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TARIFF AUTHORITY FOR MAJOR PORTS

GNo.143

New Delhi,

20 August 2008

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the Jawaharlal Nehru Port Trust for approving the procedure and fixation of tariff for inter terminal transshipment between JNPT and Gateway Terminals India Private Limited as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/59/2007-JNPT

The Jawaharlal Nehru Port Trust

Applicant

ORDER

(Passed on this 14th day of July 2008)

The Jawaharlal Nehru Port Trust (JNPT) vide its letter dated 13 December 2007 has filed a proposal for approving the procedure and for fixation of tariff for inter terminal transshipment between JNPT and the Gateway Terminals India Private Limited (GTIPL), a private container terminal at JNPT.

2.1. The main points made by the JNPT are summarised below:

(i). The existing Scale of Rates of JNPT prescribes the procedure and the rates with regard to inter terminal transfer of transshipment containers between JNPT and Nhava Sheva International Container Terminal Limited (NSICT).

(ii). The procedure and the rates prescribed in the Scale of Rates of GTIPL with regard to inter terminal transfer of transshipment containers between GTIPL and JNPT/ NSICT are as follows:

(a). **Procedure for handling transshipment (TP) containers:**

(i). TP Containers discharged at the JNPT/NSICT and bound to be loaded at the GTIPL will be transported by the JNP/NSICT TTs; and, the JNP/NSICT RTGCs will discharge these containers in GTIPL's designated yard.

(ii). Similarly, TP containers discharged at the GTIPL and bound to be loaded at the JNPT/NSICT will be discharged by the GTIPL by using its RTGCs and TTs in the designated yards of the JNPT/NSICT.

(b). **Charges for handling TP Containers:**

(i). If a container is discharged by the JNPT/NSICT and loaded by the GTIPL at its terminal, the charges will be as under:

- 50% of the Transshipment container handling charges as per the JNPT/NSICT Scale of Rates will be charged to the Line by the JNPT/ NSICT.
- For the same container the GTIPL will charge 50% of the transshipment container handling charges as per its Scale of Rates and, in addition, also levy a charge of Rs.1300/- (for 20') or Rs.1950/- (for 40') or Rs.2600 (>40') towards inter-terminal transfer.

(ii). If a container is discharged by the GTIPL and loaded by the JNPT/NSICT at its Terminal, the Charges will be as under:

- The GTIPL will charge 50% of transshipment container handling charges/as per their Scale of Rates.
- For the same container JNPT/NSICT will charge 50% of the transshipment container handling charges as per their Scale of Rates and in addition also levy a charge of Rs.1428/- (for 20') and Rs.2142/- (for 40') or Rs.2856/- (for >40').

- (iii). With respect to GTIPL, there is a variance in the envisaged procedure due to non-availability of common yard between JNPT and GTIPL. The operational procedure involved in the inter terminal transfer of transshipment containers between the container terminal of JNPT and NSICT and between the container terminal of JNPT and GTIPL are tabulated below:

Containers discharged at the container terminal of JNPT and subsequently loaded at NSICT.	Containers discharged at the container terminal of JNPT and subsequently loaded at GTIPL.
JNPT RTGCs would discharge the containers in the inter Transshipment yard at NSICT and <i>vice versa</i> .	JNPT RTGC's would discharge the containers in the inter Transshipment yard at JNPT container terminal for further loading of inter TP container on Tractor Trailer, for shifting to GTIPL and <i>vice versa</i> .

- (iv). This involves an extra move i.e., lift on at both JNPT container terminal and GTIPL. Accordingly, the charge will be as per the respective tariff.
- (v). Based on the existing tariff of JNPT and GTIPL, the JNPT has derived and proposed tariff for inter terminal transshipment between two terminals.

2.2. The JNPT subsequently vide its letter dated 24 April 2008 has furnished the following draft Scale of Rates proposing tariff for inter terminal transshipment between the JNPT and GTIPL.

