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Tariff Authority for Major Ports

G. No. : 130

New Delhi, 28August, 2003

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Jawaharlal Nehru Port Trust for fixing Scale of Rates for handling of containers, dry bulk cargo and general cargo at its Shallow Draught Berth, Port Craft Berth and Port Craft Jetty as in the Order appended hereto.

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

Tariff Authority for Major Ports
Case No. TAMP/94/2002-JNPT

The Jawaharlal Nehru Port Trust (JNPT)

...

Applicant

ORDER

(Passed on this 11th day of August 2003)

This case relates to a proposal received from the Jawaharlal Nehru Port Trust (JNPT) for fixing Scale of Rates for handling of containers, dry bulk cargo and general cargo at its Shallow Draught Berth, Port Craft Berth and Port Craft Jetty.

2. The salient features of the proposal are as follows:

- (i). In order to handle containers from feeder vessels and facilitate handling of dry bulk cargo and general cargo from geared vessels calling at JN Port, Port craft berth and Shallow draught berth were constructed at a total cost of Rs.43.35 crores and put into operation with effect from 1 September 2002.
- (ii). Container feeder vessels, dry bulk cargo vessels, cement vessels and other general cargo vessels having its own gear with maximum LOA of 160 mtrs and 9 mtrs. draught are proposed to be taken alongside of the Port craft berth and Shallow draught berth.
- (iii). The Port Craft Jetty will be utilised for handling general cargo in barges in fair weather season only and the prevailing Scale of Rates will be applicable.
- (iv). The JNPT has planned to handle 80,000 TEUs per annum using ships gears at the Shallow draught berth. In addition to this, other general cargo like cement, fertilizer, etc. can be handled at these berths.
- (v). Shore based cargo handling equipments are not provided by the Port and Port users have to make arrangements for loading/unloading of the cargo.
- (vi). The JNPT has estimated to earn Rs.15.20 crore per annum subject to the package of discounts / rebates, changes in assumptions and throughput projections of cargo mix.

3.1. The JNPT has sought the approval of this Authority to the following:

- (I). Application of the existing discounts, tariff structure and terms and conditions notified in the prevailing Scale of Rates of the JNPT and other Orders of TAMP currently in force, for handling containers, dry bulk cargo and other general and break bulk cargo at JNPT for handling containers, cement (excluding volume discounts on wharfage), cars, other dry bulk cargo and general cargo at Shallow draught berth, Port craft berth and Port craft jetty, taking into account the restrictions on LOA, draught and berthing of vessels.
- (II). Implementation of additional discounts / rebates and other service charges as given below with effect from 17 September 2002:
 - (A). CONTAINERS
 - (i). Sliding volume discount for transshipment containers on incremental traffic moved between Cochin Port and JNPCT:

Volume TEUs Per year	1 st year rebate (Rs.)	2 nd year rebate (Rs.)	3 rd year rebate (Rs.)	4 th year rebate (Rs.)
Upto 6000 TEU	Nil	Nil	Nil	Nil
6001-9000	200	150	100	Nil
9001-15000	250	200	150	Nil

- (ii). 20% discount in current notified berth hire charges for coastal vessels.
- (iii). 7% discount in current notified berth hire charges for foreign going vessels.
- (iv). Handling rebate of Rs.600/- for 20' container and Rs.800/- for 40' container as provided for use of ship's gear is also proposed for use of mobile harbour crane to handle containers in feeder vessels/barges for normal import/export containers. For TP containers, which will be unloaded by JNPT and meant for NSICT Vessel, the rebate will be only Rs.300/- for 20' container and Rs.400/- for 40' container. In case, TP container is to be loaded in JNPCT vessel, then also the rebate will be Rs.300/- for 20' container and Rs.400/- for more than 20' container.
- (v). Parking space for mobile harbour cranes away from berths, free of cost to port customers.

(B). CEMENT
Volume Discount:

- (i). Vessels carrying cement will be eligible for availing following discounts on incremental traffic:

Upto 3 Lakh MT	Nil
Above 3 Lakh MT and Upto 4 Lakh MT	5% of wharfage charges on the exceeded quantity
Above 4 Lakh MT and Upto 5 Lakh MT	10% of wharfage charges on the exceeded quantity
Above 5 Lakh MT and Upto 6 Lakhs MT and above.	15% of wharfage charges on the exceeded quantity

- (ii). 20% discount in current notified berth hire charges for coastal vessels; and
- (iii). 7% discount in current notified berth hire charges for foreign going vessels.

(C). FERTILIZER AND FERTILIZER RAW MATERIALS AND OTHER GENERAL CARGO

- (i). Pay loader service will be made available @ Rs.10/MT on request for every MT loaded.
- (ii). 7% discount in current notified berth hire charges for foreign going vessels.
- (iii). Service charge @ Rs.10/MT will be collected in advance for handling of dry bulk cargo, such as, fertilizer, fertilizer raw materials and other general cargo.

3.2. The proposal of the JNPT has the approval of its Board of Trustees.

4. In accordance with the consultative procedure prescribed, the proposal was forwarded to concerned user organisations for their comments. The comments received from them are forwarded to the JNPT as feed back information.

5. A joint hearing in this case was held on 23 April 2003 at the office of this Authority in Mumbai. At the joint hearing, the JNPT and the concerned users have made their submissions.

6. On a preliminary scrutiny of the proposal following additional information/clarification were sought from the JNPT:

- (i). To work out berth hire charges for the berths/jetties in reference based on capital and other relevant costs, facilities provided, etc thereat without linking such charge to berth hires applicable for some other berths.

- (ii). Volume discount for transshipment containers is proposed only for first three years, which also is shown to decrease in the second and third years. The basis and the reasons for the proposed volume discounts in a sliding scale.
- (iii). The basis of the proposed charge of Rs.10/MT towards Pay loader services provided for Fertiliser, Fertiliser Raw Material and other General Cargo.
- (iv). To justify the proposed service charges of Rs.10 / MT for handling of dry bulk cargo with reference to the cost of providing the identified services. The services/ facilities provided by the JNPT to the port users against the levy of service charges.

