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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 130

New Delhi, 15 September 2005

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 Mumbai Port Trust for fixation of composite box rate for handling containers within the docks as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/20/2005 - MBPT

The Mumbai Port Trust

Applicant

ORDER

(Passed on this 13th day of September 2005)

This case relates to a proposal received from the Mumbai Port Trust (MBPT) on 16 March 2005 for fixation of composite box rate for handling containers within the docks.

2.1. The MBPT has made the following points in its proposal:

- (i). Container charges are levied on a single box rate worldwide. At the MBPT, different service providers render various services. It was not, therefore, possible for the MBPT to fix a single box rate.
- (ii). Terminal Handling Charges (THC) is a charge collected by container lines from importers and exporters for handling of containers at a port. Detailed analysis done by the MBPT showed that the THC mainly comprises the following:
 - (a). Port trust charges of wharfage and crantage.
 - (b). Charges for transportation of containers.
 - (c). Stevedoring.
 - (d). The miscellaneous charges such as survey, customs charges etc.,

The analysis further showed that the charges recovered under transportation and stevedoring were high.

- (iii). As a measure to integrate services and reduce costs, the MBPT took over the stevedoring from 1 November 2002 and transportation of containers within docks from shipside to container yard with effect from 15 May 2004. TAMP had approved rates both for stevedoring services for various cargo and containers and rates for transportation of containers.
- (iv). With the taking over of the stevedoring and transportation of containers, the entire operations at the terminal between shipside and container yard are within the unified control of the MBPT. It is, thus, now possible and desirable to prescribe a box rate payable by the container operators instead of separate charges for each of the activity.
- (v). The present proposal is in sequel to TAMP's directive vide its Order No: TAMP/20/2004-MBPT, dated 10 August 2004 relating to MBPT's proposal for fixation of charges for handling / removal of containers from shipside to container yard and vice versa.
- (vi). Prescription of composite box rate envisages grouping of charges prescribed in the existing Scale of Rates for the following services:
 - (a). On board stevedoring.
 - (b). Container handling equipment.
 - (c). General cargo handling at docks.
 - (d). Transportation of containers.

Present charges for the above services are recovered separately as per the provisions of Docks Scale of Rates (DSR).

- (vii). The services rendered above are in deficit. As such, the composite box rates proposed are not cost based. These rates have been derived with a view to have competitive edge over the adjoining ports.

- (viii). (a). The rates for some of the services covered in the composite box rate are prescribed in US dollar and in respect of few other services in Indian Rupees. The charges for handling the containers at the hook point and container wharfage have been prescribed in terms of US dollars whereas charges for stevedoring and transportation are presently prescribed in Indian Rupees.
- (b). Since the rates for cargo inside the container are being recovered from the consignees, the composite box rate does not include any cargo related charges.
- (ix). The transportation charges for transportation of containers from shipside to container yard and vice versa, are recovered from the lines and paid to the MBPT contractor. The rates presently being recovered for this service are the rates collected by the transporters through the competitive tenders. The rates incorporated in the proposed box rates are the rates being recovered for rendering the service of transportation to the container operators.
- (x). The rates approved by TAMP for rendering stevedoring service are valid up to 30 September 2005. If cost of stevedoring service is reviewed based on the cost figures of 2004-05, the rates for rendering these services may have to be enhanced considerably. Since the rates indicated in the composite box rates are the rates presently being recovered for rendering stevedoring services, it is necessary to load certain percentage of rates to cover the future enhancement. It is also necessary to consider sufficient cushion to cover the increase in cost of rendering the stevedoring service due to increase in salary and wages cost, maintenance and fuel cost. Therefore, the proposed rates in respect of general and ICD loaded containers are little more than the charges presently being recovered.
- (xi). Except cost of transportation of containers, cost of rendering other services are common in respect of container, general break bulk, liquid and dry bulk cargo at the docks.

2.2. The proposal has been endorsed by the Board of Trustees of the MBPT in its meeting held on 28 December 2004.

2.3.1. In this backdrop, the MBPT has requested this Authority to approve the following composite box rates for handling container within the docks:

(A). Composite Charges on cargo containers handled at the berths having Quayside Gantry Cranes.

Sl. No.	Particulars	Rate for containers upto 20' (Rs)		Rates for containers above 20' (Rs.)	
		Loaded	Empty	Loaded	Empty
(i)	General containers	2500	2000	3750	3000
(ii)	ICD Containers	3800	3300	5700	4950
(iii)	Transshipment containers	3000	2600	4500	3900
(iv)	Same bottom containers	3000	2600	4500	3900
(v)	Export containers brought by Barge under Shipping Bills from other ports for shipment	3000	2600	4500	3900

(B). Composite Charges on cargo containers handled at berths other than those mentioned at (A) above.

Sl. No.	Particulars	Rate for containers upto 20' (Rs)		Rates for containers above 20' (Rs.)	
		Loaded	Empty	Loaded	Empty
(i)	General containers	1900	1700	2850	2550
(ii)	ICD Containers	3200	3000	4800	4500
(iii)	Transshipment containers	3000	2600	4500	3900
(iv)	Same bottom containers	3000	2600	4500	3900
(v)	Export containers brought by Barge under Shipping Bills from other ports for shipment.	3000	2600	4500	3550
(vi)	Containers moved by barges between MBPT and other ports	1450	1300	2000	1850

2.3.2. In addition to revision of rates, the MBPT has also proposed certain modifications in some of the existing conditionalities.

3.1. In accordance with the consultation procedure prescribed, the proposal of the MBPT was forwarded to the concerned port Users / representative body of port users for their comments. The comments received from the users were forwarded to MBPT as feed back information.

4. Based on a preliminary scrutiny of the proposal, it was found that additional information/clarifications were required on various issues. Accordingly, the MBPT was requested to furnish additional information/ clarification. The queries raised and the response of the MBPT are tabulated below:

Sr. No.	Queries raised by Authority	MBPT's reply to our queries
1.	Propose necessary amendments for deletion of the relevant entries (relating to itemized rates) in its Scale of Rates keeping in view, inter alia, the Orders passed by this Authority amending its Dock Scale of Rates, fixation of rates for stevedoring services taken over by it for import and export cargo including containers, fixation of rates for stevedoring services for containers brought by barges, cargo brought by coastal barges and cargo handled in stream and fixation of charges for handling / removal of containers from shipside to container yard and vice versa.	The proposed composite box rates cover services rendered on board the vessel, handling at the wharves, removal to pre-stack area by the transporters and handling by QGC in cases of container vessels berthed at BPS. To recover the box rate from containers, it is necessary to avail of facilities referred to above. In some cases, it may so happen that container may not avail of all the services referred above. Necessary conditions to regulate charges are incorporated in the draft Notification. Since the transportation is being carried out by the transporters the rates paid to the transport contractor by the port is recovered from the users. Once composite box rate is approved, there will not be any additional recovery from the users on account of transportation even if fuel prices escalate. In case container requires additional movements, it is necessary to recover only transportation charges from the container operators, at the rates, being paid to transport contractors. It is, therefore, proposed to retain these provisions in Scale of Rates.

2.	<p>The cost statements indicating (provisional/actual) for the year 2004-05 and projections for the next three years (i.e.,) 2005-06 to 2007-08 may be updated in line with the revised guidelines for tariff fixation.</p>	<p>Cost statement for 2004-05 is being prepared taking cognizance of the date of submission of the proposal. The proposal under reference is not cost based. A composite rate is derived on the basis of rates already in existence, which was cost based. The MBPT has furnished the rates for covering cost of rendering the services. Such rates are more than the proposed rates.</p>																				
3.	<p><u>Traffic:</u> Please furnish the following details for quay-crane berths and non quay-crane berths separately: (i). The basis of estimation of container traffic for the years 2005-06 to 2007-08.</p>	<p>After introduction of Box rate at par with JNPT or below, the volume is expected to increase. The volume of the Container traffic is given below:</p> <table border="1" data-bbox="922 745 1425 1048"> <thead> <tr> <th>Year</th> <th>Quay Crane berth (TEUs)</th> <th>Non-Quay Crane berth (TEUs)</th> <th>Total TEUs</th> </tr> </thead> <tbody> <tr> <td>2004-05 (Actuals)</td> <td>41499</td> <td>177225</td> <td>218724</td> </tr> <tr> <td>2005-06 (Estimates)</td> <td>-</td> <td>-</td> <td>200000</td> </tr> <tr> <td>2006-07 (Estimates)</td> <td>-</td> <td>-</td> <td>250000</td> </tr> <tr> <td>2007-08 (Estimates)</td> <td>-</td> <td>-</td> <td>250000</td> </tr> </tbody> </table>	Year	Quay Crane berth (TEUs)	Non-Quay Crane berth (TEUs)	Total TEUs	2004-05 (Actuals)	41499	177225	218724	2005-06 (Estimates)	-	-	200000	2006-07 (Estimates)	-	-	250000	2007-08 (Estimates)	-	-	250000
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	<p>(ii). The number of 20' containers and 40' containers estimated to be handled under different category for the relevant years.</p>	<p>The MBPT has furnished the category wise number of containers estimated to be handled for the period from 2005-06 to 2007-08 and actuals for the year 2004-05</p>																				
	<p>(iii). Number of coastal containers estimated to be handled during the relevant years under different category.</p>	<p>Number of coastal containers estimated to be handled for the period from 2005-06 to 2007-08 and the actuals for the year 2004-05 is furnished by MBPT.</p>																				
4.	<p><u>Operating income:</u> (i). Detailed working for estimating operating income for the years 2005-06 to 2007-08 may be furnished. (ii). Please furnish a detailed working of income estimated for the years 2005-06 to 2007-08 under the existing arrangement and under the proposed arrangement.</p>	<p>Not furnished by MBPT. Not furnished by MBPT.</p>																				
5.	<p><u>Operating Cost::</u> (a). Please furnish the breakup of the cost elements constituting operating cost for all the years under consideration.</p>	<p>The port has furnished breakup of the cost elements constituting operating cost for the years 2001-02 to 2005-06.</p>																				

	<p>(b). The employee cost in terms of direct labour cost and maintenance labour cost furnishing the details of number of employees deputed and their salary and wages, overtime, etc., under each category may be furnished.</p>	<p>Employees cost in terms of direct labour cost and maintenance labour cost including the number of employees are furnished by the port for 2001-02 to 2005-06. The relevant details for the year 2004-05 and 2005-06 are as follows:-</p> <p style="text-align: right;">Rs. in Lakhs</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 20%;">2004-05</th> <th style="width: 20%;">2005-06</th> </tr> </thead> <tbody> <tr> <td>Direct labour cost</td> <td style="text-align: center;">10098.75</td> <td style="text-align: center;">10533.00</td> </tr> <tr> <td>Maintenance Labour cost</td> <td style="text-align: center;">497.11</td> <td style="text-align: center;">518.49</td> </tr> <tr> <td>Employees (numbers)</td> <td style="text-align: center;">6615</td> <td style="text-align: center;">-</td> </tr> </tbody> </table>		2004-05	2005-06	Direct labour cost	10098.75	10533.00	Maintenance Labour cost	497.11	518.49	Employees (numbers)	6615	-
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	<p>(c). Please furnish the following with regard to the equipment running cost:</p> <p>(i). Operating cost like electricity cost per TEU, fuel cost per TEU and quantum of fuel / electricity required to handle one TEU.</p>	<p>(i). Information regarding container handling equipment is given below:</p> <ol style="list-style-type: none"> 1. Electricity cost per TEUs (in case of QGC) Rs.28/- approx. 2. Fuel Cost per TEUs (in case of RTG) Rs.70/- approx, 3. Quantum of Electric Power Consumption per TEU 7 Units approx. 4. Quantum of fuel required per TEU 2 Ltrs. Approx. 												
	<p>(ii). Equipment wise repairs and maintenance cost.</p>	<p>Equipment (Quayside Gantry Cranes), Repairs and Maintenance Cost</p> <p style="text-align: right;">(Rs. In lakhs)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 60%; text-align: center;">2001-02</td> <td style="width: 40%; text-align: center;">25.68</td> </tr> <tr> <td style="text-align: center;">2002-03</td> <td style="text-align: center;">19.97</td> </tr> <tr> <td style="text-align: center;">2003-04</td> <td style="text-align: center;">33.11</td> </tr> <tr> <td style="text-align: center;">2004-05</td> <td style="text-align: center;">33.65</td> </tr> </tbody> </table>	2001-02	25.68	2002-03	19.97	2003-04	33.11	2004-05	33.65				
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	<p>(iii). The MBPT may indicate whether it has outsourced any activity relating to container handling and, if so, please furnish outsourcing cost per TEU.</p>	<p>The MBPT has outsourced handling and transportation of containers between Shipline and Container yard with effect from 15.5.2004. The prevailing rates are Rs.594/- for loaded container having length upto 20' Rs. 484/- for empty container having length upto 20" Rs. 891/- for loaded container having length above 20' and Rs.726/- for empty container having length above 20'.</p>												
	<p>(iv). Please furnish the details of overheads with breakup and basis considered in the cost estimation for handling containers.</p>	<p>Overheads allocated are as follows:</p> <ol style="list-style-type: none"> (a) Departmental overheads i.e. Port and Traffic Department. (b) Storekeeping (c) Labour Welfare and Medical (d) Residual administration, and (e) Engineering Workshop. <p>Expenses on approx. 174 cost centers are compiled under above five groups and apportioned on pre-determined basis. Hence details have not been furnished.</p>												

