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Tariff Authority for Major Ports

G No. -160 **New Delhi, 10 July 2012**

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Visakhapatnam Port Trust for revision of lease rentals for the Quinquennium 2008-2013 as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports

Case No. TAMP/63/2011-VPT

Visakhapatnam Port Trust --- **Applicant**

O R D E R

(Passed on this 18th day of June 2012)

This case relates to the proposal dated 16 November 2011 received from Visakhapatnam Port Trust (VPT) for revision of lease rentals for the quinquennium 2008-2013.

2. This Authority vide Order No.TAMP/41/2005-VPT dated 22 April 2008 had revised lease rentals for 19 zones of VPT lands for the quinquennium 1998-2003 and 2003-2008. Subsequently, this Authority vide Order No.TAMP/37/2009-VPT dated 29 November 2010 had approved lease rentals for the remaining 12 zones for the said two quinquenniums.

3. The revision of lease rentals of VPT lands was overdue since the year 2008. The VPT was advised on several occasions to file its proposal for revision of its estate rentals. A letter was addressed to the Ministry of Shipping dated 14 January 2011 bringing out the concern that the few Ports delay submission of the rent revision proposals to this Authority and only seek extension of the validity of the existing rates. The Ministry was, therefore, requested to advise all the Major Port Trusts to file their proposals for revision of lease rentals well in advance before the expiry of the validity of their existing Scale of Rates. The Ministry of Shipping accordingly vide its letter dated 22 February 2011 directed all the Ports to submit their lease rental revision proposals to TAMP.

4. In this backdrop, the VPT vide letter dated 16 November 2011 has filed its proposal for revision of lease rentals for the quinquennium 2008-2013. The main points made by the VPT are as follows:

(i). Port lands are valued by District Revenue Authorities (DRA) from long since and the periodicity of revision is for every five years i.e. quinquennially as per the guidelines issued by Government of India.

(ii). The DRA was requested to furnish the Basic valuations for port lands for the quinquennium 2008-2013. However, due to non-receipt of the Basic valuations for the quinquennium 2008-2013 even after commencement of the quinquennium 2008-2013 and keeping in view that it may take considerable time for receipt of the same, it was considered to adopt the same percentage escalation for the quinquennium 2008-2013 on purely provisional basis as was adopted during last revision. The same was noted by VPT Board on 30 May 2008.

(iii). A meeting was held by Joint Collector with VPT authorities wherein it was viewed that fixation of market values on square yard basis will become burdensome to the VPT lease holders as well as to the prospective lease holders who are not coming forward to lease hold the premises as the market value computed with square yard rate is soaring higher and higher and causing hardship to lease holders.

(iv). In view of the above, the District Collector requested the District Registrar to furnish acre-wise Basic values/ Market values for the lands covered by VPT for the quinquennium 2008-2013.

In turn, the District Registrar has submitted to the Commissioner & Inspector General of Registration and Stamps, A.P. Hyderabad reporting that a separate value may be fixed in acreage rate under category of Industrial purpose by referring the matter to the Rectification of Anomalies Committee.

(v). Thereupon, the Rectification of Anomalies Committee have worked out the Basic valuations (2008) on acreage basis with reference to the VPT lands which in turn has been forwarded to VPT vide the District Collector letter dated 15 July 2011 indicating the effective date of the rates as 1 December 2010. The value of land notified by the District Revenue Authorities communicated vide the said letter is based on the acreage basis considering land for industrial purpose. The value of land for the quinquennium 2008-13 shows 12.5% hike over the value of land for all the 30 zones except for land at Bheemili under zone XVI for which hike in the land value is 26.5% over the value of land considered by the TAMP while determining the last lease rental for the quinquennium 2003-08.

(vi). The Land Policy for Major Ports - 2010 dated 13 January 2011, envisages that Scale of Rates for land will be recommended to the competent authority/ TAMP, by a Committee as decided by the Board headed by the Chairman of the Port Trust. As such, a Committee was constituted comprising of Deputy Chairman (VPT) as Chairman of the Committee and Joint Collector (VPT), District Registrar (VPT), Chief Engineer (VPT) and Deputy C.A.O (VPT) as Members.

The Committee in its meeting dated 16 September 2011 noted the rates notified by the District Revenue Authority and has made the following recommendations:

(a). To adopt the basic value of land as notified by the District Revenue Authorities vide Lr. No. RC No.3028/2007/G-I, dated 15 July 2011 (i.e. 12.5% hike over the basic value of land considered for in the last revision for the previous quinquennium 2003-08 for all the 30 zones except for land at Bheemili under zone XVI for which hike proposed is 26.5%). The revised value of land will be effective from 1 December 2010.

(b). Annual escalation of 2% to be followed for lease rental for the period from 01.12.2010 to 31.03.2013 in terms of the provisions of the Land Policy Guidelines, vide Clause No.6.3.1 (c).

(vii). The VPT held its Board of Trustees meeting on 3 October 2011. The Board after going through the above recommendations of the said Committee has resolved the following:

(a). To consider 15% increase in land valuations w.e.f. 1.12.2010 over and above the basic valuations for the quinquennium 2003-08 (with an annual escalation of 2%) as against 12.5% hike recommended by the Committee based on the valuation of land provided by the District Revenue Authorities (with an annual escalation of 2% as per the land policy guidelines recommended) for all zones except Zone XVI Bheemili (M) where 26.5% increase recommended by the Committee is considered.

(b). For the intervening period i.e. from 1.4.2008 to 30.11.2010, consider the basic valuation rates as approved by the Board vide agenda No.I-18, dated 30.5.2008 with an annual escalation of 2% [Note: the VPT Board of Trustees decided to adopt escalation (in percentage) in the value of land obtained for the quinquennium 2003-08 over the immediate previous quinquennium 1998-2003 which was considered by the TAMP while revising the lease rentals] purely on provisional basis. (Sri. K.V. Krishna Kumar, Trustee, representing the Trade has expressed dissent on the rates adopted for the intervening period).

5. In this backdrop, the VPT has sought approval of this Authority for the schedule of rates for VPT lands for the quinquennium 2008-2013 i.e. provisional rates levied by the Port based on the approval from its Board from 1.4.2008 till 30.11.2010 and for the period thereafter from 1.12.2010 till 31.3.2013 15% increase over the value obtained for the previous quinquennium except for zone XVI at 26.5% increase. A comparative position of basic value of land considered in

the last revision for the previous quinquennium 1998-2003, 2003-08 vis-à-vis the basic value of land proposed by the VPT for the quinquennium 2008-13 is tabulated below:

					Recommended by the Committee appointed by VPT		Proposed by the VPT	
Zone No.	**Basic valuations per Sq. Yd. for 1998-2003 (as per TAMP approval)**	**Basic valuations per Sq. Yd. for 2003-2008 (as per TAMP approval)**	**% Hike adopted on the Basic valuation of 2003-2008 over 1998-2003 which applied to arrive the provisional Basic valuations from 1.4.2008 as per VPT Board Agenda I-18, dt. 30.5.2008. (Rounded to nearest point)**	**Basic valuations per Sq. yd. proposed by VPT Board on 30.10.2011 vide resolution No.86/2011-2012 to be effective for the intervening period from 1.4.2008 to 30.11.2010 for which TAMP's approval is required. (Rounded to nearest rupee)**	**Basic valuations for 2008-2013 as received under cover of the District Collector letter Rc.No.3628/ 2007, G-1, dtd. 15.7.2011**		**Basic valuations per Sq. Yd. proposed by VPT Board on 30.10.2011 vide resolution No.86/2011-2012 to be effective from 1.12.2010 to 31.3.2013 (<u>i.e. with 15% over and above the Basic valuations of 2003-2008</u>) (₹ per sq. yard)**	**Percentage increase over 2003-2008 (Rounded to nearest point)**
					On Acreage basis (₹ / acre)	**Conversion to per Sq. Yd. (<u>12.5% increase over 2003-08 valuation</u> except Zone XVI-26.5% increase) (₹ / sq. yard)**		
I-A	1350	2215	64%	3633	12061280	2492	2547	15%
I-B	1350	2215	64%	3633	12061280	2492	2547	15%
I-C	1200	2400	100%	4800	13068000	2700	2760	15%
II-A1	3000	2800	0%	2800	15246000	3150	3220	15%
II-A2	2000	2800	40%	3920	15246000	3150	3220	15%
II-A3	800	1000	25%	1250	5445000	1125	1150	15%
II-B	800	1000	25%	1250	5445000	1125	1150	15%
II-C	800	1000	25%	1250	5445000	1125	1150	15%
III	800	1300	63%	2119	7080920	1463	1495	15%
III-A	800	1000	25%	1250	5445000	1125	1150	15%
III-B1	800	1050	31%	1376	5716040	1181	1208	15%
III-B2	950	1050	11%	1166	5716040	1181	1208	15%
III-B3	650	1375	212%	2915	7487480	1547	1581	15%
IV	1100	1375	25%	1719	7487480	1547	1581	15%
IV-A	800	1270	59%	2019	6916360	1429	1461	15%
V	950	1050	11%	1166	5716040	1181	1208	15%
VI-A	2000	2400	20%	2880	13068000	2700	2760	15%
VI-B	1300	2000	54%	3080	10890000	2250	2300	15%
VII	800	1270	59%	2019	6916360	1429	1461	15%
VIII	800	1270	59%	2019	6916360	1429	1461	15%
IX-A	800	1300	63%	2119	7080920	1463	1495	15%
IX-B	800	1270	59%	2019	6916360	1429	1461	15%
X-A	5000	6000	20%	7200	32670000	6750	6900	15%
X-B	5000	6000	20%	7200	32670000	6750	6900	15%
XI	450	1500	333%	4995	8165080	1687	1725	15%
XII	1500	2400	60%	3840	13068000	2700	2760	15%
XIII	2800	4600	64%	7544	25047000	5175	5290	15%
XIII-A	800	4125	516%	21285	22462440	4641	4744	15%
XIV	1350	2215	64%	3633	11572440	2391	2547	15%
XV	800	1200	50%	1800	6534000	1350	1380	15%
XVI Bheemili (M)	--	110000 (per acre)	--	--	139219	139219 (per acre)	139219 (per acre) as recommended by the Committee	26.5%

Note: The port has furnished the basic value of land. It may be noted that lease rent is to be arrived applying 6% return on the market value of land as per the land policy guidelines issued by the Government in March 2004.