7. The JNPT has furnished the following additional information / clarifications sought by us and comments on the submissions made by the users:-

(A). Berth Hire Charges

- (i). Keeping in view the traffic handled since September 2002 till March 2003, nature of cargo handled at these two berths and limited data currently available and various cost elements pertaining to these two berths, it is not considered prudent to arrive at a realistic tariff structure on cost plus model for computation of berth hire charges. If the revenue trend for the period of September 2002 to March 2003 is considered the total revenue to be earned from these two berths on *pro rata* basis for one year works out to Rs.7.71 crore which is for below the estimated revenue of Rs.15.20 crore per annum.
- (ii). At a similar berth (BB04) vessels with LOA of 140 mtrs. and draught of 8 mtrs. are handled without any shore based cargo handling equipment. Since computation of berth hire charges on realistic basis is not considered practical at the stage it is proposed to adopt berth hire charges applicable for BB04 to the port craft berth and shallow berth.
- (iii). Cargo handling operations at port craft jetty (SB01) commenced in April 2003 only.
- (iv). The port will furnish relevant details as per the format prescribed by TAMP for computation of berth hire charges in the next proposal for revision of tariff after completion of three years of operations at SB01, SB02 and SB03.
- (v). Note 1 and 2 to the Berth hire charges in the SOR shall also be applicable in these berths.
- (vi). Applicable berth hire charges for these three berths may be notified for the period from 1 September 2002 to 31 May 2003 as per the rates notified by the TAMP on 5 September 2002. The applicable berth hire charges on hourly basis will be adopted in compliance with the Orders passed by the TAMP with effect from 1 June 2003.
- (vii). No representation was received from any port customer about the difficulty in adopting the berth hire charges notified in the trade notice. When the validity period of the trade notice expired on 27 December 2002 the port started discontinuing the rebates on berth hire charges. During the period from 1 January 2003 to 23 April 2003 all customers paid berth hire charges for SB01, SB02 and SB03 as per the berth hire charges applicable for other berths notified by TAMP on 5 September 2002.

(B). Containers

- (i). The special discount on sliding scale is proposed for a period of three years as a promotional measure.
- (ii). Sliding volume discount proposed by the port is in addition to the existing volume discount on handling charges applicable for transshipment containers.

- (iii). Keeping in view the fact that the port has to forego additional revenue on account of implementation of berth hire charges on hourly basis with effect from 1 June 2003, the volume discount is proposed on sliding scale.
- (iv). The sliding volume discount to be given on handling of transshipment containers at these two berths is proposed to be given to the feeder vessel operator only to meet part of his expenditure.
- (v). The transshipment containers loaded in JNPCT vessel are basically those containers, which are unloaded at Shallow Draught Berth and Port Craft Berth from feeder vessels. For any transshipment container initially unloaded at NSICT or JNPCT and same is to be loaded subsequently at Shallow Draught Berth or Port Craft Berth, the rebate proposed for transshipment containers will be made applicable.

(C). Fertiliser and Fertiliser Raw Material and other General Cargo

- (i). The proposed charge of Rs.10 PMT towards pay loader services is withdrawn since port has decided not to provide this services.
- (ii). The service charge of Rs.10 for handling dry bulk cargo is towards the expenditure incurred for providing bulk gate management and other supervision and documentation charges.

8. The following additional information / clarification were again sought from the JNPT:

- (i). Since the JNPT has effectively proposed to adopt the berth hire of the container berths / bulk berths, with some discounts, for the shallow draught berth, a comparative analysis of the performance of different categories of vessels at the shallow berth and at the main berths, if they are allowed to use them, may be furnished. In the light of this analysis, the discounts in berth hire proposed for the shallow berth / port craft jetty may be justified.
- (ii). The trade circular dated 17 September 2002 issued by the JNPT stipulates that container feeder vessels of certain dimensions will only be berthed at the shallow berth and port craft jetty. The details of TEUs handled out of these vessels for the period from September 2002 to May 2003 as well as the TEU handled by similar category of vessels at the main berth for the corresponding period in the previous two years may be furnished.
- (iii).
 - (a). For containers, the handling charges are proposed to be levied at the same rates as those at the main berth with a rebate for use of ship's gear. It may be confirmed that the JNPT provides all the services at the shallow berths which are provided at the main container berths except for ship-shore transfer.
 - (b). It may be confirmed whether the JNPT provides tractor-trailers to transfer containers from the hook point to the CY and *vice versa*.
- (iv).
 - (a). With reference to the proposed service charge of Rs.10/- PMT on fertilizer, fertilizer raw material, etc., it may be indicated whether such a levy is made when these commodities are handled at the main bulk berths. If not, the additional services provided to the cargo handled at the shallow berth in terms of documentation, gate administration, etc., may be listed out.
 - (b). The statement of the JNPT that cost of providing gate management service, supervision and documentation is not covered in the existing wharfage charges may be substantiated by providing cost details. Rates for bulk terminal were assessed at the time of the last general revision duly taking into account flow of cross-subsidies between various activities of the JNPT.

- (v). The response of the JNPT to the demand of the L & T that quantity of cargo handled at different berths should be taken together to allow the proposed volume discounts.
- (vi). At the joint hearing, the JNPT agreed to examine the suggestion of some of the users about allowing private equipment at the Shallow berth as a common user facility and fixing ceiling rate for use of such facility by TAMP. The progress made in this regard may be indicated.

