



**Report of the  
Comptroller and Auditor General of India  
on  
Land Management in Major Ports**



**Union Government  
Ministry of Shipping  
No. 27 of 2015  
(Performance Audit)**

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# Index

	<b>Subject</b>	<b>Page No.</b>
<b>Preface</b>		<b>i</b>
<b>Executive Summary</b>		<b>v</b>
<b>Chapter 1</b>	<b>Introduction</b>	<b>1</b>
<b>Chapter 2</b>	<b>Guidelines/Policies for Land Management</b>	<b>7</b>
<b>Chapter 3</b>	<b>Implementation of Guidelines/ Policies</b>	<b>13</b>
<b>Chapter 4</b>	<b>Conclusion and Recommendations</b>	<b>31</b>
<b>Annexure</b>		<b>37</b>
<b>Glossary</b>		<b>57</b>



# Preface

This Report has been prepared in accordance with the Performance Auditing Guidelines 2014 and the Regulations on Audit and Accounts, 2007 of the Comptroller and Auditor General of India for submission to the President of India under Article 151 of the Constitution.

With the objective of introducing uniform procedures and processes in relation to land management in major ports, guidelines were issued in 1995 by the Ministry of Shipping, which were revised subsequently in 2004, 2010 and 2014. This performance audit was conducted with a view to examining the clarity in the policy guidelines and also on the impact of their application across the ports.

Audit wishes to acknowledge the cooperation received from the ports and the Ministry of Shipping at each stage of the audit process.



An aerial view of a port or shipping yard, showing numerous blue shipping containers stacked in rows. A yellow crane is visible in the lower right area. The entire image is overlaid with a semi-transparent blue filter.

# Executive Summary



# Executive Summary

A performance audit was conducted to assess the extent of clarity in the policy guidelines for land management in major ports and whether these were consistently and uniformly applied across the ports. The manner of implementation of the guidelines was also test checked across ports.

Though the guidelines issued in 1995 were reviewed and revised policies were issued in 2004, 2010 and 2014, the revisions were restricted to certain issues only. There was ambiguity and absence of clear direction to the ports including in the guidelines of 2014.

**(Para 2.1)**

Out of the total land holdings of 77191.14 acres, title deeds were not available for 34943.41 acres representing 45.27 *per cent* of total land holdings. Further examination also revealed that six ports did not have title deeds for their entire land holdings of 28816.08 acres, while other seven ports possessed title deeds only for partial land under their possession.

**(Para 3.1.4.1)**

Paradip Port Trust (PPT) did not take necessary steps to complete mutation process to obtain title deeds for 186.81 acres of land which stood recorded in favour of old tenants.

**(Para 3.1.3.1 (ii))**

Discrepancies between land holdings as per records maintained at ports and state revenue authorities concerned were noticed. Similarly, discrepancy was also noticed in records maintained by different departments of ports.

**(Para 3.1.4.2)**

Records maintained by the ports were not accurate and updated to reflect the real position of encroachment, and port managements did not take action to remove encroachments and repossess land under their custody. Audit examination revealed encroachment of land admeasuring 396.44 acres of land in nine out of 12 ports, whereas the ports had reported 273.98 acres of encroached land.

**(Para 3.2)**

Though the matter was taken up with the Ministry for approval for extending the lease period beyond 30 years, ports were not successful in obtaining the approval, which, in turn, indicated that the follow-up mechanism in ports was either not effective or the same was not available. In five ports, 42 cases were noticed where delay in according approval for renewal of leases ranged from one to 31 years.

**(Para 3.3.1)**

Approval of tariff proposal for revision of Scale of Rates (SoR) submitted by ports took two years and four months to 11 years and 10 months. The main reason for the delayed approval was either incomplete proposal or that it was not prepared in accordance with the process outlined in the land policy guidelines issued by the Ministry. The consequent monetary impact could not be ascertained in the absence of approved SoR from Tariff Authority for Major Ports (TAMP). In an illustrative case, audit noticed that Kandla Port Trust (KPT) was not able to recover lease rent amounting to ₹ 132.55 crore out of a total claim of ₹192.09 crore due to delay in submission and approval of SoR.

**(Para 3.4 & 3.4.1)**

The policy guidelines of 1995 and 2004 stipulated that SoR should be revised every five years, and lease agreement should contain relevant provisions to protect port's interest. Therefore, lease agreements by ports should have specific provision to incorporate SoR revision and other aspects. During the course of audit, cases of non inclusion of revision of lease rent in agreement, occupation beyond permissible area, non levy of penal interest and subletting of leased area were noticed.

**(Para 3.5)**

Policy guidelines issued in 2010 stipulated, as one of the administrative reforms measures, that ports should computerize entire land management system in a Geographical Information System (GIS) based system. However, none of the ports, except Cochin Port Trust (CoPT), came out with a computerized land management initiative.

**(Para 3.6)**

Audit suggested the following recommendations for consideration and implementation by the Ministry and ports for improving the performance and rectifying the deficiencies highlighted in this report.

1. The Ministry should review the existing guidelines and policies to formulate a comprehensive policy to deal with all issues relating to land management to avoid multiplicity of guidelines/policies and ambiguity in the extant guidelines/policies, taking into account the provisions of MPT Act, 1963.
2. Guideline issued in 2014 policy to deal with constructed permanent structures inside custom bond area in relation to allotments made in previous periods may be revisited so that inherent constraints in the proposed mechanism are removed.
3. All critical terms and phrases in relation to land allotment and allied activities may be clearly defined to avoid inconsistent treatment by individual ports.

4. An arrangement may be evolved for minimizing the time required to resolve issues where Ministry's approval was required by delegating certain powers to the ports.
5. A review mechanism may be put in place in the Ministry stipulating at least half yearly review of land management decisions and activities of individual ports, which would help ensure compliance with the policies in vogue.
6. Similarly, a structured quarterly review may be introduced in the ports in order to report status of land management process and procedures to the respective Board vis-à-vis compliance of land policy guidelines.

The Ministry was generally in agreement with the recommendations.



# Chapter - 1

## Introduction

### 1.1. Ports in India

India has a long coastline of 7517 kilometres. Ports play a pivotal role in stimulating economic activity in their surroundings and hinterland through promotion of seaborne trade. They handle 95 *per cent* of the country's international trade cargo by volume and 70 *per cent* by value. This sector is broadly categorized into major and non major<sup>1</sup> ports. There are 13 major ports<sup>2</sup> out of which 12 function as autonomous bodies under the Ministry of Shipping (Ministry), Government of India (GOI) and are governed by the Major Port Trusts (MPT) Act, 1963<sup>3</sup>. One of the 12 ports, namely, Kolkata Port Trust (KoPT) has two port facilities – Kolkata Dock System (KDS) and Haldia Dock Complex (HDC). The 13th major port, Kamarajar Port Limited (KPL), (formerly Ennore Port Limited), is a Government company under the Ministry. Besides, there are 187 notified non-major ports across 13 maritime States.

#### 1.1.1 Major port

Major port means any port which the Central Government may, by notification in the Official Gazette declare, or may, under any law for the time being in force, have declared to be a major port as per the Section 3 (8) of Indian Ports Act, 1908. The Ministry administers all major ports under the Indian Ports Act, 1908<sup>4</sup> and the MPT Act, 1963 through nomination of members to the Board of Trustees. The non-major ports are under the jurisdiction of the State Governments concerned and are governed by their policies and directives. Major ports accounted for 57.11 *per cent* (555.50 MT) of the cargo by volume in 2013-14 in so far as cargo handled at Indian ports was concerned. This underlines the importance of sustaining the growth and development of ports and their contribution to the Indian economy. With this objective in mind and also the adverse impact of economic down turn coupled with growth of minor ports, GOI reviewed the extant policies from time to time and suggested corrections, wherever necessary, in various policies governing the major ports, to sustain and improve their efficiency.

<sup>1</sup> Non-major ports include minor ports, notified under the Indian Ports Act, 1908 and managed by State Maritime Boards, intermediate ports developed under public-private partnerships and private Ports

<sup>2</sup> Kolkata & Haldia port facilities under Kolkata Port Trust(KoPT-KDS/HDC) Paradip Port Trust (PPT), Visakapattinam Port Trust(VPT), Chennai Port Trust (ChPT), VO Chidambaranar Port Trust(VOCPT), Cochin Port Trust (CoPT), New Mangalore Port Trust (NMPT), Marmagao Port Trust (MPT), Jawaharlal Nehru Port Trust (JNPT), Mumbai Port Trust (MbPT), Kandla Port Trust (KPT), Port Blair Port Trust (Govt Ports)and Ennore Port Limited (PSU) now Kamarajar Port Limited(KPL)

<sup>3</sup> Major Port Trust Act, 1963 is applicable to major ports in India

<sup>4</sup> Indian Ports Act, 1908 extends to the ports mentioned in the First Schedule and such parts of navigable rivers and channels leading to such ports in India.

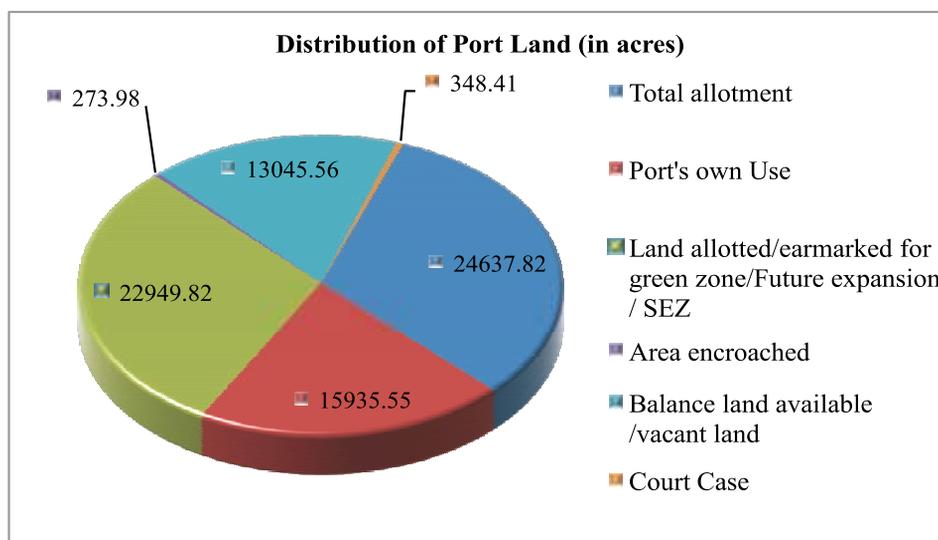
### 1.1.2 Port land

As per section 2(k) of MPT Act, 1963, land includes bed of the sea or river below high water mark, and also things attached to the earth or permanently fastened to anything attached to the earth. Land has been categorized into that falling ‘inside customs-bond’ and ‘outside custom bond’ area. Land inside custom-bond area is for activities directly related to port operations or for those not directly related but aids such activities and sea trade such as setting up duty free shop, communication centers, parking facilities, passenger facilities, cyber café, health clubs and security related activities. All other lands of the port are categorized as falling outside custom bond area. Land is allotted by ports either on license or lease basis as per approved land use plan/zoning.

### 1.2. Distribution of land by major ports

Out of land admeasuring 77191.14 acres owned/available as on 31 March 2014 with 12 major ports, 24637.82<sup>5</sup> acres (31.92 per cent) of land were allotted and 15935.55 acres (20.64 per cent) were utilized for port’s own purposes. According to the needs of these ports, land admeasuring 22949.82 acres (29.73 per cent) was earmarked for future expansion and green zone. Data obtained from the 12 major ports revealed that land admeasuring 273.98 acres (0.36 per cent) was under encroachment and 348.41 acres (0.45 per cent) under litigation. A significant quantum of land admeasuring 13045.56 acres (16.90 per cent) was not put to any use. Details of distribution of land by 12 major ports are depicted in **Figure 1** below:

**Figure 1**



(Source: As per data furnished by Ports)

### 1.3. Estate revenue

Lease rent, license fee and upfront fee are the sources of revenue from estate operations to the ports. Total estate revenue earned by 12 major ports during 2008-09 to 2013-14 worked out to ₹ 4348.55 crore. The total operation income and estate income for the ports during 2008-09 to 2013-14 were as shown in the **Table 1**.

<sup>5</sup> This includes area of 593.55 acres under court cases

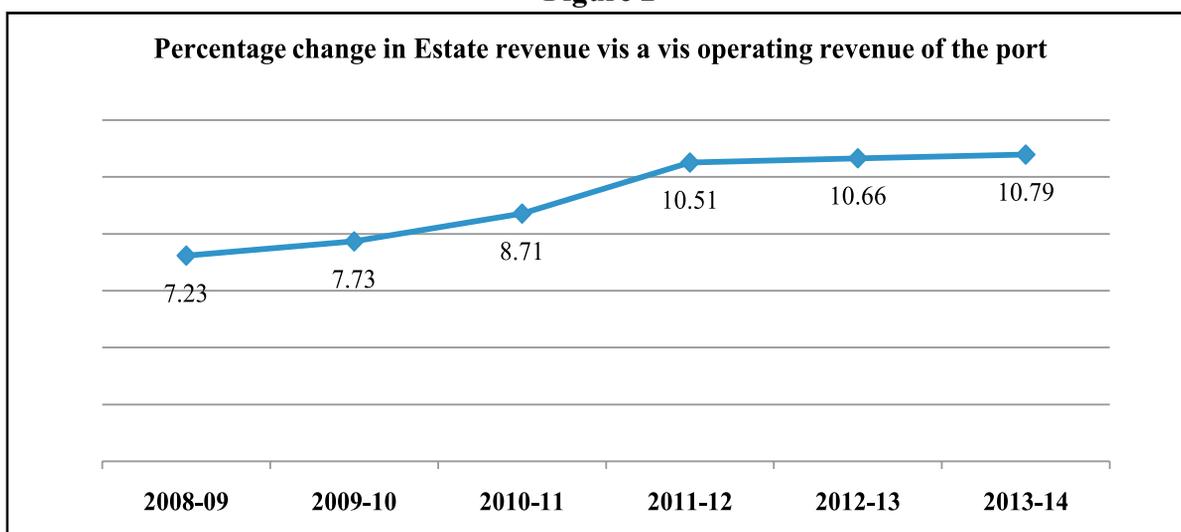
Table 1: Estate Revenue earned during the period 2008-09 to 2013-14

