

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
Tariff Authority for Major Ports

G No.193

New Delhi,

01 July 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 New Mangalore Port Trust for revision of lease rental of port land allotted on long term/short term basis for the period from 20 February 2012 to 19 February 2017 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/60/2012-NMPT

New Mangalore Port Trust

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Applicant

QUORUM:

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

ORDER

(Passed on this 20th day of May 2014)

This case relates to a proposal dated 28 September 2012 received from the New Mangalore Port Trust (NMPT) for revision of lease rental of port land allotted on long term/ short term basis.

2. The lease rentals for the land allotted by the NMPT on long term and short term basis were last revised vide tariff Order dated 16 June 2010. The lease rentals approved vide the said tariff Order were implemented with retrospective effect from 20 February 2007 and were valid for a period of five years i.e. upto 19 February 2012.

3.1. The NMPT vide its letter dated 28 September 2012 has filed a proposal for revision of lease rentals of land allotted on short term/ long term basis for the period from 20 February 2012 to 19 February 2017. The main points made by the NMPT in the proposal are summarized below:

- (i). (a). Total area available with the port – 2352 acres as detailed below:

Sl. No.	Location	Land in acres	Use of land
1.	Tannirbavi, Panambur and Baikampady village	1908	Port
2.	Kudupu Village **	292	Quarrying Stones
3.	Bondel village (Quarry) **	152	Quarrying Stones

** The lands at Kudupu and Bondel village were acquired for the purpose of stone quarry for major port works like break water and construction of berths and jetties. These are located 10 kms. and 16 kms. respectively from port limits. Presently, these land are hilly terrain and no development is carried out till date. As such the land is presently not utilized by the port.

- (b). Of the total land area of 1908 acres situated at Panambur, 565 acres is inside the security compound wall, 320 acres is water and lagoon area and 1023 acres area is outside the compound wall.
- (c). The area under port utilization inside as well as outside the security compound wall is 447.15 acres.
- (ii). In pursuance of the extant Land Policy Guidelines for Major Ports, 2010 circulated by the Ministry vide letter no.PT-11033/4/2009-PT dated 13 January 2011, as per Clause-6.3.(1), a Committee was constituted by the NMPT under the Chairmanship of Chairman, NMPT and comprising of Dy. Chairman, Chief Engineer (Civil), FA & CAO, Dy. Chief Engineer (Civil), Suptdg. Engineer (Civil-I) as members for recommending revision of the lease rentals.
- (iii). The NMPT has appointed a Valuer for the purpose of ascertaining the market value of land in and around the Port area.

(iv). Land valuation:

As per the procedure laid down in the guidelines, the Committee has taken into account the following applicable factors from among those listed in guidelines to determine the market value of the Port Land:

- (a). Land value arrived based on the ready reckoner issued by the Karnataka Government for Mangalore region in the year 2011-12.
- (b). Land values obtained from recent transactions registered in the Sub-Registrar Office (SRO), Mangalore for valuation purpose which is made available by District Collector as per the location of the land.

It is stated that the transactions taken are mostly for the residential purpose as no significant transaction have taken place for industrial purpose. In order to arrive at the revised rent for Industrial zone, valuation of land obtained from SRO are suitably modified and adjusted taking into account various conditions and the purpose of land allotment.

- (c). Highest accepted tender rate for port lands for the period 1996 to 2007 are furnished. There are very few instances of tenders invited by the port for allotment of land during the last 5 years and hence this option is not adopted for arriving at the land value by the Committee.
- (d). Land value arrived at by approved land valuer.
- (v). The land valuer appointed by the port has compiled all the relevant data relating to valuation of land based on the above applicable factors for consideration of the Committee. The port has attached the Valuer's Report along with the proposal.
- (vi). Thus, in short, the Committee has considered the land values as per (a). State Govt. Ready Reckoner for the base year 2011-12 referred in the proposal as Guide Line Rate (GLR) (b). comparative recorded sale instances in Sub-Registrar's office in Mangalore for the base year 2011-12, (c). accepted tender rate of land allotted on tendering basis and (d). rate arrived at by an approved valuer. As the instances of tendering in port for the last 5 years are less, the committee has not adopted the tendered rate for arriving at the final land rates.
- (vii). The market value of land considered by the Committee under the three options is given below:
 - (a). Market value of land as per State Government's Ready Reckoner (Guideline Rate)

(₹ in lakhs/ acre)

Sl. No.	Area	Developed Land		
		Abutting Main Road	Abutting Cross Road	For Interior area
1.	Panambur Village	180.00	150.00	120.00
2.	Marshalling Yard	150.00	120.00	90.00
3.	Commercial Yard along the NH No.66	210.00	150.00	90.00
4.	Tannir Bavi Area	150.00	90.00	75.00
5.	Kudupu	70.00	60.00	60.00
6.	Bondel	90.00	75.00	60.00

- (b). Market value of land based on average rate of actual transaction registered in the last 3 years

(₹ in lakhs/ acre)

Sl. No.	Area	Developed Land		
		Abutting Main Road	Abutting Cross Road	For Interior area
1.	Panambur Village	131.00	91.70	65.50
2.	Marshalling Yard	167.00	116.90	83.50

Sl. No.	Area	Developed Land		
		Abutting Main Road	Abutting Cross Road	For Interior area
3.	Commercial Yard along the NH No.66	199.00	139.30	99.50
4.	Tannir Bavi Area	143.00	100.10	71.50
5.	Kudupu	110.00	77.00	55.00
6.	Bondel	100.00	70.00	50.00

- (c). Market value of land as per approved valuer appointed by the NMPT

(₹ in lakhs)

Sl. No.	Area	Developed Land			Maximum Land Value for fixing lease rent
		Abutting Main Road	Abutting Cross Road	For Interior area	
1.	Panambur Village	155.50	120.85	92.75	155.50
2.	Marshalling Yard	158.50	118.45	86.75	158.50
3.	Commercial Yard along the NH No.66	204.50	144.65	94.75	204.50
4.	Tannir Bavi Area	146.50	95.05	73.25	146.50
5.	Kudupu	90.00	68.50	57.50	90.00
6.	Bondel	95.00	72.50	55.00	95.00

- (viii). Based on the various parameters, the Committee has proposed to adopt the land valuation under option (c) i.e. based on the land value arrived by the approved Valuer. Under this option, the market valuation of land for each location is done with reference to three areas viz. Abutting the Main Road, Abutting Cross Road and for interior area. The Committee has recommended consideration of highest market value of land i.e. Abutting the Main Road from the market value of land assessed by the approved Valuer as brought out under option (c). Accordingly, the market value of land considered by the Committee is as per approved valuer under option (c) and the highest value of land under this option (highlighted bold) is finally recommended by the Committee for arriving at the proposed lease rental which is given below:

(₹ in lakhs per acre)

Sl. No.	Area	Developed Land (per Acre)			Maximum Land Value for Fixing Lease Rent
		Abutting Main Road	Abutting Cross Road	For Interior area	
1.	Panambur Village	155.50	120.85	92.75	155.50
2.	Marshalling Yard	158.50	118.45	86.75	158.50
3.	Commercial Yard along the NH No.66	204.50	144.65	94.75	204.50
4.	Tannir-Bavi Area	146.50	95.05	73.25	146.50
5.	Kudupu	90.00	68.50	57.50	90.00
6.	Bondel	95.00	72.50	55.00	95.00

- (ix). (a). The basic rate of lease rentals on the maximum land value of a location is arrived for 100 Sq. mtr. per month considering the maximum market value per acre and 6% on the market value is applied to arrive at the lease rent per annum. Applying conversion factor of 1 acre = 4046.90 sq. mtr., lease rent for 100 sq. mtr. on per month basis is arrived. (For example-- $155.50 \times 6\% / 12 / 4046.90 \times 1,000,00.00 \times 100 = ₹1921.22$ per 100 sq mtr./ month for Panambur village.)
- (b). The report of the Committee further states that for revision of lease rental for superstructures like paved stack yard and covered sheds, the Authority in the previous revision had considered two aspects viz. increase in the land rent as well as increase in the basic cost of construction for super structures in these areas.

On the same analogy, the lease rentals for the superstructures i.e. paved areas and covered areas are arrived at in the current proposal. The increase in WPI of basic cost of construction material is approximately 30%. The NMPT has furnished the analysis of WPI index for all commodities viz. cement, steel, plates and HSD for the years 2007 to 2012 (May) which showing an average increase in WPI from 2007 to 2012 at 30.20%.

Thus, for proposing lease rent for paved area and covered space, the port has considered lease rent arrived at 6% on market value of land plus the development cost by applying 30.2%, as mentioned above, on the rate for superstructure considered in the last tariff revision for each of these land areas.

- (x). Accordingly, the lease rent arrived by the Committee for the quinquennium 2012-17 with lease rent for open areas and lease rent arrived considering basic rate (lease rent) for land and development cost as explained in point (ix) above for paved areas and covered area is tabulated below:

Statement of Lease rents proposed for the quinquennium 2012-17							
Location	For open areas per 100 sq. meter per month	For paved areas per 100 sq. meter per month (₹)			For covered space per 100 sq. meter per month (₹)		
	Basic Rate of lease rent for land	Basic Rate of lease rent for land	Development Cost	Total	Basic Rate of lease rent for land	Development Cost	Total
Panambur Village	1921.22	1921.22	1661.20	3582.42	1921.22	5220.21	7141.43
Marshalling Yard along NH-17	1958.29	1958.29	1683.51	3641.80	1958.29	5290.36	7248.65
Commercial Yards along the NH No.17	2526.63	2526.63	1818.67	4345.29	2526.63	5715.09	8241.72
Tannirbavi	1810.03	1810.03	1369.08	3179.11	1810.03	4302.27	6112.30
Kudupu	1111.96	1111.96	1505.61	2617.58	1111.96	4730.98	5842.94
Bondel	1173.74	1173.74	1315.32	2489.06	1173.74	4133.30	5307.04

- (xi). Accordingly, the committee has recommended the lease rent for the period 20.02.2012 to 19.02.2017 as follows:

(in ₹ per 100 sq. mtr./month)

Location	For open areas per 100 sq. meter per month	For Paved Area per 100 sq. meter per month (₹)	For Covered Space/ Area per 100 sq. meter per month (₹)
Panambur Village	1921.22	3582.42	7141.43
Marshalling Yard along NH-17	1958.29	3641.80	7248.65
Commercial Yards along the NH No.17	2526.63	4345.29	8241.72
Tannirbavi	1810.03	3179.11	6112.30
Kudupu	1111.96	2617.58	5842.94
Bondel	1173.74	2489.06	5307.04

- (xii). Guidelines on land policy for Major Port Trusts 2010 envisage levy of licence fee for water area at 50% of licence fee of abutting land. The Committee has, therefore, recommended to introduce levy for water front at 50% of land abutting to the water front. This rate is for laying of submarine pipelines and charges will be as per way leave charges.

3.2. The NMPT has stated that the Board in its meeting held on 17 September 2012 has approved the recommendations of the Committee. Accordingly, based on the recommendations of the Committee and approval of its Board, the NMPT has proposed revised lease rental for the period 20.2.2012 to 19.02.2017 as follows:

(Rate in ₹ per 100 sq. mtr./month)			
Location	For open area	For paved area	For covered space
Panambur Village	1921.22	3582.42	7141.43
Marshalling Yard along NH-17	1958.29	3641.80	7248.65
Commercial Yards along the NH No.17	2526.63	4345.29	8241.72
Tannirbavi	1810.03	3179.11	6112.30
Kudupu	1111.96	2617.58	5842.94
Bondel	1173.74	2489.06	5307.04

It has proposed following conditionalities governing the proposed lease rentals:

- For the allotment inside the Security Wall, a surcharge of 10% on the rate prescribed above will be levied.
- The rates prescribed shall be applicable with effect from 20 February 2012 and will be reviewed/ revised after five years.
- The lease rent shall bear an escalation @ 2% (compoundable) per annum till such time the rate of escalation is revised by the Competent Authority.
- Security Deposit equivalent to one month's licence fee shall be applicable at the time of allotment for license upto 11 months. The Security Deposit shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT.
- The other conditions governing the lease rental shall be as per the guidelines issued by the (then) Ministry of Shipping as may be amended from time to time.
- The levy for the water front would be charged at 50% of land abutting to the waterfront. This rate is applicable for laying of submarine pipelines and charges will be termed as the way leave permission charges.

3.3. A comparative position of the lease rental approved by this Authority in Order No.TAMP/15/2007-NMPT dated 16 June 2010 with retrospective effect from 20 February 2007 and duly escalated as on 19 February 2012 and the lease rent proposed by the NMPT (highlighted bold) and % increase over the rates applicable as on 19 February 2007 as furnished by the NMPT are tabulated below:

(Rate in ₹ per 100 sq. mtr./month)									
Comparative statement of existing lease rent and proposed lease rent									
Location	For open area			For paved area			For covered space		
	2007-12	2012-17	%	2007-12	2012-17	%	2007-12	2012-17	%
Panambur Village	1538.85	1921.22	24.85	2947.58	3582.42	21.54	5965.69	7141.43	19.71
Marshalling Yard along NH-17	1579.50	1958.29	23.98	3007.15	3641.80	21.10	6065.83	7248.65	19.50
Commercial Yards along the NH No.17	1825.73	2526.63	38.39	3368.00	4345.29	29.02	6672.25	8241.72	23.52
Tannirbavi	1006.71	1810.03	79.80	2167.71	3179.11	46.66	4655.13	6112.30	31.30
Kudupu	1255.25	1111.96	-11.42	2532.05	2617.58	3.38	5267.22	5842.94	10.93
Bondel	908.64	1173.74	29.18	2024.06	2489.06	22.97	4413.76	5307.04	20.24

3.4. It is noteworthy that the duly escalated lease rent for the period 2011-12 (upto 19 February 2012) indicated by the port in the proposal is found not to be correct. For example, the lease rent approved by this Authority by Order dated 16 June 2010 for the location Panambur is ₹1393.78 per 100 sq. mtr. per month with effect from 20 February 2007. The duly escalated lease rent for the same location upto 19 February 2012 is ₹1508.67 per 100 sq. mtr. per month and not ₹1538.85 per 100 sq. mtr. per month as indicated by the NMPT in its proposal. Accordingly, the lease rent approved in the July 2010 Order duly escalated as on 19 February 2012 is corrected

and arrived at vis-à-vis lease rent proposed by NMPT for each areas and for each categories viz. open area, paved area and covered area and percentage of increase sought (correctly) arrived at is tabulated below:

Location	Open Area			Paved Area			In ₹ per 100 sq. mtr. per month Covered Area		
	Duly escalated lease rent for the period (2011-12) upto 19 February 2012 (in ₹)	Lease rate proposed w.e.f. 20 February 2012 (in ₹)	% increase or decrease sought	Duly escalated lease rent (i.e. open area plus paving) for the period (2011-12) upto 19 February 2012 (in ₹)	Lease rate proposed w.e.f. 20 February 2012 (in ₹)	% increase or decrease sought	Duly escalated lease rent (i.e. open area plus covered) for the period (2011-12) upto 19 February 2012 (in ₹)	Lease rate proposed w.e.f. 20 February 2012 (in ₹)	% increase or decrease sought
Panambur Village	1508.67	1921.22	27.35% ↑	2889.78	3582.42	23.97 ↑	5848.72	7141.43	22.10 ↑
Marshalling Yard along NH-17	1548.53	1958.29	26.46% ↑	2948.19	3641.80	23.53 ↑	4945.89	7248.65	21.89 ↑
Commercial Yards along the NH No.17	1789.93	2526.63	41.16% ↑	3301.97	4345.29	31.60 ↑	6541.43	8241.72	25.99 ↑
Tannirbavi	986.97	1810.03	83.39% ↑	2125.21	3179.11	49.59 ↑	4563.85	6112.30	33.93 ↑
Kudupu	1230.64	1111.96	- 9.64% ↓	2482.40	2617.58	5.45 ↑	5163.94	5842.94	13.15 ↑
Bondel	890.08	1173.74	31.76% ↑	1984.37	2489.06	25.43 ↑	4327.22	5307.04	22.64 ↑

4. The NMPT has subsequently in continuation to its proposal dated 28 September 2012 furnished a copy of the Resolution of the Board of Trustees meeting held on 15 October 2012 approving to send the proposal for revision in lease rental as recommended by the Committee to this Authority. The NMPT has in the said letter communicated that the Board has resolved to record the apprehension of Trustees and concern about business development at NMPT. The relevant extract of the Board Resolution is reproduced below:

“It was resolved that the Trustees requested the Chairman to record the apprehension of the Trustees and concern about the business development at NMPT due to increase in the lease rentals and also record the Trustees views of revision of lease rentals only w.e.f. 2015 and until then the same rate may be continued.”

5. In accordance with the consultative procedure prescribed, a copy of the proposal of the NMPT was forwarded to the concerned users/ user organisations/ lessees, seeking their comments. The comments received from users/ user organisations/ lessees were forwarded to NMPT as feedback information. The NMPT has furnished its comments on the points made by the users/ user organisations/ lessees.

6. Based on a preliminary scrutiny of the proposal, the NMPT was requested vide our letter dated 28 March 2013 to furnish additional information/ clarifications on various points. The NMPT has furnished its response after regular follow up vide its letter dated 20 January 2014. Since some information gaps were observed in the port's reply, the NMPT was requested to furnish additional information/ clarification on few points vide our letter dated 10 April 2014. The NMPT has furnished its reply vide its letter dated 24 April 2014. A summary of the queries raised by us and reply furnished by the NMPT is brought out in the subsequent paragraph.

7.1. A joint hearing in this case was held on 21 June 2013 at the New Mangalore Port Trust (NMPT) premises. The NMPT made a power point presentation of its proposal. At the joint hearing, NMPT and the concerned users/ organization bodies have made their submissions.

7.2. At the joint hearing, some of the users namely, Association of New Mangalore Port Stevedores (ANMPS) vide its two letters both dated 21 June 2013, C & F Association of New Mangalore Port (CFANMP) vide its letter dated 21 June 2013 and Mangalore Custom House Agents Association (MCHAA) vide its letter dated 21 June 2013 have filed their written submissions. A copy each of these written submissions was forwarded to the NMPT under cover of our letter dated 26 June 2013 for furnishing its comments thereon. The NMPT vide dated 13 August 2013 has furnished its comments.

7.3. Further, as decided at the joint hearing, a copy each of the note dated 8 April 2010 of Chief Minister's Secretariat, letter No.PWD 220 PSP 2009 dated 17 November 2009, U.O. Note No.PWD 220 PSP 2009 dated 21 December 2009, minutes of a meeting taken by NMPT on 17 April 2010 pertaining to various issues on handling of IOF at NMPT and Association of New Mangalore Port Stevedores (ANMPS) letter dated 23 October 2009 were forwarded to the NMPT vide our letter dated 26 June 2013 with a request to furnish its comments.

After follow-ups vide our letters dated 11 July 2013, 31 July 2013, d.o. letters dated 11 September 2013 & 13 November 2013 and letter dated 3 February 2014, the NMPT vide its letter dated 17 February 2014 furnished its reply on the above. The response of the NMPT on the above documents is tabulated below:

Sl. No.	Comment sought on the following given at the joint hearing held on 21 June 2013	Reply of the NMPT
(i).	Note dated 8 April 2010 of Chief Minister's Secretariat.	This issue pertains to District Administration Dakshina Kannada District, Mangalore.
(ii).	Chief Minister's Secretariat letter No. PWD 220 PSP 2009 dated 17 November 2009 forwarding ANMPS letter dated 23 October 2009 to NMPT for appropriate action.	The Principal Secretary, Govt. of Karnataka, Public Works, Ports and Inland Water Transport Department, Bangalore was requested to lift the ban on restricting movement of Iron Ore Fines trucks from mine heads to NMPT in the interest of the Port, Trade and Farmers of Karnataka vide letter no.NMPT/TM/MOS/2009 dated 25.11.2009. (Copy enclosed)
(iii).	U.O. Note No. PWD 220 PSP 2009 dated 21 December 2009.	A reference letter dated 21.12.2009 was addressed to the Secretary to Govt. of Karnataka with a copy to Chairman, NMPT for information. (Copy enclosed)
(iv).	Minutes of a meeting taken by NMPT on 17 April 2010 pertaining to various issues on handling of IOF at NMPT.	As per the minutes of the meeting dated 17.02.2010, the proposal was placed in the meeting of Board of Trustees held on 29.03.2010 and the Board resolved vide Res.No.92/2009-10 to constitute a sub-committee to consider the proposal and based on the report of the committee, the proposal for waiver of penal rental charges in respect of performers and not to consider the waiver of penal rental charges for non-performers was placed before the Board in its meeting held on 25.3.2011. Based on Board resolution a letter No.NMPT/TM/MOS/2011 dated 16.05.2011 has been forwarded by NMPT to the Ministry of Shipping. A copy of the said letter is forwarded by the NMPT. The said letter states that the Board of Trustees of NMPT have decided that the genuine exporters who could not build up stocks and carry out exports due to ban imposed by the State Government only be given concession by way of waiver of penal charges subject to approval of the Government. The letter seeks decision of the Ministry in this regard. In respect of other exporters, the NMPT letter states that notice for recovery of penal charges is being issued by the NMPT.
(v).	Association of New Mangalore Port Stevedores letter dated 23 October 2009.	Reply covered under (ii) above.

