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Tariff Authority for Major Ports

G.No.13

New Delhi,

9 January 2015

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 Chennai Port Trust for revision of its Estate Rentals as in the Order appended hereto.

(T.S. Balasubramanian)

Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/56/2014-CHPT

Chennai Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Chandra Bhan Singh, Member (Economic)

ORDER

(Passed on this 20th day of December 2014)

This case relates to the proposal received from Chennai Port Trust (CHPT) for revision of its Estate Rentals.

2.1. The lease rentals at the CHPT forms part of its General Scale of Rates. Though the lease rentals at CHPT were last revised vide Order dated 22 March 2000, they were not revised during the general review of tariff of CHPT in the year 2002 since the estate activity and cargo activity together had reflected a surplus position then.

2.2. During the general review of tariff of CHPT in the year 2006, the CHPT did not follow the method prescribed in the Government Land Policy guidelines of 2004 to propose lease rentals and requested this Authority to revise the rentals, based on cost position. Therefore, this Authority advised the CHPT to come up with a proposal formulated in line with the Government Policy Guidelines and till such time the CHPT was advised to implement the conditions prescribed in the policy guidelines like annual escalation, security deposit, etc. A general note in this regard was incorporated in the then existing Scale of Rates of CHPT.

2.3. Thereafter, the CHPT filed its proposal to revise the estate rentals in September 2008. The proposal was processed by following the usual consultation procedure prescribed. In the said proposal, the CHPT had not considered all options as stipulated in the Land Policy Guidelines of 2004 to assess the market value for port lands. During the proceedings, the users expressed concern about the valuation of lands assessed by the CHPT and opposed to any increase in rental sought by the CHPT. The CHPT agreed to reassess the land valuation and informed that it had initiated steps to assess the market value of lands under all options specified in the Land Policy Guidelines and requested that the (then) existing Scale of Rates for lease rentals with applicable percentage of escalation may be permitted to be continued till the fresh proposal is approved.

2.4. Based on the submissions made by the CHPT, this Authority vide Order dated 10 November 2010 decided to close the case as withdrawn and permitted the CHPT to continue with the existing rates along with accrued escalation at applicable rates as per Government policy from time to time till the effective date of notification of the Order (to be) passed by this Authority on the proposal (to be) filed by the CHPT for revision of its estate rentals. The CHPT was directed to file its proposal before 31 December 2010.

2.5. Since there was no response from the CHPT, as directed by this Authority, the CHPT was advised vide letter dated 2 November 2011 to expedite the submission of the proposal for revision of license fee/ lease rentals in accordance with the Land Policy for Major Ports issued by the Government of India.

3.1. In this backdrop, the CHPT vide its letter dated 19 February 2013 submitted its proposal for revision of its Estate Rentals. The proposal was processed by following the usual consultation procedure prescribed. As a part of the consultation procedure, a joint hearing was also held on 27 September 2013 at the CHPT premises.

3.2. The users present at the joint hearing and the CHPT were of the view that the increase sought was high. The CHPT proposed at the joint hearing to approach its Board once

again for solution. As decided at the joint hearing, the CHPT was requested to approach its Board of Trustees once again for a solution with reference to proposed lease rentals, if it so desires, and convey the decision of the Board and to furnish additional information/ clarifications sought by us vide our letter dated 27 August 2013 and also to furnish its comments on the comments of the users. This was followed by reminders dated 17 December 2013 and 10 April 2014.

3.3. In the meantime, the Government of India in the Ministry of Shipping (MOS) announced Land Policy Guidelines for Major Port Trusts in January 2014.

3.4. In this connection, the CHPT vide its letter dated 19 April 2014 submitted a revised proposal for estate rentals as per 2014 Land Policy Guidelines, with revised cost statements and revised proposed draft Scale of Rates. The CHPT also responded to the queries raised by us vide our letter dated 27 August 2013 and intimated that the reply to the queries have been furnished based on the revised proposal submitted as per Land Policy 2014.

3.5. Since there was a change in the revised proposal vis-à-vis the initial proposal, the revised proposal was also taken on consultation with the users. A joint hearing on the revised proposal submitted by the CHPT was held on 23 May 2014 at the CHPT premises. Responding to the serious objection raised by the users at the joint hearing on the valuation of port land and hike proposed in the rentals, the CHPT desired to undertake fresh valuation of CHPT land and desired to submit a revised proposal. As decided at the joint hearing, the CHPT was advised vide our letter dated 27 May 2014 to undertake a fresh valuation of its lands, if it so desires, and file its revised proposal latest by 31 July 2014.

3.6. In response to our letter dated 27 May 2014, the CHPT vide its letter dated 4 August 2014 has stated that the work relating to valuation of CHPT's lands and buildings has already been awarded to a Valuer Firm and the report is yet to be received from the firm. Hence, the CHPT requested to extend the time for further two months i.e. till 30 September 2014, in order to send the revised proposal based on the fresh Valuation.

3.7. Since the port had already initiated action by appointing a Land Valuer and had reported to be awaiting the Land Valuation Report, this Authority granted time upto 30 September 2014 to CHPT to file the estate revision proposal, as requested by it. Since the revised estate revision proposal to be filed by the CHPT would require fresh consultation with all the concerned stakeholders and would also require fresh scrutiny of the proposal, this Authority vide its Order dated 30 September 2014 closed the estate revision proposal of CHPT for want of revised proposal from CHPT. The revised proposal as and when to be received from the CHPT, was decided to be processed afresh. The CHPT was allowed to continue with the existing rates with escalation at applicable rates as per the Government policy from time to time till the fresh proposal to be filed by the CHPT for revision of its estate rentals was disposed of by this Authority. This Order has been notified in the Gazette of India on 15 October 2014 vide Gazette No. 293.

4.1. In this backdrop, the CHPT vide its email dated 7 October 2014 and letter dated 6 October 2014 has submitted its proposal for revision of its Estate Rentals. The main points made by the CHPT in its proposal are summarized below:

- (i). M/s. Jadon & Co., Mumbai was appointed to carry out fresh valuation of land and buildings at Chennai Port Trust and they have furnished the Report. The Report received from the Valuer was placed before the Land Allotment Committee (LAC) constituted as per Land Policy 2014.
- (ii). The LAC in its meeting held on 28 August 2014 recommended to revise the Scale of Rates based on the rates arrived at in the Valuation Report. The matter was placed before the Board in its meeting held on 28.08.2014 wherein the Board resolved to send revised proposal to TAMP for revision of SOR as per the valuation suggested by the Valuer, M/s. Jadon & Co. and as recommended by the LAC.
- (iii). The Land Allotment Committee observed that there are many classification of land and some classifications are not operated or the structures are not in existence.

The item No.3 Open space in the Transit area, item No.6 Open sided shed and Item No.7 Bubble structure in the existing SoR has been deleted. New rates have been proposed for Tondiarpet land and shop units based on Valuation Report.

- (iv). The LAC constituted as per the 2014 guidelines observed that as per existing SOR, the Way leave charges are being collected on 'Running metre basis' and as per Land Policy 2014, the same has to be collected on sq. m. basis for the area occupied by the pipelines. Accordingly, the Land Allotment Committee recommended to modify the existing Scale of Rates as per Land Policy 2014. The Land Allotment Committee has also proposed to revise the conditions for allotment.
- (v). The CHPT has furnished the revised draft proposed Scale of Rates and the cost statement.

4.2. The other main points of the CHPT proposal are summarized below:

- (i). The proposal is based on the market value of land determined as per option (iv) of clause 18 (a) of Land Policy 2014 guidelines, i.e. Rate arrived at by the Approved valuer. The increase proposed ranges from 39% to 116% over the existing escalated rates.
- (ii). The rates proposed have been indexed to 1st April 2014 and are subject to annual escalation @ 5% p.a. (compoundable), as approved by the Board, vide B.R. No.264 dated 29.3.2014, in terms of clause 18 (c) of Land Policy 2014.
- (iii). In order to ensure that the conditions proposed in the Scale of Rates are in accordance with Land Policy 2014, it is proposed to delete all the existing conditions under Scale-1 and Scale -2 of Chapter-VI of the Scale of Rates and revised conditions as per Land Policy 2014 have been proposed.
- (iv). It is proposed to include the proposed estate rental tariff as a separate chapter in the Scale of Rates, i.e. Chapter-VIII and proposed to delete existing Scale-1 and Scale-2 under Chapter-VI Miscellaneous tariff.
- (v). At the proposed estate rental tariff and presuming existing occupancy level continues the additional financial implication for the years 2014-15 and 2015-16 will be ₹ 24.71 Crores and ₹ 24.80 Crores respectively.

4.3. The rates arrived at by the valuers and recommended by the LAC are given below in the form of draft Scale of Rates as proposed by the CHPT:

- (i). SCALE 1: Licence fee / Lease Rent for allotment of land / space / buildings

Item No.	Description of space	Unit	Licence Fee / Lease rent (Base rate as on 1.4.14) (₹ per calendar month or part thereof)
1.	Open space inside the port - Unpaved	100 sq. m. or part thereof	5,520/-
2.	Open space - Paved (Hardened with water bound Macadam Surface) inside the port.	100 sq. m. or part thereof	10,488/-
3.	Track length at any of the CHPTs Railway Sidings inside the Port	1 running metre or part thereof	1,656/-
4.	Covered Space inside port	10 sq. m. or part thereof	1,656/-

5.	Commercial Office space in Buildings outside Port at Rajaji Salai	Per sq. m. or part thereof	552/-
6.	Buildings with RCC Roof and terrace within the port used for office use.	Per sq. m. or part thereof	442/-
7.	Buildings with ACC sheet and any other similar roofing like G I sheet within the Port.	Per sq. m. or part thereof	331/-
8.	Land at Tondiarpet Housing Colony for commercial use	Per sq. m. or part thereof	25/-
9.	Shop units at Tondiarpet Housing Colony outside the port	Per sq. m. or part thereof	552/-

Note : For those areas that have been declared as private/customs bonded area, the rate will be 120% of the rate applicable for such category of the land/ space.

(ii). SCALE 2: Charges for Right of Way Permission for laying pipelines in CHPT's premises

Way leave charges for laying of Pipelines / Conveyors, etc.	The rate for open area as applicable to the category of space mentioned in Scale-1 above, as the case may for the area occupied by the Pipelines / Conveyors, etc.
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Note: For the purpose of Right 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 / conveyor stacks, the physical area occupied by the multilayer pipeline / conveyor stacks should be considered and the respective users should be billed on pro-rata basis. As far as underground pipelines 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 considered as 50% of the diameter and length, for the purpose of levy of Right of way charges.

4.4. As stated earlier, the CHPT vide its email dated 7 October 2014 has furnished the forms in the prescribed format and the proposed draft Scale of Rates along with its conditionalities. Subsequently, the CHPT vide its letter dated 6 October 2014 has furnished Valuation report, Minutes of the Land Allotment Committee, Board resolution, Draft Scale of Rates and the Cost statement.

5. In accordance with the consultative procedure prescribed, a copy each of the proposal dated 6 October 2014 and 7 October 2014 was circulated to the concerned users / user organizations vide our letter dated 22 October 2014 seeking their comments. Some of the users/ user organisations have furnished their comments. These comments were forwarded to the CHPT as feedback information. The CHPT vide its email dated 3 December 2014 has responded to the comments of the users/ user organisations.

