

[F. No. AERA/20010/MYTP/EICI /C /BIAL /2011-12]

Airports Economic Regulatory Authority of India

Order No. 16/2013-14

**AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi -110003**

**Date of Order: 24th May, 2013
Date of Issue : 21st June, 2013**

In the matter of Multi Year Tariff Proposal/Annual Tariff Proposal submitted by M/s Express Industry Council of India for First, Second and Third Tariffs Year (2011-14) of the first control period for providing Cargo Handling Services at Bangalore International Airport, Bengaluru.

Express Industry Council of India (EICI), vide their letter dated 29.06.2011 submitted their Multi Year Tariff Proposal (MYTP) for the cargo handling facility at Bangalore International Airport, Bengaluru (BIA) in respect of the first Control period starting w.e.f. 01.04.2011. Additional submissions were made vide letters dated 09.11.2011, 07.02.2012, 28.03.2012, 06.06.2012 and 07.08.2012. Further, vide submission dated 23.07.2012, EICI submitted their ATP for the tariff year(s) 2011-12, 2012-13 and 2013-14, of the first control period.

2.1 As per the Guidelines [The Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services provided for Cargo Facility, Ground Handling and Supply of Fuel to Aircraft) Guidelines, 2011], the Authority decides to follow a three stage process for determining its approach to the regulation of a regulated service.

- a. Materiality Assessment
- b. Competition Assessment
- c. Assessment of reasonableness of the user agreements between the service providers and the regulated services.

2.2 As per clause 4.4 of the Guidelines, in respect of cargo handling services, the materiality shall be assessed based on cargo volumes in MT at the major airport as a percentage of total cargo volume in MT at all major airports. The percentage share of cargo volume, in MT for BIA, as per April-2010 to March, 2011-AAI statistics, is 9.5% which is greater than the 2.5%



Materiality Index fixed for the subject service. Hence, the regulated service is deemed 'material'.

2.3 As per the information furnished by EICI in Form F1 (b), on the Competition Assessment and the available records, the following service providers are rendering Cargo Handling Services at BIA:-

- (i) Menzies Aviation Bobba (Bangalore) Pvt. Ltd.
- (ii) AIR India SATS Pvt. Ltd

2.4 The Guidelines provide that where a regulated service is being provided at a major airport by two or more service provider(s), it shall be deemed 'competitive' at that airport. In the instant case with the total number of players being two, the service is deemed 'competitive.'

2.5 Thus, with the total number of players being two and materiality index being more than 2.5%, the regulated service being rendered by EICI is "material but competitive". As per Clause 3.2 of the Guidelines, based on the Authority's assessment of materiality and competition, wherever such regulated service is deemed "material but competitive", the Authority shall decide to determine tariff(s) for the service provider(s) under a light touch approach for the duration of the Control Period.

3.1 EICI submitted Form 14(b) towards ATP for first, second and third tariff years of the first control period.

3.2 In the ATP, EICI stated that it is a co-operative effort of all the users, hence the tariff is decided by the representatives of the users through the EICI Board who are representatives of all the Members of EICI-which are registered Courier Companies. The tariff is, hence, to that extent, decided by the users themselves. EICI being a non-profit industry body is driven by the primary objective of advancement of the interest of the express industry as a whole and its members. Hence profit, dividend, share capital and target revenue are concepts which are inconsistent with EICI's objective. The primary objective of EICI is industry facilitation and often this is the sole guiding criteria for their operations rather than profit motive. EICI stated that the surplus available from operations in Delhi, Mumbai is ploughed back for setting up the Express facility in Bangalore which is presently operated at negative revenue.

3.3 In the matter of Customs Charges, EICI submitted that certain charges which do not accrue to EICI, are however collected by EICI and paid to the Government or the agency rendering those services. It is also mentioned that these charges were variable in nature, and not part of the Facilitation charges levied by EICI and still deemed it appropriate to place the same on record.



