

Record of the DiscussionRATE GENERAL OF SHIPPING, MUMBAI

Sub: Transparency in transaction cost – Record of Discussion of the meeting held on 23rd February, 2016 – reg.

The Ministry of Shipping vide its order No SD-11018/4/2015-MD dated 5.2.2016 constituted a committee to identify and examine grievances arisen during the calendar year 2015 on the Transparency in Transaction cost comprising the representatives of various stakeholders.

Subsequently, the Director General of Shipping passed order No F.NO. MTO-2(1)/2015 dated 12.2.2016 giving effect to the MoS order.

2. The first meeting was held in the conference room of the D.G. Shipping under the Chairmanship of Dy. Director General of Shipping [MTO] at 4.00 P.M. regarding transparency in transaction cost. The list of participants is enclosed as Annexure – I.

The minutes of the meeting held under the chairmanship of the Dy Secy, MoS on 21.12.2015 and the detailed submissions made by Inland Importers & Consumers Association (IICA) as per letter dated 4.1.2016 were circulated. The following issues/items were discussed:

i) Inland haulage charges:

On the issue of inland haulage charges, Shri Manan Goenka submitted that the charges are quite high and arbitrary. In support of his arguments he relied on the copies of bills enclosed with the above mentioned letter.

In response to the above, Capt. Tewari submitted that he would revert with necessary break-up of these charges.

The Committee decided to examine this issue on the receipt of the said break-up in its next meeting.

It was also submitted By Shri Goenka that Shipping Lines were not giving effect to the CBDT's circular which stipulates that service tax was to be paid by the importer on only 30% of the Rail Freight component. In this regard, the

committee agreed that as per the extant instructions and the legal position, Shipping Lines were required to charge service Tax on the composite amount of the contract. However, it has given rise to a peculiar situation whereby the benefit of the above circular is not available to the importers which is causing genuine hardship. Therefore, a suggestion was made that the Railway Haulage Charges may be paid directly by the importers to Railways so that extra service tax presently charged by the Shipping Lines could be avoided. The Committee unanimously agreed with the suggestion.

- ii) Container Detention Charges (CDC): Capt. Tewari admitted that the CDC are high because they are penal in nature. However, he also suggested that the importers should do due diligence to ensure that CDC are not higher than the actual value of cargo imported, and that they can also choose to buy cargo storage space. Alternatively, if the container is kept in bonded warehouse, the importers can, with the permission of the customs authorities take the cargo out and transfer it to domestic container. The committee decided that Members will give their suggestions on this issue in the next meeting.

It was also mentioned by various members that at present the slab rate applied to calculate CDC is such that after the expiry of the 14 days' free period, the charge rate starts not from the lowest slab but from the intermediate slab corresponding to the 15th day which is prima facie not correct but being followed as a matter of routine across the board.

It was unanimously decided that the first slab of CDC should be applied after the expiry of the free days as mentioned in the Bill of Lading.

- iii) Change of Destination Charges (COD): The Committee will examine written submissions by the members in the next meeting.
- iv) Terminal Handling charges at Destination: Capt. Tewari agreed to share the detailed break-up in the next meeting. Mr. Manan Goenka submitted that there are two opponents of THC charges; first one is THC charges by the sea port; and the second is terminal handling charges by the individual ICD. He suggested that both the charges should be mentioned separately on the

invoice. He suggested that all shipping lines may voluntarily agree by these charges separately.

The committee will deliberate on this issue in the next meeting.

The following items were clubbed together and discussed:

- v) Delivery Order Charges:
- vi) IGM Manifest charges:
- vii) Washing charges or cleaning charges:
- viii) Empty Repo charges:
- ix) Port Congestion Charges (PCC):

On the issue of point no. (vi); IGM Manifest charges, Capt. Tewari mentioned that only some of the shipping lines are charging under this head. He also opined that it is an aberration.

He also submitted on Point no. (ix), on the issue of PCC, that only a few shipping lines are charging under this head which may be considered as aberration. He opined that such charges should not be levied without any notification by the port trust.

On the issue of point no. (viii), i.e empty repo charges, the Committee decided to examine the issue of transparency in the light of data available in the public domain and also if such charges are levied in other countries.

For the rest of the above Mr. Manan Goenka submitted that there is no transparency in these charges and the shipping lines must disclose these charges on the body of Bill of Lading.

The Committee was unanimous that charges under point no (vi) and (ix) are not leviable and the leviable charges as per point no (v), (vii) and (viii) (to be re examined) should also be mentioned in the Bill of Lading as well as on the website on the shipping lines.

- x) Empty return at different ports:

On the issue of empty return at different ports, Mr. Manan Goenka submitted that there is a rampant malpractice by the shipping lines whereby they insist on the delivery of empty containers return to the place of their convenience which causes hardship to the importers.

Capt. Tewari suggested that the Committee may recommend that empty container should be returned to the place of import. If the importer is made to transport the empty container to any third location under any circumstances (as mentioned in the Factory destuffing bond issued by the shipping Line or otherwise) then suitable compensation should be given by way of reimbursement of extra charges and waiver of corresponding detention period.

x1) Container Damage charges:

On the issue of container damage charges, members will give their written submission in the next meeting. Mr. Sudhir Agarwal suggested that repair facilitation charges should be waived off and reimbursement of repair expenses may be dealt with on case to case basis. Mr. Sanjay Mehta has suggested that EIR report from the port of loading should be made available from shipping lines along with Bill of Lading.

xii) Lines not accepting free days:

Capt. Tewari submitted that these are mere aberration and that as a matter of practice free days are being accepted by the shipping lines.

The committee will examine this issue in the next meeting.

xiii) High Sea charges:

On the issue of high sea charges, members will give written submission in the next meeting.

xiv) Absurd charges in different headings

The committee was unanimous that if charges are printed on the Bill of Lading that will take care of transparency and rationality.

S/s Manan Goenka, Sudhir Agarwal, Sanjay Mehta and others raised the issue of the unreasonableness of various charges. It was alleged that Shipping Lines were acting like a cartel to control the market price. Contrary to this, Capt Tewari was of the view that pricing should be left to market forces.

