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Tariff Authority for Major Ports

G No. 118

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 Kandla Port Trust for revision of Scale of Rates of salt lands as in the Order appended hereto.

(Rani Jadhav)
Chairperson

TARIFF AUTHORITY FOR MAJOR PORTS

Case No. TAMP/15/2011-KPT

Kandla Port Trust

Applicant

ORDER

(Passed on this 9th day of April 2012)

This case relates to the proposal dated 19 February 2011 received from the Kandla Port Trust (KPT) for revision of Scale of Rates (SOR) of Salt Lands of KPT.

2. This Authority vide its Order dated 17 January 2006 had approved lease rentals in respect of salt lands leased out by KPT for 2 tariff cycles from 5 July 1999 to 4 July 2005 and from 5 July 2005 to 4 July 2010. Subsequently, at the request of KPT, the validity of the lease rentals in respect of Salt Lands was extended vide Order dated 3 November 2010 from 4 July 2010 for a period of six months. Thereafter, the validity of the lease rentals for Salt Lands was further extended by this Authority from 4 January 2011 till 31 March 2011, vide Order dated 18 January 2011 subject to the condition that the revised rates will be made applicable with retrospective effect.

3.1. In this backdrop, KPT has filed a proposal dated 19 February 2011 for revision of lease rent in respect of salt lands. The KPT has stated that sample tenders for 10 Nos. of plots (i.e. 5 plots of 50 Acres each and 5 plots of 100 Acres each) were floated by KPT in June 2010 in order to arrive at the present market value of salt land. After issuing allotment letters to the highest bidders, the approval of Board was obtained. Thereafter, the matter was placed before Land Valuation Committee for recommendation of revised rate structure of salt land for five years with effect from 5 July 2010.

3.2. Based on the report of the Committee, the KPT has proposed a uniform lease rent of ₹13,570.00 per acre per annum with effect from 5 July 2010 with escalation of 2% per annum for 5 years as per Guidelines.

3.3. KPT has informed that the above recommendation has been approved by its Board vide Resolution No.139 in its meeting held on 15.2.2011.

3.4. Subsequently, at our request, the KPT vide its e-mail dated 3 March 2011 has forwarded the copy of the Minutes of Land Valuation Committee Meeting held on 30.12.2010, Resolution No.139 of the Board Meeting held on 15.2.2011 and the list of concerned users.

4.1. The Minutes of the Land Valuation Committee shows that Chairman (KPT), Assistant Collector, Anjar and other officials of the KPT are the members of the Committee. The main points contained in the Minutes of Land Valuation Committee are summarised below:

- (i). The Government of Gujarat is, presently, charging ₹300/- per hectare + ₹8/- per metric tonne as Royalty (considering minimum production of salt land as 20 MT per year).
- (ii). No transactions are available in Sub-Registrar's Office for salt land, which was confirmed by the Land Valuer in his report.
- (iii). Tenders were invited by the KPT in June 2010 on sample basis for allotment of 10 plots (5 plots of 50 acres each and 5 plots of 100 acres each) for salt manufacturing considering the base rate as ₹3,700/- per acre per annum, as suggested by the approved land valuer.
- (iv). The amount quoted by the bidders in the 10 sample tenders are on the basis of upfront premium for 30 years.
- (v). The base upfront premium for 30 years lease is considered at ₹68,471/- per acre in the sample tenders.

- (vi). The average upfront highest premium quoted by the bidders for 30 years in the 10 sample tenders is arrived by ₹226098 per acre. Lease rental is worked out applying 6% thereon i.e. ₹13565.88 per acre/ annum.
- (vii). After discussing all factors and considering various Orders passed by the Hon'ble High Court of Delhi in PIL No.11550 of 2009 regarding immediate revision of rate structure of salt land and considering the economic growth in the surrounding areas of Kandla Market, availability of land and the rail and road connectivity in this region, the Committee recommended to keep only one category instead of existing three categories and also recommended to adopt an uniform rate of ₹13,570/- per acre per annum w.e.f. 5 July 2010 with escalation of 2% p.a. for 5 years.

4.2. Thus, based on the report of the Committee, the KPT has proposed a uniform lease rent of ₹13,570.00 per acre per annum w.e.f. 5 July 2010 with escalation of 2% per annum for 5 years as per Guidelines.

5. In accordance with the consultation process prescribed, the proposal of the KPT dated 19 February 2011 and subsequent letter dated 3 March 2011 were circulated to the users/ user organisations seeking their comments. The comments received from the users/ user organisations were forwarded to the KPT as feedback information. The KPT has responded to the comments made by the users/ user organisations.

6. Based on the preliminary scrutiny of the proposal, the KPT was requested to furnish additional information/ clarifications vide our letter dated 21 April 2011. The KPT vide its letter dated 24 May 2011 has furnished its reply. Since there were further gaps in the information furnished by KPT, the KPT was again requested vide our letter dated 7 June 2011 to furnish further clarifications. The KPT vide its letter dated 8 July 2011 has furnished further clarifications. A summary of the queries raised by us and the clarifications furnished by the KPT are tabulated below:

Sl. No.	Queries raised by us	Reply received from KPT
(i).	The Govt. of India, Ministry of Shipping, vide its letter No.PT-11033/4/2009-PT dated 4 March 2011 has announced the 'Land Policy for Major Ports-2010' for implementation by all Major Ports with effect from 13 January 2011. The KPT to review its proposal for revision of lease rental for salt land and confirm that it is in conformity with the revised land policy guidelines announced by the Ministry. If not, the proposal may be modified to comply with the revised land policy guidelines and the revised proposal may be submitted immediately.	It is to confirm that the proposal of KPT for revision of lease rental for salt land is in conformity with the 'Land Policy for Major Port-2010'.
(ii).	Clause 6.3 (1) (f) of Land Policy for Major Ports - 2010 announced by the Government stipulates that TAMP shall have the jurisdiction to fix rates for any land both within the customs bound area and outside it as long as the land is used exclusively for Port related activity. Please explain how the salt land leased by KPT is a Port related activity.	Very large quantities of salt produced in the region is being handled at Kandla Port. Hence the land leased out by KPT for salt production is port related activities. The KPT has furnished a statement showing the quantity of the bagged and bulk salt handled at Kandla Port from 2000-01 to 2010-11.
(iii).	KPT to furnish the total area of salt land available with the KPT with the details of utilised and unutilised areas. It may also be confirmed that allotment of salt land is made as per the approved Land Use Plan of the port.	Out of the 2,20,416 acres of submerged land, only 10% i.e. 22042 acres of this land is usable, as the other 90% is tidal affected area. Out of the 22042 acres of land, approx. 16000 acres of land were already allotted and recently 750 acres of land were allotted in 2010. The allotment of salt land is as per the Land Use Plan of the Port.
(iv).	The KPT has furnished a copy of the report of the Land Valuation Committee in support of its proposal. The following points require further information / clarification in this regard:	

	(a). The report states that the tenders were invited considering the base rate of ₹3,700/- per acre per annum, as suggested by the approved land valuer. KPT to furnish the basis and methodology adopted in arriving at the base rate of ₹3,700/- along with workings.	The KPT has furnished a copy of the relevant extract of the Land Valuer's report, which reads as follows: "12.0 Conclusion In absence of a developed market of salt land and the lack of data of transactions happened in the recent past, we are in the opinion that KPT should conduct a fresh auction on sample basis by inviting fresh expression of interest from the salt manufacturers. This sample auction will help ascertain market rent of salt land on larger scale. The base rate for sample auction of the salt land of KPT would be in the region of ₹3700/- per acre per annum."
	(b). The details relating to tenders received by the port towards auction of 10 Nos. of plots tabulated in the report indicates the basic premium at ₹68,471/- per acre (last column of the table). KPT to furnish the basis for arriving at this basic premium along with workings.	The KPT has furnished working sheet for arriving at the basic premium.
	(c). The KPT has considered the market value of salt land based on the average of the highest upfront premium for 30 years period quoted by the bidders in the 10 sample tenders invited by the port and applied 6% thereon to arrive at the proposed lease rental of ₹13565.88 per acre/ annum. Clause 6.3 (3) of the land policy guidelines stipulates the method to determine the upfront premium from the annual lease rentals applying the discount rate equal to 6% plus the annual escalation on lease rent. In the instant case, the port has obtained the upfront premium for 30 years period hence the reverse procedure has to be followed to determine the annualized present value of the salt land (i.e. as of July 2010 from when the port seeks revision) with reference to the highest upfront premium quoted for the ten samples of the salt land in order to arrive at the lease rate per annum.	It is to state that the upfront premium fixed by Kandla Port is itself is a Present Value. The total amount including over and above rate quoted by the bidder is the market value. As per the Land Policy for Major Port-2010, the Scale of Rates shall be 6% of the market value as rent per annum. Therefore, there should not be any reverse procedure to determine present value of land in order to arrive at lease rent per annum.
	(d). As per the report, the port had invited tenders for allotment of 10 plots, 5 plots each of area measuring 50 acres and 100 acres, on sample basis. From the list of licensees furnished by the port along with the report, it is seen that out of 41 allotments by the KPT, 25 allotments are for a plot size of 10 acres of area. In this connection, the KPT to confirm that the valuation of land obtained based on the sample tenders would represent the actual plot size which have been already allotted / to be allotted.	It is to confirm that the valuation of salt land is based on the sample tenders and it represents the actual size of the plots already allotted. Moreover, now the Land Valuation Committee has recommended that instead of the three categories of area, which were in vogue until now, uniform lease rent be adopted on per acre per annum basis.
(v).	As per clause 6.3. (1) of 'Land Policy 2010' issued by the Government vide its letter dated 4 March 2011, the applicable factors from the following may be taken into account 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. In this connection, the KPT to clarify the following points:	---
	(a). As regards option (i) stipulated in the guidelines, the KPT in the proposal has referred to present charges collected by the Government of Gujarat for salt land at ₹300/- per hectare + ₹8/- per	Para 6.3 (i) mentions to take into account the applicable factors among five factors mentioned in the said para to determine market value of port land. KPT has

	metric tonne as Royalty (considering minimum production of salt land as 20 MT per year). It may be noted that the option (i) of the guidelines mentions about the State Government's ready reckoner of the land value in the area and not the lease rent / royalty charged by the State Government. The KPT, therefore, to obtain and furnish the value of land, if any available as per the State Government's Ready Reckoner.	considered Highest accept tender of port land for similar transaction. Moreover, no such State Government's Ready Reckoner is available with KPT. An extract of the relevant page of Valuation Report is furnished.
	(b). The KPT has not explained the position with reference to the option number (iv) stipulated in the guidelines, i.e. rate arrived at by an approved valuer for determining the market value of the land. It is notable that for revision of lease rental for KPT lands, the port has submitted a valuation report by the valuer appointed by the port to assess the market value of Kandla lands. Please clarify whether the said valuation report covers valuation of salt lands of KPT as the position is not explicit in the report. If, however, the valuation report by the valuer does not cover valuation of salt lands, then the KPT may explain why the option of obtaining the valuation of salt land by appointing an approved valuer as done for the KPT lands is not considered in this case.	Kandla Port had appointed the Land Valuer for carrying out the valuation of the Salt land. As can be seen from the extract of Land Valuation Report on Salt land that the Land Valuer could not give any specific value and simply proposed to carry out sample auction to ascertain the market rates of the salt land on larger scale.
	(c). During the last revision of lease rentals for salt lands of KPT in January 2006, the KPT had pleaded that it could not obtain the valuation of land under the various methods prescribed in the guidelines and had proposed lease rental based on the rate at which Gujarat Maritime Board allotted land for salt export complex at Jakhau stating that the lands of Kandla and Jakhau are comparable. Please clarify whether such comparison of lease rentals charged at salt export complex at Jakhau is made this time and if so, furnish the details. If such an analysis not made, please explain the reasons therefor.	No comparison of other areas has been made as it is not necessary. The lease rent proposed by KPT is purely based on the market value arrived at by auction.
(vi).	The report of the Committee states that the proposed rate has been recommended after considering, inter-alia, the rail and road connectivity in the region. The KPT to inform whether the port has incurred / proposed to incur any capital expenditure on the infrastructure development of the salt land. If so, the details of expenditure may be furnished. Also, furnish annual maintenance cost, if any, incurred by the port on these lands.	No capital expenditure has been incurred on the salt land. It is to state that the National Highway Authorities had converted the 2 lane road into 4 lane and are planning to make the same into 6 lane road. The salt areas are in the vicinity of the same. The State Government has allotted land for the same purpose and the infrastructure facilities such as construction of road etc. has been done by the State Government. The railway department is constructing 2 line track from Gandhidham to Kandla for which the work is in progress. No amount has been incurred by KPT for maintenance of these lands. However, it is to state that any expenditure made by KPT on the salt land cannot be a criterion for fixing annual lease rentals. It is to be fixed on the market value which has been arrived at by KPT through sample tendering.
(vii).	The proposal seeks for retrospective revision of lease rent from July 2010 onwards. In this regard, the following may be clarified:	
	(a). Confirm whether the lease agreement entered by the KPT with the various lessees contains a	While requesting for renewal of lease periods, the parties have given an unconditional