7.4. Further, as decided at the joint hearing, the concerned users were requested vide our letter dated 26 June 2013 to furnish additional comments, if any, to us as well as to the NMPT by 30 June 2013. The NMPT was requested to react on the additional comments to be received from the concerned users within 10 days thereafter. The comments received from users/ user organizations were forwarded to NMPT as feedback information. The NMPT vide its letters dated 15 July 2013 and 16 August 2013 has furnished its comments.

8.1. As stated earlier, based on a preliminary scrutiny of the proposal, the NMPT was requested vide our letter dated 28 March 2013 to furnish additional information/ clarifications on various points. The NMPT has furnished its response after regular follow up vide its letter dated 20 January 2014. A summary of the queries raised by us and the responses of the NMPT are tabulated below:

Sl. No.	Our queries	Reply of NMPT																																																																																																															
(I).	GENERAL:																																																																																																																
(i).	The NMPT 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 NMPT to furnish all the requisite forms with all details duly filled in.	(a). The NMPT has furnished the details in the Form 2A and 2B which are summarised below: <u>Form 2A:</u> <table><tr><th colspan="4">(₹ in lakhs)</th></tr><tr><th>Year</th><th>Total income</th><th>Total expenses</th><th>Surplus / deficit</th></tr><tr><td>2011-12</td><td>5073.02</td><td>2165.44</td><td>2907.58</td></tr><tr><td>2012-13</td><td>4647.13</td><td>449.77</td><td>4197.36</td></tr><tr><td>2013-14</td><td>4757.11</td><td>1022.80</td><td>3734.31</td></tr><tr><td>2014-15</td><td>4869.78</td><td>1294.32</td><td>3575.4</td></tr><tr><td>2015-16</td><td>4967.17</td><td>1190.52</td><td>3776.65</td></tr></table> <u>Form 2B:</u> <table><tr><th colspan="4">(₹ in lakhs)</th></tr><tr><th>Year</th><th>Net block</th><th>Proportionate working capital</th><th>Total Capital Employed</th></tr><tr><td>2011-12</td><td>11918.10</td><td>494.25</td><td>12412.35</td></tr><tr><td>2012-13</td><td>12153.15</td><td>626.36</td><td>17779.51</td></tr><tr><td>2013-14</td><td>11810.56</td><td>795.48</td><td>12605.94</td></tr><tr><td>2014-15</td><td>11438.17</td><td>1010.26</td><td>12448.42</td></tr><tr><td>2015-16</td><td>11095.54</td><td>1283.03</td><td>12378.56</td></tr></table> (b). Details of total area of Port under different Zones: <table><tr><th>Sr. No.</th><th>Zone</th><th>Total area (in acres)</th></tr><tr><td>1.</td><td>(a). Zone 1 (Panambur Village)</td><td>941</td></tr><tr><td></td><td>(b). Zone 1 (Water front)</td><td>320</td></tr><tr><td>2.</td><td>Zone 2 (Marshalling Yard along NH-17)</td><td>245</td></tr><tr><td>3.</td><td>Zone 3 (Commercial Yards along the NH No.17)</td><td>340</td></tr><tr><td>4.</td><td>Zone 4 (Tannirbavi)</td><td>62</td></tr><tr><td>5.</td><td>Zone 5 (Kudupu)</td><td>152</td></tr><tr><td>6.</td><td>Zone 6 (Bondel)</td><td>292</td></tr><tr><td></td><td>Total land area under Port</td><td>2352</td></tr></table> (c). Details of land utilization of Port area: <table><tr><th>Sr. No.</th><th>Particulars of land utilization</th><th colspan="2">Total area utilized (in acres)</th></tr><tr><td>1.</td><td>For Port Operations:</td><td></td><td></td></tr><tr><td></td><td>Utilized</td><td>377.32</td><td></td></tr><tr><td></td><td>Unutilized</td><td>251.55</td><td>628.87</td></tr><tr><td>2.</td><td>For residential purpose of port employees:</td><td></td><td></td></tr><tr><td></td><td>Utilized</td><td>133.66</td><td></td></tr><tr><td></td><td>Unutilized</td><td>14.86</td><td>148.52</td></tr></table>	(₹ in lakhs)				Year	Total income	Total expenses	Surplus / deficit	2011-12	5073.02	2165.44	2907.58	2012-13	4647.13	449.77	4197.36	2013-14	4757.11	1022.80	3734.31	2014-15	4869.78	1294.32	3575.4	2015-16	4967.17	1190.52	3776.65	(₹ in lakhs)				Year	Net block	Proportionate working capital	Total Capital Employed	2011-12	11918.10	494.25	12412.35	2012-13	12153.15	626.36	17779.51	2013-14	11810.56	795.48	12605.94	2014-15	11438.17	1010.26	12448.42	2015-16	11095.54	1283.03	12378.56	Sr. No.	Zone	Total area (in acres)	1.	(a). Zone 1 (Panambur Village)	941		(b). Zone 1 (Water front)	320	2.	Zone 2 (Marshalling Yard along NH-17)	245	3.	Zone 3 (Commercial Yards along the NH No.17)	340	4.	Zone 4 (Tannirbavi)	62	5.	Zone 5 (Kudupu)	152	6.	Zone 6 (Bondel)	292		Total land area under Port	2352	Sr. No.	Particulars of land utilization	Total area utilized (in acres)		1.	For Port Operations:				Utilized	377.32			Unutilized	251.55	628.87	2.	For residential purpose of port employees:				Utilized	133.66			Unutilized	14.86	148.52
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			Total land utilization		789.77
(ii).	As mentioned at Note nos.1, 2 and 3 respectively to Form – 1, the NMPT is required to furnish the following:				
	(a). A certificate confirming that its proposal for fixing lease rentals 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 with effect from 13 January 2011.	(a). Requisite certificate confirming that the proposal for fixing lease rentals is in conformity with Land Policy Guidelines of Major Ports approved by the Government of India vide MOS letter no.PT-11033/4/2009-PT dated 13 January 2011 is furnished.			
	(b). A certificate to the effect that the land leased (zone-wise) is as per the port's land use plan.	(b). Requisite certificate is furnished certifying that land lease (Zone wise) is as per the port's land use plan.			
	(c). Details of all leases 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.	(c). There is no lease granted by the port for the last 3 years i.e. 2009-10, 2010-11 and 2011-12.			
(iii).	If on any matter the present proposal deviates from the Land Policy Guidelines referred above, NMPT to furnish the details thereof justifying the reasons for deviations.	There is no deviation in the proposal made to TAMP from NMPT.			
(iv).	The financial implications including the additional revenue that would be generated per annum on account of the proposed revision in the lease rentals to be furnished.	The financial implication on account of proposed revision is anticipated to the tune of ₹52,46,07,857.65. The NMPT has furnished details of revenue estimation at revised lease rental for the year 2012-13. (It is seen from the details furnished by NMPT that ₹52.46 crores is the total rent expected during 2012-13 due to revision as against the total rent of ₹42.73 crores received during 2011-12. That being so, additional revenue expected will work out to approximately ₹9.73 crores in the year 2012-13.)			
(v).	The NMPT under cover of its letter no.2/33/2012/EBL.2 dated 14 November 2012 has communicated that the Board in its meeting held on 15 October 2012 has resolved to take on record the apprehension and concern of the Trustees about the business development at NMPT due to increase in the lease rentals and also to record the views of the Trustees on the revision of the lease rentals with effect from 2015 and that until then, the same rate may continue. In this regard, the NMPT is requested to elaborate the apprehension and concern of the Trustees and furnish its comments on the points made by the Trustees.	The NMPT has brought to the notice of the TAMP the decision taken by the Board in its meeting dated 17.09.2012 vide Resolution No.137 in its letter dated 14 November 2012. A copy of the said Board Resolution is furnished.			
(II).	VALUATION OF LAND:				
(i).	The NMPT has furnished the market value of the port lands based on the valuation obtained from the State Governments Ready reckoner, average rate of actual transactions in the last 3 years, valuation furnished by the land valuer. It has, however, finally considered the value of				

	the land approved by the valuer as the base to derive the lease rentals. In this connection, the NMPT to clarify/ furnish the following:	
	(a). Explain specific reasons, if any, for arriving at the proposed lease rentals based on the value of the land approved by the Valuer, when the market value of the port lands as per the Guide Line Rates stated to have been obtained from State Government Ready Reckoner is seen to be the highest. In this connection, it may be relevant to mention here that while finalizing the lease rental revision proposals of some of the other Major Port Trusts such as Visakhapatnam Port Trust, Kandla Port Trust, etc., this Authority has felt that it would be appropriate for a Port Trust to assess the market value of the lands under all the options given in the Land Policy guidelines for Major Ports and derive lease rentals based on the land valuation which is most beneficial to it. For the lease rental to be the most beneficial for the port trust, it should have been determined based on the highest market value among all the other factors. In this regard, the NMPT to relook its proposal and review, if necessary.	It is to mention that the proposal is in order and as per Registered Valuer's Report, revision in rent have been proposed. The rates based on tendering process for allotment of Port Premises is not considered since there was no such tendering during the last five years. The present proposal of NMPT is similar to the previous proposal approved by the TAMP.
	(b). Though the valuation report of the valuer states that the land valuation is based on the value obtained for each of the sample areas in January/ February 2012, a quick calculation shows that the value of land arrived at is a simple average of the value of land as per the State Government Ready Reckoner – [Guide Line Rates (GLR)] and the value of the land as per the sale instances recorded in the Sub-Registrar's office. In this context, the NMPT to ascertain and confirm that the land valuation (relied upon by the NMPT for finally arriving at the lease rental) is rational and scientific and represents the characteristics of port estate which is under revision in the subject proposal.	In the Valuation Report of the Valuer, the market value of land is assessed for land sample areas picked randomly on the Zone wise basis and are realistic. The land samples have been identified randomly and rates have been arrived based on Government Ready Reckoner – Guide Line Rates (GLR) from the Sub-Registrar Office, Mangalore.
(ii).	With reference to assessment of market value of land based on the Guideline Rates (GLR) – (State Government's Ready Reckoner), the NMPT to furnish/ clarify the following:	
	(a). The statement furnished by NMPT relating to valuation of property/ structures of NMPT as per Ready Reckoner and Revised rate of the immovable property belonging to Mangalore City Corporation is seen to be with reference to Residential buildings, Commercial buildings, Flat/ Apartments and Agricultural lands. It is not clear how the value of Residential buildings, Commercial buildings, Flat/ Apartments and Agricultural lands is relevant in determining the market value of the lands at NMPT. NMPT to clarify the position.	Ready Reckoner and revised rate of the immovable property belonging to Mangalore City Corporation is considered to arrive the value of the land and accordingly, rent has been arrived for open space. The rent for paved and covered area is arrived based on Wholesale Price Index as annexed in the Valuation Report.
	(b). The statement of land valuation as per the State Government's Ready Reckoner	The different villages mentioned in the statement of land valuation as per the State

	furnished by NMPT provides land value for different villages/road etc., for each of the locations such as Panambur, Kudupu etc. It is not clear how these valuation are used to arrive at the Guide Line rate. NMPT to explain the basis along with working for each of the locations.	Govt's, Ready Reckoner are adjacent / near to the Port's Estate Boundary. The Roads mentioned are within the vicinity of Port's Estate.
(iii).	With reference to assessment of market value of land based on the sale transactions recorded in the Sub-Registrar's office, Mangalore, the NMPT to furnish/ clarify the following:	
	(a). Clause 6.3.(1) of the Land Policy of Major Ports 2010 prescribes, <i>inter alia</i> , the factor to arrive at the market value of land based on the average rate of the actual relevant transactions registered in the last three years in the port's vicinity and applying 2% annual escalation. As against this clause, the NMPT has considered the value of sale transaction occurred during the last year i.e. 2011-12 only as base to determine the market value of land under the said approach. The reason for deviating from said clause stipulated in the Land Policy Guidelines of 2010 to be justified.	This is also done similar to the report approved by the TAMP for the previous period 2002-2007.
	(b). The valuation of land based on actual sale transactions in the year 2011-12 furnished by NMPT are with reference to Panambur Village, Baikampady village, Hosabettu village, TannirBhavi village, Pau Kodi village, Moodushedde village, Padushedde village and Pachanady. It is not clear how the sale transactions at the above mentioned places are relevant to determine the market value of the port lands at Panambur Village, Marshalling yard, Commercial yard along the NH no.66, TannirBavi, Kudupu and Bondel. The NMPT to certify that the market value of land adopted under this approach is relevant and is representative to port land in terms of layout facilities, development, commercial utility, proximity, etc.	The villages mentioned in TAMP letter are in the vicinity of the Port Estate and hence sale transactions of the above mentioned places have been considered to arrive the rate at Panambur Village, Marshalling Yard, Commercial Yard along the NH No.66, Tannirbavi, Kudupu and Bondel. The market rates for the land belonging to Port Estate are not available either in the GLR or in the Sub-Registrar Office. Since there is no sale of Port Estate land and hence not recorded.
(iv).	With reference to assessment of market value of land based on the highest tender values as given in the table at Page no.9 of the NMPT proposal, it is observed that the most of allotments are pertaining to the year 1996, 2003, 2004 and 2007. The NMPT to clarify how these allotment rates are relevant for valuation of port land in the current proposal. If no land was allotted on tender basis in the recent past say last two years, the same need to be stated explicitly.	The tabulation given at page-09 of the proposal is given only for the procedural part. These values of land are not considered in the present proposal.
(v).	With reference to assessment of market value of land based on the value arrived by the approved valuer, the NMPT to furnish/ clarify the following:	
	(a). In the Valuation Report, the land at interior area of Marshalling yard is valued at	The final value arrived by the Valuer is ₹86.75 lakhs per acre is for the Developed area. The

	₹86.50 lakhs per acre (para 38 A of the Valuation Report) whereas in the final summary table as well as in proposal, the land value for this area is considered at ₹86.75 lakhs per acre. The NMPT to confirm correct valuation.	value of ₹86.50 lakhs per acre is for undeveloped area.
(vi).	The guidelines do not mention any factor/method for valuation of superstructures. To arrive at the lease rentals for the paved areas and covered areas, in addition to the value of the open lands, the NMPT has taken into account the development costs applying 30.2% on the superstructure rates considered by the Authority in the last fixation of the lease rentals. For arriving at 30.2% increase, the NMPT has considered the price increase in the whole sale price indices of steel, cement, plate, HSD, etc. from 2007 to 2012. The superstructures on paved and covered areas for which revisions are proposed on these locations already existed and that it is not with reference to any major new construction. Moreover, the price of steel and cement are very volatile depending on the national and international market. In the light of the above observation, NMPT to justify how the increase in the whole sale prices of these commodities are relevant for arriving at increase in the development cost of the port estate. The actual cost incurred by the port in development of these locations of the port estate in the last five years i.e. from 2007 to 2012 may be more relevant. The NMPT may examine this point and review its proposal in the light of the above observation.	The valuation of the superstructures i.e., covered space and paved area for the land of the estate has been arrived systematically based on Wholesale Price Indices from 2007-2012. The actual cost incurred by the Port in developments of these locations of the Port Estate in the last five years i.e., 2007-2012 is furnished.
(vii).	The lease rate for open area at the Kudupu approved in the last tariff Order is ₹1136.92 per 100 sq. mtrs./ month which if duly escalated comes to ₹1230.64 per sq. mtrs./ month as on 19 February 2012. As against that, the NMPT has proposed the lease rent for open area at the Kudupu at ₹1111.96 per 100 sq. mtr. per month with retrospective effect from 20 February 2012 which means a reduction of 9.65% over the lease rent prevailing as on 19 February 2012. The NMPT is requested to explain the reasons for proposing reduction in the lease rent only for this particular land for the open area when the lease rent at all the other locations is proposed for an increase.	The land value arrived by the Valuer was on GLR and recorded instances in the sub registrar office near the vicinity of the Kudupu quarry area. No recorded instances of higher value found near the Kudupu area for the period considered. The GLR rates are also found less which are variable for the period considered for valuation.
(c).	SCALE OF RATES:	
(i).	The general note (a) mentions adherence to the Land Policy Guidelines announced by Government in January 2012. Since the new guidelines are yet to be notified by the Government, the proposed note may be modified giving reference to the extant applicable Land Policy for Major Ports, 2010.	As on date the Land Policy for Major Ports 2010 is prevailing and accordingly the same is followed.

(ii).	The note proposed at (b) regarding allotment of land is not related to fixation of tariff. Major Port Trusts are governed by the policy guidelines issued by the Government from time to time as regards allotment of the port land. Hence the proposed note need not be included in the Schedule of Rent.	Deleted as proposed by the TAMP.
(iii).	Slab-wise penal charges proposed at Note (c) and (d)(iv) for encroachment or unauthorized occupation of land at two times/ four times/ten times the normal fee is not found to be in line with Clause 6.2.2.3 (g) of Land Policy Guidelines of 2010 which prescribes penalty at 3 times prescribed rate for wrongful use and unauthorized occupation of facilities. Justify the reasons for proposing deviation from the policy guidelines.	As per clause 6.2.2.3 (g) of prevailing Land Policy Guidelines three times the Licence / Lease rent is for unauthorized occupation of the Port Land by the Licencee / Lessee and subsequently removed by them within the period of 03 months. In addition, the Slab-wise penal charges proposed at note (C) are for Non removal of goods / Cargo by the Lessee / Licencee from the encroached / unauthorized area of the Port in spite of notice to do so, where the Port removes goods / Cargo elsewhere at the Risk and Cost of the Lessee / Licencee. This is in line with D-Conditions (iii) of the Gazette Notification No.2/33/2007/EBL.2 dated 04.6.2007. Even though it is a deviation from the prevailing Land Policy Guidelines it is essential to control such eventualities effectively.
(iv).	The provision for levy of interest on delayed payment by the allottee proposed at note d (iii) may be modified in line with Clause 2.18.1. to 2.18.4. of the tariff policy guidelines of March 2005.	In addition to note d (iii), the Clauses 2.18.1 to 2.18.4 of Tariff Policy Guidelines of March 2005 is proposed for delayed payments / refunds by the Ports to the Licencee / Lessee as desired by the TAMP.
(v).	Clause 6.2.1. of the Land Policy guidelines stipulates provision for renewal of licence. The proposed note d(v) prescribing penal interest at 13% in case of failure to apply for renewal of licence seven days in advance before expiry is not found to be in line with the Clause 6.2.1. of the Land Policy Guidelines.	This issue is newly proposed keeping in view the cases applied for renewal after lapse of existing Lease / Licence. The post facto approval by the Competent Authority of the Port is not admissible. Hence even though it is a deviation for the land policy guidelines, it is essential for controlled monitoring.
(vi).	The Note no.d(vi) is not complete. Necessary modification may be done.	The Penalty Clause is as per Clause (vi), <u>(D)-Condition</u> , Karnataka Gazette Notification No.2/33/2007/EBL.2 dt. 04.06.2007 (copy enclosed) as at (iii) above. a) Two times the normal Licence fee up to 03 months. b) Four times the normal licence fee above 03 months up to 07 months. c) Ten times the normal licence fee thereafter.
(vii).	There does not appear to be any provision in the Land Policy Guidelines for obtaining security deposit in respect of 11 months license. In the backdrop, the proposed note at (vii)(a) to collect one month's license fee as security deposit in case of allotment for 11 months license to be explained.	As per Clause 6.2.2.1 (i) of the Land Policy Guidelines of the lease is on annual basis the Security Deposit equal to one year's rental is applicable. In the absence of provision for Security Deposit <u>in the prevailing Land Policy guidelines for Licence</u> , it is proposed based on TAMP Notification G No.184 dated 23.07.2010 pertaining to NMPT (copy enclosed).
(viii).	Clause 6.2.2.1 (i) of the Land Policy guidelines requires a major ports to keep 1 years' rentals as Security. The note d(vii) (b) allowing the	The Bank Guarantee for an amount equivalent to three years lease rentals proposed is deleted.

	lessee the option to furnish 3 years irrevocable bank guarantee to be justified as there is no such provision in the said clause of the land policy guidelines.	
(ix).	NMPT to explain how the proposed note (d)(xiii) prescribing penal charges for lessee not shipping the iron ore for export within 75 days from taking over is relevant in the revision of estate rental. The Scale of Rates prescribes demurrage charge for overstayal of cargo beyond the prescribed free period which should take care of overstayal of cargo.	The Scale of Rates prescribes Demurrage charges for overstayal of Cargo lying inside the Wharf on transit basis beyond the prescribed free period of 07 days in respect of Import cargo and 21 days for Export bound Cargoes. The Demurrage is Cargo related charges. In the case of land allotted on monthly rental basis for stacking Cargo like Iron Ore Fines, no such demurrage charges are made applicable but the Party should effect shipment every 75 days failing which the proposed Penal Licence Fee will be charged treating the Party as a Non Performer.
(x).	The following note may be incorporated in the Schedule of Rent in view of Clause 6.3 (1)(ii) of the land policy guidelines allowing annual escalation of 2%: <i>"All the rates provided in the SOR shall get automatically escalated by 2% per annum after expiry of one year from the effective date of implementation of the revised Rent schedule, and the escalated rates shall be considered as the prevailing Scheduled Rent for the concerned year. The Rent Schedule is subject to revision every five years."</i>	As per Clause 6.3 (1) (ii) of the prevailing Land Policy Guidelines it is proposed that, "All the rates provided in the SoR shall get automatically escalated by 02% per annum after expiry of one year from the effective date of implementation of the revised rent schedule and the escalated rates shall be considered as the prevailing scheduled rent for the concerned year. The Rent Schedule is subjected to revision every five years".

