

Report of the Committee on transparency in transaction cost

1. The Ministry of Shipping vide its order No. SD-11018/4/2015-MD dated 05.02.2016 constituted a committee comprising the representatives of various stakeholders to identify and examine grievances arisen during the calendar year 2015 on the Transparency in Transaction cost (Annexure I)

Subsequently, the Director General of Shipping passed order No. F. No. MTO-2(1)/2015 dated 12.02.2016 giving effect to the MoS order. (Annexure IA)

2. The Committee held the meetings on 23.02.16, 14.03.16, 15.03.16, 22.03.16 & 07.04.16. The lists of members present during these meetings and the minutes are enclosed as Annexure – II

3. The Committee initially considered the issues raised in the meeting held on 21.12.15 in the Ministry of Shipping, GOI, which was followed up by representation of Inland Importers Consumers Association (IICA) dated 04.01.16.(Annexure III). Subsequently, the MoS forwarded another complaint vide its letter No. SD-11018/4/2015-MD-Part dated 24.02.16 (Annexure IIIA) by Shri D.K. Roy, President, Mumbaizone Customs Brokers Association addressed to the Prime Minister of India. Accordingly, Shri D.K. Roy was also co-opted as a Member of the Committee on 14.03.16.

4. The issues discussed by the Committee and the outcome is as follows:

4.1 Inland haulage charges (IHC):

4.1.1 Definition: IHC means the transportation charges from inland container freight station to sea port of loading or vice versa. If Cargo freight station is away from sea port of loading, the shipper completes customs formalities at such container freight station and arranges to move cargo to port of loading either by rail or road. Normally, most of cargo in such locations is moved by rail. If moved by rail, the charges of moving goods from such location to port of loading or movement charges from port to inland freight station is known as Inland Haulage Charges. Inland haulage charges vary from ICD to ICD, as the distance from Port to ICD varies from one Inland Container Freight Station to

another. Inland Haulage Charges is collected by a shipping line when releasing bill of lading for export shipments, and when issuing a delivery order in case of import. (See also THC Terminal Handling Charges)

Source:

<http://www.globalnegotiator.com/international-trade/dictionary/ihc-inland-haulage-charges/>

4.1.2 The importers' grievance was that these charges were quite high and in some instances were even arbitrary in nature. Copies of few bills were also submitted. The importers also complained that shipping lines were not giving effect to the MoF CBEC Notification 26/2012 as amended from time to time which stipulates that service tax is to be paid by the importer only on 30% of the rail freight component.

4.1.3 Capt. Tiwari, President, CSLA, submitted illustrative detail of mark up charged by one CSLA member which showed that it charged a markup of 34% over and above the rate charged by the Rail Operator (CONCOR) for transporting the container from Mundra to TKD. The Importers submitted the representative samples of rates charged by various shipping Lines which showed that shipping lines were charging a mark up ranging from 69% to 134% on the basic transportation cost charged by the CONCOR.

4.1.4 On the issue of the reasonableness of the IHC, Capt. Tiwari chose not to comment. However, as already mentioned above, the importers, to highlight their claim of charges being arbitrary and unreasonable, brought material on record showing that shipping lines are charging mark up of 69% to 134% over the basic freight charged by the CONCOR.

4.1.5 Data available in the public domain was also searched and the same is tabulated as under:

IHC COMPARISON
Weight Slab 26MT to 30MT

20 FEET CONTAINER FROM MUNDRA TO ICD DADRI FOR NON-HAZ CARGO

<u>Sl. No.</u>	<u>Concor Freight</u>	<u>Shipping Line</u>	<u>-</u>	<u>Mark up</u>	<u>Percentage with CONCOR</u>
A	B	D	E	F = (E-B)	G = (Fx100/B)
1	38500.00	MAERSK	65570.00	27070.00	70
2	38500.00	EVERGREEN	59513.00	21013.00	55
3	38500.00	CMA CGM	57000.00	18500.00	48

