

TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 143

New Delhi, 15 November 2000

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 approves the proposal of the Nhava Sheva International Container Terminal Limited (NSICT) for revision of its Scale of Rates, as in the Order appended hereto.

(**S. Sathyam**)
Chairman

Tariff Authority for Major Ports

Case No.TAMP/28/2000-JNPT

The Nhava Sheva International Container

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APPLICANT

Terminal Limited (NSICT)

ORDER

(Passed on this 7th day of November 2000)

The Nhava Sheva International Container Terminal Limited (NSICT) has submitted an application for revision of its Scale of Rates proposing an upward revision of 30% in the consolidated charges for movement and handling of containers and containerised cargo with effect from 1 April 2000. The NSICT has also proposed same rates for both laden and empty containers.

2. The NSICT has given the following reasons for its proposal to increase the rates:
- (i). With the present tariffs, the NSICT is loosing money and does not recover a decent return for the service it provides.
 - (ii). There is a negligible contribution towards Return on Capital Employed (ROCE) although the TAMP has advocated its agreement to 18% - 20% return on capital employed.
 - (iii). The level of proposed increase is not substantial. Although TAMP has advocated an 18% - 20% ROCE, the proposed tariffs will yield a lower ROCE to avoid imposing an extremely high tariff increase on customers and the trade.

3.1. In accordance with the consultative procedure adopted by the Authority, the application of the NSICT was circulated to various concerned users/representative body of port users. Comments received from them are summarised below:

The Bombay Custom House Agents Association (BCHAA)

An increase of 30% of the charges proposed by both the JNPT and NSICT is unjustified for the following reasons:

- (i). There is a tremendous increase in the number of containers handled at the JN Port over the past 3 years with a minimum growth rate of 30%. The number of containers handled by the NSICT over the last 9 months is almost equal to the number of containers handled by the JNPT. So increase of tariff is unjustified keeping in mind the cost savings and price benefits that are derived by the operators due to volume leverage.
- (ii). By simple logic rates of each and every operation in container handling cannot increase by 30%.
- (iii). Despite hike in diesel and other operating cost, the small transporters and contractors, who supply container handling equipment and trailers have not increased their tariffs by more than 10% whereas large contractors who have huge overhead but handle larger volumes have increased their tariff by barely 5% to 7%.

- (iv). Terminal Operators have never given their own contractors a one time increase of 30% irrespective of number of years after which their contracts are renewed.
- (v). 40% of the existing THC is being excess recovered from the trade by the Shipping companies towards container handling costs. A further hike in container handling cost will only result in escalation of THC.

The Container Shipping Lines Association (CSLA)

- (i). The proposal lacks any form of justification for the increase. It is, therefore, impossible to comment the rationale for such increase.
- (ii). Order of TAMP dated 5 December 1998 states that the tariff was approved for a two years period. So, it is 8 months premature to revise the tariff. If there is “good reason” for revision ahead of schedule, the NSICT should furnish justification.
- (iii). The NSICT has raised this proposal based on some agreement with the JNPT. There is nothing in any agreement that prevents the NSICT from charging less than the JNPT.
- (iv). The NSICT has chosen to adopt the JNPT tariffs as “ceilings” for their own purpose. The JNPT has chosen not to increase some charges, whereas, the NSICT has proposed increases. So by definition this cannot be allowed.
- (v). Throughput from the NSICT has considerably increased than that estimated at the time of determination of the NSICT current tariff. So the profitability has increased more than expected.
- (vi). The general principle of the apparent linkage between the NSICT and the JNPT must fly in the face of the Government’s avowed intent to encourage competition in the ports and should be examined.
- (vii). When the earnings are in the region of Rs.220-230 crores after payment of royalty, it seems unlikely that the NSICT is making a loss.
- (viii). The existing tariff is subject to a minimum level of performance of 20 moves per hour per crane. This needs to be formally answered before any tariff increase can be contemplated. Any increase proposed (in tariff) should be conditional upon a higher level of performance.
- (ix). The NSICT’s cost base cannot be the same as JNPT’s; and, justification of an increase of 30% on cost ground seems likely to be difficult.
- (x). Billing of empties at the same rate as loaded boxes is illogical as empties can be block stocked, block handled and there is no requirement at all stages to manage units individually. Reward must be commensurate with the work done.

The Shipping Corporation of India (SCI)

- (i). The NSICT proposal for increases seems to be only a follow up on the increase sought by the JNPT, without any justification for increase.
- (ii). Increase given to the NSICT would result in increased remittance out of India. Alternatively, the surplus resources with the private operator may be used to

further develop the facilities in the NSICT terminal. This can relegate the JNPT to a position of non-existence, if it is not able to keep pace.

- (iii). Increase is sought to remain competitive with the JNPT at least in terms of rate.
- (iv). Application is premature with reference to the TAMP Order relating to fixation of current tariffs.
- (v). Volumes handled by the NSICT is 3,43,187 TEU in 1999-2000. With the increased revenue, they, in fact, should be offering much lower rates than the JNPT. Some lines have negotiated lower tariff with the NSICT. TAMP may find out if such rates exist and we would like to know if these low rates were approved by the TAMP.

Karmahom Conference

- (i). The proposal is premature. The existing rate structure of NSICT should not be disturbed.
- (ii). The NSICT has not advanced any tangible reason for the increase.
- (iii). The NSICT seeks increase just to maintain parity with increased JNPT tariff rates.
- (iv). Benefit of lower handling cost at NSICT will not be passed on to the trade, if the NSICT request is conceded to.
- (v). Conceding the increase to the NSICT on the same basis as JNPT will amount to granting benefits of cost plus formula to NSICT based on JNPT cost, which is neither desirable nor justifiable.

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

- (i). The proposal is premature and not given any explanation / justification for the proposal.
- (ii). We would like to see the profitability working of NSICT, before making any comments.

Federation of Indian Exporters Organisation (FIEO)

Indian exporters have been striving hard to compete in the stiff international market with the increasing globalisation of world trade, ability to keep costs low and price the product competitively will be the only way to maintain and increase the market share and any hike in the charges would add to the cost of their exports thereby affecting their export efforts.

The FIEO has also forwarded comments of M/s. Hansa Agencies Private Limited. They have given the following comments:

- (i). Earlier when the goods were shipped in break bulk all the charges were borne by the steamship companies.
- (ii). When the THC was started in India it was Rs.150/- per container for 20' which has jumped now over Rs.9000/- per 20' TEU which is sometime more than 25% of the seafreight.

