r.t. lease of 127 hectare of land to NTPL</u>:
Ideally the case wherein 127.465 Hectares of land was given on an upfront premium of ₹20.91 /Sq.mt/ Year to NTPL in May 2011 by port should be the basis under clause 6.3.(1).a.(ii) since the purpose for which land has been given to units like IOCL & NTPL are similar and of common purpose and utility.</td><td>The rate fixed for NTPL, who is a Government of India undertaking Organisation establishment of Port based Thermal Plant and National important project.</td></tr>
<tr><td>(iv).</td><td><u>Service vs Commercial</u>:
The classification under which the lease rental is being levied to IOCL is “commercial’ as against “service”, since the similarity of purpose w.r.t. other neighboring units like NTPL is common i.e. Power / Fuel based PSU’s. Our contention to classify our unit as “SERVICE” is validated vide Government of India’s Ministry of Finance, Dept of Economic Affair’s document called -Position paper on The Port Sector in India, issued in December 2009 in Page-10 “Oil PSU’s/a joint venture company of Oil PSUs are/is selected for oil related port facility as a port based industry”. This paper also highlights the difficulties faced in imparities among similar industries, in our case the land lease rental cost being different for IOCL & NTPL. We take this opportunity to record our earnest appeal that the classification of IOCL’s lease aspect should be brought under “Service” with retrospective effect.</td><td>Based on the allotment made to IOC Ltd. to carry out the commercial activities, the Port has fixed the lease rent on commercial purpose which was also accepted by the IOC Ltd. during the allotment.</td></tr>
<tr><td>(v).</td><td><u>Cost of the Land as per the Valuer nominated by Port Vs Payback period</u>:
Even in case this value is taken on-its-face-value of ₹1,67,35,000/- per acre as cost of the land for commercial purpose, and compared with the lease rent sought by VOCPT, the payback period of the cost of the land is just 32 to 41 months, which means the ROI/year wrt cost of the land is varying between 30 to 36%. This goes against the guidelines issued for considering 6% for such calculations.
<table>
<tr><td>Land value, as per valuer's report /acre</td><td>16735000</td><td>16735000</td><td>₹ / Acre</td></tr>
<tr><td>For Example 1 acre of land on lease</td><td>4047</td><td>4047</td><td>Sq mtr (1 acre)</td></tr>
<tr><td>Cost of Land / sq Mtr is</td><td>4135</td><td>4135</td><td>₹ / Sq Mtr</td></tr>
<tr><td>Lease Rental Sought / Sq mT / Year</td><td>1245</td><td>1572</td><td>₹ / Sq Mt / Year</td></tr>
<tr><td>Rent Sought Vs Cost of Land (per year)</td><td>3.32</td><td>2.63</td><td>Years</td></tr>
<tr><td>PAY BACK as Rental value wrt Cost of Land</td><td>40</td><td>32</td><td>Months</td></tr>
</table></td><td>The fixation of lease rent is worked out as per the guidelines contained in Land Policy of Major Ports and not by ROI/ year on cost of the land.

The 6% market value as per Land Policy Guidelines is only adopted.</td></tr>
<tr><td>(vi).</td><td><u>Unrealistic Financial Burden on PSU</u>:
On examination of the proposed hike, we expect that the financial implications and with such huge liabilities emanating after a lapsed period of 5 years will be against the accounting norms where in the stake holders will be at loss.</td><td>Port has proposed the lease rent as per guidelines of Land Policy of Major Ports and considering the profit/ loss of business units of the lessee is not relevant.</td></tr>
<tr><td>(vii).</td><td><u>Summary</u>:
(a). We request that as contemplated in the mandate given to the committee for framing the ‘Land Policy’ by MOS, our port shall encourage Economic Activity by providing efficient & economic solutions to ultimate</td><td>(a). To be decided by TAMP Authorities.</td></tr>
</table>

	customers by taking the option-2 as the ceiling rate and consider further reduction in consultation with land users. Since TAMP has been appropriate in accepting / rejecting the earlier proposal at ₹438/ Sq Mt/year (Tamp Order dated 11-10-2011 - Case no.TAMP/14/2009/TPT) the need for submission of comments w.r.t. 2,250% increase can be appreciated well. (b). As we are a unit of Central Government PSU under Ministry of Petroleum & Natural Gas, working mainly for the energy security of the country, we request our unit to be classified under "Service" with retrospective effect and we are not a commercial unit as we are registered under Factory Act as a factory, similar to NTPL.	(b). The rate fixed to NTPL, who is a Government of India undertaking Organisation establishment of Port based Thermal Plant and National important project. (Port's comments do not appear to be relevant)
13.	**DCW Limited**	
(i).	<u>Effective Date</u>: The last revision of TAMP was in effect upto 1 July 2007. The next revision is due from 1 August 2007 for which a revision is now proposed after completion of 5 years. Moreover, these are our direct costs which go to the manufacturing cost of our product and in the current speculative market we are constrained to increase the cost based on the past years' revision. As you are kindly aware, whatever increase in tariff decided by TAMP and passed on to us cannot be collected from our customers as the period has already lapsed and hence it is our earnest request to kindly consider it only prospectively. The current exercise being done may be given effect from the next five years from 1 October 2012.	TAMP will decide.
(ii).	<u>Valuation for Zone 'A'</u>: (a). In the proposed revision, the valuation for Zone A is based on the single location prime road front @ 1,543.40 per sq. mtrs. as on 1 July 2011 for a weigh-bridge based on open tender which shall not be compared to the long term existing leased lands for port based industries, terminals and godowns all operating over decades. The entire trading community objected to the valuation of the earlier estimate, wherein the lease rent was based on the land value of a plot inside city that too, located near the Meelavittan Railway siding. (b). The entire port users objected to the earlier valuation done based on the then highest rate quoted that too, inside the city which cannot be compared to the land which was handed over to the port users in an undeveloped stage. The places taken for base by the port earlier and now is all too small outfits and the intended purpose is too big a commercial activity-weighbridge and nearby station for their commercial use. (c). These two places cannot be compared with a huge area of land allotted to several port users like SPIC, DCW, TAC, IOC, etc. who are all using these lands for their terminals for their ultimate industrial use and cannot be equated to that of a commercial that too – a drop in the occasion, few sq. meters.	As per land policy of Major Ports approved by the following five factors are taken into consideration by a committee headed by the Chairman of VOC Port. I. State Govt. ready reckoner of the land value in the area II. Average rate of actual transactions registered in last 3 years in the Ports vicinity adding 2% escalation per annum III. Highest accepted tender of Port land for similar transaction IV. Rate arrived at by an approved valuer appointed by Port V. Any other relevant factor as may be identified by Port The committee worked out the rate of lease rent under the above factors and recommended to take highest accepted tender of Port land. There is no provision in the land policy guidelines to arrive at average of the above said factors or debarring the Port from recommending the lease rent from any one of the factor above. Hence action

	(d). Again, the value of the land which has been the highest is taken for the purpose of fixing lease rent whereas, conveniently the lowest value is not considered. Now the guide line value is the basis on several places as per the registration regulations and if one goes by the value registered for the land in these areas as per the Registrar Office is only ₹125.03 per sq. meter which itself is less than the rate prevailing. This itself is the proof that while fixing the rentals, the port has considered very reasonable rate with an escalation of 2%. (e). Again, going by the highest bid value for a piece of land is detrimental as explained hereunder. In the process of leasing, Port Trust continues to be the Owner of the land. While we adopt the figure of ₹167 lacs as the price of an acre, and based on this, lease rent at ₹1,244 per sq. meter, the total lease charges payable would be an wooping ₹50 lacs per year/ per acre and the pay back is astonishing 3.3 years. Without any investment by the Port having got the entire land from the State/ Central Government's for developing Infrastructure facilities, it is extremely painful to ask the port users to pay exorbitant lease charges. Since the suggested lease rent is very high, it would be beneficial for the Port to sell the land for these prices and it is also prudent for the port users to buy these lands as one time investment rather than paying exorbitant lease rent. (f). Again it is to be noted that Port Trust continues to be the owner of the land and can get anytime the land value in the unforeseen event of any need to separate the land. Even if the State/ Central Government who have assigned these lands wants to take back the land, yet, the value still remains and not inherited by any of its users. Thus, as far as the value of the land is concerned, always it is with the Port and not separated. Hence the concept of trying to get the lease rent for such lands as Pay Back method that too, within 3.3 years is by all means extreme step which is totally against any ethical/ commercial/ business relationship. Moreover, the Port perse cannot show development unless the Port users utilize these lands extensively and it is the joint and several attitude of both Port and Users who can bring laurels to the Port. Hence, the only accepted method would be to pay normal lease rent not based on land value but based on the usage and ability to pay by the port users.	taken by the Port is as per the provisions contained in the applicable guidelines. Not relevant as the proposal is as per Land Policy Guidelines only.
(iii).	<u>Percentage adopted for land cost and development cost</u>: (a). The intention of any Government while granting or assigning its land to a service provider like the Port Trust, should not expect any profit motive for such assignment or grant. In the instant case, by taking the current market price of a single location at exorbitant cost, ultimately the lease rentals have been hiked by over 22.5 times. This has assumed a front runner for the profitability of the Port Trust which should not have been the intention of the State Government while granting/ assigning the lands to the service providers. While we appreciate TAMP for the revision in lease rentals to	Since the fixation of lease rent is worked out as per the guidelines contained in Land Policy of Major Ports, TAMP may take a decision. Port stands by the proposal.

	accommodate the increased expenses, at a reasonable level, yet revising the rentals at an alarming value of about 22.5 times is exorbitant and excessive.	
	(b). TAMP is very much aware about the Indian industry and the inflation rate at which industrial products are priced at. Any year over year increase of 10% which is equivalent to our inflation, should be normal and we feel industries should not be penalized with the hike of above 22.71 times over the prevailing rates. Applying guideline value for such leasing activities itself may not be the right approach in as much as the property still belongs to the Port Trust and the lessees can only use the land for the specific number of years subject to renewal for which levying such excessive lease rental will affect the very viability of the industry.	Not relevant as per Land Policy Guidelines.
	(c). We were given to understand that in May 2011, an area of 127.465 hectares of port land (Zone-A Commercial) has been allotted to a PSU at ₹20.91/sq.mtr./year for 30 years period without any hike. While the PSU is intended to generate power, yet as far as the comparison goes, they need to be compared to other Port users. Currently, there is no distinction between a PSU and an ordinary corporate which uses the port land. Infact, many of the Port users like us use only for Terminals without any Pollution related issues but yet treated differently when it comes to the question of fixing lease rent. In 2011, when the TAMP is proposing to fix ₹1,244.85 per sq. meter for other corporates, for PSU the rate is only ₹20.91 which is almost 60 times less than the rate fixed for the corporates. This is again is detrimental to the interest of the Port users who are responsible for the development of the port for over 4 decades. Based on the rate fixed for the new PSU at ₹20.91 per sq. mtr. the value of the land comes to ₹8.42 lacs per acre. This is extremely detrimental and in our view Port must treat all users uniformly and not differently. We request TAMP to consider that the treatment is extended to other industries and industrial storages situated in Port area. It is, therefore, requested that TAMP and Tuticorin Port Trust to rework on the cost to arrive at a reasonable lease rent in line with the above prime land allotment as a freezed slab rate on a special category.	Not agreed to. The rate of ₹20.91 sqm / annum fixed out of prevailing lease rent as per rate approved by TAMP with escalation of 2%.
	(d). Another reason for our request not to adopt the guide line value is that the Port Trust which has got the land on assignment or grant has not invested any money for land. Having not invested and not sunk any capital but applying the highest guideline value will only improve the profitability of the Port Trust causing financial damage to industries. We are not totally against increase in lease rentals as it is warranted considering the expenses incurred to provide such excellent services, yet the quantum of increase alone is the cause of our concern. Again when we went through the Land Value for Zone A, we could see the value/ sq.m ranging from as low as ₹125/- to as high as ₹1,571.57/-. Further, when we	The proposal for revision of lease rent was submitted after recommendation of the committee constituted for this. TAMP may take a decision to fix the lease rent.

	analyze the total transactions taken for compilation of land value, there are ten transactions of which the only highest rate is ₹1,571.57/-. Baring this single highest rate, the next highest rate is ₹1,070/- for two transactions. All the other transactions are in the range from ₹185 to ₹430 totaling seven transactions. As a corollary, while determining the highest as the base which suits the revenue based on the single transaction, we feel that the rest of the seven transactions should be given its due share of right. Under such circumstances, the average value will even be less than ¼ th of the recommended rate.	
(iv).	<u>Development costs</u>:	
	(a). The development cost has been considered from the year 1997 @ ₹8.43 lakhs for commercial purpose and the same has been escalated @ 10% per annum without confirming whether such expenditure was done in the 5 year period. The development cost has to be specifically accounted for and only a small percentage of such development cost shall be applied to the estate development since almost all the developmental work is relating to the overall Port's basic requirements.	Port has provided so many infrastructure facilities such as road, water and electricity and hence development cost at the rate as per the guidelines issued by TAMP has been taken into account for fixing lease rent. The costs are incurred in common for the Port and Estate is applicable to all activities. Hence, contention of sharing a portion only is not correct.
	(b). A number of development activities have been listed. Of this, many items cover large amounts spent on roads and electrical arrangements spent for port operations, public areas and residential areas. Proposal for captive power plant, heavy duty pavements, railway bridge are some of the items which are not to be considered for this. Many facilities are used by port for various port operations and hence cost of these facilities should be allocated to those activities as well. If a share of cost of these facilities is already taken into account while fixing the SOR for other port services, the cost considered for fixing lease rent should correspondingly come down. In the calculation sheet, rate per acre has been arrived at by dividing the entire cost by 940.04 acres, i.e. for areas viz., Service + commercial + residential area.	
	(c). TAMP has observed that port should confirm that development cost is allocated to land used by port and each category of rentable land on actuals or on prorata basis.	Confirmed.
	(d). Further, the developmental cost incurred in the past shall have to be depreciated and only the written down value on the development cost shall be considered in the calculation purpose. Here again, the Port has considered 10% escalation on a year on year basis on the 1997 development cost without verifying whether such expenditure was actually done for the development of the land.	
	(e). Tariff Authority of Srilanka advise Colombo Port Trust to declare rebate in existing Port tariffs to boost the volume of Port development and accordingly Port of Colombo follow the guidelines of TAS.	Not relevant.
(v).	<u>Classification of our Industry</u>: Our industry has been categorized as Commercial by the Port Trust. Factually, we should have been classified only as industry since we do not have any commercial activity. The leased land at the Port Trust is used only to store the Raw Material intended for our plant and for our own self consumption and not for sale.	Not agreed to. The firm has not established any industry in the Port land. Further land allotted to M/s. DCW is for commercial activities of their industry.

	Installations like Indian Oil Corporation who stores oil and subsequently sell to several customers per se as oil, could be positively classified as commercial. Our activity is in relation to the manufacture of PVC resin and the imported raw material is 100% self-consumed and hence our activities need to be considered only as industry and not on commercial slab. Revising our status from commercial to industry will help us to place us in the middle order of rates for lease rental and thus give some relief.	
(vi).	Reference to earlier revisions: The lease rent was fixed at ₹8.00 per sq. mtr. per year with effect from 1 January 1992. This has been increased to ₹69.20 in 2012. Thus, the increase over the last 20 years was only an increase of 15.3% year over year. As against this revision of 15.3%, currently recommended revision is over 2271% i.e. 22.71 times which we feel is very high and exorbitant taking into consideration the aforesaid facts. Based on the current lease rent of ₹69.20 per sq. meter, taking a decent escalation of 10%, the cost of an acre comes to ₹28 lakhs per acre which is very reasonable price. It is not prudent to calculate the cost of the land like a living place and assume exorbitant price. Only in the busy commercial area, wherein the activities are restricted to minimum space with maximum turnover, it could be possible, the price of land could be over ₹100 lakhs. But it is not prudent to extend the same logic and yardstick to apply for port, which activities are carried out in a remote place, huge area needed and many other facilities for the development of port. Hence, it is our considered view that the existing lease rentals already compounded by 2% every year would be sufficient escalation and hence there may not be any need to revise the lease rent. Since we have already paid with 2% escalation every year over year, there will not be any necessary for revision.	The fixation of lease rent is worked out as per the guidelines contained in Land Policy of Major Ports. Not for consideration.
14.	**Tuticorin Sailing Vessels Owners Association**	
	Sailing Vessels are classified under MSV Act 1956/72 (Merchandised sailing vessel Act) as country craft made of Wood “primitive” in construction and sailing in the sea using Wind power and fitted with auxiliary engine. It is a poor seamen livelihood where thousands of seamen and their downtrodden families are dependent on it. Moreover, the land used by the sailing vessels is only seafront / seashore for Beaching and Unbeaching for repair / construction work. Therefore, it should be classified under services and the existing concessional land tariff should continue and there should not be any collection of retrospective rental as the sailing vessels are struggling for its survival under competition from container services. So under Zone ‘B’ the existing tariff of land allotment for repair / construction of sailing vessels should continue.	TAMP may take appropriate decision.
15.	**Tuticorin Custom House Agents’ Association**	
(i).	Objection 1: The Land Use policy of the VOC Port classifies the Port	Classification of Port land for the