4	38500.00	MAERSK	51538.00	13038.00	34
5	38500.00	EMIRATES	63335.00	24835.00	65

20 FEET CONTAINER FROM MUNDRA TO ICD TKD FOR NON-HAZ CARGO

Sl. No.	Concor Freight	Shipping Line	-	Mark up	Percentage with CONCOR
A	B	D	E	F = (E-B)	G = (Fx100/B)
1	45500.00	MAERSK	85020.00	39520.00	87
2	45500.00	EVERGREEN	70441.00	24941.00	55
3	45500.00	CMA CGM	66500.00	21000.00	46
4	45500.00	MAERSK	59588.00	14088.00	31
5	45500.00	EMIRATES	72825.00	27325.00	60

40 FEET CONTAINER FROM MUNDRA TO ICD DADRI FOR NON-HAZ CARGO

Sl. No.	Concor Freight	Shipping Line	Debit Note	Mark up	Percentage with CONCOR
A	B	D	E	F = (E-B)	G = (Fx100/B)
1	48500.00	MAERSK	95290.00	46790.00	96
2	48500.00	EVERGREEN	77092.00	28592.00	59
3	48500.00	CMA CGM	77000.00	28500.00	59
4	48500.00	MAERSK	98491.00	49991.00	103
5	48500.00	EMIRATES	79255.00	30755.00	63

40 FEET CONTAINER FROM MUNDRA TO ICD TKD FOR NON-HAZ CARGO

Sl. No.	Concor Freight	Shipping Line	Debit Note	Mark up	Percentage with CONCOR
A	B	D	E	F = (E-B)	G = (Fx100/B)
1	55000.00	MAERSK	106700.00	51700.00	94
2	55000.00	EVERGREEN	88279.00	33279.00	61
3	55000.00	CMA CGM	86000.00	31000.00	56
4	55000.00	MAERSK	107331.00	52331.00	95
5	55000.00	EMIRATES	88171.00	33171.00	60

Reference:

Concor Tariffs: - <http://www.concorindia.com/InterCharges.aspx>

Maersk Tariffs: - <http://www.maerskline.com/ar-qa/countries/in/world%20factbook/import/Import/Import-Inland-haulage>

Evergreen Tariffs: - www.shipmentlink.com/in/timp/form/Import_DIH.pdf

Mitsui OSK Tariffs: - <http://cms.molpower.com/LinkClick.aspx?fileticket=f0vMoZOWo%3d&portalid=0>

Tariffs of CMA & Emirates were obtained through email

From the above details, it may be seen that Shipping Lines are charging a markup ranging from 31% to 103% over the rate charged by CONCOR. The itemwise variation is highlighted as below:

S No	Description	Lowest markup in %age	Highest markup in %age	Difference between the lowest markup and the highest markup
1	20ft, Mundra to ICD Dadri	34	70	36
2	40 ft Mundra to ICD Dadri	59	103	44
3	20 ft Mundra to ICD TKD	31	87	56
4	40 ft Mundra to ICD TKD	60	95	35

Thus, there is huge variation in the markup charged by various shipping lines. It was explained during the course of meetings that there was no justification for the markup over and above the base price charged by CONCOR as the CONCOR price takes care of the incidental expenses related to the movement of the container from the port to the rail head. Considering the huge difference in the lowest and the highest markup charged, as is evident from the data available in public domain, it may be inferred that there is some element of unreasonableness and arbitrariness.

4.1.6 The Committee unanimously recommended that the shipping lines should allow the importers to make the payments of the railway haulage charges directly to the CONCOR/ train operators so that the hardship caused by the charging of extra service charge, freight and services tax etc may be mitigated, as in case of exporters. Further, suitable mechanism/modalities may be evolved by GOI/MoS to facilitate the documentation/IGM filing appropriately, thus, enabling Importers to pay Inland haulage charges directly to train operators as in case of Exporters.

4.2 Container Detention Charges (CDC) :

4.2.1 Definition: The period in which carrier's container is on hold by the shipper/consignee. It is counted from the day of laden pick-up to the day of empty return (both days inclusive). These charges are applicable for shipments wherein customers have exceeded the standard free time applicable both in the import & export cycles.