- (iii). The introduction of the containerisation, the handling charges of steamship companies have gone down considerably.
- (iv). In other countries THCs are borne by the steamship companies themselves. However, in India it pass on to exporters.
- (v). No hike be permitted and the THC should be absorbed by the steamship companies.

Indian National Shipowners Association (INSA)

- (i). The NSICT has merely put up their rates because of the JNPT has proposed an increase. The NSICT should present full details of their costing growth, productivity and reasons for seeking increase. Port Terminals are very much utility services and they should not develop monopolistic approach.
- (ii). The annual throughput has increased from 1,75,000 TEU to 3,51,000 TEU i.e. 100% increase over their expectations. On the other side, JNPT's 1998-99 throughput of 4,61,136 TEU has dropped to 3,74,353 TEU in 1999-2000. Thus, a strange situation seems to be setting in operation. Throughput of the JNPT has dropped and JNPT wants to increase tariff to meet the reduced earnings among other things due to reduction in throughput and as a result the NSICT is required to increase in tariff rate even if its throughput has bounced 100%. More productivity and increased volumes should be the reasons for reducing tariff.
- (iii). The NSICT as per their advertisement is offering a saving of Rs.1200/- per TEU to ships calling at their terminal. In that situation why the increase is sought? All costing and revenue details be disclosed the NSICT and JNPT to give an opportunity to study it by the TAMP and users.
- (iv). Concessional tariff be prescribed for coastal movement of containers to keep in line with Government approval of concessional vessel-related charges.
- (v). The NSICT is proposing to increase the transshipment charges, while JNPT is not increasing the transshipment charges which is not justified.
- (vi). Inflation cost should be set off by depreciation of Rupee value in view of dollar denominations of various rates, and resulting gains from them.
- (vii). Streamlining and rationalisation of the rate for empty flat racks are required. These are handled in five empty flats to a bundle whereas the rate charged is per flat rack. The bundle of five is handled at one time. Hence the rate should be reduced to one-fifth.

The Jawaharlal Nehru Port Trust

- (i). Except for transshipment containers, the NSICT has proposed the same increase in tariff as JNPT has proposed.
- (ii). The JNPT has not proposed any increase for transshipment containers in order to encourage shipping lines to use JN port as a hub-port instead of other ports in neighbouring countries. The present position is that rates applicable to JNP Terminal are normally applicable to NSICT as well. However if in the considered opinion of the Authority NSICT is allowed to charge higher rates than JNPT, we will accept this ruling.
- (iii). Two different exchange rates for conversion of US dollar denominated tariff for collection are prevailing in the JNPT. The NSICT follows the Customs rate which is fixed in the beginning of the month and remain valid for entire month whereas of JNPT, it is the reference rate notified daily by the RBI and applicable on the date of arrival of containers in the port. This anomaly needs to be addressed.

The Western India Shippers' Association (WISA)

- (i). It has fully endorsed the views / comments of the BCHAA.

- (ii). Earlier, the NSICT has no commercial operations so JNPT tariff were adopted. Now commercial operations are already there, so NSICT own cost and revenues should be studied.
- (iii). Ipso-facto approval of rate of the NSICT with reference to the JNPT should not be allowed.

4.1. The NSICT has given the following further comments:

- (i). We have supplied all the required information to justify our tariff increase to TAMP. We do not believe that we are required to submit this information to other organisations as in most cases the information is strictly confidential.
- (ii). Our tariff hike has no connection with the proposed JNPT hike whatsoever. It is a matter of unfortunate timing that the two proposals have been received by TAMP in the same year. The NSICT requires a tariff increase based on the financials presented and to provide adequate returns to the company.
- (iii). We are not aware of any written or other agreement, or any Government policy that states the private operator must charge less than the public sector operator. A private port operator, like any other private business, must be allowed to achieve adequate return on investment. If private operators are not allowed to achieve adequate returns this will actively discourage private investment in Indian Ports.
- (iv). NSICT guarantees 20 moves per hour. In reality we surpass this benchmark comfortably. Such world class levels of productivity mean that ships stay less time in port and hence freight costs are less and goods reach international markets quicker.
- (v). NSICT does not require the personnel of Lines / Shippers to be deployed inside the terminal. Our customers save on labour and other costs by using NSICT.
- (vi). Once it is inside the NSICT terminal we take full responsibility for the customers' containers and cargo. This does not happen at any public sector port in India.
- (vii). Hansa Agencies appears to have confused THC with our tariff.
- (viii). We reject in totality the bogey of "monopoly" that the INSA is trying to raise. This contention is not supported by any hard facts.
- (ix). The INSA has tried to put forward a case that the NSICT shall not be allowed to increase tariff because throughput has increased "more than 100%". This argument does not make any commercial sense.
- (x). The INSA makes the point that the NSICT is proposing an increase in transshipment tariff though JNPT is not. This is in contrast to the INSA's earlier point that NSICT is increasing rates merely because JNPT is. It also proves our contention that the customer has a wide choice in terms of tariff and service in the MBPT – JNPT region.
- (xi). We have provided ample transparent information to TAMP that clearly justifies that the tariff increase should be granted on commercial grounds.

- (xii). Customers using the NSICT are tremendously benefited in term of cost savings, reliability and efficiency. The incremental revenues from these benefits are far greater than incremental costs due to the tariff increase.
- (xiii). Emotional issues such as “monopoly” and “cartel” are being raised without providing any objective justification whatsoever. The customer in the MBPT – JNPT region has tremendous choice in terms of cost and services.

5.1. In reply to our further queries, the NSICT has submitted following further information vide its letter dated 14 June 2000:

- (i). They have given a Schedule showing details of capital employed and return on Shareholders funds.
- (ii). The average dwell time for imports and exports is taken as 5 days and 8 days respectively. Exchange rates for 2000/01 and 2001/02 have been assumed at 45.58 and 48.31 respectively. They did not anticipate any major increase in the dwell time and it cannot be compared to other Ports.
- (iii). With reference to a query on cost of fuel and repair cost per TEU, the NSICT has stated that the fuel cost should have been computed at Rs.16.03 per litre and accepted that 6% inflation on actual cost of fuel have been erroneously added. The NSICT also agreed that the fuel cost for the boats should have been computed at Rs.16.03 per litre.
- (iv). Rent for the Mumbai offices is US dollar denominated as per the Agreement.
- (v). A copy of the Agreement for payment of Technical Services Fee has been submitted.
- (vi). The NSICT has stated that their application does not reflect the effects of Minimum Alternate Tax and Dividend Distribution tax.

