

**REPORT ON THE CONDITION OF 212
CONTAINERS OF HAZARDOUS WASTES LYING IN
JNPT AREA AND THEIR FINAL DISPOSAL**

SUBMITTED TO THE SUPREME COURT OF INDIA



PREPARED BY THE COMMITTEE COMPRISING OF

Ms. Seema Jere Bisht, Commissioner of Customs (Import)

Shri Arvind S. Pradhan, Manager (Traffic) JNPT

Dr. Yeshwant B. Sontakke, Regional Officer, MPCB

Dr. Dilip B. Boralkar, Former Member, SCMC

Dr Claude Alvares, Former Member, SCMC

IN COMPLIANCE OF THE

Order of the Supreme Court of India dated 18.02.2014

in WP[C] 657 of 1995

Mumbai, 25.02.2014

**REPORT ON THE CONDITION OF 212 CONTAINERS OF
HAZARDOUS WASTE LYING IN JNPT AREA AND THEIR FINAL DISPOSAL**

1. This report has been prepared in compliance of the directions of the Hon'ble Supreme Court given in its order dated 18th February 2014 in Writ Petition (Civil) No 657/1995 (RESEARCH FOUNDN. FOR SCIENCE, TECHNOLOGY & NATIONAL RESOURCE POLICY VERSUS U.O.I. & ANR.)

Brief facts of the case

2. 212 containers of hazardous waste (190 containers of waste oil and 22 containers comprising non-ferrous metallic scrap) are lying in various Container Freight Stations (CFS) associated with JNPT. The detailed list is at **Annexure 1**. CFS-wise details of these containers are as follows:

CFS	Waste Oil	Non-ferrous metallic scrap
JNPT	0	13
GDL	15	0
Punjab Conware	130	0
Maersk	2	0
CWC Speedy	43	9
Total	190	22
Total (all)	212	

3. In compliance with the order of the Hon'ble Supreme Court dated 05.01.2005, Customs Authorities first provided the details of these consignments lying at different CFSs to the Supreme Court Monitoring Committee (SCMC) on 17.02.2005. The relevant para of the Hon'ble Supreme Court order records this as follows:

“In regard to 170 containers referred to in the report of the Commissioner of Customs which are also lodged in the same

premises in more or less same condition, the Monitoring Committee has noted that these containers have not been claimed by the importers. The details of the importers of these consignments are not on record. Before we issue directions in respect of these 170 containers, it would be necessary to have on record the details of these imports. The concerned authorities i.e., Jawaharlal Nehru Port or Mumbai Port and all other concerned Departments are directed to furnish to the Monitoring Committee within four weeks up to date information as to the import of the 170 containers, how the consignment was dealt with right from the date of the arrival till date. The Monitoring Committee shall file a report along with its recommendations and on consideration thereof, necessary directions in regard to 170 containers would be issued.”

4. As per the affidavit filed by the Chief Commissioner of Customs in the Hon’ble Supreme Court on 24.08.2005, there are approximately 213 containers out of which 190 containers contained waste oil and the remaining containers were reported to contain non-ferrous metallic waste.

5. The issue relating to the disposal of these containers was discussed in the meeting of the SCMC held on 27th October 2006. It was suggested that the Maharashtra Pollution Control Board (MPCB) collect samples of all these consignments for testing and submit the analysis results directly to the Hon’ble Court for further orders in the matter.

6. Subsequently, between 22.02.2006 to 06.03.2006, MPCB collected representative samples from the 190 containers of waste oil. The samples were tested/analysed by M/s AES Lab Pvt. Ltd, Noida and found to be exceeding the limits prescribed in Schedule-5 and Schedule-6 of the Hazardous Waste (M&H) Rules, 2003 vide their report dated 12.03.2007.

