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Tariff Authority for Major Ports

G. No. 88

New Delhi,

10 March 2016

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Visakhapatnam Port Trust for fixation of License Fee for allotment of land for cargo stacking purpose in open area for a period not more than 11 months following Land Policy Guidelines for Major Ports, 2014 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/48/2014-VPT

Visakhapatnam Port Trust

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Applicant

QUORUM:

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

ORDER

(Passed on this 15th day of January 2016)

This case relates to the proposal received from Visakhapatnam Port Trust (VPT) for notification of License fee for allotment of land for cargo stacking purpose in open area for a period of not more than 11 months.

2. The main points made by the VPT in its proposal dated 6 September 2014 are summarised below:

- (i). License fee as per Scale of Rates (SOR) notified by the Authority is being collected for allotment of land made by the traffic department. [The rate of license fee as per existing SOR prescribed under cost plus method under 2005 guidelines is tabulated in subsequent paragraphs.]
- (ii). As per para 18(c) of the new Land Policy Guidelines, 2014 approved by the Union Cabinet they have to make a proposal as outlined in 18(a) thereof to the Authority for fixing the market value of land.
- (iii). Since it would take some time to arrive at the market values by carrying out the valuation of the lands, as per an administrative decision, a Circular No.500 dated 15.7.2014 was issued to the trade communicating that SOR notified by the Authority by Order dated 11.7.2012 will be adopted provisionally for all Licenses issued for allotment of land within and outside customs barrier in accordance with para 15 of Land Policy Guidelines, 2014. The said provisional rates are applicable from the date of approval of Land Policy Guidelines 2014 i.e. from 2 January 2014 as a temporary measure subject to review later till the final rate is fixed and notified by the Authority.
- (iv). The Visakhapatnam Stevedores Association (VSA) challenged the said Circular No.500 dated 15.7.2014 before the Hon'ble High Court of State of Telengana and Andhra Pradesh by WP No.25383 of 2014 and obtained an interim stay Order dated 18.7.2014 and consequent to the Court order, the said circular dated 15.7.2014 was withdrawn by VPT.
- (v). Land Allotment Committee (LAC) was constituted in accordance with the Land Policy Guidelines, 2014 consisting of Deputy Chairman, Chief Engineer, Traffic Manager, Financial Advisor and Chief Accounts Officer. The LAC in the meeting held on 17 July 2014 discussed on fixing the market value for allotment of land made by Traffic Department and decided that in the absence of availability of other details as per the requirement of para 18(a) to determine the highest market value, the details as per minutes of the meeting of the LAC be placed before the Board for taking appropriate decision to fix the reserve price provisionally.
- (vi). After examining the LAC minutes of 17.7.2014, administrative decision was taken that the LAC could go through issues such as competitiveness of the Port vis-à-vis other ports and come out with various options in the interest of growth of the Port and its competitive position.
- (vii). Accordingly, the LAC met on 23.7.2014 and suggested to get rates of other Ports for similar purpose. However, only two Ports responded and hence rates were obtained from the websites of respective Ports. The LAC met on 28.7.2014 and

perused the tariffs prescribed for open space at other ports. The statement showing a comparison of rates for open space at other ports as perused by the LAC is given hereunder for reference:

(in ₹)

Rate	Period	NMPT 2012	MOPT 2011	KOPT 2012	COPT 2013	VOCPT 2012	CHPT	PPT	KPT	MBPT	JNPT	VPT
100 sq. mtrs.	Per Annum	31537	38203	15343	42840	23012	24000	14400	5040	60000	19200	4734
1 sq. mtr.	Per Annum	315	382	153	428	230	240	144	50.40	600.00	192.00	47
1 sq. mtr.	Per Month	26	32	13	36	19	20	12	4.20	50.00	16.00	4
1 sq. mtr.	Per Week	6.06	7.35	2.95	8.24	4.43	5.00	3.00	1.05	12.50	4.00	0.99

Rate proposed by VPT is ₹9.66 per sq. mtr./ week for open space for cargo stacking.

(viii). The details of tariffs in other Ports for license fee and the market value received from District Revenue Authority was placed before the Board and the Board by Resolution No.39 of 31.10.2014 decided the following -

(a). to apply provisionally the rate of ₹9.66 per sq. mtr. per week (The working for this rate is not given by VPT) and to discuss the matter with the trade and send a proposal with views of the trade to the Authority for notification of this rate to be effective from 20.8.2014 and

(b). to finalise valuations of other zones pertaining to determine the market value as per the Land Policy Guidelines and send necessary proposal to the Authority for notification.

(ix). As per the above said Board decision, a circular no.504 was issued to the trade on 6.8.2014 that the rate of ₹9.66 per sq. mtr. per week worked out on the basis of average of market value of two zones, i.e., I-C and IX-B arrived at by the approved valuer shall be effective from 20.8.2014.

(x). The said circular no.504 of 6.8.2014 was challenged by the VSA before the Hon'ble High Court of Telangana and Andhra Pradesh and VSA obtained an interim stay Order dated 25.8.2014. The port is taking all necessary steps towards lifting the interim stay and the matter is in progress.

3. In this backdrop, the VPT has requested this Authority to approve and notify the rate of ₹9.66 per sq. mtr. per week for allotment of land for cargo stacking purpose.

4.1. In this context, it is relevant here to mention that in the existing arrangement, the charges for licence (storage) fee is prescribed under Section 6 of Scale of Rates of the VPT approved by this Authority vide Order No.TAMP/13/2009-VPT dated 18 February 2011 as part of general revision of SOR of the VPT following the cost plus method prescribed under the tariff guidelines of 2005. The original validity of the said Scale of Rates was till 31 March 2013 which has been extended from time to time and is presently valid till 30 September 2015. The license (storage) fee prescribed in the existing Scale of Rates is given below:

Item No.	Description	Unit	Rate (in ₹)
1.	License fee for sheds: Transit sheds and storage sheds, warehouses and all covered spaces including warehouse behind G.C.B.	Per 100 Sq. Mtrs.	1115.85 per week or part thereof
2.	License fee for Open Space	Per 100 Sq. Mtrs.	115.35 for first week or part thereof and ₹90.55 for next week or part thereof and onwards
3.	License fee for 1 st Floor of T-2 Shed	Per 100 Sq. Mtrs.	625.00 per week or part thereof

The item relevant for comparison in the above table is Sr. No.2.

4.2. The VPT has now quoting clause 15 of the Land Policy Guidelines of 2014 sought approval of revised license fee under the Land Policy Guidelines of 2014 based on the market value of the land. [Clause 15 of the Land Policy Guidelines, 2014 requires a Major Port Trust to allot land on license basis at the latest market value notified by this Authority based on the proposal filed by the concerned Major Port Trust].

5.1. On scrutiny of proposal dated 6 September 2014 filed by the VPT, the following observations/ points were conveyed to VPT vide our letter dated 5 November 2014:

(i). Para 18(a) of the Land Policy Guidelines of 2014 stipulates that the Land Allotment Committee (LAC) to be appointed by the Port Trust should normally take into account highest of the following five factors listed in the guidelines to determine the market value of the land:

- (a). State Government's ready reckoner of land values in the area, if available for similar classification/ activities.
- (b). Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board.
- (c). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board.
- (d). Rate arrived at by an approved valuer appointed for the purpose by the Port.
- (e). Any other relevant factor as may be identified by the Port.

The subject proposal filed by the VPT for fixation of License fee is not found to be based on market valuation of land on the five parameters prescribed in the Land Policy Guidelines.

(ii). The proposal of VPT states that average market value of land for two zones viz., I-C and IX-B has been considered provisionally to arrive at the proposed license fee of ₹9.66 per sq. mtr./ week. In this regard, the VPT to note the following points:

- (a). Land Policy Guidelines do not permit the Authority to fix license fee based on provisional valuation of land.
- (b). It is also not clear as to how the market value of land for zones I-C and IX-B are relevant for the lands for which the license fee is proposed by the port within the Custom Bound area for stacking cargo.
- (c). Detailed working for arriving at ₹9.66 per sq. mtr./ week is not furnished.
- (d). The Land Policy Guidelines of 2014 require this Authority to notify reserve price equated to annual lease rent subject to the condition that the percentage to be applied on the market value of land (which should not be less than 6%) is approved by the Port Trust Board as per the stipulation in clause 18(b) of the Land Policy guidelines of 2014. The proposal of the VPT does not indicate the percentage applied to arrive at the proposed lease rent in compliance with the provisions in the land Policy guidelines.

(iii). The valuation report of the approved valuer (attached as Annex-V to the proposal) does not mention the zone for which the valuation of land pertains to. No co-relation could be drawn to the valuation of land given in the valuation report and the valuation of land considered by the LAC for arriving at the proposed provisional lease rent of ₹9.66 per sq. mtr. per week.

- (iv). The lease rental for VPT lands for 31 zones last approved by the Authority vide Order No.TAMP/63/2011-VPT dated 18 June 2012 was valid till 31 March 2013. This means the validity of the existing lease rental of VPT lands has already expired on 31 March 2013. The VPT has, however, so far not filed the proposal for revision of lease rent for its 31 zones. The current proposal states that the port has already undertaken the exercise for revision of lease rent for VPT lands.

Since the current proposal filed by the port is on provisional basis and the port itself admits that final rate will be arrived after detailed analysis of the Land Policy Guidelines of 2014 and recognising the fact that the lease rent of the VPT lands approved in June 2012 is already overdue for revision since 1 April 2013, the VPT to immediately initiate action and consider filing a comprehensive proposal for revision of lease rental/ license fee for all categories of land strictly following the stipulations contained in Land Policy Guidelines of 2014 at the earliest.

- (v). The VPT has not furnished Form 1, Form 2A, Form 2B, copy of the complete report of the approved valuer appointed by the Port Trust for assessing the market valuation of land, draft proposed Scale of Rates along with conditionalities governing the same, comparative position of the current and the proposed rate, list of users / user associations/ lessees to be consulted along with their contact details as per the checklist of documents/ information circulated vide our letter No.TAMP/4/2014-Misc. dated 12 September 2014. The VPT to consider filing a comprehensive proposal covering all the zones and furnish the requisite documents/ formats as per the above mentioned check list.

5.2. It was conveyed to the VPT vide our letter dated 5 November 2014 that in view of the above position the proposal dated 6 September 2014 filed by the VPT could not be taken up for processing in the present form. The VPT was requested to forward a comprehensive proposal for revision of lease rent for all zones in terms of the Land Policy Guidelines, 2014.

5.3. Further, with reference to interim circulars issued by the VPT for levy of revised license fee, it was brought to the notice of VPT that as per the statute the tariff to be levied by the Major Port Trust for the cargo / vessel related services rendered by them or for the properties belonging to or in the occupation of Port Trust should be with the approval of this Authority. The circulars issued to the trade by the VPT are not in line with the tariff setting arrangement envisaged in the statute.

6.1. The VPT vide its letter dated 29 November 2014 has responded to our letter dated 5 November 2014. In the said letter, the VPT had not at all addressed the issues flagged in our letter dated 5 November 2014.

6.2. Subsequently, the VPT vide letter dated 5 December 2014 has stated that a statement showing clarifications on the points observed in our letter dated 5 November 2014 is furnished.

6.3. On examining the VPT's letter dated 5 December 2014 along with the documents furnished, it is seen that some of the points raised in our earlier letter dated 5 November 2014 still remain unaddressed. The information gaps observed in the proposal as brought out hereunder was conveyed to VPT vide our letter dated 6 February 2015 and with a request to VPT to forward a comprehensive proposal for revision of lease rent for all zones in terms of the Land Policy Guidelines 2014.

6.4. The VPT has finally vide its letter dated 13 April 2015 furnished its reply addressing the information gaps observed in its earlier proposals. A summary of the observation made by us and reply furnished by VPT is tabulated below:

Sl. No.	Observation made by us	Reply furnished by VPT
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(i).	Annex - I(a), (b) and (c) forwarded by the VPT gives the statement of market value of land under different options, the proposed lease rent and working for arriving at the proposed rate of ₹9.66 per sq. mtr. per week respectively. Annex-I does not give point-wise clarification on the gaps pointed out by us as stated by VPT. Hence, the points raised at para 2 (ii)(b), (c), (iii), (iv), and (v) of our letter dated 5 November 2014 are reiterated as given hereunder.	(a). The licence fee revised and put up for TAMP approval is for the land meant for the service of open cargo stacking on temporary license basis in all the 12 zones as one zone as recommended by the Land Allotment Committee on the basis of the average valuation of the land values done by the approved valuer for the said 12 zones considering as one zone for purpose of open cargo stacking on temporary license basis.
	(a). <i>para 2(ii)(b) of our letter dated 5 November 2015</i> - How the market value of land for zones I-C and IX-B are relevant for the lands for which the license fee is proposed by the port within the Custom Bound area for stacking cargo.	(b). Detailed working sheet for arriving the revised rate of ₹11.68 per sq. mtr. per week for all the 12 zones is furnished as Annexure-1C. [The VPT has not furnished point-wise reply.]
	(b). <i>para 2(ii)(c) of our letter dated 5 November 2015</i> - Detailed working for arriving at ₹9.66 per sq. mtr./ week is not furnished.	
	(c). <i>para 2(iii) of our letter dated 5 November 2015</i> - The valuation report by the approved valuer attached as Annex-V to the proposal does not mention the zone for which the valuation of land pertains to. No co-relation can be drawn to the valuation of land given in the valuation report and the valuation of land considered by the LAC for arriving at the proposed provisional lease rent of ₹9.66 per sq. mtr. per week.	
	(d). <i>para 2(iv) of our letter dated 5 November 2015</i> - The lease rental for VPT lands for 31 zones last approved by the Authority vide Order No.TAMP/63/2011-VPT dated 18 June 2012 was valid till 31 March 2013. This means the validity of the existing lease rental of VPT lands has already expired on 31 March 2013. The VPT has, however, so far not filed the proposal for revision of lease rent for its 31 zones. The current proposal states that the port has already undertaken the exercise for revision of lease rent for VPT lands. Since the current proposal filed by the port is on provisional basis and the port itself admits that final rate will be arrived after detailed analysis of the Land Policy Guidelines of 2014 and recognising the fact that the lease rent of the VPT lands approved in June 2012 is already overdue for revision since 1 April 2013, the VPT to immediately initiate action and consider filing a comprehensive proposal for revision of lease rental/ license fee for all categories of land strictly following the stipulations contained in Land Policy Guidelines of 2014 at the earliest.	The revised rate of ₹11.68 ps per sq. mtr. per week submitted for TAMP approval is proposed as final rate for the land meant for the open cargo stacking on temporary licence basis in the 12 zones considering as one zone under service category. Separate action is under progress to submit a comprehensive proposal to TAMP for other purposes for all other remaining zones.

	(e). para 2(v) of our letter dated 5 November 2015 - The VPT has not furnished Form 1, Form 2A, Form 2B, copy of the complete report of the approved valuer appointed by the Port Trust for assessing the market valuation of land, draft proposed Scale of Rates along with conditionalities governing the same, comparative position of the current and the proposed rate, list of users / user associations/ lessees to be consulted along with their contact details as per the checklist of documents/ information circulated vide our letter No.TAMP/4/2014-Misc. dated 12 September 2014. The VPT to consider filing a comprehensive proposal covering all the zones and furnish the requisite documents/ formats as per the above mentioned check list.	The proposal now submitted for TAMP approval is for the specific purpose of licence fee for allotment of VPT land on temporary licence basis for open cargo stacking under service category. The following Annexures considered relevant in this regard are furnished: (i). Annex 1(a) – Statement showing market value of land for open area for cargo stacking (ii). Annex 1(b) – License fee arrived by VPT considering 6% return (iii). Annex 1(c) – Detailed working for arriving at the proposed license fee (iv). Annexure-II – Proposed license fee for 12 zones for temporary allotment of VPT lands for open cargo stacking purpose. Also, the list of users, user associations, etc., is furnished.
(ii).	Para 2 and 3 of the minutes of the Land Allotment Committee (LAC) dated 11 September 2014 forwarded by VPT is reproduced below for ease of reference: <i>“The Committee observed from statement that the rate arrived at by the approved valuer appointed for the purpose by the Port and the highest rate of actual relevant transactions registered in last 3 years in the Ports vicinity are less than the rates given by the State Governments Ready reckoner of land values in the area. Therefore, the LAC observations /Report furnished vide Minutes dated 17.7.2014 holds good with regard to provisional reserve price recommended by the LAC for these 12 zones as per the provisions of policy guidelines.”</i> <i>“The LAC further observed that the provisional rate recommended by the Board for allotment of lands under the control of Traffic manager for all 12 zones arrived at ₹ 9.66 per sq. mtr. per week/ and ₹ 42 per sq. mtr. per months basing on the rate arrived at by a an approved valuer for zone-I (C) and IX (B) uniformly for all the 12 zones has underwent change due to furnishing of Market value by the approved valuer for the remaining 10 zones. Therefore, LAC is of the view that the valuation of lands obtained by the Estate Division for the remaining 10 Zones may be placed before the Board along with the two zone rates i.e. I(C) and IX (B) for taking further appropriate decision by the Board”.</i>	