5.2. The NSICT has also submitted the following information along with its letter dated 14 July 2000.

- (i). A copy of the Rent Agreement, (relating to the NSICT Corporate Office)
- (ii). Revised Forms II and III reflecting the actuals for the year ending 31.3.2000 and projections for 2000-01 and 2001-02.
- (iii). Cash flow statement.
- (iv). Details of capital employed.

6. A joint hearing in this case was held on 21 July 2000 at the JNPT office in Mumbai. During the joint hearing, the following submissions were made:

Nhava Sheva International Container Terminal Limited (NSICT)

- (i). If shipping lines cartelise there is no objection. Why object now?

- (ii). Costs have gone up. We have to revise the tariffs before completion of the 2-year cycle.
- (iii). Financial data cannot be given to everybody due to confidentiality
- (iv). We stand committed to the Government policy of liberalisation of the economy and promotion of market competition. We respond with our efficient service.
- (v). Double the work is involved in transshipment. We have, therefore, asked for an increase even though the JNPT does not want it.
- (vi). We are all for efficiency linked tariff. Let there be some specific proposal. We will consider. But, there has to be a premium for efficient service.
- (vii). NSICT cannot operate without profit. We must also earn some profit.
- (viii). Same effort is involved in loaded and empty container handling. Therefore, the handling rate should be the same.
- (ix). We want an increase in the handling rates and not the storage rates. We do not want our yard to be cluttered with containers. 90% of the containers move within 3 days.
- (x). There is not much of a difference between the RBI rate and the Customs Rate. But the Customs Rate is more stable during the month.
- (xi). We are a company and we have gone by the depreciation rates given in the Companies Act and also by the entries in the contract.
- (xii). The cost statements have been corrected to remove double counting of interest on loan.
- (xiii). Variable and Fixed Technical Service Fees are global practices and are further approved by the FIPB and the RBI.
- (xiv). Variable Technical Fees can be on profit before or after deduction of certain elements of expenditure. Only the percentage share will go up if it is after deductions.

- (xv). The NSICT is a company. We buy services from the P&O; we have to pay. We can prove it to the TAMP.
- (xvi). Actuals are widely variant from projections. We have, therefore, had to seek revision ahead of schedule. On exchange rate fluctuations, we have gone by the trend and have consulted the experts - 6% to 7% inflation is realistic.
- (xvii). We need not be tied down with the JNPT rates. If TAMP decides otherwise, we will abide by it.
- (xviii). We see no point in the demand for concessions for coastal cargo. Actually subsidies are being done away with. If coastal traffic can be subsidised, why not others?
- (xix). There may be special contractual arrangements between Lines and Terminal Operators on free service. But, there are costs. Unless they are specifically waived by the Terminal Operator, they cannot be ignored.

Bombay Custom House Agents Association (BCHAA)

The NSICT says that they are giving many free services. But the Lines have not passed on even a part of this benefit to the trade. TAMP must look into it.

Container Shipping Lines Association (CSLA)

- (i). Commercial confidentiality is correct. There is not a word about its justification; which is unfortunate.
- (ii). The NSICT has tended to privatise the issue by saying that Lines also gang up which is not correct. The two are not comparable. Shipping is governed by forces of supply and demand. It is not so on the port side.
- (iii). The JNPT and the NSICT proposals are the same. Extraordinary coincidence! They are defeating the trends towards the competition.
- (iv). The NSICT proposal is ahead of schedule. Where is the justification?
- (v). Costs have not increased. The NSICT has obviously not well planned.
- (vi). There seems to be some understanding between the JNPT and the NSICT. Is it necessary for the NSICT to raise merely because the JNPT raises?
- (vii). The NSICT has some elements on performance related tariffs which can be refined. Can be related to moves per hour of containers.
- (viii). Charges for loaded /empty cannot be the same.

Western India Shippers Association (WISA)

The proposals are not just similar, they are the same. It is inconceivable that in spite of higher levels of efficiency, the NSICT proposes the same increase as does the JNPT.

Shipping Corporation of India (SCI)

It cannot be one arrangement for the JNPT and another for the NSICT for handling transshipment container. This will cause avoidable hardships for Lines.

Indian National Shipowners Association (INSA)

- (i). We do not have data. We request the TAMP to decide in its wisdom even on the revision ahead of schedule. TAMP to decide at their discretion.
- (ii). Let the NSICT have freedom to propose its own tariffs. Let it not be tied to JNPT rates. Their rates must be different. Their performance standard must be different.
- (iii). The coincidence of the JNPT and the NSICT proposals is because of monopolistic manipulations. TAMP must look into this issue carefully.
- (iv). Coastal VRCs enjoy a concession. Earlier all containers were only in foreign trade. That is why no concessions were given for coastal containers. The position is different today.
- (v). We have no data. Please ensure reasonableness.
- (vi). At the bid time, the JNPT rate was taken as the basis for the NSICT. Just before the bid, the JNPT increases their tariffs by 33%. So it is a bonanza for the NSICT. Bid document stated no dollar denominations. They later got it. So, it is a second bonanza for them. Now they are following the JNPT hike which is a third bonanza.

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

- (i). We concede commercial confidentiality. But, in the name of that please do not block all information from circulation.

- (ii). Technical Service Fees are not charged by any third party. It is taken by the Promoter. Is it valid?

Jawaharlal Nehru Port Trust (JNPT)

- (i). Planning is a terminal activity. The NSICT is doing nothing special. There is to be no additional fee for it.
- (ii). PSUs have their own constraints in productivity norms. 100% comparison of the JNPT with the NSICT is not possible.

7. The NSICT has further submitted information/documents on the following points vide its letter dated 19 July 2000:

- (i). Details of interest on Rupee and US Dollar Loans.
- (ii). Details of Miscellaneous Expenditure (Preliminary / pre- operational expenses written off).
- (iii). Operating and non-operating assets' depreciation.
- (iv). Management overheads.

8.1. Responding to the further queries raised by us, the NSICT, vide its letter dated 3 August 2000, has submitted the following additional documents / information / clarifications.

- (i). Unaudited accounts for the year 1999-2000.
- (ii). Corrected cost statements.
- (iii). Justification for increase in staff cost, consultancy fee, etc.
- (iv). Explanations on depreciation of assets, payment of Technical Services Fee.
- (v). Copies of Loan Agreements.
- (vi). 30 year Project IRR calculations.

