

(Published in Part – III Section 4 of the Gazette of India, Extraordinary)  
**Tariff Authority for Major Ports**

**G. No.141**

**New Delhi, 11 July 2007**

**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 the Jawaharlal Nehru Port Trust for fixation of charges for Inter Terminal Rail Handling Operations of ICD containers at the container terminals in JNPT as in the Order appended hereto.

**( A.L. Bongirwar )**  
Chairman

**Tariff Authority for Major Ports**  
**Case No.TAMP/23/2007-JNPT**

**The Jawaharlal Nehru Port Trust**

- - -

**Applicant**

**ORDER**

(Passed on this 28<sup>th</sup> day of June 2007)

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

2.1. The Container Shipping Lines Association (India) (CSLA) brought to the notice of this Authority vide its e-mail dated 13 February 2007 a proposal of the terminals at JNPT to levy a charge of Rs.400 on every Inland Container Depot (ICD) container handled to compensate for the new procedure adopted by the terminals to handle mixed trains. While the CSLA is supportive of the mechanism proposed for operations, it requested that the proposed rate should have the approval of this Authority and that necessary safeguards should be in place for monitoring and subsequent review of this charge.

2.2. With reference to the above communication of CSLA, we requested JNPT to confirm the position and to bring-out the provisions in the approved Scale of Rates of JNPT permitting such a levy. JNPT was also requested to ensure that only the rates approved by this Authority are levied at its terminal as well as at the other terminals operated by the licensees of JNPT.

2.3. In the meanwhile, the JNPT referring to the communication dated 13 February 2007 of CSLA, made the following submissions:

- (i). Rail handling operations within the port terminals is an integral part of port operations which has got wider ramifications on the turn around time of the vessels. The issue of additional cost involved in performing additional activity to handle containers of mixed trains was arrived at between the terminal operators and the port users by the members of the committee formulated in the meeting held on 19 August 2006 wherein Additional Secretary, Ministry of Commerce, Govt. of India was also present.
- (ii). CSLA is one of the signatories from the port users side which submitted the final recommendations for levy of Rs.400 on every ICD container handled at JNPT.
- (iii). In accordance with the Trade Notice issued, the common Rail operator charge will be levied with effect from 15 February 2007.
- (iv). JNPT is approaching TAMP in due course of time in accordance with the provisions available to go ahead with levy of such charge with concurrence between both the parties.

2.4. In response to e-mail dated 14 February 2007 of JNPT, the port was advised on 21 February 2007 to file its proposal for levy of CRO charges. The JNPT was also requested to furnish documentary evidence showing the consent of users for the proposed rates and working for the proposed rates.

3.1 In this backdrop, the JNPT has filed a proposal dated 12 April 2007 for levy of charge of Rs.400 per ICD container towards Inter Terminal Rail Handling operations.

3.2. Relevant points brought out in the documents attached with the proposal are given below:

- (i). In view of imbalance between import and export cargo and mushrooming of ICDs there is an increase in percentage of mixed rakes being handled at JNPT.
- (ii). The turn around time of mixed rake is beyond normal as compared to a dedicated rake due to the factors like delay in arrival of other terminal's trailers during the course of train handling, necessity to give priority to dedicated trains, etc.,

- (iii). (a). Based on a proposal filed by CONCOR to have a common rail operator inside JNPT, the port opted for a Common Mixed Rail Operator (CMRO) inside the port premises at an additional cost of Rs.1300/- per TEU to meet the cost of the following additional activities:

Transportation to Buffer yard after rail discharge	Rs. 500
Off-loading by using equipments at buffer yard	Rs. 400
Delivery by using equipment from Buffer yard	<u>Rs. 400</u>
	<u>Rs.1,300</u>

- (b). In the CMRO option, only mixed train operation will be handed over to the common operator at an exclusive facility and all dedicated trains will continue to be handled by the respective terminal operators.
- (c). The Board of Trustees of JNPT approved the proposal in its meeting held on 5 May 2006 to approach TAMP for levy of Rs.1300 per TEU towards additional cost involved for performing additional activities while handling other terminals' containers that arrives in a mixed rake at JNPT.
- (iv). Since there was no consensus on CMRO, JNPT constituted a committee comprising members from JNPT, MANSA, CSLA, NSICT, GTIPL, CONCOR and Railways to arrive at an amicable solution.
- (v). The additional cost was the bone of contention between the terminal operators and the users.
- (vi). The issue of common Rail Operator at JNPT was discussed in the meeting held on 19 August 2006 chaired by Chairman, JNPT whereat the Additional Secretary, Ministry of Commerce was also present. A core committee consisting of representatives of JNPT, MANSA, CSLA, NSICT, GTIPL and CONCOR was constituted to arrive at the fee to be levied for carrying out additional activities while handling containers of one terminal by the other terminal to enable JNPT to implement Inter Terminal Rail Handling Operation (ITRHO).
- (vii). (a). The core committee deliberated on two options. The options and the views of the committee thereupon are tabulated below:

Option No.	Description	Views of the committee
1	Additional financial implication of Rs.1300 per TEU shall be collected by respective terminals from their concerned shipping lines and pay back to other terminals in accordance with activity performed through "reconciliation".	Members of MANSA and CSLA felt that levy of additional cost of Rs.1300 per TEU can neither be collected by shipping lines from the consignees subsequent to handling of a mixed container as the shipping lines come to know about the real status of the container (whether mixed or dedicated container) only after handling activity is finished nor can be absorbed by shipping lines.
2	The additional amount of Rs.1300 per TEU shall be distributed over the entire ICD traffic and this amount shall be collected by receiving terminal from its concerned shipping line and pay back to handling terminal through reconciliation.	Since the additional cost to be collected towards additional activities likely to be performed while handling a container by one terminal for the other terminal is distributed over the entire ICD volume passing through JNPT, Option 2 seems to be more appropriate, workable, practical and hassle free.

- (b). The mixed volume out of total ICD volume during the period January 2005 to December 2005 was 12%. The cost per TEU considering container mix of

12%, 18%, 24% to maximum of 30% over the entire ICD volume while handling mixed rake at JNPCT or NSICT or GTIPL is arrived at as follows:

Year	Projected total volume in TEUs	Expected ICD volume in TEUs (30% of A)	Handling of mixed volume in TEUs (in%age of B)	Additional cost for mix cargo in Rs (D-1300 x C)	Levy of additional cost per TEU (in Rs. )
	A	B	C	D	E=D/B
2006- 07	3,330,000	990,000	1,18,800(12%)	154,440,000	156
			1,78,200(18%)	231,660,000	234
			2,37,600(24%)	308,880,000	312
			2,97,000(30%)	386,100,000	390

- (viii). The committee made the following recommendations:
- (a). To implement ITRHO.
  - (b). Considering a maximum of 30% of volume passing through JNPT, the charges for performing additional activities to be levied over the entire ICD volume (handled through rail) to Shipping Lines shall be charged at (rounded off) Rs.400/- per TEU.
  - (c). To issue a Trade Notice to keep the Port Users informed at least one month in advance prior to implementation of ITRHO and levy of additional cost.
  - (d). To approach TAMP separately in accordance with the provisions available to go ahead with levy of such charges with concurrence between both the parties.
  - (e). To review levy of Rs.400/- per TEU after a period of six months in line with the variance to the percentage of mixed cargo.
- (ix). In accordance with the recommendations of the committee a Trade Notice dated 17 January 2007 was issued for commencement of ITRHO with effect from 15 February 2007 and to levy Rs.400 per TEU (exclusive of taxes) for the entire ICD volume passing through the respective terminals in addition to the existing Scale of Rates.
- (x). ITRHO has commenced with effect from 15 February 2007 in consensus with NSICT and GTIPL. Subsequent to implementation of ITRHO, the average dwell time of ICD containers by rail in March 2007 is only 2.45 days as against 3.60 days prior to ITRHO.

4. The JNPT has requested this Authority to approve levy of Rs.400 per TEU (exclusive of taxes) for the entire ICD Volume passing through the respective terminal in addition to the existing Scale of Rates with effect from 15 February 2007 as mutually agreed by the port/ terminals and the concerned users. The rate of Rs.400 per TEU is proposed to be reviewed after a period of six months in line with the variance in the percentage of mixed containers.

5.1. The JNPT proposal was registered as a tariff case. In accordance with the consultative procedure prescribed, a copy of the proposal from the JNPT was forwarded to the Nhava-Sheva International Container Terminal Limited (NSICT), Gateway Terminals India Private Limited (GTIPL) and the concerned user organizations for their comments.

5.2. A copy each of the comments received from the private terminals and the users were forwarded to JNPT as feed back information except the comments of CSLA since their comments are not received within the time before closure of the case. However, the comments furnished by CSLA are taken on record for analysis of the case.