Port	Operating income						Income from Estate					
	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
ChPT	671.49	718.35	683.91	627.11	630.84	600.33	18.63	16.68	18.81	17.12	15.91	13.46
VOOPT	219.73	240.41	261.06	307.67	364.02	327.04	7.92	8.18	11.40	11.36	10.95	14.35
CoPT	208.40	232.07	276.08	307.10	311.61	362.54	50.35	53.21	68.59	63.80	68.18	80.43
NMPT	300.99	318.45	307.91	372.26	344.62	365.12	26.85	30.90	36.21	50.73	46.47	39.37
KPL	137.76	142.06	167.31	248.64	320.21	501.93	0.95	5.54	4.47	5.06	6.39	6.71
MbPT	808.75	895.14	955.07	1023.05	1154.44	1304.88	73.19	101.29	107.88	119.65	111.18	235.28
MPT	275.49	326.83	371.86	359.21	221.87	211.47	8.15	8.31	12.07	11.59	13.67	12.39
JNPT	965.06	1042.06	1122.64	1167.15	1097.87	1345.29	66.12	64.13	65.83	77.25	81.40	92.88
KPT	408.76	449.19	491.91	623.71	780.41	744.12	20.14	13.40	54.42	45.21	98.79	111.32
KoPT	1382.16	1424.20	1495.15	1548.65	1242.24	1574.90	164.60	198.82	214.28	353.24	306.07	274.85
PPT	696.71	748.87	705.38	639.39	683.73	914.60	10.15	16.80	18.93	23.92	24.64	32.40
VPT	599.73	660.80	738.64	726.42	702.88	800.82	35.82	39.21	47.07	56.58	53.55	63.10
<b>Total</b>	<b>6675.03</b>	<b>7198.43</b>	<b>7576.91</b>	<b>7950.36</b>	<b>7854.74</b>	<b>9053.04</b>	<b>482.87</b>	<b>556.47</b>	<b>659.96</b>	<b>835.51</b>	<b>837.20</b>	<b>976.54</b>

(Source: Compiled from annual accounts of Ports)

The operating income of ports including estate income increased by 135.63 per cent from ₹ 6675.03 crore in 2008-09 to ₹ 9053.04 crore in 2013-14. The estate income increased by 202.24 per cent from ₹ 482.87 crore to ₹ 976.54 crore during the same period. The operating income of three ports (MbPT, CoPT and KPL) increased steadily throughout five years, while it fluctuated for seven ports during the years 2008-14. However, operating income of ChPT has been declining from 2010-11 to 2013-14 and that of MPT increased in first three years and declined in next three years. Regarding estate income, PPT showed steady increase whereas ChPT showed steady decline in all the six years. Estate income of four ports (KPL, MbPT, JNPT and VPT) increased in five out of six years. In other six ports, this income was fluctuating.

Figure 2



It may be noted that the proportion of estate revenue in the total operating income during the six years from 2008-09 to 2013-14 ranged from 7.23 per cent (2008-09) to 10.79 per cent (2013-14).

#### 1.4 Organizational structure

Each port trust is managed by a Board of Trustees (Board) with members representing GOI, shipping companies, labour, etc. The Board is headed by a Chairman, who looks after day to day affairs, and is assisted by Deputy Chairman and Heads of Departments of the rank of Chief Engineers/Chief Managers. KDS and HDC under KoPT is headed by a Deputy Chairman each. KPL, a Government company has a Board consisting of two full-time Directors viz., Chairman-cum Managing Director and a functional Director (Operations) and two nominees of GOI.

#### 1.5 Allotment of land

Land is allotted either on license or lease basis as per approved land use plan/zoning. Functions of the department responsible for allotment of land in 12 ports are detailed in Table 2.

Table 2: Department responsible for allotment of land

Sl. No.	Name of the Port	Land inside the custom bond area	Land outside the custom bond area
1.	ChPT, CoPT, VOCPT, NMPT, and KPT	Traffic Department	Civil Engineering Department
2.	MPT	Administrative department till January 2011. From January 2011 onwards entrusted to Traffic Department	Administrative department till January 2011. From January 2011 onwards entrusted to Civil Engineering Department
3.	MbPT	Traffic Department	Estate Division under Engineering Department
4.	KPL	Civil Engineering Department under Director Operations	Civil Engineering Department under Director Operations.
5.	PPT	Traffic Department	Administrative Department
6.	JNPT, KoPT/KDS	Estate Department	Estate Department
7.	KoPT/HDC	Administrative Department	Administrative Department
8.	VPT	Traffic Department	Civil Engineering Department and Traffic Department

Further, all proposals for transfer of leases, change of purpose/use, mortgage of land and way leave permission shall be validated by a Land Committee in each port consisting of Deputy Chairman, and representatives of Finance, Estates and Traffic Departments. The Land Committee shall submit such proposals along with their recommendations to the Board.

### 1.6 Audit objectives

Performance audit was conducted with a view to assessing whether:

- ❖ the guidelines of 1995 and policy guidelines issued in 2004 and 2010 were clear and unambiguous, and gave clear guidance and direction to the ports to deal with all land management issues; and
- ❖ the ports had taken all necessary administrative and organizational measures to implement the policy guidelines issued by the Ministry, especially on (i) preparation of land use plan and updating relevant data that supplements preparation and maintenance of land use plan, (ii) timely detection of encroachments and action for repossession of land including necessary measures for avoiding future encroachments, (iii) allotments were made in accordance with the policy guidelines issued from time to time and all safeguards were incorporated in the lease agreements, (iv) lease rentals were revised within the stipulated time and in accordance with the policy guidelines, and (v) computerization and digitizing the land management process.

## **1.7 Audit scope and methodology**

Audit scope included a comparative analysis of various provisions contained in the guidelines issued in 1995 and policy guidelines issued in 2004 and 2010, and how these were dealt with by the ports. It also covered land management activities that encompassed identification of land for various activities and preparation of land use plan, allotment of land, execution and management of lease agreements, and allied activities, in accordance with the policy guidelines issued from time to time. Audit covered the activities of 12<sup>6</sup> major ports for a period of five years from 2008-09 to 2012-13. Audit checked all long term leases (more than 30 years) and 30 percent of medium term (11 to 30 years)/ short term leases and 10 percent of licenses (11 months) in all ports except MbPT for which 10 percent sampling was adopted in respect of all leases. The encroachment cases as per list provided by ports were selected.

Audit examination included review of documents relating to land records, lease agreements/licenses in force, creation of special economic zones, leases terminated/cancelled/resumed, MIS reports, correspondence with Tariff Authority for Major Ports (TAMP), invoices/bills raised on the lessees, etc.

The objectives, criteria and scope of audit were discussed by the offices of respective Principal Directors of Commercial Audit with port authorities concerned and audit findings were discussed in exit conferences held between 23 April and 28 July 2014. While the draft Report was issued to the Ministry on 7 April 2015, an exit conference was held with the Ministry on 29 May 2015. The Ministry communicated its response vide Office Memorandum dated 10 June 2015. Views expressed by the Ministry and port authorities concerned have been suitably considered while finalizing the Report.

## **1.8. Audit criteria**

Audit criteria for performance audit were sourced from (i) Indian Ports Act, 1908, (ii) Major Port Trusts Act, 1963, (iii) Guidelines for Regulating of Tariff for Major Ports, (iv) Guidelines for Land Management 1995, (v) Land Policies issued in 2004, 2010, and 2014 (vi) Letter of allotment / lease/license agreements, (vii) Scale of Rates approved by TAMP, (viii) Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and (ix) other relevant Government Orders/Notifications.

## **1.9. Acknowledgement**

Audit acknowledges the cooperation and assistance extended by managements of major ports and the Ministry.

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<sup>6</sup> Excluding Port Blair Port Trust

## Chapter 2

# Guidelines/Policies for Land Management

The functioning of ports in India is governed by the Indian Ports (IP) Act, 1908 and Major Port Trusts (MPT) Act, 1963. As no specific provisions were available in the IP Act and MPT Act in relation to the management of land under the custody of ports, GOI issued, from time to time, guidelines to regulate land management by individual ports. Though certain guidelines were issued in 1983, 1986 and 1993, detailed guidelines covering various aspects of land management were issued in 1995 in consultation with the Chairmen of various major port trusts. The Ministry, with the objective of formulating a simple, clear, unambiguous and easy to implement guidelines, introduced (March 2004) Land Policy for Major Ports 2004 primarily for dealing with issues relating to allotment of land. Subsequently, the Ministry introduced (January 2011) Land Policy for Major Ports 2010 as a result of an exercise of reviewing the extant policies and to suggest mid-term corrections in various policies governing the major ports to sustain and improve their efficiency. The Policy of 2010 was issued in supersession of the earlier Policy of 2004. Later, a draft policy for land management was prepared (2012) by the Ministry and based on the inputs received in a consultative exercise, Policy Guidelines for Land Management by Major Ports, 2014 were issued in January 2014.

### **2.1 Comparative analysis of Guidelines/Policies:**

In the background of multiple guidelines and policies that were in place for dealing with matters relating to land management, a comparative analysis of the policy guidelines was necessary to examine how the major elements of land management were dealt with by these guidelines and policies. Considering that the audit scope covered the period from 2008-09 to 2012-13, the analysis was essentially restricted to the policy guidelines of 1995, 2004 and 2010. Details of the analysis are depicted in **Annexure-I**.

It could be noticed that though the guidelines issued in 1995 were reviewed and revised policies were issued in 2004, in 2010 and in 2014, the revisions were restricted only to certain issues, and a comprehensive revision of guidelines of 1995 was not made. There was ambiguity and absence of clear direction to the ports and some critical issues were not proactively dealt with in the policy guidelines, *namely*, (i) 'unauthorized occupancy' was not clearly defined; (ii) in cases where approval for renewal of leases after its expiry were pending with the Ministry, the policy guidelines did not indicate how the period of lease after expiry would be treated till the approval is obtained; (iii) policy guidelines did not insist on standardized format for lease to ensure uniformity and satisfy that all essential terms and conditions were factored in the agreement; (iv) policy guidelines did not stipulate whether execution of lease agreement was essential in all cases to ensure legal enforceability of port's rights, (v) the policy guidelines of 2004 did not indicate whether it superseded the guidelines of 1995 and (vi) the Ministry did

not indicate the period within which the policy guidelines would be reviewed. A revised policy guideline was issued in January 2014 elaborating the procedures relating to allotment of land, but it did not specify whether it superseded 2010 policy or not.

The Ministry clarified (June 2015) that covering letter sent to the ports along with the policy guidelines clearly mentioned that new guidelines superseded the earlier ones, and in future this would be covered in the preamble of new guidelines. It was further stated that the objective of land policy guidelines was not to achieve uniformity across the ports, but to ensure that common principles of transparency, financial prudence and other procedures were followed in the interest of the ports and Government. As such, Ministry was of the opinion that there was no need to prescribe standardized formats of lease agreements, if all essential terms and conditions were incorporated in the lease agreement. However, Ministry would examine circulating a model document for lease.

While Ministry agreed to circulate a model document for lease and include a clause relating to supersession of earlier policies in the preamble of new ones, the reply is silent on the issues relating to defining unauthorized occupancy and treatment of period after expiry of lease till approval of Ministry is obtained.

A few illustrative instances of ambiguity in the policy guidelines and their impact are discussed in the subsequent paragraphs.

## ***2.2. Methodology to regulate allotment involving construction of permanent structures***

Land inside custom bond is the area that is used for activities directly related to the port operations or for those not directly related but which would aid such activities and sea trade. Audit observed that the guidelines of 1995 were silent on the allotment of land inside custom-bond area and therefore ports allotted land inside custom-bond area for long duration (up to 30 years with approval of Board and beyond 30 years with approval from the Ministry). On the other hand, the policy guidelines issued in 2004 stipulated that land inside custom bond area could be allotted on license basis only for a maximum period of 11 months and such allotment should be made only for activities directly related to port operations. The policy guidelines issued in 2010 made further provision that Chairman of a port trust could allot land inside custom bond area on medium term lease basis up to a period of 10 years, but without construction of any permanent structures.

Audit observed that Chennai Port Trust (ChPT) allotted between 1962 and 1995 land admeasuring 19.53 acres inside custom bond area under 13 licenses. These allotments were made for a period of 30 years in 11 cases, 25 years in one case and 22 years in one case for the purpose of constructing storage tank facilities. The original lease period had ended in 11 cases and the port authorities were extending the lease from time to time. Meanwhile, ChPT sought

approval of the Ministry for extension of lease period in seven cases where it had already exceeded 30 years. Though ChPT took up (August 2001) the matter with the Ministry, no approval was received.

ChPT stated (May 2014) that as regards the methodology to regulate allotment involving permanent structure like tank farms inside the custom bond area, specific guidelines were not available in the existing policy guidelines. It was also stated that matter would be pursued for obtaining approval from the Ministry. In this regard, Ministry stated (June 2015) that the land policy guidelines clearly stated that permanent structures should not be given inside custom bonded areas. In case of old cases, these structures were required for port operations and contributed to the cargo throughput, ports were dealing with them in accordance with the new land policy guidelines 2014.

The policy guidelines of 2014 gave clarifications for renewal of the existing lease agreements involved constructed permanent structures having /not having automatic renewal clause. The ports were advised to resort to tender-cum-auction method for allotment of land on expiry of existing lease period with the first right of refusal to the existing lessee. When the existing lessee refuses to match with H-1 bid, and if the existing lessee had constructed the permanent structures, the same would be valued by a mutually agreed valuer and the successful bidder would remit the value so fixed, which would be passed on to the existing lessee. Audit is, thus, not convinced about the efficiency of the mechanism spelt out in the policy of 2014 especially with regard to old cases, as ports may end up with disputes and litigations while finding a mutually agreed valuer and fixation of value acceptable to all parties concerned. It is, therefore, likely that it may not only defeat the very objective of the mechanism but may also constrain the ports to move forward in old cases.

### **2.3. Absence of defining 'end use' of land**

The policy guidelines issued in 2004 and 2010 stipulated that Scale of Rates (SoR) should be fixed in accordance with the use of the land and different rates should be fixed considering the purpose for which land was allotted. The guidelines further stipulated that all such rates should be submitted to the regulator, TAMP for approval and required to be revised every five years. The rates should be determined by considering six *per cent* of market value to be escalated at two *per cent* every year. Land policy 2014 did not link end use of the land for fixing the market value of the land. Audit examination revealed that there was no uniformity among the ports in identifying land according to their use and suggest tariff accordingly so as to optimize their revenue streams.

