(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No. 223 **New Delhi,** **31 May 2017**

NOTIFICATION

In exercise of the powers conferred by Sections 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Jawaharlal Nehru Port Trust, seeking approval for fixation of charges for handling Direct Port Delivery Containers as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/10/2017- JNPT

Jawaharlal Nehru Port Trust … **Applicant**

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Rajat Sachar, Member (Economic)

O R D E R
(Passed on this 16th day of May 2017)

This case relates to a proposal received from the Jawaharlal Nehru Port Trust (JNPT) seeking approval for fixation of charges for handling Direct Port Delivery (DPD) Containers.

2.1. The main points made by JNPT in its letter dated 24 January 2017 are as follows:

(i). The tenth meeting to review the status of recommendations of the Joint Committee for suggesting measures to reduce cost and dwell time of cargo clearance in Port with specific reference to JNPT was held under the Chairmanship of Secretary (S), Ministry of Shipping on 17.01.2017. [A copy of the minutes forwarded by Ministry vide letter No. PD-14033/61/2016-PD-V(Pt.2) dated 20 January 2017 is furnished by JNPT.]

(ii). Secretary (S), after detailed review of the progress made on each recommendation, gave the direction that all Terminal Operators should charge identical charges (₹1600-₹2300) for handling DPD containers. JNPT to ensure that DPD charges should be legally vetted and may be linked with Wholesale Price Index (WPI) and WPI be fixed on annual basis.

2.3. Thus, in view of directions of Secretary (Shipping), the JNPT has requested this Authority to notify composite rate applicable for all Terminals at JNPT i.e. ₹1600 and ₹2300 for 20 ft and 40 ft container respectively on an adhoc basis. The JNPT has requested to insert the said charges as Section 3.3.10 under Chapter – III of the JNPT Scale of Rates.

3. While acknowledging the proposal, the JNPT was requested vide our letter dated 7 February 2017 to clarify/ furnish some information. The JNPT has responded vide its letter dated 18 February 2017. The information sought by us and the response of JNPT thereon are tabulated below:

Sl. No.	Information sought by us	Response of JNPT
(i).	List of Participants who attended the Meeting held on 17 January 2017 in the Ministry of Shipping, New Delhi under the Chairmanship of Secretary (Shipping).	The JNPT has furnished a list of participants who attended meeting held on 17.1.2017 under the Chairmanship of Secretary (Shipping). [They include JS (Cus), MD, IPA, officials representing CONCOR, Customs, FIEO and IPA]
(ii).	A copy of Minutes of the Meeting scheduled on 23 January 2017 under the Chairmanship of Secretary (Shipping) and the List of Participants present in the said Meeting.	The JNPT has furnished a copy of Minutes of the Meeting scheduled on 23 January 2017 and the List of Participants present in the said Meeting under the Chairmanship of Secretary (Shipping). [They include representatives of DGFT, Customs, CONCOR, DG (S), CSLA, Terminal operation, CHAS and representatives of Trade Unions]
(iii).	A copy of Minutes of the Meeting scheduled on 30 January 2017 in NITI Aayog and the List of Participants present in the said Meeting.	The meeting was conducted as per schedule and minutes of meeting is yet to be received from NITI Aayog.
(iv).	As per paragraph 2(i) of the Minutes of Meeting chaired by Secretary (Shipping), the direction of Secretary (Shipping) mandates the JNPT to ensure that identical DPD charges leviable by all the Terminal Operators should be legally vetted. Therefore, the JNPT to furnish a	The JNPT has furnished the legal opinion received from Law Point vide their opinion dated 14.2.2017. (From the copy of the legal opinion, it is seen that as against the query made by the JNPT to the Counsel to legally vet the charges, the

	Compliance Report on the direction given by Secretary (Shipping).	opinion states that the Counsel are neither qualified nor competent to pronounce any opinion. Further, as against the query made by the JNPT to the Counsel as to what steps may be taken for the fixation of handling charges for DPD containers and implementation of uniform charges, the counsel has opined that JNPT may make an appropriate application to TAMP for fixation of container handling charges (or otherwise) under the DPD mechanism and only after notification of such rates would the JNPT be able to charge the same to the trade.)
(v).	As per the direction of Secretary (Shipping), the charges for handling of DPD containers is to be linked with Wholesale Price Index (WPI) and WPI be fixed on annual basis. However, the proposed draft Scale of Rates furnished by the Port does not reflect this position.	The SOR is subject to automatic annual indexation of 100% as mentioned in Clause 2.8 of the Tariff policy to be read with 3.2 in the said tariff policy. Further there are no Performance Standard linked to this activity as responsibility has been cast on the importers to move the container within 48 hours from the port premises.

4.1. In accordance with the consultative procedure prescribed, a copy of the JNPT proposal dated 24 January 2017 was forwarded to the BOT operators and the concerned users/ user organisations/ for their comments.

4.2. In this regard, the BOT operators viz., Nhava Sheva (India) Gateway Terminal Pvt. Ltd. (NSIGTPL), Gateway Terminal India Pvt. Ltd. (GTIPL) and Nhava Sheva International Container Terminal Pvt. Ltd. (NSICTPL) have furnished their comments. These comments were forwarded to the JNPT as feedback information. The JNPT vide its letter dated 24 February 2017, 14 March 2017 and 20 March 2017 has responded to the comments of NSICTPL, NSIGTPL and GTIPL respectively.

5. A joint hearing in this case was held on 20 February 2017 at the Office of this Authority. At the joint hearing, the JNPT made a Power Point presentation of the proposal. At the joint hearing, the JNPT and the concerned users/ organization bodies have made their submissions at the joint hearing.