5.3. The JNPT has responded to the comments of NSICT & GTIPL and stated that the port fully concurs with the views of NSICT and GTIPL. The port has reiterated that the ITRHO for handling of mixed trains at JNPT is a consensus proposal.

6. In the preliminary scrutiny of the proposal, it was found that additional information/ clarifications were required from JNPT. Accordingly, JNPT was requested to furnish the additional information/ clarifications. A summary of the queries raised by us and the replies furnished by JNPT are tabulated below:

Sl. No.	Queries raised by TAMP	Reply furnished by JNPT																																																
(i).	<p>The proposed rate of Rs.400/- per TEU for Inter Terminal Rail Handling Operations (ITRHO) of ICD containers has been arrived at by Jawaharlal Nehru Port Trust (JNPT) taking into consideration, presumably the aggregate of TEUs estimated for the year 2006-07 at its own terminal and at terminals operated by NSICT and GTIPL. In this regard, please furnish / clarify the following:</p> <p>(a). Since the year 2006-07 is already over, the actual total container traffic in terms of TEUs handled at the JNPT container terminal and at container terminals operated by NSICT and GTIPL may be furnished separately for the year 2006-07.</p>	<p>Actual Total Container Traffic handled at JNPT, NSICT &amp; GTIPL in terms TEUs during the year 2006-07</p> <table border="0"> <tr> <td>JNPT -</td> <td>13,05,062 TEUs</td> </tr> <tr> <td>NSICT -</td> <td>13,59,125 TEUs</td> </tr> <tr> <td>GTIPL -</td> <td><u>6,34,134 TEUs</u></td> </tr> <tr> <td>Total</td> <td><u>32,98,321 TEUs</u></td> </tr> </table>	JNPT -	13,05,062 TEUs	NSICT -	13,59,125 TEUs	GTIPL -	<u>6,34,134 TEUs</u>	Total	<u>32,98,321 TEUs</u>																																								
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(c).	<p>JNPT has proposed to review the proposed rate of Rs.400/- per TEU after six months from 15 February 2007. This means the proposed rate will be in operation till 15 August 2007 in the financial year 2007-08. Therefore, total container traffic in terms of TEUs estimated to be handled at the JNPT container terminal and at the container terminals of NSICT and GTIPL may be furnished separately for the year 2007-08.</p>	<p>The total container traffic in terms of TEUs estimated to be handled at JNPT, NSICT and GTIPL separately for the year 2007-08</p> <table border="1"> <thead> <tr> <th>Sr No</th> <th>Terminal</th> <th>Traffic</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>JNPT</td> <td>12,00,000</td> </tr> <tr> <td>2</td> <td>NSICT</td> <td>13,00,000</td> </tr> <tr> <td>3</td> <td>GTI</td> <td>10,00,000</td> </tr> <tr> <td colspan="2">Total</td> <td>35,00,000</td> </tr> </tbody> </table>	Sr No	Terminal	Traffic	1	JNPT	12,00,000	2	NSICT	13,00,000	3	GTI	10,00,000	Total		35,00,000																																	
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	<p>(f). In the light of queries at (a) to (e) above, the proposed rate of Rs.400 per TEU may be reviewed</p>	<p>At the time of computation of the rate to be levied per TEU, the percentage of handling of mixed volume in TEUs was to the tune of 24% of the total ICD volume:</p> <table border="1" data-bbox="858 927 1380 1155"> <thead> <tr> <th>Month</th> <th>Total ICD handling</th> <th>Mixed cargo</th> <th>% of mix cargo</th> </tr> </thead> <tbody> <tr> <td>May 06</td> <td>65907</td> <td>13883</td> <td>21.06</td> </tr> <tr> <td>June 06</td> <td>64127</td> <td>16391</td> <td>25.56</td> </tr> <tr> <td>July 06</td> <td>68647</td> <td>18379</td> <td>26.77</td> </tr> <tr> <td>Aug 06</td> <td>65342</td> <td>15365</td> <td>23.51</td> </tr> <tr> <td><b>Average</b></td> <td><b>66006</b></td> <td><b>16005</b></td> <td><b>24.23</b></td> </tr> </tbody> </table>	Month	Total ICD handling	Mixed cargo	% of mix cargo	May 06	65907	13883	21.06	June 06	64127	16391	25.56	July 06	68647	18379	26.77	Aug 06	65342	15365	23.51	<b>Average</b>	<b>66006</b>	<b>16005</b>	<b>24.23</b>																																													
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		<p>Envisaging placement of more number of container trains with mixed cargo subsequent implementation of CRO, the percentage of mixed cargo was taken as 30% of the expected ICD volume to be handled while arriving at Rs.400/- per TEU. It is pertinent to note that CONCOR had made all efforts to take over handling of ICD boxes inside the Port Terminal where handling of containers arriving by Trains is considered to be an integral part of Port Vessel Operations. When CONCOR's take over efforts did not turn fruitful, it was obvious to expect placement of more and more number of mixed trains. Subsequent to implementation of CRO, the placement of mixed trains at JNPT Terminals is on the increasing side as brought out below:</p> <table border="1" data-bbox="890 1727 1350 1906"> <thead> <tr> <th>MONTH</th> <th>JNPT (All three terminals)</th> </tr> </thead> <tbody> <tr> <td>Feb-07 (from 15/2/07)</td> <td>76.85%</td> </tr> <tr> <td>Mar-07</td> <td>83.89%</td> </tr> <tr> <td>Apr-07</td> <td>86.20%</td> </tr> </tbody> </table>	MONTH	JNPT (All three terminals)	Feb-07 (from 15/2/07)	76.85%	Mar-07	83.89%	Apr-07	86.20%																																																													
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<p>(ii).</p>	<p>The cost per TEU leviable on the ICD container to meet the cost of additional activities required in respect of mixed ICD</p>																																																																						

