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Tariff Authority for Major Ports

G.No.149

New Delhi,

23rd 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 (JNPT) for reduction in free period for ICD containers and Transhipment containers as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/33/2006-JNPT

The Jawaharlal Nehru Port Trust

- - -

Applicant

ORDER

(Passed on this 28th day of June 2007)

This case relates to a proposal received from the Jawaharlal Nehru Port Trust (JNPT) for reduction in free period for ICD containers and Transshipment containers.

2.1. The free period for different categories of containers handled at the port terminal as prescribed in the existing Scale of Rates is as under:

Particulars	Free period from its landing (in days)
Non ICD Import & Export loaded & empty containers (by road)	03
ICD Import & Export loaded moved by road	07
ICD Import & Export Empty moved by road	03
ICD Import & Export loaded or empty moved by rail	15

2.2. JNPT has reported that there has been an overall improvement in handling rates at the port terminal with the decrease in turn around time of trains at port terminal, increase in number of container trains and proper coordination between port terminals, CONCOR and Railways. This has resulted in bringing down the dwell time to the minimum.

2.3. Based on a study of the dwell time of ICD import containers moved by road, ICD import containers moved by rail, ICD import containers bound for local Container Freight Station (CFS) and transshipment containers for the period January 2005 to February 2006, JNPT has brought out the average dwell time in respect of the said containers. The position reported by JNPT is summarized below:

(I) ICD Containers:

(A) ICD Import containers moved by road:

(i). A study of the dwelling of ICD import containers moved by road reveals that the average dwell time is 7.42 days as against a free period of 7 days.

(ii). Since free period for ICD import containers moved by road is 7 days, shipping lines are evacuating their containers at a slower pace as compared to normal import containers evacuated within a day (0.49 days during the month of February 2006) from their landing.

(iii). Even in the case of non-ICD containers where the mode of transport is changed from road to ICD by rail, as per the TAMP approved tariff, the free period is 3 days only (as compared to free period of 15 days for ICD Import by rail containers and free period of 7 days for ICD import containers by road). Under the circumstances, the free period of 7 days currently being given to ICD by road needs review. If free period is reduced to 3 days as against 7 days, it will help the port terminal to decongest their container yards further as shipping lines will be under pressure to clear the cargo to avoid the demurrage.

(B) ICD Containers moved by rail

(i). A study of dwelling time of ICD Import containers moved by rail shows that the average dwell time of ICD container is 4.77 days as against the existing free period of 15 days. The average dwelling period of ICD Import containers waiting exclusively for transshipment permit is 2.21 days. The dwell time of ICD containers

from arrival to departure is expected to reduce further once the filing of Sub Manifest Transshipment Permit (SMTP) is done away completely by customs.

The shipping Lines / Agents are not willing to expedite the movement of ICD Import containers from the port terminal by rail since the ICD Import containers are entitled for 15 days free period. Shipping lines are utilising the port terminal as their stocking yard as far as ICD Imports are concerned taking undue advantage of the existing free period.

- (ii). The number of wagons moved out empty from JNPT for want of customs cleared documents inspite of sufficient pendency at the port is as follows:

Month	Number of empty wagons moved out	Average Pendency for want of Transshipment permit
December 2005	323	1278
January 2006	2251	1346
February 2006	1243	1521
Total	3817	--

Outward movement of empty wagons amounts to under utilization of rolling stock.

- (C). ICD Import containers bound for local CFS:

The average dwelling period of Import Containers bound for local CFS is 1.59 days as against a free period of 3 days.

- (D). Keeping in view the current dwell period of ICD Import containers, doing away with the filing of SMTP by Customs, commissioning of 3rd Container Terminal (part of ICD traffic is likely to be shifted), the port can reap the following benefits if the free period of 15 days is reduced to 7 days in respect of ICD containers moved by rail and the free period of 7 days to 3 days in respect of ICD containers moved by road:

- (a). Speedy evacuation of ICD boxes from the port terminals which will provide additional handling capacity.
- (b). Decongestion of port container yard
- (c). Turn around of rakes handled at port terminals will reduce further with sufficient pendency made available.
- (d). Total turn around time of containers in Import and Export cycle will reduce drastically. This is expected to help the trade.
- (e). Defaulters (those who do not clear the containers within free period) will be penalized.
- (f). Planning of Export yards especially at paved areas can be streamlined further. Currently, while feeding export boxes to the vessel along side, the yard operators are receiving containers for their next two voyages also, resulting in cramping of the space inside the yard. This leads to heavy shifting during the course of loading thus increasing the turn around time of the vessels along side. Idling of the Gantries for want of adequate feeding from the paved areas is a common phenomenon.
- (g). Surge in EXIM cargo, if any, can be absorbed without any difficulty.
- (h). Shippers will be discouraged to use port container yards as their storage yard.

(E). Transshipment Containers

- (i). The free period entitled to Transshipment loaded containers in the port premises is as follows:

Particulars	Free period from its landing (In days)
Transshipment loaded container	30
Transshipment empty container	Nil

(JNPT has stated that there is no free period for transshipment empty containers. But, serial No. 7 of Section 3.3.3 of Scale of Rates of JNPT prescribes 15 days free period for empty containers).

- (ii). A study of the dwelling of transshipment loaded containers prior to their outward movement / loading onboard reveals that the actual average dwell period of transshipment container in the port terminal is 6.27 days against a free period of 30 days. Since free period for transshipment containers prior to their loading on board is 30 days, shipping lines are connecting such containers to the respective vessels at their convenience resulting in piling up of transshipment containers in the port terminal. Under the circumstances, the free period of 30 days currently being given to transshipment containers also needs review as no shipping line has availed dwell period in excess of 10 days so far (exception being 10.73 days in July 05)
- (iii). If the dwell period is reduced to 10 days as against 30 days, it will help the port terminal to decongest their container yards further as shipping lines will be compelled to clear the cargo to avoid the demurrage. In addition to this, shippers also will be discouraged to use port container yards as their storage yard.

