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Tariff Authority for Major Ports

G No. 119 **New Delhi, 4 May 2012**

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 Kandla Port Trust (KPT) for revision of rate structure for Gandhidham Township of KPT as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports

Case No. TAMP/20/2010-KPT

Kandla Port Trust **- - -** **Applicant**

O R D E R

(Passed on this 9th day of April 2012)

This case relates to a proposal filed by Kandla Port Trust (KPT) for revision of the rate structure for Gandhidham Township Lands of KPT.

2. This Authority vide its Order No.TAMP/9/2006-KPT dated 22 April 2008 approved the rate structure of Gandhidham Township lands for a period of five years with effect from 1 January 2004. The Order was notified in the Gazette of India on 17 June 2008. Though the next revision was due from 1 January 2009, KPT periodically requested this Authority to extend the validity of the existing rate structure on the ground that assessing the market value of its landed estate was under progress. Extension has been accordingly granted from time to time as requested by the KPT. On the last occasion, at the request of KPT, this Authority vide its Order dated 31 March 2010 has extended the validity of the rate structure till 30 September 2010.

3.1. In this backdrop, the KPT under cover of its letter dated 19 April 2010 has submitted its proposal for revision of rate structure for Gandhidham Township Land. The salient features of the proposal are summarised below.

(i). An approved land valuer was appointed as per clause 5.3(I) (a) (iv) of the land policy guidelines for assessing the market value of the landed estate. The valuer submitted his report in January 2010.

(ii). A committee was constituted for fixing market value of land and Schedule of Rates as per clause No.5.3. (I) of the land policy guidelines issued by the Government of India, after considering the existing rates of Gandhidham Township Land, Jantri rates fixed by the Government of Gujarat and average consideration amount during the years 2006 to 2008 and the highest premium quoted in the last auction of plots held during March 2004 has decided that the rates of the Land Valuer are to be considered as market value of the Gandhidham Township land.

(iii). Based on the above value of land, lease rentals have been arrived at for the various Sectors in the Gandhidham Township land.

(iv). The Board of Trustees of KPT has also recommended the market rate/ schedule of rates and lease rentals of Gandhidham Township Land.

3.2. The market value as assessed by the approved land valuer and the proposed sectorwise/ sub-sectorwise lease rentals as furnished by KPT are as follows:

Sr. No.	Description	Market Rate per SMT (₹)	Lease Rentals @ 6% per Sq. Mtrs. per annum (₹)
1	**Sector 1**		
	Plots abutting on 200' wide road	7000	420.00
	Plots abutting on 155' wide road	6700	402.00
	Plots abutting on 80' wide road	6100	366.00
	Plots having frontage on three sides	7300	438.00
	Other Plots	5800	348.00
2	**Sector 2**		
	Plots abutting on 200' wide road	7000	420.00
	Plots abutting on 80' wide road	6100	366.00
	Other plots	5800	348.00

Sr. No.	Description	Market Rate per SMT (₹)	Lease Rentals @ 6% per Sq. Mtrs. per annum (₹)
3	**Sector 3**		
	Plots abutting on 80’ wide road	6000	360.00
	Plots having frontage on three sides	7100	426.00
	Other plots	5700	342.00
4	**Sector 4**		
	Plots abutting on 155’ wide road	6600	396.00
	Plots abutting on 80’ wide road	6000	360.00
	Plots having frontage on three sides	7100	426.00
	Other plots	5700	342.00
5	**Sector 5**		
	Plots abutting on 80’ wide road	5400	324.00
	Plots abutting on 60’ wide road	5200	312.00
	Plots having frontage on three sides	6200	372.00
	Other plots	4900	294.00
6	**Sector 6**		
	Plots abutting on 155’ wide road	5700	342.00
	Plots abutting on 80’ wide road	5400	324.00
	Plots abutting on 60’ wide road	5200	312.00
	Plots having frontage on three sides	6200	372.00
	Other plots	4900	294.00
7	**Sector 7**		
	Plots abutting on 80’ wide road	7100	426.00
	Plots having frontage on three sides	8100	486.00
	Other plots	6500	390.00
8	**Sector 8**		
	Plots abutting on 200’ wide road	9400	564.00
	Plots abutting on 150’ wide road	9000	540.00
	Plots having frontage on three sides	11200	672.00
	Other plots	7500	450.00
9	**Sector 9A**		
	Plots abutting on 200’ wide road	6600	396.00
	Plots abutting on 80’ wide road	6100	366.00
	Other plots	5500	330.00
10	**Sector 9B**		
	Plots abutting on NH-8A	6600	396.00
	Plots having frontage on three sides	8300	498.00
	Other plots	5500	330.00
11	**Sector 9C**		
	Plots abutting on NH-8A	6600	396.00
	Other plots	5500	330.00
12	**Sector 10**		
	Plots abutting on 150’ wide road	3400	204.00
	Plots abutting on 80’ wide road	3100	186.00
	Other plots	2900	174.00
13	**Sector 11**		
	Plots abutting on NH-8A	4200	252.00
	Plots abutting on 150’ wide road	3900	234.00
	Other plots	3500	210.00
14	**Sector 12**		
	Plots abutting on 200’ wide road	3800	228.00
	Plots abutting on 155’ wide road	3600	216.00
	Plots having frontage on three sides	4000	240.00
	Other plots	3300	198.00

Sr. No.	Description	Market Rate per SMT (₹)	Lease Rentals @ 6% per Sq. Mtrs. per annum (₹)
15	**Sector 13**		
	Plots abutting on NH-8A	3000	180.00
	Plots abutting on 150’ & 155 wide road	2900	174.00
	Other plots	2600	156.00
16	**Sector 14**		
	Plots abutting on 150’ wide road	3000	180.00
	Plots abutting on 80’ wide road	2900	174.00
	Plots abutting on 60’ wide road	2700	162.00
	Other plots	2600	156.00
17	**Sector 1-A (NU-10A)**		
	Plots abutting on 200’ wide road	20100	1206.00
	Plots abutting on 80’ wide road	18400	1104.00
	Other plots	16700	1002.00
18	**NU-10/B**		
	Plots abutting on 200’ wide road	8300	498.00
	Plots abutting on 110’ wide road	8000	480.00
	Plots abutting on 80’ wide road	7600	456.00
	Plots having frontage on three sides	9100	546.00
	Other plots	7300	438.00
19	**NU-3**		
	Plots abutting on 110’ wide road	12700	762.00
	Plots abutting on 80’ wide road	12100	726.00
	Plots abutting on 60’ wide road	11600	696.00
	Other plots	11000	660.00
20	**NU-4 (DC-6)**		
	Plots abutting on 80’ wide road	5700	342.00
	Plots abutting on 60’ wide road	5400	324.00
	Plots having frontage on three sides	6500	390.00
	Other plots	5200	312.00
21	**DC-6 (Main)**		
	Plots abutting on 80’ wide road	5700	342.00
	Plots abutting on 60’ wide road	5400	324.00
	Plots having frontage on three sides	6500	390.00
	Other plots	5200	312.00
22	**NU-1, 2 & 5 in DC-5**	5200	312.00
23	**NU-3 & 4 in DC-5**	3400	204.00
24	**DC-5 (Main)**	5700	342.00

4. In accordance with the consultative procedure prescribed, a copy of the proposal of KPT was forwarded to the concerned users / user organisations seeking their comments. The comments received from users/ user organisations were forwarded to KPT as feedback information. The KPT has responded to the comments made by the users/ user organisations.

