

No. 21

New Delhi, the 29th January, 2001

TARIFF AUTHORITY FOR MAJOR PORTS

No.TAMP/107/2000-JNPT

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 Jawaharlal Nehru Port trust (JNPT) for increasing the free period for various classes of containers, as in the Order appended hereto.

(S. Sathyam)

Chairman

The Jawaharlal Nehru Port Trust (JNPT) ... Applicant

ORDER

(Passed on this 5th day of January 2001)

This case relates to a proposal made by the Jawaharlal Nehru Port Trust (JNPT) for increasing the free periods for various classes of containers.

2. In its proposal, the JNPT has stated that they have been receiving requests from Shipping Lines and the CSLA for increasing the free period for various classes of containers. The matter has been considered by its Board of Trustees and decided to propose different free period for various classes of containers as given below:

- (i). To allow free period of 15 days in the case of empty transshipment containers, instead of no free days allowed at present.
- (ii). To allow free period of 3 days for normal import/export empty containers against no free days allowed at present.
- (iii). To allow free period of 7 days in case of ICD loaded import/export containers moved by road instead of 3 days allowed at present.
- (iv). To allow free period of 3 days in case of ICD empty import/export containers moved by road as against no free days allowed at present.

3. In its proposal, the JNPT has given the following points in favour of its request:

- (i). Several requests were received from the Shipping Lines / Container Shipping Lines Association (CSLA) for revision of tariff in respect of free period presently allowed for empty transshipment containers. M/s. ZIM Lines have also requested the port to allow 30 days free period for empty transshipment containers as has been allowed for loaded transshipment containers at present.
- (ii). In order to reduce yard inventory and to motivate Shipping Lines for early repositioning of empties for export stuffing, presently no free period is allowed for Empty (Local) Containers. There is a pressing demand from Shipping lines to allow free period for empty containers at par with loaded containers (local) i.e., three days from the date of arrival. Shipping lines are requesting three free days for empty normal containers mainly because they may get some time to arrange for transporter and availability of place in the private yards.
- (iii). Presently empty containers meant for transshipment are not allowed any free period. But there is a pressing demand from the Shipping lines to relax the free period in respect of empty containers for transshipment also. This would definitely help Shipping lines to use the JNP for transhipping empties from Europe to Colombo and other destinations. In other words, it would assist in the general development of the JNP as a hub port.
- (iv). Presently loaded ICD containers moved by road are given a free period of 3 days and there is no free period for empty ICD containers moved by road. The justification for a shorter free period for ICD containers by road is that they do not need to wait for aggregation like ICD containers by rail, but can move independently. Now, it is represented that most of the ICDs are located in the hinterland and it is found difficult to arrange transport immediately especially to the places like Pithampur-Indore, Chinchwad-Pune, etc.

4. The JNPT has also stated that on account of the proposed increase in free period, the financial loss to the Port will be about Rs.1.5 crores. To cover this loss, an additional traffic of about 6000 TEUs is required.

5. The proposal of the JNPT was circulated to concerned representative bodies of users and the NSICT also. The comments received are summarised below:

Nhava Sheva International Container Terminal Limited (NSICT)

- (i). The TAMP has always advocated that there should be performance related criteria for measuring the efficiency of ports. The present proposal has not demonstrated how efficiency will improve. It must be ensured that the present proposal will not lead to congestion.
- (ii). The free periods being offered will have its effect on revenue earning of JNPT who have recently put in an application for a 30% tariff increase. This could result in higher tariffs being applied for in future for the other activities.
- (iii). The JNPT is taking unfair advantage of its extra land area to provide relief by converting its CY into a general storage area and giving unrealistic discounts. The principle of a Container Terminal is not to use the CY as a storage yard. The real reduction in costs should flow through productivity improvements and the JNPT has in no way proved the same.

The Container Shipping Lines Association (CSLA)

- (i). The CSLA supports the proposal of the JNPT.
- (ii). It is assumed that the same tariff condition will apply equally to the NSICT.

Indian National Shipowners' Association (INSA)

- (i). INSA notes with satisfaction that the Port has responded to the long pending request of rationalising the free periods.
- (ii). The JNPT Board resolution provides scope for subsequent review, if need arises.

6.1. A joint hearing in this case was held on 21 Nov. 2000 at the JNPT office in Mumbai. During the course of joint hearing the following submissions were made:

The Jawaharlal Nehru Port Trust

- (i). Earlier we wanted to avoid congestion and wanted speedy movement. Hence, no free periods were allowed.
- (ii). (a). Now lines have been requesting for grant of free periods.
(b). JNPT want to promote transshipment traffic.
(c). There are bottlenecks in ICD container movement by road.