Source:

http://www.molhk.com/files/uploads/file/detention_demurrage/FT_detention_%20demurrage_%28SZ%29.pdf

<https://www.cma-cgm.com/ebusiness/tariffs/demurrage-detention>

<https://www.cma-cgm.com/static/DemDet/Attachments/Conditions%20Generales%20DD.pdf>

<http://shippingandfreightresource.com/difference-between-demurrage-and-detention/>

4.2.2 The importers' grievance was that CDCs were quite high and the slab rate applied for charging the CDC starts from intermediate slab after the expiry of free day period as mentioned in the Bill of Lading and not from the first slab chargeable. As an illustration it was submitted 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.

4.2.3 Capt. Tewari admitted that the CDCs were high being 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.

4.2.4 On the issue of the reasonableness of the CDCs, Capt. Tiwari chose not to comment. However, the other 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 the 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 members other than Capt Tewari recommended by majority that a flat penal charge of USD 5 per day after the free days for a 20 ft container and USD 10 per day for a 40 ft container.

4.2.5 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.

4.3 Change of Destination (CoD) :

4.3.1 Definition: This is a service provided by carrier upon the customer's request to amend the destination/delivery after a container is gated in at the port of origin, but prior to the arrival at the port of discharge.

Source:

https://classic.maerskline.com/link/?page=brochure&path=/our_services/Related%20services/VAS/List/code_C

4.3.2 The importers' grievance was that shipping lines were charging for the change of destination even when no IGM was filed.

4.3.3 In this regard, Capt. Tiwari submitted that only some of the Shipping lines mentioned in the rate of CoD on their website. He also sought to justify that such charge was levied to cover the administrative cost linked to CoD.

4.3.4 The Committee unanimously recommended that –

a) the shipping lines must mention CoD on their website.

b) the CoD charges should be restricted to only the BL issuance fee in case the line is notified well in advance (prior to filing of IGM) and there is no change in discharge port.

4.4. Terminal Handling Charge (THC) :

4.4.1 Definition: THCs are the charges collected by Terminal authorities at each Port for handling equipment in relation to loading and discharging of containers. THC varies from Port

to Port for each country, as the cost of handling at each Port differs from one Port to another and depends on the total cost of Port terminal handling at each location. Normally, Terminal Handling Charges (THC) for Export is collected from Shipper by Carriers while releasing Bill of Lading after completion of Export Customs clearance procedures. The Import Terminal Handling Charges are collected by Carriers at the time of issuing Delivery Order to consignee prior to taking delivery of goods.

Source:

<http://www.zim.com/countrysites/asia/india/en-us/charges/pages/terminal-handling-charges.aspx>

4.4.2 It is noted that there are two opponents of THC charges; the first one is THC charges by the sea port; and the second is terminal handling charges by the individual ICD. If these charges are paid through the shipping lines then there is a variation of 50% to 300% over the THC charged by the ICD/ Port.

The committee unanimously recommended that –

- i) The above charges should be mentioned separately on the invoice.
- ii) the Importers should be allowed to pay the destination THC directly to the ICD in line with the practice followed by a few shipping lines.
- iii) In case of Port, it should be actual and be allowed to pay directly to Port

4.5 Delivery Order Charges-

4.5.1 Definition: (i) In freight-prepaid shipments, written directions from a consignor (or shipper) of a shipment to a carrier or freight forwarder to release the shipment to the named delivery party.

(ii) In freight-collect (free on board) shipments, order by a carrier to the port authorities to release a shipment to the named delivery party on payment of the specified freight charges. Not to be confused with delivery instructions document which pertains to inland transportation.

Source:

<http://www.businessdictionary.com/definition/delivery-order.html#ixzz40Gb4H1fH>

<http://howtoexportimport.com/DO-In-Import-Delivery-Order-In-import-239.aspx>

<http://shippingandfreightresource.com/what-is-a-delivery-order/>

4.5.2 Shri Manan Goenka submitted copy of bill dated 26/2/2004 of Greenways 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.

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

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

4.5.3 It is noted that 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.

4.5.4 The committee members other than Capt Tewari recommended by majority that these charges should not be levied as they are inadmissible due to the absence of a distinct service element.

4.6 Import General Manifest (IGM) -

4.6.1 Definition: Once before arrival of cargo at destination port, the carrier has to file the details of cargo arriving to such port of importing country with the Customs. The filing of such details of cargo is called IGM filing (Import General Manifest filing). The procedures to file IGM (Import General Manifest) are done by the carrier of goods or his agent. Normally IGM is filed on the basis of Bill of Lading or Airway bill, issued by the carrier. The IGM Import General Manifest contains the details about shipper, consignee, number of packages, kind of packages, description of goods, airway bill or bill of lading number and date, flight or vessel details etc.

