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 received from the Mumbai Port Trust (MBPT) for revision of ceiling rates for transportation of containers undertaken by the service providers authorised by the MBPT under Section 42 (3) of the Major Port Trust Act as in the Order appended hereto.

(S. Sathyam)
Chairman

The Mumbai Port Trust (MBPT) - - - - - - Applicant

ORDER
(Passed on this 12th day of August 2002)

This Authority had passed an Order on 12 June 2001 disposing of the proposal of the Mumbai Port Trust (MBPT) for fixing ceiling rates for provision of some of the services identified in Section 42 of the Major Port Trusts Act, 1963 (MPT Act) at the port of Mumbai. A corrigendum with reference to Stevedoring rates was also notified on 17 September 2001.

1.2. The ceiling rates for transportation of containers approved by this Authority in its Order dated 12 June 2001 for the four main activities are given below:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Port CFS stuffed / destuffed</th>
<th>Factory stuffed / destuffed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Import (FCL)</td>
<td>Export and Import (LCL)</td>
</tr>
<tr>
<td>20’ 40’</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Transportation</td>
<td>2432 3905</td>
<td>2432 3905</td>
</tr>
<tr>
<td>(including 5% contingency)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2.1. With reference to the above Order of this Authority, the Mumbai and Nhava Sheva Container Terminal Operators Association (MANSCTOA) has submitted a representation stating that they were not consulted before finalising the ceiling rates for certain identified services under Section 42 of the MPT Act and have requested for revision of transportation charges.
2.2. The MANSCTOA has made the following main points in its representation:

(i). The diesel price considered by the MBPT’s in its (earlier) proposal relating to fixation of ceiling rates for transportation was Rs. 17.04 per litre as against the existing price of Rs. 20.70 per litre.

(ii). The Hussain Committee was formed by the Director General of Shipping to go into the elements of the Terminal Handling Charges (THC). This Committee has identified 6 vertical moves and 3 horizontal moves at CFS and 4 vertical moves and 2 horizontal moves at CY (i.e. total 10 vertical moves and 5 horizontal moves) for an Export cycle. All these moves have been discussed; and, have been accepted in various forum by the Trade, Shipping Lines, D.G. Shipping and by the Port.

(iii). (a). The cost for vertical moves will be Rs. 2200/- and Rs. 1606/- for horizontal move (i.e. the total cost will be Rs. 3806/-) by considering the old diesel price of Rs. 17.04 per litre.

(b). Further, the wage structure, benefits, allowances, etc., of its drivers, cleaners, logistic and supervisory staff, etc., are in line with the port employees. Assessing their salary as applicable to similar category for road-side vehicles is, therefore, illogical and arbitrary.

(c). As against the above position, the MBPT charges US$ 10 for 2 moves for operating Top Lift Truck. This works out to US$ 50 i.e. Rs. 2300/- per TEU for vertical moves.

(iv). The MBPT has worked out the transportation cost for a one-way operation (assuming return journey with no load).

(v). The cost of vertical/horizontal moves has been worked out on total loaded containers handled by the MBPT during a year, which includes both import and export loaded containers. The rate arrived at is on TEU basis; and, therefore, question of reduction for FEU does not stand logic.

(vi). As the ICON scheme was announced long time back the cost benefit arising out of transporter-wise pre-stack arrangements have already been passed on to the trade.

(vii). The MBPT had not held any meetings with the transporters in the last two or three years while submitting its (earlier) proposal for fixing transportation cost as an element of THC.

3.1. A copy of the representation received from the MANSCTOA was forwarded to the MBPT for its comments. The MBPT has submitted its comments on
the representation of the MANSCTOA and a revised transportation cost vide its letter dated 20 November 2001.

3.2. The MBPT has made the following points in response to the representation of the MANSCTOA:

(i). The MANSCTOA were requested to make it convenient to attend the joint hearing set up by the Authority on 15 January 2001 vide its letter dated 27 December 2000. In fact, some of the members of the Association attended the joint hearing, the stand of the MANSCTOA that they were not consulted is, therefore, not correct.

(ii). Incidentally, the analysis given by the MANSCTOA for a particular combination of activity has maximum number of moves. It seems they want to extrapolate the data by considering this combination as the basis, which is not proper. In order to facilitate the trade, the MBPT has given option of utilising QGCs and RTGs at BPS berth; and, there are hardly any movements of export containers from transtainer to vessels at BPS. The Association has not considered these aspects.