3.4 After careful consideration of the submissions made by EICI, the Authority, vide Consultation Paper No. 38/2012-13 dated 13.02.2013, proposed the following for stakeholder consultation:

- (i) "The services for cargo handling being provided by Express Industry Council of India (EICI) at Bangalore International Airport, Bengaluru is "material but competitive". Therefore, the Authority tentatively decided to adopt "Light Touch Approach" for determination of tariff for this service provided by EICI at Bangalore International Airport, for the first Control period w.e.f 01.04.2011.
- (ii) Tariff for cargo services provided by EICI at Bangalore International Airport, for the first tariff year (w.e.f. 01.04.2011 to 31.03.2012), second tariff year (w.e.f. 1.04.2012 to 31.03.2013) and for the third tariff year (w.e.f. 01.04.2013 to 31.03.2014) are tentatively decided to be determined.
- (iii) As regards the Customs Cost Recovery Charges, these are charges towards provisioning of the aeronautical service being provided by EICI, it is tentatively decided that such revision may be approved by the Authority without further consultation, based on auditors' certificate certifying that proposed increase is only to recover increased cost recovery charges and are restricted to such recovery/demand.
- (iv) The Authority tentatively decided to make it clear that the X-ray charges are levied by the Airport Operator and paid by EICI to the Airport /CSC. These charges are therefore tentatively decided to be approved by the Authority as an item of tariff in respect of the Airport Operator.
- (v) The above tentative decisions are subject to the order dated 19.10.2011 of the Hon'ble Appellate Tribunal.

4.1 It was noted by the Authority that the Guidelines of the Authority were challenged by Bangalore International Airport Limited (BIAL) in Appeal no. 12/2011 wherein the Appellate Tribunal, in its order dated 19.10.2011, ordered that

"...It is made clear that even if any final order is passed by the respondent- Airports Economic Regulatory Authority the same shall not be given effect to without leave of this Court."



4.2 This Appeal no. 12/2011 filed by BIAL has been disposed off vide Order dated 03.05.2013 (amended vide order dated 10.05.2013), wherein the Hon'ble Tribunal ordered that:

".....We had by our order dated 19th October, 2011, directed that the tariff so decided in case of the three services mentioned in the earlier paragraph would not be implemented unless the leave is obtained from this Tribunal. In view of the disposal of this appeal, those orders would stand 'withdrawn' and in the result the implementation of tariff may now commence."

5. No comments have been received from the stakeholders in response to the proposal contained in the Consultation Paper No. 38/2012-13 dated 03.02.2013.

6.1 From the above it is observed that at BIA the express courier cargo facility is provided by EICI – including all the components thereof, like X-ray etc. and for this service EICI charges its customers. This service is "material but competitive" at BIA and hence tariffs for it may be considered for determination under "Light Touch Approach".

6.2 The Authority also observed that the Appeal no. 12/2011, filed by BIAL, has been disposed of by AERAAT vide order dated 03.05.2013 (amended vide order dated 10.05.2013).

ORDER

7. Upon careful consideration of material available on record, the Authority, in exercise of powers conferred by Section 13(1)(a) of the Airports Economic Regulatory Authority of India Act, 2008, hereby orders that:

- (i). The services for express courier cargo handling provided by M/s Express Industry Council of India (EICI) at Bangalore International Airport, Bengaluru (BIA) is "material but competitive". Hence, the Authority will adopt "Light Touch Approach" for determination of tariffs for the 1st Control Period w.e.f. 01.04.2011.
- (ii). Maximum tariffs, for first tariff year (w.e.f. 01.04.2011 to 31.03.2012), second tariff year (w.e.f. 01.04.2012 to 31.03.2013) and third tariff year (w.e.f. 01.04.2013 to 31.03.2014), for Express Courier Cargo Facility services are determined as at **Annexure-I**. Demurrage free period will be as per Govt. of India instructions issued from time to time.
- (iii). The Customs Cost Recovery Charges are the charges towards provisioning of the aeronautical service of cargo facility, which is



provided by EICI. It is decided that revision in Customs Cost Recovery Charges will be approved by the Authority without further consultation - based on auditors' certificate certifying that proposed increase, only to recover increased cost recovery charges and are restricted to such recovery/demand.

