

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)  
**Tariff Authority for Major Ports**

G.No. 390

New Delhi,

09 October 2017

**NOTIFICATION**

In exercise of the powers conferred by Sections 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Jawaharlal Nehru Port Trust (JNPT), seeking approval for fixation of Toll Charges on Containers and other Cargo passing through JNPT due to closure of Toll Gates on NH-4B, SH-54, as in the Order appended hereto.

**(T.S. Balasubramanian)**  
Member (Finance)

**Tariff Authority for Major Ports**  
**Case No. TAMP/28/2016- JNPT**

Jawaharlal Nehru Port Trust

...

Applicant

**QUORUM**

- (i). Shri. T.S. Balasubramanian, Member (Finance)  
(ii). Shri. Rajat Sachhar, Member (Economic)

**ORDER**

(Passed on this 15<sup>th</sup> day of September 2017)

This case relates to a proposal received from Jawaharlal Nehru Port Trust (JNPT) for charging of toll on Containers and Other Cargo passing through Port due to closure of Toll Gates on NH-4B, SH-54.

2.1 The JNPT vide its letter no. JNP/Fin/TAMP/2016 dated 27 April 2016 and email dated 28 April 2016 had filed a proposal for levy of toll charges with effect from 01 May 2016 on Containers and Other cargo passing in and out of all gate complexes of JNPT due to closure of the Toll Gates on NH-4B and SH-54.

2.2. The main points made by JNPT in its proposal are summarised below:

- (i). In view of heavy traffic congestion on account of toll gates of Special Purpose Vehicle (SPV) i.e. Mumbai JNPT Port Road Company Limited (MJPRCL) at roads of NH-4B and SH-54, Government has decided to close toll gates with effect from 1 May 2016 and the toll will be charged on containers (per TEU) and other general cargo going in and out of all Gate complexes instead of charging toll on vehicles, as is being collected by SPV i.e. MJPRCL at their toll plazas.
- (ii). In this connection, a copy of the letter No. MJPRCL/NHAI/PIU/Panvel/Toll/ 2016/297 dated 23.04.2016 received from MJPRCL as well as minutes of meeting with Joint Secretary (Highways) held on 25 February 2016 are furnished.
- (iii). The JNPT has to compensate MJPRCL for their loss of revenue by levying appropriate charges on container and other general cargo.
- (iv). The calculation for levying the toll charges is as follows:

Sr.	Description	Traffic in TEU/MT
A.	Containerized cargo	4750000 TEUs
	Less : ICD traffic for the year 2015-16 : 15.84% and for the year 2016-17 : 16.63%	789925 TEUs
	Less : Transshipment cargo 2%	95000 TEUs
	Total traffic by road	3865075 TEUs
B.	Dry Bulk (Cement) & others	700000 MT
C.	Liquid Cargo (Being transported by Road)	
	i). Edible Oil & Molasses	1700000 MT
	ii). Chemicals	700000 MT
	iii). HSD by tankers	1800000 MT
	Total liquid traffic by road	2580000 MT
D.	Total of B + C	3280000 MT
E.	Total Dry Bulk, others and liquid in TEUS will be 3280000 MT/12MT	273334 TEUs
F.	Total traffic on which toll to be collected (A+E)	4138409 TEUs
G.	The total toll collection considered for year 2016-17 by NHAI (In ₹)	
	Chirle & Karanjade (NH-4B) ₹77.38 crs.	
	Dastan Phata (SH-54) ₹21.68 crs.	
	Total ₹99.06 crs	99,06,00,000
H.	Toll proposed rate per TEU (G/F)	₹239.36/TEU Say ₹240/TEU
I.	Rate for project cargo and liquid handled by road	₹20/MT
J.	Concession rate of cement / L.P.G.	₹5/MT

- (v). Accordingly, the toll proposed by JNPT is ₹240/TEU, ₹20/MT for project cargo and liquid handled by road and ₹5 per MT for cement as it is a price sensitive cargo. However, ₹5 per ton is also proposed for LPG as the trucks are arriving and utilizing the road network for transportation of empty cylinders to the bottling plant and going back with loaded cylinders. However, the charges will not be levied on liquid cargo passing through pipelines, ICD traffic, transshipment cargo, etc.
- (vi). Such charges recovered from BOT operators shall not be liable for levy of revenue share as the same is not income but only reimbursement to the SPV through JNPT on account of abolition of toll at Gates to reduce congestion and traffic jams.
- (vii). The revised charge on account of widening of existing NH-4B (A1-E section from km3.600 to km 27,270, D-G Section from km 0.000 to km 4.462) SH-54 (from km 5,300 to km 14,850) and Amra Marg (From 0.000 to km 6200) to 6/8 lanes on boundaries to proposed Navi Mumbai International Airport in the State of Maharashtra on EPC Mode will be intimated separately on completion of the same and arriving at effective date from which to levy the revised charges.
- (viii). The Port intends to levy such charges from 1 May 2016 to avoid loss of income to SPV i.e. MJPRCL. A formal trade notice will be issued separately.

3.1. The JNPT intended to levy the toll charges with effect from 1 May 2016. In this regard, it is relevant here to mention that any proposal for notification of rate for use of a new facility or a new service is to be forwarded to the TAMP at least 60 days prior to the expected date of commissioning of the new cargo facility or a new service, as stipulated in Clause 5.7.2 of the Working Guidelines. However, in the instant case, the proposal was received from JNPT on 27 April 2016 for intending levy of toll charges by JNPT with effect from 01 May 2016. Further, there was no mention about the consultation by JNPT with the concerned users as required under clause 5.7.4 of the Working Guidelines. Also, the proposal submitted by JNPT was found to be incomplete.

3.2. Nevertheless, owing to the paucity of time to approve the levy of toll charges by JNPT with effect from 1 May 2016 following the usual consultation process and since the Government has directed to stop the tolling at existing toll plaza and instead collect toll/user fee by JNPT at its gate complexes with effect from 1 May 2016, and also recognizing the intention of JNPT for levy of the proposed charges with effect from 1 May 2016 is to avoid loss of income to the Special Purpose Vehicle (SPV), the JNPT was authorized to collect Toll at the proposed charges with effect from 1 May 2016 on Container, Project Cargo, Liquid Cargo (Edible oil and Molasses, Chemicals, HSD by tankers, concessional rate of cement and L.P.G.) which are transported by road and going in and out of all gate complexes of JNPT as an interim measure subject to the following conditions :

- (i). The levy of proposed rates will be on adhoc basis till the rates are finally notified by this Authority.
- (ii). The adhoc rates to be operated and the Performance Standards to be applied in the interim period must be in consultation with the concerned users and the BOT Terminals operating at JNPT.
- (iii). If the final rates fixed by this Authority are lower than the proposed rates, the difference between the final rates and adhoc rates shall be refunded by the JNPT to the concerned users.

3.3. This position was communicated to JNPT vide our letter dated 29 April 2016.

3.4. Simultaneously, the JNPT was also requested vide our above referred letter to furnish some information so as to have a complete proposal. It was also communicated to JNPT that, the complete proposal to be filed by JNPT will be taken on consultation with the relevant stakeholders and a joint hearing will also be held and thereafter an Order would be passed by this Authority taking into account the totality of the information collected during the consultation proceedings. In response to this, the JNPT vide its letter dated 24 May 2016 has furnished the information. The information sought by us and the response of JNPT thereon are tabulated below:

Sl. No.	Information sought by us	Response of JNPT																		
(i).	Minutes of the meeting held with the relevant stakeholders with regard to the proposal.	<p>The Minutes of the meeting of Stakeholders communicated by Ministry of Road Transport &amp; Highways vide Office Memorandum No. RW/NH-37011/45/2014-PPP dated 13.04.2016, is furnished.</p> <p>[The meeting was convened on 25 February 2016 to discuss the issues pertaining to financing of SPV and tolling with respect to the project of 6/8 laning highway project of Port connectivity to JNPT in the State of Maharashtra. The Ministry of Road Transport &amp; Highways, National Highways Authority, CIDCO and JNPT were represented in the meeting. The paragraphs of the Minutes relevant to the proposal in reference are reproduced below:</p> <p>(i). Regarding tolling/user fee, it was pointed out that the main user of this road is JNPT bound traffic and considering the traffic congestion at toll gates and the resistance shown by local commuters for tolling, it was agreed that the toll/ user fee may be collected by JNPT at its gate complexes till repayment of toll debt liability, from port traffic using the road connectivity. The existing toll plazas will be discontinued.</p> <p>(ii). JS(H) informed that, Hon'ble Minister (RT&amp;H) has directed to stop the tolling at existing toll plazas and instead collect toll/ user fee by JNPT at its gate complexes with effect from 1 May 2016 till repayment of total debt liability.</p> <p>As recorded in para 2(i) of the Minutes, funds to the tune of ₹2439.66 Crores are required to be raised for execution of stage-II of the project (6/8 laning of NH-4B and SH-54). The funds are being arranged by JNPT through ECB funding upto USD 400 Million for MJPRCL]</p>																		
(ii).	Draft Scale of Rates alongwith Performance Standards.	<p>The following is proposed to be added under Chapter 6, Miscellaneous charges at point no. 6.7 :</p> <p><b>"6.7: Toll charges/ User fees:</b> Port will collect the following charges on container (TEU) and other general cargoes going in and out of all Gate complexes (in at JNPT, NSICT, GTI, NSIGT &amp; BPCL from Shipping Lines/ Agents/ Tank Farm operators (delivered by road)/ Consignee etc).</p> <table border="1"> <thead> <tr> <th>Sr. No.</th> <th>Particulars</th> <th>Amount of Toll charges</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Container (per TEU)</td> <td>₹240/TEU</td> </tr> <tr> <td>2.</td> <td>Project Cargo</td> <td>₹20/MT</td> </tr> <tr> <td>3.</td> <td>Liquid Cargo</td> <td>₹20/MT</td> </tr> <tr> <td>4.</td> <td>Cement</td> <td>₹ 5/MT</td> </tr> <tr> <td>5.</td> <td>LPG</td> <td>₹5/MT</td> </tr> </tbody> </table> <p>Since this is a levy on account of abolition of Toll, there are no separate performance standard connected with the same.</p>	Sr. No.	Particulars	Amount of Toll charges	1.	Container (per TEU)	₹240/TEU	2.	Project Cargo	₹20/MT	3.	Liquid Cargo	₹20/MT	4.	Cement	₹ 5/MT	5.	LPG	₹5/MT
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(iii).	List of users/user associations/BOT operators to be consulted with contact details like mailing address, fax No. and E-mail ID.	The list of Users organization, BOT operators to be consulted and the Copy of the Trade Notice issued by JNPT to the Stakeholders is furnished.																		
(iv).	Copy of the approval of the Board of Trustees of the Port with regard to the proposal in reference.	The subject proposal was placed before the Board in the 8th Board Meeting held on 17 May 2016 and duly approved by the Board of Trustees. (The port has furnished a copy of the Agenda item and stated that the Minutes of the Board meeting will be sent separately) [Subsequently, the JNPT vide its letter dated 28 June 2016 has forwarded the Minutes of the Meeting.]																		

4.1. While acknowledging the proposal, the JNPT was requested vide our letter dated 3 June 2016 to clarify the reason for not including the conditions specified by this Authority at the time of approving the adhoc rates in Trade Notice.

4.2. After reminders, the JNPT vide its letter dated 5 July 2016 has, inter alia, stated that even though while issuing trade notice, conditionalities were not incorporated, JNPT conducted a detailed meeting with Container Shipping Lines Association (India) and other Stake-holders for charging of toll on containers and other cargo passing through the Port due to closure of Toll Gates at NH-4B and SH-54, wherein, it was clearly indicated that the rate approved by TAMP will be finally applicable after the same is obtained from TAMP. It was also discussed that, the rate circulated vide Trade Notice is an adhoc rate which will be finalized on receipt of official order from TAMP. Further, copy of minutes of another meeting held with terminal operator and Tank Farm Operators on 29 April 2016 is furnished.

5. In accordance with the consultative procedure prescribed, a copy each of the JNPT proposal dated 27 April 2016, 28 April 2016, our letter dated 29 April 2016 and JNPT letter dated 24 May 2016 was forwarded to the concerned users/ user organisations for their comments. Some of the user Organisations and BOT operators at the JNPT viz. The All India Liquid Bulk Importers & Exporters Association (AILBIEA), Gateway Terminal India Private Limited (GTIPL), Federation of Indian Export Organisation (FIEO), Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL) and Nhava Sheva International Container Terminal Private Limited (NSICTPL) vide their letters dated 9 June 2016, 10 June 2016, 10 June 2016, 14 July 2016 and 13 July 2016 respectively have furnished their comments, which were forwarded to the JNPT as feedback information. The JNPT vide its letter dated 5 July 2016 and 21 October 2016 has responded to the comments of the users.

6. While responding to the comments of the user Organisations and BOT operators, the JNPT vide its letter dated 5 July 2016 has also made the following submissions:

- (i). Under the Port road connectivity project, National Highway Authority of India (NHAI) had formed a Special Purpose Vehicle consisting of NHAI, JNPT and CIDCO for improvement to the existing road connectivity to the Port. In the Phase-I, 4 laning of NH-4B, SH-54 and Amra Marg was taken up. The work of widening of NH-4B was completed in 2005 and widening of Amra Marg was completed in the year 2008. NHAI/ SPV had commenced charging the toll at Toll Gates on these roads and toll was being collected as per the policy of NHAI.
- (ii). The local commuters and heavy vehicle owners had opposed the toll collection and transport unions had also declared strike. The matter was discussed with the transport unions, NHAI & CIDCO and after discussions it was decided to charge 50% toll for the local heavy vehicles registered in Raigad and Navi Mumbai. The passenger vehicles were given some concessions. In spite of this, the local public agitated for long queues at the toll gates and congestion on the roads from time to time.
- (iii). JNPT currently has a capacity of 4.2 mn Twenty Equivalent Units (TEUs) and has been operating at capacity utilization of ~100%. The current traffic at JNPT is being evacuated predominantly through road (around 80%) and balance through rail connectivity. However, the road capacity is fully utilized as the current traffic on these roads are estimated at 77,000 pcu (passenger car units) vis-à-vis capacity of 60,000 pcu.
- (iv). Taking into consideration the increased traffic, NHAI has taken up the work of widening of 6/8 laning of NH-4B, SH-54. As per Ministry of Surface Transport the whole road infrastructure is primarily for JNPT traffic and, therefore, the Port will be raising loan of ₹2600 crores out of total project cost of ₹2855 crores in order to fund the project. For the said purpose JNPT will be acquiring 51% share in the said SPV.
- (v). In view of public unrest and policy taken up by Government of Maharashtra, it was decided to collect the toll from the traffic handled at JNPT, instead of collecting the same at toll gates, which was causing the traffic jams.
- (vi). The toll amount to be collected during the period of construction of 6/8 lane road is captured in revenue forecast for road project. Hence, it needs to be collected to maintain projected cash flow.
- (vii). The underlying principle behind the proposal is to reduce congestion on Highway due to port traffic, collect toll at Port Gates to facilitate the hassle free movement on road. As a result of above measure, there is a visibly less traffic congestion on highways and consequently less congestion at port roads. Queuing up of trucks also leads to law and order problem as well as frequent jamming at Port gates etc.

7. The joint hearing in this case was held on 15 July 2016. At the joint hearing, the JNPT made a Power Point presentation of the proposal. The JNPT and the concerned users/ organization bodies have made their submissions at the joint hearing.