9. The JNPT has furnished the following additional information / clarification on the points raised by us:

- (i). The comparative analysis of the performance of different categories of vessels at the Shallow Draught Berth and at the Main Berth:

Particulars	Year	Main Berth (Container)	Shallow Draught Berth
Container productivity	2000-01	16.96 TEUs per hour	-
	2001-02	20.93 TEUs per hour	-
	2002-03	-	8.51 TEUs per hour
		Main Berth (Bulk)	
Cement Average Discharge Rate	2002-03	5092 MT per day (33 vessels)	5347 MT per day (16 vessels)
Fertilizer	2002-03	2532 MT per day (8 vessels)	1633 MT per day (4 vessels)

In case of Shallow Draught Berth the stevedoring cost has to be borne by the Port Users. But in case of Main Berth operation, since the equipment are available at the berth, stevedoring cost need not be borne by the port users. Therefore, proposed discount has been suggested, keeping in mind that the vessels will have to remain more time at the Shallow Draught Berth for discharge of the cargo in comparison to Main Berth.

- (ii). Details of the TEUs handled during the period from September 2002 to May 2003 and for the corresponding period in the previous years:

Year	Main Berth	Shallow Draught Berth
2000-01	8952 TEUs (45 vessels)	-
2001-02	21,171 TEUs (71 vessels)	-
2002-03	-	11916 TEUs (54 vessels)

- (iii). JNPT has confirmed that it provides all the services at the Shallow Berth, which are provided at the Main Container Berth, excepting for ship-shore transfer. It has also confirmed that it provides TTs to transfer containers from hook point to Container Yard and *vice versa*.
- (iv). The service charge of Rs.10/- per MT on fertilizer, fertilizer raw material, etc., was not collected when these commodities were handled at Main Bulk Berths separately. The handling charges levied at mechanized berths cover equipment charge and other charges, which include manpower, gate operations and documentation. Since the vessels discharge or loading is manual at the shallow berth JNPT has to provide road infrastructure, rail infrastructure, supervision and gate management. These activities are different than the wharfage and therefore Rs.10/- per MT, which is very nominal, is kept for documentation, gate management, road and rail infrastructure. A simile may be taken for charges of Rs.195/- per vehicle for handling of rake carrying vehicles, which is levied as cost for rail infrastructure.
- (v). The request of L & T at the time of joint hearing was examined and for the shallow berth a limit of 3 lakhs MT is kept as the cut of limit for volume discount. If the request of L & T has to be considered, then the volume of 3 lakhs MT requires to be

changed to 5 lakhs MT. In this case, the volume discount can be allowed to L & T if it exceeds 5 lakhs MT per annum at both the terminals.'

- (vi). The request of the Port Users for keeping harbour mobile crane at the berth is under examination and for this a separate proposal will be sent to TAMP after it is duly approved by the Board of Trustees of the JNPT.

10. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be available at our website www.tariffauthority.org.

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

- (i). The JNPT has constructed shallow draught berth and port craft berth to handle containers from feeder vessels and to facilitate handling of dry bulk cargo and general cargo from geared vessels calling at the port. It has also constructed port craft jetty to handle general cargo in barges in fair weather season. These berths are meant for handling smaller size vessels. No cargo handling equipment is provided on these berths and the users are expected to handle the cargo with ship's own gear or mobile harbour cranes at their own cost.
- (ii). The port has sought the approval of this Authority for application of the existing tariff structure, discounts and terms and conditions notified in the prevailing Scale of Rates to the shallow draught berth, port craft berth and port craft jetty. It has also proposed additional discount/ rebates and other service charges in respect of containers, cement, fertilizer and fertilizer raw materials and other general cargo at these new facilities. The proposals are analysed item-wise in the following paragraphs.
- (iii). Application of existing berth hire charges to the shallow draught berth, port craft berth and port craft jetty.
- (a). The port has proposed to adopt the existing berth hire charges on the ground of non availability of sufficient data on various cost elements. It is the stated position of this Authority that ports should propose berth hire charges for individual berths or group of similar berths based on the facilities provided thereat without linking such charges to berth hire applicable for other berths. This decision of this Authority has also been communicated to all the major ports including the JNPT. Obviously, the facilities and performance at the main berths and the shallow draught and port craft berths do not compare; and, therefore, there may not be any justification to have uniform rate for all the berths.
- (b). The port has sought to explain that the bulk berth No.4 is a similar berth where vessels are handled without any shore based cargo handling equipments. In the absence of cost details, it may be reasonable to adopt the existing rates for similar services, if performance/productivity is comparable. The productivity at shallow draught berths and main berths are different. However, the shortfall in productivity is sought to be compensated by offering discount in berth hire charges. The port has undertaken to furnish the cost details in the next revision of its tariff structure. In the light of the explanation given by the port, this Authority, under the given circumstances, approves the berth hire charges for the shallow and port craft berths as well as port craft jetty as applicable to the multipurpose berth (BB04).
- (c). The port has proposed a discount of 20% for coastal vessels and 7% for foreign going vessels in the notified berth hire charges. It has wrongly drawn reference to the 20% rebate on the berth hire charges allowed to be continued in respect of berths without wharf cranes at the NMPT. In fact, the NMPT was offering 20% rebate on berth hire in respect of berths without

wharf cranes; this Authority has only allowed the existing method of charging to continue at NMPT for a specific period till it comes up with a fresh proposal recasting existing berth hire charges with reference to the services provided and facilities available at individual berths. This cannot be taken a general principle laid down by this Authority to prescribe the quantum of discount to be allowed at non crane berths.

The port has furnished a comparative analysis of the performance of different categories of vessels at shallow berths and main berth. It is seen that the vessels have to remain for longer duration at the shallow berths in comparison to the main berth. This apart, the users have to bear additional cost at the shallow berth towards hiring of handling equipment / stevedoring. The productivity figures furnished by the JNPT do not, however, appear to be completely relevant as they have been given for the entire container operations. What will be relevant is a comparison of productivity parameters for similar category of vessels at the main berths and shallow berths.