	<p>(d). The breakup and cost elements constituting the general facilities considered in the cost statement for all the years under consideration may be furnished.</p>	<p>Breakup of cost elements constituting general facilities is as under: (Rs. in lakhs)</p> <table border="1"> <thead> <tr> <th>Description</th> <th>2004-05</th> <th>2005-06</th> </tr> </thead> <tbody> <tr> <td>General facilities at Indira Dock</td> <td>948.80</td> <td>989.60</td> </tr> <tr> <td>General facilities at Prince's and Victoria Docks</td> <td>547.62</td> <td>571.16</td> </tr> <tr> <td>Operational and Maintenance of RIM Bascule Bridge.</td> <td>0.19</td> <td>0.20</td> </tr> <tr> <td>Dock sanitation.</td> <td>359.04</td> <td>374.48</td> </tr> <tr> <td>Expenditure incurred on the watch and ward</td> <td>604.17</td> <td>630.15</td> </tr> <tr> <td>New Minor works</td> <td>7.84</td> <td>8.18</td> </tr> <tr> <td>Total</td> <td>2467.66</td> <td>2573.77</td> </tr> </tbody> </table>	Description	2004-05	2005-06	General facilities at Indira Dock	948.80	989.60	General facilities at Prince's and Victoria Docks	547.62	571.16	Operational and Maintenance of RIM Bascule Bridge.	0.19	0.20	Dock sanitation.	359.04	374.48	Expenditure incurred on the watch and ward	604.17	630.15	New Minor works	7.84	8.18	Total	2467.66	2573.77
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	<p>(e). The MBPT has stated that it has made adjustments in cost details to reckon with cost of common services provided to containers, general break-bulk, liquid and dry bulk cargo handled at the docks. Details of such adjustments made in the operating cost and the basis therefore may be furnished for all the years under consideration.</p>	<p>Container handling activity at present forms part of the service 'General cargo handled at docks'. This service also covers the general break bulk cargo, liquid, and dry bulk cargo. Existing cost capturing system does not permit segregation of cost of handling of these commodities item wise. Introduction of the composite box rate necessitated segregation of part of the cost from the service stevedoring and container handling equipment and merging it with the service general cargo handled at docks and container transportation. Even if composite box rate is introduced, MBPT may not be in a position to capture cost of these elements separately. Hence, the cost of stevedoring service in respect of containers and cost of transportation of containers are amalgamated and apportioned the cost of providing service 'Quayside Gantry Crane' with cost of rendering the service 'General cargo handled at docks'.</p>																								
	<p>(f). (i). The MBPT has considered the cost of providing general facilities to the container handling activity. In addition, management and general overheads are apportioned to the container handling activity. In this connection, to clarify that how the general facilities are different from management and general overheads as far as the container handling activity is concerned.</p>	<p>General facilities referred to in the cost statement covers expenses on account of watch and ward staff, illumination, rates and taxes and water charges and General operation and maintenance of some common user facilities. Whereas management and general overheads include store keeping expenses, labour welfare and medical expenses and expenses on department like accounts, Secretary, Legal and services.</p>																								
	<p>(ii). The basis of allocation of management and general overheads to the container handling activity.</p>	<p>Management and general overheads are allocated as under: (1). Store keeping expenses based on value of stores. (2). Engineering overheads based on the expenditure on repairs and maintenance.</p>																								

		<p>(3). Labour welfare and medical expenses based on number of employees.</p> <p>(4). Residual administration based on direct cost.</p>																		
	<p>(g). Please review the depreciation considered in the cost statement for all the years under consideration in the light of clause 2.7.1. and clause 2.9.5 of the revised tariff guidelines.</p>	<p>Depreciation are worked out on straight line method on assets fully commissioned. Board has fixed life of the asset as per directives of Ministry. Reworking of depreciation as per clauses 2.7.1 and 2.9.5 will result in delay in furnishing clarification to TAMP. MBPT's proposal under reference was submitted to the authority well before the guidelines were issued. TAMP is requested not to insist for reworking at this stage. MBPT is proposing comprehensive revision of scale of rates. MBPT will be reworking the depreciation as per the guidelines while formulating proposal for comprehensive revision.</p>																		
	<p>(h). The basis of apportionment of Finance & Miscellaneous expenditure to the container handling activity may be explained.</p>	<p>Finance and Misc. expenses are apportioned based on the number of employees in respect of service 'Stevedoring', salaries, wages and direct cost in respect of service general cargo handled at docks and quayside gantry crane.</p>																		
	<p>(ii). Please furnish the breakup of apportioned Finance & Miscellaneous expenditure to the container handling activity.</p>	<p>Breakup of the finance and misc. expenses is as under:</p> <p style="text-align: right;">(Rs. In lakhs)</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Contributed to pension fund</th> <th>Productivity linked Bonus/reward (PLB/PR)</th> </tr> </thead> <tbody> <tr> <td>2001-02</td> <td>11450.36</td> <td>551.45</td> </tr> <tr> <td>2002-03</td> <td>7558.40</td> <td>612.92</td> </tr> <tr> <td>2003-04</td> <td>11755.82</td> <td>526.46</td> </tr> <tr> <td>2004-05</td> <td>12032.93</td> <td>539.46</td> </tr> <tr> <td>2005-06</td> <td>11943</td> <td>536.09</td> </tr> </tbody> </table>	Year	Contributed to pension fund	Productivity linked Bonus/reward (PLB/PR)	2001-02	11450.36	551.45	2002-03	7558.40	612.92	2003-04	11755.82	526.46	2004-05	12032.93	539.46	2005-06	11943	536.09
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	<p>(iii). The reasons for an increase of around 50% in the Finance & Miscellaneous expenditure for the year 2003-04 as compared to the year 2002-03 may be explained.</p>	<p>In the year 2003-04, MBPT had contributed an amount of Rs.210 crores towards pension fund as against Rs.137 crores in the year 2002-03. This has resulted in increase of around 50% in finance and Misc. expenditure in 2003-04.</p>																		
	<p>(i). (a). The MBPT has claimed a rate of return of 18.5% on the capital employed. As per clause 2.9.2. and 2.9.10 of the revised tariff guidelines, the rate of return on capital employed is 15% and maximum permissible return will be allowed for capacity utilization of 60% and above. The Return on Capital Employed (ROCE) will be further subject to clauses 2.9.5, 2.9.7. and 2.9.8 of the revised guidelines for tariff fixation. The requisite details of capital employed under different</p>	<p>Cost statements were forwarded to TAMP, well before receipt of guidelines for fixation of tariff. It can be seen from the statements forwarded that service is being rendered in deficit. As such, working out returns at 15% or 18.5% does not make any difference for fixation of rates. As against the stated capacity of Mumbai Port of handling 2.92 lakh TEUs, port has handled approx. 2.18 lakh TEUs in 2004-05. Handling is more than 60% of the stated capacity.</p>																		

	categories to be provided accordingly	
	(b). To indicate container handling capacity of the port.	The container handling capacity of the port is 2.92 lakh TEUs.
	(c). The MBPT has depicted negative working capital for all the years under consideration; and, significantly, the resultant capital base also of the container handling activity has turned out to be negative. The MBPT to justify its claim on the return on capital employed at the container handling activity.	Negative working capital for all the years clearly indicates that revenue generated at present is not giving any returns on capital employed. Rate once fixed will remain in force for 3 years as such marginal increase on a few category of containers to cover escalation on account of fuel price and increase in salaries and wages has been proposed to be loaded in the rates mentioned in the proposal. The price of diesel has been increased. This will result in MBPT paying higher amount to the contractors. But once the box rates are fixed, MBPT cannot recover any additional charges on account of escalation in the fuel price. Hence, no further moderation in the rates is advisable. Moreover, all the services covered in the composite box rate rendered in deficit.
6.	The MBPT has stated that the proposed rates for container handling activity at the berths for gantry and non-gantry operations are the derived rates by grouping of existing charges prescribed for on-board stevedoring, container handling equipments, general cargo handled at Docks and transportation of containers. This apart, the MBPT has further added certain percentage of cost to cover future increase in salary and wages cost, maintenance cost of equipments to the existing charges prescribed for rendering stevedoring service and transportation of containers to arrive at the proposed rates. In this connection, the MBPT to justify the proposed rates with reference to the cost of providing services at the quay crane berths and non-quay crane berths.	The proposed composite box rates are not cost based but are competitive rates as compared to the adjoining ports. The rates had to be enhanced considerably, if the rates are to cover the cost of service. The proposed rates are the rates being recovered for some category of containers and the rates are much less than the charges presently being recovered in respect of other category of containers. Since the approved rates will be in force for 3 years, marginal increase has been proposed in respect of general and ICD loaded Containers handled at Gantry berths and in respect of general, ICD and Containers moved by barges between MBPT and other ports at the non-gantry berths to cover the increase in salary and wages, maintenance and fuel of equipment. With the proposed rates, the increase in income, more than the operating cost of the service will be just marginal. In respect of all other containers, the charges proposed are less than the charges being recovered at present.
7.	With reference to the proposed composite charges, please furnish clarification on the following points: (i). The rationale behind adopting the exchange rate of 1 US \$ = Rs. 46 to convert the existing charges for quayside Gantry Cranes and wharfage on containers.	The proposal was formulated in October 2004, when exchange rate of US Dollar to Indian Rupee was varying around Rs. 45.85. As such, MBPT had taken rate of Rs. 46/- to convert the existing quayside gantry crane charges and wharfage on containers which are prescribed in US \$ to Indian Rupees.

