TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

No. TAMP/62/99- MBPT - In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of Mumbai Port Trust relating to rationalisation of Section I to III and V of the Dock Scale of Rates, as in the Order appended hereto.

SCHEDULE

Case No. TAMP/62/99 - MBPT

The Mumbai Port Trust
(MBPT) … Applicant

ORDER

(Passed on this 12th day of May 2000)

This relates to a proposal forwarded by the Mumbai Port Trust (MBPT) about rationalisation of rates under Section I to III and V of its Dock Scale of Rates (DSR).

2. The MBPT has stated that the wharfage charges leviable at the Docks were last revised in 1991 and based on the cost figures for 1997-98, the Service “General cargo handled at the Dock”, for which wharfage on cargo is recovered, is indicating a 2% deficit. However, the MBPT has pointed out that its proposal is not to revise the existing wharfage charges but to simplify / rationalise the tariff further. The salient points of the proposal are given below:

(i). In 1991, the schedule of wharfage charges was modified and 14 rates were prescribed consisting of eleven rates on weight basis, one rate on unit basis and two rates on ad valorem basis. Certain types of cargo which are not bulk in nature have to be assessed to wharfage charges on volume basis just because the wharfage schedule indicates a rate for such cargo on volume basis. To avoid such situation and to simplify the wharfage schedule further, the MBPT has proposed to regroup the commodities and prescribe only ten rates in the wharfage schedule with one rate on unit basis, seven rates on volume (weight) basis and two rates on ad valorem basis.
(ii). The wharfage charges on POL and POL products handled at the Marine Oil Terminal (MOT) were revised in 1996. The MBPT has now proposed to incorporate these charges in the wharfage schedule of Docks Scale of Rates (DSR) so that same rates can be applied for POL handled at the docks.

(iii). The MBPT has proposed to reintroduce a rebate of 20% in wharfage charges on coastal cargo which was withdrawn in 1985.

(iv). In 1982, wharfage on imported cargo allowed to store in the boned warehouses by the Customs was fixed as Rs.25.00 per tonne. In 1991, this rate was revised to Rs.37.50 per tonne. However, this rate has not been included in the DSR. The MBPT has proposed to round off the rate to Rs.38 per tonne, and include in the DSR.

(v). A separate wharfage rate on weight basis for ship-to-ship transhipped cargo and cargo transhipped or received for transhipment by road was introduced by the MBPT in 1988. The rate for such cargo was revised in 1991 as Rs.90/- PMT and Rs.37.50 PMT respectively; but, again, not incorporated in the DSR. It has been proposed to prescribe a separate wharfage rate for such levy and to round off the rate of Rs.37.50 PMT to Rs.38/- PMT.

(vi). Citing the slower rate of clearance of cargo as one of the reasons for congestion in the Port, the MBPT has proposed to raise the existing minimum rate of demurrage by 20% (Rs.30/- per tonne per day) and alter the time-frame for the charges from the existing 30 days to 20 days and 60 days to 40 days respectively as approved by the MBPT Board in 1996.

(vii). In case of cargo vessel and barges sinking or grounding along with the cargo, certain additional formalities are required to be finalised before the consignees are able to effect clearance. It has, therefore, been proposed to give additional 7 free days in such cases in order to encourage speedy clearance of the cargoes. Section II of the DSR has been proposed to be suitably modified.

(viii). It is proposed to delete Clause 7 of Section IIA of the DSR relating to goods shown as excess in the outturn of the vessel as the provision has been seen to lead to unnecessary litigations in the past.

(ix). It is proposed to delete the existing Clause 8 of Section II of DSR relating to Demurrage on goods detained by Customs for special examination involving analytical or technical test other than the ordinary process. The port has felt it necessary to assess the pros and
cons of each case separately and consider remission on merits depending on the time taken by statutory authorities other than Customs. The port has proposed that all cases of such detention are to be placed before its Board for consideration of remission under Section 53 of the MPT Act.

(x). It is proposed to amend the existing provision in Section II B to prescribe a uniform free period of 7 days irrespective of place of storage of the export cargo. It is also proposed to provide pre-shipment storage facilities for aggregation of export cargo for carrying out Customs examination and preparing pallets and unit load. In order to encourage exports a suitable provision on “demurrage free days” of 30 days from the date of receipt at the area earmarked for this purpose, is also proposed to be incorporated in the DSR.

(xi). Presently goods sold in auction are levied demurrage at the rate of Rs.70 per tonne per day, if they remained uncleared beyond the free period. This rate is in effect from 1979 onwards. It has been proposed to revise the rate to Rs.100 per tonne per day or part thereof.

(xii). It is proposed to define over-dimensional packages in the Scale of Rates which will be eligible for benefit under Sub Section A of Section III of the DSR in order to extend the benefit only in cases where clearance is delayed due to non-availability of special types of transport or for want of special permission from the concerned authorities.

(xiii). On transhipment cargo, inside transhipment containers, a consolidated wharfage is levied. This payment is made by Vessel Agents who recover freight in US $. It has, therefore, been proposed to prescribe the wharfage on cargo inside transhipment containers in US $.

(xiv). It is proposed to prescribe licence fee to the ICD containers removed by the road at par with ICD containers by rail. The port has proposed to incorporate suitable provisions in the DSR (a) for recovery of charges in respect of import loaded containers discharged at other Indian Ports and brought to Mumbai by rail or road for effecting clearance of cargo; (b) in respect of containers stuffed at the Mumbai Port premises and removed for shipment from a port other than the Mumbai Port; and, (C) containers received at Mumbai Port other than the Mumbai Port premises and removed for shipment through Ports other than Mumbai.
(xv). In order to encourage speedy clearance of FCL, it is proposed to levy a uniform wharfage charge per TEU, irrespective of the nature of cargo, if a loaded container is removed from the port premises within 7 days following the GLD the vessels.

(xvi). The port has proposed to incorporate a provision in the DSR under Section (v) granting exemption of Licence (Storage) Fees on the Customs detained containers stored in the area allotted to the Customs on rental basis.

