

**GOVERNMENT OF INDIA
MINISTRY OF SHIPPING
(PORTS WING)**

No.PD-24018/8/2009-US-III New Delhi-110001, dated the 25th January, 2010

Sub:- Formulation of Policy Guidelines for preventing private sector monopoly in Port Sector.

The draft policy for prevention of monopoly in the Port Sector is proposed to be issued by the Ministry of Shipping (appended below for perusal and reference). Any Organization/stake holder, who is concerned with this policy may like to forward their/his/her suggestions/objections in respect of this policy within 15 days time.

Sd/-
(Geetu Joshi)
Deputy Secretary to the Government of India
Email : dspd-ship@nic.in
dopd1@nic.in
Ph : 011-23321672
011-23358128

(DRAFT POLICY as on 25/1/2010)

Sub:- Formulation of Policy Guidelines for preventing private sector monopoly in Port Sector.

In supersession of this Ministry's letters No.PD-25021/13/2002-Pvt dated 11th November, 2002, No.PD-12013/2/2005-JNPT dated 26th September, 2007 & No.PD-11015/2/2006-VPT dated 1st October, 2008 and in pursuance of powers conferred on the Central Government under Section 111 of the Major Port Trust Act, 1963, I am directed to say that the following Policy Guidelines shall be followed by all the Major Ports in the country while resorting to award of port facilities under Public Private Partnership (PPP) mode to prevent private sector monopoly in the Ports:-

- (1) If there is only one private terminal operator in the port for specific cargo, that operator will not be allowed to bid for the next terminal/berth for the same cargo in the same port.
- (2) Further, an existing private operator of the port is allowed to bid for the project, only if, with the award of the project, the operator does not have more than two Build, Operate and Transfer (BOT) projects i.e. container terminals or berths or

Single Point Mooring (SPMs) or SEZs etc at the port or at any port within a radius of 100 KM of Port limits.

2. For the purpose of this policy, the terms
 - (i) Operator includes consortium members or its associates;
 - (ii) Associates mean, 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.
3. The policy shall be applicable with immediate effect.
4. It is also directed that the above provisions may be incorporated in the RFQ & RFP to give effect to the policy.
5. This issues with the concurrence of the Ministry of Law & Justice, Department of Legal Affairs and approval of Hon’ble Minister of Shipping.