In this context, the chairman mentioned that the terms of reference of the committee were to examine (i) Transparency in transaction cost and (ii) Grievances arisen in the year 2015

Before the reasonableness of pricing is determined, it is necessary that all the charges are mentioned/ declared in a transparent manner on the B/L itself so that there is no scope for manipulation. In order to examine the reasonableness, the committee was of the view that it did not have sufficient data/ information to examine the issue. Reliance will have to be placed on similar charges levied in other countries. Therefore, members were requested to submit the information available in public domain to decide the price reasonableness.

4. Members were also requested to give their written submissions, to be circulated among themselves, along with the softcopies / scanned copies of the documents relied upon.

It was unanimously decided to hold the next meeting on 4th March, 2016 at 10.30 A.M. at the O/o the DGS.

Meeting ended with a vote of thanks to the chair.

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File No. : _____

Subject :

DIRECTORATE GENERAL OF SHIPPING, MUMBAI
[MTO Branch]

File No. MTO-(2)/2015

Dated: 23.02.2016

Subject: Transparency in transaction cost - reg.

Sr. NO.	Name	Organization with Contact Number	Signature
1	SUDHIR AGGARWAL	WALICA 631 Sadar Bldg 11CA 2007 Delhi	 9810192177
2	MANJAN GOENKA	ICCA - do -	 9811085477
3	HARIOM AGGARWAL	SHRI HARI EXTRUSION LTD	 9820051168 shel03@
4	S. S. DHENGA	S. C. I.	 9987283046
5	Norman Fernando	CSLA	9821210196
6	D. K. Terwani	CPLA	9820124903
7	R. Venkatesh	WISA/NISA	9920441100
8	Aman Singh	MRAI	9004346455
9	Vijay Aggarwal	MRAI	 9821079222 shel03
10	SANJAY MEHTA	MRAI	9820101644
11	VATSAALPA SAXENA SUPPORT STAFF	DDG	 9860084969 U
12	SUMIT KUMAR	PA to DDG (VS)	
13			
14			
15			

Minutes of the second meeting on 14th March 2016

1. The Committee carried out corrections/amendments to the minutes of the meeting held on 23.02.2016.
2. The Committee coopted Mr.DK Roy, President-Mumbai Zone Custom Broker Ass. (MCBA) as member. It was brought to the notice of the committee members that a complaint filed by him to the PMO was referred by the MOS to the Committee for examination. The said complaint was duly circulated amongst the members through email.
3. Mr. Mannan Goenka submitted a paper regarding the objective behind setting up of ICDs. The information has been extracted from the public domain and appears to be part of some policy document. The committee unanimously agreed with the stated purpose of the roles of inland container depots.
4. IHC- Capt Tewari relied on his submissions dated 3.3.2016 and discussed the illustration mentioned therein
5. Mr Manan Goenka carried out a quick reconciliation of the illustration w.r.t the published rates. It was found that out of the total bill of Rs 55875/-, the CONCOR charges were Rs 41350/- and the Incidental charges were Rs 14525/-. As against these charges, the rates as per the published chart are reconcilable within a margin of Rs 5000/- (some charges not captured). Capt Tewari is requested to furnish few more illustrations.

Capt Tewari suggested that the importers may be given the option to pay these charges directly to the concerned parties by making their own arrangements. The committee unanimously accepted the suggestion.

Mr.Bharat Malik submitted the following bills to highlight the deviation from the position submitted by Capt.Tewari:

1. Inv No. : INIM1165513 dt 18.02.2016, CMA CGM, 40 feet cont, MUNDRA-LONI
2. Inv No. : 16032193 dt 08.3.2016, Evergreen, MUNDRA-LONI.
3. Inv No. : 5108937534 dt 17.02.2015, Maersk Line, 20 feet cont, Nhava Sheva-Dadri.
4. Inv No. : 5108931676 dt 16.02.2015, Marsk Line, 20 feet cont, Nhava Sheva-Dadri.
5. Inv No. : IMFDEL11/017421/05/15 dt 06.08.2015, 20 feet, MUNDRA-LONI
6. Inv No. : IFC-PA-DEC150004398 dt 15.12.15, 20 feet, Nhava Sheva-Dadri.
7. Inv No. : OAS-IMP-JEA-MUN-00585 dt 11.03.16, 20 feet, Mundra-Dadri.

The committee members are requested to give their inputs on the discrepancies highlighted in the above bills.

6. On the issue of CDC Mr Bharat Malik submitted that CBEC issued a Circular no.121/3/2010-SR dt 26.04.2010 directing that "the amount collected as detention charges is not chargeable to service tax." In this context Capt Tewari said that the said circular has already been withdrawn and the latest position has to be ascertained on this issue. However the committee was unanimous that CDC being penal in nature should be kept outside the preview of service tax and in the event that the said circular was withdrawn the committee may recommend that no service tax may be held chargeable on the detention charges.

Mr Manan Goenka and Mr Sudhir Aggarwal drew attention to the legal position that specific provision of law overrides the general provision. They also demanded that only on the expiry of the free period mentioned on the bill of lading the 1st Slab rate should apply. To this, Capt Tewari reiterated his earlier stand that the shipping line had already adhered to the slab rate parity with the standard free days and that it was free to apply incremental slab rate to the free days granted over and above those mentioned on their website.

Mr Bharat Malik and Mr DK Roy submitted that CDCs are being charged arbitrarily and unreasonably. He offered to substantiate his allegation with documentary evidences.

Mr Manan Goenka submitted the copy of notification no 26/2009 dtd 17.3.2009

Mr Roy and Mr Aggarwal submitted that Customs do not allow the container to be destuffed once a cargo is detained. This leads to undue hardship to the Importers who have no control over the time taken by the Customs. Capt Tewari submitted that as per the provisions of the Customs Act, the importer can have the container destuffed immediately. He would submit the relevant provision alongwith a SC judgement on this issue. The committee unanimously noted that the guidelines in this regard are not being followed and it will suggest measures to remove the hardship to the importers due to this.