2.4. The proposal of the JNPT is to reduce:

- (a). The dwell time for ICD Import/Export containers moved by rail from 15 days to 7 days.
- (b). ICD Import containers moved by road from 7 days to 3 days.
- (c). Dwell time for transshipment loaded containers from 30 days to 10 days.

2.5. The proposal has been endorsed by the Board of Trustees of JNPT.

3. The JNPT proposal was registered as a tariff case. In accordance with the consultative procedure prescribed, a copy of the proposal was forwarded to the concerned user organizations for their comments. The comments received from them were forwarded to JNPT as feed back information. The JNPT has also responded on the comments of users vide its letter dated 20 December 2006.

4. Based on the preliminary scrutiny of the proposal JNPT was requested to furnish additional information / clarification on various points vide our letter dated 22 December 2006 and letter dated 3 January 2007 JNPT furnished its reply vide its letter dated 28 December 2006. The queries raised by us and the replies furnished by JNPT are tabulated below:

Sr. No.	Queries raised by TAMP	Reply furnished by JNPT
(i).	The proposal of the port to reduce dwell time for ICD import / export containers moved by rail and to reduce the dwell time for ICD import containers moved by road differ with the proposal approved by	Regarding proposal to reduce the dwell-time for ICD Import / Export containers moved by rail, the Board of Trustees of JNPT has passed the following resolution: RESOLVED THAT the proposal to reduce the dwell-time for:

	<p>the Board of Trustees of the JNPT, as seen from the copy of the Board Resolution attached to the said proposal, which may be clarified.</p>	<p>(i). the ICD Import and Export (loading or empty) containers moved by rail from 15 days to 7 days;</p> <p>(ii). the ICD Import and Export loaded containers moved by road from 7 days to 3 days; and</p> <p>(iii). transshipment loaded containers from 30 days to 10 days and take up with Tariff Authority for Major Ports (TAMP) for approval and notification be and is hereby approved".</p> <p>However, inadvertently the word "export" is not indicated at sr. no. 2 of the proposal. Therefore, it is requested that the proposal may please be considered for both categories of ICD containers as brought out in the resolution above.</p>
(ii)	<p>The dwell time charges for containers stored in the JNPT premises are leviable as per the slab structure prescribed in the existing Scale of Rates of JNPT, after expiry of the prescribed free dwell time period. In the event of free time getting reduced, the subsequent slab period for the respective category of ICD containers required to be changed. The proposal of JNPT does not meet this requirement. The JNPT is, therefore, requested to modify the proposal suitably without change in the existing dwell time charges.</p>	<p>As required statement indicating proposed slabs / rates in respect of dwell time charges for containers stored in the port, is furnished as under:</p> <p>(In respect of ICD containers moved by rail and transshipment containers, the slab periods relevant for the existing dwell time charges subsequent to the slab have been truncated).</p>
(iii).	<p>There may be financial implication due to reduction in the existing dwell time of ICD and transshipment containers and modification in the slab period (to be) made by the JNPT in the respective slabs. The JNPT may also be in a position to utilise the container storage yard more gainfully. That being so, the additional income that may arise out of gainful utilisation of storage yard may be estimated for the remaining validity period of the existing tariff and intimated. It may also be clarified as to how the port proposes to utilise the additional income.</p>	<p>Regarding additional income, which may arise out of the gainful utilization of storage yard, it is submitted that the speedy evacuation will help in better turn around time of container resulting in better management and scope for additional traffic.</p> <p>It is also relevant to indicate that due to increase in the efficiency, there is a declining trend in the dwell time income during the past 3-4 years, hence by reducing the free period we may not anticipate any additional income on this account.</p>
(iv).	<p>JNPT had earlier submitted to the Authority that it would face a decline in container traffic for the next 2 - 3 years due to possible diversion to the third terminal. That being so, an analysis of dwell time of ICD containers in future may be furnished duly capturing the declining trend of traffic.</p>	<p>Subsequent to implementation of online updation of SMTP (Transshipment Permit EDI message to Port Terminals and respective ICDs), increase in number of CONCOR rakes consequent to doubling of rail lines between Jasai and JN Port the average dwelling period of ICD Import containers is expected to be in the range of 1 to 3 days in future even when the traffic gets diverted to 3rd Terminal.</p>
(v).	<p>JNPT has proposed to reduce the existing 30 days free dwell time available for loaded transshipment containers to 10 days. The port has not proposed any change in the existing 15 days free dwell time available for empty transshipment containers. JNPT to explain the reason for not proposing any change in the existing free dwell time available for empty transshipment containers.</p>	<p>JNPT subsequently vide its letter dated 6 February 2007 has, <i>inter alia</i>, proposed 10 days free period for empty transshipment containers.</p>

5.1. A Joint hearing on the case in reference was held on 28 December 2006 at the office premises of this Authority. The JNPT and the concerned users have made their submissions.

5.2. As agreed at the joint hearing, the JNPT was requested vide our letter dated 3 January 2007 to convene a meeting with relevant service providers, BCCI and MANSA to address the problems raised by BCCI and MANSA at the joint hearing and furnish a report in this regard.

6.1 The JNPT vide its letter dated 6 February 2007 communicated to us that in line with the decision taken at the joint hearing it convened a meeting with relevant service providers on 23 January 2007 and forwarded a Report in this regard. The Report of the JNPT is summarized in the following table:

Sr. No.	Name & Comments of the Users	Comments of the JNPT	Comments of Service Providers (CWC & CONCOR)
1.	BCCI:		
(a).	On arrival of boxes at the Port, the trade is authorizing service providers, either CONCOR or CWC, to move the same to the destined ICDs. Hence, as far as faster / timely movement of boxes is concerned, they do not have any direct role, as service providers manage entire operations. Lines are not responsible for any delays that may arise due to operational constraints of service providers. Hence any dwell time charges that may accrue due to dwelling of containers beyond free period needs to be directly billed to the service provider	Port is functioning only as a facilitator providing requisite facilities for handling ICD boxes passing through the Terminal. It is a fact that transportation of containers (Import and Export) from / to different ICDs is carried out exclusively by CONCOR and CWC both by rail and road modes in accordance with the declaration made in the IGM with the approval of Customs. The selection of carrier and ICD destination is the prerogative of the Shipping Lines/Consignee. Port has no role in nominating neither rail carrier nor road transporter / ICD destinations.	No comments
(b).	Normally the pendency increases and congestion occurs during the monsoon period or sudden disruption in rail service due to unforeseen circumstances. However, even today the pendency level is hovering in the range of 4000 TEUs to 5000 TEUs, which is unexpected. Are there capacity constraints on the part of CONCOR to move the boxes in time, when there is increase in pendency level.	With the supply of adequate number of rakes in proportionate to prevailing pendency from CONCOR, Terminal pendency can be reduced drastically and brought under control. In spite of drastic increase in placement of mixed rakes from 60% to 89% the terminals are completing the rake operations in appreciable time. With doubling of rail tracks CONCOR should be in a position to supply more rakes. Current placement of average number of rakes per day is in the range of 13 only. This can be increased easily to 20 to 21 rakes per day to match with the requirement.	If Terminal is giving concrete commitment for turn around of rakes within stipulated time period, in such a situation, CONCOR could plan and provide adequate infrastructure/ rakes for movement of boxes expeditiously
2.	MANSA:		
	Customs have facilitated trade by allowing entry of house stuffed containers having export order. At times these	Taking into account all the constraints (as on today as brought out by users) such as documentation / storage /	No comments

	<p>containers are delayed for clearance of all documents from Customs and also placement of rakes by CONCOR. In spite of initiatives taken by various agencies involved viz. Customs, Port and Service Providers for e-clearance of various permissions by way of automation (EDI), yet 100% computerization and e-transaction centers have not been set up at all ICD locations. Therefore, hard copy of e-clearance i.e., forwarding note, IGM, RR etc., is required to be presented for signature of competent authorities for final clearance.</p> <p>Therefore, some trial period should be kept for review after which trade may agree for any reduction in the free period.</p>	<p>handling of trains / mixed trains etc. subsequent to the current levels / stage of on line updation by Customs since October, 2006 the dwell period has reduced drastically from 6.08 days in August, 2006 to 2-3 days between October 2006, to January 2007.</p> <p>With regard to movement of ICD Export containers, handled through paved areas operated by various consortiums, even prior to loading of containers on board the vessel along side, ICD Export boxes bound to next voyages from the same paved area are arriving in advance and their average dwell period is in excess of 10 days, while the dwell period of the ICD Export containers loaded on vessel along side is around 5.5 days. The inflow of the Export containers bound for the next voyages (other than the vessel along side) results in cramping/disturbance in planning of the vessel in the yard leading to shifting of containers while loading export boxes on board the vessel along side. This also results in idling of gantries, which is reflected in the poor performance of the vessel. By reducing the export free period, this problem can be overcome to improve the terminal efficiency.</p>	
3.	SCI		
	<p>The delay in movement of ICD Import boxes by road is exclusively due to various formalities carried out by the service providers even after receipt of requisition by Shipping Line for movement of Import Containers. On receipt of request from Shipping Lines, service provider independently surveys the container and calls for the quotations from the transporter to the designated ICD, as they do not have a regular transporter to move the boxes to the destined ICD. This exercise itself consumes approximately 3 to 4 days. After</p>	<p>With the improved efficiency level and co-ordination between Terminals, shipping lines and CFSSs, presently JNPT is in a position to deliver the Import boxes to local CFSSs between average dwell period of 0.9 days to 1.4 days after landing of containers in the Terminal. If such level of performance can be achieved in respect of road bound containers to CFS, port expects that the ICD Import containers moved by road can also be cleared from the Port Terminals by the service providers on par with deliveries to local CFSSs by</p>	No comments

	scrutiny of the quotation, the transporter is selected and arrangements are made for onward transportation of Import ICD boxes from the Port terminal premises. Till such time, the container lies in the port terminal only. For example a container bound to Nasik, Vapi or to Pune / Chichwad takes not less than 10 to 15 days which is uncalled for.	proper planning and documentation in advance.	
4.	CSLA		
	CSLA appreciated the considerable improvement in the efficiency of the Port and Service Providers in handling the boxes. There is a concern about reduction in free period, as there are certain operational constraints from the service providers, due to which some times the boxes are held up in the Terminal for abnormal period. Trade in fact expects even faster movement of boxes from one place to another, which will facilitate best utilization of the boxes and thus help the entire trade as a whole. CONCOR is not in a position to arrange placement of rakes (on schedule basis) for minor destinations like Kanpur, Jaipur, Agra, Malanpur, Aurangabad, Chinchwad, Rewari etc. for considerable period. This is leading to dwelling of boxes over and above the free period for no fault of Shipping Lines, which is concurred by port authorities saying that they are also at no fault. Remedies to such delayed boxes need to be ensured by the service provider.	Subsequent to implementation of automation and online updation of SMTP (even taking into account all the constraints highlighted by the trade users as brought out above) including the permission for onward transportation on the CONCOR rails, the average dwell time period of ICD import containers moved by rails is between 2 to 2.5. days during the last four months.	CONCOR: keeping in view the prevailing pendency level and the frequency of such movement, scheduling a rake to minor destinations can be considered if sufficient boxes are available for minor destinations. CWC: CWC appreciated the improved efficiency level at the Terminals. As against a dwell period of 8.64 in the year 2004-05, and 6.31 days in the year 2005-06 against all constraints presently the dwell time is showing a decreasing trend. If such a scenario is continued and the dwell time period is kept up to 4-5 days on an average, in such a situation, the proposal of JNPT for reduction in free period needs consideration.

6.2. Apart from reiterating the benefits reportedly associated with the proposal, the JNPT has made the following additional submissions:

- (i). With the existing free dwell time, JNPT has earned storage income of Rs.209.16 lakhs during the year 2005-06 and Rs.86.47 lakhs during the year 2006-07. Had the proposed reduction in the free dwell time come into force during the year 2005-06, the storage income would have been Rs.735.94 lakhs for the year 2005-06 and it would have been Rs.371.47 lakhs during the year 2006-07. This works out to additional income of Rs.526.78 lakhs and Rs.285 lakhs for the years 2005-06 and 2006-07, respectively.