The said reports were sent by the MPCB to the Additional Director and Member-Secretary, SCMC on 18.04.2007. Subsequently, it appears that MPCB vide its letter 08.05.2007 filed the above mentioned analysis results with the Hon'ble Court and sought directions in the matter. MPCB concluded that all the samples collected from these 190 containers were hazardous and therefore all containers should be destroyed in a common hazardous waste incinerator. A detailed report has already been filed in September 2008 before the Hon'ble Court seeking directions in this regard.

7. Similarly, in the case of 13 containers of non-ferrous metallic waste lying in JNPT, samples were taken by M/s Mumbai Waste Management (MWML) through JNPT. The samples were sent on 25.04.2008 and a report dated 04.08.2008 was sent by JNPT to the Director, Ministry of Environment and Forests vide their letter dated 12.08.2008. Samples from 9 containers of non-ferrous metallic waste at CWC Speedy were sent for testing through Maharashtra Pollution Control Board on 05.02.2008. The available reports have already been filed as part of the affidavit of the Commissioner of Customs on 17.02.2014.

The present order of the Hon'ble Court

8. The operative portion of the Hon'ble Supreme Court's order dated 18.02.2014 reads as follows:

“3. Apart from Ms. Seema Jere Bisht, Commissioner of Customs (Import), affidavits have also been filed by one Mr. Arvind Sadashiv Pradhan, who is Manager (Traffic) of JNPT and Dr. Yeshwant B. Sontakke, who is the Regional Officer of the Maharashtra Pollution Control Board at Navi Mumbai. All these three officers are present in Court. We are, therefore, of the view that these three officers must

submit a report about the exact condition of these containers. Mr. Sanjay Parikh, learned counsel for the petitioner pointed out that Dr. D. B. Boralkar, former Member Secretary of the MPCB was associated with this exercise when the earlier report was obtained, and he has obtained his consent to join this work of actual inspection so as to have the association of an independent expert with this work. He states that he will contact Dr. Claude Alvares who was also associated with this exercise earlier. We would, therefore, like Ms. Seema Jere Bisht, Mr. Pradhan and Dr. Sontakke to carry out the inspection of all these warehouses along with Dr. Boralkar and Dr. Alvares, if they are ready to join, and submit a report to this Court along with the latest photographs of these containers and also mention in which conditions these containers are lying and also whether they can be transported safely from the place wherever they are presently dumped to the place of incineration. The report would also mention as to what are all the necessary steps to be taken in this behalf. We may mention that Dr. Boralkar and Dr. Alvares were the members of the earlier Supreme Court Monitoring Committee.

“4. In the event, they are of the opinion that those containers are transportable, they will get in touch with the agency which has quoted its price for destruction, i.e., Mumbai Waste Management Ltd., situated at Plot No.P-32, MIDC Taloja, Tal: Parnel, District Raigad, and the other at MIDC, Taluka Shirur, District Pune, whose particulars are given by Mr. Panjwani, learned counsel appearing for the Central Pollution Control Board. If there are any other agencies in the State in near vicinity of JNPT, they must as well find them out, and talk to them and inform the Court as to at what rate they are ready to destroy all these containers. This is as far as the affidavit of Ms. Seema Jere Bisht, Commissioner of Customs is concerned.”

Terms of Reference

9. As per the 18.02.2014 order of the Hon'ble Court, the terms of reference for this report are as under:

- Inspection of the CFSs by Ms. Seema Jere Bisht, Commissioner of Customs (Import), JNCH, Mr. Arvind S. Pradhan, Manager Traffic, JNPT and Dr. Yeshwant B. Sontakke, Regional Officer of MPCB along with Dr. D. B. Boralkar, former Member Secretary of the MPCB and Dr. Claude Alvares, if he is ready to join.
- Submit latest photographs of these containers with the inspection report.
- Describe the conditions in which the containers are found.
- Advise whether they can be transported safely from the place wherever they are presently located to the place of incineration.
- List all the necessary steps to be taken in this behalf.
- Get in touch with the agencies which have quoted their price for destruction of these hazardous materials in a hazardous waste incinerator.