7. Change of Destination (COD)

Capt Tewari submitted, after checking from his office, that only some of the Shipping Lines mention the rate of COD on their websites.

The committee was unanimous that all shipping lines must mention the COD on their websites.

Mr Manan Goenka, Mr Bharat Malik, Mr Aggarwal and Mr Javed Mahmood(MRAI), and Mr Amar Singh(MRAI) submitted that COD should not be more than the document reissuance charge before IGM is filed provided that the discharge port is the same.

Capt Tewari submitted that if there is no change in the Port of discharge, but there is a change in inland destination before any IGM is filed with customs and provided that the shipping line does not have to incur any additional expenses, such change of destination requests may be entertained without COD charge.

Mr Mannan Goenka has submitted that Capt Tewari's statement can be misconstrued in many ways. The shipping line can impose repositioning charges stating imbalance in

equipment. The line can charge more than the tariff rate mentioned on their website for that particular movement on that day. The line should not be allowed to charge more than the inland haulage charges prescribed on their website on that given day for that particular movement.

Capt Tewari clarified that he is part of the committee as a representative of CSLA which is the association of container shipping lines. All he can do is to explain and clarify various charges. As far as the justifiability and the quantum of those charges is concerned, he has no local standi and it is for the individual shipping lines to explain the deviations alleged by the members of the committee.

Capt Tewari further clarified that as per his submission dated 21st March 2016 he has explained the charges levied under various heads and their legality. (amended on 22nd March)

The committee was unanimous that there is an urgent need to put an institutional mechanism in place to redress the grievances of the consumers.

8. THC

Capt Tewari submitted that the consolidated quantum of THC is mentioned on the websites of the Shipping Lines. He also submitted a list of Indicative charges whose quantum he will submit soon.

Mr Amar Singh and Mr Javed Mahmood submitted that Shipping Lines are charging much more than their published rates. They will submit the evidence soon.

The meeting was adjourned to 11:00 am on 15.3.2016.



File No.:

Subject :

DIRECTORATE GENERAL OF SHIPPING, MUMBAI
[MTO Branch]

File. No. MTO-2(1)/2015

Dated: 14.03.2016

Subject: Transparency in transaction cost - reg.

Attendance List

Sr. NO.	Name	Organization with Contact Number	Signature
1	SUDHAKAR AGARWAL Prigym	Inland Importers & Consensus Assn.	<i>[Signature]</i>
2	MANAN GOENKA +919811086677	DDCA	<i>[Signature]</i>
3	Poharut Malik	Inland Importers & Cons. Association	<i>[Signature]</i>
4	S. S. DHENGRAR	S. CI	<i>[Signature]</i>
5	Heisho KADIA	CSCA	<i>[Signature]</i>
6	ANIRUDHA LELE	CSLA	<i>[Signature]</i>
7	NORMAN. FERWAL	CSLA	<i>[Signature]</i>
8	Prakash Kumar	CSLA	<i>[Signature]</i>
9	CHIT S. CHOPRA	CSLA	<i>[Signature]</i>
10	Javed. Mahmood	MRAI	<i>[Signature]</i>
11	Amare Singh	MRAI - Sec. General	<i>[Signature]</i>
12	Sanjay Mehta	MRAI - President	<i>[Signature]</i>
13	D. K. Tewari.	CSLA	<i>[Signature]</i>
14	Subhash Bopuzar	DGS	<i>[Signature]</i>
15	Vatsalya Saxena	DDG	<i>[Signature]</i>

* Support Staff.

1. SUMIT KUMAR - PA to DDG(V.S.) - *[Signature]*

2. MANGESH JADHAV - DEO - *[Signature]*

16.	D.K. Poy	MCBA	<i>[Signature]</i>
17.	J.K. Belamkar	MCBA	<i>[Signature]</i>
18.	Shravan Appawal	MRAI	<i>[Signature]</i>

Meeting resumed at 11:00 am on 15.3.2016

1. Capt Tewari circulated thru email today the SC/HC judgment on the treatment of long stay containers, the levy of container detention charges and the court orders as to who will pay these charges. He has also mailed the relevant circulars and regulations of the customs on the disposal of long stay containers and cargo, and the liability thereof.

The committee was unanimous to observe that there are sufficient legal safeguards for the liability of the CDC. However, it is the lack of proper implementation that has given rise to grievances in this regard. The committee will give its recommendations on this issue.

2. COD charges- To be submitted by Capt Tewari-
3. Capt Tewari to submit complete breakup of THC

Mr Bharat Malik, Mr Manan Goenka, Mr Agarwal submitted that at the time when invoices are being raised by the Shipping Lines to the importer for IHC, they should show the discharge port THC and ICD THC separately. Further, the importer may be allowed to pay the destination THC directly to the port custodian.

Capt Tewari submitted that he would examine the proposal from the service tax perspective and give his comments.

4. DO charges: Mr. Manan Goenka submitted copy of bill dated 26/2/2004 of Green ways Shipping Agencies Pvt Ltd wherein no DO charges were levied. He also demonstrated through a few bills that shipping lines were charging DO charges ranging from 5% to 10% of IHC.

Mr. Roy submitted that shipping lines are not entitled to levy DO charges.

Mr. Vijay Aggarwal submitted that DO charges are levied even at Nhava Sheva Port where as prima facie they are not leviable.

The chair expressed the doubt that prima facie there does not appear to be any separate service rendered by the shipping line when a DO is issued. The shipping line is bound by its terms of contract to deliver the consignment to the genuine consignee. On this point Capt. Tewari offered to justify the levy of DO charges and the reasons for the same.

5. On the issue of IGM, the committee was unanimous as per the minutes dated 23.02.2016 that these charges should not be levied as per the matter of routine. However, Capt Tewari submitted that whenever there is a change in IGM as per the request of the consignee charges may be applied.

Mr Roy submitted that in cases of amendment of IGM on the request of the consignee, there should not be any charges as all the works are handled by the importer or their Agent. However, he is not against the lines charging nominally under this head.

