

**GOVERNMENT OF INDIA**  
**MINISTRY OF RAILWAYS (RAILWAY BOARD)**

**SUGGESTION**

**ON DRAFT POLICY ON  
PRIVATE FREIGHT TERMINAL (PFT)**

1. Ministry of Railways had issued policy guidelines on “Private Freight Terminal (PFT)” vide Freight Marketing Circular No. 14 of 2010 under Railway Board’s letter No. 2008/TC(FM)/14/2 dated 31.05.2010 and its amendment issued vide Freight Marketing Circular No. 06 of 2011 dated 21.06.2011.
2. A new PFT policy is under formulation to supersede the above policy incorporating certain modifications. Accordingly, a draft policy has been framed.
3. Ministry of Railways invites suggestions from the zonal railways, trade & industry and any other individual on the draft policy to be finalized shortly.
4. The suggestion, if any may please be sent personally to Adv. FM, Room No. 471, Rail Bhavan, Ministry of Railways, New Delhi or e-mail at address [suhashk56@gmail.com](mailto:suhashk56@gmail.com) upto 18<sup>th</sup> November, 2011.

**INDIAN RAILWAYS**

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**SERVING CUSTOMERS WITH A SMILE**

## Sub: Policy Guidelines - Private Freight Terminals (PFT)

### 1.0 Definitions

Key Terms used in this policy guideline have been defined in the following Section for precise interpretation and elimination of ambiguities. Field functionaries should interpret such terms exactly as defined.

- 1.1 *Act*: Railways Act, 1989.
- 1.2 *Agreement*: Document executed by a TMC and RA setting forth the terms and conditions for operation of a PFT.
- 1.3 *Break Bulk Cargo*: Goods carried in rail wagons.
- 1.4 *“Brownfield”* means a terminal commissioned by the conversion of an existing siding/terminal etc. on private land, to PFT.
- 1.5 *Container Terminals*: A freight terminal dealing exclusively with container traffic only.
- 1.6 *Concessionaires*: Private train operators who have been granted a concession to operate container trains under the provisions of MCA.
- 1.7 *Common User Facility*: A facility available for use to all rail users without any discrimination.
- 1.8 *CONCOR*: Container Corporation of India.
- 1.9 *CCM (FM)*: Chief Commercial Manager (Freight Marketing) on a Zonal Railway.
- 1.10 *CTPM*: Chief Transportation Planning Manager of a Zonal Railway.
- 1.11 *Co-use*: This term refers to the facility of a rail user, other than the owner of a private siding, using the siding for handling of his goods subject to the provisions of the private siding policy.
- 1.12 *Container PFT*: A terminal dealing only with container traffic of a single or multiple container operators.
- 1.13 *Freight Terminal*: A rail infrastructure for loading and unloading of goods to and from wagons or containers.
- 1.14 *“Greenfield”* means a new PFT commissioned on private land, under the provisions of this policy.
- 1.15 *Goods sheds*: Railway owned freight terminals and sidings on Railway owned land for handling of rail based inward and outward traffic.
- 1.16 *General Access Freight Terminal (GAFT)*: A freight terminal operated as a common user facility with Non-Discriminatory Tariff.
- 1.17 *IR*: Indian Railways.
- 1.18 *MOR*: Ministry of Railways.
- 1.19 *MCA*: Concession Agreement entered into by RA and concessionaires of privately owned container trains.
- 1.20 *Non-Discriminatory Tariff*: A public tariff for cost of services available to all rail users on Maximum Retail Price (MRP) basis. This, however, does not preclude business arrangements, at the sole discretion of the TMC, between a TMC and its customer/s for special tariff based

on volumes of business, types of services or any other business development parameters.

