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TARIFF AUTHORITY FOR MAJOR PORTS

G No. 328

New Delhi,

14 November 2014

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby notifies the Scale of Rates disposing of the proposal received from Jawaharlal Nehru Port Trust (JNPT) for fixation of Mandatory User Charges (MUC) for their Logistic Data Bank Project to be set up at JNPT, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/49/2014-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 29th day of October 2014)

This case relates to the proposal received from Jawaharlal Nehru Port Trust (JNPT) for fixation of Mandatory User Charges (MUC) for their logistic Data Bank Project to be set up at JNPT.

2.1. The Jawaharlal Nehru Port Trust (JNPT) vide its letter dated 18 September 2014 has filed a proposal for fixation of Mandatory User Charges (MUC) for their logistic Data Bank Project to be set up at JNPT.

2.2. The salient features of the JNPT proposal are as follows:

- (i). The Government of India is developing the Delhi-Mumbai Industrial Corridor as a global manufacturing and investment destination. For this purpose, a Special Purpose Vehicle (SPV) named the Delhi-Mumbai Industrial Corridor Development Corporation (DMICDC) has been incorporated for program managing the development of the DMIC project.
- (ii). All the stakeholders involved in the cargo movement have their own standalone information System to manage their operations. Since these systems are not integrated with each other, they do not exchange information on real time basis, and it is felt difficult to keep a track on the movement of containers across the ports to the ICDs and the end users.
- (iii). To address this issue, the concept of Logistics Data Bank (LDB) has been developed to integrate the information available with various agencies across the supply chain to provide detailed real time information within a single window.
- (iv). The project is to provide the near real time visibility of the container movement across the supply chain, thereby streamlining the container logistic movement and tremendously increase the efficiency and competitiveness of the containerised cargo movement, which will ultimately boost the EXIM trade.
- (v). The project will be taken up by a Special Purpose Vehicle (SPV) that will be 50:50 joint venture between Delhi Mumbai Industrial Corridor Development Corporation (DMICDC) and NEC Corporation, Japan.
- (vi). The following stakeholders will be benefited out of the LDB Project:
 - (a). Government
 - (b). Shippers / Consignee
 - (c). Shipping Line
 - (d). Port Terminal Operator
 - (e). Container Train Operator
 - (f). Inland Container Depot
 - (g). Truck Operator

- (vii). NEC Corporation on behalf of DMICDC, have formulated tariff for LDB service. Their initial operational year has been considered as 2015-16, wherein trial operations would be carried out and no charges are proposed to be levied during the said year. Thereafter, it has been proposed to charge ₹ 125/- per container in the second year of operation, i.e. 2016-17 and increase the rate by ₹10/- per container in the next two years.

2.3. The proposal has been submitted by JNPT under 2005 tariff guidelines.

3. In accordance with the consultative procedure prescribed, a copy of the JNPT proposal dated 18 September 2014 was forwarded to the DMICDC, private terminal operators at JNPT viz., Nhava Sheva International Container Terminal Private Limited (NSICTPL), Gateway Terminal India Private Limited (GTIPL), Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL) as well as to the concerned users/ user organisations seeking their comments. The DMICDC as well as one of user viz., National Association of Container Freight Stations (NACFS) have furnished their comments. The DMICDC as well as the NACFS have endorsed the levy of MUC by JNPT. These comments were forwarded to JNPT as feedback information. The JNPT has not furnished its comments on the points made by the stakeholders till the finalization of the case.

4. A joint hearing in this case was held on 20 October 2014 at the Office of this Authority. The NEC Technologies, on behalf of JNPT, made a brief power point presentation of JNPT proposal. At the joint hearing, the users and user organisation bodies have made submissions and have endorsed the levy of MUC by JNPT.

5.1. The cost estimations furnished by the JNPT for the years 2015-16 to 2018-19 have been scrutinized, keeping in view the stipulations contained in the 2005 tariff guidelines. The cost estimations furnished by the JNPT for the years 2015-16 to 2018-19 are seen to be based on various assumptions. No basis has been furnished by the JNPT for majority of the assumptions made by it in the estimation of cost. The various assumptions made by the JNPT are relied upon, given that the JNPT proposal has been endorsed by its Board of Trustees.

5.2. The traffic projections as furnished by the port have been relied upon. In line with the stipulation contained in Clause 2.5.1. of the 2005 tariff guidelines, the operating costs estimated by the JNPT have been moderated by adopting an escalation factor of 6%, being the escalation factor adopted by this Authority for the purpose of projection of expenses in respect of the cases to be decided during the financial year 2014-15, instead of the various escalation factors ranging from 10% to 50% adopted by the JNPT. Though no Return on Capital Employed has been sought by the JNPT, Return on the Working Capital component (comprising of cash balance calculated at one month estimated operating expenses) has been allowed.

5.3. Though no charges are proposed to be levied in the initial year of trial operation i.e. 2015-16, it cannot be denied that operating costs would be incurred to carry out the operations in the year 2015-16 and therefore it may be appropriate to allow recovery of the operating costs incurred during this period also. Based on the above position, the cost estimations furnished by the JNPT for the years 2015-16 to 2018-19 have been moderated.

5.4. The moderated average cost position for the years 2015-16 to 2018-19 shows that the service would be in deficit, even after the proposed levy of ₹ 125/- per container is levied in the year 2016-17, ₹ 135/- per container is levied in the year 2017-18 and ₹ 145/- per container is levied in the year 2018-19.

5.5. It is the proposal of the JNPT to not cover the entire deficit pertaining to the service from the levy of the MUC. Therefore, based on the proposal of the port and given that the users have also endorsed the proposed levy of MUC, this Authority is inclined to approve the proposal of the JNPT for levy of MUC of ₹ 125/- per container in the year 2016-17, ₹ 135/- per container in the year 2017-18 and ₹ 145/- per container in the year 2018-19.

6.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following:

- (i). The proposal of the JNPT to levy the Mandatory User Charge (MUC) of ₹ 125/- per container in the year 2016-17, ₹ 135/- per container in the year 2017-18 and ₹ 145/- per container in the year 2018-19 at the JNPT Port Terminals
- (ii). Insertion of the following in the respective Scale of Rates of JNPT, NSICTPL and GTIPL:

“An amount of ₹125/- per container will be levied on all containers (except transshipment and coastal) handled at the respective terminal towards Mandatory User Charge (MUC) with effect from 01 April 2016. Thereafter, it will be increased by ₹10/- per container per annum during the years 2017-18 and 2018-19 respectively.”
- (iii). Tracking and viewing the movement of containers across the ports to the ICDs and end users would be provided to the users against the payment of user charges.
- (iv). The actual surplus/ deficit arising out of the service of LDB by levy of MUC during the period from 2015-16 to 2018-19 will not be dealt in line with the stipulation contained in Clause 2.13 of the 2005 guidelines, but will be carried over to the next tariff cycle.
- (v). No royalty/ revenue share is payable by the NSICTPL and GTIPL to JNPT, on the revenue collected by them by way of levy of MUC.

6.2. The validity of the approved rate will automatically expire on 31 March 2019, unless specifically extended by the Authority.

7. Clause 3.2.7 of the 2005 guidelines, *inter alia*, stipulates that this Authority will pass speaking orders. However, in view of the urgency expressed by the Government, this Authority is inclined to notify the Scale of Rates first, without waiting for notification of the detailed speaking Order. Therefore, this Authority notifies the Scale of Rates immediately. The detailed speaking Order will be notified by this Authority separately and communicated to the JNPT and the relevant users/ user organisations and BOT operators in due course of time.

(T.S. Balasubramanian)
Member (Finance)