(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

TARIFF AUTHORITY FOR MAJOR PORTS

G No. 111 **New Delhi, 18 April 2013**

NOTIFICATION

In exercise of the powers conferred under Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the Jawaharlal Nehru Port Trust for rationalisation and modification of the conditionalities prescribed in the existing Scale of Rates of JNPT as in the Order appended hereto.

(T. S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

No. TAMP/28/2012–JNPT

Jawaharlal Nehru Port Trust --- Applicant

QUORUM

(i). Smt. Rani Jadhav, Chairperson
(ii). Shri. T.S. Balasubramanian, Member (Finance)

O R D E R

(Passed on this 25th day of February 2013)

This case relates to a proposal dated 25 April 2012 from the Jawaharlal Nehru Port Trust (JNPT) for rationalization and modification of the conditionalities prescribed in the existing Scale of Rates of JNPT.

2.1. The Scale of Rates (SOR) of JNPT was last reviewed vide Order no. TAMP/53/2007-JNPT dated 18 February 2011. This Order was notified in the Gazette of India on 24 March 2011 vide Gazette No.57. The SOR notified on 24 March 2011 is valid upto 31 March 2013.

2.2. The JNPT during the last review of its tariff in February 2011 had proposed some modifications to the conditionalities prescribed in its Scale of Rates. However, the proposed modifications were not justified and lacked reasons. Therefore, the JNPT was advised vide paragraph No.11 (xviii) of the Order dated 18 February 2011, to come up with a proposal for rationalisation and changes in the conditionalities with reasons and justifications.

3.1. In this backdrop, the JNPT under cover of its letter dated 25 April 2012 has filed a proposal for rationalisation and changes in the conditionalities prescribed in the SOR. The JNPT has also furnished a statement showing the proposed changes to the conditionalities prescribed in the SOR, as given below:

(i). **Chapter – I – Definitions & General Conditionalities:**

(a). Definitions

Existing	Changes proposed
Definition of 'Foreign going vessel' shall mean any vessel other than Coastal vessel.	Definition of 'Foreign going vessel has been modified to include other than coastal and inland vessel.
"Port Area" means the custom bound area / port operational area of the Port.	The definition of "Port Area" has been defined to include the area under the notification specifying boundary limits and port operational area has been specifically indicated to mean custom bound area where vessels / cargo handling activities are carried out.
"Hazardous Container" shall mean a container containing hazardous goods as classified under IMO.	Definition of "Hazardous Container" has been modified to mean container carrying hazardous goods as classified under IMDG Code.

(b). General Terms & Conditions

Sl. No.	Existing	Changes proposed
(i) (a)	A foreign going vessel of Indian flag having a General Trading Licence can convert run on the basis of a Customs Conversion Order.	Definition of foreign going vessel and Indian Coastal vessel has been modified in line with clarification from time to time.
(iii). (b)	Container related charges denominated in US dollar terms shall	In respect of container related charges, the conversion to be

	be collected in equivalent Indian rupees based on the market buying rate prevalent on the date of entry of the vessel in case of Import containers; and on the date of arrival of the containers in the port premises in case of export containers.	applied has been modified as RBI reference rate. This is fixed for a day as market buying rate is varying even during the day and difficult to apply.
(vii) (b)	The rate of penal interest will be 13%. The penal interest rate will apply to both the JNPT and the port users equally.	The rate of Penal Interest has been changed to 14.75% as against 13% prescribed earlier.

(ii). **Chapter – II – Vessel Related Charges**

(a). 2.1. Schedule Of Port Dues:

Gas Carriers, Oil / Chemical Tankers, Mobile Offshore Drilling Units and Passenger Ships have been specifically included in view of their possibility of being handled.

The MBPT Port Dues has been changed to 32% in line with recent amendment in Scale of Rates of MbPT.

(b). Under 2.2. (C) Definition of Port Convenience as applicable to Port operated terminal only has been inserted. Shifting at the instance of other BOT operators will not be treated as "Port Convenience".

(c). 2.2. (E) Cancellation charges & detention charges for Pilots:

Detention of pilot for more than 30 minutes at par with cancellation has been brought in. Further, for sailing vessel, tug hiring charges shall also be applicable as per tariffs in case of cancellation of requisition of Pilot is made.

(d). Schedule of Garbage Collection charges:

Schedule of Garbage Collection charges has been inserted as per Orders of TAMP and brought in the main Scale of Rates with increase in charges to ₹ 2000/- as existing rate of ₹ 500 is very low.

(e). Notes:

(i). (5). False Signal:

Definition of False Signal has been brought in line with circular issued by Port to bring more clarity on the subject matter.

(ii). (12). Discount allowable at Shallow Water Berth shall be discontinued after mechanization has been brought in. Once it is mechanised, discount is not necessary as it will be at par with any other berth.

(iii). **Chapter – III – Charges for services rendered to containers and containerised cargo:**

(a). Pure Coastal Container and Part Coastal & Part Foreign have been defined.

(b). Hazardous Containers:

Hazardous Empty Container to be treated as Hazardous Loaded Container for the purpose of billing has been brought in. Empty

Hazardous Containers have also to be handled with care as even small leftover quantity inside can have explosion / fire.

(c). Shutout Containers:

Instances where shutout charges not to be levied have been specified.

(d). The procedure in respect of release of long standing container / cargo has been enumerated as per circular issued by Container Terminal from time to time.

(e). Charges for Inter Terminal transfer of transhipment of containers between JNPT and GTIPL has also been incorporated.

(f). ITRHO charges have also been incorporated in the draft Scale of Rates.

(iv). **Chapter – IV – Charges For Dry Bulk and General Cargo**

Orders issued by TAMP in respect of Dwell Time Charges for sugar has been incorporated.

(v). **Chapter – VI – Miscellaneous Charges**

(a). Penalty charges for cancellation of VIA issued earlier has been modified as 180 dollar for foreign gong and ₹ 2000/- for Coastal as against old rate of ₹ 1000/- per VIA without any distinction between foreign going and coastal vessel.