8.1. As agreed at the joint hearing, the JNPT was requested vide our letter dated 20 July 2016 to furnish some information/ clarification. After reminders dated 8 September 2016 and 24 October 2016, the JNPT vide its letter dated 21 October 2016 has responded. The information sought by us and the response of the JNPT thereon are tabulated below:

Sl. No.	Information sought by us	Response of JNPT																																													
(i).	During the joint hearing, the Bharat Petroleum Corporation Limited (BPCL) had highlighted the difficulty being faced by them in the collection of toll charges. In this connection, the BPCL had requested the JNPT to collect the levy directly from the concerned and had expressed its willingness to provide necessary facility at its terminal for toll collection. Thus, as decided at the joint hearing, the JNPT to look into the matter, and furnish a Report in this regard after consulting BPCL	There is no provision for collecting toll at the gates of BPCL LPG Bottling Plant as it is very difficult to regulate and monitor the collection either by NHAI or JNPT and the whole purpose of avoiding congestion on road due to collection of toll will be defeated.																																													
(ii).	During the joint hearing, the terminal operators viz., Gateway Terminal India Private Limited (GTIPL), Nhava Sheva India Gateway Terminal Private Limited (NSIGTPL) and Nhava Sheva International Container Terminal Pvt. Ltd. (NSICTPL) had made a request to allow them to retain 5% of the collection amount towards administrative and related costs and the JNPT had also agreed to work upon a solution. Accordingly, the JNPT to look into the matter and submit their proposal.	The point made by NSICTPL, NSIGTPL and GTIPL regarding allowing them to retain 5% of the collection amount towards administrative and related cost cannot be agreed to as no such arrangement was envisaged at the time of discussion or in the MOU.																																													
(iii).	Further, the JNPT has sought approval for the levy of the toll charges for a period of three years. Since the estimates have been furnished by JNPT only for the year 2016-17, the JNPT to take into account the estimates for the period of three years and formulate a proposal accordingly and file.	As regards estimated Toll collection for 2017-18 and 2018-19, the same has been taken up with SPV for furnishing details.																																													
(iv).	The JNPT to furnish the basis for estimating each of the following for the year 2016-17: (a). Total Containerized cargo at 4750000 TEUs. (b). Share of ICD traffic considered at 16.63%. (c). Share of Transshipment Cargo at 95000 TEUs. (d). Share of Dry Bulk (Cement) & others at 700000 MT. (e). Share of Liquid Cargo (being transported by Road) (i). Edible Oil & Molasses at 1700000 MT. (ii). Chemicals at 700000 MT. (iii). HSD by tankers at 1800000 MT.	The basis for estimating traffic for the year 2016-17 is based on our letter to Ministry bearing ref. no. JNP/CM(T)/Traffic Target/2016-17 dated 18 January 2016.  As per the said letter, the commodity wise tentative annual traffic targets for the year 2016-17 for JNPT, as communicated by JNPT to MOS is seen to be as follows: <table border="1"> <thead> <tr> <th>Sr. no.</th> <th>Commodity</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Liquid (Chemicals+POL) (Tonnes)</td> <td>6,500,000</td> </tr> <tr> <td>2.</td> <td>Dry Bulk (Cement) &amp; others (Tonnes)</td> <td>700,000</td> </tr> <tr> <td>3</td> <td>Containers</td> <td></td> </tr> <tr> <td></td> <td>JNPCT+SDB (Tonnes)</td> <td>20,955,000</td> </tr> <tr> <td></td> <td>JNPCT+SDB (TEUs)</td> <td>1,650,000</td> </tr> <tr> <td></td> <td>NSICT (Tonnes)</td> <td>10,160,000</td> </tr> <tr> <td></td> <td>NSICT (TEUs)</td> <td>800,000</td> </tr> <tr> <td></td> <td>NSIGT (Tonnes)</td> <td>5,080,000</td> </tr> <tr> <td></td> <td>NSIGT (TEUs)</td> <td>400,000</td> </tr> <tr> <td></td> <td>GTIPL (Tonnes)</td> <td>24,130,000</td> </tr> <tr> <td></td> <td>GTIPL (TEUs)</td> <td>1,900,000</td> </tr> <tr> <td></td> <td>Total Containers (Tonnes)</td> <td>60,325,000</td> </tr> <tr> <td></td> <td>Total Containers (TEUs)</td> <td>4,750,000</td> </tr> <tr> <td></td> <td><b>Grand Total (Tonnes)</b></td> <td><b>67,525,000</b></td> </tr> </tbody> </table>	Sr. no.	Commodity	Target	1	Liquid (Chemicals+POL) (Tonnes)	6,500,000	2.	Dry Bulk (Cement) & others (Tonnes)	700,000	3	Containers			JNPCT+SDB (Tonnes)	20,955,000		JNPCT+SDB (TEUs)	1,650,000		NSICT (Tonnes)	10,160,000		NSICT (TEUs)	800,000		NSIGT (Tonnes)	5,080,000		NSIGT (TEUs)	400,000		GTIPL (Tonnes)	24,130,000		GTIPL (TEUs)	1,900,000		Total Containers (Tonnes)	60,325,000		Total Containers (TEUs)	4,750,000		<b>Grand Total (Tonnes)</b>	<b>67,525,000</b>
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		<p>This may be considered as traffic of JNPT for the year 2016-17</p> <p>The share of ICD and transshipment is based on actual mode of traffic handled for the year 2015-16. The liquid traffic for the year 2016-17 is estimated based on the liquid cargo handled in the year 2015-16. Out of the total estimated liquid cargo of 65,00,000 MT to be handled in the year 2016-17, cargo wide break-up of liquid cargo is as follows:</p> <p>(i). Edible Oil &amp; Molasses – 17,00,000 MT.  (ii). Chemicals – 7,00,000 MT.  (iii). POL &amp; POL products – 41,00,000 MT.</p> <p style="text-align: right;">Total - <u>65,00,000 MT.</u></p> <p>All edible oil and molasses and chemical cargo are moved by road using tankers. Out of the POL, 1,80,000 MT of HSD belonging to Reliance Ltd. Is also moved by road and rest of the liquid cargo is moved through pipeline and rail. Hence, the total estimated liquid cargo to be moved by road for the year 2016-17 is 25,80,000MT.  (17,00,000+7,00,000+1,80,000)</p>
(v)	The total toll collection estimated for year 2016-17 by National Highway Authority of India (NHAI) for Chirle & Karanjade (NH-4B) at ₹77.38 crs. and Dastan Phata (SH-54) ₹21.68 crs respectively, thereby aggregating to ₹99.06 Cr. and considered as base by JNPT in its workings, to be substantiated by documentary evidence/ workings.	Dry Bulk (cement) and other cargo is moved by road only. The toll collection for the year 2016-17 by NHAI for Chirle & Karanjade (NH-4B) at ₹77.38 crores and Dastan Phata (SH-54) ₹21.60 crores respectively.
(vi)	The port has not furnished the basis/ workings to arrive at the concession Toll rate of ₹5 Per MT for Cement/ LPG. The basis/ workings to arrive at concessional toll rates to be furnished.	Cement and LPG are price sensitive commodities and therefore concessional rate of ₹5/- has been arrived at considering 75% concession.
(vii)	The toll charges in respect of Bulk Cargo, Liquid Cargo, Cement and LPG have been proposed on per tonne basis. Since the toll appears to be a levy towards passage of vehicles, it may be appropriate to prescribe toll charges in respect of above cargo items on per vehicle basis instead of per tonne basis. JNPT to look into it.	The toll charges in respect of Bulk Cargo, Liquid Cargo, Cement and LPG, has been notified on per tonne basis as the same is related to cargo passing through the Port road (due to closure of Toll Gate on NH-4B and SH-54). It is very difficult to identify and collect from the transporters in whose vehicle the commodity will be transported. This is not only logical but also administratively easy to implement.

8.2. With regard to the request made by JNPT during the joint hearing to enable them levy the toll charges for a period of 3 years, the JNPT was requested to formulate and to file a proposal by taking into account the estimates for a period of 3 years. The JNPT was periodically reminded vide our letters dated 8 September 2016, 24 October 2016, 17 November 2016, 06 December 2016, 14 February 2017 and 19 April 2017.

