



**COMPETITION COMMISSION OF INDIA**  
(Combination Registration No. C-2020/02/726)

22<sup>nd</sup> July, 2020

**Notice under Section 6(2) of the Competition Act, 2002, filed by Adani Ports and Special Economic Zones Limited**

**CORAM:**

Mr. Ashok Kumar Gupta  
Chairperson

Ms. Sangeeta Verma  
Member

Mr. Bhagwant Singh Bishnoi  
Member

**Order under Section 31(1) of the Competition Act, 2002**

1. On 19<sup>th</sup> February, 2020, the Competition Commission of India (**Commission**) received a notice (**Notice**) filed by Adani Ports and Special Economic Zones Limited (**Acquirer**) regarding its proposed acquisition of shareholding in and management control over, Krishanapatnam Port Company Limited (**Target**). The Notice has been filed pursuant to the execution of (i) Share Purchase Agreement (**SPA**) between the Acquirer, Target, Navayuga Engineering Company Limited (**NECL**) and certain shareholders of the Target; and (ii) Shareholders' Agreement (**SHA**) *inter alia* between the Acquirer and Target, both dated 3<sup>rd</sup> January, 2020.
2. The Commission *vide* its letters dated 9<sup>th</sup> March, 2020 and 15<sup>th</sup> April, 2020, 15<sup>th</sup> May, 2020 and 10<sup>th</sup> July, 2020 issued under Regulations 14(3) and/or 19 of the Competition Commission of India (Procedure in regard to transaction of business relating to combinations) Regulations, 2011, required the Acquirer to remove defects in the Notice



- and furnish certain information relevant for the purpose of assessment of the Proposed Combination. In response, the Parties filed their submissions on 20<sup>th</sup> March, 2020, 22<sup>nd</sup> April, 2020 and 24<sup>th</sup> April, 2020, respectively.
3. The Proposed Combination envisages acquisition of 75% of the equity share capital and all the preference share capital of the Target. \*\*\*\*\*  
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  4. The Acquirer is a private sector port operator, currently having presence in six maritime states in India *viz.* Gujarat, Goa, Kerala, Andhra Pradesh, Tamil Nadu and Odisha through 10 ports. The facilities are said to be equipped with the latest infrastructure capable of handling large vessels. The Acquirer *inter alia* provides the following services through the said ports; (i) full marine services including pilotage & towage of vessels, berthing and de-berthing; (ii) cargo handling services - loading and unloading of cargo from vessels, movement of cargo to and from port stack yard to berth and vice-versa, storage for cargo, loading and unloading of cargo onto trucks or railway rakes for transportation; and (iii) value added services such as bagging and packaging. The Acquirer manages complete logistics chain through its subsidiary *viz.* Adani Logistics Limited (ALL), which is an asset and service based end-to-end logistics service provider across container, bulk, breakbulk, and liquid industries. ALL operates multi-model logistics parks located at Patli (Haryana), Kila-Raipur (Punjab) and Kishangarh (Rajasthan) and Kanech (Punjab). The Acquirer also provides dredging and reclamation solutions primarily for port and harbour construction. It currently operates a fleet of 23 dredgers in India. Besides these, the Acquirer also has a large fleet of support vessels and equipment such as multi utility crafts, survey vessels, floating cranes, jack up barges, *etc.*
  5. The Target is a part of Hyderabad based CVR Navayuga Group, which has diversified business interests with presence in power, steel, port, roads, spatial technology & applications, information technology and exports. The Target is a special purpose vehicle



promoted for designing, financing, maintaining, owning, operating and transferring an all-weather, deep water, multi-purpose port at Krishnapatnam, Andhra Pradesh. In pursuance of the Concession Agreement with Government of Andhra Pradesh, Target has developed and operates the port at Krishnapatnam on Build-Operate-Share-Transfer basis.