Audit observed that Visakhapatnam Port Trust (VPT) sought (September 2007) fresh valuation from the District Revenue Authorities (DRA) for the land coming under their control (in 16 zones and 15 sub-zones) for fixing lease rent for the next five years, i.e., from April 2008

to March 2013. VPT intimated that developments like road and rail infrastructure facilities had come up in their lands and valuation was to be fixed based on development in the particular zone. Accordingly, DRA intimated (April 2010) valuation for all zones, fixing the basic values as on April 2008 between ₹ 2000/- per square yard in Zone IV-A and ₹ 5400 per square yard in Zone X-B. However, VPT, instead of submitting tariff proposal to TAMP for consideration and approval for fixing lease rent for the ensuing period, obtained (July 2011) from DRA another valuation of land per acre. Thereafter, proposal was submitted (November 2011) to TAMP which was approved (June 2012) on acre basis; for example, the base rate to be applied for tariff fixation was reduced from ₹5940 per square yard (as per first valuation) to ₹ 2492 per square yard and further reduced to ₹2393.32 (as per second valuation) in respect of Zone I-A. Similar reduction was done for all zones.

It is pertinent to note that the act of VPT in applying similar base for all zones irrespective of 'end use' of land was in contravention of the extant policies/ guidelines of 2004 and 2010 and therefore irregular. The port authorities did not identify the end use of land based on the land use plan and past experience, and fixed tariff for each zone so that the legitimate financial benefit was derived from allotment of land and the interest of port was protected. On the other hand, it applied similar rate for all zones indiscriminately thus extending undue benefit to the lessees at its cost. In common parlance, industrial activities require large area of land entailing huge investment where return from investment takes long periods whereas commercial activities require smaller area of land with comparatively lesser investments. Similarly, it is common knowledge that the lease rentals for industrial areas would usually be on a lower side compared to the same levied for commercial areas. Such being the case, failure of VPT in identifying end use of land was not justifiable. This situation could have been avoided if the extant guidelines had defined clearly the 'end use' of land for which allotment could be made. As a result, ports could use their discretion to decide and fix lease rentals arbitrarily ignoring the actual use of land. Incidentally, Audit noticed V.O. Chidambaranar Port Trust (VOCPT), while furnishing their proposal to TAMP had specifically mentioned separate rates for lands identified for commercial/ industrial use.

VPT stated (May 2014) that in order to maximize revenue from cargo handling agencies, market value of land was fixed on acreage basis under industrial category, and had it been fixed on commercial basis, it would not have got indirect benefit accruing from cargo handling activities. The fact remains that VPT had violated the guidelines of 2004 and 2010, which stipulated that ports should identify the exact 'end use' of land and fix rentals appropriately for 'end use' of land. The Ministry stated (June 2015) that now VPT has envisaged to take up the valuation of land based on usage, i.e., industrial, residential, commercial and cargo stacking purpose and to fix tariff accordingly.

## 2.4. Extension of lease beyond 30 years

The policy guidelines issued by the Ministry provided that a lease could be allotted for 30 years by a port and beyond that period, renewal of lease required approval from the Ministry. Audit examination revealed that once the period of 30 years had expired, ports had taken up the matter with the Ministry for further extension, and pending decision from the Ministry, the ports issued temporary extensions for a period of 11 months, i.e. on license basis. Similar instances noticed during audit examination are indicated in Table 5 under Para 3.3.1. In this connection, it is pertinent to note that the extant policy guidelines did not provide clear direction on how to deal with similar cases, more specifically on treating the period beyond 30 years either under lease or license. As the ports were not authorized to extend lease beyond 30 years, further extensions were granted on license basis. An illustrative case in this regard is discussed below.

VOCPT allotted (October 1979) 32.73 acres of land to M/s. Tuticorin Alkali Chemicals Ltd. (TAC) on lease basis for 30 years up to 22 October 2009. On expiry of the lease period and at the request of TAC, VOCPT Board decided (May 2010) to allot the same land to TAC on license basis for 11 months from 23 October 2009 to 22 September 2010. Subsequently, based on the request (November 2010) of TAC, the Board again decided (March 2011) to extend the license period for further period of 11 months from September 2010 to August 2011 and seek approval of Ministry for renewal of license. Accordingly, VOCPT took up (May 2011) the matter with the Ministry. In response, Ministry opined (July 2011) that extension of lease beyond 30 years could be done only with their approval. No such approval was taken by the port while extending the lease from 23 October 2009 to 22 September 2010. Extension beyond 30 years should have been considered for the lease as the original allotment was on lease basis.

In this regard, Audit observed that there is no clear provision available in the policy guidelines (including those of 2014) issued by the Ministry regarding how to treat the period beyond 30 years, i.e., whether it would be treated as license or lease. As per the policy, a port has the competency to grant lease only up to 30 years and beyond that period it cannot extend unless approval is received from the Ministry. On the other hand, port has the competence to give license for a period of 11 months, and such license can be given any number of times as per the approval procedure stipulated in the policy guidelines. Thus, there is a need to incorporate suitable provisions in the policy guidelines so as to provide ports with clear guidance to deal with similar situations.

The Ministry stated (June 2015) that the port was advised (January 2014) to re-examine the case in the light of land policy 2014, and VOCPT decided (January 2015) to extend the license up to 30 June 2015 and to go for e-tender cum auction after completing the pending court case. However, the reply is silent on the fact that whether extension beyond 30 years and further extension of license was approved by the Ministry.

***Recommendations:***

- 1. The Ministry should review the existing guidelines and policies to formulate a comprehensive policy to deal with all issues relating to land management to avoid multiplicity of guidelines/policies and ambiguity in the extant guidelines/policies, taking into account the provisions of MPT Act, 1963.*
- 2. Guideline issued in 2014 policy to deal with constructed permanent structures inside custom bond area in relation to allotments made in previous periods may be revisited so that inherent constraints in the proposed mechanism are removed.*
- 3. All critical terms and phrases in relation to land allotment and allied activities may be clearly defined to avoid inconsistent treatment by individual ports.*
- 4. An arrangement may be evolved for minimizing the time required to resolve issues where Ministry's approval was required by delegating certain powers to the ports.*

## Chapter 3

# Implementation of Guidelines/Policies

The success or failure of any guidelines or policies would depend on their implementation in an efficient manner, complying with its contents and framework so that the benefits are derived by stakeholders. In this backdrop, the activities of 12 ports were examined to see how the important issues relating to land management were dealt with by these ports with reference to the guidelines/policies in place.

### 3.1. Land use plan

The guidelines issued in 1995 stipulated that all major ports should draw a perspective land use plan for the area (including waterfront) owned by them, if not already prepared or revise the existing land use plan indicating the immediate, short term and long term requirements of the port, keeping in view the socio-economic objectives set before it and obtain the approval of the Ministry by 30 June 1995. The guidelines further stipulated that the perspective plan should cover a minimum period of 30 years clearly indicating area(s) reserved for (i) operational purposes, (ii) direct port related activities, (iii) port related industries<sup>7</sup>, (iv) miscellaneous and non-port related activities, locating captive power plants, environmental upgradation, etc., and (v) reserved for commercial exploitation for augmentation of budgetary resources. The land use plan thus prepared should be in conformity with the master plan of the city/town and should be revised after every five years or whenever found necessary with the prior approval of the Ministry. The policy of 2010 further stipulated that any proposal for revision of land use plan should be published on the web-site of the ports inviting objections and suggestions and shall be finalized by the Board after considering the objections and suggestions so received. Similar provision was also included in the policy of 2014. Audit examination revealed the following:

**3.1.1. Non-compliance of policy guidelines in relation to land use plan** - Audit observed that 11<sup>8</sup> out of 12 ports did not comply with the direction of preparing or revising the land use plan before 30 June 1995. Instead, nine<sup>9</sup> out of 12 ports prepared land use plan between 2001 and 2005. Two ports<sup>10</sup> did not prepare their own land use plan and followed the Master Plan prepared by Indian Ports Association (1997) and Kolkata Metropolitan Development Authority, while KoPT/HDC prepared the land use plan in 1991. In four cases, it was noticed that the land use plan prepared did not cover the entire area under the possession of the ports. Similarly, all the ports except CoPT did not comply with the stipulation of revising the land use

<sup>7</sup> The industries which require port facilities for bulk import or export

<sup>8</sup> One port, KPL was constituted in the year 1999 and land use plan was prepared in 2003.

<sup>9</sup> Name of port and year of preparation of land use plan: ChPT (2002), VOCPT (2005), CoPT (2001), NMPT (2002), MbPT (2002), MPT (2002), KPT (2002), VPT (2003).

<sup>10</sup> PPT and KoPT/KDS

plan/master plan after every five years, but continued to follow the plan originally prepared. Thus, the spirit in the guidelines of 1995 was not adhered to by the ports, which denied them an opportunity of being updated with developmental plans of the city/town in which these ports were located so that they could leverage the potential of growth and revenue optimization. Non-compliance by the ports also indicated that there was a need to strengthen administrative oversight from the Ministry to ensure that the guidelines/policies were adhered to by the ports and ascertain the status of landholdings of individual ports and how these were planned for future use.

Ports (except VPT and JNPT) stated (between January 2013 and July 2014) that action was being taken for revising the land use plan or for correcting the variation between areas covered in land use plan and actual land under their possession. VPT stated that allotment had been made in line with available master plan approved by the Board. JNPT replied (April 2014) that the present land use plan was being reviewed and would be submitted to Coastal Zone Management Authority. The fact remains that non-adherence to the guidelines created a situation where the ports were not able to update their land use plan, thereby losing track of an important asset, which might prove detrimental in the long run exposing them to the threat of encroachment.

**3.1.2. Non-identification of land for future activity** - Though land policy guidelines issued in 1995 provided that each port should identify land for future activities, the ports did not initiate steps in this direction despite the fact that vacant/idle land was available in their possession as depicted in **Annexure-II**. It may be noted from the Annexure that land admeasuring 22949.82 acres was identified for future activities by ports, while 13045.56 acres were yet to be earmarked for any future activity. Thus, 35995.38 acres representing 46.63 *per cent* of total land under the possession of ports remained unutilized. Similarly, in cases where land was earmarked for future activities, ports did not prepare specific timelines for implementation of proposed activities. Ports were thus not effectively planning and implementing initiatives that could ensure growth and revenue optimization for sustainability.

**3.1.3 Non-ascertaining custom bond area** - Land policy guidelines stipulated that the ports should clearly demarcate land under their custody into two categories, viz. custom bond area and outside custom bond area. The custom bond area is generally notified by the Customs Authorities from time to time. Thus, port records should specify the extent of inside custom bond area, and the same should match with the area notified by the Customs Authorities. A review of relevant records indicated that eight<sup>11</sup> ports did not reconcile the same with the area earmarked by the Customs Authorities.

KoPT stated (December 2013/January 2015) that it was contemplating to undertake detailed survey for introducing GIS for HDC and no classification was made in the case of

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<sup>11</sup> ChPT, KPL, MPT, KoPT/HDC & KDS, VPT, COPT, VOCPT and MbPT

KDS. CoPT and MPT stated (December 2014) that notification of Customs Authorities was not traceable, while VOCPT stated (December 2014) that Customs Authorities notified appropriate areas. MbPT stated (December 2014) that it did not reconcile the custom bond area with the notification of Customs Authorities.

The Ministry, in the exit conference (May 2015), admitted that there had been inconsistency in preparation of land use plan and instructions have since been issued to all ports to complete the process in a time bound manner and preparations of the same was in progress.

**3.1.4. Inconsistency in title and land holdings** – In order to comply with the policy guidelines relating to preparation and revision of land use plan, each port was expected, in their pursuit to achieve updated information to supplement future planning, to examine the land holdings vis-à-vis primary and authentic records at a given periodicity. This would include, *inter alia*, updating information regarding title deeds of land under their possession, cross verification of records with that of State Revenue Authorities, and reconciliation of land holdings internally and also with revenue authority records. Audit examination on the performance of ports in relation to availability of title deeds and reconciliation with revenue authority records revealed inconsistency in title deeds and in extent of land holdings between port records and that of revenue authorities.

**3.1.4.1. Absence of title deeds** - Audit observed that out of 12 major ports, not even one port possessed title deeds for their entire land holdings (**Annexure – III**). Out of the total land holdings of 77191.14 acres, title deeds were not available for 34943.41 acres representing 45.27 per cent of total land holdings. Further examination also revealed that six ports did not have title deeds for their land holdings of 28816.08 acres, while other seven ports possessed title deeds only for partial land (42249.73 acres) out of 48375.06 acres of land under their possession. Land under possession of two ports (ChPT and JNPT) included reclaimed land, for which the ports did not obtain title documents after conducting survey to register the land in their name. Ports were thus not regularly reviewing the status of possession of title deeds and did not take up the matter with the State Revenue Authorities concerned for obtaining and/or for regularizing the records so as to avoid likely future complications or claims. Failure to do, would, therefore, hamper the prospects of considering projects or allocation of land. Two illustrative cases in this regard observed from the records of JNPT and PPT are discussed below:

(i) 12 Village Panchayats claimed (from 1984 onwards) an amount of ₹ 129.53 crore as property tax from JNPT, as the latter did not have title deeds, which approached the Supreme Court/Mumbai High Court against the demand. However, the Courts directed JNPT to approach the State Government for carrying out a survey of the land and deposit (October 2010/November 2011) ₹ 58.97 crore with the Courts. Accordingly, JNPT facilitated the State

Government in carrying out the survey of the land and the report was submitted to the Mumbai High Court. Meanwhile, the legal counsel of JNPT intimated (October 2013) that as per the survey, land in five villages was outside the boundaries of JNPT and therefore, property tax payable was revised to ₹ 40.74 crore against the deposit of ₹ 58.97 crore by JNPT. Now, JNPT was left with the only option to approach the Supreme Court/Mumbai High Court for refund of ₹ 18.23 crore (₹ 58.97 crore – ₹ 40.74 crore). This situation was directly attributable to JNPT not obtaining/updating title of lands under its possession due to which the Village Panchayats had demanded property tax and JNPT had to deposit money as per direction from the Courts.

JNPT stated (April 2014) that as per the direction of the Mumbai High Court, survey of the land was carried out and the report was submitted to the Court, and the appeal was pending. The fact, however, remains that the situation occurred only due to failure of port authorities to obtain/update the title deeds of lands under their possession.

(ii) In respect of PPT, Audit observed that the port did not initiate mutation<sup>12</sup> process to obtain title deeds of 186.81 acres of land. During construction of the port, 207.86 acres of land was acquired in 1963 at Haridaspur and a building was also constructed in connection with movement of stone from quarry at Haridaspur to Paradip. During consolidation operation undertaken by revenue authorities in 1986, records were obtained by the port for 20.04 acres of land and recorded in favour of the port. However, port authorities did not take necessary steps to complete the mutation process to obtain title deeds for the remaining 186.81 acres of land (207.86 acres – 20.04 acres) and the acquired land stood recorded in favour of old tenants.