9.1. In this backdrop, the JNPT has responded vide its letter dated 27 April 2017. The submissions made by JNPT are as follows:

- (i). Based on JNPT's request, the Mumbai JNPT Road Company Limited (MJPRCL) vide its letter dated 3 April, 2017 has furnished following tentative toll collection for next three years:

Year	Amount
2016-17	₹103.93 crores
2017-18	₹109.12 crores
2018-19	₹114.58 crores

- (ii). Further as per JNPT's projections the traffic figures for 2017-18 and 2018-19 are as per the details given below:

Sr. No.	Commodity	Financial Year	
		2017-18	2018-19
1	Liquid (Chemicals+POL) (Tonnes)	7,000,000	7,500,000
2	Dry Bulk (Cement) & others (Tonnes)	675,000	700,000
3	Break Bulk	60,000	70,000
4	<b>Containers</b>		
	JNPCT+SDB (Tonnes)	20,557,800	20,938,500
	JNPCT+SDB (TEUs)	1,620,000	1,650,000
	NSICT (Tonnes)	10,152,000	10,152,000
	NSICT (TEUs)	800,000	800,000
	GTIPL (Tonnes)	22,842,000	23,476,500
	GTIPL (TEUs)	1,800,000	1,850,000
	NSIGT (Tonnes)	5,076,000	6,928,740
	NSIGT (TEUs)	400,000	546,000
	BMCTPL (Tonnes)	1,903,500	6,345,000
	BMCTPL (TEUs)	150,000	500,000
5	Total Containers (Tonnes)	60,531,300	67,840,740
6	Total Containers (TEUs)	4,770,000	5,346,000
	<b>Grand Total (Tonnes)</b>	<b>68,266,300</b>	<b>76,110,740</b>

- (iii). Further based on such projection, after adding the shortfall of ₹13.53 crores for the financial year 2016-17, the toll rates proposed for 2017-18 and 2018-19 are as follows -

Description	2017-18	2018-19
Toll rate proposed per TEU	₹ 267/TEU	₹ 267/ TEU
Toll rate for Project Cargo & Liquid Cargo handled by road	₹ 22/ MT	₹ 22/ MT
Concessional toll rate for Cement/ LPG	₹ 5/MT	₹ 5/MT

- (iv). Detailed calculations for arriving at the proposed rate, are as follows:

- (a). Statement showing Annual Traffic Projection for the year 2017-18 & 2018-19 and calculation for charges to be levied for recovering Toll income as projected by MJPRCL.

Sr. No.	Description	Traffic in TEUs/MT 2017-18	Traffic in TEUs/MT 2018-19	Total
A.	Containerized cargo	4770000 TEUS	5346000 TEUs	10116000
	Less: ICD traffic Considered for the year 2017-18: 15% Considered for the year 2018-19: 16%	715500 TEUS	855360 TEUs	1570860
	Less: Transshipment cargo 2%	95400 TEUS	106920 TEUs	202320
	Total Containerized cargo Traffic by road	3959100 TEUs	4383720 TEUs	8342820
B.	Dry Bulk (Cement) & Others	735000 MT	770000 MT	1505000



C.	Liquid Cargo (Being transported by Road)			
	Total liquid cargo Traffic by road	2600000 MT	2600000 MT	5200000
D.	Total of B + C	3335000 MT	3370000 MT	6705000
E.	Total Dry Bulk, Project Cargo & liquid in TEUs will be 3275000 MT/12MT	277917 TEUS	280833 TEUs	558750
F.	Total Traffic on which toll to be collected (A + E)	4237017 TEUS	4664553 TEUs	<b>8901570</b>
G.	The Total Toll collection amount considered for the year 2017-18 & 2018-19 by MJPRCL	₹ 1091200000		
	Add: Shortfall on Toll collection for 2016-17	₹ 135345323		
	<b>Total Toll collection required for 2017-18 &amp; 2018-19</b>	₹ 1226545323	₹ 1145800000	<b>2372345323</b>
H.	Toll rate proposed per TEU	₹ 267/TEUs	₹ 267/TEUs	
I.	Toll Rate for Project Cargo & liquid cargo handled by road	₹ 22 /MT	₹ 22 /MT	
J.	Concessional rate for Cement/LPG	₹ 5 /MT	₹ 5 /MT	

(b). Statement showing shortfall in Toll collection for the year 2016-17.

Sr. No.	Description	Amount (in ₹ )
A.	Toll Income as per estimate of MJPRCL	1039300000
	Less: collected by MJPRCL for the Month April 2016	83400000
	Less: Collected by JNPT during the Period from May 2016 to March 2017	820554677
	Shortfall in Toll Collection	135345323

9.2. A comparative position between the earlier proposal dated 27 April 2016 and the revised proposal dated 27 April 2017 is tabulated below:

Description	As per earlier proposal dated 27.4.16	As per Revised proposal dated 27.4.17	
		2017-18	2018-19
Toll rate proposed per TEU	₹ 240/TEU	₹ 267/TEU	₹ 267/ TEU
Toll rate for Project Cargo & Liquid Cargo handled by road	₹20/ MT	₹ 22/ MT	₹ 22/ MT
Concessional toll rate for Cement/ LPG	₹ 5/MT	₹ 5/MT	₹ 5/MT

10. Given that the JNPT has furnished the estimates for the years 2017-18 and 2018-19 and since there were changes in the toll charges now proposed by JNPT vis-à-vis toll charges proposed earlier, it was decided to take the revised proposal of JNPT on consultation with the relevant users/ user organisations and BOT operators. Accordingly, a copy of the JNPT revised proposal dated 27 April 2017 was forwarded to the concerned users/ user organisations/ BOT operators for their comments. The BOT operators viz. Gateway Terminal India Private Limited (GTIPL), Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL) and Nhava Sheva International Container Terminal Private Limited (NSICTPL) vide their letters dated 15 June 2017, 30 June 2017 and 30 June 2017 respectively have furnished their comments, which were forwarded to the JNPT as feedback information. The JNPT vide its letter dated 28 July 2016 has responded to the comments of the BOT operators.

11. The joint hearing on the revised proposal was held on 30 June 2017. At the joint hearing, the JNPT made a Power Point presentation of the proposal. The JNPT and the concerned users/ organization bodies have made their submissions at the joint hearing.

12. Further, during the joint hearing, additional information/ clarification were sought from JNPT. Accordingly, the JNPT has responded vide its letter dated 21 July 2017. The information/ clarification sought by us and response of JNPT thereon is tabulated below:

Sr. No.	Information/ Clarification Sought by us	Response of JNPT						
(i).	The JNPT to furnish the basis for ICD Traffic @ 15% & 16% considered for 2017-18 and 2018-19 respectively.	<p>As Regards ICD Traffic @ 15% and 16% considered for 2017-18 and 2018-19 respectively, we wish to state that ICD traffic for the last 3 years is as follows:</p> <table border="1" data-bbox="842 331 1345 421"> <tr> <td>2014-15</td> <td>18.65%</td> </tr> <tr> <td>2015-16</td> <td>17.27%</td> </tr> <tr> <td>2016-17</td> <td>14.66%</td> </tr> </table> <p>However during June 2017 there has been improvement and is 15.02% even though for the financial year 2017-18 i.e. April to June 2017 is 13.94% and with rail/road equalization and other incentives given it is projected that ICD traffic will be 15% for 2017-18 and 16% for 2018-19.</p>	2014-15	18.65%	2015-16	17.27%	2016-17	14.66%
2014-15	18.65%							
2015-16	17.27%							
2016-17	14.66%							
(ii).	The JNPT to furnish the basis for Transshipment Cargo @ 2% for both the years.	As regards Transshipment Cargo it was 1.14% for 2015-16 and 0.99% during 2016-17. It is expected that Transshipment Cargo will increase and therefore 2% has been considered for both the years.						
(iii).	The JNPT to furnish the basis for Quantum of liquid cargo traffic moved by Road.	As regards quantum of liquid cargo traffic moved by Road, it is taken constant at 26,00,000 on a safer side even though in 2016-17 it was around 34 lakhs M.T. It however depends on import volume, commodities and movement by rail which may vary on a year to year basis.						
2.	The JNPT to explain how the toll rate @ ₹22 per MT for project cargo and liquid cargo handled by road has been worked out.	As regards Toll Rate @ ₹22 per MT for project cargo and liquid cargo handled by road, it is to clarify that the rate to be arrived at is for different type of cargo and to have a common denominator, for project cargo and liquid cargo it was taken as 12 MT equal to 1 TEU. This is based on past trend for container traffic and accordingly projected traffic for liquid cargo and project cargo was converted into TEU and once rate per TEU was arrived at R ₹267 dividing the same by 12 M.T., the rate works out ₹22 per MT.						
3.	The JNPT in its proposal has stated that the levy of toll charges on containers and other cargo by JNPT is to compensate the Special Purpose Vehicle (SPV) viz Mumbai JNPT Port Road Company Limited (MJPRCL) for their loss of revenue. However, the Minutes of the stakeholders meeting held on 25 February 2016 under the Chairmanship of Joint Secretary (Highways), Ministry of Road, Transport & Highway (as forwarded by JNPT under cover of its letter no. JNP/FIN/FA/2016/2848 dated 24 May 2016) makes a mention about JNPT raising funds to the tune of ₹2439.66 Crores through ECB and the discontinuance of collection of toll/ user fees by JNPT once the total debt liability is repaid. There is no clarity in the purpose for which the toll is proposed to be levied. Further, while the requisite funds from ECB has been quantified the loss to the SPV due to closure of Toll gates has not been quantified.	It is the fact that JNPT has raised ECB loan of 400 Million Dollar for financing 6/8 laning of SH-54 and NH 4B. The present toll being recovered is on account of improvement made under Phase I and toll was being levied for maintenance of road. In order to avoid traffic congestion at toll gates, a decision was taken to discontinue toll collection at gates and levy on cargo passing through JN Port. There is no loss to SPV on account of closure of toll gate as the same is being recovered on cargo passing through JN Port and being remitted to MJPRCL. The expected toll collection projection have been furnished by MJPRCL and based on traffic projection toll rate has been worked out. Once 6/8 laning is completed, revised rates will have to be worked out for increase cost incurred on such expansion and debt servicing obligation and other costs associated with it.						