(b). 6.4. Hire charges for Floating Craft has been revised as follows:

Sr. No.	Name of the Craft	Old Rate per hour or part thereof (In ₹)	Revised rate per hour or part thereof (In ₹)
1.	Tug (Bollard Pull-50T)	10,000	27,000
2.	Tug (Bollard Pull-30T)	10,000	24,000
3.	Tug (Bollard Pull-60T)	10,000	39,000
4.	Pilot Launch	1,500	6,000
5.	Security Launch	3,000	6,000
6.	VIP Launches (Speed Launches)	1,500	1,300

(c). 6.5. Manpower Hiring charges has been revised as follows:

Sr. No.	Classification	Existing rate per person per hour (In ₹)	Revised rate per person per hour (In ₹)
1.	Manpower hiring charges – Managerial	100	530
2.	Manpower hiring charges – Non Managerial	75	420

(d). Mobile fire Tender Service Charges:

The Charges for Mobile Fire Tender Services have also been included in line with orders of TAMP and brought in the main Scale of Rates.

(vi). **Schedule – VII – Estate Related Charges**

(a). The Rates have been indicated as on 1 April 2011 against rates prevalent in 1997 and specifying the escalation to be levied from time to time.

(b). Port Operational Area has been specifically defined.

3.2. The JNPT has also furnished proposed draft Scale of Rates incorporating the changes.

4. The JNPT has furnished the comparative position of existing and proposed conditionalities in respect of Chapter-I of the SOR. In Chapters-II to VII of the SOR, though the JNPT had narrated the changes proposed, it had not furnished a comparison of existing and proposed conditions. Therefore, while acknowledging the proposal, the JNPT was requested to furnish a comparative statement of existing and proposed conditionalities justifying the proposed modifications and bringing out the financial implications of the proposed changes. After a reminder, the JNPT furnished the statement, which is given below:

Chapter - 1.1 Definitions

Existing Conditionalities	Proposed modified conditionalities	Reasons/Justifications for the modifications	Estimated Financial implication
Definition of "Foreign going vessel" shall mean any vessel other than Coastal vessel.	Definition of "Foreign-going vessel" has been modified to include other than Coastal and inland vessel.	To bring more clarity	None
"Port Area" means the custom bound area / Port operational area of the Port.	The definition of "Port Area" has been defined to include the area under the notification specifying boundary limits and port operational area has been specifically indicated to mean custom bound area where vessels/cargo handling activities are carried out.	To bring more clarity as well as to avoid disputes in Service Tax as earlier definition of Port area was conveying the meaning that it is outside the port boundary limit also.	None
"Hazardous Container" shall mean a container containing hazardous goods as classified under IMO.	Definition of "Hazardous Container" has been modified to mean container carrying hazardous goods as classified under IMDG Code.	To bring more clarity	None

Chapter 1.2 General Terms & Conditions

Existing Conditionalities	Proposed modified conditionalities	Reasons/Justific-ations for the modifications	Estimated Financial implication
(i) (a) A foreign going vessel of Indian flag having a General Trading Licence can convert to Coastal run on the basis of a Customs Conversion Order.	Definition of foreign going vessel and Indian Coastal vessel has been modified in line with clarification from time to time.	To bring more clarity	None
(iii) (b) Container related charges denominated in US dollar terms shall be collected in equivalent Indian rupees based on the market buying rate prevalent on the date of entry of the vessel in case of Import containers; and on the date of arrival of the containers in the port premises in case of export containers.	In respect of container related charges, the conversion to be applied has been modified as RBI reference rate. This is fixed for a day as market buying rate is varying even during the day and difficult to apply.	To bring more clarity & transparency	None
(vii) (b) The rate of penal interest will be 13%. The penal interest rate will apply to	The rate of Penal Interest has been changed to 14.75% as against 13% prescribed	As per TAMP order	Difficult to quantify as it is dependent

both the JNPT and the port users equally.	earlier.		upon delay in making payment by customer and can not be anticipated.

Chapter II Vessel Related Charges

Existing Conditionalities	Proposed modified conditionalities	Reasons/Justific-ations for the modifications	Estimated Financial implication
2.1 – Schedule of Port Dues (New addition)	a) Gas Carriers b) Oil & Tanker c) Bulk Carriers d) Mobile Offshore drilling units e) Passenger ships	Specifically included in view of their possibility of being handled.	None
MBPT Port Dues 39.35% of the port dues as prescribed in the MBPT Scale of Rates from time to time	32% of the port dues as prescribed in the MBPT Scale of Rates from time to time	Same as per MBPT Scale of Rates revised from time to time	None as it is not part of our income also.
Notes: 2.2(C)	**New insertion:** Definition of Port Convenience as applicable to Port Operated Terminal only. Shifting at the instance of other BOT operators will not be treated as "Port convenience"	For better clarity	
2.2(E) Cancellation Charges and Detention Charges for Pilots Detention of Pilot for more than 30 min. beyond the time for which the requisition is made a) For the 1st hour Foreign($) Coastal (₹) 63.00 1651.10 b) For subsequent hr or part thereof Foreign($) Coastal (₹) 31.50 825.55	In addition to the existing rate Port will collect Tug hire charges for Pilot cancellation.	When a Pilot is booked, automatically the tugs are also booked. At the time, the pilot boards the vessel, the tugs also arrive at the ship. The port is hiring the tugs at very high rates and fuel consumed by the Tug is paid by the Port.	
2.5 – Schedule for Garbage Collection charges Charges for collection of garbage from ships and hired port craft : Rate per ship / Hired Port craft = ₹ 500/-	Charges for collection of garbage from ships and hired port craft : Rate per ship / Hired Port craft = ₹ 2000/-	Existing rate of ₹ 500/- is very low	Additional financial implication will be approx. ₹10 lacs based on Financial year 2011-12 actual.
Notes: (5) False Signal	New Insertion of Definition of False Signal	To bring more clarity on the subject matter	As per TAMP Order also.
(12) Discount Allowable at Shallow Water Berth	New Insertion Discount allowable at SWB shall be discontinued after mechanization of SWB.	No need of such discount after mechanization of SWB	Additional financial implication will be approx. ₹ 41 lacs based on Financial year 2011-12 actual.