	<p>containers depends on the proportion of estimated ICD volume out of the total volume and estimated mixed containers out of the total ICD containers handled at the terminals including the private terminals, as per the computation furnished by JNPT. In this context, please clarify / furnish the following:</p> <p>(a). The basis for the quantum of 30% ICD volume out of the total volume.</p>	<p>(a). At the time of computation of the rate to be levied per TEU, the percentage of handling of mixed volume in TEUs was to the tune of 24% of the total ICD volume as brought out under 'Reply to point (i) (f)'. Envisaging placement of more and more number of container trains with mixed cargo subsequent implementation of CRO, the percentage of mixed cargo was envisaged and considered as 30% of the expected ICD volume to be handled while arriving at Rs 400/- per TEU.</p>								
	<p>(b). JNPT has stated that the volume of mixed ICD containers out of the total ICD containers was 12% during the period from January 2005 to December 2005. That being so, the reason for considering a higher volume of 30% mixed ICD containers out of the total ICD containers may be explained with basis for 30% considered in the computation.</p>	<p>(b). The reply is furnished at (i)(f) and (ii)(a).</p>								
<p>(iii).</p>	<p>The JNPT has derived the proposed rate of Rs.400 per TEU from the rate of Rs.1300 per TEU. This base rate of Rs.1300 per TEU is reportedly to carry out additional activities for handling one ICD container arrived on a mixed rake. The basis for the rate of Rs.1300 per TEU may be furnished. If it is as per the existing Scale of Rates of JNPT, reference to the tariff item(s) may be furnished with workings for the rate of Rs.1300 per TEU.</p>	<p>The basis for the rate Rs.1300/- is brought out in our earlier letter dtd.12.04.2007. However the same is furnished herewith:</p> <table border="1" data-bbox="858 1256 1380 1440"> <tr> <td>Transportation to Buffer yard after rail discharge</td> <td>Rs.500</td> </tr> <tr> <td>Off-loading by using equipments at buffer yard</td> <td>Rs.400</td> </tr> <tr> <td>Delivery by using equipment from Buffer yard</td> <td>Rs.400</td> </tr> <tr> <td></td> <td>Rs.1,300</td> </tr> </table> <p>The following tariff items in line with the scale of rates of JNPCT prevailing at the time (Aug 2006) of fixation of charges for ITRHO may please be referred to</p> <p>"From Container yard to Railway flat or vice versa ( ICD container Rail only) Rs.1300"  The break up for the above is consider as:  Lift-On (Rail discharge) -Rs.400.00  Transportation -Rs.500.00  Lift-Off (in the CY) -Rs.400.00</p>	Transportation to Buffer yard after rail discharge	Rs.500	Off-loading by using equipments at buffer yard	Rs.400	Delivery by using equipment from Buffer yard	Rs.400		Rs.1,300
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Delivery by using equipment from Buffer yard	Rs.400									
	Rs.1,300									