(iii). The ICON system of storing containers transporter-wise will mostly eliminate the incidence of one way traffic. It seems benefits of this have not been passed on to the Trade.

(iv). Since the cost per move has been worked out with reference to total cost and total moves, there is no need to give any weightage for long trips and work out a higher rate for such trips.

(v). Three meetings were held with the transporters before arriving at the ceiling rates for transportation. Hence, the contention of the MANSCTOA that is was not consulted is not correct.

(vi). The MANSCTOA have agreed to appoint an arbitrator to consider wage revision of its employees.

(vii). The TLTs are used mostly at RCD where a composite rate for ICD container is charged. The TLTs are used in docks only in an emergency when RTGs are not available. It is therefore, not appropriate to compare the rate charged by the port for the TLT.

3.3. In view of the representation of the MANSCTOA, the MBPT has made the cost analysis afresh in consultation with the MANSCTOA. The basis of the working is explained below:

(i). It was observed that apart from the four activities considered by it in its earlier proposal viz. (a) Import FCL (Port CFS), (b) Import and Export LCL (Port CFS), (c) Export Factory Stuffed; and, (d) Import Factory Destuffed, there are many more activities involving movement of containers. Further, within these four activities also there were different number of moves. The number of vertical and horizontal moves will
vary depending upon the place of receipt or clearance, which in turn will decrease or increase the cost.

(ii). Ideally, there should be an individual rate for each activity that will involve 23 rates. This will be highly impracticable.

(iii). In view of the above, the import and export operations were studied separately by considering more than 1,00,000 TEUs handled during the period from 15 March 2001 to 15 September 2001. An effort was made to take into account maximum combinations of movements.

(iv). In case of import and export there are 12 and 11 combinations respectively. Possible horizontal and vertical moves are considered from the computerised records of number of combinations.

(v). (a). The rates for TLT and trailer has been worked out based on the data received from the MANSCTOA and market enquiries.

(b). The rates for trailer and TLT per TEU are calculated by considering the latest rate of diesel i.e., Rs.20.67 per litre. Apart from these the lubricant cost, cost of oil, etc., have also been considered based on the consumption for each of these equipment.

(c). It is assumed that the TLTs and trailers will work for 300 days a year inspite of the fact that these equipment actually work for more number of days.

(d). At present the three CFSs are situated at the distances of about 4 kms, 6 kms. and 7 kms. respectively from the docks. The MANSCTOA has given daily consumption of 80 litres of diesel for a trailer. Assuming that a trailer travels as less as 2 km/litre of diesel, the run available will be 80 x 2=160 kms. Further, assuming average distance travelled for a one way trip is 6 kms. for the middle CFS, there can be 13 two way trips (i.e. 160/12=13.3) which will give an output of 13 x 4= 52 TEUs daily. But, for the purpose of arriving at the rate, daily output of only 17 TEUs have been considered as given by the Association. This gives a very comfortable cushion considering delays due to traffic jams, delays in loading and unloading of containers in the docks as well as in the CFSs, unproductive movements, breakdowns, etc.

(e). Based on the above points, the rate for trailer comes to Rs. 389/- per TEU and the rate for TLT works out to Rs. 242/- per TEU as compared to the Transporters working of 387/- and 258/- per TEU.

(vi). After applying the relevant rates thus obtained to the various combinations, the weighted average of the cost of the port and the MANSCTOA have been arrived at. The weighted average has been
further increased by 3% for contingency, 10% for overheads and 10% for profit.

(vii). It was noted that even though one vertical move is considered for grounding of containers for destuffing and delivery, 50% of the containers will be available on the ground itself; and, consequently will not require grounding as container stacking in the docks as well as in the outlying areas is one high that is ground plus one.

(viii). The rate for a FEU is taken 60% more than the TEU as the expenditure an account of wages, maintenance, fuel etc., will not be double for a FEU; but, at the same time the vertical moves will be half of the moves required for two TEUs.