Chapter III Container Related Charges

CHARGES FOR SERVICES RENDERED TO CONTAINER AND CONTAINERIZED CARGO	**New Insertion** of Definition Pure Coastal Container and Part Coastal and Part Foreign have been defined.	For better clarity.	None
HAZARDOUS CONTAINERS	**New Insertion** Hazardous Empty Container to be treated as Hazardous Loaded Container for the purpose of billing has been brought in. Empty Hazardous Containers have also to be handled with care as even small leftover quantity inside can have explosion/fire.	For better clarity as equal care has to be taken for handling hazardous empty containers also.	Difficult to quantify
SHUTOUT CONTAINERS	**New Insertion** Instances where Shutout Charges not to be levied have been specified. The procedure in respect of release of long standing container/cargo has been enumerated as per circular issued by Container Terminal from time to time.	For better clarity on the subject matter.	None
ITRHO Charges :	Charges for Inter Terminal transfer of transshipment of containers between JNPT and GTIPL has also been incorporated. ITRHO charges have also been incorporated in the draft Scale of Rates	As per existing TAMP Order but now included in Main Tariff Table.	

Chapter IV Charges for dry bulk and general cargo

(Note -6)	New Insertion of Dwell time charges for Sugar	As per TAMP Order Dtd.22.09.2009	

Chapter VI Miscellaneous Charges

6.3 - Penalty Charges for cancellation of VIA issued earlier **Rate per Occasion per VIA = ₹ 1000/-**	Penalty Charges for cancellation of VIA issued earlier Rate per Occasion per VIA <u>Foreign ($)</u> <u>Coastal (₹)</u> 180.00 2000.00	Earlier no distinction for cancellation charges for foreign and coastal vessel was there.	None
6.4 – Hire Charges for Floating Craft Name of the Craft: **<u>Amt.in ₹</u>** Tug (Bollard Pull-50T) - 10000/- Tug (Bollard Pull-30T) - 10000/- Tug (Bollard Pull-60T) - 10000/- Pilot Launch - 1500/- Security Launch - 3000/- VIP Launches - 1500/- (Speed Launches)	**Revised Rates:** Name of the Craft: **<u>Amt.in ₹</u>** Tug (Bollard Pull-50T) - 27000/- Tug (Bollard Pull-30T) - 24000/- Tug (Bollard Pull-60T) - 39000/- Pilot Launch - 6000/- Security Launch - 6000/- VIP Launches - 1300/- (Speed Launches)	As per Actual Workings based on various components.	Difficult to quantify as requisition for hiring is not fixed.

6.5 -Manpower hiring charges – (Per Hr.) **Amt.in ₹** Manpower hiring charges-Managerial - 100/- Manpower hiring charges – Non Managerial - 75/-	**Revised Rates: (Per Hr.)** **Amt.in ₹** Manpower hiring charges-Managerial- 530/- Manpower hiring charges–Non Managerial– 420/-	The same is as per Actual Working based on Pay Revision Order.	Difficult to quantify as requisition for hiring is not fixed
6.6 -Mobile Fire Tender Service Charges	**New Insertion** The charges for Mobile Fire Tender of ₹ 2000/- per hour have been included.	The same is as per TAMP Order.	No additional financial implication.

Chapter VII Estate Related Charges

The existing rate prevalent in 1997	The rates have been indicated as on 1.4.2011 for ease of Port User.		

Note: Financial Implication is difficult to calculate in many of the cases as the same is dependent upon the Service requisition and other factors and are not fixed/ mandatory to be availed by Users.

5. In accordance with the consultative procedure prescribed, the proposal of JNPT was forwarded to the concerned users / organization bodies seeking their comments. The comments received from users / organization bodies were forwarded to JNPT as feedback information. The JNPT has responded on comments of the users / organization bodies.

6.1. A joint hearing on the case in reference was held on 14 August 2012 at the Office of the Authority. The JNPT made a power point presentation explaining the comparative position of existing and proposed provisions in the Scale of Rates.

6.2. As agreed at the joint hearing, the JNPT was requested vide our letter dated 17 August 2012 to:

(i). Restrict the scope of the subject proposal to modification/ rationalization of the conditionalities.

(ii). Respond to the comments of users latest by 21 August 2012 with a copy endorsed to relevant users/organizations and advising them to furnish their further comments, if any, to us with a copy endorsed to JNPT.

(iii). Ensure that the exchange of correspondence with the parties is completed by 28 August 2012.

6.3. At the joint hearing, the concerned users/ organisations were also requested, to go through the response to be furnished by JNPT on their comments and furnish their further comments, if any, to us with a copy endorsed to JNPT.

6.4. The JNPT responded to the comments of the users/ user organizations. Some of the users / organisation bodies have also furnished their comments on the comments of JNPT.

6.5. However, the JNPT has not responded so far with reference to the point no.6.2 (i) above despite reminders dated 6 September 2012 and 20 December 2012.

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

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

(i). As advised by this Authority in the last general revision tariff Order of JNPT dated 18 February 2011, the JNPT has submitted the proposal for rationalizing its Scale of Rates, in April 2012. As mentioned earlier, the proposal of the port was taken up in consultation with the concerned stakeholders and thereafter a joint hearing was held on the case in reference. In this regard, it may be relevant to mention here that the JNPT has not only proposed rationalisation of the conditionalities but it has also sought an increase in the rates of some of the existing tariff items. As decided at the joint hearing, the JNPT was requested to restrict the scope of the subject proposal to modification/ rationalization of the conditionalities. Inspite of reminders, the JNPT has not responded so far except withdrawing the increase proposed in the hire charges for Floating Crafts while responding to the comments of one of the user organisations. The JNPT is silent about increase proposed in respect of other tariff items like Garbage Collection Charges, penalty for cancellation of VIA, Man Power hiring charges, to cite a few. Further, adjustment of additional revenue estimated by JNPT at ₹ 10 lakhs per annum and ₹ 41 lakhs per annum that may accrue to the JNPT from the proposed increase in Garbage Collection Charges and discontinuation of discount at Shallow Water Berth respectively for reduction in some other tariff items are not proposed to maintain revenue neutral position. The proposal of April 2012 filed by the JNPT has been registered as a 'tariff case' and hence it is not desirable to keep it pending indefinitely for want of response from the port.

(ii). Since the validity of the Scale of Rates of JNPT expires on 31 March 2013, the JNPT has filed a proposal for general revision of its Scale of Rates. From the proposed draft Scale of Rates forming part of the general revision proposal filed by the JNPT, it is seen that the modifications to the Scale of Rates as proposed by the JNPT earlier in its proposal under reference have been incorporated in the draft Scale of Rates forming part of the general revision proposal filed now by JNPT. It is noteworthy that the JNPT has also proposed some more modifications to the existing conditionalities in addition to the changes proposed by it in its proposal of April 2012.