- 1.21 *New PFT Policy*: Policy guidelines issued by *MOR* vide this document.
- 1.22 *Old PFT Policy*: Policy guidelines issued vide Freight Marketing Circular No 14 of 2010 issued vide No 2008/TC (FM)/14/2 dated 31<sup>st</sup> May 2010 and its amendment issued vide Freight Marketing Circular No 6 of 2011 (2008/TC (FM)/14/2 dated 21<sup>st</sup> Jun 2011).
- 1.23 *PFT*: Private Freight Terminal. A terminal notified under this policy to deal with rail based cargo including containers.
- 1.24 *Private Siding*: Privately owned freight terminal created for a single rail user (manufacturer, consumer etc).
- 1.25 *Private land*: This term refers to land not owned by IR and includes land owned by investor or taken on lease or license by the investor.
- 1.26 *RA*: Railway administration. Implies Zonal Railway administration.
- 1.27 *Rail Freight Terminals (RFT)*: This includes goods shed mentioned in 1.5 above.
- 1.28 *Restricted Access Freight Terminal (RAFT)*: A freight terminal permitting access to a single or a specified group of rail users with individual commercial arrangement (decided solely by TMC) between a TMC and each permitted user for terms of use of services offered by TMC.
- 1.29 *TMC*: Terminal Management Company, an entity owning a PFT.

## 2.0 Introduction

- 2.1 This policy document, called the *New PFT Policy*, supersedes the *Old PFT Policy*.
- 2.2 This policy aims to stimulate development of privately owned freight terminals on *private land* for dealing with break bulk goods, parcel traffic and containers.
- 2.3 PFTs are envisaged to provide goods handling, warehousing and other associated logistics services to rail users and facilitate expansion of third party logistics sector.
- 2.4 Any *freight terminal*, *private siding* or any other type of goods handling facility on Railway owned land (including cases where such land has been made available to the terminal owner/operator on lease or any other arrangement) is excluded from the applicability of this policy.
- 2.5 This policy will not be applicable to any non-IR owned lines like Port Railway lines, Dedicated Freight Corridor or any other line not owned by IR.
- 2.6 A TMC who has already been granted approval for setting up a PFT under *Old PFT Policy* will have the option to continue to operate under the *Old PFT Policy* or switch over to the *New PFT Policy*. This

option must be exercised within 6 months of notification of the *New PFT Policy* after which such a change will not be permitted.

- 2.7 Proposals for setting up a PFT under process in terms of the *Old PFT Policy* and not notified as a PFT on the date of issue of the *New PFT Policy* will be processed in terms of the *New PFT Policy*. If such applicants do not wish to be considered under the *New PFT Policy*, they will be permitted to withdraw their applications and receive full refund of the Registration fee.
- 2.8 PFTs will be set under one of the following terms of operation.
  - 2.8.1 RAFT: These PFTs will permit access only to a specified set of rail users.
  - 2.8.2 GAFT: These PFTs will act as a common user facility and permit access to all rail users.
- 2.9 A prospective TMC will need to apply for setting up a *PFT* in accordance with terms and conditions of the *New PFT Policy*.

### **3.0 Nodal Agency**

- 3.1 Executive Director (Freight Marketing), Ministry of Railways (or any other functionary nominated for this function by Railway Board) would be the nodal officer for implementation of this policy.
- 3.2 At the level of Zonal Railways, *CTPM* (or any other functionary nominated for this function by Railway Board) would be the nodal officer during construction and planning stage. *CCM (FM)* would be the nodal officer after commissioning of a PFT.

### **4.0 Freight Terminals**

- 4.1 Loading and unloading of goods transported by rail is done at *freight terminals*.
- 4.2 Currently, freight terminals include following categories of terminals.
  - 4.2.1 Railway owned *Goods sheds* and sidings on Railway land.
  - 4.2.2 *Private sidings* built on *private land* in terms of the *private siding policy* for exclusive use of a single end-user of the cargo.
  - 4.2.3 *Private sidings* where rail users other than the owners of Private sidings have been permitted to use the siding under the provisions for co-use facility in the private siding policy.
  - 4.2.4 Privately owned container handling terminals on private land in accordance with the provisions of *MCA* and the *private siding policy*.
  - 4.2.5 Railway owned *Goods sheds* operating under the scheme for Rail-side Warehousing by Central Warehousing Corporation.
  - 4.2.6 Container terminals on Railway land operated by CONCOR where land license is paid in terms of a notified charge per TEU.
  - 4.2.7 Private sidings on Railway land on some Zonal Railways.

- 4.3 Private sidings covered under Para 4.2.3 may apply for conversion to PFT. Container terminals included under Para 4.2.4 may also apply for conversion to PFT if they wish to deal with break-bulk cargo in Railway wagons.
- 4.4 Private sidings for exclusive use of a single end user may choose to continue to operate as private sidings or may apply for conversion to a PFT by accepting to operate on GAFT or RAFT terms.