Source:

<http://howtoexportimport.com/Import-General-Manifest-IGM--112.aspx>

<http://howtoexportimport.com/Difference-between-IGM-and-Gateway-IGM-273.aspx>

<http://customsmangalore.gov.in/igm.htm>

4.6.2 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 a matter of routine. However, Capt Tewari submitted that whenever there is a change in IGM as per the request of the consignee, such charges may be applied.

Shri Roy submitted that in cases of amendment of IGM on the request of the consignee, there should not be any charges as all the work is handled by the importer or its Agent. However, nominal fee may be charged.

Shri 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.

Shri Bharat Malik added that if there are some clerical mistakes 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.

4.6.3 The Committee was unanimous that IGM manifest charges should not be applied.

4.7 Washing charges or cleaning charges:

4.7.1 Definition: The utilized container needs to be thoroughly washed & cleaned before the same can be used for Export stuffing purposes.

Source:

<http://www.maerskline.com/zh-sg/countries/sg/news/local-advisories/2014/01/cleaning-charges>

<https://www.msc.com/mlt/country-guides/India/Import-local-requirements/delhi-1>

<http://www.zim.com/knowledgecenter/surchargecodesanddefinitions/pages/listofchargecodes.aspx>

4.7.2 It was submitted by the Importers 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%.

4.7.3 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.

4.7.4 Shri Manan 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	MITSUI 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	MITSUI 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, Shri Manan Goenka submitted that:

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

4.7.6 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 Rs 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%.

4.8 Empty Repo charges:

4.8.1 Definition: **Empty Repo charges:**-(Contraction for Empty Repositioning). It is the movement of empty container after the destuffing to a place chosen by the Shipping Lines e.g a container picked up from ICD Dadri is required by the Shipping Line to be returned to any other ICD

Source:

<http://www.gaclaser.co.za/index.php/shipping-terms/Glossary-of-Shipping-Terminology-1/E/Empty-Repo-305/>

<https://people.hofstra.edu/geotrans/eng/ch5en/app15en/ch5a3en.html>

4.8.2 S/Shri Sanjay Mehta, Sudhir Agarwal, Bharat Malik, Ehsan Ghadawala, D.K. Roy, Kishore Purohit & Javed Mahmood submitted that these charges should not be levied at all. However, if at all they are levied, then they should be collected from the shipper if shipment is on CIF basis/CNF basis.

4.8.3 Shri Ehsan Ghadawala alleged 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.

4.8.4 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 stuffing of the cargo at loading site. Similarly, consent of the importer should also be taken before the contract is signed/ undertaken. This 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.

4.9 Port Congestion Charge (PCC)

4.9.1 Definition: applied by shipping lines to cover losses caused by congestion and idle time for vessels serving that port. Shipping lines therefore have the right to impose a surcharge on the freight to recover revenue lost. Another factor which influences port congestion surcharge would be labour disputes. Port congestion surcharges are calculated as a percentage of the freight rate.

Source:

<http://www.kkfreight.com/shipping-surcharges.html>
<http://www.globalnegotiator.com/International-trade/dictionary/congestion-surcharge/>
<http://www.livemint.com/Politics/z02g5ZGHPnhlxS8Qa1vr6H/Shipping-companies-to-charge-customers-port-congestion-fee.html>

4.9.2 The Committee was unanimous that such charges should not be levied without any notification by the respective port trust/authority as the issue of Port Congestion can only be decided by the concerned Port Authority. These Incidental charges cannot be imposed on Buyers/Sellers.