5. Based on a preliminary scrutiny of the proposal, we have vide our letter dated 28 June 2010 sought additional information/ clarifications from KPT. The KPT under cover of its letter dated 28 September 2010 has furnished its reply. A summary of the queries raised by us and the replies received from KPT is tabulated below:

Sl. No.	Queries raised by us	Response of KPT
(i).	The KPT to furnish the following:	
	(a).A layout plan of the GTL showing sector wise details of the areas allotted for different purposes.	(The KPT has furnished a copy of the Layout plan of GTL which shows different Sectors and open spaces.)
	(b). Details of open areas, if any, within the sectors.	

<table>
<tr><td></td><td>(c). Sector-wise details of rate fixed by State Government of Gujarat for the purpose of stamp duty as applicable on 31 December 2008.</td><td>(The KPT has furnished a copy of document giving details of the Gujarat Government Jantri rates ASR 2006.)</td></tr>
<tr><td></td><td>(d). The basic amenities like water, road, lightening, etc provided by KPT at GTL and the year wise expenditure incurred thereon.</td><td>The basic amenities like water, lighting, road, etc are provided by the municipality and not by KPT. However, KPT incurs expenditure on Central Drainage System and Administration & Office. The KPT has furnished a statement showing the income and expenditure relating to Gandhidham Township for the years 2005-06 to 2009-10, as given below:

Statement showing the income and expenditure relating to Gandhidham Township.

(₹ in Lakhs)
<table>
<tr><th>Description</th><th>2005-06</th><th>2006-07</th><th>2007-08</th><th>2008-09</th><th>2009-10</th></tr>
<tr><td>Operating Income</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>Ground Rent</td><td>54.31</td><td>45.26</td><td>45.38</td><td>30.08</td><td>13.61</td></tr>
<tr><td>Other Income</td><td>27.58</td><td>51.72</td><td>29.14</td><td>27.15</td><td>16.14</td></tr>
<tr><td>Transfer Fee</td><td>117.72</td><td>101.14</td><td>83.27</td><td>68.32</td><td>160.04</td></tr>
<tr><td>Mortgage Fees</td><td>86.11</td><td>139.10</td><td>203.10</td><td>60.66</td><td>170.55</td></tr>
<tr><td>Premium</td><td>0.00</td><td>0.00</td><td>0.00</td><td>0.00</td><td>0.00</td></tr>
<tr><td>TOTAL INCOME</td><td>285.72</td><td>337.22</td><td>360.89</td><td>186.21</td><td>360.54</td></tr>
<tr><td>Township Maintenance</td><td>102.10</td><td>110.12</td><td>111.14</td><td>152.52</td><td>171.63</td></tr>
<tr><td>Office Est. & Gen Exp.</td><td>171.72</td><td>158.12</td><td>144.62</td><td>175.62</td><td>312.29</td></tr>
<tr><td>Depreciation</td><td>95.14</td><td>105.03</td><td>121.00</td><td>131.13</td><td>144.08</td></tr>
<tr><td>TOTAL EXPENSES</td><td>368.96</td><td>373.27</td><td>376.76</td><td>459.27</td><td>628.00</td></tr>
<tr><td>SURPLUS</td><td>-83.24</td><td>-36.05</td><td>-15.87</td><td>-273.06</td><td>-267.66</td></tr>
</table></td></tr>
<tr><td>(ii).</td><td>KPT to confirm that the lands allotted to the SRC and IFFCO are not affected by the present proposal.</td><td>M/s. SRC and M/s. IFFCO have separate area, which is governed by a different lease arrangement and hence they are not affected by the present proposal.</td></tr>
<tr><td>(iii).</td><td>KPT has sought approval for revised rentals from 1 January 2009. KPT to confirm that the lease agreement entered into by KPT in the past with lessees contain a clause allowing for retrospective revision of the lease rentals.</td><td>Yes. The lease agreements entered into by KPT with lessees contain a clause allowing for retrospective revision of ground rent.</td></tr>
<tr><td>(iv).</td><td>As per para 12 (vii) of this Authority's Order dated 22 April 2008, the lease deeds to be executed subsequent to the Order are to contain a clause regarding recovery of lease rent at 6 % of the market value of the land and no recovery of any development charges and ground rent. KPT to confirm that it has complied with this stipulation.</td><td>It is confirmed that the new lease will contain a clause regarding recovery of lease rent at 6% of the market value of the land and no recovery of any development charges and ground rent.</td></tr>
<tr><td>(v).</td><td>KPT to clarify the applicability of the revised rates in the case of lease agreements entered into prior to 1999.</td><td>Since old lease provide for recovery of ground rent, the present clause of lease rent is not applied.</td></tr>
<tr><td>(vi).</td><td>KPT to furnish the Sector-wise lease rentals as of 31 December 2008 and revenue for the years 2008 – 09 and 2009 – 10 from GTL.</td><td>The sector wise ground rent receivable as of 31 December 2008 is furnished.

(As per the details furnished by KPT, the total Ground Rent receivable from 16 sectors as on 31 December 2008 is ₹16.66 lakhs).

The revenue for the year 2008-09 and 2009-10 is as given in the table mentioned at (i)(d) above.</td></tr>
</table>

(vii).	The financial implications including the additional revenue that would be generated per annum on account of the proposed rate structure sector-wise may be furnished.	No plot has been allotted after approval in 1999. (The reply furnished by KPT is not found useful.)
(viii).	At the time of the revision of rates effective from 1 January 2004, the port informed that its proposal either to sell the land on freehold basis or on lease is pending with the Government of India. The present position in this regard may be informed.	The present Government guidelines allow only leasing of the land through competitive bidding for 30 years. However, a proposal is being made to Government to convert all residential and residential cum commercial plots into freehold.
(ix).	As per Govt. letter dated 8 March 2004 any or all of the following factors can be taken into consideration to determine the market value of the port land: (i) Land value as per State Govt's ready reckoner, (ii) Average rate of actual relevant transactions registered in last three years in the port's vicinity, adding 2% escalation per annum, (iii) Highest accepted tender of Port land for similar transactions, (iv) Rate arrived at by an approved valuer and (v) Any other relevant factor as may be identified by the port. The rates now proposed by KPT are solely based on the recommendation of a land valuer. KPT to furnish the analysis of the market value assessed by it under all options given in the Government guidelines.	(a).The number of transactions registered every year are approximately 200 in number. Calculation of average rate for last three years is highly time consuming and such average rate may not reflect the realistic rate as the rates in such transactions tend to be speculative and hence not considered. (b).The last auction was made in 2004 and hence the same is not considered. (c). Since, the valuer has considered all the factors including transaction carried out during last three years, jantri rates, etc., the rate recommended by Valuer is considered for the revision.
(x).	The Board vide T.R. No.200 dated 10 March 2010 has, interalia, resolved to await the decision of the Gujarat High Court for implementing new market price now being recommended for calculation of the transfer fee as the matter is subjudiced. The details in this respect may be provided for perusal.	The writ is filed by way of challenging the authority of the Board in charging the transfer fee and implementation of the same with retrospective effect.
(xi).	The GCCI in its letter dated 20 May 2010 has stated that at the meeting held on 29 March 2010, the Board of Trustees of KPT has approved the conversion of lease hold land of the township into freehold land. KPT to furnish the details in this regard and explain its implications on the proposal in hand.	The proposal of conversion of residential and residential cum-commercial lease hold land of the township into freehold land is under examination and hence, the implications on the proposal can be given only after finalization of the same.
(xii).	GCCI has stated that the rates shown in various Tables contained in the valuation report for the years from 1990 to 2009 are imaginary in nature and are neither realistic nor convincing. According to GCCI, this fact can be verified from the office of the sub-registrar, Anjar/ Gandhidham. KPT to ascertain and confirm the accuracy of the sale transactions considered by the valuer for arriving at the market value of the Gandhidham Township Land.	The approved valuer has stated in their report that they have submitted their report after following due procedure given below. It is pertinent to mention that Deputy Collector, Anjar Taluka was a member of the rate revision committee, who has fully agreed with the proposal. Hence, there appears no need to confirm the same. 1. Understanding of Assets 2. Collection of Data Information & Document 3. Analysis & Review of Data 4. Visit to site