	From harmonious reading of clause 18(a) read with clause 18(c) and clause 16.2(d) of the Land Policy Guidelines 2014, the proposal to be filed by the concerned port trust to the Authority for fixing the market value of land and the reserve price in terms of lease rent has to be based on the recommendation of the LAC. As per the clause 18(a) of the ibid guidelines the LAC shall normally take into account the highest of the five factors prescribed in the guidelines. If the highest of the five factors is not adopted then reasons for the same are to be recorded in the writing. On perusing the minutes of the LAC dated 11 September 2014, the following points are observed:	
(a).	As per para (2), it is seen that the LAC holds good the provisional reserve price for 12 zones recommended by LAC on 17 July 2014. The minutes of the LAC does not give any specific recommendation. The LAC has observed that in the absence of the details of market valuation of land as per para 18(a) of the Land Policy Guidelines 2014 to determine the highest market value of land, the matter is referred to the Board to fix the reserve price provisionally for the 12 zones. In the concluding para of the LAC minutes dated 11 September 2014, the LAC observes that the rate arrived at ₹9.66 per sq. mtr./ week and ₹42 per sq. mtr./ month based on the rate arrived by approved valuer for Zone I-C and IX-B uniformly for all 12 zones has undergone change due to different market value arrived by the approval valuer for remaining 10 zones. The LAC has viewed that valuation of land for the 10 zones along with two zones I(C) and I(B) be placed to the Board for the taking the decision approval. Thus, it is seen the minutes of the LAC dated 11 September 2014 does not explicitly give any recommendations of the market value of land to be adopted for fixation of Reserve Price in terms of lease rental required as per clause 18(b) of per the Land Policy Guidelines, 2014.	The Traffic Manager stated that Trade has requested to fix uniform rate for all the 12 zones, as the allotment is meant for same purpose i.e., open cargo stacking purpose. In view of the variation of the valuations of 12 zones, the Land Committee recommended to consider the land meant for the purpose of open cargo stacking on temporary license basis in all the 12 zones as one zone. The LAC recommended to consider uniform market value of ₹8466.67 [rate of ₹11.68 per sq.m. per week as shown in the worksheet (Annexure-1C)] and to submit to Board for taking appropriate decision to recommend the Reserve Price and to submit the proposal to TAMP for approval.
(b).	It is understood that the proposal of VPT is for seeking approval for provisional reserve price. As already brought out vide our letter dated 5 November 2014, the Land Policy Guidelines of 2014 does not permit the Authority to fix the lease rent on provisional basis.	The revised rate of ₹11.68 ps per sq. mtr. per week submitted for TAMP approval is proposed as final rate for the land meant for the open cargo stacking on temporary licence basis in the 12 zones considering as one zone under service category.
(iii). (a).	From the statement attached as Annexure-I(a) to VPT's letter dated 5 December 2014, it is seen that the value	The Traffic Manager stated that Trade has requested to consider fixing uniform rate for all the 12 zones, as the allotment

	of land for 12 zones as per the State Government's Ready Reckoner (both Minimum as well as Maximum value) are higher than the value of land arrived at by the approved valuer. It is seen from Annex-I(c) that the proposed rate of ₹9.66 per sq. mtr./ week arrived by VPT is based on the value of land of two specific zones i.e. I-B/I-C (Sl. No.1) and IX-B (Sl. No.9) based on the market value of land by the approved valuer which is not the highest value of land. There is no reason recorded in writing by the LAC for not choosing the highest value of land, as required under clause 18(a) of the Land Policy Guidelines of 2014.	is meant for same purpose i.e., open cargo stacking purpose. In view of the variation of the valuations of 12 zones, the Land Committee in its meeting dated 21 February 2015 recommended to consider the land meant for the purpose of open cargo stacking on temporary license basis in all the 12 zones as one zone and recommended to consider uniform market value of ₹8466.67 [rate of ₹11.68 per sq. m. per week as shown in the worksheet (Annexure-1C)]. The LAC also suggested that the proposal may be submitted to Board for taking appropriate decision to recommend the rate and to submit the proposal to TAMP for approval. Subsequently, the Board vide the circulation resolution no.198/2014-15 resolved to submit a revised proposal to TAMP for approval of license fee of ₹11.68 per sq. mtr. per week uniformly as final rate for the land meant for the purpose of open cargo stacking on temporary licence basis in all the 12 zones considering as one zone and to submit comprehensive proposal for other purposes for all other remaining zones separately to TAMP.
	(b). The value of the land given in Annex-I(a) are found to be different for the 12 zones. However, the VPT has proposed an uniform lease rent of ₹9.66 per sq. mtr./ week for all the 12 zones. Even the LAC in its meeting dated 11 September 2014, has observed that the rate arrived for Zone I-C and IX-B and uniformly considered for all 12 zones has to undergo change due to different market value arrived by the approval valuer for remaining 10 zones. When land value for different zones are different, the approach adopted by the VPT of proposing the reserve price based on the value of land for Zone I-B/ I-C and Zone IX-B uniformly to all the 12 zones is not found to be in line with the Land Policy Guidelines of 2014 which requires reserve price in terms of annual lease rent to be determined applying minimum 6% return on the value of the land.	
(iv).	The VPT has not forwarded a copy of the Board's resolution of its meeting dated 12 November 2014 referred to in the letter dated 29 November 2104. The VPT to forward a copy of the same.	A copy each of the Boards resolution dated 12 November 2014 and the Circulation Board resolution No.198/ 2014-15 are furnished.
(v).	The lease rent approved by the Authority vide Order No.TAMP/13/2009-VPT dated 18 February 2011 valid till 31 March 2013 covers valuation of land for 31 zones which includes the lease rentals for the 12 zones now proposed by VPT. The port has stated that the proposed rate of ₹9.66 per sq. mtr./ week is for temporary stacking of cargo and it will file a separate proposal for all the 31 zones for other category i.e. Residential, Commercial, Industrial, etc. which will also include this 12 zones as well. The intention of the VPT is not clear.	The proposed rate of ₹11.68 per sq. mtr. per week submitted for approval of the Authority is only for the land meant for the open cargo stacking on temporary licence basis in the 12 zones considering as one zone under service category. The VPT will file a comprehensive proposal for TAMP approval for other purposes for all other remaining zones.
(vi).	As already brought out in our letter dated 5 November 2014 at para 2(iv), the validity of the existing lease rental of VPT lands for 31 zones has expired on 31	

	March 2013. The VPT has so far not filed the proposal for revision of lease rent for its 31 zones. The original proposal of the VPT of September 2014 stated that the port has already undertaken the exercise for revision of lease rent for VPT lands. Since the current proposal filed by the port is on provisional basis and the port has stated that it will file a proposal for all the 31 zones including this 12 zones and recognising the fact that the lease rent of the VPT lands approved in June 2012 is already overdue for revision since 1 April 2013, the VPT is requested to consider filing a comprehensive proposal for revision of lease rental/ license fee for all categories of land strictly following the stipulations contained in Land Policy Guidelines of 2014 at the earliest.	
(vii).	The VPT has not furnished Form 1, Form 2A, Form 2B, copy of the complete report of the approved valuer appointed by the Port Trust for assessing the market valuation of land, draft proposed Scale of Rates along with conditionalities governing the same, etc. While filing the comprehensive proposal, the VPT to ensure that documents/ information as per the checklist circulated vide our letter No.TAMP/4/2014-Misc. dated 12 September 2014 is filed.	The proposal now submitted for TAMP approval is for the specific purpose of licence fee rate for allotment of VPT land on temporary licence basis for open cargo stacking under service category. As stated earlier, Annexures 1(a), 1(b), 1(c) and Annexure-II considered relevant in this regard are furnished.

6.5. As stated above, the VPT vide its letter dated 13 April 2015 while furnishing information/ clarification/ documents has proposed revised rates. The main submissions made by the VPT in its proposal dated 13 April 2015 are as follows:

- (i). Consequent upon the Authority's letter dated 6 February 2015 stating that VPT did not address the gaps observed by them on the subject proposal, the LAC under the Chairmanship of Chairman (VPT) met on 21 February 2015. While noting the points mainly raised by TAMP, the LAC also reviewed the position and gave their recommendations vide Minutes of the meeting dated 21 February 2015. The main points recorded in the LAC and the final recommendation of the LAC as seen from the copy of the minutes of the meeting of the LAC forwarded by the VPT along with its proposal are given below:
 - (a). The provisional rate earlier recommended by the Board for all the 12 zones @ ₹9.66 per sq.m. per week has undergone change due to furnishing of market value for remaining 10 zones by the approved valuer. On taking the average value for all the 12 zones, the market value worked out to ₹8466.67 and by applying 6% of the market value, the rate of ₹11.68 per sq.m. per week as against ₹9.66 per sq.m. per week provisionally as decided by the Board.
 - (b). Trade has requested to consider to fix uniform rate for all the 12 zones, as the allotment is meant for same purpose i.e., open cargo stacking purpose.
 - (c). In view of the variation of the valuations of 12 zones, the Land Committee recommended to consider the land meant for the purpose of open cargo stacking on temporary license basis in all the 12 zones as one zone and recommended to consider uniform market value of ₹8466.67 (rate of

₹11.68 per sq.m. per week) and to submit to Board for taking appropriate decision to recommend the Reserve Price and the submit to TAMP for approval.

- (d). The proposal submitted by the VPT is for fixing the final market value for the temporary allotments for cargo stacking purpose for all the relevant 12 zones.
 - (e). The proposed rate is part of the proposal for fixing the rates for quinquennium 2013-18 and the proposal for fixing the rates for the remaining zones will be submitted to TAMP separately for approval.
 - (f). Finally, the LAC has recommended to consider the market value of ₹8466.67 being the average of valuation done by the approved valuer for the land meant for the purpose of open cargo stacking on temporary license basis in all the 12 zones as one zone, since Board has already taken a decision to consider average rate of the valuation done by the approved valuer and to apply uniformly for all the zones which is to be given on temporary basis only for stacking of cargo through Traffic department.
- (ii). Subsequently, the subject aspect has been put up to the Board upon which the Board vide Circular Resolution No.198/2014-15 (copy furnished) resolved to approve the following:
- (a). to submit a revised proposal to TAMP for approval of the rate of ₹11.68 per sq. mtr. per week uniformly as final rate for the land meant for the purpose of open cargo stacking on temporary license basis in all the 12 zones as one zone as recommended by the LAC on the basis of the average valuation of the land values done by the approved valuer for the said 12 zones considering as one zone for purpose of open cargo stacking on temporary license basis; and
 - (b). to submit comprehensive proposal for other purposes for all other remaining zones separately to TAMP.
- (iii). Accordingly, revised rate of ₹11.68 per sq. mtr. per week is proposed uniformly as final rate for the land meant for the purpose of open cargo stacking on temporary license basis in all the 12 zones as one zone.
- (iv). The revised proposed rate of ₹11.68 per sq. mtr. per week covers the requirement of licence fee in respect of the temporary allotments being made for open cargo stacking purposes only. Separate action is being taken to submit a comprehensive proposal for other purposes such as Residential, Commercial, Industrial, etc., to TAMP for fixing the rates for other remaining zones of VPT lands for the quinquennium 2013-2018 for the land allotments on lease/ licence basis.

6.6. To summarise, the valuation of land for 12 zones for temporary allotment of lands for cargo stacking for the various factors prescribed in clause 18(a) of the Land Policy Guidelines 2014 and the proposed uniform license fee for all the 12 zones as furnished by VPT is tabulated below:

Market valuation of land for the 12 zones (in ₹ per sq. yard)									Proposed license fee
Sl. No.	Zone	Description (Purpose)	Option 1		Option 2	Option 3	Option 4	Option 5	
			As per State Govt.'s Ready Reckoner of land values in the area		Highest rate of actual relevant transactions registered in last three years in the Port's vicinity	Highest accepted tender-cum- auction rate of port land for similar transaction, update on the basis of the annual escalation rate approved by Port Trust Board	Rate arrived at by an approved valuer appointed for the purpose by the port	Any other relevant factor as may be identified by the port	
			Minimum value	Maximum value	Value	Value	Value	Value	
1	I-B/I-C	Cargo stacking	15000	30000	Not available As per procedure in vogue, VPT requested the	Not available	8000	Not available	₹11.68 ps. per sq. mtr./ week (Detailed working provided below in the note)
2	I-C	Cargo stacking	15000	30000			9000		
3	II-A1	Cargo stacking	15000	20000			9000		
4	II-A2	Cargo stacking	15000	30000			10800		
5	IV-A	Cargo stacking	7000	7000			4500		
6	VI-B	Cargo stacking	15000	30000			7500		

Market valuation of land for the 12 zones (in ₹ per sq. yard)									Proposed license fee
Sl. No.	Zone	Description (Purpose)	Option 1		Option 2	Option 3	Option 4	Option 5	
			As per State Govt.'s Ready Reckoner of land values in the area		Highest rate of actual relevant transactions registered in last three years in the Port's vicinity	Highest accepted tender-cum- auction rate of port land for similar transaction, update on the basis of the annual escalation rate approved by Port Trust Board	Rate arrived at by an approved valuer appointed for the purpose by the port	Any other relevant factor as may be identified by the port	
			Minimum value	Maximum value	Value	Value	Value	Value	
7	VIII	Cargo stacking	15000	30000	District Revenue Authority (DRA) to furnish the land valuations who inturn processed the land values through Stamps and Registration Department of Andhra Pradesh Government and then the DRA will furnish the zone wise land valuations of VPT and as such VPT obtaining the transactions @ details of average market value does not arise		8500		
8	IX-A	Cargo stacking	7000	7000			9000		
9	IX-B	Cargo stacking	7000	7000			(i) 6000		
							(ii) 6500 *		
10	X-A	Cargo stacking	15000	30000			9500		
11	X-B	Cargo stacking	15000	30000			8500		
12	XIV	Cargo stacking	15000	30000			10800		

* As regards Zone IX B, of the two land valuation given by the land valuer at ₹6000 and ₹6500 per sq. yard, for the purpose of arriving at the market valuation of land, ₹6500/ sq. yard is considered.

Note: The detailed working for arriving at the proposed licence fee of ₹11.68 per sq. mtr. per week for purpose of land allotment for open cargo stacking on temporary basis is given below:

Sl. No.	Zones	Value of land by the approved valuer (Option 4) (₹ per sq. yard)
1)	Zone I-B	₹8,000/-
2)	Zone I-C	₹9,000/-
3)	Zone II-A1	₹9,000/-
4)	Zone II-A2	₹10,800/-
5)	Zone IV-A	₹4,500/-
6)	Zone VI-B	₹7,500/-
7)	Zone VIII	₹8,500/-
8)	Zone IX-A	₹9,000/-
9)	Zone IX-B	₹6,500/ 6000 (considered ₹6500)
10)	Zone X-A	₹9,500/-
11)	Zone X-B	₹8,500/-
12)	Zone XIV-B	₹10,800/-
13)	Total	₹1,01,600/-
14)	Average value per sq. yd.: ₹1,01,600.00 / 12	₹8466.67 ps.
15)	Average value per sq. mtr.: ₹8,466.67 x 1.19599	₹10,126.05 ps.
16)	Average rent per sq. mtr.: ₹10,126.05 ps. X 6%	₹607.56 ps.
17)	Proposed licence fee per week per sq. mtr.: ₹607.56 ps. / 52	₹11.68 ps.

6.7. The VPT had, therefore, requested to approve and notify the aforesaid revised rate of ₹11.68 per sq. mtr. per week under service category for the land meant for the service of temporary open cargo stacking purpose in the 12 zones considering them as one zone.

6.8. A comparative position of existing license fee for open space (for cargo stacking purpose) at Sl.No.2 Section-6 prescribed under cost plus method in 2005 guidelines vide Order No.TAMP/13/2009-VPT dated 18 February 2011 and the license fee now proposed by VPT under Land Policy Guidelines of 2014 is tabulated below:

Existing license fee for open space (₹ per sq.mtr./ week)	Proposed license fee for open area for cargo stacking on temporary basis (₹ per sq.mtr./ week)	% increase over the existing license fee
(a). For first week 1.1535 (*)	11.68	912%

(b). For next week onwards	0.9055 (*)		1190%
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- (*) The license fee prescribed in the existing Scale of Rates of VPT is on per 100 sq. mtr./ week basis. It is shown in the above table on per sq. mtr./ week basis for comparison with the proposed license fee.

7. In accordance with the consultative procedure prescribed, the proposal of VPT dated 13 April 2015 along with copy of the Valuation Report was forwarded to the concerned users/ user organisations/ lessees/ stevedores (as suggested by the VPT) for their comments simultaneously to this Authority and to the VPT. The users were informed that no extension of time shall be granted to respond and if no comments are received within the time stipulated, it will be presumed that they have no comments to offer. The comments received from the users/ user organisations/ lessees/ stevedores were forwarded to the VPT as feedback information. The VPT vide its e-mail dated 12 June 2015 has furnished its remarks on comments of the users/ user organisations/ lessees/ stevedores.

8. Based on a preliminary scrutiny of the proposal, the VPT was requested to furnish additional information/ clarifications vide our letter dated 15 June 2015. The VPT has vide its letters dated 12 October 2015 and 13 October 2015 furnished its reply on the additional information/ clarifications sought by us. Summary of additional information/ clarifications and the response of the VPT is brought out in the subsequent paragraphs.

9. A joint hearing in this case was held on 17 June 2015 at the VPT premises. The VPT made a brief powerpoint presentation of its proposal. At the joint hearing, the VPT and the concerned users/ user organizations have made their submissions.

10.1. As decided at the joint hearing, the VPT was requested to take action/ furnish additional information/ clarification on the following points, which was conveyed to VPT vide our letter dated 24 June 2015 and followed by reminders dated 24 August 2015 and 28 August 2015:

- (i). Furnish comments on the comments of Vizag Seaport Pvt. Ltd. and other users on whose comments the VPT has not responded.
- (ii). M/s.Steel Authority of India Limited (SAIL) was requested to furnish a copy of their comments (which they said have been furnished but not received) by 20 June 2015 to both VPT and to TAMP. Users/ user associations were also requested for further submissions, if any, to VPT and to TAMP by 20 June 2015. The VPT to furnish its response thereon within three days from the date of receipt of further comments from SAIL and users/ user associations.
- (iii). At the joint hearing, the Visakha Container Terminal Private Limited (VCTPL) has pointed out that presently they are being charged license fee at the rates prescribed in the Scale of Rates of VPT. The VCTPL sought clarification from the port whether the proposed licence fee will be applicable in its case. As agreed at the joint hearing, the VPT to examine this aspect with reference to the provisions in the License Agreement entered between VPT and VCTPL and respond back to TAMP and VCTPL.
- (iv). At the joint hearing, most of the users/ user associations/ licensee strongly objected to the increase proposed by VPT in the license fee. The increase works out to the tune of 912% in the first week and 1197% from second week onwards in comparison to the existing license fee. They pointed out that land allotted on license basis for temporary cargo stacking purpose is an integral part of cargo handling operation which is one of core functions of the port. Further, the users/ user association/ licensee apprehended diversion of traffic from VPT to the neighbouring ports like Gangavaram due to the steep increase proposed by the VPT in the license fee. In view of the strong objections raised by most of the users/ licensees to the steep increase proposed in the license fee and in view of their apprehension about diversion of traffic from the VPT, the port was requested to relook at its proposal and file a revised proposal latest by 2 July 2015.