(iv).	The JNPT is requested to furnish a draft Scale of Rate for the proposed rate with conditionalities to govern the rate.	<p>It is proposed to adopt the following scale of rates. The only condition that governs the rate is nothing but the percentage of mix of cargo likely to be handled at JNPT. Envisaging 30%, we are levying currently Rs. 400/- (Rs.390/- rounded off to Rs.400/-) per TEU. If the percentage of mixed cargo reaches 35%, the rate shall be Rs.455/- per TEU and so on as brought out below:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">% of mix cargo</th> <th style="text-align: center;">Additional cost per TEU ( in Rs)</th> </tr> </thead> <tbody> <tr><td style="text-align: center;">12</td><td style="text-align: center;">156</td></tr> <tr><td style="text-align: center;">18</td><td style="text-align: center;">234</td></tr> <tr><td style="text-align: center;">24</td><td style="text-align: center;">312</td></tr> <tr><td style="text-align: center;">30</td><td style="text-align: center;">390</td></tr> <tr><td style="text-align: center;">35</td><td style="text-align: center;">455</td></tr> <tr><td style="text-align: center;">40</td><td style="text-align: center;">520</td></tr> <tr><td style="text-align: center;">45</td><td style="text-align: center;">585</td></tr> <tr><td style="text-align: center;">50</td><td style="text-align: center;">650</td></tr> </tbody> </table> <p>(JNPT has furnished calculation for arriving at the above rates.)</p>	% of mix cargo	Additional cost per TEU ( in Rs)	12	156	18	234	24	312	30	390	35	455	40	520	45	585	50	650
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7. A joint hearing in this case was held on 19 June 2007 at the office of this Authority. At the joint hearing, the JNPT, NSICT and the user organisations made their submissions.

8. (i). From the submissions made at the joint hearing, it appears that CONCOR is under a contractual obligation to deliver the containers at the nominated terminal. If it is so, the cost of inter terminal transfer can be taken to have been included in the haulage charges levied by CONCOR. The CONCOR has been advised to furnish its response in this regard by 3 July 2007.

(ii). The NSICT and GTIPL, private terminal operators at JNPT, have requested that a provision for the levy of a tariff item in reference also to be included in their respective Scale of Rates as they also provide the relevant services at the rail yard attached to their terminals.

(iii). The JNPT and other two terminals have been advised to furnish a cost analysis to show that the expenditure incurred by it in moving a container from its rail yard to the other terminals' buffer yard or vice-versa is Rs.1300 per TEU. The JNPT has been advised to furnish a comprehensive analysis including the position reported by the private terminal operators by 3 July 2007.

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

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

(i). The tariff setting arrangement envisaged in the MPT Act requires all tariffs to be approved and notified by this Authority before their implementation at the major ports and the private terminals operating thereat. There may be occasions where a business opportunity arises for which there may not be any approved tariff. In order to provide for such contingency, the major ports and the private terminals are permitted to levy the proposed tariff on an ad-hoc basis simultaneously with the submission of a proposal to this Authority, as stipulated in the revised tariff guidelines.

It appears that the proposed rate has been implemented based on the recommendations of a committee constituted by JNPT. Though we do not question the veracity of recommendations of the committee, the recommendations of such committee cannot be seen to have authorised either the JNPT or the private operators thereat to levy any rate.

The recommendations of the said Committee which reportedly formed basis for introduction of the proposed charge were made in September 2006. JNPT has issued a Trade notice to introduce the proposed rate in January 2007 and the proposed rates are being recovered since February 2007. As required by the revised tariff guidelines, no proposal was, however, filed at this point of time. Only after it was pointed out by CSLA and a reference was made by this Authority, JNPT filed this proposal in April 2007, a good three months after its announcement to introduce this charge and about two months after commencement of actual recovery.

Perhaps, taking cue from JNPT, the private terminal operators - NSICT and GTIPL - did not even bother to approach this Authority. Only when the JNPT proposal was forwarded to them for their comments and the need to include a similar provision in their Scale of Rates was pointed out, they have suggested a suitable provision to be included in their Scale of Rates too.

It is needless to point out that JNPT is not just another operator but a statutory authority having an obligation to ensure compliance of the provisions of MPT Act within its area of jurisdiction. If the port trust itself is in default, the question of advising it to take suitable action against other players for violation of the MPT Act provisions does not arise.

