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Tariff Authority for Major Ports

G.No. 128 **New Delhi,** **13 April 2015**

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from M/s. Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL) for notification of the Scale of Rates for the Container handling facility developed on Design, Build, Finance, Operate and Transfer (DBFOT) basis under PPP model at Jawaharlal Nehru Port Trust (JNPT).

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/65/2014-JNPT

M/s Nhava Sheva (India) Gateway Terminal Private Limited - - - - - Applicant

QUORUM:

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. C.B. Singh, Member (Economic)

O R D E R

(Passed on this 16th day of March 2015)

This case relates to the proposal received from M/s. Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL) for notification of the Scale of Rates for the Container handling facility developed on Design, Build, Finance, Operate and Transfer (DBFOT) basis under PPP model at Jawaharlal Nehru Port Trust (JNPT).

2.1 The NSIGTPL in its letter dated 3 December 2014 has made the following submissions:

(i). NSIGTPL is the concessionaire for development of a standalone container handling facility with a quay length of 330 mtrs towards north at JNPT on DBFOT basis. NSIGTPL have entered into concession agreement with JNPT on 19 June 2013.

(ii). NSIGTPL plans to commence its commercial operations from 1 January 2015. Therefore, rates are needed to be notified in order to commence operations.

(iii). As per Article (8.1.1) of the Concession Agreement (CA), Concessioner is entitled to recover the tariff from the users of the project facilities and services as per tariff notification set out in Appendix 12 of the Concession Agreement.

(iv). Accordingly, Scale of Rates fixed vide tariff Order dated 12 March 2009 vide Gazette no.34 is duly escalated by 31.58% (being the 60% of variation in Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January 2014).

(v). With regard to the basis of indexation, reference is drawn to second sub-para of para 5.2 (iii) of TAMP Order dated 10 September 2013 vide Gazette no.235, which is reproduced below:

"Though the upfront tariff of the JNPT Container Terminal was notified in March 2009, it has to be recognised that as per para 9.1 of the JNPT Order of February 2009, the tariff caps will be indexed to inflation but only to an extent of 60% of the variation in the Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January of the relevant year. As recorded in the relevant paragraph of the tariff Order of February 2009 the cost estimates are at 2008. Therefore, in case of JNPT, the upfront tariff would have to be indexed with reference to the indexation factor occurring between the year 2008 and the year 2013."

2.2 Thus, the NSIGTPL has requested to notify Scale of Rates with immediate effect and applicable up to 31 March 2015.

3.1 The Order No. TAMP/40/2008-JNPT passed by this Authority on 25 February 2009 (notified on 12 March 2009) which has been taken as base by NSIGTPL was for fixation of upfront tariff for Container handling at JNPT for the container terminal having a quay length of 1000 metres divided into 3 nominal berths each designed to handle 9000 TEUs+ ships. Whereas, the NSIGTPL in its proposal dated 3 December 2014 has proposed adoption of the rates for its standalone container handling facility with a quay length of 330 mtrs at JNPT.

3.2 Therefore, a copy of NSIGTPL's proposal dated 3 December 2014 was forwarded to the JNPT vide our letter dated 10 December 2014 requesting JNPT to clarify how the rate fixed for a 1000 mtr. configuration container terminal can be adopted in case of a 330 mtr. configured container terminal of NSIGTPL. The JNPT was also requested to furnish a copy of the License Agreement entered between JNPT and NSIGTPL.

3.3 Simultaneously, the NSIGTPL was requested vide our letter dated 10 December 2014, to furnish the copy of the Completion Certificate issued by the Independent Engineer as the commercial operation at the facility was reported to commence from 1 January 2015.

3.4 After a reminder, the NSIGTPL vide its email dated 24 December 2014 stated that they would forward the necessary certificates after receipt of the same from JNPT.

3.5 After a reminder, the JNPT vide its letter dated 13 January 2015 has furnished the copy of the License Agreement dated 19 June 2013 entered between JNPT and NSIGTPL. The JNPT has also furnished its comments on the submissions made by the NSIGTPL. The submissions made by the port are summarized below:

(i). NSIGTPL has drawn reference towards clause No. 5.2(iii) of TAMP's order No.235 dtd. 10th Sept, 2013. The said order pertains to fixation of reference tariff for the 4th Container Terminal and hence not applicable to the project under consideration.

(ii). NSIGTPL has initiated action for notification of scale of rates as per clause 2.9.1 of TAMP's order notified vide Gazette Notification No.GN.27 dtd. 26th Feb, 2008.

(iii). As per clause 2.9.2 of the same notification, TAMP has to notify scale of rates in line with the tariff caps prescribed by Port and included in the bid document subject to indexation explained in clause 2.8 of the notification.

(iv). Port has included the upfront tariff schedule for container terminal notified by TAMP vide No. TAMP/52/2007-Misc. dtd. 26th Feb, 2008 (GN No.34 dtd. 12th March, 2009) in the Concession Agreement signed with M/s. NSIGTPL as it prescribes the tariff caps for container terminal to be set for PPP Projects at JNPT.

(v). This tariff schedule is based on normative basis and the performance standards have been brought out in Appendix 15 of the Concession Agreement which prescribes Liquidated Damages as a percentage of gross revenue on the shortfall in average performance by the concessionaire.