6. In accordance with the consultation process prescribed, the proposal dated 16 November 2011 was circulated to the users/ user organisations/ lessees (as forwarded by the VPT) for seeking their comments. The comments received from the users/ user organisations/

lessees have been forwarded to the VPT as feedback information. The VPT vide its letter dated 31 May 2012 has furnished its remarks on comments of the users/ user organisations/ lessees.

7. Based on the preliminary scrutiny of the proposal, the VPT was requested vide our letter dated 3 April 2012 to furnish the information/ clarifications on some points. Subsequent to the joint hearing, the VPT vide its letter dated 28 May 2012 has furnished its reply on queries raised. Summary of query raised by us and the response of the VPT is brought out in the subsequent part of the note.

8.1. A joint hearing in this case was held on 17 April 2012 at the VPT premises. At the joint hearing, the VPT and the concerned users/ organisation bodies have made their submissions.

8.2. As decided at the joint hearing, the VPT was requested to furnish its response to the queries raised by us vide our letter dated 3 April 2012. After reminders, the VPT has furnished its response vide its letter dated 28 May 2012. The summary of the queries raised by us and reply furnished by the port are tabulated below:

Sl. No.	Queries raised by us	Reply furnished by the port
I.	**GENERAL:**	
(i).	It may be recalled that the Authority vide its Order no.TAMP41/2005-VPT dated 22 April 2008 and Order no.TAMP/37/2009-VPT dated 29 November 2010 had provisionally approved the revised lease rate for lands at the 19 Zones and 12 Zones belonging to the VPT respectively for the quinquennium 1998-2003 and 2003-2008 subject to the condition that the port would review the basic valuation under all the methods prescribed in the Government guidelines and derive lease rentals based on the one which would be most beneficial. Consequent upon such review, the VPT was required to review/ readjust the billings made. We have not heard anything in this regard from VPT.	The Basic valuations proposed to Port lands by the District Revenue Authority for the Quinquenniums 1998-2003 and 2003-2008 to each zone have been thoroughly reviewed by the rate fixation committee (RFC) consisting of 1) Chairman/VPT as Chairman of the Committee 2) District Collector representing the District Revenue Authority and 3) Dy. Secretary representing the Ministry of Shipping and after examining/ reviewing the land valuations, the RFC made their recommendations for fixing the rates to each zone which will be most beneficial and the same have been placed before Port Trust Board and thereafter the Board's approval on the rates was sent to TAMP for which TAMP accorded approval. Hence, the rent bills claiming the differential amount for the relevant period as per the Basic value rates approved by TAMP for the Quinquenniums 1998-2003 and 2003-2008 have been preferred against all the respective lessees.
(ii).	The VPT to confirm that its proposal for determination of lease rentals for the quinquennium 2008-2013 is in conformity with the Land Policy for Major Ports approved by the Government of India and made applicable to all major port trusts vide MOS letter No.PT-11033/4/2009-PT with effect from 13 January 2011.	In conformity with the Land Policy Guidelines VPT obtained the Land valuations from the District Revenue Authority.
(iii).	VPT to also confirm that the rate structure proposed by the VPT is in accordance with end use as reflected in the Land Policy guidelines referred to above.	Yes.
(iv).	If on any matter the present proposal deviates from the Land Policy Guidelines referred above, the details thereof and the reasons therefor, to be furnished.	Not deviated.
(v).	The tariff filing forms viz., Form – 1, Form – 2A and Form – 2B require to be furnished	The proposal in detail now sent to TAMP for the current quinquennium 2008-2013 is in

	along with the proposal for revision of the Estate rentals is not found attached with the proposal. The VPT to furnish the said forms along with the requisite details, duly filled in.	similar lines to the previous quinquennium periods 1998-2003 and 2003-2008 for which TAMP accorded approval for SoR. No such formats as mentioned were asked for in the said previous quinquennium periods.
(vi).	As mentioned in Note 3 of Form – 1, the details of the leases granted by the port for commercial and other purposes, area-wise, separately for the last 3 years viz., 2009-10, 2010-11 and 2011-12, to be furnished.	The details of leases granted by the Port for commercial and other purposes, area-wise, separately for the last 3 years viz. 2009-10, 2010-11 & 2011-12 are being compiled and will be furnished to TAMP separately.
(vii).	VPT has not furnished the comparative position between the Current and the proposed Scale of Rates and conditionalities obtaining as required at Part 2 of Form – 1. The VPT to furnish a comparison of the existing and proposed rentals alongwith the existing and the proposed conditionalities in the prescribed format.	The percentage of hike in SoR (Schedule of Rates) for the current quinquennium 2008-13 with that of the previous quinquennium 2003-08 have since been indicated comparatively in the statements enclosed with the proposal.
(viii).	Note - 4 to Form - 1 requires a major port to confirm that Development Cost is allocated to land used by port and each category of rentable land at actuals or on pro-rata basis. The VPT has not mentioned anything in this regard. The original cost and the cost of development incurred subsequently for each category of land to be furnished. VPT to also state whether the Development cost has been allocated to the rentable land. The basis of allocation, whether at actuals or on pro-rata basis to be furnished.	In view of Govt. directions on SoR i.e. the rent proposed should not be lower than the prevailing market value, VPT is adopting the land valuations as furnished by the DRA basing on the prevailing market value as envisaged in assessing the land value i.e. basic values by DRA in which development cost etc. as indicated may not be in the procedure of the DRA in proposing the land values.
(ix).	The VPT to quantify and furnish the additional annual revenue estimated to be earned by it on account of the proposed lease rentals. In this regard, it is noteworthy that at the time of disposal of the General Revision proposal of VPT in February 2011, the additional income estimated to be earned by VPT from the proposed lease rentals had not been anticipated and as such the same has not been factored while deciding the general revision proposal of VPT. The VPT to, therefore, propose suitable adjustments in its existing Scale of Rates approved in February 2011, so as to ensure a revenue neutral position to VPT.	Additional revenue estimated on account of lease rentals as per the proposal submitted to TAMP in marginal, and as such, this may be evaluated during next revision of Scale of rates (SoR) which is due in April 2012.
II.	**<u>VALUATION OF LAND:</u>**	
(i).	The Land Policy Guidelines stipulate that SOR for Land will be recommended by a Committee as decided by the Board headed by the Chairman of the Port Trust. In the VPT case in reference, the Committee is seen to be headed by the Dy. Chairman of VPT. Please comment.	VPT Board in its resolution No.54/2011-12 dt.6-8-2011 has constituted the Committee consisting of Dy. Chairman/VPT as Chairman of the Committee, Joint Collector, Vsp., District Registrar Vsp and the Chief Engineer /VPT and Sr. Dy. CAO / VPT as members. Accordingly, VPT submitted the valuations for 2008-13 received from DRA to the said committee for recommendations as per Land policy. Thereafter submitted the same to VPT Board and the proposal submitted to TAMP.
(ii).	Clause 6.3 (1) of the Land Policy guidelines of 2010 prescribes the various factors to be	