	<p>(ii). Clause 5.1.1. of the revised tariff guideline specifies that composite box rate may be prescribed with rebate to be allowed if any of the individual services are not provided by the port. The MBPT has not proposed any such rebates in the proposed Scale of Rates.</p>	<p>Instances of providing any individual services covered in the composite box rate may not normally arise as the services are mandatory. In case any exigencies arise, separate charges for the services rendered will be recovered as per Scale of Rates. With this intention only MBPT has not proposed to delete the clause from the Scale of Rates.</p>														
	<p>(iii). Composite handling charges for container of length above 40' have not been proposed by the port.</p>	<p>The tariff provided under Section V of DSR is for containers having length upto 20' and containers having length over 20'. The rates for container having length 40' and above are covered under container having length above 20'. However, TAMP may prescribe rates for handling these containers at the ratio specified in the revised guidelines.</p>														
	<p>(iv). In terms of clause 4.3 of the revised guidelines for tariff fixation, concessional tariff will have to be prescribed for coastal containers and such container related charges for all coastal containers should not exceed 60% of the normal container related charges. The MBPT may include the rates for coastal containers.</p>	<p>The rates indicated at B (vi) of the proposal are infact the rates for coastal containers. The rates for foreign going containers will be as under:</p> <table border="1" data-bbox="922 869 1439 1144"> <thead> <tr> <th rowspan="2">Description</th> <th colspan="2">Rates for containers upto 20' (Rs.)</th> <th colspan="2">Rates for containers above 20' (Rs.)</th> </tr> <tr> <th>Loaded</th> <th>Empty</th> <th>Loaded</th> <th>Empty</th> </tr> </thead> <tbody> <tr> <td>Containers mover by barges between MBPT and other ports</td> <td>2400</td> <td>2200</td> <td>3300</td> <td>3100</td> </tr> </tbody> </table>	Description	Rates for containers upto 20' (Rs.)		Rates for containers above 20' (Rs.)		Loaded	Empty	Loaded	Empty	Containers mover by barges between MBPT and other ports	2400	2200	3300	3100
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Containers mover by barges between MBPT and other ports	2400	2200	3300	3100												
	<p>(v). In the pricing decision, the MBPT has adopted some existing container handling charges levied by the Jawaharlal Nehru Port Trust (JNPT). In this connection, the MBPT is requested to clarify the following:</p> <p>(a). The reason for prescribing Rs.4,950/- for handling 40' empty ICD container as compared to the JNPT rate of Rs.4,725/-.</p>	<p>Rates proposed for containers having length over 20 feet are one and half times of rates proposed for containers having length upto 20 feet. The ICD traffic vis-à-vis the total traffic is minimal at 4.70%. The Port's revenue is mainly on general containers. Besides, about 40% concession in ICD Box Rate is granted on ICD containers at present.</p>														
	<p>(b). In respect of transshipment containers, the MBPT has adopted the rates at JNPT. In this regard, please confirm whether the performance / productivity levels of JNPT are comparable with the performance / productivity levels of MBPT for handling transshipment containers.</p>	<p>MBPT is 132 years old whereas, JNPT is a port developed recently with ultra-modern facilities for handling containers. MBPT is labour oriented port, whereas, JNPT is a mechanised port. Comparison of productivity levels of MBPT with that of JNPT will therefore not be appropriate. The performance / productivity level of TP containers at JNPT and MBPT may not be the same. However, to attract more transshipment containers the rates have been brought on par with JNPT rates.</p>														

	<p>(c). The reason for proposing same rates for handling transshipment containers at quay crane berths and non-quay crane berths may be explained.</p>	<p>At present, charges on transshipment containers are recovered at the rate of Rs.6,908/- at quaycrane berths and Rs.5,623.06 at non-quay berths. As against this, MBPT is proposing to recover Rs.3,000/- for a containers having length upto 20'. Since charges proposed are lower than the rates presently being recovered, no differentiation between quay crane berth and non gantry berths has been made. The volume of transshipment containers is very minimal. Inorder to encourage the transshipment of containers, the box rate for TP Containers handled at Quay Crane berth and non-quay berths has been fixed at the same rate.</p>
	<p>(vi). Please explain the reason for proposing handling charges of same bottom containers and export containers brought by barges under shipping bills from other ports for shipment at the level prescribed for handling transshipment containers in the quay crane berths.</p>	<p>MBPT has pegged the rates in respect of same bottom containers and export containers brought by barges at the level of charges prescribed for handling transshipment containers. The operations involved for handling the same bottom containers, TP containers and containers brought under Shipping Bill are the same, hence the Box Rate is proposed at same rate.</p>
	<p>(vii). Rates for same bottom containers and export containers brought by barges under shipping bills from other ports for shipment are proposed to be at the same level. Again, these two categories of containers are proposed to be levied handling charges at the same level at both quay crane berths and non-quay crane berths. However, empty export containers of above 20' length brought by barges under shipping bills from other ports for shipment is proposed to be levied different.</p>	<p>Presently charges recoverable on these containers at the respective berths are much more than the rates proposed. In respect of export container of above 20 feet length brought by barges under shipping bill from adjoining port for shipment and handled at non-gantry berths, charges presently levied are Rs. 3586.03. As against this, a moderate rate of Rs. 3550/- has been prescribed.</p>
	<p>(viii). Please confirm whether the charges prescribed for handling export containers brought by barges under shipping bills from other ports for shipment, both in quay crane and non-quay crane berths cover the operations in both loading and unloading cycles.</p>	<p>It is confirmed that the charges prescribed both in quay crane and non quay cranes berths cover the loading and unloading operations.</p>
	<p>(ix). The existing on board stevedoring levy includes lashing / unlashng of containers. Please confirm whether the proposed composite rates cover providing services towards lashing / unlashng. Rebate may be proposed, if the lashing / unlashng services are not provided by the port.</p>	<p>The proposed Box Rate does not cover the services rendered for lashing/unlashng of containers. The existing rebate under Section IV (C) of DSR may continue.</p>

	<p>(x). The MBPT has proposed higher rates for handling ICD containers as compared to other category of containers. Please explain the additional services proposed to be provided for handling ICD containers at quay crane berths and non-quay crane berths.</p>	<p>The general containers are handled and transported between shipside and Container Yard, whereas the ICD containers are not only handled and transported between Shipside and Container Yard but also loaded/unloaded on to the wagons/Agents' trailers and hauled to and from Shunting Yard at Wadala.</p>																												
	<p>(xi). With reference to the proposed composite charges on cargo container handled at the berths not having gantry operations, the MBPT may furnish/ clarify the following:</p> <p>(a). Two sets of rates - one for "export containers brought by barges under shipping bills from other ports for shipment", and another for "containers moved by barges between MBPT and other ports" - have been proposed at Sl. No.(v) and (vi) under sub-section B of Section V. The difference between the containers set out at Sl. No. (v) and (vi) to be brought out with reasons for proposing differential rates.</p> <p>The reasons for not proposing such a differential rates in respect of containers handling at the berths having quayside gantry cranes to be brought out.</p>	<p>Containers mentioned at Sr. No. 5 of sub-section B are the export containers brought in shipment to Mumbai Port from other ports whereas containers referred to in Sr. No. 6 of sub-section B are the containers moved by barges between MBPT and other ports. At present this movement takes between MBPT and JNPT only. Containers moved between MBPT and other ports are at present handled at a particular berth which is not having quayside gantry crane. This system may continue in future also. Hence, rates for such type of activities have not been incorporated in the schedule of rates prescribed for containers handled at berths having QGCs. These containers involved a single activity of either loading or unloading. The rates at Sl. No. 5 are applicable for the export containers brought under Shipping Bills from JNP by sea unloaded at this Port and subsequently loaded on vessels involving both import and export operations.</p>																												
	<p>(xii). In respect of containers moved by barges between MBPT and other ports two categories of rates have been proposed. Out of these two categories of rates, the following category of rates have been written in pencil.</p> <table border="1" data-bbox="375 1630 874 1906"> <thead> <tr> <th rowspan="2">No</th> <th rowspan="2">Details</th> <th colspan="2">Rates for containers upto 20' Rs.)</th> <th colspan="2">Rates for containers above 20'(Rs.)</th> </tr> <tr> <th></th> <th></th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td>(vi)</td> <td>Containers moved by barges between MbPT and other ports 60%</td> <td>870</td> <td>780</td> <td>1200</td> <td>1110</td> </tr> </tbody> </table> <p>The proposed rates may be confirmed in print and the necessity for prescribing two</p>	No	Details	Rates for containers upto 20' Rs.)		Rates for containers above 20'(Rs.)						(vi)	Containers moved by barges between MbPT and other ports 60%	870	780	1200	1110	<p>Inadvertently, certain figures were indicated in pencil below the rate actually proposed. Rates actually proposed are furnished below.</p> <table border="1" data-bbox="922 1541 1437 1666"> <thead> <tr> <th colspan="2">Rates for containers upto 20' (Rs.)</th> <th colspan="2">Rates for containers above 20' (Rs.)</th> </tr> <tr> <th>Loaded</th> <th>Empty</th> <th>Loaded</th> <th>Empty</th> </tr> </thead> <tbody> <tr> <td>1450</td> <td>1300</td> <td>2000</td> <td>1850</td> </tr> </tbody> </table>	Rates for containers upto 20' (Rs.)		Rates for containers above 20' (Rs.)		Loaded	Empty	Loaded	Empty	1450	1300	2000	1850
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	categories of rates for containers moved by barges between MBPT and other ports may be explained.	
	(xiii). With reference to the Notes proposed to the Sub-section (A) and (B) of Section V, please clarify the following: (a). The definition of cargo containers proposed at Note (i) does not appear to cover the different containers for which composite charges are proposed. The definition of cargo containers may be reviewed.	Definition referred to in Note (1) is universal definition of describing units of containers. Different types of containers covered in the rate schedule have been defined in the general rules to section I of DSR and section V of DSR.
	(b). Please elaborate the proposed Note (ii) to include services provided to different categories of containers.	Charges include On-Board stevedoring charges, handling at Shipside, removal of container between shipside and Prestack/RCD Yard, loading/ off-loading of ICD containers on Railways wagons.
	(xiv). With reference to Note (iv), please clarify the following: (a). The MBPT proposal in reference is to levy composite charges and comprehensive services should include lift on / off at pre-stack area. Notably, the MBPT has stated that the proposed composite charges include charges levyable for container handling equipment. That being so, the necessity for a separate conditionality as at Note (iv) may be explained.	It is confirmed that the levy of composite box rate includes lift on of export/lift off of import containers at the pre-stack area by the transport contractor. Proposed charges do not include handling of containers by top-lift trucks or transtainers. These equipments are not covered in the composite box rate prescribed. All the containers handled at MBPT may not utilise the services of transtainers and toplift trucks.
	(b). Charges for containers handled by Toplift Trucks / Transtainer are leviable only on ICD containers in the existing arrangement. Please explain the reasons for extending levy of charges for containers handled by toplift trucks / transtainers to all other category of containers apart from ICD containers.	It is not correct to say that at present top-lift trucks/ transtainers are leviable only on ICD containers. In terms of Section V(C)(1)(b), these charges are leviable in respect of every container, which has availed services. As such, suitable clause has been incorporated under section V(b) of DSR to enable recovery of additional charges for providing additional facilities.
	(c). With reference to the proposed charges prescribed in dollar terms leviable for toplift truck / transtainers, please note that in terms of clause 5.2 of revised guidelines, cargo related components of container handling activity are required to be denominated in Indian Rupee terms. Please prescribe the proposed charges in Indian Rupee terms, if cargo element cannot be separated.	Toplift trucks and transtainers are the container handling equipment and not for cargo handling. As such, question of prescribing these charges in Indian Rupee does not arise. These are exclusively used for container.