## **5.0 Eligibility for TMC**

- 5.1 A TMC should be
  - 5.11 A company registered in India under the Companies Act, 1956, or
  - 5.12 A public sector entity (PSUs or organizations created under an act of Parliament), or
  - 5.13 An entity registered as a Cooperative Society under the Cooperative Societies Act, or
  - 5.14 A subsidiary of an entity covered in 3.11 or 3.12 above, or
  - 5.15 A joint venture or partnership between entities covered under Para 5.11, 5.12, 5.13 or 5.14.
  - 5.16 An entity owning an existing *Private siding* or an *assisted siding*.
- 5.2 If TMC is a subsidiary company in terms of Para 3.14, equity ownerships of the holding entity and the applicant company must be at least 50% and 26% respectively.
- 5.3 If the TMC is an existing private siding
  - 5.3.1 It must have executed a private siding agreement with Railways.
  - 5.3.2 It should have no outstanding liability towards Railways.
- 5.4 If an eligible entity has already applied for a *Private siding* on private land, it will be entitled to opt for converting its proposal into a proposal for a *PFT*.

## **6.0 Conversion of Private Sidings as PFTs**

- 6.1 Private sidings operating exclusively for the traffic of the owner of such a facility may continue to operate as private sidings.
- 6.2 Private sidings will not be allowed to permit co-use facility.
- 6.3 Existing private sidings already operating with a co-use facility will have to necessarily apply to convert themselves into a PFT on either RAFT or GAFT terms.
- 6.4 Container Terminals developed by a container train Concessionaires in terms of the MCA may choose one of the following options.
  - 6.4.1 Continue to operate as container terminals under MCA, or
  - 6.4.2 Apply for conversion to a PFT in terms of the *New PFT Policy* for handling break bulk goods in rail wagons in addition to containers.

## **7.0 Documents Required**

- 7.1 An application for setting up a new *PFT* will include following documents.
  - 7.1.1 An affidavit asserting that land on which the *PFT* is proposed to be built is not owned by Railways
  - 7.1.2 Article of Association of the *TMC*.
  - 7.1.3 Memorandum of Understanding of the *TMC*.
  - 7.1.4 Option of the *TMC* indicating whether the proposed *PFT* will be a *GAFT or RAFT*.
  - 7.1.5 Detailed Layout Plans of the proposed *PFT*.
- 7.2 An application for converting an existing private sidings or container terminal into a *PFT* will include following documents.
  - 7.2.1 An affidavit asserting that land on which the *Private siding* proposed to be converted into a *PFT* is located is not owned by Railways.
  - 7.2.2 Copy of the existing private siding agreement with Railways.
  - 7.2.3 Documents in support of zero outstanding liability towards Railways.
  - 7.2.4 Option of the *TMC* indicating whether the proposed *PFT* will be a *GAFT or RAFT*.
  - 7.2.5 Detailed Layout Plans of the proposed *PFT*.

## **8.0 Additional Documents**

- 8.1 Following additional documents will be required by submitted by the applicant *TMC* after grant of approval and before execution of the Agreement between Railways and the *TMC* and commissioning of the *PFT*.
- 8.2 New *PFTs*
  - 8.2.1 Audited balance sheet (not more than one year old)
  - 8.2.2 Net worth of the applicant *TMC*
  - 8.2.3 Business plan of the proposed *TMC*
  - 8.2.4 Projections of anticipated business volumes
  - 8.2.5 Experience profile of the promoter/s or owner/s of the *TMC*
  - 8.2.6 Details of the land proposed to be used
- 8.3 Conversion of a private siding into a *PFT*
  - 8.3.1 Business plan of the proposed *TMC*
  - 8.3.2 Projections of anticipated business volumes
  - 8.3.3 Experience profile of the promoter/s or owner/s of the *TMC*
  - 8.3.4 Details of the land proposed to be used
- 8.4 Documents submitted in compliance with Para 8.2 and 8.3 will not be used for examination of a proposal for a *PFT* and its approval. These additional documents will be used only for the purpose of making an assessment of requirement of additional capacity on IR network etc.