By JNPT	From JNPT to GTIPL (Rs.)		By GTIPL	From GTIPL to JNPT (Rs.)	
	Loaded	Empty		Loaded	Empty
50% of TP charges	1275	1105	50% of TP charges	1770	1534
Lift on	340	340	Lift on	472	472
	1615	1445		2242	2006
By GTIPL			By JNPT		
50% of TP charges	1770	1534	50% of TP charges	1275	1105
Lift off	472	472	Lift off	340	340
Inter Terminal Transfer	1300	1300	Inter Terminal Transfer	1282	1282
	3542	3306		2897	2727

Note: The above charges do not include charges for the tractor trailer (TT), as terminal operators will not supply the tractor-trailer for shifting the containers between the two terminals. The TTs will be provided by the shipping line.

3. When a container discharged at GTIPL is loaded at the JNPT terminal, a charge of Rs.1428/- (for a 20' container) is prescribed in the Scale of Rates of GTIPL. The JNPT In its letter dated 24 April 2008 has stated that the rate of Rs.1282/- (for a 20' container) as prescribed in its Scale of Rates leviable in the case of a container discharged at NSICT, should only be levied for a container discharged at GTIPL. The JNPT has sought a clarification with reference to the rate prescribed in the Scale of rates of GTIPL.

4. In accordance with the consultative procedure prescribed, a copy of the JNPT proposal was forwarded to the concerned user organisations for their comments. A copy each of the comments received from some of the user organisations was forwarded to JNPT as feed back information. The JNPT has responded to the comments of some of the user organizations.

5. A joint hearing on the case in reference was held on 30 June 2008 at the office of this Authority. At the joint hearing, the JNPT and user organisations have made their submissions.

6. The JNPT has not furnished any cost justification in support of the proposed tariff. The need for furnishing the exact cost of rendering services instead of relying upon isolated tariff items has already been stressed by this Authority when it disposed of the proposal of the port for fixing charges for Inter Terminal Rail Handling Operations (ITRHO). The JNPT was, therefore, advised at the joint hearing to furnish a detailed cost analysis along with the traffic data and financial implication of the proposal.

7. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>
8. With reference to the totality of information collected during the processing of the case, the following position emerges:
- (i). The existing Scale of Rates of JNPT prescribes the procedure and charges for inter-terminal transfer of transshipment containers between the JNPT and the Nhava-Sheva International Container Terminal Ltd., (NSICT), one of the private container terminals at the JNPT. The proposal of the JNPT is for prescription of the procedure and charges for inter-terminal transfer of transshipment containers between the JNPT and the GTIPL. Though the Scale of Rates of GTIPL prescribes the procedure and charges for the said tariff item, no corresponding provision is available in the Scale of Rates of JNPT. It appears from the submissions of MANSA that the JNPT is operating the provisions prescribed in its Scale of Rates for inter terminal transfer to / from the NSICT, for inter terminal transfer between JNPT and GTIPL. The JNPT entered into a License Agreement (LA) with the GTIPL in August 2004 but no tariff arrangement for inter terminal transfer between JNPT and GTIPL was proposed by the port in its proposal dated 9 August 2005 for general revision of its tariff filed before this Authority.
 - (ii). The JNPT has now brought out the variances in the procedure prescribed in the Scale of Rates of GTIPL. During the relevant proceedings for fixation of tariff of GTIPL, which culminated into tariff Order dated 23 August 2006, the JNPT, which was also consulted in that proceeding, did not object to the relevant tariff item contained in the proposal of GTIPL.
 - (iii). The existing provision prescribes the procedure and charges for inter terminal transfer of transshipment containers between GTIPL and JNPT. This tariff item does not envisage levy of additional charge for lift-on / lift-off. It is normally expected that the GTIPL would have considered all relevant financial and operational aspects while proposing the rates for relevant tariff item. The reasons, if any, for the change in operational procedure that may have occurred after August 2006 are not brought out.
 - (iv). The existing tariff item in the Scale of Rates of JNPT envisages levy of transshipment charges and inter terminal transfer charges when the transshipment containers are exchanged between the JNPT and NSICT. Likewise, the existing tariff item in the Scale of Rates of GTIPL envisages levy of transshipment charges and inter terminal transfer charges when the transshipment containers are exchanged between GTIPL and JNPT / NSICT. As per MANSA, the existing charges include charge towards lift-on and lift-off. The objection raised by MANSA and other users relate to the proposal of JNPT which proposes to add a third element to the existing tariff item for levy of charges towards one lift-on at the receiving terminal and one lift-off at the dispatching terminal as additional movements. This objection is not pointedly refuted by JNPT.
 - (v). However, it emanates from the observation made by SCI and documents available on record that additional lift-on / lift-off is inevitable when the transshipment containers are exchanged between the JNPT and GTIPL. This inevitability perhaps arises on account of the said two terminals do not share a common yard. The JNPT and GTIPL have also sought to argue that they do not have a common yard which is conceded by the SCI.
 - (vi). The BCCI has sought to argue that lift-on / lift-off charges are factored in the existing transshipment charges as well as inter terminal transfer charge also. In the absence of cost details furnished by JNPT in support of its proposal, it is not possible to examine the point raised by the BCCI.
 - (vii). The JNPT has not furnished any cost justification in support of the proposed tariff. The rates of Rs. 340/- per TEU and Rs. 472/- per TEU proposed for lift-on / lift-off operations are derived rates based on the rates approved for the activities in the Scale of Rates of JNPT and GTIPL, respectively. The tariff for the relevant operations appearing in the