PPT stated (July 2014) that it had recently engaged a retired Revenue Officer of Government of Odisha to identify the balance land of 186.81 acres. However, the fact remains that the port did not take timely action to identify and complete the mutation process so as to repossess and regularize the title to the land.

**3.1.4.2. Discrepancy in land holdings** – Audit also observed discrepancies between land holdings as per records maintained at the ports and that with the State Revenue Authorities concerned. Similarly, discrepancy was also noticed in records maintained by different departments of the ports.

(i) A test check of records relating to land holdings in ChPT, VOCPT and CoPT was conducted by comparing the same with those of the State Revenue Authorities concerned and the following were observed.

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<sup>12</sup> 'Mutation' refers to a procedure or process in land revenue administration system which results in changes in records for land holdings arising due to various transactions such as inheritance, contracts of sale and mortgage, court decree, registration, gift, etc. Under this process, the mutation transaction gets updated to the main land database once it is formally completed and legalized.

**Table 3: Discrepancies between Port and Revenue Records**

Nature of discrepancy	Name of port	Area involved (in acres)
Land found in the records of the port, whereas the same land was showed in the name of other persons in revenue authority records	CoPT	1999.35
	VOCPT	71.20
	ChPT	4.71
Land found in the name of port in the records of revenue authorities, but not showed in the records of ports	VOCPT	143.86
	ChPT	1.04

The Ministry stated (June 2015) that in the case of VOCPT, necessary action was being taken to set the revenue records right, and in the case of CoPT a special team has been constituted for regularizing the title deeds and the same would be completed by March 2016.

(ii) In respect of JNPT, it was noticed that the port was in possession of 2896 acres of private land, while the land records of the port indicated 2928 acres of land as available with them. Thus a difference of 32 acres was not reconciled. Similarly, in the case of MbPT, a difference of 40.07 acres was noticed between the records of Accounts Department (land available 1998.03 acres) and Estate Department (land available 2038.10 acres), which remained un-reconciled.

The Ministry stated (June 2015) that it was true that though major ports had possession of land acquired through Government Orders and statutes, in many cases the transfer of title in the revenue records had not been carried out. It has set a deadline of one year, i.e., by 30 June 2016, to complete mutation in the revenue records and acquire land titles.

### **3.2. Encroachment in port land**

The guidelines of 1995 stipulated that all major port trusts should take necessary steps to prevent encroachments on the lands owned by them and responsibility should be fixed for non-removal of encroachments. It was also stipulated that the ports should take immediate steps to demarcate the boundaries of properties and wherever the land/land structures were lying unutilized and where encroachments were likely to take place, ports should consider disposing of such lands/structures on outright sale basis. Audit examination, however, revealed encroachment of **396.44** acres in nine out of 12 ports as indicated in **Table-4**.

**Table-4: Encroachment of land in ports**

Name of the port	Total land available (in acres)	Encroached area (in acres)		Reply of the port
		As per LDS <sup>1</sup>	As per audit	
ChPT	688.55	3.88	3.88	Action was initiated to remove the encroachment legally and through local authorities.
VOCPT	2774.63	18.48	21.87	The matter was being pursued with State Government.
CoPT	2188.53	0.00	14.55	It was stated (June 2015) that the matter was taken up with the District Authorities for resuming the land, but much progress has not been achieved. Once the survey of entire port land was completed, fencing on the boundary would be done to avoid further encroachment.
MPT	533.48	0.00	0.94	It was stated (June 2015) that 13 cases were filed for eviction of unauthorized occupation and in 19 cases survey of encroached land was required as these were encroached prior to 1961.
MbPT	1998.03	0.00	16.58	It was stated (May 2014) that after proper survey and preparation of land records, it would explore creation of proper boundary wall with watch and ward to protect the land from encroachment.
KPT	31408.00	0.00	87.00	It was stated (June 2015) that private security services were deployed from 2009 onwards and encroachments removed in a phased manner. In some cases, there were litigations and these would be removed once the court case is decided.
KoPT/ KDS	4576.00	78.00	78.00	It was stated (June 2015) that the property of KoPT was guarded by either static security guards or mobile units. In spite of this, there were encroachments and these were evicted with the help of police authority.
KoPT/ HDC	6367.00	100.00	100.00	
PPT	6521.03	73.50	73.50	It is stated (June 2015) that it has been continuously pursuing with the State Government for necessary police assistance for removal of encroachment.
VPT	7618.30	0.12	0.12	Management has not furnished reply.
<b>Total</b>	<b>64673.55</b>	<b>273.98</b>	<b>396.44</b>	

It may be noted that as against information furnished by ports indicating encroachment of 273.98 acres, Audit observed total encroachment of 396.44 acres. This indicated that the records maintained by the ports were not accurate and updated to reflect the real position of

<sup>13</sup> Land Distribution Statement

encroachment, and the ports failed to take action to remove encroachments and repossess the land under their custody. Audit could not, however, ascertain the time/period since when these encroachments had occurred and therefore, the financial impact of the encroachments could not be ascertained. In addition, Audit also observed instances where failure of the ports to acquire land with clear title and without encumbrance that could lead to possible encroachment as described in the following paragraphs.

**3.2.1. Acquiring land under litigation** – KPL has acquired (March 2005) 20.73 acres of land for construction of staff quarters as per award notice of District Revenue Authorities (DRA) of Government of Tamil Nadu. Audit observed that at the time of acquiring the land, some litigation was pending against the acquisition, and even after taking over possession of the land by KPL, fresh litigation was filed (No.12199 of 2008) in the High Court, Chennai. The complainant had even displayed a board for sale of the property under litigation. This was thus a situation of potential encroachment, which was the result of acquisition of land under litigation. In reply, KPL stated (April 2014) that there was no encroachment noticed in KPL lands and DRA had been asked to survey the acquired lands so as to fence the lands and after survey, if any portion of the acquired land was found to be encroached, the same would be removed. The Ministry stated (June 2015) that the land under litigation was never handed over to KPL by Revenue Department and hence any activity in the said land cannot be taken as an encroachment. However, the fact remains that though the land was acquired in March 2005, the efforts of KPL did not fructify and even after 10 years of acquisition, the encroachment-like situation was not resolved and fencing could not be constructed.

**3.2.2. Non-repossession of 148.26 acres of land from unauthorized occupation** – During 1984-85, land was acquired by the CIDCO<sup>14</sup> for the development of New Bombay Project and transferred to JNPT. In April 2009, CIDCO/NMSEZ<sup>15</sup> erected a boundary wall on JNPT's land and constructed four-lane road with drainage, encroaching 148.26 acres of land of JNPT. JNPT had been corresponding with CIDCO with no positive results. Incidentally, though the original land acquisition was dated back to 25 years, JNPT was not able to conduct joint survey with CIDCO to earmark their land and protect it with fencing or boundary wall. JNPT, in reply, stated (April 2014) that the matter was being pursued with the Government of Maharashtra and CIDCO for conducting a joint survey. However, the fact remains that even after 25 years of acquisition of land, JNPT failed to conduct joint survey and protect their land with proper fencing.

In the exit conference (June 2015), Ministry accepted the fact that there had been encroachments, but stated that considering the extent of land, quantum of encroachment was not substantial. It was further stated that the process of eviction was cumbersome and entangled in litigation, and that the security system has been strengthened to prevent encroachments.

<sup>14</sup> City and Industrial Development Corporation, Government of Maharashtra

<sup>15</sup> Navi Mumbai Special Economic Zone

### 3.3. Allotment of land

In case of allotment of land on lease basis, the Board of ports could decide with a maximum lease period of 30 years (including renewals) and any lease beyond 30 years and up to 99 years could be made only with prior approval of the Ministry. On the other hand, maximum period for which land could be given on license basis was fixed at 11 months and each renewal thereafter would be considered as fresh license. Audit examination revealed that these stipulations were not adhered to by the ports as discussed in the following paragraphs.

**3.3.1. Extension of lease beyond 30 years without approval** – Audit observed that in five out of 12 ports, allotments were made beyond 30 years without obtaining prior approval of the Ministry, as indicated in **Table 5**.

**Table 5: Allotment of leases without approval of Ministry**

Sl. No.	Name of port	Land allotted (acres)	No. of lease	Lease period ended	Reply of port
1	ChPT	5.00	14	Between 1991 and 2012	Except in 2 cases, port has already taken up the matter with the Ministry, and action would be taken for the remaining two cases also.
2	MbPT	1.66	1	2006	No reply
3	VOCPT	481.80	12	Between 2003 and 2012	It was stated (June 2015) the matter was referred to the Empowered Committee and the decision was awaited.
4	NMPT	14.66	8	Between 2008 and 2012	The cases sent to Ministry for approval have since been returned with a direction to resubmit in accordance with Land Policy 2014 and would be resubmitted.
5	VPT	35.63	7	Between 1987 and 2013	The cases sent to Ministry for approval have since been returned with a direction to resubmit in accordance with Land Policy 2014 and would be resubmitted.

It may be noted that though the matter was taken up with the Ministry for approval for extending the lease period beyond 30 years, ports were not successful in obtaining the approval, which, in turn, indicated that the follow-up mechanism in ports was either not effective or the same was not available. Moreover, the pendency of these issues with the Ministry indicates the need for enforceable timelines at the Ministry for according approval to leases and avoid possible legal complications. It is pertinent to note that in the case of VPT, the oldest lease had expired in 1987 and even after 27 years, the port could not obtain approval from the Ministry.

**3.3.2. Allotment of land on nomination basis** – The policy of 2004 provided that lease should be given only by inviting tenders to private parties, while the Policy of 2010 provided that allotment of land on nomination basis could be made to private parties. The proposal for allotment should first be evaluated by a Land Committee and thereafter, subject to approval of the Board, the same should be sent for approval of the Ministry. Audit examination, in this regard, revealed that two ports, viz., VPT and NMPT, allotted land on nomination basis to private parties without obtaining approval of the Ministry.

In the first instance, Audit observed that NMPT decided (January 2010) to allot 0.23 acre of land to M/s Bharathi Shipyard Limited for 30 years from 20 March 2010 on nomination basis, which was not in accordance with the guidelines/policies. NMPT stated (March 2015) that the allotment was made by Board based on prevailing land policy guideline. The reply was not factually correct as the prevailing policy guideline referred to by NMPT was the Policy of 2004 which did not provide for allotment of land to private parties on nomination basis. The Ministry stated (June 2015) that the firm had no alternative land to route their cable and their request was considered as a special case. However, Audit did not object to allotment of land, but that NMPT did not obtain Government approval for allotment of land on nomination basis.

In the second instance, VPT allotted 2.24 acres land to M/s Hygrade Pellets Limited (2006) up to 5 February 2010 and 11.53 acres of land to M/s Rain CII Carbon (India) Limited (2011) on nomination for a period up to 27 October 2022. VPT stated that the allotment to M/s Hygrade Pellets Limited was not a fresh allotment and if tender-cum-auction process had to be followed for additional requirement, there was every possibility that another agency might be the successful bidder and the existing lessee might not get the opportunity. In regard to allotment of land to M/s Rain CII Carbon (India) limited, VPT stated that the Ministry was requested to accord post-facto approval in January 2014. The reply is not acceptable as the policy guidelines prevailing at the time of allotment of the land did not permit VPT to allot land, either afresh or to meet additional requirements on nomination basis, and as a transparent practice, VPT should have conducted auction and asked the existing lessee to accept the best price so arrived.

**3.3.3. Allotment of land on license basis** – The policy of 2004 provided that allotment of land could be made on license basis inside custom bond area for a maximum period of 11 months only. Renewal of license should be treated as fresh license and guidelines for fresh allotment should be applied for such renewal of license. Test check in audit indicated that PPT had allotted land on license basis to five lessees between February and December 2007 for periods ranging between three years (one case) to six years (four cases). In reply, PPT stated (August 2014) that as per Board approval, land/space could be allotted to commercial units for six years on license basis. If the period was only 11 months, no bidders would be interested as huge money was required to be invested. Hence, such decision was taken by the Board in

order to attract bidders by giving more security for allotment and also to give them sufficient time to recover their investment. The reply needs to be viewed in the light of the fact that the prime responsibility of the port is to adhere to the policy guidelines of GOI/ Ministry and not only protect the interest of investors. Moreover, as PPT knowingly violated the provisions of policy guidelines, it should have at least obtained approval from the Ministry before allotment.

**3.3.4. Deviation from policy guidelines** – As per the policy guidelines issued in 2004 and 2010, the Ministry stipulated that license could be granted by Chairman of a port for a maximum period of 11 months. The policy guidelines of 2010 further stipulated that Chairman could renew such license twice and any further renewal should be with the approval of the Board or by the Chairman subject to ratification by the Board. Audit examination, in this regard, revealed deviation from policy guidelines in respect of granting and renewal of license, and an illustrative case is discussed below.

Audit observed that subsequent to issue of policy guidelines of 2010, Chairman of KoPT issued (March 2011) order delegating his power to grant and renew license to the two Deputy Chairmen of the port. Accordingly, the Deputy Chairman of KDS allotted/renewed 87 licenses and Deputy Chairman of HDC allotted/renewed 92 licenses. Similarly, in VPT, 86 licenses to 19 parties were allotted/renewed by the Traffic Manager, instead of by Chairman, in accordance with the powers delegated vide para 2.4 of the Manual of Delegation of Powers issued on 31 October 2009. In this connection, Audit observed that KoPT had previously obtained (February 1976/1981) approval from the Ministry for delegating power to Deputy Chairman of KDS and HDC when there was no such stipulation available at that time. On the other hand, even after specifying in the policy guidelines issued in 2004 and 2010 that these powers were to be exercised by Chairman, it was delegated to Deputy Chairmen without obtaining approval from the Ministry, which was not in order. In the case of VPT also, no approval was obtained from the Ministry, nor was the prevailing delegation of power modified in line with new policy guidelines.

The Ministry clarified (June 2015) that under section 34 of MPT Act, the Chairman of a port is empowered to execute contracts on behalf of the port, and these powers could be delegated to any officer not below the rank of Head of a Department. As such, the delegation was well within powers of the Boards and did not require the approval of the Government. However, Audit is of the view that the Ministry referred to a section which was not relevant to the observation. Section 21 of MPT Act specifically stated that such delegation of power could be made with approval of the Government. In the instant cases, such approval was not obtained by the ports. Further, in the exit conference (June 2015) Ministry clarified that though it may have different view on the policy deviations by ports, those were taken by the Board concerned using their discretion and competence. However, the fact remains that exercise of discretion and competence of the Board of ports should invariably be within the ambit of power delegated under relevant rules and guidelines.