3.4. The revised rate for transportation as proposed by the MBPT giving the details of the weighted average rate based on the MBPT’s working and the estimates of the Transporter, overhead, profit and contingency factor are tabulated as follows:

<table>
<thead>
<tr>
<th>Cycle</th>
<th>No. of TEUs</th>
<th>Total charges</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>As per MBPT Rate (Rs.)</td>
</tr>
<tr>
<td>Import</td>
<td>83678</td>
<td>138486908</td>
</tr>
<tr>
<td>Export</td>
<td>48536</td>
<td>110958051</td>
</tr>
<tr>
<td>Total</td>
<td>132214</td>
<td>249444959</td>
</tr>
<tr>
<td>Weighted Average rate Rs. per TEU</td>
<td></td>
<td>1886.67</td>
</tr>
<tr>
<td>Add : 3% Contingency</td>
<td></td>
<td>56.60</td>
</tr>
<tr>
<td>Add : 10% Overheads</td>
<td></td>
<td>188.67</td>
</tr>
<tr>
<td>Add : 10% Profit</td>
<td></td>
<td>188.67</td>
</tr>
<tr>
<td>Rate proposed per TEU</td>
<td></td>
<td>2320.60</td>
</tr>
<tr>
<td>Rate per FEU will be 60% more than that for the TEU</td>
<td></td>
<td>2320.60 X 1.6</td>
</tr>
<tr>
<td>Rate proposed per FEU</td>
<td></td>
<td>3712.96</td>
</tr>
</tbody>
</table>

3.5. The MBPT has proposed that the weighted average rate of Rs. 2321/- per TEU and Rs. 3713/- per FEU may be made applicable for all the activities instead of four rates only for four specific activities as approved by the Authority in the Order under reference.

4.1. In accordance with the consultative procedure prescribed, the proposal of the MBPT was circulated to the concerned port users/representative bodies of port users for their comments. We have not received comments from any port users except the Karmahom Conference. The comments received from the Karmahom Conference is summarised below:
(i). The rationale and the costs as worked out by MBPT appears to be more scientific and detailed and can be accepted by the Karmahom subject to transporters agreeing to provide their services at the Port notified charges.

(ii). The MBPT in its working have not considered transportation cost of empties from Lines depot to the port CFS and vice versa. It will, therefore, segregate this cost from the current composition of transportation cost and recover it as a separate cost through THC.

(iii). Since the MBPT costing is based on the current fuel costs, it will delete the ‘fuel surcharge’ element from its THC costing.

4.3. A copy of the comments received from the Karmahom Conference were sent to the MBPT as feed back information.

5. A joint hearing in this case was held on 24 December 2001 at the MBPT. At the joint hearing, the following submissions were made:

**Mumbai Port Trust (MBPT)**

(i). Action is not the same in all the movements. Transporters have chosen to go by movements having the maximum actions. The MBPT has gone by averages.

(ii). The 18.5% interest is on the loan from the Financial Institutions. 10% is the actual profit. It is not 28.5% ROCE.

(iii). The cost of Rs. 389/- and Rs. 242/- per move of trailer/TLT in Annex 3 and 4 are our calculations based on actuals and consultations.

(iv). We invited tenders. No contract has been awarded. It will help us to assess the market rates. It may also help us in case the MBPT has to take up the operations itself.

(v). Tenders were invited in the context of complaints about Section 42 Order not being observed by Lines.

(vi). We did not award contracts because we were not sure whether the tenderers could provide efficient service. If it comes to that, we will go ahead and take over the work.

(vii). We have assumed on very realistic considerations. As against a possible 52 container handling we have assumed only 17. In Karmahom language, there is a good padding in this factor.

(viii). (a). Container storing is done in a way that unnecessary moves are avoided. What is necessary will be covered by the house-keeping moves provided, our calculation is not at all unrealistic.
(b). In this backdrop, the transporter will not need too many TLTs / Top Lifters.

(ix). All operations are limited to the port area. There is therefore, no difference between ‘empty and ‘laden’. Items 9 (b) and (c) there is no calculation errors. MANSCTOA has not taken into account the ‘foot note’ given in the cost sheet.

**Mumbai and Nhava Sheva Container Terminal Operators Association**

(i). (a). Annex - Export 12, item number (3), (4), (5) and (6) are not to be considered for THC. These are paid out of freight.

(b). Annex - Import 13, item number (11) is paid out of freight or detention demurrage which is not considered for THC.

(ii). (a). Annex – 4, the TLT figure of 51000 is an idealistic one, in reality it will be far different as machines are not that good. Distance between CY and CFS is long.

(b). Many TLTs are required. 15 at CY, 9 at 3 CFSs and 2 as reserves. As against this, the MBPT has only 4. On this basis, the per TEU cost will go up.

