

Subject: **Record Note of discussion of the meeting of Public Private Partnership Appraisal Committee held on 27.12.2006**

The seventh meeting of the Public Private Partnership Appraisal Committee (PPPAC) was held on 27.12.2006 at 11.00 AM in Room No. 131-A. The list of participants is annexed.

2. PPPAC considered the issues relating to tariff fixation for port projects and whether approvals for proposals approved so far should be made subject to resolution of the outstanding issues. It was noted that the approval granted by PPPAC in its fifth meeting to the two port sector projects were 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.

3. It was noted that an Inter-Ministerial Group (IMG) under Member, Planning Commission is also considering the same subject. Adviser to Deputy Chairman, Planning Commission informed that the IMG has deliberated in detail on various issues concerning this subject and its recommendations would be available soon.

4. Secretary (Shipping) stated that the above subject involves complex issues and the Department of Shipping (DOS) has been struggling for long to evolve an alternative to the existing system. A paper has now been prepared that specifies the guidelines for normative tariff fixation. However, he cautioned that the paper had limited applicability at present since it is limited to only container terminals and also does not specify the actual parameters for tariff fixation. The determination of actual norms for tariff fixation is complicated and time consuming. It is proposed that a consultant would be retained to develop the concept paper into an actual guideline for tariff fixation. While he conceded that the existing system was flawed but also it would not be appropriate to hold up all new projects subject to the resolution of this issue. He thus requested that PPPAC may continue with the existing system for the proposals under consideration, as and when the new system is put in place the same would become applicable for any further projects.

5. Adviser to Deputy Chairman, Planning Commission objected to the continuance of the existing system. He noted that the matter has been pending for over a year and stated that the real issue of concern was not so much the principles of tariff fixation but rather the existing practice prevalent in the port sector PPPs that involves bidding with two variables, viz. revenue share and tariff fixation. He stressed that while the norms for tariff fixation is a detailed exercise, the immediate concern that PPPAC needs to resolve is whether it would be desirable to continue with the existing practice as it is not feasible to continue with the practice of bidding documents based on two variables. He stated that Planning Commission has brought out in several papers the fallacies of continuing with this practice and how it would lead to undesirable practices.

6. Additional Secretary, Ministry of Law also queried how the bidding would work given the above considerations.

7. Finance Secretary stated that a benchmark tariff could be considered in the short term based on comparable tariff of the competing ports. He noted that in the long term, once there is sufficient capacity creation, the need for tariff fixation would not be there and the

competition and market forces would then determine the tariff. Joint Secretary, DEA noted that the port sector projects being developed presently do not have performance parameters and for any successful PPP, it is necessary to mandate minimum performance standards to be met by the operator coupled with the penalty structure for any default.

8. In view of the fact that the issues concerned were complex in nature where no solution has been found in spite of protracted discussions in the Planning Commission and it will not be in the interest of port sector development to hold up approvals subject to the resolution of the above issue, it was decided that projects approved by PPPAC in its meeting of 8th November, 2006 will be bid out based on the existing arrangement. However, noting the deficiencies in the existing system and extended delay in resolving the inconsistencies, it was also decided that an alternate system that addresses the concerns with the prevalent practice should be put in place within two months of the date of this meeting. Department of Shipping may kindly work within this time frame.

9. The meeting ended with thanks to the Chair.