4.10 Empty return at different ports:

4.10.1 Definition: Pick-Up/Drop-Off Service (PIO):

a service provided by the carrier to allow the pick-up or drop-off of empty containers at an alternate container depot than the one stated on the Bill of Lading as Place of Receipt / Place of Delivery, where merchant haulage is involved. The service is applied upon request from the customer and when it is operationally feasible for the carrier. Applied per Container

Source:

<http://www.ecargoworld.com/en/need-to-know/transportation-charges>

4.10.2 The Committee unanimously recommended 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.

4.11 Container Damage charges:

4.11.1 Definition: These charges are levied to take care of any damage caused to the container during the period of the contract

Source:

<http://www.asianshippers.org/AscNews-ShippingLinesAccused.asp>
http://www.finnlines.com/freight/customer_support/shipping_terms/gate_term_lcc

4.11.2 Shri 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. He submitted that there are 2 types of deliveries, i.e. factory destuffing and the Port destuffing.

The 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. He also suggested that at the time of examination by the customs the pictures of the container from inside & outside may be taken by the Shipping Lines and provided to the Importer in support of any claim for repairs.

4.11.3 As per Shri 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 should not be made liable for such charges. Importers are unnecessarily suffering due to container damages charges as containers are pre-damaged at the port of loading while supplying the containers to the shipper or containers given to the origin port.

4.11.4 Shri 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 risk of both the parties is covered .

4.11.5 Shri Manan 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.

4.11.6 Capt Tewari made written submission the relevant extract of which is as under:

"Further on the point of Container Damages Charges, since in most cases the export stuffing/packing of the containers done at the Port of Loading are on the basis of "shipper's load stow and count", therefore the liners have no clue on how the cargo is packed in the container in cases of Factory packed boxes. Further it is commercially impractical to take pictures or provide evidences of every container, external, internal, various stages of stuffing, partial, and full stuffing, prior sealing and loading from Port of Loading. Therefore Liners are not responsible for packing/stuffing of the cargo, unless it is a CFS stuffed cargo (whereby the cargo is stuffed by Liners).

Similarly while at Import stage at Port of Destination, while Liners will have visibility of cargo packed, while opening of the Doors, and while discharging the cargo from container at the CFS, the Liners will have no idea on how the cargo is packed, nor while discharging the cargo from container at the Factory warehouse. Liners will also have no visibility, even on the mode of how the cargo is discharged from container. Therefore in such cases, until the Empty container is returned back to the designated empty yard of the liner, and a survey is conducted, liner is unable to ascertain the damages, which may be noted that the most Shipping Lines cover the repair charges to a certain extent.

The importers are free to take the relevant insurance to safeguard their interests and protect their liabilities towards the damages to containers. However, it is submitted that due to the Repair Facilitation Charge which gives an exemption for damages upto INR 25000 which covers majority of the Containers accepted without any additional charges to the importers. The assignment of Insurance is not practical as the primary obligation is on the Consignee who is liable for the damage of the Container and the Liner cannot

be made to run pillar to pillar claiming such damages from the Insurance. Since the introduction of Repair Facility Charges the cash deposits are not collected towards the damages except few commodities which are prone to damage the Containers (due to the inherent vices, nature or corrosive nature of such cargoes). “

4.11.7 It is the considered view of the Chair that –

(i) In Port/ ICD/CFS desuffing the Container Damage Charge should not be levied as these activities are not handled directly by the Importer

(ii) In Factory destuffing, Container Damage Charges should be levied on a case to case basis after ascertaining the actual extent of damage

4.12 Lines not accepting free days:

4.12.1 Definition: This item is not defined anywhere. However, the grievance is that Shipping Lines while charging CDC do not consider free days allowable as per the terms of B/L.

Source:

<http://howtoexportimport.com/Difference-between-Demurrage-and-Detention-in-Impto-132.aspx>

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

4.12.3 The Committee was unanimous that Lines should accept free days for the purpose of charging CDC.

4.13 High Sea charges:

4.13.1 Definition: High Sea sales (HSS) is a sale carried out by the actual consignee (ie, the consignee shown in the Bill of Lading) to another buyer while the goods are yet on high seas or after their dispatch from the port of loading (POL) and before their arrival at the port of discharge (POD).

Source:

<http://shippingandfreightresource.com/what-is-a-high-seas-sale/>

<http://howtoexportimport.com/A-simple-tutorial-on-high-sea-sale-procedures-and--392.aspx>

4.13.2 S/Shri Sanjay Mehta, Sudhir Agarwal, Bharat Malik, D.K. Roy, Kishore Purohit & 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.

