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TARIFF AUTHORITY FOR MAJOR PORTS

GNo.142

New Delhi,

20 August 2008

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the Nhava-Sheva International Container Terminal Pvt. Ltd., for reduction of free storage days for ICD containers and transshipment containers as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/50/2007-NSICT

The Nhava-Sheva International Container Terminal Pvt. Ltd - - -

Applicant

ORDER

(Passed on this 14th day of July 2008)

The Nhava Sheva International Container Terminal Limited (NSICT) has filed a proposal for reduction of free storage days for Inland Clearance Depot (ICD) Containers & Transhipment containers.

2. This Authority vide its Order dated 28 June 2007 had disposed of the proposal of Jawaharlal Nehru Port Trust (JNPT) for reduction of free dwell days for ICD and transhipment containers. Stating that NSICT faces almost same problems as that of JNPT, the NSICT has submitted the proposal in reference. The main points made by NSICT are summarized below:

- (i). Procedural delay of Customs/ CONCOR is a main reason for congestion and slow movement of containers from NSICT to different ICDs.
- (ii). (a). With decrease in turn around time of trains at terminals, increase in number of trains and proper co-ordination between CONCOR and Railways, there is overall improvement in handling rates at terminals which has resulted in bringing the dwell time period to minimum. But the shipping lines are clearing their containers at slower pace as compared to normal road boxes.
- (b). The average dwell time at the terminal during the period from August 2006 to March 2007 has been 3.3 days for ICD containers and 1.3 days for containers moved by road. The total volumes and ICD volumes handled at NSICT are higher than the JNPT. The following table shows the dwell time in the terminal:

Month	Road		I C D	
	LDD	Dwell time	TEUs	Dwell time
August 2006	36279	2.0	12559	7.0
September 2006	34423	2.0	13789	5.0
October 2006	26058	1.0	15367	2.0
November 2006	26095	1.0	14574	1.0
December 2006	31816	1.0	16647	2.0
January 2007	26824	1.0	16658	3.0
February 2007	22953	1.0	16597	3.0
March 2007	29651	1.0	16297	3.0
Total	234099	10.00	122488	26.0
Average	29262	1.3	15311	3.3

- (c). The terminal will have following benefits of reducing the free days:
 - (i). Speedy evacuation of ICD boxes from terminal.
 - (ii). Decongestion at port
 - (iii). Faster turnaround of rakes and pendency will be less
 - (iv). Container not cleared within free days will be penalized.
 - (v). Shippers will be discouraged to use port Container Yard as storage yard.
 - (vi). Volumes of ICD can be handled better with surge in EXIM cargo by rail due to private operators.

- (iii). (a). NSICT is also handling TP containers. The average dwell period of TP containers at NSICT for the period from March 2007 to August 2007 is 5.2 days as against 30 free days, as shown in the following table:

Months	2005-06	2006-07	2007-08
March	4	3	7
April	4	3	5
May	5	2	5
June	4	3	5
July	5	4	3
August	7	4	6
September	8	4	-
October	4	5	-
November	4	7	-
December	3	5	-
January	3	7	-
February	3	6	-
Average	4.5	4.4	5.2

- (b). TP containers also contribute to congestion in port since the shipping lines give priority for road containers. Hence the free days of 30 days of TP containers needs to be reviewed to avoid any misuse.
- (c). Since the current dwell time of TP containers is only 5 days, the free dwell time of 30 days is very high and needs to be reduced to help the port to decongest and put pressure on shipping lines to move the container faster.

3. The proposal of the NSICT is given below:

- (i). To reduce the existing dwell time for ICD import / export containers moved by rail from 15 days to 7 days.
- (ii). To reduce the existing dwell time of transshipment loaded containers from 30 days to 7 days.

4. In accordance with the consultative procedure prescribed, a copy of the NSICT proposal was forwarded to the JNPT and the concerned user organisations for their comments. The comments received from JNPT and some of the user organisations were forwarded to NSICT as feed back information. The NSICT has responded to the comments of user organizations.

5. A joint hearing in this case was held on 30 June 2008 at the Office of this Authority along with the general revision proposal of NSICT. The NSICT has included the proposed provision for reduction of free storage period for ICD containers and transshipment containers in its proposal for general review of its Scale of Rates filed subsequently. At the joint hearing the NSICT made a request to delink its proposal for reduction of free storage period for ICD and transshipment containers from the general revision proposal and pass a suitable Order in line with the decision already taken in the JNPT case.

6. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>

7. With reference to the totality of information collected during the processing of this case, the following position emerges:

- (i). The proposal filed by the NSICT in March 2008 for general revision of its Scale of Rates, which has already been taken up in separate proceedings, includes the proposed provision for reduction of free storage period for ICD and transshipment container. The request of the NSICT to delink its earlier proposal for reduction of free storage period for ICD and transshipment containers from the general revision proposal for disposal deserves to be considered since the proposal of NSICT in reference, is pending with this Authority since September 2007.

- (ii). (a). In case No. TAMP/33/2006-JNPT, this Authority acceding to the proposal of the JNPT, has reduced the free storage period of ICD containers and transshipment containers at the container terminal operated by JNPT for the reasons explained in the Order dated 28 June 2007. The proposal of NSICT for reduction in the existing free storage period refers to the decision taken in the JNPT case. The merits of the ibid proposal are on the same footing as that of JNPT's proposal earlier decided by this Authority.
- (b). It may be relevant here to state that when the NSICT was about to commence its operations in the year 1999, this Authority approved the proposal of NSICT to adopt the (then) existing Scale of Rates of JNPT, since no actual data pertaining to NSICT was available. The Scale of Rates then adopted by NSICT included the existing provisions relating to free dwell period of the containers. The present proposal of the NSICT for review of free dwell period has to be seen in the context of availability of data relating to the actual dwell period availed by the ICD and transshipment containers and volume of traffic of the relevant category of containers at the NSICT.
- (iii). (a). The proposal is welcome by the JNPT. The objections raised by MANSA is based on the bottlenecks reported in the logistic chain. As pointed out by the NSICT, the container terminal operator has no control over the constraints faced by the users in some other links of the logistic chain. This Authority also held this view in its Order dated 28 June 2007 relating to the JNPT.
- (b). Clause 5.8.1. of the revised tariff guidelines permits a private terminal operator at a major port to decide on the number of free days. The NSICT has mooted the proposal to decongest its container yard. It is noteworthy that the analysis furnished by the NSICT shows that the average dwell time of ICD and transshipment containers is well below the free time allowed in the Scale of Rates.
- (c). The NSICT has furnished an analysis on the dwell time of ICD and transshipment containers in support of its proposal. This Authority is not in a position to lend countenance to the general statement of MANSA that the average dwell time given by NSICT does not reflect the actual position in the absence of statistics to back its statement.
- (iv). Each of the proposed item is discussed below:
 - (a). ICD Containers moved by rail:
 - (i). This Authority approved in JNPT case reduction of free dwell time period of ICD containers moved by rail to 7 days vide Order dated 28 June 2007. NSICT has shown that the average dwell time of ICD containers moved by rail is around 3 days during the period August 2006 to March 2007, despite the constraints pointed out by the users. Therefore, reduction in the free dwell time of ICD containers moved by rail to 7 days from the existing 15 days is approved as even the reduced free time is well above the average dwell time of ICD containers reported by the NSICT.
 - (ii). An ICD container moved by rail from the premises of NSICT can remain at the container yard of the NSICT free of storage charge for first 15 days in the existing arrangement. In order to maintain revenue neutral position, the additional income, if any, that may accrue to the NSICT on account of reduction in free storage period may have to be factored in. The average dwell time of ICD containers moved by rail for a period of 8 months is reported at 3 days, which is well below the proposed free dwell time of 7 days. That being so, there may not be any significant additional income accruing to NSICT on account of reduction in the existing free storage period. In any case, the overall income / cost position at the NSICT will be separately examined in the proceedings relating to the general revision proposal filed by the operator.

- (iii). In the existing arrangement, four slabs have been prescribed for levy of dwell time charges from ICD containers moved by rail. The first slab prescribes free period and the remaining three slabs prescribe applicable storage charges. The existing rates prescribed for the chargeable slab are at twice the rates prescribed for the respective previous slabs. The existing span of 15 days of the first slab (which is the free period slab) is modified to 7 days and a new chargeable slab is introduced to cover the time period from the 8th day to 15th day. The rate for the new chargeable slab of the 8th to 15th day is prescribed at 50% of the rates prescribed for the immediate next chargeable slab of 16th to 30th day.

(b). Transshipment loaded containers:

The NSICT has proposed a reduction in the free dwell period for transshipment loaded containers from the existing 30 days to 7 days.