	clause allowing for retrospective revision of lease rentals.	undertaking that they are ready to pay the revised lease rentals. Hence, rates can be applied with retrospective effect.
	(b). The Authority vide Order dated 18 January 2011 had extended the validity of the rates prescribed for salt land till 31 March 2011 which is also admitted by the KPT in its proposal. In this context, explain how the revision of lease rental can be sought from July 2010 onwards.	
(viii).	Please furnish the financial implications including the additional revenue that would be generated per annum on account of the proposed revision of lease rental for salt lands.	The KPT has furnished the financial implications including the additional revenue that would be generated per annum on account of the proposed revision of lease rentals for salt lands. As seen from the workings, as against the lease rent of ₹27.06 lakhs in the year 2011-12, the lease rent as per the proposed SOR would be ₹2186.26 lakhs per annum.
(ix).	The proposal of KPT makes a reference about various orders passed by the Hon'ble High Court of Delhi in PIL No.11550 of 2009 regarding immediate revision of rate structure of salt land. A copy each of the orders of the High Court of Delhi in this regard may please be furnished.	Copies of orders passed by High Court of Delhi are furnished.
(x).	The KPT to forward a draft SOR for prescribing lease rates for salt lands along with conditionalities governing the rates, in accordance with the 'Land Policy of Major Ports – 2010'	Draft SOR for prescribing lease rates for salt lands along with conditionalities governing the rates has already been sent which includes the guidelines of Land Policy for Major Ports-2010.
	Further queries raised by us vide our letter dated 7 June 2011.	Further replies furnished by KPT under cover of its letter dated 8 July 2011.
(xii).	Item 3 (iii) (a): The copy of the relevant portion of Land Valuer's report attached as Annexure - II states that the highest bid received by M/s.Hindustan Salts Limited [HSL] (a Government of India Enterprise) from the reputed salt manufacturers for allotment of land on license fee basis for the production of salt on their land situated at Little Runn of Kutch - Khataghoda is ₹4330/- per acre per annum as against the base rate fixed by HSL at ₹4350 per acre per annum for the said salt land. As against the above, the KPT has considered the base rate for inviting tender at ₹3700/- per acre per annum as suggested by the approved valuer appointed by the port. In this regard, the following points may be clarified:	---
	(a). Confirm whether the salt land of HSL at Little Runn of Kutch is identical and representative enough with reference to the salt lands at Kandla Port Trust for taking that as the base for inviting tenders for KPT salt lands.	The valuation report prepared by the valuer along with the observations regarding revision of rates of Gandhidham Township, Kandla Land and Salt Land at Kandla were recommended by the Land Valuation Committee and were placed before the Board of Trustees after detailed discussion and examination and have been accepted by KPT in toto. However, the rate of valuation report is only to enable fix basic price and the proposal is based on the market price received through Bids.
	(b). The extract of valuation report forwarded by the KPT states that highest bid is discounted in region of 10% to 20% for adjusting the specific bidder's interest factor. Please elaborate as the intention of allowing said discounts is not clear.	
	(c). The valuation report states that 15% average discount of over the highest bid price obtained by HSL (₹4330 per acre per annum) is considered for arriving at the base rate of ₹3700/- per acre per annum for the purpose of inviting tender for its salt land. The KPT may explain the factors considered for allowing such discount over	

	the highest bid price obtained for the salt land by another Government Organisation.	
(xiii).	Item 3 (iii) (c): (a). The reply furnished by the KPT does not address the query raised by us. As stated in our query, Clause 6.3 (3) of the land policy guidelines stipulates the method to determine the upfront premium from the annual lease rentals applying the discount rate equal to 6% plus the annual escalation on lease rent. Whilst the port has applied 2% annual escalation factor and discounting factor @ 6% for arriving at the base upfront premium of ₹68471 for 30 years period from base annual license fee of ₹3700 per acre per annum of 2009. Clause 5.3 (iii) of Land Policy 2004 as well as Clause 6.3 (3) of Land Policy 2010 stipulates adoption of a discount rate 'equal to the rate of 6% plus annual escalation on lease rent' shall be applied for arriving at upfront premium. It, therefore, appears that 8% (6% + 2%) discount factor needs to be adopted to arrive at upfront premium as against 6% considered by KPT.	(a). The calculation of the upfront premium has been made as per the interpretation of the clause no. 5.3.(iii) and 6.3.(3) of the Land Policy Guidelines 2004 & 2010 respectively.
	(b). The reasons why the method, of course in a reverse way, prescribed in the land policy was not adopted to derive annualised lease rentals from upfront premium received in auction, may be explained.	(b). As already stated, the calculations have been carried out strictly as per the clauses of the Land Policy Guidelines and no deviation/ reverse calculations have been considered.
	(c). The port has proposed to equate the market value of land to the highest upfront premium received in the auction. The port may justify its assumption that capitalised present value of 30 year lease rentals will represent market value of lands.	(c). The average rate of all Bidders has been considered for calculation of the market rate and not the highest rate.
	(d). The reply furnished by the KPT states that the total amount including over and above rate quoted by the bidder is the market value. The meaning of the underlined words is not clear.	(d). The "total amount including over and above rate quoted by the bidder" means that the "(Premium offered/acre over and above basic price) + (the Basic premium/acre) = (Total premium offered/acre)".
(xiv).	Item 3 (iv) (a): The port was requested to obtain and furnish the value of land, if any, available as per the State Government's Ready Reckoner. The KPT in response has stated that no such State Government's Ready Reckoner is available with KPT. The port may confirm that the State Government's Ready Reckoner does not prescribe guide value in respect of salt land of KPT or similar land in vicinity of salt land of KPT.	Regarding State Government's Ready Reckoner, it was specifically mentioned in the minutes of the Land Valuation committee that "presently the Government of Gujarat is charging ₹300/- per hectare + ₹8/- per metric tonne as Royalty (considering minimum production of salt land as 20 MT per year)".
(xv).	Item 3 (iv) (b): The port has furnished only extract of Land Valuation report on salt land reportedly carried out by land valuer appointed by the port. The KPT is requested to furnish a copy of the full report Land Valuation of salt land.	The complete report is furnished.
(xvi).	Item 3 (ix): The port has not forwarded the draft Scale of Rates along with conditionalities despite specific request. The KPT to furnish draft Scale of Rates for prescribing lease rates for salt lands along with	The conditionalities as approved in the previous occasions are as under :- (i). The rates prescribed above will bear an escalation of 2% per annum till such time the

	conditionalities governing the rates, in accordance with the 'Land Policy of Major Ports - 2010'.	rate is revised with the approval of the competent authority. (ii). The base rates prescribed above will be valid for a period of 5 years w.e.f. 5 July 2010.
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7.1. A joint hearing in this case was held on 5 May 2011 at the KPT premises. The KPT made a power point presentation of its proposal. At the joint hearing, the KPT and the concerned users/ organisation bodies have made their submissions.

7.2. At the joint hearing, KPT has furnished a copy of the Order dated 4 April 2011 passed by the Hon'ble High Court of Delhi in a Public Interest Litigation (PIL) concerning KPT. In order to ensure that best offers are received, the Court has directed the port to put up 10 more plots admeasuring 100 acres and 5 more plots admeasuring 50 acres to competitive bidding through fresh tender cum auction giving wide publicity in national Newspapers as well as taking recourse to e-tendering process.

7.3. At the joint hearing, the Gandhidham Chamber of Commerce and Industry (GCCl) furnished its written submissions. A copy of the written submission is given to KPT for its response. The KPT has responded on the submissions made by the GCCl.

7.4. As decided in the joint hearing, SKSLHWA furnished its written submission, after reminder, with a copy marked to KPT. The KPT has responded with its comments.

8.1. The KPT was advised at the joint hearing to update its proposal based on the price discovery to be made from the proposed auction of 15 plots, as directed by the Hon'ble High Court. The KPT was also requested to explain the reasons for adopting the same rate for the whole of its salt lands spreading over the distance of 50 kms. and for considering the average rate obtained in the auction already concluded to fix the market rate and to confirm that the discovered prices of the plots of land already auctioned and to be auctioned under the court direction will be representative enough to cover the whole of salt land under consideration.

8.2. In this regard, the KPT vide its letter dated 8 July 2011 has stated that the Scale of Rates sent to this Authority was based upon the rates received during the tender of 10 numbers of plots situated between village Padana and village Mithirohar. Now as per the direction of the Court, 15 number of plots are being auctioned through e-tender cum e-auction and these plots are situated in between village Padana and village Chirai. Even the earlier Scale of Rates of salt land was not based upon the distance, but was based upon the size of plots. Moreover, as already mentioned in the proposal dated 21 February 2011 "the Land Valuation Committee after going through all the requirement stipulated under Clause No.5.3.(I) of the Land Policy Guidelines issued by Ministry of Shipping, Government of India and considering various orders passed by the Hon'ble High Court of Delhi in PIL No.11550 of 2009 regarding immediate revision of rate structure of salt land and considering the economic growth in the surrounding areas of Kandla Market rates, availability of land and the rail and road connectivity in this region, etc., the Committee has recommended to keep only one category instead of existing three categories (i.e. (i). upto 10 acres, (ii). from 11 acres to 99 acres and (iii). above 100 acres) and has also recommended to adopt an uniform lease rent of ₹13,570.00 per acre per annum with effect from 5 July 2010 with escalation of 2% per annum for 5 years as per Guidelines. The KPT has submitted in its letter dated 29 August 2011 that no such decision was taken during the joint hearing regarding updating the proposal based on the price discovery to be made of the proposed auction of 15 nos. of plots and that its proposal dated 21 February 2011 holds good and there is no need for further updating the proposal.

8.3. It was brought to the notice of KPT that this Authority did insist on updating the proposal based on the price discovery to be made in the second auction carried out/ to be carried out, as directed by the Hon'ble High Court and that this Authority also required KPT to give a cogent analysis to show that the plots auctioned/ to be auctioned are representative enough to extrapolate the price discovery made in such cases to the entire salt lands which are reportedly spread over an area of about 50 kms. Further, it was also communicated that if the Port has any valid reasons for not updating the proposal and to ignore the price obtained in the second auction, the reasons for the same may be conveyed. Further, it was communicated that if KPT still desires that its original proposal should only be considered by this Authority, the Port should also certify

that such a stand will not violate the Order of the Hon'ble High Court dated 4 April 2011 which envisages a second round of auction to ensure 'that best offers are received'.

8.4. The reluctance of the KPT to update its proposal was brought to the notice of the Government, who is a party in the PIL before the Delhi High Court in this regard

8.5. After reminder, the KPT vide its letter dated 10 December 2011 has stated that the rates for salt land were supposed to be revised from 5 July 2010 onwards and that its proposal for revision is based on the recommendations of Government Approved Valuer and the rates received during the tendering/ auction at that time. It has, therefore, reiterated that its proposal dated 5 July 2010 relating to fixation of rentals for the salt lands holds good and has confirmed that the price discovery which will be received from the procedure of e-tendering cum e-auction will be proposed for the prospective effect. Subsequently, the KPT vide its letter dated 27 January 2012 has stated that it would not be proper on its part to certify that its stand of consideration of original proposal will not violate the order of the Hon'ble High Court of Delhi dated 4 April 2011. It has further stated that the Delhi High Court has not cancelled the auction already conducted.

8.6. Thereafter, the KPT vide its letter dated 2 March 2012 has stated that the e-tender and e-auction for allotment of 10 nos. of plots of 100 acres and 5 nos. of plots of 50 acres for salt manufacturing purpose in between Village Padana and Village Chirai on 30 years lease basis has been completed on 31 January 2012 as per Orders dated 4 April 2011 of the Hon'ble High Court of Delhi in PIL No.11550/2009. Accordingly, it has furnished a statement showing the rates received during the above e-auction for 13 plots. The upfront premium received during the e-auction are seen to be in the range of ₹274400/- per acre to ₹312868/- per acre with average being ₹301078/- per acre, which are seen to be higher than the average upfront premium of ₹226098/- per acre obtained by KPT in June 2010. The KPT has further stated that the proposal is yet to be placed before the Board for approval. The KPT has requested this Authority to take note of this position and convey the approval for fixation of rates for salt lands as per its proposal of February 2011. The KPT has not updated its proposal of February 2011 based on the rates received for 13 plots.

9. Subsequent to the joint hearing, some of the users/ user organisations have furnished further comments. The comments received from Gandhidham Chamber of Commerce & Industry (GCCI), Kutch Small Scale Salt Manufacturer's Association (KSSSMA) and Shri Kandla Salt Lease Holder Welfare Association (SKSLHWA) were forwarded to KPT for feedback information. The KPT has furnished its comments on the points made by the users.

10.1. 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. Para 6.3. (1) (f) of the Land Policy 2010 deals with jurisdiction of TAMP to fix Scale of Rates for port lands situated 'within the customs bound area and outside it as long as the land is used exclusively for port related activity'.

10.2. A detailed letter was addressed to the Ministry of Shipping (MOS) on 26 April 2011 requesting the Ministry, inter alia, to examine whether fixation of lease rent for salt land, would fall under the purview of TAMP as per para 6.3 (1) (f) of Land Policy 2010.

11.1. After reminders, the Ministry vide its letter dated 9 March 2012 has clarified that the salt pan lands should come under the port related purpose as such industries are primarily port based since substantial part of their production depends on the port for exports. The Authority may, however, take its own view following due procedure. The Ministry has also stated that it has advised KPT to furnish the information sought by this Authority vide its letter dated 24 October 2011 and that the KPT is bound to furnish the necessary information.

11.2. In this regard, as already brought out earlier, the KPT vide its letter dated 2 March 2012 has stated that the e-tender and e-auction for allotment of 10 nos. of plots of 100 acres and 5 nos. of plots of 50 acres for salt manufacturing purpose in between Village Padana and Village Chirai on 30 years lease basis has been completed on 31 January 2012 as per Orders dated 4 April 2011 of the Hon'ble High Court of Delhi in PIL No.11550/2009. Accordingly, it has furnished to us a statement showing the rates received during the above e-auction for 13 plots. The KPT has further stated that the proposal is yet to be placed before the Board for approval. The bid values obtained by the KPT in the second round of auction of 13 plots are found to be higher than the bid values obtained by KPT in June 2010. The KPT has requested this Authority to take note of this position and convey the approval for fixation of rates for salt lands as per its proposal of February

2011. The KPT has not updated its proposal of February 2011 based on the rates received for 13 plots.

12. 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>.

