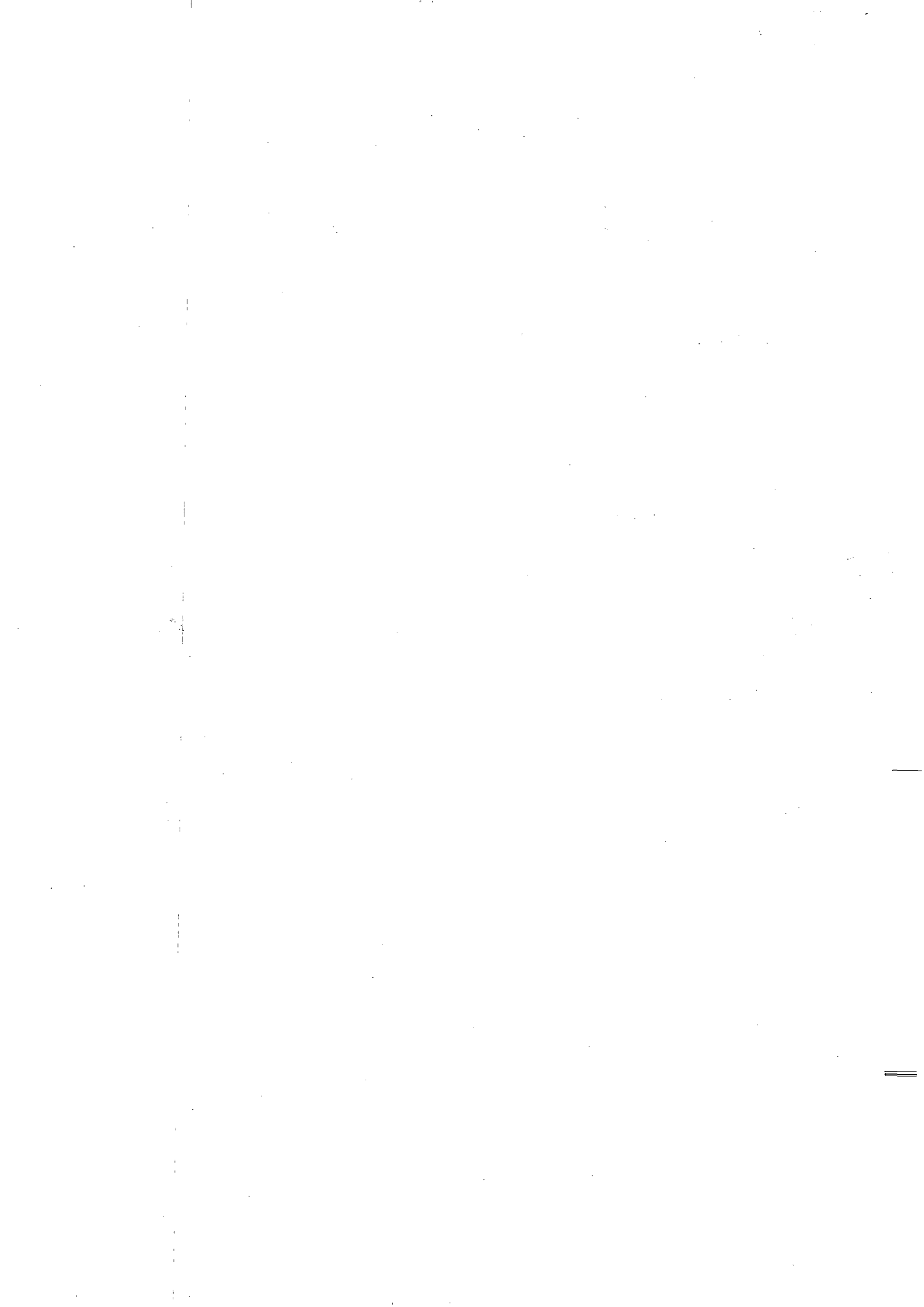




**Report of the
Comptroller and Auditor General of India
on
Public Private Partnership Projects in Major Ports**

For the year ended March 2014

**Union Government
Ministry of Shipping
Report No. 49 of 2015
(Performance Audit)**



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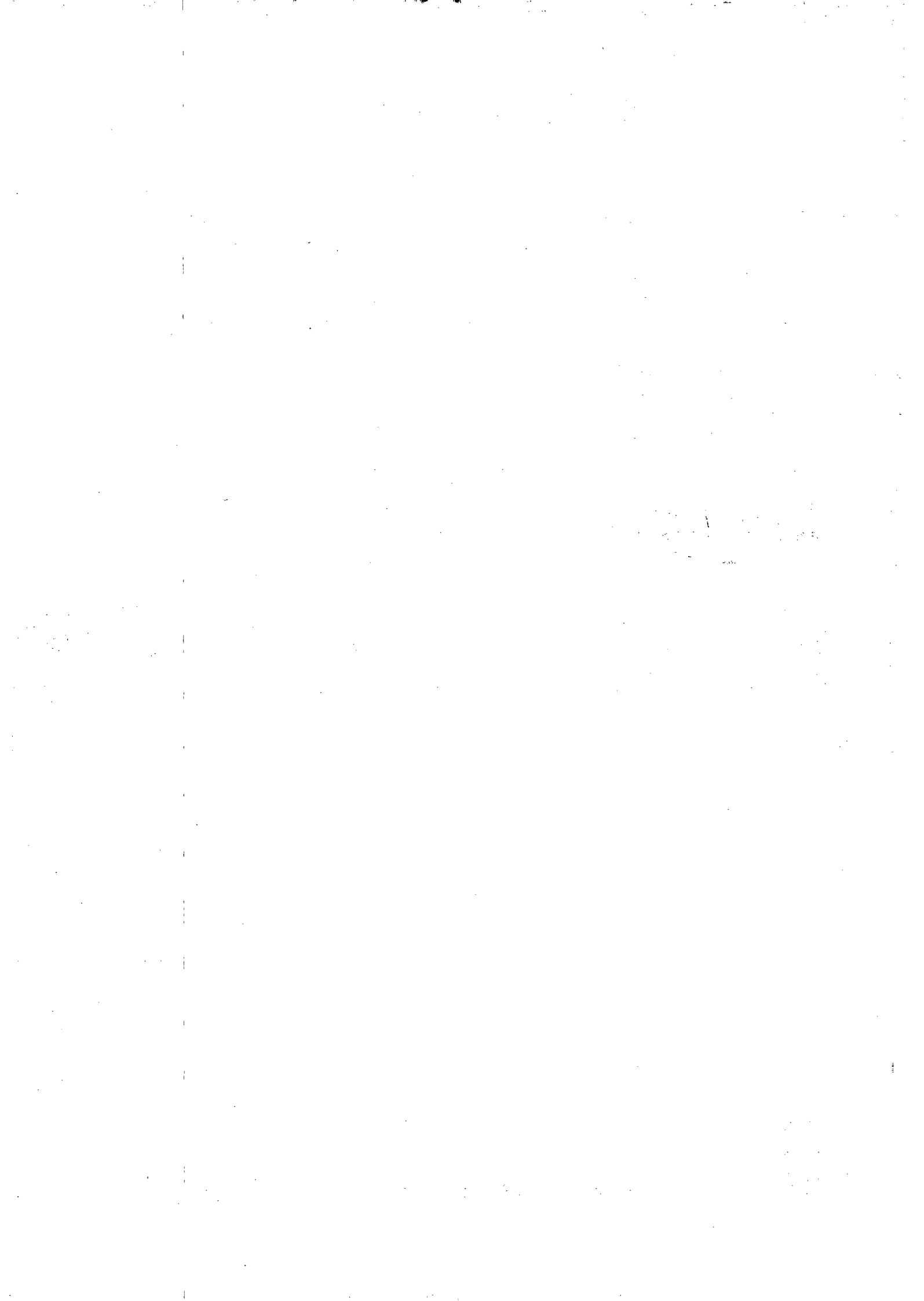
Preface

There are 12 Major Ports in India which transact more than 95 *per cent* of India's international trade. These ports are in urgent need of modernization. Gol formulated the National Maritime Development Programme (2006) and the Maritime Agenda (2011) for the period 2010-20, to facilitate private sector participation through Public Private Partnership (PPP) mode for augmentation of infrastructure in the ports. 91 PPP Projects which would augment capacity by 751.71 MMTPA were sanctioned upto March 2014.

Audit took up the performance audit of PPP Projects in Major Ports, sanctioned by Government of India upto March 2014, to assess their selection and performance.

The Audit Report has been prepared for submission to the President of India under Article 151 of the Constitution for being laid before the Parliament.

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



Executive Summary



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Executive Summary

For faster augmentation of infrastructure resources and to assure the user of adequate service quality by inducting latest technology and improved management practices in major ports, Government of India (GOI) decided to invite private participation through Public Private Partnership (PPP) mode. GoI sanctioned (up to March 2014) 91 PPP Projects proposing a total capacity addition of 751.71 Million Metric Ton per Annum (MMTPA). A capacity of 264.69 MMTPA was achieved from 35 projects completed by March 2014, 27 projects with capacity addition of 221.94 MMTPA were under construction and 27 projects with a proposed capacity addition of 257.97 MMTPA were under pipeline/bidding process. Two projects were terminated/dropped. The PPP projects could contribute only 33 *per cent* to the total capacity of major ports as it has suffered various implementation issues. In this backdrop, a Performance Audit on "PPP Projects in Major Ports" was conducted and significant audit findings are narrated below:

Significant Audit Findings

1. Jawaharlal Nehru Port Trust (JNPT) entered into an agreement with Nhava Sheva International Container Terminal (NSICT) (July 1997) wherein royalty was fixed on per Twenty Foot Equivalent Unit (TEU) basis which progressively increased from ₹47 per TEU (1999-2000) to ₹2670 per TEU (2014-15). Due to high royalty rate, the project became progressively less remunerative to the operator and threatened the viability of the project. After 18 years of operation, JNPT now proposes to migrate from royalty to revenue sharing mode.

(Para 2.4.1)
2. While planning for PPP projects in the pre-Model Concession Agreement (MCA) period, the ports and the Ministry failed to standardize the charges to be shared by the Private partner, resulting in total revenue of ₹467.95 crore not being shared by the private partner at four ports.

(Para 2.4.2)
3. Cochin Port Trust (CoPT) extended concessions valuing ₹40.23 crore to Dubai Ports International (DPI) (concessionaire for International Container Transshipment Terminal (ICTT)) due to deviations from Request for Qualification (RFQ) terms. ICTT continued to operate at 35 *per cent* capacity since its commissioning in 2011 and the port has not reaped any additional return by extension of concession.

(Para 3.2.1)
4. PPP mode of implementation suffered delays between RFQ and signing of Concession Agreement (CA) in 35 of the 39 projects that went through the tendering process. The delays were mainly attributed to protracted time taken for finalization of tenders, time taken for obtaining security clearance of shortlisted bidders, time taken for signing of CA and litigations by bidders during tender process.

(Para 3.3)

5. There were delays/non-fulfillment of obligations on the part of Ports/Ministry in respect of appointment of Independent Engineers (IE), obtaining environmental clearance for projects and delay in handing over of project sites and back up area, which delayed the implementation of projects.

(Para 4.1.1, 4.1.2 and 4.1.3)

6. Ports/Ministry failed to provide committed draught in the access channel (Kandla, Mumbai and Vishakhapatnam Ports), which restricted berthing of larger vessels, despite this being a critical component to ensure fulfillment of CA commitments.

(Para 4.1.4 (i))

7. Concessionaires failed to fulfill Conditions Precedent (CP) within the specified period (90/120/180 days) and the delays ranged upto 455 days, leading to consequential delay in commencement of commercial operation of projects.

(Para 4.2)

8. Though guidelines for monitoring PPP projects issued by GoI envisaged setting up a PPP Performance Review Unit (PRU) headed by an officer not below the rank of Joint Secretary at the level of the Central Ministry/State Government/Statutory Entity, Ministry of Shipping (MoS) intimated (February 2015) that as an interim arrangement Joint Secretary (Ports) in addition to his normal duties, functioned as head of PPP-PRU with one PPP expert since October 2012. A full fledged PPP Cell has now been set up in the MoS.

(Para 4.3)

9. Audit compared the operational efficiency of PPP berths with that of the berths at four ports in respect of performance parameters but could not conclude regarding significant improvement in the quality of service after introduction of PPP model.

(Para 4.4)

10. Audit observed that only in five out of the 14 completed projects (out of 61 projects selected for audit), for which CAs were signed prior to MCA, the clause for appointment of independent auditor was included. In the post MCA period, out of the four completed projects (within the 61 projects selected for audit), the clause for appointment of independent auditor was included in three projects. The findings of independent auditor where appointed has revealed short recovery of revenue share in two ports

(Para 5.3.1)

11. MCA prescribes the maintenance of Escrow account by the concessionaire. However, as per the order of priority for withdrawal and appropriation of funds, payment of revenue share was considered only after concessionaire's expenses related to operation and management of project. This led to arrears of revenue share to the extent of ₹41.32 crore in respect of Berth 13 and 15 at Kandla Port Trust

(Para 5.3.3)

Chapter 1

Introduction

MAJOR PORTS



CHAPTER 1

Introduction

1.1 Profile of Port Sector

India is a major maritime nation with a long coast line of around 7517 kilometer. 95 per cent of India's international trade takes place through her 12¹, Major Ports² and 200 Non-major Ports. All the Major Ports, are administered by Government of India (GoI) through Ministry of Shipping (MoS) (Ports Wing). 11 of the 12 Major Ports are regulated by the Major Port Trusts Act, 1963 and one Major Port, namely, Kamarajar Port Limited (KPL) is a company registered under the Indian Companies Act, 1956. The Non-major Ports are under the jurisdiction of concerned State Governments and Union Territories.

1.2 Organizational Set-up

The 11 Major Port Trusts are administered by their respective Board of Trustees³, headed by the Chairman. The members of the Board are nominated by Government of India from various stakeholders of the port such as shippers, ship owners, government departments concerned and port labourers. Day-to-day activities of ports are managed by the Chairman assisted by Deputy Chairman, Traffic Manager, Chief Engineers, Financial Advisor and Chief Accounts Officer (FA&CAO), Secretary (Administration), Deputy Conservator, and Chief Vigilance Officer.

Details of traffic handled by all the Ports and share of Major Ports as well as performance of Major Ports for the five years ended 31 March 2014 are given in Table 1.1 below:

Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
Total traffic handled by all Ports (MMT)	849.95	884.88	913.33	933.92	972.71
Total traffic handled by Major Ports	561.09	570.03	560.14	545.79	555.49
Percentage traffic handled by Major Ports	66.01	64.42	61.33	58.44	57.11
Capacity of Major Ports (MMTPA)	616.73	670.13	696.53	744.91	800.52
Capacity Utilization (in percentage)	90.98	85.06	80.42	73.27	69.39
Operating Income (₹in crore)	7262.84	7649.89	8095.63	7927.64	9162.80
Operating Expenditure (₹in crore)	4884.29	5089.26	5524.26	6120.21	6643.90
Operating Surplus (₹in crore)	2378.55	2560.63	2571.37	1807.43	2518.90
Operating Ratio (in percentage)	67.25	66.53	68.24	77.20	72.51

Total traffic handled by Major Ports was 561.09 Million Metric Ton Per Annum (MMTPA) in 2009-10 which reduced to 555.49 MMTPA in 2013-14, while the traffic handled by Non-major Ports increased by 44.44 per cent from 288.86 MMTPA (2009-10) to 417.22 MMTPA (2013-14). This would show that Major Ports are losing traffic to the Non major Ports.

¹ KPT, MbPT, JNPT, MPT, NMPT, CoPT, VOCPT, ChPT, KPL, VPT, PPT and KoPT.

² 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. (Section 3 (8) of the Indian Ports Act, 1908.)

³ Not more than 19 persons in case of Mumbai, Kolkata and Chennai and not more than 17 persons in case of other Ports. In case of Kamarajar Port Limited, Ennore, the day to day activities are managed by the Board of Directors headed by the Chairman cum Managing Director assisted by various functional Directors.

The Major Ports face a serious challenge to modernize operations to be globally competitive by addressing constraints like old and inadequate infrastructure, low draughts, inefficient cargo handling systems, poor hinterland connections, absence of night navigation facilities, high turnaround time for vessels, etc.

