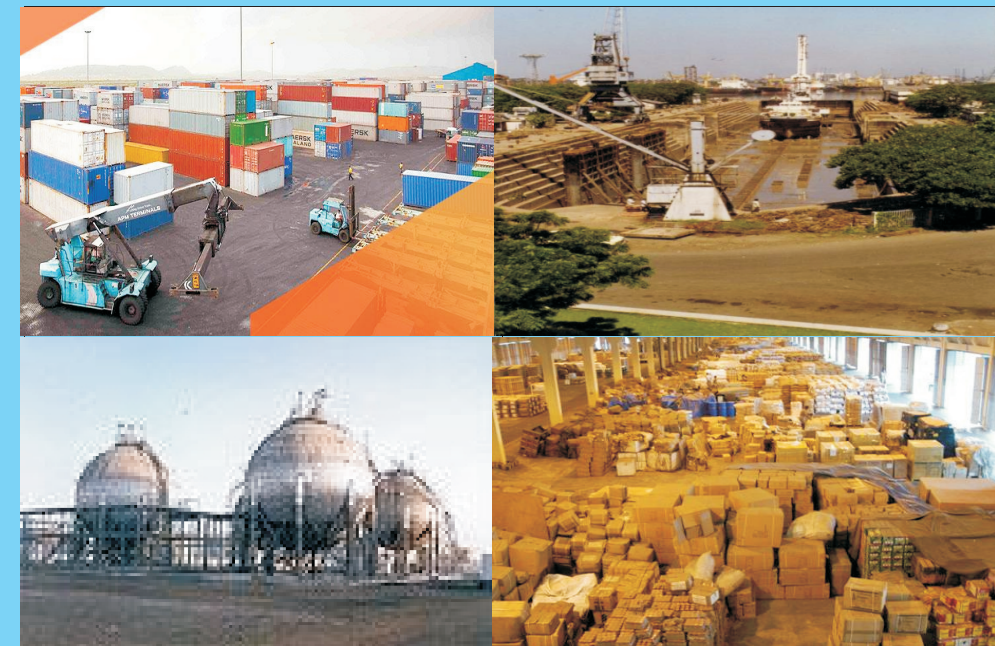


# **LAND POLICY**

## **GUIDELINES FOR MAJOR PORTS - 2014**



**Government of India**  
**Ministry of Shipping**  
**January, 2014**

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## Foreword



The Union Cabinet has approved 'Policy Guidelines for Land Management by Major Ports' formulated by Ministry of Shipping. This is a Major Policy initiative, providing for a transparent mechanism for allotment of land in the possession of the Major Ports.

The present Policy initiative is a marked improvement over the previous efforts and I am confident that it will act as a catalyst for attracting investments in the Major Port sector. The Major Ports will now be able to leverage their land banks for attracting dedicated cargo and bolster their business prospects. This will also greatly benefit the Government Departments/PSUs and Statutory Authorities as the Policy prescribes a special dispensation for such entities. I would request all the Major Ports to take advantage of the Policy Guidelines and expedite the process of land allotment for various commercial activities in the Port.

I would like to compliment the Officers of the Ministry for their efforts in formulating the Policy Guidelines.

**(G.K. Vasan)**

**मिलिंद देवरा**  
**MILIND DEORA**



राज्य मंत्री  
संचार, सूचना प्रौद्योगिकी  
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January 13, 2014

### MESSAGE

Policy Guidelines for 'Land Management by Major Ports' 2014 is a product of past experience and an outcome of extensive consultative process with different stakeholders. It will enable the Major Ports to allot land on lease/licence basis for various commercial ventures, which is expected to increase the throughput of Ports.

The Policy is a Major milestone for the sector and I am confident that the Major Ports will lease/licence land within the broad parameters laid down therein to satisfaction and benefit of all Port users.

I take this opportunity to appreciate the efforts of the officials involved in the exercise and also, expect that it will benefit all stakeholders.