(vi). TAMP guidelines do not prescribe project-wise tariff fixing. In the upfront tariff for container terminal notified vide 26th Feb, 2008 a representative container terminal of 1000 mtr. length has been considered. Port feels that unit costs (civil and equipment) are not going to be significantly different in the 330 mtr. project than the 1000 mtrs. length Container Terminal Project.

(vii). There is no specific provision in these guidelines to co-relate the norms prescribed in the guidelines with the size of the project.

(viii). TAMP may take appropriate view and make necessary modifications while setting up the tariff caps for the 330 mtrs. project awarded to M/s. NSIGTPL.

3.6 Subsequently, the NSIGTPL vide its letter dated 25 February 2015 has stated that the JNPT, Concessioner for NSIGTPL, has given the approval for partial commissioning of the project facility on some conditions and that on this basis, it is planning to partially commence its operations. Thus, the NSIGTPL has made a request to this Authority to notify the Scale of Rates at the earliest. The NSIGTPL under cover of its letter dated 25 February 2015 has also forwarded a copy of the JNPT letter dated 23 February 2015 addressed to NSIGTPL, wherein the JNPT has allowed NSIGTPL to partially commence its project facilities subject to some conditions. The conditions listed down by JNPT in its letter to NSIGTPL are given below:

(i). The NSIGTPL will submit the undertaking giving commitment for the timely construction and completion of the balance work of the project facilities and achieving the date of commercial operation as per concession agreement.

(ii). The condition of Minimum Guarantee Cargo will be applicable after completion of all project facilities i.e. the date of commercial operation.

(iii). The NSIGTPL will clear all the outstanding dues towards lease rental and interest payment towards payment of capital dredging done by JNPT.

(iv). The payment of royalty in the form of gross revenue share as per concession agreement to be applicable from the date of partial commissioning of the project facilities for the traffic handled till schedule date of commercial operation.

(v). The NSIGTPL will start partial commissioning only after receipt of Custom Notification and Consent to Operate from MPCB.

(vi). NSIGTPL shall take responsibility for managing container traffic emerging from the facilities from Gate Complex to that Pre-gate near Y-junction.

(vii). The NSIGTPL may note that as per the Appendix 11 “Personnel and Labour requirement” of the Concession Agreement, the first preference shall be given to JNPT Project Affected Persons (PAP) to the extent qualified JNP PAPs are available and willing to join the project. The process of selection for PAPs shall not be less favourable than that for other candidates. Wherever possible, other things being equal, the concessionaire shall employ a PAP if the job description / criteria laid down by the concessionaire are met. In this regard, JNPT will supply list of PAPs to NSIGTPL and constitute a committee to oversee and ensure that the process of selection criteria for qualification for PAPs should not be less favourable than outside candidate. The Concessionaire will ensure that eligible JNP PAP candidates get preference in recruitment and Concessionaire shall send the list of selected candidates to the Concessioning Authority for its record.

(viii). The NSIGTPL will execute supplementary agreement in connection with the early partial commissioning of the project facilities with mutually agreed terms and conditions.

3.7 In this regard, we have vide our letter dated 26 February 2015 requested JNPT to furnish its comments on the request made by the NSIGTPL to notify the Scale of Rates (SOR), latest by 2 March 2015. In this regard, the JNPT vide its letter dated 16 March 2015 has conveyed its no objection to notify the Scale of Rates of NSIGTPL as requested by NSIGTPL.

3.8 Further, by drawing reference to our earlier letter dated 10 December 2014, the NSIGTPL was again requested vide our letter dated 26 February 2015 to furnish the Independent Engineer Certificate.

3.9 In this regard, the NSIGTPL vide its letter dated 2 March 2015 has stated that, this being a partial commissioning of the project facility, there will not be any Independent Engineer (IE) Certificate. The NSIGTPL has also stated that they will be commencing the commercial operation on the basis of the partial commissioning letter issued by the JNPT. Accordingly, the NSIGTPL has requested this Authority to notify the Scale of Rates at the earliest, as they intend to commence the operations.

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

(i). M/s. Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL) has entered into Concession Agreement (CA) with JNPT for development of a standalone container handling facility with a quay length of 330 mtrs towards north at JNPT on Design, Build, Finance, Operate and Transfer (DBFOT) basis on 19 June 2013.

The Appendix – 12 of the CA governing tariff contains the extracts of Scale of Rates approved by this Authority as upfront tariff under tariff guidelines of 2008 for fixation of upfront tariff. Clause 2.9.1. of the Tariff Guidelines of 2008 for fixation of upfront tariff requires the private operator to approach this Authority for notification of the Scale of Rates containing ceiling rates applicable to its operations before commencement of its commercial operations. Accordingly, the NSIGTPL has approached this Authority with a request to notify the Scale of Rates as required under the Tariff Guidelines of 2008.