8.2. The NSICT vide its letter dated 30 August 2000 has given additional information/clarifications on some of the issues like Computation of tax in the P/L Account, movement of working capital Preference share issue, etc. It has also submitted a copy of the Leave and Licence Agreement between P&O Ports India Private Limited and M/s Speedy Transport.

9. With reference to the totality of the information collected during the processing of this case, and based on collective application of mind the following position emerges:

- (i). At the time of commencement of its operation, the NSICT had chosen to adopt the notified JNPT tariffs. The present proposal of the NSICT is based on its own costing and the estimated volume of operations. This enables the NSICT to deviate from the approach adopted earlier of following the JNPT tariffs. This

Authority while approving the existing tariffs of the NSICT in December 1998 had observed that it could require the NSICT to formulate a proposal not necessarily only with reference to the Concession Agreement, if it found it necessary to do so. This observation was based on the argument that any Concession Agreement between the two parties could not bind this Authority's statutory powers to approve tariffs. Also, such an Agreement could not also blithely take away the rights available to a lessee under the law. Viewed in this perspective, this proposal is a step taken by the NSICT, in the right direction.

- (ii). During the joint hearing, almost all the users were unanimous in objecting to the proposal of NSICT claiming that it was premature since the existing tariffs were approved in December 1998 and were to be valid for two years. It is to be recognised that the NSICT's existing tariffs are not based on its own costing but were an adoption of the JNPT tariffs. The instant proposal of the NSICT is based on its cost of operations and in the light of experience gained. It is noteworthy that this Authority while approving the existing tariffs in December 1998 prescribed the validity period of two years with an observation that it would entertain a proposal for revision even ahead of the schedule for good reasons. Incidentally, the revision to be approved now will hardly be two months ahead of the schedule. That being so, there can not any objection to entertain the present proposal of the NSICT to revise the tariffs ahead of the two-year schedule.
- (iii). Users have raised an objection stating that the NSICT proposal is without any supporting justification (with cost figures). This objection is not correct. The NSICT has submitted costing details in the prescribed format. These details have not been circulated by us to all the users in view of the NSICT's request to maintain confidentiality of some of the commercially sensitive information. As is the procedure adopted by this Authority, such details, however, have been scrutinised by us for ensuring reliability of information and reasonableness of the proposal.
- (iv). Both the JNPT and the NSICT have approached this Authority with proposals for revision of tariffs by an identical increase and at the same point of time. Most of the port users have termed this an extraordinary coincidence defeating the objective of privatisation to promote competition. Even if it is not an intentional coincidence, this incidence points out the monopolistic opportunities enjoyed by Ports / Terminal Operators; and, strengthens the need for tariff regulation.
- (v). The traffic and income projections furnished by the NSICT have been relied upon for this analysis without any modification. This has become necessary in view of the limited period of the NSICT operation and the non-availability of data from any other reliable sources to test and validate the estimation. If this approach seems to have given undue advantage to the terminal operator, at the time of review during the next revision of tariffs, any undue benefit accrued to the Terminal Operator may be set off against the future revision in tariffs.
- (vi). A scrutiny of the traffic projection made by the NSICT reveals some minor arithmetical errors in computation of throughput of over-dimensional and restow containers and consequent computation of income. This has also resulted in exaggerating estimation of the equipment operation and maintenance cost. These errors have not been rectified in our analysis as their final impact is seen to be marginal.
- (vii). Instead of a 10% annual escalation in the estimates of expenditure allowed by this Authority in the case of Port Trusts, the NSICT has estimated the expenditure with reference to change in volume of traffic with an adjustment for

inflation. The NSICT has followed a 5-year average to arrive at the rate of inflation (7.02%) to be applied to future estimates of expenditure. This approach adopted by NSICT appears to be acceptable. Likewise, the NSICT has stated that the foreign exchange rate assumed by it for income and expenditure estimation is based on its consultation with experts; and, the present trend of exchange rate fluctuation during the last six months confirms its reasonableness.

- (viii). During scrutiny of the estimates furnished by the NSICT, it has been observed that the estimated expenditure on account of consultancy fee, employee cost and maintenance expenditure of boats are found to be somewhat on the higher side. Interestingly, the estimate of these expenditure, employee cost in particular, have undergone an upward revision even during the pendency of this proposal. The NSICT has offered various clarifications to justify its estimation. As already mentioned above in relation to the traffic and income projection, the expenditure projection made by the NSICT in this regard is accepted subject to the condition that the actuals will be verified at the time of the next revision of tariff; and, if wide deviations are noticed, any undue benefit accruing to the Terminal Operator; if any, due to wrong estimation, will be set off in future increases of tariff.
- (ix). The rent payable for the Corporate Office of the NSICT has been stated to be dollar-denominated in terms of the Agreement entered into by the NSICT with the P&O Ports (India) Private Limited. The NSICT has mentioned that the lessor had funded the office lease and interior development through availing of external commercial borrowings which are required to be repaid subject to exchange rate fluctuations! There appears to be no merit in the argument of the NSICT. Notwithstanding the provisions in the lease agreement, we do not allow dollar denomination of rent for the office premises to be included in the cost calculations for purposes of computing the tariff. In our analysis, the effect of variation in the dollar rate has not been considered; and, a fixed amount of Rs.6 lakhs per month has been allowed.
- (x). The cost estimates furnished by the NSICT contained a provision for payment of 'Technical Service Fee' to M/s. P&O Australia Pty Ltd. which is partly in the nature of fixed payment per annum and partly in the nature of variable fee depending on the profit before interest, depreciation, taxes, etc., generated during the year. The NSICT has stated that it is a fee paid for the services provided by the P&O Australia Pty Limited and the terms have been approved by the FIPB as well as the RBI. The NSICT has also mentioned that this payment acts as an incentive to the technology provider to provide the latest technology and work methods which in turn will result in better productivity and returns. It has been observed that the estimate of this payment is in excess of the stipulated amount in the relevant Agreement between the NSICT and the P&O Australia. On being requested to explain, the NSICT clarified that the Technical Service Fees are paid net of taxes for which necessary approval has been received from the Government of India. As a result of the grossing up for taxes

payable, the amount and percentage of Technical Service Fee are higher than what is stipulated in the Agreement.

