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TARIFF AUTHORITY FOR MAJOR PORTS

GNo.100 **New Delhi** **17 June 2008**

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby provisionally approves the proposal of the Kandla Port Trust for rate revision of Gandhidham Township Land as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports

Case No. TAMP/9/2006-KPT

Kandla Port Trust ……. **Applicant**

ORDER

(Passed on this 22 day of April 2008)

This case relates to a proposal received from the Kandla Port Trust (KPT) for rate revision of Gandhidham Township Land (GTL).

2. The rate structure of Gandhidham Township Land (GTL) was last revised by this Authority in October 1999. A corrigendum was subsequently notified on 31 December 1999 stating that the provision as regards levy of transfer charges @ 50% of the unearned increase in value was not approved as it was not with in the mandate of this Authority to approve such rates. As a sequel to the various representations received from different user organizations to review the increase in the rates approved, this Authority stayed the implementation of its order of 29 October 1999 till disposal of the case after review. The KPT submitted a revised proposal in November 2001.

3.1. This Authority while disposing off the revised proposal received in November 2001 from KPT passed the following Orders on 21 March 2002:

a). The interim stay of operation is vacated.

b). The revised rates approved vide Order dated 29 October 1999 will not apply in respect of plots allotted prior to 1 January, 1999; the pre-revised rates will continue to apply in these cases.

c). The revised rates approved vide order dated 29 October 1999 will apply in respect of plots allotted on or after 1 January 1999.

d). The entire rate structure will be reviewed in January 2004.

3.2. In this backdrop, the KPT on 3 January 2006 filed its proposal for revision of rate structure of GTL.

4.1. The salient points made by the port in its proposal are summarized below:

(i) A rate revision committee under the chairmanship of Chairman, KPT, was constituted for submitting the proposal for revision of the rate structure. The committee comprised of KPT officers including the Deputy Collector, Anjar.

(ii) The committee took into consideration the various factors like

(a). Rates earlier approved by TAMP,

(b). Rates fixed by the Govt. of Gujarat for the purpose of stamp duty,

(c). Rates fixed on upfront basis for the auction held 2004,

(d). The highest, lowest and average premium quoted for plots offered in Sector Nos.8, 9,10,11,12, 1-A and NU-3, at Gandhidham in the auction held in 2004, and

(e). The highest, lowest and average consideration amounts voluntarily declared by the lessees in the applications submitted for transfer of their plots in different sectors during the period July 2004 and August 2005.

4.2. The KPT has maintained that different sectors are having different considerations and importance and hence the committee has recommended sector wise rates as under:

(1) **<u>Sectors 1 to 5</u>: (Residential Sectors) -** These are posh and prime residential sectors of Gandhidham. The existing rates approved by TAMP in respect of these 5 Sectors are Rs.400/- per sq.mtr. The State Govt. has fixed different rates for these 5 Sectors and the average rate comes to Rs.809/- per sq.mtr. The average consideration amount declared by lessees in respect of all these 5 Sectors in the transfer applications comes to Rs.1091/- per sq.mtr. The Committee was of the opinion that the rate should be between the rates of State Govt. and the consideration amount declared by the lessees and as such, it recommended the rate of **Rs.800/-** per sq.mtr., which is double the rate fixed by TAMP in the year 1999.

(2) **<u>Sectors 6 & 7</u>: (Residential Sectors).** These two sectors are slightly away from the prime areas. The existing rate fixed by TAMP is Rs.400/- per sq.mtr. The rates fixed by the Govt. of Gujarat are Rs.425/- per sq.mtr. and Rs.455/- per sq.mtr. The Committee decided to take the average of the rates fixed by the State Govt. for Sectors 6 & 7 and recommended the rate of **Rs.440/-** per sq.mtrs.

(3) **<u>Sector 8:</u> (Commercial Area). T**his is a prime commercial area situated in the middle of the Town. The existing rate fixed by the TAMP is Rs.800/- per sq.mtrs. and the State Govt. has fixed Rs.1890/- per sq.mtrs. The premium amount quoted during the auction of year 2004 for the plots in this Sector is still on the higher side. The Committee recommended to double the rate approved by the TAMP, which comes to **Rs.1600/-** per sq.mtr.

(4) **<u>Sector 9</u>: (Offices Area) -** This is a prime area. The existing rate fixed by the TAMP is Rs.1200/- per sq.mtr. The State Govt. has fixed Rs.2750/- per sq.mtr. The rate fixed on upfront basis is Rs.1471/- per sq.mtr. and the highest premium quoted is Rs.1100/- per sq.mtr. during the auction of 2004. The Committee considered the existing rate fixed by TAMP plus the highest premium quoted during the auction of 2004 i.e. Rs.1200/-which works out to Rs.2300/- per sq.mtr. The Committee however decided to double the rate fixed by the TAMP and recommended the rate of **Rs.2400/-** per sq.mtr.

(5) **<u>Sector 10</u>: (Light Industrial Area).** The existing rate fixed by TAMP is Rs.800/- per sq.mtr. The rate fixed by the State Govt. is Rs.325/-and the rate fixed on upfront basis is Rs.980/- per sq.mtr. and the lowest premium quoted during the auction of year 2004 is Rs.20/- The Committee decided to take the rate fixed on upfront basis i.e. Rs.980/- plus, the lowest premium quoted during the auction of 2004 i.e. Rs.20/- and recommended **Rs.1000/-** per sq.mtr.

(6) **<u>Sector 11</u>: (Light Industrial & Godowns) -** The existing rate fixed by TAMP is Rs.1000/- per sq.mtr. The rate fixed by the State Govt. is less. The committee decided to increase the rate fixed by TAMP by 25%, which comes to Rs.1250/- per sq.mtr. which is equivalent to the rate fixed on upfront basis for the auction held in 2004 plus the lowest premium quoted during the auction of 2004.The Committee recommended the rate of **Rs.1250/-** per sq.mtr.

(7) **<u>Sector 12</u>: (Manufacturing Area) -** The existing rate fixed by TAMP is Rs.1000/- per sq.mtr. The rate fixed by the State Govt. is less. The committee decided to increase the rate fixed by TAMP by 25%, which comes to Rs.1250/- per sq.mtr. which is also equivalent to the rate fixed on upfront basis for the auction of year 2004, PLUS the lowest premium quoted during the auction of 2004. The Committee recommended the rate of **Rs.1250/-** per sq.mtr.

(8) **<u>Sectors 13 & 14</u>: (Residential Area) -** The plots in Sector 13 have been allotted to Gujarat Housing Board and Sector 14 is earmarked for weaker sections of the society. These sectors are in the outskirts of the Gandhidham Town and are located far away from the prime residential area. The rate fixed by TAMP for these sectors is Rs.400/- per sq.mtr. The Committee recommended the rate of **Rs.440/-** per sq.mtr. i.e. the rate recommended for Sectors 6 & 7.

(9) **<u>Sector 1-A</u>: (Composite Zone) -** This area is in the middle of the Town and surrounded by prime residential and commercial areas. The area is used for offices, shops and residential purposes and full construction is allowed on these plots. The rate fixed by the State Govt. for stamp duty purpose and the premium quoted during the auction of 2004 are much on the

higher side. The existing rate fixed by TAMP is Rs.1600/- per sq.mtr. The Committee decided to double the rate fixed by TAMP for this sector and recommended the rate of **Rs.3, 200/-** per sq.mtr.

(10) **NU –10-B & NU-3: (Residential Area) -** NU-10-B & NU-3 are in the middle of the Gandhidham Town and are prime residential locations. The existing rate fixed by TAMP is Rs.400/- per sq.mtr. The Committee decided to double the rate fixed by TAMP and recommended the rate of **Rs.800/-** per sq.mtr.

(11) **NU-4: (Residential Area) -** NU-4 is a residential area and a little away from the prime residential area. The rate fixed by TAMP is Rs.400/- per sq.mtr. The Committee recommended the rate of **Rs.500/-** per sq.mtr. for this area.

(12) **DC-6 Main:** About 100 plots meant for composite purposes have been developed in DC-6 Main area and no rate structure has been fixed so far for this area. For Sector 1A (Composite Zone), the Committee has recommended the rate of Rs.3, 200/- per sq.mtr. Since this area is also a prime area in Gandhidham Town, but is a little away from the Tagore Road, the Committee recommended the rate of **Rs.2, 400/-** per sq.mtr., i.e. ¾th of the rate recommended for Sector 1-A, Gandhidham.