**By the Order of and in the
Name of the Authority**


[Capt. Kapil Chaudhary(Retd.)]
Secretary

To,
Express Industry Council of India (EICI),
501, Crystal Centre, Raheja Vihar,
Off Chandivali Farm Road,
Powai, Mumbai – 400 072
(Through: Shri R.K. Saboo, Chairman,)

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AERA



Express Industry Council of India : Tariff for Bengaluru Terminal

Facilitation Fees, Storage & Processing Charges at EICI Express Terminal
Built , managed and operated by Express Industry Council of India at Bangalore Airport

Effective 01.04.2011 to 31.03.2012

Sr. No.	Charges	Maximum Rate (Rs.)
1	International Imports	
1.1	Facilitation Fees	Rs. 10.00 Per Kg.
1.2	Detention Fees	
1.2.1	0-3 Days	Free
1.2.2	From 04-10 Days	Rs. 2/- Per Kg. or part thereof or Rs. 30/ whichever is higher
1.2.3	From 11 - 20 Days	Rs. 3/- Per Kg. or part thereof or Rs. 30/ whichever is higher
1.2.3	From 21 - 30 Days	Rs. 4.50 Per Kg.
1.2.4	From 31st Day	Rs. 6/- Per Kg.
1.2.5	Demurrage Charges *	Rs. 5/- Per Kg.
2	International Exports	
2.1	Facilitation Fees	Rs. 10.00 Per Kg.
3	Domestic Imports	
3.1	Facilitation Fees	Rs. 1.10 Per Kg.
4	Domestic Exports	
4.1	Facilitation Fees	Re. 0.65 Per Kg.

* Demurrage free period will be as per Govt. of India instructions issued from time to time.



Express Industry Council of India : Tariff for Bengaluru Terminal

Facilitation Fees, Storage & Processing Charges at EICI Express Terminal
Built , managed and operated by Express Industry Council of India at Bangalore Airport

Effective 01.04.2012 to 31.03.2013

Sr. No.	Charges	Rate (Rs.)
1	International Imports	
1.1	Facilitation Fees	Rs. 19.00 Per Kg.
	Customs Charges	Rs. 2.00 Per Kg.
1.2	Detention Fees	
1.2.1	0-3 Days	Free
1.2.2	From 04-10 Days	Rs. 2/- Per Kg. or part thereof or Rs. 30/ whichever is higher
1.2.3	From 11 - 20 Days	Rs. 3/- Per Kg. or part thereof or Rs. 30/ whichever is higher
1.2.3	From 21 - 30 Days	Rs. 4.50 Per Kg.
1.2.4	From 31st Day	Rs. 6/- Per Kg.
1.2.5	Demurrage Charges *	Rs. 5/- Per Kg.
2	International Exports	
2.1	Facilitation Fees	Rs. 20.00 Per Kg.
3	Customs Charges	Re. 1.00 Per kg.
3.1		
	Domestic Imports	
4	Facilitation Fees	Rs. 1.10 Per Kg.
4.1		
4	Domestic Exports	
	Facilitation Fees	Rs. 1.10 Per Kg.

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Effective 01.04.2013 - 31.03.2014

Sr. No.	Charges	Rate(Rs.)
1	International Imports	
1.1	Facilitation Fees	Rs. 19.00 Per Kg.
	Customs Charges	Rs. 2.00 Per Kg.
1.2	Detention Fees	
1.2.1	0-3 Days	Free
1.2.2	From 04-10 Days	Rs. 2/- Per Kg. or part thereof or Rs. 30/ whichever is higher
1.2.3	From 11 - 20 Days	Rs. 3/- Per Kg. or part thereof or Rs. 30/ whichever is higher
1.2.3	From 21 - 30 Days	Rs. 4.50 Per Kg.
1.2.4	From 31st Day	Rs. 6/- Per Kg.
1.2.5	Demurrage Charges *	Rs. 5/- Per Kg.
2	International Exports	
2.1	Facilitation Fees	Rs. 20.00 Per Kg.
3	Customs Charges	Rs. 1.00 Per kg.
3.1		
	Domestic Imports	
4	Facilitation Fees	Rs. 1.10 Per Kg.
4.1		
4	Domestic Exports	
	Facilitation Fees	Rs. 1.10 Per Kg.

* Demurrage free period will be as per Govt. of India instructions issued from time to time.