It has to be recognised that the BOT contract for development and operation of the container terminal has been awarded to the Consortium led by the P&O Australia Pty Limited based inter alia on the expertise and standing of the P&O Australia. The NSICT was a later creation as envisaged in the Concession Agreement. We find that the Technical Service Fee had no linkage with the services provided. It is essentially a fixed payment more in the nature of dividend payable to the promoter. Further, prescription of a Variable Technical Service Fee as a percentage of profit and the practice of grossing up for taxes reinforce this understanding. No other similarly placed private Terminal Operator in any of the major ports has been following the practice of paying a Technical Service Fee to the main promoter. It is observed that the BOT Agreements have been awarded based on the expertise of the promoters; and, the promoter is expected to pass on the technical expertise to the Indian company floated under the respective Concession Agreements.

The clearance stated to have been granted by the FIPB and the RBI can at best be seen as permissions to repatriate this payment. While we do not wish to question the propriety of such repatriations, this Authority does not like to recognise this payment as a cost element for determination of tariff. It is noteworthy that this payment is definitely in the nature of a return on capital employed and needs to be treated as a part of the return.

- (xi). The NSICT has explained that it has adopted the life of capital assets for the purpose of determination of depreciation as stipulated in the Licence Agreement except to the extent where the depreciation based on the lifespan is lower than that stipulated in the Companies Act or decided by the management. The Government of India has already issued guidelines to all the Major Ports prescribing the life norms for different types of cargo- handling equipment and floating craft employed in port operations. These norms are being followed uniformly by all the Major Ports to work out depreciation of capital assets; and, accordingly, are considered by this Authority for tariff determination. The NSICT is, however, a public limited company which is to maintain its accounts in line with the provisions of the Companies Act. The life norms of various assets fixed by the Government of India are relevant to the Major Port Trusts which are not liable to pay Corporate taxes. In contrast, the Companies Act recognises the corporate tax liability of a company and accordingly stipulates rates of depreciation for various assets. It is, therefore, decided that in the cases of Port Companies, the depreciation norms given in the Companies Act or the life of the asset prescribed in the concession Agreements, whichever is less shall be taken into account for arriving at the depreciation cost for the purpose of tariff fixation. That being so, the approach adopted by the NSICT in this regard is found to be acceptable.

The depreciation schedule of the NSICT contains a provision for depreciation of berths. Although the NSICT has invested its funds in creation of these berths, the berth hire charges for use of these berths are levied and collected by the JNPT. This anomalous position of investment in reality translates into the users of the NSICT paying twice for these berths – once as berth hire charges to the

JNPT; and, again, as a part of container-handling charges to the NSICT, as it includes a cost element towards depreciation of this asset as also by way of a return on the investment made to create these berths. We do not find this as a very rational and reasonable arrangement in the wake of the *quid pro quo* principle emphasised by us. However, in this instant case, we cannot but recognise the 'depreciation' and the 'return' on these berths in our cost analysis, as nothing can be done by us to alter the Concession Agreement already in force.

- (xii). The NSICT has also sought recovery through tariffs of tax payable. Accordingly, it has included in the cost estimates provisions for payment of Minimum Alternative Tax and Dividend Distribution Tax. There appears no justification to consider the Dividend Distribution Tax as a cost element since it is in effect paid/payable on behalf of the shareholders and is akin to tax deduction at source. As regards the Minimum Alternative Tax, it has to be recognised that the rates of tax are subject to periodic changes and the outflow on account of tax is a function of the profit to be earned by the Company. That being so, estimation of this liability beforehand for tariff setting may pose problems. It is, therefore, appropriate to exclude the effect of taxation from the net surplus estimation. If this is not done, adequate compensation by prescribing a higher pre-tax return on equity will need to be allowed.

The Telecommunication Regulatory Authority of India (TRAI) does not consider the effect of taxation on the profit of the Operators for determination of tariffs. Likewise, in the backdrop of what has been stated above, in our analysis of the cost statement, we have also excluded the effect of taxation on the profit.

- (xiii). This proposal has thrown up a very vital issue relating to the return on capital employed to be allowed to the private BOT operators. In the case of major ports, this Authority has been allowing a return on capital employed equal to the rate at which the Government lends funds to the ports *plus* a 3% contribution to a Renewal Fund *plus* a 3% contribution to a Development Fund. Since the Government of India lending rate at present is 13.5%, a return of (13.5+3+3) 19.5% on capital employed has been allowed in the proposals for tariff revisions of the major ports approved this year.

The capital structure of the major ports and the private terminal operators are not similar. While the major ports finance assets through loans and internal resources, the private Terminal Operators raise funds through debt and equity. The cost of different sources of funds is easily identifiable in the case of private operators. However, it is to be admitted that this Authority has not yet developed a totally different model/approach regarding return on investment to be allowed to the private Terminal Operators. Because of some legal aspects pertaining to the bid process, agreement, etc., it may not be conveniently possible to veer away altogether from the existing model/approach. Nevertheless, it will be possible to introduce and consider some of the basic issues relevant to BOT projects.

Development of an altogether new model/approach may perhaps have to be left to be handled as part of a separate Study with a long-term perspective. The Authority is yet to go into this matter. This being the present position, it has become necessary to adopt an interim approach to dispose of the instant proposal.

- (xiv). As has been pointed out above, the NSICT has raised funds from different sources, costs of which are easily identifiable. That being so, it will be appropriate to allow the respective costs of capital in the overall return on investment. Even though we are fully aware of the pitfall in this approach due to non-observance of a prudential debt-equity norm, in the interim, we prefer adopt the approach of allowing the cost of respective sources of capital, accepting the 1:1 debt-equity ratio obtaining in this case. Significantly, the TRAI also recognises 1:1 as a reasonable debt-equity ratio for the telecom sector.
- (xv). In the light of the discussions above, the cost of different sources of funds procured by the NSICT eligible to be considered in the return on investment are seen to be as follows:
- (a). Debt: Actual interest payable during the year.
 - (b). Preference Shares: The adopted rate of dividend payable i.e., 14%, which is below the 15% rate prescribed by the Regulator (SEBI).
 - (c). Equity Shares: By definition, the cost of equity share is to be determined by market expectation. Very few private Terminal Operators have entered the ports sector so far; and, they have also been operating only since recently. This poses a problem of gauging the market expectation of return on equity. In the case of major ports, the Authority has been allowing a return of 19.5%. The TRAI is also considering a 20% return on equity for tariff setting. Significantly, available reports on Studies conducted by expert Consultant Firms like the CRISIL and PricewaterhouseCooper, on the subject of cost of capital, also pitch this figure at or around 20%.
- That being so, it is reasonable to reckon with a 20% return on equity in the instant case.
- (xvi). The NSICT has also claimed a return on investment on the foreign exchange loss pertaining to the unamortised foreign currency loan, considering the variation of foreign exchange rate. The approach adopted by the NSICT cannot be said to be correct. The NSICT can at best claim for the losses due to variation of foreign exchange rates only in respect of foreign currency loan instalments repayable during the year.
- (xvii). The NSICT has claimed a return on Preference Shares for the whole of 2000-01. The information furnished by the NSICT in this regard indicate that the Preference Shares have not yet been issued; and, they are expected to be allotted shortly. That being so, the NSICT cannot claim a return on them for the full year. In our analysis, accordingly, we have allowed a return on Preference Shares only for a part of the year 2000-01.
- (xviii). The Concession Agreement envisages a capacity of 6.5 million TEUs for the NSICT Terminal. Even though the NSICT has fully injected the capital required to achieve this capacity, the average capacity utilisation for the years 2000-01 and 2001-02 is around 82%. Since the designated capacity of the Terminal is yet