(13) **Residential-Cum-Shopping Plots:** These are residential-cum-shopping plots, shopping plots in residential areas for which no rate has been fixed in 1999. The Committee recommended that the rates fixed for respective areas i.e. residential areas, will also be made applicable to such plots. Also the rate of Rs.500/- recommended for NU-4, DC-6 will be taken as basic price for allotment of Shopping plots available in NU-4, Gandhidham.

(14) **District Center-5 (DC-5):** DC-5 is reserved for residential purpose and is near to Adipur Town. The residential area opposite to DC-5 on Tagore Road has been allotted by SRC Ltd. and the allottees have started construction of houses in the area. DC-5 is an undeveloped area consisting of NU-1, 2, 3, 4 & 5 and the DC-5 Main is reserved, as per the zoning, for commercial purpose. Since this area is yet to be developed, no rate structure has been fixed. An area of 55 acres in NU-5 of DC-5 has been allotted to the State Govt. for rehabilitation of earthquake victims and the construction work in this area is in progress. As some Govt. Departments and Institutions have approached for allotment of residential plots, according to KPT, it is necessary to prescribe rate structure for DC-5 also.

(a). **NU-1,2 & 5 of DC-5** :

NU-1, 2 & 5 areas are just adjoining the Tagore Road i.e. the State Highway and will become a prime residential locality. Committee recommended the rate of **Rs.800/-** per sq.mtr. which is equivalent to the rate of Rs.800/- recommended for Sectors 1 to 5.

(b). **NU-3 & 4 of DC-5:**

NU-3 & 4 areas are away from the Tagore Road i.e. State Highway. Committee recommended the rate of **Rs.440/-** per sq. mtr., which is equivalent to the rate of Rs.440/- recommended for Sectors 6 & 7.

(c). **DC-5 Main:**

DC-5 Main will have to be developed as a commercial area to cater to the needs of all the inhabitants of DC-5 Main. For DC-6 Main, the committee had recommended the rate of Rs.2, 400/- per sq. mtr., i.e. ¾th of the rate recommended for Sector 1-A. Committee recommended the rate of **Rs.2,400/-** per sq.mtr. as applicable for DC-6 Main, which will also be applicable for DC-5 Main.

5.1. The Board of Trustees of KPT in October 2005 has approved the recommendation of the committee for revision and fixation of rate structure for GTL as under:

Sr.No.	Sector	Rate approved by TAMP in 1999 (Rs. per sq.mtr.)	Rate proposed by the KPT (Rs. per sq.mtr.)
(1)	(2)	(3)	(4)
1.	Sector-1	400	800
2.	Sector-2	400	800
3.	Sector-3	400	800
4.	Sector-4	400	800
5.	Sector-5	400	800
6.	Sector-6	400	440
7.	Sector-7	400	440
8.	Sector-8	800	1600
9.	Sector-9	1200	2400
10.	Sector-10	800	1000
11.	Sector-11	1000	1250
12.	Sector-12	1000	1250
13.	Sector-13	400	440
14.	Sector-14	400	440
15.	1-A	1600	3200
16.	NU-10-B	400	800
17.	NU-3	400	800
18.	NU-4	400	500
19.	DC–6 Main (composite purpose)	-----	2400
20.	DC-5 (a). NU-1,2&5 (b). NU-3 & 4 (c). DC5 Main	 ----- ----- -----	 800 440 2400

5.2. The Sector at Sr.No.19 of the table above, as informed by the port, is a developed area but no rate structure has been fixed so far. The Sectors at Sr.No.20 ibid are yet to be developed and for these sectors also no rate structure has been fixed. Some of the plots in these Sectors are being developed and hence according to KPT it is necessary to prescribe rate structure for these Sectors.

5.3. In respect of the residential-cum-shopping plots, KPT has proposed that the rates fixed for respective areas i.e. residential area will be applicable to such residential-cum-shopping and shopping plots and also the rate of Rs.500/- per sq.mtr. proposed for NU-4 will be the basic price for allotment of shopping plots available thereat.

5.4. The KPT has proposed that the rates shown in the last column of the table under para. 5.1. above will be the basic consideration amount for land allotment and will be considered as the prevailing market value for all purposes including for calculation and recovery of transfer fee for the plots already allotted, for revision of annual ground rent and for calculation and charging penalties, etc., for the allotted plots.

6. In accordance with the consultative procedure prescribed, the proposal was circulated amongst various lessees for comments. The comments as and when received from the user bodies were forwarded to KPT as feedback information/ comments. The KPT has responded to the comments of the users/user organisations.

7.1. Based on the preliminary scrutiny of the proposal KPT was requested vide our letter dated 19 July 2006 to furnish *inter alia* the sector-wise information of the total area of land under KPT's control at Gandhidham Township. KPT has furnished the details sought vide its letter dated 6 November 2006 as under:

Sectorwise availability of lands:

Sec No.	Residential	Commercial	Service	Light Industry	Other	Areas remain unallotted	Cost of land and development cost if any incurred subsequently
1A		420(composite)			14	33 plots	
1	96	19			6		
2	148	6			8		
3	128	24			3		
4	241	18			3		
5	764	37			4		
6	448	42			8		
7	514	50			1		
8			138		9	02 plots	After allotment
9			113		9	11 plots	Of plots, no
10A				78	3	05 plots	Cost of
10B				22		02 plots	Development
10C				38	1	15 plots	Is incurred
11				47		19 plots	
12A				3	5	02 plots	
12B				4	1	02plots	
12C				4			
12D				2	1		
12F				2			
12G				1		05 plots	
12H					5		
14					2		
NU-3	585				7	3 plots	
NU-4	1535				11		
NU-10B	589				3		

7.2. The other information / clarification on various points sought vide our letter dated 19 July 2006 and the clarifications furnished by KPT vide its replies dated 6 November 2006 and 13 November 2006 is juxtaposed below:

Sl. No.	Queries raised by us	Reply of KPT
1.	(a). A layout plan of the GTL showing sector wise details of the areas allotted for different purposes.	The layout plan showing sector wise details of areas allotted for various purposes is furnished. The details of unallotted plots within the sector are also furnished.
	(b). Details of open areas, if any, within the sectors.	The details of open areas are shown in the layout plan.
	(c). Sector wise details of plots allotted prior to 1st January 1999 and after 1st January 1999.	Sector wise details and the plots allotted prior to 1 January 1999 are furnished. No plots have been allotted after January 1999.
	(d). Sector-wise details of rates fixed by the State Government of Gujarat for the purpose of Stamp Duty during the period 1999 to 2006.	The Sector wise details of rates fixed by State Government of Gujarat for the purpose of stamp duty for the period 1999 to 2006 is furnished. However, it is stated that since 1999 the stamp duty has not been revised
	(e). The basis on which upfront rates were fixed for the auction held in 2004.	The upfront rates that were fixed for the auction held in 2004 were on the basis of

<table>
<tr><td></td><td></td><td>basic consideration amount per square meter (i.e. Development charges) plus upfront ground rent per square meter (i.e. Ground rent which is 2.5% of Development Charges discounted @ 12% for 30 years).</td></tr>
<tr><td></td><td>(f). The basic amenities like water, road, lightening, etc provided by KPT at GTL and the year wise expenditure incurred thereon.</td><td>The basic amenities like water, lighting, road etc are provided by the municipality and not by Kandla Port Trust. However Kandla Port Trust incurs expenditure on drainage of the township and horticulture. The expenditure incurred on drainage and horticulture during last 5 years is as below:

(In Rs.)
<table>
<tr><td>Year</td><td colspan="2">Description</td><td>Total</td></tr>
<tr><td></td><td>Drainage</td><td>Horticulture</td><td></td></tr>
<tr><td>2001-02</td><td>2896287</td><td>1140000</td><td>4036287</td></tr>
<tr><td>2002-03</td><td>2452545</td><td>360000</td><td>2812545</td></tr>
<tr><td>2003-04</td><td>2637358</td><td>580152</td><td>3217510</td></tr>
<tr><td>2004-05</td><td>2479896</td><td>538354</td><td>3018250</td></tr>
<tr><td>2005-06</td><td>2212800</td><td>430000</td><td>2642800</td></tr>
</table>
</td></tr>
<tr><td></td><td>(g). The authority under which the transfer fee is presently levied by KPT.</td><td>The transfer fee is levied as per the Government Guidelines.</td></tr>
<tr><td>2.</td><td>It is stated that about 100 plots meant for composite purposes have been developed in DC-6 Main area for which no rate structure has been fixed so far. Kindly elucidate what is meant by composite purpose. Also furnish the following points:</td><td>‘Composite purpose’ means where plots are allotted for residential cum shopping purposes. The area, which is considered for such purposes, is called composite zone.</td></tr>
<tr><td></td><td>(a). The expenditure incurred in developing these plots;</td><td>Rs.67.88 lakhs have been incurred in developing these plots in DC-6 main area.</td></tr>
<tr><td></td><td>(b). The expenditure being incurred on upkeep of these newly developed plots.</td><td>The plots / land after development are being handed over to Gandhidham Municipality who takes care of maintenance of roads and other amenities falling in those areas. As such no special expenditure is being incurred on upkeep of these plots and all such plots of Gandhidham in general. Kandla Port Trust incurs expenditure only on drainage and horticulture.</td></tr>
<tr><td>3.</td><td>The Gandhidham Chamber of Commerce & Industry (GCCI) has stated that KPT is not the owner of the land and KPT has submitted before TAMP at the joint hearing held on 7 March 2002 that it collects lease rent and ground rent to establish its title and to recover development charges. KPT is requested to offer its remarks on the GCCI’s contention.</td><td>The contention of the GCCI is not correct. Kandla Port Trust is the defacto owner of the land on behalf of Government of India. . Photo copy of an extract of letter No.10-TS(5)/87 dated 29 April 1958 from Development Commissioner, Kandla to the Secretary to the Government of India, Ministry of Transport & Communications, Department of Transport is furnished.</td></tr>
<tr><td>4.</td><td>It is also stated that there are residential cum shopping plots’ in residential areas for which no rate structure has been fixed so far. Kindly furnish details of such plots including the nature of expenditure incurred in developing these plots and the</td><td>The residential cum shopping plots are allotted in the composite zone wherein the lessee has been given the facility to construct the residence on the first floor and to carryout business on the ground floor.
Such composite plots are allotted in Sector</td></tr>
</table>

	expenditure being incurred on their upkeep.	1A and DC 6. For 1A the rates are already available which are proposed for revision. Since DC 6 is recently developed, no rates for this sector are available and hence proposed afresh. So far as nature of the expenditure is concerned the development of the area is undertaken by Kandla Port Trust and this expenditure is treated as capital. After development of plots the same are handed over to Municipality for maintenance and hence Kandla Port Trust incurs no upkeep expenditure except on drainage and horticulture.
5.	The rates applicable to residential areas have been proposed to be applied for residential-cum-shopping and shopping plots. Since shopping areas are for commercial purposes, the logic in proposing the residential rate for residential-cum-shopping and shopping plots may please be explained.	The rates fixed for residential cum shopping plots fall under the category of the composite zone and the rates prescribed are for the sectors and not on the basis of the activity carried out. In the composite zone it has been permitted to construct shops on the ground floor and residence on the first floor so that the residents in that area carryout business to cater to their as well as the need of other residents and earn their livelihood and as such the rates have been proposed for residential cum shopping. The rates of the composite zone are higher (almost double) than the rates of the only residential plots.
6.	Kindly clarify whether within the same sector, there is any classification like residential, industrial and commercial.	There is no classification like residential, industrial and commercial. However, in some sectors commercial activity is permitted looking to the basic requirement for the residents of that area. In the industrial sectors no residential allotments have been made.
7.	It is mentioned that the rates proposed will be the basic consideration interalia for calculating and charging penalties. Kindly elucidate the penalty clause and when it will be invoked and the basis in which the penalty amount is worked out.	Penalty clause is basically a deterrent to avoid the breaches committed by the lessees such as when house is not constructed within 24 months from the date of execution of lease deed or when the plot is transferred / mortgaged by the lessees without construction of the house on the allotted plots. The penalty presently being charged are mentioned in a circular which is submitted separately. The charges recovered are at varying percentage of the highest Development Charges prescribed during the rate revision taken place in 1983. It is now proposed to fix the penalty at the same percentage currently applicable on the Development charges in the present SOR of GTL.
8.	Kindly confirm that the land allotted to the SRC is not affected by the present proposal.	2600 acres of land has been leased out to SRC, and SRC is levying the rent and development charges from their lessees and hence the present proposal does not affect them.
9.	Also confirm that the land allotted to IFFCO is not affected by the present proposal.	M/s. IFFCO has a separate area, which is governed by a different lease arrangement.

<table>
<tr><td></td><td></td><td>That being so, they are not affected by the present proposal.</td></tr>
<tr><td>10.</td><td>Kindly confirm that the rate structure approved in March 2002 still continues (it is not clear from the KPT's proposal whether it seeks any retrospective approval. If any retrospective approval is intended please confirm whether the lease agreement entered into by KPT with lessees contain a clause allowing for retrospective revision of lease rental).</td><td>After 1999 the rate structure have not been renewed/revised hence no rates were approved in 2002. In the year 1999 TAMP had ordered that the revised approved rates of 1999 will not apply due to the post earthquake scenario hence the pre-revised rates would continue and further ordered that the entire rates structure would be reviewed in 2004. The revision of rates shall be effective from retrospective dates i.e. from 2004.
The lease agreements entered into by Kandla Port Trust with lessees contain a clause allowing for retrospective revision of lease rental.</td></tr>
<tr><td>11.</td><td>Kindly furnish the sector wise revenue presently collected by KPT from GTL.</td><td>The sector wise revenue presently receivable is as below
(In Rs.)
<table>
<tr><th>Sec. No.</th><th>Ground rent</th></tr>
<tr><td>1</td><td>15,372</td></tr>
<tr><td>1A</td><td>6,39,047</td></tr>
<tr><td>2</td><td>67,418</td></tr>
<tr><td>3</td><td>12,515</td></tr>
<tr><td>4</td><td>23,057</td></tr>
<tr><td>5</td><td>37,602</td></tr>
<tr><td>6</td><td>8,075</td></tr>
<tr><td>7</td><td>89,856</td></tr>
<tr><td>8</td><td>1,23,727</td></tr>
<tr><td>9</td><td>84,663</td></tr>
<tr><td>10A</td><td>48,843</td></tr>
<tr><td>10B</td><td>13,772</td></tr>
<tr><td>10C</td><td>29,702</td></tr>
<tr><td>11</td><td>28,433</td></tr>
<tr><td>12A</td><td>45,167</td></tr>
<tr><td>12B</td><td>14,557</td></tr>
<tr><td>12C</td><td>1,848</td></tr>
<tr><td>12D</td><td>1,518</td></tr>
<tr><td>12F</td><td>2,654</td></tr>
<tr><td>12G</td><td>18,285</td></tr>
<tr><td>NU4 DC6</td><td>736</td></tr>
<tr><td>NU 10B</td><td>11,500</td></tr>
<tr><td>NU4 (OLD)</td><td>66,177</td></tr>
<tr><td>NU4 (NEW)</td><td>32,710</td></tr>
<tr><td>NU 3</td><td>19,527</td></tr>
<tr><td>TOTAL</td><td>14,36,761</td></tr>
</table>
</td></tr>
<tr><td>12.</td><td>Kindly furnish a separate cost statement for the GTL activity in the prescribed format based on the actual income and expenditure for 2000-01 to 2005-06 and based on estimates for the next 5 years.</td><td>Cost Statement for 2001-02 to 2005-06 and for next 5 years is furnished.</td></tr>
<tr><td>13.</td><td>The financial implications including the additional revenue that would be generated per annum on account of the proposed rate structure may please be furnished.</td><td>The per annum incremental revenue generation on account of the proposed rate structure is estimated at Rs.23.48 lakhs.</td></tr>
<tr><td>14.</td><td>In the past it has been reported that the Government of Gujarat has been pressing KPT for return of the GTL so that they can</td><td>No final decision in this regard has been taken by the Ministry of Shipping, Road Transport and Highways.</td></tr>
</table>