Simultaneously, the VPT was requested to circulate the copy of its revised proposal to the Authority and to the concerned users allowing them three days' time to furnish their comments to both TAMP and the VPT. The VPT was to furnish its comments within three days from the receipt of the comments of the users on the revised proposal. The VPT was also to furnish its reply to the queries raised by us while filing its revised proposal.

10.2. At the joint hearing, M/s.Steel Authority of India Limited (SAIL) was requested to furnish a copy of their comments (which they said have furnished but not received) by 20 June 2015 to both VPT and to us. This was followed by reminder to SAIL vide our letters dated 24 June 2015 and dated 24 August 2015.

10.3. As decided at the joint hearing, the users/ user associations were requested to furnish further submissions, if any, to VPT and to us by 20 June 2015, which was conveyed to users/ user associations vide our letter dated 24 June 2015.

11.1. With reference to point of action decided at the joint hearing at 10.1. (i) above, the VPT has not furnished its comments on the comments of the VSPL furnished on the earlier proposal. The VPT has, however, furnished its comments on the comments of the VSPL on the revised proposal.

11.2. As regards point of action decided at the joint hearing at 10.1. (ii) and 10.2. above, SAIL has furnished its comments on the revised proposal of the VPT and VPT has also furnished its response thereon.

11.3. With reference to point of action decided at the joint hearing at 10.1. (iii) above, the VPT has addressed the points referred therein while furnishing its comments on the comments of the VCTPL on the revised proposal.

11.4. With reference to point of action decided at the joint hearing brought out in para 10.1. (iv). above, the VPT vide letter dated 24 August 2015 has submitted its revised proposal alongwith LAC recommendations dated 31 July 2015 and approval of the Board in its meeting held on 5 August 2015. The main points submitted by the VPT are summarised below:

- (i). The revised proposal in "Form-D" is furnished for charging License Fee rate for allotment of land for temporary open cargo stacking purposes for a period of not more than 11 months.
- (ii). As per the request of the Authority to relook at its proposal and file a revised proposal in view of the strong objections raised by most of the users/ licensees to the steep increase in proposed license fee and in view of their apprehension about diversion of traffic from the VPT, the Land Allotment Committee (LAC) met on 31 July 2015 (copy of the minutes of the LAC meeting furnished) and as per the certain observations, the LAC recommended a rate of ₹6.21 ps. per sq. mtr. per week for open cargo stacking purpose uniformly for allotment of VPT land for temporary license basis not more than 11 months. The main observations of the LAC are as follows:
 - (a). Most of the users/ user associations/ licensees have raised strong objections to the increase proposed in the license fee and pointed out that the land allotted on license basis for temporary cargo stacking purpose is an integral part of cargo handling operations which is one of the core functions of the port and apprehended that diversion of traffic from VPT to the neighbouring ports like Gangavaram may take place due to steep increase in license fee.
 - (b). The neighbouring Gangavaram Port is capable of handling cape size vessels, whereas VPT can handle only panamax size vessel in the inner harbour which is having considerable adverse impact on the freight charges and also Gangavaram is offering 60 days free time for cargo storage, inside port.
 - (c). Even the report of M/s.Bostan Consulting Group (M/s.BCG) mentioned that VPT is not able to compete with the neighbouring port as the longer

turnaround time of ships makes VPT less competitive than the private ports.

- (d). On account of lesser parcel size, storage charges (by allocating less free time), the users are incurring more charges for handling cargo in the inner harbour and in such situation steep increase in license fee will further add to the cost which will make VPT un-competitive with the neighbouring private ports.
 - (e). A communication dated 8 July 2015 received from MOS stating that on the factors mentioned in the para 18 of the Land Policy Guidelines 2014, while determining the latest market value of the land, it is not mandatory that the LAC has to necessarily take the highest of the 5 factors given in Land Policy Guidelines and can choose another factor with proper justification and also commented that representation have been received which shows that in some Ports high market values have been fixed by mechanical and inappropriate application of Land Policy Guidelines. It is also stated that it is important that while choosing the market value as per para 18 of LPG, 2014, due care is taken to choose relevant factor which captures the realistic market value of the land. Mechanical and inappropriate application of the LPG may lead to inflated and unrealistic market value which results in poor response to tender-cum-auctions and subsequently loss of business to the port.
 - (f). The Land Allotment Committee has gone through the valuation of lands done by approved valuer and noted that the market rate of ₹4,500/- per sq. yard, was recommended by them for the temporary cargo storage purpose, according to which the license fee worked out to ₹6.21 per sq. mtr. per week, against the rate of ₹11.68 earlier proposed for approval.
 - (g). Land Committee also noted that the earlier rate of ₹11.68 ps. was arrived based on averaging the land values submitted by the valuer, where the concept of cargo stacking and business scenario was not considered.
 - (h). The valuer has considered the rate of ₹4,500/- per sq. yd. for the operational areas where the cargo is being stacked.
 - (i). Clarification on Land Policy Guidelines issued by Ministry vide letter dated 17 July 2015 provides for considering any other factor for arriving at reserve price. The port is the facilitator for import/ export of cargo and stacking of cargo for import/ export purpose is much essential for port operations, without which, operations at port are hampered. The TAMP's recommendation to review the proposal for a rate of ₹11.68 per sq. mtr., considering Government of India advise vide letter dated 8 July 2015 it is felt desirable to recommend rate of ₹4,500/- per sq. yd. on par with the value furnished by valuer for operational areas. The proposed increase is 6.85 times above the existing rates to the trade which also justifiable under para 13(a)(v) of the Land Policy Guidelines on license fee basis. (It appears that VPT has wrongly quoted the para no. of the Land Policy.)
- (iii). The same proposal was submitted before VPT Board in the meeting held on 5 August 2015 for approval and the Board resolved to approve the following vide the Board Resolution No.98/2015-16 dated 5 August 2015 (copy furnished):
- (a). to submit a revised proposal for TAMP approval for the License fee rate of ₹6.21 per sq. mtr. per week uniformly for allotment of VPT land for temporary license basis not more than 11 months as recommended by the Land Allotment Committee on the basis of the valuation report submitted by the approved valuer for open cargo stacking purpose; and
 - (b). to submit comprehensive proposal for other purposes for all other remaining zones separately to TAMP, after receipt of the final valuation report.

- (iv). In this connection, the port has requested to note that the above said revised rate of ₹6.21 ps. per sq. mtr. per week, covers the requirement of license fee rate in respect of the temporary allotments, being made for open cargo stacking purpose only. Separate action is being taken to submit a comprehensive proposal for other purposes such as Residential, Commercial, Industrial, etc., for all zones, to TAMP, for fixing the rates for all zones of VPT lands for the current quinquennium 2013-2018 for land allotments of lease/ license basis. The VPT adhered to the Land Policy for Major Ports 2014 issued by MOS, Government of India.
- (v). The VPT has, therefore, requested to approve and notify the License fee rate of ₹6.21 per sq. mtr. per week uniformly for allotment of VPT land for temporary license basis not more than 11 months for open cargo stacking purpose in the 12 zones considering them as one zone.

11.5. To summarise, the valuation of land for 12 zones for temporary allotment of lands for cargo stacking for the various factors prescribed in clause 18(a) of the Land Policy Guidelines 2014 and the proposed uniform license fee for all the 12 zones as furnished by VPT is tabulated below:

(In ₹)

Base Type		DRA Rates		3 years transactions			Tender-cum-auction rate	Approved valuer rate (In ₹)	Any other relevant factor
New Zone	Old Zones	Min.	Max.	2010-11	2011-12	2012-13			
Core Operational Areas for open cargo stacking purpose	I-B	***	***	***	Not available	Not available	Not available	4500 per sq. yd. (Report of M/s.RNC furnished)	Not available
	I-C	***	***	***					
	II-A1	10000	10000	***					
	II-A2	***	***	***					
	IV-A	5500	6000	10000					
	VIII	***	***	***					
	IX-A	***	***	***					
	X-A	***	***	***					
	X-B	***	***	***					
	XIV	***	***	***					
Total (per sq. yd.)		15500	16000	10000				4500	
Average		5167	5333	10000				4500	
Per sq. mtr.		6180	6379	11960				5382	
Average license fee per year @ 6%		371	383	718				323	
Average license fee per week		7.13	7.36	13.80				6.21	

11.6. A comparative position of existing license fee for open space (for cargo stacking purpose) prescribed at Sl.No.2 Section-6 under cost plus method as per 2005 guidelines vide Order No.TAMP/13/2009-VPT dated 18 February 2011 and the license fee now proposed vide its letter dated 24 August 2015 by VPT under Land Policy Guidelines of 2014 is tabulated below:

Existing license fee for open space (₹ per sq.mtr./ week)		Proposed license fee for open area for cargo stacking on temporary basis (₹ per sq.mtr./ week)	% increase over the existing license fee
(a). For first week	1.1535 (*)	6.21	438%
(b). For next week onwards	0.9055 (*)		586%

(*) The license fee prescribed in the existing Scale of Rates of VPT is on per 100 sq. mtr./ week basis. It is shown in the above table on per sq. mtr./ week basis for comparison with the proposed license fee.

12. As decided at the joint hearing, the VPT vide our letter dated 28 August 2015 was requested to circulate its revised proposal to the concerned users allowing them three days' time to furnish their comments to both this Authority and VPT and endorse a copy of the said letter to this Authority for records. The VPT was advised to furnish its comments within three days from the date of receipt of comments of users as already conveyed to VPT vide our letter of even number dated 24 June 2015. In response, the VPT vide its letter dated 29 August 2015 addressed to users with a copy endorsed to us has circulated its revised proposal to users. In this connection, the users/ user organisations have submitted their comments on the revised proposal of VPT. The

comments received from the users/ user organisations were forwarded to VPT as feedback information. The VPT vide its letter dated 29 September 2015 has responded.

13. With reference to point of action decided at the joint hearing brought out in para 10.1. (iv). above, the VPT vide its letters dated 12 October 2015, 13 October 2015 and email dated 4 November 2015 has furnished its response to the additional information/ clarifications sought by us vide our letter dated 15 June 2015. The summary of the information/ clarifications sought by us and reply furnished by the port are tabulated below:

Sl. No.	Information/ clarifications sought by us	Reply furnished by VPT
I.	General:	
(1).	(i). The existing Scale of Rates approved by the Authority vide Order No.TAMP/13/2009-VPT dated 18 February 2011 prescribes license fee for open space in Section 6 Charges for License (Storage) fee based on cost plus method prescribed under Tariff Guidelines of 2005 at ₹115.35 per 100 sq. mtrs. for first week and ₹90.55 per per 100 sq. mtrs. for the next week of part thereof. In terms of per sq. mtr., it comes to ₹1.1535 per sq. mtr. for the first week and Re.0.90 per sq. mtr. for the next week or part thereof. As against the above existing license fee for open space for storage of cargo, the VPT has now proposed license fee following the Land Policy Guidelines based on the market value of land for the purpose of temporary cargo stacking in open area at ₹11.68 per sq. mtr. per week. It is seen that there is steep increase in the license fee at the proposed rate to the tune of 912% in the first week and 1197% from second week onwards in comparison to the existing license fee for open space in view of the proposal of VPT to switch over to market value of land for arriving at the license fee for stacking of cargo by following the Land Policy Guidelines 2014. It has to be recognised that cargo stacking inside the port area is one of core functions of the port operations and it complements the cargo handling activity. In this back drop, and also in view of the strong objections raised by most of the users/ licensees to the steep increase proposed in the license fee, the VPT to furnish sufficient justification/ reasons for switching over to the market value of land for arriving at the license fee for temporary stacking of cargo from the existing arrangement of fixing this tariff item.	Cargo stacking inside the port area is one of the core functions of the port operations and it definitely complements the cargo handling activity. If the cargo is attracted in this port, the port will not get only revenue in terms of license fee, but also get major revenue in terms of vessel related charges and cargo related charges. Over a period of time in the past keeping in view the concept “what the trade can bear”, the license fee in respect of land allotments made by the traffic department have not been proposed for increase. That is the reason why the license fee was kept at ₹115.35 ps. per 100 sq. mtr. for 1st week and ₹90.55 ps. per 100 sq. mtr. for the next week or part thereof. With the advent of LPG, 2014 during January 2014, it appears that the concept of “what the trade can bear” found no place and in lieu of the same, certain guidelines/ steps are found regarding calculation of license fee based on the market value of the land. As per the LPG 2014, LAC was constituted which recommended the rate of ₹11.68 per sq. mtr. per week and the same was approved by the Board. In this connection, a Joint hearing was conducted by the TAMP, with VPT officials and users/ organisation bodies on 17-06-2015. In the joint hearing as well as through letters, various users/ organisation bodies opined that the rates proposed by the VPT are very high with regard to license fee. The TAMP vide letter No.TAMP/48/2014-VPT dated 24-06-2015, requested VPT to relook at its proposal and file a revised proposal, in view of the strong objections raised by most of the users/ licensees to the steep increase in proposed license fee and in view of their apprehension about diversion of traffic from the VPT. Accordingly, a revised proposal sent to TAMP for approval and notify the license fee rate of ₹6.21 per sq. mtr. per week

		(instead of earlier proposal of ₹11.68 per sq. mtr. per week) uniformly for allotment of VPT land for temporary license basis not more than 11 months for open cargo stacking purpose.
	(ii). If the VPT is of the view that the Land Policy Guidelines of 2014, requires the port to determine license fee based on the market value of land then the VPT to indicate the specific clause in the said guidelines. As per Clause 15.1. (a) of the Land Policy Guidelines of 2014, land inside the Custom Bound area required on immediate basis shall be given on license basis only by inviting tenders. It also states that license shall be granted at the bid value discovered through tender-cum-auction wherever feasible. In cases where tender-cum-auction is not feasible, land can be allocated on license basis at the latest market value which would be notified under para 18(c). Not resorting to tender-cum action method should be exercised as an exception. Thus, as per the said clause in the Land Policy Guidelines of 2014, tender-cum-auction option has to be resorted first. The VPT is requested to clarify whether this option has been explored by the VPT before filing the current proposal as mandated by the guidelines. The outcome of this option may please be shared with us. If the VPT opines that tender-cum action method is not feasible, then the reasons, therefor, based on which the port has taken a decision to file is proposal based on latest market value may be furnished.	This proposal is only for under service category for the land meant for the service of temporary open cargo stacking purpose. The comprehensive proposal for the current quinquennium 2013-2018 was submitted in the recent Board meeting held on 10-10-2015. Accordingly, separate action is being taken to submit a comprehensive proposal to TAMP for its approval/ notify of SOR, for all zones of VPT lands for the current quinquennium 2013-2018 for land allotments on lease/ license basis, and will be sent to TAMP shortly. The tender-cum-auction methodology will be followed for new allotments as per LPG 2014.
	(iii). Notwithstanding the above query, whilst the clause 18(a) of the Land Policy Guidelines of 2014 states that LAC shall normally adopt highest market value of the land based on the five factors prescribed in the ibid guidelines, at the same time it gives flexibility to the LAC/ port of not choosing the highest market values of land for reasons to be recorded in writing. As stated earlier, recognising that cargo stacking inside the port area is one of core functions of the port operations and it complements the cargo handling activity and also in view of the strong objections raised by most of the users/ licensees to the steep increase of 912% in the first week and 1197% from second week onwards in comparison to the existing license for open stacking, the VPT may relook at its proposal and examine to file a revised proposal exercising the flexibility available in the Land Policy Guidelines of 2014.	(a). Duly furnishing certain reasons, the revised proposal is sent to approve and notify the license fee rate of ₹6.21 per sq. mtr. per week (instead of earlier proposal of ₹11.68 per sq. mtr. per week) uniformly for allotment of VPT land for temporary license basis not more than 11 months for open cargo stacking purpose. With regard to recommendations of the revised License fee rate i.e., ₹6.21 per sq. mtr. per week, for allotment of land for temporary open cargo stacking purposes for a period of not more than 11 months, the Land Allotment Committee examined the various factors, like (1) Revised LPG 2014, issued dated 17-07-2015, (2) D.O. letter dated 08-07-2015 received from MOS, and (3) the valuation of lands for operational areas done by approved valuer and noted that the market rate of ₹4,500/- per sq. yd., was recommended by them for the temporary open stacking purpose, which is akin to industrial purposes according to which the license fee worked out to ₹6.21 per sq. mtr. per

		week. (b). The VPT has subsequently vide its email dated 4 November 2015 forwarded the extract of Final Report on land by approved valuer in support of the land valuation of ₹4500 /sq. yard considered by the approved valuer in the current proposal.
	(iv). The VPT is also requested to confirm whether the port has undertaken any study to ascertain that the trade can bear such steep increase for cargo stacking and it will not result in diversion of cargo to neighbouring ports. If so, the VPT may share a copy of such a report.	VPT appointed an approved valuer and they submitted the valuation report for all VPT lands including open cargo stacking purposes also. Accordingly, after examining the said report by the LAC, the revised proposal is arrived for ₹6.21 per sq. mtr. per week instead of earlier proposal of ₹11.68 per sq. mtr. per week.
(2).	The proposal of VPT is not accompanied with Form -1 & Form -2 despite specifically pointing out in our letter of even number dated 6 February 2015 at para 3 (vii). The reply furnished by VPT to the said query in Annexure-1 of its proposal is not found to be satisfactory. The VPT is once again requested to furnish the requisite form duly filled as per checklist of documents forwarded to all Major Port trust including VPT vide our letter No.TAMP/4/2014-Misc dated 12 September 2014.	Duly furnishing certain reasons, the revised proposal alongwith "Form-D" sent to TAMP for approval and notify the license fee rate of ₹6.21 per sq. mtr. per week (instead of earlier proposal of ₹11.68 per sq. mtr. per week) uniformly for allotment of VPT land for temporary license basis not more than 11 months for open cargo stacking purpose.
(3).	As mentioned in Note 1 of Form – 1, the VPT is requested to certify that its proposal is in conformity with the Land Policy for Major Ports – 2014 issued by the Ministry of Shipping, Government of India.	
(4).	As mentioned in Note 2 of Form – 1, the VPT is requested to furnish a Certificate to the effect that the land to be allotted in the respective zone is in accordance with port's land use plan.	
(5).	While furnishing Form-1, the VPT is requested to furnish a comparison of the existing and proposed rentals along with the existing and the proposed conditionalities in the prescribed format, justifying the changes proposed in the conditionalities, if any.	
(6).	If on any matter the proposal of VPT deviates from the Land Policy Guidelines referred above, please furnish the details thereof and the reasons therefor.	
II.	Valuation of Land:	
(1).	Annexure-1A attached to the proposal gives the valuation of land as per State Government ready reckoner (both Minimum and Maximum value) and valuation of land as per approved valuer. The valuation of land for other factors is stated to be not available by VPT. With reference to the valuation of land considered in the proposal, the VPT to furnish information/ clarifications on the following points:	Duly furnishing certain reasons and enclosing the approved valuer report with regard to open cargo stacking purpose and comparative statement for 5 factors of LPG 2014, the revised proposal is sent to approve and notify the license fee rate of ₹6.21 per sq. mtr. per week (instead of earlier proposal of ₹11.68 per sq. mtr. per week) uniformly for allotment of VPT land for temporary license basis not more than