1.3 Public Private Partnership (PPP) Projects

With a view to harness the potential of the private Sector, Government have formulated policies to attract them for infrastructure development through PPP. 'PPP is a project based on a contract or Concession Agreement (CA) between a Government or statutory entity on one side and a private sector company on the other side, for delivering an infrastructure service on payment of user charges'⁴. The usually adopted PPP models are BOT, LOT, BOOT and DBFOT⁵. The concessionaire collects revenue generated from the Project Facilities and Services based on the Scale of Rate (SoR)/ Tariff fixed by the Tariff Authority for Major Ports (TAMP) and shares the agreed percentage of revenue with ports.

1.4 PPP Projects-Operational Framework

Private sector participation in infrastructure development requires a framework that would enable the private sector partner to secure a reasonable return, assure the user of adequate service quality at an affordable cost and facilitate the Government in obtaining value for public resources. This is expected to be achieved by establishing clear and transparent norms for the PPP and by entering into unambiguous and specific contractual relationship. GoI, with the above objectives, initiated various measures such as:

- ❖ Issued (October 1996) Guidelines to be followed by Major Ports Trusts for private sector participation in the Major Ports;
- ❖ Approved (July 2005) a Scheme for Financial Support to Public Private Partnerships in Infrastructure to be administered by MoF from the budgetary provisions in the Annual Plans on an year-to-year basis. The quantum of financial support in the form of capital grant also known as Viability Gap Funding (VGF), is subject to a maximum of 20 *per cent* of the total project cost;
- ❖ Set up (November 2005) Public Private Partnership Appraisal Committee (PPPAC)⁶ constituted by the Cabinet Committee on Economic Affairs (CCEA), to be serviced by the Department of Economic Affairs (DEA) to fast track the appraisal and approval of PPP Projects of all sectors, where the capital costs of the assets are ₹250 crore or more;
- ❖ Notified (January 2006), Guidelines for Formulation, Appraisal and Approval of PPP Projects;
- ❖ Prescribed (December 2007), Guidelines for Bidding Process for PPP Projects for selection of the bidder for award of the project;

⁴ Defined by Secretariat for the Committee on Infrastructure, Government of India.

⁵ Build Operate and Transfer (BOT), Lease Operate and Transfer (LOT), Build Own Operate and Transfer (BOOT) and Design Build Finance Operate and Transfer (DBFOT)

⁶ Members consist of – Secretary, Department of Economic Affairs (in the Chair); Secretary, Planning Commission; Secretary, Department of Expenditure; Secretary, Department of Legal Affairs; and Secretary of the Department sponsoring the project.

- ❖ Evolved (January 2008) a Model Concession Agreement (MCA) for private sector projects in Major Ports containing provisions aimed at safeguarding the interest of the Government and other stakeholders; and
- ❖ Prescribed (May 2009) Guidelines for Monitoring of PPP Projects, approved by the Committee of Secretaries in April 2011. Accordingly, the project authorities may create a two-tier mechanism for monitoring the performance of PPP Projects consisting of:
 - (i) PPP Project Monitoring Unit (PMU) at the project authority level; and
 - (ii) PPP Performance Review Unit (PRU) at the Ministry or State Government level, as the case may be.

1.5 Audit Objectives

Audit of the PPP projects of Major Ports was conducted with a view to ascertain whether:

- The PPP projects were taken up as envisaged in the National Maritime Development Programme (NMDP) and Maritime Agenda;
- The PPP projects were formulated, appraised and approved in accordance with the guidelines notified by Ministry of Finance (MoF);
- The PPP partners were selected transparently through competitive bidding as prescribed in the guidelines issued by MoF;
- The PPP projects were implemented within the specified timelines and, on completion, resulted in improvement in services/efficiency;
- Major Ports and the Ministry had appropriate project monitoring and review set up to plan and implement PPP projects, and
- The user charges were fixed by the Regulator i.e. TAMP and the revenue was received by the Ports as per the revenue sharing arrangements.

1.6 Audit Scope and Methodology

The sample selected by Audit for scrutiny includes all projects⁷, with cost above ₹100 crore each, taken up during the period up to 31 March 2014 by Major Ports. Audit thus, covered 61 projects (67.03 per cent) with estimated cost of ₹55764.59 crore (87.52 per cent), out of total 91 projects with total estimated cost of ₹63712.95 crore sanctioned up to 31 March 2014. Of the 61 projects, 27 were sanctioned under BOT, 21 under DBFOT, one under BOOT, two on nomination basis and decision on the mode of implementation of the balance 10 projects are yet to be finalized (**Annexure I**).

The methodology adopted involved explaining audit objectives to Port management through Entry Meetings (June to July 2014) at each port, scrutiny of records at administrative office of the ports, interactions with the officials, conducting site inspections, analysis of data with reference to audit criteria, raising of audit queries, and issue of draft audit report to the Management for comments. In addition, data available on the website of MoF, MoS and other recognized public domains related to PPP projects on port sector was utilized for effective audit understanding and conclusion.

⁷ Excluding projects undertaken by Public Sector Undertakings.

Audit findings were discussed during the Exit Conference on 12 October 2015 in which Additional Secretary, MoS and other senior officers of MoS and Ports were present.

1.7 Audit Criteria

Audit criteria adopted for assessing the performance of PPP projects were taken from the following sources:

- Guidelines for Formulation, Appraisal and Approval of PPP Projects;
- Guidelines for Monitoring of PPP Projects;
- Recommendations of PPPAC;
- Guidelines for Pre-qualification and Financial Bids of Bidders for PPP Projects;
- Strategic /Perspective Plans prepared by Major Ports;
- Feasibility Study and Detailed Project Report (DPR) conducted by Major Ports;
- Board Agenda and Minutes;
- Tender documents;
- Memorandum of Understanding and Concession Agreements (CA) and
- Model Concession Agreement (MCA) for ports.

1.8 Audit Findings

The audit findings are organized in the following chapters:

- Chapter 2 Planning
- Chapter 3 Selection of PPP Partner
- Chapter 4 Implementation and Monitoring of Projects
- Chapter 5 User Charges and Revenue Sharing
- Chapter 6 Conclusion and Recommendations

1.9 Acknowledgement

Audit acknowledges the cooperation extended by the Management of Major Ports and the Ministry of Shipping during the course of this audit.

Chapter 2

Planning



CHAPTER 2

Planning

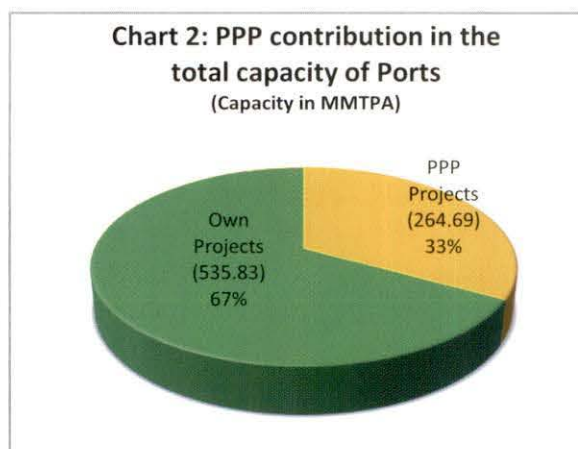
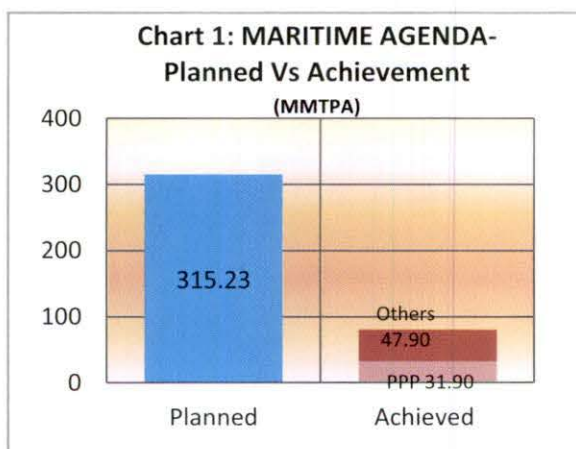
Modernization of port infrastructure involves the expansion/upgradation of berths, construction of new berths/terminals, installation of new and modern equipments, automation of port operations and implementation of web based port community system. Long term strategic plans were prepared by MoS and Major Ports (2006 and 2011) to achieve these objectives.

2.1 National Maritime Development Programme and Maritime Agenda 2010-20

GOI formulated the National Maritime Development Programme (NMDP) in 2006 to facilitate enhanced private investment and improve service quality. However, as NMDP covered only the Major Ports, at the instance of the Planning Commission, MoS prepared (January 2011) the Maritime Agenda for the decade 2010-20 to be taken up in three phases during 2010-12, 2012-17 and 2017-20.

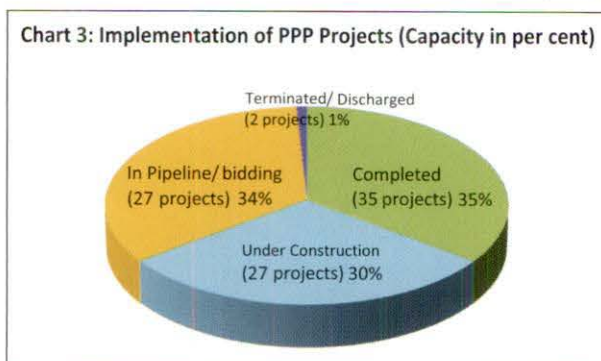
The Maritime Agenda proposed a capacity addition of 767.15 MMTPA through 352 projects during April 2010 to March 2020 in three phases (Phase I: 2010-12 which would raise capacity by 315.23 MMTPA through 141 projects, Phase II: 2012-2017 which would raise capacity by 340.22 MMTPA through 146 projects and Phase III: 2017-20 which would raise capacity by 111.70 MMTPA through 65 projects).

During the period 2010-12 the Ports achieved a capacity addition of 79.80 MMTPA (25.31 per cent) against the planned capacity addition of 315.23 MMTPA and the contribution of PPP projects was 31.90 MMTPA (10.12 per cent) from four projects as shown in Chart 1 and 2 below:



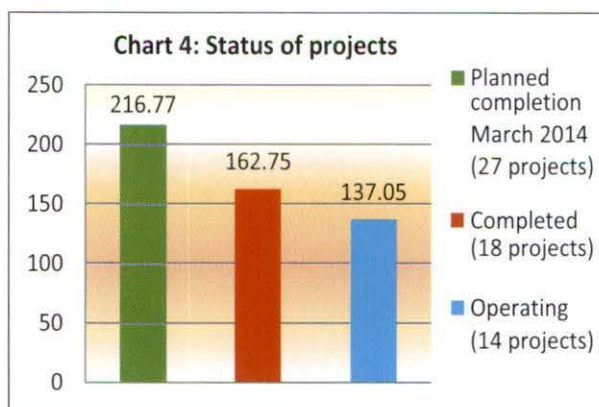
2.2 Implementation of PPP Projects

GoI has sanctioned (up to March 2014) 91 PPP Projects proposing a total capacity addition of 751.71 MMTPA at a cost of ₹63712.95 crore. 35 out of the 91 projects have already been completed with a capacity addition of 264.69 MMTPA by March 2014. 27 projects were under construction involving a cost of ₹19910.55 crore with capacity addition of 221.94 MMTPA (expected to be completed by June 2020) and 27 projects costing ₹26213.38 crore were



under pipeline⁸/bidding process with a proposed capacity addition of 257.97 MMTPA as depicted in **Chart 3**. One project each was terminated and dropped (**Annexure I**).

Out of the 61 projects selected for audit, CAs were signed in 41 projects involving a capacity addition of 374.20 MMTPA. Of these 41 projects, 27 would have been completed by March 2014 with a capacity addition of 216.77 MMTPA, against which only 18 projects were completed with a capacity addition of 162.75 MMTPA as depicted in **Chart 4**. However, four⁹ projects having capacity of 25.70 MMTPA (15.03 per cent) are not operational (June 2015).



This indicates slow progress in implementation of projects defeating the basic objective of resorting to PPP route for faster augmentation of infrastructure resources by infusing private funds, inducting latest technology and improved management practices.

Audit observed delays in various stages of implementation of projects and lapses in monitoring the projects and weak controls in revenue collection mechanism, which are dealt in subsequent chapters.

2.3 Project Formulation, Appraisal and Approval

MoF, Department of Expenditure (DoE) issued (January 2006) Guidelines for Formulation, Appraisal and Approval of projects to be undertaken through PPP. Once the project to be taken up through PPP is identified by the sponsoring ministry, the details of the projects and terms of concession agreements would be discussed in inter-ministerial consultative committee. Thereafter, the proposal (where the project cost is more than ₹250 crore) is submitted to the PPPAC for in-principle clearance. After obtaining in-principle clearance, a proposal for final

⁸ All projects upto the stage of signing of CA are included under pipeline.

⁹ Berth 11 and 12 (7.20 MMTPA) at KPT, Berth 15 (1.5 MMTPA) at KPT, LNG Regasification Terminal (5 MMTPA) at CoPT and Iron Ore Terminal (6 MMTPA) at KPL.

clearance of PPPAC would be submitted along with draft project agreement, project report and draft RFP [where the project cost is less than ₹250 crore, the proposal is submitted to Standing Finance Committee (SFC)/ Expenditure Finance Committee (EFC)]. The PPPAC/SFC/EFC after obtaining concurrence of Planning Commission, Ministry of Law (MoL) and any other Ministry/ Department involved, clears the proposal and submits to CCEA/ CCI¹⁰ (Competent Authority) for final approval. In cases where the PPP project is based on MCA, 'in-principle' clearance by the PPPAC is not required. The appraisal powers for PPP projects were subsequently revised (September 2014) and only projects valuing more than ₹1000 crore were referred to PPPAC for clearance.

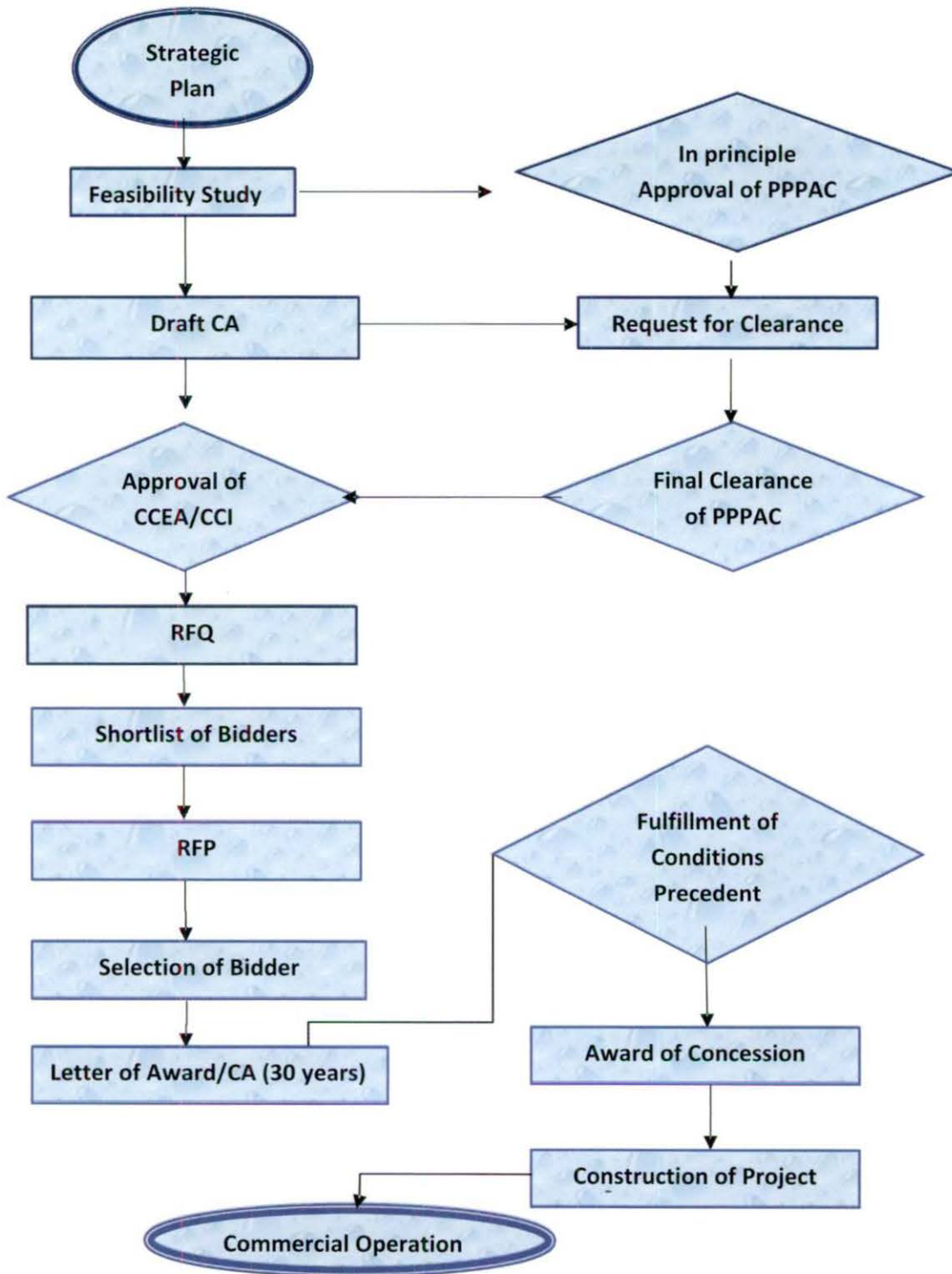
After the approval of the competent authority, the process of bidding ie., engaging a concessionaire commences that consists of different stages such as Request for Qualification (RFQ), Request for Proposal (RFP) evaluated by the Evaluation Committee formed by ports and final award of the project to the successful bidder. The Concessionaire forms an SPV to execute the work.

