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Tariff Authority for Major Ports

G.No. 323

New Delhi,

17 August 2017

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Paradip Port Trust for revision of Scale of Rates for allotment of port land on lease basis for port related activities outside the custom bond area, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/36/2017-PPT

Paradip Port Trust

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QUORUM

Applicant

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

ORDER

(Passed on this 21st day of July 2017)

This case relates to a proposal received from the Paradip Port Trust (PPT) for revision of Scale of Rates (SOR) for allotment of port land on lease basis for port related activities outside the custom bond area.

1.2. This Authority vide its Order no. TAMP/53/2014-PPT dated 15 May 2015 has approved SOR for allotment of Port land outside the custom bond area on lease basis for non-port related activities for a period of 5 years with effect from 17.07.2015.

2.1. The PPT vide its letter No. AD-EST-MISC-III-02/2017/1268 dated 11 April 2017 has now filed a proposal for fixing of SOR for allotment of port land on lease basis for port related activities outside the custom bond area.

2.2 The main points made by the PPT in its proposal dated 11 April 2017 are summarized below:

- (i). As part of the Sagarmala initiative, the Ministry of Shipping (MOS) has announced a plan to develop Paradip as a world class, globally competitive, Smart Industrial Port City (SIPC). Smart City at Paradip is envisioned to be built on a PPP basis with a Multi-modal Logistics Park (MMLP), Industrial Park(s), Residential and Commercial area(s), water management system(s), waste recycling center(s), and creek development programme for tourism.
- (ii). The technical consultants for SIPC i.e. TATA Consulting Engineers has submitted a 'Detailed Project Report' for Paradip SIPC. As a part of the Master Plan, 600 acres of land parcels have been identified for development of industrial parks and MMLP.
- (iii). As per the report submitted by the Marketing consultants appointed by PPT i.e. M/s BCG, based on the feedback received from the potential investors, the key pointers which are important with respect to attracting industry are as below:
 - (a). **99 year lease period:** In accordance with provisions of the Odisha State Government and/ or business certainty for CAPEX intensive industries as per acre capital investment is high, to make the IRR proposition viable, lease period of 30 years may not be sufficient.
 - (b). **Competitive land pricing:** With respect to pricing of comparable land parcels in the vicinity.
 - (c). **Provision of incentives:** Provision of exemption of tax such as VAT, Entry TAX etc. as being offered by Odisha State Government.
- (iv). As per the suggestion of Secretary (Shipping) during the review meeting held on 14 December 2016 in respect of new ports and development of smart industrial port cities, M/s BCG for MMLP and Industrial Park assumed the position of the valuer as part of their marketing consultancy assignments and after analysis of all the relevant factors as per the provisions of Clause 13.1 of the Policy Guidelines for Land Management 2014, has suggested the market value of the Port land for Port related

activities. [The copy of the M/s BCG report is enclosed by PPT as a part of the Land Allotment Committee (LAC) proceeding.]

- (v). In accordance with the Land Policy Guidelines 2014, the LAC in its meeting dated 27 February 2017 recommended the SOR of port related activities outside the Custom bond area subject to the condition that the utilization of common facilities including the land, the proportionate charges to be distributed over the leasable area and the cost is to be recovered accordingly.
- (vi). The Board has resolved to approve that the market value of the Port Land for the Port related activities shall be fixed @ ₹. 25.9 lakhs per acre in industrial zone reserved in the Smart Industrial City, till the next revision recommended by the LAC vide Resolution No. 90/2016-17 dated 29 March 2017. [A copy of the Board resolution is enclosed by PPT.]

2.3 Accordingly, the PPT has sought approval for the following:

“SOR for allotment of port land on lease basis for port related activities outside the custom bond area are as follows:

(amount in ₹. per acre)

Sr. no.	Zone	Proposed SOR	
		Market value of the Port land	Reserve price in terms of annual lease rent
1.	Harbour Zone	NA	NA
2.	Township Zone	NA	NA
3.	Industrial Zone	25,90,000	1,55,400
4.	Sector-21	NA	NA

The above rates will be escalated @ 5% per annum.

In addition to the above, the PPT has also proposed certain terms and conditions in the draft SOR.”

2.4. Subsequently, PPT vide email dated 20 April 2017, has stated that the SOR for the Township and Sector-21 has been missed out in the earlier proposal inadvertently. The PPT has stated that as per the PPT master plan, Port land has been reserved for industrial and port related activities in these zones also and forwarded the revised draft scale of rates. According to the revised SOR forwarded vide e-mail dated 20 April 2017, PPT seeks approval for the following proposed SOR:

“SOR for allotment of port land on lease basis for port related activities outside the custom bond area are as follows:

(amount in ₹. per acre)

Sr. no.	Zone	Proposed SOR	
		Market value of the Port land	Reserved price in terms of annual lease rent
1.	Harbour Zone	NA	NA
2.	Township Zone	25,90,000	1,55,400
3.	Industrial Zone	25,90,000	1,55,400
4.	Sector-21	25,90,000	1,55,400

The above rates will be escalated @ 5% per annum.”