6. Target also provides integrated cargo handling and marine services including but not limited to pilotage, berth hire, wharfage, stevedoring, railway rake loading, transporting, storing and other activities within the port premises.
7. It is observed that both the Acquirer and the Target are primarily engaged in the business of operating ports in India. Ports may be classified into different groups based on factors such as: (i) control and governance, (ii) models of development, (iii) types of cargoes handled, (iv) types of services provided, (v) types of traffic flow *etc.* The Acquirer has submitted that port terminals can be distinguished according to the kind of cargo to be loaded and unloaded as each type of cargo requires specific tools, equipment and storage facilities. Different kinds of cargo handled at Ports are as follows:
  - a. *Container Cargo*: It includes cargoes which are shipped on-board specialized containerships, reefers or tweendeckers. Container ships carry their load in truck-size intermodal containers in a technique called containerization. They are a common means of commercial intermodal freight transport and now carry most seagoing non-bulk cargo. Typical loads are a mix of 20-foot and 40-foot (2-TEU) ISO-standard containers, with the latter being predominant.
  - b. *Non-container/bulk cargo*: These are shipped loosely and unpackaged as opposed to being shipped in packages or containers. Bulk cargo may either be free flowing, a liquid, or a dry item. Some examples include items such as oil, grain, or coal. It may be categorised into the following segments:



- *Dry bulk cargo* – These are dry commodities and do not require specialised handling at ports, thus enabling homogeneous handling. These commodities move relatively unprocessed and are typically of high volume and lower value. Dry bulk includes commodities such as grain and coal;
  - *Liquid cargo* – These are commodities that are shipped in a liquefied state by vessels designed to handle liquids. These include commodities such as LNG and animal and vegetable oils; and
  - *Break bulk cargo* – Items which are packaged in bags, barrels, and pallets. These are non-containerised and are transported as individual pieces. It is also used to refer to general cargo vessels carrying smaller parcels of non-homogeneous cargoes.
8. The Commission notes that the Proposed Combination would result in the Acquirer acquiring control over the Target. Both the parties are engaged in activities relating to port sector. Their businesses are similar in the domain of port services relating to containerized cargo, coal, other dry bulk cargo and break bulk cargo.
9. It is observed that ports are typically infrastructure for export and import cargo. As per the internal documents of the Acquirer, the primary hinterland of the Krishnapatnam port consists of Central & Southern Andhra Pradesh, Eastern Karnataka and Southern Telangana. Based on the data submitted by the Acquirer, it is observed these hinterlands are also largely served by the adjacent ports located at Chennai, Ennore and Kattupalli. The hinterland served by a port could be classified into two categories *viz.* (a) captive hinterland – adjacent areas where the given port has a cost advantage; and (b) contestable hinterland – areas where a port competes with other port(s). While two terminal operators within a port would compete for the same captive hinterland, inter-port competition occurs in contestable areas. The scope and extent of these hinterlands vary across ports depending upon the terrain, transportation cost, the proximity of adjacent ports and their charges.



Thus, the competition assessment of port consolidations would require a holistic appreciation of inter-port competition between them and the effect of the combination on the same.

10. In the instant case, examination of the horizontal overlaps would focus on the contestable hinterlands where the terminals/ ports operated by the Acquirer and Target compete and how the Proposed Combination would impact competition therein. While the purpose of such examination is to identify the extent of competition between the parties, exhaustive determination of the contestable hinterland may not be required if it is shown that the combination is not likely to cause appreciable adverse effect on competition in those areas where customers are availing port services from both the parties. In simple terms, the effect of the combination is to be seen on the common areas where parties to the combination provide port services.
11. The data provided by the Acquirer shows that Krishnapatnam port handled containerised cargo of customers located in Karnataka, Andhra Pradesh and Telangana. The investor presentation of the Acquirer considers Central and Southern Andhra Pradesh, Eastern Karnataka and Southern Telangana as the primary hinterland of Krishnapatnam Port. The farthest point where substantial majority of the containers have moved from Krishnapatnam Port was Bangalore through rail. Out of the areas served by Krishnapatnam Port, Bangalore region is also served by the container terminal operated by the Acquirer at Ennore Ports. However, a substantial majority of the containerised exports/ imports to or from Bangalore is primarily through Chennai Port. The incremental volume handled by the combined entity in relation to containerised cargo for Bangalore is insignificant to raise any competition concern.
12. For handling break bulk cargo also the ports located at Chennai, Ennore and Kattupalli appear to compete with Krishnapatnam port, as per the data provided by the Acquirer. The Acquirer and the Target handle break bulk cargo at Kattupalli and Krishnapatnam ports, respectively. However, the volume of such cargo handled by the Acquirer at Kattupalli is