(ii). As brought out earlier, the NSIGTPL has stated that since it is a partial commissioning of the project facility, there will not be any Independent Engineer (IE) Certificate. Hence they will be commencing the commercial operation on the basis of the clearance given by the JNPT, the Concessioner. In this regard, it is relevant to mention here that the JNPT is seen to have allowed the NSIGTPL to partially commence its operations subject to NSIGTPL meeting some conditions. The matter regarding fulfillment of some conditions is between JNPT and NSIGTPL. Any issue that may arise in fulfillment of the conditions may have to be sorted out between NSIGTPL and JNPT. This Authority may not like to delve into the matter. The limited issue before this Authority is notification of the Scale of Rates in the name of NSIGTPL approved in February 2009. Since, the JNPT does not have any objection in this Authority notifying the SOR for NSIGTPL, though the facility is to commence partially, this Authority is inclined to entertain the proposal of NSIGTPL for notification of the Scale of Rates in its name.

(iii) For the purpose of notification of SOR in its name, the NSIGTPL is seen to have adopted the Upfront tariff Schedule in respect of the container terminal at JNPT fixed in February 2009. In this regard, it is relevant to mention here that this Authority has passed an Order No. TAMP/40/2008-JNPT on 25 February 2009 fixing upfront tariff for Container handling at JNPT. This Order was notified in the Gazette of India on 12 March 2009 vide Gazette No.34. As seen from the said Order, the upfront tariff so fixed was for a container terminal having a quay length of 1000 metres divided into 3 nominal berths each designed to handle 9000 TEUs+ ships. Whereas the quay length in respect of NSIGTPL is 330 meters.

(iv). Thus, before we proceed to notify the SOR in the name of NSIGTPL, the matter of adoption of rates of a container terminal of 1000 meter quay length for a container terminal of 330 meter quay length relating to NSIGTPL is analysed. As rightly observed by JNPT, 2008 tariff guidelines do not prescribe project wise fixation of tariff. The February 2009 Order fixed upfront tariff for a representative container terminal of 1000 mtr. length and the JNPT is of the view that civil and equipment unit costs would not be significantly different in a 330 mtr. project as compared to a 1000 mtr. Project. With reference to the suggestion made by JNPT to take appropriate view and make necessary modifications while setting up tariff caps for the 330 mtr. project awarded to NSIGTPL, an exercise was carried out internally by us. The workings show that per TEU rate for a 1000 mtr. container terminal and a 330 mtr container terminal are almost comparable. Adoption of rates of a 1000 mtr. container terminal project by the NSIGTPL, would not put NSIGTPL into an undue advantageous position.

Significantly, Clause 2.2 of the Upfront Tariff Guidelines of 2008 stipulates that the tariff caps once fixed would apply to all terminals that are bid out subsequently in the same port during the next five years for handling identical commodity. The upfront tariff for the container terminal at the JNPT was notified on 12/03/2009. The NSIGTPL and JNPT have signed a Concession Agreement on 19 June 2013 for which the bidding process would have commenced earlier than June 2013. That being so, NSIGTPL has been awarded 330 Meters container Terminal within 5 years of date of notification of upfront tariff. Therefore, the application of tariff caps fixed for 1000 meter quay length to 330 quay length flows from Clause 2.2 of Upfront Tariff Guidelines of 2008.

(v). As per clause 2.9.2. of the Tariff Guidelines of 2008, the Scale of Rates to be framed by this Authority for the private operator as per Clause 2.9.1 should be in line with the tariff caps prescribed for the Port and included in the bid document, subject to indexation as stipulated in clause 2.8 of 2008 guidelines. Clause 2.8 of the 2008 guidelines stipulates that tariff caps will be indexed to inflation to an extent of 60% of the variation in WPI occurring between 1 January 2008 and 1 January of the relevant year.

(vi). Article 8.1.1 of the Concession Agreement (C.A.) entered between the JNPT and NSIGTPL, governs levy and recovery of the tariff. As per Article 8.1.1 of the CA, the Concessionaire i.e. NSIGTPL shall be entitled to recover tariff from the users of the Project Facilities and Services as per the Tariff Notification annexed as Appendix-12. It is seen that Appendix -12 appended to CA gives reference to the Upfront Tariff approved by this Authority vide Order No.TAMP/40/2008-JNPT dated 25 February 2009.

(vii). As stated earlier, the upfront tariff Schedule of the JNPT container terminal approved in February 2009 has been taken as the base by NSIGTPL to arrive at its Scale of Rates. In the said upfront tariff schedule of February 2009, a general note to the effect that the tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January of the year when the tariff is fixed and 1 January of the relevant year and that such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year, which has been prescribed in the upfront tariff Schedule of other major port trusts, has not been prescribed. However, in this connection, it is relevant to mention here that though the upfront tariff for the JNPT container terminal was notified in March 2009, it has to be recognised that as per para 9.1 of the tariff Order of February 2009, the tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January of the relevant year. As recorded in the relevant paragraph of the tariff Order of February 2009 the cost estimates are at the 2008 price level and the annual escalation of tariff will be with reference to the base of 2008. Therefore, in the case of NSIGTPL, the upfront tariff would have to be indexed with reference to the Indexation factor occurring between the year 2008 and the year 2014.

(viii). The base year for the upfront tariff and the corresponding annual escalation with effect from 1 April 2014 were already communicated to all the Major Port Trusts including JNPT vide our letter No.TAMP/12/2009-Misc. dated 1 April 2014. The escalation factor to be applied in the case in reference is 31.58% as per our above letter dated 1 April 2014.