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

- (i). Lease rentals in respect of salt lands of KPT were last approved for 2 tariff cycles viz., from 5 July 1999 to 4 July 2005 and from 5 July 2005 to 4 July 2010 vide Order dated 17 January 2006 with retrospective effect. At the request of KPT, the validity of the existing lease rentals was extended from time to time subject to the condition that the revised rates will be made applicable with retrospective effect. Thereafter, the KPT has filed its proposal for revision of the lease rentals in respect of its salt lands in February 2011.
- (ii). The Land Policy for Major Ports – 2010 announced by the Government came into effect from 13 January 2011. The Land Policy 2010 deals with jurisdiction of this Authority to fix Scale of Rates for port lands situated within the customs bound area and outside it as long as the land is used exclusively for port related activity. Therefore, a reference was made to Government in April 2011 to examine whether fixation of lease rent for salt land, would fall under the purview of this Authority.

After regular follow up, the Ministry of Shipping vide its letter dated 9 March 2012 has clarified that the salt lands should come under the port related purpose as such industries are primarily port based and substantial part of their production depends on the port for exports. The Government has, however, requested this Authority to take its own views following due procedure.

With regard to the request of the Government, it is to be noted that the KPT has asserted that the land leased out by KPT for salt production is port related activity, since large quantities of salt produced in the region is being handled at the port for export. Statutorily, Section 49 of the Major Port Trusts Act empowers this Authority to frame the Scale of Rates and statement of conditions for use of property belonging to Board and more specifically, sub clause (d) of Clause (1) of Section 49 covers 'any other use of port trust lands'. That being so, the lease rental for the port salt land is required to be fixed by this Authority. This is not the first time that this Authority has fixed lease rentals for the salt lands of KPT. The lease rentals for the salt land at KPT were fixed earlier by this Authority in exercise of its powers conferred under Section 49 of the MPT Act.

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 following the extant land policy guidelines of the Government. Therefore, the proposal of KPT for fixation of lease rentals for the salt lands of KPT is processed following the provisions of the Land Policy Guidelines of 2010.

- (iii). The proposed lease rentals for the salt 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 proposed lease rentals and the conditionalities have been approved by the Board of Trustees of KPT. The Shri Kandla Salt Lease Holder Welfare Association (SKSLHWA) has expressed a grievance that only one non KPT member was part of the Committee. In this regard, it is relevant to mention here that Clause 6.3(1)(a) of the Land Policy guidelines of 2010 prescribe constitution of a Committee headed by the Chairman

of the port. It does not specify about other members to be inducted in the Committee.

- (iv). 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.

In spite of a specific query, the KPT has not furnished the value of the salt lands as per the State Government's Ready Reckoner. It has just stated that the Government of Gujarat is presently charging ₹300/- per hectare and ₹8/- per metric tonne as Royalty. The information furnished by KPT is not relevant as it does not indicate the guideline value of the salt lands as per the State Government's Ready Reckoner. Reportedly, there are no transactions in the recent past relating to the salt lands. Also, the Land Valuer could not give any specific value for the salt lands and has recommended to KPT to carry out sample auction to ascertain the market value of the salt land on larger scale. Thus, the proposal for fixation of lease rentals for the salt lands filed by KPT is based on the values obtained from auctioning/ tendering of 10 plots of salt lands in June 2010.

- (v). The approach adopted by KPT to value the salt lands and arrive at the proposed lease rentals is summarized below:
- (a). Based on the recommendation of the valuer to invite tenders at the base rate of ₹3700/- per acre per annum, KPT invited tenders in the month of June 2010 on sample basis for allotment of 5 nos. of plots measuring 50 acres each and 5 nos. measuring 100 acres each for salt manufacturing.
 - (b). The highest value of the upfront premium received for each plot for a period of 30 years has been taken into account by KPT. The average value from the highest bid values of all the 10 plots is at ₹226098/- per acre, which has been treated as the market value of the salt land by KPT.
 - (c). Considering a yield of 6% per annum on the market value of land so determined, the lease rental for the salt lands has been arrived by KPT at ₹13570/- per acre per annum.
- (vi). As can be seen above, the proposal filed by the KPT in February 2011 is based on the upfront premium received in the auction carried out by the KPT for 10 plots of salt lands in June 2010. As stated earlier, the Delhi High Court in its Order of April 2011 has directed the KPT to put up more plots to competitive bidding through fresh tender cum auction 'to ensure that best offers are received'. Keeping in view the intention of the Order of the High Court, the KPT at the joint hearing held on the case in reference in May 2011 was advised to update its proposal based on the price discovery of the second auction.

However, the KPT has maintained that since the lease rentals for salt land is to be revised from 5 July 2010 onwards, the rates received during the tendering/ auction at that time would be relevant and has further stated that the price discovery carried out subsequently from the procedure of e-tendering cum e-auction would be applicable for future. Though the Port has not updated its proposal for the reasons given above, it has furnished the values of the upfront premium received in the second auction carried out in January 2012, for the notice of this Authority.

The reluctance of the KPT to update its proposal was brought to the notice of the Government. From the clarification furnished by the Government in this regard, it

is seen that the thinking of the Government also appears to take into account the values of the second auction. It is noteworthy that the Government has also advised KPT to furnish the requisite details to this Authority.

Keeping in view the intention of the Order of the Delhi High Court and the thinking of the Government, there does not appear to be any reason to ignore the values of upfront premium received in the second auction. At the same time, the stand taken by the KPT that the values of the upfront premium received by it in June 2010 is relevant for calculating lease rentals from July 2010 cannot be brushed aside. Further, some of the user organizations have agitated about the representative character of the upfront premium received in the first auction held in June 2010. In this situation, the practical option appears to be considering the values of upfront premium of June 2010 alongwith the values of upfront premium of January 2012, as the average of the enlarged basket of values may even out the price fluctuations in individual cases. In this regard, it may be relevant here to note that salt lands of KPT are not categorised into different zones, but a uniform rate is traditionally fixed for the entire salt land.

That being so, the values of upfront premium received in the first auction of June 2010 and second auction of January 2012 are considered together to determine the lease rentals for the KPT salt lands. Since rentals are to be fixed as of July 2010, the values of upfront premium received in the second auction held in January 2012 cannot be considered without necessary adjustments to bring them to a common platform with the values of first auction of June 2010. The adjustment carried out in the values of the upfront premium received in the second auction is discussed in the later part of the analysis.

- (vii). The user organizations like Gandhidham Chamber of Commerce and Industry (GCCI) and Shri Kandla Salt Lease Holder Welfare Association (SKSLHWA) have strongly argued that since average of the bid values is for a period of 30 years, the lease rentals proposed by KPT needs to be divided by 30 years, to determine rentals for one year and thus, suggested to fix the lease rental at ₹452/- per acre per annum. The port has discounted such arguments and maintained that the lease rental has been calculated as prescribed in the Land Policy Guidelines.
- (viii). The KPT has treated the average of upfront premiums as the market value of the salt land on the assumption that the upfront premium for allotment of lands for 30 years received in auction is the market value of the land. As stipulated in clause 6.2.2.1(i) of the Land Policy Guidelines of 2010, lease of land on Upfront basis would mean one time consideration amount for the lease period and a nominal lease rent is to be collected every year for the currency of the lease period. In other words, the upfront premium quoted by the bidders incase of KPT salt lands is the present value of the market oriented lease rentals for the tenure of the lease i.e. 30 years which may not be the market value of the land, as contended by KPT. Since, the upfront premium cannot be equated with the market value of the land, the assumption of market value made by KPT does not appear to be in line with the guideline position.
- (ix). The upfront premium quoted by the bidders is the aggregate present value of the annual payment of lease rentals for a period of 30 years. The upfront premium cannot be simply distributed over a period of 30 years, as demanded by certain user organizations, in view of the time value of money.
- (x). One of the factors to be considered by a port trust for determination of market value of land is the highest accepted tender of port land for similar transactions, as stipulated in Clause 6.3(1)(iii) of the Land Policy Guidelines of 2010. Accordingly, the KPT has taken into account the highest value of the bids received for each plot in June 2010 and then arrived at the average of all the highest bids for determining the lease rental as a single rate is proposed to be prescribed for the entire salt lands. Further, it has to be recognized that consideration of the average values would even out the differences that may prevail in a range of values.

For the reasons stated earlier, the values of upfront premium received in the first as well as the second auctions held in June 2010 and January 2012 respectively are considered together to determine the lease rentals for the KPT salt lands.

As explained earlier, the upfront premium received in auction represents the aggregate of market value of lease rentals for the salt lands. It is noteworthy that Clause 6.3.1(c) of the Land Policy Guidelines stipulates an escalation of 2% per annum in the lease rentals. Also, Clause 6.1.1(a)(ii) makes a mention about escalating the average rate of registered actual transactions for the past years by 2% per annum so as to arrive at the present value of land. In the instant case, the upfront premium of tenders of January 2012 is to be brought to a common platform as of July 2010. Therefore, the upfront premium received in the second auction in the year 2012 is de-escalated by 2% per annum so as to bring them to the level of the year 2010. Accordingly, the revised average upfront premium works out to ₹261739/- per acre as of July 2010.

Clause 6.3(3) of the Land Policy Guidelines of 2010 prescribes application of a discount rate equal to rate of 6% plus annual escalation on lease rent, which is 2% per annum, for arriving at the upfront premium from annual rentals. In the case in hand, lease rentals are to be derived from upfront premium. Thus, it would be the reverse process to determine the lease rentals from the upfront premium. The annual lease rental so calculated applying the discounting factor of 8% and following the reverse procedure works out to ₹23249/- per acre per annum. [₹261739/- per acre/ 11.258 = ₹23249/- per acre per annum ; ₹261739/- being the average value of upfront premiums of the first and second auction and 11.258 being the present value for ₹1/- as per the Annuity Table for the discounting factor of 8% for a period of 30 years]

- (xi). Incase of allotment of land based on upfront basis, Clause 6.2.2.1(i) of the Land Policy Guidelines of 2010 requires levy of nominal lease rent every year for the currency of the lease period, apart from one time consideration of upfront premium. It is understood from the KPT that the port has already allotted the 10 plots and levies the nominal lease rent of ₹1/- per acre per annum.
- (xii). Based on the above discussions, the lease rentals for the salt lands of KPT as of 5 July 2010 is revised to ₹23250/- per acre per annum (₹23249/- plus ₹1/-) as against the rate of ₹13570 per acre per annum proposed by KPT. It is relevant to mention here that the determination of lease rentals based on the above mentioned approach is not explicitly covered by the Land Policy Guidelines of 2010. The tender value received by the KPT does not represent the market value of the land but only upfront premium from which the lease rentals are derived. Incidentally, incase of valuation of lands and buildings of Kolkata Port Trust (KOPT), one of the approaches adopted by the valuer (Price Waterhouse Coopers) to determine the lease rentals was the tender method. In this case also, the tender value was taken to represent directly the lease rentals and not the market value of the land.
- (xiii). The user organizations like Gandhidham Chamber of Commerce & Industry (GCCI), Kandla Salt Manufacturer's Association (KSMA) and Shri Kandla Salt Lease Holder Welfare Association (SKLHWA) have stated that the revised lease rentals would put a heavy burden on the small scale salt manufacturers. The user organisations have further stated that the Central Government and the State Government provide subsidies in various forms to the salt manufacturers. Further, the user organizations have contended that the Land Policy guidelines are applicable for new leases.

In this regard, it is to be noted that this Authority as well as the KPT are bound by the Land Policy Guidelines of 2010 for fixation of lease rentals based on the market value of the land. The Land Policy Guidelines of 2010 does not provide for any exceptional treatment for determination of lease rentals for the salt lands. This Authority is not the appropriate forum to deal with the issue raised by the user organizations relating to the grant of subsidies to the salt manufactures, as grant of subsidies does not fall under the regulatory ambit of this Authority. The market

oriented lease rentals are bound to go up with the passage of time and the hike in the lease rentals is, therefore, inevitable. Nevertheless, it is relevant to mention here that the rates fixed by this Authority are ceiling rates and the port has the liberty to levy lower rates, if it so desires.

The Land Policy Guidelines of 2010 stipulates revision of lease rentals every five years based on the market value of the land. That being so, the revision of lease rentals based on the market value of land would cover all the leases, i.e. new as well as existing leases. The Policy guidelines do not restrict itself for revision of lease rentals to new leases alone. It is noteworthy that as reported by KPT, the existing lessees have given an unconditional undertaking to pay the revised lease rentals.