	Area into 8 categories namely 1 to 8 1) Residential & Plantation 2) Commercial & Industrial 3) Proposed area for future power plants 4) Bulk cargo storage 5) Warehouse Area 6) Container Yard 7) Break Bulk Storage 8) Trucks Parking Area However, the proposal seeks to revise the categories of the land only into service/ residential, commercial and industrial. The members of the association fall under different categories in the Land Use map. The VOC Port Trust ought to classify members into different zones as in the case of Vizag Port Trust which has categorized 13 zones and submit a proposal for each of the categories. In this case the categorization of the area into only 3 zones is in violation of the Land Use map and the Land Use policy of VOC Port.	purpose of fixation of different rates has been made by TAMP based on the purpose for which port land is leased to Port users. Hence, the present classification adopted by Port as Service, Industrial and Commercial stands.
(ii).	<u>Objection 2</u>: The Port Trust had originally submitted proposal on 21.04.2009 whereas it had proposed to increase lease rent per sq. mtr. per annum from 01.07.2007 to 30.06.2012. In respect of Port related service, the maximum revision was for the commercial purpose at the rate of ₹438.51 per sq. mtr. The revisions were objected as unrealistic and the Port Trust was directed to submit a revised proposal. The Order of the TAMP closing the proposal submitted by the Port is dated 09.12.2011. It is surprising that the Port Trust is now submitting a proposal at a much higher rate. It is submitted that the market value of the land in 2007 cannot appreciate in 2012 and the present proposal is therefore deeply flawed and not in accordance with the Land Use policy.	TAMP conducted hearing with Port Users on earlier proposal. Afterwards TAMP returned the proposal to revise rate by applying all methods provided in Land Policy communicated by Government. Port complied with the above and sent revised proposal for consideration of TAMP. Hence, the question of deviation from Land Policy Guidelines does not arise.
(iii).	<u>Objection 3</u>: The VOC Port is not entitled to rely upon option 3. In the first place the valuation report of Parthasarathy and Associates has not been provided to the Association, in full. The last 2 pages of the report alone have been furnished. The valuation was done without notice to the members of the Association and is therefore not binding on the members. In fact the report seems to have been prepared only based on the selective documents furnished by the Port Authorities as seen from the assessment and limitation annexed to the report. The said report on its own admission is not an accurate assessment of the market value and is not based on actual inspection of properties with notice to the members. Hence the said valuation report is to be rejected on the ground of violation principles of natural justice.	At the time of preparation for arriving at market value of Port land and fixing of lease rent, a committee was constituted with Chairman as the Chairperson. Question of sending Notice to the Port Users does not arise. **The final proposal to TAMP is not based on the Land valuer's report alone. The proposal is arrived by the Committee constituted for the purpose. Hence there is no violation of principles of natural justice.** [As regards the point made by the TCHAA that complete copy of the valuation report was not furnished it is noted that the TCHAA has subsequently in its comments dated 14 December 2012 brought out in the subsequent points confirmed that copy of the Valuation Report was provided to it by VOCPT on 28 November 2012.]
(iv).	<u>Objection 3.1</u>: In so far as the period from 01.06.2007 to 30.06.2012,	Fixation of rate of lease rent was made

	Option 3 relies upon a single transaction of Smt. Ponniathal said to be dated 01.07.2011. The alleged transaction of 2011 cannot be used to calculate the market value prevailing in 2007 by making deductions. The said method amounts to retrospective fixation of market value and is not a method approved by the Land Use policy 2010. The said Option 3 is based on the valuation report for the period from 2007 to 2012 and has to be rejected as it is a retrospective calculation seeking to extrapolate the market value in 2007 from the figures available in 2011.	only as per provisions contained in Land Policy Guidelines approved by Government. The decision to give retrospective effect may be taken by TAMP.
(v).	<u>Objection 4</u>: Violation of Article 6.3 of the Land Use policy 2011: The documents relating to the said transaction dated 01.07.2011 of Smt. Ponniathal has not been provided in spite of demands for the same from the Port Trust. However, on an enquiry it is understood that the transaction relates to a "Weighbridge" for which tender was conducted. As per the Article 6.3(i) of the land policy guidelines, the highest accepted tender lease of Port land for a "similar transaction" can be considered. The weighbridge is a monopoly for which tender has been called for. There is only one weighbridge in the port and hence the high value of the tender as it is a monopoly activity of the port. This transaction is not a "similar transaction" to that of members for the following reasons:	Fixation of rate of lease rent was made only as per provisions contained in Land Management Policy approved by Government.
	(a). The business of weighbridge is not carried out by any other members or for that matter by anybody else as it is a monopoly. Hence it is not a "similar transaction".	Not agreed to as the same is a Commercial activity and not monopoly. Hence, consideration of the same is in order with respect to Land Policy Guidelines.
	(b). The said transaction is for a lease based on upfront basis where the entire lease amount is paid upfront at the time of executing the lease deed and a nominal rent is paid every year. This is clearly different from the lease of members which is for 30 years where the Lease land is payable annually. It is therefore not a "similar transaction".	Not relevant to tariff fixation as receipt of upfront lease rent is also based on annual lease rent discounted at 6% as per Land Policy Guidelines.
	(c). <u>Objection regarding 2012 to 2017:</u> They are one and the same as set out above. By applying Option 3 a very heavy burden is placed on members. In some cases the enhanced lease land rent over 5 years exceeds the actual market value of the property.	TAMP may take a decision.
(vi).	<u>Objection 5</u>: In respect of the guideline value which is option 1 and the similar transactions registered for 3 years which is option 2, the port has also taken into consideration the development cost at 15%. There is no provision for charging development cost at 15% in the Land Use Policy of 2010. The same was also questioned by TAMP as seen from the Order dated 9 November 2011 at point 9.2. The same has got to be deducted from Option 2 and 3.	
(vii).	In respect of Zone A, it is not proper to take into account the guideline values for the areas outside the Port Trust as the same is not within the area of the port and thus not contemplated by the Land Use Policy. In fact in respect of Zone B, there are several areas bordering the sea which are reclaimed areas for which there are no guideline value fixed. When the State Government has	In order to fix the market value of Port land, Port appointed one approved land valuer and they fix the land value considering the various aspects.

	not fixed the guideline value it is not permissible to look into guideline transactions outside the port area. This approach is not in consonance with Land Use Policy 2010.	
(viii).	In respect of the SIPCOT land which is Option 5, the area is situated more than 30 KM from the Tuticorin Port and is not comparable.	SIPCOT is a organization by the Government of Tamil Nadu and who has leased land to various industries. Hence Port has made a exercise on the same pattern to fix the Tariff for the Port land lease holders.
(ix).	Option 4 fixes the land value arrived at from the Lease Agreement. The lease agreement is not mentioned. In fact the comparable transaction would be the Lease Deed dated 2 May 2011 executed by the Port Trust in favour of NTPL and registered as Document Nos.1116 of 2011 and 1117 of 2011. A look at the Lease Agreement with NTPL would show the Port Trust had adopted a rate of ₹20.91 per sq. mtr. The said Lease was registered as Document Nos.1116 of 2011 and 1117 of 2011 at District Registration Office, Thoothukudi. The Port having adopted the lease value at ₹20.91 per sq. mtr. cannot claim exaggerated rates mentioned in Option 1 to 5.	The rate fixed to NTPL, who is a Government of India undertaking Organisation establishment of Port based Thermal Plant and National important project.
(x).	There is no provision for retrospective fixation of lease rent in the Land Use Policy or the Lease Deeds. The members are paying a 5% increase every year and above which the Lease rent cannot be increased for 2007-2012 retrospective.	TAMP will decide.
(xi).	The proposed increase is at the rate of 2262.65% on an average. The said increase is exorbitant and exceeds the actual value of the property. It is submitted that the Port Trust continues to be the owner of land and the lease rent should be on par with the interest rates or the rate of inflation. The said rate of inflation on interest value stands at about 10% and the proposal of the Port Trust for the increase rate of 2262.65% may be rejected. At best there can be an increase of 10% from 2012-2017 while no retrospective fixation should be done for 2007 to 2012. Such an increase as sought for would put several small lease holders who are majority of members out of business and therefore prayed for proper consideration.	Port users are aware that generally valuation land is increasing substantially every year. However, Port has fixed the lease rent only in accordance with the guidelines given in Land Policy of Major Ports approved by Government.
	Additional objections furnished vide letter dated 14 December 2012	
(xii).	This has reference to the hearing of TAMP held on 29 November 2012. The Association had already set out their objections in writing to the proposal of the Port Trust seeking an increase in the lease rent payable for the land leased to Members of the Association for the period from 2007 to 2012 (Retrospectively) and from 2012 to 2017. The objections were relied on at the hearing.	Factual.
(xiii).	The Port Trust relied upon a Valuation Report of D.Parthasarathy Associates dated 14.12.2011. A copy of the Valuation Report was not provided to the Association even though it forms the basis for the proposal of the Port Trust. The Association submitted its written requests for the same and also raised the non-availability of the Valuation Report in its objections.	Factual.
(xiv).	The copy of the Valuation Report was provided to the	The Valuation Report is an initial

	Association only on 28 November 2012 just one day before the hearing. The valuation was conducted on 4 August 2011 as seen from page no.1 of the Report. It was conducted without notice to the members of the Association who are the affected parties. There is a violation of the principles of natural justice.	exercise of the Port Trust for submission to the committee constituted vide the Land Policy Guidelines. The question of giving notice to the members of the Association is outside the Land Policy Guidelines and hence the question of violation of principles of national justice does not arise.
(xv).	Coming to the objections to the Report, the said report is violative of the Government of India, Land Use Policy 2010 with specific reference to Article 6.3 viz., <u>The Market Value of the Land and Schedule of Rates (SoR)</u>.	
	(a). There are five methods of valuation detailed in Article 6.3. The Valuer has dealt with the comparative study under these five methods from page nos.40 to 48 of its Report.	Factual.
	(b). The method of calculating the market value of the land based on the State Government's Ready Reckoner Value and average value of actual comparable transactions registered in the last three years have been rejected by the Valuer at page no.41. According to the Valuer, the above two methods do not reflect the true market value. Such a conclusion is directly opposite to the Article 6.3 where the above factors have to be taken into account to calculate the market value. The Port Trust has also accepted the valuation report thereby implicitly endorsing the stands of the Valuer that option (1) and (2) in Article 6.3 does not reflect the market value. The valuation report has to be rejected as it fails to take it into consideration option (1) and (2) mandated in Article 6.3. The order of the Port Trust accepting the Report is also to be rejected on this ground.	Land Policy Guidelines provide for adoption, if any, of the five methods stipulated in Article 6.3 and does not specify any methodology for work of the valuation to be done by the certified valuer/ State Government's Ready Reckoner value. Hence the conclusion of the valuer furnished to the Port and acceptance of the valuation report by the Port is not covered by the Article 6.3. Port Trust is the Competent Authority to accept the report of certified valuer and adopt any other methodology like Ready Reckoner, highest tender rate, etc. Therefore, the issue of the conclusion of the valuer as being against Article 6.3 is not based on facts.
	(c). Coming to Option 3, the analysis of the same is to be found at page nos.29 to 35 of the Report. A single transaction of 2011 representing a Tender for a weigh bridge has been taken as a yard stick for calculating the market value of the land for all categories of land viz., commercial, industrial and service. The Valuer has adopted a certain formula to convert upfront premium on the basis of which the weigh bridge was leased into a lease amount payable per year. This formula is at page nos.29 to 32 of the Report. The said formula does not find a place in the Land Use Policy and is a formula adopted for the purpose of this Report to suit the requirements of the Port Trust. The adoption of a new formula not mentioned in the Land Use Policy would make the valuation a exercise based upon the Valuer's mathematical knowledge. The same cannot be a Valuation Report within the meaning of the Land Use Policy. The Valuer should only look at the Land Use Policy to arrive at the valuation and not bring in formulas derived from outside the Land Use Policy.	Port based on the directions of TAMP and the discussions held at the Joint hearing on 29.11.2012 is submitting a revised proposal with drawing the earlier adoption of 2011 Value discounted for 2007 in respect of option 3,4 & 5 and adopting relevant value of 2007 period under option 3,4 & 5. In addition, the methodology adopted by the valuer is not to be questioned by the Custom House Agents Association or any other association as it is certified by valuer. Port Trust is the competent authority to accept or reject the Valuation Report. Land Policy Guidelines do not prescribe any procedure for conduct of the valuation by the certified valuer.
	(d). In any case, the Valuer should have taken the highest available tender for the industrial, commercial and service zones and not relied upon the single weigh bridge transaction of 2011. The Valuer has also used the 2011 weigh bridge transaction to calculate the	The identification of the rate for lease rent from available options is the prerogative of the Port Trust Board and the same is not to be questioned by the association.

	market value in 2007 once again adopting a formula of discounting which is also not provided for in the Land Use Policy which does not permit retrospective valuation.	
	(e). "Assumptions and Limiting conditions" at page nos.47 & 48, of the said Report clearly mentions that it is based upon a Market Survey. It is based upon Land Use Policy. The Report also is issued "without prejudice". The said reservations may be referred to show that the Valuer has only relied upon a Survey of Data made available to them by the Port Trust. It was not based upon Land Use Policy 2010/2011. The Valuation Report has, therefore, been prepared without even referring to the Land Use Policy and has to be rejected.	In as much as the Land Policy Guidelines do not prescribe any methodology but only envisaged five methods for fixation revision of lease rent and TAMP directed the Port Trust to adopt the lease rent based on rates including the Valuation Report of the certified valuer as per the Land Policy Guidelines 2010. Hence the objections are not tenable in the light of the above.
	<u>Conclusion:</u> The Valuation Report has to be rejected. The proposal of the Port Trust is based only upon the Valuation Report and is to be also rejected.	

1.2. The SEPC Power Private Limited (letter dated 12 November 2012) [Formerly known as SPIC Electric Power Corporation Private Limited] has furnished additional comments which are summarised below. The VOCPT has not responded to the comments. However, it is seen that the comments of SEPC Power Private Limited are generally repetition of the comments of other user associations upon which the VOCPT has responded with its comments.

(i). SEPC Power Private Limited, hereinafter referred to as SEPC (formerly known as SPIC Electric Power Corporation Private Limited) was allotted land for setting up of Tuticorin Thermal Power Project Stage IV – 1X525 MW (Unit 1) admeasuring an extent of 36.81 hectares near check post no.1 on long term annual lease rent basis. At the time of allotment on 1.4.2010, the revised TAMP rates at ₹40.01 per sq. mtr. per annum as on 1.7.2009 and as per TAMP guidelines subject to revision from time to time were fixed.

The VOCPT has identified the above lands allotted to SEPC as "Port Related Industries". In that regard, the revision, as proposed for Zone 'B', for port related industrial activity, is ₹770.83 per sq. mtr. per annum for the period 1.7.2007 to 30.6.2012 and ₹973.15 per sq. mtr. per annum for the period 1.7.2012 to 30.6.2017. The unprecedented steep increase appears to be pursuant to the highest accepted tender of very small piece of port land leased for 30 years on upfront premium basis.

(ii). The proposal submitted by VOCPT is contrary to the Ministry of Shipping's Land Policy for Major Ports, 2010 and ignores the principles required to be adopted for fixation of lease rentals.

(iii). The entire objective of the proposal by VOCPT appears to obtain high lease rentals and increase revenue from land, entirely ignoring the fact that VOCPT is essentially a port trust that is required to make best use of its resources to generate income as a port.

(iv). Earlier proposal of 21.4.2009 was rejected, however, the present proposal contains an even steeper increase.

(v). Retrospective rate increase impermissible and valuation principles flawed:

The very fundamental basis of the valuation is flawed since it appears that the valuation is arrived at based on a single transaction of a small piece of land whose end use was as a Weigh Bridge. Certain lands were allotted for Weigh Bridge to the highest bidder with an upfront premium for 30 years. Adoption of such a proposal in such a rate is entirely incomprehensible and against the fundamental principle of valuation. Further, there are no other recurring port related income to the port from the weigh bridge other than the upfront lease paid. In so far as the period from 1.6.2007 to 30.6.2012, option 3 relies upon a single transaction of Smt. Ponniathal said to be dated 1.7.2011. The alleged transaction of 2011 cannot be used to calculate the market value prevailing in 2007 by making deductions. The said method amounts to retrospective fixation of market value and is not a method approved by the Land Use Policy, 2010. The said option 3 is based on the valuation report for the period from 2007 to 2012 and has to be rejected as it is a retrospective calculation seeking to extrapolate the market value in 2007 from the figures available in 2011.

(vi). Land Policy requires the Major Ports to adopt rates to make them more competitive not less competitive:

The port trust is bound to follow the Land Policy for Major Ports 2010. It is significant to state that the Land Policy itself was notified after recognizing the importance of sustained growth and development of the Major Ports for their contribution to the Indian Economy and in the background of the economic downturn and rapid growth of minor ports and the traffic at the Major Ports. The policy itself was notified to sustain and improve the efficiency of the Major Ports. It was noticed that in all Major Ports of the world, land had been leveraged for optimizing the throughput and increasing the revenue of ports. The Central Government recognized the established practice globally for Ports to allot land for carrying on economic activity, including establishing industry 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 utilised 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. The manner of fixation completely ignores this fundamental aspect and effectively seeks to make the VOCPT extremely uncompetitive thereby forcing the users to shift to other ports. Such of those users who do not have an option, like us as we have to set up the power plant itself next to the port may result in increase in our costs which consequently may have a cascading effect on the Minimum Guaranteed Traffic to VOCPT to be at lower levels. This is a clear abuse of the monopoly power of the VOCPT.

(vii). Port Lands have been allotted to VOCPT to enhance port related activities which will have a multiplier effect in the hinterland and not to act as a landlord which will look at lands in isolation for revenue generation:

(a). The VOCPT itself was allotted lands, for historical reasons, in areas where they had potential for development as a port, by the State Government, at vastly concessional rates for overall economic growth. The VOCPT, for historical reasons, has various categories of lands, including lands that are intrinsically and exclusively for port activities and within customs bound areas, lands outside the customs bound areas and adjacent to the port, land that are outside the core port area for setting of industries that would act as captive users, the land available for non-port related activities for other commercial ventures etc. Therefore, each such land, depending upon its utility, has to be utilized for generation of revenue keeping in mind that such lands were allocated by Government to the port within the overall intention of assisting the industry by building infrastructure thereby generating employment, tax revenues and overall economic growth in the region and the country. It is for this reason that the Land Policy for Major Ports mandatorily requires a land use plan to be prepared by every major port.

The market value of lands and schedule of rates are also to be fixed in a manner that is in consonance with the guidelines set forth in para 6.3.1 of the Land Policy. It is significant to state that the policy specifically provides that the schedule of rates is to be recommended to TAMP by the committee of the port trust which may take into account the applicable factors from among those listed to determine the market value of port land.

(b). Significant, 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 Scale of Rates in accordance with the end use, as reflected in the Land Use Plan. It is significant to state that various factors are required to be taken into account, depending upon the type of land and its end use. The Land Policy does not mandate a single method to be applied for all lands as is sought to be done by VOCPT. This is for the reason that the land itself is to be viewed as one that can be leveraged for increasing throughput and revenue therefrom and therefore the particular use of a land becomes important. Thus a land which is outside the port area and situated in a commercial area in the town/ city, it would be treated as any other property to generate rental income, however if the land is for port-related use, the land value or rental rates in the adjoining areas become irrelevant and the VOCPT is required to structure its rental rates such that it would be competitive and attract port users away from minor ports and at the same time enhance its revenue by leveraging the utilization by innovative methods. The VOCPT cannot be allowed to take 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.