(ix). With reference to the indexation of the upfront tariff fixed vide Order dated 25 February 2009 as required under clause 2.8. of the 2008 Guidelines, it is noteworthy that the NSIGTPL has arrived at the proposed rate by applying the applicable escalation factor of 31.58% on the tariff caps notified in February 2009. The proposed rates given by NSIGTPL have been verified and found to be correct.

(x). The Government of India in the Ministry of Shipping (MOS) undercover of its letter No. PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No.PT-11033/51/2014-PT dated 4 September 2014 to this Authority. Accordingly, this Authority vide its Order no. TAMP/52/2014-Genl. dated 28 November 2014 has, interalia, approved the replacement of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts as follows:

> "Coastal vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority."

Therefore, the definition of Coastal Vessel proposed by the NSIGTPL is modified with the above mentioned definition of 'Coastal Vessel'.

(xi). The NSIGTPL has introduced the definition of "Per Day" at Sl.no. (xvi) under the Clause 1.1 of the proposed SOR. The term 'per day' has been defined as 'per calendar day or part thereof'. The proposed definition is seen to be in line with the definition of 'per day' prescribed at other major port trusts and hence be approved.

(xii). It is relevant here to state that some notes governing the SOR furnished by the NSIGTPL are slightly different from the notes of SOR approved vide the JNPT Order No. TAMP/40/2008-JNPT. The changes in the NSIGTPL SOR are given below:

(a). Under the proposed Clause 1.2 pertaining to General terms and conditions, note (iv)(c) deals with concession to be granted on coastal containers. The said note states that incase of container related charges, the concession is applicable on composite box rate. Where itemised charges are levied, the concession will be on all the relevant charges for ship-shore transfer, and transfer from / to quay to / from storage yard. The NSIGTPL is seen to have deleted the portion "as well as wharfage on cargo and containers", which is generally prescribed at the end of the above note in the Scale of Rates of all major port trusts and private terminals operating thereat including upfront tariff Schedule of JNPT. It is noteworthy that the said notes have been prescribed in the Scale of Rates of all major port trusts and private terminal operators, based on policy direction issued by the Government of India under Section 111 of the Major Port Trust Act, 1963. Since the said note flows from the policy direction of the Government and is prescribed uniformly in the Scale of Rates of all major port trusts and private terminals thereat, the note is prescribed as it is in the Scale of Rates of NSIGTPL also.

(b). Note (v) of the proposed clause 1.2 deals with interest on delayed payments / refunds. Sub note (d) to note (v) deals with counting of 10 days after the date of raising bills by operator to calculate delay in payments. The said note also provides for non-application of the provision in cases where payment is to be made before availing services. The NSIGTPL is seen to have deleted the portion "use of port Trust's properties as stipulated in the Major Port Trust Act and /or where payment of charges in advance is prescribed as condition in this Scale of Rates", which is generally prescribed at the end of the above note in the Scale of Rates of all major port trusts and private terminals operating thereat including upfront tariff Schedule of JNPT. It is noteworthy that such a provision has been uniformly prescribed in the SOR of all major port trusts and private terminal operators. The NSIGTPL has not brought out any reason for non-prescription of the above mentioned portion of the provision. Therefore, the note is prescribed, as is generally prescribed in SOR of all major port trusts and private terminals.

(xiii). Since the NSIGTPL has already furnished the proposed rates applying the applicable escalation factor of 31.58% and also since JNPT has not made any adverse remarks on the escalation factor so adopted by NSIGTPL, this Authority is inclined to replace and incorporate the proposed rates in the upfront tariff SOR approved for JNPT on 25 February 2009 along with the same conditionalties of the JNPT SOR (including definition of 'per day') and notify the SOR in the name of NSIGTPL as required under clause 2.8 of the 2008 guidelines.

(xiv). The General note to Chapter (1) to (3) proposed by NSIGTPL states that the tariff caps prescribed in the scale of Rates of Nhava Sheva (India) Gateway Terminal Private Limited at chapter 1 to 3, takes into consideration the upfront tariff approved by this Authority vide Order No. TAMP/40/2008-JNPT dated 25 February 2009 and applying indexation to the extent of 60% of the variation in Whole Sale Price index (WPI) occurring between 1 January 2008 and 1 January of the relevant year. For the subsequent years as well, upfront tariff approved in the Order No. TAMP/40/2008-JNPT dated 25 February 2009 will be indexed to inflation but only to the extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year. This general note is seen to be in line with the prescription in the Scale of Rates of other BOT operators governed under 2008 guidelines who have commenced the operations. All the other conditionalities governing the application of the rates as approved in the Scale of Rates of the Order dated 25 February 2009 are retained.

(xv). As per clause 3.8.5 of the 2008 guidelines, if any question arises requiring clarifications or interpretation of the Scale of Rates and the statement of conditions, the matter shall be referred to this Authority and its decision in this regard will be binding on the operator.

(xvi). The NSIGTPL is expected to perform at least at the performance standards / norms brought out in the bid documents / Concession Agreement. The actual performance of the NSIGTPL will be monitored by this Authority. If any complaint regarding quality of service is received, this Authority may enquire into such allegation and forward its findings to the JNPT. If any action is to be taken against the NSIGTPL, the JNPT shall initiate appropriate action in accordance with the provisions of the Concession Agreement.

(xvii). During the commercial operation at the terminal, within 15 days from the end of every quarter, the NSIGTPL is directed to submit to this Authority through the JNPT a report containing the physical and financial performance at Container Terminal during the preceding three months.