insignificant and constituted less than 2% of the total breakbulk cargo handled by the said four ports, during FY 2018-19. Thus, the proposed combination is not likely to increase concentration to raise any competition concern.

13. The Acquirer has defined a common market definition for terminalling coal and other dry bulk cargo. The Commission observes that sectors such as power plants, steel plants, cement plants and other units engaged in manufacturing require large amount of coal on a continuous basis. These consumers also require faster and reliable transportation. Due to lower availability of domestic coal, it is also imported in large quantities. The demand for coal, its distinct terminalling requirements and/or environmental compliances have led to the development of dedicated coal terminals at ports that facilitate handling of large volumes of coal and faster turnaround of vessels as compared to multi-cargo terminals. Thus, dedicated coal terminals are considerably different from general multi-cargo terminals that handle other dry bulk cargo.
14. It is observed that the thermal power generation plants located nearer to Krishnapatnam are the major users of coal cargo handled by the Target apart from the cement plants located in Andhra Pradesh and some parts of Telangana. Additionally, around [20-25]% of the coal handled by the Target during FY 2018-19 moved to Bellary. The region in and around Bellary has the presence of thermal power generation plants, steel plants and cement plants, all of which are coal consumers. The coal terminal operated by the Acquirer at Murmogao Port is also handling coal to customers located in Bellary region. Thus, both the Acquirer and Target compete for provision of coal handling services for customers in Bellary, which is equidistant from the Krishnapatnam Port on the east coast and Murmogao Port on the west coast. Ennore and New Mangalore are the other ports that served coal customers located in Bellary Region. The inquiry of the Commission *inter alia* with other ports revealed that some of their coal customers shifted to the Target in the recent past, which suggest competition between them. Further, the ports at Ennore and New Mangalore were shown to expand their coal handling capacities considerably. These factors put together suggest that the combined entity would face competition from the said



port and thus, the Proposed Combination is not likely to cause any appreciable adverse effect on competition.

15. As regards dry bulk cargo other than coal, the Acquirer handled [0-1] MMT of cargo at Kattupalli during 2018-19. While Krishnapatnam Port handled [5-10] MMT of dry bulk cargo, Ennore and Chennai had handled [1-5] MMT and [1-5] MMT respectively. Considering the minimal cargo handled by Acquirer, the proposed combination does not raise any competition concern in this business.

16. The Commission further noted that the activities of the parties exhibit vertical overlap in relation to oil terminalling services of the Target and the edible oil business of the Acquirer. Similarly, the dredging and reclamation services of the Acquirer and the ports operations the Target exhibit vertical interface. However, given the relatively limited presence of the parties in the downstream operations, they are not likely to have incentives to engage in any anti-competitive conduct.

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18. Considering the facts on record, details provided in the Notice given under sub-section (2) of Section 6 of the Act and assessment of the proposed combination based on factors stated in sub-section (4) of Section 20 of the Act, the Commission is of the opinion that the proposed combination is not likely to have any appreciable adverse effect on competition in India and therefore, the Commission, hereby, approves the same under sub-section (1) of Section 31 of the Act.



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19. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
20. The information provided by the Acquirer shall be treated as confidential in terms of and subject to provisions of Section 57 of the Act.
21. The Secretary is directed to communicate to the Acquirer accordingly.