(c). Therefore, while it may be appropriate to adopt the State Government's rate reckoner of the land value in the area for non-port related commercial land, it would be appropriate to blindly adopt the said land values for other lands which are exclusively port related, without appreciating the use to which the land is put to.

(viii). It has reiterated point no.(i) made by TCHAA.

(ix). Retrospective increase impermissible:

The VOCPT had originally submitted proposal on 21.4.2009 whereas it had proposed to increase lease rent per sq. mtr. per annum from 1.7.2007 to 30.6.2012. The revisions were objected as unrealistic and the Port Trust was directed to submit a revised proposal. The order of the TAMP closing the proposal submitted by the Port is dated 09.12.2011. It is surprising that the Port Trust is now submitting a proposal at a much higher rate.

It is submitted that the market value of the land in 2007 cannot appreciate in 2012 and the present proposal is therefore deeply flawed and not in accordance with the Land Use Policy. The said method of Option 3 amounts to retrospective fixation of market value and is not a method approved by the Land Use Policy, 2010. It relies upon a single transaction of Smt. Ponniathal said to be dated 1.7.2011 which cannot be used to calculate the market value prevailing in 2007 by making deductions and has to be rejected as it is a retrospective calculation seeking to extrapolate the market value in 2007 from the figures available in 2011.

(x). Manner of arriving at Valuation flawed, Expert's Report not furnished in full and non-consideration of adoption of similarly situated land:

(a). In the first place, the valuation report of Parthasarathy & Associates has not been provided to us, in full. The valuation was done without notice to us and is therefore not binding on us. In fact, the report seems to have been prepared only based on the selective documents furnished by the Port Authorities as is seen form the assessment and limitation annexed to the report. The said report, on its own admission, is not an accurate assessment of the market value and is not based on actual inspection of properties. The Valuation is therefore deeply flawed.

(b). Violation of Article 6.3 of the Land Use Policy 2011. The documents relating to the said transaction dated 1.7.2011 of Smt. Ponniathal has not been furnished, However, on an enquiry it is understood that the transaction relates to a Weighbridge for which tender was conducted. As per Article 6.3(i) of the land dues policy, the highest accepted tender lease of port land for a 'similar transaction' can be considered. The weighbridge is a monopoly for which tender has been called for. There is only one weighbridge in the Port and hence the high value of the tender as it is a monopoly activity of the Port is not a 'similar transaction'. Further a small piece of land and which also does not give other revenues to the VOCPT cannot be used for valuation of large extents like ours which gives other revenues to port including the Minimum Guaranteed Traffic.

(c). Furthermore, the said transaction is for a lease revolving round ‘upfront basis’ where the entire lease amount is paid upfront at the time of executing the Lease Deed and a nominal rent is paid every year. This being not the case with us, it is not a ‘similar transaction’.

(d). In most cases, the enhanced lease land rent over 5 years exceeds the actual market value of the property.

(e). The VOCPT has also taken into consideration the development cost at 15%. There is no provision for charging development cost at 15% in the Land Use Policy, 2010. The same was also questioned by TAMP as seen from the Order dated 9.11.2011 para 9.2 and the same has got to be ignored.

(f). In respect of Zone A, it is not proper to take into account the guideline value for the areas outside the port trust as the same is not within the area of the port and thus not contemplated by the Land Use Policy. In fact, in respect of Zone B, there are several areas bordering sea which are reclaimed areas for which there are no guideline value fixed. When the State Government has not fixed the guideline value it is not permissible to look into guideline transactions outside the port area. The approach is not in consonance with the Land Use Policy, 2010.

(g). In respect of the SIPCOT land which is Option 5, the area is situated more than 30 KM from the Tuticorin Port and is not comparable.

(h). Option 4 fixes the land value arrived at from the Lease Agreement. The lease agreement is not mentioned. In fact, the comparable transaction would be the Lease Deed dated 2.5.2011 executed by the port trust in favour of NTPL and registered as Document No.1116 of 2011 and 1117 of 2011. A look at the Lease Agreement with NTPL would show the port trust had adopted a rate of ₹20.91 per sq. mtr. The said lease was registered as Document Nos.1116 of 2011 and 1117 of 2011 at District Registration Office Thoothukudi. The port has rightly adopted this lease value for NTPL after considering the various port income streams from NTPL by virtue of their power plant operations. The port having adopted the lease value at ₹20.91 per sq. mtr. cannot claim exaggerated rates mentioned in Option 1 to 5 for a similar transaction like ours.

(i). The proposed increase is at the rate of 2262.65% on an average. The said increase is exorbitant and exceeds the actual value of the property. It is submitted that the port trust continues to be the owner of land and the lease rent should, at best, be on par with the interest rates or the rate of inflation. The said rate of inflation on interest value stands at about 7-8% and the proposal of the port trust for the increased rate of 2262.65% may be rejected.

(j). It is submitted that for our lands, it is similar to lease of 127 hectare of land to NTPL ideally the case wherein 127.465 hectares of land was given on an upfront premium of ₹20.91/ sq/mt/year to NTPL, in May 2011 by VOCPT should be the basis under clause 6.3(1).a.(ii) since the purpose for which land has been given to units like NTPL are similar and of common purpose and utility. As far as the VOCPT is concerned, it cannot discriminate between port users on the basis of their being privately held or belonging to the Public Sector.

(xi). It is submitted that they should grant an opportunity to make an oral representation as well and reserve their right to make further submissions. For the above reasons, the proposal of VOCPT may be rejected.

2. A joint hearing on the case in reference was held on 29 November 2012 at the VOCPT premises. The VOCPT made a power point presentation of its proposal. At the joint hearing, the VOCPT and the concerned users/ user organisations have made the following submissions:

VOCPT

(i). Makes a power point presentation of its proposal. Hard copy of the presentation is given.

(ii). Valuation Report of M/s. Parthasarathy is available in the office of the port. Anybody can approach the office and refer to the Report.

Tuticorin Port-Land Users Welfare Association

(i). We do business in Zone-B for more than 100 years in small scale.

(ii). Zone-B where we do fishing and related activities is a Alluvial land. We were not charged till Tuticorin became a Major Port.

(iii). We are not finding fault with the Land Policy. But, we face problems.

(iv). We pay regularly to the port and we are prepared to cooperate with the port. But, quantum of hike is abnormal. It will affect the livelihood of poor fishermen.

Tuticorin Chamber of Commerce and Industry
All India Chamber of Commerce and Industry
Indian Chamber of Commerce and Industry
Tuticorin Custom House Agents Association
Tuticorin Port Land Users Welfare Association
Tuticorin Ship Agents Association
Tuticorin Port Handling Agents Association
Southern Petrochemicals Industries Corporation Ltd.
Tuticorin Salt & Marine Chemicals Ltd.
Darangadara Chemical Works Ltd.
Chemplast Sanmar Ltd.

(Their Legal Counsel)

(i). Adding of 15% of Development cost to the 6% of Market value cannot be agreed to. There is no provision for charging development cost at 15% in the Land Policy.

(ii). Today's proposed rates are much higher than the rates proposed in 2009.

(iii). Proposal relies on 2011 position for valuation of land from 2007, which is not correct. Transaction of 2011 cannot be used to calculate the market value prevailing in 2007.

(iv). Port has chosen the land valued for weighbridge for valuation in other areas. Weighbridge is a monopoly transaction. It is not for a land use. There are only two weighbridges. Transaction at weighbridge is not similar to the transactions at other places.

(v). Method adopted by Land Valuers is not as per Land Use Policy.

(vi). The SIPCOT Land is situated more than 30 KM from the port and is not comparable.

(vii). Port's Land Use Plan classifies the port area into 8 categories. Our members fall under different categories of the land. Categorization of the area into only 3 zones is in violation of the Land Use Plan.
[Chairman, VOCPT: Land Use Plan categorization is different from three categories. Three categorization is approved by TAMP]

(viii). Land Policy does not provide for fixation of charges with retrospective effect. Provision of Major Port Trusts Act calls for fixation of rates from time to time.

(ix). Land Policy stipulates that the Major Port Trust shall take into account the applicable factors from amongst those listed in the policy to determine market value. It does not stipulate to take the highest value. Taking highest value is violation of Land Policy.

(x). Port has not given any reason for rejecting other factors and picking up Option - III. There is no application of mind in evaluating the option.

SPIC Electric Power Corporation Pvt Ltd.
(Their Legal Counsel)

(i). TAMP has set out guidelines for fixation of tariff.

(ii). Fixation of Rates should take into account interest of users.

(iii). Land Policy for Major Ports - 2010 announced in March 2011 is a mid term correction (He reads out some lines of the Back Ground Note of the Land Policy - 2010) Therefore, proposal filed after announcement of Land Policy - 2010 should be in accordance with the Land Policy - 2010.

(iv). Object of the Land Policy - 2010 is not to generate revenue to the port. It is to leverage the land for optimizing the throughput.

(v). Land Policy does not say the highest of the five factors should be considered. Port should apply its mind.

(vi). We are treated differently from PSU. SOR cannot make a distinction between the parties.

(vii). Unless it is specifically provided in the MPT Act, retrospective application is invalid.

Chemplast Sanmar Limited

(i). Retrospective revision of rates is not permitted by the MPT Act or the Government Guidelines.

(ii). Rates proposed for both the periods are extremely high.

Tamil Nadu Electricity Board

(i). Our Chairman has given Written Objections.

(ii). Government of Tamil Nadu has handed over the land free of cost to the port for establishment of the Major Port at Tuticorin. The port in turn handed over a portion of land to TNEB on long term lease basis for establishment of TTPS.

(iii). We have given more than ₹40 Crores as rent as on date. It is more than cost of land.

(iv). TNEB had repeatedly requested the port to retransfer the land to TTPS. We again request the port to return the land.

LPG India (P) Ltd.

(i). We have entered into 30 year agreement in 1994.

(ii). Proposed increase will threaten our existence.

(iii). We object to the retrospective application of rates.

Tuticorin Ship Agents' Association

(i). I am a Trustee in the Board of Tuticorin Port Trust. I objected to the retrospective application of rates. Any order of TAMP should be with prospective effect.

(ii). Revision should not violate lease agreement.

Tuticorin Salt & Marine Chemicals Ltd.

(i). We have given our written comments.

(ii). We request to fix fair rent for salt land in conformity with the rent fixed by State Government and Central Government for their salt land.

Indian Oil Corporation

(i). We do not accept the proposed hike since it is based on the highest value of single transaction for small plot of land for weighbridge.

(ii). No increase in the rental to be implemented retrospectively.

(iii). Please keep option - 2 as the ceiling rate and consider further reduction.

(iv). Consider us under "Service" category with retrospective effect.

3.1. A summary of the written submissions made by users at the joint hearing and reply furnished by VOCPT thereon are tabulated below:

Sl. No.	Written submissions made by users	Reply furnished by VOCPT
1.	**Chemplast Sanmar Limited**	
(i).	<u>Retrospective revision not permissible</u>	
(a).	An Agreement for lease was entered into between the Company and the Port Authorities in August 1987 in terms of which a plot of land admeasuring 12,783.40 sq.mtrs. was leased out to the Company. A copy of the Agreement is furnished. It may be seen from the Agreement that there is no provision for increasing the rent retrospectively.	In the lease agreement executed between VOCPT and Chemplast, the condition stipulated is as "The Lessee shall pay the revised rent at the rate as may be fixed by the Board of Trustees, VOC Port Trust from time to time". Hence, the statement is not correct.
(b).	It is relevant to mention that Sec.49 of the Major Port Trust Act contemplates that the Board shall from time to time, by notification in the official gazette, frame the scale of rates and treatment of conditions. This section does not empower the Authorities to levy any scale of rate retrospectively. Thus, either the Agreement or the statute governing the provisions of the Major Port Trust Act, permits revision of rates retrospectively. On this ground itself, the application has to be rejected.	Framing Scale of Rates is not comparable with the revision of lease rent to land.
(c).	The Andhra Pradesh High Court, in the case of Hindustan Lever Limited and another Vs Board of Trustees, Visakhapatnam Port Trust, had also very clearly held as above. For the sake of convenience, para 39 and 40 of the judgement is extracted hereunder: *"Section 49 of the Act is a comprehensive chapter, which deals with scale of rates and statement of conditions for use of property belonging to Board.* *Neither the agreement nor the provisions of the Act authorizes the Collector to make a demand for payment of rent retrospectively. Apart from that, Section 49 of the Act contemplates that the authority shall from time to time by notification in the Official Gazette, also frame a scale of rates and statement of conditions. But no such instances have been brought to the notice of this Court in the instant case, such a procedure has been followed. In Verigamto Naveen Vs Government of Andhra Pradesh, MANU/SC/0570/2001/AIR2001SC3609, the Apex Court has held thus:* *"where the breach of contract involves breach of statutory obligation when the order complained of was made in exercise of statutory power by a statutory authority, though cause of action arises out of or pertains to contract, it falls within the sphere of public law because the power exercised is apart from contract. The freedom of the*	The extract of judgement furnished by the firm is related to framing of Scale of Rates. Hence, not comparable with the present proposal.

	Government to enter into business with anybody it likes is subject to the condition of reasonableness and fair play as well as public interest. After entering into a contract, in canceling the contract which is subject to terms of the statutory provisions, as in the present case, it cannot be said that the matter falls purely in a contractual field. Therefore, it would not be appropriate to suggest that the case on hand is a matter arising purely out of a contract and, therefore, interference under Article 226 of the Constitution is not called for." A copy of the judgement of the Andhra Pradesh High Court is furnished.	
(d).	This Authority itself, in a similar matter under Sec.49 of the Major Port Trust Act, refused to fix retrospectively rates when it was so requested by M/s.Parekh Marine Agencies Private Limited in the matter relating to a proposal from Chennai Port Trust for amendment to the scale of rates on 15.3.2002. The Authority, in para 7(vi) of the Tariff Order No.40 for Chennai Port Trust dated 15.3.2002, had held as under: *"M/s. Parekh Marine Agencies Private Limited (PMAPL) have requested for a retrospective approval of the proposed amendment arguing that the car carriers/ RORO vessels have started calling at the CHPT since January 2000; and they have not used the wharf cranes. It is to be recognized that the Orders of this Authority take effect only prospectively. In exceptional circumstances, this Authority considers giving retrospective effect to its Orders. Delay in submission of a proposal by the CHPT or a long pending representation made by the PMAPL cannot be an exceptional circumstance warranting retrospective revision of the CHPT scale of rates. If these grounds are accepted to allow retrospective amendment of Scale of Rates, there can be a demand for similar relief in almost all cases, where the SOR is to be amended to provide rebates/ concessions or to include new provisions aiming at providing relief to Port users".* A copy of the Order is furnished. Without prejudice to the fact that the Authority has no power to give retrospectively to the Scale of Rates, it is submitted that in the instant case, no exceptional circumstance has been claimed by VOC Port Trust warranting the applicability of the retrospective options.	This issue was for framing of Scale of Rates. But VOCPT submitted the proposal for revision of lease rent to land.

(ii).	Non-compliance with the directions of the Authority	
(a).	The present application seeking revision of the Scale of Rates has to be rejected only on the ground that the VOC Port Trust has not complied with the directions issued by this Authority in its earlier letters and also while approving the tariff for the previous period vide its Order dated 18.11.2004.	The proposal is in accordance with Land Policy Guidelines approved by Government and the valuation report as per TAMP's directions. Hence, in order.
(b).	It may be recalled that this Hon'ble Authority, on 18.11.2004, passed an order approving the Scale of Rates for the period from 1.7.2002 to 30.6.2007. The attention of the Authority is invited to para 10(iii) wherein this Authority had specifically mentioned that it will be advisable if Tuticorin Port Trust analyse the details and attempt to fix a realistic market value of land falling under different categories atleast during the next review of the lease rentals.	Port has worked out valuation of land by applying all five methods mentioned in Land Policy Guidelines approved by Government. The Committee constituted for the purpose has reviewed and revised the rate accordingly. TAMP is to decide on the rates based on the proposal sent by Port.
(c).	As can be seen from the letter dated 28.6.2012 of the Estate Management Section of the VOC Port Trust, that the port was informed by the Authorities that the lease rent which was earlier sent to the Authorities for approval by its proposal dated 28.6.2009, was found to be not realistic with reference to facilities of infrastructure and the market value of the land.	As per TAMP's directions, VOCPT submitted revised proposal for approval.
(d).	Even in the revised proposal, there is no material placed before this Authority which sets out the facilities of infrastructure. As per the Orders of this Authority and as per the guidelines of the Government of India, the Committee to consider the revision in lease rent should comprise of representatives from the Shipping Ministry, Revenue authorities and Port Trust authorities. A perusal of the report annexed to letter dated 28.6.2012 reveals that the Committee which has been formulated for fixing the lease rent comprised of 7 officers from the Port Trust and the DRO. Admittedly, the constitution of the Committee is not in consonance with the guidelines of the Government of India and as per the directions of this Authority. Therefore, the report of the Committee has to be rejected.	The revision of lease rent has been worked out strictly in accordance with Land Policy Guidelines approved by Government and considered by the Committee and approved by the Port Trust Board. Hence, proposal is in order.
(e).	A perusal of the Report of the Committee would also reveal that no mention has been made about the infrastructure facilities put in place by VOC Port Trust and there is no meaningful analysis of the facts placed before it. The Committee, it appears, has not invited the Authorities for any comments.	After having discussions and scrutiny, the Committee has recommended the revised proposal to TAMP for approval.
(iii).	The revision is arbitrary, excessive and on an incorrect method of valuation	
(a).	The revision which is sought by VOC Port Trust is highly excessive and arbitrary. For example, the valuation of Zone A is based on	As per Sl.No.6.3 (i) under the head "Market value of land and Schedule of Rates (SOR)" Committee constituted for arriving

	a single prime location at ₹1,543 per sq.mtr. as on 1.7.2011 for a weighbridge based on open tender. Obviously, this cannot be compared with the long term existing lease lands for terminals and godowns.	at market value of land may take into account "Highest accepted tender of port land for similar transactions" as one of the applicable factor to decide lease rent. Hence, the decision of port to recommend the rate of highest accepted tender of port land for similar transaction is justified.
(b).	It is really incomprehensible for the Committee to arrive at the market value of the land as on 1.7.2011 as the basis for revising the Scale of Rates for the period from 1.7.2007 to 31.3.2012.	The proposal was worked out by adopting 6% of market value as rent per annum as per Land Policy Guidelines.
(c).	Needless to state that the VOC Port Trust continues to be the owner of the land even though the property is leased out to the Company. The attention of the Authority is invited to the judgement of the Bombay High Court in the case of Jayantilal Dharamsi and others Vs Board of Trustees, Port of Bombay. The Bombay High court in this case, has set a side the revision in lease rent as unreasonable and exorbitant. The following extract from the judgement is reproduced below: *"The exempted categories have to conform to the expected behaviour which entitled them to the exemption. It has not been shown that the rental revenue of the BPT is such as inhibit it in the performance of its duties much less maintenance of its real estate. The attempt to pass on the entire liability of the maintenance expenditure on the non-service tenants is impermissible. This is no doubt that the BPT like all local authorities and public enterprises, can do with an increase in revenue. The benefits of such an increase can be passed on to the citizenry in the shape of improved services if not a reduction in taxes – direct or indirect. That however cannot be a reason for permitting it to fix the market value of its land in terms of the land of demand and supply and based there upon, charge also called reasonable return. Tested thus, the increases proposed by the BPT are anything, but reasonable or fair. A mere look at the figures given above and the rents chargeable would show that the increase is astronomical. That cannot be permitted, for it is clearly arbitrary and capricious being based upon an inapplicable measure. What would be reasonable rent that the BPT to evolve and so far as the present petitions are concerned, all that is necessary to be done, is to give a declaration that the demand increases coupled with termination of tenancies are violative of the rights of the petitioners. For that reason, they are unenforceable. Rule in these terms made absolute, with parties*	The extract of judgement furnished by the firm is related to framing of Scale of Rates. Hence, not comparable with the present proposal.