	(i). From the statement attached as Annexure-I(a) to VPT's proposal dated 13 April 2015, it is seen that the value of land for all the 12 zones i.e. I-B, I-C, II-A1, II-A2, IV-A, VI-B, VIII, IX-A, IX-B, X-A, X-B and XIV as per the State Government's Ready Reckoner (both Minimum as well as Maximum value) are higher than the value of land arrived at by the approved valuer. It is seen from Annex-I(c) that the proposed rate of ₹11.68 per sq. mtr./ week is arrived by VPT is based on the value of land for 12 zones by the approved valuer which is not the highest value of land. There is no reason recorded in writing by the LAC for not choosing the highest value of land, as required under clause 18(a) of the Land Policy Guidelines of 2014. This point was also brought out in our letter of even number dated 6 February 2015 at para 3(iii)(a). This point has not been addressed while filing the revised proposal by the VPT. If the LAC / Port is not in a position to consider the highest market value of land, then reasons for the same may be brought out as stipulated in clause 18(a) of the Land Policy Guidelines of 2014.	11 months for open cargo stacking purpose.
	(ii). It is seen that the land valuation as per State Government ready reckoner is pertaining to land valuation for residential area for various localities. The VPT has drawn comparison of land valuation of 12 zones obtained for residential area as per State Government ready reckoner and valuation land assessed by the approved valuer. The VPT is requested to explain how the market value of land for residential area is representative enough in terms of facilities, infrastructure, etc., to determine the value of Port land for the subject proposal meant for licensing for temporary stacking of cargo.	
	(iii). Of the 12 zones considered for arriving at the proposed rate of ₹11.68 per sq. mtr. per week in Annexure-I(b) and 1(c), the valuation of land for one of the zones i.e. I-B considered at ₹8000 per sq. yard is not found in the valuation report dated 6 September 2014 forwarded by VPT under cover of its earlier letter dated 29 November 2014. The VPT is requested to furnish the valuation of land by the approved valuer for the said zone in support of the land valuation considered in the proposal.	
III.	Proposed Rates:	
(1).	The proposal of VPT proposes license fee for the 12 zones for temporary open cargo stacking purposes. From a harmonious reading of the clauses 18(b), 18(c) and 16(d) of the Land Policy Guidelines 2014,	This proposal is only for under service category for the land meant for the service of temporary open cargo stacking purpose.

	the Authority is, <i>inter alia</i> , mandated to notify market value of land and reserve price equated to annual lease rent. The VPT is, therefore, requested to propose market value of land and reserve price equated to annual lease rent in line with the provisions stipulated in Land Policy Guidelines, 2014.	The comprehensive proposal together with annual escalation of lease rentals/ SOR @ 2%, w.e.f. 01-04-2013, was submitted in the recent Board meeting held on 10-10-2015. Accordingly, separate action is being taken to submit a comprehensive proposal to TAMP for its approval/ notify of SOR, for all zones of VPT lands for the current quinquennium 2013-2018 for land allotments on lease/ license basis, and will be sent to TAMP shortly.
(2).	The port has not filed draft proposed Scale of Rates along with conditionalities despite mentioning in our earlier letter dated 06 February 2015 at para 3 (vii). The reply furnished by VPT to the said point that the proposal submitted is for specific purposes for allotment of land on temporary licence basis does not address the query raised. Draft proposed SOR and conditionalities will be relevant even for licensing of land for stacking of cargo to avoid ambiguity in the application of rates. The VPT is once again requested to file draft proposed SOR along with conditionalities governing the market value of land and reserve price in terms of annual license fee / lease rent.	It is requested to incorporate the following conditions to the revised proposal of license fee rate i.e., ₹6.21 per sq. mtr. per week, for allotment of land for temporary open cargo stacking purposes for a period of not more than 11 months. 1. The rates prescribed shall be applicable with effect from 1 April 2013. 2. The rates shall be escalated by 2% per annum till such time the rate is revised with the approval of the competent authority. 3. The other conditions governing the lease rental/ license fee/ SOR shall be as per the Land Policy Guidelines of 2014 issued by the Ministry of Shipping w.e.f. January 2014, and as may be amended from time to time.
(3).	The proposal of VPT does not include any note on annual escalation in lease rental. Clause 18 (c) of Land Policy Guidelines, 2014 gives flexibility to Ports to fix rate of annual escalation which should not be less than 2% with the approval of the Port Trust Board. The VPT is, therefore, requested to propose annual escalation in lease rent with approval of its Board. A copy of Board approval in this regard may also be furnished.	With regard to adoption of 2% escalation per annum on license fee rate i.e., ₹6.21 per sq. mtr. per week, proposed for allotment of land for temporary open cargo stacking purposes and conditions, the Board has accorded approval in the Board meeting held on 10-10-2015 along with comprehensive proposal and minutes are being drawn.
IV.	Other points	
(1).	As already brought out in our letters dated 5 November 2014 and 6 February 2015, the validity of the existing lease rental of VPT lands for 31 zones has expired on 31 March 2013 and is overdue for revision. The current proposal filed by VPT is meant only for open cargo stacking on temporary license basis in the 12 zones under service category-"Port related". As stated by VPT in its proposal, the VPT is requested to immediately file its comprehensive proposal for all the remaining zones for other purposes.	A separate action is being taken to submit a comprehensive proposal for other purposes such as Residential, Commercial, Industrial, etc., for all zones, to TAMP, for fixing the rates for all zones of VPT lands for the current quinquennium 2013-2018 for land allotments on lease/ license basis, which is under process and will be sent shortly.

14. With reference to point of action decided at the joint hearing brought out in para 10.3. above, only VCTPL vide its letter dated 30 June 2015 has submitted its further comments, which was forwarded to VPT as feedback information. The VPT has not furnished specific comments on the said letter. It is, however, relevant to state that the VCTPL has reiterated its earlier comments that the steep increase in license fee as proposed by VPT would lead to

increase in tariff for container traffic handled from this port. The VPT has already furnished its comments on the earlier comments of VCTPL.

15. 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>.

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

- (i). The proposal of the Visakhapatnam Port Trust (VPT) is for fixation of uniform license fee for stacking of cargo in open area at 12 zones for land allotted by VPT on license basis following the Land Policy Guidelines of 2014.
- (ii). It is seen from the original proposal of the VPT that port had issued a Circular No.500 dated 15.07.2014 and another Circular No.504 dated 6 August 2014 regarding the revised license fee for temporary stacking of cargo. The circulars issued by the VPT were challenged by Visakhapatnam Stevedores Association (VSA) in the Hon'ble High Court of State of Telangana and State of Andhra Pradesh. The Hon'ble High Court has passed interim Orders suspending the said circulars from operations. The VPT has stated that it has withdrawn the earlier circular dated 15.07.2014 and was to initiate steps to lift the interim suspension of the second circular. The current status of the Writ Petition filed by the VSA is not made known to this Authority by the VPT. In any case, there is no direction from the Hon'ble High Court restraining this Authority to fix license fee for stacking of cargo in open area.

With reference to Circular No.500 dated 15.07.2014 and another Circular No.504 dated 6 August 2014 issued by the VPT for levy of revised license fee, it is relevant here to mention that as per the statute the tariff to be levied by the Major Port Trusts for the cargo / vessel related services rendered by them and also for the properties belonging to or in the occupation of Port Trust should be with the approval of this Authority. The statute position was brought to the attention of the VPT and it was also brought to the notice of the port that the circulars issued by the VPT to the trade revising the license fee without seeking approval of this Authority are not in line with the tariff setting arrangement envisaged in the statute.

As regards the Writ Petition reported to have been filed by VSA, the challenge is to the circulars issued by the port. As stated earlier, there is no direction to this Authority from Hon'ble Court refraining this Authority to take up the proposal of the VPT for fixation of the license fee for stacking of cargo in the open area on license basis. The VPT has filed a proposal for fixing the license fee for cargo stacking in open area allotted on temporary license basis following clause 15 of the Land Policy Guidelines 2014. Clause 15 requires a Major Port Trust to allot land inside custom Bond area, which is required on an immediate basis, on license basis at the latest market value notified by this Authority. This Authority is bound in the statute under Section 49 of the Major Port Trusts Act, 1963, to notify the tariff for the property belonging to or in the possession or occupation of the port in view of the proposal filed by the VPT.

- (iii). Before proceeding ahead with the proposal of the VPT, it is relevant here to state that in the existing arrangement, the charges for licence (storage) fee is prescribed under Section 6 of Scale of Rates of the Visakhapatnam Port Trust (VPT) approved by this Authority vide Order No.TAMP/13/2009-VPT dated 18 February 2011 as part of general revision of SOR of the VPT following the cost plus method prescribed under the tariff guidelines of 2005. The license fee prescribed in the existing Scale of Rates which is already brought out in the earlier paragraphs is reproduced below for ease of reference:

Section 6 - Charges for licence (storage) fee

Item	Description	Unit	Rate (in ₹)
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No.			
1.	License fee for sheds: Transit sheds and storage sheds, warehouses and all covered spaces including warehouse behind G.C.B.	Per 100 Sq. Mtrs.	1115.85 per week or part thereof
2.	License fee for Open Space	Per 100 Sq. Mtrs.	115.35 for first week or part thereof and ₹90.55 for next week or part and onwards
3.	License fee for 1 st Floor of T-2 Shed	Per 100 Sq. Mtrs.	625.00 per week or part thereof

The original validity of the said Scale of Rates which was till 31 March 2013 has been extended from time to time and is presently valid till 30 September 2015. The extension of validity of the SOR of VPT for period beyond 30 September 2015 is considered separately by this Authority for approval.

It is relevant here to state that the current proposal of the VPT amounts to delinking the licence fee prescribed for cargo stacking in the open area at Sl. No.2 in the Section 6 of the existing Scale of Rates prescribed under cost plus method. The proposal is for prescription of licence (storage) fee based on the market value of land following Land Policy Guidelines 2014. The port has not proposed any change in the existing arrangement of license fee prescribed at Sl. No.1 and Sl. No.3. Hence, the current proposal is limited to fixation of license fee for cargo stacking in open area at the 12 zones following the Land Policy Guidelines, 2014.

It is relevant here to state that the review of the lease rent of the VPT lands for 31 zones approved by this Authority in June 2012 is already overdue for revision since 1 April 2013. When requested to consider filing a comprehensive proposal for revision of lease rental/ license fee for all categories of land following the stipulations contained in Land Policy Guidelines of 2014 at the earliest, the VPT has assured that separate action is under progress and the port has agreed to submit a comprehensive proposal to this Authority for other purposes for all other remaining zones and purposes. Reportedly, the Board of the Port Trust has accorded its approval for the other purposes in its Meeting held on 10 October 2015. In the meantime, the VPT has sought approval of uniform license fee for only one item at sr. no.2 for temporary stacking of cargo in open area at 12 zones.

- (iv). When the proposal was already processed and the entire consultation process and joint hearing was over and when this case was taken up for finalization, the Ministry of Shipping has vide email dated 14 October 2015 forwarded a copy of the Amendment and clarification to Land Policy Guidelines for Major Ports, 2014 referred as revised Land Policy Guidelines 2014, which was infact issued by the MOS to all the Major Port Trusts on 17 July 2015.

It is seen that the provisions relating to the determination of Market value of land/ reserve price which is relevant for this Authority for fixation of lease rent / license fee prescribed at clause 18(a) to 18(c) in the earlier Land Policy Guidelines of 2014 is now prescribed at clause 13 (a) to (d) in the revised Land Policy Guidelines. The Para 13 (a) of the revised land policy guidelines of 2014 retains the methodology for determination of market value of the land based on the five factors as prescribed in the Land Policy Guidelines of 2014. The revised guidelines of the 2014 prescribes the same condition that in no case the lease rent will be less than 6% of the latest market value recommended by the Port Trust and the rate of annual escalation in the lease rental to be fixed by the Port Trust Board will also not be less than 2%. The main amendment in the revised Land Policy Guidelines relating to rent fixation is that instead of the earlier Land Policy Guidelines requiring this Authority to notify the Market value of Land, the revised Land Policy Guidelines at Clause 13(b) and (c) stipulates that this Authority will notify the latest SOR. Further, the periodicity of revision of lease rent is

prescribed in the revised Land Policy Guidelines at Clause 13 (c) which was not prescribed in the earlier version. The revised Land Policy Guidelines stipulates that the SOR will be refixed once in every 5 years by this Authority.

Thus, in short the broad principles for determination of latest Scale of Rates for port lands in the Land Policy Guidelines of 2014 are retained in the Revised Land policy guidelines of 2014 except for the main modifications explained above. Hence, this analysis proceeds ahead to fix license fee for stacking of cargo in open area on land allotted by VPT on license basis based on the proposal filed by the VPT and following the revised Land Policy Guidelines of 2014 issued in July 2015 which is broadly same as the Land Policy Guidelines of 2014 issued in January 2014.

- (v). (a). The revised Land Policy Guidelines 2014 clearly lays down the procedure and the methodology to be adopted for determining the market value and the latest Scale of Rates of the port lands.
- (b). As per clause 11.2(e) of the revised Land Policy Guidelines 2014, a Land Allotment Committee (LAC) shall be constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic.

The VPT in the original proposal has stated that a LAC was constituted in accordance with the Land Policy Guidelines, 2014 under the Chairmanship of Deputy Chairman and comprising of other member viz. Chief Engineer, Traffic Manager, Financial Advisor and Chief Accounts Officer for recommendation of license fee for temporary stacking of cargo in open area at the 12 zones. Subsequently, during the processing of the case, the port has clarified that the LAC that met on 21 February 2015 was under the Chairmanship of Chairman (VPT). Even the final LAC report of 31 July 2015 based on which the port has filed the final revised proposal is under the Chairmanship of Chairman (VPT) and comprising of other members. Thus, the VPT has complied with the stipulation of the formulation of the LAC as per the revised Land Policy Guidelines, 2014 with a change that instead of Deputy Chairman it was headed by Chairman, VPT.

- (c). As per Clause 13(a) of the revised land policy guidelines of 2014, the LAC shall determine the market value of land taking into account highest of the five factors like (i) State Government's ready reckoner value if available for similar classification/ activities, (ii) Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board (iii) Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board., (iv) rate arrived at by an approved valuer and (v) any other relevant factors as may be identified by the port. In case the LAC is not choosing the highest factor, the guidelines requires the reasons for the same have to be recorded in writing.

As per clause 13 (c) read with clause 13(a) and (b) of the revised land policy guidelines of 2014, the port shall file a proposal to this Authority for fixation of latest SOR of the land based on the market value of land recommended by the LAC which will normally take into account the highest of the five factors for market value of land stipulated in Para 13 (a) revised land policy guidelines of 2014.

Of the five factors prescribed in the revised Land Policy Guidelines, 2014 for arriving at the market value of the land, the VPT has clarified that the valuation of land based on three factors viz. highest rate of actual relevant transactions registered in last three years in the Port's vicinity, highest

accepted tender-cum-auction rate of port land for similar transaction and any other relevant factor as may be identified by the port are not available.

The port has clarified that land valuation from State Government's Ready Reckoner is available. In the earlier proposal of April 2015, the port had furnished the minimum value of land as per State Government's Ready Reckoner at ₹15000 per sq. yard for each of the zones I-B, I-C, II-A1, II-A2, VI-B, VIII, XA, XB and XIV and ₹7000 per sq. yard for each of the zones IVA, IXA and IXB. The maximum value of land zones is ₹30000 per sq. yard for the zones I-B, I-C, II-A2, VI-B, VIII, XA, XB and XIV, ₹20000 per sq. yard II-A1 and ₹7000 per sq. yard for each of the zones IVA, IXA and IXB.

In the final revised proposal, however, the port has not furnished valuation of land under this option for each of the zones except for zones II A1 and IV A. Both the minimum and maximum value of land as per State Government Ready Reckoner furnished in the revised proposal is ₹10,000 per sq. yard for zone II A1 and for Zone IV A it is ₹5500 per sq. yard and ₹6000 per sq. yard respectively. The reasons for change in the valuation for land under this option and also the reasons for not indicating the valuation of land for other ten zones remains unexplained by the port. In any case, this will not have any material impact on final decision making as the port has not gone by this valuation of land for proposing the final revised rates. The port has in its proposal stated that the land valuation based on State Government's Ready Reckoner is for residential purpose. Land valuation for industrial/ commercial purposes are not available under this option and hence, VPT has relied upon the valuation of land done by approved valuer for arriving at the proposed license fee.