<table>
<tr><td></td><td>develop the township. Kindly state how the matter now stands and whether any decision have been taken in this respect.</td><td></td></tr>
<tr><td>15.</td><td>When this Authority issued orders dated 29 October 1999 and 21 March 2002, it was advised that KPT with appropriate sanction of the Central Government should explore the possibility of selling the lands on a freehold basis to the public with reference to a competitive bidding process. Action, if any, taken in this respect may please be informed.</td><td>Government guidelines allows only leasing of the land though competitive bidding for 30/99 years. However, there is a proposal pending with GOI in which a decision has to be taken either to sell the land on free hold basis or lease on 30/99 years.</td></tr>
<tr><td>16.</td><td>Kindly confirm that the present proposal is in conformity with the land use plan for Major Port Trust approved by the Central Government and communicated to the ports under letter No. PT-17011/55/87-PT dated 8 March 2004.</td><td>The present proposal is strictly in conformity with the land use plan approved by the Central Government vide its guidelines dated 8 March 2004.</td></tr>
<tr><td>17.</td><td>Also confirm that the rate structure proposed is in accordance with end use as reflected in the Land Use Plan referred to above.</td><td>Yes, the rates structure proposed is in accordance with the end use as reflected in the land use plan.</td></tr>
<tr><td>18.</td><td>If on any matter the present proposal deviates from the land use plan referred to above, please furnish the details thereof and the reason therefore.</td><td>There is no deviation from the land use plan.</td></tr>
<tr><td>19.</td><td>The areas of land, sector wise, if allotted on licence basis, the details thereof may please be furnished.</td><td>The statement showing the sector wise land allotted on leave and license basis are as under:
<table>
<tr><td>Sector No.</td><td>Leave and licence</td></tr>
<tr><td>1A</td><td>1 plot</td></tr>
<tr><td>1</td><td>2 plot</td></tr>
<tr><td>Between 1,2,3 & 4</td><td>1 plot</td></tr>
<tr><td>2</td><td>1 plot</td></tr>
<tr><td>NU 4 DC 6</td><td>2 plots</td></tr>
<tr><td>7</td><td>1 plot</td></tr>
<tr><td>12A</td><td>2 plots</td></tr>
<tr><td>12D</td><td>2 plots</td></tr>
<tr><td>12H</td><td>6 plots</td></tr>
</table></td></tr>
<tr><td>20.</td><td>The areas of land, sector wise, if allotted in following cases the details may be furnished –
(a). Religious institutions

(b). Social purposes</td><td>

(a). No land allotted for religious mandir.

(b). The areas of land allotted sector wise for social purpose are as under:
<table>
<tr><td>Sector No.</td><td>Social Purpose</td></tr>
<tr><td>1A</td><td>6 plots</td></tr>
<tr><td>1</td><td>5 plots</td></tr>
<tr><td>2</td><td>2 plot</td></tr>
<tr><td>3</td><td>1 plots</td></tr>
<tr><td>4</td><td>2 plots</td></tr>
<tr><td>5</td><td>Nil</td></tr>
<tr><td>6</td><td>2 plots</td></tr>
<tr><td>7</td><td>1 plot</td></tr>
<tr><td>8</td><td>2 plot</td></tr>
<tr><td>9</td><td>1 plot</td></tr>
</table></td></tr>
</table>

	(c). Any joint venture for improving port activity where KPT is a party. (d). Any joint venture for special economic zone where KPT is a party.	(c). No land has been allotted for any kind of joint venture for improving port activity. (d). No land has been allotted for any kind of joint venture for SEZ where KPT is a party.
21.	The details of land leased on upfront basis and on annual basis and security amount received per lease/licence may be furnished.	Only Gujarat Electricity Board has been allotted land on upfront basis.
22.	Kindly confirm that the present proposal is submitted only after the KPT identifying its land requirements and the land, which the port can spare.	The land requirements of Kandla Port Trust are already prescribed in the land use plan and hence the present proposal has been framed taking into consideration all the factors affecting the same.
23.	The rates proposed by KPT are based on: (i) rates approved by TAMP in 1999(ii) the rates fixed by State Govt. for the purpose of stamp duty (iii) rates fixed on upfront basis for auction held in 2004 and (iv) premium quoted (highest, lowest and average) in the auction held in 2004 for plots offered in some sectors. As per Govt. letter dated 8 March 2004 any or all of the following 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 approval valuer and (v) Any other relevant factor as may be identified by the Port. In this context the below mentioned issues require clarification/ compliance from KPT.	
	(a). The approach adopted to arrive at the proposed rates is not uniform for the entire estate. Kindly explain the reasons therefor.	The proposed rates cannot be uniform because the areas under consideration for revision of rates are under different zones and the purposes vary. Some areas are in prime locations which need to have higher valuation and some are interior parts which cannot be at par with the prime location and hence the rates prescribed/proposed cannot be uniform at any stage.
	(b). The ready reckoner rates considered pertain to 2004. If the ready reckoner rate for the year 2006 varies from that of 2004 it will be necessary for KPT to review the proposal suitably.	The ready reckoner considered for fixing rate is the one used by Gujarat Government for the purpose of stamp duty and the same is unchanged from 1999.
	(c). The reasons for not considering the average rate of actual relevant transactions registered in the last three years in the port's vicinity.	The number of transactions registering every year is approximately 200. Calculation of average rate for last three years is highly time consuming and such average rate may not reflect the realistic rate as the rates in such transactions tend to be speculative and hence not considered.
	(d). The reasons for considering the average of the premium quoted in the auction held in	It is to be borne in mind that during the process of tendering the rates received is

<table>
<tr><td></td><td>2004 instead of the highest accepted auction value.</td><td>purely on the basis of competition and the need of the tenderer for that particular land and hence taking into consideration the highest offer received shall be a burden on general public. Further they become much on the higher side and hence the average rate is proposed. It gives appropriate picture considering the upper and lower values.</td></tr>
<tr><td></td><td>(e). Why it was not considered essential to appoint an approved valuer for determining the market value.</td><td>Since all the other relevant options are considered and it is felt that the rates proposed are within justifiable limits, a valuer is not appointed. However, it is pertinent to mention that the Deputy Collector Anjar Taluka was a member of the rate revision Committee.</td></tr>
<tr><td></td><td>(f). In the auctions held in 2004 wide variation is visible in the highest and lowest premium quoted. The reasons, therefor, have to be analyzed by KPT and communicated to us. KPT may consider whether a better picture would emerge if the weighted average of all the offers per sector is considered, instead of taking the arithmetic mean of the highest and lowest offers.</td><td>The weighted average makes the rate higher. Simple average is considered looking to the interest of the public at large.</td></tr>
<tr><td>24.</td><td>The KPT is also requested to forward a draft Scale of Rates, including the conditionalities attached thereto, relating to lease rents of land at GTL.</td><td>The draft scale of rates along with conditionalities is furnished below:
<table>
<tr><th>Sr.No.</th><th>Sector</th><th>Rate per sq. mtr.</th></tr>
<tr><td>01</td><td>Sector-1</td><td>Rs.800</td></tr>
<tr><td>02</td><td>Sector-2</td><td>Rs.800</td></tr>
<tr><td>03</td><td>Sector-3</td><td>Rs.800</td></tr>
<tr><td>04</td><td>Sector-4</td><td>Rs.800</td></tr>
<tr><td>05</td><td>Sector-5</td><td>Rs.800</td></tr>
<tr><td>06</td><td>Sector-6</td><td>Rs.440</td></tr>
<tr><td>07</td><td>Sector-7</td><td>Rs.440</td></tr>
<tr><td>08</td><td>Sector-8</td><td>Rs.1600</td></tr>
<tr><td>09</td><td>Sector-9</td><td>Rs.2400</td></tr>
<tr><td>10</td><td>Sector-10</td><td>Rs.1000</td></tr>
<tr><td>11</td><td>Sector-11</td><td>Rs.1250</td></tr>
<tr><td>12</td><td>Sector-12</td><td>Rs.1250</td></tr>
<tr><td>13</td><td>Sector-13</td><td>Rs.440</td></tr>
<tr><td>14</td><td>Sector-14</td><td>Rs.440</td></tr>
<tr><td>15</td><td>1-A</td><td>Rs.3200</td></tr>
<tr><td>16</td><td>NU-10-B</td><td>Rs.800</td></tr>
<tr><td>17</td><td>NU-3</td><td>Rs.800</td></tr>
<tr><td>18</td><td>NU-4</td><td>Rs.500</td></tr>
<tr><td>19</td><td>DC-6 Main</td><td>Rs.2400</td></tr>
<tr><td>20</td><td>DC-5
(a) NU-1, 2&5
(b) NU-3 & 4
(c) DC 5 Main</td><td>
Rs.800
Rs.440
Rs.2400</td></tr>
</table>
</td></tr>
</table>

		Conditionalities: Ground rent will be at the rate of 2.5% of the above Development Charges. The rates shall be subject to revision every five years. The Ground rent will be escalated @ 2% every year or as per Ministry's Guideline as applicable from time to time. The above rates will be the basic consideration amount i.e. scheduled rate for land allotment and will be considered as prevailing market value for all purposes including for calculation and recovery of transfer fees for the plots already allotted, for revision of annual ground rent and for calculation and charging penalties etc. for the allotted plots.