	being let to bear their own costs. Rent being paid by the petitioners under an interim order passed by the Court shall continue as shall the Bank Guarantees, for a period of 16 weeks as from today." A copy of the judgement of the Bombay High Court is furnished.	
(iv).	Revision is not in consonance with land use policy and guidelines for tariff fixation. It is submitted that the proposed revision is not in consonance with the Land Use Policy of the Government as well as the guidelines framed dated 31 March 2005 of the Tariff Authority for Major Ports. A copy of the guidelines is furnished.	The proposal is in accordance with Land Policy Guidelines approved by Government and the valuation report as per TAMP's directions. Hence, in order.
(v).	In the light of what is stated above, it is prayed that the Authority may reject the proposal of the VOC Port Trust seeking revision of lease rentals for the period from 1.7.2007 to 30.6.2012 as the Agreement between the parties as well as the statute under Sec.49 of the Major Port Trust Act does not permit retrospective revision as well as arbitrary, capricious and beyond human apprehension being 22.63 times. So far as for the period from 1.7.2012 to 30.6.2017 is concerned, the request of the VOC Port Trust may be rejected since it is arbitrary, capricious and beyond human apprehension being 22.63 times.	In the lease agreement executed between VOCPT and Chemplast the condition stipulated is as "The Lessee shall pay the revised rent at the rate as may be fixed by the Board of Trustees, VOC Port Trust from time to time". Hence, port have a right to revise the lease rent in periodicity as per the instructions of the Government.
2.	**All India Chamber of Commerce & Industries**	
(i).	The letter dated 14.8.2012 of the Tuticorin Port-Land Users' Welfare Association (Zone-B) is very clear to the point and the request made by them is reasonable deserving your sympathy and favourable consideration. Only a reasonable hike is recommended.	Reply to the comments of Tuticorin Port Land Users Welfare Association's letter dated 14.08.2012 furnished to TAMP vide A8/01/2012/Rev.II/D.1655 dated 01.11.2012.
(ii).	India our motherland has a very long sea coast and the revenue earned by the Fisher Folk, and their contribution towards earning foreign exchange is commendable. But their welfare is not fully looked into.	
(iii).	The subject land area being alluvial, people are not in a position to make permanent and efficient workshops on account of which they have to depend on other big workshops too in the town which result in less income. Their activities are similar to cottage industries. They are only petty shops, coir and betal nut shops, cycle repair shops, saloon and small workshops. A hike in their operational cost will only be passed onto the Fisherman and in turn to the consumers.	
(iv).	The fisherman depend exclusively on the Port Authorities and the sea for their livelihood. Therefore, they deserve an extraordinary consideration. For the period from 1.7.2007 to 30.6.2012 they have paid	

	the rent and the arrears. Hence no more collection.	
(v).	It is our earnest request that for the period from 1.7.2012 to 30.6.2017 only a reasonable increase alone may kindly be recommended. The proposed increase recommended is exorbitant.	
3.	**TANGEDCO Ltd.**	
(i).	The Govt. of Tamil Nadu had handed over about 1459.70 acres of land during 1969 to Tuticorin Port Trust at free of cost for the establishment of Tuticorin Harbour Project. In 1973, the TPT had handed over 468.7 Acres of barren land to TNEB on lease basis for a period of 30 years for the establishment of Tuticorin Thermal Power Station – All development works on these lands have been done by TNEB at its own cost till date.	The VOCPT has not furnished its reply.
(ii).	As per general condition of allotment of land by the State Government, the intending departments have to surrender the excess land if and when they are not required for the purpose of allotment made.	The VOCPT has not furnished its reply.
(iii).	Inspite of the above and not heeding to TNEB's request for retransfer of lands, TPT have leased out the lands on lease basis for a period of 30 years. Initially TPT had leased out the lands under question at the rate of 11 paise/ Sqm/ Annum for 10 year from 1973 onwards. Subsequently, TPT in different spells in-between 6/1973 to 6/1997 had increased the lease rent from 11 paise/ Sqm/ Annum to ₹8.80/ Sqm/ Annum for fully developed area and ₹2.60/ Sqm/ Annum for undeveloped area respectively.	The VOCPT has not furnished its reply.
(iv).	Further, all of a sudden, the TPT had unilaterally revised the lease rent for the entire extent of land at the rate of ₹14.0/ Sqm/ Annum with effect from 01.07.1997. The TAMP has fixed the lease rent with escalation in the subsequent years as below: As on 01.07.2002 – ₹18.40/ Sqm/ Annum, From 01.07.2003 to 01.07.2006 – ₹19.32/ Sqm/ Annum, From 01.07.2007 to 01.07.2012 – ₹20.91/ Sqm/ Annum.	The VOCPT has not furnished its reply.
(v).	The TAMP had sent proposal furnished by TPT for revision of lease rent from ₹20.50/ Sqm/ Annum (as on 01.07.2006) to ₹146.30/ Sqm/ Annum from 01.07.2007.	The VOCPT has not furnished its reply.
(vi).	At the time of handing over of lands by TPT during 1973, the market rate of land was in the order of ₹1500 to ₹2500/- per acre and the total cost of land of extent 468.7 acres was only ₹9.50 lakhs. Till now, TNEB has paid nearly ₹38.15 crores towards lease rent.	The VOCPT has not furnished its reply.
(vii).	The VOCPT have proposed to revise the	The VOCPT has not furnished its reply.

	lease rent right from 01.07.2007 as below: From 01.07.2007 to 30.06.2012 - ₹ 415.70/ sqm/ annum From 01.07.2012 to 30.06.2017 - ₹ 524.33/ sqm/ annum As per the above lease rent proposal, excluding the lease rent already paid by TNEB, the VOCPT is now claiming an arrears of nearly 350 crores from 01.07.2007 to 30.06.2012 and annual lease rent of ₹90.50 crores from 01.07.2012 onwards (with 2% escalation every year)	
(viii).	Further, it is to inform that the TPT had executed two numbers of deed of lease agreement with M/s.NLC Tamil Nadu Power Limited (NTPL) on 2nd day of May 2011 for the allocation of 25 hectares of land for the construction of residential quarters and 90 hectares of land for the establishment of 1000 MW Coal based Thermal Power Station adjacent to our TTPS in which, it is agreed to collect the lease rent as upfront premium for a period of 30 years, fixing the lease rent at the base rate of ₹20.10 per sqm prevailed during 2005-2006.	The VOCPT has not furnished its reply.
(ix).	The TANGEDCO/ TNEB is facing critical financial crisis with huge accumulated loss of ₹55,000 crores. The annual lease rent of ₹90.50 crores proposed from 01.07.2012 is very exorbitant and cannot be accepted.	The VOCPT has not furnished its reply.
(x).	TANGEDCO/ TNEB is a service oriented organization and statutory body of State Government. The enhancement of lease rent by VOCPT will further increase the cost of generation and in turn affect the general public only.	When the port lands were allotted to TNEB, the TNEB had accepted the conditions that TTPS has to remit the lease rent every year promptly as per the lease rent fixed by the Tuticorin Port Trust and revised from time to time. As per the terms and conditions for allotment of land to TNEB, the lease rent can be revised after expiry of 10 years of lease period initially and thereafter at the end of five years. The lease rent was subsequently revised with approval of Ministry in the year 1982, 1987 and 1992. Two cases were filed by TNEB for retransfer of port land to TNEB by port and the revision of lease by TAMP were dismissed by the Hon'ble High Court of Madras at Chennai and VOC Port is awaiting for the judgment copies.
(xi).	TANGEDCO/ TNEB has addressed to the TAMP communicating the objections of TANGEDCO on the above proposal of revision of lease rent in letter dated 12.09.2012. The TANGEDCO/ TNEB has addressed to the Principal Secretary to Government Energy Department requesting to take up the matter with GOTN through Law Department/ GOTN for making necessary arrangements for reallotment/ transfer of the lands leased out by TPT to TNEB directly from Forest Department/ GOTN to TANGEDCO after adopting all Government formalities.	
4.	**Tuticorin Port - Land users Welfare Association (Zone-B)**	
	It has reiterated its earlier comments dated 14 August 2012 (page nos.165-172/c)	Reply to the comments of earlier letter of Tuticorin Port Land Users Welfare Association dated 14.08.2012 is already furnished to TAMP.
5.	**Tuticorin Ship Agents' Association**	
	It has reiterated the comments furnished by	Same comments as furnished by Tuticorin

	Tuticorin Custom House Agents' Association earlier.	Custom House Agent's Association which has been replied by VOCPT to TAMP vide letter dated 1 November 2012.

3.2. A summary of the written submission submitted by Indian Oil Corporation Ltd. (IOCL) as decided at the joint hearing and reply furnished by VOCPT thereon are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Written submission made by IOCL</th><th>Reply furnished by VOCPT</th></tr>
<tr><td>(i).</td><td>The similarity and relevance of land leased to NTPL by VOCPT is significant with reference to the similarity of land leased to IOCL, as against the tiny piece of land leased out for a weighing bridge which is a monopolistic activity.

Lease deed was signed between Board of Trustees of VOCPT and Board of Directors of NTPL on 2 May 2011 with a rental value of ₹20.91/ sq. mt. which was the rental value collected by VOCPT for service category in Zone-A area.

<table>
<tr><th>Reference</th><th>Lease Deed (copy furnished)
Tuticorin Joint Sub Registrar-1</th><th>Lease Deed (copy furnished)
Tuticorin Joint Sub Registrar-1</th></tr>
<tr><td>Area
Document</td><td>25 Hectare
Document No.1117/11 of 10 pages</td><td>102.465 Hectare
Document No.1116/11 of 11 pages</td></tr>
<tr><td>Purpose</td><td>Quarters of NTPL Officers/ Employees</td><td>2 x 500 MW Thermal Power Project</td></tr>
<tr><td>Amount</td><td>₹9,48,40,000/- for 30 years for 25 hectares. The lessee shall pay ₹1 per annum before commencement of the every lease year to lessor to hold the demised land as per Tenant Act though upfront premium is paid fully at the beginning.</td><td>₹38,87,11,224/- for 30 years for 102.465 hectares. The lessee shall pay ₹1 per annum before commencement of the every lease year to lessor to hold the demised land as per Tenant Act though upfront premium is paid fully at the beginning.</td></tr>
</table>
</td><td>Comparison of rate allotted to NTPL by IOCL does not arise at this stage since the land was allotted to IOCL during the year 1972 and 1998. The lease rent was accepted by IOCL at commercial rate and being remitted by IOCL. Also, IOCL is aware of the fact of revision of SOR by TAMP once in five years.</td></tr>
<tr><td>(ii).</td><td>Objections:</td><td></td></tr>
<tr><td>(a).</td><td>127 hectare of land was leased to NTPL by VOCPT at a rate of ₹20.91/ sq. mtr./ year with permission to pay upfront premium for 30 years. In terms of Net Present value the rent paid per sq. mtr. of land by NTPL is (30 x 20.91) is ₹627.30 for 30 years. Whereas the rate at which lease rental is sought from IOCL is ₹1571.60 per year which is 75 times for each year. Even if the comparison is made among the respective category (i.e. Service & Zone-A), the difference is between ₹524.33 vs ₹20.91 (as per the tabulation forwarded by VOCPT) which is 25 times more for very year.</td><td rowspan="3">As per Land Management Policy, one of the methods prescribed for land valuation is based on the highest tender rate received for the Port Land. However, based on the discussions held during the joint hearing conducted by TAMP with the Port Users on 29.11.2012 and further meeting conducted by port with the port users on 10.12.2012, a revised proposal has been submitted to TAMP.</td></tr>
<tr><td>(b).</td><td>In case of comparison made in terms of Net Rupee Value for an area of 29.81 acre (IOCL has nearly 29.81 acre on lease) at ₹20.91/ per sq. mtr. on upfront premium basis Vs Commercial rate sought at ₹1572.60/ sq. mt./ year along with the due revision of every 5 years by TAMP, the outcome will be unimaginable.</td></tr>
<tr><td>(c).</td><td>Port had agreed to NTPL on 15.4.2008 to accept the rate prevailing on 14.8.2007, which was ₹20.91/ sq. mtr./ year. But, the rental rate being charged for this land as on 2.5.2011 i.e. the date of signing the deed was around ₹63.63/ sq. mtr./ year for Commercial Zone-A. It is pertinent to note that VOCPT Board passed on 13.2.2009 the new lease rental rates, seeking increase and submitted it to TAMP on 21.4.2009, with Service category in Zone-A at ₹31.70. This</td></tr>
</table>

	value is 50% more than the agreement with NTPL made on 15.4.2009 which was 6 days back. In all fairness, IOCL would accept this rate, independent of the category discrimination.	
(d).	Immunity from any future revision of the land rent is one another major advantage which VOCPT naturally bestowed to NTPL, and it is a natural phenomenon in upfront premium cases. But, the importance of the date of agreement which is 45 days after the expiry of the validity of rates approved by TAMP is point of interest. In brief, the deed bestows in addition to nominal lease rental value, immunity from any further increase in lease rent value, even when TAMP revises the rate for the period effective 1.7.2007. Agreement for allotment of land was taken in a meeting held on 15.4.2009 between Board of Directors of NTPL & Trustees of VOCPT at ₹20.91/- as base rate prevailing on the date of handing over of the land which was 14.8.2007. Please note that VOCPT proposed in the recently proposed lease rate for Service category Zone-A w.e.f. 1.7.2007 is ₹415.27 / sq. mtr./ year which is 20 times more.	
(e).	The kind and proximity of land, including its approach to the land, is very similar as these two units i.e. NTPL & IOCL are located adjoining.	
(f).	Categorization of NTPL as Service as against categorizing IOCL under Commercial while both are CPSU's of / for similar purpose "energy" and serving the nation as units under the ambit of Essential Services Act. Therefore, IOCL should also be considered under "Service Category".	
(g).	Its observation with reference to the land value recommended by land valuers nominated by port authorities Vs the lease rental being paid by NTPL is as below: - Valuers report purports the land value as ₹1,67,35,000 per acre - Thus value of the land per sq. mtr. will be = ₹4135 per sq. mtr. - 6% of the value of the land if considered in SOR for lease rent, i.e. ₹248/- - Whereas the agreement with NTPL is made at ₹20.91 per sq. mtr. and converting it to commercial = ₹20.91 x 3 = ₹62.73 - Percentage of value of land as rent for NTPL deed is 2.5% only - With reference to Service & Zone-A rate it shall be ₹62.73/ sq. mtr. which is 1.5% only - Valuers report is dated 1.7.2011 & NTPL lease deed was signed on 2.5.2011.	
(h).	In case VOCPT follows the same method, by taking NTPL Land Lease Value as the base and extrapolate for arriving the land value effective 1.7.2007 and 1.7.2012, and respective rates for industry, commercial, etc., the outcome of land value thus arrived will not be objected by users. Example: ₹1244.85 from 1.7.2007 and ₹1571.57 w.e.f. 1.7.2012 = land value has increased by 26% from 2007 to 2012, which means if ₹20.91 x 3 = ₹62.73 is base price in 14.8.2007, with 26% increase the base price for commercial category in Zone A should be ₹62.73 x 1.263 = ₹79.23/ sq. mtr./ year.	
(i).	IOCL takes opportunity to highlight the inappropriateness between the rate quoted by a monopolistic weigh bridge	

operator Vs a unit like Indian Oil which serves the country from oil related volatility. A mini comparison is made between weigh bridge operator vis-à-vis leverage available with weigh bridge operator.

Road Toll Tax @ National Highways	**Weigh Bridge @ VOCPT in Main Road**
Capital Investment in laying the NH is an project requiring huge investment, running to hundreds of crores.	One time investment of weigh bridge, which is opined to cost less than 2 crores.
Machineries required for collecting TOLL comprises of Huge Shelters, large amount of lights, Barrier Gates, CCTV Camera set up, 24 x 7 basis manpower 3 for each bay, shelter for workers, vehicles to patrol, electricity consumption.	NIL investment, since even the Service Road for the weigh bridge is laid by Port Trust, including illumination for this service road.
Annual Maintenance of all the moving & electrical items including computers and the Road is major expenditure.	Only revenue expenditure is the AMC, Annual Maintenance Contract for the Weigh Bridge and one/ two computers.
Even the number of computers will be minimum 20 nos.	Maximum two computers are required which comes along with the weighing bridge. Even the risk of taking CASH collected to nearby bank over large distances does not happen in this.
Maintenance of Roads is a major and recurring revenue expenditure.	Except AMC charges or buy back scheme arrangement with OEM, there is no other expenditure.
Area of operation is wide and extensive.	Localized like Shop/ Branch of a Bank.
Responsibilities rested with service provider is wide and complex in nature.	NIL responsibilities.
Regulated by Government by NHAI as the service provider is not free to charge at his discretion.	Whether the charges collected by weight bridge operator comes under SOR with reference to the TAMP notification dated 31 March 2005 Clause-7 needs to be perused as the services are nearly monopolistic and essential in nature "Regulation of Charges levied by Other Authorized Service Providers: NOTE: In case this is not applicable, the rate quoted and tender floated might have delivered a different lease rental value, even thou we strongly disagree the transaction as similar one with reference to land policy.