- (d). As stated earlier, in view of the strong objections raised by most of the users/ licensees to the steep increase in proposed license fee in its original proposal as well as in its April 2015 proposal and in view of their apprehension about diversion of traffic from the VPT, Land Allotment Committee (LAC) constituted by the VPT again met on 31 July 2015 under Chairmanship of Chairman, VPT and reviewed the market value and the license fee recommended by it earlier. The LAC on such review has recorded the following main observations / reasons while proposing to recommend revised market value of land and revised license fee. In the revised proposal, it is observed that the LAC has relied upon valuation of land given by another approved valuer appointed by the VPT for valuation of VPT lands as a whole for the quinquennium 2013-18:
- (i). The LAC has noted that most of the users have objected that the land allotted on license basis for temporary cargo stacking purpose is an integral part of cargo handling operations which is one of the core functions of the port and apprehended diversion of traffic from VPT to the neighbouring ports like Gangavaram due to steep increase in license fee.
 - (ii). The LAC has also taken note of a d.o. letter dated 8 July 2015 received from MOS duly stating, while determining the latest market value of the land based on the factors mentioned in the para 18 of the Land Policy Guidelines 2014, it is not mandatory that the LAC has to necessarily take the highest of the five factors given in Land Policy Guidelines. The LAC can choose another factor with proper justification. The LAC has also observed that the MOS has stated that it is important that while choosing the market value as per para 18 of Land Policy Guidelines, 2014, due care is taken to choose relevant factor which captures the realistic market value of the land. Mechanical and inappropriate application of the Land Policy Guidelines may lead to inflated and unrealistic market value which results in poor response to tender-cum-auctions and subsequently loss of business to the port.

- (iii). In the present proposal, the port is the facilitator for import/ export of cargo and stacking of cargo for import/ export purpose is much essential for port operations, without which, operations at port is hampered.
- (iv). The Land Committee has recorded that the earlier license fee recommended at ₹11.68 per sq. mtr. / week which was arrived based on average of the land values of 12 zones submitted by the approved valuer then did not consider the concept of cargo stacking and the business scenario.
- (v). The Land Allotment Committee has thus gone through the valuation of lands done by (another) approved valuer M/s.Rakesh Narula & Co. reported to be a professional firm for valuation of lands, properties, surveys, etc., appointed as Consultants by the VPT for valuation of land for the quinquennium 2013-18. The approved valuer has assessed uniform market value of land for the 12 zones at ₹4500/- per sq. yard for the operational areas for cargo stacking referring the areas as core operational areas.

[It is relevant here to state that neither the LAC report nor the VPT proposal explicitly mention that the LAC has relied upon the land valuation by another approved valuer who is different from the earlier proposal. This position is derived from the reading of the records. In any case, the engagement of approved valuer is under the domain of the concerned Port Trust who are the best judge and this Authority has nothing to do whatsoever.]

- (e). In the light of the above observation, the LAC after going through the valuation of land done by the approved valuer and considering the fact that the market value of land of ₹4500/- per sq. yard assessed by the approved valuer is for temporary cargo stacking purpose which is akin to industrial purposes has recommended to consider the market value of land at ₹4,500/- per sq. yd. at par with the value furnished by the approved valuer for the core operational areas (at 12 zones) for open cargo stacking on temporary license basis not more than 11 months.

It is seen from the final revised proposal filed by VPT vide its letter dated 24 August 2015, that the LAC has relied upon the land valuation report. The VPT has clarified that the approved valuer has considered the rebate (overall 55%) on DRA rates i.e. suitable discount of 25% adopted towards nature of ownership and in addition to the same a discount of 30% is also given to arrive the land value for the industrial-open stacking land of VPT by the approved valuer to arrive at the land valuation. The approved valuer has in the report stated that majority of core operational area is used for stacking coal, iron ore, etc., for which the land valuation is derived at ₹4500/- sq. yard while assessing value of land for VPT lands and same can be considered for land utilised for open cargo stacking as well. On that premise, the approved valuer has recommended ₹4500/- per sq. yard from the final valuation report for VPT land. The VPT has forwarded a copy of the relevant extract of the final valuation report in support of the market value of land at ₹4500/- sq. yard for the core operational area assessed by the approved valuer.

- (f). Thus, it can be seen that the LAC has gone by the valuation of the land given by the approved valuer and has given reasoning for adopting land valuation which is lower than the highest value of the land as per the State Government Ready Reckoner (provided for only two of the twelve zones in the final revised proposal). Further, from comparative position of rates for open space levied at other Major Port Trusts vis-à-vis at VPT compiled and furnished by the VPT as a part of its proposal, shows that the license

fee presently levied at the VPT are lowest in comparison to all the other Major Port Trusts.

For arriving at the proposed license fee, the LAC has converted the market value of land of ₹4,500/- per sq. yd. to sq. mtr. at ₹5382 per sq. mtr. applying conversion factor of 1 sq. yard = 0.836 sq. mtr. (4500/0.836). Then, applying 6% on the market value of land as per stipulation in clause 13 (b) of the revised Land Policy Guidelines, the license fee is computed at ₹323 / sqmt / annum (i.e. ₹5382 *6%) and on per week basis it works out to ₹6.21 /sq. mtrs./ week (₹323/ 52 weeks). Based on the market value of land by the approved valuer at ₹4500 per sq. yard, and applying 6% on the market value of land, the LAC has in its report of 31 July 2015 recommended the license fee ₹6.21 per sq. mtr. / week. The LAC has recommended land valuation at ₹4500/ sq.mtr. and license fee of ₹6.21 / sq. mtr./ week for land meant for open cargo stacking on temporary basis not more than 11 months and has recorded that the same is considered as reasonable. The VPT Board has also in its meeting held on 5 August 2015 approved the license fee recommended by the LAC at ₹6.21 ps. per sq. mtr. per week.

The LAC report states that at proposed rate, the increase in license fee is 6.85 times above the existing rates to the trade which is also justifiable under para 13(a)(v) of the Land Policy Guidelines.

Considering the license fee for open space prescribed at ₹1.1535/sq.mtr./week and ₹0.9055/sq.mtr./week from second week onwards in the existing Scale of Rates as tabulated in the earlier paragraph, the increase works out to 4.35 times over the existing license fee for the first week and 5.85 times over the existing license fee from second week onwards.

- (g). In the light of the analysis in the preceding paragraphs and bearing in mind that the LAC headed by Chairman (VPT) and comprising of Head of the Departments of the port trust has, after considering the market valuation of land given by the approved valuer, arrived at the proposed license fee and also recognising that the Board of Trustees of VPT has approved the revised license fee, and that the proposal filed by VPT is in line with the revised land policy guidelines 2014, this Authority is inclined to approve the proposed license fee of ₹6.21/ sq. mtr./ week or part thereof.

In fact, the Visakhapatnam Stevedores' Association (VSA) during the processing of the case also agreed to 50% of the earlier proposed license fee of ₹11.68 per sq. mtr./ week. The revised license fee approved at ₹6.21 per sq. mtr./ week as proposed by the VPT will be 53% of the license fee proposed by VPT in April 2015 at ₹11.68 per sq. mtr./ week i.e.47% reduction in comparison to its April 2015 proposal.

- (vi). As regards the submission made by Steel Authority of India Limited (SAIL) to reduce the revised license fee taking into account that utilization of the land is for stacking purpose only, the VPT has clarified that the port has reviewed its earlier proposal of April 2015 and the revised valuation of the land is considered at lower level from ₹8466.67 per sq. yard in April 2015 proposal to ₹4500 per sq. yard in the final revised proposal which takes into account the fact that utilisation of the land is for cargo stacking purpose only. It is seen that the aspect that the land to be allotted by VPT is for stacking purpose only has also been considered by the LAC in its final report as brought out in the earlier paragraphs.
- (vii). As regards the point made by the Vizag Seaport Private Limited (VSPL) that averaging out land valuation obtained by land valuer to arrive at the proposed license fee is not the correct approach, the VPT has clarified that the market value of land given by the approved valuer is not the intrinsic value of land. Land allotted by VPT is for common purpose. As rightly stated by the port, there cannot

be different license fee for land at different zones when the purpose of allotment is the same i.e. for temporary cargo stacking purpose in open area. The VPT apprehends that if license fee is different for the same purpose then it will impact competition amongst trade. Further, uniform license fee is proposed by the VPT at the request of the trade as use of land is for the same purpose i.e. cargo stacking in open area. Hence, to arrive at uniform license fee, uniform value of land is considered based on the land value assessed by the approved land valuer. In fact, in the final revised proposal, the approved valuer has given only one land valuation of ₹4500 per sq. yard for area at all the 12 zones to be used for open stacking of cargo on license basis by categorising it as "Core operational area". The argument put forth by the VPT for having uniform license fee appears to be rational and hence this Authority decides to go by the judgement of the port which is based on the recommendation of the LAC and has the approval of the Board of VPT.

- (viii). The VSA and few other user associations have pointed out that the neighbouring ports and other private ports are offering free storage of 45 to 120 days to the customers and offering concessional rentals beyond free time. It is relevant here to state that the proposal filed by the VPT is for fixation of license fee for stacking of cargo in open space on land allotted on temporary licenses basis following the Land Policy Guidelines, 2014. The license fee is payable for the period of license issued by the VPT for allotment of land for cargo stacking purpose only. The question of free storage, therefore, will not arise as payment of license fee is linked to the area occupied and for the period occupied irrespective of quantum of the cargo stacked.

- (ix). (a). The VSPL has contended that providing storage plots is an integral part of Cargo Handling Activity of the Port and same cannot be delinked as a separate activity for transfer of property under lease or license for seeking rates from this Authority under section 49 of the Major Port Trusts (MPT) Act, 1963. The VSPL has further stated that tariff fixation under Section 49 of the MPT Act is intended for fixing tariff for use of Port Properties used for Commercial, Industrial or Service activity and not for open storage plots which the Port is mandated to provide for carrying out Cargo Handling activity at its berths.

The point made by the VSPL that tariff fixation under Section 49 of the MPT Act is intended for fixing tariff for use of Port Properties used for Commercial, Industrial or Service activity and not for open storage plots appears to be the own interpretation of the VSPL. It is not the stipulation made in the statute. The VPT has also denied the contention of VSPL that Section 49 of the Major Port Trust Act is not intended for licensing of open cargo storage plots.

As per Section 49(1) of the Major Port Trusts Act, this Authority is bound to fix Scale of Rates and conditionalities governing the rates for any property belonging to or in the possession or occupation of Port within the port limits used for the four purposes specified therein. Of the four purposes specified under subsection to Section 49(1), sub sections (c) and (d) specifies the leasing of land or sheds by owners of goods imported or intended for exports and for any other use of any land, building, works, vessels or appliances belonging to the port respectively. Thus, it cannot be denied that, fixation of license fee sought by the VPT for the land belonging to the VPT on license basis for cargo stacking purpose falls well within the ambit Section 49 of the Major Port Trusts Act 1963.

As stated earlier, the LAC has taken into consideration the point raised by VSA that storage plot is an integral part of cargo handling activity. The LAC has, therefore, reviewed and reduced the licence fee from ₹11.68/sq.mtr./ week to ₹6.21/sq.mtr./week after taking this point into consideration amongst other points as well.

- (b). Another point made by VSPL is that the Land Policy Guidelines do not provide for temporary license issued for open storage. The Policy provides for short period license upto 11 months and that license on any property is given for continuous basis only even for short period.

The VPT has not accepted the above contention of VSPL. The VPT has argued that the Land Policy does not impose any restriction on individual port to draft a modus operandi for allotment of plot on license basis and ports are at a liberty to formulate mechanism or standard operating procedure for allotment of plots based on the inflow and outflow of traffic, cargo evacuation and other logistic support functionaries.

It is relevant here to state that clause 10.1. of the revised Land Policy Guidelines 2014, stipulates that the land inside custom bond area, which is required on an immediate basis, shall be given on licence basis only and no lease may be permitted. The revised Land Policy Guidelines states the maximum period of licence shall be upto a maximum period of 11 months and shall be at the bid value discovered through the tender-cum-auction. In cases, where the tender- cum-auction is not possible, land to be allocated on licence basis shall be at the latest SoR which at the value notified by this Authority. Clause 11 of the revised Land Policy Guidelines 2014 states that land outside custom bond area shall be given on lease basis only. However, in specific cases, for reasons to be recorded in writing, land can be given on licence basis only for Port related activities. License of land outside the custom bond area is governed by the same methodology and conditions as applicable in case of land inside custom bond area.

Thus, from the reading of the above provision along with the provisions stipulated in Clause 13 (a) to (c) of the revised Land Policy Guidelines 2014, the proposal of VPT seeking fixation of license fee for open stacking of cargo on license basis for period upto 11 months is found to be within the provision of the revised Land Policy Guidelines 2014.

- (c). The VSPL has also stated that, in the case of other land users of various zones, they pay fixed Lease rentals for a perpetual term up to 30 years under Lease and enjoy the land property for their commercial or industrial use and only pay the prescribed annual escalation. But, in the case of open storage, License is normally given for stacking cargo and the fee is collected on weekly basis and there is also a penalty up to 5 times for any delay in Cargo evacuation due to any reason even if they are beyond the control of the user like Non-availability of Railway Rakes of Customer not willing to place indent due to Plant shutdown/ Poor Market conditions etc.

The point made by VSPL that for lease rent remains perpetual for 30 year may not be correct as the port generally prescribe a clause for revision in rents from time to time in the lease agreements. The lease rent is subject to revision after every five years as per the revised Land Policy Guidelines, 2014 and the earlier Land Policy Guidelines as well. As regards levy of penalty mentioned by VSPL, it is relevant to mention that VPT has not proposed any such conditionality in the current proposal. In any case, unauthorised occupation will be governed by the relevant provisions of the revised Land Policy Guidelines 2014.

- (d). The point made by VSPL to fix the license fee applying a composite index rate based on RBI cost inflation at 2 or 3 times over the prevailing lease rentals, is not found to be line with the methodology prescribed for fixation of Scale of Rates for port lands stipulated in the revised Land Policy Guidelines 2014.
- (e). The VSPL has also drawn reference to the Tariff Policy, 2015 which gives flexibility to Major Ports to fix their own tariff within the Annual Revenue Requirement and has also referred to the stipulation in the Tariff Policy,

2015 which requires Chairman of the concerned port trust to ensure that traffic is not migrated while exercising the flexibility in increasing the tariff. As regards the point made by the VSPL, it is relevant here to state that, the said provision of the Tariff Policy, 2015 is applicable, for general revision of Scale of Rates. The current proposal is filed by the VPT for revision of license fee under the Land Policy Guidelines 2014 and not under the Tariff Policy, 2015. In any case, the LAC has taken into account the concerns of the users regarding diversion of cargo from VPT while giving its recommendation for the proposed rate.

- (x). (a). The VCTPL during the processing of the case has pointed out that they have entered into long term lease with the VPT and the rental in their case is the License fee (storage fee) as per the existing Scale of Rates of the VPT which is fixed as a part of the General revision of the SOR of the VPT. The VCTPL has sought clarification from the port whether the proposed licence fee will be applicable in its case. The VPT was, therefore, requested to examine specifically the aspect raised by the VCTPL with reference to the provisions in the License Agreement entered between VPT and VCTPL.

The VPT has stated that for all PPP projects except VCTPL, port is charging the rates for land allotments based on Schedule of Rates. However, in case of VCTPL, it is based on the Scale of Rates. Land was allotted to VCTPL based on the Scale of Rates which prevailed during the time of allotment. After issue of the Land Policy Guidelines, 2014, the complete structure of license fee to be collected undergoes a change based on the provision prescribed in the Land Policy Guidelines. The VPT has argued that the lease period of VCTPL on license basis is for a period of 30 years and contention of VCTPL that there should not be hike after a period of 12 years does not hold good in the changing economic scenario where cost of very service/ asset has been undergoing a change by taking a route of upward trend. Tariff for services rendered by VCTPL is not constant and has undergone several changes towards upward graph, which was done based on the increase in costs of various input materials and services.

The port has stated that the market value of the land at the location of VCTPL has also increased in the last few years and the proposed license fee arrived is realistic. The VPT has stated that the proposed license fee is arrived following the provisions of the Land Policy Guidelines 2014 issued by the Ministry of Shipping, and is applicable to short term/ long term leases/ licenses of VCTPL as well. The VPT has thus stated its position with reference to the point raised by the VCTPL. It is relevant here to state that this Authority determines lease rent/ license fee for the Port trusts land following the applicable Land Policy Guidelines issued by the Government from time to time. The lease/ license agreement is entered by the concerned port trust with the individual lessee/ licensee. This Authority, therefore, does not like to interfere in the matter of individual lease agreements entered by the concerned Port Trust with the individual lessees.

- (b). Another point made by the VCTPL is that port has allotted two pieces of additional land on short term basis to overcome frequent congestion at its terminal. It is seen from the License Agreement (LA) entered between the VCTPL and VPT that clause 5.3. of the LA allows allotment of additional land and stipulates that the licensee shall pay rent or other charges for additional land or premises made available by the licensor in accordance with the terms and conditions mutually agreed between the licensor and licensee.

The VCTPL has stated that allotment of land was done at the existing Scale of Rates i.e. @ ₹115.35 per 100 sqm. per week from 1st week and ₹90.55 per 100 sqm. per week for subsequent weeks under short term

lease of 11 months which is renewed periodically. The effective rent to VCTPL at present is @ ₹0.91 per sqm per week. At the proposed license fee of ₹11.68 per sqm per week, the hike will be ₹12.84 times of the existing rate. The VCTPL has, therefore, requested this Authority to request the VPT to convert the said area allotted on short term 11 months license to long term basis co-terminus with the turnover of the existing terminal. As regards the increase in the license fee, it is relevant to state that as per the revised proposal of the VPT the increase will be around 5.82 times the existing license fee and not 12.84 times as stated by the VCTPL. With reference to the point raised by VCTPL about conversion of allotment of land by the VPT from short term licence to long term lease, it is relevant here to mention that the mandate of this Authority is to fix the Scale of Rates and conditionalities governing the rates for the use of port trusts land. This Authority determines lease rent for the Port Trusts land following the applicable land policy guidelines. The issue about allotment of land on lease or license basis is beyond the jurisdiction of this Authority. The matter of allotments of the land falls under the domain of the concerned Major Port Trust. It is seen from the License Agreement (LA) entered between the VCTPL and VPT that clause 5.3. of the LA stipulates that the licensee shall pay rent or other charges for additional land or premises made available by the licensor in accordance with the terms and conditions mutually agreed between the licensor and licensee.