## **9.0 Application Fee**

- 9.1 Applicants will be required to deposit Rs 1 Crore as application fee at the time of applying for setting up a PFT.
- 9.2 If an application for a PFT is rejected for any reason whatsoever, 99% of the application money will be refunded to the applicant within 30 days of such rejection.

#### 10.0 Application Procedure

- 10.1 An eligible entity proposing to set up any type of PFT will apply to CTPM of the Zone in whose jurisdiction the proposed PFT falls enclosing the prescribed documents and application fee.
- 10.2 Applications received in terms of Para 10.1 will be examined by a committee of HODs comprising of CTPM, CCM (FM), CE (P & D) and FA & CAO (HQ) of the concerned Zonal Railway (RA). CTPM will be the convener of this committee.
- 10.3 Examination of proposals for a *New PFT*
  - 10.3.1 Examination of such proposals would be limited to confirmation the TMC fulfilling the eligibility criteria in terms of Para 5.0 and operational feasibility of the proposal.
  - 10.3.2 Examination of operational feasibility as mentioned in Para 10.3.1 will be restricted only to confirmation of the technical feasibility of connecting the proposed PFT with the rail network of IR.
  - 10.3.3 In cases where more than one investor apply for setting up a PFT from the same serving station on IR, RA will examine the technical feasibility of connecting all the prospective PFTs by creation of a common serving line from the proposed serving station. Cost of the common serving line will be borne equally by all the PFTs connected through it.
- 10.4 Examination of proposals for conversion of private sidings into a *PFT*
  - 10.4.1 Examination of such proposals would be limited to confirming that the applicant TMC is an existing *Private siding* owner and has no outstanding liability towards Railways in terms of Para 5.3.
- 10.5 If the proposal for setting up a new *PFT* is found to be operationally feasible in terms of Para 10.3, RA will grant an in-principle approval of the proposed PFT within 45 days of submission of the application and the prescribed documents together with the application fee.
- 10.6 If the proposal for conversion of a private siding into a *PFT* is found to be operationally feasible in terms of Para 10.4, RA will grant a final approval of the proposed PFT within 21 days of submission of the application and the prescribed documents together with the application fee.
- 10.7 Setting up a PFT would not require a Rail Transport Clearance (RTC).

- 10.8 After grant of an in-principle approval of a new *PFT*, it will be developed in terms of Railways' policy for creation of *Private sidings*.
- 10.9 *RA* and the *TMC* will execute an Agreement for operation of the *PFT*.
- 10.10 Chief Commercial Manager of the concerned Railway will issue a commercial notification opening a *PFT* as an independent terminal.
- 10.11 However, notification vide Para 10.10 will be issued only after the *Agreement* has been executed between *RA* and the *TMC*.

#### **11.0 Authorised Users**

- 11.1 For each *PFT* operating under *RAFT* terms, there will be a group of authorised users.
- 11.2 *TMCs* setting up *PFTs* on *RAFT* basis will be required to furnish a list of authorised users who can avail of the handling facilities at such *PFTs* at the time execution of the Agreement between a *TMC* and *RA*.
- 11.3 The list of authorised rail users will be incorporated in the *TMS* module of *FOIS* such that only authorised users are allowed access to *PFTs* set up on *RAFT* terms for loading or unloading of goods.
- 11.4 A *TMC* operating a *RAFT* will be allowed to change its list authorised rail users on a quarterly (three monthly) basis. *TMCs* will need to furnish the revised list of authorised users at least 30 days in advance of the date from which such authorisation is to take effect.

#### **12.0 Commodities permitted at a PFT**

- 12.1 *MOR* will notify a list of commodities prohibited to be handled at all *PFTs* or a particular category of *PFTs* as an inward or outward commodity.
- 12.2 *MOR* may also alter the list of prohibited commodities through a notification from time to time.
- 12.3 Except for the prohibited commodities mentioned in Para 12.1, a *PFT* may deal with all commodities or only with a limited and specified list of commodities.
- 12.4 Notification for commissioning of a *PFT* will specify the commodities for which it is being opened.
- 12.5 *TMCs* will be authorised to independently exercise the option of adding or deleting the commodities it will deal with at its *PFT* under advice to *RA*.

#### **13.0 Types of wagons permitted at PFTs**

- 13.1 All types of wagons and parcel vans, including privately owned wagons, permitted to run on *IR* network will be permitted to be dealt with at *PFTs*, unless otherwise notified by *MOR* from time to time.