6.1. As agreed at the joint hearing, the JNPT was requested vide our letter dated 2 March 2017 to furnish some information/ clarification. The JNPT has responded vide its letter dated 14 March 2017. The information sought by us and the response of the JNPT thereon are tabulated below:

Sl. No.	**Information sought by us**	**Response of JNPT**
(i).	During the joint hearing, the JNPT has submitted that at present, JNPT is not charging any additional amount for handling of DPD containers. However, considering that the JNPT has proposed a composite rate of ₹1600/- for handling a 20’ DPD container and ₹2300/- for a 40’ DPD container, the JNPT to list down the additional services that it envisages to render to the DPD containers, justifying the levy of proposed composite rates.	JNPT is not charging in order to promote DPD. The request for DPD clearance is received at random and containers need to be cherry picked and delivered. This involves multiple shifting. The costing on actual number of shifting will entail different charges for containers picked up at various times. The importer may not be able to anticipate costing. Therefore, a moderated amount of ₹1600/- and ₹2300/- are fixed for 20’ and 40’ containers respectively. This will help the importer by way of lesser cost and further it is pre-determined cost. The terminals will also be remunerated at least partly for the multiple shifting undertaken.
(ii).	In view of the reservations of the BOT operators on the JNPT proposal expressed by them during the joint hearing, the JNPT desired during the joint hearing to have the DPD	The terminals have been requested to concur to the common rates proposed by JNPT. Their written

	rates prescribed for JNPT operated Container Terminal alone. However, while responding to the comments of NSICTPL and GTIPL vide its letter dated 24 February 2017, the JNPT has requested for notification of DPD rates across all terminals. The JNPT to clarify the position in this regard. If there is any consent of the BOT operators for the proposed common rates subsequent to the joint hearing, the same may be confirmed.	concurrence is awaited. However we wish to add that as it is a new tariff for a new activity, the decision of TAMP will set the bench mark in the rates and stop the arbitrary practices.
(iii).	As per the direction of Secretary (Shipping), the charges for handling of DPD containers is to be linked with Wholesale Price Index (WPI) and WPI be fixed on annual basis. Since the proposed draft Scale of Rates furnished by the Port did not reflect this position, the JNPT was requested vide our letter of even number dated 07 February 2017 to examine this position. In this regard, the JNPT vide its letter no. JNP/fin/TAMP/2017/1143 dated 18 February 2017 has stated that the Scale of Rates of JNPT is subject to automatic annual escalation of 100% as per Clause 2.8 read with clause 3.2 of Tariff Policy, 2015. In this regard, the JNPT to note that as per clause 3.2 of the Tariff Policy, 2015, indexation of SOR, as provided in clause 2.8, is subject to achievement of performance standards committed by the Port. This is as per the Tariff Policy, 2015, issued by the Ministry of Shipping u/s 111 of The Major Port Trust Act, 1963, which is binding on both TAMP and JNPT. However, the Port has stated that there are no performance standard linked to this activity as responsibility has been cast on importers to move the container within 48 hours from port premises. But, as per the Trade Notice dated 10 May 2016 issued by JNPT on DPD facility, DPD charges are for the services rendered to shift the containers. It implies that some activity is involved at the port level for which DPD charges are leviable. Therefore, the JNPT to propose suitable performance standard subject to achievement of which the DPD charges would become eligible for annual indexation.	A performance standard of delivery within 3 hours of “Gate in” of the truck for taking delivery can be fixed. It depends on Terminals to promote better co-ordination and efficiency.
(iv).	The copy of the legal opinion forwarded by JNPT under cover of their letter no. JNP/fin/TAMP/2017/1143 dated 18 February 2017 does not bear the signature of the Legal Counsel. A signed copy of the legal opinion may be forwarded to us.	(The JNPT has furnished the Signed copy of Legal Opinion.)

6.2. As decided at the joint hearing, the Container Shipping Lines Association (CSLA) vide its letter dated 06 March 2017 has furnished its comments. These were forwarded to JNPT as feedback comments. The JNPT has responded vide its letter dated 17 March 2017.

7 As brought out earlier the GTIPL has, among other things, made a submission that if JNPT agrees to waive the payment of revenue share by GTIPL on DPD containers then GTIPL is agreeable for levy of ₹1650/- for a 20’ feet container and ₹2475/- for a 40’ feet container. The volume of DPD containers is very insignificant as reported by the JNPT at the joint hearing. That being so, all containers may not attract DPD charges. No investment in additional handling equipment may be required to handle DPD containers. The DPD containers may have to be handled with the existing equipment and relevant existing resources. Therefore, in the context of the submission made by GTIPL as brought out above, the incremental cost for handling DPD containers may be relevant to examine the adequacy of the rate of ₹1600/- per 20’ containers and ₹2300/- for 40’ container

8.1. In the above backdrop, the JNPT was requested vide our letter dated 7 April 2017 to furnish some information/clarification with respect to its terminal as well as the terminal operated by GTIPL and NSICT. The JNPT has furnished the requisite information, as brought out below, with respect to terminal being operated by it. The JNPT has reportedly sought the requisite information from GTIPL and NSICT. The information sought by us and the response of JNPT with respect to its terminal vide its letter dated 25 April 2017 thereon are tabulated below:

Sl. No.	**Information sought by us**	**Response of JNPT**
(i).	Area of the Yard earmarked for DPD at each Terminal.	Currently, JNPCT has earmarked two yards equipped with RTGCs admeasuring 34000 sq. mtrs.