- (xiv). Another issue agitated by some of the user organisation is about the representative character of the upfront premium received. KPT, however, seems to be convinced about the values considered in its proposal. It has to be recognised that salt lands of KPT have not been historically divided into different zones for the purpose of prescribing lease rentals, as the rate structures in the past were uniform for the entire estate. State Government Ready Reckoner values are not made available and the valuation report also does not suggest any zoning. It simply recommends sample auctioning to ascertain market response. Significantly, the higher values received in the second auction of plots located in a different area held in January 2012 under the directions of Hon'ble Delhi High Court may perhaps allay apprehensions, if any, about the values received in the first auction and may serve as an indicator that the values received in the first auction are not just aberrations or result of reckless bidding. For the reasons explained above, this Authority does not have any other alternative but to rely upon the upfront premiums obtained in the first and the second auction conducted by KPT to prescribe the lease rentals for the salt lands.
- (xv). Considering the economic growth in the surrounding areas of Kandla, availability of land and the rail and road connectivity in the region, the Committee has recommended to keep only one category for the levy of lease rentals on salt lands instead of existing three categories. The users have objected to such an arrangement and have opined that the salt manufacturer with land holding of less than 10 acres cannot be treated at par with the salt manufacturer having land holding of 100 acres and above. The KPT has confirmed that the valuation of salt land is based on the sample tenders and it represents the actual size of the plots already allotted. Therefore, the proposal of the port to prescribe uniform lease rentals for the salt lands is approved.
- (xvi). The KPT has sought approval to the revised rates retrospectively with effect from 5 July 2010 i.e. on expiry of five years from the date of effect of previous rates from 5 July 2005. The KPT has reported that the rates approved can be applied with retrospective effect as the parties have given an unconditional undertaking to pay the revised lease rentals. Further, the validity of the lease rentals for salt lands extended vide Order dated 18 January 2011 was subject to the condition that the revised rates will be made applicable with retrospective effect. 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 clear Government guidelines in this regard, and also recognizing that the lessees have given an unconditional undertaking to pay the revised lease rentals, the proposal of the KPT for retrospective revision of rates in respect of its salt lands from 5 July 2010 is accepted. Consequently, the rates approved now shall supersede the rates that prevailed during the extended period of validity from 5 July 2010 to 31 March 2011. It is noteworthy that during the last revision of rate structure of salt lands vide Order dated 17 January 2006, the effect for the revised lease rentals was also given retrospectively.
- (xvii). From the details relating to the additional revenue that would be generated per annum as furnished by KPT, it is seen that as against the lease rentals to the tune of ₹27.06 lakhs in the year 2011-12, the lease rent as per the rates proposed by KPT would be ₹2186.26 lakhs per annum. Since there is an increase of 71.33% in

the lease rentals for salt lands approved as compared to the lease rentals proposed by the port, the additional revenue that would accrue to KPT may also increase upto ₹3745.72 lakhs per annum. After taking into account the related expenditure, the treatment for the surplus from the estate related activity of KPT will be analysed while analyzing the physical/ financial performance of KPT during the next general revision of its Scale of Rates.

14.1. This Authority, therefore, approves lease rentals for salt lands of KPT at ₹23250/- per acre per annum with effect from 5 July 2010. This rate will bear an escalation of 2% per annum till such time the rate is revised again with the approval of the competent authority.

14.2. The revised lease rentals for the salt lands at KPT shall come into effect retrospectively from 5 July 2010 and shall be in force for five years. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

(Rani Jadhav)
Chairperson

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/15/2011-KPT - Proposal from the Kandla Port Trust for revision of Scale of Rates (SOR) of Salt Land leases.

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

Sl. No.	Comments of users/ user organisations	Comments of KPT
1.	Gandhidham Chamber of Commerce & Industry (GCCI) Kandla Salt Manufacturer's Association (KSMA) and Shri Kandla Salt Lease Holder Welfare Association	
(i).	The salt manufacturers are in possession of the approx 16000 acres of leased land since 40 to 50 years. Kandla Port Trust was in possession of approx. 2,20,416 acres of submerged and marshy which was suitable only for production of salt. The land was submerged marshy land located at faraway places such as Old Kandla, Kharirohar, Chirai, Padana, Jangi etc. situated in port limit which was of no use to port for its development. Since the leased lands were marshy, barren and undeveloped, Kandla Port Trust at their own had offered the land for production of salt to private investors. The lessees, by their sheer hard work, developed the barren land to make capable of producing best quality of salt.	KPT is having 2,20,416 acres of submerged land, out of which only 10% can be used for salt manufacturing purpose and approximately 16,112 acres of land was allotted by the Land Development Commissioner of Kandla Port Trust Organisation during 1962 to 1964 on nomination basis. The stretch of land is from Jungi to Kandla in the water front of approximately 60 to 70 kms.
(ii).	The salt manufacturers have spent huge sum of money for creating the infrastructure on the leased land and the present satisfactory level is achieved due to their efforts. There are approximately 50 salt manufacturing units operating in 16000 acres of land since last more than 40 to 50 years, and producing 3 to 3.5 million tonnes of salt every year. 5000 poor families of agarias are dependent on the working of salt industry. In case of any hardship on the salt manufactures, the said families will be worst hit.	For salt manufacturing there is no need for creating any infrastructure, only construction of earthen bunds is required. Hence, the contention of the Association towards spending huge sum is not correct.
(iii).	Kandla Port Trust, till date has not spent even a single rupee on the development of salt leased land. When Kandla Port was hit by Cyclone, even then there was no input from Kandla Port Trust to take any safety measures or to protect anyone. It was only the lessees who from their hard work from their hard earned money developed the Port, built roads, cyclone shelter etc. Again, the natural calamities such as cyclone, earthquake, famine etc. are common for the District which creates	It is correct that Kandla Port Trust has not carried out any infrastructure development work in the areas allotted for salt manufacturing except the proposal to develop SEZ in some salt land for which action has been taken to take possession. In this regard, it is to further state that users are comparing the proposed lease rent with the investment made by the port on the salt land. Such a comparison is wrong because as per Land Policy for Major Ports, 2010 the lease rent is to be fixed on the basis of market rate only. KPT has arrived at the market rate through tendering process. Until and

	problem in the development of the Salt industry.	unless, the market value is questionable the lease rent cannot be less than 6% of market value. For any relaxation in this regard, approval of Ministry is required as per para no.5.7 of Land Policy for Major Ports, 2010																								
(iv).	It is for the first time in the history of independent India that such a heavy burden of rent on the salt manufacturing units is proposed by Kandla Port Trust. It is worth recalling here that the tax on salt by the British led to the Dandi March under the leadership of Shri Mahatma Gandhi – father of the Nation. This movement ultimately laid the foundation for the country's independence struggle. Therefore, the hike is against the spirit of said movement of Gandhiji, who fought British relentlessly 80 years ago for a cause, which Kandla Port is acting against.	As per government guidelines the rates are supposed to be revised every 5 years. The table showing revision of rates year-wise is as under: <table><tr><th>Description</th><th>Prior to 1973</th><th>1973</th><th>Rates approved by Govt. vide letter No.PR-14012(8)/94-PG dated 5/7/94 applicable w.e.f. July 1994</th><th>Rates w.e.f. 1999 as approved by TAMP</th><th>Rates w.e.f. 2005 (upto July 2010) as approved by TAMP</th></tr><tr><td>1. Plots admeasuring 10 acres</td><td>30.00</td><td>90.00</td><td>200.00</td><td>342.00</td><td>445.00</td></tr><tr><td>2. Plots admeasuring more than 10 acres but less than 100 acres</td><td>30.00</td><td>45.00</td><td>100.00</td><td>171.00</td><td>222.00</td></tr><tr><td>3. Plots admeasuring more than 100 acres</td><td>10.00</td><td>30.00</td><td>65.00</td><td>111.00</td><td>144.00</td></tr></table> The proposed increase is approximately 94 times more than the existing lowest rate of ₹144/- per acre per annum.	Description	Prior to 1973	1973	Rates approved by Govt. vide letter No.PR-14012(8)/94-PG dated 5/7/94 applicable w.e.f. July 1994	Rates w.e.f. 1999 as approved by TAMP	Rates w.e.f. 2005 (upto July 2010) as approved by TAMP	1. Plots admeasuring 10 acres	30.00	90.00	200.00	342.00	445.00	2. Plots admeasuring more than 10 acres but less than 100 acres	30.00	45.00	100.00	171.00	222.00	3. Plots admeasuring more than 100 acres	10.00	30.00	65.00	111.00	144.00
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(v).	Salt is the lowest cost commodity in India so that even the poorest can use it. Low cost commodity like salt cannot absorb the increase in production cost to an extent, which will create worst situation, as poorest of the poor will be affected.	The KPT has allotted only 16,442 acres of land for salt manufacturing, whereas state government has allotted approximately 8 to 10 lakh acres of land (as stated by the users. Hence, it cannot be considered with the overall production of salt nation-wide.																								
(vi).	Government of India's Iodisation programme – "IODISED SALT FOR ALL" will suffer serious set back, as due to steep investment in the rent of lease cost of salt will also stand accelerated. As such downsizing the rate structure of lease rent is extremely necessary and important.																									
(vii).	The existing lessees have developed the barren land, where only scorpions and snakes were found in abundance. At that time, nobody wanted to come forward and develop salt fields. The old, existing lessees should not be penalized by irrational increase, as they are holding land since long and sudden increase in lease rent is unjustified as it will hamper the entire production of salt. Only because the lessees came forward 40 to 50 years back and volunteered to develop salt land by their own efforts, they should not be penalized with the heavy burden of paying the rent which will take away all their hard work of past 40-50 years.																									
(viii).	Salt is farming process. By the virtue of its being farming, Governments grant subsidies for its production. Even today, Government of Gujarat has been sanctioning ₹40 to 50 crores approximately annually for welfare activities such as construction of approach roads, provision of drinking water,	The KPT has not furnished any comments.																								

	construction of labour shelters, quarters for Agarias, education, transport, medical facilities, etc. KPT has not spent a penny towards welfare activities for developing infrastructure of the port. The Department of Railways also grants subsidy by way of concession in freight, so that the salt is available to the consumers at a most reasonable rate. The sudden arbitrary and retrospective increase in rent is completely without any application of mind and against the government policy. Most of the State Governments also grant subsidy to the people below poverty line category by distribution of salt through Public Distribution System, so that the iodisation programme is successful. Increase in lease rent will result in increase in price of salt, in result will affect the public distribution system of Government.	
(ix).	Kutch is considered to be a backward place, where rainfall is scanty and uneven and as agricultural activity is negligible, the poor people from nearby places totally depend upon the salt industry for their livelihood. Increase in rent will affect all the said poor families, resulting in unemployment. The salt industries generates employment being labour oriented industry.	
(x).	During the worst time of famine, earthquake, cyclone, the Government of Gujarat had waived the Royalty/ Ground Rent etc. but KPT has not granted any concession to the lessees during worst time and even any other time. There is therefore no justification for increase in the lease rent by more than 10000%. KPT till date has done nothing for the development of the leased land, therefore, is not entitled to any increase in lease rent or any premium on it.	The increase in the lease rental is not 10,000 percent but it is only 94 times comparing with the previously approved rates by TAMP.
(xi).	The Government of Gujarat has allotted about 8 to 10 lakh acres of land on liberal terms and conditions and with a very low rent and on the contrary KPT is now seeking to charge a very high rent.	The present rate structure is as per government guidelines.
(xii).	As the salt industry already faces number of problems and the proposal for revision of rate structure of salt land as recommended by Land Valuation Committee to adopt uniform lease rent of ₹13,570/- per acre per annum with escalation of 2% per annum for a period of five years w.e.f. 5th July 2010 onwards is exceptionally high, arbitrary and totally unjustified.	
(xiii).	The rate arrived @ ₹13,570/- is highly exaggerated and imaginary, as this rate might have arrived at on the basis of market rate obtained by floating tender of some other area. However, these sample rates cannot be considered as market rates, as	The rate is not imaginary nor exaggerated but considering all the aspects provided under Land Policy Guidelines the same has been arrived. The slab of 10 acres, 100 acres and above 100 acres has been removed considering the economic growth in the surrounding areas of Kandla Market rates,

	the economics of the person holding 50 acres of land and that of 1500 acres of land would vary substantially and surely would be different. The rates have been fixed by floating tenders for 50 and 100 acres of land. It is stated that the price as obtained with regard to 50 to 100 acres of land cannot be applied uniformly as a person bidding for 50 acres of land would bid for a higher price and a person bidding for 500 acres of land would bid for a comparatively lower price, therefore, there is no justification for making the rates applicable uniformly. The elimination of slab structure is not justified, as the salt manufacturer with land holding of less than 10 acres is treated at par with the salt manufacturer having land holding of 100 acres and above. This is against the principles of natural justice, as extent of loss will be high in case of the former, who have very small land holding and are categorized as Agarias with very small means. Further for the tenders floated by KPT, the bid prices were offered as the economics condition of the said area are better as compared to the existing salt leased land.	availability of land and the rail and road connectivity in this region and to adopt a uniform lease rent.
(xiv).	The increase in rates of lease is completely against the government policy. On the one hand the government has subsidized the rate of salt and on the other hand increased rate of lease rent which is wholly and completely arbitrary and unjustified and the lessees are being unnecessarily burdened with the said unjustified increased rent. Further, as a consequence of unrealistic increase in lease rent, the price of salt, an essential commodity, will increase, which will have a widespread and detrimental effect, not only on the lessees but also on the public at large. This increase will prove to be a death knell of the salt industry and will not be considered in the interest of general public.	The increase in rate structure is as per government guidelines.
(xv).	The Kandla Port Trust being a State within the meaning of Article 12 of Constitution of India and any decision taken by it is subject to provisions of Article 14 of Constitution of India. The sudden increase from ₹111/- per acre per annum to whopping ₹13,570/- works out to a hike by 12000% which is completely in violation of Article 14, hence, the same is null and void.	The KPT has not furnished any comments on the said point.
(xvi).	It is difficult for the industry to bear this burden. It will have far reaching repercussions on cost of production, export and increase in cost in edible salt for consumers throughout the country. The Kandla Port Trust being State is exempt from the provisions of rent control laws	The KPT is only proposing the increase in rates for about 16,000 acres of land, whereas, the Association is comparing it with the whole salt production of the country.