### 3.4. Lease Rent and Scale of Rates (SoR)

Audit examination to evaluate compliance of ports regarding submission of proposals for revising SoR to TAMP revealed that there was delay in submitting SoR in time and non-adherence to procedures for fixing tariff under SoR, as indicated below:

**3.4.1. Inordinate delay in submitting SoR to TAMP** – Audit observed inordinate delay by ports in submitting SoR for consideration and approval of TAMP though it has been specifically stipulated in ‘Guidelines for Regulation of Tariff at Major Ports-2004’ that tariff proposal should be forwarded to TAMP at least three months before these were due. In this backdrop, the TAMP orders of 11 ports<sup>16</sup> were collected from the TAMP website in order to examine the compliance of ports in revising SoR at an interval of five years. The data compiled from TAMP orders of these ports is indicated in **Annexure-IV**. It may be noted from the details in the Annexure that approval of tariff proposal submitted by ports for revision of SoR took two years and four months to 11 years and 10 months. The main reason for the delayed approval was either incomplete proposal or it were not prepared in accordance with the process outlined in the land policy guidelines issued by the Ministry. In many cases, TAMP had to send the proposals back number of times for compliance of ports and directing them to submit the proposals in accordance with the guidelines. In some cases, ports submitted proposals for two block years (one block is five year period) together and ports were to implement revised tariff retrospectively. As a result, ports were incurring losses, quantification of which was not feasible in the absence of relevant data relating to market value and other costs that were normally reckoned in preparation of SoR. Also, this causes difficulties to port users with consequent delay in recovery of revenue or accumulation of debts. An illustrative case in this regard noticed in KPT is detailed below.

KPT leased salt land admeasuring 16187 acres during March 1962 to February 1990 to 41 lessees at a nominal rent ranging from ₹ 10 to ₹ 30 per acre per annum for various periods. The lease rent was revised from time to time and the lease rent applicable for the period of five years from 5 July 2005 to 4 July 2010 was fixed by TAMP at ₹ 144 per acre per annum in view of the fact that no market value was available. Meantime, while approving the tariff, TAMP directed (January 2006) KPT to obtain market valuation of land and submit proposal for revision of SoR for the next block year (2010-2015). As per the land policy guidelines, KPT was required to submit proposal for revision of SoR three months before commencement of next block year, i.e., before 4 April 2010, while the same was actually submitted to TAMP only in February 2011, i.e., after a delay of 10 months. KPT obtained extension for applying the previous tariff from the TAMP since submission of proposal and final approval of the same by TAMP was in April 2012. It was noticed that the delay in approval of revised SoR was due to KPT’s failure to provide up-to-date market value of the land to the satisfaction of TAMP. As

<sup>16</sup> KPL was not forwarding their proposal to TAMP. The Board of the port approved SoR. The SoR last revised was in April 2004 and was due for revision in April 2009. Rent was revised with effect from January 2012 for BOT operators. During the period of five years rent was escalated at the rate of 5 per cent levied. TAMP order was not available in TAMP website in respect of JNPT.

the revised tariff was applicable from 5 July 2010, KPT raised differential bills to the lessees, who refused to pay the differential rent, because of huge increase (from ₹ 144 to ₹ 23250 per acre per annum). Subsequently, KPT evicted all 41 lessees between July 2011 and June 2012. In this process, KPT was not able to recover lease rent amounting to ₹ 132.55 crore from a total claim of ₹ 192.09 crore. Since the lessees were evicted by invoking provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971, the chances of recovery of ₹ 132.55 crore are remote.

The Ministry stated (June 2015) that the delay in submission of rate structure was only due to following the procedure mentioned in the land policy and the matter was referred to Estate Officer to recover the dues from ex-lessee. However, Audit is of the view that the port should have initiated action well in advance so that the laid down procedure could have been completed before the commencement of new tariff cycle.

**3.4.2. Non-obtaining market value of land resulting in loss of opportunity to generate additional revenue of ₹ 61.86 crore** - KPT allotted (between March 1962 to February 1990) 16,187 acres of salt land to 41 lessees at a nominal lease rent of ₹ 10 to ₹ 30 per acre per annum. After the expiry of original lease period, it was extended from time to time. KPT submitted (October 2005) a proposal for lease rent revision to TAMP recommending ₹ 144 per acre per annum and TAMP approved (January 2006) the same. The rate was effective from 5 July 2005 to 4 July 2010. Audit observed that while approving (January 2006) the tariff, TAMP took exception to the methodology adopted by KPT in the proposal as it did not follow the extant policy guidelines of obtaining market value of the land for fixing the lease rent. KPT contended before TAMP that valuation of salt land was neither available in the State Government ready reckoner nor any sale transaction had taken place during that time. Meanwhile, it was noticed that KPT had been granting permission to lessees to obtain mortgage finance facility on the leased land since 1994. Such permission was given to one of the lessees for a loan of ₹ 50<sup>17</sup> crore by mortgaging 3891 acres of leased land. Normally, banks arrive at mortgage value of land through independent valuation of the land, which was valued ₹ 1.28 lakh per acre. Considering six *per cent* of market value, the lease rent worked out to ₹ 7787 per acre. On the other hand, KPT had levied **₹ 144 per acre resulting in short-levy of lease rent of ₹ 7643 per acre**. As a result, KPT lost an opportunity to generate additional revenue of ₹ 61.86<sup>18</sup> crore as it had not considered available information regarding market value of the leased land.

The Ministry contended (June 2015) that KPL has been granting permission to lessees to obtain mortgage finance facilities; however, the loan was based not only on market value of land but also on structures and developments made on the land. As such, it was hypothetical to state that the mortgage value reflected market value of the land. It was also contended that any

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<sup>17</sup> ₹ 25 crore each from State Bank of India, Ahmadabad and ₹ 25.50 crore from Punjab National Bank, Gandhidham.

<sup>18</sup> ₹ 7643 x 5 (years) x 16,187 acres = ₹ 61,85,86,205

rate increase in one sub activity of the port operation would be offset by reduction or increase in another sub activity, keeping in mind overall Return on Investment (ROI) (16 per cent) of the port. Thus, the rates fixed in 2005 were within overall returns of KPT, no loss to the exchequer had occurred and alleged non-protection of financial interest was merely hypothetical.

The contention is not acceptable in view of the fact that mortgage facilities were generally extended up to certain percentage of asset value, and as such ₹50 crore considered by Audit was justifiable even after taking into account that other assets were also mortgaged along with the land. It is also pertinent to note that while granting permission for mortgaging port land, it was specifically stated that the mortgage was against land only. As far as overall ROI and offsetting of revenue among different sub activities was concerned, it may be noted that the entire exercise of fixing SoR for land becomes redundant so long as ports could generate revenue from other sub activities to match with allowable ROI.

**3.4.3. Non-obtaining TAMP approved tariff** – As per the notification (March 2005) of TAMP issuing revised guidelines for tariff fixation to major ports, whenever a specific tariff for a service was not available in the notified SoR, the port could submit a suitable proposal. Simultaneously with the submission of the proposal, the proposed rate as mutually agreed upon by the port and the user concerned could be levied on adhoc basis till the proposal was approved by TAMP. An illustrative case noticed in MbPT where the port failed to adhere to this stipulation of TAMP is discussed below.

MbPT granted (1994) 'No Objection Certificate' to Maharashtra Tourism Development Corporation (MTDC) to start water sports activities at Girgaum Choupatty subject to the condition that MTDC would take prior sanction from MbPT if they desired to construct any facility therein. No formal request was made thereafter by MTDC for carrying out any other activity. In 2004 M/s Drishti Adventure Sports Private Limited (DASPL) applied for permission for floating jetty when it came to notice of MbPT that MTDC had entered into a license agreement (March 2001) with DASPL for developing, financing and operating the water sport complex for a consideration without any intimation to MbPT.

Audit observed that though construction activities by DASPL had come to the notice (2004) of MbPT, it decided (November 2007) to fix tariff for floating jetty at ₹ 24971 per pontoon. MbPT issued (December 2012) notice to DASPL to pay arrears of ₹ 3.30 crore towards license fee for 10 pontoons from March 2001 to December 2012 but it did not initiate steps to adhere to the tariff fixation guidelines issued by TAMP in 2005 requiring them to fix appropriate tariff in consultation with the licensee and obtain approval of TAMP. Instead, MbPT issued (January 2013) notice asking DASPL to pay the dues of ₹ 3.30 crore plus penalty of ₹ 0.43 crore within 30 days of notice, failing which MbPT would take appropriate legal action. DASPL contended (January 2013) that the demand notice of MbPT did not state the details of the gazette notification of the rates approved by TAMP and therefore, they were ready and willing to pay the rates approved by TAMP.

MbPT stated (May 2014) that legal proceedings were initiated against DASPL under Public Premises (Eviction of Occupants) Act, 1971. The reply needs to be viewed in light of the fact that MbPT did not obtain tariff approved from TAMP and took more than 10 years to initiate legal action. The Ministry stated (June 2015) that the area was outside the operation area and MbPT took the stand that it does not fall under the jurisdiction of TAMP. However, the fact remains that as per policy guidelines of 2004 and 2010, tariff fixation of all port land fell under the jurisdiction of TAMP irrespective of its location and/or proximity to core operations.

**3.4.4. Non-obtaining TAMP approval for land outside custom bond area** – As per clause 49 of MPT Act, 1963, the TAMP is competent to frame SoR for any place or properties belonging to major ports within the limits of the port. The land policy guidelines also stipulated that the SoR for land should be recommended to TAMP for approval. Scrutiny of records, however, revealed that in PPT, rates applicable for license fee and lease rent for ground rents and land premium were approved by the Board as per Regulation 6 and 7 of the Paradip Port Trust Immovable Properties (Lands & Houses) Leasing and Licensing Regulations, 1975. In case of custom bond areas, the rates were sent for approval of TAMP.

PPT stated (July 2014) that though no approval from TAMP for the rates of license fees and lease rent for outside custom bond area had been taken, the rate had been recommended by the Committee consisting of a representative of Ministry, FA&CAO-PPT, Secretary-PPT and one local Revenue Officer of the State Government at the rank of Additional District Magistrate. It was also stated that the rate prevailing outside custom bond area was higher than those of prohibited area as fixed by TAMP. However, the fact remains that the Committee as stated by the port was not competent to fix tariff, and the action of PPT contravened the MPT Act and land policy guidelines.

### **3.5. Lease agreements**

The guidelines of 1995 stipulated that all major port trusts should prepare a suitable lease format in consultation with their legal and finance departments and such lease should incorporate provisions to safeguard the interests of the ports. The conditions stipulated in the guidelines, *inter alia*, included that the ports should have an option to re-fix the base of lease rent every five years. The policy guidelines of 2004 also stipulated that SoR should be revised every five years and therefore, the lease agreements by ports should have specific provision to incorporate the SoR revision. Following observations were noticed during examination of lease agreements of ports.

**3.5.1. Non-inclusion of revision of lease rent in the agreement** – Audit observed the JNPT allotted (2006) 66.29 acres of land to M/s Speedy Multimode Limited for 20 years extendable by 10 years at a lease rent of ₹ 11.60 crore per annum with five *per cent* escalation

every year. The rent fixed by JNPT, therefore, worked out to ₹ 23.48 per square metre per month. However, there was no provision in the allotment letter to take care of future revision of lease rent in accordance with revision of SoR (every five years). As a result, the lease rent under this allotment was not revised.

Audit observed that JNPT obtained (July 2012) valuation of land meant for lease through a Government registered valuer, and the report indicated a lease rent of ₹ 190 per square metre against the land under the above allotment. Though the port had considered a proposal for submission to TAMP in this regard, it was not got approved from TAMP. JNPT was not able to revise the lease rent due to non-incorporation of stipulated clause in lease allotment order. Considering the valuation obtained in 2012, the benefit foregone by JNPT would work out to ₹ 134.62 crore for three years (2011-12 to 2013-14).

JNPT stated (April 2014) that lease rent for land/paved, open area, building, covered shed and other facilities had been considered subject to an annual increase of five *per cent* in subsequent years till expiry of entire license period. The fact, however, remains that as against an escalated lease rent of ₹ 48.28 per square metre, ₹ 50.69 per square metre and ₹ 53.23 per square metre for 2011-12, 2012-13 and 2013-14 respectively, the valuation in 2012 indicated a lease rent of ₹ 180.95 per square metre, ₹ 190 per square metre and ₹ 199.50 per square metre respectively for the same period. Such being the case, the escalation of five *per cent* per year was inadequate and proved detrimental to financial interest of the port.

### **3.5.2. Occupation of land beyond permissible area resulting in loss of ₹ 13.03 crore**

– Audit observed that CoPT allotted 120.06 acres of land to M/s Indian Gateway Terminal Private Limited (IGTPL). Lease commenced from 11 February, 2009 and the land was taken over in December 2007/February 2008. However, a joint survey conducted (December 2010) revealed that IGTPL constructed a boundary wall covering an area of 223.55 acres of land, which meant that the latter had taken possession of additional area of 102.97 acres of land beyond the permissible area as per lease agreement. The joint survey report intimated by Superintending Engineer (CP) to Deputy Secretary, CoPT stated that as the additional land area was inside their compound wall, they could not use it for other purposes, and recommended that arrangements be made to regularize the land allotment as per relevant provisions of the agreement. Audit, on the other hand, observed that CoPT regularized only 32.52 acres of land, taking the total area of lease to 153.10 acres. Accordingly, lease rentals were levied. However, the regularization was not correct as the remaining area of 70.45 acres of land was lying inside the boundary of IGTPL and as opined by Superintending Engineer (CP), CoPT, port would not be able to use this area for any other purpose. Consequently, CoPT sustained loss of ₹ 13.03 crore for the period February 2009 to March 2014.

CoPT, in the exit conference, stated (July 2014) that the SEZ<sup>19</sup> regime required that entire area be protected by compound wall and IGTPPL had only constructed the wall and was not using the additional area falling under the compound wall. It was also stated that the additional area was marshy and had not been consolidated or paved for use, unlike the area for which rent was being paid. The Ministry stated (June 2015) that the additional area alleged to have been occupied by IGTPPL was earmarked for their next stage development and the same was still in possession of the port. Hence, there was no revenue loss. The reply is to be viewed against the fact that the Superintending Engineer (CP), CoPT had clearly stated that the area was under the control of lessee and inside the boundary wall and thus the same could not be used by the port. CoPT, had regularized only 33.04 acres and did not charge lease for 70.45 acres causing loss of ₹ 13.03 crore from February 2009 to March 2014.