8.2. On examining the information/ clarifications furnished by the NMPT vide its letter dated 20 January 2014 to our queries, it was found that the NMPT had not satisfactorily addressed the queries raised on various points and there were still some gaps on information furnished. The port was, therefore, requested to furnish information/ clarifications vide our letter dated 10 April 2014. The NMPT has furnished its reply vide its letter dated 24 April 2014. A summary of additional information sought from NMPT in view of gaps observed in its reply and the response of NMPT is tabulated below:

Sl. No.	Our queries	Reply of NMPT																																				
(i).	<u>Item No.I(i):</u> The total area under different zones indicated in Sl. No.II in Form 1 (Annex-1) is 2352 acres. Whereas, the land utilisation detail given under Sl. No.III in the said Form is for 789.77 acres. The NMPT is requested to broadly indicate the land utilisation for the remaining land area as well.	The broad indication of Land utilization by the Port is as below: <table border="1"> <thead> <tr> <th></th><th></th><th>(in Acres)</th></tr> </thead> <tbody> <tr> <td>(a)</td><td>As per Form No. 1, total area</td><td>: 789.77</td></tr> <tr> <td>(b)</td><td>Land handed over to NH - 17</td><td>: 1.00</td></tr> <tr> <td>(c)</td><td>Greenery</td><td>: 290.00</td></tr> <tr> <td>(d)</td><td>Marshalling Yard</td><td>: 148.00</td></tr> <tr> <td>(e)</td><td>Future development</td><td>: 225.00</td></tr> <tr> <td>(f)</td><td>Lagoon (water front)</td><td>: 320.00</td></tr> <tr> <td>(g)</td><td>Vacant land</td><td>: 134.23</td></tr> <tr> <td></td><td>Sub Total</td><td>: 1908.00</td></tr> <tr> <td></td><td>Bondel</td><td>292.00</td></tr> <tr> <td></td><td>Kudupu</td><td>152.00</td></tr> <tr> <td></td><td>Grand Total</td><td>: 2352.00</td></tr> </tbody> </table>			(in Acres)	(a)	As per Form No. 1, total area	: 789.77	(b)	Land handed over to NH - 17	: 1.00	(c)	Greenery	: 290.00	(d)	Marshalling Yard	: 148.00	(e)	Future development	: 225.00	(f)	Lagoon (water front)	: 320.00	(g)	Vacant land	: 134.23		Sub Total	: 1908.00		Bondel	292.00		Kudupu	152.00		Grand Total	: 2352.00
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	Kudupu	152.00																																				
	Grand Total	: 2352.00																																				
(ii).	<u>Item No.I(v):</u> The reply furnished by the NMPT does not address the specific point made in the said query. Hence our query is reiterated requesting the NMPT to elaborate the apprehensions and concern of the Trustees recorded in the	In the Board meeting held on 15.10.2012, the Other Interest Trustees were of the view that revision in lease rentals should be given effect from 2015 only and until then, the existing rate may be continued. However, the revision of Lease rentals are based on the Land Policy Guidelines communicated																																				

	Minutes of the Board Meeting held on 17 September 2012 and 15 October 2012 and give a brief write-up along with views of port on the apprehensions and concern raised by the Trustees in view of increase proposed in the lease rental and their views that revision in lease rental should be with effect from 2015 and until then the existing rate to continue.	by the Ministry and agreed by all the Trustees and approved by Board (minutes of the meeting enclosed). Regarding the effective date of implementation of the revision of lease rentals the TAMP has to decide on par with other Major Ports. In reply to another query the NMPT has stated that still higher values are considered, the business development at NMPT may be of negative impact. Hence, the proposed lease rentals may be considered for approval.
(iii).	<u>Item No.I(i)(a):</u> The NMPT was specially requested to explain reasons, if any, for arriving at the proposed lease rentals based on the value of the land approved by the Valuer, when the market value of the port lands as per the Guide Line Rates stated to have been obtained from State Government Ready Reckoner is seen to be the highest. In this connection, as already stated earlier, while finalizing the lease rental revision proposals of some of the other Major Port Trusts such as Visakhapatnam Port Trust, Kandla Port Trust and even Kolkata Port Trust, etc., the Authority has taken a view that the market value of the lands under all the options given in the Land Policy guidelines for Major Ports should be considered and lease rentals should be derived based on the land valuation which is most beneficial to it. For the lease rental to be the most beneficial for the port trust, it should have been determined based on the highest market value among all the other factors. In this context, the NMPT was requested to relook its proposal and review. In response, the NMPT has in a general way stated that the proposal is in order and the revision proposed is as per Registered Valuer's Report without addressing the specific query raised. The NMPT is, therefore, requested to re-look its proposal and consider to propose lease rental based on the highest market value of land in line with the approach followed by the Authority in the lease rental cases at other Major Port Trusts.	While evaluating the revised lease rentals, the higher rates of State Government Ready Reckoner and also recorded transaction at Sub Registrar office, Mangalore of the Land near the vicinity of the Port has been considered by the Registered Valuer for valuation of Land of the Port. The said sources are the authenticated basic data for the Valuer to arrive reasonable Market Value based on the provisions stipulated in the Karnataka Stamps Act 1957 & Karnataka Stamps Rules 1958. The TAMP has stated that, still higher value of land should have been considered to arrive the lease rentals most beneficial for the Port Trust. It may be seen from the Resolution of the Board's meeting dated 15.10.2012, the Other Interest Trustees were of the view that subject revision should be made effective from 2015 instead of February 2012 proposed by NMPT. If still higher values of land are considered, then the business development at NMPT may have negative impact. Hence, the proposed lease rentals may be seen for approval.
(iv).	<u>Item No.II(ii)(a) and (b):</u> The reply furnished by NMPT does not address the query raised. The NMPT is once again requested to clarify how the value of land for residential building, commercial building, flats/ apartments and agricultural land given in the	It is to mention that, there is no sale of land belonging to Port Estate. The value of the land near the vicinity of the Port is considered for arriving the lease rentals. As pointed by the TAMP, the values of the residential buildings, commercial buildings, Flats/Apartments are not considered for

	Valuation Report are relevant for determining the market value of NMPT land. Moreover, as stated earlier, it is not clear how the valuation of land as per State Government's Ready Reckoner provided for different villages/ road for each of the locations such as Panambur, Kudupu, etc. (page nos.80-86 in the Valuation Report) are used to arrive at the market value of land under Option I - State Government's Ready Reckoner. The NMPT to furnish detail working in this regard. While doing so, the NMPT also to furnish detail working for arriving at the market value of land based on the sale transactions under Option II from the various sale transactions shown at page nos.134-157 in the Valuation Report.	assessing the Land value of the Port. The applicable values of land near the vicinity of the Port were considered by the Valuer.
(v).	<u>Item No.II(iii)(a):</u> In response to our query seeking reasons for considering sale value of only one year 2011-12 instead of average sale transaction of 3 years and applying 2% annual escalation as per land policy guidelines, the explanation furnished by the NMPT stating that approach followed is similar to the approach followed by NMPT in the last tariff revision which was approved by the Authority in the last tariff Order of June 2010 does not address the specific query raised in the above point. The NMPT is once again requested to address the query.	The Recorded Sale Transactions in Sub Register's Office, Mangalore furnished from pages 134 to 157 of the Valuer's Report are for the period from 2009-10, 2010-11 and 2012-13. Based on these data, the relevant transactions were considered to arrive land values for Data Base Year 2011-12 since the revision is due for the period 2012-2017.
(vi).	<u>Item No.II(v)(a):</u> The reply furnished by the NMPT on the above item raised in our letter dated 28 March 2013 does not address the query raised and hence our query is reiterated.	The valuation of Land at Kudupa and Bondel are at pages 64 to 77 of the Valuation Report. It is to mention that, these areas are for Granite stone quarrying and green purpose only. These are the Quarries used for removing stone for construction of break waters of the Port. There is no much development in the vicinity and these area are not operational area of the Port. Hence, valuation of land is considered as per Valuation Report only.
(vii).	<u>Item No.II(vi):</u> For the reasons given in the query on this point, the NMPT was requested to review its proposal of considering development cost applying 30.2% increase in the superstructure rates based on the wholesale price indices of steel, cement, plate, HSD, etc. from 2007-2012. It was further brought out that the actual cost incurred by the port in development of the six locations of port estate in last five years i.e. from 2007-2012 would be more relevant and the NMPT was, therefore, requested to	The NMPT has furnished the particulars related to Capital Expenditure.

	examine and review its proposal. The NMPT has not addressed the specific query raised. The NMPT has forwarded a copy of approved plan scheme under the 11 th five year plan scheme vis-à-vis the actual capital expenditure incurred by the port. The said document covers capex relating to various other port projects and does not indicate about the actual development cost incurred for the port estate in these six locations. The NMPT is once again requested to address the specific point raised by us in this regard.	
(viii).	<u>Item no.(vii):</u> The lease rate for open area at the Kudupu approved in the last tariff Order is ₹1136.92 per 100 sq. mtr./ month which if duly escalated comes to ₹1230.64 per sq. mtrs./ month as on 19 February 2012. As against that, the NMPT has proposed the lease rent for open area at the Kudupu at ₹1111.96 per 100 sq. mtr. per month with retrospective effect from 20 February 2012 which means a reduction of 9.65% over the lease rent prevailing as on 19 February 2012. The NMPT is requested to explain the reasons for proposing reduction in the lease rent only for this particular land for the open area when the lease rent at all the other locations is proposed for an increase.	The land value arrived by the Valuer was on GLR and recorded instances in the sub registrar office near the vicinity of the Kudupu quarry area. No recorded instances of higher value found near the Kudupu area for the period considered. The GLR rates are also found less which are variable for the period considered for valuation.

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

10. 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 New Mangalore Port Trust (NMPT) was last approved by this Authority vide its Order dated 16 June 2010 for a period of five years from 20 February 2007 to 19 February 2012.
- (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 NMPT has filed its proposal in September 2012 for revision in lease rental of port land following the Land Policy guidelines for Major Port Trusts, 2010 for the quinquennium 20 February 2012 to 19 February 2017.
Some of the users like Mangalore Refinery and Petrochemicals Limited (MRPL), IMC Limited, Association of New Mangalore Port Stevedores (ANMPS) have stated that the Land Policy Guidelines of Major Ports, 2010 has not yet been approved by Cabinet and is under hold and have, therefore, requested that the proposal filed by the NMPT should also be kept on hold. There is no documentary evidence submitted by any of the users in support of their argument. The NMPT has categorically confirmed on more than one occasion that the Land Policy

Guidelines for Major Port Trusts, 2010 issued by the Ministry of Shipping (MOS) in the Government of India are not under hold. The MOS in its letter No.PT-11033/4/2009-PT dated 4 March 2011 under the cover of which the Land Policy Guidelines for Major Ports – 2010 were forwarded has clearly stated that the said guidelines are effective from 13 January 2011 in case of all Major Ports. This Authority is mandated as per clause 8 of the 2005 tariff guidelines to follow the land policy guidelines issued by the MOS for revising the lease rental of Major Port Trusts. It is relevant here to mention that this Authority has passed Orders revising the lease rental of lands at Kolkatta Port Trust, Cochin Port Trust, Mormugao Port Trust, V.O. Chidambaranar Port Trust, etc. following the land policy guidelines of 2010. Hence, there is no merit found in the submission made by some of the lessees to hold the proposal for revision of lease rental of NMPT lands only in this particular case.

- (iii). The NMPT has filed the proposal for revision of lease rental following the Land Policy Guidelines of 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 were issued by the Government in January 2014. The proposal filed by NMPT for revision of lease rentals is for the period 2012 to 2017. It can be seen that the part of the period relates prior to the announcement of the 2014 guidelines and some period subsequent to the announcement of the 2014 guidelines.
 - (b). As already stated above, the proposal filed by NMPT in September 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(1) of the Land Policy Guidelines of 2010, the market value of land can be determined taking into consideration the applicable factors from 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 by the Land Allotment Committee but recommends to consider the highest valuation of land for determination of lease rental. If the Land Allotment Committee does not choose the highest value of land, then it has to record reasons in writing. 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 NMPT under the land policy guidelines of 2010 considers the three factors of the five factors enumerated in the said guidelines for valuation. The NMPT has explained the reasons for not considering the fourth factor for land valuation and the fifth factor prescribed in the guideline is a general flexibility to ports to consider any other factor not specifically prescribed in the guidelines.

For arriving at the lease rental, the Committee appointed by the NMPT for revision of lease rental has recommended market value of land applying @ 6% on the market value recommended by the Committee constituted to review the lease rental. The proposal filed by the NMPT while complying with the provisions of land policy guidelines of 2010 is also found to be in tandem the factors prescribed in the revised Land Policy Guidelines of 2014 as well.

- (f). In view of the position brought out in paragraphs 10 (iii) (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 with fixing lease rentals of the NMPT lands based on the proposal filed by the NMPT in September 2012 following the land policy guidelines of 2010, as proposed by the NMPT.
- (iv). 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 NMPT has constituted a Committee under the Chairmanship of Chairman (NMPT) with Deputy Chairman, Chief Engineer (Civil), Financial Advisor & Chief Accounts Officer, Deputy Chief Engineer (Civil) and Superintending Engineer (Civil-1), as other members to review and recommend the revised lease rent for port trust lands.

The Committee constituted by the Port under the Chairmanship of the Chairman, NMPT has considered the Land Valuation Report furnished by the Valuer and has recommended the rates as per the provisions of the Land Policy guidelines of 2010. Thus, the proposal filed by the NMPT which is supported with the copy each of the Valuation Report of the approved valuer, report of the Committee constituted by the port recommending the revised rates and which also has the approval of the NMPT Board is found to be in compliance with the Land Policy guidelines of 2010 and, therefore, relied upon for processing this case.

- (v). (a). The Land Policy Guidelines clearly lays 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(1)(a) of the Land Policy Guidelines, the market value of land is to be determined by the Committee taking into consideration any or all of the factors like (i) State Government's ready reckoner value, (ii) the average rate of actual sale 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 Committee has considered market value of land under three specific options prescribed in the land policy guidelines viz. State Government's Ready Reckoner rates - Guide Line Rates (GLR), sale transactions recorded in the Sub-Registrar's office, Mangalore and the rate arrived at by an approved valuer. It is seen that the Report of the Committee also tabulates the valuation of land based on tenders invited by the port. The data relating to land allotted on tendering basis pertains to the period 1996 to 2007. No tenders were issued during the last five years, and hence this option has not been considered by the port for valuation of land. This position is relied upon. The NMPT has not assessed valuation of land with reference to the fifth option prescribed in the Land Policy guidelines which is a general factor to consider any other relevant factor, if found relevant. Thus, effectively, the NMPT has considered the market

value on the basis of the other three options, namely, State Government's ready reckoner rates, the actual relevant sale transactions and the rate arrived at by an approved valuer.

One of the factors prescribed in the land policy guidelines, 2010 is to reckon with the average rate of the actual relevant transactions registered in the last three years in the port's vicinity and applying 2% annual escalation. The proposal of the NMPT states that the value of land under this option is arrived based on sale transaction with reference to the year 2011-12. The NMPT was, therefore, requested to justify the reasons for deviating from said clause stipulated in the Land Policy Guidelines of 2010. The NMPT initially stated that it is as per the rate approved by this Authority for the previous period 2002-2007. In this regard, it is relevant here to mention that this Authority in the last tariff Order in para 9.1. had categorically advised NMPT to find out the average sale transaction for three years instead of the highest sale value reported by them. The lease rental approved by this Authority in the last Order of June 2010 for the period 2007 to 2012 is based on the value of land given by valuers' report furnished by the NMPT. Hence, the point made by the NMPT that this Authority had approved its approach based on highest sale transaction in the last Order does not reflect the factual position and hence is denied.

Subsequently, on further pursuing with the NMPT on its current proposal to address the deviation from the guidelines while arriving the valuation of land under this approach, the port has clarified that the recorded sale transactions in Sub Register's Office, Mangalore furnished in the Valuer's Report are for the period from 2009-10, 2010-11 and 2012-13. Based on the data for these years, the relevant transactions were considered to arrive at land values for base year 2011-12 since the revision is due for the period 2012-2017. It is relevant to state that the land policy guidelines requires to consider the land value based on the average of the actual relevant transactions in the last three years in the port's vicinity duly escalated by 2% per annum. This Authority does not agree with the approach adopted by the NMPT in considering only the sale transaction of the year 2011-12 when the guidelines require to consider the average sale transaction in port's vicinity for last three years and duly escalated by 2%. In the absence of any detailed working provided by NMPT or in the valuation report as to how land valuation under this option is finally arrived from the valuation of land for various areas in each location, it is not possible to make any correction in this regard. In any case, fixation of final rent is not based on the land value assessed under this option.

The Kudremukh Iron Ore Company Ltd (KIOCL) has suggested that the market value of land belonging to KIADB in Baikampady and Panambur village which is only ₹20.00 lakhs per Acre on an average and the latest revised rate at only ₹30.00 lakhs per acre should be reckoned with. The NMPT has emphatically rejected this submission made by the KIOCL. The NMPT has clarified that the purpose of leasing land by KIADB is to encourage the industries at Mangalore and that cannot be a criteria for the Port services where the connectivity to the port and the facility have been used by the lessee. The position given by the NMPT is relied upon.

- (c). The valuation of land has been done for six locations namely Panambur Village, Marshalling Yard, Commercial Yard along the NH No.66, Tannir Bavi, Kudupu and Bondel. Further, for each location, land value is assessed for three areas viz. land abutting the main road, abutting the cross road and for interior area. A comparative position of the valuation of land considered by the Committee for the above mentioned six locations based on the Guidelines Rates obtained from the State Government Ready Reckoner, actual relevant sale instances recorded in the Sub-

Registrar's Officer, Mangalore and valuation by the approved valuer is tabulated below:

(₹ in lakhs/acre)

Sl. No.	Area	Option 1 - State Government's ready reckoner – Guide Lines Rates			Option 2 - Actual sale transactions recorded with the Sub-Registrar's office at Mangalore			Option 3 - Approved Land valuer		
		Developed Land (per Acre)			Developed Land (per Acre)			Developed Land (per Acre)		
		Abutting Main Road	Abutting Cross Road	For Interior area	Abutting Main Road	Abutting Cross Road	For Interior area	Abutting Main Road	Abutting Cross Road	For Interior area
1.	Panambur Village	180.00	150.00	120.00	131.00	91.70	65.50	155.50	120.85	92.75
2.	Marshalling Yard	150.00	120.00	90.00	167.00	116.90	83.50	158.50	118.45	86.75
3.	Commercial Yard along the NH No.66	210.00	150.00	90.00	199.00	139.30	99.50	204.50	144.65	94.75
4.	Tannir-Bavi Area	150.00	90.00	75.00	143.00	100.10	71.50	146.50	95.05	73.25
5.	Kudupu	70.00	60.00	60.00	110.00	77.00	55.00	90.00	68.50	57.50
6.	Bondel	90.00	75.00	60.00	100.00	70.00	50.00	95.00	72.50	55.00

- (vi). (a). From the valuation of land done under three options mentioned above, the NMPT, based on the recommendations of the Committee has considered the valuation of land given by the approved valuer. Under this option, the valuation of land for three areas viz. abutting the main road, abutting cross road and for interior area, the highest value of land in the three areas viz. abutting the port area is considered as the market value for determining the lease rental. This is based on the recommendations of the Committee.

Some of the lessees such as Canara Chamber of Commerce (CCC) and others have stated that consideration of the maximum value of land of the three areas viz. abutting the main road instead of the land value abutting the cross road or the interior area is against the land valuation. They have suggested to consider the average value of land of the three areas instead of the highest. The NMPT has countered the argument of users saying that the market value of the land is arrived based on the factors as per the Land Policy Guidelines of 2010 issued by the Ministry of Shipping for determining the market value of the land. The independent valuer appointed for the purpose has after considering all aspects like market value, transactions of nearby land, usage and location, etc. arrived at the land valuation which has been examined by Committee appointed by the port for revision of lease rental. It is relevant here to state that the users have not explained any valid reason as to how consideration of the value of land based the land value abutting the main area for other two areas (abutting cross road and interior area) is against the land valuation except suggesting that it should be based on the average and not the highest. In fact, this Authority has in the revision of lease rental of other Major Port Trust as explained in the subsequent paragraph viewed that the lease rental should be arrived by the Port Trust adopting the one which is most beneficial to the port. Hence, the approach adopted by the NMPT based on the recommendation of the Committee to take the highest value of land i.e. land abutting the Abutting Main Road from the value of land amongst the three areas under each location is found to be in line with the decision taken by this Authority in other cases.