In the absence of cost analysis, it becomes inevitable to allow ad hoc discount in the notified berth hire charges and apply such rate to shallow draught and port craft berths as well as port craft jetty. None of the users have also furnished any analysis to counter the proposal of the JNPT except the INSA making a general statement that the discount for coastal vessels should be 50%.

Since the quantum of discount is determined on ad hoc basis, it will be reasonable to prescribe it as floor level. If the JNPT finds it appropriate on commercial considerations, it can allow discounts at a higher level. While doing so, care must be exercised to ensure that at least the operating cost is recovered by the port.

In accordance with the Government policy, the vessel related charges of the coastal vessels are prescribed at 70% of applicable rates for foreign going vessels. If only 7% rebate in berth hire charges is allowed in respect of the foreign-going vessels, as proposed by the port, the gap between the rates of berth hire charges of the coastal vessels and foreign-going vessels handled at shallow draught and port craft berths will further widen. In order to maintain 30% difference in berth hire charges between the coastal vessels and foreign-going vessels, it will not be incorrect to peg the discount at the same level of 20% in respect of foreign going vessels also. In any case, the JNPT wants to extend 20% discounts in berth hire charges in respect of coastal vessels.

(iv). Containers

- (a). In the existing Scale of Rates, the charges for handling and movement of transshipment containers are structured on a sliding scale and discounts are built in depending on the volume of transshipment containers brought by the users in the same financial year. Now the port has proposed volume discounts for containers handled at the shallow berths in addition to the existing volume discount for the transshipment containers. Initially, the port proposed this additional discount for the volume moved between Cochin and JNPCT. Subsequently, conceding the demand of the users, the port has agreed to extend discount to the volume moved between Tuticorin and JNPCT also. Volume discount is a tool to attract business. Even though the users demand extension of the discount scheme for all containers irrespective of the port of origin/destination, the JNPT wants to restrict it to Tuticorin and COPT. Since it is a commercial decision of the port, no alteration in the proposal in this regard is necessary.

The users have demanded that the discount should start either from first TEU or from 3001 TEU. The intention of the port to offer additional discount is to

attract additional volume. The proposal to offer additional discount from 6001 TEUs appears to be in order when viewed in the light of the fact that this is an additional benefit over and above the existing common volume discount scheme.

Though the port has initially proposed the discount scheme for first 3 years, it has subsequently agreed to review continuance of the scheme at an appropriate time. This Authority is inclined to approve the proposed sliding volume discount for transshipment containers handled at the shallow draught berths.

- (b). As stated earlier, no shore handling equipment is provided at these berths and users are expected to handle the cargo with ship's own gear or mobile harbour crane at their own cost. The existing Scale of Rates provides for rebate if ship's gears are used for loading/unloading containers from ship to shore or *vice versa*. It is noteworthy that the JNPT has confirmed that it provides all the services at the shallow berths which are provided at the main container berths except ship-shore transfer. The existing rebate is proposed to be extended as handling rebate at the shallow berths. The proposed rebate for TP containers is at a reduced rate of Rs.300/- for 20 ft. container and Rs.400/- for 40 ft. container in respect of boxes either unloaded at shallow berth and meant for JNPCT/NSICT or unloaded at NSICT/JNPCT and meant for shallow berth. The users have, however, demanded full rebate for using ship gears for handling transshipment containers. It has to be recognized that transshipment rates are deliberately kept at a lower level at JNPT to attract this segment of traffic. Further, in such cases there are two ship-shore operations- one at the time of unloading and the second when the same box is reloaded. When a transshipment container is handled at the shallow draught berth, only one of the ship-shore operation is not performed by the port. The transshipment container when it reaches the main berth, the port carries out ship-shore operation for which no separate charge is levied. Viewed from this perspective, the proposed rebate structure for transshipment containers is found to be reasonable and, therefore, approved.
- (c). The proposal of the port to allow parking space for mobile harbour cranes free of cost to users also is approved.

(v). Cement

The existing Scale of Rates provides for differential wharfage leviable on cement based on volume of traffic. There is one rate for a quantity upto 5 lakh tonnes p.a. and a rebate of 10% for a quantity above 5 lakh tonnes p.a. The present proposal of the port is to offer volume discount starting from a quantity above 3 lakh MT. There may be higher incidence of cost to the users due to additional voyages on account of operating smaller vessels at the shallow draught berth. It is not clear whether the higher incidence of cost to the user will be offset if the volume discount starts from 1 lakh MT. The port has sought to explain that there is no volume commitment from the user side. Viewed in this perspective, this Authority approves the volume discount scheme for vessels carrying cement as proposed by the port.

The L & T demanded that the quantity of cargo handled at different berths should be taken into account to allow the proposed volume discounts. The JNPT has clarified that the volume discount can be allowed to the L & T if it exceeds 5,00,000 MT per annum at both the berths. With the proposal for conversion of the bulk berths into (third) container terminal in an advanced stage of implementation, the issue of handling cement in places other than shallow draught or port craft berths will arise only for a short period of time.