4.13.3 Capt Tewari made written submission the relevant extract of which is as under:

“

On the point of High Sea Charges we stipulate that the lines apply High Sea charges on consignments where the importer gets amended post IGM filing. It involves an additional administrative work for the line to amend the consignee and deliver the cargo to High Sea buyer after obtain duly endorsed ORIGINAL bill of lading by seller as well as buyer, High Sea BOND and intimation letter for selling/ purchase from parties. The line also needs to cancel the original invoice and reissue the invoice in favour of High Sea buyer. In some customs house, a proper IGM amendment is required to be carried out in absence of High Sea Sales Agreement is not furnished to shipping line prior to IGM filing. It is submitted that the transfer of title of goods and rights are not transferred until the Bill of Lading is duly endorsed from Seller to Buyer and the Buyer receives such Bill of Lading for submission to the Carrier. This is a vital document which otherwise may lead to disputes and litigations on the wrongful delivery of goods from various parties. “

4.13.4 The committee by way of majority (Capt Tewari dissented) concluded that these charges are not admissible and should not be levied as Shipping Lines do not render any specific service while allowing for High Sea Sales.

4.14 Absurd charges in different headings

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

4.14.2 The committee was unanimous that the following charges are prima facie absurd and should not be levied:

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/similar invoicing charged levied by other shipping lines.
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

4.15 Nomination charges(CFS)

4.15.1 Shri Amar Singh and Shri Javed Mahmood of MRAI submitted as per Facility Notice no.69/2011 of JNPT Customs, the importers are given an option to nominate CFS of their choice by prior intimation of 72 hours to the Shipping Lines before the arrival of vessel. However, , except MAERSK Shipping Line, all 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.

4.15.2 Capt Tewari made written submission the relevant extract of which is as under:

“
The Liners normally have contracted with certain CFS for the safe transport of Containers from port to CFS, handling of the Containers within the CFS, move-EDI status reporting (which is essentially a status of the container for tracking purposes) and delivery of cargo against the Line delivery order to such party stated on delivery order within demurrage validity period. The CFS will be held responsible under such contracted terms. The Nomination Charges are therefore levied for such CFS which is not in the panel of Liners which will then entail the Liners to ensure that the obligation stated above is covered. These charges are therefore costs towards additional administrative, financial and operational duties i.e. monitoring, supervising and handling the Containers.”

4.15.3 The committee by way of majority (Capt Tewari dissented) concluded that these charges are not admissible at all as Maersk, a major Shipping Line does not charge anything for nomination.

4.16 Container movement charges

4.16.1 Shri 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 Rs 12000/- per container. These are arbitrary and unreasonable.

4.16.2 Capt Tewari made written submission the relevant extract of which is as under:

“
These charges are levied for transportation and handling from port to CFS as per the tariffs published by CFS for such movement, monitoring and handling. It is submitted that the CFS has executed a

bond to Customs undertaking safe transportation and handling of the import cargo. CFS are under the direct supervision of the Customs. “

4.16.3 It is the considered view of the Chair that these charges appear to be unreasonable and they should be in the nature of cost reimbursement with a markup of 10%.

4.17 **Empty yard offloading charges** –

4.17.1 Shri 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/-.

4.17.2 The committee was unanimous that such charges should not be levied at all.

4.18 **Destuffed delivery charges** –

4.18.1 Shri 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.

4.18.2 The committee was unanimous that such charges should not be levied at all.

4.19 The committee also unanimously accepted the following suggestions submitted by Shri Manan Goenka as per his letter dated 1.3.201. These are as under:

(i) that the sanctity of the bill of lading as a negotiable document must be supreme and maintained in any case

(ii) DO Timing and offices: The shipping Lines should accept documents up to 5.00 PM/6.45 PM.

(iii) Delivery order processing time: Shipping Lines should try to give DO order electronically within an hour so that the same may be presented to Customs. It is observed that even when NEFT payment is made, Shipping Lines take more than two days to confirm the receipt which results in unnecessary detention charges.

(iv) Container not accepted by yard – The container is not accepted by the yard if the DO expires at midnight hours causing genuine hardship to Importers. It is suggested that the charges for the revalidation of DO may be adjusted against the security deposit lying with the Shipping Lines.

(v) Refund of extra days paid: In anticipation of CDC, Importers make extra payment. However, unadjusted CDC should be refunded.