	reckoned with for determination of the market value of the port land. It is seen from the proposal that the VPT has determined the values of the land for all zones based on the data received from District Revenue Authorities (DRA) alone. In this context, the VPT to furnish the following:	
	(a). Clause 6.3 (1) (a) (ii) of the Land Policy guidelines of 2010 stipulates the average rate of actual relevant transactions registered in the last three years in the port's vicinity, as one of the factors for the purpose of assessment of market value of land. Therefore, the VPT to furnish the average rate of actual relevant transactions registered in the last three years in the various zones of VPT lands.	As per the procedure, VPT requested the DRA to furnish the land valuations who in turn processed the land values through the Department concerned i.e. Stamps & Registrations of A.P. Govt. and thus, the DRA furnished the zone wise land valuations of VPT and as such VPT obtaining the transaction details of average market value does not arise.
	(b). The reasons why the market value of the land has not been assessed based on the accepted tender rates as stipulated in Clause 6.3 (1) (a) (iii) of the Land Policy guidelines of 2010, to be explained. The accepted tender rates of port land for similar transactions may be furnished.	No tenders have been materialised, as there is no participation from the entrepreneurs in the tenders proposed by VPT in recent past.
	(c). The reasons as to why the VPT has not arrived at the market value of the landed estate by appointing an approved valuer, as stipulated in Clause 6.3 (1) (a) (iv) of the Land Policy guidelines of 2010, to be explained.	VPT had obtained the land valuations from DRA for the previous Quinquenniums 1998-2003 & 2003-2008 which were recommended by the RFC (Rate Fixation Committee) as most beneficial which in turn got approved by TAMP. In the same lines, proposal for the current Quinquennium 2008-2013 also processed and as such, obtaining market value through approved valuers separately does not arise.
(iii).	It may be recalled that the Authority at paragraph no. 13(xvi) of the Order no.TAMP/41/2005-VPT dated 22 April 2008 while provisionally fixing the rentals for the 19 zones had advised VPT to follow a more scientific and rational approach while formulating the proposal for revision of the lease rentals for different zones at the time of next revision in consistent with the applicable Government guidelines and also keeping in mind the various observation made by the users and the Authority in the said Order. However, it is seen that the VPT has determined the values of the land for all zones based on the data received from District Revenue Authorities (DRA) alone. The VPT to, therefore, assess the market value of its landed estate under all options given in the Land Policy guidelines and derive lease rentals for the quinquennium 2008-2013 based on the option which is most beneficial to it.	The Committee constituted has decided the values of the land for all zones based on the data received from DRA. VPT would take up the valuation of lands through all options envisaged in the guidelines duly keeping in view of the forth coming competition from the entrepreneurs for allotment of VPT land but at present all the tenders put forth in the recent past as per SoR as reserved price did not receive any response.
(iv).	With reference to assessment of market value of land based on the data obtained from the DRA, the VPT to furnish/ clarify the	

	following:	
	(a). The lease rentals for the landed estates of VPT is due for revision for the entire quinquennium 2008-2013, whereas the VPT has sought approval for the lease rentals for the period from 1 December 2010 to 31 March 2013, based on the basic valuation furnished by DRA as on 1 December 2010. For the period from 1 April 2008 to 30 November 2010, the VPT has sought approval for the lease rentals based on the valuation of the land derived by applying the same percentage hike seen in the lease rentals for the period 2003-2008 over 1998-2003 as provisionally approved in the last Order. This has led to an anomalous position where the valuation of land so worked out for the period from 1 April 2008 to 31 November 2010 is seen to be more as compared to the basic valuation furnished by DRA as on 1 December 2010 for the period from 1 December 2010 to 31 March 2013. The VPT to, therefore, review the proposal to eliminate the anomaly.	As regards the furnishing of Basic valuations communicated by the District Revenue Authorities, the same shall be effective from 1-12-2010 to 31-3-2013 and for the intervening period from 1-4-2008 to 30-11-2010 of the quinquennium 2008-2013 DRA have not furnished the valuations and as such the rates hiked by VPT Board got adopted for the said intervening period
	(b). The VPT to furnish a copy of the letter no.3628/2007, G-I dated 15 July 2011 received from the District Collector giving the basic valuation of lands for 2008-2013 as on 1 December 2010 for perusal.	Copy of letter dt.15-7-2011 received from the District Collector has been furnished.
	(c). The basis for considering a 12.5% increase in the basic valuation of land by DRA to be explained.	DRA after reviewing the land valuations through the anomaly committee as per the procedure laid down by Govt. of A.P. have proposed the land valuations which after comparing with the valuations fixed for previous quinquennium 2003-2008, the hike @ 12.5% has been resulted which valuations VPT has submitted to the committee for review and recommendations.
	(d). Though the DRA as well as the Committee formed by VPT have recommended a 12.5% increase in the basic valuation of land with effect from 1 December 2010, the VPT Board has resolved to consider 15% increase in the land valuation with effect from 1 December 2010. The reasons for considering a higher increase of 15% by the VPT Board to be explained and justified.	VPT Board after reviewing the details have proposed the hike @15% duly giving 2% escalation p.a. (compoundable) as applicable on SoR.
	(e). The basis for considering a 26.5% increase in the basic valuation of land at Zone XVI Bheemili (M) by DRA to be justified.	The Committee reviewed the valuation proposed by DRA with 26.5% increase in the basic valuation of land at Zone XVI Bheemili (M) which found beneficial and recommended for approval by TAMP.
	(f). Going by the increase of about 64% in the market value of lands in the previous quinquennium, the reported increase of 15% in the market value, that too after a gap of over 7 years, appears to be on a lower side. The major factors and the developments in the intervening period contributing to lower	DRA after reviewing the land valuations through the anomaly committee have proposed the land valuations, which VPT taking into consideration of DRA's land valuations has submitted to the committee for review and recommendations.

	growth in the market value of port lands may be highlighted. VPT to also ascertain the movement of price of lands in the vicinity to support its proposal of only 15% increase in values of port lands after a lapse of about 7 years.	
	(g). It has been mentioned in the Minutes of the Committee meeting that the Rectification of the Anomalies Committee have worked out the Basic valuations (2008) to the VPT lands which in turn have been forwarded to VPT by the District Collector letter RC. No.3628/2007, G-1 dated 15 July 2011, indicating the date of effect of rates as 1 December 2010. In this regard, VPT to explain why the basic valuation of 2008 has been considered to indicate the land valuation as on 1 December 2010.	While furnishing the land valuations (2008) of VPT by the DRA, it has been communicated that the revised values come into effect from 1-12-2010. Keeping in view of the date of adopting the land valuations (2008-2013) from 1-12-2010 as communicated by the DRAVPT Board has enhanced the hike proportionately from 12.5% to 15% duly giving 2% escalation p.a. (compoundable).
	(h). Further, it has been mentioned in the Minutes of the Committee meeting that the hike in basic valuations as notified by the DRA is noted to be in consonance with Clause 6.2.2.1(j) of the Land Policy Guidelines of 2010. It is relevant to mention here that Clause 6.2.2.1(j) of the Land Policy Guidelines stipulates that if land is leased on annual lease rental basis such rental should not be lower than the prevailing SOR/ rates approved by the competent authority. In this context, it is not clear as to how the basic valuation of land is in consonance with the Clause 6.2.2.1(j). Please clarify.	Land valuations (2008) of VPT as furnished by the DRA which are effective from 1-12-2010 stands at higher rate when compared with land valuations fixed for the previous quinquennium 2003-2008 and as such the rates proposed for approval of TAMP may not be lower with that of the approved rates of the previous quinquennium.
III.	**SCALE OF RATES:**	
	The VPT has furnished only the valuation of the lands for all the Zones. It has not furnished the proposed rentals. The VPT is, therefore, requested to furnish a self-contained draft Scale of Rates prescribing the lease rentals as well as the conditionalities governing the proposed lease rentals for its landed estates.	As per the procedure followed while submitting the proposal for the previous Quinquenniums where VPT has submitted the land valuations only and after review TAMP fixed the SoR (Schedule of Rates) i.e. 9% & 6% of the land valuation so submitted. In the same line, the proposal for the current quinquennium 2008-2013 has also been submitted. However, the rate i.e. 9% & 6% of the land value as per land policy guidelines for the quinquennium 2008-2013 are worked out herewith and furnished to TAMP as desired.

8.3. As decided at the joint hearing, the VPT was requested to clearly bring out the position that its action of allowing ad-hoc increase in the lease rentals for the period from 1 April 2008 to 30 November 2010 based on its Board resolution is in line with the provisions of the MPT Act and the Land Policy Guidelines issued by the Government. The VPT was also requested to explain how it proposes to adjust the billing made by it for the period from 1 April 2008 to 30 November 2010 based on the final approval of lease rentals.

In this regard, the VPT under cover of its letter dated 28 May 2012 has stated that as regards the furnishing of Basic valuations communicated by the District Revenue Authorities, the same shall be effective from 1 December 2010 to 31 March 2013 and for the intervening period from 1 April 2008 to 30 November 2010 of the quinquennium 2008-2013, since the valuations furnished by DRA are effective only from 1-12-2010 and as the rates hiked by VPT Board got adopted for the said intervening period, the adjustment of billing already made for the said period may not arise.

9. At the joint hearing, the East India Petroleum Pvt. Ltd. (EIPPL) has filed a written submission furnishing its comments on the proposal of VPT. The VPT vide its letter dated 31 May 2012 has furnished its remarks.

10. 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.

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

(i). Out of the total 31 zones of the estates of Visakhapatnam Port Trust (VPT), the lease rentals were provisionally approved for 19 zones in April 2008 and for the balance 12 zones in November 2010, for the quinquennium 1998-2003 and 2003-2008. The lease rentals were approved on provisional basis for the quinquenniums 1998-2003 and 2003-2008 for the said zones subject to the condition that the port would review the basic valuation under all the methods prescribed in the Land Policy guidelines of Government and derive lease rentals based on the one which would be most beneficial. Since the VPT had already started levying the rentals based on the basic valuation of the lands, it was also advised that consequent upon review of the basic valuation of land by VPT, the port may review/ readjust the billings made.