In the JNPT case, based on the average dwell time of around 6 days against 30 days free period, the proposal of the JNPT to scale down the free dwell time to 10 days was approved by this Authority. The NSICT, based on the average dwell time of around 5 days against 30 free days, has proposed to reduce the free dwell time to 7 days.

The proposal of the NSICT to reduce the existing free dwell time for transshipment loaded containers from 30 days to 7 days is approved.

8.1. In the result, and for the reasons given above, and based on a collective application of mind, the Scale of Rates of NSICT is amended suitably by inserting the following provisions under Section D and E of Section 9 – Dwell time Charges:

Section No.	Particulars	NSICT tariff US\$
D.	ICD loaded & Empty Import or Export containers (moved by rail)	
	First 7 days	Free
	8 - 15 days	
	20'	1.43
	Over 20'	2.86
	16 – 30 days	
	20'	2.86
E.	Over 20'	5.72
	31 – 45 days	
	20'	5.72
	Over 20'	11.44
	Thereafter	
	20'	11.44
	Over 20'	22.88
	Transshipment loaded containers	
	First 7 days	Free
	8 - 45 days	
	20'	3.25
	Over 20'	6.50
	Thereafter	
	20'	6.50
	Over 20'	13.00

8.2. The amendments to the Scale of Rates will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India.

(Brahm Dutt)
Chairman

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS BY THE AUTHORITY.

No.TAMP/50/2007-NSCIT

- Proposal from the Nhava Sheva International Container Terminal Private Limited for reduction of free storage days for ICD containers and transshipment containers.

1. A Summary of the comments received from the Jawaharlal Nehru Port Trust and user organizations and the response of the NSICT thereon are tabulated below:

Sr. No.	Comments from port users	Reply furnished by NSICT
(1)	<u>Jawaharlal Nehru Port Trust (JNPT)</u>	
(i).	JNPT fully concurs with the proposal of NSICT for reduction of the free dwell time for ICD import / export containers for transshipment loaded containers	NSICT has not commented.
(2)	<u>Mumbai and Nhava Sheva Ship Agents Association (MANSA)</u>	
(i).	The proposal of NSICT is quite premature and does not need consideration on account of inefficient handling and transportation of ICD/ Transshipment containers by CONCOR and NSICT.	NSICT has not commented.
(ii).	<u>ICD Containers:</u> (a). With reference to the transportation of the ICD containers, the involvement of Lines/ Agencies concludes once the TP formalities are completed at the terminals by the Agencies. It is entirely the responsibility of CONCOR to arrange sufficient trains to evacuate ICD Containers. The Lines/ agencies cannot be penalized for the delay.	The terminal is just a facilitator and has no control in arranging trains or running them. Shipping Lines are having commercial arrangement with CONCOR and should be in a position to demand service of their contractors.
	(b). The tedious formalities imposed by the Custom authorities hamper quick movement of ICD containers. The reduction in the free days will force the Lines to use alternative gateways, which would offer, extended free time for in and out of containers/ cargo.	With the improved efficiency levels and co-ordination between the terminals, shipping lines and CFS the present Average dwell time period for import road box is 1.3 days. If such a level of performance can be achieved for road boxes, the terminal expects that the same is possible for ICD boxes if proper planning and documentation is done in advance. With all the said limitations, the present dwell time is averaging at 3.3 days for ICD containers. From the arguments put forth by MANSA, it appears that NSICT should provide relief to MANSA for the constraints faced by it elsewhere.
	(c). For the Export ICD containers, the terminal has to guarantee no set-outs or roll over of containers, which is normally due to lack of efficiency of the terminal. It is necessary to review the proposal for any reduction of free time for export ICD units.	All export boxes are connected to the nominated vessel if train arrives on time before the cut off for the vessel. NSICT is not in agreement with the statement.