It has, therefore, requested to consider IOC under "Service Category" and the lease agreements of NTPL as the value of the land, as the similarity also does exist between NTPL & IOCL in multiple aspects. These agreements cover an considerable area and date of registration is also of a recent period i.e. May 2011. It has requested TAMP to take cognizance of these 2 lease deeds and award similar rates which is ₹20.91/ sq. mtr./ year which will be accepted.

4. Thoothukudi District Tiny and Small Scale Industries Association (TDTSSIA) vide its letter dated 13 December 2012 has furnished their comments after the joint hearing. A copy of their comments was forwarded to VOCPT as feedback information. The VOCPT has not furnished its views on the points made by TDTSSIA.

(i). Several small scale industries, tiny shops and small service providers are located in Zone B of the VOCPT land. They provide services to the fishing vessels located in the fishing harbour nearby and sailing vessels located in old port. Fishing activity provides employment to thousands. Sailing vessels provide cheap coastal transport.

(ii). Recently, the VOCPT has proposed to increase the land rent by fifteen times, with retrospective effect from 2007. The drastic increase in land rent will cripple all industrial, business and service activities around Tuticorin Fishing Harbour and cause unbearable hardship to the fishing vessels and sailing vessels.

(iii). When the rentals are increased with retrospective effect, the resulting financial burden will drive many small scale industries and shops into bankruptcy.

(iv). In view of these dangerous prospects, it has requested to continue to levy the existing rate of rent for another five years.

5. A summary of the comments received from the users/ user organisations on the VOCPT proposal dated 29 November 2012 filed at the joint hearing seeking higher lease rent in case of multi-storied building and reply furnished by VOCPT thereon are tabulated below:

Sl. No.	Comments of users/ user organisations	Reply furnished by VOCPT
1.	**Thiagarajar Mills (P) Ltd.**	
	It has pointed out that suit O.S. 778/2004, Principal District Munsif's Court, Tuticorin (Formerly O.S. No.142/98, Sub-Court, Tuticorin) wherein it has questioned the previous demand for enhanced rate made in 1998 is still pending disposal before the said court. The present proposal from the VOCPT for exorbitant increase in tariff rate revision with retrospective effect from 1 July 2007 is illegal and liable for withdrawal.	The VOCPT has not furnished any separate comments here.
2.	**VTM Limited**	
	It has pointed out that suit O.S. 779/2004, Principal District Munsif's Court, Tuticorin (Formerly O.S. No.141/98, Sub-Court, Tuticorin) wherein it has questioned the previous demand for enhanced rate made in 1998 is still pending disposal before the said court. The present proposal from the VOCPT for exorbitant increase in tariff rate revision with retrospective effect from 1 July 2007 is illegal and liable for withdrawal.	The VOCPT has not furnished any separate comments here.
3.	**Diamond Shipping Agencies Pvt. Ltd.**	
(i).	The request from the Port is not logical and it is absurd for demanding such higher lease-rent for Multi-storied Buildings where the lessee has only provided the land on lease basis – and the whole superstructure of the building have been built at the cost of the lessors after getting proper approval from the lessee. Hence such higher lease-rent for Multi-storied Building should not be entertained.	Reply for the similar queries raised by the various users has already been replied to the TAMP Authorities. However, it is submitted that by vertical expansion of the buildings, the use of land is improvised by the lessee without the need for additional land and also earn additional revenue by utilizing structures created in the allotted land without payment of additional lease rent. Hence, port proposed to levy

(ii).	Considering the future potential of the Indian Industries, the Indian ports should be well equipped to handle such increased flow of traffic. The Indian Ports have to market themselves to the world to attract more business. Many Indian representatives who are going around all Indian ports are marketing about Port of Halifax, Port of Le Havre and Port of Antwerp etc. – whereas the attitude of Indian Ports is considered to be very narrow-minded and working on petty things rather than looking at the larger interests. It has, therefore, strongly recommended that such unjust proposals are scrapped off with strong comments so that the ports will function with future in their minds.	additional lease rent at 50% of SOR for every additional storey in order to suitably factor the same in the collection of lease rent. Hence, the proposal submitted by the port may be considered by TAMP.
(iii).	Besides, the retrospective implementation of the revision of lease-rent is totally unacceptable to the trade and not to be implemented.	
4.	**Tamil Nadu Maritime Academy**	
(i).	The Tamil Nadu Maritime Academy, an autonomous body under the administrative control of Government of Tamil Nadu, has been functioning from the year 1998 onwards. In order to establish the institution, being a non-profitable educational institution, the port allotted 20,102.82 sq.m. of land on 29 years lease basis and three buildings on one time cost. An amount of ₹30,13,100/- towards the cost of three buildings was remitted to the port in five interest free equal annual instalments. Thereafter renovation works were undertaken on these buildings by this Academy in order to convert the same into Hostel and Dining Hall-cum-Cook House incurring an expenditure of ₹40.00 lakhs for the benefits of the students.	The present proposal is not applicable to the user.
(ii).	This institutional is situated 10 kms away from the VOCPT (Zone A). This institution had not raised any multistoried building and there is no proposal to raise multistoried building in this Academy. Hence, the proposal for the revision of lease rent as proposed by the port is not applicable to the institution.	
(iii).	Incidentally, it may also be noted that the main object of establishing the institution is to provide maritime education to the children from backward/ poor family and from the most backward area.	
(iv).	This Academy is charging low rate course fee which is very much lower than the fees collected in other institutions and consequently children hailing from poor families are being really benefitted. Hence, it is very imperative that some kind of	

	concessions/ exemptions are likely to be extended to this institution in the matter of levy of lease on the port's land as is being extended in the other Central/ State Government Departments/ Port Trust, etc. which is insisted from time to time.	
5.	**SHV LPG India Private Limited**	
(i).	The lease agreement does not have any such stipulation to charge additional rent for multistoried buildings. The rent is prescribed for the land leased by the VOCPT. Besides, the Land Policy for Major Ports, 2010 does not prescribe any such ground for deciding the rent on port lands.	
(ii).	Multistoried construction is made for optimum utilisation of port land and thus it increases land's utility and Port Trust is expected to encourage and incentivize the same in its larger interest. However, the proposal dis-incentivizes optimum utilization of lands by the users. Further, there is no differentiation in the proposal between multistoried constructions for various purposes. For example, a multistoried construction by use of which a lessee derives additional profits or commercial gain and a multistoried construction which is made for administrative offices, control rooms, etc. In view of the above, it has requested that the proposal of the Port Trust for levying 50% of additional rent on multistoried constructions may be rejected.	In the statement given by the lessee they have accepted that a multistoried construction by use of which a lessee derives additional profit/ commercial gain. Hence, port proposed to levy additional lease rent at 50% of SOR for every additional storey in order to suitably factor the same in the collection of lease rent. Hence, the proposal submitted by the port may kindly be considered by TAMP. Any commercial activity carried out by the lessee in the structure created as multistoried building will attract the additional lease rent as proposed by VOCPT.
(iii).	The additional rent should not be applicable to us (industries) since multistoried building is essential to the industrial activities like installation of control room, substation, conference room, etc. and they are not fetching additional revenue like rent. Hence, additional lease rental charges should be not be charged for multistoried buildings on us.	
6.	**All India Chamber of Commerce & Industries**	
(i).	The proposal from the VOCPT regarding revision of lease rent, is not convincing. The lease rent for allotment of land at Zone-A on long term basis proposed for revision by the VOCPT seems to be so exorbitant. It is not at all advisable to fix the lease rate at the multi-fold percentage with effect from 01.07.2007 as against the existing lease rate. Moreover, the lease rent should be fixed on a scientific manner and it should not be fixed based on the highest bidding rate quoted by various lessees. Further, it has stated that the lease rent to be fixed, prospectively only and not retrospectively.	The fixation of lease rent submitted by the port is being resubmitted with the revised proposals based on established principles followed over the years for the fixation of lease rent approved by the TAMP. Hence, the question of adopting of scientific manner and opinion against fixation at the highest rate quoted by various lessees is not maintainable.

	The lease rent for the port lands at the Zone-B area which has been proposed by the VOCPT at the same rate as proposed for the lands in Zone-A, also seems to be so exorbitant.	
(ii).	(a). As far as Zone-B lands are concerned, mostly the economically most backward class people i.e. fishermen are running small scale marine work shops, small marine spare parts shop, etc., (situated in sea shore of south beach road) and their income is meagre and they are not similar to large commercial establishments. With the very meagre profit, they are running the small business and they are facing severe hardships to pull on their families in the present cost of living. The exorbitant increase in the lease rent will certainly affect their business and they cannot afford to pay it to the Port Trust. (b). The Port Trust provides basic amenities like electricity, water, road, etc., in Zone-A whereas such facilities are not provided in Zone-B. Moreover, the various types of business and industrial activities at Zone-A cannot be compared with that of at Zone-B. Benchmarking a lease which is monopoly in nature (Weigh Bridge for 30 years) and with high commercial opportunity and located in such a way, it is a must for all importers which should not be compared for fixing the lease rates. It has suggested that marginal lease rent for Zone A & Zone B lands has to be fixed by the VOCPT.	The request for the lease rent for small scale marine work shops, small spare parts shop, boat repairing yards, coir shop, betal nut stall, cycle repair shop, battery workshop, stock yard for ice fish, petty ships, salon and tea stalls (situated in sea shore of south beach road) based on the request made by small boat owners at the Joint Hearing is examined. A separate rate being reasonable with respect to the economically most backward nature of the persons allotted the said lease is already covered in the revised proposals.
(iii).	Since the delay in making a revision is the delay caused in administration and that should not lead VOCPT to claim revision retrospectively. Any decision in this regard should be only prospective.	Regarding retrospective sanction, as per the extant rules and based on the agreement conditions, Port Trust is eligible for collection of revised lease rent at a revised rate with effect from effective date of implementation with approval of TAMP.
7.	**Tuticorin Port-Land Users Welfare Association**	
	No comments to offer.	--
8.	**Tamil Nadu Electricity Board**	
	The proposal for raising for rent for multi-storied buildings in addition to 50% of rent already fixed for basic floor area is not acceptable.	Any commercial activities carried out by the lessee in the structure created as multistoried building will attract the additional lease rent as proposed by VOCPT.
9.	**Tuticorin Thermal Power Station**	
	It is not relevant to Tuticorin Thermal Power Station and hence comments need not be furnished.	--
10.	**Neyveli Lignite Corporation Ltd.**	

(i).	VOCPT agreed to allot 133 hectares of land (108 hectares for establishing NTPL power project and 25 hectares for construction of colony) on long term lease rent, payable on upfront basis for 30 years. And MOU was signed between NLC and TPT on 28.10.2005 in this regard.	The VOCPT has not furnished its comments.
(ii).	A sum of ₹5 crores was paid on 25.6.2007 as advance towards lease rent to be paid as upfront premium for 30 years at the base rate of ₹20.10 per sq.m prevailing during 2005-06. Subsequently, during the meeting held on 15.04.2009, NTPL and VOCPT agreed that the upfront premium payable at the base rate of ₹20.91 per sq.m prevailing on the day of handing over i.e., 14.08.2007. Accordingly, the balance amount of upfront premium was paid on 20.05.2008. The VOCPT Board, in the meeting held on 12.08.2010, after detailed discussion has resolved (vide Resolution No.29) to approve the lease rate of ₹20.91 sq.m per annum as per TAMP's SOR for upfront premium calculation in public interest and also NTPL being the public sector undertaking.	The VOCPT has not furnished its comments.
(iii).	The actual measurement of land occupied for the project site is at 102.465 ha and 25 ha for residential quarters (totally 127.465 ha). On 02.05.2011, lease agreements have been entered into between NTPL and VOCPT. The above lease rate of 20.91 sq.m./ per annum has been incorporated in the lease agreement.	The VOCPT has not furnished its comments.
(iv).	There is no clause in the lease agreement which empowers VOCPT to increase the lease rent. There is no scope for the revision of lease rent during the lease period of 30 years. Therefore, any new concept emerging on this count will be void ab initio and legally not tenable.	The VOCPT has not furnished its comments.
(v).	Further, NPTL being a power project has national importance. Any abnormal increase in project cost will ultimately affect the viability of the project, in turn that will increase further the gap of demand and supply of power. Moreover, such eventuality will pass on the cost to the end user, viz., common public and they will be worst affected on account of such increase in cost of project. Considering the above points, the Board of VOCPT, as stated in para (ii) has freezed the lease rate as ₹20.91 per sq.m./ per annum.	The VOCPT has not furnished its comments.
(vi).	Moreover, it is not just and equitable to collect lease rent based on the floors to be constructed on the land allotted by VOCPT. The construction of structures and buildings is being carried out to meet the functional and environmental requirement.	It is informed that by vertical expansion of the buildings, the use of land is improvised by the lessee without the need for additional land and also earn additional revenue by utilizing structures created in the allotted land without any payment of

	The rent is for the area of the land allotted only and its usage with regard to construction of floors is up to the tenant's need of business/ operation. The construction of number of floors is going to occupy the same area of land allotted by VOCPT and in no way it affects VOCPT's interest. In other words, the rent is only for the vacant land enjoyed by the user but should not be based any other criteria.	additional lease rent. Hence, port proposed to levy additional lease rent at 50% of SOR for every additional storey in order to suitably factored in the collection of lease rent. Hence, the proposal submitted by the port may be considered by TAMP.
11.	**Chemplast Sanmar Limited**	
	No comments to furnish.	--
12.	**Tuticorin Custom House Agents' Association**	
(i).	The members of the association have entered into a Lease Deed for varying period upto 30 years. The Port Trust as well as the TAMP can fix the lease rent for the land alone every five years. The building on the land has been put up by the lessees at the cost of the lessees. The Land Use policy of the Government of India makes it clear that the Scale of Rates (SOR) can be fixed under Article 6 only taking into account five factors listed in Sub article a to e of Article 6. The extent of superstructure is not one of the factors to be taken into account while fixing the lease rent for the land.	In allotted areas some of lessees construct a single storied building and some others construct multistoried building even though the lessee pay the same lease rent for the land. Hence, the differential degree of usage of the same space by the individual lessees is to be suitably factored in the collection of lease rent. Considering this port has submitted the proposal for collection of additional lease rent to the multistoried building proportionately. It is further informed that one of the lessees M/s.IPL has accepted the concept in principle of collecting lease rent for every additional storey. TAMP may take a suitable decision on the proposal given by the port.
(ii).	The Port Trust is therefore taking into account irrelevant factors while submitting its proposal. The present proposal cannot be taken into account as it is opposed to the Land Use Policy.	No separate comments furnished on this point.
(iii).	The proposal is also to be rejected on the ground of lack of jurisdiction. The proposal as it seems to be based on factors outside the Land Use Policy is without jurisdiction of the Hon'ble TAMP which is bound by the Land Use Policy of the Government of India.	No separate comments furnished on this point.
(iv).	The proposal is also arbitrary. The cost of construction whether it is based on single storey or multi storied building is also borne only by the lessees. The Port Trust cannot take into account the number of storeys constructed by the Lessees while fixing the lease rent for the land.	No separate comments furnished on this point.
(v).	It is finally submitted that fixation of arbitrary premium of 50% for every storey for a multi storied building and 100% upfront for a single storied building is without any basis. It would enable the Port Trust to collect an additional 50% over and above the Land Lease rent every Five years. The said formula is without any basis and is arbitrary. The building	No separate comments furnished on this point.

	belongs to the Lessee and not the Port Trust. It is subject to depreciation. The formula usurps the building which is the property of the Lessees and it ignores the role of depreciation.	
13.	**Southern Petrochemicals Industries Corporation Ltd.**	
	Our Ammonia Importation Terminal was installed in ground floor. This is occupied by equipments in the ground floor and half of the portions in the first floor remaining space is covered with Office. The building is one and the same meant for our Ammonia Importation Terminal. The question of sublet of first floor to any other concern does not apply in this regard. Hence, the levy of additional 50% of the lease rent for multi-storied building is not acceptable to us.	Same as furnished for reply to Tuticorin Custom House Agents' Association.
14.	**Indian Potash Limited**	
	Indian Potash Limited comes under "Commercial" category with regard to land allotment made by the port on long term lease basis and it has constructed warehouses of single-storied building for handling and storage of fertiliser cargo being imported through the port. However, Indian Potash Limited is in agreement in port collecting 100% upfront lease rent for single story building and 50% more for every additional storey but the same may be calculated in proportion to the area constructed by the lessees and not on the land area originally allotted by the port.	Agreed.
15.	**Tuticorin Salt & Marine Chemicals Ltd.**	
	VOCPT cannot increase the lease rent retrospectively, as there is no guideline for the same. VOCPT is wrong in taking the basis for revision of rent for salt land, the highest rent received for letting out a small piece of land which is used for setting up a weigh bridge, and that too retrospectively. It has endorsed other objections raised by Tuticorin Customs House Agents' Association by their letter dated 20 September 2012.	Revision of lease rent for the salt pan land allotted to M/s.TSMC does not come under this TAMP proposal. It has to be considered separately. Further, the lessee has not raised any queries in respect of levy of lease rent for multistoried building.