8.1. On 14 November 2006, KPT made a presentation at the TAMP's office. At that occasion, the KPT was impressed upon the necessity of strict adherence to the guidelines issued by the Central Government on the land use plan for Major Port Trusts. It was also pointed out that the deficit, if any, in the maintenance of the township should not be passed on to the trade by padding to the rates for providing cargo handling and port and dock facilities.

8.2. Subsequent to the presentation, KPT was advised to furnish some more information vide this office letter dated 29 November 2006. As a reply to this letter KPT informed vide letter dated 23 January 2007 that the revision of rate structure of Gandhidham Township Land is again being processed for the approval of its Board in accordance with TAMP's direction and based on Government land policy guidelines. By letter dated 7 February 2007, KPT was requested to inform whether its proposal was to be treated as withdrawn. KPT replied under letter dated 28 February 2007 that its proposal has not been withdrawn. Subsequently, under letter dated 8 November 2007 KPT furnished replies to the queries raised in this office letter dated 29 November 2006. The relevant details called for in November 2006 and the replies thereto furnished by Kandla Port in November 2007 are furnished below:

Sl. No.	Queries raised by us	Reply of KPT
1.	The details of tariff, if any, fixed in the past in respect of the estates other than GTL may please be furnished.	A) The rates approved by Government in the past which is applicable from July 1994 in respect of the estate other than GTL are as under: (i) The rate for land with the dock area is Rs.30 per sq.mtr. per annum. (ii) For land outside the dock area the rates are Rs.16 per sq.mtr. per annum and Rs.11 per sq.mtr. per annum. (B) The rates approved by TAMP vide Notification dated 3 February 2006 for the salt land effective from 25 July 2005 are as under: (i) Upto 10 acres – Rs.445 per acre per annum. (ii) Above 10 acres but less than 100 acres – Rs.222 per acre per annum. (iii) 100 acres and above – Rs.144 per acre per annum.

2.	KPT is requested to state whether any rate revision proposal other than that for GTL is yet to be formulated.	The rate revision proposal for the land mentioned at 1(A) above is yet to be formulated. After approval of Board, the same will be submitted to TAMP.
3.	KPT is advised to submit a cost statement for the Gandhidham Township Land after excluding the income and expenditure pertaining to KPT's colony at Gopalpuri, port office and other areas which have a direct bearing on the Port activities to ensure that the deficit, if any, in the maintenance of the township is not padded to the rates for providing the cargo handling and Port and dock facilities to the trade. (The income and expenditure on maintenance of port colony, port office etc. can be considered in the appropriate cost statements pertaining to cargo handling and port and dock activities).	Cost Statement for Gandhidham Township land is submitted. The expenditure pertaining to KPT Colony, Port Office & other areas which have a direct bearing on the Port activities is not considered in the cost statement of Township activities and the same is charged to the general tariff revision proposal.
4.	In the cost statement pertaining to the township activity, KPT has claimed depreciation ranging from Rs.17.43 lakhs to Rs.95.14 lakhs per annum. The Port has, however, not claimed any return on capital employed. If the capital is not eligible for claiming return, KPT is requested to clarify why it has included depreciation as a permissible expenditure in the cost statements.	Return on Capital Employed has now been included in the cost statement of Township Activity.
5.	The ground rent income from agricultural and non-agricultural land is estimated at Rs.55.32 lakhs in 2006-07. For 2007-08 onwards, the income therefrom is estimated at Rs.132.52 lakhs and above. Kindly furnish the reasons therefor.	The ground rent income from agricultural and non-agricultural land was estimated for 2006-07 at Rs. 55.32 lakhs and the actual stood at Rs. 45.14 lakhs. For 2007-08 the estimate was at Rs.132.52 lakhs, which was in anticipation of approval of Ministry for the fresh allotment of 96 plots. Since the Ministry has turned down the proposal of new allotments, the anticipated additional income has not been taken in the Cost Statement.
6.	KPT is once again requested to confirm that the development charges referred to in its proposal is in conformity with the guidelines issued by Central Government on the land use plan for Major Port Trusts.	Development Charges referred to in the earlier proposal sent vide KPT's letter dated 03.01.2006 is not in conformity with the guidelines of the Central Government on the land use plan for Major Ports. Hence, Govt. is being approached in this regard to include Development Charges also as a part of rate revision and direct TAMP accordingly as all the existing lease deeds of Kandla Port Trust has the terminology of "Development Charges" and "Ground Rent".
7.	In our letter dated 19 July 2006, KPT was requested to clarify the reasons for adopting different approaches to arrive at the proposed rates. In reply, KPT has stated that the proposed rates cannot be uniform as the areas under consideration for revision of rates are under different zones and for different purposes. It is clarified that we did seek clarification from KPT on its `different approaches' and not on `different rates'. KPT is once again requested to furnish the clarification sought.	The basis for arriving at the proposed rates is uniform hence we maintain our reply already furnished that the rates vary based upon the utility of the different zones as per land use plan.

9.1. A joint hearing in this case was held on 13 March 2007 at Kandla Port Trust. At the joint hearing, the KPT and the concerned users made their submissions. The Gandhidham Chamber of Commerce and Industry (GCCI) filed another written submission at the time of the joint hearing. It was forwarded to KPT and the port has responded to the comments of GCCI.

9.2. Since KPT Board has approved a revised proposal the port was advised to circulate the revised proposal amongst the users and simultaneously submit it to this Authority. The users were advised to furnish their comments, if any, on the revised proposal by 30 March 2007.

10.1. Stating that the Government guidelines instruct the ports to take 6% of the market value as rent per annum, by letters dated 8 August 2007 and 29 August 2007 KPT submitted a new SOR for approval. The new SOR submitted by KPT for approval is as under:

Sr. No.	**Sector**	**Rate proposed by the KPT (Rs. per sq.mtr.)**
1.	Sector-1	48
2.	Sector-2	48
3.	Sector-3	48
4.	Sector-4	48
5.	Sector-5	48
6.	Sector-6	27
7.	Sector-7	27
8.	Sector-8	96
9.	Sector-9	144
10.	Sector-10	60
11.	Sector-11	75
12.	Sector-12	75
13.	Sector-13	27
14.	Sector-14	27
15.	1-A	192
16.	NU-10-B	48
17.	NU-3	48
18.	NU-4	30
19.	DC–6 Main (composite purpose)	144
20.	DC-5 (a). NU-1,2&5 (b). NU-3 & 4 (c). DC5 Main	 48 27 144

10.2. It will be seen from para 10.1.above that the rate per annum per sq.mtr. now proposed by KPT is at 6% of the consideration amount earlier proposed vide para.5.1 above. KPT in its letters dated 8 August 2007 and 15 November 2007 has informed that the SOR approved by the Board has been circulated amongst the relevant users for comments, but no fresh comments have been received from them.

11. 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 are also available at our website http://tariffauthority.gov.in.

12. With reference to the totality of information collected during the proceedings of the case, the comments received from the users and from the deliberations at the joint hearing, the following points emerge for consideration:

(i). This Authority vide its earlier Order dated 21 March 2002 decided that the revised rates would apply in respect of plots allotted on or after 1 January 1999 and the entire rate structure was to be reviewed in January 2004. The KPT, however, has submitted its proposal for rate revision of Gandhidham Township Land as late as in January 2006.

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

(iii). The revised tariff policy announced by the Government in March 2004 requires this Authority to follow the land policy guidelines issued by the Government from time to time, for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The policy announced by the Government in March 2004 on land and water management of Major Port Trusts clearly lays down the procedure to be adopted for determining the market value of the port lands. 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.

(iv). The port has confirmed that the proposal for revision has been formulated strictly in conformity with the land use plan approved by the Government of India and communicated to the port in March 2004.

(v). KPT in its initial submission dated 3 January 2006 had proposed sector wise basic consideration amount for land allotment which will be considered as the prevailing market value for all purposes including for calculation and recovery of transfer fee for the plots already allotted, for revision of annual ground rent and for calculation and charging penalties etc. When the port was informed about the requirement of strict adherence to the Government guidelines on port land management announced in March 2004, KPT by letter dated 8 August 2007 has submitted a revised proposal seeking approval to fix the sector wise lease rate per annum at 6% of the sector wise market value of the land determined, the details of which are discussed in the following sub-para.