	<p>(d). (i). Likewise, the proposed charges for trailers to be revised in the light of the observation made at (c) above.</p>	<p>Trailers are used for transportation of containers for movement of loaded/ empty containers from shipside to pre-stack area or freight station. These equipment are not cargo handling or movement equipment.</p>
	<p>(ii). To confirm whether the Trailer services are optional or mandatory.</p>	<p>Trailer services are optional.</p>
	<p>(e). With reference to the sub-section D of Section V, License (Storage) fees, please furnish / clarify the following: (i). The MBPT has proposed to continue with the existing arrangement for levy of license (Storage) fees. However, no free period has been prescribed for storage of containers. Please review the License (Storage) fees in the light of clause 5.8.1 and 5.8.2. of the revised guidelines.</p>	<p>As per the existing SOR, license fee is leviable from the day following the day of GLD of the vessel or from the receipt in the port area. However, with a view to attract more number of containers to the port, MBPT has already allowed free days in respect of container. At present, only 3 to 30 calendar days have been granted from time to time. MBPT at present is proposing amendment only to relevant clauses covered under composite box rate prescribed. However, for the sake of clarity, MBPT has furnished statements showing the existing and proposed provisions. We have taken note of the clause 5.8.1 and 5.8.2 of the revised guidelines. MBPT is in the process of comprehensive revision of entire set of scale of rates levied. At that time, suitable provision will be incorporated regarding free days to container.</p>
	<p>(ii). Please modify the proposed Note 10 (i) in terms of clause 5.8.3 of revised guidelines.</p>	<p>At the time of comprehensive revision of Scale of Rates, proposed note 10(1) will be modified in terms of clause 5.8.3 of revised guidelines.</p>
	<p>(f). The unit for levy of charges for levy of reefer plug points to be modified in terms of clause 5.7.1. of the revised guidelines.</p>	<p>Unit of levy of charges for reefer block bonds will be modified at the time of comprehensive revision of Scale of Rates.</p>
	<p>(g). The MBPT has proposed to continue with the existing charges in dollar denomination for supply of port labour for stuffing or destuffing of cargo container. This Authority has passed an order on 10 September 2003 prescribing charges per box for stuffing / destuffing in Indian Rupee terms. To review the proposed stuffing / destuffing charges for providing port labour in terms of Indian Rupee terms. In line with the general principle maintained by MBPT of charging composite rate, the possibilities of consolidating stuffing / destuffing charges instead of levying charges on labour basis to be explored.</p>	<p>Charges prescribed under section V (F) are the charges fixed for supply of on-shore labour. TAMP vide its order dated 10.9.2003 has prescribed charges for supply of on board labour which is distinct from on shore labour. AT MBPT, for stuffing and destuffing of containers two sets of labour viz. on shore and on board are deployed. As such, these charges will be modified at the time of comprehensive revision of SOR, if necessary. Composite box rate presently under consideration of TAMP does not cover the activity of stuffing/ destuffing operations. As the Composite box rate prescribed is in respect of handling at shipside and movement to pre-stack area or vice versa, it is not advisable to prescribe Composite box rate inclusive of stuffing/ destuffing rates at this</p>

		point. This can be considered only after taking over the transportation of containers from pre-stack area to CFS.
	(h). To furnish the basis for the proposed modification to the existing general note (ii) under section V of the Dock Scale of Rates to govern the levy of license fee for storage of transportation and same bottom containers.	Like import containers, Composite box rates have been proposed for transshipment and same bottom containers. This is inclusive of transportation charges. Other charges recoverable on these containers will not be comparable with the charges leviable on import containers. In case these containers remain in the port after expiry of the free days presently being extended, license fees (storage charges) need to be recovered. As such proposed general note (II) has been incorporated and modified to make it more explicit. The same bottom containers are discharged from a ship and loaded on the same ship. The transshipment containers are discharged from a ship and loaded on another ship or transshipped by road.

5.2. The MBPT has also made the following additional submissions:

- (i). TAMP follows fixation of tariff on cost plus basis. The proposed rates are approximately 60% of the cost plus ROI based tariff. Since the pricing is market and not cost based, the benchmark of JNPT rates has been considered. The proposed rates are less than at JNPT.
- (ii). The productivity levels of JNPT could be much higher than MBPT. Tariff is based on volumes. As such, MBPT justifies its proposed rates based on market conditions instead of cost based tariff.
- (iii). MBPT confirms that the proposed rates are inclusive of any impact of escalation on fuel and includes the lift off incase of imports at container stack yard and lift on incase of export containers.
- (iv). Concessional rates have been proposed in certain types of containers viz. General Containers (empty), ICD (empty) handled by gantry, transshipment, same bottom containers to promote traffic in this segment.
- (v). The moderate increase in general containers is expected to fetch additional revenue of approximately Rs.80 lakhs to the Port. The promotional tariff prescribed for certain segments and increase in cost is expected to be set off.

6.1. A joint hearing in this case was held on 30 June 2005 at the Office of this Authority. At the joint hearing, the MBPT and the concerned user organisation have made their submissions.

6.2. At the joint hearing, it was decided that the MBPT should furnish requisite information and also an impact analysis statement comparing the existing and proposed rates. In view of the earlier decision that the cost of on board stevedoring of containers being part of the ocean freight under liner terms cannot be a part of the Terminal Handling Charges, the MBPT was advised to furnish its comments on factoring the principle set earlier in the proposed composite rates.

7. The MBPT in its reply dated 16 August 2005 made the following main points:

(i). The component of the on-board stevedoring in the proposed Composite box rates is as follows:

A) In berths having Quayside Gantry Cranes

		Upto 20'		Above 20'	
		Loaded	Empty	Loaded	Empty
(i)	General containers	378	378	378	378
(ii)	ICD Containers	378	378	378	378
(iii)	Transshipment Containers	756	756	756	756
(iv)	Same bottom Containers	756	756	756	756
(v)	Export containers brought by barges under shipping bills from other ports for shipment	640.50	640.50	640.50	640.50

B) In berths other than at A) above

		Upto 20'		Above 20'	
		Loaded	Empty	Loaded	Empty
(i)	General containers	609.53	609.53	609.53	609.53
(ii)	ICD Containers	609.53	609.53	609.53	609.53
(iii)	Transshipment Containers	1219.06	1219.06	1219.06	1219.06
(iv)	Same bottom Containers	1219.06	1219.06	1219.06	1219.06
(v)	Export containers brought by barges under shipping bills from other ports for shipment	872.03	872.03	872.03	872.03
(vi)	Containers moved by barges between MBPT and other ports	262.50	262.50	262.50	262.50

(ii). The issue of onboard stevedoring forming part of the ocean freight and not Terminal Handling Charges (THC) is relevant only to general containers and ICD containers. Incase of Transshipment Containers, Same bottom Containers and Export containers brought by barges from other ports for shipment, the box rate is totally borne by the container operator and not passed to the importer or exporter. Hence the question of onboard stevedoring forming part of the ocean freight and not Terminal Handling Charges is not relevant for these three categories of containers.

(iii). With reference to the general and ICD containers, it is stated that the onboard stevedoring is covered in the Ocean freight and cannot be recovered under THC. Hence while approving the box rate, TAMP may add a foot note that the box rates include onboard stevedoring charges at Rs.609.53 for containers handled by ship's crane and Rs.378/- by port gantry cranes and the THC charges to the importers/exporters should exclude the onboard stevedoring cost.

8. The MBPT was reminded on 9 August 2005 to update the cost statements for the year 2004-05 and projection for next three years 2005-06 to 2007-08 in line with the revised tariff guidelines. The MBPT was also advised to furnish the workings for estimating the operating income. The MBPT vide its letter dated 31 August 2005 replied that the requisite details were under compilation. We have, however, not received the requisite information from MBPT till the finalisation of this case.

9.1. This Authority had passed an Order dated 12 June 2001 relating to the proposal filed by the MBPT for fixation of ceiling rates for identified port related services. This Authority, *inter alia*, held that cost of on-board stevedoring of containers is a part of ocean freight under liner terms and, therefore, cost of on board stevedoring in such cases cannot be part of terminal handling charges levied by the shipping lines. This Order dated 12 June 2001 passed by this Authority is under challenge before the Hon'ble Court of Bombay by Writ Petition No.2442 of 2001 and the MBPT is one

of the respondents in the Writ Petition in reference. It is to be noted that the Order dated 12 June 2001 is not stayed by the Hon'ble High Court of Bombay.

9.2. With reference to the Writ Petition No.2442 of 2001 filed by the CSLA and MANSA against the tariff Order dated 12 June 2001, the Hon'ble High Court of Bombay has directed this Authority on 23 August 2005 to take a decision within 4 weeks from 23 August 2005 on the box rate proposal filed by the MBPT.

10. 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 at the joint hearing will be forwarded separately to all concerned parties. These details are also available at our website <http://tariffauthority.gov.in>

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

- (i). This Authority while passing the Order in September 2003 on the MBPT proposal for fixation of rates for providing stevedoring services taken over by it, had advised the port to submit its proposal for providing comprehensive service to container and the levy of box rates. As a step towards providing composite services to containers, the port had taken over the stevedoring services and transportation between quay and yard.

In this backdrop, the MBPT has filed this proposal to prescribe composite box rates for handling containers within its docks. The MANSA and BCHAA have, however, suggested for prescription of composite box rate for full cycle of operations upto Container Freight Station. Even though MBPT has not responded to this suggestion, MANSA itself has clarified that prescription of composite box rate for full cycle of operation upto Wadala Container Freight Station may perhaps be possible for the MBPT only when it takes over the transportation of containers between its container yard and CFS. It is an operational issue to be decided by the MBPT. The composite box rate envisages grouping of existing charges for on-board stevedoring, ship to shore transfer movement, between berth and container yard, lift on / lift off at yard and also wharfage component of containers as against separate tariff prescribed in the existing Scale of Rates for various operations. The revised guidelines for tariff fixation encourage prescription of composite box rate covering basic container handling services in the major ports. Even though different views are furnished on the quantum of the proposed rates, the users have not expressed any objection to the box rate arrangement proposed.

- (ii). This Authority notified the revised tariff guidelines on 31 March 2005 in the Gazette of India in compliance with the policy direction issued by the Ministry of Shipping, Road Transport & Highways (MSRTH) under Section 111 of the Major Port Trusts Act 1963. The MBPT proposal is, therefore, analysed in the light of the revised tariff guidelines.
- (iii). The MBPT has claimed that the cost position relating to container handling is in deficit. If the usual cost plus approach of fixing tariff is followed, these rates are to be revised upwards steeply. In order to maintain affordability to users and competitiveness vis-à-vis neighbouring container terminals, the MBPT proposes to aggregate the existing itemized rates with some adjustments.

The argument of CSLA about the inappropriateness of comparing the proposed tariff with that prevailing at JNPT due to the vast difference in the productivity levels deserves to be admitted. The port may have many constraints and compulsions. From the users point of view it is ultimately the combination of tariff and quality of service including productivity.

The CSLA has raised a question whether the method proposed to be adopted by MBPT would be acceptable to TAMP. The question is not clear. It is taken to mean whether this Authority would deviate from the cost plus approach to market based

pricing. The revised tariff guidelines require this Authority to follow a port-wise/terminal-wise cost plus approach. One of the considerations for introducing a third party tariff regulation in port sector is absence of a well developed competitive market. Just because users pay certain charges at one port does not mean that they would be market price in relation to other port. Even if the existing tariff is proposed to be adopted, they need to be justified from cost point of view. If an operator proposes to operate at tariff below the admissible levels of costs to build up volumes, this Authority does not have any objection to such an approach provided it does not significantly add to incidence of cross-subsidisation.

- (iv). The MBPT was requested to furnish the workings for the estimated and actual income. It was also requested to update the cost statement for the year 2004-05 and furnish projections for three years from the year 2005-06 in line with the revised tariff guidelines. The port has assured to furnish details but even after elapse of two months, such details are not furnished. As stated earlier, the direction received from the Hon'ble High Court of Bombay requires an Order to be passed in this case within 4 weeks from 23 August 2005. This analysis is, therefore, constrained to be made based only on the estimates for the year 2005-06 which were furnished initially by MBPT alongwith the proposal.
- (v). In the absence of any other details available, the traffic projection and income estimates furnished by the MBPT are relied upon. The CSLA has raised some doubts about the traffic forecast. If accepting the estimates of MBPT is found to have given any undue advantage to the port due to any wrong estimation, such benefits will be set off in the next review when the actuals will be verified with the estimates considered now.
- (vi). In line with the revised tariff guidelines, this Authority is allowing annual escalation of 6.44% in the tariff revision proposals during the financial year 2005-06. Since the expenditure projection for the 2005-06 as compared to the financial year 2004-05 is less than the escalation factor of 6.44%, the estimates furnished by the MBPT for 2005-06 are considered without any modification.
- (vii). The revised tariff guidelines stipulate that only fully commissioned business assets will be considered for computing allowable depreciation. The port has confirmed that it has calculated depreciation on fully commissioned assets. The MBPT has worked out the depreciation on the basis of life norms of assets prescribed by the Government and has assured to rework the depreciation in line with the revised tariff guidelines at the time of formulation of its comprehensive tariff proposal. As stated by the port, the revision of depreciation may not make any significant impact on the final deficit position. The depreciation of assets for the year 2005-06 is accepted as reported by MBPT.
- (viii). There is an increase of around 50% in the Finance & Miscellaneous Expenditure for the year 2003-04 as compared to the year 2002-03. The MBPT has sought to explain that it had contributed an amount of Rs. 210 Crore towards pension fund in the year 2003-04 as against Rs. 137 Crores in the year 2002-03. The breakup for Financial & Miscellaneous Expenditure furnished by the port includes contribution to pension fund for the year 2004-05 and 2005-06 also. The revised tariff guideline does not permit one time expenses viz., contribution to pension fund for past liabilities as an item of cost in the tariff revision exercise. In the other tariff cases of MBPT decided in the recent past, this Authority had disallowed contribution to the pension fund as an item of cost since the additional contribution represented building up of the fund for the deficit of the past and not the simple annual contribution to the fund. The breakup of arrears and current pension fund is not furnished. In the absence of such details, the entire contribution to pension fund is excluded, though in principle it is admitted that current payment will qualify for inclusion under this head. The Financial & Miscellaneous Expenditure is, therefore, moderated accordingly.