3. In accordance with consultative procedure prescribed, a copy each of the PPT proposal dated 11 April 2017 and 20 April 2017 was forwarded to the concerned users/ user organizations as suggested by PPT vide our letter dated 19 April 2017 seeking their comments. The

comments received from Users / user organizations were forwarded to PPT as feedback information. The PPT vide its email dated 23 June 2017 has responded.

4.1. In the meanwhile, the PPT vide email dated 20 April 2017 has made the following submissions:

- (i). The SOR for allotment of port land on lease basis for port related activities outside the custom bond area was approved by the Board Resolution No. 90/2016-17 on dated 29 March 2017 and the same was sent to TAMP for the approval.
- (ii). A signing of Memorandum of Understanding (MOU) with M/s CONCOR for setting up of a Multi Model Logistic Park is scheduled on 3 May 2017 during Logistics Summit at New Delhi for which SOR submitted by the port has to be finalized. Therefore, the approval for the proposed SOR submitted by the PPT may be communicated on or before 3 May 2017.
- (iii). In case it is not possible to approve and notify the SOR within the stipulated time, then at least the adhoc approval for the SOR may be granted, so that PPT can sign a MOU with M/s CONCOR as scheduled.
- (iv). In case subsequently, if TAMP notifies the SOR less than the adhoc SOR granted to PPT then PPT will abide by the SOR notified by the TAMP.

4.2. In view of the exigency expressed by the PPT, this Authority vide its letter dated 27 April 2017 conveyed adhoc approval to the SOR proposed by PPT to enable the PPT to sign the MoU with M/s CONCOR for setting up of a Multi Model Logistic Park which was scheduled on 3 May 2017 during Logistics Summit at New Delhi. Vide the said letter PPT was also informed that the SOR approved on adhoc basis is subject to condition that PPT will abide by the final SOR to be notified by this Authority, after completion of the consultative process.

5. A joint hearing on the case in reference was held on 8 May 2017 at the PPT premises. At the joint hearing, the PPT made a brief power point presentation of its proposal. The PPT and the concerned users/ user organizations have made their submissions.

6. Subsequent to the joint hearing, based on a preliminary scrutiny of the proposal, the PPT was requested vide our letter dated 22 May 2017 to furnish additional information/ clarifications on few points. After reminder dated 14 June 2017, the PPT under cover of its e-mail dated 23 June 2017 has responded. The information/ clarification sought by us and the response of PPT thereon are tabulated below:

Sl. No.	Information/ clarification sought by TAMP	Reply of PPT
(i).	As seen from the Board resolution submitted by PPT for fixing of Scale of Rates for allotment of Port Land on lease basis for Port related activities outside the Custom Bond area along with the proposal dated 11 April 2017, Board has resolved that the market value of the Port Land for Port related activities shall be fixed @ 25.90 lakhs per acre in industrial zone reserved in the Smart Industrial City, till the next revision. However, the PPT while forwarding the revised proposed SOR vide email dated 20 April 2017, has sought approval for the proposed SoR for the three zones viz. Township Zone, Industrial Zone and Sector-21 Zone . Further, it is relevant to mention there is no mention about zone wise classification /	The Sagarmala initiative was conceived by the Government of India to address the challenges and capture the opportunity of port led development comprehensively. In 2015, in order to implement the vision of Port-led development under the Sagarmala Programme the Government of India, through the Ministry of shipping (MOS) initiated a plan to set up a Smart city within the port community at the country's 12 major ports. As part of the SIPC initiative, the MOS has announced a plan to develop Paradip as a world class, globally competitive, Smart Industrial Port City (SIPC). Smart City at Paradip is envisioned to be built on a PPP basis with a Multi-modal Logistic Park (MMLP), Industrial Park(s), Residential and Commercial area(s), water management