	which casts a lawful obligation on it to comply with the public policy of charging a fair rent without charging exorbitant rates based on the prevailing market rate. The Government of Gujarat has allotted lakhs of acres of land for manufacturing of salt at the rate of ₹300/- per annum per hectare. Comparing the proposed rate structure, it sounds alarmingly high. The said discrimination by Kandla Port Trust being State does not meet the test as laid down in Article 12 & 14 of Constitution of India. Kandla Port Trust being covered within the ambit of Article 12 is bound to act reasonably and fairly.	
(xvii).	In the present situation the rent is based on market value of open plots of lands similarly situated. It is submitted the reason for increasing the lease rent is arbitrary and against the well settled principles of law laid down by the various Hon'ble High Courts and Hon'ble Supreme Court of India. It has been held that Port Trust, being State within Article 12 of Constitution of India in respect of any right conferred or privilege granted by any statute is subject to provisions of Article 14 of Constitution of India and must be reasonable and taken only upon lawful and relevant grounds of public interest. It has also been held by the Hon'ble Supreme Court that the state government in order to justify a steep increase in rent, cannot plead exploitative increase in market prices of lands.	The KPT has not furnished any comments on the said point.
(xviii).	The revision of SOR of salt land leases is proposed to be made effective retrospectively. In fact, there should not be any increase at all in rate structure.	As TAMP has approved the rate structure upto 4 July 2010, hence this proposal will come in force from 5 July 2010 onwards i.e. with retrospective effect.
(xix)	Though KPT has to its disposal lakhs of acres of land, not an inch of land is allotted by the Administration of KPT to the people since last more than 30 years, thereby creating artificial shortage of land.	Recently KPT has gone for auction of salt land for an area of 750 acres and the tender was finalized in the month of August 2010. Hence, the contention of the Association is not correct.
(xx).	The land policy is for new allotments and that too for port development only. The salt land could have been excluded from the purview of land policy, as there cannot be heavy rates structure for salt land. Further, the policy method adopted by the TAMP to determine the rent, is contrary to well established principles of law.	The land policy is for new allotment as well as for existing leases, which will apply to all the old leases also.
(xxi).	The addition of 2% escalation per annum amounts to doubling the charges as revision of rates after 5 years is also sought. The said act is without justification and also without any application of mind.	The escalation considered is as per government guidelines.
(xxii).	Kandla Special Economic Zone has leased land about 40/ 50 years back. The revision of the rate is stipulated subject to an upper ceiling of 25% giving greater flexibility. The	The KPT has not furnished any comments on the said point as it does not pertain to KPT.

	said SEZ land is in the same area where the present salt leased land is situated. Kandla Port Trust cannot be allowed to discriminate between the same set of people. The Kandla Port Trust being State cannot be allowed to discriminate between same community by charging two different rate of rents and by applying two different policies. Escalation is not based on cost of land, as Kandla Special Economic Zone is also on lease based, as other salt land. There should therefore, be no discrimination. The main reason for increase in the price of land can well be attributed to enormous investment, hard work and goodwill created by the salt manufacturers. The increase, therefore, cannot be equated with the ratio of cost of property vis-à-vis lease rent, under any circumstances.	
(xxiii).	The then Hon'ble Union Minister of Shipping Shri. T.R. Baalu had replied in Rajya Sabha on 22 July 2004 to an unstarred question no.1015 that the procedure for renewal of lease has been simplified to a great extent and the proposed system would be much more transparent. The proposal of the KPT is contrary to the above reply of Hon'ble Minister. The extract of Smt. Jamana Devi Barupal and Dr. Subbarami Reddy's unstarred question and Hon'ble Minister's reply thereto is furnished.	The KPT has not furnished any comments on the said point.
(xxiv).	To conclude, GCCI and KSMA has humbly pleaded to consider : (a). To renew the ground rent for 10 years instead of 5 years. (b). To effect increase, if necessary, to the extent of maximum 25%; and (c). To implement escalation clause every three years instead of every year.	The KPT has not furnished any comments on the said point.
2.	Kutch Small Scale Salt Manufacturer's Association (KSSMA)	
(i).	The revision of rate structure of salt land as recommended by Kandla Port Trust to adopt uniform lease rent of ₹13,570/- per acre per annum with escalation of 2% per annum for the period of 5 years is exceptionally high and such draconian rate structure is not found anywhere in the world.	The KPT has not furnished any comments on the points made by KSSMA.
(ii).	It is requested to take into consideration the rate prevailing at other places in the country, where salt is being manufactured so that comparative idea can be had. Average rate of the leased rent at all places may be worked out.	

(iii).	If the proposed rate is implemented, the small salt manufacturers who carry out the salt manufacturing activity since last 5/6 decades, will be forced to close down their units. The chaos will prevail, as the low valued commodity like salt cannot absorb heavy dose of lease rental. Thousands of salt workers are likely to be affected facing starvation. Again, there will be hue and cry among the consumers of edible salt.	
(iv).	The proposal is not acceptable to us.	

2.1. A joint hearing in this case was held on 5 May 2011 at the KPT premises. The KPT made a power point presentation of its proposal. At the joint hearing, the KPT and the concerned users/ organisation bodies have made the following submissions:

Kandla Port Trust

- (i). Salt is exported through our port. The land used as salt pans are, therefore, for port related purposes.
- (ii). There are 51 lessees. Nearly 35% of produce are exported through our port.
- (iii). We have gone for auction of 10 plots. The rates received are considered as base to propose the revision.
- (iv). Recent Order of the Delhi High Court dated 4 April 2011 direct us to auction more plots.
- (v). All the salt lands leases have already lapsed. We are not introducing new rates in subsisting lessees.
- (vi). We have not taken a decision whether to continue with 10 acres allotment.

Kandla Salt Lease Holder Welfare Association

- (i). We don't question the jurisdiction of TAMP to fix the rates for salt lands.
- (ii). The auction rate is based on 100 acres and 50 acres. But 10 acres allottees are more. Port has not gauged the response of 10 acres plots.
- (iii). The Land Policy 2011 does not mention anything about sample auction.
- (iv). The Committee considered the proposal is constituted by KPT with KPT officials. No land experts is a part of the Committee.
- (v). The Committee has not given a reasoned report.
- (vi). The increase, if reasonable, should be applied only in new allotments not for the existing leases.
- (vii). The auctioned lands are very close to Gandhidham town. Other plots are spread over 50 kms. area. Further, the size is not clearly factored in the market price.
- (viii). Government guidelines prescribe different methods. KPT has not tried other methods of valuation.

2.2. At the joint hearing, the Gandhidham Chamber of Commerce and Industry (GCCI) has furnished its written submissions. A copy of the written submission is given to KPT for its response. The KPT vide letter dated 8 July 2011 has furnished its reply on the submissions made

by the GCCI. A summary of the submissions made by GCCI and the reply received from KPT are tabulated hereunder:

Sl. No.	Submissions made by GCCI	Reply received from KPT
(i).	The salt manufacturers possess this land since last 40 to 50 years. They have, by their sheer hard work, developed these once barren lands to make capable of producing best quality of salt. To burden with heavy lease rental on these salt manufacturers is unjustified. Incidentally, it is worth recalling here that at the time of initial allotment of salt land, the then Development Commissioner/ Chairman had vigorously campaigned for allotment and had requested the business community to come to Kandla and to develop the salt land. Many advertisements were also released by the Port Administration for developing salt land, as at that time this area was not attractive. The partial increase in cost of land is attributable to the goodwill and sheer hard work by the lessees and as such, the increase can be termed as 'opportunity cost' and not the market cost.	Kandla Port Trust is having 2,20,416 acres of submerged land, out of which only 10% can be used for salt manufacturing purpose and out of which approximately 16,112 acres of land was allotted by the Land Development Commissioner of Kandla Port Trust Organisation during 1962 to 1964 on nomination basis. The stretch of land is from Jungi to Kandla in the water front of approximately 60 to 70 kms.
(ii).	The proposal for revision of rate structure of salt land as recommended by Land Valuation Committee to adopt uniform lease rent of ₹13,570/- per acre per annum with escalation of 2% per annum for a period of five years w.e.f. 5 July 2010 onwards is exceptionally high and there is no parallel rate structure anywhere in the world. The minutes of Land Valuation Committee meeting held on 30 December 2010 in the Chamber of the Chairman, KPT reveal that the average rate of all 10 bidders, the lease rental @ 6% works out to ₹13,565.88 per acre/ annum. The plots of land for which the tenders were invited are in very close proximity of the township of Gandhidham and the process of arriving at average rate cannot be termed as fair, as the plots of land at the remote place will not attract the same bidding. The sampling in this case is done in respect of a particular spot only, whereas the sampling should encompass various plots of land, located in long stretch viz. Chirai, Samakhiyali and Surajbari area.	Bearing in mind the unfortunate fact that the Kutch area has been hit by cyclone and earthquake, TAMP has kept on hold the matter relating to revision of rate structure of salt land in the year 2001. (The point made by the KPT above does not appear to be relevant as it does not address the issue raised by the users.)
(iii).	The rate arrived @ ₹13,570/- is highly exaggerated and imaginary, as this rate might have arrived at on the basis of market rate obtained by floating tender. However, these sample rates cannot be considered as market rates, as the economics of the person holding 50 acres of land and that of 1500 acres of land would vary substantially and surely would be different.	The rate is not imaginary nor exaggerated but considering all the aspects provided under Land Policy Guidelines the same has been arrived. The slab of 10 acres, 100 acres and above 100 acres has been removed considering the economic growth in the surrounding areas of Kandla Market, availability of land and the rail and road connectivity in this region and to adopt a uniform lease rent.

(iv).	The increase from ₹111/- per acre per annum to whopping ₹13,570/- works out a hike by 12000%! The increase will prove to be a death knell of the industry.	The proposed rate structure is 94 times more than the previously approved rates.
(v).	The Government of Gujarat has allotted lakhs of acres of land for manufacturing of salt and the ground rent is ₹30/- per annum per acre. Comparing the proposed rate structure, it sounds alarmingly high. The Government of Gujarat has initiated several measures for the welfare of salt workers, to whom the land is allotted on very reasonable rate and terms. These welfare measures include construction of houses under Namak Mazdoor Awas Yojna, construction of Schools, Bal Udhyans, providing TV sets at community centres, drinking water, approach roads, etc. The State Government has also distributed bicycles to large numbers of salt workers. In contrast, Kandla Port Trust Administration has not spent any amount right from its acquisition for well being and welfare of salt workers as will be seen from KPT's letter No.LW/PL/1721-V/86 dated 18.8.2006 addressed to Under Secretary, Government of India, Ministry of Shipping.	It is correct that KPT has not carried out any infrastructure development work in the areas allotted for salt manufacturing.
(vi).	The salt industry already faces number of problems. It is difficult for the industry to bear this burden. It will have far reaching repercussions on cost of production, export, increase in cost in edible salt for consumers throughout the country, specially for the common man. Salt is the only commodity which does not attract any excise, VAT, Octroi by any of the State Government/ Central Government, with an objective that the common man gets salt at cheaper rates.	The present rate structure is as per government guidelines.
(vii).	Low cost commodity like salt cannot absorb any increase in production cost and will create grave situation, as poorest of the poor will be affected.	The KPT has allotted only 16,442 acres of land for salt manufacturing, whereas state government has allotted approximately 8 to 10 lakh acres of land, hence, it cannot be considered with the overall production of salt nation-wide.
(viii).	There are approximately 50 salt manufacturing units operating in 16000 acres of land since last more than 40 to 50 years, and produce 3 to 3.5 million tones of salt every year. 5000 families of salt workers are dependent on this industry. In case of closure of the units, these "Below poverty line" families will be worst hit.	The KPT has not furnished any specific comments in this regard.
(ix).	Government of India's Iodisation programme – IODISED SALT FOR ALL will suffer serious set back, as cost of salt will stand accelerated. As such downsizing the rate structure is very necessary.	The KPT has allotted only 16,442 acres of land for salt manufacturing, whereas state government has allotted approximately 8 to 10 lakh acres of land, hence, it cannot be considered with the overall production of salt nation-wide.
(x).	It is for the first time in the history of independent India that such a heavy burden of rent on the salt manufacturing process is proposed by Kandla Port Trust. It is worth	As per government guidelines the rates are supposed to be revised every 5 years. The table showing revision of rates year-wise is as under:

	recalling here that the tax on salt by the British led to the Dandi March under the leadership of Mahatma Gandhi – father of the Nation. This movement ultimately laid the foundation for the country's independence struggle. Therefore, the hike is against the principles of Gandhiji, who fought with British relentlessly 80 years ago for a cause.	<table><tr><th></th><th>Description</th><th>Prior to 1973</th><th>1973</th><th>Rates approved by Govt. vide letter no.PR-14012(8)/94-PG dated 05/07/1994 applicable w.e.f. July 1994</th><th>Rates w.e.f. 1999 as approved by TAMP</th><th>Rates w.e.f. 2005 (upto Jul'10) as approved by TAMP</th></tr><tr><td>1</td><td>Plots admeasuring 10 acres</td><td>30.00</td><td>90.00</td><td>200.00</td><td>342.00</td><td>445.00</td></tr><tr><td>2</td><td>Plots admeasuring more than 10 acres but less than 100 acres</td><td>30.00</td><td>45.00</td><td>100.00</td><td>171.00</td><td>222.00</td></tr><tr><td>3</td><td>Plots admeasuring more than 100 acres</td><td>10.00</td><td>30.00</td><td>65.00</td><td>111.00</td><td>144.00</td></tr></table> The proposed increase is approximately 94 times more than the existing lowest rate of ₹144/- per acre per annum.		Description	Prior to 1973	1973	Rates approved by Govt. vide letter no.PR-14012(8)/94-PG dated 05/07/1994 applicable w.e.f. July 1994	Rates w.e.f. 1999 as approved by TAMP	Rates w.e.f. 2005 (upto Jul'10) as approved by TAMP	1	Plots admeasuring 10 acres	30.00	90.00	200.00	342.00	445.00	2	Plots admeasuring more than 10 acres but less than 100 acres	30.00	45.00	100.00	171.00	222.00	3	Plots admeasuring more than 100 acres	10.00	30.00	65.00	111.00	144.00
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(xi).	The elimination slab structure is not justified, as the salt manufacturer with land holding of 10 acres is treated at par with the salt manufacturer having land holding of 100 acres and above. This is against the principles of natural justice, as extent of loss will be high in case of the former, who have very small land holding and are categorised as salt worker with very small means. On the earlier occasions, TAMP has increased the lease rental in a phased manner and that too reasonably, for the reason that salt land is not port land and no commercial, industrial or any other activity is not feasible.	The slab of 10 acres, 10 acres and above 100 acres has been removed considering the economic growth in the surrounding areas of Kandla Market rates, availability of land and the rail and road connectivity in this region and to adopt a uniform lease rent.																												
(xii).	The revision of SOR of salt land leases is proposed to be made effective retrospectively. In fact, there should not be any increase at all in rate structure.	As TAMP approved the rate structure upto 4th July 2010, hence this proposal will come in force from 5th July 2010 onwards i.e. with retrospective effect.																												
(xiii).	Though Kandla Port Trust has to its disposal lakhs of acres of land, not an inch of land is allotted by the Administration to the people since last more than 30 years. Thus, artificial shortage is created. To elaborate further, the population of the country in 1973 was around 40 to 50 crores, whereas the present population exceeds 125 to 130 crores.	Recently KPT has gone for auction of salt land for an area of 750 acres and the tender was finalized in the month of August, 2010. Hence, the contention of the Association is not correct.																												
(xiv).	The existing lessees have developed the barren land, where only scorpions and snakes were found in abundance. At that time, nobody wanted to come and create salt fields. The old, existing lessees should not be penalised by irrational increase, as they are holding land since long and applying present market price for them is unjustified.	The rates have been revised by strictly following government guidelines and the present market rate of the land has arrived after auctioning/ tendering of salt land during the year June, 2010.																												
(xv).	The land policy is for new allotments and that too for port development only. The salt land could have been excluded from the purview of land policy, as there cannot be heavy rate structure for salt land.	The land policy is for new allotment as well as for existing leases, which will apply to all the old leases also.																												