(MILIND DEORA)

## **Preface**

Major Ports in the country have between them 2.64 lakhs acres, which is a Major resource that can be leveraged for commercial advantage. The Policy Guidelines formulated for land management will provide the necessary regulatory framework for land allotment and other Port specific practice like waterfront charges/way-leave permissions etc. The endeavour of the Policy is to enable the Ports to carry out leasing and licensing of Port land in a transparent manner. Discretionary powers have been reduced and tender-cum-auction methodology has been prescribed as the dominant method of allotment. The thrust of the Policy has been to maximize the realisation for the Port by linking the value of the land resources with the prevailing market rates.

I expect Major Ports to take advantage of the present guidelines, which are going to complement their efforts at improving their business prospects. The approval of the Policy has lifted one of the major impediments to the growth of the Ports and has provided a level-playing field to them vis-a-vis the non-Major privately owned Ports.

**Dr. Vishwapati Trivedi**  
Secretary to the Government of India

# **POLICY GUIDELINES FOR LAND MANAGEMENT BY MAJOR PORTS, 2014**

## **1. BACKGROUND**

Land is one of the important resources with the Port Trusts to promote their business and accommodate the increasing traffic at the ports. As per the provisions contained in Sub-Section (1) of Section 34 of the Major Port Trusts Act, 1963, Ports are empowered to lease out land for a period up to 30 years and in case the period of lease is for more than 30 years, prior approval of the Central Government is necessary. The relevant portion of this Sub-Section is reproduced below:-

*“Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract whereof the value or amount exceeds such value or amount as the Central Government may from time to time fix in this behalf, shall be made unless it has been previously approved by the Central Government.”*

2. To regulate allotment of land, the Ministry of Shipping has been issuing guidelines from time to time. In the competitive environment that the ports operate, continuous review of these guidelines is imperative.

3. During the year 2003, a Committee on Port Land Policy was set up under Chairman, JNPT to examine among other things, the legal provisions, instructions issued periodically and to recommend a draft Land Policy which was simple, clear, unambiguous and easy to implement. The Committee submitted its report which was examined by the Ministry and the land policy guidelines were issued in the year 2004.
4. The salient features of Land Policy, 2004 were as under:-
  - (a) Land inside custom bond area was to be given on Licence basis for 11 months at Schedule of Rates. No sale or lease of land was permitted.
  - (b) Land outside custom bond area was to be given on lease (or) licence by inviting tenders.
  - (c) Land was to be leased only on upfront basis (or) annual lease basis. In case of annual lease, port was required to keep 5 years rent (or) 25% of total lease rent for duration of lease as security whichever is lower.
  - (d) Method of working out Schedule of Rates, market value of land, reserve price etc., were provided.
5. Thereafter, during the year 2009, Ministry of Shipping constituted a Committee under the Chairmanship of Additional Secretary & Financial Adviser with Chairmen of a few major ports, Managing Director, IPA and Joint Secretary (Ports) as Members, and the above Committee was given the following mandate:-
  - (a) to re-look at the policies which are directly having a bearing on the functioning of Major Ports; and

- (b) to recommend various steps for increasing efficiency of the ports and encourage private enterprise in functioning of major ports with a view to provide efficient and economic end to end solutions to the ultimate customers.
6. The Committee Report was examined and deliberated upon in the Ministry after which a 'draft Land Policy' was prepared. This draft Land Policy was put up on the web-site of the Ministry inviting comments and suggestions. After examining the suggestions, the Ministry issued the Land Policy 2010.
7. The salient features of Land Policy 2010 are as under:-
- Policy applicable to Major Port Trusts and Ennore Port except to land relating to Gandhidham Township of Kandla Port Trust.
  - Allotment of land inside custom bound area on (a) licence basis for 11 months (b) medium term lease basis upto 10 years for certain port related structures like conveyors, silos, pipelines etc.
  - Land outside custom bound area through competitive bidding process with reserve price as 6% of market value of plot.
  - Provisions for administrative reforms like computerisation of land management system and e-payment included.
  - Terms & conditions of way leave permission included.
  - Licence Fee for water area as 50% of licence fee of abutting land.