6. A summary of comments received from users/ user organisations on the revised proposal dated 25 March 2013 filed by VOCPT and response of VOCPT thereon are tabulated below:

Sl. No.	Comments of users/ user organisations	Reply furnished by VOCPT
1.	**Diamond Shipping Agencies Pvt. Ltd.**	
(i).	**<u>Retrospective Implementation - Not acceptable:</u>**	The process for revision of lease

	It has reiterated that the revision of Lease Rent for the period which has been completed should not be entertained as the Port Authority and Tamp are very well aware that the revision of Lease Rent has to be applied for at least 3 to 6 months in advance so that Lease Rent for the revision period is finalized prior to the commencement of the period for which revision is required. Any implementation of tariff shall be prospective and therefore, the proposal for the period of 01.07.2007 to 30.06.2012 has to be summarily rejected. With respect to the 2nd Period for which the revision of Lease Rent has been proposed, it is 1 year later due to the improper working by the Port initially and therefore, the Port has to propose the Lease Rent from 01.07.2013 to 30.06.2017 only for a period of 4 years or from 01.07.2013 to 30.06.2018 for 5 years.	rent has already been initiated by port from 2006 which is prior to revision. But for want of particulars from Revenue Authorities and as directed by TAMP Authority the final proposal was not submitted to TAMP in time. The TAMP authorities of late requested to take a suitable decision on the request of the user. In the Annual leases agreements executed for long term allotments, one clause is included that base lease rent will be revised once in five years.
(ii).	**Market Value:** V.O.C. Port Trust has provided the Market Value in Annexure A for the period from 01.07.2007 & from 01.07.2012 on the basis of 6 Options. In all 6 options, the Market Value for the Land for different categories of purpose has been arrived at different levels. Please note, any Land purchase from a Land Owner will have a common Market Value only irrespective of usage of Land. Therefore, the application of Market Value at different levels for Services/ Residential, Industrial & Commercial purpose is not accepted. The Market Value of land rate has to be common for all Categories of Purpose.	Classification of port land for the purpose of fixation of different rates has been made by TAMP based on the purpose for which port land is leased out to port users. Hence, the classification adopted by port as services/ residential, industrial and commercial stands. The same classification is adopted years together also.
(iii).	**Highest of 6 Options –Not acceptable:** It has reiterated that it's earlier submission and stated that it is incorrect to consider land value based on the highest accepted Tender towards the small piece of Land given for a Weighbridge Operation on 30 Year Lease basis. The Port Trust should have gone for a Revenue Share Model with Weighbridge Operator thereby earning better revenue for Port. In that process, other Land users would have been spared.	As per TAMP's instruction after having the joint hearing, port had submitted a revised proposal for TAMP for consideration. As far as port's stand is concerned highest rate is the choice. However, as per discussions at joint hearing under option III, the average rate of H1 and H2 adopted in valuation report is considered and recommended for adoption. Hence this is in order. The earning capacity is not the determining factor for lease rent. Hence not to be considered. The issue of revenue share model is a policy decision not related to lease rent fixation.
(iv).	**Average value of Actual relevant Transactions**: Out of 6 options considered by the Port, the realistic value can be arrived on the basis of relevant transactions registered in the last 3 years. Therefore it is our rational approach to finalise based on Option (II) Lease Rent should be made effective from 01.07.2013 to 30.06.2017. The retrospective implementation should be avoided.	Option I & II are not realistic as due to under statement of value of relevant transactions while registering cannot be taken as land value to determine lease rent.
2.	**Chemplast Sanmar Limited**	
	They do not agree with the reply given by VOCPT with regard to the submissions made by them and it has reiterated the submissions made by them at the joint hearing and the written submissions.	Port stands with the reply already furnished to the user. The current proposal for lease rent fixation as per Option III is reiterated.
3.	**Tuticorin Thermal Power Station**	

(i).	Previously, the VOCPT have proposed to revise the lease rent right from 01.07.2007 as below: - From 01.07.2007 to 30.06.2012 = ₹415.70/ sqm/ annum - From 01.07.2012 to 30.06.2017 = ₹524.33/ sqm/ annum In the revised proposal, the land lease rent now proposed to TAMP for revision from 01.07.2007 at ₹32.44/ square metre/ annum for a period of 5 years i.e. upto 30.06.2012 vide option – IV in Annexure - B statement – I under the heading of service/ residential and the revision from 01.07.2012 at ₹47.86/ square metre per annum for a period of 5 years upto 30.06.2017 vide option – II in Annexure – B, statement – II under the heading of service/ residential are the least and recommended for acceptance.	Option II is not acceptable for reasons recorded in 1(iv).
(ii).	During the last joint hearing held at Tuticorin on 29.11.2012, all land users had raised objections on VOCPT proposal revising the land lease rent very belatedly and insisting for payment of arrears of lease rent with retrospective effect which amounts to crores of rupees in each case. It has been requested that arrears of lease rent yet to be paid to VOCPT from 01.07.2012 to till date by TNEB/ TANGEDCO may be waived.	TAMP may take a decision on fixation/ revision of lease rent with effect from 01.07.2007. Waiver of arrears of lease rent will not be acceptable by port.
(iii).	The land lease rent proposed from 01.07.2012 for a period of 5 years at the rate of ₹47.86/ square metre per annum works out to ₹8.37 crores approximately. TAMP may reduce the lease rent proposed by the VOCPT to the bearest minimum.	Not agreeable.
4.	**SEPC Power Private Limited**	
(i).	The rates increase are very steep and would adversely impact ultimate users.	
(ii).	The classification (or purpose) of users shall be on the basis of usage and accordingly discrimination shall not be made to public/ private sector. For instance, a Service Industry shall be classified under service category irrespective of the user being a Public Sector or a Private Sector.	
(iii).	The port has identified the above lands allotted to SEPC as “Port Related Industries”. In that regard, the revision in Lease Rates, as proposed by port in its revised proposal for Zone ‘A’ – Industrial activity is ₹103.59 sq. mtr. per annum for the period 1.7.2007 to 30.6.2012 and ₹207.18 per sq. mtr. per annum for the period 1.7.2012 to 30.6.2017. The unprecedented steep increase appears to be pursuant to the highest accepted tender of very small piece of port land leased for 30 years on upfront premium basis.	Lease rent of port land has been worked out strictly in accordance with Land Policy of Major Ports approved by Government. Hence, the proposal is in order.
(iv).	The objections and comments submitted by SEPC vide letter dated 12.11.2012 have not been considered in the detailed response submitted by VOCPT vide VOCPT letter dated 25.3.2013.	
(v).	The revised proposal submitted by VOCPT is contrary to the Ministry of Shipping’s ‘Land Policy for Major Ports, 2010’ and ignores the principles required to be adopted for fixation of lease rentals in as much as the objective of the proposal by VOCPT in proposing highest rate appears to be to obtain high lease rentals and increase revenue from	Lease rent of port land has been worked out strictly in accordance with Land Policy of Major Ports approved by Government. Hence, the proposal is in order.

	land, entirely ignoring the fact that VOCPT is essentially a port trust that is required to make best use of its resources to generate income as a port.	
(vi).	The Authority in the hearing held on 29.11.2012, directed the port amongst others to discuss with concerned users on the revision of rates and methodologies and presumably the said direction has not been followed in SEPC case. Further, while fixing the revised rates, SEPC comments submitted earlier have been totally ignored. In view of the same, it is submitted that SEPC earlier submission dated 12.11.2012 be treated as part of SEPC comments for the revised proposals also.	
(vii).	<u>Retrospective rate increase impermissible and flawed</u>: The revised proposal for retrospective increase from 1.7.2007 is deeply flawed and not in accordance with the Land Use Policy. It is further submitted that the retrospective fixation of market value is not a method approved by the Land Use Policy, 2010 and this Authority during the hearing held on 29.11.2012 have also noted the above fact. In view of the same, it is once again prayed before the Authority to reject the proposal of port for retrospective increase from 1.7.2007.	Since the revision of lease rent is due from 01.07.2007, the revision of lease rent proposed by port is effective retrospectively from 01.07.2007.
(viii).	It has reiterated its earlier comments on a few points viz. Land Policy requires the Major Ports to adopt rates to make them more competitive not less competitive, port's must not act as a landlord port only for revenue generation, improper appreciation of land use plan, etc.	(a). The revision of lease rent has been worked out strictly in accordance with Land Policy Guidelines approved by Government and not in individual stand of VOCPT. (b). Classification of port land for the purpose of fixation of different rates has been made by TAMP based on the purpose for which port land is leased to port users. Hence, the present classification adopted by port as service, industrial and commercial stands.
(ix).	<u>Manner of arriving at Valuation flawed</u>:	
	(a). It has also reiterated that the valuation carried out by M/s.Parthasarathy & Associates was without notice to them and is therefore not binding on us. In fact, the report is not an accurate assessment of the market value and is not based on actual inspection of properties. The Valuation is therefore deeply flawed.	Valuation Report of M/s.Parthasarathy Associates is considered by the Committee constituted by the port and proposal has been approved by the Board of Trustees of VOCPT. Hence, the report is for internal use of VOCPT and is not for circulation to public. Valuation Report takes the value of commercial purposes and adopt weightage of 66% for industrial and 33% for service based on the study of different values. This is accepted by the Committee and approved by the Board of Trustees of VOCPT.
	(b). In so far as the period from 1.6.2007 to 30.6.2012, we have already sought to reject is admissibility on the grounds of retrospective increase of lease rates. Further, the valuation report submitted by the valuer does not consider valuation for fixation of rates from 1.7.2007.	
(x).	It has reiterated its earlier submission relating to violation of Article 6.3 of the Land Use Policy 2011 in the Land Valuer's Report. It has further submitted that the Valuation Report prescribes the methodology of arriving at land value based	

	on other factors when the Land Policy guidelines clearly outlines for adoption of these factors as further elaborated below.	
(xi).	Option I: State Governments Ready Reckoner Value: The Policy prescribes "State Government's ready reckoner of the land values in the area, if available". (a). As per the Land Valuer's Report, the land value in the area are available. The Report considers land values not only in the area but also far off area; (b). The Far off area is the land where concentrated commercial/ residential activity exists. The Valuation Report seeks to increase the value of port land by adopting the rate from far such off areas and further increase it by using Distance Modification Factor. On the contrary, the far off area are not to be considered and even if they are to be considered, it has to be only reduced using Distance Modification Factor. (c). The Valuation report further increase the valuation rate citing infrastructure offered by the port. This is not permissible as already the port has considered development costs in its working.	
(xii).	Option II: "Average rate of actual relevant transactions registered in last three years in the port's vicinity, adding 2% escalation per annum and in case of Mumbai Port Trust @ 4% escalation per annum, as may be necessary". The Registered value of the nearby area alone should have been considered.	
(xiii).	Option III: "Highest accepted tender of port land for similar transactions": The documents relating to the transaction dated 1.7.2011 of Smt. Ponniathal has not been furnished. However, on an enquiry it is understood that the transaction relates to a Weighbridge for which tender was conducted. As per Article 6.3(i) of the land dues policy, the highest accepted tender lease of port land for a 'similar transaction' can be considered. The weighbridge is a monopoly for which tender has been called for. There is only one weighbridge in the port and hence the high value of the tender as it is a monopoly activity of the port is not a 'similar transaction'. Further a small piece of land and which also does not give other revenues to the VOCPT cannot be used for valuation of large extents like ours which gives other revenues to port including the Minimum Guaranteed Traffic. Furthermore, the said transaction is for a lease revolving round 'upfront basis' where the entire lease amount is paid upfront at the time of executing the Lease Deed and a nominal rent is paid every year. This being not the case with us, it is not a 'similar transaction'.	
(xiv).	Option IV: "Rate arrived at by an approved valuer appointed for the purpose by the port". The Land Valuer has chosen Land Value from Lease Agreement. This Lease Agreement considered is for a period of 3 months only. In fact, the comparable transaction would be the Lease Deed dated 2.5.2011 executed by the port trust in favour of NTPL and registered as Document No.1116 of 2011 and 1117 of 2011. A look at the Lease Agreement with NTPL would show the port trust had adopted a rate of	

	₹20.91 per sq. mtr. The said lease was registered as Document Nos.1116 of 2011 and 1117 of 2011 at District Registration Office Thoothukudi. The port has rightly adopted this lease value for NTPL after considering the various port income streams from NTPL by virtue of their power plant operations. The port having adopted the lease value at ₹20.91 per sq. mtr. cannot claim exaggerated rates mentioned in Option 1 to 5 for a similar transaction like ours.	
(xv).	Option V: "Any other relevant factor as may be identified by port". The Land Valuer has chosen SIPCOT Allotment Rate: SIPCOT allotment rate is increased by considering the Distance Modification Factor which is not a prescribed method. Availability factor and Infrastructure are also used which are not prescribed method. Escalation is considered at 25% as against the prescribed 2% escalation for the rate to be determined for 2012 from 2008 rates.	
(xvi).	The proposed increase is exorbitant. It is submitted that the port trust continues to be the owner of land and the lease rent should be competitive and comparable with other ports of similar location. In most cases, the enhanced lease land rent over 5 years exceeds the actual market value of the property. In respect of Zone A, it is not proper to take into account the guideline value for the areas outside the port trust where high amount of commercial activities are involved.	Lease rent of port land has been worked out strictly in accordance with Land Policy of Major Ports approved by Government. Hence, the proposal is in order.
(xvii).	It is submitted that for our lands, it is similar to lease of 127 hectare of land to NTPL ideally the case wherein 127.465 hectares of land was given on an upfront premium of ₹20.91/ sq/ mt/ year to NTPL, in May 2011 by VOCPT should be the basis under clause 6.3(1).a.(ii) since the purpose for which land has been given to units like NTPL and similar and of common purpose and utility. As far as the VOCPT is concerned, it cannot discriminate between port users on the basis of their being privately held or belonging to the Public Sector.	Port land was allotted to M/s.SEPC as identified in the Land Use Plan which was earmarked for industrial purpose and with the approval of the Ministry. Hence, comparison of allotment of land to M/s.NTPL does not arise at this stage.
5.	**Tuticorin Port Land Users Welfare Association (Zone-B) and All India Chamber of Commerce & Industries**	
(i).	Since small scale ships that they running are business activities linked with Zone-B port Tug boat, Sailing vessels and its labours and they have been engaged in fishing activities in these area for more than 100 years, they have been treated as Port related lessee in Zone-B port lands and licence fee have fixed for us under Zone-B Port related classification so far. The lands in our occupation came into possession long before the Tuticorin port becoming a major port and even before the coming in to existents of the Tuticorin new port. Now, the VOCPT has proposed at rates applicable to service purpose under classification Zone-B (Non Port-related) to us by taken into account the economically backward nature of us after our appeal in the joint clearing held on 29.11.2012. It is very sad to note that the traditional fishing folk instead of sympathy have received a punishment by treating us Zone-B non-port related from Zone-B Port related. It is against the natural justice.	
(ii).	(a). Since they have been doing these business activities	Revised proposal exclusively

	for Zone-B labours and have treated as Zone-B port related lessee, it has requested to treat Zone-B port related lessee and fix the lease rent rate applicable to service purpose under classification Zone-B port related otherwise the hike in the lease rent be an up normal and will affect our livelihood. For the lease rent for period from 1st July 2012 to 30th June 2017, the hike is about 383% and this steep increase will be untenable and will cause avoidable and justifiable hardship. So it has requested to fix it with normal hike. (b). Revision can't be retrospective as at it would put undue burden on small tenants like us and drive us into debts/closure of business activities of these most economically backward fishing communities. In the lease rent calculation market value & development cost have been included. But the lands which we are doing small scale business activities are on the seabed which has no guideline values & Market values. Since VOCPT has not provided any electricity, water, road facilities etc., in the calculation of lease rent including development changes and market value is unjustifiable.	submitted for Zone B allotments to be considered by TAMP as a special case.
6.	**Tuticorin Custom House Agents' Association**	
(i).	Arriving at of land value: The basic & benign objective of the MOS assigning 06 options should have been to assist assessment of land value. Far from their thought, it is being misused by the VOCPT to identify that which fetches them the maximum revenue.	The present proposal for revision of lease rent was submitted after considering various aspects with the recommendation of the Committee and Board.
(ii).	Expanding of categories: This port for their convenience (sinister motive) has fixed 06 categories of land whereas the MOS has fixed 13 nos. Why we ask, despite our earlier demand they are not following suit.	The present proposal for revision of lease rent was submitted after considering various aspects with the recommendation of the Committee and Board. The existing classification is reiterated.
(iii).	Retrospective fixation not permitted: The attempt to fix retrospectively the lease rent for the land for the period 1.7.2007 to 30.6.2012 is opposed to law and the terms of the Lease Deed. Neither port trust nor the TAMP can enhance lease rent with retrospective effect as there is no provision for retrospective fixation of land under the provisions of the Major Ports Act or the terms of the Lease Deed. We consider it unfair, unjust and inhumane that the VOCPT proposes thrust revision (is this case hefty increase) on a retrospective basis. This may please be dismissed and oblige.	Please refer reply at 1(i) above. Fixation of rate of lease rent was made only as per provisions contained in Land Policy Guidelines approved by Government.
(iv).	The TCHAA have reiterated their earlier submission and submission made by various user associations that the selection on the weigh bridge transaction is violative of Article 6.3 of the Land Use Policy 2011 as it is not a "similar" transaction. The Members of the Association fall in various categories and not one of them is running a weigh bridge. Therefore taking into account the weigh bridge transaction which is realistically speaking a monopoly is violative of Article 6.3 of the Land Use Policy 2011.	Current proposal adopts the average rate of highest tenderer (M/s.Poovanainthal) and second highest tenderer (M/s.M.Sindhu) and hence the issue is in order. The objections is not agreed to.
(v).	The transaction of the weigh bridge is said to be 1.7.2011 and cannot be used for calculating the market value	The valuation is based on the valuation report and is one of the

<table>
<tr><td></td><td>prevailing in 2007 by making certain deductions. The said method is not found or approved by the Land Use Policy. It is however based on the calculation of a valuer which method of calculation is not provided for in the Land Use Policy.</td><td>method recognized in Land Policy Guidelines.</td></tr>
<tr><td>(vi).</td><td>Violatives of Natural Principles of Justice:
The valuer has been appointed by the port trust and has acted without notice to the Members of the Association. As seen from page 2 of the report of Parthasarathy Associates, the inspection was done on 4.8.2011 and on subsequent dates and the port trust officers were only present. The valuer has inspected its report without giving notice to Members of the Association who are also to be heard. Hence there is violation of principles of Justice and the report is to be rejected.</td><td>The Land Policy Guidelines do not provide for such consultation. Hence no deviation is made.</td></tr>
<tr><td>(vii).</td><td>The formulas adopted by the valuer as found in the report is not acceptable to the Association. The valuation report has taken into account the weigh bridge tenders namely the highest and the second highest tenders and has adopted a formula. The valuer has to let in evidence to show that the formulas adopted find a place in the Land Use Policy. The valuer appointed by the port trust cannot adopt any formula which is not available in the Land Use Policy. The port trust and the TAMP are bound by the Land Use Policy. The valuer appointed by the port trust cannot devise formulas which are not found in the Land Use Policy in order to puff up the exorbitant claim of the port trust. Hence, it has requested TAMP to appoint a new valuer to carry out the exercise after proper notice to the Members of the Association.</td><td>Port's proposal to adopt highest tender rate. Now average of highest tender rate and second highest tender rate is as per Land Policy Guidelines. Hence objection is not agreed to.</td></tr>
<tr><td>(viii).</td><td>The port trust has incorporated the development charges at 15% in its calculation. The market value of the land by itself includes development charges and providing the development charges under a separate head is contrary to the Land Use Policy and the earlier orders of TAMP. Hence, the proposal has to be rejected.</td><td>The Options I and II are based on Municipal/ Panchayat registration/ ready reckoner values for this only, allowance towards development charges are added. However for option III, IV & V the same is not included. Hence the proposal is in order.</td></tr>
<tr><td>(ix).</td><td>The proposal provides for the increase as per the following tabular column which is excessive.