- (b). The Land Policy Guidelines of 2010 state that the market value of land can be determined taking into consideration the applicable factors from among the factors listed therein as already brought out in the earlier paragraphs. This Authority has, however, 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.

It can be seen from the above that for Panambur Village, Commercial Yard and Tannir Bavi areas of the NMPT, the market value of land under first option i.e. State Government's Ready Reckoner is the highest. Whereas for the Marshalling yard, Kudupu and Bondel areas, the market value of land based on the actual sale transaction rate is found to be highest.

The proposal filed by the NMPT, however, seeks revision of lease rental based on the market value of land determined by the approved valuer appointed by the NMPT. It is relevant here to state that market value of land for each location arrived by the approved valuer is not the highest but appears to be an average of the other two valuation. Since the proposal filed by the NMPT for revision of lease rental is not based on the valuation which would be most beneficial to the port i.e. highest of the market valuation of three options, in line with the decision taken by this Authority in other cases referred above, the NMPT was advised vide our letter dated 28 March 2013 to relook and review its proposal in line with the decision taken by this Authority in the other Major Port Trusts. Since, the response of the NMPT did not address the pointed query raised, the NMPT was again vide our letter dated 10 April 2014 advised to consider revising its proposal based on the highest market value of land instead of considering the valuation of land determined by the approved valuer which is not found to be highest. The NMPT has in this regard brought to the attention of this Authority the decision taken by the Board in its meeting 15 October 2012. In view of the specific request made by the Board of Trustees to convey the apprehension of the Trustees on the revision proposed in lease rental, the NMPT has forwarded a copy of the minutes of the Board Meeting dated 15 October 2012. The said minutes of the meeting show that the Board of Trustees while according approval to forward the proposal of the NMPT for revision of lease rental based on the recommendation of the Committee has recorded the apprehension of the Trustees and concern about the business development at NMPT due to increase in the lease rentals. In view of the same, the Trustees have viewed that even revision of lease rentals should be made effective only from the year 2015 and until then the same rate may be continued. The NMPT has also categorically stated that even for the revision in lease rental proposed by it in the current proposal, the Board has expressed apprehension on the business development of the port. The NMPT has viewed that if the lease rentals are revised further it will have a negative impact on the port business. In view of the above submissions made by the NMPT and particularly considering highest market value of land for each locations for fixation of lease rental will lead to further upward revision in lease rental from the level proposed by NMPT which reportedly will adversely affect the development of the port, this Authority only in this particular case entirely relying on the judgment of NMPT accepts its proposal for revision of lease rental based on value of land given by the approved valuer.

- (c). Incidentally, the Land Policy Guidelines, 2014 whilst it recommends to reckon with the highest market value of land for fixation of lease rental allows an option to the Land Allotment Committee to choose other than highest for reasons recording in writing. In the instant case, the Committee appointed by NMPT for revision of lease rental under 2010

Land Policy Guidelines has recommended lease rental based on valuation of land given by the approved valuer which is not found to be highest. The NMPT has expressed its concern as well as apprehension of the Trustees of the Board of NMPT if highest valuation of land is considered it will adversely impact the business of the port.

- (d). Thus, in the instant case in view of the apprehension expressed by the port as well as some Trustees of the Board of NMPT, this Authority is inclined to depart from the general approach adopted while revising the lease rental at other ports based on the valuation which is most beneficial to the port. In view of the position brought out by NMPT, this Authority as a one-time measure accepts the proposal of the port for revision in lease rental based on the valuation of land given by the approved valuer which is also the recommendation of the Committee appointed. By way of abundant caution, it is mentioned that this deviation should not be quoted by any other Major Port Trust with reference to revision of lease rental processed under 2010 Land Policy guidelines. Based on the above analysis, the land value for each of the locations is considered at the level recommended by the NMPT.

- (vii). (a). As per clause 6.3.(1) of the Land Policy guidelines of 2010, the lease rent per annum is to be arrived at 6% of the market value of land. The proposed lease rental is arrived by the NMPT applying 6% return on the market land value as stipulated in the Land Policy Guidelines. Since the land valuation is done on per acre basis, the lease rent proposed on per 100 sq. mtrs. per month is arrived by applying the applicable conversion factor of 1 acre = 4046.9 sq. mtrs. [For example, for value of land of Panambur at ₹155.50 lakhs/ acre the lease rent is arrived at ₹1921.22 per 100 sq. mtrs./ month applying 6% return (i.e. $155.50 \times 1,00,000 \times 6\% / 12 / 4046.9 \times 100$) = ₹1921.22 per 100 sq. mtrs./ month]. Accordingly, the lease rent for land arrived by the NMPT for different locations is as follows:

₹ per sq. mtr per month	
Location	Lease rent as proposed by the port to be effective from 20/02/2012 (for open area of land)
Panambur Village	1921.22
Marshalling Yard along NH-17	1958.29
Commercial Yards along the NH No.17	2526.63
Tannir Bavi	1810.03
Kudupu	1111.96
Bondel	1173.74

- (b). The lease rent arrived above is proposed for open area. The NMPT has also proposed lease rent for paved area and covered area which is discussed in the subsequent paragraph. In the meanwhile, a comparative position of lease rent approved by this Authority in last revision Order dated 16 June 2010 for open area, duly escalated lease rent as on 19 February 2012 at the applicable 2% annual escalation, and the proposed lease rent for open area of land is tabulated below:

Location	Lease rent approved in the last tariff Order (effective from 20/02/2007)	Duly escalated lease rent as on 19/02/2012	Lease rent proposed by NMPT as on 20/02/2007 applying 6% return on land value	% Increase of decrease sought with reference to duly escalated lease rent as on 19/02/2007
Panambur Village	1393.78	1508.67	1921.22	27.35%
Marshalling Yard along NH-17	1430.60	1548.53	1958.29	26.46%

Location	Lease rent approved in the last tariff Order (effective from 20/02/2007)	Duly escalated lease rent as on 19/02/2012	Lease rent proposed by NMPT as on 20/02/2007 applying 6% return on land value	% Increase of decrease sought with reference to duly escalated lease rent as on 19/02/2007
Commercial Yards along the NH No.17	1653.61	1789.92	2526.63	41.16%
Tannir Bavi	911.81	986.97	1810.03	83.39%
Kudupu	1136.92	1230.64	1111.96	-9.64%
Bondel	822.98	890.82	1173.74	31.76%

(c). The table given above depicts the revision in lease rent for open area on an increase of 27.35%, 26.46%, 41.16%, 83.39% and 31.76% for Panambur Village, Marshalling Yard along NH-17, Commercial Yards along the NH No.17, Tannir Bavi and Bondel respectively with reference to the duly escalated lease rent applicable on 19 February 2012. Few users/ lessees like MRPL, IOCL, etc. have objected steep increase of around 80% in the lease rental of the Tannir Bavi which is higher in comparison to 26.46% to 41.16% increase in lease rent sought for other locations. The NMPT has clarified that there has been substantial increase in the land value in this area due to the industrial developments taking place in Tannir Bavi in the last few years. The number of transactions have taken place in this area in the last 2 years and the transactions suggest that the land value at Tannir Bavi has gone up nearly 2 to 3 times. It can be seen from the valuation report that the value of land for Tannir Bavi under all the three options viz. State Government's Ready Reckoner, sale transactions and approved valuer are in close range i.e. ₹150 lakhs per acre, ₹143 lakhs per acre and ₹146.50 lakhs per acre respectively. Since there is no much variation in the land value of Tannir Bavi under all the three options and in view of the position explained by the NMPT for increase in valuation in this area, this Authority relies on the submission made by the port in the matter and approves the lease rentals for the Tannir Bavi at the level proposed by the port which is arrived applying 6% return on the land value as per the Land Policy guidelines.

(d). With regard to lease rentals for the Kudupu land, it is seen that at the proposed lease rent, there is downward revision of 9.64% in the lease rent applicable on 20 February 2012.

To a specific query posed to the NMPT for the reduction in lease rent only for this particular location, the NMPT has clarified that Kudupu is located at 07 Kms away from NMPT estate and is used for removing stone for construction of break waters of the port. The land in this location is reportedly used for operational purposes of port only. There is not much development reported in the vicinity of this area. The NMPT has also reported that Guideline Rate and recorded transactions obtained with reference to vicinity of Kudupu quarry area do not record instances of higher value of land for Kudupu for the period considered. It has to be also recognised that the market value for this land has also been recommended by the Committee. This Authority, therefore, approves the lease rent for Kudupu as well for open area as proposed by the NMPT applying 6% return on the market value of land. The lease rent for open area for the other four locations which are arrived applying 6% return as per the Land Policy Guidelines of 2010 is also approved.

(viii). (a). The existing lease rent approved for NMPT in the last Order dated 16 June 2010 prescribes lease rent for open area, paved area and covered area for each of the six locations. The NMPT has in the current

proposal also sought revision of lease rent for paved area and covered area apart from revision in lease rent for open area.

- (b). The lease rent for the paved area arrived by the NMPT is sum of the revised lease rental proposed for open area and the rate approved for structure for paved area in the last Order escalated by 30.2%. The escalation factor of 30.2% is reportedly arrived by the NMPT based on the movement in Wholesale Price Indices (WPI) of cement, steel, plates, HSD for the period of five years 2007 to 2012. The same approach is followed for arriving at the revised lease rental for covered area for each of the six locations.

It is relevant here to mention that land policy guidelines 2010 do not mention any factor/ method for valuation of superstructures or lease rental for structure. At the same time, it has to be recognised that the existing schedule of lease rent of NMPT approved in the last tariff Order prescribe separate higher rate for paved area and covered area in comparison to the lease rent prescribed for the open area. Thus, if rentals for the land is revised based on its updated market value and the rentals for the structures which already exist 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 paved/ covered area, as compared to a lessee of an open land, would not be subjected to any increase in his rentals on the component of structures.

In the case of Kolkatta Port Trust, the rent schedule for Kolkatta Dock System (KDS) 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 had for similar reasons while approving the revised lease rent of the KOPT lands in Order No.TAMP/40/2011-KOPT dated 14 February 2012 had revised the rentals for structures as well. 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 had 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.

In the instant case, the NMPT has applied 30.2% increase in the structure rate based on WPI movement between 2007 to 2012 of construction related material. The NMPT has not clarified pointedly as to how the increase in WPI of the construction related commodities considered by them is relevant for revising the rates. In case of the NMPT since the paved area and covered area provided by the port are existing structures, the application of WPI increase of 30.2% reportedly relating to construction material is not found relevant. Since the actual cost, if any, incurred by the port in development of the six locations of port estate in last five years i.e. from 2007-2012 would be more relevant the NMPT was requested to examine and review its proposal. The NMPT has just forwarded a copy of approved plan scheme under the 11th five year plan vis-à-vis the actual capital expenditure incurred by the port. On examining the said document it is seen that the port has incurred capex relating to various other port projects like construction of berth, procurement of tugs/ equipment, etc. The port has not indicated actual development cost, if any, incurred for the port estate in respect of these six locations in the last five years.

During the last revision of lease rental, this Authority had categorically observed that though the cost of superstructure added may not appreciate in proportion to the appreciation in value of the land, it is necessary to consider a reasonable increase therefor. In the last tariff Order, the lease rent for paved area and covered area contained two components one is lease rent for land and the other for structure. The lease rent for land was taken at the level arrived for open area. For structure, 40% of the increase in the lease rental for open area was allowed in respect of rent for structure component as on 1 February 2007 for each of the six locations. None of the users or the NMPT had made any adverse remarks on this methodology adopted in the last tariff Order. In the absence of any clear cut guidelines for revision of lease rent for structure but at the same time in view of the position explained that the lease rent for the structures on the paved area and covered area at the NMPT land may also have to be revised, the approach followed by this Authority in the last tariff Order which has not been disputed by port or users is applied in the current revision as well with reference to revision of structure on these two areas. Thus, for paved area and covered area, the lease rent for the land component is taken at the level of revised lease rent arrived for open area in line with the approach followed by the NMPT as per the last fixation. For the structure component in the paved area and covered area, 40% of the increase in the lease rent of open area of the corresponding location is considered over the duly escalated structure component as on 19 February 2012. It is seen that the NMPT has applied 30.2% increase in the structure rate as approved in the last tariff Order without duly escalating by 2% annually to bring it to the rate for structure as on 19 February 2012. The approach adopted by the NMPT is not found to be correct as 2% escalation is also applicable on structure component on the rate approved in the last tariff Order for paved and covered area. Even in the last tariff Order, the structure component was duly escalated as on 19 February 2007 and then 40% of percentage increase in the lease rent for the open land was applied. To illustrate, at Panambur village the increase in lease rent for open area arrived in the table given earlier in para 10(vii)(b) being 27.35%, the appreciation of superstructure is considered at 10.94% i.e. 40% of 27.35% increase in lease rental for open land for this location. The same approach is adopted for arriving at the rentals for the paved stack yards and covered space for all the four locations viz., Marshalling Yard, Commercial Yard along the NH No.66, Tannir Bavi and Bondel while fixing the rentals for the paved stack yards and covered space.

- (c). As regards Kudupu, the proposed lease rental for an open area shows a reduction of 9.64% in comparison to the duly escalated rent as on 20 February 2012 as already stated earlier. The approach considered in this analysis i.e. applying 40% of the percentage increase in the lease rental for open area as done for other locations if done in the case of Kudupu, it will tantamount to reduction in the rate for structure component. It is relevant here to state that though the revised lease rental for open area for Kudupu is proposed for reduction, the NMPT has proposed increase in the structure component for paved area and covered area by 30.2% for Kudupu location. Hence, going by the proposal of the NMPT, the structure component for Kudupu for paved and open area will need to be increased. The increase in the rate for structure component applying 40% of the percentage increase in lease rental for other five locations works out 10.94%, 10.58%, 16.46%, 33.70% and 12.70% for Panambur Village, Marshalling Yard, Commercial Yard along the NH No.66, Tannir Bavi and Bondel locations. Considering the lowest percentage increase amongst the above is 10.58%, an increase of 10% is considered in the structure rate of paved and covered area for Kudupu location over the duly escalated structure rate as on 19 February 2012.

As regards Tannir Bavi, it can be seen that applying 40% of the percentage increase on the lease rental for open area for this location results in 33.36% increase which is higher than 30.2% increase considered by the NMPT. As stated earlier, the percentage increase on the rate for structure in our analysis is applied on the duly escalated structure rate as on 19 February 2012 instead of the NMPT's approach of applying 30.2% increase on structure component approved in the last tariff Order without considering the duly applicable annual escalation rate of 2% per annum as the last tariff Order. Thus, applying 33.36% increase over the duly escalated rate for structure component as on 19 February 2012 for Tannir Bavi for paved and open area, the rate for structure component will work out to ₹1517.96 per 100 sq. mtrs. per month for paved area and ₹4770.12 per 100 sq. mtrs. per month for covered area which is higher than the level proposed by the NMPT at ₹1369.08 per 100 sq. mtrs. per month for paved area and ₹4302.27 per 100 sq. mtrs. per month covered area. Since the rate for structure applying 40% of the percentage increase in the lease rental of open area comes higher than the level proposed by the NMPT for Tannir Bavi location, it is appropriate to restrict the lease rent for the structure component for paved area and covered area at the level proposed by the NMPT.

- (d). The working of revised lease rent for all the six locations for open area, paved stack yards and covered space is attached as **Annex - I (a) to (f)**. A summary of the lease rent proposed by NMPT and recommended for approval for open area is brought out in the preceding paragraph and hence not repeated here. A summary of lease for paved area and covered area duly escalated as on 19 February 2012, lease rent proposed by the NMPT, lease rent approved and the percentage increase over the duly escalated lease rent as on 19 February 2012 is tabulated below:

For Paved Area **₹ per 100 sq. mtr./ month**

Location	Lease rent prevailing as on 19/2/2012	Lease rent proposed from 20/2/2012	% increase sought over the duly escalated lease rent as on 19/2/2012	Lease Rent approved	% increase over the duly escalated lease rent as on 19/02/2012
Panambur Village	2889.78	3582.42	23.97%	3453.42	19.50%
Marshalling Yard along NH-17	2948.19	3641.80	23.53%	3506.03	18.92%
Commercial Yards along the NH No.17	3301.96	4345.29	31.60%	4287.55	29.85%
Tannirbavi	2125.21	3179.11	49.59%	3179.11	49.59%
Kudupu	2482.40	2617.58	5.45%	2488.90	0.26%
Bondel	1984.37	2489.06	25.43%	2406.17	21.26%

For Covered Area **₹ per 100 sq. mtr./ month**

Location	Lease rent prevailing as on 19/2/2012	Lease rent proposed from 20/2/2012	% increase sought over the duly escalated lease rent as on 19/2/2012	Lease Rent approved	% increase over the duly escalated lease rent as on 19/02/2012
Panambur Village	5848.72	7141.43	22.10%	6736.06	15.17%
Marshalling Yard along NH-17	5946.89	7248.65	21.89%	6822.00	14.72%
Commercial Yards along the NH No.17	6541.42	8241.72	25.99%	8060.22	23.22%
Tannirbavi	4563.85	6112.30	33.93%	6112.30	33.93%
Kudupu	5163.94	5842.94	13.15%	5438.59	5.32%
Bondel	4327.22	5307.07	22.64%	5046.56	16.62%

- (ix). Some of the users like the MRPL Ltd. and IMC Ltd. have raised objection on surcharge of 10% of the proposed lease rental proposed by the NMPT for allotment of land inside the security wall. Their argument is that the guidelines

issued by the Government do not provide for levy of surcharge. The NMPT has clarified that the area inside the security wall which is a Custom notified is guarded by CISF personnel round the clock. 10% of licence fee is levied as surcharge for land inside wharf area in view of surveillance provided by the port round the clock and is already prescribed in the existing Schedule of lease rent as well.

The Land Policy Guidelines prescribe broad guidelines for determination of lease rental based on the market value of land based on the factors prescribed in the guidelines. As stated by the NMPT, the surcharge proposed is in view of specific services provided by the port in terms of security inside the security wall. It is relevant here to mention that levy of 10% over the prescribed lease rent inside the security wall prevails right from over a decade i.e. in the Order No.TAMP/33/2003-NMPT dated 20 January 2005 and also in the last revision Order passed on 16 June 2010. Based on the clarification furnished by the NMPT and recognising that it is an existing provision prevailing in the rent schedule of the NMPT, it is allowed to continue as proposed by the NMPT.

Some of the user associations like the Association of New Mangalore Port Stevedores, Mangalore Custom House Agents Association and New Mangalore Port C & F Association stated that the port is collecting 5% Service Charges for outside the wall. It is also not clear from the point made by these associations for what services this charge is reportedly collected. The port has not pointedly made any comment on this point. The Rent Schedule approved by this Authority does not prescribe any tariff under the name "service charge" in the schedule of lease rent for NMPT.

- (x). The NMPT has also proposed a note stating that the rates prescribed will come into effect from 20 February 2012 and will be reviewed after five years. Clause 6.3(1)(d) of the land policy guidelines of 2010 stipulates that the Scale of Rates will be revised every five years. Hence the proposed note is approved. For the reasons stated in the subsequent paragraphs for according the revision in the revised lease rent retrospectively from 20 February 2012, the proposed note is accepted.
- (xi). 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. The NMPT has proposed a note to state that the rent shall bear an annual escalation @ 2% (compoundable) per annum after expiry of one year from the effective date of implementation of the revised rent schedule and the escalated rates shall be considered as the prevailing scheduled rent for the concerned year. The Rent Schedule is subject to revision after every five years. Since the lease rent is made effective from 20 February 2012, the subsequent annual escalation will apply from 20 February 2013 onwards. The period from when the 2% annual escalation will apply and the period till which it will apply is clearly mentioned in the note to avoid any ambiguity. The proposed note is, therefore, suitably modified to state that the lease rent shall bear an annual escalation @ 2% (compoundable) per annum from 20 February 2013 till 19 February 2017. The note stating that the Rent Schedule is subject to revision after every five years is incorporated as proposed by the NMPT.
- (xii). The port has proposed to retain the existing condition that Security Deposit equivalent to one month's licence fee shall be applicable at the time of allotment for license upto 11 months. The Security Deposit shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT. Since a detailed condition is now proposed by NMPT in this regard which is explained in subsequent paragraph, the note no.A(iv) proposed by the NMPT is deleted to avoid duplication.
- (xiii). The existing Rent Schedule prescribes levy of lease rent for open area as applicable to the location of the area occupied by the pipelines/ service conduits. The method of determining the area occupied by pipelines/ service conduits by

single pipe line and multilayer pipeline and if the area is occupied by multiuser, is also prescribed. The NMPT has proposed to retain the existing provision relating to way leave charges proposed for laying pipe lines/ service conduits. There has not been any objection from any user to the proposed provision except that the MRPL has pointed out that the existing as well as the proposed provision stated that if user establishes" that the possession of surface area above the ground, cross country pipeline is not physically with them, the area occupied by such pipelines should be counted as 50% of the product of diameter and length for the purpose of way leave charges. It has suggested that, the onus of proof should not be that of 'User' as NMPT does not pass on this benefit to any users as they will always claim that the possession is with the users. It has sought to argue that wherever, the way leave charges are given, the land areas within the Port compound and outside are with Port and hence this point is made as a general condition and not as a user establishing such right. In this regard it is relevant to mention that the said provision has been uniformly prescribed in the case of other Major Ports like the JNPT, COPT, etc. In fact even para 3 of Annexure prescribing Broad Terms and Conditions of Right of Way Permission for laying pipelines attached to the Land policy Guidelines of 2014 issued by the Ministry of Shipping incorporates this clause. Hence, there is no need for any modification in the proposed provision which is found to be in line with the prescription made in the other Major Ports.