#### **14.0 General Conditions**

- 14.1 If a *PFT* is proposed to be set up as a *GAFT*, a commitment to this effect by the *TMC* will be incorporated in the Agreement between Railways and *TMC*.



- 14.2 Railway land for connectivity with the rail network of IR will be offered on license basis in terms of the conditions laid down in the private siding policy.
- 14.3 Railways will not have any responsibility towards verification of the legality of use of the proposed private land for development of a PFT. Applicant TMC will be solely responsible in respect of ownership of land or lease, license or any other arrangement under which private land is proposed to be used for development of a PFT.
- 14.4 TMC will be responsible to fulfil all statutory requirements and get all statutory and non-statutory clearances that may be required from other government departments and statutory bodies for setting up and operate a PFT.
- 14.5 TMC will be responsible for payment of all taxes etc related to working of the PFT.
- 14.6 All PFTs will be required to function round the clock on all days including Sundays and all other holidays.
- 14.7 TMC will recover various charges from its customers for the use of PFT including Terminal charges, wharfage charges and charges for other value added services provided at the PFT. TMC will be free to fix tariff for such services at PFT owned by him.
- 14.8 A TMC will have a right to convert itself from RAFT to GAFT or vice versa at purely its own discretion. TMC will be required to advise the proposed change in the status to RA at least 45 days prior to the date on which a change is proposed to be effected so that necessary changes in TMS, if necessary, can be made.

#### **15.0 Facilities in the PFTs**

- 15.1 Facilities for handling freight trains will be developed in conformity with the private siding policy.
- 15.2 Placement capacities on all handling lines should be adequate to handle full rakes in a single placement.
- 15.3 PFTs will be operated on EOL (Engine on Load) system.
- 15.4 TMC will be required to provide furnished rest room facilities for crew and guard at the PFT at its cost.
- 15.5 TMC will permit the train crew and guard to avail of the facilities of staff canteen in their premises, if available, on payment of charges as prescribed for their own staff.

#### **16.0 Handling capacity at a TMC**

- 16.1 TMC will be responsible to develop adequate facilities for handling the anticipated volume of traffic at his PFT without causing detention to incoming trains or causing stabling of such trains at any station on IR network.
- 16.2 TMC will also develop adequate holding capacity in his PFT, if such a capacity is required to be created.

- 16.3 Assessment of the required capacity will be made by TMCs independently.
- 16.4 RA will not have any role in assessment of requirement of handling and any other facilities at the time of development of a PFT.

#### **17.0 Non-Acceptance**

- 17.1 In situations of congestion involving stabling of trains for acceptance by a PFT, RA will be authorised to impose loading restriction for an appropriate duration for such a PFT.
- 17.2 Each case of stabling of a train on IR network exclusively for want of acceptance by a PFT will be recorded as an instance Non-Acceptance.
- 17.3 Incidence of Non-Acceptance will be an index of inadequacy of capacity at a PFT.
- 17.4 RA will advise the TMC about the number of cases of Non-Acceptances by his PFT on a quarterly basis.

#### **18.0 Deployment of Railway Staff**

- 18.1 Railway commercial staff will be posted at PFTs to carry out commercial functions related to booking and delivery of cargo and collection of freight and other charges.
- 18.2 TMC will be required to pay to the Railways cost of a maximum of one commercial staff per shift.
- 18.3 However, if there are more than one handling areas which cannot be supervised from one location, cost of additional commercial staff subject to a maximum of one commercial staff per shift per handling area will be paid by the TMC.

#### **19.0 Construction of PFT**

- 19.1 Construction and maintenance of PFT will be in accordance with the provisions of the *Private siding* policy.
- 19.2 All charges as stipulated in the *Private siding* policy for construction of a private siding will apply to construction of PFTs.
- 19.3 Each PFT will be provided connectivity with a station on IR network. Such a station will be the serving station for the PFT.
- 19.4 Generally, a PFT will not be permitted to be connected mid section. However, in exceptional cases where such a connection becomes inescapable due to physical layout, the same will be permitted by RA in accordance with the extant relevant policy guidelines.