(ii).	No. of Ground Slots available in terms of TEUs.	No. of ground slots available is 318 TEUs in each yard.
(iii).	Average Stack Height.	Average stacking high is 3.5 for operational convenience.
(iv).	No. of Reach Stackers, Tractor Trailers etc. deployed for the DPD operations.	Currently, 03 Reach stackers, 02 RTGCs & approximately 75 Trailers are deployed alongside jetty for receipt. In due course of time with increase in percentage of DPD containers we shall require not less than 03 Reach Stackers and minimum of 05 RTGCs.
(v).	Capital cost of the equipment and other infrastructure relevant to DPD operations.	a) Cost of each Reach Stacker = 3.3 crores b) Cost of each RTGC = 11 crores c) Cost of each Trailer — 33 lakhs
(vi).	Average estimated no. of hours of stay of DPD containers at the terminal.	Not less than 1.5 days (36 hrs.) on an average currently.
(vii).	Average no. of Shifting involved for handling each DPD container at each of the terminal.	Average shifting varies between 2 to 4.
(viii).	Estimated Annual Operational cost to handle DPD containers per TEU. - Fuel Cost etc. - Power Cost etc. - R&M cost etc. Other costs, if any	In accordance with SOR, cost for handling of 20 feet container i.e. (from container yard to truck or vice versa) is ₹844/- for each lift-on or lift-off.
(ix).	Existing charges levied for each shifting of TEU giving reference to the SOR approved by TAMP.	In accordance with SOR, shifting of containers from one yard to another yard within container terminal for custom inspection or any other purpose and subsequent to loading of containers for delivery is ₹2347/- as per recently approved tariff in January 2017.
(x).	Incremental cost for handling DPD containers of TEU.	Taking into account on an average of not less than two shifting during each delivery, the incremental cost for handling DPD containers per TEU will be ₹1688/- (₹844/- + ₹844/- as indicated at sr.no viii)
(xi).	In addition to the above, a Brief Note on the operations involved in handling DPD containers may also be furnished.	JNPT is built on CFS concept outside Terminal premises unlike other Ports. DPD to individual consignee was not envisaged during inception. Currently, we are catering 33 CFSs. This requires separate stacking with separate equipment for prompt delivery within the defined dwell parameters. Now, there is shift in policy as far as delivery from Port is concerned. Under DPD, now, we have 632 parties registered While giving deliveries under DPD, the concept of giving deliveries to CFS shall continue to exist. With this, the number of CFSs indirectly can be construed as 665 (632+33). For this, the yards get spread which require additional manpower and additional equipment over and above the existing ones. Any number of equipment we provide, multiple shifting is not ruled out as there is no en-block movement under DPD unlike movement to CFSs. The number of containers per DPD agency varies between 1 TEU to 500 TEUs in a month. Even a container that is nominated under DPD has to be necessarily shifted to Speedy CFS after 48 hrs. as per Customs notification. Further, on regular basis, even after nomination to CFS or DPD few agencies request for change either in CFS status or DPD status which lead to multiple shifting.

		Note: In case of CFS bound Import containers, containers are stacked CFSs wise to facilitate en-block movement. Whenever CFS operator places a trailer. Delivery is given on 'Best Pick' basis without any shifting. Whereas, in case of DPD containers, keeping in view huge number of agencies involved Containers of these agencies are mixed during the course of stacking while carrying out day-to-day operation with due regards to window timing, berth stay, and vessel turn around time. Hence, during the course of delivery, Shifting/s is inevitable. For example, four containers are stacked in one vertical row and if the trailer is placed for a bottom container, top three containers need to be shifted to facilitate delivery as port cannot detain the vehicle till trailers are deployed for top containers during day-to-day normal operations. Under the circumstances, it is necessary to levy shifting charges in case of DPD containers.

8.2. The JNPT in its letter in reference has requested to process its proposal at the earliest and that it is yet to receive comments from GTIPL and NSICT and it shall forward their comments separately upon receipt of information from them. We have not received the response from JNPT till finalisation of this case.

9.1. As brought out in the above table, the JNPT has linked the activity relating to direct port delivery of containers to shifting of containers at the yard to truck at ₹844/- either for lift on or for lift off approved in the tariff Order dated 4 January 2017 disposing of the proposal filed by JNPT for General Revision of its Scale of Rates. It has further submitted that taking into account not less than two shifting during each delivery of DPD containers on an average the incremental cost for handling DPD containers per TEU will be ₹1688/- (₹844/-+₹844/- for each shifting).

9.2. With regard to the rate of ₹844/- considered by JNPT, it is relevant to draw reference to Order dated 17 November 2016 passed by this Authority disposing of the proposal dated 15 November 2016 received from JNPT for equalising the rates for moving containers from container yard to railway flat or vice versa and from container yard to truck or vice versa. The rate of ₹844/- was approved on adhoc basis in the Order dated 17 November 2016 which was regularised in the Order dated 4 January 2017. The relevant scale in this regard approved in the Order dated 4 January 2017 is reproduced below:

A. NORMAL CONTAINERS/ REEFER CONTAINERS:

Sr. No.	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1	From Ship to Container Yard or vice versa	3592.29	2901.47	2155.38	1740.88
2	From Container Yard to Container Freight Station or vice versa	1277.62	1277.62	1277.62	1277.62
3	From Container Yard to Railway flat or vice versa (ICD Container Rail only)	844.00	844.00	844.00	844.00
4	From Container Yard to Truck or vice versa (direct delivery and export intake)	844.00	844.00	844.00	844.00

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

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

(i). With an emphasis of the Government of India on the Policy of 'Ease of doing business' at Jawaharlal Nehru Port Trust (JNPT), JNPT has reported the decision of the NITI Aayog to facilitate the 'Direct Port Delivery' (DPD) at JNPT. The Direct Port Delivery (DPD) is reported to be an innovative effort to expedite delivery of consignments within 48 hours from the terminal without the conventional steps of transferring the consignments to Container Freight Stations (CFSs) for clearing consignments after following the Customs procedures, thereby ensuring a 24x7 availability of delivery from terminals and at the same time reducing handling costs and also decongesting the Port. Thus, the JNPT has come up with the proposal in reference for fixation of charges for handling Direct Port Delivery (DPD) Containers at JNPT.

(ii). Based on the directions of NITI Aayog and Secretary (Shipping), the proposal of the Port is with regard to fixing uniform charges for handling DPD across all the JNPT terminals. The term 'all the JNPT terminals' includes container terminal operated by JNPT itself as well as the terminals operated by the BOT operators at JNPT viz., Nhava Sheva International Container Terminal Private Limited (NSICTPL), Gateway Terminal India Private Limited (GTIPL) and Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL). Thus, the JNPT has proposed to fix uniform charges of ₹1600/- for a 20 ft container and ₹2300 for a 40 ft towards handling of DPD containers across all the JNPT terminals.

(iii). The JNPT has reported that the BOT operators have in-principle agreed to the levy of DPD charges at their terminals. However, during the consultation proceedings relating to the case in reference, it has emerged that the BOT operators have various concerns with regard to the proposed levy.

(iv). As brought out earlier, the JNPT has proposed a rate of ₹1600/- for a 20 ft container and ₹2300/- for a 40 ft towards handling of DPD containers. The JNPT has not furnished any workings in support of the proposed rates. However, later on, as brought out earlier, the JNPT has reported that in accordance with the Scale of Rates, the cost for handling of a 20 ft container from container yard to truck or vice versa is ₹844/-. The JNPT has considered not less than two shiftings on an average for each delivery of DPD containers. That being so, the charges for each delivery works out to ₹1688/- for a 20 ft container and ₹2532/- for a 40 ft container following the ratio of 1:1.5 for 20 ft container and 40 ft container respectively. It is, therefore, appropriate to fix the charges at ₹1688/- for 20 ft container and ₹2532/- for a 40 ft container. Since the rates fixed by this Authority are at ceiling level, the JNPT has flexibility to levy the rate of ₹1600/- for a 20 ft container and ₹2300/- for a 40 ft container, which are lower than the rates approved.