With regard to a query to furnish the details of the action taken by the port in this regard, the VPT has stated that zonal valuation of the Port lands for the Quinquenniums 1998-2003 and 2003-2008 proposed by the District Revenue Authority (which had been relied upon by this Authority at the time of fixation of provisional lease rentals for the quinquennium 1998-2003 and 2003-2008) had been thoroughly reviewed by the Rate Fixation Committee (RFC) of the Port. Based on the recommendations of the RFC and subsequent approval of the Board, the proposal was sent to the Authority for approval. The Authority has approved the lease rentals based on the basic value of the lands as proposed by the port. The VPT has further stated that bills claiming the differential amount have been preferred against all respective lessees.

From the submissions made by VPT, it appears that the VPT has not reviewed the valuation of land under all the methods prescribed in the Land Policy Guidelines as directed by this Authority in the Order of April 2008 and November 2010. However, given that the VPT has confirmed that the Rate Fixation Committee (RFC) under the chairmanship of the Chairman, VPT had thoroughly reviewed the land valuations furnished by DRA and that the land valuations as furnished by the DRA was the most beneficial to the port, this Authority is inclined to take the lease rentals prescribed for the quinquennium 1998-2003 and 2003-2008 in the Orders of April 2008 and November 2010 as final.

(ii). The revision of lease rentals of VPT lands for the quinquennium 2008-2013 is overdue since the year 2008. After several reminders and as per the advice of the Government in the Ministry of Shipping, the VPT in November 2011 has filed a proposal for revision of lease rentals. The proposal of VPT dated 16 November 2011 alongwith the additional information/ clarification furnished by the port is considered in the analysis.

(iii). For the purpose of determining lease rentals for the lands belonging to the Port Trusts, this Authority is mandated to follow the land policy guidelines issued by the Government from time to time as stipulated in Clause 8 of the tariff guidelines issued by the Government in March 2005, as a policy direction under Section 111 of the MPT Act, 1963. The lease rentals for the VPT lands are due for revision from the year 2008. Had VPT filed its proposal on time for fixation of lease rentals for the quinquennium 2008-2013, the lease rentals for the VPT lands would have been fixed following the Land Policy Guidelines of 2004. The VPT has confirmed that its proposal is in line with the Land Policy for Major Ports announced by the Government of India and made applicable to all major port trusts with effect from 13 January 2011. In this context, it is relevant to note here that irrespective of the position whether the Land Policy Guidelines are of 2004 or 2010, there is no variation in the methods prescribed for determining the market value of lands and fixing lease rents @ 6% of such market values under the Land Policy Guidelines of 2004 or Land Policy Guidelines of 2010.

(iv). As per Clause 6.3(1)(a) of the Land Policy guidelines of 2010, the Scale of Rates for the land is to be recommended by a Committee as decided by the Board of Trustees of the port headed by the Chairman of the port trust. In the VPT case in reference, the Committee is seen to be headed by the Dy. Chairman of VPT, as decided by the Board. It is noteworthy that the Board headed by the Chairman of the VPT has approved the proposal filed by the VPT. The proposal of the VPT has been forwarded to this Authority by the Chairman of the port. Further, the Chairman of the port has participated in the joint hearing of the case in reference. The replies of the VPT to the various queries raised by us have been forwarded to us by the Chairman of VPT. The Committee to be headed by the Chairman of the port is a procedural requirement and the deviation observed in this case does not appear to have affected the merit of the proposal filed by the port.

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

While finalizing the lease rental revision proposals of some of the other Major Port Trusts, this Authority felt that it would be appropriate for a Port Trust to assess the market value under all the options given in the Land Policy guidelines for Major Ports and derive lease rentals based on the one which is most beneficial to it. The VPT was, therefore, advised to re-assess the market values of its landed estates under all options given in the Land Policy guidelines and derive lease rentals based on the one which is most beneficial to it.

Reportedly, the value of the lands furnished by the DRA represents the value of the registered actual sale transactions in the vicinity. No tenders have materialised due to non-participation of the parties. Further, during the fixation of lease rentals for the quinquennium 1998-2003 and 2003-2008, the land values as obtained from DRA were recommended by the RFC and the same were relied upon by this Authority for prescribing rentals for the said two quinquenniums. The VPT has processed its proposal for fixing lease rent for the quinquennium 2008-2013 in a similar manner.

It is noteworthy that the VPT has in the past, instead of engaging an approved valuer for the purpose of determining the market value of the land has obtained values of the land from the DRA. For VPT, land values obtained from the DRA is akin to value obtained from the approved valuer. Historically, only DRA furnishes value of VPT lands. This practice is followed uniformly for all Government lands in the state of Andhra Pradesh, as reported by the port during the proceedings.

Thus, the proposal of VPT to determine the lease rental for its estates is based on the values of the lands as obtained from the DRA. It is relevant to mention here that the Committee constituted for valuation of land has decided to consider the values of land for all zones based on the data received from the DRA.

Land being a valuable resource, a port must strive to ensure the maximum income from its landed estates. Determining the market value of land based only on a single approach may not always reflect the correct position. Nevertheless, taking into account the position that a Committee constituted for valuation of land has decided to consider the values of land for all zones based on the data received from the DRA and that the proposal of VPT has the approval of its Board of Trustees and also taking into account that there is no objection from any of the users consulted in this case, with regard to the approach adopted by the VPT, this Authority is inclined to rely upon the approach adopted by VPT to base its calculations based on the market value of the land obtained from the DRA. It is, however, noteworthy that VPT has envisaged to take up the valuation of lands through all options as stipulated in the guidelines, in future.

(vi). The proposal of VPT is for fixation of lease rentals for the quinquennium 2008-2013. Since the District Revenue Authorities (DRA) have furnished the value of land for the various zones as on 1 December 2010, the VPT for the purpose of fixing the lease rentals, has segregated the quinquennium period into two parts i.e. for a period from 1 April 2008 to 30 November 2010 and the other as 1 December 2010 to 31 March 2013. The approach adopted by VPT to determine the value of the lands and to arrive at the proposed lease rentals for both the periods is summarized below:

(a). For the period from 1 April 2008 to 30 November 2010:

(i). In the absence of land values from DRA, the percentage increase in the value of the land relating to the quinquennium 2003-2008 over the value of land relating to the quinquennium 1998-2003, is applied on the land value for the quinquennium 2003-2008 to arrive at the value of land for the period from 1 April 2008 to 30 November 2010.

(ii). The VPT in its proposal of November 2011 has proposed lease rentals for the various zones by considering a yield of 6% per annum on the value of land so determined for the period from 1 April 2008 to 30 November 2010. However, the VPT while responding to the queries has proposed lease rentals for the various zones by considering a yield of 6% and 9% per annum on the value of land so determined for the period from 1 April 2008 to 30 November 2010.

(b). For the period from 1 December 2010 to 31 March 2013:

(i). The value of land for all the zones as notified by the District Revenue Authorities as on 1 December 2010 is taken as base. The value of the land as notified by the DRA as on 1 December 2010 is seen to be an increase of 12.5% over the value of the land fixed by the DRA for the quinquennium 2003-2008. The per acre values so obtained for the various zones are converted into square yard values.

(ii). Instead of 12.5% increase, the VPT has considered an increase of 15% over the value of the land fixed by the DRA for the quinquennium 2003-2008.

(iii). By considering a yield of 6% and 9% per annum on the value of land so determined, the lease rental for the various zones has been arrived by VPT for the period from 1 December 2010 to 31 March 2013.

(c). In other words, the VPT has proposed two sets of lease rentals based on the yield of 6% and 9% for both the period i.e. 1 April 2008 to 30 November 2010 and 1 December 2010 to 31 March 2013.

(vii). Though the Central Warehousing Corporation has stated that the DRA has notified the basic rates for the quinquennium 2008-2013, it has not furnished copy of any such notification. The VPT has confirmed that the DRA valuation for lands is not available for the intervening period between 1 April 2008 to 30 November 2010. Hence, in the absence of the DRA values for the intervening period, the VPT has reported to have hiked the land values as per the methodology explained in the preceding paragraph to determine the value of lands for the period from 1 April 2008 to 30 November 2010.

Some of the users forming part of the Hindustan Petroleum Corporation Limited (HPCL) group have pointed out that the District Registrar has observed that till basic valuation of land by DRA is available for the intervening period, the basic rates in force will hold good. However, it is to be noted that the Land Policy Guidelines of 2010 requires the lease rentals to be revised every five years based on the prevailing market value of the land. Continuing with the basic rates applicable for the previous quinquennium 2003-2008 for the subsequent period (1 April 2008 to 30 November 2010) without fresh valuation of lands does not appear to be in line with the Land Policy Guidelines.

As pointed out to VPT earlier, adoption of the approach by VPT for valuation of its land for the intervening period 1 April 2008 to 30 November 2010 has led to an anomalous position where the valuation of land so worked out for the period from 1 April 2008 to 31 November 2010 is seen to be higher as compared to the basic valuation furnished by DRA as on 1 December 2010 for the subsequent period from 1 December 2010 to 31 March 2013. Inspite of a specific request, the VPT has not reviewed its proposal to remove the anomaly.

Land being a scarce resource, its value generally tends to appreciate over a period of time. Therefore, the approach adopted by VPT, whereby higher land value is worked out for the earlier period 1 April 2008 to 30 November 2010 as compared to land value as given by DRA for the subsequent period 1 December 2010 to 31 March 2013 defies logic. The VPT has not furnished any reasons nor justified the said approach. Hence, this Authority is not in a position to accept the approach adopted by VPT to determine the lease rentals for the period 1 April 2008 to 30 November 2010.