- In case of annual lease rent proposals, security deposit was reduced as one year lease rent.
  - A new clause was introduced for considering the leases beyond 30 years and for a maximum period of 99 years, to be finalised by an Empowered Committee comprising Secretary (Shipping), AS&FA (Shipping), JS, Ministry of Finance and concerned Adviser of Planning Commission.
8. Later a Draft Policy for land management by Major Ports 2012 was prepared by the Ministry and circulated to various stakeholders for comments and was also put up on the website of the Ministry inviting comments and suggestions. Simultaneously, Inter-Ministerial consultations were also done. Based on the inputs received, the “Policy Guidelines for land management by Major Ports, 2014” was finalised. The said guidelines have been approved by the Union Cabinet on 2/01/2014.
9. **Objectives** - The main objectives of the Policy are:-
- a) To ensure that land resources are put to optimum use as per the approved Land Use Plan with focus on retaining /attracting port traffic;
  - b) To ensure that optimum value is realized by licensing / leasing Port land through a transparent tender-cum-auction methodology.
  - c) The policy prescribes the procedure for revision of rates to enable maximum resource generation for the Ports and the methodology for regular updating of the rates in line with the market value



- d) The policy also recognizes the need for special dispensation for cases relating to educational and security purposes.
- 10. Scope: The policy is applicable for all Major Port Trusts and Ennore Port Limited except for the land relating to the Township areas of Kandla, Mumbai and Kolkata Ports for which separate policy will be formulated.
- 11. Empowered Committee Mechanism: There shall be an empowered Committee comprising of AS&FA (Shipping), Joint Secretary (Ports), Joint Secretary of the Department of Economic Affairs, and the concerned Adviser of the Planning Commission, for discharge of such functions as are allotted to it under this policy.
- 12. These policy guidelines for land allotment would be applicable to all new *PPP* projects also. For such projects, approval of the project by the competent authority will be taken as approval for the licence of the land component of the project.
- 13. **Land Use Plan:**

Every Major Port shall have a Land use plan covering all the land owned and/or managed by the Port. Such plans shall be approved by the Board and a copy would be forwarded to the Government. Any proposal for revision of land use plan shall be finalized by the Board only after considering the objections and suggestions received from the various stakeholders. Land use plan of major ports shall be reviewed by the Board at least once in every five years.

#### **14. Land Allotment Policy:**

Land can be allotted either on licence or lease basis as per the approved Land use Plan/Zoning.

- 14.1 The expression “Lease” shall have the meaning assigned to it as in Section 105 of the Transfer of Property Act, 1882 . Accordingly, lease is defined as transfer of a right to enjoy immovable property, made for a certain time, expressly provided for, in consideration of a price paid or promised, or of money to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.
- 14.2 The expression “licence” shall have the same meaning assigned to it as in Section 52 of the Indian Easements Act, 1882. Accordingly, licence is defined as a right granted to another person by the grantor, to do or continue to do upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property.
- 14.3 The word “Port” and “Board” wherever used in the policy directives connote “Port Administration” and ‘Board of Trustees/ Directors’ respectively.

**15. Custom bond area:**

**15.1. Fresh allotment of land:**

- a) The land inside custom bond area, which is required on an immediate basis, shall be given on licence basis only and no lease may be permitted. Wherever feasible, such licence shall be issued only by inviting competitive tenders. The guidelines laying down the detailed procedure in this regard shall be framed and approved by the Board of the Port. The licence may be granted upto a maximum period of 11 months and shall be at the bid value discovered through the tender-cum-auction, wherever feasible and would be approved by the Board. In cases, where the tender-cum-auction is not possible, land can be allocated on licence basis at the latest market value which would be the value notified under para-18 (c). However, allotment of land by not resorting to tender-cum-auction methodology should be exercised as an exception.
- b) The Port may also allot land inside the Custom bond area for activities vital to Port operations or for those which clearly aid Port activities and sea trade, such as, setting up of duty free shop, communication centres, parking facilities, passenger facilities like shopping centres, cyber cafes, health clubs etc. and security related activities. The tenure of license for such land will be decided by the respective Port Trust Boards and such tenure shall not exceed 5 years. All

such proposals should, however, have the necessary statutory and/or administrative approvals. Land is to be allotted through tender-cum-auction methodology through a competitive bidding process over the reserve price of such plots which shall be worked out by the Land Allotment Committee of the Port and approved by the Port Trust Board. Land can also be allotted on nomination basis to CPSUs/SPSUs for activities that are vital to Port operations or which clearly aid port activities at the latest market value which would be the value notified under para-18 (c).

