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Tariff Authority for Major Ports

GNo.24 **Delhi,** **22 February 2008**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of Jawaharlal Nehru Port Trust for revision of charges for Inter Terminal Rail Handling Operations of ICD Containers at the Container Terminals in JNPT, as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports

Case No. TAMP/23 /2007 – JNPT

The Jawaharlal Nehru Port Trust - - - Applicant

O R D E R

(Passed on this 28 day of January 2008)

This case relates to a proposal from Jawaharlal Nehru Port Trust (JNPT) for revision of charges for Inter Terminal Rail Handling Operations (ITRHO) of Inland Clearance Depot (ICD) containers at JNPT.

2. This Authority vide its Order dated 28 June 2007 approved the proposal of JNPT to levy an additional amount of Rs.400/- per TEU from 15 February 2007 to 14 August 2007 on ad-hoc basis towards ITRHO on the entire volume of ICD containers moved by rail at the terminals of JNPT, Nhava Sheva International Container Terminal Limited (NSICT) and Gateway Terminals (India) Private Limited (GTIPL). This rate was subject to review every six months from 15 February 2007.

3.1 The JNPT was advised vide Order dated 28 June 2007 to furnish cost and other details relevant for fixation of rate leviable for ITRHO at its terminal and at NSICT and GTIPL for the period subsequent to 14 August 2007. This Authority also desired that the same Core Committee, which recommended the rate of Rs.400 per TEU, might consider the rate to be levied for next six months from 15 August 2007. In this backdrop, the JNPT vide its letter dated 30 July 2007 has filed its proposal to levy Rs.440/- per TEU for the six months period from 15 August 2007 to 14 February 2008. The main points made by JNPT in its proposal dated 30 July 2007 are as follows:

(i). The rate of Rs.400/- per TEU is being levied for the period from 15 February 2007 to 14 August 2007, by considering 30% of the entire ICD volume passing through JN Port Terminals.

(ii). The details of current mix of cargo being handled at JN Port terminals for the period from 15 February 2007 to 14 July 2007 are given below:

Month	Handling at JNPT (in TEUs)		
	Total	Mixed	% age
15 to 28 February 2007	35948	10236	28.47%
March 2007	78078	25259	32.35%
April 2007	72176	25532	35.37%
May 2007	76188	23985	31.48%
June 2007	75616	21213	28.05%
1 to 14 July 2007	38052	12028	31.61%
	376058	118253	31.45%*

* rounded off to 32%

(iii). There are variations in the handling cost at each of the terminal viz. JNPCT, NSICT and GTIPL. Since the ITRHO services are common to all the three terminals, it is proposed to calculate an average base rate based on the rates prevailing in each of the terminal to arrive at a reasonable and appropriate new rate for the next six months. Accordingly, the revised average base rate works out to Rs.1260/- per TEU for carrying out the additional activities under ITRHO.

Terminal	Rate in Rupees
JNPCT	1105.00
NSICT	1144.00
GTIPL	1534.00
Average	1261.00*

* Rounded off to Rs.1260/-

(iv). Based on the revised base rate of Rs.1260/- per TEU, the new rate to be levied for the next six months from 15 August 2007 to 14 February 2008 will be as given below:

Projected total volume in TEUs	Expected ICD volume in TEUs (30% of A)	% of mixed cargo	Handling of mixed volumes in TEUs (in % of B)	Additional cost for mixed cargo (E=1260*D)	Levy of additional cost per TEU	Rounded off to (in Rupees)
A	B	C	D	E	F = E / B	G
3300000	990000	0-12	118800	149688000	151	150
		12.1-18	178200	224532000	227	230
		18.1-24	237600	299376000	302	300
		24.1-30	297000	374220000	378	375
		30.1-35	346500	436590000	441	440
		35.1-40	396000	498960000	504	500
		40.1-45	445500	561330000	567	560
		45.1-50	495000	623700000	630	630

(v). The percentage of mixed trains supplied by CONCOR at JN Port Terminals from 15 February 2007 to 14 July 2007 are as follows:

Month	No. of trains handled at JNPT				
	Total	**Mixed**	**%age**	**Dedicated**	**%age**
15-28 Feb 07	215	166	77.21%	49	22.79%
March 2007	453	380	83.89%	73	16.11%
April 2007	442	381	86.20%	61	13.80%
May 2007	484	393	81.20%	91	18.80%
June 2007	465	366	78.71%	99	21.29%
1-15 July 07	233	205	87.98%	28	12.02%
Total	**2292**	**1891**	**82.50%**	**401**	**17.50%**

(vi). The issue has been discussed in detail and the NSICT and GTIPL have given concurrence to the levy of Rs.440/- per TEU for ITRHO services.

(vii). It is proposed to levy Rs.440/- per TEU on the entire volume of ICD containers passing through JN Port terminals towards ITRHO services for ICD containers from 15 August 2007 to 14 February 2008.

(viii). Further, it is proposed to fix bench-mark level of turnaround time for mixed trains as 8 hours per train on an average, in consultation with the NSICT and GTIPL (the endeavor would, however, be to handle trains with least possible time) subject to the train operator fulfils the following:

(a). Provision of train forecast, advance train summary, the placement terminal at least 24 hours before train arrival.

(b). Placement of dedicated rakes at the respective terminals only.

(c). Balancing in ICD boxes handling as per the ICD volume of respective terminals.

(d). Correct and timely flow of information to respective agencies.

(e). The maximum ICD inventory of each terminal operator to not exceed 2500TEUs incase of JNPCT and GTIPL and 2000 TEUs incase of NSICT, for smooth operations by placing adequate number of trains in proportion to prevailing pendency level failing which it will have severe ramification on the principle of First In First Out (FIFO) during deliveries/ loading and train turn around time for which Port terminals cannot be held responsible.

(f). Provision of dedicated trains to the extent possible from/ to major ICD destinations like Ludhiana, Dadri, Nagpur etc. which comprises of 80% of the total ICD volume passing through JNPT.

(g). Plan the placement of the trains at a particular terminal in coordination with Railways and Port terminals depending upon the number of containers being carried to and fro on that train from that particular terminal for optimum utilisation of the resources.

3.2. Since the proposal dated 30 July 2007 filed by the JNPT for fixation of rate of Rs.440/- per TEU for the six month period did not contain the recommendations of the Core Committee constituted by the Port for this purpose, the JNPT was requested vide our letter dated 3 August 2007 to furnish the minutes of the meeting of the Core Committee and the recommendations of the Core Committee on the proposed rate.

4.1. After a reminder, the JNPT vide its letter dated 23 October 2007 has furnished its response, which is summarized below:

(i). The core committee deliberated in detail on the matter of new rate to be levied from 15 August 2007 for ITRHO in the meeting held on 27 August 2007 and recommended to maintain the status quo to levy Rs.400 per TEU on entire ICD volume passing through JNPT terminals for a further period of 3 months from 15 August 2007 to 14 November 2007, till the issues are sorted out between the stakeholders.

(ii). The principle of levy of Rs.400 per TEU on the entire ICD volume was arrived at by the core committee in consultation with the stakeholders as the actual additional cost involved while handling a mixed container by one terminal for the other terminal at Rs.1300/- per TEU was considered to be on the higher side and not acceptable to the trade.

(iii). The very principle of computation of the handling cost per TEU on the entire ICD volume approved by the Authority is being questioned.

(iv). Handling of mixed trains is inevitable. Terminals need to be compensated towards the handling cost for carrying out additional activity in handling a container arrived by a mixed train. This was agreed by all, prior to implementation of ITRHO.

(v). There is phenomenal improvement in the average turn-around time of mixed trains and the dedicated trains.

(vi). During the months of July and August 2007, 535 and 571 trains were handled, respectively, with only 50% track occupancy. On an average JNPT is handling 18 to 19 trains daily during July and August 2007 with 50% track occupancy. This indicates that port terminals can handle 25 to 30 trains daily without any difficulty, if supplied.