- (ix). In order to assess the reasonableness of capital base, the MBPT was requested to furnish the requisite details of capital employed in the facilities to handle containers. The port, however, did not furnish the requisite details. The MBPT has, however, confirmed that the assets are fully commissioned. Further, the MBPT has estimated a negative working capital for the year 2005-06. The net block of the assets as furnished by the port is considered as capital employed for the purpose of this analysis.
- (x). The maximum permissible return on capital employed under the revised tariff guidelines in case of major port trusts and private terminal operators for the financial year 2005-06 is fixed at 15%. The MBPT has claimed the capacity utilisation of about 75% for the year 2004-05 and this level is assumed to remain the same level for the year 2005-06 also. The ROCE is, therefore, taken at the maximum level of 15%. Since the MBPT has computed the ROCE at 18.5% of the capital employed, necessary corrections have been made in the cost statement.
- (xi). Subject to the analysis given above, the financial / cost statement has been amended. The modified cost statement is attached as **Annex – I**. The summarised position of the results disclosed by the financial / cost statement for the year 2005-06 is presented in the table given below:

(Rs. in Crores)

Year	Container handling activity	
	Deficit after ROCE (in Rs.)	Deficit as % of Operating Income
2005-06	86.06	64.16

It is, however, to be admitted that the deficit position to be seen in the light of flow of cross-subsidisation between various activities. A meaningful analysis in this regard is possible only when all the activities of the port are taken up for review. It is noteworthy that the MBPT has been advised on more than one occasion to file a comprehensive proposal which they have agreed to submit by 15 September 2005.

- (xii). The container related charges being levied at MBPT, *inter alia*, include quay side gantry crane and wharfage on containers. The charges for quayside gantry cranes and wharfage on containers are denominated in US dollars terms. Since the proposed composite rates are in Indian Rupees, the MBPT has applied an exchange rate of Rs.46/- per US dollar to convert the existing dollar denominated rates. As admitted by the MBPT, the exchange rate was around Rs.45.85 in October 2004. As rightly pointed out by the CSLA, the exchange rate prevailing in October 2004 cannot be applied now for conversion purposes. But, adjustment of the rates to the current exchange rate will not alter the final decision in this case in view of the deficit depicted by the cost statement. Further, any adjustment made will only reduce the projected operating income which will further widen the revenue gap.
- (xiii). (a). Clause 5.1.1. of the revised tariff guideline stipulates prescription of composite box rate with rebate to be allowed if any of the individual services included in the composite rate are not provided by the port. The MBPT did not propose any such rebates in the proposed Scale of Rates. The MBPT has, however, explained that separate charges for the services rendered shall be recovered as per the itemized rates in Scale of Rates. While furnishing clarification, the MBPT has, however, maintained that provision of all services included in the composite rate is mandatory. The stand of MBPT is not clear. It will be an appropriate arrangement if rebates in the composite charge are prescribed for any of the services not provided by the port. Accordingly, rebate in the composite rate is to be allowed to the extent of the itemized rate available in the existing Scale of Rates when a corresponding service is not provided.
- (b). The MBPT has also not proposed composite box rate for container of length above 40'. Rates for handling container of length above 40' are prescribed at the ratio specified in the revised guidelines.

- (c). In the absence of any specific mention in the proposal about concessional tariff for coastal containers, rates for coastal containers of all categories have been included in the amendment to the Scale of Rates in terms of Clause 4.3. of the revised tariff guidelines and the Orders passed by this Authority in compliance of the policy direction issued by the Government.
- (xiv). The proposal for prescription of Composite Box rates falls under two main categories; namely, Box rates proposed to be levied for the services rendered at the quay side gantry berths and non-gantry berths. The proposed box rates for five categories of containers proposed to be levied at gantry berths are discussed as hereinunder:

- (a). With reference to the general loaded containers of 20' (hereinafter 20' container) and above 20' and upto 40' (hereinafter 40' container) the proposed rates show an increase of around 11% and 3% respectively over the existing itemized rates when consolidated. This increase is on account of cushion to absorb the increase in salary and wages cost and maintenance cost of equipments including fuel as clarified by the MBPT. The increase in cushion proposed for 20' loaded containers is more as compared to the 40' loaded containers. It is to be recognized that the cushion to absorb anticipated increase in cost may not vary with the type of container handled. Nevertheless, the rates between 20' containers and 40' containers should be 1:1.5 as per the revised guidelines. This differential is found to have been maintained in the proposed rates and the proposed rates are approved.

In respect of the box rates for general empty containers, the proposed rates are less than the aggregate of the existing itemized rates. The proposed rates for general empty containers are approved.

- (b). (i) In respect of loaded ICD containers, both 20' and 40', proposed increase is 8% and 2.7% respectively. The MBPT has adopted the similar approach followed in normal containers for loading the cushion to meet estimated increase of salary and wages cost and maintenance cost including fuel for computing the proposed rates for ICD containers.
- (ii). The proposed rates for all ICD containers are higher rates as compared to other category of containers. To a query, the MBPT has explained that handling of ICD containers involve operations of loading/unloading of containers on to the wagons / Agents' trailers and hauled to and fro shunting yard at Wadala. The additional service to be provided to ICD containers are clearly mentioned in the Scale of Rates.
- (iii). The proposed composite rates to handle all ICD empty containers are less than the aggregation of the existing itemised rates
- (c). The proposed rates for all ICD containers are approved. The MBPT has pegged the proposed rates for transshipment containers at the rates being levied by Jawaharlal Nehru Port Trust (JNPT). Since the proposed composite rates for handling transshipment containers, both empty and loaded, are less than the existing level, this Authority is inclined to approve the proposed rates. The proposed box rates for handling transshipment containers are in line with the Clause 5.5.1 of the revised tariff guidelines.

Though the MBPT has pegged the composite box rates for transshipment containers at the levels prevailing at JNPT, the MBPT has not proposed free period which JNPT allows for transshipment containers. The MBPT has agreed to propose suitable free period while formulating the comprehensive proposal for general revision of its Scale of Rates.

- (d). The proposed composite rates for loaded and empty same bottom containers are less than the existing rates when such existing rates are consolidated; and, hence the proposed rates are approved.
- (e). The proposed composite rates for containers brought by barges under shipping bills from other ports for export are also less than the total of the existing rates for operations involved in handling these export containers. Since the operations involved for handling these export containers and the operations involved for handling transshipment containers are stated to be same, this Authority approves the proposed composite box rates for handling export containers brought by barges under shipping bills from other ports for shipment.
- (xv).
 - (a). The MBPT has also proposed composite box rates for handling various category of containers at the non-gantry berth. Since the operation is in the non-gantry berth, obviously, the MBPT has excluded the gantry crane charges from the computation of box rates for handling normal containers. But, the proposed box rates for handling loaded containers, both 20' and 40', are more by around 18% and 34% than the existing charges. As already stated earlier, the approach adopted by MBPT to propose box rate is to add cushion to compensate anticipated increase in the cost of the handling the containers. But, the increase proposed in the box rate for handling normal containers at non-gantry berth vis-à-vis gantry berth increase is not similar. This dissimilarity remains unexplained. Since the increase of 18% and 34% proposed is well within the overall cost deficit of 64%, the box rates proposed for this category of containers are approved.
 - (b). With reference to handling of empty containers at non-gantry berth the box rate proposed for 20' containers and 40' containers are more by around 13% and 30% respectively as compared to the existing rates furnished by the port. In view of the overall cost deficit position the proposed rates for handling empty containers are approved.
 - (c). The increase proposed by the MBPT in the box rate for ICD containers are 11.25% and about 19% for handling 20' container and 40' container respectively. With reference to the empty ICD containers the port has proposed an increase of around 8% and 16% for 20' container and 40' container respectively in the proposed box rate. In view of the reasons given at paragraph (XV) (a) above, the box rates proposed may be approved.
- (xvi).
 - (a). The proposed box rates for transshipment containers are less than the aggregate of the existing itemized rates. But, such proposed rates are found to be not in line with the revised tariff guidelines. Such charges should not exceed 1.5 times of the charges prescribed for general containers. The proposed rates are, therefore, suitably adjusted.
 - (b). MBPT has adopted the box rates proposed for transshipment containers for same bottom containers on the ground that the operations involved for handling same bottom containers and transshipment containers are the same. The proposed rates for same bottom containers of 20' length, both loaded and empty are, therefore, moderated in line with the modified rates for transshipment containers. The box rates for same bottom containers of 40' and above 40' are prescribed in the ratios stipulated by the revised tariff guidelines.
 - (c). Another tariff item proposed is the box rates for export containers brought by barges under shipping bills from other ports for shipment. To a query in this regard, MBPT has clarified that the proposed rates are applicable for the export containers brought under shipping bills from JNPT by sea unloaded at MBPT

and subsequently loaded on vessels involving both import and export operations.

Since the port has further explained that the operations involved in handling transshipment containers and export containers of this category are same, the proposed rates are restricted to the moderated box rates for transshipment containers.

With reference to the rates for handling empty export containers of 40', the MBPT has pegged the proposed rate to a level slightly less than the existing aggregate of itemized rates. Since all other proposed rates have linkage to the rates of transshipment containers, the deviation made for this particular category of container is not adequately explained by MBPT. Since the rates approved by this Authority are at ceiling levels, the MBPT has the flexibility to operate at a lower level, if it so desires. The box rate for empty export containers of 40' is, therefore, pegged at the level applicable for similar type of transshipment containers.

- (d). In the case of proposed rate for containers moved by barges between the MBPT and other ports, it is to be noted that a similar tariff item is not proposed by MBPT for gantry berth. Incidentally, the MBPT has subsequently modified the proposed rates pointing out that the rates proposed earlier were for coastal containers.

With reference to a query on non-incorporation of rates for handling such containers at gantry berths, the MBPT has explained that the movement of such containers at present takes place between MBPT and JNPT only and are handled at a non-gantry berth and this system may continue in future also. The operation of these containers involve a single activity of either loading or unloading, as explained by the Port. The box rates approved for handling such containers should be made applicable if such single activity of either loading or unloading takes place in the gantry berth of MBPT. The proposed rates for loaded containers as well as empty containers are at levels higher than the aggregate of existing itemized rates. Again, in view of the deficit cost position, the proposed rates are approved. It is noteworthy that the revised proposed rates for containers of 40' are less than the rates as computed in the ratio prescribed in the revised tariff guidelines.