(v). The JNPT was requested to list down the additional services that it envisages to render to the DPD containers, justifying the levy of proposed rates. In this regard, the JNPT has clarified that at present, since the request for DPD clearance is received at random, the relevant containers are cherry picked and delivered at no additional cost to the users, by JNPT. However, the port has stated that DPD containers involve multiple shifting for which the importer is not be able to anticipate the costing. Thus, a moderated and pre-determined cost is reported to help the importer plan his cost in advance and at the same time partly remunerate the JNPT for the multiple shiftings to be undertaken by the JNPT to facilitate DPD. The JNPT has considered an average of two shiftings for DPD containers.

(vi). The JNPT has proposed that the rates are subject to automatic annual indexation of 100%, in line with the stipulation contained in Clause 2.8 read with Clause 3.2 of the Tariff policy, 2015. Clause 3.2 of the Tariff Policy, 2015, stipulates that the indexation of SOR will be subject to achievement of Performance Standards committed by Major Port Trusts. If a particular port does not fulfil the Performance Standard, no indexation would be allowed during the next year. Accordingly, the port has proposed a performance standard of delivery within 3 hours of "Gate in" of the truck for taking delivery. The performance standard as proposed by the Port is approved.

(vii). The levy of the charges by JNPT on DPD containers will result in JNPT earning an additional income over and above the Annual Revenue Requirement (ARR) as assessed in the general revision Order of JNPT. The tariff given for JNPT during the general revision was to cover the entire ARR as proposed by the Port at that relevant point of time. Therefore, there is no scope to accommodate the additional income arising out of levy of DPD charges by JNPT. Taking cue from Clause 4.1 of Tariff Policy, 2015, which calls for transfer of additional surplus to the General Reserve, the JNPT is advised to transfer the surplus arising out of levy of DPD charges to the General Reserve and use the funds for the purpose of development, creation and / or modernisation of Port infrastructure facilities.

(viii). The existing Scale of Rates of JNPT prescribes charges for handling movement of containers from ship to container yard. The DPD containers are delivered from the container yard, as emerged during the consultation process. Therefore, the DPD containers will continue to attract the charges prescribed for handling and movement of containers from ship to container yard.

(ix). Since the consultation proceedings are over, final rates are fixed instead of adhoc rates.

12.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority prescribes charges for handling of DPD containers at JNPT operated Container terminal. Accordingly, the following provision is incorporated as Section 3.3.10 under Chapter – III of the existing Scale of Rates of JNPT:

“3.3.10 Direct Delivery charge is ₹ 1688/- for 20 ft container and ₹ 2532/- for 40 ft container. The rates are subject to automatic annual indexation of 100% of the Wholesale Price Index (WPI) subject to achievement of delivery within 3 hours of “Gate in” of the truck for taking delivery.**”**

12.2. The rates approved are at ceiling level. The JNPT has the flexibility to charge rates at lower level of ₹1600/- for 20 ft container and ₹2300/- for 40 ft container or any other lower rates based on commercial considerations.

12.3. The rates will come into effect immediately from the date of notification of order in the Gazette of India and shall remain valid co-terminus to the validity of the existing Scale of Rates of JNPT i.e. 31 March 2019.

(T.S. Balasubramanian)
Member (Finance)

SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

F.No.TAMP/10/2017- JNPT	**:**	**Proposal received from the Jawaharlal Nehru Port Trust (JNPT) for fixation of charges for handling Direct Port Delivery Containers.**

A summary of the comments of the BOT operators and users and response of JNPT thereon is tabulated below:

Sl. No.	Comments of the users / user organisations	Reply furnished by JNPT
1.	**Nhava Sheva (India) Gateway Terminal Pvt. Ltd. (NSIGTPL)**	
(i).	NSIGT Scale of rate has been set as per the TAMP guidelines of 2008 under upfront tariff setting. We would seek clarity as to under which part of the guideline TpAMP seeks to introduce this scale of rate. We would like some more list of activities to be introduced in our scale of rates for which then we can approach TAMP separately.	The DPD is a new initiative of JNPT to promote Exim trade & reduce transaction cost & time. There is no rate as DPD charges in the TAMP tariff guidelines for this purpose. The private terminals are linking and charging rates single shifting /double shifting charges. This has led to a situation where in the benefits under DPD is denied & there is no certainty of cost to Trade. To have a uniform rate for all DPD clients, JNPT have approached the TAMP to notify new tariff for DPD.
(ii).	It is understood that the initiative is to reduce costs and dwell times. We have registered more than 600 clients and the DPD activity has already started from Nov 2016 as per the operation process that we have adopted. With the containers being delivered directly from the terminal to the customers instead of going vide CFS the customer will therefore save on CFS and CFS transportation. Further dwell time is currently not an issue with our dwell time on loaded Import containers is 2.6 days.	This is factual comment. Whole effort in promoting DPD is to reduce transaction cost & time.
(iii)	As per the minutes of the meeting in Ministry of Shipping (GOI), the tariff is to be fixed and the yearly escalation is to be linked with Wholesale price Index. The same is not mentioned in the scale of rate proposed for JNPT. Kindly clarify.	JNPT has already requested TAMP that DPD rates should be linked to WPI on an annual basis.
(iv).	As per the proposal TAMP is introducing clause 3.3.10 under Chapter 111 of JNPT Scale of Rates for the DPD charges. We request to clarify whether JNPT scale of rates supersedes the scale of rates respective terminals.	In this connection, we wish to clarify that the matter is to be seen contextually and not by letter.
(v).	We request clarity as to whether the rate proposed is a delivery charge to be levied on DPD containers and QC handling, transportation to yard, shifting charges and storage are to be separately charged as per tariff and services rendered.	JNPT has already clarified that DPD charges shall be over and above the existing Terminal Handling charges currently being charged and shall cover the activities beyond the ambit of THC. The whole exercise is to bring uniformity in price for trade. Considering that shifting charges, storage this new rates are proposed. All other activities mentioned are already covered in THC.
(vi).	NSIGT is currently invoicing for DPD containers in accordance with the TAMP order G. No 128 dated 13th April 2015 for shifting the containers for DPD activity.	JNPT has no comments to offer.