**3.5.3. Non-levy of penal interest of ₹ 12.99 crore** – As per TAMP order dated 5 November 2011, ports were allowed to charge penal interest for delayed payments of lease rentals and other charges from the lessees/licenseses between a minimum of two *per cent* above the prime lending rate of the State Bank of India and a maximum of 18 *per cent* within which the port could choose the rate convenient to their purpose. During the course of audit, it was observed that 10 out of 12 ports had charged interest on delayed payments. Of the remaining ports, while VPT did not collect penal interest from 12 parties (10 parties with insignificant value), JNPT levied penal interest only in respect of BOT operators. The following table indicates the penal interest (at 18 *per cent* as per lease agreement) not collected from two major parties by VPT.

**Table 6: Details of Non Collection of Penal Interest**

Name of licensee	Upfront fee (₹ in crore)	Delay (months)	Interest not collected (₹ in crore)
Central Warehousing Corporation	9.05	66	8.96
IOCL	7.74	60	4.03
<b>Total</b>			<b>12.99</b>

VPT stated (May 2014) that interest calculation has been sent for finance scrutiny and on return from finance, necessary bills would be raised. It was also stated that the status of realization of penal interest would be intimated to audit. The Ministry stated (June 2015) that while demand for penal interest was raised against IOC, action was being initiated to demand penal interest from CWC.

**3.5.4. Subletting of leased land/area** – As per policy guidelines issued in 1995, the lessees should not directly or indirectly assign, or transfer whether by sale, mortgage, gift,

<sup>19</sup> Special Economic Zone

sub-lease the land or any part thereof without prior approval of the port. Any subletting, assignment, etc. without such prior approval would make the lease liable to be cancelled. The policy guidelines issued in 2010 further clarified that ports had the right to impose appropriate penalty or cancel the lease depending on the nature of breach or violation. Audit noticed 34 instances of subletting in five out of 12 ports, of which 30 cases related to PPT, two cases to VPT and one case each to CoPT and ChPT. However, ports did not initiate any penal action against these violations in terms of either charging penalty or cancellation of lease, and allowed the lessees to continue subletting. VPT stated (May 2014) that the matter was taken up for immediate review and suitable action would be taken. The policy guidelines issued in 2014 stated that no subletting should be allowed in respect of leases after introduction of 2014 guidelines and the lessee should surrender the leased premises if not required for their use, while it permitted the earlier subletting to continue.

The Ministry stated (June 2015) that in order to discourage subletting, PPT levied 50 *per cent* of subletting charges from lessees to which Hon'ble High Court of Odisha ordered that PPT should not pressurize the lessees for payment of 50 *per cent* of sublet fee. Therefore, no coercive action could be taken against the lessees who had sublet the constructed premises/built-up space. In respect of VPT, it was clarified that the lessees entered into service contract with various customers and these never tantamounted to subletting. However, the fact remains that none of the lessees took approval from the ports to sublet the premises, nor ports took remedial action in accordance with policy guidelines.

### **3.6. Computerization of land management process**

Land management encompasses preparation of land use plan identifying area under different zones depending on intended use of land, approval process for allotment, raising bills and monitoring revenue from estate, lease/license agreement management, and other administrative measures as and when required to protect the interests of the port. Computerization of land management requires a comprehensive and state-of-the-art application that would cover (a) possession data of land, buildings, other facilities, etc., (b) estate related data for every tenant with name, address, area of land, zone, period of lease/license, rent payable, escalation/revision of rent, and related activities, (c) raising of bills and monitoring estate revenue and recovery and (d) generation of various management information reports.

The policy guidelines issued in 2010 stipulated, as one of administrative reforms measures, that the ports should computerize entire land management system in a GIS based system. The system was to capture, store, manipulate, analyze, manage and present all types of geographically referenced data. Basically, GIS enables port users in need of land to access the details directly through internet. This system brings intervention free environment with transparency in allotment of port lands to users/customers/ stakeholders and also ensure speed and accuracy in the transaction of allotment of land.

In this connection, Audit observed that though the policy guidelines/stipulations were issued by the Ministry in January 2011, this aspect was not covered in 2014 policy. None of the 13 ports, except CoPT, came out with a computerized land management initiative. CoPT has introduced GIS based land management system during 2010-2011, declaring itself as India's first e-port. Other ports were yet to initiate measures for computerizing land management process, while MbPT, KoPT/HDC and KoPT/KDS had initiated their computerization initiative to billing of estate revenue. Thus, the ports were yet to take concrete and effective steps towards computerization of land management as stipulated by the policy guidelines of the Ministry.

While all ports stated (between May and October 2014) that action was being initiated for computerization of land management process, KoPT/KDS stated (January 2015) that GIS based system was introduced for tenancy management and the same would be geo-referenced for other areas also in line with land policy. The fact remains that even after four years of introducing policy guidelines stipulating computerization, concrete steps were yet to taken by ports.

The Ministry stated (June 2015) that it was monitoring the computerization of land records and fixed a deadline of 31 December 2015 for completing computerization of land records with GIS. The initiative along with ERP was expected to be completed by July 2016 and it would be ensured that the entire land management system was modern.

### ***Recommendations:***

- 5. A review mechanism may be put in place in the Ministry stipulating at least half yearly review of land management decisions and activities of individual ports, which would help ensure compliance with the policies in vogue.*
- 6. Similarly, a structured quarterly review may be introduced in the ports in order to report status of land management process and procedures to the respective Board vis-à-vis compliance of land policy guidelines.*

## Chapter 4

# Conclusion and Recommendations

### 4.1. Conclusion

With the objective of introducing uniform procedures and processes in relation to land management in major ports, guidelines were issued in 1995 by the Ministry, which were revised subsequently in 2004, 2010 and 2014. A performance audit conducted to examine the clarity in the policy guidelines and their uniform application across the ports revealed successive policies issued were not comprehensive and failed to cover certain issues which were dealt in earlier policies giving scope for improvement and rationalization besides strengthening monitoring mechanism at all levels up to the Ministry.

Audit observed that there were instances of ambiguity in policy guidelines and specific terms and phrases relating to land management needed to be more clearly defined so as to provide effective guidance and direction to the ports and also ensure that these were implemented uniformly by the ports. Consequently, ports treated similar issues differently. Instances of lack of clarity were noticed in the policy guidelines (1995, 2004 and 2010) in matters relating to construction of permanent structures inside custom bond area, defining ‘end use of land’, extension of lease period beyond 30 years, etc. The methodology advocated in 2014 policy for dealing with the existing cases of permanent structures inside custom bond area might not be easy for implementation and it may lead to disputes and litigations. Similarly, instances were noticed where ports had deviated from policy guidelines in relation to issue of license. Though policy guidelines were revised from time to time including the policy guidelines of 2014, it was not specifically mentioned in the latest set that these had superseded the earlier ones, which allowed the ports to apply provisions from multiple guidelines at their discretion, which was not a good practice.

There were instances of non-adherence by ports in major areas of land management. The land use plan was not updated or revised and landholdings were not reconciled with relevant records like title deeds and other documents of state revenue authorities. Ports did not take timely and effective steps to curb encroachment and allotment of lands were not made in accordance with land policy guidelines. Ports did not adhere strictly to the guidelines relating to revision of tariff at specified intervals. The policy guidelines issued in 2010 proposed computerization of land management process as one of the administrative reform measures, but the ports were lagging behind in achieving the objective of implementing digitization of land management process.

## **4.2. Recommendations**

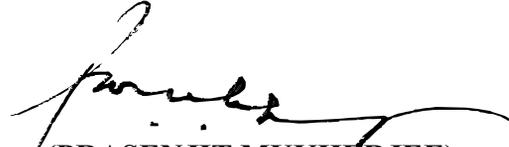
Audit suggests the following recommendations for consideration and implementation by the Ministry and ports for improving the performance and rectifying the deficiencies highlighted in this report.

1. The Ministry should review the existing guidelines and policies to formulate a comprehensive policy to deal with all issues relating to land management to avoid multiplicity of guidelines/policies and ambiguity in the extant guidelines/policies, taking into account the provisions of MPT Act, 1963.
2. Guideline issued in 2014 policy to deal with constructed permanent structures inside custom bond area in relation to allotments made in previous periods may be revisited so that inherent constraints in the proposed mechanism are removed.
3. All critical terms and phrases in relation to land allotment and allied activities may be clearly defined to avoid inconsistent treatment by individual ports.
4. An arrangement may be evolved for minimizing the time required to resolve issues where Ministry's approval was required by delegating certain powers to the ports.
5. A review mechanism may be put in place in the Ministry stipulating at least half yearly review of land management decisions and activities of individual ports, which would help ensure compliance with the policies in vogue.
6. Similarly, a structured quarterly review may be introduced in the ports in order to report status of land management process and procedures to the respective Board vis-à-vis compliance of land policy guidelines.

The Ministry welcomed the recommendations of Audit and agreed to implement the same except recommendation no. 2 where Ministry opined that specific guidelines were not required as permanent structures inside custom bond area have been dealt with in accordance with land policy guidelines 2014. However, Audit is of the view that the mechanism proposed has inherent limitation and might lead to litigation and associated difficulties.

**New Delhi**

**Dated: 29 July, 2015**



(PRASENJIT MUKHERJEE)

**Deputy Comptroller and Auditor General and  
Chairman, Audit Board**

**Countersigned**

**New Delhi**

**Dated: 30 July, 2015**



(SHASHI KANT SHARMA)

**Comptroller and Auditor General of India**



# Annexures

## ANNEXURE - 1

### Comparison of Guidelines and Policies (Referred to in Para 2.1)

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
	<b>1. Applicability</b>				
1.	<b>Applicability</b>	<ul style="list-style-type: none"> <li>❖ All major port trusts</li> </ul>	<ul style="list-style-type: none"> <li>❖ All major port trusts except Mumbai and Kolkata</li> <li>❖ Not applicable to BOT projects for which separate guidelines already exist.</li> </ul>	<ul style="list-style-type: none"> <li>❖ All major port trusts and Ennore Port except for land relating to Gandhidham Township of Kandla Port Trust.</li> <li>❖ Applicable to BOT projects</li> </ul>	<ul style="list-style-type: none"> <li>❖ All Major port Trusts and Kamarajar port Limited (Ennore port Limited) except for the land relating to township areas of Kandla, Mumbai and Kolkata ports.</li> </ul>
	<b>2. Land use plan</b>				
2 (a)	<b>Coverage period</b>	<ul style="list-style-type: none"> <li>❖ Every major port to draw perspective land use plan for 30 years and forward it to Ministry for approval.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Policy is silent</li> </ul>	<ul style="list-style-type: none"> <li>❖ Every major port shall have a land use plan and approved by the Board and a copy shall be forwarded to the GOI.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Every major port shall have a land use plan covering all the land owned /managed by them. Such plan shall be approved by the Board and a copy shall be forwarded to the GOI.</li> </ul>
2 (b)	<b>Periodicity for revision</b>	<ul style="list-style-type: none"> <li>❖ Land use plan to be revised after every five years or wherever necessary with prior approval of the Ministry.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Periodicity for revision was not stated.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Periodicity for revision was not stated.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Land use plan to be reviewed once in every five years.</li> </ul>
2 (c)	<b>Finalization methodology</b>	<ul style="list-style-type: none"> <li>❖ Not specified.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Not specified.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Any proposal for revision of land use Plan shall be finalized by the Board only after considering objections and suggestions received from various stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Any proposal for revision of land use Plan shall be finalized by the Board only after considering objections and suggestions received from various stakeholders.</li> </ul>

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
<b>3. Allotment of land (Inside Custom bond area)</b>					
3 (a)(i)	<b>Type of allotment (i) (General)</b>	❖ Land could be allotted on lease.	❖ Fresh allotment could be made on license basis only for a maximum period 11 months.	❖ Fresh allotment could be made on license basis only for a maximum period 11 months.	❖ Fresh allotment could be made on license basis only for a maximum period 11 months.
3 (a)(ii)	<b>Type of allotment (ii) for permanent structures</b>	❖ As the policy did not specify anything against allotment for this purpose, it is to be taken as No bar.	❖ Allotment could make for short term of 11 months license basis. The policy did not specify anything against allotment for this purpose.	❖ Allotment could make for short term of 11 months license basis. Allotment of land for permanent structures was not allowed.	❖ Allotment of land for permanent structures was not allowed. Where lessees created permanent structures prior to Land policy guidelines 2004, the existing lessee should agree to march with H1. Otherwise, the assets created by the existing lessee should be valued by the mutually agreed valuer and the value so assessed would be recovered from the successful bidder and would be passed on to the existing lessee.
3(a) (iii)	<b>Type of allotment (iii) for temporary structures</b>	❖ No separate policy	❖ Not specified.	❖ Chairman may allot for medium term lease basis up to 10 years	❖ Not specified.
3(a) (iv)	<b>Type of allotment For activities vital to port operations (duty free shop communication centres etc)</b>	❖ Not specified	❖ Not specified	❖ License basis for not exceeding 11 months	❖ License basis but tenure of license shall not exceed 5 years.

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
3 (b)(i)	<b>Method of allotment</b>  <b>By Tendering</b>	❖ Method was not specified.	❖ The Chairman at his discretion may also give land on license by inviting tenders.	❖ The Chairman at his discretion may also give land on license by inviting tenders.	❖ Wherever feasible, allotment should be made by inviting competitive tenders. ❖ Where tender-cum auction was not feasible, allotment could be made by not resorting to tender-cum-auction as an exception.
3 (b) (ii)	<b>Method of allotment</b>  <b>By Nomination</b>	❖ Method was not specified.	❖ Method was not specified.	❖ Allotments for medium term leases upto 10 years could be made on tendering basis or for captive use.	❖ Allotment by not resorting to tender –cum-auction methodology should be exercised as an exception.  ❖ Land can be allotted on nomination basis to CPSUs/ SPSUs for activities that are vital to port operations/aid port activities.
3 (c)	<b>Purpose of allotment</b>	❖ Not specified.	❖ Only for the activities directly related to Port activities.	❖ Only for the activities directly related to Port operations and activities aiding the port operations.	❖ For activities vital for port operations or aid port activities.
3 (d)	<b>Renewal of Licenses</b>	❖ Not specified as license concept was not introduced. ❖ Lease agreements would not have automatic renewal clause.	❖ Each renewal should be tread as fresh license.  ❖ If the lease agreement provides for automatic renewal, renewal could be done.	❖ Each renewal should be tread as fresh license.  ❖ If the lease agreement provides for automatic renewal, renewal could be done at SoR or market value whichever was higher.	❖ No renewal clause is available.  ❖ If the lease agreement provides for automatic renewal, renewal could be done at the updated market value notified..
3 (e)	<b>Renewal of existing lease</b>		❖ Otherwise, procedure for fresh allotment should be followed.	❖ Otherwise, procedure for fresh allotment should be followed giving the first right of refusal to the existing lessee. The existing lessee should agree to H1.	❖ Otherwise, procedure for fresh allotment should be followed giving the first right of refusal to the existing lessee. The existing lessee should agree to H1.