- (xi). The original as well as the final revised proposal of VPT did not include any note on annual escalation in lease rental. Clause 18 (c) of Land Policy Guidelines, 2014 and clause 13(c) of the revised Land Policy Guidelines 2014 gives flexibility to Ports to fix rate of annual escalation which should not be less than 2% with the approval of the Port Trust Board. On pointing it out, the VPT has proposed a note relating to annual escalation in lease rent at 2% and has confirmed that the Board has accorded approval for adoption of 2% escalation per annum on license fee of ₹6.21 per sq. mtr. per week. Hence, the note proposed by VPT relating to 2% annual escalation till such time the rate is revised with the approval of the competent authority is approved. The note is partially modified to state that the annual escalation will apply after expiry of one year from the date of implementation of this Order.
- (xii). As stated earlier, the validity of the existing lease rent of VPT lands for 31 zones has expired on 31 March 2013 and is overdue for revision. The current proposal filed by VPT is meant only for open cargo stacking on temporary license basis in the 12 zones under service category-“Port related” which is referred as core operational area in the final revised proposal. On being pointed out to the VPT to file a comprehensive proposal for all the remaining zones for other purposes as stated by it, the port has stated that the current proposal is for seeking approval for of license fee rate in respect of the temporary allotments, being made for open cargo stacking purpose only. The port has agreed to file a comprehensive proposal for other purposes such as Residential, Commercial, Industrial, etc., for all zones, to this Authority for the current quinquennium 2013-2018. The VPT is, therefore, advised to file its comprehensive proposal immediately since its Board has already accorded approval on 10 October 2015 as the lease rent approved in the last tariff Order is already due for revision.
- (xiii). The port has while furnishing information/ clarification in its letter of October 2015 proposed a note stating that the rates prescribed shall be applicable with effect from 1 April 2013. This indirectly, means VPT seeks approval of the license fee with retrospective effect from 1 April 2013. In this regard, as stated earlier it is reiterated that the license (storage) fee for cargo stacking at open space prescribed in the existing Scale of Rates under Section 6 at Sl. No.(2) in the general revision of the Scale of Rates of the VPT vide Order No.TAMP/13/2009-VPT dated 18 February 2011 is already in force. The original validity of the said SOR expired on 31 March 2013 and the validity of the same has been extended from time to time at the request of the VPT and the last extension was till 30 September 2015. This means the existing license fee for cargo stacking in open space which forms part of the Scale of Rates of the VPT has also been extended.

Since till now this tariff item formed part of the general revision of the Scale of Rates and the rates are valid till now, the question of prescription of the proposed rates retrospectively from 1 April 2013 does not arise. Further, the license fee for allotment of land for stacking purpose at VPT is being determined following the Land Policy Guidelines for the first time. When the license fee for the lands of the Mormugao Port Trust (MOPT) was fixed for the first time following the Land Policy Guidelines vide Order No.TAMP/8/2012-MOPT dated 2 May 2012, the Order was given with prospective effect. Similar is the case when another proposal of MOPT for fixation of lease rental for commercial building was disposed of vide Order No.TAMP/57/2014-MOPT dated 10 June 2015. In the case of Chennai Port Trust (CHPT) prospective effect was given for the lease rentals vide Order No.TAMP/56/2014-CHPT dated 7 January 2015.

That being so, the rates for license fee for stacking of cargo at 12 zones will be effective prospectively after expiry of 30 days from the date of notification of the Order in the Gazette of India. Consequent to implementation of license fee under Schedule of rent following the Land Policy Guidelines, the license fee prescribed in the existing SOR under Section 6 - Charges for License (Storage) at Sl.No.(2) pertaining to license fee for open space will automatically stand deleted from the date of implementation of license (storage) fee as per this Order and is replaced with a note stating that License fee will be as per the Schedule of Rent approved by this Authority separately effective from the date the Order No. TAMP/48/2014-VPT dated 15 January 2016 comes into effect. This is in line with the approach adopted by the VPT in its general revision proposal filed vide its letter dated 14 August 2014 where the port had proposed to delete the entire Section 6 of the existing SOR stating that SOR shall be derived based on the Land Policy Guidelines 2014 issued by the MOS.

The only difference is the VPT has in the current proposal proposed license fee only with reference to Sl. No.2 i.e. license fee for open space for storage of cargo under the Land Policy Guidelines 2014. That being so, the entries at Sl. No.1 and 3 will have to continue in the existing Scale of Rates with modification at Sl. No.2 as stated above. It is relevant to state that if this deletion is not done from the existing SOR, it will lead to (avoidable) ambiguity in application of rates as license fee for open space will be prescribed at two places, one in the Scale of Rates and another in the Schedule of rent.

- (xiv). Clause 13(c) of the revised land policy guidelines of 2014 stipulates that the Scale of Rates will be revised every five years. That being so, it is appropriate to stipulate a note stating that the license fee approved by this Authority will be effective for five years from the date this Order comes into effect and will be reviewed thereafter.
- (xv). The VPT has proposed a general note (3) stating that other conditions for lease rent / license fee shall be governed by the Land Policy Guidelines 2014 issued by the MOS with effect from January 2014. The proposed note is slightly modified to state that it shall be governed by the revised Land Policy Guidelines, 2014 issued by the Ministry of Shipping with effect from July 2014.

17.1. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the license fee for stacking of cargo in open area on land allotted by VPT on license basis at the 12 zones as **Annex**.

17.2. The license fee approved for stacking of cargo in open area at 12 zones will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India and will remain valid for five years.

17.3. Consequent, to implementation of this Order approving license fee for stacking of cargo in open area at the 12 zone after expiry of 30 days from the date of notification of the Order in the Gazette of India, this Authority approves to amend the License (Storage) fee for open space prescribed at Sl. No.(2) at Section 6 in the existing Scale of Rates with the following from the date this order comes into effect:

Item No.	Description	Unit	Rate (in ₹)
2.	License fee for Open Space	License fee for this item will be as per the Schedule of Rent approved by this Authority separately with effect from the date of implementation of Order No. TAMP/48/2014-VPT dated 15 January 2016.	

17.4. The VPT is directed to accordingly amend the existing Schedule of Rent for insertion of License fee as given in Annex and also modify the existing Scale of Rates in line with para 17.3 above.

(T.S. Balasubramanian)
Member (Finance)

Annex

Schedule of License fee for land belonging to the Visakhapatnam Port Trust to be given in license for stacking of cargo in open area at 12 zones

Type		License Fee (₹ / sq. mtr. / week)
New Zone	Zones	
Core Operational Areas for open cargo stacking purpose	I-B	₹6.21
	I-C	
	II-A1	
	II-A2	
	IV-A	
	VI-B	
	VIII	
	IX-A	
	IX-B	
	X-A	
	X-B	
	XIV	

1. The rates prescribed shall be applicable after expiry of 30 days from the date of notification of the order in the Gazette of India and will be valid for period of 5 years.
2. After expiry of one year from the date of implementation of this Order, the rates shall be escalated by 2% per annum till such time the rate is revised with the approval of the Competent Authority.
3. The other conditions governing the license fee shall be as per the Revised Land Policy Guidelines of 2014 issued by the Ministry of Shipping w.e.f. July 2014, and as may be amended from time to time.

SUMMARY OF THE COMMENTS RECEIVED FROM THE CONCERNED USERS / USER ORGANISATIONS / LESSEES / STEVEDORES AND REPLY OF VISAKHAPATNAM PORT TRUST (VPT) MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/48/2014 - VPT - Proposal from the Visakhapatnam Port Trust for charging License Fee for allotment of land for a period of not more than 11 months following New Land Policy Guidelines for Major Ports, 2014.

1. A summary of the comments received from users/ user organisations / lessees / stevedores and reply furnished by VPT thereon is tabulated below:.

Sl. No.	Comments received from users/ user organisations/ lessees/ stevedores	Reply furnished by VPT
1.	Visakhapatnam Stevedores Association, Visakhapatnam Customs House Agents Association, M/s.Integral Trading and Logistics and M/s.K. Ramabrahmam & Sons (P) Limited	
(i).	The Licence fee proposed by VPT @ ₹11.68 per sq. mtr. per week is abnormal and the same is eleven times higher than the licence fee being paid by the users presently as per the existing SOR.	The proposed rate of ₹11.68 per sq. mtr. per week was approved by the Port Trust Board based on the recommendations of the Land Allotment Committee to consider the market value of ₹8464.67. This is done based on the average of valuation done by the approved valuer for the land meant for the purpose of Open cargo stacking on temporary license basis in all the 12 zones as one Zone. As the rate proposed by the Board in pursuance of Land Allotment Committee recommendations is as per the Land Policy Guidelines 2014, the proposed rate of ₹11.68 appears to be abnormal since VPT has not enhanced the rate of License fee for temporary land allotments since a long time keeping in view the overall interest of all the stake holders. However, it is inevitable that a new rate of license fee is required to be worked out as per the land policy guidelines 2014, and, hence, the said rate.
(ii).	The increase proposed by VPT is unreasonable, abnormal and un-competitive and the importers and exporters using VPT will not be in a position to bear such a high licence fee as it translates to about ₹24/- per mt per month. You will appreciate it is very high compared to the present cost of about ₹2/- per mt per month.	As VPT did not enhance its license fee for temporary licenses issued by the Traffic Department the same old rate which is presently in the running Scale of rates continued for a long time. Because of this situation the present proposed rate of ₹11.68 per Sq. per week at this stage may appear paradoxically to be abnormal to the trade but it is the factual rate worked out based on the present conditions and in pursuance of Land Policy Guidelines, 2014.
(iii).	The neighbouring ports and other private	The land rates differ from Port to Port

	ports are offering free storage of 45 to 120 days to the customers and offering concessional rentals beyond free time.	and there is no comparison among different Major Ports and the Private Ports. The free time, the license fee, the dwell time of cargoes etc., differ from Port to Port depending on the operational and logistical circumstances. The land at VPT is being allotted on "As is where is" basis and the License fee is one and the same for all temporary Licenses issued for cargo stacking purposes by the Traffic Department.
(iv).	VPT has allotted undeveloped, slushy and marshy lands to the users and in turn the users invested huge amounts in development of land to make it suitable for storage of bulk cargoes. VPT has not considered the investments made by the users all these years while proposing the licence fee.	It is in the interest of the users that such lands were taken by them on temporary license basis depending upon their inflow of business activities. Hence the investments made by the trade towards further development of the allotted, may not be a criteria for fixation of license fee.
(v).	Commercial and residential areas were developed around the port area over a period of ten years resulting in higher commercial value for the land around the port area. The valuer has taken the market rate of the port peripheral areas for deriving the valuation for port lands which is not at all relevant/ reasonable or justified.	Already explained at Sl.No.1(i).
(vi).	The valuer has adopted per sq. yard rate which is usually used for sale and purchase transactions in the city but not for cargo handling operations on a plot allotted by VPT on temporary basis/ on vessel to vessel basis. Hence needs to be reviewed.	In the city limits, the rate of market value is available in sq. yd. basis only.
(vii).	The rate proposed is higher than other Major Port rates.	The rate has been fixed duly keeping all the factors into consideration and is as per the Land Policy Guidelines, 2014.
(viii).	The rate for service category should be separated instead of clubbing the same with industrial/ commercial categories. There is every need to separate service category and fix reasonable rate for this category to increase the through put for the port.	
(ix).	The Visakhapatnam Stevedores Association has raised certain objections in the meeting on land policy guidelines 2014 held on 2.8.2014 and the Chairman, VPT has assured to consider the objections of the Trade favourably while proposing the final rate to TAMP. However, VPT has not considered any of the requests of the Trade and proposed ₹11.68 per sq. mtr., which is more than the earlier proposal of VPT on 2.8.2014 which is to be reviewed.	
2.	Visakha Container Terminal Private Limited	
(i).	The proposal is applicable for allotment of land for a period of not more than 11 months. We are strongly oppose in principle to the proposal which involves a	No comments furnished by the VPT.

	steep hike in the existing licence fees which will impose a huge burden on the Trade and drive away cargo to nearby private ports. The very methodology used in revising the license fees is faulty as it is based on real estate valuation of lands in the nearby areas whereas the port land is basically used for stacking export and import cargo.	
(ii).	In this connection, we would like to bring to your kind notice that the land to the extent of 164000 sq. mtr. was allotted to VCTPL on license fees basis which is based on the policy prevailing at that time. The entire business model of the VCTPL is built on the basis of the prevailing input costs, which if allowed to be raised beyond reasonable levels, would spell disaster and needs to be looked into very seriously. It is, therefore, requested the proposed increase should not be made applicable to the allotments made to BOT projects.	No comments furnished by the VPT.
(iii).	(a). In this connection we would like to draw your kind attention to the allotment of two pieces of lands measuring 9396 sq. mtr. and 3600 sq. mtr. to VCTPL on short term lease. The said sites are contiguous to our existing terminal land.	No comments furnished by the VPT.
	(b). As you are aware VCTPL commenced operations on 26 June 2003 when the container traffic levels were about 15000 TEUs per annum. The traffic has since grown to the present average of about 22000 TEUs per month, a growth of more than ten times. The traffic is poised to increase further in the coming years due to various factors which include organic growth of Industry in the local hinterland covering the states of Andhra Pradesh, Orissa and Chhattisgarh, induction of two main line services, Vizag emerging as a transshipment hub for Kolkata and the inducement of ICD traffic between Vizag and Nagpur, etc.	No comments furnished by the VPT.
	(c). You are aware that the Terminal had to face acute congestion in the yards two years ago mainly due to inadequate space inside the Terminal apart from other reasons like inability of the CFSs to quickly evacuate the containers, equipment breakdowns, etc. The yards were completely choked with containers and there was hardly any moving space. This was not conducive to safe and efficient working. There was an urgent necessity to augment the space availability near the Terminal to stack the containers.	No comments furnished by the VPT.
	(d). There was also a discussion during the public hearing held by TAMP on 11 May 2011 in VPT regarding VCT Tariffs on the shortage of yard space inside the Terminal	No comments furnished by the VPT.

	creating a big mismatch between the yard capacity and the quay capacity. TAMP had also suggested allotment of additional land to VCTPL to reduce the gap between the yard capacity and quay capacity and VPT agreed to consider the same. In this connection your kind attention is invited to Sl.No.(iv) of the table below para 10.3 in the TAMP Order dated 5.11.2011 wherein in reply to a query from TAMP regarding enhanced capacity of the Terminal, VPT had informed TAMP that VCTPL had asked VPT for additional land as additional back up storage area and with the deployment of additional equipment and increase in backup area, VCTPL can handle about 4 lakh TEUs.	
	(e). Subsequently, ONGC had surrendered land admeasuring 9396 sq.m. allotted to it by VPT near the Fishing harbour. In addition, an area of 3600 sq.m. was also available near the Fishing Harbour occupied by the Fishing vendors unauthorisedly. This area was also adjacent to the VCTPL boundary wall and was ideal for developing into a container yard. VPT agreed to allot both these pieces of land. But the allotment was made on temporary basis of 11 months renewable from time to time as there was an embargo on long term allotment imposed by the Government pending finalisation of the new Land Policy Guidelines.	No comments furnished by the VPT.
	(f). These allotments were made to overcome frequent congestion due to storage of yard space faced at that time. Allotment of the said lands has indeed alleviated the congestion problem to the large extent. To sustain decongestion and hence efficient operations whereby the trade is benefitted, VCTPL has made several requests for permanent allotment of the said lands on long term lease. However, request was not considered so far.	No comments furnished by the VPT.
	(g). The said allotments were made by VPT at the existing Scale of Rates i.e. @ ₹115.35 per 100 sqm. per week from 1st week and ₹90.55 per 100 sqm. per week for subsequent weeks under short term lease of 11 months and being renewed periodically. The effective lease rent cost to VCTPL at present is @ ₹0.91 per sqm per week. As per the proposed hike it is ₹11.68 per sqm per week which is 12.84 times of the existing rate.	As per the Land Policy Guidelines for Major Ports 2014, the LAC may normally take into account the highest of the factors mentioned at clauses at 18 (a) (i) to (v) of the said guidelines to determine the latest market value of Port land. As per the five factors, the VPT obtained the District Authority rates and approved valuer rates and also last three years transactions (as per availability) etc. In above factors, it is noticed that the DRA rates are higher than the other factors.
(iv).	VCTPL has already invested substantial amount towards strengthening and developing the yard for container stacking. Therefore, the additional lease rent cost	

	would be additional burden to the trade which VCTPL has to pass through it upon its revision.	
(v).	We would also like to draw attention of the Honourable Authority that the lease rent escalation of past 11 years have been flat and sudden jump in cost to such an extent at one go would affect the budgetary constraint and cash flow of the company. This will also badly affect the container trade in the region as the revision will ultimately affect them.	The Uniform rate for all the 12 Zones arrived as one Zone, as the allotment is meant for same purpose <u>i.e., open cargo stacking purpose</u> . In view of the variation of the valuations of 12 zones, the Land Committee recommended to consider the land meant for the purpose of open cargo stacking on temporary license basis in all the 12 Zones as one zone and recommended to consider uniform market value and license fee, which was worked out as follows :
(vi).	The Honourable Authority is also requested to kindly prevail upon Visakhapatnam Port Trust to convert the lease of the said area from the short 11 months' period to long term co-terminus with the existing terminal tenure.	Average value = Total value i.e., ₹1,01,600.00 per sq. yd. / 12 (Zones) = ₹8466.67 per sq. yd. per year, i.e., ₹10,126.05 ps. per sq. mtr. per year. Average rent for each zone = @ 6% on ₹10,126.05 = ₹607.56 ps. i.e., ₹11.68 ps. per sq. mtr. per week [₹607.56 / 52 (weeks) = ₹11.68ps.]. The same was recommended by the LAC and approved by the Board vide resolution No.198/2014-15 (circulation note dated 13-03-2015). The same proposal was sent to TAMP vide this office letter dated 13-04-2015.
3.	M/s. Rain CII Carbon (India) Limited	
(i).	We are handling one million tone of cargo from Visakhapatnam Port. There is a very competitive market in international as well as in domestic market and it is very difficult for us to sustain the day to day plant operational activities. We are storing our raw material/ finished goods at VPT leased lands which are further transported to our plant/ transported to port for export. The current proposal for revision in lease rent of port land for a period of not more than 11 months will really affect our cost of production and will ultimately affect competitiveness in domestic as well as international markets. The proposal of VPT in revising the license fee for allotment of land for a period of not more than 11 months to ₹11.68 per Sq. Mtr. per week is very high. In this connection we request your good selves to kindly appraise the revision in	The basis for arriving ₹11.68 ps. per sq. mtr. per week, is explained above in our comments on the comments of VCTPL.

	lease rental prior to finalising the revision of proposed license fee for allotment of Land for a period of not more than 11 months.	
4.	M/s. Steel City Shipping Service Pvt. Ltd.	
(i).	In the present scenario the Iron ore business, imports and exports has slashed down drastically, particularly for VPT.	The land rates differ from Port to Port and there is no comparison among different Major Ports and the Private Ports. The free time, the license fee, the dwell time of cargoes etc., differ from Port to Port depending on the operational and logistical circumstances. The land at VPT is being allotted on "As is where is" basis and the License fee is one and the same for all temporary Licenses issued for cargo stacking purposes by the Traffic Department.
(ii).	Private Ports like Gangavaram Port, Krishnapatnam Port etc. are competitive in all respects compared to VPT, because of which the volume has come down in the last two years.	
(iii).	Further, increase of license fee rate for allotment of VPT land for temporary open cargo stacking purposes will increase the costs and is very difficult to get the business.	
(iv).	M/s.Steel City Shipping Services is in the opinion that arrival of license fee rate for the service of open cargo stacking in all the 12 Zones considering as one zone and taking the average value per sq. yard is not relevant, as the valuation has done comparing to Market rate which is not correct, because the Port Land is not in the market area and it is not for any commercial purpose. It is for service purpose only for stacking cargo. Hence the valuation arrived in the proposal and the process of fixing license fees is not relevant. The proposed hike in license fee will impact the business and also the incoming traffic.	
5.	M/s. Prathyusha Resource Infra (P) Ltd.	
(i).	The revised Licence fee proposed by VPT at ₹11.68 per sq. mtr. per week is abnormal as recommended by the LAC. We are unable to bear such a huge rate on our shoulders compared to the present cost of ₹0.91 ps per sq. mtr. per week i.e. increase of about 1190% (11 times) higher than the SOR licence fee being paid by us and is unjustified.	The VPT has reiterated that the proposed rate of ₹11.68 per sq. mtr. per week was approved by the Port Trust Board is based on the recommendations of the Land Allotment Committee to consider the market value of ₹8464.67 which is arrived based on the average of valuation done by the approved valuer for the land meant for the purpose of Open cargo stacking on temporary license basis in all the 12 zones as one Zone. The rate proposed by the Board in pursuance of Land allotment Committee recommendations is as per the Land Policy Guidelines 2014. The proposed rate of ₹11.68 appears to be abnormal since VPT has not enhanced the rate of License fee for temporary land allotments since a long time keeping in view the overall interest of all the stake holders. However, it is inevitable that a new rate of license fee is required to be worked out as per the land policy guidelines 2014, and, hence, the said rate.