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

- (i). The Special Purpose Vehicle (SPV) formed by the NHAI had completed the 4 laning of the roads which connect the JNPT in Phase-I of the port connectivity project in the years 2005/2008 and commenced charging of toll at Toll Gates on these roads and the toll was being collected as per the policy of the NHAI for improvement made under Phase-I and for maintenance of these roads. In view of heavy traffic congestion at roads of NH-4B and SH-54 from time to time reportedly arising on

account of long queues at the toll gates put up by the SPV i.e. Mumbai JNPT Port Road Company Limited (MJPRCL), the Government, in keeping up with its policy of Ease of doing business has decided to close the said toll gates with effect from 1 May 2016. Since the traffic bound for Jawaharlal Nehru Port Trust (JNPT) use these roads, it was decided by the Government that the toll/ user fee shall be collected by the JNPT at its gate complexes, from the port goods traffic which use the road connectivity. Accordingly, the JNPT has come up with a proposal to enable it levy of toll charges on Containers, Project Cargo, Liquid Cargo, Cement and LPG, on account of closure of Toll Gates.

- (ii). The initial proposal filed by JNPT was in April 2016. This proposal was to enable the port to levy toll charges on various cargo items during the year 2016-17 only. However, during the joint hearing held on the case in reference on 15 July 2016, the JNPT made a request to approve the toll charges for a period of three years. The JNPT was, therefore, requested to formulate a proposal taking into account the estimates for a period of three years. After continuous reminders, the JNPT has furnished the revised proposal in April 2017 after collecting the requisite details from NHA in April 2017. This revised proposal of JNPT alongwith the information/ clarification furnished by JNPT during the processing of the case is taken into account in the analysis.
- (iii). The JNPT, in its initial proposal, had stated that the levy of toll charges on containers and other cargo by JNPT is to compensate the SPV viz., MJPRCL for their loss of revenue due to closure of Toll Gates. However, the Minutes of the stakeholders meeting held on 25 February 2016 under the Chairmanship of Joint Secretary (Highways), Ministry of Road, Transport & Highway (as forwarded by JNPT under cover of its letter no. JNP/FIN/FA/2016/2848 dated 24 May 2016) made a mention about JNPT raising funds to the tune of 400 Million Dollars through ECB and the discontinuance of collection of toll/ user fees by JNPT once the total debt liability is repaid. In this regard, the JNPT has clarified that the present toll being recovered is on account of improvement and maintenance of road and that once the 6/8 laning of SH-54 and NH 4B is completed, it will rework the rates so as to capture the costs incurred on expansion, debt servicing obligation and other costs associated with it.
- (iv). Based on a specific request made by JNPT, the JNPT was authorized to collect Toll at the charges as proposed by it in its April 2016 proposal, with effect from 1 May 2016 on Container, Project Cargo, Liquid Cargo (Edible oil and Molasses, Chemicals, HSD by tankers, concessional rate of cement and L.P.G.) which are going in and out of all gate complexes of JNPT as an interim measure subject to certain conditions, as already brought out in the earlier part of the Order.
- (v). Since the toll charges are envisaged to be levied at the JNPT Gate complexes, as per JNPT, the BOT Operators at JNPT are required to collect the toll charges and pay the same to JNPT who in turn would pay it to the SPV. In this connection, the said BOT operators are of the view that since the BOT operators will have to deploy additional resources for billing, collection and other administrative work, the terminal should be allowed to retain 5%-10% of the collection amount towards administrative and related costs. The JNPT has expressed its inability to agree for retention of some amount of the collection amount on the ground that no such arrangement was envisaged at the time of discussion or in the MOU. According to JNPT, the toll is only a line item in the regular bills being raised, JNPT does not foresee any substantial cost associated with collection of toll and remitting it to JNPT. The charges recovered by BOT operators shall not be liable for levy of revenue share as the same is not income but only reimbursement to the SPV through JNPT. Nevertheless, the actual expenses incurred by BOT operators viz. NSICTPL, GTIPL and BPCL towards rendering these services can be taken into account while reviewing their respective existing tariff.
- (vi). As brought out earlier, the toll charges are envisaged to be levied by the JNPT on Containers, Project Cargo, Liquid Cargo, Cement and LPG, which will be utilizing the road. Thus, the toll charges are not envisaged to be levied on liquid cargo passing through pipelines, ICD traffic and transshipment cargo, as the said cargo will not be making use of the road under reference.
- (vii). Taking into account the Total Toll collection amount considered by MJPRCL and the traffic of the cargo items during the years 2017-18 and 2018-19, the JNPT has arrived at the proposed toll charges. Each of the components are discussed in the paragraphs hereinunder:
  - (a). The JNPT has projected a traffic of 4.77 million TEUs and 5.35 million TEUs to be handled during the year 2017-18 and 2018-19 respectively. The said traffic is seen to be inclusive of the container traffic of the BOT operators at JNPT viz., NSICTPL, GTIPL, NSIGTPL and BMCTPL. The traffic as projected by JNPT for the years 2017-18 and 2018-19 is reported to be based on the JNPT annual cargo traffic target and is relied upon in the analysis.

- (b). The average share of ICD traffic during the years 2014-15 to 2016-17 is reported to be 16.86%. However, considering the share of ICD traffic for the period from April to June 2017 at 13.94%, the JNPT has considered share of ICD traffic at 15% for the year 2017-18 and 16% for the year 2018-19 keeping in view the equalisation of rates by rail and road evacuation of cargo and other incentives. The judgment of the port in this regard is relied upon.
- (c). Though the share of Transshipment Cargo is reported to have been 1.14% for 2015-16 and 0.99% during 2016-17, the JNPT, on the ground that Transshipment Cargo will increase, has considered the share of transshipment cargo uniformly at 2% for the years 2017-18 and 2018-19. This position is considered in the analysis.
- (d). Though the quantum of liquid cargo traffic moved by Road during the year 2016-17 was around 34 lakhs MT, the JNPT has considered uniform liquid cargo traffic at 26 lakhs MT for the years 2017-18 and 2018-19, on the ground that liquid cargo traffic moved by Road depends on various factors viz., import volume, movement by rail etc., which shall vary on a year to year basis. The judgment of the port in this regard is relied upon.
- (e). The quantum of Cement and Other Cargo at 7.35 lakhs MT and 7.70 lakh MT for the years 2017-18 and 2018-19 is reported to be based on the JNPT annual cargo traffic target and hence is relied upon in the analysis.
- (f). By considering a conversion factor of 1 TEU = 12 MTs, the JNPT is seen to have converted the liquid, cement and other cargo into TEUs. The unit of measurement of liquid cargo is in terms of tonnage. Thus, the total traffic in TEUs on which toll is to be collected has been considered by JNPT at 4237017 TEUs in 2017-18 and 4664553 TEUs in 2018-19.
- (g). The tentative total Toll collection amount as communicated by MJPRCL to JNPT is seen to be ₹109.12 crores and ₹114.58 crores during the years 2017-18 and 2018-19 respectively. In this connection, it is understood that as against the toll collection of ₹103.93 crores envisaged during the year 2016-17, the actual toll collection during the year 2016-17 is reported to be ₹90.40 crores. Thus, the shortfall in the toll collection to the tune of ₹13.53 crores in the year 2016-17 is proposed to be made good from the toll to be levied by JNPT during the years 2017-18 and 2018-19. Thus, by building the shortfall of toll collection to the tentative Toll collection amount for the years 2017-18 and 2018-19, the JNPT has arrived at a common toll charge to be levied during the years 2017-18 and 2018-19. The common toll charge so arrived by JNPT is ₹267.56 per TEU for containers, ₹22.30 per MT for Project Cargo & liquid cargo and ₹5/- per MT for LPG and Cement. The workings in this regard is attached as **Annex**.