As per the prevailing delegated powers, Ports had obtained clearance for 36 projects from PPPAC/SFC. 16 projects were taken up prior to the issue of the above guidelines and hence approval from PPPAC/SFC was not sought while 9 projects are awaiting clearance.

¹⁰ Based on the delegated financial powers that change from time to time.

Flow chart of establishment of Public Private Partnership projects in Major Ports is given below:

Flow Chart 1: Establishment of a PPP project



2.4 Deficiencies in Planning

A PPP Project would succeed only if the risks are uniformly apportioned between the two parties. A Concession Agreement is unlikely to succeed if it has conditions which are harsh on the operator. It was noted that many of the projects had serious design issues as would be discussed in the succeeding paragraphs.

2.4.1 Faulty Structuring of NSICT Project

Jawaharlal Nehru Port Trust (JNPT) entered into an agreement with Nhava Sheva International Container Terminal (NSICT) (July 1997) for operation of a Container Terminal. The royalty was initially fixed at ₹47 per TEU¹¹ (1.57 per cent) from an amount of ₹3000¹² collected by the operator per TEU. The royalty progressively increased to ₹2670 per TEU as against a collection of ₹3341 per TEU. The proposed royalty for the 30th year was as high as ₹5610 per TEU. The project thus became progressively less remunerative to the operator and threatened the viability of the project. JNPT erred in structuring the project by including a royalty model that was incompatible with the tariff.

A comparison of rates fixed by TAMP from time to time and royalty agreed by NSICT is given below:

Table 2.1 Minimum Guaranteed Throughput (MGT), Actual traffic and rates with share

Years	MGT (in TEU)	Actual TEUs handled	Royalty rate in ₹/TEU	Tariff Charged by NSICT		JNPT's share (%)	Revenue of NSICT (₹ in crore)	Royalty to JNPT (₹ in crore)	Actual Royalty received by JNPT as per Annual Account (₹ in crore)	Net revenue to NSICT (₹ in crore)
				Moved by Road	Moved by Rail					
1	2	3	4	5	6	7=4/5*100	8=3*5	9=8*7/100	10	11=8-10
1999-00	175000	343187	47	3000	3900	1.57	102.96	1.61	1.40	101.56
2000-01	350000	694899	52	3480	4524	1.49	241.82	3.61	3.55	238.27
2001-02	500000	943928	143	3480	4524	4.11	328.49	13.50	11.71	316.78
2002-03	500000	1201119	157	3480	4524	4.51	417.99	18.86	18.47	399.52
2003-04	550000	1230555	348	3480	4524	10.00	428.23	42.82	36.82	391.41
2004-05	550000	1232470	378	3480	4524	10.86	428.90	46.59	45.62	383.28
2005-06	550000	1323801	615	3000	3900	20.50	397.14	81.41	73.28	323.86
2006-07	550000	1359125	886	2640	3432	33.56	358.81	120.42	111.19	247.62
2007-08	550000	1508056	1194	2912	3786	41.00	439.15	180.06	168.65	270.50
2008-09	550000	1427128	1542	2912	3786	52.95	415.58	220.06	206.93	208.65
2009-10	550000	1532075	1960	3115	4050	62.92	477.24	300.29	283.95	193.29
2010-11	550000	1537240	2086	3217	4182	64.84	494.53	320.67	315.43	179.10
2011-12	600000	1401847	2218	3341	4344	66.39	468.36	310.93	306.00	162.36
2012-13	600000	1044105	2361	3341	4344	70.67	348.84	246.51	242.20	106.64
2013-14	600000	969458	2510	3341	4344	75.13	323.90	243.33	239.83	84.07
2014-15	600000	1160220	2670	3341	4344	79.92	387.63	309.78	305.23	82.40
							6059.55	2460.46	2370.26	3689.29

While management accepted (January 2015) that the fixation of royalty on 'per TEU' basis was incorrect, Ministry stated (October 2015) that audit have not considered all

¹¹ Twenty Foot Equivalent Unit, a unit measure for containers based on their length.

¹² Revenue earned by NSICT is considered after charging only road movement charges.

the charges while computing the net revenue of NSICT. The terminal had not reported operating losses in any of the years. Also due to various global/economic reasons, the container handling charges did not grow on expected lines. JNPT further intimated during the Exit Conference that, to ensure optimum utilization of resources, it is proposing to shift the project to a revenue sharing model.

The proposal of the port to migrate to a revenue sharing model after 18 years of operation due to high royalty rate per TEU, highlights the design deficiencies.

2.4.2: Non inclusion of provision for sharing of various charges with the port

While designing the PPP projects, in the pre-MCA period, it was noted that there was no uniformity across projects as to which revenues accruing to the operator were to be shared with the port.

We examined 14 completed PPP Projects, the license agreements (LA) for which, were signed prior to MCA and observed lack of uniformity in respect of sharing of various charges viz. Berth hire, cargo handling, other income etc. collected by PPP operator, with the port as detailed below:

- The LAs for Berths 5 and 6 at Mormugao Port Trust (MPT) (April 1999) and Multipurpose Berth 4A at Kolkata Port Trust (KoPT) (May 2002) did not include provision for sharing of revenue on berth hire charges. This resulted in total revenue of ₹382.80 crore (2005-06 to 2013-14) being kept out of sharing arrangements.
- LA for Coal Terminal at KPL (September 2006) did not include provision for sharing of other income accounted for by the PPP operator. This resulted in a total revenue of ₹19.06 crore (March 2011 to March 2013) being kept out of sharing arrangements.
- LA for multipurpose berths EQ8 and EQ9 (2001) at Vishakhapatnam Port Trust (VPT) defined gross revenue as the sum of berth hire charges and wharfage charges only and did not include other charges collected by the licensee viz. charges for stevedoring, storage, shore operations etc. This resulted in a revenue of ₹66.09 crore on stevedoring charges (January 2010 to March 2014) being kept out of sharing arrangements. (The remaining charges on storage, shore operations etc. could not be assessed in audit as the data was not available with the port.)

While confirming the audit observation, Ministry stated (October 2015) that KoPT had referred the dispute for arbitration and matter was sub judice in Supreme Court. It further stated in respect of KPL that ₹10.01 crore was claimed (August 2014) from the operator. An additional auditor was also appointed in this regard and legal opinion sought on the auditor's report was awaited.

Thus, Ministry's reply substantiates that there was lack of uniformity across projects in sharing of various charges with the port in the pre-MCA period.

Recommendation 1: Ministry may put in place a mechanism wherein the best practices in ports are shared and informed while structuring PPP projects.

Chapter 3

Selection of PPP Partner



CHAPTER – 3

Selection of PPP Partner

3.1 Bidding Process

Ministry of Finance issued (November and December 2007) two Guidelines for Invitation of Financial Bids and for Pre-qualification of Bidders for PPP Projects. The bidding process for PPP projects is held in two stages, viz. Request for Qualification (RFQ) or Expression of Interest (EoI) and Request for Proposal (RFP) or invitation of Financial Bids. The RFQ process is aimed at short-listing and pre-qualifying applicants who have the requisite technical and financial capacity for undertaking the project. The RFP process is aimed at obtaining financial offers from the bidders pre-qualified at the RFQ stage. The financial offer constitutes the sole criteria for selection of a bidder and the project is awarded to the bidder quoting the highest revenue share/premium.

Though the guidelines were silent on the time frame within which the bidding process was to be completed, MoS envisaged a time frame of 11 months from bidding to signing of agreement in the 'Pre-award Stage Monitoring Report' issued for compliance by Major Ports.

Audit findings on tendering process are summarized below:

3.2 Skewed Selection Process

We noted several inconsistencies in bidding process and selection of concessionaire having significant implications on revenue sharing arrangements. A few illustrative cases are narrated below:

3.2.1 Cochin Port Trust (CoPT) invited (January 2004) RFQ for construction, operation and maintenance of International Container Transshipment Terminal (ICTT) and LoA was issued (September 2004) to DPI based on its offer of highest revenue share of 33.30 *per cent* of gross revenue. The CA was signed with India Gateway Terminal Private Limited (IGTPL) (SPV formed by Dubai Ports International (DPI)) in January 2005.

Audit observed that as per the RFP, the bidder was to operate Rajiv Gandhi Container Terminal (RGCT) and start development of ICTT only when the traffic at RGCT reached the limit of 4 lakh TEUs per annum. In case this limit was not achieved within six years of award, the bidder was not contractually obliged to construct ICTT and RGCT was to be reverted to CoPT after the contractual period of 8.5 years. Subsequently, CoPT realized that the bidder might operate the berth for 8.5 years without exceeding the 4 lakh TEU limit and thereby evade the contractual obligation of constructing ICTT and requested DPI for early migration from RGCT to ICTT without linking it to the achievement of traffic at RGCT. In lieu of this deviation from the tender conditions, CoPT offered the following concessions from the RFQ terms, at the request of DPI, having a financial implication of ₹40.23 crore while signing the CA:

- (i) Payment of upfront fee in instalments spread over eight years;
- (ii) Reduction in the upfront payment to compensate for the short period use of existing equipments at RGCT;

- (iii) Deferment of 25 *per cent* of the royalty payable to the port for eight years;
- (iv) Relaxation in license fee for Q-7 berth;
- (v) Relaxation of height restriction at RGCT for operation of cranes.

The Management replied (November 2014) that the possibility of getting a better offer if formalities were undertaken once again was duly considered by the Board while recommending the proposal to the Government. Management further stated that the concession of ₹40.23 crore was only 0.5 per cent of the NPV of entire revenue under the project.

While accepting the audit observation, Ministry (October 2015) stated that award of the project with the concessions under the circumstances was a conscious decision taken by the Government to prevent the concessionaire evading the contractual agreement of migration to ICTT by not exceeding the traffic limit of 4 lakh TEUs at RGCT and thus subverting the entire process from structuring to award of the project. During Exit Conference, Ministry further stated that reasons for the project running at lower capacity were extraneous.

The fact that port was compelled to extend post tender concessions to the bidder to ensure early migration to ICTT confirms that the sharing of risk and incentives were uneven between the port and the PPP partner initially. Even after migration to ICTT, the additional expected benefits out of the post bid concessions could not be achieved as the terminal operated at 35 *per cent* capacity. Such post tender concessions vitiate the sanctity of tendering process.

3.2.2 JNPT invited RFQ (March 2009) for development of Fourth Container Terminal on DBFOT basis and seven bidders were shortlisted (June 2010) from the nine applicants. Board approved (September 2011) the highest bidder, (consortium led by PSA Mumbai Investment Private Ltd. (PSAMIPL) with 74 *per cent* shareholding and ABG Port Private Ltd. (ABGPPL) with 26 *per cent* shareholding), with a revenue share of 50.828 *per cent*. Sterlite Industries was H-2 with 35.51 *per cent*. However, PSAMIPL requested twice (October 2011 and December 2011) for extension of time for signing the CA, citing reasons like refusal to pay stamp duty and registration fee (March 2012) and for change in composition of consortium (April 2012). After a delay of 14 months, JNPT cancelled letter of award (LoA) (October 2012) and RFQ was re-invited (June 2013). On a reference in this regard, Solicitor General opined that PSAMIPL could not be debarred from fresh bidding. The RFP was issued (December 2013) and PSA Bharat Investment Private Ltd. (PSABIPL) with a revenue share of 35.79 *per cent* stood H-1 again. The LoA was issued in February 2014 and the CA was signed (May 2014) with PSABIPL.

Audit observed that, LoA was issued to the consortium of PSAMIPL and ABGPPL at the first instance, disregarding an adverse report on the performance of ABG at KPT. Subsequently, PSAMIPL delayed the signing of CA to the extent that JNPT had to withdraw the LoA after 14 months. However, as PSAMIPL had not backed out from the project execution on its own, it was allowed to participate in the re-tender and could again bag the award with 35.790 *per cent* compared to earlier bid of 50.828 *per cent*.

Ministry stated (October 2015) that a direct comparison of the revenue share percentage offered by the same bidder on re-bid with that offered and accepted in the first bid was not tenable as the project on re-bid was restructured based on revised estimates of project specifications, scope and cost. Also, the revenue share of 35.79 per cent obtained on re-bid was in line with the current range of around 30–35 per cent for PPP projects in Major Ports and also validated the apprehension that the aggressive revenue share offer of 50.828 per cent was not sustainable. Ministry further added that the port had encashed the bank guarantee of ₹67 crore towards bid security as liquidated damages and issued a demand notice for ₹446.28 crore to PSAMIPL for the revenue lost due to late signing of the agreement and the matter was under arbitration.

3.3 Delay in Bidding Process

Out of the 61 projects reviewed, CA had been executed only in 41 projects. 39 of the 41 projects went through the bidding process and the remaining two projects were allotted on nomination basis. Audit verified the time taken from the date of issue of RFP to signing of the CAs and found that in 11 projects it took three years and more for signing of the CA. The

Chart 5: Delay in bidding process

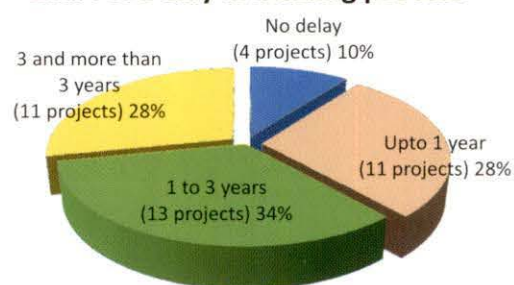
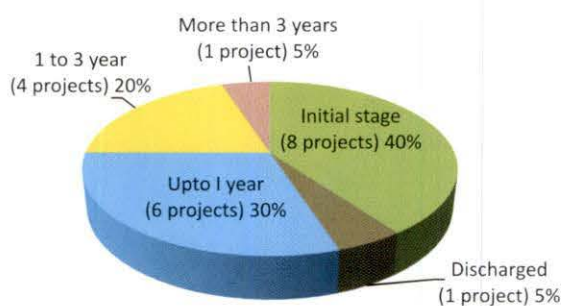


Chart 6: Status of the remaining 20 projects



time taken varied between one and three years for 13 projects and upto one year for 11 projects. Only in 4 projects the CAs were signed within the stipulated period of 11 months. The position is depicted in **Chart 5**.

Out of the remaining 20 projects eight projects are in initial stage (December 2014) where tender is not invited, 11 projects are under tendering stage and one project (MPT) was discharged due to non-obtaining of environmental

clearance. In eight out of the 11 projects under tendering, CAs could not be signed even after lapse of time ranging from six to 61 months beyond the time frame of 11 months. The position is depicted in **Chart 6**.

