

**Subject: Record Note of discussion of the meeting of Public Private Partnership
Appraisal Committee held on 08.11.2006**

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The fifth meeting of the Public Private Partnership Appraisal Committee (PPPAC) was held on 08.11.2006 at 5.00 PM. The list of participants is annexed.

2. PPPAC noted that the proposal of Mormugaon Port project for construction of cruise-cum-Container Terminal at Baina was withdrawn by the Department of Shipping and would be submitted subsequently.
3. PPPAC considered the following three projects:
 - (i) Development of eighth berth Tuticorin Port Trust as a second container Terminal on BOT basis;
 - (ii) Development of 13th to 16th Multipurpose Cargo (other than Liquid/Container) berths at Kandla Port on BOT basis;
 - (iii) Development of Berth No.7 in Murmagao Port.
4. The issues discussed and the decisions thereon are as follows:

Waiver of “in principle” approval:

5. PPPAC noted that in case of Tuticorin Port project and Kandla Port project, RFQ was issued and bidders have already been shortlisted. Only financial bids remain to be invited and that would be undertaken soon after PPPAC approval. In view of the advanced stage of bidding, it was agreed that the “in principle” approval could be waived. The proposal for final clearance was, therefore, considered as follows:

Tariff fixation:

6. PPPAC noted that the subject was being examined in Planning Commission under the Chairmanship of Shri Anwarul Hoda, Member, Planning Commission. PPPAC would hold discussions on this shortly and arrive at a decision. However, PPPAC decided to grant approval to the projects under consideration subject to the decision taken regarding the tariff fixation issue, which would be incorporated by the Project Authorities, and the proposal revised suitably prior to issue of RFP.

Concession Agreement:

7. PPPAC requested Department of Shipping to expedite the finalization of Model Concession Agreement for ports. PPPAC considered various issues relating to the Concession Agreement for the Tuticorin Port project and Kandla Port project and recommended the following changes to be carried out in the said agreements:
 - (i) **Termination payment:** Termination payment would be limited to the project cost indicated in the bidding document and the Concession Agreement. Such a provision would cap the termination liability of the Port Trust in a transparent manner.
 - (ii) **Determination of Termination Payments:** The Concession Agreement presently provides for no cap on the debt due. It also provides for the equity related compensation to be determined by an expert at the time of termination. It was agreed that these provisions would be modified to cap the Debt Due in accordance with the Total Project Cost package. Equity related payments would also be determined in

- accordance with a pre-determined formula to be specified in the Concession Agreement. An example of such an approach may be seen in the MCA for Highways.
- (iii) **Escrow:** The Concession Agreement will make appropriate provision for setting up of an Escrow account that would bring transparency and also secure the revenues of the Port Trust, besides protecting debt service.
 - (iv) **Performance Standards:** The Concession Agreement would include the Performance Standards relating to the project.
 - (v) **Review of completion:** The Independent Consultants would monitor and issue the certificate of completion before commercial operation would be effected by the concessionaire.
 - (vi) **Environment Clearance:** It would be the obligation of the Port Trust to obtain environment clearance prior to the commencement of concession period.
8. On the other issues raised by the legal consultants of Planning Commission it was agreed that Department of Shipping and Port Trust would examine the comments and address them suitably.
9. Proposal of Murmagao Port Trust for development of Berth No.7 was deferred.
10. The meeting ended with vote of thanks to the Chair.

**List of Participants in the meeting of Public Private Partnership
Appraisal Committee taken by Secretary (EA) on 08.11.2006 at 5.00 PM in Room No.
131-A, North Block**

1. Shri Ashok Jha, Secretary, Department of Economic Affairs
2. Shri A.K. Mahapatra, Secretary, Deptt. of Shipping
3. Shri Ashok Chawla, Additional Secretary, Department of Economic Affairs
4. Shri Gajendra Haldea, Advisor to Dy. Chairman, Planning Commission
5. Shri A.P. Aggarwal, Consultant, Ministry of Law
6. Shri C. Balakrishnan, AS & FA, Deptt. of Shipping
7. Shri Arvind Mayaram, Joint Secretary, Department of Economic Affairs
8. Shri A.K. Bhalla, Joint Secretary (Ports) Deptt. of Shipping
9. Shri Praveen Agarwal, Chairman, Murmagao Port
10. Shri N.K. Raghupathi, Chairman, Tuticorin Port Trust
11. Shri A. Janardhan Rao, Kandla Port Trust
12. Shri T. Srinidhi, Director (F), Ministry of Shipping
13. Dr. Anuradha Balaram, Director, Deptt. of Expenditure
14. Ms Anna Roy, Joint Director, Deptt. of Economic Affairs
15. Shri K.R. Reddy, Dy. Secretary, Planning Commission
16. Shri S.K. Saha, Deputy Economic Adviser, Planning Commission