(vii).	We have had various discussions with JNPT on the subject and had put forward the need for certain issues to be resolved. We are still awaiting response from JNPT on the matter.	The issues on Concession Agreement and unrelated issues may not be clubbed with fixation of charges for DPD containers.
(viii).	It may be noted that under the DPD procedure once the volumes pick up to a material level, it would have certain challenges which include increased number of shifting and lift on/ lift offs, sudden surge in truck coming for DPD, process variation in issues of Do's by the shipping lines, etc. Consensus therefore from all stakeholders will need to be arrived at as the process further develops based on experience to ensure that there is no congestion and efficiency gains are achieved.	The present proposal to charge all DPD client uniformly is based on all the above assumptions. All efforts will be made to ensure efficiency in port operation.
2.	**Gateway Terminal India Pvt. Ltd. (GTIPL)**	
	As per the Minutes of the meeting forwarded alongwith the proposal, it was directed that all terminal operators should charge identical charges for handling DPD container charges i.e. ₹1600/- for 20' ft containers and ₹2300/- for 40' ft containers at all the terminals operating at JNPT. As per the directions received, JNPT submitted its proposal to TAMP for fixing of rates for a composite DPD charge of ₹1600/- for 20' ft container and ₹ 2300/- for a 40' ft container. JNPT has in its proposal requested TAMP to notify the aforesaid rates for handling of DPD containers. In this regard, we give the following comments/ suggestions:	All the concession agreements carry the paramount undertaking of the Licensee to carry on business/ commercial operations at the container terminal in a manner conducive to the interest of the Licensor, the trade and the country. In this context, it is submitted that DPD is an innovative effort to expedite delivery of consignments, reduce costs and also to decongest the Port. The DPD facilitates a container to be taken delivery from the terminal without the conventional steps of transferring to a Container Freight Stations (CFSs) where the Customs procedures are performed and the container is cleared. This has been prioritized by Government for the following reasons: (i). Delivery is available 24x7 from terminals, whereas, delivery from some CFSs was limited to day time. (ii). The importer saves an approximate CFS expenditure between ₹ 8000/- to ₹ 20000/- under various heads and on each TEU when DPD is available. (iii). Under DPD, importer is assured about the receipt of cargo in less than 48 hours as against average of 7 days if routed through CFS. (iv). DPD will result in reduction of inventory cost. (v). Port roads gets decongested when frequent to and fro movements to the CFSs are avoided. It is this context that JNPT looks forward to the terminals to align with the direction in the meeting convened by Secretary (shipping) on 17.01.2017.
(i).	In connection with the operations of GTI at its container terminal, JNPT is aware that GTI has filed a Writ Petition before the Hon'ble Bombay High Court challenging the 2005 tariff Guidelines issued by TAMP and the tariff order dated January 19, 2012 passed by TAMP. By its Order dated July 2, 2012, the Hon'ble Bombay High Court has permitted GTI to charge and collect the tariff at the rates prevailing prior to the tariff order dated January 19, 2012. We accordingly continue to collect tariff in	Even though GTI is collecting charges as per the existing SOR in accordance with the direction of Hon'ble Bombay High Court, GTI needs to recognize the developments and directions given recently by NITI Aayog. As the DPD procedure is a new activity, it calls for a fresh notification of charges. One significant strategy to increase the percentage of DPD, which was only 3% in 2016, was identified to be introduction of uniform rate to be charged by all Terminals. Accordingly, the Ministry has suggested that all terminals may charge a uniform rate of ₹1600/- for 20'container and₹2300/- for 40'container.

	accordance with the directions of the Hon'ble Bombay High Court.	GTI should follow the recommendations issued by the Ministry in the overall interest of the sector and competitiveness of the nation.
(ii).	While GTI is agreeable to the fixing Of Charges for handling of DPD containers, the same shall be without prejudice to Writ Petition pending before the Hon'ble Bombay High Court, the rights, contentions and grounds taken therein, GTI's challenge to 2005 Tariff Guidelines issued by TAMP and the TAMP Order dated January 19, 2012.	JNPT has no objection in GTI adopting the uniform DPD rate as suggested by Ministry without prejudice to the Writ Petition filed by them and pending before the Hon'ble High Court.
(iii).	GTI suggests that the charges for DPD containers shall be subject to the following: (a). The DPD Charges are newly introduced and these will be over and above the existing Charges like Terminal Handling Charge and storage charge currently being charged by GTI as per the prevailing Scale of Rates.	The DPD charges shall be over and above the existing Terminal Handling Charges currently being charged and shall cover the activities beyond the ambit of THC.
	(b). The tariff application made by JNPT will be applicable to JNPCT, GTI, NSICT and NSIGT. Since Revenue Share is not applicable in the case of JNPCT and NSICT, fixing a standard price for all the terminals would be discriminatory and unequitable. In order to maintain parity amongst all the terminal operators at JNPT, it is recommended that the charge for handling DPD containers by GTI be fixed at ₹2,560/- for 20 ft. container and ₹3,840/- for 40 ft. containers for all deliveries effected within 48 hours.	The proposed DPD charges have been fixed to promote DPD. The tariff application made by JNPT seeks to apply to JNPCT, GTI, NSICT and NSIGT. Hence, it is not agreeable for keeping a higher rate of ₹2650/- for 20'container and ₹3840/- for 40'container. It had been made clear that the revenue share will have to be paid by the Terminal as per the Clauses of Concession Agreement and any deviation cannot be considered at this stage. In such an event, it is also not agreeable to concur a rate of ₹1650/- and ₹2475/-The business model of NSICT is different and a comparison solely on the revenue share of DPD is incorrect to evaluate parity.
	(c). In Case JNPT agrees to waive the payment of Revenue Share by GTI on the DPD charges, GTI agrees to fixing of a charge for handling DPD containers of ₹1,650/- for 20 ft. container and ₹2,475/- for 40 ft. Containers for all deliveries effected within 48 hours.	
	(d). In addition to the above, for deliveries effected between 48 hours and 72 hours, 1 shifting Charge shall be applicable and for deliveries effected after 72 Hours, 2 Shifting Charges shall be applicable as per the prevalent Scale of Rates.	It has been clearly stated that all DPD deliveries need to be taken within 48 hours and therefore, there is no question of fixing any set of charges for deliveries beyond 48 hours. Existing charges will be applicable for the non-DPD container deliveries beyond 48 hours.
	(e). As mentioned in the minutes of the meeting circulated by the Ministry of Shipping dated January 17, 2017 [Ref no. PD-14033/61/2016-PD-V (pt.2)], the above DPD charges should be linked to the Wholesale Price Index (WPI) and the WPI should be fixed on an annual basis.	JNPT has already requested TAMP that DPD rate should be linked to WPI on annual basis.
(iv).	The implementation of the DPD charges as proposed in paragraphs 3 shall be a provisional implementation for an initial period of 3 months and any further implementation shall be subject to review at the end of 3 months.	JNPT is not averse to review the DPD charges after six months based on ground reality. The proposed DPD charges will be implemented on experimental basis for a period of 6 months initially.