3. The proposal of the MBPT was circulated to the user agencies. The comments received from them are summarised below:

(i). Container Shipping Lines Association (CSLA)

We have no comments to offer. However, we wish to forward a copy of the comments received from M/s. Relay Shipping Agency Limited requesting that a separate tariff for domestic container handling charges may be included in all major port’s tariffs. The TAMP must take the initiative to force Port Trusts to take steps in this regard.

(ii). Indian National Shipowners Association (INSA)

(a). As per Clause 9 of DSR, MBPT allows 80% remission in demurrage for goods detained by Customs. Likewise, the ground rent on containers, containing such goods, must also be remitted for the same reasons.

(b). As per Clause 15, containers detained by any wing of Customs will not be shifted to Up Departure yard. The Shipowners position is that storage charges on such containers shall cease to occur from the day of Customs notice of detention. Secondly, such containers shall be de-stuffed within 7 days and empties returned to the carrier without charging any storage charges.

(c). The ship-owner is helpless in such a case and is being unduly burdened with the storage charge on containers and he is debarred from utilising his equipment for no fault of his own.

(d). The process of auctioning over stayed / abandoned goods beyond 60 days shall be expedited and disposed off at the most in three auctions. Shipping line shall not be held responsible for cargoes lying in ports beyond 60 days for which the carrier has
requested the port for disposal. The shipping line shall not be charged for delays beyond 60 days. The sale proceeds of such goods are to be shared between the port and the Customs on a 50:50 basis. This being so, the Shipping Line shall not be charged any ground rent. These have already been decided in the Export Promotion Board meeting held on 20.03.1999 under the chairmanship of the Cabinet Secretary.

(e). For cargoes / containers coming from abroad, the MBPT shall merely prescribe a consolidated transhipment fee, because calculating ground rent on per day basis makes matter difficult to quote and charge a fee as a part of freight long before the event. Port shall not charge any wharfage on cargo in the containers, as the cargo is not being handled; it is mainly transiting to an ICD. Ground rent on a container waiting for movement to an ICD by rail shall be stopped the day the indent is registered and container is made available to MBPT for railing. This charge shall be a lump sum fixed / worked out on reasonable actual basis as per ports transparent experience.

(f). A separate and concessional charge may be provided for coastal / domestic containers.

(iii). **Shipping Corporation of India (SCI)**

The comments of the INSA (as give above) are repeated and reiterated.

4. The comments received from the above users were sent to MBPT for their information / comments. In it reply, the MBPT has given following further observations:

(i). As regards the provision for concessional rate for domestic container and coastal cargo/container, a rebate of 20% in wharfage charges in respect of cargo of Indian Origin imported from or exported to the ports within the limits of Union of India has been proposed in the amendment. However, it is agreed that concession to coastal cargo is necessary. A separate proposal in this regard will be considered by the Board of MBPT.

(ii). As regards grant of 80% of remission in licence fees in respect of containers containing goods detained by Customs, it has been the policy of MBPT not to grant remission except on demurrage on cargo; and, therefore, the proposal for remission in ground rent on container is not acceptable. In order to minimise ground rent charges
in such cases, a provision has been proposed that the container with the cargo detained by Customs need to be shifted to the area earmarked for storage of such containers.

(iii). As far as the demand for de-stuffing of containers detained by Customs within seven days and also cessation of levy of storage charges from the day of notice by the Customs, the MBPT cannot give any unilateral assurance since it involves the Customs also.

(iv). The suggestion for expeditious auction of overstayed/abandoned goods beyond 60 days, at the most, in three auctions has already been implemented. However, this need not be a part of the DSR, being a procedural matter.

(v). The stipulation that Shipping line should not be held responsible or charged for cargoes lying in ports beyond 60 days for which carrier has requested the port for disposal cannot be made. However, if the Bills of Landing are duly discharged by the vessel agent/line and delivered to the consignees, they are not held responsible. This also need not be a part of DSR as it is a procedural matter and is already in force.

(vi). The proposal that sale proceeds of over stayed/abandoned goods be shared between the port and the Customs on a 50:50 basis, and that shipping lines shall not be charged any ground rent is not a relevant one to be a part of the Scale of Rates. Allocation of sale proceeds is covered under Section 63 of the Major Port Trusts Act and any change can be effected only with amendment to the Act.

(vii). A composite box charge on ICD containers was levied earlier.

(viii). The agreement about non-levy of wharfage charges on cargo inside the transhipment containers is not acceptable for the following reasons:

(a). Since the containers are loaded with cargo, port has to provide security and watch & ward facilities to these containers.

(b). Though the cargo is not handled directly, cargo along with the container is handled by the port at the hook point.

(c). Loaded transhipment containers occupy port’s storage area. However, no demurrage is levied on cargo inside the transhipment containers.
5. Subsequently, the MBPT has forwarded another proposal to amend the earlier (proposed) provision in Section II B-Exports-item (3) on cargoes stored in the areas nominated by the Board for aggregation of export cargo. Since the provision vesting powers in the Board to nominate the area is not practical and such arrangements are to be done by the Traffic Department depending on operational requirements, the port has proposed that the words “by the Board” in the said provision may be deleted.

6. A joint hearing in this case was held in Mumbai on 6 March 2000. During the joint hearing, the Mumbai Port Trust made some written submissions, highlighting the salient features of its proposals and giving a summary of its comments on the views expressed by the port-users. They have added that as per the cost statements for 1997-98 and 1998-99, the activity of General cargo handled at the Docks indicates a 2% and 11% deficit respectively.

7. During the joint hearing, the following submissions were made by different participants:

**Mumbai Port Trust**

(i). There is no increase of wharfage. The proposal only suggests rationalisation. The proposal of increase of 20% in Demurrage is based on a Committee’s report. The Committee included representation of Port Users also.

(ii). The port has suggested a 20% rebate for coastal cargo.

(iii). In order to boost exports, 30 days free storage time is given.