The main reasons for delay in tendering were analyzed as follows:

- Protracted time taken by ports for finalization of tenders, which was as high as up to 61 months (Multi Cargo Berth 15 and 16 at Kandla Port Trust (KPT)) ;
- Time taken by MoS for obtaining environmental clearance in three cases, which went up to 33 months (Development of Dry Bulk Terminal off Tekra near Tuna at KPT);
- Time taken by MoS for formal sanction of projects/CA provisions in three cases, which went up to 22 months (Multi Cargo Berth 5 and 6 at MPT);

- Time taken by MoS for obtaining security clearance of prequalified bidders in three cases, which went up to 13 months (Multi Cargo Berth 13 at KPT);
- Time taken for obtaining formal approval of the project from PPPAC and Competent Authority in five cases, which went up to 20 months (Development of Dry Bulk Terminal off Tekra near Tuna at KPT);
- Litigations by bidders during tender process in three cases, which delayed the projects up to 48 months (Extension of Container Berth north of Nhava Sheva (India) Gateway Terminal Private Ltd. (NSIGT) at JNPT).

Delay in bidding and selection of PPP partner leads to delay in implementation of PPP projects and consequential delay in achievement of planned capacity and revenue loss.

Ministry stated (October 2015) that the status of implementation of PPP projects is regularly reviewed by Government and corrective action to remove any bottlenecks are taken due to which there was substantial improvement in the timelines for grant of security/environmental clearance.

The reply of the ministry confirms the fact that there were delays in bidding process in the cited cases. Considering the limited number of players in the field, Ministry should evolve a system of clearance of potential bidders to avoid subsequent delay in obtaining statutory clearances like security etc.

Recommendation 2: *Scope of Project offered to the private operator should be carefully determined and should not be varied after bidding as this vitiates the sanctity of the bidding process.*

Recommendation 3: *The Ministry/Port should ensure adherence to the time frame fixed for completion of the bidding process from issue of tender to signing of CA.*

Chapter 4

Implementation and Monitoring of Projects



CHAPTER – 4

Implementation and Monitoring of Projects

In a PPP project, the concession granted is usually for a period of 30 years. Once the CA¹³ is signed with the concessionaire, the Conditions Precedent (CP) is to be completed within 90 days. The implementation period of the project usually ranges between 24 to 36 months and is calculated from the date of award of concession.

Out of 61 projects selected for audit, CAs in respect of 41 were entered into as at March 2014, of which 18 projects were completed and 22 projects are under construction and one was terminated (*Annexure I*).

Audit observed delays in implementation of projects. Delays were largely on account of (a) Non-fulfillment of Obligations by Port Authorities, (b) Non-fulfillment of Obligations by Private Partners and (c) Other Issues as detailed below:

4.1 Non-fulfillment of Obligations by Port Authorities

Port Authorities are required to procure environmental clearance and other applicable permits, appoint independent engineer, provide marine and port services, provide required draught as per agreement, maintain all port infrastructure, grant exclusive right to the concessionaire to enter upon, occupy and use the project site and port's assets for the purpose of implementing the project.

4.1.1 Appointment of Independent Engineer (IE)

MCA provides for appointment of a consulting engineering firm or company, through tender, as IE. The cost of IE is to be shared by the concessioning authority and the concessionaire. The concessioning authority should within 30 days from the date of CA forward a list of shortlisted bidders for appointment as IE to the concessionaire and after 15 days thereof if no objection is received from the concessionaire, call for financial bids and select the IE. Considering the key role and responsibility of IEs the terms of reference, process of their selection and, fee structures etc. needs to be standardized across all Major Ports.

Audit observed that there were delays in appointment of IEs (KPT and New Mangalore Port Trust (NMPT)), wide variance in the fees paid for similar nature of work and payments made without work having been started. Review of 18 cases revealed that there was wide variance in payments being made to the IEs. It was noted that an IE was paid ₹0.42 crore (for a project costing ₹495 crore in Chennai Port Trust (ChPT)), while another IE was paid ₹5.20 crore (for the project costing ₹252 crore in MPT).

In one project (ICTT), CoPT did not appoint IE but carried out the activities by itself. In respect of Deep Draught Iron Ore Berth and the Deep Draught Coal Berth at Paradip Port Trust (PPT), ₹3.30 crore was paid to the IE even though the site was

¹³ Concession Agreement is an arrangement with the private developer wherein concession i.e. exclusive license is granted by the Concessioning authority to the Concessionaire for design, engineering, financing, constructing, equipping, operating, maintaining, and replacing the Project/Project Facilities and Services. The concessionaire executes these works and has a right to recover user charges as specified in the Concession Agreement.

not handed over due to lack of environmental clearance and no construction work had started.

While confirming the audit observation as regards KPT and NMPT, Ministry stated (October 2015) that the appointment of IE was not envisaged in the agreement for ICTT project at CoPT as it was signed prior to the issue of MCA. Besides, as the selection of IE was based on bidding process, variation in the fees could not be avoided. As regards the two projects at PPT, Ministry added that a significant portion of the work including inspection, tests, approvals and preparation of designs, drawing, estimates, tender documents, etc. required the appointment of IE.

Ministry further stated that the recommendation of audit for standardization of Terms of Reference, Fee Structure etc. for IE would be considered.

4.1.2 Environmental Clearance

As per the MCA, procurement of environmental clearance for the project was one of the conditions precedent to be fulfilled by the concessioning authority. A model time frame of 51 weeks from application to final receipt of environmental clearance had been envisaged.

We however noted delays in obtaining environmental clearance as detailed below:

Table 4.1

Sr. No.	Project Name	Date of CA	Date of receipt of EC	Remarks
1	Multi Cargo Berth 5 and 6 at MPT	04/1999	01/2001	Though the CA was signed in April 1999, ABGGPL applied for the environmental clearance of the project in March 2000 and the clearance was received in January 2001. It was only after a lapse of 12 months that the concessionaire applied for environmental clearance which contributed towards the total delay of 32 months (September 2004) in the commissioning of the project.
2	Marine Liquid Terminal at KPL	11/2004	05/2006	The time taken for environmental clearance was 17 months from the date of CA (from December 2004 to May 2006), against which no time was specified in the CA.
3	Deep Draught Iron Ore Berth at PPT	07/2009		As there was delay in obtaining environment and CRZ and forest clearances from Ministry, which were received in January 2011 and July 2012 with a delay of 11 and 29 months respectively against the 180 days time given in the CA, the Concessionaire (BW1OTL) backed out from the project and PPT terminated (September 2013) the CA.
4	Multi Cargo Berth at PPT			Though the project was awarded (July 2010) to Sterlite-Leighton, by the time the environmental clearance was obtained in July 2012, Sterlite-Leighton backed out from the project which was cancelled in September 2013. PPT incurred ₹9.37 crore and ₹0.05 crore for obtaining Environment and Forest & Coastal Regulation Zone (CRZ) clearances, which remained futile.
5	Mechanised Coal Handling Facility at Berth 11 at MPT	01/2013	12/2013	GoI while giving environmental clearance (December 2013) stated that consent for establishment was to be obtained from Goa State Pollution Control Board (GSPCB) before

				the start of any construction work at the site. GSPCB while giving consent (January 2014) to berth no.7 stated that coal and coke handling activity at berth 11 should be shifted to berth 7 and no activity of coal and coke be taken up at berth 11. Thus, the project did not take off.
6	NCB-IV at VO Chidambaranar Port Trust (VOCPT)	04/2013		Though application for environmental clearance was submitted (November 2010) to the Ministry of Environment and Forest (MoEF), clearance is yet to be received (November 2014) even after a delay of three years beyond the normal time of one year.
7	Stand alone Container handling Facility at JNPT	06/2013	03/2014	There was delay of three months on the part of JNPT in obtaining environment clearance beyond the 180 days (by 16 December 2013) given in the CA.
8	Oil Jetty to handle Liquid Cargo and Ship Bunkering Terminal at KPT	11/2013		Though the stipulated time period of 180 days was over by 15 May 2014, environmental clearance was not received yet (August 2015).
9	NCB-III at VOCPT	02/2014		Though application for environmental clearance was submitted (November 2010) to the MoEF, the same is yet to be received (November 2014).
10	Development of Iron Ore Export Terminal at MPT			Though PPPAC approval was received in January 2011, Cabinet Committee on Investments (CCI) approval was not received since MPT could not obtain environmental clearance for the project. Hence the project was discharged in February 2013.

In the above ten cases, though the CAs were signed, due to non-obtaining of environmental clearance;

- two projects had to be discharged; (Sr. No.5 and 10)
- private operators backed out from two projects; (Sr. No.3 and 4)
- commissioning of two projects was delayed; (Sr. No.1 and 7)
- clearance for three projects are awaited and;(Sr. No.6, 8 and 9)
- no time frame was fixed for environmental clearance in respect of one project. (Sr. No.2)

While confirming the audit observation, Ministry stated (October 2015) that instructions were issued (October 2014) by the MoEF & Climate Change (CC) to the ports to prepare Master Plans including all future projects of the port/activities proposed to be undertaken for the next ten years, to grant one time environmental and CRZ clearances. The ports are in the process of preparing the same.

Ports and MoS should ensure that the master plans are prepared and environmental clearance obtained in advance. This would ensure early completion of projects and entuse private operators to participate in the bidding process.

4.1.3 Delay in handing over of project sites and back up area

As per Article 3.1(b) of the MCA, ports were to hand over physical possession of the project site and back up area/or the port's assets to the concessionaire within the stipulated time indicated in the CA.

Audit observed delays well beyond the stipulated time in handing over of project site/land in 13 cases as listed below:

Table 4.2

Sr. No	Name of Project	Date of CA	Scheduled date of handover	Actual date of handover	Delay (days)	Remarks
Prior to 2008						
1	Marine Liquid Terminal at KPL	10/11/04	10/11/04	09/06/06		The handing over of project site was delayed for 18 months.
2	Container Terminal Berth 11 and 12 at KPT	23/06/06	21/06/08	10/11/08	141	KPT accepted the liability of liquidated damages (LD) of ₹2.82 crore (excluding interest) for delay in handing over of land up to 10 November 2008, by which date even though the land was ready for handing over, ABG Kandla Container Terminal Ltd. (ABGKCTL) refused to take possession.
3	Coal terminal at KPL	14/09/06	29/09/07	06/02/08		The handing over of project site was delayed for four months.
4	Iron Ore Terminal at KPL	23/09/06	29/09/07	06/02/08		

Post 2008						
1	Berth 7 at MPT	22/09/09	21/03/10	16/01/14	790	Port could not hand over the balance land of 9723 sq. mts out of 46126 sq. mts till January 2014, due to delay in shifting of IOCL pipeline. This resulted in delay of 11 months in completion and commencement of commercial operation of the project beyond the normal period of 36 months.

2	Construction of Deep Draught Coal Berth at PPT	10/11/09	09/05/10	The land could not be handed over due to litigation on the project land by existing iron ore plot allottees and dispute with Mines Department. Ministry stated (October 2015) that all issues were resolved and the concessionaire was communicated (March 2015) to deposit the license fee and take over the project site.		
3	GCB at VPT	10/06/10	08/10/10	01/07/11	265	Land was handed over in piece meal that was completed by July 2011. The project was commissioned in January 2013 after a delay of three months.
4	WQ-6 at VPT	31/07/10	31/10/10	07/10/11	341	Handing over of land was delayed at the request of concessionaire to match with the date of fulfillment of CP.
5	Multi Cargo Berth 15 at KPT	18/02/11	19/05/11	08/08/11	81	Though KPT delayed the handing over of the site due to non receipt of license fee, the project was commissioned in time (November 2013) and JRE had not claimed LD for delay in handing over of project.
6	EQ-1 at VPT	01/08/11	31/10/11	08/08/12	278	The project was completed in September 2014 after a delay of 10 months from the scheduled date of completion.
7	EQ-1A at VPT	03/02/12	05/05/12	25/10/12	175	Land was handed over in piece meal that started from October 2012 and completed by April 2013. The project is under construction.
8	EQ-7 at VPT	18/05/12	17/08/12	Land was not handed over due to dispute in payment of security deposit.		
9	Oil Jetty for Liquid Cargo and Ship Bunkering Terminal at KPT	16/11/13	15/05/14	The project site has not been handed over yet (October 2015).		

Thus, the delay in handing over of Project Site/ back up area within the scheduled time had delayed the commencement of construction of 12 projects. In three cases (Sr. No.2, 8 and 9) the land was yet to be handed over to the concessionaire.

4.1.4 Other Obligations

4.1.4(i) Failure to provide required draught in the Access Channel

Audit observed that Mumbai Port Trust (MbPT) could not complete the required dredging work due to the slow pace of finalizing the dredging contract and according approval for the revised cost estimate. This has resulted in non-commissioning of the project for Construction of two Offshore Container Terminal berths and Development of Container Terminal in Mumbai Harbour, even after a delay of four years despite an expenditure of ₹401.58 crore (MbPT's share) till October 2014. Similar delays were observed in case of KPT where the required draught of 13 meter in access channel was to be maintained from June 2012 onwards. The concessionaires raised the issue of non-provision of required draught and consequent restriction on berthing of vessel among other issues and did not remit the revenue share, license fee etc.

In case of VPT, a draught of 16.10 meter was committed in the inner harbour. Though, one of the PPP projects (East Quay (EQ)-1) was completed by September 2014, VPT failed to provide the required draught and consequently, the concessionaire could not sail 80000 Dead Weight Tonnage (DWT) vessels (as per CA) to EQ-1 berth and therefore raised the issue of financial non-viability with the port.

MbPT stated (December 2014) that the dredging contract awarded (April 2009) to JSC was terminated (June 2013) due to slow progress in work and sanction from GoI is awaited for the fresh contract with revised cost estimate. KPT replied (January 2015) that the port provided the draught of 13 meter in July 2014. VPT replied (December 2014) that it made all efforts to complete the dredging since 2010 and the work was expected to be completed by March 2015.

Ministry while accepting the audit observation, stated (October 2015) that efforts were being taken to expedite the dredging work. Ministry further added that although there was delay in dredging at MbPT, the delay had no bearing on the commissioning of the project due to financial constraints faced by the BOT operator.

4.1.4(ii) Non recovery of pro-rata dredging cost in respect of Captive Jetty by UPCL (NMPT)

Article 9.2 (a)(vii)(a) of the CA (May 2008) required Udipi Power Corporation Ltd. (UPCL) to reimburse the cost of maintenance of dredging on a pro-rata basis on actual cost of dredging incurred by NMPT in proportion to the traffic handled at the captive jetty of the Project vis-à-vis the total traffic handled at the port. The minimum traffic handled at the port was taken as 2 MMT for the first five years from the date of commercial operation, to be paid within 15 days of raising the invoice. The commercial operation of the project commenced in June 2012. The details of dredging cost recoverable from UPCL are as detailed below: -

Table 4.3

Details	₹ in crore	
	2012-13	2013-14
Total Cargo Handled (in MMT)	37035901	39364363
Cargo handled at Captive Jetty (in MMT)	2581925	2927663
Total dredging cost incurred (₹ in crore)	50.94	44.84
Pro-rata dredging cost (₹ in crore)	3.55	3.34

Audit observed that NMPT did not raise claim to recover the pro-rata dredging cost amounting to ₹6.89 crore for the year 2012-13 and 2013-14.

Ministry stated (October 2015) that a demand for ₹11.33 crore for the period upto 2014-15 was raised, of which ₹10.59 crore was received from UPCL. Balance amount of ₹0.75 crore was under consideration.

4.1.4(iii) Failure to provide Rail connectivity

KPT was liable to provide (Appendix IV of CA) the common road and rail facility outside the licensed premises of Multi Cargo Berths 13 and 15. Though, commercial operation of the two Berths 13 and 15 commenced from February 2013 and November 2013 respectively, KPT could not implement the rail connectivity between the hinterland and port, which restricted faster evacuation of cargo from these berths. RAS Infraport Private Ltd. (RAS) and JRE Infraport Private Ltd. (JRE) raised the issue of non-provision of rail connectivity among other issues and did not remit the license fee, revenue share, LD etc.