respective Scale of Rates is not based on cost of providing individual services, but derived on the strength of the overall cost / revenue position of the terminals. The need for furnishing the actual cost of rendering services instead of relying upon isolated tariff items has already been stressed by this Authority when it disposed of the proposal of JNPT for revision of charges for inter terminal rail handling operations of ICD containers at the container terminals in JNPT vide Order dated 28 January 2008 in case No. TAMP/23/2007-JNPT. While bringing out this position again in the joint hearing to the notice of the JNPT, the JNPT was requested to furnish a detailed cost analysis along with traffic data and financial implication of the proposal. We have not received the requisite details from the JNPT till finalization of this case. In the absence of the requisite cost / financial details, this Authority is not in a position to approve the proposal of the JNPT.

- (viii). This Authority passed an Order dated 19.2.2002 prescribing procedure and charges for inter terminal handling of transshipment container at the JNPT and the NSICT. During the relevant proceedings before this Authority the JNPT contented that the (then) proposed inter terminal transshipment charge includes cost of transporting the containers with the help of tractor trailer (paragraph no.3.2 of Order dated 19.2.2002). That being so, it is not clear as to why the JNPT now proposes to exclude transportation of transshipment containers. If the distance between the JNPT terminal and GTIPL terminal is the reason for asking the users to bear the transportation cost, then necessary adjustment in the existing rate is required, which is not made by the JNPT.
- (ix). The JNPT has already been advised to file its proposal ahead of schedule latest by 30 September 2008 for general revision of its Scale of Rates. The JNPT is advised to include the procedure and charges for inter terminal transfer of transshipment containers between JNPT and GTIPL in its general revision proposal to be filed by the port with cost details and addressing all the issues raised by the users. Based on the financial / cost position of the JNPT arising out of the general revision proposal to be filed by JNPT, the relevant tariff item proposed now by the JNPT will be taken up for consideration along with the general revision proposal. Going by the data relating to actual traffic of inter terminal transshipment containers, handled during the year 2007-08, the volume of 15507 TEUs of inter terminal transshipment containers handled between JNPT and GTIPL appears to be not significant.
- (x). The IMC has sought clarification on some issues relating to inter terminal transshipment charges vis-à-vis terminal handling charges / sea freight. The points made by the IMC were forwarded to the JNPT. We do not have the benefit of the views of JNPT for clarifying the points raised by the IMC.
- (xi). The JNPT has sought a clarification with reference to the difference in rates between JNPT and GTIPL prescribed in the respective Scale of Rates as additional charges when JNPT handles a transshipment container discharged by the NSICT / GTIPL for loading operations.