(iv). In the case of detention by the Customs, there will be no charge for storage in the allocated area. It is for the users to shift the goods to the allocated area.

**The Bombay Custom House Agent’s Association (BCHAA)**

(i). There is no case for any increase.

(ii). On ad valorem rates of wharfage, the port has earned a lot between 1991 to 1999 on account of depreciation of the rupee. Similarly, the port has earned a lot on account of vessel-related charges denominated in dollar terms.

(iii). Wharfage on imported cargo, allowed to store in bonded warehouses, is being raised from Rs.25/- to Rs.38/- and the case is not simple rounding off. The earlier increase from Rs.25/- to Rs.37.50 was **not approved** by the Government.
(iv). The existing provision regarding goods shown as excess in the Out Turn Report should not be withdrawn. Why should trade pay more for somebody else’s error? “Additional entry” must be granted.

(v). Withdrawal of concession on demurrage on goods detained by the Customs amounts to increase of rates.

(vi). Demurrage free days of 30 days for export cargo stored in earmarked area is good. But, the free period must also be raised from 7 days to 10 days in case of storage of export cargo irrespective of place of storage.

(vii). The port is empowered to sell the goods already sold in auction but not cleared from the port premises within 30 days. Why should the port increase demurrage on such goods? The proposal deserves to be withdrawn.

(viii). While concession has been granted to containers, no concession has been given for containerised cargo. Ground rent shall not be charged on cargo also.

(ix). If the port is charging ground rent, it shall not charge demurrage.

(x). For general cargo, there shall be 7 free days.

(xi). The free period of 3 days for import is in order. In all genuine cases, cargo is cleared in 3 days.

The Indian National Shipowners Association (INSA)

(i). There shall be a fixed transhipment cost.

(ii). Wharfage on containerised cargo shall be abolished. Wharfage must be only on containers.

The Shipping Corporation of India (SCI)

(i). We agree with the views expressed by the representative of INSA and BCHAA.

(ii). In the case of transhipment cargo, there shall be either wharfage or ground rent and not both.

The Container Shipping Lines Association (CSLA)

We agree with the views of INSA and BCHAA.
Mumbai and Nhava-Sheva Ship Inter-Modal Agents’ Association (MANSA)

(i). There is no congestion at the Mumbai Port Trust. There is, therefore, no case for increasing free days for import of break bulk cargo.

(ii). Wharfage can be only on container or containerised cargo and not on both.

8. The proposal was further examined and the MBPT was requested to furnish certain clarification / additional information. The MBPT vide its letter No.FA/ACC/212(V)/5820 dated 7 April 2000 furnished its comments.

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

(i). The MBPT has proposed to regroup the commodities in the wharfage schedule and prescribe only 10 rates in the revised schedule. This proposal is stated to be for the purpose of further simplification of the wharfage schedule. However, a perusal of an impact statement forwarded (at our instance) by the MBPT showing the item-wise traffic and the wharfage in the existing rates and the proposed (regrouped) rates for the year 1998-99 and 1999-2000 shows that the regrouping results in an increase of revenue to the tune of 7.5% in 1998-99 and 0.25% in 1999-2000. The proposed regrouping results in steep increase in the wharfage rates for certain commodities. The logic for such regrouping is not evident and the resultant advantage is not apparent. The proposed changes are seen to result in steep hikes in some cases because of the regrouping proposed.

While any proposal for rationalization / simplification of the tariff schedule is acceptable, the logic of the approach adopted in this case is not clear and commonly understood. In this case, the need for reducing the 11 items charged on weight basis and the justification for achieving this by shifting some items to the ‘ad valorem’ category has not been explained. The MBPT must set out these details clearly. Until this is done to the satisfaction of this Authority, the existing schedule will continue with its 14 items.

The ‘impact assessment’ furnished by the MBPT in response to our request is quite revealing. It will be useful for the MBPT to share this assessment with the users so that they can also give meaningful
responses to the changes contemplated. It is recognized in this context that, at the time of previous rationalization, the MBPT had so consulted with its users.

(ii). The proposal of the MBPT is to charge wharfage on POL and products handled at the docks at the same rates applicable for such commodities handled at the Marine Oil Terminal (MOT). Since the quantity of POL and the product handled at the docks is not very high and the rates charged at the MOT are already approved and included in the Scale of Rates of the MBPT, the proposal of the MBPT is approved.

(iii). The MBPT has proposed to allow a rebate of 20% in wharfage charges on coastal cargoes handled at the port. In line with the policy of the Govt. of India to encourage coastal shipping, the Authority has so far been allowing concession to coastal vessels in vessel-related charges; there is no provision for concessions in cargo related charges. The matter of extending concession in cargo-related charges for coastal traffic is an issue of common concern to all the Port Trusts; and, as an issue on which separate decisions in respect of individual Port Trusts can give rise to avoidable conflicts of interests. The Authority is also aware that some of the Port Trusts are opposed to the principle of ports subsidizing coastal traffic for easing pressure on road / rail traffic. That being so, it will be desirable for the MBPT to get its proposal, of giving 20% concession in cargo related charges ostensibly for encouraging coastal traffic, to be discussed in the forum of the Indian Ports Association so that a coordinated appraisal of its implications can emerge for final consideration.

(iv). During the joint hearing, the BCHAA pointed out that the levy of wharfage on imported cargo allowed to be stored in bonded warehouses is not made with the sanctity of Government approval. However, as indicated by the MBPT, the existing rate was implemented with effect from 1991 and has been in force for nearly 10 years now. This Authority, therefore, does not wish to enquire into the legal validity of the existing rates. It is for the aggrieved party to challenge levy of such charges in the appropriate court of law. Since the rate is already in existence for the last 10 years and the proposal of the MBPT is to round off this rate and include it in the DSR, the proposal is approved.

(v). The proposal of the MBPT to levy wharfage on bottom cargo that remains on the wharf for more than 24 hours, at the rates as applicable to the transhipment cargoes is approved.
(vi). The proposal of the MBPT to levy wharfage on ship-to-ship transhipment cargo and on cargo received for transhipment by road is similar to the wharfage charges applicable for cargo moved to bonded warehouses. This proposal of the MBPT relating to wharfage on transhipment cargo is approved.