6. Based on a preliminary scrutiny of the proposal, the CHPT was requested to furnish additional information/ clarifications on few points vide our letter dated 30 October 2014. After the joint hearing held on 7 November 2014 and after a reminder dated 13 November 2014 the CHPT under cover of its e-mail dated 03 December 2014 has responded. The queries raised by us and the response of CHPT thereon are tabulated below:

	Queries raised by TAMP	Reply by CHPT
I.	GENERAL:	
(i).	As mentioned in Note 1 of Form – 1, the CHPT to certify that its proposal is in conformity with the Land Policy for Major Ports – 2014 issued by the Ministry of Shipping, Government of India.	The proposal is as per the provisions of the Land Policy 2014 announced by the Government of India in January 2014.
(ii).	As mentioned in Note 2 of Form – 1, the CHPT to furnish a Certificate to the effect that the land leased zone wise is in accordance with port's land use plan.	The allotment of area is in accordance with the Port's land use plan.
(iii)	As mentioned in Note 3 of Form – 1, CHPT to furnish the details of the leases granted by the port for commercial and other purposes, zone-wise, separately for the last 3 years viz., 2011-12, 2012-13 and 2013-14.	The details of the allotments of open space on licence basis during the years 2010, 2011 and 2012 has already been forwarded vide our letter dated 19.4.2014. The details of leases pertaining to outside port premises granted by the port for commercial and other purposes for the years 2011-12 to 2013-14, is furnished.
(iv)	If on any matter the proposal of CHPT deviates from the Land Policy Guidelines referred above, CHPT to furnish the details thereof and the reasons therefor.	There is no deviation from the Land Policy 2014 provisions.
(v)	Note -4 to Form -1 requires a major port to confirm that Development Cost is allocated to land used by port and each category of rentable land at actuals or on pro-rata basis. The CHPT has not mentioned anything in this regard. The CHPT to furnish the original cost and the cost of development incurred subsequently for each category of land. It may also be stated whether the Development cost has been allocated to the rentable land. The basis of allocation, whether at actuals or on pro-rata basis may also be furnished.	The development costs relating to land and buildings used by the Port is debited to Management & General Overheads and that relating to rentable land and buildings to estate rental activity at actuals. However, further allocation, category wise or area-wise is not done.
(vi)	In the Form – 1 furnished by the port, it is seen that the port at sl.no. A (I) has indicated the total port area at 677.2668 acres. In this connection, the CHPT is to clarify/ furnish the following:	
	(a). In the utilisation of total area as indicated at sl.no. A (III) of Form – 1, the sum total of the area of land utilized for port operations (320.0956 acres), for port employees' residential purposes (80.874 acres) and allotted for commercial purposes (116.518 acres + 34.84 acres), as furnished by the port, works out to 551.9676 acres only. The CHPT to furnish the reason for the difference and reconcile the difference.	A revised Form-1 is attached by the CHPT. The difference between I and III represents area utilized for other than port use like roads and yards, lawns, Gardens, etc.
	(b). Also, the Valuer in his Valuation Report (in the introduction part) has mentioned that CHPT has land admeasuring about 587 acres inside Port,	The details under Sl. No.I of Form-1 are corrected and a revised Form-1 is furnished.

	18.60 acres at Rajaji Salai, 80.82 acres at Tondaiarpet Housing Colony and 2.13 acres at Thirusoolam, thereby aggregating to 688.55 acres. CHPT to reconcile the difference and furnish the details for the difference.	
(vii)	Though the CHPT has indicated the amount of the development costs incurred by it at Sl.no. B(VI), it has not furnished the allocation of development costs as required at Sl.no. B(VII). The CHPT to furnish the requisite details and also specify the basis of allocation of developmental costs.	The expenditure incurred on major development costs (revenue expenditure), viz. roads, drainage, sewage, electricity supply, water augmentation, etc. relating to rentable land and buildings is accounted as expenditure under estate rental activity. The expenditure incurred on land and buildings used by the Port are booked as 'Management and General Administration overheads. The capital expenditure incurred by way of roads etc. are furnished at Sl. No. II (v) of Form-4A filed for general revision of tariff. Such expenditure is capitalized and expenditure charged to estate rental activity. However, as stated in our reply to point no. (v) above, further allocation of cost for each category of rentable land is not done.
(viii)	In the Form – 1 furnished by the CHPT, the CHPT at Sl. no. C(VIII) and (IX) with regard to Assessment of land value has stated that the relevant details relating to Market valuation of land based on State Government Ready Reckoner, last three years transactions, highest accepted tender, any other relevant factor have already been submitted alongwith the proposal sent to TAMP on 19 February 2013. However, the Report of the Land Allotment Committee (LAC) furnished by the CHPT, is seen to have taken into account only the Market value based on the Valuer's Report and does not appear to have considered the other parameters while making its recommendations. As per the Land Policy Guidelines of 2014, the LAC is required to take into account the highest of the factors mentioned in Clause 18(a) to determine the market value of land. In this backdrop, the CHPT to clarify whether the approach adopted by CHPT for consideration of only Valuer's report is in line with Clause 18(a) of Land Policy Guidelines of 2014.	The Land Allotment Committee (LAC) constituted as per Land Policy 2014, in its meeting held on 11 March 2014 has elaborately discussed the market value under different options prescribed in the Land Policy 2014 and recommended the market value as per Option IV, which is the lowest among the four options, after recording the reasons therefor. A copy of the minutes of the meeting of the LAC held on 11 March 2014 has already been forwarded vide our letter dated 19 April 2014. A copy of the minutes along with statements of market value arrived under options (i) to (iii) is furnished, which may also be considered as a part of this proposal. The comparative statement of rentals under options (i) to (iv) is updated based on the revised rentals as per Option (iv) and furnished. Based on the objections raised by the users in the Joint hearing held on 23 May 2014 for the steep increase, TAMP advised CHPT to undertake fresh valuation of lands and submit a revised proposal. Accordingly, fresh valuation has been carried out and the LAC has also approved the rates arrived in the fresh valuation report. The market value under options (i) to (iii) were not considered again by the LAC since the rates arrived under these options were

		much higher than the option (iv). Hence, it is informed that the LAC has taken into account all the options under Land Policy 2014.
(ix)	CHPT has not furnished the comparative position between the entire existing and the proposed Scale of Rates and conditionalities obtaining as required at Part 2 of Form – 1. The CHPT to furnish a comparison of the existing and proposed rentals alongwith the existing and the proposed conditionalities in the prescribed format, justifying the changes proposed in the conditionalities.	The changes made in the rates have been indicated by way of strikethrough of existing rates and the proposed rates have been shown in bold letters for easy comparison of existing and proposed rates. It is further stated that the existing SoR conditions were prescribed before announcement of Land Policy Guidelines 2004. Many of the existing clauses are seen to be not in line with the Land Policy Guidelines 2014. The LAC in its meeting held on 28.8.2014 has reviewed the conditions in the existing SoR and approved a set of modified conditions as per Land Policy 2014. Accordingly, the existing conditions in the SoR have been replaced with the conditions approved by LAC. In view of the above, one to one comparison of existing SoR conditions and proposed conditions as per Land Policy 2014 provisions is found difficult. However, a statement giving comparative position of existing conditions vis-à-vis proposed conditions to the extent possible is prepared and furnished.
(x)	When the port has proposed an increase in the lease rentals, the reason for estimating same level of income from the land and the buildings at the existing level of tariff as well as the proposed level of tariff, in the Form – 2A furnished by the port, is not clear. The CHPT to furnish a revised Form– 2A, duly capturing the increase in the level of income at the proposed level of tariff. CHPT to furnish the workings in this regard.	In the revised Form-2A sent along with our letter dated 6.10.2014, the increase in the lease rental income on account of the proposed revision has been captured for the years 2014-15 and 2015-16. Since the year 2013-14 is already over, the increase has not been considered. Apart from the above, the income from licensing of plots for operational purpose is accounted under Cargo Handling activity (Warehousing). The additional financial implications in this regard taking into account the proposed increase (ranging from 39% to 116% over the existing escalated rates) for the next two years 2014-15 to 2015-16 works out to ₹ 43.58 crores (approx).
II.	<u>VALUATION OF LAND:</u>	
(i).	With reference to determining the market value of the land under Option – I i.e. State Government Ready Reckoner, the CHPT to clarify/ furnish the following:	
	(a). The CHPT had earlier while responding to the queries with reference to	The market value indicated in State Government Ready Reckoner is effective

	determining the market value of the land under Option-I, i.e. State Government Ready Reckoner, indicated that the market value in State Government Ready Reckoner is effective from 1 April 2012. In this connection, the CHPT to indicate the market value based on State Government Ready Reckoner as applicable for the year 2014.	from 1 April 2012. The State Govt. Ready Reckoner has not been revised thereafter.
	(b). When the CHPT was to explain how the market value of the land as applicable for the Rajaji Salai (North Beach Road) is representative enough to determine the value of the land for 'Open space hardened with water bound Macadam surface', the CHPT had then, inter alia, responded that guideline values indicated in the State Government Ready Reckoner is for residential lands, which may not be relevant for port lands as the port lands is predominantly used for commercial purpose. Thus, when the CHPT itself is of the view that the values indicated in the State Government Ready Reckoner may not be relevant for port lands, the reason for considering the market value of the land as applicable for the Rajaji Salai (North Beach Road) as a representative to determine the value of the land for 'Open space hardened with water bound Macadam surface' is not clear. The CHPT to clarify the matter in detail.	The State Government Ready Reckoner does not indicate separate guideline value for port lands. Hence, the guideline value at Rajaji Salai which is adjacent to port boundary is considered for comparison as the same has been mentioned as one of the options in the Land Policy provision. Further, as can be seen from the Minutes of the LAC held on 11.3.14, the LAC has rightly pointed out that the State Govt. guideline value at Rajaji Salai may not be relevant to decide the market value of lands inside the port. Hence, this option has not been recommended by LAC.
(ii).	With reference to determining the market value of the land under Option – II i.e. Transactions registered in the last three years in the port's vicinity, the CHPT to clarify/ furnish the following: While responding to the queries, the CHPT had earlier mentioned that since the actual value of transactions registered during the last 3 years could not be obtained from the Registration Authorities, despite several attempts and since the sale transactions are generally made at the guideline value only, the market value considered under Option-I has been considered for this Option also. In this connection, given that the CHPT would be indicating the market value based on State Government Ready Reckoner as applicable for the year 2014, as sought above, the CHPT to determine the licence fees under this option by considering the average market value of the lands, based on the sale transactions registered during the years 2012 to 2014.	Reply in respect of point (i) (a) above may please be considered.
(iii)	With reference to determining the market value of the land under Option – III i.e. Highest accepted tender of port land, the CHPT to clarify/ furnish the following:	

	(a). While responding to a query to the effect of bidding values for the year 2010-11 being considerably lower than the bidding values for the year 2009-10, the CHPT had earlier stated that the reduction in the bidding values during the year 2010-11 compared to 2009-10 is on account of substantial drop in the volume of iron ore export through CHPT, thereby resulting in lesser / no demand for plots. In this connection, the CHPT to clarify how the lesser / no demand for plots due to drop in the volume of iron ore has an impact on the market value of the land.	As can be seen from the minutes of the LAC meeting held on 11.3.14, the market value of lands inside the port limits is pre-dominantly dependent on the port operations, viz. volume of throughput handled, no. of vessels visited, etc. After the stoppage of handling of iron ore and coal, by virtue of High Court Order, there is substantial reduction in the demand for the plots.
	(b). The CHPT to determine the licence fees under this option by considering Highest accepted tender of port land during the period from 2012 to 2014.	Tender procedure has not been adopted for allotment of lands from 2012 to 2014, in view of the very less demand for the plots due to stoppage of coal and iron ore handling in the Port.
(iv)	With reference to determining the market value of the land under Option – IV i.e. approved Valuer, the CHPT to clarify/ furnish the following:	
	(a). From the copy of the Valuation Report furnished by the Valuer, it is seen that the Valuer in his Report has arrived at the Scale of Rates for Rentals, inter alia, for the year 2013-14 by applying a Composite Index rate of 2.76 times over the lease rentals prevailing in the year 2000-01. The said Composite Index is reported to be comprising of RBI Cost inflation, Land Prices Inflation, Tonnage and Gross Revenue of CHPT over the period from 2000-01 to 2013-14. In this regard, it is relevant to mention here that during the joint hearing held in Chennai on 23 May 2014 with regard to an earlier proposal filed by the CHPT on the estate rentals, the users had made a mention that the valuation of CHPT land then was based on the commercial valuation and not on industrial valuation and had made a request to carry out the valuation on industrial basis. In this connection, the CHPT to clarify how the present determination of rentals by the Valuer based on the composite Index, is in line with the request made by the users during the hearing.	The valuation as per Land Policy 2014 guidelines is not possible as similar transaction of land for period of 30 year lease or licences are not recorded in the vicinity of Port. The available properties are also limited. In view of the above, valuer has adopted the escalation method considering industrial growth vis-à-vis port's growth and arrived at the prospective rentals by adopting the composite index methodology. The LAC has also approved the rates arrived at by the valuer. The objections / submission of users at the joint hearing was mainly with reference to the steep increase proposed in the estate rentals, especially increase of 721% proposed in respect of open space. As per the revised valuation report, the increase proposed ranges from 39% to 116% only. Since there is a reduction in the increase proposed in the estate rentals, it is felt that the revised valuation will address the concern of the users.
	(b). With regard to the land at Tondiarpet, in the absence of rentals for the area in the year 2000-01, the Valuer is reported to have prescribed rentals on the basis of direct market study and comparison with present capital value of land. In this connection, the CHPT to furnish the workings to arrive at the rental of ₹ 25/- per calendar month for land at Tondiarpet Housing Colony for commercial	The valuer has stated in his report that they have given the rentals on the basis of direct market study and comparison with present capital value of land. The rates arrived at by the valuer has been recommended by the LAC.