(ii).	Other ports are considering free storage period from 3 to 4 months to our customers and giving concessional rentals beyond the free time.	The land rates differ from Port to Port and there is no comparison among different Major Ports and the Private Ports. The free time, the license fee, the dwell time of cargoes etc., differ from Port to Port depending on the operational and logistical circumstances. The land at VPT is being allotted on "As is where is" basis and the License fee is one and the same for all temporary Licenses issued for cargo stacking purposes by the Traffic Department.
(iii).	We have spent huge amount for developing of the land. Port allotted to us uneven plot with slushy and muddy and it was not suitable for storage of our cargoes. But, VPT has not considered our investment on the land development.	It is in the interest of the users that such lands were taken by them on temporary license basis depending upon their inflow of business activities. Hence the investments made by the trade towards further development of the allotted, may not be a criteria for fixation of license fee.
(iv).	The valuer should not compare the market rate such as Residential, Commercial, Industrial etc. to Port land for valuation, since it is service oriented operations, further it is undeveloped land and not suitable for cargo handling operations.	Already explained at Sl.No.6(i).
(v).	All so we could not adopt the additional amount to our principals in regard to plot rentals besides the handling charges. Since the export and imports trading comedown in this port day to day due to poor marketing.	No comments furnished on this point.
(vi).	In the last meeting we have raised objections that VPT should consider our proposal favourably for valuation of the plot rentals as per the existing tariff and the Chairman of VPT assured us to consider the objections favourably raised by us for the interest of Trade.	No comments furnished on this point.
6.	Visakhapatnam Steamship Agents Association	
(i).	It has strongly objected the increase and method adopted to arrive the fees. It is not justified to arrive at licence fee by linking it on the cost of land. There is neither a real estate transaction nor port is relinquishing the rights on the land. Any increase shall be reasonable and not eleven times. Lease rent is one of the component for cargo handling cost and with the increased licence fees it is not possible to quote for competitive prices for stevedoring jobs at Visakhapatnam port.	The basis for arriving ₹11.68 ps. per sq. mtr. per week, is explained in our comments given above.
(ii).	In fact, the other ports are offering land at free of cost for first 30-45 days. The land allotted by VPT is not useful for cargo handling. The condition of the land is undeveloped with slush and lessee is required to invest huge money to develop	The land at VPT is being allotted on "As is where is" basis and the License fee is one and the same for all temporary licenses issued for cargo stacking purposes by the Traffic Department.

	the land and use for the purpose of cargo handling.	
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2. The National Aluminium Company Limited, the Vizag Seaport Private Limited and the Navship Marine Services Pvt. Ltd. have furnished their comments as given below. The VPT has not responded to their comments:

1. M/s. National Aluminium Company Limited

- (i). The proposal for approval towards 30 years of lease to NALCO is already pending at Ministry for clearance and as per VPT's interim demand, an amount of ₹2,91,71,611/- had already been paid for lease till 09.09.2015. The lease rates are subject to revision as per changes in schedule of rates that may be annually escalated per Land Policy Guidelines.

2. Vizag Seaport Private Limited

- (i). License fees for usage of open storage plots of VPT was hitherto fixed by the Authorities as part of VPT's General Scale of Rates under Section 48 of the Major Port Trusts (MPT) Act, 1963 and not under Section 49. The latter provision provides for framing Schedule of Rates (Rents) for use of any property of Port for the purpose of Residential, Commercial, Industrial or any Service purpose. Any Major Port is mandated under Section 42 to provide various vessel related and cargo related services which, *inter alia*, includes storage of cargo either by itself or through authorized persons. In other words, providing storage plots is an integral part of cargo handling activity of the port and cannot be delinked as a separate activity of transfer of property either as a Lease or License to the port users so as to frame Scale of Rates under Section 49 for use of port properties.
- (ii). The main reason for emphasizing that Scale of Rates shall be fixed under Section 48 of the MPT Act is that the same would reflect and enable achieving the following objectives:
 - (a). Leveraging the Port lands for retaining/ attracting cargo traffic.
 - (b). Competitive tariff comprising cost recovery with reasonable return for all port services including cargo storage.
 - (c). Competitiveness of VPT as the most economical port. This will be lost, if separate rate for open storage is framed based solely on market value.
 - (d). Regaining the competitive position of VPT by attracting cargos with a bouquet of services with reasonable storage charges. Storage cost is the major element viewed with great concern by the trade while choosing a Port.
- (iii). Present proposal of VPT proposing separate tariff at exorbitant rate by solely linking to disputable market value will drive away the existing and the potential trade customers from using Vizag Port. Needless to say, the cargo share of Major Ports are already in declining trend vis-à-vis the non-major ports and the exorbitant tariff now proposed will lead to perpetual decline in cargo volume at VPT.
- (iv). It is also noted that the proposal to fix separate rate for open storage plots under Section 49 emanates from the Land Policy Guidelines, 2014 for Major Ports. In our view, the Land Policy Guidelines, 2014 may not be applicable for fixing rate for open storage plots owing to the following reasons:
 - (a). Objective of this policy is to ensure optimum value realization for use of Port lands for the purposes of Residential, Commercial, Industrial or Social by collecting rentals based on market value. The user of the land, here gets the

right to enjoy the port properties for his stated purpose of Residential, Commercial or Industrial mainly as a Lessee. But in the case of usage of open storage plots, the objective of the user is not to enjoy the property as a Lessee but use it as an integral part of cargo handling activity. In other words, the usage of open storage plots by the trade users is incidental to their cargo handling services / activities.

- (b). The policy does not provide for temporary license issued for open storage allotment by Major Ports on Ship to Ship basis for storage of Import/ Export cargo. The policy only provides for short period licenses upto 11 months which means some perpetuity to the License holder for minimum period of months. License on any property is normally given for continuous period only even for short period.
- (c). The open storage plots are outside the custom bond area. For such plots, the policy mandates allotment by lease only and on License in specific cases that too by finding bid value discovered through tender-cum-action and non-resorting shall be only an exception. This may not be practical for open storage plots.
- (v). Accordingly, it is requested to seek clarification or relaxation under para 20(vii) and (viii) of the Land Policy Guidelines, 2014 from the Government on application of the Land Policy for allotment of open storage plots as part of cargo handling activity at Major Ports.
- (vi). Subject to above, we would like to submit that the present proposal of revising the rate for stacking cargo at lands meant for open storage suffers from several inconsistencies and invalid assumptions resulting in exorbitant increase of 1298% at the proposed in Licensee fee of ₹11.68 per week per sq. meter. This is prohibitive for any trade customer who will be forced to migrate to other neighbouring private ports. The main objective of Land Policy, 2014 sought to be achieved by attracting / retaining port traffic through leverage of port lands is thus defeated.
- (vii). Perusal of the valuation reports reveals that the Licensee fee has been fixed based on the valuation by approved valuer appointed by the Port. The approved valuer has uniformly remarked that –
 - (a). Guidelines rate from S.R.O. are not available for all the open storage plots in all the zones and hence value of nearby house has been taken as Guideline value.
 - (b). All the lands have limited market conditions as they can be used only by business people in the area of port operations.
 - (c). Prevailing market rate being the Market rate prevailing in the locality for similar land with similar characteristics have been considered in arriving market value.

The concept of prevailing market value will be valid only when there is an existence of a willing seller and willing buyer. As sale of Port lands are not allowed, the fair market value cannot be determined. Here the user gets the land as a Licensee and his usage is restricted for a limited purpose of cargo storage. As such, relying on prevailing market value based on similarity of land characters ignoring the restrictions on usage and transfer of land is not appropriate and correct.
- (viii). All the storage plots are undeveloped and unpaved marshy lands, most of them lying at low level and this factor has not been given due weightage in the valuation. It is pertinent to note that the valuer in the case of Zone IV-A, while noting it is a water logged, low lying area has finalized the valuation treating that Roads will be laid down by Port.

- (ix). It is suggested that proper valuation of the storage plots shall be based on applying a composite index rate of 2 to 3 times over the prevailing lease rentals. Such composite index shall comprise of R.B.I. cost inflation, land price inflation, impact on tonnage and gross revenue of the port and prevailing rentals of competing private ports like Gangavaram, Kakinada, etc. This is emphasized since there are no land transactions recorded for the past several decades in the vicinity of the Port.
- (x). The authorities have passed Orders for Chennai Port Trust under Land Policy, 2014 on 9.1.2015 approving a hike in rentals of open storage plots by 2.15 times on the rate fixed in 2000. The market value now proposed by VPT based on the approved valuer report is ₹607.56p. per sq.m. per annum which is about 92% of the market value notified for lands at Chennai Port, which are in the heart of a metro city. This itself would justify the abnormal higher valuation adopted in the present proposal.
- (xi). We request the authorities, to duly consider all the above issues and circumstances and notify the rate at reasonable level of revision without compromising the basic objective of retaining / attracting cargo traffic.

3. M/s.Navship Marine Services Pvt. Ltd.

- (i). The issue in question, *inter alia*, is a proposal for fixation of a uniform rate instead of different rates for the 12 sporadic zones in the port, as per the request of the Trade, since all the zones are earmarked for the same purpose, i.e., open cargo stacking. It transpired from the supporting documents in this regard that the VPT Authorities apparently found the proposal to be rational and justifiable and accordingly the issue was discussed threadbare in the Land Committee meeting under the behest of Chairman, VPT. The consensus of the Committee was to fix a uniform rate of ₹11.68 pcs per sq. mtr./ week (arrived on market value of ₹8466.67) for all the 12 zones. The recommendation of the Land Allotment Committee was discussed in the VPT Board Meeting and the Board vide its Resolution No.198/2014-15 accorded its approval to submit the proposal to TAMP seeking their approval pending other proposals to be submitted at a later stage by VPT. Therefore, we have no specific comment in this regard.

3. A joint hearing in this case was held on 17 June 2015 at the VPT premises. The VPT made a brief powerpoint presentation of its proposal. At the joint hearing, the VPT and the concerned users/ user organizations have made the following submissions:

Visakhapatnam Port Trust (VPT)

- (i). The License fee for cargo stacking in open area prescribed in the existing Scale of Rates is not based on land valuation. Government has announced Land Policy Guidelines, 2014. As per the said Land Policy Guidelines, license fee needs to be fixed based on market value of land. Hence, the current proposal for revision of license fee for cargo stacking is filed following the Land Policy Guidelines, 2014.
- (ii). Land Policy Guidelines prescribes five factors for assessing land value. Of the five factors prescribed in the Land Policy Guidelines, land valuation based on highest rate on actual transaction, highest tender-cum-auction rate and any other relevant factor are not available.
- (iii). The land valuation from State Government's Ready Reckoner is available. But, the land valuation based on State Government's Ready Reckoner is for residential purpose. Land valuation for industrial/ commercial purposes are not available under this option. Hence, VPT has to rely on the valuation of land done by approved valuer for arriving at the proposed license fee.
- (iv). License fee will differ based on various activities/ purposes.

- (v). Land is allotted on license basis for temporary cargo stacking purpose based on requirement of stevedores on vessel to vessel basis. Cargo stacking area extends to different zones of VPT lands.
- (vi). The approved valuer has assessed different value of land for different zones. The port has taken average land valuation given by the approved valuer which comes to ₹8,446.67/ sq. yard.
- (vii). We have taken average dwell time of cargo as 7 days. Based on this, the rate for cargo storage comes to approximately to ₹30/ tonne.
- (viii). We have also examined the license fee for cargo stacking at other Major Port Trusts. We have compared the rates with the storage rates of other BOT projects in VPT. The proposed rates are comparable to the rates at other Major Port Trusts and BOT projects of VPT.
- (ix). We have considered the possible threat from the Gangavaram port while arriving at the proposed license fee.

Visakhapatnam Stevedores' Association

- (i). The rate proposed by VPT earlier was ₹9.66/ sq. mtr./ week. The VPT had discussed with trade the proposed rate in August 2014. We had requested VPT to consider reduction in the proposed rate in view of competition from neighbouring port. Instead of reduction, the VPT has increase the proposed license fee from ₹9.66/ sq. mtr./ week to ₹11.68/ sq. mtr./ week.
- (ii). The existing license fee forms part of Scale of Rates of the VPT. The existing license fee for cargo stacking in open are is not based on land valuation. Sudden steep increase of 10 times the existing license fee will adversely impact trade and drive away the traffic from the port.
- (iii). Neighbouring port is allowing 45 days free period which is also negotiable. In present domain at VPT, there is no flexibility to adjust the tariff based on the market condition.
- (iv). We as stevedores have to pass on the increase proposed by the port to customers. Cargo handling from VPT will become expensive at the proposed rate.
- (v). We agree that increase is required. But, the increase should be at a reasonable level. We agree to 50% of the license fee proposed by the port.

Visakha Container Terminal Private Limited

- (i). Our License Agreement was signed earlier. Rental was based on Scale of Rates. We are on long term lease. We want confirmation that the proposed licence fee will not be applicable to us.
- (ii). We are charged at the rate prescribed in the Scale of Rates of VPT. If the proposed increase is made applicable to us, it will lead to increase in container handling charges by ₹334 per TEU. We will have to approach TAMP to grant further increase on this account.

[Chairman, VPT:For all PPP projects except VCTPL, we are charging on Schedule of Rates. In case of VCTPL, it is based on the Scale of Rates. The Scale of Rates is undergoing revision. Hence, it will be applicable. We will, however, examine the point made by VCTPL and intimate the position.]

- (iii). The VPT had allotted us additional land of ONGC which is on 11 months basis and is renewable from time to time. We should be given this additional land on long term basis. We have already developed this land incurring ₹2 crores.
[VPT: We will examine this point.]

Vizag Seaport Private Limited

- (i). We have already given written comments. We have three issues with reference to the VPT proposal.
- (ii). User of VPT will not be ready to pay ₹30/ tonne. Not a single user wants to pay storage charge to VSPL. The main user SAIL does not pay storage charge.
- (iii). Land which is with best infrastructure facilities is equated with land which is slushy/ muddy and undeveloped. The port allotted undeveloped land. Users/ trade have incurred huge expenditure to develop the land of VPT. It is not correct to compare developed land with undeveloped/ semi developed land.
- (iv). Averaging out land valuation obtained by land valuer to arrive at the proposed license fee is not the correct approach.

[Chairman, VPT: Market value of land of ₹8,000/ 10,000 per sq. yard given by the approved valuer is not the intrinsic value of land. Land allotted by VPT is for common purpose. We cannot have different license fee for land at different zones when the purpose of allotment is the same i.e. temporary cargo stacking in open area. If license fee is different for the same purpose then it will impact competition amongst trade. Trade wanted uniform license fee for use of land for the same purpose. Hence, to arrive at uniform license fee, average value of land is considered based on the land value assessed by the land valuer.]

- (v). At VPT, rakes availability is a major issue. Higher charge levied by Gangavaram is because of infrastructure. All vessels handled at Gangavaram are capsized vessel.
- (vi). Gangavaram is charging ₹100/ tonne for Gypsum after allowing discount. If license fee of VPT is increased, handling charge will increase exorbitantly and vessel will be diverted to Gangavaram port.
- (vii). Increase is necessary. But, it should be reasonable.
- (viii). So far, license fee was prescribed as part of Scale of Rates of the VPT. Usage of open storage plots by the trade /users is incidental to their cargo handling services / activities. Hence, license fee for cargo stacking should be linked to cargo handling charge. It should not be done based on market valuation of land under the Land Policy Guidelines.
- (ix). Tariff Policy, 2015 gives flexibility to Major Ports to fix their own tariff. The said guidelines requires Chairman to ensure traffic is not migrated. While exercising the flexibility in increasing the tariff, the said provision of the Tariff Policy, 2015 should be kept in mind.