(vii). The MBPT has proposed to reduce the slabs of period in the demurrage schedule and also to revise the existing minimum rate of demurrage by 20%. It has been pointed out that the reduction in slabs is based on the recommendations of a Committee, which included representation from port users also. The MBPT has further added that 73% of the total packages discharged during 1998-99 was cleared within the free period. During the Joint Hearing no user organisation raised any objection to this proposal. Therefore, the proposal of the MBPT in this regard is approved.

(viii). The MBPT has proposed to give additional free days in the case of cargo retrieved from sunk or grounded vessels in order to encourage speedy clearance of cargo in such cases. It has been mentioned that cargo in such cases gets damaged and additional formalities are required to be finalised before the consignees are able to effect clearance. The additional 7 days free period proposed for such cargo by the MBPT is approved.

(ix). In the existing DSR, a concessional demurrage of 1/8th of the demurrage for 90 days from the expiry of LFD of the vessels is levied on all goods shown as excess in the out turn of the vessel. The MBPT has argued that consignment loaded for discharging at Mumbai Port but not entered in the Import General Manifest (IGM) cannot be treated as excess landed cargo and the benefit of concessional rate shall not be extended in such cases just because the cargo has not been included in the IGM. The MBPT has pointed that if the Bill of Lading shows that the cargo is to be discharged at Mumbai Port the intention is clear whether the IGM contains the item or not. The MBPT has accordingly proposed to delete from the DSR the clause extending such concession to the excess landed cargo from the DSR.

During the joint hearing, the BCHAA objected to the deletion of the existing provision from the DSR. It argued for grant of an additional entry in the IGM. It has pointed out that the trade shall not be made to pay more for somebody else’s error.

It is to be recognised that if the cargo had been included originally in the IGM, the trade would have paid the normal demurrage charges.
For the omission on the part of the Shipping Lines / Agents, the port cannot be required to extend concessions. The importer may have to settle the issue with the Shipping Lines / agents. Due to improved communications system, the details of the cargo to be discharged can be had before the actual arrival of the ship. Accordingly, the ship agents can take advance action to get the items added in the IGM, with reference to the Bill of Lading. Viewed in this perspective, the proposal of the MBPT in this regard is also approved.

(x). The MBPT has proposed to do away with the existing system of charging only 20% of the demurrage fees of goods, detained by the Customs for such examination involving analytical or technical tests other than the ordinary process of appraisement and to place such cases before its board for consideration of remission under Section 53 of the MPT Act based on the merits of the individual cases. During the Joint Hearing, the BCHAA pointed out that withdrawal of concession of demurrage on goods detained by the Customs amounts to increase in the rates.

In a similar case relating to the Chennai Port Trust (CHPT), the Authority has passed an order prescribing a graded scale of levy of demurrage.

There appears no merit in withdrawing the provisions already available in the Scale of Rates under the arguments to consider such cases for waiver under Section 53 of the MPT Act. Since the graded scale of demurrage prescribed by the Authority appears to have been well accepted and well settled, there can be no reason why a similar system cannot be made applicable in the case of MBPT also. However, considering the differences in the demurrage schedules between the CHPT and the MBPT, suitable adjustment in the slabs of demurrage period is required to be made. Further, recognising the scope for collusion of various vested interests, the concessional demurrage is restricted to 60 days only. Accordingly, following clauses are approved to be incorporated in the DSR in this connection:

“13.(a). Periods during which the goods are detained by the Commissioner of Customs for the purpose of special examination involving analytical or technical test other than the ordinary process of appraisement and certified by the Commissioner of Customs to be not attributable to any fault or negligence on the part of the Importers; and,
(b). Where goods are detained by the Commissioner of Customs on account of Import Control formalities and certified by the Commissioner of Customs to be not attributable to any fault or negligence of the port of the Importer, for such period detention under (a) and (b), the demurrage charges shall be recovered as under:

First 30 days of detention : 20% of applicable demurrage
31st day to 60 days of detention : 50% of the applicable demurrage
61st day onwards of detention : 100% of the applicable demurrage”.

(xi). The MBPT has proposed to prescribe a uniform free period of 7 days for the export cargo irrespective of the place of storage. The Port has also proposed to provide pre-shipment storage facilities for aggregation of export cargo for carrying out Custom examination and preparing pallets and to allow a demurrage free period of 30 days from the date of receipt of export cargo at an area earmarked for this purpose. Some of the users have welcomed the move of MBPT to allow the 30 days free period for aggregation of export cargo but objected to the reduction of 10 days free of demurrage allowed earlier to those cargo stored in the open yard in docks to 7 days. Considering the concession of 30 days free period for carrying out pre-shipment formalities and aggregation of cargo, the proposal of MBPT to prescribe a uniform 7 days free period for the export cargo stored in the docks is approved.

(xii). The MBPT has proposed to increase the demurrage charges on goods sold in auction but remaining uncleared beyond the permissible free period. The intention of selling the goods in auction is to de-congest the port. If, even after such auction, the buyer in the auction is not clearing the goods, the desired results cannot be achieved. Further, MBPT has pointed out that the present rates were fixed nearly two decades ago. During the Joint Hearing, the BCHAA pointed out that the port can auction the goods after 30 days and that being so, why the demurrage should be increased. The BCHAA’s objection is perhaps misplaced. The case is not for increase in demurrage on cargo to be paid by the importer or exporter; the proposal is only for increase in demurrage of goods sold in auction and not cleared within a prescribed period. These charges are to be borne by the buyer of such goods in the auction. That being so, this proposal of the MBPT is also approved.

(xiii). For the purpose of clarity, the MBPT has proposed to define the over-dimensional packages in DSR amending the existing
provisions. The amendments as proposed by the MBPT are approved.