	use and ₹ 552/- per calendar month for shop units at Tondiarpet Housing Colony outside port.	
(v)	As per the Land Policy Guidelines of 2014, the LAC is to take into account the highest of the factors mentioned in Clause 18(a) to determine the market value of land. Given that the CHPT would be reviewing the market value based on other options, as discussed earlier, the CHPT, if it so desires, may review the approach adopted by it and propose for the licence fees based on the option, which determines the highest market value of land. In case, if the LAC/port is not in a position to choose the highest factor, the reasons for the same may be brought out.	As already stated, the LAC, in its meeting held on 11 March 2014 has discussed the issue elaborately. The Committee after detailed deliberation and taking into consideration the competition from Mega Private Ports close to CHPT and connectivity constraints has decided to adopt rates worked out based on valuation report (Option-IV), though it is lower compared to other options.
III.	<u>PROPOSED RENTALS AND CONDITIONALITIES:</u>	
(i).	The reason for proposing changes to the existing description of open space as 'open space inside the port – unpaved' and the existing description of open space hardened with water bound macadam surface as 'open space – paved (hardened with water bound macadam surface) inside the port, in the proposed Scale of Rates may be explained.	The existing SoR prescribes licence fee for 'Open Space' and 'Open space hardened with WBM'. The open space covers unpaved land. To differentiate developed land from unpaved land, the description for developed land is modified as per technical term 'paved' area hardened with WBM. The modification is done based on the valuation report, in order to bring clarity.
(ii).	The reason for deleting the existing licence fees prescribed for open space in the transit area for export cargo (Barytes, Lumps, Quartz, etc.) and the accompanying note 1 in the proposed Scale of Rates may be explained.	The transit area is meant for storage of import / export cargo belonging to all users. No storage charges will be collected if the cargoes are removed for shipment / delivery within the free days. If the cargoes stay beyond free days, demurrage as per SoR will be applicable. As recommended by the LAC, the separate rate applicable for 'Open space in transit area' is proposed to be deleted, in order to effectively utilize the above area.
(iii)	The reason for deleting the existing licence fees prescribed for open sided shed in the proposed Scale of Rates may be explained.	Open sided shed is nothing but open space (paved) with walls on two sides which is more or less akin to open space. Open sided shed was used by the coal allottees at large. Due to stoppage of coal handling, there is no demand for open sided shed. Out of a total area of 24046.84 sq. m. available in the category Open Sided shed, only an area mg.514.84 sq. m. is allotted at present. The higher rate prescribed for 'Open sided shed' in the existing SoR acts as a deterrent to utilize the area for other purposes. Hence, it is proposed to delete the separate rate prescribed for 'Open sided shed', as recommended by the LAC, in order to effectively utilize the area.
(iv)	The reason for proposing changes to the	The port property at Rajaji Salai is

	existing description of buildings allotted for use as office accommodation on Rajaji Salai or adjacent to port's limits as 'Commercial office space in buildings outside port at Rajaji Salai' may be explained.	potential for commercial utilization. Hence, the description is modified slightly, based on the valuation report.
(v)	The reason for deleting the existing licence fees prescribed for Bubble Structure in the proposed Scale of Rates may be explained.	The Bubble structure was constructed mainly for coal handling in order to reduce the pollution level inside the Port. After the stoppage of coal handling in the port, there is no demand for Bubble Structure. As such the existing rate for 'Bubble structure' has become redundant. Hence, it is proposed to delete the rate for 'Bubble Structure', as recommended by the LAC.
(vi)	The reason for now proposing introduction of licence fees for Tondiarpet Housing Colony for commercial use and for shop units at Tondiarpet Housing Colony outside port, may be explained.	The existing Scale of Rates does not provide rates for T.H. Colony area. The valuation report contains separate rates for T.H. Colony land and shop units based on market value approach. Hence, it is proposed to include the same in the Scale of Rates.
(vii)	The Land Policy Guidelines of 2014 gives liberty to ports to fix annual escalation which would not be less than 2%. The CHPT is seen to have proposed 5% annual escalation beginning from 1 April 2015. The reason for seeking higher rate of annual escalation may be explained.	The Land Policy 2014 gives flexibility to the Ports to fix the rate of escalation subject to a minimum of 2%. Earlier, annual escalation of 2% was imposed on open space and 5% was imposed on buildings and covered space. Based on the Land Policy 2014 provisions, the Board vide B.R. No.264 dated 29.3.2014, approved the annual escalation at 5% uniformly for all categories of space like open space, covered space, buildings, with effect from 1.4.2014.
(viii)	The Land Policy Guidelines of 2014 stipulates that one time supervision charges as a percentage of cost of laying of pipelines/ conveyors etc. in the port limits shall be paid. In this connection, the CHPT has prescribed one time supervision charges @ 15% of the cost of pipelines and cost of laying of pipelines. In this connection, the CHPT to clarify/ furnish the following:	
	(a). Though the guidelines stipulate levy of one time supervision charges as a percentage of cost of laying of pipelines, the CHPT has proposed to levy on cost of pipelines also. The CHPT to explain the reason for including cost of pipelines also for determinations of supervision charges. It may be clarified whether inclusion of cost of pipelines also is in line with Land Policy Guidelines.	The condition prescribed in Sl. No.4 under 'Conditions for granting Way leave Permission' is replaced as follows: "One time Supervision charges @ 15% of the cost of laying of pipelines/ cables/conveyors in the Port limits before granting way leave permission. This is not applicable for Single Buoy Mooring (SBM)/Single Point Mooring (SPM)/ sub-sea pipelines for which the applicable supervisory charges will be decided by Board, on a case to case basis." It is further informed that Sl. No.1 under the heading – II Conditions for allotment on Monthly Licence basis, is also slightly

		modified based on operational requirement, as follows: "Persons requiring allotment of space (land / shed / buildings) on monthly licence basis may apply in writing, before the deposit of goods, stating their acceptance of all risks and responsibility for goods so stored, in the form prescribed by CHPT. But, it shall be at the discretion of CHPT to allot or refuse to allot the space. Sub-letting of the licensed space shall not be allowed." A revised proposed Scale of Rates is furnished.
	(b). Basis for proposing levy of 15% as one time supervision charges.	A supervision charge of 20% is being collected for all deposit works executed by the Port on behalf of other organizations. Further, as per Land Policy 2010, a supervision charge of 15% is being collected for way leave permissions. Hence, it has been proposed to continue the same.
(ix)	The CHPT to examine and ensure that all the conditions/ notes proposed in the Scale of Rates are consistent with the conditions prescribed in the Land Policy Guidelines of 2014. A confirmation in this regard may be furnished.	Yes. All the conditions are consistent with Land Policy Guidelines 2014.

7. A joint hearing on the case in reference was held on 07 November 2014 at the CHPT premises. The CHPT made a power point presentation of its proposal and explained the salient features of the proposal and back ground for the October 2014 proposal. At the joint hearing, CHPT and users/ user organisations have made their submissions.

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

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

- (i). The lease rentals at Chennai Port Trust (CHPT) were last revised vide the CHPT General Revision Order of March 2000. The revision of lease rentals of CHPT takes place now in the year 2014, after a gap of fourteen years. The reasons for non-revision of lease rentals during the intervening period have been elaborately brought out in the initial part of this Order. However, the CHPT has been allowed to apply the annual escalation factor at the rates applicable as per Government land policy announced from time to time.
- (ii). The Hindustan Chamber of commerce (HCC) and Chennai Port Stevedores Association (CPSA) have submitted at the joint hearing held on 7 November 2014 that they are not aware of the calculation of the October 2014 proposal of the CHPT. However, as per the records of this Authority, the proposal as received from the CHPT was circulated among the stakeholders including the HCC and CPSA. If there was requirement of any calculation, it could have been made available from CHPT. No such request was received either from the HCC or from the CPSA.

- (iii). The Chennai Container Terminal Private Limited (CCTPL) and Chennai International Terminal Private Limited (CITPL), the BOT operators at the CHPT, have raised question on the applicability of Land Policy 2014 to them. This Authority is not the appropriate forum to address the question. They have also raised the question of applicability of the proposed rentals to them. The CHPT claims that the revision of rentals is applicable to them. The dispute is subjudice. The proposal before this Authority is for revision of rentals.
- (iv). (a). As per Clause 8 of the tariff guidelines of March 2005, this Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. The CHPT has, thus, come up with a proposal for revision of its estate rentals, based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as confirmed by CHPT.
- (b). Para 18 of the Land Policy Guidelines for Major Ports, 2014, provides for five factors for determination of Market value of port land. The methodology for determination of market value of the port land based on the five factors prescribed in para 18(a) of the Land Policy guidelines of 2014, is similar to the provisions contained in the previous Land Policy Guidelines of 2010. The 2014 guidelines, however, clearly recommends consideration of the highest of the five factors for determination of the latest market valuation of land, in the normal course. However, if the latest market value of land is not chosen based on highest of five factors, then the reasons for the same are to be recorded. Clause 18(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 18(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Further, Clause 18(c) of the Land Policy Guidelines for Major Ports 2014 requires the concerned Major Port trust to file a proposal to this Authority for fixing the market value of the land and this Authority is required to notify the market value of land. Thus, as per stipulation contained in Clause 18(c) of the Land Policy Guidelines of 2014, this Authority is required to notify the market value of the port lands.
- (c). In this regard, it is noteworthy that as per Section 49 (1) of the Major Port Trusts (MPT) Act, 1963, the mandate given to this Authority is to frame Scale of Rates (SOR) and prescribe statement of conditions for use of port land and properties belonging to the Major Port Trust. The earlier Land Policy guidelines of 2004 as well as Land Policy guidelines of 2010 clearly mandated this Authority to determine the Scale of Rates of the lands of the Major Port Trust, and not the market value of land. Bringing out the position in the statute, the Ministry of Shipping (MOS) has been requested vide our letter No.TAMP/8/2014-Gen dated 18 March 2014 to consider suitable amendments in the Land Policy Guidelines of 2014 in line with the statute position. Response of the Ministry of Shipping is awaited.
- (d). The draft Scale of Rates furnished by the CHPT proposes notification of the Lease Rent for the various types of land/ space/ buildings. In this connection, if a reference is drawn to the Clause 18 (b) of 2014 Land Policy Guidelines, the term "Reserve Price" connotes meaning of Annual Lease Rent (SOR). Further, para 16.2(d) of the Land Policy Guidelines (though it relates to lease of land through tender-cum-auction methodology in a competitive bidding process) stipulates that the reserve price shall be worked out by the Land Allotment Committee (LAC) of the

port, approved by the Board Trust and by this Authority. Thus, from a harmonious reading of the clauses 18(b), 18(c) and 16(d) of the land policy guidelines of 2014, it can be seen that this Authority is mandated to notify reserve price equated to annual lease rent as well as the market value.

As regards the proposal of CHPT in reference, it is relevant to mention here that the Valuer in the Valuation Report furnished by him, and which has been considered as the base by the Land Allotment committee (LAC) in its Report as well as considered by the Board of Trustees of CHPT, has expressed his inability to arrive at the market value of the port lands on the ground that as per the definition of market value, existence of a willing seller and willing buyer is a must and since the sale of port land is not allowed and therefore, fair market value of the Port land cannot be determined. As a result, the Valuer in his Report has determined the lease rentals for the various CHPT premises by applying a Composite Index rate of 2.76 times over the lease rentals prevailing in the year 2000-01, without going into the market value of the land.