It is relevant here to consider the suggestion of the BCCI for maintaining uniformity of inter terminal transfer charge among all the three terminals. It is noteworthy that the JNPT has evolved a mechanism for levy of a common rate for inter terminal rail handling operations of ICD containers. The JNPT is advised to examine the point made by BCCI, on its merit and in consultation with NSICT, GTIPL and BCCI and accordingly include a suitable provision in its proposal for general revision of its Scale of Rates to be filed by the port before 30 September 2008.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority remits the proposal to JNPT for resubmission with relevant cost details after due examination of the points raised by the users, as highlighted in the analysis given above.

(Brahm Dutt)
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.

No.TAMP/59/2007-JNPT

- Proposal from the Jawaharlal Nehru Port Trust (JNPT) for approving the procedure and fixation of tariff for inter terminal transshipment between JNPT and Gateway Terminals India Private Limited (GTIPL).

1. A Summary of the comments received from the user organizations and the response of the JNPT thereon are tabulated below:

Sr. No.	Comments from port users	Reply furnished by JNPT
(1)	Mumbai and Nhava Sheva Ship Agents Association (MANSA)	
	(a). The Inter terminal transfer charge of Rs.1282/- or Rs.1300/- being levied consists of a handling charge (lift on and lift off) as well as horizontal transfer by tractor trailer. Thus, another lift on/ off charge proposed to be levied is a double incidence of tariff and should not be allowed.	The Scale of Rates of GTIPL prescribes a defined procedure and charges to be levied for handling Inter TP containers between JNPCT/ NSICT and GTIPL. The said procedure cannot be adopted in toto because of non-availability of common yard with the flexibility of operating RTGC's as and when required keeping in view the geographical set up. This will involve an extra move at both the terminals and the charge is as per the proposed tariff.
	(b). The proposed note is factually incorrect as the proposed tariff has an element of Inter terminal charges included in it. The inter-terminal transfer would necessarily be by way of TTs.	JNPT has not commented.
	(c). The JNPT should clarify as to why part of the activity has been segregated and levied a charge, whereas the work of inter terminal transportation is the work of JNPT for which the tariff has been fixed.	With the available setup for handling TP containers between JNPCT and NSICT, the waiting time of tractor-trailers on either side is zero. Incase of GTIPL, due to existing gate concept, non-availability of common yard and equipment, valuable time is lost while exchanging TP containers between JNPCT and GTIPL. This results in additional two movements (one lift on and one lift off) for which the port intends to levy additional Rs.340/- for each lift on and lift off.
	(d). JNPT to clarify that the present free period given for transshipment container between JNPT and NSICT will be given for transshipment container between JNPT and GTIPL.	It is clarified that the free period for transshipment container between JNPT and GTIPL shall be levied in accordance with the TAMP Order notified on 23 July 2007 vide Gazette no.149.
	(e). The proposal of JNPT is not in order and needs to be rejected, as the proposed tariff would only escalate the costs and JNPT would derive double benefit for the same activity.	JNPT has not commented.

(2).	Bombay Chamber of Commerce and Industry (BCCI)	
	(a). For the sake of uniformity and in order for the trade to factor all costs uniformly, it would be better if the same inter terminal transfer cost is applied for all the three terminals.	The Scale of Rates of GTIPL prescribes a defined procedure and charges to be levied for handling Inter TP containers between JNPCT/ NSICT and GTIPL. The said procedure cannot be adopted in toto because of non-availability of common yard with the flexibility of operating RTGC's as and when required. This will involve an extra move at both the terminals and the charge is as per the proposed tariff.
	(b). The lift on/ lift off charges are factored in the transshipment charges.	With the available setup for handling TP containers between JNPCT and NSICT, the waiting time of tractor-trailers on either side is zero. In case of GTIPL, due to existing gate concept, non-availability of common yard and equipment, valuable time is lost while exchanging TP containers between JNPCT and GTIPL. This results in additional two movements (one lift on and one lift off) for which the port intends to levy additional Rs.340/- for each lift on and lift off.
	(c). The lift on/ lift off charges are factored in the inter-terminal transfer cost also.	The proposed tariff is based on existing tariff on which the charge for additional RTGC moves (lift on/ off) is superimposed.
	(d). The ICD rail freight includes lift off from train, horizontal movement by trailer to yard and lift off at yard, besides rail freight.	JNPT has not commented.
	(e). It is not fair on the part of JNPT to suggest additional lift on/ lift off charges. BCCI do not agree with the JNPT proposal.	