- (ii). Reduction in free period will function as a 'disciplinary measure' and not as a penal-action against defaulters when the average dwell period covering all categories of ICD boxes is far below the standards / norms set in SOR (except ICD by road) taking into account all the constraints including disruption in rail services due to natural calamities.

When the dwell period of ICD Import / Export boxes covering both empties and loaded is far below the standards / norms set in SOR (except ICD by road) Port reserves the right to make earnings on this account (i.e. excess dwell period) as compensation against the increased service level and efficiency in handling to further the growth of the Terminal.

Movement of Import containers to different ICDs (as of now) is carried out entirely by CONCOR and CWC, the Service Providers preferred by Shipping Lines / Agencies / Customers. Port has no role (but restricted only to functioning as a facilitator for discharging / unloading Import / Export containers carried by CONCOR and CWC through Rail / Road) either in transportation or nomination to a particular ICD. Under the circumstances, port cannot function as a guarantor in case there is a delay in transportation of Import containers bound to different ICDs.

This proposal if accepted, will indirectly help in tightening the loose ends in the services provided by the Service Providers, thus helping the Indian Trade as a whole. This is likely to induce competition among the Service Providers to increase their service levels with the entry of private players in rail transportation.

7. The JNPT was requested vide our letter dated 29 March 2007 to furnish additional information / clarification arising out of its letter No. JNP/CM(F)/2006/252 dated 28 December 2006 and No.JNP/CM(F)/2007/355 dated 6 February 2007. JNPT responded vide its letter dated 9 May 2007. The queries raised by us and the response of JNPT are tabulated below:

Sr. No.	Our query	Response of JNPT
(i).	The dwell time charges for ICD import and export loaded or empty containers moved by rail and transshipment containers, loaded and empty, are leviable as per the slab structure prescribed in the existing Scale of Rates of JNPT after expiry of the prescribed free dwell time period. JNPT vide its letter dated 28 December 2006 has proposed modifications in all the chargeable slabs of dwell period subsequent to the initial slab of free dwell time period prescribed for ICD containers moved by rail and transshipment containers. This amounts to perpetuating the effect of reduction in free period to all the subsequent chargeable slabs which this Authority may not be in a position to approve.	A statement indicating the proposed slabs of dwell time charges for containers stored, in case the free dwell time is reduced, was submitted by JNPT vide letter dated 28 December 2006. Since reduction in the free period has been proposed, the subsequent slab shall be made applicable for levying the dwell time charges. Accordingly, the revised slabs are arrived at. (JNPT has again furnished a copy of Annex – I to its letter dated 28 December 2006 without effecting any change in the slab structure).
(ii).	The proposed reduction in free dwell time of containers is stated to remove congestion. At the time of the general revision proposal of JNPT the port had submitted that it would face a decline in container traffic in the next two to three years due to likely diversion of traffic to Gateway Terminal (India) Pvt. Ltd., (GTIPL); and, JNPT has projected traffic of 8.88 lakh TEUs, 8.70 lakh TEUs and 9.95 Lakh TEUs for the years 2006-07 to 2008-	(a). GTIPL commenced its operations in April 2006. JNPT handled 13.05 lakh TEUs during the year 2006-07 as against 8.88 lakh TEUs projected for the year 2006-07 in the general revision proposal. The target set for JNPT for the year 2007-08 and communicated to Ministry is 12.5 lakh TEUs. Even though port had anticipated decline in the traffic after commissioning of GTIPL, there is neither

	<p>09 respectively as against the actual traffic of 13.39 lakh TEUs for the year 2005-06. Incidentally, the current proposal of the JNPT to reduce the free dwell time is reported to be based on a study undertaken by it during the Financial Year 2005-06 when the actual container traffic was 13.39 lakh TEUs. In the declining trend of traffic, the question of congestion at the container yard of the port may not be pressing to warrant reduction in the existing free dwell time.</p> <p>The JNPT was requested to furnish an analysis of dwell time of ICD containers in future duly capturing the declining trend of traffic. No such analysis has been made available. The basis for port's estimation of average dwell period of ICD import containers in the range of 1 to 3 days when the container traffic gets diverted to GTIPL was required from JNPT.</p>	<p>diversion of traffic to GTIPL nor major decline in traffic at JNPT after commencement of operations at GTIPL.</p> <p>(b). The average dwell time of ICD containers during the year 2006-07 moved by rail is 4.03 days as against 6.31 days during the 2005-06. There is considerable reduction in average dwell time during the current financial year mainly due to auto updatation of SMTP status from customs. There may not be considerable variation in the average dwell time for ICD containers in 2007-08 and 2008-09 as compared to the position in 2006-07. The average dwell time is expected to reduce further subsequent to implementation of Inter Terminal Rail Handling Operation (ITRHO) from 15 February 2007 for handling mixed rakes at JNPT.</p> <p>Consequent to implementation of ITRHO, the average dwell time of ICD containers in March 2007 was only 2.42 days as against 4.17 days recorded earlier as against free period of 15 days.</p> <p>The reduction in free period will directly benefit the trade since the container is delivered to the end customers within the shortest possible time. With the entry of multiple service providers as carriers for transportation of ICD containers, the dwell time is expected to fall further which will directly help in decongesting port terminals.</p>												
(iii).	<p>The JNPT has reported that it does not anticipate any additional income on account of reduction in the existing free dwell time of ICD and transshipment containers. . In this regard following points were brought to the notice of JNPT:</p> <p>(a). The existing free dwell time of 7 days for ICD containers moved by road is proposed to be reduced to 3 days. It is noteworthy that the study undertaken by the JNPT also reports an average dwell time of around 7 days. Therefore, with the proposed reduction of free dwell time from 7 days to 3 days the users may need to pay demurrage for the period beyond the proposed free period of 3 days. This means</p>	<p>The estimated financial gain that may accrue to JNPT on account of reduction of free period for ICD containers during the years 2007-08 and 2008-09 is given below:(Rs. In Lakhs)</p> <table border="1" data-bbox="884 1688 1391 1944"> <thead> <tr> <th>Particulars</th> <th>2007-08</th> <th>2008-09</th> </tr> </thead> <tbody> <tr> <td>ICD by rail (Import & Export)</td> <td>151.35</td> <td>136.21</td> </tr> <tr> <td>ICD by road (Import & Export)</td> <td>51.85</td> <td>46.67</td> </tr> <tr> <td>Total</td> <td>203.20</td> <td>182.88</td> </tr> </tbody> </table>	Particulars	2007-08	2008-09	ICD by rail (Import & Export)	151.35	136.21	ICD by road (Import & Export)	51.85	46.67	Total	203.20	182.88
Particulars	2007-08	2008-09												
ICD by rail (Import & Export)	151.35	136.21												
ICD by road (Import & Export)	51.85	46.67												
Total	203.20	182.88												