It is noteworthy that not only the Land Policy Guidelines of 2014, but also the Land Policy Guidelines of 2004 and 2010 stipulated fixing lease rentals based on the market value of land. Accordingly, lease rentals in the past has been fixed for the estates of the various major port trusts based on the market value of land, so derived.

Nevertheless, since the Land Allotment committee (LAC) has recommended to adopt the rates based on the Valuation by the approved Valuer and also since the Board of Trustees of CHPT have given a go ahead to send the proposal to this Authority for revision of SOR as per industrial valuation of the assets suggested by the Valuer and as recommended by the LAC, this Authority is constrained to rely upon the approach adopted by the CHPT to arrive at the rentals without going into the market value of the land and thereby leading to notification of the Reserve price only connoting the meaning of Annual Lease Rent (SOR). That being so, the proposal of the CHPT to notify the Reserve Price in terms of annual lease rent is analysed as hereinunder.

- (v). As per clause 18(a) read with clause 16.2(e) of the Land Policy Guidelines 2014, a Land Allotment Committee constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 18(a). Accordingly, the CHPT has reported that Land Allotment Committee (LAC) was constituted headed by the Dy. Chairman of the Port and the Heads of Departments of Finance, Estate and Traffic were the other members. An approved land valuer was also engaged by CHPT for assessing the market value of the CHPT estates as per Clause 18 (a)(iv) of Land Policy Guidelines of 2014. The LAC after going through the Report of the approved valuer and after considering the parameters provided under Clause 18(a)(i) to (v) of Land Policy Guidelines, 2014 has given its recommendations. Further, the Board of Trustees of CHPT have given a go ahead to send the proposal to TAMP for revision of SOR as per the suggestion made by the Valuer and as recommended by the LAC. Thus, the proposal filed by the CHPT is taken up for disposal.
- (vi). (a). Para 18 (a) of the Land policy guidelines of January 2014 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said para of the Land policy guidelines of 2014 the Land Allotment Committee may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/activities, (ii). Highest rate of actual relevant

transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as may be identified by the Port. The Land Policy guidelines of 2014 also stipulate that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.

- (b). The LAC is seen to have arrived at the Reserve Price in terms of annual lease rent, based on the following four factors, each of which is discussed below:
 - (i). Considering the State Government Guideline value of land (State Government Ready Reckoner Value) at Rajaji Salai and applying a factor of 6%, the rate has been arrived for the developed open space. Thereafter, the rate for other categories of space prescribed in the Scale of Rates has been determined proportionately based on the existing escalated rate for developed open space and the existing escalated rates for respective categories.
 - (ii). As regards the second factor of highest rate of actual relevant transactions registered in the last three years in the ports vicinity. The rates arrived at above Option has been considered under this option also considering the position that normally the transactions take place at the guideline value or below the guideline value.
 - (iii). With reference to the third factor of highest accepted tender-cum-auction rate of port land for similar transactions, the rate has been determined for developed open space. Based on the average of the highest quotes obtained during the years 2009-10 and 2010-11 and thereafter considering an annual escalation factor of 2% to reflect the rate for the year 2013-14, the rate for other categories of space prescribed in the Scale of Rates has been determined proportionately based on the existing escalated rate for developed open space and the existing escalated rates for respective categories.
- (c). However, each of the above factors has not been recommended by the LAC for the following reasons:
 - (i). The State Government guideline value at Rajaji Salai is for commercial activity, whereas the market value of lands inside port premises is predominantly dependent on the port operations.
 - (ii). Since the past transactions are also based on the State Government guideline value, as stated above, for the reasons mentioned above, the said approach has not also not been recommended by LAC.
 - (iii). The highest accepted tender of port land was for the purpose of Iron Ore, when Coal and Iron Ore were handled at the Port. Since handling of Coal and Iron Ore is stopped at the port, the rate obtained may not reflect the current market value.
- (d). Thus, in a nut shell, the LAC has decided to go ahead with the fourth factor of suggestions made by the Valuer in his Valuation Report. From the copy of the Valuation Report of the Valuer furnished by the CHPT, it is

seen that the Valuer in his Report has arrived at the Scale of Rates for Rentals, interalia, for the year 2013-14 by applying a Composite Index rate of 2.76 times over the lease rentals prevailing in the year 2000-01. The said Composite Index is reported to be comprising of RBI Cost inflation, Land Prices Inflation, Tonnage and Gross Revenue of CHPT over the period from 2000-01 to 2013-14. The port is of the view that since the transactions of land for a period of 30 year lease or licence are not recorded in the vicinity of Port and also since there are limited properties available, the LAC has endorsed the approach adopted by the Valuer of arriving at the rentals by adopting the composite index methodology.

- (e). Further, the CHPT has also proposed introduction of licence fees for Tondiarpet Housing Colony for commercial use and for shop units at Tondiarpet Housing Colony outside port. In this connection, in the absence of rentals for the area in the year 2000-01, the Valuer is reported to have prescribed the rentals for the land at Tondiarpet on the basis of direct market study and comparison with present capital value of land.
- (f). As per the Land Policy Guidelines of 2014, the LAC is required to take into account the highest of the factors mentioned in clause 18(a) to determine the market value of land. However, if the latest market value of land is not chosen based on highest of five factors, then the reasons for the same are to be recorded. As confirmed by the CHPT, the LAC has considered the rental values derived under all four options. For the reasons recorded by LAC as brought out earlier, the LAC has recommended to adopt the rentals arrived based on the Valuation Report, which infact is the lowest among all the four options considered by the LAC, as can be seen from the comparative statement furnished by the CHPT and attached as **Annex – I**.
- (g). Land being a valuable resource, a port must strive to ensure the maximum income from its landed estates. Determining the rentals based on the approach adopted by the Valuer as explained above, may not reflect the correct market value of land. Nevertheless, taking into account the position that the LAC has endorsed the approach of Valuer and that the proposal of CHPT has the approval of its Board of Trustees and also taking into account that there is no pointed objection from any of the users/ user organisations consulted in this case with regard to the approach adopted by valuer, this Authority is inclined to approve the proposed Reserve Price in terms of annual lease rent.
- (viii). Accordingly, based on the approach as explained above, the rentals for the various types of spaces and building covered by the Scale of Rates of CHPT, as determined by the Valuer, recommended by the LAC and approved by the Board of Trustees of CHPT, are approved. As stated earlier, from a harmonious reading of the clauses 18(b), 18(c) and 16(d) of the land policy guidelines of 2014, this Authority is, interalia, mandated to notify reserve price equated to annual lease rent. Accordingly, the licence fee so determined is termed as the Reserve Price in terms of annual lease rent. The Reserve Price in terms of annual lease rent in respect of the various type of open spaces is seen to be about 116% over the existing escalated rates for the open spaces. In respect of covered space, open sided sheds and buildings, the increase is seen to be about 39% over the existing escalated rates for the respective areas. A comparative statement showing the licence fee as approved in the year 2000, the licence fee as per SOR escalated upto 2014-15 and the licence fee as per Valuation Report and the percentage increase in the licence fee derived now vis-a vis escalated licence fee, as furnished by CHPT is attached as **Annex – II**.
- (ix). All the users have objected to the quantum of increase sought by the CHPT. The users are of the view that the increase sought by CHPT is exorbitant and would

drive away cargo from CHPT. In this connection, it is to be noted that the existing base lease rentals have been revised in the year 2000. It is about 14 years since the base lease rentals have been revised. In the intervening period, the CHPT would have been applying only the applicable annual escalation factor. It is noteworthy that keeping in view the submissions made by the users during the consultation proceeding, the CHPT has carried out fresh Valuation of port land and has mellowed down the quantum of increase sought by it in its proposal under reference to make the proposal more trade friendly, which infact has even been appreciated by the CPSA during the joint hearing. Thus, given the circumstances, increase in the Reserve Price in terms of annual lease rent, seems inevitable.

- (x). The Mercantile Marine Department (MMD) in its submissions has objected to the increase sought by the CHPT on the ground that it is a Central Government department working for a public cause by offering its valuable services in the field of development of Shipping industry, promotion of maritime education & training, Certification of Merchant Navy officers etc. and that it should not be equated with a commercial profit making organization. Clause 16.2.(h) of the land policy guidelines of 2014, envisages concession in lease rent upto 50% to security agencies and government departments and upto 75% to government departments which are essential to the core functioning of the port like Customs, electricity department, health department and for core security functions with the approval of the Board of the concerned Port Trust. It is for Port Trust Board to decide whether the MMD falls within the stipulation contained in the Land Policy Guidelines and on the quantum of concession to be allowed for reasons to be recorded subject to the ceiling level prescribed therein. Nevertheless, the CHPT has also agreed that the request of MMD will be examined as per Land Policy Guidelines of 2014 and that, a decision will be taken.
- (xi). Given that the year 2013-14 is already over, the CHPT has quantified the additional financial implication arising out of the increase in the rentals at the level as discussed above, for the two years viz., 2014-15 to 2015-16 at about ₹ 43.58 crores. Thus, as mentioned in the CHPT general revision Order disposed recently, the increase in the rentals would give much needed relief to the port.
- (xii). In the proposed Rent Schedule, the CHPT has proposed changes to the existing description of open space as 'open space inside the port – unpaved' and the existing description of open space hardened with water bound macadam surface as 'open space – paved (hardened with water bound macadam surface) inside the port. In this connection, the CHPT has reasoned that since open space covers unpaved land also, the modification proposed based on the valuation report, would enable to differentiate developed land from unpaved land and would bring in more clarity. Based on the reasoning furnished by the port and given that there are no objection from the users with regard to the modification, the proposed modification is approved.
- (xiii). In the existing Scale of Rates, licence fee is prescribed for open space in the transit area for export cargo (Barytes, Lumps, Quartz, etc.). A note is also prescribed to the effect that the said rate shall be applicable for a period of every ten days, i.e. 3 slabs of 1st to 10th, 11th to 20th and 21st to the last day of the month or part thereof of every such slab period. The CHPT has proposed deletion of this tariff item as well as the accompanying note in the proposed Scale of Rates. According to CHPT, the transit area is meant for storage of import / export cargo belonging to all users and the cargo therein, after the free period, attracts demurrage charges as per applicable SOR. Therefore, as recommended by the LAC and in order to effectively utilize the said area, the CHPT has proposed the said deletion. Transit area in a port is meant for storage of cargo for short duration by all users. By allowing the transit areas for usage by a single user on licence terms, the port may not be able to effectively use the transit area. By the proposed deletion of the existing provisions, opportunity of storage of cargo is not denied to any users. Any user can store the cargo on transit terms. Given that there are no

objections from the users with regard to the proposed deletion, the proposed deletion is approved.