#### **20.0 Security Deposit**

- 20.1 A security deposit of Rs 1 Crore will be collected at the time granting approval for setting up a Greenfield PFT.
- 20.2 Upon successful completion of the Greenfield PFT within two years from the date of issue of the in-principle approval by Railway, 99% of the security deposit will be refunded within 30 days of issue of notification of the PFT.

- 20.3 If the PFT is not completed within the period mentioned in Para 14.2, security deposit will be forfeited and the in-principle approval issued for such a PFT will be cancelled.

#### **21.0 Revenue Sharing**

- 21.1 TMCs will be required to share revenue with RA for each rake dealt with at their PFTs.
- 21.2 Revenue share will be required to be paid rake wise at the time a rake is dealt with at a PFT.
- 21.3 A monthly sequential count of rakes (Rake no) dealt with at PFTs will be maintained by TMCs and the Goods Clerks posted at the PFTs.
- 21.4 Revenue to be paid to RA will be reckoned in terms of the prevailing rate of Terminal Charge levied by Railways at Railway owned Goods sheds for the commodities dealt with at PFTs.
- 21.5 Revenue will be shared with RA in accordance with following graded schedule.
- 21.5.1 PFTs commissioned as GAFTs will not be required to share any revenue with Railways.
- 21.5.2 PFTs commissioned as RAFTs will be required to pay to RA, for each rake handled, a revenue share at the scale noted below.
- |          |                    |   |
|----------|--------------------|---|
| 21.1.2.1 | Rake no 1 to 5     | Nil   |
| 21.1.2.2 | Rake no 6 to 10    | 25% of the prevailing rate of Terminal Charge (Para 21.4) |
| 21.1.2.3 | Rake no 11 onwards | 50% of the prevailing rate of Terminal Charge (Para 21.4) |

#### **22.0 Agreement**

- 22.1 The period of Agreement for operation of such PFT will be 30 years. Further extension will be subject to review by IR on the basis of the extant policy at the time of such extension.
- 22.2 An agreement will be signed between TMC and the Chief Commercial Manager of the concerned Zonal Railway which would include detailed terms and conditions for operation of the TMC.
- 22.3 A PFT would not be notified before execution of the Agreement referred to in Para 21.3.

#### **23.0 Payment of freight**

- 23.1 Freight or haulage charges on traffic booked from and to a PFT will be charged on the basis of through distance as per public tariff.
- 23.2 Freight or haulage charges as the case may be will be paid by the consignor as prescribed in Goods Tariff or a special notification.
- 23.3 Consignment booked to and from a PFT will be pre-paid.
- 23.4 All charges in respect of freight/haulage will be paid by the consignor at the time of preparation of RR through e-payment system or Demand Drafts drawn on an authorised bank.

#### **24.0 Demurrage and wharfage**

- 24.1 Demurrage charges will be levied as per the extant rules and will be payable by the TMC to Railways.
- 24.2 No wharfage charges would be payable at a PFT.

#### **25.0 Other Charges Payable by TMC**

- 25.1 Loco detention charges beyond the prescribed free time as per extant policy guidelines.
- 25.2 Charges of licensing of railway land as per extant rules for providing connectivity to IR network.
- 25.3 All charges, surcharges, cess, levies, taxes etc. as per prevalent rules and as modified from time to time.
- 25.4 All charges, surcharges, cess, levies, taxes etc. as per prevalent rules and as modified from time to time.

#### **26.0 Weighbridge, FOIS and TMS**

- 26.1 TMC will be required to provide an in-motion weigh bridge as per extant rules of Railways at a suitable location in such a manner that all incoming and outgoing rakes can be weighed.
- 26.2 TMC is required to provide an in-motion weighbridge at Brownfield PFT also prescribed in Para 21.1 above. However, if it is not feasible to install a weighbridge within the PFT on technical reasons (like grade, layouts etc), such a weighbridge may be provided at the serving station or any other operationally convenient location at the cost of the TMC.
- 26.3 In the exceptional cases in which it is not feasible to install a weighbridge within a Greenfield PFT on technical reasons, such a weighbridge may be provided at the serving station at the cost of the TMC.
- 26.4 Exception as provided in terms of Para 21.2 and 21.3 will be granted only with the approval of the General Manager of the concerned Railway.
- 26.5 Whenever a weighbridge is provided at a location outside the PFT, all expenses towards its installation and maintenance as well as any associated staff cost, if applicable, will be paid by the TMC.
- 26.6 FOIS and TMS with limited access as prescribed by IR shall be installed at the PFT and all costs related to FOIS/TMS will be borne by the TMC in accordance with the rules applicable for a private siding.