(iii). For calculation FEU is taken as 2 TEUs. But, for rate you say it will be 1:1.5. Why this discrepancy?

(iv). Transporters who have quoted below the fixed rates are not technically competent to take up the job. That is why the MBPT has not acted on the tenders.

(v). If the MBPT takes up this operation, the truck drivers, etc., will all become a permanent liability. There will be 3000 more workmen.

(vi). Annex 3 – Item 9 (b) and (c), there are arithmetical errors which need to be corrected.

(vii). Empty moves are not relevant for THC. 4 items for export and 1 item for import calculations are there. They have to be taken out and separately worked out for empties.

**Karmahom Conference**

(i). We accept the MBPT rate if transporters also accept it. We do not want to go into the costing details.

(ii). Operation of equipment for 300 days per year is most inadequate. World norm is 348 days. In other words, there is a 48 day padding already.
(iii). MANSCTOA says, Terminal handling is only from or upto RCD or CFS and beyond that it is not relevant. But, in reality, we have to take the empties, etc., to Panvel. How do we recover that cost?

The Container Shipping Lines Association of India (CSLA)

(i). The ratio between TEU : FEU should be 1 : 1.5. We agree that number of containers will also be so determined.

(ii). The MBPT calculation is done on a scientific basis. We agree.

(iii). Calculation should be separate for laden and empties.

The Mumbai & Nhava-Sheva Ship-Agent’s Association (MANSFA)

(i). The MBPT works out a requirement of 40 trailers which appears to be wrong. The MANSCTOA has assessed it at 110. [MANSCTOA says: If as the Karmahom suggests, 300 working days are changed to 348, then, trailer requirement will drop from 40 to 35 or from 110 to 92].

(ii). Ground containers it may be ‘one high’. But, it may not be easily accessible. It may be block stacked, extra moves will be required. Provide for a ‘house keeping’ move.

Bombay Custom House Agents Association (BCHAA) and Indian Merchant’s Chamber (IMC)

(i). For tenders we all know that technical bids and price bids are taken. Unqualified persons will not get the contract.

(ii). In today’s situation bidders do not own everything. In this case the Top Lifters have arrangements with others who own.

(iii). We call ‘box rate’ for movement. Details need not be stated separately.

(iv). Empty movements, reprocessing cost they cover in CDC. How can they raise it here?

(v). Top lifters and Trailers debate about numbers is not necessary. The MBPT will take care to ensure that capabilities are there.

(vi). Ceilings are to be based on weighted averages. Customers will negotiate with operators to fix much lower rates. They will claim advantages of scale.

(vii). Vehicle life as per Government guideline is 15 years. The MBPT calculation is very liberal.

(viii). Lines will negotiate with transporters to agree upon a lower rate. But, lines will charge the Trade at the maximum rate. Why not, therefore, fix a box rate?
6.1. As agreed at the joint hearing, some of the port users have furnished further written submissions which are summarised as follows:

**Sant Nilobari Transport Private Limited (SNTPL)**

Even after a review of the present cost of inputs given by the MBPT, there is no material change warranting revision of rates quoted by it in its tender dated 5 October 2001.

**Mumbai and Nhava Sheva Container Terminal Operators Association**

(i). The expenses relating to the movement of empty containers have to be excluded from the import and the export cycles to arrive at the rate for loading and transport of stuffed containers/ import de-stuffed containers.

(ii). The MBPT has assessed a requirement of only four toplift trucks for (a) handling 4 to 5 ships per shift, (b) for handling 7 to 8 pre-stacks inside port; and, (c) for handling containers at the 4 CFS areas while estimating 51,000 TEUs to be handled per year per TLT. As the calculation is made for peak handling on all days with three shifts, effect of Peak/Nadir handling is not taken into effect. The effective handling has to be taken at 50% of peak-level handling for arriving at a justifiable cost per move.

(iii). The effect for idle time for TLT’s and trailors, consequent repairs and insurance claims from shippers, consignees and shipping lines have not been considered by the MBPT for arriving at a judicious cost per TEU.

(iv). The periodic yearly increases to 3000 workers and D.A. increases are being paid after 1 April 2001. The possible effect for subsequent three years even on an adhoc basis has not been considered.