Strictly speaking, for the reasons explained above, this Authority could have refused to take up this case for according retrospective approval to the charges introduced at JNPT since 15 February 2007. Nevertheless, presuming that the present case is a result of unintended administrative procedural lapse at JNPT, this Authority takes a lenient view and take up this case for retrospective approval.

- (ii). The notified Scale of Rates of JNPT contains a provision to levy charges for handling and movement of ICD containers between rail yard to container yard or vice-versa. The ICD containers are brought by CONCOR by rail from various ICDs to the container terminals at JNPT. It appears that the CONCOR, apart from operating dedicated trains to the designated container terminal, also operates mixed trains for simultaneous movement of containers designated for more than one container terminal. When an ICD container, nominated for one particular terminal, is delivered by CONCOR at the rail yard of any one of the remaining two terminals, inter terminal transfer of container becomes necessary entailing additional activity and so, additional cost. The proposal in reference to levy additional charge has emerged because of CONCOR operating trains for movement of mixed ICD containers.
- (iii). (a). As endorsed by the terminal operators and users, the JNPT proposal is a mutually agreed proposal. In fact, the proposal has emerged out of the recommendations of a committee of relevant stakeholders. As brought out by the users in the proceeding before this Authority, they do not find any other alternative to break the stalemate arising out of CONCOR handling mixed trains.  
  
(b). The subsequent objection raised by the CSLA, one of the parties to the agreed rate, is on a different footing. No doubt, there will be more inter-terminal moves when the incidence of mixed train increases which will entail increase in additional cost from the proposed level of Rs.400 per TEU. But, the proposal in reference is to levy rate of Rs.400 per TEU which is a rate agreed by all users including CSLA.
- (iv). There cannot be two opinion on the fact that a terminal undertakes additional activity to handle the ICD containers which are designated to other terminals but land at its facility

brought in by mixed trains. Obviously, the terminals would incur additional cost to the additional activity. It is an additional burden to the users whose ICD containers may land at a terminal where they should not, when such additional cost is passed on to them.

- (v). Notwithstanding their consent to the proposal in reference, the users argue that it is the responsibility of CONCOR to deliver the ICD containers to the designated container terminals. If it is so, the CONCOR may be under an obligation to deliver the ICD containers to the designated container terminal at its cost, when such ICD containers are brought by mixed trains. But, we are not aware of the contractual obligations of the CONCOR regarding delivery of ICD containers brought by mixed trains. The CONCOR has been requested to clarify the position and its response is awaited. It is relevant to consider the point made by CSLA about lack of serious efforts to reduce mixed trains. CONCOR which enjoys till now a dominant position in inland haulage should pay focussed attention to this issue. The additional financial burden on the trade cannot be perpetuated and every attempt should be made to reduce it gradually from the present level.
- (vi). An additional cost of Rs.1300 per TEU has been estimated to handle the ICD containers moved in the mixed trains. This means that those ICD containers moved in the mixed train may have to bear the entire estimated cost of Rs.1300, if such ICD containers land at a wrong destination. Since the users may not have any control over the decision of the carrier to move the container either by dedicated train or by mixed train and subsequent handling activities required to move the ICD container to the designated container yard, it is equitable to spread the cost of additional activity to the entire volume of ICD containers. In view of this position, this Authority is inclined to endorse the proposal of the JNPT to spread the cost of additional activity to the entire ICD volume.
- (vii). The proposal is for levying the tariff for a period of six months with effect from 15 February 2007, initially. As brought out earlier, the port and the private operators undertake additional activity and they are entitled to recover additional cost incurred towards such additional activity. Pending the cost details regarding to and fro movement an ICD container to the designated buffer yard from the respective rail yard of the terminals to be furnished by the JNPT, this Authority is inclined to approve on the agreed rate of Rs.400 per TEU as ad-hoc rate leviable for the period from 15 February 2007 to 14 August 2007. The cost details to be furnished by the JNPT terminals will be analysed for determining the rate to be fixed for the subsequent period. If any adjustment in the rate of Rs.400 per TEU is to be effected, it will be done while fixing the rate for the subsequent period.
- (viii). As stated in the preceding paragraph, the proposal of JNPT is for levying of the proposed rate for a period of six months with effect from 15 February 2007. Therefore, the rate approved shall remain valid till 14 August 2007 and the validity of the rate shall automatically lapse thereafter. The JNPT is advised to furnish all details relevant for fixation of rate leviable for ITRHO at its terminal and at NSICT and GTIPL by 20 July 2007 for fixation of rate for the period subsequent to 14 August 2007. It will be useful if the same core committee which recommended the current rate considers the rates to be levied for the next 6 month period.
- (ix). The turn around time of a mixed train is reported to be higher than that as compared to a dedicated train. With the ITRHO in place, the turn around time of mixed train is expected to improve. Incidentally, JNPT has reported improvement in dwell time of ICD containers after introduction of ITRHO. It would be advisable to have a predetermined benchmark level prescribed for turn around time of mixed trains. This benchmark level shall be binding on all the three container terminal operators. The JNPT is advised to co-ordinate with the other private terminals to fix such a bench-mark level and communicate to this Authority while furnishing the cost and other relevant details for fixation of rate for ITRHO beyond the period from 14 August 2007.