		5. Valuation methodology selection 6. Market survey 7. Data research & analysis 8. Valuation report
(xiii).	In this Authority's Order dated 22 April 2008, the lease rate per annum has been approved for 22 Sectors. KPT has now proposed lease rates for 24 Sectors. Instead of having one rate for Sector 9, KPT has now proposed rates for sector 9-A, Sector 9-B and Sector 9-C. The circumstances under which Sector 9 has been expanded to cover Sector 9-A, Sector 9-B and Sector 9-C may please be informed.	Since the area of the Sector 9 is different from each side as per locality, the market rate has been expanded as per its location.
(xiv).	Table III of the valuation report, interalia, furnishes the average of the highest bids received, sector wise, during the auction held in 2004. How this average has been arrived at may be explained.	During process of tender, the rate received is purely on the basis of competition and the need of the tenderer for that particular land. Hence taking into consideration the highest offer received shall be a burden on general public. Further, they become much on the higher side. Hence, average rate has been arrived on the basis of bid value received from the number of offer received from the particular sector.
(xv).	The Jantri rates effective from 1 April 2008 shown in Table III of the valuation report are four to five times more than the D.C. rates effective from 1 January 2004. A comparison of the Jantri rates and D.C. Rates as of 2008 may be made and reasons for variations, if any, between them may be explained.	The ready reckoner considered for fixing rate is the one used by Gujarat Government for the purpose of stamp duty and the same is revised after 1999 in 2008 due to hike in the price of land in Gandhidham Township in the aftermath of Earthquake in 2001 on the basis of transaction registered with them.
(xvi).	Table IV shows the highest land rates in various sectors of Gandhidham amongst the transactions registered in sub-registrar's office. Since KPT has proposed the revision with effect from 1 January 2009, the transactions registered closer to this date only are of relevance for fixing the revised rate structure for Gandhidham Township Land. It is, however, observed that in many of the Sectors although the rates prevailed in 2008 were more than that of 2007, the rates registered in 2009 are lower than that of 2008. The reason for fall in the land transaction rates during 2009 may be ascertained and informed.	The consideration amount shown in the document registered with Registrar is generally shown based on the source of income of the person, whereas, the actual amount of the transaction is higher than the registered amount. Therefore, the same cannot be compared.
(xvii).	After considering the D.C. rates prevailed during 1983 to 2004 (Table I), the bids received in the auction held on 2004 (Table II), the Jantri rates effective from 1 April 2008 and the average of the highest bids received in the auction held in 2004 (Table–III) and the highest land transactional values registered in sub-registrar's office during 1990 to 2009 (Table IV) the land valuer has come to the conclusion that the land transaction values registered are inconsistent and	It is stated that the proposal of allotment of plot auctioned during 2004 was sent to Govt. of India for approval and the same has been rejected by the Govt. of India in 2007. No action was taken after that. However, the matter is taken up with Ministry for giving in principle approval to call for the Bids of 283 vacant plots.

	they differ from the market rates. He has, therefore, considered the bids received by KPT during the auction held in 2004 as the basic rates. KPT to confirm that no action was held after 2004. Port may also clarify how auction conducted in 2004 would weigh predominantly in determining the market value of 2009.	
(xviii).	Since the market value arrived at by the valuer is predominantly based on the bids received by KPT in the auction of 2004, KPT to furnish the basis on which upfront rates were fixed for the auction held in 2004. Further, in the auctions held in 2004 wide variation is visible in the highest and lowest premium quoted. The reasons therefor have also to be analyzed by KPT and communicated to us.	The upfront rates that were fixed for the auction held in 2004 were on the basis of Basic Consideration amount per sq. meter (i.e. Development Charges) plus upfront ground rent per square meter (i.e. ground rent which is 2.5% of Development charges discounted @ 12% for 30 years). Since, the users have their own logic and interest for quoting the different rates, the same cannot be analyzed.
(xix).	In Annexure III to KPT's letter dated 19 April 2010, details pertaining to the highest mortgage amount from 1 January 2006 to 31 December 2008 (commercial) and average consideration amount from 1 January 2006 to 31 December 2008 (commercial) are shown in respect of all the Sectors. Since it is not clear what the highest mortgage amount and average consideration amount stand for, KPT to clarify.	The highest mortgage amount is the maximum amount per Sq. Mtr., where the permission of mortgage given by KPT in the different sector between said period for commercial activity. The average consideration amount is the total amount divided by total sq. mtrs for the transaction carried out in the different Sectors registered in the Registrar Office between said period.
(xx).	In para 10.14 of the report, the valuer has stated that his valuation exercise is based on the data, information etc collected from the market and represents the open market condition based on the technical / logical analysis. He has, however, stated that for fixing the lease rentals, a special land pricing policy (discount/premium) can be evolved after considering other factors such as socio economic factors causing impact on cargo business, competition with other ports, impact of land prices on other aspects of economy etc. KPT in its proposal has not considered any special land pricing policy referred to herein. KPT to confirm that the other factors pointed out by the land valuer will not make any substantial impact while arriving at the market value of the Gandhidham Township Land.	Since the lease rental is to be calculated at 6% of market value as per the land policy guidelines dated 8/3/2004 and the present policy does not allow discount / premium, the KPT has not considered any special land pricing policy referred to herein.
(xxi).	The KPT to forward a draft Scale of Rates, including the conditionalities attached thereto, for allotment of land at GTL.	The KPT has furnished a draft scale of rates.

6.1. A joint hearing in this case was held on 29 July 2010 at the Kandla Port Trust premises. At the joint hearing, KPT and the users/ organisation bodies have made their submissions.

6.2. At the joint hearing, the Gandhidham Chamber of Commerce and Industry (GCCI) has furnished its written submission regarding conversion of leasehold interest of Gandhidham township and the transfer fees. A copy of written submission furnished by GCCI during joint hearing was forwarded to KPT with an advice to examine the objections raised by GCCI especially with reference to the submission made by them during the hearing about Gandhidham lands not falling within the purview of MPT Act. The KPT has not responded.