5.1 In the result, and for the reasons given above and based on the collective application of mind, this Authority approves the Scale of Rates for container handling facility by the NSIGTPL at JNPT attached as **Annex**.

5.2 The conditions stipulated by JNPT for partial commissioning of the terminal include a condition that the NSIGTPL will start partial commissioning only after receipt of Customs Notification and consent to operate from MPCB. Therefore, the Scale of Rates notified for NSIGTPL shall come into force from the date of commencement of partial operations by NSIGTPL at JNPT, which will be after receipt of Customs Notification and consent to operate from MPCB.

(T.S. Balasubramanian)
Member (Finance)

Annex

NHAVA SHEVA (INDIA) GATEWAY TERMINAL PRIVATE LIMITED

SCALE OF RATES

CHAPTER 1 – DEFINITIONS & GENERAL TERMS & CONDITIONS

PREFACE

This Scale of Rates sets out the charges payable to Nhava Sheva (India) Gateway Terminal Private Limited for use of services and facilities provided at the Nhava Sheva (India) Gateway Terminal Private Limited with effect from 1st January 2015.

1.1. DEFINITIONS – GENERAL

(i). **"Coastal vessel"** shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the Director General of Shipping/Competent Authority**.**

(ii). **"Foreign-going vessel"** shall mean any vessel other than Coastal vessel.

(iii). **"FCL"** means Containers said to contain Full Container Load.

(iv). **"LCL"** means Containers said to contain Less than full Container Load (Container having cargo of more than one importer/exporter).

(v). **"Hazardous container"** means a Container containing hazardous goods as classified under IMO.

(vi). **"Import container"** means a container discharged from one vessel, stored in container yard and transported out through Road or Train.

(vii). **"Export container"** means a container arrived by road or Train, stored in container yard and loaded on the assigned vessel.

(viii). **"Port area"** means the custom bound area / Port operational Area of the Port.

(ix). **"Normal Container"** shall mean general type containers, not falling under special categories mentioned subsequently.

(x). **"Reefer Container"** shall mean a refrigerated container used for carriage of perishable goods with provision for electrical supply to maintain the desired temperature.

(xi). **"Hazardous Container"** shall mean a container containing hazardous goods as classified under IMO.

(xii). **"Transhipment Container"** shall mean a container, which is discharged from one vessel, stored in the yard and transported through other vessel.

(xiii). **"Over dimensional Container"** shall mean a container carrying over dimensional cargo beyond the normal size of standard container and needing special devices like slings, shackles, lifting beam etc. They also include damaged containers and other types which require special devices.

(xiv). **"Shut out Container"** shall mean a container which enters into the port as an export intake for a particular vessel (as indicated by the Vessel Identification Advice Number, i.e. VIA No.) and is not connected to the particular vessel for reasons whatsoever, then the container is termed to be a shutout container.

(xv). **"Back To Town Container"** shall mean a container entering the port for export but unable to be exported for whatever reason and taken back to town.

(xvi). "**VIAN**" means Vessel Identification Advise Number**.**

(xvii). **"Per day**" means per calendar day or part thereof.

1.2. GENERAL TERMS & CONDITIONS

(i). (a). A foreign going vessel of Indian Flag having a General Trading Licence can convert to Coastal run on the basis of a Customs Conversion Order.

(b). A foreign going vessel of Foreign Flag can convert to coastal run on the basis of a Coastal Voyage License issued by the Director General of Shipping.

(c). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(d). In cases of such conversion coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign- going rates shall be chargeable by the discharge ports.

(e). For dedicated Indian coastal vessels having a Coastal License from the Director General of Shipping, no other document will be required to be entitled to Coastal rates.

(ii). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for classifying into 'coastal' or 'foreign-going' category for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

(iii). Vessel related charges shall be levied on Ship owners / Steamer Agents.

(iv). (a). The Vessel related charges for all Coastal vessels should not exceed 60% of the corresponding charges for other vessels.

(b). The container related charges for all Coastal should not exceed 60% of the normal container related charges.

(c). In case of container related charges, the concession is applicable on composite box rate. Where itemized charges are levied, the concession will be on all the relevant charges for ship-shore transfer, and transfer from / to quay to / from storage yard as well as wharfage on cargo and containers.

(d). For the purpose of this concession, container from a foreign port which reaches an Indian Port 'A' for subsequent transhipment to Indian Port 'B' will also qualify insofar as the charges relevant for its coastal voyage. In other words, cargo/containers from/to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession.

(e). The charges for coastal containers / vessels shall be denominated and collected in Indian Rupee.

(v). Interest on delayed payments / refunds:

(a). The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the operator shall pay penal interest on delayed refunds.

(b). The rate of penal interest will be 2% above the Prime Lending Rate of State Bank of India (SBI). The penal interest rate will apply to both the operator and the port users equally.

(c). The delay in refunds will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.

(d). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the operator. This provision shall, however, not apply to the cases where payment is to be made before availing the services / use of Port Trusts properties as stipulated in the major Port Trust Act and / or where payment of charges in advance is prescribed as a condition in this Scale of Rates.

(vi). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.

(vii). (a). The rates prescribed in this Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The operator may, if he so desires, charge lower rates and/ or allow higher rebates and discounts.