As brought out earlier, to determine the value of the land for the period from 1 December 2010 to 31 March 2013, instead of considering the value of the land as notified by the DRA as on 1 December 2010 (which reflected an increase of 12.5% over the value of the land furnished by the DRA for the quinquennium 2003-2008), the VPT has considered land values with an increase of 15% over the value of the land furnished by the DRA for the quinquennium 2003-2008. Some of the users forming part of the Hindustan Petroleum Corporation Limited (HPCL) group have questioned the decision of the VPT to consider an increase of 15% as against the increase of 12.5%. Inspite of a specific query in this regard, the VPT has not explained the reason for considering land values other than that furnished by the DRA nor justified the higher land values considered by it. The approach of considering a higher value other than the value furnished by the DRA would have been appropriate, had the values furnished by the DRA been for a historic period and the rentals were to be fixed for the future period. Incase of VPT, the DRA values are available as on 1 December 2010 and the rentals are to be fixed from 1 April 2008. Therefore, the question of considering a higher value does not arise. It is noteworthy that the Land Policy Guidelines of 2010 do not stipulate determination of market value of land in such a manner.

Though the lease rentals are to be prescribed for the period from 1 April 2008 to 31 March 2013, the DRA values are available as on 1 December 2010 only. Therefore, it may be appropriate to bring the DRA values as on 1 December 2010 to the level that may prevail as on 1 April 2008. Clause 6.3.1(c) of the Land Policy Guidelines stipulates an escalation of 2% per annum in the lease rentals. Also, Clause 6.1.1(a)(ii) makes a mention about escalating the average rate of registered actual transactions for the past years by 2% per annum so as to arrive at the present value of land. Therefore, the value of land for the various zones furnished by DRA as on 1 December 2010 is de-escalated twice by 2% per annum so as to bring them to a common platform as of the year 2008. It is noteworthy that even incase of fixation of rentals for the salt lands at Kandla Port Trust (KPT) vide tariff Order no.TAMP/15/2011-KPT dated 9 April 2012, the upfront premium of tenders of January 2012 was brought to a common platform as of July 2010 by adopting a similar approach of de-escalation. Accordingly, value of land for the various zones at VPT is arrived as of the year 2008.

Clause 6.3(1)(b) of the Land Policy Guidelines of 2010 stipulates that the Scale of Rates shall be arrived at by taking 6% of the market value of the land as rent per annum. Therefore, the question of a yield factor of 9% to arrive at the rentals, as proposed by the VPT, does not arise. Only a yield factor of 6% per annum can be considered as per the provisions of the Land Policy Guidelines.

By considering a yield of 6% per annum on the value of land so determined as of the year 2008, the lease rental for the 31 zones has been arrived for the quinquennium 2008-2013 i.e. from 1 April 2008 to 31 March 2013.

However, if records for valuation of land for the period from 1 April 2008 to 30 November 2010 are obtained, it will be open for the VPT to seek review of the lease rentals fixed now.

(viii). It may be recalled that in the earlier Orders of April 2008 and November 2010 fixing lease rentals for the quinquenniums 1998-2003 and 2003-2008, the value of the lands as furnished by the DRA was on square yard basis and therefore, lease rentals were also prescribed on square yard basis. For fixation of lease rentals for the quinquennium 2008-2013, though the DRA has furnished the values of land on acreage basis, the VPT is seen to have proposed to continue with the existing unit of levy of rentals for the various zones on square yard basis, which is approved. However, the VPT is advised to prescribe lease rentals on metric system of square metre basis, as obtaining in the case of other major port trusts, during the next revision of its lease rentals.

(ix). Based on the above position, the workings furnished by VPT to arrive at the rentals for the land is modified. The modified workings are furnished as **Annex - I**.

Majority of the users have objected to the hike in the rentals of the VPT lands. However, on comparison of the escalated rentals approved for the quinquennium 2003-2008 as of March 2008 with the rentals approved now, it is seen that the rentals approved now are 3% less than the escalated rentals. This is because though the lease rentals have attracted a year on year increase due to the escalation factor, the value of land does not appear to have moved in tandem to the escalation in the rentals. It is relevant to mention here that even one of the user viz., Vizag General Cargo Berth Private Limited (VGCBPL) has endorsed this position stating that the land valuations have either shown negative growth or are stagnant since 2008. The Land Policy Guidelines of 2010 requires the lease rentals to be revised every five years based on the prevailing market value of the land. The VPT has framed the proposal following the Land Policy Guidelines and the lease rentals are based on the market value of the land.

(x). Since the lease rentals approved relate to the quinquennium commencing from the year 2008, the lease rentals have to necessarily take effect retrospectively from 1 April 2008. The VPT has already provisionally enhanced the lease rentals for the quinquennium 2008-2013, in anticipation of DRA fixing the basic rates for the quinquennium 2008-2013, as reported by Central Warehousing Corporation. It is also relevant to mention that the guidelines issued by the Government in March 2010 require revision of the base rate once in five years. It is noteworthy that during the last revision of lease rentals for the quinquennium 2003-2008 vide Order dated 22 April 2008, the effect for the revised lease rentals was also given retrospectively. In view of the clear Government guidelines in this regard, and also recognizing that the lease rentals were prescribed with retrospective effect in the past, the proposal of the VPT for retrospective revision of rates in respect of its lands at various zones with effect from 1 April 2008 is accepted. The VPT is advised to readjust the billing, in the light of the rates approved by this Authority and the rates provisionally levied by the VPT from 1 April 2008 till the date of notification of the Order in the Gazette of India.

11.1. The revised lease rentals for Lands at various Zones of VPT alongwith the conditionalities is attached as **Annex - II**.

11.2. The revised lease rentals will come into effect retrospectively from 1 April 2008 and will be in force for five years. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

(Rani Jadhav)
Chairperson

Annex - I

DETERMINATION OF LEASE RENTALS FOR THE VARIOUS ZONES AT VISAKHAPATNAM PORT TRUST FOR THE QUINQUENNIUM 2008 - 2013.

1 Acre = 4840 sq. yards

	AS GIVEN BY VPT									AS MODIFIED BY TAMP	
1	2	3	4	5	6	7	8	9	10	11	12
Zone No.	Basic valuations relied upon for fixing rentals for 1998-2003	Basic valuations relied upon for fixing rentals for 2003-2008	Percentage increase in land values in 2003-2008 over 1998-2003	Applying the same % to arrive at land values for the period 01.04.2008 to 30.11.2010 of the quinquennium 2008-2013 (5 = 3 + (3 * 4))	Rentals proposed by VPT for 01.04.2008 to 30.11.2010 (6 = 5 * 6%)	Basic valuations for 2008-2013 as received under cover of the District Collector letter Rc.No.3628/ 2007, G 1, dtd. 15 July 2011 as on 1 December 2010.	Conversion of the per acre land values in Square yard (8 = 7 / 4840 sq yard)	Escalation of the land values by 2% (9 = 8 + (3 * 2%)	Rentals proposed by VPT for 01.12.2010 to 31.03.2013 (10 = 9 * 6%)	Value of land as on December 2010 de-escalated twice (11 = 8 * 96.04%)	Rentals approved for the quinquennium 2008-2013 (12 = 11 * 6%)
	(Rs. / sq. yd)	(Rs. / sq. yd)	%	(Rs. / sq. yd)	(Rs. / sq. yd)	(Rs. / acre)	(Rs. / sq. yd)	(Rs. / sq. yd)	(Rs. / sq. yd)	(Rs. / sq. yard)	(Rs. / sq. yard)
I-A	1350	2215	64%	3633	217.98	12061280	2492	2547	152.82	2393.32	143.60
I-B	1350	2215	64%	3633	217.98	12061280	2492	2547	152.82	2393.32	143.60
I-C	1200	2400	100%	4800	288.00	13068000	2700	2760	165.60	2593.08	155.58
II-A1	3000	2800	0%	2800	168.00	15246000	3150	3220	193.20	3025.26	181.52
II-A2	2000	2800	40%	3920	235.20	15246000	3150	3220	193.20	3025.26	181.52
II-A3	800	1000	25%	1250	75.00	5445000	1125	1150	69.00	1080.45	64.83
II-B	800	1000	25%	1250	75.00	5445000	1125	1150	69.00	1080.45	64.83
II-C	800	1000	25%	1250	75.00	5445000	1125	1150	69.00	1080.45	64.83
III	800	1300	63%	2119	127.14	7080920	1463	1495	89.70	1405.07	84.30
III-A	800	1000	25%	1250	75.00	5445000	1125	1150	69.00	1080.45	64.83
III-B1	800	1050	31%	1376	82.56	5716040	1181	1208	72.48	1134.23	68.05
III-B2	950	1050	11%	1166	69.96	5716040	1181	1208	72.48	1134.23	68.05
III-B3	650	1375	212%	2915	174.90	7487480	1547	1581	94.86	1485.74	89.14
IV	1100	1375	25%	1719	103.14	7487480	1547	1581	94.86	1485.74	89.14
IV-A	800	1270	59%	2019	121.14	6916360	1429	1461	87.66	1372.41	82.34
V	950	1050	11%	1166	69.96	5716040	1181	1208	72.48	1134.23	68.05
VI-A	2000	2400	20%	2880	172.80	13068000	2700	2760	165.60	2593.08	155.58
VI-B	1300	2000	54%	3080	184.80	10890000	2250	2300	138.00	2160.90	129.65
VII	800	1270	59%	2019	121.14	6916360	1429	1461	87.66	1372.41	82.34
VIII	800	1270	59%	2019	121.14	6916360	1429	1461	87.66	1372.41	82.34
IX-A	800	1300	63%	2119	127.14	7080920	1463	1495	89.70	1405.07	84.30
IX-B	800	1270	59%	2019	121.14	6916360	1429	1461	87.66	1372.41	82.34
X-A	5000	6000	20%	7200	432.00	32670000	6750	6900	414.00	6482.70	388.96
X-B	5000	6000	20%	7200	432.00	32670000	6750	6900	414.00	6482.70	388.96
XI	450	1500	333%	4995	299.70	8165080	1687	1725	103.50	1620.19	97.21
XII	1500	2400	60%	3840	230.40	13068000	2700	2760	165.60	2593.08	155.58
XIII	2800	4600	64%	7544	452.64	25047000	5175	5290	317.40	4970.07	298.20
XIII-A	800	4125	516%	21285	1277.10	22462440	4641	4744	284.64	4457.22	267.43
XIV	1350	2125	57%	3336	200.16	11572440	2391	2547	152.82	2296.32	137.78
XV	800	1200	50%	1800	108.00	6534000	1350	1380	82.80	1296.54	77.79
XVI Bheemili (M)	--	110000 per acre	--	--		139219	29	29	1.76	27.63	1.66