(v). A 40’ container has been considered as 2 TEU’s for all calculations. The method of calculating all costs on TEU basis and subsequently to work out rate for 40’ container as 1.6 times the 20’ container rate is against the logic and mathematical principles.

(vi). It has re-worked the MBPT’s calculations on the above basis and has arrived at a reasonable costs of Rs. 3320/- per TEU.

**Mumbai and Nhava-sheva Ship Agents’ Association (MANSA)**

(i). Any rate of transportation cost prescribed by the MBPT must not remain a mere paper-tariff. Line Agents, will be more than pleased to accept any prescribed rates, if the services are provided at that rate, uninterrupted.

(ii). The transportation cost must include the horizontal and vertical movement of containers from the vessel upto the Empty Storage Yard
and vice-versa and not only upto the CFS. The CFS area is only a transition point for movement of containers and not an Empty Storage Yard. The Lines are required to move the containers away from CFS to Empty Storage Yard and hence, such costs shall be included in the THC.

(iii). The MBPT at the joint hearing had contended that vertical movement of 50% containers is not required as the containers are stacked only two high and the ground tier of containers could be destuffed directly. This is not the case as the containers are block-stowed and it sometimes becomes necessary to move more than 2/3 containers to access containers required for Customs examination / delivery of cargo besides individual horizontal movement.

(iv). The transporters do recover the Customs overtime charges if paid to the Customs from the Lines, apart from the transportation cost. Hence, TAMP’s Order may be appropriately worded in order to incorporate such additional and any other extra costs.

(v). The TAMP may highlight in its Order the limited application of rules relating to the selected elements of costs if not comprehensively on all the THC elements.

The Container Shipping Lines Association (CSLA)

(i). A larger sample size of 12 months period will give a true indication on the levels of volumes and incidences as the period between October to February are usually the strongest period in the year for business in terms of volumes.

(ii). The rate for horizontal move at Rs. 389/- per TEU has been arrived at considering average run of 12 km by a trailer in a two way trip of 6 kms. each. Practically, every container cycle has at least one move from hook point to prestack or vice versa which will be not be more than 2-3 kms. round trip inside the MBPT. Also, in the container cycle related to CFS events there are short horizontal moves from stack to stuffing/destuffing point for which the round trip again will not be more than 2 kms. The entire cost sheets for each container cycle will, therefore, have to be reworked considering the cost for this category of horizontal move to atleast one third say Rs. 130/- per TEU, if not less.

(iii). The over all average of handling 17 TEUs per trailer must be increased by considering the average moves done by the trailers associated with short trips and the new rate per TEU which shall be lesser.

(iv). The MANSCOTA had submitted during the joint hearing that the movements of purely empty containers shall not be considered for arriving at the weighted average cost for exports since such transportation cost has already been considered by line in CDC. In this
regard it is clarified that these are personal views and are not representative of the Lines or their agents view.

(v). The MANSOTA will get a much higher ceiling rate per box for loaded import/ export container by separating the category of empty containers.

(vi). It agrees that for the empty containers the rate per TEU for the vertical move shall be the same as that for loaded.

(vii). The rate for horizontal move for empty container shall, however, be less than that of loaded (say half of that of loaded horizontal moves) because empty container movement can be carried out by any capacity chassis, movements takes place faster giving the trailers an average of 4 km/litre of diesel and also the detention and handling delays are less.

(viii). The rate for 40’ must be 1.5 times a 20’ container.

(ix). The rates that are finalised are the upper ceiling rate which the transporters can charge. Lines are free to negotiate with individual transport transporters at lower level.

6.2. As agreed at the joint hearing, the MBPT has also given written submission on the proposal. It has also furnished a revised proposal. Some of the main points made by the MBPT are summarised below:

(i) This proposal has been submitted since the earlier proposal was only for four major activities and it was considered necessary to broadbase the analysis so as to arrive at a rate per TEU which will be more representative.

(ii) For arriving at the cost per move, the total moves handled by the equipment are considered as 5100 moves per trailer and 51000 moves per top lift truck. The details giving average moves per TEU for import cycle, export cycle and the total requirement of TLT and trailer based on the number of moves to be performed by each equipment have also been furnished.

(iii). The norms of 17 moves for a trailer and 170 moves for a TLT per day were furnished by the Transporter’s Association. These figures are on lower side and provide sufficient cushion to the transporters.