Management stated (February 2015) that the rail connectivity between the hinterland and Berth 13 and 15 was awarded to Western Railway, and was likely to be completed by March 2015.

Ministry stated (October 2015) that the delay in completion of rail connectivity was discussed in the inter-ministerial meeting (September 2015) and Railways have indicated that it would be completed by October 2016. Ministry further stated that as both the berths became unviable, rebidding of the project with first right of refusal to the concessionaire was under consideration.

Thus, Port/Ministry admitted its failure to provide the rail connectivity in time as envisaged in the CA. As connectivity with rail and road are life line of movement of cargo/containers, it is required that concerted effort be made between MoS and Ministry of Railways, to ensure that port's obligations to private Partners are not defaulted as in the case of KPT. Such delay has consequential impact on the revenue earning capacity of the private Partner and loss to Port too.

4.2 Non-fulfillment of Obligations by Private Partners

As per Article 3.1 (a), 3.2 and Appendix-8 of the MCA, the concessionaire was to satisfy Conditions Precedent (CP) such as to achieve financial closure, to open and execute escrow account, to furnish performance guarantee, provide copies of resolutions authorizing execution, delivery and performance by the concessionaire, copy of the management contract, certificate on the shareholding pattern, confirmations from members of consortium in respect of compliance to shareholding pattern, financial standing, legal opinion with respect to the authority

of the concessionaire to enter into agreement and its enforceability and to obtain applicable permits as required for commencement of construction works within 90/120/180 days from the date of CA. The award of the concession shall be subject to the satisfaction or waiver of the CP.

It was, however, observed in audit that the concessionaires failed to fulfil these conditions within the specified period and 22 projects were delayed. The delay was as high as 455 days in case of NCB II at VOCPT. The delay in fulfilment of CP led to a consequential delay in commencement of commercial operation of the projects.

4.3 Monitoring

PPP projects normally empower the concessionaire to use public assets for building infrastructure projects and also to levy and collect user charges for the use of such public assets. Therefore, it is the primary responsibility of Major Ports/Government to ensure that the project is completed within the prescribed target date and services being delivered to the users meet the agreed time, cost, quantity and quality standards.

In order to oversee the implementation of the agreed terms and delivery of specified services, Planning Commission (GoI), issued (May 2009) 'Guidelines for Monitoring PPP Projects'. As per the guidelines, a two-tier mechanism for monitoring PPP projects was proposed. A PPP Monitoring Unit (PMU) was recommended at the project level and a PPP Performance Review Unit (PRU) at the Ministry or State Government level. PPP PRU was to be headed by an officer not below the rank of Joint Secretary for monitoring the PPP Projects under its jurisdiction. The PPP PMU has to submit monthly reports to the PPP PRU.

MoS (November 2012) instructed that each PMU at the port level was expected to monitor the project/projects aggregating to the value not exceeding ₹2500 crore. Separate PMUs were suggested for large projects. The personnel of PMUs were expected to spend at least two days during every two months to interact with user representatives at project site.

MoS (February 2015) stated that a dedicated PPP PRU had not been set up in the Ministry. It further stated that as an interim arrangement, Joint Secretary (Ports), in addition to his normal duties, had been functioning (October 2012) as the Head of PPP PRU with a PPP Expert. Additionally, one full time consultant was also engaged as PPP Expert.

Audit observed that monitoring of PPP projects was done at MbPT, VOCPT and KPL through committees/HOD meetings/ Board meetings etc. KoPT and MPT had no separate mechanism to monitor the projects. While KoPT stated (December 2014) that action with respect to setting up of PMU would be taken when the PPP projects take off, MPT stated (January 2015) that a committee had then been formed to monitor the PPP Projects. At NMPT, PMU was formed only after been pointed out by Audit.

Ministry stated (October 2015) that a full fledged PPP Cell has been set up in the MoS, to review the project monitoring reports on PPP projects and deciding on remedial actions to be taken. Ministry further added that in the light of audit observations the effective execution of functions assigned to PPP PMU would be ensured and their monitoring mechanism strengthened.

4.4 Performance

One of the rationale for induction of the Private Sector is that it brings in efficiency in operations as compared to Government management. We examined the efficiency parameters of the facilities that were being run on a PPP mode to verify whether there was indeed any improvement. Our findings are discussed below.

Audit made an attempt to compare the operational efficiency of PPP Berths with similar berths operated by port with reference to the following performance parameters:

Pre-Berthing Detention (in hours): The time during which a ship waits for getting entry into a berth.

Turn-Round Time (in days): Total time spent by a ship since its arrival at the reporting station to its departure from the anchorage for outward journey.

Output per Ship Berth-day (tonnes): The average output of a ship per day measured in tonnes of cargo, i.e. total tonnage handled at berth divided by the total number of berth-days.

Idle Time at Berth (in days): The time when a vessel remains idle at berth expressed as a percentage of the total time of the vessel at berth. This is the time lost due to interruptions in operations as breaks, changeover, etc. reducing the ship output for any reason.

4.4.1 The comparison of performances of PPP berths at JNPT, KPT, VPT and KPL is given below:

4.4.1(i) JNPT

The Performance of container terminals operated by JNPT, Gateway Terminals India Private Ltd. (GTIL) and NSICT for the last five years ending 31 March 2015 were as under:

Sr. No	Parameters	2010-11	2011-12	2012-13	2013-14	2014-15
JNPT Container Terminal						
1	Average Pre-berthing detention on Port Account (in hours) (APBD)	22.80	11.28	13.92	1.2	3.6
2	Average Turn-round time on Port Account (in days)(ATRT)	2.29	1.77	1.96	1.72	1.81
3	Average Output Ship Berth day (in tonnes)(AOSBD)	14171	17681	21538	24933	23980
4	Average non-working time at berth (Idle time in days)(ANWT)	0.14	0.11	0.10	0.08	0.08

NSICT						
1	Average Pre-berthing detention on Port Account (in hours)	5.76	3.12	0.72	0.48	1.68
2	Average Turn-round time on Port Account (in days)	1.39	1.26	1.13	1.09	1.07
3	Average Output Ship Berth day (in tonnes)	31947	32364	30715	28680	26368
4	Average non-working time at berth (Idle time in days)	0.02	0.03	0.02	0.02	0.06
GTICT						
1	Average Pre-berthing detention on Port Account (in hours)	1.20	0.48	0.72	0.96	3.6
2	Average Turn-round time on Port Account (in days)	0.70	0.78	0.91	0.97	1.22
3	Average Output Ship Berth day (in tonnes)	36138	39847	47239	46036	42024
4	Average non-working time at berth (Idle time in days)	0.11	0.10	0.11	0.09	0.09

It is evident from the above that the performance of NSICT was better than the port during 2010-15. The performance of GTICT was also better than that of port except in respect of ANWT during 2012-13 to 2014-15.

4.4.1(ii) KPT

Sr. No	Parameters	2013-14	2014-15
PORT			
1	Average Pre-berthing detention on Port Account (in hours)	23.05	8.56
2	Average Turn-round time on Port Account (in days)	2.09	3.38
3	Average Output Ship Berth day (in tonnes)	7422	8102
4	Average non-working time at berth (Idle time in days)	0.28	0.86
Berth 13			
1	Average Pre-berthing detention on Port Account (in hours)	47.12	2.66
2	Average Turn-round time on Port Account (in days)	6.52	4.50
3	Average Output Ship Berth day (in tonnes)	7438	8048
4	Average non-working time at berth (Idle time in days)	0.63	0.66
Berth 15			
1	Average Pre-berthing detention on Port Account (in hours)	0.00	13.47
2	Average Turn-round time on Port Account (in days)	3.63	5.02
3	Average Output Ship Berth day (in tonnes)	9905	5249
4	Average non-working time at berth (Idle time in days)	0.51	0.47

It could be seen from the above that the Port's performance was better than the PPP operator except for 2014-15 in APBD (berth no.13) and ANWT (berth 13 & 15).

4.4.1(iii) VPT

There are three operational projects at VPT viz., Container Terminal, GCB and EQ-8 & 9. As there was no container berth under port's operation and neither a berth with similar capacity as GCB, the comparison of performance of PPP berths and the port was limited to EQ-8 & 9. Performance in respect of two parameters such as Average Pre Berthing Detention (APBD) in hours and Average Output per Ship Berth day (AOSB) in tonnes only were made available. The same are tabulated below:

Sr. No	Parameters	2013-14	2014-15
WQ-2 (PORT)			
1	Average Pre-berthing detention on Port Account (in hours)	35.99	42.88
2	Average Output Ship Berth day (in tonnes)	10108	10039
EQ-8			
1	Average Pre-berthing detention on Port Account (in hours)	42.52	34.04
2	Average Output Ship Berth day (in tonnes)	12713	10920
EQ-9			
1	Average Pre-berthing detention on Port Account (in hours)	45.34	38.92
2	Average Output Ship Berth day (in tonnes)	11178	9958

During 2013-14 the performance of the port was better in case of APBD, whereas in 2014-15 PPP operator performed better. In case of AOSBD, the performance of PPP operator was better in both the berths, except at EQ-9 in 2014-15 when the port performance was better.

4.4.1(iv) KPL

Sr. No.	Parameters	2010-11	2011-12	2012-13	2013-14	2014-15
CB1-Port berth						
1	Average Pre-berthing detention on port Account (in hours)	0.005	0.005	0.034	0.018	0.020
2	Average Turn-round time on Port Account (in days)	0.082	0.083	0.089	0.088	0.085
3	Average Output Ship Berth day (in tonnes)	21815	32550	29757	29230	45479
4	Average non-working time at berth (Idle time in days)	87	34	53	80	66
CB2-Port berth						
1	Average Pre-berthing detention on port Account (in hours)	0.011	0.098	0.389	0.003	0.022
2	Average Turn-round time on Port Account (in days)	0.077	0.079	0.100	0.076	0.082
3	Average Output Ship Berth day (in tonnes)	22192	48418	19595	14617	19089
4	Average non-working time at berth (Idle time in days)	46	6	32	97	87
CICT- BOT Operator berth						
1	Average Pre-berthing detention on port Account (in hours)	0	0.011	0.020	0.008	0.023

2	Average Turn-round time on Port Account (in days)	0.092	0.090	0.097	0.087	0.092
3	Average Output Ship Berth day (in tonnes)	14732	24736	28682	29790	35515
4	Average non-working time at berth (Idle time in days)	0	0	0	0	0

Thus it could be seen that the performance of the PPP operator and the CB-1 Port berth during 2010-15 was almost at par in respect of APBD, ATRT and AOSBD, whereas the 'Non-working Time' at the berth was Nil in respect of the PPP operator. The performance of the CB-2 berth of port and the PPP operator was at par (2010-15) in respect of APBD and ATRT. However, in respect of AOSBD the performance of the PPP operator was better during the 2012-2015.

In the absence of similar berths, comparison could not be made in NMPT, CoPT, ChPT, KoPT and MPT. Further, as there were no completed PPP projects at MbPT, VOCPT and PPT, comparison was not possible.

Based on the above performance indicators audit could not conclude regarding significant improvement in the quality of service after introduction of PPP model.

Ministry stated (October 2015) that PPPs have brought in private investment, improved management culture and encouraged the port management to constantly strive for raising the quality of service and efficiency in port operated facilities so as to remain competitive. Ministry added that for the benchmarking of performance parameters of PPP projects against those in comparable ports, a consultancy firm has been entrusted to conduct a study and their report is expected by December 2015.

Recommendation 4: *MoS should standardize the process of selection and appointment of Independent Engineers.*

Recommendation 5: *MoS/Ports need to design a mechanism to ensure timely obtaining of environmental clearance for each project well before commencement of the tendering process.*

Chapter 5

User Charges and Revenue Sharing



CHAPTER 5

User Charges and Revenue Sharing

The main sources of revenue for the Ports can be classified into (a) Vessel Related Charges viz. Port dues, pilotage fees, charges for berth hire, mooring, anchorage, beaching etc. (b) Cargo Related Charges viz. wharfage, demurrage, dwell time, storage etc. and; (c) Miscellaneous Charges viz. charges for fresh water supply, issue of entry permit, mobile cranes, forklifts etc. for cargo handling.

5.1 Gross Revenue and Revenue share

A PPP operator has to pay License fee and Revenue Share at the agreed rate stipulated in the respective LA/CA determined on the basis of a bid to the port.

(i) License fee: is the consideration for use of project site and equipment, payable annually in advance. It includes lease rent for waterfront and land. Lease rent for waterfront is a lump-sum, whereas lease rent for land is calculated as per the prevailing SoR notified by TAMP.

(ii) Revenue share: is a share as per the terms of LA/ CA which is calculated in either of the following ways:

- agreed *per cent* of the cargo handling charges collected by operator or;
- agreed rate on the TEUs handled or;
- agreed percentage of the gross revenue collected by the concessionaire, computed on the maximum tariff leviable for the use of the project/project facilities and services. This has been adopted for CAs after 2008 Guidelines.

5.2 Non standardisation of provision for revenue sharing

The definition of revenue share varied from project to project. It was noticed that in the 18 completed projects, the agreement provision for revenue sharing was:

- ❖ Agreed *per cent* of gross revenue in respect of 10 projects;
- ❖ Agreed *per cent* of berth hire charges and cargo handling charges in five projects; and
- ❖ Agreed Rate multiplied by quantity/ TEUs in three projects.

It was also observed that in 12 projects the berth hire charges were shared in the agreed percentage. Out of the remaining five¹⁴ projects, in three (NSICT at JNPT, ESSAR Oil at KPT and UPCL at NMPT) berth hire charges were collected by the port directly and in two cases berth hire charges were collected by the concessionaires but not shared with the port.

Ministry stated (October 2015) that MCA defines Gross Revenue as all the revenues chargeable by the Concessionaire from the Project/Project Facilities and Services and thus there was no longer ambiguity about the term 'Gross Revenue'.

¹⁴ In case of LNG regassification terminal in CoPT, berth hire charges are not applicable since the berth is not used for operation.

5.3 Systems to verify correctness of revenue declared by the PPP partner

The MCA issued by MoS in January 2008 stipulated the following:

- the PPP operator to submit monthly reports on cargo traffic and tariff earned and collected (Article 7.1(a)(viii));
- the PPP operator to submit financial statements of the gross revenue for every six monthly period ending September and March every year duly certified by their Statutory Auditors (Article 9.4); and
- the port to appoint a firm of Chartered Accountants to conduct a Special Audit of the gross revenue and financial statements (Article 9.4).

Although in the pre-MCA period very few contracts included these clauses, in post 2008 agreements, these clauses were included in most cases.

5.3.1 Appointment of independent auditor

In PPP projects, there is a need to appoint independent auditor who provides assurance regarding collection and sharing of revenues as envisaged in contract. It was noted that in case of Container Terminal-I at ChPT, and ICTT in CoPT, though there was no provision in the LA for appointment of independent auditors, ports had appointed a firm of Chartered Accountants to verify the correctness of revenue declared and shared. However, of the 14 completed projects for which LAs were signed (July 1997 to May 2008) prior to MCA, the provision for appointment of independent auditor was included only in five¹⁵. Audit observed the following in this regard:

- (a) Clause 8.25 of the LA provided that licensee shall appoint the statutory auditors from out of a mutually agreed list of 10 Chartered Accountants. It was, however, seen that ICTPL appointed Batliboi and Co. as statutory auditor who, was the statutory auditor of the holding company, Gammon India Ltd. There was thus a patent conflict of interest due to which the independence of the auditor could not be ensured.
- (b) In MbPT, though the operational period of five years (2007-12) of the own terminal 'Ballard Pier Station', given to Indira Container Terminal Private Ltd. (ICTPL) for operation along with the construction of Offshore Container Terminal was completed, no additional auditors were appointed.

In the four completed projects, whose agreements were signed after 2008, the provisions stipulated in MCA in this regard were included in three projects¹⁶ (except LNG Terminal by Petronet LNG Limited at CoPT). Additional Auditors were appointed by the ports in two cases (operation of Berth 15 at KPT was discontinued (November 2014) and LNG Regasification Terminal at CoPT is working at only 5.10 per cent capacity).

The findings of Auditors were as under:

¹⁵ (1) Development of Marine Liquid terminal at KPL, (2) Redevelopment of Bulk Terminal to Container Terminal in JNPT, (3) Development Container Terminal 2 in ChPT (4) Operation of Iron ore terminal at KPL (5) Operation of Coal Terminal at KPL.

