

Government of India  
Ministry of Shipping  
(Ports Wing)

No.PD-24018/8/2009 - PD.III      New Delhi-1, dated the 2<sup>nd</sup> August, 2010

To

The Chairman, All Port Trusts

**Sub:- Policy for preventing private sector monopoly in Major Ports.**

Sir,

In pursuance of private sector participation guidelines, 1996 for the Port Sector and with a view to ensure healthy competition and smooth award of the projects for capacity augmentation at the Major Ports, the Central Government hereby directs all Major Ports under Section 111 of the Major Port Trusts Act, 1963, to follow the following Policy while awarding projects to private parties through Public Private Partnership (PPP) route so as to avoid private sector monopoly in the Major Ports. This policy is in supersession of this Ministry's letters No.PD-25021/13/2002-Pvt dated 11<sup>th</sup> November, 2002, No.PD-12013/2/2005-JNPT dated 26<sup>th</sup> September, 2007 and No.PD-11015/2/2006-VPT dated 1<sup>st</sup> October, 2008.

## **2.Policy**

If there is only one private terminal/berth operator in a port for a specific cargo, the operator of that berth or his associates shall not be allowed to bid for the next terminal/berth for handling the same cargo in the same port.

For the purpose of this policy, the terms

- (i) 'Operator' includes consortium members of the bidder:
- (ii) 'Associates' means, in relation to the Applicant/Consortium member, a person who controls, is controlled by, or is under common control with such Applicant/Consortium Member (the Associate). As used in the definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, or more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.
- (iii) 'Berth' shall have the same meaning as "Wharf" given in Section 2 (za) of the MPT Act, 1963.

(iv) 'Specific Cargo' means (i) containers (ii) liquid bulk, (iii) dry bulk or (iv) multipurpose/other general cargo.

3. The policy shall be applicable with immediate effect and shall apply to Request for Qualification (RFQs) issued on or after this date.

4. It is also directed that the above provisions may be incorporated by the Major Ports in the Request for Qualification & Request for Proposal to give effect to the policy in relevant cases.

5. This issues with the concurrence of the Ministry of Law and Justice, Department of Legal Affairs and approval of Hon'ble Minister of Shipping.

Yours faithfully,

(Geetu Joshi)  
Director  
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