to be achieved, the NSICT cannot, possibly, claim maximum permissible return on share-holdings. Not only in port projects but in relation to investment in any of the projects, the investors do not reasonably expect to get a return at the maximum right from the start. That being so, the returns on Preference and Equity Shares, as mentioned in paragraph (xv)(b) and (c) above, need to be scaled down. In our analysis, accordingly, we have allowed only 80% of the maximum return on Preference and Equity Shares, considering the average capacity utilisation of the Terminal during the period under review.

- (xix). The estimates furnished by the NSICT show a huge cash and bank balance during the year 2000-01. It has been observed that this balance is far in excess of the Reserve Fund. Since this excess cash holding represents idle capital, we have excluded the cash balance in excess of the Reserve Fund balance while reckoning with the return on Preference and Equity Shares.
- (xx). Subject to the above observations and modifications, the cost statement furnished by the NSICT has been revised. A copy of the revised cost statement is attached as **Annex-I**. The revised cost statement shows a net deficit as a percentage of income from the tariffs proposed for revision as 14.46% and 16.76% for the years 2000-01 and 2001-02, respectively. Thus, the average deficit which is to be allowed to be bridged through tariff increase to assure the return on investment works out 15.6%.
- (xxi). The tariff at the NSICT is higher because of the following reasons:
 - (a). Though the Terminal Operator has had to construct the berths, the revenue therefrom (berth hire charges) accrues to the JNPT in addition to the royalty payable.
 - (b). The estimated life of main assets constructed is much longer than the concession period of 30 years. The container handling equipment are required to be replaced after 18 years. As the Container Terminal is required to be handed over free of cost to the Port Trust on the expiry of the concession period, and as there is no provision in the contract for payment of compensation by the lessor for assets resumed, the Terminal Operator has to consider a higher quantum of depreciation based on the concession period of 30 years or the residual concession period in order to cover his costs over the concession period.
- (xxii). The 30 year Financial Statements prepared by the Terminal Operator, on the basis of income at 30% increased rates as proposed and costs at the price level of 2000-01/2001-02 – both revised only to the extent of change in throughput and variation in exchange rates – indicate a 14% IRR on the total project cost.

The IRR on this basis is lower because royalty payments considered are on the basis of rates quoted in the Concession Agreement which increase progressively from Rs.47/- per TEU in the first year of operation to Rs.5,610/- per TEU by the 30th year of the concession period. If the royalty payment is considered at a

constant rate per TEU (arrived at on the basis of total NPV of royalty payments and total TEUs to be handled during the 30-year concession period), the IRR on Project cost will come to 34%. This, according to the Terminal Operator, is only hypothetical and the actual result will be different as royalty payments will have to be made at the contractual rates even if other costs remain constant at the level of 2000-01 / 2001-02.

The 30-year Financial Statements prepared by the Terminal Operator on the basis of income at the proposed 30% increased rates and costs escalated with reference to throughput, exchange rate variation as well as general inflation do not show any positive IRR; if at all, there is an indication of a negative IRR. This is, however, not a proper indicator because if costs increase tariff increases have also to be assumed.

- (xxiii). The existing container-handling charges of the NSICT allow differential rates for loaded and empty containers. In the instant proposal, the NSICT has sought to remove this differential and to bring the handling charges of empty containers on par with those of loaded containers. In support of this proposition, the NSICT has pleaded that the efforts involved in handling loaded and empty containers are same; and, hence, the rates must also be the same.

It has to be recognised that the consolidated charges for handling containers adopted by the NSICT include wharfage on cargo also. Further when the containers are loaded with cargo, the terminal operator as a bailee has to provide security and watch-and-ward facilities. Though the cargo is not directly handled, cargo along with the container is handled at the hook point warranting more efforts. If the proposition of the NSICT is accepted, ignoring the cargo inside the loaded container, then the consolidated container handling charges at the NSICT can be demanded to be dollar- denominated. The stated policy of this Authority has been against dollar-denomination of cargo-related charges. That being so, the argument of the NSICT for equating the charges for empty and loaded containers is not found to be acceptable.

- (xxiv). The NSICT has requested for revision of tariffs with effect from 1 April 2000. Considering the revision ahead of schedule, there is no justification to approve an increase with a retrospective effect. That being so, the revision will only have a prospective effect from the date of Notification of this Order in the Gazette of India.

10. In the result, and for the reasons given above, an upward revision of 16% in rates of the existing items tariffs proposed for revision is approved.

11.1.1. At the time of the joint hearing, the NSICT has claimed that it provides some free services like lashing/unlashing, stowage planning, etc. It has to be recognised that the JNPT offers a

rebate in the Consolidated Charge, if these services are not provided by it. Since the existing tariffs of the NSICT is an adoption of the JNPT tariffs, the NSICT's claim of giving free services is unfounded. In fact, the Consolidated Charges levied by it account for provision of these services. That being so, the NSICT Scale of Rates will also need to incorporate a provision for 'rebates' in case any of these services is not provided.

11.1.2. The NSICT has proposed a modification in the existing conditionality under General Note No.4 relating to the various elements of services included in the Consolidated Charge. The proposal is to delete the wharfage on cargo as an element of the Consolidated Charge. When the fact is to the contrary, the NSICT cannot propose for such a deletion. It is relevant here to note that in its earlier orders also the Authority had specifically dealt with this issue to say that a mere disclaimer about the consolidated charge not including wharfage will not suffice for excising this component. That being so, the existing conditionality under General Note No.4 needs to be altered to elaborate its definition to cover the component services including lashing/ unlashings, stowage planning, etc.