	<p>that the possibility of additional income accruing to the port on account of reduction in free dwell time from 7 days to 3 days may not be entirely ruled out. In fact, JNPT has subsequently reported additional income of Rs.94.61 lakhs and Rs.67.74 lakhs for the years 2005-06 and 2006-07 respectively that would have accrued to it had the reduced dwell time been implemented in the year 2005-06 itself.</p> <p>(b). Likewise, the JNPT has reported additional income of Rs.432.17 lakhs and Rs.217.26 lakhs that would have accrued to it in the years 2005-06 and 2006-07 respectively had the proposed reduction in free dwell time for ICD containers moved by rail been made effective in the year 2005-06.</p> <p>In this context, the JNPT was requested to estimate the additional income that would accrue to the port in the years 2007-08 and 2008-09 on account of reduction in free dwell time of ICD containers and furnish.</p>	
(iv).	<p>The existing Scale of Rates of JNPT approved vide Order dated 28 September 2006 is based on the income estimation prevailing at the relevant point of time. Therefore, and in order to maintain revenue neutral position, the JNPT may consider proposing appropriate reduction in the existing dwell time charges of containers stored in the port premises to offset the additional income (to be) estimated by JNPT on account of reduction in free dwell time of ICD containers, furnishing workings for the reduction (to be) proposed.</p>	<p>(a). One of the reasons justifying the proposal is that shippers will be discouraged to use port container yard as their storage yard. Merely because JNPT is getting additional income due to shippers not evacuating the containers in time does not necessarily mean that any reduction in tariff should be proposed, unless it is due to the reason attributable to the port. The port should not be penalised for inefficiency on shippers' part.</p> <p>(b). It is pertinent to note that dwell period in respect of import containers delivered to different CFSs from JNPT is less than one day, while the dwell period in respect of ICD boxes delivered by road is in the range of 7 days primarily because of the reason that the service providers select their transporters by tender process after landing of the ICD import boxes in the terminal, the reason not attributable to JNPT.</p>

8. Incidentally, JNPT had estimated total storage income of around Rs.2629 lakhs for the years 2007-08 and 2008-09 during the last general revision of its tariff arising out storage of all categories of containers. Applying an across the board reduction of 15% in the container related charges ordered by this Authority, in September 2006 the total estimated storage income that would accrue to the port during the years 2007-08 and 2008-09 works out to around Rs.2235 lakhs.

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 also 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 existing Scale of Rates of JNPT prescribes free dwell time for various categories of containers. The issue before this Authority is the proposed reduction in the free dwell time applicable for ICD containers moved by road and rail and transhipment containers from the existing level of free dwell time.
- (ii). Many of the users have generally welcome the proposal. The objection raised by MANSa is also based on the bottlenecks reported in the logistic chain. The argument advanced by MANSa may imply that JNPT should provide relief to the users for the constraints faced by them elsewhere. This may, to some extent, hold good in a situation when the users do not have sufficiently well developed facilities for evacuation from the port. It does not appear that such is the case in JNPT.
- (iii). This Authority has consistently maintained that a container yard of a port is meant only for temporary storage of containers and the yard cannot be used as a warehouse. Given the storage yard space constraint faced at most of the container terminals in the country, such long term stay of containers can only be allowed at the cost of the productivity, which is not at all desirable. The quantum of free period, in such cases is to be prescribed cautiously to avoid the container terminal being used as a warehouse.
- (iv). It is noteworthy that the proposal of JNPT is based on a study carried out on the trend of occupancy of its storage yard over a reasonably long duration of time span. The findings of the study are not seriously challenged, although some users have argued against the proposed reduction in dwell time citing various other reasons.
- (v).
 - (a). As rightly stressed by JNPT, a port is only a facilitator and it cannot be held solely responsible for the shortcomings, if any, in some other links of the logistics chain.
 - (b). Clause 5.8.1 of the revised tariff guidelines permits a major port trust to decide on the number of free days. Such a decision has to be based on the congestion position and the leeway available to the port to permit longer storage time, as a marketing measure, without sacrificing the efficiency in ship-shore and gate operations. As brought out earlier, JNPT has mooted the proposal with a view to decongest its container yard. It may be significant to note from the analysis furnished by the JNPT that the average dwell time in many categories is well below the free time allowed in the Scale of Rates.
 - (c). It is conceded that a port trust cannot be totally oblivious of the difficulties faced by its users. It is for this reason the Statute empowers the Board of Trustees to waive / remit charges in deserving cases. Significantly, the JNPT has also assured not only to take initiatives to address some of the issues causing bottleneck in the chain, but has also indicated that it would provide relief to users when it becomes absolutely essential. It may also be relevant here to note that this Authority has already granted a flexibility to all the major ports to liberalise the provisions of the Scale of Rates, at their discretion, for the benefit of users.
- (vi). It may be clear from the above, that there does not appear to be any reason for conceding to the demand of some of the users for not reducing the existing free dwell time of ICD containers, moved by road and moved by rail. Each item is analyzed below.

