

# **PROPOSAL TO MODIFY THE TOLLS AND THE RULES OF ADMEASUREMENT OF THE PANAMA CANAL AUTHORITY**

## **FURTHER COMMENTS OF THE JAPANESE SHIPOWNERS' ASSOCIATION**

The Japanese Shipowners' Association (JSA) hereby submits its further comments with respect to the Panama Canal Authority's (ACP's) announcement of its toll proposals on 5 April 2007.

While the JSA has acknowledged the ACP's decision to defer the initial implementation date for some sectors from 1 May to 1 July, we are rather disappointed that the scope of decision is limited only to the two months postponement of the date. In order to alleviate the burden on shipping lines that have entered into long-term charter contracts, we would have hoped that the ACP would have postponed the date for subsequent years.

Furthermore, most of the factors of the ACP's initial proposals have remained unchanged and our concerns regarding the timing and amount of the proposed increases, as already reflected in initial industry comments, appear to have not been properly considered.

The JSA would like to reiterate its strong objection to the ACP's proposed tolls. The proposals are based on the concept of front-loading increases, and these would cause an inequitable distribution of costs between current and future users. The average increase in the proposed tolls would be 10% per annum for most of the sectors, which clearly exceeds the increase of 3.5% p.a. envisaged in the discussions prior to the formal consultation process. We believe that such increases would place severe pressures on the management of the global shipping industry and consequently could have an adverse effect on the world economy. The JSA strongly recommends that the increases be spread over a longer timeframe.

The JSA therefore respectfully requests a reconsideration of the current proposals, with careful examination of the shipping industry's inputs, including the JSA's, in order to review the timing and amount of these increases and also to achieve greater transparency of a pragmatic and sustainable future funding mechanism to enable our member shipping lines to formulate their long term business plans more clearly. We attach our original comments for ease of reference.

Finally, the JSA appreciates the open communication that the ACP has undertaken with the shipping industry with regard to its proposals and we look forward to discussing these issues further.

April 2007

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ADMEASUREMENT OF THE PANAMA CANAL AUTHORITY**

**COMMENTS OF THE JAPANESE SHIPOWNERS' ASSOCIATION**

**Introduction**

The Japanese Shipowners' Association (JSA) hereby submits its comments with respect to the Panama Canal Authority's (ACP) proposal to modify the Canal's regulations and pricing, which was approved by the ACP Board of Directors on January 25, 2007.

JSA is a nation-wide shipowners' association consisting of 107 Japanese shipping companies. The purpose of the JSA is to promote fair business activities in the shipping industry and to contribute to the healthy development of Japanese shipping.

JSA's members are engaged in the transportation of cargo between Japan and other countries throughout the world, oftentimes via the Panama Canal. In 2005, 1,011 vessels of JSA member companies transited the Panama Canal, representing 137 million dollars transit tolls. Accordingly, the members of JSA have a substantial interest in the ACP's recent proposal to modify the Canal's regulations and pricing.

**Background**

The ACP proposes several new modifications to the Canal's pricing system, including a new adjustment method for displacement tonnage, administrative modifications of the admeasurement rules, and a new charging mechanism for passenger ships. Most importantly, however, the ACP proposes a three-phase toll increase per market segment, which would become effective as early as May 1, 2007 for some market segments. The ACP has made it clear that it plans to double its tolls over the course of the next twenty years, with a projected average toll increase of 3.5% per year.

Despite references to toll increases of approximately 3.5% per year, the ACP's actual proposal would lead to toll increases in the range of 26% to 34% over the first three years for sectors falling under the tonnage-based charging mechanism, and would result in a 47% increase in tolls for container vessels during that same three-year period.

**The Proposed Toll Increase Would Cause Damage to Shipping Companies  
and Canal Revenues**

The shipping industry is capital intensive. New vessels generally cost companies somewhere between 50 to 100 million dollars each. Related infrastructure requirements such as terminals and container-handling equipment also cost millions of dollars. The shipping industry has invested billions of dollars to ensure the continued availability of safe and reliable

shipping services. These massive investments require years to carry out and an even longer period of time to plan.

In keeping with the long-term focus of the container shipping industry, almost all cargo transported by JSA member vessels is carried pursuant to contracts that are of one year or more in duration. These contracts provide carriers with reasonable assurances of a revenue stream and their customers with fixed costs over the term of the contract.

At this time, carriers are facing unprecedented increases in the cost of bunker fuel and inland transportation costs (particularly in the U.S., the origin and destination of a significant percentage of cargo moving through the Canal). An increase as significant as the one proposed will be virtually impossible to pass on to customers and could be damaging to the economic viability of carriers.

The proposed increase will exacerbate the current economic pressure carriers are facing, and in turn could have measurable effects on the world economy.

While JSA recognizes the ACP's desire to invest in and improve the Canal, it believes that under the circumstances outlined above an excessive increase in Canal tolls with very little lead time could result in fewer carriers utilizing the Panama Canal. Thus, should any toll increase be necessary, JSA proposes that the increase be of a smaller size, and that it be implemented at a later date, thereby affording all segments of the industry sufficient time to adjust their current plans accordingly. By so doing, the ACP would help avoid the economic damage to carriers that could result from a larger and more immediate increase. In this respect, JSA asks that the ACP take action in accordance with the spirit of the treaty concerning the Permanent Neutrality and Operation of the Panama Canal, which stipulates that tolls and charges for the canal should be just, reasonable and equitable. See Panama Treaty of 1977, Article III, Section 1(c) ("Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law.").

#### **JSA Has Serious Concerns Regarding the Timing and Amount of the Proposed Toll Increase**

The ACP's proposal also incorporates a serious front-loading of toll increases over the first three years that would require current Canal users to pay millions of dollars more in the short term in exchange for promises of long-term benefits. This proposal would, therefore, subsidize future users of the Canal at the expense of current users. JSA believes that the ACP should provide for a more equitable distribution of costs between current and future users. Existing users should not be expected to bear an unfair proportion of the financial costs of a project that will also have major benefits for future users.

Under the Panama Treaty of 1977, JSA does not believe that front-loading the toll increases over the next three years is reasonable or equitable. It is simply not equitable to ask current users to pay a disproportionate amount of tolls over the first three years. To remedy this situation, JSA recommends that the

ACP explore the extent to which the costs for improvements of the Canal might be spread more evenly over a longer period of time.

**Conclusion**

JSA appreciates the open communication that the ACP has undertaken with the shipping industry with respect to its proposal. JSA also appreciates the ACP's *professional and competent operation of the Canal and the investment and improvements* that the ACP has made and plans to make. However, JSA respectfully opposes the timing and amount of the ACP's proposed tolls, which represent an unreasonable increase over the next three years. As such, JSA requests that the ACP reconsider its proposal, giving particular deliberation to the above-mentioned points.

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