11.2. The existing conditionality under General Note No.8 stipulates that the JNPT Scale of Rates may be referred to for clarifying the issues in dispute, in case of any doubt or ambiguity. The instant proposal of the NSICT does not contain this provision. Apparently, this is an omission since the proposed General Note No.8 is a repetition of the existing Note No.7 of Section 10. Unlike the PSA SICAL Scale of Rates which is self-contained covering all definitions and has no linkage-reference to the Tuticorin Port Trust Scale of Rates, the NSICT Scale of Rates does not contain all relevant definitions of terms and major conditionalities governing the services rendered. In this context, it will become necessary to refer to the JNPT Scale of Rates for clarifications. Till the NSICT formulates a self-contained Scale of Rates, the existing General Note No.8 must be retained as it is.

12.1. The Concession Agreement between the JNPT and the NSICT envisages a minimum performance level of 20 moves per hour. In its earlier Order relating to the NSICT tariff fixation, the Authority had already prescribed to incorporate this as a conditionality. Even though this has been incorporated as a conditionality, no penal provision for not satisfying this condition is prescribed. During the joint hearing, the CSLA has raised this issue and advocated for prescription of a higher level of performance as a condition for increase in the existing tariff. The NSICT has also agreed for an efficiency-linked tariff but demanded premium for achieving a higher productivity. The CSLA agreed to propose an efficiency-linked tariff model for the NSICT. However, till date, no such proposal has been submitted by the CSLA. The stated policy of this Authority is to use the tariff leverage to effect improvements in operational efficiency. This Authority is also in favour of prescription of efficiency-linked tariffs at **all** major ports and port terminals. An efficiency-linked berth hire scheme at the Mormugao Port Trust (MOPT) has already been introduced and extension of a similar principle to the other major ports is under our active consideration. In this backdrop, we like to prescribe an efficiency-linked tariff scheme at the NSICT also. Such a prescription, however, cannot be made along with the revision being made now as the relevant operational data to formulate such a scheme are not readily available. The NSICT is, therefore, advised to formulate within three months, in consultation with its users, an efficiency-linked tariff scheme providing for rewards for achieving container-handling rates higher than the cut-off limit and penalties for performances below the cut-off limit. The sustained average level of performance of approximately 24 moves per hour that has been reported by the NSICT can serve as a reasonable pointer for determining the cut-off point.

12.2. While this can be a scheme for enforcing efficiency in the operation of individual cranes, this cannot by itself become a complete efficiency scheme. What will be more relevant from a vessel's point of view will be the turnaround time which will call for optimum deployment of cranes also. It will be necessary for the Terminal Operator and the Lines to jointly work out such an efficiency-linked tariff scheme from a long-term perspective.

Pending formulation of such a comprehensive efficiency linked tariff scheme, this Authority prescribes 24 moves per hour as the interim cut-off point. The total handling charge dividing by 24 will be the unit charge. For every move above or below there will be a premium or rebate respectively with reference to the unit charge.

13. The INSA has again raised the issue of allowing concessions to the coastal containers and cargo. Extending concessions in cargo-related charges for coastal traffic is not confined only to the NSICT and the coastal containers. Any decision in this regard will affect all the major ports and all coastal traffic. The NSICT, in the instant case, objected to such concessions and questioned the appropriateness of making a Terminal Operator subsidise coastal movements of cargo. Similar arguments have been advanced by some of the major ports in different cases. This Authority has already advised the ports concerned to discuss this issue in the forum of the Indian Ports Association (IPA) for a coordinated view of all the ports. We are yet to hear the response of the IPA. The Authority has also decided that it will initiate *suo motu* action in this regard, if the response of the IPA is not received within a reasonable period of time. Till this happens, *status quo* relating to cargo-related charges will be maintained.

14. Subject to the above discussion and decisions, the existing Scale of Rates of the NSICT is amended to the extent as given in **Annex-II**.

(**S. Sathyam**)
Chairman

NSICT TARIFF REVISION

ANNEX-I

Items	REVISED COST STATEMENT		
	Actual	ESTIMATE	
	1999-2000	2000-01	2001-02
Traffic (TEUs)	343187	493450	579803
(Amounts in Rs. Lakh)			
I) Operating Income			
Cont. income subject to revision	9,089.70	13,069.50	15,356.70
Cont. income not subj. to revision	1,196.60	1,271.80	1,507.90
Sub-total	10,286.30	14,341.30	16,864.60
Trade Discount	729.10	1,016.40	1,195.30
Total container income	9,557.20	13,324.90	15,669.30
Non-container income	53.26	17.40	19.30
Total Operating income	9,610.46	13,342.30	15,688.60
II) Operating Costs			
Equipment Running Costs	701.56	1,343.00	1,740.60
Operating & Direct Labour	325.80	732.40	800.10
Maintenance Labour	165.20	235.90	258.30
Staff Welfare	54.00	88.41	94.61
General Operations	508.20	643.60	1,136.40
Property Costs	253.70	198.00	198.00
IT/Communication	173.10	174.40	184.30
Operations Equip. Depr.	1,845.50	3,139.69	3,888.81
Equipment Hire	227.00	205.50	219.90
Technical Services	337.15	343.60	374.80
Sub total	4,591.21	7,104.50	8,895.82
Non Operating Depreciation	211.00	236.48	237.48
Misc Expenditure	308.80	310.20	310.20
Total II	5,111.01	7,651.18	9,443.50
III Surplus (I-II)	4,499.45	5,691.12	6,245.10
IV Management and General Overhead	556.60	559.60	589.90
V Net Surplus (III-IV)	3,942.85	5,131.52	5,655.20
Additional income			
VI Interest on loans	3,409.40	3,435.10	3,896.70
Interest Income	0.00	0.00	0.00
Forex Losses on repayment	279.20	18.84	95.74
VII Net Surplus after Interest	254.25	1,677.58	1,662.76
VIII Capital Employed			
iX Shareholders Funds			
(a) Equity Share Capital	23,238.20	23,238.20	23,238.20
(b) Preference Share Capital	0.00	13,000.00	13,000.00
Amt. Not utilised in business		4,365.84	3,944.96
Total Shareholders Funds	23,238.20	31,872.36	32,293.24
X Borrowed Funds	31,915.10	36,061.00	36,506.90
Total Capital Employed	55,153.30	67,933.36	68,800.14
VII Net Surplus after Interest	254.25	1,677.58	1,662.76
Add- Technical Services Fee	337.15	343.60	374.80
Total	591.40	2,021.18	2,037.56
Less- Div. on Pref. Shares @14%*80%	0.00	639.98	1,296.94
Less- Div. on Equity Shares @20%*80%	0.00	3,271.05	3,314.15
Surplus/Deficit (after Div. & Int technical service fees)	591.40	-1,889.86	-2,573.53
Surplus/Deficit Percentage of income sub. to revision	6.51	-14.46	-16.76
Average Percentage- 2000-01 & 01-02		-15.61	

Nhava Sheva International Container Terminal Limited**Schedule of Rates**

1. The existing tariffs given in Sections 1,2,3 and 4 of the Schedule of Rates have been revised as given below:

Consolidated charges for movement and handling of containers and containerized cargo.