	zone wise valuation of land either in the Valuation report or in the LAC report. The PPT, while forwarding the revised draft scale of rates (SOR) vide email dated. 20 April 2017 stated that, as per the PPT master plan, Port land has been reserved for industrial and port related activities in the Township and Sector-21 Zones also, which was missed out inadvertently while sending the proposal earlier. The PPT has described Port Related Activities as the activities which are directly related to Cargo Handling for enhancement of Port business and other activities vital for Harbour operations. Therefore, PPT to clarify how industrial and port related activities would take place in Township Zone. The PPT to look into the matter and furnish the necessary documents including Board resolution approving classification of land into zones viz. Industrial Zone, Township Zone and Sector-21 Zone and the Market value thereof.	system(s), waste recycling centre(s) and creek development programme for tourism. Land Use Plan for PPT including Computerized inventory of land assets was approved vide Resolution No. 197/2015-16 dated 1 October 2015. The land use plan broadly categorized the Port land into different zones. However, in each zone, some portion, of the vacant land available has been earmarked for port related purposes due to shortage of port land for port related activities. Further, the technical consultants for SIPC, TATA consulting Engineers have submitted a 'Detailed Project Report' for Paradip SIPC, a conceptual master plan with the following salient points: (i). Phase-1(2016-36) Extension of the Outer Harbour and set up of Port related industries (In Township Zone, industrial zone and Sector – 21). (ii). Phase-2 (2036-46) Development of Nuabazar as a part of port expansion (Township Zone). (iii).Phase-3 (2046 to onwards) Development of area behind the beach front (outside the CRZ) (Township Zone) As a part of the Master Plan, more than 600 acres of land parcels in phase-1 have been identified for development of industrial parks and multi-modal logistics parks. This Multi-Modal Logistic Parks and Industrial Parks are situated in different locations in industrial Zone. Township Zone (a portions of vacant land in the Township Zone has been kept reserved for port related purpose) and Sector-21. It may be appreciated that PPT has already signed MOU with Numaligarh Refinery Limited for setting up of Oil Tankers in the Township zone (vacant land reserved for Port related activities) and CONCOR for setting up of Multi-Model Logistic Park in the industrial Zone. In view of this, the PPT has proposed SOR for port related purposes in all zones.
(ii).	It is pertinent to bring to the notice of the PPT, that the Authority vide Order no. TAMP/53/2014-PPT dated 15 May 2015 has approved different Reserve Price in terms of annual lease rents for the different zones outside the Prohibited area relating to <u>non-Port activities</u>. As per the proposal in reference, the PPT has proposed a uniform rate for same zones for the <u>port related activities</u> and no differentiation is proposed in respect of Developed and Un-Developed land. The comparative position of the Reserve price between Port Related	Earlier PPT had proposed different reserved price in various zones for non-port related purposes and accordingly, TAMP also notified the same vide Order no. TAMP/53/2014-PPT dated 15 May 2015. Such proposal with different reserve price was proposed by the Board as the proposal was for allotment of land for non-port related purposes. By having different rates for different zones may act as deterrent for setting up of industries and also to achieve the Sagarmala objectives. In view of this Board has recommended a single rate for all

	Activities and Non Port Related Activities is given below. Reserve Price in terms of annual Lease Rent (amount in ₹. per acre) <table><tr><th rowspan="2">Sl. No.</th><th rowspan="2">Zone</th><th colspan="2">Non Port Related Activities (As per TAMP order dated. 15 May 2015)</th><th rowspan="2">Port Related Activities (As proposed SOR)</th></tr><tr><th>Developed land</th><th>Un-Developed land</th></tr><tr><td>1.</td><td>Township</td><td>10,92,000</td><td>10,32,000</td><td>1,55,400</td></tr><tr><td>2.</td><td>Industrial</td><td>9,36,000</td><td>8,76,000</td><td>1,55,400</td></tr><tr><td>3.</td><td>Sector-21</td><td>8,22,000</td><td>7,62,000</td><td>1,55,400</td></tr><tr><td>4.</td><td>Haridaspur</td><td>31,650</td><td>--</td><td>-</td></tr></table>	Sl. No.	Zone	Non Port Related Activities (As per TAMP order dated. 15 May 2015)		Port Related Activities (As proposed SOR)	Developed land	Un-Developed land	1.	Township	10,92,000	10,32,000	1,55,400	2.	Industrial	9,36,000	8,76,000	1,55,400	3.	Sector-21	8,22,000	7,62,000	1,55,400	4.	Haridaspur	31,650	--	-	zones within the Port limits in case of Port related activities. Further, it is submit here that no separate rates have been proposed for developed and undeveloped land for Port related purposes as these areas are undeveloped and a decision is yet to be made whether development works will be undertaken by the Port or by the Users. The type and level of development to be undertaken by the Port for setting up for MMLP, Industrial Park etc which will be decided later according to market demand. As per final lay out and also based on investment to be made on common infrastructures including the cost of land used for common infrastructure facilities will be distributed over the leasable area and the same shall be recovered from the users.
Sl. No.	Zone			Non Port Related Activities (As per TAMP order dated. 15 May 2015)			Port Related Activities (As proposed SOR)																						
		Developed land	Un-Developed land																										
1.	Township	10,92,000	10,32,000	1,55,400																									
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3.	Sector-21	8,22,000	7,62,000	1,55,400																									
4.	Haridaspur	31,650	--	-																									
(iii).	The PPT to note the substantial variation in Market value of same land for between the Port Related activities and non-Port related activities and confirm the above position, apart from clarifying the reason for pegging the Market value of land for port related activities at substantially lower level.	While submitting the proposal for non-port related activities, Port has categorically mentioned as below: <i>"If the rates pertaining to non-port related purposes are made applicable for cargo related activities of the Port outside the custom bond area, the same shall put PPT in disadvantages position as the said rates are not competitive as compared to nearby Ports."</i> In response to the above views of PPT, TAMP observed that the proposed notes to apply SOR inside the custom bond area to outside custom bond area can be considered for approval when PPT file a proposal for approval of SOR inside the custom bond area, the port was also advised to come up with the well analyzed proposal for fixing SOR for port related purposes. As per the report submitted by BCG the following preliminary feedback was received from the potential investors. The key pointers important with respect to attracting industry are as below: (a). 99 year lease period: In accordance with provisions of the Odisha State Government and / or business certainty for CAPEX intensive industries as per acre capital investment is high, to make the IRR proposition viable, lease period so 30 years may not been sufficient. (b). Competitive land pricing: With respect to pricing of comparable land parcels in the vicinity. (c). Provision of incentives: Provision of exemption of tax such as VAT, Entry TAX etc. as being offered by Odisha State Government.																											