(xvi).	Salt is farming process only. By the virtue of its being farming, Governments grant subsidy for production. Even today, Government of Gujarat has been sanctioning ₹40 to 50 crores approximately annually for welfare activities such as construction of approach roads, provision of drinking water, construction of labour shelters, quarters for salt workers, education, transport, medical facilities etc. In contract, Kandla Port Trust does not spend a penny towards welfare activities as also for infrastructure. The Department of Railways also grants subsidy by way of concession in freight, so that the salt is available to the common man at a most reasonable rate. Most of the State Governments also grant subsidy to the people below poverty line (BPL) people as well as Tribal people by distribution of salt through Public Distribution System, so that the iodisation programme is successful. This subsidy by the State Government is granted to the extent of ₹4000 to ₹5000 crores per annum. Internationally acclaimed NGO-UNICEF is also promoting iodisation programme by spending millions of dollars to create awareness about – 100% iodisation.	The KPT has not furnished any specific comments in this regard.
(xvii).	Kutch is considered to be a backward place, where rainfall is scanty and uneven. As agricultural activity is negligible, the people from BPL category depend on salt manufacturing process, as this generates employment - it being labour oriented industry. Again, the natural calamities such as cyclone, earthquake, famine etc. are common for the District.	The KPT has not furnished any specific comments in this regard.
(xviii).	During the worst time during famine, earthquake, cyclone, the Government of Gujarat had waived the Royalty / Ground Rent etc. but Kandla Port Trust has not granted any concession to the lessees during worst time. There is therefore no justification for increase.	The KPT has not furnished any specific comments in this regard.
(xix).	The Government of Gujarat has allotted about 8 to 10 lac acres of land on liberal terms and conditions, whereas Kandla Port Trust has allotted 16000 acres of land only long back.	The present rate structure is as per government guidelines.
(xx).	The addition of 2% escalation per annum amounts to doubling the charges as revision of rates after 5 years is also sought.	The escalation considered is as per government guidelines.
(xxi).	In case of Kandla Special Economic Zone the plots were allotted some 40/50 years back. The revision of the rate is stipulated subject to an upper ceiling of 25% giving greater flexibility. A copy of notification No.2/2/87-NEPZ dated 20.02.2003 is enclosed for ready reference. This was again repeated vide notification No.2/2/87-NEPZ dated	The KPT has not furnished any specific comments in this regard as it does not pertain to KPT.

	04.02.2009, maintaining the increase @ 25%. A copy of the notification is also enclosed. This position is also made clear vide notification No.2/2/87-NEPZ dated 11.07.2003, which states that revision of rent is to be fixed subject to maximum of 25%. A copy of this notification is furnished.	
(xxii).	The then Hon'ble Union Minister of Shipping Shri. T.R. Baalu had replied in Rajya Sabha on 22.07.2004 to a unstarred question No.1015 that the procedure for renewal of lease has been simplified to a great extent and the proposed system would be much more transparent. The proposal of the Kandla Port Trust is contrary to the above reply of Hon'ble Minister. The extract of Smt. Jamana Devi Barupal and Dr. Subbarami Reddy's unstarred question and Hon'ble Minister's reply thereto is enclosed for your kind perusal. To conclude, it is our humble plea to consider: (a). To renew the ground rent for 10 years instead of 5 years. (b). To effect increase, if necessary, to the extent of maximum 25%; and (c). To implement escalation clause every three years instead of every year.	The KPT has not furnished any specific comments in this regard.

2.3. As decided in the joint hearing, SKSLHWA was requested to furnish its written submission with a copy marked to KPT for their response. After reminder, SKSLHWA vide its letter dated 25 May 2011 has furnished its submissions on the proposal of the KPT with a copy marked to KPT. The KPT vide letter dated 8 July 2011 has furnished its response. A summary of the written submission made by SKSLHWA and response of KPT thereon are tabulated below:

Sl. No.	Submission made by SKSLHWA	Response of KPT
(i).	The KPT being a State within the meaning of Article 12 of Constitution of India and any decision taken by it is subject to provisions of Article 14 of Constitution of India. The sudden increase from ₹111/- per acre per annum to whopping ₹13,570/- per acre per annum works out to a hike by 13000% which is completely in violation of Article 14, hence, the same is null and void. SKSLHWA relies upon apex court judgment and citations i.e. AIR 2004 SC 1815 and AIR 2009 SC 446, copies of which are furnished. We draw your kind attention to the fact that sample tendering was meant for 30 years and average rate of all bidders was for 30 years amounting to ₹2,26,098/-. The KPT has calculated 6% of the said amount and not divided by 30 years and proposed as it is. Thus is unfair and unreasonable. Therefore, proposed rate calculated by KPT based on	The methodology of calculation of the lease rent has been very clearly mentioned in the proposal letter no.LW/PL/1721-V/16 dated 21 February 2011 and it is as per the Land Policy Guidelines.

	the same amount was for 30 years and not for one year. This calculation error has inadvertently crept in. The lessees have not to pay any ground rent.	
(ii).	As per latest guidelines of Government of India, escalation percentages should not exceed 25% on base rent. The said directions were issued by Government considering applicable law and scenario of present and future industrial growth and are valid and applicable. SKSLHWA has furnished copies of said directions.	The matter pertains to Special Economic Zone.
(iii).	KPT is having total 2,20,416 acres of land submerged and marshy which was suitable only for production of salt. Our members are having possession of only 16,000 acres of land on lease basis since 40 to 50 years out of said total land. The said land is submerged marshy land located at faraway places such as Old Kandla, Kharirohar, Chirai, Padana, Jangi, etc. situated in port limit, which is of no use to port for its own development. There are approximately 50 salt manufacturing units operating and producing 3 to 3.5 million tonnes of salt every year. Thousands of poor families of Agarias are dependent on the working of present salt industry.	KPT is having 2,20,416 acres of submerged land, out of which only 10% can be used for salt manufacturing purpose and out of approximately 16,112 acres of land was allotted by the Land Development Commissioner of Kandla Port Trust Organization during 1962 to 1964 on nomination basis.
(iv).	Initially, the said lands were marshy, barren and undeveloped; KPT at their own had offered the land for production of salt to private investors or entrepreneurs. Our members, by their sheer hard work, developed the barren land to make capable of producing best quality of salt; where only scorpions and snakes were found in abundance. At that time, nobody wanted to come forward and develop salt fields. Our members have spent huge sum of money for creating the infrastructure on the leased land and the present satisfactory level is achieved due to their efforts. Present developed scenario in the region has resulted only because of our members and they should not be penalized by irrational increase, as they are holding land since long and sudden increase in lease rent is unjustified as it will hamper the entire production of salt. Only because the lessees came forward 40 to 50 years back and volunteered to develop salt land by their own efforts, they should not be penalized with the heavy burden of paying the rent, which will take away all their hard work of past 40-50 years.	The KPT has no comments.
(v).	Till date KPT has not spent even a single rupee for development or welfare. Also, during Cyclone and Earth Quake no measures and/or support were taken by KPT. Even though our members have rebuilt roads, cyclone shelter, etc. Government of Gujarat had waived the Royalty, Ground Rent, etc. to their respective lessees, but KPT has not granted	It is correct that Kandla Port Trust has not carried out any infrastructure development work in the areas allotted for salt manufacturing.

	any concession to the lessees during worst time. It is known to all that, the natural calamities such as cyclone, earthquake, famine etc. are common for the region, which creates problem in the development of the salt industry. Also, till date KPT has not provided any support and under the pretext of some pending litigations in some court against them, they are proposing such unreasonable and hefty increase in lease rent and are increasing problems for our members. SKSLHWA has furnished copy of the letter issued by KPT.																																				
(vi).	It is for the first time in the history of independent India that such a heavy burden of rent on the salt manufacturing units is proposed by any major port. Also, it is pertinent to note that salt is the low commodity product in India, so that even the poorest can use it. Low cost commodity like salt cannot absorb the increase in production cost to an extent, which will create worst situation, as poorest of the poor will be affected. It is worth recalling here that the tax on salt by the British led to the Dandi March under the leadership of Shri Mahatma Gandhi – father of the Nation. This movement ultimately laid the foundation for the country's independence struggle. Therefore, the hike is against the spirit of said movement of Gandhiji, who fought British relentlessly 80 years ago for a cause; which KPT is acting against. Considering the said Gandhiji's sentiment, neither state government nor central government has imposed any kind of tax to salt industry.	As per government guidelines the rates are supposed to be revised every 5 years. The table showing revision of rates year-wise is as under:- <table><tr><th colspan="7">(Rates in ₹ per acre per annum)</th></tr><tr><th></th><th>Description</th><th>Prior to 1973</th><th>1973</th><th>Rates approved by Govt. vide letter no. PR-14012(8)/94-PG dated 05/07/1994 applicable w.e.f. July 1994</th><th>Rates w.e.f. 1999 as approved by TAMP</th><th>Rates w.e.f. 2005 (upto Jul '10) as approved by TAMP</th></tr><tr><td>1</td><td>Plots admeasuring 10 acres</td><td>30.00</td><td>90.00</td><td>200.00</td><td>342.00</td><td>445.00</td></tr><tr><td>2</td><td>Plots admeasuring more than 10 acres but less than 100 acres</td><td>30.00</td><td>45.00</td><td>100.00</td><td>171.00</td><td>222.00</td></tr><tr><td>3</td><td>Plots admeasuring more than 100 acres</td><td>10.00</td><td>30.00</td><td>65.00</td><td>111.00</td><td>144.00</td></tr></table> The proposed increase is approximately 94 times more than the existing lowest rate of ₹144/- per acre per annum.	(Rates in ₹ per acre per annum)								Description	Prior to 1973	1973	Rates approved by Govt. vide letter no. PR-14012(8)/94-PG dated 05/07/1994 applicable w.e.f. July 1994	Rates w.e.f. 1999 as approved by TAMP	Rates w.e.f. 2005 (upto Jul '10) as approved by TAMP	1	Plots admeasuring 10 acres	30.00	90.00	200.00	342.00	445.00	2	Plots admeasuring more than 10 acres but less than 100 acres	30.00	45.00	100.00	171.00	222.00	3	Plots admeasuring more than 100 acres	10.00	30.00	65.00	111.00	144.00
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(vii).	That Government of India's Iodization Program – "IODISED SALT FOR ALL" will suffer serious setback, as due to steep investment in the rent of lease cost of salt will also stand accelerated. As such downsizing the rate structure of lease rent is extremely necessary and important. SKSLHWA has furnished a copy of press note.	The Kandla Port Trust has allotted only 16,442 acres of land for salt manufacturing, whereas state government has allotted approximately 8 to 10 lakh acres of land, hence, it cannot be considered with the overall production of salt nation-wide.																																			
(viii).	Salt manufacturing is falling under farming process. As such, Government of Gujarat has been sanctioning ₹40 to 50 crores approximately annually for welfare activities such as construction of approach roads, provision of drinking water, construction of labour shelters, quarters for Agarias, education, transport, medical facilities, etc. Against that, KPT has never spent a single penny towards welfare activities for developing and welfare. The Department of Railways also grants subsidiary rates by way of concession in freight, so that the salt is available to the consumers at a most reasonable rate. The sudden arbitrary increase in rent with retrospective effect is completely unreasonable, arbitrary, without	The KPT has no comments.																																			