- (x). At our request, the NSICT and GTIPL have proposed a draft scale for inclusion of the rate of Rs.400 per TEU in their respective Scale of Rates. Apart from the cost incurred towards additional activity, the rate per TEU depends on the actual mix of ICD volume in the total volume handled by a terminal and the proportion of mixed volume out of total ICD volume. Therefore, the draft Scale of Rate proposed by the private operators is modified suitably to reflect this position.

11.1. 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 an additional amount of Rs.400/- per TEU from 15 February 2007 to 14 August 2007 on ad-hoc basis towards Inter Terminal Rail Handling Operations of ICD containers moved by rail at the terminal of JNPT, NSICT and GTIPL.
- (ii). Insertion of the following in the respective Scale of Rates of JNPT, NSICT and GTIPL:
- “Additional amount of Rs.400/- per TEU will be charged for ITRHO of ICD containers handled at the respective terminal towards additional handling and transportation services from 15 February 2007. This rate is subject to review every six months from 15 February 2007.
- (iii). The JNPT is advised to furnish the cost and other relevant details including changes, if any, in the percentage of mixed trains for half yearly review of rate for ITRHO in consultation with NSICT & GTIPL at least 3 weeks before the expiry of the approved rate.
- (iv). The JNPT is advised to co-ordinate with the other private terminals and fix a bench-mark level of turn-around time for mixed trains and communicate to this Authority while furnishing the cost and other relevant details for fixation of rate for ITRHO beyond the period from 14 August 2007.

11.2. The validity of the approved *ad-hoc* rate of Rs.400 per TEU will automatically expire on 15 August 2007.

**( A.L. Bongirwar )**  
Chairman

## **SUMMARY OF THE COMMENTS**

Summary of the comments received from the port users / different user organisations and arguments made in this case during the joint hearing before the Authority

F. No. TAMP/23/2007- JNPT

- **Proposal from Jawaharlal Nehru Port Trust (JNPT) for fixation of charges for Inter Terminal Rail Handling Operations (ITRHO) in respect of ICD containers at JNPT.**

1. The comments received from the Jawaharlal Nehru Port Trust, NSICT, GTIPL and port users / representative bodies of port users are summarised below:

### **Nhava Sheva International Container Terminal Pvt. Ltd. (NSICT)**

- (i). NSICT fully endorses the views of JNPT. The additional rate of Rs.400 per TEU on ICD containers is made effective from the 15 February 2007.
- (ii). ITRHO charge is primarily introduced to create additional capacity on the rail system and to reduce dwell time of the containers. In concurrence with MANSA and CSLA, the rates have been arrived by spreading the cost across all ICD containers.
- (iii). As per the trade notice issued by JNPT on 17 January 2007, all trains will be treated as “Dedicated Trains” with the responsibility lying with the individual terminal handling containers.
- (iv). The following addition is proposed to its SOR in the General Notes as point No. (vi):

“Additional amount of INR 400 for 20’ & INR 800 for 40’ will be charged for ITRHO i.e. additional handling & transportation services, of ICD containers. This rate is subject to review every six months based on the actual mix.”

### **Gateway Terminals India Pvt. Ltd. (GTIPL)**

In addition to the first three points stated by NSICT, the GTIPL has proposed the following addition in its Scale of Rates:

“2(1) For item no. 3.1( c), 3.2( c) and 3.3( c), an additional amount of INR 400 for 20’ & INR 800 for 40’ will be charged for ITRHO i.e. additional handling & transportation services, of ICD containers. This rate is subject to review every six months based on the actual mix.”

**Mumbai and Nhava-sheva Ship-agents Association (MANSA)**

The Committee on Common Rail Operator (CRO) was represented by MANSA and the recommendations of the Committee have been accepted by MANSA. MANSA has no other comments to offer.