(d). JNPT have enough space; so, we want to give this facility to normal (empty) container movement also.

(iii). We have taken average dwell time of all containers for determining the free periods. Our proposal is well within the averages.

The Nhava Sheva International Container Terminal Limited (NSICT)

(i). We do not really care to interfere in JNPT affairs.

(ii). A container yard is meant to be a transit area. Traffic must move fast. What is proposed militates against this.

(iii). This should not become a precedent. The NSICT should not be required to do the same as we don't have the space.

The Container Shipping Lines Association (CSLA)

(i). We expect the same terms to apply in the NSICT also.

(ii). (a). 15 days free period for empty transshipment containers is low. It shall be 21 days.

(b). For import / export empty containers three free days are inadequate. It shall be 7 days.

(c). ICD containers moving by rail and road shall be allowed the same number of free days.

(d). In reality, movement by road is more difficult. The JNPT must enhance the free time for road movement and it must be more than that of rail movement.

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

(i). We welcome the proposal as it meets the long standing demand of the trade.

(ii). (a). For purposes of free days the distinction between loaded/ empty must be abolished

(b). For purposes of free days ICD containers moving by rail and road should have the same terms.

The Shipping Corporation of India (SCI)

- (i). We endorse the proposal and congratulate the JNPT.
- (ii). We suggest that NSICT must also adopt this.
- (iii). We endorse the views of the CSLA on free days for ICD containers.
- (iv). The free period for transshipment containers (empty) should be increased from 15 to 21 days. For transshipment of empties by two different lines, more than two weeks are required.
- (v). The free period for ICD empties moving by road should be enhanced from 3 to 15 days to equate it to rail traffic.

The Indian Merchants Chamber (IMC)

We fully support the proposal and suggest that it will be even better if free period can be raised further.

The Bombay Custom House Agents Association (BCHAA)

- (i). We must always consider the implication for total handling charges.
- (ii). This proposal goes to reduce the burden on trade. So, we welcome it.

6.2. During the joint hearing, the CSLA filed a written submission highlighting the following points:

- (i). It is indeed a welcome move to allow free period of 15 days in the case of empty transshipment containers, however, it is worthwhile to compare the free periods offered by other transshipment hubs in the region. Dubai offers 20 days free period for such containers, Colombo offers free period of 21 days. Considering the current operations scenario of connections for transshipment boxes at JNPT, the port should consider 21 days free period instead of the 15 days proposed.
- (ii). Due to unfavourable imbalances, lines are required to position empty containers into India and, therefore, are incurring heavy costs as a result. In most of the cases, lines are required to bear these costs and cannot pass on the same to merchants. The free period of three days proposed by the port is not adequate to arrange for transportation of empty containers to the yards, as these are mostly situated 25/30 kms away from the port. Each round trip takes about 5 hrs. and considering the huge number of empties that are discharged at the JNPT, it becomes difficult to evacuate all the empties within the three

free days. Therefore, it is suggested that the port should consider 7 free days for import / export empty containers.

- (iii). In case of movements to ICD locations by road, lines are required to make their own arrangements of transportation. Paucity of trailers, time taken for completion of documentation and obtaining permission from customs compel the lines to keep such containers in the port. Therefore, it will be logical if the 15 days free period available for ICD containers by rail is also extended to the ICD containers moved by road.

7.1. The BCHAA has forwarded its further observations, a summary of which is given below:

- (i). Keeping in mind that Container Terminals are not meant to be used as a storage area, and only meant to be a transit point, at which containers are received from or loaded on vessels, the J.N. Port authorities had in their wisdom created a Buffer Yard nearly 4 years ago, thereby forcing exporters to incur a sum of Rs.35 to 36 crores per annum, just to ensure that the Port Terminal Container Yards was not congested.
- (ii). The trade is very happy to note the decision taken by the J.N. Port Administration in extending free days for storage of Containers in the Port container yard, and accordingly suggest that the authorities should issue orders to close down the operations at the Buffer Yard.
- (iii). The trade is also very happy that the decision taken by the Ports Administration in extending free days to containers should result in lower handling costs of the containers at the Gateway Port. As a result, tremendous amount of monetary savings will accrue to the Shipping Lines and their agents. This aspect requires serious consideration in the context of the THC.

7.2. The NSICT has also filed a written submission. The main points made by the NSICT are as follows:

- (i). The NSICT will not interfere in the JNPT's business practices except when such practices will have direct impact on its business.
- (ii). The Lines are demanding similar arrangement from the NSICT also.