- (xiv). In the existing Scale of Rates, licence fees is prescribed for open sided shed. The CHPT, in the proposed Scale of Rates, has proposed deletion of the licence fees. In this regard, the CHPT has stated that the open sided shed is akin to open space and was mainly used by the coal allottees. In view of stoppage of coal handling, major portion of the open sided shed is left unutilized. Further, the higher rate prescribed for Open sided shed in the existing SOR acts as a deterrent to utilize the area for other purposes. In view of this position, the CHPT has proposed deletion of the separate rate prescribed for 'Open sided shed', as recommended by the LAC, in order to effectively utilize the area. From the reasoning furnished by the port, it appears that there is no major difference between the open space and open sided shed and by deleting the separate higher rate prescribed for Open sided shed, the port would be in a position to treat it as an open space and charge accordingly at the applicable lower rate. Based on the reasoning furnished by the port and given that there are no objections from the users with regard to the proposed deletion, the proposed deletion is approved.
- (xv). Based on the position that the port property at Rajaji Salai has the potential for commercial utilization, the port has proposed slight modification to the existing description of buildings allotted for use as "office accommodation on Rajaji Salai or adjacent to port's limits" as 'Commercial office space in buildings outside port at Rajaji Salai'. Since the proposed change is reported to be based on the valuation report, the proposed modification is approved.
- (xvi). On the ground that the Bubble structure was constructed mainly for coal handling in order to reduce the pollution level inside the Port and given that there is no demand for Bubble Structure owing to stoppage of coal handling in the port, the proposal of the port to delete the existing licence fees prescribed for Bubble Structure, is approved.
- (xvii). The existing licence fees prescribed for covered space and open space declared as private bonded area at sl. no.7 and 8 are proposed to be deleted and instead a note to the effect that for those areas that has been declared as private/ customs bonded area, the rate will be 120% of the rate applicable for such category of the space, has been prescribed. In this regard, the CHPT (in the proceedings relating to its previous estate rental proposal) has submitted that since the existing Scale of Rates does not provide for using open developed space, open sided shed, etc., as customs/ private bonded area, it has proposed to delete the existing separate rates for using open space and covered space as customs / private bonded area and in lieu of that a provision in the form of a note was proposed to the effect that the rate for using an area will be 120% of the normal rate applicable for that area. The factor of 120% is reported to be derived from the existing ratio between the normal rate for open space (₹ 2000) and rate for using open space as customs bonded area (₹ 2400). The private/ customs bonded area appears to be more secured as compared to a covered space or open space. In line with this position, the CHPT appears to have proposed a premium for use of private/ customs bonded area, which is reported to be in line with the existing arrangement for open space. In view of this position, the proposal of the CHPT in this regard, is approved.
- (xviii). The CHPT is seen to have proposed 5% annual escalation beginning from 1 April 2015. In this connection, the CHPT has proposed a note under the schedule, interalia, stating that the rates prescribed are subject to automatic escalation of 5% per annum (compoundable). The note further states that the annual escalation will be applied on 1st April of every year commencing from 1 April 2015. The CPSA and HCC have objected to the annual escalation factor of 5% proposed by the CHPT on the ground that the escalation factor is very exorbitant. In this regard, it is relevant here to mention that Clause 18(c) of the Land Policy Guidelines of

2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Accordingly, the CHPT has proposed 5% annual escalation. Since the annual escalation rate of 5% is approved by the CHPT Board of Trustees and is as per the provision of the Land Policy guidelines of 2014, the Authority is not in position to brush aside the proposal of the CHPT to levy 5% annual escalation. Therefore, the proposed rate of 5% annual escalation is approved. However, the note proposed by the CHPT is slightly modified to state that the reserve price in terms of annual lease rent shall bear an escalation factor of 5%.

Further, as stated earlier, the CHPT has also proposed that the annual escalation will be applied on 1st April of every year commencing from 1 April 2015. For application of annual escalation, a period of one year needs to be completed. The Order passed in this case will come into force after notification in the Gazette of India and after a lead period. Therefore, the period of one year will not be over by 1 April 2015. Clause 3.2.8 of the tariff guidelines of 2005 calls for giving a lead time of 30 days before the approved tariff becomes effective. However, a different arrangement can be prescribed as provided in the same Clause 3.2.8. The revision of rentals at the CHPT is overdue. Therefore, a lead time of 15 days is sufficient to implement the revised rates. Incidentally, this Authority in some case has prescribed truncated lead time. Accordingly, the Scale of Rates approved will become effective after expiry of 15 days from the date of notification of the Order in the Gazette of India. Accordingly, the reserve price in terms of annual lease rent as provided in the Scale of Rates shall get automatically escalated by 5% per annum after expiry of one year from the effective date of implementation of the Scale of Rates. This provision is also incorporated suitably in the proposed note.

- (xix). The Broad Terms and Conditions for issuance of Right of Way Permission for laying Pipelines/ Conveyors etc., issued alongwith Land Policy Guidelines of 2014, interalia, stipulates that one time supervision charges as a percentage of cost of laying of pipelines/ conveyors etc. in the port limits shall be paid. It also, interalia, stipulates that each Port Trust Board is to formulate and approve their own policy for one time supervision charges. In this connection, the CHPT has proposed a note to the effect of levying one time Supervision charges @ 15% of the cost of laying of pipelines/ cables/ conveyors in the Port limits before granting way leave permission. The said note also states that this would not be applicable for Single Buoy Mooring (SBM)/ Single Point Mooring (SPM)/ sub-sea pipelines for which the applicable supervisory charges will be decided by Board, on a case to case basis. The supervisory charges of 15% proposed by the CHPT is reported to have been borrowed from a similar provision contained in the Land Policy Guidelines of 2010. Given that the 2014 Land Policy Guidelines gives liberty to the Port to formulate and approve their own policy for one time supervision charges and since the proposal has approval of the Board of Trustees of CHPT, the proposal of the port to levy supervisory charges of 15% of the cost of laying of pipelines/ cables/ conveyors in the Port limits, is approved.

With regard to the portion of the note which prescribes that the said supervisory charges would not be applicable for Single Buoy Mooring (SBM)/ Single Point Mooring (SPM)/ sub-sea pipelines for which the applicable supervisory charges will be decided by Board, on a case to case basis, it is to mention that by way of the said note, the port intends to levy supervisory charges applicable for SBM or SPM or sub-sea pipelines on a case to case basis with the approval of the Board. Since the said note is in line with the intention contained in the Land Policy Guidelines of 2014 of giving flexibility to the Port Trust Board to formulate and approve their own policy for one time supervision charges, the proposal of the port in this regard is also approved.

- (xx). The CHPT is seen to have proposed various conditions/ notes in the proposed draft Scale of Rates. In reply to a query, the CHPT has confirmed that all the conditions are consistent with Land Policy Guidelines 2014. In view of this confirmation, the various conditions/ notes as proposed by the Port are approved.

The conditions proposed by CHPT include collection of security deposit, levy of penal licence fee for encroachment/ unauthorized occupation of space allotted, levy of interest @ 16.75% per annum etc. The Land Policy Guidelines of 2014 is silent on these aspects. Recognizing that the above said conditions are already prescribed in the existing Scale of Rates and keeping in view that these conditions will be in the interest of the port trust and serve the purpose of effective utilization of space, the proposed conditions are approved. Nevertheless, it is clarified that in case of any inconsistency in the conditions/ notes in the proposed draft Scale of Rates vis-à-vis the Land Policy Guidelines 2014, the provisions contained in the Land Policy Guidelines of 2014 would prevail.

- (xxi). The Land Policy Guidelines of 2014 does not stipulate any provision relating to periodicity of revision of the lease rent of the port Trusts lands. It is relevant here to mention that clause 6.3.(1)(d) of the Land Policy of the 2010, as well as clause 5.3(I)(d) of Land Policy guidelines of 2004 stipulate that the SOR will be revised every five years. It has to be recognised that the market value of port lands under the various options prescribed under clause 18(a) of the Land Policy Guidelines of 2014 may undergo a change. In order to ensure that the lease rental/ license fee to be collected by Major Port Trusts under Land Policy guidelines of 2014 reflect the updated market value every five years, the MOS has been requested vide our letter dated 18 March 2014 to incorporate a provision prescribing revision of the Scale of Rates of port lands every five years in line with the prescription available in the Land Policy of 2004 as well as Land Policy Guidelines of 2010. Response of the MOS is awaited. In the meanwhile, the CHPT in its proposed draft Scale of Rates has proposed a note stating that the base rates will be revised after five years with the approval of Competent Authority and that such revised licence fee will be effective from the effective date of implementation of the Order passed by the Competent Authority. The proposed provision is, therefore, approved.

10. In the result, and for the reasons given above, this Authority approves the schedule of Reserve Price in terms of annual lease rent for the Estate belonging to the CHPT attached as **Annex - III**.

11. The schedule of rate structure approved for CHPT Estate will become effective after expiry of 15 days from the date of notification of the Order in the Gazette of India and shall remain in force for a period of five years. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

COMPARATIVE STATEMENT OF THE LICENCE FEES

Item No.	Description of space	Existing License Fee as per SoR (Base rate approved in the year 2000)	Escalated Licence Fee as per existing SoR for 2014-15	Licence Fee Rates as per Approved Valuer Report (V.S.Jadon & Company)	No. of times increase with reference to existing escalated rates
A	PORT AREA				
1 (a)	Open space (undeveloped)	Rs.2,000/- per 100 sq. m. per calendar month	Rs.2,560/- per 100 sq. m. per calendar month	Rs.5520/- per 100 sq. m. per calendar month	1.16
(b)	Open space hardened with water bound Macadam Surface	Rs.3,800/- per 100 Sq.m. per calendar month	Rs.4,865/- per 100 sq. m. per calendar month	Rs.10488/- per 100 sq. m. per calendar month	1.16
2	Open space in the Transit Area for Export cargo (Barytes, Lumps, Quartz etc.,)	Rs.1,300/- per 100 sq. m. for every ten days or part thereof of a calendar month	Rs.1,664/- per 100 sq. m. for every ten days or part thereof of a calendar month	Rs.3,588/- per 100 sq. m. for every ten days or part thereof of a calendar month	1.16
3	Track length at any of the ChPT's Railway Sidings	Rs.600/- per running meter per calendar month	Rs.769/- per running meter per calendar month or part thereof	Rs.1,656/- per running meter per calendar month	1.15
4	Covered Space	Rs.600/- per 10 sq. m. per calendar month	Rs.1189/- per 10 sq. m. per calendar month	Rs.1,656/- per 10 sq. m. per calendar month	0.39
5	Open sided shed	Rs.400/- per 10 sq. m. per calendar month or part thereof	Rs.793/- per 10 Sq.m. per calendar month or part thereof	Rs.1,104/- per 10 sq. m. per calendar month	0.39
6	Building allotted for use as office accommodation				
(a)	Buildings on Rajaji Salai or adjacent to Port's limits	Rs.200/- per Sq.m. per calendar month or part thereof	Rs.397/- per Sq.m. per calendar month or part thereof	Rs.552/- per Sq. m. per calendar month	0.39
(b)	Buildings with RCC Roof and terrace within the port used for office use	Rs.160/- per Sq.m. per calendar month or part thereof	Rs.316/- per Sq.m. per calendar month or part thereof	Rs.442/- per Sq.m. per calendar month or part thereof	0.40
(c)	Buildings with ACC sheet and any other similar roofing like G I sheet within the Port	Rs.120/- per Sq.m. per calendar month or part thereof	Rs.237/- per Sq.m. per calendar month or part thereof	Rs.331/- per sq.m. per calendar month	0.40
7	Bubble Structure	Rs.139/- per sq. m. per month	Rs.161/- per sq. m. per month	Rs.384/- per sq. m. per month	1.39
B	TONDIARPET AREA				
(1)	Open space	N.A.	No rates available in existing SoR	No rates proposed	--
(2)	Shop units at Tondiarpet Housing Colony	N.A.	No rates available in existing SoR	Rs.800/- per sq. m. per month	--

Comparative statement of proposed License Fee under different options as per Land Policy 2014