Mr Manan Goenka added that if the amendment is required due to shipping line's mistake then no charges should be levied and all the extra consequential charges of the port and container detention should be borne by the shipping line.

Mr Bharat Malik added that if there are some difference in IGM and the same is not as per the original BL even then the shipping lines do not agree to their mistake and force the importer to pay all the penal rents and consequential charges.

To the above issues Capt Tewari submitted that these were exceptions and could be considered as aberration

Since Capt Tewari had to leave for an urgent meeting, the committee decided to adjourn the meeting to 22.3.2016 at 11:00 am with a request to the members to give written submissions on the issue of the reasonableness of the charges levied by the Shipping Lines.



File No.: _____

Subject :

DIRECTORATE GENERAL OF SHIPPING, MUMBAI

[MTO Branch]

File. No. MTO-2(1)/2015

Dated: 15.03.2016

Subject: Transparency in transaction cost - reg.

Attendance List

Sr. NO.	Name	Organization with Contact Number	Signature
1	D. K. Roy	MCBA 9820147215	<i>[Signature]</i>
2	J. K. Belamkhar	MCBA 9820576905	<i>[Signature]</i>
3	Tajmed Mahmood	9820523838 MRAI	<i>[Signature]</i>
4	Harish Agarwal	9820051168 MRAI	<i>[Signature]</i>
5	Anand Singh	Mrai - Sec. General 900434645	<i>[Signature]</i>
6	Vikas Agarwal	MRAI 9821079222	<i>[Signature]</i>
7	SUDHAR AGARWAL	IICA 9810192177	<i>[Signature]</i>
8	Mamun Goukh	IICA 9811086477	<i>[Signature]</i>
9	Bharat Malik	IICA 9811922185	<i>[Signature]</i>
10	D. K. Tewari.	CSLA 9820124903	<i>[Signature]</i>
11	CAPT S. CHOPRA	CSLA 9820016215	<i>[Signature]</i>
12	Nonman Fernando	CSLA 98212 10196	<i>[Signature]</i>
13	Vatsalya Saxena	DDG (FEA) / e-gov www	<i>[Signature]</i>
14	Shrawan Agarwal	MRAI 9820401441	<i>[Signature]</i>
15	Susan Jadhav	MRAI 9967899777	<i>[Signature]</i>
16	Support staff		
17	SUMIT KUMAR	PA to DDG (FEA)	<i>[Signature]</i>
18	MANGESH JADHAV	DEO	<i>[Signature]</i>
19	W. S. Solanki.	Joint MTS	<i>[Signature]</i>
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Minutes of the Meeting-22nd March 2016

The Committee resumed its meeting at 11.00 am and carried out some minor corrections in the minutes of meetings held on 14th & 15th March 2016.

Mr Sudhir Aggarwal presented a write up about the philosophy behind the setting up of ICDs. The extract is reproduced here for the sake of context:

"ROLE OF INLAND CONTAINER DEPOTS

It was not viable for many industries, processors, importers including "Micro, Tiny, Small Scale industries" such as handicraft manufacturers, cottage industries to procure imported raw materials by importing them for sea ports thousands of kilometres away due to time, money and logistical constraints that our country may possess.

In the mid 1980 the ICD's were initiated based on overseas models of intermodal transport. The objectives for a nation such as ours was:-

- (i) Provide Access to international trade in all the neighborhoods all around the country and not just main sea ports, so that industries could develop on their own, in all the states.*
- (ii) Benefit of subsidized rail freight be available to the smallest importers and exporters manufacturers, processors, including "Micro, Tiny & Small Scale Industries" such as handicraft manufacturers, cottage and for the Industrial Development of States.*
- (iii) Save packing and repacking costs.*
- (iv) Prevent pilferages.*
- (v) De-congest Sea Ports.*
- (vi) Reduce carbon imprint. "*

In the context of the above, he submitted the following instances of comparative container clearing cost at Mundra and ICD Dadri/TKD:

Due to excessive freight both ways (of approximately US\$ 60 PMT one way or approximately 4-5% of most base metal value and 15-18% of steel value) many industries have lost competitive edge over local and export markets and many have been decimated from the horizon.

Please find the chart of cost comparisons w.r.t. to Truck freight cost. When the rail freight was expected to be cheaper, especially on long distances, it is actually coming out to be higher from 18% to 97% more and that is on one way cost.

CONTAINER CLEARING COST AT MUNDRA FOR NON-HAZ CARGO + TRUCK FREIGHT

<u>Sl. No.</u>	<u>Container Size</u>	<u>Stevedoring Charges</u>	<u>CFS Charges</u>	<u>Truck Freight</u>	<u>Total Cost</u>
A	B	C	D	E	F = C+D+E
1	20'	6365.00	5000.00	55000.00	66365.00
2	40'	9547.50	5000.00	55000.00	69547.50

20 FEET CONTAINER FROM MUNDRA TO ICD DADRI/LONI/TKD + LOCAL TURCK FREIGHT

<u>Sl. No.</u>	<u>Shipping Line</u>	<u>Deblt Note</u>	<u>Local Truck Freight</u>	<u>Total Cost</u>	<u>Excessive cost</u>	<u>Percentage with Excessive cost</u>
G	H	I	J	K = I+J	L = K-F(1)	M=L*100/F(1)
1	MSC	72150.00	8000.00	80150.00	13785.00	20.77
2	EVERGREEN	85950.00	8000.00	93950.00	27585.00	41.57
3	OCEAN AXIS	95108.00	8000.00	103108.00	36743.00	55.37
4	HAMBURGSUD	72753.00	8000.00	80753.00	14388.00	21.68
5	SUPER CONT	86950.00	8000.00	94950.00	28585.00	43.07
6	TRANSWORLD	92600.00	8000.00	100600.00	34235.00	51.59
7	TRANSASIA	79800.00	8000.00	87800.00	21435.00	32.30
8	TRANSLINER	86381.00	8000.00	94381.00	28016.00	42.22
9	PIL	73829.00	8000.00	81829.00	15464.00	23.30
10	HYUNDAI	96620.00	8000.00	104620.00	38255.00	57.64