Considering that Cement and LPG are price sensitive commodities, the JNPT has proposed for about 75% of ₹22.30 as concession and has, therefore, proposed a rate of ₹5/- per MT.

- (viii). Considering that the proposal has emanated in view of Government's policy of Ease of doing business and for decongesting the roads leading to the JNPT, this Authority is inclined to grant approval for the levy of toll charges as proposed by the Port in its revised proposal of April 2017, for the years 2017-18 and 2018-19.
- (ix). It may be recalled that based on the request made by the port, this Authority has already authorized JNPT to levy the toll charges as proposed by it in its April 2016 proposal on an interim basis, subject to the condition that if the final rates fixed by this Authority are lower than the proposed rates, the difference between the final rates and adhoc rates shall have to be refunded by the JNPT to the concerned users. Given that the rate levied by the JNPT on adhoc basis (₹240/- per TEU for containers, ₹20/- per MT for Project Cargo/ Liquid Cargo and ₹5/- per MT for Cement and LPG) is lower than the final toll rates (to be) approved by this Authority (₹267/- per TEU for containers, ₹22/- per MT for Project Cargo/ Liquid Cargo and ₹5/- per MT for Cement and LPG), the question of JNPT making any refund in respect of the toll charges levied during the interim period to the users does not arise. On the contrary, the shortfall in the collection for the year 2016-17 has been captured in the calculation for rates leviable for the year 2017-18.
- (x). The Tariff Policy, 2015, read with the Working Guidelines issued to operationalize the Tariff Policy stipulates prescription of Performance Standards. Accordingly, the JNPT was requested to propose Performance Standards with regard to the levy of Toll charges. In this regard, the JNPT has stated that since the levy is on account of abolition of Toll at Toll Gates, no performance standard connected with the same, can be made applicable.

- (xi). The toll charges fixed for JNPT is based on the estimates for the years 2017-18 and 2018-19. It is most likely that the actuals shall be different from estimates. Therefore, the JNPT is permitted to make good the shortfall collection (if any) or adjust the excess collection (if any), in the toll charges to be fixed for the next cycle.

14.1. In the result, and for the reasons given above, and based on a collective application of mind, the insertion of the following provision as Section 6.7 under Chapter 6 – Miscellaneous Charges, in the existing Scale of Rates of JNPT is approved:

**“6.7: Toll charges/ User fees:**

Port will collect the following charges on container (TEU) and other general cargoes going in and out of all Gate complexes (at JNPT, NSICTPL, GTIPL, NSIGTPL, BPCL & BMCTPL) from Shipping Lines/ Agents/ Tank Farm operators (delivered by road)/ Consignee etc)

Sr. No.	Particulars	Toll charges in ₹
1.	Container (per TEU)	267/- per TEU
2.	Project Cargo & Liquid Cargo handled by road	22/- per MT
3.	Cement / LPG	5/- per MT

14.2. Since the levy of toll at the Gates of JNPT is already in vogue since 01 May 2016, and the revised levy being a cargo related charge for which no definite lead period is required for implementation of the rates, the toll charges shall come into effect from 01 October 2017 and shall remain co-terminus with the validity of the rates as approved in the general revision case of JNPT i.e. 31 March 2019. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

14.3. The levy of the toll charges approved now shall be reviewed at the time of next general review of tariff of JNPT. The port is advised to maintain a separate account in this regard and furnish the audited details for scrutiny at the time of the next review of tariff of JNPT.

**(T.S. Balasubramanian)**  
Member (Finance)

## Annex

## CALCULATION OF TOLL CHARGES AT JNPT

Sr. No.	Description	2016-17	2017-18	2018-19
<b>A.</b>	Containerized cargo (in TEUs)	4750000	4770000	5346000
	Less: ICD traffic @ 16.63% for the year 2016-17, 15% for the year 2017-18 and 16% for the year 2018-19	789925	715500	855360
	Less: Transshipment cargo @ 2%	95000	95400	106920
	<b>Total Containerized cargo Traffic by road (in TEUs)</b>	<b>3865075</b>	<b>3959100</b>	<b>4383720</b>
<b>B.</b>	<b>Dry Bulk (Cement) &amp; Others (in MTs)</b>	<b>700000</b>	<b>735000</b>	<b>770000</b>
<b>C.</b>	<b>Liquid Cargo (Being transported by Road) (in MT)</b>	<b>2580000</b>	<b>2600000</b>	<b>2600000</b>
<b>D.</b>	<b>Total of B + C (in MT)</b>	<b>3280000</b>	<b>3335000</b>	<b>3370000</b>
<b>E</b>	Total Dry Bulk, Project Cargo & liquid in TEUs (1 TEU = 12 MT)	273333	277917	280833
<b>F.</b>	<b>Total Traffic on which toll to be collected (in TEUs) (A + E)</b>	<b>4138408</b>	<b>4237017</b>	<b>4664553</b>
<b>G.</b>	Total Toll collection amount considered by MJPRCL (Amount in Rs.)	1039300000	1091200000	1145800000
<b>H.</b>	Toll collected during the year 2016-17 (Amount in Rs.)	903954677	0	0
	Shortfall in Toll collection for 2016-17, transferred to the year 2017-18 (Amount in Rs.)	135345323	135345323	0
	<b>Total Toll collection required for 2017-18 &amp; 2018-19 (Amount in Rs.)</b>	<b>0</b>	<b>1226545323</b>	<b>1145800000</b>
<b>I.</b>	Toll rate proposed per TEU		289.48	245.64
<b>J.</b>	<b>Average Toll rate proposed (per TEU)</b>		<b>267.56</b>	
<b>K.</b>	<b>Toll Rate for Project Cargo &amp; liquid cargo handled by road ( J / 12 ) (per MT)</b>		<b>22.30</b>	
<b>L.</b>	<b>Concessional rate for Cement/LPG (per MT)</b>		<b>5.00</b>	

**SUMMARY OF THE COMMENTS RECEIVED FROM USERS/ USER ORGANISATIONS AND RESPONSE OF JNPT THEREON AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.**

<b>F.No. TAMP/28/2016- JNPT</b>	<b>:</b>	<b>Proposal received from Jawaharlal Nehru Port Trust charging of Toll Charges on Containers and other Cargo passing through Port due to closure of Toll Gate on NH-4B, SH-54.</b>
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1. A summary of the comments of the BOT operators and users and response of JNPT thereon is tabulated below:

<b>Sl. No.</b>	<b>Comments of the users / user organisations</b>	<b>Reply of JNPT</b>
<b>1.</b>	<b>The All India Liquid Bulk Importers &amp; Exporters Association (AILBIEA)</b>	
(i)	Along with TAMP letter dated 3 June 2016, our association is also in receipt of trade notice dated 30 <sup>th</sup> April 2016 and were surprised to receive the notice for immediate implementation of new toll collection system with effect from 1 <sup>st</sup> May 2016 without giving the trade, sufficient time to rework its costing system. This has created a chaos among the trade as the cargo is planned much in advance after considering the cost movement of the cargo. Sudden implementation of new system has put the trade into uncertainty.	No specific comments given by JNPT.
(ii)	The Port users appreciate the initiative taken by the port and road authorities to reduce congestion arising due to toll booth which the trade is very much thankful to the authorities and anticipate that this will help reducing the delays in movement of the cargo and enhance turn around.	
(iii)	However, it is being done at the cost of Liquid Bulk Operators, who are further being strained by imposing Toll at the rate of ₹20/- PMT for Liquid Cargo which is very high and will be affecting economics of the traders. Till now the transporter was bearing the cost of toll and it was in-built in their bills to the traders. Now the traders will have to rework all their charges which will take time. Moreover, a liquid tank truck have payload of 15-30 MTs and toll for the same at Toll booth was around ₹200/- per truck which would come to around ₹13.40 to ₹6.50 Per Metric Ton, however, JNPT is charging exorbitant ₹20/- Per Metric Ton.	
(iv)	The trade fails to understand as to why the port is charging so high, almost 2-3 times the cost which was already being paid by the trucks. In fact, port is generating huge revenue from the operations due to this very movement of trucks, at least largely so. Hence, in its own interest JNPT should in fact fund NHA for the development of roads at the vicinity of JNPT to facilitate smoother movements of cargo to & fro the port area for faster turnaround of the vessels. Instead, the above mentioned trade notice portrays that JNPT is charging the port users for bringing cargo to the port itself save apart other cost which it charges to the port users.	