(b). The Operator may also, if it so desires, rationalize the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalization gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels. Provided that the operator should notify the public such lower rates and / or rationalization of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and / or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.

(viii). The users will not be required to pay charges for delays beyond a reasonable level attributable to the operator.

CHAPTER 2 – VESSEL RELATED CHARGES

2. Schedule of Berth Hire Charges

S. No.	Description	Rate per GRT per hour or part thereof (₹)	
		Foreign - Vessel	Coastal Vessel
1	For Occupying the Berth	1.621	0.972

Notes

(i). Vessels shall be permitted to occupy the berth for 2 hours after completion of cargo operation without attracting Penal berth hire charges.

(ii). All the vessels shall commence cargo operations within 1 hour from the time the ship is brought along side the berth failing which penal berth hire charges shall be levied as prescribed in (4) below.

(iii). Vessels idling the Terminal facilities due to not being ready to work even though the terminal is ready for its operation shall attract penal berth hire charges as prescribed in Note (4) below. For the purpose of levy of penal berth hire charges, idling shall mean suspension/stoppage for any reason of cargo handling operation continuously for more than two hours.

(iv). Penal berth hire charges shall be levied as follows in addition to berth hire charges beyond 2 hours:

S. No.	Description	Rate Per GRT
1	Upto 6 hrs	₹ 13.158
2	above 6 hours but upto 12 hours	₹ 19.737
3	Above 12 hrs	₹ 39.474

(v). Penal berth hire charges mentioned above shall not be leviable if the idling of vessel is attributable to the terminal or port or due to adverse tidal conditions or bad weather and rain resulting in stoppage of operation.

(vi). (a). There shall be a time limit beyond which berth hire shall not apply; berth hire shall stop 4 hours after the time of vessel signalling its readiness to sail. The time limit of 4 hours prescribed for cessation of berth hire shall exclude the ship's waiting period for want of favourable tidal conditions or on account of inclement weather or due to absence of night navigation facilities.

(b). There shall be a "penal berth hire" equal to one day's berth hire charges for a false signal.

(c). The Master / Agent of the vessel shall signal readiness to fail only in accordance with favourable tidal and weather conditions.

(d). The time limit of 4 hours prescribed for cessation of berth hire shall exclude the ship's waiting period for want of favourable tidal conditions.

(vii). Berth hire charges shall not be levied for the period, when a vessel idles at berth due to breakdown of port equipment or power failure or any other reasons attributable to the operator.

CHAPTER 3 – CHARGES FOR SERVICES RENDERED TO CONTAINERS AND CONTAINERIZED CARGO

GENERAL TERMS AND CONDITIONS:

(i). A container originally declared as transhipment container, subsequently moved by rail or road will lose it is identity as a transhipment container and shall be treated as a normal import container and prescribed charges as applicable shall be payable.

(ii). Containers less than and up to 20' will be reckoned as one TEU (Twenty Equivalent Unit) and more then 20' and up to 40' will be reckoned as one FEU (Forty Equivalent Unit) for the purpose of tariff.

(iii). All charges for containers more than 20' in length and upto 40' in length will be 150 per cent of the applicable charges prescribed.

(iv). Containers other than that of standard size requiring special devices/slings/handling will be charged twice the applicable rates. Such containers will also include damage containers and any other type requiring special devices.

3.1. CHARGES FOR HANDLING AND MOVEMENT OF CONTAINERS:

The following consolidated charges for handling and movement of container shall be payable by the Shipping Lines or Agents of vessels or cargo agents for services rendered in respect of containers and containerised cargo passing through the port

A. Normal Containers

S. No	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	From Ship to container yard or vice versa	3916.68	3163.47	2350.01	1898.08
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	1958.33	1958.33	1958.33	1958.33
3.	From Container yard to Truck or vice versa (direct delivery and export intake).	602.57	602.57	602.57	602.57

B. Reefer Containers

S. No	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	From Ship to container yard or vice versa	3916.68	3163.47	2350.01	1898.08
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	1958.33	1958.33	1958.33	1958.33
3.	From Container yard to Truck or vice versa (direct delivery and export intake).	602.57	602.57	602.57	602.57

C. Hazardous Containers

S. No.	Description	Rate per TEU (in ₹)	
		Foreign Container	Coastal container
		Loaded	Loaded
1.	From Ship to container yard or vice versa	4896.72	2938.39
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	2447.48	2447.48
3.	From Container yard to Truck or vice versa (direct delivery and export in take).	753.20	753.20

D. Transhipment Containers

S. No.	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	1 - 3000 TEUs	4519.23	3916.68	2711.53	2350.01
2.	3001 - 6000 TEUs	4217.95	3615.40	2530.77	2169.24
3.	6001 - 9000 TEUs	3916.68	3314.11	2350.01	1988.46
4.	Thereafter	3615.40	3012.83	2169.24	1807.70

Notes

(1). Rate is based on total TEUs brought by the Shipping Lines or agents in the same financial year.

(2). A container originally declared as transhipment container, subsequently moved by rail or road will lose it is identity as a transhipment container and shall be treated as a normal import container and prescribed charges as applicable shall be payable.