- (vi). Fertilizers and fertilizer raw materials and other general cargo.
- (a). It is noteworthy that the port has withdrawn the proposed levy of Rs.10/- per MT towards Pay Loader Service.
- (b). The port has sought to explain that the cost of gate management, supervision and documentation has not been considered as part of wharfage and hence a separate levy of Rs.10/- PMT has been proposed as service charge. The port has, however, admitted that the service charge of Rs.10/- was not collected when these commodities were handled at the bulk berths. Since, the existing provision for levy of wharfage as applicable at bulk berths is to be extended to the commodities handled at shallow draught/port craft berths, there is no justification to levy any additional service charge.
- (vii). There have been demand from users to reduce wharfage charges on cement, fertilizers and fertilizer raw materials. This proceeding is only to consider discounts and rebates to be allowed at shallow draught / port craft berths. The issue about alteration in wharfage is to be considered only at the time of next general review of tariffs. In any case, it has been found at the time of the last general revision of tariff that the dry bulk and general cargo handling activity at JNPT is heavily cross-subsidised. It is possible that this position will undergo a change with the decommissioning of the bulk terminal. The JNPT is advised to undertake a review of wharfage and handling charges for containers and dry bulk and general cargo when the bulk terminal is totally decommissioned and the operations at the shallow draught and port craft berths stabilizes.
- (viii). The port has agreed at the joint hearing to examine the proposal of users to install private handling equipment at shallow berth on a common user basis and submit a tariff proposal. The JNPT is advised to examine the matter and come up with a suitable proposal.
- (ix). The JNPT has expressed its inability to furnish cost details to justify the rates proposed. While it is reasonable to adopt the existing rates for similar services, performance / productivity details must be available for comparison. In the absence of relevant cost details, this Authority is constrained to approve the proposed rates which are the existing rates subject to adhoc discounts and rebates. Again, in the absence of sufficient productivity details, it has become difficult to justify the proposed discounts / rebates. In this scenario, this Authority approves the existing rates adopted at the shallow draft berth, port craft berth and port craft jetties as ceiling rates and the discounts / rebates approved now will only be floor level. The JNPT, if necessary, can operate at reduced levels of rates and/or allow rebates/discounts at higher level. As has already been mentioned, the JNPT must ensure that it recovers at least operating costs before allowing further concessions.
- (x). As the port has already implemented the proposed rates, volume discounts and rebates for handling of containers, dry bulk cargo and general cargo at the shallow berths / jetty with effect from 17 September 2002, this Authority approves the rates and discounts retrospectively with effect from 17 September 2002.

12. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following with retrospective effect from 17 September 2002:

(A). Berth hire charges for the shallow draught berth / port craft berth and port craft jetty

- (i). The existing schedule (no. 2.3) of berth hire subject to a minimum of 20% discount in the applicable rates will apply to these berths.
- (ii). The existing Note No. 1 and 2 to the berth hire charges shall also be applicable to the above mentioned berths.

(B). Containers

- (i). The existing rates and discounts for container handling will apply to the containers handled at port craft berth, shallow draught berth and port craft jetties.
- (ii). Sliding volume discount for transshipment containers on incremental traffic moved between Cochin Port / Tuticorin Port and JNPT as given below:

Volume TEUs Per year	1 st year rebate (Rs.)	2 nd year rebate (Rs.)	3 rd year rebate (Rs.)	4 th year rebate (Rs.)
Upto 6000 TEU	Nil	Nil	Nil	Nil
6001-9000	200	150	100	Nil
9001-15000	250	200	150	Nil

- (iii). Handling rebate of Rs.600/- for 20' container and Rs.800/- for 40' container for use of mobile harbour crane to handle containers in feeder vessels/barges for normal import/export containers. For TP containers, either unloaded at shallow berth and meant for JNPT / NSICT vessels or unloaded at NSICT / JNPT vessels and meant for shallow berth will be only Rs.300/- for 20' container and Rs.400/- for 40' container.
- (iv). Parking space for mobile harbour cranes away from berths, free of cost to port customers.

(C). CEMENT

- (i). The existing rates and conditions (excluding volume discount on wharfage) for handling cement will apply to the port craft berth, shallow draught berth and port craft jetty.
- (ii). Vessels carrying cement will be eligible for availing following discounts on incremental traffic:

Upto 3 Lakh MT	Nil
Above 3 Lakh MT and Upto 4 Lakh MT	5% of wharfage charges on the exceeded quantity
Above 4 Lakh MT and Upto 5 Lakh MT	10% of wharfage charges on the exceeded quantity
Above 5 Lakh MT and Upto 6 Lakhs MT and above.	15% of wharfage charges on the exceeded quantity

(D). FERTILIZER AND FERTILIZER RAW MATERIALS AND OTHER GENERAL CARGO

The existing rates and conditions applicable to these commodities will continue to apply at the port craft berth, shallow draft berth and port craft jetty.

- (E). The approved rates will be "ceiling rates" and the discounts / rebates will be "floor level". The JNPT is at liberty to levy rates lower than the ceiling rates and allow higher rebates / discounts, if necessary, subject to ensuring that at least operating costs are recovered after allowing concessions at higher levels.

(A.L. Bongirwar)
Chairman

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No. TAMP/94/2002-MOPT - Proposal received from the Jawaharlal Nehru Port Trust for implementation of existing Scale of Rates and additional service charges, rebates / discounts for handling of containers, dry bulk cargo and general cargo at its Shallow Draught Berth, Port Craft Berth and Port Craft Jetty

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

Shipping Corporation of India Limited (SCI) through the Indian National Shipowners' Association (INSA)

- (i). The port has developed the shallow Draught berth to attract additional traffic and to facilitate berthing of shallow draft vessels at this berth. This will leave the main bulk and container berths free for the larger main line vessels. The facility will thus help both the small vessel operators and the port. At the same time it is hoped that the transshipment containers will get connected to main line vessels without delay.
- (ii). The concessions/rebates are proposed to be given as an incentive to the shallow berth users in order to compensate for the restricted draft and length. The work will also be slower at this berth as compared to the main berth.
- (iii). The Port is proposing a separate scheme, specifically to Cochin. The starting point for the rebate has been pegged at 6000 TEUs.
 - (a). Why a port specific rebate scheme?
 - (b). Why the new scheme starts at 6000 TEU level for one port, when the existing volume discount for all the ports put together starts at 3000 TEUs. Other than 3 or 4 big carriers, no other line will be able to meet the criterion and that also marginally.
 - (c). Will the volume to/from Cochin be deducted out of the total transshipment containers handled by the shipping line in order to arrive at the figure when it becomes eligible for the common rebate scheme or will this volume continue to be under the common scheme also? It may be noted that if this volume is deducted then the shipping line loses it both ways.
 - (d). What will be the benefit to the vessel operator, who spends more time in port at this berth due to slow cargo operations?

