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Tariff Authority for Major Ports

G.No.350

New Delhi,

19 October 2015

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 49 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 (JNPT), seeking approval for amendment in its Scale of Rates regarding Reduction in the Turnaround time of liquid bulk vessels as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/34/2015-JNPT

Jawaharlal Nehru Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Chandra Bhan Singh, Member (Economic)

ORDER

(Passed on this 22nd day of September 2015)

This case relates to a proposal received from the Jawaharlal Nehru Port Trust (JNPT) for seeking approval for amendment in its Scale of Rates regarding Reduction in the Turnaround time of liquid bulk vessels.

2. This Authority vide its Order dated 4 April 2014 has last revised the Scale of Rates of the JNPT. The revised Scale of Rates was notified in the Gazette of India on 19 May 2014 vide Gazette No.137. The Scale of Rates notified on 19 May 2014 is valid till 31 March 2016.

3.1. In this backdrop, the JNPT vide its letter No.JNP/Fin/TAMP/2015/969 dated 2 May 2015 has filed a proposal for amending its Scale of Rates with regard to Reduction of Turnaround time of Liquid Bulk Vessels.

3.2. The main points made by JNPT in its proposal dated 2 May 2015 are summarized below:

- (i). The Port even though primarily container handling Port is also handling Liquid Bulk Vessels and contributing to about 5.5 MMT to 6.5 MMT in BPCL Jetty.
- (ii). An arrived liquid cargo ship is considered ready for berthing only when it fulfils the following:
 - (a). Completion of custom formalities such as obtaining rotation number, filing of IGM, filing of Bill of entry/obtaining discharge permission.
 - (b). Submission of Tank farm readiness
 - (c). Obtaining Vessel Identification Advice, payment of port charges
- (iii). The delay for berthing on any of above account is considered as “**pre berthing delay on non-port account**” as Port has no role/ control in the above activities. This delay is primarily caused due to vessel documentation (which includes follow up of B/Ls for custom manifest, follow up with owners for the fund remittances, delivery order instructions, for discharge permissions, payment of wharfage charges, terminal readiness etc.) follow up with receivers for availability of sufficient tank space, cleaning the lines to the desired requirement of the importer to avoid contamination of the edible oils, high value imported chemicals etc.

In case of BPCL LPG handling, they are chartering vessels having their parcels of about 26000 MT. However, they are discharging this parcel in two stages as their cryogenic storage tanks in Uran terminal is of capacity of about 16000 MT only. Thus, the ship is waiting in JNPT waters till full cargo is discharged in two berthing. Also, the product dock lines need to be pre-cooled for the desired temperature required for commencement of discharge which takes almost 24 hrs. This is adding to the pre berthing detention on non-port account.