	(d). The average dwell time given by NSICT for ICD containers does not reflect the actual position and is misleading to the extent that there are many cases where containers lie for a protracted period attracting penal ground rent charges.	NSICT has not offered any comments.
	(e). We have requested our members to provide number of containers that were delayed in the port prior to movement. The total of such long standing containers would give the dimension of the problem. It would be then easy for the service provider to provide the financial gain made on this account to TAMP. It is necessary that CONCOR should respond to this issue with accountability for delay.	(MANSA has not furnished the details till finalization of the case)
(iii).	<u>Transshipment Containers:</u> (a). At present, the uncertain and delayed timings of the train's arrival results in accumulation of containers in the terminal and affects the loading of the transshipment containers. Reduction of free time for such containers would only result in penal action and monetary loss to Lines and unintended revenue to the terminal. Infact, in cases where CONCOR is not able to give proper connections to ICD containers, there is a need for additional free time to attract more cargo/ containers.	Punctuality and fixed train schedule of train is not within the scope of terminal operator. Shipping Lines have to deal with the service provider directly. As per clause 5.8.1 of the revised guidelines, a major port can decide the number of free days. The request for reduction is based on the congestion faced by NSICT, so that efficiency of ship shore, gate operations and rail is not compromised.
	(b). Most of the ports around the world make effort to attract and enhance transshipment containers. The proposal of NSICT for reduction in free days would certainly deter transshipment scope for the Indian ports.	NSICT has not offered any comments.
(iv)	It appears that the NSICT and CONCOR are brushing the issue aside and are seeing a willing line to benefit financially. The proposal of NSICT may be set aside till they provide efficient services.	NSICT has not offered any comments.
(3)	<u>The Shipping Corporation of India (SCI)</u>	
(i)	<u>ICD Containers:</u> (a). The free days for containers going to certain ICD destinations viz. Nagpur and Aurangabad not having regular rail service should not be curtailed. The reduction of free days in such cases will lead to long dwell time at Container yard or at rail siding and the Lines will be penalized for conditions beyond their control.	Placement and number of trains deployed in each destination depends on the Rail operator. Shipping lines have to deal with the Rail operator directly. Choosing a destination for the cargo is totally between the Lines and CONCOR. The terminal has no part to play.
	(b). Jawaharlal Nehru Custom House vide PN65 of 2006 has dispensed with filing of TP and IGM itself is to be treated as transshipment request. On implementation, there will be no further involvement of Lines/ Agencies in the transportation of ICD boxes to rail siding. The transportation is to be done by the NSICT. The contention of NSICT that shipping lines are evacuating containers at slow pace is not valid.	The said procedure is yet to be implemented. Till such time the terminal is suffering. The time taken for submission of TP, deployment of trains and custom formalities are not in the hands of NSICT. Customs have streamlined the process for line in order to get TP on line through ICE gate. Hence, the point made by SCI stands invalid.

	(c). The Terminal is not able to guarantee the movement of ICD containers on first in and first out basis, and the delay on this account cannot be blamed on the carrier.	First in First out (FIFO) of loading containers is possible only if ICD import inventory is at reasonable levels. If the yard is congested due to non-evacuation, FIFO cannot be guaranteed. Since NSICT is part of ITRHO memorandum, the inventory should not exceed 2000 TEUs.
(ii)	<u>Transshipment Containers:</u> Transshipment containers are planned in advance. The delay in arrival of Target Vessel or port skip for schedule recovery may result in increased dwell time. Status quo be maintained with regard to free time.	We have given the details of dwell time of TP containers. Since weekly services are available in three terminals, lines have option to take the containers through these services.

2. The Bombay Chamber of Commerce & Industry has furnished the following comments on the NSICT proposal. The NSICT has not responded to the comments of BCCI:

A. ICD Containers:

- (i). According to NSICT, the Lines have not come forward to evacuate the ICD containers thereby leading to congestion in the yard. The NSICT has also stated that by their own better co-ordination with CONCOR and railways, there is overall improvement. If the turnaround time has improved because of NSICT, they cannot blame the Lines for any delay.
- (ii). A comparison of the local CFS bound containers and ICD bound containers made by NSICT is not correct because movement of containers to CFS are undertaken by Lines contractors whereas ICD bound containers are undertaken by government authorized contractors viz. CONCOR and CWC. These two cannot be compared. DP World is aware of official decisions on movement of ICD containers.
- (iii). The claim of NSICT that there has been delay in submission of documents or providing movement details has to be substantiated. Even if there has been a delay by a Line, such delay should not be generalized. The entire procedure concerned with the movement of ICD containers need to be examined before apportioning the blame.

B. Transshipment Container:

- (i). If a container arrives from a different port on the same date as the sailing date of the connecting vessel and hence misses the Vessel, it can be transshipped only after 7 days as most sailing frequencies are weekly. Thus, reducing the transshipment free period to 7 days will defeat the very purpose of providing transshipment facility. A minimum of 15 days free time is a pre-requisite for all transshipment containers.
- (ii). Present dwell time be maintained unless those responsible for any delay could directly be made to bear the resultant additional cost.

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