- (xvii). Comparative position of the composite box rates and the aggregate of existing itemized rates for different categories of containers is given below:

Gantry Berths

Sr. No	Container Category	Revised (Rs.)				Existing (Rs.)				Change (in %)			
		Loaded		Empty		Loaded		Empty		Loaded		Empty	
		20'	40'	20'	40'	20'	40'	20'	40'	20'	40'	20'	40'
1	General Containers	2500	3750	2000	3000	2254	3640.50	2149	3483	10.91%	3.01%	-7.45%	-16.10%
2	ICD Containers	3800	5700	3300	4950	3519	5549.50	3414	5392	7.99%	2.71%	-3.45%	-8.93%
3	Transshipment Containers	3000	4500	2600	3900	6908	12081	4298	6966	-130.27%	-168.47%	-65.31%	-78.62%
4	Same bottom containers	3000	4500	2600	3900	4508	7281	4298	6966	-50.27%	-61.80%	-65.31%	-78.62%
5	Export containers brought by barges under shipping bills from other ports for shipment	3000	4500	2600	3900	5918.50	10217.50	3308.50	5102.50	-97.28%	-127.06%	-27.25%	-30.83%

Non Gantry Berths

Sr. No	Container Category	Revised (Rs.)				Existing (Rs.)				Change (in %)			
		Loaded		Empty		Loaded		Empty		Loaded		Empty	
		20'	40'	20'	40'	20'	40'	20'	40'	20'	40'	20'	40'
1	General Containers	1900	2850	1700	2550	1611.5	2124.03	1506.5	1966.53	17.90%	34.18%	11.38%	22.88%
2	ICD Containers	3200	4800	3000	4500	2876.5	4033.03	2771.5	3875.53	11.25%	19.02%	7.62%	13.88%
3	Transshipment Containers	2850	4275	2550	3825	5623.1	9048.06	3013.1	3933.06	-97.30%	-111.65%	-18.16%	-2.83%
4	Same bottom containers	2850	4275	2550	3825	3223.1	4248.06	3013.1	3933.06	-13.09%	0.63%	-18.16%	-2.83%
5	Export containers brought by barges under shipping bills from other ports for shipment	2850	4275	2550	3825	5276.03	8701.03	2666.03	3586.03	-85.12%	-103.53%	-4.55%	6.25%
6	Containers moved by barges between MBPT and other ports	1440	1980	1320	1860	1264.50	1777	1159.50	1619.50	13.88%	11.42%	13.84%	14.85%

It can be seen from the above table that the percentage of increase in rates, where ever allowed, is well within the overall cost deficit of 64.16%. In respect of item No.6 under non-gantry berths, the comparison made is with respect to coastal rates.

The approved composite box rates in respect of the containers of 40' are in line with the clause 5.4 of the revised tariff guidelines.

- (xviii). The CSLA has raised a point whether lift on / off at container yard is included in the composite rate. The MBPT has confirmed that the levy of composite rate includes lift on of export / lift off of import containers at the pre-stack area.
- (xix). With reference to the issue raised by MANSA and CSLA regarding separate levy of escalation in fuel charges which is levied in the rates for transportation between quay and CY, MBPT has confirmed that charges towards fuel escalation will not be levied separately on introduction of the composite box rates.
- (xx). As stated by the MBPT, container charges worldwide are levied on a single box rate. While the proposed box rate includes wharfage on containers, the existing method of levy of wharfage on containerised cargo under many categories will continue to be governed by the wharfage schedule applicable for cargo handled at docks. The wharfage rate also varies with the type of cargo. Generally, such a differential wharfage is not levied at container terminals where box rate is in vogue. The MBPT should analyse the issue further and attempt to evolve a single wharfage rate for containerised cargo. When this is done, the wharfage on cargo can also be included in the composite rate for loaded containers. The MBPT should come up with an appropriate proposal in this regard at the time of the next review.
- (xxi). The BCHAA has demanded that on board stevedoring should be excluded from the composite rate on the ground of THC issues. As correctly pointed out by CSLA, such an exclusion is not made at other terminals where composite box rate is levied. Onboard stevedoring is one of the major services involved in container handling; and, the MBPT incurs cost to provide the service. It is, therefore, necessary to allow recovery of such cost by the port through the tariff.

One of the main reasons which may have prompted BCHAA to make the suggestion in this regard is the findings of this Authority in its Order dated 12 June 2001, passed in the case of MBPT for fixation of ceiling rates for the identified port related services. It is noteworthy that this order does not exclude onboard stevedoring from the tariff recoverable by a port. The issue was whether the charges paid should be passed on through the levy of THC collected by lines. For stated reasons, it was held in the Order that on board stevedoring forms part of ocean freight under liner terms and hence this cost again cannot be included in the THC.

The Order dated 12 June 2001 passed by this Authority is challenged by CSLA and MANSA in WP No 2442 of 2001. The main issues agitated in their Writ Petition relate to the jurisdiction of this Authority to interfere in THC matters and the correctness of the finding on onboard stevedoring. This Authority was fully convinced on the issues before it in the relevant proceeding and passed the Order accordingly. The position has been explained clearly to the Hon'ble Bombay High Court through the affidavit-in-reply to the Writ Petition filed. Since the matter is under judicial review, there is no need for this Authority to dwell more on the principle already set. Most importantly, the request of the petitioners for an interim stay of the impugned Order was not entertained by the Hon'ble Court.

In realization of the position explained above, the MBPT has proposed to indicate the element of onboard stevedoring charge amalgamated in the composite rate. In the given circumstances, the suggestion of MBPT is reasonable and will also address the issue raised by the BCHAA. It is noteworthy that introducing such a break-up is not due to any new principle set but only to continue with the existing decision on the subject. A conditionality is, therefore, introduced in the Scale of Rates specifying the quantum of onboard stevedoring charges included in the box rate. Recovery of this element through THC levied by the Lines / Steamer Agents will be governed by the Order of this Authority dated 12 June 2001. This position will automatically get modified if the High Court decides the writ petition in favour of the Petitioners.

There can be an argument that no such break-up is specified at other terminals where box rate is charged on containers. The relevant finding was made in a proceeding relating to MBPT. This has not been extended by a common adoption Order to all other major ports in view of the litigation faced immediately after the Order was notified for implementation. It was found reasonable to await the outcome of the judicial review of the principle set instead of engaging in more (possible) litigation at different courts of Law. The principles set in the MBPT case will be extended for common adoption at all ports/ container terminal subject to the decision of the Hon'ble High Court in the Writ Petition in reference.

- (xxii). MANSA has raised an issue about transportation cost for container yard to container freight station. Since this activity has not been taken over by the port, the charge for this activity is not included in the composite rate. This means, the private transport operators continue to perform this activity. The Order dated 12 June 2001 passed on the proposal of MBPT includes ceiling rate for this component. It was even revised subsequently on 12 August 2002. The demand of MANSA is to review the ceiling rate for transportation perhaps to adjust it to the current level of input costs. Strangely, the MBPT has made a very casual remark that it is an issue between TAMP and MANSA. It may be significant to note that the existing ceiling rates are fixed based on the proposal of MBPT and the MBPT recognizes this activity as the one covered by Section 42 of the Major Port Trusts Act, 1963. It is not clear how the port is not concerned now with review of the rate therefor. The revised tariff guidelines notified in March 2005 also require the port trusts to initiate proposal for fixing ceiling rates for the port as a whole for the activities identified under Section 42 *ibid* which are performed by different authorized service providers. The MBPT should, therefore, undertake a review whether the existing ceiling rate for transportation from container yard to container freight station is necessary and file a suitable proposal within 3 months if the review warrants any adjustment in the existing rate. The user associations are advised to assist the MBPT in conducting the review exercise.
- (xxiii). The users have suggested that the MBPT should collect the composite box charges directly from exporters and importers. According to MANSA, the administrative machinery for direct billing and collection is in place at MBPT. The MBPT has also agreed to examine this issue further. The MBPT is advised to come up with a pointed proposal in this regard at the time of next review.
- (xxiv). The CSLA has raised an objection against levy of transtainer/TLT charges in US \$. While the MBPT clarified that the transtainer and top lift trucks are container handling

equipment and not meant for cargo handling and justified the prescription of these charges in Dollar terms. The MBPT has retained the approved rates in Dollar terms and not sought specific approval in its proposal for composite box rate.

- (xxv). Since the Notes (ii), (iv) and (vi) to Sub-Section (A) & (B) are proposed in line with the existing notes, this Authority is inclined to approve the proposed Notes. The MBPT at our instance has elaborated the various services rendered for the levy of box rates and accordingly, the Note No (iii) to the Sub-Section (A) & (B) is also approved.
- (xxvi). The MBPT has proposed certain modifications to the existing conditionalities and insertion of some new provisions. These amendments are approved.
- (xxvii). The MBPT has proposed to levy charges separately when the containers are handled by top lift trucks or transtainers. Since the proposed rates are composite rates and comprehensive services should include lift on / off at pre-stake area, the MBPT was asked to clarify the necessity for a separate conditionality for levy of charges for top lift trucks or transtainer. The port has clarified that all the containers handled at the port may not require deployment of transtainer and top lift trucks. It has further confirmed that charges for these containers are not covered in the composite box rate prescribed. The workings furnished by the MBPT for aggregation of the existing rates confirm this position. In view of this, Note (v) to the Sub-Section (A) and (B) is approved as proposed by the MBPT.
- (xxviii). The existing onboard stevedoring levy includes lashing / unlashings of containers. To a query in this regard, the MBPT has clarified that the proposed box rate does not cover the services rendered for lashing / unlashings of containers; and, it has proposed that the existing rebate under Section 4(C) of Dock Scale of Rates may continue. Accordingly, a provision for existing rebate under Section 4(C) of Dock Scale of Rates for the services not rendered for lashing /unlashings of containers is included in the Scale of Rates.
- (xxix). The composite rates proposed for transshipment of containers, at gantry berth and at non-gantry berth are to cover complete cycle of transshipment i.e., discharge from the first carrier to the loading onto the second carrier. If discharge of container from the first carrier is carried-out at gantry berth and loading on of transshipment container is carried out at non-gantry berth or vice versa, separate rates are required to be specified in the Scale of Rates. The MBPT has not proposed such separate rates since the proposed rates for gantry and non-gantry berths were same. Because of the moderation made in the rates levied at non-gantry berth, a conditionality is included stating that when a transshipment container is handled at gantry berth at one leg and at non-gantry berth in the other leg, composite charge should be levied at 50% of the rate applicable for transshipment containers at gantry berth and 50% of rate applicable for transshipment containers at the non-gantry berth.
- (xxx). The MBPT has not suggested the provisions relating to levy of storage charges on the abandoned FCL containers / shipper owned containers in line with the clause 5.8.3. of revised tariff guidelines. The Scale of Rates is amended to include these conditionalities.
- (xxxi). The rates approved by this Authority will be at the ceiling level and the rebate / discount will be at floor level in line with the revised tariff guidelines. The MBPT will have the flexibility to charge at a lower rate, if it so desires, based on the commercial judgment of the port.
- (xxxii). The revised tariff guidelines stipulate a tariff validity cycle of 3 years. As stated earlier, the MBPT has not furnished the income / cost estimates for the years 2006-07 and 2007-08. Since the analysis is based on the projections furnished by the MBPT only for one year (2005-06), the approval to the composite box rates will be valid till 31 March 2006 only. The MBPT should submit a suitable proposal well in advance in prescription of rates beyond 31 March 2006.

12. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the amendments to the Scale of Rates of Mumbai Port Trust as in **Annex- II** attached.

13.1. The revised Scale of Rates will come into effect on expiry of 30 days from the date of notification of the Order in the Gazette of India.

13.2. The revised Scale of Rates will be valid upto 31 March 2006.

13.3. The MBPT should submit well in advance its proposal with all supporting details for fixation of rates for the period beyond 31 March 2006.

(A.L. Bongirwar)
Chairman

				Annex - I
Mumbai Port Trust				
Cost Statement for the Container Service				
	Sr.No.	Particulars	Estimates furnished by MBPT	Estimates moderated by TAMP
			2005-06	2005-06
	I	Operating Income	13412.65	13412.65
	II	Operating Cost		
		Operating Cost	12819.23	12819.23
		General Facilities	2573.77	2573.77
		Depreciation	480.88	480.88
		Finance & Miscellaneous Expenses	12479.13	536.09
		Total	28353.01	16409.97
	III	Surplus (I - II)	-14940.36	-2997.32
	IV	Allocated Management & General Overheads	4959.39	4959.39
	V	Net Surplus (III - IV)	-19899.75	-7956.71
	VI	Capital Employed	11935.00	4327.00
	VII	Return on Capital Employed *	2208.00	649.05
	VIII	Net Surplus after Return on Capital Employed	-22107.75	-8605.76
	IX	Net Surplus after Return on Capital Employed as a % of Operating Income	-164.83%	-64.16%
* The Return on Capital Employed is calculated at 18.5% by MBPT and 15% by TAMP				

Amendment to the Scale of Rates of Mumbai Port Trust charges at the Docks.