- (iv). The delay for berthing after ship becomes ready for berthing is considered as “**pre berthing delay on port account**”. This delay is caused due to limitation of the infrastructure such as number of berths i.e. Two at Liquid cargo jetty and one additional berth at shallow water berth, draught and length restriction at these berths, restriction on handling of other petroleum products along with LPG, slower loading/ discharge rates for viscous cargoes increasing the turnaround time of these vessels.
- (v). The pre berthing delay can be reduced by improving the turnaround time of the vessels. Further, with the commissioning of the mooring dolphins, two smaller size non petroleum product vessels can be berthed simultaneously at LB-01, thereby reducing the pre berthing time of the vessels.
- (vi). The turnaround time of liquid vessels can be reduced by controlling the time taken for the documentation/ cargo ullageing and sampling, activities before commencement of cargo and after completion of the cargo.
- (vii). As per the JNPT scale of rates a tanker vessel shall commence cargo operations within four hours from the time the ship is brought alongside the berth and the ship is permitted to occupy berth for six hours after completion of the cargo operations failing which penal berth hire charges are applicable.
- (viii). In this connection, the shipping lines and tank operators were asked to submit the information of various activities / documentation carried out during the stay of vessel at berth and approximate time required for each activity. In response, M/s. Inter Ocean shipping, M/s. Atlantic Shipping, M/s. GAC Shipping have submitted the requisite information. The timings indicated by the agencies appear to be on higher side.
(A chart of the timings given by the agencies is furnished by JNPT.)
- (ix). From the details of vessels handled at BPCL jetty from 1 April 2014 to 28 February 2015, it is seen that the average time taken for commencement of operations after berthing of vessel is 2.99 hrs and average time taken for sailing of vessel after cargo completion is 3.75 hrs. It is observed that almost 86% of vessels (338 out of total 395) have become ready for sailing within four hrs after its cargo completion.
(The details of vessels handled at BPCL jetty from 1 April 2014 to 28 February 2015 are furnished by JNPT).
- (x). From the above statistics, it appears that the time allowed for tanker vessels to occupy berth for six hours after completion of the cargo operations as per present tariff arrangement can be reduced to four hours. The time allowed for tanker vessels to commence cargo operation from the time the ship is brought alongside the berth can be reduced to 3 hours. This will help in reducing non-operational time of the vessel at berth which will reduce the turnaround time of vessel.
- (xi). In view of the above and keeping in view the detailed facts as brought out above, JNPT seeks approval of TAMP for modifying the Clause No.(3)(i)(b) and Clause No.(3) (v) of Notes of CHAPTER III of scale of rates i.e. VESSEL RELATED CHARGES as under early to achieve the RFD target set by the Ministry:
 - “(3)(i)(b) Shall be permitted to occupy the berth after completion of cargo operation without attracting Penal berth hire charges for the periods mentioned below:
 - (a) Container/Car carriers vessels – 2 Hours (No change)
 - (b) Tanker vessels/Project cargo/dry bulk/break bulk)-4 Hours.”

“(3)(v) All the vessels shall commence cargo operations within the time schedule specified below from the time ship is brought alongside the berth failing which penal berth hire charges shall be levied as prescribed in note-(viii).

- (a) Bulk/Tanker vessels - 3 (Three) Hours
- (b) All other vessels - 1 (One) Hour” (No change)

3.3. It is relevant here to mention that the Chapter number mentioned by the JNPT is found to be incorrect. The modifications proposed by the JNPT relate to the Notes under Section No.2.5 - SCHEDULE OF GARBAGE COLLECTION CHARGES of CHAPTER-II – VESSEL RELATED CHARGES.

4. The JNPT along with its proposal had not furnished the approval of its Board of Trustees with regard to the amendment to the Scale of Rates as proposed by JNPT. At our request vide our letter dated 14 May 2015 to furnish the copy of the approval of the Board of Trustees for amendment of Scale of Rates of JNPT, the JNPT vide its letter dated 11 August 2015 has, inter alia, stated that the Board has approved the proposal for amendment to the Scale of Rates in its meeting held on 31 July 2015 and that the minutes of the proceedings would be sent to us in due course of time.

5. In accordance with the consultative procedure prescribed, a copy of the proposal of JNPT dated 2 May 2015 was forwarded to the Bharat Petroleum Corporation Limited (BPCL) and other users / user organisations for seeking their comments. In spite of reminder dated 16 June 2015 we have not received comments from the BPCL and any of the users/ user organisations, till the case was taken up for finalisation, except for Mumbai and Nhava Sheva Ship Agents Association (MANSA). MANSA vide its e-mail dated 24 June 2015 has stated that this Authority may consider the proposal and proceed to decide as deemed fit.

6. A joint hearing on the case in reference was held on 10 July 2015 at the Office of this Authority in Mumbai. At the joint hearing, the JNPT and the users/ user organisations have made their submissions.

7.1. In this connection, as decided at the Joint hearing, the JNPT was requested vide our letter dated 15 July 2015 to examine whether a separate time schedule for POL vessels and non-POL vessels to commence cargo operations from the time the ship is brought alongside the berth, can be prescribed taking into account the views of BPCL.

7.2. After issue of a reminder dated 30 July 2015, the JNPT vide its letter dated 11 August 2015 has stated that the port has examined the BPCL suggestion and that it has been decided by JNPT to amend the permissible time for commencing cargo operations after the vessel is brought alongside to berth, from the existing four hours to 3 ½ hours for all vessels instead of 3 hours earlier proposed by JNPT.