6.3. As decided at the joint hearing, the KPT was requested to furnish some additional information/ clarifications. After reminders, the KPT under cover of its letter dated 28 September 2010 has furnished the details. The information sought by us and the replies furnished by KPT thereon are summarized below:

Sr. No.	Information/ clarification sought	Response of KPT
(i).	Reply on detailed questionnaire sought from the KPT vide our letter dated 28 June 2010.	(The replies furnished by KPT have been tabulated at paragraph 5 above.)
(ii).	Copies of the Orders of Hon'ble Gujarat High Court in the WP referred in Trustees agenda note and copies of the orders of Ministry of Shipping, which was passed as directed by the Hon'ble Court.	The copies of Order of Hon'ble Gujarat High Court in the WP No.1045/2010 dated 04.02.2010 referred in Trustees agenda note is furnished. (The Order dated 4 February 2010 passed by the Gujarat High Court relates to staying of the operation, implementation and execution of a Resolution dated 7 July 2009 passed by KPT and consequential Circular dated 29 October 2009 regarding levy and recovery of Transfer fee.)
(iii).	Copies of the papers relating to the PIL disposed by the Delhi High Court.	The PIL is pending in the Delhi High Court.
(iv).	A comparative statement of Jantri rates and the proposed rates for each of the sectors clearly explaining how the land valuation complies with the Central Government guidelines in respect of each of the sectors.	A comparative statement of Jantry rates and proposed rates for each of the sector alongwith other rates considered for rate revision is furnished.
(v).	The provisions in the pre 1999 leases about revision of lease rentals and conditions set out to deal with any breach or changes in the lease conditions.	The provisions in the pre 1999 leases about revision of Ground Rent and conditions set out to deal with any breach or changes in the lease condition is furnished.
(vi).	KPT to examine the objections raised by GCCI specifically with reference to the submission made by it about Gandhidham land not falling within the purview of the MPT Act.	Section 49 of the MPT Act provides the power for Scale of Rates and statement of conditions for use of property belonging to Board.

7. Subsequently, the GCCI vide its letter dated 16 November 2010 has furnished further comments. The comments of GCCI were forwarded to KPT. The KPT vide its letter dated 25 January 2011 has responded.

8. The KPT vide its letter dated 1 April 2011 has requested to extend the validity of the Rate structure of Gandhidham township from 1 October 2010 to 30 June 2011.

9.1. In the meanwhile, the Ministry of Shipping under cover of its letter dated 4 March 2011 has forwarded to us a copy of the Land Policy for Major Ports of 2010, which has come into effect from 13 January 2011. Clause 3 of the Land Policy for Major Ports – 2010 stipulates that the Land Policy is not applicable to the land relating to the Gandhidham Township of KPT.

9.2. Bringing out the background of the proposal filed by KPT, a detailed letter was addressed to the Ministry of Shipping (MOS) on 26 April 2011 seeking clarifications with reference to clause 3 of the Land Policy 2010 for Major Ports. The MOS was requested to clarify whether the intention of Government is to free Gandhidham Township from the regulatory jurisdiction of TAMP altogether including pending proposals or whether the earlier land policy of 2004 will continue to apply to Gandhidham Township. This was followed by several reminders.

10. The KPT vide its letter dated 6 February 2012 addressed to MOS with a copy endorsed to us, stated that though the Land Policy Guidelines, 2010 exclude Gandhidham township land of KPT, the assets pertain to KPT, and under Section 49 of the Major Port Trusts Act, the Authority is authorized to frame the Scale of Rates and statement of conditions for use of property belong to Board. Further the KPT has stated that it appears that Ministry has already taken action to prepare and issue Land Policy Directives using Section 111 of the MPT Act. The present Land Policy Guidelines may not be superseding MPT Act provisions as far as the Authority is concerned. As such, the KPT requested MOS to impress upon the Authority to fix the lease rentals of Gandhidham Township land of KPT.

11. Eventually, the Ministry vide its letter dated 9 March 2012 has clarified that as per provisions contained in Section 49 of the MPT Act, 1963, the Authority shall frame Scale of Rates for any property belonging to or in possession or occupation of the Board. Hence Gandhidham township land (though excluded from the purview of the Land Policy Guidelines for Major Ports, 2010) shall also come under the purview of the Authority for the purpose of framing, fixing/ revising Scale of Rates.

12.1. Some petitioners challenged before the Hon'ble Gujarat High Court the Resolution of the KPT of July 2009 and the consequential Circular of October 2009 whereby the transfer fee in respect of transfer of sale of leasehold rights of a particular plot was sought to be levied with effect from 1 January 2004. Petitioners made further prayers to declare that the transfer fee in respect of transaction of transfer of plots, the basis and criteria adopted for determining the transfer fee is artificial, unrealistic and arbitrary.

12.2. The case was heard by the Single Judge and was referred to the Division bench to treat and hear the matter as a public interest litigation.

12.3. The Division bench heard the matter and passed a judgement on 9 May 2011. The relevant paragraphs of the judgement are reproduced below:

> *" 59.1 It has been brought to our notice that the acquisition of land for Kandla Port Organization was made on 9.2.1953 when sub-merged area admeasuring approximately 346.5 sq. miles were handed over to Kandla Port Organization for development. It is only after development of the sub-merged area that the lands were leased in favour of one or the other lessees, including some of the petitioners. Now if they want to transfer the developed land, it is always open to the Board of Trustees of Kandla Port, who is the owner of the land, to ask for 50% of the unearned increase i.e. the difference between the lumpsum development charges already paid and market value as, by that time, the market value has gone up only because of development made by the Kandla Port Trust."*
>
> *"60. All the lessees, including the second and the third petitioners, derive a right to hold lease land under the lease deed. The right to assign, sub-let, transfer the land, which belongs to Kandla Port Trust, they can derive only under clause 6(I)(A) of the lease deed. Therefore, they cannot challenge clause 6(I)(A) or part thereof, which, if annulled, will take away their claim to assign, sublet, transfer or otherwise part with the demised premises."*

13. 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.

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

(i). The rate structure of Gandhidham Township lands was approved in April 2008 for a period of five years beginning from 1 January 2004. The next revision was due from 1 January 2009. The KPT requested this Authority from time to time to extend the validity of the then existing rate structure on the ground that assessment of the market value of its landed estate was under progress. Thereafter, the KPT has filed its proposal for revision of the rate structure of Gandhidham Township land in April 2010.

When the proposal was under consultation with the relevant stakeholders, the Land Policy for Major Ports – 2010 came into effect from 13 January 2011. The Land Policy of 2010 exempted Gandhidham township of KPT from its ambit. Therefore, a reference was made to Government in April 2011 to clarify whether the earlier land policy of 2004 will continue to apply to Gandhidham Township land.

In the absence of requisite clarification from the Government, the proposal of the KPT could not be taken up for finalization inspite of the position that the consultation proceedings in the case were concluded way back in March 2011.