40 FEET CONTAINER FROM MUNDRA TO ICD DADRI/LONI/TKD + LOCAL TURCK FREIGHT

<u>Sl. No.</u>	<u>Shipping Line</u>	<u>Deblt Note</u>	<u>Local Truck Freight</u>	<u>Total Cost</u>	<u>Excessive cost</u>	<u>Percentage with Excessive cost</u>
N	O	P	Q	R = P+Q	S = R-F(2)	T=S*100/F(2)
1	YANG MING	114325.00	10000.00	124325.00	54777.50	78.76
2	MAERSK	126850.00	10000.00	136850.00	67302.50	96.77
3	UASC	115087.00	10000.00	125087.00	55539.50	79.86
4	BAY LINES	108050.00	10000.00	118050.00	48502.50	69.74
5	EMIRATES	112261.00	10000.00	122261.00	52713.50	75.79
6	MAERSK	105400.00	10000.00	115400.00	45852.50	65.93
7	UASC	100341.00	10000.00	110341.00	40793.50	58.66
8	CMA CGM	102250.00	10000.00	112250.00	42702.50	61.40

* Truck freight calculated at INR 2200.00 / MT from MIDC to NCR factory

** Stevedoring charges as per Mundra International Container Terminal Tariff Booklet (Section 3.2, Page No. 5)

dollar Exchange rate is \$ 1.00 = INR 67.00

Thereafter, the pending issues were taken up for discussion which are as under:

1. **Washing/Cleaning charges (item 7 of minutes dated 21/12/2015)**

Mr. Sudhir Aggarwal, Mr. Mannan goenka, Mr, Javed, Mr. Kishore Prurohit, Mr. Roy and Mr Sanjay Mehta submitted that:

- a) When scrap is imported the shipping line is aware of the nature of the material being shipped and washing/cleaning charges are charged upfront as part of the freight contract. Therefore, since these charges have already been paid, any subsequent charge in the garb of washing/cleaning at the time of returning the empty container is only duplication and is not admissible.
- b) The charges are slapped across the board even when the containers are returned cleaned and irrespective of any commodity whether it is prime brand new material or scrap form.
- c) The charges are excessive in nature. While average washing/cleaning charges range from Rs. 50 to Rs. 300 for a 20' container and Rs. 100 to Rs 450 for a 40' container, as per the data submitted, shipping lines/NVOCC are charging at a price higher by 773% to 1614%.

To the above Capt Tewari submitted that metal scrap is known to be dirty cargo which dirties the container at loading point, during passage at sea and during destuffing of cargo using forklifts and other methods which drop oil and leave tyre mark on the floor and sides of the container. Shipping lines when utilizing the box for export are required to clean all the dirt, debris, tyre marks from the container using various methods so that such container is fit for export cargo.

Mr. Mannan Goenka placed on record the rate list of two maintenance yards engaged by the shipping lines. These are Anchor Yard and Will Marine container Services Pvt Ltd. The cleaning charges are tabulated below:

WASHING CHARGES CALCULATION FOR 20' CONTAINER

S. No.	Shipping Line	Washing Charge Charged	Actual Average Cost ***	Mark-up	Percentage Mark-up
1	MITSUMI O.S.K. LINES (P) LTD.	1500	188	1312.00	697.87%
2	MSC AGENCY (INDIA) (P) LTD.	1550	188	1362.00	724.47%

3	CMA CGM AGENCY (INDIA)	1200	188	1012.00	538.30%
4	UASC	4000	188	3812.00	2027.66%
5	CARAVEL LINES	1500	188	1312.00	697.87%

***** Actual Average Cost**

Yard	Size	Charges	Average	Actual Average Cost
Will Marine Yard	20'	50-300	175	188
Anchor Yard		50-350	200	
Will Marine Yard	40'	100-450	275	294
Anchor Yard		100-525	313	

WASHING CHARGES CALCULATION FOR 40' CONTAINER

S. No.	Shipping Line	Washing Charge Charged	Actual Average Cost ***	Mark-up	Percentage Mark-up
1	MITSUBI O.S.K. LINES (P) LTD.	3000	294	2706.00	920.41%
2	MSC AGENCY (INDIA) (P) LTD.	3100	294	2806.00	954.42%
3	RCL	1800	294	1506.00	512.24%
4	CARAVEL LINES	3000	294	2706	920.41
5	CMA CGM AGENCY (INDIA)	2400	294	2106.00	716.33%

On the basis of above table, Mr. Mannan Goenka submitted:

- a) That the washing/cleaning charges if at all to be applied, should be applied post the return of the container.
- b) That only reasonable mark up should be put on the average base price.

Mr. Roy submitted that international trade is governed by incoterms and current incoterm is Incoterms 2015. Incoterms is formulated by international chamber of commerce. Rules of incoterms are accepted by all Governments, legal authorities and Customs all over the world.

As per incoterms 2015 only 3 charges are related to shipper/importer on the one side and shipping company on the other side. Charges are :

- 1) Origin THC
- 2) Destination THC
- 3) Freight

Shipping companies are entitled to charge above charges and nothing else. Details are per his submission wherein he has attached copies of current incoterms and explanatory note on Incoterms. He also submitted two invoices of MSC Agencies India Pvt Ltd wherein they have mentioned Repair Facilitation charges of Rs. 2500/- per container and also charged Repair charges of Rs. 11083.60. Invoice numbers are MSC-5329-IP534R-INHZA-MSCUEZ748160 dated 19.08.2015 and MSC-5329-IP534R-INHZA-MSCUEZ748160 dated 14/09/2015 pertaining to B/L no. MSCUEZ748160.

Capt Tewari submitted on the above issue that he will examine submission made by Mr. Roy and give his input in the next meeting. Mr. Tewari also submitted that the interpretation of incoterms 2015 by Mr. D.K. Roy is not correct and he will give his written submissions to support their case.