(iii). Since the modification to and rationalisation of the existing conditionalities as proposed by the JNPT earlier in its proposal under reference have already been incorporated by JNPT in the draft Scale of Rates forming part of the general revision proposal filed by it now, the original proposal of JNPT filed in April 2012 does not appear to be relevant. It may be appropriate to deal with the said modifications/ rationalisation along with the additional changes proposed by the port in its general revision proposal at one go, so as to avoid modification to the Scale of Rates in a piecemeal manner. Further, even if the said modification to the Scale of Rates are approved separately, they would form part of Scale of Rates of the port.

(iv). Had the JNPT responded to the advice rendered by this Authority in the joint hearing to restrict the scope of its proposal to rationalisation/ modification to the existing conditionalities, the response of the port would have excluded its proposal seeking increase in the existing rates of some of the tariff items. That being so, consideration of the modification to and rationalisation of the existing conditionalities alongwith the general revision proposal already filed by the JNPT may not put the JNPT in any financial hardship, as the existing Scale of Rates approved in February 2011 which is valid till 31 March 2013 has been drawn up considering the overall financial/ cost position of JNPT for the tariff cycle ending 31 March 2013.

9. In the result, and for the reasons given above, and based on a collective application of mind, this Authority closes the case. The proposal of the JNPT for modification to and rationalisation of the existing conditionalities would be considered on merits while disposing the general revision proposal of JNPT.

(T. S. Balasubramanian)
Member (Finance)

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/28/2012-JNPT	**:**	**Proposal from the Jawaharlal Nehru Port Trust for rationalisation and modification of the conditionalities prescribed in the existing Scale of Rates of JNPT**

1.1. A summary of the comments received from users / organization, comments of JNPT thereon and comments of users on the comments of JNPT are juxtaposed below:

Sl. No.	Comments of users / user organisations	Response of JNPT	Comments of users on the response of JNPT
1.	**Mumbai And Nhava-Sheva Ship-Agents Association (MANSA)**		Letter dated 1 November 2012
(A).	**CHAPTER – I** **1.2. General Terms & Conditions** **1.2. vii (b)** - No proper justification for an increase in Penal Interest from 13% to 14.75% **Interest on delayed payments / refunds** Time frame in delay of payments should be same for the users and the port authorities.	This is as per Order passed by TAMP and therefore the same requires no change / modification.	----
(B) (i)	**CHAPTER - II - VRC** **2.2 (C) - Definition of Port Convenience :** PORT means Jawaharlal Nehru Port. Accordingly port convenience should be applicable to all the Terminals operating with in the port and not to be restricted to Port operated terminals especially when marine activity are undertaken by the port and charges are paid to JNPT directly by the users. In addition to this shifting is required only due to lack of infrastructure facility such as Draft / LOA prevailing in the port today. So it is not justified to restrict the definition of PORT only to JNP operated Terminal.	As regards restricting definition of shifting for port convenience of JNPT operated terminal only if shifting is carried out for the convenience of a private terminal or for the convenience of a vessel berthed at a private terminal, this cannot be treated as port convenience. Further, as the vessel related charges are levied on to the port users, and in this case on the vessel agent they can definitely seek reimbursement from the concerned private terminal, if the shifting was carried out for the convenience of the terminal. Therefore, the port convenience as defined should restrict the definition to JNP operated terminal only.	JNPT consists of three container Terminals, shallow water berth and Liquid Terminal which is operated by JNP and other private operators. Marine charges are collected by JNP directly from the users. The shifting of the vessel is actually necessitated for Ports convenience for following main reasons: 1. To accommodate larger vessel 2. To adjust the LOA and accommodate another vessel 3. Due to sailing restrictions 4. For better turnaround and maximum usage of available cranes

			The above requirements expose basically inadequacy or insufficient infrastructure facility inherent in the Terminals infrastructure being operated at JNP and for this reason the users should not be penalized for departmental movements of vessels within the port berths since obviously shiftings help enhancing the efficiency and augmenting the earning capacity of the Port, often at the cost of alongside working vessel. Need to emphasize that due to this shifting; the vessel is further delayed in her schedule. Therefore the Port should appreciate that these shifting has always benefited the overall performance of JNP. Hence we do not agree with JNP that this benefit should only to be extended to their operated Terminal.
(ii)	**2.2. (E) - Cancellation charges & detention charges for Pilots** MANSA is not in agreement with combining detention of pilot at par with cancellation of Pilot. It should be treated separately as per present procedure. Pilot cancellation charges should be separate and no additional tug hiring charges is to be levied in addition to pilot cancellation charges. Existing marine charges are as it is very high and the authorities need to look into reduction of the marine charges. Therefore it is not justified to impose additional charges by way of tug hire charges in addition to pilot cancellation charges.	When a pilot is booked, automatically the tugs are also booked. At the time, the pilot boards the vessel, the tugs also arrive at the ship. When pilot is cancelled, the tug are also cancelled which go back as does the pilot. The port is hiring the tugs at very high rates, also fuel consumed by the tug is paid by the port. Hence, the port is completely justified to collect tug hire charges as per charges prescribed in the Scale of Rates in addition to pilot cancellation charges.	1. When a pilot is booked and cancelled prior boarding, there is no need for the arrival of tugs at the vessel side, accordingly no tug cancellation charges can be applicable. 2. When a pilot is booked/ arrived on board and sailing cancelled after one hour of pilot boarding due to non readiness of vessel - In addition to the pilot cancellation charges, penal berth hire , false signal charges, and normal berth hire charges are levied . We are sure these additional levy of heavy charges are more than sufficient to cover the movement of tugs from shallow water berth. In view of the above, it is not justified to further burden the users by levying