After regular follow up, the Ministry of Shipping vide its letter dated 9 March 2012 has clarified that fixation of rentals for Gandhidham township land falls under the regulatory purview of this Authority in view of the provisions contained in Section 49 of the MPT Act, though excluded from the purview of the Land Policy Guidelines for Major Ports, 2010. For the purpose of determining lease rentals for the lands belonging to the Port Trusts, this Authority is mandated to follow the land policy guidelines issued by the Government from time to time as stipulated in Clause 8 of the tariff guidelines issued by the Government in March 2005, as a policy direction under Section 111 of the MPT Act, 1963. Accordingly, this Authority fixes the estate related charges for the estates of the major port trusts in exercise of its powers under Section 49 of the MPT Act and follows the extant land policy guidelines of the Government to determine the lease rentals. The reference made to the Government was only to obtain clarification from MOS whether its intention was to exclude Gandhidham lands from the regulatory purview of this Authority. The reply furnished by the Ministry can only be taken to mean as negating the stipulation of non-applicability of Land Policy 2010 to Gandhidham lands and not placing any fetters in adopting the methodology specified in the said guidelines for determining lease rentals in the case of Gandhidham lands. Therefore, fixation of rate structure for the Gandhidham Township land is processed in line with the Land Policy Guidelines of 2010.

(ii). As in the past, the GCCI has again raised the issue of jurisdiction of this Authority to revise the rate structure of the Gandhidham Township land. In this regard, this Authority at paragraph no. 12(ii) of its Order dated 22 April 2008 has held that:

"The GCCI has raised an objection relating to the jurisdiction of this Authority to revise the rate structure of GTL. Similar objection raised in the past by GCCI has been extensively dealt with in the Order dated 21 March 2002 of this Authority while disposing of the rate revision proposal related to the very same Gandhidham Township Land. In that Order it has been made clear that (i) this Authority has jurisdiction over all the properties and assets, wherever located, of a Major Port Trust for the purpose of framing Scale of Rates and statement of conditions and (ii) the Gandhidham Township Lands are properties of KPT and charges are levied for use of such properties and hence there can be no doubt about this Authority's statutory power over prescribing the rates to be charged. Further, the KPT in unequivocal terms has stated that the contention of the GCCI that TAMP has no locus standi to revise the rate of the GTL is not acceptable to it."

It is noteworthy that the KPT during the current proceedings of the case has also unhesitantly stated that this Authority is empowered under Section 49 of the MPT Act to frame the Scale of Rates and statement of conditions for use of properties belonging to the Board. Even the Government has endorsed this position, as brought out in the preceding paragraph.

(iii). During the proceedings of this case, the GCCI has made a mention about the Special Civil Application filed before the Hon'ble High Court of Gujarat by some parties and about the interim stay granted by the Hon'ble Court for levy of transfer fee by KPT. On the ground that the matter relating to transfer fee is directly related to the rate structure of Gandhidham township land, the GCCI has objected to the proposal of KPT for revision of rentals.

As brought out earlier, the Hon'ble High Court has disposed of the Special Civil application in May 2011 and upheld the right of KPT to levy transfer fees. In any case, as far as recovery of Transfer fee is concerned, it is relevant to mention here that this Authority vide its Order No.TAMP/10/2000-Genl. dated 4 February 2000 and 31 August 2000 has held that this Authority does not have the jurisdiction to approve 'Mortgage Fee' / 'Transfer Fee' in the absence of a specific provision therefor in the Major Port Trusts Act. This position was recorded in the earlier Order of April 2008. Further, the current proposal of KPT is for revising the lease rentals of Gandhidham township land and not for prescription of any transfer fee/ Mortgage fee.

(iv). The proposed lease rentals for the Gandhidham township lands alongwith the conditionalities have been recommended by a Committee headed by Chairman, KPT and consisting of officials of KPT and Asst. Collector of Anjar taluka. The GCCI has expressed a grievance that the participation of the representative of the users in the Committee is avoided by KPT. The KPT has confirmed that the views of the users and industry were obtained by it before it finalized the rate structure. The proposed lease rentals and the conditionalities have been approved by the Board of Trustees of KPT.

(v). The Land Policy Guidelines of 2010 lay down the procedure and the methodology to be adopted for determining the market value and the lease rental of the port lands. As per Clause 6.3(1) of the Land Policy Guidelines, the market value of land can be determined taking into consideration any or all of the factors like (i) State Government's ready reckoner value, (ii) the average rate of actual relevant transactions took place in last three years for the lands in the port's vicinity, adding 2% escalation per annum, (iii) highest accepted tender value of port lands for similar transaction, (iv) rate arrived at by an approved valuer and (v) any other relevant factors as may be identified by the port. The lease rent has to be fixed at 6% of the market value of the land so determined and the rate is to be escalated by 2% per annum till such time the rate is revised with approval of this Authority.

(vi). While according approval to the proposal for fixing/ revising lease rentals at other major ports trusts, this Authority has taken a view that it would be appropriate for a Port Trust to assess the market value under all options given in the Land Policy guidelines and derive lease rentals based on the one which is most beneficial to the port. The KPT was, therefore, requested to furnish an analysis of the market value assessed of its landed estates under all options given in the Land Policy guidelines. Reportedly, the valuer engaged by the port has considered all the factors and determined the market value of the land for fixation of rate structure for Gandhidham township lands.

(vii). The approach adopted by the valuer in valuation of the Gandhidham township land and to arrive at the proposed lease rentals is summarized below:

(a). There is great mismatch among the rates of the State Government, existing rates at KPT, land rate from the transaction registered in the sub-registrar office and the bids received by KPT during the auction held in the year 2004. Since the bids received by KPT during the auction held in the year 2004 are the actual transactions and reasonably represent the actual market conditions/ behavior, the valuation exercise is based on bids received by KPT.

(b). Since the highest bid price received for an auction may not represent the actual market scenario, the highest bidder rate is discounted by 15% to adjust for the specific bidder's interest factor.

(c). Further, as the auction data is available for some sectors only, the basic rate for the land of other sectors have been estimated considering their location, predefined usage, development as compared to the sectors for which the auction data is available.

(d). The Gandhidham land has been leased by KPT for a period of 99 years. The value of land at KPT situated at Gandhidham is highly influenced by factors like performance of the port, activities of the port, features of the port, economic development of the State as well as the country, real estate market etc. These factors have been converted into percentage and assigned appropriate weightage to form a general index. The independent generalized index based on the above mentioned factors as of the year 2009 works out to 259%.

(e). Taking the auction data of 2004 as the basic rates and applying the generalized index suitably on the basic rates, the market value for the different sectors of Gandhidham has been arrived for the year 2009.

(f). Considering a yield of 6% per annum on the market value of land, the lease rentals for the various sectors has been arrived by KPT.

A similar approach was adopted by the valuer in determination of market value of Kandla lands of KPT, which was considered by this Authority in Order No.TAMP/21/2010-KPT dated 25 March 2011.

(viii). Though the KPT has stated that valuer has considered all the factors for determination of market vaule of land, the valuer has considered only the value of the bids received by KPT during the auction held in the year 2004 on the ground that there is mismatch in the rates obtained from the various sources. Land being a valuable resource, a port must strive to ensure the maximum income from its landed estates. Determining the market value of land based only on a single approach may not always reflect the correct position. Nevertheless, taking into account the position that a Committee headed by Chairman of KPT has relied upon the Report of the Valuer and that the proposal of KPT has the approval of its Board of Trustees and also taking into account that no objection is raised by any of the users consulted in this case, with regard to the approach adopted for valuation of land, the approach adopted by KPT is relied upon to base the calculations on the market value of the land as assessed by the valuer.

(ix). Based on the above discussions, the lease rentals for the lands of Gandhidham Township as proposed by the Port is approved.