2. Container Repositioning charges (point no. viii of minutes of meeting dt 21.12.2015)

Mr. Sanjay Mehta, Mr. Sudhir Agarwal, Mr. Bharat Malik, Mr. Ehsan Ghadawala, Mr. D.K. Roy, Mr. Kishore Purohit & Mr. Javed Mahmood submitted that these charges should not be levied at all.

But if at all they are levied then they should be collected from the shipper if shipment is on CIF basis/CNF basis.

The committee was unanimous that before empty container repositioning charges are to be levied, consent of the importer should be taken before the contract is signed/undertaken, which will take care of such a grievance and the importer would be free to take informed decision regarding his liability of such charges, if any at the destination.

Mr. Ehsan Ghadawala submitted that shipping lines from Middle East countries operate on the basis of negative freight charges which effectively means that they incentivize

the shipper to get business from them and then they recover the freight and profit margin from the importer locally under the garb of various charges imposed arbitrarily. Mr. Javed Mahmood offered to substantiate this allegation with documentary evidence in the next meeting.

3. Container Damages charges (point no. xi of minutes of meeting dt 21.12.2015)

As per Mr. Sanjay Mehta's submission, shipping lines should provide EIR (Equipment interchange report) along with the Bill of Lading to the exporter and in turn this document will come to importer and if the containers are already damaged at the port of loading, then importers not liable for such charges. Importers are unnecessarily suffering due to container damages charges as containers are predamaged at the port of loading while supplying the containers to the shipper or containers given to the origin port.

Mr. Sudhir Aggarwal submitted, that there are 2 types of deliveries, i.e. one is factory destuffing and the other Port destuffing. Port destuffing is done by shipping Line's custodian or its agents and if there is any damage to the container it should not be charged to the importer. However, if the container is destuffed at the factory and if there is any damage then the shipping line's claim for levying damage charges should be supported by photographs at the port of loading evidencing that the container was not damaged prior to loading. At the time of examination by the customs, Mr. Sudhir Aggarwal want the pictures of the container from inside & outside.

Mr. D.K. Roy submitted that damage of containers should be categorized into two parts. (1) Port/CFS/ICD delivery (2) Factory destuffing. In case of CFS destuffing, container remains with the shipping Line or their nominated CFS and therefore, importer is not responsible for any damage to the container. As far as second point is concerned, importer should be asked to provide Insurance Policy issued in favour of lines which was in practice earlier, so that risks of both are covered.

Mr. Mannan Goenka submitted that in case of factory destuffing the Line has already collected the security in terms of cash deposit and indemnity bond for full value of the container. Now if the importer is returning the container which appears to be a minor damage, then the Line must facilitate offloading the container without any preconditions to save extra detention cost and truck detention cost.

He also submitted that there should be an objective mechanism in terms of an independent surveyor to assess the extent of damage and the cost involved in such an instance.

Capt Tewari will give his written submission on the above issue in the next meeting.

4. **High Sea charges** (point no. xiii of minutes of meeting dt. 21.12.2015)

Mr. Sanjay Mehta, Mr. Sudhir Agarwal, Mr. Bharat Malik, Mr. D.K. Roy, Mr. Kishore Purohit & Mr. Javed Mahmood submitted that these charges are not at all leviable as shipping lines are not rendering any services. All the work regarding the customs clearance, etc. is being done by the Importer only and therefore, it cannot be said that shipping line renders any specific service when high seas sale is effected.

Capt Tewari will give his written submission on the above issue in the next meeting.

5. **Absurd Charges** (point no. xiv of minutes of meeting dt. 21.12.2015)

Mr. Bharat Malik submitted an example with the copy of Imports debit note of Hyndal Merchant Marine India Pvt.Ltd, a member of CSLA, charged an amount of Rs. 81228/- and Rs. 40614/- towards the B/L nos HDMU BUIN4570411 and 412 as Port pendency charges. However, when he dropped an email and demanded copy of circular/notification issued by port in this regard, the Line did not have any answer and on second day, they reversed this amount in full.

Mr. Mannan Goenka submitted the list of absurd/arbitrary charges charged by shipping line/NVOCC, which are as under:

Winter season Surcharges

Survey charges

Lo Lo charges

Cost recovery charges

Vessel traffic surcharge

Container Monitoring charges

Hepag Lyod's detention invoice release charges

Late DO charges

Further Mr. Mannan Goenka also submitted that as per the letter of authority of NISA absurd/arbitrary charges listed out by NISA in its representation dated 12/3/2016 (Letter is being circulated).

CFS Receiving charges
Supply chain security fee
CBL pass through charges
Warehouse special charges
Transporters union charges
Urgent examination expenses
ENS charges

Mr. Amar Singh from MRAI gave the list of following absurd/arbitrary charges charged by shipping Line / NVOCC.

Line number charges
Seal fee
Import fuel and energy surcharge
Custom examination charges
Congestion charges
Seal verification charges
Port handling charges
Import housekeeping charges
Import scanning charges
Administrative charges
Import survey charges
Late DO release charges
BL print charges at destination
DO revalidation charges

Mr. Javed Mahmood also gave the list of following absurd/arbitrary charges charged by shipping Line / NVOCC.

Terminal assistance & facilitation charges

CFS transportation charges

CFS Release fees

Mr. Sudhir Aggarwal made a detailed submission highlighting the plight of the importers and exporters due to excessive freight charged by shipping lines/NVOCC. The list was circulated to all members.

6. With the above, the primary deliberation on the grievance petition filed by IICA as per their letter dated 4th Jan 2016 and the Minutes of meeting held on 21/12/2015 is over. Now the committee shall take up the reasonableness of expenses in the next meeting.

Thereafter, the committee took up letter no MCBA/PMO/2014 dated 19/07/2014 addressed to the Prime Minister of India and forwarded to the committee by MOS as per its letter dated SD-11018/4/2015-MD-part dated 24/2/2016.