- (e). The port has proposed rebates, which are reducing on an yearly basis and there is no rebate proposed for the fourth year. The logic behind this is not apparent. Does this mean the traffic needs to be attracted only in the initial 3 years?
- (iv). Port has proposed handling rebate of Rs.600 and Rs.800 for 20' and 40' containers respectively, because the vessel will be using its own gear. This rebate is given to the vessel operator, although, the payment to the port is made by the shipping line. However, this is applicable for the local boxes only and not the transshipment containers. The rebate on transshipment containers has been pegged at Rs.300 and Rs.400, even when both the handlings are to be done at JNPCT. While the logic is in order for containers, where one handling is done at JNPCT and other at NSICT, but when both the handlings are at JNPCT, the terminal earns full handling charges and should apply full rebate of Rs.600 and Rs.800.
- (v). The discount for cement and fertilizer vessels should be available for all volumes handled in the Port irrespective of the berth used.

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

(A). Containers:

- (i). Sliding volume discount for transshipment containers is reflected only for containers moved between Cochin Port and JNPT. The same facility should be available for containers originating from/destined to other ports such as Kandla, Pipavav, etc. The rebates start only after achieving 6000 containers. The logic behind this approach is not clear. Confining this rebate system only to Cochin-originating containers is highly discriminatory and has no commercial relevance.
- (ii). The rebate for the TP containers discharged at JNPT at shallow berth and loaded out from JNPCT/NSICT are attracting the same rebates and it should not be the case. Secondly, whether such containers will be counted separately for rebate of Yearly TP rebates as given in the tariff. In case, this is not included in the yearly rebate, the MLO stands to lose in the bargain since such containers will not be counted into his yearly throughput.
- (iii). The reasons for reduction of the handling rebate of Rs.600 /20' and Rs.800 /40' to Rs.300/20' and Rs.400/40' for transshipment containers are not known.
- (iv) The minimum slab of transshipment containers need to be brought down to 3000 TEUs p.a. from the proposed 6000 TEUs for qualifying for discount, if the promotion and attraction of transshipment containers through JNPT is the stated objective.

(B). Cement:

By the very structural limitations of shallow berth, only smaller ships will be able to call there. Hence, JNPT need to consider a lower bench-mark for the initial slab discount qualification. On a realistic note the slab need to be brought down to 1 lakh MT p.a.

(C). Fertilizer and Fertilizer raw materials:

According to JNPT service charge of Rs.10 / MT will be collected in advance for handling of dry bulk cargo such as fertilizer, fertilizer raw materials and general cargo. The facility itself is created for handling such cargoes and the port collects wharfage in accordance with the nature of the cargo and this wharfage is for the service rendered by the Port. Hence, there should not be any question of collecting of any further service charge as it would amount to double collection for the same service rendered.

The Containers' Shipping Lines Associations (India) (CSLA)

- (i). The threshold volume of 6001 TEUs per year for rebate purpose should be brought down to 3001 TEUs for transshipment containers between Cochin Port and JNPT. The potential traffic to/from Cochin alone is much lower.
- (ii). Already a discounted transshipment handling rate at the container berths commences from 3001 tonnes per annum onwards as per the Scale of Rates. So, bringing down the threshold volume to 3001 may not be inconsistent.
- (iii). The related scheme could be extended to include the transshipment volumes of other ports apart from the traffic from/to Cochin.
- (iv). The proposed volume discount scheme would be terminated from the 4th year. The Regional competing hub ports are not only continuing with their current volume discount schemes but also make it further attractive. The JNPT, therefore, has to be advised to propose a scheme that awards long term consistent support.
- (v). Handling rebate for use of ship's gear. It is obvious that the handling rebate of Rs.600/20' and Rs.800/40' is a factor of use of the ship's gear and therefore this rebate should be extended to all containers handled by the ship at the shallow berth irrespective from which terminal the container originate or terminate from a pre-carrier or an on carrier. This dichotomy in the proposal be removed. The handling rebate for 40' should be 1.5 times and hence Rs.900/40' and not Rs.800/40' as mentioned in the proposal.
- (vi). Discount on berth hire at shallow water berth: Giving a discount on the berth hire for using conventional method of operations is welcome. The CSLA trusts there is no cross subsidizing between the foreign and the

coastal vessel especially at the level of rebates. If yes, necessary correction be made.

(vii). Bulk cargo related:

As wharfage is already payable having an additional service charge @ Rs.10//MT in advance is irrational. Port should elucidate why these charges are payable and what is the value for money proposition.

The Fertilizer Association of India (FAI)

- (i). There are no incentives on import of finished fertilizers/raw materials at shallow berth. There is no volume discount for fertilizer import vessels.
- (ii). The wharfage of Rs.70 per tonne on fertilizer and Rs.50 per tonne on fertilizer raw materials are quite high and should be brought down to Rs.50 per tonne and Rs.30 per tonne respectively. The maximum wharfage is only Rs.40 per tonne in other major ports.
- (iii). Considering the limitation of the new facilities, JNPT should consider 20% discount in berth hire charges on fertilizer/raw material import vessel also.
- (iv). As the JNPT is already collecting wharfage and berth hire charges to recover the cost of investment and overall services, the above service fees of Rs.10/- PMT on shallow berth only on fertilizer/raw materials should be withdrawn.

2.1. A joint hearing in this case was held on 23 April 2003 at the office of the Authority. At the joint hearing, the following submissions were made:

The Jawaharlal Nehru Port Trust (JNPT)

- (i). Explained the proposal.
- (ii). The discount proposed for containers from Cochin can be extended to Tuticorin also, if trade represents. We will examine this further.
- (iii). After 3 months from 17 September 2002, we have started applying the normal Scale of Rates. We will submit a proposal seeking adhoc approval to the tariff arrangement of 17 September 2002 to 17 December 2002 to continue beyond 17 December 2002 for a period of six months.