10. In view of the Hon'ble Supreme Court's order, a meeting was held at the office of the Commissioner of Customs (Import) on 19th February 2014 wherein along with officers of Jawaharlal Nehru Customs House (JNCH), representatives from Jawaharlal Nehru Port Trust (JNPT), Maharashtra Pollution Control Board (MPCB) and Container Freight Stations (CFS) – where the goods are presently lying – were also present.

11. Accordingly, Dr. D. B. Boralkar, former Member Secretary of the MPCB and Dr. Claude Alvares – both of whom were earlier part of the

Committee for inspection of these containers as independent experts – were contacted telephonically on their mobile numbers provided by the Ld. Counsel for the petitioners on 18.02.2014 and 19.02.2014. Both the experts expressed their inability to join the inspection before 24.02.2014. Accordingly, it was decided to carry out the physical verification on or after 24.02.2014. In the meantime, a team of officers of the customs was appointed for getting the photography of the wastes done at the different CFSs.

12. On 24.02.2014, Dr. D. B. Boralkar visited and inspected the containers along with officials of MPCB, JNPT and Customs.

13. Mumbai Waste Management Ltd (MWML), a hazardous waste facility with incinerator, situated at Plot No.P-32, MIDC Taloja, Tal: Panvel, District Raigad, and another facility at MIDC, Taluka Shirur, District Pune were contacted on 19.02.2014 for submitting their rates for incineration to the Committee.

Detailed report on the present condition of the containers

14. The inspection of the CFSs has been done by the Committee constituted by the Hon'ble Court under the chairpersonship of the Commissioner of Customs (Import), JNCH. Apart from the Commissioner of Customs, Mrs Seema Jere Bisht, the following persons were part of the team that visited the CFSs and verified the condition of the goods on 24.02.2014.

- Mr. Arvind S. Pradhan, Manager Traffic, JNPT
- Dr. Yeshwant B. Sontakke, Regional Officer of MPCB

- Dr. D.B. Boralkar, former Member Secretary of the MPCB/former Member, SCMC

15. Despite these wastes lying at these CFSs now for nearly 13 years, it was found that the concerned authorities had taken adequate precautionary measures to ensure proper and long-term safety of the consignments. The containers and even the “de-stuffed” material (i.e., material removed from containers so that the containers themselves could be re-used) had been kept in secured circumstances and material was not missing. In most places, though the consignments were occupying valuable space, attempts had been made to place them on concrete platforms. Photographs of these consignments are annexed separately to this report.

16. The situation at specific CFSs:

Maersk CFS - There are 2 (two) containers of 20 feet each in this CFS and both of them carry waste oil which is packed in drums inside the containers. No leakage, etc., is seen from outside. Both the containers are in good condition and can easily be transported to the site of incineration. The containers are kept on ground which is around 2 ft concrete enforced.

GDL CFS - There are 15 (fifteen) containers of 20 feet each in this CFS and all of them carry waste oil which is packed in drums inside the containers. No leakage, etc., is seen from outside. All the containers are in good condition and can easily be transported to the site of incineration. The containers are kept in stack of one plus one on ground which is around 2 ft concrete enforced.

Punjab Conware CFS - There are 130 (one hundred thirty) containers of 20 feet each in this CFS and all of them carry waste oil. The containers are kept in stacks of two or three on ground which is around 2 ft concrete enforced.

Out of these 130 containers, goods are lying inside drums within the container itself in 77 (seventy seven) cases. Oil from drums in about 45 containers had leaked but was now dried up. The material from these 45 containers needs to be transferred to another container, or preferably a tanker, for transportation to the incineration site. Rest of the 32 containers are in good condition and can easily be transported to the site of incineration.