As seen from the rentals approved by this Authority, there would be an average increase in the rentals to the tune of around 528% as compared to the prevailing escalated rentals as of the year 2008. In this context, it is relevant to mention here that the users have objected to the steep increase in the lease rentals proposed by the port. The Land Policy Guidelines of 2010 requires the lease rentals to be revised every five years based on the prevailing market value of the land. The market value of the land is bound to go up with the passage of time. The KPT has framed the proposal following the Land Policy Guidelines and the hike in the lease rentals is, therefore, inevitable.

(x). Inspite of a specific request to furnish the additional revenue that would be generated per annum on account of the proposed increase in the sector-wise rate structure, the KPT has not given a concrete reply. However, it is relevant to mention here that based on the cost position furnished by KPT for the Gandhidham township lands for the year 2009-10, even with the proposed increase in the lease rentals to the tune of around 528% and maintaining the other income and expenditure relating to the Gandhidham township lands as given by KPT, the estate related activity relating to Gandhidham township lands would be in deficit. This is, however, not a relevant fact here as lease rent fixation/ revision does not follow cost plus approach.

(xi). The KPT has sought approval to the revised rates retrospectively with effect from 1 January 2009 i.e. on expiry of five years from the date of effect of previous rates from 1 January 2004. The KPT has reported that the lease agreement entered into by KPT with the lessees contain a clause allowing for retrospective revision of ground rent. It is also relevant to mention that the guidelines issued by the Government in March 2010 require revision of the base rate once in five years. In view of the Government guidelines in this regard, and also recognizing that the lease agreements entered by the KPT reportedly contain a specific clause allowing retrospective revision, the proposal of the KPT for retrospective revision of rates in respect of its Gandhidham Township Land from 1 January 2009 is accepted. Consequently, the rates approved now shall supersede the rates prevailed during the extended period of validity from 1 January 2009 to 30 September 2010. It is noteworthy that during the last revision of rate structure of Gandhidham township lands vide Order dated 22 April 2008, the effect for the revised rate structure was given retrospectively.

(xii). In the existing rate structure for the land of Gandhidham township, single rate is prescribed for Sector 9. However, KPT has now proposed separate rates for Sector 9-A, Sector 9-B and Sector 9-C. The KPT has sought to explain that the area of each side of Sector-9 is different from each other. Since the proposed rates for Sector 9-A, Sector 9-B and Sector 9-C is based on the market value of the respective area of Sector-9 and taking into account the position that there is no specific objection from the users for such trifurcation, the proposal of KPT in this regard is approved.

15.1. The revised lease rentals for Lands at Gandhidham township alongwith the conditionalities is attached as **Annex**.

15.2. The revised lease rentals for Lands at Gandhidham township will come into effect retrospectively from 1 January 2009 and will be in force for five years. The approval accorded would automatically lapse thereafter unless specifically extended by this Authority.

(Rani Jadhav)
Chairperson

Annex

RATE STRUCTURE FOR THE LAND AT GANDHIDHAM TOWNSHIP

Sr. No.	Description	Lease Rentals per Sq. Mtrs. per annum (₹)
1	**Sector 1**	
	Plots abutting on 200’ wide road	420
	Plots abutting on 155’ wide road	402
	Plots abutting on 80’ wide road	366
	Plots having frontage on three sides	438
	Other Plots	348
2	**Sector 2**	
	Plots abutting on 200’ wide road	420
	Plots abutting on 80’ wide road	366
	Other plots	348
3	**Sector 3**	
	Plots abutting on 80’ wide road	360
	Plots having frontage on three sides	426
	Other plots	342
4	**Sector 4**	
	Plots abutting on 155’ wide road	396
	Plots abutting on 80’ wide road	360
	Plots having frontage on three sides	426
	Other plots	342
5	**Sector 5**	
	Plots abutting on 80’ wide road	324
	Plots abutting on 60’ wide road	312
	Plots having frontage on three sides	372
	Other plots	294
6	**Sector 6**	
	Plots abutting on 155’ wide road	342
	Plots abutting on 80’ wide road	324
	Plots abutting on 60’ wide road	312
	Plots having frontage on three sides	372
	Other plots	294
7	**Sector 7**	
	Plots abutting on 80’ wide road	426
	Plots having frontage on three sides	486
	Other plots	390
8	**Sector 8**	
	Plots abutting on 200’ wide road	564
	Plots abutting on 150’ wide road	540
	Plots having frontage on three sides	672
	Other plots	450
9	**Sector 9A**	
	Plots abutting on 200’ wide road	396
	Plots abutting on 80’ wide road	366
	Other plots	330
10	**Sector 9B**	
	Plots abutting on NH-8A	396
	Plots having frontage on three sides	498
	Other plots	330
11	**Sector 9C**	
	Plots abutting on NH-8A	396
	Other plots	330
12	**Sector 10**	
	Plots abutting on 150’ wide road	204
	Plots abutting on 80’ wide road	186
	Other plots	174

Sr. No.	Description	Lease Rentals per Sq. Mtrs. per annum (₹)
13	**Sector 11**	
	Plots abutting on NH-8A	252
	Plots abutting on 150’ wide road	234
	Other plots	210
14	**Sector 12**	
	Plots abutting on 200’ wide road	228
	Plots abutting on 155’ wide road	216
	Plots having frontage on three sides	240
	Other plots	198
15	**Sector 13**	
	Plots abutting on NH-8A	180
	Plots abutting on 150’ & 155 wide road	174
	Other plots	156
16	**Sector 14**	
	Plots abutting on 150’ wide road	180
	Plots abutting on 80’ wide road	174
	Plots abutting on 60’ wide road	162
	Other plots	156
17	**Sector 1-A (NU-10A)**	
	Plots abutting on 200’ wide road	1206
	Plots abutting on 80’ wide road	1104
	Other plots	1002
18	**NU-10/B**	
	Plots abutting on 200’ wide road	498
	Plots abutting on 110’ wide road	480
	Plots abutting on 80’ wide road	456
	Plots having frontage on three sides	546
	Other plots	438
19	**NU-3**	
	Plots abutting on 110’ wide road	762
	Plots abutting on 80’ wide road	726
	Plots abutting on 60’ wide road	696
	Other plots	660
20	**NU-4 (DC-6)**	
	Plots abutting on 80’ wide road	342
	Plots abutting on 60’ wide road	324
	Plots having frontage on three sides	390
	Other plots	312
21	**DC-6 (Main)**	
	Plots abutting on 80’ wide road	342
	Plots abutting on 60’ wide road	324
	Plots having frontage on three sides	390
	Other plots	312
22	**NU-1, 2 & 5 in DC-5**	312
23	**NU-3 & 4 in DC-5**	204
24	**DC-5 (Main)**	342

Notes

(i). The lease rent prescribed above will bear an escalation @ 2% per annum.

(ii). The base rates prescribed above will be valid for a period of five years with effect from 1 January 2009.

(iii). All other conditions governing the lease rentals shall be in line with the Government guidelines.