2. The comments furnished by SCI, IMC and by GTIPL are summarized below:

The Shipping Corporation of India (SCI)

(i). Procedure for handling transshipment containers:

There is no material change in the topography of JNPCT and GTIPL yards since the rates were first drawn up. The original tariff would have been computed taking cognizance of the fact that the two terminals did not share a common yard. The additional lift on/ off was inevitable for completing the job. It is not clear as to why the issue is being raised now. The JNPT may bring out the change in the operational practice, if any.

(ii). Charges for handling transshipment containers:

The JNPT may break up the cost of movement keeping in mind that the lift on/ off at the discharge and load yards are already incorporated in transshipment charges, so that double charges are not levied for one activity.

(iii). Inter terminal transshipment tariff:

The proposed tariff of Rs.3452/- and Rs.2897/- per TEU for inter-terminal transfer factor the inter-terminal transfer fees. That being so, the shipping lines cannot be asked to provide the TTs. If TTs are

to be provided and paid by the Lines then the inter-terminal element cannot be incorporated in the tariff.

Gateway Terminals India Private Limited (GTIPL)

- (i). Approval to the procedure and the charges proposed by JNPT for inter-terminal transshipment handling between JNPCT and GTIPL may be accorded.
- (ii). The proposed procedure and rates be extended for inter-terminal transshipment handling between GTIPL and NSICT.

Indian Merchants Chamber (IMC)

- (i). By implementing the said proposal, the shipping lines would try to exploit the Importers/ Exporters by passing the charges to them as part of Terminal Handling Charges (THC).
- (ii). Whether, the port considers recovering 50% or 25% of the existing tariff or waive the same in totality, it is a commercial decision between the Carrier and the Terminal operators.
- (iii). TAMP may make it clear in its Order that the said charges are not part of THC and should not be recovered from Importers/ Exporters or from the trade as part of Sea freight, since all transshipment expenses are part of sea freight.
- (iv). The IMC has sought clarification on the following points:
 - (a). Would the inter terminal transshipment cost be recovered from the consignees.
 - (b). Would this be an additional cost that would be added to the THC.
 - (c). All transshipment cost borne by the shipping lines are part of the sea freight and the said charges would now be incorporated under the THC by the shipping lines. The position may be clarified by TAMP.

(In the opinion of IMC, all transshipment costs incurred are part of sea freight and hence inter terminal transshipment is due to ship convenience.)

3. A joint hearing on the case in reference was held on 30 June 2008 at the office of the Authority. At the joint hearing, the following submissions were made:

Jawaharlal Nehru Port Trust (JNPT)

We don't have a common yard with GTIPL. Therefore, there is an additional service in case of movement of transshipment containers between JNPT and GTIPL.

Mumbai and Nhava Sheva Ship Agents Association (MANSA)

We request the same common yard concept prevailing for NSICT should be developed for JNPT & GTIPL.

Gateway Terminals India Private Limited (GTIPL)

We don't have common yard with JNPT. Therefore, additional service is to be provided. The distance between the two terminals is about 3 kms.

Mumbai and Nhava Sheva Ship Agents Association (MANSA)

The condition proposed by JNPT says trucks should be provided by users. This is not correct. In NSICT case, we don't incur expenditure on transportation.