Annex - II

SCHEDULE OF LEASE RENT OF LAND BELONGING TO THE VISAKHAPATNAM PORT TRUST

Zone No.	Rentals for the quinquennium 2008-2013 (Rs. / sq. yard / annum)
I-A	143.60
I-B	143.60
I-C	155.58
II-A1	181.52
II-A2	181.52
II-A3	64.83
II-B	64.83
II-C	64.83
III	84.30
III-A	64.83
III-B1	68.05
III-B2	68.05
III-B3	89.14
IV	89.14
IV-A	82.34
V	68.05
VI-A	155.58
VI-B	129.65
VII	82.34
VIII	82.34
IX-A	84.30
IX-B	82.34
X-A	388.96
X-B	388.96
XI	97.21
XII	155.58
XIII	298.20
XIII-A	267.43
XIV	137.78
XV	77.79
XVI Bheemili (M)	1.66

(i). The rates prescribed shall be applicable with effect from 1 April 2008.

(ii). The rates shall be escalated by 2% per annum till such time the rate is revised with the approval of the competent authority.

(iii). The other conditions governing the lease rental shall be as per the Land Policy Guidelines of 2010 issued by the Ministry of Shipping with effect from 13 January 2011, and as may be amended from time to time.

(iv). In case of low lying and water logged areas, a reduction of 25% shall be granted in the lease rent prescribed in the above schedule.

(v). A reduction of 30% in lease rents will be granted in respect of larger extents of land of 50 acres and above subject to the conditions that road, drainage, illumination, etc., developed by the lessees in the periphery of the leased plots is for common usage by other lessees and the VPT.

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SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/63/2011 - VPT - **Proposal from the Visakhapatnam Port Trust for revision of lease rentals for the quinquennium 2008-2013.**

A summary of comments received from users/ user organisations/ lessees and comments of VPT thereon are tabulated below:

Sl. No.	Comments of users/ user organisations/ lessees	Comments of VPT
1.	**Indian Oil Corporation Limited (IOCL)**	
	We do not agree to the increase in tariff in rental, which is on higher side and also on the periodicity of the long lease rentals.	Rates for the current quinquennium 2008-2013 are yet to be approved by TAMP and the increase in land values proposed by DRA and recommended by Committee over the previous quinquennium 2003-2008 is meager which is submitted to TAMP's approval and hence the IOCL's contention of high side increase is not correct.
2.	**M/s. Hindustan Petroleum Corporation Limited (Visakh LPG Plant)**, **M/s. Hindustan Petroleum Corporation Limited (Visakh Refinery) and** **M/s. Hindustan Petroleum Corporation Limited (Visakha Terminal)**	
(i).	The board of VPT vide Resolution No.89/2011-12 has decided, *inter alia*, to increase the land valuations over and above the basic valuation for the quinquennium 2008-2013 by 15% w.e.f. 01.12.2010 as against an increase of 12.5% notified by District Revenue Authority (DRA) on acreage basis. As per the normal Lease Agreement with VPT, lease rentals are supposed to be based on DRA's land valuation on quinquennial or decennial basis, as the case may be. Hence, appropriateness of VPT's decision to increase land valuation for 2008-13 by 15% instead of by 12.5% recommended by the DRA needs to be reviewed.	As per procedure VPT requested the DRA to furnish the land valuations and in turn they processed the land valuations through concerned department i.e. Stamps and Registrations of A.P. Government who after reviewing the factors thoroughly have proposed the land valuations effective from 1.12.2010 to 31.3.2013 through the DRA. The valuations thus received from DRA have been submitted to the Committee for recommendations as per Land Policy and thereafter submitted the same to VPT Board. VPT Board after reviewing the details have proposed the hike @ 15% duly giving 2% escalation per annum (compoundable) as applicable on Scale of Rates and for intervening period from 1.4.2008 to 30.11.2010 of the quinquennium 2008-2013, DRA have not furnished the valuations and as such the rates hiked by VPT Board got adopted for the said intervening period.
(ii).	From the Minutes of the Meeting of the Committee constituted by VPT Board for recommending rates of lease rentals held on 16.09.2011, it is seen that the District Registrar observed that for the period from 01.04.2008 to 30.11.2010, the basic valuation as in force i.e., those relating to 2003-08, shall hold good till they are revised by DRA for 2008-13.	
(iii).	In view of the above, it is requested that the basic valuation of VPT lands for the period 01.04.2008 to 30.11.2010 be continued at the old rates i.e., as applicable for the quinquennium 2003-2008 till they are finalized by the DRA for the quinquennium 2008-13. Escalation of 12.5% thereon can be considered effective 01.12.2010 as notified by the	

	DRA till 31.03.2013 or revision in basic valuation for the quinquennium 2008-13 by the DRA, whichever is earlier.	
(iv).	It appears that the basic valuation of VPT lands are being arrived at by the DRA, based on sale of land in the vicinity which are usually house sites and not large chunks of land required for industrial use. It is also observed that basic valuations for 2008-13 determined on acreage basis have been arrived at merely based on the valuation for 2003-08 in square yards escalated by 12.5% but do not reflect the market valuations which are not actually available since there are no sales of such industrial lands in the vicinity in the recent past.	
(v).	Land valuation is required to reflect industrial development like Roads, Rails and other facilities carried out by VPT. However, it may be seen that in our case, the lands have been mostly developed by us incurring huge expenditure for landfills etc., as they are in low lying areas. Fixation of land valuation without considering these aspects causes severe hardship to lessees like us.	
(vi).	Since early 1950 HPCL has been one of the largest lessees of VPT lands. After the Refinery and other facilities were set up on lands leased from VPT in 1950s, more plots of lands were taken on lease from time to time for expansions and other requirements. Thus, HPCL presently holds over 1000 acres of VPT lands on lease. In fact, some of the lands leased from VPT are in low lying areas prone to flooding. Considering the very long association of HPCL with VPT, its status as one of the largest lessees of VPT, nature of lands leased etc., it would be appropriate to consider suitable discounts in the lease rentals computed based on DRA basic valuations.	
	The additional comments submitted by M/s. Hindustan Petroleum Corporation Limited (Visakh Refinery) and M/s. Hindustan Petroleum Corporation Limited (Visakha Terminal) are as follows:	
(i).	Vide the Resolution No.86/2011-12, the Board of VPT has also decided to consider the basic valuations for the period from 01.04.2008 to 30.11.2010 based on the hike proposed by the DRA for 2003-08 along with an annual escalation of 2% as approved by the Board earlier vide Agenda No.I-18, dated 30.05.2008. Such an increase will be ranging upto 212% in our case, which is quite steep. Further, in case of one of our lands in Zone No.IX-B leased from VPT, the basic valuation per sq. yd. for period 2003-08 was ₹1270/-. After revision it is working out to ₹2019/- for the period 01.04.2008 to 30.11.2010 and gets reduced to ₹1461/- effective 01.12.2010 on account of escalation of 59% from 01.04.2008 and de-escalation of 28% from 01.12.2010.	
(ii).	As per the Notification G.No.106 dated 02.06.2008 issued by TAMP, a reduction of 25% is to be granted in the lease rentals in case of low lying and water logged areas. A further reduction of 30% of lease rentals is to be allowed in case of large extent of land i.e., more than 50 acres of	