			extra exclusive charges under a different head. This element was already covered in the existing charges which are comparably very high to international standards.
(iii).	**Port dues:** Port dues should be applicable only on the basis of VIA and not on each entry into the port especially when there is no safe anchorage available at JNP for the vessel which may be required to shift to outer roads before completion of cargo operations due to various reasons prevailing at JNP. The charges have been recovered only because of change in the nomenclature. Further this is in addition to the double pilotage charges already levied by the port. MANSA recommend that JNPT should make port dues payable once only for 30 days akin to recovery of ILH dues or at least not levy additional port dues for the vessels which is forced to shift due to operational and other issues. Additional port dues for such re-entry are not justified.	On the issue of levy of Port Dues once in 30 days we wish to state that the port dues are levied to cover maintenance expenses of the navigation channel and whenever a vessel is shifted out to outer anchorage, the vessel makes use of the channel. Hence, it is completely justified to charge port dues to vessel whenever it uses the port maintained channel. It will also be relevant to point out that earlier MbPT was charging port dues on the basis of once in 30 days and have now changed to each entry into MbPT limit.	Our main request is not to levy additional port dues, if the vessel is shifted for Port's convenience due to operational constraints and non availability of suitable anchorage or without completion of her declared cargo operation. View above, additional Port dues for such re-entries are not justified. MANSA request to refer to the recent MBPT Circular stating not to levy additional port dues for a vessel which is shifted due to non availability of berth or anchorage space.
(iv).	**2.3. Schedule of Berth Hire Charges** Note 3 & 4 - Point (A) request to add beak bulk and general cargo along with bulk and tanker vessels. Point (vi) & (ix) conditions should be applicable for all terminals within the port and not restricted to port operated terminals. User to be penalised only if the delay / idling directly attributed to the user.	As regards request to add break bulk and general cargo along with bulk and tanker vessels, the same can be considered. As regards point (vi) & (ix) to be applicable for all Terminals and not restricted to Port operated Terminal, it can not be accepted as the provision can be misused without any cross verification.	---- MANSA reiterate their stand that no user is to be penalized for the delays which are not attributable to them. No way can this be misused and the reasons for stoppage of work, if any at Privately operated Terminals are known to all and are also declared in the daily port berthing meeting.

	Point (x) - This should be applicable to all Terminals. The time limit of 4 hours prescribed for cessation of berth hire shall include the ship's waiting period for want of favourable tidal conditions or on account of inclement weather or due to absence of night navigation facilities. (c) The Master / Agent will give the readiness based on the completion of cargo operations and not in accordance with favourable tidal and weather conditions.	This can not be also extended to all Terminals	This should be applicable to all incase the berth is not required immediately. As a policy decision, Port should allow the vessels in pressing need to occupy any berth at JNP when required if the berth is not in demand or use for cargo operation.
(v).	**Point (5) - False Signal** Request to follow the circular no JNP/DC/MARINE/CIRCULAR/2004/1062 issued on 27 May 2004 by Deputy Conservator. If item nos. 6, 7, 8, 10 are not available on board, port may shift the vessel at outer roads on the basis of undertaking by the Agents instead of holding the vessel at berth and attracting penal berth hire charges.	As regards False Signal the Port is levying penalty for False Signal as per referred circular. The same has now been incorporated in the Scale of Rates.	----
(vi).	**Chapter 2 - Point 12 - Discount allowable at Shallow Water Berth** Request to continue this benefit for vessels other than container vessels.	This discount shall be allowable only during the time till mechanisation is not completed and once the Shallow Water Berth is mechanised with installation of cranes, there is no justification for continuing discount at Shallow Water Berth. Further the discount is an option available with the Port and can be withdrawn at any time. Also cement carriers are calling at this port as their silos are situated nearby port premises which means that these vessels call at Shallow Water Berth by default and many break bulk vessels are calling at this port and not at MbPT to avoid octroi. Further	No justification for withdrawing the discounts given to non container vessels when the berth is mechanized for container operations. It is a common phenomenon as a gesture which has been encouraged by the Govt. and the Port Authorities so that industries are developed in and around port to minimize overall cost on transportation. Regret the remarks made by the Port and sincerely request to reconsider the decision in the overall interest of the EXIM Trade. The Port should put in efforts to reduce the costs further so as to attract more traffic and increase earnings instead of

		transportation of break bulk cargo from JNPT is easier and economical. At times due to cement and break bulk carrier vessel berthing of container vessel get delayed. Hence, the decision of port to withdraw discount after mechanisation is in order.	resorting to withdrawing of the existing facilities to increase revenues.
(C). (i).	**CHAPTER - III** **Hazardous Containers** There is no justification when the port authorities are not providing any additional facility or not even stacking hazardous boxes separately.	Port is having designated container yards (both import and export) for stacking hazardous containers as per the IMDG code and the same is being followed with separate handling equipment. We are, however, withdrawing the condition of treating Hazardous Empty Container as loaded for the purpose of billing.	---
(ii).	**Shut out containers.** Shut out charges are not levied for the following instances. Please add the following : Shut out charges not to be levied if the vessel operator decides to skip the call and all export containers are moved under enblock to another vessel.	If the vessel operator decides to skip the call and all export containers are moved under enblock to another vessel, the same can be considered as a particular vessel skips its call and all export containers connecting to that particular vessel are loaded onto subsequent vessel enblock.	----
(iii).	**Dwell time charges.**		
	(a). ICD Import / Export loaded - moved by road Request to maintain the free period 7 days as this requires substantial documentation process and generally involves ODC shipments requiring specialized equipment. Any reduction in free period results in unnecessary additional cost to the Trade / Line.	Dwell Time Charges and the free period of ICD and Transshipment containers has been reduced by TAMP with effect from August 2007 based on the meticulous study and analysis, highlighting various pros and cons, to achieve speedy evacuation of EXIM containers by JNPCT (as a result of which creating additional capacity) which is the prime concern at this juncture to minimize the transit time of a container (which will be benefited by all stake holders). Increase in free period will lead to congestion of Port in future rather.	The movement of ICD containers entirely depends only on Port/ Terminal capacity to handle, availability of equipments, customs documentation, availability and placement of train etc. In addition to this the documentation procedure followed for transporting ODC containers by road is a lengthy and time consuming process and also requires specialized equipment. The delay if any is beyond the control of the shipping Agents/Lines. The port is not granting any free period for those boxes which are held back by the
	(b). ICD Import / Export loaded or Empty moved by Rail This movement is completely dependent on the rail service provider and the port infrastructure		

<table>
<tr>
<td></td>
<td>availability. In addition to this ICD loading is managed by the Terminal. Hence there is no need of any reduction in the free period and request maintain 15 days.</td>
<td>Currently the average dwell time for the containers moved by various transport modes is follows:
<table>
<tr><th>Transport Mode</th><th>Average Dwelling in days</th><th>Free Period in days</th></tr>
<tr><td>ICD by Road</td><td>3.17</td><td>3</td></tr>
<tr><td>ICD by Rail</td><td>4.43</td><td>7</td></tr>
<tr><td>TRANSHIPMENT</td><td>6.19</td><td>10</td></tr>
</table></td>
<td>Lines.