(v).	Until the charges for handling of DPD containers as proposed by GTIL is notified by TAMP, GTI will continue to charge as per the prevalent tariff rates.	GTI is requested to align with the targets of JNPT and the country as a whole to offer rates that will support DPD.
3.	**Nhava Sheva International Container Terminal Pvt. Ltd. (NSICTPL)**	
		The concession agreement with NSICT carry the paramount undertaking of the Licensee (6.1.1(a)) to carry on business/ commercial operations at the container terminal in a manner conducive to the interest of the Licensor, the trade and the country. In this context, it is submitted that DPD is an innovative effort to expedite delivery of consignments, reduce costs and also to decongest the Port. The DPD facilitates a container to be taken delivery from the terminal without the conventional steps of transferring to a Container Freight Stations (CFSs) where the Customs procedures are performed and the container is cleared. This has been prioritized by Government for the following reasons: (i). Delivery is available 24x7 from terminals, whereas, delivery from some CFSs was limited to day time. (ii). The importer saves an approximate CFS expenditure between ₹ 8000/- to ₹ 20000/- under various heads and on each TEU when DPD is available. (iii). Under DPD, importer is assured about the receipt of cargo in less than 48 hours as against average of 7 days if routed through CFS. (iv). DPD will result in reduction of inventory cost. (v). Port roads gets decongested when frequent to and fro movements to the CFSs are avoided. It is this context that JNPT looks forward to the terminals to align with the direction in the meeting convened by Secretary (shipping) on 17.01.2017.
(i).	At the outset, we wish to state that Nhava Sheva International Container Terminal Private Limited (NSICT) has filed a Writ Petition (WP/2954/2012) before the Hon'ble Bombay High Court challenging the 2005 tariff guidelines issued by TAMP and the tariff Order dated February 14, 2012 passed by TAMP (Writ Proceedings), to which TAMP and JNPT are parties.	JNPT has no objection in NSICT adopting the uniform DPD rate without prejudice to the Writ Petition field by them and pending before the Hon'ble High Court.
(ii).	By its Order dated July 2, 2012 passed in the Writ Proceedings (Status Quo Order), the Hon'ble Bombay High Court has permitted NSICT to charge and collect the tariff at the rates prevailing prior to TAMP's tariff Order dated February 14, 2012. We accordingly continue to collect tariff in accordance with the directions of the Hon'ble Bombay High Court in the Status Quo Order.	
(iii).	The present letter is being issued without prejudice to NSICT's rights and contentions in the Writ Proceedings and its ability to charge tariff as per the Status Quo Order, all of which are expressly reserved.	

(iv).	Keeping the above in mind, our observations and comments on the matter are as under:	
(a).	JNPT, NSICT, NSIGT and GTI's scales of rates are currently subject to different tariff guidelines which have been issued by TAMP from time to time. The proposal intends to fix a uniform scale of rates for DPD Containers for all the container terminals, which is not permissible as per the current regulatory mechanism which differentiates between container terminals on the basis of the tariff guidelines under which their respective tariff is fixed. Without prejudice to the foregoing, you are requested to clarify that the fixation of charges for handling the DPD Containers is being fixed under which guidelines?	Even though NSICT is collecting charges as per the existing SOR in accordance with the direction of Hon'ble Bombay High Court, NSICT needs to recognize the developments and directions given recently by NITI Aayog. As the DPD procedure as performed is a new activity, it calls for a fresh notification of charges. One significant strategy to increase the percentage of DPD, which was only 3% in 2016, was identified to be introduction of uniform rate to be charged by all Terminals. Accordingly, the Ministry has suggested that all terminals may charge a uniform rate of ₹1600/- for 20'container and ₹2300/- for 40'container. NSICT should follow the recommendations issued by the Ministry in the overall interest of the sector and competitiveness of the nation. TAMP may kindly reply relating to the question of Guidelines under which, common rates are notified. NSICT may also recognize that the concept of the common rates are issued in the national interest as guided by the Ministry of Shipping.
(b).	We understand that the initiative is to reduce costs and dwell times. We have registered more than 600 clients and the DPD activity has already started from Nov. 2016 as per the operation process that we have adopted. With the containers being delivered directly from the terminal to the customers instead of going through CFS the customers will therefore save on CFS costs and CFS transportation. Further dwell time is currently not an issue.	The benefit indicated are factual and it is expected that dwell time will come down in view of the benefits due if delivery is taken within 48 hours.
(c)	As per the minutes of the meeting with the Ministry of Shipping (GOI) that took place on (January 17, 2017), the tariff is to be fixed and the yearly escalation is to be linked with Wholesale Price Index. The same is not mentioned in the scale of rate proposed for JNPT. Kindly clarify.	JNPT has already requested TAMP that DPD rate should be linked to WPI on annual basis.
(d).	As per the proposal, TAMP is introducing clause 3.3.10 under chapter 111 of JNPT scale of Rates for the DPD charges. We request to clarify whether JNPT scale of rates supersedes the scale of rates of respective terminals.	--
(e).	We request to clarify as to whether the rate proposed is a delivery charge to be levied on DPD containers and QC handling, transportation to yard, shifting charges and storage are to be separately charged as per tariff and services rendered.	The DPD charges shall be over and above the existing Terminal Handling Charges (THC) currently being charged and shall cover the activities beyond the ambit of THC;
(f).	NSICT is currently invoicing for DPD containers in accordance with the TAMP order G. No 128 dated 13th April 2015 for shifting the containers for DPD activity.	No comments.
(g).	We have had various discussions with JNPT on the subject and had put forward the need for certain issues to be resolved. We are still awaiting response from JNPT on the matter.	JNPT feels that issues not related to DPD should not be clubbed for discussion at this point of time.