2.	<b>Gateway Terminal India Private Limited (GTIPL)</b>	
(i)	<p>JNPT, as a landlord port, should be authorised to collect the charges directly from the shipping lines. This will have following benefit.</p> <p>(a). This will eliminate the need to exempt Gateway Terminals India from paying revenue share on the amount collected.</p> <p>(b). If we bill this to the customers, we have to levy service tax as GTI as a company is not on the negative list of service charge. If JNPT collects the amounts directly from the shipping lines then service tax is not chargeable as they are authorised by NHAI to collect toll and hence it falls in the negative list.</p> <p>Considering the above we recommend that JNPT as a port be authorised to collect the proposed toll directly from the shipping lines. We would on our part provide the requisite data to the port for billing the lines.</p>	<p>The same is not acceptable to JNPT, and GTIPL will have to collect and remit as per the arrangement envisaged.</p>
3.	<b>Federation of Indian Export Organisation (FIEO)</b>	
(i)	<p>TAMP letter dated 3 June 2016 informs of an increase in toll charges for containers at ₹240/TEU (besides project cargo/liquid cargo/Cement/ LPG) effective from 1 May, 2016 by JNPT whereas comments of stakeholders have been sought by 10 June, 2016 till which time, JNPT Order on hike would have already been in operation vide trade notice dated 30 April 2016. (ICD traffic and transshipment cargo which could be export related have been mercifully excluded).</p>	<p>The purpose is to compensate Mumbai JNPT Port Road Company for the losses suffered on account of closure of toll gates. Public hearing has been fixed on 15 July 2016 at 11.30 a.m. in the office of TAMP. Since matter was urgent and Ministry of Road Transport &amp; Highways has directed to close toll gates w.e.f. 1 May 2016, there was no other option but to go for levy of toll. However, there was no intention of undermining role of TAMP.</p>
(ii)	<p>The purpose of the levy is to compensate Mumbai JNPT Port Road Company Ltd. (MJPRCL) for the losses suffered as detailed in letter dated 23.4.2016 and minutes of meeting held on 25 February 2016.</p>	
(iii)	<p>The comments of the stakeholders have not been sought by TAMP for the intervening 2 months but post the trade notice of JNPT which was issued on 30 April Orders itself being effective from 1 May 2016.</p>	
(iv)	<p>The above sequence of events undermines the role of TAMP as a tariff fixing authority mandated by the GOI and order issued by JNPT must be declared “null and void” as per the legal provisions of the Major Port Trust Act 49B for Fixation of port-dues. Further, the increased cost burden at this point would also be unacceptable to trade.</p>	
4.	<b>Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL) and Nhava Sheva International Container Terminal Private Limited</b>	<b>(page no. 160-179/c)</b>
(i).	<p>(a) Terminal is deploying additional resources for invoicing, collection and reconciliation of the toll charges along with the actual movement of containers through its gate.</p> <p>(b) Terminal will be incurring cost in order to carry out the above jobs on behalf of NHAI_JNPT</p>	<p>The point made by NSICTPL and NSIGTPL regarding allowing them to retain 5% of the collection amount towards administrative and related cost cannot be agreed to as no such arrangement was</p>



	We request JNPT and Tariff Authority to consider and approve 5% of the collection amount as administrative and related costs to be retained by the Terminal.	envisaged at the time of discussion or in the MOU.
(ii).	<p>The above is in line with the Order passed by the Authority with respect to fixation of Mandatory User Charges (MUC) for the Logistic Data Bank Project vide its Order No. TAMP/49/2014-JNPT dated 23<sup>rd</sup> March 2015.</p> <p>We would like to draw attention of clause no. 2.8 of the Order</p> <p><i>“The proposal also mentioned about data handling charge to the port terminal operators for collecting the Mandatory User Charge. It has been assumed that 5% of the total MUC shall be passed on to the port terminal operators as data handling charge for collecting the MUC. This has been considered as an element of cost while estimating MUC.”</i></p> <p>Considering the precedence already established by the Authority in the stated Order, we request you to consider 5% of the collection amount to be retained as administrative and collection charges and same shall not be applicable for Revenue Share.</p>	

2. A summary of the arguments made by the JNPT and the users/ user organisations during the joint hearing held on 15 July 2016 is given below:

### **Jawaharlal Nehru Port Trust (JNPT)**

- (i). Initially, toll was collected by the NHAI through toll gates set up at the Highway, which was causing severe congestion. Therefore, in view of the Government policy of ease of doing business and for development of business, it was decided by the Government to collect the toll from the traffic of JNPT at the JNPT gate. It is collected from Shipping Lines.
- (ii). During the last 2 months of such an arrangement, there is a visibly less traffic congestion on highways and consequently less congestion at port roads, thereby facilitating hassle free movement on road. Cost of congestion at the gates has to be captured in the whole analysis.
- (iii). In view of the above benefits, it is requested that the proposal of the port may be approved.

### **Bharat Petroleum Corporation Limited (BPCL)**

- (i). For the levy of toll charges by JNPT with effect from 1 May 2016, a notice was given just a day prior; and, levy was introduced all of a sudden. As a principle of natural justice, sufficient notice time must have been given by JNPT.
- (ii). Though we do not have any issue on the toll charges proposed by JNPT, we are facing issues with the lorry owners regarding the toll charges. Our

Agreement with the Lorry owners towards freight payable by BPCL to them for carriage of Import liquid cargo from our Uran facility includes the element of toll charges which was being collected by the SPV at the toll place. If we have to collect the proposed levy and pay to JNPT, the collected amount has to be deducted from the agreed amount payable to the Lorry owners. Lorry owners do not agree for the reduction. They threaten to strike the work. We can provide facility at our place whereat the JNPT can directly collect the proposed toll from the Lorry owners, as the SPV was collecting earlier. Please do not involve BPCL for collection of the proposed levy.

[JNPT: Collection of toll at BPCL gate will cause gate congestion. However, the operational issue raised by BPCL can be worked upon at the port level.]

### **Gateway Terminal India Private Limited (GTIPL)**

- (i). Given that the terminal will have to deploy additional resources for billing and collection, the terminal should be allowed to retain 5% of the collection amount towards administrative and related costs. TAMP, in one of their earlier Order relating to fixing of MUC has already approved such an arrangement.
- (ii). Since GTIPL is not on the negative list of service charge, GTIPL will have to levy service tax on the toll charges collected. However, JNPT falls in the negative list of service charge, and hence will not collect any service tax. Thus, our terminal users will end up paying more. We want the JNPT to collect the charges directly from the shipping lines.

[JNPT: The proposed arrangement is not acceptable to JNPT. CENVAT Credit is available to the BOT operators. We appeal to the terminal operators to agree to the proposal in reference, keeping in view the Government policy of ease of doing business and for development of business at JNPT.]

### **Nhava Sheva International Container Terminal Private Limited (NSICTPL)**

- (i). Collection of toll charges will involve spending by us for deployment additional manpower for billing, collection and administrative work. We should be allowed to retain 5% of the collection amount towards administrative costs.

[JNPT: If we accept factoring of 5% of the collection amount, it will upset our calculations and will have an impact on the amount to be compensated by us to the SPV.]

### **Nhava Sheva (INDIA) Gateway Terminal Pvt. Ltd. (NSIGTPL)**

- (i). Levy of toll charges by the terminal should not attract revenue share.
- (ii). Considering the work involved in collection of toll charges, seeking 5% retention of the collection amount is reasonable.

### **Narendra Forwarders P. Ltd. (on behalf of AILBIEA)**

- (i). The proposed toll charges is about 25% more than the existing toll charges. This increase is gradually leading to diversion of traffic away from JNPT. Though concessional toll charges are being proposed for LPG, no concessional toll charges are being proposed for Oil/ Molasses.

[JNPT: On comparison of the total amount paid based on the existing toll rate and the total amount based on the proposed toll charge, it can be seen that there is no much variation between the two. Infact, due to decongestion in the Highway and the JNPT gate, there is savings for the vehicles on account of fuel as earlier, due to congestion, higher amount of fuel was spent. JNPT appeals to everyone to go ahead with the proposal.]