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
3 (f)	No of renewals permissible	<ul style="list-style-type: none"> <li>The Board could renew up to 30 years and renewal beyond 30 years but up to 99 years could be by Ministry.</li> </ul>	<ul style="list-style-type: none"> <li>The Board could renew up to 30 years and renewal beyond 30 years but up to 99 years could be by Ministry.</li> </ul>	<ul style="list-style-type: none"> <li>However, the license can be renewed by the Chairman twice.</li> <li>Further renewal up to 30 years could be done by the Board.</li> <li>Beyond 30 years but up to 99 years could be by Ministry.</li> </ul>	<ul style="list-style-type: none"> <li>In the cases of Leases not provided with automatic renewal clause treatment applicable for fresh lease shall be followed.</li> <li>In the cases of leases provided with automatic renewal clause, the Board would renew up to 30 years and renewal beyond 30 years up to 99 years would be done by Ministry through Empowered Committee.</li> </ul>
3 (g)	Periodicity of revision	<ul style="list-style-type: none"> <li>Port has option to re-fix the base of lease rent every five years</li> </ul>	<ul style="list-style-type: none"> <li>Port has option to re-fix the base of lease rent every five years</li> </ul>	<ul style="list-style-type: none"> <li>Port has option to re-fix the base of lease rent every five years</li> </ul>	<ul style="list-style-type: none"> <li>Periodicity was not mentioned.</li> </ul>
3 (h)	Security measures	<ul style="list-style-type: none"> <li>Lessee to pay premium equal to one year lease rental to the port.</li> </ul>	<ul style="list-style-type: none"> <li>Not mentioned.</li> </ul>	<ul style="list-style-type: none"> <li>Not mention</li> </ul>	<ul style="list-style-type: none"> <li>Not mentioned</li> </ul>
3 (i)	Subletting	<ul style="list-style-type: none"> <li>In case of subletting or assignment without prior approval of the port, lease liable to be cancelled.</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>
3 (j)	Applicable lease rent	<ul style="list-style-type: none"> <li>Lease rent to be charged as per Scale of Rates (SoR)</li> </ul>	<ul style="list-style-type: none"> <li>Lease rent to be charged as per Scale of Rates (SoR)</li> </ul>	<ul style="list-style-type: none"> <li>Lease rent to be charged as per Scale of Rates (SoR)</li> </ul>	<ul style="list-style-type: none"> <li>Lease rent to be charged as per Scale of Rates (SoR)</li> </ul>

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
<b>4. Allotment of land-(outside custom bond area)</b>					
4 (a)	<b>Type of allotment</b>	❖ Allotment would made on lease	❖ Allotment can be either on license or lease basis	❖ Allotment can be either on license or lease basis	❖ Normally land shall be allotted on lease basis only. However, land can be given on licenses basis for port related activities only on licenses basis after recording reasons.
4 (b)	<b>Method of allotment</b>	❖ No restriction specified.	<p>❖ Allotment could be made to Government Departments/CP-SUs/ SPSUs for port related activities by nomination basis at SoR.</p> <p>❖ However, Joint Ventures by CPSUs/ SPSUs with private parties were not eligible for allotment by Nomination method</p>	<p>❖ Allotment could be made to Government Departments/CP-SUs/ SPSUs for port related activities by nomination basis at SoR.</p> <p>❖ However, Joint Ventures by CP-SUs/ SPSUs with private parties were not eligible for allotment by Nomination method</p>	<p>❖ Allotment could be made to Government Schools/Government Departments/ Local Statutory bodies/ Statutory Authorities/ Autonomous Organizations under State or Central Ministries/ CPSUs/ SPSUs/ State security Agencies like Police, CISF, Coast Guard and Navy/ for port related activities by nomination.</p> <p>❖ Joint Ventures by CPSUs/ SPSUs with private parties were eligible for allotment by Nomination method provided the CP-SUs/ SPSUs/State Authority was lead promoter and had largest share holding</p>
4 (c)	<b>Purpose of allotment</b>	❖ Not specified.	❖ No distinction between port related and non-port related purposes	<p>❖ No distinction between port related and non-port related purposes</p> <p>❖ Land may be allotted for both port related and non-port related purposes</p>	❖ Normally land shall be allotted on lease basis only. However, land can be given on licenses basis for port related activities only on licenses basis after recording reasons.

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
4 (d)	<b>Renewal of License</b>	<ul style="list-style-type: none"> <li>❖ The concept of allotment by license method did not prevail at that time. Hence no specific direction was available</li> </ul>	<ul style="list-style-type: none"> <li>❖ No specific direction was available</li> </ul>	<ul style="list-style-type: none"> <li>❖ License renewal would be governed by the same terms and conditions as applicable in the case of land inside custom bond area</li> </ul>	<ul style="list-style-type: none"> <li>❖ License renewal would be governed by the same terms and conditions as applicable in the case of land inside custom bond area</li> </ul>
4 (e)	<b>Renewal of leases</b>	<ul style="list-style-type: none"> <li>❖ Lease agreements would not have automatic renewal clause.</li> </ul>	<ul style="list-style-type: none"> <li>❖ If the port requires the land for its own purposes, even if the lease agreement provides for automatic renewal, the port should take possession of the land</li> <li>❖ If the port does not require the land for its own purposes and if the lease agreement provides for automatic renewal itl could be done.</li> <li>❖ Where the port does not require the land and the lease agreement does not provide for automatic renewal, the port may at its discretion grant fresh lease to the existing lessee without resorting to tendering process..</li> </ul>	<ul style="list-style-type: none"> <li>❖ If the port requires the land for its own purposes, even if the lease agreement provides for automatic renewal, renewal could be done at SoR or market value whichever was higher.</li> <li>❖ Otherwise, procedure for fresh allotment should be followed giving the first right of refusal to the existing lessee. The existing lessee should agree to prevailing SoR or market value whichever was higher..</li> </ul>	<ul style="list-style-type: none"> <li>❖ No renewal clause should be incorporated in the lease agreements entered after introduction of this policy</li> <li>❖ In the case of existing lease, if the lease agreement provides for automatic renewal, renewal could be done at the updated market value notified..</li> <li>❖ Otherwise, procedure for fresh allotment should be followed giving the first right of refusal to the existing lessee. The existing lessee should agree to H1.</li> </ul>
4(f)	<b>No of renewals permissible</b>	<ul style="list-style-type: none"> <li>❖ Leasing up to 30 years after Board's approval.</li> <li>❖ Above 30 years and up to 99 years, with prior approval of Ministry.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Leasing up to 30 years after Board's approval.</li> <li>❖ Above 30 years and up to 99 years, with prior approval of Ministry.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Leasing up to 30 years with the approval of Board. Above 30 years and up to 99 years with prior approval of Ministry.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Leasing up to 30 years with the approval of Board. Lease beyond 30 years and up to 99 years should be recommended by the Port Trust Board for approval of Ministry.</li> </ul>

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
4 (g)	<b>Mechanism for renewal beyond 30 years</b>	❖ Proposal should be forwarded to Ministry.	❖ Proposal should be forwarded to Ministry.	❖ Cases of fresh leases beyond 30 years up to 99 years shall be sent to Ministry for the consideration of Empowered Committee comprising Secretary ( shipping), AS&FA (Shipping), a representative from the Department of Economic Affairs and a representative of the Planning Commission	❖ The Empowered Committee comprising AS&FA (Shipping), Joint Secretary (ports) and Joint Secretary of the Department of Economic Affairs and the concerned Adviser of the Planning Commission shall grant renewals for the leases beyond 30 years up to 99 years subject to approval of the Ministry.
4 (h)	<b>Allotment by Nomination basis</b>	❖ No specific method spelt out	❖ Allotments by tenders except to Government departments / CP-SUs / SPSUs.	❖ Allotment can be on nomination basis to Govt. Departments, CP-SUs and SPSUs with approval of Board and in other cases with Ministry's approval.	❖ Allotments by tenders except to Government departments / CP-SUs / SPSUs.  ❖ Land can be allotted on nomination basis to Government Schools and Colleges/ Government Departments, Statutory Local Bodies/statutory Authorities/ Autonomous Organizations under State/Central Ministries/ CP-SUs /SPSUs/Security Agencies like Police/CISF/Coast Guard and Navy.  ❖ Concession up to 75 per cent can be given to Government colleges/Schools and Government Departments essential for functioning of the port (customs, Electricity department, Health Department, security functions) and other Departments/CP-SUs/ SPSUs up to 50 per cent of the annual lease rental can be considered.

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
					❖ However, in case the leased land is not used for the purpose it is leased, no transfer/sub-letting and change of use is permitted. The port should terminate the lease and resume the land allotted.
<b>5. Other terms and conditions of allotment of land on lease / license basis</b>					
5 (a)	<b>Subletting</b>	❖ Lessee could sublet/ partially sublet with the approval of the port. Otherwise the lease was liable for cancellation.	❖ Lessee could sublet/ partially sublet with the approval of the port. Otherwise the lease was liable for cancellation.	❖ Lessee could sublet/ partially sublet with the approval of the port. Otherwise the lease was liable for cancellation.	❖ The existing Lessee could sublet/ partially sublet with the approval of the port after recovering 50 per cent of the rent charged by the original lessee from the sub-lessee for the entire period of lease.  ❖ However, where the leases made after issue this guidelines, the lease should surrender the premises not required by him and no sub-letting shall be permitted.
5 (b)	<b>Change in use</b>	❖ Change in use was permitted subject to agreeing for change of rates applicable for new usage.	❖ Change in use was permitted subject to agreeing for change of rates applicable for new usage.	❖ Change in use was permitted subject to agreeing for change of rates applicable for new usage.	❖ Not Specified.
5 (c)	<b>Termination clause</b>	❖ Lease agreement should provide for termination.	❖ Lease agreement should provide for termination, if the land was not utilized for the purpose for which it was allotted.	❖ Lease agreement should provide for termination, if the land was not utilized for the purpose for which it was allotted..	❖ Lease agreement should provide for termination, if the land was not utilized for the purpose for which it was allotted.

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
5 (d)	<b>Transfer of lease</b>	<ul style="list-style-type: none"> <li>❖ No clause for surrender of lease</li> <li>❖ Transfer was not permissible</li> </ul>	<ul style="list-style-type: none"> <li>❖ No clause for surrender of lease</li> <li>❖ Transfer may be allowed after prior approval subject to the transferee agreeing to               <ul style="list-style-type: none"> <li>(i) pay the revised lease rent as per SoR at the time of transfer</li> <li>(ii) Agree to pay all liabilities of original lessee.</li> <li>(iii) Pay 50 per cent of the difference between current premium and original premium for the balance lease period or one year lease rental whichever was higher.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ Similarly the lease agreement should provide for surrender of lease subject to prior notice by the lessee at least 3 months in advance</li> <li>❖ Transfer may be allowed after prior approval subject to the transferee agreeing to               <ul style="list-style-type: none"> <li>(i) pay the revised lease rent as per SoR at the time of transfer</li> <li>(ii) Agree to pay all liabilities of original lessee.</li> <li>(iii) Pay 50 per cent of the difference between current premium and original premium for the balance lease period or one year lease rental whichever was higher.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ Similarly the lease agreement should provide for surrender of lease subject to prior notice by the lessee at least 6 months in advance.</li> <li>❖ In case the transferor extracts premium from the transferee on the transfer of lease, 50 per cent of such premium is to be paid to the port.</li> <li>❖ Transfer of lease should not be permitted where the land was leased on nomination basis or at concessional rate lease rent.</li> </ul>
5 (e)	<b>Leasing on upfront fee/ annual fee basis</b>	<ul style="list-style-type: none"> <li>❖ Not specified.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Leasing only on upfront fee basis. In case it was not possible, may be done on annual fee basis.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Leasing only on upfront fee basis. In case it was not possible, may be done on annual fee basis.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Not specified.</li> </ul>

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
5 (f)	Unauthorised occupation	❖ No such clause	❖ After the expiry/forfeiture of lease any unauthorized occupation shall attract compensation at three times of lease rent in accordance with the prevailing SoR.	❖ After the expiry or termination or determination of lease, if the lessee continues to occupy the lease unauthorized, he has to pay compensation charges at three times the lease rent.	❖ After the expiry or termination or determination of lease, if the lessee continues to occupy the lease unauthorized, he has to pay compensation charges at three times the lease rent.
5 (g)	Remove all structures	❖ No such clause	❖ Lessee is expected to remove all structures at his own cost within three months of expiry of lease.	❖ Same	❖ Same
<b>6. Scale of Rates</b>					
6 (a)	Authority for approval	❖ This Policy issued prior to formation of TAMP. The lease rent was prescribed by respective port trusts in accordance with the Major Port trust Act.	❖ SoR for all land will be fixed by TAMP	❖ SoR for all land will be fixed by TAMP	❖ Market mechanism (tender-cum-auction method) would determine lease and license rent where tender-cum-auction was feasible for allotment. In other cases the rate will not be less than six per cent of market value of land.
6(b)	Periodicity for revision	❖ SoR to be revised every five years or earlier if considered necessary.	❖ SoR will be revised every five years.	❖ SoR will be revised every five years.	❖ SoR will be fixed based on latest market value of land while allotting land on lease..
6 (c)	Base of SoR	❖ Not mentioned.	❖ SoR shall be arrived at taking six percent of the market value of the plot as rent per annum.	❖ SoR should be arrived at six percent of the market value of the plot.	❖ Six per cent of market value of land will be fixed as reserve price where tender-cum-auction was resorted for allotment. In other cases the rate will not be less than six per cent of market value of land.