Request not to reduce the free period for those containers which are not moved for no fault of the users. There is absolutely no justification for reduction in existing free days.</td>
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<td>(c). Transhipment containers
JNPT is considered as a hub port and any drastic reduction in free period will definitely affect the Trade. Request to maintain atleast 15 days free period for TP containers.</td>
<td rowspan="3">Dwelling of containers on above categories are reasonably well within the stipulated free period. Hence, the request of MANSA can not be considered at this stage. Keeping in view the following advantages associated with reduction in dwell time, a conscious decision has been taken:

- Speedy evacuation of ICD boxes from Port Terminals.

- Decongestion of Port Containers Yards

- Turn around time of rakes handled at Port Terminals reduced further with sufficient pendency made available.

- Total turn around time of containers in Import and Export cycle reduced drastically. This will help the trade.

- Planning of Export Yards streamlined.

- Speedy evacuation of containers provides additional handling capacity within the same period.

- Surge in EXIM cargo, if any, absorbed without any difficulty.</td>
<td>Any attempt to reduce the free period will defeat the purpose of considering JNP as a hub port lest it would discourage Users to promote this transshipment operation.</td>
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<td></td>
<td>(d). Longstanding containers

JNPT handles mainly containerized cargo and it is clearly stated that 75 days ground rent is payable for longstanding containers. So we do not agree with port intention to levy any additional charges over above of this due to the delay in auctioning of containers or other factors which is not contributed by the Line.</td>
<td rowspan="2">As per normal practice, the letter of abandonment/auction is sent by the shipping Line and not by the consignee or shipper. The Line comes to know about the abandonment of cargo only after expiry of normal free period extended to the consignee. So the intimation from the Line/Agent should not be construed as taking custody of cargo/containers.

As stated in our letter to TAMP, it is the duty of the custodian to release the empty containers to the Line after auctioning of the cargo within the period stipulated by TAMP without any conditions or cost(other than the 75 days storage (ground rent) to the shipping Line. Similar rule should also be applicable for Perishable and Haz. containers.</td>
</tr>
<tr>
<td>(iv).</td>
<td>Perishable / Hazardous containers: to be auctioned or destroyed by the port Authorities as per existing guidelines in the major port and TAMP without delay. Line will be responsible only for 75 days ground rent charges and actual destruction cost. All formalities and permission to be obtained by the custodian.</td>
</tr>
</table>

		- Shippers are discouraged to use Port Container Yards as their storage yards. - Shipping lines are compelled to clear the cargo within the stipulated to avoid demurrage. As regards the point made regarding longstanding container and perishable/ hazardous containers these points have already been covered vide JNPT Circular No.JNP/SM(CT)/Haz/2008/ 1792 dated 22.11.2008, copy of which is enclosed for ready reference and stand is as follows: (i). After auction of Import/Export cargo (dwelling in the Port beyond 60 days) the empty container will be delivered to the concerned Shipping Line/Agency against levy of 75 days of ground rent charges. (ii). Policy guidelines for disposal of long standing perishable / hazardous cargo abounded at JNPCT vide Circular No.JNP/SM(CT)/Hazz/2008/ 1792 dated 22.12.2008 to be included in the tariff (A copy of the circular is attached herewith).	
(D)	**Charges for Dry bulk and General Cargo - Chapter - IV**		
(i).	Request to redefine the OD cargo with a weight of more than 25 m. irrespective of the DIA.	----	---
(E)	**Miscellaneous charges - Chapter - VI**		
(i).	**VIA Cancellation Charges** VIA is obtained only after payment of VRC to the port which itself is a very huge amount. There is no other additional cost or activity incurred by the port due to	There is administrative cost involved and therefore, the charges proposed are justified and are also not very high.	The existing tariffs are more than adequate to cover the Administration cost if any incurred for the process. In addition to this we request the Port to give prompt refund due to Users of such

	such a cancellation and accordingly additional charges are not justified.		huge amounts within 10 days of cancellation of the VIA.
(ii).	**Tug Hire Charges / Manpower Hiring Charges** More than 150% increase in Tug charges and manpower hiring charges is not justifiable in the present scenario.	As per decision taken in the joint hearing that this proposal is only for rationalization and no increase should be imposed, we are withdrawing the said increase proposed.	---
2.	**Indian National Shipowners' Association (INSA)**		Letter dated 11 October 2012
(i).	For cargo / container related charges the applicability of Coastal / concessional tariff should be clarified with specific mention that so long as POL and POD (as reflected in the terminal container list submitted by operator) are Indian Ports, the concessional tariff would be applicable irrespective of the status of vessel and the origin or final destination of box or the vessel itself being Coastal or foreign going. The word pure coastal is only adding confusion and should be removed. In case of transshipment where a POL or POD involved is foreign, the concession applied could be arrived at 50% and the tariff prescribed.	This can not be agreed to.	INSA was found necessary in order to ensure that tariff are congruous with the definition of "Coastal trade" in Merchant Shipping Act and also to leave no ambiguity in its application. The response provides no explanation, justification or logic for its response. In fact, the proposal itself also had not included the rationale for their proposal. The port response in mere six words i.e. "This can not be agreed to" as very strange and contrary to the guidelines that set out the fundamental process of tariff revision. INSA is certain that TAMP would deal with it in objective and fair manner.
(ii).	Also applicability of concession should be for all descriptions under which charges are levied from the time the container arrives on trailer / train / ship till it is loaded on ship / trailer / train. The only exception should be for storage and SSR. Otherwise the purpose of concession is defeated. In other words LOLO wharfage, transportation, Loading / Discharging, Crange, restow, shifting, HAZ, Reefer, OOG etc. should have the provision of concession. These points need to be corrected at all ports /	This can not be agreed to.	TAMP Order No.TAMP/4/ 2004-Genl dated 7.1.2005 states that, where container handling rates are itemized under different heading, the concession provided would be for all headings under which handling charges are recovered. The relevant paragraphs from the order are reproduced below: *"(iii). In case of cargo related charges, the concession should be allowed on all the relevant handling charges for ship-shore transfer and transfer from quay to storage yard including wharfage.*