(vii). (a). The average percentage of mixed container will be in the range of 38%. According to JNPT Scale of Rates, if 38% of mixed container is taken into account the new rate to be levied on each TEU will work out to Rs.500/-. In line with the suggestion given by MANSA and in consultation with NSICT and GTIPL, it is proposed to add a tariff item as a separate item instead of levying a rate for ITRHO on a regular interval of 6 months.

Accordingly, the change in tariff in the Scale of Rates for handling ICD containers at the three terminals will be as follows:

(Figures in Rs. excluding service tax)

Terminal	Existing ICD Tariff		New ICD tariff* taking into account ITRHO charge to be levied considering 100% mixed trains.	
	20’	40’	20’	40’
JNPCT	1105.00	1657.00	1605.00	2657.50
NSCIT	1144.00	1716.00	1644.00	2716.00
GTIPL	1534.00	2301.00	2034.00	3301.00

* These charges are inclusive of ITRHO charges @ Rs. 500/- per TEU While generation of 100% mixed trains is envisaged with 40% of container mix, there is every possibility of container mix exceeding 40% because of the imbalance between imports and exports generated / carried by the carrier from various ICDs which are mushrooming without sufficient potential.

(b). If the container mix exceeds 40%, the terminals shall be permitted to levy handling charges per mixed container under ITRHO, instead of levying ITRHO charge on the entire ICD volume in accordance with the tariff of the respective terminal based on the additional activities performed while handling a mixed train. In that case, the ITRHO charge to be levied per mixed container for the terminals will be as follows:

(Figures in Rs.)

Sr. No.	Additional activities	Charges to be levied per mixed box		
		JNPCT	NSICT	GTIPL
1	Transportation to buffer yard	425	440	590
2	Off loading by RTGC at buffer yard (lift-off)	340	352	472
3	Loading on TT from buffer yard by RTGC (lift-on)	340	352	472
	Total	1105	1144	1534

(viii). The scope of the core committee was limited to arrive at the additional cost involved in performing additional activity. Having arrived at the methodology to determine the cost per TEU based on the container mix for performing additional activity while handling mixed trains at the JNPT terminals, which was accepted by the TAMP and users, the defined job of the core committee is completed. The core committee will be dissolved with immediate effect.

4.2. In the light of the above, the JNPT has requested this Authority to accord approval for the following:

(i). To maintain the status quo to levy Rs.400/- per TEU on entire ICD volume for a further period of 3 months from 15 August 2007 to 14 November 2007.

(ii). (a). To levy the new rates for handling of ICD containers including ITRHO charges with effect from 15 November 2007 as per the table at paragraph 6.1. (vii) (a) above.

(b). To levy handling charges for a mixed container as per the table at 6.1 (vii) (b) above, if the average percentage of container mix exceeds 40%.

(iii). To include the above in the Scale of Rates of JNPT, NSICT and GTIPL.

5. During the proceedings before this Authority for approval of the rate of Rs.400 per TEU on ad-hoc basis the users argued that it is the responsibility of CONCOR to deliver the ICD containers to the designated container terminals. The CONCOR was requested to clarify its contractual obligation regarding delivery of ICD containers brought by mixed trains. The JNPT has contended that the CONCOR issues In Land Way Bill by clearly indicating the terminal where

it is required to be delivered in the end and, therefore, it is the primary responsibility for the CONCOR to carry / load the container to the respective port terminals. The CONCOR has, however, maintained that the bill issued by CONCOR for rail transportation of containers is for delivery of containers to its final rail head destination. The railway siding is common for all the terminals namely JNPT, NSICT and GTIPL, and therefore, the responsibility of delivery of the containers to specific terminal lies with the port.

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

(i). The JNPT and the private terminals operating at JNPT are aware that the validity of the rate of Rs.400/- per TEU approved vide Order dated 28 June 2007 would expire on 14 August 2007. Despite the advice given to JNPT to file a proposal by 20 July 2007 for fixation of rate for the period subsequent to 14 August 2007 with the recommendation of the core committee, which recommended the rate of Rs.400/- per TEU, this Authority received a proposal from JNPT vide its letter dated 30 July 2007 for levy of rate of Rs.440/- per TEU that too without the recommendation of the core committee. Only upon pointing out the deficiency in the proposal dated 30 July 2007 of not having the recommendation of the core committee vide letter dated 3 August 2007, the port has initiated steps to obtain the recommendation of the core committee. The recommendations of the core committee were brought to the notice of this Authority in October 2007.