(iv). The rate for FEU was taken 1.6 times more than that for the TEU since in the earlier proposal as well as in the rates approved by the TAMP for 3 activities the rate for FEU is 1.6 times the rate for TEU.

(v). Empty container activity was also considered in the earlier analysis since it is felt that rates will be approved for all the activities that take place in the port premises. A separate analysis by excluding the empty container movement is submitted as directed at annexures Import -
13B, Export - 12B and 5B; and, that of only empty container movement is submitted at annexures Import - 13C, Export - 12C and 5C.

(vi). It has furnished the revised working after taking into consideration one FEU is equal to 1.5 times for arriving at the number of containers (in TEU). The rate per TLT and Trailer has, however, not been changed in the revised working. In the revised working it has proposed two alternative rates as given below:

(a). It has proposed a composite transportation rate of Rs. 2310/- per TEU and Rs. 3464/- per FEU for all cycles including empty containers. The rate based on the transporters estimate for TLT and trailer comes to Rs. 2393/- per TEU and Rs. 3589/- per FEU.

(b). Alternatively it has proposed rate for (aa) All the identified movements in the import/export cycle excluding movement of purely empty containers; and, (bb) Separate rate for empty containers as given below:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Particulars</th>
<th>As per MBPT's rate</th>
<th>As per transporters rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>20'</td>
<td>40'</td>
</tr>
<tr>
<td></td>
<td>(aa). For import/ export loaded containers excluding movement of purely empty containers.</td>
<td>2569</td>
<td>3853</td>
</tr>
<tr>
<td></td>
<td>(bb). For empty containers only</td>
<td>1050</td>
<td>1575</td>
</tr>
</tbody>
</table>

6.3. The Bombay Port Stevedores’ Association Ltd. has indicated that it has no comments to offer on the MBPT proposal.

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

(i). This Authority had passed an Order on 12 June 2001 for provision of various services identified in Section 42 of the MPT Act which also included transportation cost. In the said Order, this Authority had approved the transportation charges as proposed by the MBPT for the four activities since the transporters and the concerned port users had not raised any major objection to the rates proposed.

(ii). It is noteworthy that an opportunity was earlier given to the transporters and the concerned port users to comment on the cost estimates of the MBPT. The records relating to that proceeding reveal that the related joint hearings were attended by members of
Maharashtra Rajya Truck Tempo Tankers Bus Vahatuk Mahasangh and the MANSCTOA. The MBPT has also confirmed about inviting them to the joint hearing in addition to the notice directly sent from the office of this Authority. That being so, the MANSCTOA pleadings of its ignorance about the earlier proceeding are not credible and cannot be accepted.

(iii). The instant proposal of the MBPT for revision of transportation cost is in pursuance of the representation made by the MANSCTOA with reference to the transportation cost fixed by this Authority earlier. The MBPT has accepted that its earlier proposal was restricted to four activities though there are many more activities in the container operations; and, hence it has been necessary to broad base the analysis to arrive at a rate which is more representative of the cost. At the same time, as has been brought out by the MBPT, it may not be feasible to enforce 23 different rates for 23 different moves. There has to be an arrangement of grouping of activities following a logical sequence. In this context, the MBPT needs to be complimented for formulating a well-structured proposal taking into consideration the various points made by the MANSCTOA and the other concerned users.

(iv). The main issue agitated by the MANSCTOA is that in view of increase in diesel price from Rs.17.04 to Rs.20.67 per litre the transportation cost fixed by this Authority earlier has increased. Further, the number to moves considered by the MBPT earlier for fixing the transportation cost does not take into account the various combinations for horizontal and vertical moves.

(v). The MBPT has clarified that the MANSCTOA in its representation has taken the maximum number of moves for a particular activity which is not appropriate.

In the instant proposal the port has considered the average cost for various combinations in the import/export cycle. The port has taken a sample of 1 lakh TEUs handled during the period 15 March 2001 to 15 September 2001 and has considered 12 combinations of operations in the import cycle and 11 combinations of operations in the export cycle from the computerised records. It has considered all the horizontal and the vertical moves involved in each of these combinations. The approach adopted by the MBPT appears to be reasonable. In fact, many of the port users have also endorsed the approach. The suggestion of CSLA to consider a larger sample size to even out seasonal variations may be relevant; but, such a survey can be undertaken by the MBPT while revising these rates next time.