#### **27.0 Liabilities and Indemnification**

- 27.1 Railways liability as a bailee, for claims for loss, destruction, damage, deterioration or non-delivery of any consignment, will not extend beyond time of handing over of the rake to TMC inside PFT after which the entire liability would rest with the TMC. Similarly for the outward traffic, Railway's liability would begin only after the loaded wagons are handed over to Railways. TMC shall indemnify Railways

from claim, if any, preferred by the consignors/consignees on the Railways for any loss, destruction, damage, deterioration or non-delivery of any consignment in full or part during the period such liability rests with it.

27.2 TMC shall indemnify IR for any damage to Railway property including rolling stock and injury or loss of life arising out of any negligent act or omission or breach of any of its obligations under the concession agreement by the TMC.

27.3 Railway Administration will indemnify the TMC against any negligent act or omission or breach of any of its obligations under the provision of the agreement subject to the provisions of Railway Act and rules made there under.

#### **28.0 Conflicts**

28.1 Notwithstanding any provisions in this policy, stipulations of Railways' Act, 1989 will prevail.

28.2 In case of a conflict between the provisions of this policy and the MCA, the later will prevail in respect of container terminals operated by Concessionaires.

28.3 In case of a conflict between the provisions of this policy and the private siding policy, the former will prevail in PFTs of any type.

#### **29.0 Dispute Resolution**

29.1 In case of any dispute in interpretation of the policy, the decision of MOR will be final and binding.

29.2 Any dispute in interpretation and implementation of the agreement, which is not resolved amicably, shall be finally decided by reference to arbitration by a Board of three Arbitrators appointed through a procedure which will be clearly spelt out in the Agreement between the Railways and the TMC. Such Arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternate Dispute Resolution, New Delhi and shall be subject to the provisions of the "Arbitration and Conciliation Act 1996".

#### **30.0 Suspension of Operations at a TMC**

30.1 If number of cases of Non-Acceptance by a PFT exceeds thirty in each of two succeeding quarters, RA will issue a Notice for Inadequate Capacity to the TMC requesting the TMC to augment facilities at his PFT or to modify the list of authorise users or modify the list of commodities permitted at the PFT to prevent stabling of rakes.

30.2 If even after issue of a Notice for Inadequate Capacity to a TMC, number of Non-Acceptances continues to exceed thirty in the next two succeeding quarters, RA will temporarily de-notifying such a PFT and suspend booking of traffic to and from this PFT.

- 30.3 TMC will be required to furnish an undertaking to the RA for having completed necessary action at the PFT at which operations has been suspended in terms of Para 30.2 to resume operation.
- 30.4 On receipt of the undertaking mentioned in Para 30.3, RA will immediately notify re-commencement of operation at the PFT.
- 30.5 If a TMC has to be served a Notice for Inadequate Capacity more than twice, RA may issue a Termination Notice and take action as prescribed Para 32.0.

### **31.0 Termination of the Agreement**

- 31.1 Subject to the provisions in the agreement between RA and a TMC, RA may terminate an Agreement with a TMC operating a PFT for any breach of the terms and conditions of the agreement, violations of the provisions of the Railways Act, 1989, commitment of an unlawful act or in the event of default as defined in the agreement by giving a written Notice of Termination of 180 days to the TMC.
- 31.2 Before issuing the Termination Notice, Railway Administration will inform the TMC of its intention to do so through a written notice. TMC may make a representation in response and MOR may issue the Termination Notice after expiry of 180 days whether or not it is in receipt of a representation from the TMC.
- 31.3 The TMC will also have the right to terminate the agreement by giving a notice of 180 days to the Railway Administration.
- 31.4 Any dispute arising out of the same will be resolved through the Dispute Resolution Mechanism as prescribed under Para 16.0 of the policy.

### **32.0 Review of the Policy**

- 19.1 IR reserves the right to review this policy from time to time. However, any changes in the provisions of this policy will not apply retrospectively to such PFTs with whom MOR has already executed an Agreement except by mutual consent.