(h).	It may be noted once the volumes pick up to a material level under the DPD procedure, certain challenges will arise, which would include increased number of shifting and lift on/ lift offs, sudden surge in truck coming for DPD, process variation in issues of Do's by the shipping lines, etc. Consensus therefore from all stakeholders will need to be arrived at as the process further develops based on experience to ensure that there is no congestion and efficiency gains are achieved.	JNPT is not averse to review the DPD charges after six months based on ground reality.

2. A summary of the arguments made by the JNPT and the users/ user organisations during the joint hearing held on 20 February 2017 is given below:

Jawaharlal Nehru Port Trust (JNPT)

(i). During the past 2-3 years, there has been a stress on 'Ease of doing business'.

(ii). JNPT ranks very behind in the 'Ease of doing business' index owing to high logistics cost, unproductive detention of containers and time taken for delivery of the Containers.

(iii). In view of this position, as measures suggesting for reduction in cost and dwell time of containers, it has been decided by NITI Aayog to facilitate the 'Direct Port Delivery' (DPD).

(iv). Even in the follow up meetings chaired by Secretary (Shipping), a detailed review of the progress in handling of DPD Containers is being carried out.

(v). Secretary (Shipping) has also directed that all the terminal operators at JNPT should charge identical charges for handling of DPD containers i.e. ₹ 1600/- for a 20' container and ₹ 2300/- for a 40' container.

(vi). A common rate towards Inter Terminal Rail Handling Operations (ITRHO) is already in place and is working smoothly at all the three terminals.

JNPT

(i). JNPT has been facilitating DPD since 2005. However, the volumes have been very insignificant.

(ii). It has been decided by NITI Aayog to strongly promote the DPD volumes.

(iii). Secretary (Shipping) in the meeting held on 17.01.2017 has decided that a uniform charge for handling of DPD containers i.e. ₹ 1600/- for a 20' container and ₹ 2300/- for a 40' container, be put in place.

(iv). Presently, JNPT is not charging any extra for DPD. However, the NSICT, NSIGT and GTI are charging for DPD containers, based on the shifting charges. The shifting charges charged by NSICT and GTI are as per the Scale of rates that existed prior to the 2012 Order, which had effected reduction in their respective tariff.

(v). Based on the time evaluations given based on the World Bank assessment and BCG field studies, it is seen that the entire process of offloading the containers to yard, seal verification by customs, loading onto trailer for delivery and transportation from terminal to importer's place directly will involve only 2 days, as against about 6.5 to 8.5 days taken for a CFS bound import container.

(vi). Thus, DPD will directly benefit the importer by ensuring prompt and timely delivery, savings in handling charges, transportation costs and storage charges, savings in container detention charges, 24x7 delivery of DPD containers, reduction in dwell time for containerized cargo.

(vii). Out of the 3 terminals operating at JNPT, two of them viz., GTI and NSICT have filed a Writ Petition in Bombay High Court. Based on the Court Order, these two operators continue to charge the Scale of Rates prevailing in the year 2011.

(viii). The NSICT and GTI have in principle agreed to reduce the handling charges and bring it at par with the charges fixed for JNPT. However, they have refused to approach TAMP for fixation of handling charges for DPD containers, in view of their pending proceedings before the Hon'ble Court.

Gateway Terminal India Pvt. Ltd. (GTIPL)

(i). We are in favour of DPD and wish that the initiative should be a success.

(ii). However, the GTI is in the Court challenging the 2005 Guidelines and TAMP Order dated 2 July 2012. The Court has permitted GTI to charge and collect tariff at the rates prevailing prior to tariff Order of January 2012. Accordingly, we are collecting tariff as per directions of the Court.

(iii). Though GTI is agreeable to the fixing charges for DPD containers, it must be without prejudice to pending Writ Petition and without jeopardizing our standing in the Court.

(iv). We feel that the charges for DPD containers shall be subject to following:

(a). These charges are in addition to the existing Terminal Handling Charges and storage charges being levied by GTI.

(b). JNPT proposes a uniform rate of DPD charges across all terminals in JNPT. Since Revenue share is not applicable in respect of JNPCT and NSICT, fixing a uniform price would not be correct.

(c). If JNPT agrees to waive the payment of Revenue share by GTI on DPD containers, GTI is agreeable for levy of ₹ 1650/- for a 20' container and ₹ 2475/- for a 40' container.

(d). The DPD charges should be linked to Wholesale price fixed annually.

[JNPT: With regard to waiving of Revenue share, nothing can be assured at this point of time. JNPT has approached the Ministry. In the meanwhile, let the DPD charges be implemented for a period of 6 months and thereafter, we can take a call.]

(v). A window of 6 months will not be appropriate. It should be clear in the beginning itself.

<u>Nhava Sheva International Container Terminal Pvt. Ltd. (NSICT)</u>

(i). The NSICT is in the Court challenging the 2005 Guidelines and TAMP Order dated 14 February 2012. The Court has permitted NSICT to charge and collect tariff at the rates prevailing prior to tariff Order of February 2012. Accordingly, we are collecting tariff as per directions of the Court.

(ii). The Scale of Rates of JNPT, NSICT, GTI, NSIGT are currently subject to different tariff Guidelines. JNPT proposes a uniform rate of DPD charges across all terminals in JNPT, which is not permissible as per the current regulatory mechanism, which differentiates between terminals based on tariff Guidelines.

(iii). Please clarify that the fixation of charges for handling DPD containers is being fixed under which Guidelines.

(iv). DPD activity has already started from November 2016. With containers being delivered directly from the terminal to the customers instead of going through CFS, the customer will save on CFS costs and CFS transportation. We are seeing an increase in the DPD volumes.