¹⁶ (1) & (2) Multipurpose Cargo Berth 13 and Berth 15 at KPT, (3) Mechanised Coal handling facility at GCB in the Outer Harbour at VPT.

- The additional auditors pointed out short recovery of ₹ 1.10 crore for the period 2013-14 in respect of Multipurpose Cargo Berth 13 at KPT. It is pertinent to mention here that Auditor was appointed after the issue was pointed out by us in August 2014.
- In respect of Mechanised Coal Handling Facility at GCB at VPT, the Additional Auditors' Report (2013-14) pointed out:
 - A revenue share shortfall of ₹18.03 lakh;
 - Unsettled issues totaling ₹2.72 crore towards revenue share on berth hire charges, storage charges, dispatch of excess stock, stock left over etc.;
 - Non submission of vessel related files/ data.

While confirming the audit observation, Ministry stated (October 2015) that patent conflict of interest compromising the independence of the auditor in respect of ICTPL would be examined.

5.3.2 Independent verification of operational data of PPP Projects by ports

In all revenue sharing projects, there is a need to verify correctness of data submitted by the operator to ensure that correct share of revenue accrues to the port. It was noted that MPT has cross verified (June 2015) the traffic data provided by South West Port Limited (SWPL) with Bill of Entry data collected from vessel agents and claimed an additional revenue share of ₹8.24 lakh due to difference in quantity. This was reconciled to ₹7.08 lakh and recovered (July 2015) from SWPL. Such good practice was, however, not seen in other ports as a result of which there was a possibility of under reporting of revenue share by the operator, as was noted in following cases:

- (a) There was no procedure in place at KPT to verify the correctness of revenue shared by ABGKCTL as regards Container Berth 11 and 12. Though different rates were prescribed in the SoR for 20, 40 and 45 feet containers, there was no primary data available with port to cross verify the Monthly cargo traffic report submitted by ABGKCTL. Monthly cargo and revenue statements submitted from March 2007 were discontinued from July 2012 till the project was taken over by KPT in September 2013. Thus, KPT relied upon the data/ revenue share submitted/paid by ABGKCTL and did not verify their correctness.
- (b) Though LA with ICTPL provides for access to relevant data and conduct of independent verification, MbPT fully relied on the data provided by ICTPL and no independent verification was conducted to ascertain the veracity and reconcile the data furnished by ICTPL with the records available with the Port. Audit observed variations in revenue details submitted by concessionaire compared to parallel operational records such as Bill of Entry, Customs documents etc. :
 - Quantity handled as per gross revenue statement submitted by ICTPL for the period 2007-08 to 2012-13 was 145347 TEUs whereas as per Container Section records, the same was 154659 TEUs.

- Quantity handled for the period 2010-11 was 43644 TEUs whereas Annual Report (2010-11) of Gammon India Limited, the holding company, indicated that 51000 TEUs were handled by ICTPL.
 - The quantity handled as per gross revenue statement was 34071 and 43644 TEUs for the year 2009-10 and 2010-11 respectively whereas in the proposal submitted to TAMP for general revision of SoR, the same was indicated as 39002 TEUs and 51593 TEUs for the year 2009-10 and 2010-11 respectively.
- (c) Based on Audit Enquiry (August 2014), MPT has claimed a short recovery of revenue share of ₹7.52 crore towards MGT and short recovery for the period November 2005 to March 2015.
- (d) We also noticed a good practice at the CoPT which is recommended for replication. Invoices generated by IGTPL are captured in CoPT's system through intranet and the data is reconciled with monthly statements.

While confirming the audit observations, Ministry assured (October 2015) that the feasibility of putting in place an independent database/ methodology for ports to verify the data of terminal operators would be examined.

5.3.3 Operation of Escrow Account

Article 9.5 of the MCA prescribes that the concessionaire should maintain an escrow account with an approved bank and enter into an agreement to ensure that all proceeds for financing the project and all revenues and other receipts arising from the project and under any agreements, received by the concessionaire were deposited into such escrow account. The escrow bank was to act as the trustee for the benefit of, and as agent for, the concessioning authority, the lender's representative and the concessionaire. The agreement envisaged the following order of priority for withdrawal and appropriation of funds:

- All taxes due and payable by the concessionaire;
- License fee;
- All construction/implementation expenses relating to the project/project facilities and services, in accordance with the budget and subject to limits, if any, set out under the financing documents;
- All expenses relating to operations and management of the project/project facilities and services, in accordance with the budget and subject to limits, if any, set out under the Financing Documents;
- Debt service obligations under the Financing Documents;
- Revenue share and other sums payable to the concessioning authority and liquidated damages, if any;
- Any reserve requirements in accordance with the Financing Documents.

The concessionaire was at liberty to withdraw any sums outstanding in the escrow account after all the aforesaid payments due in any quarter have been made and/or adequate reserves have been created.

Audit observed that as per the order of priority of withdrawal, prescribed for escrow account, payment of revenue share was considered only after concessionaire's expenses related to operations and management of the project. This led to arrears of revenue share in respect of Berth 13 and 15 operated (since February 2013 and November 2013 respectively) by RAS and JRE at KPT, of ₹36.36 crore and ₹4.96 crore respectively as on 31 March 2015.

It was also observed that KPT failed to check all deposits into and withdrawals from the escrow account to ensure compliance to the order of priority. On scrutiny of Escrow Account for the period February 2013 to March 2015, short assessment of revenue share ₹11.34 crore based on 31.62 *per cent* of the gross amount ₹153.20 crore) deposited was observed. Letters regarding default under Escrow Agreement to Escrow Banks were issued only in January 2015 (berth 13) and May 2015 (berth 15) after it was pointed out (May 2014) by audit.

It is pertinent to note that in the Escrow Accounts in respect of two CAs (Airport Authority of India, New Delhi and Directorate of Information Technology, Government of Puducherry) Fixed Annual Premium and payment of Revenue Share were given priority over Debt Service and O&M expenses.

In view of the above, the Escrow agreement needs to be revisited to accord priority for withdrawal of revenue share and other dues to the concessioning authority just after the statutory dues. A system of realtime transfer at each receipt point, may be considered from Escrow Account, with a provision for subsequent periodical reconciliation.

While accepting the audit observation, Ministry stated (October 2015) that the suggestion for according higher priority to revenue share while withdrawing sums from Escrow account and real time transfer with subsequent periodical reconciliation would be considered.

5.4 Status of Revenue Sharing

The provisions for revenue sharing have not resulted in actual remittances in three cases as detailed below primarily on account of delay/recourse to arbitration by operator.

- In case of Berth 15 by UPCL at NMPT, even though the royalty for the first five years of operation was to be paid in lump sum in advance each year, NMPT has not collected the royalty of ₹5.70 crore for the period June 2012 to June 2015.
- In case of operation of BPS Terminal from June 2008 to December 2012, an amount of ₹11.34 crore was yet (December 2014) to be recovered from ICTPL.
Management stated (January 2015) that the dues are disputed and is being referred to arbitration. Ministry stated (October 2015) that MbPT advised ICTPL to settle the revenue share claim for ₹12.15 crore (June 2008 to June 2015) on top priority.
- In case of Berth 11 and 12 at KPT, ABGKCTL remitted ₹114.45 crore for the period commencing from March 2007 to July 2012 including penal interest for delays ranging between 70 and 90 days. Revenue share for the period

August 2012 to February 2013 worked out by KPT at ₹9.05 crore was outstanding. Revenue share for the period March 2013 to September 2013 was not quantified by KPT as details of revenue earned by ABGKCTL was not shared with KPT.

Though, in any of the applicable period (commencing from September 2007), ABGKCTL could not achieve the MGT, ABGKCTL did not remit the shortfall in revenue share, which worked out to ₹40.69 crore for the period September 2007 to September 2012. Revenue share on the shortfall in MGT for the period September 2012 to September 2013 could not be verified as data was not available with port. The matter is under arbitration.

Ministry stated (October 2015) that all claims relating to royalty, MGT etc. were included in the arbitration claim.

It needs to be highlighted that in two of the completed projects (Berth 15 at NMPT and Container Terminal-II at ChPT) there was provision for advance remittance of revenue share. The operator of Container Terminal-II (CITPL) has been remitting revenue share at 45.801 *per cent* of the gross revenue before 23rd of the month preceding to the month in which gross revenue pertains.

5.5 Procedural issues resulting in non recovery of ₹76.61 crore

It was also noted that the Ports were to collect an amount of ₹76.61 crore as detailed in the Annexures II and III from various PPP operators.

Recommendation 6: *In view of the low priority accorded to revenue share payment, it is suggested that a system may be devised to ensure real time transfer to the Port's account. This would prevent any arrears or need of follow up on this account.*

Chapter 6

Conclusion and Recommendations



CHAPTER 6

Conclusion and Recommendations

6.1 Conclusions

The PPP model was to ensure faster augmentation of infrastructure and better service quality for the user. However, out of an envisaged capacity addition of 315.23 MMTPA envisaged by the Maritime Agenda 2010-20, the ports achieved a capacity addition of 79.80 MMTPA (25.31 *per cent*) during 2010-12. PPP Projects could contribute only 33 *per cent* to the total capacity of major ports as on 31 March 2014. Thus, the purpose of resorting to PPP mode was defeated due to the slow progress in implementation of projects.

Ports did not structure the PPP projects appropriately as a result of which the long term interests of the ports were not adequately protected.

We noticed inconsistencies in the bidding process and selection of PPP partners. Significant post bid concessions valuing ₹40.23 crore had been extended to concessionaire at CoPT.

Commissioning of projects and inflow of revenue to ports was affected due to delay in/non-fulfilment of obligations on the part of the Ports/Ministry in respect of appointment of IEs, obtaining environmental clearance to projects, timely handing over of the project sites and provision of committed draught in the access channel etc. Non-fulfilment of conditions precedent by the concessionaires was also one of the major reasons for the delay in the commissioning of projects.


There was no standardized definition of the term 'gross revenue' across the ports prior to 2008. Deficiencies in revenue sharing arrangements, variances in the provision for appointment of auditors and lack of exercise of control by means of independent verification of operational data by ports were noticed.

6.2 Recommendations

- 6.2.1 *Ministry may put in place a mechanism wherein the best practices in ports are shared and informed while structuring PPP projects.*
- 6.2.2 *Scope of project offered to the private operator should be carefully determined and should not be varied after bidding as this vitiates the sanctity of the bidding process.*
- 6.2.3 *The Ministry/Port should ensure adherence to the time frame fixed for completion of the bidding process from issue of tender to signing of CA.*
- 6.2.4 *MoS should standardize the process of selection and appointment of Independent Engineers.*
- 6.2.5 *MoS/Ports need to design a mechanism to ensure timely obtaining of environmental clearance for each project well before commencement of the tendering process.*

6.2.6 *In view of the low priority accorded to revenue share payment, it is suggested that a system may be devised to ensure real time transfer to the Port's account. This would prevent any arrears or need of follow up on this account.*

The Ministry have accepted our recommendations and have already issued instructions to the Ports for implementing some of the recommendations.



(PRASENJIT MUKHERJEE)
Deputy Comptroller and Auditor General
and Chairman, Audit Board

New Delhi
Dated : 26 November 2015

Countersigned



(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

New Delhi
Dated : 26 November 2015

Annexures



Annexure-1
(Referred in Para 1.6, 2.2 and Chapter 4)

Summary of PPP Projects in Major Ports			
Details of total PPP Projects (91)			
Status	No. of Projects	Cost (₹ In crore)	Capacity (MMTPA)
Completed	35	17106.08	264.69
Under Construction	27	19910.55	221.94
Pipeline	27	26213.38	257.97
Terminated	1	204.04	2.00
Dropped	1	278.90	5.11
Total	91	63712.95	751.71
Details of selected PPP Projects (61)			
Status	No. of Projects	Cost (₹ In crore)	Capacity (MMTPA)
Completed	18	13469.01	162.75
Under Construction	22	18941.71	209.45
Pipeline	19	22870.93	246.28
Terminated	1	204.04	2.00
Dropped	1	278.90	5.11
Total	61	55764.59	625.59

Annexure-I (Population)
(Referred to Para 1.6 and 2.2 and Chapter 4)
Status of total PPP Projects as on 31 March 2014

Sr. No.	Name of Port	Name of PPP Project	Cost (₹ in crore)	Capacity Addition (MMTPA)	Status of Project	Date of Completion
1	KPT	Oil Jetty for IOCL	20.70	2.00	Completed	Mar-01
2	KPT	Oil Jetty for IFFCO	22.00	2.00	Completed	Apr-98
3	KPT	Oil Jetty for ESSAR	750.00	13.50	Completed	Dec-06
4	KPT	Development and Operation of Container Terminal - Phase I & II (Berth Nos. 11&12)	446.70	7.20	Completed	March 2007 June 2009
5	KPT	Development of Container Freight Station	41.07	3.00	Completed	Feb-04
6	KPT	Development of Multipurpose Cargo Berth No.13	188.87	1.50	Completed	Feb-13
7	KPT	Setting up of Captive Barge Jetty at Old Kandla (IFFCO)	27.67	2.00	Completed	Nov-13
8	KPT	Development of Multipurpose Cargo Berth No.15	188.87	1.50	Completed	Nov-13
9	KoPT	Multipurpose Berth 4A	150.00	2.00	Completed	Dec-2003
10	KoPT	Multipurpose Berth 12	35.00	1.12	Completed	Jan-02
11	JNPT	Construction of new 600 mtr quay length Container Terminal by Nhava Sheva International Container Terminal (NSICT)	750.00	13.20	Completed	Apr-99
12	JNPT	Redevelopment of Bulk Terminal to Container Terminal by Gateway Terminal Limited (GTIL)	1078.00	15.60	Completed	Oct-06
13	JNPT	Development of Liquid Cargo Terminal by BPCL	200.00	5.50	Completed	Feb-02
14	MPT	Construction and Operation of Multipurpose Bulk Cargo Berths 5 & 6	250.00	5.00	Completed	Sep-2004
15	NMPT	Berth 15 of New western Dock for handling Coal	230.00	3.00	Completed	Nov-11

16	NMPT	Development of SBM facility for crude oil imports	1143.00	18.00	Completed	Jan-13
17	KPL	Development of Iron Ore Terminal.	480.00	12.00	Completed	Feb-11
18	KPL	Development of Coal Terminal	399.00	8.00	Completed	Mar-12
19	KPL	Development of Marine Liquid Terminal.	252.00	3.00	Completed	Jan-09
20	VOCPT	Upgradation of Mechanical handling equipments in Berth 1 to 6 and 9	49.20	8.72	Completed	Mar-14
21	CoPT	Development of SBM facilities for crude oil imports	720.00	13.00	Completed	Dec-07
22	CoPT	International Container Transshipment Terminal (ICTT).	2118.00	40.00	Completed	Feb-11
23	CoPT	LNG Terminal	4150.00	5.00	Completed	Sep-13
24	ChPT	Development of container Terminal-1	778.18	6.00	Completed	Mar-07
25	ChPT	Development of container Terminal-2	495.00	9.60	Completed	Sep-09
26	VPT	Development of Container Terminal at Outer Harbour	86.35	5.60	Completed	Jun-03
27	VPT	Handling Facility for Crude Oil and POL (SBM)	643.46	8.00	Completed	Nov - 2013
28	VPT	Construction of two multipurpose berths EQ-8 & EQ-9 in the Northern arm of Inner Harbour	320.29	6.47	Completed	July 2004 Sept2005
29	VPT	Development of Mechanized Coal handling facilities at GCB in the outer harbor (GCB)	444.10	10.18	Completed	April-13
30	PPT	Mechanization of CQ-III berth.	40.00	6.00	Completed	Dec-2012
31	PPT	Captive Fertilizer Berth to IFFCO.	26.17	4.00	Completed	Aug-99
32	PPT	Construction of Single Point Mooring Captive Berth.	500.00	15.00	Completed	Dec-08
33	PPT	Mechanization of Cargo handling project-2.	25.13	2.00	Completed	Apr-09
34	PPT	Captive fertilizer berth to PPL.	20.00	4.00	Completed	Aug-95
35	PPT	Mechanization of Cargo handling Project-1.	37.32	2.00	Completed	Apr-09
		Total	17106.08	264.69		