	any application of mind and against the government policy. Most of the State Governments also grant subsidy to the people below poverty line category by distribution of salt through Public Distribution system of Government.	
(ix).	Our region is considered to be a backward place, where there is scarcity of rainfall in every monsoon and any kind of agricultural activity is negligible. The poor people from nearby places totally depend upon the salt industry for their livelihood. The salt industries are generating employment for the region as being labour oriented industry. Increase in rent will affect all the said poor families, resulting in unemployment. Also, salt industry already faces number of problems and the proposal for revision of rate structure of salt land as recommended by Land Valuation Committee to adopt uniform lease rent of ₹13,570/- per acre per annum with escalation of 2% per annum for a period of five years w.e.f. 5 th July 2010 onwards is exceptionally high, unfair, unreasonable, arbitrary and totally unjustified.	The KPT has no comments.
(x).	The rate arrived @ ₹13,570/- is highly exaggerated and imaginary, as this rate might have been arrived at on the basis of market rate obtained by floating tender of some other area. However, these sample rates cannot be considered as market rates, as the economies of the person holding 50 acres of land and that of 1500 acres of land would vary substantially and surely would be different. The rates have been fixed by floating tenders for 50 and 100 acres of land. It is stated that the price as obtained with regard to 50 and 100 acres of land cannot be applied uniformly. A person bidding for 50 acres of land would bid for a higher price and a person bidding for 500 acres of land would bid for a comparatively lower price, therefore, there is no justification for making the rates applicable uniformly. The elimination of slab structure is not justified, as the salt manufacturer with land holding of less than 10 acres is treated at par with the salt manufacturer having land holding of 100 acres and above. This is against the principles of natural justice, as extent of loss will be high in case of the former, who have very small land holding and are categorized as Agarias with very small means. Further, the bid to the tenders floated by Kandla Port Trust, the prices were offered as the economic condition of the said area are better as compared to the existing salt leased land.	The rate is neither imaginary nor exaggerated but considering all the aspects provided under Land Policy Guidelines, the same has been arrived. The slab of 10 acres, 100 acres and above 100 acres has been removed considering the economic growth in the surrounding areas of Kandla Market, availability of land and the rail and road connectivity in this region and to adopt a uniform lease rent.
(xi).	It is difficult for the existing industry to bear this burden. It will have far reaching, repercussions on cost of production, export,	The Kandla Port Trust is only proposing the increase in rates for land available with Kandla Port Trust, whereas the association is comparing it with

	and increase in cost in edible salt for consumers throughout the country. The Kandla Port Trust being State is exempt from the provisions of rent control laws which casts a lawful obligation on it to comply with the public policy of charging a fair rent without charging exorbitant rates based on the prevailing market rate. Kandla Special Economic Zone has leased land about 40 to 50 years back. The revision of the rate is stipulated subject to an upper ceiling of 25% giving greater flexibility. We rely upon notification No.2/2/87-NEPZ dated 20.2.2003. This was again repeated vide notification No.2/2/87-NEPZ dated 4.2.2009, maintaining the increase @ 25%. This position has also made it clear that revision of rent is to be fixed subject to maximum of 25%. The said SEZ land is in the same area or in contiguous, where the present salt lease land is situated. KPT cannot be allowed to discriminate between the same set of people. KPT being State cannot be allowed to discriminate between same community by charging two different rates of rents and by applying two different policies.	the whole salt production of the country.
(xii).	The Government of Gujarat has allotted lakhs of acres of land for manufacturing of salt at the rate of ₹300/- per annum per acre. Comparing the proposed rate structure, it sounds alarmingly high. The said discrimination by Kandla Port Trust being state does not meet the test as laid down in Article 12 & 14 of Constitution of India. KPT being covered within the ambit of Article 12 is bound to act reasonably and fairly.	
(xiii).	In the present situation the rent is based on market value of open plots of lands similarly situated. It is submitted that the reason for increasing the lease rent is arbitrary and against the well settled principles of law laid down by the various Hon'ble High Courts and Hon'ble Supreme Court of India. It has been held that Port Trust, being State within Article 12 of Constitution of India in respect of any right conferred or privilege granted by any statute is subject to provisions of Article 14 of Constitution of India and must be reasonable and taken only upon lawful and relevant grounds of public interest. It has also been held by the Hon'ble Supreme Court that the state government in order to justify a steep increase in rent, cannot plead exploitative increase in market prices of lands.	The proposed increase is as per government guidelines.
(xiv).	Though KPT has to its disposal lakhs of acres of land, not an inch of land is allotted by the Administration of KPT to the people since last more than 30 years, thereby creating artificial shortage of land. The land policy is for new allotments and that too for port development only. The salt land could have been excluded	Recently Kandla Port Trust has gone for auction of salt land for an area of 750 acres and the tender was finalized in the month of August, 2010. Hence, the contention of the Association is not correct.

	from the purview of land policy, as there cannot be heavy rate structure for salt land. Further, the policy method adopted by the KPT to determine the rent, is contrary to well established principles of law. The addition of 2% escalation per annum amounts to doubling the charges as revision of rates after 5 years is also sought. The said act is without justification and also without any application of mind.													
(xv).	The then Hon'ble Union Minister of Shipping Shri. T.R. Baalu had replied in Rajya Sabha on 22.7.2004 to a unstirred question no.1015 that the procedure for renewal of lease has been simplified to a great extent and the proposed system would be much more transparent. The proposal of the KPT is contrary to the above reply of Hon'ble Minister. The SKSLHWA has furnished extract of Smt. Jamana Devi Barupal and Dr. Subbarami Reddy's unstirred question and Hon'ble Minister's reply thereto.	The KPT has no comments to offer.												
(xvi).	That KPT has allotted land of various measurements to various salt manufacturers on lease basis mainly for 30 years duration having clause of renewal with mutual consents and terms. During the tenure, rent has been revised from time to time by concerned authorities as proposed by KPT. As per the last revision of SOR of salt land leases the revision to take effect from 05.07.2005 was shown as under: <table border="1"> <thead> <tr> <th>Sr. No.</th><th>Area (Acres)</th><th>Lease Rent per acres per annum</th></tr> </thead> <tbody> <tr> <td>1.</td><td>10</td><td>445/-</td></tr> <tr> <td>2.</td><td>10 - 100</td><td>222/-</td></tr> <tr> <td>3.</td><td>100 and more</td><td>144/-</td></tr> </tbody> </table> Escalation rate of 2% per annum till such time the rate is revised with the competent authority. Accordingly, the SOR was extended upto 31.3.2011 and for fixing of market value a land valuation committee was appointed.	Sr. No.	Area (Acres)	Lease Rent per acres per annum	1.	10	445/-	2.	10 - 100	222/-	3.	100 and more	144/-	The KPT has no comments to offer.
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2.	10 - 100	222/-												
3.	100 and more	144/-												
(xvii).	That to arrive at present market rate of salt lease land a sample auction/ tender of 10 numbers of plots was done in the month of June 2010 by KPT. After due approval of board vide resolution no.69 in the meeting held on 19.08.2010, KPT had issued allotment of plots to successful bidders and returned EMD of others. Thereafter, the Land Valuation Committee have set to exercise to arrive at a market value of the rent of the land decided to adopt an uniform lease of ₹13570/- per acre per annum with effect from 5.7.2010 with escalation of 2% per annum for five years. Here, it is pertinent to note that the committee appointed to arrive at Market Rate was of officials of KPT and only one member Mr.	The methodology of calculation of the lease rent has been very clearly mentioned in the proposal letter no.LW/PL/1721-V/16 dated 21/02/2011 and it as per the Land Policy Guidelines.												

	Ranjith Kumar (IAS) Assistant Collector of Anjar was a non KPT member of said committee. Also, no opinion of any member has reflected in the minutes and nothing is on record to show that what other factors to arrive at a Scale of Rates has been referred to or taken into consideration and only criteria was the sample auction of 10 numbers of plots are reflecting. The Scale of Rates was calculated only based on the average rate of bidding, which was calculated wrongly. In the said sample tender total upfront premium quoted by bidder is for 30 years and the market value and rented value has been calculated on the said basis only is for 30 years. It intends that KPT has prepared proposal without considered guidelines of prevailing land policy and overruled interest of preset lease holders.													
(xviii).	As per the para 6.3(1) of the Land Policy the relevant factors to arrive at Scale of Rates have not been considered fairly. Registration in nearby vicinity is also available. Rate arrived at by an approved valuer appointed for the purpose by the Port is also available. In spite of all that the KPT had made sample tender and prepared proposal based on the same with incorrect calculation. Details of Existing Rates in the region: <table border="1"> <thead> <tr> <th>Sr. No.</th><th>Particulars</th><th>SoR per Acre</th></tr> </thead> <tbody> <tr> <td>1.</td><td>Market Rate arrived at by approved Land Valuer as appointed by Board of KPT is ₹3700/- per acre per annum.</td><td>222/-</td></tr> <tr> <td>2.</td><td>Gujarat Government's lease rent as per latest revised direction is ₹300/- per hectore.</td><td>150/-</td></tr> <tr> <td>3.</td><td>As KPT is not allotting any new land since long so registration of transaction in nearby vicinity is not available.</td><td>---</td></tr> </tbody> </table>	Sr. No.	Particulars	SoR per Acre	1.	Market Rate arrived at by approved Land Valuer as appointed by Board of KPT is ₹3700/- per acre per annum.	222/-	2.	Gujarat Government's lease rent as per latest revised direction is ₹300/- per hectore.	150/-	3.	As KPT is not allotting any new land since long so registration of transaction in nearby vicinity is not available.	---	
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(xix).	Attention is drawn to clause no.10 of the lease agreement which stipulates that the liability of the lessee to pay lease rent at higher rate whenever the schedule rate are revised upward by the competent authority and to bear escalation @ 5% per annum and the lease rent is to be periodically revised. It is submitted that the schedule of rates proposed is applicable to new allotments and no market value is required to be fixed as per existing leases are concerned and the new rates based on new market rates arrived by auction or tender cannot be extended to existing lease and the increase in rentals cannot be more than 25% per annum. The same was	The lease agreement provides the lessee has to pay lease rent at higher rate whenever the SOR are revised upwardly and there is no upper limit prescribed for the revision.												

	confirmed through various decisions by Hon'ble Apex Court as well as other authorities.	
(xx).	We also understand that the Hon'ble High Court of Kerala had in its order dated 10.07.2003 regarding revision proposal of Cochin Port Trust provided specific directions that any escalation in rent would be on the base rent and not on cumulative basis. Also, directed that it will take in effect from date of notification in Gazette. We humbly request TAMP and concerned authorities to take a note of said directions. We rely upon TAMP order notified in Gazette of India bearing no.G 160 dated 11.6.2010. Copy of the same is furnished.	The KPT has no comments to offer.
(xxi).	It is very important to note that concept of market value should not be applied in case of renewal or enhancement of rates/ charges for the lease already granted. The basic and major technical point was overviewed by KPT. We also draw attention towards directions provided by Hon'ble High Court of Kerala in the case of Cochin Port Trust that the 5% annual escalation should be on base rent and not on cumulative basis, which is only effective from the date of notification in Gazette. Considering the said directions, present percentages as proposed by KPT are not fair and reasonable and required to review with consultation with end users considering above referred directions.	The lease agreement provides the lessee has to pay lease rent at higher rate whenever the SOR are revised upwardly and there is no upper limit prescribed for the revision.
(xxii).	The said Lease Rent/ Ground Rent revision proposal of KPT is exorbitantly high in comparison to the last approved rates during the year 1994, which is impractical, illogical and beyond the capacity of our member companies and final end users. Any such unduly enhancement in Lease Rent/ Ground Rent is unfair, unreasonable, arbitrary and unjustifiable. Even otherwise, the impugned action is bad in law, unjustifiable and clearly in breach of principles of natural justice. Moreover, it is nothing but violation of principles of Promissory Estoppel and Legitimate Expectation and requiring kind interference by your good office and concerned authorities.	The proposed increase is as per government guidelines.
(xxiii).	We further wish to appraise that KPT is falling under the definition of State within the meaning of Article 12 and as per various directions as provided by Honourable Supreme Court from time to time, KPT would not be actuated by any profit making motive and required to deal fairly, reasonably and in the interest of the public as well as the nation. We rely upon various Supreme Court Judgments and the Citations are AIR 2004 SC 1815 and AIR 2009 SC 446. Copies are furnished.	The proposed increase is as per government guidelines.

(xxiv).	If any increase is accepted our member companies will directly be affected very badly due to such exorbitant, unfair, unreasonable, unjustifiable and impractical enhancement/ increase in Lease Rent/ Ground Rent as proposed by KPT. Also, it will seriously have impact on livelihood and survivability of present industries and employment in the region. Moreover, there are clear possibilities to create negative impression of the region on future entrepreneurs, who are willing to invest in the region. The escalation in price will affect the consumers.	The KPT has no comments to offer.
(xxv).	That KPT has forwarded the proposal for revision in the structure of lease rent/ ground rent regarding salt lease land without any prior consultation or discussion with our members. It is highly objectionable that preparing such a proposal without consultation with us and other industries, which is directly affecting the salt lease land and other relevant industrial business of the region. During the said joint hearing called by the TAMP at KPT premises, the Chairperson and other representatives of TAMP also objected the same. Here, we are relying upon directions as provided by Hon'ble Supreme Court of India in Citation AIR 2008 SC 976.	Joint meeting was held by TAMP in the Kandla Port Trust on 05/05/2011.
(xxvi).	The aforesaid facts and circumstances amply demonstrate arbitrary exercise of powers by KPT and its representatives amounting to colorable exercise of powers, which suffers from vice of non-application of mind.	The KPT has no comments to offer.
(xxvii).	The proposed lease rent is exceptionally high. Even the State Government, which has leased lakhs of hectares of land, has been charging very inordinately. As regards other States, the rates are lower e.g. Maharashtra – ₹300/- per hectare, Tamil Nadu – ₹372/-, Rajasthan – ₹400/- and so on. Therefore, the proposed lease rent by Kandla Port Trust is on very high side.	The KPT has no comments to offer.
(xxviii).	KPT has not auctioned any land since long. To get higher rate, artificial shortage of land is created and present sample auction at nearby developed land has resulted in exorbitant high bidding. Please refer 6.3(1)(a)(iii) "Highest accepted tender of port land for similar transactions" from land policy. That present sample auction was for 50 acres and whatever market value was come out is imposed to all our members having various sizes of land areas is unreasonable, unfair and against the directions of land policy. In this regards KPT is required to auction various sizes of plots for getting prices for "similar transactions". We say that TAMP should intervene and take proper view of the important point from the land policy in this regard.	The KPT has no comments to offer.