**Container Shipping Lines Association (CSLA)**

- (i) In 2006 the CSLA agreed to the principle of the "ITRHO" mechanism as proposed by the terminals at Nhava Sheva. The CSLA further agreed to a charge of Rs.400/TEU on every ICD container on a temporary basis. These agreements were given in order to facilitate implementation and to establish the real costs and benefits of the operation.
- (ii). The CSLA's assent was given on the basis of the incidence of mixed trains then prevailing which was of the order of 28%. It was clearly stated that every effort must be made to keep mixed trains to a minimum. Further it was stated that adequate controls must be instituted to justify such a charge.
- (iii). Since then the incidence of mixed trains has increased to 81%. This has resulted in many more inter-terminal moves than was the case hitherto. This in turn has generated additional costs to the terminals and thereby to the trade.
- (iv). It would seem that the cause of this lies in the fact that CONCOR have made no attempt to reduce the number of mixed trains. Rather they have allowed the incidence of such trains to increase nearly threefold. They have thus substantially increased the benefits to themselves on two counts. Firstly the ITRHO principle is inherently operationally beneficial to them, even at the original lower incidence rates. Secondly, allowing the incidence of mixed trains to increase so substantially they have increased their own operational benefits and passed on the problem of re-distributing boxes to the terminals and ultimately to the lines and the trade.
- (v). There is thus little benefit from this arrangement to the lines and the trade, who pay, whereas the benefit lies principally with CONCOR and to an extent with the terminals who see railheads cleared more quickly. Given that there is already a TAMP approved charge covering the cost of moving boxes from railheads to CY's, it seems inequitable that an additional charge now be institutionalised, particularly as there is no additional benefit to the lines.
- (vi). If such a charge is to be made then it seems not illogical that it be made between CONCOR and the terminals. There is clearly a need for some mechanism of this nature but the charges relating to it should be between those who are the beneficiaries.
- (vii). The lines contract with CONCOR to deliver to terminals not just to a railhead. It cannot be equitable that there is an additional charge to be made for a service that is already contracted and paid for. It should also be noted that some lines have reported difficulties as a result of this arrangement which clearly indicates that the value for money proposition is deficient.

- (viii). Generally there has been no attempt to justify the charge nor to explain its components.
- (ix). Against this background, the CSLA cannot support the approval by TAMP of this charge. The CSLA does not just oppose the level of charge rather it questions the logic of the charge. Further the CSLA is concerned that far from seeing the number of mixed trains reduce, or at least remain static, it would appear that advantage has been taken to the benefit of CONCOR at the expense of port, terminal and railhead efficiency. Approval will institutionalise a charge which now, with the benefit of experience, seems wrong and prone to misapplication.. While not denying the need for an operational arrangement that performs the ITRHO function it seems quite wrong that the lines should pay for this.
- (x). It is undeniable that the CSLA agreed to this charge but this was against a different background when there were operational difficulties and was intended to allow implementation quickly. Given that the circumstances have changed so significantly it is not inconsistent now to withdraw this approval in the light of experience. The CSLA has always taken the view that service improvements can command higher prices but when the benefits goes elsewhere it sees no reason why it should pay for this.
- (xi). In summary, the CSLA is of the view that the requirement for such an operational arrangement as envisaged in the ITRHO mechanism is clear and will become more so with more terminals and more rail operations. It does not accept though that the lines should pay for this when the benefits lie elsewhere. The CSLA would further suggest that the principle of a full scale CRO rather than the "virtual" arrangement now in place be re-considered. Unless a mechanism like this is put in place inefficiency will ensue.

2. A joint hearing in this case was held on 19 June 2007 at the office of the Authority. At the joint hearing, the following submissions were made:

**JNPT**

1. Made a PowerPoint presentation of the proposal. Hard copy given.
2. We will give documentary evidence to show the cost involved in moving a container is Rs.1300/- per TEU.

**NSICT**

3. We agree with the proposal of JNPT as it is the only option.

**MANSA**

4. We agree with the proposal. The responsibility is that of CONCOR. But, we agree with the proposal, as there is no other viable alternative to break the stalemate.

**BCCI**

5. Trade has no choice. It is the question of paying extra or face detention of container.

6. The rate should, however, be benchmarked against a predetermined efficiency level binding on the CRO.

**CSLA**

7. It is an agreed proposal.

8. The main beneficiary of this arrangement is CONCOR.

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