		Secretary (Shipping) took a review on 14 December 2016 in respect of new ports and development of smart industrial port cities. The preliminary report of marketing consultant was discussed primarily on the feedback received from the potential investors in the SPIC. It was suggested that a detailed analysis on the market value needs to be done considering the industrial requirement and competitive pricing. Further, State Govt. land in the vicinity of the port are being allotted at the rate of 24.3 lakhs per acre for 99 years lease and many incentives are also provided to industries in terms of tax benefits etc. Hence, the PPT has to price the land competitively for attracting industries which in turn increase the business of PPT including addition to the existing throughput. Accordingly, as per the provisions for fixing market value and Policy Guidelines for Land Management 2014, Board has recommended the current SOR for attracting industries.
(iv).	As seen from the Land Valuation report, the valuer appears to recommend the land value of ₹. 25.90 lakhs per acre as a benchmark market value, which is as per the current value of Essar land parcel. In this regard, it is brought to the notice of PPT that the escalation factor of 4.4% (5-years WPI average) over 2009-10 is appears to have been considered upto 2016-17 instead of 2017-18. Therefore, PPT to adopt the escalation factor upto 2017-18.	It is to submit here that the actual transaction of Essar to acquire land was in the year 2010. The copy of the letter sent by the Govt. of Odisha to Essar dated 27 March 2010 is enclosed by PPT. Accordingly, the consultant has calculated escalation up to 23 March 2017.

7. While furnishing the abovesaid information/ clarification, the PPT has proposed to reduce the quantum of annual escalation factor from 5% to 2%. The PPT has furnished approval of its Board of Trustees for the reduction in the quantum of annual escalation factor.

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

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

- (i). The lease rentals for the estates of Paradip Port Trust (PPT) were fixed for the first time by this Authority in May 2015, based on a proposal filed by PPT. Vide the said Order no. TAMP/53/2014-PPT dated 15 May 2015, reserve price in terms of annual lease rentals was approved for allotment of port land on lease basis for non-port related activities outside the custom bond area. Now, on the ground that the Paradip is being developed as a Smart Industrial Port City (SIPC), which includes development of industrial parks and Multi Modal Logistics Park (MMLP), the PPT has come up with a proposal for fixing Scale of Rates (SOR) for allotment of port land on lease basis for port related activities outside the custom bond area.

- (ii). The PPT has filed its proposal in April 2017. The PPT has furnished the additional information/ clarification sought by us in June 2017. The proposal of PPT alongwith the information/ clarification furnished by the PPT during the processing of the case, is considered in this analysis.
- (iii). Before we start with analysis of the case, it is relevant to draw reference to the proposal of the port. Initially, the proposal of the Port was for fixation of lease rent for the land at Industrial Zone to be allotted on lease basis for port related activities outside the custom bond area. Subsequently, the Port, on the ground that as per the PPT master plan, some portion of the Port land in each zone viz., Township Zone and Sector – 21 has been earmarked for port related purposes due to shortage of port land for port related activities and that having of different rates for different zones will act as deterrent for setting up of industries, has proposed to apply the lease rental proposed for the Industrial Zone in respect of two other Zones viz., Township Zone and Sector – 21 also.

With regard to the prescription of rentals for the Township Zone and Sector – 21, it is relevant to mention here that there is no mention about zone wise classification / zone wise valuation of land either in the Valuation report or in the LAC report furnished by PPT as part of its initial proposal. Even the Board approval furnished by the PPT alongwith its initial proposal is for fixing of the market value of the Port Land at ₹ 25.90 lakhs per acre in industrial zone. Though the PPT has stated that the Board of PPT has recommended a single rate for all zones within the Port limits in case of Port related activities, no such statement is found to have been made in the Board Resolution. The PPT has not furnished the LAC report and the Board approval with regard to classification of land into the three zones viz. Industrial Zone, Township Zone and Sector-21 Zone and the Market value thereof, inspite of a specific request made in this regard. The Land Policy Guidelines mandates recommendation of the rates by LAC and approval of the rates by the Port Trust Board, before the proposal is forwarded to this Authority for approval. Board approval to the Broad categorization of port land into different zones in the Land use Plan is different from the Board approval for Market value of land for such categorized zones. The PPT has not produced any document to establish that the market value and lease rental for the Residential zone and Sector 21 proposed by the port is with the recommendation of LAC and approval of the Board of Trustees of PPT. In view of the absence of the LAC recommendation and Board approval for the lease rentals for allotment of port land in the Township Zone and Sector – 21 on lease basis for port related activities outside the custom bond area, this Authority is constrained to process the proposal of PPT at present, to the limited extent of fixing rentals for allotment of port land in the Industrial Zone on lease basis for port related activities outside the custom bond area, as was initially proposed by the Port. The PPT is advised to furnish the recommendation of the LAC and approval of the Board with regard to the rentals for allotment of port land in the Township Zone and Sector – 21 on lease basis for port related activities outside the custom bond area, so as to enable notification of the Rentals for the Township Zone and Sector – 21 also.