(Exchange rate: 1USD= 42.65 Rupees)

Section 1 Charges for all normal and reefer containers**A. Ship to yard / yard to ship using port crane.**

	20'	40'	Over 40'
			(In rupees)
Loaded	3016	4524	6032
ICD	3016	4524	6032
Empty	2436	3654	4872

B. Yard to CFS / CFS to yard – Transport and lifts at CFS

	20'	40'	Over 40'
			(In rupees)
Loaded	1073	1610	2146
Empty	1073	1610	2146

C. Yard to Rail / Rail to yard for ICD's only

	20'	40'	Over 40'
			(In rupees)
ICD	1508	2262	3016

D. Yard to truck / Truck to yard

	20'	40'	Over 40'
			(In rupees)
Loaded	464	696	928
Empty	464	696	928

Normal containers are the general type Containers, not falling under any special Categories mentioned subsequently.

Section 2 charges for all transshipment containers

A. 1 – 3000 teus

	20'	40'	Over 40'
			(In rupees)
Loaded	3480	5220	6960
Empty	3016	4524	6032

B. 3001 – 6000 teus

	20'	40'	Over 40'
			(In rupees)
Loaded	3248	4872	6496
Empty	2784	4176	5568

C. 6001 – 9000 teus

	20'	40'	Over 40'
			(In rupees)
Loaded	3016	4524	6032
Empty	2552	3828	5104

D. thereafter

	20'	40'	Over 40'
			(In rupees)
Loaded	2784	4176	5568
Empty	2320	3480	4640

Note : A transshipment container is the one which is discharged from one ship, stored in the yard and transported through another vessel.

Note : A container originally declared as transshipment container, subsequently moved by rail or road will lose it's identity as a transshipment container and shall be treated as a normal import container and prescribed charges as applicable shall be payable.

Section 3 charges for all hazardous containers

A. Ship to yard using port crane

	20'	40'	Over 40'
			(In rupees)
Loaded	3480	5220	6960
ICD	3480	5220	6960
Empty	3480	5220	6960

B. Yard to CFS – Transport and lifts at CFS

	20'	40'	Over 40'
			(In rupees)
Loaded	1160	1740	2320

C. Yard to Rail for ICD's only

	20'	40'	Over 40'
			(In rupees)
ICD	1740	2610	3480

D. Yard to truck

	20'	40'	Over 40'
			(In rupees)
Empty	580	870	1160

A container containing hazardous goods as classified under IMO is a hazardous container.

Section 4 charges for all over dimensional cargo containers.**A. Ship to yard using port crane**

	20'	40'	Over 40'
			(In rupees)
Loaded	6032	9048	12064
ICD	6032	9048	12064
T/ship	6032	9048	12064
Empty	4872	7308	9744

B. Yard to CFS – Transport and lifts at CFS

	20'	40'	Over 40'
			(In rupees)
Loaded	2146	3219	4292
Empty	2146	3219	4292

C. Yard to Rail for ICD's only

	20'	40'	Over 40'
			(In rupees)
ICD	3016	4524	6032
Empty	3016	4524	6032

D. Yard to truck

	20'	40'	Over 40'
			(In rupees)
Loaded	928	1392	1856
Empty	928	1392	1856

Note : Containers carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam etc. are termed as Over Dimensional Cargo Containers. They also include damaged containers and other types which require special devices.

1. The existing Note No. 4 relating to the various elements of services included in the consolidated charge is modified as given below:

"4. The consolidated charges as above include the following elements, viz. Stevedoring, use of Gantry crane, use of transfer crane, lashing / unlashng, stowage planning etc., wharfage on tare weight of containers and containerised cargo, transportation and contribution towards railway infrastructure."

2. The following two conditions are added under General notes :

"9. With the prior permission of the NSICT authorities, rebates shall be applicable to port users for carrying out various operations with their own arrangements. The rebates applicable along with conditions are as

(i). if ship's own gear are used for loading/unloading containers from shore to ship or vice versa, rebates in handling charges shall be allowed as under:

20'	40'	Over 40'
-----	-----	----------

(In rupees)

Loaded	696	928	1392
Empty	696	928	1392

(ii) if a port user employs his own Tractor Trailer (T.T) for transporting containers from

(a) Quay to container yard,

or

(b) Container yard to Quay

20' 40' Over 40'

(In rupees)

Loaded	348	522	696
Empty	348	522	696

a rebate in handling charges shall be allowed as under:

(iii). If a port user provides the labour for lashing / unlashng operations of containers, a rebate of Rs.35/- per container shall be allowed in the handling charges.

The rebate shall be limited to the number of containers actually lashed.

(iv). If a user brings his own equipment for lifting containers from the container yard to truck and vice-versa,

the following rebates in handling charges shall be allowed:

20' 40' Over 40'

(In rupees)

Loaded	290	435	580
Empty	290	435	580

(v). No rebate will be admissible for back to town containers handled by private equipment.

10. Efficiency Linked Tariff Schemes (ELTS) :

(i). The consolidated charges in Sections 1 to 4 above are for a performance level of 24 gross moves per hour per quay crane.

(ii). This minimum performance level shall be the cut off point under the ELTS.

(iii). The consolidated handling charge divided by 24 shall be the unit charge under the ELTS.

(iv). The actual performance level for a vessel shall be compared with the cut off point.

(v). Supplementary handling charge with reference to the unit charge shall be levied, in addition to normal handling charge, for every move above the cut off point.

(vi). A rebate in normal handling charges with reference to the unit charge shall be granted for every move below the cut off point."