## **15.2. Renewal of existing land leases:**

Even though it would be ideal that land inside custom bond area is allotted on licence basis only, it is observed that some major Ports have allotted land on long term lease basis inside the custom bond area before the land policy guidelines issued in the year 2004 came into force and original lessees have created permanent structures on the land. The procedure outlined in Para 16.3 will also be adopted for renewal of lease of such lands inside the custom bond area.

## **16. Outside Custom bond area:**

### **16.1 Licence of land:**

Normally, land outside custom bond area shall be given on lease basis only. However, in specific cases, for reasons to be recorded in writing, land can be given on licence basis only for Port related activities. Licence of land outside custom

bond area will also be governed by the same methodology and conditions as are applicable in case of land inside custom bond area, as spelt out in Para 15 above.

#### **16.2. Fresh Leases:**

- (a) Land should be leased only in accordance with the land use plan.
- (b) Land can be leased up to a maximum cumulative period of 30 years by the Port with the approval of the Board. Renewal of leases beyond thirty years and for a maximum cumulative period of 99 years should be recommended by the Port Trust Board after satisfying itself that the same is required to be renewed and that the Port does not require the said land for its own use. Renewals will be granted through the Empowered Committee mechanism subject to the approval of the Government and renewals will be limited to a maximum cumulative period of 99 years.
- (c) In certain cases the lessee may require land for capital intensive investment like tank-farms, refineries etc. The Port, may at its option decide to fix the tenure of lease for a period which is more than 30 years. Such proposals are to be submitted with the recommendations of the Board to the Empowered Committee for its approval. The Port in its land-use plan should identify land which can be allotted on long-term lease basis, i.e. for a tenure of 30 years and beyond.

- (d) Land shall be leased through tender -cum -auction methodology through a competitive bidding process over the reserve price of such plots which shall be worked out by the Land Allotment Committee of the Port and approved by the Port Trust Board and by TAMP. At the tender -cum -auction stage, depending upon its financial requirement, the Port may decide to invite bids either on- (i) Upfront basis, where the bidding parameter is the one-time upfront payment offered by the bidder for the lease period and a nominal lease rent of Rs. One per square metre to be collected every year for the currency of lease period, or; (ii) Premium basis, quoted by the bidder over and above the Reserve Price in terms of the annual lease rent, calculated as per the provisions of para-18(b). While leasing out land on upfront basis, the Board shall fix the Reserve Price which would be the NPV of the sum total of annual lease rentals calculated as per Para 18(b), escalated annually at the rate approved by the Board as indicated in para 18(c). The discount factor would be the longest term G-sec rate as per the latest RBI Bulletin. In both cases, the Port shall keep equivalent of two years rentals as security deposit.
- (e) A Land Allotment Committee shall be constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic. The Land Allotment Committee will finalise the Reserve Price as per the methodology explained above and in Para 18(b).