- (iv). 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. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The PPT has, thus, come up with a proposal for fixing SOR for allotment of port land on lease basis for port related activities outside the custom bond area, based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015.
- (v). As per clause 13(a) read with clause 11.2(e) of the Land Policy Guidelines 2014, a Land Allotment Committee (LAC) 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 13(a). In the case of PPT, a LAC has been constituted under the chairmanship of Deputy Chairman and consisting of Secretary, F.A. & C.A.O. and Traffic Manager (i/c) as Members of the Committee.

- (vi). Para 13(a) of the Land policy guidelines of July 2015 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 amended 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 amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.

The LAC after going through the Report of the approved valuer and after considering the parameters provided under Clause 13(a)(i) to (v) of Land Policy Guidelines, 2014 has given its recommendations. Further, the Board of Trustees of PPT have approved the rates recommended by the LAC and have given a go ahead to send the proposal to TAMP. Thus, the proposal filed by the PPT is taken up for disposal.

- (vii). From the LAC Report, it is seen that the LAC has observed that the Ready Reckoner of the State Government does not contain the valuation for industrial/ port related use. The LAC has also observed that no transaction has been done during the last 3 years within the port's vicinity. Even the sole transaction relating to Paradip Plastic Park Limited (PPPL) is not found relevant by the LAC. No tender cum auction of port land for similar transactions are reported to have taken place. The LAC has also observed that the Valuer engaged by the PPT has relied upon the transaction relating to ESSAR in the year 2010 at ₹ 19 lakhs per acre, which after an annual escalation of 4.4% (based on the Wholesale Price Index) has been worked out at ₹ 25.90 lakhs per acre as applicable for the year 2017. The Valuer has considered the said escalated rate as the benchmark value for fixing the market value of the port land, as the relevant factors are similar. The LAC has also observed that no other relevant factors are available for consideration for fixing the market value of the port land.

- (viii). Based on the above position, the LAC has recommended to fix the market value of the port land at ₹ 25.90 lakhs per acre for land outside custom bond area for port related activities. The Board of Trustees of PPT has approved fixation of market value of port land for port related activities in the industrial zone at ₹ 25.90 lakhs per acre.

Clause 13(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 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Based on the derived market value of land for the land outside custom bond area for port related activities, the Reserve Price in terms of the Annual Lease Rent for the lands has been recommended by the PPT at 6% of the said market value of land at ₹ 155400/- per annum.

- (ix). As brought out in the factual position relating to the case, there is substantial variation in the market value of land for the industrial zone outside custom bond

area between the port related activities and non-port related activities. When the port was asked to clarify, it has stated that it has to price the land competitively for attracting industries, which in turn would increase the business of PPT including addition to the traffic. In the fixation of rentals for non-port related activities outside custom bound area in the Order of May 2015, the note proposed by PPT at that relevant point of time to apply the rates applicable for inside the custom bound area to outside the custom bond area for port related activities was not approved then because the proposed note was beyond the proposal filed by the Port at that point of time. Further, the rates for inside custom bond area did not have the approval of this Authority and the port was in the process of finalising the Scale of Rates for inside custom bond area.

- (x). Considering that the market value of port land for port related activities in the industrial zone as assessed by the Valuer has been recommended by the LAC and given that the Board of Trustees of PPT has approved the market value of the land for industrial zone as recommended by the LAC, this Authority is inclined to prescribe the Reserve Price in terms of the Annual Lease Rent for the lands at 6% of the said market value of land at ₹ 155400/- per annum. The request made by the JSW Paradip Pvt Ltd to peg the Market value at ₹. 10 to 15 Lakhs was rejected by the PPT since there is no basis for the request of the party. Similarly, the IOC also could not produce any basis for reduction of the rates of rental. For the reasons brought out earlier, the said lease rental is prescribed for the Industrial Zone only.
- (xi). The PPT is seen to have proposed various definitions/ conditions/ notes in the proposed draft Scale of Rates. The said definitions/ conditions/ notes are seen to be same as the definitions/ conditions/ notes approved in the SOR for allotment of Port land outside the custom bond area on lease basis for non-port related activities at PPT vide Order no. TAMP/53/2014-PPT dated 15 May 2015. Hence, the proposed definitions/ conditions/ notes are approved.
- (xii). The PPT, in the Schedule of Rates prescribed for allotment of land on lease basis for port related activities, has proposed a note to the effect that the reserve price in terms of annual lease rent shall bear an escalation factor of 2% every year. 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 PPT has proposed 2% annual escalation. The reduction in the annual escalation factor from 5% to 2% meets the request of the CONCOR. Since the annual escalation rate of 2% is approved by the PPT Board of Trustees and is as per the provision of the Land Policy guidelines of 2014, the proposed rate of 2% annual escalation is approved.
- (xiii). As brought out in the factual position of the note, based on the request made by the PPT, adhoc approval was granted for the proposed rates to enable the PPT sign a Memorandum of Understanding (MOU) with M/s CONCOR for setting up of a Multi Model Logistic Park (MMLP), subject to condition that PPT will abide by the final SOR to be notified by this Authority, after completion of the consultative process. For the reasons brought out earlier, the proposal of the Port has been processed at present for prescription of rentals for the Industrial zone only. In view of the above position and considering that there is no difference between the adhoc lease rental vis-à-vis the final lease rental approved by this Authority, the lease rent is deemed to have come into effect from 27 April 2017 for the Industrial Zone, being the date when the adhoc approval was communicated to the PPT.
- (xiv). Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by this Authority. Accordingly, a note is prescribed in the Rent Schedule that the reserve price in terms of the annual lease rental is deemed to have come into effect from 27 April 2017 and shall remain in force for a period of five years, which is approved.