- (vii). ICD containers moved by road:
- (a). A loaded ICD container moved by road from the premises of JNPT to a destination ICD can remain at the container yard of the port free of storage charges for first seven days in the existing arrangement. The average dwell time of ICD containers moved by road during a period of fourteen months emerged from a study conducted by the port hovers around seven days. This implies that on account of the proposed reduction of free dwell time from seven days to three days storage charges will accrue from fourth day to seventh day. JNPT has estimated an additional income of Rs.98.52 lakhs for the years 2007-08 and 2008-09 arising out of reduction in free dwell time. This additional income will be over and above the storage income of Rs.2235 lakhs estimated for the years 2007-08 and 2008-09 during the last revision of JNPT tariff in September 2006.
- (b). This Authority approved in September 2006 the Scale of Rates of JNPT after considering the income estimations, admissible cost and permissible return. The schedule relating to the dwell time charges at JNPT forms part of Scale of Rates approved then. In order to maintain revenue neutral position at JNPT, the additional income estimated by the port that may accrue to it, may have to be factored in. JNPT has not proposed corresponding reduction in the dwell time charges to off-set the additional income despite a request made in this regard, on the ground that the port should not be penalised for inefficiency of others. The proposal appears to have arisen in order to decongest the yards and not for revenue generation. Therefore, it is not unreasonable to require JNPT to maintain a revenue neutral position, which cannot be called as penalising the port.
- (c). The existing first slab of dwell time charges prescribes 7 days free period for ICD loaded containers moved by road. Charges have been prescribed in the second slab for a period of 8 to 15 days. When the existing 7 days free period is reduced to 3 days, the period from 4th day to 7th day shall become a chargeable slab. In that case, dwell time charges on the ICD import and export loaded containers which remain in the port premises during the period 4th day to 7th day before moved by road may be prescribed applying an appropriate reduction on the charges prescribed for the existing second slab of the relevant tariff item.
- (viii). ICD containers moved by rail:
- (a). JNPT has shown that the average dwell time of ICD containers moved by rail is around five days which has further improved to two to three days during the period October 2006 to January 2007, despite the constraints pointed out by the users. Bearing in mind that this position reported by the JNPT in the meeting convened by it is not countered by the users and keeping in view the preparedness of the service provider to make available adequate rakes, reduction in the free dwell time for ICD containers moved by rail to seven days from the existing level of fifteen days may not impose any unreasonable burden on users.
- (b). JNPT has estimated an additional income of Rs.287.56 lakhs for the years 2007-08 and 2008-09 if the existing free dwell time of fifteen days is reduced to seven days. This additional income will be over and above the storage income of Rs.2235 lakhs estimated for the years 2007-08 and 2008-09 during the last revision of JNPT tariff in September 2006. For the reasons stated earlier in the case of ICD containers moved by road, the additional income requires to be off-set by an appropriate adjustment in the rates for the new chargeable slab.
- (c). In the existing arrangement, four slabs have been prescribed for levy of dwell time charges from ICD containers moved by rail. The first slab prescribes free period and the remaining three slabs prescribe applicable storage charges. If the span of all the chargeable slabs are modified consequent to the modification required in the first slab of free period, as proposed by the port, the effect of reduction in the free period prescribed in the first slab will pass on to other three chargeable slabs,

which may unduly burden the users. It may suffice if the existing span of 15 days of the first slab (which is a free period slab) is modified as first 7 days as free period slab and a new chargeable slab is introduced to bridge the time period from 8th day to 15th day. The rate for the new chargeable slab of 8th to 15th day should be prescribed with suitable adjustments in the existing storage charge applicable for the slab period 16-30 days.

(ix). Transshipment loaded containers:

- (a). The next item in the proposal of the JNPT is reduction in the free dwell time for transshipment loaded containers from the existing 30 days to 10 days. This is based on port's contention that no user has availed dwell time in excess of 10 days during the relevant study period and, the average dwell time is reported at 6.27 days. Users have generally endorsed the proposal. As rightly observed by MANSA, transshipment does not appear to be a major activity at the JNPT terminal. That being so, comparison of free dwell time prescribed for transshipment containers at the JNPT and in other foreign port may not be relevant.
- (b). Based on the average dwell time of around six days against 30 days free period, the proposal of the port to scale down the existing free dwell time for transshipment loaded containers to 10 days may not pose any additional burden on users of this category. Obviously, JNPT does not anticipate additional income on account of reduction in free dwell time of transshipment containers.
- (c). Differential free dwell time of 30 days for loaded transshipment containers and 15 days for empty transshipment containers have been prescribed in the existing arrangement. To a query in this regard, JNPT has proposed 10 free days for empty transshipment containers at par with the free dwell time proposed for loaded transshipment containers, which is approved.
- (x). (a). As brought out earlier, the total storage income estimated to accrue to the port during the years 2007-08 and 2008-09 works out to around Rs.2235 lakhs. JNPT has conveyed an additional income of Rs.386.08 lakhs on account of the proposed reduction in free dwell time of ICD containers moved by road and moved by rail. This additional income works out to 17.27% as a percentage of the estimated total storage charges of Rs.2235 lakhs. This means that the estimated total storage charges have to be reduced by Rs.386.08 lakhs.
- (b). The estimated total storage income of Rs.2235 lakhs is a product of the prescribed dwell time charges leviable on all the containers, including ICD containers. Considering the (then) estimated total storage income of Rs.2235 lakhs and the estimated additional storage income of around Rs.386 lakhs, all the tariff items prescribed in the existing schedule of dwell time charges for containers stored in the port premises may warrant a reduction of around 17%. In this regard, it has to be kept in view that the existing individual tariff items are not with reference to cost of providing the service or cost of the storage yard facility of the port but based on the overall position of the container handling activity at the terminal. That being so, there is a flow of cross-subsidisation between the sub-activities. It is, therefore, not appropriate to effect a reduction of 17% across all the tariff items relating to the schedule of dwell time charges for containers prescribed in the existing Scale of Rates of JNPT without assessing the position in totality. In order to prescribe dwell time charges for the newly introduced slabs chargeable in respect of ICD containers moved by rail and road the charges applicable for the respective immediate chargeable slab period is reduced by 17% and made applicable.