(vi) Empty return hours: The Day should mean 8 am to 8am for the empty return of containers just as practiced at some Ports.

(vii) Refund of security: Automatic electronic refund of security should be done within 3 /4 days of empty return and no penal charges should be levied for the late claim of refund.

(viii) NOC fee charged by forwarders in case of "House bill of lading" should be limited to Rs 1000/-

B) Registration of VOCC/NVOCC : 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. Govt/MoS should register all VOCC/NVOCC/ Forwarders / Consolidators

C) Grievance officer: Shipping Lines should nominate a grievance officer to attend to consumer complaints and their complete contact details be mentioned on the website on the home page of the website.

5. Final Recommendations:

After careful consideration, the Committee recommends that :

- (i) all stakeholders/ service providers such as Shipping Lines, Forwarding Agents, NVOCC, and consolidators should be registered with the Govt authority (with distinct registration numbers) so that there is complete

- transparency. Govt/MoS should explore the mechanism to register all VOCC/NVOCC/ Forwarders / Consolidators
- (ii) Regulator should be appointed by the Govt to ensure that fair business practices are followed by the service providers.
 - (iii) Shipping Lines should nominate a grievance officer to attend to consumer complaints and their complete contact details be mentioned on the website on the home page of the website.
 - (iv) Shipping Lines should streamline their office procedures for speedy clearance of containers. The following measures may be taken :
 - a) Sanctity of the Bill of Lading as a negotiable instrument must be maintained at all times
 - b) Delivery Orders may be issued electronically
 - c) Documents/ BL may be accepted upto 18:00 hrs as against the present practice of working hours being upto only 15:00 hrs
 - d) In some cities, the container traffic is allowed only between 23:00 hrs and 8:00 hrs. Therefore, for the delivery of the containers, the day may be defined as from 8:00 am to 8:00 am (the next day). This will facilitate in uninterrupted movement of containers resulting in the decongestion of the ICD.
 - e) The extra detention charges if any may be adjusted against the security deposit lying with the Shipping Lines in case DO expires due to change of date e.g if a Container(s) is presented at 00:01 hrs at the designated empty yard.
 - (v) The following Charges were found to be absurd/ unreasonable/ arbitrary and thus not leviable. As a short term measure and immediate take away, MoS may issue necessary directions for the withdrawal of these charges.

S. No.	Nomenclature	Remarks
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 / similar Invoicing charged levied by other shipping lines.	
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

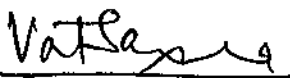
16	Late DO release charges	
17	BL print charges at destination	
18	DO revalidation charges	
19	Import General Manifest(IGM)	
20	Empty Repo Charges	
21	Port Congestion Charges	
22	Empty return at different port	
23	Delivery Order Charges	
24	High Sea Charges	
25	Nomination Charges (CFS)	
26	Empty Yard Offloading Charges	
27	Destuffed Delivery Charges	

vi) The following charges although admissible and leviable require moderation, as indicated in the Remarks column. As a Medium term measure, MoS may issue necessary directions for the moderation of these charges.

S No	Nomenclature	Remarks
1.	Inland Haulage Charges	Importers should be allowed to pay directly to the CONCOR/ Rail Operator
2	Terminal Handling Charges	Importers should be allowed to pay directly to the CONCOR/ Rail Operator/ Port
3	Container Detention Charges	Flat charge of USD 5 per day for a 20 ft container, and USD 10

		per day for a 40' container after the expiry of free days
4	Change of Destination charges	Charges restricted to BL reissuance fee if Shipping Lines is informed prior to the filing of IGM
5	Washing / Cleaning Charges	To be reimbursed on the basis of actual with a markup of 10%
6	Container Damage Charges	To be levied only in Factory destuffing, after ascertaining the actual extent of damage
7	Container Movement Charges	To be reimbursed on the basis of actual with a markup of 10%

vii) All leviable charges, after removing those listed above, should be mentioned on the Bill of Lading, and on the website of the Shipping Lines.


 (VATSALYA SAXENA, IRS) 19/5/16
 Deputy Director General of Shipping [Legal & Finance]
 & Chairman of the Committee