Table I – 01.07.2007 to 01.07.2012
<table>
<tr><th>Sl. No.</th><th>Purpose</th><th>Existing TAMP rate</th><th>Option 1 increase in %</th><th>Option 2 increase in %</th><th>Option 3 increase in %</th><th>Option 4 increase in %</th><th>Option 5 increase in %</th><th>Option 6 increase in %</th></tr>
<tr><td>1.</td><td>Service/ Residential</td><td>20.50</td><td>197.04%</td><td>165.71%</td><td>164.41%</td><td>53.68%</td><td>65.38%</td><td>94.49%</td></tr>
<tr><td>2.</td><td>Industrial</td><td>38.05</td><td>125.53%</td><td>91.77%</td><td>184.93%</td><td>65.61%</td><td>78.21%</td><td>109.58%</td></tr>
<tr><td>3.</td><td>Commercial</td><td>61.45%</td><td>84.58%</td><td>52.90%</td><td>167.32%</td><td>55.38%</td><td>67.20%</td><td>96.63%</td></tr>
<tr><td></td><td></td><td></td><td>Average 135.72%</td><td>Average 103.46%</td><td>Average 172.22%</td><td>Average 58.22%</td><td>Average 70.26%</td><td>Average 100.23%</td></tr>
</table>

Table II – 01.07.2012 to 01.07.2017
<table>
<tr><th>Sl. No.</th><th>Purpose</th><th>Existing TAMP rate</th><th>Option 1 increase in %</th><th>Option 2 increase in %</th><th>Option 3 increase in %</th><th>Option 4 increase in %</th><th>Option 5 increase in %</th><th>Option 6 increase in %</th></tr>
<tr><td>1.</td><td>Service/ Residential</td><td>22.19</td><td>256.56%</td><td>159.68%</td><td>388.57%</td><td>183.96%</td><td>234.22%</td><td>268.95%</td></tr>
<tr><td>2.</td><td>Industrial</td><td>41.19</td><td>214.36%</td><td>109.95%</td><td>426.48%</td><td>205.99%</td><td>260.16%</td><td>297.58%</td></tr>
<tr><td>3.</td><td>Commercial</td><td>66.52</td><td>175.29%</td><td>77.33%</td><td>393.95%</td><td>187.09%</td><td>237.91%</td><td>273.01%</td></tr>
<tr><td></td><td></td><td></td><td>Average 215.40%</td><td>Average 115.65%</td><td>Average 403.00%</td><td>Average 192.35%</td><td>Average 244.10%</td><td>Average 279.85%</td></tr>
</table>

These increases are exorbitant. The same objection can be considered for 2012-2017 fixation also. The increase sought is exorbitant. Presently the Members are paying</td><td>The proposal for lease rent is prepared based on the guideline issued by Ministry in Land Policy. The statement that the members are paying 5% increase presently is not correct.</td></tr>
</table>

	5% increase which is reasonable.	
(x).	The port trust has merely accepted the report of Parthasarathy Associates. The port trust is required under the Land Use Policy to apply its mind on the various options which are listed out and give reasons for accepting for any one of the options. It is not permitted by the Land Use Policy to delegate the powers. The valuer has considered the six options and has recommended one of the options. The port trust has not considered the other options but has accepted the valuation report. This amounts to an unauthorized delegation which is not permissible under the Land Use Policy. The valuation report is to be rejected and hence the proposal based on the valuation policy has also to be rejected.	Land valuation as per Land valuation report is the basis for lease rent fixation. Hence contention is not acceptable.
7.	**Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)**	
(i).	The lease rent of ₹20.91/Sq.m/Annum already fixed by TPT as on 01.07.2007 and ₹23.08/Sq.m/Annum as on 01.07.2012 has been paid as per the orders of High Court/ Madras. As per the revised lease rent proposal, the lease rent which is increased by 3 to 5 times as ₹55.81/Sq.m/Annum and ₹111.63/Sq.m/Annum as on 01.07.2007 and 01.07.2012 respectively is comparatively high.	
(ii).	TANGEDCO is a service oriented organization and is fully owned by the State Government. This periodical increase of lease rent by TAMP in the above manner could prove a heavy financial burden on the functioning of TTPS thereby resulting in enormous increase in cost of generation and in turn affect the consumers only. Considering the above, TANGEDCO expresses its objection to the revision of lease rent by VOCPT.	Rate has been fixed only as per guidelines of Land Management Policy approved by Government which has to be revised once in five years. Further, the port lands were allotted to TNEB, the TNEB had accepted the conditions that TTPS has to remit the lease rent every year promptly as per the lease rent fixed by the VOCPT and revised from time to time.
(iii).	Meanwhile, TANGEDCO and NLC are establishing a 2x500MW Thermal Power Project under Joint venture execution by NTPL on 127.465 Hectares of land taken from VOCPT on 30 years lease paid as upfront premium from 7/2007 at the lease rent of ₹20.91/Sq.m/Annum with 2% escalation/Annum.	Not relevant to current lease rent proposal.
(iv).	Since both NTPL and TTPS are under Joint venture/owned by TANGEDCO, the above terms of lease rent of NTPL could be considered in case of TTPS also.	Not relevant to revision of lease rent.
(v).	Under these circumstances, it has requested to fix the present lease rent at the existing rate now being paid with annual escalation of 2%.	
	Further comments furnished by TANGEDCO dated 4 December 2013	
(vi).	TANGEDCO has requested in its letter dated 30 April 2013 to fix the present lease rent of the lands taken from VOCPT by TTPS/ TNEB Ltd. at the existing rate already fixed by VOCPT at ₹20.91/ sq.m./ annum as on 01.07.2007 and ₹23.08/ sq.m./ annum as on 01.07.2012 with annual escalation of 2% as the revised lease rent which is increased by 3 to 5 times as ₹55.81/ sq.m./ annum and ₹111.63/ sq.m./ annum as on 01.07.2007 and 01.07.2012 respectively is comparatively very high.	Factual.
(vii).	Earlier, objecting to the exorbitant increase in rent claimed	Factual. The order of Hon'ble High

	by TPT, TNEB in 2003 had filed writ petitions W.P. No.22970/2003 & W.P. No.22976/2003. The High Court of Madras while dismissing the above writ petitions has observed and pointed that it is always open to both the parties to go for negotiation or settlement if they decide to do so.	Court of Madras dated 31 July 2012 dismissed the petitions filed by M/s.TNEB as the prayers are not maintainable in law. The reference to go for negotiation or settlement if the parties decide to do so vide para 17 of the order is a general remark and not a direction. Hence, the same is not relevant for the decision of the Authority to revise the lease rent with reference to port's proposal.
(viii).	Meanwhile, TANGEDCO and NLC are establishing a 2x500MW Thermal Power Project under Joint Venture execution by NTPL on 127.465 hectares of land taken from VOCPT on 30 years lease paid as upfront premium from 7/2007 at the lease rent of ₹20.91/ sq.m./ annum with 2% escalation/ annum and discounting such escalated rate at 6% per annum.	Factual and is with reference to the provisions of Land Management Policy Guidelines issued by Ministry of Shipping/ Government of India.
(ix).	TANGEDCO is a service oriented organisation and is fully owned by the State Government. This periodical increase of lease rent by TAMP in the above manner has proved to be a heavy financial burden on the functioning of TTPS thereby resulting in enormous increase in cost of generation and in turn affect the consumers only. Considering the above, TANGEDCO has expressed its objection to the revision of lease rent by VOCPT.	Internal issue of M/s.TANGEDCO and is not relevant for tariff fixation.
(x).	Considering the importance of the above matter and heavy stake and as per the guidance of the Hon'ble High Court in its judgment Order dated 31.07.2012, i.e. to go for negotiation with the VOCPT, the Secretary to Government/ Energy Department/ GOTN was requested for taking up of the matter with the VOCPT by convening a high level meeting for fixing TTPS lease rent as upfront premium on par with lease rent terms of NLC Tamilnadu Power Limited.	As submitted vide reply at (vii) above, the order of Hon'ble High Court does not prescribe any guidance to go for negotiations. The discussions referred to in the para is a normal administrative process without any commitment contemplated on the part of VOCPT.
(xi).	Based on the request of CMD/TANGEDCO in D.O letter dated 30.04.2013 & 29.10.2013 on the captioned subject, the Secretary to Government, Energy Department has conducted a meeting on 28 November 2013 at 3:00 p.m. in his Chambers and discussed the issue of fixing Tuticorin Thermal Power Station lease rent by the VOCPT.	Factual.
(xii).	The issue will be settled between TANGEDCO and VOCPT by conducting further negotiations in presence of the Chief Secretary level/ Government of Tamil Nadu.	As indicated at (x) above, no commitment has been given and no proposal is indicated/ offered by VOCPT in the meeting. Hence, it is too premature to state that the issue will be settled by conducting further negotiations.
(xiii).	Hence, it has requested not to publish the revised tariff rates for the lands leased out to TANGEDCO by VOCPT if any fixed/ decided by the TAMP in the Union Government Gazette till the settlement of the above issue amicably by TANGEDCO and VOCPT.	Considering reply at point no.(x) and (xii) above, there is no proposal contemplated for switch over to upfront premium basis. Hence, the existing lease rent, subject to revision from time to time, shall only be applicable for payment of lease rent by M/s.TANGEDCO. Therefore, the request of M/s.TANGEDCO for not publishing

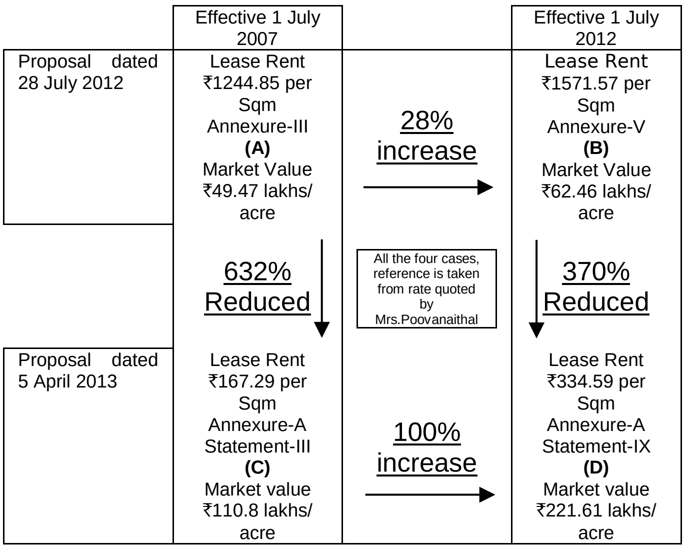
		revised tariff rate for lands leased to M/s.TANGEDCO is not maintainable and hence not agreed to. In addition to above, the port has submitted the following points: (a). The VOCPT has informed that M/s.TTPS had filed two cases vide No.WP No.22970 of 2003 and WP No.22976 of 2003 regarding the revision of lease rent and both were dismissed by the Hon'ble High Court of Madras vide Order dated 31.07.2012. Following the Judgment delivered by Hon'ble High Court, port vide letter dated 21.06.2013 sought for remittance of all dues with compound interest as per prevailing TAMP rates. The Government of Tamil Nadu in the meantime has proposed to conduct a high level meeting. Accordingly, the Secretary to Government, Energy Department has conducted a meeting on 28.11.2013 with Officials of VOCPT. Discussions took place on the issue of payment of lease arrears to port as per lease rate approved by TAMP. However, no decision could be taken in this meeting. (b). Further, as per Land Policy Guidelines issued by the Ministry the port can allot land to Government Department CPSUS, SPSUS or Private parties in accordance with SOR rates approved by the Competent Authority with due justification. (c). It has also pointed out that the proposal for revision of lease rent submitted to TAMP is a general revision which is applicable to the lands allotted by port to all parties including TANGEDCO. Further, regarding the request of TTPS, for fixing lease rent as upfront premium on par with lease rent terms of NLC Tamil Nadu Power Limited, the issue require thorough examination by port with reference to relevant guidelines issued by Ministry of Shipping/ Government of India prior to consideration of request and submission of proposal with the approval of Board to Ministry of

<table>
<tr><td></td><td></td><td>Shipping for decision based on merits of the case. Also, the same will have prospective effect and is subject to change in existing agreement with M/s.TANGEDCO.

(d). Considering the above facts, it has requested not to consider the representation given by TANGEDCO at this stage.</td></tr>
<tr><td>8.</td><td>Tuticorin Thermal Power Station (TTPS)</td><td></td></tr>
<tr><td></td><td>TTPS has reiterated the comments furnished by Tamil Nadu Generation and Distribution Corporation Limited mentioned at Sl.No.7(i) to (v) above.</td><td></td></tr>
<tr><td>9.</td><td>Southern Petrochemical Industries Corporation Ltd.</td><td></td></tr>
<tr><td>(i).</td><td>Over the years gone, the fixation of lease rent on the base year fluctuated only between 10 to 15% only.

<table>
<tr><th rowspan="2">Year</th><th colspan="2">Lease rent</th></tr>
<tr><th>Commercial</th><th>Industrial</th></tr>
<tr><td>2002 - 2007</td><td>₹ 55.15</td><td>₹ 34.86</td></tr>
<tr><td>2007 - 2012</td><td>₹ 62.68</td><td>₹ 38.81</td></tr>
</table>

For the revision of 2007 to 2012 onwards, a sudden hike in the lease rent has been proposed by the VOCPT to TAMP.
For the revision of 2012 to 2017, the lease rent is increased from ₹62.68 to ₹167.29 shows an increase of 266% in commercial category and from ₹38.82 to ₹103.59 in industrial category showing an increase of the same 266%. As compared with the earlier periods, the fixation of lease rent this time shows an exorbitant and steep increase which will affect we like, subsidy oriented industries like fertilizers a great deal. As our first option, we wish the TAMP authorities to revise the base lease rent with a reasonable percentage not exceeding 10% to 15%.</td><td rowspan="2">The present proposal for revision of lease rent was submitted after considering various aspects with the recommendation of the Committee and Board.</td></tr>
<tr><td>(ii).</td><td>As per option given – Highest accepted tender of port land for similar transactions in which the case of Poovanaithal was taken into consideration, between the two proposals submitted one on 28.06.2012 and the second one on 05.04.2013, we find wide percentage of difference in the rates proposed for the two blocks of payment. For the period 2007 to 2012, in the proposal dated 28.07.2012, lowest rate of option III is ₹1224/- and for the period 2012 and after the rate of lease rent is fixed as ₹1571. There seems to be an increase of 28%. But, in the proposal dated 05.04.2013, the lowest rent rate is fixed at ₹167 for the period 2007-12 and for the period 2012 and after ₹334/- which in fact, shows an increase of 100% exactly. We find this huge difference has to be looked into and the difference in percentage of lease rent should be considerably reduced to nearby 28%. Clarification of your esteemed office in this connection will be highly appreciated.</td></tr>
<tr><td>(iii).</td><td>Among the options given, it has suggested option IV which carries the lease rent of ₹60.21/ sq.mt. for industrial category and ₹97.23/ sq.mt. for commercial category. Even in this hike which is the lowest of your options, there</td><td>Not agreeable. Relevant clause regarding revision of lease rent had already been provided in the agreement executed by M/s.SPIC.</td></tr>
</table>

<table>
<tr><td></td><td>is an increase of 58% in industrial category and 55% in commercial category which it has requested to take up a relook for further reduction. While making the consideration, the period should have to be taken from 01.07.2012 to 30.06.2017 and for the completed five years period (2002-2007), it has submitted that port shall not implement any change on retrospective basis as our books of accounts have been closed based on the then prevailing rates and revision of lease rental retrospectively for the past five years, i.e. from 2007 will have an adverse impact in the current year.</td><td>Accordingly, the firm is well known about the revision.</td></tr>
<tr><td>(iv).</td><td>In addition, the lease rent for our Ammonia Importation Terminal has been fixed under Commercial category since our AIT is registered as Factory under the Tamilnadu Factories Rule, 1950 under Regn. No.TN-729. Hence, it has requested that land allotted for the terminal shall be classified under Industry Tariff.</td><td>Based on the allotment made to SPIC Ltd., port has fixed the lease rent on commercial purpose which was also accepted by the SPIC Ltd. during the allotment.</td></tr>
<tr><td>10.</td><td>Indian Oil Corporation Limited (IOCL)</td><td></td></tr>
<tr><td>(i).</td><td>Referring to its earlier letter dated 11 September 2012, it has reiterated its request to consider IOCL in “service category” and not in “commercial category”, as NTPL has been categorized in “service category” being a public sector.</td><td>Based on the allotment made to IOC Ltd. to carry out the commercial activities, the port has fixed the lease rent on commercial purpose which was also accepted by the IOC Ltd. during the allotment. Hence, the request for considering under service category does not merit consideration.</td></tr>
<tr><td>(ii).</td><td>Going through various options worked out, IOCL finds that there is no uniform correlation and hence basic rates are at variance. While analysing Option – III (Recommended by VOCPT & circulated by TAMP vide 05.04.2013 based on the highest accepted tender of port land for similar transactions which is referred with M/s.Poovanaithal), IOCL has furnished the working of proposed rate as per annexure-III – Option-III, and Annexure-VI – Option-III dated 20.07.2012 and Annexure-A – Statement-III, Annexure-A – Statement-IX, Annexure-A – Statement-IV & Annexure-A – Statement-X of 05.04.2013. The details are summarised below:


From the above table, IOCL are unable to understand how</td><td>Current proposal adopts the average rate of Highest tenderer (M/s.Poovanainthal) and Second Highest tenderer (M/s.M.Sindhu) and hence the issue is addressed.</td></tr>
</table>

<table>
<tr><td></td><td>the rates can vary between (₹167 to ₹1244) and (₹334 to ₹1571) with the reference of same document of Mrs.Poovanaithal within few months.</td><td></td></tr>
<tr><td>(iii).</td><td>Similarly Option-IV (Land Value arrived from Lease Agreement): In reference to the working of the rental rates, based on the Land Value arrived from Lease Agreement, IOCL has requested for the basis of arriving at the rates ₹64.40 lakhs/ acre and ₹128.80 lakh/ acre.