- (iii). The JNPT has about 60 hectare of land as against the NSICT's 28 hectare. The NSICT does not have the physical resources to offer greater number of free days.
- (iv). Increase in free days will reduce efficiency and productivity.
- (v). Presently, the JNPT may be able to accommodate increase storage period. However, throughput through both terminal at the Jawaharlal Nehru Port will substantially increase within the next 2 years. Decision taken today may have effect on productivity in the short term future.

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

- (i). The proposal is to be seen as a relief provided to the Trade in deference to their longstanding demand. The JNPT also envisages an opportunity of more flow of empty transshipment containers, as a result of enhancing free days in respect of this category.

The Port has estimated a revenue loss of about Rs.1.50 crores, p.a., if the proposed increases in dwell time are allowed. It has also mentioned that about 6000 TEUs are required to make up this loss. Considering the volume of containers at the JNPT, the additional throughput required to make up the loss amounts to about 1% of its annual container traffic. It is reasonable to expect that one of the leading container handling ports in the country can easily achieve a volume growth of 1% per annum and thereby square up the losses.

Viewed from this perspective, the JNPT proposal deserves to be approved.

- (ii). All the users have welcomed the proposal. However, they have demanded further enhancement of free periods. The JNPT has rightly dismissed these demands saying that its proposal is based on average dwell time of these containers.

It has to be recognised that any rationalisation having significant financial impact can be made only at a gradual phase. The enhancement of free time proposed now will definitely provide considerable relief to the Trade. It is noteworthy that the proceedings of the JNPT Board meeting held on 22 Sept. 2000 also suggest a review of the proposed arrangement subsequently. That being so, the

demand for further enhancement of free periods right now is found to be unreasonable.

- (iii). The NSICT objections mainly stem from its apprehension of having to face demands from the Lines for similar concessions from it also. In fact, the Shipping interests have already raised this demand.

When both JNPT and NSICT approached the Authority for approving an upward revision of their existing tariffs, the Lines criticised such a move as an extraordinary coincidence, which would defeat the trends towards competition. Strangely, the same Lines now want both the NSICT and JNPT to join hands in this case!

Eventhough, the NSICT had initially adopted the JNPT tariff structure, it has recently opted to branch off. The rates and conditions relating to the services rendered by the NSICT can not be equated with those of the JNPT. The point made by the NSICT about land-availability merits consideration. The demand raised by the Shipping Lines for extension of similar benefits at the NSICT just because the JNPT is offering such benefits is, therefore, found to be unreasonable and can not be conceded.

The points raised by the NSICT about efficiency and productivity are no doubt relevant. However, it can be reasonably presumed that the JNPT would have considered these aspects before formulating the proposal, as it may not be its intention to sacrifice its terminal's productivity for allowing some concession to the users based on their long pending demand.

- (iv). The BCHAA has suggested that the JNPT should close down the operations at the Buffer Yard in the light of its decision to extend free days for storage in the Port's yard.

The Buffer yard is meant for storage of factory stuffed (FCL) export containers pending completion of shipment formalities. The volume of such containers and the categories of containers covered by the instant proposal may not be comparable. It is relevant here to note that not allowing the containers into CY without clearance of shipment formalities is an international practice. The exporter must arrange for all required clearances before his container can be moved to the CY. Also, there is no significant change in the circumstances obtaining in 1997, when the Buffer Yard was introduced by the JNPT and now warranting withdrawal of the arrangement, except a slight fall in the volume through the JNPT with the advent of the NSICT.

Notwithstanding the international practice obtaining in this regard, with the falling traffic, it may be advisable for the JNPT to examine its volume forecasts and average dwell time of containers and to undertake a review of the Buffer Yard arrangement.

- (v). The BCHAA observation about the savings to the Lines arising out of this proposal and its effect on the THC are relevant. Recently, the MBPT has submitted a proposal to regulate THC for the port as a whole. The MBPT proposal has been circulated to all ports for examining the appropriateness to adopt the model followed by the MBPT in other ports. No port, including the JNPT, has come up with any proposal for regulation of the THC. The JNPT is advised to examine the MBPT model of the THC regulation and examine the possibility of adopting the model for the JNPT terminal also.

9. With reference to the analysis given above, and based on a collective application of mind, the Authority hereby approves the following proposals of the JNPT:

- “1. The free period for empty transshipment containers shall be 15 days instead of ‘nil’ at present.
2. The free period for import / export (local) empty containers shall be three days instead of nil at present.
3. The free period for ICD import / export containers moved by road shall be as follows:

Loaded : 7 days.

Empty : 3 days.”

10. The JNPT is directed to introduce the above provisions in its Scale of Rates appropriately.

11. This Order will come into force with immediate effect after its Notification in the Gazette of India.

(S. Sathyam)

Chairman