Item No.	Description of space	Existing License Fee as per SoR - Base rates approved in the year 2000 (Rate in Rs. per sq. m. per month)	Escalated Licence Fee as per existing SoR for the year 2014-15 (Rate in Rs. per sq. m. per month)	OPTION - I			OPTION - II			OPTION - III			OPTION - IV	
				State Govt. Guideline value			Highest rate of actual relevant transactions registered in the last 3 years			Highest accepted tender value of port land updated with annual escalation			Rate arrived at by Approved Valuer	
				Market value (Rs. per sq. m.)	Proposed LF (Rs. per sq. m. per month)	No. of times increase w.r.t existing escalated rates	Market value (Rs. per sq. m.)	Proposed LF (Rs. per sq. m. per month)	No. of times increase w.r.t existing escalated rates	Market value (Rs. per sq. m.)	Proposed LF (Rs. per sq. m. per month)	No. of times increase w.r.t existing escalated rates	Proposed LF (Rs. per sq. m. per month)	No. of times increase w.r.t existing escalated rates
A	PORT AREA													
1 (a)	Open space	20.00	25.60		467.39	17.26		467.39	17.26		458.34	16.90	55.20	1.16
(b)	Open space hardened with water bound Macadam Surface	38.00	48.65	177610.00	888.05	17.25	177610.00	888.05	17.25		870.85	16.90	104.88	1.16
2	Open space in the Transit Area for Export cargo (Barytes, Lumps, Quartz etc.)	39.00	49.92		911.42	17.26		911.42	17.26		893.76	16.90	107.64	1.16
3	Track length at any of the ChPT's Railway Sidings (Note 3)	600.00	769.00		14021.84	17.23		14021.84	17.23		13750.26	16.88	1656.00	1.15
4	Covered Space	60.00	118.90		1402.18	10.79		1402.18	10.79		1375.03	10.56	165.60	0.39
5	Open sided shed	40.00	79.30		934.79	10.79		934.79	10.79		916.68	10.56	110.40	0.39
6	Building allotted for use as office accommodation													
(a)	Buildings on Rajaji Salai or adjacent to Port's limits	200.00	397.00		4673.95	10.77		4673.95	10.77		4583.42	10.55	552.00	0.39
(b)	Buildings with RCC Roof and terrace within the port used for office use	160.00	316.00		3739.16	10.83		3739.16	10.83		3666.74	10.60	442.00	0.40
(c)	Buildings with ACC sheet and any other similar roofing like G I sheet within the Port	120.00	237.00		2804.37	10.83		2804.37	10.83		2750.05	10.60	331.00	0.40
7	Bubble Structure	139.00	161.00		3248.39	19.18		3248.39	19.18		3185.48	18.79	384.00	1.39
B	TONDIARPET AREA													
1	Open space	N.A.	N.A.	16150.00	80.75	--	16150.00	80.75	--	--	--	--	25.00	--
2	Shop units	N.A.	N.A.	21828.00	109.14	--	21828.00	109.14	--	--	--	--	552.00	--

Note: 1 The existing SoR prescribes rates for open space, open developed space, open space in Transit area per 100 sq. m. per month. For comparison purpose, the rates have been converted to per sq. m.

Note: 2 The existing Scale of Rates prescribes rates for covered space and open sided shed for 10 sq. m. per month. For comparison purpose, the SoR rates have been converted to per sq. m.

Note: 3 The rates shown in the above table in respect of Sl. No.(3) - Track length at Railway Sidings is on 'per running metre' basis in line with the existing SoR position.

Chennai Port Trust**Scale of Rates****Chapter VIII – Estate Rentals****SCALE 1: Reserve price in terms of annual lease rent for allotment of land/ space / buildings:**

Item No.	Description of space	Unit	Reserve price in terms of annual lease rent (₹ per calendar month or part thereof
1.	Open space inside the port - Unpaved	100 sq. m. or part thereof	5,520/-
2.	Open space - Paved (Hardened with water bound Macadam Surface) inside the port.	100 sq. m. or part thereof	10,488/-
3.	Track length at any of the CHPTs Railway Sidings inside the Port	1 running metre or part thereof	1,656/-
4.	Covered Space inside port	10 sq. m. or part thereof	1,656/-
5.	Commercial Office space in Buildings outside Port at Rajaji Salai	Per sq. m. or part thereof	552/-
6.	Buildings with RCC Roof and terrace within the port used for office use.	Per sq. m. or part thereof	442/-
7.	Buildings with ACC sheet and any other similar roofing like G I sheet within the Port.	Per sq. m. or part thereof	331/-
8.	Land at Tondiarpet Housing Colony for commercial use	Per sq. m. or part thereof	25/-
9.	Shop units at Tondiarpet Housing Colony outside the port	Per sq. m. or part thereof	552/-

Note : For those areas that have been declared as private/customs bonded area, the rate will be 120% of the rate applicable for such category of the land/ space.

SCALE 2: Charges for Right of Way Permission for laying pipelines in CHPT's premises:

Way leave charges for laying of Pipelines /:
Conveyors, etc. The rate for open area as applicable to the category of space mentioned in Scale-1 above, as the case may be, for the area occupied by the Pipelines / Conveyors, etc.

Note: For the purpose of Right 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 / conveyor stacks, the physical area occupied by the multilayer pipeline / conveyor stacks should be considered and the respective users should be billed on pro-rata basis. As far as underground pipelines 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 considered as 50% of the diameter and length, for the purpose of levy of Right of way charges.

I GENERAL CONDITIONS:

- 1) All conditions prescribed in the Land Policy 2014 guidelines issued by the Government of India in January 2014, as amended / replaced from time to time, shall apply in respect of allotment of land / space / buildings on Licence / Lease basis.
- 2) The rates prescribed above are the base rates applicable with effect from the effective date of implementation as per Notification by TAMP and are subject to automatic escalation of 5% per annum (compoundable). The reserve price in terms of annual lease rent as provided in the Scale of Rates shall get automatically escalated by 5% per annum after expiry of one year from the effective date of implementation of the Scale of Rates. The base rates will be revised after five years with the approval of Competent Authority. Such revised rent will be effective from the effective date of implementation of the Order passed by the Competent Authority.
- 3) The rates prescribed above are excluding taxes and duties. Service tax and other taxes and duties, as applicable, from time to time shall be paid extra.
- 4) In addition to the rates prescribed above, the cost of water and electricity consumed every month at the rates fixed by the CHPT from time to time, together with the installation and maintenance charges on electrical installations every month as may be fixed by the CHPT from time to time shall be paid by the Licensee.

II CONDITIONS FOR ALLOTMENT ON MONTHLY LICENCE BASIS:

1. Persons requiring allotment of space (land / shed / buildings) on monthly licence basis may apply in writing before the deposit of goods, stating their acceptance of all risks and responsibilities for goods so stored, in the form prescribed by CHPT. But, it shall be at the discretion of CHPT to allot or refuse to allot the space. Sub-letting of the licensed space shall not be allowed.
2. Licence Fees or charges is payable from the effective date of allotment mentioned in the allotment order. In case no effective date is mentioned in the allotment order, the Licence Fee is payable from the date of allotment order.
3. Security Deposit equivalent to 3 months' Licence Fee on the land / space allotted shall be paid at the time of allotment as a guarantee for the due and faithful performance of the conditions set forth in the monthly licence. Security Deposit shall be refunded after the land / space is vacated finally, after deducting any dues payable to CHPT.
4. For fresh/initial allotment, 3 months Security Deposit along with 2 months License Fee has to be remitted within 7 Port administrative working days on receipt of the Allotment Order failing which the allotment will stand cancelled and the firm will not be allowed to occupy the space. The cargo stacking/ occupation will be allowed only on production of the receipt for having paid the amount mentioned in the Allotment Order. The Licence Fee for the subsequent calendar months shall be paid in advance, i.e. on or before 25th of preceding calendar month. If the due date for a particular month falls on Sunday or CHPT holiday or Bank holiday, the payment shall be made on the next working day.
5. Delay in payment of Licence Fee and other dues as specified in Sl. No.(4) above shall attract penal interest at 16.75% p.a. from the due date till the date of payment subject to a maximum

of 15 days from the due date. If payment is not received within 15 days after the due date, the occupation will be treated as unauthorized and the license will be liable for cancellation and will be treated as unauthorized occupation and penal licence fee shall be payable as per Sl.No.7 below.

6. The monthly licence shall lapse automatically at the expiry of the calendar month for which it has been issued. If the licensee requires a renewal of the licence, an application for renewal duly accompanied by the receipt for payment of the advance licence fee for the subsequent month must be made so as to reach CHPT seven days before the expiry of the period of the monthly licence. Delay in receipt of application or required receipt within time stipulated above shall attract penal interest at 16.75% p.a. for the period of delay subject to a maximum of 15 days, beyond which the occupation will be treated as unauthorized and dealt as per Sl. No. 7 below.
7. The Licensee shall vacate the space occupied by them if the licence is not renewed and in case the licensee fail to hand over the land / space in vacant possession on the date of expiry of the licence granted / determined, after removing such of the structures or constructions put up, the occupation of the licensee will be treated as unauthorized occupation and penal licence fee as given below shall be levied beyond the period for which the monthly licence was granted. Further, CHPT shall have the right to remove such structures and the goods stored in such space to any other alternative open or covered space in any part of the CHPT's premises at the cost, risk and responsibility of the licensees and in addition, penal licence fee as specified below shall be charged for the land / space occupied by the goods so removed:
 - i. Three times of the normal licence fee for the first three months from the date of unauthorized occupation or identification of encroachment.
 - ii. Five times of the normal licence fee beyond three months and upto seven months.
 - iii. Ten times of the normal licence fee from eighth month onwards.
8. Encroachment or unauthorised occupation of the CHPT's land and stacking of cargo on the CHPT's land and stacking of cargo on the CHPT's Railway tracks, plants, equipment, etc. causing obstruction to the movement of traffic by the licensee will involve a liability to pay a penal licence fee as specified in Sl.No 7, in addition to the cost of rectifying damages caused to the CHPT's properties. If the licensee fails to remove the cargo, from the encroached area in spite of notice to do so, the cargo will be removed elsewhere by the Trust at the risk and cost of the licensee and penal licence fee as mentioned at Sl. No. (7) above on the space occupied by the cargo so removed.
9. No licensee shall convert the space allotted to him/them into private bonded area except with the written permission of the CHPT. The CHPT, shall, in addition to the licence fees leviable for such space, levy penalty as given below on their failure to obtain the prior written permission from the CHPT.
 - i. Three times of the licence fee applicable for private / customs bonded area for the first three months from the date of conversion of the area.
 - ii. Five times of the licence fee as mentioned above beyond three months and upto seven months.
 - iii. Ten times of the licence fee as mentioned above from eighth month onwards.
10. The CHPT shall have the right at any time to resume possession of space wholly or partly which is required by the CHPT, in which event a proportionate reduction in fee will be

allowed. An advance notice of 7 days in the case of licence period upto six months and 15 days in case of licence above six months and upto 11 months shall be given by CHPT about its intention to resume the land / space. However, no such notice shall be issued in the case of encroachment and unauthorized occupation in which case CHPT shall have the right to resume possession of the land / space immediately without giving any notice. On the other hand, the Licensee shall give a notice of 15 days if the land / space is to be vacated before the expiry of the License period.

11. The licensees shall agree to comply with all rules or directions issued by the CHPT from time to time. Should the licensees neglect to comply with such rules or directions, the CHPT may terminate the licence.
12. The licensees shall not construct or put up any permanent structure, building, erection or convenience or canteens on land / space occupied under monthly licence except on the written permission of the CHPT. The licensees shall agree to remove such building, erection or convenience on the space, restore the space to its original condition at the time of termination of the licence and if the licensees fail, the CHPT will arrange for removal of such erection at the cost, risk and responsibility of the licensees.
13. Goods stored under the licensed space shall be at the entire risk and responsibility of the licensees. The CHPT will not in any way take responsibility for pilferage, theft, fire or loss thereof. The licensees shall post their own watch to safeguard the goods stored at their allotted space and to prevent any unauthorised occupation of such space by others.
14. The licensees shall comply with all rules or regulations that may from time to time be issued by the Corporation of Chennai or the Inspector of Explosives, Department of Explosives, Government of India, or whomsoever concerned in relation to the storage of the goods under the monthly licence.

III CONDITIONS FOR ALLOTMENT ON LEASE BASIS:

1. The annual lease rental for each year shall be paid in advance before commencement of respective lease year. The annual lease rental will be equivalent to Monthly licence fee payable for the 12 calendar months of respective lease year. Delay in payment of lease rentals will attract penal interest / penal licence fee as per the relevant conditions prescribed for Licence of land on monthly basis.
2. Either party shall be at liberty to terminate the lease at any time by giving to the other three calendar months notice in writing of its or their intention of terminating the same.
3. Change of use of leased land can be permitted subject to such change being in conformity with the Land Use Plan / Master Plan of the CHPT subject to payment of rates for the new usage, if any.
4. If the lessee continue to occupy the land / space, after expiry / termination / determination of lease or forfeiture of lease on account of change of user assignment, etc. the occupation will be treated as unauthorized and lessor shall be entitled to levy penalty at three times of the lease rent prescribed in the Scale of Rates or three times of the lease rent as per lease agreement, as the case may be, till the final vacation of the land / space.
5. In case of breach / violation of provisions of the Lease Agreement, CHPT shall be entitled to impose penalty as deemed fit or cancel the lease depending on the magnitude of breach / violation.