	land. Most of our lands would be eligible for these reductions.	
3.	**Vizag General Cargo Berth Private Limited (VGCBPL)**	
(i).	There was a substantial increase of around 74% in the Basic Valuation from quinquennium 1998-2003 to quinquennium 2003-08. While there was substantial increase in land valuations across spectrum till around 2008, however, post 2008 the economy of country in larger scale has been effected by slow downs, lower GDP, higher inflation etc.	
(ii).	The land valuation of Visakhapatnam Dist has not changed as compared to quinquennium 2003-2008. For various reasons, the land valuations have either shown negative growth or are stagnant since 2008. Any unreasonable hikes will increase the cost of overall services including of port sector.	The increase now proposed is minimum and there is no high side increase. Hence the firm's contention that the base rate should remain as of quinquennium 2003-2008 is not possible.
(iii).	This being the base year, any large repetitive upward revision in the land rental would lead the project financially unviable.	
(iv).	Considering the above factors the base rate for quinquennium 2008-2013, should remain same as quinquennium 2003-2008, if not reduced.	
4.	**Central Warehousing Corporation (CWC)**	
	The VPT proposal for enhancement of lease rentals for the quinquennium 2008-2013 appears to be on the high side, over and above the rates fixed by the District Revenue Authorities, particularly for the period from 01.04.2008 to 30.11.2010. The VPT authorities have already enhanced the lease rentals, provisionally for the quinquennium 2008-2013, in anticipation of the notification by the DRA fixing the basic rates, for quinquennium 2008-2013. Now that the DRA has notified the basic rates for the quinquennium 2008-2013, it is requested to advise the VPT to adopt the basic rates fixed by the DRA for the period from 01.04.2008 to 30.11.2010 and increase the rates @ 15% for the rest of the period i.e., from 01.12.2010 to 31.03.2013, so that the uniformity in the basic rates is maintained throughout the quinquennium 2008-2013.	For the intervening period i.e. 1.4.2008 to 30.11.2010 of the quinquennium 2008-2013, DRA have not furnished the valuations and as such the rates provisionally hiked by VPT Board got adopted for the said intervening period.
5.	**Food Corporation of India (FCI)**	
	On going through the basic rates notified by the District Revenue Authorities w.e.f. 01.12.2010 and the recommendations of the Committee of VPT Board, it is observed that the hike proposed for quinquennium 2008-2013 is quite on high side for the organisations like FCI, a Central Government Organisation running on Food Subsidy of the Ministry of Food to cater to the needs of Public in serving the Foodgrains and storage depots constructed on lease at Visakhapatnam on VPT lands. Kindly consider for a reasonable hike for the quinquennium 2008-2013 in respect of VPT lands taken on lease by FCI to avoid extra financial burden to the exchequer.	The increase submitted for TAMP's approval effective for the period from 1.12.2010 to 31.3.2013 of the quinquennium 2008-2013 is quite meager when compared with the increase rate in the previous quinquenniums.

<table>
<tr><td>6.</td><td>V. Dhana Reddy & Company</td><td></td></tr>
<tr><td></td><td>The Port is a service oriented organization, and not a profit motive organization. It has to provide transit area at a reasonable rate for Importers/ their agents for stacking of their products prior to dispatch of the same to the stock points/ end users.

After going through the proposal, we are of the opinion that the proposal given this time is not at all favorable/ helpful to the Port users. TAMP may kindly suggest Visakhapatnam Port Trust Authorities to drop the proposal of revision on Rentals in the interest of the Trade/ Port Users.</td><td>As per land policy guidelines, renewal of the old leases upon expiry of their original lease periods are construed as fresh leases for which the Schedule of Rates (SoR) derive from the basic valuations become applicable. Also, the valuation of port lands for every quinquennium in addition to the annual compoundable escalation (presently 2%) is mandatory as per Government guidelines being in practice from long since. However, the increase in land values proposed by DRA and recommended by Committee over the previous quinquennium 2003-2008 is meager which is submitted to TAMP's approval.</td></tr>
<tr><td>7.</td><td>Visakha Container Terminal Pvt. Ltd. (VCTPL)</td><td></td></tr>
<tr><td></td><td>No comments to offer.</td><td></td></tr>
<tr><td>8.</td><td>M/s. National Aluminium Company Limited (NALCO)</td><td></td></tr>
<tr><td>(i).</td><td>NALCO is carrying out export/ import operations through Visakhapatnam Port Trust since 1982 on the piece of land allotted to us on long term lease basis by building up its mechanised facilities. In the process of our operations being conducted, in addition to the lease charges, we pay for other services through which VPT generates revenue in excess of about ₹9.50 crores per annum. With completion of our second phase expansion at our Refinery unit at Damanjodi, Koraput (Odisha), there would be an increase by about 40% in revenues to VPT.</td><td rowspan="4">The valuation of port lands for every quinquennium in addition to the annual compoundable escalation (presently 2%) is mandatory as per Government guidelines being in practice from long since. However, the increase in land values proposed by DRA and recommended by Committee over the previous quinquennium 2003-2008 is meager which is submitted to TAMP's approval.</td></tr>
<tr><td>(ii).</td><td>The enhanced rates indicated for basic valuation for 2008-2013 are abnormally high which would increase the input costs. It is requested to maintain the current lease rate considering avenues for increased revenues that will accrue to VPT as explained above. The details of annual revenue generated to VPT by NALCO operations are given below:</td></tr>
<tr><td></td><td>(a). Direct revenue generation to VPT on account NALCO Alumina Shipments
<table>
<tr><th>No. of Alumina ship handled per annum</th><th>Revenue generated to VPT towards wharfage of per NALCO vessel</th><th>Revenue generated to VPT towards wharfage of 24 no. of NALCO vessel per annum</th><th>Remarks</th></tr>
<tr><td>24 nos.</td><td>₹ 10.25 lakhs</td><td>₹ 2.46 crores</td><td>From next year export of alumina will be around 1.2 million tones and no. of shipment will be 33 which will resulting 40% increase in revenue to VPT</td></tr>
</table></td></tr>
<tr><td></td><td>(b). Direct revenue generation to VPT on account NALCO BTAP Rakes
<table>
<tr><th>No. of BTAP NALCO rakes per annum</th><th>Revenue generated to VPT towards haulage & terminal charges of per NALCO BTAP rakes</th><th>Revenue generated to VPT towards haulage & terminal charges of NALCO BTAP rakes</th><th>Remarks</th></tr>
</table></td></tr>
</table>

		per annum	
300 nos.	₹ 1.00 lakhs	₹ 3.00 crores	From next year export of alumina will be around 1.2 million tones and no. of shipment will be 33 which will resulting 40% increase in revenue to VPT

(c). Indirect revenue generation to VPT on account NALCO Alumina Shipments

By vessel agents of Alumina ship handled per annum	**Revenue generated to VPT by handling of per NALCO shipment through Agents**	**Revenue generated per annum to VPT towards handling of NALCO alumina shipments through agents**	**Remarks**
24 nos.	₹ 8.00 lakhs	₹ 1.92 crores	From next year export of alumina will be around 1.2 million tones and no. of shipment will be 33 which will resulting 40% increase in revenue to VPT

(d). Direct revenue generation to VPT on account NALCO Metal Rakes Haulage & Terminal Charges

No. of metal rakes handled per annum	**Revenue generated to VPT towards haulage & terminal charges of per NALCO metal rakes**	**Revenue generated to VPT towards haulage & terminal charges of NALCO metal rakes per annum**	**Remarks**
24 nos.	₹ 1.00 lakhs	₹ 24.00 lakhs + ₹ 4.00 lakhs for transit storage of metal inside port. (total revenues ₹28.00 lakhs)	From next year export of metal will be increased resulting 30-40% increase in revenue to VPT

(e). Direct revenue generation to VPT on account NALCO Caustic Soda Shipments

No. of Caustic Soda ship handled per annum	**Revenue generated to VPT per ship on account caustic soda shipment**	**Revenue generated per annum to VPT towards handling of NALCO caustic shipments**	**Remarks**
24 nos.	₹ 3.00 lakhs per shipment	₹ 72.00 lakhs per annum	From next year import of caustic soda will be increased & no. of shipment will be 33 which will resulting 40% increase in revenue to VPT

(f). Direct revenue generation to VPT on account NALCO BTCS Rakes Haulages & Terminal Charges

No. of BTCS NALCO rakes per annum	**Revenue generated to VPT towards haulage & terminal charges of per NALCO BTCS rakes**	**Revenue generated to VPT towards haulage & terminal charges of NALCO BTCS rakes per annum**	**Remarks**

96 nos.	₹ 54720.00	₹ 52,53,120.00	From next year import of caustic soda quantity will increased & no. of shipment will be 33 which will resulting 40% increase in revenue to VPT

(g). Indirect revenue generation to VPT through Agents on account NALCO Caustic Soda Shipments

No. of caustic soda ship handled per annum	Revenue generated to VPT by handling of per NALCO caustic soda shipment through Agent	Revenue generated per annum to VPT towards handling of NALCO caustic soda shipments through agents	Remarks
24 nos.	₹ 00.50 lakhs per shipment	₹ 12.00 lakhs per annum	From next year import of caustic soda will be increased by 30%

(h). Payment salary to VPT railway employees deployed by VPT to look after NALCO Rakes Movement

No. of Employees deployed by VPT at NALCO site per month	Per month salary being paid by NALCO to 09 no of VPT Employees employed by VPT at NALCO site	Per annum salary being paid by NALCO to VPT Employees (09 No.) employed by VPT at NALCO site
09 nos.	₹ 3,92,383.00	₹ 47,08,595.00