	terminals.		*(iv). The concession will encompass container related charges also. In this case, it is to be extended on the box rate, wherever such tariff structure is followed. Where itemized charges are levied, the concession will be on all the relevant handling charges for ship-shore transfer and transfer from quay to storage yard as well as wharfage on cargo and containers.* *(v). For the purpose of this concession, cargo/ container from a foreign port which reaches an Indian Port 'A' for subsequent transshipment to Indian Port 'B' will also qualify insofar as the charges relevant for its coastal voyage. In other words, cargo/containers from/to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession."*
(iii).	For vessel related charges the applicability of tariff should be based the license under which the vessel is trading i.e. foreign going or coastal.	The vessel related charges are being levied as per the vessel's trade i.e. Foreign or Coastal.	--
(iv).	All crafts registered under IV act or operated under RSV rules should be treated for concessional tariff for vessel related as well as Cargo related without need of checking further details. INSA believe there is scope for review of increase in charges generally e.g. tugs hire in view of the difficult times faced by shipping presently.	Currently there is no separate tariff for inland vessels or river-sea vessels, however, there is a tariff for small passenger crafts. It is admitted that tugs hire charges are on the rise and accordingly, tariff should be increased for giving out services of tugs. However, as per direction of TAMP, we are withdrawing the increase proposed.	---
(v).	Since India is signatory to IMO conventions that makes it mandatory for ports to provide reception facilities for implementing	----	------

	MARPOL. Ports SOR should declare activities that it would carry out and charges for same instead of leaving it to vessel operators to find vendors. The Directorate's latest guidance to ports on this matter is in Eng circ 31, 32 of 2004 and the reference to IMO MEPC circ 671 2009 can be looked into. MARPOL obligation of ports is in MARPOL Annex I oil - Reg. 38; Annex II - Noxious substances Reg. 18; Annex III - Packaged goods (IMDG) nil; Annex IV sewage - Reg 12; Annex V garbage - reg 7; Annex VI Air pollution - Reg. 17 can be referred to for more details. Also ISO 21070 is comprehensive guide for ports waste management.		
(vi).	The port should take all of the above into account and prescribe services & its charges as appropriate including statement of process involved & if any service can't be provided by it, so that ship managers are able to assess in advance with clarity. The MARPOL Convention includes masters' obligation to report inadequacy of reception facility to flag State and in turn to IMO. That proves the importance of these services. To cite an example, in this proposal JNPT charge for garbage removal is shown as ₹2000/- but how garbage disposal would take place is not mentioned. What happens to other waste disposal - oil, sewage etc. is not specified.	At present port is providing facilities for garbage and sludge oil removal. Sludge oil is being removed by the registered recyclers and port is not charging any fee from the ships except for wharfage charges for the quantity of sludge oil. The garbage from the ship is being charged by the port on the basis of per trip. Reception facilities for oily mixtures as remain from oil tankers under Annex-I and receipt facility for Noxious liquid substances under Annex-II need to be provided by the BPCL, as the Tanker Terminal in JNPT is operated by them. Accordingly, BPCL is required to propose the tariff for such facilities. Reception facility under Annex-IV & VI are currently not provided by the port and hence, there is no proposal for tariff for the same.	The INSA has noted the comments of JNPT and wish to further draw attention to the stringent rules with regard to – - the achievable rate for reception facility. - obligation of port / terminal to receive, segregate, store, dispose as per national standards, solid and liquid waste that is required to be landed ashore by visiting ships to JNPT. - Informatively, from 1.2013 MARPOL Annex VI increases the responsibility on all ships greater than 100 GRT to have in place a Garbage Management plan, duly checked for effectiveness periodically and definitely at annual surveys. This will not be achieved unless port proactively plays

			it's role & cooperate with visiting ships as is envisaged by International Convention.
(vi).	--	--	It is the duty of the port to provide these facilities as per law and the port cannot be allowed to have the benefit of a tariff increase without the attendance responsibilities of providing services which it is required to provide in lines with the rule of the land.
3.	**Indian Merchants' Chamber (IMC)**		
(I).	**Chapter-I** **<u>Port Area:</u>** The township and other areas belonging to JN Port, would now to be excluded from the definition of "Port Area". In fact, the definition correctly known as "Notified Area".	Earlier definition of Port Area was slightly ambiguous and now it has been modified to bring more clarity as well as to avoid dispute in Service Tax. Now Port Area includes total area under the notification specifying the boundary limits and Port Operational Area has been specifically indicated to mean Custom Bound Area where vessel/cargo handling activities are carried out.	
(ii).	**<u>1.2. General Terms & Conditions:</u>** The IMC suggested that the exchange rate should be taken, as that notified by Customs, which is on a monthly basis and it ensures that the Industry is not exploited by Shipping Lines and Shipping Lines are also not deprived of the remuneration i.e. due to them. At present, the Shipping Companies, their Agents & MTO's recover to ₹ 2/- to ₹ 3/- more per Dollar/ Euro over the prevailing exchange rates. The same is notified by the Ministry of Finance, Government of India.	As regards adopting exchange rate as notified by Custom it is not practicable as it is a fixed and only used for the purpose of conversion whereas ours is a tariff which is denominated in US$ and collected in equivalent Indian Rupees. RBI reference rate is a single rate valid for the full day and also available on the website and indicated in our bill also. Hence there can be no exploitation by Shipping Companies/ Agents as per their submission.	
(iii).	**<u>2.1. Schedule of Port Dues under Chapter-II:</u>** IMC request, if Cruise Liners are also included in the said definition	As regards inclusion of Cruise Liners, the same can be included under the Schedule of Port Dues as a separate entry.	
(iv).	**<u>Regarding Item No.12:</u>**	In this connection we would	