10.1. In the result, and for the reasons given above, and based on collective application of mind, this authority approves the Schedule of lease rent for allotment of Port land on lease basis for Port related activities outside the custom bond area of PPT for Industrial zone, which is attached as **Annex**.

10.2. The Schedule of rate structure approved for allotment of Port land on lease basis for Port related activities outside the custom bond area of PPT for Industrial zone is deemed to have come into effect from 27 April 2017 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)

PARADIP PORT TRUST

Scale of Rates (SoR) for allotment of Port land on lease basis for Port related activities outside the custom bond area.

1. SHORT TITLE, COMMENCEMENT AND APPLICATION

- a) This may be called” Scale of Rates (SoR) for allotment of Port land on lease basis for Port related activities outside the custom bond area.
- b) The same shall come into force on such date as approved by TAMP.
- c) It applies to the areas located beyond the custom bond area in Industrial Zone reserved for MMLP and Industrial Park for allotment of Port land for Port related activities for a period of five years from the date it is effected.

2. DEFINITION

- a) **“Board”**, in relation to a Port means the Board of Trustees constituted under Major Port Trust Act, 1963 for the Port.
- b) **“TAMP”**, means the Tariff Authority for Major Ports constituted under section 47-A of Major Port Trust Act, 1963.
- c) **“Chairman”**, means the Chairman of the Board and includes the person appointed to act in his place under section 14 of Major Port Trust Act, 1963.
- d) **“Land”**, shall have the meaning assigned to it as in Section 2 (k) of Major Port Trust Act, 1963.
- e) **“Lease”**, shall have the meaning assigned to it as in Section 105 of the Transfer or Property Act, 1982 i.e., “transfer of a right to enjoy immovable property, made for a certain time, expressly provided for, in consideration of a price paid or promised, or of money to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms”.
- f) **“License”**, shall have the same meaning assigned to it as in Section 52 of the Indian Easements Act, 1882 i.e., “a right granted to another person by the grantor, to do or continue to do upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property.
- g) **“Upfront basis”**, means allotment of land on lease basis on payment of one time upfront payment for the entire lease period and the nominal lease rent approved by the Boar from time to time.
- h) **“Premium basis”**, means allotment of land on annual lease basis on payment of annual lease rent with escalation approved by the Board from time to time.
- i) **“Port related activities”**, means those activities directly related to Cargo Handling for enhancement of Port business and other activities vital for Harbour operations.
- j) **“Non Port related activities”**, means those activities related to Port and the township for smooth functioning, but at the same time indirectly supporting the business of the Port.
- k) **“Development charges”**, means the onetime payment for the entire lease/license period charged on the lessees/licensees by the Board for recovering the investment made by the Board for creation of infrastructure facilities such as road, electricity, water supply etc. but does not include reclamation of allotted premises.
- l) **“Registration charges”**, means the charges to be borne by the lessee/licensee towards the costs of preparing, stamping and registering the lease/license agreement and also the cost of a counterpart or a copy if required.

- m) **“Document preparation charges”**, means one time charges to be paid by the lessee/ licensee to the Board for preparation of lease/license agreement.
- n) **“Security Deposit”**, means refundable amount to be kept with the Board by the lessee/ licensee for the entire lease/license period subject to fulfilling all the agreed terms and conditions.
- o) **“Service Tax”**, means is a tax levied by the Government on service providers on certain service transaction but actually born by the customers. It is categorised under Indirect Tax and came into existence under Finance Act 1994.
- p) **“Penalty”**, means the charges levied by the Board for violation of terms and conditions of allotment and wrongful use and occupation of allotted premises.

3. **SCALE OF RATES (SoR) FOR ALLOTMENT OF PORT LAND.**

- 3.1. Scale of Rates for allotment of Port land on lease basis for Port related activities outside the custom bond area.

Zone	(amount in ₹ 'per acre')	
	Market value of the Port land	SoR Reserved price in terms of annual lease rent
Industrial Zone	25,90,000	1,55,400

The annual lease rent will be escalated @ 2% per annum.