<table>
<tr><td></td><td>Effective 1 July 2007</td><td></td><td>Effective 1 July 2012</td></tr>
<tr><td>Proposal dated 5 April 2013</td><td>₹97.23 Annexure-A Statement-IV (E) Market value ₹64.40 lakhs/ acre</td><td>100% increase →</td><td>₹194.46 Annexure-A Statement-X (F) Market value ₹128.80 lakhs/ acre</td></tr>
<tr><td>Proposal dated 23 July 2009</td><td>₹438.51 (G) Land value ₹296 lakhs/ acre</td><td>0% increase →</td><td>₹438.51 (G) Land value ₹296 lakhs/ acre</td></tr>
</table>

It is also intriguing to know that the difference in rental value between 2007 and 2012, sought by VOCPT in 2009 proposal is 0%.</td><td>The rate of ₹64.40 lakhs/ acre is based on page 36 to 47 of land valuation report 2007.

The rate of ₹128.80 lakhs/ acre is based on page 37 of 48 of land valuation report 2011.</td></tr>
<tr><td>(iv).</td><td>In brief, the adjustments noticed in arriving at the rental values, varying at
(a). 0% in the proposal made 2009,
(b). 28% in the proposal made in 2012 and
(c). 100% in the proposal made in 2013 is in-coherent and not arriving at any concrete reason for the rates proposed.</td><td></td></tr>
<tr><td>(v).</td><td>In view of the above, it has requested to place IOCL in the Service Category and not in the Commercial Category. It is worth mentioning that NTPL, the Public Sector Company, have been put in Service Category with ₹30.91/ sq.mt/ year on upfront premium for 30 years which may be considered for IOCL as well.</td><td></td></tr>
<tr><td>11.</td><td>SHV LPG India Private Limited</td><td></td></tr>
<tr><td>(i).</td><td>Meeting called by VOCPT:
VOCPT has mentioned in its letter that a meeting was held with the users/ user associations following the joint hearing held on 29 November 2012. VOCPT is citing references of the discussions held in its said meeting as base for revision in some of the options given in proposal. However, we have no clue or information about such meeting called by VOCPT and we came to know about the same only through your letter. As such, the procedure adopted by VOCPT did not provide us any opportunity to hear views of VOCPT and other participants, if any in the meeting as well as to put forth our views over the business of the said meeting and hence it is not transparent.</td><td></td></tr>
<tr><td>(ii).</td><td>Revised proposal is ineffective:
In view of VOCPT's failure to intimate us about the meeting it called and basing its present revised proposal on the discussions of such meeting, the revised proposal cannot be a basis for any revision of rates. Without prejudice to this ground, It has submitted that in the instant revised proposal, VOCPT has again made request for retrospective revision of rent for the expired period 01.07.2007 to 30.06.2012, which in principle De`hors´ the applicable rules and policies. The percentages of increments suggested by the Port Trust are again astronomical.

Logically, and in effect, the fresh proposal of VOCPT</td><td>Lease rent of port land has been worked out strictly in accordance with Land Policy of Major Ports approved by Government. Hence, the proposal is in order.

Since the revision of lease rent is due from 01.07.2007, the revision of lease rent proposed by port is effective retrospectively from 01.07.2007.</td></tr>
</table>

	dated 25.03.2013 cannot be considered as a revised one, since: (a). the slight downward revision is devoid of any tenable merit in the options for period effective 2007 and is of no consequence in addition to illegality of retrospective revision; (b). there is no change of rates under any of the options for period effective 2012 except in the Option III (highest accepted tender value), and in turn the Option III has no parity whatsoever with the land leased to us.	
(iii).	Pending details to be provided to us: Further, as committed in the joint hearing on 29.11.2012, VOCPT was expected to revert on the following among other points: (a) Complete copy of the valuer's report to be supplied. (b) Source of arriving at reserve price while floating the tender for weigh bridge. (c) Basis of derivation on the upfront premium paid by the weigh bridge owner. (d) The modality followed by the valuer to arrive at the land value for 2007 and 2012 based on his valuation made in 2011. However, they have not reverted on these points even as of date.	The Valuation Report is for internal use of VOCPT for preparing the proposal of tariff rate and to submit it for the Authority's approval and not for circulation. However, the lessee may be permitted to go through the valuation report if required as available with the port.
(iv).	VOCPT's response to comments of users: The comments dated 14.08.2012 submitted by us have not been replied by VOCPT, more particularly about the classification of our Terminal under the Industrial category rather than the present Commercial category. With respect to the issues raised by other port users in the joint hearing, the replies of VOCPT are evasive and not relevant. In the revised proposal, it has not considered any of submission of the port users. The Options given in the revised proposal are still far away from realty and ground situation since the proposed increments work out in acutely high percentage and proportions. In this regard, it has reiterated its submission made in its letter dated 14.08.2012 especially regarding retrospective application of revised lease rental from 01.07.2012 and percentages proposed in all the Options. It has also reiterated its request for prospective enhancement only, at the rate of 2 to 3 percent per annum.	
(v).	(a). VOCPT's proposal vis-à-vis land policy: As per the Land policy 2010, Port may to take into account the <u>applicable factors</u> from the list given in paragraph 6.3(1)(a) of the same to determine the market value of the port land. In this case, VOCPT has given the six options including four out of the five items given in the list and other two options as identified by it. (b). However, VOCPT has not pointed-out the applicable factors, if any from such items list vis-à-vis the proposal made by it. It has made omnibus recommendations for revision in rentals without going into the intricacies for identifying the applicable factors and mitigating factors for arriving at the true and correct valuation of rent. There is	The valuation done by the land valuer by different methodologies which are based on the common valuation principles generally followed in tune with guidelines prescribed by the Ministry of Shipping, Government of India.

	no reasoning or basis given in proposal as to how such options are comparable with the proposed rentals of port lands. (c). There is a peculiarity in the lands under the ports that such lands can be used only for the port related activities. As such it cannot be squarely equated with outside lands with respect to its value. The outside lands have greater value since they can be sold away at will of the owners, used at the will of the owner, mortgaged by the owner to get loans, investments can be made on them considering many more decades of unconditional occupancy rights, the land use can be changed subject to statutory permissions, land parcels can be divided, fragmented and clubbed with ease at owner's will, etc. Almost similar is the case with land allotted by SIPCOT either on outright sale basis or on leases of periods like 99 years at once on single premium and nominal rentals during the lease tenure. (d). These mitigating factors ought to have been considered by VOCPT in the proposal which would comfortably bring down the proposal values (given in various options) manifold times and demonstrate that the prevailing rents in the port are very much on par with the prevailing realities. (e). Development cost, as included in some of the options is not provided in the Land Policy and applying the same over and above the valuation done by VOCPT under different options is double-jeopardy.	
(vi).	Apart from these overall submission it has submitted its comments on the specific options hereinbelow. (a). Option I – State government ready reckoner: The State Government's Ready Reckoner is only for the limited purpose of collection of stamp duty. The valuation of lands in far away Mullakadu village are considered by VOCPT, without disclosing the applicable factors of the lands there to the port lands. Mullakadu village is situated more than 10 kms from port and this cannot form any basis for equating land value there with land value of the port. Also Development costs cannot be applied in this case. (b). Option II – Average rate of actual relevant transactions registered in last three years: The average rates of transactions of Mullakadu village have been considered for proposing this option. Transaction in Mallakadu village cannot be considered "relevant transactions" for this purpose. It is not clear from the proposal whether all the relevant transactions are considered or whether selected transactions are considered or any of the transactions are not considered. The basis as to how to those transactions	

	are comparable to the current proposal is not disclosed. If any of transactions are left out from considering the average, it has to be disclosed why they were not relevant. (c). Option III – Highest accepted tender of port land for similar transaction: Again in this option, the “applicable factors” to the proposal at hand is not disclosed. How and why port feels that the highest accepted tender for a small piece of land for Weigh Bridge involving lesser investment with high returns and monopoly market is comparable to all the lands. The earlier rate mentioned under this option in proposal dated 28.06.2012 was ₹1571.57 and now in the proposal dated 25.03.2013, it is ₹334.59. It is not explained how this has been revised, basing on which we can submit our comments on the same. The rate recommended by VOCPT under Option III is highly unrealistic which cannot be adopted. The same is an upfront premium for 30 years which will not be subject to any revision for the next 30 years. Therefore, there cannot be any comparison of the same with the existing lease holders. (d). Option IV – Land value arrived from Lease Agreement: There are absolutely no grounds on how the values under this option have been arrived at. The proposal does not disclose which lease agreement was considered for including in this option and all other details with respect to the same. The value for proposed period w.e.f. 01.07.2007 in the proposal dated 28.06.2012 was ₹154.03 and now in the proposal dated 25.03.2013, it is ₹97.23. There is nothing in the proposal to show as to how and why this option has been included and also to show the basis on which it can be said that the applicable factors of this options can be considered for the present proposed revision. (e). Option V – Based on SIPCOT allotment rate: It is understood that the SIPCOT allotment rate for lands situated more than 10 kilometers from the port and near to city are considered by VOCPT in proposing this option. Therefore the value under this option cannot be considered in the case on hand. Further, value of land allotment by SIPCOT on outright sale or lease for long durations such as 99 years with single premium and nominal rentals during lease period cannot be squarely equated with port lands, where the nature of transaction is of a totally different nature.	

	(f). Option VI – Based on land valuer report: Complete copy of the valuation is not provided to us for comments. Out of the 48 pages of the report, we have been supplied with page numbers 45 to 48 only. The valuation done by the valuer is not proper and accurate and based on assumptions and surmises which gives unrealistic valuation on very higher side. It is not explained as to how there is difference between the proposed rate ₹200.14 under previous proposal dated 28.06.2012 for proposed period effective 01.07.2007 and the proposed rate ₹123.05 under the proposal dated 25.03.2013.	
(vii).	Increment for expired period: The last revised rate by TAMP were subject to escalation at 5% (compoundable) per annum for the period 01.07.2003 to 30.06.2004 and thereafter at 2% per annum. Accordingly, the rates were being revised every year. The lease rentals are our direct costs which go to the handling cost of our product and in the current speculative market we are constrained to increase the cost based on the past years' revision. As you are kindly aware, whatever increase in tariff decided by TAMP and passed on to us cannot be collected from our customers as the period has already lapsed. Hence, it has requested to consider only prospective and reasonable enhancement in rent not retrospectively for the period that is already expired and such a high increase.	Since the revision of lease rent is due from 01.07.2007, the revision of lease rent proposed by port is effective retrospectively from 01.07.2007. This is as per Lease Agreement which provide for revision from time to time.
(viii).	Industrial Purpose: It has operating LPG Terminal on the land leased to them by the port by obtaining license under the Factories Act and Tamilnadu Factories Rules and related laws applicable to factories. It is also observing compliance of the laws that are applicable to factories. However, Commercial rate of rent are being applied to them. In this regard, it has submitted that the appropriate classification of its land use is industrial and not commercial. As such, it has requested TAMP and VOCPT to apply industrial rate and not commercial rate.	LPG Terminal does not come under the classification of industry and hence their request cannot be acceded to.
(ix).	In view of the above submissions, it has reiterated its earlier request to TAMP and VOCPT: (a). to rework on the cost to arrive at a reasonable lease rent by not linking the rentals to a percentage of market value taken from the revenue department and to the percentage of development cost or to any of the Option mentioned in the proposal dated 25.03.2013 of VOCPT; (b). revise the lease rent in terms of percentage of the existing rent to a tune of 2 to 3%; (c). to apply industrial rates to us instead of commercial rates; and (d). to apply the revised rentals only prospectively.	

	It has further submitted that if the request are not considered and revision of lease rentals is made as per any of the Options submitted by VOCPT, they will be rendered uncompetitive in the LPG market and one of the likely outcomes could be closure of our operations at Tuticorin Terminal.	
12.	**Tuticorin Ship Agents' Association**	
	It has reiterated the comments furnished by Tuticorin Custom House Agents' Association (page nos.1141-1144/c)	Refer reply of VOCPT at Sl.No.6(iii) to (x) above.
13.	**VTM Limited**	
	It has pointed out that suit O.S. 779/2004, Principal District Munsif's Court, Tuticorin (Formerly O.S. No.141/98, Sub-Court, Tuticorin) wherein it has questioned the previous demand for enhanced rate made in 1998 is still pending disposal before the said court. Hence, it has not submitted the comments.	Subjudice – No comments.
14.	**Thiagarajar Mills (P) Ltd.**	
	It has pointed out that suit O.S. 778/2004, Principal District Munsif's Court, Tuticorin (Formerly O.S. No.142/98, Sub-Court, Tuticorin) wherein it has questioned the previous demand for enhanced rate made in 1998 is still pending disposal before the said court. Hence, it has not submitted the comments.	Subjudice – No comments.
15.	**DCW Limited**	
(i).	DCW Limited has requested to consider it in Service/ Industrial Category and not in "Commercial category", as NTPL has been categorized in service category as being an industry. DCW Limited is only cargo receiving facility at port area having pipeline connections to jetties to receive cargo from ship, speedy completion and sail the ship and forward to our plant without involving any industrial or commercial activity there and really called as "Port Connectivity Service". DCW Limited find that the change "category" have not been addressed and they are still being treated in the "commercial category".	The port has not furnished any comments
(ii).	<u>Effective Date</u>: It has reiterated its earlier comments on this point with a request to kindly consider the revision only prospectively. It has further stated that the current exercise being done may be given effect from the next five years from 1 July 2013.	The port has not furnished any comments
(iii).	<u>Valuation for Zone 'A', Percentage adopted for land cost and development cost, Development costs and Classification of its industry</u> DCW Limited has reiterated the comments furnished by it earlier on the original proposal on these points. Some of the new submissions made by DCW Limited are given below: (a). With reference to the revised proposal of VOCPT dated 5 April 2013, based on highest tender accepted by port for transaction with M/s.Poovanaithal, going through various options worked out by you, we find that there is no uniform correlation and hence base rates are at variance. (b). Lease rent payable based on highest price of an acre	The port has not furnished any comments

	would be an wooping ₹50 lacs per year/ per acre and the pay back is astonishing 3.3 years.	
(iv).	Reference to earlier revisions: The lease rent was fixed at ₹8.00 per sq. mtr. per year with effect from 1 January 1992. This has been increased to ₹69.20 in 2012. Thus the increase over the last 20 years was only an increase of 15.3% year over year. As against this revision of 15.3%, currently recommended revision is over 172% for the past and 403% for further period which we feel is very high and exorbitant taking into consideration the aforesaid facts. Based on the current lease rent of ₹69.20 per sq. meter, taking a decent escalation of 10%, the cost of an acre comes to ₹28 lakhs per acre which is very reasonable price. It is not prudent to calculate the cost of the land like a living place and assume exorbitant price. Only in the busy commercial area, wherein the activities are restricted to minimum space with maximum turnover, it could be possible, the price of land could be over ₹100 lakhs. But it is not prudent to extend the same logic and yardstick to apply for port, which activities are carried out in a remote place, huge area needed and many other facilities for the development of port. Hence, it is our considered view that the existing lease rentals are already compounded by 2% every year would be sufficient escalation and hence there may not be any need to revise the lease rent. Since we have already paid with 2% escalation every year over year, there will not be any necessary for revision.	The port has not furnished any comments
(v).	Under these circumstances and taking all the above submissions into consideration, DCW Limited has made the following appeal: (a). Not to increase the lease rent as the existing rental itself is taking care the inflation and reasonableness. (b). Our VCM installation at port leased area please be re-categorised to service/ industry sector from commercial sector.	(a). Not acceptable TAMP rate will decide on new rate. (b). Based on the allotment made to DCW Ltd., the port has fixed the lease rent on commercial purpose which was also accepted by the DCW Ltd. during the allotment. Hence, this is in order.
15.	**Indian Potash Limited**	
	The revised rates proposed by the port appears to be reasonable as compared to the earlier rates sought by them.	TAMP may take suitable decision and issue orders in this regard.

7. A summary position drawn from the minutes of the meeting held by the VOCPT on 10 December 2012 with port users highlighting the issues raised by the user associations and clarifications furnished by VOCPT is tabulated below:

Sl. No.	Issues raised by user associations	Clarifications by VOCPT in the said meeting with user associations
(i).	M/s.IOC requested the port to revise the category from Commercial to Service as considered for the NTPL land allotment. They also requested to revise the lease rent and refix for M/s.IOC at the same rate as adopted for M/s.NTPL.	M/s.IOC is remitting the accepted lease rent on commercial rate from the date of allotment of land for storage of their cargo. Therefore, refixation of lease rent equal to M/s.NTPL could not be acceded to.
(ii).	M/s.DCW have reiterated the comments already furnished during the joint hearing. They have also requested the	M/s.DCW is not running an industry within the port limit and land allotment is given to store their cargo only. Hence, their request

	port to revise the category from Commercial to Industry and port may reconsider the proposal.	could not be accepted by port.
(iii).	Tuticorin Port Land User Welfare Association (Zone B) has requested the port to consider a special rate taking into account their economically backward nature of small petty shops at Zone B at Service rate instead of Commercial rate.	Request has been considered by port and revised proposal is filed in this regard.

****