	Discount at shallow water berth should not be discontinued as small vessels operate at these berths; hence the same cannot be compared to the main berths, that are recoverable, which handle vessels of 3 to 6000 TEU's per berth.	like to say that this discount shall be allowable only during the time till mechanisation is not completed and once the Shallow Water Berth is mechanised with installation of cranes, there is no justification for continuing discount at Shallow Water Berth. Further the discount is an option available with the Port and can be withdrawn at any time. Also cement carriers are calling at this port as their silos are situated nearby port premises which means that these vessels call at Shallow Water Berth by default and many break bulk vessels are calling at this port and not at MbPT to avoid octroi. Further transportation of break bulk cargo from JNPT is easier and economical. At times due to cement and break bulk carrier vessels, berthing of container vessel gets delayed. Hence the decision of port to withdraw discount after mechanisation is in order.	
(v).	**<u>Hazardous Containers under Chapter-III:</u>** Hazardous container once destuffed and made empty, can no longer be classified as hazardous cargo nor should be treated at hazardous container, since Shipping Lines recover huge charges from the trade towards Cleaning and Washing Charges.	As regards Hazardous Empty Container to be treated as loaded for the purpose of billing based on representation made, it has been decided to charge Hazardous Empty Container as normal empty container only.	
(vi).	**<u>Regarding Chapter-IV:</u>** The IMC is unable to understand the logic for revision by 100% for the cancellation of VIA for coastal vessels. The existing fee of ₹1000/- kindly be maintained.	As regards logic for revision by 100% for the cancellation of VIA, the observations made at point No.7 may be considered.	
(vii).	**<u>6.4 – Hire Charges for Floating Craft:</u>** The revised rate for tug has	As regards Hire Charges for Floating Craft as decided in the meeting, the existing rates shall be maintained.	

	been enhanced from 240% to 400%. Sl.No.6 VIA Launches (Speed Launches) which tariff has been revised from ₹1500/- to ₹1300/- per hour be enlighten. IMC would like to know, what kind of Speed Launches these are, as IMC do not see such launches operating at JNPT to the best of their knowledge.	Hence the rate for the speed launches will be retained as Rs.1500 per hour. The speed launches referred to as VIP launches available with the Port for which the rates has been prescribed.	

1.2. The comments furnished by Container Corporation of India Limited (CONCOR) are summarised below:

(i). The proposed charges for handling and movement of containers (Chapter III, Para 3.3.1 -A4 & B4) from Container yard to Railway flat or vice versa (ICD container rail only) are ₹ 1105/-) for normal containers and ₹ 1381/- for hazardous/ tank containers. These charges are much higher as compared to the proposed charges of ₹ 340/- & ₹ 425/- respectively for the movement from container yard to Truck or vice versa.

In the national interest, JNPT may consider encouraging environment friendly rail transportation vis-à-vis road transportation in JNPT area. Excessive dependence on road transportation not only leads to road traffic congestion but also consumes additional fuel and creates air and noise pollution. Considering these factors, it is submitted that the proposed charges for the movement from container yard to railway flat may be kept comparable to the proposed charges for the movement from container yard to truck so that movement of containers by rail is not discouraged because of heavy difference in rates.

The JNPT has not furnished any comments on the comments of the CONCOR.

1.3. The J.N.P.T. Liquid Chemical Berth Users Association (J.N.P.T. LCBUA) has stated that they have no comments to offer.

1.4. The comments of Bharat Petroleum Corporation Ltd. (BPCL) are given below:

BPCL seeks clarification on the following points:

(i). Chapter No. III item No. 2.4 (Schedule of Fresh water charges - for water supplied to vessels for their own use.)

(ii). Chapter No. III, item No. 2.5 (vii). (vessels carrying liquid cargo like FO, CBFS ....)

(The BPCL has not furnished pointed comments / queries).

The JNPT has not furnished its comments on the comments of the BPCL.

2. A joint hearing on the case in reference was held on 14 August 2012 at the Office of the Authority. The JNPT made a power point presentation explaining the comparative position of existing and proposed provisions in the Scale of Rates. At the joint hearing, the concerned users and user organisations bodies have made the following submissions:

Jawaharlal Nehru Port Trust

(i). Differentiation between port limits and port operational area is felt necessary for service tax purpose.

(ii). Revision of tug hire charges have been proposed based on the hire charges incurred by JNPT for hired tugs.

(iii). Manpower charges have not been revised since 1997.

<u>Indian Merchants' Chamber</u>

(i). JNPT should bear in mind that the port boundaries and the customs notified area are different.

(ii). Ministry of Finance notifies the exchange rates periodically, say for a month or so for the purpose of levy of customs duty, which may be considered by the ports also.

(iii). Cruise vessels may also be included under various types of vessels proposed under the schedule of 'port dues'.

(iv). The SDB will continue to be a shallow draft berth even after mechanization. Applying the rates at par with deep draft berths is not justified. JNPT should come up with a separate proposal for mechanization of SDB.

(v). Containers cannot be classified as 'hazardous' containers because they were used to handle hazardous goods. The boxes are cleaned after handling hazardous goods.

(vi). The proposal of JNPT to increase the rates for tug hire charges, manpower supply, etc. under the guise of rationalization cannot be accepted.

(vii). The scope of subject proposal should be limited to modification of conditionalities and not for increase in tariff.

(viii). The JNPT should come up with a separate proposal for tariff revision duly justified with cost details.

<u>Nhava Sheva International Container Terminal Private Limited</u>

(i). TAMP has already issued a circular regarding exchange rates.

(ii). The term 'port' convenience' should equally apply to all terminals at JNPT. There cannot be discrimination for private terminals since JNPT is providing vessel related services at all terminals.

<u>Indian National Shipowners' Association</u>

(i). The modification of the definition of 'port convenience' to mean that it would apply only to JNPT terminal is not acceptable.

(ii). The shipping lines have huge responsibility on garbage disposal as per statutory requirement.

(iii). The JNPT Scale of Rates does not spell out the services/ responsibilities covered under the levy of tariff for garbage collection.

(iv). Waste is classified under 5 types. The tariff should be linked to the category of waste and its quantity.

<u>Container Corporation of India Limited</u>

The existing charge for movement of containers from container yard is at a higher level for rail bound containers. In the national interest, the charges should be kept low and comparable to road movement in order to encourage railway movement.

Gateway Terminals India Private Limited

Whether the TAMP Order dated 22 September 2009 relating to dwell time charges for sugar and pulses is valid beyond 31 March 2012.