3. Subsequent to the joint hearing, the Gandhidham Chamber of Commerce and Industry (GCCI) vide letters dated 20 May 2011 and 13 July 2011 has furnished further comments on the proposal of the KPT. Kutch Small Scale Salt Manufacturer's Association (KSSSMA) vide its letter dated 21 July 2011 has furnished its detailed comments on the subject proposal of KPT. Shri Kandla Salt Lease Holder Welfare Association (SKSLHWA) vide its letter dated 22 July 2011 has furnished further comments. The comments received from GCCI, KSSSMA and SKSLHWA were forwarded to KPT for feedback information. The KPT vide its letter dated 10 August 2011, 20 August 2011 and 3 October 2011 has furnished its comments on the points made by the users. A summary of the comments received from the GCCI, KSSSMA and SKSLHWA and the reply of KPT thereon are tabulated below:

Sl. No.	Comments received from the users	Reply of KPT
1.	Gandhidham Chamber of Commerce and Industry (GCCI)	
(i).	KPT has proposed ₹13,570/- per acre per annum as scale of rates on the basis of Sample Tendering. The said sample tendering was for 30 years and average rate of all bidders i.e. ₹2,26,098/- was for 30 years. Now, it is understood that KPT had calculated 6% of the said amount and not divided by 30 years and proposed as it is; which is not fair and reasonable. Hence, proposed rate calculated by KPT based on the said amount was for 30 years instead of a year. It is pertinent to note that KPT had calculated the proposed rate inadvertently and without any basis, and a major error has crept in.	The relevant clause no. 6.3(1) (a), (b) and (c) of land policy guidelines is reproduced as under: 6.3.1 Market value of land and Schedule of Rates (SoR) (a) SoR land will be recommended to the competent authority/ TAMP by a Committee as decided by the Board headed by the Chairman of the Port Trust. The Committee may take into account the applicable factors from among those listed below to determine the market value of port land :-
(ii).	The rate arrived at is for the entire period of 30 years of lease. If the amount so arrived i.e. ₹13570/- is divided by 30 years period to arrive at one year's premium, the per annum per acre amount works out to be ₹452.33. In our opinion, this should be the lease rental for salt land per acre/ per annum. As such, an error appears to have been crept in the calculation.	(i) State Government ready reckoner of the land values in the area, if available. (ii) Average rate of actual relevant transactions registered in last three years in the port's vicinity, adding 2% escalation per annum and in case of Mumbai Port Trust @ 4% escalation per annum, as may be necessary.
(iii).	In the land policy guidelines/ norms issued by the Government of India from time to time, the escalation would not exceed 6%, whereas in the instant case, it is much higher. It is also stipulated by the Government that the lease rent be increased strictly in accordance with the Government instructions restricting the increase maximum upto 25%. As there appears to be an ambiguity in the rate structure for the period of one year, KPT may be directed to rectify the same and submit a fresh proposal in consultation with the end users i.e. lease holders and their associations, in light of the above.	(iii) Highest accepted tender of port land for similar transactions. (iv) Rate arrived by an approved valuer appointed for the purpose by the port. (v) Any other relevant factor as may be identified by the port. (b) SoR shall be arrived at, taking 6% of market value as rent per annum. (c) SoR shall be escalated by 2% per annum and in case of Mumbai Port Trust @ 4% escalation per annum, till such time that SoR is revised with the approval of the competent authority/ TAMP. In this regard, it is stated that the average market rate of all bidders is ₹2,26,098 per acre. As per (b) above :- SOR rate = 6% of market value as rent per annum

		= 6% of ₹2,26,098 per acre per annum = ₹13565.80 per acre per annum Say ₹13570/- per acre per annum In view of above, the contention of GCCI that proposed rates calculated by KPT was for 30 years instead of per year is not correct and rates proposed by Kandla Port are as per government guidelines.
2.	Kutch Small Scale Salt Manufacturer's Association (KSSSMA)	
(i).	About 250 Acres of Salt land is allotted to 25 Small Salt Manufacturers in the scheme of 10 Acre to each. Such plots have been allotted by KPT as well as State Government Authority with a view to provide business opportunities not only to plot holders but to provide employment to poor community workers (agarias) who reside in and around such isolated areas.	The KPT has not furnished any specific comments in this regard.
(ii).	Since 2004 our Association members are facing renewal problem of Salt land and specially those who are holding 10 acres plots because of proposing heavy rise in fixing revised rates on Sky height i.e. from ₹90/- per acre (1974), ₹200/- per acre (1994), ₹342/- per acre (1999), ₹445/- per acre (2005). In comparison to 100 acres and above, these rates are unrealistic and not based on any valid reasons as well as Government Policy for Salt Manufacturers in India as well as Gujarat State. The relevant documents in this regard may reveal as to how State Government is liberal to Small salt manufacturers to the extent that State Government do not charge any Cess, Royalty from them on one hand and provide basic amenities and facilities such as internal roads, water, electricity connections, small houses, T.V., Bicycles, Solar lights etc., free of cost for such 10 acre Salt land holders. KPT has never given any such facilities even at the time of natural calamities of 1998 and 2001. In support of the above, the KSSSMA has furnished the following documents: (a). Compensation bill raised by KPT vide letter dated 07/10/2011 for the period from 01/04/2004 to 31/03/2011. (b). Revised compensation bill raised by KPT vide letter dated 27/06/2011 for the period from 01/04/2004 to 31/03/2011. (c). Details of renewal of lease terms of salt land at Kandla from 1974 to 2005. (d). Resolution to grant renewal of lease term of 22 salt leases along with Agenda item no.4 placed before Board of KPT for renewal of lease terms of 10 acres w.e.f. 1/4/2004 to 2034.	The KPT has not furnished any specific comments in this regard.

	(e). Comparative statement showing Ground Rent/ Royalty and other levies being fixed by different states all over India and the rates circulated by the Salt Commissioner, G.O.I., Jaipur (ref. letter dated 22/06/2010). (f). Notification dated 06/06/1964 issued by Government of India, Ministry of Industries wherein salt related procedure has been notified and salt cess on 10 acres salt land is withdrawn. (g). Resolution of Government of Gujarat dated 08/04/2011 alongwith similar resolutions dated 22/07/1993 and 10/10/2000 wherein allotment of salt land, its related matters including rates have been notified in which royalty on 10 acres small salt agarias is exempted. (h). Recent letter dated 19/07/2011 issued by Gram Panchayat Padana, Tal. – Gandhidham showing present rate being charged at ₹1200/- per annum (₹600/- revenue charges + ₹300/- government local cess + ₹300/- education cess) for 10 acres salt land. From the above documents, it can be seen as to how there is discrimination to 10 acre salt land owners, total deviation from Government policy on Salt Manufacturers and several concession to State Government Salt owner in comparison to Kandla Port allottees.	
(iii).	In view of the above, the KSSMA has requested for the following: (a). The proposal for revision of rates for Salt land are to be fixed based on the policy decision taken by Salt Commissioner, Government of India, Jaipur & specially taking into consideration Notifications issued by Gujarat State Government from time to time.	The proposal of revision of rates of salt land has been decided by the Board of Trustees of Kandla and the same has been approved vide Resolution No.139 in its meeting held on 15 February 2011, strictly following the land policy guidelines issued by the Ministry of Shipping, Government of India.
	(b). Any revision and hike in revision of lease rates should not be against the Government policy and specially when question arises for Small Scale Industry like 10 acre salt land, the revision should be reasonable and acceptable to such small salt plot holder as being considered by Gujarat State Government small salt manufacturers.	The rates so arrived are neither imaginary nor exaggerated but considering all aspects provided under Land Policy Guidelines issued by the Ministry of Shipping, Government of India.
	(c). KPT's proposal is pending with TAMP and KPT has raised compensation bill & revised compensation bill which is not with the approval of TAMP. Not only this, but when any revision of rates related to salt land, if pending with the TAMP, on what basis KPT can raise as many bills for the same period in the name of compensation bill. Therefore, the so called raising the compensation bills periodically by KPT	The proposal to raise the compensation bill has been approved by the Board of Trustees of Kandla vide Resolution No.200 and 139 in its meeting held on 10-2010 and dated 15 February 2011 respectively, on the recommendations of Land Policy Committee and to protect port revenue.

	cannot be termed as approved rate of compensation to be levied against salt land if the same are not approved by the TAMP.	
	(d).There is Government policy through its' competent authority i.e. Salt Commissioner, Government of India, Jaipur and any related matters to Salt land and its industry, there should be base for any type of related matters including revisions of salt land rates, the KPT which is Central Government Organisation in Gujarat State should take all the policy related issues and thereafter decide the revision of rates and other conditions duly approved by TAMP so that there should not be any anomaly amongst salt land and specially for Small Salt Manufacturers land owners.	The amount so arrived are duly recommended by the Land Valuation Committee in its meeting on 30 December 2010 strictly following the Land Policy Guidelines issued by the Ministry of Shipping, Government of India.
	(e). Based on the above, it is felt that this matter of 10 acre salt land owners may be reviewed and due consideration be given by TAMP so that atleast KPT should not raise the compensation bills time and again atleast from the members of our Association because such so called compensation bills are not based on approval granted by competent authority i.e. TAMP.	The KPT has not furnished any specific comments in this regard.
3.	Shri Kandla Salt Lease Holder Welfare Association (SKSLHWA)	
(i).	The rate arrived at is for the entire period of 30 years of lease. If the amount so arrived at i.e. ₹13,750/- is divided by 30 years period to arrive at one years' premium, the per annum per acre amount works out to be ₹452.20. Therefore, it appears that an error has crept in.	The interpretation is not correct, as the calculation has been made by taking average rate of all bidders who have quoted towards auction/ tendering of 10 nos. of plots i.e. ₹2,26,098.00 per acre and lease rentals @ 6% worked out to ₹13,565.88 per acre/ annum (₹13570.00 by rounding off) on that amount as recommended by the Land Committee in its meeting held on 30 December 2010.
(ii).	The average of total upfront premium quoted by the bidders for 30 years works out to be ₹2,26,098/- and as such the lease rental @ 6% is to be worked out accordingly i.e. average rate to be divided by 30. This comes to ₹452/-. In our opinion this should be the lease rental for salt land per acre/ per annum.	Since the average market rate of all bidders is ₹2,26,098.00 per acre, SOR rate i.e. 6% of market value as lease rent per annum is ₹13565.80 (say 13570.00) per acre per annum.
(iii).	As per guidelines/ norms of Land Policy for Major Ports, SOR shall be arrived at, taking 6% of Market value as rent per annum, whereas lease rentals shall be escalated by 2% per annum as per TAMP's Notification No.G.No.24 dated 10.2.2011.	The relevant clause no.6.3.(1) (a), (b) and (c) of land policy guidelines is very clear which is reproduced as under: 6.3.1 Market value of land and Schedule of Rates (SoR) (a) SoR land will be recommended to the competent authority/ TAMP by a Committee as decided by the Board headed by the Chairman of the Port Trust. The Committee may take into account the applicable factors from among those listed below to determine the market value of port land :- (i) State Government ready reckoner of the land values in the area, if available.

		(ii) Average rate of actual relevant transactions registered in last three years in the port's vicinity, adding 2% escalation per annum and in case of Mumbai Port Trust @ 4% escalation per annum, as may be necessary. (iii) Highest accepted tender of port land for similar transactions. (iv) Rate arrived by an approved valuer appointed for the purpose by the port. (v) Any other relevant factor as may be identified by the port. (b) SoR shall be arrived at, taking 6% of market value as rent per annum. (c) SoR shall be escalated by 2% per annum and in case of Mumbai Port Trust @ 4% escalation per annum, till such time that SoR is revised with the approval of the competent authority/ TAMP.
(iv).	The Government of India have stipulated that lease rent be increased strictly in accordance with the Government instructions restricting the increase maximum upto 25%. In the present case, increase is at higher rates.	The rate is neither imaginary nor exaggerated but considering all the aspects provided under Land Policy Guidelines the same has been arrived.
(v).	For the removal of this ambiguity, we have submitted all relevant papers to Kandla Port Trust Administration, but no communication of any sort is received from them. It is requested to kindly prevail upon the KPT administration to throw light on the calculations made by them.	The contention is not true as the reply to the above queries has been made from time to time.
(vi).	The lease rental is enhanced from ₹144 to ₹13570/- which is alarming and exceptionally high.	The methodology of calculation of the lease rent has been very clearly mentioned in the proposal dated 21.02.2011 and it is as per the Land Policy Guidelines.
(vii).	When the sanctioning authority for increasing the lease rental is TAMP, we fail to understand as to how KPT administration can raise compensation bill, particularly when the matter is yet to be decided by TAMP.	As approved by the Board of Trustees of the port of Kandla has approved the proposal to raise the compensation bill vide Board Resolution No.170 and 200 respectively.
(viii).	The old lessees are at a loss as they have to pay Ground Rent also in addition to lease rental, whereas new lessees will be required to pay token Ground Rent of ₹1/- only.	No ground rent is being charged from old lessees. As per land policy guidelines the lease rent of ₹1/- is being charged from the lessees for whom the land has been allotted as upfront premium.
(ix).	In the end, we may state that when the land was allotted by KPT in the initial years, it was muddy land. It is due to sincere and sheer hard work that the salt manufacturers have created the infrastructure like leveling and reclaiming as also constructing the salt pans. The Port Administration has not spent any amount towards development/ creation of the infrastructure on this land. On the part of the bonafide lessees, there has been no fault from their side and the land is used for which it was originally leased. This land cannot be used for any other purpose, and is of no use to port administration.	Since beginning the land is being allotted for salt manufacturing purpose on as is and where as basis.