- (l). Delete the existing subsection (A), (B) and (C)(1)(a) of Section V of the Scale of Rates charged at Docks and substitute therefor the following:

Section V

CHARGES ON CARGO CONTAINERS, CONTAINERISED CARGO AND CONTAINER EQUIPMENT

(A) Composite Charges on Cargo Containers handled at the Berths having Quayside Gantry Cranes

(Figures in Rs.)

Sr No	Container Category	Ceiling Rates for Containers of length upto 20'				Ceiling Rates for Containers of length above 20' but upto 40'				Ceiling Rates for Containers of length above 40'			
		Loaded		Empty		Loaded		Empty		Loaded		Empty	
		Foreign	Coastal	Foreign	Coastal	Foreign	Coastal	Foreign	Coastal	Foreign	Coastal	Foreign	Coastal
i	General Containers	2500	1500	2000	1200	3750	2250	3000	1800	5000	3000	4000	2400
ii	ICD Containers	3800	2280	3300	1980	5700	3420	4950	2970	7600	4560	6600	3960
iii	Transshipment Containers	3000	1800	2600	1560	4500	2700	3900	2340	6000	3600	5200	3120
iv	Same bottom Containers	3000	1800	2600	1560	4500	2700	3900	2340	6000	3600	5200	3120
v	Export Containers brought by barges under shipping bills from other ports for shipment	3000	1800	2600	1560	4500	2700	3900	2340	6000	3600	5200	3120

(B) Composite Charges on Cargo Containers handled at Berths other than those mentioned at (A) above

(Figures in Rs.)

Sr No	Container Category	Ceiling Rates for Containers of length upto 20'				Ceiling Rates for Containers of length above 20' but upto 40'				Ceiling Rates for Containers of length above 40'			
		Loaded		Empty		Loaded		Empty		Loaded		Empty	
		Foreign	Coastal	Foreign	Coastal	Foreign	Coastal	Foreign	Coastal	Foreign	Coastal	Foreign	Coastal
i	General Containers	1900	1140	1700	1020	2850	1710	2550	1530	3800	2280	3400	2040
ii	ICD Containers	3200	1920	3000	1800	4800	2880	4500	2700	6400	3840	6000	3600
iii	Transshipment Containers	2850	1710	2550	1530	4275	2565	3825	2295	5700	3420	5100	3060
iv	Same bottom Containers	2850	1710	2550	1530	4275	2565	3825	2295	5700	3420	5100	3060
v	Export Containers brought by barges under shipping bills from other ports for shipment	2850	1710	2550	1530	4275	2565	3825	2295	5700	3420	5100	3060
vi	Containers moved by barges between MBPT and other ports	2400	1440	2200	1320	3300	1980	3100	1860	4800	2880	4400	2640

Notes: Sub Section (A) and (B)

- (i). The above composite rates include the following charges towards onboard stevedoring and inclusion of this element in THC levied by the Shipping Lines/ Agents shall be regulated in accordance with the Order of TAMP passed in case no: TAMP/47/2000-MBPT, dated 12 June 2001:

Quayside gantry berths:

- (a). All general Containers and all ICD Containers Rs.378.00
- (b). All Transshipment containers and all same bottom Containers Rs.756.00

- (c). All export containers brought by barges under shipping bills from JNPT for shipment through MBPT. Rs.640.50

Non-gantry berths:

- | | | |
|------|---|------------|
| (a). | All general containers and all ICD Containers. | Rs.609.53 |
| (b). | All transshipment containers and all same Bottom containers. | Rs.1219.06 |
| (c). | All containers handled by barges to and fro Jawaharlal Nehru Port Trust. | Rs.262.50 |
| (d). | All export containers brought by barges under shipping bills from Jawaharlal Nehru Port Trust for shipment to MBPT. | Rs.872.03 |
- (ii). Cargo container means specifically designed container of uniform size for consolidating goods within compact unit.
- (iii). Above charges include On-Board stevedoring charges, handling at Shipline, removal of container between shipline and Pre stack/ RCD Yard, loading/ off-loading of ICD containers on Railways wagons.
- (iv). Additional services of loading/ unloading of containers on to the wagons/ Agents' trailers and hauling to and fro shunting yard at Wadala will be provided to the ICD containers.
- (v). Lashing and unlashng containers on board the vessel shall be the responsibility of the vessel agents. For lashing and unlashng work done by the vessel agent, a rebate of Rs.30 per box will be granted on the boxes on all the boxes loaded/ discharged.
- (vi). When a transshipment container is unloaded at gantry berth and loaded at Non-Gantry Berth or vice versa, 50% of the Box rate for Transshipment Containers prescribed for each of the berths will be applicable.
- (vii). Container from a foreign port which reaches an Indian Port 'A' for subsequent transshipment to Indian Port 'B' will be levied the concessional charges relevant for its coastal voyage. In other words, containers from/ to Indian ports carried by vessels permitted to undertake coastal voyage will qualify for concession.
- (viii). Empty containers received from / removed to ICD by road shall be treated on par with local empty containers for levy of charges.
- (ix). Charges for containers handled by Toplift Trucks or Transtainer shall be levied separately.
- (x). Import loaded container manifested as local if subsequently transhipped to ICD shall be treated as local container till the date on which the container has been allowed by Customs to be transhipped to ICD. Similarly ICD import containers destuffed and cleared from the Port shall be treated as FCL for levy of Port Charges.
- II. Delete the existing notes 5 and 10 of sub-section D and renumber the existing notes 6,7,8,9 and 11 as notes 5,6,7,8 and 10 and insert the following as note (9)
- (9). Demurrage charges on the cargo stuffed inside the container and subsequently destuffed and removed back to town shall be levied as per (5) above. No wharfage shall be levied thereon. Similarly, in the case of cargo stuffed inside the container and subsequently destuffed and again restuffed in the container and shipped on board the vessel, demurrage charges shall be levied as per (5) above till the date of restuffing of cargo inside the container and wharfage in terms of Section I Exports shall also be levied on cargo inside the container.
- III. Delete the existing note 11 of sub-section D and substitute therefor the following

- (11) The storage charges on abandoned FCL containers/ shipper owned containers shall be levied upto the date of receipt of intimation of abandonment in writing or 75 days from the day of landing of the container, whichever is earlier subject to the following conditions:
- (i). The consignee can issue a letter of abandonment at any time.
 - (ii). If the consignee chooses not to issue such letter of abandonment, the container Agent/ MLO can also issue abandonment letter subject to the condition that,
 - (a). the Line shall resume custody of container along with cargo and either take back it or remove it from the port premises; and
 - (b). the line shall pay all port charges accrued on the cargo and container before resuming custody of the container.
 - (iii). The container Agent/ MLO shall observe the necessary formalities and bear the cost of transportation and destuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall continue to be levied till such time all necessary actions are taken by the shipping lines for destuffing the cargo.
 - (iv). Where the container is seized/ confiscated by the Custom Authorities and the same cannot be de-stuffed within the prescribed time limit of 75 days, the storage charges will cease to apply from the day the Custom order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and de-stuffing. Otherwise, seized/ confiscated containers should be removed by the line/ consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.

IV. Delete the existing clause (1) of Sub-Section G and substitute therefor the following:

(G) Charges on Containerised Cargo

Wharfage and demurrage shall be payable on import containerized cargo, excepting those destined to ICD and FCL cleared through Private CFS in terms of Note (8) to sub-section D above as applicable under Sections I & II.

V. Delete the existing General Note (ii) and substitute therefor the following as note (ii)

- (ii) Transshipment and same bottom containers shall be treated on par with import containers for levy of license fees for storage.

- (C) With the prior permission of the MBPT authorities, rebates shall be applicable to the port users for carrying out various operations with their own arrangements in the Gantry berths and Non Gantry Berths. The rebates applicable along with the conditions are as follows:

(i). **Gantry Crane Charges
At Gantry Berths**

Sr. No	Particulars	Rebate (Rs.)	Coastal (Rs.)	
A	<u>General, ICD and Export Containers brought by barges under shipping bills</u>			
	<u>Loaded</u>			
	- 20'	830.87	498.52	
	- 40'	1661.74	997.04	
	- above 40'	1661.74	997.04	
	<u>Empty</u>			
	- 20'	830.87	498.52	
	- 40'	1661.74	997.04	
	- above 40'	1661.74	997.04	
	B	Transshipment and Same bottom Containers		
		<u>Loaded</u>		
		- 20'	1661.74	997.04
- 40'		3323.48	1994.09	
- above 40'		3323.48	1994.09	
<u>Empty</u>				
- 20'		1661.74	997.04	
- 40'		3323.48	1994.09	
- above 40'		3323.48	1994.09	

(ii). **Stevedoring Charges**

At Gantry Berths

Sr. No	Particulars	Rebate (Rs.)	Coastal (Rs.)	
A	<u>General and ICD Containers</u>			
	<u>Loaded</u>			
	- 20'	378	227	
	- 40'	378	227	
	- above 40'	378	227	
	<u>Empty</u>			
	- 20'	378	227	
	- 40'	378	227	
	- above 40'	378	227	
	B	Transshipment and Same bottom Containers		
		<u>Loaded</u>		
		- 20'	756	454
- 40'		756	454	
- above 40'		756	454	
<u>Empty</u>				
- 20'		756	454	
- 40'		756	454	
- above 40'		756	454	

C	Export Containers brought by barges under shipping bills from other ports for shipment		
	<u>Loaded</u>		
	- 20'	640.50	384.30
	- 40'	640.50	384.30
	- above 40'	640.50	384.30
Sr. No	Particulars	Rebate (Rs.)	Coastal (Rs.)
	<u>Empty</u>		
	- 20'	640.50	384.30
	- 40'	640.50	384.30
	- above 40'	640.50	384.30

At Non Gantry Berths

Sr. No	Particulars	Rebate (Rs.)	Coastal (Rs.)
A	<u>General and ICD Containers</u>		
	<u>Loaded</u>		
	- 20'	609.53	365.72
	- 40'	609.53	365.72
	- above 40'	609.53	365.72
	<u>Empty</u>		
	- 20'	609.53	365.72
	- 40'	609.53	365.72
	- above 40'	609.53	365.72
B	Transshipment and Same bottom Containers		
	<u>Loaded</u>		
	- 20'	1219.06	731.44
	- 40'	1219.06	731.44
	- above 40'	1219.06	731.44
	<u>Empty</u>		
	- 20'	1219.06	731.44
	- 40'	1219.06	731.44
	- above 40'	1219.06	731.44
C	Containers handled by barges to and fro other ports	(Rs.)	(Rs.)
	<u>Loaded</u>		
	- 20'	262.50	157.50
	- 40'	262.50	157.50
	- above 40'	262.50	157.50
	<u>Empty</u>		

	- 20'	262.50	157.50
	- 40'	262.50	157.50
	- above 40'	262.50	157.50
D	Export Containers brought by barges under shipping bills from other ports for shipment through MBPT.		
	<u>Loaded</u>		
	- 20'	872.03	523.22
	- 40'	872.03	523.22
	- above 40'	872.03	523.22
	<u>Empty</u>		
	- 20'	872.03	523.22
	- 40'	872.03	523.22
	- above 40'	872.03	523.22

(iii). **Transportation Charges**

Sr. No	Particulars	Rebate (Rs.)	Coastal (Rs.)
A	<u>General, ICD and Containers handled by barges to and fro other ports</u>		
	<u>Loaded</u>		
	- 20'	565	339
	- 40'	847.50	508.50
	- above 40'	1130	678
	<u>Empty</u>		
	- 20'	460	276
	- 40'	690	414
	- above 40'	920	552
B	Transshipment, Same bottom Containers and Export Containers brought by barges under shipping bills from other ports for shipment through MBPT.		
	<u>Loaded</u>		
	- 20'	1130	678
	- 40'	1695	1017
	- above 40'	2260	1356
	<u>Empty</u>		
	- 20'	920	552
	- 40'	1380	828
	- above 40'	1840	1104

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/20/2005-MBPT - Proposal from the MBPT for fixation of composite box rate for handling containers within the docks.