(ii). (a). The CONCOR and the JNPT differ with reference to the contractual obligation of CONCOR regarding delivery of ICD containers brought by mixed trains to the designated container terminals. The JNPT is advised to sit with CONCOR and sort out the issue.

(b). With reference to placement of trains, the JNPT has categorically stated that it does not impose any restriction on placement of trains on a particular line. As stated by the port, the railways have agreed to place the train in a particular line with the co-operation of the carrier.

(iii). The JNPT vide its letter dated 23 October 2007 has, *interalia*, proposed to maintain status-quo to levy Rs.400/- per TEU on the entire ICD volume for a period of 3 months from 15 August 2007 to 14 November 2007. It is noteworthy that the core committee, which earlier recommended the rate of Rs.400/- per TEU for the six months period from 15 February 2007 to 14 August 2007, has also recommended to maintain status-quo to levy Rs.400/- per TEU on the entire ICD volume passing through the terminals at JNPT for a further period of 3 months from 15 August 2007 to 14 November 2007, till the issues are sorted out by the stakeholders.

(iv). (a). The rate of Rs.400/- per TEU approved earlier for the period from 15 February 2007 to 14 August 2007 and the present proposal of JNPT for extension of the rate of Rs.400/- for a further period of 3 months from 15 August 2007 to 14 November 2007 is a derived rate based on the aggregated charge of Rs.1300/- approved for isolated activities.

(b). Since the tariff for isolated operations appearing in the Scale of Rates is not based on cost of providing individual services in reference, but derived on the strength of the overall cost/ revenue position of the Terminals, this Authority in its earlier Order approving ad-hoc rate for the period upto 14 August 2007, had directed the Port to file its proposal for the succeeding period with cost details. However, the proposal received now is not accompanied by any cost analysis but relies upon the tariff applicable for isolated operations and the proportion of mixed train. The relevant activities, which were assumed to be isolated requirements while fixing the respective Scale of Rates, are now being offered on a regular basis in case of handling mixed trains. There is, therefore, a need to review these rates with reference to cost of providing the services; and, as mentioned earlier, such an analysis is not made available by the Port. Nevertheless, recognising the fact that the concerned service is being offered by the Terminals and the core committee, which comprises representatives of the Terminals and main port users, has endorsed continuance of the existing ad-hoc rate till 14 November 2007, this Authority is inclined to extend the validity of the ad-hoc rate for some more time.

(v). The proposal of JNPT for the tariff arrangement beyond 14 November 2007 is a slight deviation from the methodology followed earlier. More importantly, the proposal is not supported by any cost analysis, which is essential to justify the proposed rates. The proposal is, therefore, remitted back to JNPT with an advice to file a detailed proposal with cost analysis by 31 March 2008. When such a proposal is received, it will be processed following the usual consultation process.

(vi). Even though the Port has proposed to continue with the earlier rate of Rs.400/- per TEU only till 14 November 2007, this Authority, considering the time required for processing the proposal to be filed by JNPT, decides to extend the validity of the existing rate till 30 June 2008.

(vii). The other proposals of JNPT contained in its letter dated 23 October 2007 for tariff arrangement in respect of ICD containers moved by rail for the period after 14 November 2007 do not have the recommendations of the core committee. Hence, they are required to be taken up in a separate proceeding for disposal.

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

(i). The validity of the rate of Rs.400/- per TEU towards Inter Terminal Rail Handling Operations of ICD Containers moved by rail at the terminal of JNPT, NSICT and GTIPL approved vide Order dated 28 June 2007 is extended for the period from 15 August 2007 to 30 June 2008. The Scale of Rates of JNPT, NSICT and GTIPL are amended accordingly.

(ii). JNPT is directed to file a well-analysed proposal with cost details by 31 March 2008.

(Brahm Dutt)
Chairman