7. It was brought to the notice of the committee that the above complaint has listed out 7 points alleging huge loss of revenue, huge transaction cost for importers due to nexus between Lines and CFS, etc. It is seen that only Item no. 4 which is "huge transaction cost to importers due to nexus between lines and CFS" falls in the purview of this committee. Therefore the committee unanimously decided to restrict itself to the said item and specific charges relating to the issues. These specific charges are listed as below:

- a) Container detention charges & CFS Ground rent
- b) Container internal damage charges
- c) Empty yard offloading charges
- d) Destuffed delivery charges

Out of the above, the committee has already deliberated on the issue of:

- 1) Container detention charges
- 2) Container internal damage charges

The remaining issues of Ground rent and empty yard offloading in the next meeting scheduled on 7th April 2016 at 11.00 am.

8. Thereafter, the committee discussed the submissions made by MRAI as per their letter dated 12/3/2016 filed in the last meeting on 14/3/2016:
- i) Nomination charges

Mr. Amar Singh and Mr. Javed Mahmood of MRAI submitted as per Facility Notice no.69/2011 of Jawahar Customs, the importers was given an option to nominate CFS of his choice by intimating to the shipping line atleast 72 hours notice prior to the arrival of vessel. For such a thing, except MAERSK Line or other shipping lines are regularly levying nomination charges ranging from Rs. 4000 to Rs. 7000 per container. It was submitted that these charges are not applicable as they are violative of the spirit behind the above facility notice.

Capt Tewari will give his written submission on the above issue.

ii) **Container movement charges**

Mr. Amar Singh & Mr, Javed Mahmood submitted that there are 32 CFS under Nhava Sheva customs and all these CFS are within the range of 5 to 15 Kilometers from the Port. But the container movement charges levied by the shipping lines are Rs. 8000 to 12000 per container. These are arbitrary and unreasonable.

Capt Tewari will give his written submission on the above issue.

The committee decided to meet again at 11.00 am on 7th April 2016. The meeting ended with vote of thanks to the Chair.



File No.: _____

Subject : _____

DIRECTORATE GENERAL OF SHIPPING, MUMBAI
[MTO Branch]

File. No. MTO-2(1)/2015

Dated: 22.03.2016

Subject: Transparency in transaction cost - reg.

Attendance List

Sr. NO.	Name	Organization with Contact Number	Signature
1	SUDHIN AGUAWAL	IICA DELHI	<i>Sudhin</i>
2	BHARAT MALIK	IICA DELHI	<i>Bharat</i>
3	Manan Goud 9811086477	IICA	<i>Manan</i>
4	Dr Kishore Purohit 9825049859	MRAI	<i>Kishore</i>
5	Amar Singh	MRAI-Secretary General 9004341455	<i>Amar Singh</i>
6	Javed Mahmood	MRAI- 9820523838	<i>Javed</i>
7	Sanjay Mehta	CI 1 9820101644	<i>Sanjay</i>
8	D.K. Roy	MCBA	<i>D.K. Roy</i>
9	J.K. Belamkar	MCBA	<i>Belamkar</i>
10	Norman Fernandez	CSLA	<i>Norman</i>
11	Hisho Mohan	CSWA	<i>Hisho</i>
12	A.K. Tiwari	CSLA	<i>A.K. Tiwari</i>
13	MATHEW KM	MRAI	<i>Mathew</i>
14	Eusebi H. Cradawel	MRAI	<i>Eusebi</i>
15	Vatsalya Saxena	DDG(PA)	<i>Vatsalya</i> 22/3/16
16			
17	Support Staff		
18	SUMIT KUMAR	PA to DDG (V.S) DGS	<i>Sumit</i>
19	Mangesh Jadhav	DEO	<i>Mangesh</i>
20	G.W. Solan Li.	MPS	<i>G.W. Solan</i>

Minutes of Meeting held on 7.4.2016

The committee met at 11:00 am on 07/04/2016 at the office of the DG Shipping, Mumbai.

1. Capt. Tiwari made detailed submission as per his letter dated 06.04.2016. The submission covered the following points:
 - A) Washing/Cleaning Charges
 - B) INCOTERMS
 - C) Repair Facilitation Charges
 - D) Container Damages Charges
 - E) High Sea Charges
 - F) The Container movement charges
 - G) The Nomination Charges
2. The committee took up the two items of Mr D K Roy's representation from the last meeting which are as under:
 - a. Empty yard offloading charges – Mr. D.K. Roy submitted that In the port cities Shipping Lines direct the Importers to return the empty container to their designated empty yard and the yard levies offloading charges In the range of Rs.500/- to Rs. 1000/-.

The committee was unanimous that such charges should not be levied at all.
 - b. Destuffed delivery charges – Mr. D.K.Roy submitted that in a CYCFS transport contract there should not be any charges for returning the empty container to the Shipping Lines after destuffing at CFS.

The committee was unanimous that such charges should not be levied at all.
3. The committee discussed the points raised by Shri Manan Goenka as per his letter dated 01.03.2016 and the discussion is as under:
 - A (i) sanctity of the bill of lading. Unanimously accepted
 - (ii) Not accepted by CSLA
 - (iii) DO Timing and offices: Unanimously accepted. The shipping Lines should accept documents up to 5.00 PM/6.45 PM.
 - (iv) Delivery of order processing time: Unanimously accepted
 - (v) Container not accepted by yard – Captain will give his inputs

(vi) Refund of extra days paid : Unanimously accepted

(vii) Empty return hours : Agreed in principle. Day should mean 8 am to 8am for the empty return.

(viii) Reimbursement of security: Unanimously accepted on electronic refund within 3 /4 days of empty return. Penalties if charge pertaining to refund of security is aberration.

(ix) NOC fee by forwarders: Unanimously accepted

(x) Not accepted by the chair.

B) Registration a Must : Unanimously accepted

C) Grievance officer appointed by : Unanimously accepted

D) Fines penalties and cost reimbursement: this will need an appointment of a shipping regulator. Shall we discuss further.

4. The committee was unanimous that all stakeholders/ service providers such as Shipping Lines, Forwarding Agents, NVOCC, and consolidators should be registered with the Govt authority so that there is complete transparency.