1. The comments received from the port users / representative bodies of port users are summarised below:

Mumbai & Nhava-sheva Shipping Agents Association (MANSA)

- (i). It seems to be an acceptable proposal.
- (ii). The contention of the MBPT that the suggested rates have to be considerably enhanced to meet the actual cost incurred in handling containers arise out of the outdated manning scale, inbuilt deficiencies and other restrictive practices in the port.
- (iii). The rates can be further reduced if actions are taken urgently to rationalise the manning scale and to improve the efficiency level of machines and men.
- (iv). TAMP prescribed ceiling rate for various component of Terminal Handling Charges like stevedoring, transportation and port charges in the year 2000 to control Terminal Handling Charges. There is steady increase in the fuel rate. The respective lines themselves carryout the movement of containers from container yard to Container Freight Station which may be, therefore, necessary for TAMP to prescribe revised rate for the component of transportation for the full cycle of operation to and from shipside.
- (v). MANSA has no objection to the proposal subject to incorporation of conditionalities to the above effect.

2. The MBPT vide its letter dated 1 June 2005 furnished its comments on the comments of MANSA. The response of MBPT are summarised below:

- (i). Prescribing composite box rate envisage grouping of following services rendered by the port.
 - (a). On Board Stevedoring
 - (b). Container Handling Equipment
 - (c). General cargo handled at the docks and
 - (d). Transportation of containers.

Except transportation, all other services referred to above are rendered in deficit by the port. The composite rates proposed are not cost based and are the competitive rates in comparison with the rates prevailing at the adjoining ports.

- (ii). In case if it is decided to prescribe the composite rates on containers to cover the cost of service then the rates had to be enhanced considerably.
- (iii). The composite box rates indicated in the proposal in respect of some category of containers are the rates presently being recovered for rendering the services and in respect of others it is much less than the charges presently being recovered.
- (iv). As the rates once approved by TAMP will remain in force for next 3 years as per revised guidelines for tariff fixation notified by TAMP, marginal increase has been proposed in respect of general and ICD loaded containers handled at the gantry berths and in respect of general and ICD containers moved by barges between MBPT and other ports at the non-gantry berths, to cover the cost of rendering the service due to various factors like increase in salary and wages of staff, increase in cost of maintenance and fuel of the equipments, In respect of all other containers the charges proposed are less than the charges being recovered at present.
- (v). MANSA's contention that enhancement of the proposed rates is based on the outdated manning scales, inbuilt deficiencies and other restrictive practices in the port is not correct. If these factors are taken into account, the proposed rates would have been much high.
- (vi). As regards prescribing revised rates for the component of transportation for the full cycle of operation, it is stated that this is a matter between TAMP and MANSA and hence we have no comments to offer.

3. A joint hearing in this case was held on 30 June 2005 at the Office of the Authority. At the joint hearing, the following submissions were made:

Mumbai Port Trust (MBPT)

- (i). While proposing the box rate we have attempted to peg our rates below JNPT rates.
- (ii). Our cost details will be given shortly. Our calculation shows that the proposed rates are much below the cost.
- (iii). When we placed the proposal before our Board, the exchange rate was around Rs.46/- (October 2004). We followed it for computation.
- (iv). Wharfage and Lift on/off at CY are included in the rate. Fuel escalation will not be levied separately, once composite rate is introduced.

- (v). Our productivity levels are not comparable with JNPT. That is why we have proposed a slightly lower rate and promotional rate for some items.
- (vi). The proposed rates are marginally higher than the aggregate of existing rates, to take care of the possible changes in future on account of
 - transport charges fluctuation
 - stevedoring charge increase
 - FE fluctuation in future.
- (vii). We will consider the suggestion to recover charges directly from the Shippers.

Bombay Custom House Agents Association (BCHAA)

- (i). Even though an option is available to take direct delivery, practically 98% of the containers go to the MBPT- CFS at Wadala. This movement from CY to CFS is charged extra.
- (ii). In order to tackle the THC issue, we suggest that the Port collect the relevant charges, directly from Importer/Exporter. Why should we pay through Shipping Lines?
- (iii). The composite rate should cover services upto CFS.
- (iv). On board stevedoring charges should be excluded from the composite rate as the matter is sub-judice.

Container Shipping Lines Association (CSLA)

- (i). The exchange rate adopted by MBPT is artificial. Today the rate is around 1\$ = Rs.43. Why should it be Rs.46?
- (ii). MBPT should clarify whether Lift on/off at CY (from quay to yard and vice versa) is included in the composite rate. (TM, MBPT says the rate includes this operation).
- (iii). Today, we pay Rs.2247/- per 20' at gantry and Rs.1703/- per 20' container at non-gantry. The proposed rates are more than the current rates. No explanation is offered for the increase.
- (iv). MBPT wants to benchmark itself against JNPT. There is a large difference in the productivity levels, which needs to be recognized.
- (v). JNPT allows free period of 30 days for transshipment. No free time is given at MBPT.
- (vi). Tariff should be stable. Transport charge component should not be revised every time when fuel price goes up.

- (vii). Lift on [item C (i)] by TLT is proposed in US\$ terms. There is no justification to charge this tariff element in dollar terms.
- (viii). Composite rate should be a single rate. BCHAA's demand for splitting composite rate is followed nowhere in the world.
- (ix). If port wants to collect charges directly from Trade, we have no problem. As a matter of fact, we welcome it.

Mumbai and Nhava – Sheva Shipping Agents Association (MANSA)

- (i). We endorse and reiterate the points made by CSLA.
- (ii). 98% of import boxes are delivered from CFS and not at CY. So, the rate should include CY to CFS transportation. MBPT can wait till they take over this operation and present a revised rate so that the full impact to Trade will be clear.
- (iii). MBPT's claim of giving competitive rates to transshipment and ICD containers is not relevant as this traffic is not significant.
- (iv). It is reasonable to expect that MBPT would make a commitment on productivity levels.
- (v). The transportation element of the composite rate should not undergo a periodic change on account of fuel price increase.
(MBPT says, the composite rate will not undergo any change on this account).

Indian Shipowners Association (INSA)

- (i). Consolidation of charge cannot be an excuse to make users to pay more than the charges they pay now.

Indian Merchants Chamber (IMC)

- (i). Please consider the written submissions made by us. We reiterate them.
4. The CSLA, BCHAA, IMC and MANSA and vide their letters dated 29 June 2005, 18 July 2005, 20 July 2005 and 6 July 2005 respectively, made the following written submissions, after the joint hearing. The written submissions made by them are summarized below:

Bombay Custom House Agents' Association (BCHAA):

- (i). The MBPT should collect the proposed rates directly from the importers and exporters, as the charges will be finally borne by them. The port is already collecting wharfage from the exporters and importers and the

proposed charges can also be collected while collecting the wharfage. There is no logic for collection of the proposed charges first from the shipping companies who in turn will pass the charges to exporters and importers. There is no transparency in collecting charges by the shipping companies.

- (ii). The present proposal is only for a segment of expenses incurred in the port (discharge, movement and lift on and lift off from vessel to container yard). It does not include the charges incurred for transportation from container yard to container freight station, de-stuffing, handling lift on / lift off etc at the CFS. These activities are also taking place within the MBPT premises and now in the process of being totally taken over by the port. The MBPT should submit a comprehensive proposal and include all cargo related expenses. The shipping companies will continue to use these expenses, which are not part of the present proposals, to cloak their padding up of the terminal handling charges.
- (iii). On board stevedoring forms part of freight and should not be recovered once again from the trade in any form. On board stevedoring may be charged and collected from the shipping companies separately.
- (iv). The proposed charges should be very reasonable and should be on the principle of reimbursement of expenses and without profit margins as MBPT is already collecting charges in the form of wharfage and demurrage from the trade.

Indian Merchants' Chamber (IMC):

- (i). Composite box rate should be lower than the existing terminal handling cost by approximately Rs.2000 to Rs.2500 per TEU based on the orders of TAMP of 2001.
- (ii). FCL box rate from pre-stake for in the port to the nominated CFS should mention the components included in the rate.
- (iii). General cargo for LCL cargo loading within the port premises should have a separate specific rate.
- (iv). Signing, whining above 3 tonnes per package (heavy lift cargo) should also have a separate specific rate.
- (v). Discharge and loading of containers from the vessel to the pre-stake container yard within the port which is adjacent to the container berth (on board stevedoring) should not be part of the box rate. On board stevedoring cost is part of the sea freight. The Authority has already held this, vide its Order No: TAMP/47/2000-MBPT dated 26 June 2001. It is imperative that on board stevedoring cost be specifically excluded from the composite box rate since the said cost is vessel related cost and not cargo related charge.

Container Shipping Lines Association (India) (CSLA)

- (i). The lines advocate market driven pricing. The MBPT has stated that the services are in deficit and the proposed rates are not cost based. Under this circumstance, are the proposals acceptable to TAMP?
- (ii). The rationale for fixing the exchange rate is not understood. This rate is too high and arbitrary.
- (iii). The proposed note no. (ii) states that the proposed rates include charges for stevedoring , handling at shipside and removal to pre-stack area, but it is not clear as to whether the element of wharfage and the cost of one lift on/ lift off are included in the proposed rates. The same is to be clarified and it must be ensured that the composite rate covers all activities in a logical sequence.
- (iv). Transshipment containers cannot be treated at par with Import containers for levy of licence fees for storage. At JNPT, transshipment containers and import containers are allowed 30 days and 3 days of free storage respectively. At MBPT, only the day of landing is allowed free. This will not attract business to MBPT. Hence, transshipment containers must be allowed 30 days free time.
- (v). The reason for proposing Transtrainer/ TLT charges in US dollars is not known. JNPT's charges are denominated in rupees. This item should be amended suitably.
- (vi). At the Gantry berth, where the QGC are available, the proposed rates do not include the cost item for lifting off or lifting on the container and also the stevedoring charges.
- (vii). The rates finalised by TAMP must stay fixed for at least two years. MBPT while computing its tariff should hedge its cost elements and provide for a cushion to cover future price rise of fuel. JNPT moves many more boxes than MBPT, yet its prices stay fixed.
- (viii). MBPT proposal indicates a growth rate of 5% in traffic, whereas the growth of containerised traffic in the region and the same hinterlands are many times more. There is already migration of business to ports like Mundra. The proposal in reference, does not give indication of MBPT's plan to increase its business through providing cost efficient operations and reduction in the operating costs through rationalisation and redeployment.
- (ix). The proposal does not spell out if at the proposed rates, MBPT will match JNPT's productivity levels in terms of gross berth productivity (gross moves/ hour for the vessel) and gross crane productivity (gross moves/ hour/ crane). It is experienced that at MBPT, the performances is at least 40% less. If a true benchmarking is to be done, then the MBPT's rate should be commensurately pegged lower and not at the levels

proposed. Moreover for non-gantry operations, the rates should be set by deducting the QGC cost from what is arrived at for Gantry operation.

- (x). In JNPT, other than the composite box rate there is no separate wharfage on containerized cargo. If MBPT's proposal is based on benchmarking with JNPT, then its proposal should also consider deleting this item from its SOR for any category of services.
- (xi). Free time given on storage charges for ICD import containers is far less than the dwell time required, before trains are available at MBPT to move boxes inlands. MBPT must reconsider this and propose free time in tariff accordingly. Otherwise its aspiration to handle and attract ICD cargo will not be fulfilled.
- (xii). The principle proposed may be accepted, but the proposal should be re-worked in keeping with the above observations.

Mumbai and Nhava-Sheva Ship Agents' Association (MANSA):

- (i). At the joint hearing, representative of BCHAA suggested that MBPT should collect the composite charges directly from Exporters and Importers.
- (ii). The Administrative machinery for direct billing and collection is already in place since the port is already dealing directly with the import and export trade on various charges such as wharfage.

(iii). MANSA would also recommend that the MBPT bill and collect container handling charges directly from the trade. This would bring a far greater degree of transparency to transaction costs than having shipping lines and shipping agents functioning as collection agencies for service providers.

5. A copy each of CSLA, BCHAA and IMC's letter along with its enclosures was forwarded to MBPT as feedback information vide our letters dated 4 July 2005 and 22 July 2005.