(xiv). The MBPT has proposed to dollarise the consolidated wharfage on transhipment cargo inside the transhipment container. The MBPT has argued for dollar denomination stating that the payment is to be made by the Vessel Agents who recover it from the consignees of the transshipped cargo in the form of freight in US $.

The MBPT proposal to denominate in dollar terms this ‘consolidated wharfage’ deserves to be singled out for specific rejection. ‘Cargo related charges’ have nowhere come to be denominated in dollar terms. It is the consistently stated position of this Authority not to veer away from this principle. Significantly, even in the case of the PSA SICAL Terminal at the Tuticorin Port Trusts (TPT), ‘consolidated wharfage’ for containerised transhipment cargo has been denominated only in rupee terms.

In fact, unqualified denomination in dollar terms even of the wharfage on transhipment containers will give rise to some (legal) inconsistencies. Container handling charges had come to be denominated in dollar terms on the strength of a legal fiction that a container was an extension of the hatch of a vessel. If, on the strength of this logic, denomination in dollar terms of the wharfage on transhipment containers is allowed, then, where coastal vessels carried the said containers, it would have to be seen as a case of an extension of the hatch of a foreign going vessel in a coastal vessel! For this reason, therefore, as has been done in the case of the PSA SICAL Terminal, wharfage on transhipment containers will have to be denominated both in dollar terms and rupee terms.

The MBPT has proposed a rate of US $ 57 for transhipment cargo inside a container having length upto 20’. Since dollarisation of this rate is disallowed, it is necessary to prescribe a rupee rate for consolidated wharfage for transhipment cargo in containers.

The port has, perhaps, worked out the (proposed) dollar rate by converting the existing rupee rate of Rs.1200/- applying the exchange rate as on 30 June 1991, following the instructions issued by the Government of India earlier in this regard. However, if the current exchange rate is applied of the (proposed) dollar rate, the Rupee rate works out to around Rs.2500/-. This is close to the rates proposed by the MBPT for consolidated charges on FCL moving through the private CFSs.
The break up of calculation of this rate (as provided by the MBPT) indicates that a sum of Rs.300/- (per TEU) is included for provision towards displacement of labour. In fact this cost is to be spread over the entire activities of the port and not be confined only to the container handling. This approach has been adopted by the Authority to deal with labour redundancy in the case of fixing handling cost of export of Manganese Ore through the Visakhapatnam Port. In the same analogy, the cost of displacement of labour should be spread over the entire general cargo handling activities including obviously this activity also. That being so, only a part of such cost will be allocated to this activity.

Accordingly, the revised cost is worked out as follows:

(i). Wharfage charges on cargo inside a 20 feet container
   (Average wharfage: Rs.106/tonne Average weight:18.5 MT)  Rs.1,960.00

(ii). Contingency for inflation, wage increase, partial allocation of cost of displacement of labour, etc., @ 10% p.a. for the next two years
   Rs.411.60
   Say Rs.2371.60
   Rs.2400.00

Therefore, a consolidated wharfage on transhipment cargo in containers at the rate of Rs.2400/- for a container having length upto 20 feet and Rs.4,800/- for a container having length over 20 feet is approved.

Similar rates are also approved for cargo inside containers moving through private CFSs.

(xv). The following proposals of the MBPT are also approved,

(a) recovery of charges in respect of import loaded containers discharged at other Indian Ports and brought to Mumbai by rail or road for effecting clearance;

(b) charges on containers stuffed in the Mumbai Port premises and removed for shipment from other ports; and,

(c) charges on containers received in Mumbai Port duly stuffed in areas other than trans Mumbai Port and removed for shipment through Ports other than Mumbai.
(xvi). The proposal to prescribe a uniform wharfage charge per TEU, irrespective of the nature of cargo, on containers moving from the port premises to private CFS is approved subject to modification of rates as given under paragraph 9(XIV) above.

(xvii). The MBPT has proposed to exempt payment of licence fees on the customs detained containers stored at the area allotted by the Board to the Customs on rental basis. This proposal is approved. As regards cargo inside the container, the graded scale of demurrage levy as prescribed in paragraph 9(x) can be made to apply.

(xviii). The MBPT has proposed to replace in the DSR the words “Docks Manager” wherever they occur by the words “Traffic Manager”. This is, perhaps, due to re-designation of the post of the Head of Traffic Department; and, hence is approved.

(xix). In the existing DSR, container related charges are prescribed in two slabs viz., “containers having length upto 20’ “ and “over 20’ and upto 40’ “ in Section V at many places. To obviate difficulties in charging containers of 45’ length, the port has proposed to change the wordings as “containers having length upto 20 feet” and “containers having length over 20 feet”. It will be better to introduce a third category of containers having length over 40 feet and prescribe a rate therefore. This is the practice adopted at most of the Ports. However, the MBPT has stated that the number of 45 feet containers handled at its Docks is insignificant and incorporating a separate rate for containers having length over 40’ is not considered necessary (by it). This Authority accepted the explanation offered by the MBPT; and, approves its proposal in this regard.

10. In the result, and for the reasons given above, and based on a collective application of mind, the proposal of the MBPT for rationalisation of rates under Section I to III and V of its Dock Scale of Rates is hereby approved by this Authority subject to the specific decisions and modifications indicated in paragraph 9 above.