- (f) In respect of PPP projects, the annual lease rent based on updated/latest market value with the approved rate of annual escalation would be indicated to the bidders at the bidding stage itself. With respect to land allotted for captive facilities, the lease rentals for the land allotted shall be recovered from the user as per the annual lease rental based on market value notified as per Para-18(c), with the approved rate of annual escalation. The lease rental, as well as the rate of annual escalation would be approved by the Port Trust Board.
- (g) For Government schools and colleges, land can be allotted by the Port Trusts on nomination basis provided allotment is in the interest of the Port Trusts. The land allotted to such entities to be used exclusively for the purpose for which it has been allotted and under no circumstances, the usage can be changed. In case the leased land is not used for the purpose it is granted, the lease to be terminated and the land so allotted to be resumed by the Port. No transfer/sub-letting of such lease will be permitted. Concession upto 75% on the annual lease rent arrived at on the basis of updated/latest market value may be granted to government schools and colleges.
- (h) Land can also be allotted on nomination basis to Government Departments, Statutory Local Bodies, Statutory Authorities/Autonomous Organisations under State/ Central Ministries, Central Public Sector Undertakings (CPSUs), State Public Sector Undertakings (SPSUs) and security agencies like State Police, CISF, Coast Guard and Navy, subject to the

availability of land and on the basis of updated/latest market value notified in accordance with Para 18(c). In cases where any CPSU/SPSU/Statutory Authority enters into Joint Ventures (JV) with private party/parties and the said CPSU/SPSU/Statutory Authority is the lead promoter and has the largest share-holding in the said JV, Port Trust Board may decide to allot land to them also on nomination basis with the approval of the Port Trust Board after incorporating appropriate safeguards. Concession may be granted to security agencies and Government Departments only upto 50% of the annual lease rent. However, in respect of land to be allotted to government departments which are essential to the functioning of the Port like customs, electricity department, health department and for core security functions, concession upto 75% of the annual lease rental can be considered by the port. But such concession can be given for only small extent of land required for core operational purposes imperative for Port functioning and not otherwise. The issue of granting concession and the quantum may be decided on a case to case basis by the Port Trust Board, after recording the reasons in writing.

- (i) When entering into a joint venture for improving Port connectivity or Port development with any public authority, land required for such projects, valued at its updated/latest market value may constitute the equity of the Port in such joint ventures.



- (j) The Port Trusts should not entertain any proposal for allotment of land to religious institutions or for religious purposes or to political institutions.

### **16.3. Renewal of Existing Leases:**

- (a) In cases of renewal of existing leases with or without renewal option, the Port should verify if the land is required for its own use. If it is so required, the Port shall take possession of the land on expiry of lease.
- (b) If the land is not required by the Port for its own use, the Port should then check whether the land use is consistent with the land use plan and whether the lessees are not in default. Thereafter, if it is so, the following procedure will be adopted for renewal of lease of land outside the custom bond area.
- (c) During the process of renewal of existing leases, the Port is required to differentiate between those lease-agreements that stipulate automatic renewal and those that do not provide for such automatic renewal at the end of the lease-period. In cases of renewal of existing leases, without automatic renewal option at the end of the lease-term, the land will be put to tender-cum-auction with the first right of refusal to be extended to the existing lessee. The existing lessee should be allowed to match the H-1 bid. If any structures has been constructed by the earlier lessee on the leased land, it would be valued by a third party valuer to be agreed upon by the Port Trust and the earlier lessee and the successful bidder

has to remit the value of the structures which would be passed on to the previous lessee. The bidding and auction would be only on the reserve price of the land. With a view to dissuade non-serious bids, EMD for a valid bid should be fixed at 10% of the updated/latest market value of the land being put on tender. If the only bidder is the existing lessee, the annual lease rental would be determined on the basis of the updated/latest market value notified as per Para 18(c) or the price quoted by the existing lessee in the tender-cum-auction, whichever is higher.

- (d) In respect of lease agreements with automatic renewal option, the lease can be renewed by the Port Trust Board by treating it as a fresh lease at the updated/latest market value, notified as per Para 18(c).
- (e) No renewal clause is to be provided in the lease-agreements entered into after coming into effect of these guidelines.
- (f) Any renewal of lease to the original party over and above the existing period is to be approved by the Board, provided that the cumulative lease period does not exceed 30 years.
- (g) Any extension beyond 30 years and for a maximum period of 99 years has to be recommended by the Port Trust Board and the same will be examined and scrutinized by the Empowered Committee which would satisfy itself regarding the justification for such extension and competitiveness of the rate at which such

extension is to be granted. Thereafter, approval will be granted by the Government.