IV CONDITIONS FOR GRANTING WAY LEAVE PERMISSION:

1. Way leave permission for laying pipelines within and outside the port area shall be given on temporary basis at the discretion of CHPT. Only permission will be given. There will not be any allotment of land to the party nor is to be construed as lease.
2. In case of way leave permission for public utilities, relevant rules applicable for such utilities shall apply.
3. The Way leave charges with applicable escalation from time to time shall be paid in advance for each year. Delay in payment of way leave charges will attract penal interest and penalty in line with the penal interest and penal licence fee provisions applicable for monthly licence.
4. One time Supervision charges @ 15% of the cost of laying of pipelines/cables/conveyors in Port limits before granting way leave permission. This is not applicable for Single Buoy Mooring (SBM)/Single Point Mooring (SPM)/sub-sea pipelines for which the applicable supervisory charges will be decided by Board, on a case to case basis.

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

F. No.TAMP/56/2014-CHPT	-	Proposal from the Chennai Port Trust for revision of its Estate Rentals.
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1.1. A summary of the comments of the users/ user organisations and the response of Chennai Port Trust (CHPT) thereon is tabulated below:

Sl. No.	Comments of the users/ user organisations	CHPT Remarks
1.	Mercantile Marine Department (MMD)	
(i).	The Mercantile Marine Department (MMD), Chennai, established by Govt. of India, is functioning as a subordinate office under the Directorate General of Shipping, Ministry of Shipping. Its main functions are to administer the various Merchant Shipping Laws and Rules framed under the Merchant Shipping Act.	No specific comments furnished by the port.
(ii).	The MMD is functioning in the IInd & IIIrd floor of the Anchor Gate building at the above address. The IInd floor of the building is fully owned by this department. The MMD, Chennai is the examination centre for conduct of both Marine Engineer Officer and Nautical engineering Examination, the only one in State of Tamilnadu. Due to rapid growth in Shipping Industry and increase in number of maritime training institutes, the no. of candidates appearing for various grades of examinations has increased manifold. Therefore, the MMD was forced to approach the CHPT authorities for additional area and they have been kind enough to allot additional space of 19 sq.m, 144 sq.m and 70 sq.m of areas in the third floor of Anchor Gate building.	
(iii).	The MMD is already incurring huge expenditure every year by way of payment of enhanced licence fee, Security deposit, Premium etc. to Chennai Port Trust. Several correspondences/ requests have been exchanged between CHPT, DGS, Ministry of Shipping and this office, for waiver of Security Deposit (Refundable) & Premium (Non-refundable) payable to CHPT and finally this office had to clear all the pending dues amounting to ₹35,37,546/- to CHPT during the financial year 2013-14.	It is a fact that after prolonged correspondence, the MMD has finally paid the premium and S.D. for the area occupied by them in the Anchor Gate Building in Rajaji Salai during the year 2013-14.
(iv).	Now that, there is a proposal for exorbitant increase in the estate rentals, which would only lead to additional burden on the exchequer and would result in postponement or cancellation of the developmental activities/ proposals planned to be executed	The increase in respect of buildings at Rajaji Salai is only 39% over the existing rates, that too, after a lapse of 14 years. Hence, the increase is not exorbitant as pointed out MMD. The Land Policy 2014 provides for granting concession to the

	by this department in the near future. Moreover, this is a Central Government department working for a public cause by offering its valuable services in the field of development of Shipping industry, promotion of maritime education & training, Certification of Merchant Navy officers etc. and hence should not be equated with a commercial profit making organization as far as fixation of estate rental is concerned.	Security Agencies and Government Departments, which are essential to the functioning of the Port like Customs, Electricity department, health department. The request of MMD in this regard will be examined as per Land Policy 2014 and a decision will be taken.
(v).	In view of the above, and in the larger public interest, it is requested that, the proposal for further enhancement in Estate Rentals may not be considered by your goodself, for which we would be ever grateful to you. And also it is requested that the payment of Security Deposit and Premium should not be made applicable to Central Government offices where services are not commercial. This department would also like to participate in the joint hearing for which the date and venue may be intimated to this office in advance.	No specific comments furnished by the port.
2.	Chennai Container Terminal Private Limited (CCTPL)	
(i).	CCPTL has entered in to a Licence agreement in 2001 for designing, redesigning, engineering, financing, constructing, equipping, operating, maintaining and repairing the container terminal with CHPT. As a result of this Licence agreement, CCPTL were allotted land for the period of licence on long term lease with upfront payment. The matter with respect to land lease is currently pending in the Hon'ble High Court.	As per clause 5.04 (Lease Charges) of the Licence Agreement, the CCTL has to pay the licence fee as per the Scale of Rates, as amended from time to time, and such charges are payable in advance every year. Hence, the statement of CCTL that the land was allotted on long-term lease with upfront payment is not correct. However, as stated by CCTL, the matter is pending in the Hon'ble High Court.
(ii).	We note that the CHPT proposal and the revised SOR are made in pursuance of Land Policy Guidelines 2014. The said Guidelines covers the "Fresh allotment of land" and "Renewal of existing lease" and does not cover licence agreements which are currently in operation. Due to this, the proposal of CHPT with respect to revision of SOR is not applicable to CCTPL.	As per clause 10 of Land Policy 2014, the policy is applicable for all Major Port Trusts and Ennore Port Limited except for the land relating to the Township areas of Kandla, Mumbai and Kolkata Ports. There is no mention in the Land Policy 2014 that the Licence Agreements currently in operation are outside the scope of Land Policy 2014. Hence, the contention of CCTL that the revision of SoR (estate rentals) is not applicable to CCTL is not correct.
(iii).	While this type of lease and its conditions appear to be missing from this revised SOR, we also observe that CHPT in their income statement, as part of the subject proposal, has indicated the legal proceeding and has considered nil impact to CCPTL, due to this revised SOR.	The existing conditions in the SoR have been proposed to be deleted in order to ensure that all conditions are adopted as per Land Policy 2014. Therefore, a general condition has been prescribed in the proposed SoR stating that all conditions as per Land Policy 2014 will apply. The port has not considered the revenue impact because the matter is sub-judice and working out the revenue impact may

		be in violation of the legal proceedings. This does not mean that the revised SoR will not be applicable to them. The payment of lease rent by CCTL will be subject to the outcome of the court cases. These remarks are offered without prejudice to the legal cases pending before the Hon'ble Madras High Court.
	Hence, CCTPL are not commenting on this SOR of whether it has any deficiencies/ considers all situations at this juncture, as the status quo under the current SOR will continue. However, if and when any issue comes up in future, we will provide our comments and suggestions. Please do let us know if you propose to make any further submissions on this issue so that we can provide a suitable response and close any issue.	No specific comments furnished by the port.
3.	Chennai International Terminal Private Limited (CITPL)	
(i).	Para 5 of the covering note to the CHPT proposal states that the proposal is made pursuant to the Land Policy Guidelines, 2014. The 2014 policy envisages allotment of land inside Custom Bond Area only for the following: (i) Fresh Allotment of Land (ii) Renewal of existing leases Since allotment of land to CITPL is neither a fresh allotment nor a renewal of existing lease, the 2014 Policy does not apply to CITPL. Further, the CHPT proposal in so far as land allotment for inside Customs Bond Area is concerned, covers only land to be allotted on monthly license basis. CITPL has not been allotted land on a monthly license basis and instead has been allotted land for the entire duration of the Licence Agreement. Therefore, for these reasons, the CHPT proposal on revision of SOR does not apply to CITPL.	As per clause 10 of Land Policy 2014, the policy is applicable for all Major Port Trusts and Ennore Port Limited except for the land relating to the Township areas of Kandla, Mumbai and Kolkata Ports. There is no mention in the Land Policy 2014 that the Licence Agreements currently in operation are outside the scope of Land Policy 2014. It is pointed out that the Concession Agreement entered between CHPT and CITPL provides for payment of License fee, as per SOR. Hence, the contention of CITPL that proposed revision of SoR does not apply to CITPL is not correct. In any case, the revision in License fee for CITPL will be subject to the outcome of the legal cases pending before the Hon'ble Madras High Court.
(ii).	CITPL would also like to highlight that it had raised Arbitral Dispute with the CHPT on certain issues impacting the license fee payable under the Licence Agreement dated 7 March 2007. The Arbitral Tribunal by a unanimous award dated 19 September 2012 held in CITPL's favour on most of the grounds raised. The Arbitral award dated 19 September 2012 has been challenged by the parties and the petitions in the regard are pending before the Hon'ble Madras High Court.	As stated above, the payment of lease rent by CITPL will be subject to the provisions of the CA and outcome of the legal cases. These remarks are offered without prejudice to the legal cases pending before the Hon'ble Madras High Court.
4.	Chennai Port Stevedores Association (CPSA)	
(i).	The CHPT is already losing cargo and if Port further increases on Estate Rentals,	As the CPSA is aware, the licence fee/ lease rentals at CHPT have not been

	the cargo on hand in Chennai Port will also likely to move to other Ports.	revised since the year 2000. Further, the revision of estate rental is proposed as per the Land Policy Guidelines announced by the Govt. in January 2014, after a lapse of 14 years.
(ii).	Under the pecuniary scenario, it is not justifiable on the part of CHPT claiming a disproportionate upward revision of Estate Rentals ranges from 39% to 116% increase over and above the existing Rentals. Considering the pecuniary scenario at Chennai Port, with reduced volumes, as stevedores and handling agents and post discussions with clients, we wish to record as under: - The Policy of tendering will only serve to increase the rates as the highest bidder will get the plot and consequently will increase the handling rates which will be detrimental to the Port users. - Many Port users have constructed temporary sheds for storing cargo and if they are demolished it will be a huge loss to the clients and consequently if such covered space is not available, cargoes will shift to nearby Ports. With the loss of iron ore and coal at Chennai, it has become difficult to attract new cargoes and at this juncture if the plot rentals are increased, the prospects of attracting new customers /new cargo to the Port is bleak.	Taking into the submissions made by the users at the joint hearing held on 23 May 2014, the CHPT carried out fresh valuation of port lands and as a result, the revised proposal is filed with TAMP, wherein the increase proposed has been reduced to 116% over the existing rates compared to the increase of 721% proposed in the earlier proposal. The increase of 116% may not be unreasonable considering a period of 14 years since the last revision. In view of the above, CPSA is requested to take up the proposed revision positively and extend its co-operation.
5.	The Shipping Corporation of India (SCI)	
	The SCI has drawn reference to the comments furnished by it earlier with reference to the earlier estate revision proposal of CHPT, which is reproduced below:	
(i).	CHPT has sought to revise the Licence Fees for Item No. 6(a) (building on Rajaji Salai or adjacent to Port's limits allotted for use as office accommodation) of Chapter VI from ₹200/- per Sq. Mtr per calendar month to ₹369/- per Sq. Mtr per calendar month.	It is stated that ₹ 200/- per sq. m. for building on Rajaji Salai was the base rate fixed in the year 2000. The escalated rate being collected for the year 2012-13 is ₹ 378/- per sq.m. Hence, the effective increase sought in respect of this tariff item (as per the revised proposal) is only 1.05%.
(ii).	In this regard, it may be noted that even though the Scale of Rates provides for a Licence Fee of ₹200/- only per Sq. Mtr per calendar month, CHPT enters into an agreement with Users for escalating Rent by 5%, every year and also collects a Non-Refundable Premium amounting to 12 month's Rent in addition to collecting a Refundable Deposit equivalent to 12 month's Rent.	The escalation, Security Deposit and non-refundable premium are as per the provisions of the Scale of Rate.
(iii)	Hence, it is pertinent to note that the Users are already being charged ₹360/- per Sq. Mtr per calendar month as against the fixed rate of ₹200/- per Sq. Mtr calendar month	As stated above.