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
6 (d)	<b>Annual Escalation</b>	<ul style="list-style-type: none"> <li>❖ Lease rent to bear escalation at appropriate rate every year and not less than five percent.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Lease rent to bear escalation at appropriate rate every year and not less than two percent.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Lease rent to bear escalation at appropriate rate every year and not less than two percent. In case of MbPT, escalation at 4 per cent</li> </ul>	<ul style="list-style-type: none"> <li>❖ The Port Board will fix a rate of annual escalation which would not be less than 2 percent.</li> </ul>
6 (e)	<b>Impact of purpose of land on SoR</b>	<ul style="list-style-type: none"> <li>❖ Not mentioned.</li> </ul>	<ul style="list-style-type: none"> <li>❖ SoR to vary according to the purpose of land use.</li> </ul>	<ul style="list-style-type: none"> <li>❖ SoR to vary according to the purpose of land use</li> </ul>	<ul style="list-style-type: none"> <li>❖ Market value was not linked to end use.</li> </ul>
6 (f)	<b>Time limit for approval</b>	<ul style="list-style-type: none"> <li>❖ No such time limit</li> </ul>	<ul style="list-style-type: none"> <li>❖ Any complete proposal received from Board shall be approved within 90 days</li> </ul>	<ul style="list-style-type: none"> <li>❖ No such time limit</li> </ul>	<ul style="list-style-type: none"> <li>❖ The TAMP should notify the market value of the land within 45 days of receipt of proposal after following due course of consultation with the stake holders</li> </ul>
6(g)	<b>Security measures</b>	<ul style="list-style-type: none"> <li>❖ Lessee to pay premium equal to one year lease rental to the port</li> <li>❖ The lessee shall deposit an amount equal to one year lease rental as refundable deposit.</li> <li>❖ The lessee shall furnish irrevocable BG for an amount equivalent to 3 years lease rent.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Not mentioned</li> </ul>	<ul style="list-style-type: none"> <li>❖ Not mentioned.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Not mentioned.</li> </ul>

Sl. No.	Issues	Guidelines 1995	Policy 2004	Policy 2010	Policy 2014
7.	Encroachment	<ul style="list-style-type: none"> <li>❖ Ports to take steps to prevent encroachment and to demarcate boundaries</li> <li>❖ Responsibility to be fixed for non removal of encroachment</li> <li>❖ Where ever encroachment are likely to take place, port should consider disposal of such land</li> </ul>	<ul style="list-style-type: none"> <li>❖ Policy is silent</li> </ul>	<ul style="list-style-type: none"> <li>❖ Policy is silent</li> </ul>	<ul style="list-style-type: none"> <li>❖ Policy is silent</li> </ul>
8.	Computerization of records	<ul style="list-style-type: none"> <li>❖ Guideline is silent</li> </ul>	<ul style="list-style-type: none"> <li>❖ Policy is silent</li> </ul>	<ul style="list-style-type: none"> <li>❖ Ports shall computerize entire land management into Geographic Information System (GIS) based system.</li> </ul>	<ul style="list-style-type: none"> <li>❖ This aspect was not covered in the policy</li> </ul>

## ANNEXURE - II

Statement of vacant/idle land  
(Referred to in Para 3.1.2)

(Area in acres)

S. No.	Port	Total land available	Total land allotted / in use (it includes encroached land & land in dispute)	Land allotted for future activities/ SEZ/ Green zone	Vacant land available	Total land remaining idle	Activities marked	Remarks of the ports
1.	ChPT	688.55	606.76	0.00	81.79	81.79	Not identified	It was stated (June 2015) that the area was kept as a part of future development and immediate use was not envisaged.
2.	VOPT	2774.63	2042.84	23.44	708.35	731.79	Not identified	It was stated (June 2015) that the port would utilize the vacant land for future development activities on approval of new land use plan, which was under process.
3.	CoPT	2188.53	1003.22	619.83	565.48	1185.31	Not identified	It was stated (June 2015) that 62.77 acres (23 plots) were remaining vacant and all efforts would be taken for effectively utilizing these plots. However, as per information made available (December 2014) total vacant land was 565.48 acres.
4.	NMPT	2352.00	1990.49	280.00	81.51	361.51	Not identified	No reply.
5.	KPL	2785.59	696.66	2088.93	0.00	2088.93	Not identified	No reply.
6.	MbPT	1998.03	1806.45	0.00	191.58	191.58	Not identified	No reply.
7.	JNPT	7380.00	1861.50	3790.00	1728.50	5518.50	SEZ IV, Terminal, Marine chemical terminal, Central Car parking plaza	No reply.

8.	MPT	533.48	522.12	11.36	0.00	11.36	11.36	Not identified	It was stated (June 2015) that the vacant land was already earmarked for activities like tank farm, container freight station, container yard and depot.
9.	KPT	31408.00	12842.44	13395.00	5170.56	18565.56	18565.56	Not identified	It was stated (June 2015) that after completion of survey work, which was under progress, vacant land would be used.
10.	KoPT/ KDS	4576.00	3463.00	193.00	920.00	1113.00	1113.00	Not identified	It was stated (June 2015) that 306 acres of land were allotted prior to November 2014 and 326 acres meant for proposed township, and vacant lands (96.58 acres) to be allotted.
11.	KoPT/ HDC	6367.00	4016.23	435.43	1915.34	2350.77	2350.77	Not identified	However, the figure indicated the vacant position as on 31 March 2014.
12.	PPT	6521.03	3804.43	1300.00	1416.60	2716.60	2716.60	Not identified	It was stated (June 2015) that 1913.69 acres were meant for port's own use.
13.	VPT	7618.30	6539.62	812.83	265.85	1078.68	1078.68	Indian Navy, CFS, Warehouse, Truck parking etc	It was stated (June 2015) that 700 acres was earmarked for Township and 600 acres for MMLP, SDWP, Railway, etc. However, the reply was silent on utilization of vacant land.
<b>Total</b>		<b>77191.14</b>	<b>41195.76</b>	<b>22949.82</b>	<b>13045.56</b>	<b>35995.38</b>	<b>35995.38</b>		It was stated (June 2015) that vacant land available was already identified for different development activities. However the reply was not specific on vacant land (265.85 acres) as pointed out by Audit.

## ANNEXURE - III

**Availability of title deeds**  
(Referred to in Para 3.1.4.1)

(Area in acres)

Sl. No.	Name of port	Total land in possession	Title deeds	
			Available	Not available
1.	ChPT	688.55	1.63	686.92
2	VOCPT	2774.63	0.00	2774.63
3	CoPT	2188.53	0.00	2188.53
4.	NMPT	2352.00	0.00	2352.00
5.	KPL	2785.59	0.00	2785.59
6.	JNPT	7380.00	6177.00	1203.00
7.	MbPT	1998.03	1214.02	784.01
8.	KPT	31408.00	28476.00	2932
9.	MPT	533.48	412.48	121.00
10.	KoPT/KDS	4576.00	0.00	4576.00
11.	KoPT/HDC	6367.00	5968.60	398.40
12.	PPT	6521.03	0.00	6521.03
13.	VPT	7618.30	0.00	7618.30
<b>Total</b>		<b>77191.14</b>	<b>42249.73</b>	<b>34943.41</b>
<b>Per cent</b>		<b>100.00</b>	<b>54.73</b>	<b>45.27</b>

Note: No register was maintained but data supplied by the port to audit.

## ANNEXURE - IV

**Delay in submission and approval of SoR  
(Referred to in Para 3.4.1)**

S. No	Port	Last revision of SoR	Due date for next revision	Date of first proposal	Re-submission	Date of approval of TAMP	Latest position	Period of delay	Reasons for rejection/ Delay in approval by TAMP
1	ChPT	March 2000	March 2003	2006	September 2008; February 2013; April 2014; October 2014.	December 2014.	Approved	Nine years and Nine months	Chennai port did not submit revision in 2002 since the estate activity had reflected a surplus position.  The port did not follow the method prescribed in LP guidelines in assessing market value of land in 2009 and 2013..  The port users objected the hike in the proposal. The port agreed to revalue the market value of the land.  TAMP permitted to apply escalation as per LP till final approval.  SoR shall come into effect from expiry of 15 days from the date of notification of order in the Gazette of India and shall be in force for five years and would automatically lapse unless extended by this authority..
2	VOCPT	November 2004 for the block July 2002 to June 07	July 2007 for the block 2007-12 and July 2012 for the block 2012-17	April 2009 for block 2007-12 and June 2012 for the block 2012-17	January 2012 and June 2012	April 2014 for both the blocks.	Approved	Six years and Nine months	VOCPT did not respond to the decision taken in joint meeting in March 2011. TAMP treated the proposal withdrawn. Further the Board did not furnish recommendations as per clause 6.3.1.(a) of LP in subsequent proposals. TAMP approved with retrospective effect from 01.07.2007 and 2012

S. No	Port	Last revision of SoR	Due date for next revision	Date of first proposal	Re-submission	Date of approval of TAMP	Latest position	Period of delay	Reasons for rejection/ Delay in approval by TAMP
3	CoPT	October 1996	October 2001		2006; June 2007; August 2009; and February 2010	June 2010	Approved	Eight years Eight months	The proposals sent were not in conformity with LP. The port was asked to prepare the proposals based on market value since the market value of 2003-2005 were considered.. The port requested TAMP to consider the value as it proposed since the value of land as per the valuation report was less than the port value..  SoR shall come into effect from expiry of 30 days from the date of notification of order in the Gazette of India and shall be in force from July 2010 to July 2015.  The proposals of 2002 and 2006 were rejected as the port adopted cost plus approach without following the LP guidelines.
	MPT	2000	2005	August 2004	December 2008 and January 2012	May 2012	Approved	Six years and Six months	SoR shall come into effect from expiry of 30 days from the date of notification of order in the Gazette of India and shall be in force from June 2012 to June 2017
5	MbPT (inside custom bond area, Outside custom bond area and Casual occupants)	September 2006	April 2009	January 2009	August 2011	October 2011	Approved	Two years and Six months	TAMP notified (October 2011) to continue December 2006-March 2009 rates from December 2011 onwards.  In respect of Outside custom bond area, rent was increased @ 4 % annually based on Supreme Court Decision in 2004 and clarification in 2006.  Regarding casual occupants, the rates were not revised since January 1986 onwards.
6	JNPT								* Last revised in 1997. Land value not ascertained and yet to submit the proposal.

S. No	Port	Last revision of SoR	Due date for next revision	Date of first proposal	Re-submission	Date of approval of TAMP	Latest position	Period of delay	Reasons for rejection/ Delay in approval by TAMP
7 (a)	KPT (A to G Category)		July 1999 to December 2003 January 2004 – December 2008 and January 2009 to December 2013.		April 2010	March 2011		11 years and 10 months for the block 1999 to 2003 Seven years and Four months for the block 2004 to 2008. Two years and Four months.	Delay in complying the requirements of TAMP. Implementation was given with retrospective effects in all the three orders.
7 (b)	KPT Salt Land	March 2011	December 2013	June 2011	-	November 2014 for January 2014 to December 2018	Approved	10 months	Objections raised by port users and port were advised to consider their points of view. Port replied that the proposals as prepared as per land policy 2014 and need not revise it.
		July 1994	July 1999			2006	Approved		TAMP advised to submit the proposals along with the proposals for other lands. The port agreed to submit the proposals as per TAMP direction. However, Government insisted for submission of proposal. The port submitted the revised proposal for Salt Land.
		January 2006	July 2010	February 2011		April 2012	Approved	one year and 10 months	KPT adopted market value of land based on auction conducted in July 2010 for smaller plots. Port users objected that such rates would be appropriate for the large areas. TAMP advised to conduct auction for larger size of plots and incorporate suitable market value. KPT requested that the effect had to be given with retrospective effect from July 2010.

S. No	Port	Last revision of SoR	Due date for next revision	Date of first proposal	Re-submission	Date of approval of TAMP	Latest position	Period of delay	Reasons for rejection/ Delay in approval by TAMP
									The order was given with retrospective effect. Further the applicability of the order was extended upto March 2011. Hence the rate adopted was in order.
	KPT (Gandhidham Township)		January 2014	-	-	Extension granted.			The existing order came into force May 2012 for the block January 2009 to December 2013. It was extended upto 30 June 2015 or till finalisation of revision of SoR whichever is earlier.
8	VPT	April 2008 for 19 zones for the block 1998 to 2003 and 2003 to 2008. November 2010 for the remaining 12 zones for the same two blocks.	April 2008 for the block 2008-13	November 2011	-	June 2012	Approved	Four years and one month	Extension granted for applying existing order till finalization. Delay in Obtaining revised valuation for land.
9	NMPT	January 2005 for the block February 2002 to February 2007. June 2010 for the block 2012-17	February 2007 for the block 2007-12. June 2012	March 2007	Nil	June 2010 May 2014	Approved Approved	Three years and Three months One year and Seven month	The valuation report submitted in July 2009. TAMP permitted to implement retrospectively from July 2007. Approved with retrospective effect

S. No	Port	Last revision of SoR	Due date for next revision	Date of first proposal	Re-submission	Date of approval of TAMP	Latest position	Period of delay	Reasons for rejection/ Delay in approval by TAMP
10	KoPT/KDS KoPT/HDC	October 1999 (interim order for two years)	October 2001	September 2005	December 2009	January 2011	Approved	10 years and Two months	The port requested TAMP to close the earlier proposals to enable it to undertake fresh land valuation and to submit the revised proposal.
11	PPT	April 2005	April 2010	May 2012	September 2014 and November 2014	Under process	-	Eight years	On sending of proposals, Ministry advised in August 2012 to wait for new LP guidelines and adopt the mechanism accordingly for finalisation of SOR.

- Details such as Data of submission of proposals and approval are not available in the TAMP website on search from May 2000 to December 2014 in the case of MbPT and from April 1998 to November 2014 in the case of JNPT.

### Glossary of Abbreviations

Sl. No.	Abbreviations	Expanded form
1.	BOT	Build, Operate and Transfer
2.	ChPT	Chennai Port Trust
3.	CIDCO	City Industrial Development Corporation of Maharashtra Limited
4.	CoPT	Cochin Port Trust
5.	DRA	District Revenue Authority
6.	GIS	Geographical Information System
7.	GOI	Government of India
8.	Ha	Hectares
9.	HDC	Haldia Dock Complex
10.	HGPL	Hygrade Pellets Limited
11.	JNPT	Jawaharlal Nehru Port Trust
12.	KDS	Kolkata Dock System
13.	KoPT	Kolkata Port Trust
14.	KPT	Kandla Port Trust
15.	KPL	Kamarajar Port Limited
16.	LDS	Land Distribution Statement
17.	MbPT	Mumbai Port Trust
18.	MoST	Ministry of Surface Transport
19.	MCGM	Municipal Corporation of Greater Mumbai
20.	MoS	Ministry of Shipping
21.	MPT Act	Major Port Trust Act 1963
22.	MPT	Mormugao Port Trust
23.	NMPT	New Mangalore Port Trust
24.	PP Act	Public Premises (Eviction of Unauthorized Occupants) Act 1971
25.	PPT	Paradip Port Trust
26.	SPSU	State Public Sector Undertaking
27.	TAMP	Tariff Authority for Major Ports
28.	VOCPT	V.O. Chidambaranar Port Trust
29.	VPDA	Vasco Planning and Development Authority
30.	VPT	Visakhapatnam Port Trust

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