Indian National Shipowners Association (INSA)

- (i). For handling 100 TEUs at shallow berth our cost is almost double when compared to container berth.
- (ii). In addition, we have to hire equipment required for handling.

- (iii). We have to bear an additional cost of around Rs.350/- per TEU at shallow berth even after accounting for the discounts provided by the JNPT. In addition, we have to bear cost of inter terminal trucking.
- (iv). JNPT should allow private handling equipment to be installed at shallow berth on a common user basis.

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

- (i). When JNPT does not provide any service to containers, why should it levy a charge?
- (ii). Withdrawal of the rebates from December 2002 by JNPT is not correct. Vessel operators want 7% & 20% discount at shallow berth.

Shipping Corporation of India Limited (SCI)

- (i). The rebate proposed for transportation of Transshipment containers should be double the rate suggested.
- (ii). Now TP containers get normal volume discount at container terminal. Will TP container handled at shallow berths quality for this?
- (iii). Productivity at container berth and shallow berth are different. How can the same berth hire base rate can be adopted at both the places?

Indian National Shipowners Association (INSA) & Mumbai and Nhava-Sheva Ship-Agents' Association (MANSA)

We agree to the proposed tariff arrangement continuing beyond 17 December 2002 on a provision basis.

Larsen & Toubro Limited

- (i). Volume discount should include volumes handled at all berths.
- (ii). We will give a written submission explaining our alternate proposal by 30 April 2003.

Fertiliser Association of India (FAI)

- (i). Service fee (Rs.10/- PMT) should not be levied.
- (ii). Please reduce the basic wharfage rate.
- (iii). Please allow the existing arrangement at BB berths to continue at shallow berths as an adhoc arrangement.

- (iv). Even though we may not be benefited, we agree to the proposed tariff arrangement continuing beyond 17 December 2002 on an adhoc basis.

2.2. At the joint hearing, the following decisions were taken :

- (i). All users were allowed to make their further written submissions by 30 April 2003.
- (ii). The JNPT was advised to furnish its comments on the additional information / clarification sought by us and a cost analysis pertaining to the operations in reference; and,
- (iii). The JNPT was advised to send a proposal for an adhoc approval to extend the proposed arrangement for a period of six months with effect from 17 December 2002.

2.3. Accordingly, the written submissions made by some of the users are summarised below:

M/s. Larsen & Toubro Limited

- (i). The L & T has chartered cement carriers on long term time charter based on the assurance from the JNPT that the draught available would be 9.5 mtr. The draught now available is only 8.5 mtr. which will be most uneconomical.
- (ii). The L & T shall have to incur an additional cost of Rs.62/- PMT for coming to Shallow Water Berth. The rebate of 5% offered over 3 lakh MT is merely Rs.2.25 PMT.
- (iii). The tariff for coastal vessels should be brought back to the earlier coastal tariff.
- (iv). A reduction in wharfage charges for the coastal cargo of cement at least by 20% should be considered for the overall viability of the trade.
- (v). The present volume discount is not sufficient to offset the increase in cost at Shallow Draught Berth. The volume discount should start with 1 lakh MT and increased by 10% for every additional 1 lakh MT of cargo carried.

M/s. Shreyas Shipping Limited

(A). Sliding volume discount

- (i). The concession / rebate / discount for a vessel operator are necessary not because of restrictions in LOA but because of the cost of stevedoring that is incurred at the Shallow Water berth.

- (ii). The entire proposal is based on a projection of 80,000 TEUs per year. The details of the total container traffic handled at the shallow berth and also how many were local and how many were TP containers will help understand the ground realities better.
- (iii). At the shallow berth the port has not provided any Gantry. As per the workings in the Scale of Rates, the cost of onboard stevedoring with the Gantry is Rs.900/- per box. The port derives this revenue at the shallow berth too without providing a Gantry. It is proposed to give a rebate of Rs.300/- to the operator of the vessel. The port should instead be accounting for a revenue of Rs.600/- per box rather than a cost of Rs.300/- since the Port, in reality has no Gantry and therefore no cost. Further, the port derives additional revenue from the handling of boxes which are now dedicated into the JNPCT, which before the commencement of the shallow berth were being handled directly at NSICT. These revenues must be considered by the port in the overall scheme of things.
- (iv). The past few months' are a good indicator to judge the utility of the berth for container operations. It will be seen that mostly T/P containers have been handled during this time. It is therefore necessary to re-examine the issue of handling of T/P container carried by a Line operating at the other terminal.
- (v). The Colombo Port, the immediate competitor of JNPT is operating with two terminal operators and both terminals manage the inter terminal movement of containers without any additional cost to users. Since the shallow water berth operations will mainly have a vessel carrying mostly T/P boxes, some arrangement should be arrived to avoid this increased cost.
- (vi). Encouraging feeder traffic from Cochin and Tuticorin will help to fill the capacity gap at JN Port. The Government of India has already declared creation of additional capacity in terms of a third terminal at JN Port. Therefore, the minimum eligibility condition for availing of discount in TP containers should begin from first container onwards.

(B). Berth Hire Charges

- (i). Considering the experience at the shallow berth, the time taken at berth has doubled. Therefore, the berth hire charges for coastal vessels should be eligible for a discount of 50%.

(C). Handling Charges.

- (i). The Scale of Rates of the main container terminal provides handling rebate of Rs.600/- for 20' container and Rs.800/- for 40' container on the handling charges for import / export container and Rs.30/- per container towards lashing / unlashng of container respect as per prevailing notified tariff.

The rebate proposed for TP containers are different from that provided for local containers. This is incorrect. The costs would remain constant whether the box is a TP container or the box is a local container. There is, therefore, no logic in halving the handling rebate for TP containers.