11. The amended Section I to III and V of the Dock Scale of Rates of Mumbai Port Trust is attached as Annex.

12. This Order shall come into effect immediately after its notification in the Gazette of India.

S.SATHYAM, Chairman

[Advt./III/IV/Exty./143/2000]
ANNEX

SECTION – I

The existing rate Nos. 9 (i), (ii) and (iii) in the schedule of Dock wharfage rates are deleted and substituted by the following:

<table>
<thead>
<tr>
<th>Rate No.</th>
<th>Description of Goods</th>
<th>Basis of charge</th>
<th>Import Rs.</th>
<th>Export Rs.</th>
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<tbody>
<tr>
<td>9</td>
<td>POL and POL Products:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i)</td>
<td>Crude Oil</td>
<td>Tonne</td>
<td>38.00</td>
<td>38.00</td>
</tr>
<tr>
<td>(ii)</td>
<td>Kerosene and Light Diesel Oil</td>
<td>Tonne</td>
<td>25.00</td>
<td>25.00</td>
</tr>
<tr>
<td>(iii)</td>
<td>All other POL Products</td>
<td>Tonne</td>
<td>44.00</td>
<td>44.00</td>
</tr>
</tbody>
</table>

The existing General Notes Nos. 4, 5, 8 and 10 are deleted and substituted by the following:

4. No Docks Wharfage will be levied on cargo discharged from one hatch of a vessel and reshipped in another for trimming or rearranging the vessel’s cargo either by lighters from overside or over the Docks wharves, provided in the latter case it is not allowed to remain on the wharf for over 24 hours and Board’s labour is not utilised. Whenever such cargo remains on the wharf for more than 24 hours, charges applicable to transhipment cargo as provided in General Note 8 shall be recoverable.

5. Dangerous, explosive and inflammable goods landed at the Docks contrary to the Docks Bye-Laws and/or the circulars issued by the Traffic Manager must be immediately removed by the Master / Owners / Agents of the vessel to the Board’s warehouses earmarked for such goods, failing which they shall be removed by the traffic Manager at their risk and cost and, in addition, a charge of Rs.500 per package will be levied.

8. **Transhipment Cargo:**

Wharfage at the rate of Rs.90 per tonne in the case of transhipment by sea and Rs.38 per tonne in the case of transhipment by road shall be levied and demurrage on expiry of free days as per Clause (4) of Section II ‘A’Imports will be charged.

10. In respect of Iron and Steel Materials, shifting of cargo from the wharf (hook point) to the storage point will not be undertaken by the Mumbai Port Trust

The following General Note is added:
11. Wharfage at the rate of Rs.38.00 per tonne shall be levied on the cargo cleared from the Dock under Section 49 of the Customs Act 1962. Demurrage on expiry of free days as per clause (4) of Section II A Import shall be levied.

SECTION – II

LANDING DATE FREE DAYS AND DEMURRAGE CHARGES

A. IMPORTS:

The existing General Note No.1 ‘General Landing Date’ is deleted and substituted by the following:

1. GENERAL LANDING DATE

The Traffic Manager shall declare the General Landing Date for cargoes discharged from a vessel which, save as hereinafter provided, will be the day on which not less than two-thirds of the vessels cargo has been discharged, as intimated by the vessel’s Master or Agents. For this purpose, the quantity of cargoes discharged after 5.00 p.m. on that day shall be omitted. Cargo intended for overside discharge, if it exceeds the quantity for shore discharge shall be excluded from the vessel’s cargo for arriving at the GLD of the vessel. Cargo which must be fumigated prior to discharge ashore shall be excluded from the vessel’s cargo for arriving at the GLD of the vessels.

If the General Landing Date, as computed above falls on a Sunday or on Dock Holiday declared under Docks Bye-Law No.118, the next working day shall be declared as the General Landing Date.

2. SPECIAL LANDING DATE

The existing Note 2 (iv) and (vii) are deleted and substituted by the following:

(iv). Excepting those mentioned at (i), (ii) and (iii) above, where half the consignment or more is discharged after the General Landing Date is declared for the vessel’s cargo --

the date of landing of two thirds of each such consignment.

Packages and pieces short tallied should be evenly distributed over the number of days occupied in the discharge of the principal consignment covered by a single Import Bill of Entry or Transhipment Permit.
(vii). Where any consignment or part thereof of iron and steel weighing less than 1½ tonnes, i.e. bars, rods, hoops, scraps, sheets, plates, etc. is landed from a vessel unmarked or in the opinion of the Traffic Manager so insufficiently marked as to prevent the delivery of the whole consignment.

according to the Bill of Lading and he has, the whole of such consignment sorted according to the sizes as far as possible –

the date on which the Traffic Manager shall note that the iron and steel is sorted and ready for delivery.

The existing Note 3 and 4 are deleted and substituted by the following:

3. **FREE DAYS:**

All goods will be allowed storage in the Docks free of demurrage for three days following the General Landing Date / Special Landing Date declared in accordance with the sub-clauses 1 and 2 above. In computing the number of ‘free days’, Sundays and Dock Holidays declared under Docks Bye-Law No.118 as well as any other day on which Customs Import Duty, whether payable or not, may not be assessed or received, will be omitted in the case of the goods liable to duty under the Customs Act, 1962. In computing the ‘free days’ on other goods, Sundays and Dock Holidays declared under Docks Bye-Law No.118 only will be omitted. In the case of Vessels and Barges sunk or grounded in the harbour alongwith the cargo, storage of the cargoes retrieved therefrom will be allowed at the Docks free of demurrage for ten working days following the General Landing Date.

4. **DEMURRAGE:** On expiration of free days, save as hereinafter provided, demurrage will be charged for the period of storage on all import goods (except mails, post parcels, diplomatic postal bags and personal baggage irrespective of weight per parcel, bag etc.) remaining uncleared, at the following rates:

<table>
<thead>
<tr>
<th>Class of goods</th>
<th>How charged</th>
<th>RATE For first 20 days</th>
<th>For 21st to 40th day</th>
<th>From 41st day onwards</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Per Tonne</td>
<td>(2) Per Tonne per day or part thereof</td>
<td>(3) Rs.</td>
<td>(4) Rs.</td>
<td>(5) Rs.</td>
</tr>
<tr>
<td>In respect of all goods classified in the schedule of Docks Wharfage Rates in Section – I Imports</td>
<td>30.00</td>
<td>45.00</td>
<td>60.00</td>
<td></td>
</tr>
</tbody>
</table>
NOTE: The personal baggage will be charged at the rate of Rs.12 per tonne per day or part thereof.

The existing Note No.7 is deleted. The existing Note 8 is deleted and substituted by the following and renumbered as Note No.7.

7.  