Visakhapatnam Customs House Agents' Association

- (i). If land is developed by user, 50% rate should be charged. If the purpose is cargo usage, it should be discounted by 40% thereon.
- (ii). We have to compete with Gangavaram port and also other BOT projects coming in VPT. Gangavaram is desperate for business. It is difficult for us to sustain at the proposed rate.

Vizagapatam Chamber of Commerce and Industry

- (i). Port will lose the business at the proposed rates. It is not possible to retain business with the proposed steep increase in the license fee by 10 times. We have tough competition from other private ports who are ready to give discount. Hence, the proposed license fee needs to be reviewed and reduced.

Steel Authority of India Limited (SAIL)

- (i). As per our cost analysis and Feasibility Report conducted the VPT was the most cheapest port. At the proposed rate, we will have to move out of the VPT.

Tamil Nadu Electricity Board

- (i). In Scale of Rates, there is free period. But, port is not giving free period. We have been allotted 80,000 sq. mtr. area. From ₹2 per tonne/ month at existing rate, it will work out ₹44 per tonne / month.

[Chairman, VPT:It will work out to around ₹15 per tonne / month and not ₹44 per tonne/ month.

M/s.Synergy Shipping Pvt. Ltd.

- (i). As per Major Port Trusts Act, 1963 port has to give transit area and give 30 days' free period for export cargo.
- (ii). VPT is not giving transit area. At VPT land is scarce inside the port. We are taking the land from the port and developing it. Instead port should give stacking area inside the port.

M/s.Orissa Stevedores Pvt. Ltd.

- (i). We have developed land by making huge investment. We are not doing much business. Further hike may affect our business.

4. A summary of the comments received from the users/ user organisations on the revised proposal of VPT and reply furnished by VPT thereon is tabulated below:

Sl. No.	Comments received from the users/ user organisations	Reply furnished by VPT
1.	M/s.Prathyusha Resource Infra (P) Ltd. (page no.623/c)	
(i).	The revision of license fee proposed by VPT for TAMP approval at the rate of ₹6.21 ps per sq.mtr. per week is abnormal. We are unable to bear such a huge rate compared to the present cost of ₹0.91 ps per sq.mtr. per week i.e. increase of about ₹5.30 i.e. 583% for 6 times higher than the VPT old license fee being to be paid by us is unjustified.	The proposed rate fixed at ₹6.21 ps. per sq.m per week is not an abnormal increase as stated by the M/s.Prathyusha Resources & Infra Private Limited, as it appears to be in that manner, as the port users enjoyed a flat tariff over a period of several years well before the issue of New Land Policy Guidelines, 2014.
(ii).	Our customers are not ready to bear such huge hike, as their business has drastically comedown due to poor market rate and unable to export their cargo through Visakhapatnam port. Therefore, the additional cost of plot license fee will impact import and export of cargo. Hence it is very difficult to us to capture our principals in future for handling works at port.	

(iii).	It has requested to consider only 100% hike i.e. 1 time (double) instead of 6 time, it is works out for ₹1.82 ps per sq.mtr. per week.	
2.	Visakha Container Terminal Private Limited (page nos.425-428/c)	
(i).	The proposal is applicable for allotment of land for a period of not more than 11months for temporary open cargo stacking purpose. We oppose in principle to the proposal which involves a steep hike in the existing licence fees which will impose a huge burden on VCT.	The proposed rate fixed at ₹6.21 ps. per sq.m per week is not an abnormal increase as stated by the M/s.Visakha Container Terminal Pvt. Ltd., as it appears to be in that manner, as the port users enjoyed a flat tariff over a period of several years well before the issue of New Land Policy Guidelines, 2014.
(ii).	The land to the extent of 164000 sq.mtr. was allotted to VCTPL on license fees basis for a period of 30 years w.e.f. 11-09-2002, for development of infrastructure of container terminal which is based on the policy prevailing at that time. Moreover, VCTPL has paid one year's rent as advance security deposit and one year's rent as non-refundable premium in addition to payment of yearly rent in advance. The entire business model of the VCTPL is built on the basis of the prevailing input costs, which if allowed to be raised beyond reasonable levels, would spell disaster and needs to be looked into very seriously. It is therefore requested the proposed increase should not be made applicable to the land allotments made to BOT Projects and status quo be maintained.	The land to M/s.VCTPL is allotted basing on the rates which existing during the time of allotments. After issue of the Land Policy Guidelines, 2014 the complete structure of license fee to be collected undergoes a change basing on certain guidelines inherently present in the policy. The lease period of M/s.VCTPL on license basis for a period of 30 years and M/s.VCTPL contention that there should not be hike after a period of 12 years holds no good in the changing economic scenarios where cost of very service/ asset has been undergoing a change by taking a route of upward trend. It is also stated that M/s.VCTPL Tariff for services rendered by them is not constant and had undergone several changes towards upward graph, which was done basing on the increase in costs of various input materials and services. The market value of the land at the location of M/s.Visakha Container Terminal Pvt. Ltd., has increased in the last few years and the charges arrived are realistic. The revision of rental is done as per Land Policy Guidelines 2014 issued by the Ministry, and is applicable to short term/ long term leases/ licenses. The proposal submitted to TAMP is for revision of lease rental of port land allotted on long term and short term basis. The increase in rates is applicable to M/s.Visakha Container Terminal Pvt. Ltd., also. The other aspect including the request of M/s.Visakha Container Terminal Pvt. Ltd., to convert the lease of the said area of 12996 sq.mtrs. from the short 11 months period to long term co-terminus with the existing terminal tenure, will be examined separately, as per Land Policy Guidelines
(iii).	The allotment of two pieces of lands measuring 9396 sq.mtr. and 3600 sq.mtr. to VCTPL are on short term lease. The said sites are contiguous to our existing terminal land. The Terminal had to face acute congestion in the yards three years ago mainly due to inadequate space inside the Terminal apart from other reasons like inability of the CFSS to quickly evacuate the containers, equipment breakdowns etc. The yards were completely choked with containers and there was hardly any moving space. This was not conducive to safe and efficient working. There was an urgent necessity to augment the space availability near the Terminal to stack the containers. There was also a discussion during the public hearing held by TAMP on 11-5-2011 in VPT regarding VCT Tariffs on the shortage of yard space inside the Terminal creating a big mis-match between the Yard Capacity and the Quay Capacity. TAMP had also suggested allotment of	

	additional land to VCTPL to reduce the gap between the Yard Capacity and Quay Capacity and VPT agreed to consider the same. In this connection your kind attention is invited to S.No.(iv) of the table below para 10.3 in the TAMP order dated 5-11-2011 wherein in reply to a query from TAMP regarding enhanced capacity of the Terminal, VPT had informed TAMP that VCTPL had asked VPT for additional land as additional back up storage area and with the deployment of additional equipment and increase in backup area, VCTPL can handle about 4 lakh TEUs. Subsequently, ONGC had surrendered land admeasuring 9396 sq. m. allotted to it by VPT near the Fishing harbour. In addition, an area of 3600 sq. m. was also available near the Fishing Harbour occupied by the Fishing vendors unauthorisedly. This area was also adjacent to the VCTPL boundary wall and was ideal for developing into a container yard. VPT agreed to allot both these pieces of land. But the allotment was made on temporary basis of 11 months renewable from time to time as there was an embargo on long term allotment imposed by the Government pending finalization of the new Land Policy Guidelines. These allotments were made to overcome frequent congestion due to shortage of yard space faced at that time. Allotment of the said lands has indeed alleviated the congestion problem to the large extent. To sustain decongestion and hence efficient operations whereby the trade is benefitted, VCTPL has made several requests for permanent allotment of the said lands on long term lease. However, request was not considered so far. The said allotments were made by VPT at the existing scale of rates i.e. @ ₹115.35 per 100 sqm per week for 1st week and ₹90.55 per 100 sqm per week for subsequent weeks under short term lease of 11 months and being renewed periodically. The effective lease rent cost to VCTPL at present is @ ₹0.91 per sqm per week. As per the proposed hike it is ₹6.21 per sqm per week which is 7 times of the existing rate.	2014 issued by the Ministry, and the provision of the license agreement between M/s.VCTPL and VPT.
(iv).	VCTPL has already invested substantial amount towards strengthening and developing the yard for container stacking. Therefore, the additional lease rent cost would be additional burden to the trade which VCTPL has to pass through it upon its revision.	

(v).	The lease rent escalation of past 12 years has been flat and sudden jump in cost to such an extent at one go would affect the budgetary constraint and cash flow of the company. This will also badly affect the container trade in the region as the revision will ultimately affect them. Whilst we have steep competition coming in and around Visakhapatnam from minor ports, VPT and VCTPL to remain competitive, it is imperative to maintain the existing land lease rate.	
(vi).	Request to convert the lease of the said area of 12996 sqm from the short 11 months' period to long term co-terminus with the existing terminal tenure	
3.	Vizag Seaport Private Limited (page nos.634-635/c)	
(i).	Applicability of Land policy 2014 for fixing Rate for usage of open storage plots needs to be checked as the said policy provides for Licensing of Plots for continuous period up to 11 months and not for allotment of storage plots on vessel to vessel basis and on weekly basis.	The contention of M/s.VSPL that the Land Policy, 2014 providing licensing of plots for continuous period upto 11 month and not for allotment of storage plots on vessel to vessel basis and on weekly basis is not acceptable as the land policy, 2014 provided for the maximum period that can be allotted at a stretch i.e. 11 months.
(ii).	Providing storage plots is an Integral part of Cargo Handling Activity of the Port and same cannot be delinked as a separate activity for Transfer of Property under Lease or License so as to fix rates by TAMP under section 49 of the MPT Act. Tariff fixation under section 49 of the MPT Act is intended for fixing tariff for use of Port Properties used for Commercial, Industrial or Service activity and not for open storage plots which the Port is mandated to provide for carrying out Cargo Handling activity at its berths.	The policy did not impose any restriction on individual port to draft a modus operandi for allotment of plot on license basis and ports are at a liberty to formulate mechanism or standard operating procedure for allotment of plots basing on the inflow and outflow of traffic, cargo evacuation and other logistic support functionaries.
(iii).	In the case of other Land users of various zones, they pay fixed Lease rentals for a perpetual term up to 30 years under Lease And enjoy the land property for their commercial or industrial use. They only pay the prescribed annual escalation. But in the Case of open storage License, which is normally given for stocking cargo on vessel to vessel basis, the fee is collected on Weekly basis and the same rate is applied for part of a week also. Besides, there is penalty up to 5 times for any delay in Cargo evacuation due to any reason even if they are beyond the control of the user like Non-availability of Railway Rakes of Customer not willing to place indent due to Plant shutdown/ Poor	The proposal submitted to TAMP for fixation of lease rental of port land allotted for open cargo stacking purposes on short term basis and hence the contention of M/s.VSPL that tariff fixation under Section 49 of the MPT Act is not intended for open cargo storage plots is not acceptable. The fixation of lease rentals is proposed as per the Land Policy Guidelines 2014 issued by the Ministry. The other aspects raised by M/s.VSPL are apprehensive and hypothetical in nature which cannot be mingled for the procedure of license fee for open areas allotted by Traffic Department.

	Market conditions etc. If the weekly storage rate is fixed at ₹6.21/Sq. Meter per week based on the Market value, over a period of 30 years, the Port would have collected several times more than the value of the Land itself and also the Port would be collecting from numerous users of the open storage plots in the 30 years period more than what the user of a land under a fixed lease period of 30 years would have paid. This may not be the intention of the Land Policy, 2014.	
(iv).	However, if the authorities decide to fix the rate under Section 49 of the MPT Act, then the revision may be based on applying a composite index rate of 2 or 3 times over the prevailing lease rentals. Such composite index may be based on weightages based on RBI cost inflation, Land Price inflation, Impact on Tonnage and Gross Revenue of the Port.	
4.	M/s. Steel Authority of India Limited (page nos.648/c)	
(i).	Steel Authority of India Limited is handling its cargo at VPT in the land allotted to SAIL. The availability of land at competitive rates is one of the major factors in SAIL's preference of VPT to handle its cargo over other ports and ensures higher quantum of handling at VPT.	In this connection, it is to mention that earlier proposal of ₹11.68 per sq. mts. per week was modified duly considering the strong objection raised by most of the port users/ licensees to the steep increase in proposed license fee and also in view of their apprehension about diversion of traffic from the VPT.
(ii).	We had during the joint hearing held on 17-6-2015, indicated that the proposal to hike the licence fee by around 10 times would be a very high burden on the Importers, particularly SAIL. We wish to state that the current proposal of ₹6.21 sq. meter per week is also higher than the existing rate by 6 times and would make the handling of cargo unviable.	The land allotment committee constituted for the purpose met during last week of July, 2015 and as per the report of the approved valuer have recommended a rate of ₹6.21 ps. per sq.mts. per week for open cargo stacking purpose uniformly for allotment of VPT land on temporary license basis for not more than 11 months. The VPT Board in its meeting held on 5 August 2015 had resolved to approve the said rate of ₹6.21 ps. per sq. mtr. per week.
(iii).	It is, therefore, requested that the valuation of the land be considered on a lower basis taking into account the utilization of the land for stacking purposes only. SAIL does not earn any revenue or profit from the land utilization as it is utilized only for storage of cargo prior to dispatch and hence seeking licence fee of ₹6.21 per sq. metre per week would increase the handling costs abnormally.	Thus valuation of the land was considered on a lower basis taking into account the utilisation of the land for stacking purpose only.
5.	Visakhapatnam Stevedores Association (page nos.645-647/c)	
(i).	We strongly object the increase proposed by VPT in the licence fee basing on market value of the land since the increase works out to more 600% against	For a long period time, there is no proposal to increase the license fee and the old rate had been continued in view of the principle "what the trade can bear"

	the existing tariff.	though the land allotted on license fee for temporary cargo purpose as the integral part of the cargo handling operations is one of the core functions of port. VPT was bound to follow Land Policy Guidelines issued by the Ministry of Shipping on January 2014. By the following these Land Policy Guidelines, VPT initially proposed rate of ₹11.68 ps per week per sq.mts. basing on the recommendations of the land allotment committee. It was compelled to relook into the said proposal which transgressed into proposing a lower rate of 6.21 ps. per sq.mts. per week basing on the land values given by the approval valuer.
(ii).	The allotment of land on licence basis is only for a temporary period for the cargo stacking purpose which is an integral part of cargo handling operation which is one of the core functions of the port. In view of the abnormal increase, there is every possibility of diversion of cargo to other ports.	
(iii).	The neighboring ports like Gangavaram are offering free storage period of 45 to 120 days to the customers and offering flexible rents to the customers. They are also offering concessional rentals beyond free time.	
(iv).	The increase proposed by VPT is unreasonable and un-competitive and the importers and exporters patronizing VPT are not in a position to bear such a high licence fee in the present market scenario.	
(v).	Due to insufficient draught in VPT, the importers are suffering in view of additional costs for lterage, shifting of vessels, etc., and they are not in a position to bear the extra cost on account of abnormal increase in the plot rentals.	
(vi).	Further, the users are forced to berth their vessels at BOT operators berth due to concessionary agreements and the storage period allowed by the PPP operators are limited and charges are very high for storage beyond 10 days. The importers are forced to bear the extra cost in addition to the existing storage cost at the terminal.	
(vii).	VPT has allotted un-developed, slushy and marshy land to the users and in turn the users invested huge amounts for development of land to make it suitable for storage of bulk cargoes. As per the guidelines, they are entitled for 50% rebate in the above storage rentals. However, VPT is not considering any rebate for investments made by the users all these years while proposing the increased tariff.	The land rates differ from port to port and there is no comparison among different Major Ports and the Private Ports. The free time, the license fee, the dwell time of cargoes, etc., differ from port to port depending on the operational and logistical circumstances. The land at VPT is being allotted on "As is where is" basis and the license fee is one and the same for all temporary licenses issued for cargo stacking purposes. The services rendered by neighbouring port like Gangavaram and the Tariff being charged by such ports cannot be compared with the tariff i.e. to be fixed in respect of Major Ports basing on certain policy directions issued by the Government. As the administrative set up, direction of working, marketing strategies differ from port to port and also the infrastructural facilities, the tariff fixed for one port cannot be compared with the others.
(viii).	Commercial and residential areas were developed around the port area over a period of ten years resulting in higher commercial value for the land around the port area. The valuer has taken the market rate of the port peripheral areas for deriving the valuation for port lands which is not at all relevant/ reasonable or justified.	The proposed rate fixed at ₹6.21 ps. per sq.m per week is not an abnormal increase as stated by the Association, as it appears to be in that manner, as the port users enjoyed a flat tariff over a period of several years well before the issue of New Land Policy Guidelines, 2014.
(ix).	The valuer has adopted per sq. yard rate which is usually used for sale and purchase transactions in the city but not for cargo handling operations on a plot allotted by VPT on temporary basis/ on	Now also, the VPT has furnished the certain reasons for not considering highest factors i.e. 1 st and 2 nd factors of 13(a) LPG 2014. The reasons for considering the 4 th factor i.e., approved valuer rate, because the approval valuer considered the rebate (overall 55%) on DRA rates, they have suitably adopted a discount of 25% towards nature of ownership and in addition to the same a discount of 30% also given to arrive the rate for the industrial-open stacking land of VPT.

	vessel to vessel basis. Hence needs to be reviewed.	Hence, the LAC recommended as reasonable rate and the same was approved by the Board. It is to clarify that as per the Guidelines of the Ministry, the market value of the land will have to be determined. As such one of the options was to determine land value has already indicated in the guidelines. As such port worked out the market value of the land through transparent process.
(x).	The rate proposed is higher than other Major Port rates.	
(xi).	The rate for service category should be separated instead of clubbing the same with industrial/ commercial categories. There is every -need to separate service category and fix reasonable rate for this category to increase the throughput for the port.	
(xii).	In view of the revised amended land policy guidelines 2015, VPT is now having flexibility to ignore highest factor and choose another relevant factor basing on realistic market value to avoid diversion of cargo to other neighbouring ports. Hence, VPT may be advised to revise the proposal basing on realistic market value which the user can bear.	