5. The committee members except Capt Tewari recommended by majority that a Regulator should be appointed by the Govt/ MoS to ensure that fair business practices are followed by various service providers. Capt Tewari was of the view that there is no need to have a Regulator and it should be left to market forces to discover the best price for various services being rendered. On this, Mr Suri, the president of NISA, submitted that there is no free market in the Shipping Industry and the majority of the business of small, medium and cottage industry exporters is being done on nomination basis by the buyer/ buying houses. He also submitted that for the exporters the transaction cost at present is one of the highest in the world.

6. The committee took up the issue of admissibility and reasonableness. The discussion is as under:

a) Capt. Tiwari chose not to comment on the reasonableness of charges. On the issue of admissibility he has already given his written submission.

b) Inland haulage charges: Capt Tewari in the first meeting held on 23rd Feb 2016 had agreed that Importers should be allowed to pay rail freight directly to CONCOR / rail operator. The modalities may be worked out in this regard.

As regards the reasonableness of the charges, Capt Tewari chose not to comment.

The committee was unanimous that inland Haulage Charges are admissible.

Mr Manan Goenka relied on the submission given on 22nd March 2016 containing the details of freight charges for 20 ft and 40 ft containers from Mundra port to ICD Dadri/Loni/TKD.

The data table shows that Shipping Lines are charging a markup of 69% to 134% over the basic freight charged by CONCOR. Considering the above position, the prices charged by shipping lines are unreasonable. However, in the absence of the quantum of reasonable charges, prima facie, it can be said that 9 out of 12 parties in the said list are charging much higher than the prices charged by the three lowest parties (69%, 74% and 76% markup over Concor). Therefore, the committee unanimously concluded that at least in 75% of the cases, the price charged was unreasonable.

- a) CDC- The committee was unanimous that CDCs are admissible.

The committee was unanimous that even if there are extra negotiated free days, the first slab should be applied only from the first chargeable day which starts after the expiry of free days, whether standard free days or negotiated free days.

The committee members drew attention to the submissions dtd 1.3.2016 of Capt Tewari which gave the indicative rates of CDC. As per these rates, the penal charges from 6th to 12th days are USD 22 per day, from 13th to 22nd day- 45 USD, and from 23rd day onwards – 68 USD per day. It was submitted that while the book value of a 7 year old container is approximately USD 800, any detention above 30 days, pushes the CDC above the book value of USD 800. This makes the whole CDC excessive and unreasonable. The committee recommended a flat penal charge of USD 5 after the free days for a 20 ft container and USD 10 for a 40 ft container.

Mr Sudhir Aggarwal further submitted that CDC should be applied only for the period of working days.

- b) Change of Destination: The charges are admissible.

The committee was unanimous that the charges should be restricted to only the BL reissuance fee in case the line is notified well in advance (prior to filling of IGM) and there is no change in discharge port.

- c) THC at destination- the charges are admissible. However, the committee was unanimous that if the charges are paid through the shipping lines, then there is a variation of 50% to 300% over the THC charged by the ICD. The committee recommended that the Importers should be allowed to pay the destination THC directly to the ICD. It was also submitted that such a practice is being followed by a few shipping lines.

- d) DO Charges – The committee was unanimous that these charges are not admissible as there is no element of service involved.

- e) Washing Charges/ Cleaning charges- charges are admissible.

The committee was unanimous that these should be applied on case to case basis, and not as a matter of routine, and only post the return of the container. The committee relied on the rates quoted by a few vendors for a 20 ft container. The rates vary from Rs 50 to 350 per container per wash. It was submitted that Shipping Lines are charging from Rs 2000 to 4000 per container per wash. The committee was unanimous that the rates charged are unreasonable and the amount should be restricted to only the reimbursement of charges with a markup of 10%.

- f) Empty Repo Charges- the committee was unanimous that such charges should not be levied. However, if at all they need to be levied then consent of the Shipper must be obtained prior to loading of the cargo.
- g) High Sea Sale Charges -- charges not admissible.
- h) Absurd charges/ duplicate charges- the committee was unanimous that the following charges are prima facie absurd :
 1. Winter season Surcharges
 2. Survey charges -- already included in THC, so duplicate charge
 3. Lo Lo charges - already included in THC, so duplicate charge
 4. Cost recovery charges
 5. Vessel traffic surcharge
 6. Container Monitoring charges
 7. Hepag Lyod's detention invoice release charges
 8. Late DO charges
 9. CFS Receiving charges
 10. Supply chain security fee
 11. CBL pass through charges
 12. Warehouse special charges
 13. Transporters union charges
 14. Urgent examination expenses
 15. ENS charges- should be applied in whichever country it is applicable
 16. Late DO release charges
 17. BL print charges at destination

18. DO revalidation charges

- 1) Nomination Charge – The committee was unanimous that these charges are not admissible at all as Maersk, a major Shipping Line does not charge anything for nomination.

7. The meeting concluded with thanks to the chair.



File No.: _____

Subject : _____

DIRECTORATE GENERAL OF SHIPPING, MUMBAI

[MTO Branch]

F. No. MTO-2(1)/2015

Dated: 07.04.2016

Subject: Transparency in Transaction Cost - reg.

Attendance List

Sr. NO.	Name	Organization with Contact Number	Signature
1	D. K. Poy	MCBA	
2	J. K. Belancher	MCBA	
3	HSHO HOU	CSA	
4	CAPT CHOPRA	CSLA	
5	S. K. Tewari.	CSLA	
6	Norman Fernandez	CSLA	
7	Josy Joba	CSLA (with Captain) Mumbai	
8	Javed. Mahmood	MRAT	
9	Dr. Kishore Parohit	MRAT.	
10	Rohit Shah. V.P.	MRAT-	
11	SUDHIR AGRAWAL	IICA DELHI	
12	MANJAN GOENKA	IICA Delhi.	
13	Vatsalya Saxena	DDG Shipping	
14	P. N. Suri	NISA President	
15	Kaushik Kharade	MRAT	
16	Mannul Kijthar Support Staff	MTO, Dns	
17	M. R. Ponnikar	(MTO) Dns	
18	Support Staff	J. R. Jagtap	
19	Mangesh Jadhav	DEO	
20	J. R. Jagtap		