(a) Periods during which the goods are detained by the Commissioner of Customs for the purpose of special examination involving analytical or technical test other than the ordinary process of appraisement and certified by the Commissioner of Customs to be not attributable to any fault or negligence on the part of the importers; and,

(b) where goods are detained by the Commissioner of Customs on account of Import Control formalities and certified by the Commissioner of Customs to be not attributable to any fault or negligence on the part of the Importer, for such period of detention under (a) and (b), the demurrage charges shall be recovered as under

First 30 days of detention : 20% of applicable demurrage
31st day to 60 days of detention : 50% of the applicable demurrage
61st day onwards of detention : 100% of the applicable demurrage

The existing Note 9 is renumbered as Note No.8.

The existing sub section ‘B’ Exports: and ‘C’ are deleted and substituted by the following:

B.  

<table>
<thead>
<tr>
<th>Goods for shipment</th>
<th>Period free of demurrage</th>
<th>How charged</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Stored in Docks open yards / or transit sheds</td>
<td>07 days</td>
<td>(i).  Wharfage as per Section I – Exports.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ii). A demurrage fee calculated at the rate of 20% of the wharfage fee applicable per day or part thereof.</td>
</tr>
<tr>
<td>(2) If not shipped, but removed from Docks into town</td>
<td>Nil</td>
<td>(i). No wharfage.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ii). A demurrage fee calculated at the rate of 20% of the wharfage fee applicable per day or part thereof.</td>
</tr>
</tbody>
</table>
(3) Cargoes stored in the areas nominated for aggregation of export cargo.

- 30 days
- Wharfage as per Section IExports.
- A demurrage fee calculated at the rate 20% of the wharfage fee applicable per day or part thereof.

NOTES:

(i). Shut out cargo must be removed by shippers on receipt of three days’ notice from the Traffic Manager. In case of non-compliance, the Traffic Manager may remove such goods to a place of storage at the expenses of shippers.

(ii). In computing the number of free days for charging demurrage, Sundays and Holidays referred to in the Docks Bye-Law No.118 will be omitted.

C. Goods sold under Section 61 or Section 62 of the Major Port Trusts Act, 1963, lying uncleared in the Docks or in other premises in the possession of the Board.

(1). Free Days: All goods sold under Sections 61 or 62 of the Major Port Trusts Act, 1963 will be allowed storage, free of demurrage for five days following the date of confirmation of the sale. In computing the number of ‘Free Days’, Sundays and Dock Holidays declared under Docks Bye-Law No.118 will be omitted.

(2). Demurrage: On the expiry of ‘Free Days’ demurrage will be charged on all goods remaining uncleared until delivery is effected at the rate of Rs.100/- per tonne per day.

If, however, the goods or a portion thereof remain uncleared on the premises of the Board beyond 15 days following the date of confirmation of the sale, the sale proceeds of the goods, or if only a portion of the goods remain to be taken delivery of by the purchaser, the proportionate sale proceeds, shall be forfeited and the goods or a portion thereof, as the case may be, resold by the Port Trust. The aforesaid period of 15 days may be extended, at the discretion of the Traffic Manager, in suitable cases, for reasons to be recorded in writing, having due regard to the circumstances of the case or to the quantity and bulk of the goods to be removed by the purchaser.
Demurrage charges will be assessed on the gross weight of the goods. Gross weight if not in exact multiples of 100 kgs. will be rounded off to the next higher multiple of 100 kgs. for levy of charges.

SECTION III

LICENCE (STORAGE) FEES AND WAREHOUSING CHARGE

The existing sub section A is deleted and substituted by the following:

(A) Licence (Storage) Fees on Over-dimensional packages stored in Docks, Sheds and Yards shall be payable in lieu of demurrage at the rate of Rs.5/- per sq. mt. subject to minimum of 5 sq. mt. for 30 days following the date from which the consignment is out of custom charge and is ready for clearance subject to the following conditions:

(i) On Over-dimensional packages having length over 13.6’ or having width over 10’ in the case of packages removed by the Rail.

(ii) On Over-dimensional packages having length over 40’ plus the protruding length over and above the motor vehicle allowed by the Regional Transport Authority from time to time or having width more than 8.6’ plus protruding width over and above the motor vehicle allowed by the Regional Transport Authority from time to time.

(iii) For the period from LFD till the day on which the cargo is out of Custom charge and from 31st day from the day on which the cargo is out of Custom charge the over dimensional packages shall accrue demurrage as per Section II A Imports of the DSRs.

SECTION V

CHARGES ON CARGO CONTAINERS, CONTAINERISED CARGO AND CONTAINER EQUIPMENT

In sub section ‘A’, ‘B’, ‘C’, ‘D’, ‘E’, ‘F’ and ‘G’, the description “cargo container having length over 20 feet and upto 40 feet” whenever written is deleted and replaced by the description “cargo container having length over 20 feet”.

The existing Notes (iii) and (vi) of below sub section ‘B’ are deleted and substituted by the following:

(iii) Licence (Storage) Fees shall be levied on containers whether empty or loaded destined to / received from ICD by rail / road as per Section V (D) (c) below.
Local empty container transhipped to ICD by rail or received ex-ICD by rail but not for direct shipment shall be charged US $ 24 for a container having length upto 20 feet and US $ 36 for a container having length over 20 feet for handling at RCD and MBPT Railway Haulage. Licence (Storage) Fees on such container shall be payable upto the date on which the container has been allowed by Customs to be transhipped to ICD. Import loaded container manifested as local if subsequently transhipped to ICD shall be treated as local container till the date on which the container has been allowed by Customs to be transhipped to ICD. Similarly ICD import containers destuffed and cleared from the Port shall be treated as FCL for levy of Port charges.

The existing Sub-Section (D)(c) is deleted and substituted by the following:

(c) Empty or Loaded container received from/despatched to ICD by rail/road US $ 2.5 per container having length upto 20’ and US $ 5.00 per container having length over 20’ per day or part thereof after the expiry of two days from the day following the GLD till the date of their loading on wagons / removal by road or from two days following the date of receipt of containers at RCD from the upcountry ICDs or storage yards till the date prior to the date of shipment (i.e. excluding the date of shipment). In case a container is not removed / shipped within 10 days from the day following the GLD in case of import or from the date of receipt in case of export, the Licence (Storage) Fees to be levied will be US $ 5.00 per container having length upto 20’ and US $ 10.00 per container having length over 20’ per day or part thereof from 11th day.