8. 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>

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

- (i). In the existing Scale of Rates of JNPT, a liquid bulk vessel can commence cargo operation within 4 hours from the time the ship is brought alongside the berth, failing which penal berth hire charge is leviable. Likewise, a liquid bulk vessel is permitted to occupy the berth for 6 hours after completion of cargo operation without attracting penal berth hire charges. The statistics collected by JNPT reveals that a liquid bulk vessel commences cargo operation within 3 hours from the time the ship is brought alongside the berth and likewise it occupies the berth for only 4 hours after completion of cargo operation. Thus, in order to statutorily

enforce the reduction of the non-operational time of the vessel at berth which in turn will reduce the turnaround time of vessel, the JNPT has come up with the proposal in reference to amend its existing Scale of Rates.

- (ii). In the current scenario, where there are general talks about the Indian ports taking a good long time to turnaround the Vessels, it is commendable on the part of JNPT for coming up with a proposal to reduce the non-operational time of the vessel at berth, thereby reducing the turnaround time of the Vessel at the berth. In this regard, it is relevant to mention here that the proposed amendment by way of reduction in the time period has been validated by JNPT with statistics collected by it for the period pertaining to the year 2014-15.
- (iii). A comparative position of the relevant provision as prevailing in the existing Scale of Rates of JNPT approved by this Authority vide its Order dated 4 April 2014 and the amendment proposed by the JNPT now is tabulated below:

* Initially the JNPT had proposed the reduction in time period from 4 hours to 3 hours. Thereafter, the JNPT vide its letter dated 11 August 2015 has revised its proposal and has proposed the reduction in time period from 4 hours to 3 ½ hours.

Reference to the SOR	As approved vide our Order dated 4 April 2014	Amendment proposed by JNPT
Chapter-II Vessel Related Charges, Section 2.5- Schedule of Garbage Collection Charges	(3).(i). Vessels shall be permitted to occupy the berth after completion of cargo operation without attracting Penal berth hire charges for the periods mentioned below: (a). Container/Car carrier vessels - 2 Hours. (b). All other than vessels at (a) - 6 Hours. above	(3).(i). Vessels shall be permitted to occupy the berth after completion of cargo operation without attracting Penal berth hire charges for the periods mentioned below: (a). Container/Car carrier vessels - 2 Hours. (b). Tanker vessels/ Project cargo/ - 4 Hours dry bulk /break bulk
Chapter-II Vessel Related Charges, Section 2.5 - Schedule of Garbage Collection Charges	(3).(v). All the vessels shall commence cargo operations within the time schedule specified below from the time the ship is brought alongside the berth failing which penal berth hire charges shall be levied as prescribed in note - (viii) below. (a) Bulk/Tanker Vessels - 4 Hours (b) All other Vessels - 1 Hour	(3).(v). All the vessels shall commence cargo operations within the time schedule specified below from the time ship is brought alongside the berth failing which penal berth hire charges shall be levied as prescribed in note - (viii) below. (a) Bulk/Tanker Vessels-3 1/2 Hours* (b) All other Vessels - 1 Hour

- (iv). With regard to the proposal of the JNPT seeking approval for reduction in the time prescribed for a liquid bulk vessel to occupy the berth after completion of its operations from the existing 6 hours to 4 hours, none of the users/ user organisations have objected to the proposed arrangement. Given that the proposed reduction in time period will reduce the non-operational time of the vessel at berth and ensure optimum utilization of the berth and is based on statistics collected by the JNPT, this Authority is inclined to approve the proposal of the port in this regard.
- (v). With regard to the reduction in the time prescribed for a liquid bulk vessel to occupy the berth prior to commencing its operations, the JNPT had initially proposed the reduction from the existing 4 hours to 3 hours. In this connection, during the joint hearing, the BPCL had expressed that the proposal of JNPT is acceptable to it, so far as the Non-POL Vessels which bring Edible Oils and Chemicals are concerned. However, with regard to handling of POL Vessels, the proposed reduction in time period was not acceptable to BPCL on the ground that handling of POL Vessels involves aligning the rigid loading arms to the vessel, which requires atleast 3 ½ hours. Based on the submission made by the BPCL, the JNPT has, subsequent to the joint hearing, revised its proposal and has now proposed the reduction in time period from the earlier proposal of 3 hours to 3 ½ hours for all vessels. The proposal of the port in this regard is reported to have approval of its Board of Trustees. Since the proposed amendment is based on the recommendation made by the user and has the approval of the Board of JNPT, this Authority is inclined to approve the proposal of the port in this regard.