Goods from 53 (fifty three) containers have been de-stuffed (that is, removed from the containers). The goods are in drums and these drums are lying in the open in the CFS in heaped form. Some of these drums had leaked but was now found dried up. Most of the drums are in transportable condition. They can be loaded in a container/lorry and can be shifted to the site of incineration. Some of the drums are not fit for transportation. The material in the drums that are leaking would have to be transferred to tankers for transportation purposes so as to avoid any kind of spillage.

CWC Speedy CFS - There are altogether 52 containers (20 ft each) of hazardous waste in CWC Speedy CFS, out of which 43 are of waste oil and 9 are of non-ferrous metallic waste. The goods are placed in drums inside the containers in these cases. The rest of the containers have been de-stuffed and have been put in other containers for safe custody. The containers are not in good condition to be transported to the incineration

site. The goods therefore need to be shifted to some other container for transportation. In cases where drums are leaking or likely to break during handling due to corrosion, the waste oil needs to be emptied into tankers for safe transportation. The containers are kept stacked one on top of the other on ground which is around 2 ft concrete enforced.

JNPT - There are 13 containers (20 ft each) full of non-ferrous metallic waste lying in the JNPT area. Out of these, the goods from 12 containers are de-stuffed and are kept in a shed in jumbo bags (solid waste ash), drums (for chemicals bottles). Similarly with battery scrap. One 20 ft container consisting of non-ferrous metallic scrap is kept on the ground. They can easily be transported through lorry/containers.

17. Status reports submitted by the different CFSs is enclosed herewith and marked as **Annexure-2.**

Detailed report on the present condition of the containers of waste oil (190 containers)

CFS	Maersk	GDL	Punjab	CWC Speedy	Remarks/ Recommendations
Goods in containers in transport worthy condition	2	15	32	0	These containers can be transported to the site of incineration in as it is condition.
Goods in containers but not in transport worthy condition	0	0	45	43	Goods can be transported by shifting them into other containers/ tankers for transport.

Goods de-stuffed and lying in drums	0	0	53	0	Goods can be put into some containers and then transported. However, some of these goods are in leaking condition. In some cases even the drums are also not in a condition to handle. In such cases the waste oil inside the drums would be shifted to tankers/ other drums and then transported.
Total	2	15	130	43	

The empty drums would also be sent to site of incineration in trucks/containers.

Detailed report on the present condition of the containers of metallic waste (22 containers)

CFS	JNPT	CWC Speedy	Remarks/Recommendations
Goods in containers in transport worthy condition	0	0	
Goods in containers but not in transport worthy condition	1	3	Goods can be transported into other containers for transport.
Goods de-stuffed	12	6	Goods can be put into some containers/trucks and then transported.
Total	13	9	

Modalities of destruction and final disposal

18. The following procedure shall be followed for the waste oil consignments:

- a) An MPCB officer and CFS representative shall be deputed to supervise the loading of the containers and or de-stuffed barrels / drums/ materials in transport vehicles authorized by MPCB as per Hazardous Waste (MH&TM) Rules-2008.
- b) The manifest documents as required under Form 13{Rule 21(1)} of the HW Rules 2008 shall be followed and additionally will be countersigned by the representative officers of the MPCB and CFS.
- c) The transporter will be strictly responsible and liable for the safe transportation of these wastes to the disposal site and follow the procedures of transport safety, insurance and good condition of vehicles, etc., as per the HW Rules, 2008.
- d) On reaching the CHWTSDF (Common Hazardous Waste Transport, Storage, Disposal Facility), CHWTSDF operator shall issue the acknowledgement to CFS and MPCB as per HW Rules. CFS shall submit a daily report to the Asst. Commissioner of Customs i/c of Disposal Section. A copy will also be put up online for monitoring by all concerned agencies.
- e) The CHWTSDF operator shall be bound to carry out the treatment and disposal of the waste in compliance of conditions laid down by the MPCB in its combined consent and authorization granted to the operator. Additionally, the MPCB will depute one officer to

supervise the disposal by CHWTSDF and keep a record, which shall be submitted to MPCB (as has been done in case of 133 containers incinerated earlier). CHWTSDF will send a copy of the manifest to CFS/Customs and MPCB. The MPCB shall verify the first and last Manifest, so that the cycle is complete.