The existing Note No. 5 and 6 below Sub-Section ‘D’ are deleted and substituted by the following and Note No.7,8,9 and 10 are added:

NOTES:

(5) The Combined Transport Operators / Masters, Owners or Agents of vessels shall remove the containers to the respective site / yard / destuffing point nominated by the Traffic Manager within a period of 4 calendar days following the GLD of the vessel. If the Combined Transport Operators / Masters, Owners or Agents of vessels fail to remove such containers to the nominated areas within the prescribed period of 4 calendar days, the Traffic Manager shall have the authority to remove such containers to the nominated areas at the risk and cost of Combined Transport Operators /
Masters, Owners or Agents of vessels. Removal charges as notified from time to time will be levied on such containers.

(6) Container stuffed in the Port premises / container received in Docks duly stuffed in the areas other than Mumbai Port premises and removed for shipment through Ports other than Mumbai shall be charged Licence fees as per section V (D) (A) above from the day following the date of stuffing / from the date of receipt till the date of removal of container. In the case of containers stuffed in the Port premises containers received duly stuffed in the areas other than Mumbai Port premises and removed to town shall be charged Licence fees as per section V (D) (A) above from the day following the date of stuffing / from the date of receipt till the date of removal of the containers. The cargo inside the container shall be charged demurrage at the rate of Rs.800/- per TEU per day or part thereof for the period of its stay in the Port. [No separate wharfage shall be recovered either on such container or on cargo inside the container.]

(7) The Import loaded containers discharged at an Indian Port other than Mumbai and brought to Mumbai by Rail / Road for giving delivery shall be charged Licence Fees as per Section V (D) (a) above. In the case of containers received by Rail, handling charges of US $ 60 per TEU shall be levied. Demurrage on the cargo inside the containers shall be charged in terms of clause (4) of Section II A Imports from the date of receipt. No wharfage on the cargo inside the containers shall be levied.

(8) No Licence (Storage) Fees shall be levied on containers loaded with cargo and seized / detained by the Customs / DRI / CIU etc, from the day of its removal to the area allotted by the Board to the Customs for storage of such containers. Demurrage on the cargo inside the container shall be leviable as per clause (7) of Section II A – Imports of the DSRs.

(9) Any consignee desires to clear FCL through private CFSs within or outside jurisdiction of the Commissioner of Customs, Mumbai shall remove the containers within 7 working days following the GLD declared for the vessel. On the cargo inside the container a consolidated charge of Rs.2400/- for a container having a length upto 20 feet and Rs.4800/- for a container having length over 20 feet shall be recovered. In case container is not removed within the said period of 7 working days the demurrage charges at the rate prescribed in clause 4 of Section II of the DSR shall be levied on the cargo inside the container.

(10) Demurrage charges on the cargo stuffed inside the container and subsequently destuffed and removed back to town shall be levied as per (6) above. No wharfage shall be levied thereon. Similarly, in the case of cargo
stuffed inside the container and subsequently destuffed and again restuffed in the container and shipped on board the vessel, demurrage charges shall be levied as per (6) above till the date of restuffing of cargo inside the container and wharfage in terms of Section I Exports shall also be levied on cargo inside the container.

In Clause (4) of sub section E, the word “Docks Manager” is substituted by “Traffic Manager”

(G) Charges on Containerised Cargo:

The existing Clause (1), 3 (i) and 3 (v) are deleted and substituted by the following:

(1) Wharfage and demurrage shall be payable on import containerised cargo, excepting those destined to ICD and the FCLs cleared through Private CFS in terms of note (9) to sub-section D above as applicable under Sections land II. On transhipment cargo in containers a consolidated wharfage at the rate of Rs.2400 for a container having length upto 20 feet and Rs.4800 for a container having length over 20 feet shall be payable but no demurrage shall be levied thereon.

(3) (i) In the case of containers, other than that destined to or received from ICD, transhipment containers, and the FCLs cleared through Private CFS demurrage on cargo in container shall not accrue for 7 working days in respect of FCLs and LCLs following the GLD of the vessel.

(v) If the FCL container, other than that destined to or received from ICD, transhipment containers and the FCLs cleared through private CFS, having reached the notified area has not been destuffed for no fault of the consignee, the consignee will be entitled to a remission in demurrage charges on obtaining the endorsement on the Bill of Entry as under:

<table>
<thead>
<tr>
<th>Conditions to be fulfilled</th>
<th>Endorsement of the B/E by the Docks Official</th>
<th>Non-Accrual of demurrage</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) B/E to be presented with order for Customs examination of cargo and documents of title.</td>
<td>Endorsement “Consignee presented document with orders for Customs examination, but goods could not be forwarded for examination” (reasons to be recorded in writing) to be made by the Shed Supdt. and signed by The Asstt. Manager.</td>
<td>3 calendar days including the date of presentation of B/E.</td>
</tr>
<tr>
<td>(b) B/E to be presented</td>
<td>Endorsement “Cargo not</td>
<td>3 calendar</td>
</tr>
</tbody>
</table>
with “Out of Customs charge” endorsement / ready for clearance.

(c) On presentation of B/E on the 2nd occasion to the Shed Supdt. with endorsement of Customs “Out of charge ready for clearance” on the 4th calendar day mentioned in Col.(3) against (b) above.

destuffed” (reasons for not destuffing the container should be recorded in writing) to be made by the Shed Supdt. and signed by Asstt. Manager.

Endorsement “Cargo not made available for delivery within the period of 3 calendar days as container could not be destuffed” (reasons to be recorded in writing) to be made by the Shed Supdt. and signed by the Asstt. Manager.

3 calendar days beyond the period as at (b) above.

[ List of Ports | List of Orders]