- (xi). Significantly, the JNPT has now reported that neither there is diversion of container traffic from JNPT to the second private container terminal at JNPT nor any major decline in the traffic of the port after commencement of operations at the third container terminal, contrary to the position maintained by it in the estimate of container traffic during the last general revision of its tariff in September 2006. It may be recalled that the port had submitted at the time of the general revision of its tariff that it would face a decline in container traffic due to likely diversion of the traffic to the second container terminal. In terms of paragraph 16.3 of the Order dated 28 September 2006 passed by this Authority disposing of the proposal of the JNPT for general revision of Scale of Rates, the JNPT is required to furnish to this Authority the actual financial performance details in the format prescribed for filing tariff proposal along with its annual accounts and performance report for the year 2006-07 within 30 May 2007. This requirement is reiterated. If JNPT fails to provide such information immediately, this Authority may proceed *suo motu* to review the tariff of JNPT after giving sufficient opportunity of being heard to JNPT. The additional income accrued due to reduction in dwell time approved now will be fully considered in such review.

11.1. In the result, and for the reasons given above, and based on a collective application of mind, the Scale of Rates of JNPT is amended by suitably inserting the following provisions under serial number 3, 5, 6 and 7 of Section 3.3.3 – dwell time charges for containers stored in the port premises.

Sr. No.	Particulars	Rate per container per day or part thereof (in US \$)		Rate per container per day or part thereof (in Rs.)	
		Upto 20' in length	Over 20' to upto 40' in length	Upto 20' in length	Over 20' to upto 40' in length
		3	ICD Import & Export loaded – moved by road First 3 days 4 – 7 days	Free 2.2928	Free 4.5856
5	ICD Import & Export loaded or empty – moved by rail First 7 days 8 – 15 days	Free 2.0177	Free 4.0354	Free 88	Free 176
6	Transshipment – loaded First 10 days 11 – 45 days	Free 2.7625	Free 5.525	Free 121	Free 241
7	Transshipment – Empty First 10 days 11 – 30 days	Free 2.7625	Free 2.7625	Free 121	Free 121

11.2. The amendments to the Scale of Rates will come into effect after expiry of 30 days from the date of Notification of the Order in the Gazette of India.

(A.L. Bongirwar)
Chairman

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/33/2006- JNPT - Proposal from Jawaharlal Nehru Port Trust for reduction of free period for ICD containers and Transshipment containers.

1. The comments received from the port users / representative bodies of port users and response furnished by the JNPT are tabulated below:

Sl. No.	Comments of Users	Comments of JNPT
(i).	<p><u>Indian Merchants' Chamber (IMC)</u></p> <p>(i). Trade and the JNPT has been assured by CONCOR at a joint meeting that it would supply 21 rakes per day instead of 16 – 18 rakes. This would ensure that there is no backlog.</p> <p>(ii). In light of the above assurance and also taking into consideration the fact that Railway Board permitted the Private Players to get involved in movement of Rakes, wherein private operators can own their own Rakes, the proposal put forward by the JNPT to TAMP is acceptable to the industry.</p> <p>(iii). However, the detention and the delay in non movement of Containers to ICD's by CONCOR or the concerned service provider would have to be borne by the concerned service providers and not to be passed on to the trade.</p>	<p>Depending on the circumstances action as deemed fit shall be taken keeping in view the constraints of the Terminal Operator, if any, in the interest of the Trade.</p>
(ii).	<p><u>Mumbai and Nhava-sheva Ship-agents Association (MANSA)</u></p> <p>(i). ICD Containers by Rail</p> <p>(a). The JNPT's justification for reduction in dwell time charges for rail ICD containers is on the ground that even after taking several pro active measures by Port terminals and Indian Customs to swiftly transfer ICD destined containers to rail, the shipping lines are not co-operating and are deliberately delaying the movement of such containers out of the Port. By reducing the free time to 7 days and thereby increasing the costs for tardiness, the JNPT proposes to incentives the lines to be more prompt in their behaviour. MANSA considers the justification given by JNPT as flawed. According to MANSA, there cannot be any motive for the Lines to deliberately delay the onward dispatch and lengthen the turn round of their equipment. This behaviour would be contradictory to the Lines' own interests.</p> <p>(b). JNPT has stated that from November 2004 even though Customs have done away with the need to file Sub-Manifest Transshipment (SMTP) and obtain Customs</p>	<p>We do not agree with the views expressed by MANSA as the proposal is prepared keeping in view the factual dwell period at JNPCT in the recent past.</p> <p>Depending on the circumstances action as deemed fit shall be taken keeping in view the constraints of the Terminal Operator, if any, in the interest of the Trade.</p>

clearance to move to ICD, there has been no appreciable reduction in the dwell time.

Though the JNPT Customs waived SMTP from November 2004 its benefit could not be realized until mid 2005. Most ICDs offer 3 calendar days free time, including the date of arrival at the ICD, with the Demurrage / Ground Rent payable by the consignee directly to the ICD operator. Consignees cannot file their bills of entry, clear cargo through Customs and take delivery without the manifest. Containers that arrive at the ICD without manifests must necessarily wait until the manifest is received and filed with any delay increasing the burden of demurrage on the consignees. This resulted in huge congestion, mounting demurrage costs on consignees and delay in discharging trains etc.

(c) At present, only one ICD at Delhi Tughlakabad with EDI capabilities (accounting for 40% to 45%) is automated while for over half the ICD volume, the process remains unchanged. Lines cannot dispatch containers without SMTP as the containers would idle at the Destination ICD, incurring demurrage, detention and customer wrath. Hence delay in dispatch of ICD containers is due to the faults in the process and not on account of delay by lines.

(d). JNPT has stated that due to such deliberate delays by Lines, there have been instances of the JNPT experiencing a large backlog for the ICD, while, at the same time, CONCOR were compelled to move empty rakes leading to wastage of resources. MANSA agrees to this observation of wastage of resources and from over a year it along with CSLA and BCCI are struggling with the Port Terminals to resolve this problem. The source of the problem is not the Lines but each component of a network seeking to maximize their sectarian advantage while disregarding the demands of the network as a whole. The solution has been found but yet it is to be implemented by the terminals. Some of the contributory factors are:

(da). The growing number of ICD terminals in Delhi and port terminals (JNPT, NSICT, GTI, Pipavav, Mundra) has fragmented the export traffic stream, resulting in an increasing number of rakes carrying containers to multiple terminals. The result is long train turn round which in turn leads to stabling of trains up the track. The terminals are unable to handle mixed trains. At times, this results in rakes moving out empty to make room for the waiting incoming trains.