(vi). The Rate Revision Committee constituted by the KPT as per the Government guidelines included the Dy. Collector, Anjar. The committee, for determining the market value, has considered the factors like (i) the existing rates approved by this Authority in 2002 (ii) the rates fixed by the Government of Gujarat for the purpose of stamp duty (iii) the rates fixed on upfront basis for the auction held in 2004 (iv) the highest, lowest and average premium quoted for some of the plots offered in the auction held in 2004 and (v) the highest, lowest and average consideration amounts voluntarily declared by the lessees in the applications submitted for transfer of their plots in different sectors during the period July 2004 and August 2005. A closer look of the entire exercise reveals that the market value for some sectors has been proposed taking the mean of the ready reckoner rates of the State Government and the average of the consideration amounts declared by the lessees in the recent transfer applications. For some other sectors, the average of the ready reckoner rates fixed by the State Government has been considered. In few cases, where the ready reckoner rates fixed by the State Government and the premium quoted during the auction are on the higher side, the consideration amount proposed is by doubling the existing rates approved by this Authority in 2002. Even market values have been arrived at for few sectors by adding to the upfront fixed the lowest premium quoted in the auction. When requested to explain the reasons for adopting different approaches to arrive at the market values of lands, the port informed that depending upon the importance of the locations the rates have been proposed and the rates would not be uniform at any stage. When again requested to clarify regarding the different approaches adopted and not on the different values arrived at, the port reiterated that the basis of arriving at the proposed market values is uniform and hence the market values would vary depending on the utility of the different zones as per the land use plan. It is obvious that KPT has failed to give a satisfactory reply to justify the different approaches adopted by it to arrive at the market value of different sectors at GTL. As per Government guidelines the SOR for land has to be recommended by a committee headed by the Chairman of the Port Trust and the Committee is empowered to take into account any or all the factors enumerated in sub-para (iii) above to determine the market value of the port land. The Government guidelines do not indicate a specific preference to any particular method and do not stipulate that the same chosen approach should be adopted for deriving market value of the entire estate. Nevertheless this Authority is of the view that it would be appropriate for a Port Trust to assess the market value under all options given in the Government guidelines. The Committee should take into consideration all factors and decide upon the best value to be adopted. In the instant case, however, relying on the commercial judgment of the Board of Trustees of the KPT , this Authority accords provisional approval to the sector wise lease rentals at 6% of the market value recommended by the port subject to the condition that the port would review the market values based on all the methods prescribed by the Government in its Land Policy and derive lease rentals based on the one which is most beneficial to it and the bills should be raised / adjusted accordingly.

(vii). The KPT has stated that all the existing lease deeds provide for levy of `development charges' and 'ground rent' and do not permit levy of license fee in place of the earlier arrangement of collecting ground rent. KPT has also stated that the revised rates of lease rental will not apply to the existing lessees (who would be charged ground rent as per the pre-revised scales of 1999) since as per the clause of the existing lease deed the ground rent is based on the developmental charges and ground rent and developmental charges are not mentioned in the Government's land policy guidelines and hence beyond the purview of TAMP. KPT has further informed that it has approached the Central Government in this regard to include development charges and ground rent as a part of rate revision. The interpretation of KPT that this Authority has no jurisdiction to fix the developmental charges and ground rent charges in the absence of their mention in the Government guidelines does not reflect the correct legal position since Section 49 of the Major Port Trusts Act, 1963 empowers this Authority to frame scale of rates and statements of conditions pertaining to all lease matters of all the properties of the Major Port Trusts. However, it is understood from the port that the leases granted prior to issue of the Government guidelines are governed by the provisions in the respective lease agreements. In this context it is worth mentioning that this Authority in its earlier Order dated 21 March 2002 has taken the stand that the guidelines issued and changes made after execution of a lease agreement cannot be seen to alter the agreement unless it is violative of any provisions in the statute and/or the basic principles adopted by this Authority in tariff setting. Since the lease deeds henceforth to be executed are to contain recovery of lease rent at 6% of the market value of the land (and no recovery of any development charges and ground rent), this Authority accords approval to the proposed revision of rates, which will not apply to pre-1999 leases as the relevant lease agreements reportedly do not contain any provision for levying lease rentals.

(viii). To guage the financial impact of its proposal, KPT was requested to furnish the necessary details. In reply, KPT informed that (i) the revised rates of lease rental will not be applicable to the existing lessees; (ii) the proposed lease rental will be applicable only to new allottees; and (iii) based on the TAMP's Order dated

21.3.2002 the existing lessees are charged the ground rent as per the pre-revised rates of 1999. The port had, however, initially informed that the incremental revenue generation on account of the proposed rate structure would be Rs.23.48 lakhs per annum. The subsequent cost statement furnished by KPT, however, reveals an additional income of about Rs.46 lakhs per annum due to the rate revision.

(ix). As per the Government's land policy for Major Ports, subject to the fulfillment of the conditions specified therein, lessees can be permitted to transfer the lease (in case of leases granted on upfront basis) on payment of a fee to the Port equal to 50% of the difference between the current upfront premium and the original upfront premium, weighted for the balance lease period. In case of leases which were originally granted on annual lease rent basis, in addition to the charges stated above, as per Government's land policy, transfer can be allowed subject to the payment of an upfront premium, equivalent to the NPV of the lease rent calculated as prescribed in the policy document for the remaining period in accordance with the prevailing SOR / Rates approved by the competent authority. On the issue of transfer fees, this Authority has already clarified under its earlier Orders dated 4 February 2000 and 31 August 2000 in case No.TAMP/10/2000-Gen that TAMP does not have the authority to approve levy of lease transfer fee/mortgage fee by the Major Ports in the absence of a specific provision in the MPT Act, 1963. In the order dated 31 August 2000 it has also been clarified that TAMP does not have the power to disapprove such levies and the Port Trusts can, at their discretion and responsibility, take their own decision in this matter without involving this Authority.

(x). The Gandhidham Chamber of Commerce and Industry maintains its earlier opinion that the Gandhidham Township Land does not fall under the purview of port operations and hence does not necessitate frequent reviews. According to GCCI though the port collects rent and developmental charges it fails to discharge its obligation towards the Township in the matter of providing civic amenities like water, road, streetlight etc. GCCI is of the view that any changes in the SOR should be made for the new allotments and the allotments made prior to 1 January 1999 should be spared of any changes. It has once again urged this Authority to direct the port to file a proposal to make the land freehold for the existing allottees through a suitable mechanism within a specified time frame. In the March 2002 Order issued by this Authority KPT was advised to explore the possibility of selling the land on a freehold basis to the public with the sanction of the Central Government and following a competitive bidding process. The port has replied that the Government guidelines allow only leasing of the land through competitive bidding for 30/99 years and its proposal either to sell the land on freehold basis or on lease is pending with the Government of India.

(xi). KPT has got landed estates within the docks, in the west bank of Kandla creek, outside the bunder area, outside the west gate on the north, south and east of the National Highway, at west of the railway siding leading to the Free Trade Zone and upto the crossing of railway line leading to Bhuj on National Highway. When enquired, the port has informed that the rates for these landed estates were fixed in July 1994 and no revision thereafter has taken place. Subsequent to this Authority's Order dated 21 March 2002 relating to the revision of the rate structure of the Gandhidham Township Land the only land revision proposal submitted by the port was relating to its salt land for which approval was accorded by this Authority vide its Order No. TAMP/69/2005-KPT dated 17 January 2006. The port is directed to formulate suitable revision proposal at the earliest for the abovementioned landed estates which have not been reviewed since July 1994.

(xii). The KPT has sought approval to the revised rates retrospectively w.e.f. January 2004 i.e. on expiry of five years from the date of previous revision of rates. The KPT has reported that the lease agreement with the lessees contain a clause allowing for retrospective revisions of lease rental. It is also relevant to mention that the guidelines issued by the Government in March 2004 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 lease agreements entered by the KPT contain a specific clause allowing retrospective revision, this Authority accepts the proposal of the KPT for retrospective revision of rates in respect of its Gandhidham Township Land from 1 January 2004.

(xiii). As per the Government guidelines, the lease rent fixed is subject to an automatic annual escalation at 2%. As regards, the other conditionalities, governing the lease rentals, the KPT is advised to ensure that it is in line with the Government guidelines.