(vi). The MANSCTOA has pointed out that the MBPT has worked out the transportation cost for a one-way operation. The MBPT has clarified that since the cost per move has been worked out with reference to the total cost and total moves, there is no need to give any weightage for
long trips. For stated reasons in the earlier Order, this Authority had accepted the approach of the MBPT for considering cost of one-way operation and hence there is no need to review the approach again.

(vii). The MBPT has revised the fuel cost taking into consideration the current diesel price of Rs.20.67 per litre. Further, the consumption of lubricants, wage cost, repairs cost and cost of the TLT and the trailer have also been worked out afresh in consultation with the MANSCTOA. Based on these modification the MBPT has considered the rate of TLT as Rs.242/ per TEU and Rs.389/- per TEU for trailer in the instant proposal as against the earlier estimates of Rs.203/- and Rs.323/- respectively.

There are certain minor variations in the calculation of rates between the MBPT and the MANSCTOA. It is noteworthy that the approach adopted by the MBPT, as has been pointed out by the Karmoham Conference and the CSLA, allows lot of padding in the rates. For example, an output of 17 TEUs per day per trailer only has been reckoned with in the computation even though a possible 52 TEUs per day per trailer can be handled. Further, working days of 300 per annum only has been considered even though Karmoham Conference has indicated that 348 days are to be considered as per international norms.

Apart from operational costs, the MBPT has also allowed 18.5% interest and 10% profit apart from a 3% contingency. This is a very generous approach, considering an ROCE of 18.5% only is being allowed in respect of major port trusts and 20% pre-tax return on equity allowed in the case of private terminal operators. As a matter of fact, the calculations made by the MBPT require moderation if the principles set by this Authority for fixing port tariffs are applied in this case. Nevertheless, such modifications are not proposed in view of the fact that the rates proposed by the MBPT and the Transporters are more or less close to each other. As has been apprehended by the Karmoham Conference and the MANS, the bottom line will be the availability of service at the rates fixed. That being so, this Authority accepts the calculations made by the MBPT with a reasonable expectation that the Port will at least now be in a position to enforce the ceiling rates fixed.

(viii). The MANSCTOA has pointed out that the MBPT has considered two TEUs for conversion of FEU into TEU, however, for fixing the transportation rate the ratio considered is 1:1.5. The revised proposal has been framed by the MBPT after conceding this demand. That being so, this Authority has no reservation to accept the MBPT proposal and fix the tariff for FEU at 1.5 times the rate for TEU.

(ix). The CSLA has suggested that there should be a separate calculation for laden and empty container. Even the MANSCTOA opined that the cost for the empties should be excluded since it is covered in the freight. The MBPT in its revised proposal has excluded the cost
relating to movements of the empty containers for arriving at the rate for loaded import/export containers and has proposed separate rate for empty container.

The issue before this Authority is about fixing of ceiling rates for transportation of containers. Even if it is included in freight or CDC, there is a movement of empties within the port area and hence a ceiling rate is to be fixed therefor. It is noteworthy that this Authority had earlier prescribed a ceiling rate for on-board stevedoring despite a clear finding that on-board stevedoring cost formed part of ocean freight under Liner Terms.

In its revised proposal the MBPT has proposed Rs.2569/- for a TEU and Rs.3853/- for a FEU excluding the movements pertaining to empty containers. It has proposed separate rates for empty containers at Rs.1050/- for a TEU and Rs.1575/- for a FEU container.

As has already been pointed out by this Authority in its earlier Order, the transportation rate approved now will form a ceiling and the service providers can levy this rate or any rate below that limit. It is for the MBPT to enforce adherence to the rates notified by this Authority through its licencing conditions.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following ceiling rates for transportation of containers, undertaken by the service providers authorised by the MBPT under Section 42 (3) of the Major Port Trust Act, subject to a condition that the MBPT will enforce these rates while authorising them to provide the services. Consequently, the transportation rate included in the package called the THC, for the purpose of recovery from shippers, can only be with reference to rates not exceeding the following at the MBPT:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Particulars</th>
<th>Rate in Rs.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>20’</td>
</tr>
<tr>
<td>(i).</td>
<td>For import/export loaded containers excluding movement of purely empty containers.</td>
<td>2569</td>
</tr>
<tr>
<td>(ii).</td>
<td>For Empty containers</td>
<td>1050</td>
</tr>
</tbody>
</table>

(S. Sathyam)
Chairman