E. Over Dimensional Cargo Containers

S. No	Description	Rate per TEU (in ₹)			
		Foreign Container		Coastal Container	
		Loaded	Empty	Loaded	Empty
1.	From Ship to container yard or vice versa	7833.35	6326.93	4700.01	3796.16
2.	From Container yard to Railway flat or vice versa (ICD Container Rail only)	3916.68	3916.68	3916.68	3916.68
3.	From Container yard to Truck or vice versa (direct delivery and export intake).	1205.13	1205.13	1205.13	1205.13

Note: The consolidated charges as above include the following elements, viz. stevedoring, use of Gantry crane, use of transfer crane, wharfage on tare weight of containers, wharfage on containerized cargo, transportation and contribution towards railway infrastructure.

3.2. DWELL TIME CHARGES FOR CONTAINER, STORED IN THE PORT PREMISES:

Sl. No.	Particulars	Rate per container per day or part thereof (in ₹)		
		Upto 20' in length	Over 20' to upto 40' in length	Above 40' in length
1	Non-ICD/ CFS Import - loaded			
	First 2 days	Free	Free	Free
	3-6 days	479	958	1437
	7-9 days	570	1139	1709
	10-12 days	678	1355	2033
	13-15 days	805	1611	2416
	16-18 days	957	1913	2870
	19-22 days	1138	2276	3415
	23-26 days	1354	2708	4062
	27-30 days	1609	3218	4828
	Thereafter	1914	3829	5743
2	Non-ICD/ CFS Import - Empty			
	First 2 days	Free	Free	Free
	3-6 days	479	958	1437
	7-9 days	570	1139	1709
	10-12 days	678	1355	2033
	13-15 days	805	1611	2416
	16-18 days	957	1913	2870

	19-22 days	1138	2276	3415
	23-26 days	1354	2708	4062
	27-30 days	1609	3218	4828
	Thereafter	1914	3829	5743
3	Non-ICD/ CFS Export - Loaded			
	First 3 days	Free	Free	Free
	4-6 days	479	958	1437
	7-9 days	570	1139	1709
	10-12 days	678	1355	2033
	13-15 days	805	1611	2416
	16-18 days	957	1913	2870
	19-22 days	1138	2276	3415
	23-26 days	1354	2708	4062
	27-30 days	1609	3218	4828
	Thereafter	1914	3829	5743
4	Non-ICD/ CFS Export - Empty			
	First 3 days	Free	Free	Free
	4-6 days	479	958	1437
	7-9 days	570	1139	1709
	10-12 days	678	1355	2033
	13-15 days	805	1611	2416
	16-18 days	957	1913	2870
	19-22 days	1138	2276	3415
	23-26 days	1354	2708	4062
	27-30 days	1609	3218	4828
	Thereafter	1914	3829	5743
5	CFS Import loaded - moved by road			
	First 2 days	Free	Free	Free
	3-6 days	479	958	1437
	7-9 days	570	1139	1709
	10-12 days	678	1355	2033
	13-15 days	805	1611	2416
	16-18 days	957	1913	2870
	19-22 days	1138	2276	3415
	23-26 days	1354	2708	4062
	27-30 days	1609	3218	4828
	Thereafter	1914	3829	5743
6	CFS Import empty - moved by road			
	First 2 days	Free	Free	Free
	3-6 days	479	958	1437
	7-9 days	570	1139	1709
	10-12 days	678	1355	2033
	13-15 days	805	1611	2416
	16-18 days	957	1913	2870
	19-22 days	1138	2276	3415
	23-26 days	1354	2708	4062
	27-30 days	1609	3218	4828
	Thereafter	1914	3829	5743

7	CFS Export loaded - moved by road			
	First 3 days	Free	Free	Free
	4-6 days	479	958	1437
	7-9 days	570	1139	1709
	10-12 days	678	1355	2033
	13-15 days	805	1611	2416
	16-18 days	957	1913	2870
	19-22 days	1138	2276	3415
	23-26 days	1354	2708	4062
	27-30 days	1609	3218	4828
	Thereafter	1914	3829	5743
8	CFS Export empty - moved by road			
	First 3 days	Free	Free	Free
	4-6 days	479	958	1437
	7-9 days	570	1139	1709
	10-12 days	678	1355	2033
	13-15 days	805	1611	2416
	16-18 days	957	1913	2870
	19-22 days	1138	2276	3415
	23-26 days	1354	2708	4062
	27-30 days	1609	3218	4828
	Thereafter	1914	3829	5743
9	ICD Import and Export loaded or empty - moved by rail			
	First 5 days	Free	Free	Free
	5-15 days	957	1913	2870
	16-30 days	1914	3829	5743
	Thereafter	3829	7658	11487
10	Transhipment - Loaded			
	First 15 days	Free	Free	Free
	16-30 days	1914	3829	5743
	Thereafter	3829	7658	11487
11	Transhipment - Empty			
	First 7 days	Free	Free	Free
	8-15 days	1138	2276	3415
	Thereafter	3829	7658	11487

Notes:

(1). The total storage period for a container shall be reckoned from the day following the day of landing upto the day of shipment/delivery/date of removal of the container and includes Sundays and Holidays but excludes Custom notified holidays and port non working days.