(db). There are inter-terminal imbalances. While one terminal has more imports and other will have more exports. Due to lack of co-ordination between the terminals, a train arriving with exports may not be able to turn round in time with imports resulting in pulling out empty or half empty.

(dc). CONCOR is unable to provide advance information about trains to Terminals on the ICD

	<p>destination to which the incoming trains will return. The terminals have no or little time to stack and organize the waiting ICD imports to connect to the outgoing train, which results in trains leaving empty or half empty. Thus the Lines are not the cause of the problem but are the victims of the service providers.</p> <p>(dd). The JNPT has also disregarded the effects of system collapse on the network. The backlog takes weeks to clear and however efficient the Lines may be with SMTP and however cooperative the Customs may be, there will still be delays. Going by JNPT's own data, it is apparent that the lines are achieving a far more consistent performance with their documentations from JNPT and CONCOR.</p> <p>(de). To summarise, Lines do not have any control over the performance of the Terminals, CONCOR or the Railways. The system problems of ICD are the creation of the service providers. The JNPT in effect is trying to seek profit from the problem. The free time for Rail ICD containers should remain at 15 days.</p>	
	<p>(ii). ICD Containers by Road</p> <p>(a). The JNPT has justified the reduction in free time from 7 days to 3 days by citing the example of local delivery containers which are evacuated within a day. ICD containers need to undergo a different process than local delivery containers. Though the bonding requirements have been liberalised by Indian Customs, the regulations still require that the actual value of the cargo to be ascertained by an Invoice, debiting the Bond by that value and other formalities which takes atleast a week. Though the Lines are expediting the process, the average dwell time is around 6.88 days.</p> <p>(b). This will result in consignees paying demurrage for 3 days. Hence the solution lies in changing the process of movement rather than reducing the free time. MANSAs is therefore, not in favour of reducing the free time.</p>	<p>Comments as above.</p>
	<p>(iii). Reduction in free period for Transhipment Containers</p> <p>Transhipment is not a major activity in Nhava Sheva. The two terminals together handle 1.56 lakhs TEUs. There would be few customers or Lines who would accept a 30 days relay dwell time and therefore the original 30 free days is an anomaly. MANSAs has no objection to reducing this to 10 days.</p>	<p>No comments</p>
<p>(iii).</p>	<p><u>The Bombay Custom House Agents' Association (BCHAA)</u></p> <p>We welcome the proposal for reducing the free period of ICD containers from 30 days to 10 days as it gives an indirect commitment to move containers to ICD's within 10 days. However, such reduction should not result in trade</p>	<p>Depending on the circumstances action as deemed fit shall be taken keeping in view the constraints of the Terminal Operator, if any, in the interest of the Trade.</p>

	being asked to pay any cost caused due to transporters not moving the container within the free period. The approval should be subject to this condition.	
(iv).	<p><u>Association of Multimodal Transport Operators of India (AMTOI)</u></p> <p>We agree to the proposal of JNPT for reduction in free period for ICD and Transshipment containers subject to the instances that where there is a delay in evacuation of containers by CONCOR or other agencies on account of any exigencies such as force majeure or other circumstances due to which evacuation of cargo is not possible, the Port should have a dynamic provision to consider extending the free period for evacuation so as to ensure that the cost burden on account of this delay is not passed on to the trade who are not responsible for the delay.</p>	<p>Agreed.</p> <p>Depending on the circumstances action as deemed fit shall be taken keeping in view the constraints of the Terminal Operator, if any, in the interest of the Trade.</p>
(v).	<p><u>The Shipping Corporation of India Limited (SCIL)</u></p> <p>(i). ICD Containers</p> <p>(a). Till date CONCOR is the only agency, which transports containers by rail from JNPT. During monsoon when CONCOR is unable to move the ICD containers during the free period, extra measures are taken by CONCOR to transport containers to ICD destination. These measures are funded by the Shipping Lines/ Trade by payment of Rs.300 per TEU for all ICD containers.</p> <p>(b). The proposed reduction in free days will again put the burden on the trade whereby the trade will be doubly hit by way of payment of ground rent to port and additional charges to CONCOR for evacuation of ICD containers in case of congestion in the terminal.</p> <p>(c). If the average dwell time for ICD Containers is only 4.77 days as submitted by JNPT, then the free period is only academic in nature and its reduction will not in any way benefit the terminal either by way of revenue generation or by decongesting the terminal. We have no objection in reduction of free days provided any delay in transporting the ICD containers requiring rail movement is paid by CONCOR.</p>	<p>JNPT has not furnished any comments</p>
	<p>(ii). Transshipment Containers</p> <p>(a). The Coastal shipping on the Indian Coast is not well developed and frequency of feeder vessels to other ports on the coast from JNPT is less. Due to this the containers are unable to be transhipped to their destinations on time. Hence the free days for transshipment containers be maintained at current 30 days.</p> <p>(b). The transshipment ports like Colombo also provide 21 days free time for transshipment.</p> <p>(c). If the average dwell time for TP Containers is only 6.27 days as submitted by JNPT, then the additional free period is only academic in nature and its reduction will not in any way benefit the port.</p>	<p>JNPT has not furnished any comments</p>

2. A Joint hearing on the case in reference was held on 28 December 2006 at the office premises of the Authority. At the joint hearing the following submissions were made:

MANSA & BCCI

1. We are in favour of early evacuation of containers. It is in our own interest.
2. Delay is due to the flaws in process and lines do not deliberately delay clearance of containers.
3. If service providers delay, they should bear the cost. Don't penalise us.
4. Service providers like CONCOR, Customs, etc., may be involved in the process of reduction in free dwell time period. There should be commitment from service providers.
5. There is no justification for reduction in the existing free dwell time period for ICD Containers.
6. The existing 30 days free period for transshipment containers, is, no doubt, more.

JNPT

1. JNPT has provided relief to the users in the time of exigencies.
2. Even after getting permission, users do not come to collect containers. There are instances.

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