9.	**M/s.Essar Steel Limited**	
(i).	VPT lands are leased both on long term and short term basis. The land lease agreements entered into with the lessees contain rental clauses and the lessees have to pay annual rentals at the agreed percentage of land cost based on the land valuation fixed by the DRA quinquennially. Accordingly, the same procedure is being followed and rentals are being charged at 9% over the quinquennium valuations furnished by the DRA. It is noticed that now, the Government desires to charge rentals based on the schedule of rates (SOR) in respect of port lands leased.	The main extent of 110.00 acres exist under the lease hold of the respective firm cover under category of quinquennial revision rates applicable for the old leases only and thus the subject proposal is not relevant to the above said lease. However, the firm's contention that the valuations furnished by DRA are not based on realistic static's is not correct because as per procedure VPT requested the DRA to furnish the land valuations and in turn they processed the land valuations through concerned department of A.P. Government who after reviewing all the factors thoroughly have proposed the land subject land valuations.
(ii).	The proposal submitted to TAMP need to be reconsidered for the following reasons:	
	(a). The proposal submitted to TAMP to consider 15% increase in land valuation w.e.f. 1.12.2010 over and above the basic valuations for the quinquennium 2003-08 with an annual escalation of 2% as against an increase of 12.5% notified by the DRA with an annual escalation of 2% as per land policy guidelines recommended by the committee, will become burden on the lessees.	
	(b). During the year 1980, the VPT offered land to ESSAR for establishing the industry on as is where is basis. ESSAR incurred substantial expenditure for consolidating the land and to bring it fit for construction of heavy structures needed to the industry. The VPT did not invest any expenditure for bringing the subject land in to usage and fit for construction activities except laying road connection. The overall project cost has increased drastically due to poor quality of the soil (marshy lands). It also has impacted the expansion projects of ESSAR with increase in cost. The	

	ESSAR, therefore, deserves reasonable concession in fixing the rentals.	
	(c). Charging rentals based on the SOR proposed by Government is a deviation from the existing procedure/ conditions offered.	
	(d). During the process of land valuations, the DRA gives an opportunity of hearing to the VPT. Such an opportunity is not extended to the lessees, which is quite unjustified and against natural justice.	
	(e). The land valuations of the DRA is based on the arbitrary sale transactions of area that are nearly 1 or 2 kms away. There will be no sale transactions in VPT lands. Therefore, the valuations furnished by DRA are not based on realistic statistics.	
	(f). If the Government goes on increasing the land value/ rentals abnormally, the same may likely affect the industry adversely in its future expansion programmes and affect the employment ability directly and indirectly.	
10.	**M/s. Vizag Seaport Limited**	
(i).	Item No.6.3 (1) (a) of the Land Policy for Major Ports-2010 dated 13.1.2011, envisages that Scale of Rates for land will be recommended to the Competent Authority/ TAMP by a Committee as decided by the Board headed by the Chairman of the Port Trust.	VPT Board after reviewing the details have proposed the meager hike @ 15% duly giving 2% escalation per annum (compoundable) as applicable on Scale of Rates and for intervening period from 1.4.2008 to 30.11.2010 of the quinquennium 2008-2013, DRA have not furnished the valuations and as such the rates hiked by VPT Board got adopted for the said intervening period.
(ii).	The duly appointed Committee made the following recommendations: (a). To adopt the basic rates as notified by the District Revenue Authorities vide Lr. No.RC. No.3028/2007/G.1, dated 15.7.2011 w.e.f. 1.12.2010. (b). Annual escalation at 2% shall be followed for land lease rentals for the period from 1.12.2010 to 31.3.2013 in terms of the provisions of the Land Policy Guidelines, vide Clause No.6.3.1.(c).	
(iii).	The rates notified by the District Revenue Authorities, communicated vide Lr. No. RC No.3028/2007/G.1, dated 15.7.2011, based on the acreage basis considering the land for industrial purpose is 12.5% hike over the 2008 rates notified by the TAMP except for the land at Bheemili under Zone XVI, where the hike is 26.5% in terms of Land Policy Guidelines. The same shall be effective from 1.12.2010.	
(iv).	The empowered Committee felt that the said hike in basic valuations as notified by the District Revenue Authorities is in consonance with the provisions of the Land Policy Guidelines issued by the Government of India MOS (vide Lr. No.PT-11033/4/2009-PT, dated 13.1.2011), vide clause no.6.2.2.1(j) and considers this rates with the hike of 12.5% in respect of VPT Land in various zones and 26.5% in respect of land covered in Zone XVI notified by District Revenue Authorities are reasonable.	
(v).	It was also recommended by the Committee that in respect of the intervening period from 1.4.2008 to 30.11.2010, the basic rates as in force shall hold good till the basic valuations are revised by the	

	District Revenue Authorities. However annual escalation of 2% shall be followed for land lease rentals from 1.4.2008 to 30.11.2010 and from 1.12.2010 to 31.3.2013 in terms of the provisions of the land policy guidelines.	
(vi).	But the VPT Board resolved to consider 15% increase in land valuations from 1.12.2010 over and above basic valuations for 2003-08 with annual escalation of 2% as against the increase of 12.5% as notified by the Dist. Revenue Authorities. For the intervening period from 1.4.2008 to 30.11.2010 to consider the rates as per Table-A as approved by the Board vide Agenda Item dated 30.5.2008 with an annual escalation of 2%.	
(vii).	In terms of Article 3.2 of License Agreement between VPT and VSPL, considering the storage space constraints in VSPL Terminal, Visakhapatnam Port Trust Board, vide Resolution No.149, dated 27.3.2007, approved allotment of 40.05 crores of land in EXIM Park to VSPL as against the request for 65 acres. Subsequently, VPT has reduced the extent of area from 40.05 acres to 30 acres and submitted the proposal to MOS for their approval. Meanwhile, VPT allowed 10 acres of land in EXIM Park on temporary basis pending allotment of 30 acres of land. The 30 acres of land was allotted to VSPL for storage and handling of cargo for the remaining period of License i.e. upto 27.11.2031.	
(viii).	If the Rates considered by the VPT Board are compared with the rates recommended by the Committee which are based on the rates fixed by the District Revenue Authorities, there is a heavy financial impact on the land users. Therefore, TAMP may consider the rates as recommended by the Committee.	

2.1. A joint hearing in this case was held on 17 April 2012 at the VPT premises. At the joint hearing, the VPT and the concerned users/ organisation bodies have made the following submissions:

<u>Visakhapatnam Port Trust</u>

(i). We have fully followed the Land Policy Guidelines and our proposal is based on the valuation given by DRA in June 2010.

(ii). For the period from 2008 to 2010, DRA could not give the market values. Therefore, ad-hoc increase was given effect with the approval of our Board.

(iii). Historically, only DRA furnishes value of VPT lands. This practice is followed uniformly for all Government lands in Andhra Pradesh.

(iv). Following any other approach is not possible because all industrial lands in the radius of 5 to 6 kms are owned by Port. In any case, DRA valuation is expected to take into account the sale transactions recorded in the vicinity.

(v). Since 2006, we could not auction a single plot of land as there were no takers.

Visakhapatnam Stevedores' Association

(i). We welcome per acre valuation instead of per yard method followed earlier.

(ii). The rates introduced by Port since 2008 to 2010 are ad-hoc. Based on rates approved by TAMP, the port should refund.
(VPT says, we will examine separately the aspect of adjustment of billing already done)

(iii). Port lands are generally used by Port users and port based industries. Please consider reasonable rates to reduce transaction cost.

M/s.Essar Steel Limited

The increase in market value of land is due to developments made by us. Please consider undeveloped land cost for fixing VPT lease rents.

Vizag Seaport Private Limited

The ad-hoc increase effected by VPT Board since 2008 and increasing DRA valuation from 12.5% to 15% from 2010 shall not be accepted by TAMP.

2.2. At the joint hearing, the East India Petroleum Pvt. Ltd. (EIPPL) has filed a written submission furnishing its comments on the proposal of VPT. The VPT vide its letter dated 31 May 2012 has furnished its remarks. A summary of the main points made by EIPPL and reply of VPT thereon are tabulated below:

Sl. No.	Points made by EIPPL	Reply of VPT
(i).	The channel for the OR-I and OR-II jetties have not seen any deepening and the two jetties are also over 50 years old and have not seen any modernisation. The VPT has no immediate plans to either increase the draft of the channel for the OR-I and OR-II jetties or modernize these jetties which are over 50 years old to enable handling of larger vessels. Owing to the limited draft, the lessees such as EIPL are unable to realise the full potential of the land leased from VPT. TAMP may consider revision of rates only	The valuation of port lands for every quinquennium as per land policy guidelines is mandatory. The land valuations proposed by DRA and recommended by the Committee and submitted for TAMP's approval for the quinquennium 2008-2013 (effective from 1.12.2010) are at meagre increase.

	on VPT developing and executing a plan to address the above concerns failing which, both lessees and the port will suffer due to the competitive price pressure that will result from any tariff increase without upgradation.	
(ii).	For the lessees to realise the full potential of the land under lease with them, it is essential that VPT provides the lessees with good connectivity in terms of roads, rail lines and pipelines.	
(iii).	In light of the above, it would be fair if the lease rentals are not enhanced for the quinquennium 2008-2013 and a time bound plan be evolved, jointly with lessees, to address the above issues and any others raised by other lessees, on completion of which a proposal for increase of lease rentals may be presented to TAMP.	

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