<u>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</u>

F. No.TAMP/20/2010 - KPT - **Proposal from Kandla Port Trust (KPT) for revision of rate structure for Gandhidham Township Land of Kandla Port Trust.**

The summary of comments received from the users/ user organisations and comments of Kandla Port Trust (KPT) thereon are tabulated below:

Sr. No.	Comments of the user organizations	Comments of KPT
1.	**The Sindhu Resettlement Corporation Ltd. (SRCL)**	
(i).	The land admeasuring 2600 acres leased out by Govt. of India to this Corporation since 1955 is meant for further sub-leasing on the terms and conditions as contained in Head Lease Deed executed on 28.11.1955 by and between Govt. of India and this Corporation.	Since the Land Policy is for the major port and SRC Limited is indirectly connected with the port, the land policy issued by the Government of India is also applicable.
(ii).	The rate structure is being revised periodically on No profit No Loss basis by us which is not commensurate with the rate structure prevailing for Gandhidham Township Land of the KPT primarily because the concept and area of operation are different.	
(iii).	Further, the Land policy for Major Ports issued by Ministry of Shipping, Government of India vide its letter No. PT – 17011/55/87-PT dated 08.03.2004 does not involve / affect the Head Lease Deed entered into by and between Government of India and SRC as the said lease deed contains express terms and conditions.	
(iv).	This Corporation has no role to play in Revision of rate structure of Township Land pertaining to KPT. However, the Corporation may participate in the joint hearing of the matter, if so desired by the Authority.	
2.	**The Gandhidham Chamber of Commerce & Industry (GCCI)**	
(i)	The proposal of KPT does not give the fair picture of the position as no mention is made about the Special Civil Application No. 1045 of 2010 filed by Shri. L. H. Mehta v/s. Kandla Port Trust before Hon'ble High Court, Gujarat, where interim stay against the operation and implementation of impugned circular dated 29.10.2009 regarding levy of Transfer fee by Kandla Port Trust is granted. While the matter is subjudice, we feel, there is no justification / logic in referring the matter to TAMP, till the matter is finally decided by the Hon'ble High Court, as the matter of transfer fee is directly related to the scale of rates for township land.	The revision is made as per the provisions of the Land Policy Guidelines issued by the Government of India.
(ii).	The conversion of lease hold land of the township into freehold is duly approved in the meeting of Board of Trustees for Kandla Port on 29.3.2010 and as such burdening the township land with heavy dose of rates is beyond one's comprehension.	The present Government guidelines allow only leasing of the land through competitive bidding for 30 years. However, a proposal is being made to Government to convert all residential and residential cum commercial plots into freehold.

(iii).	During the course of visit of Secretary (Shipping) at Kandla Port in May 2010, he has categorically stated that a new policy will soon be declared for the land under Kandla Port Trust, which is aimed at solving most of the problems. He had confirmed during his visit that the proposal by Kandla Port Trust for conversion of land into free residential lands is under the positive consideration of the shipping ministry. As such, when comprehensive policy is in offing, there is no valid reason to consider the present proposal of Kandla Port Trust for enhancement in scale of rates.	Revision is made as per the provisions of the Land Policy Guidelines and till the decision is not taken for conversion of land into freehold, the present revision is in order.
(iv).	TAMP has no jurisdiction over the Gandhidham – Kandla Township land as TAMP can approve/ decide the rates of all commercial activities being undertaken at the major Ports of the country and deciding the rates for township land is outside the purview of TAMP.	Comments is to be given by TAMP.
(v).	It is observed from the copy of the minutes of the meeting of the Committee constituted for revision of rate structure of Gandhidham Township / Kandla land that the Committee consists of all Government, salaried officials only. Though huge burden on the general public is being created, the participation by the public, trustees of the Associations of users is avoided. This is against the principle of natural justice.	It may be true that the Rate Revision Committee constituted by KPT comprised entirely of Government officials, but at the same time it is to be appreciated that the view of the industry and port users were invariably obtained before taking any decision and the industry and port users are given ample opportunity and space to put forth their doubts and apprehensions and above all the tariff/ SOR is approved by a neutral authority i.e. TAMP. Further, the lease condition itself provides to levy 50% unearned increase in market value, hence the revision is in order and within prescribed guidelines/ framework.
(vi).	The allotment of land through execution of lease deed for 99 years is itself a “deemed sale” and as such the market value fluctuations should not impact the lessees.	
(vii).	The lessees have invested huge amount by striving hard and due to their contribution the port has flourished to great extent, making it a numero uno port of the country. Therefore, the prime concern of the port is to concentrate on the Port activities and not on residential land matters.	It is incorrect to state that port is concentrating only on the residential land matters. If so, how the KPT stood number one in the traffic handled in the major port trust of India.
(viii).	Imposing permanent liabilities on the residents of township at an interval of the time cannot be the object of the port.	The revision of rates are not done at the behest of KPT administration, but it is to be done at intervals fixed by GOI.
(ix).	For past so many years, no land is allotted to the public for residential purposes and as such the unavailability of the land has resulted in escalation of the prices. Gandhidham is the only township in the country, which is entirely on lease hold rights.	As per town planning, all the land vested with KPT is divided for different purpose and the residential land is kept reserved for own use of KPT employees. Kandla is not safe for residential purpose.
(x).	Kandla Port Trust manages the township land and ownership rests with the Central Government. Unaware of the future consequences, the lessees opted to have leasehold land. The allotment prices fixed by Kandla Port Trust was at par with freehold land and not the lease hold land.	The market rate in Gandhidham township is for leasehold only, as there is no freehold land. Revision is done as per the transaction carried out in the leasehold land only.
(xi).	The intention of Central Government at the time of allotment of land through President of India and subsequently through the Board of Trustees	The plots in the township are allotted only after carrying on development and by providing basis infrastructures

	was that the residential colony would be set up as per the Master Plan and to create the Model town. A blue print prepared by Kandla Port Trust for the information of general public was never implemented by KPT.	by spending huge money and same is developed as per Master Plan prepared by American Town Planners. But the responsibility to maintain civic amenities like road, sanitation, drinking water and other infrastructure facilities of the city rests with the Gandhidham Municipality and not with KPT.
(xii).	The decision to enhance the rates is ex-parte i.e. by Kandla Port Trust and it cannot be accepted / implemented.	As stated earlier, revision is done systematically keeping the Government Land Policy in view i.e. as per the rates prescribed in the Land Policy approved by the GOI.
(xiii).	The contribution of the Kandla Port Trust towards citizens' welfare activities and to development of township is not up to the mark, zero, whereas it wants huge profits from residential area of the township. The infrastructural work was being done by Kandla Port Trust upto 1986, but thereafter it has conveniently handed over such functions to the civic body.	The contention that KPT has not contributed towards citizens welfare activities and development of township is totally false and misleading. (In support of its claim, the KPT has drawn reference to the Layout plan furnished by it.)
(xiv).	As proposed rates are too high, it will result in multiplicity of the litigations against the KPT. The general public will not only invite anger and resentment, but it will have direct impact on the efficiency of the port.	As stated earlier, revision is made as per the prescribed Land Policy Guidelines within the terms of the Lease Agreement.
(xv).	The proposed scale of rates will have impact on ground rent which will be exorbitant and it will affect the general public in toto. This needs to be rationalized in a democratic way. There must not be profit motto. Similarly, proposed scale of rates will mean that huge Transfer fee has to be paid by the purchaser, whose plot, might have been allotted 30-40 years back at a very meagre cost.	The purpose of any rate revision, be it general rate revision or land related SOR, is to increase revenue in the National Exchequer, but this has to be within the prescribed guidelines/ framework. Accordingly, KPT revised its SOR looking to the administrative expenses and market value/ escalation of prices of land. Not doing so, will lead to loss to the National Exchequer. Further, the ground rent will be revised as per the provisions contained in the lease deed for the same.
(xvi).	The existing rates should be continued, as the enhanced new rate will have direct effect on the Transfer fee leading to wide repercussions.	
(xvii).	The enhanced rates structure will create anomaly as the plots allotted by M/s. SRC Ltd., will not have any impact and it will not apply to allotments made by SRC Ltd., This will create huge difference in payment of Transfer fee.	There should not be any anomaly, as the revision of the SRC plot is also implemented as per the Jantry Rate as per the prescribed regulation.
(xviii).	Page 40 of the valuation report says that the report is only recommendatory in nature and is neither intended nor valid for any other use. To rely solely on the report prepared in a short span of time is not reasonable. Many factors are not taken into consideration. The proposal is sent by KPT in a hurried manner. The rates shown in various tables for the years from 1990 to 2009 are imaginary in nature and are neither realistic nor convincing. This fact can be verified from the office of the Sub Registrar, Anjar / Gandhidham, from the records of various registrations made during the given period.	As stated by the approved valuer, they have submitted their report after following due procedure given below. It is pertinent to mention that Dy. Collector of Anjar Taluka was a member of the Rate Revision Committee, who has fully agreed with the proposal. Hence, there appears no need to confirm the same. (a). Understanding of assets. (b). Collection of data information & document. (c). Analysis and Review of data. (d). Visit to site. (e). Valuation methodology selection.