- (h) After the expiry/termination of lease and despite receiving the notice thereof, or forfeiture of lease on account of change of user, assignment etc., if the lessee continues to occupy it unauthorizedly, the lessee shall be liable to pay compensation for wrongful use and occupation at three (3) times the annual lease rent based on updated/latest market value, till vacant possession is obtained by the Port. In cases of land allotted on upfront basis, the equivalent annual lease rent would be calculated on pro-rata basis.
- (i) For existing leases, at the time of expiry/termination of lease, the lessee shall remove all structures at his own cost under the following conditions:-
  - (a) Within three (3) months of expiry/termination, if Port decides not to re-auction that land; or,
  - (b) Three months after tender-cum-auction, if the existing lessee was not successful.

Beyond this period, the lessee shall be liable to pay compensation for wrongful use and occupation at three (3) times the annual lease rent, till vacant possession is obtained. In cases of land allotted on upfront basis, the equivalent annual lease rent would be calculated on pro-rata basis. If the Port so decides, for reasons to be recorded and approved by the Port Trust Board, it may also take over the structures after third party

valuation of the assets with the concurrence of the lease holder. In case removal of structures is to be carried out by the Port, it would be at the cost of the lessee.

- (j) The process of renewal of existing leases should be initiated by the respective Ports well in advance, before the term of lease expires. The automatic renewal of existing leases should be preferably done within three months of receipt of such application for renewal. Liability to pay compensation for wrongful use by the lessee will not arise, if the delay in renewing such leases is wholly attributable to the Port.
- (k) In respect of old leases, where the terms of lease stipulate automatic renewal at pre-determined rates, such cases are to be reviewed by the Board on a case to case basis from the point of view of the reasonability of such terms of renewal, including the rates. In such cases, the endeavour should be to migrate to lease rentals based on latest market value.

**17. General - Applicable to existing and new leases:**

- (A) The lessee may be allowed to transfer the lease as per extant laws after obtaining prior approval of the Board of Trustees provided the transferee takes over all the liabilities of the original lessee/ allottee. Such transfer shall be for the remaining duration of the lease and in accordance with the Land Use Plan of the Port. Before allowing such transfer, the Port shall recover:-

**(i) In case of leases granted on upfront basis**

In case of those lands which were originally given on lease on upfront- rental basis, the transfer as per extant laws may be allowed subject to the transferee agreeing to pay the following:-

- (a) An undertaking for payment of the upfront rental as calculated on pro-rata basis for the balance period; and
- (b) A fee equal to 50% of the pro-rata upfront rental payable upto the time of transfer.

**(ii) In case of leases granted on annual lease rent basis**

In case of leases granted on annual lease rent basis transfer may be allowed subject to:-

- (a) An undertaking for payment of the annual lease rental for the balance period, and
- (b) A fee equivalent to 50% of the total lease rent payable by the original lessee upto the time of transfer.

- B. The lessee may be allowed to sublet/partially sublet the leased premises to another party for the same purpose for which it was originally allotted. Also, such subletting shall be in accordance with the Land Use

Plan and before allowing this, the Port shall recover 50 % of the rent charged by the lessee from the sub-lessee for the entire period of sub-lease irrespective of the fact whether land was originally allotted on upfront basis or annual rental basis. It is clarified that the original lessee would continue to remain responsible for payment of lease rent and for adherence to the terms and conditions of lease. However, in respect of leases which shall be entered into after the coming into effect of these guidelines, in cases where, the lessee is not able to utilize the entire land leased to him, the portion of the lease premises not required by him should be surrendered and no subletting shall be permitted.

- C. All proposals for transfer / subletting should be evaluated by the Land Allotment Committee and thereafter approved by the Board of Trustees.
- D. NOC can be granted for mortgage of leasehold land, along with the permissible structures erected by the lessee thereon in favour of reputed financial institutions/ scheduled banks, subject to the Port retaining the first charge on them. The Board of Trustees may permit the mortgage on collection of a nominal fee commensurate with the size and lease value of the land to be fixed by the Trust Board. All proposals for grant of NOC for mortgage may be duly recommended by the Land Allotment Committee and approved by the Chairman of the Port.