- (xiv). The NMPT has proposed to introduce levy of water front charges at 50% of the license fee for the land abutting the water front for construction of jetties, submarine pipeline, etc. as way leave permission.

The MRPL has raised serious objection on the proposed levy. They have submitted that as they installed SPM, a 17 K.M. submarine pipeline has been laid and this point was not indicated by the port earlier. It has stated that the proposed rate is without discussion and mutual consent and subsequent to investment done by the MRPL and is equivalent to changing the condition/agreement reached in this regard while considering the investment. The MRPL has also stated that proposed levy equivalent of 50% land lease rentals is too high and has requested to defer introduction of this rate.

The NMPT has attempted to counter this argument by stating that proposed water front charges is based on the guidelines of the Land Policy Guidelines issued by the Ministry of Shipping. Clause 6.2.2.3. (k) of the Land Policy Guidelines stipulates that the license fee for water area would be 50% of the license fee of abutting land.

As regards the point made by the MRPL to defer the proposal it is relevant to state that the MRPL also admits that submarine pipe line are laid in the port waters of the NMPT. This means port water area is being occupied for the purpose of transfer of liquid cargo from its SPM to shore. If any user occupies port water, there is no reason as to why the port should be deprived of revenue on account of its water area being utilised.

In the instant case also the structure i.e. pipe line is occupying port water though they are submerged under the port water. The land policy guidelines while stipulating that the levy for water front should be 50% of the land abutting is silent about the purpose for which the water front is to be used i.e. whether for construction of jetty or for laying submarine pipelines. This Authority while approving upfront tariff for container terminal at Jawaharlal Nehru Port Trust (JNPT) and multi user liquid terminal at Cochin Port Trust (COPT) and few other cases has considered licence fee for water area for determination of upfront tariff following the approach prescribed in the land policy guidelines. In the absence of any specific methodology prescribed in the Land Policy Guidelines, it is not unreasonable to prescribe the levy at 50% of lease rent of the land abutting the water area as per the land policy guidelines. Hence the proposal of the NMPT is accepted subject to modifying the proposed provision to state that the lease rent

on submarine pipeline will apply for the area occupied by the pipeline which has to be computed based on the methodology prescribed for way leave charges on land.

As regards the point made by the MRPL that it is not with the consent of the user, it is relevant here to state that the land policy guidelines do not stipulate about obtaining consent of users. This Authority is mandated to fix rate as per the land policy guidelines which prescribed a methodology of fixing water front area which has been considered. As regards the point about lease agreement, this Authority does not determine lease rental for individual agreement. It is fixed for the facility of the port availed by users. In any case, a condition is inserted that the revision approved will apply subject to existing leases/ licensee contain provision for periodic revision of rates.

- (xv). The NMPT has proposed few other conditions governing the proposed lease rent. It is seen that most of the conditionalities except two conditions proposed by the NMPT are same as approved by this Authority in Order No.TAMP/32/2006-NMPT dated 29 December 2006 with some very minor changes which does not materially impact the then approved conditions.

In the Order of December 2006, this Authority had approved detailed terms and conditions relating governing lease rental for land leased/ licensed for stacking of cargo. These conditionalities were, however, not proposed by the NMPT during the revision of lease rental undertaken in June 2010. Hence the Order approved by this Authority also did not contain these conditions. It is seen that NMPT has vide Notification No.2/33/2007/EBL.2 dated 04.6.2007 has notified in the Karnataka Gazette the terms and conditions for allotment of land as notified by this Authority in the Order dated December 2006.

It thus appears that inadvertently these conditions were not proposed by the NMPT during the last tariff revision and not therefore included in the last Order of this Authority as well. The NMPT in the current proposal has included these conditions with some very minor changes which do not materially impact the then approved conditions. It is observed that most of the conditions proposed by the NMPT are similar to the conditions prescribed in the lease rent Schedule of the CHPT as well. Hence, the conditions as proposed by the NMPT are approved except the few conditions which are newly proposed or those conditions which required to be analysed with reference to the provisions in the land policy guidelines of 2010. They are analysed in the subsequent paragraphs.

- (xvi). The NMPT in note (c) has also proposed a note for levy of penal license fee for encroachment or unauthorized occupation of the NMPT's land and stacking of goods / cargo on the NMPT's Railway track, plants, equipment, approach road etc., causing obstruction to the movement of traffic. The port proposes penal license fee at two times, five times and ten times the license fee for period upto 3 months, 3 to 7 months and period thereafter in addition to the cost of rectifying damages caused to the NMPT's properties if the licensee fails to remove the goods from the encroached area in spite of notice to do so.

Clause 6.2.2.3 (g) of Land Policy Guidelines of 2010 prescribes penalty at 3 times of prescribed rate for unauthorized occupation of facilities after expiry/ termination of lease.

When sought to explain reasons for deviation from the guidelines, the NMPT has clarified that for Non removal of goods / Cargo by the Lessee / Licensee from the encroached/ unauthorized area of the Port in spite of notice to do so the port proposes such graded penal license fee. Further port has stated that it is as per Condition (iii) of the Gazette Notification No.2/33/2007/EBL.2 dated 04.6.2007 which was notified by the NMPT based on Conditions notified by this Authority vide Order dated 26 December 2006.

With reference to the said condition proposed by the NMPT, it is relevant here to state that exactly similar note is prescribed in CHPT at Note 2(ii) relating to the conditions for licensing except that in the CHPT penal license fee is prescribed there is one slab i.e. upto ten times without graded increase as the number of days increase. At KOPT, the penal licence fee for unauthorized occupation is prescribed at the two times, five times and ten times the license fee for period for first 30 days months, next 30 days months and period thereafter.

In view of the submissions made by the NMPT stressing the need for the proposed condition and also recognising that similar provisions for levy of penal license fee have been approved by this Authority in the case of KOPT and CHPT as well as in its case in December 2006, this Authority approves the proposed penal license fee for unauthorized occupation of licensee. In fact, the penal license fee prescribed in the NMPT is slightly liberal compared to the other two ports.

- (xvii). (a). One of the conditions (v) approved by this Authority in December 2006 Order stated that licensee shall deposit one month's license fee on the land / space allotted which shall be refunded when land is vacated and in case of delay, the NMPT in refund of Security deposit in 20 days from the date when land is finally vacated and on production of documents, shall pay interest @ 13%. The NMPT has proposed to retain the first part of the condition with slight modification that Security deposit equivalent to one month's license fee shall be applicable at the time of allotment for license upto 11 months and 3 months license fee for license upto 3 years. In case of lease of land other than those mentioned above, refundable Security Deposit equivalent to one year will (be) applicable or the lessee shall provide an irrevocable Bank Guarantee for an amount equivalent to 3 years (three) lease rentals which shall remain valid for the lease period.

Clause 6.2.2.1 (i) of the Land Policy Guidelines prescribes one year's rental as security deposit in case of annual lease. It is silent about security deposit on monthly license basis. The NMPT has clarified that the proposed condition of one month Security deposit in case of license is already prescribed in the existing SOR approved in the 2010 Order and the same is proposed to continue.

The Land Policy Guidelines of 2010 are silent about collection of Security Deposit in respect of letting out port land on License basis for a period of 11 months. It has to be recognized that collection of Security deposit is to protect the interest of the port, in the event of default by the licensee. It is seen that in the Chennai Port Trust a guarantee of an amount equivalent to three months fee is prescribed for space allotted under the monthly licence. In the case of Kolkatta Port Trust (KOPT), this Authority instead of the proposal of the KOPT to collect security deposit at one year rent in case of lands and six months' rent/ licence fee in case of structures, has approved collection of security deposit equivalent to the licence fee for the period for which the licence is granted in case of 11 monthly licences. Recognising that prescription for collection of security deposit in case of license upto 11 months is prescribed in the other Major Port Trusts, like CHPT, KOPT, the proposal of the NMPT to continue with the existing condition of one month license fee as Security Deposit is approved. As stated earlier, since detailed note is proposed to be inserted by the NMPT, a separate note relating to collection of Security Deposit only in the case of license under A (iv) is proposed to be deleted to avoid duplication.

As regards the proposal of the NMPT to introduce a note to collect Security deposit of three months license fee in case the license is upto three years, it is relevant to mention that as per clause 6.1.1. of the land policy guidelines 2010, the license can be issued for maximum period of 11 months. That being so, the proposal of the NMPT to prescribe three

months license fee for license upto three years is not found to be in line with the said provision in the land policy guidelines and hence is not approved.

Clause 6.2.2.1 (i) of the Land Policy guidelines requires a major ports to keep 1 years' rentals as Security and hence the proposal of the NMPT for collection of refundable deposit of one year in case of lease is found to be in line with the prescription made in the land policy guidelines of 2010 and hence accepted. There is no mention in land policy guidelines allowing the lessee the option to furnish three years irrevocable bank guarantee in lieu of one years' lease rental as refundable security deposit and the NMPT has agreed to delete this note. The proposed deletion is accepted.

The proposed note also stipulates that the Security Deposit shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT which is accepted. It is relevant here to mention that in the conditionalities approved in the December 2006 Order, delay in refund of Security deposit beyond 20 days by the NMPT attracted penal interest of 13%. In the current proposal, the port has deleted the said note relating to penal interest for delayed refund by the port. Since the condition approved in December 2006 prescribed payment of interest on delayed refund by NMPT and since the NMPT proposes to collect 13% penal interest in case of delay in remittance of license fee/ lease rental by licensee / lessee, it is not unreasonable to prescribe similar penal interest for the port in case the delay is from their side. Hence, the condition approved in the December 2006 Order in this regard is also reinstated to state that in case the security deposit is not refunded within 20 days from the date when land / space is finally vacated and production of documents by the licensee, the NMPT shall pay penal interest at the rate of 13% per annum on such delayed refunds.

- (b). The MRPL has sought payment of 12% interest on the Security Deposit itself. The NMPT has not agreed to the request of the MRPL stating that there is no procedure for paying interest on the deposit. This is an existing provision prevailing in the Scale of Rates of the NMPT. It is seen that in the Scale of Rates of other ports such as Chennai Port Trust (CHPT), Kolkatta Port Trust (KOPT) also, there is no provision for payment of interest on Security Deposit. In fact the Scale of Rates of KOPT clearly states that Security Deposit shall not bear interest. Since the provision at NMPT is found to be in line with the provision at other ports, the existing provision proposed to be continued is allowed.
- (xviii). The NMPT has proposed to levy penal license fee for export of iron ore fines if licensee fails to make one shipment within 75 days from the date of taking the possession of land/ space @ two times the license fee upto 3 months, four times if delay is 3 months to seven months and ten times for period thereafter. To our query to explain the relevance of the proposed condition in the lease rental schedule, when the demurrage charge for overstayal of cargo beyond the prescribed free period is already prescribed in the Scale of Rates of the NMPT, the port has clarified that the Scale of Rates prescribes Demurrage charges for overstayal of Cargo lying inside the Wharf on transit basis beyond the prescribed free period which is a cargo related charges. In case land is allotted on monthly rental basis for stacking cargo like Iron Ore Fines, no such demurrage charges are made applicable but the party should effect shipment every 75 days failing which the proposed Penal Licence Fee will be charged treating the Party as a Non Performer.

The existing lease rent schedule of the NMPT or the conditionalities approved in the December 2006 Order for that matter do not prescribe any such condition. In fact, during the proceedings relating to the December 2006 Order, the port had submitted that the iron ore exporters keep cargo for months together without

shipment. This deprives the port to allot the land to any other user. It is in this context, the NMPT had proposed steep increase in the then existing penalty for unauthorized occupation of land or encroachment of land or in case the land is not vacated after its expiry of the license @ two times the license fee upto 3 months, four times if delay is 3 months to seven months and ten times for period thereafter. These conditions were approved in the December 2006 Order which are now proposed to be reinstated in the current rent schedule which are already approved.

It has to be recognized that the Licence fee is applicable for the area allotted for the prescribed period. Since the penal license fee for unauthorized occupation/ encroachment of land or land not handed over after the expiry of the licence area approved in the December 2006 Order are already proposed to be reinstated, the intention of the proposed condition for levy of same level of penal license fee but linked to non-shipment of iron ore fines in 75 days is not clear. Hence without clear understanding of the relevance of the proposed condition and recognizing that the penal license fee for encroachment/ unauthorized occupation of land can take care of such a situation where the licensee occupies the land without shipment of cargo, the proposed condition is not approved at this juncture. If the NMPT feels that the proposed condition is essential to be prescribed then it may file a well analysed proposal with all the relevant details justifying the same.

It is relevant here to mention that based on the Writ Petitions filed by a few lessees, it is understood that the NMPT had raised bills for levy of penal license fee from the exporters of Iron Ore fines for delay in shipment of iron ore fines. Various lessees filed Writ Petitions in the Hon'ble Court of Karnataka against the penal levy on iron ore fines collected by the port. Hon'ble Single Judge in the Order dated 28 June 2013 filed by one of lessees namely KGC Enterprises and connected other Writ Petitions has ordered wherever the penalty/penal licence fee is imposed, the NMPT is directed to charge four times of the normal fee, treating the non-shipment of goods up to seven months. The NMPT is, therefore, advised to abide by the directions of the High Court while implementing the revised lease rent schedule. That being so, at the cost of repetition it is reiterated that the NMPT while implementing the revised SOR should ensure that it is not inconsistent with the direction of the Order of the High Court as regards levy of penal license fee.

- (xix). (a). The proposal of the NMPT seeks approval of rates with retrospective effect from 20 February 2012 for a period of five years. Most of the users like Association of the New Mangalore Port Stevedore Association, Kudremukh Iron Ore Company Limited (KIOCL), have objected the proposal of the NMPT seeking retrospective revision in the rates. They have pointed out that the revised rate should have prospective effect only. Some Trustees of the NMPT have opined that the revised lease rentals should be made effective from the year 2015.

Clause 6.3. (1)(d) Land Policy Guidelines stipulates that SOR will be revised every five years. This Authority is bound by the Land Policy Guidelines of the Government.

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. Note (ii) of the lease rent schedule approved by this Authority in the last tariff Order of June 2010 clearly mentioned that the rates are effective from 20 February 2007 and

that SOR and will be reviewed after five years. The position that the lease rentals for the lands of NMPT will be reviewed after expiry of five years from 20 February 2012 is, therefore, in the knowledge of the all stakeholders. The NMPT has accordingly sought approval to the revised rates retrospectively w.e.f. 20 February 2012 for period of five years.

In view of the clear Government guidelines in this regard, it is necessary to consider revision of lease rents at NMPT retrospectively even though this Authority does not ordinarily resort to retrospective fixation of rates. Accordingly, the objections of the stakeholders in this regard is dismissed. The point made by the Trustees to defer revision in lease rent till 2015 is not found to be in line with the 6.3. (1)(d) Land Policy Guidelines and will lead to revenue loss to the port and hence cannot be accepted.

In fact, it is relevant here to mention that this approach is being followed not only in the case of the NMPT but also in the other Major Port Trusts. In the case of the Visakhapatnam Port Trust (VPT), 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. 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 itself vide Order No.TAMP/15/2007-NMPT dated 16 June 2010 was given retrospective effect from 20 February 2007. It is relevant here to mention that the said Order of the NMPT was challenged by various users/ lessees in the High Court of Karnataka mainly in view of retrospective effect given by this Authority. The Hon'ble High Court vide its judgment dated 28 June 2013 has dismissed all the Writ Petitions filed by various 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. The revised rates approved will come into effect from 20 February 2012 and will remain valid for period of five years i.e. upto 19 February 2017. A suitable note in this regard to this effect is prescribed in the rent schedule.

- (b). It is also made abundantly clear that the revised rates approved by this Authority with retrospective effect from 20 February 2012 to 19 February 2017 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.

11. 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 NMPT which is attached as **Annex - II**. The revised lease rental will come into effect retrospectively from 20 February 2012 and will be valid till 19 February 2017.

(T.S. Balasubramanian)
Member (Finance)

ANNEX - I (a)						
WORKING FOR LEASE RENTALS AT PANAMBUR VILLAGE						
Sr. No.	Particulars				(Rs. per 100 sq. mtrs. per month)	
I	Rental for Open Space				1921.22	
II	Rental for Paved area				3453.42	
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Increase in land value by 27.35% and % increase in rate for Structure i.e. paving 10.94%			
	(i) Land component	1508.67	1921.22			
	(ii) Structure (i.e. paving)	1381.11	1532.20			
	Rental for paved area (i) + (ii)	2889.78	3453.42			
III	Rental for Covered area				6736.06	
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Increase in land value by 27.35% and % increase in rate for superstructure i.e. covered area by 10.94%			
	(i) Land component	1508.67	1921.22			
	(ii) Superstructure	4340.04	4814.84			
	Rental for paved area (i) + (ii)	5848.72	6736.06			

ANNEX - I (b)

WORKING FOR LEASE RENTALS AT MARSHALLING YARD				
Sr. No.	Particulars			(Rs. per 100 sq. mtrs. per month)
I	Rental for Open Space			1958.29
II	Rental for Paved area			3506.03
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Increase in land value by 26.46% and % increase in rate for Structure i.e. paving by 10.58%	
	(i) Land component	1548.53	1958.29	
	(ii) Structure (i.e. paving)	1399.66	1547.74	
	Rental for paved area (i) + (ii)	2948.19	3506.03	
III	Rental for Covered area			6822.00
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Increase in land value by 26.46% and % increase in rate for superstructure i.e. covered area by 10.58%	
	(i) Land component	1548.53	1958.29	
	(ii) Superstructure	4398.37	4863.71	
	Rental for paved area (i) + (ii)	5946.89	6822.00	

ANNEX - I (c)

WORKING FOR LEASE RENTALS AT COMMERCIAL YARDS ALONG THE N.H. NO. 17				
Sr. No.	Particulars			(Rs. per 100 sq. mtrs. per month)
I	Rental for Open Space			2526.63
II	Rental for Paved area			4287.55
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Increase in land value by 41.16% and % increase in rate for Structure i.e. paving area by 16.46%	
	(i) Land component	1789.92	2526.63	
	(ii) Structure (i.e. paving)	1512.04	1760.92	
	Rental for paved area (i) + (ii)	3301.96	4287.55	
III	Rental for Covered area			8060.22
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Increase in land value by 41.16% and % increase in rate for superstructure by 16.46%	
	(i) Land component	1789.92	2526.63	
	(ii) Superstructure	4751.50	5533.59	
	Rental for paved area (i) + (ii)	6541.42	8060.22	

ANNEX - I (d)

WORKING FOR LEASE RENTALS AT TANNIR BAVI				
Sr. No.	Particulars			(Rs. per 100 sq. mtrs. per month)
I	Rental for Open Space			1810.03
II	Rental for Paved area			3179.11
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Rental for structure i.e. paving area considered at the level proposed by the NMPT	
	(i) Land component	986.97	1810.03	
	(ii) Structure (i.e. paving)	1138.24	1369.08	
	Rental for paved area (i) + (ii)	2125.21	3179.11	
III	Rental for Covered area			6112.30
	Working	Rental as per existing SOR as on 20.02.2012	Rental for superstructure i.e. covered area considered at the level proposed by the NMPT	
	(i) Land component	986.97	1810.03	
	(ii) Superstructure	3576.88	4302.27	
	Rental for paved area (i) + (ii)	4563.85	6112.30	

ANNEX - I (e)

WORKING FOR LEASE RENTALS AT KUDUPU				
Sr. No.	Particulars			(Rs. per 100 sq.mtrs per month)
I	Rental for Open Space			1111.96
II	Rental for Paved area			2488.90
	Working	Duly esclated rental as per existing SOR as on 20.02.2012	Decrease in land value by 9.64%. However, 10% increase in rate of structure i.e. paving area is considered.	
	(i) Land component	1230.64	1111.96	
	(ii) Structure (i.e. paving)	1251.76	1376.94	
	Rental for paved area (i) + (ii)	2482.40	2488.90	
III	Rental for Covered area			5438.59
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Decrease in land value by 9.64%. However, 10% increase in the rate of superstructure i.e. covered area is considered.	
	(i) Land component	1230.64	1111.96	
	(ii) Superstructure	3933.30	4326.63	
	Rental for paved area (i) + (ii)	5163.94	5438.59	

WORKING FOR LEASE RENTALS AT BONDEL				
Sr. No.	Particulars			(Rs. per 100 sq. mtrs. per month)
I	Rental for Open Space			1173.74
II	Rental for Paved area			2406.17
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Increase in land value by 31.76% and % increase in rate for structure i.e. paved area by 12.70%	
	(i) Land component	890.82	1173.74	
	(ii) Structure (i.e. paving)	1093.55	1232.43	
	Rental for paved area (i) + (ii)	1984.37	2406.17	
III	Rental for Covered area			5046.56
	Working	Duly escalated rental as per existing SOR as on 20.02.2012	Increase in land value by 31.76% and % increase in rate for superstructure by 12.70%	
	(i) Land component	890.82	1173.74	
	(ii) Superstructure	3436.40	3872.82	
	Rental for paved area (i) + (ii)	4327.22	5046.56	

Schedule of Lease rent for lands belonging to NMPT at various locations.