**National Highway Authority of India (NHAI)**

- (i). The SPV had engaged a Contractor (based on a bidding process) to collect toll charges on the Highway. In view of the decision of the Government to close the toll gate at the Highway and allow JNPT to levy the toll on all cargo/ containers going in and out of JNPT, the Contract with the Contractor has been terminated by issue of a Notice. However, the amount of toll charges assured by the Contractor to the SPV, has to be made good by JNPT.
- (ii). The 5% retention proposed by the terminals towards administrative charges, is seen to be on a higher side.

**Gateway Terminal India Private Limited (GTIPL)**

- (i). The JNPT can look into including the terminals also in the negative list of service charge, so that we need not collect any service tax on the toll charges.

[JNPT: We will look into the matter.]

**JNPT**

- (i). It is requested that the said toll charges be approved for a period of three years.

3. A summary of the comments on revised proposal received from BOT operators and response of JNPT thereon is tabulated below:

Sl. No.	Comments of the BOT operators	Reply of JNPT
1.	<b>Gateway Terminal India Private Limited (GTIPL)</b>	
i.	During the Joint hearing conducted on July 15 <sup>th</sup> 2016 in respect of the first proposal by JNPT, GTIPL and NSICT had presented their case pleading that the toll collection and payment to JNPT is an additional activity for terminals involving various administrative tasks apart of regular collection and payment such as maintaining accounts, reconciliation, verification, audit, recovery and payment of service tax.	No specific comments furnished by the Port.

ii.	Due to involvement of various activities, GTIPL & NSICT had requested to include 5-10% service charge in the Toll proposal. It was also explained that payment of this service charge wouldn't create any additional burden for JNPT / NHAI as this charge was in lieu of the erstwhile Service charge which used to be paid to earlier Toll agent. In fact, we understand service charge paid to the Toll agent was much higher than our proposal.	Submissions made by GTIPL to allow them to retain 5-10% of the collection amount towards administrative and related cost and that too with retrospective effect cannot be agreed to as no arrangement was envisaged at the time of discussion or in the MOU. It's a statutory or government dues being collected and further this being only a line item in the regular bills being raised, we do not foresee any substantial cost associated with collection of toll and remitting it to JNPT.
iii.	After giving patient hearing to the Terminals' proposal, it was agreed that the terminal operators should get their due share for their part of service.	No specific comments furnished by the Port.
iv.	TAMP had then instructed JNPT to co-ordinate with the terminal operators and work out the percentage of the service charges due to them before implementation of the Tariff Order and JNPT present in the hearing had agreed to follow the instructions.	No specific comments furnished by the Port.
v.	However, subsequently when approached, JNPT declined to share any service charge.	No specific comments furnished by the Port.
vi.	Similarly, we had also made a proposal with regard to the Service Tax component which is presently being charged to the Trade and paid to Government. If GTIPL and NSICT are brought under the Exempt list of NHAI, the Trade will not have to share the additional burden of service tax.	As regards taking up with NHAI to include the Terminal Operators in the exempt list in order to pass on the final benefit to trade, the same has been taken up with appropriate authorities and reply received from them will be communicated in due course.
vii.	Thus, TAMP may advise JNPT the following: (i). To implement 10% service charge proposal with retrospective effect i.e. May 1st 2016. (ii). To take up with NHAI to include the terminal operators in the Exempt list in order to pass on the final benefit to the Trade.	No specific comments furnished by the Port.
<b>2.</b>	<b>Nhava Sheva (India) Gateway Terminal Private Limited (NSIGTPL) and Nhava Sheva International Container Terminal Private Limited (NSICTPL)</b>	
(i)	We have been assisting JNPT in collection of the toll charges for past one year. During the Joint hearing conducted by your Office on July 15th 2016 on above subject matter we had presented that the toll collection and payment to JNPT is an additional activity for terminals involving various administrative tasks apart of regular collection and payment such as maintaining accounts, reconciliation, verification, audit, recovery and payment of service tax.	No specific comments furnished by the Port.

ii.	Due to involvement of various activities we had requested to include 5-10% service charge in the Toll proposal. The basis of above request apart from administrative tasks was also that JNPT/ NHAI would not be paying service charges to toll agent and would not be required to maintain any accounts or have any collection issues. Service charge paid to the Toll agent was much higher than our proposal.	Submissions made by Operator to allow them to retain 5-10% of the collection amount towards administrative and related cost and that too with retrospective effect cannot be agreed to as no arrangement was envisaged at the time of discussion or in the MOU. It's a statutory or government dues being collected and further this being only a line item in the regular bills being raised, we do not foresee any substantial cost associated with collection of toll and remitting it to JNPT.
iii.	During the 15 <sup>th</sup> July 2016 meeting, authority did agree to the terminals proposal in view of administration effort involved and JNPT was supposed to finalise the service charges.	No specific comments furnished by the Port.
iv.	However, subsequently when approached JNPT authority declined to share any service charge.  We therefore humbly request the Authority to advise JNPT to implement 10% service charge proposal with retrospective effect.	No specific comments furnished by the Port.

4. A summary of the arguments made by the JNPT and the users/ user organisations/ BOT operators during the joint hearing held on 30 June 2017 on revised proposal is given below:

**Jawaharlal Nehru Port Trust (JNPT)**

- (i). In May 2016, TAMP gave adhoc approval for the levy of toll charges.
- (ii). Now, we have furnished the projections for the years 2017-18 and 2018-19. We received Toll collection projections from MJPRCL in April 2017.
- (iii). Accordingly, our proposal now is to levy toll charges at ₹ 267/- per TEU during 2017-18 and 2018-19 on containers, ₹ 22/- per MT for Project/ Liquid cargo and ₹ 5/- per MT for Cement and LPG. This has been worked out after factoring the shortfall of ₹ 13.53 crores in the toll collection during the year 2016-17. The requisite calculation have been furnished to TAMP.

**National Highway Authority of India (NHAI)**

- (i). It is a port connectivity project.

(TAMP: The JNPT in its proposal has stated that the levy of toll charges on containers and other cargo by JNPT is to compensate the SPV viz MJPRCL for their loss of revenue. However, the Minutes of the stakeholders meeting held on 25 February 2016 under the Chairmanship of Joint Secretary (Highways), Ministry of Road, Transport & Highway (as forwarded by JNPT) makes a mention about JNPT raising funds to the tune of ₹2439.66 Crores through ECB and the discontinuance of collection of toll/ user fees by

JNPT once the total debt liability is repaid. There is no clarity in the purpose for which the toll is proposed to be levied.)

- (ii). The widening of existing NH-4B and Amra Marg to 6/8 lanes was envisaged to be carried out by SPV, which now is to be carried out by JNPT at a cost of ₹ 2900 crores. Therefore, the JNPT has to make good the annual toll charges as well as the cost of the widening of the road to the SPV. The toll will be levied by JNPT till the cost of laying of the road is recovered. Out of ₹ 2900 crores, ₹ 2600 crores will be required for the project after adjusting ₹ 300 crores of internal accruals. The Toll collection is to meet the amount of ₹ 2600 crores.

### **Gateway Terminal India Private Limited (GTIPL)**

- (i). We have given our written submissions.
- (ii). During the last Joint hearing in July 2016, GTIPL and NSICT had requested to include 5-10% service charge in the Toll proposal as it involves additional activity for terminals involving various administrative tasks apart from regular collection and payment such as maintaining accounts, reconciliation, verification, audit, recovery and payment of service tax. Though it was agreed that the terminal operators should get their due share for their part of service, it has not been agreed by JNPT.
- (iii). GTIPL/ NSICT may be exempted from service tax.

(NHA: JNPT has raised the issue. The matter is in progress with the Government.)

### **JNPT**

- (i). The point made by NSICTPL and NSIGTPL regarding allowing them to retain 5% of the collection amount towards administrative and related cost cannot be agreed to as no such arrangement was envisaged at the time of discussion or in the MOU.

(TAMP: Since the Operators will be required to take up additional activities, the JNPT may discuss the matter with NHAI.)

### **Bharat Petroleum Corporation Limited (BPCL)**

- (i). We are okay with the proposal.

### **Bharat Mumbai Container Terminal Private Limited (BMCTPL)**

- (i). We will be commencing operations from the end of the year.
- (ii). What are the tax components to be included in the toll charges. We need clarity.

### **JNPT**

- (i). The BMCTPL can approach us for requisite clarification.