- 3.2. **Registration fees:**
Registration charges are to be borne by the lessee/licensee towards the costs of preparing, stamping and registering the lease/license and also the cost of a counterpart or a copy if required.
- 3.3. **Document preparation charges (Processing fees):**
Document preparation charges are to be paid by the lessee/ licensee to the Board for preparation of lease/license agreement.
- 3.4. **Service Tax:**
Service Tax is levied by the Government on service providers on certain service transaction but actually born by the customers. It is categorized under Indirect Tax and came into existence under Finance Act 1994.
- 3.5. **Penalty:**
The penalty will be levied by the Board for violation of terms and conditions of allotment, wrongful use and occupation of allotted premises.

4. **Terms and Conditions**

- 4.1. **Due date Payment**
The charges to be remitted within a period of one month from the date of issue of demand note.
- 4.2. **Mode of Payment**
The payment should be made through RTGS/NEFT/DD in favour of F.A.& C.A.O., PPT.
- 4.3. **Interest on delayed payment**
Any arrears of rent or other money accruing to or in favour of the Paradip Port Trust or from the lessee shall be recoverable as a public demand with interest @ 12% per annum without prejudice to any action that may be taken by the Port to recover by a suit in the court having jurisdiction over the area.
- 4.4. **Counting date of allotment**
The allotment will be counted from the date of taking possession of site/premises by signing in the Possession Register.
- 4.5. **Non-utilisation of allotted land**
If the allotted land is not utilized for the purpose for which it has allotted within a period of 18 (eighteen) months from the date of possession, the allotted land will be cancelled and all the payments made for such allotment will be forfeited.

4.6. Penalty

- a) If the lessee breaches / violates any provisions of lease agreement, the Board would reserve the right to impose the appropriate penalty or cancel the lease depending upon the nature and magnitude of such violation. In case of cancellation, no refund will be made.
- b) If the lessee/licensee continues unauthorisedly beyond the approved period, will be liable to pay compensation for wrongful use and occupation at three times of the Scale of Rates in force till the vacant possession is obtained.

4.7. Observation of rules and regulations of Paradip Port Trust

The lessee /licensee shall observe all provisions of laws, rules, bye-laws, regulations, orders and notification relating to the Port issued by the Central Government, Board, Chairman or any other Competent Authority from time to time and shall pay the rates approved by the Board from time to time.

4.8. Refund of proportionate value in case of resumption of the allotted premises before expiry of lease in Port interest

The lessee/licensee is eligible to get refund on prorata basis for the left out period of lease/license without interest if the land is resumed before the expiry of allotment period for Port purpose. In case of rehabilitation in other location at the discretion of the Port, the lessee/licensee has to pay differential amount on prorata basis for the left out period as per the prevailing SoR.

- 4.9.** All the allotments of Port land and buildings are governed by Paradip Port Trust Immovable Properties (Lands and Houses) Leasing and Licensing Regulations, 1975 and Land Policy Guidelines issued by the Ministry of Shipping, Govt. of India from time to time. Any provisions of the above which has not been specifically spelt out in the above terms and conditions are deemed to be covered.

- 4.10.** The reserve price in terms of annual lease rent prescribed above shall bear an escalation factor of 2% every year.

- 4.11.** The reserve price in terms of annual lease rent prescribed above shall remain in force for a period of five years.

- 4.12.** In case of any inconsistency in the definitions/ conditions/ notes in the Scale of Rates vis-à-vis the amended Policy Guidelines for Land Management, 2014, the provisions contained in the amended Policy Guidelines for Land Management, 2014 would prevail.

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/36/2017-PPT	Proposal received from Paradip Port Trust for revision of Scale of Rates for allotment of port land on lease basis for port related activities outside the custom bond area.
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A summary of comments received from the users and the response of PPT thereon are tabulated below:

Sr. No.	Comments of the Users / user Organization	Reply of PPT
1.	JSW Paradip Terminal Pvt Ltd	
(i).	At page no. 7, Clause no. 2.0, the PPT has proposed lease rate of ₹ 25.90 lakhs per acre. It is requested to consider revised lease rate as ₹ 15 lakhs per acre for BOT Operator.	PPT has no scope to consider the market value of port land at the rate of ₹ 15.00 lakhs per acre as requested by JSW.
(ii).	At page no. 7, Clause no. 2.0, the PPT has proposed development cost exclusive to lease rent. It is requested to consider exemption of development cost which is exclusive to lease rate for BOT operator.	As per the Board approval the development cost including the cost of the land to be utilized for common infrastructure facilities shall be recovered from the leased proportionately. As the investment costs on development of land with infrastructure facilities are huge, there is no scope the exemption for payment of development cost. There is no provision available in the Policy Guidelines for Land Management 2014 to give concession on the SOR to BOT operators.
(iii).	At page no. 7, Clause no. 2.0, the PPT has proposed Per annum price escalation 5%. It is requested to consider waiving off proposed 5% escalation per annum of rates for BOT operator.	After re-examining the recommendation sent to TAMP on annual escalation i.e. @ 5% per annum, Board of Trustees through the circulation No. 10/2017-18 have resolved to recommend reducing the annual escalation to 2% from 5%. The resolution passed by the Board in connection with annual escalation is as under: <i>"The proposal for reducing annual rate of escalation of the market value of the port land shall be @2% per annum at par with other Major Port Trust as against the earlier approved escalation rate of 5% per annum for port related activities as contained in the Board memorandum is approved."</i> As the Board has already reduced the annual escalation from 5% to 2% which is the minimum to be kept as per the Policy Guidelines for Land Management 2014, there is no scope to waive out annual escalation.
2.	Container Corporation of India Ltd (CONCOR)	
	CONCOR is proposing to acquire land for setting up of a MMLP at Paradip Port. In line with the normal escalation rates and as per the certificates issued by the port, it is requested that the escalation rates for upfront/ annual lease payable for land for allotment port related activities such as setting up MMLP's and	After careful examination of the issues raised by CONCOR, Board has resolved to reduce the annual escalation to @ 2% in place of @ 5% recommended earlier for Port related purposes. The copy of the Board's approval to reduce the annual escalation to 2% is enclosed by PPT.