Location	(in ₹ per 100 sq. mtr. per month)		
	For open areas	For paved areas	For covered area
Panambur Village	1921.22	3453.42	6736.06
Marshalling yard along NH-17	1958.29	3506.03	6822.00
Commercial Yards along the N.H. No. 17	2526.63	4287.55	8060.22
Tannirbavi	1810.03	3179.11	6112.30
Kudupu	1111.96	2488.90	5438.59
Bondel	1173.74	2406.17	5046.56

Notes to schedule of Lease Rentals:

- (i). All the conditions/ notes prescribed in the existing Scale of Rates/ Schedule of License Fees and Lease Rentals shall apply to the extent they are not inconsistent with the conditions prescribed in the Land Policy for Major Ports-2010 announced by the Government on 13 January 2011. In case of disagreement, the conditions prescribed by the Government in the Land Policy for Major Ports-2010 shall prevail.
- (ii). The rates prescribed shall be applicable with effect from 20 February 2012 till 19 February 2017.
- (iii). The lease rent shall bear an escalation @ 2% (compoundable) per annum from 20 February 2012 till 19 February 2017.
- (iv). For the allotment inside the Security Wall, a surcharge of 10% on the rate prescribed above will be levied.
- (v). Security Deposit equivalent to one month's licence fee shall be applicable at the time of allotment for license upto 11 months. The Security Deposit shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT.
- (vi). Way leave charges for laying of pipelines/ service conduits The rate for open area as applicable to the location given in the table above for the area occupied by the pipelines / service conduits.

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

- (vii). Waterfront Charges: 50% of the license fee for the land abutting to the waterfront for construction of jetties, submarine pipeline, etc. and will be charged as a way leave permission. For submarine pipeline, the waterfront charges will be for the area occupied by the pipeline and the area should be arrived at based on the note to (vi) above.
- (viii). Allotment:
Persons requiring allotment of land/space for storage of their goods outside the security compound wall or within the security compound wall of New Mangalore Port Trust (NMPT) on monthly license basis may apply in writing to NMPT for a license in the form prescribed

by the NMPT from time to time. But it shall be at the discretion of the NMPT to allot or refuse to allot such space/land no subletting of the licensed premises shall be allowed.

(ix). Licensee's Responsibility:

In applying for land / space for storage of goods/ cargo, the applicants for land / space shall accept all risks and responsibility for goods so stored/ stocked. The locking by the NMPT or sheds partly or wholly allotted to the licensees whether inside or outside the security compound wall shall not be regarded as making the NMPT a bailee of the goods so stores unless a receipt in this regard is passed by the NMPT to them. The occupation of land / space in open or under cover shall be reproduced in the license deed/permit/agreement.

Encroachment or unauthorized occupation of the NMPT's land and stacking of goods / cargo on the NMPT's Railway track, plants, equipment, approach road etc., causing obstruction to the movement of traffic by the licensee will involve a liability to pay penal rate as specified below in addition to the cost of rectifying damages caused to the NMPT's properties. If the licensee fails to remove the goods from the encroached area in spite of notice to do so, the goods will be removed elsewhere by the NMPT at the risk and the cost of the licensee and penal license fee at the following rate shall be levied on the land occupied by the goods so removed.

- (a). Two times the normal license fee up to 3 months
- (b). Four times the normal license fee above 3 months up to 7 months and
- (c). Ten times of the normal license fee thereafter.

(x). Goods stored under the license deed / permit / agreement shall be at the entire risk and responsibility of the licensees. The NMPT will not in any way take responsibility for pilferage, theft, fire o loss thereof. The licensees shall post their own watch to safeguard the goods stored at their allotted space and to prevent any unauthorized occupation of such land/space by others.

(xi). The Licensee shall not construct or put up any permanent structure, buildings, erection or convenience or canteens on the land/space occupied under the license deed/permit. The licensee shall restore the land/space to its original condition at the time of termination of the license permit and if the licensee fails, the NMPT will arrange for such restoration at the cost risk and responsibility of the licensee.

(xii). The license fees or charges shall be paid from the date of receipt of the allotment letter by the licensee or occupation of the land /space by the licensee, whichever is earlier, in accordance with the rates prescribed in the NMPT's Schedule of Rates. The license fee shall be remitted for each calendar month for subsequent period in advance to the NMPT i.e. before 1st of every month. In case the payment is not received before the due date, penal interest at 13% per annum shall be levied on the accumulated arrears in addition to the license fee.

(xiii). The licensee shall vacate the land/space occupied by them if the license permit is not renewed at the latest. In case the licensee fails to hand over the land/space in vacant possession on the date of expiry of the license/permit granted after removing of such structures or constructions put up, the NMPT shall have the right to remove such structures and the goods stored in such land / space to any other alternative land / open or covered space in any part of the Port's premises at the cost and risk and responsibility of the licensees and in addition, penalty license fee at the following rates shall be levied on the space occupied by the goods so removed.

- (a). Two times the normal license fee up to 3 months
- (b). Four times the normal license fee above 3 months and up to 7 months and
- (c). Ten times of the normal license fee thereafter.

(xiv). The permit shall lapse automatically at the expiry of the calendar month for which it has been issued. The license shall be up to a maximum period of eleven (11) months and license fee is levied as per the notified schedule of Rates. Each renewal of license shall be treated as fresh license. If the licensee requires a renewal of license, an application for

renewal duly accompanied by the receipt from the NMPT on payment of an advance fee must be made and reach the NMPT seven days in advance before the expiry of the period of the permit, Failure to apply for renewal of the permit seven days in advance before the expiry of the period of validity of the license and forwarding the required receipt for the remittance of the fees and charges will attract penal interest at the rate of 13% per annum on the accumulated arrears and shall be paid in addition to the license fee. In any case the license fee should not accumulate for more than 15 days from the date when advance license fee become payable.

- (xv). No license shall convert the space allotted to him / them into private bonded areas except with the written permission of the NMPT. Failure to obtain the prior written permission from the NMPT shall attract levy of penalty as follows:
 - (a). Two times the normal Licence fee up to 03 months.
 - (b). Four times the normal Licence fee above 03 months up to 07 months.
 - (c). Ten times the normal Licence fee thereafter.
- (xvi). (a). Security deposit equivalent to one month's license fee shall be applicable at the time of allotment for license upto 11 months and 3 months license fee for license upto 3 years. The Security Deposit shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT.
- (b). In case of lease of land other than those mentioned at (a) above, refundable Security Deposit of equivalent to one year lease rental will be applicable.
- (c). In case, the security deposit is not refunded within 20 days from the date when land / space is finally vacated and production of documents by the licensee, the NMPT shall pay penal interest at the rate of 13% per annum on such delayed refunds.
- (xvii). The NMPT shall have the right at any time to resume the possession of the land / space wholly or partly which is required by the Port / not occupied by the licensee, in which event the proportionate reduction in license fee will be allowed. In any case, the NMPT shall give a notice period of 7 days in case license is for less than six months and 15 days notice period in case license is for more than six months (but less than 1 year) about its proposed intention of resuming the land/space allotted to the license. In case of unauthorized occupation or encroachment or on normal expiry of the license tenure, no such notice shall be issued and the port shall resume the land/space required by the Port immediately. In case of such a resumption or possession of land, the license shall not be entitled to claim any compensation on account of such resumption or possession or to remove and take away improvements, if any, made by him on the land.
- (xviii). The licensee shall have the right to appeal against resumption of the land to the Board of Trustees of the New Mangalore Port Trust within a period of 30 days from the date of receipt of the Order appealed against and the decision of the Board of Trustees of the NMPT is final in this regard.
- (xix). The licensee shall agree to comply with all rules or directions issued by the NMPT from time to time. Should the licensee neglect to comply with the rules or directions, the NMPT may terminate the license.
- (xx). The license shall agree that all payments and expenses of whatever sort due to the Port in respect of land/space allotted to the licensee, shall be recoverable at the rates prescribed in the Scale of Rates of NMPT.
- (xxi). The license shall comply with all rules and regulations that may from time to time be issued by the local authorities or the inspector of Explosives, the Department of Explosive, Commissioner of Customs and Government of India or whosoever concerned in relation to the storage of goods under the license/permit.

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

F.No.TAMP/60/2012- NMPT	Proposal from the New Mangalore Port Trust for revision of lease rental of port land allotted on long term / short terms basis for the period from 20 February 2012 to 19 February 2017.
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Summary of comments received from users/ user organisations/ lessees and the comments of New Mangalore Port Trust (NMPT) thereon are tabulated below:

Sl. No.	Comments of users / user organisations	Comments of NMPT																
(1).	KIOCL Limited																	
(i).	The NMPT has mentioned that present market rate is taken for arriving at lease rent which is based on latest land transaction for nearby areas registered at sub registrar office.	(i). KIOCL in its submission has brought out SRO values of the land in Panambur in the year 2012, in which the land rates are along the main road, cross road and inner road. Whereas, NMPT has considered the highest market value of land which is for the land abutting the main roads. It is clarified that the land allotted to M/s.KIOCL is located on main National Highway and is surrounded by main roads of Port.																
(ii).	<table><tr><th>Description of land</th><th>Avg. transaction value per acre in 2012 (₹ in Lakhs)</th><th>Avg. transaction value taken for lease rent for 2007 to 2012 (₹ in Lakhs)</th><th>Guidelines value taken for lease rent for 2012-17 (₹ in Lakhs)</th></tr><tr><td>Land abutted to main road</td><td>131.00</td><td>118.00</td><td>180.00</td></tr><tr><td>Land abutted to cross road</td><td>91.00</td><td>82.60</td><td>150.00</td></tr><tr><td>Inner</td><td>65.00</td><td>59.00</td><td>120.00</td></tr></table> It may be observed from the above data that if we take into account 6% return as per the guidelines, the lease rent will work out to - $\frac{13100000.00 \times 6}{100 \times 4048 \times 12} = \text{₹16.18 per month/M}^2$ NMPT has recommended for a revision of ₹19.21 per month/M² which is much higher than the above calculation. Therefore, KIOCL has requested to look into the matter and review the proposed rate accordingly.	Description of land	Avg. transaction value per acre in 2012 (₹ in Lakhs)	Avg. transaction value taken for lease rent for 2007 to 2012 (₹ in Lakhs)	Guidelines value taken for lease rent for 2012-17 (₹ in Lakhs)	Land abutted to main road	131.00	118.00	180.00	Land abutted to cross road	91.00	82.60	150.00	Inner	65.00	59.00	120.00	The KIOCL premise is connected to the Berth No 8. Therefore, the rates for main road have been considered for Panambur area for inputs to the market rates of the revision. The Port has adopted the market value of the land based on several factors, among them SOR value is one input to arrive the market value. Therefore, the market value suggested by KIOCL should not be considered as market value.
Description of land	Avg. transaction value per acre in 2012 (₹ in Lakhs)	Avg. transaction value taken for lease rent for 2007 to 2012 (₹ in Lakhs)	Guidelines value taken for lease rent for 2012-17 (₹ in Lakhs)															
Land abutted to main road	131.00	118.00	180.00															
Land abutted to cross road	91.00	82.60	150.00															
Inner	65.00	59.00	120.00															
(iii).	For a bulk land user like us (KIOCL Ltd. has taken 108 acres), additional discount may be given because had the land been allotted in pieces, a substantial portion of the land will be utilized for laying main roads, approach roads, drains etc. for which NMPT would not have realized any revenue.	No comment furnished on this point.																
(iv).	NMPT is charging non-refundable premium equivalent to one year lease rent during every renewal. This may be restricted only for fresh allotment instead of every renewal. It may please be noted that this additional revenue and interest earned on Security Deposits are not reflected in the revenue calculations.	No comment furnished on this point.																
(v).	For Panambur village, the land transaction rate is ₹1393.78 per sq. mtr./ month. The same has been recommended for revision to ₹1,921 per sq. mtr./ month. This will reflect in a rise of 37.8% in 5 years. Nearby areas belonging to KIADB in	M/s.KIOCL has indicated that KIADB transaction value is ₹30 lakhs per acre. It is clarified that, the purpose of leasing land by KIADB is to encourage the industries at Mangalore. Therefore, the value of land of KIADB can't be a																

	Baikampady and Panambur village, the average transaction value is only ₹20.00 lakhs per Acre. Even latest revised rate of KIADB is only ₹30.00 lakhs per Acre. Further, KIADB is providing all approach roads, drains etc. for which they charge only ₹1,000/- per Acre per year as maintenance charges.	criteria for the Port services where the connectivity to the port and the facility have been used by the lessee.
(2)	Suzlon Energy Ltd.	
(i).	Suzlon Energy Ltd. (SEL) is India's largest manufacturer and exporter of Wind Turbines with their operations spread all over the globe. Recently, they have acquired RE. Power SE, Germany and they are also manufacturing the RE Power Wind Turbine models from their Padubidri SEZ plant and hence exporting it from the New Mangalore Port.	M/s. Suzlon Energy Ltd. is a Port user who is utilising the Port land for stacking of export cargo inside the wharf area. The firm has not commented on the proposal of the NMPT except abnormal increase in the lease rentals which may affect their competitiveness in the global market.
(ii).	As of date, Suzlon Energy Ltd. have an order of USD 7.00 Billion and these orders are to be exported / executed in the current financial year and the next financial year from New Mangalore Port.	It is submitted that the approved Land Valuers have divided the NMPT area into four divisions namely Panambur Village, Marshalling Yard, Commercial Yard and Thannirbavi Village as per the lease rent earlier approved by Authority in the last tariff Order. The revision of lease rentals is based on the guidelines of the Ministry as such the revision is proposed for every 5 years. Therefore, the proposal of NMPT may be considered for approval of the revision of lease rentals.
(iii).	SEL have set up their Padubidri plant only to cater their export operations, keeping in view the close proximity to NMPT and the optimum port charges expected to be levied by NMPT in order to attain optimum export transaction cost to remain very competitive in the Global Markets.	
(iv).	Presently, there is a tremendous slow down in the Wind Mill business in India and all SEL's Global competitors have closed / on the verge of closing down their Indian plants / operations due to heavy financial losses.	
(v).	In light of above, to maintain the present export logistics cost, SEL has requested not to accept any upward revision in the charges proposed by NMPT which affects their current and forthcoming export operations.	
(3).	Mangalore Refinery and Petrochemicals Limited	
(i).	Para 2 of the proposal states that the land policy guidelines for Major Ports are under hold pending cabinet approval of the guidelines. However, for the purpose of revision of SOR the same has been followed which is incorrect and not appropriate. Therefore, the TAMP may reject the proposal which is based on the guidelines that are under hold.	It is clarified that the approval of the Cabinet is being sought for the guidelines which is already issued by the Ministry in the month of January 2012 and the provisions under the subject guidelines as far as the allotment of long term and transfer of leases is under hold. As such the Port has proposed revision based on the guidelines issued by the Ministry in the month of January 2012. It is further clarified that, the guidelines issued in March 2004 which was revised in 2012 have same provisions as far as revision of rent for leasing and licensing for the port land is concerned. Therefore, the proposal is as per the extant guidelines of the Ministry of Shipping.
(ii).	Without prejudice to this, we would like to refer to NMPT's observation on the TAMP directions for bifurcation of land and categorization of land based on the usage. It is submitted that NMPT, in total disregard to this direction, has not made any effort to either categorize or bifurcate the land according to the usage and adopted the old categorization while making the proposal. Therefore, TAMP is requested that NMPT may be asked to comply with the directions as given	The categorization of land based on the usage and location was proposed during the last revision of SOR for 2007-12 and the same classifications exists for the revision proposed for 2012-17. Therefore, Port has not proposed any re-classification in the current proposal.

	by TAMP.	
(iii).	It is not clear whether the Govt. guidelines, provide for levy of surcharge, as proposed, when lease rentals are determined based on fair rental values. NMPT has also not stated that the guidelines provide for levy of such surcharge. In view of this, the proposal of NMPT to levy of surcharge of 10% for allotment of land inside the security wall is outside the scope of guidelines. Therefore, the levy proposed should not be approved. The rate itself is proposed higher than other land as such this levy is not to be approved.	The levy of surcharge inside the wharf area was upheld and accepted by TAMP in the last revision of SOR for 2007-12. A 10% of licence fee as surcharge for land inside wharf area which custom notified is well secured and security surveillance has been provided round the clock. Therefore, the surcharge is levied in order to recover the service charges for such facility.
(iv).	The proposal envisages collection of one month's lease rentals as security deposit. The NMPT has not proposed payment of interest on such deposit. As the rate proposed is as per fair rental value, this deposit should bear at least 12% interest payable by NMPT. Similar facility exists in Electricity Boards and other service providers where security deposit is made. Hence, TAMP may consider payment of interest on security deposit at the rate of 12%. This will help the business community to better the cash flow as the interest earned each year will be adjusted against lease rentals payable.	The Security Deposit collected by the port is without interest and there is no procedure for paying interest on the deposit. Therefore, the request of MRPL shall not be considered.
(v).	In the proposal it is stated that as far as the underground (U/G) pipes are concerned, if the "User establishes" that the possession of surface area above the ground, cross country pipeline is not physically with them, the area occupied by such pipelines should be counted as 50% of the product of diameter and length for the purpose of way leave charges. It is suggested that, the onus of proof should not be that of 'User' as NMPT does not pass on this benefit to any users as they will always claim that the possession is with the users. In reality, wherever, the way leave charges are given, the land areas within the Port compound and outside are with Port. Therefore, this may be incorporated as a general condition and not as a user establishing such right.	The proposal to charge way leave charges and right to way is as per the standard practice in all the Major Ports and as per the revised guidelines issued by the Ministry in January 2012. There is no provision to allot land for such services, the permission will be granted for laying pipes and such charges will be collected for the area of occupation as per the standard practices followed in the Major Ports. The methods of charging have already been notified in the previous revisions by TAMP for SOR 2002-07.
(vi).	The proposal contains basis of valuation of land developed for three different locations of land for six areas of identified land. There is land abutting main road, abutting cross road and for interior area. Though, the land value for these locations are ranging from ₹155.50 lakh/acre to ₹92.75 lakh/acre, the NMPT has considered maximum land value, which is against the whole issue of valuation of land. We suggest that the value of land as assessed for each location to be considered for fixation of lease rentals instead of averaging of land valuation and considering the maximum of the land value. The land location is considered as per the index of valuation report for each location. If this is not followed, it will defeat the whole purpose of seeking valuation of land.	As regards the valuation of land is concerned, the port has considered the market value of the land based on the factors as per the guidelines issued by the Ministry for fixing of market value of the land. It is clarified that the rates are arrived by the independent Valuer appointed for the purpose after considering all aspects like market value, transactions of nearby land etc. Therefore, the Authority is requested to consider only the market value of the land for consideration of valuation in the port estate which is already categorised based on the usage and location etc.
(vii).	The ultimate increase in value of rentals is as high as 80% in case of Tannirbavi area and other places it is 30%. This is not the increase in value in and around the NMPT area. We would like to mention that land value adopted for acquisition of	The increase in land rent at Thannirbavi area is due to the industrial developments taking place in the area in the last few years. It is observed that during last 2 years there is substantial increase in the land value. As such, the Valuer

	land for MRPL & SEZ in close proximity to NMPT is only ₹8 to ₹8.50 lakh per acre as against the value considered by the valuers. Therefore, we would like to submit that the valuation adopted by the valuer is very high and is not realistic. This needs a fundamental review. This is particularly relevant because the valuers have gone by the presumption that land will be underutilized if the Port users seek lower tariff zone for securing/ storing the cargo.	has suggested the market rate for this area and many transaction registered with Sub-Registrar Office, Mangalore show that the land value has gone up nearly 2-3 times.
(viii).	It is also submitted that all the Port users pay various other charges to the NMPT for various services and as the land is primarily for use by Port users, there has to be concession in the lease rentals. While this lease rentals may be good for use of land for commercial use, without using the Port facility, all port users should get substantial concession in the land lease rentals. We would like to submit that valuation of land to the west of Kudremukh Plant is valued at ₹73.25 lakh/acre, however, NMPT has valued this land also at ₹146.50 lakh/acre, which is double of the actual valuation rate.	The subject proposal is only for revision of lease rentals. Any concession in respect of usage of land for long period is within the purview of the Board / Chairman. As regards the valuation of land of KIOCL plant area, port has adopted market value of the land.
(ix).	The Port in the proposal has proposed to levy rentals for water areas as water front charges for the purpose of construction of jetties etc. The rental proposed is 50% of the land abutting the water front. The NMPT has also proposed levying 50% of the way leave charges of land area for laying submarine pipelines. We do not agree to this levy as these charges were not existing in current tariff. As we have installed SPM and laid a 17 K.M. submarine pipeline, and NMPT has not indicated any charges while discussing the issue of MRPL making investment in the Port area, to give more business to NMPT, introduction of such rate, without discussion and mutual consent, subsequent to investment is equivalent to changing the condition/agreement reached in this regard while considering the investment. The proposed levy equivalent of 50% land lease rentals is too high and we request that TAMP may defer considering introduction of this rate in this rate revision proposals.	The proposal for rentals for water areas as water front charges is based on the guidelines of the Ministry to have separate charges for water front usage. The levy equivalent to 50% of land lease rentals is stipulated in the Ministry guidelines.
(x).	MRPL has requested to consider their submission and direct NMPT to resubmit the proposal reviewing rate as the proposed rate is exorbitantly high and is against the interest of the trade and business particularly MRPL and other major industries using the available land of NMPT which has a monopoly over the land area in the vicinity of Port facility. MRPL has further stated that the Port has also made no effort to compare the land rentals of similar facilities in other Port area and the Port has not given any cost statement of income and expenditure of the estate activity, which will show returns more than the rate approved by TAMP.	No specific comment is furnished on this point.
(4).	Association of New Mangalore Port Stevedores, Mangalore Custom House	