- E. Each lease agreement should specifically provide for termination of lease, if the leased land is not utilized for the purpose for which it is allotted, within two years of the allotment, or such shorter period as may be fixed at the time of approval of the lease.

However, this period of two years can be extended by the Board maximum upto one more year from the date of physical possession of land in respect of security/ government agencies only. Similarly, each lease agreement should specifically provide for surrender of lease, subject to prior notice by the lessee at least 6 (six) months in advance.

- F. After the expiry/termination of lease or forfeiture of lease on account of change of user assignment, etc., if the lessee continues to occupy it unauthorized, the lessee shall be liable to pay compensation for wrongful use and occupation at three times the annual lease rent, irrespective of the fact whether land was originally allotted on up front basis or annual rent basis, till vacant possession is obtained. In cases of upfront bidding, the annual lease rent would be determined on pro-rata basis
- G. If a lessee breaches/ violates any provision of Lease Agreement, the Port Trust Board would reserve the right to impose appropriate penalty on the lessee or cancel the lease depending upon the nature/ magnitude of breach / violation. Such penalty may be imposed after giving a reasonable opportunity to the lessee to present his case.

- H. The Port would have the option to prescribe Minimum Guaranteed Traffic/ Minimum Guaranteed Revenue as conditions for fresh leases, if deemed fit.
- I. Licence fee for water area would be 50% of licence fee of abutting land.
- J. The Port Trust Board shall have the right to resume possession of the leased land in public interest before expiry of lease period. In such cases, subject to availability of land, the lessee may at the discretion of the Port Trust Board be given an option to relocate activities in another suitable location to be offered by the Port, as per the land use plan.
- K. The Port Trust Board shall fix objective eligibility criteria for qualification of bidders, such as net-worth, tax certifications and non-pendency of mutually admitted Port dues.
- L. In respect of land situated adjoining to Defence Installations as defined in Works of Defence Act, 1903, prior concurrence of the Local Defence Authority will be required.
- M. Transfer of lease should not be permitted where land has initially been allotted on nomination basis or at concessional rates of lease rent.
- N. In respect of a case where the transferor extracts premium on the transfer of the lease, 50% of such premium is to be paid to the Port Trust.



**18. Market Value of land / Reserve Price:**

- (a) Land Allotment Committee may normally take into account the highest of the factors mentioned herein below to determine the latest market value of Port land. In case the land allotment committee is not choosing the highest factor, the reasons for the same have to be recorded in writing.
  - (i) State Government's ready reckoner of land values in the area, if available for similar classification/ activities.
  - (ii) Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board.
  - (iii) Highest accepted tender-*cum-auction rate* of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board.
  - (iv) Rate arrived at by an approved valuer appointed for the purpose by the Port.
  - (v) Any other relevant factor as may be identified by the Port.
- (b) The Land Allotment Committee shall, while recommending the latest Market Value for any land would normally take into account the highest of the

factors mentioned in Para 18 (a) above. Reserve Price in terms of the annual lease rent would be considered as a percentage of the latest market value determined in accordance with Para 18(a) above, and would in no case be less than 6% of the latest market value, to be fixed by the Port Trust Board.

- (c) The Port Trust would make a proposal as outlined in para 18(a) to TAMP for fixing the market value of the land. The TAMP would notify the market value of the land after following due process of consultation with stake holders within 45 days of receipt of the proposal. The Port Trust Board will fix a rate of annual escalation which would not be less than 2%.

**19. Right of Way permission:**

The Right of Way permission for laying pipelines/conveyors etc., from jetties to the tank farms within & outside port area shall be given with approval of the Board. It shall neither be a lease nor a license. As far as possible, the pipeline should be permitted only underground. There shall not be any allotment of land to a party for giving Right of Way permission. As far as possible, these shall be laid on common user basis and if the same pipeline is required by any other party, it shall be spared, on such terms as agreed between the parties and the Port Trust Board. The parties shall have to abide by the conditions specified by the Port. An indicative list of guidelines/conditions for Right of way permission is at Annexure to this document. The Policy for giving the Right of way permission and the terms and conditions shall be formulated by the respective Port Trust Boards.