- (ii). At the shallow berth, JN Port has provided a berth to the operator. Such a vessel operator, who comes along side the shallow berth, is required to use his own gear and also complete the job of onboard stevedoring of the container landed and being loaded. This operation is therefore similar to that being carried on at Mumbai Port container terminal. It may be of relevance to note that Mumbai port levies a fee of Rs.700/- per box for on board stevedoring. Since a similar operation within a similar geographical location is to be done at the shallow berth, the handling rebate be fixed at Rs.700/- per box.

(D). Additional Points

- (i). Permission for installation of Mobile Harbour Cranes or rail mounted quay crane should be given to us for a minimum period of 7 years.
- (ii). Volume rebate for all transshipment containers handled at shallow berth should be given to the vessel operator instead of line.
- (iii). No penal berth hire should be charged for stoppage of work due to equipment (crane / top lifter) failure, since at Container Terminal in case of crane breakdown no compensations are given to vessels operator for the vessel idling at berth.
- (iv). Sufficient trailers should be provided for operators to avoid delays in vessel operation.
- (v). Inter terminal shifting of container from JNP to NSICT and *vice versa* should be permitted to be undertaken by vessel operators and no inter-terminal shifting charge should be charged by terminals.

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

- (i). The proposal of the JNPT of handling rebate presupposes the fact that the port would charge the full cost of handling the container (Stevedoring). As this activity is not being carried out by the port by way of ship's gear, a rebate of Rs.600/- for 20' and Rs.800/- for 40' would be provided.
- (ii). The port cannot levy any tariff at all for loading / discharging from the vessel as it does not have the requisite equipment such as gantry, etc., to load or discharge the containers at shallow berth. Shallow berth is similar to berths in Mumbai and other traditional ports where vessels load and discharge containers with their own gear for which they incur stevedoring cost.

- (iii). The JNPT should have a totally separate tariff for the berths which do not have facility to load / discharge vessel.

2.4. A copy of each of the written submission made by the users was sent to the JNPT for information / comments, if any.

3. Comments of the port on the submission made by users are summarised below:

(A). Discount in Berth Hire charges for Coastal Vessels

The port has introduced certain improvement in operation strategies and permitted the feeder vessel operator to stack containers in three rows adjacent to berth to facilitate quick turnaround of vessels with consequent reduction in berth hire charges. Port has to collect berth hire charges on hourly basis. Therefore, the suggestion of M/s. Shreyas Shipping for 50% discount in berth hire charges need not be considered.

(B). Discount in Berth Hire charges for foreign-going vessels

There is a gradual reduction in volume of fertilizer and fertilizer raw material at the JNPT. Berth hire charges have to be collected on hourly basis. The overall economics of cargo handling operations for this type of cargo and lack of volume commitment it is not appropriate to increase the discount on berth hire charges for foreign-going vessels over and above 7% against the demand of 20% made by the Fertilizer Association of India.

(C). Sliding volume discount for transshipment container on incremental traffic between the Cochin and the JNPT

- (i). The scheme is exclusively for movement of cargo between Cochin and JNPT considering the cost and time of transportation from Cochin to JNPT.
- (ii). This discount is in addition to the existing volume discount on charges payable on transshipment containers handled on yearly basis as per the notified Scale of Rates.
- (iii). The port is prepared to consider giving this discount to transshipment containers moved between the Tuticorin and JNPT also with prospective effect.
- (iv). Keeping in view the low potential of earnings low return on capital employed and non-materialisation of requisite level of traffic vis-à-vis design capacity volume discount from the first TEU as pointed out by M/s. Shreyas or from 3001 TEUs as suggested by the CSLA / SCI / MANSA is not considered.

- (v). The suggestion to continue the sliding volume discount even after three years will be reviewed at the appropriate time keeping in view the growth of traffic handled at these two berths.
- (vi). The suggestion of the users for extending volume discount on sliding scale to transshipment containers originating or destined for Kandla, Pipapav, NMPT etc., is not considered at this stage in view of the overall economics of the current level of traffic.

(D). Rebate for handling normal import / export containers using ship's gear

The operations to be performed on main berths (when there is power shut down or JNPT equipment is out of order) by ships gear are same as those performed that Shallow berth and Port Craft berth. Therefore, the rebate structure notified by TAMP is proposed to be adopted for similar services rendered by shipping lines for use of ships gear. No other user suggested to increase the rebate for this operation. The suggestion of the CSLA to consider handling rebate for 40' container at 1.5 times applicable for 20' container is not in line with the rate notified by the TAMP on 5 September 2002 for performing similar operation at main berths.

(E). Rebate for handling TP containers using ship's gear

- (i). The SCI, MANSA and the CSLA have requested a rebate of Rs.600/- for 20' TP container and Rs.800/- for 40' TP container.
- (ii). Keeping in view the extent of rebates already provided under the current Scale of Rates for TP containers handled at SB02 and SB03 and the cost of operation for subsequent loading in main line vessels at CB01, CB02 at JNPCT, it is not economical to give any further rebate over and above Rs.300/- for 20' container and Rs.400/- 40' container.
- (ii). It is also relevant to point out that the JNPT will get only Rs.1500/- as handling charges for a TP container which is discharged at these two berths and subsequently loaded in main line vessels at the NSICT.

(F). Extension of free period for delivery of imported fertilizers from existing 12 days to 21 days.

- (i). Since the volume of cargo to be handled at these two berths is very nominal and there is no commitment for volume discount there is no case for considering the request of Fertiliser Association of India for more free period.

(G). Reduction of wharfage charges for fertilisers and fertiliser raw materials

Keeping in view the substantial investment made by the port for creation of infrastructure at JNPT and that handling of such cargo at JNPT is nominal without any volume commitment, the request made by

Fertilizer Association of India for reduction of wharfage charges is not acceptable.

(H). Volume discount on Cement.

- (i). Separate rebate is already considered for reduction in berth hire charges for coastal vessels.
- (ii). There is no volume commitment from M/s. L & T or any other importer.
- (iii). It is not prudent to accept the request of the MANSA to bring down the first slab to 1,00,000 MT per annum for volume discount.

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