		(f). Market survey. (g). Data research & analysis. (h). Valuation Report.
(xix).	The land was originally allotted to rehabilitate the displaced, migrant Sindhis from Pakistan following partition of the country, at the instance of Mahatma Gandhiji. His Highness Maharao Shri of Kutch willingly agreed to donate the land without any consideration price, purely on humanitarian grounds. Again, the majority of the plots were allotted on payment of Development charges only and that too payable in 20 yearly repeat yearly equal installments. During this long span, the land price was not increased by the Port Administration. It is unfair that KPT now wishes to make profit out of land transactions.	The West Coast Major Port Development committee (WCMPDC) in its report dated 30 April 1948 recommended for developing Kandla as a major port and to freeze 400 sq. miles of area and acquire the same for establishing the major port and also for providing infrastructure facilities and backup area, as the entire land was barren and uninhabited. The WCMPDC also categorically mentioned the object of acquisition of such vast area is that benefits as a result of appreciation of the land value due to construction of major port should accrue as far as possible to port itself and not to individuals or corporate bodies.
(xx).	Instead of simply stipulating the scale of rates, the Port Administration should have calculated the total liability on each plot sectorwise so that the public can have an idea about the liability. As this issue concerns majority of the residents, the confidence and trust building exercise is very necessary.	It is clarified that the revision is done as per the different aspects and SOR is revised based on the location of the land only.

2. A joint hearing in this case was held on 29 July 2010 at the Kandla Port Trust premises. At the joint hearing, KPT and the users/ organisation bodies have made the following submissions:

Kandla Port Trust (KPT)

(i). In pre-1999 cases, the lease agreement conditions prevail. Government has not objected to this arrangement.

(ii). From 2004, only lease rentals are levied as approved and lease agreements contain provisions in this regard.

(iii). We have considered valuation under all options specified in the Government guidelines.

(iv). The market value assessed by our valuer is higher than State Government guideline values. We will furnish a comparative position.

(v). The auction conducted in 2004 covers about 102 plots. No auction has taken place thereafter.

(vi). The Gujarat High Court matter does not touch upon TAMP Order. It concerns an Administrative Order issued by KPT to extend the market value relied upon by TAMP to other cases.

Gandhidham Chamber of Commerce & Industry (GCCI)

(i). KPT asserts its right on the land when it comes to revenue recovery. They disown when civic facilities are to be developed in these lands. KPT pass it on to Municipal Council.

(ii). KPT was providing all municipal services till 1985. Now, they have handed over to Municipal Council but collect charges fixed earlier and that too at enhanced rates.

(iii). With the growth of population, the KPT failed to develop additional sectors, though land availability with KPT is not an issue. Therefore, artificial scarcity was created for the existing lands. Market price is therefore distorted.

(iv). Government Jantri rate is for freehold land. How can we compare Jantri land with Gandhidham land, which is leasehold?

(v). Since a 99 year lease is entered with an express provision for extension for another term of 99 years, it is lease in perpetuity. Therefore, it is to be taken as 'deemed sale'. If so, how can port ask for transfer fee with every transfer of ownership? State Government charges full stamp duty for registration.

(vi). The land value increased because of the efforts of people. KPT has not contributed anything. There is no justification for demanding Transfer fee to levy unearned income.

(vii). 2004 auction returned distorted value as some land was released to public after a gap of more than 20 years.

(viii). The anomalous position of KPT demanding transfer fee for unrealised income for each transfer and the State Government collecting stamp duty on registration, taking it as a sale, is a double jeopardy. If the first transfer is recognised as sale by the State Govt., how can KPT demand transfer fee on successive transfers?

(ix). TAMP has no jurisdiction. Even so, it cannot alter the conditions of leases entered 50 years ago.

3. The GCCI vide its letter dated 16 November 2010 has furnished further comments. The comments of GCCI were forwarded to KPT. The KPT vide its letter dated 25 January 2011 has responded. The comments of GCCI and comments of KPT thereon are tabulated as under:

Sr. No.	Comments of GCCI	Response of KPT
(i).	GCCI had represented that the revised land policy for all the major ports is in offing as was announced by Secretary of Shipping, duirng his visit of Kandla Port in May 2010. He had categorically stated that new policy is aimed at solving most of the problems. He had confirmed during his visit that the proposal by Kandla Port Trust for conversion of land into free residential lands is under the positive consideration of the Shipping Ministry. As such, when comprehensive policy is being finalized, there is no valid reason to consider the present proposal of KPT for enhancement of scale of rates.	The Kandla Port Trust Board vide Resolution no. 200 dated 10 March 2010 has approved the proposal of revision of rate structure of Gandhidham/Kandla land w.e.f. 1 January 2009 and the same is under consideration of TAMP. GCCI vide above has requested TAMP to return the proposal on the plea that the case for converting the Gandhidham Land from lease hold to freehold is already consideration. The request need not be required to be considered at present as the said proposal is at its initial stage.
(ii).	The Govt. of India itself believed that the authority of TAMP would not extend and is applicable to the land of Gandhidham Township, as the draft land policy clearly states that all major port lands EXCEPT Gandhidham township land will be under the umbrella of Major Port Trust Act. This implied that TAMP does not have authority to levy of fix any scale of rate and consideration of such proposal will be beyond their jurisdiction.	

(iii).	Further to above, it is already decided in the Board Meeting of KPT held on 29 July 2010 vide agenda item no. 29 for conversion of leasehold interest of Gandhidham township land (including composite land) into freehold and it is resolved vide Resolution No. 53 to approve to forward the proposal regarding formulation of scheme for such conversion.	
(iv).	It is therefore belief of the inhabitant of Gandhidham that the township land will be made freehold. In view of this development, the authority of TAMP is not applicable. Therefore the proposal may be returned to KPT and wait for the conclusion of the Land Policy for major ports, by the Ministry of Shipping,	

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