13. In the result, based on a collective application of mind and for the reasons given above, this Authority provisionally accords approval to the following rates of lease rental along with governing conditionalities for allotment of land from 1 January 2004 as proposed by the KPT in respect of the Gandhidham Township Land subject to the condition that the port should consider all the factors prescribed by the Government in its Land Policy and adopt the one which is most beneficial to it and the bills should be raised / adjusted accordingly.
:

Sr. No.	Sector	Lease rate per annum per sq.mtr. (Rs.)
1.	Sector-1	48
2.	Sector-2	48
3.	Sector-3	48
4.	Sector-4	48
5.	Sector-5	48
6.	Sector-6	27
7.	Sector-7	27
8.	Sector-8	96
9.	Sector-9	144
10.	Sector-10	60
11.	Sector-11	75
12.	Sector-12	75
13.	Sector-13	27
14.	Sector-14	27
15.	1-A	192
16.	NU-10-B	48
17.	NU-3	48
18.	NU-4	30
19.	DC–6 Main (composite purpose)	144
20.	DC-5 (a). NU-1,2&5 (b). NU-3 & 4 (c). DC5 Main	 48 27 144

Notes

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

(ii). The base rates prescribed will be valid for a period five years with effect from 1 January 2004.

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

(Brahm Dutt)
Chairman

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/92006 – KPT - Proposal from the Kandla Port Trust (KPT). for rate revision of Gandhidham Township Land (GTL)

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

Sr. No.	Comments by users / user organisations	Reply of KPT
A.	**THE SINDHU RESETTLEMENT CORPORATION LIMITED**	
	(i). The land leased by the Government of India to the Sindhu Resettlement Corporation, admeasuring 2600 acres since 1955, is meant for further sub-leasing to the share holders of the Corporation on the terms and conditions as contained in Government of India's lease deed executed with the corporation in 28th November, 1955. This Corporation's rate structure is being revised periodically (generally every 5 years) and does not tally with that of the KPT, primarily because the concept and area of operation are different. (ii). The KPT rate revision is meant for all new allotments pertaining to KPT's own land and are not applicable to land held by the corporation.	The Sindhu Resettlement Corporation Limited is not affected by this revision and hence they need not be involved. However, whether to involve them in the hearing may be decided by TAMP.
B.	**INDIAN FARMERS FERTILISER CORPORATIVE LIMITED (IFFCO)**	
	(i). The proposed revised rate structure should not be made applicable to organizations like IFFCO. The land already acquired by IFFCO for its township was solely developed by IFFCO and land which may be acquired in future shall also be taken care of by IFFCO. (ii). IFFCO Kandla Unit already possesses KPT land admeasuring 195 acres leased during the years between 1972 and 1980 for its residential township, where all the infrastructural facilities, such as roads, drainage system, water pipelines, etc. including horticulture have been developed by it at its own cost by investing a huge amount of money, thus serving the very objective of KPT for maintaining the grace and aesthetic view of the township. (iii). The rate structure proposed by the KPT should not be implemented even in the case of individual public as the same appears to be very unrealistic and not affordable by a majority of the population, who mainly consist of salaried and low income group. Even if the rate structure is revised, it should be realistic and affordable by the weaker section of the society.	IFFOC is not affected by this revision of rate structure and their comments in this regard that this rate structure should not be applicable to them are accepted. Their contention that this rate structure should not be implemented is their personal opinion and hence no comments.
C.	**KANDLA DOCK LABOUR BOARD (KDLB)**	
	KDLB is agreeable to the proposal given by KPT for revision of rate structure of Gandhidham Township Ltd.	They have unconditionally accepted the rate structure and hence no comments.

D.	GANDHIDHAM CHAMBER OF COMMERCE AND INDUSTRY (GCCI)	
	(i). GCCI strongly opposes the proposal of the KPT for revision of the rate structure of Gandhidham township land. The TAMP has no locus standi as this issue is not connected with port activity but relates to non-port area. The revision is unjustified, unwarranted and detrimental to the interest of trade and commerce of the township.	(i). The contention of the Gandhidham Chamber of Commerce and Industry is mere presumption that KPT is not the owner of the land. An extract of letter No.10-TS(5)/87 dated 29 April 1958 from Development Commissioner, Kandla to the Secretary to the Government of India, Ministry of Transport & Communications, Department of Transport (Transport Wing), is furnished.
	(ii). In post independence era, the refugees from Pakistan were required to be rehabilitated, necessitating adequate land. The job of rehabilitation and development of the port was entrusted to the Sindhu resettlement Corporation Limited (SRC) and KPT respectively.	(ii). The contention of Gandhidham Chamber of Commerce that TAMP has no locus standi to revise the rate of Township land is totally not acceptable because the very township is in existence because there is Kandla Port and all the shipping agents, stevedores, CHA's are residing in the Township areas having their offices and residences. The revision of rates pertains to both Port land within the limits of Port as well as outside Port limits, which is covered under the general lease. When the lessees entered into lease agreement with Kandla Port Trust it was accepted by them that the lease rent would be revised every five years. Thus Kandla Port Trust has made no ex parte decision in the rate revision structure and the contention of the Gandhidham Chamber of Commerce that TAMP has no jurisdiction is not acceptable.
	(iii). The Maharao of Kachchh made available required land to KPT and SRC Limited free of cost and a small portion was acquired on payment of token payment of compensation. The KPT has undertaken to develop land by providing roads etc. The development charges are collected by KPT from the allottees of the plots. Such allotment is made on 99 years lease for residential and other purposes at Gandhidham both by KPT and SRC Limited.	(iii). The representation made by Gandhidham Chamber of Commerce that they have been kept in the dark is not correct because the Deputy Collector of the region who is the legal representative of the general public is one of the members of rate revision committee who was actively involved in the meeting and deliberations of the rate revision and he has accepted the proposed rate structure and hence the question of ignoring the general public is not acceptable.
	(iv). KPT developed the land in the initial years. Gradually these functions are thrust upon on local Municipality and other authorities. No amount on development is being spent by KPT. As such, the question of revising the rates for the plots allotted since 1958 does not arise. In fact, the primary function of development of the town was the primary motive of KPT, which the Administration has ceased to undertake, and KPT should not make the township land as a source of income. When no amount is paid by Trust for water, roads and other basic amenities, there is no reason in collecting the transfer fees, development charges, ground rent, etc.	
	(v). Prima facie, it seems that the Tariff Authority mixes up residential plots as commercial plots as no other port in the country has residential plots for allotment and only commercial plots are allotted to the port users.	
	(vi). Legally speaking, the land being leasehold, no right of ownership is passed on. In case of transfer of plots, there is no virtual transfer of land to prospective transferee. It is merely assignment of rights for residual unexpired term of leasehold rights, and not for entire period of 99 years.	

	(vii). On 4 February 2002, the TAMP has passed the order stating that it does not have the jurisdiction to accord approval for levy of any fees for permitting transfer / mortgage of leasehold rights.	
	(viii). The land committee which recommended revision of the rates of Gandhidham township land consists of paid employees of KPT / Government of Gujarat and no voice of the allottees / lessees is taken into consideration.	
	(ix). The KPT has not provided any recreation and amenities to the public in public utility plots. On the contrary, some of the reserved public utility plots have been auctioned which is not legal.	
	(x). GCCI has suggested to have representation of the Gandhidham Chamber of Commerce and Industry and Property Dealers Association, to come to a logical and practical solution.	
	(xi). KPT or TAMP cannot revise the rate structure of the township land. The KPT can revise and decide on the port land only, which is transferred by the Central Government under Major Port Trust Act.	
	(xii). The general public of the Gandhidham township is against the ex-parte move for the revision of rate structure of the township land and will react vehemently, if rate structure is approved.	

2.1. A joint hearing in this case was held on 13 March 2007 at Kandla Port Trust. At the joint hearing, the following submissions were made:

<u>Kandla Port Trust</u> (KPT)

1. We have revised our earlier proposal with reference to the Government guidelines. We will forward the revised proposal to TAMP shortly.

2. Made a power point presentation of the revised proposal. Hard copy given.

<u>The Gandhidham Chamber of Commerce & Industry</u>

3. Old lessees should not be subjected to any rate increase.

4. KPT Originally had municipal responsibilities. They have given up many of the functions. No justification, therefore, emerges for the KPT collecting development charges on ground rate.

5. We do not have any objection to KPT levying market rates on new allotment.

6. The money collected from township should be spent on township maintenance. We find lot of surplus available with KPT under this account. Therefore, there is no case for any rate increase.