	Agents Association and New Mangalore Port C & F Association	
(i).	We once again place before your good selves the extraordinary burden being hoisted on the NMPT's Hinterland and Export / Import cargoes transacting through this Port. By artificially jacking up the Lease Rentals based on unconnected and irrelevant escalation in urban private commercial land under the City Corporation of Mangalore.	The Association of New Mangalore Port Stevedores has submitted its representation dated 2 November 2012, in which para 1 to 8 are only information on the background of the proposal. As such there are no comments on these paras.
(ii).	It is common knowledge that these Port lands were acquired at a cost of about ₹2,000/- per acre. The present yearly rentals of ₹9.77 Lakhs per acre are enough to pay for the entire cost of Port land acquired & all cost of maintenance & development and many times over.	
(iii).	Taking the cost of purchase/ sale of Private Commercial Land around the Port area for computing Lease Rentals is not fair or commercially correct. We have to compare only comparables. The Port is not selling the Land to the Port Users but only leasing or renting out the land what has been acquired for specific purpose of cargo handling (Import & Exports) at a reasonable cost keeping the Land charges at minimum level. It is for this reason that the Govt. had acquired valuable Private Land very much below market rates of that period in order that Port rent out / lease out at very Low Rentals. Feudal Landlordism should not be the aim or object of the Port.	
(iv).	In the present commercial scenario when input costs on all commodities imported & exported are reflected in the final competitive costs to the consumers, any trend to artificially jack up costs should be avoided. The very reason for making available to the Port Trust, strategic prime land at very low value is only to ensure that Import & Export costs of commodities is maintained at reasonable levels, which the consumer can bear. Profiteering by responsible public sector is not justifiable.	
(v).	These Port lands were given to the Government by many of the local people including ourselves at a very low cost in order to have a Major Port in this area for the benefit of the people of this Hinterland. Little did we anticipate that the Port would behave like a Medieval Zamindar taking the highest present urban commercial value of small parcels of private land sales unrelated to the Port's very purpose and activity for fixing of exorbitant rentals.	
(vi).	The Export-Import Trade and hinterland cannot bear such exorbitant and artificially jacked up rentals nor is there any justification to hurt the very people who gave their lands for making this Port at a minimal cost.	
(vii).	The last revision in June 2010, the rise in rentals was about 52% and now the increase demanded is upto 79%. These are in addition to the yearly increase in rentals of 2%.	
(viii).	With all the above exorbitant increase already made or additional increase proposed now, the NMPT collects a Surcharge of 10% over the	

	rentals for within the Security Wall and also 5% Service Charges for outside the wall. How are these justified at all?	
(ix).	We understand from the honourable Trustees of the present NMPT Board, that the Board had recently resolved that whatever revision of the rentals is finally decided by TAMP should be made effective only from 2015 onwards. The last revision sanctioned by TAMP was from 2010 to 2015.	As regards NMPT Trustee's Resolution, the rentals should be revised w.e.f. 2015 and until then the same rate may be continued. The views of the Trustees have been conveyed to the TAMP vide NMPT letter dated 14 November 2012. As regards comments on para (ix) and (xiii) by the associations, the clarifications are already furnished earlier on the comments of MRPL. The NMP C & F Agents Association had brought out the facts of the progress of New Mangalore Port and submitted its background for development. The main contention of the Association is that the Port has taken the guidance value of the State Govt. for Panambur village and the highest of the commercial transaction of unrelated commercial plots. In this regard it is clarified that as per the guidelines of Ministry, the market value of the land will have to be determined. As such one of the options was to determine the land value and the factors to determine land value have already indicated in the guidelines. As such the port has worked out the market value of the land through transparent process.
(x).	The Port on one hand, issues press statements that the Port is a service provider which is "making all out efforts to attract more cargo especially Traditional cargoes at a reasonable cost to benefit EXIM Trade". On the other hand, the Port quietly resorts to the unhealthy practice of increasing the cost of handling by arbitrarily and unilaterally increasing the ground rent, which actually penalizes Port Users / EXIM Trade.	
(xi).	As a result the Port has been losing traditional cargoes like Granite, Timber, Chromite Ore, Manganese Ore, Bauxite ore, woodpulp etc. The proposal of the North Malabar Chamber of commerce to move their cargoes through NMPT as against Cochin Port has been shelved in view of the high cost at this Port.	The Mangalore Custom House Agents Association has submitted its comments on the proposal and have requested to reduce the lease rentals to attract more cargoes like Timber, Granite. The rate based on the commercial aspects of the use of land and the land allotted for timber, granite is abutting to National Highway and the commercial value is very high compared to other area in the Port. It is observed that timber, granite have a high dwell time as such the area is licenced for a longer period even though the volume of cargo is less. The Port has also proposed other area where the licensed rate is lesser than the rate for commercial area. As such the customer can prefer the area where there is low lease rent for stacking timer, granite.
(xii).	The land rentals at NMPT are already the highest among all Indian Ports and any further revision upwards would be disastrous to the Trade and Hinterland of this Port. There is a good case for downward revision at this Port so that many of our traditional cargoes would come back to this Port.	
(xiii).	We understand that the Land Policy guidelines for Major Ports issued by the Ministry vide its letter No. PT-11033/4/2009-PT dated 13.01.2011 have not yet obtained cabinet approval and are presently under hold. Therefore the very basis of increase of land rentals is now on hold and hence Port should not have gone through this exercise at this juncture.	The NMPT has clarified similar issue raised by MRPL.
(xiv).	In view of the above facts, at this juncture we submit that the Port having already increased all rentals to the extent of 52% in the last revision vide TAMP Order No.184 dated 23.07.2010. We are of the opinion that there is only a case now for Downward Revision or at the least freeze the rentals at the present levels for an extended time. Hon'ble NMPT Board/Trustees are also, we understand, have resolved to maintain the present level of land rentals until 2015.	No separate comment furnished on this point.
(5).	Indian Oil Corporation Limited	

(i).	Indian Oil Corporation Limited, Mangalore Terminal situated at Tannirbavi Village is engaged in supply and distribution of POL products to Retails outlets and to various Customers like Navy, KSRTC, Fisheries industries, MCFL, Power Plants of Karnataka, Bunkering services to the vessels called at Mangalore Port and also meeting the SKO requirement of Public Distribution system of Karnataka State. The terminal is carrying out the activities on the long term lease land of 25.538 acres (104844.45 sq. mtrs.) provided by NMPT sine 1975 onwards.	The TAMP has revised scale of rates on land allotted long term / short term with effect from 20 February 2007 and rate is fixed location wise. In this connection, it is submitted that the approved land valuers have made the NMPT area as four divisions namely Panambur Village, Marshalling Yard, Commercial Yard and Thannirbavi Village. The lands allotted to M/s.IOCL falls within the Panambur Village. Hence the port has demanded the difference of lease rent as applicable for Panambur Village approved by the Authority along with service tax due to revision in rate from 20 February 2007 to 22 February 2011 amounting to ₹1,89,75,179.00 vide this office letter dated 29 Mach 2010. In response, M/s. IOCL has repeatedly requested to apply the lease rentals applicable to the Thannirbavi Village instead of Panambur Village and arrange to refund the excess lease rent collected for the period from 23 February 2011 to 22 February 2012. The request is not agreed by this office and the same is informed to the firm and repeatedly requested to remit the demanded arrears so as to avoid audit objection. M/s. IOCL has remitted the arrears (23 February 2010 to 22 February 2011) ₹1,08,971.00 and lease rent for the period 23 February 2012 to 22 February 2013 ₹81,06,499.00 at the rate applicable to the Thannirbavi Village in spite of our demand at Panambur village rate causing short payment of arrears to the tune ₹1,88,66,208/- and lease rent ₹2,30,21,075/- respectively. Further, they have also requested to arrange for extending the lease agreement for the period from 23 February 2010 to 22 February 2020 by charging the lease rentals as applicable for Thannirbavi Village. It is submitted that during last few years the Thannirbavi area is developed and lot of industries have acquired the land. It is also seen that the transaction taken place in the last 2 years in this area have suggested that the land value has increased nearly 2/3 times. As such valuer has considered market value of the land in Thannirbavi @ ₹146.50 lakhs per acre. Therefore, TAMP may consider market value for the Thannirbavi for fixing the land rentals of the port land.
(ii).	It is observed that there is a steep increase in lease land rentals proposed by NMPT for the period 2012-17 compared to the period 2007-11.	
(iii).	In the year 2007, the NMPT proposed lease rentals location-wise and as per the proposal, IOCL situated at survey numbers 12, 13, 17, 22 to 28 which is in Tannirbavi Village. For this location the rate applicable as per TAMP order is ₹911.81 per 100 sq. meter per month for Open areas for the year 2007 with an annual escalation of 2%. But, for the current year 2012 the rate proposed by NMPT for the location Tannirbavi as per the TAMP Order is ₹1810.03 per 100 sq meter per month for Open areas but the rate for the current year 2012 should be ₹1006.71 per 100 sq meter per month for Open areas with an annual escalation of 2% over the pervious year rent. There is an abnormal increase of 79.8% for the year 2012 compared to the rate proposed by NMPT for the year 2012 for Tannirbavi Village.	
(iv).	IOCL has also requested to go through the Comparative statement submitted by NMPT in regard the existing lease rental for 2007-12 vis-à-vis proposed for the quinquennium 2012-17 stating that the increase is based on land and development costs at the location.	
	From the statement furnished by NMPT, it is clearly seen that for the location Tannirbavi only there is a steep increase of 79.8% which is an underdeveloped location compared to the developed location like Panambur Village. For Panambur village, increase is only 24.85% over the previous period of 2007-12. It is also observed that the lease rental for the location Tannirbavi is proposed so as to match with the lease rent rate of Panambur as only Indian Oil Corporation Ltd. is located in Tannirbavi Village.	
(v).	In IOCL earlier letter dated 03.06.2011 it was clearly specified that the government valuer appointed by the NMPT to determine the location-wise market value of land can not shift the location of land from Tannirbavi village to Panambur Village only for the purpose of levy of rent. As in the current case it is evidently apprehended by NMPT through the government valuer the fair market value of Tanirbavi village to ₹146.50 lakhs comparing to the recent sale transaction or the fair rental value of the location for the years 2011-12.	
(vi).	The valuation of land based on the Guide Line	

	Rate (GLR) in comparison with the recorded sale instances for the year 2011-12 is also to be seen closely for Tannirbavi Village. Page 136 of the NMPT proposal for revision of land lease rentals shows that the sale recorded is only ₹12,13,000 for 28.37 acres. So for one acre it will be ₹42,756/- but in the valuation it is taken as ₹143 lakh per acre for which there is no clear cut sale instances for the location Tannirbavi village amounting to ₹143 lakhs.													
(6).	Central Warehousing Corporation													
(i).	CWC finds that the proposed revision is very much on the higher side, which if approved, will render their CFS facility at NMPT unviable.	NMPT has not furnished any specific comments.												
(ii).	CFS had invested huge funds for the construction of CFS facility at NMPT, when no private players were ready to invest in developing warehousing infrastructure required to sustain the port activities, without any expectation of a major return on our investments. Since, CWC has been a partner in the growth and development of the port by establishing and operating a CFS, which is a public facility under license from Govt. of India, and Customs Authorities, CWC should not be penalized by thrusting the unfair revised rentals.													
(iii).	Currently CWC is paying the following rate of lease rentals:- <table><tr><th>Plot No.</th><th>Area</th><th>Period</th><th>Rate (per 100 m² per month)</th></tr><tr><td>11 & 12</td><td>7408 m²</td><td>7.8.12 to 6.8.13</td><td>1578.875</td></tr><tr><td>15 & 16</td><td>7532 m²</td><td>9.6.12 to 8.6.13</td><td>1459.210</td></tr></table> The lease rentals are also hiked 2% (compoundable) per annum till the rate is revised by TAMP. The present proposed revision of lease rent by NMPT at ₹1958.29 per 100 m² per month is on higher side (34%) and our prospects of it being sustained in the future are far from certain, especially when the growth rates in revenues in successive years have been rapidly losing steam.		Plot No.	Area	Period	Rate (per 100 m ² per month)	11 & 12	7408 m ²	7.8.12 to 6.8.13	1578.875	15 & 16	7532 m ²	9.6.12 to 8.6.13	1459.210
Plot No.	Area		Period	Rate (per 100 m ² per month)										
11 & 12	7408 m ²	7.8.12 to 6.8.13	1578.875											
15 & 16	7532 m ²	9.6.12 to 8.6.13	1459.210											
(iv).	Hence in light of the above, CWC has requested to fix a fair rental for the land leased to them by NMPT, so as to enable them to retain the vital infrastructure of CFS in the port area for facilitating the international trade.													
(7).	IMC Limited													
(i).	It is understood from the Estate division of NMPT that the policy guidelines applicable for lands coming under the major ports issued by Ministry vide its letter no.PT-11033/4/2009 dated 13 January 2011, the SOR has to be revised every 5 years. But the said guidelines are under hold and the cabinet approval is pending as per the communication given by MOS. Hence, it is not appropriate to take up the revision when the said guidelines are under hold.	NMPT is following Land Policy Guidelines issued by the Ministry and also the SOR is revised once in 5 years. Further, it has clarified its views on the similar comments of MRPL in this regard.												
(ii).	Even though the Land value differs based on the location of the land, NMPT has considered the highest value as a basis for all the locations. For the interior areas, the land value considered is very much high and hence unrealistic and unjustified. For instance for Tannirbavi area, the Land value on the main road is valued at	The land valuation has been carried out by the registered valuers and the same has been approved by the TAMP.												

	₹146.50 Lakhs per acre and in the interior area the value is only ₹73.25 lakhs per acre and may still be less for industrial lands and more specifically if the land are subject to lease and not outright sale. But, the NMPT has considered 146.50 lakhs per acre as land value for all the areas including the interior areas. As mentioned in the report there was no considerable development taken place in Tannirbavi area and hence the proposal made by the NMPT for a hike of 80% is totally unjustified. Therefore, the valuation procedure adopted by the valuer is not based on the ground realities and is completely unrealistic and requires reconsideration. The total review of this valuation is needed and it should be based on the actual realistic value of the land in each of these areas.	
(iii).	In the last revision of land lease rentals, a hike around 52% was effected. This was in addition to year on year escalation in the lease rentals as per the terms of our lease. Recommending for an increase of another 80% by NMPT is totally unjustified and would severely affect IMC Limited business viability, needless to mention that such adhoc increases cannot be recovered from our customers.	It is to state that the market value in Tannirbavi region has increased two or three folds in last three years. Therefore, the charges arrived on the basis of registered valuers recommendations are realistic.
(iv).	A surcharge of 10% has been proposed towards the security wall for the land inside the custom bound area. This is altogether a new levy which was not there earlier and is not charged by any of the other major ports. Being inside the port, IMC Limited is already paying huge rentals for the land compared to the similar lands outside the port and in addition, if such surcharges are levied then costs go up significantly and with these costs, the business becomes totally unviable. Hence this additional surcharge towards compound wall has to dropped altogether.	M/s.IMC Limited is situated in the Port area which is Custom notified and secured with compound wall. 10% increase is considered since the area is being restricted and guarded by CISF personnel (24X7).
(v).	Any further hike in the lease rentals as proposed by NMPT will have cascading effects on cost of operations making terminal business totally unviable as the existing land rentals are on the higher side.	No comments furnished.
(8).	The Udupi Power Corporation Ltd.	
(i)	The Udupi Power Corporation Ltd. (UPCL), Power Project is established for generation of electricity in the national interest catering to the basic need of general public of the Karnataka and Punjab States; and provide direct and indirect employment to many.	The revision of lease rentals once in 5 years are as per Land Policy Guideline received by the Ministry. M/s.Udupi Power Corporation Ltd. request for exemption from the payment of any revision in Annual License Charges is not acceptable.
(ii).	The UPCL has entered into a long term lease agreement with NMPT on 09.05.2008 for a period of 30 years, by paying a huge sum of ₹9 crores as Licence Fee initially.	
(iii).	It has invested ₹376 crores for the construction of Captive jetty and Coal handling plant at NMPT to facilitate the transshipment of imported coal to our 1200mW Mega Power Point.	
(iv).	It is paying Royalty, 50% of Railway Marshalling Yard charges as per SOR, Ship related charges, cost of maintenance dredging and rent or other charges for any premises or additional utilities or services as per SOR.	

(v).	The UPCL has developed Green Belt Area in the permitted place in and around NMPT.	
(vi).	Considering the importance of UPCL project which caters nearly 20% of the total power requirement of the State of Karnataka, it should be exempted from the payment of any revision in Annual license charges by adopting a dual tariff rate.	

2.1. A joint hearing in this case was held on 21 June 2013 at the New Mangalore Port Trust (NMPT) premises. The NMPT made a power point presentation of its proposal. At the joint hearing, NMPT and the concerned users/ organization bodies have made the following submissions:

Canara Chamber of Commerce

- (i). Trustees have resolved that the port should ask for revision of lease rentals only prospectively after the year 2015.
- (ii). EXIM Trade is suffering in the present scenario of economy. Hike in lease rental at this stage will be difficult for the trade to absorb. Any increase in rate would be additional burden on users. Present proposal may be kept on hold till 2015.
(Chairman, NMPT: We have followed Land Policy Guidelines of Government in formulating the proposal. The concerns of some Trustees have also been forwarded to TAMP).
- (iii). The value of land abutting the main road, which is the highest value, has been considered for other location like land abutting cross road and for interior area. This is against the issue of land valuation.

The Association of New Mangalore Port Stevedores

- (i). The Land Policy Guidelines have not yet been approved by Cabinet and under hold. Therefore, port should not go through this exercise.

(Chairman, NMPT: Land Policy Guidelines 2010 are not under hold. Long term allotment is only on hold. 2010 Land Policy is in force now).
- (ii). The increase in rental proposed is very high. Present rates may continue for an extended time. TAMP may decide the rate with prospective effect.

Mangalore Refinery and Petrochemical Limited

- (i). NMPT has not made any effort to categorise the land based on the usage and adopted the old categorisation. It is total disregard to the TAMP's direction.
(Chairman, NMPT: Categorisation of Land was proposed by us during last revision and approved by TAMP).
- (ii). Proposal to levy 10% surcharge for allotment of land inside the security wall is beyond the scope of Land Policy Guidelines. Therefore, the proposed levy should not be approved.
- (iii). TAMP may consider payment of interest on one month's lease rentals which is paid by the users to the port as Security Deposit.
- (iv). NMPT proposes to levy 50% of the way leave charges of land area for laying submarine pipelines. This charge is not there in the existing tariff. We have installed SPM and laid sub marine pipeline for a distance of 17 kms. NMPT did not indicate any charges for this while discussing the issues of investment of MRPL in the port area. This may be deferred.

Indian Oil Corporation

- (i). IOC, Mangalore Terminal is situated in TannirBavi area. For TannirBavi area, there is a steep increase. TannirBavi area is an underdeveloped location compared to the developed location like Panambur. For Panambur increase is only around 25%. For TannirBavi, it is around 80%. In categorisation, some area is detached from TannirBavi to Panambur only for the purpose of levy of rent. We have objected to this shift.

KIOC Ltd.

- (i). NMPT levies non-refundable premium equivalent to one year lease rent at the time of every renewal of lease. Non-refundable premium may be charged only for fresh allotment, instead of every renewal.

(Chairman, NMPT: Non-refundable premium is not being levied at the time of renewal of lease from last revision of lease rental).