	Industrial Parks outside the Custom Bonded area (item no. 2, page no. 7 of the proposal) be limited to not more than 2% per annum and not 5% per annum as proposed. This would be in line with the Land Policy and the Certification issued by the port and to make early development of MMLP/ Industrial Park viable. TAMP is requested to consider the above while examining the proposal and the hearing for revision of SOR.	
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2. A joint hearing on the case in reference was held on 8 May 2017 at the PPT premises. At the joint hearing, the PPT made a brief power point presentation of its proposal. The PPT and the concerned users/ user organizations have made the following submissions at the joint hearing:

Paradip Port Trust

- (i). PPT wanted to apply Scale of Rates (SOR) applicable for inside the Custom Bond area for outside Custom Bond area also only for port related activities. TAMP observed that SOR of area inside Custom Bond area cannot be extended given that SOR did not have the approval of TAMP. TAMP advised PPT to file a proposal for port related activities outside Custom Bond area. Hence, we have filed the proposal.
- (iii). Ministry of Shipping (MOS) has announced a plan to develop Paradip as a Smart Industrial Port City (SIPC) on a PPP basis with Multi-model Logistic Park (MMLP), Industrial Parks, Residential and Commercial areas, water management systems etc. As a part of Paradip Port Master Plan, 600 acres of land parcel have been identified for development of industrial parks and MMLP.
- (iv). The consultant (BCG) appointed by port on land pricing for Industrial Park and MMLP as part of Paradip Smart Industrial Port City for land parcel outside Custom Bond area contributing to port activities gave feedback to attract industries. One of the feedback is pricing of port land on competitive basis as compared to the comparable land parcel in the vicinity.
- (v). There are five parameters as per Land Policy for fixing Market Value
 - (a). State Government's ready reckoner does not contain valuation for different types of classifications such as Industrial and port related use. Hence, it is not appropriate to consider Ready Reckoner rates for valuation of port land outside custom bond area for port related activities.
 - (b). Three relevant benchmarks of transaction in the vicinity are available. The Paradip Plastic Park Ltd, the SPV promoted by IDCO notified the rate of ₹. 79 lakhs per acre for early bird applicant and ₹. 89 Lakhs per acre for others. This price was derived for leasable developed area with ancillary facilities. The leasable land cost was considered ₹. 32.71 lakhs per acre. The leasable area is 58.1% and common utility

area is 41.9%. The actual land cost excluding common area was derived at ₹. 23.40 lakhs per acre.

- (c). No tender-cum-auction of port land for similar transaction took place after the introduction of this methodology.
- (d). The next method is the rate assessed by an approved valuer. The consultant (BCG) has kept in view the following:

ESSAR acquired land from private parties at ₹. 19.10 lakhs in 2009-10 to expand its existing industrial set up. This land parcel is within the range of 2-5 kms from the proposed land parcel for setting up Industrial Park and MMLP. The present value of this land acquisition cost is ₹. 25.90 lakhs after applying 5 years WPI average of 4.4%. The land leased by IDCO to IFFCO for Industrial use in 2012 at a rate of ₹. 15.91 lakhs per acre works out to ₹. 19.00 lakhs per acre after applying the 5 years average WPI of 4.4%. The actual cost of land per acre for 99 years lease in 2017 for Plastic Park in Paradip is ₹. 23.04 lakhs per acre excluding the land under common utilities. The transaction between PPT and Deepak Fertilizers in the year 2004 and between PPT and IOCL were not considered since they were not relevant bench mark. The highest value relating to ESSAR of ₹. 25.90 lakhs per acre is recommended by the valuer.

- (e). No other relevant factor is available for consideration.
- (vi). Our proposal is for annual lease rent at 6% of the market value of ₹. 25.90 lakhs per acre with annual escalation of 5% for a validity of 5 years.

JSW Paradip

- (i). The existing state Government Ready reckoner rate is ₹. 10 lakhs per acre. This may be considered as Market value.

[Chairman PPT: There is no basis for ₹. 10 lakhs]

IOC

- (i). 1.5 times increase has been proposed. This is high. Please reduce the rate.

[PPT, FA & CAO: Our proposal is already concessional]

[TAMP: What is the basis for reduction proposed by IOC?

The IOC could not give any basis for reduction]

IMFA

- (i). We have no allotment of land. We have no comments.