36	KPT	Development of Multipurpose Cargo Berth No.14	188.88	1.50	Under construction	
37	KPT	Development of Multipurpose Cargo Berth No.16	188.88	1.50	Under construction	
38	KPT	Coal and Multi Cargo Berth at Tuna renamed as Developing Dry Bulk Terminal off Tekra near Tuna	1060.00	14.11	Under construction	(Completed in Dec 2014)
39	KPT	Setting up of Barge Jetty at Tuna on captive use basis (Renuka Sugars)	22.00	1.50	Under construction	
40	KPT	Expansion of the existing Liquid Bulk Cargo Jetty renamed as Development of Oil Jetty to handle Liquid Cargo and Ship Bunkering Terminal at Kandla	233.50	3.39	Under construction	
41	MbPT	Construction of Offshore Container Terminal 1& 2 (OCT) and Operation of Ballard Pier Station Container Terminal (BPS)[1]	2098.56	9.60	Under Construction	
42	JNPT	Development of 4th container terminal.	7915.00	60.00	Under construction	
43	JNPT	Development of Standalone Container handling facilities with a quay length of 330 mtrs by Nhava Sheva (India) Gateway Terminal Pvt. Ltd. (NSIGT)	600.00	9.60	Under construction	
44	MPT	Development of Coal Handling Terminal (Berth 7)	406.00	4.61	Under construction	(completed in November 2014)
45	NMPT	Mechanisation of New Iron Ore Berth 14	296.03	6.62	Under * Construction	
46	NMPT	Construction/Conversion of berth 13 for handling liquid cargo	79.17	7.80	Under Construction	Completed in Sep-2014
47	VOCPT	Development of NCB-II	332.16	7.00	Under Construction	
48	VOCPT	Conversion of 8 th berth as Container Terminal	312.23	7.20	Under Construction	

49	VOCPT	Development of NCB-III	420.00	9.15	Under Construction	
50	VOCPT	Development of NCB-IV	355.00	9.15	Under Construction	
51	CoPT	Development of Ship repair facility for 90 small and medium size ships at Cochin	785.00	0.00	Under Construction	
52	KPL	Development of Container Terminal	1270.00	16.80	Under Construction	
53	KPL	Development of Multi Cargo Terminal	151.00	2.00	Under Construction	
54	ChPT	Barge handling facility.	27.29	1.35	Under Construction	
55	VPT	Development of EQ-1 in East Docks	323.18	5.25	Under Construction	Completed in August 2014
56	VPT	Development of EQ-10 berth in Northern arm of Inner Harbour	55.38	1.84	Under Construction	Completed in March 2015
57	VPT	Development of EQ-1A in East Docks	313.39	7.36	Under Construction	
58	VPT	Development of WQ-6 berth in Northern arm of Inner Harbour	114.50	2.08	Under Construction	Completed in July 2015.
59	VPT	Up gradation of the existing facility at Outer Harbour and creation of new facility at Inner Harbour for handling iron ore (OHC)	845.41	7.5	Under Construction	
60	VPT	Installation of Mechanized fertilizer handling facilities at EQ-7 in Inner Harbour	217.58	3.33	Under Construction	
61	PPT	Development of Deep Draught Coal Berth on BOT basis at Paradip Port.	479.01	10.00	Under Construction	
62	KoPT	Haldia Dock-II (North)	821.40	11.70	Under Construction	
		Total	19910.55	221.94		

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63	CoPT	Bunkering Terminal by IOCL	240.00	4.52	Pipeline (CA signed in April 2014)	
64	ChPT	Development of Container Terminal-3 at Jawahar Dock (East)	475.00	9.60	pipeline	
65	ChPT	Development of Multilevel car parking with RO-RO facility Automobile terminal	105.00	1.00	pipeline	
66	ChPT	Development of Mega container Terminal	3686.00	48.00	pipeline	
67	ChPT	Development of Dry Port at Sriperumbudur	415.00	18.45	pipeline	
68	ChPT	Development of Dry Dock (Ship Repair facility)	100.00	0.00	pipeline	
69	ChPT	Development of Export Processing Zone (EPZ) near Fishing Harbour	100.00	0.00	pipeline	
70	ChPT	Development of New Trade Convention centre at new workshop	100.00	0.00	pipeline	
71	ChPT	Construction of Desalination plant of 1000 Liter per day capacity.	53.00	0.00	pipeline	
72	VPT	Extension of existing Container terminal in the Outer Harbour	633.11	7.56	Pipeline	
73	PPT	Development of Deep Drought Iron Ore Berth on BOT basis at Paradip Port.	740.19	10.00	Pipeline	
74	PPT	Development of Multi-purpose Berth to handle clean cargo including container at Paradip Port.	430.78	5.00	Pipeline	
75	PPT	Mechanization of EQ1, EQ-2 and EQ3 berths at Paradip Port on BOT basis.	1437.76	30.00	Pipeline	
76	KoPT	Haldia Dock-II (south)	886.10	11.70	Pipeline	
77	KoPT	Diamond Harbour Container Terminal Project (DHCTP)	1758.50	25.00	Pipeline	
78	MbPT	CFS's Off-dock Container Yards and Empty Depots	214.00	11.76	Pipeline	
79	MbPT	Redevelopment of Harbour Wall Berths (HWB)	600.00	7.00	Pipeline	

80	MbPT	Development of Offshore Multipurpose Cargo Berths (OMCB)	696.00	4.00	Pipeline	
81	KPT	Setting up of Single Point Mooring (SPM) and allied Facilities off Veera in Gulf of Kutch	1086.29	12.00	pipeline	
82	KPT	Setting up of Container Terminal at Tuna Tekra	5992.00	4.18	Pipeline	
83	VOCPT	Construction of Shallow Draught Berth for handling Cement	84.08	2.67	pipeline	
84	VOCPT	Construction of Shallow Draught Berth for handling Construction materials	65.37	2.00	pipeline	
85	NMPT	LNG Terminal	2600.00	2.50	pipeline	
86	NMPT	Container Terminal in Western Dock	300.00	3.00	Pipeline	
87	CoPT	Development of General Cargo Terminal at Q8-Q9 Berths (restructured as Modernisation of Coal Handling)	198.20	4.23	pipeline	
88	JNPT	Development of Additional Liquid Bulk Terminal	2496.00	26.60	pipeline	
89	MPT	Development of West of Breakwater by Constructing an Iron Ore Export Terminal.	721.00	7.20	Pipeline (Discharged in February 2013)	
		Total	26213.38	257.97		
90	MPT	Providing Mechanised Handling Facilities for Handling Coal at Berth 11	204.04	2.00	Terminated in March 2014)	
		Total	204.04	2.00		
91	KoPT	Riverine Multipurpose Jetty at Outer Terminal-1 in the upstream of 3r Oil Jetty at HDC	278.90	5.11	Project dropped	
		Total	278.90	5.11		
		Grand Total	63712.95	751.71		

(Referred to Para 1.6, 2.2 and Chapter4)
Port-wise summary of 91 projects
(Population)

Sr No.	Name of Port	Completed			Under Construction			In Pipeline			Terminated/Dropped			TOTAL		
		No. of Projects	Estimated Cost (₹ In Crore)	Capacity (MMTPA)	No. of Project	Estimated Cost (₹ In Crore)	Capacity (MMTPA)	No. of Project	Estimated Cost (₹ In Crore)	Capacity (MMTPA)	No of Projects	Estimated Cost (₹ In Crore)	Capacity (MMTPA)	No. of Project	Estimated Cost (₹ In Crore)	Capacity (MMTPA)
1	KPT	8	1685.88	32.70	5	1693.26	22.00	2	7078.29	16.18	0	0.00	0.00	15	10457.43	70.88
2	MbPT	0	0.00	0.00	1	2098.56	9.60	3	1510.00	22.76	0	0.00	0.00	4	3608.56	32.36
3	JNPT	3	2028.00	34.30	2	8515.00	69.60	1	2496.00	26.60	0	0.00	0.00	6	13039.00	130.50
4	MPT	1	250.00	5.00	1	406.00	4.61	1	721.00	7.21	1	204.00*	2.00	4	1581.04	18.81
5	NMPT	2	1373.00	21.00	2	375.20	14.42	2	2900.00	5.50	0	0.00	0.00	6	4648.20	40.92
6	VOCPT	1	49.20	8.72	4	1419.39	32.50	2	149.45	4.67	0	0.00	0.00	7	1618.04	45.89
7	CoPT	3	6988.00	58.00	1	785.00	0.00	2	438.20	8.75	0	0.00	0.00	6	8211.20	66.75
8	KPL	3	1131.00	23.00	2	1421.00	18.80	0	0.00	0.00	0	0.00	0.00	5	2552.00	41.80
9	ChPT	2	1273.18	15.60	1	27.29	1.35	8	5034.00	77.05	0	0.00	0.00	11	6334.47	94.00
10	VPT	4	1494.20	30.25	6	1869.44	27.36	1	633.11	7.56	0	0.00	0.00	11	3996.75	65.17
11	PPT	6	648.62	33.00	1	479.01	10.00	3	2608.73	45.00	0	0.00	0.00	10	3736.36	88.00
12	KoPT	2	185.00	3.13	1	821.40	11.70	2	2644.60	36.70	1	278.90#	5.11	6	3929.00	56.64
	Total	35	17106.08	264.69	27	19910.55	221.94	27	26213.38	257.97	2	482.94	7.11	91	63712.95	751.71

*Terminated

#Dropped

Annexure-I (Sample)
(Referred to Para 1.6, 2.2 and Chapter 4)
Status of total PPP Projects as on 31 March 2014

Sr. No.	Name of Port	Name of PPP Project	Cost (₹ in crore)	Capacity Addition (MMTPA)	Status of Project	Date of Completion
1	KPT	Oil Jetty for ESSAR	750.00	13.50	Completed	Dec-06
2	KPT	Development and Operation of Container Terminal - Phase I & II (Berth Nos. 11&12)	446.70	7.20	Completed	March 2007 June 2009
3	KPT	Development of Multipurpose Cargo Berth No.13	188.87	1.50	Completed	Feb-13
4	KPT	Development of Multipurpose Cargo Berth No.15	188.87	1.50	Completed	Nov-13
5	KoPT	Multipurpose Berth 4A	150.00	2.00	Completed	Dec-2003
6	JNPT	Construction of new 600 mtr quay length Container Terminal by Nhava Sheva International Container Terminal (NSICT)	750.00	13.20	Completed	Apr-99
7	JNPT	Redevelopment of Bulk Terminal to Container Terminal by Gateway Terminal Limited (GTIL)	1078.00	15.60	Completed	Oct-06
8	MPT	Construction and Operation of Multipurpose Bulk Cargo Berths 5 & 6	250.00	5.00	Completed	Sep-2004
9	NMPT	Berth 15 of New western Dock for handling Coal	230.00	3.00	Completed	Nov-11
10	KPL	Development of Iron Ore Terminal.	480.00	12.00	Completed	Feb-11
11	KPL	Development of Coal Terminal	399.00	8.00	Completed	Mar-12
12	KPL	Development of Marine Liquid Terminal.	252.00	3.00	Completed	Jan-09
13	CoPT	International Container Transshipment Terminal (ICTT).	2118.00	40.00	Completed	Feb-11
14	CoPT	LNG Terminal	4150.00	5.00	Completed	Sep-13

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15	ChPT	Development of container Terminal-1	778.18	6.00	Completed	Mar-07
16	ChPT	Development of container Terminal-2	495.00	9.60	Completed	Sep-09
17	VPT	Construction of two multipurpose berths EQ-8 & EQ-9 in the Northern arm of Inner Harbour	320.29	6.47	Completed	July 2004 Sept2005
18	VPT	Development of Mechanized Coal handling facilities at GCB in the outer harbor (GCB)	444.10	10.18	Completed	April-13
		Total	13469.01	162.75		
19	KPT	Development of Multipurpose Cargo Berth No.14	188.88	1.50	Under construction	
20	KPT	Development of Multipurpose Cargo Berth No.16	188.88	1.50	Under construction	
21	KPT	Coal and Multi Cargo Berth at Tuna renamed as Developing Dry Bulk Terminal off Tekra near Tuna	1060.00	14.11	Under construction	(Completed in Dec 2014)
22	KPT	Expansion of the existing Liquid Bulk Cargo Jetty renamed as Development of Oil Jetty to handle Liquid Cargo and Ship Bunkering Terminal at Kandla	233.50	3.39	Under construction	
23	MbPT	Construction of Offshore Container Terminal 1& 2 (OCT) and Operation of Ballard Pier Station Container Terminal (BPS)[1]	2098.56	9.60	Under Construction	
24	JNPT	Development of 4th container terminal.	7915.00	60.00	Under construction	
25	JNPT	Development of Standalone Container handling facilities with a quay length of 330 mtrs by Nhava Sheva (India) Gateway Terminal Pvt. Ltd. (NSIGT)	600.00	9.60	Under construction	
26	MPT	Development of Coal Handling Terminal (Berth 7)	406.00	4.61	Under construction	(completed in November 2014)
27	NMPT	Mechanisation of New Iron Ore Berth 14	296.03	6.62	Under *	

					Construction	
28	VOCPT	Development of NCB-II	332.16	7.00	Under Construction	
29	VOCPT	Conversion of 8 th berth as Container Terminal	312.23	7.20	Under Construction	
30	VOCPT	Development of NCB-III	420.00	9.15	Under Construction	
31	VOCPT	Development of NCB-IV	355.00	9.15	Under Construction	
32	KPL	Development of Container Terminal	1270.00	16.80	Under Construction	
33	KPL	Development of Multi Cargo Terminal	151.00	2.00	Under Construction	
34	VPT	Development of EQ-1 in East Docks	323.18	5.25	Under Construction	Completed in August 2014
35	VPT	Development of EQ-1A in East Docks	313.39	7.36	Under Construction	
36	VPT	Development of WQ-6 berth in Northern arm of Inner Harbour	114.50	2.08	Under Construction	Completed in July 2015.
37	VPT	Up gradation of the existing facility at Outer Harbour and creation of new facility at Inner Harbour for handling iron ore (OHC)	845.41	7.5	Under Construction	
38	VPT	Installation of Mechanized fertilizer handling facilities at EQ-7 in Inner Harbour	217.58	3.33	Under Construction	
39	PPT	Development of Deep Draught Coal Berth on BOT basis at Paradip Port.	479.01	10.00	Under Construction	
40	KoPT	Haldia Dock-II (North)	821.40	11.70	Under Construction	
		Total	18941.71	209.45		

41	ChPT	Development of Container Terminal-3 at Jawahar Dock (East)	475.00	9.60	pipeline	
42	ChPT	Development of Multilevel car parking with RO-RO facility Automobile terminal	105.00	1.00	pipeline	
43	ChPT	Development of Mega container Terminal	3686.00	48.00	pipeline	
44	ChPT	Development of Dry Port at Sriperumbudur	415.00	18.45	pipeline	
45	VPT	Extension of existing Container terminal in the Outer Harbour	633.11	7.56	Pipeline	
46	PPT	Development of Deep Drought Iron Ore Berth on BOT basis at Paradip Port.	740.19	10.00	Pipeline	
47	PPT	Development of Multi-purpose Berth to handle clean cargo including container at Paradip Port.	430.78	5.00	Pipeline	
48	PPT	Mechanization of EQ1, EQ-2 and EQ3 berths at Paradip Port on BOT basis.	1437.76	30.00	Pipeline	
49	KoPT	Haldia Dock-II (south)	886.10	11.70	Pipeline	
50	KoPT	Diamond Harbour Container Terminal Project (DHCTP)	1758.50	25.00	Pipeline	
51	MbPT	CFS's Off-dock Container Yards and Empty Depots	214.00	11.76	Pipeline	
52	MbPT	Redevelopment of Harbour Wall Berths (HWB)	600.00	7.00	Pipeline	
53	MbPT	Development of Offshore Multipurpose Cargo Berths (OMCB)	696.00	4.00	Pipeline	
54	KPT	Setting up of Single Point Mooring (SPM) and allied Facilities off Veera in Gulf of Kutch	1086.29	12.00	pipeline	
55	KPT	Setting up of Container Terminal at Tuna Tekra	5992.00	4.18	Pipeline	
56	NMPT	Container Terminal in Western Dock	300.00	3.00	Pipeline	
57	CoPT	Development of General Cargo Terminal at Q8-Q9 Berths (restructured as Modernisation of Coal Handling)	198.20	4.23	Pipeline	
58	JNPT	Development of Additional Liquid Bulk Terminal	2496.00	26.60	Pipeline	