**20. Transparency and Accountability Provisions:**

- (i) All proposals for transfer of leases, change of purpose/ use, mortgage of land, Right of Way permission etc shall be recommended by the Land Allotment Committee and approved by the Port Trust Board.
- (ii) The allotments through tender-cum-auction shall preferably and progressively be done through e-tendering.
- (iii) All financial transactions related to land shall be made with authorized banks on e-payment basis.
- (iv) Details of updated/latest market value assessed by Ports should be displayed on their websites. All matters relating to land bank belonging to a Port, including location and availability should be placed on their website.
- (v) Any proposal for fresh lease/ licence or renewal of existing lease/licence should be placed in the public domain and reasonable time provided for inviting comments / suggestions of the public.
- (vi) Any proposal for revision of the land use plan shall be published in the website of the Port Trust inviting objections and suggestions and shall be finalised by the Board after considering the objections and suggestions received.

- (vii) In case of any ambiguity or doubt arising in regard to any provision, the Ministry of Shipping would have the powers to interpret and clarify the same within the overall framework and spirit of these guidelines.
- (viii) In case of any difficulty arising in implementing these guidelines, the Ministry of Shipping would have the powers to relax the provisions in these Guidelines, in public interest, within the overall framework and spirit of the guidelines.

## **BROAD TERMS AND CONDITIONS FOR ISSUANCE OF RIGHT OF WAY PERMISSION FOR LAYING PIPELINES/CONVEYORS ETC.**

1. The parties shall be allowed to lay pipelines/conveyors etc., on right of way basis and on purely temporary basis.
2. Only permission shall be given. There shall not be any allotment of land to the party nor is to be construed to be a lease or licence.
3. Facility compensation or right of way charges shall be paid by all parties. For the purpose of Right of way leave charges, the area occupied by pipelines shall be calculated based on the diameter and length of those pipelines. In case of multi-layer stacks, the physical area occupied by the multilayer pipeline/conveyor stacks shall be considered and the respective users shall be billed accordingly. As far as underground pipelines are concerned, if the users establish that the possession of surface area above the underground cross-country pipelines is not physically with them, the area occupied by such pipelines shall be considered as 50% of the diameter and length, for the purpose of levy of Right of Way charges.
4. As far as possible, the pipelines may be laid on common-user basis. If any other party wants to use the pipelines, they may be given permission on such terms as agreed to between the Parties and the Port Trust Board.

5. One time Supervision charges as a percentage of the cost of laying of pipelines/conveyors etc. in the port limits shall be paid by all the parties to the Port Trust. The charges would be applicable even if the supervision is done by a third party.
6. Each Port Trust Board would formulate and approve their own policy for one time supervision charges, MGT and additional compensation charges if any for granting way leave permission.
7. The Port Trust shall ensure that the wharfage and all other charges due to be paid by the party, shall be paid to the Port Trust for the cargo handled through the pipelines.
8. All statutory permissions including that of explosives and fire-safety etc., shall be obtained by the parties concerned from the respective authorities.
9. Port Trust shall reserve the right to direct the parties to remove the pipelines modify or re-route the pipelines in the exigencies or interest of the Port and the Party shall carry out the same at their own cost.
10. The party shall indemnify the Port Trust against all kinds of damages, loss to Port property, personnel etc., caused due to laying, maintenance and operation of pipelines.
11. The party shall follow all the relevant rules of the Port Trust and other statutory authorities such as the Chief Controller of Explosives, Nagpur and also provisions of other relevant statues etc.

12. The party shall take adequate safety measures and arrange for patrolling of their pipelines round the clock at their own cost.
13. The Port Trust shall not be held responsible for any loss, damages, pilferage etc., of the products from pipelines.
14. Other usual operating conditions as laid down by the Port Trust would apply.

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