CFS Name	Number of containers	Types of Waste	Time required for disposal	Remarks
Maersk	2	Waste Oil	5 days	Disposal by Incineration Method
GDL	15	Waste Oil	10 days	Disposal by Incineration Method
Punjab	130	Waste Oil	30 days	Disposal by Incineration Method
Speedy	43	Waste Oil	15 days	Disposal by Incineration Method

Hazardous wastes other than waste oil

- a) In the case of non-ferrous metallic and other wastes which are recyclable as per Schedule 4 of the HW Rules 2008, they will be auctioned by the respective CFSs/custodian. Only those recyclers who are registered with MPCB as per the procedure laid down in Rule 8(1) and Rule 9 of the HW Rules 2008 for the wastes listed in Schedule 4, will be allowed to participate in the auctions.

- b) As for the non-ferrous and other wastes which are prohibited/banned for export and import and not suitable for recycling, these shall be sent to CHWTSDf, Taloja for treatment and disposal as per the procedure laid down in HW Rules, 2008. (This is also in accordance with the earlier direction of the SCMC to JNPT in its letter dated 18.05.2005.)
- c) The list of the containers other than waste oil such as metallic and other wastes based on their mode of disposal is enclosed herewith and marked as **Annexure – 3.**
- d) Entire operation shall be done under the supervision of MPCB as was done earlier in the case of incineration of 133 containers. Fortnightly progress report shall be prepared / obtained by MPCB and submitted to JNPT and Customs for information.

Place for Destruction and Disposal of Wastes

19. The Committee is of the view that the preferred place for incineration shall be Mumbai Waste Management Ltd., situated at Plot No.P-32, MIDC Taloja, Tal: Panvel, District Raigad for the following reasons:

- a) MPCB vide their order No. MPCB/ROHQ/HSMD/TSDf/B-7446 dated 11.12.2008 has assigned the areas of operations of common hazardous waste collection, treatment, storage and disposal of waste facilities in the state of Maharashtra for management of

Hazardous waste and the present area falls under Mumbai Waste Management Ltd.

- b) Mumbai Waste Management Limited is the nearest one being only around 30 km away from the area where the goods have been kept, while the second nearest one at Pune is around 170 km away. Even as per “principle of proximity” as enunciated in the Basle Convention, it is the opinion of the committee to send the goods for destruction at Taloja.
- c) Keeping in view the condition of the goods and the containers it will be better if the goods reach their destination in the minimum possible time by travelling minimal distance.

Cost of destruction of wastes

20. MWML has given its revised offer for disposal of waste oil as Rs.14.80 per kg inclusive of collection, transportation, unloading and disposal. Taxes as applicable shall be borne by the client; loading will be in the scope of custodian.

21. Non-ferrous metallic hazardous waste disposal method is landfill after treatment and disposal charges quoted by MWML are Rs. 3.75 per kg inclusive of collection, transportation, unloading and treatment. Taxes as applicable shall be paid by client. Loading will be in the scope of custodian.

22. Incineration and disposal charges are decided based on the formula which is provided in the agreement between Maharashtra Industrial Development Corporation (MIDC) and CHWTSDF (MWML).

Time required for destruction

23. With the present capacity MWML can dispose of the total waste in 190 containers of waste oil and 22 Containers of solid waste of non-ferrous metallic waste in 60 days as incineration of waste oil and solid waste simultaneously by landfill after treatment method. The letter from M/s MWML is enclosed herewith and marked as **Annexure-4.**

(Seema Jere Bisth)
Commissioner of Customs (Import)

(Mr. Arvind S. Pradhan)
Manager Traffic, JNPT

(Dr. Yeshwant B. Sontakke)
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