59	MPT	Development of West of Breakwater by Constructing an Iron Ore Export Terminal.	721.00	7.20	Pipeline (Discharged in February 2013)
		Total	22870.93	246.28	
60	MPT	Providing Mechanised Handling Facilities for Handling Coal at Berth 11	204.04	2.00	Terminated in March 2014)
		Total	204.04	2.00	
61	KoPT	Riverine Multipurpose Jetty at Outer Terminal-1 in the upstream of 3r Oil Jetty at HDC	278.90	5.11	Project dropped
		Total	278.90	5.11	
		Grand Total	55764.59	625.59	

Port wise summary of 61 Projects (Sample)
(Referred to Para 1.6, 2.2 and 4)

Sr No.	Name of Port	Completed			Under Construction			In Pipeline			Terminated/Dropped			TOTAL		
		No. of Projects	Estimated Cost (₹ In Crore)	Capacity (MMTPA)	No. of Project	Estimated Cost (₹ In Crore)	Capacity (MMTPA)	No. of Project	Estimated Cost (₹ In Crore)	Capacity (MMTPA)	No. of Project	Estimated Cost (₹ In Crore)	Capacity (MMTPA)	No. of Project	Estimated Cost (₹ In Crore)	Capacity (MMTPA)
1	KPT	4	1574.44	23.70	4	1671.26	20.50	2	7078.29	16.18	0	0.00	0.00	10	10323.99	60.38
2	MbPT	0	0.00	0.00	1	2098.56	9.60	3	1510.00	22.76	0	0.00	0.00	4	3608.56	32.36
3	JNPT	2	1828.00	28.80	2	8515.00	69.60	1	2496.00	26.60	0	0.00	0.00	5	12839.00	125.00
4	MPT	1	250.00	5.00	1	406.00	4.61	1	721.00	7.20	1	204.04*	2.00	4	1581.04	18.81
5	NMPT	1	230.00	3.00	1	296.03	6.62	1	300.00	3.00	0	0.00	0.00	3	826.03	12.62
6	CoPT	2	6268.00	45.00	0	0.00	0.00	1	198.20	4.23	0	0.00	0.00	3	6466.20	49.23
7	VOCPT	0	0.00	0.00	4	1419.39	32.50	0	0.00	0.00	0	0.00	0.00	4	1419.39	32.50
9	KPL	3	1131.00	23.00	2	1421.00	18.80	0	0.00	0.00	0	0.00	0.00	5	2552.00	41.80
9	ChPT	2	1273.18	15.60	0	0.00	0.00	4	4681.00	77.05	0	0.00	0.00	6	5954.18	92.65
10	VPT	2	764.39	16.65	5	1814.06	25.52	1	633.11	7.56	0	0.00	0.00	8	3211.56	49.73
11	PPT	0	0.00	0.00	1	479.01	10.00	3	2608.73	45.00	0	0.00	0.00	4	3087.74	55.00
12	KoPT	1	150.00	2.00	1	821.40	11.70	2	2644.60	36.70	1	278.90#	5.11	5	3894.90	55.51
	Total	18	13469.01	162.75	22	18941.71	209.45	19	22870.93	246.28	2	482.94	7.11	61	55764.59	625.59

*Terminated
#Dropped

Annexure-II
(Referred to Para 5.5)

Statement of outstanding License Fee/Lease Rent

(₹ In crore)

Sr. No.	Name of the Project/Port	Amount	Remarks
A. Handing over of land without measurement ₹18.38 crore			
1.	JNPT Construction, operation and management of new two berth container terminal by NSICT	18.38	As per the LA (July 1997) with NSICT, the land was handed over. At the time of handing over of the land no measurement of actual land handed over was done. On raising demand for lease rent, the licensee disputed the payment of lease rent for the additional two hectares on the ground that the land given was as per the agreed plan. The dispute over the payment of lease rent was referred to an Arbitrator. The Arbitration Award was given (September 2011) in favour of NSICT as JNPT had not imposed any terms and conditions at the time of handing over the additional land. Thus non imposing of clear terms and conditions at the time of handing over the additional land, led to foregoing the claim of lease rental on two hectares of land at ₹8.02 crore for the period from April 1999 to September 2013 and further claim of ₹ 10.36 crore for the remaining period of LA. <i>The Management stated that the project work was taken up and the operations were commenced as per the progress of the work i.e. from time to time as per stage-wise completion, operations started on such partially developed areas/infrastructure. As regard the area which was to be handed over to NSICT was developed land, which was taken under the operational use by NSICT as per their requirements in parts. There were certain procedural lapses in handing over of land, it stated further that due care shall be taken in taking over and handing over of land for future projects.</i>
B. Failure of port to clarify the date from which the License Fee was payable ₹ 5.48 crore			
1	VPT EQ-1, EQ-1A, GCB projects	5.48	In respect of projects EQ-1 (CA dated August 2011), EQ-1A (CA dated February 2012) and GCB (CA dated June 2010), though the Licence Fee was payable from the date of signing of CA, VPT collected the same from the date of actual handing over of the land, which resulted in loss of revenue of ₹5.48 crore.

C. Failure in raising demand ₹ 4.44 crore			
1	NMPT Captive Jetty by M/s UPCL	0.39	Article 9.3 of the Concession Agreement (May 2008) provided that the rent and other charges should be paid as per the SoR applicable as notified by the competent authority from time to time. The SoR for the lease rentals existing (May 2006) at the time of entering into agreement was revised as per the TAMP notification dated 20 May 2014 retrospectively with effect from 20 February 2012. NMPT failed to demand the arrears payable by UPCL till date (May 2015) which worked out to ₹4.12 crore. Ministry stated (October 2015) that the Port has raised (May 2015) demand for ₹8.39 crore, UPCL has remitted ₹8 crore and the balance amount is under consideration.
2	NMPT Iron Ore Handling Facilities by Sical	4.05	The Port had not demanded the arrears (₹4.05 crore) payable by Sical Iron Ore Terminal so far (August 2014). On this being observed (September 2014), it was replied (December 2014) that enforcement of any terms of CA (October 2009) would result in contempt of Court as the Honourable High Court of Karnataka had granted (February 2014) a stay on enforcement of terms of CA. The contention of the management is not acceptable as the mere raising of demand would not amount to contempt of court. Further, the management issued (May 2014) demand notice to the concessionaire for payment of lease rent for the fifth year of lease.
	Total	4.44	
D. Other outstanding ₹ 30.65 crore			
1	KPT Berth 11 and 12 (ABGKCTL)	17.63	The LA was executed in June 2006. ₹12.75 crore was outstanding up to the period January 2014 (including fee outstanding since 2008), ₹1.75 crore towards usage of additional 129.90 meter up to the period June 2008 (includes fee outstanding since 2007) and ₹3.13 crore towards fee for occupation of 27700 sq. mt land from July 2009 to September 2013. Ministry stated (October 2015) that all claims relating to royalty, MGT etc. were included in arbitration claim.
2	KPT Berth no 16 PSL IPPL	1.48	Though the CA was signed on 18 February 2011, the License fee for the subsequent two years from 04 August 2012 to 30 June 2014 amounting to ₹10.59 crore was yet to be remitted by PSL IPPL. The contract has been terminated and the assets

			has been taken over by the Port (October 2014). Ministry stated (October 2015) that the bank guarantee of ₹9.11 crore was encashed, raised claim of outstanding dues and the matter is under arbitration.
3	KPT Berth no.13 RAS Infraport	0.89	License fee of ₹11.06 crore plus Service Tax for two years (03 March 2013 to 02 March 2015) was not remitted by RAS yet (March 2014) in spite of reminders issued by KPT. A consultation notice was issued (August 2014) to the Operator on account of non-payment of outstanding dues. Ministry stated (October 2015) that after issue of consultation notice and start of restructuring process as suggested by the Ministry, RAS has remitted ₹10.17 crore towards license fee and Service Tax.
4	KPT Berth no.15 JRE	4.85	License Fee of ₹11.06 crore plus Service Tax for two years from 14 July 2013 to 13 July 2015 was also not remitted by JRE. A consultation notice was issued (October 2014) to the Operator on account of non-payment of outstanding dues. Ministry stated (October 2015) that after issue of consultation notice and start of restructuring process as suggested by the Ministry, JRE has remitted ₹6.21 crore towards license fee and Service Tax.
5	VPT EQ1A and GCB Projects	5.80	₹5.80 crore is outstanding as on 31 August 2014 towards land rentals from operators of EQ1A and GCB project.
	Total	30.65	

**Annexure-III
(Referred to Para 5.5)**

Statement of outstanding dues towards CISF deployment

(₹ in crore)

Sr. No	Name of the Project/Port	Amount	Remarks
1.	JNPT Development of container terminal NSICT	6.44	In terms of LA (July 1997), NSICT had been sharing CISF security arrangement of the Port since April 1999. However the licensee had not paid CISF security charges from the year 2001-02 onwards due to dispute over security charges on account of staggering increase in the costs of deployment of the CISF personnel for which no details were given by the licensor. Therefore, the matter was referred to Arbitration. The Arbitration Award (September 2011), stipulated that the licensee shall pay to the licensor 40 per cent of the CISF's direct expenses and relevant indirect expenses like expenditure on housing, medical expenses, canteen coupons, gift vouchers, etc. In view of the award, the management appointed (2013-14) an auditor to ascertain the actual relevant cost of CISF recoverable from the licensee. An amount of ₹6.44 crore as on 31 March 2014 on CISF deployment is outstanding from the licensee.
2.	CoPT Construction of International Container Transshipment Terminal IGTPL	11.22	IGTPL rejected the claim of ₹11.22 crore, being the cost of deployment of CISF as on 31 March 2014, contending that they were not contractually (CA dated January 2005) liable to bear the CISF cost and they had deployed private security inside the terminal. Failure of the port to insist IGTPPL to follow ISPS code and waiver of the same from Lol before the commissioning of ICTT at Vallarpadam resulted in non-realization of cost to the tune of ₹11.22 crore. <i>The Management replied (November 2014) that as per agreement conditions, IGTPPL is bound to bear the cost of CISF deployment in the terminal. CoPT has raised the demand for reimbursement of the sum of ₹11.22 crore and further cost from April 2014 in the arbitration with IGTPPL.</i> However, absence of specific provisions led to loss of ₹11.22 crore, due to non reimbursement of cost towards deployment of CISF.
	Total	17.66	

Glossary



GLOSSARY

Sl. No.	Abbreviation	Expanded Form
1	ABGGPL	ABG Goa Port Private Limited
2	ABGIL	ABG Infralogistics Limited
3	ABGKCTL	ABG Kandla Container Terminal Limited
4	ABGPPL	ABG Port Private Limited
5	APBD	Average Pre-Berthing Detention
6	ATRT	Average Turn-Around Time
7	AOSBD	Average Output Ship Berth day
8	ANWT	Average Non-Working Time
9	AVPL	Alpha Vinimay Private Limited
10	BOOT	Build Own Operate and Transfer
11	BOT	Build Operate and Transfer
12	BPS	Ballard Pier Station
13	BWIOTL	Blue Water Iron Ore Terminal Private Limited
14	CA	Concession Agreement
15	CBI	Central Bureau of Investigation
16	CCEA	Cabinet Committee on Economic Affairs
17	CCI	Cabinet Committee on Investments
18	ChPT	Chennai Port Trust
19	CICTPL	Chettinad International Coal Terminal Private Limited
20	CISF	Central Industrial Security Force
21	CITPL	Chennai International Terminal Private Limited
22	COD	Commercial Operation Date
23	CoPT	Cochin Port Trust
24	CP	Conditions Precedent
25	CRZ	Coastal Regulation Zone
26	DBFOT	Design Build Finance Operate and Transfer
27	DCIL	Dredging Corporation of India Limited
28	DEA	Department of Economic Affairs
29	DoE	Department of Expenditure
30	DPI	Dubai Ports International
31	DPR	Detailed Project Report
32	DWT	Dead Weight Tonnage
33	EC	Environmental Clearance
34	EFC	Expenditure Finance Committee
35	EoI	Expression of Interest
36	EOL	Essar Oil Limited
37	EPTL	Essar Paradip Terminal Limited
38	EQ	East Quay

39	FA&CAO	Financial Advisor and Chief Accounts Officer
40	GCB	General Cargo Berth
41	GDP	Gross Domestic Production
42	GoI	Government of India
43	GSPCB	Goa State Pollution Control Board
44	HoD	Head of Departments
45	ICTT	International Container Transshipment Terminal
46	IE	Independent Engineers
47	IGTPL	India Gateway Terminal Private Limited
48	IIT	Indian institute of Technology
49	IOCL	Indian Oil Corporation Limited
50	IPA	Indian Ports Association
51	IPTL	Indian Port Terminals Limited
52	ISPS	International Ship and Port Facility Security
53	JNPT	Jawaharlal Nehru Port Trust
54	JRE	JRE Infraport Private Limited
55	KPL	Kamarajar Port Limited Ennore
56	KPT	Kandla Port Trust
57	KVRRIPPL	KVR Rail Infra Projects Private Limited
58	KoPT	Kolkata Port Trust
59	LA	License Agreement
60	LD	Liquidated Damages
61	LoA	Letter of Award
62	LOT	Lease Operate and Transfer
63	MbPT	Mumbai Port Trust
64	MCA	Model Concession Agreement
65	MGT	Minimum Guaranteed Throughput
66	MMT	Million Metric Ton
67	MMTPA	Million Metric Ton Per Annum
68	MoEF	Ministry of Environment and Forest
69	MoF	Ministry of Finance
70	MoHA	Ministry of Home Affairs
71	MoL	Ministry of Law
72	MoR	Ministry of Railways
73	MoS	Ministry of Shipping
74	MoST	Ministry of Surface Transport
75	MPSEZ	Mundra Port Special Economic Zone
76	MPT	Mormugao Port Limited
77	NCB	North Container Berth
78	NDSC	National Defense and Security Clearance
79	NMDP	National Maritime Development Programme
80	NMPT	New Mangalore Port Trust
81	NPV	Net Present Value

82	NSICT	Nhava Sheva International Container Terminal
83	NSIGT	Nhava Sheva (India) Gateway Terminal Private Limited
84	O&M	Operation and Maintenance
85	PIC	Project Implementation Unit
86	PMU	Project Monitoring Unit
87	PPP	Public Private Partnership
88	PPPAC	Public Private Partnership Appraisal Committee
89	PPT	Paradip Port Trust
90	PRU	Performance Review Unit
91	PSAIPL	PSA International Private Limited
92	PSAMIPL	PSA Mumbai Investment Private Limited
93	PSABIPL	PSA Bharat Investment Private Limited
94	PSLIPPL	PSL Infrastructure and Ports Private Limited
95	RAS	RAS Infraport Private Limited
96	RFP	Request For Proposal
97	RFQ	Request For Qualification
98	RITES	Rail India Technical and Economic Service
99	ROCE	Return On Capital Employed
100	RGCT	Rajiv Gandhi Container Terminal
101	SFC	Standing Finance Committee
102	SICAL	South India Limited Corporation (Agencies)
103	SoR	Scale of Rates
104	SPV	Special Purpose Vehicle
105	SWPL	South West Port Limited
106	TAMP	Tariff Authority for major Ports
107	TDS	Tax Deducted at source
108	TEUs	Twenty Foot Equivalent Units
109	UPCL	Udupi Power Corporation Limited
110	VCTPL	Visakha Container Terminal Private Limited
111	VGCBL	Vizag General Cargo Berth Private Limited
112	VGf	Viability Gap Funding
113	VOCPT	V O Chidambaranar Port Trust
114	VOTL	Vadinar Oil Terminal Limited
115	VPT	Visakhapatnam Port Trust
116	VSPL	Vizag Sea Port Limited
117	WQ	West Quay