7. Transfer fee cannot be levied for each transfer. It can be levied at best once during the lease tenure.

8. Development of township is not by KPT. It is a natural growth.

9. As mentioned in our written submission, we doubt the jurisdiction of TAMP in this matter.

2.2. The Gandhidham Chamber of Commerce and Industry (GCCI) filed another written submission at the time of the joint hearing. It was forwarded to KPT for remarks. The comments of GCCI and remarks thereon by KPT are furnished below:

Sl. No.	Views expressed by GCCI	Remarks given by KPT
1.	The GCCI strongly opposes the move by KPT to enhance the SOR for the Gandhidham Township Land. The Township land does not fall under the purview of port operations and hence does not necessitate frequent reviews. TAMP has rightly said in its order dated 21.3.2002 that it It is to be recognized that a review of the existing rates does not necessarily result in an upward revision of rates. There are irrelevancies which have not been addressed by KPT in the review process.	It is true that "a review of the existing rates does not necessarily result in an upward revision of rates". But while recommending the revision of rates, the Rate Revision Committee had kept in mind the rate structure available with Sub Registrar, Gandhidham, which is being considered for the purpose of collecting stamp duty from the parties who have executed transfer deeds. Even then instead of hiking the rates they were systematically escalated keeping the Government's Land Policy in view.
2.	Even when the TAMP order dated 21.3.2002 calls for review of rate structures in January 2004, KPT cannot use it as an opportunity to propose steep hike in the SOR. As compared to last revision of SOR in 1982-83, KPT is now seeking frequent rise in SOR to make profit.	It is incorrect to state the KPT is frequently increasing the rate structure of GTL as the last revision of GTL rates were in 1983 and thereafter the revision was effected in 1999 which could not be effected as it was not with retrospective effect. Further, as per the orders of TAMP these rates were not applied to the existing leases i.e. the plots allotted prior to 01.01.99. As such, the rates fixed 24 years earlier are prevailing presently.
3.	The rate Revision Committee constituted by KPT comprised entirely of Government Officers and had revenue raising as the sole objective. The sole consideration of the basis seems to be the market price. The meeting obviously has no dissent from anyone and hence is totally biased and unsubstantiated. KPT cannot act like an opportunistic realtor.	Although the Rate Revision Committee comprised entirely of Govt. officials, it is to be appreciated that the views of the industry & port users were invariably obtained before taking any decision and they are given ample opportunity to put forth their doubts and apprehensions and above all the tariff is approved by a neutral authority viz. TAMP and hence the charges that KPT is acting like an opportunistic realtor are totally baseless.
4.	While KPT may have right to revise the SOR, it must also pay attention to other obligations it has towards the lessees. It has miserably failed to discharge its obligation towards the township. KPT continues to chase the local municipality to take over drainage too, which it has refused. Additionally, KPT has submitted to the Hon'ble Gujarat High Court in 1975 that they are the manager and controller of the township land, but the ownership rests with the Central Government.	The revision of rates is not done at the behest of KPT administration but it is to be carried out as per the guidelines of GOI.
5.	The rate revision should be driven by the shortfall in meeting the designated expenses and not as a matter of right which can lead to profiteering. KPT has failed to justify the proposed hike by providing expenses figures on the purpose for which these funds are used.	Kandla Port Trust had acquired township land by paying compensation to the owners of the land. Thereafter, the land has been developed by way of reclamation, laying of internal roads, laying of internal water supply lines, drainage lines etc. The plots in township are being allotted only after carrying out development and by providing basic infrastructure by spending huge amount of money by Kandla Port Trust. Hence, KPT which has incurred huge expenditure for acquisition of the land and also for development of Gandhidham township land from a scratch to a full-fledged city as per the Master Plan prepared by American Town Planners, has got every right to earn revenue from the land owned by Govt. of India

		The Hon'ble Minister for Shipping, Road Transport & Highways, Shri T.R. Baalu, in a meeting with the officials representing GCCI and trade, had categorically stated that "it was the responsibility of the Municipality to create and maintain the civic amenities like roads, sanitation, drinking water and other infrastructure facilities of the city as the Port of Kandla is a service rendering organization to the Port users and not a municipal unit." Regarding doubts about ownership of land, Section 29 of MPT Act, 1963 makes it amply clear that the land vested with Govt. has been transferred to the Board of Kandla Port Trust.
6.	KPT should be asked to present an account as to how much money has been collected as ground rent and transfer fee and what use it has been put to. The GCCI is of the firm opinion that it is only accumulating reserves which are earning bank interest.	The purpose of any rate revision despite recovery of the costs is to earn revenue to the National Exchequer, but this has to be within the prescribed guidelines / framework. Accordingly, KPT revises its general SOR as well as SOR for land looking to the administrative, operational, expenses etc. involved in the activities and in case of land, the market value / escalation of prices of land. Not doing so will lead to loss to the National Exchequer. Thus revision is in accordance with the GOI's Guidelines issued from time to time for the land. As per Section 88 of MPT Act, 1963, all moneys of the KPT Board are credited to General Account of the Port and hence it is not necessary that the income from Ground Rent, Transfer Fees, Mortgage Fees, etc. is to be utilized exactly for the same.
7.	Even during the serious earthquake, KPT did not contribute single paise of its own funds to the town rebuilding but collected funds under KERF from other major ports.	GCCI's contention that KPT has not contributed a single paisa to the town rebuilding is totally false and misguiding, as immediately after the disaster, when other authorities were still recovering from the shock, it was KPT which not only utilized its own resources in immediate rescue & relief, but took the initiative to form a Kandla Earthquake Relief Fund wherein the contributions were made by other ports and organizations on the goodwill of KPT. It was Kandla Port Trust which took upon itself to garner support from other ports for the noble cause. KPT also contributed to a great extent in the rehabilitation phase, the prime example of which is that KPT gave Rs. 55 acres (DC-5) of land to State Government for the resettlement of the earthquake victims. Despite collecting funds, KPT also took up the execution work with the active cooperation of its officers & employees who claimed no additional remuneration. The whole heartedly efforts by the KPT officials has changed the face of the town within a short time, while the State Government Authorities were busy in removing the debris at other places in Kutch. Such thankless remarks of GCCI are de-motivation for the KPT's officials.
8.	The township land has been constructed and habitated by public by their own hard earned money. It has provided the necessary infrastructure to KPT because of which it has	The West Coast Major Port Development Committee in its report dated 30th April, 1948 had recommended for developing Kandla as a Major Port and to freeze 400 Square Miles of area

	achieved a distinctive position. The facilities like schools, hospitals, colleges, hotels, transport etc. are neither set up nor run by KPT. They are all set up and run by private bodies. KPT needs to recognize the fact that bare land does not make a township. It is the money and efforts invested on the land that makes the vibrant township that makes the price rise.	and acquire the same for establishing the Major Port and also for providing infrastructure facilities and back up area as the entire land was barren and un-inhabited. The object of acquisition of such vast area according to the West Coast Major Port Development Committee is that the benefits as a result of appreciation of the land value due to construction of Major Port should accrue as far as possible to the Port itself and not to any individuals or corporate bodies. Hence the contention of GCCI is not correct and actually it's the other way round i.e. the vibrant township / infrastructure is a result of the development of Port and due to the development of industries on account of the Port.
9.	TAMP in its Order dated 29.10.1999 had also mandated to sell off the township land on a free hold basis to the public by a bid process to save its energy for port operations. This stand has been reiterated in its Order dated 21.3.2002. KPT had not taken any step to even initiate the process in the last 8 years. At the end, GCCI feels: No proposal for any hike should be entertained till KPT bring out the facts and figures about the end use of these funds and its obligation to the township. That any changes in the SOR should be made for the new allotments only. The old plot allottees (prior to 1.1.1999) should be spared of any changes as rightly mandated in the last TAMP Order dated 21.3.2002. KPT should be made to discharge its responsibilities towards maintaining of civic amenities of the township since it is collecting rent and developmental charges. TAMP should direct KPT to file a proposal to make the land free hold for the existing lease allottees through a suitable mechanism within a specified time frame.	Kandla Port Trust has been granting land on lease basis since 1958 in Gandhidham Township area. The GCCI had sometime back also requested for conversion of lease hold land into free hold land. The Port Trust Board has no authority to take any decision regarding conversion of the title of land from lease hold interest to free hold interest. Since many Govt. Organizations like Indian Railways, P&T Department, Defence, Airport authorities etc. are owning large chunks of land in the entire country, a policy decision is required to be taken by the Govt. of India for changing the ownership of its land in favour of the public at large instead of granting restricted ownership by way of lease after amending relevant statutes through the Parliament.