	and CHPT is also earning Interest on the Deposit Amount and on the Non Refundable Premium collected by them.	
(iv)	Considering all the above, it can be concluded that CHPT's interests are already fully protected and any further revision as envisaged in the above mentioned proposal will only cause severe financial burden and further hardship to Users. It may also be noted that in the CHPT letter dated 19.02.2013 addressed to TAMP, it is recorded that the CHPT Board resolved to forward the proposal for revision of Estate Rentals along with the views of the Board that "such a steep increase proposed is objected and TAMP should consider only such increase, which will be acceptable to all stakeholders".	As already stated, as per the revised proposal, the effective increase over the existing rate is only 1.05% in respect of building at Rajaji Salai. The views of the Board have been forwarded to TAMP for consideration.
(v)	Further, it may be noted that in the letter dated 30.01.2013 of Shri Ishwar Achanta (a Trustee of CHPT) representing The Hindustan Chamber of commerce regarding the subject matter has inter alia, stated the following: Quote The trade, already suffering from severe pecuniary and cargo strangulation, can ill afford any further increase in estate rentals and this proposal must be immediately shelved. This proposal to increase tariffs will only serve to drive away our existing cargoes to other ports serving the same hinterland, which we can ill afford. The way forward has to be in improving our efficiencies, rationalizing manpower, reducing operating expenses and attracting more cargoes. Unquote	The views of the Trustee / Board have been forwarded to TAMP for consideration.
(vi)	In this context, it may be noted that the ongoing global recession has taken a heavy toll on our industry and consequently, we are facing one of the long drawn out and severest downturn faced by the shipping and maritime industry with extreme pressure being exerted on our finances with freight rates, revenues remaining at abysmally low levels coupled with spiraling costs.	
(vii)	In view of the foregoing, we are not in a position to accept any upward revision of Estate Rentals as envisaged by CHPT and in view of the submissions made above, it is humbly requested approval may not be accorded for the proposed revision in tariff as proposed by CHPT as the present economic scenario does not warrant nor permit additional costs to be borne by Shipping Companies.	As already stated, as per the revised proposal, the effective increase over the existing rate is only 1.05% in respect of building at Rajaji Salai.

	The Shipping Corporation of India (SCI)	
(i).	The rate in Column 3 for entry in SI no. 6 (a) is ₹200/- and in Column 4 for said entry is ₹397/-, which indicates an increase of 98.5%, which denotes that CHPT has been all along escalating their rates periodically to cover the increase in costs.	No specific comments furnished by the port.
(ii).	The rate indicated in Col.no.5 for the said entry is ₹ 552/-, which indicates an increase of 126% over the year 2000 basic rates and an increase of 39.04% over the existing escalated rates.	
(iii).	The building of the Port Trust is more than 25 years old and no major modification / renovation / repair etc. has been carried out by CHPT. CHPT does not carry out periodical maintenance of the building. Normal maintenance of the building left to the tenant.	
(iv).	In view of the reasons cited above, it is felt that the claim made by the CHPT for the steep increase in Estate rental is not warranted.	An annual escalation of 5% (compoundable) is being levied on the base rate fixed by TAMP, as per the Land Policy Guidelines in force from time to time. The proposal for revision is as per the Land Policy Guidelines 2014, which stipulates that the lease rent / licence fee shall be fixed based on the market value approach following the different options prescribed therein. Further, the lease rent shall be fixed considering the option which will give highest return to the Port. However, the CHPT has proposed to increase the rates based on the option which results in lowest increase over the existing rates.

1.2. A summary of the additional submissions made by SCI and the comments of CHPT thereon is tabulated below:

Sl. No.	Comments of SCI	Comments of CHPT
(i).	At the joint hearing held on 7 November 2014, it was informed that the Port users can also communicate their views regarding the revision in the estate rentals to the Director General of Shipping. Accordingly, a copy of the letter of SCI addressed to D.G. Shipping along with the copies of comments furnished by it earlier vide letters dated 8.8.2013 and 3.11.2014, is endorsed to TAMP. (The contents of the letter addressed to D.G. Shipping by SCI, is given below:)	It is stated that at the Joint hearing, users were requested to communicate their views, if any, to D.G. Shipping only with reference to the Land Policy 2014 provisions and not with reference to the proposal of CHPT for revision of estate rentals. The CHPT has already furnished its remarks in respect of the comments furnished by SCI vide its letters dated 8.8.2013 and 3.11.2014.
(ii).	We have clearly spelt out the reasons as to why CHPT should desist from levying a steep increase in the Estate Rentals as	SCI has reiterated its comments mentioned in letter dated 3.11.2014 for which the remarks have already been

	proposed. Further, it may be noted that even though CHPT had fixed the rental rate @ ₹.200/- per Sq.Mtr. per month, they have been escalating the rent by 5% every year and are currently charging around ₹ 397/- per Sq.Mtr per month.	furnished.
(iii).	In addition to the above, CHPT also collects a deposit equivalent to 12 months rent and are also revising the deposit amount every time the rent is being revised by 5%. This deposit does not carry any interest and, hence, is a source of income for CHPT. Even maintaining a conservative estimate that the deposit will earn an annual interest @ 10%, the current interest that CHPT will earn on the deposit will amount to ₹ 40/- per Sq.Mtr. per month and, hence, in real terms, the rent levied or earned by CHPT will amount to ₹ 437/- per Sq.Mtr. per month as against an official rate of ₹ 397/- per Sq.Mtr. per month.	Rental Deposit equivalent to one year lease rental is being collected in respect of all long-term allotments, as per the provisions of Scale of Rates. It is the normal practice to collect Rental Deposit to safe guard the interest of the land lord. No interest is allowed on such Deposits. Hence, the contention of SCI that interest on Rental deposit should be taken into account for fixation of rent is not acceptable.
(iii).	Further, it is stated that apart from the above Rent and Deposit amount, CHPT also collects an amount of ₹ 2,652/- per Sq. Mtr as premium non-refundable deposit. This non-refundable deposit will also earn an interest of ₹ 22/- per month at the rate specified in previous para (10%) and if this is also taken into consideration, the rent levied and paid would amount to Rs.459/- per Sq.Mtr. per month.	The non-refundable premium equivalent to one year lease rent is being collected for all long-term allotments as per the provisions of the existing SoR. In the proposed SoR, this provision has been deleted taking into account the Land Policy 2014 provisions. In any case, calculation of interest on the non-refundable premium paid by SCI long-time back has no relevance to the present proposal of revision of estate rentals.
(iv).	In this regard, it may also be worthwhile to note that the amount of ₹ 2,652/- per Sq. Mtr. will become the property of CHPT, since the same is a non-refundable deposit.	As stated above.
(v).	In view of the reasons enumerated above and considering the reasons cited in our earlier letters, it is humbly submitted that the proposal put forth by CHPT for revision of its Estate rentals is totally unjustified, unwarranted etc. Hence, it is our humble submission that sanction may not be accorded for CHPT proposal for revision of its Estate rentals.	

2. A joint hearing on the case in reference was held on 07 November 2014 at the CHPT premises. The CHPT made a power point presentation of its proposal and explained the salient features of the proposal and back ground for the October 2014 proposal. At the joint hearing, CHPT and users/ user organisations have made the following submissions:

Chennai Port Trust (CHPT)

- (i). We have given proposal to TAMP on revision of rentals. We have applied our mind. We have considered the factor like drop in cargo volume. We cannot completely overlook the Land Policy of the Government. We have to find a way to balance the interest of port and the trade.
- (ii). In the Joint Hearing held on 27 September 2013, users objected to the steep increase of around 1000%. We had proposed increase of around 720% during March 2014. Now we have brought down the increase to about 116%. This itself

shows that we take into account the interest of users.

[CPSA : We are happy to note that the original increase has been brought down to 116%]

- (iii). Estate Rentals at Chennai Port was last revised in the year 2000. No revision was made thereafter except annual escalation. No increase was allowed in 2006 and 2010 general revision of the tariff of CHPT. TAMP directed the CHPT to come up with separate proposal for revision of estate rentals considering the market value of land under all options given in Land Policy. Port submitted a comprehensive proposal in 2013 as per 2010 Land Policy. After hearing the stakeholders in September 2013 TAMP suggested the Port to approach the Board for revising the proposal. New Land Policy has come in 2014. In March 2014 we proposed 721% increase instead of 1817% increase. In the joint hearing held in May 2014, users again objected to the valuation of the port land. TAMP advised port to undertake a fresh valuation based on industrial valuation.
- (iv). Valuation done by the approved valuer is the basis for our proposal of October 2014. Land Allotment Committee considered competition from non-major ports close to Chennai port and connectivity issues and recommended market value of land as per the rate arrived at by the Market valuer. Chennai Port has proposed to have a least hike only.
- (v). Port may earn additional income of ₹24 Crores per annum. Port is facing huge loss and the proposed revision would help to offset this loss to some extent.
- (vi). We will reply to the clarification sought by TAMP shortly.
- (vii). We have brought down the increase from 721% to 116%. We have rationalized some conditions. Our latest proposal is trade friendly.

Hindustan Chambers of Commerce & Chennai Port Stevedores Association

- (i). We are not aware of the calculation of 7 October 2014 proposal. So, we make general comments.
- (ii). More than half the land inside the port is lying vacant at current level of tariff. If the rate is further increased, there will be no demand for land. Consider the demand for land before passing order.
- (iii). 5% annual escalation is exorbitant. It may be relooked. It should not be more than 2%. It is the industry practice.
- (iv). One of the factors for determination of market value is highest accepted tender rate. We request the port to not fix benchmark rates based on the auction of iron ore plots since the rates obtained at that time reflected the states of Iron Ore market which was riding high.
- (v). Nearby competing ports offer two months free storage. A steep increase at Chennai will drive away cargo from port.

Mercantile Marine Department

- (i). We have already given our comments. We are not commercial organization. 116% increase is on the very high side.

[CHPT: 116% increase is for land. For building it is only 30% increase.]

Chennai Container Terminal Private Ltd

- (i). We have already given our comments dated 31 October 2014.

Shipping Corporation of India Limited

- (i). We have also given our written comments.
- (ii). CHPT collects non-refundable deposits. Increase in rentals will be further burden to the traders.

[CHPT: We have deleted this provision in current proposal based on Land Policy 2014. There will be no more collection of non-refundable deposit. Only Security deposit as per Land Policy 2014 will be collected.]

Chennai International Terminals Private Limited

- (i). Compensating loss in one area with increase in lease rentals is not advisable. Increase in rate may result in losing trade in the present business environment.

Chennai Port Stevedores Association

- (i). We request TAMP to compare the rates at VIZAG & Tuticorin which is less than ₹10/- per sq. mtr. and decide the rates for CHPT.

[CHPT: This matter has been discussed by the Land Allotment Committee and the proposed hike is utility based and industrial valuation based. 116% hike after 14 years is not exorbitant.]

3. After the joint hearing, the CPSA vide its email dated 8 November 2014 has furnished its written submission. The written submission made by CPSA is seen to confirm the submissions made by it during the joint hearing held on 7 November 2014. Hence, these submissions were not separately forwarded to CHPT as feedback information. The comments of CPSA are given below:

- (i). We are happy to see that the original proposal of 700 plus percent is now brought down to 116 % increase.
- (ii). At current Tariff levels, more than half the land inside the Port is lying vacant. If tariffs were to be increased, there would be a further decline in the demand leading to more empty spaces.
- (iii). Existing users, who are few in number, will be forced to pay more for the same land. Current market conditions require 1-2 months free storage to be given to cargoes and any increase will only serve to increase the losses.
- (iv). Nearby competing ports are offering 2 months free storage and a steep increase at Chennai would drive away cargoes from the Port.
- (v). Chennai Port has taken an escalation of 5% per annum. This is an exorbitantly high number and the escalation should be no more than 2% per annum as is the industry practice.
- (vi). As per the new Land Policy, if Chennai Port were to undertake the tender cum auction route, this process will further drive up the rates to be paid and taking land inside the Port will become unattractive and unviable.
- (vii). It is also requested that Chennai Port do not fix benchmark rates based on the auction of Iron Ore plots since the rates obtained at that time reflected the state of the Iron ore market which was riding high.
- (viii). It is also pertinent to point out that at the ports of Tuticorin and Vizag, the plot rentals, even today are less than ₹ 10/ sq.m, making these Ports economically viable.

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