(v). JNPT has proposed rate for DPD under Section 3.3.10 under Chapter – III of JNPT SOR. Whether JNPT SOR supersedes SOR of respective terminals.

(vi). Clarity is required whether the proposed rate is a delivery charge to be levied on DPD containers and QC handling, transportation to yard, shifting charges and storage charges are to be separately charged.

(vii). Royalty payment should be set off on other containers.

(viii). We await the response of JNPT on some of the issues to be resolved by JNPT.

(ix). As per Minutes of the meeting in Ministry of Shipping, the tariff is to be fixed and yearly escalation is to be linked to WPI. The same is not mentioned in the rate proposed by JNPT.

<u>Nhava Sheva (India) Gateway Terminal Pvt. Ltd. (NSIGT)</u>

(i). NSIGT SOR has been set as per the Upfront Guidelines of 2008. We seek clarity as to under which part of the Guideline, the proposed rate is sought to be introduced.

(ii). As per Minutes of the meeting in Ministry of Shipping, the tariff is to be fixed and yearly escalation is to be linked to WPI. The same is not mentioned in the rate proposed by JNPT.

(iii). The JNPT has proposed Composite DPD charges. We need clarity on the term 'composite'.

CSLA & on behalf of Shipping Lines

(i). We support the DPD initiative.

(ii). However, we are facing some few issues with regard to delivery of containers. We need the port to look into it.

(iii). What does the rate of ₹ 1600/- include? We need clarity?

(iv). Currently Dwell time is about 6 – 7 days. There is delay on the part of customers to take delivery.

[JNPT: With the DPD mechanism, the containers will either go to the factories at hinterland or to the designated CFS in 2 – 3 days. No containers should be held back. DPD should not impact the productivity of the terminals.]

JNPT

(i). At present, the JNPT is not charging for DPD containers. It is different in different terminals. The common rate has been proposed by JNPT keeping in view the submissions made by the terminals in the initial meetings held by JNPT with them.

(ii). The introduction of DPD is not with an aim of making revenue. It is to be seen as a process beneficial to the port/ terminals as well as the users. It will also not burden the yard with containers. It would be a transparent mechanism.

(iii). The processes will have to be streamlined and the challenges are being addressed by the JNPT to the extent possible.

(iv). However, don't attach strings to the levy of charges. Let's start the process and address the challenges as and when they crop up and see it for a period of 6 months.

NSICT

(i). We have not come to JNPT for implementation of DPD. Do not force the levy on us.

(ii). The rates are to be levied by NSICT. We do not want to delink this levy from the other charges being levied based on the direction of the Court. The levy of DPD charges by us will have an impact on the Court direction. We do not want to jeopardize that.

(iii). We submit that let the charges for DPD be fixed for the JNPT alone at present. Based on clarity in the Court matter, it can be decided for us.

<u>JNPT</u>

(i). Then, let's have the rates prescribed for JNPT alone. With regard to other terminals, it can be seen later on.

3. The comments of Comments of Container Shipping Lines Associations (CSLA) and the comments of JNPT thereon are tabulated below:

Sl. No.	Comments of Container Shipping Lines Associations (CSLA)	Reply of JNPT
	There are various non-standard processes which exist in current DPD era. These need to be standardized and interest of the lines as well as the terminals are to be protected.	
(i).	Standardisation of processes across all Four Terminals, i.e. JNPCT/ NSICT/ GTI and NSIGT.	Presently, process of direct delivery all the terminals are standardized. The delivery is regulated in accordance with Public Notices issued by Customs.
(ii).	All Terminals must have a PDA account of the Consignee.	Three terminals namely NSICT, NSIGT and GTI are holding PDA account of consignee for collecting charges related to DPD delivery of container. JNPCT is not currently charging for DPD clearance. Once the uniform DPD charges are notified by TAMP, JNPCT will also intimate PDA account of consignee for collecting charges directly.
(iii).	Shipping Line issues a Delivery Order to the terminal if the container has to go from the terminal directly.	Shipping Lines are expected to issue E-Do for smooth implementation of DPD.
(iv).	In the event, the Consignee does not take delivery from the terminal within 48 hours the container is shifted to the CFS (as per Customs Directive)	All the terminals presently follow the directive of Customs and the containers are shifted to the CFS after 48 hrs.
(v).	Post container moving to the CFS, either because it was not Custom Out of Charge in 48 hours or it is transferred by customers choice due to its NON RMS status. DO shall be issued to the CFS to which it is sent. And customers will have to pay requisite charges to the line as per tariff of the line.	Status Quo will prevail for the Non-DPD containers.
(vi).	Terminals to recover charges from Importers / customer by way of PDA thus making it a common practice for all the terminals.	Terminals will collect only the charges related to DPD clearance through PDA account for DPD containers.
(vii).	Have a Uniform procedures for all 4 terminals, with respect to recovery of charges of DPD	Once uniform DPD charges are notified by TAMP, all terminals will collect charges through PDA Account.
(viii).	DPD Containers which are NOT cleared in 48 hours would be moved to the CFS, however cost of movement of these containers including handling / storage shall NOT be on line account.	As DPD Containers which are not cleared within 48 hours from the terminal do not fall within the ambit of DPD, the existing procedure will be continued.

(ix).	TAMP has proposed a DPD charge of INR 1600 & INR 2300 per 20 & 40 respectively. This obviously needs to be extended to the other terminals without any add-ons viz, Shifting Charges, SSR/ASR Charges, ground rent, demurrage or handling which there will not be a uniformity.	Once uniform rate is notified, only these rates can be charged by the terminals for DPD Containers.
(x).	CFS and Terminals MUST give real time updated of container movement to the respective shipping line which owns the container in question.	Real time update of container movement will be provided by the Terminals. Request of the lines will be passed on to the CFS's also.
(xi).	Containers moved to CFS will NOT be eligible for DOCK / CFS destuffing, they would necessarily get a factory destuffing do from the shipping line, since empty container needs to be delivered by the consignee to the line at the line's empty park.	CSLA need to take up this issue directly with consignee and customs.
(xii).	We would be extremely happy to deliver DPD containers direct from the Terminals and all charges thereon paid by the Consignee direct to the Terminal.	No specific comments furnished by the Port.