2.2. A summary of the written submission made by Association of New Mangalore Port Stevedores (ANMPS), C & F Association of New Mangalore Port (CFANMP) and Mangalore Custom House Agents Association (MCHAA) at the joint hearing and the comments of the NMPT thereon are tabulated below:

Sl. No.	Comments of users / user organisations	Comments of NMPT
(1).	Association of New Mangalore Port Stevedores	
(i).	The Port charges inordinate Penal Rental charges up to two times/four times & even ten times for land allotted on monthly rental/short term basis. This is killing the cargo traffic and restricting increase in cargo volumes at NMPT. Eventually leading to a decline in handling cargo traffic from Port Users/ Trade at this port. The port users may divert their cargo through other neighboring ports. While iron ore exports was at its peak, the port restricted the number of arrival trucks to 20 per day. Hence for a shipment of 50000 tonnes of Iron Ore Fines (IOF), it would take about 280 days to move the cargo to NMPT for shipment. i.e. it takes 9 months to accumulate one shipment cargo as per these rules. Finally export of IOF was banned through NMPT by the statutory authorities. Even after the ban on IOF, the port has continued to resort to heavy penal rental charges for balance iron ore in stacks which cannot be shipped anyway. This anomalous situation should not prevail for no fault of the exporters and C & F agents when such restrictions on the Trade are also put by the authorities. The port is thus earning only negative income by applying this penal rental clause of two times/four times and even upto ten times to the port and is in no way facilitating port users & EXIM trade to do business at this port. ANMPS presumes that this is not the intention of the port to penalize its users. In view of above, it is requested to delete the penal rental clause in TAMP Order No.TAMP/32/2006-NMPT dated 29 December 2006 and help the business of NMPT.	(i). Association of New Mangalore Port Stevedores, C & F Association of New Mangalore Port and Mangalore Custom House Agents Association have informed that the Port is earning only negative income by applying the penal rent clause. In this regard, the NMPT has certified that as per the guidelines of the Ministry, the market value of the land are determined. The Land Policy Guidelines indicates the factors to determine the land value. Accordingly, the Port has worked out the market value of land through transparent process and any charges collected are as approved by the TAMP. (ii). Port has facilitated the receipt and shipment of the cargo. Port has to adhere to the direction of the local Administration. Accordingly, the directions were adhered and informed to the Port users. [It may be relevant here to state that various lessees have raised in their Writ Petitions while challenging revised lease rental demanded by NMPT with retrospective effect based on the Authority's Order dated 16 June 2010 also challenged penal license fee imposed by NMPT at ten times the license fee on iron ore fines stacked in port premises and could not be shipped due to ban imposed by the Government. In this regard, Hon'ble High Court of Karnataka in its Order dated 28 June 2013 has directed that whenever penal license fee is imposed
(ii).	As per NMPT Board resolution no. 137 dated 15 October 2012 of the Honorable trustees of NMPT had resolved that the port should ask for revision of its land/lease rentals only prospectively after the year 2015 and not before. Hence this proposal of	

	NMPT is flawed and goes against its own Board. Therefore. It is requested not to consider the present proposal of NMPT until 2015. As per Land Policy for Major Ports, this has to be approved by the NMPT Board, but the NMPT Board has not approved so far.	by NMPT, it should charge four times the normal fee treating non-shipment of goods upto seven months.]
2.	C & F Association of New Mangalore Port & Mangalore Custom House Agents Association	
(i).	As per NMPT Board resolution no.137 dated 15 October 2012 of the Honorable trustees of NMPT had resolved that the port should ask for revision of its land/lease rentals only prospectively after the year 2015 and not before. Hence this proposal of NMPT is flawed and goes against its own Board. Therefore. It is requested not to consider the present proposal of NMPT until 2015.	

2.3. Further, as decided at the joint hearing, a summary of comments received from users/ user organisations and the comments of NMPT thereon are tabulated below:

Sl. No.	Comments of users / user organisations	Comments of NMPT
(1).	KIOCL Limited	
(i).	<u>No Refundable premium equivalent to one year lease rent levied by NMPT at the time renewal of lease:</u> In the joint hearing it was clarified by NMPT that non-refundable premium equivalent to one year lease rent is not being levied at the time of renewal of lease effective from last revision of lease rent. The revision of lease rental of port land for the period from 20.02.2007 to 19.02.2012 was approved by TAMP vide Order dated 16 June 2010 (Gazette Notification No. 184 dated 23.07.2010). It is noticed from KIOCL records that even after last revision of lease rent w.e.f. 20.02.2007, NMPT has claimed non-refundable premium in respect of the following two tracts of lands at the time of renewal of lease and the payment was made as under: (a). A sum of ₹12,61,331.00 was paid to NMPT on 01.02.2011 in respect of lease renewal of 7126 sq. mtrs. of land taken for laying effluent pipeline. (b). A sum of ₹87,55,479.00 was paid to NMPT on 18.02.2011 in respect of lease renewal of 47,500 sq. mtrs. of land taken for Railway sliding facilities. NMPT may please be directed to refund the above shown sum of ₹1,00,16,810.00 (₹12,61,331.00) plus ₹87,55,479.00) along with interest in line with the clarifications by NMPT in the joint hearing.	M/s. KIOCL stated that NMPT has charged non-refundable premium equivalent to one year lease rent at the time of renewal of lease. It is to mention that the subject lease is on medium-term basis, for which, as per Land Policy Guidelines, M/s. KIOCL have to pay premium and Security Deposit which are equal to one year lease rent. The security deposit is refundable and the premium paid by the party is rent towards land rent. The premium paid is not refundable, hence, it is mentioned in the allotment letter that it is non-refundable premium. Hence view of M/s.KIOCL is not agreed.
(ii).	<u>Security Deposit:</u> NMPT is collecting Security Deposit equivalent to one year lease rent on lease of port land and no interest is being paid by NMPT on the security deposit. In this regard, it is stated that Mangalore Electricity Supply Company Ltd. (MESCOM) (A Govt. of Karnataka undertaking) is paying the interest to all its customers every year on the security deposit kept with MESCOM. Since the security deposit is retained by NMPT during the	M/s. KIOCL stated that Port has to pay the interest for the amount paid as Security Deposit. No interest is paid on Security Deposit. This issue was also discussed in the joint hearing at NMPT held on 21.06.2013 and this is not agreed by the port.

	entire lease period, it is requested to kindly consider payment of interest by NMPT on security deposit. Alternatively, port users may please be allowed to furnish Bank Guarantee towards security deposit.	
(iii).	<u>Revision of lease rent with prospective effect:</u> As mentioned above, the last revision of lease rental of port land for the period from 20.02.07 to 19.02.2012 was approved by TAMP vide order dated 16 June 2010 (Gazette Notification no. 184 dated 23.07.2010). In view of revision of lease rent with retrospective effect, KIOCL had to pay huge sum of ₹14,18,49,951.00 (Rupees Fourteen Crore eighteen lakh forty nine thousand nine hundred fifty one only) as arrears of lease rent from 20.02.2007 in respect of 4,33,668 sq. mtrs. land taken on long term lease from NMPT. Since lease rent with annual escalation @ 2% has already been paid to NMPT, further revision of the rates of lease rent, if any, may please be made effective from the date of approval by TAMP.	M/s. KIOCL stated that they have paid annual escalation of 2% for the portion of the rent for the delayed period of revision of lease rentals. Therefore, their request is to consider the revised rates from the prospective date i.e. from the date approved by TAMP. This issue has been discussed in the joint hearing and decision may be taken by TAMP as required, if any.
(2).	Association of New Mangalore Port Stevedores	
(i).	We once again place before your goodselfves the extraordinary burden being hoisted on the NMPT's Hinderland and Export / Import cargoes transacting through this Port. By artificially jacking up the Land Rentals / Lease Rentals based on unconnected and irrelevant escalation in urban private commercial land under the City Corporation of Mangalore.	The Association of New Mangalore Port Stevedores, in its letter dated 21.6.13 has reproduced the same contents of their representation dated 02.11.2012 to TAMP. The NMPT has already replied vide its letter dated 20.12.12.
(ii).	It is common knowledge that these Port lands were acquired at a cost of about ₹2,000/- per acre. The present yearly rentals of ₹9.77 Lakhs per acre are enough to pay for the entire cost of Port land acquired & all cost of maintenance & development Many Times Over. The total investment in these lands kept apart for import/Export trade is only a portion of the lands acquired. The return on investment on these should not be more than 15%. Whereas the return on investment (ROI) now computed by and demanded by the port as rental is in the region of 48%. It is a fair for a public body like NMPT to charge since they are not selling?	The Association's view is that the revision of lease rentals should not be done and they have stated that previous revision has taken place during 2010, and hence, it has to be revised during the year 2015. The revision of land rentals is proposed as per Land Policy Guidelines of Ministry. This issue has already discussed in the joint hearing in NMPT on 21.6.2013. Hence, the revision is proposed by NMPT based on Land Policy Guidelines and may be considered for approval at the earliest.
(iii).	Taking the cost of bought/sold Private Commercial small piece of Land around the Port area for computing Lease Rentals is not fair or commercially correct. ANMPS have to compare only comparables. The Port is not selling the Land to the Port Users but only leasing or renting out the land what has been acquired for specific purpose of cargo handling (Import & Exports) at a reasonable cost keeping the Land charges at minimum level. It is for this reason that the Govt. had acquired valuable Private Land very much below market rates of that period in order that Port to rent out/Lease out at very Low Rentals. Feudal Landlordism should not be the aim or object of the Port.	
(iv).	In the present commercial scenario when input costs on all commodities Imported & Exported	

	are reflected in the final competitive costs to the consumers, any trend to artificially jack up costs should be avoided. The very reason for making available to the Port Trust, strategic prime land at very low value is only to ensure that Import & Export costs of commodities is maintained at reasonable levels, which the consumer can bear. Profiteering by responsible public sector is not justifiable.	
(v).	The Port lands were given to the Government by many of the local people including ourselves at a very low cost in order to have a Major Port in this area for the benefit of the people of this Hinterland. Little did we anticipate that the Port would behave like a Medieval Zamindar taking the highest present urban commercial value of small parcels of private land sales unrelated to the Port's very purpose and activity for fixing of exorbitant rentals.	
(vi).	The Export-Import Trade and hinterland cannot bear such exorbitant and artificially jacked up rentals nor is there any justification to hurt the very people who gave their lands for making this Port a minimal cost.	
(vii).	The rise in rentals was about 52% in the last revision in June 2010 and now the increase demanded is upto 79%. These are in addition to the yearly increase in rentals of 2%.	
(viii).	With all the above exorbitant increase already made or additional increase proposed now, the NMPT collects a Surcharge of 10% over the rentals for within the Security Wall and also 5% Service Charges for outside the wall. How are these justified at all?	
(ix).	We understand from the honourable Trustees of the present NMPT Board that the Board had recently resolved that whatever revision of the rentals is finally decided by TAMP should be made effective only from 2015 onwards. The last revision sanctioned by TAMP was from 2010 to 2015.	-----
(x).	The Port on one hand, issues press statements that the Port is a service provider which is "making all out efforts to attract more cargo especially Traditional cargoes at a reasonable cost to benefit EXIM Trade". On the other hand, the Port quietly resorts to the unhealthy practice of increasing the cost of handling by arbitrarily and unilaterally increasing the ground rent, which actually penalizes Port Users / EXIM Trade.	
(xi).	As a result the Port has been losing traditional cargoes like Granite, Timber, Chromite Ore, Manganese Ore, Bauxite ore, woodpulp etc. The proposal of the North Malabar Chamber of commerce to move their cargoes through NMPT as against Cochin Port has been shelved in view of the high cost at this Port.	
(xii).	We may bring to your kind attention that the land rentals at NMPT are already the highest among all Indian Ports and any further revision upwards would be disastrous to the Trade and Hinterland of this Port. There is a good case for downward revision at this Port so that many of our traditional cargoes would come back to this Port.	

(xiii).	We understand that the Policy guidelines for land for Major Ports issued by the Ministry vide letter No.PT-11033/4/2009-PT dated 13.01.2011 have not yet obtained cabinet approval and are presently under hold. Therefore the very basis of increase of land rentals is now on hold and hence Port should not have gone through this exercise at this juncture.	
(xiv).	In view of the above facts, at this juncture we submit that the Port having already increased all rentals to the extent of 52% in the last revision vide TAMP Order No.184 dated 23.07.2010. We are of the opinion that there is only a case now for Downward Revision or at the least freeze the rentals at the present levels for an extended time. We understand NMPT Board/ Trustees have also resolved to maintain the present all land rentals until 2015.	-----
(3).	Mangalore Refinery and Petrochemicals Limited	
(i).	The new guidelines for use of land policy of major ports states that lease rentals have to be fixed with reference to the 'use' of port land. The NMPT has not made any attempt to classify the land according to the usage rather it has been done according to the location basis that it is previously done. It is submitted that since the new policy has come and revision is sought as per the new policy, NMPT is required to adopt the guidelines as stated in the policy, which require levy of different land rentals for different users based on usage. Therefore, it is requested to ask NMPT to submit lease rentals proposal based on 'use' of land rather than according to its location. This submission is made on the ground that there are port users who take the land on lease for pure commercial usage as well as there are port users who have hired the land area for port related activity and pay the lease rentals for land in addition to the port charges that are required to be paid for import/export of products, the other user who has leased the land for commercial purpose do not pay any such port charges. NMPT has proposed to levy the same rentals for both types of users if the leased land is in the same area, which is not as per new land use policy.	The Port Land value has been derived for 06 zones by the Registered Valuer based on the Usage pattern and as approved earlier by TAMP. All the port users are paying lease rentals for the land licenced / leased and port charges etc. for handling of cargo in the port. The revision of rental is not objected by the other port users and they are paying lease rent as per TAMP approved rates. Hence, MRPL contention is not correct.
(ii).	The interest earned on security deposit being collected by the port trust is not taken as estate income and therefore, if the increase is allowed, as sought by the port, the interest on security deposit earned by the port will be an added income which will give returns to the port higher than what is projected by the port. Also as all other government bodies like power distribution companies, Customs, Commercial Tax Dept. etc. provide for payment of either interest or allow user to deposit. Therefore, we request to TAMP to consider payment of interest on security deposit by NMPT to the user or alternatively allow FD or other instruments for security deposit. The port user should not be denied	This issue was discussed in depth in the joint hearing by TAMP on 21.6.2013 in NMPT and clarified that the security deposit will not carry any interest.

	interest or allow user to deposit National Saving Certificates or FD towards such security deposit. Therefore, it is requested to consider payment of interest of security deposit by the NMPT to the user or alternatively allow FD or other instruments for security deposit. The port user should not be denied interest on security deposit just because it did not exist earlier.													
(iii).	NMPT has adopted average of the land value between the guidelines value and assessed value which is incorrect. The port should follow any one of the values rather than the average value. Further, the land value as adopted by NMPT is very high as compared to the land acquired by KIADB in and around the port area which is ₹8-8.5 lakh/acre as against ₹100 lakh or more per acre considered by port for their land. Therefore, there need to be moderation in the land value adopted by the port. This in turn will have an impact on the lease rentals.	This issue was also deliberated and clarified to the port users on 21.6.2013 in the joint hearing by TAMP that, the land acquired by KIADB is not applicable to NMPT. The valuation is done as per of Land Policy. Accordingly, the revision of rent is submitted to TAMP for revision.												
(iv).	The port, in its proposal has proposed for way leave charges for water front. This rate is proposed at 50% of the land rentals for leasing of water front abutting the land. The proposal does not consider the investment being made by the user for bringing out the facilities which ultimately increases the traffic volume as well as other income to the port. Therefore, it is requested that the proposal for levy of 50% lease rentals on water front leasing may be reduced to a token amount, if the investment is made by the user. Since the port has proposed levy of way leave charges for usage of water front abutting the land, then these charges should cover charges towards providing security charges also, as being extended in case of way leave charges for land.	This is a new addition in the present Land Policy guidelines and hence it has considered and furnished to TAMP. The way leave charges for water front is proposed to be charged as per Land Policy Guidelines issued on 13.01.2011 and approved by TAMP in last revision. This may also be noted that MRPL is not paying wharfage charges, though it is approved by TAMP.												
(4).	Indian Oil Corporation Ltd.													
	Comments dated 02.11.2012 may be referred. No additional comments to offer.	--												
(5).	Central Warehousing Corporation													
(i).	CWC is in possession of leased port lands at NMPT as detailed below at Panambur, Mangalore and has been operating a public facility of CFS. <table><tr><th>Plot No.</th><th>Area of Land</th><th>Period of Lease</th><th>Date of taking over</th></tr><tr><td>11 & 12</td><td>1.83 acres (7408 Sq.mt)</td><td>30 years</td><td>7.8.1978</td></tr><tr><td>15 & 16</td><td>1.86 acres (7532 Sq.mt)</td><td>30 years</td><td>9.6.1983</td></tr></table>	Plot No.	Area of Land	Period of Lease	Date of taking over	11 & 12	1.83 acres (7408 Sq.mt)	30 years	7.8.1978	15 & 16	1.86 acres (7532 Sq.mt)	30 years	9.6.1983	The CWC godown lease period is extended by NMPT with the consent of M/s. Central Warehousing Corporation for the rate of ₹175.04 per sq.mtr. from 07.08.2008 (Copy enclosed). The further extension of lease for (a) plot no.11 & 12, (area is 7408 sqm.) & (b) plot no.15 & 16, (area is 7532 sqm.) upto June 2018 at a provisional rent of ₹218.88 per sqm. per annum (this rate is worked out ₹175.04 per sqm. with 2% escalation) or TAMP rate whichever is higher, is accepted by the Board subject to approval of Government. Hence, contention of CWC is not correct.
Plot No.	Area of Land	Period of Lease	Date of taking over											
11 & 12	1.83 acres (7408 Sq.mt)	30 years	7.8.1978											
15 & 16	1.86 acres (7532 Sq.mt)	30 years	9.6.1983											
(ii).	The initial period of lease (30 years) was over, and we had requested for renewal of lease for a further period of 30 years vide our letter dated 9 August 2007 in respect of Plot Nos.11 & 12. However, NMPT had conveyed the decision of the Board of Trustees for renewal of the lease period of 5 years from 7 August 2008 to 6 August 2013 in respect of plot nos.11 & 12, whereas the extension of lease period in respect of plot nos.15 & 16 has been approved for 5 years from 9 June 2013 to 8 June 2018.	(i). The NMPT board has decided to extend the lease period upto five years at the provisional lease rent of ₹218.88 per sqm. per annum.												
(iii).	The extension of lease period by NMPT was at a unilaterally decided higher market rate of ₹175.04 Sq. mt per annum in respect of Plot Nos.11 & 12, and our request for reconsideration	(ii). The payment of premium equivalent to one year lease rent is as per the provisions of Land Policy Guidelines.												

	of the rates at par with the TAMP rates was not agreed. It is to be noted that though the higher level rate has been made applicable, the lease period has been reduced to 5 years. Under the circumstanced, it is requested that:- (a) The extension of lease should be for a period of minimum 10 years at TAMP approved rates. (b) The demand of NMPT for payment of premium equivalent to one year lease rent unilaterally fixed by NMPT for renewal of lease should be withdrawn. (c) The demand for payment of refundable SD equivalent to one year lease rent unilaterally fixed by NMPT for renewal of lease should also be withdrawn, in view of the fact that we are operating the CFS for the benefit of port users and CWC is a major contributor to the development of NMPT for the past 34 years. (d) The revised rentals may be fixed at a reasonable level to sustain our facility in the leased land of NMPT. We propose a hike of 10% on the existing TAMP rate, and the TAMP rates so fixed are to be uniformly made applicable to all lease land holders of NMPT.	(iii). Payment of refundable Security Deposit equivalent to one year lease rent is as per the prevailing Land Policy Guidelines of Major Ports issued by the Ministry. This is applicable for short/long term lessees. (iv). The proposal for revision of lease rental has been sent to TAMP as per the Land Policy & TAMP Guidelines. Hence, CWC contentions are not acceptable. TAMP revision is still awaited.
(6).	Kanara Chamber of Commerce & Industry	
(i).	The majority of the trustees were of the opinion that the resolution has to be reworded and sent to the competent authority/ TAMP. In the minutes of the last meeting, it was not modified and reworded properly. Hence, it is requested to incorporate the resolution as under: After detailed discussion, "majority of the Trustees are in apprehension that increase in land rental will affect the business development at NMPT". Hence it is resolved that the proposal for revision of land rental for the period of 20/02/2012 to 19/02/2017 shall be deferred upto 11/06/2015 since the last Notification was published in Gazette on 11/06/2010 for a period of 5 years. KCCI regrets to note that this resolution has not been included as addendum to Page 13 and 14 of the NMPT proposal to TAMP. In view of the above, proposal to Land Revision for the period of 20/02/2012 to 19/02/2017 may be deferred up to 11/06/2015 in the interest of Trade, Commerce, Employment, Growth and Industry of Karnataka State in particular and the Indian nation at large.	The revision of lease rentals is as per the provisions stipulated in the Land Policy Guidelines. However, the opinion of the Trustees has been recorded in the said Board's resolution and forwarded to TAMP.
(ii).	The present market scenario has to be considered with import landing cost and a depreciating rupee. The devaluation of the Rupee from ₹55/- to ₹62/- in just a month with tougher days ahead. Any increase in land rental costs will be negative for the Traffic Growth of NMPT.	There is no such provisions in the Land Policy Guidelines to consider import landing cost and depreciating value of Rupee.

	Besides, except the few berths of 9, 10 and 11 rest of the Berths have low berth occupancy factor for the last three years indicating the bulk trade in the region.	
(iii).	The primary object of the port is to provide infrastructure for the interphase of trade which is now diluted by the steep rental revisions. Revenue has to be earned through Customs, Income Taxes by providing strong foundation for trade growth thus encouraging more Vessels to call NMPT. It is prayed to TAMP to be reasonable and go by the amended Resolution 137 of the Trustees, acknowledged by the Port on 10.10.12	The Ministry guidelines are followed to revise the Lease rental. TAMP has to deliberate on these issues with port users & stakeholders to arrive at a suitable decision on revision of rents.