(2). Transshipment containers subsequently changing the mode of dispatch locally or to the container freight station for destuffing/stuffing shall loose the concessional dwell time as prescribed in Item (4) above. Dwell time charges for such containers shall be recovered at par with import containers as prescribed in item no. 1 or 2 as applicable.

(3). Transhipment containers subsequently changing the mode of dispatch by rail to ICD shall be treated as other ICD containers for the purpose of levy of Dwell time charges fees and shall be charged at the rates in item (4) above. In such cases additional shifting charge will be applicable for movement of container to container yard to ICD yard.

(4). A container from foreign port landing at the container terminal for subsequent transhipment to an Indian Port on a coastal voyage or vice versa would be charged at 50% of the transhipment charges prescribed for foreign going vessels and 50% of that prescribed for coastal category.

(5). Normal import containers subsequently changing the mode of dispatch by rail to ICD will enjoy the free period applicable to normal import container only. In such cases additional shifting charges will be applicable for movement of container from container yard to ICD yard.

(6). The total storage period for a shutout container shall be calculated from the day following the day when the container has become shutout till the day of Shipment/ delivery.

(7). Over high and over dimensional containers shall attract thrice the normal applicable charges.

(8). Hazardous containers shall attract 1.25 times the normal applicable charges.

(9). In case of stuffing the containers inside the port, the dwell time charges will be applicable as follows:

(i). Prior to stuffing, dwell time charges as applicable to empty containers will be charged.

(ii). Free period and dwell time charges as applicable to loaded export containers will be charged from the day following the day of completion of stuffing and intimation to Port.

(10). In the case of auction containers, after the auction is over, the empty containers will attract the dwell time charges as empty containers from the following day the destuffing is completed.

(11). The storage charges shall not accrue for the period during which the Terminal is not in a position to deliver containers for reasons attributable to it when requested by the user.

(12). The storage charges on abandoned FCL containers/shipper owned containers shall be levied upto the date of receipt of intimation of abandonment in writing or 75 days from the day of landing of the container, whichever is earlier subject to the following:

(i). The consignee can issue a letter of abandonment at any time.

(ii). If the consignee chooses not to issue such letter of abandonment, the container Agent/MLO can also issue abandonment letter subject to the condition that,

(a). The Line shall resume custody of container along with cargo and either take back it or remove it from the port premises; and

(b). The line shall pay all port charges accrued on the cargo and container before resuming custody of the container.

(iii). The container Agent /MLO shall observe the necessary formalities and bear the cost of transportation and destuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall be continued to be levied till such time all the necessary actions are taken by the shipping lines for destuffing of cargo.

(iv). Where the container is seized/confiscated by the Custom Authorities and the same cannot be destuffed within the prescribed time limit of 75 days, the storage charges will cease to apply from the day the Custom order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and de-stuffing. Otherwise, seized/confiscated containers should be removed by the line/consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.

3.3. CHARGES FOR MISCELLANEOUS SERVICES RENDERED TO THE CONTAINER VESSELS:

A. Reefer Monitoring and Connection

Sl No	Description	Rate Per TEU (in ₹)			
		Foreign Going Vessel		Coastal Vessel (in ₹)	
		Loaded	Empty	Loaded	Empty
1	Additional charges per 4 hours or part thereof for electricity consumption and monitoring of reefer containers	293.78	293.78	293.78	293.78

Note:

Additional electricity charge at the prescribed rates will be applicable in case of Reefer Containers also

B. Other Services Rendered

Sl No	Description	Rate Per TEU (In ₹)			
		Foreign Going Vessel		Coastal Vessel	
		Loaded	Empty	Loaded	Empty
1.	Shifting of containers from one yard to a another yard within the terminal for customs inspection or any other purpose and subsequent loading of containers for delivery.	2537.17	2537.17	2537.17	2537.17
2.	Additional service charges for stacking containers in designated yard for custom examination or for any other purpose by prior arrangement.	298.41	298.41	298.41	298.41

C. Opening of Hatch Cover and Replacing it

Sl No	Description	Rate per Hatch Cover (in ₹)	
		Foreign Going Vessels	Coastal Vessels
1	When placing it on the Quay	4407.36	2644.42
2	Without placing it on the Quay	1762.69	1057.61

Note: If only one operation is carried out, half of the hatch cover handling charges as above shall be levied.

D. One Hatch to another Hatch or within the Same Hatch

Sl No	Description	Rate per TEU (in ₹)			
		Foreign Going Vessels		Coastal Vessels	
		Loaded	Empty	Loaded	Empty
(a).	Hatch to hatch shifting (involving 1 move only)	1468.92	1468.92	881.35	881.35
(b).	Other than (a) mentioned above	5876.27	5876.27	3525.77	3525.77

GENERAL NOTE TO CHAPTER (1) TO (3) ABOVE

The tariff caps prescribed in the scale of Rates of Nhava Sheva (India) Gateway Terminal Private Limited at chapter 1 to 3, take into consideration the upfront tariff approved by the Authority vide Order No. TAMP/40/2008-JNPT dated 25 February 2009 and applying indexation to the extent of 60% of the variation in Whole Sale Price index (WPI) occurring between 1 January 2008 and 1 January 2014 of the relevant year. For the subsequent years as well, upfront tariff approved in the Order No. TAMP/40/2008-JNPT dated 25 February 2009 will be indexed to inflation but only to the extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.

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