- (vi). In the proposed note no. 3(i)(b), instead of the existing phrase 'All vessels other than at (a) above', the JNPT has proposed to replace it with the phrase 'Tanker vessels/ Project cargo/ dry bulk /break bulk'. Given that the existing phrase is an all-inclusive phrase when compared to the proposed phrase, the existing phrase may continue to remain unaltered.
- (vii). The approval accorded by this Authority for the proposed amendments would involve some financial implication, as the JNPT, due to faster turnaround of the vessels, may be in a position to handle more vessels. Thus, the JNPT may earn additional revenue from additional vessel related income in the form of port dues, pilotage, berth hire and other incidental income on the said additional vessels. Likewise, additional cargo related income in the form of wharfage, handling and movement of cargo and other incidental income on the cargo carried by the said additional vessels may be earned by the port. Since the additional income estimated to be earned by JNPT has not been anticipated and factored while disposing of the general revision proposal of JNPT disposed in 2014 following Cost plus Return approach, there may be an argument that some other rate should be adjusted to maintain revenue neutral position.

In this regard, it is relevant here to mention that the question of ensuring a revenue neutral position arises when a port has already been given tariff to cover the estimated deficit, based on the estimated cost position and thereafter it is to be again granted a new tariff. However, in the case of JNPT, it may be recalled that in the general revision Order of JNPT passed by this Authority in April 2014, after granting an increase of 40% in the then existing tariff for container and bulk cargo activity and 12% in the then existing tariff for marine activity, for the reasons recorded in the said Order, a deficit amount of ₹168.27 crores was quantified and left unadjusted. The JNPT has estimated that due to rationalization of the timing, port may handle additional 5 to 6 vessels in a year. The revision of general tariff of JNPT is due on 1 April 2016. Therefore, if five months are counted in this financial year, the additional vessel may be less than 5, which may not be sufficient to surpass the deficit of ₹168.27 crores. Therefore, the JNPT will not be put into any undue advantage due to rationalization, calling for adjustment in some other tariff item. The additional income, if earned by the JNPT due to the proposed amendment, will help the JNPT to bridge the gap to some extent in the unadjusted deficit amount.

10.1 In the result, and for the reasons given above and based on a collective application of mind, this Authority approves replacement of the existing Note 3(i) and 3(v) in Section 2.5 - Schedule of Garbage Collection Charges under Chapter-II - Vessel Related Charges in the existing Scale of Rates of JNPT with the following provision:

- “(3). (i). Vessels shall be permitted to occupy the berth after completion of cargo operation without attracting Penal berth hire charges for the periods mentioned below:
 - (a). Container/Car carrier vessels – 2 Hours
 - (b). All vessels other than at (a) above – 4 Hours.
- (3). (v). All the vessels shall commence cargo operations within the time schedule specified below from the time ship is brought alongside the berth failing which penal berth hire charges shall be levied as prescribed in note (viii) below.
 - (a). Bulk/Tanker Vessels – 3 ½ Hours
 - (b). All other Vessels – 1 Hour”

10.2 The JNPT is advised to suitably amend the Scale of Rates.

10.3. The said amendment effected in the existing Scale of Rates of JNPT shall come into effect after expiry of 30 days from the date of notification of the Order passed in the Gazette of India and shall remain valid till 31 March 2016 co-terminus with the validity of the existing Scale of Rates of JNPT.

(T.S. Balasubramanian)
Member (Finance)